



**SCHEDULED TRADE BY-LAW, 2023 IN TERMS OF SECTIONS 11 - 13 OF THE
LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT NO. 32 OF
2000),**

To provide measures for the prevention, minimisation and management of environmental and human health impacts likely to arise from premises from which certain trades, occupations, businesses, activities or processes are undertaken; to prohibit certain activities or conduct in order to ensure and promote a healthy 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 air pollution, building regulations, municipal health services; trading regulations, and has the competence in terms of Part B of Schedule 5 of the Constitution relating to the control of public nuisances and noise pollution;

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 (d) of the Constitution, the promotion of a safe and healthy environment;

AND WHEREAS there is a need to develop legislation to deal with the prevention, minimisation or management of environmental and human health impacts or nuisances arising or likely to arise directly or indirectly from premises from which certain trades, occupations, businesses, activities or processes are undertaken;

NOW THEREFORE The Municipal Council of the uMhlathuze Local Municipality, acting in terms of section 156 read with Part B of Schedule 4 and Part B of Schedule 5 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 INTERPRETATION

1. Definitions

In this By-law, unless the context indicates otherwise –

“applicable legislation” means any legislation, including any By-law of the Municipality, and any regulations or determinations made in terms of any legislation, dealing with or relating to the control, management or mitigation of environmental and human health impacts associated with a scheduled activity in terms of this Bylaw, which includes, but is not limited to –

- (a) Occupational Health and Safety Act, 1993(Act No. 85 of 1993);
- (b) Hazardous Substances Act, 1973(Act No. 15 of 1973);
- (c) National Building Regulations and Standards Act, 1977(Act No. 103 of 1977);
- (d) National Environmental Management Act, 1998(Act No. 107 of 1998);
- (e) National Environmental Management: Air Quality Act, 2004(Act No. 39 of 2004);
- (f) National Environmental Management: Integrated Coastal Management Act, 2008(Act No. 24 of 2008);
- (g) National Environmental Management: Waste Act, 2008(Act No. 59 of 2008);
- (h) National Health Act, 2003(Act No. 61 of 2003);
- (i) KwaZulu-Natal Planning and Development Act, 2008(Act No. 6 of 2008);
- (j) Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);
- (k) Disaster Management Act, 2002(Act No. 57 of 2002);
- (l) National Environmental Management: Biodiversity Act, 2004(Act No. 10 of 2004); and
- (m) National Water Act, 1998(Act No. 36 of 1998);

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

- (a) air quality officer designated as such in terms of section 14 of the Act;
- (b) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(c) environmental management inspector as such in terms of National Environmental Management Act, 107 of 1998

(d) 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;

“By-law” means legislation passed by the council of a municipality binding in the municipality on the persons to whom it applies;

“Category B” means a municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls (Local Municipality) envisaged in section 155(1) of the Constitution;

“compliance notice” means a notice issued in terms of section 14 to comply with these bylaws or with a permit issued in terms of these bylaws;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

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

“incident” means an unexpected sudden occurrence causing or likely to cause damage to the environment or the health of any person or the public, and includes a major emission, fire, explosion, spillage or release of hazardous substances or objects;

“Municipality” means uMhlathuze Municipality, a category B municipality as envisaged in terms of section 155(1)(b) of the Constitution;

“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;

“nuisance” includes any activity, condition, situation, premises or thing which, on account of effluent, vapours, chemical effluvia, odours, noise, vibration, radiation,

refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper general hygiene, ventilation, lighting, design, situation or on account of any other cause or practise whatsoever–

(a) causes or has the effect of or potential to cause a health or environmental risk;

(b) causes or has the effect of or potential to cause any significant nuisance, damage, annoyance, inconvenience or discomfort to the public or the environment; or

(c) affects or has the potential to affect the well-being of a person or community;

“person” includes any sphere of government, natural person or juristic person;

“premises” means –

(a) any land without any buildings or other structures on it;

(b) any building or other structure and the land on which it is situated;

(c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or

(d) any vessel, vehicle or movable structure which is used for a scheduled trade;

“prohibition notice” means a notice issued in terms of section 15;

“responsible person” means the owner, occupier or person in charge of the premises;

“scheduled activity” means the commencement or carrying on, or causing or permitting to be commenced with or carried on in any premises or elsewhere in the Municipality, of any of the trades, businesses, occupations, callings, activities or processes listed in Annexure B to this By-law, and includes any erection of or extension, addition or alteration to, any building, structure, plant or works used or for the purpose of using them in connection with any such trade, business, occupation, calling, activity or process; and

“Scheduled Trade Permit” means a permit issued in terms of Section 5 of this Bylaw and “permit” shall have a corresponding meaning.

2. Purpose

The purpose of these Bylaws is to enable the Council to protect and promote the long-term health and well-being of people in the municipal area by –

- (a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can –
 - (i) manage and regulate activities that have the potential to impact adversely on public health; and
 - (ii) require premises to be properly maintained and managed; and
- (b) defining the rights and obligations of the Council and the public in relation to this purpose.

3. Interpretation of By-law

In the event of any conflict between this By-law and any other By-law or policy, which directly or indirectly, within the jurisdiction of the Municipality, regulates air quality, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

OBJECTS OF BY-LAW

4. The objects of this By-law are to–

- (a) regulate the commencement or carrying on of certain activities, occupations, callings, businesses, conduct, processes, or trades which, owing to their nature, are likely to impact on human or environmental health;
- (b) provide measures for managing, controlling and minimising any impact on human or environmental health or any nuisance arising or likely to arise from any scheduled activity as contemplated in this By-law; and
- (c) provide penalties for the breach of its provisions.

CHAPTER 3

APPLICATION

5. Application of By-law

This By-law applies to all areas which fall under the jurisdiction of the uMhlathuze Municipality and is binding on all persons to the extent applicable.

CHAPTER 4

SCHEDULED ACTIVITIES

6. Application for a permit

- (1) Any person who uses premises in a manner or for a purpose listed in Annexure B must –
 - (a) comply with every provision specified in the Chapter of these Bylaws relating to that use; and
 - (b) obtain a permit in terms of section 8 before commencing that use and must comply with the terms and conditions of that permit
- (2) No person may –
 - (a) commence, carry on, or cause or permit to be commenced with or carried on in any premises; or
 - (b) erect, extend or add to any building, plant or works used, or for the purpose of using them, in connection with, any one or more of the scheduled activities listed in Annexure B to this By-law, without the written permission of the Municipality.
- (3) An application for a Scheduled Trade Permit contemplated in subsection (1) must be on a prescribed form and upon payment of a prescribed fee, and accompanied by–
 - (a) a location plan, drawn to a scale of 1:5 000 showing –
 - (i) the position of the premises, and all dwellings, factories and other premises and of all roads within a 1 kilometre radius from the boundary of the proposed premises, the radius of which the Municipality has the discretion to change; and

- (ii) approved plans, sections and elevations, drawn to a scale of at least 1:100, of the buildings and premises proposed to be erected or used;
- (iii) the use to which any such premises are put;
- (b) a plan and sections to scale of 1: 100 of the building proposed to be erected and used;
- (c) particulars as to the—
 - (i) nature of the trade, business, occupation, calling, activity or process to be conducted;
 - (ii) full particulars of the plant to be installed, including the number, capacity and type or description of all boilers, digesters, driers and other apparatus;
 - (iii) full particulars, with any necessary explanatory drawings, of the measures proposed to be adopted for the disposal and/or prevention of —
 - (i) vapours, odours and effluvia;
 - (ii) fluids and liquid waste matters, and
 - (iii) solid waste matters;
 - (iv) raw materials to be dealt with;
 - (v) storage facility
 - (vi) nature of the process
 - (vii) by-product
 - (viii) end product;
 - (ix) services to be offered;
 - (x) volume, composition, and nature of all production wastes requiring disposal;
 - (xi) Waste Products & Method of Disposal (Provision of Disposal Certificates required)
 - (xii) Emission (Quantification of Emissions)
 - (xiii) Effluent Inventory (Discharge Per Annum & proof of Effluent Discharge)
- (d) particulars of the plant to be installed and the vehicles or other means of transportation to be used, including the transportation of waste materials;

- (e) particulars, with any necessary explanatory drawings of the means proposed to be adopted for the prevention and disposal of, and to prevent an environmental or human health impact or nuisance arising from, atmospheric pollutants, effluent, stormwater, waste material, insect infestation, refuse, abnormal working environment, noise or vibrations;
 - (f) documentary evidence that applicable legislation relating to the control, management or mitigation of nuisances associated with a scheduled activity in terms of Annexure B to this By-law, have been or are being, complied with;
 - (g) documentary evidence that the premises are suitably zoned to allow the carrying out of the proposed activity;
 - (h) particulars of and circumstances, due to the nature of the trade being carried out, which could cause a hazard to employees or the public at large; and
 - (i) any other information or documentation which in the opinion of the Municipality is necessary for the purpose of considering the application.
- (1) The applicant may give details showing that any mitigation measures proposed by the applicant for the purpose of preventing, minimising or managing any environmental or human health impact or any nuisance, or any mandatory mitigation measures in terms of any applicable legislation in respect of the proposed activity, are sufficient to allow the Municipality to grant an authorisation contemplated in this section.
- (2) The permission contemplated in this section may not be granted if-
- (a) the premises are not suitably zoned in terms of sub-paragraph (2)(g);
 - (b) any application for rezoning or similar authorisation has been made for the premises and is outstanding; or
 - (c) no approval in terms of the National Building Regulations and Building Standards Act for the building or occupancy classification appropriate to the scheduled activity applied for exists.
- (3) The granting of permission under this By-law must in all cases be conditional on the proper construction, maintenance and use of the buildings, premises, works, and the plant apparatus therein and on the effective minimisation of any environmental or human health impacts or nuisance.

- (4) A permit granted in terms of this By-law is applicable only in respect of activities identified in the application and the permit.
- (5) A permit will only be valid for a period of 3 years, and an application must be submitted to City of uMhlathuze Air Quality Management Unit three (3) months before date of expiry.
- (6) The Municipality may upon a written request by a responsible person amend a permit to include new or additional activities, or direct that a new application for new or additional activities as aforesaid must be made.
- (7) The Municipality may in writing require any person who deals in any manner with a scheduled activity to apply for a review or variation of the permit conditions if the Municipality reasonably believes that additional scheduled activities other than the activities identified in the application and the permit are being carried out.
- (8) The Municipality may in writing require any person who deals with an activity which is not listed under Annexure B to submit an application if it reasonably believes that such activity-
 - (a) has the potential to negatively impact on environmental or human health; or
 - (b) is causing or is likely to cause a nuisance by activities emanating from the trading premises,

7. Application Procedure

- (a) The applicant must publish a notice prescribed in Annexure A twice in a newspaper which, in the opinion of the Council, has a sufficient circulation in the district, stating in general terms the nature and the purpose of the application and calling upon interested parties to lodge written objections, if any, to such application with the Council on or before a date specified in such notice, which may not be earlier than 14 days after the second publication of the notice, as provided hereinafter. The first insertion in the newspaper must be made within one week of lodging the application and the second insertion must be made on the seventh or eighth day following the date of the first insertion. The applicant must forward a copy of each issue of the newspapers containing the notices to the Council

- (b) The Council may, after considering any objection lodged and if satisfied that the buildings, plant and works and the arrangements in connection therewith are in accordance with these Bylaws and that no nuisance or a danger or potential danger to the public health is likely to arise, give permission for the erection or use of such buildings, plant or works for the purposes set forth in the application
- (c) When the Council receives an application contemplated in subsection (1), it must ensure that the relevant premises concerned are inspected by an Air Quality Officer as soon as reasonably possible.
- (d) Before deciding whether or not to approve an application contemplated in subsection (1), the Council –
 - (a) must ensure that any persons in the vicinity of the premises whose health or well-being may be affected if the premises are used for the scheduled trade concerned, have been consulted and had an opportunity to make representations; and
 - (b) may require the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision.

8. Scheduled trades

Any person who uses premises in a manner or for a purpose listed in Annexure B must

- (1) comply with every provision specified in the Chapter of these Bylaws relating to that use;
- (2) Any person, who uses premises in a manner or for a purpose that is listed in Annexure B, must obtain a permit in terms of section 4 and 5 before commencing that use and must comply with the terms and conditions of that permit.

9. Interested and Affected Person

Any person intending to make any representation on, or to object to, the application may do so in writing within 14 days of the date of publication, and address any such representation or objection to the Municipality for the attention of an official mentioned in the publication

10. General terms applicable to Scheduled Trade Permit

- (1) A Scheduled Trade Permit or an exemption certificate—
 - (a) is not transferable from one person to another; and
 - (b) applies only to the premises specified in that certificate or permit.
- (2) Every permit or exemption certificate must—
 - (a) specify the address and other relevant details regarding the location of the premises concerned;
 - (b) describe the premises concerned;
 - (c) describe the activity concerned;
 - (d) describe particulars of the plant, including the number, the capacity and the type or description of the boilers, digesters, driers, and other apparatus or plant approved for use therein;
 - (e) specify the raw materials to be used; the processes to be carried on and the products and waste materials thereof;
 - (f) specify the measures to be taken for abating or preventing any nuisance or any danger or potential danger to the public health from vapours, effluvia, and solid and liquid waste matters;
 - (g) specify terms and conditions imposed, if any; and
 - (h) indicate when it expires.
- (3) An applicant must pay a prescribed fee, as determined by the Council, in respect of an application for a permit or exemption certificate and such fee must accompany the application.
- (4) The Council may refuse to consider an application until it has been provided with the information required to make an informed decision and until the prescribed fee (if any) has been paid.

11. Decision of Municipality

- (1) The Municipality must grant or refuse an application made in terms of section 5 within 60 days of the date on which the Municipality has received all information, particulars or documentation required or requested in order to consider the application.

(2) Before granting an application in terms of subsection (1), the Municipality must be satisfied that–

- (a) the environmental or human health impacts of any activity, occupation, calling, businesses, conduct, processes, or trades will be managed to the satisfaction of the Municipality and in compliance with recognised statutory limits;
- (b) no objection to the application has been lodged or that notwithstanding any objection, no significant nuisance is likely to arise or occur from an activity proposed by the applicant; and
- (c) any mitigation measures proposed by the applicant or mandatory mitigation measures in terms of any applicable legislation in respect of an activity proposed by the applicant, are sufficient for the purpose of preventing, minimising or managing any nuisance emanating from the premises.

(3) The Municipality may grant an approval subject to conditions.

(4) The Municipality must, within 21 days of its decision notify in writing the applicant and any objector to the application, of its decision.

(5) If the application is refused, the applicant may in writing, within 21 days of receiving notification of the decision, request written reasons for the refusal of the application.

(6) The written reasons requested in terms of subsection (5) must be furnished to the applicant within 21 days of receipt of his or her written request.

(7) The Municipality must, if it is unable to make a decision on the application within the time specified in subsection (1), notify the applicant in writing of any such delay and provide the reasons thereof, together with an indication as to the date when a decision on the application can be expected.

CHAPTER 5

COMPLIANCE AND ENFORCEMENT

12. Duty of care

- (1) The responsible person, where one or more scheduled activities are carried out on a premises, whether or not permission has been granted in terms of section 5 for any such activities, must take reasonable measures to prevent a negative environmental or human health impact or nuisance from occurring, continuing or recurring.
- (2) In so far as a negative environmental and human health impact or any nuisance is in any way authorised by law and cannot reasonably be avoided or stopped, the responsible person must take reasonable measures to minimise and manage such nuisance in terms of any applicable legislation, and such measures must be done to the satisfaction of the Municipality.
- (3) The responsible person must—
 - (a) investigate, assess and evaluate the nature, extent and frequency of any current negative environmental or human health impact or potential nuisance;
 - (b) inform and educate employees about the current and potential environmental or human health impact or nuisance arising from their work and the manner in which their tasks must be performed in order to avoid or minimise such impact or nuisance;
 - (c) modify, manage or control any act, activity or process causing such impact or nuisance, in order to eliminate, and where that is impossible, to minimise the negative impact or nuisance; and
 - (d) remedy the effects of such impact or nuisance caused to the extent necessary and practicable.
- (4) The owner or occupier of premises where an incident occurred in the course of carrying out a scheduled activity or which is in any manner connected with a scheduled activity, must as soon as reasonably practicable after knowledge of the incident—
 - (a) take all reasonable measures to contain and minimise the effects and risks of the incident to the public;

- (b) undertake remedial or clean-up procedures; and
 - (c) assess the immediate and long-term effects of the incident on the health and wellbeing of the public and the environment.
- (5) Upon ceasing operations and activities on the trading premises, the owner or occupier of the premises must –
 - (a) submit a rehabilitation plan to the Municipality; and
 - (b) on approval of the plan by the Municipality, commence with the rehabilitation of the premises as per the approved plan.

13. Entry into premises

- (1) An authorised official may enter any premises if he or she suspects on reasonable grounds that any condition or situation occurring on any such premises constitutes a violation of this By-law and causes or is likely to cause an environmental or human health impact or nuisance.
- (2) An authorised official may enter any premises and–
 - (a) conduct any search, inspection, audit or monitoring with or without appointment, in order to ensure compliance with this By-law;
 - (b) take samples of any substance that is relevant to the search, audit, monitoring or inspection;
 - (c) question any person who he or she believes may have information relevant to the search, inspection, audit, monitoring or any purpose which is connected with this Bylaw;
 - (d) require the person in charge of such premises to produce, for inspection or for the purpose of obtaining copies or extracts thereof or there from, any document that such person is required to maintain in terms of any law or any other document which may assist the authorised official to obtain the required information;
 - (e) examine any books, documents, recordings or electronic data and take extracts there from; and
 - (f) deliver any notice in terms of this By-law.
- (3) An authorised official seeking entry into premises in terms of subsection (1) must, immediately before entering the premises in question–

- (a) audibly announce that he or she is authorised to enter the premises and demand admission to the premises; and
 - (b) notify the person in control of the premises of the purpose of the entry, unless there are reasonable grounds to believe that such announcement or notification might defeat the purpose of the search.
- (4) An authorised official who is performing a function under this By-law may ask any question or request any information or documentation which might assist him or her to carry out his or her duties in terms of this By-law.

14. Compliance notices

- (1) The Municipality may issue a compliance notice in the prescribed form if it has reasonable grounds to believe that a person has not complied—
- (a) with a provision of this By-law; or
 - (b) with a condition of the permit issued in terms of this By-law.
- (2) A compliance notice must include—
- (a) details of the conduct, activity, condition or situation constituting non-compliance;
 - (b) the steps the person must take to comply with this By-law or conditions of the permit and the time period within which those steps must be taken; and
 - (c) the procedure to be followed in lodging an objection to the compliance notice.
- (3) The Municipality may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.
- (4) A person who receives a compliance notice must comply with that notice within the time period stipulated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice.
- (5) If a person fails to take steps stipulated in the compliance notice, the Municipality may –
- (a) in the case of a person who is violating any condition of a permit–
 - (i) by notice in writing, suspend or withdraw any permit granted in terms of this By-law;
 - (ii) apply for an order of court to close down any activity or process which constitutes a violation of the permit; and

- (iii) cause the responsible person to be prosecuted for an offence in terms of this By-law; or
- (b) in the case of a person who has not been issued with a permit-
 - (i) apply for an order of court to close down any activity or process which constitutes a scheduled activity in terms of this By-law; and
 - (ii) cause the responsible person to be prosecuted for an offence in terms of this By-law.
- (6) Where the Municipality believes that there is imminent or irreversible threat of harm to the environment or the health, safety or well-being of any person or the public as a result of any scheduled activity carried out on premises as contemplated in this By-law, the Municipality may take urgent action to remedy the situation and dispense with the requirements of subsections (1) to (5).
- (7) A compliance notice remains in force until it has been complied with to the satisfaction of the Municipality, and the Municipality has issued a compliance certificate to that effect.
- (8) Should a responsible person fail to comply, or inadequately comply with the notice, or if urgent action is needed as contemplated in subsection (6), the Municipality may take reasonable measures to remedy the situation and may recover all costs incurred from the responsible person.
- (9) No person shall be entitled to compensation for any loss or damage arising out of any bona fide action or decision by the Municipality or any authorised official in terms of this Bylaw.

15. Prohibition notice

- (1) The Air Quality Officer or Environmental Management Inspector may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:
 - (a) the owner of the premises;
 - (b) the occupier of the premises; or
 - (c) any person apparently in charge of the premises.

If the Air Quality Officer or Environmental Management Inspector reasonably believes that that person has not complied with the terms of a compliance notice.

- (2) The Air Quality Officer or Environmental Management Inspector must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the Air Quality Officer or Environmental Management Inspector reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- (3) A prohibition notice must state –
- (a) the reasons for serving the notice;
 - (b) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - (c) the possible consequences of failing to comply with the notice; and
 - (d) how to appeal against the notice.
- (4) The Air Quality Officer or Environmental Management Inspector must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

16. Withdrawal of prohibition notice

- (1) The Air Quality Officer or Environmental Management Inspector must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- (2) After completing the investigation, the Air Quality Officer or Environmental Management Inspector must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.
- (3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

17. Municipal remedial work and recovery of costs

- (1) The Council may enter any premises and perform any function on the premises that it reasonably considers necessary –

- (a) to ensure compliance with these bylaws or with any compliance notice or prohibition notice;
- (b) to reduce, remove or minimise any public health nuisance; or
- (c) to reduce, remove or minimise any public health hazard.

18. Cost orders

- (1) The Council may recover any costs reasonably incurred by it in taking measures contemplated in section 23 from any person who was under a legal obligation to take those measures, including –
 - (a) a person on whom a compliance notice referred to in section 19(a) that required those steps to be taken, was served;
 - (b) the owner or occupier of the premises concerned; or
 - (c) any person responsible for creating a public health hazard or a public health nuisance.
- (2) The municipal manager may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of subsection (1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

CHAPTER 6

OFFENCES AND PENALTIES

19. Offences

- (1) A person commits an offence if he or she–
 - (a) obstructs or hinders in any manner whatsoever an authorised official who is performing a function under this By-law;
 - (b) refuses to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
 - (c) knowingly gives false or misleading information to an authorised official;
 - (d) unlawfully prevents the owner of any premises, or a person working for the owner, from entering the premises in order to comply with a requirement of this By-law;
 - (e) impersonates an authorised official;

- (f) contravenes or fails to comply with any provision of this By-law or condition of the permit; or
 - (g) contravenes or fails to comply with any order or notice lawfully issued under this By-law.
- (2) A person commits a continuing offence if they continue with an offence after notice has been served on them in terms of this By-law requiring them to cease committing such offence, or after they have been convicted of such offence.

20. Penalties

- (1) Any person who is convicted of an offence under this By-law shall be liable to a fine of an amount not exceeding R100 000, or to imprisonment for a period not exceeding two 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 7

GENERAL PROVISIONS

21. Appeals

- (1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of section 62 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 promptly submit the appeal to the appropriate appeal authority.
- (3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

- (5) The appeal authority must furnish written reasons for its decision on all appeal matters.
- (6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.
- (7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

22. Transitional provisions

- (1) Any person who has permission issued in terms of the–
 - (a) Environmental Health Bylaws for the uMhlathuze Local Municipality, as approved by Council
- (2) Any person who is undertaking an activity or process which is listed as a scheduled activity in this By-law, but which was not listed in the Schedule of the By-law mentioned in subsection (1) (a) immediately before the date of promulgation of this By-law, must comply with all applicable provisions of this By-law within 12 months of the date of promulgation of this By-law.
- (3) Notwithstanding subsection (2), the Municipality may in writing require or allow a person contemplated in subsection (2) to comply with any provision of this By-law at, and within, any time that is, in the Municipality's opinion, reasonable: Provided that all persons must comply with the provisions of this By-law within 3 years of its promulgation.

23. Short title and commencement

This By-law is called the Scheduled Activities By-law, 2023 and takes effect from the date of publication thereof in the Provincial Gazette or on such earlier date as may be determined by the publication of a commencement notice in the Provincial Gazette.

ANNEXURE A

NOTICE TO BE PUBLISHED BY APPLICANT FOR PERMISSION OF THE COUNCIL TO USE PREMISES FOR THE CARRYING ON OF A SCHEDULED TRADE

CITY OF UMHLATHUZE : SCHEDULED TRADE BYLAWS

Notice is hereby given that an application will be made in terms of the above-mentioned Bylaws to the Council of the City of uMhlathuze, for permission to use premises at the following address –

.....
.....
(Insert site address)

for the following purposes

.....
(Description of purposes and nature of trade or proposed to be carried on) (check your company category/ies under Annexure B

Any person desiring to object to the use of the above-mentioned premises for such purposes may do so by lodging on or before a written notice, in duplicate, setting out the grounds of his objection, with the Municipal Manager, City of uMhlathuze (Maximum 21 days)

Name and address of applicant

NB: Ensure that objections are directed to:

**The Municipal Manager
AIR QUALITY MANAGEMENT UNIT
City of uMhlathuze
Private Bag x1004
RICHARDS BAY
3900
Att: AIR QUALITY MANAGEMENT UNIT
Airquality@umhlathuze.gov.za**

ANNEXURE B

LIST OF SCHEDULED TRADES

1. Panel beating or spray painting;
2. Operating a waste recycling plant including oil and petroleum product recycling;
3. Scrap yard or scrap metal dealing;
4. Parchment making;
5. Sintering of sulphurous materials;
6. Viscose works;
7. Ore or mineral smelting, calcining, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metals;
8. Works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
9. Works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enamelled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide;
10. Bacon factories and meat-processing factories;
11. Food-processing factories;
12. Chemical works;
13. Dye works;
14. Breweries and distilleries;
15. Malt and yeast manufacturing works;
16. Sugar mills and sugar refineries;
17. Works or premises used for the storing or mixing of manure, super phosphate or fertilizers;
18. Fat-melting or tallow-melting works and any similar works or establishments for dealing with meat, bones, blood or offal, or with other organic matter derived from animals or poultry;
19. Works or premises used for the manufacture, storage or mixing of meal derived from fish, crustacea, poultry, meat offal from animals or poultry, or other organic matter derived from animals or poultry;

20. Works or premises used for storing, drying, preserving, or otherwise processing bones, horns, hoofs or other waste matter or excretions from animals or poultry;
21. Premises used for storing, sorting or dealing with hides and skins, or for fellmongery;
22. Tanning and leather-dressing works;
23. Slaughter houses or abattoirs and knackers' yards;
24. Glue or size factories;
25. Gut-scraping works;
26. Tripe-cleaning or tripe-boiling works;
27. Soap or candle works;
28. Wool-scouring or wool-washing works;
29. Processing of fish products;
30. Whaling stations, and premises or works used for storing or processing material derived from whales;
31. Paper mills or paper works;
32. Sawmills, wood bark grinding, chipping or extracting work, and destructors;
33. Landfill sites, sewage treatment and water purification plants and activities;
34. Crematoria;
35. Lead-smelting works;
36. Oil refineries and works concerned with the processing of products of petroleum refining;
37. Paint and varnish works;
38. Rubber works, including retreading or motor vehicle tyres;
39. Brick-burning and lime-burning works;
40. Stone-crushing and stone-dressing works;
41. Asbestos works – any processes where asbestos is used, milled or handled;
42. Cement works;
43. Metallurgical works;
44. Reduction works and ore-dressing works;
45. Charcoal burning and brick burning;
46. Works or premises where sand or shot blasting or similar dust or grit producing processes is applied;
47. Dry cleaning establishments; and
48. The handling or storage of any substance or material, which can lead to a public health hazard.