WITZENBERG MUNICIPALITY

DRAFT AIR QUALITY MANAGEMENT BY-LAW: 2026

Witzenberg Municipality, by virtue of the powers conferred by section 156 of the Constitution 1996, hereby enacts as follows:

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SCHEDULE 1: STANDARDS AND SPECIFICATIONS FOR FUEL BURNING EQUIPMENT

CHAPTER 1: INTERPRETATION AND FUNDAMENTAL PRINCIPLES

1. Definitions

In this by-law, the English text shall prevail in the event of an inconsistency between the different texts; and, unless the context otherwise indicates:

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

"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, odorous substances, smoke, fumes, vapours, aerosol and gases that cause 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 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 quality management plan" means the air quality management plan referred to in section 15 of the Act;

"air quality officer" means an officer appointed in terms of section 4 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 may result in air pollution;

"Atmospheric Emission Licensing Authority" means authority responsible for issuing, administering, and enforcing atmospheric emission licenses in terms of section 36 of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004), which may include the Cape Winelands District Municipality, the Western Cape Department of Environmental Affairs and Development Planning, or the National Department of Forestry, Fisheries, and the Environment, as applicable.

"authorised official" means any employee of municipality is responsible for carrying out any duty or function or exercising any power in terms of this by-law and includes any employee delegated to carry out such duties, functions and powers;

"Best practical 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 in both the long and short term.

"boiler" means a fuel-burning appliance designed to heat water or generate steam through the combustion of solid, liquid or gaseous fuel. For the purposes of this by-law, the Witzenberg municipality is responsible for the regulation and administration of boilers with a design capacity of less than 10MW net heat input per unit, calculated using the lower calorific value of the fuel;

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

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"controlled emitter'' means any appliance, process or activity declared as a controlled emitter in terms of section 23 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) and regulated by the Cape Winelands District municipality;

"dark smoke" means smoke which has a density of 60 Hartridge smoke units or more or smoke which when measured using a light absorption meter, obscuration measuring equipment or other similar equipment, has an obscuration of 20% or greater;

"dust" means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere; and includes particulate matter;

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

"Environmental Management Inspector" means an Environmental Management Inspector referred to in chapter 3;

"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 inter relationships 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 installed furnace, boiler, heater, burner, generator, incinerator, smoking device, wood-fired oven, commercial wood or charcoal fired braai, barbeque 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 including general and hazardous waste by the application of heat; or
(c) used to subject liquid, gas or solid fuel to any process involving the application of heat.

but excludes standby generators and temporary standby generators, domestic fuel-burning equipment and gas-fired commercial cooking equipment;

"Hartridge Smoke meter" means a type of exhaust gas measurement meter

"light absorption meter" means a measuring device that uses a light measurement cell or detector to determine the amount of light absorbed by an air pollutant.

"listed activity" means any activity listed in terms of Section 21 of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004), requiring an Atmospheric Emissions Licence issued by the relevant Atmospheric Emission Licensing Authority;

"MEC" means the Member of the Executive Council of a Province who is responsible for air quality management in the province;

"media blasting" means a process that uses pressurized air to propel a stream of abrasive material against a surface (known as blasting media) out of a nozzle and includes sand blasting or shot blasting;

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

"Municipality" means the municipality of Witzenberg 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 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);

"National Dust Control Regulations" means the National Dust Control Regulations, 2026, published under the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004), as amended or replaced from time to time.

"National Framework" means the National Framework for Air Quality Management in the Republic of South Africa, as established in terms of the Act;

"NEMA" means the National Environmental Management Act, 1998 (Act No. 1 07 of 1998), as amended;

"Non-listed activity" means any appliance, process or activity that is not listed in terms of section 21 of the Act and is not declared as a Controlled Emitterin terms of section 23 of the Act, for which Witzenberg municipality is the relevant Air Quality Authority:

"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 veld, forest and open fires, mining activities, agricultural activities and stockpiles;

"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 enjoyment by an owner or occupier of property or the environment;

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

"Offensive odour" means any smell which considered to be malodorous or constitutes a nuisance to a reasonable person;

"Open burning" means the combustion of material by burning without a closed system that has a chimney to vent the emitted products of combustion to the atmosphere;

"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" means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structure, locomotive, boat or other vessel which operates or is present within the area under the jurisdiction of the municipality;

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

"rubber product" means anything composed of natural or synthetic rubber including anything containing or coated with rubber;

"smoke" means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes soot, grit and gritty particulates emitted in smoke;

"soot blowing" means a method of cleaning deposited carbon from the internal surfaces of fuel burning equipment, which usually includes the use of a jet of air or steam onto heat exchange surfaces to clean deposits;

"Spray area" means the area or enclosure referred to in section 20;

"Standby generator" means a fuel-powered generator installed solely to provide electricity during interruptions to the normal electricity supply or for routine testing and maintenance.

A standby generator with a rated electrical output of 50kVA or less per premises is excluded from the definition of fuel-burning equipment unless Air Quality Officer determines that it is causing or is likely to cause-

- a nuisance;
- excessive emissions; or
- an adverse impact on ambient air quality.

Standby generators exceeding 50kVA, or generators used as a primary electricity source, are regarded as fuel-burning equipment;

"Surface preparation and Finishing activities" means any activity involving the preparation, cleaning, treatment, finishing or refurbishment of a surface, including sand blasting, shot blasting, grinding, polishing, or any similar process that customarily generates dust emissions;

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

"Western Cape Noise Control Regulations, 2013" means the regulations promulgated under the Environment Conservation Act, 1989 (Act 73 of 1989), as published in Provincial Notice 200 of 2013 in the Provincial Gazette of the Western Cape, as amended from time to time.

2. Purpose and objectives

(1) The objectives of this by-law are to-

(a) give effect to the environmental rights contained in section 24 of the Constitution and the local government mandate contained in Schedule 4B of the Constitution by regulating air pollution within the jurisdictional area of the municipality;

(b) give effect to the requirements of the Witzenberg Environmental Policy and the Air Quality Management Plan;

(c) 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

(d) ensure that air pollution is avoided, or where it cannot be altogether avoided, mitigated or minimised.

(2) Any person exercising power under this by-law must exercise such power in order to give effect to the objectives as set out in subsection (1) above.

3. Application

(1) This by-law must be read with any applicable provisions of the Act and the National Framework.

(2) This by-law applies to all land or premises within the jurisdictional area of the Witzenberg municipality.

(3) The provisions of this by-law do not remove the need for any other permit, consent, or authorisation required under any other legislation.

(4) In the event of conflict with another by-law or policy that regulates air pollution, the provisions of this by-law shall prevail in so far as it relates to air quality.

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CHAPTER 2: DUTY OF CARE

4. Air pollution duty of care

(1) Any person who is wholly or partially responsible for causing atmospheric emissions or creates a risk of air pollution occurring from premises must take all reasonable measures-

(a) to prevent any air pollution from occurring; and

(b) where it cannot be prevented, to mitigate any air pollution that may occur.

(2) No person may commit any act or omission which causes or is likely to cause Air Pollution.

(3) 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.

(4) The Municipality may direct any person who fails to take the measures required under subsection (1) and (2)–

(a) to investigate, evaluate and assess the impact of specific activities and report thereon;
(b) to commence taking effective control measures to reduce 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.

(5) Should a person fail to comply, or inadequately comply, with a directive under subsection (4), the Municipality may take reasonable measures to remedy the situation. The person not complying to subsection (4) will be liable for the remedial costs.

(6) If any person fails to take the measures required of him or her under subsection 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 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.

(7) If more than one person is liable under subsection (6), 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 subsection (1), (3) and (4).

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CHAPTER 3: DESIGNATION OF AIR QUALITY OFFICER AND ENVIRONMENTAL MANAGEMENT INSPECTORS

5. Designation of Air Quality Officer and Environmental Management Inspectors

(1) The Municipal Manager must designate an employee of the municipality as an Air Quality Officer to be responsible for coordinating matters pertaining to air quality management within the jurisdictional area of the municipality.

(2) The Municipal Manager may request the MEC responsible for environment in the Province to designate appropriately qualified officials of the municipality as Environmental Management Inspectors in terms of section 31C of NEMA.

6. Powers and functions of the Air Quality Officer

(1) The Air Quality Officer must —

(a) coordinate the development of the air quality management plan for inclusion in the Integrated Development Plan of the municipality;

(b) prepare an annual report of the Witzenberg municipality on air quality;

(c) exercise the powers and duties assigned to him or her under this by- law; and

(d) submit the annual report referred to in paragraph (b) to the air quality officer appointed by the MEC responsible for environment in the Province.

(2) The annual report referred to in subsection (1)(b) must include the progress of the municipality towards the implementation of the air quality management plan.

7. Powers and functions of designated Environmental Management Inspectors

(1) An Environmental Management Inspector designated in terms of section 31D of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"), may exercise the powers and perform the functions provided for in sections 31G to 31L of NEMA only to the extent authorised by—

(a) the inspector's designation;

(b) the inspector's grade; and

(c) the mandate assigned to the inspector by the Minister, MEC or other authority authorised in terms of NEMA.

(2) Subject to subsection (1), a designated Environmental Management Inspector must monitor

compliance with and enforce this By-law and applicable environmental management legislation only where the relevant legislation falls within the inspector's assigned mandate.

(3) A Municipal Air Quality Officer who is designated as an Environmental Management Inspector may exercise the powers and perform the functions necessary to monitor compliance with and enforce this By-law, subject to the officer's designation, grade, competency level and assigned mandate.

(4) An Environmental Management Inspector must, when exercising powers or performing functions under NEMA or applicable specific environmental management legislation, comply with the requirements applicable to the inspector's designation, grade and mandate.

CHAPTER 4: LOCAL EMISSION STANDARDS, NORMS AND STANDARDS AND SMOKE CONTROL ZONES

Part 1: Local Emission Standards

8. Identification of Substances and Development of Local Emission Standards

(1) The municipality may, by notice:

(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 in 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 emissions from point, non-point or mobile sources in the municipality.

(2) The municipality must take the following factors into consideration in setting local emission standards:

(a) health, safety and environmental protection objectives;

(b) analytical methodology;

(c) technical feasibility;

(d) monitoring capability;

(e) socio-economic consequences;

(f) ecological role of fire in vegetation remnants; and

(g) best practicable environmental option.

(3) Any person emitting substances or mixtures of substances referred to in subsection (1) must

comply with the emission standards established in terms of this section.

Part 2: Norms and Standards

9. Substances identification process

(1) The municipality must apply the following criteria when identifying and prioritising the substances in ambient air that present a threat to public health, well-being or the environment:

(a) the possibility, severity and frequency of effects regarding 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 introducing other uncertainties;

(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 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 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 or the environment.

10. Declaration of air pollution control zones

(1) The whole area within the jurisdiction of the municipality is hereby declared as an air pollution control zone.

(2) Within an air pollution control zone, the municipality may from time to time by notice in the Provincial Gazette:

(i) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;

(ii) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;

(iii) prohibit or restrict the combustion of certain types of fuel;

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(iv) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted;

(v) prescribe different requirements in an air pollution control zone relating to air quality in respect of:

(aa) different geographical portions;
(bb) specified premises;
(cc) classes of premises;
(dd) premises used for specified purposes; or
(ee) mobile sources

vi) declare Smoke Free Zones as designated buffer areas adjacent to residential settlements or other sensitive receiving areas, within which agricultural biomass burning may be prohibited, restricted or subject to specified conditions.

(3) In declaring a Smoke Free Zone contemplated in subsection (2)(vi), the Municipality may, by notice in the Provincial Gazette—

a) specify the geographical boundaries and extent of the Smoke Free Zone;
b) specify a distance or buffer area from a residential settlement or other sensitive receiving area within which agricultural biomass burning is prohibited or restricted;
c) prohibits or restricts the burning of agricultural biomass within the Smoke Free Zone;
d) prescribe conditions applicable to agricultural biomass burning within or adjacent to a Smoke Free Zone, including conditions relating to—
    (i) the timing and duration of burning;
    (ii) prevailing weather and atmospheric conditions;
    (iii) wind direction and wind speed;
    (iv) the type and quantity of agricultural biomass to be burned;
    (v) notification or communication requirements;
    (vi) measures to prevent or minimise the transport of smoke into residential settlements or other sensitive receiving areas; and
    (vii) any other measures reasonably necessary to prevent, minimise or control air pollution arising from agricultural biomass burning.

(4) In determining the extent and requirements of a Smoke Free Zone, the Municipality must, where reasonably practicable, take into consideration—

a) the proximity of residential settlements and the density of the population;
b) prevailing wind patterns and atmospheric conditions;
c) the potential exposure of communities to smoke and other air pollutants;
d) the nature, scale and frequency of agricultural biomass burning activities;

e) the location of sensitive receptors or sensitive receiving areas; and

f) the potential nuisance and ambient air quality impacts associated with agricultural biomass burning.

(5) The declaration of a Smoke Free Zone does not exempt any person from complying with any applicable national or provincial legislation, municipal by-law, permit, authorisation or other legal requirement relating to fire, agricultural burning, waste management or air quality.

(6) The municipality may develop and publish policies and guidelines, including technical guidelines relating to the regulation of activities which directly and indirectly cause air pollution within an air pollution control zone including guidelines for the establishment, management and enforcement of Smoke Free Zones.

11. Public Participation Process

For the purposes of the publication of the local emission standards and the declaration of air pollution control zones, the municipality must follow the public participation process as set out in section 13 of the Municipal Systems Act, 2000, as amended.

CHAPTER 5: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

12. Prohibition of dark smoke from premises

(1) Subject to subsections (2) and (3), dark smoke may not be emitted from any premises, other than dwellings, for an aggregate period exceeding three minutes during any continuous period of thirty minutes.

(2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs within thirty minutes of the equipment being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emissions could have been prevented using the best practical environmental option.

(3) During soot blowing of any fuel burning equipment, dark smoke shall be limited to a period not exceeding 10 minutes in any continuous period of eight hours. Should soot blowing of any fuel burning equipment exceed 10 minutes, the holder shall report the incident to the Air Quality Officer immediately.

(4) Subsections (1), (2) and (3) do not apply to holders of atmospheric emission licenses for activities listed in terms of section 21 of the Act, and the emission standards listed in such license shall apply.

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13. Installation and operation of fuel burning equipment

(1) No person may install, alter, extend, replace or cause or permit to be installed, altered, extended or replaced any fuel burning equipment on any premises, unless the plans and specifications in respect of such installation, alteration, extension or replacement have been approved by the municipality.

(2) The municipality may, in the written approval issued in terms of subsection (1), impose conditions with which the applicant must comply, including:

a. minimum emission standards;

b. minimum chimney diameter and height;

c. minimum control measures; and

d. maximum hours of operation.

(3) No person may use or operate any fuel-burning equipment on any premises contrary to an authorisation issued in terms of subsection (1) or contrary to any conditions of such authorisation issued in terms of subsection (2).

(4) Where fuel-burning equipment has been used or operated on the premises contrary to subsections (1) or (2), an authorised official may after written notice to the owner or operator of the equipment-

a. order the removal of the fuel-burning equipment from the premises at the expense of the owner or operator within the period stated in the notice; or

b. revoke his or her authorisation under subsection (1).

(5) The municipality may, if the owner or operator of the equipment fails to comply with a notice issued in terms of subsection (4), remove the fuel burning equipment from the premises and may recover the reasonable costs incurred from the owner or operator.

(6) The municipality may take whatever steps necessary in order to remedy the harm caused by the use or operation of fuel-burning equipment in contravention of this section and recover any costs incurred from the person responsible, therefore.

(7) Generators not to cause any nuisance to the public, residents or any person and to be situated in such a way as to not cause vibration or excessive noise. Adequate ventilation to be ensured and compliance at all times to the Western Cape Noise Control Regulations, 2013 in line with the SANS10103:2008 requirements.

14. Emission measuring

(1) An authorised official may issue a written 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

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be used or operated, to conduct emission measurements of specific pollutants in accordance with *Schedule 1* of this by-law, or to install, maintain and operate obscuration measuring equipment at his or her own cost if such official has grounds to believe-

(a) that unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred;

(b) that unauthorised and unlawful emissions of selected pollutants beyond the minimum emission standards authorised from any fuel burning equipment from the relevant premises have occurred;

(c) that fuel-burning equipment has been or is intended to be installed on the relevant premises which are likely to emit dark smoke;

(d) that the person on whom the notice is served has previously transgressed the provisions of this chapter and has not taken adequate measures to prevent further transgression of the provisions of this chapter; or

(e) that the nature of the air pollutants emitted from the relevant premises is likely to create a hazard to human health or the environment.

(2) A notice issued in terms of subsection (1) must contain the information as set out in section 31 of this bylaw.

15. Monitoring and sampling

An owner or occupier of premises, and the operator of any fuel-burning equipment, who is required to conduct emission measurements or to install obscuration measuring equipment in terms of section 14(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; and

(b) if requested to do so by an authorised official-

(i) produce the record of the monitoring and sampling results for inspection; and

(ii) provide a written report, in a form and by a date specified by the authorised official, of part or all of the information in the record of the monitoring and sampling results.

16. Temporary exemption

(1) Subject to section 13 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 Chapter.

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(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.

(3) The municipality may not grant a temporary exemption under subsection (1) until the municipality has-

a. take reasonable measures to ensure that all persons whose rights may be adversely affected by the granting of the temporary exemption, including adjacent landowners or occupiers, are aware of the application for temporary 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.

17. Transitional arrangements in respect of authorised fuel burning equipment

(1) Subject to section 13(2), fuel burning equipment that was authorised to operate in terms of any by-law of the municipality prior to the commencement of this by-law, continues to be authorised to operate subject to subsection (3).

(2) During the period for which the authorised fuel burning equipment continues to operate, the provisions of this by-law, read with the necessary changes, 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 13(1) of this by-law; and

b. the existing authorisation as if the authorisation was issued in terms of section 13(1) of this by-law.

(3) The holder of an existing authorisation must re-apply in terms of subsection 13(1), when such authorisation expires or when required to do so by the municipality.

CHAPTER 6: SMOKE EMISSIONS FROM DWELLINGS

18. Smoke emissions from dwellings

(1) Subject to section 4, no person shall emit or permit the emission of smoke from any dwelling that may cause a nuisance.

(2) Any person who emits or permits the emission of smoke in contravention of subsection (1) commits an offence.

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(3) Subject to section 35. on application in writing by the owner or occupier of any dwelling, the Municipality may grant temporary exemption in writing from one or all of the provisions of this Part.

CHAPTER 7: EMISSIONS CAUSED BY BURNING OF MATERIAL

19. Burning permits

(1) The application for burning permits within the Witzenberg Municipal area are as follows:

(a) The Cape Winelands District Municipality Fire Services Department to be contacted to request a burning permit application form for all rural landowners in the Witzenberg municipal area. Costs will be applicable for both members and non-members of the Western Cape Fire Protection Association.

(b) The completed form is to be submitted to the Cape Winelands District Municipality Fire Services Department in which it will be evaluated and a response generated to the applicant.

20. Emissions caused by burning of industrial, domestic, and garden waste on any premises

(1) A person who carries out or permits the burning of any industrial, domestic or garden waste, on any premises, for the purpose of disposing of that waste, is committing an offence unless such waste is legally disposed of in terms of section 26 of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008).

(2) 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.

21. Emissions caused by tyre burning and burning of rubber and other material for the recovery of metal

(1) No person may without written permission by the municipality-

a. carry out or permit the burning of any tyres or rubber or other synthetically coated, covered or insulated products and electronic or other equipment on any premises;

b. carry out or permit the burning of any tyres, rubber products, cables or any other products, on any 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; or

c. possess, store, transport or trade in any illegally burnt metal or fibre reinforcement.

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(2) The municipality may take whatever steps it considers necessary in order to remedy the harm caused by the burning referred to in paragraphs (a) and (b) and the possession referred to in paragraph (c), and prevent any occurrence of it, and may recover the costs incurred from the person responsible for causing such harm.

CHAPTER 8: EMISSIONS THAT CAUSE NUISANCE

22. Prohibition of emissions caused by spray painting or surface preparation and finishing activities

(1) No person shall, within the area of jurisdiction of the Witzenberg municipality-

(a) spray or apply any paint, coating, epoxy coating or similar substance to any vehicle, article or object inside an approved spray area or spray booth so as to cause a nuisance; or
(b) spray, coat, plate, epoxy coat or conduct any similar activity outside an approved spray area or spray booth.

(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 General Safety Regulations promulgated in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and must be approved by the authorised person, for emissions, mechanical ventilation, noise and any other relevant department as may be required by any other law.

(3) Any person undertaking surface preparation and finishing activities which customarily generate dust emissions that may be harmful to public health or cause a nuisance shall implement the best practicable environmental option to prevent or minimize emissions into the atmosphere.

(4) Any person undertaking an activity referred to in (3) must implement the following control measures:
(a) dust extraction control measures; and
(b) any alternative control measure approved by the air quality officer or his or her delegated representative.

(5) An occupier or owner of any premises –
(a) must prevent the existence in, or emission of any nuisance from his or her premises;
(b) storage of material that may give rise to odour must be kept in a manner to prevent such a nuisance; and
(c) from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

23. Prohibition of emissions that cause offensive odours

(1) Any person conducting a non-listed activity that causes, or is likely to cause, emissions of offensive odours that may be harmful to public health or well-being, or that may cause a nuisance, must implement the best practicable environmental option and any other measures approved or determined by the Air Quality Officer or his or her delegated representative to prevent, minimize or control odorous

emissions into the atmosphere.

(2) The measures contemplated in subsection (1) may include monitoring, investigation or any other appropriate measures required to identify the substance(s) responsible for the offensive odour and to ensure effective implementation of odour control measures.

(3) If an occupier or owner of any premises from which an offensive odour emanates, or where an offensive odour exists, refuses to control the offensive odour or refuses to implement the control measures referred to in subsection (1), that occupier or owner is guilty of an offence.

24. Prohibition of Dust emissions that cause nuisance

(1) Any person who—

(a) conducts an activity; or
(b) causes or permits dust emissions to occur,

must adopt and implement the best practical environmental option to the satisfaction of the authorised official, to prevent, minimise and manage dust emissions into the atmosphere that may be harmful to public health or well-being or are likely to cause a nuisance to persons residing or present in the vicinity of the land, activity or premises.

(2) A person conducting an activity contemplated in subsection (1) must comply with the applicable dust-control requirements and prescribed dustfall rates in terms of the National Dust Control Regulations, 2026.

(3) Where the Air Quality Officer reasonably suspects that an activity is causing or has the potential to cause nuisance by dust, the Air Quality Officer may, in accordance with the National Dust Control Regulations, 2026, by written notice require the person responsible for the activity to—

(a) submit a Dust Management Plan within the period specified in the notice;
(b) implement specified reasonable dust-control measures; or
(c) provide information reasonably required to assess the dust nuisance.

(4) A Dust Management Plan required in terms of subsection (3) must be submitted to the Air Quality Officer and must comply with the requirements of the National Dust Control Regulations, 2026

(5) The Air Quality Officer may approve the Dust Management Plan or refer it back to the person responsible for the activity for amendment in accordance with the National Dust Control Regulations, 2026.

(6) A person whose Dust Management Plan has been approved must implement the measures contained in the approved plan.

(7) The Municipality may, within its available resources and capacity, monitor compliance with this section and investigate complaints relating to dust nuisance.

(8) Where the Municipality receives a complaint relating to dust nuisance, the Air Quality Officer may—

(a) conduct a site inspection;

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(b) require information from the person responsible for the activity;

(c) require a Dust Management Plan in accordance with subsection (3);

(d) require reasonable corrective measures; or

(e) refer the matter to the appropriate competent authority where the matter falls within that authority's jurisdiction.

(9) A person who fails to comply with a lawful notice issued in terms of this section, fails to implement an approved Dust Management Plan, or causes or permits a dust nuisance in contravention of this section commits an offence.

25. Prohibition of pesticide spraying emissions that cause nuisance

(1) No person may carry out or permit the spraying of pesticides, herbicides or other related material unless such pesticide, herbicide or material is registered in terms of section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(2) Any person who contravenes subsection (1) is guilty of an offence, as set out in section 18(1) of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

26. Management of Listed Activities and Controlled Emitters

(1) No person may undertake or operate a listed activity contemplated in section 21 of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004) unless authorized by a valid Atmospheric Emission License issued by the relevant Atmospheric Emission Licensing Authority.

(2) The holder of an Atmospheric Emission License shall comply with all license conditions and applicable Minimum Emission Standards.

(3) No person may operate a controlled emitter except in accordance with the applicable requirements and prescribed emission standards administered by the Cape Winelands District Municipality.

(4) Operators of listed activities and controlled emitters shall implement the best practicable environmental option or other approved emission control measures to prevent or minimize emissions harmful to public health, the environment or ambient air quality.

CHAPTER 9: EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES

27. Prohibition

(1) No person may drive or use a compressed ignition powered vehicle that emits dark smoke.

(2) For purposes of this section the registered owner of the vehicle shall be presumed to

be the driver unless the contrary is proven.

28. Stopping of vehicles for inspection and testing

(1) The driver of a vehicle must comply with any reasonable direction given by an authorised official-

(a) to stop the vehicle; and

(b) to facilitate the inspection or testing of the vehicle.

(2) The authorised official may-

(i) inspect and test the vehicle in which case inspection and testing must be carried out-

(ii) at or as near as practicable to the place where the vehicle is stopped; and

(iii) as soon as practicable after the vehicle is stopped; or

(b) conduct a visual inspection of the vehicle and, if he or she believes that an offence has been committed under section 27(1), instruct the driver of the vehicle to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 29.

29. Testing procedure

(1) An authorised official 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 27(1).

(2) The following procedure must be adhered to -

(a) the driver must start the vehicle, place it in neutral gear, engage the clutch and disengage the exhaust brake;

(b) the authorised official or the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle;

(c) while the throttle pedal is depressed, the authorised official must measure the smoke emitted from the vehicle's emission system with a Hartridge Smoke meter in order to determine whether or not it is dark smoke; and

(d) the throttle pedal of the vehicle must be released when directed to do so by the authorised official.

(3) If the authorised official is satisfied that the vehicle-

(a) is not emitting dark smoke, he or she must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 27(1); or

(b) is emitting dark smoke, the authorised official must issue the driver of the vehicle with a repair notice in accordance with section 29.

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30. Repair notice

(1) A repair notice must direct the owner of the vehicle to take the vehicle to a place identified in the notice for re-testing.

(2) The repair notice must contain 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) It shall not be a defence to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

CHAPTER 10: COMPLIANCE AND ENFORCEMENT

31. Compliance Notice

(1) An authorised official may serve a compliance notice on any person whom he or she reasonably believes is likely to commit or has committed an offence under this by-law, calling upon that person-

a. to abate the nuisance or transgression within a period specified in the notice;

b. to take all necessary steps to prevent a recurrence of the nuisance or transgression; and

c. to comply with any other conditions contained in the notice.

(2) For the purposes of sub section (1), an authorised official 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 compliance notice is to be served.

(3) A notice referred to in subsection (1) must contain the following information-

a. the action that constitutes a contravention or non-compliance;

b. the relevant legislative provisions contravened;

c. the measures to be implemented to remedy the situation

d. the time frame within which remedial measures must be executed;

e. the right to make representations; and

f. the possible consequences if the notice is not complied with.

(4) A compliance notice under sub section (1) may be served-

a. when it has been delivered to that person personally;

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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 sixteen 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 acknowledgement 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); or

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 property or premises, if any, to which it relates.

(5) When any notice or other document must be authorised or 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.

32. Remedial steps

(1) The municipality may take reasonable measures to remedy a condition or situation or to apply to a competent court for appropriate relief should a person fail to comply or inadequately comply with a notice issued in terms of section 31 or any other provision of this by-law.

(2) The municipality may recover costs for remedial measures undertaken under subsection (1) from any person who is or was responsible for, or who contributed to the transgression.

33. Access to premises and enforcement

(1) An authorised official shall have access to any premises for the purpose of-

a. doing anything authorised or required to be done under this by-law or the Act or any other law regulating air quality;

b. inspecting and examining atmospheric emissions or anything connected therewith;

c. enquiring into and investigating any possible sources of atmospheric emissions or the suitability of property for any work, scheme or undertaking that results in atmospheric emissions;

d. ascertaining whether there is or has been contravention of the provisions of this by-law or the Act; and

e. enforcing compliance with the provisions of this by-law or the Act.

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(2) The municipality may gain access to or over premises without notice and may take whatever steps or action as may reasonably be necessary or desirable in consequence of the existence of or the occurrence of any emergency or disaster.

CHAPTER 11: GENERAL PROVISIONS

34. Indemnity

The municipality shall not be liable for any damage caused to any property or premises by any action or omission of the employees or officials of the municipality when exercising any function or performing any duty in terms of this by-law, provided that such employees or officials must, when exercising such function or performing such duty, take reasonable steps to prevent any damage to such property or premises.

35. Exemptions

(1) Any person may, in writing, apply to the municipality for exemption from the application of a provision of this by-law.

(2) The municipality may require an applicant applying for exemption to take steps bring the application to the attention of interested and affected persons.

(3) The steps contemplated in subsection (3) may 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 may be required.

(4) The municipality may-

(a) review any exemption granted in terms of this section, and may impose such conditions as it may determine; and

(b) withdraw any exemption in case of non-compliance with such conditions.

(5) The municipality may not grant an exemption under subsection (1)-

(a) until it has taken reasonable measures to ensure that all persons whose rights may be adversely affected by the granting of the exemption are aware of the application for exemption and how to obtain a copy of it;

(b) until it has provided such persons with a reasonable opportunity to object to the application; and

(c) until it has duly considered and taken into account any objections raised.

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(6) The municipality may not grant an exemption under subsection (1) in conflict with the Act or any other legislation or any restriction placed in terms of any other legislation.

36. Offences and penalties

(1) A person who contravenes sections 4, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 is guilty of an offence and upon conviction will be liable to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment.

(2) It is an offence to-

(a) supply false information to an authorised person made in terms of this by-law;

(b) refuse to co-operate with the request of an authorised official made in terms of this by-law or to interfere with an authorised official in the execution of his or her duties; or

(c) fail to comply with a notice issued in terms of section 26 of this by-law.

(3) A court may order any person convicted of an offence under this by-law to pay 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.

(4) Failure to comply with a notice, direction or condition referred to in this by-law constitutes a continuing offence and a person who is guilty of a continuing offence, is liable on conviction to an additional fine for each day on which such offence is continued.

(5) 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 emission measuring equipment referred to in section 14.

(6) In addition to any other penalty the court may impose, it may order a person to take such steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the offence.

37. Appeal

A person whose rights are affected by decision taken in terms of delegated authority may appeal to the municipal manager against such decision in terms section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) by giving a written notice within 21 days of the date of

notification of the decision and the reasons for the appeal.

38. Repeal of by-law and savings

(1) The Witzenberg Municipality: By-law Relating to Atmospheric Pollution, No 11/2007, published in Provincial Gazette No. 6426 dated 16 March 2007 is hereby repealed.

(2) Anything done or deemed to have been done under the by-law hereby repealed, remains valid to the extent that it is consistent with this By-law.

39. Short title and commencement

This by-law shall be known as the Witzenberg Municipality: Air Quality Management By-law 2026 and shall come into operation on the date of publication thereof in the Provincial Gazette.

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SCHEDULE 1

(SECTION 14)

Standards and specifications for fuel-burning equipment:

1. All fuel-burning equipment capable of burning more than 100kg/h of coal, biomass or other solid fuel shall be fitted with suitable control equipment so as to limit dust and grit emissions.
2. The control equipment shall be fitted in such a manner so as to facilitate easy maintenance.
3. The permitted concentration of grit and dust emissions from a chimney serving a coal fired boiler equipped with any mechanical draught fan system shall not be more than 250 mg/Nm° (as measured at 0°C, 101,3 kPa and 12% COO). Where the fuel-burning equipment has been declared as a Controlled Emitter in terms of the Air Quality Act, the respective Controlled Emitter Regulations shall apply.

The approved methods for testing shall be:

US EPA:

1. Method 17 - In-Stack Particulate (PM).
2. Method 5 - Particulate Matter (PM).

ISO standards:

ISO 9096: Stationary source emissions - Manual Determination of mass concentration of particulate matter.

British standards:

BS 3405:1983 Method for measurement of particulate emission including grit and dust (simplified method).
The municipality reserves the right to call upon the owner or his or her agent of the fuel burning equipment to have the emissions from such fuel burning equipment evaluated at his or her own expense as may be required by the authorised official.

Insulation of chimneys:

All fuel-burning equipment using Heavy Fuel Oil or other liquid fuels with a Sulphur content equal to or greater than 2.5 % by weight must be fitted with a fully insulated chimney using either a 25mm airgap or mineral wool insulation to prevent the formation of acid smut. Such chimneys must be maintained in a good state of repair at all times.

Wood-fired pizza ovens and other solid fuel combustion equipment:

Wood-fired pizza ovens and other solid fuel combustion equipment shall be fitted with induced draft fans at the discretion of the authorised official.

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