

Statutory Instrument of 2023.

[CAP. 29:13]

**Manyame Rural District Council (Air Pollution Control)
By-Laws, 2023**

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IT is hereby notified that the Minister of Local Government and Public Works, in terms of section 90 of the Rural District Councils Act [*Chapter 29:13*], approved the following by-laws made by Manyame Rural District Council.

Application

These by-laws shall apply to the Council area and to any local government area where the administration, control and management is vested in terms of the Rural District Councils Act (Chapter 29:13)

Interpretation

1. In these By-laws

“**activity**” means any action which results in any emission that causes or may cause air pollution;

“air pollutant” means any substance specified in the definition of “air pollution” that causes or may cause air pollution;

“air pollution” means any change in the composition of the air caused by smoke, soot, dust, fly ash, cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

“air quality officer” means any person designated by the Council as an Air Quality Officer.

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

“Authorised official” means any person authorised by Council to implement and enforce any provision of these By-laws

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

“Council” means – Manyame Rural District Council

“dwelling” means any building or other structure, or part of a building or structure, used as a residence and any outbuilding appurtenant thereto, and includes any shack and structure in an informal settlement, so used;

“emission” means any air pollutant discharged into the atmosphere from point, non-point and mobile sources, including any chimney, vent and the surface area of a commercial or industrial undertaking and any residential source;

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

“nuisance” means any detrimental interference or likely interference, caused by air pollution with –

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

(b) the use or enjoyment by an owner or occupier of his or her property, or property occupied by him or her;

“point source” has the meaning assigned to it in section 1 of the Environmental Management Act [Chapter 20:27]

“prescribed” means set by Council

“property” means any unit of land registered in terms of the Deeds Registries Act or any unit within the jurisdiction of Council.

“public road” means a road, street or thoroughfare or other right of way to which the public or section of the public has a right of access or which is commonly used by the public or a section of the public;

“the Act” means the Environmental Management Act Chapter 20:27

“bio-mass” means non-fossilized and biodegradable organic material originating from plants, animals and micro-organisms;

“fuel burning equipment” means any furnace, boiler, incinerator, or other equipment with a chimney to vent the emissions of burning to the atmosphere –

- (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;

“open burning” means the burning of any material in the open air

dark smoke” means –

- (a) smoke which has a density of 60 Hartridge smoke units
or more, or in relation to emissions from a turbo-charged compressed ignition powered engine,

- ii) means a density of 66 Hartridge smoke units or more; or
- (b) smoke which has a light absorption co-efficient of more than 2.125 m^{-1} or in relation to emissions from a turbocharged compressed ignition powered engine, means a light absorption co-efficient of more than 2.51 m^{-1} .

Prohibition of air pollution

- 5. (1) No person shall emit any substances which cause air pollution in the Council area without a licence issued and prescribed by Section 64 and 65 of the Environmental Management Act (*Chapter 20:27*) and the Environmental Management (Atmospheric Pollution Control) Regulations S. I. 72/2009, which shall apply *mutatis mutandis* in the Council area;

(2) No person who engages in any of the following activities-

- (a) the burning of waste at a landfill;
or
- (b) the burning of vehicle tyres; or
- (c) the burning of bitumen; or
- (d) the burning of metallic wire coated with any material; or
- (e) the burning of oil in the open air;
or
- (f) the operation of an incinerator; or
- (g) any activity that causes the emission of a pollutant into the atmosphere;

shall in the course of that activity emit any substance into the atmosphere in excess of the amount prescribed in the Third Schedule of the Environment Management

(Atmospheric Pollution Control) Regulations
S.I. 72/2009;

(3) All air polluters in the Council area shall register with the Council upon payment of the prescribed registration fee towards the development and implementation of its environmental action plan and Council shall

maintain a database of all polluters in the area.

(4) Any person who carries out activities referred to in Section 1 in the Council area shall submit copies of their emission licences and any other reports related to their emissions that are required to be submitted to the Environmental Management Agency or that are issued by the Environmental Management Agency to Council.

(5) In addition to notifying all relevant authorities and all persons who may be affected by any accidental emission of hazardous emissions as prescribed in Section 17 of the Environment Management (Atmospheric Pollution Control) Regulations S.I. 72/2009, the person who is licenced by the Environmental Management Agency, shall also notify Council about the accidental emission within the timeframe prescribed by the law.

(6) Any person who contravenes subsection (1) and (2) shall be liable to a Penalty set by Council.

(7) Council shall cause the activities of the polluter to stop forthwith and the costs related to the exercise shall be recovered from the offender.

Prohibition of open burning

6. (1) No person shall carry out any open burning.

(2) Any person who contravenes subsection (1) shall be liable to a Penalty set by Council.

Emission by motor vehicles and other conveyances

7. (1) No owner or operator of a transport conveyance shall operate it in such a manner or condition as to cause air pollution in contravention of prescribed emission standards for the class of transport conveyance concerned as provided for by Section 68 of the EMA Act Chap 20:27 and the Fifth Schedule Environment Management (Atmospheric Pollution Control) Regulations S.I. 72/2009.

(2) Any person who contravenes subsection (1) shall be liable to a Penalty set by Council.

Inspection of vehicles

8. (1) For the purposes of enforcing the provisions of section 7, an authorised official shall inspect any vehicle for the purposes of checking compliance and such inspection shall be done in accordance with section 5 Fifth Schedule Environment Management (Atmospheric Pollution Control) Regulations S.I. 72/2009.

(2) Any person who contravenes subsection (1) shall be liable to a Penalty set by Council

Prohibition of nuisances

16. (1) No owner or occupier of any property shall create or allow a nuisance to be created by the emission of pollutants or any other substance from that property.

(2) Any person who contravenes subsection (1) shall be liable to a Penalty set by Council.

(3) Council shall take whatever steps it considers necessary in order to abate the nuisance contemplated in subsection (1) and to prevent a recurrence thereof, and shall recover the costs so incurred from the offender.

Inspections

19. (1) An authorised official shall for any purpose relating to the implementation and enforcement of these By-laws –

(a) at any reasonable time during which an activity which is relevant in respect of the implementation or enforcement of these Bylaws is carried out on a property, enter any property and carry out an inspection for the purposes of these By-laws.

Obstruction

20.(1) No person shall obstruct, hinder or interfere with an authorised official in the exercise of any power or the performance of any duty under these By-laws;

(2) No person shall fail or refuse to furnish an authorised official with any documentation or information required for the purposes of these By-laws or furnishes a false or misleading document or false or misleading information;

(3) Any person who contravenes subsection (1) and (2) shall be liable to a Penalty prescribed by Council.

Schedule of fines

