
RUSTENBURG LOCAL MUNICIPALITY

Draft Noise Pollution Control By law.



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Rustenburg Local Municipality

RUSTENBURG LOCAL MUNICIPALITY DRAFT NOISE POLLUTION CONTROL BYLAW

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CHAPTER 1

INTEPRETATION AND FUNDAMENTAL PRINCIPLES.

1. Interpretation

In this bylaw unless the context otherwise requires

Definitions

“Authority” means the National Environment Management Authority established under Section 7 of the Act;

“Commercial zone” means any place where goods and services are exchanged, bought or sold;

“Construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, mowing, land-clearing, earth-moving, landscaping, grading, excavating, laying of pipes and conduits whether above or below ground, road, railway and highway building, concreting, installation and alteration of equipment, and the structural installation of construction components and materials in any form or for any purpose that includes any work in connection with the construction;

“Decibels dB(A)” means decibels of noise, measured with an A-weighted filter;

“Decibel” means a dimensionless unit used in comparison of the magnitude of sound pressure or power;

“Intermittent noise” means a noise whose level suddenly drops to several times the level of the background noise;

“Intrusive noise” means external noise, or noise from another part of the building, which penetrates the structural defences of a room or building;

“Lead agency” means any Government ministry, department, parastatal, state corporation or local authority, in which any law vests functions of control or management of any element of the environment or natural resources;

“Mapping” means the presentation of data on an existing or predicted noise or excessive vibration situation, indicating breaches of any relevant limit value in force, the number of people affected in a certain area or the number of dwellings exposed to certain values of noise or excessive vibration limit in a certain area;

“Mapping-body” means a noise-mapping or excessive vibration- mapping body as designated in Regulation 22 of these Regulations;

“Noise” means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment.

“Noise pollution” means the emission of uncontrolled noise that is likely to cause danger to human health or damage to the environment.

“Place of entertainment” means premises or any other place where activities including amusement, enjoyment, playing of music, dancing, performing of shows take place;

“Property boundary” means the surveyed line at ground surface which separates the facility owned, rented or leased by one or more persons from any other such facilities.

“Silent zone” means designated area that includes health facilities, educational and research institutions, courts, and any other area declared as such by the Authority;

“Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium.

“Sound source” means any person or thing from which sound is emitted

“Vibration” means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

“Excessive vibration” means the presence of vibration which-

(a) is of such intensity, duration, frequency or character as to annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on persons, or to damages or tend to damage personal or real property; and,

(b) exceeds 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source.

3. BACKGROUND

In terms of section 46 of the National Environmental Management Act, (Act No. 107 of 1998), the Minister may make model by laws aimed at establishing measures for the management of environmental impacts of any development within the jurisdiction of a municipality, which may be adopted by a municipality as municipal bylaws. The generic noise pollution bylaw has been drafted in accordance with this enabling provision of the NEMA, and will be published as a schedule in terms of the NEMA.

4. OBJECTIVES

(1) The objectives of this bylaw are to:

Give effect to the right contained in section 24 of the Constitution of the Republic of South Africa by regulating noise pollution within the area of the municipality's jurisdiction;

To provide, in conjunction with any applicable law, an effective legal and administrative framework, within which the Council can manage and regulate activities that have the potential to adversely impact public health; and

Ensure that noise pollution is avoided, or where it cannot be altogether avoided, mitigated or minimised.

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

5. APPLICATION

(1) This bylaw is applicable-

(a) Within the area of jurisdiction of the municipality; and

(b) in addition to any applicable national or provincial legislation.

(2) The overarching principles set out in section 6 below, must be considered and applied by any person:

(a) Exercising a power or function or performing a duty under this bylaw; and

(b) exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on public health within that area.

6. OVERARCHING PRINCIPLES

Duty of care

Any person who is wholly or partially responsible for causing noise pollution or creating a risk of significant noise pollution occurring must take all reasonable measures:

To prevent any potential significant noise pollution from occurring; and

To mitigate, as far as reasonably possible, any significant noise pollution that may occur.

The Council may direct any person in writing who fails to take the measures required in subsection (1)-

To investigate, evaluate and assess the impact of specific activities and report thereon;

To commence taking specific reasonable measures before a given date;

To diligently continue with those measures; and

To complete them before a specified reasonable date.

Prior to making such a decision as contemplated in subsection (2), the Council must give the affected person adequate opportunity to inform them of their relevant interests and may consult with any other organ of state.

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.

Provided such person failed to take the measures required of him under subsection (2), the Council may recover all reasonable costs incurred as a result of it acting under subsection (4) from any or all of the following persons-

Any person who is or was responsible for, or who directly or indirectly contributed to, the noise pollution or the potential noise pollution;

The owner of the land at that time when the noise pollution or the potential for noise pollution occurred, or that owner's successor in life;

The person in control of the land or any person who has or had a right to use the land at the time when-

The activity or the process in question is or was performed or undertaken; or

The situation came about; or

Any person who negligently failed to prevent -

The activity or the process being performed or undertaken; or

The situation from coming about.

If 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 of

public health resulting from their respective failures to take measures required under subsections (1) and (2).

CONFLICT WITH OTHER LEGISLATION

In the event that the bylaw conflicts with provisions of NEMA or NEMA (Noise and Exclusive Vibration Pollution) (Control) Regulations, the provisions of the latter will prevail.

In the event of any conflict with any by law which directly or indirectly, within the jurisdiction of the municipality, regulates noise pollution, the provisions of this bylaw shall prevail to the extent of the inconsistency.

CHAPTER 2

PROHIBITION OF DISTURBING NOISE.

8. General Prohibitions

(1) No person shall cause a disturbing noise, or allow it to be caused by any person, animal, machine, device, vehicle, recreational vehicle, apparatus or any combination thereof.

(2) Where it shall cause a noise nuisance, a person shall not:

(a) operate or play, allow to be operated or played, a radio, television, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;

(b) allow an animal owned or controlled by him to make noise;

(c) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, or object, or allow it to be built, constructed, repaired, rebuilt, modified, operated, or tested, in or near a residential zone or premises;

(d) erect, demolish, or alter a building or structure, or allow it to be erected, demolished or altered if it affects a residential zone or premises unless permission is granted by the municipality to conduct building operations within the hours specified in SANS 10400 for the control of noise, if building operations are to be carried outside of these hours then an exemption is required;

(e) use or discharge any explosive, firearm or similar device that emits impulsive sound or allow it to be used or discharged, except with prior consent in writing to the municipality and subject to such conditions as the municipality may deem necessary, save as such person may otherwise be authorised in law to use or discharge;

(f) on a piece of land or in water or in airspace above water or in airspace above a piece of land used for recreational purposes:

- (i) operate a recreational vehicle; or
- (ii) as the owner or person in control of the piece of land, water or airspace, allow any person to operate a recreational vehicle on such land or in such water or such airspace;
- (g) except in emergency situations, emit a sound, or cause or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device;
- (h) drive a vehicle on a public road;
- (i) use any power tool or power equipment used for construction purposes, drilling or demolition work, or allows it to be used, in or near a residential area, unless permission was granted by the municipality to conduct normal construction or repair work to public and private property.

(3) Any person who:

- (a) fails to comply with the provisions of this section;
- (b) fails to comply with a written condition, instruction or notice issued by the municipality in terms of this section;
- (c) tampers with, remove, put out of action damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice placed in a position by or on behalf of the municipality;
- (d) In respect of a duly authorised person of the municipality:
 - (i) fails or refuses to grant admission to such official to enter and to inspect the premises;
 - (ii) fails or refuse to give information which may lawfully be required of him or her to such official

Hinders or obstruct such official in the execution of his or her duties, or

Gives false or misleading information to such official knowing that it is false or misleading, is guilty of an offence.

9. Permissible noise levels.

No person shall make, continue or cause to be made or continued any noise in excess of the noise levels set in the First Schedule to this bylaw, unless such noise is reasonably necessary to the preservation of life, health, safety or property.

10. Measurement and control.

(1) No person shall cause noise from any source which exceeds any sound level as set out in the applicable column in the First Schedule to this bylaw.

(2) Measurements shall be taken by an authorised person

(3) In any cases where there is no authorised person in the municipality to take the measurements, or where the authorised person has failed to take action after being given reasonable notice, the measurement shall be taken by any other person dully authorized by the municipality, who is knowledgeable in the proper use of the measuring equipment.

(4) The municipality in consultation with the relevant Authority may issue guidelines for the measurement of noise and excessive vibration.

(5) Any person who makes noise in excess of the prescribed levels commits an offence.

CHAPTER 3

CONTROLLED APPLIANCES AND ACTIVITIES- NOISE EMANATING FROM

11. Music open air music festivals, shows, inclusive of air shows and similar gatherings

(a) No person may stage any open –air entertainment festival, such as, but not limited to a show, an air show, music concert, festival, sports event or similar gathering without a prior written consent of the municipality.

(b) If any music causes or may cause a noise nuisance, the municipality may instruct in writing that such music be discontinued until such conditions as the municipality may deem necessary have complied with.

(c) Subject to the provisions of paragraph (b) and applicable provisions of the any other law, the municipality mat attach any instrument and/or equipment used to generate music if no permission has been obtained as required by paragraph (a).

(d) An instrument and/or equipment attached under paragraph (c) shall be kept in safe custody of the municipality.

(e) The municipality may lift the attachment contemplated in paragraph (c) if the owner or person in control of the instrument and/or equipment has applied for permission in terms of paragraph (a).

(f) This subsection is not applicable to:

(i) churches;

(ii) schools

(iii) other education facilities; or

(iv) any other defined area or activity to which the Council has declared this subsection not to apply.

12. Parties and social events.

(1). Any person in charge of a party or other social event which occurs on any private or public property shall ensure that the party or event does not produce noise in a loud, annoying or offensive manner such that noise from the party interfere with the comfort,

repose, health or safety of members of the public within any building or, outside of a building, or recklessly creates the risk thereof, at a distance of 30 meters or more from the source of such sound.

(2) Any person who contravenes this bylaw commits an offence.

(3) For the purposes of this bylaw, a "person in charge of a party or other social event"-

(a) that occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event;

(b) that occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event;

(c) shall include the person who is listed on a permit issued by the Commissioner of Police, Local Authority or Provincial Administration with respect to such event.

13. Hawkers, peddlers,

(1) No person shall-

(a) tout, advertise, promote or sell any goods; or (b) engage in any commercial activity,

in such manner as to emit noise by shouting within the Central Business District of any town, a residential area, a silent zone, or any other area declared as a silent zone by the municipality.

Provided that the provisions of this bylaw shall not be construed to prohibit the selling by shouting of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events.

(2) Any person who contravenes this bylaw commits an offence.

14. Machinery.

(1) Any person wishing to-

(a) operate or repair any machinery, motor vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device; or

(b) engage in any commercial or industrial activity,

which is likely to emit noise or excessive vibrations shall carry out the activity or activities within the relevant levels prescribed in the First Schedule to this bylaw.

(2) Any person who contravenes this bylaw commits an offence.

15. Noise from motor vehicles.

(1) No person may drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured, when stationary, in accordance with the procedure prescribed in SANS 10181 exceeds:

(a) in the case of a non-exempted vehicle, the stationary sound level specified in SANS 10281 for that type of vehicle; or

(b) in the case of an exempted vehicle, by more than 5dba the applicable reference sound level indicated in SANS 10281, for that type of vehicle.

(2) The municipality may in order to determine whether a vehicle being used on any road in the area of jurisdiction of the municipality, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of the by law, instruct the owner or driver of the vehicle:

(a) to stop the vehicle or cause it to be stopped; and

(b) to have any appropriate inspection or test, as the municipality may deem necessary, conducted on the vehicle on the roadside where it was stopped or on a place, date and time determined by the municipality in writing.

(3) The authorised person must, prior to any testing being undertaken in terms of subsection (2) (b) inform the driver of the vehicle that:

(a) the vehicle has been stopped to test it in terms of this bylaw for noise nuisance;

(b) the vehicle is being detained for the purpose of such testing;

(c) If the results of such testing indicates noise nuisance from the vehicle or if the driver concerned fails or refuses to assist with such test, it will constitute an offence under this bylaw; and

(d) A person who fails to comply with a driven given under subsection (2)(a) commits an offence.

4. An inspection done in terms of (2)(b) shall be carried out:

(a) at or as near as practicable to the place where the direction to stop the vehicle is given; and

(b) within 1 hour of the vehicle being stopped in accordance with the direction of the authorised person.

5. If, after conducting a sound level test, the authorised is satisfied that the vehicle:

(a) is not exceeding the permitted sound levels prescribed in subsection (1), then the authorised person must furnish the driver of the vehicle with a certificate (valid for a period of 24 months) indicating that the levels is not being driven or used in contravention of subsection (1); or

(b) is exceeding the permitted sound levels prescribed in subsection (1), the authorised must issue the driver of the vehicle with a repair notice in accordance with subsection (6).

6. A repair notice must:

(a) 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; and

(b) contain, amongst others, the following information:

(i) the make, model and registration number of the vehicle;

(ii) the name, address and identity number of the driver of the vehicle; and

(iii) if the driver is not the owner, the name and address of the vehicle owner.

7. A person commits an offence under this section if the person fails:

(a) to comply with the repair notice referred to in subsection (6)(a)

(b) to take the vehicle for re-testing as referred to in subsection (6) (a).

8. It shall not be a defence in proceedings under subsection (7) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

9. The authorised person must issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 (Act NO. 51 of 1977), as amended, where the owner of the vehicle fails:

(a) to comply with a repair notice issued in terms of subsection (5)(b); or

(b) to take the vehicle for retesting as required by subsection (6)(a)

16. Construction at night.

(1) Except for the purposes specified in subsection (2) hereunder, no person shall

operate construction equipment (including but not limited to any pile driver, steam shovel, pneumatic hammer, derrick or steam or electric hoist) or perform any outside construction or repair work so as to emit noise in excess of the permissible levels as set out in the Second Schedule to this bylaw.

(2). This bylaw shall not be deemed to prohibit-

(a) any work of an emergency nature;

(b) work of a domestic nature on buildings, structures or projects being undertaken by a person residing in such premises; or

(c) public utility construction, or, with respect to construction of public works, projects exclusively relating to roads, bridges, airports, public schools and sidewalks:

Provided that, if any domestic power tool, including but not limited to mechanically powered saws, sanders, grinders and lawn and garden tools used outdoors, is operated during the night-time hours, no person shall operate such machinery so as to cause noise within a residential building or across a residential real property boundary where such noise interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at 30 meters or more from the source of the sound.

17. Noise, excessive vibrations from construction, demolition, mining or quarrying sites.

Where defined work of construction, demolition, mining or quarrying is to be carried out in an area, the Authority may impose requirements on how the work is to be carried out including but not limited to requirements regarding –

(a) machinery that may be used, and

(b) the permitted levels of noise as stipulated in the Second and Third Schedules to this bylaw.

(2) The relevant Authority shall ensure that mines and quarries where explosives and machinery used are located in designated areas and not less than two kilometres away from human settlements.

(3) Any person carrying out construction, demolition, mining or quarrying work shall ensure that the vibration levels do not exceed 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source.

(4) Any person who contravenes sub-regulations (1) and (3) of this bylaw commits an offence.

18. Land Use

A person shall not:

Establish any zone unless a Noise Impact Assessment has been undertaken in accordance with SANS 10328. The assessment must indicate that either the outdoor equivalent continuous day/night rating level (LR,dn), the outdoor equivalent continuous day time rating level (LR,d), or the outdoor continuous equivalent night time rating level (LR,n) appropriate for the particular district will not be exceeded at any position within the boundaries of the proposed zone;

Construct or erect any building or make changes to existing facilities on a premises which will house an activity which does not conform with the dominant land use specified in the applicable zoning scheme;

Construct or erect any building or make changes to existing facilities on premises which will house an activity which produces more noise with respect to that of the dominant land use specified in the applicable zoning scheme or will create a disturbing noise unless it has been proven that precautionary measures will be implemented. Such measures must be to the satisfaction of the municipality in that the premises, after being erected or developed or changes made, will be adequately insulated against the transmission of sound to the outside, so that either the outdoor equivalent day/night rating level (LR,dn), the outdoor equivalent continuous daytime rating level (LR,d), and/or the outdoor equivalent continuous night-time rating level (LR,n), will not exceed the appropriate rating level for outdoor noise specified in SANS 10103 at any position on the property projection plane of the premises; or

Undertake any activity which a noise source referred to in SANS 10328 and any of the listed activities requiring an EIA in terms of the NEMA Regulations, which are considered to have a potential noise impact unless a Noise Impact Assessment has been undertaken in accordance with SANS10328.

The Municipality may:

Before changes are made to the existing facilities or existing uses of land or buildings or before new buildings are erected, in writing require that Noise Impact Assessments or tests be conducted to the satisfaction of the municipality by the owner, developer, tenant, or occupant of the facilities, land or buildings concerned. Such reports or certificates must be submitted by such owner, developer, tenant or occupier to the municipality. The report should prove that either the outdoor equivalent continuous day/night rating level (LR,dn), the outdoor equivalent continuous day-time rating level (LR,d), and the outdoor continuous night time rating level (LR,n), at any position on or outside the property projection plane of the existing facility, use of land or building will not exceed values for the appropriate level given in SANS 10103. The Noise Impact Assessment, if required shall be conducted in accordance with SANS 10328 or other applicable documentation and tests, if required, shall be conducted in accordance with SANS 10103 or other applicable documentation;

If excavation, earthmoving, pumping, drilling, construction, or demolition, or any similar activity, power generation or music causes or may cause a noise nuisance or disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with,

PROVISIONS RELATING TO LICENSING PROCEDURES FOR CERTAIN ACTIVITIES

20. Licencing.

(1). Where a sound source is planned, installed or intended to be installed or modified by any person in such a manner that such source shall create or is likely to emit noise or excessive vibrations, or otherwise fail to comply with the provisions of this bylaw, such person shall apply for a licence to the Authority.

(2). No person shall use any sound-amplifying equipment in such a way that such equipment is or is likely to be heard outside of any building between 9:00 p.m. of any day and 7:30 a.m. of the next day, without a valid license.

(3). Where any person uses or plans to use a public-address system which is likely to emit sound outside of a building, such person shall secure a license under this bylaw.

(4). An application for the license shall provide the following information-

(a) the reasons for such usage, including a demonstration as to why it is desirable or necessary that the sound source involved be authorized by a licence pursuant to this bylaw;

(b) plans and specifications of the use;

(c) noise-abatement and control methods to be used with respect to the sound source involved;

(d) the period of time during which the license shall apply.

(e) the name of the person(s) who is responsible for ensuring that the activity complies with any license issued for it pursuant to this bylaw; and

(f) evidence that notification of the application for the license has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given, if the event is not a community-wide or public event.

Provided that the notification shall state that any person objecting to the granting of such a license may contact the appropriate office to whom the application is being made to express his/her opposition to the granting of the license.

(5) Any licence granted shall state that the licence only applies to this bylaw.

20. General Powers of the Municipality

An authorised person may-

for the purposes of applying this section, at any reasonable notice to conduct any appropriate examination, inquiry or inspection thereon as it may deem expedient and to take any steps it may deem necessary;

if a noise emanating from a premises, vehicle, recreational vehicle or private area is a noise nuisance or disturbing noise, instruct in writing:

the person causing such noise who is responsible for the infringement

the owner, tenant or occupant of such building, premises, vehicle, recreational vehicle or private area from which or from where such noise emanates or may emanates; or

all such persons,

to discontinue or cause to be discontinued such noise or to take steps to or apply appropriate remedies to lower the level of such noise to a level conforming to the requirements of this bylaw within the period stipulated in the instruction; provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or air traffic or on a public road by vehicles that are not used as recreational vehicles;

If noise is caused by an animal, and the owner or person in charge of that animal fails to comply with an instruction referred to in subsection (16)(b), subject to the applicable provisions of any other law, impound or cause to be impounded such animal;

Impose such appropriate conditions as it deems fit when granting any permission or exemption, including the specification of times and days when activities that may cause noise are permitted or prohibited;

Subject to the applicable provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within the municipality's jurisdiction for the enforcement of the provisions of this by law: Provided that road traffic signs and notices shall be placed on private property only with the permission of the owner

21. Application to be made to the Municipality.

(1). An application for a license shall be made to the municipality in the form prescribed in the Fourth Schedule to this bylaw and shall be accompanied by the prescribed fee.

(2) When determining if a licence should be issued, the factors the municipality shall consider shall include but shall not be limited to -

(a) the level of the noise or excessive vibrations;

(b) the proximity of the noise or excessive vibrations to accommodation or residential facilities;

(c) the time of the day or night the noise or excessive vibrations occur; (d) the time duration of the noise or excessive vibrations;

(e) the impact of the noise on persons living or working in different places or premises who are affected by the noise or excessive vibrations;

(3) The Municipality shall process the application for a licence within two (2) days from the date of receipt of the application, failure to which the applicant shall be free to proceed with the activity in respect of which the application is made.

(4) A license shall contain requirements relating to the manner in which the activities are to be carried out and may, in particular specify: -

(a) the equipment or material to be used;

(b) the hours during which the activities may be carried out;

(c) the level of noise or vibrations which may be emitted in excess of the permissible levels;

(d) the activities and the method by which they are to be carried out; and

(e) the steps proposed to be taken to minimize noise or excessive vibrations resulting from the activities.

(5) The Municipality shall issue a license in the form prescribed in the Fifth Schedule to this bylaw

(6) A license issued under this bylaw shall be valid for a period not exceeding seven (7) days.

22. Permits for fireworks, demolition, firing ranges and specific heavy duty industry.

(1). No person shall carry out activities relating to fireworks, demolitions, firing ranges or specific heavy industry without a valid permit issued by the Municipality.

(2) An application for a permit shall be made to the municipality in the form prescribed in the Sixth Schedule to this bylaw and shall be accompanied by the prescribed fee.

(3) The Municipality may, on receiving an application, issue the applicant with a permit to carry out fireworks, demolitions, firing ranges and specific heavy industrial work, in the form set out in the Seventh Schedule to this bylaw, on such terms and conditions as may be contained in the permit.

(4) A permit to carry out activities such as fireworks, demolitions, firing ranges and specific heavy industry shall be valid for a period not exceeding three months.

(5) Any person who contravenes the provisions of this bylaw commits an offence.

CHAPTER 5

OFFENCES AND PENALTIES

24. Offences

(1) A person is guilty of an offence if that person:

(a) Contravenes a provision of sections that are listed in a table below

DRAFT NOISE POLLUTION BY LAW

SCHEDULE OF OFFENCES AND CRIMES

Number	Section contravened	Description of offence	Proposed Fine	Approved Fine
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8(1)		Making/producing/causing a disturbing noise or allowing it to be caused	R2 500	
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8 (2)		Operating/playing or allowing to be operated/played a device producing, reproducing or amplifying sound so as to cause a noise nuisance	R2500	
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13(1)(a)		Offering any article for sale or allowing it to be done in any manner which causes a noise nuisance	R1000	
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8(2)(b)		Allowing an animal they own or control to cause a noise nuisance	R1000	
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8(2)(c)		Building/making/constructing/repairing/rebuilding/modifying/operating/testing a vehicle, vessel, aircraft or object on or near residential premises, or allowing such actions if it cause a noise nuisance	R1500	
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8(2)(e)		Using or discharging an explosive, firearm or similar device that may cause a noise nuisance, or allowing such actions without prior consent in writing of the municipality	R1500	
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8(2)(f)		Moving about on or in a recreational vehicle on a piece of land, in water or I airspace above that piece of land or exercising control over a recreational vehicle or allowing such activity to take place if this causes a noise nuisance	R15 00	
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8(2)(g)		Emitting a sound, or allowing a sound to be emitted, by a device when it not an emergency, if it cause a noise nuisance	R1000	
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8(2)(i) Using a power tool or power equipment for construction work, drilling work or demolition work, or allowing it to be used in or near a residential area during specified hours if it causes a noise nuisance/disturbance R2500

11(a) Staging an open-air music festival or similar gathering without prior written consent of the municipality R3000

18(1)(c) Making changes to existing facilities or existing use of land/buildings or erecting new buildings where amplified sound is used, if these will house or cause activities that will cause a disturbing noise, unless precautionary measures are taken R2500

8(3) (i) Failing or refusing to grant admission to municipal employee to enter and to inspect premises R2000

8(3)(ii) Failing or refusing to give information which may lawfully be required of him or her to employee R2000

8 (3)(iii) Hindering or obstructing employee in the execution of his or her duties R2000

8(3)(iv) Giving false or misleading information to such employee knowing that it is false or misleading R2000

SCHEDULE 1

MAXIMUM PERMISSIBLE NOISE LEVELS

Zone

Sound Level Limits dB(A)

(Leq,14 h) Noise Rating Level (NR)

(Leq,14 h)

Day

Night

Day

Night

A.

Silent Zone

40

35

30

25

B

Places of worship

40

35

30

25

C.

Residential: Indoor Outdoor

D.

Mixed residential (with some commercial and places of entertainment) 55

35

50

25

E.

Commercial

60

35

55

25

Time Frame

Day: 6.01 a.m. – Night: 8.01 p.m. – 6.00 a.m. (Leq, 10h)

SCHEDULE 2

MAXIMUM PERMISSIBLE NOISE LEVELS FOR CONSTRUCTIONS SITES

(Measurement taken within the facility)

Facility

Maximum Noise Level Permitted (Leq) in dB(A)

Day

Night

(i)

Health facilities, educational institutions, homes for disabled etc. 60

35

(ii)

Residential

60

35

(iii)

Areas other than those

prescribed in (i) and (ii) 75

65

Time Frame:

Day: 6.01 a.m. – 6.00 p.m. Night: 6.01 p.m. – 6.00 a.m. (Leq, 14 h)

SCHEDULE 3

MAXIMUM PERMISSIBLE NOISE LEVELS FOR MINES AND QUARRIES.

(Measurement taken within the facility)

Facility

Limit Value in dB (C) Max

1.

For any building used as a health facility, educational institutions, convalescent home, old age home or residential building 109 dB (C)

2.

For any building in an areas used for residential and one or more of the following purposes: commerce, small-scale production, entertainment, or any residential apartment in an area that is used for purposes of industry, commerce or small-scale production, or any building used for the purpose of industry, commerce or small-scale production. 114 dB (C)

SCHEDULE 4

APPLICATION FOR A LICENSE TO EMIT NOISE/ VIBRATIONS IN EXCESS OF PERMISSIBLE LEVELS

1. Name of Applicant:.....Address:.....

ID No. / Passport No.....

Tel.:.....Mobile:.....

Fax.....E-mail:

2. Physical Address of Premises or facility where Noise/Excessive vibrations will be produced:(Sub-location, Location, Division, District, Street, House Number)

3. Source of noise.....
Activity/Purpose.....Predicted levels:.....

4. Describe the neighborhood within a radius of 2 kms (describe whether industrial, residential, commercial and whether it is near a school, hospital or residential area):
.....
.....
.....
 5. State the measures intended to be used in controlling the noise/excessive vibrations (may attach separate sheet):
.....
.....
 6. Intended time of noise/ excessive vibrations emission (indicate time of day):
.....
.....
- Date: Signature of Applicant:

FOR OFFICIAL USE ONLY

Date received..... Fees paid
..... Approved/Not Approved.....
Comments.....
.....
.....

Officer Sign Date

Countersigned Date

SCHEDULE 5

LICENSE TO EMIT NOISE/ VIBRATIONS IN EXCESS OF PERMISSIBLE LEVELS.

License No..... NEMA/LNC/(NAME).....
of

(Address)

Is hereby licensed to cause emission or emit noise/excessive vibrations in excess of the permissible noise levels at.....

(Location, Street, District)

Activity:.....This License is valid from:/...../20..... to

...../...../20..... from the hours of to..... of each day.

This License is granted subject to the following conditions: -

1.

2.

3.

Date:Signature:

(SEAL)

SCHEDULE 6

APPLICATION FOR A PERMIT TO CARRY OUT ACTIVITIES.

FIREWORKS DEMOLITIONS FIRING RANGES.

SPECIFIC HEAVY INDUSTRIES OTHER (SPECIFY)

1. Name of Applicant:.....
.....

Address :.....ID No. / Passport No.....

Tel:Mobile:

Fax.....E-mail.....

Personal Identification No. (PIN)

2. Physical Address of Premises or facility where Noise will be produced:
.....
.....

(Sub-location, Location, Division, District, Street, House Number)

3. Source of noise..... Activity/ Purpose
..... Predicted
levels.....

4. Describe the neighbourhood within a radius of 2 kms. (describe whether industrial, residential, commercial and whether it is near a school, hospital or residential area):
.....
.....
.....

5. State the measures intended to be used in controlling the noise (may attach separate sheet):
.....
.....

6. Intended time of noise emission (indicate time of day):
.....
.....

Date: Signature of Applicant:

FOR OFFICIAL USE ONLY

Date received..... Fees paid..... Approved/Not
Approved.....

Comments.....
.....
.....
.....

Officer Sign Date

Countersigned..... Date

SEVENTH SCHEDULE

PERMIT TO EMIT NOISE IN EXCESS FOR THE FOLLOWING ACTIVITIES

FIREWORKS DEMOLITIONS FIRING RANGES

SPECIFIC HEAVY INDUSTRIES OTHER (SPECIFY).....

Permit No..... NEMA/PNC/ (NAME).....

of (Address)

Is hereby permitted to cause emission or emit noise in excess of the permissible noise levels at.....

(Location, Street, District)

Activity: Fireworks/ Demolition/ Firing range/ Heavy industry*(specify) This Permit is valid from:/...../20..... to

...../...../20.....from the hours of to

..... of each day.

This Permit is granted subject to the following conditions: -

1. This Permit shall be for the period provided in the validity clause above.

2.....

.....

3.....

.....

Signature: Date.....

CHAPTER 6

PART 6: GENERAL MATTERS

25. Compliance Monitoring

For the purposes of compliance monitoring, the authorised employees of the municipality (designated municipal management inspectors, in collaboration with law enforcers from the directorate: Public Safety) must exercise the powers on this bylaw.

26. Enforcement

(1) The authorised person/s shall take all lawful, necessary and reasonable practicable to enforce the provisions of this bylaw.

27. Appeal

Any person may appeal against any decision taken under this bylaw by giving written notice of the appeal, in which the reasons for the appeal are stated, to the Municipal Manager within thirty days (30) of the date on which that person receives notification of the decision.

28. Exemptions

(1) Any person may, in writing, apply for exemption from the provisions of this by law to the Council.

(2) An application in terms of subsection (1) above must be accompanied reasons.

(3) The Council may grant a temporary exemption in writing from one or all of the provisions of this bylaw, provided that the Council:

(a) is satisfied that granting the exemption will not prejudice the objectives referred to in section 4; and

(b) grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 4.

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

(a) taken measures 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 (including surrounding communities), 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

Duly considered and taken into account any objections raised.

(5) The Council may:

(a) from time to time review any exemptions granted in terms of this section; and

(b) on good grounds withdraw any exemption.

CHAPTER 7

MISCELLANEOUS

29. Severability

If a section, subsection, sentence, clause or phrase of this by law is declared invalid by a competent court, the valid portion shall be severed and shall not affect the validity of the remaining portions of this bylaw.

30. Jurisdiction

Notwithstanding anything to the contrary contained in any by law relating to the magistrates court, a magistrate shall have jurisdiction, on application of the Council to make an order for the enforcement of any of the provisions of these by laws or of any approval, refusal or condition granted in terms hereof.

31. Short Title

This bylaw shall be called the Rustenburg Local Municipality noise Pollution control bylaw

32. Commencement date

This by law shall come into operation on the date of publication in the Provincial Gazette

