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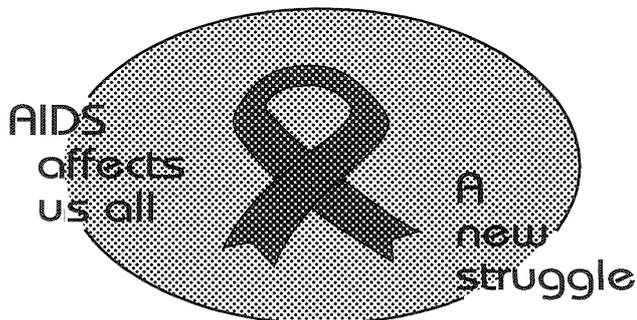
**BUITENGEWONE
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Vol. 256

15 NOVEMBER 2013

No. 7191

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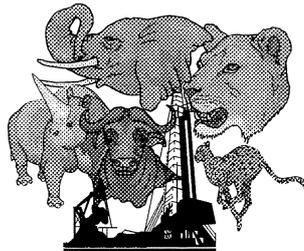
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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 230

BOJANALA PLATINUM DISTRICT MUNICIPALITY



AIR QUALITY MANAGEMENT BY-LAW

The Bojanala Platinum District Council acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act, 1996, read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and section 11 (1) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) as read with the National Environmental Management Act, 1998 (Act No. 107 of 1998) has made the following Air Quality Management By-law hereunder:

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CHAPTER 1

DEFINITIONS, OBJECTIVES, APPLICATION AND OVERARCHING PRINCIPLES

1. Definitions

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

“Adverse effect” means any actual or potential impact on the environment that impairs, or could impair, the environment or any aspect of it;

“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 specified in the definition of “Air Pollution” that causes or may cause air pollution;

“Air Quality Management Plan” means a plan referred to in section 15 of AQA;

“Air Quality Officer” means an officer appointed in terms of section 14 of the AQA;

“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 operation, during which period a noise alleged to be a disturbing noise is absent;

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

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

“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;

“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, 1996;

“Controlled Activities” mean any activity that is not regulated in terms of section 21 listed activities or section 23 controlled emitters which has any potential to emit dark smoke, dust, fumes and gases.

“Control measure” means a technique, practice or procedure used to prevent or minimise the generation, emission, suspension and/or airborne transport of fugitive dust;

“Dark Smoke” means smoke as dark as or darker than Shade 2 of the Ringelmann chart, which refers to an equivalent of 40% black

“Defined area” means a particular extent of space or surface or one serving a special function as declared by the municipality.

“District” is an area of land marked off by the municipality for administrative, electoral or other purposes.

“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;

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

“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;

“Environmental Management Inspector” means an environmental management inspector referred to in section 8 of this By - Law

“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;

“Free acceleration test” means the method prescribed in section 14(3) employed to determine whether vehicles are being driven or used in contravention of section 14(1) of this by – law;

“Fumes” means vapor, gas, or smoke

“Integrating sound level meter” means a device integrating a function of sound pressure over a period of time and indicating the result in dB(A) indicating is a function of both the sound level and the duration of exposure to the sound during the period of measurement;

“Living Organism” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses;

“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;

"**MEC**" means the member of the Executive Municipality of a province who is responsible for air quality management in the province;

"**Minister**" means the Minister of Water and Environmental Affairs;

"**Multiple Boilers**" a boiler is defined as a combustion appliance designed to heat water. Multiple boilers means a combination of boilers or individual boiler as part of the combination of boilers, located on the same premises with a design capacity greater than or equal to 10MW but less than 50MW net heat input, capable of burning biomass, solid, liquid and/or gaseous fuels or a combination thereof, with:

$$\text{NHI} = M_f \times \text{NCV} / (3.6 \times 10^6)$$

Where, NHI refers to the Net Heat Input expressed in MW;

M_f 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:

$$\text{NCV} = \text{GCV} - 2442 \times (\text{H}_2\text{O in fuel} + 9 \times \text{H}_2 \text{ in fuel})$$

Where, GCV refers to the Gross Calorific Value expressed in kJ/kg (Air dried basis for solid fuels);

H_2O in fuel refers to the Total moisture in the fuel, expressed as a Mass fraction (As fired condition);

H_2 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);

Example 1: Solid Fuel - Coal

Fuel consumption	=	2 000	kg/h
GCV	=	27 575	kJ/kg
Moisture in fuel	=	5 (m/m)% or 0.05 mass fraction	
Hydrogen in fuel	=	4 (m/m)% or 0.04 mass fraction	
NCV	=	$27\,575 - 2\,442 \times (0.05 + 9 \times 0.04) = 26\,573$	
573 kJ/kg			
NHI	=	$2\,000 \times 26\,573 / (3.6 \times 10^6) = 14.76$ MW	

Example 2: Liquid Fuel - HFO

Fuel consumption	=	1 000	kg/h
GCV	=	43 400	kJ/kg
Moisture in fuel	=	0.4 (m/m)% or 0.004 mass fraction	
Hydrogen in fuel	=	10.9 (m/m)% or 0.109 mass fraction	
NCV	=	$43\,400 - 2\,442 \times (0.004 + 9 \times 0.109) = 40\,994$	
40 994 kJ/kg			
NHI	=	$1\,000 \times 40\,994 / (3.6 \times 10^6) = 11.39$ MW	

"Municipality" means Bojanala Platinum District Municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 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;

"Neighbourhood" means an area which corresponds with a demarcated area of a municipal ward recognised by the municipality or a municipal ward, or wards of the municipality;

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

"NEMAQA" 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;

"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;
- (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.

"Obscuration" means the ratio of visible light attenuated by air pollutants suspended in the effluent streams to incident visible light, expressed as percentage;

"Offensive Odour" means any smell which 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;

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

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

"Pave" means to apply and maintain concrete or any other similar binding material to a road surface;

"Permit" means any authorisation or permission issued in terms of this Bylaw

"Person" includes a juristic person

"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;

"Pollution" bears the same meaning as defined in NEMA

"Polluter" any person who causes pollution

"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 Municipality;

"Prescribed" in relation to a fee, means a fee prescribed by the Bojanala Platinum District Municipality;

"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;

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

"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, vessel or vehicle;
- c) any aircraft or helicopter used for sport or recreational 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 14(4), 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;

"**Small Boiler**" a boiler is defined as a combustion appliance designed to heat water. A small boiler means any boiler with a design capacity greater than or equal to 10MW but less than 50MW net heat input, capable of burning biomass, solid, liquid and/or gaseous fuels or a combination thereof, with:

$$\text{NHI} = M_f \times \text{NCV} / (3.6 \times 10^6)$$

Where, NHI refers to the Net Heat Input expressed in MW;

M_f 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:

$$\text{NCV} = \text{GCV} - 2442 \times (\text{H}_2\text{O in fuel} + 9 \times \text{H}_2 \text{ in fuel})$$

Where, GCV refers to the Gross Calorific Value expressed in kJ/kg (Air dried basis for solid fuels);

$\text{H}_2\text{O in fuel}$ refers to the Total moisture in the fuel, expressed as a Mass fraction (As fired condition);

$\text{H}_2 \text{ in fuel}$ refers to the Total hydrogen in the fuel including hydrocarbons, expressed as a Mass fraction (Obtained from the ultimate analysis of the fuel);

Example 1 : Solid Fuel - Coal

Fuel consumption	=	2 000	kg/h
GCV	=	27 575	kJ/kg
Moisture in fuel	=	5 (m/m)%	or 0.05 mass fraction
Hydrogen in fuel	=	4 (m/m)%	or 0.04 mass fraction
NCV 573 kJ/kg	=	$27\,575 - 2\,442 \times (0.05 + 9 \times 0.04) = 26$	
NHI	=	$2\,000 \times 26\,573 / (3.6 \times 10^6) = 14.76$ MW	

Example 2: Liquid Fuel - HFO

Fuel consumption	=	1 000	kg/h
GCV	=	43 400	kJ/kg
Moisture in fuel	=	0.4 (m/m)%	or 0.004 mass fraction
Hydrogen in fuel	=	10.9 (m/m)%	or 0.109 mass fraction
NCV 40 994 kJ/kg	=	$43\,400 - 2\,442 \times (0.004 + 9 \times 0.109) =$	
NHI	=	$1\,000 \times 40\,994 / (3.6 \times 10^6) = 11.39$ MW	

"**Small Furnace and Incinerator**" for the purposes of this By-law, this refer to any small furnace and small incinerator not contemplated under section 21 of the Air Quality Act;

"**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;

"**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 fuel, 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 is to-
 - (a) give effect to the rights contained in section 24 of the Constitution 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 well being 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 and the National Framework for Air Quality Management in the Republic of South Africa.
- (2) This By-law shall apply in the whole area of jurisdiction of this Municipality, including the areas of jurisdiction of the Local Municipalities of Rustenburg, Moses Kotane Moretele, Madibeng, and Kgetleng-Rivier. 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.
- (3) In the event of any conflict with any national or provincial legislation which directly or indirectly, within the jurisdiction of the municipality, regulates air pollution the provisions of national or provincial legislation shall take precedence.
- (4) The overarching principles set out in section 4 below, must be considered and applied by any person:
 - (a) exercising a power or function or performing a public duty under this By-law; and
 - (b) the municipal area which is likely to have an effect on public health and well being and/or the environment within that area.

4. Overarching Principles

- (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 direct any person in writing who fails to take the measures required under subsection (1)-
 - (a) To commence taking specific reasonable measures before a given date;
 - (b) To diligently continue with those measures; and
 - (c) To complete them before a specified reasonable date.
- (3) Prior to making such a decision as contemplated in subsection (2), 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 organs of state.
- (4) Should a person fail to comply, or inadequately comply, with a directive under subsection (2), the municipality may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.
- (5) Provided such person failed to take the measures required of him under subsection (2), the municipality may recover costs for reasonable remedial measures to be undertaken under subsection (4) above. Before such measures are taken by the municipality, the costs incurred / to be incurred as a result of the municipality acting under subsection (4) may be recovered 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) 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;
 - (b) 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
 - (c) any person who negligently failed to prevent the —

- (i) activity or the process being performed or undertaken; or
- (ii) situation from coming about.

(6) 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).

CHAPTER 2

AIR QUALITY MANAGEMENT PLAN

5. Integrated Development Plan

The Municipality must include in its Integrated Development Plan an Air Quality Management Plan as provided for in Chapter 5 of the Municipal Systems Act. The Air Quality Management Plan is binding on the municipality and all other persons, authorities and institutions exercising powers or performing duties under this By-law.

(1) Contents of the Air Quality Management Plan

The Municipality's Air Quality Management Plan must within the area of jurisdiction the Municipality, seek:

- (a) to give effect, in respect of air quality, to Chapter 3 of NEMA to the extent that such a Chapter is applicable to it;
- (b) to improve air quality in the jurisdiction of the Municipality;
- (c) to identify and reduce the negative impact of poor air quality on human health and the environment;
- (d) to address the effects of emissions from industrial sources;
- (e) to address the effects of emissions from any point or non-point source of air pollution other than those contemplated in subsection (iii) or (iv) above;
- (f) to implement the Republic's obligation in respect of international agreements;
- (g) to give effect to best practice in air quality management; and
- (h) to contribute to climate change mitigation.
- (i) describe how the Municipality will give effect to its air quality management plan; and
- (j) comply with such other requirements as may be prescribed by the Minister.

(2) Reporting on implementation of Air Quality Management Plan

The annual report which the Municipality must submit in terms of section 16 (1) (b) of the NEMA must contain information on the implementation of its air quality management plan, including information on:

- (a) air quality management initiatives undertaken by the Municipality during the reporting period;
- (b) the level of compliance with ambient air quality standards;
- (c) measures taken to secure compliance with ambient air quality standards;

- (d) its air quality monitoring activities; and
- (e) its climate change mitigation efforts.

CHAPTER 3

DESIGNATION OF THE AIR QUALITY OFFICER AND ENVIRONMENTAL MANAGEMENT INSPECTORS

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

- (1) The Municipal Manager must, after consultation with the Head of Department responsible for Environmental Services, designate or appoint an employee of the municipality or any person 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 Environmental Management Inspectors in terms of section 31C of the NEMA.

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

- (1) The air quality officer must —
 - (a) co-ordinate the development of the air quality management plan for inclusion in the Integrated Development Plan of the district, in accordance with Chapter 5 of the Municipal Systems Act;
 - (b) prepare an annual report of the district 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 paragraph (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 district 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 purposes of compliance monitoring, the designated Environmental Management Inspectors must exercise the powers as set out in sections 31G to 31L of the NEMA.
- (5) The environmental management inspectors may request from any polluter, ambient monitoring and emission monitoring (which could include isokinetic point source sampling) and any other air quality related study, programs or reports to be conducted by a recognised and competent third party, at the cost of the polluter.

CHAPTER 4

LOCAL EMISSION STANDARDS

8. Identification of Substances and Development of Local Emission Standards

- (1) The municipality may, in terms of this By-law, 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) The municipality may apply the criteria, as set out in Schedule 2 to the By-law, when identifying and prioritising the substances or mixtures of substances and when developing the local emission standards from point, non-point or mobile sources.

9. Consequences of identifying

- (1) Any person emitting those substances or mixtures of substances must comply with the emission standards established in terms of section 8(2) above.
- (2) Any person who fails to comply with the emission standards established in terms of section 8(2) 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 a consultative process in accordance with the Public Participation Process as set out in section 13 of the Municipal Systems Act, 2000.

11. Declaration of an Air Pollution Control Zone

Through a consultative Public Participation Process, as set out in section 13 of the Municipal Systems Act, 2000, by notice in the Provincial Gazette –

- (1) The municipality may declare any area within the area of jurisdiction of the Bojanala Platinum District Municipality an air pollution control zone.

- (2) The municipality may, within the air pollution control zone, from time to time –
- (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 fuels;
 - (c) declare smokeless zones, in which smoke in excess of a specified maximum level of obscuration may not be emitted; and
 - (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of different geographical portions, specified premises, classes of premises, premises used for specified purposes and mobile sources.
- (3) The municipality 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 pollution control zone.
- (4) The municipality may in writing exempt certain premises, classes of premises or premises used for specified purposes from this section.

CHAPTER 5

MOTOR VEHICLE EMISSIONS, MULTIPLE BOILERS, SMALL BOILERS, SMALL FURNACES, SMALL INCINERATORS AND CONTROLLED ACTIVITIES

Part 1: Mobile sources

12. Emissions from Compressed Ignition Powered Vehicles Including Construction Vehicles

(1) Prohibition

- (a) No person may on a public road drive or use, causes to be driven or used, a compressed ignition powered vehicle including construction vehicles that emits unacceptable level of dark smoke.
- (b) For the purposes of this section, “unacceptable level of dark smoke” means:
 - (i) smoke emitted from the exhaust outlets of naturally aspirated compression ignition engines which has a density of 70 Hartridge smoke units or more or a light absorption co-efficient of more than 1.6m^{-1} ; and
 - (ii) smoke emitted from the exhaust outlets of turbo charged compression ignition engines which has a density of 56 Hartridge smoke units or more or a light absorption co-efficient of more than 1.10m^{-1} .

(2). Stopping of vehicles for inspection and testing

- (a) 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 or instruction given by an authorised person:
 - (i) to stop the vehicle; and
 - (ii) to facilitate the inspection or testing of the vehicle when in the opinion of the authorised person there is reasonable suspicion.
- (b) When a vehicle has stopped in compliance with a direction given under subsection (2) (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.

(3). Testing procedure

- (a) 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 12(1) (a) 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) when instructed to do so by the authorised person, the driver of the vehicle must 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;
 - (iii) 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 an unacceptable level of dark smoke;
 - (iv) 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.
- (b) If, after having conducted the test above, the authorised person is satisfied that the vehicles emitting unacceptable level of dark smoke, the authorised person must issue the driver or the vehicle with a repair notice in accordance with subsection (4) below.

(4). Repair notice

- (a) 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.

- (b) 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.
- (c) 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 (4)(a);
 - (ii) to take the vehicle for re-testing as referred to in subsection (4) (a);
- (d) If the owner of the vehicle fails to take the vehicle for re-testing as referred to in subsection (4)(a), then the authorised person must issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Part 2: Immovable sources

13. Multiple Boilers, Small Boilers, Small Furnaces and Small Incinerators

- (1) No person may install, alter, extend or replace any multiple boilers, small boiler, furnace and/or 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 activities that have been determined in terms of section 24 of the NEMAQA.
- (2) Application for an authorisation shall be made as provided for in Schedule 3 to operate:
 - (a) multiple boilers;
 - (b) a small boiler,
 - (c) a furnace and/or
 - (d) an incinerator.
- (3) Where multiple boilers, a small boiler, furnace and/or incinerator has been installed, altered, extended or replaced on premises in contravention of subsection (1) above -

- (a) the owner and/or occupier of the premises and the installer of the multiple boilers, small boiler, furnace and/or incinerator are guilty of an offence;
 - (b) the municipality may, on written notice to the owner of the premises order the removal of the multiple boilers, small boiler, furnace and/or incinerator from the premises at the expense of the owner and within the period stated in the notice after having been given reasonable time to do so.
- (4) In considering an application submitted in terms of subsection (1) above, the air quality officer may require the applicant to furnish such information as the air quality officer may require, deemed to be relevant or reasonable.
- (5) After considering the application submitted in terms of subsection (1) above, 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 and provide reasonable reasons.
- (6) The permit issued in terms of subsection (1) above must specify-
- (a) the product name and model of the activity applied for under subsection (2) ;
 - (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 periods at which the authorisation may be reviewed;
 - (f) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be emitted to the atmosphere;
 - (g) any other operating requirements relating to atmospheric emissions, including non-point source emission measurement and reporting requirements; and
 - (h) any other matters which are necessary for the protection or enforcement of air quality.

(7). Transitional arrangements in respect of other multiple boilers, small boilers, furnaces and/or incinerators

- (a) Despite the multiple boilers, small boilers, furnaces and/or incinerators within the municipality not previously required to be authorised in terms of any By-laws, any person operating such multiple boilers, small boilers, furnaces and/or 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 13 of this By-law.

- (b) Persons operating multiple boilers, small boilers, furnaces and/or incinerators that falls under subsection 7 (a) above have a period of four years, from the commencement date of this By-law, to apply for authorisation in terms of section 13 of this By-law

CHAPTER 6

DUST AND / OR FUGITIVE DUST EMISSIONS

14. Dust emissions activities

- (1) Any person conducting any activity which produces emissions of dust and / or that may be harmful or toxic to public health, well-being and/or cause a nuisance shall take control measures to prevent such emissions into the atmosphere.
- (2) For the purposes of this section, "dust" means:
 - (a) any solid matter in a fine of disintegrated form which is capable of being dispersed or suspended in the atmosphere; and
 - (b) includes dust from mine dumps, stockpiles and raw materials
- (3) Any person who undertakes any activity that causes dust emissions must implement one or more of the following control measures:
 - (a) use dust palliatives or dust suppressants;
 - (b) uniformly apply and maintain any surface gravel;
 - (c) erect physical barriers and signs to prohibit access to the disturbed areas;
 - (d) use ground covers;
 - (e) re-vegetation which is similar to adjacent undisturbed native conditions; or
 - (f) any alternative control measure approved in writing by the air quality officer.
- (4) 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) gravel and asphalt roads having vehicular traffic of less than 200 vehicles per day; this limitation applies to public and private roads

- (d) non-commercial and non-institutional private driveways;
- (e) horse trails, hiking paths, bicycle paths or other similar paths; and
- (f) any other path that has been designate as an exclusive use area for purposes other than travel by motor vehicle.

15. Sand blasting, rock crushing or concrete mixing emissions

- (1) Any person conducting sand blasting, rock crushing or concrete mixing activities which produce emissions of dust and/or fugitive dust 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 activity that causes dust, and/or fugitive dust emissions must implement the following control measures:
 - (a) Dust extraction control measures; or
 - (b) Any alternative dust control measures approved in writing by the air quality officer.

CHAPTER 7

UNACCEPTABLE LEVEL OF DARK SMOKE EMISSIONS

16. Emissions Caused by Open Burning

- (1) A person who carries out or permits open burning of any material on any land or a premises is guilty of an offence and is liable to a penalty.
- (a) no person shall openly burn any material on land unless prior written authorisation of the municipality has been obtained, this permission may be granted by the municipality with conditions;
- (b) A person must notify 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 municipality within 7 days of being notified; and
- (iii) the prescribed application fee that has been paid to the municipality.
- (2) The municipality 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 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 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.

17. Burning of organic material

- (1) Any person who burns organic material shall comply, in addition to the burning requirements provisions of the National Veld and Forest Act, 1998 (Act No. 101 of 1998), with the following control measures:
- (a) no person shall burn organic material unless prior written authorisation of the municipality has been obtained, this authorisation may be granted by the municipality with conditions;
 - (b) A person must notify in writing the owners and occupiers of all adjacent properties (including surrounding communities within 150 metres) 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 (including surrounding communities within 150 metres) 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 application fee that has been paid to the municipality.
- (2) The municipality may not authorise 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 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 which the municipality may declare as such.

18. 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 the National Environmental Management: Waste Act, 2008 (At No. 59 of 2008)

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

No person may carry out or permit the burning of any tyres, rubber products, cables or any other products, on any land or premises without having obtained the relevant permit which can authorise such burning.

CHAPTER 8

OFFENSIVE FUMES AND ODOURS

20. 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) A person who carries out 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 within 150 metres 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) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
 - (vi) 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

(vii) proof of the application fee that has been paid to the municipality.

(3) A person may apply to the municipality 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.

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

- (a) residential areas;
- (b) buildings or inside buildings and the domestic use of pesticides; or
- (c) any other defined area or activity to which the municipality has declared.

21. 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) 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 by the Municipality.

(3) 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.
- (4) A spray room or booth or area designated for the application of a flammable substance must be operated in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and the Municipal Health By-law of Bojanala Platinum District Municipality.
- (5) 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.
- (6) Subject to subsection (7) below, before the designated fire officer cancels the spraying permit as contemplated in subsection (4) above, 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.
- (7) 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 (5) above and furnish the holder of the spraying permit with written notice of the cancellation;
- (8) If the designated fire officer cancels the spraying permit in terms of subsection (5) above, that officer must give the holder of the spraying permit a period of at least 21 days to make written representations regarding the matter to the municipality.

CHAPTER 9

NOISE POLLUTION MANAGEMENT

22. Prohibition of a noise nuisance

- (1) No person shall-
- (a) Make, produce or cause a disturbing noise, or allow it to be made, produced or caused by any person, animal, machine, device or apparatus or any combination thereof.
 - (b) 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.
 - (c) Allow an animal owned or controlled by him or her to cause a noise nuisance.
 - (d) 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.
 - (e) 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.
 - (f) 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.
 - (g) 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.

- (h) Except in an emergency, emit a sound, or allow a sound to be emitted by means of the discharge of an explosive, firearm or similar device, a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance.
 - (i) Drive vehicle on a public road in such a manner that it may cause a noise nuisance.
 - (ii) Use any power tool or power equipment used for construction purposes, drilling 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.

NOISE POLLUTION ACTIVITIES

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

- (1) 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).
- (2) 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.
- (3) Subject to the provisions of subsection (2) 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 (1) above and no permission has been obtained.
- (4) An instrument attached under subsection (3) above shall be kept in safe custody by the municipality.
- (5) The municipality may lift the attachment contemplated in subsection (3) above if the owner or person in control of the instrument has applied for permission in terms of subsection (1) above.

24. General prohibitions on noise pollution management

- (1) A person is guilty of an offence when she or 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) Tamper 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.

25. Right of entry and Inspection

- (2) The municipality –
- (a) For the purposes of applying the noise pollution management section of this By-law, at any reasonable time enter premises upon hearing noise or receiving a complaint –
 - (i) To conduct any appropriate examination, inquiry or inspection thereon as it may deem expedient; and
 - (ii) 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 (1)(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 sign and notice shall be placed on private property only with the permission of the owner.

CHAPTER 10

EMISSIONS THAT CAUSE A NUISANCE

27. Prohibition

Any occupier and/or owner of premises from which a nuisance emanates, or where a nuisance exists, commits an offence and is liable to a penalty.

28. Abatement notice

- (1) 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, notifying 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.
- (2) For the purpose of subsection (1) 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.
- (3) An abatement notice under subsection (1) above may be served:
 - (a) Upon the owner or any person, by -
 - (i) Handing 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) 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.

28. Steps to abate nuisance

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.

CHAPTER 11

PERMITTING FOR CONTROLLED ACTIVITIES

29. Permit application

- (1) The municipality has developed permitting procedures or guidelines to be followed during the permitting of activities (i.e. spray painting, small boilers etc) regulated and/or controlled by this By-law.
- (2) Any person who wishes to apply for the activities mentioned under (1) above must follow the prescribed permitting procedures, as set out in Schedule 9 of this By-law.
- (3) Any person who wishes to apply for rectification of activities commenced illegally must follow the prescribed rectification process, as set out in Schedule 7 of this By-law
- (4) The application form to be lodged with the municipality for undertaking any of the activities regulated by this By-law must be accompanied by an application fee prescribed by the municipality.

30. Permit Amendments

- (1) A permit issued by the municipality may be at any time amended on written application by the permit holder or on the directive by the Municipality. If amendments are of substantial in nature, an appropriate public participation process may be required. The municipality must, within 14 days acknowledge an amendment application and within 30 days decide on the outcome of such application.
- (2) A permit may be amended by –
 - (a) attaching an additional condition or requirement;
 - (b) changing raw material/s, significantly increasing production and processes or procedures that existed at the time of granting of the permit or license;
 - (c) substituting a condition or requirement;
 - (d) removing a condition or requirement;
 - (e) changing a condition or requirement;
 - (f) correcting a technical or editorial error; and
 - (g) updating or changing any detail on the permit or license.

31. Amendments on directive by the municipality

- (1) The municipality may amend a permit if it deems it necessary or desirable –
 - (a) to achieve prescribed environmental standards relevant to the authorised activity; and
 - (b) to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands.
 - (c) In order to comply with the provisions of this By Law
- (2) If the municipality directs permit amendment, the following process must be followed –
 - (a) the municipality must, in writing, notify the permit holder of the proposed amendment; and
 - (b) the municipality must give a permit holder an opportunity to submit written representations on the proposed amendment within 30 days;
 - (c) upon submission of such representations by the permit holder, the municipality must within 30 days decide on the outcome of this process.
- (3) Any permit amendment application must be accompanied by a motivation or reasons for such amendment/s. The municipality may further request the applicant to furnish additional information in support of the submitted permit amendment application.

32. Validity, Suspension, Withdrawal and Cancellation of a permit

The municipality may, subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 34 of 2000), suspend, withdraw or cancel any permit issued in terms of this By-law if the permit holder continuously fails or refuses to comply with any condition or provision contained in the permit. The validity period of the permit is determined by the municipality.

33. Appeals

Any person may appeal to the Municipal Manager against a decision taken by an authorised person under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal System Act, 2000.

CHAPTER 12

OFFENCES AND PENALTIES

34. Any person who –

- (1) contravenes or fails to comply with any provision of this By-law;
- (2) refuses or fails to comply with any notice addressed to him or her in terms of or for the purposes of this By-law;
- (3) refuses or fails to comply with the terms or conditions of any permit issued or otherwise imposed in terms of this By-law;
- (4) obstruct, hinders or interferes with an authorised official in the exercise of any power or the performance of any duty under this By-law;
- (5) fails or refuses to furnish the authorised official with any documentation or information required for the purposes of this By-law or furnishes a false or misleading document or information;
- (6) fails or refuses to comply with any instruction given by the authorised official for the purposes of this By-law;
- (7) pretends to be an authorised official;
- (8) Illegally commence with an activity requiring any permit/s from the Municipality in terms of this By-law.

is guilty of an offence and –

- (a) liable on conviction by the Court of Law to a fine not exceeding R5million or in default of payment to imprisonment for a period not exceeding 5 years or both a fine and imprisonment; and
- (b) in the case of a continuing offence, to a further fine not exceeding R5 million or in default of payment to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been served on him or her by the municipality requiring the discontinuance of such offence.
- (c) In addition to any other penalty imposed, a court may order a person convicted of an offence under subsections (a) and (b) above to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.
- (d) In addition to any penalty imposed in terms of subsections (a) and (b) above, a court may order a person convicted of an offence to pay the costs of repair for any damage caused or costs incurred in remedying any damage resulting from such an offence.

CHAPTER 13

GENERAL MATTERS

35. Enforcement

The municipality may appoint an authorised person/s as it may consider necessary to be responsible for the enforcement of this By-law. The authorised person/s shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.

36. Powers to obtain information

- (1) In order to monitor or enforce compliance with this By-law, an authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which this By-law relate, require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be accompanied by an interpreter and/or any other person reasonably required in carrying out an inspection.
- (3) An authorised official must, on request, produce his/her official identification as an authorised official.

37. Compliance monitoring

- (1) Authorised officials must inspect the premises of a permit holder not less than twice a year, and such an authorised official is permitted to have access to the premises of a licensee for this purpose.
- (2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorised official in conducting an inspection under subsection(1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) If an authorised official is of the opinion, after such an inspection, that a permit holder is complying with this By-law, he may issue the permit holder with a certificate confirming compliance, which must state: -

- (a) the name, residential and postal address of the permit holder;
 - (b) the time, date and scope of the inspection; and
 - (c) any remarks which in the opinion of the authorised official may be relevant.
- (4) If a permit holder fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the municipality review the permit, and should there be reasonable grounds, the municipality may revoke/suspend the permit in terms of this By-law, provided that the consecutive inspections occur at not less than four months intervals.
- (5) Before a permit is revoked or suspended for non compliance, the permit holder will be given an opportunity to make representations as to why such an action should not be instituted against the permit holder.
- (6) Authorised officials must keep a register recording each inspection that has been undertaken.

38. Infringement notices

- (1) If, in the opinion of the authorised official, a person is –
- (a) As a permit holder, failing to comply with the terms or conditions of a licence or permit granted in terms of this by- law; or
 - (b) as owner or occupier, has failed to satisfy an obligation in terms of any provision of this By-law, the authorised official may issue or cause to be issued on that person an infringement notice in terms of this section.
- (2) An infringement notice issued under this section must state –
- (a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
 - (b) the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
 - (c) the steps required to prevent or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice and a demand that the affected person complies without further notice and not later than 21 calendar days of the notice;
 - (d) that the affected, person must not later than 21 calendar days from the date on which the enforcement notice is issued, take steps to comply with the notice;
 - (e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph above may result in a criminal offence; and

- (f) that written representations maybe made to the municipality or a designated committee or internal functionary to which powers under this By-law have been delegated, at a specified place, within 21 calendar days of receipt of the notice.
- (3) If a person fails to comply with an infringement notice, the municipality or any one authorised by the municipality, may perform the steps required in the infringement notice, provided that the municipality does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (4) Where the municipality incurs any expenditure as a result of performing such steps, the municipality may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of criminal proceedings.
- (5) Any permit holder who fails to comply in terms of subsection (1) (b) and has, within the last five years, been in non-compliance more than once, maybe declared as a serial non-complier under this by- law and his or her licence will be revoked with immediate effect.

39. Enforcement notices

- (1) If, in the opinion of the authorised official, a person is -
 - (a) causing a nuisance, harm to human health or damage to the environment; or
 - (b) contravening any provision of this By-law, the authorised official may serve or cause to be served on that person an enforcement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act 51 of 1977.
- (2) The enforcement notice must –
 - (a) specify, at the time and place when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
 - (b) state the particulars of the infringement;
 - (c) specify the amount of the penalty payable in respect of that infringement and the place where the penalty may be paid; and
 - (d) inform the person on whom the infringement notice is served that, not later than 60 calendar days after the date of service of the infringement notice, he/she may

pay the penalty as an admission of guilt

40. Notification

- (1) In the event of a contravention of any provision of this By-law, the municipality must issue a notification in writing alleging that a person has committed an offence by contravening this By-law, at a place, upon a date, at a time or during such period specified in the notification.
- (2) Every notification must set forth:
 - (a) the particulars of the alleged offence; and
 - (b) the appropriate amount of fine imposed upon an offender.
- (3) If the notified person, within 30 days after receipt of notification, delivers or transmits the notification together with the sum of money equal to what is stated therein to the local authority, such notified person must not be prosecuted for having committed such offence.
- (4) Not later than seven days after receipt of any sum of money as provided in subsection 2(b) above, the municipality must forward to the relevant magistrate of the district or area wherein the offence is alleged to have been committed a copy of the notification relating to the payment in question.
- (5) If the municipality receives notification from the magistrate that the amount specified in the notification exceeds the required amount the municipality must immediately refund the amount of such excess to the person concerned

41. Exemptions

- (1) Any person may, in writing, apply for exemption from certain provisions of this By-law to the municipality.
- (2) An application in terms of subsection (1) above must be accompanied by reasons.
- (3) The municipality may grant a temporary exemption in writing from one or all of the provisions of this By-law, provided that the municipality as provided for in subsection:

- (a) Is satisfied that granting the exemption will not significantly prejudice the objectives referred to in section 2 above of this By-law; and
 - (b) Grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 4(a) below of the By-law.
- (4) The municipality must not grant an exemption under subsection (1) above, 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.

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 this By-law.

43. State Bound

This By-law is binding on the state and all organs of state.

44. Repeal of By-laws

No By-Law is hereby repealed

45. Short Title

This By-law shall be called the Air Quality Management By-law.

46. Commencement Date

This By-law will commence on the date of publication in the North West Provincial Gazette.

Schedule 1

Rectification of controlled activities commenced illegally

The process to be followed in the rectification of activities commenced illegally shall consist of the following steps:

Step 1:

A person or a company must ascertain whether he/she/they are responsible for the commencement or continuation of an activity requiring authorisation in terms of this By-law without the necessary licence or permit.

Step 2:

If a person or company ascertains that he/she/they are responsible for an illegal commencement or continuation of an activity as outlined under step 1 above, an application for rectification must be submitted registered mail or by hand to the municipality.

Step 3:

The rectification application must be accordingly reviewed by the municipality. This review may include site inspection to verify information provided by the applicant. Based on the review of the application, the Municipality must advise the applicant on further information required to consider the application.

Step 4:

The municipality must advise the applicant of further procedural and information requirements by means of a notice. This may include the compilation of a report after conducting prescribed public consultation. The municipality must also advise the applicant on the administration fine payable and details of the account where money must be deposited.

Step 5:

The applicant must submit the required reports together with proof of payment of the fine to the municipality. Reports submitted without proof of payment or exemption from payment will not be processed.

Step 6:

After careful consideration of the reports, the municipality must make a decision and communicate such decision to the applicant within 30 days: The municipality could either decide to:

- (i) issue the applicant with a permit or licence with such conditions as deemed necessary; or
- (ii) issue the applicant with a directive to cease the activity and rehabilitate the environment.

Lodging an application for rectification does not necessarily imply that the activity will be authorised. The municipality may either conditionally authorise the activity or issue a directive for the activity to cease and for the environment to be rehabilitated to the satisfaction of the municipality and other affected spheres of government. An application form for rectification of activities commenced illegally is included as schedule 8 of this By-law.

Schedule 2

Criteria to Identify and Prioritise Substances and to Develop Local Emission Standards

A. Criteria to identify and prioritise substances

The Municipality may apply the following criteria when identifying and prioritizing the substances in ambient air that present a threat to public health, well-being or the environment-

- (1) 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;
- (2) Widespread and high concentrations of the substance in the atmosphere;
- (3) 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;
- (4) Persistence in the environment, particularly if the substance is not biodegradable and able to accumulate in humans, the environment or food chains;
- (5) The impact of the substance taking the following factors into consideration:
 - (a) Size of the exposed population, living resources or ecosystems;
 - (b) The existence of particularly sensitive receptors in the zone concerned;
- (6) Substances that are regulated by international conventions.

B. Criteria to develop local emission standards

- (1) The Municipality may, when developing the standards:
 - (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.
- (2) The Municipality 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 capability; and
- (e) Socio-economic consequences.

Schedule 3

Application Form to Operate Multiple Boilers, Small Boiler, Furnace and Incinerator

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 the _____ day of _____

SIGNATURE

CAPACITY OF SIGNATORY

I, _____
 owner/occupier of the land/property known as

_____ (Registered name)
 within the municipality's jurisdiction hereby applying for permission to operate a small boiler on the said property.

1. Contact details

Responsible Person Name	
Telephone Number	
Cell Phone Number	
Fax Number	

E-mail address	
----------------	--

2. Product name and model of the small boiler

Product Name	Product model

3. Raw materials used

Raw materials used	Maximum permitted consumption rate (volume)	Design consumption rate (volume)	Actual consumption rate (volume)	Units (quantity/period)

4. Energy used

Energy source	Sulphur content of fuel (%) (if applicable)	Ash content of fuel (%) (if applicable)	Maximum permitted consumption rate (volume)	Design consumption rate (volume)	Actual consumption rate (volume)	Units (quantity/period)

3. Signatures:

Signature of the applicant

Date of Application:

4. Office Use only

4.1 Authorised person: Site inspection Observations

4.2 Authorised person: Recommendations

4.3 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:

- a)
- b)
- c)
- d)
- e)

Air Quality Officer Signature

Date: _____

Schedule 4

APPLICATION FORM FOR OPEN BURNING

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

1. Contact details

Responsible person	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

2. Description of the extent of the open area

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

- A.
- B.
- C.
- D.
- E.

4. Reasons for burning materials in open area

5. Approximate date and time to burn materials

Date	Time

6. Notification of adjacent owners and occupiers (including surrounding communities with 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

Date of Applications

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:

- a)
- b)
- c)
- d)
- e)

The application is not approved for the following reasons:

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

Air Quality Officer Signature:

Date: _____

Schedule 5

Application Form to Burn Organic material

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

1. Contact details

Name of the responsible person	
Telephone number	
Cell Phone Number	
Fax Number	
E-mail address	

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

3. Reasons for the organic material burning

4. Approximate date and time to burn organic material

Date	Time

--	--

Alternative date	Time	event of inclement weather conditions	

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 organic material, 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 organic material burning; (c) approximate date and time for the organic material 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

Signature of the Applicant: Date of Application

7. Office Use Only

7.1. Authorised Person: Site Inspector 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)

The application is not approved for the following reasons:

- (a)
- (b)
- (c)

Air Quality Officer Signature:

Date: _____

**Schedule 6
Application Form to Undertake Pesticide Spraying {Section 16(2) (a)}**

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

Responsible Person Name	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

2. Description of the extent of the proposed treated area

3. Type of product label to be used

a)	
b)	
c)	
d)	
e)	

4. Approximate date and time for pesticide spraying

Date	Time

Alternative date	Time	event of inclement weather conditions

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 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:

- a)
- b)
- c)
- d)
- e)
- f)
- g)

The application is not approved for the following reasons:

- a)
- b)
- c)
- d)
- e)
- f)

_____ **Air Quality Officer Signature**

Date: _____

Schedule 7

Application form for Rectification of controlled activities commenced illegally

FOR OFFICIAL USE ONLY

Date received:	
Reference Number	

Section A: Personal Information and Contact details

Applicant:	
Company/closed Corporation Registration Name & Number (if applicable):	
Contact person:	
Position in a company:	
ID Number of contact person/applicant:	
Physical address:	
Telephone & Cell Numbers:	
Fax number:	
Email address:	
Registered Land Owner:	
Contact person:	
Postal Address:	
Physical address:	
Telephone number:	
Email address:	
Fax number:	

Operation ceases pending outcome of application:	
Activity has been decommissioned and property rehabilitated to original state:	
Property/ies transferred to new owner:	

Section C: Authorisations/permits/licenses obtained from other organs of state

Name of Authority	Legislation/regulations/By-laws in terms of which authorisation was obtained	Authorisation date	Authorisation/permit/certificate number

Section D: Motivation for rectification application

Please explain why this activity commenced or continued with in contravention with this By-law.

Please motivate why your application in terms of this By-law should be considered favourably:

Section E:

Certified copies of the following documents must accompany your application:

- i. Identification page from ID document of the applicant in cases where an individual is the applicant or of the contact person where a company /closed corporation apply;

- ii. Registration certificate of the company / closed corporation; and
- iii. Proof of ownership of the land or alternatively, proof of owner’s consent to undertake activity on the relevant land.

Section F: Declaration

Please complete the declaration below:

I.....duly authorised to act on behalf of
hereby declare that the information provided herein is according to my knowledge complete and accurate.

Signed at.....on this.....day of.....20....

.....
On behalf of the applicant

.....
Witness 1

.....
Witness 2

Schedule 8**SPOT OR ADMINISTRATIVE FINES**

Description of offence	Fines per offence
Not taking all reasonable measures to prevent potential air pollution from occurring	R 800
Not taking all reasonable measures to mitigate and, as far as reasonably possible, to remedy air pollution that has occurred	R 800
Emitting smoke and/or dark smoke from any premises (other than dwellings) for an aggregate period exceeding three minutes during the continuous period of thirty minutes	R 800
Installing/altering/extending/replacing/operating fuel-burning equipment on premises without the prior written Authorisation of the municipality	R 1200
Failure to record monitoring and sampling results and keep such records	R 600
Failure to produce records of monitoring for inspection by an authorised person	R 600
Failure to provide a written report of the information on the records	R 600
Failure to ensure that the air pollution measuring equipment is calibrated	R 800
Carrying out open burning of material on land or premises without prior written Authorisation of the municipality	R 1200
Driving/using, or causing to be driven or used, a compresses ignition powered vehicle that emits dark smoke	R 1200
Not complying with reasonable direction given by an authorised person to stop the vehicle and to facilitate the inspection/testing of the vehicle	R800
Failing to comply with a repair notice	R 1200
Creating or permitting emissions and/or noise that cause a nuisance.	R 1200
Not taking all reasonable steps to prevent the emission of any offensive odour caused by any activity on premises	R 1200

Not taking all reasonable steps to prevent nuisance of dust caused by any activity on premises	R 1200
Not taking all reasonable steps to prevent nuisance of fumes and odours caused by any activity on premises	R 1200
Supplying false information to an authorised person in respect of any issue pertaining to the By-law	R 1200
Refusing to co-operate with the request of an authorised person made in terms of this By-law	R 1200
Failing to comply with a notice, direction or instruction referred to in the By-law	R 1200
Illegal commencement with an activity requiring any permit from the Municipality in terms of this By-laws	R1200
Burning of any industrial, domestic or garden waste, on any land or premises, for the purpose of disposing of that waste	R 800
Spraying of pesticide, herbicide or other related material not registered in terms of section 3 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).	R 800
Tyre Burning and Burning of Rubber Products and Cables in Open Spaces	R 1200

Schedule 9

Permitting Procedures

1. Application Process:

- (a) The applicant must fill the prescribed application form for the proposed activity. The application form must be filled in full and accompanied by the prescribed application fee. The application fee can be paid at municipal offices or deposited into the municipal bank account as prescribed in the application form.
- (b) The application form can be directly obtained from the Municipality offices or Website.
- (c) The application form must be submitted together with all relevant supporting documentation, including information required by the Municipality for that particular activity.
- (d) The Municipality must, within 14 days of receipt of the application, in writing:
 - (i) Acknowledge receipt of and accept the application, if the application is in order; or
 - (ii) Acknowledge receipt and reject the application, if it is not in order.
- (e) The applicant may accordingly correct the rejected application and resubmit to the Municipality for further consideration.

2. Background Information Document

- (a) As one of the major supporting documentation, the applicant must compile a Basic Background Information Document (BID). The BID must include the following, but not be limited to:
 - (i) The project location;
 - (ii) Description of the surrounding land users;
 - (iii) Description of the need of the proposed activity;
 - (iv) Detailed description of the proposed activity or project;
 - (v) Relevant Specialist Studies(if applicable to the proposed project);
 - (vi) Description of all raw materials to be used and the manner in which such materials will be stored, handled and used;
 - (vii) The type of energy or fuel to be used (if applicable to the proposed project);
 - (viii) Description of the environmental aspects (i.e. air, water, soil, community etc) that may be affected by the proposed activity;

- (ix) Description and assessment of all environmental impacts (e.g. air & noise pollution, waste etc) associated with the proposed project or activity. The proposed mitigation and management measures to address or reduce such impacts must be provided;
- (x) Proposed waste disposal measures (if applicable);
- (xi) Proof that Interested & Affected Parties (I&AP) positioned within 100m radius of the proposed site were consulted and given an opportunity to raise their comments or inputs on the proposed activity as prescribed by the Municipality; and
- (xii) Any comments or inputs, including objections raised by I&APs during Public Consultation and the manner in which such objections were addressed by the applicant.

3. Public Participation Process

- (a) The applicant must, as a minimum undertake the following steps relating to public consultation:
 - (i) Interested & Affected Parties located within 100m radius of the proposed site must be informed about the proposed activity or project;
 - (ii) The applicant must open and maintain a register where the people can register as I&APs;
 - (iii) I &APs must be informed or consulted either by letters, emails (if possible) and through public meetings;
 - (iv) I&APs must be provided with all documentations (especially BID) relating to the proposed activity for comments or inputs and objections;
 - (v) A 20 days commenting period must be provided to I&APs;
 - (vi) The application, including all supporting documentations must be placed in public areas (e.g. community halls, clinics, libraries etc);
 - (vii) The Ward Municipality or where the proposed project or activity will be undertaken, must be informed in writing and directly provided with all copies relating to the activity;
 - (viii) After the lapsing of the 20 days commenting period, the applicant must accordingly address all concerns, inputs or objections raised by I&APs and submit the final documents to the Municipality for consideration; and
 - (ix) In cases whereby other I&APs continuously shows dissatisfaction with the manner in which their concerns or objections were addressed by the applicant, the applicant should submit such reports or documents to the Municipality for the Municipality to decide the outcome of the application.

4. Decision on application

- a) The Municipality must, within 30 days of submission of the application including all supporting documentation as required, consider the application and in writing:
 - (i) Grant the permit for the activity applied for, subject to any conditions or requirements as deemed necessary by the Municipality; or
 - (ii) Refuse the permit with sound reasons included in the refusal document.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.

Tel: 334-4507, 334-4511, 334-4509, 334-4515

Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001.

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Ook verkrygbaar by die **Noordwes-provinsie**, Privaat Sak X2036, Mmabatho, 8681. Tel. (0140) 81-0121