

**HARRY GWALA DISTRICT MUNICIPALITY**



**DRAFT AIR QUALITY MANAGEMENT BY-LAW, 2024**

(TO BE PRESENTED FOR ADOPTION BY RESOLUTION OF THE MUNICIPAL COUNCIL OF HARRY GWALA DISTRICT MUNICIPALITY)

To provide for air quality management within the Municipality; to provide for reasonable measures to prevent air pollution; to provide for local emission standards and air pollution control zones; to provide for smoke emissions from premises, vehicles and dwellings; to provide for the use and operation of fuel burning equipment; to provide for the installation and operation of obscuration measuring equipment; to provide for the prohibition of emissions that cause a nuisance; to provide for offences and penalties and to provide for matters incidental thereto.

## **PREAMBLE**

**WHEREAS** the Municipality has competence in terms of section 156 (2) of the Constitution of the Republic of South Africa to make and administer By-laws for the effective administration of the matters which it has the right to administer;

**WHEREAS** the Municipality has competence in terms of Part B of Schedule 4 of the Constitution relating to air pollution;

**WHEREAS** the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) provides measures for the protection and enhancement of the quality of air and the prevention of air pollution and ecological degradation;

**WHEREAS** the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) binds all organs of state to provide reasonable measures for the protection and enhancement of the quality of ambient air for the sake of securing an environment that is not harmful to the health and well being of people;

**AND WHEREAS** the Municipality seeks to manage air quality within its area of jurisdiction to ensure that air pollution is avoided and, where it cannot be altogether avoided, is minimised and remedied;

**NOW THEREFORE** the Municipal Council of the Harry Gwala District Municipality, acting in terms of section 156 read with Schedule 4, Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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## CHAPTER 1

### INTERPRETATION

#### 1. Definitions

In this By-law, unless the context indicates otherwise—

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

**"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"** includes soot, dust, fly ash, cinders, solid particles of any kind, aerosols, odorous substances, smoke, fumes and gas that causes or may cause air pollution;

**"air pollution"** means any change in the environment caused by any substance emitted into the atmosphere from any activity, where that change has an adverse effect on the environment, human health or well-being, or will have such an effect in the future;

**"air quality officer"** means the air quality officer designated as such in terms of section 14 of the Act;

**"ambient air"** means "ambient air" as defined in section 1 of the Act;

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

**"atmospheric emission"** or **"emission"** means any emission or entrainment process emanating from a point, non-point or mobile source that results in air pollution;

**"authorised official"** means a person authorised to implement the provisions of this By-law, including but not limited to—

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

**"best practicable environmental option"** means the option that provides the most benefit, or causes the least damage to the environment as a whole, at a cost acceptable to society in the long term as well as in the short term;

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

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

**"dark smoke"** means—

(a) in respect of Chapter 5 and Chapter 6 of this By-law, smoke which when measured using a light absorption meter, obscuration measuring equipment or other similar equipment, has an obscuration of 20% or greater;

(b) in respect of Chapter 6 of this By-law—

(i) smoke emitted from the exhaust outlets of naturally aspirated compression ignition engines which has a density of 50 Hartridge smoke units or more or a light absorption co-efficient of more than  $1.6\text{m}^{-1}$  or 18.57 percentage opacity;

(ii) smoke emitted from the exhaust outlets of turbo charged compression ignition engines which has a density of 56 Hartridge smoke units or more or a light absorption co-efficient of more than  $1.91\text{m}^{-1}$  or 21.57 percentage opacity;



**"dust"** means any material composed of particles small enough to pass through a 1 mm screen and large enough to settle by virtue of their weight into the sampling container from the ambient air.

**"dwelling"** means any building or structure, or part of a building or structure, used as a place of residence and any outbuildings ancillary to it, but excludes informal settlements;

**"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;

**"fuel-burning equipment"** means any furnace, boiler, heater, burner, 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; and excludes standby generators and temporary standby generators producing a combined generation capacity of equal to or less than 50kVa per premises;

**"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;

**"listed activity "** means any activity listed in terms of the Act;

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

**"municipal council"** or **"council"** means the municipal council, a municipal council referred to in section 157(1) of the Constitution;

**"Municipality"** means Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution of South Africa; herein refers to Harry Gwala District Municipality

**"Municipal Manager"** means the official of the Municipality appointed as contemplated in section 54A of the Municipal Systems Act;

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

**"NAEIS"** means National Atmospheric Emission Inventory System;

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

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

**"nuisance"** means an unreasonable interference or likely interference caused by air pollution with the—

(a) health or well-being of any person or living organism;

(b) health or well being of the environment; or

(c) the use and enjoyment by an owner or occupier of his or her property or environment;

**"obscuration"** means the ratio of visible light attenuated by air pollutants suspended in the effluent air 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" and "burning of material" has a corresponding meaning;

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

**"person"** means a natural person or a juristic person;

**"premises"** includes—

(a) any building or other structure;

(b) any adjoining land occupied or used in connection with any activities carried on in that building or structure;

(c) any vacant land; and

(d) any locomotive, ship, boat or other vessel which operates in the precincts of any harbour, within the area of the jurisdiction of the Municipality;

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

**"point source"** means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;

**"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;

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

**"spray area"** means an area or enclosure referred to in section 24 which must be used for spray painting, and "spray booth" has a corresponding meaning; and

**"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.

### **1. Interpretation of By-law**

- (1) If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.
- (2) In the event of any conflict between this By-law and any other By-law or policy which directly or indirectly, within the jurisdiction of the Municipality, regulates air quality, the provisions of this By-law shall prevail to the extent of the inconsistency.

### **2. Objectives and Purpose of the By-law**

The objectives of this By-law are to–

- (1) give effect to the right contained in section 24 of the Constitution by regulating air pollution within the area of the Municipality's jurisdiction;
- (2) give effect to the Act and ensure that ambient air quality standards are maintained,
- (3) provide, in conjunction with any other applicable law, an effective legal and administrative framework within which the Municipality can manage and regulate activities that have the potential to adversely impact the environment, public health and well-being, and
- (4) ensure that air pollution is avoided, or where it cannot be altogether avoided, mitigated or minimised.

### **3. Application of By-law**

- (1) This By-law applies within the area of jurisdiction of the Municipality.
- (2) This By-law does not remove the need for any other licence, permit, consent or authorisation in respect of air quality management that may be required under any other applicable legislation.

#### **4. Designation of an Air Quality Officer**

The Municipality shall designate an official as an air quality officer, who shall be responsible for co-ordinating matters pertaining to air quality management in the area of jurisdiction of the Municipality.

#### **5. Duties and functions of the Air Quality Officer**

The Municipality must designate or appoint an employee of the Municipality as the Air Quality Officer to be responsible for:

- (a) Co-ordinating matters pertaining to air quality management and,
- (b) Granting or rejecting Atmospheric Emission Licence or Provisional Atmospheric Emission Licence in terms of the AQA within the municipality's jurisdiction.
- (c) Implementing and monitoring the short-term plans and objectives of NEMA, AQA, the Regulations and these Bylaws,
- (d) Identifying, implementing, managing and reporting on the air quality projects to the national level
- (e) Implementing procedures, systems and controls to regulate specific work sequences, general practices and processes as defined in the legislation,
- (f) Manage, coordinate and ensure compliance with statutory requirements of air quality licensing
- (g) Manage and implement strategies aimed at creating awareness and provide education in terms of statutory requirements and air quality practice
- (h) Manage, supervise, coordinate, liaise and provide direction on specific administrative and reporting requirements associated with air quality
- (i) Monitoring and overseeing the implementation and enforcement of these Bylaws

## CHAPTER 2

### DUTY OF CARE

#### 6. Reasonable measures to prevent air pollution

- (1) No person may intentionally or negligently commit any act or omission which causes or is likely to cause air pollution.
- (2) 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, including the best practicable environmental option to—
  - a) prevent any potential air pollution from occurring; and
  - b) mitigate and, as far as reasonably possible, remedy any air pollution that has occurred.
- (3) The Municipality may direct any person who fails to take the measures required under subsection (2) to—
  - a) investigate, evaluate and assess the impact of specific activities on the health of the environment and the public and report thereon;
  - b) take specific reasonable measures before a specific date;
  - c) diligently continue with those measures; and
  - d) complete them before a specified reasonable date,Provided that prior to such direction the Municipality must give such person adequate notice and direct him or her to inform the Municipality of his or her relevant interest, and the Municipality may consult with any other organ of state.
- (4) If a person fails to comply or inadequately complies with a directive contemplated in subsection (3), the Municipality may take reasonable measures to remedy the situation.
- (5) The Municipality may, if a person fails to carry out the measures referred to in subsection (2), recover all reasonable costs incurred as a result of the Municipality 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 the air pollution or the potential for air pollution occurred;

- (c) the person in control of the land or any person who has or had a right to use the land at the time when the—
    - i. activity or the process in question is or was performed or undertaken; or
    - ii. situation came about; or
  - (d) any person who negligently failed to prevent the—
    - i. activity or the process being performed or undertaken; or
    - ii. situation from coming about.
- (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 person was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (2) and (3).

### **CHAPTER 3**

## **LOCAL EMISSION STANDARDS, NORMS AND STANDARDS AND AIR POLLUTION CONTROL ZONES**

### ***Part 1: Local emission standards***

#### **7. Determination of local emission norms and standards**

- (1) The Municipality may, by notice in the Provincial Gazette—
- (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment of the Municipality or which the air quality officer reasonably believes present such a threat; and
  - (b) in respect of each of those substances or mixtures of substances, publish local standards for emission from point, non-point or mobile sources in the Municipality.
- (2) The Municipality shall take the following factors into consideration in setting local emission standards:
- (a) health, safety and environmental protection objections;

- (b) analytical methodology;
- (c) technical feasibility;
- (d) monitoring capability;
- (e) socio-economic consequences;
- (f) ecological role of fire in vegetation remnants; and
- (g) best practicable environmental option.

(3) Any person who is emitting substances or mixtures of substances as referred to in subsection (1) must comply with the local emission standards published in terms of this By- law.

## ***Part 2: Norms and standards***

### **8. Substances identification process**

- (1) The Municipality must, when prioritising the substances in ambient air that present a threat to public health, well-being or the environment, consider the following:
- (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) ubiquitous and high concentrations of the substance in the atmosphere;
  - (c) potential environmental transformations and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other health or environmental impacts;
  - (d) persistence in the environment, particularly if the substance is not biodegradable and able to accumulate in humans, the environment or food chains;
  - (e) the impact of the substances taking the following factors into consideration:
    - i. size of the exposed population, living resources or ecosystems; and



- ii. the existence of particularly sensitive receptors in the zone concerned; and,
- a) substances that are regulated by international conventions.

(2) The Municipality must, using the criteria set out in subsection (1), compile a list of substances in ambient air that present a threat to public health, well-being and the environment.

## **9. Publication of Local Emission Standards**

The Municipality must follow a consultative process in terms of chapter 4 of the Municipal Systems Act for the purposes of publication of the local emission standards.

## **10. Declaration of Air Pollution Control Zone**

(1) The whole area within the area of jurisdiction of the Municipality is hereby declared to be an air pollution control zone.

(2) The Municipality may, within the air pollution control zone, 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 percent may not be emitted; and
- (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
  - i. different geographical portions;
  - ii. specified premises;
  - iii. classes of premises;
  - iv. premises used for specific purposes; or
  - v. mobile sources.

(3) The Municipality may develop and publish guidelines and policies, including technical guidelines, relating to the regulation of activities by

persons which directly or indirectly cause air pollution within an air pollution control zone.

- (4) Subject to section 29, the Municipality may in writing exempt certain premises, classes of premises or premises used for specified purposes from this section.

## **CHAPTER 4**

### **LICENSING LISTED ACTIVITIES**

#### **11. Licensing of listed activities**

- (1) The Municipality has identified a schedule of activities as specified in Schedule A of this bylaw as per Section 21 of the NEMA: AQA 39 OF 2004, which it reasonably believes causes or may cause significant air pollution.
- (2) No person may without a licence from the Municipality conduct an activity which has been scheduled in terms of subsection (1).
- (3) The Municipality may amend the schedule contemplated in subsection (1) by-
- (a) Adding an activity to or removing an activity from that list, or
  - (b) Making any change to the particular activity on that list
- (4) If the Minister or the MEC in terms of section 21 of the National Environmental Management: Air Quality Act ( Act 39 of 2004) by notice in the Gazette –
- (a) Publishes a schedule of activities and such schedule or amended schedule of activities contains any activity specified in subsection (1) -
    - i. The activity so specified in schedule A of these Bylaws is deemed to have deleted from the schedule A of these Bylaws with effect from the date of publication of that notice, and
    - ii. Any licence contemplated in section 12, to the extent that it relates to that activity, lapses with effects from the date of publication of that notice.

## **12. Licence for scheduled activities**

- (1) An application for a licence required in terms of section 11(2) must be made on a prescribed form and be accompanied by –
  - (a) Any document specified in such form, and
  - (b) The application fee
- (2) The Municipality may prior to taking a decision on any application in terms of subsection (1) by notice in writing require the applicant concerned to furnish it with the further information and documentation specified in that notice within a period so specified.
- (3) If any activity scheduled in terms of section 11(1) is operative at the commencement of these Bylaws, the person concerned must lodge an application in terms of subsection (1) within 90 (ninety) days of such commencement or a longer period allowed by the air quality officer.
- (4) The Municipality must, after consideration of all relevant factors –
  - (a) Approve an application in terms of subsection (1) , or
  - (b) Approve an application in terms of subsection (1) subject to any condition it considers appropriate , or
  - (c) Refuse the application in terms of subsection (1) and inform the applicant in writing of its decision and reasons for refusal of the application.
- (5) If an application in terms of subsection (1) is approved, or an appeal in terms of section 40 relating to that application is successful, an authorised official must forthwith issue a licence on a prescribed form to the applicant specifying any condition imposed in terms of subsection 4(b).
- (6) Notwithstanding the provisions of subsection (1), an activity in respect of which a licence is required in terms of that subsection may be continued –
  - (a) During a period contemplated in subsection (3), or
  - (b) If an application in respect of that activity is made in terms of subsection (1), until the application concerned is refused and the applicant notified in terms of subsection (4) (c) , and
  - (c) If an appeal is lodged in terms of section 40 in respect of a condition imposed in terms of subsection (4) (b) or a refusal of an application in

terms of subsection (4) (c) , until such appeal is rejected and the appellant notified in writing by an authorised official of the decision.

### **13. Lapsing of licences**

- (1) A licence issued in terms of section 13(6) lapses if –
  - (a) The activity, which is the subject of the licence ceases,
  - (b) The activity concerned is taken over by a new operator, or
  - (c) The name of licence holder changes, or
  - (d) The licence is not renewed on or before the indicated expiry date
- (2) The licence holder concerned must forthwith in writing advise the air quality officer of any occurrence contemplated in subsection (1)

### **14. Changing of licence activities**

- (1) No holder of a licence issued of section 13 (6) may materially extend or alter an activity for which that licence was without the prior written approval of the Municipality
- (2) Application for approval contemplated in subsection (1) must be made on a prescribed form and be accompanied by –
  - (a) The application fee, and
  - (b) Any written representations that the applicant may wish to submit
- (3) The Municipality must, after consideration of all relevant factors and any representations in terms of subsection (2) –
  - (a) Approve an application in terms of subsection (2) subject to any conditions it considers appropriate, or
  - (b) Approve an application in terms of subsection (2) subject to any conditions it considers appropriate, or
  - (c) Refuse the application in terms of subsection (2) and inform the applicant in writing of its decision and reasons for refusal of the application.

## **15. Cancellation of licences**

The Municipality may, cancel any licence issued in terms of section 13(6) if the licence holder contravenes or fails to comply with any provision of these Bylaws or condition imposed in terms of section 12.

## **CHAPTER 5**

### **SMOKE EMISSIONS FROM PREMISES AND CONTROLLED EMITTERS**

#### **16. Application**

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

#### **17. Prohibition of Dark Smoke from Premises**

- (1) Dark smoke must not be emitted from any premises for a period as determined in terms of the Act.
- (2) 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 was 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.
- (3) Where an authorised official has observed a fuel-burning equipment emitting particulate emissions or dark smoke for a period of greater than that determined in terms of the Act, the authorised official may order the owner, occupier or operator to immediately cease the operation of the fuel-burning equipment.
- (4) The owner, occupier or operator, as the case may be, must keep records of all incidents where fuel-burning equipments are responsible for smoke of a shade darker than No.2 Ringelman, and such records shall include the following:
  - (a) the date and time of the incident;
  - (b) the reason for the excessive smoke; and
  - (c) the actions taken to eliminate the problem.

## **18. Emissions from compressed ignition powered vehicles**

- (1) No person may drive a vehicle on a public road if it emits dark smoke.
- (2) A person commits an offence if he or she contravenes subsection (1).
- (3) For the purposes of enforcing the provisions of this section, an authorised official may—
  - (a) by means of a signal instruct the driver of a vehicle to stop that vehicle;  
and
  - (b) instruct that driver to give all assistance required for the purpose of the inspection and testing of that vehicle.
- (4) An authorised official must, prior to any testing being undertaken in terms of subsection (7) inform the driver of the vehicle that—
  - (a) the vehicle has been stopped to test it in terms of this by-law for the emission of dark smoke;
  - (b) the vehicle is being detained for the purpose of such testing; and
  - (c) if the results of such testing indicate that dark smoke is emitted from the vehicle or if the driver concerned fails or refuses to assist with such test, it will constitute an offence under this by-law.
- (5) Any person who fails to comply with a direction given under subsection (3) (a) commits an offence.
- (6) When a vehicle has stopped in compliance with a direction given under subsection (3)(a), the authorized official may test the vehicle at the roadside, in which case testing must be carried out at or as near as practicable to the place where the direction to stop the vehicle is given; and as soon as practicable, and in any case within 1 hour, after the vehicle is stopped in accordance with the direction.
- (7) An authorised official must use the following testing procedure in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of subsection (1):
  - (a) when instructed to do so by the authorised official, the driver of the vehicle must apply a handbrake, start the vehicle, place it in neutral gear and engage the clutch;

- (b) for a period required by an authorised official smoothly depress the accelerator pedal of the vehicle, until the engine reaches a revolution level of 3000 revolutions per minute or in the absence of a revolution counter to the extent directed by an authorised person; and
  - (c) while the accelerator pedal is depressed, the authorised official must measure the smoke emitted from the vehicle's emission system by using approved instrumentation in order to determine whether or not dark smoke is emitted.
- (8) After having conducted a test, an authorised official must furnish the driver of the vehicle concerned with the test results which indicate that either the vehicle is not emitting dark smoke or is emitting dark smoke in contravention of subsection (1) and if the driver is not the owner of the vehicle concerned, then it is presumed that the driver is the owner of the vehicle unless he or she produces evidence to the contrary.
- (9) An authorised official must furnish the driver of the vehicle with a certificate (valid for a period of 24 months) indicating that the vehicle is not being driven in contravention of subsection (1), if the test results indicate that the vehicle concerned is not emitting dark smoke.
- (10) An authorised official must issue the driver of the vehicle with a repair notice in accordance with subsection (11), if the test results indicate that the vehicle concerned is emitting dark smoke.
- (11) A repair notice must direct the owner of the vehicle to repair the vehicle within 6 months from the date of issue, and to take the vehicle to a place identified in the notice fore-testing before the expiry of the 6 months.
  - (a) The repair notice must contain, amongst others, the following information—
  - (b) the make, model and registration number of the vehicle;
  - (c) the name, address and identity number of the driver of the vehicle; and
  - (d) if the driver of the vehicle is not the owner of the vehicle, the name and address of the vehicle owner.
- (12) A person commits an offence under this section if the person fails—
  - (a) to comply with the repair notice referred to in subsection (11);

(b) to take the vehicle for re-testing as referred to in subsection (11).

- (13) It shall not be a defence in proceedings under subsection (13) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.
- (14) An authorised official must issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as amended, where the owner of the vehicle fails to take the vehicle for re-testing as referred to in subsection (11).

### **19. Installation of Controlled Emitters**

- (1) No owner or occupant of a premises shall install, alter, extend or replace any controlled emitter on any premises, without the prior written authorization of the Municipality, which may only be given after consideration of the relevant installation plans and specifications of the premises and the emitter, in terms of any applicable emission norms and standards developed for controlled emitters in terms of Section 24 of the Air Quality Act.
- (2) After considering the application submitted in terms of Section 19(1) of this bylaw the Municipality shall either –
- (a) grant an application and issue an authorisation, subject to any conditions that may be imposed, or
  - (b) refuse an application, with written reasons provided
- (3) The authorisation applied for and issued in terms of subsections 19(1) and 19(2) of this bylaw shall specify –
- (a) the product name or model of the controlled emitter
  - (b) the premises in respect of which the authorisation is issued
  - (c) the person and /or entity to whom the authorisation is issued
  - (d) the period for which the authorisation is issued
  - (e) the name of the municipal authority
  - (f) the intervals at which the authorisation may be reviewed
  - (g) the fuel type and quality used
  - (h) the maximum allowable 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 air quality management
- (4) The Municipality shall review the authorisation issued in terms of section 19 (2) of this bylaw, at intervals specified in the authorisation, or when circumstances demand that a review is necessary.
- (5) Any controlled emitter installed, altered, extended or replaced on premises, in accordance with plans and specifications submitted to and approved by the Municipality, shall be presumed compliant to all conditions, until the contrary is proved.
- (6) Where a controlled emitter has been installed, altered, extended or replaced on a premises contrary to subsection 19(1) of this bylaw, the Municipality may on written notice to the owner and / or occupant of the premises, order the removal of the controlled emitter concerned from the premises, at the expense of the owner and /or occupant of the premises concerned, and within the period stated in the notice issued.
- (7) The Municipality may take whatever steps necessary in order to remedy the pollution caused by the installation, alteration, extension or replacement of emitters , to prevent any further air pollution occurrence or incidents, and may recover the costs incurred from the person responsible for the transgression.

## **20. Operation of Controlled Emitters**

- (1) No person may use or operate any controlled emitter on any premises contrary to the authorisation referred to in section 19 of this bylaw.
- (2) Where any controlled emitter has been used or operated on the premises in contravention of an authorisation, the Municipality may on written notice to the owner and /or occupant of the premises concerned –
  - (a) revoke the authorisation issued on terms of section 19 of this bylaw
  - (b) order the removal of the controlled emitter concerned from the premises, at the expense of the owner and /or occupant of a premises, within the period stated in the notice.

- (3) The Municipality may, when the owner or occupant of a premise fails to comply with the notice referred to in subsection 20(2) of this bylaw, remove the controlled emitter from the premises and may recover the costs incurred from such owner or occupant of such premises.

## **21. Monitoring and sampling**

An owner or occupant of a premises where listed activities take place and / or the operator of controlled emitters, shall install emission measuring equipment and / or shall do emissions monitoring from the emitters concerned, if and when required by the Air Quality Officer, shall –

- (a) record all monitoring and sampling results and maintain a copy of this record for at least five (5) years after obtaining the results;
- (b) if requested to do so by an Air Quality Officer, produce the record of the monitoring and sampling results for inspection;
- (c) if requested to do so by an Air Quality Officer, conduct stack emission monitoring to validate calculated data for applicable priority pollutants as identified in terms of the Act; and
- (d) if requested to do so by an Air Quality Officer, provide a written report, in a form and by a date specified by the Air Quality Officer, of part or all of the information in the record of the monitoring and sampling results.

## **22. Reporting requirements**

- (1) An owner or operator of any controlled emitter , as the case may be, must–
- (a) immediately register with the National Atmospheric Emission Inventory System and submit emission data within a period determined by the Municipality;
  - (b) submit at least one calculated stack emission report per annum to the Municipality in a format as specified by the Municipality;
  - (c) provide any additional emission reports as may be requested by the Municipality;

- (d) provide a maintenance plan per annum for all control emitters equipment;
  - (e) produce annual records of ash management and its disposal thereof; and
  - (f) submit the first emission report to the Municipality within 12 months from the date of promulgation of this By-law.
- (2) An owner or operator of a controlled emitter equipment must keep a complaint's register at the premises and make such register available for inspection by the Municipality as and when the needs for such inspection arises.
- (3) The complaints register must include the following information:
- (a) the nature of the complaint;
  - (b) the name, physical address and telephone number of the complainant;
  - (c) the date and time when the complaint was registered; and
  - (d) details of the steps taken by the owner or operator of controlled emitter equipment to investigate the complaint and remedy the issue that triggered the complaint.

### **23. Temporary exemption**

- (1) Subject to section 29 and on application in writing by the owner or occupier of premises or the operator of controlled emitter equipment, the Municipality may grant a temporary exemption in writing from one or all the provisions of this Chapter.
- (2) Any exemption granted under subsection (1) must state at least the following:
- (a) a description of the emitter equipment and the premises on which it is used or operated;
  - (b) the reasons for granting the exemption;
  - (c) the conditions attached to the exemption, if any;
  - (d) the period for which the exemption has been granted; and
  - (e) any other relevant information.
- (3) The Municipality may not grant a temporary exemption under subsection (1) until—

- (a) the applicant has advertised the application for an exemption in a manner determined by the Municipality, affording the public an opportunity to make representations to the Municipality in respect of such application;
- (b) the applicant has taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the temporary exemption, including adjacent land owners or occupiers, are aware of the application for temporary exemption; and
- (c) it has duly considered and taken into account any objections raised in respect of the application.

## **CHAPTER 6**

### **SMOKE EMISSIONS FROM DWELLINGS**

#### **24. Prohibition of emission of dark smoke from dwellings**

- (1) Subject to section 6 of this bylaw, no person may emit or permit the emission of dark smoke from any dwelling which–
  - (a) causes or has the effect of or potential to cause a health or environmental risk;
  - (b) causes or has the effect of or potential to cause any damage, annoyance, inconvenience or discomfort to the public or the environment; or
  - (c) affects or has the potential to affect the well-being or reasonable comfort of a person or community.
- (2) Subject to section 38 of this bylaw and on application in writing by the owner or occupier of any dwelling, the Municipality may grant a temporary exemption in writing from one or all of the provisions of this Chapter.

## CHAPTER 7

### EMISSIONS CAUSED BY DUST, OPEN BURNING AND BURNING OF MATERIAL

#### *Part 1: Dust Emissions*

##### **25. Dust emissions**

- (1) Any person who causes dust emissions shall take all reasonable precautions to prevent excessive emissions into the atmosphere that may be harmful to public health and well-being.
- (2) Any person conducting certain activities identified in this section, which customarily produce excessive emissions of dust, shall be required to adopt control measures as prescribed by the authorised person prior to the commencement of activities, to abate and prevent excessive emissions.

##### **26. Construction activities**

- (1) A person who engages in or carries out any construction activity or operation on any land or premises is guilty of an offence, unless that person complied with other applicable legislation and has notified in writing the owners and occupiers of all adjacent properties of:
  - a) All known details of the proposed construction activity or operation
  - b) The right of owners and occupiers of adjacent properties to lodge written objections to the proposed construction activity or operation with the Municipality within seven days of being notified, and
  - c) The prescribed fee has been paid to the Municipality
- (2) The provisions of this section are not applicable to:
  - a) Landscaping activities by a person at his place of residence, and/ or
  - b) Emergency maintenance activities on publicly maintained roads, road shoulders and rights of way.

##### **27. Unpaved roads**

- (1) Owners and/or operators of unpaved roads must implement reasonable measures to prevent excessive emissions of dust into the atmosphere that may be harmful to public health and well-being.

- (2) Owners and/or operators must implement one or more of the following control measures:
  - a) Pave,
  - b) The use of dust palliatives or dust suppressants
  - c) Uniformly apply and maintain surface gravel, and/or
  - d) Any alternative control measure approved in writing by the air quality officer
- (3) Any person subject to the requirements of this section shall compile and retain records of any control measures implemented including:
  - a) The type of control measure
  - b) The extent of coverage and/or
  - c) The date applied
- (4) Copies of the records required in subsection 13.2 c above shall be retained for a period of at least two years
- (5) The provisions of this section are not applicable to
  - (a) Unpaved roads having vehicular traffic of less than 150
  - (b) Non-commercial and non-institutional private driveways
  - (c) Horse trails, hiking paths, bicycle paths or other similar paths, and/or
  - (d) Any other path that has been designated as an exclusive use area for purposes other than travel by motor vehicle.

## **28. Unpaved parking areas**

- (1) Owners and/or operators of unpaved parking lots on which more than 100 vehicles are parked for more than 150 days per year must implement reasonable control measures to prevent excessive emissions into the atmosphere that may be harmful to public health and well-being.
- (2) Owners and/or operators must implement one of the following control measures:
  - (a) Pave
  - (b) Apply dust palliatives or dust suppressants
  - (c) Uniformly apply and maintain surface gravel, and/or
  - (d) Any alternative control measure approved in writing by the air quality officer.

## ***Part 2: Open burning and burning of material***

## **29. Authorisation for open burning and burning of material**

- (1) Any person who intends to carry out open burning of any material on any land or premises, must apply to the Municipality for prior written authorisation of such open burning.
- (2) The Municipality may, in the written authorisation referred to in subsection (1), impose conditions with which the person requesting authorization must comply.
- (3) The Municipality may not authorise open burning referred to in subsection (1) unless it is satisfied that the following requirements have been adequately addressed or fulfilled:
  - (a) the material will be open burned on the land from which it originated;
  - (b) the person requesting authorisation has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimize the amount of material to be open burned, to the satisfaction of the Municipality;
  - (c) the person requesting authorisation has investigated and assessed every reasonable alternative for removing the material from the land or premises to the satisfaction of the Municipality;
  - (d) the person requesting authorisation has investigated and assessed the impact the open burning will have on the environment by means of a specialist study as requested by the Municipality;
  - (e) the person requesting authorisation has notified in writing the owners and occupiers of all adjacent properties of—
    - i. all known details of the proposed open burning;
    - ii. the reason for the burning;
    - iii. the date and approximate time of the burning;
    - iv. in the event of inclement weather conditions, an alternative date or dates on which the burning may occur; and
    - v. the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Municipality within 7 days of being notified;
  - (f) the prescribed fee has been paid to the Municipality;

- (g) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act No.101 of 1998) has not been published for the region;
  - (h) the land on which that person intends to open burn the material is state land, a farm or small-holding, or land within a proclaimed township that is not utilised for residential purposes;
  - (i) the open burning is conducted at least 100 metres from any buildings or structures;
  - (j) the open burning will not pose a potential hazard to human health or safety, private property or the environment.
- (4) The provisions of this section shall not apply to —
- (a) recreational outdoor barbecue or braai activities on private premises or designated public places;
  - (b) small controlled fires in any land or premises for the purposes of cooking, heating water and other domestic purposes;
  - (c) sugar cane burning; and
  - (d) any other area or activity to which the Municipality has declared this section not to apply.

### **30. Prohibition of tyre burning and burning of rubber and other material for the recovery of metal**

- (1) No person may without authorisation in writing from the Municipality—
- (a) carry out or permit the burning of any tyres, rubber or other synthetically coated, covered or insulated products and electronic or other equipment on any land or premises;
  - (b) carry out or permit the burning of any tyres, rubber products, cables or any other products, on any land or premises for the purpose of recovering the scrap metal or fibre reinforcements, or of disposing of tyres, or the rubber products or cables as waste
- (2) The Municipality may—
- (a) take whatever steps it considers necessary in order to remedy the harm caused by the burning referred to in subsection (1) (a) and (b) and the possession referred to in subsection (1) (c), and prevent any occurrence of it; and



- (b) recover the reasonable costs incurred from the person responsible for causing such harm.
- (3) The Municipality may for the purposes of gathering evidence, confiscate any burnt metal or metal reasonably suspected of being recovered, possessed, stored, transported or traded from burning referred to in subsection (1) where authorisation has not been obtained or cannot be provided.

### **31. Sugar cane burning emissions**

- (1) Any person who is in control of premises where sugarcane is cultivated and will be burnt may register with a Fire Protection Association (FPA) that is contemplated in the National Veld and Forestry Act, 1998 (Act No. 101 of 1998) and must comply with the constitution, minimum requirements, guidelines and rules of such FPA.
- (2) Any person who is in control of premises where sugarcane is cultivated and will be burnt and is not registered with any FPA must —
  - (a) consult with the South African Weather Services for wind speed, wind direction;
  - (b) comply with the National fire danger rating system when preparing to burn sugar cane for harvesting;
  - (c) declare a 'no burn' if a Fire Detection Index of 55 or above is predicted for the burn day;
  - (d) declare a 'no burn' when the atmospheric conditions negatively impact (smut deposits, smoke, heat, etc..) onto sensitive areas like schools, recreational areas, clinics, hospitals, residential units, District & National roads, telecommunication links, powerlines and special areas of interest.
  - (e) declare a 'no burn' when there is a strong temperature inversion and after 19H00 and before 05H00;
  - (f) record the controlled burns (fields burnt/fire breaks) and unplanned burns (arson /runaway fires)
  - (g) not exercise any burning on weekends and public holidays.
- (3) Make an application for burning authorisation with the Municipality and include the date and time of burning.

### ***Part 3: Spraying of insecticides***

#### **32. Emissions from the spraying of insecticides and/or herbicides**

(1) A person who carries out or permits the spraying of pesticides, within the municipal jurisdiction, must comply with the following measures:

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

- i. The area of land on which the pesticides may be applied
- ii. The period of time in which the pesticides may be applied

(b) That person must notify in writing the owners and occupiers of all adjacent properties within 150 meters 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 may occur
- vi. The time, if any, indicated on the product label specifying when the area can safely be re-entered after application
- vii. The right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Municipality within seven days of being notified, and
- viii. The prescribed fee has been paid to the Municipality

(2) Any person who contravenes subsections 1 is guilty of an offence

(3) A person may apply to the Municipality for an exemption if the spraying of the pesticide is for:

- (a) The management of pests that transmit human diseases or adversely impact agriculture or forestry
- (b) The management of pests that threaten the integrity of sensitive ecosystems, or

- (c) The need for the use of the pesticide is urgent
- (4) The provision of this section are not applicable to
  - (a) Residential areas of farms
  - (b) Buildings or inside buildings, or
  - (c) Any other defined area or defined activity to which the Municipality has declared this section not to apply

## **CHAPTER 8**

### **EMISSIONS THAT CAUSE A NUISANCE**

#### **33. Prohibition of emissions that cause a nuisance**

- (1) No person may, within the area of jurisdiction of the Municipality—
  - (a) inside an approved spray area or spray booth, spray or apply any coat, plate or epoxy coat to any vehicle, article or object, so as to cause a nuisance; or
  - (b) outside an approved spray area or spray booth, allow any spray, coat, plate or epoxy coat to be applied to any such vehicle, article or object.
- (2) The spray area or spray booth referred to in subsection (1) must be constructed and equipped in such a manner that complies with the requirements of the Municipality and any applicable law.
- (3) Any person conducting sand blasting, shot blasting, grinding, finishing or similar activities which customarily produce emissions of dust that maybe harmful to public health or cause a nuisance, shall take control measures to prevent emissions into the atmosphere.
- (4) Any person undertaking an activity referred to in subsection (3) must implement—
  - (a) dust extraction control measures ; or
  - (b) any alternative control measure approved by the Municipality
- (5) An occupier or owner of any premises must—
  - (a) prevent the existence of any nuisance in, or the emission of any nuisance from, his or her premises; and

- (b) take all reasonable steps to prevent the nuisance caused by fumes due to any activity on such premises.

### **34. Abatement notice**

- (1) An authorised official may serve an abatement notice on any person whom he or she reasonably believes is likely to act contrary or has acted contrary to section 33, calling upon that person to—
  - (a) abate the nuisance within a period specified in the notice;
  - (b) take all necessary steps to prevent a recurrence of the nuisance; and
  - (c) comply with any other conditions contained in the notice.

### **35. Steps to abate nuisance**

The Municipality may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it and may recover the reasonable costs incurred from the person responsible for causing the nuisance.

## **CHAPTER 9**

### **OFFENCES AND PENALTIES**

#### **36. Offences and penalties**

- (1) A person commits an offence if he or she—
  - (a) contravenes any provision of this By-law;
  - (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;
  - (c) fails to comply with the terms of any notice given or signage displayed in terms of this By-law;
  - (d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or
  - (e) furnishes false information to an authorised official in respect of any issue pertaining to this By-law;

- (f) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.
- (2) Any person who is convicted of an offence under this By-law is be liable to a fine of an amount not exceeding R300 000 or to a period of imprisonment, or to both such fine and imprisonment.
- (3) In the case of a continuing offence, an additional fine of an amount not exceeding R5000 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.
- (4) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence under this By-law to—
- (a) remedy the harm caused;
  - (b) 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) install and operate at the person’s own expense any equipment or technology required to mitigate the adverse effect caused by air emissions.
- (5) In addition to any other penalty the court may impose, it may order a person convicted of an offence under this By-law to take such steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

## **CHAPTER 10**

### **GENERAL MATTERS**

#### **37. Reporting of emissions in the NAEIS**

Any person who is conducting activities that are listed in Schedule “A” of this By-law or any person that is conducting activities below the threshold that is listed in the Act’s list of activities that result in atmospheric emission which have or may have a significant detrimental effect on the environment including health, social conditions, economic conditions, ecological conditions or cultural heritage must

register with NAEIS and submit emission data within a period determined by the Municipality.

### **38. Exemptions**

- (1) Any person may, in writing, apply to the Municipality for exemption from the application of a provision of this By-law.
- (2) An application in terms of subsection (1) must be accompanied by substantive reasons.
- (3) The Municipality may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant interested and affected persons and the public.
- (4) The steps contemplated in subsection (3) must include the publication of a notice in at least two newspapers, one circulating provincially and one circulating within the jurisdiction of the Municipality—
  - (a) giving reasons for the application; and
  - (b) containing such other particulars concerning the application as the air quality officer may require.
- (5) The Municipality may—
  - (a) impose conditions it deems necessary, when granting an application for exemption;
  - (b) from time to time review any exemption granted in terms of this section, and may impose such conditions as it may determine; and
  - (c) on good grounds withdraw any exemption.
- (6) The Municipality may not grant an exemption under subsection (1) until it has—
  - (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
  - (b) provided such persons with a reasonable opportunity to object to the application; and
  - (c) duly considered and taken into account any objections raised.

### **39. Delegations**

- (1) Subject to the Constitution and applicable national and provincial laws, any –
- (a) power, excluding a power referred to in section 160(2) of the Constitution;
  - (b) function; or
  - (c) duty

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

- (2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.
- (3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –
- (a) entity or person issuing the delegation or sub-delegation;
  - (b) recipient of the delegation or sub-delegation; and
  - (c) conditions attached to the delegation or sub-delegation.

### **40. Appeals**

- (1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (2)

#### **41. Indemnity**

The Municipality and its employees are not liable for any loss or harm suffered by any person, or any damage caused to any property or premises, as a result of the Municipality acting in terms of this By-law: Provided that the Municipality and its employees must, when exercising such function or performing such duty, take reasonable steps to prevent any harm, loss or damage from occurring.

#### **42. Short title and commencement**

This By-law is called the Harry Gwala District Municipality: Draft Air Quality Management By-law, 2024 and takes effect after public participation process and adaptation from the council.

**SCHEDULE A** as per Section 21 of the Air Quality Act 39 of 2004



**Application Form to Operate Small Boiler (in terms of s19 of this bylaw)**

**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**

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.

**1. Contact details**

Responsible Person Name	
Telephone Number	
Cell Phone Number	
Email Address	

**2. Product name and model of the small boiler**

Product Name	Product Model

**3. Raw of materials used**

Raw materials used	Max 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	Max 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 Observation**


**6.2. Authorised Person: Recommendations**


**6.3. Approved / Not Approved (circle one that's applicable)**

The application is approved / not approved subject to the following conditions :

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

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

**Date:** \_\_\_\_\_

**Application Form for Open Burning (in terms of s29 of this bylaw)**

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	
Email address	

**2. Description of the extent of the open area**


**3. Types of materials to be burned on 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 meters )**

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. Authorized Person: Site Inspection Observations**


**8.2. Authorized Person: Recommendations**


**8.3. Approved / Not Approved ( Circle the one applicable)**


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

**Date:** \_\_\_\_\_

**Application Form for Agricultural Burning or the Burning of Plantations ( Sugar Cane) in terms of s31 of this bylaw**

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

**1. Contact details**

Responsible Person Name	
Telephone Number	
Cell phone Number	
Email 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 plantation/ sugar cane**

Date	Time

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

**5. Notifications of adjacent owners and occupiers (including surrounding communities within 150 meters)**

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 date 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. Authorized Person: Site Inspection Observations**




**7.2. Authorized Person: Recommendations**


**7.3. Approved / Not Approved ( Circle the applicable one )**

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

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

**Date:** \_\_\_\_\_

**Application Form to Undertake Pesticides Spraying (in terms of s32(1))**

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	
Email 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 pesticides 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 meters)**

The applicant must attach proof that the adjacent owners and occupiers have been notified of the proposed pesticides 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 pesticides 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. Authorized Person: Site Inspection Observations**



**7.2. Authorized Person: Recommendations**


**7.3. Approved / Not Approved ( Circle the applicable one)**

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

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

**Date:** \_\_\_\_\_

**Schedule F**

**Spray Booth Construction (in terms of s33)**

<b>WALLS</b>	225mm Brickwork
<b>ROOF</b>	Reinforced concrete
<b>FLOOR</b>	Concrete or other impervious material
<b>DOORS</b>	<p>(A) – Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g metal secured to the door with bolts at 30 mm centres along the edges. The doors to open outwards and to be hung on the hinges bolted to the door.</p> <p>(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.</p>
<b>NOTE</b>	Where the floor area exceeds 18 square meters 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 meters /minute velocity across the room must be provided by means of mechanical ventilation, with the centre line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating 1 meter above the apex of the roof. No right-angle bends to be used in the ducting system. Exhaust fans to be installed at a 4 meter 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>  40 Up to but not exceeding 140 cubic metres 65 Up to but not exceeding 280 cubic metres 90 Up to but not exceeding 470 cubic metres 150 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 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 of the Spray Booth.

Schedule G:

**HARRY GWALA DISTRICT MUNICIPALITY AIR QUALITY BY-LAW OFFENCES AND PENALTIES**

<b>SECTION CONTRAVENED</b>	<b>DESCRIPTION OF OFFENCE</b>	<b>PROPOSED FINE</b>	<b>APPROVED FINE</b>
	<b>LISTED ACTIVITIES</b>		
s4 (2)	Undertaking a Listed activity, as published in terms of Section 21 of the Air Quality Act, without being in possession of an Atmospheric Emission Licence.	<b>R2500</b>	
	<b>Controlled Appliances and activities</b>		
s18(1)(2)	No person may drive a vehicle on a public road if it emits dark smoke.	<b>R2000</b>	
s19 (2)	No person shall install, alter, extend, replace or use any fuel-burning equipment on any premises without the written authorisation by the Municipality.	<b>R2500</b>	
s19 (3) (a)	Failing to remove fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in a notice.	<b>R2500</b>	
	<b>Monitoring and Sampling</b>		
s20 (1)	Refusal or failing to install emission measuring equipment and or to do emission monitoring if and when required by an authorised person.	<b>R2500</b>	
s21	Failing to record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining results.	<b>R500</b>	

s22	Failing to produce the record of the monitoring and sampling results for inspection.	<b>R500</b>	
	<b>DUST EMISSIONS</b>		
s25 (2)	Any person conducting listed activities or controlled emitters that refuse to take control measures to prevent or minimize dust emissions into the atmosphere.	<b>R2500</b>	
	<b>EMISSIONS CAUSED BY OPEN BURNING</b>		
s29 (1)	Any person who carries out or permits open burning of any material on any land or premises without prior written authorisation from the Municipality.	<b>R2000</b>	
s30 (1) (2)	Any person who carries out or permits the burning of any tyres, or rubber products, cables or any other products on any land or premises.	<b>R2000</b>	
s32 (1) (a)	Any person who carries out or permits the spraying of pesticides and /or herbicides without prior authorisation.	<b>R2000</b>	
	<b>OFFENSIVE ODOURS</b>		
s33	Any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists, as mentioned in this bylaw, is guilty of an offence.	<b>R2500</b>	
	<b>ABATEMENT NOTICE</b>		
s34	Failing to adhere to the conditions set in the abatement notice.	<b>R2500</b>	