



THE PROVINCE OF MPUMALANGA  
DIE PROVINSIE MPUMALANGA

**Provincial Gazette Extraordinary  
Buitengewone Provinsiale Koerant**

*(Registered as a newspaper) • (As 'n nuusblad geregistreer)*

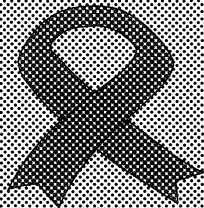
Vol. 21

NELSPRUIT, 21 MAY  
MEI 2014

**No. 2300**

**We all have the power to prevent AIDS**

AIDS  
affects  
us all



A  
new  
struggle

**Prevention is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

*N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes*



**IMPORTANT NOTICE**

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

**CONTENTS • INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
<b>LOCAL AUTHORITY NOTICES</b>			
84	Constitution of the Republic of South Africa, 1996: Gert Sibande District Municipality: Tariff By-Law .....	3	2300
85	do.: do.: Noise Control By-Law .....	13	2300
86	do.: do.: Municipal Health By-Law .....	25	2300
87	do.: do.: Air Quality Management By-Law .....	94	2300

---

## LOCAL AUTHORITY NOTICES

---

### LOCAL AUTHORITY NOTICE 84

#### GERT SIBANDE DISTRICT MUNICIPALITY: TARIFF BY-LAW

Under the provisions of Section 156 of the Constitution of the Republic of South Africa, 1996 and section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Gert Sibande District Municipality, enacts as follows:-

#### TABLE OF CONTENTS

##### CHAPTER I: INTERPRETATION AND OBJECTIVES

1. Definitions
2. Purpose and objectives

##### CHAPTER II: ADOPTION AND IMPLEMENTATION OF TARIFF POLICY

3. Adoption of policy
4. Levying of tariffs

##### CHAPTER III: CONTENT OF TARIFF POLICY

5. Content of the tariff policy

##### CHAPTER IV: COST OF SERVICE TO BE RECOVERED

6. Tariffs to be levied for services rendered for municipal health and environmental services
7. Consumer categories
8. Service tariffs for non-governmental organisations, community based organisations and faith based organisations
9. Service tariffs for commercial, manufacturing and industrial consumers
10. Service tariffs for government institutions and ad hoc consumers

##### CHAPTER V: ATMOSPHERIC EMISSION LICENCING

11. Services and tariff units
12. Consumer categories
13. Health nuisances and environmental hazards
14. Service tariffs for commercial, manufacturing and industrial consumers
15. Service tariffs for government institutions
16. Administrative fee applicable to applications for atmospheric emission licences
17. Applications for re-inspections, follow-up inspections and appeals where licences are not granted

##### CHAPTER VI: LABORATORY SERVICES OR UTILITIES

18. Services and tariff units
19. Consumer categories
20. Service tariffs for non-governmental organisations, community based organisations and faith based organisations
21. Service tariffs for commercial, manufacturing and industrial consumers
22. Service tariffs government institutions and other consumers
23. Administrative fee
24. Applications for sampling or re-sampling

##### CHAPTER VII: MISCELLANEOUS SERVICES

25. Surpluses
26. Subsidies
27. Billing Categories
28. Application of income
29. Services co-funded by equitable share

30. Tender documents, application forms, objection forms, hard and electronic copies of documents

#### CHAPTER VIII: GENERAL PROVISIONS

31. Appeal  
 32. Severability  
 33. Municipality and State bound  
 34. Conflict  
 35. Offences and penalties  
 36. Exemptions  
 37. Savings  
 38. Enforcement  
 39. Repeal of by-laws  
 40. Short title and commencement

#### CHAPTER I: INTERPRETATION AND OBJECTIVES

##### 1. Definitions

(1) In this By-Law, the English text prevails in the event of any conflict with other text unless the context otherwise indicates –

“**administration fee**” means the application fee that will be charged to any applicant for requesting, sampling, re-testing, tender documents, duplicate of documents or copies of reports and studies;

“**AQM**” means Air Quality Management services as defined in the National Environmental Management: Air Quality Act, 39 of 2004;

“**average historic cost of laboratory services**” means the average historical cost calculated as the total current annual cost of testing services (including capital charges but excluding surcharges and contributions to a capital development fund) divided by the total operational cost per year;

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

“**cost to be recovered**” the cost of purchasing, the cost of changing the product to the delivered, administrative and support system cost;

“**Credit Control and Debt Collection By-Law and Policy**” means the District's Credit Control and Debt Collection By-Law and Policy as required by sections 96(b), 97 and 98 of the Municipal Systems Act (No.32 of 2000);

“**district**” means the Gert Sibande district;

“**District Municipality**” means the Gert Sibande District Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act no. 117 of 1998) and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee and “**municipality**” has a corresponding meaning;

“**environmental health officer**” means an official appointed by the municipality or any other organ of State and who is registered with the Health Profession Council of South Africa;

“**laboratory services**” means all municipal health services rendered by the district municipality to any consumer;

“**MHS**” means Municipal Health Services as defined by the National Health Act, 2003 (Act 63 of 2003);

“**Municipal Finance Management Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“**NEMA: AQA**” means National Environmental Management: Air Quality Act, Act 2004 (Act no.39 of 2004);

“**Systems Act**” means the Local Government: Municipal Systems Act 200, (Act 32 of 2000);

“**tariff**” means fees, charges, or any other tariffs levied by the municipality in respect of any function or service provided by the municipality, excluding rates levied by the Local Municipalities in terms of the Local Government;

“**tariff policy**” means a tariff policy adopted by the District Municipality in terms of this By-Law;

“**temporary consumers**” includes builders, carnivals, construction project, maintenance, cross boundary projects, fairs, amusement parks and any consumer of a temporary nature;

“**tariff policy**” means a tariff policy adopted by the municipality in terms of this by-law;

“**water quality laboratory**” means the non-accredited municipal owned and operated laboratory at which bacteriological and chemical analysis of water samples are done; or as it may be accredited in future for any other analysis services; and

“**Water testing fee:**” means the prescribed fee levied against a client requesting water testing in the laboratory for chemical, biological analysis or any other service that will be provided or a combination of the following:

- (a) Bacteriological analysis;
- (b) Chemical analysis; or
- (c) special analysis for investigation.

(2) In the interpretation of this by-laws in the masculine gender include the feminine, the singular includes the plural and vice versa and the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur.

## 2. Purpose and objectives

(1) To give effect to section 75A of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) in terms of which the municipality may levy and recover fees, charges or tariffs in respect of any function or service of the municipality and recover collection charges and interest on any outstanding amount.

(2) To give effect to section 74 of the Systems Act in terms of which the municipality must adopt and implement a tariff policy on the levying of fees for municipal services provided by or on behalf of the municipality and to ensure that such a tariff policy as given effect to in this by-law, reflects at least the following principles:

- (a) Consumers of municipal services should be treated equitably in the application of tariffs;
- (b) The amount individual consumers pay for services should generally be in proportion to the service rendered;
- (c) Tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;
- (d) Tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidization from sources other than the service concerned;
- (e) Provision may be made in appropriate circumstances for a surcharge on the tariff for a service; and
- (f) Provision may be made for the promotion of local economic development through tariffs for categories of commercial and industrial users.

(3) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Gert Sibande District, the different customs, cultures, circumstances, and geographical areas, kinds of property levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines.

- (4) The granting of exemptions and the utilisation of liaison forums will be as contemplated in the by-law.

## **CHAPTER II: ADOPTION AND IMPLEMENTATION OF TARIFF POLICY**

### **3. Adoption of policy**

The municipality shall adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality or by way of service delivery agreements which complies with the provisions of the Systems Act, the Municipal Finance Management Act and any other applicable legislation.

### **4. Levying of tariffs**

The District shall not be entitled to impose tariffs other than those approved by council annually with the budget.

## **CHAPTER III: CONTENT OF TARIFF POLICY**

### **5. Content of the tariff policy**

The municipality's tariff policy shall, inter alia:

- (a) Apply to all tariffs imposed by the municipality to the adoption of the municipality's annual budget;
- (b) Reflect the principles referred to in section 74(2) of the Systems Act and specify any further principles for the imposition of tariffs which the municipality may wish to adopt;
- (c) Specify the manner in which the principles referred to in section 74(2) of the Systems Act are to be implemented in terms of the tariff policy;
- (d) Specify the basis of differentiation, if any, for the purposes between different categories of users, debtors, services, providers, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination; and
- (e) Include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection Policy and By- Law.

## **CHAPTER IV: COST OF SERVICE TO BE RECOVERED**

### **6. Tariffs to be levied for services rendered for municipal health and environmental services**

- (1) The municipality may levy charges and fees in respect for the provision of any of its municipal health and environmental services.
- (2) The municipality will provide municipal health and environmental services as defined in the applicable legislation and regulations to all its residents, including all powers assigned by the Minister or Member of the Executive Council, through service delivery mechanisms that are acceptable, affordable, sustainable and efficient.
- (3) All customers of municipal health and environmental services will receive equal levels and standards of service, which will include at least, but will not be limited to, the issuing of the following and the units against which tariffs will be levied are indicated in brackets:
  - (a) Certificates of Acceptability (COA) in terms of Regulation 926 (per certificate)
  - (b) Water or Food Sampling and Analysis (per sample taken)
  - (c) Request for special inspection (per request)
  - (d) Amendments to COA or Certificate of Compliance (COC) (per request)
  - (e) Certificate of Compliance (COC in terms of R918)
  - (f) Permit, authorisation or licence in terms of the district's by-laws or any other legislation per application)

- (g) Health Certificates for informal traders (per application)
- (h) Eradication of nuisance or environmental hazards or pollution incidents or potential pollution incidents (per incident).

#### **7. Consumer Categories**

The tariffs will distinguish between the following categories of consumers: Non-governmental organisations, community based organisations, faith based organisations, government institutions, commercial, manufacturing, industrial, and other ad hoc customers that may require the services from time to time.

#### **8. Service tariffs for non-governmental organisations, community based organisations and faith based organisations**

- (1) The municipality may subsidise the cost of services to consumers in this category provided that such consumer must submit an application and proof of registration with the Department of Social Services where such registration is required or any form of proof of registration as a religious organization or non-governmental organisation that may be prescribed by the municipality.
- (2) Upon receipt of the application and the documentation referred to in subsection (1) applicants, except applicants that are in a sound financial position, may receive subsidised services from the municipality.
- (3) The cost of eradication, removal or abatement of health nuisances or environmental hazards for consumers in this category will be the actual cost inclusive of the cost of a third party or agent or external service provider plus 20% of the charge as administrative costs.
- (4) Any application for subsidy by consumers in this category will be considered by the portfolio committee of the Department of Community and Social Services of the municipality.

#### **9. Service tariffs for commercial, manufacturing and industrial consumers**

- (1) The service fees for all consumers in this category will be equal to at least the average historical cost of municipal health and environmental services.
- (2) The municipality may set different tariffs for entrepreneurs and micro, small and medium enterprises in order to support and promote local economic development.
- (3) The cost of eradication, removal or abatement of health nuisances or environmental hazards for consumers in this category will be the actual cost inclusive of the cost of a third party or agent or external service provider plus 50% of the charge as administrative costs.
- (4) Entrepreneurs and small and medium enterprises may apply for the lower tariff referred to in subsection (2) by submitting proof of classification or categorisation as entrepreneurs, small and medium business.
- (5) All applications referred to in subsection (4) must be approved by the Senior Manager: Municipal Health and Environmental Services and, before considering such an application the manager may conduct an investigation to verify the information supplied.

#### **10. Service tariffs for government institutions and ad hoc consumers**

- (1) The service fees for all consumers in this category will be equal to at least the average historical cost of municipal health and environmental services.
- (2) The municipality may set different tariffs for government institutions from which the public stand to gain.
- (3) The cost of eradication, removal or abatement of health nuisances or environmental hazards for consumers in this category will be the actual cost inclusive of the cost of a third party or agent or external service provider plus 20% of the charge as administrative costs.
- (4) Any application for subsidy by consumers in this category will be considered by the portfolio committee of the Department of Community and Social Services of the municipality.

(5) The administration fee for services to consumers in this category will be a fixed application fee to be paid by applicants upon the submission of application forms and the cost will be 50% of the tariff set for commercial clients.

(6) Any request for an inspection or re-inspection must be done by completing a prescribed application form and the tariff will be the fee prescribed by the municipality from time to time.

## CHAPTER V: ATMOSPHERIC EMISSION LICENCING

### 11. Services and tariff units

All customers in this category will receive equal levels and standards of service, which will include at least the following services and the units against which tariffs will be levied are indicated in brackets:

- (a) Applications for atmospheric emission licences valid for 5 years from the date of issue (per application).
- (b) Change of ownership, transfer of licences or amendment of details (per application).
- (c) Renewal of atmospheric emission licence (per application).
- (d) Amendment of atmospheric emission licences (per application).
- (e) Re-issue of atmospheric emission licences (per application).
- (f) Submission of objection or refusal to issue or amend atmospheric emission licences.

### 12. Consumer categories

The tariffs will distinguish between the following categories of consumers: Non-governmental organisations, community based organisations, faith based organisations, government institutions, commercial, manufacturing, industrial and other consumers in accordance with line with the atmospheric emission calculator with six (06) bands from band 1 to band 6 or as per related guidelines for application categories for atmospheric emission licences issued by the minister of environmental affairs in terms of NEMA: AQA.

### 13. Health nuisances and environmental hazards

The tariff for the eradication, removal or abatement of health nuisances or environmental hazards will be the actual cost incurred including the cost of a third party, agent or external service provider plus 20% of the charge as administrative costs.

### 14. Service tariffs for non-governmental organisations, community based organisations and faith based organisations

(1) The atmospheric emission licence fees for all consumers in this category will be equal to the fees set in the atmospheric emission calculator set by the Department of Environmental Affairs.

(2) The municipality may subsidise the cost of services to consumers in this category provided that such consumer must submit proof of registration with the Department of Social Services where such registration is required or any form of proof of registration as a religious organization or non-governmental organisation that may be prescribed by the municipality.

(3) Upon receipt of the application and the documentation referred to in subsection (2) applicants, except applicants that are in a sound financial position, may receive up to 50% subsidy on services rendered by the municipality.

(4) Any application for subsidy by consumers in this category will be considered by the portfolio committee of the Department of Community and Social Services of the municipality.

### 14. Service tariffs for commercial, manufacturing and industrial consumers



The atmospheric emission licence tariffs for all consumers in this category will be set at the fees prescribed in the atmospheric emission calculator guideline as developed by the Department of Environmental Affairs plus the full cost of specialists or agents that may be needed to assist the municipality to assess the application.

**15. Service tariffs for government institutions**

The atmospheric emission licence tariffs for all consumers in this category will be set at the fees prescribed in the atmospheric emission calculator guideline as developed by the Department of Environmental Affairs plus the full cost of specialists or agents that may be needed to assist the municipality to assess the application.

**16. Administrative fee applicable to applications for atmospheric emission licences**

The municipality may levy an administration fee which will be determined by using the atmospheric emission calculator as a guide and which will be payable upon submission of the application for an atmospheric emission licence.

**17. Applications for re-inspections, follow-up inspections and appeals where licences are not granted**

Any appeal against a decision or an inspection or re-inspection must be lodged or submitted by completing the prescribed form and the tariff for any inspection or re-inspection will be based on the actual cost incurred to conduct the inspection or re-inspection plus an additional 30%.

**CHAPTER VI: LABORATORY SERVICES OR UTILITIES**

**18. Services and tariff units**

All customers in this category will receive equal levels and standards of service, which will include at least the following services and the units against which tariffs will be levied are indicated in brackets:

- (a) Administration fee (per request).
- (b) Sampling results (per request).
- (c) Scheduled bacteriological, organic, chemical, metal, sampling and analysis (per sample).
- (d) Re-sampling (per sample).
- (e) Special requests for bacteriological or chemical analysis (per sample).

**19. Consumer categories**

The tariffs will distinguish between the following categories of consumers: Non-governmental organisations, community based organisations, faith based organisations, government institutions, commercial, manufacturing, industrial, and other ad hoc customers that may require the services from time to time.

**20. Service tariffs for non-governmental organisations, community based organisations and faith based organisations**

- (1) The municipality may subsidise the cost of services to consumers in this category provided that such consumer must submit proof of registration with the Department of Social Services where such registration is required or any form of proof of registration as a religious organization or non-governmental organisation that may be prescribed by the municipality.
- (2) Upon receipt of the application and the documentation referred to in subsection (1) applicants, except applicants that are in a sound financial position, may receive free services rendered by the municipality.
- (3) Any application for subsidy by consumers in this category will be considered by the portfolio committee of the Department of Community and Social Services of the municipality. The subsidy shall be to the maximum of 30% of the approved tariff.

**21. Service tariffs for commercial, manufacturing and industrial consumers**

- (1) The tariffs for all consumers in this category will be set at to at least equal to the average historical cost of laboratory services
- (2) The municipality may set different tariffs for entrepreneurs and micro, small and medium enterprises in order to support and promote local economic development.
- (3) Entrepreneurs and small and medium enterprises may apply for the lower tariff referred to in subsection (2) by submitting proof of classification or categorisation as entrepreneurs, small and medium business.
- (4) All applications referred to in subsection (3) must be approved by the municipal manager and, before considering such an application, the municipality may conduct an investigation to verify the information supplied.

**22. Service tariffs government institutions and other consumers**

- (1) The service fees for all consumers in this category will be equal to at least the average historical cost of laboratory services.
- (2) The municipality may set different tariffs for government institutions from which the public stand to gain.

**23. Administrative fee**

The municipality may levy a fixed administrative fee on all applications for laboratory services and such a fee is payable upon submission of special sampling request forms or requests for investigations.

**24. Applications for sampling or re-sampling**

Requests for sampling or re-sampling must be done by completing a prescribed application form and the tariff for such an application will be the actual cost for conducting the sampling or re-sampling plus 25%.

**CHAPTER VII: MISCELLANEOUS SERVICES****25. Surpluses**

The municipality may obtain surpluses on the following services:

- (a) 15% on permits and licences or as per national guidelines where such guidelines are in place and whichever is the greatest.
- (b) 15% on special inspections, investigations and re-inspections.
- (c) 15% on special laboratory analysis and re-sampling.
- (d) Miscellaneous requests such as copies of reports, database information, sampling results, by-laws, permits, re-issue of permits, licences, tender documents, copies of the council agenda and maps irrespective of whether hard or electronic copies are requested (per copy)

**26. Subsidies**

Cross-subsidization may be applied between user categories and all subsidies must be disclosed upon request by any party who has an interest.

**27. Billing**

In all instances the owner of the business entity or property owner will be billed and not the agent or manager.

**28. Application of income**

Income generated from Air Quality Management can be used to subsidise other municipal health and environmental services in the district.

**29. Services co-funded by equitable share**

Council may employ its equitable share to recover the cost to deliver Municipal Health and Environmental Services and Laboratory Services.

**30. Tender documents, application forms, objection forms, hard and electronic copies of documents**

The municipality may set tariffs for tender documents, application forms, objection forms and hard and electronic copies of documents and it may subsidise applications that are to the public benefit.

**CHAPTER VIII: GENERAL PROVISIONS****31. Appeal**

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

(2) Pending confirmation, variation or revocation of the decision against which the appeal is lodged, any person appealing the said decision, unless the municipality provides otherwise:

- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
- (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.

**32. Severability**

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

**33. Municipality and State bound**

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

**34. Conflict**

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

(2) In the event of a conflict with the Local Government Municipal Finance Management Act, Act 56 of 2003 the provisions of the Act will prevail.

**35. Offences and penalties**

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

(2) It is an offence to:

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

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

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

### **36. Exemptions**

- (1) The municipality may grant temporary exemption in writing from one or all of the provisions of Parts III, IV and V, provided that the municipality:
- (a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in section 2; and
  - (b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in section 2.
- (2) The municipality may not grant an exemption referred to in subsection (1) unless the municipality has:
- (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
  - (b) provided such person with a reasonable opportunity to object to the application; and
  - (c) duly considered and taken into account any objections raised.

### **37. Savings**

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

### **38. Enforcement**

The municipality's tariff by-law and policy will be enforced through the Credit Control and Debt Collection by-law and any further enforcement mechanisms stipulated in the municipality's tariff policy or applicable law.

### **39. Repeal of by-laws**

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

### **40. Short title and commencement**

This by-law shall be known as the Tariff By-law of the Gert Sibande District Municipality and comes into operation on the date of publication thereof in the Provincial Gazette.

**LOCAL AUTHORITY NOTICE 85****GERT SIBANDE DISTRICT MUNICIPALITY:  
NOISE CONTROL BY-LAW**

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

Table of contents

**PART I: INTERPRETATION AND OBJECTIVES**

1. Definitions
2. Principles and objectives
3. Authentication and service of notices and other documents
4. Interdict

**PART II: NOISE POLLUTION MANAGEMENT**

5. Prohibition of Disturbing Noise
6. Prohibition of Noise Nuisance
7. Land Use
8. Designation of Controlled Areas
9. Motor Vehicles
10. Music, Open-Air Music Festivals and Similar Gatherings

**PART III: GENERAL PROVISIONS**

11. General Powers of a Municipality
12. General prohibition
13. Use of Measuring Instruments
14. Exemptions
15. Offences and penalties
16. Restriction of Liability
17. Repeal of by-laws
18. Short title and commencement

**PART I: INTERPRETATION AND OBJECTIVES****1. Definitions**

In these by-laws any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates –

“**Act**” means the Environment Conservation Act, 1989 (Act No. 73 of 1989);  
National: Air Quality Management Act; 2004 (Act No. 34 of 2004) and  
Municipal Finance Management Act; (Act No. Of 2003)

“**ambient sound level**” means the reading on an integrating impulse sound level meter taken at a measuring point, in the absence of any alleged disturbing noise, at the end of a total period of at least 10 minutes after such meter was put into operation excluding any alleged disturbing noise emanating from residential areas;

“**animal**” also includes birds and poultry;

“**controlled area**” means a piece of land designed for the management of noise by a municipality where, in the case of –

- (a) road traffic noise in the vicinity of a road -
  - (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter was in operation, exceeds 60 dBA; or
  - (ii) the outdoor equivalent continuous “A”-weighed sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours as calculated in accordance with SANS 10210, and projected for a period of 15 years following the date on which the municipality has made such designation, exceeds 60 dBA.
- (b) air traffic noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the municipality made such designation, exceeds 65 dBA;
- (c) industrial noise in the vicinity of an industry –
  - (i) the reading on an integrating sound level meter, set on impulse or faster acquisition rate, taken outdoors at the end of a period of 24 hours while such meter was in operation, exceeds 60 dBA; or
  - (ii) the calculated outdoor equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours, exceeds 60 dBA; or
- (d) noise from any other source in the vicinity of that source excluding residential areas;
  - (i) the reading on an integrating sound level meter, set on impulse or faster acquisition rate, taken outdoors at the end of a period extending from the time when such source of noise became active until the time when it was no longer active, while such meter was in operation, exceeds 65 dBA; or
  - (ii) the outdoor equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground, as calculated in accordance with acceptable mathematical/acoustic methods for a period extending from the time when the source of noise became active until the time when it was no longer active, and projected for a period of 15 years following the date on which the municipality made such designation, exceeds 65 dBA: Provided that methods of calculation as described in SABS ARP 020 may be used for the calculation.

“**dB<sub>A</sub>**” means the value of the sound pressure level in decibels, determined using a frequency-weighting network A, and derived from the following equation:

$$L_{P_A} = 10 \log_{10} \left[ \frac{P_A}{P_0} \right]^2$$

where –

- $P_A$  – the ‘A’-weighted sound pressure; and
- $P_0$  – the reference sound pressure  
( $P_0 = 20 \mu\text{Pa}$ )

**“disturbing noise”** means:

- (a) a noise level that causes the ambient sound level to rise above the designated sound level, or if no sound level has been designated, a sound level that exceeds the ambient sound level by 7 dBA or more or that exceeds the typical rating levels for ambient noise in districts, indicated in table 2 of SANS 10103 excluding residential source of disturbing noise;
- (b) a noise level emanating from residential area or source that can be heard from the boundary of that property or is causing public disturbance or inconvenience;

**“erect”** also means alter, convert, extend or re-erect;

**“exempted vehicle”** means a vehicle listed in Annexure A to SANS 10281;

**“integrating sound level meter”** means a device that integrates a function of the root mean square value of sound pressure over a period of time and indicates the result in dBA;

**“integrating impulse sound level meter”** means an integrating sound level meter set on “I”-time weighting or at a sampling rate greater than “I” weighting and integrated to provide the result in dBA;

**“measuring point”** relating to –

- (a) a piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where an alleged disturbing noise shall be measured in accordance with the provisions of section 16, excluding noise emanating from a residential source which shall be dealt with as a disturbing noise;
- (b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise shall be measured in accordance with the provisions of section 16 excluding noise emanating from a residential source which shall be dealt with in terms of disturbing noise ;and
- (c) a stationary vehicle, means a point as described in SANS 10181 where a measuring microphone shall be placed;

**“municipality”** means the Gert Sibande District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“noise control officer”** means a designated official with a qualification equivalent to a senior certificate plus three years tertiary education in engineering, physical sciences or health sciences and who is registered with a professional council;

**“noise level”** means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise, excluding residential areas which shall be dealt with in terms of disturbing noise, at the end of a total period of at least 10 minutes after such meter was put into operation, and, if the alleged disturbing noise has a clearly discernible pitch, for example, a whistle, buzz, drone or music;

**“noise nuisance”** means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person or animals;

**“noisiness index”** means a number expressed in dBA as defined in SANS 10117;

- ”non-exempted vehicle”** means a vehicle not listed in Annexure A to SANS 10281;
- ”plant”** means a refrigeration machine, air conditioners, fan system, compressor, power generator or pump or mechanical driven device;
- ”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;
- ”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 on water; or
  - (e) any other vessel or model which is used for sport or recreational purposes;
- ”SABS 0103”** (now SANS 10103) means South African Bureau of Standards publication No.10103 entitled: “The measurement and rating of environmental noise with respect to annoyance and to speech communication” published under Government Notice No. 718 in Government Gazette No. 18022 of 30 May 1997, as amended from time to time or its corresponding replacement;
- ”SANS 10117”** means South African Bureau of Standards publication No. 0117 – 1974 titled: “Code of Practice for the determination and limitation of disturbance around an aerodrome due to noise from aeroplanes” published under Government Notice No. 151 of 01 February 1985, as amended from time to time or its corresponding replacement;
- ”SANS 10181”** means South African Bureau of Standards publication No. 0181 – 1981 titled: “Code of Practice for the measurement of noise emitted by road vehicles when stationary” published under General Notice No. 463 of 09 July 1982, as amended from time to time or its corresponding replacement;
- ”SABS 0210”** means South African Bureau of Standards publication No. 0210 – 1986 titled: “Code of Practice for calculating and predicting road traffic noise” published under Government Notice No. 358 of 20 February 1987, as amended from time to time or its corresponding replacement;
- ”SANS 10281”** means South African Bureau of Standards publication No. 0281 – 1997 titled: “Engine speed (S values), reference sound levels and permissible sound levels of stationary road vehicles” published under Government Notices 761, 762 and 763 in Government Gazette No. 18040 of 06 June 1997, as amended from time to time or its corresponding replacement;
- ”sound level”** means the reading on a sound level meter taken at a measuring point at the end of the measurement period for noise emanating from residential area shall be at the discretion of the officer from the boundary of the premises;
- ”sound level meter”** means a device measuring sound pressure while it is set on “F”-time weighting or at a sampling rate greater than “I” weighting and integrated to provide the result in dBA; and
- ”zone sound level”** means a derived dBA value determined indirectly by means of a series of measurements, calculations or table readings and designated by a municipality for an area.



## **2. Principles and objectives**

- (1) The municipality, aware of the Constitutional right of every person to an environment that is not harmful to his or her health or well-being adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Gert Sibande District area by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its obligations.
- (2) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Gert Sibande District area, the different customs, cultures, circumstances, geographical areas, kinds of property levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines and the granting of exemptions.

## **3. Authentication and service of notices and other documents**

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the noise control officer.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## **4. Interdict**

- (1) Any person who feels aggrieved by any contravention of or any failure to comply with any provision of any by-law shall have the legal capacity to apply to any competent court of law for an interdict in connection with the contravention or failure to comply.

- (2) Any interdict referred to in subsection (1) may, in addition to being applied for against the occupier of any premises, also be applied for against any absent owner thereof.

## **PART II: NOISE POLLUTION MANAGEMENT**

### **5. Prohibition of Disturbing Noise**

No person may 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.

### **6. Prohibition of Noise Nuisance**

- (1) No person may –
- (a) operate or play, or allow to be operated or played, a radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound so as to cause a noise nuisance;
  - (b) offer any article for sale by shouting, ringing a bell or making other sounds or by allowing it to be done in a manner which causes 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 on or near residential premises, or allow, such actions if it cause a noise nuisance;
  - (e) use or discharge any explosive, fireworks, firearm or similar device that emits sounds and may cause a noise nuisance, or allow such actions, except with the prior consent in writing of the municipality concerned and subject to such condition as the municipality may deem necessary;
  - (f) on a piece of land or in water or in airspace above that piece of land designated by a municipality by means of a notice in the press –
    - (i) move about on or in a recreational vehicle; or
    - (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 cause a noise nuisance;
  - (g) except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it cause a noise nuisance;
  - (h) operate any machinery, saw, sander, drill, grinder, lawnmower, power tool or similar device or allow it to be operated in a residential area during the following hours:
    - (i) Before 06:00 and after 19:00 from Monday to Saturday; and
    - (ii) before 08:00 and after 14:00 on a Sunday; or
 if it causes a noise nuisance or noise disturbance.
  - (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other article, or allow such actions, if it causes a noise nuisance;

- (j) use any power tool or power equipment for construction work, drilling work or demolition work, or allow it to be used in or near a residential area during the following hours:
  - (i) Before 07:00 and after 17:00 from Monday to Saturday; and
  - (ii) before 08:00 and after 14:00 on a Sunday, or if it causes a noise nuisance or noise disturbance.
- (2) Any person who contravenes a provision of subsection (1) commits an offence

## 7. Land Use

- (1) No person may –
  - (a) establish a new township unless the lay-out plans concerned, if required by the municipality, indicate in accordance with the specifications of the municipality the existing and future sources of noise, with related dBA values, which are foreseen in the township for a period of 15 years following the date on which the erection of the buildings in and around the township commence;
  - (b) make changes to existing facilities or existing uses of land or buildings or erect new buildings, including, but not limited to places of entertainment, sports bars, discotheques or any place where amplified sound is used, if these will house or cause activities, that will, after such changes or erection, cause a disturbing noise, unless precautionary measures to prevent the disturbing noises have been taken to the satisfaction of the municipality;
  - (c) build a road or change an existing road, or alter the speed limit on a road, if this will cause an increase in noise in or near residential areas, or office, church, hospital or educational buildings, unless the need for noise control measures have been properly determined by the municipality in consultation with the authority concerned to ensure that the land in the vicinity of such roads will not be designated as a controlled area;
  - (d) install, replace or modify a plant with a total input power exceeding 10 kilowatts on any premises, unless the municipality has been notified by the owner of the plant in writing at least 14 days before such installation, replacement or modification of –
    - (i) the particulars of the plant;
    - (ii) the number, street address and title deed description of the premises concerned; and
    - (iii) the date on which the installation, replacement or modification shall commence, provided that if an existing plant had to be replaced by necessity without preceding notification to the municipality, the municipality must be notified thereof by the owner of the plant in writing within 14 days after the replacement of the plant.
- (2) The municipality may -
  - (a) before commencement with any action as contemplated in subsection (1)(b), require that noise impact assessments or tests be conducted by the owner, developer, tenant or occupant of the facilities, land or buildings and that reports or certificates relating to the noise impact be submitted;

- (b) if excavation work, earthmoving work, pumping work, drilling work, construction work, or demolition work or any similar activity, power generation or music causes or may cause a noise nuisance or a disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with;
- (c) set conditions relating to noise control to be included in the conditions of the establishment of a new township, in order to achieve the objectives of the Act;
- (3) The provisions of subsection (1) do not apply to existing rights.
- (4) Any person who contravenes a provision of subsection (1) commits an offence

## **8. Designation of Controlled Areas**

- (1) The municipality may –
  - (a) by notice in the provincial gazette, designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area; and by notice in the Provincial Gazette; and
  - (b) designate zone sound levels for specific areas and for specific times in its area of jurisdiction or amend or cancel such designation;
- (2) No person may –
  - (a) erect educational, residential, flat, hospital, church or office buildings in an existing township in a controlled area or area for which a zone sound level has been designated in terms of subsection (1)(b), unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA or such level as may be determined in accordance with subsection (1)(b): Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;
  - (b) locate noise generating facilities or activities near educational, residential, hospital or church erven within a controlled area in a new township or an area that has been rezoned: Provided that such situation may be allowed by the municipality in accordance with the acoustic screening measures mentioned by that municipality in the approved building plans.
- (3) Any person who contravenes a provision of subsection (2) commits an offence

## **9. Motor Vehicles**

- (1) No person may drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured in accordance with the procedure prescribed in SANS 10181 exceeds:
  - (a) in the case of a non-exempted vehicle, the sound level specified in Table 1 of SANS 10281 for that type of vehicle; or
  - (b) in the case of an exempted vehicle, the applicable sound level indicated in the tables of Annexure A to SANS 10281, for that type of vehicle by more than 5 dBA;
- (2) The municipality may –

- (a) in order to determine whether a vehicle being used on any road in the area of jurisdiction of that municipality, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of these regulations, instruct the owner or person in control of the vehicle –
  - (i) to have an inspection or test conducted on the vehicle as the municipality may deem necessary, on a date and at a time and place determined by the municipality in writing; and
  - (ii) to stop the vehicle or cause it to be stopped;
- (b) subject to the provisions of subsections (3) and (4) and the applicable provisions of any other law, attach a vehicle if the sound level of such vehicle exceeds the sound level referred to in subsection (1) by more than 5 dBA.
- (3) A vehicle attached under subsection (2)(b) must be kept in safe custody by a municipality;
- (4) The municipality may lift the attachment contemplated in subsection (2)(b) if the owner or person in control of the vehicle concerned has been instructed in writing by such authority –
  - (a) to repair or to modify the vehicle concerned or to cause it to be repaired or to be modified; or
  - (b) to have any inspection or test, as the municipality may deem necessary, conducted on the vehicle on a date and a time and place mentioned in the instruction; and
  - (c) have paid an admission of guilt fine and pounding fees if it was determined that it was a wilful or negligent use by the owner, driver or user

#### **10. Music, Open-Air Music Festivals and Similar Gatherings**

- (1) Subject to the provisions of sections 5 and 6(a), no person may operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a member of the public or at one metre from the source of the sound, exceeds 95 dBA unless permission has been obtained from the municipality.
- (2) No person may stage an open-air music festival or similar gathering without the prior written consent of the municipality and the municipality may impose conditions.
- (3) If any music causes or may cause a noise nuisance or a disturbing noise, the municipality may instruct in writing that such music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with.
- (4) Subject to the provisions of subsections (5) and (6) and the applicable provisions of any other law, the municipality may attach any instrument used to generate music if the sound level of such instrument exceeds the sound level referred to in subsection (1) and no permission has been obtained in writing from the designated noise control officer.
- (5) An instrument attached under subsection (4) shall be kept in safe custody by a municipality.

- (6) Any person who contravenes a provision of subsection (1) commits an offence.
- (7) The municipality may lift the attachment contemplated in subsection (4) if the owner or person in control of the instrument has applied for permission and pay an admission of guilt fine and impoundment fees in terms of subsection (1).

### **PART III: GENERAL PROVISIONS**

#### **11. General powers of the municipality**

The municipality or any member of the South African Police Services may –

- (a) for the purpose of applying these regulations, at any reasonable time enter a premises –
  - (i) to conduct any 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, animal or street is a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible therefore, or the owner or occupant of such building, premises, vehicle, recreational vehicle or street, 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 these regulations within the period stipulated in the instruction and if the owner or user fail to comply with such written instruction and subject to the provisions of any other law, the municipality or member of the South African Police Services may impound or cause to be impounded such instrument or implement that causes or is the source of such noise: Provided that the provisions of the paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or air traffic or by vehicles that are not used as recreational vehicles on a public road;
- (c) if the owner or person in charge of an animal fails to comply with an instruction referred to in subsection (b), subject to the applicable provisions of any other law, impound or cause to be impounded such animal;
- (d) impose such conditions as it deems fit when granting any permission or exemption in terms of these regulations, 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 its area of jurisdiction for the enforcement of the provisions of these regulations: Provided that road traffic signs and notices shall be placed on private property as far as any other law will permit.

#### **12. General prohibition**

- (1) No person may –
  - (a) fail to comply with a written condition, instruction, notice, requirement or demand issued by a municipality in terms of these regulations;
  - (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 notice placed in a position by or on behalf of a municipality;
- (c) for the purposes of these regulations, in respect of a duly authorized employee of a municipality or duly appointed member of the South African Police Services –
- (i) fail or refuse to grant admission to such employee to enter and to inspect a premises;
  - (ii) fail or refuse to give information which may lawfully be required of him or her to such employee;
  - (iii) hinder or obstruct such employee in the execution of his or her duties; or
  - (iv) give false or misleading information to such employee knowing that it is false or misleading.
  - (v) Impersonate or mislead the public to be a designated or duly appointed Noise Control Officer or member of the South African Police Services
- (2) Any person who contravenes a provision of subsection (1) commits an offence

### **13. Use of Measuring Instruments**

- (1) Any person taking reading must ensure that –
- (a) the acoustic sensitivity of sound level meters is checked before and after every series of measurements by using a sound calibrator, verified every two years by an accredited calibration laboratory for compliance with the specifications for accuracy of national codes of practice for acoustics, to comply with the Measuring Units and National Measuring Standards Act 2006 (Act No. 18 of 2006);
  - (b) the microphones of sound measuring instruments are at all times provided with a windshield;
  - (c) the sound measuring instruments are operated strictly in accordance with the manufacturer's instructions; and
  - (d) sound measuring instruments are verified every two years by an accredited calibration laboratory for compliance with the specifications for accuracy of national codes of practice for acoustics, to comply with the Measuring Units and National Measuring Standards Act 2006(Act No. 18 of 2006).
- (2) The measuring of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of these regulations shall be done as follows:
- (a) outdoor measurements on a piece of land: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the ground and at least 3,5 metres away from walls, buildings or other sound reflecting surfaces; and
  - (b) indoor measurements in a room or enclosed space which is not ventilated mechanically: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the floor and at least 1,2 metres away from the wall, with all the windows and outer doors of the room or enclosed space entirely open: Provided that windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.

(3) Any deviation from heights and distances referred to in subsection (2) shall be reported with the furnishing of reason.

#### **14. Exemptions**

- (1) The provision of these regulations shall not apply, if –
- (a) the emission of sound is necessary for the purpose of warning people of a dangerous situation; or
  - (b) the emission of sound takes place during an emergency.
- (2) Any person may by means of a written application apply to the municipality concerned for exemption from any provision of these regulations.
- (3) The municipality may –
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted shall be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption;
  - (c) refuse to grant an exemption.
- (4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by a municipality under subsection (3): Provided that if activities are commenced before such undertaking has been submitted to the municipality concerned, the exemption shall lapse.
- (5) If any condition of an exemption is not complied with the exemption shall lapse forthwith.

#### **15. Offences and penalties**

Any person who contravenes or fails to comply with any provision of this by-law will be guilty of an offence and liable on conviction to a fine including impoundment fees or to imprisonment of not more than 5 years in prison or to both such fine and such imprisonment, and, in the event of a continuing contravention, to a fine for every day such offence continues, or to both such fine and such imprisonment for each day on which such contravention continues, or in default of payment thereof, to imprisonment.

#### **16. Restriction of Liability**

No authorized employee of the municipality shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of this by-law.

#### **17. Repeal of by-laws**

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

#### **18. Short title and commencement**

This by-law shall be known as the Noise Control By-law of the Gert Sibande District Municipality and comes into operation on the date of publication thereof in the Provincial Gazette.



**LOCAL AUTHORITY NOTICE 86****GERT SIBANDE DISTRICT MUNICIPALITY:  
MUNICIPAL HEALTH BY-LAW**

Under the provisions of Section 156 of the Constitution of the Republic of South Africa, 1996 and Section 84 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) the Gert Sibande District Municipality, enacts as follows:–

**TABLE OF CONTENTS**

1. Definitions
2. Principles and objectives

**CHAPTER 1: MUNICIPAL HEALTH NUISANCES***Part 1 Health nuisances and health risks*

3. Health nuisances and health risks

*Part 2 Specific health nuisances*

4. Overgrown property and property with unsightly accumulations
5. Overcrowding and health nuisances on premises
6. Maintenance of common areas of premises
7. Pollution of sources of water supply
8. Maintenance and cleanliness of sanitary systems
9. Disposal of sewage wastewater without causing a health nuisance
10. Blocked or defective outlet pipes
11. Toilets for workers
12. Dangerous wells, boreholes and excavations

*Part 3 Prohibition and elimination or reduction of health nuisances*

13. Prohibition on the creation, existence or occurrence of municipal health nuisances
14. Duty to eliminate or reduce municipal health nuisances

**CHAPTER 2: HEALTH NUISANCES ARISING FROM THE KEEPING OF ANIMALS**

15. Application of Chapter
16. Keeping and slaughtering of animals
17. Carcasses of animals
18. Distances between buildings and animals
19. Keeping of bees

**CHAPTER 3: ANIMAL ESTABLISHMENTS***Part 1 Dog kennels and Catteries*

20. Requirements relating to premises

*Part 2: Pet shops and parlours*

21. Requirements relating to premises and employees

**CHAPTER 4: ACCOMMODATION ESTABLISHMENTS**

22. Application of chapter and certificate of acceptability
23. Preparation and serving of food
24. Conditions on premises housing accommodation establishments

**CHAPTER 5: CHILD CARE FACILITIES**

25. Certificate of acceptability
26. Structural and other requirements

**CHAPTER 6: SWIMMING POOLS AND WATER RELATED RECREATIONAL FACILITIES**

27. Duties of swimming pool- and water related recreational facility managers
28. Water supply
29. Safety of water

**CHAPTER 7: BARBERS, HAIRDRESSERS, BEAUTICIANS, BODY PIERCERS OR TATOOISTS**

30. Certificate of Acceptability
31. Health requirements
32. Requirements for premises

**CHAPTER 8: WASTE MANAGEMENT***Part 1: General provisions regarding recovery and disposal of waste*

33. Recovery and disposal of waste

*Part 2: Hazardous Waste*

34. Applicable legislation
35. Storage of hazardous waste

*Part 3: Health care waste*

36. Scope of application
37. Duties of generators transporters and disposers of health care waste
38. Storage of health care waste
39. Transport of health care waste
40. Disposal facility and incineration

**CHAPTER 9: WATER AND SANITATION**

41. Applicable legislation and enforcement
42. Duties and prohibitions
43. Pollution of sources of water supply
44. Dangerous wells, boreholes, dams, quarries and excavations
45. Provision of adequate water supply
46. Use of water from sources other than the municipal supply
47. Furnishing of particulars of source of water and its quality
48. Storm water runoff from premises which may impact on public or environmental health
49. Bottled water

**CHAPTER 10: DISPOSAL OF CORPSES AND DISTURBANCE OF MORTAL REMAINS**

50. Disposal of corpses
51. Disturbance of mortal remains

**CHAPTER 11: DRY-CLEANING AND LAUNDRY BUSINESSES AND DEPOTS**

52. Premises for dry-cleaning and laundry businesses
53. Premises for dry-cleaning and laundry receiving depots
54. Premises for coin-operated laundries
55. General requirements for dry-cleaning and laundry premises

**CHAPTER 12: OPERATING AND MANAGEMENT OF AN INITIATION SCHOOL**

56. Reporting and registration of an initiation school
57. Permission to conduct an initiation school
58. Admission to an initiation school
59. Closure of an initiation school
60. Establishment of an initiation school advisory committee
61. Duties of traditional surgeon at an initiation school
62. Duration of an initiation school
63. Treatment and care of initiates
64. Right of inspection

#### CHAPTER 13: FOOD CONTROL

65. Food control during mass events, special events and imbizo's
66. Religious, traditional and cultural slaughtering
67. Provision of milk

#### CHAPTER 14: CHEMICAL SAFETY

68. Compliance with national minimum standards
69. Duty to register and duties of permit holder
70. Storage and distribution of chemicals

#### CHAPTER 15: OFFENSIVE TRADES

71. Definitions
72. Permit requirements
73. Requirements for premises
74. Duties of offensive traders
75. Liquid refuse from bone and tripe boiling
76. Liquids, tanks and tubs in leather-making
77. Storage of rags, bones and waste

#### CHAPTER 16: ENFORCEMENT

78. Environmental health practitioner
79. Notice of compliance and representations
80. Prohibition notice
81. Withdrawal of prohibition notice
82. Municipal remedial work
83. Costs
84. Norms, Standards and Guidelines

#### CHAPTER 17: MISCELLANEOUS PROVISIONS

85. Presumptions
86. Authentication and service of notices and other documents
87. Appeal
88. Penalties
89. Liaison forums in community
90. Exemption
91. Schedules form part of this by-law
92. Repeal of by-laws
93. Short title and commencement

#### Schedules

- Schedule 1: Requirements for child care facilities  
Schedule 2: Minimum requirements for initiation schools  
Schedule 3: Application for permit  
Schedule 4: Consent by guardian  
Schedule 5: Permit to operate an initiation school  
Schedule 6: Certificate by environmental health practitioner

## 1. Definitions

In this by-law unless the context otherwise indicates: -

**"abduction or kidnap"** means taking a person forcefully without his or her consent in the case of a minor without the written consent or permission from parents or guardian;

**"accommodation establishment"** means a place in which accommodation is provided for gain, with or without meals and includes homes for the aged, hostels;

**"animal"** means any equine, bovine, sheep, goat, pig, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person;

**"animal disease"** means an impairment or disturbance of the normal function of any organ or the body of any animal that is caused by an organism or substance;

**"animal waste"** means the faeces, manure, droppings, shed hair, feathers, bones, horns, blood and entrails of an animal, bird or poultry.

**"approved"** means approved by the municipality, with regard to the environmental health requirements of the particular case;

**"barber, hairdresser, beautician, body piercer or tattooist"** means a person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, which business comprises any one or more of the following or similar services or activities, or a combination thereof, which are applied to the male or female human body:

- (a) cutting, shaving, singeing, shaping, shampooing, cleansing, conditioning, treating, chemical reformation (such as but not limited to permanent waving) relaxing, straightening and colouring (such as but not limited to tinting, dyeing, colouring, whether by permanent or temporary or semi-permanent means, and including the use of colour rinses, shampoos, gels or mousses, and lightening by means of tints, bleaches, highlights or high lifting tints or toners) of the hair on the human head;
- (b) other than by a process contemplated in paragraph (a), removing hair by means of, but not limited to, waxing, chemical compounds (such as but not limited to depilatories), electrical or mechanical means, whether or not heat or an appliance or apparatus is used in any of these activities;
- (c) treating hair by means of a trichological process or method;
- (d) adding to hair of natural or artificial hair by means of, but not limited to an extension, board work, or a wig;
- (e) shaping, shaving, plucking, treating or tinting an eyebrow or eyelashes or applying an artificial eyebrow or eyelashes;
- (f) skin care of the face, including but not limited to the application of cosmetics;
- (g) applying nail technology, such as but not limited to manicuring, pedicuring, or applying false nails or extensions;
- (h) piercing of the skin ("body piercing") or tattooing;
- (i) massaging;
- (j) bronzing such as by means of, but not limited to, ultraviolet radiation; and

- (k) contouring, such as but not limited to, slimming.
- "biodegradable industrial wastewater"** and solids means wastewater and solid material that contains predominantly organic waste arising from industrial activities and premises including-
- (a) milk processing;
  - (b) manufacture of fruit and vegetable products;
  - (c) sugar mills;
  - (d) manufacture and bottling of soft drinks;
  - (e) water bottling;
  - (f) production of alcohol and alcoholic beverages in breweries, wineries or malt houses;
  - (g) manufacture of animal feed from plant or animal products;
  - (h) manufacture of gelatine and glue from hides, skin and bones;
  - (i) abattoirs;
  - (j) fish processing;
  - (k) feedlots;
  - (l) intensive animal feeding systems;
  - (m) sewage treatment plants; and
  - (n) food preparation, -production or -handling plants;
- "bird"** means a pigeon, dove, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich, poultry and any other domesticated bird or wild bird kept in captivity;
- "building, structure or enclosure "** means a building, structure or enclosure such as, but not limited to, a stable, shed, dove-cote, kennel, pen, sty, camp, kraal, cowshed, lean-to, room, tent, vehicle, stream, dam, pool, pan, drain, or ditch (open, covered, or enclosed) erected or constructed in or upon land or premises and which is used in connection with the keeping of an animal by an owner of an animal or owner or user of land;
- "cattery"** means an accommodation establishment which caters for the boarding of cats;
- "cemetery"** means a land or part of a land within the municipal area set aside as a cemetery;
- "child"** means a person who has not reached the age of 18 years;
- "child care facility or institution"** means any undertaking or institution, whether for profit or otherwise, involving the custody, care or tuition or any combination of these functions, during the whole or part of the day on all or any of the days of the week of children, or the building or the premises maintained or used for the purpose of conducting such undertaking or institution thereon as the case may be;
- "circumcision"** means the surgical removal of the foreskin including any external genitalia by approved traditional practitioner registered with the local traditional house or authority as such, medical practitioner or any person registered as such;
- "culture"** means a traditional way of doing things and shall include habits, norms, ethics and values;
- "crematorium"** means a crematorium as defined in section 1 of the Crematorium Ordinance, 1965 (Ordinance No 18 of 1965) and includes the buildings in which a ceremony is conducted and the cremation carried out;
- "Council"** means the Gert Sibande District Municipal Council;
- "communicable disease"** means a disease resulting from an infection due to pathogenic or toxic agents generated by the infection, following the direct or indirect transmission of the agents from the source to the host;
- "domestic consumption"** in relation to water, means the use of water for –

- (a) human consumption;
- (b) preparing or manufacturing food or drink for human consumption;
- (c) of food or drink for human consumption; or
- (d) any other domestic purpose;

**"domestic wastewater"** means wastewater arising from domestic and commercial activities and premises, and may contain any form of sewage;

**"dog kennel"** means an accommodation establishment which caters for the accommodation of dogs;

**"dry-cleaning or laundry business"** means any business in which clothes or other fabrics are cleaned with water or other solvents, or clothes or fabrics are ironed;

**"dry-cleaning or laundry receiving depot"** means premises used for the receipt, storage and dispatch of clothes or other fabrics in connection with a dry cleaning or laundry business.

**"effluent"** means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance;

**"environment"** means the surroundings within which humans exist 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 health practitioner"** means the person appointed under section 49 of this by-law and sections 80 to 89 of the National Health Act, 2003 (Act 61 of 2003);

**"foodstuff"** means any article or substance (except medicine as defined in the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965)) ordinarily eaten or drunk by a person or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;"

**"hazardous waste"** means waste that has the potential, even in low concentrations, to have an adverse effect on the environment and environmental health because of its inherent toxicological, chemical or physical characteristics and could include biological waste such as sewerage;

**"health care waste"** means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, traditional healer, body piercer, tattoo artist, traditional surgeon and veterinarian or any other place where health care waste are generated and which are infectious or potentially infectious, and includes –

- (a) microbial wastes including wastes including cultures and stocks of infectious wastes and associated biologicals that can cause disease in humans;
- (b) human blood and blood products, including serum, plasma and other blood components;
- (c) pathological wastes of human origin, including tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal wastes including animal carcasses, body parts and bedding which have been exposed to infectious agents during medical research, pharmaceutical testing or production of biologicals;
- (e) isolation wastes associated with animals or human beings known to be infected

- with highly communicable diseases; and
- (f) contaminated and uncontaminated sharps, including clinical items which can cause a cut or puncture or injection, such as needles, syringes, blades and microscope slides;
  - (g) used medical equipment and other medical material which is capable or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, such as used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy- and other catheter-bags, gloves, drip bags, administration dines and tongue depressors.
  - (h) pharmaceutical products of which the period of use has expired or which has been contaminated or have been stored improperly or are no longer required such as human and animal vaccines, medicine and drugs;
  - (i) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source.

**"health officer"** means a person who holds such qualifications which entitles him to be registered as a medical practitioner or environmental health practitioner or nursing personnel registered with the Health professional Council of South Africa, or South African Nursing or Medical Council and appointed to exercise the provisions of these guidelines according to their professional practices and applicable laws;

**"home for the aged"** means any institution or other place of residence maintained mainly for the accommodation and care of aged or debilitated persons;

**"initiate"** means a person who has been lawfully admitted in the approved circumcision or initiation school [Koma / Lebollo/ Ngoma] for the purpose of being circumcised and performing such rituals and undergoing traditional training

**"initiation school"** means an Ngoma, Koma or Lebollo initiation school;

**"intensive animal-feeding system"** means any farming system having as its object the breeding of animals or the production of meat, milk, eggs, furs or any other product of animal origin and where the animal in question is kept in a confined space so as to accomplish intensive feeding or maximum control of or maximum food conversion in the animal;

**"irrigation"** means the application of wastewater to recreational grounds and for the purpose of crop production and the cultivation of pasture;

**"marine fauna"** means any marine living resources from the sea and the seashore, including any aquatic plant, whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurians or other echinoderm, reptile, marine mammal and seabird and include their eggs, larvae and all juvenile stages;

**"municipal health nuisance"** means an occurrence specified in section 3(1) and (2) of this by-law;

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

**"municipal health and environmental services"** includes-

- (a) water quality monitoring;
- (b) food control;
- (c) waste management;
- (d) health surveillance of premises;

- (e) surveillance and prevention of communicable diseases, excluding immunisations;
- (f) vector control;
- (g) environmental pollution control;
- (h) disposal of the dead; and
- (i) chemical safety,

but excludes port health, malaria control and control of hazardous substances;

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

**"Ngoma, Koma or Lebollo"** means a cultural institution or place approved by the traditional or local traditional authority where circumcision is carried out and registered in terms of this by-law and circumcision school shall have a corresponding meaning;

**"occupier"** means any person who occupies any premises or part thereof without regard to the title under which he or she occupies, and includes –

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- (e) the owner of those premises;

**"overcrowding"** means

- (a) a residential occupancy in excess of 12 occupants per sanitary convenience; and/or
- (b) occupancy of habitable rooms (being all rooms in a dwelling excluding kitchens, bathrooms and sanitary conveniences) utilised for sleeping purposes where such occupation exceeds 1 adult person per 4 m<sup>2</sup> and 1 child under 10 years of age per 2 m<sup>2</sup>, or in situations where double bunks are used for sleeping purposes, occupation exceeds 3m<sup>2</sup> per adult person (occupying a double bunk bed) and/or 2m<sup>2</sup> per child under 10 years occupying a double bunk;

**"overseer"** means a person responsible for looking after initiates;

**"owner"**, in relation to –

- (a) animals or things, conveyances and other movable property, means the person in whom ownership is vested and includes a person who is responsible for the control or management thereof or a person who has such animal or thing, conveyance or movable property in his or her possession, but in the case of game or animals that are not branded in terms of the Animal Identification Act, 2002 (Act No 6 of 2002), or of which the ownership cannot readily be established, the user of the land on which such game or animals are present is deemed to be the owner; and
- (b) land –
  - (i) means the person in whose name that land is registered;
  - (ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;
  - (iii) that is subject to a usufruct means the usufructuary;



- (iv) of which the owner or purchaser is a minor, mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorised by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator concerned; and
- (v) a category B municipality which is in control of land by virtue of the powers and functions allocated to it in terms of Schedules 4B and 5B of the Constitution;

**“perishable foodstuff”** means any foodstuff or any manufactured product which has undergone a process to extend the shelf-life or improve its keeping qualities and which, for the sake of ensuring its keeping qualities, has to be refrigerated and will include;

- (a) milk;
- (b) meat;
- (c) fish, fish spawn, molluscs and crustaceans;
- (d) fruit; and
- (e) vegetables;

**“person”** means a natural and legal person, including but not limited to an association of persons, a partnership, and a company;

**“pet parlour”** means an establishment where pets are groomed;

**“pet shop”** means an establishment where pets are kept for trading purposes;

**“police officer”** means any person appointed by the South African Police Service or Council as a police or peace officer;

**“poultry”** means a fowl such as a dove, pigeon, chicken, turkey, goose, duck, Muscovy-duck, bantam-fowl and guinea fowl, goose, swan or any other similar type of poultry-like bird whether domesticated or not, including the young of such poultry;

**“premises”** means –

- (a) land or a portion of land, whether or not a building or structure has been constructed or erected on the land or portion of land; or
- (b) a building or structure and the land on which it is situated;

**“proprietor”** means the person who owns or operates an accommodation establishment;

**“publish”** in respect of the provisions of section 55 means –

- (a) to publish a notice in the Provincial Gazette and a local newspaper; and
- (b) to display the notice so published on the notice boards of the municipality;

**“responsible authority”** means the authority or municipality responsible for the execution of waste disposal functions within the area of jurisdiction of Gert Sibande District Municipality;

**“salon”** means a place where any one or more of the services or activities contemplated in the definition of “barber, hairdresser, beautician, body piercer or tattooist” are normally carried on;

**“sampling”** means the undertaking of water quality analysis in terms of SANS 241 or of foodstuffs, cosmetics, disinfectants or any other item that may be requested or conducted by the authorised official in terms of this by-laws or any other Act or regulations;

**“swimming pool”** means a swimming pool that is accessible to the public and includes swimming pools at schools or other tertiary institutions and other water related recreational facilities accessible to the public;

**“traditional surgeon”** means a traditional healer who performs the circumcision and includes any person who has been trained to do so, approved by the local traditional house or authority and complies with the necessary requirements;

**“Traditional House or Authority”** means the local traditional leader as recognised by the house of traditional leadership and gazetted in the national or provincial gazette;

**“unpasteurised milk”** means milk that has not undergone pasteurisation, sterilisation, or ultra-high temperature treatment and “raw milk” carries a corresponding meaning;

**“user”**, in relation to land, means –

- (a) any person who has a personal or real right in respect of land in his or her capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier, irrespective of whether or not he or she resides thereon; and
- (b) any other person who is generally recognised as having a right of tenure on the land concerned;

**“waste”** means any substance, whether or not that substance can be reduced, re-used, recycled and recovered-

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Government Gazette,

and includes waste generated by the mining, medical or other sector, but does not include hazardous waste;

**“wastewater”** means water containing waste or water that has been in contact with waste material and may include biodegradable industrial wastewater and domestic wastewater;

**“water resource”** means a source as defined in section 1 of the National Water Act, Act No. 36 of 1998;

**“zoned”** means a use right which may be exercised on premises in terms of the provisions of a town planning scheme, and includes any approval which may have been granted in respect of the particular premises in terms of any town planning legislation.

## 2. Principles and objectives

- (1) The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, and the principles that underlie the National Health Act, 2003 (Act 61 of 2003) and the National Environmental Management Act, 1998 (Act 107 of 1998), adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Gert Sibande district by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its municipal health obligations.
- (2) In the development and management of its municipal health obligations and the implementation of this by-law, the municipality also recognises the infrastructural, social and economical disparities and inequalities resulting from previous local government dispensations and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as laid down in section 152 of the Constitution.

- (3) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Gert Sibande district, the different customs, cultures, circumstances, geographical areas, kinds of premises levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines, the granting of exemptions and the utilisation of liaison forums as contemplated in sections 55, 60 and 61 of this by-law.

## CHAPTER 1 MUNICIPAL HEALTH NUISANCES AND HEALTH RISKS

### *Part 1* *Health nuisances and health risks*

#### **3. Health nuisances and health risks**

- (1) A municipal health nuisance exists or occurs if any of the following exists or occurs on any land or premises:
- (a) a water pool, ditch, gutter, dung pit or heap is so foul or in such a state or so situated or constructed to be harmful or dangerous to health;
  - (b) an accumulation of waste or other matter which is harmful or dangerous to health;
  - (c) where wastewater used for the purposes of irrigation does not comply with the standards set in the Guide: Permissible utilization and disposal of treated sewage effluent published by the Department of Health, dated 30 May 1978 and where the limits for Enteric viruses and Protozoan parasites as set in SANS Code 241 of 2006 as amended are not exceeded;
  - (d) wastewater which is discharged into a water source including the sea through a pipe, canal, sewer or other conduit or any other means that does not comply with the standards contemplated in sub-section (c).
  - (e) a building, structure or enclosure is –
    - (i) so constructed, situated, used or kept as to be harmful or dangerous to health;
    - (ii) kept or permitted to remain in a state as to be harmful or dangerous to health; or
    - (iii) infested with pests or vermin or in a state that is conducive to the breeding of pests or vermin;
  - (f) conditions exist that are conducive and contribute to the spread of a contagious and communicable disease;
  - (g) organic matter or animal waste are being used or kept in a manner that attracts vermin or pests such as, but not limited to rats, mice, flies, cockroaches and mosquitoes;
  - (h) unhygienic conditions are present on any part of the land or premises;
  - (i) a building, structure or enclosure is erected without first removing or decontaminating in an approved manner, any faecal, animal or vegetable waste disposed of on the land or premises; or
  - (j) a building or structure is demolished without first eradicating all vermin;
  - (k) a dwelling or any other premises is occupied for which no proper and sufficient supply of pure water is available as prescribed in terms of the Water Services Act;

- (l) a dwelling or building is occupied for which no proper toilet facilities as required in terms of the National Building Regulations and Building Standards Act 1977 (Act 103 of 1977) are available;
  - (m) a dwelling or building is occupied which is not properly ventilated in accordance with the National Building Regulations and Building Standards Act 1977 (Act 103 of 1977);
  - (n) a carcass or the remains of an animal, poultry, bird or marine fauna, or any animal waste remains unburied or is not suitably disposed of for more than 24 hours after death;
  - (o) where dust is generated on a building site, property or the site on which a quarry is operated in such volumes and to such an extent that it may be harmful or dangerous to health;
  - (p) an animal is allowed to suffer from an infectious or contagious disease;
  - (q) a person in control of a dog on a street or public land fails to remove the droppings of such a dog;
  - (r) domesticated cats, fish or rodents generally regarded as pets are kept in such a manner that a health nuisance or the potential for a nuisance is created; or
  - (s) domesticated birds are kept in cages or lofts, in such a manner that a health nuisance or the potential for a health nuisance is created.
- (2) In addition to the instances stipulated in subsection (1), a municipal health nuisance exists or occurs if any premises –
- (a) is not ventilated so as to destroy or render harmless as far as practicable any gases, vapours, dust or other impurities generated which may be dangerous to human health;
  - (b) is so overcrowded, badly lit or ventilated as to be harmful or dangerous to the health of those employed therein or thereon; or
  - (c) cause or give rise to effluvia which are harmful or dangerous to health.
- (3) The provisions of subsections (1) (k), (l), and (m) and (2) shall not apply to dwellings, buildings or premises which form part of any settlement as contemplated by the Less Formal Township Establishment Act, Act No 113 of 1991, whether or not the land on which the dwelling, building or premises is situated has been designated for less formal settlement in terms of the said Act.
- (4) No person may overnight or allow to be accommodated on premises where food are handled or prepared on premises zoned for business or industrial purposes where such overnight or accommodation creates a health risk or has the potential to create a health risk.
- (5) No person may house or allow any person to overnight on premises where food are handled or prepared including on premises zoned for business or industrial purposes where such overnight or accommodation creates a health risk or has the potential to create a health risk.

*Part 2*  
*Specific health nuisances*

**4. Overgrown property and property with unsightly accumulations**

- (1) No owner or occupier of any erf may allow it to be overgrown with bush, weeds or grass or other vegetation to such an extent that it may be used as a shelter

by vagrants, wild animals or vermin to such an extent that it may threaten the health of any member of the community.

(2) No person may fail to keep any premises owned or occupied by him clean and free from filth, debris, rubbish, glass, paper, rags, tins, lumber, weeds or undergrowth is unsightly or likely to become a nuisance or injurious to health.

#### **5. Overcrowding and health nuisances on premises**

No person shall occupy or cause or permit to be occupied any premises for habitable purposes so as to be a health nuisance, whether by overcrowding or otherwise.

#### **6. Maintenance of common areas of premises**

The owner of any premises, which is let or sublet to more than one tenant, shall maintain at all times in a clean and sanitary condition every part of such premises as may be used in common by more than one tenant.

#### **7. Pollution of sources of water supply**

No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage.

#### **8. Maintenance and cleanliness of sanitary systems**

No owner or occupier of any premises shall -

- (a) fail to maintain the sewers, drains, water fittings, waste water fittings, water closet fittings and all other sanitary accessories forming part of or attached to any building or structure in good and sound repair;
- (b) keep, cause or suffer to be kept upon any premises any toilet, urinal, bath, sink, basin, shower or cistern of such nature or in such condition that it is a health nuisance.

#### **9. Disposal of sewage and wastewater without causing a health nuisance**

No person may dispose of sewage or waste water from any bath, wash-hand basin, toilet, shower or kitchen sink in a way or in a location that may -

- (a) cause dampness in or on any premises;
- (b) endanger the quality of any water supply, surface water, stream or river; or
- (c) create a health nuisance.

#### **10. Blocked or defective outlet pipes**

Every owner or occupier of premises must keep any drainage system free from obstruction and in a good condition.

#### **11. Toilets for workers**

Every contractor must provide his or her workers from the commencement of work up to finalization of the work with toilet facilities as prescribed by the National Building Regulations and Building Standards Act, 1977, or as may be directed by the Environmental Health Officer

#### **12. Dangerous wells, boreholes and excavations**

Every owner or occupier of premises must ensure that any well, borehole or other excavation located on his or her premises -

- (a) is fenced, filled in or covered over in a way that adequately safeguards it from creating a health nuisance or danger to inhabitants; and
- (c) is not filled in a way, or with material, that may cause any adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a health nuisance.

*Part 3*

*Prohibition and elimination or reduction of health nuisances*

**13. Prohibition on the creation, existence or occurrence of a municipal health nuisance**

- (1) No person may, in any area under the jurisdiction of the municipality –
  - (a) create a municipal health nuisance;
  - (b) perform any act which may cause a municipal health nuisance;
  - (c) organise, allow or permit an activity, event or function in or on land or premises, or use, cause, allow or permit to be used land or premises for a purpose which by its nature or otherwise or by reason of its consequences creates or is likely to create a municipal health nuisance;
  - (d) unless he or she is authorised or permitted by law to do so or does so with the written permission of the municipality and in accordance with any conditions imposed by the municipality –
    - (i) in a public place activate, handle or use any material, object or thing which is likely to cause a municipal health nuisance;
    - (ii) introduce into or handle in a public place any material, object or thing or any liquid or solid substance which by its nature or by reason of the manner of its introduction or handling creates a municipal health nuisance;
  - (e) carry, convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become dangerous or harmful to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any municipal health nuisance; or
  - (f) by an action directly or indirectly or by negligence allow that a municipal health nuisance be created or continued.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

**14. Duty to eliminate or reduce a municipal health nuisance**

- (1) (a) The owner, occupier or user of land or premises must –
  - (i) ensure that a municipal health nuisance does not exist or occur on his or her land or premises; and
  - (ii) within 24 hours of becoming aware of the existence of a municipal health nuisance on the land or premises, eliminate the municipal health nuisance, or if he or she is unable to eliminate the municipal health nuisance –
    - (aa) take steps to the satisfaction of the municipality to reduce the risk to municipal health; and
    - (bb) report the existence of the municipal health nuisance within 72 hours to the environmental health practitioner.

- (b) For the purposes of subsection (1) (a), the owner, occupier or user of land or premises must, for the purpose of eliminating or reducing the quantity of –
- (i) flies, use fly-traps or any other approved method and maintain devices used regularly to ensure optimum performance
  - (ii) in the case of feedlots and intensive animal feeding systems, remove animal excrement weekly from the property;
  - (iii) mosquitoes –
    - (aa) drain accumulated water at least once every seven days;
    - (bb) cover accumulated water with oil;
    - (cc) in the case of wells, provide a mosquito-proof cover and a pump;
    - (dd) fit tanks, barrels and similar containers in which mosquitoes may breed with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them; and
    - (ee) regularly clean blocked or sagging gutters and down pipes so that stagnant water cannot accumulate in them; and
  - (iv) vermin, use mouse traps or vermin poison or any other method approved by the municipality
- (2) The owner, occupier or user of land or premises must ensure that every well, hole, pit, reservoir, pond or excavation thereon is not filled in a way, or with any material, that may cause any other well, borehole or underground water source to be polluted or contaminated to an extent that may create a municipal health nuisance.
- (3) The occupier must cause all waste to be placed in refuse receptacles provided by the owner or by the responsible authority to be disposed of in a manner contemplated in section 37.
- (4) The owner, occupier or user of land or premises who contravenes a provision of subsection (1) or (2) or the occupier who contravenes a provision of subsection (3) commits an offence.

## CHAPTER 2

### HEALTH NUISANCES ARISING FROM THE KEEPING OF ANIMALS

#### 15. Application of Chapter

- (1) This Chapter applies to any owner of an animal, bird, poultry, fish or crustaceans who keeps an animal, bird, poultry, fish or crustaceans for whatever purpose within the jurisdiction of the municipality.
- (2) A person who keeps an animal, bird, poultry, fish or crustaceans in terms of an approved land use, or on premises or land zoned for agricultural purposes, is not exempt from the provisions of this by-law or other legislation with regard to the inception or bringing about of a municipal health nuisance.

#### 16. Keeping and slaughtering of animals

- (1) The owner of an animal, bird, poultry, fish or crustaceans or the owner, occupier or user of land or premises may not keep such animal, bird, poultry,

fish or crustaceans in or on a building, structure or enclosure or any premises in a manner that constitutes a municipal health nuisance.

- (2) Any person who wishes to undertake a traditional, religious or cultural slaughtering of an animal or animals on any premises other than in an abattoir must do so in terms of the municipality's policy relating to the slaughtering of animals and they must notify the environmental health practitioner 48 hour prior the event.
- (3) A person who contravenes subsections (1) & (2) commits an offence.

#### **17. Carcasses of animals**

- (1) The owner of an animal, bird, poultry fish or crustaceans or the owner, occupier or user of land or premises must as soon as reasonably practical, in accordance with subsection (4), dispose of the carcass of an animal, bird, poultry, fish or crustaceans that has died on such premises or land.
- (2) The owner, occupier or user of land or premises must as soon as reasonably practical, in accordance with subsection (4), dispose of the carcass or remains of marine fauna that has died or washed up on such premises or land.
- (3) Should an owner of an animal or owner, occupier or user of land or premises fail to dispose of a carcass, the environmental health practitioner may arrange for the disposal of the carcass and may recover the cost involved from the owner of the animal, bird, poultry, fish or crustaceans or the owner or user of the land or premises.
- (4) A person contemplated in subsections (1 and 2) must dispose of a carcass in one of the following manners:
  - (a) He or she must take steps to have the carcass removed by a registered animal organization or by a person authorized to do so in terms of the responsible authority's waste regulations, in terms of the Meat Safety Act (Act 40 of 2000); or
  - (b) If the premises are suitable, he or she must bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause a municipal health nuisance, provided that where the volumes of deaths are too high for burial on the premises, such carcasses must be buried at a facility approved by the environmental health practitioner; or
  - (c) if the animal died of a disease, he or she must deal with the carcass in accordance with paragraph (a).
- (5) No person may carry or convey through or along a street the carcass of an animal, bird, poultry, fish, crustaceans or animal waste or offal in such a manner that it creates or may create a municipal health nuisance.
- (6) This section does not apply in the instance where an animal, bird, poultry, fish or crustaceans is slaughtered for the purpose of human or animal own consumption.
- (7) A person who contravenes a provision of subsections (1) to (5) commits an offence.

#### **18. Distances between buildings and animals**

- (1) No animal, bird or poultry may be kept on any land or premises in such close proximity to any building or facility that it may cause a municipal health nuisance to the occupants of such building or facility.



- (2) In the case of feedlots and intensive animal feeding systems, proximity to buildings and facilities contemplated in subsection (1) must be determined with due regard to geographical and environmental factors.
- (3) No cattle, horse, mule, donkey, pig, goat, sheep and ostrich may be kept within –
- (a) 300 metres of a residence;
  - (b) 3 metres of any fence of such residence; and
  - (c) 500 metres of any borehole, watercourse or waters source that are meant for human consumption or that are consumed by humans.

### 19. Keeping of bees

- (1) No person may keep bees on any premises unless –
- (a) that person is the holder of a permit authorising that activity;
  - (b) every bee hive is situated a minimum of thirty metres from any boundary of the premises, public place or building used for human habitation or from any place used for the keeping of animals, poultry and birds;
  - (c) the bees are kept in an approved bee hive;
  - (d) the bee hive is –
    - (i) kept in an area inaccessible to children and animals;
    - (ii) kept in the shade at all times;
    - (iii) supplied with a source of drinking water within five metres of the hive.
- (2) No person may dump or deposit any garbage, compost, grass cuttings or manure within fifteen (15) metres of any bee hive.
- (3) The provisions of subsection (1) do not apply to land zoned for agricultural purposes, subject to compliance to Part 3 of Chapter 1

## CHAPTER 3 ANIMAL ESTABLISHMENTS

### *Part 1 Dog kennels and Catteries*

### 20. Requirements relating to premises

- (1) The person who owns or operates a dog kennel or cattery must ensure that the premises comply with the following requirements:
- (a) all waste- and storm water must be discharged into a sewerage- or other approved system;
  - (b) all loose foods must be stored in rodent free receptacles with tight fitting lids in a store room;
  - (c) isolation facilities must be provided for sick dogs and cats and the facilities must be of durable material and constructed so as to be easily cleaned and disinfected;
  - (d) all animal waste must be stored in solid containers with tight fitting lids and must be removed on a daily basis from the premises and disposed of in an approved manner; and
  - (e) all animal cages or holding enclosures must be cleaned on a daily basis and be kept in a hygienic and odour free condition and the sizes of the cages or holding facilities must comply with the minimum standards prescribed by the national society for the prevention of cruelty to animals (SPCA).

- (2) No person may conduct the business of operating a dog kennel or cattery in any building, structure or enclosure which has direct access to, or has a door, window or other opening within 4 meters of any door, window or other opening to any existing habitable room or any existing room in which clothing is stored or food for human consumption is stored processed or sold.
- (3) A person who contravenes a provision of subsections (1) and (2) commits an offence.

*Part 2*  
*Pet shops and parlours*

**21. Requirements relating to premises and employees**

- (1) A person who owns or operates a pet shop or pet parlour must ensure that the premises comply with the following requirements:
  - (a) All cages must be –
    - (i) made entirely of a non corrosive material fitted with duplicate impervious movable trays and all tubular fittings must be closed at the ends; and
    - (ii) so arranged that the bottoms thereof are not less than 450 mm above the level of the floor or yard, as the case may be;
  - (b) storage space which is rodent-proofed, must be provided for animal bedding on the premises;
  - (c) meat, fish or perishable foodstuffs used in the feeding of an animal and stored in a pet shop, must be stored in a refrigerator which can maintain a temperature not exceeding 7°C;
  - (d) clean and appropriate toilet facilities and a wash basin which is supplied with hot running water must be provided for those employed on the premises;
  - (e) no more than 70% of the floor area of the premises may be covered by cages or goods incidental to the business;
  - (f) all animal- and bird waste must be stored in solid containers with tight fitting lids and must be removed on a daily basis from the premises and disposed of in an approved manner; and
  - (g) all animal- and bird cages or holding enclosures must be cleaned on a daily basis and be kept in a hygienic and odour free condition.
- (2) No person may conduct the business of a pet shop or pet parlour in any building, structure or enclosure which has direct access to, or has a door, window or other opening within 4 meters of any door, window or other opening to any existing habitable room or any existing room in which clothing is stored or food for human consumption is stored, processed or sold.
- (3) A person who contravenes a provision of subsections (1) and (2) commits an offence.

(what about the requirements /sizes of the cages in terms of the standard by-laws

CHAPTER 4  
ACCOMMODATION ESTABLISHMENTS

**22. Application of chapter and certificate of acceptability**

- (1) This Chapter applies to a person who owns or carries on the business of providing accommodation for gain in an accommodation establishment on premises within the municipal area, but does not apply to a private home.
- (2) No home for the aged facility accommodating 6 or more aged or debilitated persons may be operated without a health certificate and certificate of acceptability issued by the environmental health practitioner and the issuing of such certificate will be subject to the conditions laid down in section 24.
- (3) Applications for a certificate of acceptability must be made on the prescribed form and will only be processed after payment of the application fee approved by the Municipality.
- (4) Written approval in terms of subsection (2) will not exempt any person or premises from the requirements of any legislation relating to the care of aged or debilitated persons or the land use of the premises concerned.

### **23. Preparation and serving of food**

- (1) A proprietor who prepares or serves food on the premises for consumption by a guest, irrespective if the guest pays separately for the food or if a charge for the food is included in the accommodation costs, must comply with the provisions of the Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food, published under Government Notice No. R918 of 30 July 1999.
- (2) A proprietor who allows for the preparation of food on the premises by guests for consumption by a guest must comply with the provisions of the Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food, published under Government Notice No. R918 of 30 July 1999.

### **24. Conditions on premises housing accommodation establishments**

- (1) A proprietor must ensure that his premises, household facilities, eating utensils, linen and bedding be kept in a clean and hygienic condition.
- (2) An accommodation establishment which operates as a home for the aged, a home based care centre or a shelter must comply with the following requirements:
  - (a) The premises must be zoned for the purpose of operating a home for the aged, a home based care centre or a shelter and if such premises are zoned as "residential 1" the proprietor must apply for special consent to use the premises to operate a home for the aged, a home based care centre or a shelter.
  - (b) Single bedrooms must comprise not less than 7.4 square metres and double bedrooms must comprise not less than 14.8 square metres.
  - (d) A ward area must comprise not less than 7.4 square metres per resident and a ward may not be able to accommodate more than six (6) residents per ward.
  - (e) Provision must be made to accommodate different genders separately, but partners may be accommodated in double rooms.
  - (f) The floor area of common rooms must not be less than 1.85 square metres per person capable of being accommodated.
  - (g) Buildings must be ventilated in accordance with the National Building Regulations.

- (h) At least 1 toilet and 1 bathroom must be provided for every 7 residents per gender and at least one toilet that is not situated in a bathroom, and which is available for general use, must be on the premises.
- (i) At least one electrical power point must be installed per bedroom and common room.
- (j) Hand rails must be affixed for use by the infirm on all stairways and ramps.
- (k) Seating arrangements must be available in the dining area for the total number of residents that the facility can accommodate.
- (l) Provision must be made to the satisfaction of the municipality for a refuse storage area, a refuse removal service and laundry services.
- (m) Medical waste must be removed by an approved medical waste contractor.
- (n) The premises must be fumigated at least once a month by a registered pest control service provider.
- (o) A medicine control register, including dosages to residents, must be kept and the register must indicate the availability of a medicine cupboard.
- (p) An emergency evacuation plan must be in place and displayed in a visible place.
- (q) Fire extinguishing equipment, as prescribed by the Chief: Fire Services must be installed.
- (r) A home for the aged must be accessible by wheel chair.

#### CHAPTER 5 CHILD CARE FACILITIES

##### **25. Certificate of acceptability**

- (1) No child care facility accommodating 6 or more babies or toddlers or babies and toddlers may be operated without a certificate of acceptability issued by the environmental health practitioner and the issuing of such certificate may be subject to the conditions laid down in Schedule 1.
- (2) Applications for a certificate of acceptability must be made on the prescribed form and will only be processed after payment of the application fee approved by the municipality.
- (3) Written approval in terms of subsection (1) will not exempt any person or premises from the requirements of any legislation relating to the care of children or the land use of the premises concerned.

##### **26. Structural and other requirements**

- (1) All child care facilities must comply with the requirements set out in Schedule 1 to this by-law.
- (2) Failure to comply with any of the requirements set out in Schedule 1 constitutes an offence.

#### CHAPTER 6 SWIMMING POOL AND WATER RELATED RECREATIONAL FACILITIES

##### **27. Duties of a swimming pool- and other water related recreational facility managers**

- (1) A swimming pool- and other water related recreational facility manager must

- (a) at all times keep the premises in a safe, clean and sanitary condition; and
  - (b) ensure that the water is at all times purified, treated and maintained to the standards mentioned in section 29(1).
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### **28. Water supply**

- (1) A swimming pool- or other water related recreational facility manager may, for the purpose of cleaning, filling or maintaining the water level in a swimming pool or other water related recreational facility, use water from an approved source.
- (2) The environmental health practitioner may take samples of the water for the purpose of chemical analysis or bacteriological examination at times that he or she considers appropriate.
- (3) A person who contravenes subsection (1) commits an offence.

### **29. Safety of water**

- (1) A swimming pool- or other water related recreational facility manager must ensure that the water in the swimming pool or any other water related recreational facility complies with the following requirements:
- (a) The water must be free from floating, suspended or settled debris or swimming organisms;
  - (b) the walls, floor, access ladders or steps and gutters must be free from slime or algae;
  - (c) the total coli form bacteria count may not exceed 100 organisms per ml of water;
  - (d) Escherichia coli bacteria may not be present in any 100 ml of water; and
  - (e) Entero cocci bacteria may not be present in any 100 ml of water.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## CHAPTER 7

### BARBERS, HAIRDRESSERS, BEAUTICIANS, BODY PIERCERS or TATTOOISTS

### **30 Certificate of Acceptability**

- (1) No person may operate as a barber, hairdresser, beautician, body piercer or tattooist, and no barber, hairdresser, beauty, body piercing or tattooing salon may be operated without a health certificate issued by the environmental health practitioner and the issuing of such certificate will be subject to the conditions laid down in section 31(2)(a) – (q).
- (2) Application for a certificate of acceptability must be made on the prescribed form and will only be processed after payment of the application fee approved from time to time by the municipality.
- (3) Written approval in terms of section 30(1) will not exempt any person or premises from the requirements of any other legislation relating to body piercing or tattooing.

### **31. Health requirements**

- (1) No person may use the premises of a salon for a purpose other than for the carrying on of the business of barber, hairdresser, beautician, body piercer or tattooist.
- (2) A person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, must –
  - (a) at all times keep a first aid kit on the premises, and treat an injury or wound which may occur on the premises;
  - (b) install or have available in the salon an appliance or other means whereby an instrument that have come into contact with human skin, hair or bodily fluid, such as, but not limited to, blood, may be sterilized or disinfected;
  - (c) ensure that only professional tattooing and body piercing machines designed and assembled in a manner which prevents contamination of sterilized needle sets may be used for applying permanent tattoos or body piercing, and all tubes and needles must be stored in single service, sterile, sealed autoclaved bags which must be opened in the presence of the client;
  - (d) ensure that all clip cords and spray bottles have triggers and grasp areas, which grasp areas must be protected by plastic covering which must be disposed of after use on each client;
  - (e) after each use of a blade, razor, pair of scissors, comb, brush, roller, nail file, clippers, or other instrument which was applied to the human hair, nail or skin, disinfect the instrument by applying a suitable disinfectant.
  - (f) wear new disposable latex or nitrile examination gloves for the duration of a procedure where he or she implants hair, pierces or tattoos skin, or uses a chemical or chemical compound in an activity;
  - (g) disinfect his or her hands before and after rendering any service to a client;
  - (h) directly after treatment of the client, clean and disinfect a surface that has been contaminated by body fluid; and
  - (i) dispose of any disposable glove or other disposable material after each use;
  - (j) at least once a day wash, with a disinfectant, all clothing such as aprons and caps, all surfaces such as, but not limited to, walls, floors, counters and chairs;
  - (k) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated disposable towels and paper in an approved manner;
  - (l) store sharp instruments such as, but not limited to, a razor, blade or needle in a separate container;
  - (m) after each use, wash and clean all plastic and cloth towels;
  - (n) generally keep the premises, tools, equipment and clothing in a hygienic condition at all times;
  - (o) after every service, collect waste such as, but not limited to, hair clippings and towelling paper, and store or dispose of such waste in accordance with section 37;
  - (p) ensure that no animal, excluding a guide dog accompanying a blind person, enters the premises; and
  - (q) provide his or her employees with protective clothing, train any person working on the premises, and ensure that the employee complies with the provisions of this by-law.

- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

### **32. Requirements for premises**

- (1) A person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, must ensure that the premises comply with the following:
- (a) basins, with a supply of running hot and cold potable water, must be available for the washing of hair and hands;
  - (b) lighting, ventilation, water and toilet facilities as prescribed in the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977) must be provided;
  - (c) shelves, counters, table tops or other fixtures on which instruments are placed must be constructed of impervious material that is easy to clean;
  - (d) adequate facilities for the storage of clothes, instruments and appliances must be provided;
  - (e) facilities for the disposal of waste water must be provided;
  - (f) the walls and floors must be constructed of materials that are easy to clean; and
  - (g) unless separated by a wall, the premises may not be used for the storage and preparation of food, or for sleeping.
- (2) Should the owner, occupier or person in charge of the premises upon which the business is carried on fail to comply with a provision in subsection (1), the municipality may act in terms of section 50 and 51.

## **CHAPTER 8 WASTE MANAGEMENT**

### *Part 1*

#### *General provisions regarding recovery and disposal of waste*

### **33. Recovery and disposal of waste**

- (1) Waste must be recovered and disposed of –
- (a) without endangering human health;
  - (b) without the use of processes or methods likely to harm the environment; and
  - (c) in a manner that does not create a municipal health nuisance;
- (2) A person who contravenes subsection (1) commits an offence.

### *Part 2*

#### *Hazardous Waste*

### **34. Applicable legislation**

The municipality, taking cognizance of the provisions of the Environment Conservation Act, 1989 (Act No. 73 of 1989) and the Hazardous Substances Act, 1973 (Act 15 of 1973), and the regulations made under these Acts, adopts the provisions in this Part.

### **35. Storage of hazardous waste**

- (1) An empty container in which hazardous waste such as, but not limited to, pesticides was stored is to be treated as waste, and –
  - (a) must be stored in such a manner that –
    - (i) no pollution of the environment occurs at any time;
    - (ii) no municipal health nuisance is created at any time;
  - (b) the date on which the container is stored must be clearly marked and visible for inspection on the container;
  - (c) while being stored on site, must be clearly marked or labelled with the words “Hazardous Waste”;
  - (d) the owner or occupier of the land must fence off the storage area to prevent unauthorised access; and
  - (e) shall be dealt with as Class 6 waste as described in the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (Second Edition, 1998) as published by the Department of Water Affairs and Forestry and as amended from time to time.
- (2) A person who contravenes a provision of subsection (1)(a) to (d) commits an offence.

*Part 3*  
*Health Care Waste*

**36. Scope of application**

Compliance with the provisions of this Part is mandatory for all generators of health care waste and, where applicable, for all transporters and disposers of health care waste, and is mandatory at especially –

- (a) all health care facilities such as places or sites where professional health services are dispensed to human patients, including hospitals, mobile and stationary clinics, sick bays such as, but not limited to old-age homes, day units, hospices, rehabilitation centres, consulting rooms of medical doctors, oral health practitioners, traditional healers, traditional surgeons, professional nurses, facilities for rendering midwifery services, free-standing operating theatres, pharmacies, veterinarian premises, tattoo parlours, premises where body piercing is done and all similar sites;
- (b) all pathological and microbiological laboratories or places where biological research is carried out, and the premises of blood transfusion services;
- (c) the facilities of all manufacturers and distributors of pharmaceutical products or vaccines;
- (d) all mortuaries and undertaker premises;
- (e) all veterinary consulting rooms, animal hospitals, treatment-stations, dog kennels and catteries; and
- (f) any private dwelling or household or any other premises where the environmental health risk constituted by the quantity and nature of health care waste generated is such that such health care waste should be handled in accordance with these regulations.

**37. Duties of generators, transporters and disposers of health care waste**

- (1) Subject to the provisions of the National Environmental Management Act, 1998, (Act 107 of 1998), and any other applicable legislation, every generator of health care waste and, where applicable, every transporter and disposer of



- health care waste must cause all such health care waste to be sorted, packed, contained, handled, stored, transported and disposed of in accordance with this Part.
- (2) The activities referred to in subsection (1) must be carried out in such way that the health care waste generated does not cause a municipal health nuisance or safety hazard for any handler thereof or any other person or the environment in general.
  - (3) The responsible authority may, subject to the provisions of any provincial or national law, allow any person to dispose of health care waste in any other acceptable manner that ensures that such health care waste and method of disposal does not constitute a municipal health nuisance or a safety hazard for any handler thereof or any other person or the environment in general.
  - (4) A person who intends to engage, on any plot or premises, in an activity which may cause health care waste to be generated must, prior to the generation of the health care waste inform the responsible authority by written notice of his or her intention, and the notice must contain:
    - (a) The composition, chemical or otherwise and nature of the health care waste;
    - (b) a description of the industrial process or trade giving rise to the health care waste;
    - (c) the estimated quantity of health care waste to be generated;
    - (d) the method of storage of the health care waste;
    - (e) the proposed duration of storage of the health care waste;
    - (f) the manner in which the health care waste will be collected;
    - (g) the manner in which and the disposal site at which the health care waste will be disposed of;
    - (h) the identity of the licensee removing the health care waste; and
    - (i) the number of persons employed on the premises.
  - (5) If so required by the municipality, the notice must be substantiated by an analysis certified by an appropriately qualified industrial chemist of the composition of the health care waste, and must contain any other information required by the municipality.
  - (6) Upon receipt and evaluation of the notice the municipality shall by written notice to person require him or her to execute at his or her expense any of the following:
    - (a) To dispose of the health care waste in the same manner as other solid waste;
    - (b) to store and dispose of the health care waste in refuse receptacles, using special containers or labelling as directed by the municipality;
    - (c) to transport the health care waste to a municipal disposal or processing facility as directed by the municipality, employing special containers and handling, and placing the health care waste in a specific area of the facility as directed by the facility operating plan;
    - (d) to cause the health care waste to be processed on the plot or premises of generation, thus rendering it non-hazardous;
    - (e) to take any other measures relative to transportation and disposal of the health care waste as determined by the municipality to be required to protect human health and the environment; or
    - (f) to pay an additional tariff for collection and disposal of the health care waste.

- (7) The person must notify the municipality in writing of any changes occurring with respect to any of the matters stipulated in subsection (4).
- (8) Where the health care waste is being generated as a result of activities which commenced prior to the commencement of this by-law, the person must notify the municipality within 6 months of the commencement of this by-law.
- (9) An owner or occupier of a plot or premises where health care waste is generated must provide periodic training, on proper health care waste handling procedures, to all employees who may come into contact with health care waste.
- (10) A person who contravenes subsection (1), (2), (4), (6), (7), (8) or (9) commits an offence.

### **38. Storage of health care waste**

- (1) Any person engaging in an activity which may generate health care waste must ensure that the health care waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2)
  - (a) Perishable health care waste must be frozen and the freezing equipment must be connected to a back-up generation system.
  - (b) A health care waste storage area must –
    - (i) be vermin-proof, insect-proof, and rodent-proof;
    - (ii) have an easily cleanable floor and wall finishing and general construction;
    - (iii) be totally enclosed and provided with adequate signage indicating such area;
    - (iv) adequately ventilated and lighted; and
    - (v) be kept locked and be accessible to authorised persons only.
  - (c) All health care waste must be stored in a health care waste storage area until it is loaded or removed for final disposal.
  - (d) On-site spills must be cleaned up immediately.
  - (e) All interior surfaces of storage areas must be meticulously disinfected and cleaned on a daily basis.
- (3) Provision must be made for unrefrigerated health care waste to be removed on weekends and public holidays.
- (4) Subject to the provisions of sub-section (6) health care waste must, prior to final disposal at a municipal disposal or processing facility, be sterilized using one of the following methods:
  - (a) autoclave;
  - (b) microwave;
  - (c) chemical treatment; or
  - (d) Incineration.
- (5) Sterilization of health care waste may be performed on the premises where the health care waste was generated or at an off-site location.
- (6) Health care waste must, prior to disposal, be placed in a colour coded heavy duty plastic bag or other suitable colour coded container as follows:
  - (a) Health care waste which has not been sterilized and rendered non-infectious must be placed in a red heavy duty plastic bag at the point of generation or disposed of at disposal site designated for health care waste or processing facility in an unsterilized condition;

- (b) health care waste which has been sterilized by autoclave, microwave, chemical or other non-burning method, must be placed in a yellow heavy duty plastic bag;
  - (c) cytotoxic or genotoxic pharmaceutical health care waste and associated contaminated materials such as, but not limited to syringes, tubing, containers, preparation materials, vials and ampoules, must be discarded into a container which is labelled cytotoxic waste or genotoxic waste; and
  - (d) sharp objects such as, but not limited to needles and broken glass, contaminated with cytotoxins must be placed into a rigid, sealed, plastic container which is labelled cytotoxic sharps, and provision must be made in this regard for the safe discarding of the longest Trocar needle.
- (7) The above requirements for colour coded containers must be strictly adhered to for all movement and transportation of health care waste either on the premises of generation or in transit to an off-site sterilization or disposal facility.
- (8) A person who contravenes a provision of this section commits an offence.

### **39. Transport of health care waste**

- (1) Only approved transporters may transport health care waste and must do so in accordance with the requirements and provisions of the responsible local municipality.
- (2) (a) The loading compartments of transport vehicles for health care waste must be lockable and must comply with the following requirements:
- (i) The compartment must be thermally insulated and capable of maintaining a refrigerated transport temperature not exceeding 4°C;
  - (ii) the interior panel construction must be so tightly joined as to ensure a removable liquid seal and airtight seal;
  - (iii) the interior surfaces must be painted white with a durable deco or enamel paint or have a finish approved by the municipality;
  - (iv) there must be a threshold of at least 100 mm at the doors to prevent leakages spilling outside; and
  - (v) the compartment must be equipped with approved Spilikits that are regularly checked and replenished.
- (b) The transport vehicle must be manned by a team adequately trained in the effective use of the Spilikits and clean-up procedures.
- (c) Every loading compartment must be disinfected and chemically cleaned on a daily basis.
- (3) A licensee licensed to collect and dispose of health care waste, must inform the municipality at those intervals the municipality may stipulate in the licence or elsewhere, about
- (a) the removal of health care waste;
  - (b) the date of such removal, the quantity;
  - (c) the composition of the health care waste removed; and
  - (d) the facility at which the health care waste has been disposed.
- (4) A person who contravenes a provision of this section commits an offence.

### **40. Disposal facility and incineration**

- (1) An approved transporter must dispose of the health care waste at an approved waste disposal facility for that purpose.

- (2) The incinerator and incineration process must comply with the prescriptions of all relevant legislation, such as the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), the Hazardous Substances Act, 1973 (Act No. 15 of 1973), and the Environment Conservation Act, 1989 (Act No. 73 of 1989), in order to deal with health care waste having a wide variation in burning characteristics, ranging from highly volatile and high calorific-value plastics to high water-content material such as placenta.
- (3) A person who contravenes subsection (1) or operates an incinerator or undertakes an incineration process in contravention of subsection (2) commits an offence.

## CHAPTER 9 WATER AND SANITATION

### **41. Applicable legislation and enforcement**

- (1) The municipality, taking cognisance of the provisions of the National Water Act, 1998 (Act 36 of 1998), adopts the provisions in this Chapter.
- (2) The municipality, taking cognisance of the provisions of the Water Services Act, 108 of 1997 and of the Regulations relating to Compulsory National Standards and Measures to Conserve Water published under GN R509 dated 8 June 2001, adopts the provisions in this Chapter.
- (3) Within the powers conferred upon the municipality by the National Health Act, 2003 (Act No. 61 of 2003), the municipality may act in terms of section 50 and 51 where the non-compliance with any of the provisions of the Act and Regulations contemplated in sub-sections (1) and (2) constitutes a municipal health nuisance.

### **42. Duties and prohibitions**

- (1) An owner, occupier or user of land or premises must –
  - (a) keep every water passage open and free of obstruction from matter which may impede the flow of water or effluent so as to prevent the creation of a municipal health nuisance.
  - (b) construct a bund wall around a tank, or group of tanks, that contain a substance that can create a municipal health nuisance, of a size that contains the volume of the largest tank in the event of any unlawful or accidental discharge from the tank or group of tanks;
  - (c) clean any industrial surface area so as to prevent the pollution of storm water which may result in adverse impacts on the quality of any surface and ground water;
  - (d) ensure that a dam, conduit or channel that is used for the containment of waste water has a free board of at least 0.5 metres above the highest level of precipitation which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years; and
  - (e) in the case of feedlots and intensive animal feeding systems, seal or cover conservancy lagoons or take the steps prescribed by the municipality to prevent fly breeding.
- (2) An owner or occupier of land or premises may not –
  - (a) locate any disposal site within the one in one hundred year flood line of any water resource; or

- (b) use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation or catchments dam, or any embankment, road or railway in a way likely to create a municipal health nuisance.
- (3) No person may without the prior written approval of the municipality dump any sewerage sludge within the area of jurisdiction of the municipality.
- (4) A person who contravenes a provision of subsection (1), (2) or (3) commits an offence.

#### **43. Pollution of sources of water supply**

- (1) No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage, in a way that creates a public health nuisance or a public or environmental health hazard.
- (2) An authorised official may in writing request person referred to in subsection (1) to, at their own cost, take water samples and have it analysed to determine the extent of pollution of the water supply.
- (3) A report referred to in subsection (2) must be submitted to the municipality within 14 days of the date of the written request.
- (4) The district municipality may conduct its own sampling and, if after its own sampling run or any sampling done in terms of subsection (2), do re-sampling of any water intended for human consumption or the production of food and recover the cost of sampling from the owner if the municipality is of the opinion that the source of the pollution is from the premises or owner in question.

#### **44. Dangerous wells, boreholes, dams, quarries and excavations**

Every owner or occupier of premises must ensure that any well, borehole, dam, reservoir, quarry or other excavation located on his or her premises-

- (a) is fenced, filled in or covered in a way that adequately safeguards it from creating a public health nuisance or public or environmental health hazard;
- (b) is not filled in a way or with material that may cause any adjacent well, dam, reservoir, quarry, borehole or underground water source to be polluted or contaminated to an extent that may create a public health nuisance or a public or environmental health hazard; and
- (c) that all excavations or quarries are not filled or rehabilitated with any hazardous or medical material or waste

#### **45. Provision of adequate water supply**

Every owner of premises must provide every person residing on the premises with adequate and readily available potable water supply at all times.

#### **46. Use of water from sources other than the municipal supply**

No person may use, or permit to be used, or bottle water for sale, any water obtained from a source other than the municipal water supply for domestic consumption or food production, unless the water concerned has been approved as being safe and complies to National Standards for Drinking Water (SANS 241) by the environmental health practitioner for that purpose.

#### **47. Furnishing of particulars of the source of water and its quality**

- (1) Any owner or occupier of premises on which a well, borehole, spring, dam, river or other water source is located or bottled for human consumption, the water of which is used or supplied for domestic or human consumption, must within 14 days of receiving a notice from the municipality calling on him to do so, provide the municipality with all particulars of the water source reasonably available to the owner or occupier.
- (2) An owner or occupier of premises contemplated in subsection (1), must if requested to do so by an authorised official, and at his or her own cost, furnish to the authorised official a certificate of analysis and bacteriological and chemical investigation issued by an analyst from an accredited laboratory, as defined in the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) in respect of any water supply on that premises used for domestic consumption, bottled water supply for public consumption or food preparation.

**48. Storm water runoff from premises which may impact on public or environmental health**

Every institution, trust or entity or occupier of premises must;

- (a) Collect all runoff water for re-use or purification, from any part of the premises on which activities take place that causes any product likely to create a public health nuisance or environmental health hazard, to be spilled, leaked, stored, dumped or placed on the floor surface of such area;
- (b) separate all effluent from storm water systems;
- (c) prevent the erosion or leaching of material from any slimes, ash dam and any dump or stock-pile, and to contain any eroded or leached material in the area where originated;
- (d) prevent any waste or waste water from entering any borehole, well, spring, vlei or water course;
- (e) prevent any adverse impact on the quality of surface and ground water occurring, due to the location of any dump, stock-pile, dam, drain, canal, conduit, sewer or any other structure on the premises;
- (f) keep all water passages open and free of obstruction from matter which may impede the flow of water of effluent;
- (g) prevent the locate of any dump within the one hundred year flood line of any water resource;
- (h) construct bind walls around any tank, or group of tanks, containing any substance that can create a public health nuisance or environmental health hazard, of a size that is capable of containing ten percent more than the volume of the largest tank or combined volume of the group of tanks in the event of any unlawful or accidental discharge from the tank or group of tanks;
- (i) must clean any industrial surface area so as to prevent the pollution of storm water which may result in an adverse impact on the quality of any surface or ground water; and
- (j) prevent any storm water from entering any municipal waste water systems or networks without written consent from the municipality.

**49. Bottled water**

- (1) No person may sell or provide for use any bottled water that does not comply with the quality requirements of the SANS 241: South African National Standard for Drinking Water.

- (2) Any person providing or selling bottled water that does not comply with the quality requirements of the SANS 241: South African National Standard for Drinking Water, is guilty of an offence.
- (3) Any bottled water of which a sample was analyzed and was found not to comply with the quality requirements of SANS 241: South African National Standard for Drinking Water may be confiscated and disposed of.

#### CHAPTER 10

### DISPOSAL OF CORPSES AND DISTURBANCE OF MORTAL REMAINS

#### 50. Disposal of corpses

- (1) No person may store or inter a corpse in such a manner that it constitutes a municipal health nuisance.
- (2) A person who contravenes subsection (1) commits an offence.

#### 51. Disturbance of mortal remains

The provisions of any By-law relating to Cemeteries of any local municipality within the jurisdiction of the municipality will apply to the disturbance of mortal remains in a cemetery.

#### CHAPTER 11

### PREMISES FOR DRY-CLEANING AND LAUNDRY BUSINESSES AND DEPOTS

#### 52. Premises for dry-cleaning or laundry businesses

- (1) No person may conduct a dry-cleaning or laundry business without a permit and a health certificate issued by the municipality and the premises on which such business will be conducted must comply with the following requirements:
  - (a) a work-room or area used for housing dry-cleaning machines, washing-machines, ironing boards, presses and other fixed or movable equipment, with a minimum unobstructed floor area of 2,5 m<sup>2</sup> per person employed on the premises, must be provided;
  - (b) separate areas for marking clean and dirty articles must be provided with -
    - (i) tables with an impervious surface;
    - (ii) washable containers for dirty articles; and
    - (iii) hanging rails and shelves constructed of an impervious material in the area for marking clean articles;
  - (c) a separate room or area with separate designated counters, with impervious surfaces, must be provided for the receipt and dispatch of articles;
  - (d) a store-room or facility for the storage of packing material and other articles must be provided and equipped with adequate packing shelves of which the lowest shelf must be at least 250 mm above floor level;
  - (e) separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
    - (i) a metal locker for every employee;
    - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
    - (iii) a supply of soap and disposable towels at every wash-hand basin;
  - (f) if no change-room has been provided in terms of paragraph (e)

- (i) a wash hand basin with a supply of potable hot and cold water, must be provided in an accessible position; and
  - (ii) a metal locker must be provided for every employee in the work area;
  - (g) a tea kitchen with a single-basin stainless steel sink, with a supply of running hot and cold potable water, must be provided;
  - (h) separate toilets for males and females must be provided which comply with the provisions of the National Building Regulations and Building Standards Act;
  - (i) every toilet and change-room must be clearly gender designated;
  - (j) all internal walls must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
  - (k) all ceilings must be dust-proof, smoothly finished, and painted with a light-coloured washable paint;
  - (l) all floor surfaces must be constructed of cement or some other adequate impervious material, brought to a smooth finish and properly drained;
  - (m) the minimum height from floor to ceiling of any room or area must be 2,4 metres;
  - (n) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act must be provided;
  - (o) all machinery and equipment must be equipped with adequate suction fans to remove any noxious gas, steam and hot air from any room and to release it in the open air in an adequate manner;
  - (p) all machinery and equipment must be placed so that there is free access to all areas around and underneath each machine or item of equipment, to enable those areas to be adequately cleansed; and
  - (q) a separate pre-rinsing area must be provided on any premises where nappies are laundered.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

**53. Premises for dry-cleaning or laundry receiving depots**

- (1) No person may operate a dry-cleaning or laundry receiving depot without a permit and a health certificate issued by the municipality and on premises which do not comply with the following requirements:
- (a) A separate room or area with a minimum width of two metres must be provided for the receipt and dispatch of articles;
  - (b) fifty percent of the floor space of the room referred to in paragraph (a) must be unobstructed;
  - (c) a wash-hand basin with a supply of hot and cold running potable water must be provided;
  - (d) an adequate supply of soap and disposable towels must be provided at every wash-hand basin;
  - (e) all internal wall and ceiling surfaces must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
  - (f) all floor surfaces must be constructed of cement or other impervious material, brought to a smooth finish;



- (g) lighting and cross-ventilation, as prescribed by the National Building Regulations and Building Standards Act, must be provided;
- (h) washable containers for storing dirty articles must be provided;
- (i) quantities of hanging rails or impervious shelves for the storage of clean articles must be provided;
- (j) designated counters, with impervious surfaces, must be provided separately for the receipt and dispatch of dirty and clean articles; and
- (k) a metal locker must be provided for every person employed in the receiving depot.

(2) Any person who contravenes a provision of subsection (1) commits an offence.

#### **54. Premises for coin-operated laundries**

(1) No person may operate a coin-operated laundry without a permit and a health certificate issued by the municipality on premises that do not comply with the following requirements:

- (a) separate toilet and hand washing facilities for the different sexes, as prescribed in the National Building Regulations and Building Standards Act, must be provided;
- (b) an area must be provided where ironing is done on the premises; and
- (c) any machine on the premises must be installed in accordance with any applicable law.

(2) Any person who contravenes a provision of subsection (1) commits an offence.

#### **55. General requirements for dry-cleaning and laundry businesses**

(1) Any person conducting a dry-cleaning or laundry business or in charge of premises on which a dry-cleaning, laundry or receiving depot exists, must –

- (a) keep the premises, all fittings, equipment, appliances, machinery, containers and business vehicles in a clean, hygienic and good condition at all times;
- (b) separate dirty articles from clean articles at all times, including when in transit;
- (c) use a change-room solely for changing;
- (d) ensure that every person who handles clean or dirty articles wears adequate protective clothing at all times;
- (e) keep protective clothing in a clean and sound condition at all times;
- (f) store protective clothing in a locker when it is not being worn;
- (g) affix the name and business address, in clear lettering, to the outside of any business vehicle;
- (h) ensure that the premises are not directly connected to any food premises, new clothing shop, hairdresser or any other area from which contamination might occur;
- (i) comply with the requirements of the following legislation at all times:
  - (i) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); and
  - (ii) the Air Quality Act, 2004 (Act No. 39 of 2004);
- (j) place all piping in the building, not chased into the walls, at least 100 mm away from all walls or floors and comply with the provisions of the National Building Regulations and Building Standards Act;

- (k) insulate all steam piping with an adequate material; and
  - (l) dispose of all waste water in an approved manner.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

## CHAPTER 12 OPERATING AND MANAGEMENT OF AN INITIATION SCHOOL

### **56. Application and registration of an initiation school**

- (1) Any person who intends opening and operating an initiation school must submit a written application as set out in Schedule 3 to the municipality for the registration of the initiation school.
- (2) The authorised official in the employment of the municipality, a local municipality or the Department of Health shall issue the applicant with a list of requirements as set out in Schedule 2 which must be complied with before a registration certificate can be issued.
- (3) An accredited person or approved person who intends opening an initiation school for the purpose of circumcision must submit a written application as set out in Schedule 3 to the municipality accompanied by a certificate of compliance as set out in Schedule 6 issued by the environmental health practitioner employed by municipality;
- (4) The municipality shall upon receipt of such letter of intention to operate an initiation school, issue the prescribed consent form as set out in Schedule 5.
- (5) The applications referred to in subsections (1) and (3) must be completed and submitted to the municipality within a reasonable period not exceeding thirty days prior the commencement of an initiation school.
- (6) No initiation school may commence before an application in terms of subsections (1) and (3) has been approved by the municipality and the traditional authority.
- (7) The authorised official may, after conducting an inspection of the proposed initiation school with a representative from the traditional authority and if satisfied that the requirements set out in Schedule 2 to this by-law are met, conditionally or unconditionally grant a registration certificate.
- (7) No person may open, operate or conduct any activity pertaining to the operation and management of an initiation school without being registered with the Municipality and approved by traditional authority.
- (8) Any person who contravenes a provision of this section commits an offence.

### **57. Permission to conduct a male circumcision**

- (1) A male circumcision may only be conducted by a medical practitioner, traditional health practitioner, traditional surgeon or any person authorised in writing as competent by the traditional authority.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

### **58. Admission to an initiation school**

- (1) Any male person who is eighteen years of age or older may be admitted to an initiation school;
- (2) If a person is below the age of eighteen years the parent or guardian of such person must give written consent as set out in Schedule 3 before he may be admitted to an initiation school.

- (3) In the event of any male person below the age of 18 years admitting himself to an initiation school without the consent of his parent or guardian –
  - (a) such person may be detained temporarily at the initiation school;
  - (b) the municipality and the traditional authority must be informed by the person in charge of the initiation school; and
  - (c) the municipality must request the parent or guardian to indicate in writing whether they consent to their son attending the initiation school and –
    - (i) if the parent withhold his or her consent, the person must be released with immediate effect;
    - (ii) if the parent gives his or her consent the person may be admitted to the initiation school.
- (4) No person may abduct or kidnap any person to an initiation school
- (5) Any person who contravenes a provision of this section commits an offence.

#### **59. Closure of an initiation school**

The municipality, in consultation with the traditional authority and the Department of Health may close any initiation school which is operating without being registered in terms of section 49 or where the initiation school, although registered, poses a health or safety risk to initiates.

#### **60. Establishment of an initiation school advisory committee**

- (1) The municipality, in consultation with the traditional authority in the district, may establish an initiation school advisory committee within its area of jurisdiction which shall receive all appeals related to initiation schools and oversee the functioning of initiation schools.
- (2) An initiation school advisory committee may be composed of –
  - (a) one representative from the medical, nursing, environmental health, or emergency medical services professions;
  - (b) one representative from the South African Police Services;
  - (c) one representative from the traditional healers association;
  - (d) one representative from the Department of Education;
  - (e) four representatives from the traditional authority; and
  - (f) one representative from the Department of Health.

#### **61. Duties of a traditional surgeon at an initiation school**

- (1) A traditional surgeon must ensure that initiates submit a pre-circumcision medical certificate as set out in Schedule 6 prior to being admitted to an initiation school and such certificate must state clearly that the initiate is free from any medical condition which may cause complications after the circumcision.
- (2) If a medical practitioner recommends the dosage of any medicine to stop unnecessary bleeding or to prevent any possible sepsis the responsible traditional surgeon must treat the initiates with the medicine recommended by the medical practitioner.
- (3) Any removed body parts (e.g. foreskins) must be disposed of as prescribed by the municipality.
- (4) Any instruments used for performing a circumcision may be used once per initiate unless sterilised before being used again.
- (5) Any person who contravenes a provision of this section commits an offence.

#### **62. Duration of an initiation school**

- (1) Any initiation school must be conducted for a period of no less than three months, but no more than four months to allow healing and to complete the training of initiates in traditional practices.
- (2) If school going initiates under age of eighteen (18) years are admitted to an initiation school during the school holidays the school calendar of the department of education must be followed and the school circuit office or district office and school governing body must be consulted, unless initiates are not in attendance of any formal education.
- (3) Any person who contravenes a provision of this section commits an offence.

### **63. Treatment of and care for initiates**

- (1) All initiation schools must identify at least one medical practitioner to assist them for referral purposes and in case of an emergency and the name of the practitioner must be forwarded to the municipality.
- (2) No initiate –
  - (a) may be subjected to any unnecessary suffering or punishment of any nature; and
  - (b) may be refused any water or food to the extent that it may result in starvation or dehydration.
- (2) Adequate sanitation facilities must be provided for initiates.
- (3) Initiates must be protected against extreme temperatures.
- (4) Initiates who appear to be developing septic wounds must be referred to the medical practitioner for further treatment.
- (5) Any person who contravenes a provision of this section commits an offence.

### **64. Right of inspection**

- (1) The municipality, the South African Police service and where necessary, the Departments of Education and Health must identify one or more persons with a medical, nursing or environmental health background and who are well conversant with the proceedings at initiation schools to conduct regular visits to initiation schools in the district.
- (2) The person referred to in subsection (1) must evaluate the hygiene and the medical and nursing treatment available at the initiation school visited and the general health conditions of the initiates report any contraventions of or non-compliance with the provisions of this by-law to the municipality.
- (3) Such officers shall at all times keep themselves well informed or up to date with proceedings of the initiation school to avoid conflict which may arise.
- (4) Any matter which in the discretion of the officer or nurse contravenes this by – laws must be reported to the relevant authority.

## **CHAPTER 13 FOOD CONTROL**

### **65. Food control during mass-events, special events or imbizo's**

- (1) Any person who prepares or serves food during an event for consumption by the public must comply with the provisions of the Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food, published under Government Notice No. R962 of 23 November 20
- (2) The organizers of mass or special events must -

- (a) ensure that caterers or food suppliers to be appointed are trained and in possession of a valid Certificate issued by the municipality;
  - (b) ensure that proper communication and liaison takes place between the organizers and the municipal health services of the local or provincial authorities during the planning stages of the mass or special event regarding the food safety management;
  - (c) support and comply with all decisions and conditions prescribed by the municipal health services;
  - (d) ensure that all food safety control requirements are complied with by all caterers or suppliers of foodstuffs at events;
  - (e) ensure full co-operation with municipal health practitioners during the event, which will include full access to all food handling facilities for monitoring compliance with health requirements;
  - (f) inform the health authorities of any food safety related incidences including but not limited to unhygienic conditions and the occurrence of food borne diseases;
  - (g) provide the funding required for additional water points, electricity, cooling and refrigeration facilities, access control and accreditation;
  - (h) provide a joint operation centre (JOC) on the site of the event and an Environmental Health Practitioner must be the integral part of the staffing of the JOC together with all the other role players including but not limited to the South African Police Services, disaster management, emergency services and health care providers;
  - (i) inform the health authorities of all the intended accommodation facilities, restaurants and other venues that will be used in connection with the event; and
  - (j) ensure that all contact details of all service providers, as well as alternatives, are made available to the health authority prior to the event including but not limited to chemical toilet providers, plumbers, electricians, water supply companies, food suppliers, caterers and vendors.
- (3) Food caterers or suppliers must ensure that food is prepared in premises:
- (a) that are of such location, design, construction and finish and equipped in such a condition that it can be used at all times for the purpose which they were designed, equipped and appointed for;
  - (b) that allow for food to be handled hygienically;
  - (c) that allow for food to be effectively protected by the best available method against contamination or spoilage of offensive gases, vapours, odours, smoke, soot deposits, dust, moisture, insects or other vectors, or by any other physical, chemical or biological contamination or pollution or by any other agent;
  - (d) where all interior surfaces of walls, sides or ceilings and surfaces of floors or any other similar horizontal or vertical surfaces that form part of or enclose the food-handling area:

- (i) have no open joints or seams and are made of smooth, rust free, non-toxic, cleanable and non absorbent material that is dust proof and water resistant; and
  - (ii) where the walls and floors are of such a nature they cannot contaminate or contribute to the contamination of bread or other products;
  - (e) that are ventilated effectively according to the National Building Standards and Building Regulations Act, 1977 (Act no. 103 of 1977);
  - (f) that have artificial illumination that complies with the National Building Standards and Building Regulations;
  - (g) that have a washing facility with hot and cold water for cleaning facilities;
  - (h) that are rodent proof in accordance with the best available method;
  - (i) that prevent the access of flies, vermin or other insects;
  - (j) that have a waste water disposal system approved by the local authority;
  - (k) that have sanitary facilities for different genders for the use of food handlers;
  - (l) that have a hand wash facility with hot and cold water for the washing of hands by food handlers;
  - (m) that have liquid proof, easy to clean refuse containers with close fitting lids;
  - (n) that have storage space for the hygienic storage of ingredients and equipment on shelves;
  - (o) that have a separate area for the storage of clothes;
  - (p) that may not be connected to a room in which a latrine is situated; and
  - (q) that must be kept clean at all times with no accumulated dirt, oil or refuse or any surface equipment or structure.
- (4) Facilities must comply with the following standards and requirements:
- (a) The surface of any table, counter or working surface and any equipment utensil or basin which comes into direct contact with food must be made of a smooth, rust proof, non-toxic and non-absorbent material that is free of open joints of seams.
  - (b) No dirty, chipped, split or cracked utensils, basins or any other such facilities may be used.
    - (i) Any utensil or item which is suitable for single use only must be stored in a dust free container until used and may not be used more than once.
  - (c) All areas and equipment in the premises must be cleaned thoroughly so that no accumulated dirt, oil or refuse is found under, behind or on top of any equipment and structure.
  - (d) Food must be handled in such a manner that prevents it from being contaminated by any bacteriological, chemical or physical agents that may be harmful to the person who will consume the food.

- (e) Every chilling and freezing facility used for the storage, display or transport of perishable food shall be provided with a proper working, calibrated thermometer which at all times shall reflect the degree of chilling of the refrigeration area of such facility and which must be in such a condition and positioned so that an accurate reading may be taken unhampered.
  - (f) Every heating apparatus or facility used for the storage, display or transport or heated perishable food shall be provided with a thermometer which at all times shall reflect the degree of heating of the heating area concerned and which shall be in such a condition and positioned so that an accurate reading may be taken unhampered.
- (5) The protective clothing, including head covering and footwear, of any person handling food that is not packed must:
- (a) be clean and neat when such person begins to handle the food;
  - (b) at all times during the handling of the food be in such a clean condition and of such design and material that it cannot contaminate the food;
  - (c) be so designed that the food cannot come into direct contact with any part of the body, excluding the hands.
- (6) Any person who contravenes a provision of subsections (1) to (5) commits an offence.

#### **66. Religious, traditional and cultural slaughtering**

- (1) No person may slaughter any animal for religious, traditional or cultural purposes -
- (a) without a clearance certificate from the SAPS Stock Theft Unit;
  - (b) without having submitted a written application to the environmental health practitioner at least 72 hours prior to the slaughtering, which application must:
    - (i) indicate the date, time, place and number of animals to be slaughtered;
    - (ii) indicate the manner in which blood, stomach contents and manure will be disposed of e.g. burial or incineration; and
    - (iii) contain a declaration setting out the health condition of the animal;
  - (c) unless blood, stomach contents and manure are disposed of in a hygienic manner, preventing pollution of water and underground water sources, soil and other environmental pollution;
  - (d) before an environmental health practitioner has inspected the place where the slaughtering will take place;
  - (e) without a permit or health certificate, that is valid only for the day of slaughtering, issued by an environmental health practitioner;
  - (f) unless an environmental health practitioner is present on the day of the slaughtering to ensure that carcass is bled properly, the proper disposal

- of blood, stomach contents and manure and to ensure the humane treatment of animals before and during the slaughtering process;
- (g) unless all neighbours have been informed of the event at least 72 hours prior to the slaughtering;
  - (h) if the slaughtering process shall are not screened from public view;
  - (i) If the contamination of any meat and other food for the event is not prevented;
  - (j) if all the waste generated during the event are not disposed of in an appropriate manner;
  - (k) unless the area where the slaughtering took place is properly cleaned and disinfected; and
  - (l) if the applicant cannot ensure that no health nuisance shall result from such slaughtering;
- (3) No animal to be slaughtered may be brought onto the premises more than 24 hours prior to slaughtering.
- (4) No meat from any religious or cultural slaughtering may be sold to any person.
- (5) Any person who contravenes a provision of subsections (1) to (4) commits an offence.

#### **67. Provision of milk**

- (1) No person may without the written consent of the municipality provide or sell unpasteurised or raw milk to any member of the public, including restaurants, hostels, old age homes, guest houses or at any event.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

### Chapter 14 CHEMICAL SAFETY

#### **68. Compliance with national minimum standards**

Any person using, manufacturing, storing or distributing heavy metals, other hazardous chemicals and industrial chemicals, pesticides, water treatment chemicals or chemicals for food processing or preservation must promote the safe and efficient storage and usage of such chemicals and comply with all National Minimum Standards relating to the manufacturing, handling, transportation, storage, labelling and selling of chemicals.

#### **69. Duty to register and duties of permit holder**

- (1) Any person managing, manufacturing, storing or distributing heavy metals, other hazardous chemicals and industrial chemicals, pesticides, water treatment chemicals, chemicals for food processing or preservation, providing pesticide or chemical cleaning services must obtain a permit referred to in Schedule 3 of this by-law before operating or engaging in such activities or submit to the municipality a permit issued by the relevant national or provincial government department.
- (2) Every holder of a permit referred to in subsection (1) must –



- (a) take all reasonable precautions and measures to safeguard against the harmful or detrimental exposure of such chemicals to the environment or human beings;
  - (b) keep such premises, vehicles or containers clearly marked and secured in an area or facility where access is controlled;
  - (c) cause all equipment, containers or vehicles used in such activities to be recycled or disposed of in a safe and environmentally friendly manner or at the appropriate disposal site after use, packaging, treating or cleaning, as directed by the relevant authorities;
  - (d) daily cause all protective over-clothes that have been used to be washed, cleansed and disinfected on the premises in a manner that is environmentally safe;
  - (e) if chemicals are transported, ensure that it comply with the legal requirements for transporting hazardous substances, materials, labelling of vehicles, transporting such materials and any other national standards or codes;
  - (f) provide the municipality with all information or data as requested;
  - (g) keep a complaints register and quarterly provide the municipality with a report on complaints received including measures taken to address such complaints;
  - (h) have systems or mechanisms in place to monitor pollution caused by their activities and provide regular reports of such monitoring to the municipality;
  - (i) notify the municipality of any poisoning or spillages or suspicions of poisoning or spillages during the conduct of their activities or the transportation of such chemicals and such permit holder must submit to the municipality within 7 days of the incident a full incident report including remedial and rehabilitation measures that have been taken or to be taken within specific time frames to be agreed upon with the municipality; and
  - (j) provide basic education to the community and staff on the dangers of such chemicals and provide contact numbers for incidents of spillages, pollution or poisoning.
- (3) Any person who contravenes a provision of subsections (1) or (2) commits an offence

#### **70. Storage and distribution of chemicals**

- (1) No person may store, distribute any chemical in a container that is not labelled according to the specific requirements in terms of hazardous substance act, 1973 (Act 15 of 1973).
- (2) No person may distribute, sell or promote any chemical or hazardous substance in any container usually used for soft drinks, milk or any other foodstuffs.
- (3) All containers containing hazardous chemicals shall have a child proof cap
- (2) Any person who contravenes a provision of this section commits an offence.

### CHAPTER 15 OFFENSIVE TRADE

#### **71. Definitions**

In this Chapter, unless the context otherwise indicates:-

**“effluent”** means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance;

**“offensive trade”** means of any business listed below or business which involves an activity listed below:

- (a) panel beating or spray painting ;
- (b) operating a hazardous waste recycling plant including oil and petroleum product recycling;
- (c) scrap yard or scrap metal dealing;
- (d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling , tripe boiling or cleaning, skin storing , bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing , tanning or glue or size making,
- (e) charcoal burning, brick burning, lime burning;
- (f) manure making or storing or compost making;
- (g) parchment making;
- (h) manufacturing malt or yeast;
- (i) cement works, coke ovens or salt glazing works;
- (j) sintering of sulphurous materials;
- (k) viscose works;
- (l) ore or mineral smelting, calcination, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metal;
- (m) work of a knacker;
- (n) slaughtering of animals;
- (o) fish mongering and fish frying;
- (p) manufacture of flock and rags;
- (q) animal bristle and hair storing and sterilizing;
- (r) manufacture of chemicals;
- (s) fellmongering;
- (t) storage of rags;
- (u) wood sawdust;
- (v) iodoform;
- (w) works for the production of carbon bisulphide, cellulose, lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur chlorides;
- (x) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enamelled wire, compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide; or
- (y) the refining or processing of petrol, oil or their products; and
- (z) any other work or trade of an offensive nature which the municipality may declare to be offence by publication of a notice to such effect in a newspaper in circulation in its area of jurisdiction; and

**“offensive trader”** means any person who owns, conducts or carries on an offensive trade.

## **72. Permit requirement**

- (1) No person may without a permit issued by the municipality conduct an offensive trade in or any premises.

- (2) Any person who contravenes a provision of subsection (1) commits an offence.

### 73. Requirements for premises

No person may conduct an offensive trade in or on any premises unless -

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in the National Building Regulations and Building Standards Act;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another Non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluent arising from the manufacturing or other process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products, articles or materials which are used in the manufacturing or other process and which may –
  - (i) discharge offensive or injurious effluent or liquid, or
  - (ii) decompose in the course of the work or trade;
- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gas, fume, vapour or dust produced during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of material,
- (k) adequate sanitary fixtures are provided as prescribed in the National Building Regulation and Building Standards Act;
- (l) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 meters, is constructed around the premises.
- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities on the premises from public view;
- (o) all materials are stacked or stored on the premises below the height of the perimeter screening;
- (p) adequate separate change rooms for male and female employees must be provided containing :
  - (i) an adequate metal locker for every employee;
  - (ii) a wash hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every hand wash basin; and
- (q) if no change room has been provided in terms of paragraph (p) –

- (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position, and
  - (ii) an adequate metal locker must be provided for every employee in the work area.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

**74. Duties of offensive traders**

- (1) Every offensive trader must:
- (a) maintain the premises in a clean, hygienic and good condition at all times;
  - (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
  - (c) maintain all machinery, plant, apparatus, furniture, fitting, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times;
  - (d) prevent any waste accumulating on the premises and provide proof when required of safe disposal of recycled or hazardous related waste materials,
  - (e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of any material on the premises; and
  - (f) provide and maintain effective measures to preclude the open attraction of pests and to prevent the breeding thereof.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

**75. Liquid refuse from bone and tripe boiling**

- (1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.
- (2) The cooling process referred to in subsection (1), must take place in a manner that prevents the generation of any noxious and injurious effluent.
- (2) Any person who contravenes a provision of subsections (1) or (2) commits an offence.

**76. Liquids, tanks and tubs in leather making**

- (1) Every fellmonger, leather dresser or tanner must:
- (a) renew and dispose of the liquid from every tank or other receptacle used on the premises to wash or soak any skin or hide, other than a lime pit, at adequate intervals and in an adequate manner,
  - (b) clean the entire tank or other receptacle every time it is emptied;
  - (c) clean every tub or other receptacle used to contain a solution of the material known as "puer"
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

**77. Storage of rags, bones and waste**

- (1) No trader in rags, bones or waste may place or store, or cause or permit to be stored, rags, bones or waste in any part of the premises concerned which is:
  - (a) inhabited by people; or
  - (b) not adequately ventilated.
- (2) Any person who contravenes a provision of subsection (1) commits an offence.

## CHAPTER 16 ENFORCEMENT

### 78. Environmental health practitioner

Sections 80 to 89 of the National Health Act, 2003 (Act 61 of 2003) apply, with the necessary changes, to the appointment, responsibilities and powers of the environmental health practitioner, and offences relating to such practitioner.

### 79. Notice of compliance and representations

- (1) Where an environmental health practitioner has reasonable grounds to believe that a person fails to comply with a requirement relating to premises, he or she may serve a notice of compliance on the person, which notice must state –
  - (a) the name and residential or postal address of the person;
  - (b) the requirement which has not been complied with;
  - (c) that the person must within a specified period take measures to comply with the notice and to complete the measures before a specified date; and
  - (d) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the municipality at a specified place.
- (2) The municipality, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of this by-law, the nature of the non-compliance, and other relevant factors.
- (3) Where a person does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any fines which may be imposed under section 59, act in terms of subsection (5).
- (4)
  - (a) Representations not lodged within the time contemplated in subsection (1)(e) will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
  - (b) The municipality must consider the timely representations and any response thereto by the environmental health practitioner.
  - (c) The municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person making the representation, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
  - (d) The municipality must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part,

alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the municipality must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.

- (e) Where a person fails to discharge the obligations contemplated in paragraph (d), he or she commits an offence and the municipality may, irrespective of any fines which may be imposed under section 59, act in terms of subsection (5).
- (5) The municipality may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the municipality in accordance with section 54 or the municipality may inform the local municipality of the failure to comply with a notice issued in terms of subsection (1) and recommend steps to be taken towards rectification.

#### **80. Prohibition notice**

- (1) An environmental health practitioner may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and require measures to be taken to ensure that this occurs, on one or more of the following persons:
  - (a) The owner or occupier of the premises if the municipality reasonably believes that the premises are being used for a purpose or in a manner that is causing a municipal health nuisance;
  - (b) any person who is carrying on an activity or using a premises for a purpose or in a manner that the municipality reasonably believes is causing a municipal health nuisance; or
  - (b) a person on whom a compliance notice was served if the municipality reasonably believes that that person has not complied with the compliance notice.
- (2) The municipality must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the municipality reasonably believes that the delay in doing so would significantly compromise municipal health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- (3) A prohibition notice must state –
  - (a) the reasons for serving the notice;
  - (b) whether or not the municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
  - (c) the possible consequences of failing to comply with the notice; and
  - (e) how to appeal against the notice.
- (4) Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection (1) and remains in force until it is withdrawn.
- (5) The environmental health practitioner must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- (6) It is a defence for anyone charged with failing to comply with a prohibition notice if he or she can prove that –
  - (a) he or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and

- (b) he or she had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection (5).
- (7) A person who fails to comply with any order or condition contained in a prohibition notice issued in terms of subsection (1) commits an offence.

### **81. Withdrawal of prohibition notice**

- (1) The municipality must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the land or premises.
- (2) After completing the investigation, the municipality must inform, in writing, the person on whom the prohibition notice was served or that person's agent whether or not the prohibition has been removed or the prohibition order withdrawn.
- (3) The municipality may charge the owner or occupier of the land or premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

### **82. Municipal remedial work**

- (1) The municipality may enter any premises and do anything on the premises that it reasonably considers necessary –
- (a) to ensure compliance with this by-law or with a compliance notice or prohibition notice;
- (b) to eliminate or reduce a municipal health nuisance.
- (2) The municipality may conduct inspections of premises –
- (a) on a routine basis where the environmental health practitioner reasonably believes that the premises are being used for a purpose contemplated in this by-law, and the purpose of the inspection is to determine whether or not the use complies with the provisions of this by-law;
- (c) where a compliance notice relating to the premises has been issued in terms of section 79, and the purpose of the inspection is to determine whether or not the notice has been complied with;
- (d) where the owner or occupier of the premises has failed to comply with a compliance notice that was issued in terms of section 50, or a prohibition notice that was issued in terms of section 80, directing that relevant measures be taken; or
- (e) where the environmental health practitioner has reasonable grounds to believe that a municipal health nuisance, which is likely to endanger municipal health, exists on the premises.
- (3) Before inspecting any premises or commencing any work in terms of this section, persons undertaking the inspection or commencing the work must identify themselves and explain their authority to the person apparently in control of the premises or the person who gave them permission to enter.
- (4) Any inspection undertaken or work commenced in terms of this section must be carried out at a reasonable time, taking into account the circumstances of the specific situation.
- (5) Any inspection conducted or work undertaken in terms of this section must be conducted with strict regard to decency and order, including –
- (a) a person's right to, respect for and protection of his or her dignity;

- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

**83. Costs**

- (1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 50, the municipality may, subject to subsection (3) recover, as a debt, and in accordance with municipality's debt collection regulations, all costs incurred as a result of it acting in terms of section 53(1) from that person and any or all of the following persons:
  - (a) the owner of the land, building or premises;
  - (b) the person who committed the specific offence; or
  - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality.
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

**84. Norms, standards and guidelines**

- (1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures that can be taken to eliminate the risk of any municipal health nuisance occurring, continuing or recurring, or to reduce that risk to an acceptable level.
- (2) The norms, standards and guidelines contemplated in sub-section (1) may differentiate between communities, geographical areas and different kinds of premises.

CHAPTER 17  
MISCELLANEOUS PROVISIONS

**85. Presumptions**

- (1) When an employee of a person in the course of his or her employment performs any act or is guilty of an omission which constitutes an offence under this by-law, the employer is deemed also to have performed the act or to be guilty of the omission and the employer is liable on conviction to the penalties referred to in section 59, unless the employer proves to the satisfaction of the Court that –
  - (a) in performing the act or being guilty of the omission, the employee was acting without the employer's knowledge or permission;
  - (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
  - (c) it was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.
- (2) The fact that an employer issued instructions forbidding any act or omission of the kind referred to in subsection (1) is not in itself sufficient proof that he or she took all steps referred to in paragraph (1)(b).



- (3) When an employer is by virtue of the provisions of subsection (1) liable for any act or omission of his or her employee, that employee shall also be liable to prosecution for the offence.
- (4) In any prosecution for an offence under this by-law an allegation in the charge concerned that any place was situated in a street or public place or within a particular area or was a place of a specified kind, shall be presumed to be correct unless the contrary is proved.
- (5) In any prosecution for an offence under this by-law the accused is deemed to know the provisions of this by-law and to know that the offence with which he or she is charged is a contravention thereof unless he or she proves to the satisfaction of the Court that he or she did not have and could not reasonably be expected to have that knowledge.

#### **86. Authentication and service of notices and other documents**

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the environmental health practitioner.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

#### **87. Appeal**

A person whose rights are affected by a decision of the municipality in terms of this by-law may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000.

#### **88. Penalties**

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties for up to R 5 million rands prescribed in any other law, liable to a

fine of between R,000.00 to R5million rands, or in default of payment, to imprisonment of not more than five years , or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a cumulative fine for every day such offence continues, or in default of payment thereof, to imprisonment of up to five years and a further amount equal to any costs and expenses found by the court to have been reasonably incurred by the municipality or complainant as a result of such contravention, or remedial work done to ensure compliance with this by-law to eliminate or reduce, mitigate, rehabilitate a municipal health nuisance or any health threat or negative environmental impact.

#### **89. Liaison forums in community**

- (1) The municipality may establish liaison forums in a community for the purposes of -
  - (a) encouraging a local community to participate in the implementation, development and enforcement of this by-law; and
  - (b) promoting the achievement of a safe and healthy environment.
- (2) The forums contemplated in sub-section (1) may consist of-
  - (a) a member or members of an interest group or an affected person in the spirit of section 2(4)(f) to (h) of the National Environmental Management Act, 1998 (Act 107 of 1998).
  - (b) a member or members of a community in whose immediate area a municipal health nuisance occurs or may occur;
  - (c) a designated official or officials of the municipality; and
  - (d) the councillor responsible for municipal health.
- (3) The municipality may, in the implementation and enforcement of this by-law, -
  - (a) request the input of a forum;
  - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section 2, may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998 (Act 107 of 1998), submit an input to the municipality for consideration.

#### **90. Exemptions**

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) In order to consider an application in terms of sub-section (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under

subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.

- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

**91. Schedules form part of this by-law**

Schedules 1 to 6 to this by-law form part of this by-law for all purposes.

**92. Repeal of by-laws**

The by-laws previously promulgated by the municipality or any of the disestablished municipalities now incorporated into municipality, in so far as it relates to any matter provided for in this by-law; are hereby repealed.

**93. Short title and commencement**

This by-law may be cited as the Gert Sibande District Municipality: Municipal Health By-law, and shall come into operation on the date of publication thereof in the Provincial Gazette.

**Schedule 1****REQUIREMENTS FOR CHILD CARE FACILITIES**

For the purpose of this schedule, a child care centre shall refer to a facility that provides care for “children under the age of 6 years” who are not yet attending a public school or equivalent and this include full time day care or half day care where more than 3 children are being cared for. Child care centres also include afterschool care services for school going children.

The following types of child care services are applicable:

**Part time day care:**

A part time day care centre provides day care services for a maximum of 5 hours per day and accommodates children of between the ages of 0-6 years.

**Full time day care:**

A full day care provides day care for more than 5 hours per day and accommodates children between the ages of 0-6 years.

**Child minders or day mothers:**

Child minders or day mothers provide child care services in their own homes for a full day. Not more than 6 children may be accommodated on the premises at a time including the child minders own children.

**Play groups:**

Play groups provide child care services for half day only (not more than 5 hours per day) and a maximum of 20 children between the ages of 3-5 years may be accommodated.

**Drop off centre service:**

Drop off centres provide care for children for a period of not more than 2 hours while a parent or guardian is temporarily unavailable (mainly located at shopping centres and usually operate during weekends).

**After care centers:**

After care services are services provided for school going children and are mainly operational in the afternoon. Children at primary school level (grade R to grade 7) are accommodated.

**STANDARDS**

1. All child care centres must be operated only if a valid health certificate has been issued by an environmental health practitioner (EHP) in the employ of the relevant health authority, to the effect that the premises comply with relevant environmental health and safety requirements.
2. An EHP should conduct environmental health inspection of a day care centre at least once a month, taking into account the risk profile of the day care centre.
3. An inspection report must be issued to the owner or person in charge of the day care centre after every inspection.
4. EHP's must maintain a database of all child care centres in their area of jurisdiction.

5. An EHP must coordinate monitoring of child care centres with all other relevant professionals, such as the Departments of Social Development, Basic Education and Primary Health Care, to ensure a comprehensive provision of services.

### **1. Health Certificate**

- (a) Health certificates issued by the municipality must be reviewed and renewed annually in case of change of ownership of the day care centre, where renovations or extensions to the existing premises are undertaken and if the day care moves from one premises to another.
- (b) The owner or manager of a preschool institution must ensure that a health certificate issued for the operation of a child care centre is displayed in a conspicuous manner on the premises, so as to be clearly visible to everyone entering the premises.
- (c) A health certificate issued by an EHP must indicate the following;
- (i) The health certificate holder;
  - (ii) The physical address of the premises;
  - (iii) The identity number of the certificate holder;
  - (iv) The number of children permitted on the premises and the age groups permitted;
  - (v) Hours of operation of the child care centre, full day or half day care; and
  - (vi) The certificate number.

### **2. Enclosure of day care centre premises**

- (a) A yard, enclosed with a fence, brick, wall or other approved material must be provided.
- (b) Entrance and exit control must be available, as well as lockable gates, to prevent unauthorized entry and children leaving the premises on their own accord.

### **3. Structural requirements**

- (a) An indoor play area for playing, eating and for sleeping purposes must be provided.
- (b) A structure used as an indoor play area must have –
- (i) Exterior walls and roof constructed in a way as to prevent the permeation of wind and rain and to ensure the health and safety of children using the area;
  - (ii) Windows and doors to allow natural light and cross ventilation; and
  - (iii) A floor with a smooth surface that is easily cleanable and prevents the permeation of dampness.
  - (iv) A free floor space of not less than 2 m<sup>2</sup> must be provided for each child on the premises, of the ages between 3 to 7 years.
  - (v) For children under the age of 3 years, not less than 3m<sup>2</sup> of free floor space must be provided; this should include adequate space for crawling of infants or toddlers.
  - (vi) Children play space areas should be provided according to the different age groups (0-2years), (2-3years), (3-4years), (4-5years), (5-6years).
  - (vii) The play area must be free from any structural hazards, such as sharp corners, stairs, slippery surfaces that may pose a danger or constitute a hazard to children on the premises.

- (viii) Adequate seating (juvenile size chairs and tables), playing and sleeping (water proof mattresses) equipment must be available for the individual use of each child.
- (ix) Cots and mattresses should be spaced at least 30 centimetres apart during sleep or nap time to allow free and safe movement by a child care supervisor.
- (x) Indoor and outdoor playing equipment/toys must be without sharp points or edges.
- (xi) Mouth contact toys used for children under the age of 2 years must be cleaned and sanitized daily, by scrubbing in warm and soapy water using a brush, rinsing with clean water, submerging in a sanitizing solution for at least 2 minutes and air dried.

**5. An outdoor play area of adequate size must be provided for use by every child on the premises.**

- (a) An outdoor play area of a minimum of at least 5m<sup>2</sup> per child must be provided on the premises.
- (b) Separate play areas should be provided for children between ages of 0-2 years and those between the ages of 3-6 years.
- (c) The premises must be surrounded by a fence constructed by an approved material and a lockable gate to prevent a child from leaving the premises unnoticed as well as to prevent unauthorized entry by the public.
- (d) Suitable outdoor play equipment must be provided for use by the children. Care must be taken to ensure that the equipment does not contain any hazardous chemicals e.g. lead or any sharp edges or loose objects that may cause injury to the children on the premises.

**6. Toilets and hand wash facilities**

- (a) 1 (one) toilet facility must be provided for every 15 (fifteen) children on the premises 1:15, and an adequate supply of toilet paper must be supplied in the toilet facilities at all times.
- (b) 1 (one) hand wash basin must be provided for every 20 (twenty) children on the premises. The hand wash basin must be located in or immediately adjacent to the toilets. An adequate supply of soap and a clean towel must be provided at all times.
- (c) For children under the age of 2 years on potty training, 1 (one) chamber pot must be provided for every 5 children. The pots must be emptied properly after passing of every stool and urine, and properly cleaned.
- (d) In cases where no sewer system is available and pit toilets are utilized, the pit toilet must be constructed in such a manner as not to cause harm or injury to the children.
- (e) The pit toilets must be maintained in good order and cleaned regularly.
- (f) For children under the age of 2 years, still on nappies, a separate changing area must be provided on the premises, equipped with adequate storage facilities for soiled nappies and hand wash facilities to clean the children.
- (g) Separate toilets and hand wash facilities must be provided for staff members on the premises.
- (h) An adequate amount of toilet paper, soap and towel must be available in the staff toilet and hand wash facilities at all times.
- (i) Toilet facilities must be kept clean and maintained in good repair.

(j) Toilet facilities must be properly eliminated and ventilated.

**7. Ventilation, lighting and heating**

- (a) The premises on which a child care centre is operated must be naturally ventilated with windows, and be adequately illuminated.
- (b) In cold weather conditions, the premises must be adequately heated throughout with suitable means of heating.
- (c) An approved, suitable and safe artificial heating system that does not emit offensive and harmful gases, fumes and odours must be provided.

**8. Water supply, drainage and sewage disposal**

- (a) The quality of water supply must comply with the SANS 241 with regards to microbiological, chemical and physical quality.
- (b) Potable running water must be continually available on the premises for drinking, preparing foodstuffs and to accommodate all uses in the centre, including at every hand wash basins.
- (c) Where the premises are not equipped with running water, a minimum of 2 litres per child per day must be kept and stored hygienically on the premises.
- (d) Drinking water must be adequately stored and protected to prevent contamination.
- (e) Suitable and effective means of drainage and sewage disposal must be provided on the premises.

**9. Kitchen facilities**

- (a) Suitable, sufficient, nutritious and varied foods prepared hygienically and safely in an approved kitchen must be provided to the children daily.
- (b) If meals are provided to the children, a kitchen area must be provided on the premises.
- (c) The kitchen area must be equipped with potable hot and cold running water, for the hygienic preparation of foodstuffs and cleaning of equipment.
- (d) The Kitchen area must comply with the requirements as specified in the regulation relating to food premises, with regards to structural requirements, food preparation, handling, storage and serving of foodstuffs.
- (e) Adequate and suitable eating utensils must be provided and kept clean and in good repair.
- (f) A separate milk kitchen must be provided for preparation and washing of feeding bottles and teats for children that are still on bottles.
- (g) The milk kitchen must be equipped with;-
  - (i) Washing facilities with adequate supply of potable running water for washing of bottles and teats.
  - (ii) Separate cooling facilities for the storage of milk and milk bottles.
- (h) Adequate sterilizing facilities must be provided for sterilizing of feeding bottles and teats.
- (i) An EHP must have a potable thermometer at his disposal at all times during an inspection, to ensure that the temperature of fridges used for storage of milk for children is suitable and maintained.

**10. Food requirements**

- a) For children in day care for the full day, the child care centre must serve with appropriate meals at intervals as may be recommended by the health officer, nutritionist or social services
- b) All food served to the children must be safe for human consumption, nutritional and protected from contamination.
- c) Food must only be stored on clean shelves, racks and surfaces.
- d) Food must be washed properly before cooking and serving, and served in clean eating utensils and crockery.
- e) Appropriate food temperatures must be maintained on all foodstuffs.
- f) The kitchen and all apparatus and equipment used in connection with food handling must be kept clean always.

#### 11. **Storage facilities**

On any premises on which a child care centre is operated, adequate storage space must be available for;-

- (a) Personal belongings of each child;
- (b) Personal belongings for staff on the premises.
- (c) Equipment such as children's prams, push-up chairs, cots and play and work tools.
- (d) Storage of unsafe, toxic, dangerous or hazardous materials or substances separate from other materials and equipment.

#### 12. **Sick bay**

- (a) A sickbay area for the treatment and care of any child who falls ill, who is injured during day care or who may be suffering from an infectious disease must be provided.
- (b) The sick bay area must be in a separate area from the indoor play area.
- (c) An approved and adequately equipped first aid kit must be provided in the sick bay area and be placed out of reach of children.
- (d) The first aid kit must include, amongst other equipment:
  - (i) Adhesive bandages;
  - (ii) Sterile gauzes;
  - (iii) Medical tape;
  - (iv) Scissors;
  - (v) A cardiopulmonary mouthpiece protector;
  - (vi) Liquid soap;
  - (vii) First aid instruction book;
  - (viii) A thermometer; and
  - (ix) Disposable surgical gloves
- (e) The sickbay area must be equipped with a bed or mattress.
- (f) Proper supervision must be provided at all times for children placed in the sick bay.

#### 13. **Operational requirements**

- (a) If after care services are provided on the premises, separate facilities must be provided for that purpose.
- (b) An after school centre may not be permitted on the same premises as a day care centre unless separate facilities are provided or unless conducted at different times.



- (c) An indoor play area of not less than 1.5m<sup>2</sup> free floor spaces must be provided for each child in after care and an outdoor play area of not less than 2m<sup>2</sup> must be provided for each child.
- (d) One toilet and one hand wash facility must be provided for every 20 children of part thereof on the premises and designated by sex.
- (e) An adequate supply of toilet paper and soap must be provided in the toilet and hand wash facilities at all times.
- (f) Adequate tables and chairs must be provided for use by the aftercare children.

**14. Medical care for children**

- (a) Adequate, timely and appropriate medical attention must be provided in cases where children might require medical care.
- (b) When any child becomes ill or suffers an injury requiring medical attention, a care giver must :
  - (i) Immediately notify the parent or guardian of the child;
  - (ii) Immediately call for medical assistance, if necessary;
  - (iii) Provide the necessary care and treatment for minor ailments in the sickbay area referred to above; and
  - (iv) Immediately notify an Environmental Health Practitioner/ relevant health authority in an event of the illness being suspected of being a communicable disease.
  - (v) Only administer medicine to a child with the written consent of the parent or guardian, a medical journal must be kept in which details of any medicine administered to a child, including the quantities is recorded. The journal must be signed by any parent bringing along medication to be administered during the day to any child.
- (c) The availability or easy access to a telephone is essential for notification of a parent or guardian where applicable and to summon medical assistance.
- (d) It is a prerequisite that every child to attend pre-school must have completed basic immunization schedules for his age as determined by the National Expanded Programme on Immunisation of the Department of Health.
- (e) Children suspected of suffering from an infectious or communicable disease must be excluded from attending preschool if in the opinion of an EHP or relevant health professional, the person is capable of communicating the infectious disease.
- (f) All caregivers must be trained in basic first aid.
- (g) Medical reports of each child must be kept on the premises, each record must contain:
  - (i) Information containing the child's general state of health and physical condition, including any allergies;
  - (ii) Any illnesses, including any communicable diseases, operations etc that a child may have suffered in a specified period;
  - (iii) Immunization records; and
  - (iv) Details of allergies and any medical treatment that the child may be undergoing.
- (h) A list of emergency telephone numbers which must include, fire brigade, ambulance, outbreak response, clinic, hospital, doctor and police must be available and easily accessible on the premises.

- (i) Adequate provision must be made for disposable gloves and disinfectants to protect staff and children and to disinfect contaminated areas and surfaces when dealing with blood related illnesses and injuries.
- (i) All areas and surfaces where treatment of a child or caregiver for an illness of injury has taken place must be disinfected immediately.
- (j) Post exposure prophylaxis for HIV and Hepatitis B must be made available to any child or caregiver who may have been exposed to blood or bloody substances.

**15. Registers and records**

- (a) An application form containing the following information must be completed by the parent or guardian of every child on admission to child care service:
  - (i) The child's name and date of birth;
  - (ii) Name, address and contact numbers of the parent or guardian;
  - (iii) The place of employment of the parent or guardian;
  - (iv) The name, address and contact numbers of a responsible person other than the parent or guardian who may be consulted in case of emergencies; and
  - (v) The name, address and contact numbers of the child's or family doctor and permission to consult the doctor.
  - (vi) The admission and discharge date of the child must be written in the application form and all forms must be kept for a period of 3 years.
- (b) Registers must be kept for;
  - (i) Admissions and discharges of all children admitted to or discharged from the child care services and the registers shall be kept for a period of not less than 3 years.
  - (ii) Recording daily attendance in which the absence and attendance of children shall be noted daily.
- (c) A journal in which to record any injuries or accidents involving any child on the premises or during transportation and the explanation of such accidents must be kept.
- (d) A medical journal in which to record the details and quantities of the medicine given to a child must be kept. The child care provider must ensure that the register is signed daily by a parent or guardian who requires medicine to be administered to his/her child at day care.
- (e) A record containing the name, address, contact details, qualification including a list of references and a next of kin of the person in charge and all other staff working on the premises must be available on the premises.
- (f) All registers and records will be open to be inspected by a parent or guardian of a child attending the day care centre, only in respect of information and records concerning the specific child.
- (g) A copy of these Norms and Standards must be kept on the premises and the said copies shall be made available on demand for inspection by a parent or guardian of a pre-school child attending or proposing to attend the service, by every person working in the service, and by any authorised person.

**16. General requirements**

- (a) The location and layout of the pre-school must be suitable for its purpose with regards to the design and construction and finished in such condition

that children can be cared for hygienically and can be adequately protected against possible public health hazards and nuisances.

- (b) An adequate number of competent care givers must be available to supervise and care for children.
  - (i) For children between 0-24 months, one adult supervisor must be available for every 6 babies;
  - (ii) For children between 3 years and 5 years, one adult supervisor for every 20 children;
  - (iii) For children between 5 and 7 years, one adult supervisor for every 35 children, in line with the Child Care Act.
- (c) Storage facilities for the storage of children's toys, books, and other play material must be provided in the indoor play area.
- (d) If transport to and from the child care centre is provided;
  - (i) Children must be supervised by at least one adult, apart from the driver during boarding and disembarkation.
  - (ii) Doors of the vehicle must be child locked at all times during the transportation of children.
  - (iii) Children may not be transported in the front seat or in the boot of any vehicle during transportation.
  - (iv) Children may not be overloaded in any car during transportation.
  - (v) The driver responsible for transporting the children, as well as the transportation utilized must be permitted in terms of the requirements of the Road Traffic Act.
- (e) An adequate number of refuse bins for the disposal of all waste material on the premises must be provided.
- (f) An approved refuse area must be provided on the premises for the storage of all refuse pending removal.
- (g) Each child must be provided with a face cloth which must be individually marked for that child's use and must be individually hanged on pegs or hooks. For children under the age of 3 years disposable towels must preferably be provided.
- (h) If cots or mattresses are used, the floor must be free from dirt, dampness or any liquid substances.
- (i) Individual sheets and covers must be provided for each child and washed at least once a week, or more often, if necessary.

#### 16. **Safety measures**

- (a) Reasonable measures must be taken to safeguard the health, safety and welfare of pre-school children.
- (b) All heating appliances/heat emitting surfaces must be protected by a fix guard or must be thermostatically controlled to ensure safe surface temperatures.
- (c) Hot water provided for use by the pre-school must be thermostatically controlled to ensure a safe temperature.
- (d) Children must be adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other objects that may be dangerous or constitute a hazard or injury to the children on the premises.
- (e) Medicines, detergents, pesticides and other harmful substances must be stored in lockable places and kept out of reach of the children.

- (f) The premises must be free from any noxious, poisonous or dangerous plants or shrubs.
- (g) No animals or birds must be kept on any premises where a child care centre is operated, except by written permission of the Environmental Health Practitioner after the necessary Environmental Health assessment has been completed.
- (h) No paddling pool, swimming pool or other related structure may be permitted in any child care centre premises, except by written permission by the Environmental Health Practitioner.
- (i) No sandpit may be permitted on the premises, except by written permission of the Environmental Health practitioner.
- (j) Ponds, pits and or other hazards in any garden or external play area must be fenced off to ensure safety of children.
- (k) The play equipment must be kept clean, safe and in good repair.
- (l) The play equipment must be free from sharp points or corners, splinters, protruding nails or bolts or rusty parts, hazardous small parts, lead-based paints, poisonous material, or flaking or chalking paint.
- (m) The play equipment must be designed to guard against entrapment or situations that may cause strangulation.
- (n) The outdoor play area must be free of any excavations, steps, projections, levels or any surface which is dangerous or may constitute a safety hazard.
- (o) A child showing signs of illness or condition that is suspected to be communicable may not be admitted to the regular child care programme, until such time that a medical officer of health has certified that the condition may not pose any health risk to other children on the premises.
- (p) All care givers must attend compulsory five keys for safe food handling training and there should be one trained first aider at the facility.

**SCHEDULE 2****MINIMUM REQUIREMENTS TO WHICH INITIATION SCHOOLS MUST COMPLY**

- (1) Suitable shelter must be provided and constructed in such a manner that initiates are protected from extreme temperatures especially cold.
- (2) Safe pure water must be supplied for drinking and cooking purposes for the initiates.
- (3) Suitable sanitary facilities in the form of well-constructed pit latrine or movable chemical toilets must be provided.
- (4) Refuse removal and the disposal thereof, including used surgical instruments, must be carried out prescribed by any authorised official.
- (5) Food must be prepared hygienically and kept separate from any area used for sleeping purposes.
- (6) Initiates must be given sufficient food at least twice a day and be allowed to drink water when necessary.
- (7) Initiates must be allowed to wear warm clothing especially during cold weather.
- (8) Instruments such as razor blades used for operations must be used once only and any other instruments may be sterilised after being used on each initiate as prescribed by the medical practitioner.
- (9) Prescribed medication to stop and prevent unnecessary bleeding must be readily available.
- (10) A detention room for persons who arrive at an initiation school for circumcision without the consent of their parents or guardian must be available.
- (11) A register must be kept of all initiates in the circumcision school.
- (12) A first Aid kit which includes antiseptic medicines for treating minor ailments must be provided.

**SCHEDULE 3**

**GERT SIBANDE DISTRICT MUNICIPALITY**

APPLICATION FOR PERMIT:

NAME OF APPLICANT: .....

PHYSICAL ADDRESS: .....  
.....

.....

POSTAL ADDRESS: .....  
.....

.....

PERMIT APPLIED FOR: .....

.....  
.....  
.....  
.....  
.....  
.....  
.....

SIGNATURE: .....

DATE:

.....

**SCHEDULE 4**

**GERT SIBANDE DISTRICT MUNICIPALITY**

**APPLICATION AND CONSENT FORM BY PARENT OR GUADIAN**

I ....., ID..... hereby give consent and permit

..... Age ..... To attend the circumcision school for the duration of the prescribed period of the school and to be circumcised.

I further declare that I am the parent/ legal guardian of the applicant and I reside at the following address:

.....  
.....  
.....

I can be contacted at the following telephone numbers in case of any emergency

Work: .....

Cell no: .....

Signature: ..... Date .....

Note:  
[Any misleading or false declaration is a criminal offence and the signatory may be prosecuted]



**SCHEDULE 5**

**GERT SIBANDE DISTRICT MUNICIPALITY**

**APPLICATION FORM FOR A PERMIT TO OPERATE AN INITIATION SCHOOL**

**A. NAME AND SURNAME OF APPLICANT:**

.....

**B. RESIDENTIAL ADDRESS:**

.....

.....

**C. PARTICULARS OF NGOMA / KOMA OR LEBOLLO:**

.....

.....

.....

.....

.....

.....

**NUYMBER OF INITIATES INTAKE:** .....

**PERIOD OF OPERATION: FROM:** .....

**TO:**.....

**TYPE OF SANITARY FACILITIES:**

.....

NUMBER OF SANITARY FACILITIES: .....

METHOD OF DISPOSAL OF BODY PARTS:

.....  
.....  
.....

TRIBAL AUTHORITY CONSENT:

NAME OF TRADITIONAL LEADER:

SIGNATURE OF AMAKHOSI / KHOSI TRADITIONAL LEADER:

.....

NOTE: this document has to be completed by the applicant and returned with the attachments from annexure 3B [Environmental Health practitioner] duly completed by the Environmental health Practitioner in his employ of the Council.

**SCHEDULE**

**GERT SIBANDE DISTRICT MUNICIPALITY**

**CERTIFICATE BY ENVIRONMENTAL HEALTH PRACTITIONER**

I..... CONFIRMS AS FOLLOWS:

- 1. I am presently employed by ..... personnel number ..... as an Environmental Health Practitioner
  
- 2. On ..... I inspected a certain terrain which was pointed out to me by the applicant as a proposed Ngoma / Koma or Lebollo – initiation school , the address or description of the area or site is .....  
.....
  
- 3. I confirm that the terrain complies with the minimum requirements as contained in schedule 3 of these By – Laws.

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

.....  
Full names

.....  
Signature

Designation: Environmental Health Practitioner

**SCHEDULE 6**

**GERT SIBANDE DISTRICT MUNICIPALITY**

**STANDARD PRE- CIRCUMCISION MEDICAL EXAMINATION**

**PATIENT'S PARTICULARS**

NAME:

.....

SURNAME:

.....

DOB/ID: .....

RESIDENTIAL

ADDRESS:

.....

.....

.....

**EXAMINATION**

GENERAL

ALLERGIES

Y

/

N

.....

ANY BLEEDING TENDENCIES Y / N.....

ANY OF THE FOLOWING

ANAEMIA Y / N

JAUDICE Y / N

LYMPHADENOPATHY Y / N

HEART DISORDERS Y / N

LUNG DISORDERS Y / N

ABDOMINAL DISORDERS	Y / N			
PSYCHAITRIC DISORDER	Y / N			
UROLOGICAL DISORDER	Y / N			
OTHER	Y	/	N	SPECIFY:

.....

.....

.....

.....

I, ..... a registered  
 medical practitioner

[practice number: ..... certify that  
 ..... is a

male person of ..... years and is fit to be circumcised.

Date: .....

Signature: .....

Qualifications:  
 .....

**LOCAL AUTHORITY NOTICE 87****GERT SIBANDE DISTRICT MUNICIPALITY:  
AIR QUALITY MANAGEMENT BY-LAW**

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

## Table of contents

**PART I: INTERPRETATION AND OBJECTIVES**

1. Definitions
2. Purpose and objectives

**PART II: DUTY OF CARE**

3. Duty of care

**PART III : LOCAL EMISSION STANDARDS**

4. Identification of substances and development of local emission standards

**PART IV: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS**

5. Application
6. Prohibition
7. Installation of fuel-burning equipment
8. Operation of fuel-burning equipment
9. Presumption
10. Installation and operation of measuring equipment
11. Monitoring and sampling
12. Exemptions
13. Appointment of external specialist to review assessment

**PART V: AIR QUALITY MANAGEMENT ZONE**

14. Declaration of Air Quality Management Zone
15. Installation of fuel-burning equipment
16. Transitional arrangements in respect of authorised small boilers
17. Transitional arrangements in respect of other small boilers
18. Operation of fuel-burning equipment
19. Presumption
20. Installation and operation of obscuration measuring equipment
21. Monitoring and sampling
22. Exemptions
23. Emissions caused by burning of industrial waste, domestic waste, garden waste in waste bins or skips on any land or premises
24. Emissions caused by tyre burning and burning of rubber products and cables in open spaces

**PART VI: EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES AND OTHER EMISSIONS**

25. Prohibition
26. Stopping of vehicles for inspection and testing
27. Testing procedure
28. Repair notice
29. Emissions from dwellings

30. Emissions caused by open burning
31. Agricultural and Plantation burning emissions
- PART VII: EMISSIONS THAT CAUSE A NUISANCE
32. Prohibition
33. Abatement notice
34. Steps to abate nuisance
- PART VIII: OFFENSIVE ODOURS
35. Control of offensive odours
- PART IX: DUST NUISANCE
36. Control of dust
37. Sand blasting emissions
- PART X: FUME NUISANCE
38. Control of fumes
- PART XI: PESTICIDE AND SPRAYING PAINTING EMISSIONS
39. Pesticide spraying emissions
40. Spray painting emissions
- PART XII: GENERAL PROVISIONS
41. Appeals
42. Severability
43. Council and State bound
44. Conflict
45. Offences and Penalties
46. Exemptions
47. Savings
48. Repeal of By-laws
49. Short title and commencement

Schedule 1: Application Form to operate small boiler (sections 15, 16 and 17)

Schedule 2: Application Form for open burning (section 30)

Schedule 3: Application Form to burn agricultural and plantation burning (section 31)

Schedule 4: Application Form to undertake pesticide spraying (section 39)

Schedule 5: Spray booth construction (section 40)

Schedule 6: Local emission standards

#### PART I

### INTERPRETATION AND OBJECTIVES

#### 1. Definitions

In this by-law, unless the context indicates otherwise -

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

“**air pollutant**” means any substance, including but not limited to dust, smoke, fumes and gas that causes or may cause air pollution;

“**air pollution**” means any change in the composition of the environment caused by smoke, soot, dust, fly ash, cinders, solid particles of any kind, gases, fumes, aerosols and odours substances or in any substance emitted into the atmosphere from any activity, where that change has an

- adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;
- “air pollution management plan”** means a plan referred to in section 15 of the National Environment Management: Air Quality Act 2004 (Act 39 of 2004);
- “air quality management zone”** means the geographical area within the district municipality to which Part 4 of the by-law is declared to apply;
- “air quality officer”** means an officer designated in terms of section 14 of the National Environment Management: Air Quality Act, (Act 39 of 2004) as an air quality officer;
- “ambient air”** excludes air regulated by the Occupational Health and Safety Act, 1993 (Act 85 of 1993);
- “atmosphere”** means air that is not enclosed by a building, machine, chimney or other such structure;
- “authorized person”** means any person authorized by the Council to implement any provision of this by-law;
- “authorised official”** means any official appointed as air quality officer including an environmental health practitioner appointed by Council who has been authorised by the Council to implement and enforce the provisions of this By-law;
- “best practicable means”** means the most effective measures that can reasonably be taken to prevent, reduce or minimise air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and the financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;
- “best available technology and knowledge”** means the latest technology or knowledge available or any improvement of the current technology or knowledge to increase the efficiency, detection and assessment of pollution;
- “buffer zones”** means areas demarcated or declared as a high risk zones for residential occupation or development and where no petro-chemical or medium industries may be established;
- “chimney”** means any structure or opening of any kind from or through which air pollutants may be emitted;
- “change”** means any modification which is made to an existing structure, process, plant or equipment, road, land use, procedure, action etc. which may have an effect on the noise generation or quality of ambient air or originating from such an activity or process;
- “combustible liquid”** means a liquid which has a close-cap flash point of 38 degrees Celsius or above;
- “compressed ignition powered vehicle”** means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;
- “construction”** includes, apart from its ordinary meaning, erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving land clearing, earth moving, grading, excavating, the laying of pipes and



conduit whether above or below ground level, street and highway building, concreting, equipment installation, alteration, and a structural installation of construction components and material in any form or for any purpose and includes any work in connection therewith;

**“construction equipment”** means any equipment or devised design use in construction or material handling including, but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, scrapers, pavers, generators, off-highway haulers, truck ditchers, scaffolding, cranes, compactors, rollers, pumps, concrete mixtures, graders or other material handling equipment;

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

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

**“council”** means -

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

**“dark smoke”** means;

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

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

**“dwelling”** means any house, room, shed, hut, tent, cave, container, shelter, vehicle, boat or any other structure or place whatsoever, any part of

- which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and "room" has a corresponding meaning;
- “environment”** means the surroundings within which humans exist and that are made up of -
- (a) the land, water and atmosphere of the earth;
  - (b) micro-organisms, plant and animal life;
  - (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
  - (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;
- “ecosystem”** means a dynamic system of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
- “environmental health practitioner”** means an official appointed by the Council and who is duly registered as an environmental health practitioner with the Health Professions Council of South Africa in terms of section 33(1) of the Medical Dental and Supplementary Health Services Professions Act, 1974 (Act 56 of 1974);
- “environmental health hazard”** means any form of pollution, threat, exposure, or source or danger, to the environment and human health;
- “erect”** means, apart from its ordinary meaning, to alter, convert, extend or re-erect;
- “flammable gas”** means a gas which at 20 degrees Celsius and a standard pressure of 101, 3 kilopascals-
- (a) is ignited when in a mixture of 13% or less by volume with air, or
  - (b) has a flammable range with air of at least 12% regardless of the lower flammable limit;
- “flammable liquid”** means a liquid or combustible liquid which has a close-cap flash point of 93 degrees Celsius or below;
- “flammable substance”** means any flammable liquid, combustible liquid or flammable gas;
- “free acceleration test”** means the method described in section 27 employed to determine whether vehicles are being driven or used in contravention of section 25(1);
- “fuel-burning equipment”** means any furnace, boiler, incinerator, or other equipment, including a chimney:
- (a) designed to burn or capable of burning liquid, gas or solid fuel;
  - (b) used to dispose of any material or waste by burning; or
  - (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;
- “jurisdiction area”** means the area as demarcated by the demarcation board in terms of the Demarcation Act, 1998 (Act 27 of 1998); within Gert Sibande District Municipality;
- “light absorption meter”** means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

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

**“listed activities”** means any word or expression to which a meaning has been assigned in the National Environmental Management Act, Waste Act, Air Quality Act, Environmental Impact Assessment Regulations including any other regulations promulgated under these Acts;

**“measuring point”** relating to -

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

**“medium industry”** means a separate and distinct business entity, together with its branches or subsidiaries, if any, including co-operative enterprises, managed by one owner or more predominantly carried on in any sector or subsector of the economy mentioned in column 1 of the Schedule to the Small Businesses Act, 1996 (Act 102 of 1996) and classified as a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the Schedule;

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

**“municipality” or “municipal area”** means the Gert Sibande District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 492 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

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

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

**“NEM: AQA”** National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004);

**“nuisance”** means an unreasonable interference or likely interference caused by air pollution with:

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

- “**noise management committee**” means a committee established by Council in terms of any law to advise council on matters pertaining to regulation and control of noise within the municipal area;
- “**non-point source**” means a source of atmospheric emissions which cannot be identified as having emanated from a single identifiable source or fixed location and includes veldt, forest, open fires, some mining activities, agricultural activities and stockpiles;
- “**offensive odour**” means any smell which is considered to be malodorous or a nuisance to a reasonable person emanating from any source or activity;
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;
- “**owner**” in relation to any premises, means -
- (a) the person in whose name the title to the premises is registered, and includes the holder of a stand licence; or
  - (b) if the person referred to in paragraph (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for that person's estate;
- “**obscuration**” means the ratio of visible light attenuated by air pollutants suspended in the effluent streams to incident visible light, expressed as a percentage;
- “**open burning**” means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and “burning in the open” has a corresponding meaning;
- “**operator**” means a person who owns or manages an undertaking or who controls an operation or process, which contribute to or emit air pollutant;
- “**pave**” means to apply and maintain concrete or any other similar material to a road surface or open area;
- “**pest**” means an injurious, noxious or troublesome living organism;
- “**pesticide**” means a micro-organism or material that is used or intended to be used to prevent, destroy, repel, or mitigate a pest and includes herbicides, insecticides, fungicides, avicides and rodenticides;
- “**person**” means a natural person or a juristic person, and includes an organ of state;
- “**permit**” means a public health permit issued by the Council in terms of these By-laws and or any other by-laws;
- “**public health**” means the mental and physical health and well-being of people in the municipal area;
- “**pollution**” means any change in the environment caused by -
- (a) substances;
  - (b) radioactive or other waves; or
  - (c) noise, odours, dust or heat,
- “**premises**” means -
- (a) any land without any buildings or other structures on it;
  - (b) any building or other structure and the land on which it is situated;
  - (b) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b);

- (d) any vessel, vehicle or movable structure which is used for a scheduled use; or
- (e) private property or part of it including farms and agricultural holdings;
- “priority areas”** means any area declared in terms of section 18 (1) of the National Environmental Management: Air Quality Act 2004 (Act 39 of 2004);
- “property projection plane”** means a vertical plane on and including the boundary line of a piece of land defining the boundaries of such piece of land in space;
- “proclaimed township”** means any land unit zoned and utilized for residential purposes;
- “provisional atmospheric emission license”** means a provisional atmospheric emission license contemplated in chapter 5 of National Environmental Management : Air Quality Act, 2004 (Act 39 of 2004);
- “point source”** means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;
- “public road”** means a road which the public has the right to use;
- “public place”** means any road, street, thoroughfare bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;
- “rubber product”** means anything composed of rubber including anything containing or coated with rubber;
- “small boiler”** means a combustion installation with a design capacity of less than 50MW heat input, capable of burning solid, liquid and gas fuels used primarily for steam raising or electricity generation;
- “residential area”** means an area zoned for residential purposes or proclaimed as residential in terms of township establishment rules;
- “smoke”** means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;
- “stationary source”** means a source of emission that is fixed and cannot be moved or is immobile;
- “vehicle”** means any motor car, motor carriage, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power;
- “waste”** includes any substance, whether solid, liquid or gaseous which is -
- (a) discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration to the environment;
  - (b) a surplus substance or any substance which is discarded, rejected, unwanted or abandoned;
  - (c) re-used, recycled, reprocessed or purified by a separate operation from that which produced the substance or which may be or is intended to be re-used, recycled reprocessed, recovered or purified;

- (2) If any provision in this By-law vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

## **2. Purpose and objectives**

- (1) The purpose and objectives of this By-law is:
- (a) to enable the Council and its local municipalities through its implementation organs or in partnership with other organs of state to protect, mitigate, intervene, regulate, control and promote the long term health, well-being and safety of people in the jurisdiction area by providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can –
    - (i) prevent, manage, and regulate activities that have the potential to impact adversely on public or environmental health;
    - (ii) require premises to be properly operated, maintained and managed; and
    - (iii) defining the rights and obligations of the Council and the public in relation to this purpose;
  - (b) to give effect to the rights contained in Section 24 of the Constitution of the Republic of South Africa, 1996 by controlling air pollution within the area of the Council's jurisdiction; and
  - (c) to ensure that air pollution is prevented, avoided, or where it cannot be altogether prevented, avoided, is minimized, controlled and remedied.
- (2) Any person that exercises a power under this by-law must exercise the power in order to give effect of the purpose set out in subsection (1).

## **PART II DUTY OF CARE**

### **3. Duty of care**

- (1) Any person who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring must take all reasonable measures:
- (a) to prevent any potential air pollution from occurring; and
  - (b) to mitigate and, as far as reasonably possible, to remedy any air pollution that has occurred.
- (2) The municipality may monitor the impact and effectiveness of the measures taken in terms of subsection (1) and, if necessary, issue instructions to a person contemplated in subsection (1) with regard to specific measures to be undertaken.

- (3) The municipality may direct any person who fails to take the measures required under subsection (1) –
- (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
  - (b) to commence taking effective control measures to abate the air pollution before a given date;
  - (c) to diligently continue with those measures; and
  - (d) to complete the measures before a specified reasonable date.
- (4) Should a person fail to comply, or inadequately comply, with a directive under subsection (3), the municipality may take reasonable measures to remedy the situation.
- (5) If any person fails to take the measures required of him or her under subsection (1) or (2), the municipality may recover all reasonable costs incurred as a result of it acting under subsection (4) from any or all of the following persons –
- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the air pollution or the potential air pollution;
  - (b) the owner of the land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
  - (c) the person in control of the land or any person who has or had a right to use the land at the time when –
    - (i) the activity or the process in question is or was performed or undertaken; or
    - (ii) the situation came about; or
  - (d) any person who negligently failed to prevent –
    - (i) the activity or the process being performed or undertaken; or
    - (ii) the situation from coming about.
- (6) If more than one person is liable under subsection (5), the liability may be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1), (2) and (3);

### PART III LOCAL EMISSION STANDARDS

4. **Identification of substances and development of local emission standards and the establishment of buffer zones**
- (1) The Council may identify substances in ambient air, and has done so as set out in Schedule 6 to the by-law, and develop local emission standards for each substance.
  - (2) The Council may apply the following criteria when identifying and prioritising the substances in ambient air that presents threat to public health to the environment:

- (a) the possibility, severity and frequency of effects, with regard to human health and the environment as a whole, with irreversible effects being of special concern;
  - (b) widespread and high concentration of the substance in the atmosphere;
  - (c) potential environmental transformation and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other uncertainties;
  - (d) persistence in the environment, particularly if the substance is not biodegradable and able to accumulate in humans, the environment or food chain;
  - (e) the impact of the substance taking the following factors into consideration:
    - (i) size of the exposed population, living resources or ecosystems;
    - (ii) the existence of particularly sensitive receptors in the zone concerned; and
  - (f) substances that are regulated by international convention.
- (3) The Council may, when developing the local emissions standards:
- (a) identify the critical factors for public health impacts;
  - (b) identify sensitive sub- populations;
  - (c) review available databases for public health status
  - (d) review available databases for ambient air quality information; and
  - (e) review and assess international guidelines and standards.
- (4) The Council may take the following factors into consideration in setting local emission standards:
- (a) Health, safety and environmental protection objectives;
  - (b) Analytical methodology;
  - (c) Technical feasibility;
  - (d) Monitoring capacity; and
  - (e) Socio-economic consequences.
- (5) If national or provincial standards have been established in terms of NEM:AQA for any particular substance or mixture of substances such national or provincial standards will enjoy preference unless the Council established stricter standards for the municipality or any part of the municipality.
- (6) A notice issued under this section may -
- (a) provide for the phasing in of its provisions; and
  - (b) be amended.
- (7) The Council may establish buffer zones and such buffer zones must provide that-
- (a) petro-chemical and power generating industries or related industries are not within a distance of 5,2km from an area zoned for residential purposes;
  - (b) medium industries are not within a distance of 500m from an area zoned for residential purposes; and
  - (c) are not within a distance as determined by the air quality officer and key stakeholders.



## **PART IV SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS**

### **5. Application**

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

### **6. Prohibition**

- (1) Subject to subsection (2), smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.
- (3) If smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.

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

- (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the municipality, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the municipality shall be presumed until the contrary is proved to comply with the provisions of subsection (1).
- (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
  - (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
  - (b) the municipality may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

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

- (1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 7.
- (2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):
  - (a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence;
  - (b) The municipality may on written notice to the owner and occupier of the premises:
    - (i) revoke its authorization under section 7; and

- (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

### **9. Presumption**

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

### **10. Installation and operation of measuring equipment**

An authorised person may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate measuring equipment at his or her own cost; if:

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

### **11. Monitoring and sampling**

An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install air pollution measuring equipment in terms of section 10(1) must:

- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
- (b) if requested to do so by an authorised person, produce the record of the monitoring and sampling results for inspection;
- (c) if requested to do so by an authorised person, provide a written report (in a form and by a date specified by the authorised person) of part or all of the information in the record of the monitoring and sampling results; and
- (d) ensure that the air pollution measuring equipment is calibrated at least once per year or at intervals as specified by the manufacturer of the equipment and provide records of such calibration on request by the authorised person.

### **12. Exemption**

- (1) Subject to section 26 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the municipality may grant a temporary exemption in writing from one or all the provisions of this Part.
- (2) Any exemption granted under subsection (1) must state at least the following:
  - (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
  - (b) the reasons for granting the exemption;
  - (c) the condition attached to the exemption, if any;
  - (d) the period for which the exemption has been granted; and
  - (e) any other relevant information.

### **13. Appointment of external specialist to review assessment**

Council may appoint an external specialist reviewer and may recover costs from the applicant in instances where -

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

## **PART V AIR QUALITY MANAGEMENT ZONE**

### **14. Declaration of air quality management zone**

- (1) The whole area within the jurisdiction of the Council is hereby declared an Air Quality Management zone.
- (2) Within an Air Quality Management zone the Council may from time to time by notice in the Provincial Gazette:
  - (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
  - (b) prohibit or restrict the combustion of certain types of fuel;
  - (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted;
  - (d) prescribe different requirements in an Air Quality Management zone relating to air quality in respect of:
    - (i) different geographical portions;
    - (ii) specified premises;
    - (iii) classes of premises; or
    - (iv) premises used for specified purposes.
- (3) Council may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly and indirectly cause air pollution within an Air Quality Management zone.
- (4) Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the operation of measures adopted by the Council under this section.

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

- (1) No person may install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the Council shall be presumed until the contrary is proved to comply with the provisions of subsection (1).
- (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
  - (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
  - (b) the Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.
- (4) In considering an application submitted in terms of subsection (1), the air quality officer may require the applicant to furnish such information as the air quality officer may require.
- (5) After considering the application submitted in terms of subsection (1), the Council must either:
  - (a) grant an application and issue an authorisation, subject to any conditions that may be imposed; or
  - (b) refuse an application with reasons.
- (6) The authorization issued in terms of subsection (1) must specify:
  - (a) the product name and model of the fuel burning equipment;
  - (b) the premises in respect of which it is issued;
  - (c) the person to whom it is issued;
  - (d) the period for which the authorization is issued;
  - (e) the name of the municipality;
  - (f) the periods at which the authorization may be reviewed;
  - (g) the fuel type and quality;
  - (h) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere;
  - (i) any other operating requirements relating to atmospheric discharges, including non-point source emission measurement and reporting requirements; and
  - (j) any other matters which are necessary for the protection or enforcement of air quality.
- (7) The Council must review the authorisation issued in terms of this section at intervals specified in the authorization, or when circumstances demand that a review is necessary.

**16. Transitional arrangements in respect of authorised small boilers**

- (1) Despite the coming into operation of this by-law, any small boiler that was authorised to operate in terms of any by-law of the municipality continues to be authorised to operate subject to subsection (3).
- (2) During the period for which the authorised small boiler continues to operate, the provisions of this by-law apply in respect of:
  - (a) the holder of an existing authorisation as if that person is the holder of the authorisation issued in terms of section 15; and
  - (b) the existing authorisation as if the authorisation was issued in terms of section 15;
  - (c) The holder of an existing authorisation must apply in writing for an authorisation in terms of section 15 when required to do so by the Council and within the period stipulated by the Council.

#### **17. Transitional arrangements in respect of other small boilers**

- (1) Despite the small boilers within the municipality not required to be authorised in terms of a by-law, persons operating small boilers, at the commencement date of this By-law must apply for an authorisation as required by section 15.
- (2) A person operating small boiler must apply for an authorisation in terms of subsection (1), when required to do so by the Council, in writing, and within the period stipulated by the Council.
- (3) Any person who fails to comply with subsection (1) and who continues to operate a small boiler without a valid authorisation commits an offence.

#### **18. Operation of fuel-burning equipment**

- (1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 7.
- (2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):
  - (a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence:
  - (b) The Council may on written notice to the owner and occupier of the premises:
    - (i) revoke its authorization under section 7; and
    - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

#### **19. Presumption**

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

#### **20. Installation and operation of obscuration measuring equipment**

- (1) An authorized person may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:
  - (a) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
  - (b) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
  - (c) fuel-burning equipment has been or is intended to be installed on the relevant premises, which is reasonably likely in the opinion of an authorized person to emit dark smoke;
  - (d) the person on whom the notice is served has been convicted more than once under this Part and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
  - (e) the authorized person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.
- (2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:
  - (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
  - (b) that person's right of appeal under section 41;
  - (c) that person's right to request written reasons for the issuing of the notice; and
  - (d) the measures that must be taken and the potential consequences if the notice is not complied with.

## **21. Monitoring and sampling**

An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 20(1) must:

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

## **22. Exemption**

- (1) Subject to section 46 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the

Council may grant a temporary exemption in writing from one or all the provisions of this Part.

- (2) Any exemption granted under subsection (1) must state at least the following:
- (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
  - (b) the reasons for granting the exemption;
  - (c) the conditions attached to the exemption, if any;
  - (d) the period for which the exemption has been granted; and
  - (e) any other relevant information.

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

A person who carries out or permits the burning of any industrial, domestic or garden waste, on any land or premises, for the purpose of disposing of that waste, is guilty of an offence unless the industrial, domestic or garden waste is legally disposed of in terms of section 26 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended.

**24. Emissions caused by tyre burning and burning of rubber products and cables in open spaces**

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

## PART VI

### EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES AND OTHER EMISSIONS

**25. Prohibition**

- (1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle shall each be guilty of an offence.
- (3) For purposes of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

**26. Stopping of vehicles for inspection and testing**

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

- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorized person may:
  - (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:
    - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
    - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
  - (b) conduct a visual inspection of the vehicle and, if the authorized person reasonably believes that an offence has been committed under section 25(2), instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 27.

## **27. Testing procedure**

- (1) An authorized person must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 25(1).
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
  - (a) when instructed to do so by the authorized person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
  - (b) while the vehicle is idling; the authorized person must conduct a visual inspection of the emission system of the vehicle;
  - (c) when instructed to do so by the authorized person, the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle; provided that the authorized person may do so himself or herself if the driver fails or refuses to comply with the authorized person's reasonable instructions;
  - (d) while the throttle pedal is depressed, the authorized person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;
  - (e) the driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorized person.
- (3) If, having conducted the free acceleration test, the authorized person is satisfied that the vehicle:
  - (a) is not emitting dark smoke, then the authorized person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 15(1); or



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

## **28. Repair notice**

- (1) A repair notice must direct the owner of the vehicle to repair the vehicle within 60 working days from date of issue of such notice, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.
- (2) The repair notice must contain *inter alia* the following information:
  - (a) the make, model and registration number of the vehicle;
  - (b) the name, address and identity number of the driver of the vehicle and if the driver is not the owner, the name and address of the vehicle owner;
  - (c) the measures required to remedy the situation; and
  - (d) the time period within which the owner of the vehicle must comply with the repair notice.
- (3) A person commits an offence under this section if that person fails:
  - (a) to comply with the notice referred to in subsection (1);
  - (b) the re-test referred to in subsection (1).
- (4) It shall not be a defence in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

## **29. Emissions from dwellings**

- (1) No person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.
- (3) On application in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

## **30. Emissions caused by open burning**

- (1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the municipality, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.
- (2) The municipality may not authorize open burning under subsection (1) unless it is satisfied that:
  - (a) the applicant in terms of subsection (1) has investigated and assessed every reasonable alternative for reducing, re-using or recycling the material in order to minimize the amount of material to be burnt in the open, to the satisfaction of the municipality;

- (b) no warning has been published for the region in terms of section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998);
  - (c) the open burning will not pose a nuisance or potential hazard to human health or safety, private property or the environment; and
  - (d) the prescribed fee has been paid to the municipality.
- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to:
- (a) recreational outdoor barbecue or braai activities on private premises;
  - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
  - (c) any other defined area or defined activity to which the municipality has declared this section not to apply.

**31. Agricultural and plantation burning emissions**

- (1) Any person who burns agricultural land or plantations must, in addition to the requirements of the National Veldt and Forest Fire Act, 1998 (Act 101 of 1998), comply with the following control measures:
- (a) obtain the prior written authorisation of the Council, which authorisation may be granted by the Council with conditions; and
  - (b) notify in writing the owners and occupiers of all adjacent properties, including communities within 150 metres of where the burning will take place, providing:
    - (i) the details of the proposed area to be burned;
    - (ii) the reason for the agricultural or plantation burning;
    - (iii) the date and approximate time of the agricultural or plantation burning;
    - (iv) in the event of inclement weather conditions, an alternative date or dates on which the agricultural or plantation burning may occur;
    - (v) the right of owners, occupiers of adjacent properties and communities within 150 metres to lodge written objections to the proposed agricultural or plantation burning with the municipality within 7 days of being notified; and
  - (c) pay an administrative fee that may be levied by the municipality.
- (2) The Council may not authorise agricultural or plantation burning:
- (a) unless it is satisfied that the requirements set out in subsection (1) have been complied with; and
  - (b) where a warning notice in terms of section 10(1) of the National Veld and Forest Act, 1998 (Act No. 101 of 1998) has been published for the region.
- (3) Any person who contravenes subsection (1) commits an offence.
- (4) The provisions of this section are not applicable to any defined area which the Council may declare it not to be applicable.

**PART VII**

## EMISSIONS THAT CAUSE A NUISANCE

### 32. Prohibition

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

### 33. Abatement notice

- (1) An authorized person may serve an abatement notice on any person whom the authorized person reasonably believes is likely to commit or has committed an offence in terms of this By-law, calling upon that person:
  - (a) to abate the nuisance within a period specified in the notice;
  - (b) to take all necessary steps to prevent a recurrence of the nuisance; and
  - (c) to comply with any other conditions contained in the notice.
- (2) For the purposes of subsection (1), an authorized person may form a reasonable belief based on his or her own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the abatement notice is to be served.
- (3) An abatement notice under subsection (1) may be served:
  - (a) upon the owner of any premises, by:
    - (i) delivering it to the owner, or if the owner cannot be traced or is living abroad that person's agent;
    - (ii) transmitting it by registered post to the owner's last known address, or the last known address of the agent; or
    - (iii) delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown;
  - (b) upon the occupier of the premises, by:
    - (i) delivering it to the occupier;
    - (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.
- (4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) is guilty of an offence.
- (5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (7) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

### 34. Steps to abate nuisance

At any time, the Council may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover all costs so incurred from the person responsible for causing the nuisance.

## PART VIII OFFENSIVE ODOURS

**35. Control of offensive odours**

- (1) The occupier or owner of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises.
- (2) Council may prescribe measures, best practical means or abatement equipment to be used to prevent or mitigate the emission of offensive odours.
- (3) Council may prohibit any activity or process that creates continuous offensive odours if the measures prescribed in terms of subsection 2 are not effective.
- (4) Any person who emits or permits the emission of any offensive odour in contravention of subsections (1), (2) and (3) commits an offence.

**PART IX  
DUST NUISANCE**

**36. Control of dust**

- (1) The occupier or owner of any premises must take all reasonable steps to prevent the creation of nuisance by dust caused by any activity on such premises.
- (2) Council may prescribe measures, best practical means or abatement equipment to be used to prevent or mitigate the emission of dust nuisance.
- (3) Council may prohibit any activity or process that creates a dust nuisance if the measures prescribed in terms of subsection 2 are not effective.
- (4) Any person who emits or permits the creation of dust nuisance in contravention of subsections (1), (2) and (3) commits an offence.

**37. Sand blasting emissions**

- (1) Any person conducting sand blasting activities which customarily produce emissions of dust that may be harmful to public health, well-being or cause a nuisance shall take measures to prevent emissions into the atmosphere.
- (2) Any person who undertakes any sand blasting activity that causes dust emissions must implement the following measures:
  - (a) dust extraction control measures; or
  - (b) any alternative dust control measure approved in writing by the air quality officer.
- (3) Any person who contravenes subsections (1) or (2) commits an offence.

**PART X  
FUME NUISANCE**

**38. Control of fumes**

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

- (2) Council may prescribe measures, best practical means or abatement equipment to be used to prevent or mitigate the emission of fumes nuisance.
- (3) Council may prohibit any activity or process that creates a fume nuisance if the measures prescribed in terms of subsection 2 are not effective.
- (4) Any person who emits or permits the creation of fume nuisance in contravention of subsections (1), (2) and (3) commits an offence.

## **PART XI PESTICIDES AND SPRAY PAINTING EMISSIONS**

### **39. Pesticide Spraying Emissions**

- (1) No person may carry out or permit the spraying of pesticides, except as permitted by section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947).
- (2) Any person who contravenes subsection (1) of this by-law is guilty of an offence, as set out in section 18(1)(c) of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947).
- (3) A person who carries out or permits the spraying of pesticides within the municipal jurisdiction, must also comply with the following measures:
  - (a) the prior written authorisation of the Council must be obtained, which authorisation may be granted by the Council with conditions, including-
    - (i) the area of land on which the pesticide may be applied; and
    - (ii) the period of time in which the pesticide may be applied.
  - (b) the applicant must notify in writing the owners and occupiers of all adjacent properties within 150 metres of the treatment area of:
    - (i) the details of the proposed treatment area;
    - (ii) the reason for the pesticide use;
    - (iii) the active ingredient;
    - (iv) the date and approximate time of the pesticide use;
    - (v) in the event of inclement weather conditions, an alternative date or dates on which the pesticide use may occur;
    - (vi) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application; and
    - (vii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Council within seven days of being notified;
  - (c) a fee prescribed by Council must be paid.
- (4) Any person who contravenes subsection (3) is guilty of an offence.
- (5) A person may apply to the Council for an exemption if the spraying of the pesticide is for:
  - (a) the management of pests that transmit human diseases or adversely impact upon agriculture or forestry;
  - (b) the management of pests that threaten the integrity of sensitive ecosystems; or

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

**40. Spray painting emissions**

- (1) No person may without the prior written permission of the Council spray, coat, plate, or epoxy-coat any vehicle, article, object or allow them to be sprayed, coated, plated, or epoxy-coated with any substance outside an approved spray painting room or booth.
- (2) No person may spray, coat, plate, or epoxy-coat any vehicle, article, object, or building or part thereof or allow them to be sprayed, coated, plated or epoxy-coated with any substance unless:
  - (a) that person is in possession of a spraying authorisation contemplated in subsection (1);
  - (b) the spraying, coating, plating or epoxy-coating as the case may be is conducted in a spraying room approved by the designated fire officer, in consultation with the air quality officer, on premises registered for that purpose.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.
- (4) Any person who wishes to obtain a spraying authorisation must complete and submit to the designated officer an application form for such permit in the form and manner as prescribed.
- (5) The designated officer, in consultation with the air quality officer, may grant or refuse a spraying authorisation contemplated in subsection (1) based on the information submitted.
- (6) A spray room or booth or area designated for the application of a substance must be constructed and equipped according to the requirements in Schedule 5 to this by-law.
- (7) The designated officer may cancel the spraying authorisation if there is reason to believe that the holder of the spraying authorisation contravenes or fails to comply with any provision of this by-law.
- (8) Subject to subsection (9), before the designated officer cancels the spraying authorisation as contemplated in subsection (7), that officer must:
  - (a) give the holder of the spraying authorisation written notice of the intention to cancel the spraying authorisation and the reasons for such cancellation;
  - (b) give the holder a period of at least 30 days to make written representations regarding the matter to the municipality. 23
- (9) If the designated officer has reason to believe that the failure to cancel the spraying authorisation may endanger any person, that officer may cancel the spraying authorisation without prior notice to the holder as contemplated in subsection (7).

## PART XII GENERAL PROVISIONS

### 41. Appeals

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

(2) Pending confirmation, variation or revocation of the decision against which the appeal is lodged, any person appealing the said decision, unless the municipality provides otherwise:

- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
- (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.

### 42. Severability

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

### 43. Council and State bound

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

### 44. Conflict

- (1) In the event of a conflict within any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law shall prevail.
- (2) In the event of a conflict with the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004) the provisions of these Acts will prevail within the area of jurisdiction of the Municipality.

### 45. Offences and penalties

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

(2) It is an offence to:

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

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

#### **46. Exemptions**

- (1) The Council may grant a temporary exemption in writing from any provision of the By-law, provided that the Council:
  - (a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in subsection 2(1); and
  - (b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in subsection 2(1).
- (2) The Council may not grant an exemption under subsection (1) until the Council has:
  - (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
  - (b) provided such person with a reasonable opportunity to object to the application; and
  - (c) duly considered and taken into account any objections raised.

#### **47. Savings**

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

#### **48. Repeal of by-laws**

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

#### **49. Short title and commencement**

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



**Schedule 1**

**Application Form to Operate Small Boiler**

**Name of Enterprise:** \_\_\_\_\_

Declaration of accuracy of information provided:

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

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**CAPACITY OF SIGNATORY**

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

**1. Contact details**

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 of 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)

## 5. Signature

\_\_\_\_\_  
Signature of the Applicant

\_\_\_\_\_  
Date of Application

**6. Office Use Only**

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


**6.2. Authorised Person: Recommendations**


**6.3. 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 2****Application Form for Open Burning**

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

**1. Contact details**

Responsible Person Name	
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 burn 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 within 150 metres)**

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

**7. Signature**

\_\_\_\_\_  
**Signature of the Applicant**

\_\_\_\_\_  
**Date of Application**

**8. Office Use Only**

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


**8.2. Authorised Person: Recommendations**


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

The application is approved, subject to the following conditions:

(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 3**

**Application Form for Agricultural Burning or the Burning of Plantations**

I, \_\_\_\_\_ owner/occupier of the land/property known as \_\_\_\_\_ (registered name) within the municipality's jurisdiction hereby apply for permission to burn agricultural 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 area to be burned**


**3. Reasons for the agricultural burning**


**4. Approximate date and time to burn sugar cane**

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

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

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

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

**6. Signature**

\_\_\_\_\_  
**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)	

The application is not approved for the following reasons:

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

\_\_\_\_\_  
**Air Quality Officer Signature**

**Date:**

## Schedule 4

## Application Form to Undertake Pesticide Spraying

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

## 1. Contact details

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

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


## 3. Types of product label to be used

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

## 4. Approximate date and time for pesticide spraying

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

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

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

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

**6. Signature**

\_\_\_\_\_  
Signature of the Applicant

\_\_\_\_\_  
Date of Application

**7. Office Use Only**

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


**7.2. Authorised Person: Recommendations**


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

The application is approved, subject to the following conditions:

(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**

**Spray Booth Construction**

<b>WALLS</b>	225mm Brickwork
<b>ROOF</b>	Reinforced concrete
<b>FLOOR</b>	Concrete or other impervious material
<b>DOORS</b>	(A) – Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g. metal secured to the door with bolts at 30mm centres along the edges. The doors to open outwards and to be hung on Tee hinges bolted to the door. (B) – Close fitting metal doors not less than 3mm in thickness, carried on an angle iron frame and having an all round overlap or not less than 50mm.
<b>NOTE:</b>	Where the floor area exceeds 18 square metres 2 doors must be provided.
<b>WINDOWS</b>	Metal frames with no opening sections glazed with wire-woven glass not exceeding 460mm x 460mm. Putty approved by the SANS Code No. 680/59 only to be used and the occupier to furnish proof of this to the designated fire officer.
<b>NOTE:</b>	The Factory Inspector requires natural light to the extent of 20% of the floor area.
<b>VENTILATION</b>	30 Lineal metres/minute velocity across the room must be provided by means of mechanical ventilation, with the center line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating 1 metre above the apex of the roof. No right angle bends to be used in the ducting system. Exhaust fans to be installed at 4 metre centres or horizontal metal ducting extending the entire length of the wall with suitable inlets, must be provided.
<b>NOTE:</b>	If the ducting is external to the Spray Booth and in communication with the Workshop etc., it must be protected by either 110mm brick cement lagging.
<b>VENTILATION INLETS</b>	The wall opposite the exhaust fans to be honeycombed with airbricks installed from 100mm above floor level to a height of not less than 2 metres.
<b>MINIMUM NUMBER OF AIRBRICKS</b>	<b>SIZE OF THE ROOM</b>  Up to but not exceeding 140 cubic metres Up to but not exceeding 280 cubic metres Up to but not exceeding 470 cubic metres Up to but not exceeding 650 cubic metres
<b>NOTE:</b> Metal filters with metal swarf elements may only be used in an all metal installation, in lieu of Airbricks.	
<b>ELECTRICAL WORK</b>	All electrical work must be of flame-proof construction
<b>DANGER NOTICE</b>	“DANGER-NO SMOKING” notices in 150mm high white letters on a red background to be provided above the doors outside the Spray Booth.

**Schedule 6****Category 1: Combustion Installations**

These include installations emitting substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the municipality or which the municipality reasonably believes present such a threat.

**Sub-category 1.1 Solid fuel combustions**

Description	Solid fuels (including biomass) combustions installations used primarily for steam raising, heating or production process.		
Application	All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)		
Substance or mixture of substances	Plant Status	mg/Nm <sup>3</sup> under normal conditions of 10% O <sub>2</sub> , 273 Kelvin and 101.3 kPa	
Common name	Chemical symbol	New	50
		Existing	100
Particulate matter (pm 2.5, pM 10)	N/A	New	50
Sulphur dioxide	SO <sub>2</sub>	New	3500
		Existing	
Oxides of Nitrogen	NO <sub>x</sub> expressed as NO <sub>2</sub>	New	
		Existing	
Carbon Dioxide	CO <sub>2</sub>	New	To be determined
		Existing	

(1) The following special arrangement shall apply: Continued emissions monitoring of Pm, SO<sub>2</sub>, CO<sub>2</sub> and NO<sub>x</sub> is required

**Subcategory 1.2: Liquid fuel Combustion Installations**

Description	Liquid fuels (including biomass) combustions installations used primarily for steam raising, heating or production process.		
Application	All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)		
Substance or mixture of substances	Plant Status	mg/Nm <sup>3</sup> under normal conditions of 10% O <sub>2</sub> , 273 Kelvin and 101.3 kPa	
Common name	Chemical symbol	New	50
		Existing	100
Particulate matter	N/A	New	50

(pm 2.5, pM 10)			
Sulphur dioxide	SO2	New	3500
		Existing	
Oxides of Nitrogen	NOx expressed as NO2	New	
		Existing	
Carbon Dioxide	CO2	New	To be determined
		Existing	

**Subcategory 1.3: Solid biomass combustion installations**

Description	Solid biomass combustions installations used primarily for steam raising, heating or production process.		
Application	All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)		
Substance or mixture of substances	Plant Status	mg/Nm3 under normal conditions of 10% O2, 273 Kelvin and 101.3 kPa	
Common name	Chemical symbol	New	50
		Existing	100
Particulate matter (pm 2.5, pM 10)	N/A	New	50
Sulphur dioxide	SO2	New	3500
		Existing	
Oxides of Nitrogen	NOx expressed as NO2	New	
		Existing	
Carbon Dioxide	CO2	New	To be determined
		Existing	

**Subcategory 1.4: Gas combustions installations**

Description	Gas combustions (including gas turbines burning natural gas) combustions installations used primarily for steam raising, heating or production process.		
Application	All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)		
Substance or mixture of substances	Plant Status	mg/Nm3 under normal conditions of 10% O2, 273 Kelvin and 101.3 kPa	
Common name	Chemical symbol	New	50
		Existing	100
Particulate matter (pm 2.5, pM 10)	N/A	New	50
Sulphur	SO2	New	3500

dioxide		Existing	
Oxides of Nitrogen	NO <sub>x</sub> expressed as NO <sub>2</sub>	New	To be determined
		Existing	
Carbon Dioxide	CO <sub>2</sub>	New	
		Existing	

**Category 2: Petroleum industry, the production of gaseous and liquid fuels as well as petrochemicals from crude oil, coal, gas or biomass**

**Subcategory 2.1; Combustion installations**

Description	Combustions installations not used primarily for steam raising, heating or production process.		
Application	All installations with design capacity equal to greater than 30 MW heat input per unit based on the lower calorific value of the fuel used (inclusive of cumulative use in instances where the combustion installations are lower than 30MW heat individually but more than one installation is operated in the facility simultaneously which add to 30MW heat or more)		
Substance or mixture of substances	Plant Status	mg/Nm <sup>3</sup> under normal conditions of 10% O <sub>2</sub> , 273 Kelvin and 101.3 kPa	
Common name	Chemical symbol	New	50
		Existing	100
Particulate matter (pm 2.5, pM 10)	N/A	New	50
Sulphur dioxide	SO <sub>2</sub>	New	3500
		Existing	
Oxides of Nitrogen	NO <sub>x</sub> expressed as NO <sub>2</sub>	New	To be determined
		Existing	
Carbon Dioxide	CO <sub>2</sub>	New	
		Existing	