



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$10.20

WINDHOEK - 15 February 2011

No. 4650

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## General Notice

### WINDHOEK MUNICIPALITY

No. 21 2011

#### WASTE MANAGEMENT REGULATIONS: LOCAL AUTHORITIES ACT, 1992

The Council of the Municipality of Windhoek has, under section 94(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), with the approval of the Minister of Regional and Local Government, Housing and Rural Development, made the regulations set out in the Schedule.

**E. TREPPER**  
**CHAIRPERSON**  
**BY ORDER OF THE COUNCIL**

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## CHAPTER 1 DEFINITIONS

### Definitions

**1.** In these regulations, a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context indicates otherwise -

“audit” means the audit referred to in regulation 8;

“bag” means a bag approved by the Council from time to time for the storage, depositing, collection and disposal of waste;

“builder’s waste” means waste generated during the building, construction, repair, alteration, renovation, excavation or demolition of any road, surface, structure, building or premises, including builders rubble, earth, vegetation and rock displaced during such building, construction, repair, alteration, renovation, excavation or demolition;

“building complex” includes any single or adjoining premises consisting of-

- (a) two or more shops or offices;

- (b) high density residential premises; or
- (c) any other collection, assortment or cluster of two or more establishments or enterprises carrying on any business, trade, profession, occupation, service or industry,

within one building or more than one building;

“building development” means the development, construction, extension, enlargement or substantial upgrading of any new or existing building or any other structure used for the purposes of business, trade, profession, occupation, service, industry, agriculture, residence, recreation, religion, education or any other purposes, including infrastructure used in connection with it;

“bulky waste” means waste which by virtue of its mass, volume, shape, size, quantity or cannot be stored in a refuse container approved by the Council or which cannot be removed or disposed of during the municipal service;

“business waste” means waste generated on premises used for non-residential purposes, but excluding agricultural properties and small holdings, and does not include general waste, household hazardous waste, garden waste, bulky waste, builder’s waste, industrial waste, hazardous waste and health care risk waste;

“buy-back centre” means a facility which purchases any waste, materials, products or byproducts for the purposes of recovery, reuse or recycling;

“composting facility” means a facility used for the purposes of receiving, processing or composting of garden waste, other organic materials or compostable waste authorised by the Council, but does not include a satellite landfill site;

“Council” means the Municipal Council of Windhoek;

“Council site” means a waste management, collection, processing, satellite landfill or disposal site or transfer station, operated or owned by the Council;

“Criminal Procedure Act” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

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

“depositing” includes leaving, placing, throwing, dropping onto land;

“disposal” means the discharge, depositing, dumping, spilling, leaking, placing of waste on or at any premises or place set aside by the Council for such purposes;

“dump” means the placing of waste anywhere, other than at a place approved by the Council or authorised by law, including the depositing, discharge, spilling or release of waste in or at a place not approved by the Council or authorised by law, but does not include litter;

“garden waste” means waste generated as a result of normal gardening activities and includes plants, leaves, grass cuttings, flowers, weeds, hedges, other small and light organic matter, but does not include branches, stems, trunks or roots having a diameter or length in excess of that stipulated by the Council from time to time;

“general waste” means waste generated on or at any premises used -

- (a) for residential purposes, and includes agricultural properties and small holdings; or

(b) as public or private facilities and institutions,

but does not include garden waste, bulky waste, business waste, builder's waste, industrial waste, hazardous waste and health care risk waste;

“hazardous waste” means -

- (a) waste containing, or contaminated by, poison, any corrosive agent, any flammable substance having an open flash-point of less than 90 degree Celsius, an explosive, radioactive material, any chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;
- (b) the carcass of a dead animal; and
- (c) any other waste which may be declared as such by Council or in terms of any other applicable law,

but excludes household hazardous waste;

“health care risk waste” means hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;

“high density residential premises” means a building, land or premises containing more than four residential units, and irrespective of whether or not such high density residential premises is managed or controlled by any other person;

“household hazardous waste” means waste, excluding garden or bulky waste, generated as a result of housekeeping, maintenance or repair activities on or at any premises, or accumulated, stored or deposited on such premises, used -

- (a) for residential purposes, and includes agricultural properties and small holdings; or
- (b) as public or private facilities and institutions,

and which by reason of its nature, composition, toxicity, type, quality, quantity or volume causes or may cause a nuisance, public health risk or pollution;

“industrial waste” means waste generated as a result of business, commerce, trade, wholesale, retail, professional, manufacturing, maintenance, repair, fabricating, processing or dismantling activities, but does not include general waste, garden or bulky waste, builder's waste, business waste, hazardous waste or health care risk waste;

“integrated resource management” means the manner and efficiency in which resources such as raw materials, or any other product or material, energy, and water are consumed or used;

“integrated waste management” means a holistic and integrated system and process for the generation, storage, sorting, recovering, reuse, recycling, reprocessing, collection, transport, treatment, and disposal of all wastes, aimed at -

- (a) compliance with national laws, policies and guidelines;
- (b) waste elimination, prevention and waste minimisation at source;
- (c) achieving the objectives of the waste management hierarchy set out in regulation 5;

- (d) managing the impact of waste on the receiving environment and remediating damaged environment;
- (e) safeguarding principles of public health, economics, engineering, conservation, aesthetics, and other environmental considerations; and
- (f) ensuring sustainable development;

“land” means land, whether vacant, occupied or with buildings, structures or improvements on it;

“licence” means a licence issued in terms of Chapter 6;

“licencee” means a person who has obtained a licence in terms of Chapter 6;

“litter” means any object or matter which is discarded by a person in any place except in an approved refuse container provided for that purpose or at any place or site approved by the Council;

“municipal area” means the area of jurisdiction of the Council;

“municipal service” means the service provided by the Council relating to the collection and disposal of -

- (a) general waste; and
- (b) any other waste which the Council may determine from time to time,

but does not include builder’s waste, industrial waste, hazardous waste and health care risk waste;

“occupier” means any person who -

- (a) actually occupies or uses any premises without regard to the title under which he or she occupies;
- (b) is legally entitled to occupy or use any premises; or
- (c) controls or manages any premises,

including the agent or representative of any such person when he or she is absent or his or her whereabouts are unknown;

“office” means an establishment, building, location or venue, excluding a shop, either separately or forming part of a building complex, the function of which is the transaction of administrative, business, civic or professional services where the handling of goods, wares or merchandise, in limited quantities, is incidental to the primary occupancy or use;

“owner” includes -

- (a) any person in whom from time to time is vested the legal title to the premises;
- (b) any person receiving the rent or profit of any premises from any tenant, lodger or occupier thereof, or who would receive such rent or profits if such premises were leased, whether for his or her own account or as agent for any other person entitled thereto;
- (c) in the case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration

and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

- (d) in the case of premises for which a registered long lease of 10 years or longer has been entered into, the lessee;
- (e) in relation to -
  - (i) land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1971 (Act No. 66 of 1971), the developer or the body corporate in respect of the common property, or
  - (ii) a section as defined in such Act, the person in whose name such section is registered under the sectional title deed, and includes the lawfully appointed agent of such a person;
- (f) in the case of any building complex the person exercising the management and control over such building complex;

“person” includes a natural person, company, close corporation, trust, association, partnership, organisation, club, organ of State and body of persons whether corporate or not;

“policies” includes a policy, plan, guideline or strategy adopted by the Council from time to time in connection with any municipal service rendered or offered by the Council;

“pollution” means a change in the environment caused by -

- (a) any waste, substance or matter; or
- (b) noise, odour, dust or heat, emitted from or caused by any activity, including the storage or treatment of any waste, substance or matter, building and construction, and the provision of any service,

if that change has an adverse effect on public health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, both short term and long term, or on material useful to people, or is to have such an adverse effect in the future;

“premises” means an erf or other portion of land, whether vacant, occupied, developed or undeveloped, including a building or building complex on it or any other structure used for the purposes of business, commerce, trade, industry, agriculture, residence, recreation, religion, education, welfare or any other purposes and the infrastructure used in connection with it;

“public or private facilities and institutions” means premises -

- (a) used for purposes of recreation, religion, education, welfare;
- (b) regarded, deemed or designated as public facilities, including non-governmental organisations, ministries or departments of government;
- (c) used as embassies;
- (d) used for military purposes; and
- (e) zoned or classified as private medical or veterinary hospitals, clinics, laboratories or related institutions or facilities;

“recovery” means the process or act of reclaiming or diverting from waste any materials, products or by-products for the purposes of being reused, or collected, processed and used as a raw or other material in the manufacture of a new, recycled or any other product, but excluding the use for purposes of energy generation;

“recyclable waste” means waste which has been separated from the waste stream and set aside for purposes of recovery, reuse or recycling;

“recycling” means the process or act of subjecting used or recovered waste materials, products or by-products to a process or treatment of making them suitable for beneficial use and for other purposes, and includes any process or treatment by which waste materials are transformed into new products or base materials in such a manner that the original waste materials, products or by-products may lose their identity, and which may be used as raw materials for the production of other goods or materials, but excluding the use for purposes of energy generation;

“recycling facility” means a facility which receives any waste, materials, products or byproducts for the purposes of recovery, reuse or recycling, and includes a buy-back centre;

“reduction” means the process or act of reducing the nature, type, quality, quantity, volume or toxicity of any waste generated;

“refuse container” means any receptacle or other container, including a skip, approved by the Council from time to time for the storage, depositing and disposal of waste;

“residential premises” means an erf or other portion of land, whether vacant, occupied, developed or undeveloped, and includes any building on it or any other structure used for residential purposes, and the adjoining sidewalk or verge used in connection with it;

“reuse” means the process or act of recovering waste materials intended for the same or different purposes without the alteration of physical and chemical characteristics;

“satellite landfill site” means a facility which receives and temporarily stores -

- (a) garden waste, but does not include a composting facility;
- (b) specified general waste already separated at source which has the potential for recovery, reuse or recycling; and
- (c) any other waste authorised by Council,

for the purposes of recovery, reuse, recycling, composting or final disposal, and which is transported to the satellite landfill site in a vehicle not exceeding one ton payload, but does not include a transfer station used for the temporary storage of waste, unless the satellite landfill site is situated on the same premises or land as such transfer station;

“separation” means the process or act of sorting and separating, at the point of origin, different materials found in any waste in order to promote and facilitate recovery, reuse and recycling of materials and resources;

“shop” means an establishment, building, location or venue, excluding an office, either separately or forming part of a building complex, in which -

- (a) tangible personal property;
- (b) food or beverages;

- (c) products; or
- (d) services.

are sold, offered or provided;

“special events” means any festival, gathering, event, fair or meeting organised or arranged for purposes of sport, religion, exhibition, trade, commerce, entertainment, music, industry or any other purposes;

“storage” means the temporary storage or containment of any waste for a period of less than 90 days after its generation and prior to its collection for recovery, reuse, recycling, treatment or disposal;

“tariff” means the tariff, charges, fees or any other monies determined by the Council in terms of section 30(1)(u) of the Act as payable to the Council for the collection, removal and disposal of any waste, or any other aspect of rendering the municipal service;

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992);

“user” means a person utilising the municipal service, including a waste generator and any other person liable for payment of the municipal service regardless of whether or not that other person generated the waste;

“vehicle” means any conveyance or device which can be used for the transportation of persons or any substances or matter on land, irrespective of whether such conveyance is selfpropelled or not;

“waste” means a substance or matter whether solid, liquid or any combination of it, including -

- (a) any undesirable, rejected, abandoned or superfluous matter, material, residue of any process or activity, product, by-product;
- (b) any matter which is regarded as useless and unwanted;
- (c) any matter which has been discarded, abandoned, accumulated or stored for the purposes of discarding, abandoning, processing, recovery, reuse, recycling or extracting a usable product from such matter; or
- (d) products that may contain or generate a gaseous component,

which may originate from residential, gardening, business, commercial, trade, industrial, educational, agricultural, medical, building and demolition activities, and any other activities, including industrial waste, hazardous waste and health care risk waste;

“waste contractor” means a person, licensed in terms of Chapter 6, who collects, stores, transports, deposits, disposes, treats, handles or cleans up any waste generated by any other person, but does not include any person who -

- (a) collects, deposits or disposes any garden, bulky, household hazardous and builder’s waste, unless such person does so for commercial gain or as core business;
- (b) deposits or disposes any waste for the purposes of recovery for reuse or recycling, unless such person does so for commercial gain or as core business; or
- (c) is exempted by the Council from obtaining a licence;

“waste disposal site” means a facility or site authorised by the Council to receive waste for treatment or disposal;

“waste generator” means any person who produces and generates waste, and if that person is not known the person who is in possession or control of that waste;

“waste information system” means the waste information system established in terms of regulation 9;

“waste inspector” means a staff member authorised by the Council in terms of Chapter 7 to administer, implement and enforce the provisions of these regulations and any other waste management related regulations promulgated by the Council;

“waste management hierarchy” means the waste management hierarchy set out in regulation;

“waste management plan” means the waste management plan set out in regulation 6;

“waste minimisation” means an activity, process or act involving the prevention, elimination or reduction of the amount, nature, type, quality, quantity, volume or toxicity of waste that is generated, and in the event where waste is generated, the reduction of the amount, nature, type, quality, quantity, volume or toxicity of waste that is disposed of.

## CHAPTER 2 POWERS AND RESPONSIBILITIES

### Part 1 Municipal service

#### **Provision of, access to and use of municipal service**

2. (1) Subject to -
- (a) the provisions of these regulations and the principles of the waste management hierarchy set out in regulation 5;
  - (b) any policy, conditions or limitations the Council may impose from time to time; and
  - (c) any other applicable law,

the Council must ensure that all waste generated, stored, collected, transported, treated and disposed of within the municipal area is managed properly and in a manner not posing a threat to human health or the environment.

(2) Every owner or occupier of premises must make use of the municipal service provided by the Council for the collection or disposal of general waste and any other waste which the Council may determine from time to time, in respect of waste generated on such premises.

(3) Subject to the provisions of these regulations and any other applicable law, only the Council or a person authorised by the Council in terms of these regulations, may collect, treat and dispose of waste.

(4) Subject to the provisions of these regulations and any other applicable law, subregulation (3) does not prevent a person from -

- (a) collecting; or

- (b) depositing or disposing,

waste for the purposes of reuse, recovery, recycling or composting or in pursuance of any order, directive, policy or guideline made by the Council, but only if such waste is collected from or deposited or disposed on the premises with the prior permission of the owner or occupier.

(5) Waste collected, deposited or disposed in terms of subregulation (4) may not create a nuisance to any other person or cause any health risk or damage to the environment.

(6) Subject to the provisions of these regulations and any other applicable law the Council may -

- (a) enter into an agreement with any person for the provision of the municipal service or any matter related to it, on the Council's behalf and subject to any conditions or limitations the Council may impose; or
- (b) permit users or waste generators to enter into alternative arrangements with a waste contractor or with any other person as regulated in terms of these regulations, for the handling, treatment, collection and disposal of any waste normally forming part of the municipal service, but subject to any conditions or limitations the Council may impose, but the Council may request written or other proof of such alternative arrangements, including written or other proof of the handling, treatment, collection and disposal of such waste.

(7) In determining the manner in which the municipal service is rendered, and having regard to the principle of equity and the provisions of these regulations and any other applicable law, the Council may -

- (a) develop different waste management policies from time to time;
- (b) differentiate between different categories of users and waste generators, including users and generators resident or situated outside the municipal area, and who generate waste outside the municipal area but transport and dispose of the generated waste within the boundaries of the municipal area;
- (c) differentiate between different geographical or socio-economic areas;
- (d) provide, determine, arrange or encourage different levels, means and utilisation of the municipal service for different users or waste generators or categories of users and waste generators, or different geographical or socio-economic areas;
- (e) determine the frequency at which the municipal service is rendered;
- (f) determine the maximum amount or volume of waste that the Council must collect from any premises without the provision of an additional service or payment of an additional tariff;
- (g) determine the manner and place in which any waste must be stored, contained, handled, collected, treated, deposited, disposed or otherwise dealt with;
- (h) determine the manner and place in and at which any waste must be eliminated, prevented, minimised, reused, recovered or recycled;
- (i) determine the manner in which any waste must be eliminated, prevented, minimised or separated at the source at which it was generated;

- (j) determine which waste is to be collected and disposed by Council;
- (k) determine or direct which waste is unsuitable for collection by Council and the process or manner in which such waste is to be managed or disposed by the user or waste generator;
- (l) implement any particular component of the waste management hierarchy set out in regulation 5 for certain categories of users or waste generators or in different geographical or socio-economic areas;
- (m) determine or direct which waste must be separated by users or waste generators for the purposes of reuse, recovery and recycling, and the condition for its separation, storage or collection; or
- (n) require that the most appropriate methods or best locally available technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health.

### **Tariff**

**3.** (1) Subject to the provisions of these regulations and any other applicable law the Council must adopt and implement a tariff policy for the rendering of the municipal service and which may reflect the waste management hierarchy set out in regulation 5, the objectives and principles of integrated waste management and the encouragement of other appropriate environmental objectives.

(2) Subject to the principle of equity and the provisions of these regulations and any other applicable law the tariff policy may -

- (a) distinguish between different -
  - (i) categories of users and waste generators, including users and generators resident or situated outside the municipal area, and who generate waste outside the municipal area;
  - (ii) users and generators who contribute to the municipal area's overall waste stream and volumes in different proportions;
  - (iii) geographical or socio-economic areas;
  - (iv) levels, means, frequencies and utilisation of the municipal service;
- (b) favourably treat users or waste generators or categories of users or waste generators who in the Council's opinion can prove that they have successfully and satisfactorily implemented -
  - (i) any particular component of the waste management hierarchy set out in regulation 5;
  - (ii) the waste management plan set out in regulation 6;
  - (iii) any possible integrated waste management guideline set out in regulation 7; or
  - (iv) the audit referred to in regulation 8.

(3) Subject to the provisions of these regulations and any other applicable law all users of the municipal service and waste generators utilising the municipal service must pay the tariff determined by the Council from time to time.

(4) Payment contemplated in subregulation (3) must be made on or before the date on which it becomes due and payable.

(5) The fact that an account did not reach the user or waste generator does not exempt such user or waste generator from making payment on or before the due date.

(6) If the correctness of an account is disputed, payment of the account may not be postponed until after the due date pending the investigation and resolution of such dispute.

(7) If any user or waste generator fails to pay any amount which is payable in terms of these regulations after such amount is due and payable, the Council may without impairment of any other available legal remedy -

- (a) suspend the municipal service to such user or waste generator until such time as all outstanding amounts have been paid in full;
- (b) take all legal steps necessary to recover such outstanding amounts; and
- (c) recover costs or expenditure incurred for the recovery of such outstanding amounts from such user or waste generator.

#### **Building development contribution**

4. (1) These regulations do not prevent the Council from determining and imposing from time to time a contribution for the provision or expansion of the municipal service, including collection and disposal costs incurred or to be incurred by the Council, in respect of any new building development or the extension of any, existing building development, and where such existing building development did not previously receive a municipal service identical or similar to the municipal service required or to be required by the extension of any such existing building development.

(2) The contribution referred to in subregulation (1) is payable by the owner, and the provisions of regulation 3(3) to (7) apply with necessary changes.

(3) The Council may determine and impose a reduced contribution where -

- (a) the owner; or
- (b) in the case of any building complex, the person exercising the management and control over such building complex,

in the Council's opinion can prove that -

- (i) any particular component of the waste management hierarchy set out in regulation 5;
- (ii) the waste management plan set out in regulation 6; or
- (iii) any possible integrated waste management guideline set out in regulation 7,

has been successfully and satisfactorily implemented or is to be successfully and satisfactorily implemented and maintained.

Part 2  
Waste management

**Waste management hierarchy**

**5.** (1) For the purposes of these regulations the waste management hierarchy is as follows and in the following order of priority -

- (a) elimination, prevention, minimisation and reduction;
- (b) reuse;
- (c) recovery and recycling; and
- (d) treatment and disposal.

(2) All persons, including the Council, must take into account and apply the waste management hierarchy set out in subregulation (1).

**Implementation of waste management hierarchy and waste management plans**

**6.** (1) In order to implement, apply and achieve the objectives of the waste management hierarchy set out in regulation 5 the Council may, in addition and subject to the provisions of regulations 2, 3 and 4, identify and determine to which -

- (a) categories of users and waste generators;
- (b) geographical or socio-economic areas; or
- (c) categories, types or volumes of waste,

the waste management hierarchy, or any component of it, must be implemented and applied.

(2) If the Council acts in terms of subregulation (1) the Council may -

- (a) issue any order or directive;
- (b) develop and implement any policy from time to time;
- (c) develop and implement integrated waste management guidelines or recommendations from time to time; and
- (d) adopt and implement different tariff policies or financial measures,

in relation to different categories of users and waste generators or geographical or socio-economic areas or categories, types or volumes of waste identified and determined accordingly, in order to achieve the objectives of the waste management hierarchy set out in regulation 5.

(3) If the Council issues any order or directive in terms of subregulation (2) the categories of users and waste generators or geographical or socio-economic areas identified and determined accordingly must follow all provisions of such order or directive.

(4) The Council may identify and require a waste generator forming part of any industry, to draw up a waste management plan.

(5) If a potential waste generator is not generating waste the Council may require such potential waste generator to draw up a waste management plan prior to the generation of such waste.

(6) The waste management plan referred to in subregulation (5) must be submitted to the Council at least six months, or within any other period determined by the Council, before beginning any activity or operation.

(7) If waste is generated by the waste generator outside the municipal area, but disposed of within the municipal area, the Council may identify and require such waste generator to draw up a waste management plan at own cost and to submit such plan for approval by the Council.

(8) The waste management plan to be compiled must address the following -

- (a) the amount and type of all waste that is generated or expected to be generated;
- (b) measures to prevent damage to the environment;
- (c) targets for waste elimination, prevention and minimisation through waste reduction, reuse, recycling and recovery;
- (d) measures or programmes to eliminate, prevent or minimise the generation of waste and its final disposal;
- (e) measures or actions to be taken to manage waste in accordance with the waste management hierarchy set out in regulation 5 or in terms of any possible integrated waste management guideline set out in regulation 7;
- (f) considering the phasing out of the use of specified substances or replacing harmful or toxic substances with more environmentally friendly substances or alternatives;
- (g) opportunities for the elimination, prevention and minimisation of waste generation through changes to packaging, product design or production processes;
- (h) mechanisms for informing the public of the impact of the waste generating products or packaging on the environment;
- (i) the extent of any financial contribution to be made to support consumer based waste elimination, prevention, minimisation, reuse and recycling as well as public waste education and awareness programs;
- (j) the period that is required for implementation of the plan;
- (k) methods for monitoring and reporting; and
- (l) any other matter that may be necessary to give effect to the objects of these regulations.

(9) A copy of the waste management plan must be submitted to the Council by each waste generator identified in terms of subregulation (4), within six months of such waste generator having been required to draw up such plan.

(10) The Council may on receipt of a waste management plan -

- (a) approve the plan in writing, with any amendments or conditions, and give directions for the implementation of the plan;

- (b) require additional information to be furnished and a revised plan to be submitted within timeframes specified by the Council for approval; or
- (c) require amendments to be made to the plan within timeframes specified by the Council.

(11) Any failure to comply with a requirement referred to in subregulation (10)(b) or (c) within the timeframes specified by the Council is regarded as a failure to submit a waste management plan.

(12) On receipt of any information or amendments requested in terms of subregulation (10)(b) or (c) the Council must reconsider the plan.

### **Integrated waste management guidelines**

7. (1) Subject to these regulations, the Council may develop and implement integrated waste management guidelines from time to time in relation to different categories of users and waste generators, including -

- (a) the building and construction industry;
- (b) building complexes;
- (c) special events;
- (d) the leisure, accommodation and hospitality industry, restaurants, food outlets, bars and pubs;
- (e) the entertainment industry; and
- (f) specific industry, manufacturing or service sectors.

(2) A user or generator falling within any of the categories referred to in subregulation (1) must implement measures which comply, as a minimum, with any conditions contained in the guidelines contemplated in that subregulation.

### **Waste and integrated resource management audits**

8. (1) For the purposes of this regulation waste” includes the consumption or utilisation of water, electricity, raw materials and any other product or material determined by the Council.

(2) Subject to these regulations and any other applicable law the Council may require any user or waste generator to conduct a waste or integrated resource management audit at his or her own expense, which audit must be performed by an independent person appointed by the user or waste generator, at his or her own expense

- (3) The audit report contemplated in subregulation (2) must include details of the -
  - (a) amounts and types of waste generated during the past twelve months;
  - (b) amounts and types of waste landfilled or otherwise disposed of during the past twelve months;
  - (c) amount of key resources and materials consumed or used during the past twelve months;

- (d) number of persons living on the premises;
- (e) number of persons permanently working on the premises;
- (f) comparison of the above factors with those reported in each of the previous three years, where available;
- (g) seasonal variation in material demand of key resources, such as monthly consumption figures;
- (h) measures or initiatives aimed at waste elimination, prevention, minimisation, reduction, reuse, recovery, recycling or treatment;
- (i) current measures, initiatives and plans to manage the demand for resources; and
- (j) estimate of consumption or utilisation by various components in use.

(4) The Council may determine the manner and form of the audit report contemplated in subregulation (2) and the information to be furnished.

(5) Upon the Council's request the user or waste generator referred to in subregulation (2) must furnish a copy of the audit report contemplated in that subregulation to the Council.

(6) The audit is treated by the Council in a confidential manner and may not be divulged or disclosed to any other party unless so ordered by a court of law or where this may be required in terms of any other applicable law, but the user or waste generator may consent to the audit being divulged or disclosed to any other party.

### Part 3 Waste information system

#### **Establishment of waste information system**

**9.** The Council may establish and maintain a waste information system which records the manner in which waste is generated, managed, treated and disposed of within the municipal area.

#### **Purpose of waste information system**

**10.** The purpose of the waste information system referred to in regulation 9 is for the Council to -

- (a) record any waste management information;
- (b) furnish any waste management information to national authorities where this may be required in terms of law;
- (c) gather any waste information and undertake strategic planning regarding potential and actual waste generators, waste contractors or possible licencees; and
- (d) provide information to waste generators, waste contractors or possible licencees and the local community in order to -
  - (i) facilitate monitoring of the performance of the Council, waste contractors or possible licencees, and where applicable waste generators;

- (ii) stimulate cleaner production and waste, prevention, elimination or minimisation based research; and
- (iii) assist the Council to achieve the main objects of these regulations, in particular the objects of Part 2 of Chapter 2.

### **Provision of information**

**11.** (1) The Council may, subject to the provisions of any other applicable law, require a waste generator, waste contractor or possible licensee within the municipal area to furnish information to the Council which may reasonably be required for the waste information system, and which may concern -

- (a) significant sources of waste generation and the identification of the generators of waste;
- (b) quantities, classes and types of any waste generated and disposed;
- (c) management of waste by waste generators and waste contractors;
- (d) elimination, prevention, minimisation, reduction, reuse, recovery, recycling, handling, treatment and disposal of waste;
- (e) any waste disposal site, materials recovery facility, satellite landfill site, composting facility, recycling facility and buy-back centre, whether it is owned, operated or controlled by the Council or any other person;
- (f) population and development profiles;
- (g) reports on progress in achieving waste management targets;
- (h) markets for waste by class of waste or category; and
- (i) any other information required by any law.

(2) The Council may determine the manner, form time and frequency of furnishing the information referred to in subregulation (1).

(3) For the purposes of this Part the Council may appoint or authorise any person to act on its behalf subject to conditions or limitations the Council may impose.

(4) If waste is generated by a waste generator outside the municipal area, but disposed of within the municipal area, the Council may require such waste generator to furnish the information referred to in subregulation (1).

### **Access to information**

**12.** (1) The local community is entitled to reasonable access to the information contained in the waste information system, subject to any limitations imposed by law.

- (2) In giving effect to subregulation (1), the Council -
  - (a) must at the request of a member of the local community, provide information contained in the waste information system;

- (b) must take steps to ensure that the information provided is in a form appropriate for lay readers; and
- (c) may impose a reasonable fee for providing such information.

CHAPTER 3  
PROVISIONS RELATING TO STORAGE, COLLECTION, TRANSPORTATION,  
TREATMENT AND DISPOSAL OF WASTE

Part 1  
General provisions

**Notice to Council**

**13.** (1) The owner or occupier of premises or building complex on or in which waste is generated must within seven days of beginning with such waste generation, notify the Council in writing -

- (a) that such premises or building complex are being occupied; and
- (b) of the nature, composition, type, quality, quantity and volume of waste generated or expected to be generated on or in such premises or building complex.

(2) The owner or occupier of premises or building complex referred to in subregulation (1) must advise the Council in writing of any change in the -

- (a) nature of the use to which the premises or building complex are put; or
- (b) nature, mass or volume of waste generated on or in the premises or building complex which in any way affects or may affect the application of these regulations or the tariff for any municipal service rendered by the Council.

(3) If the owner or occupier of premises or building complex changes, the new owner or occupier must advise the Council in writing within seven days of such change, and must furnish the Council with any details it may require.

**Provision of refuse containers and bags**

**14.** (1) The Council may -

- (a) provide one or more refuse containers, at no cost or at a cost to be determined by the Council from time to time, for any premises;
- (b) stipulate or approve any other refuse container which an owner or occupier of any premises may provide and utilise at own cost, if the Council has not provided a refuse container;
- (c) stipulate or approve any other refuse container in which any specific waste must be deposited or stored; and
- (d) determine a deposit for the provision of a refuse container, which deposit is refundable upon the return of the refuse container in a usable condition.

(2) The Council may -

- (a) provide one or more bags, at no cost or at a cost to be determined by the Council from time to time, for any premises;
- (b) stipulate or approve any other bag which an owner or occupier of any premises may provide and utilise at own cost; or
- (c) stipulate or approve any bag for the purposes of depositing, storing or disposing of any waste.

(3) If the Council is of the opinion that more than one refuse container is needed for any premises the Council may provide such additional number of refuse containers as it considers necessary or order the owner or occupier of such premises to provide at own cost any refuse container stipulated or approved in terms of subregulation (1).

(4) Any person may apply in writing to the Council for the provision of any number of additional refuse containers or bags for any premises.

(5) If the Council has provided a refuse container it may not be removed from the premises for which it has been provided, except for the purposes of the municipal service, and the owner or occupier of such premises must take all reasonable steps to prevent the loss of or damage to such refuse container.

(6) If in the Council's opinion any refuse container referred to in subregulation (1) on any premises is damaged, broken or generally unfit for the purposes of storing, depositing or disposing any waste, the Council may -

- (a) provide a new refuse container, at no cost or at a cost to be determined by the Council from time to time, to the owner or occupier of such premises; or
- (b) where the owner or occupier of such premises has provided a refuse container referred to in subregulation (1)(b) and (c), order or direct such owner or occupier to provide at own cost a new refuse container.

(7) If the Council has provided more than one refuse container for any premises the Council may impose a tariff to be determined by the Council from time to time for the use of such additional refuse container and the additional municipal service rendered.

(8) If the Council has provided a refuse container or bag for any premises in terms of these regulations such refuse container or bag remains the property of the Council, and the provisions of regulation 15 apply.

(9) A refuse container or bag provided by the Council may only be used for the purposes of storing, depositing or disposing waste.

(10) The person to whom a refuse container has been supplied in terms of this regulation is liable to the Council for any loss of or damage to such refuse container, and is also liable for the loss of the deposit referred to in subregulation (1)(d).

(11) Where an owner or occupier of any premises has provided a refuse container or bag referred to in subregulation (1)(b) and (c) or subregulation (2)(b) and (c) the Council is not liable for any loss of or damage to such refuse container or bag.

(12) The provisions of this Chapter do not prevent the Council from imposing any additional requirements relating to the storage, depositing, treatment and disposal of any waste in terms of any policy which the Council may determine from time to time.

**Utilisation of refuse containers and bags**

**15.** (1) Only general waste and any other waste authorised by the Council from time to time may be deposited or stored in a refuse container or bag -

- (a) provided by the Council; or
- (b) stipulated or approved by the Council in terms of regulations 14(1)(b) and (c) and 14(2)(b) and (c) where the Council performs the municipal service.

(2) Hot ash, broken glass, sharp or dangerous objects, sand, stones, rocks, builders' rubble or any matter or material which may cause injury to any person, including a staff member or any person authorised by the Council to act on its behalf, while carrying out his or her duties in terms of these regulations, or which may cause damage to a refuse container or bag, or compaction equipment, may not be deposited or stored in a refuse container or bag.

(3) Material, including any liquid, which by reason of its mass or other characteristics, causes the handling or carrying of a refuse container or bag to be unreasonably difficult for a staff member or any person authorised by the Council to act on its behalf, may not be deposited or stored in a refuse container or bag.

(4) The Council may only remove waste that complies with subregulations (1), (2) and (3).

(5) Kitchen and food waste and any other similar waste likely to decompose and cause a nuisance or unhygienic condition must be sealed in a leak proof container or bag before being deposited into such refuse container or bag.

(6) A person to whom the Council has provided a refuse container must at all, times -

- (a) maintain and keep such refuse container in good order and repair and in a clean and hygienic condition;
- (b) keep such refuse container securely closed or covered except when waste is being deposited in it or removed from it; and
- (c) not fill such refuse container to such an extent that the lid or cover cannot close properly.

**Putting out of waste**

**16.** (1) The Council may determine or alter the days, times and frequencies for the rendering of the municipal service.

(2) Every owner or occupier of premises must put out the refuse container or bag on date and time determined by the Council, and in the place indicated by the Council, and the Council is not required to collect any waste unless the refuse container or bag has been put in the place indicated by the Council.

(3) The Council may at a tariff render special municipal service for collecting waste which the Council has been unable to collect because of late placement.

(4) A refuse container or bag may only be put out on the date and time determined by the Council.

(5) Every owner or occupier of premises must ensure that the contents of the refuse container or bag are secured against damage and that scavenging by animals does not occur.

(6) Every owner or occupier of premises must return the refuse container to the premises not later than nightfall of the same day that waste is collected.

(7) Every owner or occupier of premises must ensure that the pavement, verge or adjoining land is swept or kept free of any waste that has not been collected by the Council.

(8) Unless the provisions of these regulations determine otherwise or subject to any conditions or limitations the Council may impose from time to time, waste which is not collected in terms of the municipal service may not be put out.

#### **Provision and securing of waste storage place or area**

**17.** (1) Every owner or occupier of premises must provide a secure, hygienic, adequate and readily accessible waste storage place or area on the premises.

(2) Every owner or occupier of premises must at all times ensure that an unauthorised person does not have access to the waste storage place or area referred to in subregulation (1).

(3) The Council may order an owner or occupier of premises to enclose or otherwise secure waste storage place or area or to take any other measures which the Council may consider necessary, and which must be done at own expense.

(4) The waste storage place or area must be constructed in accordance with the requirements of any applicable law relating to buildings.

(5) Despite subregulation (1) -

(a) in the case of any building or a building erected, the building plans of which have been approved, prior to the commencement of these regulations; or

(b) if the Council is unable to collect any waste from the waste storage place or area referred to in terms of subregulation (1),

the Council may indicate any other place or area in or outside the premises where a refuse container or bag must be put out and which must be done in accordance with the provisions of regulation 16.

#### **Sorting over of waste**

**18.** (1) Only the staff member of the Council or person authorised by the Council to act on its behalf or a waste contractor, may sort over or disturb the contents of any refuse container or bag -

(a) which has been put out for purposes of collection;

(b) stored or kept on premises; or

(c) placed in any street or public place for the purposes of collection.

(2) Despite subregulation (1), the owner or occupier of premises on which waste is generated may, subject to the provisions of these regulations and any other applicable law, allow any other person to sort over or disturb the contents of any refuse container or bag for the purposes of reuse, recovery or recycling, if such person has obtained the prior permission of the owner or

occupier of such premises, and such person's actions do not create a nuisance, harm to human health or damage to the environment.

### **Access for Council**

**19.** For purposes of the municipal service every owner or occupier of premises must ensure proper and convenient access and exit for a staff member or vehicle or person authorised by the Council to act on its behalf, including such person's vehicle, to the -

- (a) place indicated by the Council in terms of regulation 16; or
- (b) waste storage place or area referred to in regulation 17(1),

for purposes of rendering the municipal service.

### **Burning of waste**

**20.** (1) Subject to the provisions of these regulations and any other applicable law, a person may not -

- (a) burn any waste or cause any waste to be burned on premises or on any land for the purposes of disposing of such waste, unless prior written authorisation has been obtained from the Council; or
- (b) incinerate any waste or cause any waste to be incinerated on premises or on any land except in an incinerator or other equipment authorised or permitted in terms of any other applicable law, and subject to any terms and conditions contained in any authorisation or permit.

(2) If any waste is incinerated in terms of subregulation (1)(b) the person incinerating such waste or causing the incineration must -

- (a) prevent any nuisance from occurring;
- (b) prevent any potential significant air pollution from occurring;
- (c) mitigate and, as far as reasonably possible, to remedy any significant air pollution that has occurred;
- (d) ensure that the incinerator is operated and functioning properly and efficiently at all times and in particular that the incinerator's burning temperature, functionality, performance, equipment and maintenance are, at all times while in use, in accordance with internationally accepted standards for the type of waste being incinerated; and
- (e) prevent the escape or creation of any unnecessary toxic or harmful emissions and must take all necessary steps to prevent such escape or creation from occurring or recurring.

### **Transportation of waste**

**21.** (1) Subject to the provisions of these regulations and any other applicable law governing transportation, a person may not -

- (a) operate a vehicle for the conveyance of any waste upon any public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;

- (b) fail to maintain a vehicle used for the conveyance of any waste in a clean, sanitary and roadworthy condition at all times;
  - (c) fail to cover any loose or light waste on a open vehicle with a tarpaulin, net or other suitable cover; and
  - (d) cause or permit any waste being transported to leak, spill, blow, fall or become detached from a vehicle transporting it.
- (2) Waste generated within the municipal area may not be transported or taken outside the municipal area for any purposes, unless -
- (a) the Council has provided its prior written permission; or
  - (b) such transportation is required or permitted by an applicable law.
- (3) When applying for permission in terms of subregulation (2)(a) the person intending to transport waste contemplated in that subregulation must inform the Council of the -
- (a) nature, composition, toxicity, type, quality, quantity or volume of the waste;
  - (b) intended destination the waste is to be transported to;
  - (c) manner of disposal or treatment of the waste;
  - (d) manner in which the waste is to be transported;
  - (e) identity of the waste generator; and
  - (f) persons name, identity and address.
- (4) The Council may request proof of disposal from the person transporting waste in terms of this regulation.

## Part 2

### Garden, bulky and household hazardous waste

#### **Storage, collection, treatment and disposal of garden, bulky and household hazardous waste**

- 22.** (1) The Council is not responsible for collecting and disposing garden, bulky and household hazardous waste, unless determined otherwise.
- (2) The Council collects, treats and dispose of garden, bulky and household hazardous waste subject to any policy, conditions or limitations the Council may impose from time to time.
- (3) Garden, bulky and household hazardous waste may only be disposed or deposited at a place set aside or approved by the Council for such purposes and the Council may request written or other proof of such collection, depositing or disposal.
- (4) Subject to the provisions of these regulations, the owner or occupier of premises on which garden, bulky and household hazardous waste is generated may apply to the Council for the periodic collection and disposal of such waste, but Council may impose a tariff to be determined by the Council from time to time for the additional municipal service rendered.
- (5) The Council may, at its own initiative or at the request of any person, provide a refuse container to any premises for the purposes of collection and disposal of garden, bulky and

household hazardous waste, but the Council may impose a tariff or deposit to be determined by the Council from time to time for the use of such refuse container and the additional municipal service rendered.

(6) Part 1 of this Chapter applies with necessary changes to a refuse container provided by the Council in terms of subregulation (5).

(7) The owner or occupier of premises on which garden, bulky and household hazardous waste is generated must ensure that such garden, bulky and household hazardous waste is collected and disposed within a reasonable period after its generation and in terms of the provisions of these regulations.

(8) Until such time as garden, bulky and household hazardous waste is collected and disposed -

- (a) it must be deposited or stored on or in the premises and in a suitable refuse container which is kept within a waste storage place or area referred to in regulation 17; and
- (b) inconvenience, nuisance, public health risk or damage to the environment may not be caused by such garden, bulky and household hazardous waste.

(9) Regulation 44 applies with necessary changes to the accumulation and storage of garden, bulky and household hazardous waste.

(10) Despite subregulations (7), (8) and (9) the owner or occupier of premises on which garden waste is generated, may compost such garden waste on the premises, provided such composting does not cause a nuisance, public health or damage to the environment.

### Part 3 Builder's waste

#### **Collection of builder's waste**

**23.** The Council is not responsible for collecting and disposing builder's waste, unless determined otherwise.

#### **Depositing or storage of builder's waste**

**24.** (1) The generator of builder's waste and the owner or occupier of premises on which builder's waste is generated, must ensure that until such time as such builder's waste is collected -

- (a) it is deposited or stored on or in the premises and in a suitable skip, container or bag or that is properly covered;
- (b) the premises do not become unsightly or cause a nuisance as a result of the accumulation of such builder's waste;
- (c) that builder's waste is not blown or washed from or otherwise leaves the premises, and in that case it must be promptly retrieved or cleaned up; and
- (d) any structure ordered by Council necessary to contain or cover such builder's waste is erected or constructed.

(2) Storage of builder's waste, including any sand, stones or gravel on premises may not be in excess of ten consecutive days or any other period determined by the Council from time to time, irrespective that such builder's waste, sand, stones or gravel is intended to be used for filling or similar purposes.

(3) Despite subregulation (1)(a) the Council may, upon receipt of a written application by any of the persons mentioned in subregulation (1), permit in writing that the builder's waste be deposited or stored outside the premises on which such builder's waste is generated, and the provisions of subregulation (1)(b) to (d) apply with necessary changes.

(4) Where any builder's waste is deposited or stored outside the premises, the owner or occupier of such premises must ensure that -

- (a) such builder's waste does not pose a danger, inconvenience or nuisance to any person or vehicle; and
- (b) any skip or container is fitted with reflecting chevrons or reflectors clearly outlining the front and back of such skip or container.

### **Transport and disposal of builder's waste**

**25.** (1) Builder's waste may only be disposed of at a place set aside or approved by the Council for such purposes, but the Council may in writing permit or require the disposal of such builder's waste at any other designated place for the purposes of land reclamation, filling or any other purpose, and subject to any conditions or limitations Council may impose.

(2) Excavated quantities of builder's waste generated at large construction sites may only be disposed of at a place set aside or approved by Council.

(3) For the purposes of subregulation (2) the Council may decide whether a construction site is considered to be a large construction site.

(4) The Council may request written or other proof of disposal of any builder's waste at a site referred to in subregulation (1), (2) and (3).

(5) Builder's waste must at all times be covered properly and securely during its transportation for disposal to ensure that displacement does not occur.

### **Building and construction industry integrated waste management guidelines**

**26.** In considering any building or development plan for any premises submitted to the Council for approval, irrespective of whether such plan is in respect of any new or existing premises or building development, the Council may require -

- (a) the owner or occupier of such premises;
- (b) the builder, contractor, demolisher or developer; or
- (c) a subcontractor appointed by any of the persons referred to in paragraphs (a) and (b),

to adopt and implement, prior to beginning any building, construction, repair, alteration, renovation or demolition work, any integrated waste management guidelines set out in regulation 7, and to generally adopt and implement any other measure to achieve the objectives of the waste management hierarchy set out in regulation 5.

Part 4  
Industrial, business and recyclable waste

**Collection of industrial, business and recyclable waste**

27. (1) Business waste may only be collected and disposed by the Council or a waste contractor and subject to any conditions or limitations the Council may impose from time to time.

(2) The Council is not responsible for collecting and disposing industrial or recyclable waste, unless determined otherwise.

(3) A generator of industrial, business or recyclable waste and an owner or occupier of any premises on which industrial, business or recyclable waste is generated, must notify the Council in writing prior to beginning with such waste generation.

**Industrial, business and recyclable waste information**

28. Without derogating from any other provisions regulating the provision or furnishing of information in terms of these regulations, the Council may require -

- (a) a generator of industrial, business or recyclable waste, and
- (b) an owner or occupier of premises on which industrial, business or recyclable waste is generated, where the owner or occupier is not the generator of such industrial, business or recyclable waste,

to furnish the Council with -

- (i) particulars of the nature, composition, type, quality, quantity and volume of industrial, business or recyclable waste generated or expected to be generated;
- (ii) written or other proof of the manner in which and place where such industrial, business or recyclable waste has been collected, stored or disposed or is to be collected, stored or disposed;
- (iii) particulars of measures or steps taken to satisfy any possible requirements imposed by the Council in terms of regulation 29(2); and
- (iv) the particulars and identity of the waste contractor who has collected and disposed of or who is to collect and dispose of such industrial, business or recyclable waste.

**Storage and disposal of industrial, business and recyclable waste**

29. (1) The generator of industrial, business or recyclable waste or the owner or occupier of premises on which industrial, business or recyclable waste is generated must ensure that such industrial, business or recyclable waste is collected and disposed within a reasonable period after its generation and in terms of the provisions of these regulations.

(2) Regulation 44 applies with necessary changes to the accumulation and storage of industrial, business or recyclable waste.

(3) Industrial waste and business waste may only be disposed at a place set aside or approved by the Council for such purposes.

(4) Recyclable waste may only be deposited at a place set aside or approved by the Council for such purposes.

(5) Until such time as industrial and business waste is collected and disposed, or recyclable waste is collected and deposited -

(a) it must be kept or stored on or in the premises and in a suitable skip, container, tank, vessel, bag or other receptacle which is kept within a waste storage place or area referred to in regulation 17 or in any other structure or area approved by the Council; and

(b) inconvenience, nuisance, public health risk or pollution may not be caused by such industrial, business or recyclable waste.

(6) The Council may -

(a) stipulate or approve any skip, refuse container, tank, vessel, bag or any other receptacle; or

(b) order the construction or erection of any structure necessary,

to store, contain or hold industrial, business or recyclable waste.

(7) Subject to the provisions of these regulations the Council may -

(a) issue any order or directive; or

(b) develop and implement any policy or integrated waste management guideline referred to in regulation 7,

in relation to industrial, business or recyclable waste in order to apply and achieve the objectives of the waste management hierarchy referred to in regulation 5.

(8) The provisions of this Part does not prevent a person who has obtained the Council's prior written permission from, subject to the provisions of these regulations and any other applicable law, collecting, transporting, depositing or disposing any industrial or business waste for the purposes of reuse, recovery or recycling, or in pursuance of any order, directive, policy or guideline made by Council.

(9) The generator of industrial or business waste collected, deposited or disposed of in terms of subregulation (8) must furnish written or other proof of such collection, depositing or disposal to the Council.

#### Part 5 Hazardous waste

#### **Notice to Council and provision of hazardous waste information**

**30.** (1) Unless the Council determines otherwise -

(a) a generator of hazardous waste; and

(b) an owner or occupier of any premises on or in which hazardous waste is generated,

must notify the Council in writing prior to beginning with such waste generation.

(2) A person required to notify the Council in terms of subregulation (1) must furnish the Council with -

- (a) particulars of the nature, composition, type, quality, quantity and volume of hazardous waste generated or expected to be generated;
- (b) written or other proof of the manner in which and place where such hazardous waste is to be collected, stored or disposed, including the dimensions and type of the storage facility;
- (c) the proposed duration of storage;
- (d) the particulars and identity of the waste contractor who has collected and disposed of or is to be collect and dispose of such hazardous waste;
- (e) particulars of measures or steps taken to satisfy requirements imposed by the Council in terms of regulation 33(6);
- (f) measures or steps taken to satisfy any applicable health and safety law; and
- (g) particulars of any emergency response plan, measures or steps implemented by such person,

but the Council may also require that it be furnished with any of the particulars stated in this regulation at any time or at a frequency to be determined by the Council.

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

(4) A person required to notify the Council in terms of subregulation (1) and (2), must inform the Council in writing of any change occurring with respect to the generation, nature, composition, type, quality, quantity, volume, manner in which and place where the hazardous waste is to be disposed.

#### **Duties of generators of hazardous waste**

**31.** (1) The generator of hazardous waste or the owner or occupier of premises on which hazardous waste is generated must ensure that until such time as the hazardous waste is collected and disposed -

- (a) it is deposited or stored separately from all other waste on the premises in a suitable refuse container, tank, vessel or other receptacle which is kept within a controlled and secure waste storage place or area referred to in regulation 17 or in any other structure or area approved by the Council;
- (b) inconvenience, nuisance, public health risk or damage to the environment is not caused by such hazardous waste; and
- (c) public access, except from employees of the waste generators or a waste contractor is prohibited.

(2) The Council may -

- (a) stipulate or approve any refuse container, tank, vessel or any other receptacle; or

- (b) order the construction or erection of any structure necessary,

to store, contain or hold hazardous waste.

(3) Any refuse container, tank, vessel or any other receptacle containing hazardous waste must be labelled in large, legible lettering with -

- (a) the name and address of the generator;
- (b) the words “Danger: Hazardous Waste” and “Gevaar: Gevaarlike Afval” and any applicable logo or warning which must be displayed for such waste.

(4) Regulation 44 applies with necessary changes to the accumulation and storage of hazardous waste.

### **Collection of hazardous waste**

**32.** (1) The Council is not responsible for collecting and disposing hazardous waste, unless determined otherwise.

(2) Hazardous waste may only be collected and disposed of by a waste contractor, and subject to any conditions or limitations the Council may impose from time to time.

(3) Hazardous waste may only be transported in accordance with the provisions of these regulations and any other applicable law.

(4) The generator of hazardous waste must make arrangements, for the collection, treatment or disposal of hazardous waste by a waste contractor, from his or her premises to a Council approved disposal site.

### **Disposal of hazardous waste**

**33.** (1) Hazardous waste may only be disposed of at a waste disposal site authorised by the Council to accept such hazardous waste.

(2) Without derogating from any other provisions of these regulations, if the Council is of the opinion that special measures or steps need to be taken to -

- (a) render hazardous waste acceptable for disposal at a waste disposal site; or
- (b) avoid any nuisance, public health risk or damage to the environment arising at such waste disposal site,

the Council may require any person required to notify it in terms of regulation 30(1) to take such measures or steps the Council may determine necessary.

(3) If any hazardous waste causes or is believed to cause any nuisance, public health risk or damage to the environment at a waste disposal site, including the land, water and air in the surrounding vicinity, the Council may require any person required to notify it in terms of regulation 30(1) to take such measures or steps Council may determine necessary to avoid, minimise or rectify any such nuisance, public health risk or damage to the environment.

(4) Hazardous waste may only be disposed of on a Council site if the Council has given its prior written permission for such disposal.

(5) In giving its prior written permission in terms of subregulation (4) the Council must have regard to -

- (a) the nature, composition, type, quality, quantity and volume of such hazardous waste;
- (b) the suitability of the vehicle, equipment and container, tank, vessel or any other receptacle to be used;
- (c) the manner in which and place where such hazardous waste is to be collected, stored, treated or disposed of; and
- (d) whether the waste was generated within or outside the municipal area.

(6) Generators of hazardous waste must -

- (a) maintain an up-to-date written record of hazardous waste removed from their premises in a form as may be determined from time to time by the Council;
- (b) acquire from the disposer of the hazardous waste written notification that such waste has been treated or disposed of and, on receiving such notification, indicate in their written records that such waste has been treated or disposed of accordingly; and
- (c) keep the written record referred to in paragraph (a) and the notification referred to in paragraph (b) for a period of five years after the removal from their premises of such hazardous waste.

(7) The provisions of this Part do not prevent any person who has obtained the Council's prior written permission from, subject to the provisions of these regulations and any other applicable law, collecting, depositing or disposing any hazardous waste for the purposes of reuse, recovery or recycling, or in pursuance of any order, directive, policy or guideline made by Council.

(8) The generator of hazardous waste collected, deposited or disposed of in terms of subregulation (7) must furnish written or other proof of such collection, depositing or disposal to the Council.

(9) Subject to the provisions of these regulations the Council may -

- (a) issue any order or directive; or
- (b) develop and implement any policy or integrated waste management guideline referred to in regulation 7,

in relation to hazardous waste in order to apply and achieve the objectives of the waste management hierarchy referred to in regulation 5.

#### Part 6 Health Care Risk Waste

#### **Notice to Council and provision of health care risk waste information**

**34.** (1) Unless the Council determines otherwise -

- (a) a generator of health care risk waste; and
- (b) an owner or occupier of premises on which health care risk waste is generated,

must notify the Council in writing prior to beginning with such waste generation.

(2) Any person required to notify the Council in terms of subregulation (1) must furnish the Council with -

- (a) particulars of the nature, composition, type, quality, quantity and volume of health care risk waste generated or expected to be generated;
- (b) written or other proof of the manner in which and place where such health care risk waste is to be collected, stored or disposed;
- (c) the proposed duration of storage;
- (d) the particulars and identity of the waste contractor who is to collect and dispose such health care risk waste; and
- (e) particulars of measures or steps taken to satisfy any possible requirements imposed by the Council in terms of regulation 37(4),

but the Council may also require that it be furnished with any of the particulars stated in this regulation at any time or at a frequency to be determined by the Council.

#### **Duties of generators of health care risk waste**

**35.** (1) The generator of health care risk waste or the owner or occupier of premises on which health care risk waste is generated must -

- (a) handle and store health care risk waste in a manner that does not pose a threat to human health or the environment;
- (b) separate health care risk waste from all other waste at the point at which it is generated;
- (c) store health care risk waste in a Council approved or stipulated leak-proof, sealable containers or receptacles and ensure that containers or receptacles which are used for the storage of sharps and other clinical items which can cause cuts, punctures or injections are, in addition, rigid and puncture-resistant;
- (d) label health care risk waste containers or receptacles in large, legible lettering with -
  - (i) the name and address of the generator;
  - (ii) the words “Danger: Health Care Risk Waste” and “Gevaar: Mediese Afval”, and the international bio-hazard logo; and
  - (iii) the date on which the containers or receptacles are removed from the generator’s premises;
- (e) prevent public access to health care risk waste containers or receptacles which are in use;
- (f) store filled health care risk waste containers or receptacles in controlled, secure areas which are reserved for the storage of health care risk waste;
- (g) provide for proper cooling facilities within which health care risk waste is stored while awaiting collection for treatment or disposal, and which cooling facilities must

comply with any standard publication adopted by the Council in terms of section 94B of the Act; and

- (h) make arrangements, as soon as possible, for the collection, treatment or disposal of health care risk waste from their premises to a Council approved disposal site by a waste contractor.

(2) Subject to the provisions of these regulations and any other applicable law generators of health care risk waste may apply in writing to the Council for permission to -

- (a) handle, store and otherwise deal with their health care risk waste in a manner different from the requirements set out in subregulation (1); or
- (b) transport and deliver their health care risk waste for purposes of treatment or disposal in terms of these regulations.

(3) The Council may in writing grant the permission referred to in subregulation (2) and may impose conditions.

(4) Generators of health care risk waste must -

- (a) maintain an up-to-date written record of health care risk waste removed from their premises in a form determined from time to time by the Council;
- (b) acquire from the disposer of the health care risk waste written notification that such waste has been treated or disposed of and, on receiving such notification, indicate in their written records that such waste has been treated and disposed of accordingly; and
- (c) keep the written record referred to in paragraph (a) and the notification referred to in paragraph (b) for a period of five years after the removal from their premises of such health care risk waste.

### **Collection of health care risk waste**

**36.** (1) The Council is not responsible for collecting health care risk waste, unless determined otherwise.

(2) Where Council has not given its permission in terms of regulation 35(3), health care risk waste may only be collected and disposed by a waste contractor, and subject to any conditions or limitations the Council may impose from time to time.

(3) A waste contractor must remove health care risk waste from the premises of a generator and must transport, store and deliver such health care risk waste to a Council approved site without delay and in a manner which does not pose a threat to human health or the environment.

(4) In addition to the duties set out in subregulation (3), a waste contractor -

- (a) may not remove health care risk waste from the containers in which it is stored;
- (b) must transport and store health care risk waste in such a way that public does not gain access to such waste or the containers in which it is stored;
- (c) must transport health care risk waste in vehicles which are -

- (i) capable of containing such waste;
  - (ii) designed to prevent spillage;
  - (iii) constructed of materials which are easy to clean and to disinfect;
  - (iv) capable of being secured in order to prevent unauthorised access; and
- (d) must provide for proper cooling facilities within which health care risk waste is stored while awaiting treatment or disposal, and which cooling facilities must comply with any standard publication adopted by the Council in terms of section 94B of the Act;
- (5) A waste contractor may apply in writing to the Council for permission to collect, transport, store and deliver health care risk waste in a manner which does not comply with the requirements set out in subregulation (4).
- (6) The Council may in writing grant such permission impose conditions.
- (7) A waste contractor must maintain a written record in a form as may be determined from time to time by the Council in respect of each collection and delivery of health care risk waste.
- (8) The record referred to in subregulation (7) must be updated simultaneously with each collection and delivery and must be kept for a period of five years from the date on which the health care risk waste is delivered.

#### **Disposal of health care risk waste**

**37.** (1) Council is not responsible for disposing health care risk waste, unless determined otherwise.

- (2) Health care risk waste may only be disposed of by a person -
  - (a) in accordance with the provisions of regulation 20; or
  - (b) at any other place set aside or approved by the Council,

but the disposal may only take place in a manner or by a method approved by the Council.

(3) For the purposes of subregulation (2) the Council may adopt any standard publication in terms of section 94B of the Act, regulating the disposal and treatment of health care risk waste.

- (4) Persons who dispose of health care risk waste must -
  - (a) maintain an up-to-date written record of each delivery of such waste to the disposal site in the form as determined from time to time by the Council; and
  - (b) keep such record for a period of five years from the date on which such waste is disposed of.
- (4) Subject to the provisions of these regulations Council may -
  - (a) issue any order or directive; or
  - (b) develop and implement any policy or integrated waste management guideline referred to in regulation 7,

in relation to health care risk waste in order to apply and achieve the objectives of the waste management hierarchy referred to in regulation 5.

### **Conflicting law**

**38.** In the event of a conflict between the provisions of these regulations and the provisions of any other law promulgated by the Council relating to the storage, handling, treatment, collection, transportation and disposal of health care risk waste, the provisions of these regulations prevail, except where indicated to the contrary.

## **CHAPTER 4**

### **PROVISIONS RELATING TO COUNCIL SITES AND WASTE DISPOSAL SITES**

#### **Disposal at designated sites**

**39.** (1) The Council may order and direct that certain waste be disposed of at a waste disposal site designated by Council.

(2) If Council has designated a waste disposal site, waste may only be disposed of at that site.

#### **Provisions for waste disposal**

**40.** (1) Only waste generated within the municipal area is accepted for transfer or disposal at a waste disposal site, unless the Council determines otherwise.

(2) The Council may set aside premises or land, or part of a waste disposal site for the depositing or disposal of certain waste.

#### **Conduct at waste disposal sites**

**41.** (1) A person may not enter a waste disposal site for any purposes other than the disposal of waste and only on such days and between such hours as the Council or the person in charge of the site may determine from time to time.

- (2) In presenting waste for disposal at a waste disposal site, every person must -
- (a) enter at the designated points of entry indicated as such by way of appropriate signs erected by the Council or the person in charge of the waste disposal site;
  - (b) follow all instructions displayed or given to such person by an authorised staff member or the person in charge of the waste disposal site, relating to the mode of delivery, access to the actual disposal point, the manner in which and place where waste must be deposited and disposed, and such person's conduct on the site;
  - (c) present the waste for inspection and weighing where applicable;
  - (d) furnish all the particulars of the nature, composition, type, quality, quantity and volume of the waste;
  - (e) provide the Council or the person in charge of the waste disposal site with all necessary information as to the person liable to pay any tariff for the waste presented for disposal;
  - (f) only dispose of waste which does not contravene the requirements of any other applicable law or any other authorisation in respect of the waste disposal site; and

- (g) inform the Council or the person in charge of the waste disposal site, if the person has reason to believe that the waste may, by reason of its presence at the site, cause damage to, or create nuisance, public health risk or damage to the environment at such site.
- (3) If the Council or the person in charge is not informed in terms of subregulation (2) (g), the Council or that person may take such measures or steps necessary to remedy the situation, and regulation 66 applies with necessary changes.
- (4) A staff member may in terms of section 91 of the Act inspect the nature of the waste to be disposed or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (5) Subject to regulation 43, only a person who is authorised by the Council may remove or interfere with any waste on any waste disposal site.
- (6) A person may not enter a waste disposal site for the purposes of scavenging.
- (7) A person in charge of a vehicle or container may not cause or allow it to remain at any waste disposal site for longer than the necessary time required for the disposal of waste.
- (8) A person who is intoxicated or who consumes intoxicating agents such as drugs, liquor or similar agents on a waste disposal site may not be allowed into or may remain on such site.
- (9) The Council or the person in charge of the waste disposal site may specify and review the operating hours of any site and such operating hours must be adhered to.
- (10) Waste generators and their agents must obey an instruction given by the Council or the person in charge of the waste disposal site regarding waste treatment and disposal at a waste disposal site.
- (11) A person may not start a fire at a waste disposal site without the prior permission of the Council or the person in charge of the waste disposal site.
- (12) The Council or the person in charge of the waste disposal site may limit the type or size of any vehicle from which waste may be deposited or disposed.
- (13) The Council may require that waste to be deposited or disposed at a waste disposal site be deposited or disposed at a particular place only or that it be treated, wrapped, packaged, sealed or contained in any other manner determined by the Council or the person in charge of the waste disposal site, before being deposited or disposed.
- (14) Only vehicles displaying the necessary sticker referred to in subregulation 55(1) may be allowed to enter a waste disposal site for purposes of depositing or disposing of waste types which require a licence in terms of these regulations.

### **Ownership of waste**

**42.** (1) Waste collected by the Council and waste deposited or disposed of at a Council site or on any other land or premises set aside by the Council or in any Council designated refuse container becomes the property of the Council on collection, depositing or disposing, and only a person authorised by the Council may remove, interfere or in any other manner deal with such waste.

(2) Despite subregulation (1), the Council is not required to accept the ownership of any waste collected by it or deposited or disposed of at any Council site or on any other land or premises set aside by the Council or in a refuse container or bag.

(3) A person commits an offence if that person sort over or disturb any waste deposited or disposed on any Council site or any other land or premises set aside by the Council.

### **Selling and recycling of waste**

**43.** (1) The Council may sell for its own account any waste collected, deposited or disposed of at on any Council site or on any other land or premises set aside by the Council but the Council may appoint or authorise any person to do so on the Council's behalf or for that person's own account subject to any conditions or limitations the Council may impose.

(2) The Council may appoint or authorise a person to recover any waste from any Council site for the purposes of reuse or recycling or using such recovered waste as raw or other material in the manufacture of a new, recycled or any other product.

(3) If the Council appoints or authorises a person -

- (a) to sell any waste for that person's own account in terms of subregulation (1); or
- (b) in terms of subregulation (2),

the Council is not liable for any damage, injury or loss of life either to persons, property or the environment, and which is directly or indirectly caused by or attributable to that person's act or omission.

(4) A person appointed or authorised in terms of subregulation (1) and (2) must ensure compliance with any applicable -

- (a) occupational health and safety law;
- (b) environmental law;
- (c) health law;
- (d) labour law;
- (e) other relevant law; and
- (f) any directives or orders issued by the Council.

## **CHAPTER 5**

### **ACCUMULATING WASTE. LITTERING, DUMPING, ABANDONED ARTICLES AND CERTAIN PROHIBITED ADVERTISING**

#### **Accumulating waste**

**44.** (1) A person may not accumulate, store or keep any material, article, substance or thing of any nature which is waste material and which is unsightly or is likely to cause an inconvenience, nuisance, public health risk or damage to the environment, except at such places as the Council may from time to time set aside and in such manner as the Council may approve.

(2) A person may not accumulate, store or keep any material, article, substance or thing of any nature on or in any street except at such places as the Council may from time to time set

aside and approve for this purpose, but this subregulation does not apply to general waste placed for collection by the Council on the date determined for such collection as part of the Council's municipal service.

(3) If any material, article, substance or thing of any nature has been accumulated, dumped, stored or deposited on any land or premises in contravention of subregulation (1) and (2), the Council may serve a notice on the owner or occupier of premises requiring such owner or occupier to dispose, destroy or remove such material, article, substance or thing to the satisfaction of the Council within a period of 14 days from the date of such notice or any other period as the Council may determine.

(4) If the person on whom a notice in terms of subregulation (3) was served, fails to comply with the requirements of such notice, the Council may itself or through the services of a waste contractor and at the cost of such person dispose, destroy or remove such material, article, substance or thing.

#### **Duty to provide facilities for litter**

**45.** (1) Every owner, occupier or person in control of or responsible for the maintenance of premises to which the public has lawful access must at all times ensure that sufficient Council approved refuse containers are provided for the discarding or disposal of litter by members of the public.

(2) The owner, occupier or person in control of or responsible for the maintenance of premises contemplated in subregulation (1) must ensure that refuse containers are -

- (a) maintained in good condition;
- (b) suitably weighted and anchored so that they are not 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 of the refuse container;
- (e) placed in locations convenient for users, occupants or visitors of the premises in order to discourage littering or the unhealthy accumulation of waste; and
- (f) emptied and cleansed regularly or when full, and the emptying and cleansing of approved refuse containers must be sufficiently frequent as to ensure that no refuse container or its contents may become a nuisance or health hazard or provide reasonable grounds for complaint.

#### **Prohibition of littering**

**46.** (1) A person may not -

- (a) cause litter;
- (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
- (c) disturb anything in, or remove anything from any refuse container which has been placed for the purposes of collecting litter in such a manner as to cause the contents of such refuse container to spill or fall onto the ground around it; and

(d) allow any person under his or her control to do any of the acts contemplated in paragraphs (a), (b) or (c).

(2) Despite subregulation (1), the owner or occupier of any privately owned premises to which the public has lawful access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

(3) For the purposes of this subregulation (2), a reasonable time means that period of time before the litter becomes a nuisance, a health hazard or a cause for complaint.

### **Street refuse containers**

**47.** (1) The Council determines the number, type and position of street refuse containers within the municipal area.

(2) A person may not remove, replace or shift a street refuse container without the approval of the Council.

(3) A person may not place any street refuse container within the Council's jurisdiction without prior written approval of the Council.

(4) The Council, in consultation with the person contemplated in subregulation (3) determines the positions where private street refuse containers are to be placed.

(5) Only general, business or recyclable waste may be disposed in a street refuse container, and only by a pedestrian.

(6) A person may not damage or cause a street refuse container or other equipment to be damaged or put any unauthorised stickers or advertisements on any Council street refuse container or equipment.

(7) It is the responsibility of the person, or in the case of an organisation, business or institution the responsible person, who has put any sticker or advertisement on a Council street refuse container or other equipment, to remove such sticker or advertisement.

(8) If it can be proved that a person, organisation, business or institution has damaged a Council street refuse container or other equipment, or has put any sticker or advertisement on such refuse container or equipment, the person, organisation, business or institution is responsible for the cost involved for the repairs which are necessary on the street refuse container or equipment or the replacement of it.

### **Prohibition of dumping**

**48.** (1) A person may not dump or deposit waste on any premises unless authorised for that purpose in writing by the Council and subject to any conditions which may be imposed by the Council.

(2) If the provisions of subregulation (1) are contravened, the Council may by written notice in terms of subregulation (4), direct any or all of the following persons:

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

(b) the generator of the waste, whether or not the generator is responsible for the contravention;

- (c) the owner or occupier where the contravention took place, if any of the persons referred to in paragraphs (a) and (b) fail to take the steps set out in subregulation (3);
- (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the premises where the contravention took place, if that person fails to take the steps set out in subregulation (3);
- (e) any person who negligently failed to prevent the contravention from taking place,

to stop the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take steps the Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.

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

- (4) The Council may issue notices -
  - (a) for the purposes of giving directions in terms of subregulation (2);
  - (b) for compelling persons to comply with their obligations under subregulation (3); and
  - (c) for any other purpose under these regulations,

and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

(5) In addition, or as an alternative to, the steps set out in subregulation (2), or if a person fails to comply with directions given in a notice issued under subregulation (4), the Council may itself take steps it considers necessary to clean up or remove the waste, to rehabilitate the premises and affected facets of the environment at which the waste has been dumped and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.

(6) If the Council acts in terms of subregulation (5), the Council may recover the costs of taking the steps contemplated in that subregulation from any of the persons listed in subregulation (2), who are jointly and severally liable for action taken.

(7) The costs claimed under subregulation (6) must be reasonable and may include labour and administrative costs.

#### **Prohibition of abandoning article**

**49.** (1) A person may not leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.

(2) Any article, 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 Council as having been abandoned, may be removed and disposed of by the Council as it may consider appropriate.

(3) If an article contemplated in subregulation (2) is in the opinion of the Council of significant financial value, the Council may not dispose of it unless it has published a notice in two

local newspapers, describing the article, and stating the Council's intention to sell it for the best price reasonably obtainable, and inviting the owner, or person legally entitled to it, to claim the article within 30 days of the date of publication of the notice, but such article may only be sold if no valid claim is made during such period, and after the police was consulted prior to selling the article.

(4) The removal and disposal of a motor vehicle regarded to have been left behind or abandoned on a public road only takes place in accordance with the provisions of regulation 355 of the Road Traffic and Transport Regulations, published in Government Notice No. 53 of 1 March 2001.

### **No handbill, circular, pamphlet or other advertisement in any public place or on any vehicle in street without permission**

**50.** (1) A person may not deposit or leave any handbill, circular, pamphlet or other advertisement in any public place or on any vehicle in any street without having written permission to do so from the Council.

(2) For the purposes of this regulation any person found depositing or leaving any handbill, circular, pamphlet or other advertisement in any public place or on any vehicle in any street, is presumed to have done so without the permission referred to in terms of subregulation (1), unless such person produces satisfactory evidence of such permission.

## CHAPTER 6 LICENCING PROVISIONS

### **Licencing of waste contractors**

**51.** (1) Subject to the provisions of any other law regulating the registration of businesses and further subject to the provisions of regulation 59, the following waste types may only be collected by a waste contractor who was issued with a valid licence by the Council in terms of these regulations:

- (a) industrial waste;
- (b) business waste;
- (c) hazardous waste;
- (d) health care risk waste;
- (e) garden, bulky, household hazardous, builder's and recyclable waste collected and disposed of for commercial gain or as core business; and
- (f) any other waste type stipulated or identified by the Council.

(2) The licence issued under this Chapter must be applied for in the form determined by the Council, and must contain the following information pertaining to the waste contractor -

- (a) full name, physical address and other contact details;
- (b) full nature of business;
- (c) experience in collecting, storing, transporting, depositing, disposing, treating or handling of any waste;

- (d) type, suitability and number of vehicles, equipment or machinery owned or operated by such waste contractor;
- (e) ability to comply with these regulations and any law governing road traffic and transport, as well as health and safety;
- (f) environmental, health and safety record;
- (g) staff training and emergency preparedness program and record;
- (h) facilities or means for the proper and safe collecting, accumulating, storing transporting, depositing, disposing, treating or handling of any waste;
- (i) details of any previous convictions, fines or penalties, if applicable;
- (j) full particulars of any public liability insurance or other insurance taken out by such waste contractor and the amount to be provided or covered;
- (k) details of any previous accidents, incidents or emergencies, if applicable; and
- (1) nature of service offered.
- (3) The Council considers every application for a licence and -
  - (a) approves the application by issuing a licence subject to any term or condition it considers appropriate; or
  - (b) refuse the application, which refusal must be accompanied by written reasons.

### **Licence terms and conditions**

**52.** (1) When issuing a licence the Council may, subject to the provisions of subregulation (2), impose any reasonably necessary licence conditions in order to achieve the objectives of the waste management hierarchy set out in regulation 5, or any Council or national waste management policy or plan.

- (2) Licences issued by the Council must -
  - (a) specify the licence period and the procedure for the renewal of a licence;
  - (b) specify the category or categories of waste that the waste contractor may collect, transport, treat or and dispose of;
  - (c) contain a requirement that the waste contractor must comply, and ensure compliance by its employees, agents and subcontractors, with these regulations and any other applicable law; and
  - (d) require the waste contractor to keep any written records containing the information set out in regulation 36(6) and regulation 56, which records must be confirmed and verified by the Council in any application for a new licence or the renewal of a licence.

### **Suspension, variation or withdrawal of licences**

**53.** A licence issued to any waste contractor may be suspended, varied or withdrawn by the Council -

- (a) on written notice to that effect by the waste contractor to the Council;
- (b) if the waste contractor has failed to comply with any provisions of these regulations or any other applicable law relating to the collection, storing, transportation, depositing, disposal, treatment or handling of any waste; or
- (c) on any other ground which the Council considers relevant, and which is fair and reasonable under the circumstances.

### **Renewal of licences**

**54.** (1) A waste contractor who intends to renew his or her licence must do so within 90 days before the expiry of the existing licence.

(2) The Council must, in accordance with regulations 51(2) and (3), consider and approve or refuse the licence within 60 days from the date of receipt of the application for renewal of the licence.

(3) When considering whether to grant another licence, the Council must confirm and verify the previous written records which the waste contractor is required to keep in terms of regulation 36(6) or regulation 56.

### **Display of licences**

**55.** (1) Upon issuing a licence to a waste contractor, for the collection or transportation of a specific category of waste, the Council must issue to the waste contractor a numbered sticker for each vehicle to be used by him or her which must -

- (a) confirm that the waste contractor is authorised to collect or transport the category of waste specified on the sticker; and
- (b) be colour coded for easy identification of the waste stream to which the licence applies.

(2) The waste contractor must affix the sticker referred to in subregulation (1) to each vehicle to be utilised in providing the service and display it at all times.

(3) Only vehicles displaying the necessary sticker referred to in subregulation (1) may be allowed to enter any waste disposal site.

### **Record keeping and submission of information**

**56.** (1) A person utilising a waste contractor must -

- (a) maintain and keep an up-to-date written record of -
  - (i) the nature, composition, type, quality, quantity and volume of waste collected and disposed by the waste contractor;
  - (ii) the time and date of the collection;
  - (iii) the waste contractor's name;
- (b) obtain written proof from the waste contractor of the proper and safe disposal of the waste, and keep such written proof for a period of five years;

- (c) make copies of the written proof of the proper and safe disposal of the waste available to the Council on request.
- (2) A waste contractor must maintain and keep for a period of five years a written record in respect of each collection and disposal of waste, which record must be updated simultaneously with each collection and disposal, showing -
- (a) the dates and times of collection and disposal;
  - (b) the name of the waste generator or person utilising such waste contractor's service;
  - (c) the nature, composition, type, quality, quantity and volume of waste collected and disposed;
  - (d) any measures or steps taken or which must be taken to handle, treat, encapsulate, contain, neutralise, or render such waste less toxic, harmful or hazardous; and
  - (e) the waste disposal site or other place at which the waste was disposed of.
- (3) Every waste contractor must on a six monthly basis, in a form determined by the Council, submit statistical information relating to the waste collected and disposed of by such waste contractor.

### **Exemptions**

- 57.** (1) Despite regulation 51(1) a person may apply in writing to the Council for an exemption from having to apply for and obtain a licence.
- (2) The Council may in writing grant an exemption if consistent with the Act, and may impose conditions.

### **Specific duties relating to persons utilising waste contractors**

- 58.** (1) A person may not hold him or herself out to be, or act as, waste contractor unless such person is in possession of a valid licence issued in terms of these regulations.
- (2) A person may not utilise a waste contractor who is not in possession of a valid licence issued in terms of these regulations.
- (3) Any person utilising a waste contractor must satisfy him or herself that such waste contractor is duly licenced.
- (4) Any person utilising or intending to utilise a waste contractor must within six months of the commencement of these regulations notify the Council in writing to that effect, and which notification must state -
- (a) such person's full name, physical address and other contact details;
  - (b) such person's full nature of business;
  - (c) the nature, composition, type, quality, quantity and volume of waste to be collected and disposed or expected to be collected and disposed by the waste contractor to be utilised;
  - (d) the expected frequency of collection and disposal; and

- (e) the full name, physical address and other contact details of the waste contractor to be utilised.

(5) As soon as any of the information to be provided in terms of subregulation (4) changes the Council must be notified in writing to that effect by the person referred to in that subregulation.

### **Transitional provisions**

**59.** (1) Any person who is at the commencement of these regulations lawfully providing the services of a waste contractor who would be required to obtain a licence in terms of these regulations must, within 90 days of such commencement, apply for a licence in terms of regulation 51, failing which such person's right to provide such services lapses.

(2) If an application is submitted in terms of subregulation (1), the person so applying may continue to provide the service in respect of which the application has been made until a final decision has been taken by the Council in respect of that application.

## **CHAPTER 7 ENFORCEMENT**

### **Part 1 Waste inspectors**

#### **Appointment of waste inspector**

**60.** (1) Council may in writing appoint a staff member as an authorised waste inspector whose functions and authority include the administration, implementation and enforcement of any provisions of these regulations and any other waste management related regulations promulgated by the Council.

(2) A waste inspector appointed and authorised in terms of subregulation (1) must be furnished by the Council with an identity card.

(3) Any waste inspector who is seeking to exercise any power granted to him or her must produce his or her identity card upon request to any other person.

(4) A person may not hold him or herself out to be, or act as, waste inspector, unless such person has been appointed and authorised as waste inspector in terms of subregulation (1).

#### **Powers of waste inspectors**

**61.** (1) Subject to the Criminal Procedure Act, and any other applicable law, a waste inspector may in accordance with section 91 of the Act -

- (a) enter any land or premises to execute work or conduct an inspection;
- (b) search any vehicle or other mode of conveyance with the consent of the owner or person in charge;
- (c) require any person to produce any book, document or record or any written or electronic information reasonably required in connection with the administration or enforcement of these regulations to such waste inspector or cause it to be delivered or produced at any other place;
- (d) require any person to produce any permit, licence, authorisation, registration, certificate, or other similar document, or a copy of it;

- (e) direct by way of a notice any person to manage, prevent, reduce, control, treat, handle, rectify or clean up any waste on or in any equipment, premises, land or vehicle by any specified measures or steps, and within the time specified in such notice;
- (f) direct by way of a notice any person to collect, store, transport, deposit, dispose, treat, handle or otherwise comply with any provision of these regulations and any other waste management related regulations promulgated by the Council within the time specified in such notice;
- (g) give any order or direction reasonably required in connection with the exercise of any power under these regulations or otherwise in connection with the administration or enforcement of these regulations and any other waste management related regulations promulgated by the Council;
- (h) measure or take samples, specimens or articles of any waste or other matter, specimens or articles, found on any premises, land, or vehicle;
- (i) require any person to provide his or her full name and address, and to show any acceptable identification;
- (j) require any person on premises, land or vehicle to provide the waste inspector with reasonable assistance to exercise any power under these regulations and any other waste management related regulations promulgated by the Council; and
- (k) be accompanied by an interpreter or any other person reasonably required to assist the waste inspector.

(2) Subject to the Criminal Procedure Act, or any other applicable law a waste inspector who has reason to believe that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency.

(3) Where, in the opinion of the waste inspector, any search of a vehicle gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the waste inspector may, subject to the Criminal Procedure Act, or any other applicable law, seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.

- (4) If a vehicle is seized under subregulation (3), the Council must-
  - (a) immediately take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate harm to human health or damage to the environment;
  - (b) provided there are no contrary provisions to that effect in any other law relating to the seizure and confiscation of property and vehicles, return the said vehicle within a reasonable period after disposing of such waste to the control of the person from whose possession or control it was taken.

(5) Where any other thing has been removed or delivered to any place in terms of subregulation (1), the waste inspector must -

- (a) provide a receipt for such thing;
- (b) return such thing within a reasonable period, or at the conclusion of any criminal or other prosecution unless a court of law orders that such thing is not to be returned or that it must be dealt with in a specified manner.

- (6) A waste inspector may issue a written compliance notice referred to in regulation 63.

### **Offences in relation to waste inspectors**

- 62.** A person commits an offence, if such person -
- (a) hinders or obstructs, or attempts to hinder or obstruct, any waste inspector, or any person assisting such waste inspector, in exercising any power under these regulations and any other waste management related regulations promulgated by the Council;
  - (b) uses abusive, threatening or insulting language to any waste inspector, or any person assisting such waste inspector;
  - (c) assaults or threatens, or attempts to assault or threaten, any waste inspector, or any person assisting such waste inspector;
  - (d) refuses or fails to comply with any requirement or direction of any waste inspector; or
  - (e) when required by any waste inspector to answer any question, refuses or fails to answer the question to the best of that person's knowledge, information and belief.

### **Part 2**

#### **Compliance notices and recovery of costs**

### **Compliance notices**

**63.** (1) A staff member authorised to that effect may issue a written compliance notice, and which may specify a compliance period, to any person -

- (a) where such person does not comply with any provision of these regulations;
- (b) where the staff member has reason to believe that such person is not complying with any provision of these regulations;
- (c) ordering such person to take any preventative or precautionary measures or steps to prevent a further contravention or the continuation of the contravention of any provisions of these regulations; and
- (d) to take measures or steps the Council considers necessary to clean up or dispose of any waste not disposed of in terms of these regulations, and to rehabilitate the affected facets of the environment and to ensure that such waste, and any contaminated material which cannot be cleaned, treated or rehabilitated, is disposed of in terms of these regulations.

(2) In addition to issuing a compliance notice as contemplated in this regulation or without having issued such a notice, a staff member of the Council, if he or she is a peace officer as contemplated in the Criminal Procedure Act, may issue a spot fine in accordance with the provisions of the Criminal Procedure Act.

### **Objections to notices**

**64.** (1) A person who receives a compliance notice or any other notice may object to such notice by making written representations to the Council within a period determined by the Council.

(2) After considering any representations made in terms of subregulation (1) and any other relevant information the Council -

- (a) may confirm, modify or cancel such compliance notice or any other notice or any part of the notice; and
- (b) must specify the period within which the person who received such compliance notice or any other notice must comply with any part of the notice that is confirmed or modified.

### **Failure to comply with notice**

**65.** (1) A person commits an offence if that person fails to comply with a compliance notice or any other notice.

(2) If any person fails to comply with a compliance notice or any other notice the Council may -

- (a) suspend, vary, revoke or withdraw any licence or other authorisation issued or granted by the Council and which is or was not adhered to, or which is the subject of such compliance notice or any other notice;
- (b) take any necessary measures or steps and, subject to the provisions of regulation 66, recover the costs of doing so from any person who failed to comply;
- (c) institute criminal proceedings; and
- (d) notify any other relevant authority of such person's failure.

### **Recovery of costs**

**66.** (1) In addition, or as an alternative, to the provisions of regulation 63, or if a person fails to comply with a compliance notice or any other notice, order or directive issued by the Council in terms of these regulations, the Council may itself, and on behalf of the person issued with a notice, order or directive, take measures or steps it considers necessary to ensure that any provisions of these regulations are being complied with, and which measures or steps may include -

- (a) the cleaning up or disposal of any waste not disposed in terms of these regulations;
- (b) rehabilitating the premises or land and affected facets of the environment; and
- (c) disposing any contaminated material which cannot be cleaned or rehabilitated.

(2) If the Council acts in terms of subregulation (1) the Council may recover the costs of taking measures or steps from -

- (a) the person issued with the compliance notice, notice, order or directive; and
- (b) any other person who in terms of any provisions of these regulations also would have been obliged to take any measures or steps set out in the issued compliance notice, notice, order or directive,

and for which costs any of the mentioned persons are jointly and severally liable.

(3) The costs claimed under subregulation (2) must be reasonable and may include labour and administrative costs.

Part 3  
Offences

**Offences and penalties**

- 67.** (1) A person commits an offence, if such person -
- (a) contravenes or fails to comply with any provisions of these regulations;
  - (b) contravenes or fails to comply with any compliance notice, notice, order, directive, condition or limitation issued or imposed in terms of or for the purposes of these regulations;
  - (c) contravenes or fails to comply with any lawful instruction given in terms of or for the purposes of these regulations;
  - (d) negligently or knowingly fails or refuses to furnish any or incomplete information, including any records, which must be supplied or divulged in terms of these regulations;
  - (e) knowingly alters, falsifies or destroys any information, including any records, which must be supplied or divulged in terms of these regulations;
  - (f) knowingly alters, falsifies, forges or copies any licence or other written authorisation issued in terms of these regulations; or
  - (g) operates as a waste contractor without being in possession of a valid licence in terms of these regulations.

(2) A person convicted of an offence in terms of subregulation (1) or any other regulation, is liable to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

(3) In the case of a continuing offence a person commits a separate offence and is liable on conviction to a fine or imprisonment not exceeding the amount and period stated in section 94 of the Act, in respect of each day on which such offence has continued.

CHAPTER 8  
GENERAL PROVISIONS

**Service of documents**

**68.** (1) In accordance with section 93 of the Act, a compliance notice, notice, order, directive or other document which has to be issued or served for the purposes of these regulations, is regarded to have been properly issued or served if -

- (a) it has been issued to or served on the person concerned personally;
- (b) it has been sent by registered post -
  - (i) to the person's last known business or residential address; or
  - (ii) in the case of a juristic person, to its registered address or principal place of business;

- (c) it has been served on an adult person who apparently is residing at or occupying or employed at his or her last known residence or place of business and who appears to be in charge of such premises;
- (d) in the case of a juristic person it was -
  - (i) delivered to the public officer of the company; or
  - (ii) transmitted by means of a facsimile transmission to the person concerned at the registered address or principal place of business.

(2) A compliance notice, notice, order, directive or other document issued in terms of subregulations (1)(b) to (d) must be regarded as having come to the notice of the person, unless the contrary is proved.

### **Exemptions**

**69.** Subject to the provisions of these regulations dealing with exemptions, the Council may exempt any -

- (a) person;
- (b) class of persons;
- (c) categories of users and waste generators; or
- (d) geographical or socio-economic areas,

from any of the provisions of these regulations, and the Council may impose conditions or limitations it considers necessary.

### **Restriction of liability**

**70.** In accordance with section 33 of the Act, the Council or any staff member is not liable for any damage or loss caused by -

- (a) the exercise of any power or the performance of any duty under these regulations; or
- (b) the failure to exercise any power, or perform any duty under these regulations,

unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty is in bad faith.

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