

**DEPARTMENT OF TRADITIONAL AND LOCAL GOVERNMENT AFFAIRS**

**PROVINCIAL GOVERNMENT NOTICE**

**No. ...., 2015**

I, under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and after having consulted the Minister of Provincial and Local Government Affairs and Organised Local Government in the Province, hereby make the standard By-laws contained in the Schedule hereto.

Signed at \_\_\_\_\_ on this \_\_\_ day of \_\_\_\_\_ Twenty Fifteen.

**N DUBE**

Member of the Executive Council of the Province of KwaZulu-Natal responsible for local government

## **MANDENI MUNICIPALITY INTEGRATED WASTE MANAGEMENT BY-LAW, 2015**

To regulate the avoidance, minimisation, generation, collection, cleaning and disposal of waste and for matters related thereto.

**WHEREAS** the Mandeni Municipality has under the Constitution, legislative competence in respect of refuse removal, refuse dumps and solid waste disposal;

**Whereas** the Mandeni Municipality (“the Municipality”) has an obligation to regulate and control waste management so as to ensure a safe, healthy and sustainable environment and to ensure that the rights of individuals are protected;

**Whereas** the Municipality wishes to reduce the generation and the environmental impact of waste to ensure that the socio-economic development, the health of the people within the Municipality’s boundaries and the quality of environmental resources are not unduly adversely affected by waste;

**Whereas** the Municipality wants to ensure that, all residents, organisations, institutions, businesses, visitors or tourists and government departments are able to access services from a legitimate waste management service provider; and

**Whereas** the Municipality wishes to regulate generation, cleaning, separation, storage, collection, processing, treatment, recycling, re-use and disposal of waste, including littering and illegal dumping and the regulation of facilities used for the management of waste, with the ultimate aim of avoiding or minimising the generation of waste.

**Whereas** the Municipality enacts as follows:-

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#### **Definitions**

1. In this By-Law, unless the context indicates otherwise:

**“Accredited service provider”** means a person or entity accredited by the Municipality in accordance with the terms and conditions of a refuse removal system approved by the Municipality and who provides a waste management service in the Municipality and may include, but is not limited to, large and small business, entrepreneurs, community cooperatives;

**“Building waste and demolition waste”** means waste produced through the construction, alteration, repair or demolition of any structure both manmade and natural, and includes rubble, earth, wood and rock that is displaced during any construction, alteration, repair or demolition, but excludes garden waste;

**“Bulky waste”** means waste which can be classified as domestic or business waste but which by virtue of its mass, shape, size or quantity cannot easily be accumulated

**“Business waste”** means waste that emanates from premises that are used, whether lawfully mainly, for commercial, retail, wholesale, entertainment or government administration purposes, and also applies to waste generated by informal traders and residential premises where commercial activities are being conducted.

**“Chemical waste”** includes discarded solid, liquid and gaseous chemicals;

**“Municipality”** means the Municipality of Mandeni established in terms of section 12 of the Municipal Structures Act 117 of 1998 and includes authorised;

**“Director”** means the Director of Community Services, responsible for solid waste in the Municipality;

**“Unlawful dumping”** means dispose of waste in any manner other than one permitted by law and includes, without derogating from the generality of the afore going, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, 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;

**“Event waste”** means waste that originates from the activities related to an event that is held in the Municipal area;

**“E-waste”** means electric and electronic equipment waste such as lighting equipment, circuit boards, mobile phones, computers, television sets and audio visual equipment that are still mainly treated as domestic or business waste but with a high need and potential for recycling.

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

**“Hazardous waste”** means health care risk waste and any waste that may, by circumstances of the production, use, quantity, concentration or inherent physical, chemical or toxicological characteristics thereof, have a significant adverse effect on the environment, or the health of a person or other living organism or which may cause pollution;

**“Health care waste”** means any waste -

(a) Generated by or derived from medical care or medical research including but not limited to -

- (i) infectious waste;
- (ii) pathological waste;
- (iii) sharp waste;
- (iv) pharmaceutical waste;
- (v) genotoxic waste;
- (vi) chemical waste;
- (vii) pressurized container waste;
- (viii) waste with heavy metals;
- (ix) radioactive waste;
- (x) general waste

(b) That has been in contact with blood, bodily fluids or tissues from humans, or infected animals from veterinary practices;

**“Infectious waste”** means waste that is suspected to contain pathogens in a sufficient concentration or quantity to cause disease in susceptible hosts, and includes cultures and stocks of infectious agents from laboratory work, waste from surgery and autopsies on corpses with infectious diseases, waste from infected patients in isolation ward, waste that has been in contact with infected patients undergoing haemodialysis, infected animals from laboratories, sanitary waste materials and tissues including swabs and any other instruments or materials that have been in contact with infected persons or materials;

**“Pathological waste”** includes all human tissues, organs, body parts, fetuses, blood and bodily fluids and also those of animals;

**“Sharp waste”** includes items that could cause cuts or puncture wounds and includes, but is not limited to, needles, hypodermic needles, scalpels and other blades, knives, infusion sets, saws, broken glass and nails, and the word “sharp” has a corresponding meaning;

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

**“Genotoxic waste”** means highly hazardous waste that may have mutagenic, teratogenic or carcinogenic properties and includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material;

**“Pressurized container waste”** includes pressurized cylinders and cartridges used in health care facilities to store gases;

**“Radioactive waste”** includes solid, liquid and gaseous materials contaminated with radionuclides, including waste produced as a result of procedures such as *in vitro* organ imaging and tumour localization and various investigative and therapeutic practices;

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

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

**“Health care risk waste”** means that portion of health care waste that is hazardous and includes infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, waste with heavy metals, radioactive waste, and any other health care waste which is defined as hazardous in terms of the Health Care Risk Waste Management Policy for KwaZulu-Natal Province or any other applicable legislation.

**“Holders of waste”** means any person who imports, generates, stores accumulates, transports, processes, treats, exports or disposes of waste and also includes recycles and scrap dealers;

**“Industrial waste”** means waste that emanates from premises that are used wholly or mainly for industrial purposes and generate waste through manufacturing, industrial or fabricating processes including premises used for agricultural activities, mining activities or the operation of power stations;

**“Inert waste”** means waste that

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

**“Integrated waste management plan”** means an integrated waste management plan that is required by the Municipality in terms of this By-law or that is required in terms of any other applicable legislation;

**“Licensed waste disposal facility”** means a site, or premises which is licenced by Province of the KwaZulu-Natal or the National Government and used for the accumulation or disposal of waste;

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

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

**“Minimisation”** when used in relation to waste, means the avoidance of 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 disposed of;

**“Person”** includes any organ of state;

**“Priority waste”** means waste declared to be such by the Director in terms of this By-law or in terms of national or provincial legislation;

**“Recyclable materials”** means any material that can be converted into materials that can be re-used to make new products or resources;

**“Residential waste”** means waste that emanates from premises used wholly or mainly for residential, educational, sport or recreational purposes and may include recyclable materials and non-recyclable material, but excludes hazardous waste;

**“Receptacle”** means a standard type of refuse container, which includes a plastic bag, as prescribed by the Municipality for placement inside a container.

**“Tariff Policy and Tariff By-Law”** means the Tariff Policy, By-Law adopted by the Council of the Municipality and published in the Provincial Gazette from time to time;

**“Waste”** means any matter, whether gaseous, liquid or solid or any combination thereof, which is from time to time designated by the National Minister of Environmental Affairs and Tourism by notice in the *Government Gazette* or by the member of the Executive Council of the Province of the KwaZulu-Natal who is responsible for waste management in the Province of the KwaZulu-Natal, as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity;

**“Waste generator”** means a property owner, a household, organisation or business entity, the inhabitants, occupants or employees of which generate waste and includes sorters of waste such as recycling or waste minimisation groups, building contractors, scrap dealers and buy-back centres;

**“Waste management officer”** means the Solid Waste Manager or an officer referred to in section 25 of this By-law;

**“Waste with heavy metals”** includes mercury waste from thermometers, blood- pressure gauges, residues from dentistry, cadmium waste from discarded batteries, reinforced wood panels used in radiation proofing, and drugs containing arsenic;

**“Public place”** any square, street, through fare, bridge, partway, sidewalk, alley, open area, garden, park or any open area in the area of jurisdiction of the municipality;

### **Application of this By-law**

2. In the event of conflict between this By-law and any other By-law of the Municipality dealing with waste management this By-law must prevail.

### **Categorisation of waste**

3. (1) Waste shall be categorised in accordance with the definitions of the various types of waste in this By-law, to the extent that it is unclear under which category a type of waste falls.

(2) The decision of the Director must, subject to any other law, be final in the categorizing of waste.

### **Obligations of waste generators**

4. (1) A waste generator must -

(a) avoid the generation of waste or where it cannot be avoided minimise the toxicity and amounts of waste generated;

(b) separate waste with the aim of minimising waste and its impacts on the environment and to store the recyclable waste separately from non-recyclable waste provided that industrial waste must be separated into liquids, components and materials that can be treated for recycling or re-use;

(c) re-use, recycle or recover waste where possible;

(d) dispose of recyclable waste by -

(i) contracting with the Municipality where the waste generator will be charged at the Municipality’s standard charge in terms of the Tariff By-law;

(ii) where the Municipality does not provide such a service by contracting with an accredited service provider; or

(iii) delivering waste to a licenced waste disposal facility and ensure that waste is treated or disposed of in an environmentally sensitive manner at a licensed waste disposal facility;

(e) manage waste so that it does not endanger health or the environment or create a nuisance;

(f) maintain suitable cleanliness and hygiene standard on their premises as required by the Ilembe Health District or other applicable legislation.

(g) make use of the waste removal services provided by the Municipality or its service provider, unless the Municipality does not provide a waste removal service for the type of waste to be disposed of, in which case they shall make use of an accredited service provider.

(h) conclude a contract with the Municipality, its service provider or an accredited service provider, as the case may be, for the storage and collection of waste;

(i) store waste in the containers provided by the Municipality or an accredited service provider prior to collection or where a container is not provided, store waste in plastic black bags, which containers or bags will be collected by the service provider at least once a week according to the routes as published by the Municipality or the service provider from time to time;

(j) pay tariffs and rates charged by the Municipality for such waste removal services according to the Municipality's Tariff policy.

(2) A waste generator may apply to the waste management officer for an additional container and shall be liable for the additional costs as per the Municipal's Tariff-By-law and Tariff Policy.

(3) The waste management officer may require a waste generator to submit an integrated waste management plan prior to agreeing to supply an additional container.

(4) The owner and waste generator must comply with the terms and conditions set out by such waste management officer for the generation, minimisation, storage, collection, treatment and disposal of such additional waste.

(5) Should the waste generated by a waste generator, exceed the volume that can be stored in the containers provided or bags, the owner must make arrangements for the collection of the excess waste by the Municipality, charge in terms of the Tariff By-law, or an accredited service provider where the municipality does not provide such a service.

(6) If no arrangement is made for collection of excess waste, the owner or waste generator must promptly transport that additional waste to and deposit it at a licenced waste disposal facility at his or her own cost.

(7) The owner of a formal dwelling who has other structures on the property with persons living in these separate structures shall also be allocated one container per additional structure by the Municipality and shall be entitled to have it collected on the same terms as the residential dwelling. This provision will specifically exclude backyard dwellers and no additional costs shall be added for the collection of additional waste generated by such back yard dwellers.

(8) The owner of the property will have to sign an additional contract with the Municipality for storage, collection and disposal of waste contemplated in subsection (7) and shall be liable for the charges levied by the Municipality in connection therewith.

(9) Any business or agent disposing of waste on behalf of such business shall provide a report of the waste disposed to the waste management officer in a format as and when determined by the Director from time to time.

(10) A waste generator generating industrial waste, including Hazardous waste, must contract with an accredited service provider for the collection and disposal of such waste to a licenced waste disposal facility.

(11) The owner must on demand prove to the waste management officer that he or she has entered into a suitable agreement with an accredited service provider, for the collection, processing, treatment or disposal of industrial waste, including Hazardous Waste, at least once per week or as determined by the waste management officer.

(12) An accredited service provider must in respect of industrial waste as defined by SANS 10228 and 10229 comply with all legislation relating to handling, transfer, storage, use, treatment and transportation of the dangerous goods and dispose of it at a licenced waste disposal facility or landfill site.

(13) A waste generator generating industrial waste shall submit an integrated waste management plan to the Municipality and comply with the terms and conditions set out by the Municipality for the generation, minimisation, storage, recycling, collection and disposal of such waste.

(14) Garden waste generated at properties being used mainly for residential purposes may be composted on the property, or it may be stored in a compost heap or suitable bags as per the Municipality's requirements, and it may be kept on the property until removal or taken to a licensed waste disposal facility.

(15) The waste generator maybe called upon by the waste management officer to produce a weighbridge ticket or relevant documentation as proof of proper disposal of garden waste over a certain mass, as determined by the Municipality in terms of its guidelines and conditions imposed from time to time.

(16) Any person who directly or indirectly generates building waste or the owner of the property on which such building waste is generated shall not store such waste in containers provided by the Municipality for residential waste and shall remove and dispose of it at a licenced crushing plant or landfill site or any other licenced building waste disposal facility.

(17) When plans are submitted to the Municipality for its approval in terms of the National Building Regulations and Building Standard Act, 1977 (Act No. 107 of 1977), the person submitting same must submit simultaneously therewith -

(a) an integrated waste management plan setting out what provision is made for collection and disposal of the building and other waste;

(b) what provisions are made to store, minimize and separate the waste on their property; or

(c) provide a permit to store the waste on the Municipalities property.

(18) Contaminated building or other waste where the contamination agent is hazardous or dangerous must be deposited at a licensed waste disposal facility for the treatment and disposal of hazardous waste.

(19) The owner of the facility where building rubble is disposed of shall provide a monthly report to the waste management officer of the mass of such waste deposited at such facility.

(20) The waste generator or the owner of the property on which building waste is generated who deposits or stores waste on property of the Municipality may be fined for failure to have or produce a permit for such deposit or storage.

(21) When the building control officer inspects the property where building works have been undertaken to check that it has been built in accordance with the approved plans, he or she shall also check if all building waste has been disposed of.

(22) The owner of the property referred to in subsection (21) will be required to provide the building control officer with proof of a certificate or relevant documentation that he or she has disposed of the full mass of the building rubble at a licenced waste disposal facility for the category of waste prior to an occupancy certificate or any final approvals being granted.

(23) Only animal proof containers may be used by residents in areas, which the Municipality has declared as animal problem areas, and these containers are at cost obtainable from the Municipality at a determined cost.

(24) If an owner or occupier of premises in a problem animal area is using a receptacle that does not comply with the requirements of the Municipality, he will be instructed to obtain an animal proof container from the Municipality and, in cases where the Municipality is of the opinion that more than one animal proof container is needed due to the volume of waste, the owner or occupier will be compelled to purchase such from the Municipality.

(25) Nothing that may cause damage to the refuse compactor of the Municipality may be deposited in approved domestic and business waste containers or animal proof containers and where such care is not taken and damage of municipal equipment takes place, the Municipality will hold the owner or occupier liable for the full cost of such damage.

### **Hazardous waste**

**5. (1)** A waste generator who generates hazardous waste and an owner of property where hazardous waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licenced hazardous waste disposal facility.

(2) A person transporting the hazardous waste must ensure that the facility or place to which the hazardous waste is transported is authorised to accept such hazardous waste prior to off-loading the hazardous waste from the vehicle.

### **Event waste**

**6.(1)** Any person who is directly or indirectly involved with the organisation or management of a sporting, entertainment, cultural or religious event which is to take place on private or public property or owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including sports stadia and conference centres, must submit an integrated waste management plan consistent with this By-law to the waste management officer in respect of the storage, collection, recycling and disposal of waste at and after such event at least five working days prior to the proposed event and comply with the terms and conditions set out by the Municipality.

(2) Any person who intends to generate event waste shall contract with an accredited service provider for the collection and disposal of such waste to a licenced waste disposal facility and provide proof of this to the Municipality as part of its integrated waste management plan.

(3) Should a person fail or neglect to obtain services of an accredited service provider in terms of subsection (3) prior to the event in question, or fail to provide the Municipality with the integrated waste management plan or should there be waste left at the area where the event has been held or the surrounding area as a result of the event, the waste management officer may subject to subsection (4), arrange for the collection, clean-up, recycling and disposal of the waste.

(4) The cost for the collection, clean-up, recycling and disposal of the waste shall be payable by the event organiser in terms of the Municipality's Credit Control and Debt Collection By-law.

### **Priority waste**

**7.** (1) The Director must in terms of the By-law categorise priority waste if he or she reasonably believes that special measures are required in respect of the management of that waste, because it -

(a) poses a significant threat to health or the environment;

(b) may persist in the environment;

(c) contains or could foster pathogens or communicable diseases; or

(d) has been declared a priority waste in terms of other applicable legislation.

(2) The Municipality may publish guidelines from time to time insofar as may be necessary in respect of categorisation of waste.

### **Emergencies requiring the management of waste**

**8.** (1) In the event of an emergency, the Director may call upon the owner of the property or the waste generator to manage it within a period stipulated by the Municipality.

(2) The Director may arrange for management of an emergency, including the clearing and cleaning of debris and pollution effects, transporting and disposing of the waste at a licensed waste disposal facility accredited for the specific type of waste generated.

(3) The Director may also arrange, manage and co-ordinate the rehabilitation and repair of any infrastructure, buildings, equipment or natural environment in this process.

(4) The cost of such management, rehabilitation and repair, including all costs incurred in the utilisation of the Municipality's resources, equipment and materials shall be for the account of the person responsible for the emergency.

(5) If an emergency occurs by an act of God, the Municipality will deal with such emergency in such manner as the circumstances may allow.

### **Waste management information system**

**9.** (1) The Municipality shall establish and maintain a waste information system including information on the levels and extent of waste management services provided by it and enter such information on the IPWIS as and when required.

(2) The Municipality may require from a holder of waste or any person to furnish the Municipal within a reasonable time or on a regular basis with such data, documents, information, samples or materials and the verification of information reasonably required by the Municipality to discharge its responsibilities in terms of subsection (1).

(3) The Municipality may request a person or holder of waste that it reasonably believe should be registered on the IPWIS and/or the national waste information system to effect such registration and submit proof thereof to the Municipality or to submit proof of not conducting a waste management activity obligating such registration within a time that the Municipality regards as reasonable.

### **Integrated waste management plan**

**10.** (1) An integrated waste management plan must be submitted by the waste generators listed in subsection (10) in writing to the waste management officer for approval prior to the generation of the waste to be dealt with in terms of the said plan.

(2) An integrated waste management plan must include -

- (a) an assessment of the quantity and type of waste that will be generated;
- (b) a description of the services required to store, collect, transport and dispose of such waste;
- (c) a description of how they intend separating recyclable and non-recyclable material at the point of source;
- (d) the waste minimisation and pollution prevention plans of such waste generator;
- (e) the impact or potential impact on the environment of the waste created by them;
- (f) the type of characteristics of waste produced of an environmentally sensitive nature or the amount of natural resources that are consumed in the manufacturing or production process that result in waste; and
- (g) targets for waste production through waste minimisation, re-use, recycling and recovery measures or programmes that can minimise the consumption of natural resources and the method of disposal of waste.

(3) Industrial entities must include in an integrated waste management plan measures or actions to be taken to manage waste, the phasing out of the use of certain substances, opportunities for reduction of waste generation through changes to product design, product production or packaging to reduce resource consumption.

(4) Industrial and business entities must provide for the education, marketing and sales information to influence perception and behaviour of customers to ensure recycling of products.

(5) When requested to submit an integrated waste management plan or a further integrated waste management plan in terms of this By-law, a waste generator shall do so within the time stipulated and comply with the terms and conditions set out by the waste management officer for the generation, minimisation, storage, collection and disposal of such waste.

(6) The waste management officer must consider the plan and -

- (a) approve it with conditions and give directions for the implementation thereof;
- (b) request that additional information be furnished or a revised plan be submitted for approval;
- (c) require amendments to be made within a time frame so specified by them;
- (d) reject the plan and provide reasons therefore; or
- (e) approve such a plan and specify conditions pertaining to such approval.

(7) If an integrated waste management plan is rejected or not submitted at all, the waste management officer shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator fail to take such measures within in the time frame specified by the waste management officer, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.

(8) The Director may by written notice require any person to provide such information, as he or she requires when preparing the Municipalities integrated waste management plan.

(9) Should a person fail to provide the information referred to in subsection (8), the Director may appoint an auditor to obtain such information at the cost of waste generator.

(10) The waste generators of the following classes of waste must submit an integrated waste management plan:-

- (a) business waste;
- (b) industrial waste;
- (c) building waste;
- (d) event waste;
- (e) priority waste;
- (f) hazardous waste,
- (g) abattoir waste;

- (h) those who sort waste or undertake a recycling, re-use or waste recovery activity including but not limited to scrap dealers, recycling groups and buy back centres;
- (i) any other person who is given notice to do so by the Director; or
- (j) those persons carrying out the activities listed in paragraph (h).

#### **Exemptions from submitting an integrated waste management plan**

**11. (1)** If one of the waste generators for the categories of waste referred to in section (10) (10) (i) wishes to be exempt from submitting a waste management plan, an application must be made in writing to the waste management officer, stipulating reasons for the application.

(2) A waste management officer may also declare -

- (a) certain types of waste or waste generators;
- (b) a particular mass or volume of waste; or
- (c) persons who have submitted such a plan to the other spheres of government in terms of their applicable legislation, to be exempt from the submission of an integrated waste management plan.

#### **Storage and transportation of waste**

**12. (1)** Any holder of waste who stores or transports waste must ensure that -

- (a) the container in which any waste is stored is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of waste if the waste is not in a container provided by the Municipality;
- (b) suitable measures are in place to prevent accidental spillage or leakage;
- (c) the waste cannot be 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;
- (f) hazardous waste is sealed in an impervious container and suitable measures are in place to prevent tampering; and
- (g) any waste items or substances are safe for handling, collection or disposal and are not harmful to persons when accessed by unauthorised persons or members of the public.

(2) The waste generator and the holder of waste ensure that waste is transported to the nearest licenced disposal facility that has capacity to deal with the waste.

### **Recycling, re-use, sorting and recovery of waste**

**13.** (1) Any person who undertakes a recycling, re-use or recovery activity or who sorts waste, including scrap dealers, buy back centres and formalised recycling groups, must, before undertaking that activity make sure by way of an environmental impact assessment or similar procedure required by national or provincial legislation, that the recycling, re-use or recovery of the waste is less harmful to the environment than its disposal.

(2) The person referred to in subsection (1) must also submit an integrated waste management plan, and the waste management officer must, when deciding to grant authorisation, consider such integrated waste management plan.

(3) Any person who undertakes a recycling, re-use, processing, treatment or recovery activity or who sorts waste, including scrap dealers, buy back centres and formalised recycling groups, must register for accreditation with the Municipality that will entitle them to perform such activities.

(4) Persons and entities that handle, transport, process, treat and dispose of waste for recycling purposes shall provide the waste management officer with a written report as and when required in a format to be determined by the Director.

(5) The waste management officer may exempt certain waste generators, handlers, transporters or agents of waste from such requirements.

### **Prohibition of unauthorised disposal of waste**

**14.** No person may -

(a) dispose of waste in a manner likely to cause pollution of, or have an impact on, the environment or to be harmful to health;

(b) dispose of waste other than in accordance with this By-law or National and Provincial legislation;

(c) dispose of hazardous waste in a container provided by the Municipality that is designed for the storage of residential or business waste or in bags to be collected by the Municipality;

(d) burn waste especially hazardous waste except in approved incinerators which have a permit or licence to do so;

(e) dispose of hazardous waste, unless in accordance with an approved integrated management plan;

(f) deposit residential, business, industrial, garden, building or hazardous waste in a public litter bin; or

(g) deal with waste in a manner that causes dust, spillage or litter.

### **Litter and dumping**

**15.** (1) No person may drop, throw, deposit, spill, dump, store or in any other way discard, any litter or waste into or onto any public place, municipal drain, land, vacant erf, stream, water course, street, road, wetland, coastline or on any place to which the public has access, or otherwise dispose of it nor may they allow a person under their control to do so.

(2) The owner of private land to which the public has access must ensure that sufficient containers are provided to contain litter, which is discarded by the public.

(3) If the provisions of subsection (1) are contravened, the Director may direct, by way of a written notice to persons that -

(a) they cease the contravention, in a specified time;

(b) they prevent a further contravention or the continuation of the contravention;

(c) take whatever measures the Director considers necessary to clean up or remove the waste, and to rehabilitate the affected facets of the environment,

to ensure that the waste and any contaminated material, which cannot be cleaned or rehabilitated, is disposed of lawfully.

(4) The Director may in respect of the notice contemplated in subsection (3) (c) state that the person must, within a maximum of 5 working days to remove the waste or litter, provided the Director may grant a further 2 days, on request of the person, to remove the litter or waste unless it poses a health hazard or environmental risk the Director can request the immediate removal of the waste or litter..

(5) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for that purpose.

(6) If the Municipality elects to remove the waste or litter, the person concerned shall be liable for the cost of such removal operation.

(7) In the case of hazardous waste, the Municipality or his accredited service provider shall immediately remove same. Thereafter the Municipality shall issue notices that the person concerned is liable for the cost of the removal and rehabilitation of the area.

### **Licences**

**16.** Any person who, or entity which, requires a licence in terms of national, provincial or municipal legislation will have to prove on request, to the waste management officer that such person or entity has obtained the appropriate licence within 30 days or such lesser period as specified by such officer.

#### **Waste management services, applications and registration for waste collection and removal services**

**17.** (1) All persons collecting or removing waste must be registered for the collection and removal of waste with the Municipality or an accredited service provider.

- (2) Industries, including those that produce hazardous waste, due to the specialised nature of waste produced in these sectors, must contract with a private sector accredited service provider.
- (3) If an entity or an accredited service provider required to have a licence or approval in terms of national or provincial legislation, they are required to provide proof thereof, as well as comply with criteria determined by the Council before they will be registered by the Director.
- (4) The Director shall keep an updated record of registered accredited service providers.
- (5) Commercial and industrial undertakings, including scrap dealers requiring a waste collection and removal service, which is not provided by the Municipality, must register with the Municipality and prove that they have contracted with an accredited service provider for such service.

#### **Access to private property**

- 18.** (1) The owner must, on request, allow a peace officer or any other duly authorised employee of the Municipality access to their property for the purpose of inspecting the property and investigating any contravention of this By-law and to ensure compliance therewith.
- (2) When assessing the property the authorised employee must, on request, identify him or herself by producing written proof of such authority.
- (3) Such employee may be accompanied by a person reasonably required to assist in inspecting or conducting an investigation who must be identified as such by the authorised employee.

#### **Premises inaccessible for refuse collection**

- 19.** Should the Municipality be impeded from handling or collecting refuse due to the layout of a person's premises, and if this impediment imposes a danger to employees of the Municipality, the Director may require the owner to do such alterations or additions to the premises as are necessary to remove such impediment at that persons cost.

#### **Compliance notices**

- 20.** (1) The waste management officer may issue notices to any person contravening the provisions of this By-law -
- (a) setting out the provisions or conditions contravened;
  - (b) directing such person to comply with such provisions or conditions; and
  - (c) setting out the measures, which must be taken to rectify the contravention, and the period in which he or she must do so.
- (2) If a person fails to comply with directions given in a notice issued by the waste management officer, the waste management officer may -
- (a) take whatever steps it considers necessary to clean up or remove waste, to rehabilitate the premises, place or the affected environment at which the waste has been illegally dumped or

stored and to ensure that the waste, and any contaminated material which cannot be removed, cleaned or rehabilitated, is disposed of lawfully;

(b) recover the costs of cleaning, removing, rehabilitating or disposing waste, premises or environment, or contaminated material, respectively, from the persons obliged to take such steps in terms of this By-law, who shall be jointly and severally liable therefore.

(3) The Municipality may, in the case of hazardous or priority waste, require the persons generating such waste to close until such a time as steps are taken to dispose of the waste in terms of subsection (2) if there is a real threat of damage or injury to any person or property.

(4) The following persons may be served with such notice:

(a) any person who committed, or who directly permitted, the contravention;

(b) the generator of the waste;

(c) the owner of the land or premises where the contravention took place;

(d) the person in control of, or any person who has or had, at that stage of the contravention, a right to use the land or premises where contravention took place.

#### **Service of documents and process**

**21.** Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such a person -

(a) when it has been delivered to him or her personally;

(b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;

(c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;

(d) if his or her address is unknown, when it has been served on his or her agent or representative in a manner provided for in paragraph (a), (b) or (c); or

(e) if his or her address is unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

### **Failure to comply with the By-law and enforcement**

**22.** (1) If the waste management officer has issued a compliance notice in terms of section 21 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she shall be guilty of an offence.

(2) The waste management officer may in writing require any person to submit a report to him or her in respect of the impact of waste in a specified form as stipulated by the Municipality.

(3) If the person fails to submit such a report within the period specified, the waste management officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it.

(4) If the waste management officer suspects that the person has on one or more occasion contravened or failed to comply with the By-law or a licence issued in terms of provincial or national legislation and this has had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage or has contributed to the degradation of the environment, the waste management officer may direct that such a report be compiled by an independent person.

(5) The waste management officer may then direct the person who failed to comply with the By-law to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened by By-law shall be liable for the cost thereof.

### **Offences and penalties**

**23.** (1) A person who contravenes sections 12(b), 12(f), 15(1) shall be guilty of an offence and shall on conviction be liable for -

(a) littering or dumping over 8 m<sup>3</sup> of waste or hazardous waste;

(b) spillage or leakage over 8 m<sup>3</sup> of waste without putting in place suitable measures;

(c) conveying of an uncovered load of hazardous waste of any volume;

(d) conveying of an uncovered or unsecured load which results in spillage over 8 m<sup>3</sup> of waste or hazardous waste,

Such fine or imprisonment as the court may deem appropriate and the court may in addition order the removal of such waste or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

(2) Should any person induce, influence, persuade or force an employee of the Municipality or other person to commit an offence in terms of the By-law he or she shall be guilty of an offence.

(3) Should any person induce an employee of the Municipality to collect and dispose of waste without the correct payment to the Council, or the correct methods being employed, shall be guilty of an offence.

(4) Any waste generator who fails to submit or comply with an integrated waste management plan in terms of the By-law shall be guilty of an offence.

(5) Any person who commits any offence referred to in subsections (2) to (4) or any other offence in terms of this By-law shall on conviction be liable for the payment of a minimum fine of R500 but not exceeding R 10 000 or imprisonment for a minimum period of 6 months but not exceeding 2 years, or to both such fine and such imprisonment.

(6) The court may in addition to any penalty imposed in terms of subsection (5), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

(7) The Court may, when considering any sentence for an offence in terms of this By-law, take into account the following:

(a) that a person delayed in complying with or failed to comply with the terms of notices or directions given to that person under this By-law;

(b) that person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence;

(c) the severity of the offence in terms of its impact or potential impact on health, wellbeing, public safety and the environment.

#### **Delegations by the waste management officer**

**24.** The waste management officer shall be entitled to delegate to any other official of the Municipality any of his or her powers or obligations in terms of this By-law.

#### **Functions and powers of waste management officer**

**25.** The waste management officer shall be responsible for regulating, controlling, managing and enforcing the provisions of this By-law and national and provincial legislation relating to waste management.

#### **Amendments to waste removal services**

**26.** The Municipality may amend any existing waste removal or cleaning services once a process of public notification, participation and comment has been completed and provided the amendment is practical, cost effective and has as its objective the prevention of the proliferation of waste, the minimisation of waste or the reduction of waste to be removed.

#### **Guidelines**

**27.** The Council may make guidelines not inconsistent with other legislation generally for the better carrying out of the objects and purposes of this By-law.

### **Repeal of By-laws**

**28.** The provisions of any by-laws previously promulgated by the municipality are hereby repealed as far as it relate to matters provided for in this by-law.

### **Interpretation**

**29.** In the event of a conflict between English and Zulu versions of this By-law, the English version shall be decisive.

### **Short title and commencement**

**30.** This By-law is called the Mandeni Municipality Integrated Waste Management By-law, 2015 and comes into operation on promulgation thereof in the Provincial Gazette.