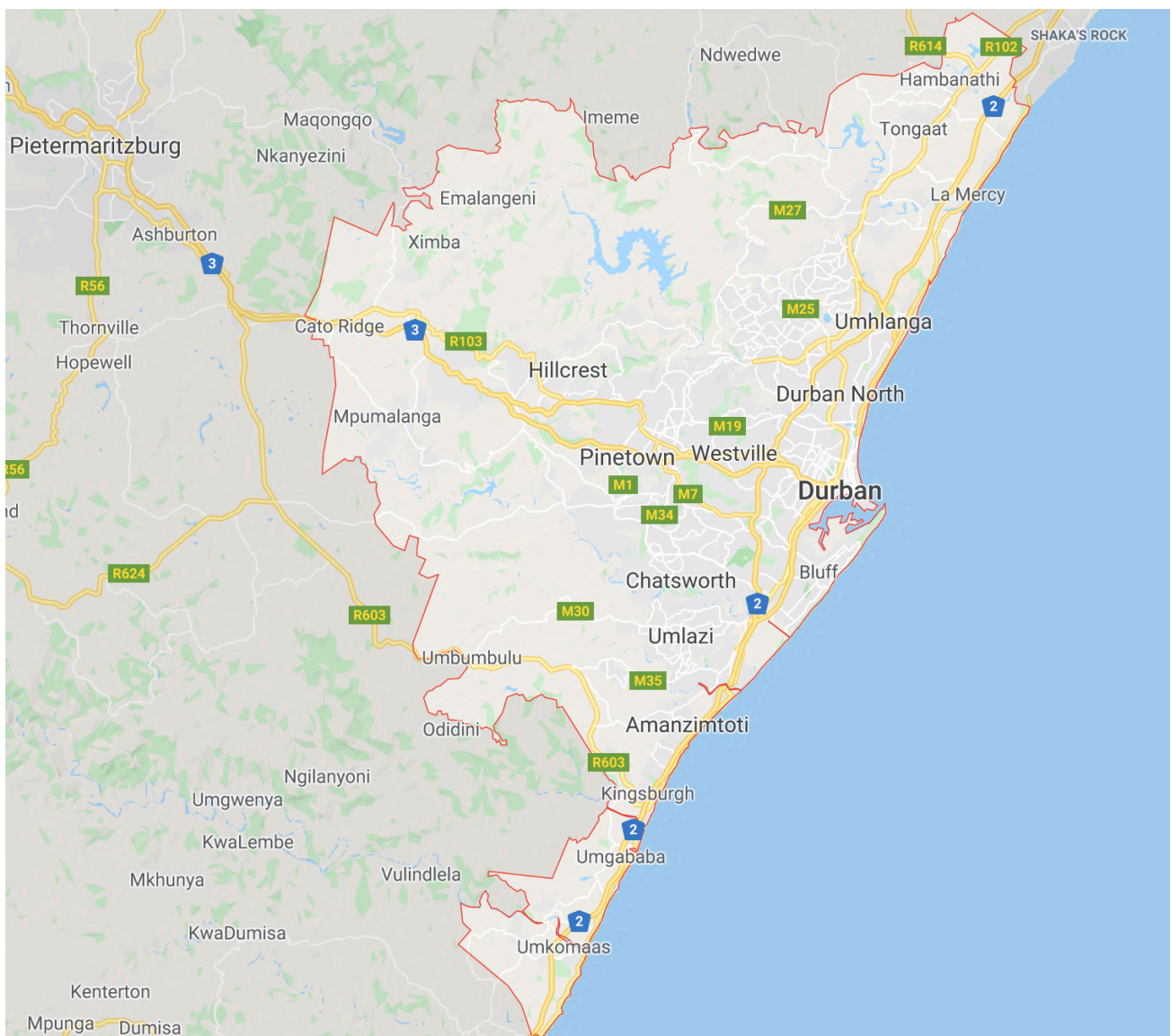


eThekweni Scheduled Activities By-law (Municipal Notice 63 of 2020)

The eThekweni Scheduled Activities By-law was published in the Provincial Gazette on the 13th of August 2020 and comes into effect six months from this date, i.e. on the 13th of February 2021.

The objective of this by-law is to regulate activities that are located in the eThekweni Municipality and which have an impact on human health and the environment. The eThekweni Municipality is shown by the red line below:



Scheduled activities are listed in Schedule 1 of the by-law, shown beneath. However, the municipality may also require activities that are not listed in Schedule 1 to obtain a permit, if the municipality reasonably believes that the activity can negatively impact human health, damage the environment, or cause a nuisance.

Schedule 1

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| <p>Abattoirs</p> <p>Acid works</p> <p>Alkali works</p> <p>Ammonia works and bulk transportation</p> <p>Animal and fish products processing, including the manufacture of meal for animal feeding</p> <p>Asbestos transportation, handling and storage, and the manufacture and bulk-storage of products containing asbestos</p> <p>Asphalt plant, permanent and mobile</p> <p>Battery manufacturing, reconditioning and servicing</p> <p>Bitumen works, including the transportation and operation of mobile bitumen kettles</p> <p>Breweries</p> <p>Brick and tile works</p> <p>Carbon black manufacture</p> <p>Cement products and pre-mixing works</p> <p>Ceramic works</p> <p>Chemical product processing, including any process involving a chemical reaction</p> <p>Container washing and reconditioning works</p> <p>Chrome and chromate works including storage and handling of chrome</p> <p>Coal, charcoal and coke storage and handling</p> <p>Composting</p> <p>Crematoria</p> <p>Distillery</p> <p>Engineering works</p> <p>Fertilizer works</p> <p>Food manufactory</p> <p>Foundries and metal works</p> <p>Fungicide manufacture, and bulk-handling, storage and commercial usage of fungicides</p> | <p>Furniture manufacture and re-conditioning</p> <p>Gas works</p> <p>Glass-fibre manufacture, storage, moulding and finishing</p> <p>Glass works</p> <p>Hazardous substances (as defined in the Hazardous Substances Act, No. 15 of 1973) – manufacture and bulk-blending, transportation and storage.</p> <p>Hazardous substances include road, rail tanker and isotainer washing and maintenance</p> <p>Health care risk waste transportation</p> <p>Herbicide manufacture, and bulk-handling, storage and commercial usage of herbicides</p> <p>Hide and skin processing</p> <p>Laundries excluding in-house laundries located within accommodation establishments</p> <p>Lead works</p> <p>Manganese storage and handling</p> <p>Marine food processing</p> <p>Mattress-maker</p> <p>Metal products manufacture</p> <p>Metal buffing, electroplating, enameling and galvanising</p> <p>Milling</p> <p>Ore processing works, or handling and storage of ores</p> <p>Pesticides manufacture, and bulk-handling, store and commercial usage of pesticides</p> <p>Pigment works</p> <p>Plastic product works</p> <p>Power or energy generation</p> <p>Printing works</p> <p>Quarrying</p> | <p>Refining</p> <p>Refuse collection, storage, removal, processing or disposal</p> <p>Removal of human remains</p> <p>Rubber moulding or vulcanising</p> <p>Sand, shot and grit blasting</p> <p>Sandwinning</p> <p>Sewage treatment, transportation or disposal</p> <p>Scrap yard</p> <p>Ship building</p> <p>Sludge works</p> <p>Spray-painting</p> <p>Stone crushing and dressing works</p> <p>Stone masonry</p> <p>Tannery</p> <p>Teasing or shredding works dealing with coir, flock or textiles</p> <p>Timber yard and works</p> <p>Upholsterer</p> <p>Vegetable oil extraction or processing</p> <p>Vehicle or vehicle parts manufacturing</p> <p>Waste material salvaging, collecting, sorting, storing, treating, processing or recycling/reclaiming</p> <p>Welding works</p> <p>Wood pulping</p> <p>Yeast manufacture</p> <p>Any other activity as determined by the provisions of section 5(10)</p> |
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Scheduled activities may not operate without written permission from the municipality. To obtain permission, scheduled activities must submit an application which includes the information that is listed in section 5(2) of the by-law. Furthermore, scheduled activities must provide proof that they are compliant with a comprehensive list of environmental laws and other laws including the:

- Occupational Health and Safety Act (No. 85 of 1993),
- Hazardous Substances Act (No. 15 of 1973),
- National Building Regulations and Standards Act (No. 103 of 1977),
- National Environmental Management Act (No. 107 of 1998),
- National Environmental Management: Air Quality Act (No. 39 of 2004),
- National Environmental Management: Integrated Coastal Management Act (No. 24 of 2008),
- National Environmental Management: Waste Act (No. 59 of 2008),
- National Health Act (No. 61 of 2003),
- KwaZulu-Natal Planning and Development Act (No. 6 of 2008),
- Spatial Planning and Land Use Management Act (No. 16 of 2013),
- Disaster Management Act (No. 57 of 2002),
- National Environmental Management: Biodiversity Act (No. 10 of 2004),

- National Water Act (No. 36 of 1998),
- And any other relevant municipal by laws.

A public participation process must be conducted as part of the application and must include newspaper adverts, signage at the site and communication with interested and affected parties. Scheduled activities must submit their applications to the eThekweni Municipality within 12 months of the promulgation of this by-law (i.e. by the 13th of August 2021).

Before granting a Scheduled Activity Permit, the eThekweni Municipality must be satisfied that the environmental and health impacts of the scheduled activity will be managed, that there are measures in place to mitigate detrimental health and environmental impacts, and that the scheduled activity will comply with statutory limits. The by-law contains a Duty of Care in section 8 which states that reasonable measures must be taken to prevent adverse human health and environmental impacts and to prevent nuisances. Any objections that are raised during the public participation process also need to be sufficiently addressed before permission will be granted.

Scheduled Activity permits are valid for 5 years and a new application must be submitted 60 days prior to the expiry of the old permit.

Section 9 of the by-law permits the municipality to issue compliance notices, which are orders to comply, to scheduled activities that are transgressing the legislation or adversely affecting the environment or the health of people. If a scheduled activity fails to comply with a compliance notice, the permit may be revoked, the activity may be shut down and the responsible person may be prosecuted. Section 11 permits the municipality to take action to remedy any harm resulting from a scheduled activity's non-compliance with the by-law. The municipality may recover costs for so doing.

In section 12 of the by-law, an offence is described as non-compliance with either the by-law, or with the permit or with a compliance notice. Penalties for committing an offence include a fine of R 100 000 and/or up to two years' imprisonment. For continued offences, there is an additional fine of R 1 000 per day and/or imprisonment of up to 10 days per day of continued offence.

Any decisions that are made in terms of the by-law may be appealed by a person who feels that their rights are affected by the decision (section 14 of the by-law).

What does this mean for you?

1. If you operate an activity in eThekweni that is listed in Schedule 1 then you need to contact Atholee Holland at the eThekweni Municipality on Atholee.Holland@durban.gov.za or ask Yellow Tree to do so on your behalf, and begin the application process.
2. If you already have a permit that was issued under the old Scheduled Trades and Occupations By-law for the City of Durban (1979) or the Offensive Trade Regulations for the Borough of Durban (1921) then you need to apply for the permit to be converted into a Scheduled Activity Permit under the new by-law.
3. You need to gather documentary evidence that you are in compliance with the legislation that is listed in the bullet point list above.
4. You will have to embark upon a public participation process or seek Yellow Tree's assistance to do so.
5. You will obtain a Scheduled Trade Permit and must remain up to date with its requirements.
6. You will have to swiftly address any compliance notices that you may be issued in terms of this Scheduled Activities By-law.