

## LOCAL AUTHORITY NOTICE 43

### UMZIMVUBU MUNICIPALITY

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to Public Health Hazard and Nuisances which shall come into operation on the date of publication thereof.

### BY-LAW RELATING TO PUBLIC HEALTH HAZARD AND NUISANCES

#### 1. Definitions

In these by-laws words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context indicates otherwise -

**"compliance notice"** means a notice issued in terms of section 5 to comply with these by-laws.

**"council"** means the Council of the Municipality of uMzimvubu or its successor in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended.

**"environmental health officer"** means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa;

**"municipal area"** means the proclaimed area jurisdiction of the Council as envisaged in Section 2 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended

**"municipal manager"** means the person appointed by the council in terms of Section 82 of the Local Government: Municipal Structures Act 1998 as amended and includes a person acting in this position.

**"occupier"**, in relation to any premises, means any person —

- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or

**(d)** who manages the premises or a business on the premises on behalf of a person referred to in [a], [b] or [c];

**"owner"** in relation to any premises, means —

(a) the person in whose name the title to the premises is registered, and includes the holder of a stand licence; or

(b) if the person referred to in [a] is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

**"person"** means a natural or juristic person,

**"pest"** means any animal that may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

**"premises"** means —

**(a)** any land without any buildings or other structures on it;

**(b)** any building or other structure and the land on which it is situated; or

**(c)** any land that adjoins land referred to in [a] or [b] and any building or other structure on that land, if the land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in [a] or [b];

**"prohibition notice"** means a notice issued in terms of section 6;

**"public health"** means the mental and physical health and well-being of local community in the municipal area;

**"public health hazard"** means any actual threat to public health, and without limitations, includes —

(a) the circumstances referred to in section 3[3];

(b) unsanitary conditions;

(c) circumstances that make it easier for a communicable disease to spread;

(d) circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and

(e) circumstances that allow pests to infest any place where they may affect public health;

**"public health nuisance"** means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant,

## **2 . Purpose**

The purpose of these by-laws is to enable the Council to protect and promote the long term health and wellbeing of the local community in its municipal area.

## **3 . Prohibition of causing a public health hazard**

- (1)** No person may create a public health hazard anywhere in the municipal area.
- (2)** Every owner or occupier of premises must ensure that a public health hazard does not occur on his premises.
- (3)** An owner or occupier of premises creates a public health hazard if —
  - (a) his premises are infested with pests or if pests are breeding in large numbers on the premises;
  - (b) there are conditions on his premises that are conducive to the spread of a communicable disease;
  - (c) there are unsanitary conditions in any part of his premises; or
  - (d) any water supply for domestic consumption on his premises is unsafe for human consumption.

## **(4) Duty to report**

- (1)** The owner or occupier of premises who knows of a public health hazard on the premises must within 24 hours of becoming aware of its existence —
  - (a) eliminate the public health hazard; or
  - (b) if the owner or occupier is unable to comply with subsection [a], take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.
- (2)** An owner or occupier who does not comply with subsection [1] commits an offence

**Ⓣ Compliance notice**

**(1)** If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on such premises, the environmental health officer may serve a compliance notice on one or more of the following persons:

- (a) the owner of the premises;
- (b) the occupier of the premises;
- (c) any person apparently responsible for the public health hazard or public health nuisance.

**(2)** A compliance notice must state —

- (a) why the environmental health officer believes that these by-laws are being contravened;
- (b) the measures that must be taken —
  - i. to ensure compliance with these by-laws; or
  - ii. to eliminate or minimise any public health nuisance;
  - iii. the time period within which the measures must be taken
  - iv. the possible consequences of failing to comply with the notice; and
  - v. how to appeal against the notice.

**(3)** If a person fails to comply with a compliance notice that requires a particular action be taken, the Council may —

- (a) take the required action specified in the compliance notice; and
- (b) recover, as debt, from the person to whom the notice was given, the costs and expenses reasonable incurred in taking the required action.

**6. Prohibition Notice**

**(1)** An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:

- (a) the owner or occupier of the premises if the environmental health officer  
**I** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and

reasonably believes that the premises are being used for a purpose or in a manner that is causing a public health hazard or a public health nuisance;

(b) any person who is carrying on an activity or using premises for a purpose or in a manner that the environmental health officer reasonably believes is causing public Health hazard or public health nuisance; or

(c) a person on whom a compliance notice was served if the environmental health officer reasonable believes that that person has not complied with the compliance notice;

(d) the environmental health officer must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise pubic health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

**2** A prohibition notice must state

- (I) the reasons for serving the notice;
- (ii) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- (iii) the possible consequences of failing to comply with the notice; and
- (iv) how to appeal against the notice.

**3** Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

**4** The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

**5** It is a defence for anyone charged with failing to comply with a prohibition notice to prove that

- (a)** He or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and

## **7 Withdrawal of prohibition notice**

- (1) An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- (2) After completing the investigation, the environmental health officer must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.
- (3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a prescribed fee for undertaking the investigation.

## **8 Demolition order**

- (1) If the Council believes that a public hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions contained in any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises, or from both.
- (2) The Council may not apply to court in terms of subsection [1] unless it has given the owner and the occupier of the premises not less than fourteen day's notice in writing of its intention to make the application.

## **9 Appeals**

- (1) A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority referred to in Section 62 of the Local Government: Municipal Systems Act No. 32 of 2000 as amended.
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

**10. Offences and penalties**

**(1)** Any person who —

- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any notice issued in terms of these by-laws;
- (c) fails to comply with any lawful instruction given in terms of these by-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws —

Is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

**11. Delivery of notices**

**(1)** A notice, order or other document is to be regarded as having been properly served if-

- (a)** it has been delivered to that person personally;
- (b)** sent by registered post to the person to whom it is addressed at their last known address;
- (c)** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;

I. If that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsection {a}, [b] or [c]; or

II. If that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

- (d)** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises —

II. if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is posted up in some conspicuous place on the premises.

**1 2 . R e p e a l**

Any by-laws adopted by the municipality or the council of a municipality now comprising an administrative unit of the municipality and relating to public health hazards and nuisances or any similar matter referred to or regulated in these by-laws are, from the date of promulgation of these by-laws, repealed.

**1 3 . A p p l i c a t i o n t o t h e S t a t e** These by-laws binds

the state, including the municipality.



## **LOCAL AUTHORITY NOTICE 44**

### **UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Dumping, Littering and Waste Collection that come into operation on the date of publication thereof.

### **BY-LAWS RELATING TO DUMPING, LITTERING AND WASTE COLLECTION**

#### **PREAMBLE**

**WHEREAS** the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

**AND WHEREAS** the Council of the Municipality in the exercise of its functions has the right to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality and to provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof;

**NOW THEREFORE** be it enacted by the Council as follows:

#### **TABLE OF CONTENTS**

- [1] Definitions
- [2] Domestic refuse removal
- [3] Use of service compulsory
- [4] Municipality to remove refuse
- [5] Accumulation and removal of domestic refuse
- [6] Accumulation of domestic refuse
- [7] Access to premises
- [8] Right of entry
- [9] Dumping, littering and other contraventions
- [10] Garden refuse
- [11] Removal of bulky and industrial refuse
- [12] Builder's refuse
- [13] Trade refuse
- [14] Disposal sites for domestic, garden and builder's refuse
- [15] Ownership of refuse

- [16] Abandoned objects
- [17] Liability
- [18] Charges and deposit
- [19] Waiver of provisions
- [20] Delivery of notices
- [21] Appeal
- [22] Offences and penalties
- [23] Repeal of by-laws

## **[4] DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates —

**"authorized official"** means —

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

**"bin"** means a container as contemplated in section 5 of these by-laws;

**"builder's refuse"** means any waste or refuse resulting from or generated by the construction, renovation or demolition of a building or other structure or works;

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

**"charge"** means the charge prescribed by the municipality by resolution;

**"container"** means a standard type of refuse container as approved by the municipality.

**"domestic refuse"** means any refuse or waste normally emanating from or incidental to the normal occupation of a dwelling, flat, hotel, boarding-house, restaurant, guest house, hospital, school, cafe, shop, old age home or office but must not include stones, soil, gravel, bricks, waste liquids, night soil, or industrial, builder's or trade refuse;

**"garden refuse"** means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, trees, plants, flowers, weeds and other similar light matter;

**"industrial refuse"** means any refuse generated as a result of manufacturing, maintenance, production and dismantling activities;

**"Municipality"** means the Municipality of uMzimvubu established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"municipal service"** means, unless otherwise stated, the provision or supply of water, sewerage or electricity services;

**"occupier"** for the purposes hereof means the person who controls and resides in or who controls and otherwise uses immovable property and includes joint occupiers;

**"owner"** means and includes —

- [a] the person or persons in whom the registered title in immovable property is vested;
- [b] the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, dead or of unsound mind;
- [c] the agent or persons receiving the rental of immovable property in cases where the owner as described above is away or absent;
- [d] the beneficiary of a usufruct over immovable property, or
- [e] the fiduciaries of municipal property;

where the text so requires, includes the occupier of a property;

**"premises"** means residential, business and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

**"waste"** means **"refuse"** and includes bulky refuse, domestic garden refuse and industrial refuse; **"trade refuse"** means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

## **[ 2 ] DOMESTIC REFUSE REMOVAL**

The Municipality must provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

## **[ 3 ] USE OF SERVICE COMPULSORY**

Every owner or occupier of immovable property must make use of the service for the removal and disposal of domestic refuse provided by the Municipality in respect of all domestic refuse which emanates from such property.

## **[ 4 ] MUNICIPALITY TO REMOVE REFUSE**

No person other than the Municipality or person authorised thereto in writing by the Municipality may remove domestic refuse from any property or dispose of it in any manner.

## **[ 5 ] ACCUMULATION AND REMOVAL OF DOMESTIC REFUSE**

- [1] Subject to the provisions of subsection [6], the Municipality may require every occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the Municipality and with a closefitting lid and two handles for the accumulation of domestic refuse.
- [2] If the Municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of

domestic refuse normally accumulated on such property, require the occupier thereof to provide as many containers as it may determine on such property.

- [3] If a container used by an owner or occupier does not comply with the requirements of the Municipality, it may instruct such owner or occupier by written notice to obtain and use some other suitable container complying with its requirements.
- [4] The Municipality may, where it considers it necessary or desirable of its own accord supply containers to particular classes of owners or occupiers, or to particular classes of properties or in particular areas, in which event the cost of such containers must be recovered from the owners or occupiers of the properties concerned.
- [5] All containers must be equipped with bin liners, unless the Municipality determines otherwise.
- [6] The Municipality may, generally or in particular, issue instructions to owners and occupiers by written notice on the manner in which or the arrangements according to which refuse or refuse bags must be placed in containers, be removed from them, be tied and thereafter be placed or deposited for removal.
- [7] Any disregard of instructions contemplated in subsection [6] constitutes a contravention of these by-laws.
- [8] No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers difficult for the Municipality's employees to handle or carry, may be placed in such bin liners or containers.
- [9] The containers or bin liners, or both, must be removed by the Municipality at such intervals as the Municipality may deem necessary but only if such containers or bin liners, or both, have been placed or deposited at the prescribed places as determined by the Municipality.
- [10] The Municipality is not liable for the loss of or for any damage to a container or bin liner.
- [11] In any case where the occupier of a property is not also the owner, the Municipality may hold the owner himself, instead of the occupier, liable for compliance with the provisions of these by-laws.
- [12] The Municipality may, in specific cases, impose different requirements, other than the use of an 85 litre container, for the removal and disposal of refuse and the owner or occupier of immovable property, as the case may be, to which such requirements relate are obliged to comply with the aforesaid directions of the Municipality.
- [13] The Municipality may prescribe policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse must be separated and disposed of.

## **[6] ACCUMULATION OF DOMESTIC REFUSE**

The owner or occupier of any property must ensure that all domestic refuse generated on such property is accumulated only in a container as determined by section 5 and in no other manner.

## **[7] ACCESS TO PREMISES**

Except where otherwise approved by the Municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on the premises is independent and unimpeded and the owner who fails to do so commits an offence.

## **RIGHT OF ENTRY**

[1] At any reasonable time on any day, or at any other time at which the service is ordinarily rendered, any authorised employee of the Municipality is entitled to enter premises in respect of which the Municipality's waste management services are rendered in order to –

- [a] collect and supervise the collection of waste;
- [b] replace waste bins; or
- [c] inspect the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.

[2] The owner of the premises may not refuse access to the premises by an employee of the Municipality.

[3] An owner of premises commits an offence if he –

- [a] denies access to the premises to an authorised employee of the Municipality in the performance of his duties; or
- [b] obstructs or impedes such employee of the Municipality in the performance of his duties.

## **DUMPING, LITTERING AND OTHER CONTRAVENTIONS**

[1] No person may –

- [a] litter or cause or permit littering;
- [b] dump or cause or permit the dumping of any waste;
- [c] burn or cause or permit the burning of any waste, otherwise that provided for in any law;
- [d] accumulate or store waste, or cause or permit the accumulation and storage of waste in any way which, in the opinion of the Municipality, is unsightly or is or may become a nuisance or health hazard; or
- [e] deal or cause or permit the dealing with waste in any way other than provided for in any law.

[2] Where any of the provisions of subsection [1] are contravened, the Municipality may direct any or all of the following persons within a specified time to cease the contravention or to prevent a further contravention or the continuation of the contravention:

- [a] any person responsible for, or who directly or indirectly contributed to, such contravention;
- [b] the owner of the waste, whether or not such owner is responsible for the contravention;
- [c] the owner of the land or premises on or at which the contravention takes place, where such owner failed to take the steps required in terms of these by-laws;

[d] the person in control of, or any person who has or had a right to use, the land or premises on or at which the contravention takes place at the time of the contravention, where such person failed to take the steps required in terms of these by-laws;

any person who negligently failed to prevent the contravention from taking place;

[3] Notwithstanding a direction in terms of subsection [1] from the Municipality to any or all of the persons referred to in subsections [9] [a] to [e], the Municipality may further direct such persons to take whatever steps the Municipality considers necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully.

[4] The Municipality may itself take whatever steps it deems necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully and then recover the costs of taking such steps from any persons listed in subsection [2], who must, where applicable, be jointly held responsible.

[5] The costs claimed in terms of subsection [4] must be reasonable and may include labour, administrative and other overhead costs.

[6] No person who owns land or premises or who is in control of or has a right to use land or premises may use or permit the use of such land or premises for the purposes of unlawful dumping, burning or storage of waste and such persons must take reasonable steps to prevent the use of such land or premises for those purposes.

Every occupier of premises, whether the premises are residential or commercial, must keep the area immediately surrounding such premises clean, neat and free of litter to the satisfaction of the Municipality.

[7] The Municipality must issue the notices for the purposes of giving directions in terms of subsection [2], compelling persons to comply with their obligations under subsections [5] and [6] and for any other purpose under these by-laws.

## **[10] GARDEN REFUSE**

Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the Municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the Municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period.

[2] If it has sufficient facilities available, the Municipality may in its discretion and on application from the owner or occupier of property, remove garden refuse from such property at the cost of the owner or occupier and subject to such terms and conditions as the Municipality may determine.

[3] No garden refuse may be dumped, kept or stored in or on any sidewalk or vacant ground.

#### **[11] REMOVAL OF BULKY AND INDUSTRIAL REFUSE**

- [1] The occupier or, in the case of premises occupied by more than one person, the occupiers of premises in which bulky or industrial refuse is generated must ensure that such refuse is disposed of in terms of these by-laws within a reasonable period after the generation thereof.
- [2] Bulky and industrial refuse must, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site for such refuse.
- [3] The Municipality is not responsible for the removal of bulky or industrial refuse.

#### **[12] BUILDER'S REFUSE**

Builder's refuse accumulated in the course of the construction, alteration, renovation or demolition of any structure or works must be removed from the property concerned according to suitable arrangements to be made by the owner of such property with the Municipality.

- [2] If there is any undue delay in the removal of the refuse contemplated in subsection [1] after the completion of the works involved, the Municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

#### **[13] TRADE REFUSE**

The Municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the Municipality at a charge fixed by the Municipality.

#### **[14] DISPOSAL SITES FOR DOMESTIC, GARDEN AND BUILDER'S REFUSE**

- [1] The Municipality must set aside and maintain a place or places where domestic, garden and builder's refuse must be deposited or dumped.
- [2] Any person dumping domestic, garden and builder's refuse in any other place is guilty of an offence.
- [3] The Municipality may, from time to time, determine tariffs for the dumping of refuse at a dumping or disposal site.

#### **[15] OWNERSHIP OF REFUSE**

All refuse removed by the Municipality and all refuse on disposal sites controlled by the Municipality are the property of the Municipality and no person who is not duly authorised by the Municipality to do so, may remove or in any manner interfere with such refuse.

#### **[16] ABANDONED OBJECTS**

Any object other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996], which is, 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 thereof, be reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality in a manner as it may deem fit.

#### **[17] LIABILITY**

- [1] Where any object has been removed and disposed of by the Municipality in terms of section 16, the owner or person responsible for such object is liable to pay the Municipality the charge fixed by it for its removal, disposal or custody.
- [2] For the purposes of subsection [1], the person responsible is —
- [a] the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or deposited in the place from which it was so removed, unless he can prove that he was not concerned in and did not know that it had been deposited in such place; or
  - [b] any person who deposits the object in the place aforesaid; or
  - [c] any person who knowingly permits or permitted the object to be deposited in the aforesaid place.

#### **[18] CHARGES AND DEPOSIT**

The charges payable to the Municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service must deposit with the Municipality must be determined by resolution adopted by the Municipality and reflected in its schedule of tariffs.

#### **[19] WAIVER OF PROVISIONS**

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws, provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

#### **[20] DELIVERY OF NOTICES**

- [1] Notwithstanding section 9[2], a notice, order or other document is to be regarded as having been properly served if —



- [a] it has been delivered to that person personally;
- [b] sent by registered post to the person to whom it is addressed at his last known address;
- [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
- [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

**[2]** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises —

- [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
- [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

## **[21] APPEAL**

**[1]** A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

**[2]** The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

**[1]** When the appeal is against a decision taken by —

- [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
- [b] the Municipal Manager, the Executive Committee is the appeal authority; or
- [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.

**[4]** The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

## **[22] OFFENCES AND PENALTIES**

**[1]** Anyone is guilty of an offence and upon conviction by a court liable to a fine or to imprisonment for a period not exceeding six months.