

ULUNDI MUNICIPALITY WASTE MANAGEMENT BYLAWS

" The City of Heritage "



Municipal Department: COMMUNITY SERVICES

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Table of Contents

ADOPTION OF THESE BYLAWS.....	5
PREAMBLE.....	5
CHAPTER 1: DEFINITIONS, OBJECTIVES AND PRINCIPLES.....	6
1. Definitions.....	6
2. Objectives of these by-laws.....	8
3. Scope of application.....	9
4. Principles.....	9
5. General duty of care.....	9
CHAPTER 2: SERVICE PROVIDERS.....	10
6. Service providers / Contractors.....	10
CHAPTER 3: PROVISION OF WASTE SERVICES.....	11
7. Duty to provide access to municipal service.....	11
8. The provision of the municipal waste services.....	12
9. Obligations of generators of domestic waste, business waste and others.....	13
10. Liability to pay for municipal service.....	15
11. Storage and receptacles for general waste.....	15
12. Collection and transportation of waste within the Municipality.....	16
Garden waste and bulky waste.....	17
Building waste.....	18
Storage of Building waste.....	18
Special industrial, hazardous or health care risk waste.....	19
13. Waste transfer stations.....	20
14. Waste disposal.....	21
CHAPTER 4: RECYCLING OF WASTE.....	21
15. Storage, separation and collection of recyclable domestic waste.....	21
CHAPTER 5: DEVELOPMENT OF WASTE MANAGEMENT INFORMATION.....	21
16. Establishment of a waste information system.....	22
17. Purpose of the information system.....	22
18. Provision of information.....	22
19. Provision of waste information.....	23

CHAPTER 6: REGISTRATION OF WASTE TRANSPORTERS	23
20. General Information for licensees	24
21. Registration Requirements	24
22. Licence requirements	25
23. Licence terms and conditions	26
24. Prohibited conduct	27
25. Transitional provisions and exemptions	28
CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES	28
26. Commencement, conducting or undertaking of listed waste management activities.....	28
CHAPTER 8: GENERAL PROVISIONS, LITTERING, AND DUMPING	29
27. Duty to provide facilities for litter	29
28. Prohibition of littering.....	29
29. Prohibition of nuisance	30
30. Burning of waste	31
31. Unauthorised disposal/dumping.....	31
32. Abandoned articles.....	31
33. Liability to pay applicable tariffs	32
34. On-site disposal.....	32
35. Storage, collection, composting and disposal of garden waste	32
36. Collection and disposal bulky waste	33
37. Generation, storage, collection, reuse and disposal of building waste.....	33
38. Special industrial, hazardous or health care risk waste	35
CHAPTER 9: ADMINISTRATIVE MATTERS COMPLIANCE AND ENFORCEMENT	35
39. Appointment of authorised officials	35
40. Powers to execute work and inspect vehicles and premises	36
41. Powers to question	37
42. Supervision of licensees.....	37
43. Supervision of owners and occupiers.....	38
44. Enforcement notices.....	38
45. Infringement notices	39
46. Exemptions	40

47.	Appeals	40
48.	Offences	41
49.	Offences and penalties	41
50.	Complaints	41
51.	Representations	41
CHAPTER 10: JUDICIAL ENFORCEMENT AND PROVISIONS.....		43
52.	Service of documents and process	43
53.	Service of notices	43
54.	Trial.....	44
55.	Short title and commencement.....	44
56.	Repeal of by-laws	44

ADOPTION OF THESE BYLAWS

(ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL OF ULUNDI MUNICIPALITY

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

PREAMBLE

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

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

AND WHEREAS the “Municipality” is committed to ensure that all residents, organisations, institutions, businesses, visitors or tourist and public bodies are able to access waste management services from the municipality or appointed municipal service provide.

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

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

CHAPTER 1: DEFINITIONS, OBJECTIVES AND PRINCIPLES

1. Definitions

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

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

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

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

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

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

- (a) laboratory waste;
- (b) pathological waste;

- (c) isolation waste;
- (d) genotoxic waste;
- (e) infectious liquids and infectious waste;
- (f) sharps waste;
- (g) chemical waste; and
- (h) pharmaceutical waste;

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

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

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

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

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

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

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

"Receptacle" means an approved container having a capacity for temporary storage of waste in terms of these by-laws;

"service provider/contractor" means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Municipality and includes the contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

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

2. Objectives of these by-laws

- (1) Objectives of these by-laws are to –
 - (a) Give effect to Section 156 of the Constitution
 - (b) Give effect to the right contained in Section 24 of the Constitution by regulating waste management within the Ulundi Municipality's jurisdiction;
 - (c) Provide an opportunity to implement the objectives of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), National Waste Management Strategy and the Ulundi Integrated Waste Management Plan
 - (d) Provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;
 - (e) Promote principles of waste avoidance, minimisation, re-used, recycled, recovered, and disposal in an environmental sound manner; and
 - (f) promote and ensure an effective delivery of waste services to all communities within the jurisdiction of the Municipality.

3. Scope of application

- (1) These by-laws must be read in conjunction with provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), the National Waste Management Strategy and the Ulundi Municipal Integrated Waste Management Plan.
- (2) In the event of any conflict with any other by-laws which directly or indirectly applicable within the jurisdiction of this Municipality and regulates waste management, the provisions of this by-law shall prevail to achieve consistency.
- (3) This by-law does not override any other national and provincial waste related legislation but instead aims to assist the implementation of the national and provincial legislations.

4. Principles

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

5. General duty of care

- (1) Every person has a duty to manage any waste generated by his or her activities or activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
 - a) waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;

- b) waste is reduced, reused, recycled or recovered;
 - c) where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
 - d) waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.
- (2) Any person subject to the duty imposed in subsection (1) may be required by the Municipality or an authorised official to take measures to ensure compliance with the duty of care.
- (3) The measures referred to in subsection (2), that a person may be required to undertake include:
- a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
 - b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
 - c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
 - d) containing or preventing the movement of pollutants or other causes of damage to the environment;
 - e) eliminating or mitigating any source of damage to the environment; or
 - f) Rehabilitating the effects of the damage to the environment caused as a result of the actions or activities of the affected party.

CHAPTER 2: SERVICE PROVIDERS

6. Service providers / Contractors

- (1) The Municipality may discharge any of its obligations by entering a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under these by-laws, provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.

- (3) Any reference in these bylaws to “Municipality or service provider” should be read as the “Municipality” if the Municipality has not entered a service delivery agreement, and should be read as “service provider” if the Municipality has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Municipality and which must:
 - a) accord with the provisions of these by-laws;
 - b) be accessible to the public;
 - c) establish the conditions of the service including collection times; and
 - d) provide for the circumstances in which Municipal services may be limited.

CHAPTER 3: PROVISION OF WASTE SERVICES

7. Duty to provide access to municipal service

- 1) The Council has a duty to the local community to ensure efficient, affordable, economical and sustainable access to the municipal waste service.
- 2) The duty referred to in subsection (1) is subject to –
 - a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the waste service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - b) The right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- 3) The Council must take the following factors into account in ensuring access to the municipal waste services:
 - a) The waste management hierarchy set out in NEM: Waste Act;

- b) The need to use resources efficiently;
- c) The need for affordability;
- d) The requirements of operational efficiency;
- e) The requirements of equity; and
- f) The need to protect human health and the environment.

8. The provision of the municipal waste services

- 1) The Council must as far as reasonably possible, and subject to the provisions of these bylaws, provide for the collection of domestic waste and business waste on a regular basis and at a cost to end users determined in accordance with the prescribed fee.
- 2) In relation to the municipal service, the Council may determine-
 - a) the quantities of waste that will be collected;
 - b) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
 - c) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee; and
 - d) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these by-laws.
- 3) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, and business waste pending collection or the Council may provide such receptacle which remains the property of the Council.
- 4) In providing the municipal service, the Council may determine or designate-
 - a) collection schedules;
 - b) locations for placing approved receptacles for collection;
 - c) 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

- d) which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.
- 5) The Council may require a business waste generator to compact that portion of the waste that is compactable, if the quantity of business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and if, in the opinion of the Council, the major portion of such waste is compactable.
- 6) An occupier of premises may elect to compact any volume of waste referred to in subsection (5), and place it into an approved receptacle provided-
 - a) the capacity of the receptacle does not exceed 85 litres and the mass of the receptacle and contents does not exceed 35 kilograms; and
 - b) after the waste has been compacted and put into the receptacle, it is placed in an approved receptacle and stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
- 7) Any approved receptacle used in terms of subsection (6) may be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.
- 8) The Council may at any time review any decision taken by it in terms of subsection (4).
- 9) The Council must in writing notify every generator of domestic waste, and business waste of any decision taken in terms of subsection (2) or (3) relating to his or her premises.
- 10) Non-receipt of a notice contemplated in subsection (9), does not affect the application of any provision of these By-laws nor the liability to pay any prescribed fee provided for in these By-laws.

9. Obligations of generators of domestic waste, business waste and others

- 1) Any person generating domestic waste, business waste and others, other than waste which has been designated by the Council as recyclable, must place such waste, in an approved receptacle.

- 2) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- 3) The occupier of premises must ensure that –
 - a) no hot ash, unwrapped glass or other domestic waste, business waste which may cause damage to approved receptacles or which may cause injury to the Council’s employees while carrying out their duties in terms of these By-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;
 - b) no material, including any liquid, which due to its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
 - c) every approved receptacle on the premises is kept safe when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - d) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste or business waste and, in particular, that no fire is lit in such receptacle;
 - e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
 - f) an approved receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
- 4) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved receptacles.
- 5) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there.

6) The following must also be noted:

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

(b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (4),

Ulundi Municipal Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

10. Liability to pay for municipal service

- 1) The owner of premises is liable to pay to the Council the prescribed fee, in accordance with the municipal waste tariff, for the provision of the municipal service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal waste service.
- 2) A prescribed fee becomes due and payable on the due date for payment stipulated in the account.
- 3) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

11. Storage and receptacles for general waste

- (1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the Municipality.
- (2) Any person or owner of premises contemplated in subsection (1) must ensure that: -
 - a) the receptacle is stored inside the yard where applicable, away from the public area while waiting for collection;
 - b) on agreed collection date, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
 - c) pollution and harm to the environment is prevented at all times;

- d) waste cannot be blown away and that the receptacle is covered or closed properly;
 - e) measures are in place to prevent tampering by animals;
 - f) nuisance such as odour, visual impacts and breeding of vectors do not arise;
 - g) suitable measures are in place to prevent accidental spillage or leakage;
 - h) the receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
 - i) that a receptacle(s) provided by the Municipality is not used for any other purpose other than storage of waste;
 - j) in cases where a receptacle (s) is damaged or corroded, the owner or occupier must notify the Municipality and arrange for replacement as soon as it comes to their attention;
 - k) waste is only collected by the Municipality or authorised service provider; and
 - l) in cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.
- (3) The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated-
- a) The waste is stored in a bulk container or other approved receptacle; and
 - b) No nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

12. Collection and transportation of waste within the Municipality

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

- 2) Any person transporting waste within the jurisdiction of the Municipality must –
 - (a) ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
 - (b) transport the waste in a manner that would prevent any nuisance or escape of material;
 - (c) maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
 - (d) not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
 - (e) ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
 - (f) ensure that the vehicle is not used for other purposes whilst transporting waste;
 - (g) Apply to the Municipality to register as a transporter of waste in accordance with the requirements set out by the Municipality and adhere to all the conditions attached to the registration.
- (3) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that-
 - (a) the container in which the waste is stored, is not kept in a public place except when so required for collection
 - (b) waste is collected by a licensee within a reasonable time after the generation thereof; and
 - (c) that the service rendered by the licensee is only in respect of that portion of the business, industrial or recyclable waste authorized in the license concerned.
- (4) A licensee must dispose of household, business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility.

Garden waste and bulky waste

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

- 2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is disposed within a reasonable time after the generation thereof.
- 3) If, in the course of providing the municipal service, the Council is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

Building waste

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

Storage of Building waste

- 1) The Council may determine conditions to place a receptacle for the storage and removal of building waste on a verge.
- 2) Every receptacle used for the storage and removal of building waste must –
 - a) have clearly marked on it the name, address and telephone number of the person in control of that receptacle;
 - b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - c) be covered at all times other than when actually receiving, or being emptied of, waste so that no displacement of its contents can occur.

Collection and disposal of building waste

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

Special industrial, hazardous or health care risk waste

- 1) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of, and the identity of the licensee who will remove such waste: Provided that if such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the Council as contemplated in this subsection within 180 days of the commencement of these By-laws.
- 2) If so required by the Council, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.
- 3) The person referred to in subsection (1), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous, or health care risk waste.
- 4) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- 5) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the

environment, and in accordance with the requirements of any applicable legislation relating to buildings.

- 6) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Water and Sanitation, Department of Health and Department of Environmental Affairs, or Council, before collection.
- 7) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the license issued to him or her under Chapter 6 as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- 8) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in the license issued under Chapter 6, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- 9) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility and in accordance with the provisions of section 23.

13. Waste transfer stations

- (1) Any holder of waste must –
 - a) utilise appropriate waste transfer stations as directed by the Municipality or service provider; and
 - b) adhere to the operational procedures of a transfer station as set out by the Municipality.

14. Waste disposal

- (1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the Municipality.
- (2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.
- (3) Any person disposing waste at a Municipal owned disposal site must adhere to the site operational procedures approved by the Municipality.
- (4) All private waste disposal sites within the jurisdiction of the Municipality, must comply to an local norms and standards and any other relevant legislation.

CHAPTER 4: RECYCLING OF WASTE

15. Storage, separation and collection of recyclable domestic waste

- (1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and **MUST** notify the Municipality of an intention to undertake such an activity in writing.
- (2) Any person undertaking the activities contemplated in subsection (1) above must adhere to the requirements set out in national or provincial legislation.
- (3) The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.
- (4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 5: DEVELOPMENT OF WASTE MANAGEMENT INFORMATION

16. Establishment of a waste information system

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

17. Purpose of the information system

- 1) The purpose of the information system referred to in section 4, is for the Council to-
 - a) record data relating to the implementation of the local waste plan and the management of waste in the municipal area;
 - b) record information held by the Council in relation to any waste management matters;
 - c) furnish information upon request or as required by law to national government;
 - d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees; and
 - e) provide information to waste generators, service providers, licensees and the local community in order to –
 - i. facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
 - ii. stimulate research; and
 - iii. assist the Council to achieve the main objects of these By-laws

18. Provision of information

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

- a) significant sources of waste generation and the identification of the generators of waste;
- b) quantities and classes of waste generated;
- c) management of waste by waste generators;
- d) waste handling, waste treatment and waste disposal facilities;
- e) population and development profiles;
- f) reports on progress in achieving waste management targets;
- g) the management of radioactive waste;
- h) any information which has been compiled in accordance with section 27(2)(d);
- i) markets for waste by class of waste or category; and
- j) any other information required by legislation, regulations or guidelines.

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

19. 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.

CHAPTER 6: REGISTRATION OF WASTE TRANSPORTERS

20. General Information for licensees

- 1) Except in the case of garden waste, only a licensee may provide a commercial service.
- 2) Any person requiring a commercial service must satisfy himself that the contractor is licensed by the Municipality to collect and dispose of the category of waste that has been generated.

21. Registration Requirements

- (1) Any person who provides or intends to provide commercial waste services within the jurisdiction of the Municipal jurisdiction must register with the council.
- (2) Application for conducting commercial waste services must be by written notification to the council, and must specify the following:
 - i. the name, residential and postal address of the person providing commercial services, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office
 - ii. the nature of the waste management service provided or intended to be provided by the person
 - iii. the scope of the service, which must specify the number of clients served or intended to be served at the time of registration, the geographical area of operation and the actual or intended capital expenditure involved, or to be involved, in rendering the service; and
 - iv. the disposal facilities it owns or intends to utilise for the disposal of waste it collects or generates.
- (3) The council must provide proof of registration specifying the name and the residential and postal address of the registered person and describing the nature of the commercial services provided or intended to be provided by that person.
- (4) The person who transports waste within the Municipal jurisdiction must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

- (5) Any person registered to transport waste within the Municipality must provide monthly report to the Municipality information as set out in Municipal notice, and the notice may include but not limited to-
- a) the application forms;
 - b) a prescribed fee;
 - c) renewal intervals;
 - d) list of transporters, types and thresholds of waste transported;
 - e) minimum standards or requirements to be complied with.
- (6) In a case where a person has registered in terms of subsection (1) and the person –
- a) acquires a firm providing commercial services;
 - b) merges with other persons providing commercial services;
 - c) changes ownership;
 - d) changes juristic nature;
 - e) changes the nature of the commercial services it provides;
 - f) intends to cease providing such services;

that person must notify the council of that occurrence 30 days before undertaking such step.

22. Licence requirements

- (7) Subject to section 30, no person may provide commercial services without having first obtained a licence.
- (8) Licences issued under these By-laws –
- i. are personal to the licensee and incapable of cession or assignment without the prior written consent of the council;
 - ii. are valid for the period stipulated in the licence, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by the council for further periods; and

- iii. may be suspended or revoked by the council, on grounds for suspension or revocation which must be
 - a) Applications for a licence to provide commercial services must be in writing on a form prescribed by the council. The form must specify the information to be included in the application and the time available for making the application, which period must not be less than two months in duration.
 - b) The council must consider each application, having regard to the following:
 - 1. the financial, technical and managerial competency and experience of the applicant
 - 2. the environmental, health and safety record of the applicant
 - 3. the nature of the waste management service to be provided; and
 - 4. any other factors which the council considers relevant.
 - c) After considering the application in terms of subsection 2, the council must –
 - 1. approve the application by issuing a licence subject to terms and conditions; or
 - 2. reject the application, which rejection must be accompanied by reasons.

23. Licence terms and conditions

- (9) When issuing a licence in terms of section 32, the council may, subject to the provisions of subsection 32(2), impose any licence conditions it deems reasonably necessary.
- (10) Licences issued by the council must –
 - a) describe the geographical area of operation of the licensee
 - b) specify the licence period and the procedure for any licence renewal;
 - c) specify the category or categories of waste the licensee may manage;
 - d) contain a requirement that the licensee must comply with these By-laws, and applicable provincial and national legislation;
 - e) require the licensee to keep monthly records in respect of-
 - i. the quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
 - ii. any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;

- iii. any waste minimisation or recycling activities in which the licensee is involved;
 - iv. consumer supply figures; and
 - v. complaints received by the public;
- f) require the licensee to have the appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the council under the licence, which approval may not subject the council to any liability if the insurance programme proves inadequate;
 - g) permit the licensee to conduct any other business activity not regulated in the licence, provided that any such business activity does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law, and provided that such activities are separately accounted for;
 - h) stipulate procedures for amendment of the licence;
 - i) stipulate circumstances under which the licence may be revoked or suspended by the council and set out an appeals procedure;
 - j) prescribe the payment of a licence fee;
 - k) require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
 - l) require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste stream that they have been contracted to manage; and
 - m) contain any other term or condition that the council considers relevant.

24. Prohibited conduct

(11) Licensees may not:

- a) cease operations at a waste disposal facility without a closure plan approved by DWS and the Department of Economic Development, Tourism and Environmental Affairs or any other competent authority;
- b) abandon a waste disposal facility or waste handling facility;

- c) operate in contravention of the terms and conditions of their licence;
- d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;
- e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;
- f) dispose of any health care risk waste otherwise than by incineration, unless prior consent has been obtained from the DWS; or
- g) dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

25. Transitional provisions and exemptions

- (12) Any person lawfully providing commercial services within the council at the time an application for a licence is made, may continue to provide commercial services while the licence application is being considered by the council.
- (13) A council may at its sole discretion, and having regard to the main object of these By-laws and its local waste plan, exempt any form of commercial service from the provisions of Chapter 7 of these By-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES

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

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must upon request by an official of the Municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.

- (2) Any person conducting or intending to conduct any activity contemplated in subsection 7 (1) must, at least sixty (60) days before commencement, conducting or undertaking such activity, inform the Municipal waste management officer in writing of the intention.

CHAPTER 8: GENERAL PROVISIONS, LITTERING, AND DUMPING

27. Duty to provide facilities for litter

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

28. 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.
- (2) Notwithstanding the provisions of subsection 8 (1), the Municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

29. Prohibition of nuisance

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

30. Burning of waste

- (1) No person may-
 - (a) Dispose waste by burning it, neither in a public nor private place (within Ulundi Town).
Should you be found disposing in this method, a fine of not less R500,00 should be paid by the perpetrator, an imprisonment of the about three 3 months.
 - (b) Incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

31. Unauthorised disposal/dumping

- (1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- (2) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

32. Abandoned articles

- (1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

- (2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorization as it may deem fit.

33. Liability to pay applicable tariffs

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

34. On-site disposal

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

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

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

- (2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is disposed at an area designated by the Council within a reasonable time after the generation thereof.
- (3) The Municipality may, as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the Municipality.
- (4) At the written request of the owner or occupier of premises the Municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at a prescribed additional tariff.

36. Collection and disposal bulky waste

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

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

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

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

38. Special industrial, hazardous or health care risk waste

- (1) Any waste generator who generates special industrial, hazardous or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility.
- (2) Subsection (1) does not apply to generators of waste who have the capacity to conduct the service.
- (3) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorized to accept such waste prior to offloading the waste from the vehicle.

CHAPTER 9: ADMINISTRATIVE MATTERS COMPLIANCE AND ENFORCEMENT

39. Appointment of authorised officials

- 1) The council shall appoint authorised officials who shall be vested with the power to –
 - a) Discharge the council’s right of access to premises in terms of section 101 of the Systems Act;
 - b) issue an enforcement notice under section 44;
 - c) impose an infringement notice in terms of section 44; and
- 2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act and has no powers of arrest in respect of any offence created in these by-laws.
- 3) In appointing an authorised official, the council shall have regard to:
 - a) a person’s technical understanding and experience of matters related to waste management; and
 - b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- 4) An authorised official may be an employee of the council or any service provider of the council: Provided that, in the latter case, there is no conflict of interest between the person’s duty as an authorised official and as an employee of the service provider.

- 5) Upon appointment, authorised officials shall be issued with a means of identification by the council (hereinafter called “an identification”) which shall state the name and function of the authorised official, and must include a photograph of the officer. An authorised official, acting within the powers vested in him by these by-laws, is required to present identification on demand by a member of the local community.

40. Powers to execute work and inspect vehicles and premises

- 1) In addition to the powers an authorised official has as an authorised representative of the council under section 101 of the Systems Act or any other legislation, an authorised official, may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.
- 2) A search conducted in terms of these By-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person’s dignity, freedom and security, and personal privacy.
- 3) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will caused serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person’s dignity, freedom and security, and personal privacy.
- 4) Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these By-laws, 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 authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.
- 5) In the event of the seizure of any vehicle under subsection 1 (a), the council must-

- a) forthwith 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; and
- b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.

41. Powers to question

- 1) In order to monitor or enforce compliance with these By-laws, the authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these By-laws relate, require that the disclosure be made on oath or affirmation.
- 2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- 3) An authorised official must, on request, provide his identification as an authorised official.

42. Supervision of licensees

- 1) Authorised officials must inspect the workplace of a licensee not less than twice a year, and an authorised official is entitled to enter the workplace of a licensee for this purpose.
- 2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorised official in conducting an inspection under subsection (1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 3) If an authorised official is of the opinion, after such an inspection, that a licensee is complying with these By-laws, he/she may, subject to the provisions of subsection 2, issue the licensee with a certificate confirming compliance, which must state –
 - a) the name and residential and postal address of the licensee;
 - b) the time, date and scope of the inspection; and
 - c) any remarks which in the opinion of the authorised official may be relevant.

- 4) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the council review the licence, and should there be reasonable grounds, the council may revoke the licence in terms of subsection 2 Provided that the consecutive inspections occur at not less than four month intervals.
- 5) Authorised officials must keep a register recording each inspection that has been undertaken.

43. Supervision of owners and occupiers

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorised official is likely to cause a nuisance, harm to human health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of their employment, from committing an act or omission that may cause a nuisance, harm to human health or damage to the environment.

44. Enforcement notices

- 1) If, in the opinion of the authorised official, a person is –
 - a) causing a nuisance, harm to human health or damage to the environment; or
 - b) as licensee, is failing to comply with the terms of a licence granted in terms of these By-laws; or
 - c) as owner or occupier, has failed to satisfy an obligation in terms of section 39 of these By-laws, the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- 2) An enforcement notice issued under this section must state–
 - a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
 - b) the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
 - c) the steps required to forestall or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;

- d) that the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
 - e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil liability; and
 - f) that written representations may be made to the council in accordance with section 47, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice.
- 3) If an affected person fails to comply with an enforcement notice, the council or anyone authorised by the council, may perform the steps required in the enforcement notice, provided that council does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 4) Where the council incurs any expenditure as a result of performing such steps, the council may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.
- 5) Any licensee which commits an offence in terms of subsection 44(1)(b) and has, within the last five years, been convicted of the same offence, may be declared a serial offender under these By-laws and have its license revoked immediately.

45. Infringement notices

- 1) If, in the opinion of the authorised official, a person is- allowing waste other than domestic waste or dailies to remain uncollected, the authorised official may serve or cause to be served on that person an infringement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act (Act 51 of 1977).
- 2) The infringement notice must –
- a) specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
 - b) state the particulars of the infringement;

- c) specify the amount of the penalty payable in respect of that infringement and the place where the penalty may be paid which penalty may not exceed R5000,00 (five thousand rand); and
 - d) inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he may –
 - i. pay the penalty; or
 - ii. inform the council in writing that he elects to be tried in court on a charge of having committed an offence under section 44
- 3) Where a person makes an election under subsection 2(d) (i), the procedure set out in section 50 applies.

46. Exemptions

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.

- (1) 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.

47. Appeals

- (1) A person whose rights are affected by a decision taken by the Municipality in terms of these by-laws, may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act

No. 32 of 2000) to Ulundi municipal manager or delegated official within 21 days of the date of the notification of the decision.

48. 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-law;
 - b) contravenes or fails to comply with any provision of these by-laws; or
 - c) Failure to comply with the terms of a notice served upon him or her in terms of these bylaws, shall be guilty of an offence.

49. Offences and penalties

- (1) Any person who contravenes or fails to comply with a provision of these by-laws is guilty of an offence and liable on conviction to imprisonment for a period not exceeding fifteen years or to a fine or to both such fine and imprisonment.

50. Complaints

Any person may lodge a complaint with an authorised official, or through any other channel established by the council, that any other person is causing harm to human health or damage to the environment by engaging in council services or commercial services, in which event the authorised official, unless he has reasonable grounds to believe that the complaint is frivolous or an abuse of the main objects of these By-laws set out, must investigate the complaint and must, if he is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

51. Representations

- 1) Any affected person may make representations to the council, or a designated committee or internal functionary of the council to which the council has delegated its powers, in the manner specified in the enforcement notice.

- 2) Representations must be made by submitting a sworn statement or affirmation to the council, designated committee or internal functionary within 21 calendar days of the service of the notice.
- 3) Any representation not lodged within 21 calendar days must not be considered, save where the affected person has shown good cause and the council, the designated committee or internal functionary condones the late lodging of the representation.
- 4) The council, or designated committee or internal functionary, must duly consider the representations and any response thereto by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigations to verify the facts if that, in its opinion, is necessary. If the council, or designated committee or internal functionary, should conduct any further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the council, or designated committee or internal functionary, must also consider such further response.
- 5) After the council, or designated committee or internal functionary, is satisfied that the requirements of these By Laws have been satisfied, the council, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order may –
 - a) confirm, alter or set aside in whole or in part, an enforcement notice; and
 - b) must specify the period within which the affected person must comply with any order made by it.
 - c) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the council, or designated committee or internal functionary, must inform the affected person that he may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.
- 6) If the affected person elects to be tried in court, he must notify the council, or designated committee or internal functionary of his election within seven calendar days, and on receipt of such notification by the council, or designated committee or internal functionary, the provisions of these By Laws apply.

- 7) If the affected person does not elect to be tried in court, he must discharge his obligations under the enforcement notice within the prescribed manner and time.
- 8) If the affected person lodges a representation or elects to be tried in Court, any requirement in terms of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the council, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered, orally or in writing, by the council to do so.
- 9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made, fails to comply with such an order, the council may itself cause the environmental emergency to be stopped, reversed or abated, in which event the council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

CHAPTER 10: JUDICIAL ENFORCEMENT AND PROVISIONS

52. Service of documents and process

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of council services, the address of the owner of the premises on which domestic waste and business wastes is generated is deemed to be the place for service of documents and process of such owner.

53. Service of notices

- 1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings-
 - a) it must be served on him personally, failing which if it be served on any member of his household, 16 years or older, who signs for the receipt of such notice at his place of residence or business; and

- b) if sent by registered post to the person's address as contemplated, it constitutes service in terms of section 7 of The Interpretation Act, 1957 (Act 33 of 1957).

54. Trial

If a person elects to be tried in court, the person must, notify the Ulundi Municipal council of his election, the authorised official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event the enforcement notice or infringement notice must be cancelled.

55. Short title and commencement

- (1) This by-law is called Waste Management By-laws of the Ulundi Municipality, and take effect on the date determined by the Municipality in the provincial gazette.
- (2) Different dates may be so determined for different provisions of this by-laws.

56. Repeal of by-laws

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