



THABAZIMBI LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAW, 2022

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(ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL OF THABAZIMBI)

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

Preamble

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

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

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

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

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

CHAPTER 1: DEFINITIONS, OBJECTIVES AND PRINCIPLES

1. Definitions

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

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

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

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

“**Director**” means the Director responsible for solid waste management in the Municipality;

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

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

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

- (a) laboratory waste;
- (b) pathological waste;
- (c) isolation waste;
- (d) genotoxic waste;
- (e) infectious liquids and infectious waste;

- (f) sharps waste;
- (g) chemical waste; and
- (h) pharmaceutical waste;

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

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

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

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

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

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

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

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

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

“service provider/contractor” means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Municipality and includes the contractor's heirs, executors,

administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

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

“waste” 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 by notice in the *Government Gazette* or by the member of the Executive Council of the Province who is responsible for waste management in the Province of Limpopo, 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, scrap dealers and buy-back centres;

“waste management officer” means the Director: Solid Waste Management, or an officer referred to in section 52 of this By-law;

“waste minimisation club” means a group of persons, typically residing in a high density residential or office building, or a multi-property cluster residential or business development, that have an agreement approved by the Director in terms of this By-law to minimise waste in exchange for a lower tariff according to an integrated waste management plan.

2. Objectives of the by-laws

- (1) The objectives of these by-laws are to –
 - (a) give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality’s jurisdiction;
 - (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;

- (c) ensure that waste is avoided, or where it cannot be altogether avoided, minimised, reused, recycled, recovered, and disposed of in an environmental sound manner; and (d) promote and ensure an effective delivery of waste services.
 - (d) the regulation of the collection, disposal, treatment and recycling of waste;
 - (e) The regulation of the provision of the municipal service by a service provider and commercial services by licensees; and enhancing sustainable development.
- (2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1), the Council must-
- (a) endeavor to minimize the consumption of natural resources;
 - (b) Promote the re-use and recycling of waste;
 - (c) encourage waste separation to facilitate re-use and recycling;
 - (d) promote the effective resourcing, planning and delivery of the municipal service and commercial services;
 - (e) endeavour to achieve integrated waste planning and services on a local basis;
 - (f) promote and ensure an environmentally responsible municipal service and commercial service; and
 - (g) Endeavour to ensure compliance with the provisions of these By-laws.

3. Scope of application

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

4. Principles

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

5. General duty of care

- (1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
 - (a) waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;
 - (b) waste is reduced, reused, recycled or recovered;
 - (c) where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
 - (d) The waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.
- (2) Any person subject to the duty imposed in subsection (1) may be required by the Municipality or an authorised official to take measures to ensure compliance with the duty.
- (3) The measures referred to in subsection (2), that a person may be required to undertake include –
 - (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;

- (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
- (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
- (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
- (e) Eliminating or mitigating any source of damage to the environment; or (f) rehabilitating the effects of the damage to the environment.

CHAPTER 2: MUNICIPAL SERVICE

Part 1: Providing access to municipal services

6. Duty to provide access to municipal service

- (1) The Council has a duty to the local community progressively to 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 set out in section 2(4);
 - b) the need to use resources efficiently;

- c) the need for affordability;
- d) the requirements of operational efficiency;

7. 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, business waste and dailies on a regular basis and at a cost to end users determined in accordance with the prescribed fee.

(2) In relation to the municipal service, the Council may determine-

- i. The quantity of waste that will be collected;
- ii. Which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
- iii. 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
- iv. 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.

(3) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection or the Council may provide such receptacle which remains the property of the Council.

(4) In providing the municipal service, the Council may determine or designate-

- i. collection schedules;
- ii. locations for placing approved receptacles for collection;
- iii. which types of waste generated by the occupier of any premises are separable for the purposes of recycling and the conditions for their separation, storage or collection; and
- iv. which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.

(5) The Council may require a generator of dailies or business waste to compact that portion of the waste that is compactable, if the quantity of dailies or business 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.

- a. An occupier of premises may elect to compact any volume of waste referred to in subsection (5), and place it into an approved receptacle or wrapper, provided-
 - i. the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents does not exceed 35 kilograms; and
 - ii. After the waste has been compacted and put into the wrapper, it is placed in an approved receptacle and stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
 - b. Any approved receptacle used in terms of subsection (5) may be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.
 - c. The Council may at any time review any decision taken by it in terms of subsection (4).
 - d. The Council must in writing notify every generator of domestic waste, business waste and dailies of any decision taken in terms of subsection (2) or (3) relating to his or her premises.
 - e. 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.
- (6) The occupier(s) and/or owner(s) of premises of which business, industrial or domestic waste is generated shall subject to the proviso to section 7(1), use the Council's service except in cases where special written exemption is granted by Council to occupier(s) and/or owners(s) of premises to make use of private companies for waste removal services.

Part 2: Using municipal service

8. Obligations Of generators of domestic waste, business waste and dailies

- (1) Any person generating domestic waste, business waste and dailies, other than waste which has been designated by the Council as recyclable as contemplated in section 8(4)(iii), must place such waste, in an approved 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, business waste or dailies which may cause damage to approved 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 receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
- c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
- d) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire is lit in such receptacle;
- e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of 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 receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
- g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.

(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 receptacles. The space provided in terms of subsection g. must

- a) be in a position on the premises which will allow the storage of any approved receptacle without it being visible from a public road or public place;
- b) if dailies are generated on premises be in a position which will allow the collection and removal of that waste by the Council's employees without hindrance; and not be more than 20 metres from the entrance to the premises used for the collection of waste by the Council; be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles; comply with any further requirements imposed by the Council by written notice to the owner or occupier of the premises; and be constructed in accordance with the requirements of any applicable legislation relating to buildings.

(5) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection g and must at all times keep them there.

(6) Notwithstanding the provisions of subsection (6)-

- a) in the case of a building erected, or a building, 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 g,
- c) 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 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.

9. Liability to Pay for Municipal Services

(1) The owner/occupier 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.

(2)(a) A prescribed fee becomes due and payable on the due date for payment stipulated in 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.

10. General Provisions

(1) The occupier and/or owner or in the case of more than one, the owners of, premises on which business waste or domestic waste is generated shall within seven days after commencement of the generation of such waste notify the Council in writing -

- a) that the premises are being occupied
- b) Whether business waste or domestic waste or both aforementioned is being generated on the premises.

- (2) Where the premises on one stand is vacated, it is the responsibility of the occupier(s) and/or owners (s) to inform Council in writing on or before the day of vacating that the service delivery should be ceased and the tariff charge should be cancelled.
- (3) Where in terms of section 8(6), a third party is removing waste, it is the responsibility of the occupier and/or owners(s) to inform Council in writing on or before the day of vacating that the service delivery should be ceased and the tariff charge should be cancelled.
- (4) All private entities/contractors removing waste (including garden service businesses) from premises within Thabazimbi Local Municipality shall register with the Council. No waste removal service may be conducted without prior registration.
- (5) That the submission of proof of safe disposal certificate by the private entities/contractors on an approved sanitary landfill site to the Council on a regular monthly basis.

CHAPTER 3: SERVICE PROVIDERS

11. Service providers/Contractors

- (1) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under these by-laws: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.
- (3) Any reference in these by-laws to “Municipality or service provider” should be read as the “Municipality” if the Municipality has not entered into a service delivery agreement, and should be read as “service provider” if the Municipality has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Municipality and which must-
 - (a) accord with the provisions of these by-laws;

- (b) be accessible to the public;
- (c) establish the conditions of the service including collection times; and
- (d) Provide for the circumstances in which Municipal services may be limited.

CHAPTER 4: COMMERCIAL SERVICES

Part 1: Provision of commercial services by licensees and flow control

12. Provision of commercial services by licensees

- (1) Except in the case of garden waste, only a licensee may provide a commercial service.

Any person requiring a commercial service must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated.

13. Provision for Council coordination of waste disposal

- (1) The Council may by a notice published in the Limpopo Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.

(2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility which is not designated for receipt of that category of waste in a notice in terms of subsection (1) or designated by the Council under other empowering legislation prior to the commencement of these By-laws.

Part 2: Business, Industrial and recyclable waste

14. Storage of business, Industrial and recyclable waste

(1) The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated-

- a) the waste is stored in a bulk container or other approved receptacle; and
- b) No nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

15. Collection and disposal of industrial, business and recyclable waste

(1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that-

- a) the container in which the waste is stored, is not kept in a public place except when so required for collection;
- b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
- c) That the service rendered by the licensee is only in respect of that portion of the business, industrial or recyclable waste authorized in the licence concerned.

(2) A licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of section 13(2) and 24.

Part 3: Garden waste and bulky waste

16. Storage, collection and disposal of garden waste and bulky waste

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

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

(3) Any person or licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated; it is deposited at a garden waste handling facility in accordance with the provisions of section 24.

(4) (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 garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.

(b) The provisions of section 9, read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).

(5) 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 not, at the same time, to remove garden and bulky 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.

Part 4: Building waste

17. Generation of building waste

- (1) The owner or occupier of premises on which building waste is generated, must ensure that
 - a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof is kept on the premises on which the waste was generated;
 - b) the premises on which the building waste is generated, does not become unsightly or causes a nuisance as a result of accumulated building waste;
 - c) any building waste which is blown off the premises, is promptly retrieved; and
 - d) Pursuant to any instruction from the Council, any structure necessary to contain the building waste is constructed.

18. Storage of building waste

- (1) The Council may, subject to the provisions of subsection (2), determine conditions to place a receptacle for the storage and removal of building waste on a verge.
- (2) 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 thereof; 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.

19. Collection and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of section 13, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

Part 5: Special Industrial, hazardous or health care risk waste

20. Generation of special Industrial, hazardous or health care risk waste

(1) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of, and the identity of the licensee who will remove such waste: Provided that if such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the Council as contemplated in this subsection within 180 days of the commencement of these By-laws.

(2) If so required by the Council, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.

(3) The person referred to in subsection (1), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous, or health care risk waste.

21. Storage of special Industrial, hazardous or health care risk waste

(1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.

(2) Special industrial, hazardous or health care risk waste stored on premises must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.

(3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Forestry, Fisheries and Environmental Affairs, Limpopo provincial government or Council, before collection.

22. Collection and disposal of special Industrial, hazardous or health care risk waste

(1) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him or her under Chapter 6 as well as in the 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 licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in the licence issued under Chapter 6, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.

(3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility and in accordance with the provisions of section 23.

CHAPTER 5: TRANSPORTATION AND DISPOSAL OF WASTE

23. 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) fails to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
- c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net; and
- d) Cause or permit any waste being transported in or through the municipal area to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility.

(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).

24. Disposal of waste

- (1) (a) Waste generated in the municipal area must be disposed of at a waste disposal facility where such disposal is permitted by the Council.
- (b) In disposing of waste, a licensee must comply with the provisions of section 13(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 Limpopo 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 13 at a designated garden 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 Department of Water Affairs and Forestry, 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 a waste disposal facility in regard to access to, the 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 onto a waste disposal facility or enter such facility under the influence of liquor or such substance;
- b) enter a waste disposal facility 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; or
- 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 (7) (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 a member of the Thabazimbi Traffic Department.

(12) No person may store waste for more than 90 consecutive days, unless the person has a permit in respect of the premises concerned for a waste disposal facility from the Provincial Department of Economic Development, Environment and Tourism.

25. Ownership of refuse

(1) All waste on landfill sites, waste transfer stations or mini disposal sites controlled by Council shall be the property of Council and no person who is not duly authorized by the Council to do so shall remove or interfere therewith.

CHAPTER 6: PROVISION FOR REGISTRATION OF TRANSPORTERS

26. Requirements for registration

- (1) Any person who transports waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- (2) The Municipality may, by notice in the provincial gazette, require any person or category of transporters to register and report to the Municipality information as set out in that notice. The notice may include but not limited to-
 - a) the application forms;
 - b) a prescribed fee;
 - c) renewal intervals;
 - d) list of transporters, types and thresholds of waste transported;
 - e) minimum standards or requirements to be complied with.

CHAPTER 7: RECYCLING OF WASTE

27. Storage, separation and collection of recyclable domestic waste

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

disposal of such waste and must notify the Municipality of an intention to undertake such an activity in writing.

- (2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in national or provincial legislation.
- (3) The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.
- (4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 8: WASTE MANAGEMENT INFORMATION SYSTEM

28. Establishment of an Information System

- (1) The Council must establish and maintain a waste management information system which records how waste is managed within the municipal area.
- (2) The information system may include any information relating to or connected with the management of waste within the municipal area.

29. Purpose of the Information System

- (1) The purpose of the information system referred to in section 4, is for the Council to-
 - (a) record data relating to the implementation of the local waste plan and the management of waste in the municipal area;
 - (b) record information held by the Council in relation to any of the matters referred to in section 6(1);
 - (c) furnish information upon request or as required by law to the Limpopo provincial or national government;
 - (d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees; and

- (e) provide information to waste generators, service providers, licensees and the local community in order to -
 - i. facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
 - ii. assist the Council to achieve the main objects of these By laws specified in section 2.
 - iii. Stimulate research

30. Registration and provision of waste information

- (1) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person of activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.
- (3) The Council may, subject to the provisions of any other law including the common law, require any waste generator, licensee, service provider or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area to furnish information to the Council which may reasonably be required for the information system, and which may concern-
 - (a) significant sources of waste generation and the identification of the generators of waste;
 - (b) quantities and classes of waste generated;
 - (c) management of waste by waste generators;
 - (d) waste handling, waste treatment and waste disposal facilities;
 - (e) population and development profiles;
 - (f) reports on progress in achieving waste management targets;
 - (g) the management of radioactive waste;
 - (h) any information which has been compiled in accordance with section 29(2)(d);
 - (i) markets for waste by class of waste or category; and
 - (j) Any other information required by legislation, regulations or guidelines.

(4) The Council may determine when and how often information must be furnished.

CHAPTER 9: LISTED WASTE MANAGEMENT ACTIVITIES

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

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must upon request by an official of the Municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.
- (2) Any person conducting or intending to conduct any activity contemplated in subsection 7 (1) must, at least sixty (60) days before commencement, conducting or undertaking such activity, inform the Municipal waste management officer in writing of the intention.

CHAPTER 10: ACCUMULATION OF WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES.

32. Accumulating Waste

- (1) 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.

33. Duty to provide facilities for litter

- (1) The Council, or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The Municipality, or owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are –
 - a) maintained in good condition;

- b) suitably weighted and anchored so that they cannot be inadvertently overturned;
 - c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
 - (d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
 - d) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
 - e) Emptied and cleansed periodically or when full. The emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- (3) In any public place where a receptacle has been placed for the depositing of litter, the Municipality may put up notices about littering.

34. Prohibition of littering

- (1) No person may –
- (a) cause litter (i.e motorists and passengers throwing items out of a moving vehicle and or pedestrians throwing items indiscriminately);
 - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) Allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection 8 (1), the Municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

35. Prohibition of nuisance

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

- (a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;
- (b) take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;
- (c) at their own cost, clean any waste causing nuisance to any person or the environment;
- (d) ensure compliance to the notice contemplated in sub section (1) (c); the Municipality may clean or remedy waste causing nuisance to any person or the environment, at the Municipality's cost and claim such cost from the offender.

36. Burning of waste

- (1) No person may-
 - a) dispose of waste by burning it, either in a public or private place;
 - b) Incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

37. Prohibition of illegal dumping

- (1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- (2) No business/ businesses may allow its premises and open spaces around it to be used for illegal dumping activities. Business are required to report any illegal dumping activities around its premises to the municipality. Failure to do so shall be an offence in terms of this by-law.
- (3) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

38. Abandoned articles

- 1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.
- 2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

39. Event Waste

- (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 Council.
- (2) The integrated waste management plan must also include costing information, and the organiser, management or owner will be required to pay a refundable deposit as determined by the Council.
- (3) 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 Council as part of its integrated waste management plan.
- (4) If the event is to be held in a public area, the use, sale or distribution of glass or similar containers is prohibited, unless the prior consent has been obtained from the waste management officer on such conditions as will be determined by him or her that will reduce the likelihood of injury from broken glass.
- (5) 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 Council 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 (6), arrange for the collection, clean-up, recycling and disposal of the waste.

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

40. Emergencies requiring the management of waste

(1) In the event of an emergency, the Director may call upon the owner of the property or the waste generator to manage same within a stipulated period to the Council's satisfaction.

(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 licenced 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 Council will deal with such emergency in such manner as the circumstances and funding may allow.

41. Establishment of formal waste minimisation clubs in communities or businesses

(1) Waste management clubs may apply to the Director for special dispensation as an enhanced service associated with waste minimisation in terms of the Municipality's Tariff By-Law and Tariff Policy.

(2) The club must submit an integrated waste management plan in writing to the Director for approval, as well as other application documentation for the formation and operation of a waste minimisation club, as may be determined by the Council.

(3) The Director may subject to the provisions of this By-law determine whether to approve the application for a special dispensation of a waste minimisation club.

(4) If an application is unsuccessful, the Director must stipulate and provide reasons for turning down an approval to the waste minimisation club.

(5) If an application to form a waste minimisation club is approved by the Director, the club must comply with the terms and conditions set out by the Director for the generation, minimisation, storage, collection and disposal of such waste.

42. Liability to pay applicable tariffs

- 1) The owner of premises where the Municipality is rendering waste services contemplated in this by-law is liable for the payment of prescribed tariffs for such services, and is not exempted from or reduction of such tariffs due to non-usage, partial or limited use of such services.
- 2) The Municipality reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.
- 3) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

43. On-site disposal

- (1) The Municipality may, as it deem fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.
- (2) A declaration contemplated in subsection (1) must be published in a provincial gazette and may include but not limited to—
 - a) time frames for such a declaration;
 - b) Minimum standards to be adhered to for on-site disposal; and
 - c) Quantity of waste that may be disposed.
- (3) The Municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

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

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

- (2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) The Municipality may, as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the Municipality.

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

45. Collection and disposal bulky waste

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

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

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that—
 - a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - c) any building waste which is blown off the premises is promptly retrieved; and

- d) Pursuant to any instructions from the Municipality, any structure necessary to contain the building waste is constructed.
- (2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
 - (3) Should the Municipality provide such a service, it shall be done at a prescribed tariff.
 - (4) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
 - (5) Every receptacle, authorised in terms of subsection (4) and used for the removal of building waste, must –
 - a) have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
 - b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - c) Be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
 - (6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the Municipality.
 - (7) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal sites.
 - (8) A consent given in terms of subsection (7) shall be subject to the conditions, as the Municipality may deem necessary.

47. Special industrial, hazardous or health care risk waste

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

- (2) Subsection (1) does not apply to generators of waste who have the capacity to conduct the service.
- (3) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.

CHAPTER 11: ADMINISTRATIVE MATTERS, COMPLIANCE AND ENFORCEMENT

48. Ownership

- (1) The person holding the person holding a permit to operate a waste disposal facility becomes the owner of all waste upon disposal thereof at that facility.
- (2) A person who generates domestic waste is the owner thereof until it is collected by the Council which then becomes the owner thereof.
- (3) 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.

49. Access to private property

- (1) The owner must, on request, allow a peace officer or any other duly authorised employee of the Council 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 accessing 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.

50. Premises inaccessible for refuse collection

- (1) Should the Council 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 Council, 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.

51. Compliance notices

(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 therefor.

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

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

- a) any person who committed, or who directly or indirectly permitted, the contravention;
- b) the generator of the waste;
- c) the owner of the land or premises where the contravention took place;
- d) the person in control of, or any person who has or had, at that stage of the contravention, a right to use the land or premises where contravention took place.

52. Service of documents and process

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

- a) when it has been delivered to him or her personally;
- b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;
- c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;
- d) if his or her address is unknown, when it has been served on his or her agent or representative in a manner provided for in paragraph (a), (b) or (c); or
- e) If his or her address and agent are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

53. Tariffs

(1) The municipality acting in its capacity of service authority is authorized to establish tariffs for the collection and disposal of solid waste within the municipal boundaries that reflects the actual cost incurred by the municipality or designated service provider to perform such services, in accordance with Chapter 8, Part 1 (74) of the Municipal Systems Act.

(2) Any application for a change in the solid waste collection and disposal tariffs shall be made through the Municipal Council including a detailed accounting of costs of providing the service and the proposed schedule of tariffs. After reviewing the application, the Municipal Council shall:

- a) approve the application
- b) return the application, requesting additional information or justification for the tariff increases, or;
- c) Reject the application as being unjustified, in which case the existing tariffs shall remain in effect.

(3) In addition to review, the municipal council may call for public hearings to obtain comments on the proposed tariff increase to assist them in the review of the appropriateness of the tariff increases.

(4) Upon final approval by the municipal council of an increase in the tariffs, the municipality shall publish the new tariff schedule in at least two local newspapers stating the amounts of new tariffs, the effective date of the tariffs and the manner in which tariffs will be collected.

(5) Tariffs for the collection and disposal of solid waste shall not be increased more than once per year.

(6) All tariffs in effect as of the date of these regulations shall remain in effect until changed by the process specified in paragraphs (1) through (4) of this section.

54. Exemptions

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

(2) The Municipality may –

- a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted be stipulated therein;
- b) alter or cancel any exemption or condition in an exemption; or
- c) Refuse to grant an exemption.

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

(4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.

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

55. Appeals

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

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

- (1) If the waste and compliance management officer has issued a compliance notice in terms of section 52 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 and compliance 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 in the Municipality's guidelines as published from time to time.
- (3) If the person fails to submit such a report within the period specified, the waste and compliance 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 and compliance management officer suspects that the person has on one or more occasion contravened or failed to comply with the By-law or a license issued in terms of provincial or national legislation and this has had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage or has contributed to the degradation of the environment, the waste and compliance management officer may direct that such a report be compiled by an independent person.
- (5) The waste and compliance 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 the By-Law shall be liable for the cost thereof.

57. 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 or order issued or condition imposed in terms of or for the purposes of these By-laws; or
- 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 authorized representative or employee of the Council in the execution of his or her duties under these By-laws,
- e) Induce, influence, persuade or force an employee of the Council or other person to commit an offence in terms of this By-law he or she shall be guilty of an offence.
- f) Induce an employee of the Council 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.
- g) Businesses that fail to report illegal dumping activities or allow illegal dumping around their premises shall be liable to pay individual and or collective penalty

(2) Any person who commits any offence referred to in subsections (1) 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 R10 000 or imprisonment for a minimum period of 6 months but not exceeding 2 years, or to both such fine and such imprisonment.

(3) The court may in addition to any penalty imposed in terms of subsection (2), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, do community service in respect of waste or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

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

- a) That a person delayed in complying with or failed to comply with the terms of notices or directions given to that person under this By-law;
- b) that person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence;

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

58. Delegations by the waste management officer

- (1) The waste and compliance 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.

59. Functions and powers of waste management officer

- (1) The waste and compliance 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.
- (2) The waste and compliance management officer shall have the powers to rope in the support of the South African Police Services and Traffic and Law Enforcement Officers of the municipality to enforce this by law.

60. Amendments to waste removal services

- (1) The Council may amend any existing waste removal or cleansing 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.

61. Transitional provisions

- (1) Any approvals given in accordance with previous by-laws will be valid in respect of the premises for which they were granted and in respect of the person to whom they were granted, but cannot be transferred to any other person.

62. Guidelines

- (1) 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.

CHAPTER 12: GENERAL PROVISIONS

63. Short title and commencement

- (1) These by-laws are called Waste Management By-laws of the Thabazimbi Municipality, 2022 and take effect on the date determined by the Municipality in the provincial gazette.
- (2) Different dates may be so determined for different provisions of these by-laws.

64. Repeal of by-laws

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