

EMAKHAZENI LOCAL MUNICIPALITY



DRAFT BY-LAW

BARBERS, HAIRDRESSERS AND BEAUTICIANS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Emakhazeni Local Municipality, enacts as follows:-

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Schedules

1. Interpretation

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

"barber" means a person who carries on the business of barber, which business comprises any one or the services or activities contemplated in section 4;

"beautician" means a person who carries on the business of beautician, which business comprises any one or more of the services or activities contemplated in section 4;

"Council" means the Emakhazeni Local Municipal Council;

"hairdresser" means a person who carries on the business of hairdresser, which business comprises any one or more of the services or activities contemplated in section 4;

"salon" means a place where any one or more of the services or activities contemplated in section 4 are normally carries on.

2. Principles and objectives

The Emakhazeni Municipal Council, is aware of its duty to ensure the health, safety and well- being of all residents in and visitors to the municipal area, adopts these By-laws with the aim of regulating the businesses of barber, hairdresser and beautician.

3. Permit by Council

- 1) No person may, for gain, carry on the business of barber, hairdresser or beautician without being in possession of a permit has been issued by the Council.
- 2) A person who wishes to obtain a permit must apply to the Council and must submit to the Council a completed from similar to the form contained in Schedule 1, which schedule refers.
- 3) The following particulars must be included in the application:
 - a) The nature of the business to be carries on;
 - b) the nature of the materials to be dealt with;
 - c) the process to be carried on the premises;
 - d) the products of the process;
 - e) the volume, composition, and nature of production wastes that require disposal;
 - f) the means proposed to be adopted for the disposal of, and to prevent nuisance arising from, atmospheric pollutants, waste material, noise or vibrations; and
 - g) any circumstance which could cause a hazard to employees or the public.

- 4) The Council may require the submission of further particulars, plans or drawing.
- 5) The Council may refuse to issue a permit, or may issue a permit on a form similar to the form in Schedule 2, which schedule refers, on such conditions and for such a period as the Council deems necessary, against payment of the prescribe fee, and should the permit be issued for a specified period, it may be renewed from time to time on application before expiry of the permit.
- 6) The granting of a permit is conditional on the effective prevention of any nuisance or danger to the health of the employees of the business or the public in general.
- 7) If, at any after the issue of the permit the Council is satisfied that a condition or restriction is not being properly complied with, the Council may serve a notice of compliance contemplated in section 7 on the permit holder or the owner, occupier or person in charge of the premises upon which the business is carried on, and should the permit holder fails to comply with the compliance notice, the Council may immediately withdraw the permit.
- 8) A person who contravenes a provision of subsection (1) commits an offence

4. Services and activities

The business of barber, hairdresser or beautician as contemplated in section 3(1), whether carried on in a salon or another place, comprises any one or more of the following or similar services or activities, or a combination thereof, which are applied to the male or female human body:

- a) cutting, shaving, singeing, shaping, shampooing, cleansing, conditioning, treating, chemical reformation (such as but not limited to permanent waving) relaxing, straightening and colouring (such as but not limited to it to tinting, dyeing, colouring, whether by permanent or temporary or semi-permanent means, and including the use of colour rinses, shampoos, gels or mousses, and lightening by means of tint, bleaches, highlights or high lifting tints or toners) of the hair on the human head;
- 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 an eyebrow or eyelashes or applying an artificial eyebrow or eyelashes;
- f) skin care of the face, including but not limited to the application of cosmetics;
- g) applying nail technology, such as but not limited to manicuring, pedicuring, or applying false mails or extensions;

- h) piercing of skin (" body piercing") or tattooing;
- i) massaging;
- j) bronzing such as by means of, but not limited to ultraviolet radiation; and
- k) contouring, such as but not limited to, slimming.

5. Health requirements

- 1) No person may use the premises of the salon for a purpose other than for the carrying on the business of barber, of barber, hairdresser or beautician.
- 2) A person who carries on the business of barber, hairdresser or beautician, in a salon or another place, must –
 - a) at all times keep a first aid kit on the premises, and treat an injury or wound which may occur on the premises;
 - b) install or have available in the salon an appliance or other means whereby an instrument that have come into contact with human skin, hair or bodily fluid, such as, but not limited to, blood, may be sterilized or disinfected;
 - c) after each use of an instrument which was used for the piercing of the skin or for tattooing, sterilize the instrument;
 - d) after each use of a blade, razor, pair of scissors, comb, brush, roller, nail file, clippers, or other instrument which was applied to the human hair, nail or skin, disinfect the instrument;
 - e) wear new disposable glove when he or she implanted hair, pierces or tattoos skin, or uses a chemical or chemical compound in an activity;
 - f) disinfect his or her hands before and after rendering any service to a client;
 - g) directly after treatment of the client, clean and disinfect a surface that has been contaminated by body fluid; and
 - h) dispose of any disposable glove or other disposable material after each use;
 - i) at least once a day wash, with a disinfectant, all clothing such as aprons and caps, all surfaces such as, but not limited to, walls, floors, counters and chairs;
 - j) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated disposable towels and paper in an approved manner;
 - k) store sharp instruments such as, but not limited to, a razor, blade or needle in a separate container;
 - l) after each use, wash and clean all plastic and cloth towels;
 - m) generally keep the premises, tools, equipment and clothing in a hygienic conditions at all times;
 - n) after every service, collect waste such as, but not limited to, waste in accordance with the Waste Management By-laws, 2005;
 - o) ensure that no animal, excluding a guide dog accompanying a blind person, enters the premises; and
 - p) provide his or her employees with protective clothing, train any person working on the premises, and ensure that the employee complies with the provisions of these by-laws.

- 3) A person who contravenes a provision of subsections (1) or (2) commits an offence.

6. Requirements for premises

- 1) A person who carries on the business of barber, hairdresser or beautician, in a salon or another place, must ensure that the premises comply with the following:
 - a) Basins, with a supply of running potable water, must be available for the washing of hair and hands;
 - b) lighting, ventilation, water and toilets facilities as prescribed in the National Buildings Standards Act, 1977 (Act No.103 of 1977) must be provided;
 - c) shelves, counters, table tops or other fixtures on which instruments are placed must be constructed of impervious material that is easy to clean;
 - d) adequate facilities for the storage of cloths, instruments and appliances must be provided;
 - e) facilities for the disposal waste water must be provided;
 - f) the walls and floors must be constructed of materials that are easy to clean; and unless separate by a wall, the premises may not be used for the storage and preparation of food, or sleeping.
- 2) Should the permit holder or the owner, occupier or person in charge of the premises upon which the business is carried on fail to comply with a provision in subsection (1), the Council may serve a notice of compliance contemplated in section 7 on the person.

7. Notice of compliance and representations

- 1) A notice of compliance must state –
 - a) the name and residential or postal address of the affected person;
 - b) the condition contemplated in section 3 (5) or (6) which has not been complied with or the provision of section 6(1) which has not been complied with;
 - c) in details the measures required to remedy the situation;
 - d) that the person must within a specified period taken measures to comply with the notice and to complete the measures before a specified date; and
 - e) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the Council at a specified place.
- 2) The Council, when considering any measure or period envisaged in subsection (1) (c) or (d), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.
- 3) Where a person does not make representations in terms of subsection (1) (e), and the person fails to take the measures before the date contemplated in subsection (1) (d), he or she commits an offence, and the Council may, irrespective of any fines which may be imposed under section 1, act in terms of subsection (5).
- 4) Council may take the following measurements;

- a) Representations not lodged within the time contemplated in subsection (1) (e) will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.
 - b) The Council must consider the timely representations and any response thereto by an authorized official.
 - c) The Council may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he/she so wishes, and the Council must also consider the further response.
 - d) The Council must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or part, or altered, the Council must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.
 - e) Where a person fails to discharge the obligations contemplated in subsection (4) (d), he or she commits an offence and offence and the Council may, irrespective of any fines which may be imposed under section 11, Act in terms of subsection (5).
- 5) The Council may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the Council in accordance with section 8.

8. Costs

- 1) Should a person fail to the measures required of him or her by a notice of compliance contemplated in section 7, the Council may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it acting terms of section 7 (5) from that person and or all of the following person:
 - a) the owner of the land, building or premises; or
 - b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- 2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the Council under section 7 (5).
- 3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned to the degree to which each was responsible for the emergency resulting from their respective failures to the required measures.

9. Authentication and service of notices and other documents

- 1) A notice issued by the Council in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorized by the Council.
- 2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been duly served –
 - a) when it has been delivered to that person personally;
 - b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and a acknowledgment of the posting thereof from the postal service is obtained;
 - d) if that person's address in the Republic is known, when it has served on that person's agent or representative in the Republic in the manner provided by the paragraphs (a), (b) or (c);
 - e) if that person's address and agent or representative in the Republic is known, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - g) when it has been delivered, at the request of that person, to his or her e-mail address.
- 3) Service of a copy is deemed to be service of the original.
- 4) When any notice or other document is served on the owner, occupier, or holder of any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

10. Appeal

- 1) A person whose rights are affected by a decision of an official of the Council acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of decision.
- 2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- 3) When the appeal is against a decision taken by-
 - a) a staff member other than the Municipal Manager, the Municipal Manager is appeal authority;
 - b) the Municipal Manager, the Executive Mayor is appeal authority; or
 - c) a political structure or political officer bearer, or a Councilor of the Council is the appeal authority.

- 4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

11. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment for a period not exceeding XX months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment for a period not exceeding XX months.

12. Saving and transitional provision

A person who, at the date of commencement of this By-law, carries on the business as barber, hairdresser or beautician without being in possession of a permit as contemplated in section 3 (1) must, within a period of six months, comply with the provisions of this By-law.

13. Revocation of by-laws

The provisions of any by-laws of Local Municipalities relating to Barbers, Hairdressers and Beauticians by the Council are hereby repealed insofar as they relate to matters provided for in these by-laws.

14. Short title and commencement

This By-law is called the Emakhazeni Barber, Hairdressers and Beauticians By-law, 2017.

SCHEDULE 1

(Section 3 (2))

APPLICATION FOR PERMITS FORM

A. PERSONAL PARTICULARS

Name:

Address:

Telephone number:

B. BUSINESS PARTICULARS

Address of business premises:

.....

Type of business (e.g. hairdresser, barber):

Nature of activity or service that will be carried on:

Nature of the materials to be dealt with:

Products of the process:

Nature and composition of waste:

Estimated volume of waste:

Briefly explain how will the waste be disposed of:

.....

Signature applicant:

Date:

SCHEDULE 2

(Section 3 (5))

EMAKHAZENI LOCAL MUNICIPAL COUNCIL

PERMIT TO CARRY ON THE BUSINESS OF BARBER, HAIRDRESSER, OR BEAUTICIAN

This serves to confirm that..... (Name of person) of.....

..... (Address of a person) is permitted to carry on the business of Barber/ Hairdresser/ Beautician within the Emakhazeni Local Municipal Area at the following address: (Address of business premises), for the period to.....

The following conditions apply to the business:

.....
.....
.....

Signed:

Date:

OFFICIAL CAPACITY

