

SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

BY-LAW ON WASTE MANAGEMENT

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Waste Management.

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CHAPTER 1

DEFINITIONS, OBJECTIVES AND PRINCIPLES

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 No. 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 and, unless the context indicates otherwise.

“building waste” includes 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 council or service provider;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“form” means a form approved by the Municipality for the purposes of this By-law;

“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 the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“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” 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-law;

"service provider or contractor" means the person, firm or company whose tender or quotation has been accepted by or on behalf of the Municipality and includes the service provider's or contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

"tariff" means any tariff determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017.

2 Objectives of By-law

The objectives of this By-law 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 Scope of application

(1) This By-law must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

(2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates waste management, the provisions of this By-law shall prevail to the extent of the inconsistency.

4 Principles

(1) Any person exercising a power in accordance with this By-law must; at all times; seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the National Waste Management Strategy, which is promoting waste avoidance and minimisation, waste reuse, recycling and recovery, waste treatment and disposal.

(2) This By-law seeks to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the Municipality's jurisdiction.

(3) This By-law promotes participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.

5 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. In particular, the person 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 or recovered;
- (c) where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
- (d) the 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) eliminating or mitigating any source of damage to the environment; or
- (f) rehabilitating the effects of the damage to the environment.

CHAPTER 2

SERVICE PROVIDERS

6 Service provider and contractor

(1) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.

(2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under this By-law: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.

(3) Any reference in this By-law to “Municipality or service provider” should be read as the “Municipality” if the Municipality has not entered into a service delivery agreement, and should be read as “service provider” if the Municipality has entered into a service delivery agreement.

(4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Municipality and which must-

- (a) accord with the provisions of this By-law;
- (b) be accessible to the public;
- (c) establish the conditions of the service including collection times; and
- (d) provide for the circumstances in which Municipal services may be limited.

CHAPTER 3

PROVISION OF WASTE SERVICES

7 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 subsection (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 the collection date scheduled by the Municipality in accordance with section 8, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
- (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) the receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
- (i) that a receptacle(s) provided by the Municipality is not used for any other purpose other than storage of waste;
- (j) in cases where a receptacle (s) 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 or authorised service provider; 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.

(3) If the waste is not placed outside the premises on the collection date scheduled by the Municipality in accordance with section 8 or in an area accessible to the municipal officials or service providers, the person or owner of premises contemplated in subsection (1) must ensure that he or she does so at the next collection date scheduled by the Municipality or he or she must dispose of such waste at a municipal waste disposal site.

8 Collection and transportation

- (1) The Municipality shall -
 - (a) only collect waste stored in approved receptacles;
 - (b) set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection.
 - (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.

- (d) set the maximum amount of quantities of waste that will be collected;
 - (e) identify waste streams which may not be collected by the Municipality or which are unsuitable for collection; and where such a case exist, advice the owner of alternatives
- (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
 - (c) material;
 - (d) maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
 - (e) not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
 - (f) ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
 - (g) ensure that the vehicle is not used for other purposes whilst transporting waste;
 - (h) 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.

9 Waste transfer stations

Any holder of waste must –

- (a) utilise appropriate waste transfer stations as directed by the Municipality or service provider; and
- (b) adhere to the operational procedures of a transfer station as set out by the Municipality.

10 Waste disposal

(1) Waste generated in the municipal area must be disposed of at a municipal waste disposal site.

(2) Any person disposing waste at a municipal disposal site must adhere to the site operational procedures approved by the Municipality.

CHAPTER 4: RECYCLING OF WASTE

11 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 apply to the Municipality on the form as defined in section 1 of this By-law for approval to undertake such an activity in writing.

(2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in 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 or service provider.

(4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 5: WASTE INFORMATION

12 Registration and provision of waste information

(1) Any person who conducts an activity, which has been identified in terms of provincial and/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 of 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

13 Requirements for registration

(1) Any person who transports 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 tariff as defined in section 1 of this By-law;
 - (c) renewal intervals;
 - (d) list of transporters, types and thresholds of waste transported;
 - (e) minimum standards or requirements to be complied with.

CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES

14 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 licence issued by the competent authority.

(2) Any person conducting or intending to conduct any activity contemplated in subsection (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

15 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;
- (d) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
- (e) emptied and cleansed periodically or when full. The 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 complaint.

(3) In any public place where a receptacle has been placed for the depositing of litter, the Municipality may put up notices about littering.

16 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 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.

17 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;
- (b) take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;
- (c) at their own cost, clean any waste causing nuisance to any person or the environment;
- (d) ensure compliance to the notice contemplated in section 15(3);

(2) 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.

18 Burning of waste

No person may-

- (a) dispose of waste by burning it, either in a public or private place;
- (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.

19 Unauthorised disposal and dumping

(1) No person may 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, 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.

(2) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

20 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.

21 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 tariffs for such services, and is not exempted from or 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 subsection (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.

22 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 subsection (1) on a regular basis.

23 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) If the owner or occupier of the premises wants to have garden waste removed by the Municipality he or she shall put such waste in receptacles approved by the Municipality and may not dump any garden waste outside of his or her premises unless it is in such receptacles.

(3) 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.

(4) The Municipality may, as far 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 a municipal waste disposal site.

(5) At the written request of the owner or occupier of premises the Municipality or service provider 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 an additional tariff.

24 Collection and disposal 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 tariff, provided that the Municipality is able to do so with its refuse removal equipment.

(3) In case a Municipality has been called to remove illegally dumped waste on vacant land, the Municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

25 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 such a service, it shall be done at a 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.

26 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

LAW ENFORCEMENT

27 Appointment of compliance officer

(1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.

(2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.

(3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

28 Powers and functions of a compliance officer

(1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring

compliance with this By-law.

(2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.

(3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:

- (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
- (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.

(4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 27(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.

(5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.

(6) In ascertaining compliance with this By-law, a compliance officer may:

- (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
- (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
- (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
- (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
- (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document,

book, record or written or electronic information in order to make copies or extracts;

- (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
- (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
- (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
- (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
- (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
- (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.

(7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

(8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.

(9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

29 Offences

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (a) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (b) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (c) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (d) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (e) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (f) impersonates a compliance officer;
 - (g) contravenes or fails to comply with any provision of this By-law; or
 - (h) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.

(2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.

(3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

30 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
 - (b) a partnership; and
- such person failed to take reasonable steps to prevent the offence.

CHAPTER 9

GENERAL MATTERS

31 Appeals

A person whose rights are affected by a decision taken by the Municipality in terms of this By-law, 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 the notification of the decision.

32 Exemptions

(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; or
- (c) refuse to grant an exemption.

(3) In order to consider an application in terms of subsection (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 under subsection (2), 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.

33 Short title and commencement

This By-law shall be known as the Senqu Municipality: Waste Management By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.