

No. 8,2005

17 March 2005

THE Msunduzi Municipality acting in terms of section 98 of the Local Government: Municipal Systems Act, 2000 (act No. 32 of 2000), read with section 13 of the said Act, hereby publishes the bylaws set forth hereafter, as made by the Municipality, which shall come into effect on the date of publication hereof."

MSUNDUZI MUNICIPALITY

SOLID WASTE BYLAWS

Definitions

1. In these bylaws, unless the context indicates otherwise-

"builder's refuse" means refuse generated by demolition, excavation or building activities on any premises;

"disposal site" means a site used for the accumulation of waste with the purpose of disposing or treatment of such waste;

"domestic refuse" means refuse of a kind normally produced or generated on residential premises but does not include garden refuse, sand, liquid matter, the carcass of any animal or industrial refuse or builders' refuse;

"garden refuse" means refuse generated as a result of normal gardening activities on any premises, including grass cuttings, leaves, plants, hedge clippings and the like, excluding logs, the size of which shall be determined by the Municipality from time to time;

"hazardous waste" means any waste that directly or indirectly represents an immediate or potential threat to human health or to the environment by introducing one or more of the following risks:

- ❖ explosions or fire;
- ❖ infections, pathogens, parasites or their vectors;
- ❖ chemical instability reactions or corrosion;
- ❖ acute or chronic toxicity to animals or human beings;
- ❖ cancer, mutations, tumours or birth defects;
- ❖ toxicity, or damage to the ecosystems or natural resources;
- ❖ accumulation in biological food chains, persistence in the environment, or multiple effects,

so that it requires special attention and cannot be released into the environment, or be added to

sewage, or be stored in a situation which is either open to the air or from which leachate could emanate.

"industrial effluent" means any liquid, either with or without any particles of matter in suspension therein, which is discharged from, or wholly, or in part, produced by or in connection with or as a result of any manufacture, trade, mixing, mining or chemical process or industry carried on in any premises;

"municipality" means The Msunduzi Municipality;

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

"owner" means -

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

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

(c) in any case where the Municipality 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 thirty years or longer, the lessee thereof;

(e) in relation to -

(i) a piece of land delineated on a sectional plan registered in 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;

"person" includes a juristic person such as a registered company or a registered close corporation;

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public has a right of access, and includes-

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"refuse bin" means a receptacle, the size and quality of which shall be approved by the Municipality from time to time, for the temporary storage and removal of refuse;

"refuse container" means a receptacle, which is larger than a refuse bin, the size and quality of which shall be approved by the Municipality from time to time, and supplied by the Municipality or a private

waste service provider for the temporary storage and removal of refuse;

"trade refuse" means refuse generated as a result of commercial or industrial activities from any premises including shops, offices, hotels, restaurants, guest houses and the like and shall include litter and refuse generated by a street trader as defined in the Municipality's Street Trading Bylaws;

"verge" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder of the road, street or thoroughfare.

"waste" means any matter, gaseous, liquid or solid or any combination thereof, including litter, originating from any residential, commercial or industrial area, which-

(a) is discarded by any person;

(b) is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or

(c) is stored by any person with the purpose of recycling, re-using or extracting a usable product from such matter, excluding-

(i) water used in terms of section 21 of the National Water Act, 1998 (Act 36 of 1998); (ii) building rubble used for filling or levelling purposes.

Dumping and littering

2. (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 a 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 stormwater 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 section (2)(1) shall also 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 on any public road or on any 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) (a) Where, in the case of any part of a public road, the Municipality considers that, in order to facilitate the cleaning of such part of the road on a particular day, it is appropriate to prohibit the parking of vehicles in that part of the road during certain hours of such day, the Municipality may give

notice in accordance with the following provisions of this section prohibiting such parking.

(b) Such notice shall specify the particular area, the particular day and the hours in question and shall-

(i) be served on the occupier of any premises adjoining the particular area; and

(ii) be conspicuously displayed at places in the area concerned.

Collection and removal of refuse

3. (1) The Municipality shall, where possible, provide a refuse removal service for all occupied premises within the refuse removal area and the occupier of any premises shall be liable for all charges levied for such service, irrespective of whether or not such service is utilised, and regardless of whether or not the service is provided on a day other than the normal day of collection. Any charges levied for such service shall be prescribed in the Municipality's tariff of charges.

(2) The occupier of premises shall within seven days of the occupation of such premises notify the Municipality in writing that the premises have been occupied and whether the service the occupier requires relates to the removal of domestic, or trade refuse, or a combination of these.

(3) The occupier of any premises shall ensure that all refuse generated on such premises is placed and kept in refuse containers, refuse bins, bags or other receptacles which shall be covered or sealed and retained on the premises until they are removed.

4. (1) On the day which has been determined by the Municipality for a particular area, the occupier of any premises within such area shall, unless directed otherwise by the Municipality, place any refuse bins, bags or other receptacles on the verge immediately outside the boundary of such premises.

(2) No hot ash, unwrapped glass fragments or other refuse which may cause damage to the Municipality's containers or bins, or injury to the persons or vehicles employed in removing refuse from any premises, shall be placed in any containers, bins or bags unless appropriate steps have been taken to avoid any damage or injury.

(3) No material, including any liquid, which by reason of its mass or other characteristics is likely to render any refuse container, refuse bin, bag or other receptacle unreasonably difficult for the Municipality's employees to handle, shall be placed therein.

(4) Every refuse container or refuse bin on or outside any premises shall be covered by means of a lid or other covering so as to prevent any nuisance or health hazard, and any such container or bin shall be kept clean and in an hygienic condition.

5. (1) The Municipality shall determine the capacity of refuse bins, bags or receptacles which shall be utilised by occupiers for refuse removal purposes, or the number of such bins, bags or receptacles and the days on which the service shall operate.

(2) The Municipality, or a private waste service provider, may deliver containers to premises if, having regard to the quantity of refuse generated on the premises concerned, the suitability of such refuse for storage in containers, and the accessibility and adequacy of the space provided by the occupier of any premises for refuse collection vehicles, such refuse would, in the opinion of the Municipality, be more appropriately stored in containers rather than bins.

(3) Any containers delivered by the Municipality, or a waste service provider, in terms of this section shall remain in the ownership of the Municipality or the private waste service provider, as the case may be.

(4) An occupier of premises shall be liable for the replacement or repair costs of lost, stolen or damaged containers at the applicable replacement cost of such containers.

6. (1) An occupier of any premises shall provide sufficient space and any other facilities deemed necessary on such premises for the storage of containers delivered by the Municipality, or a private waste service provider, in terms of section 5(2).

(2) Containers shall-

(a) be placed in such a position on the premises as will allow their storage without their being visible from a public road;

(b) where trade refuse is generated on the premises, be placed in such a position as will allow the collection and removal of such refuse by the Municipality's employees without hindrance, or by a private waste services provider, as the case may be;

(c) be so located as to permit convenient access to and egress from such premises by the Municipality's refuse collection vehicles or by the vehicles of a private waste services provider.

Hazardous waste and industrial effluent

7. (1) Whenever any hazardous waste is stored, generated or treated on any premises, the Municipality may, by written notice served on the owner or occupier of such premises -

(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 owner or occupier fails to comply with the terms of a notice contemplated by this bylaw, 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 owner or occupier.

8. (1) 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.

9. (1) The Municipality may, by written notice served on the owner or occupier of premises on which hazardous waste is generated, stored, treated or disposed of, require such owner or occupier 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.

(2) The owner or occupier 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. [

10. (1) No person shall deliver to, or discharge at, a disposal site, any hazardous waste.

(2) 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.

(3) Any costs 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.

Garden refuse

11. (1) The Municipality may, from time to time, set aside certain sites for the disposal of garden refuse and certain recyclable materials.

(2) The sites referred to in subsection (1) shall be designated by means of notice boards erected at such sites.

(3) Where any refuse referred to in subsection (1) is brought to such site in or on a vehicle, such vehicle shall not be capable of carrying a load in excess of one tonne. |

(4) No person, entering such a site shall deposit any refuse other than that contemplated in subsection (1) in the containers provided at such sites.

(5) No private garden service, or maintenance operator or contractor may enter a site designated by the Municipality for the disposal of garden refuse, unless such operator or contractor enters the site in the course and scope of the business of such operator or contractor.

Builders' refuse, rubble and waste material

12. (1) Where in the opinion of the Municipality, excessive rubble, rubbish, other debris or waste material is allowed to accumulate on a site before or

during building operations, it may, by written notice, order the owner of such site to have such rubble, rubbish, other debris or waste material removed within the period specified in such notice.

(2) Any owner who fails to comply with such notice shall be guilty of an offence and the Municipality may remove such rubble, rubbish, other debris or waste material from such site and may recover the costs of such removal from the owner.

(3) Any person erecting or demolishing any building shall remove any surplus material and matter arising from such erection or demolition from the site and from any other land or public place affected by such material or matter during or after completion of such erection or demolition, failing which the Municipality may, by written notice, order the owner of such building to have such surplus material and matter removed within a period specified in such notice.

(4) Any person who removes any material in terms of (3) above, shall produce to the Municipality a copy of the weighbridge ticket, if the material has been moved to the Municipality's landfill site, or other documentary proof in the event that the material has been removed to some other area or site, indicating the site or area to which the material has been removed.

(5) Any person who fails to comply with a provision of subsection (3) or a notice served on such person in terms thereof, shall be guilty of an offence.

Conduct at disposal or landfill site

13. (1) Every person who, for the purpose of disposing of refuse, enters a landfill site controlled by the Municipality, shall -

- (a) enter the landfill site at an authorised access point indicated as such;
- (b) present the refuse for weighing in the manner required by the Municipality's official having authority at such site;
- (c) give such official all the particulars required in regard to the composition of the refuse;
- (d) provide such official with full information as to the person who is liable to pay the tariff charge for the refuse deposited to enable an account to be rendered to such person;
- (e) ensure that any container brought on to the site shall have its correct tare legibly displayed on both sides;
- (f) follow all instructions given to such person in regard to access to the actual disposal point, the place where and the manner in which the refuse should be deposited.

(2) Any person who contravenes any of the provisions of subsection (1) may be refused entry to, or be removed from, the landfill site.

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

(4) The Municipality may at any time require a vehicle and/or its container to be weighed at a weighbridge on the site.

(5) At any disposal site the official having authority at such site may refuse to accept waste which may, in such official's opinion, have a detrimental impact on the environment, or may accept such wastes subject to such conditions as the official may deem appropriate.

(6) All refuse removed by the Municipality to a disposal site and all refuse on disposal sites controlled by the Municipality shall be the property of the Municipality and no person who is not duly authorised by the Municipality to do so shall remove or interfere therewith.

(7) (a) No person shall cause, or allow, a vehicle under such person's control to remain at a disposal site for longer than is necessary for the discharge of refuse.

(b) If, owing to mechanical failure, a vehicle becomes incapable of leaving a disposal site, the person in charge of such vehicle shall take immediate steps to prevent any obstruction on the site by making arrangements for the removal of the vehicle from the site.

(c) If, for any reason, the person in charge of the vehicle fails to remove the vehicle from the site within a reasonable time, the Municipality's official on duty at the site may take whatever steps the official deems necessary to remove the vehicle from the site so as not to cause further obstruction, at the cost of the owner of such vehicle, and neither the Municipality nor any employee of the

Municipality shall incur any liability to the owner for any loss or damage which may be suffered by the owner as a result of such action.

(8) Any person entering a landfill site for the purposes of disposing of refuse shall, in addition to complying with the above provisions, comply with all conditions stipulated in any permit issued by the

Department of Water Affairs and Forestry.

Access to premises

14. (1) Where the Municipality provides a refuse collection service, the occupier of premises shall grant *the* Municipality access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Municipality in the carrying out of its service.

(2) Where in the opinion of the Municipality the collection or removal of refuse from any premises is likely to result in damage to the premises or to the Municipality's property, or injury to the refuse collectors or any other person, it may, as a condition of rendering a refuse collection service in respect of the premises, require the occupier to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.

Notices and penalties

15. (1) The Municipality may serve a notice on the occupier of any premises, requiring such occupier to clear any waste on such premises in a manner and within a time specified in such notice.

(2) If a person on whom a notice has been served, fails to comply with the requirements imposed by the notice, such person shall be guilty of an offence and liable on conviction to the penalties prescribed from time to time by law.

(3) If a person on whom a notice is served, fails to comply with any requirements imposed by such notice, the Municipality may -

(a) enter on the premises and clear the waste; and

(b) recover from the occupier the expenditure incurred in having done so.

(4) (a) Where on any occasion an authorised officer of the Municipality finds any person who such officer has reason to believe has on that occasion committed an offence under sections 2(1) to (4), he may serve a notice on that person offering such person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(b) Where a person is served with a notice under this section -

(i) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and (ii) such person shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.

(c) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall specify -

(i) the period provided for in subsection 15(4)b(i);

(ii) the amount of the fixed penalty; and

(iii) to whom, and the address at which, the fixed penalty may be paid.

(d) The fixed penalty payable to the Municipality in pursuance of a notice under this section shall be prescribed by the Municipality from time to time.

(5) Any person who contravenes or fails to comply with any provision of these bylaws shall be guilty of

an offence and shall be liable on conviction to a fine or to imprisonment, or to both such fine and imprisonment or to such other penalty as determined by a Court of competent jurisdiction.