



DISTRICT WASTE MANAGEMENT POLICY

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1. PREAMBLE

- 1.1. The National Waste Management Strategy published by the Department of Environmental Affairs during November 2011 sets out the numerous Waste management challenges, which include:
 - 1.1.1. a growing population and economy with increased volumes of Waste generated;
 - 1.1.2. limited understanding of the main Waste Streams due to inadequate, unreliable or contradictory Waste information available;
 - 1.1.3. the lack of policies and a regulatory environment which does not actively promote the Waste management hierarchy;
 - 1.1.4. no separation at source of Waste due to limited or absent recycling infrastructure;
 - 1.1.5. pervasive under-pricing relating to Waste Management Services, as the cost thereof is not fully appreciated.
- 1.2. Although all Persons remain responsible for a healthy and clean environment, the duty of government in all three its spheres is entrenched in the Constitution.
- 1.3. The Constitution bestows original powers and functions upon the local sphere of government, makes provision for the assignment of additional powers and functions and has entrenched the local sphere of government with fiscal powers and incidental powers.
- 1.4. Schedule 5B to the Constitution, insofar as it relates to Waste Management Services, sets out those matters in which Municipalities enjoy executive authority and have the right to administer the matters listed therein. The matters relating to Waste are cleansing, refuse removal, refuse dumps and solid Waste disposal.
- 1.5. The EDM shares its area of jurisdiction with the seven Local Municipalities of Bitou, George, Hessequa, Kannaland, Knysna, Mossel Bay and Oudtshoorn.
- 1.6. The EDM, a category C Municipality, and the seven Local Municipalities mentioned above, being category B Municipalities, are all part of the local sphere of government and therefore both the EDM and the Local Municipalities are bestowed with the same functions and powers in terms of the Constitution in relation to Waste Management Services.
- 1.7. However, the EDM's Integrated Waste Management Plan first published during November 2006 and revised by the Integrated Waste Management Plan (Second Generation) published in September 2014, sets out the need for a Regional Waste Disposal Facility and requires the EDM to establish and develop such a facility and thereafter operate the Waste Disposal Facility and provide Municipal Waste Disposal Services to all Participating Local Municipalities within its area of jurisdiction.
- 1.8. This change in circumstances brings Section 84 of the Municipal Structures Act into play, in terms of which the functions and powers are divided and the EDM is

bestowed with all the functions and powers relating to solid Waste disposal sites and particularly relating to:

- 1.8.1. the determination of a Waste disposal strategy;
 - 1.8.2. the regulation of Waste disposal; and
 - 1.8.3. the establishment, operation and control of Waste disposal sites, bulk Waste transfer facilities and Waste disposal facilities for more than one Local Municipality in the district.
- 1.9. As the establishment and operation of a Waste disposal site for more than one Municipality is a district municipal function and a Municipal Service, the EDM is obligated to provide such service in an equitable and accessible manner and further to ensure that it is both financially and environmentally sustainable.
 - 1.10. Therefore the council of the EDM must adopt and implement this policy relating to the Waste Management Services to be provided, inclusive of a Tariff policy for the levying of fees for the Municipal Services it is to provide.
 - 1.11. The purpose of this Integrated Waste Management Policy therefore is to provide guidance to decision makers towards integrated Waste management within the district of the EDM through the implementation of the principles and objectives outlined in NEMWA, the NWMS, the EDM's Integrated Waste Management Plan of 2014 and the EDM Waste Management By-Laws 2017 in so doing enable the EDM to deliver municipal Waste Management Services to Local Municipalities for the benefit of the Local Communities as a primary Municipal Service provider.
 - 1.12. This policy focuses on the determination of Waste disposal strategies, the regulation of Waste disposal and the establishment, operation and control of Waste disposal sites, bulk Waste transfer facilities and Waste disposal facilities for more than one Local Municipality in the district of the EDM. It does not deal, nor attempt to deal, with Waste collection services and related issues which remain the domain of the Local Municipalities, except insofar as it may have an effect on Waste disposal strategies or the regulation of Waste disposal.

2. **DEFINITIONS**

The words and phrases contained in this definition clause will have the defined meaning throughout this policy, unless the context dictates otherwise. The words and phrases which describe defined wastes herein have the same meaning as ascribed to it in Schedule 3 of NEMWA and any future amendment thereto.

- 2.1. **"Authorised Official"** means any authorised official of the EDM who has been authorised or designated by the EDM to administer, implement and enforce the provisions of national, provincial or local legislation or any employee of a Service Provider acting within the scope of the powers, functions and duties assigned to the Service Provider by the EDM if such a Service Provider, for the purpose of the by-laws, has been appointed;
- 2.2. **"Authorised Waste Disposal Facility"** means a Waste Disposal Facility as defined herein, duly licensed in terms of section 49 of NEMWA, 2008 (Act No. 59 of 2008), as amended;

- 2.3. **"Building and Demolition Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.4. **" Business Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.5. **"Commercial Services"** means the –
- 2.5.1. collection and transportation of Business Waste;
 - 2.5.2. the conducting or undertaking of Waste management activities within the jurisdiction of the EDM which requires a Waste Management Licence; or
 - 2.5.3. the collection, transportation, sorting, Storage, recycling or recovery of Waste with the intention of making profit; or
 - 2.5.4. any Person collecting, storing or transporting Recyclable Waste on behalf of a bona fide non-governmental organisation; and
 - 2.5.5. excludes Municipal Waste Services.
- 2.6. **"Constitution"** means the Constitution of the Republic of South Africa, 1996;
- 2.7. **"Damage to the Environment"** means any Pollution, degradation or harm to the environment, whether visible or not;
- 2.8. **"Domestic Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.9. **"EDM"** means –
- 2.9.1. the EDM, a Municipality established as such by establishment notice PN497/2000 published on the 22nd of September 2000, exercising its legislative and executive authority through its municipal council; or
 - 2.9.2. its successor-in-title; or
 - 2.9.3. a structure or Person exercising power delegated or carrying out instructions which power has been delegated or sub-delegated or which instruction has been given as contemplated in terms of section 59 of Municipal Systems Act; or
 - 2.9.4. a Service Provider fulfilling a responsibility that is assigned to it in terms of section 81(2) of the Municipal Systems Act.
- 2.10. **"Environment"** means the surroundings within which humans exist made up of –
- 2.10.1. the land, water and atmosphere of the earth;
 - 2.10.2. micro-organisms, plant and animal life;
 - 2.10.3. any part or combination of 2.10.1 and 2.10.2 and the inter-relationships among and between them; and

- 2.10.4. the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence public health and wellbeing;
- 2.11. **"Food Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.12. **"Garden Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.13. **"General Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.14. **"Hazardous Waste"** shall bear the meaning ascribed to it in NEMWA;
- 2.15. **"Health Care Risk Waste"** means health care risk Waste as defined in the Western Cape Health Care Waste Management Act, 2007 (Act 7 of 2007);
- 2.16. **"Holder of Waste"** means any Person who imports, generates, collects, stores, accumulates, transports, processes, treats, exports or disposes of Waste;
- 2.17. **"Inert Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.18. **"Integrated Waste Management Plan"** means any Integrated Waste Management Planning system which the EDM must develop under national or provincial legislation or in terms of the EDM's Integrated Development Plan;
- 2.19. **"Land Reclamation"** means the plan and engineered disposal of inert or other appropriate Waste for the purpose of constructing any facility or changing the natural features of any piece of land;
- 2.20. **"Local Community"** means, in relation to the EDM, that body of Persons comprising of –
- 2.20.1. the residents within its area of jurisdiction;
- 2.20.2. the ratepayers of the EDM or any Local Municipality sharing the same area of jurisdiction with the EDM;
- 2.20.3. any civic organisation and non-governmental private sector or labour organisation or body which is involved in local affairs within the EDM's jurisdiction; and
- 2.20.4. visitors and other residing outside of the EDM's jurisdiction who, because of their presence in that area make use of services or facilities provided by the EDM or the Local Municipalities;
- 2.21. **"Local Municipality"** means, for purposes of this policy, the Municipalities of George, Mossel Bay, Oudtshoorn, Hessequa, Bitou, Knysna and Kannaland, being Municipalities that share municipal executive and legislative authority in their respective areas with the EDM within whose area they fall;
- 2.22. **"MFMA"** means the Local Government: Municipal Finance Management Act, 2003 (56 of 2003);
- 2.23. **"Minimisation"** means, when used in relation to Waste, efforts to reduce and minimise the amount and toxicity of Waste that is generated and, in the event where

Waste is generated, the reduction of the amount and toxicity of Waste that is required to be disposed of;

- 2.24. **"Minister"** means the national minister responsible for environmental affairs;
- 2.25. **"Municipal Service"** means a service that a Municipality provides or may provide to or for the benefit of the Local Community in terms of its powers and functions, irrespective of whether:
- 2.25.1. such a service is provided or to be provided by the Municipality through an internal mechanism or by engaging an external mechanism as contemplated in Section 76 of the Municipal Systems Act; and
- 2.25.2. fees, charges or Tariffs are levied in respect of such a service or not;
- 2.26. **"Municipal Structures Act"** means the Local Government: Municipal Structures Act 117 of 1998;
- 2.27. **"Municipal Systems Act"** means the Local Government: Municipal Systems Act 32 of 2000;
- 2.28. **"Municipal Waste Services"** means services relating to the cleansing, collection, transportation and disposal of Waste, including Domestic Waste which is provided by the respective Local Municipalities and the EDM in accordance with this policy and the EDM Waste Management By-Laws 2016 and the enforcement thereof;
- 2.29. **"Municipal Waste Collection Services"** means a service provided exclusively by the Local Municipalities or their Service Providers to collect Domestic Waste, Business Waste and Food Waste in accordance with the provisions of the Municipal Systems Act and which, in the case of Business Waste, extends only to Waste deposited in bin liners, Waste bins and any Waste container approved by Local Municipalities;
- 2.30. **"Municipal Waste Disposal Services"** means the establishment, operation and control of Waste disposal sites, bulk Waste transfer facilities and Waste disposal facilities for more than one Local Municipality, which services are provided exclusively by the EDM or its Service Providers to Participating Local Municipalities and municipal Waste disposal services in relation to Non-Participating Municipalities shall mean the establishment, operation and control of Waste disposal facilities delivered by Non-Participating Local Municipalities or its Service Providers in accordance with the provisions of the Municipal Systems Act;
- 2.31. **"Municipality"**, where the word appears in this by-law without the prefix of "Participating Local" or "Non-Participating Local" or "Local", means all Municipalities in the district, including the EDM.
- 2.32. **"NEMA"** means the National Environmental Management Act 107 of 1998;
- 2.33. **"NEMWA"** means the National Environmental Management: Waste Act 59 of 2008 as amended by the National Environmental Laws Amendment Act 25 of 2014 and the National Environmental Management: Waste Amendment Act 26 of 2014 and as may be further amended from time to time;

- 2.34. **"NWMS"** means the National Waste Management Strategy developed in terms of NEMWA and published during 2011;
- 2.35. **"Non-Participating Local Municipalities"** means those Local Municipalities which at the time of approval of this policy are not Participating Local Municipalities as defined herein;
- 2.36. **"Organ of State"** has the same meaning as ascribed to it in terms of section 239 of the Constitution;
- 2.37. **"Organic Waste"** shall bear the meaning ascribed to it in Schedule 3 of NEMWA;
- 2.38. **"Owner"** means any Person that has the title to any Premises or land, or any Person receiving the rent or profits for allowing the occupational use of any land, Premises or part of any Premises or who would receive rent or profit if land or Premises were let or used, whether he does so on his own account or for another;
- 2.39. **"Participating Local Municipalities"** means the Local Municipalities of George, Mossel Bay, Knysna and Bitou who are obligated to make use of the Municipal Waste Disposal Services to be provided by the EDM as more fully described in Clause 7 of this policy;
- 2.40. **"Person"** means a natural or juristic Person and includes an accredited permit holder and an Organ of State;
- 2.41. **"Pollution"** has the same meaning ascribed to it as in section 1 of NEMA;
- 2.42. **"Premises"** means –
- 2.42.1. land or a portion of land, whether or not a building or structure has been constructed or erected on the land or portion of land; or
- 2.42.2. a building or structure and the land on which it is situated;
- 2.43. **"Prescribed Fee"** means a Tariff for the Municipal Waste Disposal Services which the EDM may set for the provision of such services to the users thereof and includes a surcharge on such Tariff;
- 2.44. **"Radioactive Material"** means any substance consisting of or containing any radioactive nuclide, whether natural or artificial;
- 2.45. **"Radioactive Waste"** means any radioactive material which is or is intended to be disposed of as Waste;
- 2.46. **"Recycle"** means a process where Waste is reclaimed for further use, which process involves the separation of Waste from a Waste Stream for further use and the processing of that separated material as a product or raw material;
- 2.47. **"Recyclable Waste"** means Waste which has been separated or recovered from the Waste Stream and set aside for purposes of recycling;

- 2.48. **"Reuse"** means to utilise the whole, portion of or a specific part of any substance, material or object from the Waste Stream for a similar or different purpose, without changing the form or properties of such substance, material or object;
- 2.49. **"Service Provider"** means any Person who has entered into a service delivery agreement with the EDM in terms of section 81(2) of the Municipal Systems Act including for purposes of this by-law, a Public Private Partnership Agreement in terms of Section 120 of the MFMA;
- 2.50. **"Storage"** means the accumulation of Waste in a manner that does not constitute treatment or disposal of that Waste;
- 2.51. **"Sustainable Development"** means the integration of social, economic and environmental factors into planning, implementation and decision making so as to ensure that development serves present and future generations.
- 2.52. **"Tariff"** means the charge to users for the provision of Municipal Waste Disposal Services;
- 2.53. **"Waste"** means –
- 2.53.1. any substance, material or object, which is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, Recycled or recovered; and
- 2.53.2. includes all Wastes as defined in Schedule 3 to NEMWA and any other substance, material or object that is not included in Schedule 3 of NEMWA that may be defined as a waste by the by the Minister by notice in the gazette,
- but any Waste or portion of Waste referred to in paragraphs 2.53.1 and 2.53.2 above ceases to be a Waste -
- 2.53.3. once an application for its re-use, recycling or recovery has been approved or, after such approval, once it is, or has been Reused, Recycled or recovered;
- 2.53.4. where approval is not required, once a Waste is, or has been Reused, Recycled or recovered;
- 2.53.5. where the Minister has, in terms of Section 74 of NEMWA, exempted any Waste or a portion of Waste generated by a particular process from the definition of Waste; or
- 2.53.6. where the Minister has in the prescribed manner excluded any Waste Stream or a portion of a Waste Stream from the definition of Waste;
- 2.54. **"Waste Disposal Facility"** means any site or Premises used for the accumulation of Waste with the purpose of disposing of that Waste at the site or Premises;
- 2.55. **"Waste Generator"** means any Person who generates or produces Waste;

- 2.56. **"Waste Handling Facility"** means any facility that accepts, accumulates, handles, Recycles, reprocesses, sorts, stores or treats Waste prior to its transfer for treatment by way of incineration or for final disposal;
- 2.57. **"Waste Management Officer"** means a Waste Management Officer designated in terms of section 10 of NEMWA;
- 2.58. **"Waste Management Plan"** means a plan referred to in clause 5 of this policy;
- 2.59. **"Waste Management Activity"** has the same meaning as ascribed to it in section 1 of NEMWA;
- 2.60. **"Waste Management Licence"** has the same meaning as ascribed to it in section 1 of NEMWA;
- 2.61. **"Waste Management Services"** has the same meaning as ascribed to it in section 1 of NEMWA;
- 2.62. **"Waste Stream"** means a type of Waste, including Building and Demolition Waste, business Waste, un-compactible Waste, Food Waste, Domestic Waste, Garden Waste, Hazardous Waste, Health Care Risk Waste, industrial Waste, Recyclable Waste and special industrial Waste.

3. **LEGAL FRAMEWORK**

The legislative framework for this Integrated Waste Management Policy is summarised hereunder and includes references to national and provincial statutes, policies and strategies.

3.1. The Constitution of the Republic of South Africa, 1996

- 3.1.1. **Chapter 2** of the Constitution contains the Bill of Rights, which is a cornerstone of democracy in South Africa. It enshrines the rights of all people in the country and affirms the democratic values of human dignity, equality and freedom.
- 3.1.2. In terms of **Section 24** of **Chapter 2**, everyone has the right to an Environment that is not harmful to their health and wellbeing and to have the Environment protected through reasonable legislative and other measures that prevent Pollution and ecological degradation, promotes conservation and secure ecologically Sustainable Development.
- 3.1.3. **Section 32** provides the right to access to information. In the Waste arena, the lack of information is one of the major obstacles in proper integrated Waste management. The development of a Waste information system is therefore essential in terms of this section of the Constitution.
- 3.1.4. **Chapter 3** of the Constitution deals with cooperative government. Section 40 thereof confirms that the government is constituted in national, provincial and local spheres, which are distinctive, interdependent and interrelated.
- 3.1.5. **Section 41** of the Constitution provides the principles for cooperative governance and intergovernmental relations and *inter alia* states that all

organs of state and spheres of government must not assume any power or function except those conferred on it in terms of the Constitution and furthermore exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere.

- 3.1.6. **Section 156** deals with the powers and functions of Municipalities and confirms that Municipalities have the right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5.
- 3.1.7. In terms of **Section 155** of the Constitution, where Municipalities of both category B and category C share the same area of jurisdiction, provision must be made for an appropriate division of powers and functions between the Municipalities.
- 3.1.8. Schedule 5B to the Constitution confirms *inter alia* that Municipalities have functions and powers over the following related matters, being cleansing, refuse removal, refuse dumps and solid Waste disposal.

3.2. The National Environmental Management Act 107 of 1998

NEMA provides the principle framework for environmental issues and has direct relevance to the implementation of the NWMS and the designation of the Department of Environmental Affairs as a lead agent for the environment. The act also places a special duty of care on every Person to prevent or mitigate and remediate environmental damage and Pollution and sets the principle that he who contributes to the Pollution can be held liable. This includes the Owner of the land at the time the Pollution occurred, or an occupier in control of that land at the time or any Person who negligently failed to prevent the situation.

3.3. The Western Cape Health Care Waste Management Act of 2007

- 3.3.1. This piece of legislation was amended during 2010 to align itself with the terminology used in NEMWA.
- 3.3.2. The object of this act is to promote integrated health care Waste management and thereby:
 - (a) reduce the risk of health care Waste to human health;
 - (b) prevent the degradation of the environment;
 - (c) prevent the illegal dumping of health care Waste;
 - (d) promote Sustainable Development; and
 - (e) ensure responsible management of health care Waste within the province.
- 3.3.3. In terms of the act, the EDM must:
 - (a) enforce the relevant provisions of the act within its area of jurisdiction;

- (b) perform audits of Generators, transporters, treaters or disposers of health care Waste within its area of jurisdiction to ensure compliance with the provisions of this act; and
- (c) report annually to the provincial Minister.

3.3.4. This act is supported by Health Care Risk Waste Management Regulations published during 2013. These regulations address the requirements for packaging and Storage, internal transport, external transport, vehicles, drivers, treatment and disposal of Health Care Risk Waste.

3.4. National Water Act 36 of 1998

The purpose of this act is to ensure that Municipalities' water resources are protected, used, developed and conserved in ways which take into account the protection of aquatic and associated ecosystems.

3.5. National Environmental Management: Air Quality Act 39 of 2004

This act was promulgated to formulate a law regulating air quality in order to protect the Environment by implementing measures for the prevention of Pollution and ecological degradation.

3.6. Municipal By-Laws

3.6.1. The EDM promulgated Municipal Health By-Laws during 2008, which presently ensures the effective management of health care Waste in the whole of the Eden district. Integrated Waste Management By-Laws should be developed in support of these Municipal Health By-Laws.

3.6.2. As the EDM is bestowed with functions and powers relating to the establishment of Waste disposal strategies and the regulation of Waste disposal, in addition to the establishment and operation of Waste disposal facilities for more than one Municipality, it is necessary to consider the by-laws of the Local Municipalities with which the EDM shares its area of jurisdiction.

3.6.3. But for Kannaland, the remaining six Local Municipalities, including the Participating Local Municipalities, have existing Waste by-laws promulgated, which presently deal with both the collection and disposal of Waste. Given the outcome of the Integrated Waste Management Plan and the Section 78 of the Municipal Systems Act investigation that recommended the development of a regional landfill site by the EDM to service Participating Local Municipalities, the Local Municipality by-laws must be amended and aligned with any Integrated Waste Management By-Law promulgated by the EDM in terms of this policy. These amended by-laws should be prioritised for Participating Local Municipalities.

3.7. Local Government: Municipal Systems Act 32 of 2000

3.7.1. In terms of **Chapter 8** of this act, the Municipality must:

- (a) give effect to the provisions of the Constitution and give priority to the basic needs of Local Communities; and

- (b) give priority to the basic needs of the Local Community;
- (c) promote the development of the Local Community; and
- (d) ensure that all members of the Local Community have access to at least the minimum level of basic Municipal Services.

3.7.2. All Municipal Services must be:

- (a) equitable and accessible, provided in a manner that is conducive to prudent economic, efficient and effective use of available resources and the improvement of standards of quality over time;
- (b) financially sustainable;
- (c) environmentally sustainable; and
- (d) regularly reviewed with a view to upgrading, extension and improvement.

3.7.3. In terms of **Section 75**, a Municipality must adopt and implement a Tariff policy on the levying of fees for such Municipal Services provided by the Municipality and must adopt by-laws to give effect to the implementation and enforcement of such a Tariff policy. Tariffs must reflect the costs reasonably associated with rendering the service. Capital, operating, maintenance, administration, replacement costs and interest charges must be set at levels that facilitate sustainability of the service, taking into account subsidisation from sources other than the Municipal Service.

3.7.4. The economical, efficient and effective use of resources, the recycling of Waste and other appropriate environmental objectives must be encouraged in terms of such policies and by-laws.

3.7.5. In **Part 2 of Chapter 8** of the Municipal Systems Act, mechanisms for the provision of services is discussed and provides guidance for decisions as to whether services should be provided by means of internal or external mechanisms. As has been pointed out in the Second Generation Integrated Waste Management Plan, these processes have been complied with and a PPP process as envisaged in terms of the MFMA and its regulations preferred as the mechanism of service provision.

3.8. The Local Government: Municipal Structures Act 117 of 1998

The act makes provision for the establishment of Municipalities in accordance with the requirements relating to the categories and types of Municipalities. It furthermore provides for an appropriate division of functions and powers between categories of Municipalities, particularly between district and Local Municipalities which share the same area of jurisdiction. It also bestows the functions and powers relating to the establishment of a Waste disposal strategy, the regulation of Waste disposal and the establishment, operation and control of Waste disposal sites, bulk Waste transfer facilities and Waste disposal facilities for more than one Local Municipality in a district or district Municipalities.

3.9. National Environmental Management: Waste Act 59 of 2008, read with the National Environmental Management Amendment Act 25 of 2014

- 3.9.1. NEMWA is the most important piece of legislation which intends to move South Africa away from the previously fragmented approach towards integrated Waste management. It also establishes a new Waste hierarchy aligned with international waste management principles and therefore provides for:
- (a) the Minimisation of the consumption of natural resources;
 - (b) the avoidance and Minimisation of the generation of Waste;
 - (c) the recovery, Reuse and recycling of Waste; and
 - (d) the treatment and safe disposal of Waste as a last resort.
- 3.9.2. It furthermore promotes the effective delivery of Waste services and the remediation of land where contamination presents or may present a significant risk of harm.
- 3.9.3. The interpretation and application of this act must be guided by the principles set out in Section 2 of NEMA.
- 3.9.4. NEMWA obligates Municipalities to enforce the following in their by-laws:
- (a) establish service standards and levels of service for the collection of Waste;
 - (b) identify requirements in respect of the separation, compacting and Storage of Waste;
 - (c) identify requirements for the management of Waste, including requirements in respect of the avoidance of the generation of Waste and the recovery, Reuse and recycling thereof; and
 - (d) set the requirements in respect of the directing of Waste to specific treatment and disposal facilities.
- 3.9.5. It furthermore instructs Municipalities to develop an Integrated Waste Management Plan, which must form part of its Integrated Development Plan as contemplated in Chapter 5 of the Municipal Systems Act.
- 3.9.6. Municipalities are further instructed in terms of the act to:
- (a) conduct municipal activities in accordance with the NWMS and any national and provincial norms and standards;
 - (b) ensure that Waste Management Services are provided within a Municipality in a manner which prioritises the recovery, Reuse or recycling of Waste and provides for the treatment and safe disposal of Waste as a last resort;
 - (c) designate Waste Management Officers;

- (d) ensure that provision is made for the management and collection of litter;
- (e) secure compliance with the objectives of this act that are in the domain of the Municipality; and
- (f) implement any other measures that are necessary for securing the objectives of this act that are within the domain of the Municipality.

3.10. NWMS

3.10.1. The NWMS published in 2011 is a legislative requirement of NEMWA. It presented long term plans and goals to be reached by 2016 at the time of publication.

3.10.2. The Strategy aims to reduce both the generation and environmental impact of Waste and presents a plan for ensuring that the socio-economic development of South-Africa, the health of its people and the quality of its environmental resources are no longer adversely affected by uncontrolled and uncoordinated Waste management.

3.11. In addition to the abovementioned important legislation, strategies and policies mentioned, due consideration is given *inter alia* to the **White Paper: Policy on Pollution Prevention, Waste Minimisation, Impact Management and Remediation** published during March 2000 and the role of the local sphere government set out therein, as well as the **National Norms and Standards Relating to the Disposal of Waste to Landfill and the Assessment of Waste for Landfill Disposal, 2013** and the **Regulations relating to the Classification and Management of Waste** and in **Waste Information Regulations** published during August 2013 and 2012 respectively.

4. WASTE MANAGEMENT INFORMATION

4.1. The NWMS requires that a national database be set up to track Waste as part of the Waste Minimisation strategy. The council of EDM subscribes to the requirement of the NWMS to provide data from the local level to other levels of government via a Waste Information System and to that end will maintain a Waste Management Information System to record how Waste is managed within its area of jurisdiction.

4.2. The obligation to provide Waste information is the responsibility of all Holders of Waste and the EDM must obtain information from all Waste Generators, accredited permit holders, Service Providers, Waste Recyclers and other Local Municipalities within its area of jurisdiction or any other Person in or associated with the provision of Municipal Waste Services or Commercial Services to furnish information in a format and within a timeframe as may be determined by the EDM.

4.3. The information so required will include but not be limited to information pertaining to:

4.3.1. significant sources of Waste generation and the identification of such Waste Generators;

4.3.2. quantities and classes of Waste generated;

- 4.3.3. Waste handling, Waste treatment and Waste disposal facilities;
 - 4.3.4. population and development profiles;
 - 4.3.5. reports on progress in achieving any Waste management targets;
 - 4.3.6. or any other information required in terms of national or provincial legislation regulations or guidelines.
- 4.4. Therefore, any Person conducting an existing Waste Management Activity as listed in Annexure 1 of the National Waste Management Regulations published in terms of NEMWA must apply to the EDM to be registered on the Waste Management Information System and such Persons must report accurately on Waste quantities and the types of Waste and regarding any other information as may be required by the EDM on a monthly basis. All such information recorded and reported must be kept for a period of five (5) years.

5. WASTE MANAGEMENT PLANS

- 5.1. Part 7 of Chapter 4 of NEMWA provides that the Minister may, by written notice, require any Person or a category of Persons or an industry that generates Waste to prepare and submit industry Waste Management Plans for the Minister's approval.
- 5.2. In addition to these provisions and the obligation to prepare Integrated Waste Management Plans in terms of Chapter 3 of NEMWA, the EDM may require present or future Generators or Holders of specified Waste Streams or Local Municipalities within its area of jurisdiction to prepare Waste Management Plans.
- 5.3. Such plans must at least include:
- 5.3.1. an assessment of the quantity and type of Waste that is or will be generated;
 - 5.3.2. a description of the Waste Management Service the producer will require;
 - 5.3.3. the full details of the site or areas where Waste will be generated, stored, treated or disposed of;
 - 5.3.4. a description of how the Waste Generator separates or intends to separate recyclable and non-recyclable material, including the targets set for recycling;
 - 5.3.5. the Waste Minimisation or Pollution prevention practices and plans of such Waste Generator;
 - 5.3.6. the methods of disposal or treating of such Waste;
 - 5.3.7. a reporting plan on the implementation of the Waste Management Plan;
 - 5.3.8. details of the Person responsible for the implementation of the Waste Management Plan; and

5.3.9. any further information that the EDM may require.

5.4. Any Person required to submit such a Waste Management Plan shall be expected to report annually on the progress made with the implementation thereof.

6. WASTE MINIMISATION AND RECYCLING

6.1. The EDM will endeavour to ensure the reduction of consumption of natural resources and will seek to improve the efficiency of the disposal services which will contribute significantly to reducing the consumption of natural resources. In addition, the EDM will actively promote altered consumption patterns to reduce the consumption of natural resources.

6.2. The introduction of effective Waste avoidance and Minimisation interventions are required. Waste Minimisation forums, including technology initiatives should be encouraged in industry and business and the "Polluter pays" principle should be enforced. The EDM will encourage the Reuse, recycling and recovery of Waste in such manners as complies with NEMWA and any other applicable law.

6.3. To enable appropriate monitoring the EDM must introduce a system of accreditation in terms of which any Person who wishes to undertake the collection, transport, sorting, Storage, Reuse, recycling or recovery of Waste with the intention of making a profit, including scrap metal dealers, should be accredited by the EDM to do so.

6.4. The EDM's Waste Disposal Strategy must allow for separation at source, which will improve the quality and quantity of material recovered for recycling. Incentives such as buy back centres, drop off centres, material recovery facilities and composting facilities will be encouraged and supported to also enhance job creation opportunities and promote Local Economic Development Projects.

6.5. Waste to energy options will also be explored and consequently, by-laws will be established to provide a regulatory framework that enables the development and operation of facilities that convert waste to energy in a manner that is protective of the environment and optimises the performance of these facilities.

7. MUNICIPAL SERVICE

7.1. Division of Functions and Powers

7.1.1. The EDM recognises the general duty of Local Municipalities within its area of jurisdiction to their respective Local Communities for progressively ensuring efficient, affordable, economical and sustainable access to Municipal Waste Collection Services.

7.1.2. It further recognises that such a duty of Local Municipalities is subject to:

- (a) the obligation of the members of its Local Communities to pay the Prescribed Fees for the provision of Municipal Waste Collection Services;

- (b) the right of the Local Municipalities to differentiate between categories of users and geographical areas when setting the service standards and levels of service for the provision of the Municipal Service; and
 - (c) the right of such Municipalities to issue guidelines relating to Waste collection, Storage and transport in terms of NEMWA.
- 7.1.3. In terms of the division of functions and powers as described in Section 84 of the Municipal Structures Act, the EDM however has a duty to Participating Local Municipalities and their respective Local Communities to progressively ensure efficient, affordable, economical and sustainable access to Municipal Waste Disposal Services.
- 7.1.4. As this is a primary Municipal Service, it remains subject to the EDM adopting a Tariff, which must reflect the costs reasonably associated with rendering the service of transportation, establishment, operation and management of such bulk Waste transfer facilities and Waste disposal sites as may be required for use by more than one Municipality, including capital, operating, maintenance, administration, replacement, closure, rehabilitation and post-closure monitoring costs and interest charges.
- 7.1.5. The Participating Local Municipalities, being users of the Municipal Waste Disposal Services to be provided by the EDM, must include such Tariffs raised by the EDM in each of their annual budgets and collect all monies that are due and payable to it. In doing so, it must comply with the provisions of Section 37 of the MFMA and make payment of the Prescribed Fees for the delivery of such services by the EDM as may be prescribed by the EDM on an annual basis.
- 7.1.6. As is evident from the Municipal Systems Act, the EDM is entitled to differentiate between different categories of users, services, service Tariffs, geographical and other matters, as long as the differentiation does not amount to unfair discrimination.
- 7.1.7. It is furthermore also entitled to regulate and issue guidelines relating to Waste classification norms and standards for the assessment of Waste for landfill disposal and norms and standards for the disposal of Waste to landfill sites.
- 7.1.8. As users of the Municipal Service to be delivered, all Participating Local Municipalities making use of such services remain liable for payment of the Prescribed Fees for such services and is not exempted from or entitled to a reduction of such Prescribed Fees due to non-usage, partial or limited use of such services.
- 7.1.9. The present Non-Participating Local Municipalities remain responsible to their respective Local Communities for Municipal Waste Collection Services, the transportation of Waste collected and the safe disposal thereof at licenced Waste disposal facilities in strict compliance with the provisions of applicable national and provincial legislation.
- 7.1.10. However, the EDM may, for reasons of environmental preservation or to promote equitable, affordable and sustainable Waste disposal services or after a consultative process with Non-Participating Local Municipalities,

provide Municipal Waste Disposal Services to such Non-Participating Local Municipalities, who will then have the same obligations as Participating Local Municipalities in relation to Waste disposal strategies, the regulation thereof and the payment of the Prescribed Fees and Tariffs for services rendered to such Non-Participating Municipalities.

7.2. Establishment of a District Inter-municipal Waste Management Forum

7.2.1. In pursuance of Section 28 of the Intergovernmental Relations Framework Act 13 of 2005, the EDM will establish a District Inter-Municipal Waste Management Forum to promote and facilitate integrated Waste Management Services between the EDM and its Local Municipalities.

7.2.2. The role of such a Waste Management Forum is to serve as a consultative forum for the EDM and Local Municipalities to discuss and consult with each other on matters of mutual interest, including:

- (a) the implementation of national and provincial policy and legislation;
- (b) mutual support in terms of Section 88 of the Local Government Municipal Structures Act;
- (c) the provision of Waste Management Services in the district;
- (d) the coordination and alignment with such Waste Management Services in the district;
- (e) coherent planning and development of Waste management strategies and the regulation of Waste Management Services in the district;
- (f) to coordinate and align the functions of the various Authorised Officials appointed by the EDM and Local Municipalities in exercising their powers; and
- (g) to settle any specific disputes relating to Waste Management Services without resorting to additional proceedings.

8. SERVICE PROVIDER

8.1. In terms of the provisions of the Municipal Systems Act, the EDM may discharge any of its obligations by entering into a service delivery agreement with a Service Provider or in terms of a public private partnership agreement as contemplated in Section 120 of the MFMA.

8.2. In discharging their obligations, the EDM at all times recognises and accepts that the final responsibility for the delivery of such Municipal Services remains with the Council.

9. CATEGORISATION OF WASTE AND THE MANAGEMENT OF CERTAIN TYPES OF WASTE

9.1. In line with NEMWA, government has developed and implemented Waste Classification and Management Regulations, Norms and Standards for the

Assessment of Waste for Landfill and Norms and Standards for the Disposal of Waste to Landfill for immediate implementation.

- 9.2. In doing so, government intended to facilitate the implementation of a Waste hierarchy to move away from landfill to Reuse, recovery and treatment. Waste classification therefore is a mechanism to separate Waste Streams and to divert Waste from landfill into other utilisations, where possible.
- 9.3. The EDM must therefore implement the categorisation system in line with the classification systems established in terms of NEMWA. In addition, the EDM must develop a strategy and regulate the management of certain types of Waste so classified, such as Hazardous and Health Care Risk Waste, Building and Demolition Waste, Garden Waste and event Waste.

10. COMMERCIAL SERVICES AND THE ACCREDITATION OF SERVICE PROVIDERS

10.1. Waste Minimisation

- 10.1.1. Waste Minimisation forms the core of the new NWMS, not only to ensure that health and environmental impacts are minimised, but that landfill airspaces are optimised, which will have the effect that Tariffs remain sustainable over a long term period.
- 10.1.2. For implementation of Waste Minimisation and for the reduction of Waste to landfill, alternative avenues of Reuse and recycling, if Waste cannot be avoided, is to be explored. Although the Council commits to pursue the establishment, facilitation and communication of Waste management policies and Waste Minimisation initiatives and partnerships, it requires the proactive participation of all stakeholders.

10.2. Special Provisions for Certain Categories of Waste such as Hazardous and Health Care Risk Waste

- 10.2.1. There are various environmental health and safety issues resulting from the handling and disposal of certain categories of Waste which may have been exposed to or contain hazardous chemical substances or radioactivity.
- 10.2.2. Such contaminated materials may only be disposed of at a landfill site that has a licence for this purpose, once all other statutory requirements have been met that will prevent the exposure of people and the Environment to the associated hazard.
- 10.2.3. Where these types of Waste are to be transported on roads through the district of the EDM, it may only be done in vehicles that are purposefully designed, constructed and fitted according to legal standards and taking into account the public road and environmental safety.
- 10.2.4. Therefore, in line with Waste Minimisation and keeping people and the Environment safe, certain categories of Waste need to be treated, Recycled, transported and disposed of, which services are not provided by the Eden District Municipalities.

- 10.2.5. The EDM therefore must establish an accreditation permit system in terms of which Persons in the private sector may collect or transport or Recycle certain categories of Waste as may be listed by the EDM in their By-Laws.
- 10.2.6. An accreditation permit will be considered on written application by an applicant providing full detail of the applicant and the nature of the Commercial Services it provides or intends to provide within the district of the EDM.
- 10.2.7. The EDM will designate within its administration a Waste Management Officer to adjudicate such applications, provided that such Waste Management Officer will be suitably qualified to adjudicate applications for accreditation permits.
- 10.2.8. To assist in the creation of alternative Waste technology and Recycling infrastructure and to create a continuance, an accreditation so granted will be valid for a period of three (3) years unless further extended by the EDM.
- 10.2.9. The services provided by accredited Service Providers are referred to as "Commercial Services", a term which is defined in the definition clause of this policy.

11. ADMINISTRATIVE ENFORCEMENT

The EDM is committed to comply with national and provincial Waste management requirements and authorisations in terms of law. As a law enforcement agency at local level, the EDM endeavours to ensure enforcement of its Integrated Waste Management By-Laws through appropriately trained Waste Management Officers and Authorised Officials. Offenders will be prosecuted to ensure that the objectives of achieving a clean and healthy Environment within the district of the EDM are met.

This document was signed on the _____ of _____ 20__.

Municipal Manager

Union Representative (SAMWU)

Union Representative (IMATU)