

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**LOCAL AUTHORITY NOTICE 458 OF 2022****KOUGA MUNICIPALITY (EC108)****NOTICE NO 79/2022****DEPARTMENT COMMUNITY SERVICES****PUBLIC INVITATION FOR COMMENTS TO THE DRAFT WASTE MANAGEMENT BY LAWS OF
KOUGA MUNICIPALITY**

Notice is hereby given in terms of Section 160(4) (b) of the Constitution, Act 108 of 1996, read with Section 12 and 13 of the LG – MSA, Act 32 of 2000, that the draft Waste Management By Laws of the municipality is available for inspection and comments. An electronic copy of the document can be viewed and downloaded on the municipal website: www.kouga.gov.za

Members of the public or interested parties are hereby invited to submit comments within a period of 30 days from date of publication of this notice.

Kindly address any comments, in writing, to the office of the Deputy Municipal Manager, Mr. D de Jager, at 33 Da Gama Road, Jeffreys Bay or by way of an email correspondence to jreed@kouga.gov.za

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KOUGA LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAWS

MAY 2022

Table of Contents

Table of Contents

Waste Management By-Laws

Chapter 1: Interpretation, Principles and Objects

1.	Definitions	4
2.	Principles	11
3.	Main Objects	11
4.	Obligations of generators or holders of waste	12
5.	Provisions of information to the Council	12

Chapter 2: Integrated Waste Management Plans and management of certain types of waste 13**Part 1 - Integrated Waste Management Plans** 13

6.	Preparation and reporting on the implementation of integrated waste management plans by certain generators or holders of waste	13
7.	Contents of integrated waste management plans	13

Part 2 - Event Waste 14

8.	Use of accredited service provider	14
9.	Obligation to prepare an event waste management plan and the minimum content of the plan	14
10.	Refundable deposit	14
11.	Recovery of clean-up costs	14

Part 3 - Building waste – new and demolished buildings 15

12.	Preparation and approval of a building waste management plan	15
13.	Deposit and demonstrating compliance with the building waste management plan	15
14.	Generation and management of building waste	16
15.	Storage of building waste	16
16.	Collection and disposal of building waste	16

Part 4 - Garden Waste 17

17.	Storage, Collection, Composting and Disposal of Garden Waste	17
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Part 5 - Hazardous and health care risk waste 17

18.	Generation of hazardous or health care risk waste	17
19.	Storage of hazardous or health care risk waste	18
20.	Collection and disposal of hazardous or health care risk waste	18

Chapter 3:	Waste minimisation and recycling	19
21.	Reduction, re-use, recycling and recovery of waste should result in less environmental harm than disposing of waste	19
22.	Registering with the Council and compliance with national and provincial laws	19
23.	Obligation to separate waste into recyclables and non-recyclables	19
24.	Storage, collection, treatment, transportation and disposal of recyclable waste	20
Chapter 4:	Municipal Service	20
Part 1 -	Providing access to the municipal service	20
25.	Duty to provide access to the municipal service	20
26.	The provision of the municipal service	21
Part 2 -	Using the municipal service	22
27.	Obligations of generators of domestic waste, municipal service business waste and municipal service dailies (wet/putrescible waste)	22
28.	Liability to pay for municipal service	24
Chapter 5:	Commercial services	24
Part 1 -	Provision of commercial services by accredited service providers and flow control	24
29.	Provision of commercial services by accredited service providers	24
30.	Provision for Council co-ordination of waste disposal	24
Part 2 -	General business waste and industrial waste	24
31.	Storage, collection and disposal of commercial business waste and industrial waste	24
Part 3 -	Organic waste and un-compactable waste	25
32.	Storage, collection and disposal of organic waste and un-compactable waste	25
Chapter 6:	Transportation, treatment and disposal of waste	25
33.	Transportation of waste	25
34.	Disposal of waste	26

Chapter 7: Accreditation of service providers	27
35. Accreditation permit requirements	27
36. Applications for accreditation	28
37. Suspension and revocation of accreditation permit	28
38. Terms and conditions for accreditation	29
39. Renewal of accreditation permits	30
40. Display of an accreditation permit	30
41. Prohibited conduct	30
42. Exemptions	31
43. Transitional provisions	31
Chapter 8: Accumulating waste, littering, dumping and abandoned articles	31
44. Accumulating waste	31
45. Duty to provide facilities for litter	31
46. Prohibition of littering	32
47. Prohibition of dumping and abandoning articles	32
48. Duty to prevent land or building used for dumping	32
49. Disposal of dumped or abandoned articles	33
Chapter 9: Authorised Official	33
50. Identification documents	33
51. Powers of authorised officials	33
52. Powers to question	34
53. Observance of human rights	35
54. Supervision of holders of accreditation permits	35
55. Compliance notices	35
56. Representations	36
Chapter 10: Miscellaneous	37
57. Ownership	37
58. Serving of documents	37
59. Offences and penalties	37
60. Short title	38

Waste Management By-laws, 2022

Waste Management By-laws, 2022

The Municipal Manager of the Kouga Municipality hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Waste Management By-laws for the Kouga Municipality, as approved by its Council, as set out hereunder.

Chapter 1
Interpretation, principles and objects

1. Definitions

(1) In these By-laws, unless the context indicates otherwise

"accreditation" means registering with the Council in terms of Chapter 7 of these By-laws;

"accredited service provider" means any person registered with the Council in terms of Chapter 7 of these By-laws;

"approved waste receptacle" means a disposable or re-usable receptacle approved by the Council from time to time in which waste is placed for the purposes of storing, accumulating, handling, transporting, treating or disposing of that waste, and includes approved bins, bin-liners, wrappers and skips;

"authorised official" means any official of the Council who has been authorised or designated by the Council to administer, implement and enforce the provisions of these By-laws, or an employee of a service provider acting within the scope of the powers, functions and duties assigned to that service provider by the Council, if the Council has for the purpose of the By-laws appointed a service provider;

"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;

"commercial/general/business waste" means waste generated on premises used for non-residential purposes. For the avoidance of doubt, commercial business waste includes:

- (a) waste stored in static compactors;
- (b) hazardous waste;
- (c) healthcare risk waste;
- (d) building waste;
- (e) industrial waste;
- (f) organic waste;
- (g) un-compactable waste;

(h) general business waste; and

(i) recyclable waste,

generated on such premises;

"commercial service" means-

(a) the collection and transportation of commercial business waste and general business waste, but does not include transportation by a generator of its own waste; or

(b) the conducting or undertaking of a waste management activity within the jurisdiction of the Council which requires a waste management licence; or

(c) the collection, transportation, sorting, storage, recycling or recovery of waste with the intention of making profit but does not include transportation by a generator of its own domestic waste which is recyclable waste; or any person collecting, sorting, storing or transporting recyclable waste on behalf of a bona fide non-governmental organization;

"Council" means-

(a) the Municipality of Kouga established by Provincial Notice No. 6766 of 2 dated 1 October 2000, as amended, exercising its legislative and executive authority through its Municipal Council; or

(b) its successor in title; or

(c) a structure or person exercising a power delegated in these By-laws or carrying out an instruction, which power has been delegated or sub-delegated or which instruction has been given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or

(d) except for the purposes of Chapters 7 and 9, a service provider fulfilling a responsibility under these By-laws that is assigned to it in terms of section 81(2) of the Systems Act, 2000, or any other law; as the case may be;

"dailies" means putrescible/wet waste generated from processing, handling and production of food and food products by non-residential premises which include hotels, restaurants, food shops, hospitals, and canteens that must be collected on a daily basis, to prevent the waste from decomposing and presenting a nuisance or an environmental or health risk;

"damage to the environment" means any pollution, degradation or harm to the environment whether visible or not;

"developer" means an agent or any other person acting on behalf of a person who owns land, building or any undivided share in such land or building situated within the Council's jurisdiction;

"domestic waste" means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include commercial business waste or general business waste or organic waste;

"dump" means to dispose of waste in any manner other than one permitted by law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release

waste, whether or not the waste is in a container, in or at any place whatsoever whether publicly or privately owned including but not limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems but excludes littering;

"environment" has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"environmental emergency" means any unexpected or sudden occurrence resulting from any act or omission relating to waste leading to serious danger to the public or potentially serious pollution of or damage to the environment, whether immediate or delayed;

"event" means sporting, entertainment, recreational, religious, cultural, exhibitional, organisational or similar activities hosted at a venue or along a route or within their respective precincts at which more than 2000 people are expected to attend or participate;

"event waste" means waste that originates from an event held within the Council's jurisdiction;

"formalised recycling group" means a group of persons whose main objective is the promotion of waste minimisation amongst the group and undertaking of recycling, processing, treating or recovery of waste;

"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;

"generator of waste" means any person who generates or produces 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/or the environment; and includes discarded computers, office electronic equipment, entertainment device electronics, mobile phones, television sets and refrigerators;

"health care risk waste" means the portion of the health care waste that is hazardous and including-

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| (a) laboratory waste; | (f) sanitary waste; |
| (b) anatomical waste; | (g) nappy waste; |
| (c) genotoxic/cytotoxic waste; | (h) <i>low-level</i> radioactive waste; and |
| (d) infectious waste; | (i) pharmaceutical waste; |
| (e) sharps waste; | |

It includes any waste that is generated during diagnosis, treatment or immunisation of humans or animals, in research pertaining to this; in the manufacturing or testing of biological agents - including blood, blood products and contaminated blood products, cultures, pathological wastes, sharps, human and animal anatomical wastes and isolation wastes.

"holder of waste" means any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of waste;

"industrial waste" means a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste;

"integrated waste management plan" means any waste management plan required to be prepared in terms of these Bylaws by specified generators or holders of waste including waste management plan required in section 5(d), 6, 9, 12 and 17 of these By-laws;

"land reclamation" means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

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

"local community" in relation to the Council means that body of persons comprising:

- (a) the residents within its jurisdiction;
- (b) the ratepayers of the Council;
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the Council's jurisdiction; and
- (d) visitors and other persons residing outside of the Council's jurisdiction who, because of their presence in that area, make use of services or facilities provided by the Council;

"minimisation" when used in relation to waste means efforts to reduce and minimise the amount and toxicity of waste that is generated and, in the event where waste is generated, the reduction of the amount and toxicity of waste that is required to be disposed of;

"municipal service" means service relating to the collection, transportation and disposal of waste, including domestic waste, such quantity and type of general business waste and dailies, as the Council may determine, which is provided by the Council in accordance with Chapter 4 of these By-laws;

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

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

"organic 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, un-compactable waste and any waste generated as a result of commercial garden service activities;

"organic waste handling facility" means a waste handling facility in or on which organic waste is received and temporarily stored;

"organiser" means any person who plans, is in charge of, manages, supervises or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event;

"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, or any person who obtains a benefit from the premises or who is entitled thereto;

"person" means a natural or juristic person;

"pollution" means any change in the environment caused by:

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

if that change has an adverse effect on human health or wellbeing or on the composition, resilience and productivity of a natural or managed ecosystem, or on material useful to persons, or will have such an effect in the future;

"premises" means:

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated;
- (c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or

"prescribed fee" means a tariff for the services which the Council may set for the provision of municipal service to the local community, and includes a surcharge on such tariff;

"public place" includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space, in the Council's jurisdiction, 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 and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare or not, which is commonly used by the public or any section thereof or to which the public or any section thereof has right of access and includes-

"recovery" when used in relation to waste, means the controlled extraction of a material or the retrieval of energy from waste to produce a product;

"recyclable waste" means waste which has been separated from the waste stream, and set aside for purposes of recycling;

"recycling" means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material;

"re-use" means to utilise articles from the waste stream again for a similar or different purpose without changing the form or properties of the articles;

"resident" in relation to the Council's jurisdiction means a person who is ordinarily resident within that area;

"route" means the way or course taken in getting from a starting point to a destination during an event which takes the form of a race or procession;

"SANS Code" means the South African National Standard: 10228: The Identification and Classification of Dangerous Goods for Transport;

"scrap dealer" means any person engaged in purchasing or collecting, storing and recycling of waste, especially metal, but does not include any person engaged solely in recycling metal cans, paper, cardboard or glass;

"stadium" has the meaning assigned to it in section 1 of the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

"storage" means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste;

"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations;

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

"un-compactable 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 Council;

"venue" means a stadium, or any area or place where an event is hosted; that has a seating or standing spectator capacity of at least 2000 persons as certified by the Council, within which other permanent or temporary structures may be erected and which may be demarcated by an enclosed or semi-enclosed permanent or temporary structure;

"venue owner" means a person who owns, manages or is entitled to exercise the rights of an owner or occupier of a venue used for events;

"verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"waste" means any substance, whether or not that substance can be reduced, re-used, recycled and recovered-

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste in terms of the Waste Act by the Minister of Environmental Affairs by notice in the Gazette;

"Waste Act" means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

"waste disposal facility" means any site or premises used for the accumulation of waste with the purpose of disposing of that waste at the site or premises;

"waste handling facility" means any facility on or in which waste is accepted, accumulated, handled, sorted, prior to its transfer for treatment, recycling, processing and disposal;

"waste management activity" has the same meaning assigned to it in section 1 of the Waste Act;

"waste management licence" has the same meaning assigned to it in section 1 of the Waste Act;

"waste management services" means waste collection, treatment, recycling and disposal services;

"waste stream" means any type of waste, including domestic waste; general business waste, commercial business waste; and recyclable waste;

"waste treatment facility" means any site that is used to accumulate waste for the purposes of storage, recovery, treatment, reprocessing, or recycling of waste, excluding storage by a generator of waste prior to collection;

"workplace" means any place within the Council's jurisdiction on or in which or in connection with which, a person undertakes a municipal service or a commercial service.

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Systems Act, or any other law, been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.
- (3) Any reference to any local, provincial or national legislation, or any regulation is a reference to that local, provincial or national legislation, or regulation as amended or re-enacted, from time to time.

2. Principles

- (1) The Council has the responsibility to ensure that all waste generated within its jurisdiction is-
 - (a) collected, transported, treated, disposed of or recycled in accordance with these By-laws; and

- (b) that such collection, transportation, treatment, disposal or recycling takes account of the waste management hierarchy.
- (2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
- (a) waste avoidance, waste minimisation and waste reduction;
 - (b) re-use;
 - (c) recycling, reprocessing and treatment; and
 - (d) disposal.
- (3) Any authorised official must, as far as reasonably possible, take into account the waste hierarchy.

3. Main objectives

- (1) The main objectives of these By-laws are to-
- (a) ensure that waste is avoided, or where it cannot altogether be avoided, minimized, re-used, recycled, recovered and disposed of in an environmentally sound manner;
 - (b) promote sustainable development and environmental justice through fair and reasonable measures for management of waste within the Council's jurisdiction;
 - (c) regulate the collection, transportation, storage, disposal, treatment and recycling of waste within the Council's jurisdiction;
 - (d) regulate and ensure effective delivery of the municipal service and regulate the provision of commercial services through accreditation of service providers; and
 - (e) ensure that all municipal residents and businesses in the Council's jurisdiction participate in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.
- (2) In pursuing the main objectives of these By-laws, the Council may in appropriate circumstances require any generator or holder of waste to take reasonable measures to ensure that the objects in subsection (1) are given effect to.
- (3) The measures which the Council may require a generator or holder of waste to take include:
- (a) providing information to the Council for the purpose of facilitating effective waste management within its jurisdiction;
 - (b) presenting proof to the Council that any activity which is required to be licensed or authorized in terms of any national or provincial law or these By-laws is so authorised; and
 - (c) investigating, assessing and evaluating the impact that any activity, process or situation within the Council jurisdiction has on the environment and presenting the findings to the Council.

4. Obligations of generators or holders of waste

A generator or holder of waste generated by his or her activities or activities of those persons working under his or her direction must:

- (a) manage such waste so that it does not endanger health or the environment or create a nuisance; and
- (b) maintain suitable cleanliness and hygiene standards on their premises as required by the Regional Public Health By-laws.
- (c) reduce the generation of waste;
- (d) re-use and recycle waste;

5. Provision of information to the Council

The Council may, by notice published in the Provincial Gazette or in writing to any specific holder or generator of waste or any other person who undertakes a waste management activity within the Council's jurisdiction, require the relevant persons to provide information in the prescribed form and within the prescribed period or at the prescribed intervals to the Council to enable it to:

- (a) facilitate effective waste management within its jurisdiction;
- (b) gather information and undertake strategic planning regarding the delivery of the municipal service;
- (c) assess waste minimisation within the Council's jurisdiction;
- (d) prepare its integrated waste management plan;
- (e) fulfil the Council's internal and external waste management reporting requirements;
- (f) furnish information as required by the Waste Act to the Provincial or National government;
- (g) identify specific data collection methods and equipment to be used for purposes of collecting waste management information; and
- (h) for such other purpose as the Council may specify.

Chapter 2

Part 1 - Integrated waste management plans

6. Preparation and reporting on the implementation of integrated waste management plans by certain generators or holders of waste

- (1) In addition to any other provisions in the By-laws regarding the preparation of integrated waste management plans, the Council may, by notice published in the Provincial Gazette, require present or future generators or holders of specified waste streams to prepare integrated waste management plans.

- (2) A notice referred to in subsection (1) shall specify the prescribed form required for the integrated waste management plan and submission date for it.
- (3) Any person who is required by the Council to prepare an integrated waste management plan may be required to review and update the plan and to submit an amended plan at intervals specified by the Council.

7. Contents of integrated waste management plans

Any integrated waste management plan, required in terms of these By-laws, must include at least-

- (a) an assessment of the quantity and type of waste that is or will be generated;
- (b) a description of the waste management services the generator will require;
- (c) the full details of the site/s or area/s where waste will be generated, stored, treated or disposed of;
- (d) a description of how the generator of the waste separates or intends to separate recyclable and non-recyclable material;
- (e) the waste minimisation and pollution prevention practices and plans of such waste generator;
- (f) the methods of disposal or treating such waste;
- (g) a reporting plan on the implementation of the integrated waste management plan;
- (h) details of the person responsible for the implementation of the integrated waste management plan; and
- (i) any further information that the Council may in writing require.

Part 2 - Event waste

8. Use of accredited service provider

A venue owner or organiser of an event is required to contract with an accredited service provider for the provision of waste management services to the event.

9. Obligation to prepare an event waste management plan and the minimum content of the plan

- (1) The venue owner or the organiser of any event held within the Council's jurisdiction must submit an event waste management plan to the Council or authorised official.
- (2) An event waste management plan for a particular event should be submitted for approval to the Council or authorised official at least 30 days prior to the proposed event.
- (3) It is an offence to host or organise an event without an approved event waste management plan but if no comments are received on the event waste management

plan within 30 of days from the date of submission to the Council then the event waste management plan shall be deemed to be approved.

10. Refundable deposit

- (1) The venue owner or organiser of an event will be required to pay a refundable deposit of an amount determined by the Council or authorised official, in terms of a formula that will be set from time to time, and which amount would be sufficient to cover the costs of cleaning-up after the event and disposing of all waste generated by the event.
- (2) Such deposit must be paid at least five days before the event commences.
- (3) Where a deposit is paid, it shall be refunded by the Council to the venue owner or organizer upon the provision of proof of full compliance with the approved event waste management plan, including proof of the use of accredited service providers for carrying out the collection and disposal of all event waste.
- (4) If the refundable deposit is not claimed within 90 days after the event it shall be forfeited to the Council.
- (5) No interest will be payable by the Council on the amount of a deposit held by it in terms of this section.
- (6) It is an offence to host or organise an event without paying the refundable deposit, where this is required.

11. Recovery of clean-up costs

If inadequate steps are taken after an event to manage waste generated by the event and to clean up all waste generated during the event-

- (a) the venue owner or organiser is liable for the full cost of the cost of the collection, clean-up, recycling and disposal of the waste generated by the event.
- (b) the Council may take such steps as may be necessary to manage the waste generated by the event including arranging for the collection, clean-up, recycling and disposal of the waste generated by the event.
- (c) Any costs which the Council may incur pursuant to (b) above may in the first place be recovered from the deposit paid by the venue owner or organiser and thereafter the Council may recover these costs from the venue owner or organiser through other legal measures at its disposal.

Part 3 - Building waste - new and demolished buildings

12. Preparation and approval of a building waste management plan

- (1) When any site development plan is submitted to the Council for its approval, the person making the submission must simultaneously submit:
 - (a) a building waste management plan setting out the manner in which all building waste and other waste generated in the course of construction will be managed, treated, collected, transported and disposed of; and

- (b) proof that all necessary waste management services for the construction activities will be provided by an accredited service provider.
- (2) The building waste management plan referred to in subsection (1)(a) must be referred to the Council for approval.
- (3) No site development plan may be approved before the building waste management plan has been approved by the Council.
- (4) If no comments are received on the building waste management plan one month after it is referred to the Council, the building waste management plan will be deemed to have been approved.

13. Deposit and demonstrating compliance with the building waste management plan

- (1) When submitting a building waste management plan for approval, the owner of the land or the developer must pay a refundable deposit of an amount determined by the Council or authorised official in terms of a formula that will be set from time to time, and which amount would be sufficient to cover the costs of cleaning-up or managing building waste if the building waste management plan is not complied with.
- (2) A deposit paid in terms of subsection (1) may only be refunded by the Council if the Council or an authorised official is satisfied that the building waste management plan has been complied with and the owner of the land or the developer has requested the refund.
- (3) The request for a refund should be made to the Council in writing and be accompanied by documentation proving compliance with the building waste management plan.
- (4) The deposit paid in terms of subsection (1) will be forfeited to the Council if it has not been claimed by the owner of the land or the developer within 24 months of payment or such extended period as the deposit holder may request on application.
- (5) No interest will be payable by the Council on the amount of any deposit held by it in terms of this section.

14. Generation and management of building waste

All generators of building waste must ensure that-

- (a) no additions or alteration of any structure should be done without making provision for waste that will be generated from the site;
- (b) recyclable and non-recyclable waste is separated;
- (c) non-recyclable waste is treated or disposed of in an environmentally sound manner;
- (d) 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;
- (e) the premises on which the building waste is generated, do not become unsightly and no nuisance is caused by accumulated building waste;

- (f) any building waste which is blown off or washed away from the premises is promptly retrieved;
- (g) any structure necessary to contain the building waste is constructed; and
- (h) any instruction from the Council regarding the management and storage of building waste, including any structures to be constructed is adhered to.

15. Storage of building waste

- (1) No person may place building waste on a pavement or sidewalk unless such waste is placed in a receptacle.
- (2) The prohibition in subsection (1) does not apply to the storage of building material which one will utilise in the construction of the building.
- (3) Every receptacle used for the storage and removal of building waste must-
 - (a) have clearly marked on it the name, address and telephone number of the person in control of that receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back there and
 - (c) be covered at all times other than when actually receiving, or being emptied of waste so that no displacement of its contents can occur.

16. Collection and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated or the developer must ensure that the waste is collected and transported by an accredited service provider. All waste transported must be covered to avoid any spillage.
- (2) All building waste must be disposed of at an appropriately licensed waste disposal facility, unless-
 - (a) the Council has given written consent for the building waste to be used for the purpose of land reclamation and all other authorisations required for this have been obtained; or
 - (b) the building waste will be re-used or recycled by an accredited service provider; or
 - (c) the building waste will be treated at a licensed waste treatment facility.

Part 4 - Garden waste

17. Storage, Collection, Composition and Disposal of Garden Waste

- (a) 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.

- (b) 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.
- (c) 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.
- (d) 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.

Part 5 - Hazardous and health care risk waste

18. Generation of hazardous or health care risk waste

- (1) Any person who will carry on an activity which will generate hazardous or health care risk waste (other than the generator of minimum quantities of such waste within a household pursuant to the normal operation of a household) must before carrying on that activity:
 - (a) prepare an integrated waste management plan setting out what provision is made for managing, storing, treating, collecting, transporting and disposing of hazardous or health care risk waste generated from such activities;
 - (b) provide proof that all waste management service will be provided by an accredited service provider; and
 - (c) provide a copy of a valid public health permit if the activity that will generate hazardous or health care risk waste.
- (2) The integrated waste management plan referred to in this section should be submitted to the Council or authorised official for approval before the activities which will generate waste identified in subsection (1) are carried out and the plan must include:
 - (a) the information set out in section 7(a) - (i);
 - (b) an analysis of the composition of the waste concerned; and
 - (c) certification of the analysis of the composition of the waste by an appropriately qualified chemist if required by the Council.
- (3) If waste identified in subsection (1) is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must prepare an integrated waste management plan and submit it to the Council or authorised official for approval within 180 days of the commencement of these By-laws.
- (4) The integrated waste management plan must be renewed and updated regularly as determined by the Council.
- (5) It is an offence to carry on an activity which generates hazardous or health care risk waste without an approved integrated waste management plan.

19. Storage of hazardous or health care risk waste

- (1) Any person carrying on an activity which generates hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected by an accredited service provider from the premises.
- (2) Hazardous or health care risk waste stored on any premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (3) Any person who stores hazardous or health care risk waste must at least take steps to ensure that-
 - (a) the containers in which this waste is stored, are intact and not corroded or in any other way rendered unsafe for the storage of this waste;
 - (b) adequate measures are taken to prevent accidental spillage or leaking;
 - (c) the waste cannot be blown off or washed away;
 - (d) nuisances such as odour, visual impacts and breeding of vectors do not arise;
 - (e) pollution of the environment and harm to health are prevented; and
 - (f) the waste is collected by an accredited service provider within a reasonable time after its generation but at least within 30 days;

20. Collection and disposal of hazardous or health care risk waste

- (1) Only an accredited service provider may transport hazardous and health care risk waste and must do so in accordance with the conditions of an accreditation permit issued to him or her under Chapter 7 as well as the requirements of any relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- (2) A person accredited to collect and dispose of hazardous or health care risk waste, must inform the Council at intervals stipulated in the accreditation permit issued under Chapter 7, of each removal of hazardous or health care risk waste, the date of such removal, the quantity of the waste removed, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- (3) Any person carrying on an activity which generates hazardous or health care risk waste must ensure that such waste is disposed of or treated at an appropriately licensed waste disposal facility or waste treatment facility.

Chapter 3 - Waste minimisation and recycling**21. Reduction, re-use, recycling and recovery of waste should result in less environmental harm than disposing of waste**

- (1) All generators and holders of waste must ensure that waste is avoided, or where it cannot altogether be avoided, minimized, re-used, recycled or recovered wherever possible and disposed of in an environmentally sound manner.
- (2) Any person who is undertaking reduction, re-use, recycling or recovery of waste including scrap dealers, waste treatment facilities 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.
- (3) Waste minimisation and recycling approaches need to take into consideration that waste needs to be turned into economic security by tapping a domestic source of materials. Recycling needs to be conducted to assist waste management issues and as an income generator to the community.

22. Registering with the Council and compliance with national and provincial laws

- (1) Re-use, recycling or recovery of waste must be undertaken in a manner which complies with the Waste Act and any other applicable law.
- (2) No person may undertake to collect, transport, sort, store, re-use, recycle or recover waste with the intention of making profit including scrap dealers, waste treatment facilities and formalised recycling groups unless the person is accredited in terms of Chapter 7 of these By-laws.
- (3) Subsection (2) does not apply to transportation or collection of own recyclable waste; persons engaged in fundraising ventures or bona fide non-governmental organisations if the collection, transportation, sorting, storing, re-using or recycling of waste is not for profit.

23. Obligation to separate waste into recyclables and non-recyclables

- (1) The Council may prescribe by a notice published in the Provincial Gazette that, from a prescribed date, areas, specified generators or holders of particular categories of waste must for the purpose of recycling, separate those categories of waste and must, store, dispose of or treat the separated waste in the manner prescribed in the notice.
- (2) Failure to comply with a notice published pursuant to subsection (1) is an offence.

24. Storage, collection, treatment, transportation and disposal of recyclable waste

- (1) The owner or occupier of premises on which recyclable waste is generated and separately stored, must ensure that-
 - (a) until such time as such waste is collected by an accredited service provider from the premises on which was generated or stored, the waste is placed in an approved waste receptacle, and in a secure location;

- (b) the approved waste receptacle in which the waste is stored, is not kept in a public place except when so required for collection;
 - (c) the approved waste receptacle placed for collection is not damaged and is properly closed so as to prevent the dispersal of its contents;
 - (d) every approved waste receptacle on the premises is kept closed, save when waste is being deposited in or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (e) nuisances such as odour, visual impacts and breeding of vectors do not arise; and
 - (f) the waste is collected by an accredited service provider within a reasonable time after the generation thereof, but at least once per month.
- (2) An accredited service provider must handle, treat or dispose of recyclable waste at a permitted waste handling, treatment or disposal facility.

Chapter 4 - Municipal service

Part 1 - Providing access to the municipal service

25. Duty to provide access to the municipal service

- (1) The Council has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to the municipal service.
- (2) The duty referred to in subsection (1) is subject to-
 - (a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (3) The Council must take the following factors into account in ensuring access to the municipal service:
 - (a) the waste management hierarchy;
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;
 - (d) the requirements of operational efficiency;
 - (e) the requirements of equity; and
 - (f) the need to protect human health and the environment.

26. The provision of the Municipal service

- (1) The Council must, as far as reasonably possible and subject to the provisions of these By-laws, provide for the collection of domestic waste, and such quantity of general business waste and dailies as the Council may determine from time to time, on a regular basis and at a cost to end users determined in accordance with the prescribed fee.
- (2) The Council shall be the exclusive provider of the Municipal service for the collection, transportation and disposal of domestic waste, within the Council's jurisdiction and may appoint one or more service providers to carry out this function on its behalf.
- (3) In relation to the municipal service, the Council may determine:
 - (a) the quantities of waste that will be collected;
 - (b) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
 - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee; and
 - (d) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these By-laws.
- (4) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, general business waste and dailies pending collection, or the Council may provide such receptacle which remains the property of the Council.
- (5) In providing the municipal service, the Council may determine or designate:
 - (a) collection schedules;
 - (b) locations for placing approved receptacles for collection; and
 - (c) waste items that are unsuitable for collection and if certain waste is determined to be unsuitable for collection, a process for collection or disposal of such waste should be recommended to the generator or holder of the waste.
- (6) The Council may require a generator of domestic waste, general business waste and municipal dailies to compact that portion of the waste that is compactable, if the quantity of relevant waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and if, in the opinion of the Council, the major portion of such waste is compactable.
- (7) A holder or generator of domestic waste, general business waste and dailies or an occupier of premises where such waste is stored may elect to compact any volume of waste referred to in subsection (6), and place it into an approved waste receptacle or wrapper, provided-
 - (a) the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents does not exceed 35 kilograms; and

- (b) after the waste has been compacted and put into an approved waste receptacle or wrapper, the receptacle or wrapper must be stored in a manner which prevents damage to the receptacle or wrapper or any nuisance arising until it is collected.
- (8) The Council may at any time review any decision taken by it in terms of subsection (6).
- (9) The Council must in writing notify every generator of domestic waste, general business waste and dailies of any decision taken in terms of subsection (4) or (5) relating to his or her premises.
- (10) Non-receipt of a notice contemplated in subsection (9), does not affect the application of any provision of these By-laws nor the liability to pay any prescribed fee provided for in these By-laws.

Part 2 - Using the Municipal service

27. Obligations of generators of domestic waste, municipal service business waste and municipal service dailies (wet/putrescible waste)

- (1) Any person generating domestic waste, general business waste and dailies must place such waste, in an approved waste receptacle.
- (2) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that-
 - (a) no hot ash, unwrapped glass or other domestic waste, general business waste or dailies, which may cause damage to approved waste receptacles or which may cause injury to the Council's employees while carrying out their duties in terms of these By-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;
 - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved waste receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
 - (c) every approved waste receptacle on the premises is kept closed save when waste is being deposited in discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (d) no approved waste receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, general business waste or dailies and, in particular, that no fire is lit in such approved waste receptacle;
 - (e) an approved waste receptacle is placed outside the entrance to the premises before a time and on a day the week specified by the Council by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
 - (f) an approved waste receptacle, placed in accordance with paragraph (e) is not damaged and is properly closed so as to prevent the dispersal of its contents; and

- (4) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved waste receptacles.
- (5) The space provided to store an approved waste receptacle, must-
 - (a) be in a position on the premises which will allow the storage of any approved waste receptacle without it being visible from a public road or public place;
 - (b) if dailies are generated on premises-
 - (i) be in a position which will allow the collection and removal of that waste by the Council's employee without hindrance; and
 - (ii) not be more than 20 metres from the entrance to the premises used for the collection of waste by Council;
 - (c) be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles;
 - (d) comply with any further requirements imposed by the Council by written notice to the owner or occupier the premises; and
 - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.
- (6) The occupier of premises must place or cause any approved waste receptacle to be placed in the space provided in terms of subsection (4) and must at all times keep them there.
- (7) Notwithstanding the provisions of subsection (5)-
 - (a) in the case of a building erected, or the building plans of which have been approved, prior to the commencement of these By-laws; or
 - (b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (4), the Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved waste receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

28. Liability to pay for Municipal service

- (1) The owner of premises is liable to pay to the Council the prescribed fee for the provision of the municipal service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal service.
 - (a) A prescribed fee becomes due and payable on the due date for payment stipulated on the account.
 - (b) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

Chapter 5 - Commercial services**Part 1 - Provision of commercial services by accredited service providers and flow control****29. Provision of commercial services by accredited service providers**

- (1) Only an accredited service provider may provide a commercial service.
- (2) Any person requiring a commercial service, as defined in section 1 of these By-laws, must satisfy himself or herself or itself that the service provider is accredited by the Council to provide the commercial service and is licensed by the national or provincial authority if a waste management licence is required for the service it provides.

30. Provision for Council co-ordination of waste disposal

- (1) The Council may by a notice published in the Provincial Gazette direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
- (2) Where the Council has directed that a particular category of waste be disposed of at a specified waste disposal facility, no person may dispose of such waste at a waste disposal facility which is not designated to receive the category of waste specified in the notice referred to in subsection (1).

Part 2 - General business waste and industrial waste**31. Storage, collection and disposal of commercial business waste and industrial waste**

The owner or occupier of premises on which commercial business or industrial waste is generated or stored, must ensure that:

- (a) until such time as such waste is collected by an accredited service provider from the premises on which was generated or stored, the waste is stored in a bulk container or other approved waste receptacle;
- (b) the container or receptacle in which the waste is stored, is not kept in a public place except when so required for collection;
- (c) adequate measures are taken to prevent accidental spillage, leaking or waste being blown away;
- (d) nuisances such as odour, visual impacts and breeding of vectors do not arise;
- (e) pollution of the environment and harm to health are prevented; and
- (f) the waste is collected and disposed of or recycled by an accredited service provider within a reasonable time after the generation thereof but at least within 30 days;

Part 3 - Organic waste and un-compactable waste**32. Storage, collection and disposal of organic waste and un-compactable waste**

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

- (2) The occupier of the premises on which organic waste is generated and not composted or on which un-compactable waste is generated must ensure that such waste is collected and disposed of within a reasonable time after the generation thereof.
- (3) Any person or an accredited service provider may remove organic waste and un-compactable waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at an organic waste handling facility in accordance with the provisions of section 34.
 - (a) At the written request of the occupier of premises, the Council may deliver an approved receptacle to the premises for the purpose of storing organic waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.
 - (b) The provisions of section 26(4), read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).
- (4) If, in the course of providing the municipal service, the Council is of the opinion that it would cause inconvenience to members of the public if it were not, at the same time, to remove garden and un-compactable waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

Chapter 6 - Transportation, treatment and disposal of waste

33. Transportation of waste

- (1) No person may-
 - (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition all times;
 - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net;
 - (d) cause or permit any waste being transported in or through the Council's jurisdiction to become detached leak or fall from a vehicle transporting it, except at a waste disposal facility; or
 - (e) transport waste in a manner that would cause nuisance or environmental pollution.
- (2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).
- (3) Any person engaged in the transportation of waste must take all reasonable measures to prevent any spillage of waste or littering from a vehicle used to transport waste, and where waste is spilled, immediately clean-up the spilled waste.

34. Disposal of waste

- (1) Waste generated and disposal:
 - (a) Waste generated in the Council's jurisdiction must be disposed of at a waste disposal facility licensed to accept such waste or recycled or treated at a licensed or permitted waste treatment facility.
 - (b) In disposing of waste, an accredited service provider must comply with the provisions of section 29(2) and with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- (3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or provincial authorities permit such incineration, or at a place designated by the Council for that purpose.
- (4) Notwithstanding the provisions of subsection (1), a person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of section 29(2) at a designated organic waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one tonne or less.
- (5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Departments of Environmental, Forestry and Fisheries or Water Affairs, subject to such conditions as the Council may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.
- (6) Every person who enters a waste disposal facility must-
 - (a) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
 - (b) at the request of the person in charge of a waste disposal facility, provide the Council or that person with any information regarding the composition of the waste disposed of or to be disposed of; and
 - (c) comply with any instruction by the person in charge of the waste disposal facility in respect of access to actual place where, and the manner in which, waste must be deposited.
- (7) No person may-
 - (a) bring any liquor or intoxicating or narcotic substance into a waste disposal facility or enter such facility under the influence of liquor or such substance;
 - (b) enter a waste disposal facility, drop-off site and transfer stations for any purpose other than the disposal of waste in terms of these By-laws unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;

- (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted;
- (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- (8) Any person who contravenes subsection (6)(c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.
- (9) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
- (10) The person in charge of a waste disposal facility or an authorised official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (11) Any person contravening any preceding provision of this section, may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by an authorised official.
- (12) No person may store waste in a manner which may cause pollution or a nuisance.

Chapter 7 - Accreditation of service providers

35. Accreditation permit requirements

- (1) Subject to the provisions of section 42, no person may provide a commercial service, as defined in section 1 of these By-laws, without obtaining an accreditation permit from the Council and obtaining a relevant waste management licence from the national or provincial authorities where one is required.
- (2) An accreditation permit issued under this Chapter-
 - (a) is incapable of cession or assignment without the prior written consent of the Council;
 - (b) is valid only for the service and category of waste specified therein; and
 - (c) is valid for the period set out in the permit.

36. Applications for accreditation

- (1) An application for an accreditation permit to provide a commercial service must be-
 - (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and
 - (b) accompanied by the prescribed fee.
- (2) The Council must consider each application, having regard to the following:

- (a) the applicant's compliance, where relevant, with the Waste Act;
 - (b) the applicant's compliance, where relevant, with the National Road Traffic Act, 1996 (Act No. 93 of 1996 and with these By-laws;
 - (c) the environmental, health and safety record of the applicant; and
 - (d) the nature of the commercial service to be provided.
- (3) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.
- (4) After considering the application in terms of subsection (2), the Council must either-
- (a) approve the application by issuing an accreditation permit subject to any condition it may impose pursuant to section 37 of these Bylaws; or
 - (b) reject the application.
- (5) Notwithstanding subsections (2) and (4), an accreditation application by a service provider who holds a waste management licence issued by the national or provincial authorities to undertake or conduct a waste management activity will, upon the applicant providing a copy of a valid waste management licence and any information reasonably required by the Council, be granted.
- (6) If the Council fails to consider and grant or reject an application for an accreditation permit within 60 days of its receipt of the application, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

37. Suspension and revocation of accreditation permit

- (1) An accreditation permit issued under this Chapter may be suspended or revoked by the Council on the grounds that the service provider-
- (a) is in breach of its waste management licence and the national or provincial authorities have suspended revoked the waste management licence;
 - (b) has failed to comply with any provision of these By-laws;
 - (c) has failed to comply with any provision of any national or provincial legislation which regulates the collection, transportation or disposal of waste;
 - (d) has failed to comply with any accreditation condition contemplated in section 35(4)(a); or
 - (e) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.
- (2) An accreditation permit may only be suspended or revoked after-
- (a) the permit holder has been given written notice that the Council is considering the suspension or revocation of the permit; and

- (b) the permit holder has been given a period of 30 days after service of the notice to make representations to the Council as to why the permit should not be suspended or revoked.
- (3) The Council must-
 - (a) make a decision within 14 days of receipt of the representations contemplated in subsection (2)(b), if any or within 14 days after the permit holder informed the Council that he or she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in subsection (2)(b); and
 - (b) inform the permit holder of its decision in writing within seven days of making it.
- (4) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Council may not disclose any confidential commercial information submitted as part of an accreditation permit application procedure to any person other than a Council official requiring such information to perform his or her functions for the purposes of these By-laws.

38. Terms and conditions for accreditation

- (1) When issuing an accreditation permit under this Chapter, the Council may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering the Council's waste management policy.
- (2) An accreditation permit issued under this Chapter must-
 - (a) specify the permit period for which the permit is valid and the procedure for renewing the permit;
 - (b) specify the nature of the commercial service the permit holder may provide;
 - (c) specify every category of waste in respect of which the permit holder may provide a waste management service;
 - (d) contain a requirement that the permit holder must comply with, and ensure compliance by his or her employees, agents and sub-contractors, with these By-laws and applicable national and provincial legislation; and
 - (e) require the permit holder to keep monthly written records on a form prescribed by the Council of the quantities of each category of waste stored, collected, transported, treated or processed during the permit period.

39. Renewal of accreditation permits

- (1) An accreditation permit holder who wishes to renew his or her accreditation must at least 90 days prior to the expiry of the existing permit:
 - (a) apply on the prescribed form to renew the permit concerned; and
 - (b) pay the prescribed renewal fee.
- (2) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.

- (3) The Council must consider and grant or reject an accreditation permit renewal application within 60 days of the receipt of the application subject to the provisions of section 35(6).
- (4) If the Council fails to consider and grant or reject an accreditation permit renewal application within 60 days, it must inform the service provider in writing that the period for consideration is extended and must inform the service provider of the date by which a decision will be made.
- (5) An accreditation permit in respect of which an application for renewal has been made in terms of subsection (1) remains valid until a final decision has been made in respect of that renewal application.

40. Display of an accreditation permit

- (1) Upon issuing an accreditation permit under this Chapter, the Council must issue to the applicant a permit sticker for each waste transporting vehicle or each waste treatment facility used for a commercial service.
- (2) The permit stickers must vary in colour for each category of waste and commercial service, as defined in section 1 of these By-laws, provided.
- (3) An accreditation permit holder must affix such permit sticker to each vehicle to be utilised to collect and transport waste and prominently display the permit sticker or permit at all premises utilized for providing the commercial service..

41. Prohibited conduct

No permit holder may-

- (a) intentionally or negligently operate in contravention of any condition of the accreditation permit;
- (b) intentionally or negligently fail or refuse to give information to an authorised official, when required to do in terms of these By-laws, or give false or misleading information;
- (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws, be it any act or an omission of his or her employee acting in the course and scope of his or her duties, or
- (d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependent on the waste stream, to be collected or transported, as specified in the National Road Traffic Act, 1996 (Act No. 93 of 1996).

42. Exemptions

The Council may, having regard to the main objects of these By-laws contemplated in section 3(1), and its integrated waste management plan, by notice in the Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

43. Transitional provisions

- (1) Any person who is at the commencement of these Bylaws lawfully providing a commercial service, as defined in section 1 of these By-laws, for which an accreditation permit is required under this Chapter, may continue providing such service provided that within 90 days of such commencement, or such extended period as Council may prescribe, such person makes application for an accreditation permit in terms of section 35, failing which such person's right to provide such service lapses.
- (2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

Chapter 8 - Accumulating waste, littering, dumping and abandoned articles**44. Accumulating waste**

Every owner and occupier of premises must keep those premises clean and free from any waste which is likely to cause a nuisance, harm to human health or damage to the environment.

45. Duty to provide facilities for litter

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

46. 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 any of the contents of the receptacle to spill from it; or
 - (d) allow any person under his or her control to do any of the acts referred to in paragraph (a), (b) or (c).
- (2) Notwithstanding the provisions of subsection (1), the Council, or the 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 from the premises concerned to prevent the litter from becoming a nuisance.

47. Prohibition of dumping and abandoning articles

- (1) No person may deposit or permit the depositing of any waste, whether for gain or otherwise, upon any land or in any building of which he or she is the owner or occupier except if such deposit is made in accordance with the provisions of these By-laws.
- (2) Subject to any provision to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.

48. Duty to prevent land or building used for dumping

- (1) The owner or occupier of any land or building must take reasonable measures to prevent such land or building from being used for dumping and to clean up all waste dumped on or at the land or building.
- (2) The measures required in terms of subsection (1) may include:
 - (a) fencing-off the land or building;
 - (b) erecting "no dumping" signs; and
 - (c) security measures to monitor and enforce antidumping measures on the land or building.
- (3) If any land or building is used for dumping and, in the reasonable opinion of the Council, the owner or occupier has failed to take reasonable measures to prevent dumping and to clean-up waste dumped on the property, the Council may direct the owner or occupier to fence-off the land or building and/or to erect notices to prevent further dumping.
- (4) Should the owner or occupier of any land or building, fail to comply, with a directive under subsection (3), the Council or authorised official may take reasonable measures to prevent dumping on the property and may recover its costs of doing so from the owner or occupier.
- (5) Failure to comply with a directive issued in terms of subsection (3) is an offence.

49. Disposal of dumped or abandoned articles

- (1) Any article, other than a motor vehicle deemed to have been abandoned as contemplated in regulation 320 of the National Road Traffic Regulations, 2000, published under the National Road Traffic Act, 1996 (Act No. 93 of 1996), published in Government Notice R225 in Government Gazette 20963 of 17 March 2000 which, in the light of such factors as the place where it is found, the period it has been at such place and the nature and condition of such article, is reasonably considered by the Council as having been abandoned, may be removed and, subject to the provisions subsection (3), disposed of by the Council as it deems fit.
- (2) The Council may remove and, subject to the provisions of subsection (3), dispose of any article which is chained or fastened to any pole or any other property of the Council as it deems fit.
- (3) If an article contemplated in subsection (1) or (2), is, in the opinion of the Council, of significant financial value, the Council may not dispose of it unless it has published a notice in a newspaper circulated in the area where the article was found, describing the article, stating the Council's intention to dispose of it and inviting the owner, or person legally entitled thereto, to claim the article within 30 days of the date of publication of the notice and such article may only be disposed of if no valid claim is made during such period.
- (4) The Council may recover any reasonable and necessary expenditure which it has incurred in disposing of an article contemplated in subsection (1) or (2) from the proceeds derived from disposing of the article.

Chapter 9 - Authorised official**50. Identification documents**

- (1) An authorised official must, upon appointment, be issued with an identification document by the Council which must state the name and powers and function of that official, and include a photograph of the official.
- (2) An authorised official, exercising his powers or performing his functions and duties for the purposes of these By-laws, must present an identification document issued in terms of subsection (1) on demand by a member of the local community.

51. Powers of authorised officials

- (1) In addition to the powers, functions and duties an authorised official has by virtue of his appointment as such, an authorised official may, with the consent of the owner or person in charge of a vehicle or other mode of conveyance, search that vehicle or other mode of conveyance found in any place.
- (2) If consent is not obtained in terms of subsection (1), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a valid written authorisation issued by a justice of the peace as contemplated in sections 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963).

- (3) An authorised official may -
- (a) If, in the opinion of an authorised official, any search of a vehicle or other mode of conveyance in terms of subsection (1) or (2), gives rise to the reasonable apprehension that the presence of waste in or on such vehicle or other mode of conveyance is a serious and immediate danger to human health or to the environment, the authorised official must instruct the owner or person in control of the vehicle concerned in writing to take the steps specified in that instruction which, in the opinion of such official or officer, are necessary to mitigate harm to human health or damage to the environment.
- (b) In the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official may report the matter to the Kouga Law Enforcement Department with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (4) An authorised official may subject to Section 101 of the Systems Act, enter any premises if a justice of the peace as contemplated in Section 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963), has issued a written authorization to enter premises, for the purposes of ascertaining compliance with-
- (a) these By-laws; or
- (b) a term or condition of an accreditation permit, issued in terms of Chapter 7 of these By-laws.
- (5) The authorised official with a written authorisation referred to in subsection (4) is allowed to:
- (a) inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
- (b) copy any document referred to in paragraph (a) or if necessary, remove the document in order to copy it
- (c) take samples of any substance that is relevant to the work or inspection; and
- (d) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.

52. Powers to question

- (1) For the purposes of administering, implementing and enforcing the provisions of these By-laws, an authorised official may, require a permit holder or any other person to disclose information, either orally or in writing, and either alone or in the presence of a witness, on any matter to which these By-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

53. Observance of human rights

The exercise by an authorised official of any powers under these By-laws should be undertaken with strict regard to decency; orderliness; and each person's human rights including the right to dignity, freedom, security and privacy.

54. Supervision of holders of accreditation permits

- (1) An authorised official may, inspect every workplace of an accreditation permit holder at least twice a year.
- (2) An accreditation permit holder must allow an authorised official access for the purposes of an inspection in terms of subsection (1).
- (3) If an authorised officer is, after an inspection in terms of subsection (1), of the opinion that an accreditation permit holder is complying with these By-laws, he or she must, subject to the provisions of subsection (4), issue an accreditation permit holder with a certificate confirming such compliance, in which it must be stated-
 - (a) the name and residential and postal address of the accreditation permit holder;
 - (b) the address of the premises inspected;
 - (c) the time, date and scope of the inspection; and
 - (d) any remarks which, in the opinion of an authorised official, may be relevant.
- (4) If an accreditation permit holder fails to obtain a certificate confirming compliance at three consecutive inspections, an authorised official may recommend that the Council review the accreditation permit concerned and, should there be reasonable grounds, the Council may suspend or revoke the accreditation permit in terms of section 36.
- (5) An authorised official must keep a register recording each inspection which he or she has undertaken, in terms of subsection (1).

55. Compliance notices

- (1) If, in the opinion of an authorised official, a person is contravening any provision of these By-laws, that official may in writing issue a compliance notice and serve it on the person concerned.
- (2) An authorised official who is satisfied that the person served with the compliance notice has complied with the terms of the notice may issue a compliance certificate to that effect.
- (3) A compliance notice remains in force until an authorised official has issued a compliance certificate in respect of that notice or an order envisaged in section 55(4) is made.
- (4) A compliance notice must set out:
 - (a) the provision that has not been complied with;
 - (b) details of the nature and extent of noncompliance;

- (c) any steps that are required to be taken and the period within which those steps must be taken; and
- (d) any penalty that may be imposed in terms of these By-laws in the event of non-compliance with these steps.

56. Representations

- (1) Any person on whom a compliance notice as contemplated in section 54(1) or a directive contemplated in section 47(3) was served, may make representations to the Council, by submitting a sworn statement or affirmation to the Council, within a period set out in the notice/directive or within 21 days of the service of the compliance notice or the directive.
- (2) Representations not lodged within a period set out in the notice/directive or 21 days of the service thereof must not be considered, except if the person concerned has shown good cause for condonation and the Council condones the late lodging of the representations.
 - (a) The Council must consider the representations and any response thereto by an authorised official, or another person, if any, and may conduct any further investigation to verify the relevant facts.
 - (b) If the Council conducts a further investigation, the results of such investigation must be made available to the person who made the representations, who must be given an opportunity to respond thereto and the Council must consider such response.
 - (c) After the Council, is satisfied that inter alia the requirements of subsection (2a) have been satisfied, it must make an order in writing and serve a copy of thereof on the person concerned setting out its findings.
 - (b) Such an order may-
 - (i) confirm, alter or set aside in whole or in part, the directive or compliance notice concerned; and
 - (ii) must, if relevant, specify the period within which the person concerned must comply with the order
- (3) If a person makes representations in terms of subsection (1), any requirement to comply with the directive or compliance notice concerned, is suspended until an order is made in terms of subsection (2)(b) unless, in the opinion of the Council, an environmental emergency has been caused in which event and without derogation from any right that the person concerned may have or acquire to any relief of whatever nature, the person concerned must immediately comply with such directive or notice on being instructed, orally or in writing, by the Council to do so.
- (4) If a person, fails to comply with such an order in terms of subsection (3), the Council may itself cause the environmental emergency to be stopped, reversed or abated and recover any reasonable and necessary expenditure which it has incurred or may incur in taking those steps, from that person.

Chapter 10 - Miscellaneous**57. Ownership**

- (1) The person holding a waste management licence for a waste management activity becomes the owner of all waste the person handles. A person who generates waste is the owner thereof until it is collected by the Council or an accredited service provider which then becomes the owner thereof.
- (2) A person who abandons any article, is liable for any damage which that article may cause as well as for the cost of removing that article, notwithstanding the fact that such person may no longer be the owner thereof.

58. Serving of documents

- (1) A notice, instruction, order or other document which has to be served for the purposes of these By-laws, is regarded to have been properly served or delivered if-
 - (a) it has been served on or delivered to the person concerned personally;
 - (b) it has been sent by registered post or speed post to the person concerned at his or her last known address and
 - (c) it has been served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address.

59. Offences and penalties

- (1) Any person, who-
 - (a) contravenes or fails to comply with any provisions of these By-laws;
 - (b) fails to comply with any notice, directive or order issued or condition imposed in terms of or for the purposes of these By-laws;
 - (c) fails to comply with any lawful instruction given in terms or for the purposes of these By-laws; or
 - (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his/her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of a continuing offence, to a further fine or in default of payment, to imprisonment not exceeding one day for every day that the offence continues after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

- (2) 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, 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.

60. Short title

These By-laws are called the Kouga Waste Management Bylaws, 2022.

