

**CITY OF CAPE TOWN**  
**AIR POLLUTION CONTROL BY-LAW**

*As promulgated in*  
**PN [number]/ 2001 of [date] 2001**

Under the powers conferred by section 156(2) of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996), the City of Cape Town adopts the following by-law –

**PART I**  
**INTERPRETATION AND FUNDAMENTAL PRINCIPLES**

*Definitions*

1. (1) In this by-law, unless the context indicates otherwise –

“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” means any substance (including but not limited to dust, 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 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 pollution control zone” means the geographical area to which Part III of the by-law is declared to apply;

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

“authorised person” means any person authorised by the Council to implement any provision of this by-law;

“best practicable means” means the most effective measures that can reasonably be taken to prevent, reduce or minimise air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and the financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;

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

“compressed ignition powered vehicle” means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

“Council” means the City of Cape Town;

“dark smoke” means:

- (a) in respect of Parts IV and V of this by-law, smoke which when measured using a light absorption meter or obscuration measuring equipment has an obscuration of 20% or greater;
- (b) in respect of Part VII of this by-law:
  - (i) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more; or
  - (ii) smoke which has a light absorption co-efficient of more than  $2.125 \text{ m}^{-1}$ , provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a light absorption coefficient of more than  $2.51 \text{ m}^{-1}$ ;

“dust” means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

“dwelling” means any building or other structure, or part of a building or structure, used as a dwelling, and any outbuildings ancillary to it, but excludes shacks and 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;

“free acceleration test” means the method described in section 17(2) employed to determine whether vehicles are being driven or used in contravention of section 15(1);

“fuel-burning equipment” means any furnace, boiler, 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;

“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;

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

“municipal manager” means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“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 his or her property;

“obscuration” means the ratio of visible light attenuated by air pollutants suspended in the effluent 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” 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;

“proclaimed township” means any land unit zoned and utilised for residential purposes

“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 structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council or the precincts of any harbour;

“public road” means a road which the public has the right to use;

“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;

“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.

### *Purpose*

2. (1) The purpose of this by-law is:

- (a) to give effect to the right contained in section 24 of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996) by controlling air pollution within the area of the Council’s jurisdiction; and
- (b) to ensure that air pollution is avoided, or where it cannot be altogether avoided, is minimised and remedied.

(2) Any person that exercises a power under this by-law must exercise the power in order to give effect to the purpose set out in subsection (1).

**PART II**  
**DUTY OF CARE**

3. (1) Any person who is wholly or partially responsible for causing significant air pollution or creating a risk of significant air pollution occurring must take all reasonable measures:
- (a) to prevent any potential significant air pollution from occurring; and
  - (b) to mitigate and, as far as reasonably possible, to remedy any significant air pollution that has occurred.
- (2) The Council may, by resolution direct any person who fails to take the measures required under subsection (1) –
- (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
  - (b) to commence taking specific reasonable measures before a given date;
  - (c) to diligently continue with those measures; and
  - (d) to complete them before a specified reasonable date.
- Prior to making such resolution Council must give affected persons adequate opportunity to inform them of their relevant interests and may consult with any other organ of state.
- (3) Should a person fail to comply, or inadequately comply, with a directive under subsection (2), the Council may take reasonable measures to remedy the situation.
- (4) Provided that such person failed to take the measures required of him or her under subsection (1), the Council may recover all reasonable costs incurred as a result of it acting under subsection (3) 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 the 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.

(5) If more than one person is liable under subsection (4), 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 subsections (1) and (2).

### **PART III AIR POLLUTION CONTROL ZONE**

#### *Declaration of air pollution control zone*

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

(2) Within an air pollution control zone the Council may 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% may not be emitted;
- (d) prescribe different requirements in an air pollution control zone relating to air quality control in respect of:
  - (i) different geographical portions;
  - (ii) specified premises;
  - (iii) classes of premises; or
  - (iv) premises used for specified purposes.

(3) The Council may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly or indirectly cause air pollution within an air pollution control zone.

(4) Subject to section 26, the Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the operation of measures adopted by the Council under this section.

**PART IV:  
SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS**

*Application*

5. For the purposes of this Part, “premises” does not include dwellings.

*Prohibition*

6. (1) Subject to subsection (2), dark smoke must not be emitted from any premises 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 while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.
- (3) If dark smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.

*Installation of fuel-burning equipment*

7. (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the Council shall be presumed until the contrary is proved to comply with the provisions of subsection (1).
- (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
- (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall each be guilty of an offence and shall be liable for:
    - (i) in the case of contravening subsection (1)(a) or (1)(b), a level [3] fine on the standard penalty scale; and/or
    - (ii) prosecution in terms of section 25; and
  - (c) the Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

### *Operation of fuel-burning equipment*

8. (1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorisation referred to in section 7.

(2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):

- (a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence:
- (b) The Council may on written notice to the owner and occupier of the premises:
  - (i) Revoke its authorisation under section 7; and
  - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

### *Presumption*

9. In any prosecution for an offence under sections 7 or 8, 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 would be 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.

### *Installation and operation of obscuration measuring equipment*

10. (1) An authorised person may give 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 be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:

- (a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
- (b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
- (c) fuel-burning equipment has been or is intended to be installed on the relevant premises which is reasonably likely in the opinion of an authorised person to emit dark smoke;
- (d) the person on whom the notice is served has been convicted more than once under this Part IV and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
- (e) the authorised person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.



(2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:

- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
- (b) that person's right of appeal under section 22;
- (c) that person's right to request written reasons for the issuing of the notice; and
- (d) the measures that must be taken and the potential consequences if the notice is not complied with.

### *Monitoring and sampling*

11. (1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 10 (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;
- (b) if requested to do so by an authorised person, produce the record of the monitoring and sampling results for inspection; and
- (c) if requested to do so by an authorised person, provide a written report (in a form and by a date specified by the authorised person) of part or all of the information in the record of the monitoring and sampling results.

### *Exemption*

12. (1) Subject to section 26 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

(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.

**PART V**  
**SMOKE EMISSIONS FROM DWELLINGS**

13. (1) Subject to section 4(3), no person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Subject to section 25(3), any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.
- (3) Subject to section 26 and on application in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

**PART VI**  
**EMISSIONS CAUSED BY OPEN BURNING**

14. (1) Subject to section 25(3) and subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless:
- (a) the prior written authorisation of the Council, which may include the imposition of further conditions with which the person requesting authorisation must comply, has been obtained;
  - (b) the material is open burned on the land from which it originated;
  - (c) that person has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimise the amount of material to be open burned, to the satisfaction of the Council;
  - (d) that person has investigated and assessed every reasonable alternative for removing the material from the land or premises, to the satisfaction of the Council;
  - (e) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
  - (f) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region;
  - (g) 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;
  - (h) the open burning is conducted at least 100 metres from any buildings or structures;
  - (i) the open burning will not pose a potential hazard to human health or safety, private property or the environment;
  - (j) That person has notified in writing the owners and occupiers of all adjacent properties of:
    - (i) all known details of the proposed open burning; and

(ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and

(k) the prescribed fee has been paid to the Council.

(2) The Council may not authorise open burning under subsection (1)(a) unless the Council is satisfied that the requirements set out in subsection (1)(b) to (k) have been adequately addressed or fulfilled.

(3) Subject to section 25(2), any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence

(4) 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 Council has declared this section not to apply.

## **PART VII EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES**

### *Prohibition*

15. (1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.

(2) Subject to section 25(3), if dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle shall each be guilty of an offence.

(3) For purposes of this section the registered owner of the vehicle shall be presumed to be the owner unless the contrary is proven.

### *Stopping of vehicles for inspection and testing*

16. (1) In order to enable an authorised person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorised person:

(a) to stop the vehicle; and

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

(2) Failure to comply with a direction given under subsection (1) is an offence.

(3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised person may:

(a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:

- (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
  - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
- (b) conduct a visual inspection of the vehicle and, if the authorised person reasonably believes that an offence has been committed under section 15(2), instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 17.

### *Testing Procedure*

17. (1) An authorised person 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 15(1).
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorised person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
  - (b) while the vehicle is idling, the authorised person must conduct a visual inspection of the emission system of the vehicle;
  - (c) when instructed to do so by the authorised person, the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle; provided that the authorised person may do so himself or herself if the driver fails or refuses to comply with the authorised person's reasonable instructions;
  - (d) while the throttle pedal is depressed, the authorised person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;
  - (e) the driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorised person.
- (3) If, having conducted the free acceleration test, the authorised person is satisfied that the vehicle:
- (a) is not emitting dark smoke, then the authorised person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 15(1); or
  - (b) is emitting dark smoke, the authorised person must issue the driver of the vehicle with a repair notice in accordance with section 18.

### *Repair notice*

18. (1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(2) The repair notice must contain *inter alia* 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
- (c) if the driver is not the owner, the name and address of the vehicle owner

(3) A person commits an offence under this Part if that person fails:

- (a) to comply with the notice referred to in subsection (1);
- (b) the re-test referred to in subsection (1);

(4) It shall not be a defence in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

## **PART VIII EMISSIONS THAT CAUSE A NUISANCE**

### *Prohibition*

19. Subject to section 25 (2), any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

### *Abatement notice*

20. (1) An authorised person may serve an abatement notice on any person whom the authorised person reasonably believes is likely to commit or has committed an offence under section 19, calling upon that person:

- (a) to abate the nuisance within a period specified in the notice;
- (b) to take all necessary steps to prevent a recurrence of the nuisance; and
- (c) to comply with any other conditions contained in the notice.

(2) For the purposes of subsection (1), an authorised person 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 abatement notice is to be served

(3) An abatement notice under subsection (1) may be served:

- (a) upon the owner of any premises, by:
  - (i) delivering it to the owner, or if the owner cannot be traced or is living abroad that person's agent;
  - (ii) transmitting it by registered post to the owner's last known address, or the last known address of the agent; or

(iii) delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown.

(b) upon the occupier of the premises, by:

(i) delivering it to the occupier;

(ii) transmitting it by registered post to the occupier at the address at which the premises are situated.

(4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) is guilty of an offence.

(5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (4) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

#### *Steps to abate nuisance*

21. At any time, the Council 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 so incurred from the person responsible for causing the nuisance.

### **PART IX: APPEALS**

22. (1) Any person may appeal against a decision taken by an authorised person under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.

(2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:

(a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and

(b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may have accrued either.

(3) Within 14 days of receipt of the notice of appeal, the municipal manager must:

(a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);

(b) take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application, including any persons registered as interested and affected parties, are notified in writing of the appeal application and advised of their right to:

(i) obtain a copy of the appeal application;

(ii) submit written objections to the application to the municipal manager within 30 days of date of notification;

(4) After the expiry of the 30 day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.

(5) When the appeal is against a decision taken by –

(a) an authorised person other than the municipal manager, then the municipal manager is the appeal authority; or

(b) the municipal manager, then the Council is the appeal authority.

(6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

## **PART X: GENERAL PROVISIONS**

### *Council and state bound*

23. This by-law is binding on the State and the Council.

### *Conflict*

24. (1) In the event of a conflict with any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law shall prevail.

(2) In the event of a conflict with the Atmospheric Pollution Prevention Act, 1965 (Act 45 of 1965), the provisions of that Act will prevail within the area of jurisdiction of the Council.

### *Offences and penalties*

25. (1) Any person who contravenes section 13(2), 15(2) or 19 of this by-law shall be liable on conviction to imprisonment not exceeding 30 days or to a fine or to both a fine and imprisonment.

(2) Any person who contravenes section 7(3), 8(2), 18(3)(a), 18 (3)(b) or 20(4) of this by-law shall be liable of conviction to imprisonment not exceeding two (2) years or a fine or both a fine and imprisonment.

(3) It is an offence to:

(a) supply false information to an authorised person in respect of any issue pertaining to this by-law, or;

(b) refuse to co-operate with the request of an authorised person made in terms of this by-law and any person convicted of such offence shall be liable to imprisonment not exceeding 30 days or a fine or both a fine and imprisonment.

(4) Where no specific penalty is provided, any person committing an offence in terms of this by-law is liable on conviction to imprisonment for a period not exceeding one (1) year or to a fine or to both imprisonment and a fine.

(5) Failure to comply with a notice, direction or instruction referred to in this by-law constitutes a continuing offence.

(6) Any person who commits a continuing offence shall be guilty of a separate offence for each day during which that person fails to comply with a notice, direction or instruction referred to in this by-law.

(7) In addition to imposing a fine and/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 obscuration reading equipment in accordance with the provisions of section 11.

### *Exemptions*

26. (1) The Council may grant a temporary exemption in writing from one or all of the provisions of Parts III, IV and V, provided that the Council:

- (a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in section 2(1); and
- (b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in section 2(1).

(2) The Council must not grant an exemption under subsection (1) until the Council has:

- (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including but not limited to 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.

### *Savings*

27. Anything done or deemed to have been done under any other law remains valid to the extent that it is consistent with this by-law; or until anything done under this by-law overrides it.

### *Commencement*

28. This by-law will come into operation on a date or dates to be determined by the Council by publication in the *Provincial Gazette*.