

BY-LAW

To provide for a refuse removal service in the EMTHANJENI municipality; and for matters connected therewith.

BE IT ENACTED by the Emthanjeni municipality, as follows:-

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CHAPTER 1 SERVICE FOR THE REMOVAL OF REFUSE

Definitions

1. In this By-law, unless the context otherwise indicates –

“**bin**” means a standard type of refuse bin with a capacity of 0,1 cubic meters or 85 litres as approved by the Municipality and which can be supplied by the Municipality. The bin may be constructed of galvanised iron, rubber or polythene;

“**bin liner**” means a plastic bag approved by the Municipality which is placed inside a bin with a maximum capacity of 0,1 cubic meters. These bags must be of a dark colour, 950 mm x 750 mm in size, of low density minimum 40 micrometer diameter or 20 micrometer diameter high density;

“**builders refuse**” means refuse generated by demolition, excavation or building activities on premises;

“**bulky garden refuse**” means refuse such as tree stumps, branches of trees, hedge stumps and branches of hedges and any other grade refuse of quantities more than 2 cubic meters;

“**bulky refuse**” means refuse which emanates from any premises, excluding industrial refuse, and which cannot by virtue of its mass, shape, size or quantity be conveniently accumulated or removed in a refuse bin with a bin liner;

“**business refuse**” means refuse generated by the use of premises other than a private dwelling-house used solely as a residence, but shall not include builders refuse, bulky refuse, domestic refuse or industrial refuse;

“**domestic refuse**” means refuse normally originating from a building used for dwelling purposes, including flats, hospitals, schools, hostels, compounds, benevolent societies, churches and halls situated on private property and which can be easily removed without damaging the bin liner;

“**garden refuse**” means refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, plants and flowers;

“**Municipality**” means the Emthanjeni municipality;

“**occupier**” means any person who occupies any premises or part thereof, without regard to the title under which he or she occupies;

“**owner**” means –

- (a) the person in whom from time to time is vested the legal title to the premises;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to –
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in that Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;

- (f) any legal person including, but not limited to –
- (i) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), a trust *inter vivos*, a trust *mortis causa*, a close corporation registered in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any municipality or board established in terms of any legislation applicable in the Republic of South Africa;
 - (iv) any embassy or other foreign entity;

“**public place**” means any road, street, square, park, recreation ground, sport ground, sanitary lane or open space which has –

- (a) in connection with any subdivision or layout of land into erven, lots of plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots of plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used without interruption by the public for a period of at least 30 years expiring after 31 December 1959; or
- (d) at any time been declared or rendered as such by the Municipality or other competent authority;

“**special industrial refuse**” means refuse, consisting of a liquid or sludge, resulting from a process or the pre-treatment for disposal purposes of any industrial liquid waste, which in terms of the Municipality’s By-laws may not be discharged into a drain or sewer; and

“**tariff**” means the tariff of charges as determined from time to time by the Municipality.

Removal of refuse

2. (1) The Municipality shall provide a service for the collection and removal of business and domestic refuse from premises at the tariff determined by the Municipality.
- (2) The occupier of the premises on which business or domestic refuse is generated, shall avail himself or herself of the Municipality's service for the collection and removal of such refuse, except where special exemption is granted by the Municipality.
- (3) The owner of the premises on which business or domestic refuse is generated, shall be liable to the Municipality for all charges in respect of the collection and removal of refuse from such premises.

Notice to the Municipality

3. The occupier of the premises, or in the case of premises being occupied by more than one person, the owner of such premises on which business refuse or domestic refuse is generated, shall within seven days after the commencement of the generation of such refuse notify the Municipality –
 - (a) that the premises is being occupied;
 - (b) whether business refuse or domestic refuse is being generated on the premises.

Provision of refuse bins or container units

4. (1) The Municipality shall determine the type and number of containers required on a premises.
- (2) If a container is supplied by the Municipality, such container shall be supplied free of charge, or at the ruling prices, or at a hiring tariff, as the Municipality may determine;
- (3) If required by the Municipality, the owner of a premises shall be responsible for the supply of a pre-determined number and type of containers.
- (4) The Municipality may supply container units to a premises if, having regard to the quantity of business refuse generated on the premises concerned, the suitability of such refuse for storage in refuse bins, and the accessibility of the space provided by the owner of the premises in terms of section 5 to the Municipality's refuse collection vehicles, if it considers container units more appropriate for the storage of the refuse than refuse bins: Provided that container units shall not be supplied to the premises unless the space provided by the owner of the premises in terms of section 5 is accessible to the Municipality's refuse collection vehicles for container units.

Positioning of refuse bins, container units, etc.

5. (1) The owner of the premises shall provide adequate space on the premises for the storage of the refuse bins supplied by the Municipality in terms of section 4 or for the equipment and containers mentioned in section 7(1).
- (2) The space provided in terms of subsection (1) shall –
 - (a) be in such a position on the premises as will allow the storage of refuse bins without the bins being visible from a street or other public place;
 - (b) where domestic refuse is generated on the premises –
 - (i) be in such a position as will allow the collection and removal of refuse by the Municipality’s employees without hindrance;
 - (ii) be not more than 20 m from the entrance to the premises, used by the Municipality’s employees;
 - (c) if required by the Municipality, be so located as to permit convenient access to and egress from such space for the Municipality’s refuse collection vehicles;
 - (d) be sufficient to house any receptacle used in the sorting and storage of the refuse contemplated in subsections 6(1)(a)(i) and 7(9), as well as any such refuse not being stored in a receptacle: Provided that this requirement shall not apply in the case of buildings erected, or the building plans whereof have been approved, prior to the coming into operation of this By-law.
- (3) The occupier of the premises, or in the case of premises being occupied by more than one person, the owner of such premises shall place the refuse bins supplied in terms of section 4, in the space provided in terms of subsection (1) and shall at all times keep them there.
- (4) Notwithstanding anything to the contrary in subsection (3) contained –
 - (a) in the case of buildings erected, or of which the building plans have been approved prior to the coming into operation of this By-law; and
 - (b) in the event of the Municipality, in its opinion being unable to collect and remove business refuse from the space provided in terms of subsection (1),

the Municipality may, having regard to the avoidance of nuisance and the convenience of collection of refuse, indicate a position within or outside the premises where the refuse bins shall be placed for the collection and removal of such refuse and such refuse bins shall then be placed in such position at such times and for such periods as the Municipality may determine.

Use and care of containers and bin liners

6. (1) Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises shall ensure that –
 - (a) all the domestic or business refuse generated on the premises is placed and kept in bin liners for removal by the Municipality: Provided that the provisions of this subsection shall not prevent any occupier or owner, as the case may be –
 - (i) who has obtained the Municipality’s prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material being an element of business refuse, for recycling in a manufacturing process or, in the case of swill, for consumption;
 - (ii) from utilising such domestic refuse as may be suitable for making compost;
 - (b) no hot ash, unwrapped glass or other business or domestic refuse which may cause damage to bin liners or which may cause injury to the Municipality’s employees while carrying out their duties in terms of this By-law, is placed in bin liners before he or she has taken such steps as may be necessary to avoid such damage or injury;
 - (c) no material, including any liquid which, by reason of its mass or other characteristics, is likely to render such bin liners unreasonably difficult for the Municipality’s employees to handle or carry, is placed in such bin liners;
 - (d) every container on the premises is covered, save when refuse is being deposited therein or discharged therefrom, and that every container is kept in a clean and hygienic condition;
 - (e) no person deposits refuse in any other place than in the containers provided for that purpose.
- (2) No container may be used for any purpose other than the storage of business, domestic or garden refuse and no fire shall be lit in such container.

- (3) In the event of a container having been delivered to premises in terms of subsection 4(4), the occupier of such premises shall, 24 hours before the container is likely to be filled to capacity, inform the Municipality thereof.
- (4) The owner of premises to which bins or container units have been supplied in terms of section 4 or 11, shall be liable to the Municipality for the loss thereof and for any damage caused thereto, except for such loss or damage as may be caused by the employees of the Municipality.
- (5) Plastic bin liners with domestic or garden refuse, or both, shall be properly closed and be placed outside the property next to the fence and near the entrance or access road before 07:00 on the day determined by the Municipality for removal of refuse.

CHAPTER 2

COMPACTION OF REFUSE

Compaction of refuse

7.
 - (1) Should the quantity of domestic or business refuse generated on premises be such that, in the opinion of the Municipality, the major portion of such refuse is compactable, or should the owner or occupier of premises wish to compact such refuse, such owner or occupier, as the case may be, shall increase the density of that portion of such refuse as is compactable by means of approved equipment designed to shred or compact refuse and shall put the refuse so treated into an approved plastic, paper or other disposable container or into a compaction unit container, and the provisions of section 4 shall not apply to such compactable refuse.
 - (2) The capacity of the plastic, paper or other disposable container referred to in subsection (1) shall not exceed 0,1 cubic meters.
 - (3) After the refuse, treated as contemplated in subsection (1), has been put into a plastic, paper or other disposable container, such container shall be placed in a container or container unit.
 - (4) Insofar as the provisions of subsection (1) make the compaction of domestic or business refuse compulsory, such provisions shall not apply until a period of 6 months has elapsed from the date of the serving of a notice to this effect by the Municipality.

- (5) “Approved” for the purpose of subsection (1), shall mean approved by the Municipality, regard being had to the suitability of the equipment or container for the purpose for which it is to be used, as well as the reasonable requirements of the particular case from a public health, storage and refuse collection and removal point of view.
- (6) The containers mentioned in subsection (1) shall be supplied by the owner or the occupier, as the case may be.
- (7) If the container referred to in subsection (1) is made of steel, such container shall, after the collection thereof and after it has been emptied by the Municipality, be returned to the premises.
- (8) The Municipality shall remove and empty the containers referred to in subsection (1) at such intervals as the Municipality may deem necessary in the circumstances.
- (9) The provisions of this section shall not prevent any owner or occupier of premises, as the case may be, after having obtained the Municipality’s prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material being an element of business refuse, for recycling in a manufacturing process or, in the case of swill, for consumption.

CHAPTER 3

GARDEN REFUSE, BULKY GARDEN REFUSE AND OTHER BULKY REFUSE

Removal and disposal of garden refuse, bulky garden refuse and other bulky refuse

8. (1) The occupier, or in the case of premises occupied by more than one person, the owner of premises on which garden refuse, bulky garden refuse or other bulky refuse is generated, shall ensure that such refuse be disposed of in terms of this Chapter within a reasonable time after the generation thereof.
- (2) Any person may remove and dispose of garden refuse, bulky garden refuse or other bulky refuse.
- (3) Garden refuse, bulky garden refuse or other bulky refuse removed from the premises on which it was generated, shall be disposed of on a site designated by the Municipality as a disposal site for such refuse.

The Municipality's special service

9. At the request of the owner or any occupier of any premises, the Municipality shall remove bulky garden refuse and other refuse from premises, if the Municipality is able to do so with its refuse removal equipment. All such refuse shall be placed within 3 m of the boundary loading point, but not on the sidewalk.

Responsibility for builders refuse

10. (1) The owner of premises on which builders refuse is generated and the person engaged in the activity, which causes such refuse to be generated, shall ensure that –
- (a) such refuse be disposed of on the terms of section 12 within a reasonable time after the generation thereof;
 - (b) until such time as builders refuse is disposed of, such refuse, together with the containers used for the storing or removal thereof, be kept on the premises on which it was generated.
- (2) Any person may operate a builders refuse removal service. Should the Municipality provide such a service, it shall be done at the prescribed tariff.

Containers

11. (1) If containers or other receptacles used for the removal of builders refuse, bulky refuse or other waste material from premises can, in the opinion of the Municipality, not be kept on the premises, such containers or other receptacles may, with the written consent of the Municipality, be placed in the roadway for the period of such consent.
- (2) Any consent given in terms of subsection (1), shall be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality shall have regard to the convenience and safety of the public.
- (3) Every container or other receptacle used for the removal of builders refuse shall –
- (a) have clearly marked on it the name and address or telephone number of the person in control of such container or other receptacle;
 - (b) be fitted with reflecting chevrons or reflectors, which shall completely outline the front and the back thereof; and

- (c) be covered at all times, other than when actually receiving or being emptied of such refuse, so that no displacement of its contents or dust nuisance may occur.

Disposal of builders refuse

- 12.** (1) Subject to the provisions of subsection (2), all builders refuse shall be deposited at the Municipality's refuse disposal sites, after the person depositing the refuse has paid the tariff charge therefor.
- (2) For the purpose of reclamation of land, builders refuse may, with the written consent of the Municipality, be deposited at a place other than the Municipality's refuse disposal sites.
- (3) Any consent given in terms of subsection (2), shall be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality shall have regard to –
- (a) the safety of the public;
 - (b) the environment of the proposed disposal site;
 - (c) the suitability of the area, including the drainage thereof;
 - (d) the expected manner and times of depositing of refuse at the site;
 - (e) the levelling of the site;
 - (f) the control of dust; and
 - (g) any other relevant factors.

CHAPTER 4

SPECIAL INDUSTRIAL REFUSE

Notification of generation of special industrial refuse

- 13.** (1) The person engaged in the activity, which causes special industrial refuse to be generated, shall inform the Municipality of the composition thereof, the quantity generated, how it is stored and how and when it will be removed.
- (2) If so required by the Municipality, the notification referred to in subsection (1), shall be substantiated by an analysis certified by a qualified industrial chemist.

- (3) Subject to the provisions of this By-law, any person duly authorised by the Municipality, may enter premises at any reasonable time to ascertain whether special industrial refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.
- (4) The person mentioned in subsection (1), shall notify the Municipality of any changes in the composition and quantity of the special industrial refuse that may occur from time to time.

Storing of special industrial refuse

14. (1) The person referred to in section 13(1), shall ensure that the special industrial refuse generated on the premises is kept and stored thereon in terms of subsection (2), until it is removed from the premises in terms of section 15.
- (2) Special industrial refuse stored on premises, shall be stored in such a manner that it does not become a nuisance or pollute the environment.
- (3) If special industrial refuse is not stored in terms of subsection (2) on the premises on which it is generated, the Municipality may order the owner of the premises and the person referred to in subsection 13(1), to remove such refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Municipality may remove it at the owner's expense.

Removal of special industrial refuse

15. (1) No person shall remove special industrial refuse from the premises on which it was generated without or otherwise than in terms of the written consent of the Municipality.
- (2) The Municipality may give its consent in terms of subsection (1), subject to such conditions as it may deem fit. In laying down conditions, the Municipality shall have regard to –
 - (a) the composition of the special industrial refuse;
 - (b) the suitability of the vehicle and container to be used;
 - (c) the place where the refuse shall be dumped; and
 - (d) proof to the Municipality of such dumping.

- (3) The Municipality shall not give its consent in terms of subsection (1), unless it is satisfied that the person applying for such consent is competent and has the equipment to remove the special industrial refuse and complies with the conditions laid down by the Municipality.
- (4) The person referred to in subsection 13(1), shall inform the Municipality, at such intervals as the Municipality may stipulate, having regard to the information to be given to the Municipality in terms of subsection 13(1), of the removal of special industrial refuse, the identity of the remover, the date of such removal, the quantity and the composition of the special industrial refuse removed.
- (5) Should any person be caught in the act of contravening the provisions of this section, such person shall dispose of the refuse removed by him or her as directed by the Municipality.

CHAPTER 5

DISPOSAL SITES

Conduct at disposal sites

16. (1) Any person who, for the purpose of disposing of refuse, enters a refuse disposal site controlled by the Municipality shall –
 - (a) enter the disposal site only at an authorised access point;
 - (b) give the Municipality all the particulars required in regard to the composition of the refuse; and
 - (c) follow all instructions given to him or her in regard to access to the actual disposal point, the place where and the manner in which the refuse should be deposited.
- (2) No person shall bring intoxicating liquor onto a disposal site controlled by the Municipality.
- (3) No person shall enter a disposal site controlled by the Municipality for any purpose other than the disposal of refuse in terms of this By-law and then only at such times as the Municipality may from time to time determine.

Ownership of refuse

17. (1) All refuse removed by the Municipality and all refuse at disposal sites controlled by the Municipality shall be the property of the Municipality and no person who is not authorised by the Municipality to do so, may remove or interfere therewith.
- (2) Only refuse which is generated on premises within the Municipality's area of jurisdiction may be disposed of on the Municipality's refuse disposal sites.

CHAPTER 6**LITTERING, DUMPING AND ANCILLARY MATTERS****Littering and dumping**

18. No person shall –
- (a) throw, discard, deposit or spill any refuse of any nature into or onto any public place, vacant stand, vacant erf, stream or watercourse;
- (b) sweep any refuse into a gutter on a public place; or
- (c) allow any persons under his or her control to do any of the acts referred to in paragraphs (a) and (b).

Abandoned things

19. (1) Anything, other than a vehicle, left in a public place, and which may, having regard to –
- (a) the place where it was left;
- (b) the period that it was left; and
- (c) its nature and condition,
- be regarded as abandoned, may be removed and disposed of by the Municipality.
- (2) If the identity of the owner of the abandoned thing is known to the Municipality, the Municipality may recover the costs concerning the removal and disposal of such thing, if any, from the owner.
- (3) For the purpose of subsection (1), a shop trolley shall be deemed not to be a vehicle.

CHAPTER 7

GENERAL PROVISIONS

Access to premises

20. (1) Where the Municipality provides a refuse collection service, the occupier of premises shall grant the Municipality access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Municipality in the carrying out of its service.
- (2) Where, in the opinion of the Municipality, the collection or removal of refuse from any premises is likely to result in damage to the premises or the Municipality's property, or injury to the refuse collectors or any other person, it may, as a condition for the provision of a refuse collection service to the premises, require the owner or occupier to indemnify it, in writing, in respect of any such damage or injury or any claims arising out of either.

Accumulation of refuse

21. If any category of refuse defined in Chapter 1 of this By-law accumulates on premises so as to constitute or so as to render it likely that a nuisance will be created thereby, the Municipality may make a special removal of such refuse and the owner shall be liable in respect of such special removal to pay the tariff charge therefor.

CHAPTER 8

TARIFF CHARGES, PENALTIES AND REPEAL OF LAWS

Charges

22. (1) Save where otherwise provided in this By-law, the person to whom any service mentioned in this By-law has been rendered by the Municipality, shall be liable to the Municipality for the tariff charge in respect thereof.
- (2) Services rendered by the Municipality in respect of which a monthly tariff charge is prescribed, shall only be discontinued by the Municipality after receipt of a written notification from the owner or occupier of the premises to which the services are rendered, that the generation of domestic or business refuse on the premises has ceased, or when it has become obvious to the Municipality that the generation of such refuse on the premises has ceased.

- (3) Monthly tariff charges shall be payable until receipt by the Municipality of the notice mentioned in subsection (2), or when it has become obvious to the Municipality that the generation of such refuse on the premises has ceased.

Penalty clause

- 23.** Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment not exceeding 6 months, or to both a fine and such imprisonment.

Repeal of laws and savings

- 24.** (1) The following laws are hereby repealed:

All previous by-laws with regard to this matter are hereby repealed.

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Short title

- 25.** This By-law shall be called the Refuse Removal By-law, 2008