

ETHEKWINI MUNICIPALITY: MUNICIPAL PUBLIC HEALTH BY-LAW, 2022



Adopted by Council on: 28 February 2023

MUNICIPAL PUBLIC HEALTH BY-LAW

To provide measures for managing, controlling, minimising or eliminating municipal health nuisances; to prohibit certain activities or conduct in order to promote a healthy and safe environment; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality has competence in terms of Part B of Schedule 4 of the Constitution relating to matters such as air pollution and municipal health services, and has the competence in terms of Part B of Schedule 5 of the Constitution in respect of the control of public nuisances;

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of Section 24(a) of the Constitution;

WHEREAS the Municipality has as one of its objects in terms of Section 152(1)(d) of the Constitution, the promotion of a safe and healthy environment;

AND WHEREAS there is need to develop legislation to deal with the prevention or minimisation of municipal health nuisances within the area of jurisdiction of the Municipality;

NOW THEREFORE the Municipal Council of the eThekweni Municipality, acting in terms of Section 156 read with Schedule 4 (Part B) and Schedule 5 (Part B) of the Constitution of the Republic of South Africa, and read with Section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1 INTERPRETATIONS

Definitions

1. In this By-law unless the context otherwise indicates –

"accommodation establishment" means any premises in or upon which the business or calling of providing lodging, accommodation or shelter with or without meals and whether or not for reward, is conducted, but excluding –

- (a) a residence;
- (b) a home for the aged which is registered as such in terms of the Older Persons Act;
- (c) premises controlled by the Department of Correctional Services or the South African Police Services for the purposes of accommodating persons arrested, detained or convicted, as the case may be, as contemplated in the Criminal Procedure Act; or
- (d) any hotel which is registered as a hotel under the Hotels Act;

"animal" means horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile, dog, cat or other domestic animal, indigenous animal, wild animal, exotic animal, poultry and birds, but excludes marine fauna;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to–

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"barber, hairdresser or beautician " means a person who carries on the business of providing any one or more of the following or similar services:

- (a) in respect of the human hair –
- (i) cutting;
 - (ii) shaving;
 - (iii) singeing;
 - (iv) shaping;
 - (v) shampooing;
 - (vi) cleansing;
 - (vii) conditioning;
 - (viii) treating;
 - (ix) chemical reformation including, but not limited to, permanent waving;
 - (x) relaxing;
 - (xi) straightening; or
 - (xii) colouring including, but not limited to –
 - (aa) tinting;
 - (bb) dyeing; and
 - (cc) colouring,whether by permanent, temporary or semi-permanent means, and including the use of colour rinses, shampoos, gels or mousses, and lightening by means of tints, bleaches, highlights or high lifting tints or toners;
- (b) other than by a process contemplated in paragraph (a), removing hair by means of, but not limited to, waxing, chemical compounds (such as, but not limited to, depilatories), electrical or mechanical means, whether or not heat or an appliance or apparatus is used in any of these activities;
- (c) treating hair by means of a trichological process or method;
- (d) adding to hair of natural or artificial hair by means of, but not limited to an extension, board work or a wig;
- (e) shaping, shaving, plucking, treating or tinting eyebrows or eyelashes or applying artificial eyebrows or eyelashes;
- (f) skin care of the face, including, but not limited to, the application of cosmetics;

(g) applying nail care, such as, but not limited to, manicuring, pedicuring, or applying false nails or extensions;

(h) massaging;

(i) bronzing such as by means of, but not limited to, ultraviolet radiation; or

(j) contouring, such as but not limited to, slimming;

"body piercer" means any person who is in the practice of piercing, perforating or cutting a part of the human body for the purposes of creating an opening in which jewellery or other ornamentation may be worn or inserted;

"communicable disease" means a disease resulting from an infection due to pathogenic agents or toxins generated following the direct or indirect transmission of the agents from the source to the host;

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"dwelling" means any habitable house, room, shed, shelter, boat, structure or any part of which is used or appears intended for use by any human being for sleeping or in which a human being dwells or sleeps and "room" has a corresponding meaning;

"environment" means the surroundings within which humans exist 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 paragraphs (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;

"habitable" in relation to dwelling means a dwelling that is suited for human occupation;

"health compliance certificate" means a certificate issued by the relevant municipal department in relation to an activity carried out in terms of this By-law;

"holder" means the person in whose name any permit, certificate or authorisation has been issued in terms of this By-law;

"Municipal Council" or **"Council"** means the eThekweni Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"municipal health nuisance" means a municipal health nuisance as contemplated in subsection 5(1) of this By-law, and **"health nuisance"** has a corresponding meaning;

"Municipal Manager" means a person appointed in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as the head of administration of the Municipal Council;

"Municipality" means the eThekweni Municipality, a category A Municipality as contemplated in section 155(1) of the Constitution;

"National Building Regulations and Standards Act" means the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977);

"Occupational Health and Safety Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"occupier" means any person who occupies any premises or part thereof, regardless of the title under which he or she occupies, and includes –

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; or
- (e) the owner of the premises;

"Older Persons Act" meant the Older Persons Act, 2006 (Act No. 13 of 2006);

"Overcrowding" means –

- (a) a residential occupancy in excess of 12 occupants per sanitary convenience;
- or

(b) occupancy of habitable rooms (being all rooms in a dwelling excluding kitchens, bathrooms and sanitary conveniences) where such occupation exceeds one adult person per 4m² or one child under 10 years of age per 2m²;

"Owner", in respect of the premises, means the—

- (a) person in whose name the premises are registered with the Registry of Deeds;
- (b) purchaser of the premises, whether or not the premises have been registered in the purchaser's name;
- (c) person in control of the premises;
- (d) usufructuary, if the premises are subject to a usufruct;
- (e) occupier, tenant or user of the premises;
- (f) authorised agent, assignee, curator, executor, judicial manager, legal representative, liquidator or trustee, as the case may be, of any person contemplated in paragraphs (a) to (e); or
- (g) person who receives or who is entitled to receive the benefit of the premises, if the Municipality is unable to establish the identity of any of the persons contemplated in paragraphs (a) to (f);

"person" includes any natural person, sphere of government and juristic person;

"premises" means any building, tent or any other structure, together with the land on which such building, tent or other structure is situated, and the adjoining land used in connection therewith and any land without building, tent or any other structure; and includes any motor vehicle, conveyance, ship or boat, whether stationary or not, but only to the extent that anything contemplated or prohibited in this By-law is housed, harboured or carried on in or on such motor vehicle, conveyance, ship or boat;

"public place" means—

- (a) a public road;
- (b) any parking area, square, park, recreation ground, sports ground, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has —
 - (i) in connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
 - (ii) at any time been dedicated to the public;

(iii) been used without interruption by the public for a period of at least thirty years expiring after 31 December 1959; or

(iv) at any time been declared or rendered as such by the Municipality or other competent authority; or

(c) a public transportation motor-vehicle,

but will not include public land that has been leased or otherwise alienated by the Municipality;

"public road" means any road, street or thoroughfare or any other place commonly used by the public or to which the public has a right of access for the purposes of vehicular traffic, and includes –

- (a) the kerb line, roadway, road reserve, shoulder or verge, of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (c) any portion of any such road, street or thoroughfare reserved, prepared or commonly used for pedestrian traffic; and
- (d) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"residence" means premises on which any natural person dwells or is entitled to dwell more than on a one-off basis at any given time, whether or not such person has one or more such premises or shares the premises with another person or persons, which are occupied or available to be occupied, as a dwelling or mainly for dwelling purposes, but excluding an accommodation establishment;

"South African Police Service Act" means the South African Police Services Act, 1995 (Act No. 68 of 1995);

"tattooist" means any person, including a beautician, who practices the act of puncturing or permanently marking the skin by inserting pigments or indelible ink;

"this By-law" means eThekweni Municipality: Municipal Public Health By-law, 2022; and

"water resource" means a river, spring, or natural channel in which water flows regularly or intermittently, a wetland, lake or dam into which or from which water flows, surface water, an estuary or aquifer and includes any borehole, structure, earthwork or

equipment installed or used for or in connection with storage, distribution, provision or use of water.

Interpretation

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 OBJECTS OF BY-LAW

Objects of By-law

3. The objects of this By-law are to—
 - (a) provide legal and administrative measures necessary for the Municipality to discharge its municipal health obligations in terms of Section 152 (d) of the Constitution;
 - (b) regulate certain activities, conduct, processes, or trades which, owing to their nature are likely to pose a risk to the health and safety of any person or persons within the area of jurisdiction of the Municipality; and
 - (c) provide measures for managing, controlling and minimising municipal health nuisances within the area of jurisdiction of the Municipality.

CHAPTER 3 APPLICATION

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the eThekweni Municipality.

CHAPTER 4
MUNICIPAL HEALTH NUISANCES

Municipal health nuisances

5.(1) A municipal health nuisance exists if any activity, condition, situation, premises or thing which, on account of effluent, vapour, smoke, chemical effluvium, odour, noise, vibration, radiation, refuse, waste product, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper general hygiene, ventilation, lighting, design, or on account of any other cause or practise whatsoever, is likely to endanger life or health or adversely affect the well-being or reasonable comfort of a person or community, and includes, but is not limited to—

- (a) accumulation of waste in such a manner or in such quantity that it may cause injury or danger to health;
- (b) discharging of wastewater unlawfully onto any land, water resource including the sea through a pipe, canal, sewer or other conduit or by any other means;
- (c) using, keeping or disposing organic matter or animal waste in a manner that attracts vermin or pests such as, but not limited to, rats, mice, flies and mosquitoes;
- (d) keeping a water pool, ditch, gutter, dung pit or heap such that it is so foul or so situated or constructed that it may cause injury or danger to health;
- (e) causing a building, structure or enclosure to be so constructed, situated, used or kept such that it may cause injury or danger to health;
- (f) causing or permitting a building, structure or enclosure to be infested with pests or conditions that are conducive and contribute to the spread of a contagious and communicable disease;
- (g) allowing unhygienic conditions to exist to the extent that it may cause injury or danger to health;
- (h) occupying or cause to be occupied a dwelling or any other premises without making provision for toilet facilities and proper and sufficient supply of water;
- (i) keeping a carcass or the remains of an animal unburied or failure to have it suitably disposed of for more than 24 hours after its death;
- (j) causing or allowing dust generated on a premises to cause a health nuisance;
- (k) failing to make provision for sufficient ventilation so as to destroy or render harmless as far as practicable any gases, vapours, dust, fumes or other impurities generated which may cause injury or danger to health;
- (l) causing or allowing overcrowding;

- (m) poor or insufficient lighting to such a degree that it may cause injury or danger to health;
- (n) causing or allowing effluvia to be discharged or emitted such that they may cause injury or danger to health;
- (o) accumulating or storing building rubble, disused building materials, wood products , derelict or disused motor vehicles, scrap metal including recyclable materials;
- (p) causing or allowing dampness in any foundation, wall or floor;
- (q) causing or allowing leaks in the roof of the building;
- (r) causing or allowing structural defects in the foundations, walls, floors or roofs of the building;
- (s) causing or allowing structural defects in the ditch, gutter, yard or drain for carrying off surface or other wastewater from such premises;
- (t) failing to provide a sufficient supply of wholesome water; or
- (u) carrying on or conducting any trade, calling or manufacture in such a way or manner as to be a municipal nuisance or likely to be injurious to public health.

(2) No person may cause a municipal health nuisance.

(3) The occupier of a premises who installs, maintains and operates an air-conditioning appliance must ensure that such appliance is so installed, maintained and operated so as to preclude –

- (a) the generation of noise, smell or vibration which constitutes a nuisance to any occupier of such premises or neighbours within its vicinity; and
- (b) the discharge or generation of condensation onto a street or public place.

(4) No person may–

- (a) organise or allow an activity, event, practise or function on premises, which causes or is likely to cause a municipal health nuisance; or
- (b) use, cause or allow premises to be used for any purpose whatsoever which by its nature or otherwise or by reason of its consequences creates or is likely to create a municipal health nuisance.

(5) No person may in a public place activate, introduce, handle or use any matter, material, substance, object or thing which by its nature or by reason of the manner of its introduction or handling creates or is likely to create a municipal health nuisance.

(6) No person may in a public place carry or convey any material, substance, object or thing of whatever form or nature, which is or may become dangerous or injurious to health, unless it is covered with a suitable material to prevent the creation of any municipal health nuisance.

(7) The provisions of subsections (3) to (6) do not apply if any activity, conduct, event, practise, condition or situation as contemplated in those subsections, is authorised or permitted by law—

- (a) to the extent so authorised or permitted; and
- (b) subject to any conditions imposed thereby.

(8) The owner or occupier of a premises must ensure that a municipal health nuisance does not exist or occur on his or her premises and must, within 24 hours of becoming aware of the existence of a municipal health nuisance on the land or premises—

- (a) take measures to eliminate the municipal health nuisance; or
- (b) if he or she is unable to eliminate the municipal health nuisance, take steps to the satisfaction of the Municipality to reduce the risk to municipal health, and report the existence of the municipal health nuisance to the Municipality.

(9) Notwithstanding anything in this By-law, the owner of premises is deemed to have created a situation or condition which causes or has caused a municipal health nuisance in or on his or her premises until or unless the contrary is proved.

(10) The owner or occupier of a premises must ensure that every well, hole, pit, reservoir, pond, quarry or excavation thereon is not filled in a way, or with any material, that may cause any other well, borehole or underground water source to be polluted or contaminated to an extent that may create a municipal health nuisance.

(11) The owner or occupier of a premises must cause all waste to be placed in waste receptacles provided by such owner or by the responsible authority and to be disposed of in a manner contemplated in terms of the municipal by-law dealing with waste removal and any other applicable law.

(12) Notwithstanding the provisions of subsection (7), the Municipality may, in order to avert or remove any significant municipal health nuisance, perform any necessary act and recover costs from the owner or occupier of the premises concerned.

Cleanliness

6.(1) The owner or occupier of premises must at all times maintain such premises in a clean and hygienic condition.

(2) Whenever any premises are unoccupied or occupied by vagrants, squatters or other unauthorised persons, the owner of such premises must at all times maintain all parts thereof in a clean and tidy condition.

(3) The owner of a premises must—

(a) maintain all buildings, yard, hardened areas and storm water drains in good order and condition;

(b) maintain all sanitary fitments, waste pipes, soil pipes, drains, drainage connections and other drainage fittings and pipes, together with the necessary accessories, in good order and condition;

(c) provide suitable and effective means of drainage and disposal of all waste liquids and storm water;

(d) ensure that every room or other structure or accommodation used for human habitation or occupation is adequately lighted and ventilated in accordance with the requirements of the National Building Regulations and Standards Act; and

(e) clean any exterior part of the premises when so required by the Municipality.

(4) The owner or occupier of premises must, on being served with a notice signed by an authorised official, carry out such measures as may be specified therein for the cleaning or tidying of the premises within the time specified in the notice.

(5) If the owner or occupier refuses to carry out the measures specified in a notice under this By-law or fails to do so within the time specified, the Municipality may act in terms of subsection 5(12) in order to avert or remove any significant municipal health nuisance and thereafter recover costs.

Floors, ventilation, lighting and overcrowding

7.(1) No person may occupy a premises unless such premises—

(a) has windows which are equal to one tenth of the floor space; and

(b) is constructed in a manner that at least one half of every window can be opened at all times into the external air.

(2) No person shall occupy any dwelling of which the height of every living or sleeping room is less than 2.4m from the floor to the lowest part of the ceiling or roof.

(3) No person who is the owner or occupier of any dwelling or habitable room shall permit such dwelling or room to be so overcrowded as to constitute a nuisance or is injurious to health.

(4) Any dwelling or habitable room which does not provide a minimum of 4m² per adult occupant and 1m² per child under 10 years of age, simultaneously occupying such dwelling or room shall be deemed to be overcrowded.

Mosquitoes, flies, rats and other vermin

8.(1) The owner or occupier of premises must prevent mosquitoes, flies, rats or other vermin from developing or being harboured thereon.

(2) The owner or occupier of premises must, on being served with a notice by the Municipality, carry out such measures as may be specified therein for the removal of conditions favourable to the prevalence or multiplication of mosquitoes, flies, rodents or other vermin, or their harbouring thereon, within the time specified in the notice.

(3) The owner or occupier of a premises must, on being served with a notice by the Municipality, carry out such measures as may be specified therein for the extermination of infestation of mosquitoes, flies, rodents or other vermin, within the time specified in the notice and the owner or occupier of premises must maintain documentary evidence of such extermination measures for a period of 6 months from the date of which the notice was served.

Weeds, undergrowth and repulsive vegetation

9.(1) The owner of any vacant premises and the owner or occupier of any occupied premises must destroy or cut down and remove therefrom all grass or weeds and the undergrowth of bush growing on such land or premises if the overgrowth is causing or is deemed likely to cause a public health nuisance.

(2) The Municipality may serve a notice on the owner or occupier of premises requiring him or her to comply with the provisions of subsection 1.

(3) If a person refuses or fails to carry out any measures necessary to avert or remove a municipal nuisance caused or likely to be caused by non-compliance with subsection (1), the Municipality may act in terms of section 5(12) in order to avert or remove any significant municipal health nuisance and thereafter recover costs.

Sanitation

10.(1) An owner of a premises must provide suitable water closets, sufficient in number as determined by National Building Regulations and Buildings Standards Act, for persons making use of the premises.

(2) The owner or occupier of a premises must at all times keep all water closets on his or her premises in a clean and sanitary condition.

(3) During the erection or alteration of any building, the employer must provide temporary adequate water closets for the use of his or her employees. The temporary water closet must be removed immediately upon the completion of the said building.

(4) No person shall occupy or let any dwelling which does not have a constant supply of water in compliance with the Municipality's by-law relating to water supply.

CHAPTER 5 PUBLIC SWIMMING FACILITY

Requirements for premises

11.(1) The person in control of a public swimming facility must at all times—

- (a) keep the premises concerned in a safe, clean and sanitary condition; and
- (b) ensure that the water is purified, treated and maintained in accordance with the requirements and standards mentioned in this By-law.

(2) No person may operate a public swimming facility in or on any premises unless—

- (a) there are readily accessible change rooms, showers toilet facilities and wash hand basins provided separately for each sex in compliance with the National Building Regulations and Building Standards Act;

- (b) such facility is surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act;
- (c) the surface of the floor area surrounding such facility is constructed of an impervious, non-slip material;
- (d) an approved chemical gas mask is provided at the chlorinator installation;
- (e) an oxygen or air breathing apparatus is provided; and
- (f) an adequate number of refuse receptacles are provided on the premises.

Duties of operator of public swimming facility

12.(1) Every operator of a public swimming facility must—

- (a) keep the premises concerned in a safe, clean and sanitary condition and in good repair at all times;
- (b) provide a properly maintained and approved first-aid box or kit in a prominent, easily accessible and protected position;
- (c) purify, treat and maintain the water to an adequate quality level at all times;
- (d) provide and maintain, in good working order, equipment for testing the quality of water;
- (e) undertake routine tests on the water quality in the facility; and
- (f) maintain a daily record of the water quality.

(2) The operator of a public swimming facility must ensure that the water in such facility complies with the following requirements:

- (a) the water must be free from floating, suspended or settled debris or swimming organisms;
- (b) the walls, floor, access ladders or steps and gutters must be free from slime and algae;
- (c) the pH value of the water must be not less than 7 and not greater than 8;
- (d) where chlorine-based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;
- (e) if a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of paragraph (d);
- (f) the total viable bacteriological count of any sample submitted for analyses, must not exceed 100 organisms per ml of water; and
- (g) escherichia coli type 1 bacteria must not be present in any 100 ml of water.

(3) Every operator of a public swimming facility must designate a person who is qualified and proficient in—

- (a) lifesaving;
- (b) rendering first aid;
- (c) the use of a resuscitation equipment;
- (d) the operation of the swimming facility; and
- (e) the testing and monitoring of the safety of the water.

Water supply

13.(1) Unless the prior written approval of the Municipality has been obtained, no person operating a public swimming facility may use water from a source other than a municipal supply to clean, fill or maintain the water level in such facility.

(2) The Municipality may at any reasonable time, cause the samples of the water from the public swimming facility to be taken at intervals which it considers appropriate for the purpose of a chemical analysis or bacteriological examination of that water.

Prohibited behaviour

14.(1) No person may—

- (a) interfere with the operator of a public swimming facility in the execution of his or her duties;
- (b) allow any dog or other pet belonging to him or her or under his or her care to enter or to remain within the premises of a public swimming facility, unless it is a guide dog accompanying a blind person;
- (c) enter or remain in any premises of a public swimming facility if he or she knows or suspects that he or she may be suffering from any infectious disease; or
- (d) urinate, defecate, spit or blow his or her nose in a public swimming facility.

CHAPTER 6

BARBERS, HAIRDRESSERS, BEAUTICIANS, BODY PIERCERS OR TATTOOISTS

Health Compliance Certificate

15.(1) A person may not operate as a body piercer or tattooist, or operate a tattoo or body piercing establishment, without being issued with a health compliance certificate from the Municipality.

(2) Every person who is an informal trader offering the services of or operating as a barber, hairdresser, beautician, body piercer or tattooist must further obtain permission from the Municipality to trade as an informal trader as regulated by the Municipality's by-law on Informal Trade.

(3) In the case of an existing premises or facility—

(a) an authorised official may grant an extension of time to a person who was operating a premises or facility before the date of commencement of this By-law so that such person may comply with the provisions of this By-law within 6 months of the date of commencement; and

(b) the Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in paragraph (a) by not more than a further 12 months.

(4) No person may operate a facility or any premises in relation to this By-law unless he or she has been issued with a health compliance certificate by the Municipality confirming that the premises, and the facilities and services available on those premises, comply with this By-Law.

(5) Every health compliance certificate must contain the following minimum information:

- (a) the name of the business;
- (b) the name of the owner;
- (c) the contact details of the business and owner;
- (d) the nature or type of business;
- (e) the address of the business;
- (f) the validity period of the certificate; and
- (g) the confirmation of compliance with this By-law.

(6) A health compliance certificate must be displayed on every approved premises in such a way that it is clearly visible at all times to any person entering the premises.

(7) The authorised official may issue a health compliance certificate if he or she is satisfied that the—

- (a) premises on which it is proposed to operate the facility; and

(b) facilities and services available on those premises, comply with this By-law.

(8) A health compliance certificate is issued in respect of specific approved premises. This means that a health compliance certificate—

- (a) becomes invalid if a health compliance certificate holder ceases to operate a facility from the approved premises;
- (b) is not transferable to any other person;
- (c) is not transferable to, or valid for, any other facility or premises which the health compliance certificate holder may own, have an interest in or subsequently own or acquire an interest in;
- (d) is not transferred when the holder of the health compliance certificate disposes of the facility concerned or of the approved premises; and
- (e) may not be bequeathed by the health compliance certificate holder to any heir or legatee.

(9) If a health compliance certificate holder wishes to move the facility to premises other than the approved premises, he or she must apply for and obtain a new health compliance certificate in respect of those new premises.

(10) If a health compliance certificate holder wishes to make alterations to premises to which a health compliance certificate relates, he or she must—

- (a) bring his or her intention to the attention of the Municipality before commencing the alterations; and
- (b) apply for and obtain a new health compliance certificate before beginning to operate a facility from those altered premises.

(11) In the event that a premises or facility has been issued with a health compliance certificate and subsequently no longer complies with the terms and conditions imposed by this By-law, the Municipality may give the certificate holder notice to comply with the terms and conditions of the By-law and suspend the health compliance certificate until such time as the facility or premises becomes compliant.

(12) Where there is non-compliance in terms of subsection (11) and the said premises or facility has not complied within the specified period, the Municipality may revoke the health compliance certificate.

(13) Notwithstanding subsection (12), the Municipality may immediately revoke a health compliance certificate without giving the certificate holder a notice to comply where there is imminent harm or health hazard.

Health and hygiene requirements

16.(1) A person may not use the premises of a salon or any other similar place for a purpose other than for the carrying on of an authorised business of a barber, hairdresser, beautician, body piercer or tattooist.

(2) A person who carries on the business of a barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, must—

- (a) at all times keep a first-aid box or kit on the premises and treat an injury or wound which may occur on the premises;
- (b) have available on the premises, equipment to sterilise an instrument that has come into contact with human skin, hair or bodily fluid;
- (c) ensure that only professional tattooing and body piercing machines designed and assembled in a manner which prevents contamination of sterilised needle sets may be used for applying permanent tattoos or body piercing;
- (d) ensure that all tubes and needles used in connection with tattooing and body piercing are stored in single service, sterile, sealed autoclaved bags which must be opened in the presence of the client;
- (e) ensure that all clip cords and spray bottles have triggers and grasp areas, which grasp areas must be protected by plastic covering which must be disposed of after use on each client;
- (f) disinfect the instrument by applying a suitable disinfectant after each use of a cut-throat razor, pair of scissors, comb, brush, roller, nail file, clippers, or other instrument which was applied to the human hair, nail or skin;
- (g) wear new disposable latex or nitrile examination gloves for the duration of a procedure where he or she implants hair, pierces or tattoos skin, or uses a chemical or chemical compound in an activity;
- (h) wash his or her hands with a suitable disinfectant before and after rendering any service to a client;
- (i) directly after treatment of the client, clean and disinfect a surface that has been contaminated by bodily fluid;
- (j) dispose of any disposable glove or other disposable material in an approved manner after each use;

- (k) at least once a day wash, with a disinfectant, aprons and caps and any other material items used in the operation of the business, all surfaces such as, but not limited to floors, counters and chairs;
- (l) dispose of all wastewater, sharp instruments, bloodied and otherwise contaminated disposable towels and paper in an approved manner;
- (m) store sharp instruments such as, but not limited to, a razor, blade or needle in a separate container;
- (n) after each use, wash and clean all cloth towels;
- (o) generally keep the premises, tools, equipment and clothing in a hygienic condition at all times;
- (p) after every service, collect waste such as, but not limited to, hair clippings and towelling paper, and store or dispose of such waste in accordance with the Municipality's by-law dealing with waste removal;
- (q) ensure that no animal, excluding a guide dog accompanying a blind person, enters the premises; and
- (r) provide his or her employees with protective clothing, train any person working on the premises, and ensure that all employees comply with the provisions of this By-law.

Facilities requirements

17. A person who carries on the business of a barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, must ensure that the facilities on the premises comply with the following requirements:

- (a) basins, with a supply of running hot and cold potable water, must be available for the washing of hair and hands: Provided that—
 - (i) where there is no running water available, a sealable container of potable water must be provided for the washing of hair and hands; and
 - (ii) where there is no running hot water a suitable water boiler or kettle must be provided;
- (b) lighting, ventilation, water and toilet facilities as prescribed in the National Building Regulations and Buildings Standards Act (as amended) must be provided or in the case of an informal trader, the business must be within a reasonable distance from a public toilet facility as contemplated in the Municipality's by-law dealing with informal traders;
- (c) shelves, counters, table-tops or other fixtures on which instruments are placed must be constructed of or covered by impermeable material that is easy to clean;
- (d) adequate facilities for the storage of clothes, instruments and appliances must be provided;

- (e) facilities for the safe disposal of wastewater must be provided;
- (f) the walls, partitions and floors must be constructed of materials that are easy to clean;
- (g) every working station must contain a disinfectant with a minimum concentration with 0.1 % (1000ppm) sodium hypochlorite (bleach), or 70% ethanol should be used to disinfect; and
- (h) the equipment must be kept suitably separated or insulated or isolated from any food preparation area.

CHAPTER 7

DRY-CLEANING AND LAUNDRY BUSINESSES AND DEPOTS

Requirements for premises

18. (1) A person may not use a dry cleaning and laundry premises for any other purpose than that of its authorised business usage.

(2) A person may not conduct a dry-cleaning or laundry business on premises that do not comply with the following requirements:

- (a) a work-room or work-area used for housing dry-cleaning machines, washing-machines, ironing boards, presses and other fixed or movable equipment, with a minimum unobstructed floor area of 2,5 square metres per person employed on the premises, must be provided;
- (b) a separate areas for marking clean and dirty articles must be provided with—
 - (i) tables with an impervious surface or impervious cover;
 - (ii) washable containers for dirty articles; and
 - (iii) hanging rails and shelves constructed of an impervious material in the area for marking clean articles;
- (c) a separate room or area with separate designated counters, with impervious surfaces, must be provided for the receipt and dispatch of articles;
- (d) a store-room or facility for the storage of packing material and other articles must be provided and equipped with adequate packing shelves of which the lowest shelf must be at least 250 (two hundred and fifty) millimetres above floor level;
- (e) separate change-rooms for males and females, where 5 (five) or more persons of the same sex are employed, must be provided containing—
 - (i) a metal locker for every employee;

- (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
- (iii) a supply of soap and disposable towels at every wash-hand basin;
- (f) if no change-room has been provided in terms of paragraph (e)–
 - (i) a wash hand basin with a supply of potable hot and cold water, must be provided in an accessible position; and
 - (ii) a metal locker must be provided for every employee in the work area;
- (g) a tea kitchen with a single-basin stainless steel sink, with a supply of running hot and cold potable water, must be provided;
- (h) separate toilets for males and females must be provided;
- (i) every toilet and change-room must be clearly gender designated;
- (j) all internal walls must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
- (k) all ceilings must be dust-proof, smoothly finished, and painted with a light-coloured washable paint;
- (l) all floor surfaces must be constructed of cement or some other adequate impervious material, brought to a smooth finish and properly drained;
- (m) the minimum height from floor to ceiling of any room or area must be 2,4 metres;
- (n) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act must be provided;
- (o) all machinery and equipment must be equipped with adequate suction fans to remove any noxious gas, steam and hot air from any room and to release it in the open air in an adequate manner;
- (p) all machinery and equipment must be placed so that there is free access to all areas around and underneath each machine or item of equipment, to enable those areas to be adequately cleansed; and
- (q) a separate pre-rinsing area must be provided on any premises where articles soiled with human excretion are laundered.

Coin-operated laundries

19.(1) Any machinery provided on the premises for the purposes of coin-operated laundries must be installed in accordance with the applicable Regulations made in terms of the Occupational Health and Safety Act and any other applicable law.

(2) The premises must comply with the provisions of paragraphs 18 (2)(a), (h), (i), and (j) – (q).

Hygiene and housekeeping

20. Any person conducting a dry-cleaning or laundry business or in charge of premises on which a dry-cleaning, laundry or receiving depot exists, must—

- (a) keep the premises, all fittings, equipment, appliances, machinery, containers and business vehicles in a clean, hygienic and good condition at all times;
- (b) separate dirty articles from clean articles at all times, including when in transit;
- (c) use a change-room solely for changing;
- (d) ensure that every person who handles clean or dirty articles wears adequate protective clothing at all times;
- (e) keep protective clothing in a clean and sound condition at all times;
- (f) store protective clothing in a locker when it is not being worn;
- (g) ensure that the premises are not directly connected to any area from which contamination might occur;
- (h) comply at all times with the requirements of the Occupational Health and Safety Act and Municipality's by-law dealing with the regulation of air quality;
- (i) place all piping in the building, not chased into the walls, at least 100 millimetres away from all walls or floors and comply with the provisions of the National Building Regulations and Building Standards Act;
- (j) insulate all steam piping with adequate material;
- (k) dispose of all wastewater in an approved manner;
- (l) keep the dry-cleaning and laundry premises pest and rodent proof;
- (m) keep general waste on the dry-cleaning and laundry premises in appropriate containers with tight-fitting lids and must be dealt with in accordance with the requirements of the Municipality's by-law dealing with waste removal and other applicable law;
- (n) have a vector control programme in place; and
- (o) have the requisite fire extinguishers available in terms of the Municipality's by-law dealing with fire control.

CHAPTER 8 ENFORCEMENT

Powers of authorised officials

21.(1) The authorised official may at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and–

- (a) inspect or monitor the land or premises;
- (b) question the owner, occupier or person in control of the land or premises;
- (c) serve any compliance notice to the owner, occupier or person in control;
- (d) take photos of any items used on the land or in the premises to cause a nuisance;
- and
- (e) take samples or other evidence in respect of any nuisance caused.

(2) A duly authorised official may, in respect of a nuisance caused or alleged to be caused in a public place, instruct a person to cease an act or conduct which causes such nuisance, with immediate effect.

(3) If it appears to the authorised official that it is not possible for the offending person to comply with his or her instructions forthwith, the authorised official must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.

(4) When issuing a warning notice, the authorised official must procure the signature of the offending person confirming receipt of a warning notice.

(5) The authorised official must inform the offending person that–

- (a) a signature of the offending party in terms of subsection (4) does not on its own constitute an admission of guilt; and
- (b) it is an offence in terms of this By-law to refuse to sign a warning notice issued by an authorised official.

**CHAPTER 9
OFFENCES AND PENALTIES**

Offences

22.(1) A person commits an offence if he or she–

- (a) contravenes any provision of this By-law;

- (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;
- (c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
- (d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or
- (e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence.

Penalties

23.(1) Any person who is convicted of an offence under this By-law is liable to a fine of an amount not exceeding R100 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R1000 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

CHAPTER 10 GENERAL PROVISIONS

Appeals

24.(1) A person whose rights are affected by a decision taken by the Head or any authorised official in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must act in accordance with the provisions outlined in section 62 of the Municipal Systems Act, 2000 in response to the appeal.

Repeals

25. (1) The Public Health By-law (provincial notice no. 225 of 1911, date of commencement: 27 December 1911), thereafter extended to the entire jurisdiction of the eThekweni Municipality by resolution dated 29th February 2012, made in terms of clause 35 of PN 343 of 2000, gazetted in MN 20 of *Provincial Gazette* 744 dated 10 May 2012 is hereby repealed.

Delegations

26.(1) Subject to the Constitution and applicable national and provincial laws, any—
(a) power, excluding a power referred to in section 160(2) of the Constitution;
(b) function; or
(c) duty

conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the—
(a) entity or person issuing the delegation or sub-delegation;
(b) recipient of the delegation or sub-delegation; and
(c) conditions attached to the delegation or sub-delegation.

Short title and commencement

27.(1) This By-Law is called the eThekweni Municipality: Municipal Public Health By-law, 2022 and takes effect six months from the date of publication thereof in the *Provincial Gazette* or

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on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.