GERT SIBANDE DISTRICT MUNICIPALITY:
AIR QUALITY MANAGEMENT BY-LAW

Under the powers conferred by section 156(2) of the Constitution of the Republic of South Africa, 1996 the Gert Sibande District Municipality, enacts as follows -

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PART I
INTERPRETATION AND OBJECTIVES

1. Definitions
In this by-law, unless the context indicates otherwise -
“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 pollutant” means any substance, including but not limited to dust, smoke, fumes and gas that causes or may cause air pollution;
“air pollution” means any change in the composition of the environment caused by smoke, soot, dust, fly ash, cinders, solid particles of any kind, gases, fumes, aerosols and odours substances or in any substance emitted into the atmosphere from any activity, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;
“air pollution management plan” means a plan referred to in section 15 of the National Environment Management: Air Quality Act 2004 (Act 39 of 2004);

“air quality management zone” means the geographical area within the district municipality to which Part 4 of the by-law is declared to apply;

“air quality officer” means an officer designated in terms of section 14 of the National Environment Management: Air Quality Act, (Act 39 of 2004) as an air quality officer;

“ambient air” excludes air regulated by the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

“atmosphere” means air that is not enclosed by a building, machine, chimney or other such structure;

“authorized person” means any person authorized by the Council to implement any provision of this by-law;

“authorised official” means any official appointed as air quality officer including an environmental health practitioner appointed by Council who has been authorised by the Council to implement and enforce the provisions of this By-law;

“best practicable means” means the most effective measures that can reasonably be taken to prevent, reduce or minimise 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;

“best available technology and knowledge” means the latest technology or knowledge available or any improvement of the current technology or knowledge to increase the efficiency, detection and assessment of pollution;

“buffer zones” means areas demarcated or declared as a high risk zones for residential occupation or development and where no petro-chemical or medium industries may be established;

“chimney” means any structure or opening of any kind from or through which air pollutants may be emitted;

“change” means any modification which is made to an existing structure, process, plant or equipment, road, land use, procedure, action etc. which may have an effect on the noise generation or quality of ambient air or originating from such an activity or process;

“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;

“construction” includes, apart from its ordinary meaning, erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving land clearing, earth moving, grading, excavating, the laying of pipes and conduit whether above or below ground level, street and highway building, concreting, equipment installation, alteration, and a structural installation of construction components and material in any form or for any purpose and includes any work in connection therewith;
“construction equipment” means any equipment or devised design use in construction or material handling including, but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, scrapers, pavers, generators, off-highway haulers, truck ditches, scaffolding, cranes, compactors, rollers, pumps, concrete mixtures, graders or other material handling equipment;

“Constitution” means the constitution of the Republic of South Africa, 1996;

“conveyance” includes a vehicle and any other device used to transport a person or persons, goods, or material from a place to place but does not include any such device or vehicle if operated only within a building;

“council” means -
(a) the Gert Sibande District Municipality and all the local municipalities under its jurisdiction exercising its legislative and executive authority through its municipal Council; or
(b) its successor in title; or
(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); or
(d) a service provider fulfilling a responsibility under this By-law assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law;
(e) its successor in title; or
(f) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“dark smoke” means;
(a) in respect of Parts IV and V of this by-law, smoke which when measured using a light absorption meter or obscuration measuring equipment has an obscuration of 20% or greater;
(b) In respect of Part VII of this by-law:
(i) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more; or
(ii) smoke which has a light absorption co-efficient of more than 2.125 m$^{-1}$, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a light absorption coefficient of more than 2.51m;

“dust” means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

“dwelling” means any house, room, shed, hut, tent, cave, container, shelter, vehicle, boat or any other structure or place whatsoever, any part of which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and "room" has a corresponding meaning;
“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;
“ecosystem” means a dynamic system of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
“environmental health practitioner” means an official appointed by the Council and who is duly registered as an environmental health practitioner with the Health Professions Council of South Africa in terms of section 33(1) of the Medical Dental and Supplementary Health Services Professions Act, 1974 (Act 56 of 1974);
“environmental health hazard” means any form of pollution, threat, exposure, or source or danger, to the environment and human health;
“erect” means, apart from its ordinary meaning, to alter, convert, extend or re-erect;
“flammable gas” means a gas which at 20 degrees Celsius and a standard pressure of 101.3 kilopascals-
(a) is ignited 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;
“free acceleration test” means the method described in section 27 employed to determine whether vehicles are being driven or used in contravention of section 25(1);
“fuel-burning equipment” means any furnace, boiler, incinerator, or other equipment, including a chimney:
(a) designed to burn or capable of burning liquid, gas or solid fuel;
(b) used to dispose of any material or waste by burning; or
(c) used to subject liquid, gas or solid fuel to any process involving the application of heat;
“jurisdiction area” means the area as demarcated by the demarcation board in terms of the Demarcation Act, 1998 (Act 27 of 1998); within Gert Sibande District Municipality;
“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;
“living organism” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses;
“listed activities” means any word or expression to which a meaning has been assigned in the National Environmental Management Act, Waste Act, Air Quality Act, Environmental Impact Assessment Regulations including any other regulations promulgated under these Acts;
“measuring point” relating to -
(a) a piece of land from which an alleged disturbing noise emanates, or may emanate, means a point 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;
“medium industry” means a separate and distinct business entity, together with its branches or subsidiaries, if any, including co-operative enterprises, managed by one owner or more predominantly carried on in any sector or subsector of the economy mentioned in column 1 of the Schedule to the Small Businesses Act, 1996 (Act 102 of 1996) and classified as a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the Schedule;
“municipal manager” means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
“municipality” or “municipal area” means the Gert Sibande District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 492 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
“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 NEM: AQA;
“NEMA” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
“NEM: AQA” National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004);
“nuisance” means an unreasonable interference or likely interference caused by air pollution with:
(a) the health or well-being of any person or living organism; or
(b) the use and/or enjoyment by an owner or occupier of his or her property and or environment; and
(c) the ordinary comfort, convenience, peace, quite.
“noise management committee” means a committee established by Council in terms of any law to advise council on matters pertaining to regulation and control of noise within the municipal area;
“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, open fires, some mining activities, agricultural activities and stockpiles;
“offensive odour” means any smell which is considered to be malodorous or a nuisance to a reasonable person emanating from any source or activity;
“organ of state” means an organ of state as defined in section 239 of the
Constitution of the Republic of South Africa, 1996;
“owner” in relation to any premises, means -
(a) the person in whose name the title to the premises is registered, and
includes the holder of a stand licence; or
(b) if the person referred to in paragraph (a) is dead, insolvent, mentally ill, a
minor or under any legal disability, the executor, guardian or other
person who is legally responsible for that person's estate;
“obscuration” means the ratio of visible light attenuated by air pollutants
suspended in the effluent streams to incident visible light, expressed as a
percentage;
“open burning” means the combustion of material by burning without a
chimney to vent the emitted products of combustion to the atmosphere,
and “burning in the open” has a corresponding meaning;
“operator” means a person who owns or manages an undertaking or who
controls an operation or process, which contribute to or emit air pollutant;
“pave” means to apply and maintain concrete or any other similar material to a
road surface or open area;
“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;
“person” means a natural person or a juristic person, and includes an organ of
state;
“permit” means a public health permit issued by the Council in terms of these
By-laws and or any other by-laws;
“public health” means the mental and physical health and well-being of people
in the municipal area;
“pollution” means any change in the environment caused by -
(a) substances;
(b) radioactive or other waves; or
(c) noise, odours, dust or heat,
“premises” means -
(a) any land without any buildings or other structures on it;
(b) any building or other structure and the land on which it is situated;
(b) any land which adjoins land referred to in paragraph (a) or (b) and any
building or other structure on the adjoining land, if that land, building or
structure is occupied or used in connection with any activity carried out
on the premises referred to in paragraph (a) or (b);
(d) any vessel, vehicle or movable structure which is used for a scheduled
use; or
(e) private property or part of it including farms and agricultural holdings;
“priority areas” means any area declared in terms of section 18 (1) of the
National Environmental Management: Air Quality Act 2004 (Act 39 of
2004);
“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;
“provisional atmospheric emission license” means a provisional atmospheric emission license contemplated in chapter 5 of National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004);
“point source” means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;
“public road” means a road which the public has the right to use;
“public place” means any road, street, thoroughfare bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;
“rubber product” means anything composed of rubber including anything containing or coated with rubber;
“small boiler” means a combustion installation with a design capacity of less than 50MW heat input, capable of burning solid, liquid and gas fuels used primarily for steam raising or electricity generation;
“residential area” means an area zoned for residential purposes or proclaimed as residential in terms of township establishment rules;
“smoke” means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;
“stationary source” means a source of emission that is fixed and cannot be moved or is immobile;
“vehicle” means any motor car, motor carriage, motor cycle, 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;
“waste” includes any substance, whether solid, liquid or gaseous which is -
(a) discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration to the environment;
(b) a surplus substance or any substance which is discarded, rejected, unwanted or abandoned;
(c) re-used, recycled, reprocessed or purified by a separate operation from that which produced the substance or which may be or is intended to be re-used, recycled reprocessed, recovered or purified;
(2) If any provision in this By-law vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.
2. **Purpose and objectives**

(1) The purpose and objectives of this By-law is:

(a) to enable the Council and its local municipalities through its implementation organs or in partnership with other organs of state to protect, mitigate, intervene, regulate, control and promote the long term health, well-being and safety of people in the jurisdiction area by providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can –

(i) prevent, manage, and regulate activities that have the potential to impact adversely on public or environmental health;

(ii) require premises to be properly operated, maintained and managed; and

(iii) defining the rights and obligations of the Council and the public in relation to this purpose;

(b) to give effect to the rights contained in Section 24 of the Constitution of the Republic of South Africa, 1996 by controlling air pollution within the area of the Council’s jurisdiction; and

(c) to ensure that air pollution is prevented, avoided, or where it cannot be altogether prevented, avoided, is minimized, controlled and remedied.

(2) Any person that exercises a power under this by-law must exercise the power in order to give effect of the purpose set out in subsection (1).

**PART II**

**DUTY OF CARE**

3. **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 and, as far as reasonably possible, to remedy any air pollution that has occurred.

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

(3) The municipality may direct any person 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 effective control measures to abate the air pollution before a given date;

(c) to diligently continue with those measures; and

(d) to complete the measures before a specified reasonable date.
(4) 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.

(5) If any person fails to take the measures required of him or her under subsection (1) or (2), the municipality may recover all reasonable costs incurred as a result of it acting under subsection (4) 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 –
   (i) the activity or the process in question is or was performed or undertaken; or
   (ii) the situation came about; or

(d) any person who negligently failed to prevent –
   (i) the activity or the process being performed or undertaken; or
   (ii) the situation from coming about.

(6) If more than one person is liable under subsection (5), the liability may be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1), (2) and (3);

PART III
LOCAL EMISSION STANDARDS

4. Identification of substances and development of local emission standards and the establishment of buffer zones

(1) The Council may identify substances in ambient air, and has done so as set out in Schedule 6 to the by-law, and develop local emission standards for each substance.

(2) The Council may apply the following criteria when identifying and prioritising the substances in ambient air that presents threat to public health to 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 concentration of the substance in the atmosphere;

(c) potential environmental transformation 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 chain;

(e) the impact of the substance taking the following factors into consideration:
   (i) size of the exposed population, living resources or ecosystems;
   (ii) the existence of particularly sensitive receptors in the zone concerned; and

(f) substances that are regulated by international convention.

(3) The Council may, when developing the local emissions standards:
(a) identify the critical factors for public health impacts;
(b) identify sensitive sub-populations;
(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 Council may take the following factors into consideration in setting local emission standards:
(a) Health, safety and environmental protection objectives;
(b) Analytical methodology;
(c) Technical feasibility;
(d) Monitoring capacity; and
(e) Socio-economic consequences.

(5) If national or provincial standards have been established in terms of NEM:AQA for any particular substance or mixture of substances such national or provincial standards will enjoy preference unless the Council established stricter standards for the municipality or any part of the municipality.

(6) A notice issued under this section may -
(a) provide for the phasing in of its provisions; and
(b) be amended.

(7) The Council may establish buffer zones and such buffer zones must provide that-
(a) petro-chemical and power generating industries or related industries are not within a distance of 5,2km from an area zoned for residential purposes;
(b) medium industries are not within a distance of 500m from an area zoned for residential purposes; and
(c) are not within a distance as determined by the air quality officer and key stakeholders.
PART IV
SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

5. **Application**

For the purposes of this Part, “premises” does not include dwellings.

6. **Prohibition**

(1) Subject to subsection (2), smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.

(2) This section does not apply to smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.

(3) If smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.

7. **Installation of fuel-burning equipment**

(1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the municipality, which may only be given after consideration of the relevant plans and specifications.

(2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the municipality shall be presumed until the contrary is proved to comply with the provisions of subsection (1).

(3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
   (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
   (b) the municipality may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

8. **Operation of fuel-burning equipment**

(1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 7.

(2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):
   (a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence;
(b) The municipality may on written notice to the owner and occupier of the premises:
   (i) revoke its authorization under section 7; and
   (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

9. Presumption

In any prosecution for an offence under section 6 smoke shall be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning would be reasonably likely to give rise to the emission of smoke, unless the owner, occupier or operator, as the case may be, shows that no smoke was emitted.

10. Installation and operation of measuring equipment

An authorised person may give notice 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 measuring equipment at his or her own cost; if:
   (a) unauthorised and unlawful emissions of smoke from the relevant premises have occurred consistently or regularly;
   (b) fuel-burning equipment has been or is intended to be installed on the relevant premise which is reasonably likely in the opinion of an authorised person to emit smoke;
   (c) the person on whom the notice is served has been convicted more than once under this Part IV and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
   (d) the authorised person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard or nuisance to human health or the environment.

11. Monitoring and sampling

An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install air pollution measuring equipment in terms of section 10(1) must:
   (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
   (b) if requested to do so by an authorised person, produce the record of the monitoring and sampling results for inspection;
   (c) if requested to do so by an authorised person, provide a written report (in a form and by a date specified by the authorised person) of part or all of the information in the record of the monitoring and sampling results; and
ensure that the air pollution measuring equipment is calibrated at least once per year or at intervals as specified by the manufacturer of the equipment and provide records of such calibration on request by the authorised person.

12. Exemption

(1) Subject to section 26 and on 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 Part.

(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 condition attached to the exemption, if any;
   (d) the period for which the exemption has been granted; and
   (e) any other relevant information.

13. Appointment of external specialist to review assessment

Council may appoint an external specialist reviewer and may recover costs from the applicant in instances where -
   (a) the technical knowledge required to review any aspect of an assessment is not readily available within the municipality;
   
   (b) a high level of objectivity is required in order to ascertain whether the information contained in documents submitted to the Council is adequate for decision-making or whether it requires amendment and where such information is not apparent in the documents submitted

PART V
AIR QUALITY MANAGEMENT ZONE

14. Declaration of air quality management zone

(1) The whole area within the jurisdiction of the Council is hereby declared an Air Quality Management zone.

(2) Within an Air Quality Management zone the Council may from time to time by notice in the Provincial Gazette:
   (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
   (b) prohibit or restrict the combustion of certain types of fuel;
   (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted;
(d) prescribe different requirements in an Air Quality Management zone relating to air quality in respect of:
   (i) different geographical portions;
   (ii) specified premises;
   (iii) classes of premises; or
   (iv) premises used for specified purposes.

(3) Council may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly and indirectly cause air pollution within an Air Quality Management zone.

(4) Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the operation of measures adopted by the Council under this section.

15. Installation of fuel-burning equipment

(1) No person may install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.

(2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the Council shall be presumed until the contrary is proved to comply with the provisions of subsection (1).

(3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
   (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
   (b) the Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

(4) 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.

(5) After considering the application submitted in terms of subsection (1), the Council must either:
   (a) grant an application and issue an authorisation, subject to any conditions that may be imposed; or
   (b) refuse an application with reasons.

(6) The authorization issued in terms of subsection (1) must specify:
   (a) the product name and model of the fuel burning equipment;
   (b) the premises in respect of which it is issued;
   (c) the person to whom it is issued;
   (d) the period for which the authorization is issued;
   (e) the name of the municipality;
   (f) the periods at which the authorization may be reviewed;
   (g) the fuel type and quality;
(h) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere;

(i) any other operating requirements relating to atmospheric discharges, including non-point source emission measurement and reporting requirements; and

(j) any other matters which are necessary for the protection or enforcement of air quality.

(7) The Council must review the authorisation issued in terms of this section at intervals specified in the authorization, or when circumstances demand that a review is necessary.

16. Transitional arrangements in respect of authorised small boilers

(1) Despite the coming into operation of this by-law, any small boiler that was authorised to operate in terms of any by-law of the municipality continues to be authorised to operate subject to subsection (3).

(2) During the period for which the authorised small boiler continues to operate, the provisions of this by-law apply in respect of:

(a) the holder of an existing authorisation as if that person is the holder of the authorisation issued in terms of section 15; and

(b) the existing authorisation as if the authorisation was issued in terms of section 15;

(c) The holder of an existing authorisation must apply in writing for an authorisation in terms of section 15 when required to do so by the Council and within the period stipulated by the Council.

17. Transitional arrangements in respect of other small boilers

(1) Despite the small boilers within the municipality not required to be authorised in terms of a by-law, persons operating small boilers, at the commencement date of this By-law must apply for an authorisation as required by section 15.

(2) A person operating small boiler must apply for an authorisation in terms of subsection (1), when required to do so by the Council, in writing, and within the period stipulated by the Council.

(3) Any person who fails to comply with subsection (1) and who continues to operate a small boiler without a valid authorisation commits an offence.

18. Operation of fuel-burning equipment

(1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 7.

(2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):

(a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence;

(b) The Council may on written notice to the owner and occupier of the premises:
(i) revoke its authorization under section 7; and
(ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

19. Presumption

In any prosecution for an offence under section 6 dark smoke shall be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning would be reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, shows that no dark smoke was emitted.

20. Installation and operation of obscuration measuring equipment

(1) An authorized person may give notice 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) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
(b) unauthorized and unlawful emissions of dark 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 relevant premises, which is reasonably likely in the opinion of an authorized person to emit dark smoke;
(d) the person on whom the notice is served has been convicted more than once under this Part and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
(e) the authorized person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.

(2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:
(a) that person’s right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
(b) that person’s right of appeal under section 41;
(c) that person’s right to request written reasons for the issuing of the notice; and
(d) the measures that must be taken and the potential consequences if the notice is not complied with.
21. Monitoring and sampling

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 20(1) must:
(a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
(b) if requested to do so by an authorized person, produce the record of the monitoring and sampling results for inspection; and
(c) if requested to do so by an authorized person, provide a written report (in a form and by a date specified by the authorized person) of part or all of the information in the record of the monitoring and sampling results.

22. Exemption

(1) Subject to section 46 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Council may grant a temporary exemption in writing from one or all the provisions of this Part.
(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.

23. Emissions caused by burning of industrial waste, domestic waste and garden waste in waste bins or skip on any land or premises

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 unless the industrial, domestic or garden waste is legally disposed of in terms of section 26 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended.

24. 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 any purpose, 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) commits an offence.
PART VI
EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES AND OTHER EMISSIONS

25. Prohibition

(1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.

(2) If dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle shall each be guilty of an offence.

(3) For purposes of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

26. Stopping of vehicles for inspection and testing

(1) In order to enable an authorized person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorized person:
   (a) to stop the vehicle; and
   (b) to facilitate the inspection or testing of the vehicle.

(2) Failure to comply with a direction given under subsection (1) is an offence.

(3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorized 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 the 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 authorized person reasonably believes that an offence has been committed under section 25(2), 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 section 27.

27. Testing procedure

(1) An authorized person must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 25(1).

(2) The following procedure must be adhered to in order to conduct a free acceleration test:
   (a) when instructed to do so by the authorized person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
   (b) while the vehicle is idling; the authorized person must conduct a visual inspection of the emission system of the vehicle;
(c) when instructed to do so by the authorized 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 authorized person may do so himself or herself if the driver fails or refuses to comply with the authorized person’s reasonable instructions;

(d) while the throttle pedal is depressed, the authorized person must measure the smoke emitted from the vehicle’s emission system in order to determine whether or not it is dark smoke;

(e) the driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorized person.

(3) If, having conducted the free acceleration test, the authorized person is satisfied that the vehicle:

(a) is not emitting dark smoke, then the authorized person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 15(1); or

(b) is emitting dark smoke, the authorized person must issue the driver of the vehicle with a repair notice in accordance with section 28.

28. Repair notice

(1) A repair notice must direct the owner of the vehicle to repair the vehicle within 60 working days from date of issue of such notice, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(2) The repair notice must contain inter alia the following information:

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

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

(c) the measures required to remedy the situation; and

(d) the time period within which the owner of the vehicle must comply with the repair notice.

(3) A person commits an offence under this section if that person fails:

(a) to comply with the notice referred to in subsection (1);

(b) the re-test referred to in subsection (1).

(4) It shall not be a defence in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

29. Emissions from dwellings

(1) No person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.

(2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.
(3) On application in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

30. **Emissions caused by open burning**

(1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the municipality, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.

(2) The municipality may not authorize open burning under subsection (1) unless it is satisfied that:
   (a) the applicant in terms of subsection (1) has investigated and assessed every reasonable alternative for reducing, re-using or recycling the material in order to minimize the amount of material to be burnt in the open, to the satisfaction of the municipality;
   (b) no warning has been published for the region in terms of section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998);
   (c) the open burning will not pose a nuisance or potential hazard to human health or safety, private property or the environment; and
   (d) the prescribed fee has been paid to the municipality.

(3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.

(4) The provisions of this section shall not apply to:
   (a) recreational outdoor barbecue or braai activities on private premises;
   (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
   (c) any other defined area or defined activity to which the municipality has declared this section not to apply.

31. **Agricultural and plantation burning emissions**

(1) Any person who burns agricultural land or plantations must, in addition to the requirements of the National Veldt and Forest Fire Act, 1998 (Act 101 of 1998), comply with the following control measures:
   (a) obtain the prior written authorisation of the Council, which authorisation may be granted by the Council with conditions; and
   (b) notify in writing the owners and occupiers of all adjacent properties, including communities within 150 metres of where the burning will take place, providing:
      (i) the details of the proposed area to be burned;
      (ii) the reason for the agricultural or plantation burning;
      (iii) the date and approximate time of the agricultural or plantation burning;
      (iv) in the event of inclement weather conditions, an alternative date or dates on which the agricultural or plantation burning may occur;
(v) the right of owners, occupiers of adjacent properties and communities within 150 metres to lodge written objections to the proposed agricultural or plantation burning with the municipality within 7 days of being notified; and

(c) pay an administrative fee that may be levied by the municipality.

(2) The Council may not authorise agricultural or plantation burning:
(a) unless it is satisfied that the requirements set out in subsection (1) have been complied with; and
(b) where a warning notice in terms of section 10(1) of the National Veld and Forest Act, 1998 (Act No. 101 of 1998) has been published for the region.

(3) Any person who contravenes subsection (1) commits an offence.

(4) The provisions of this section are not applicable to any defined area which the Council may declare it not to be applicable.

PART VII
EMISSIONS THAT CAUSE A NUISANCE

32. Prohibition

(1) No person may create or permit emissions that cause a nuisance.
(2) Any person who contravenes subsection (1) commits an offence.

33. Abatement notice

(1) An authorized person may serve an abatement notice on any person whom the authorized 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; and
(c) to comply with any other conditions contained in the notice.

(2) For the purposes of subsection (1), an authorized person may form a reasonable belief based on his or her 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.

(3) An abatement notice under subsection (1) may be served:
(a) upon the owner of any premises, by:
   (i) delivering it to the owner, or if the owner 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) delivering 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) delivering it to the occupier;
   (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.
(4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) is guilty of an offence.

(5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (7) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

34. Steps to abate nuisance

At any time, the Council 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 all costs so incurred from the person responsible for causing the nuisance.

PART VIII
OFFENSIVE ODOURS

35. Control of offensive odours

(1) The occupier or owner of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises.

(2) Council may prescribe measures, best practical means or abatement equipment to be used to prevent or mitigate the emission of offensive odours.

(3) Council may prohibit any activity or process that creates continuous offensive odours if the measures prescribed in terms of subsection 2 are not effective.

(4) Any person who emits or permits the emission of any offensive odour in contravention of subsections (1), (2) and (3) commits an offence.

PART IX
DUST NUISANCE

36. Control of dust

(1) The occupier or owner of any premises must take all reasonable steps to prevent the creation of nuisance by dust caused by any activity on such premises.

(2) Council may prescribe measures, best practical means or abatement equipment to be used to prevent or mitigate the emission of dust nuisance.

(3) Council may prohibit any activity or process that creates a dust nuisance if the measures prescribed in terms of subsection 2 are not effective.

(4) Any person who emits or permits the creation of dust nuisance in contravention of subsections (1), (2) and (3) commits an offence.
37. Sand blasting emissions

(1) Any person conducting sand blasting activities which customarily produce emissions of dust that may be harmful to public health, well-being or cause a nuisance shall take measures to prevent emissions into the atmosphere.

(2) Any person who undertakes any sand blasting activity that causes dust emissions must implement the following measures:
   (a) dust extraction control measures; or
   (b) any alternative dust control measure approved in writing by the air quality officer.

(3) Any person who contravenes subsections (1) or (2) commits an offence.

PART X
FUME NUISANCE

38. Control of fumes

(2) The occupier or owner of any premises must take all reasonable steps to prevent the creation of nuisance by fumes caused by any activity on such premises.

(2) Council may prescribe measures, best practical means or abatement equipment to be used to prevent or mitigate the emission of fumes nuisance.

(3) Council may prohibit any activity or process that creates a fume nuisance if the measures prescribed in terms of subsection 2 are not effective.

(4) Any person who emits or permits the creation of fume nuisance in contravention of subsections (1), (2) and (3) commits an offence.

PART XI
PESTICIDES AND SPRAY PAINTING EMISSIONS

39. Pesticide Spraying Emissions

(1) No person may carry out or permit the spraying of pesticides, except as permitted by section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 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 36 of 1947).

(3) A person who carries out or permits the spraying of pesticides within the municipal jurisdiction, must also comply with the following measures:
   (a) the prior written authorisation of the Council must be obtained, which authorisation may be granted by the Council with conditions, including-
      (i) the area of land on which the pesticide may be applied; and
      (ii) the period of time in which the pesticide may be applied.
(b) the applicant must notify in writing the owners and occupiers of all adjacent properties within 150 metres of the treatment area of:
   (i) the details of the proposed treatment area;
   (ii) the reason for the pesticide use;
   (iii) the active ingredient;
   (iv) the date and approximate time of the pesticide 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; and
   (vii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Council within seven days of being notified;

(c) a fee prescribed by Council must be paid.

(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 upon 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.

(6) The provisions of this section are not applicable to:
   (a) residential areas of farms;
   (b) buildings or inside buildings;
   (c) domestic use of pesticides; or
   (d) any other defined area or defined activity to which the Council has declared this section not to apply.

40. **Spray painting emissions**

(1) No person may without the prior written permission of the Council spray, coat, plate, or epoxy-coat any vehicle, article, object or allow them to be sprayed, coated, plated, or epoxy-coated with any substance outside an approved spray painting room or booth.

(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 substance unless:
   (a) that person is in possession of a spraying authorisation contemplated in subsection (1);
   (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 contravenes subsections (1) and (2) commits an offence.
(4) Any person who wishes to obtain a spraying authorisation must complete and submit to the designated officer an application form for such permit in the form and manner as prescribed.

(5) The designated officer, in consultation with the air quality officer, may grant or refuse a spraying authorisation contemplated in subsection (1) based on the information submitted.

(6) A spray room or booth or area designated for the application of a substance must be constructed and equipped according to the requirements in Schedule 5 to this by-law.

(7) The designated officer may cancel the spraying authorisation if there is reason to believe that the holder of the spraying authorisation contravenes or fails to comply with any provision of this by-law.

(8) Subject to subsection (9), before the designated officer cancels the spraying authorisation as contemplated in subsection (7), that officer must:
   (a) give the holder of the spraying authorisation written notice of the intention to cancel the spraying authorisation and the reasons for such cancellation;
   (b) give the holder a period of at least 30 days to make written representations regarding the matter to the municipality.

(9) If the designated officer has reason to believe that the failure to cancel the spraying authorisation may endanger any person, that officer may cancel the spraying authorisation without prior notice to the holder as contemplated in subsection (7).

PART XII
GENERAL PROVISIONS

41. Appeals

(1) A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

(2) Pending confirmation, variation or revocation of the decision against which the appeal is lodged, any person appealing the said decision, unless the municipality provides otherwise:
   (a) 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
   (b) 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 accrue either.
42. **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 the by-law.

43. **Council and State bound**

This by-law is binding on the State and the Municipality.

44. **Conflict**

(1) In the event of a conflict within any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law shall prevail.

(2) In the event of a conflict with the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004) the provisions of these Acts will prevail within the area of jurisdiction of the Municipality.

45. **Offences and penalties**

(1) Any person who contravenes any provision of this by-law commits an offence and shall, upon conviction, be liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

(2) It is an offence to:
   (a) supply false information to an authorised person in respect of any issue pertaining to the by-law, or;
   (b) to refuse to co-operate with the request of an authorised person made in terms of this by-law.

(3) Failure to comply with a notice, direction or instruction referred to in this by-law constitutes a continuing offence.

(4) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence under this by-law:
   (a) to remedy the harm caused;
   (b) to pay damages for harm caused to another person or to property, which order shall have the force and effect of a civil judgment; and
   (c) to install and operate at the person’s own expense air pollution measuring equipment in accordance with the provisions of section 10.
46. **Exemptions**

(1) The Council may grant a temporary exemption in writing from any provision of the By-law, provided that the Council:

(a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in subsection 2(1); and

(b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in subsection 2(1).

(2) The Council may not grant an exemption under subsection (1) until the Council has:

(a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected 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) provided such person with a reasonable opportunity to object to the application; and

(c) duly considered and taken into account any objections raised.

47. **Savings**

Anything done or deemed to have been done under any other law remains valid to the extent that it is consistent with this by-law or until anything done under this by-law overrides it.

48. **Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

49. **Short title and commencement**

This by-law shall be known as the Air Quality Management By-law of the Gert Sibande District Municipality and comes into operation on the date of publication thereof in the Provincial Gazette, except for Schedule 6, which will become effective on 1 January 2015.
Schedule 1

Application Form to Operate Small Boiler

Name of Enterprise: ____________________________________________

Declaration of accuracy of information provided:

I, __________________________________________________________, declare that the information provided in this application is in all respect factually true and correct.

Signed at __________________________ on this __________ day of ______

________________________________
SIGNATURE

________________________________
CAPACITY OF SIGNATORY

I, ___________________________________________________________owner/occupier of the land/property known as _______________________________(registered name) within the municipality’s jurisdiction hereby apply for permission to operate a small boiler on the said property.

1. Contact details

<table>
<thead>
<tr>
<th>Responsible Person Name</th>
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<tbody>
<tr>
<td>Telephone Number</td>
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2. **Product name and model of the small boiler**

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<th>Product Name</th>
<th>Product Model</th>
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3. **Raw of materials used**

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<tr>
<th>Raw materials used</th>
<th>Maximum permitted consumption rate (volume)</th>
<th>Design consumption rate (volume)</th>
<th>Actual consumption rate (volume)</th>
<th>Units (quantity/period)</th>
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4. **Energy used**

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<th>Energy source</th>
<th>Sulphur content of fuel (%) (if applicable)</th>
<th>Ash content of fuel (%) (if applicable)</th>
<th>Maximum permitted consumption rate (volume)</th>
<th>Design consumption rate (volume)</th>
<th>Actual consumption rate (volume)</th>
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</table>

5. **Signature**

<table>
<thead>
<tr>
<th>Signature of the Applicant</th>
<th>Date of Application</th>
</tr>
</thead>
</table>

6. **Office Use Only**
### 6.1. Authorised Person: Site Inspection Observations

<p>| | | |</p>
<table>
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</table>

### 6.2. Authorised Person: Recommendations

<p>| | | |</p>
<table>
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<tbody>
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</tbody>
</table>

### 6.3. Approved / Not Approved (Complete whichever is applicable)

**The application is approved, subject to the following conditions:**

<p>| | | |</p>
<table>
<thead>
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</tbody>
</table>

**The application is not approved for the following reasons:**

<p>| | | |</p>
<table>
<thead>
<tr>
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<tbody>
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<td>(a)</td>
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<td>(d)</td>
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<tr>
<td>(e)</td>
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</tr>
</tbody>
</table>

---

**Air Quality Officer Signature**

**Date:**
Schedule 2

Application Form for Open Burning

I, ________________________________ owner / occupier of the land / property known as ______________________ (registered name) within the municipality's jurisdiction hereby apply for permission to burn the following materials on the said property.

1. Contact details

<table>
<thead>
<tr>
<th>Responsible Person Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone Number</td>
<td></td>
</tr>
<tr>
<td>Cell Phone Number</td>
<td></td>
</tr>
<tr>
<td>Fax Number</td>
<td></td>
</tr>
<tr>
<td>E-mail address</td>
<td></td>
</tr>
</tbody>
</table>

2. Description of the extent of the open area

<p>| |
|  |</p>
<table>
<thead>
<tr>
<th>-------------------------</th>
<th>--</th>
</tr>
</thead>
<tbody>
<tr>
<td>-------------------------</td>
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</tr>
<tr>
<td>-------------------------</td>
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</tr>
</tbody>
</table>

3. Types of materials to be burn in the open area

(a) 
(b) 
(c) 
(d) 
(e) 

4. Reasons for burning materials in open area

<p>| |
|  |</p>
<table>
<thead>
<tr>
<th>-------------------------</th>
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</thead>
<tbody>
<tr>
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<tr>
<td>-------------------------</td>
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</tr>
</tbody>
</table>
5. **Approximate date and time to burn materials**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. **Notification of adjacent owners and occupiers (including surrounding communities within 150 metres)**

The applicant must attach proof that the adjacent owners and occupiers have been notified of the open burning, and their rights to lodge any written objections to the municipality.

7. **Signature**

   Signature of the Applicant \hspace{2cm} Date of Application

8. **Office Use Only**

8.1. **Authorised Person: Site Inspection Observations**

   

8.2. **Authorised Person: Recommendations**

   

   

   

   

8.3. **Approved / Not Approved (Complete whichever is applicable)**

The application is approved, subject to the following conditions:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
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<tr>
<td>(b)</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
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<tr>
<td>(e)</td>
<td></td>
</tr>
</tbody>
</table>

The application is not approved for the following reasons:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>(a)</td>
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<tr>
<td>(c)</td>
<td></td>
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<tr>
<td>(d)</td>
<td></td>
</tr>
<tr>
<td>(e)</td>
<td></td>
</tr>
</tbody>
</table>

---

**Air Quality Officer Signature**

**Date:**
Schedule 3

Application Form for Agricultural Burning or the Burning of Plantations

I, ____________________________, owner/occupier of the land/property known as ____________________________ (registered name) within the municipality’s jurisdiction hereby apply for permission to burn on agricultural land or property.

1. Contact details

<table>
<thead>
<tr>
<th>Responsible Person Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone Number</td>
<td></td>
</tr>
<tr>
<td>Cell Phone Number</td>
<td></td>
</tr>
<tr>
<td>Fax Number</td>
<td></td>
</tr>
<tr>
<td>E-mail address</td>
<td></td>
</tr>
</tbody>
</table>

2. Description of the extent of the area to be burned

3. Reasons for the agricultural burning

4. Approximate date and time to burn sugar cane

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Alternative date and time, in the event of inclement weather conditions

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
5. **Notification of adjacent owners and occupiers (including surrounding communities within 150 metres)**

The applicant must attach proof that the adjacent owners and occupiers have been notified of the proposed burning of sugar cane, and their rights to lodge any written objections to the municipality. The notification must clearly specify:

(a) the extent of the area to be burned;
(b) reasons for the agricultural burning;
(c) approximate date and time for the agricultural burning;
(d) alternative dates and time, in the event of inclement weather conditions;
(e) adjacent owners and occupiers’ right to lodge written objections within 7 days to the municipality.

6. **Signature**

<table>
<thead>
<tr>
<th>Signature of the Applicant</th>
<th>Date of Application</th>
</tr>
</thead>
</table>

7. **Office Use Only**

7.1. **Authorised Person: Site Inspection Observations**

7.2. **Authorised Person: Recommendations**

7.3. **Approved / Not Approved (Complete whichever is applicable)**

The application is approved, subject to the following conditions:

(a)  
(b)  
(c)  
(d)  
(e)
The application is not approved for the following reasons:

<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>(a)</td>
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<td>(c)</td>
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<td>(d)</td>
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<td>(e)</td>
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</tbody>
</table>

Air Quality Officer Signature

Date:
Schedule 4

Application Form to Undertake Pesticide Spraying

I, ____________________________ owner/occupier of the land/property known as ____________________________(registered name) within the municipality’s jurisdiction hereby apply for permission to spray pesticides on the said property.

1. **Contact details**

<table>
<thead>
<tr>
<th>Responsible Person Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone Number</td>
<td></td>
</tr>
<tr>
<td>Cell Phone Number</td>
<td></td>
</tr>
<tr>
<td>Fax Number</td>
<td></td>
</tr>
<tr>
<td>E-mail address</td>
<td></td>
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</tbody>
</table>

2. **Description of the extent of the proposed treated area**


3. **Types of product label to be used**

<table>
<thead>
<tr>
<th>(a)</th>
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<tbody>
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<td>(b)</td>
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</table>

4. **Approximate date and time for pesticide spraying**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
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<tbody>
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</table>

<table>
<thead>
<tr>
<th>Alternative date and time, in the event of inclement weather conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
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</tbody>
</table>
5. **Notification of adjacent owners and occupiers (including surrounding communities within 150 metres)**

The applicant must attach proof that the adjacent owners and occupiers have been notified of the proposed pesticide spraying, and their rights to lodge any objections to the municipality. The notification must clearly specify:

(a) the extent of the proposed treatment area;
(b) reasons for pesticide use;
(c) the active ingredient;
(d) approximate date and time for pesticide spraying;
(e) alternative dates and time, in the event of inclement weather conditions;
(f) time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
(g) adjacent owners and occupiers’ right to lodge written objections within 7 days to the municipality.

6. **Signature**

__________________________  __________________________
Signature of the Applicant    Date of Application

7. **Office Use Only**

7.1. **Authorised Person: Site Inspection Observations**


7.2. **Authorised Person: Recommendations**


7.3. **Approved / Not Approved (Complete whichever is applicable)**

The application is approved, subject to the following conditions:

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The application is not approved for the following reasons:

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</tbody>
</table>

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**Air Quality Officer Signature**

**Date:**
## Schedule 5

### Spray Booth Construction

<table>
<thead>
<tr>
<th>WALLS</th>
<th>225mm Brickwork</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROOF</td>
<td>Reinforced concrete</td>
</tr>
<tr>
<td>FLOOR</td>
<td>Concrete or other impervious material</td>
</tr>
</tbody>
</table>

**DOORS**

(A) – Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g. metal secured to the door with bolts at 30mm centres along the edges. The doors to open outwards and to be hung on Tee hinges bolted to the door.

(B) – Close fitting metal doors not less than 3mm in thickness, carried on an angle iron frame and having an all round overlap or not less than 50mm.

**NOTE:**

Where the floor area exceeds 18 square metres 2 doors must be provided.

**WINDOWS**

Metal frames with no opening sections glazed with wire-woven glass not exceeding 460mm x 460mm. Putty approved by the SANS Code No. 680/59 only to be used and the occupier to furnish proof of this to the designated fire officer.

**NOTE:**

The Factory Inspector requires natural light to the extent of 20% of the floor area.

**VENTILATION**

30 Lineal metres/minute velocity across the room must be provided by means of mechanical ventilation, with the center line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating 1 metre above the apex of the roof. No right angle bends to be used in the ducting system. Exhaust fans to be installed at 4 metre centres or horizontal metal ducting extending the entire length of the wall with suitable inlets, must be provided.

**NOTE:**

If the ducting is external to the Spray Booth and in communication with the Workshop etc., it must be protected by either 110mm brick cement lagging.

**VENTILATION INLETS**

The wall opposite the exhaust fans to be honeycombed with airbricks installed from 100mm above floor level to a height of not less than 2 metres.

**MINIMUM NUMBER OF AIRBRICKS**

<table>
<thead>
<tr>
<th>SIZE OF THE ROOM</th>
<th>MINIMUM NUMBER OF AIRBRICKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to but not exceeding 140 cubic metres</td>
<td>40</td>
</tr>
<tr>
<td>Up to but not exceeding 280 cubic metres</td>
<td>65</td>
</tr>
<tr>
<td>Up to but not exceeding 470 cubic metres</td>
<td>90</td>
</tr>
<tr>
<td>Up to but not exceeding 650 cubic metres</td>
<td>150</td>
</tr>
</tbody>
</table>

**NOTE:**

Metal filters with metal swarf elements may only be used in an all metal installation, in lieu of Airbricks.

**ELECTRICAL WORK**

All electrical work must be of flame-proof construction

**DANGER NOTICE**

“DANGER-NO SMOKING” notices in 150mm high white letters on a red background to be provided above the doors outside the Spray Booth.
Schedule 6

Category 1: Combustion Installations

These include installations emitting 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 or the environment in the municipality or which the municipality reasonably believes present such a threat.

Sub-category 1.1 Solid fuel combustions

<table>
<thead>
<tr>
<th>Description</th>
<th>Solid fuels (including biomass) combustions installations used primarily for steam raising, heating or production process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application</td>
<td>All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Substance or mixture of substances</th>
<th>Plant Status</th>
<th>mg/Nm³ under normal conditions of 10% O₂, 273 Kelvin and 101.3 kPa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common name</td>
<td>Chemical symbol</td>
<td>New</td>
</tr>
<tr>
<td>Particulate matter (pm 2.5, PM 10)</td>
<td>N/A</td>
<td>New</td>
</tr>
<tr>
<td>Sulphur dioxide</td>
<td>SO₂</td>
<td>New</td>
</tr>
<tr>
<td>Oxides of Nitrogen</td>
<td>NOx expressed as NO₂</td>
<td>New</td>
</tr>
<tr>
<td>Carbon Dioxide</td>
<td>CO₂</td>
<td>New</td>
</tr>
</tbody>
</table>

(1) The following special arrangement shall apply: Continued emissions monitoring of Pm, SO₂, CO₂ and NOx is required

Subcategory 1.2: Liquid fuel Combustion Installations

<table>
<thead>
<tr>
<th>Description</th>
<th>Liquid fuels (including biomass) combustions installations used primarily for steam raising, heating or production process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application</td>
<td>All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Substance or mixture of substances</th>
<th>Plant Status</th>
<th>mg/Nm³ under normal conditions of 10% O₂, 273 Kelvin and 101.3 kPa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common name</td>
<td>Chemical symbol</td>
<td>New</td>
</tr>
<tr>
<td>Particulate matter (pm 2.5, PM 10)</td>
<td>N/A</td>
<td>New</td>
</tr>
<tr>
<td>Sulphur dioxide</td>
<td>SO₂</td>
<td>New</td>
</tr>
</tbody>
</table>
### Subcategory 1.3: Solid biomass combustion installations

<table>
<thead>
<tr>
<th>Substance or mixture of substances</th>
<th>Plant Status</th>
<th>mg/Nm³ under normal conditions of 10% O₂, 273 Kelvin and 101.3 kPa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common name</td>
<td>Chemical symbol</td>
<td>New 50</td>
</tr>
<tr>
<td>Particulate matter (pm 2.5, pM 10)</td>
<td>N/A</td>
<td>New 50</td>
</tr>
<tr>
<td>Sulphur dioxide</td>
<td>SO₂</td>
<td>New 3500</td>
</tr>
<tr>
<td>Oxides of Nitrogen</td>
<td>NOₓ expressed as NO₂</td>
<td>New To be determined</td>
</tr>
<tr>
<td>Carbon Dioxide</td>
<td>CO₂</td>
<td>New To be determined</td>
</tr>
</tbody>
</table>

### Subcategory 1.4: Gas combustions installations

<table>
<thead>
<tr>
<th>Substance or mixture of substances</th>
<th>Plant Status</th>
<th>mg/Nm³ under normal conditions of 10% O₂, 273 Kelvin and 101.3 kPa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common name</td>
<td>Chemical symbol</td>
<td>New 50</td>
</tr>
<tr>
<td>Particulate matter (pm 2.5, pM 10)</td>
<td>N/A</td>
<td>New 50</td>
</tr>
<tr>
<td>Sulphur dioxide</td>
<td>SO₂</td>
<td>New 3500</td>
</tr>
<tr>
<td>Oxides of Nitrogen</td>
<td>NOₓ expressed as NO₂</td>
<td>New To be determined</td>
</tr>
<tr>
<td>Carbon Dioxide</td>
<td>CO₂</td>
<td>New To be determined</td>
</tr>
</tbody>
</table>
Category 2: Petroleum industry, the production of gaseous and liquid fuels as well as petrochemicals from crude oil, coal, gas or biomass

Subcategory 2.1: Combustion installations

<table>
<thead>
<tr>
<th>Description</th>
<th>Combustions installations not used primarily for steam raising, heating or production process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application</td>
<td>All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Substance or mixture of substances</th>
<th>Plant Status</th>
<th>mg/Nm³ under normal conditions of 10% O₂, 273 Kelvin and 101.3 kPa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common name</td>
<td>Chemical symbol</td>
<td>New 50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Existing 100</td>
</tr>
<tr>
<td>Particulate matter (pm 2.5, pM 10)</td>
<td>N/A</td>
<td>New 50</td>
</tr>
<tr>
<td>Sulphur dioxide</td>
<td>SO₂</td>
<td>New 3500</td>
</tr>
<tr>
<td>Oxides of Nitrogen</td>
<td>NOₓ expressed as NO₂</td>
<td>New</td>
</tr>
<tr>
<td>Carbon Dioxide</td>
<td>CO₂</td>
<td>New To be determined</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Existing</td>
</tr>
</tbody>
</table>