

DRAKENSTEIN MUNISIPALITEIT

Drakenstein Munisipaliteit het uit hoofde van die gesag aan hom verleen deur artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, soos gewysig, saamgelees met artikel 13 van die Munisipale Stelsels Wet (Wet 32 van 2000) soos gewysig, die volgende verordening aanvaar, soos aangedui in die onderstaande skedule.

SKEDULE

VERORDENING NR. 11/2007: DIE VOORKOMING VAN LUGBESOEDELING

1. In hierdie verordening sluit woorde wat die manlike geslag aandui, ook die vroulike geslag in; sluit die enkelvoud die meervoud in en omgekeerd; geniet die Afrikaanse teks voorrang in die geval van 'n teenstrydigheid tussen die verskillende tekste; en tensy dit uit die samehang anders blyk, beteken:–

“munisipaliteit” die munisipaliteit van Drakenstein gestig ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), Provinsiale Kennisgewing 488 van 22 September 2000 en sluit in enige politieke struktuur, politieke ampsbekleider, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van 'n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleider, raadslid, agent of werknemer;

“Wet” die “NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT”

DRAKENSTEIN MUNICIPALITY

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:

SCHEDULE

BY-LAW NO. 11/2007: THE PREVENTION OF ATMOSPHERIC POLLUTION

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

(Wet 45 van 1965), soos gewysig, en het enige ander woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, daardie betekenis.

2. (1) Behoudens die bepalings van subartikel (2) mag geen eienaar of okkupeerder van enige perseel toelaat dat rook wat so 'n digtheid of inhoud het dat dit lig in groter mate as 40 persent verdonker, uit so 'n perseel uitgelaat of afgegee word nie, behalwe vir 'n totale tydperk van hoogstens drie minute gedurende elke aaneenlopende tydperk van 30 minute.

(2) Die bepalings van subartikel (1) is nie van toepassing op rook wat strydig daarmee uit 'n brandstof-verbruikende toestel afgegee of uitgelaat word terwyl dit aan die gang gesit word of, indien sodanige afgee of uitlating nie redelikerwys verhoed kon geword het nie, terwyl sodanige toestel nagegaan word of gedurende die tydperk wanneer bedoelde toestel tot stilstand kom of onklaar raak.

3. Geen persoon mag 'n brandstof-verbruikende toestel wat ontwerp is om vaste of vloeibare brandstof in of op enige perseel te verbruik, inrig of laat inrig of toelaat dat dit ingerig word, of dit verander of uitbrei of laat verander of uitbrei of toelaat dat uitgebrei of verander word nie, tensy die planne en spesifikasies ten opsigte van sodanige inrig, uitbreiding of verandering deur die munisipaliteit goedgekeur is.

4. Indien enige brandstof-verbruikende toestel strydig met artikel 3 ingerig, uitgebrei of verander is, kan die munisipaliteit by skriftelike kennisgewing vereis dat die eienaar of

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.

okkupeerder van die betrokke perseel sodanige brandstof-verbruikende toestel van sodanige perseel verwyder binne 'n tydperk in die kennisgewing bepaal en wel op eie koste.

5. Die eienaar of okkupeerder van enige perseel waarin of waarop enige brandstof-verbruikende toestel gebruik word, moet op skriftelike versoek van die munisipaliteit sodanige apparaat as wat die munisipaliteit bepaal, op eie koste inrig, in stand hou en gebruik ten einde die digtheid of kleur aan te dui of aan te teken of beide aan te dui en aan te teken van die rook deur sodanige toestel uitgelaat, of ten einde die waarneming van sodanige rook vir die bepaling van die digtheid of kleur daarvan te vergemaklik, en moet te alle redelike tye enige inligting wat deur middel van sodanige apparaat aangeteken of vasgestel is, aan die munisipaliteit beskikbaar stel.

6. Die bepalings van hierdie verordening is nie op rook wat uit 'n woning uitgelaat word, of op die inrig, verandering of uitbreiding van enige brandstof-verbruikende toestel in enige woning van toepassing nie.

7. (1) Geen persoon mag, en geen eienaar, okkupeerder of persoon in beheer van enige perseel of deel daarvan mag toelaat dat enige afvalmateriaal, vuilgoed, tuinafval, gras, snoeisels of enige soortgelyke material in of op enige perseel of gedeelte daarvan verbrand word nie, behalwe in 'n verbrandingstoestel wat vir dié doel behoorlik ingevolge hierdie verordening goedgekeur is.

(2) In enige geding ingevolge hierdie verordening is dit nie 'n verweer om te bewys dat die

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

beskuldigde nie van enige handeling hierin vermeld gewees het of nie daarvan bewus was of dit nie toegelaat het nie of dit verbied het.

8. Enige persoon kan skriftelik by die munisipaliteit aansoek doen om tydelike vrystelling ten opsigte van enige brandstof-verbruikende toestel of enige perseel van die bepalings van artikel 2. Indien die munisipaliteit oortuig is dat daar afdoende redes vir sodanige vrystelling bestaan, kan hy by skriftelike kennisgewing aan die aansoeker sodanige vrystelling vir 'n bepaalde tydperk verleen.

9. Enige persoon wat enige bepaling van hierdie verordening oortree of nalaat om daaraan te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met –

- (1) 'n boete of gevangenisstraf, of sodanige boete of sodanige gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf;
- (2) in die geval van 'n voortdurende misdryf, met 'n addisionele boete, of 'n addisionele tydperk van gevangenisstraf, of sodanige addisionele boete of sodanige addisionele gevangenisstraf, of beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur; en
- (3) 'n verdere bedrag gelykstaande aan enige koste en uitgawes wat na bevinding van die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.

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.

