

Drakenstein, South Africa

Prevention of Atmospheric Pollution

Legislation as at 16 March 2007

FRBR URI: /akn/za-wc023/act/by-law/2007/prevention-of-atmospheric-pollution/eng@2007-03-16

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PDF created on 28 June 2024 at 12:19.

Collection last checked for updates: 28 June 2024.

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Drakenstein South Africa

Prevention of Atmospheric Pollution By-law, 2007

Published in Western Cape Provincial Gazette 6426 on 16 March 2007

Commenced on 16 March 2007

[This is the version of this document from 16 March 2007 and includes any amendments published up to 28 June 2024.]

[Repealed by Air Quality Management on 7 May 2021]

Drakenstein Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, has made the By-law set out in the schedule below:

1. In this by-law, words used in the masculine gender include the feminine; the singular includes the plural and vice versa; the Afrikaans text shall prevail in the event of an inconsistency between the different texts; and, unless the context otherwise indicates:-

"municipality" means the Municipality of Drakenstein established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), Provincial Notice 488 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;

"Act" means the National Environmental Management: Air Quality Act (Act 39 of 2004), as amended, and any other word of expression to which a meaning has been assigned in the Act shall bear that meaning.

2. (1) Save as provided in subsection (2), no owner or occupier of any premises shall, except for an aggregate period not exceeding three minutes during any continuous period of 30 minutes, permit the emission or emanation from such premises of smoke of such a density or content as will obscure light to an extent greater than 40 per cent.
(2) The provisions of subsection (1) shall not apply to smoke emanating or emitted in contravention thereof from fuel burning appliance during the start-up period or, if such emanation or emission could not reasonably have been prevented, while such appliance is being overhauled or during the period of any breakdown or disturbance of such appliance.
3. No person shall install or cause or permit to be installed or alter or extend or cause or permit to be altered or extended any fuel burning appliance designed to burn solid or liquid fuel in or on any premises, unless the plans and specifications in respect of such installation, alteration or extension have been approved by the municipality.
4. If any fuel burning appliance has been installed, altered or extended in contravention of section 3, the municipality may by notice in writing require the owner or occupier of the premises in question to remove, within a period specified in the notice and at his own expense, such fuel burning appliance from such premises.
5. The owner or occupier of any premises in or on which any fuel burning appliance is used shall, if so requested by the municipality in writing, install, maintain and use at his own expense such apparatus as may be determined by the municipality, for the purpose of indicating or recording or both indicating and recording the density or colour of the smoke emitted by such appliance or for the purpose of facilitating the observance of such smoke with a view to determining its density or colour and make available to the municipality at all reasonable times any information recorded or ascertained by means of such apparatus.

6. The provisions of this by-law shall not apply to smoke emitted from any dwelling-house or to the installation, alteration or extension of any fuel burning appliance in any dwelling-house.
7.
 - (1) No person shall, and no owner, occupier or person in control of any premises or part thereof, shall allow any waste material, rubbish, garden refuse, grass prunings or any similar material to be burnt in or on any premises, or part thereof, except in an incinerator which has been duly approved for this purpose in terms of these regulations.
 - (2) In any proceedings under this by-law it shall not be a defence to prove that the accused did not know of, was not aware of, did not permit or prohibit any of the acts mentioned herein.
8. Any person may apply in writing to the municipality for temporary exemption in respect of any fuel burning appliance or any premises from the provisions of section 2. If the municipality is satisfied that there are adequate reasons for such exemption, it may by notice in writing to the applicant, grant such exemption for a specific period.
9. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to a penalty not exceeding—
 - (1) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment;
 - (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.