

Elias Motsoaledi Local Municipality



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24 October 2017

PUBLIC NOTICE: No EMLM 124 WASTE MANAGEMENT BY-LAW

CALL FOR PUBLIC PARTICIPATION ON DRAFT REFUSE REMOVAL, REFUSE DUMPS AND SOLID WASTE DISPOSAL (WASTE MANAGEMENT) BY-LAW

The Municipal Manager of Elias Motsoaledi Local Municipality acting in terms of section 12(3) (b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) give notice of the proposed Refuse removal, refuse dumps and solid waste disposal (waste management) by-law for the municipality for Public comments.


Public participation is scheduled in different wards as follows:

Date	Venue	Time
07 November 2017	Roosenekal Municipal Hall	10H00
09 November 2017	Groblersdal Municipal Chamber	17H00
14 November 2017	Khumalo Community Hall Hlogotlou	10H00
16 November 2017	ELCSA Church Motetema	10H00
21 November 2017	Miracles Theatre Elandsdoorn	10H00

Hard copies of the proposed (draft) by-law can be obtained from www.eliasmotsoaledi.gov.za: Groblersdal Municipal Office library and at the following municipal satellite offices
Roosenekal Library, Elandsdoorn, Hlogotlou and Motetema municipal satellite office

Comments must be submitted to the Municipal Manager 2nd Grobler Avenue, Groblersdal, 0470; or to Box 48, Groblersdal, 0470: and or can directly drop off comments at municipal main building into the Box marked Comments for Waste Management By-Law: Attention to Ms. M. Mokhulwane.

More information or enquiries can be directed to Mr. Simon Makuwa 072 439 9549 and Mr. T Mthombeni At 078 999 2562 during working hours.


R. M. Maredi
Municipal Manager



DRAFT REFUSE REMOVAL, REFUSE DUMPS AND SOLID WASTE DISPOSAL (WASTE MANAGEMENT) BY-LAW

The Municipal Manager of Elias Motsoaledi Local Municipality hereby acting in terms of section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) publishes the Refuse removal, refuse dumps and solid waste disposal By-Law for the municipality as approved by its council, as set out hereunder:

Preamble

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

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

AND WHEREAS the “Municipality” is committed to ensure that all residents, organisations, institutions, businesses, visitors or tourist and public bodies are able to access services;

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

AND WHEREAS the “Municipality” promotes the waste hierarchy approach as outlined in the National Waste Management Strategy;

BE IT THEREFORE ENACTED by the Council of Elias Local Municipality, as follows:-

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CHAPTER 1

DEFINITIONS AND OBJECTIVES

1. Definitions

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

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

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

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

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

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

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

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

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

“municipality” means Elias Motsoaledi Local Municipality established in terms of section 12 the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

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

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

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

“receptacle” means an approved container having a capacity for temporary storage of waste in terms of this by-laws;

“special industrial waste” special industrial waste” means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste; and

“tariff” means the prescribed charge determined by the Municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of this by-laws;

2. Objectives of this By-law

(1) The objectives of this By-Laws are to –

- (a) give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality's jurisdiction;
- (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework within which the Municipality can manage and regulate waste management activities;
- (c) ensure that waste is avoided or where it cannot be altogether avoided minimised, reused, recycled, recovered and disposed of in an environmental sound manner; and
- (d) promote and ensure an effective delivery of waste services.

3. General duty of care

(1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment and must ensure that:

- (a) waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;
- (b) waste is reduced, reused, recycled and recovered;
- (c) where waste must be disposed of, ensure that the waste is treated and disposed in an environmentally sound manner; and
- (d) waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.

(2) Any person subject to the duty imposed in subsection (1) may be required by the municipality or an authorised official to take measures to ensure compliance with the duty.

(3) The measures referred to in subsection (2) that a person may be required to undertake include:–

- (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
- (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
- (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;

- (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
- (e) eliminate or mitigate any source of damage to the environment; or
- (f) rehabilitate the effects of the damage to the environment.

CHAPTER 2

PLANNING AND INSTITUTIONAL MATTERS

4. Integrated Waste Management Plan (IWMP)

- (1) The “Municipality” shall prepare an Integrated Waste Management Plan (IWMP) which should be adopted by the Council, in which the plan must be incorporated in the Integrated Development Plan in accordance with the provisions of the National Environmental Management Waste Act, 2008 (Act No. 59 of 2008).
- (2) The plan contemplated in sub section (1) may include but not limited to the following:
 - (a) establishing a means of ensuring that waste is collected, reused, recycled or disposed of without causing harm to human health or damage to the environment and in particular without risk to water, air, soil, plants or animals; causing nuisance through noise odours; or adversely affecting rural or urban areas or areas of special interest.
- (3) The plan contemplated in sub section (1) must be establishing an integrated network of waste handling and waste disposal facilities to ensure that -
 - (a) comprehensive and adequate waste services are rendered within the municipality;
 - (b) the disposal of waste occurs at accessible waste disposal facilities;
 - (c) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;
 - (d) it is encouraging the minimisation or reduction of waste;
 - (e) it promote the recovery of waste by means of recycling or re-use through proven alternative technology; and
 - (f) any other object which would enhance sustainable development.

5. Waste Management Officer (WMO)

- (1) The Municipality must, in accordance with section 10(3) of the National Environmental Management Waste Act, 2008 (Act No.59 of 2008), designate in writing a waste management

officer from its administration to be responsible for coordinating matters pertaining to waste management.

- (2) In exercising the power contemplated in subsection (1), the Municipality may adhere to the guidelines set out by the provincial or national department responsible for waste management.

CHAPTER 3

PROVISION OF WASTE SERVICES

6. Storage and receptacles for general waste

- (1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the Municipality.
- (2) Any person or owner of premises contemplated in sub section (1) must ensure that-
- (a) the receptacle is stored inside the yard where applicable, away from the public area when still waiting for collection;
 - (b) on agreed collection date, it should be placed outside the premises in an area accessible;
 - (c) pollution and harm to the environment is prevented;
 - (d) waste cannot be blown away and that the receptacle is covered or closed;
 - (e) measures are in place to prevent tampering by animals;
 - (f) nuisance such as odour, visual impacts and breeding of vectors do not arise;
 - (g) suitable measures are in place to prevent accidental spillage or leakage;
 - (h) receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
 - (i) a receptacle provided by the Municipality is not used for any other purpose other than storage of waste (no hot ash);
 - (j) in cases where a receptacle is damaged or corroded, the owner or occupier must notify the Municipality and arrange for replacement as soon as it comes to their attention;
 - (k) waste is only collected by the Municipality; and
 - (l) in cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.

7. Collection and transportation

- (1) The Municipality shall –
 - (a) only collect waste stored in approved receptacles;
 - (b) set collection day of the week; and
 - (c) collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection.
- (2) Any person transporting waste within the jurisdiction of the Municipality must –
 - (a) ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
 - (b) remove or transport the waste in a manner that would prevent any nuisance or escape of material;
 - (c) maintain the receptacle, vehicle or conveyance in a clean, sanitary condition at all times;
 - (d) not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
 - (e) ensure that waste is transported or deposited at a waste transfer station, recycling facility or disposal facility licensed to accept such waste;
 - (f) ensure that the vehicle is not used for other purposes whilst transporting waste;
 - (g) apply to the Municipality to register as a transporter of waste in accordance with the requirements set out by the Municipality and adhere to all the conditions attached to the registration.

8. Waste transfer stations

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

9. Waste disposal

- (1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the Municipality.
- (2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.

- (3) Any person disposing waste at a Municipal owned disposal site must adhere to the site operational procedures approved by the Municipality.

CHAPTER 4

RECYCLING OF WASTE

10. Storage, separation and collection of recyclable domestic waste

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

CHAPTER 5

WASTE INFORMATION

11. Registration and provision of waste information

- (1) Any person who conducts an activity which has been identified in terms of provincial or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person or activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

CHAPTER 6

PROVISION FOR REGISTRATION OF TRANSPORTERS

12. Requirements for registration

- (1) Any person who transport waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

- (2) The Municipality may, by notice in the provincial gazette, require any person or category of transporters to register and report to the Municipality information as set out in that notice.
- (3) The notice may include but not limited to-
 - (a) the application forms;
 - (b) a prescribed fee;
 - (c) renewal intervals;
 - (d) list of transporters, types and thresholds of waste transported; and
 - (e) minimum standards or requirements to be complied with.

CHAPTER 7

LISTED WASTE MANAGEMENT ACTIVITIES

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

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management Waste Act, 2008 (Act No. 59 of 2008), must upon request by an official of the Municipality, provide proof of compliance with the requirements of a license issued by the competent authority.
- (2) Any person conducting or intending to conduct any activity contemplated in sub section (1) must at least sixty (60) days before commencement, conducting or undertaking such activity, inform the Municipal waste management officer in writing of the intention.

CHAPTER 8: GENERAL PROVISIONS

14. Duty to provide facilities for litter

- (1) The Municipality or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The Municipality or owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are –
 - (a) maintained in good condition;
 - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
 - (c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
 - (d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;

- (e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or unhealthy accumulation of waste; and
 - (f) emptied and cleansed periodically or when full and emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complain.
- (3) In any public place where the receptacle has been placed for depositing off litter, the Municipality may put up notices about littering.

15. Prohibition of littering

- (1) No person may:-
- (a) cause litter;
 - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - (c) disturb anything in or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) allow any person under his or her control to do any of the acts contemplated in paragraphs a, b or c above.
- (2) Notwithstanding the provisions of subsection (1), the Municipality or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

16. Prohibition of nuisance

- (1) Any person handling waste within the Municipality, either through storage, collection, transportation, recycling or disposal must-
- (a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment; and
 - (b) take measures to remedy any spillages, harm, damage or nuisance.
- (2) The Municipality may by written notice, instruct any holder of waste at their own cost to clean any waste causing nuisance to any person or the environment and failure to comply to the notice, the Municipality may clean or remedy waste causing nuisance to any person or the environment at the Municipality's cost and claim such cost from the offender.

17. Burning of waste

(1) No person may:-

- (a) dispose of waste by burning it, either in a public or private place; and
- (b) incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

18. Unauthorised disposal or dumping

(1) No person may:-

- (a) except with the permission of the occupier, owner or of the person or authority having control thereof dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.

19. Abandoned articles

- (1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.
- (2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

20. Liability to pay applicable tariffs

- (1) The owner of premises where the Municipality is rendering waste services contemplated in this By-law is liable for the payment of prescribed tariffs for such services and is not exempted from reduction of such tariffs due to non usage, partial or limited use of such services.
- (2) The Municipality reserves the right to review such tariffs contemplated in sub section (1) on an annual basis.

- (3) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

21. On - site disposal

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

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

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

23. Collection and disposal of bulky waste

- (1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.

- (2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a prescribed tariff provided that the Municipality is able to do so with its refuse removal equipment.

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

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated must ensure that:-
- (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises is promptly retrieved; and
 - (d) pursuant to any instructions from the Municipality, any structure necessary to contain the building waste is constructed.
- (2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
- (3) Should the Municipality provide building waste removal service, it shall be done at a prescribed tariff.
- (4) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (5) Every receptacle, authorised in terms of subsection (4) and used for the removal of building waste, must:-
- (a) have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
- (6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the Municipality.

- (7) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal sites.
- (8) A consent given in terms of subsection (7) shall be subject to the conditions as the Municipality may deem necessary.

25. Special industrial, hazardous or health care risk waste

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

CHAPTER 9: ADMINISTRATIVE MATTERS COMPLIANCE AND ENFORCEMENT

26. Exemption

- (1) Any person may by means of a written application, in which the reasons are given in full apply to the Municipality for exemption from any provision of this by-law.
- (2) The Municipality may:-
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption and provide reasons for alteration or cancellation of any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption and provide reasons for refusal to grant an exemption.
- (3) In order to consider an application in terms of sub-section (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.
- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

27. Appeal

(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-laws, may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) to the municipal manager or delegated official within 21 days of the date of notification of the decision.

28. Offences and penalties

(1) Any person who:-

- (a) obstructs or hinders the Municipality in exercising the powers or performance of functions or duties as outlined in this By-laws; or
- (b) contravenes or fails to comply with any provision of this by-law; or
- (c) fails to comply with the terms of a notice served upon him or her in terms of this by-law shall upon conviction if found guilty of an offence be liable upon conviction to a minimum fine of R500. 00 and not exceeding R10 000 000. 00 or to a period of imprisonment not exceeding six (6) months.

29. Repeal of by-law

(1) Groblersdal Municipality: Refuse (Solid Wastes) and sanitary by-laws published in Provincial gazette Administrator's notice 483 dated 28 April 1982 and any by-law relating to waste management or refuse removal or disposal within the Municipality or disestablished municipality are hereby repealed.

30. Short title and commencement

(1) This by-law is called Elias Motsoaledi Local Municipality Refuse removal, refuse dumps and solid waste disposal By-Law and takes effect on the date of publication in the *provincial gazette*.