

## DRAFT REFUSE REMOVAL BY-LAW

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### Draft Refuse Removal By-Law

The Municipal Manager of Fetakgomo Local Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Refuse Removal By-Law for the Fetakgomo Local Municipality, to be approved by the Council, as set out hereunder.

#### Purpose of By-Law

- To promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the municipality;
- To provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof.

#### Definitions

1. In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, unless the context otherwise indicates: -

"**Bin-Liner**" means a plastic bag, as prescribed by the municipality, which shall be placed inside the container;

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

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

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

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

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

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

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

"**Municipality**" means the Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"**Municipal Service**" means, unless otherwise stated, the provision or supply of water-, sewerage or electricity services;

"**Occupier**" for the purposes hereof means the person who controls and resides on or who controls and otherwise uses immovable property;

"**Owner**" means and includes:

- (a) the person or persons with whom the legal proprietary of any fixed property is vested;

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- (b) the person administering an estate as curator, executor, proxy, trustee or administrator of a person with whom the legal title is vested and who is insolvent or dead or of his mind;
- (c) the agent or persons receiving the rental of a property in cases where the owner as described above is away;
- (d) the usufruct of fixed property, or
- (e) the fiduciaries of fixed property;

"Trade Refuse" means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

### **Domestic refuse removal**

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

### **Use of service compulsory**

3. Every occupier of a property shall make use of the service for the removal and disposal of domestic refuse provided by the municipality in respect of all domestic refuse which emanates from such property.

### **Municipality to remove refuse**

4. No person other than the municipality or person authorised thereto by the municipality shall remove domestic refuse from any property or dispose of it.

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### **Accumulation and removal of domestic refuse**

5. (1) Subject to the provisions of subsection (6) hereunder the municipality may require from every occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the municipality and with a closefitting lid and two handles for die accumulation of domestic refuse.
- (2) If the municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of domestic refuse normally accumulated on such property, require the occupier or occupiers thereof to provide as many containers as it may determine on such property.
- (3) If a container used by an occupier does not comply with the requirements the municipality, it may instruct such occupier to obtain and use some other suitable container.
- (4) The municipality may, where it considers it necessary or desirable, of its own accord supply containers to particular classes of occupiers, or on particular classes of properties, or in particular areas, in which event the cost of such container shall be recovered from the owners of the properties.
- (5) All containers shall be equipped with bin liners, unless the municipality determines otherwise.
- (6) The municipality may, generally or in particular, issue instructions to occupiers on the manner in which or the arrangements according to which refuse or refuse bags shall be placed in containers, be removed therefrom, be tied and thereafter be placed for removal, and any disregard of such instructions shall be considered to be a contravention in terms of this by-law.
- (7) No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers too difficult for the municipality's employees to handle or carry, shall be placed in such bin liners or containers.

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- (8) The containers or bin liners, or both, shall be removed by the municipality at such intervals as the municipality may deem necessary, only if such containers or bin liners, or both, have been put at the prescribed places as provided by the municipality.
- (9) The municipality shall not be liable for the loss of or for any damage to a container or bin liner.
- (10) In any case where the occupier of a property is not also the owner, the municipality may hold the owner himself, instead of the occupier, liable for compliance with the provisions of this by-law.
- (11) The municipality may, in specific cases, impose different directions, other than the use of an 85 litre container.
- (12) The municipality may lay down policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse shall be separated and disposed of.

### **Accumulation of domestic refuse**

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

### **Littering**

- 7. No person shall -

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- (1) throw, drop, deposit or spill any refuse into or onto a public place, street, vacant stand, vacant erf, stream or water-course, or
- (2) sweep any refuse into a gutter on a public place or into any public street.

### **Pavements**

8. It shall be the duty of every owner or occupier of a shop or trade premises to ensure that the pavement in front of or abutting such shop or premises is kept clean and free of refuse or waste material emanating from such shop or premises or resulting from the delivery of goods to such shop or premises or the supply or sale of goods to the public by the occupier of such shop or premises.

### **Garden refuse**

9. (1) Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period. If it has sufficient facilities available, the municipality may in its discretion and on application from the owner or occupier of property remove garden refuse therefrom at the cost of the owner or occupier in which case the municipality may impose certain rules.
  - (2) No garden refuse may be dumped, kept or stored on any sidewalk or vacant ground.

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### **Removal of bulky and industrial refuse**

10. (1) The occupier or, in the case of premises occupied by more than one person, the owner of premises in which bulky or industrial refuse is generated, shall ensure that such refuse is disposed of in terms of this by-law within a reasonable period after the generation thereof.
- (2) Bulky and industrial refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the municipality as a disposal site.
- (3) The municipality does not accept any responsibility for the removal of bulky or industrial refuse.

### **Builder's refuse**

11. Builder's refuse which may have accumulated in the course of the construction, alteration, renovation or demolition of any structure or works shall be removed from the property concerned according to suitable arrangements to be made by the owner of such property. If there is any undue delay in the removal of such refuse after the completion of the works involved, the municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

### **Trade refuse**

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

### **Disposal sites for domestic, garden and builder's refuse**

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13. (1) The municipality periodically sets aside and maintains a place or places where domestic, garden and builder's refuse shall be dumped. Any person dumping domestic, garden and builder's refuse in any other place shall be guilty of an offence.
- (2) The municipality may, from time to time, determine tariffs for the dumping of certain types of refuse.

### **Ownership of refuse**

14. All refuse removed by the municipality 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 with such refuse.

### **Abandoned objects**

15. Anything other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition thereof, reasonably regarded by the municipality as having been abandoned, may be removed and disposed of by the municipality as it may deem fit.

### **Liability**

- 16 (1) Where anything has been removed and disposed of by the municipality in terms of section 15, the person responsible shall be liable to pay the municipality the charge fixed by it for such removal, disposal or custody.
- (2) For the purposes of subsection (1), the person responsible shall be:
- (a) the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time



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when it was abandoned or put in the place from which it was so removed, unless he can prove that he was not concerned in and did not know of its being put in such place, or

- (b) any person by whom the object was put in the place aforesaid, or
- (c) any person who knowingly permitted the object to be put in the said place.

### **Charges and deposit**

17. The charges payable to the municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service shall deposit with the municipality, shall be determined by the municipality.

### **Penalty**

18. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to-
- (1) a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
  - (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
  - (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.