**MKHAMBATHINI LOCAL MUNICIPALITY WASTE MANAGEMENT**

**BY – LAWS**

**CHAPTER 1: INTERPRETATION, PRINCIPLES & OBJECTS**

1. **Definitions**

For the purpose of these by-laws, any word or expressions to which the meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and the National Environmental Management: Waste Act, 2000 (Act 59 of 2008), as amended from time to time or its corresponding replacement shall bear the same meaning in these by-laws and unless the context indicates otherwise:

**Approved waste receptacle** - means a disposable or reusable receptacle for temporary storage of waste, approved of by the relevant local municipality in which waste is placed for the purpose of storing, accumulating, handling, transporting, treating or disposing of that waste and includes approved bins, bin-liners, wrappers and skips.

**Authorised official** -means any authorised official of the Ugu DM or Local municipality who has been authorised or designated to administer, implement and enforce the provisions of these by-laws, or any employee of a service provider acting within the scope of the powers, functions and duties assigned to the service provider for the purpose of the by-laws.

**Business Waste** – means that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration.

**Commence** – means the start of any physical activity, including site preparation or any other activity on the site in furtherance of a waste management activity but as long as investigation or feasibility study does not constitute a waste management activity.

**Constitution** –means the constitution of Republic of South Africa, 1996.

Container –means a disposable or re-useable vessel in which waste is placed for the purposes of storing, accumulating, handling, transporting, treating or disposing of that waste and includes bins, bin-liners and skips.

**Damage to the environment -** means any pollution, degradation or harm to the environment, whether visible or not.

**Disposal** – means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into or onto any land.

**Domestic Waste** – means waste excluding hazardous waste, that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreation purposes.

**Dump -** means to dispose of waste in a manner other than one permitted by law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever whether publicly or privately owned, including but not limited to vacant land, rivers, waste water, catchments and sewage and storm water systems, but excludes littering.

**Environment -** means the surroundings within which humans exist made up of –

(a) the land, water and atmosphere of the earth;

(b) micro-organisms, plant and animal life;

(c) any part or combination of (a) and (b) and the inter-relationships among and between them; and

(d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence public health and wellbeing.

**General waste -** means waste that does not impose an immediate hazard or threat to health or to the environment and includes –

(a) domestic waste;

(b) building waste;

(c) general business waste;

(d) inert waste.

**Generator of waste -** means any person who generates or produces waste.

**Hazardous Waste -** means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment.

**Holder of Waste –** means any person who imports, generates, stores, accumulates, transports, processes, treats, or exports waste or disposes of waste.

Increnation –means any method, technique or process to convert waste to flue gases and residues by means of oxidation.

**Inert Waste** means waste that –

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

**Integrated Waste Management Plan** – means a plan prepared in terms of section 5 of the act or the by-law. I will see below as I read but if it is from the waste act you will need to say so.

**Minimisation –** when used in relation to waste, means the avoidance of the amount and toxicity of waste that is generated and in the event where waste is generated, the reduction of the amount and toxicity of waste that is disposed of.

**Municipality** –means a municipality established, in terms of the local government; municipal structures Act 1998, (Act No: 117 of 1998).

**Municipal System Act** – means the Local Government Municipal Systems Act, 2000 (Act No;32 of 2000).

**Municipal waste collection services-** means a service provided exclusively by the local municipalities or their service providers to collect domestic waste, general business waste and food waste in accordance with the provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and which, in the case of general business waste, extends only to waste deposited in bin liners, waste bins and any waste container approved by local municipalities.

**National Environmental Management Act** –means the National Environmental Management Act, 1998 (Act No;32 of 2000).

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

**Organic waste-** means waste of biological origin which can be broken down, within a reasonable period of time, into its base compounds by micro-organisms and other living things and/or by other forms of treatment.

**Prescribed fee-** means a tariff for the municipal waste disposal services which the municipality may set for the provision of such services to the users thereof and includes a surcharge on such tariff.

**Recovery** – means the controlled extraction of a material or the retrieval of energy from waste to produce a product

**Recycle** – means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material.

**Re- use** – means to utilise articles from the waste stream again for a similar or different purpose without changing the form or properties of the articles.

**Storage** – means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste.

**Tariff-** means the charge to users for the provision of municipal waste disposal services

as promulgated in terms of tariff policy by-laws adopted under section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

**Waste** – means any substance whether or not that substance can be reduced, re-used, recycled and recovered –

1. That must be treated or disposed of or;
2. That is identified as a waste by the minister by notice in the *Gazette.*
3. That is surplus, unwanted, rejected, discarded, abandoned or disposed of.

**Waste disposal facility** – means any site or premise used for the accumulation of waste with the purpose of disposing of that waste at that site or on that premise.

1. **Principles of the by-law**

(1) Any person exercising a power in accordance with these by-laws must, at all times, seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the National Waste Management Strategy, which is in the following order of priority:

(a) promoting waste avoidance and minimisation;

(b) waste reuse;

(c) recycling, recovery;

(d) waste treatment; and

(e) disposal.

(2) The by-laws seek to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the Ugu DM area of jurisdiction.

3) The by-laws promote participation of all municipal residents, waste generators and holders of waste, including local municipalities in the promotion of responsible citizenship by ensuring sound waste management practices within residential business and industrial environments.

**3.Objectives of the by-laws**

1)The objectives of these by-laws are to –

a) give effect to the rights contained in Section 24 of the Constitution by regulating waste management within the area of the Mkhambathini LM jurisdiction;

b) provide an effective, legal and administrative framework, within Mkhambathini LM which can manage and regulate waste management activities;

c)To ensure that people are aware of the impact of waste on their health, wellbeing and their environment.

d)To protect the health, wellbeing and the environment by providing reasonable measures for-

1. Avoiding and minimising the generation of waste;
2. Reducing, re-using, recycling and recovering waste;
3. Promoting and ensuring effective delivery of waste services;

e) promote and ensure an effective delivery of municipal waste services and commercial services; and

f) enhance sustainable development within the area of jurisdiction of the Mkhambathini Local Municipality.

(2) In pursuing the objectives of these by-laws, and in particular the objectives set out in sub-section

(1), Mkhambathini Local Municipality must, within its area of jurisdiction-

1. promote and ensure an environmentally responsible municipal waste service and commercial service; and
2. promote the effective resourcing, planning and delivery of the municipal waste services and commercial services;
3. promote the reuse and recycling of waste;
4. endeavour to ensure compliance with the provision of these by-laws.

**CHAPTER 2: WASTE MANAGEMENT PLANS**

**4.Preparation of Waste Management plans**

1)In preparation of integrated waste management plans in accordance to the provisions of the national and provincial legislation, Mkhambathini Local Municipality may, by notice published in the provincial gazette, require present or future generators or holders of specified waste streams or local municipalities to prepare waste management plans.

2) A notice referred to in sub-section (1) shall specify the prescribed form and format required for the waste management plan and submission date for it.

(3) Any person who is required by Mkhambathini LM to prepare a waste management plan may be required to review and update the plan and to submit an amended plan at intervals specified by Mkhambathini LM.

**5.Contents of waste management plans**

Any waste management plan required in terms of this by-law must include at least –

(1) an assessment of the quantity and type of waste that is or will be generated.

(2) a description of the waste management services the producer will require;

(3) the full details of the sites or areas where waste will be generated, stored, treated or disposed of;

(4) a description of how the waste generator separates or intends to separate recyclable and non-recyclable material,

including the targets set for recycling;

(5) the waste minimisation or pollution prevention practices and plans of such waste generator;

(6) the methods of disposal or treating such waste;

(7) a reporting plan on the implementation of the waste management plan;

(8) details of the person responsible for the implementation of the waste management plan; and

(9) any further information that the Mkhambathini LM or the responsible District Municipality may require in writing.

**6.Annual reporting**

Any person who is required by the Mkhambathini LM to prepare a waste management plan must, after submission of the waste management plan, annually report on its progress made with the implementation thereof, which report will be in the required format specified by the Mkhambathini LM from time to time.

**CHAPTER 3: WASTE MANAGEMENT**

**Part 1: Categories of Waste**

**7.Waste categories**

1)The system for categorising waste must take into account any national waste classification system established in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and determine thereby –

(a) which waste classes are allowed on municipal waste disposal facilities; and

(b) establish controls regarding the collection, storage, transport and disposal of waste categories.

**8. Determination of waste Category**

1) As soon as the municipality has prescribed the system for minimising waste, it must by notice in the provincial gazette determine:

 (a) the procedure to determine waste categories in accordance with the prescribed waste categorisation system; and

(b) set objectives for the minimisation and management of waste for the categories prescribed.

(2) A notice must state the requirements for achieving the waste management and minimisation objectives and the dates from which the objectives will apply.

(3) Before determining the waste management or minimisation objectives, Mkhambathini LM

 must

**(a) publish a notice in the relevant gazette and local media setting out –**

 ( i) the proposed waste management or minimisation objectives for the specified category

 of waste.

 (ii) the dates from which specific objectives will apply;

 (iii) the requirements for complying with the objectives.

(b) consider what further steps, if any, are appropriate to bring the contents of the notice to the attention of interested and affected parties and take those steps which Mkhambathini LM considers to be appropriate; and

(c) consider all comments received on or before the dates specified in the notice.

**9.Preliminary determination of categories of waste and waste management objectives**

The local municipalities may make a preliminary determination of the categories of waste or waste management’s objectives until –

(1) a system for categorising waste has been prescribed; or

(2) waste management or minimisation objectives have been determined.

**10.Giving effect to determination of categories of waste and waste management objectives**

Local municipalities must give effect to any determination of a category of waste and the waste management and minimisation objectives as determined in terms of this by-law and any requirements for complying with the waste management and minimisation objectives when exercising any power or performing any duty in terms of this by-law.

**11.General Duty in respect of waste Management**

1. A holder of waste must within the holder’s power, take all reasonable measures to-
2. Avoid generation of waste and where such generation cannot be avoided, to minimise the toxicity and amounts of waste that are generated;
3. Reduce, re-use, recycle and recover waste
4. Where waste must be disposed of. Ensure that waste is treated and disposed of in an environmentally sound manner;
5. Prevent any employee or any person under his or supervision from contravening the environmental management waste Act, 2008.
6. Prevent the waste from being used for unauthorised purpose.

**Part 2: Management of Certain Type of Waste**

12.For the purposes of the waste management By-laws, there are two types of waste:

1. General Waste
2. Hazardous Waste

**Hazardous and Healthcare Risk Waste**

**13.Generation of hazardous waste**

(1) Any person who will carry on an activity which will generate hazardous waste (other than the generator of minimum quantities of such waste within a household pursuant to the normal operation of a household) must, before carrying on that activity –

(a) prepare a waste management plan setting out what provision is made for managing, storing, treating, collecting, transporting and disposing of hazardous waste generated from such activities;

(b) provide proof that all waste management services will be provided by an accredited service provider.

(2) A waste management plan must be submitted to the respective municipality or its authorised official for approval before the activities which will generate waste are carried out. I am adding respective.

(3) If the waste identified in sub-section (1) is being generated as a result of activities which commenced prior to the commencement of these by-laws, the generator must prepare a waste management plan and submit it to the municipality or its authorised official for approval within 180 days of the commencement of these by-laws.

(4) The waste management plan must be renewed and updated regularly as determined by the municipality.

(5) It is an offence to carry on an activity which generates hazardous waste without an approved waste management

plan.

**14.Storage of Waste**

**1)Storage of general Waste**

1. Any person who generates general waste that is collected by a municipality must place the waste in a container approved, designated or provided by the municipality for that purpose an in a location approved or authorised by the municipality.
2. Waste that is re-usable, recyclable, or recoverable and that is intended to be reduced, re-used, recycled or recovered in accordance to the environmental management waste act of 2008 or these by-laws need not to be placed in a container contemplated in (a).

**2) Storage of hazardous waste**

(a) Any person carrying on an activity which generates hazardous waste, must ensure that such waste generated in the premises are kept and stored there until it is collected by an accredited service provider from the premises.

(b) Hazardous waste stored on any premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment and in accordance with the requirements of any applicable legislation relating thereto.

(c) Any person who stores hazardous waste must at least take steps to ensure that –

(i) the containers in which this waste is stored are intact and not corroded or any other way rendered unfit for the safe storage of this waste;

(ii) adequate measures are taken to prevent accidental spillage or leaking;

(iii) in the event of a spillage or leak contemplated, a spill kit must be available to ensure an immediate response to the incident;

(iv) the waste cannot be blown off or washed away;

(v) nuisances such as odour, visual impacts and breeding of vectors do not arise;

(vi) pollution of the environment and harm to health are prevented; and

(vii) the waste is collected by an accredited service provider within a reasonable time after the generation thereof, but at least within 30 days.

**15. Collection and disposal of hazardous waste**

(1) Only an accredited service provider may transport hazardous waste and must do so in accordance with the conditions of an accreditation permit issued to him, as well as the requirements of any relevant SANS codes in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, documentation relating to the source, transportation and disposal of such waste and subject to the requirements of any other legislation.

(2) A person accredited to collect and dispose of hazardous waste must inform the Municipality at intervals stipulated in the accreditation permit of its removal of hazardous waste, the date of such removal, the quantity of the waste removed, the composition of the waste removed and the waste disposal or treatment facility at which the waste has been disposed of.

(3) Any person carrying on an activity which generates hazardous waste must ensure that such waste is disposed of or treated at an appropriately licensed waste disposal facility or waste treatment facility.

**Part 3: Provisions for General Waste**

**16.Municipal Duties**

1. The municipality reserves the right to determine the size and types of receptacles to be used.
2. The municipality may, where special receptacles are necessary, prescribe special receptacles for the reception and storage of such types of refuse as it may specify and may by written notice to be served on the owner of property require him or her to provide at his or her own expense such number of special receptacles as are specified in the notice, and the he or she must comply with the notice.
3. No person may dispose of any refuse by placing it anywhere else than in a receptacle or other container provided or approved by the municipality.
4. Where a receptacle is supplied free of charge, or at a tariff determined by the municipality, such receptacle remains the property of the municipality and the owner of the property –

(i) is liable to the municipality for the loss or damage to such receptacle; and

(ii) must keep the said receptacle in a clean and sanitary condition.

1. The owner or occupier of the property must ensure that any waste which is blown off the property by wind is promptly retrieved.

**17.Provision of Receptacle**

1)A receptacle provided by the municipality may not be used for any purpose other than the storage of waste.

2)The municipality may -

(a) provide plastic bags or bins, which must meet the standards set by national or provincial legislation; and

(b) authorise the use of bins and lids constructed of rubber or other material where the design and construction meet the standards set by national or provincial legislation.

**18.Preservation of the Receptacle**

1)The owner or occupier of property has a responsibility to ensure that the receptacle in which the waste is being disposed, is in terms of this By-law, in the area provided and must –

(a) ensure that the receptacle is at all times maintained in good order and repair and in a clean and hygienic condition; every approved receptacle on the premises is kept closed and safe when waste is being deposited in it or discharged from it.

(b) ensure that the receptacle is suitably weighted, closed and anchored so that it cannot be inadvertently overturned;

(c) it must be kept in a manner or condition in that it is not affected by the weather or hindered with by animals.

(d) ensure that the receptacle is protected against unauthorised disturbance or interference.

(2) A person who contravenes a provision of subsection (1) commits an offence.

**19.Collection of Waste**

No person may collect waste for removal from premises unless such person is-

1. a municipality or municipal service provider
2. authorised by law to collect that waste, where authorisation is required; or
3. not prohibited from collecting that waste.

**(**1) The Municipality may -

(a) only collect waste stored in approved receptacles;

(b) set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection.

(c) collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection.

(d) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee.

(e) identify waste streams which may not be collected by the Municipality or which are unsuitable for collection; and where such a case exists, advice the owner of alternatives.

(f) Where the collection of a particular kind of waste is not regarded by the municipality as a municipal service in terms of this by-law, the owner of the waste must arrange for the collection and transport of the waste, as often as may be necessary to prevent undue accumulation therefrom, to a waste disposal or processing site under the control of the municipality.

(g) In the event of any additional collection being required by the owner of property, the collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of property from which the waste is collected at the fixed tariff.

(h) A person requiring commercial services must ensure that the waste collector is registered with the municipality to collect and dispose of the category of waste and such person must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of this by-law.

(i) The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the property where the receptacle must be placed for the collection and removal of the waste, and the receptacle must then be placed in that position at the times and for such period as the municipality may require.

(j) The municipality may stipulate separate times on which particular categories of waste are to be collected.

**20.Transportation of waste**

1)Anyone transporting waste within the jurisdiction the municipality, must be abided by this by-law:

(a)No person may provide a commercial service as a transporter of waste for disposal within an area owned by or under control of the municipality unless the person has first registered with the municipality as a waste collector.

(b) ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste

(c) must maintain the receptacle, vehicle or conveyance in a clean, sanitary and roadworthy condition at all times;

(d) must ensure that the receptacle, vehicle or conveyance in which the waste is carried is of a type, design, adequate size and constructed for the type of waste being transported, the vehicle must be approved by the municipality;

(e)must remove the waste in such a manner that will prevent any nuisance resulting therefrom or the escape of the contents or materials therein;

(f) may not cause or permit any waste being transported to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility;

g) All transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).

(2) A person who contravenes a provision of subsection (1) commits an offence.

3) Any person who transports waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

**21.Burning of waste**

(1) No person may burn waste except at:

 (a) an authorised incinerator operated by the municipality;

 (b) a place designated by the municipality for such purpose.

 (2) A person who contravenes a provision of subsection (1) commits an offence.

**Part 4: Proprietary Rights**

**22.Proprietary rights of waste**

(1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.

(2) A person who contravenes subsection (1) commits an offence.

**23.Right of Entry to The Waste Management Property**

1)Any duly authorised employee of the municipality is entitled to enter, during normal working hours, property in respect of which the municipality’s waste management services are rendered –

(a) generally for ensuring that the provisions of this By-law are complied with.

(b) for collecting and overseeing the collection of waste;

(c) for inspecting the means of access to the property to ensure that the receptacles are kept in a manner required by the municipality and convenient for the collectors.

(2) An owner or occupier of property may not –

(a) deny an authorised employee of the municipality access to the property in the commencement of his or her duties;

(b) omit or refuse to give to an employee of the municipality any information lawfully required for the proper discharge of the employee's duties, or supply false information.

(3) A person who contravenes a provision of subsection (2) commits an offence.

**Disposal of Waste**

**24.Access to disposal site**

(1) Only a person appointed who has been appointed to dump waste and has paid the prescribed fees or who is in possession of written permission issued by the municipality that permits him or her to dump such waste at a disposal site and a person who has obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.

(2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.

(3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.

(4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

**25.Prohibition of Unauthorised Disposal**

1)No person may –

1. Dispose of waste or knowingly or negligently cause or permit waste to be disposed of in or on any land, waterbody or any facility unless that waste is authorised by law; or
2. Dispose of waste in a manner that is likely to cause pollution of the environment or harm to health and well-being.
3. Subsection (1) needs to be complied with if –
4. The waste was generated as a result of normal household activities and –
5. The municipality does not render a waste collection service in that area
6. The most environmentally and economically feasible option for the management of the waste was adopted; or
7. The disposal of the waste done to protect human life or as a result of an emergency beyond that person control.

**26.On-site disposal**

1)The Municipality may, as it deems fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.

(2) A declaration contemplated in subsection (1) must be published in a provincial gazette and may include but not limited to—

(a) time frames for such a declaration;

(b) minimum standards to be adhered to for on-site disposal; and

(c) quantity of waste that may be disposed.

(3) The Municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

**27.Littering**

1) The Municipality, or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.

2)In any public place where a receptacle has been placed for the depositing of litter, the Municipality may put up notices about littering.

3)Prohibition of littering

(1) No person may –

(a) cause litter;

(b) sweep any waste into a gutter, onto a road reserve or onto any other public place;

(c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and

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

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

(a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;

(b) take measures to remedy any spillages, harm, damage or nuisance referred to in sub-section (a) above;

(c) at their own cost, clean any waste causing nuisance to any person or the environment;

(d) ensure compliance to the notices contemplated in terms of this by-law; the Municipality may clean or remedy waste causing nuisance to any person or the environment, at the Municipality’s cost and claim such cost from the offender.

**CHAPTER 4: WASTE MANAGEMENT INFORMATION SYSTEM**

**28. Establishment of the information system**

1) The municipality must establish and maintain a waste management information system for collection, analysis and recording on how waste is managed within the municipal area, the information must include –

a) data on the quantity and the type or classification of waste generated, stored, transported, treated, transformed, reduced, re-used, recycled, recovered and disposed of and -

b) A register of –

i) Waste management activities that have been licenced:

ii) the holders of waste management licences authorised to commence the waste management activities recorded

iii) the locations where these waste management activities are or may be conducted.

c) The information system may include any information connected with the management of waste within the municipal area.

 **29. Purpose of the information System**

The purpose of the information system is to assist Mkhambathini LM to –

a) facilitate effective waste management within its area of jurisdiction.

a) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees and accredited permit holders.

b) provide information to waste generators, service providers, licensees and the local community in order to facilitate monitoring of the performance of the municipality, service providers and licensees, and, where applicable, waste generators.

d) furnish information as required by law to the provincial or national government.

e) identify specific data collection methods and the medium and format to be used for purposes of collecting waste management information.

**30.Provision of information**

1)The municipality may require any waste generator, licensee, service provider or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area to furnish information to the Council which may reasonably be required for the information system, and which may concern-

a) waste handling, waste treatment and waste disposal facilities;

b) quantities and classes of waste generated

c)significant sources of waste generation and the identification of the generators of waste

d)management of waste by waste generators

e) markets for waste by class of waste or category

2) The municipality may determine when and how often information must be furnished.

**31.Registration and provision of waste information**

(1) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.

(2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person of activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

3)Registration on the waste information system is subject to the payment of a registration fee the relevant municipality. Such fee is to be published by notice in the provincial gazette and will be applicable from the date of its publication.

**32.Registration and Reporting to the Waste Management Information System**

1)Any person conducting an existing activity as set out in this By-law or a waste management activity as listed in Annexure 1 of the National Waste Management Regulations, must apply to the Local Municipality in which they are conducting such activities to be registered on the waste management information system within ninety (90) days of the coming into operation of these by-laws.

(2) Any person commencing such an activity after the promulgation of the by-laws must apply to be registered on the waste management information system thirty (30) after the commencement of such activity.

(3) Where a person conducts more than one activity in different facilities, such activities must be registered individually.

(4) Registration on the waste information system is subject to the payment of a registration fee to the participating local municipality. Such fee is to be published by notice in the provincial gazette and will be applicable from the date of its publication.

5) A registered person must notify the responsible local municipality of any changes in respect of that person's registration certificate within thirty (30) days of such change occurring.

6) If a registered person transfers ownership of the business or no longer undertakes the activity which caused that person to register, the registered person must notify the responsible local municipality in writing within thirty (30) days prior to the business being transferred or the activity being discontinued.

7)Any person who conducts an activity, which has been identified in terms of local, provincial and/or national waste information systems must, upon request, present to the responsible municipality proof that such an activity is registered and the required information is reported.

8)A person conducting an activity as contemplated in sub-section (1) of this section, must report accurately on waste quantities and the types of wastes and on any other information as may be required by the responsible municipality on a timeframe stated by the municipality to the Waste Management Information System and keep record of all such information for a period of 5(five) years.

**Part 2: Establishment of a Municipal Waste Management Forum**

**33. Formation of the Inter-Municipal Waste Management Forum**

(1) Mkhambathini LM, in pursuance of section 28 of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005) is to establish a municipal waste management forum to promote and facilitate integrated waste management services between within the local municipality.

**34. Composition of the district inter-municipal waste management forum**

(1) A municipal waste management forum shall consist of –

(a) the waste management officer of the municipality;

(b) the waste management representative of the district municipality; or

(c) in the event of no waste management officer being appointed, a duly authorised official appointed by the municipal manager.

(d) Other municipal officials with cross cutting activities within the waste management unit.

(e) A representative of the public body, (rate payers association, traditional council or business association) within the municipal jurisdiction.

(2) The waste management officer or authorised official of Mkhambathini LM will be the chairperson of the forum.

(3) The chairperson may invite any other person to the meeting not mentioned in sub-section (1).

**35.Role of the municipal waste management forum**

(1) The role of the municipal waste management forum is to serve as a consultative forum to Mkhambathini LM and the local municipalities in the district Umgungundlovu DM to discuss and consult each other on matters of mutual interest, including –

(a) the implementation of national and provincial policy and legislation relating to waste management services affecting local government interests in the municipality.

(b)the provision of waste management services in the municipality.

(c)the coordination and alignment of such waste management services in the muncipality.

d planning and development of waste management strategies and the regulation of waste management services in the municipality.

e) to coordinate and align the functions of the various authorised officials appointed by Mkhambathini LM in exercising their powers under these by-laws.

f) to settle any specific disputes relating to waste management services without resorting to judicial proceedings.

g) any other matter of strategic importance to waste management services which affect the interests of the municipality.

**36.Meetings of the municipal waste management forum**

(1) The chairperson of the municipal waste management forum –

(a) convenes a meeting of the forum; and

(b) determines the agenda for the meeting of the forum.

(2) Suggestions for inclusion in the agenda for a meeting may be submitted to the chairperson.

3)The chairperson of the municipal waste management forum presides at meetings of the forum, but if that chairperson is absent form a meeting, the members present must elect another member to preside at the meeting.

4)The forum must meet with service providers and accredited permit holders and other role players concerned with the development of waste management services in the municipality at least once a year to coordinate the effective provision of services and planning in the municipality.

5) Mkhambathini LM will be providing administrative and other support services to the forum.

**CHAPTER 5: MUNICIPAL SERVICE**

**37.Accessibility to Municipal Services**

1) Mkhambathini LM has a duty to their respective local communities of progressively ensuring efficient, affordable, economical and sustainable access to municipal waste collection services.

2)The duty referred to in subsection (1) is subject to –

(a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs.

b) the right of the municipality to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service, without compromising service equity.

c) any regulations or other guidelines issued in terms of the National Environmental Management: Waste Act, 2000 (Act 59 of 2008) relating to waste collection, storage and transport.

3)The Mkhambathini LM has a duty to progressively ensure efficient, affordable, economical and sustainable access to the municipal waste disposal services to local communities as defined in sub- section 1 of these by-laws.

(4) The duty referred to in sub-section (3) is subject to –

(a) Mkhambathini LM adopting a tariff which must reflect the costs reasonably associated with rendering the service of transportation, establishment, operation and management of such bulk waste transfer facilities and waste disposal sites as may be required, including capital, operating, maintenance, administration replacement closure, rehabilitation and post closure monitoring costs and interest charges.

b) A property owner making use of waste disposal services is liable for the payment of prescribed fees for such services and is not exempted from or entitled to a reduction of such prescribed fees due to non-usage, partial or limited use of such services.

5) The Mkhambathini LM in accordance and subject to the provisions of this By-law provide, to users of the service at a cost prescribed by the municipality –

(a) for the collection of waste on a regular basis, except waste in its area, which is situated at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high; and

(b) access to facilities for the recovery and disposal of waste.

6)The Mkhambathini LM must notify all local users of waste management services of any decisions taken in terms of this By-law.

**38. The Provision of the Municipal Service**

1)In relation to the local municipal services, the municipality may determine:

a) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection.

b) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these By-laws.

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

3)The municipality must in writing notify every generator of domestic waste and business waste of any decision taken in terms of subsection (1) or (2) relating to his or her premises.

4)Non-receipt of a notice contemplated in subsection (3), does not affect the application of any provision of these By-laws nor the liability to pay any prescribed fee provided for in these By-laws.

5) In providing the municipal service, the municipality may determine or designate-

(a) locations for placing approved receptacles for collection;

(b) which types of waste generated by the occupier of any premises are separable for the purposes of recycling and the conditions for their separation, storage or collection; and

(c) which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.

(d) the right of the local municipality is to differentiate between different categories of users, services, service tariffs, geographical and other matters in accordance to its local municipalities as long as the differentiation does not amount to unfair discrimination.

**39.Service Providers/Contractors**

(1) Local municipalities may discharge any of their obligations by entering into a service delivery agreement with a service provider in terms of the Local Government: Municipal Systems Act, 2000(Act No. 32 of 2000) or in terms of a Public Private Partnership Agreement as contemplated in section 120 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

2)Service providers must provide services in accordance with the relevant service delivery agreement or Public Private Partnership Agreement and must at all times accord with the provisions of these by-laws.

3)Any reference in these by-laws to "the local municipality or service provider" should be read as the Mkhambathini LM if it has not entered into a service delivery agreement and should be read as service provider if the local municipality has entered into a service delivery agreement.

4)Service providers must provide services in accordance with the relevant service delivery agreement or Public Private Partnership Agreement and must at all times accord with the provisions of these by-laws.

**40.Charges and fees**

(a) The Mkhambathini LM may fix the charges payable for the removal of waste from property or the disposal of waste at a disposal site controlled by the municipality.

(b) Should a person fail to pay the fee on the date determined by the municipality, the municipality may apply the debt collection procedures provided for it in its Customer Care and Revenue Management By-laws.

**CHAPTER 6: RECYCLING OF WASTE**

**41.Reduction, Re-use, Recycling and Recovery of Waste**

(a) Reuse, recycling or recovery of waste must be undertaken in a manner which complies with the Waste Act and any other applicable law.

(b) All persons must ensure that waste is avoided, or where it cannot altogether be avoided, minimised, reused, recycled or recovered wherever possible and disposed in an environmentally sound manner.

(c) Any person who is undertaking the reduction, reuse, recycling or recovery of waste, including scrap metal dealers, waste treatment facilities and formalised recycling groups must before be undertaking that activity make sure that the activity is less harmful to the environment than disposal of such waste.

d) Reduction, reuse, recycling and recovering of waste should result in less environmental harm.

**42.Obligation to Separate Waste into Recyclables and Non-recyclables**

1)The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.

2) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

(3) The local Municipality may prescribe, by notice published in a provincial gazette, that from a prescribed date generators or holders of particular categories of waste must, for purpose of recycling, separate those categories of waste and must store, dispose of or treat the separated waste in the manner prescribed in the notice.

(4) Failure to comply with a notice published pursuant to sub-section (3) is an offence.

**43.Storage, Separation and Collection of Recyclable Domestic Waste**

1)Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before be undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the Municipality of an intention to undertake such an activity in writing.

2)Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in national or provincial legislation.

**CHAPTER 7: LICENCE AND CONTRACTS**

**44.Waste Transporter Registration**

(1) No person may provide a commercial service as a transporter of waste for disposal within an area owned by or under control of the municipality unless the person has first registered with the municipality as a waste collector.

(2) A person who wishes to register as a transporter of waste must, subject to the provisions of the municipality, submit the required application form and, where applicable, substantiating documentation to the municipality for consideration.

(3) The Mkhambathini LM may, for the purposes of considering an application, require additional information.

(4) After consideration of the application for registration, the municipality must –

(a) approve the application subject to such conditions it may deem necessary, and issue proof of registration; or

(b) reject the application and supply reasons for the rejection.

**45.Registration**

(1) A person who wishes to register as a transporter of waste must provide the municipality with the following information at least 14 days before initiating a service:

(a) his or her name, residential and postal address, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;

(b) a description of the nature of the waste management services provided or intended to be provided;

(c) a specification of the scope of the service, including –

(i) the number of clients served or intended to be served at the time of registration;

(ii) the geographical area of operation; and

(iii) the disposal facilities owned or intended to be utilised for the disposal of waste collected.

(2) A person making use of the services of a transporter of waste must satisfy himself or herself that the contractor is registered with the municipality as a transporter of waste and that such transporter of waste may collect and dispose of the category of waste that the person intends to dispose of.

3)A registered transporter of waste must –

(a) when issued with a weighbridge receipt, keep such weighbridge receipt for 12 months as proof of safe disposal of the waste that has been collected; and

(b) provide his or her commercial clients with a receipt of the amounts and types of waste that have been collected for subsequent waste treatment or disposal.

(4) A person who contravenes the provisions of sub-section 3 commits an offence, and such person may be deregistered as a transporter of waste.

**46.Supervision of registered waste transporters**

(1) An authorised official of the municipality–

(a) may inspect the activities of a registered waste transporter and is entitled to enter the workplace of the transporter.

(b) may request to view the transporters weighbridge receipts for the previous 12-month period as proof of safe disposal; and

(c) must keep a register recording each inspection that has been undertaken.

(2) If a registered transporter fails to comply with the provisions of the municipality at three inspections over a period of two years, the authorised official may recommend that the municipality deregister such transporter of waste, provided that the consecutive inspections occur at not less than four month intervals.

**CHAPTER 8: COMPLIANCE AND ENFORCEMENT**

**47.Notice of compliance and representations**

(1) If a person is contravening a provision of this By-law, an official may in writing issue a compliance notice and serve it on the person concerned to take remedial measures.

(2) A notice must state –

(a) the name and residential and postal address of the affected person;

(b) the nature of the contravention, nuisance, harm to human health or damage to the

environment that the affected person is causing or is likely to cause;

(c) in sufficient detail to enable compliance with the notice, the measures required

to remedy the nuisance, harm to human health or damage to the environment;

(d) that the person must within a specified time period take measures to comply with

the notice, to diligently continue with the measures, and to complete the measures before a specific date; and

(e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence; and that written representations may, within the time period stipulated under paragraph (d), be made to the municipality at a specified place.

(3) If a person fails to comply within the stipulated time period with the requirements stipulated in the notice –

(a) the municipality may perform the steps required in the notice, and should the municipality incur any costs as a result of performing such steps, it may recover any reasonable costs irrespective of criminal proceedings have been or not been instituted against a person; and

(b) the person commits an offence.

4)The municipality may conduct further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.

5) The municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.

(6) The order contemplated in subsection (5) must –

(a) set out the findings of the municipality;

(b) confirm, alter or set aside in whole or in part, the notice of compliance; and

(c) specify a period within which the person must comply with the notice/order made by the municipality.

(7) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the municipality will inform the person that he or she –

 (a) must discharge the obligations set out in the notice; or

(b) may elect to be tried in court.

**48.Serving of the compliance Notice**

(1) Any notice or other document that is served on a person in terms of this By-law, is regarded as having been served –

(a) when it has been delivered to that person personally;

(b) when it has been left at that person’s place of residence or business in the Republic with a person apparently over the age of sixteen years.

(c)when it has been posted by registered or certified mail to that person’s last know residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained.

(d) in the event of a body corporate, when it has been delivered at the registered office of the business property of such body corporate.

(2) Service of a copy shall be deemed to be service of the original.

(3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager’s office.

**CHAPTER 9: ADMINISTRATIVE MATTERS**

**49.Exemptions**

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

2) The Municipality may –

(a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted be stipulated therein;

(b) alter or cancel any exemption or condition in an exemption; or

(c) refuse to grant an exemption.

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

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

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

**50.Appeal**

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

**51.Offences**

(1) Any person who –

(a) obstructs or hinders the Municipality in exercising the powers or performance of functions or duties as outlined in this by-laws;

(b) contravenes or fails to comply with any provision of these by-laws; or

(c) fails to comply with the terms of a notice served upon him or her in terms of these by-laws, shall be guilty of an offence.

**52.Repeal**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this By-law.

**53.Penalties**

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment or to both fine and imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**54.Short title and commencement**

(1) These by-laws are called Waste Management By-laws of the Mkhambathini Municipality, and take effect on the date determined by the Municipality in the provincial gazette.