

SCHEDULED TRADES AND OCCUPATIONS

[PROVINCIAL NOTICE NO. 134 OF 1979.]
[DATE OF COMMENCEMENT: 22 MARCH, 1979.]

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CITY OF DURBAN

SCHEDULED TRADES AND OCCUPATIONS BY-LAWS

(Editorial Note: The Scheduled Trades and Occupations By-laws have been extended to the whole area of jurisdiction of the eThekweni Municipality by MN 70 of 22 December 2005.)

The Administrator has been pleased, in terms of section 270 of the Local Authorities Ordinance, 1974 (Ordinance No. 25 of 1974), as amended, to approve of the following By-laws made by the City Council of the City of Durban: The City Council of the City of Durban has in terms of section 268 of the Local Authorities Ordinance, 1974 (Ordinance 25 of 1974); made the following By-laws—

1. No person shall erect, extend, alter or add to any building, plant or works used, or for the purpose of using them, in connection with, or shall commence to carry on, or cause or permit to be carried on, in any premises or vehicle or elsewhere in the City any of the trades, businesses, occupations or callings listed in Schedule A of these By-laws, without the written permission of the Medical Officer of Health being first obtained therefor; provided that any permission issued in terms of the Offensive Trade Regulations for the Borough of Durban, promulgated under Government Notice No. 2014 published on 15 December 1921 which permission was in effect at the date of promulgation of these By-laws shall be deemed to have been issued hereunder; and provided further that the requirements of this By-law shall not apply to buildings, plants, or works used for any such purpose and lawfully established before the promulgation of these By-laws or the aforesaid Regulations and which were utilised or carried on as at the time of such promulgations without extension, alteration, or addition.

1A. Nondiscrimination.—(1) Subject to the provision of subsection (2) hereof, no provision of these By-laws shall be applied so as to discriminate between persons on the grounds of race, religion or gender nor shall it be so construed as to have the effect of authorising such discrimination.

(2) Notwithstanding the provisions of subsection (1) hereof, discrimination on the grounds of gender may expressly be authorised in terms of any provision of these By-laws which prescribes the wearing of appropriate apparel in a public place or imposes a restriction upon the entry of persons into public ablution, toilet and changeroom facilities or prescribes different standards for such facilities.

[R. 1A inserted by MN 43 of 1992.]

2. Every person desiring such permission shall apply to the Medical Officer of Health and, unless he otherwise allows, shall submit with such application—

- (1) a block plan, drawn to a scale not smaller than 1:1 000 showing the position of the premises, and all dwellings, factories and other premises within 100 metres of the boundary of the proposed premises and the use to which any such premises are put;
- (2) a plan and sections to scale of 1:100 of the building proposed to be erected and used;

- (3) particulars as to the nature of the trade, business, occupation or calling to be conducted; the raw materials to be dealt with; the processes to be carried on; the products thereof; and the volume, composition, and nature of all production wastes requiring disposal;
- (4) particulars of the plant to be installed and the vehicles or other means of transportation to be used, including the transportation of waste materials;
- (5) particulars, with any necessary explanatory drawings of the means proposed to be adopted for the disposal of, and to prevent nuisance arising from, atmospheric pollutants, effluent, stormwater, waste material, insect infestation, refuse, abnormal working environment, noise or vibrations;
- (6) particulars of any circumstance which could cause a hazard to employees or the public;
- (7) any further particulars, plans, or drawings which the Medical Officer of Health may require.

3. Except when otherwise permitted by the Medical Office of Health, the applicant shall cause a notice substantially in the form approved by the Medical Officer of Health to be published at least once in each of the official languages in English and Afrikaans language newspapers circulating in Durban; such publication shall be made during the period of 14 days immediately preceding the date on which the application is lodged and the complete page of the newspaper containing the notice shall accompany the application.

4. (1) The Medical Officer of Health after considering any objection lodged and if satisfied that no nuisance or danger to the health of the public or employees is likely to arise and that the storage, composition, transportation and disposal of all waste, either solid or liquid is acceptable to the City Engineer, may give written permission (subject to such conditions or restrictions as he may determine) for the erection or use of the buildings, plant or works and for the conduct of the trade, business, occupation or calling for the purposes set forth in the application; or he may refuse such application; such permission may be granted for an indefinite or specified period and in the latter case may on application be renewed from time to time.

(2) If requested in writing within 14 days from the date notified of the decision of the Medical Officer of Health, by an applicant whose application has been refused or an objector whose objection has been overruled, the Medical Officer of Health shall forward the relevant documents, together with his report thereon, to the Town Clerk for consideration by the Council or any Committee thereof to which this function has been delegated, which body shall have the power to direct that the application be granted or refused.

5. (1) The granting of permission under these By-laws shall in all cases be conditional on the proper construction, maintenance and use of the buildings and works and the plant and apparatus therein and on the effective prevention of any nuisance, or danger to the health of the public or employees.

(2) At any time after the granting of such permission the Medical Officer of Health or City Engineer, if satisfied that any conditions or restrictions are not being properly observed or complied with may, by notice in writing, call upon the owner, occupier or person in charge of the premises upon which the trade, business, occupation or calling is carried on to observe or comply with the aforesaid conditions or restrictions or forthwith remedy any unsatisfactory condition specified in the notice and in the event of his failing to do so or in the event of a recurrence of the nuisance or of other default, the Medical Officer of Health may suspend or withdraw any permission granted in terms of these By-laws.

6. (1) In the case of any trade, business, occupation or calling mentioned in Schedule A and established before the promulgation of these By-laws or the aforesaid Regulations, as the case may be, the Medical Officer of Health if satisfied that any nuisance or any danger to the health of the public or employees is being caused thereby may, by notice in writing, call upon the aforementioned owner, occupier or person in charge forthwith to carry out any repair or alteration, or remedy any unsatisfactory condition for the purpose of preventing a nuisance, or danger to the health of the public or employees.

(2) In the event of failure to comply with a notice, or in the event of a recurrence of the nuisance or danger as aforesaid the Medical Officer of Health may serve notice upon such owner, occupier or person requiring him within the time specified therein to discontinue the trade, business, occupation or calling.

7. If the aforementioned owner, occupier or person in charge, refuses to carry out measures for the abatement of a nuisance or condition dangerous to the health of the public or employees specified in a note under these By-laws or fails to do so within the time specified; the Medical Officer of Health may arrange for such measures to be carried out and the expenses incurred in so doing shall be recoverable by the Council from the person on whom the notice was served.

8. Any person who—

- (a) contravenes any provision of these By-laws; or
- (b) contravenes any conditions imposed upon the granting of any application, consent, approval, concussion, relaxation, permit or authority in terms of these By-laws; or
- (c) fails to comply with the terms of any notice served upon him in terms of these By-laws.

shall be guilty of an offence and liable, on conviction, to the maximum penalty prescribed for the offence by section 266 (7) (a) of the Local Authorities Ordinance, No. 25 of 1974.

(2) Failure to comply with the terms of any condition or notice referred to in subsection (1) (b) or (c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which he fails to comply with such terms.

[R. 8 substituted by PN 366 of 1983.]

SCHEDULE A

TRADES, BUSINESSES, OCCUPATIONS OR CALLINGS

Acid works

Alkali works

Ambulance service, and removal of human remains

Ammonia works and bulk transportation

Animal and fish products processing, including the manufacture of meal for animal feeding

Asbestos transportation, handling and storage, and the manufacture and bulk-storage of products containing asbestos

Asphalt plant, permanent and mobile

Battery manufacturing, reconditioning and servicing

Bitumen works, including the transportation and operation of mobile bitumen kettles

Brick and tile works

Building services contractor (as defined in the Licences and Business Hours Ordinance, No. 11 of 1973) in respect of the base premises

Carbon black manufacture

Cement products and pre-mixing works

Ceramic works

Chemical product processing, including any process involving a chemical reaction

Container washing and reconditioning works

Crematoria

Chrome and chromate works

Coal bulk-storage and handling

Distillery

Engineering works

Food manufactory

Fungicide manufacture, and bulk-handling, storage and commercial usage of fungicides

Furniture manufacture and re-conditioning

Gas works

Glass-fibre manufacture, storage, moulding and finishing

Glass works

Hazardous substances (as defined in the Hazardous Substances Act, No. 15 of 1973) manufacture and bulk-blending, transportation and storage

Herbicide manufacture, and bulk-handling, storage and commercial usage of herbicides

Hide and skin processing

Marine food processing

Mattress-maker

Metal products manufacture

Metal buffing, electroplating, enamelling and galvanising

Milling

Offensive trades (as defined in the Licences and Business Hours Ordinance, No. 11 of 1973)

Ore processing works, or handling and storage of ores

Pesticides manufacture, and bulk-handling, storage and commercial usage of pesticides

Pigment works

Plastics products works

Quarrying

Refining

Refuse collection, storage, removal, processing or disposal

Rubber moulding or vulcanising

Sand and shot blasting

Sandwinning (as defined in the Licences and Business Hours Ordinance, No. 11 of 1973)

Sewage treatment, transportation or disposal

Scrap yard

Ship building

Sludge works

Spraypainting

Stone crushing and dressing works

Stone masonry

Tannery

Teasing or shredding works dealing with coir, flock or textiles

Timber yard and works

Upholsterer

Undertaker as defined in the Licences and Business Hours Ordinance, No. 11 of 1973)

Vegetable oil extraction or processing

Waste material salvaging, collecting, sorting, storing, treating, processing or recycling/reclaiming

Welding works

Wood pulping

Yeast manufacture.
