

**DEPARTMENT OF TRADITIONAL AND LOCAL GOVERNMENT AFFAIRS**

**PROVINCIAL GOVERNMENT NOTICE**

**No. .... , 2018**

I, under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and after having consulted the Minister of Provincial and Local Government Affairs and Organised Local Government in the Province, hereby make the standard By-laws contained in the Schedule hereto.

Signed at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ Two Thousand and Eighteen.

\_\_\_\_\_  
Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for local government

**WASTE MANAGEMENT BY-LAWS**

Be it enacted by the Council of the Newcastle Municipality, and approval of the Member of the Executive Council responsible for local government in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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## **Section 1 : Definitions**

1. For the purposes of these by-laws, unless the context indicates otherwise:

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement or enforce the provisions of these by-laws;

"building and demolition waste" means waste generated by demolition, excavation or building activities on premises, excluding hazardous waste;

"Bulky Waste" means waste which emanates from any premises , excluding industrial waste and which cannot by virtue of its mass, shape, size or quantity be conveniently accumulated or removed in a bulk waste container.

"Council" means the council of the Newcastle Municipality;

"Disposal facility" means a site for the disposal of waste which is owned by the Council or has been approved for that purpose by the Council;

"Domestic waste" means waste of a kind normally produced or generated on residential, educational, health care, sport or recreational, premises or churches and halls , but shall not include, hazardous waste, sand, earth, liquid matter, garden waste or the carcass of any animal or special domestic waste;

"Garden waste" means light waste which is generated as a result of normal gardening activities on any premises, including without limiting the generality of the foregoing grass cuttings, leaves, plants, flowers, weeds, hedge clippings or the branches of trees;

“General waste” means waste that does not pose an immediate hazard or threat to health or environmental, and includes-

- a) Domestic waste
- b) Building and demolition waste
- c) Business waste; and
- d) Inert 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 the waste, that have a detrimental impact on health and the environment

"Industrial waste" means waste in solid form which is generated as a result of industrial manufacturing activities but shall not include builder's waste, special industrial waste or commercial waste;

"Occupier" includes any person in actual occupation of premises without regard to the title under which he or she occupies, if any;

"Owner" means -

(a) the person in whom from time to time is vested the legal title to premises;

(b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative:

(c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings thereon;

(d) in a case where such premises have been leased for a period of 30 years or longer, the lessee thereof;

(e) in relation to -

(i) a piece of land delineated on a sectional plan registered terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or

(ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

"Waste container" means a container other than a waste receptacle and whether wheeled or otherwise, designed for the temporary storage and removal of waste which is supplied by the Council in terms of section 3(4) or by a contractor approved in terms of section 2(3);

"Waste receptacle" means a receptacle for the purpose of waste storage of which the size and quality shall be approved by the Municipality;

"Recycling" means a process where waste is reclaimed for further use, which process involves the separation of material as a product or raw material.

"Residential premises" means premises occupied for the purposes of human habitation, but excludes an accommodation establishment as defined in section 1 of the Hotels Act, 1965 (Act 70 of 1965);

"Special domestic waste" means waste discarded from residential premises which cannot by virtue of its mass, shape, size or volume be conveniently stored in a waste receptacle or container;

"Special industrial waste" means waste, consisting of a liquid or sludge, resulting from industrial operations which may not be discarded into a sewer;

"Tariff charge" means the appropriate charge as set out in the tariff of charges adopted by resolution of the Council from time to time; and

"Business waste" means waste generated in the course of the conduct of a business but shall not include industrial waste.

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

- a) That is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- b) Which the generator has no further use of for the purpose of production;
- c) That must be treated or disposed of : or
- d) That is identified as waste by the minister by notice of the Gazette, and includes waste generated by the mining, medical or other sector, but-
  - (i) A by-product is not considered waste and
  - (ii) Any portion of waste, once re-used recycled and recovered, ceases to be waste.
- e) The wet fraction comprises biogenic wastes such as food and garden waste. The dry fraction comprises materials such as recyclables (primary paper, glass, plastic and metals) and other inert dry materials.

## **Section 2 : Collection and removal of waste**

2.(1) The occupier of every premises upon which waste is generated or, in the case of premises which are occupied by more than one person, the owner of such premises, shall make provision for the temporary storage, collection and removal of such waste by the Council

(2) That Council has the responsibility to ensure that all waste generated within the municipal area is collected, recycled and disposed of accordance with these Bylaws.

(3) The Council shall subject to the charges set out in its tariff of charges collect and remove –

- (a) domestic waste; and
- (b) commercial waste.

- (4) The Council shall and subject to the charge set out in its tariff of charges, collect and remove –
- (a) builders' waste;
  - (b) garden waste
  - (c) industrial waste;
  - (d) special industrial waste; and
  - (e) special domestic waste.
  - (f) Compost
  - (g) Recyclables

(4) Where the Council declines to collect and remove any waste referred to in subsection (3 & 4), the owner or occupier shall make appropriate arrangements for the lawful collection, removal and disposal of such waste.

(5) The owner or occupier of premises may only remove or cause to be removed any waste generated thereon to a disposal site, provided that such removal and disposal is conducted in a lawful manner and with the written consent of Council.

(6) Every occupier of new premises or premises on which the generation of domestic or commercial waste is about to be commenced, or in the case of premises being occupied by more than one person, the owner of such premises shall, prior to the commencement of the generation of such waste, notify the Council in writing -

- (a) that the premises are being occupied; and
- (b) whether commercial waste, industrial waste or domestic waste or any combination of the above is to be generated on the premises.

(7) Upon receiving notification council shall investigate the nature of the waste to be generated and prescribe the type and numbers to be waste containers as deemed necessary.

### **Section 3: Waste receptacles**

3.(1) Subject to the provisions of subsection (4), every occupier or owner referred to in section 2(1)

shall provide on his or her premises such number of waste receptacles as is adequate for the purpose of the temporary storage of all waste, other than garden, special domestic and special industrial waste, as may be generated on his or her premises pending its removal in terms of these by-laws.

(2) The occupier or owner referred to in subsection (1) shall ensure that waste receptacles provided by him or her in terms of that subsection are maintained in a sound and serviceable condition and that receptacles which are no longer capable of being so maintained are replaced by him or her.

(3) Whenever the Council is of the opinion that a person has not complied with the provisions of this section it may cause a written notice to be served on such person calling upon him or her to comply with such provisions within a period specified in the notice.

(4) The Council may at its sole discretion supply waste containers to premises if Council considers such containers more appropriate for the storage and removal of waste having regard to –

- (a) the quantity of waste generated on the premises concerned;
- (b) the suitability of such waste for storage in such containers; and
- (c) the accessibility of the waste storage area to the Council's waste collection vehicles.

(5) Waste containers supplied by the Council in terms of sub-section (4) –

- (a) may not be used for any purpose other than the storage of commercial, domestic, industrial or garden waste;
- (b) remain the property of the Council and may at any time either be replaced or removed by it; and
- (c) are the responsibility of the owner or occupier, as the case may be, who shall be liable to the Council for the loss thereof or any damage thereto, except such as has been caused by the Council's employees.

(6) The owner or occupier as the case may be shall provide sufficient space for the placing of the containers. The space provided shall allow for the unhindered collection and removal by Council

#### **Section 4 : Duties of owner or occupier**

4. Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises, shall ensure that-

- (a) all domestic and commercial waste generated on the premises is placed and kept in waste receptacles, waste containers or disposable plastic waste bags for removal;
- (b) That medical household waste be disposed-off safely from the point of source
- (c) builders' waste, garden waste, industrial waste, special industrial waste and special domestic waste is appropriately stored and clearly indicated as such;
- (d) no hot ash, unwrapped glass fragments or other waste which may cause damage to waste receptacles, waste containers or disposable plastic waste bags, or which may cause injury to the persons or vehicles employed in removing the waste from the premises, is placed in waste receptacles or waste containers before such steps as may be necessary to avoid such damage or injury have been taken;
- (e) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such waste receptacles or disposal plastic waste bags unreasonably difficult for the Council's employees to handle or carry, is placed therein;
- (f) every waste receptacle and waste container on the premises is properly covered by means of a lid or other covering supplied therewith so as to prevent any nuisance or health hazard;
- (g) every receptacle or container is kept in a clean and hygienic condition; and
- (h) all which has toxic or other harmful properties is suitably treated to the satisfaction of the Council.
- (i) No person shall burn waste either in a public or private place or in the receptacle provided by Council for the purpose of disposing that waste.

#### **Section 5 : Collection and removal of waste**

5.(1) The Council shall from time to time determine the day or days upon which waste which is to be removed by the Council in terms of these by-laws will be collected in the various areas under its jurisdiction.

(2) On the day or days which have been determined in terms of subsection (1) for a particular area every owner or occupier, as the case may be, of premises within that area shall place such waste containers, waste receptacles or disposable plastic waste bags containing waste, unless directed otherwise, immediately outside the boundary of the premises and adjacent either to the pedestrian or the vehicular access to the premises from a street.

(3) No owner or occupier, as the case may be, of any premises shall, unless authorised in writing by the Council, deposit or allow to be deposited any waste other than domestic waste or commercial waste in any waste receptacle or waste container.

(4) The owner or occupier of any premises on which bulky waste of any kind is produced, kept, or accumulated shall, when required thereto under notice in writing from the Council, tie up securely or cause to be tied up securely such waste into bales or bundles of convenient size. If this bulky waste can be recycled, the owner or the occupier of the premises will make an attempt to recycle this waste.

(5) No commercial waste will be allowed for disposal at the waste disposal facility unless authorized by the waste management officer or official responsible for the Waste disposal facility or landfill site.

#### **Section6: Transportation of waste**

6. 1. Any person or categories of persons who transport waste must:
  - a) Register with the waste management officer of the municipality
  - b) Furnish such information as specified in the notice or as the waste management officer may reasonably require.
  - c) In the transportation of waste must take all reasonable steps to prevent any spillages of waste or littering from a vehicle transporting the waste.

#### **Section 7 : Access to premises**

7. The occupier or owner of premises to which the council provides a waste removal service, as the case may be, shall grant the council convenient access to the premises for the purpose of collecting and removing waste and shall ensure that nothing obstructs, frustrates or hinders the Council and

its employees in the carrying out of its service.

### **Section 8 : Accumulation of waste**

8. Where any waste accumulates on premises so as to constitute a nuisance or so as to render it likely that a nuisance will be created thereby, the Council may make a special removal of such waste and the owner or occupier shall be liable in respect of such special removal to pay the tariff charge therefor.

### **Section 9 : Removal and disposal of garden, special domestic and bulky waste**

9. (1) The occupier or, in the case of premises occupied by more than one person, the owner of premises on which garden, special domestic or bulky waste is generated shall ensure that such waste is disposed of in terms of this section within a reasonable time after the generation thereof; provided that garden waste may be retained on the premises for the making of compost.

(2) Any person may remove and dispose of his own garden, special domestic and bulky waste.

(3) Garden, special domestic and bulky waste shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Council as a disposal facility for such waste against payment of the tariff charge.

(4) At the request of the owner or any occupier of premises the Council may at the tariff charge remove garden, special domestic and bulky waste from premises.

### **Section 10: Storage of Commercial Recyclable Waste**

10. (1) The owner or occupier of the premises on which the waste is generated for recycling purposes should ensure that such waste is stored in a bulk container or approved receptacle.

(2) That such recyclable waste is collected by a licensee from the premises on which the waste is generated.

(3) No nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or the collection of such waste.

### **Section 11: Responsibility for builder's waste**

11. The owner of premises on which builder's waste is generated shall ensure that such waste is disposed of in terms of section 12 within 14 days after the generation thereof.

### **Section 12: Disposal of builder's waste**

12. (1) Subject to the provisions of subsection (2) hereof all builder's waste shall be deposited at the Council's disposal sites and the person depositing the waste shall be liable to pay the tariff charge thereof

(2) Builder's waste may, with the prior written consent of the Council, be deposited at a place other than the Council's disposal sites for the purpose of reclamation of land or for recycling.

(3) Any consent given in terms of subsection (2) shall be subject to such conditions as the Council may deem necessary having regard to -

- (a) the safety of the public;
- (b) the environment of the proposed disposal site;
- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of waste at the site;
- (e) the leveling of the site;
- (f) the control of dust; and
- (g) other relevant factors.
- (h) and in terms of the Road traffic Act

### **Section 13: Hazardous Waste**

(1) Whenever any hazardous waste is stored, generated or treated on any premises, the municipality may, by written notice serve on the waste generator-

- a) prohibit the removal, disposal, treatment, storage, conveyance or handling of such hazardous waste, or
  - b) order the removal, disposal or treatment of such hazardous waste in a specified manner and at certain times within a period stipulated in such notice.
- (2) If such waste generator fails to comply with the terms of a notice contemplated by subsection (1), he shall be guilty of an offence and the Municipality may remove, or cause to be removed, dispose of or treat such hazardous waste in any suitable manner and recover the expenses incurred in doing so from such waste generator.
- (3) No person shall –
- a) Remove or convey hazardous waste from any premises, or
  - b) Convey or transport hazardous waste on or over any public road, unless such hazardous waste is securely and properly contained in a receptacle or vehicle designed to prevent spillage or contamination.
- (4) The Municipality may, by written notice serve on a waste generator on whose premises hazardous waste is generated, stored, treated or disposed of, requiring him to provide the Municipality in writing with such particulars, verified by a suitably qualified industrial chemist, as may be stipulated in such notice, relating to –
- (a) The quantity and composition of hazardous waste generated on such premises, and
  - (b) The method of storage, treatment or disposal of such hazardous waste.
- (5) The waste generator shall in similar manner inform the Municipality of any change in the quantity or composition or the method of storage, treatment or disposal of such hazardous waste.
- (6) No person shall deliver to, or discharge at, a disposal site other than a disposal site classified as a hazardous disposal site , any hazardous waste.
- (7) No person shall deliver to, or discharge at, a disposal site any industrial effluent or cause the

same to be done except with the prior written consent of the Municipality and in accordance with any conditions it may deem appropriate.

- (8) Any cost which may be incurred by the Municipality in remedying any damage or in abating any nuisance caused by the discharge of hazardous waste or industrial effluent in contravention of the provisions of these bylaws, or any conditions imposed by the Municipality in terms of these bylaws, shall be borne by and be recoverable from the owner of, or the person responsible for the discharge of, such waste or effluent.

#### **Section 14 : Special measures for collection, storage and disposal**

14. (1) If the Council is of the opinion that, in order to avoid any health hazard or nuisance arising, special measures for the collection, temporary storage or disposal of any waste should be adopted or that such waste should be specially treated to render the same inoffensive or non-injurious to health, the Council must serve written notice on the occupier of any premises or in the case of vacant land, the owner thereof, to carry out any of the aforesaid measures within a reasonable time.

(2) The owner or occupier of any premises shall, on being served with a notice in terms of subsection

(a) either remove any waste which is likely to be offensive or injurious to health from such premises and dispose thereof in such a manner as may be stipulated in such notice; or

(b) when permitted by the terms of such notice, treat any waste on such premises so as to render it innocuous and inoffensive and so as to prevent infestation thereof by flies, mosquitoes, rats and other vermin.

(3) Any owner or occupier who refuses to carry out the measures specified in a notice given under this section or who fails to comply therewith within the time specified in the notice shall be guilty of an offence and the Council may arrange for such measures to be carried out at the expense of the person on whom the notice was served.

#### **Section 15 : Removal of waste or offensive matter along the street**

15. (1) Any person removing or conveying any waste or other offensive matter or any builder's waste

shall remove the same by means of a properly constructed and enclosed vehicle and in such manner as will prevent any nuisance arising from such conveyance or the escape of the contents therefrom.

(2) The Council may serve a written notice upon any person restricting or stipulating the means to be adopted and specifying the times during which waste may be conveyed through or along any street or public place if the Council is of the opinion that the conveyance of such waste is likely to be objectionable or give rise to nuisance. Any person who fails to comply with the requirements of subsection (1) of this section or with any notice given under this subsection shall be guilty of an offence.

### **Section 16: Notification of generation of special industrial waste**

16.(1) The occupier of premises on which special industrial waste is generated shall inform the Council in writing of the composition thereof, the quantity generated, how it is stored, and how and when and by whom and to which place, it will be removed.

(2) If so required by the Council the notification referred to in subsection (1) shall be verified by an analysis certified by a duly qualified industrial chemist and at the cost of the occupier of the premises

(3) the designated waste management officer of the Council may enter premises at any reasonable time to ascertain whether special industrial waste is generated on such premises and may take samples and test any waste found on the premises to ascertain its composition.

### **Section 17: Storing of special industrial waste**

17.(1) The occupier of premises on which special industrial waste is generated shall ensure that the special industrial waste generated on the premises is kept and stored thereon in terms of subsection (2) until it is removed from the premises in terms of section 18.

(2) Special industrial waste stored on premises shall be stored in such a manner that it cannot become a nuisance or pollute the environment.

(3) The Council may in writing order the person referred to in section 16(1) to remove special

industrial waste within a reasonable time and, if thereafter such waste is not removed within such time, the Council may by itself or through a contractor remove it at the expense of such person or the owner, as the case may be.

### **Section 18 : Removal of special industrial waste**

18. No person shall remove special industrial waste from the premises on which it was generated unless such without the written consent of Council Should consent be granted the waste must be lawfully and properly removed to a disposal site by a competent person with the necessary equipment to remove the special industrial waste.

### **Section 19 : Liquid waste**

19.1. No person shall deliver to or discharge at a disposal site any liquid waste or cause the same to be done, except with the prior written permission of the Council and in accordance with such conditions as may be imposed by it.

19.2. Any costs incurred by the Council in remedying damage or in abating any nuisance caused by the discharge of liquid waste at a disposal site in contravention of the provision of these by-laws or of any condition imposed and the amount of any legal liability or costs incurred by the Council in respect of any claim arising from any such nuisance shall be borne by and be recoverable from the owner of such waste.

### **Section 20 :           Dumping and littering**

20 (1) No person shall dump, deposit, discharge, spill or release waste or cause or permit such waste to be dumped, discharged, spilled or released, whether or not the waste is in container or receptacle, in or at any place, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments, sewers and storm water drains, except in a container or at a place which has been specially indicated, provided or set apart for such purpose.

(2) The prohibition referred to in subsection (1) shall apply to any person who for whatever reason, opens a receptacle containing waste material and dumps, deposits, discharges

- spills or releases such waste onto a public street and who thereafter fails to return such waste material to the receptacle.
- (3) No person shall, while driving a vehicle, or while being conveyed in a vehicle, throw or deposit waste in or on any public place, public road or private premises within the Municipality and no driver of a vehicle shall allow or permit any passenger in such vehicle to throw or deposit such waste in a like manner.
- (4) (a) No person shall throw, discard or deposit any circular, pamphlet or other advertisement in or on any public road or private property or place within the Municipality.
- (b) No person shall throw, discard or deposit any circular, pamphlet, or other advertisement in or on any private premises if requested by any person thereon not to do so, or if there is placed on the premises in a conspicuous position a sign indicating in any manner that the occupants of the said premises do not wish to have any such circular, pamphlet, or other advertisement left in or on such premises.
- (c) No person shall drive or move any vehicle in the Municipality unless such vehicle is constructed or loaded so as to prevent any load, contents or waste from being blown or deposited in or on any public road or on private property.
- (5) Any person that contravenes subsection (20) (1-4) is liable for all cost reasonably incurred by council in removing or otherwise dealing with waste concerned.

### **Section 21 : Conduct at disposal site**

21.(1) Every person who, for the purpose of disposing of waste enters a disposal facility controlled by the Council, shall -

- (a) enter the disposal facility only at an authorised access point indicated as such;
- (b) present the waste for weighing in the manner required by the Council's official having authority at such site; and its nature and content be inspected and may take samples and test the waste it determine its composition;
- (c) give to such official all the particulars required in regard to the composition of the waste;
- (d) follow all instructions given to him in regard to access to the actual disposal point, the place

where and the manner in which the should be deposited; and

(e) provide the said official with full information as to the person who is liable to pay the tariff charge for the waste deposited to enable an account to be rendered to him, provided that the provisions of paragraphs (b), (c) and (e) above shall not apply to a person who, in terms of section 9(3). has entered a disposal site for the purpose of disposing of garden waste.

(2) No person shall bring any intoxicating liquor onto a disposal site controlled by the Council.

(3) No person shall enter a disposal site controlled by the Council for any purpose other than the disposal of waste in terms of these by-laws and then only at such times and between such hours as the Council may from time to time determine.

(4) No person may light a fire in waste disposal facility without prior written consent of the responsible official of that facility.

## **Section 22 : Ownership of waste**

22. All waste removed by the Council and all waste on disposal sites controlled by the Council shall be the property of the Council and no person who is not duly authorized by the Council to do so shall remove or interfere therewith.

## **Section 23. Waste Information System**

(1) In terms of the Waste Act the Municipality shall establish a waste information system in order to obtain accurate waste balance information and to enable adequate waste management planning and prioritization.

(2) Where a waste generator generates more than 100kg of waste daily, he shall –

(a) register as such with the Municipality, and report at monthly intervals to the Municipality on the quantities of the different types of waste generated on his premises; and

(b) report on the waste management options that are being utilized to manage such waste.

- (3) All waste recyclers who conduct commercial services at any Municipal waste management facilities, undertaking waste separation, recovery, recycling, treatment, reuse and disposal services shall –
- (a) Provide monthly reports on the quantities and types of waste received to the Municipality; and
  - (b) Report on the waste management options that are being utilized to manage the different waste streams.
  - (c) Provide information to the local authority on the licensee, be it storage, handling, transportation and disposal of waste.

#### **Section 24 : Offences and penalties**

24.(1) Any person who -

- (a) contravenes or fails to comply with any provision of these by-laws; or
- (b) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or
- (c) fails to comply with the terms of any notice served upon or given to him in terms of these by-laws,

shall be guilty of an offence and liable for a fine not exceeding R30 000 or imprisonment for a period not exceeding two years or for both such fine and imprisonment.

The following maximum Fines are recommended

For the Illegal disposal of medical waste R 30 000 (not inclusive of household medical waste)

For the Illegal disposal of industrial waste R 30 000

For the Illegal disposal of business waste R 20 000

For the illegal disposal of building rubble R 10 000  
For the illegal disposal of household waste R 1 000  
For starting fires in waste containers R 1 000  
For fires of bulk containers R30 000  
For littering R 500

**Repeal of existing By-laws**

25. The Council's existing ..... by-laws are hereby repealed.

**Short title and commencement**

26. These by-laws shall be called the Waste Management By-laws, 2018., and shall come into operation on .....