MADIBENG LOCAL MUNICIPALITY

Draft reviewed Air Quality By-law

Air Quality Management By-Law

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1. Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law and the relevant SANS Standards, shall have the meaning so assigned to it and, unless the context otherwise indicates:

"**Adjacent properties**" means any property within 500m radius from the boundary of the premises;

"**Adverse effect**" means any actual or potential impact on the environment that impairs, or would impair the environment or any aspect of it to an extent that is more than trivial or insignificant;

"**Air Pollution**" means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

"**Air Pollutant**" means any substance included in the definition of "Air Pollution" that causes or may cause air pollution;

"**Atmosphere**" means air that is not enclosed by a building, machine, chimney or other structure enclosing air;

"**Atmospheric emission**" or "emission" means energy or substance or combination of substances emanating from a point, non-point or mobile source that results in air pollution;

"**Air Quality Management Plan**" means a plan referred to in section 15 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

"**Air Quality Officer**" means an officer appointed in terms of section 14 of the Air Quality Act and is also an Authorised person;

"**Activity**" means any action which results in air pollution that has or may have an adverse effect on the environment, including health, social conditions, economic conditions, ecological conditions and cultural heritage;

ambient sound level" means the reading of an integrating sound level meter measured at the measuring point at the end of total period of at least 10 minutes after such integrating sound level meter has been put into corporation, during which period a noise alleged to be a disturbing noise is absent;

"**Authorised person**" means any employee authorised by the municipality to implement any of the provisions of this By-law and in possession of an appointment card issued by the municipality attesting thereto, including any other peace officer;

"**Best practicable means**" means the most effective measures that can reasonably be taken to prevent, reduce or minimize air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and the financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;

"**Biomass**" means a non-fossilized and biodegradable organic material originating from plants, animals and micro-organisms excluding-(a) sewage; and (b) treated or coated wood waste which may contain halogenated organic compounds or heavy metals;

"**Black smoke**" should be interpreted / understood to refer to smoke as dark or darker than shade 4 of the Ringelmann chart, which refers to an equivalent of 80% black;

"**Change**" means any modification which is made to an existing structure, plant, road, land use, procedure, action etc. which may have an effect on the noise generation originating from such an activity related to or connected with the use of such structure, the operation of such plant, the use of such road or railway, such land use, such procedure or such action;

"**Chimney**" means any structure or opening of any kind from or through which an air pollutant may be emitted;

"**Combustible Liquid**" means a liquid which has a close-cap flash point of 38 degrees Celsius or above;

"**Compressed ignition powered vehicle**" means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

"**Constitution**" means the Constitution of the Republic of South Africa Act, 108 of 1996;

"**Continuing offence**" means an offence where the act or omission giving rise to the issuing of a notice has not been repaired, removed or rectified by the expiry of a notice issued in terms of this By-law;

"**Control measure**" means a technique, practice or procedure used to prevent or minimise the generation, emission, suspension and/or airborne transport of air pollutant;

"**Construction activity**" means any commercial or residential construction, highway construction, including land clearing, maintenance, soil or rock excavation or removal, soil or rock hauling, soil or rock crushing, explosive blasting demolition or dismantling of buildings implosion the handling of building materials or mechanized trenching;

"**Council**" means a member of council of the Madibeng Local Municipality;

"**Prescribed**" in relation to a fee, means a fee prescribed by the Madibeng Local Municipality;

"**Dark Smoke**" in respect of any other section other than section 10 (1) of this By-law, should be interpreted / understood to refer to smoke as dark or darker than Shade 2 of the Ringelmann chart, which refers to an equivalent of 40% black;

RINGELMANN SMOKE CHART

"**Defined area**" means a particular extent of space or surface or one serving a special function as declared by the Municipality.

"**Design capacity**" means capacity as installed;

"**District**" means Bojanala Platinum District Municipality

"**Disturbing noise**" means a specific noise level that exceeds either the outdoor equivalent continuous day/night rating level, the outdoor equivalent continuous day rating level and/or the outdoor equivalent continuous night rating level for the particular neighbourhood indicated as the outdoor ambient noise in various districts in SANS 10103;

"**Directive**" means an instruction issued by the delegated authority for a person to perform or cease to perform certain activities in order to prevent any detrimental effect on air quality, health or the environment"

"**Director**" means the Director of the Madibeng Local Municipality responsible for environmental management matters:

"**Dust**" means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere; and includes dust from mine dumps;

Environment" means the surroundings within which humans exist and that are made up of -

(a) the land, water and atmosphere of the earth;

(b) micro-organisms, plant and animal life;

(c) any part or combination of (a) and (b) and the interrelationships among and between them; and

(d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"**Erect**" means alter, convert, extend or re-erect;

"**Exempted vehicle**" means a vehicle listed in Annexure-A of SANS 10281;

"Flammable gas" means a gas which at 20 degrees Celsius and a standard pressure of 101.3 kilopascals-

(a) is ignitable when in a mixture of 13% or less by volume with air; or

(b) has a flammable range with air of at least 12% regardless of the lower flammable limit;

"**Flammable liquid**" means a liquid or combustible liquid which has a close-cap flash point of 93
degrees Celsius or below;

"**Flammable substance**" means any flammable liquid, combustible liquid or flammable gas;

"**Flue-burning equipment**" means any furnace, boiler, incinerator, or other equipment, including a chimney with a design capacity equal to 50 Kw but less than 50MW net heat input, capable of burning biomass, solid, liquid and/or gaseous fuels or a combination thereof, with:

NHI = Mf x NCV / (3.6x 106)
Where, NHI refers to the Net Heat Input expressed in MW;
Mt refers to the Mass flow rate of the fuel expressed in kg /hour;
NCV refers to the Net Calorific Value of the fuel expressed in kJ/kg;
With:

NCV = GCV - 2442 x (H20 in fuel + 9 x H2 in fuel)
Where, GCV refers to the Gross Calorific Value expressed in kJ/kg (Air dried basis for solid fuels);

H2O in fuel refers to the Total moisture in the fuel, expressed as a Mass fraction (As fire condition);

H2 in fuel refers to the Total hydrogen in the fuel including hydrocarbons, expressed as a Mass fraction (Obtained from the ultimate analysis of the fuel);

"**Fumes**" means any pungent or toxic vapour, gas, or smoke including but not limited to diesel fumes, spray painting fumes and exhaust fumes;

"**light absorption meter**" means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

"**Measuring point**" relating to:

(a) a piece of land from which an alleged disturbing noise emanates, or may emanate, means a point in or outside the property projection plane where an alleged disturbing noise shall be measured, or calculated in accordance with the provisions of SANS 10103;
(b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise shall be measured, or calculated in accordance with the provisions of SANS 10103; and
(c) a stationary vehicle means a point as described in SANS 10181 where a measuring microphone shall be placed;

"**Mobile source**" means a single identifiable source of atmospheric emission which does not emanate from a fixed location;

"**MEC**" means the Member of the Executive Council of Department of Economic Development, Environment, Conservation and Tourism in the province;

"**Minister**" means the Minister of Environment, Forestry and Fisheries;

"**Municipality**" means the Madibeng Local Municipality and includes any political structure, political office bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 200) or any other law, as the case may be, or any employee

thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated, to such political structure, political office bearer, agent or employee;

"**Municipal manager**" means a person appointed as such by the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

"**National Framework**" means the National Framework for Air Quality Management in the Republic of South Africa, as published in terms of section 7(1) of the AQA;

"**NEMA**" means the National Environmental Management Act, 1998 (Act No 107 of 1998);

"**NEM: AQA**" means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

"**Noise nuisance**" means any sound, which disturbs or impairs or may disturb or impair the convenience or peace of any reasonable person;

"**Non-exempted vehicle**" means a vehicle not listed in Annexure-A to SANS 10281;

"**Non-point source**" means a source of atmospheric emissions which cannot be identified as having emanated from a single identifiable source or fixed location, and includes veld, forest and open fires, mining activities, agricultural activities and stockpiles;

"**Nuisance**" means an unreasonable interference or likely interference caused by air pollution which has an adverse impact on:

(a) The health or well-being of any person or living organism;
(b) The use and/or enjoyment by an owner or occupier of his or her property and/or environment; and
(c) Interferes with the ordinary comfort, convenience, peace and quiet of any person or living organism.

"**Organic Material Burning**", for the purposes of this By-law, this means the burning of veld, farm or forest Organic Material;

"**Offensive Odour**" means any smell that is considered to be a nuisance to the reasonable person.

"**Open burning**" means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, excluding the burning of sugar cane;

"**Operator**" means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

"**Pave**" means to apply and maintain concrete or any other material which provides the same or similar effect to a road surface;

"**Pest**" means an injurious, noxious or troublesome living organism;

"**Pesticide**" means a micro-organism or material that is used or intended to be used to prevent, destroy, repel or mitigate a pest and includes herbicides, insecticides, fungicides, avicides and rodenticides;

“**Point source**” means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;

"Premises" means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotives, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council;

"**Property projection plane**" means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;

“**proclaimed township**” means any land unit zoned and utilized for residential purposes;

“**Person**” means a natural person or a juristic person:

"**Public road**" means a road which the public has a right to use;

“Organ of state” has the meaning assigned to it in section 239 of the Constitution;

“Owner and/or operator” means any person who owns, leases, operates, control or supervises an activity that has a potential to generate fugitive dust;

"**Raw Materials**" mean materials or substances used in the primary production or manufacturing of a good;

"Recreational vehicle" means-

a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
b) a model aircraft or vehicle;
c) any aircraft of helicopter used for sport, recreational or business purposes;
d) a vessel used for sport on water; or
e) any other conveyance vessel or model which is used for sport or recreational purposes.

"**Repair notice**" means a notice as referred to in section 10 (6), regarding the re-testing of vehicle;

"**Rubber product**" means anything composed of rubber including anything containing or coated with rubber;

"**SANS 10103**" means the latest edition of Standards South Africa publication No. 10103 titled: “The measurement and rating of environmental noise with respect to land use, health, annoyance and to speech communication" as amended from time to time or its corresponding replacement;

"**SANS 10181** means the latest edition of Standards South Africa publication No. 10181 titled: "The measurement of noise emitted by road vehicles when stationary", as amended from time to time or its corresponding replacement;

"**SANS 10281**" means the latest edition of Standards South Africa publication No. 10281 titled: "Engine speed (S values), reference sound levels and permissible sound values of stationary road vehicles", as amended from time to time or its corresponding replacement;

"**SANS 10328**" means the latest edition of Standards South Africa publication No. 10328 titled: "Methods for environmental noise impact assessments", as amended from time to time or its corresponding replacement;

"**Smoke**" means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes soot, grit and gritty particulates emitted in smoke;

“**Specialist study**” means any scientifically based study relating to air quality conducted by an expert or recognised specialist of appropriate qualifications and competency in the discipline of air quality management;

“**Spray area**” means an area or enclosure referred to in section 24 used for spray painting, and “**spray both**” has a corresponding meaning;

"**Use**" in relation to all-terrain vehicles includes driving, operating or being conveyed by that vehicle;

"**Vehicle**" means any motor car, motor carriage, motorcycle, bus motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

2. Objectives

(1) The objectives of this By-law are-

(a) give effect to the rights contained in section 24 of the Constitution of the Republic of South Africa by controlling and managing air pollution 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 activities that have a potential to adversely impact the environment, public health and wellbeing of any persons or living organisms; and

(c) ensure that air pollution is avoided, or where it cannot be altogether avoided, mitigated or minimised.

(2) Any person exercising a power under this By-law must exercise such power in order to give effect to the objectives as set out in subsection (1) above.

3. **Application**

(1) This By-law must be read with any applicable provisions of the National Environmental Management: Air Quality Act, 2004, National Framework for Air Quality Management in the Republic of South Africa and Bojanala Platinum District Municipality Air Quality Management By-laws.

(2) In the event of any conflict with any other By-laws which directly or indirectly, within the jurisdiction of the municipality, regulates air pollution, the provisions of this By-law shall prevail to the extent of the inconsistency.

4. **Air Pollution Duty of Care**

(1) Any person who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring must take all reasonable measures:

(a) to prevent any potential air pollution from occurring; and

(b) to mitigate, as far as reasonably possible, any air pollution that may occur.

(2) The municipality may monitor the impact and effectiveness of the measures taken in terms of subsection (1) and, if necessary, issue directives to a person contemplated in subsection (1) with regard to specific measures to be undertaken.

(3) The municipality may direct any person in writing who fails to take the measures required under subsection (1)-

(a) To investigate, evaluate and assess the impact of specific activities and report thereon;

(b) To commence taking specific reasonable measures before a given date;

(c) To diligently continue with those measures; and

(d) To complete them before a specified reasonable date.

(4) Prior to making such a decision as contemplated in subsection (3), the municipality must give the affected person adequate opportunity to inform the municipality of their relevant interests and the municipality may consult with any other organ of state.

(5) Should a person fail to comply, or inadequately comply, with a directive under subsection (3), the municipality may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.

(6) Provided such person failed to take the measures required of him under subsection (3), the municipality may recover costs for reasonable remedial measures to be undertaken under subsection (5) above, before such measures are taken and all costs incurred as a result of it acting under subsection (5) from any person who is or was responsible for, or who directly or indirectly contributed to the air pollution or the potential air pollution from any or all of the following persons:

(a) Any person who is or was responsible for, or who directly or indirectly contributed to the air pollution or the potential air pollution;

(b) the owner of the land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
(c) the person in control of the land or any person who has or had a right to use the land at the time when the-

(i) activity or the process in question is or was performed or undertaken; or
(ii) situation came about; or
(d) any person who negligently failed to prevent the-

(i) activity or the process being performed or undertaken; or

(ii) situation from coming about.

(7) No person may-

a) unlawfully and intentionally or negligently commit any act or omission which causes or is likely to cause air pollution; or
b) refuse to comply with a directive or any notice issued under subsection (2).
(8) In dealing with air pollution matters, the Council must –

(a) adopt a cautious and risk adverse approach; and
(b) take into account the interests of future generations.

(9)Any person who fails to comply with a directive referred to in 4(3) commits an offence in terms of Chapter 4 of this By-Law.

CHAPTER 2

DESIGNATION OF THE AIR QUALITY OFFICER AND ENVIRONMENTAL MANAGEMENT INSPECTORS

5. Designation or appointment of the Air Quality Officer and Environmental Management Inspectors

(1) The Council, after consultation with the Head of Department responsible for Environmental Services, designate or appoint an employee of the municipality as the Air Quality Officer to be responsible for co-ordinating matters pertaining to air quality management in the municipality.

(2) The Executive Mayor may request the MEC responsible for environment in the Province to appoint the air quality officer as an Environmental Management Inspectors in terms of section 31C of the NEMA.

(3) The air quality officer shall, under the directions of the Council, exercise the duties and powers assigned to him under this by-law.

6. Duties and functions of the Air Quality Officer and Environmental Management Inspectors

(1) The air quality officer must

a) co-ordinate the development of Air Quality Management Plan for inclusion in the Integrated Development Plan of the municipality, in accordance with Chapter 5 of the Municipal Systems Act.

b) prepare an annual report of the municipality on air quality;

c) exercise the duties and powers assigned to him or her under this By-law under the directions of the Municipal Manager:

d) submit the annual report referred to in subsection 1 (b) to the Air Quality Officer appointed by the MEC responsible for environment in the province.

(2) The annual report referred to in subsection (1) (b) must, amongst others, include the progress of the municipality towards the implementation of the Air Quality Management Plan.

(3) The Air Quality Officer may require the holder of a provisional atmospheric emission licence or the holder of an atmospheric emission licence to designate an emission control officer as provided for in section 48(1) of the Air Quality Act, 2004 (Act No. 39 of 2004).

(4) For the purpose of compliance monitoring, the designated Environmental Management

Inspector must exercise the powers set out in sections 31G to 32L of the NEMA.

(5) The Environmental Management Inspectors may request from any polluter that significantly contributes or is likely to contribute to poor air quality, ambient and isokinetic monitoring and any other air quality related study, programs or reports to be conducted by recognised and competent third party, at the cost of the polluter

CHAPTER 3

LOCAL EMISSION STANDARDS, MOTOR VEHICLE EMISSIONS, FUEL BURNING APPLIANCES AND CONTROLLED ACTIVITIES

Part 1

Local Emission Standards

7 Identification of Substances and Development of Local Emission Standards

(1) The Council may, by notice in the Provincial Gazette, identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being of the people in the municipality or which the municipality reasonably believes present such a threat.

(2) in respect of each of those substances or mixtures of substances, establish local standards for emissions from point, non-point or mobile sources in the municipality.

(3) The municipality may apply the criteria when identifying and prioritising the substances in ambient air that present a threat to public health, well-being or the environment:

(a) The possibility, severity and frequency of effects, with regard to human health and the environment as a whole, with irreversible effects being of special concern;

(b) Widespread and high concentrations of the substance in the atmosphere;

(c) Potential environmental transformations and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other uncertainties;

(d) Persistence in the environment, particularly if the substance is not biodegradable and able to accumulate in humans, the environment or food chains;

(e) The impact of the substance taking the following factors into consideration:

i. Sizes of the exposed population, living resources or ecosystem.
ii. The existence of particular sensitive receptors in the zone concerned.

(4) The Council shall take the following factors, as identified in paragraph 5.4.3.1 of the National Framework, into consideration in setting local emission standards:

(a) Health, Safety and environmental protection objectives;

(b) Analytical methodology;

(c) Technical feasibility;

(d) Monitoring capability;

(e) Socio-economic consequences;

(f) Ecological role of fire in vegetation remnants; and

(g) Best practicable environmental option.

(5) Any person who is emitting substances or mixtures of substances as referred to in subsection (1) must comply with the local emission standards published in terms of this By-law and the failure to do so constitutes an offence in terms of chapter 4 of this By-law.

8. **Local Emission Standards Setting Process**

(1) The municipality must, following the identification of the substances as set out in subsection (1) above, formally request the South African Bureau of Standards, to develop local emission standards for the identified substances.

(2) The South African Bureau of Standards, in accordance with its processes, will develop and recommend, to the municipality, local emission standards for the identified substances.

(3) When developing the standards, the following standards setting process is applicable:

(a) Identify the critical factors for public health impact;

(b) Identify sensitive sub-population;

(c) Review available databases for public health status;

(d) Review available databases for ambient air quality information; and

(e) Review and assess international guidelines and standards.

(4) The South African Bureau of Standards, when developing the emission standards, must also consider the criteria for setting local emission standards as set out in section 7(1) of this by-law.

9. **Consequences of identification**

(1) Any person emitting those substances or mixture of substances must comply with the emission standards established in terms of section 7 (3) above.

(2) Any person who fails to comply with the emission standards established in terms of section 7(3) of the By-law commits an offence and is liable to a penalty.

10. **Public Participation Process**

For the purposes of the publication of the local emission standards, the municipality must follow the Public Participation Process as set out in section 13 of the Municipal System Act, 2000.

Part 2

Motor Vehicle Emissions, Fuel burning appliance, Small Furnace, Small Incinerators and Controlled Activities

11. **Emission from compressed ignition powered vehicle**

Prohibition of emission of smoke

(1) No person may drive a vehicle on a public or private road or any premises if it emits dark smoke at a level of 40% or more in terms of the Ringelmann smoke chart;

(2) if the dark smoke is emitted at a level of 40% in contravention of subsection (11) (1) above the owner and driver of the vehicle shall each be guilty of an offence.

(3) For the purpose of this section, “dark smoke” means -

(i) smoke which has a density of 60 Hart ridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density 66 Hart ridge smoke units or more; or

(ii) smoke which has a light absorption co-efficient of more than 2.125 nr^1, provided that in relation to emissions from turbocharged compressed ignition powered engines, it means a light absorption co-efficient of more than 2.51 nr^1;

(4) (a) For the purpose of enforcing the provision of section 11, an authorised person may:

(aa) stop the vehicle; and

(bb) instruct that driver to give all assistance required for the purpose of the inspection and testing of that vehicle.

(b) When a vehicle has stopped in compliance with a direction given under subsection (3)(a) the authorised person may:

(I) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:

(aa) at or as near as practicable to the place where the direction to stop the vehicle is given; and

(bb) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction.

Stopping of Vehicles for Inspection

(5) In order to enable an authorised person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorised person:

i. To stop the vehicle; and

ii. To facilitate the inspection or testing of the vehicle.

(6) Failure to comply with a direction given under subsection (11) (5) is an offence.

(7) When a vehicle has stopped in compliance with a direction given under subsection (11)(5), the authorised person may:

a. Inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out;

i. At or as near as practicable to the place where direction to stop the vehicle is given; and

ii. as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or

b. conduct a visual inspection of the vehicle and, if the authorised person reasonably believes that an offence has been committed under subsection (11) (6), instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with subsection (11) (8).

Testing procedure

(8) An authorised person must use the following method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section (11)(1)above:

i. when instructed to do so by the authorised person, the driver of the vehicle must start the vehicle, place it in neutral gear and engage the clutch;
ii. while the vehicle is idling, the authorised person must conduct a visual inspection of the emission system of the vehicle;

iii. when instructed to do so by the authorised person, the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle, provided that the authorised person may do so himself or herself if the driver fails or refuses to comply with the authorised person's reasonable instructions;

iv. while the throttle pedal is depressed, the authorised person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;

v. the driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches required test revolutions, or when directed to do so by the authorised person.

(9) If, having conducted the free acceleration test, the authorised person is satisfied that the vehicle:
a. Is not emitting dark smoke, then the authorised person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of subsection (11)(1); or
b. Is emitting dark smoke, the authorised person must issue the driver of the vehicle with a repair notice in accordance with subsection (11) (10).

Repair notice

(10) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(11) the repair notice must contain, amongst others, the following information:

(i) the make, model and registration number of the vehicle;

(ii) the name address and identity number of the driver of the vehicle; and
(iii) if the driver of the vehicle is not the owner of the vehicle, the name and address of the vehicle owner.

(12) it shall not be a defence in proceedings under subsection (11) (11) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.
(13) A person commits an offence and is liable to a penalty if that person fails:

(i) to comply with the repair notice referred to in subsection (10);

(ii) to take the vehicle for re-testing as referred to in subsection (10);

(14) If the owner of the vehicle fails to take the vehicle for re-testing as referred to in subsection (10), then the authorised person must issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

12. **Prohibition of dark smoke from premises**

1. Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three (3) minutes during any continuous period of thirty (30) minutes.
2. No person shall emit or permit the emission of dark smoke so as to cause a nuisance.
3. This section does not apply to dark smoke which is emitted from fuel-burning equipment while such equipment is being started, overhauled or repaired , unless such emission could have been prevented using the best practical environmental option.
4. Subsections (1) and (2) do not apply to holders of atmospheric emission licences for activities listed in terms of section 21 of the Air Quality Act, and the emission standards listed in such atmospheric emission licences shall apply.

12. Fuel burning appliance, Small furnaces and Small incinerators

(1) No person may install, alter, extend, replace or operate any fuel burning appliance, small furnace and/or small incinerator on any premises without the prior written authorisation of the municipality, which may only be given after consideration of the relevant plans, specifications and any applicable emission standards set for controlled emitters that have been determined in terms of section 24 of the NEM: AQA. In case when two or more appliances (capable of burning biomass, solid, liquid and/or gaseous fuels or a combination thereof) with a combined thermal input of between 150 KW to 50MW net heat inputs are installed or proposed on site, a permit to operate such appliance must be obtained from the municipality.

(2) Application for an authorisation to operate a fuel burning appliance, small furnace and/or small incinerator shall be made on a schedule form.

(3) No rights accrue to any person who has applied for written authorisation in terms of subsection (1) during the interim period whilst the application is under consideration.

(4) Where a fuel-burning appliance, small furnace and/or small incinerator has been installed, altered, extended or replaced on premises in contravention of subsection (1) -

a) the owner and/or occupier of the premises and the installer of the fuel burning appliance, small furnace and/or small incinerator are guilty of an offence;

b) the municipality may, on written directive to the owner of the premises order the removal of the small boiler, furnace and/or incinerator from the premises at the expense of the owner and within the period stated in the directive after having been given reasonable time to remove it.

c) Impose a fine not exceeding R100 000 before considering an application for written authorisation in terms of subsection (1).

(5) In considering an application submitted in terms of subsection (1), the Air Quality Officer may require the applicant to furnish such information as the Air Quality Officer may require.

(6) After considering the application submitted in terms of subsection (1), the municipality must either-

(a) grant an application and issue a permit, subject to any conditions that may be imposed; or
(b) refuse an application with reasons.

(7) The authorisation issued in terms of subsection (1) above must specify

(a) the product name and model of the small boiler;
(b) the premises in respect of which it is issued;
(c) the person to whom it is issued;
(d) the period for which the authorisation is issued;
(e) the name of the municipality;
(f) the periods at which the authorisation may be reviewed;
(g) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere;
(h) any other operating requirements relating to atmospheric discharges, including non-point source emission measurement and reporting requirements; and
(i) any other matters which are necessary for the protection or enforcement of air quality.

(8) when ownership of fuel-burning equipment which has been approved by the Municipality is transferred to a new owner, the new owner must apply for written authorisation to use such equipment in terms of subsection (1).

(9) Fuel-burning equipment must comply with the emission standards as contained in schedule 1 of this By-law.

Transitional arrangements in respect of other Fuel-burning appliance, small furnaces and/or incinerators.

(10) (a) Despite the Fuel burning appliance, small furnaces and/or incinerators within the municipality not previously required to be authorised in terms of any By-laws, any person operating such Fuel burning appliance, small furnaces and/or small incinerators which now falls within the ambit of this By-law, at the commencement date of this by-law, must apply for an authorisation as required by section 12 of this by-law.

(b) No person may use or operate any fuel-burning equipment on any premises contrary to a written authorisation referred to in section 12(1).

(c) Where fuel-burning equipment has been used or operated on a premises contrary to subsection (1), the authorised official may on written directive to the owner of the premises or operator of the fuel-burning equipment –

i. Revoke the written authorisation referred to in subsection (1); and
ii. Order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator within the period stated in the directive.

(d) If any person fails to comply with subsection (10) (b), then continuing to operate the fuel-burning fuel, small furnace and small incinerators without a valid written authorisation is an offence.

(e) in the event that the owner of the premises or operator of the fuel-burning equipment fails to comply with a directive issued in terms of subsection (10)(c), the authorised official may remove the fuel-burning equipment from the premises, and recover the reasonable costs incurred from the owner or operator in question.

Atmospheric impact reports

(11) An air quality officer may require any person to submit to the air quality officer an atmospheric impact report in a prescribed form if-

a. The air quality officer reasonably suspects that the person has on one or more occasions contravened or failed to comply with this by-law or any conditions of a permit and that such contravention or failure has had, or may have, a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, or has contributed to the degradation of ambient air quality; or

b. A review of a provisional atmospheric emission permits or an atmospheric emission permit is undertaken in terms of section 39.

13. Periodic Emissions Testing

(1) The authorised official may order the owner of the premises or operator of any fuel-burning equipment capable of burning fuels to conduct periodic emissions testing in accordance with the methods prescribed in **Schedule 2** of this By-law.

14. Presumption

(1) Dark smoke shall be presumed to have been emitted from a premises if it shown that any fuel or material was burned on the premises, and that the circumstances were such that the burning was reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, can show that no dark smoke was emitted.

(2) Where an authorised official has observed fuel-burning equipment emitting particulate emissions; or dark smoke for a period of greater than 3 minutes in every aggregated half an hour, the authorised official may issue a compliance directive ordering the operator or owner to immediately cease the operation of the fuel-burning equipment until such time that the fuel-burning equipment has been repaired to the satisfaction of the authorised official.

(3) Failure to comply with an order issued in terms of subsection (2) shall constitute an offence.

15. Installation and operation of obscuration measuring equipment

1) An authorised official may give directive to any operator of fuel-burning equipment, or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if –

a. Unauthorised and unlawful emissions of dark smoke from the premises in question have occurred consistently and regularly over a period of at least two days;

b. Unauthorised and unlawful emissions of smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;

c. Fuel-burning equipment has been, or is intended to be, installed on the premises in question is reasonably likely to emit dark smoke.

d. The person on whom the directive is served has been convicted or paid an admission of guilt fine on more than one occasion in the preceding two years for a contravention committed under this chapter or any previous by-law dealing with air quality matters and has not taken adequate measures to prevent further contravention of the provisions of this chapter; or

e. The authorised official considers that the nature of the air pollutants emitted of the relevant premises is reasonably likely to pose a risk to human health or the environment.

16. Monitoring and sampling

1. An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 15(1) must –

a. Record all monitoring and sampling results and maintain a copy of this record for at least five years after obtaining the results;

b. If requested to do so by an authorised official-

i. Produce the record of the monitoring and sampling results for inspection; and

ii. Provide a written report, in a form and by a date specified by the authorised official, of part or all of the information in the record of the monitoring and sampling results.

17. Temporary exemption

(1) Subject to **section 25** and upon receipt of a fully motivated application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Municipality may grant a temporary exemption in writing from one or all the provisions of this chapter.

(2) Any exemption granted under subsection (1) must state at least the following:

a) A description of the fuel-burning equipment and the premises on which it is used or operated;

b) The reasons for granting the exemption;

c) The conditions attached to the exemption, if any;

d) The period for which the exemption has been granted; and

e) Any other relevant information.

(3) The Municipality may not grant a temporary exemption under subsection (1) until it has:

a) Taken reasonable measures to ensure that all persons whose rights may be detrimentally affected by the granting of the temporary exemption, including adjacent land owners or occupiers, are aware of the application for temporary exemption and how to obtain a copy of it;

b) Provided such persons with a reasonable opportunity to object to the application; and

c) Duly considered and taken into account any objections raised.

18. Dust emission

(1) Any person who conducts any activity or omits to conduct any activity which causes or permits dust emissions into the atmosphere that may be harmful to public health and well-being or is likely to cause a nuisance to persons residing or present in the vicinity of such land, activity or premises shall adopt the best practical environmental option to the satisfaction of the authorised official, to prevent and abate dust emissions.

(2) An authorised official may require any person suspected of causing a dust nuisance to submit a dust management plan within the time period specified in the written directive.

(3) The dust management plan contemplated in subsection (2) must:

a) Identify all possible sources of dust within the affected site;

b) Detail the best practicable measures to be undertaken to mitigate dust emissions;

c) Detail an implementation schedule;

d) Identify the person responsible for implementation of the measures;

e) Incorporate a dustfall monitoring plan; and

f) Establish a register for recording all complaints received by the persons regarding dustfall, and for recording follow up actions and responses to the complaints.

(4) The authorised official may require additional measures to be detailed in the dust management plan.

(5) The dust management plan must be implemented within a time period specified by the authorised official in a written directive.

(6) Failure to comply with the provisions of this section constitutes an offence.

Construction activities

(7) A person who engages in or carries out any construction activity or operation on any land or premises is guilty of an offence, unless that person complied with other applicable legislation and has notified in writing the owners and occupiers of all adjacent properties of:
a. All known details of the proposed construction activity or operation;
b. The right of owners and occupiers of adjacent properties to lodge written objections to the proposed construction activity or operation with the Council within fourteen days of being notified; and
c. The prescribed fee has been paid to the Council.
(8) The provisions of this section are not applicable to:
a) Landscaping activities by a person at his place of residence;
b) emergency maintenance activities on publicly maintained roads, road shoulders and rights of way;
c) unpaved roads having vehicular traffic of less than 200 vehicles per day; this provision is limited to private roads
d) non-commercial and non-institutional private driveways;
e) horse trials, hiking paths, bicycle paths or other similar paths; and
f) any other path that has been designated as an exclusive use area for purposes other than travel by motor vehicle;
g) fuel burning appliances, small furnaces and small incinerators since they are regulated under section 12 of this By-law.

Unpaved roads

(9) Owners and/or operators of unpaved roads must implement reasonable control measures to prevent excessive emissions of dust into the atmosphere that may be harmful to public health and well-being.
(10) Owners and/or operators must implement one or more of the following control measures:
a. Pave;
b. The use of dust palliatives or dust suppressants;
c. Uniformly apply and maintain surface gravel; and/or
d. Any alternative control measure approved in writing by the air quality officer.
(11) Any person subject to the requirements of this section shall compile and retain records of any control measures implemented including:
a. The type of control measure;
b. The extent of coverage; and/or
c. The date applied.
(12) Copies of the records required in subsection 18(10) above shall be retained for a period of five years.
(13) The provisions of this section are not applicable to:
a. Unpaved roads having vehicular traffic of less than 150 vehicles per day;
b. Non-commercial and non-institutional private driveways;
c. Horse trails, hiking paths, bicycle paths or other similar paths; and/or
d. Any other path that has been designated as an exclusive use area for purposes other than travel by motor vehicle.

Mobile Sources

(14) No vehicle is allowed to transport dust generating materials, without covering the material with a tarpaulin on public roads;
(15) Vehicles to remove all excess dust on body, before using public roads
(16) Failure to comply with subsection (14) and (15) will be guilty of an offence.

Vacant lots

(17) Owners and/or operators of vacant lots of which have 1 square kilometre or more of disturbed surface area and remain unoccupied, unused, vacant or undeveloped for a period of more than ninety days must implement reasonable control measures to prevent excessive emissions into the atmosphere that may be harmful to health and well-being.

(18) Owners and/or operators must implement one of the following control measures:

a. Erect physical barriers and signs to prohibit access to the disturbed areas by motor vehicles;
b. The use of ground covers;
c. The use of dust palliatives or dust suppressants;
d. Re-vegetation which is similar to adjacent undisturbed native conditions, and/or
e. Any alternative control measures approved in writing by the air quality officer.

Unpaved parking areas

(19) Owner and/or operators of unpaved parking lots on which more than 100 vehicles or 20 trucks are parked for more than 150 days per year must implement reasonable control measures to prevent excessive emissions into the atmosphere that may be harmful to public health and well-being.

(20) Owners and/or operators must implement one of the following control measures:

a. Pave;
b. Apply dust palliatives or dust suppressants;
c. Uniformly apply and maintain surface gravel, and/or
d. Any alternative control measure approved in writing by the air quality officer.

19. Emission Caused by open burning

(1) A person who carries out or permits open burning of any material on any land or premises are guilty of an offence and is liable to a penalty, unless

(a) the prior written authorisation of the Council has been obtained, which authorisation may be granted by the municipality with conditions; and

(b) that person has notified in writing the owners and occupiers of all adjacent properties of:

(i) All known details of the proposed open burning; and

(ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and

(iii) the prescribed administrative fee that has been paid to the Council.

(2) The Council may not authorise open burning:

(a) unless it is satisfied that the requirements set out in subsection (1) above have been adequately addressed or fulfilled;

(b) where a warning under section 10(1) (b) of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) has been published for the region; and

(c) where fire breaks in tends to be made in accordance to the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998).

(3) The provisions of this section shall not apply to:

(a) recreational outdoor activities on private premises; and

(b) controlled fires in dwellings for purposes of heating any area within the dwelling, cooking, heating water and other domestic purposes.

20. Emissions Caused by Burning of Industrial Waste, Domestic Waste and Garden Waste

A person who carries out or permits the burning of any industrial, domestic or garden waste, on any land or premises, for the purpose of disposing of that waste, is guilty of an offence and is liable to a penalty unless the industrial, domestic or garden waste is legally disposed of in terms of section 20 of the Environmental Conservation Act, 1989 (Act No. 73 of 1989) or section 26 the National Environmental Management: Waste Act, 2008 (At No. 59 of 2008)

21. Emissions Caused by Tyre Burning and Burning of Rubber Products and Cables in Open Spaces

1. No person may carry out or permit the burning of any tyres, rubber products, cables or any other products, on any land or premises for the purposes of recovering the scrap metal or fibre reinforcements, or of disposing of tyres, of the rubber products or cables as waste.
2. Any person who contravenes subsection (1) is guilty of an offence.

22. Organic materials burning

(1) Any person who burns organic material shall comply, in addition to the burning requirements provisions of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998), with the following control measures:

(a) The prior written authorization of the municipality has been obtained, which authorization may be granted by the municipality with conditions; and

(b) That person has notified in writing the owners and occupiers of all adjacent properties of:

(i) The details of the proposed area to be burned;
(ii) The reason for the organic material burning;
(iii) the date and approximate time of the organic material burning;
(iv) in the event of inclement weather conditions, an alternative date or dates on which the organic material burning may occur;
(v) the right of owners and occupiers of adjacent properties to lodge

written objections to the proposed organic material burning with the municipality within 7 days of being notified; and
vi) the prescribed administrative fee that has been paid to the municipality.

(2) The municipality may not authorize organic material burning:

(a) unless it is satisfied that the requirements set out in subsection (1) above have been adequately complied with; and

(b) where a warning notice in terms of section 10(1) of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) has been published for the region.

(3) The provisions of this section are not applicable to any defined area to which the municipality may declare.

23. Pesticide Spraying Emissions

(1) No person may carry out or permit the spraying of a pesticide, herbicide or other related material unless such pesticide, herbicide or material is registered in terms of section 3 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(2) Any person who contravenes subsection (1) of this by-law is guilty of an offence, as set out in section 18(1)(c) of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(3) A person who carries out or permits the spraying of pesticides, herbicide or other related material either by tractor or aerial, within the area of jurisdiction, must comply with the following control measures:

(a) the prior written authorisation of the municipality has been obtained, which authorisation may be granted by the municipality with conditions, including:

(i) the area of land on which the pesticides, herbicide or other related material may be applied; and

(ii) the time in which the pesticides, herbicide or other related material may be applied.

(b) that person must notify in writing the owners and occupiers of all adjacent properties of the treatment area of:

(i) the details of the proposed treatment area;
(ii) the reason for the pesticides, herbicide or other related material use;
(iii) the active ingredient of pesticides, herbicide or other related material;
(iv) the date and approximate time of the pesticides, herbicide or other related material use;
(v) in the event of inclement weather conditions, an alternative date or dates on which the pesticide use may occur;
(vi) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
(vii) the right of the owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the municipality within 7 days of being notified; and
(viii) proof of the application fee that has been paid to the Council.

(4) Any person who contravenes subsection (3) is guilty of an offence.

(5) A person may apply to the Council for an exemption if the spraying of the pesticide is for;

(a) the management of pests that transmit human diseases or adversely impact agriculture or forestry;
(b) the management of pests that threaten the integrity of sensitive ecosystems; or
(c) the need for the use of the pesticide is urgent in the opinion of the applicant.

(6) The provisions of this section are not applicable to:

(a) residential areas of farms;
(b) buildings or inside buildings and the domestic use of pesticides; or

(c) any other defined area or defined activity to which the municipality has declared this section not to apply.

24. Spray Painting Emissions

(1) No person shall, within the municipality's jurisdiction, spray, coat, plate, or epoxy-coat any vehicle, article, object or allow them to be sprayed, coated, plated or epoxy-coated with any flammable substance outside the approved spray painting room or booth. In cases where the size of the article or object to be sprayed cannot be sprayed within the designated spraying room or booth, a temporal structure (i.e. tent, net etc.) must be instituted in order to prevent and/or minimize the escape of spraying particles to the atmosphere.

(2) No person may spray, coat, plate or epoxy-coat any vehicle, article, object, or building or part thereof or allow them to be sprayed, coated, plated, or epoxy-coated with any flammable substance unless-

(a) that person is in a possession of a spraying permit contemplated in subsection (1) above;

(b) the spraying, coating, plating or epoxy-coating as the case may be is conducted in a spraying room approved by the designated Fire Officer, in consultation with the Air Quality Officer, on premises registered for that purpose.

(3) Any person who wishes to obtain a spraying permit must complete and submit to the designated Fire Officer an application form for such permit in the form and manner as prescribed.

(4) The designated Fire Officer may cancel the spraying permit if there is reason to believe that the holder of the spraying permit contravenes or fails to comply with any provision of this By-law.

(5) Subject to subsection (6) below, before the designated Fire Officer cancels the spraying permit as contemplated in subsection (4), that Officer must-

(a) give the holder of the spraying permit written notice of the intention to cancel the spraying permit and the reasons for such cancellation;

(b) give the holder a period of at least 21 days to make written representations regarding the matter to the municipality.

(6) If the designated Fire Officer has reason to believe that the failure to cancel the spraying permit may endanger any person, that officer may cancel the spraying permit without prior notice to the holder as contemplated in subsection (4) above and furnish the holder of the spraying permit with written notice of the cancellation;

(7) If the designated Fire Officer cancels the spraying permit in terms of subsection (6) above, that officer must-

(a) give the holder of the spraying permit a period of at least 21 days to make written representations regarding the matter to the municipality

(8) The provisions of this section are not applicable to:

(a) small scale spray painting of any articles, objects and structures excluding spraying of vehicles taking place on any residential areas or properties;

Design and construction of spraying rooms

(9) Every spraying booth must be designed and constructed according to the following criteria:

(a) every window frame must consist of steel with window panels –

(i) that cannot be opened;

(ii) that do not exceed 450 millimetres x 450 millimetres in size; and

(iii) that are fitted with wire glass with a thickness not less than 8 millimetres;

(b) if based on a brick and concrete construction –

a. the floor must consist of concrete;
b. the walls must consist of brick or concrete;
c. the roof must consist of reinforced concrete; and
d. every door must consist of a Class B-type fire doors as contemplated in SABS 1253; and

(c) if based on a metal structure –

(i) the framework of the structure, including door assemblies must consist of a sturdy steel profile with a minimum wall thickness of 2.5 millimetres;

(ii) the framework of the entire structure, including any door, must be clad on both sides with sheet metal with a minimum thickness of 1.3 millimetres;

(iii) the framework of the entire structure must be fume-proof, flame-proof and liquid proof;

(iv) the floor must consist of concrete or metal;

(v) all material used must have a fire integrity grading of at least 60 minutes; and

(vi) the structure must be constructed, installed and finished so that all surfaces are smooth in order to prevent any furring which may hamper ventilation, washing or cleaning of spraying room.

Water floors for spraying rooms

(10) Every spraying room which is designed and constructed with a sunken water floor must be designed and constructed so that –

a. The water is covered at the level of the sill by a sturdy, stable, non-combustible and corrosion-free floor grill capable of bearing the weight of every person and object in the spraying room; and
b. The water in the sunken water floor is circulated through an effective non-combustible and cleanable filtering system by a closed circuit pump circulation system consisting of non-corrosive metal pipes of suitable diameter and wall thickness.

Electrical equipment in spraying rooms

(11) Any electrical apparatus, light, fitting and switch gear installed or used in a spraying room must be installed and used in accordance with SABS 0108.

(12) Any switch gear, distribution box, fuse and other electrical equipment, except equipment as contemplated in SABS 0108 must;

a. Be located outside the spraying room; and
b. Be positioned so as not to come into contact with fumes from the spraying room.

(13) Any switch for the mechanical ventilation system of a spraying room must be situated outside the spraying room.

(14) Any metal part and electrical fitting and any other device used in, or in connection with the spraying room, must be earthed effectively with each other and the ground.

(15) Every electrical installation in a spraying room may be installed only by a suitably qualified electrician who must –

a. Certify in writing that the installation complies with all applicable legal requirements; and
b. Furnish the certificate to the owner or person responsible for the premises concerned.

(16) The owner or person responsible for the premises on which the spraying room is located must submit the certificate contemplated in subsection (15) to the Chief Fire Officer without delay.

Location of spraying rooms

(17) The owner, occupier and person in charge of a spraying room must ensure that there is an escape opening between the spraying room and any other activity, process or area on the premises concerned;

a. Of at least 1200 millimetres wide; and
b. That must at all times be kept free of any obstruction, refuse or combustible material.

(18) If any other activity or process which may pose a fire hazard is conducted adjacent to a spraying room on any premises, the escape opening contemplated in subsection (17), must be clearly identified by a fire partition wall;

a. Of a height at least 300 millimetres higher than the roof of the spraying room; and
b. With a fire resistance of at least 60 minutes.

Access to spraying rooms

(19) In addition to any door for the access of motor vehicle or other objects to any spraying room, every spraying room must have at least two hinged doors for escape purposes that;

a. Open to the outside of the spraying room;
b. Have dimensions of at least 800 millimetres wide x 2000 millimetres high;
c. Are positioned on opposite sides of the spraying room so that the distance to be covered to any door when any object is in the spraying room for spraying does not exceed 4 metres; and
d. Are fitted with a locking mechanism that is at all times capable of being opened from the inside of the spraying room without the use of a key.

Ventilation of spraying rooms

(20) Every spraying room must be equipped with a mechanical inlet and outlet ventilation system designed and installed;

a. So that ventilation of at least 0.5 metres per second is provided across the spraying room;
b. With vanes consisting of static-free material;
c. So that it releases fumes into the open air from outlets that are not located within 5 metres of any opening or erf boundary;
d. With ventilators that are attached firmly to the inside walls of the spraying room with bottom ventilators affixed as close as possible to the level of the sill;
e. With ventilation and air duct openings installed in opposite walls, doors or the roof so as to ensure effective cross-ventilation; and
f. With ducting materials that is fitted with a fire damper and covering of at least 120 minutes fire resistance where the ducting material exists the spraying room, if ducting material is installed external to the spraying room in communication with the remainder of the building concerned.

Fire dampers, protectors and alarms in spraying rooms

(21) A fire damper manufactured and installed in accordance with SABS 193, must be affixed in front of any air purification filter or part of such filter on the inside of any spraying room.

(22) The fire damper must;

a. Be capable of closing automatically by means of a suitably located sensor that is activated by a rise of more than 10°C in the predetermined working temperature inside the spraying room;
b. Be installed so that it will remain in position even if the air duct distorts during a fire; and
c. Be equipped with an overriding fusible link.

(23) The ventilation system must be equipped with a sensor that;

a. Is capable of turning off the ventilation system and any heating device used in connection with the spraying room, in the event of a fire or a rise of more than 10ºC in the predetermined working temperature inside the spraying room; and
b. Activates a visual and audible alarm inside and outside the spraying room in an event contemplated in paragraph (a).

Design and positioning of ventilation outlets for spraying rooms

(24) Every outlet opening from a spraying room must be designed and positioned to release fumes from the spraying room into the open air at least;

a. 1 metre above any roof on the premises;
b. 4 metres above the ground level; and
c. 5 metres from any opening of a building situated on or adjacent to the spraying room.

Display of signs on spraying rooms

(25) A symbolic sign prohibiting open flames and smoking must be affixed to the inside and the outside of every door of a spraying room.

(26) Any symbolic sign contemplated in subsection (25), must be;

a. Manufactured and installed in accordance with SABS 1186; and
b. Of dimensions at least 290 millimetres by 290 millimetres.

25. Sand blasting, Rock crushing and concrete mixing emissions

(1) Any person conducting sand blasting, rock crushing and concrete mixing activities which customarily produce emissions of dust and/or smoke or unacceptable level of smoke that may be harmful to public health, well-being and /or cause a nuisance shall take control measures to prevent emissions into the atmosphere.

(2) Any person who undertakes any sand blasting, rock crushing and concrete mixing activity that causes dust, and/or smoke or unacceptable level of smoke emissions must implement the following control measure:

(a) Dust extraction and/or dust suppressant control measure; or

(b) Any alternative dust control measure approved in writing by the Air Quality Officer.

26. Noise Pollution Management

Prohibition of disturbing noise

(1) A person shall not cause a disturbing noise, or allow it to be caused by any person, animal, machine, device, vehicle, recreational vehicle, apparatus or any combination thereof.

Prohibition of noise nuisance

(2) No person shall-

(a) Operate or play, allow to be operated or played, a radio, television set, drum, musical instrument, sound amplifier, loudspeaker system, or similar device producing, reproducing or amplifying sound so as to cause a noise nuisance.
(b) Allow an animal owned or controlled by him or her to cause a noise nuisance.

(c) Build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, or object including construction vehicles on or near residential premises, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, if this may cause a noise nuisance.
(d) Erect a building or structure on residential premises or allow it to be erected if this may cause a noise nuisance, unless permission is granted by the municipality to conduct normal building operations.
(e) Use or discharge any explosive, firearm or similar device that emits impulsive sound and may cause a noise nuisance, or allow it to be used or discharged, except with the prior consent in writing of the municipality and subject to such conditions as the municipality may deem necessary.
(f) On a piece of land or in water or in airspace above the piece of land designated by the municipality for recreational purposes, by means of a notice in the press –
(i) Move about on or in a recreational vehicle:

(ii)Exercise control over a recreational vehicle; or

(iii) As the owner or person in control of the piece of land, water or airspace, allow such activity to take place, if this may cause a noise nuisance.

(g) Except in an emergency, emit a sound, or allow a sound to be emitted by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance
(h) Drive vehicle on a public road in such a manner that it may cause a noise nuisance
(i) Use any power tool or power equipment used for construction purposes, drilling, crushing or demolition work, or allows it to be used, in or near a residential area if it may cause a noise nuisance, unless permission was granted by the municipality to conduct normal construction or repair work.

27. Music, Open-Air Music Festivals, Shows, Inclusive of Air Shows and Similar Gatherings

(1)
(a) No person may stage any open-air entertainment festival, such as, a show, an air show, music festival or similar gathering without compliance with the Major Events Act, 2010 (Act No. 2 of 2010).
(b) if any music causes or may cause a noise nuisance or a disturbing noise, the municipality may instruct in writing that such music be discontinued until such conditions as the municipality may deem necessary have been complied with.
(c) Subject to the provisions of subsection (b) above and the applicable provisions of any other law, the municipality may attach any instrument used to generate music if the sound level of such exceeds the sound level referred to in subsection (a) above and no permission has been obtained.
(d) An instrument attached under subsection (c) above shall be kept in safe custody by the municipality.
(e) The municipality may lift the attachment contemplated in subsection (c) above if the owner or person in control of the instrument has applied for permission in terms of subsection (a) above.
(f) This subsection is not applicable to:
(i) Churches

(ii) Schools
(iii) Other education facilities; or
(iv) Any other defined area or activity to which the municipality has declared this subsection not to apply

General prohibitions

(1) A person is guilty of an offence when s/he –
(a) Fails to comply with a written condition, instruction or notice issued by the municipality in terms of the noise pollution management section of this By-law
(b) Tampers with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or noise placed in a position by or on behalf of the municipality;
(c) In respect of a duly authorised person of the municipality -
i. Fails or refuses to grant admission to such official to enter and to inspect the premises;
ii. Fails or refuse to give information which may lawfully be required of him or her to such official;
iii. Hinders or obstruct such official in the execution of his or her duties; or
iv. Gives false or misleading information to such official knowing that it is false or misleading.

General Powers of the municipality

(1) The municipality

(a) For the purposes of applying the noise pollution management section of this By-law, at any reasonable time enter premises upon reasonable noise
a. To conduct any appropriate examination, injury or inspection thereon as it may deem expedient; and
b. To take any steps it may deem necessary.

(b) If a noise emanating from a building premises, vehicle, recreational vehicle or private area is a disturbing noise or noise nuisance or may in the opinion of the authorised person be a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible for the infringement, or the owner or occupant of such building, premises, vehicle, recreational vehicle or private area from which or from where such noise emanates or may emanate, or all such persons to discontinue or cause to be discontinued such noise or to take steps to lower the level of such noise to a level conforming to the requirements of this By-law within the period stipulated in the instruction: Provided that the provisions of this By-law shall not apply in respect of a disturbing noise or noise nuisance caused by rail, vehicles or air traffic or on a public road, by vehicles that are not used as recreational vehicle.
(c) If the owner or person in charge of an animal fails to comply with an instruction referred to in subsection (2) (b) above, subject to the applicable provisions of any other law, impound or cause to be impounded such animal.
(d) Impose such appropriate conditions as it deems fit when granting any permission or exemption, including the specification of times and days when activities that may cause noise are permitted or prohibited.
(e) Subject to the applicable provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within

the municipality's jurisdiction for the enforcement of the provisions of this By-law: Provided that road traffic signs and notices shall be on private property only with the permission of the owner.

28. Emissions that cause a Nuisance

Prohibition

(1) Any occupier and/or owner of premises from which a nuisance emanates, or where a nuisance exists, commit an offence and are liable to a penalty

Abatement notice

(2) An Air Quality Officer may serve an abatement notice on any person, whom the authorised person reasonably believes is likely to commit or has committed an offence in terms of this By-law, calling upon that person:

(a) To abate the nuisance within a period specified in the notice;
(b) To take all necessary steps to prevent a recurrence of the nuisance; or
(c) To comply with any other conditions contained in the notice.

(3) For the purpose of subsection (2) above, an authorised person may form a reasonable belief based on his own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the abatement notice is to be served.

(4) An abatement notice under subsection (2) above may be served:

a. Upon the owner of any person, by -
i. Handing it to the owner, or if the owners cannot be traced or is living abroad that person's agent;
ii. Transmitting it by registered post to the owner's last known address, or the last known address of the agent; or
iii. Handing it to the address where the premises are situated, if the owner's address and the address of the agent are unknown.
b. Upon the occupier of the premises, by
i. Handing it to the occupier;
ii. Transmitting it by registered post to the occupier at the address at which the premises are situated.
(5) Any person who fails to comply with an abatement notice served on that person in terms of subsection (2) above is guilty of an offence.
(6) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (5) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

Steps to abate nuisance

(7) After been notified at any time, the municipality may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover the actual costs so incurred from the person responsible for causing the nuisance.

29. Offence and Penalties

This section shall only apply if the municipality decides to take any person/s to a Court of Law. In other instances, spot or administrative fines shall apply.

(1) Any person who -
(a) contravenes or fails to comply with any provision of sections that are listed in a table below;

AIR POLLUTION BY-LAW

SCHEDULE OF OFFENCES AND CRIMES

Number	Section Contravened	Description of Offence	Proposed Fine	Approved
1	4 (1) (a)	Not taking all reasonable measures to prevent potential air pollution from occurring	R 50 000	
2	4 (1) (b)	Not taking all reasonable measures to mitigate and, as far as reasonable possible, to remedy air pollution that has occurred	R 50 000	
3	11 (2)	Driving/using, or causing to be driven or used, a compresses ignition powered vehicle that emits dark smoke	R2000	
4	11 (6)	Not complying with reasonable direction given by an authorized person to stop the vehicle and to facilitate the inspection/testing of the vehicle.	R500	
5	11 (13) (1)	Failing to comply with a repair notice	R3000	
6	12 (1)	Installation and/or operation of a fuel burning appliances on premises without prior written authorization from the Municipality	R100 000	
7	18 (1)	Not taking all reasonable steps to prevent nuisance by dust caused by any activity on premises.	R25 000	
8	18 (14)	Transport dust generating materials, without covering the material with a tarpaulin on public roads	R 1500	
9	18 (15)	Vehicle not cleaned of excess dust on the body	R 500	
9	19 (1) (a)	Carrying out open burning of material on premises without prior written authorization of the municipality	R25 000	
10	21(2)	Tyre burning and burning of rubber products and Cables in an open space	R25 000	
11	23(1)(2)	Spraying of pesticides, herbicide or other related material not registered in terms of section 3 of the Fertilizers, Farm	R2500	

		feeds, Agricultural Remedies and Stock Remedies Act, 1947 (No. 36 of 1947)		
12	23(4)	Any person who contravenes with the controlled measures that are listed on section 23 (3) (a) and (b) is guilty of an offence	R1500	
13	24(2)(a)	Illegal commencement with an activity requiring any permit from the Council in terms of this By-law	R200 000	
14	28(1)	Creating or permitting emissions that cause a nuisance	R 2000	
15	28(5)	Any person who fails to comply with an abatement notice served on that person in terms of section 28(2)(a-c) is guilty of an offence	R2000	
16	32(5)	Any person who undertakes an emission generating activity without permit is guilty	R100 000	

CHAPTER 4

PERMITING OF FLUE BURNING APPLIANCE

30. Establishment of Air Quality Management Permitting System

The Council hereby establishes an air quality permitting management system.

31. Purpose of the Air Quality Management Permitting System

(1) The purpose of the air quality management permitting system is to –
i. Identify and register all sources of air pollution in the municipal area;
ii. Regulate and ensure compliance with the permit conditions;
iii. Gather information for the purposes of compiling the municipality's air quality management plan, as contemplated in section 15 of the AQA;
iv. Undertake strategic planning; and
v. Provide information to any person in order to-
1. Facilitate monitoring of the performance of the municipality, and if applicable, the holder of permit;
2. Stimulate research by acknowledged institutions; and
3. Assist the municipality to achieve the main objectives of this by-law.

32. Application for Atmospheric Emission Permits

(1) No person shall undertake an emission generating activity, without an atmospheric emission permit.
(2) An application for an atmospheric emission permit must be:
i. Made in writing on the prescribed form published in terms of schedule 2 of this by-law;
ii. Accompanied by documents or information as may be required by the municipality; and
iii. On payment of the prescribed application fee.
(3) The municipality must on receipt of an application for an atmospheric emission permit;

i. Acknowledge receipt, within fourteen days, of the application form;
ii. Acknowledge receipt, within fourteen days, of the payment of the prescribed fee;
iii. Check whether the application is properly completed and contains the information required in the applicable form; and
iv. Is accompanied by the required information or documents required in terms of this by-law.

(4) Before considering an application made in terms of subsection (2), the municipality may require the applicant to furnish additional information and/or specialist study,

(5) Any person who undertakes an emission generating activity without an atmospheric emission permit is guilty of an offence and is subject to the penalties as set out on this by-law.

33. Factors to be taken into Account

(1) The municipality must, consider each application having regard to the following factors;

i. Any applicable minimum standards set for ambient air and point source emissions that have been determined in terms of the AQA and this by-law;
ii. The pollution, being or likely to be caused by the carrying out of the emission generating activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality;
iii. The best practicable environmental options available that could be taken-
1. to prevent, control, abate or mitigate that pollution; and
2. to protect the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality, from harm as a result of that pollution;
iv. any relevant tradable emission scheme;
v. whether the applicant is fit and proper person as contemplated in section 34;
vi. the applicant's submissions;
vii. any submissions from organs of state, interested persons and the public;
viii. any guidelines issued by Council relating to the performance by the permitting authorities of their functions;
ix. compliance with the AQA and this by-law, where relevant; and
x. the environmental, health and safety record of the applicant.

34. Criteria for fit and proper persons

In order to determine whether a person is a fit and proper person for the purposes of an application in terms of this Chapter, a permitting authority must take into account all relevant facts, including whether-

(a) That person has contravened or failed to comply with this by-law, the AQA, the Atmospheric Pollution Prevention Act or any other legislation applicable to air quality;
(b) That person has held a provisional atmospheric emission permit, an atmospheric emission permit or other authority that has been suspended or revoked;
(c) That person has been a director or senior manager who is or was a director or manager of a company or firm to whom paragraph (a) or (b) applies; and
(d) The management of the emission generating activity which is the subject of the application will or will not be in the hands of a technically competent person.

35. Decisions

(1) After considering the application in terms of section 32 of the by-law, the municipality must, within sixty days, either –

i. Approve the application by issuing an atmospheric emissions permit, subject to such conditions as the municipality may impose; or
ii. Reject the application.

(2) If the municipality fails to grant or rejects an atmospheric emission permit within ninety days after considering the application in terms of section 32 of the by-law, it must inform the applicant of the date by which a decision will be made to grant or reject the application.

36. Terms and Conditions of the Atmospheric Emission Permit

(1) When issuing an atmospheric emission permit, the municipality may, impose reasonable conditions, as it may deem necessary;

(2) Atmospheric emission permit issued under this section must –

i. Comply with section 37 of this by-law;
ii. Contain a requirement that the permit holder must comply with, and ensure compliance by his employees, agents and subcontractors, with this by-law and other applicable national and/or provincial legislation; and
iii. Require the permit holder to submit emission reports as required in terms of this by-law.

37. Contents of provisional atmospheric emission permit and atmospheric emission permits

(1) A provisional atmospheric emission permit and an atmospheric emission permit must specify –

i. The activity in respect of which it is issued;
ii. The premises in respect of which it is issued;
iii. The person to whom it is issued;
iv. The period for which the permit is issued;
v. The name of the permitting authority;
vi. The periods at which the permit may be reviewed;
vii. The maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere –
1. Under normal working conditions; and
2. Under normal start-up, maintenance and shut-down conditions;
viii. Any other operating requirements relating to atmospheric discharges, including non-point source or fugitive emissions;
ix. Point source emission measurement and reporting requirements;
x. On-site ambient air quality measurement and reporting requirements;
xi. Penalties for non-compliance;
xii. Greenhouse gas emission measurement and reporting requirements; and
xiii. Any other matters which are necessary for the protection or enforcement of air quality.

(2) A permit may –

i. Specify conditions in respect of odour and noise;
ii. Require the holder of the permit to comply with all lawful requirements of an air quality officer carrying out his or her duties in terms of this by-law, including a requirement that the holder of the permit must, on request, submit to the inspector a certified statement including-
1. The extent to which the conditions and requirements of the permit have or have not been complied with;
2. Particulars of any failure to comply with any of those conditions or requirements; and
3. Any action taken, or to be taken, to prevent any recurrence of that failure or to mitigate the effects of that failure.

38. Transfer of provisional atmospheric emission permit and atmospheric emission permit

(1) If ownership of an activity for which a provisional atmospheric emission permits or an atmospheric emission permit was issued is transferred, the permit may, with the permission of a permitting authority, be transferred by the holder of the permit to the new owner of the activity.

(2) (a) A person applying for permission for the transfer of a permit must lodge the application with the permitting authority of the area in which the listed activity is carried out;

(b) The application must be in the form required by the permitting authority.

(3) An applicant for the transfer of a permit must be accompanied by-

i. The prescribed processing fee; and

ii. Such documentation and information as may be required by the permitting authority.

(4) (a) an applicant must take appropriate steps to bring the application for the transfer of an atmospheric emission permit to the attention of interested persons and the public;

(b) such steps must include the publication of a notice in at least two newspapers circulating in the area in which the emission generating activity applied for is carried out-

(i) describing the reasons for the transfer of an atmospheric emission permit;

(ii) giving particulars of the emission generating activity, including the place where it is carried out;

(iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and

(v) containing such other particulars as the permitting authority may require.

(5) When considering an application for the transfer of a permit, the permitting authority must take into account all relevant matters, including whether the person to whom the permit is to be transferred is a fit and proper person as contemplated in section 34.

39. Review of provisional atmospheric emission permit and atmospheric emission permits

(1) A permitting authority must review a provisional atmospheric emission permit or an atmospheric emission permit at intervals specified in the permit, or when circumstances demand that a review is necessary.

(2) The permitting authority must inform the permit holder and the air quality officer, in writing, of any proposed review and the reason for such review.

(3) For purposes of the review, an air quality officer may require the permit holder to compile and submit an atmospheric impact report.

40. Variation of Provisional atmospheric emission permit or Atmospheric Emission Permit

(1) A permitting authority must review a provisional atmospheric emission permit or atmospheric emission permit, vary the permit-

i. If it is necessary or desirable to prevent deterioration of ambient air quality;

ii. If it is necessary or desirable for the purposes of achieving ambient air quality standard;

iii. If it is necessary or desirable to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands;

iv. At the written request of the holder of the permit;

v. If it is transferred to another person in terms of section 38; or

vi. If it is reviewed in terms of section 39.

(2) The variation of a permit includes-

i. The attaching of an additional condition or requirement to the permit;

ii. The substitution of a condition or requirement;

iii. The removal of a condition or requirement; or
iv. The amendment of a condition or requirement.

(3) If a permitting authority receives a request from the holder of a permit in terms of subsection (1)(iv), the permitting authority must require the holder of the permit to take appropriate steps to bring the request to the attention of relevant organs of state, interested persons and the public if-

i. The variation of the permit will authorise an increase in the environmental impact regulated by the permit;
ii. The variation of the permit will authorise an increase in atmospheric emissions; and
iii. The proposed variation has not, for any reason, been the subject of an authorisation in terms of any other legislation and public consultation.

(4) Steps in terms of subsection (3) must include the publication of a notice in at least two newspapers circulating in the area in which the emission generating activity authorised by the permit is, or will be, carried out-

i. Describing the nature and purpose of the request;
ii. Giving particulars of the emission generating activity, including the place where it is or will be carried out;
iii. Stating a reasonable period within which written representations on or objections to the request may be submitted, and the address or place where representations or objections must be submitted; and
iv. Containing such other particulars as the permitting authority may require.

(5) No building, plant or works used by a permit holder shall be materially extended, altered or added to and no changes in process, procedures or significant production increases that will significantly alter impacts may be undertaken without the prior approval of the municipality.

41. Renewal of provisional atmospheric emission permits and atmospheric emission permits

(1) A provisional atmospheric emission permit or an atmospheric emission permit may, on application by the holder of the permit, be renewed by a permitting authority.

(2) The holder of a permit must before the expiry date of the permit apply for the renewal of the permit to the permitting authority of the council in which the emission generating activity is carried out, by lodging to the permitting authority an application in the form required by the permitting authority;

(3) An application for renewable of a permit must be accompanied by-

i. The prescribed processing fee;
ii. Proof that the relevant local air quality officer has been notified of the application; and
iii. Such documentation and information as may be required by the permitting authority.

(4) The holder of a provisional atmospheric emission permit may not apply for the renewal of the provisional permit more than once.

42. Emission control officers

(1) An air quality officer may require the holder of a provisional atmospheric emission permit or an atmospheric emission permit to designate an emission control officer, having regard to the size and nature of the emission generating activity for which the permit was granted.

(2) An emission control officer must have requisite air quality management competence in respect of the emission generating activity in question, and must-

i. Work towards the development and introduction of cleaner production technologies and practices;

ii. Take all reasonable steps to ensure compliance by the holder of the permit with the permit conditions and requirements; and
iii. Promptly report any non-compliance with any permit conditions or requirements to the permitting authority through the most effective means reasonably available.
(3) Nothing in this section affects the obligations and liability of the holder of a permit to comply with the conditions and requirements of the permit.

43. Cancellation of Provisional Atmospheric emission permit or an atmospheric emission permit

The person must on cessation of operations notify the municipality of the decommissioning of the plant.

CHAPTER 5

GENERAL MATTERS

44. Compliance Monitoring

For the purposes of compliance monitoring, the designated municipal environmental management inspectors must exercise the powers as set out in sections 31G to 31L of the NEMA, as amended.

45. Compliance directive

1) An authorised official may serve a compliance directive on any person whom he or she reasonably believes is likely to act contrary to, or has acted in contravention of the By-law, calling upon that person –
a) To comply with the relevant section of the By-law
b) To take all necessary steps to prevent a recurrence of the non-compliance; and
c) To comply with any other conditions contained in the notice.
2) A compliance directive under section (1) may be served –
a) Upon the occupier, manager or owner of any premises, by –
i. Delivering it to the occupier, manager or owner or, if the owner cannot be traced or is living abroad, the agent of the owner;
ii. Transmitting it by registered post to that last known address of the owner or the last known address of the agent; or
iii. Delivering it to the address where the premises are situated, if the address of the owner and the address of the agent are unknown;
3) Failure to comply with a compliance directive constitutes an offence.

46. Enforcement

(1) The Municipality may appoint so many authorised person/s as it may consider necessary to be responsible for compliance and enforcement monitoring of this by-law;

(2)The authorised person/s shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
(3) The municipality may develop enforcement procedures which should take into consideration any national or provincial enforcement procedures.

47. Appeals

(1) Any person may appeal against any decision taken by an authorised person under this By-law by giving written notice of the appeal are stated, to the municipal manager within thirty days of the date on which that person receives notification of the decision;
(2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the municipality provides otherwise;
i. Must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
ii. May not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may have accrued either.
(3) Within ten days of receipt of the notice of appeal, the municipal manager must;
i. Submit the notice of appeal to the Council;
ii. Take all reasonable measures to ensure that all persons, whose rights may be significantly detrimentally affected by the granting of the appeal application, including any persons registered as interested and affected parties, are notified in writing of the notice of appeal and advised of their right to:
1. Obtain a copy of the notice of appeal; and
2. Submit written objections to the notice of appeal to the municipal manager within fourteen days of date of notification.
(4) After the expiry of the fourteen days' period referred to in subsection (3)(ii)(2), the Council must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
(5) When the appeal is against a decision taken by-
i. An authorised person other than the municipal manager, then the municipal manager is the appeal authority; or
ii. The municipal manager, then the Council is the appeal authority.
(6) An appeal authority must commence with the appeal within thirty days of receiving notification and must decide the appeal within ninety days.

48. Exemptions

(1) Any person may, in writing, apply for exemption from certain provisions of this by-law to the municipality;
(2) No exemption from the provisions of chapter 4 of this by-law shall be granted in terms of subsection (1);
(3) An application in terms of subsection (1) above must be accompanied by reasons;
(4) The Council may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant interested and affected persons and the public;
(5) The steps contemplated in subsection (4) must include the publication of a notice in at least two newspapers, one circulating provincially and one circulating within the Municipality's jurisdiction:

(a) Giving reasons for the application; and
(b) Containing such other particulars concerning the application as the Council may require.
(6) The municipality may grant a temporary exemption in writing from one or all of the provisions of this By-law provided that the municipality:
(a) Is satisfied that granting the exemption will not significantly prejudice the objectives referred to in section 2 of this By-law; and
(b) Grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 4(1) of the By -law.
(7) The municipality must not grant an exemption under subsection (1) until the municipality has:

(a) Taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
(b) Proof that all interested & affected parties were provided with a reasonable opportunity to raise their comments or objections to the application; and
(c) Duly considered and taken into account any objections raised.
(5)The municipality may

(a) From time to time review any exemptions granted in terms of this section; and
(b) On good grounds withdraw any exemption.

49. **Severability**

If a section, subsection, sentence, clause or phrase of this By-law is declared invalid by a competent court, the invalid portion shall be severed and shall not affect the validity of the remaining portions of this By-law.

50. State Bound

This By-law is binding on the state and the municipality except in so far as any criminal liability is concerned.

51. Repeal of By-Law

The Madibeng Local Municipality Air Quality Management By-law_04-05-2014

52.Short Title

This By-Law is called the Madibeng Local Municipality Air Quality Management By-Law.

53. **Commencement Date**

This By-Law will come into operation on a date or dates to be determined by the Municipality by publication in the Provincial Gazette.