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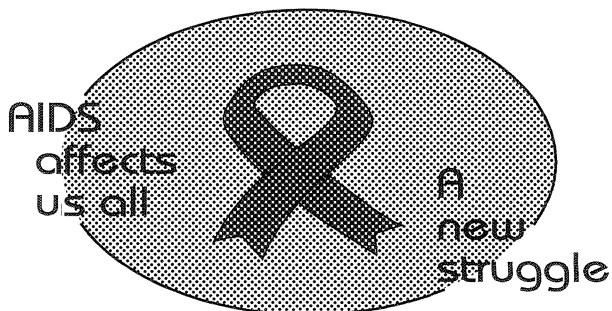
Vol. 7

PIETERMARITZBURG,

15 FEBRUARY 2013
15 FEBRUARIE 2013
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No. 897

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DEPARTMENT OF HEALTH

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MUNICIPAL NOTICE—MUNISIPALE KENNISGEWING—ISAZISO SIKAMASIPALA

No. 9

15 February 2013

ENDUMENI MUNICIPALITY**BY-LAW RELATING TO THE CONTROL OF PUBLIC NUISANCES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act [Act No. 108 of 1996], the By-law Relating to the Control of Public Nuisances.

Purpose of By-law

The purpose of this by-law is to promote a safe, healthy and peaceful environment for the benefit of the public residing within the municipal boundaries, and to provide for practices and procedures to control public nuisances.

**CHAPTER 1
DEFINITIONS****1. Definitions** - In this by-law, unless the context otherwise indicates -

'**area**' means the geographical area falling within the municipal boundaries of the Endumeni Municipality;

'**authorised official**' means –

- (a) an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'**municipality**' means the Endumeni Municipality, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'**noise pollution**' means any unseemly noise, shouting, quarrelling, wrangling, or singing or the continuous playing of musical instruments, radios, or loudspeakers, which constitutes a nuisance.

'**nuisance**' means, without limiting the generality of the term, an act, omission, condition or state of affairs that –

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

and '**public nuisance**' shall have a corresponding meaning;

'**occupier**' means and includes any person in actual occupation of any land or private property or having the charge or management thereof, without regard to the title under which he or she occupies it, and, in the case of private property subdivided and let to various lodgers or tenants, the person receiving the rent payable by lodgers or tenants, whether on his or her own account or as agent for any person entitled thereto or interested therein;

'**owner**', in relation to any private property means -

- (a) the person in whose name the title to that private property is registered in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937], as amended, and includes the holder of the stand licence;

- (b) the person in whose name the certificate of sectional title to that private property is registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and, in addition, includes the owner (as defined in the said Act), the body corporate and the developer in relation to such private property;
- (c) if such person or holder is dead, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested, whether as executor, trustee, liquidator, guardian or in any other capacity whatsoever;
- (d) if the private property is under lease, the registration whereof being necessary for the validity of such lease, the lessee; or
- (e) where an owner, as herein defined, is absent from the Republic or his whereabouts are unknown, an agent of such owner, or any person receiving or entitled to receive rent in respect of the private property or any 'unit', as defined in the Sectional Titles Act, 1986, of such private property;

'private property' shall include any public place and any land privately owned, all buildings, rooms, tenements, sheds, huts or other structures or erections, and also yards or lands in connection therewith, and shall also include any "unit", as defined in the Sectional Titles Act, 1986, thereof;

'public facility' means an amenity provided by the municipality for the utilisation by and convenience of the public at large;

'public place' means any square, park, recreation ground or open space which -

- (a) is vested in the municipality; or
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

'public vehicle' means any vehicle or conveyance which is the property or under the control of the municipality, and which is used for the transport, for profit or otherwise, of members of the public;

'refuse', without limiting the ordinary meaning of the word, means any unused vehicle or machinery or part thereof, or any scrap metal, builder's rubble, garden refuse, debris, garbage, tyres or any other discarded or abandoned article or object;

'vehicle' means any conveyance which is capable of transporting one or more persons, except a wheelchair or similar device used for the conveyance of a physically impaired person.

CHAPTER 2 PUBLIC PLACES

2. Breaches of the peace

A person commits an offence if, in a public place, he or she -

- (a) accosts, insults, interferes with, jostles, threatens or harasses another person;
- (b) associates or acts in concert with other persons in a manner which causes or is likely to cause a breach of the peace; or
- (c) fights or incites or invites another person to fight.

3. Indecent behaviour

(1) A person commits an offence if, in a public place, he or she -

- (a) is not decently clothed so that at least such person's genitalia are covered from view; or
- (b) performs any indecent act, or incites any other person to commit any such offence.

(2) A person commits an offence if, in a public place, he or she -

- (a) defecates or urinates, except within a public facility provided by or on behalf of the municipality for that purpose;
- (b) enters a toilet reserved or set aside for members of the opposite sex;

- (c) spits;
- (d) is under the influence of intoxicating liquor or imbibes or ingests such liquor in circumstances which, in the reasonable opinion of an authorised official, render it likely that such person will cause a nuisance to other persons;
- (e) is under the influence of a dependence-producing substance, as defined in the Drugs and Drug Trafficking Act, 1992 [Act No. 140 of 1992], or administers such a substance to him- or herself or another person; or
- (f) commits or displays any indecent gesture, or indecently exposes him- or herself.

4. Obscene or offensive language

A person commits an offence if, in a public place within the hearing of a person in a public place, he or she uses any indecent or offensive language or sings an indecent or offensive song.

5. Indecent or offensive literature and representations

A person commits an offence if, in a public place, he or she -

- (a) displays, distributes, exposes to view, or sells, or offers for sale, in a manner likely to cause offence, any indecent or offensive picture, or other representation or written or printed matter; or
- (b) draws, prints, writes, or otherwise produces, any indecent or offensive figure, letter, picture, word or other representation or matter so that the same is in the public view.

6. Dangerous acts

(1) A person commits an offence if, in a public place, he or she -

- (a) activates, handles or uses any material, object or thing which results in injury to a person, or which threatens a person, or which damages property, or he or she acts in a manner likely to result in such injury, threat or damage;
- (b) introduces or handles any material, object or thing, or any liquid or solid substance, which, by its nature, or by reason of the manner of its introduction or handling, creates a new source of danger to persons or property, or is likely to do so;
- (c) lights, uses, or benefits from, a fire, other than in or on a public facility provided by the municipality for that purpose;
- (d) attaches any object to, or suspends any object from, a canopy, bridge, verandah or other projection, or a pillar, pole or post, subject to the provisions of section 9(e); or
- (e) performs any other act which may cause injury to a person or damage to property, unless he or she is authorised or permitted by law to do so, or does so with the written permission of an authorised official and in accordance with any conditions imposed by him or her.

(2) Regarding the discharge or use of fireworks -

- (a) no person shall discharge fireworks from any private property or public place without the written consent of the municipality;
- (b) applications for the written consent contemplated in terms of subsection (a) shall be -
 - (i) submitted in writing 14 (fourteen) days prior to the event; and
 - (ii) accompanied by the written consent of the immediate neighbours who occupy abutting properties and properties across the road from the private property or public place from which the fireworks will be discharged;

- (c) nothing contained in this section shall be construed so as to detract from the requirements of the Explosives Act, 2003 [Act No. 15 of 2003], or any regulations promulgated in terms thereof.

7. Littering

- (1) A person commits an offence if, in a public place, he or she -
- (a) abandons, discards, discharges, or spills, or causes or allows to be discharged or spilled, any rubbish or other waste material or thing, whether liquid or solid, except in a receptacle provided for the purpose; or
 - (b) removes from a receptacle, provided for the disposal of refuse, any of its contents, and causes same to be discharged from such a receptacle.
- (2) A person who causes or incites another person to perform any of the acts described in subsection (1) shall be guilty of an offence.
- (3) Any material or thing that a person drops or allows to fall without being immediately retrieved by him or her shall, for the purposes of subsection (1), be deemed to have been discarded by him or her.
- (4) Any material or thing found in a public place in circumstances giving rise to a reasonable suspicion that an offence has been committed in terms of subsection (1), and which bears the name of a person or in respect of which there is a reasonable suspicion that it is or was the property or under the control of that person, shall, for the purposes of subsection (1), be deemed to have been abandoned or discarded by that person, until the contrary is proved.
- (5) A person who sweeps, or in any other way introduces, any rubbish or waste material or thing into a public place shall be deemed to have discarded it there, for the purposes of subsection (1).
- (6) A person who has been observed by an authorised official to have contravened the provisions of subsection (1) may be directed by him or her to remove the rubbish, material or thing or to place it in a receptacle provided by or on behalf of the municipality, and failure to comply with such direction shall constitute an offence.

8. Cleaning of sidewalks and verges

- (a) An occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing shall at all times, while any such activity is being carried on, keep any sidewalk and verge abutting on or adjoining the premises, including the gutter and kerb, free of litter, and shall keep the sidewalk and verge in a clean and satisfactory state, and, to this end, remove all litter therefrom.
- (b) The occupier referred to in subsection (a) shall cause all litter removed in terms of said subsection to be placed in refuse receptacles provided by or on behalf of the municipality, or, with the written consent of an authorised official, to be disposed of in a manner approved by said authorised official.

9. Obstructions

A person commits an offence if, in a public place, he or she -

- (a) leaves any thing unattended, having introduced or placed the thing there, so as to cause or be likely to cause an obstruction to persons or vehicles;
- (b) carries, deposits, handles or introduces any thing, so as to be likely to obstruct or interfere with the free movement of persons or vehicles, or with the use of the public place by persons or vehicles, or to cause injury to any person, or damage to any property;

- (c) deposits on its surface any thing, for the purpose of, or in the course of, loading or unloading a vehicle, or of delivering same to premises having access to such public place, for a longer period than is reasonably necessary for that purpose;
- (d) obscures a road traffic sign, as defined in the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (e) hangs or suspends anything from or above a public place, or causes or allows anything to protrude above its surface or to encroach upon it, provided that prior written consent may be obtained from the municipality, which consent may be given subject to conditions and restrictions deemed necessary;
- (f) gathers with or causes a gathering of other persons in a place or manner so as to, or so as to be likely to, obstruct or restrict or interfere with the movement of persons or vehicles, or the use or enjoyment of a public place by persons or vehicles;
- (g) performs any other act which has, or is likely to have, a result described in subsection (b).

10. Disposal of property found in a public place

- (1) When anything has been left in a public place, in contravention of section 9, an authorised official may remove it to a store established by the municipality for this purpose, provided that, if such a thing, in the reasonable opinion of the authorised official, has no commercial value, he or she may dispose of same in such manner as he or she deems fit, and the person who has committed the offence shall be liable to the municipality for the cost of such disposal, as determined by such authorised official.
- (2) Items which have been removed to a store in terms of subsection (1) shall be released to any person who, within 7 (seven) days after such removal, or within such longer period as may be allowed by the authorised official in charge of such store, has demonstrated that he or she is the owner of the items, or entitled to their possession, after payment of the cost of removal and storage, as determined by such authorised official, in accordance with a prescribed tariff of charges.
- (3) Items which have not been released in terms of subsection (2) shall be sold or disposed of in such manner and after such notice as the authorised official in charge of the store deems fit, having regard for the nature of the items.
- (4) The proceeds of any sale in terms of subsection (3) shall be utilised for the payment of -
 - (a) the cost of removal and storage, as determined in terms of subsection (2);
 - (b) any costs which may have been incurred in attempting to trace the owner; and
 - (c) the costs of sale, the remaining balance being forfeited to the municipality if not claimed within 1 (one) year of the date of sale by a person who demonstrates his legal right thereto.
- (5) If the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4), then the owner of the items sold and the person who committed any offence in relation thereto shall be jointly and severally liable to the municipality for payment of the unsatisfied balance.
- (6) If the items cannot be sold in terms of subsection (3), then the authorised official in charge of the store may dispose of the items in such manner as he deems fit, and the provisions of subsection (5) shall, *mutatis mutandis*, apply in respect of any costs incurred in effecting such disposal.
- (7) The exercise of any powers conferred by this by-law shall not render the municipality or any authorised official liable for any loss or theft of, or any damage to, anything removed in terms of subsection (1), except where such loss, theft or damage is a direct result of the negligence of the municipality or authorised official in question.

11. Obstructions caused by plants

- (1) If a tree, shrub or other plant growing on any private property which abuts on a public place, or any portion of such plant -
- (a) obstructs the view of the driver of any vehicle in such public place;
 - (b) obstructs or causes a nuisance to persons using such public place;
 - or
 - (c) obscures a road traffic sign,
- an authorised official may serve a notice on the owner or occupier of the private property, requiring him or her to cut down, remove or trim the plant from which the nuisance originates, to an extent, and within the period, stated in the notice, and any person who fails to comply with such notice within the period stated shall be guilty of an offence.
- (2) If a person on whom a notice has been served in terms of subsection (1) fails to comply with the terms thereof within the period stated therein, then an authorised official may cause the work specified in the notice to be carried out, and such person shall be liable to the municipality for the reasonable cost of the work, as assessed by such authorised official.

12. Gatherings

- (1) No person shall convene, or participate in, any gathering at any public place, outdoor facility or municipal building so as to -
- (a) constitute a nuisance, as defined; or
 - (b) contravene any provision of the Regulation of Gatherings Act, 1993 [Act No. 205 of 1993].
- (2) The provisions of subsection (1) shall not be interpreted so as to detract from any person's constitutional right to assemble, demonstrate, picket and present petitions.

13. Amplification devices and equipment

- (1) No person shall, without the prior consent of the municipality, use or permit to be used any megaphone, loudspeaker, or other device for the reproduction or amplification of sound, in or upon any public place, for the purpose of making announcements, advertising, or doing anything of a similar nature.
- (2) The municipality may refuse to grant such consent, if it has reasonable grounds for believing that the use of any such megaphone, loudspeaker or other device will cause, or is likely to cause, a nuisance, as defined.
- (3) The municipality may withdraw its consent, if it appears that a nuisance has been caused, or is likely to be caused.

14. Games

A person commits an offence if, in a public place, he or she plays any games, or indulges in any pastimes, such as, but not limited to, the use of roller skates, rollerblades or skateboards, in a manner that causes a nuisance.

15. General offences

- (a) A person commits an offence if, in a public place, upon private property, at an outdoor facility or in a municipal building, or the said facility or building being owned by or under the control of the municipality, he or she acts, or omits to act, such that a nuisance is caused in circumstances that are under his or her control.
- (b) The provisions of subsection (a) shall not apply to the extent that a person acts lawfully, in the exercise of a right, or in the performance of a duty.

**CHAPTER 3
PRIVATE PROPERTY**

16. Use of private property

- (1) A person commits an offence if, on any private property, he or she -
 - (a) excavates or removes soil or other material from a position in relation to other premises or a public place so as to, or to be likely to, remove lateral support from such premises or public place, or to create a source of danger to life or damage to property;
 - (b) being the owner or occupier of such private property, allows any well, pond, reservoir, swimming pool, pit, hole, excavation, earthwork, tree or other vegetation on such private property to be in such a condition or to be so unprotected so as to constitute a danger to the safety of persons or property;
 - (c) causes, or allows, anything to project from the private property over or into a public place, except in an area zoned for industrial purposes in terms of a zoning scheme and to an extent necessarily consistent with the lawful land use thereof;
 - (d) being the owner or occupier of such private property, deposits, stores or causes, or allows or permits to be deposited or stored or to accumulate so as to be visible from a public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof, or scrap metal or other derelict or waste materials;
 - (e) without the consent of the owner or occupier thereof, attaches or places anything to or on any private property, or in any way defaces such private property, whether by the use of chalk, ink, paint, or by any other means whatsoever, unless he is authorised by any law to do so.
- (2) An authorised official may order a person who has contravened or is contravening subsection (1)(d) or (e) to remove the item to which the contravention relates from the private property concerned within a specified time, and, if he fails to do so, then the provisions of section 10 shall, *mutatis mutandis*, apply.

17. Burglar alarms

- (1) The owner or occupier of a private property in which a burglar alarm device has been installed shall be guilty of an offence if the burglar alarm device continues to sound either continuously or intermittently for more than 10 (ten) minutes after it has been activated by any cause whatsoever.
- (2) Such a device shall be deemed to be sounding intermittently for the purposes of subsection (1) for so long as it continues to sound at any interval without the intervention of a new cause, provided that it shall be a defence to a charge of contravening subsection (1) if it can be proved that an automatic cut-off mechanism fitted to such device has failed to operate, for reasons beyond the control of the occupier, and without negligence on his or her part.
- (3) When a burglar alarm device has been installed in any private property, the owner or occupier of the private property shall, unless a mechanism referred to in subsection (2) has been fitted, either erect, and maintain, at the main entrance to the private property, a notice specifying the names and telephone numbers of persons who have access to the private property at all times for the purpose of deactivating the device, or shall arrange for an automatic response to an alarm to operate at all times.

18. Air-conditioning appliances

- (1) The owner or occupier of a private property who has installed therein, or who maintains and operates therein, an air-conditioning appliance shall ensure

that such appliance is so installed, maintained and operated so as to preclude -

- (a) the generation of noise, odours or vibrations which cause a nuisance, as defined; and
 - (b) the discharge or generation of condensate onto a public place so as to cause a nuisance, as defined.
- (2) Nothing contained in this section shall be construed so as to detract from the requirements of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and the Occupational Health and Safety Act, 1993 [Act No. 85 of 1993] and any regulations promulgated in terms of the aforesaid legislation.

19. Nuisances arising from the use of private property

- (1) No owner or occupier of private property shall -
- (a) use it for a purpose;
 - (b) cause, allow or permit its use for a purpose;
 - (c) organise or allow or permit an activity, event or function thereupon, save for birthday, engagement, wedding, or similar, celebrations,
- which is contrary to the zoning scheme, or similar restrictions imposed by town planning legislation, and which, by its nature or otherwise, or by reason of its consequences, causes a nuisance.
- (2) Notwithstanding subsection (1), nothing shall prevent the owner or occupier of any private property from engaging in the following activities -
- (a) any authorised building or contract work undertaken by him- or herself, or on his or her behalf; and
 - (b) participating in any hobby or activity involving any item owned or used by him or her which may require the use of an electrical appliance such as an angle grinder, sanding machine or similar item, provided that -
 - (i) the use of such appliance does not cause interference to television or radio reception in the neighbourhood, that every precaution possible is taken to minimise noise therefrom and the duration of use thereof, and that such activity is not for or related to any business conducted from the private property or elsewhere; and
 - (ii) such building or contract work and the use of electrical appliances for such hobby or activity is confined to the hours of 07h00 to 19h00.
- (3) Whenever an authorised official is of the reasonable opinion that a person engaged in a hobby or activity is contravening subsections (1) or (2), he or she may instruct the owner or occupier of the private property, or any person responsible for or participating in the use, activity, event or function, to take such steps as the authorised official specifies, to abate the nuisance, or to avoid the creation of a nuisance, or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith, or within a time prescribed by the authorised official.
- (4) If the owner, occupier or person responsible for, or participating in, the use, activity, event or function mentioned in subsection (3) fails to abide by any notice or instruction given by an authorised official, then such official may issue a notification in terms of Section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977] upon the owner of the property where the use, activity, event or function mentioned is emanating from.

20. Lighting of fires

- (a) No person shall, on any private property, light a fire, or burn, or attempt to burn, any rubbish or refuse, or any grass or other vegetation, without taking adequate precautions to prevent the uncontrolled spread of the fire, or the creation of a nuisance, whether as a result of the production of ash, flames, fumes, heat, smoke, or otherwise.
- (b) Should any person persist with the burning of any matter without taking effective precautionary measures as described in subsection (a), where such burning is the subject of a reasonable complaint lodged with the municipality, the municipality, through its authorised official, shall be entitled to enter upon the private property on which the burning is taking place, in order to extinguish the fire, and to charge with an offence the person concerned.

21. Slaughter of animals and disposal of carcasses

- (1) No person shall –
 - (a) slaughter any animal at any place other than an abattoir;
 - (b) permit the slaughter of any animal at any place under his or her control, unless the place is an abattoir; or
 - (c) sell or provide meat for human or animal consumption, unless the meat has been slaughtered at an abattoir.
- (2) The provisions of subsection (1) do not apply to slaughter for own consumption, or for cultural or religious purposes, provided that –
 - (a) prior to the slaughter of any animal on a private property, the owner or the occupier must –
 - (i) obtain the written consent of the municipality; and
 - (ii) provide reasonable notification to the immediate neighbours who occupy abutting properties and properties across the road from the private property on which the animal will be slaughtered; and
 - (b) such slaughter does not constitute a nuisance, as defined.
- (3) No person shall bury, or place, any carcass or part of a carcass, or permit any carcass, dead thing, or any decomposable or offensive material or thing, which is his or her property, or which is under his or her care or control, to be placed on his or her private property or elsewhere, or to remain thereon so as to cause a nuisance.
- (4) In the event of any person not being able to dispose of any offensive matter or thing or bury any carcass in terms of subsection (3), he or she shall arrange with the municipality for it to effect such disposal at the prescribed fee.
- (5) Nothing contained in this section shall be construed so as to detract from the requirements of the Meat Safety Act, 2000 [Act No. 40 of 2000], and any regulations promulgated in terms thereof.

22. Removal of weeds, undergrowth and bush

- (1) No person shall permit any rank grass, undergrowth, or declared weeds or invader plants, as listed in the Conservation of Agricultural Resources Act, 1983 [Act No. 43 of 1983], and any regulations promulgated in terms thereof, to grow upon any private property or vacant land occupied or owned by him or her.
- (2) A person shall comply with any notice issued by an authorised official, requiring him or her to destroy or cut down and remove, or cause to be

removed, any such rank grass, undergrowth, or declared weeds or invader plants, within a time to be stated in such notice, and in a method as stated in the Conservation of Agricultural Resources Act, 1983 and its regulations.

- (3) If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary, to carry out, on behalf of the said person, the requirements of the said notice, and may recover the cost thereof from the said person, in accordance with the municipality's tariff of charges.

23. Control of mosquitoes, flies, rodents and other vermin

- (1) It shall be the duty of every owner and occupier to prevent mosquitoes, flies, rodents or other vermin from developing or being harboured on any private property owned or occupied by such owner or occupier, and any such owner or occupier who fails to comply with the provisions hereof shall be deemed to have contravened this by-law.
- (2) The owner or occupier of private property shall, on being served with a notice signed by an authorised official, carry out such measures as may be specified therein, for the removal of conditions favourable for the development of, or harbouring of, mosquitoes, flies, rodents or other vermin, within the time specified in the notice.
- (3) If the owner or occupier refuses to carry out the measures specified in a notice issued in terms of this by-law, or fails to do so within the time specified, then an authorised official may arrange for such measures to be carried out, and the reasonable costs incurred in so doing shall be recoverable by the municipality from the person upon whom the notice is served, at a charge specified in the municipality's tariff of charges.

24. Keeping or management of a brothel

- (1) No person shall keep or manage, or act or assist in the keeping or management of, a brothel upon any private property.
- (2) No person, being the owner, lessee or occupier of any private property, shall knowingly permit such private property or any portion thereof or any room therein to be used as a brothel or for the purpose of prostitution, or to be a party to continued use thereof for such purposes.
- (3) No person, being the owner of any private property or the agent of such owner, shall let such private property or any portion thereof or any room therein, with the knowledge that such private property or any portion thereof or any room therein is to be used as a brothel or for the purposes of prostitution.
- (3) Nothing contained in this section shall be construed so as to detract from the requirements of the Sexual Offences Act, 1957 [Act No. 23 of 1957].

25. Disturbance of the Peace

- (1) No person being in or on any private premises, shall disrupt the peace in the neighbourhood of such premises by making therein or thereon any unseemly noise, shouting, quarrelling, wrangling, singing and/or the continuous playing of musical instruments, radios, or anything similar thereto, and/or by the continuous or over-loud use of loudspeakers, or the like, which constitutes a nuisance to the neighbours and neighbourhood.

- (2) Any person or ultimately, the subject property's owner, must comply with any notice issued by an authorised official, requiring him or her to ensure that the noise pollution which constitutes a nuisance to the neighbourhood, ceases.
- (3) If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary in terms of Section 28 (2) & (3)

CHAPTER 4
MUNICIPAL PROPERTY AND PROPERTY UNDER THE CONTROL OF THE
MUNICIPALITY

26. General offences

- (1) A person commits an offence if, in relation to any property in the ownership or possession of, or under the control of, the municipality, whether movable or immovable, and including any public place, or private property within the municipal jurisdiction, he or she -
 - (a) permits, or causes to be done, any act which may, in the reasonable opinion of the municipality, cause soil or sand erosion;
 - (b) permits, or causes to be done, any cutting of, removing of, or interfering with, natural vegetation, which may, in the reasonable opinion of the municipality, result in damage to, or destruction of, such natural vegetation;
 - (c) wilfully or negligently damages or destroys such property or any part thereof;
 - (d) removes any earth, sand, shale, stone, turf or any other material or part thereof;
 - (e) breaks, cuts, destroys or removes any bush, shrub, tree or other plant, or removes any branch, flower, leaf or other part thereof;
 - (f) attaches to, or places on or next to, such property any thing, including any advertisement, flyer, pamphlet, placard or poster, or other illustrative, written or printed matter, or hangs or suspends anything on or from it;
 - (g) defaces any such property, whether by the use of chalk, ink or paint, or by any other means whatsoever;
 - (h) extinguishes any lamp or light, or displaces or removes any barricade, enclosure, fence, lamp, light, notice or sign;
 - (i) makes any excavation in, or disturbs the surface of, such property;
 - (j) climbs or sits upon, hangs onto, or mounts, any such property;
 - (k) introduces any object or material, or erects any structure, on such property;
 - (l) enters such property, or remains there;
 - (m) allows, causes or permits any other person to commit any of the aforesaid acts, unless he or she does so in the performance of a lawful right or duty, or with the prior consent of an authorised official, or in accordance with the provisions of any law.
- (2) Notwithstanding the foregoing, nothing shall prevent the owner or occupier of private property from planting and maintaining grass and plants on that portion of the verge of a street which abuts on such municipal property or property under the control of the municipality, provided that the lawful passage of vehicular and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed and the grass and plants are properly maintained and do not cause a nuisance.
- (4) Any person who is convicted of an offence in terms of subsection (1) shall pay to the municipality the cost of remedying any loss or damage suffered by the municipality as a result of the commission of that offence, and the cost of the removal and disposal of any material, object or structure involved in the commission of the offence, and, for this purpose, the provisions of section 10

shall apply.

- (5) (a) No person being in or on any public facility, public place or a vehicle shall disrupt the peace in the vicinity by making therein or thereon any unseemly noise, shouting, quarrelling, wrangling, singing and/or the continuous playing of musical instruments, radios, or anything similar thereto, and/or by the continuous or over-loud use of loudspeakers, or the like, which constitutes a nuisance to the general public.
- (b) Any person must comply with any notice issued by an authorised official, requiring him or her to ensure that the noise pollution which constitutes a nuisance to the general public, ceases.
- (c) If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary in terms of Section 28 (2) & (3)

CHAPTER 5 PRESUMPTIONS, OFFENCES AND PENALTIES

27. Presumptions

When an employee, in the course of his or her employment, performs any act, or is guilty of an omission, which constitutes an offence in terms of this by-law, the employer shall also be deemed to have performed the act, or to be guilty of the omission, and he or she shall be liable on conviction for the penalties mentioned in terms of section 28, unless it can be proved that -

- (a) in performing the act, or permitting the omission, the employee was acting without his or her employer's knowledge and consent;
- (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
- (c) it was not within the scope of the authority or the course of the employment of the employee to perform the act or permit the omission in question.

28. Offences and penalties

- (1) Any person who-
- (a) contravenes any provision of this by-law, which contravention is not expressly stated to be an offence;
- (b) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of this by-law; or
- (c) fails to comply with the terms of any notice served upon him or her, or instruction to him or her in terms of this by-law,

shall be guilty of an offence.

- (2) Any person who contravenes any of these provisions shall be guilty of an offence, and liable, upon conviction, to a fine as contemplated by the Endumeni Municipality's Bylaws relating to Offences, Penalties and Appeals as duly promulgated on 6 September 2011.
- (3) An admission of guilt fine may be paid by any person in respect of whom a summons or written notice has been issued for any contravention of this by-law, as contemplated in terms of Sections 56 and 57 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

29. Regulations

- (1) The municipality may make regulations regarding -
- (a) the granting of written permission and accompanying conditions for -

- (i) the performance of a dangerous act, as contemplated in terms of section 6(1)(e); and
 - (ii) the discharge of fireworks in terms of section 6(2);
- (b) the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing, as contemplated in terms of section 8(b);
- (c) the granting of written consent and accompanying conditions and restrictions for the hanging or suspension of anything from or above a public place or so as to cause an obstruction, as contemplated in terms of section 9(e);
- (d) the disposal of property found in a public place, including-
 - (i) the municipality's identification and designation of a store for property removed in terms of section 10(1);
 - (ii) guidelines for the determination of the commercial value of property so removed;
 - (iii) a tariff of charges for the removal and storage of items, as contemplated in terms of section 10(2);
 - (iv) procedures to be followed with regard to the sale or disposal of items in terms of sections 10(3) and (6);
- (e) the contents and service of a notice on the owner or occupier of private property, the carrying out of work necessary to give effect to the notice, and guidelines for the determination of the reasonable costs thereof, as contemplated in terms of sections 11(1) and (2);
- (f) the granting of consent for the use of amplification devices and equipment, as contemplated in terms of section 13;
- (g) the prevention of nuisances on private property, including –
 - (i) procedures for the removal of any item from private property, as contemplated in terms of section 16(2);
 - (ii) the giving of instructions and notification to an occupier of private property, for the abatement or cessation of a nuisance, as contemplated in terms of sections 19(3) and (4);
 - (iii) procedures for the entering of private property, for the extinction of fires thereon, as contemplated in terms of section 20(b);
 - (iv) the slaughter of any animal for own consumption, or for cultural or religious purposes, as contemplated in terms of section 21(2), and the adoption and implementation of a tariff of charges for the disposal and burying of any offensive matter or thing, including carcasses, as contemplated in terms of section 21(4).
 - (v) the contents and service of a notice for the removal of vegetation, and procedures for effecting the removal by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 22(2) and (3); and
 - (vi) the contents and service of a notice for the control of vermin, and procedures for effecting control by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 23(2) and (3);

- (vii) the contents and service of a notice for the cessation of noise pollution which constitutes a nuisance and a tariff of charges therefor, as contemplated in terms of sections 28(2) and (3);
 - (h) the provision of consent by an authorised official in respect of any act with regard to municipal property and property under the control of the municipality, as contemplated in terms of section 26(1)(m);
 - (i) a tariff of charges, or schedule of costs, for the remedying of any loss or damage suffered by the municipality as a result of the commission of an offence in terms of section 26(3);
 - (j)
 - (i) the prescription of penalties for the offences contemplated in terms of section 28; and
 - (ii) the amendment of such penalties from time to time;
 - (k) any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this by-law.
- (2) [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection 1, cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

30. Repeal of by-laws

Any by-laws relating to the prevention of nuisances adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

31. Short title

This by-law is called the By-law Relating to the Control of Public Nuisances, 2012, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

ENDUMENI MUNISIPALITEIT**VERORDENING INSAKE DIE BEHEER VAN OPENBARE STOORNISSE**

Die Munisipale Bestuurder publiseer hiermee, ingevolge artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), saamgelees met artikel 162 van die Grondwet van die Republiek van Suid-Afrika (Wet No. 108 van 1996), die Verordening Insaake die Beheer van Openbare Stoornisse.

Doel van verordening

Die doel van hierdie verordening is om 'n veilige, gesonde en vredevolle omgewing te bevorder tot voordeel van die publiek wat binne die munisipale grense woon, en om voorsiening te maak vir praktyke en prosedures om openbare stoornisse te beheer.

**HOOFSTUK 1
OMSKRYWINGS**

1. Omskrywings – In hierdie verordening, tensy uit die konteks anders blyk, beteken –

“**afval**”, sonder om die gewone betekenis van die woord uit te sluit, enige ongebruikte voertuig of masjinerie of deel daarvan, of enige skrootmetaal, bourommel, tuinafval, puin, vullis, bande of enige ander item of voorwerp wat weggegooi of agtergelaat is

“**eienaar**”, met betrekking tot enige privaat eiendom –

- (a) die persoon in wie se naam die eiendomsreg van daardie privaat eiendom geregistreer is ingevolge die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937), soos gewysig, en sluit in die houer van die perseellisensie;
- (b) die persoon in wie se naam die deeltitelsertifikaat van daardie privaat eiendom geregistreer is ingevolge die Wet op Deeltitels, 1986 (Wet No. 95 van 1986), en sluit verder in die eienaar (soos omskryf in die vermelde Wet), die beheerliggaam en die ontwikkelaar met betrekking tot sodanige privaat eiendom;
- (c) indien sodanige persoon of houer dood, insolvent, geestelik versteurd of gebrekkig is, 'n minderjarige is, of enige wettige gestremde het, die persoon in wie die administrasie van daardie persoon of houer se boedel berus, hetsy as eksekuteur, trustee, likwidateur, voog of in enige ander hoedanigheid;
- (d) indien die privaat eiendom onder huurkontrak is waarvan die registrasie nodig is vir die geldigheid van sodanige huurkontrak, die huurder; of
- (e) waar 'n eienaar, soos hierin omskryf, afwesig is uit die Republiek of sy of haar verblyfplek onbekend is, 'n agent of sodanige eienaar, of enige persoon wat huur ontvang of daarop geregtig is om huur te ontvang met betrekking tot die privaat eiendom of enige “eenheid”, soos omskryf in die Wet op Deeltitels, 1986, van sodanige privaat eiendom;

“**gebied**” die geografiese gebied wat binne die munisipale grense van die Endumeni munisipaliteit val

“**gemagtigde beampte**” –

'n beampte van die munisipaliteit wat deur hom gemagtig is om die bepalings van hierdie verordening te administreer, implementeer en toe te pas;

- (a) 'n verkeersbeampte aangestel ingevolge artikel 3A van die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996);
- (b) 'n lid van die Polisie, soos omskryf ingevolge artikel 1 van die Suid-Afrikaanse Polisiewet, 1995 (Wet No. 68 van 1995); of
- (c) 'n vredesbeampte, bedoel ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No. 51 van 1977);

“**geraasbesoedeling**” enige onbetaamlike geraas, geskree, bakleiery, stryery, gesing of die aanhoudende speel van musiekinstrumente, radio's of luidsprekers, wat 'n stoornis is;

“munisipaliteit” die Endumeni munisipaliteit, gestig ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), en sluit in enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ’n bevoegdheid van die munisipaliteit wat aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer is;

“okkupeerder” en sluit in enige persoon in werklike okkupasie van enige grond of privaat eiendom of in beheer of bestuur daarvan, sonder inagneming van die titel waaronder hy of sy dit okkupeer, en, in die geval van privaat eiendom wat onderverdeel en aan verskeie loseerders of huurders verhuur word, die persoon wat die huur ontvang wat deur loseerders of huurders betaalbaar is, hetsy vir hom- of haarself of as agent vir enige persoon wat daarop geregtig is of daarin belangstel;

“openbare fasiliteit” ’n gerief wat deur die munisipaliteit verskaf word vir benutting deur en gerief van die algemene publiek;

“openbare plek” enige plein, park, ontspanningsgrond of oop terrein wat –

- (a) by die munisipaliteit berus;
- (b) die publiek die reg het om te gebruik; of
- (c) getoon word op ’n algemene plan van ’n dorpsgebied in ’n akteregistrasiekantoor of ’n landmeter-generaal se kantoor en wat verskaf of gereserveer is vir die gebruik van die publiek of die eienaars van erwe in sodanige dorpsgebied;

“openbare voertuig” enige voertuig of vervoermiddel wat die eiendom is of onder die beheer van die munisipaliteit is, en wat gebruik word vir die vervoer, vir wins of andersins, van lede van die publiek;

“privaat eiendom” enige openbare plek en enige grond wat privaat besit word, alle geboue, kamers, huurkamers, skure, hutte of ander strukture of oprigtings, en ook erwe of gronde wat daarmee verband hou, en sluit in enige "eenheid", soos omskryf in die Wet op Deeltitels, 1986, daarvan;

“stoornis”; sonder beperking van die algemeenheid van die term, ’n daad, versuim, toestand of stand van sake wat –

- (a) die algemene publiek hinder, aanstoot gee, in gevaar stel of ongerief vir hul veroorsaak; of
- (b) wesenlike ongerief in die gewone en gemaklike gebruik of genieting van privaat eiendom veroorsaak,

en **“openbare stoornis”** het ’n ooreenstemmende betekenis; en

“voertuig” enige vervoermiddel wat in staat is om een of meer persone te vervoer, buiten ’n rystoel of soortgelyke apparaat gebruik vir die vervoer van ’n fisiek gestremde persoon.

HOOFSTUK 2 OPENBARE PLEKKE

2. Rusverstoring

’n Persoon pleeg ’n misdryf indien hy of sy in ’n openbare plek –

- (a) ’n ander persoon bydam, beledig, met hom of haar inmeng, stamp, dreig of teister;
- (b) met ander persone assosieer of saam met ander persone optree op ’n wyse wat rusverstoring veroorsaak of waarskynlik rusverstoring sal veroorsaak; of
- (c) baklei of ’n ander persoon uitlok of uitnoui om te baklei.

3. Onbetaamlike gedrag

(1) ’n Persoon pleeg ’n misdryf indien hy of sy in ’n openbare plek –

- (a) nie betaamlik geklee is sodat ten minste sodanige persoon se genitalieë bedek is nie; of
- (b) enige onweloweglike daad verrig, of enige ander persoon uitlok om enige sodanige misdryf te pleeg.

(2) ’n Persoon pleeg ’n misdryf indien hy of sy in ’n openbare plek –

- (a) ontas of urineer, buiten binne 'n openbare fasiliteit wat vir daardie doel deur of namens die munisipaliteit verskaf is;
- (b) 'n toilet wat gereserveer is vir lede van die teenoorgestelde geslag binnegaan;
- (c) spoeg;
- (d) onder die invloed van bedwelmende drank is of sodanige drank drink of inneem in omstandighede wat, na die redelike mening van 'n gemagtigde beampte, dit waarskynlik maak dat sodanige persoon 'n stoornis vir ander persone sal veroorsaak;
- (e) onder die invloed van 'n afhanklikheidsvormende stof is, soos omskryf in die Wet op Dwelmmiddels en Dwelmsmokkelary, 1992 (Wet No. 140 van 1992), of sodanige stof aan hom- of haarself of 'n ander persoon toedien; of
- (f) enige onweloweglike gebaar maak of vertoon, of hom- of haarself onweloweglik ontbloot.

4. Onweloweglike of aanstootlike taal

'n Persoon pleeg 'n misdryf indien hy of sy, in 'n openbare plek binne hoorafstand van 'n persoon in 'n openbare plek, enige onweloweglike of aanstootlike taal gebruik of 'n onweloweglike of aanstootlike lied sing.

5. Onweloweglike of aanstootlike literatuur en voorstellings

'n Persoon pleeg 'n misdryf indien hy of sy in 'n openbare plek –

- (a) enige onweloweglike of aanstootlike prent, of ander voorstelling of skriftelike of gedrukte materiaal vertoon, versprei, sigbaar blootstel, of verkoop, of te koop aanbied, op 'n wyse wat waarskynlik aanstoot sal gee; of
- (b) enige onweloweglike of aanstootlike figuur, letter, prent, woord of ander voorstelling of materiaal teken, druk, skryf, of andersins produseer sodat dit vir die publiek sigbaar is.

6. Gevaarlike handelinge

(1) 'n Persoon pleeg 'n misdryf indien hy of sy in 'n openbare plek –

- (a) enige materiaal, voorwerp of ding aktiveer, hanteer of gebruik wat 'n persoon sal beseer, of wat 'n persoon dreig, of wat eiendom beskadig, of indien hy of sy op 'n wyse optree wat waarskynlik sodanige besering, bedreiging of skade sal veroorsaak
- (b) enige materiaal, voorwerp of ding inbring of hanteer, of enige vloeistof of soliede stof, wat uit die aard daarvan of as gevolg van die manier waarop dit ingebring of hanteer word, 'n nuwe bron van gevaar skep vir persone of eiendom, of dit waarskynlik sal doen;
- (c) 'n vuur aansteek, gebruik of voordeel daaruit trek, buiten in of op 'n openbare fasiliteit wat deur die munisipaliteit vir daardie doel verskaf word;
- (d) enige voorwerp aan of vanaf 'n kap, brug, veranda of ander uitsteeksel, of 'n pilaar, paal of stut heg, of laat hang, onderhewig aan die bepalings van artikel 9(e); of
- (e) enige ander daad verrig wat 'n persoon kan beseer of skade aan eiendom mag veroorsaak, tensy hy of sy regtens gemagtig is om dit te doen, of dit doen met die skriftelike toestemming van 'n gemagtigde beampte en in ooreenstemming met enige voorwaardes wat deur hom of haar opgelê word.

(2) Insake die skiet of gebruik van vuurwerke –

- (a) mag geen persoon vuurwerke skiet vanaf enige privaat eiendom of openbare plek sonder die skriftelike toestemming van die munisipaliteit nie;

- (b) moet aansoeke om die skriftelike toestemming beoog ingevolge subartikel (a)
 - (i) 14 (veertien) dae voor die geleentheid skriftelik ingedien word; en
 - (ii) vergesel gaan deur die skriftelike toestemming van die onmiddellike bure wat aangrensende eiendomme okkupeer en eiendomme oor die pad van die privaat eiendom of openbare plek vanwaar die vuurwerke geskiet sal word;
- (c) moet niks wat in hierdie artikel vervat word, so vertolk word as dat dit afbreuk doen aan die vereistes van die Wet op Plofstowwe, 2003 (Wet No. 15 van 2003), of enige regulasies wat in terme daarvan uitgevaardig is nie.

7. Rommelstrooiing

- (1) 'n Persoon pleeg 'n misdryf indien hy of sy in 'n openbare plek –
 - (a) enige rommel of ander afvalmateriaal of ding, hetsy vloeistof of solied, agterlaat, weggooi, uitstort of mors, of veroorsaak of toelaat dat dit uitgestort of gemors word, buiten in 'n houer wat vir daardie doel verskaf is; of
 - (b) enige van die inhoud van 'n houer, wat verskaf is vir die weggooi van vullis, daaruit verwyder, en veroorsaak dat die inhoud van die houer uit sodanige houer gestort word.
- (2) 'n Persoon wat veroorsaak dat, of 'n ander persoon uitlok om enige van die handeling beskryf in subartikel (1) te verrig, is skuldig aan 'n misdryf.
- (3) Enige materiaal of ding wat 'n persoon laat val of toelaat om te val sonder om onmiddellik deur hom of haar opgetel te word, word vir die doel van subartikel (1), geag as dat dit deur hom of haar weggegooi is.
- (4) Enige materiaal of ding wat in 'n openbare plek gevind word in omstandighede wat aanleiding gee tot 'n redelike vermoede dat 'n misdryf ingevolge subartikel (1) gepleeg is, en wat die naam dra van 'n persoon of ten opsigte waarvan daar 'n redelike vermoede is dat dit die eiendom of onder die beheer van daardie persoon is of was, word vir die doel van subartikel (1), geag as dat dit deur daardie persoon agtergelaat of weggegooi is, totdat die teendeel bewys is.
- (5) 'n Persoon wat enige rommel of afvalmateriaal of ding by 'n openbare plek invec, of op enige ander wyse daar inbring, word vir die doel van subartikel (1) geag dit daar te gelaat het,.
- (6) 'n Persoon wat deur 'n gemagtigde beampte waargeneem is dat hy of sy die bepalings van subartikel (1) oortree het, mag deur hom of haar gelas word om die rommel, materiaal of ding te verwyder of om dit in 'n houer te plaas wat deur of namens die munisipaliteit verskaf is, en versuim om aan sodanige instruksie te voldoen, maak 'n misdryf uit.

8. Skoonmaak van sypaadjies en kante

- (a) 'n Okkupeerder van 'n perseel waarin of waarop 'n besigheid, beroep, handel of vervaardiging bedryf word, moet ten alle tye, terwyl enige sodanige aktiwiteit daar uitgevoer word, enige sypaadjie en kant wat aan die perseel grens of langs is, met inbegrip van die afloop en straatrand, vry van rommel hou, en moet die sypaadjie en kant in 'n skoon en bevredigende toestand hou en derhalwe alle rommel daarvandaan verwyder.
- (b) Die okkupeerder vermeld in subartikel (a) moet sorg dat alle rommel wat ingevolge vermelde subartikel verwyder word, in vullishouers geplaas word wat deur of namens die munisipaliteit verskaf word, of, met die skriftelike toestemming van 'n gemagtigde beampte, dat daar mee weggedoen word op 'n wyse wat deur vermelde gemagtigde beampte goedgekeur word.

9. Obstruksies

'n Persoon pleeg 'n misdryf indien hy of sy in 'n openbare plek –

- (a) enige ding onbewaak laat, nadat hy of sy die ding daar ingebring of geplaas het, om sodoende 'n obstruksie vir persone of voertuie te veroorsaak of dit waarskynlik sal veroorsaak;
- (b) enige ding dra, neersit, hanteer of inbring, om sodoende waarskynlik die vrye beweging van persone of voertuie te belemmer of daarmee in te meng, of met die gebruik van die openbare plek deur persone of voertuie, of om besering aan enige persoon, of skade aan enige eiendom te veroorsaak;
- (c) op die oppervlak daarvan enige ding neersit, vir die doel van, of by die laai of aflaaï van 'n voertuig, of vir die aflewering daarvan by 'n perseel wat toegang het tot sodanige openbare plek, vir 'n langer tydperk as wat redelikerwys nodig is vir daardie doel;
- (d) die uitsig op 'n padverkeersteken belemmer, soos omskryf in die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996);
- (e) enigiets vanaf of bo 'n openbare plek hang of laat hang, of veroorsaak of toelaat dat enigiets bo die oppervlak daarvan uitsteek of daarop oortree, met dien verstande dat vooraf skriftelike toestemming van die munisipaliteit bekom mag word, welke toestemming verleen mag word onderhewig aan voorwaardes en beperkings wat nodig geag word;
- (f) vergader met of 'n vergadering van ander persone veroorsaak op 'n plek of wyse om sodoende of waarskynlik sodoende die beweging van persone of voertuie te belemmer of te beperk of daarmee in te meng, of met die gebruik of genieting van 'n openbare plek deur persone of voertuie; of
- (g) enige ander handeling uitvoer wat 'n resultaat beskryf in subartikel (b) het, of waarskynlik sal hê.

10. Besikking oor eiendom wat in 'n openbare plek gevind word

- (1) Wanneer enigiets in 'n openbare plek agtergelaat word, strydig met artikel 9, kan 'n gemagtigde beampte dit verwyder na 'n stoor wat deur die munisipaliteit vir hierdie doel gestig is, met dien verstande dat, indien sodanige ding na die redelike mening van die gemagtigde beampte, geen kommersiële waarde het nie, hy of sy daarvoor kan beskik op sodanige wyse as wat hy of sy toepaslik ag, en die persoon wat die misdryf gepleeg het, is aan die munisipaliteit aanspreeklik vir die koste van sodanige besikking, soos bepaal deur sodanige gemagtigde beampte.
- (2) Items wat verwyder is na 'n stoor ingevolge subartikel (1) moet vrygestel word aan enige persoon wat, binne 7 (sewe) dae na sodanige verwydering, of binne sodanige langer tydperk as wat deur die gemagtigde beampte in bevel van sodanige stoor toegelaat word, gedemonstreer het dat hy of sy die eienaar van die items is, of op besit daarvan geregtig is, na betaling van die koste van verwydering en stoor daarvan, soos bepaal deur sodanige gemagtigde beampte, in ooreenstemming met 'n voorgeskrewe tariewelys.
- (3) Items wat nie vrygestel is ingevolge subartikel (2) nie, moet verkoop of oor beskik word op sodanige wyse en na sodanige kennisgewing as wat die gemagtigde beampte in bevel van die stoor toepaslik ag, met inagneming van die aard van die items.
- (4) Die opbrengs van enige verkoping ingevolge subartikel (3) moet benut word vir die betaling van –
 - (a) die koste van verwydering en stoor daarvan, soos bepaal ingevolge subartikel (2);
 - (b) enige kostes wat aangegaan is in pogings om die eienaar op te spoor; en
 - (c) die koste van verkope, waarvan die oorblywende balans aan die munisipaliteit verbeur word indien dit nie binne 1 (een) jaar na die datum van die verkoping opgeëis is deur 'n persoon wat sy of haar wettige reg daarop demonstreer nie.
- (5) Indien die opbrengs van die verkoping nie voldoende is om die kostes te delg soos vermeld in subartikel (4) nie, moet die eienaar van die items wat verkoop is en die persoon wat enige misdryf met betrekking daartoe gepleeg het, gesamentlik en afsonderlik aan die munisipaliteit aanspreeklik wees vir betaling van die uitstaande balans.

- (6) Indien die items nie ingevolge subartikel (3) verkoop kan word nie, kan die gemagtigde beampte in bevel van die stoor oor die items beskik op sodanige wyse as wat hy of sy toepaslik ag, en die bepalings van subartikel (5) is, *mutatis mutandis*, van toepassing ten opsigte van enige kostes wat aangegaan is in die uitvoer van sodanige beskikking.
- (7) Die uitoefening van enige bevoegdhede verleen deur hierdie verordening maak nie die munisipaliteit of enige gemagtigde beampte aanspreeklik vir enige verlies of diefstal van, of enige skade aan, enige ding wat ingevolge subartikel (1) verwyder is nie, buiten waar sodanige verlies, diefstal of skade 'n regstreekste gevolg is van die nalatigheid van die munisipaliteit of betrokke gemagtigde beampte.

11. Obstruksies wat deur plante veroorsaak word

- (1) Indien 'n boom, struik of ander plant wat op enige privaat eiendom groei wat aan 'n openbare plek grens, of enige deel van sodanige plant
- die uitsig van die bestuurder van enige voertuig in sodanige openbare plek belemmer;
 - persone wat sodanige openbare plek gebruik, belemmer of 'n stoornis vir hulle veroorsaak; of
 - die uitsig op 'n padverkeersteken belemmer,

kan 'n gemagtigde beampte 'n kennisgewing op die eienaar of okkupeerder van die privaat eiendom beteken, wat van hom of haar vereis om die plant wat die stoornis veroorsaak, af te sny, te verwyder of te snoei, tot 'n mate, en binne die tydperk wat in die kennisgewing vermeld word, en enige persoon wat versuim om aan sodanige kennisgewing te voldoen binne die vermelde tydperk, is skuldig aan 'n misdryf.

- (2) Indien 'n persoon op wie 'n kennisgewing beteken is ingevolge subartikel (1), versuim om aan die terme daarvan te voldoen binne die tydperk wat daarin vermeld word, kan 'n gemagtigde beampte veroorsaak dat die werk wat in die kennisgewing gespesifiseer word, uitgevoer word, en sodanige persoon is aan die munisipaliteit aanspreeklik vir die redelike koste van die werk, soos deur sodanige gemagtigde beampte beoordeel.

12. Byeenkomste

- (1) Geen persoon mag enige byeenkoms by enige openbare plek, buitenshuise fasiliteit of munisipale gebou byeenroep of daaraan deelneem nie, om sodoende –
- 'n stoornis uit te maak, soos omskryf; of
 - enige bepaling van die Wet op Reëlings van Byeenkomste, 1993 (Wet No. 205 van 1993) te oortree nie.
- (2) Die bepalings van subartikel (1) moet nie vertolk word as dat dit afbreuk doen aan enige persoon se grondwetlike reg om byeen te kom, te betoog, te staak en petisies te oorhandig nie.

13. Versterkingsapparate en -toerusting

- (1) Geen persoon mag, sonder die vooraf toestemming van die munisipaliteit, enige megafoon, luidspreker, of ander apparaat gebruik of laat gebruik vir die reproduksie of versterking van klank, in of op enige openbare plek nie, vir die doel om aankondigings te maak, te adverteer of enigiets van soortgelyke aard te doen nie.
- (2) Die munisipaliteit kan weier om sodanige toestemming te verleen indien hy redelike gronde het om te glo dat die gebruik van enige sodanige megafoon, luidspreker of ander apparaat 'n stoornis sal veroorsaak, of waarskynlik sal veroorsaak, soos omskryf.
- (3) Die munisipaliteit kan sy toestemming terugtrek, indien dit blyk dat 'n stoornis veroorsaak is, of waarskynlik veroorsaak sal word.

14. Speletjies

'n Persoon pleeg 'n misdryf indien hy of sy in 'n openbare plek enige speletjies speel, of enige tydverdrywe geniet soos, maar nie beperk nie tot, die gebruik van rolskaatse, rollemskaatse of skaatsplanke, op 'n wyse wat 'n stoornis veroorsaak.

15. Algemene misdrywe

- (a) 'n Persoon pleeg 'n misdryf indien, in 'n openbare plek, op privaat eiendom, by 'n buitenshuise fasiliteit of in 'n munisipale gebou, of die vermelde fasiliteit of gebou wat deur die munisipaliteit besit word of onder die beheer van die munisipaliteit is, hy of sy sodanig optree of versuim om op te tree, dat 'n stoornis veroorsaak word in omstandighede wat onder sy of haar beheer is.
- (b) Die bepalings van subartikel (a) is nie van toepassing op die mate waarin 'n persoon regtens optree, in die uitoefening van 'n reg, of in die uitvoering van 'n plig nie.

HOOFSTUK 3 PRIVAAT EIENDOM

16. Gebruik van privaat eiendom

- (1) 'n Persoon pleeg 'n misdryf indien hy of sy op enige privaat eiendom –
 - (a) grond of ander materiaal uitgrawe of verwyder vanuit 'n posisie met betrekking tot 'n ander perseel of openbare plek om sodoende laterale ondersteuning van sodanige perseel of openbare plek te verwyder, of dit waarskynlik te verwyder, of om 'n bron van gevaar vir lewe of skade aan eiendom te skep;
 - (b) as die eienaar of okkupeerder van sodanige privaat eiendom, enige put, poel, reservoir, swembad, kuil, gat, uitgraving, grondwerk, boom of ander plantegroei op sodanige privaat eiendom toelaat om in sodanige toestand te wees of om so onbeskerm te wees dat dit 'n gevaar vir die veiligheid van persone of eiendom inhou;
 - (c) veroorsaak of toelaat dat enigiets van die privaat eiendom uitsteek oor of na 'n openbare plek, buiten in 'n gebied gesoneer vir industriële doeleindes ingevolge 'n soneringskema en tot 'n mate wat noodwendig konsekwent is met die wettige grondgebruik daarvan;
 - (d) as die eienaar of okkupeerder van sodanige privaat eiendom, weggegoide, verwaarloosde of ongebruikte meubels, masjinerie, voertuie of ander voorwerpe of dele daarvan, of skrootmetaal of ander verwaarloosde of afvalmateriale neersit, stoor of veroorsaak, of toelaat of toestemming verleen dat dit neergesit of gestoor of opgegaan word om sodoende vanaf 'n openbare plek sigbaar te wees;
 - (e) sonder die toestemming van die eienaar of okkupeerder daarvan, enigiets aan of op enige privaat eiendom heg of plaas, of op enige manier sodanige privaat eiendom skend, hetsy deur die gebruik van kryt, ink, verf, of op enige ander wyse, tensy hy deur enige wet gemagtig is om dit te doen.
- (2) 'n Gemagtigde beampte kan 'n persoon wat subartikel (1)(d) of (e) oortree het of oortree, gelas om die item waarop die oortreding betrekking het binne 'n gespesifiseerde tyd van die betrokke privaat eiendom te verwyder, en indien hy of sy versuim om dit te doen, is die bepalings van artikel 10, *mutatis mutandis*, van toepassing

17. Diefalarms

- (1) Die eienaar of okkupeerder van 'n privaat eiendom waarin 'n diefalarmapparaat geïnstalleer is, is skuldig aan 'n misdryf indien die diefalarmapparaat voortgaan om aanhoudend of met tussenposes af te gaan vir meer as 10 (tien) minute nadat dit deur enige oorsaak geaktiveer is.
- (2) Sodanige apparaat moet, vir die doeleindes van subartikel (1), geag word as dat dit met tussenposes afgaan vir so lank as wat dit voortgaan om met enige tussenpose af te gaan sonder die tussentrede van 'n nuwe oorsaak, met dien verstande dat dit 'n verweer is op 'n klag van oortreding van subartikel (1) indien daar bewys kan word dat 'n outomatiese afsnymeganisme wat aan sodanige apparaat gekoppel is, versuim het om te funksioneer, om redes buite die okkupeerder se beheer, en sonder nalatigheid aan sy of haar kant.

- (3) Wanneer 'n diefalarmapparaat op enige privaat eiendom geïnstalleer is, moet die eienaar of okkupeerder van die privaat eiendom, tensy 'n meganisme vermeld in subartikel (2) gekoppel is, óf by die hoofingang van die privaat eiendom, 'n kennisgewing oprig en in stand hou wat die name en telefoonnommer spesifiseer van persone wat ten alle tye toegang tot die privaat eiendom het ten einde die apparaat te deaktiveer, óf reël dat 'n outomatiese reaksie op 'n alarm ten alle tye funksioneer.

18. Lugversorgingstoestelle

- (1) Die eienaar of okkupeerder van 'n privaat eiendom wat 'n lugversorgingstoestel daarin geïnstalleer het, of dit daarin onderhou en bedryf, moet verseker dat sodanige toestel so geïnstalleer, onderhou en bedryf word dat dit –
- (a) die skep van geraas, reuke of vibrasies wat 'n stoornis veroorsaak, soos omskryf; en
 - (b) die uitstorting of skep van kondensaat op 'n openbare plek om sodoende 'n stoornis te veroorsaak, soos omskryf, uitsluit.
- (2) Niks wat in hierdie artikel vervat is, moet vertolk word as dat dit afbreuk doen aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No. 103 van 1977) en die Wet op Beroepsgesondheid en Veiligheid, 1993 (Wet No. 85 van 1993) en enige regulasies uitgevaardig ingevolge die voormelde wetgewing nie.

19. Stoornisse wat voortspruit uit die gebruik van privaat eiendom

- (1) Geen eienaar of okkupeerder van privaat eiendom mag –
- (a) dit vir 'n doel gebruik;
 - (b) die gebruik daarvan vir 'n doel veroorsaak, toelaat of toestemming daarvoor verleen;
 - (c) 'n aktiwiteit, geleentheid of funksie daarop organiseer of toelaat of toestemming daarvoor verleen, buiten verjaardag-, verlowing-, huweliks-, of soortgelyke vieringe,
- wat teenstrydig is met die soneringskema, of soortgelyke beperkings wat deur dorpbepanningswetgewing opgelê is nie, en wat uiteraard of andersins, of as gevolg van die gevolge daarvan, 'n stoornis veroorsaak.
- (2) Ondanks subartikel (1), verhinder niks die eienaar of okkupeerder van enige privaat eiendom om doenig te wees met die volgende aktiwiteite nie –
- (a) enige gemagtigde bou- of kontrakwerk wat deur hom of haar of namens hom of haar onderneem word; en
 - (b) deelname aan enige stokperdjie of aktiwiteit wat enige item behels wat deur hom of haar besit of gebruik word wat die gebruik mag vereis van 'n elektriese apparaat soos 'n hoekslyper, skuurmasjien of soortgelyke item, met dien verstande dat –
 - (i) die gebruik van sodanige apparaat nie steurings op televisie- of radio-opvangs in die buurt veroorsaak nie, dat elke moontlike voorsorgmaatregel getref word om geraas daarvan en die duur van gebruik daarvan tot die minimum te beperk, en dat sodanige aktiwiteit nie vir of verbonde is aan enige besigheid wat vanuit die privaat eiendom of elders bedryf word nie; en
 - (ii) sodanige bou- of kontrakwerk en die gebruik van elektriese apparate vir sodanige stokperdjie of aktiwiteit beperk is tot die ure tussen 07h00 en 19h00.
- (3) Wanneer 'n gemagtigde beampte van die redelike mening is dat 'n persoon wat met 'n stokperdjie of aktiwiteit doenig is, subartikels (1) of (2) oortree, kan hy of sy die eienaar of okkupeerder van die privaat eiendom gelas, of enige persoon wat verantwoordelik is vir of deelneem aan die gebruik, aktiwiteit, geleentheid of funksie, om sodanige stappe as wat die gemagtigde beampte spesifiseer om die stoornis te verminder, of om die skepping van 'n stoornis te vermy, of, indien dit slegs bereik kan word deur die staking van die gebruik, aktiwiteit, geleentheid of funksie, om dit onmiddellik tot 'n einde te bring, of binne 'n tyd soos gespesifiseer deur die gemagtigde beampte.

- (4) Indien die eienaar, okkupeerder of persoon wat verantwoordelik is vir, of wat deelneem aan, die gebruik, aktiwiteit, geleentheid of funksie vermeld in subartikel (3) versuim om te voldoen aan enige kennisgewing of instruksie wat deur 'n gemagtigde beampte gegee word, kan sodanige beampte 'n kennisgewing ingevolge artikel 341 van die Strafproseswet, 1977 (Wet No. 51 van 1977) uitreik aan die eienaar van die eiendom waar die vermelde gebruik, aktiwiteit, geleentheid of funksie plaasvind.

20. Aansteek van vure

- (a) Geen persoon mag op enige privaat eiendom 'n vuur aansteek, of enige rommel of vullis of enige gras of ander plantegroei verbrand of poog om te verbrand, sonder om voldoende voorsorgmaatreëls te tref om die onbeheerde verspreiding van die vuur, of die skepping van 'n stoornis, te voorkom nie hetsy as gevolg van die produksie van as, vlamme, dampe, hitte, rook, of andersins.
- (b) Sou enige persoon voortgaan om enige materiaal te brand sonder om doeltreffende voorsorgmaatreëls te tref soos beskryf in subartikel (a), waar sodanige verbranding die onderwerp is van 'n redelike klagte wat by die munisipaliteit gelê word, is die munisipaliteit, deur sy gemagtigde beampte, geregtig daarop om die privaat eiendom waarop die verbranding plaasvind, te betree, ten einde die vuur te blus, en om die betrokke persoon van 'n misdryf aan te kla.

21. Slag van diere en beskikking oor karkasse

- (1) Geen persoon mag –
- (a) enige dier by enige plek buiten 'n slagpale slag nie;
- (b) die slagting van enige dier by enige plek onder sy of haar beheer toelaat nie, tensy die plek 'n slagpale is; of
- (c) vleis vir menslike of dierlike verbruik verkoop of verskaf nie, tensy die vleis by 'n slagpale geslag is.
- (2) Die bepalings van subartikel (1) is nie van toepassing op slag vir eie gebruik, of vir kulturele of godsdiensoeieindes nie, met dien verstande dat –
- (a) die eienaar of die okkupeerder voor die slagting van enige dier op 'n privaat eiendom –
- (i) skriftelike toestemming vanaf die munisipaliteit moet bekom; en
- (ii) redelike kennis moet verskaf aan die onmiddellike bure wat aangrensende eiendomme en eiendomme oorkant die pad van die privaat eiendom waarop die dier geslag sal word, okkupeer; en
- (b) sodanige slagting nie 'n stoornis, soos omskryf, uitmaak nie.
- (3) Geen persoon mag enige karkas of deel van 'n karkas begrawe of plaas nie, of toelaat dat enige karkas, dooie ding of enige ontbindbare of aanstootlike materiaal of ding, wat sy of haar eiendom is, of wat onder sy of haar sorg of beheer is, op sy of haar privaat eiendom of elders geplaas word, of om daarop te bly om sodoende 'n stoornis te veroorsaak nie.
- (4) In die geval waar 'n persoon nie in staat is om met enige aanstootlike materiaal of ding weg te doen of enige karkas te begrawe ingevolge subartikel (3) nie, moet hy of sy met die munisipaliteit reël om sodanige wegdoening teen die voorgeskrewe fooi uit te voer.
- (5) Niks wat in hierdie artikel vervat is, moet vertolk word as dat dit afbreuk doen aan die vereistes van die Wet op Vleisveiligheid, 2000 (Wet No. 40 van 2000), en enige regulasies daarkragtens uitgevaardig nie.

22. Verwydering van onkruid, struikgewas en bos

- (1) Geen persoon mag toelaat dat enige welige gras, struikgewas, of verklaarde onkruid of indringerplante, soos vermeld in die Wet op die Bewaring van Landbouhulpbronne, 1983 (Wet No. 43 van 1983), en enige regulasies daarkragtens uitgevaardig, op enige privaat eiendom of oop grond wat deur hom of haar bewoon of besit word, groei nie.

- (2) 'n Persoon moet voldoen aan enige kennisgewing wat deur 'n gemagtigde beampte uitgereik word, wat van hom of haar vereis om, binne 'n tyd wat in sodanige kennisgewing vermeld moet word, en op 'n wyse soos vermeld in die Wet op die Bewaring van Landbouhulpbronne, 1983 en meegaande regulasies, enige sodanige welige gras, struikgewas, of verklaarde onkruid of indringerplante te vernietig of af te sny en te verwyder, of te laat verwyder.
- (3) Indien sodanige persoon versuim om aan sodanige skriftelike kennisgewing te voldoen, is hy of sy skuldig aan 'n oortreding van hierdie verordening, en kan die munisipaliteit sodanige stappe doen as wat hy nodig ag, om namens die vermelde persoon, aan die vereistes van die vermelde kennisgewing te voldoen, en kan die koste daarvan van die vermelde persoon verhaal word in ooreenstemming met die munisipaliteit se tariewelys.

23. Beheer van muskiete, vlieë, knaagdiere en ander ongediertes

- (1) Dit is die plig van elke eienaar en okkupeerder om te voorkom dat muskiete, vlieë, knaagdiere en ander op enige privaat eiendom wat deur sodanige eienaar of okkupeerder besit of bewoon word, ontwikkel of daarop toegelaat word, en enige sodanige eienaar of okkupeerder wat versuim om aan die bepalings hiervan te voldoen, sal geag word as dat hy of sy hierdie verordening oortree het.
- (2) Die eienaar of okkupeerder van 'n privaat eiendom moet, wanneer 'n kennisgewing geteken deur 'n gemagtigde beampte op hom of haar beteken word, sodanige maatreëls tref as wat daarin vervat mag wees vir die verwydering van toestande wat gunstig is vir die ontwikkeling van of toelating van, muskiete, vlieë, knaagdiere en ander ongediertes, binne die tyd wat in die kennisgewing gespesifiseer word.
- (3) Indien die eienaar of okkupeerder weier om die maatreëls gespesifiseer in 'n kennisgewing uitgereik ingevolge hierdie verordening te tref, of versuim om dit binne die vermelde tydperk te doen, kan 'n gemagtigde beampte reël vir die tref van sodanige maatreëls, en kan die redelike koste wat sodoende aangegaan is, deur die munisipaliteit van die persoon op wie die kennisgewing beteken is, verhaal word in ooreenstemming met die munisipaliteit se tariewelys.

24. Bedryf of bestuur van 'n bordeel

- (1) Geen persoon mag 'n bordeel bedryf of bestuur, of optree of bystaan in die bedryf of bestuur van 'n bordeel op enige privaat eiendom nie.
- (2) Geen persoon, as die eienaar, huurder of okkupeerder van enige privaat eiendom, mag wetend toelaat dat sodanige privaat eiendom of enige deel daarvan of enige kamer daarin as 'n bordeel of vir die doel van prostitusie gebruik word, of 'n aandeel hê in die voortgesette gebruik daarvan vir sodanige doeleindes nie.
- (3) Geen persoon, as die eienaar van enige privaat eiendom of die agent van sodanige eienaar, mag sodanige privaat eiendom of enige deel daarvan of enige kamer daarin, verhuur met die wete dat sodanige privaat eiendom of enige deel daarvan of enige kamer daarin, as 'n bordeel of vir die doeleindes van prostitusie gebruik sal word nie.
- (4) Niks wat in hierdie artikel vervat is, moet vertolk word as dat dit afbreuk doen aan die vereistes van die Wet op Seksuele Misdrywe, 1957 (Wet No. 23 van 1957) nie.

25. Rusverstoring

- (1) Geen persoon wat in of op enige privaat perseel is, mag die rus in die buurt van sodanige perseel verstoor, deur onbehoorlike geraas daarin of daarop te maak soos deur te skreeu, baklei, stry of sing of die aanhoudende speel van musiekinstrumente, radio's of enigiets soortgelyk, of deur die aanhoudende of te harde gebruik van luidsprekers, of iets soortgelyks, wat 'n stoornis vir die bure en buurt uitmaak nie.

- (2) Enige persoon of primêr die onderwerp-eiendom se eienaar, moet aan enige kennisgewing voldoen wat deur 'n gemagtigde beampte uitgereik is, wat van hom of haar vereis om te verseker dat die geraasbesoedeling wat 'n stoornis vir die buurt uitmaak, gestaak word.
- (3) Indien sodanige persoon versuim om aan sodanige skriftelike kennisgewing te voldoen, is hy of sy skuldig aan 'n oortreding van hierdie verordening, en kan die munisipaliteit sodanige stappe doen as wat hy nodig ag ingevolge artikel 28(2) & (3).

HOOFSTUK 4

MUNISIPALE EIENDOM EN EIENDOM ONDER DIE BEHEER VAN DIE MUNISIPALITEIT

26. Algemene misdrywe

- (1) 'n Persoon pleeg 'n misdryf indien, met betrekking tot enige eiendom in die eienaarskap of besit van, of onder die beheer van, die munisipaliteit, hetsy roerend of onroerend, en met inbegrip van enige openbare plek, of privaat eiendom binne die munisipale jurisdiksie, hy of sy –
 - (a) enige handeling toelaat of veroorsaak wat na die redelike mening van die munisipaliteit, grond- of sanderosie kan veroorsaak;
 - (b) enige sny van, verwydering van, of inmenging met natuurlike plantegroei toelaat of veroorsaak, wat na die redelike mening van die munisipaliteit kan uitloop op skade aan, of vernietiging van sodanige natuurlike plantegroei;
 - (c) sodanige eiendom of enige deel daarvan opsetlik of nalatig beskadig of vernietig;
 - (d) enige grond, sand, leiaarde, klip, turfgrond of enige ander materiaal of deel daarvan verwyder;
 - (e) enige bos, struik, boom of ander plant breek, sny, vernietig of verwyder, of enige tak, blom, blaar of ander deel daarvan verwyder;
 - (f) enige ding, met inbegrip van enige advertensie, strooibiljet, pamflet, aanplakbiljet of plakkaat, of ander illustratiewe, skriftelike of gedrukte materiaal aan sodanige eiendom heg, of daarop of daarnaas plaas, of enigiets daarop of daaraan hang of laat hang;
 - (g) enige sodanige eiendom skend, hetsy deur die gebruik van kryt, ink of verf, of deur enige ander middel;
 - (h) enige lamp of lig doodmaak, of enige versperring, omhulling, heining, lamp, lig, kennisgewing of teken verskuif of verwyder;
 - (i) enige uitgraving maak in, of die oppervlak van sodanige eiendom versteur;
 - (j) op enige sodanige eiendom klim of sit, daaraan hang of dit bestyg;
 - (k) enige voorwerp of materiaal by sodanige eiendom inbring, of enige struktuur op sodanige eiendom oprig;
 - (l) sodanige eiendom betree of daar bly;
 - (m) veroorsaak of toestemming gee om of enige ander persoon toelaat om enige van die voormelde handelinge uit te voer, tensy hy of sy dit doen in die uitoefening van 'n wettige reg of plig, of met die vooraf toestemming van 'n gemagtigde beampte, of in ooreenstemming met die bepalings van enige wet.
- (2) Ondanks die voormelde, mag niks die eienaar of okkupeerder van privaat eiendom verhinder om gras en plante op daardie deel van die kant of 'n straat wat aan sodanige munisipale eiendom of eiendom onder die beheer van die munisipaliteit grens, te plant en onderhou nie, met dien verstande dat die wettige deurgang van voertuig- en voetgangerverkeer en die wettige parkering van voertuie nie daardeur versper word nie en dat die gras en plante behoorlik onderhou word en nie 'n stoornis veroorsaak nie.

- (3) Enige persoon wat skuldig bevind word aan 'n misdryf ingevolge subartikel (1) moet die koste van regstelling van enige verlies of skade gelyk deur die munisipaliteit as gevolg van die pleging van daardie misdryf, en die koste verbonde aan die verwydering en weggooi van enige materiaal, voorwerp of struktuur betrokke by die pleging van die misdryf, aan die munisipaliteit betaal, en vir hierdie doel is die bepalings van artikel 10 van toepassing.
- (4) (a) Geen persoon wat in of op enige openbare fasiliteit, openbare plek of voertuig is, mag die rus in die buurt van sodanige perseel verstoer, deur onbehoorlike geraas daarin of daarop te maak soos deur te skreeu, baklei, stry of sing of die aanhoudende speel van musiekinstrumente, radio's of enigets soortgelyk, of deur die aanhoudende of te harde gebruik van luidsprekers, of iets soortgelyks, wat 'n stoornis vir die algemene publiek uitmaak nie.
- (b) Enige persoon of primêr die onderwerp-eiendom se eienaar, moet aan enige kennisgewing voldoen wat deur 'n gemagtigde beampte uitgereik is, wat van hom of haar vereis om te verseker dat die geraasbesoedeling wat 'n stoornis vir die algemene publiek uitmaak, gestaak word.
- (c) Indien sodanige persoon versuim om aan sodanige skriftelike kennisgewing te voldoen, is hy of sy skuldig aan 'n oortreding van hierdie verordening, en kan die munisipaliteit sodanige stappe doen as wat hy nodig ag ingevolge artikel 28(2) & (3).

HOOFSTUK 5

VERONDERSTELLINGS, MISDRYWE EN STRAWWE

27. Veronderstellings

Wanneer 'n werknemer, in die loop van sy of haar diens, enige handeling verrig, of skuldig is aan 'n versuim, wat 'n misdryf ingevolge hierdie verordening uitmaak, moet die werkgewer ook geag word as dat hy of sy die handeling verrig het, of dat hy of sy skuldig is aan die versuim, en hy of sy is by skuldigbevinding strafbaar met die strawwe vermeld ingevolge artikel 28, tensy daar bewys kan word dat –

- (a) die werknemer by die uitvoer van die handeling, of by die toelaat van die versuim, sonder sy of haar werkgewer se kennis en toestemming opgetree het;
- (b) alle redelike stappe deur die werkgewer gedoen is om die betrokke handeling of versuim te voorkom; en
- (c) dit nie binne die omvang van die gesag of deel van die werknemer se diens was om die handeling te verrig of die betrokke versuim toe te laat nie.

28. Misdrywe en strawwe

- (1) Enige persoon wat –
- (a) enige bepaling van hierdie verordening, welke oortreding nie uitdruklik vermeld word dat dit 'n misdryf is nie, oortree;
- (b) enige voorwaarde of beperking wat opgelê word by die toestaan van enige aansoek, goedkeuring, magtiging, instemming of toestemming ingevolge hierdie verordening oortree; of
- (c) versuim om te voldoen aan die terme van enige kennisgewing wat op hom of haar beteken word, of instruksie aan hom of haar ingevolge hierdie verordening, is aan 'n misdryf skuldig.
- (2) Enige persoon wat enige van hierdie bepalings oortree, is skuldig aan 'n misdryf, en is by skuldigbevinding strafbaar met 'n boete soos beoog deur die Endumeni munisipaliteit se Verordenings insake Misdrywe, Strawwe en Appelle soos dan ook uitgevaardig op 6 September 2011.
- (3) 'n Erkenning van skuld-boete kan betaal word deur enige persoon ten opsigte van wie 'n dagvaarding of skriftelike kennisgewing uitgereik is vir enige oortreding van hierdie verordening, soos beoog ingevolge artikels 56 en 57 van die Strafproseswet, 1977 (Wet No. 51 van 1977).

29. Regulasies

- (1) Die munisipaliteit kan regulasies uitvaardig aangaande –

- (a) die verleen van skriftelike toestemming en meegaande voorwaardes vir –
(i) die verrigting van 'n gevaarlike daad, soos beoog ingevolge artikel 6(1)(e); en
(ii) die skiet van vuurwerke ingevolge artikel 6(2);
- (b) die weggooi van rommel deur 'n okkupeerder van 'n perseel waarin of waarop enige besigheid, beroep, handel of vervaardiging bedryf word, soos beoog ingevolge artikel 8(b);
- (c) die verleen van skriftelike toestemming en meegaande voorwaardes en beperkings vir die hang of laat hang van enigets vanaf of bo 'n openbare plek of om sodoende 'n obstruksie te veroorsaak, soos beoog ingevolge artikel 9(e);
- (d) die weggooi van eiendom wat in 'n openbare plek gevind word, met inbegrip van –
(i) die munisipaliteit se identifikasie en aanwysing van 'n stoor vir eiendom verwyder ingevolge artikel 10(1);
(ii) riglyne vir die bepaling van die kommersiële waarde van eiendom wat so verwyder is;
(iii) 'n tariewelys vir die verwydering en stoor van items, soos beoog ingevolge artikel 10(2);
(iv) prosedures wat gevolg moet word met betrekking tot die verkoop van of beskikking oor items ingevolge artikels 10(3) en (6);
- (e) die inhoud en betekening van 'n kennisgewing op die eienaar of okkupeerder van privaat eiendom, die uitvoer van werk wat nodig is om uitvoering aan die kennisgewing te gee, en riglyne vir die bepaling van die redelike koste daarvan, soos beoog ingevolge artikels 11(1) en (2);
- (f) die verleen van toestemming vir die gebruik van versterkingsapparate en -toerusting, soos beoog ingevolge artikel 13;
- (g) die voorkoming van stoornisse op privaat eiendom, met inbegrip van –
(i) prosedures vir die verwydering van enige item vanaf privaat eiendom, soos beoog ingevolge artikel 16(2);
(ii) die gee van instruksies en kennisgewing aan 'n okkupeerder van privaat eiendom, vir die vermindering of staking van 'n stoornis, soos beoog ingevolge artikels 19(3) en (4);
(iii) prosedures vir die betreding van privaat eiendom, vir die blus van vure daarop, soos beoog ingevolge artikel 20(b);
(iv) die slag van enige dier vir eie gebruik, of vir kulturele of godsdiensoeleindes, soos beoog ingevolge artikel 21(2), en die aanvaarding en implementering van 'n tariewelys vir die weggooi en begrawe van enige aanstootlike materiaal of ding, met inbegrip van karkasse, soos beoog ingevolge artikel 21(4);
(v) die inhoud en betekening van 'n kennisgewing vir die verwydering of plantegroei, en prosedures vir inwerkingstelling van die verwydering deur die munisipaliteit self en 'n tariewelys daarvoor, soos beoog ingevolge artikels 22(2) en (3); en
(vi) die inhoud en betekening van 'n kennisgewing vir die beheer van ongediertes, en prosedures vir die uitoefening van beheer deur die munisipaliteit self en 'n tariewelys daarvoor, soos beoog ingevolge artikels 23(2) en (3);
(vii) die inhoud en betekening van 'n kennisgewing vir die staking van geraasbesoedeling wat 'n stoornis uitmaak en 'n tariewelys daarvoor, soos beoog ingevolge artikels 28(2) en (3);

- (h) die verlening van toestemming deur 'n gemagtigde beampte ten opsigte van enige handeling met betrekking tot munisipale eiendom en eiendom onder die beheer van die munisipaliteit, soos beoog ingevolge artikel 26(1)(m);
 - (i) 'n tariewelys, of kosteskedule vir die regstelling van enige verlies of skade gely deur die munisipaliteit as gevolg van die versuim of 'n misdryf ingevolge artikel 26(3);
 - (j) (i) die voorskryf van strawwe vir die misdrywe beoog ingevolge artikel 28; en
(ii) die wysiging van sodanige strawwe van tyd tot tyd;
 - (k) enige aangeleentheid wat voorgeskryf mag word ingevolge hierdie verordening, en enige aangeleentheid wat die toepassing van hierdie verordening kan fasiliteer.
- (2) (a) Die munisipaliteit moet, nie minder nie as 1 (een) maand voor die uitvaardiging van 'n regulasie ingevolge subartikel 1, 'n konsep van die regulasie aan die plaaslike gemeenskap laat kommunikeer en laat openbaar maak ingevolge artikels 21 en 21A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), saam met 'n kennisgewing wat die bedoeling van die munisipaliteit verklaar om sodanige regulasie uit te reik en die gemeenskap uitnoui om kommentaar of verhoë te lewer.
- (b) Indien die munisipaliteit besluit om die konsepregulasie te wysig as gevolg van kommentaar of verhoë wat ontvang is uit hoofde van sodanige uitnodiging, is dit nie nodig om te kommunikeer en die wysiging openbaar te maak voordat die gewysigde konsep as 'n regulasie uitgevaardig word nie.

30. Herroeping van verordenings

Enige verordenings ten opsigte van die voorkoming van stoornisse aanvaar deur die munisipaliteit of enige voormalige munisipale raad wat nou uit 'n administratiewe eenheid van die munisipaliteit bestaan, moet herroep word vanaf die datum van uitvaardiging van hierdie verordening.

31. Kort titel

Hierdie verordening word genoem die Verordening Insake die Beheer van Openbare Stoornisse, 2012, en tree in werking op 'n datum bepaal deur die munisipaliteit deur middel van proklamerings in die *Provinsiale Koerant*.

No. 9

15 kuNhlolanja 2013

ISAZISO SOHULUMENI BENDAWO**UMASIPALA WASENDUMENI****UMTHETHO KAMASIPALA OPATHELENE NOKULAWULWA KWEZICEFE EMPHAKATHINI**

IMenenja Kamasipala, ngokweSigaba 13 soMthetho Wezinhlelo Zikamasipala- koHulumeni Basekhaya, 2000 [uMthetho No. 32 wezi-2000], sifundwa neSigaba 162 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika [uMthetho No. 108 we-1996], lapha yethula uMthetho kaMasipala Ophathelene Nokulawulwa Kwezicefe Emphakathini.

Inhloso yoMthetho Kamasipala

Inhloso yalo mthetho kamasipala ukukhuthaza ukuphepha, ezempilo kanye nesimo esinokuthula ukuze kuhlomule umphakathi ohlala ngaphakathi kwemingcele yalo masipala, kanye nokuhlizekela imigomo nezinhlelo ezengenziwa ukulawula izinto eziyisicefe emphakathini.

ISAHLUKO 1**IZINCAZELO**

1. **Izincazelo** – Kulo mthetho kamasipala, ngaphandle uma ingqikithi ikhomba okunye -

'**indawo**' kusho indawo engaphansi koMkhandlu kaMasipala waseNdumeni;

'**isisebenzi esigunyaziwe**' kusho –

- (a) isisebenzi sikaMasipala esigunyazwe ukuba siphathe, siqalise ukusebenza futhi siqinise izihlinzekelo zalo mthetho kamasipala;
- (b) isikhulu sezemigwaqo esiqokwe ngokweSigaba 3A soMthetho Kazwelonke Wezemigwaqo, 1996 [uMthetho No. 93 we-1996];
- (c) ilungu lombutho wamaphoyisa, njengoba lichaziwe ngokweSigaba 1 soMthetho Wemisebenzi Yezamaphoyisa eNingizimu Afrika, 1995 [uMthetho No. 68 we-1995]; noma
- (d) isikhulu sezokuthula, okuningwe ngaso ngokweSigaba 334 soMthetho Wenqubo Yamacala Obugebengu, 1977 [uMthetho No. 51 we-1977];

'**umasipala**' kusho uMasipala waseNdumeni, owasungulwa ngokweSigaba 12 soMthetho Wezinhlaka Zomasipala – koHulumeni Bendawo, 1998 [uMthetho No. 117 we-1998], futhi kuhlukanisa nanoma yiluphi uhlobo lwezepolitiki, izikhulu eziphezulu kwezepolitiki, amakhansela, abasizi abagunyazwe ngokusemthethweni kumbe umqashwa osebenza ngale mithetho kamasipala ngokwamandla anikwe umasipala futhi oyisithunywa kulolo hlobo lwezepolitiki, izikhulu eziphezulu kwezepolitiki, amakhansela, abasizi noma umqashwa;

'**umsindo ophazamisayo**' kusho nanoma yimuphi umsindo ongabekezeleleki, ukumemeza, ukuxabana, ukulwa noma ukucula kumbe ukuqhubeka nokudlala okhehlegume, imisakazo, noma izikhulisamsindo, okugcina sekubanga isicefe.

'**isicefe**' ngale kokungqinda ubunjalo begama, kusho, isenzo ukweqiwa, isimo –

- (a) esivimbela, esithunaza, esinobungozi kumbe esiphazamisa umphakathi wonkana; noma
- (b) esidala ukuphazamiseka esimweni esijwayelekile zokusetshenziswa ngenkululeko kumbe ngenkomo indawo yomnikazi,

futhi '**isicefe emphakathini**' siyoba nencazelo efanayo;

'**ohlalayo**' kusho futhi kubandakanya nanoma ngubani okunguyena ohlala ngempela kunoma yimuphi umhlaba kumbe indawo yomnikazi noma obhekele kumbe ophethe lapho, ngale kokuthi uhlobo ngasikhundla sini, kanti esimweni lapho kuyindawo yomnikazi ehlukane izigaba futhi eqashiselwe abantu abehlukene, kusho umuntu okunguyena owamukela imali yerenti, noma ngabe ngeyakhe kumbe uqashwe ngomunye umuntu onelungelo noma onentshisekelo yalokho;

'**umnikazi**', maqondana nanoma yiyiphi indawo yomnikazi kusho -

- (a) umuntu elibhaliswe ngaphansi kwegama lakhe itayitela laleyo ndawo yomnikazi ngokoMthetho Wokubhaliswa Kwamatayitela, 1937 [uMthetho No. 47 we-1937], njengalokhu uchitshiyelwe, futhi kubandakanya nomnikazi welayisensi yesitende;
- (b) umuntu okubhaliswe ngaphansi kwegama lakhe isitifiketi sesigaba setayitela laleyo ndawo yomnikazi ngokoMthetho Wezigaba Zamatayitela, 1986 [uMthetho No. 95 we-1986], futhi, ngaphezu kwalokho, kuhlenganisa nomnikazi (njengoba kuchaziwe kulo Mthetho okukhulunywa ngawo), abaphathi besakhiwo kanye nomthuthukisi maqondana naleyo ndawo yomnikazi;
- (c) uma lowo muntu noma umnikazi esashona, engasenamali, ephazamisekile ngokomqondo noma engakwazi ukusebenza ngendlela, esemncane ngokweminyaka noma ngokomthetho ethathwa njengokhubazekile, umuntu okunguyena obhekele izinto ezithinta kumbe owengamele amafa akhe, kungaba umbheki, owengamele amafa, kumbe okunoma yisiphi esinye isikhundla;
- (d) uma indawo yomnikazi iqashisiwe, kusemqoka ukubhaliswa kwayo ukuze kuqinisekise lokho kuqashiselana kumbe oqashile; noma
- (e) uma umnikazi ochazwe lapha engekho kuleli leRiphabhulikhi kumbe engaziwa ukuthi ukuphi, umelekeleli walowo mnikazi kumbe nanoma ngubani owemukela noma onelungelo lokwamukela imali yerenti maqondana nendawo yomnikazi kumbe indlu, njengoba kuchaziwe eMthethweni Wezigaba Zamatayitela, 1986, ekuleyo ndawo yomnikazi;

'indawo yomnikazi' ihlenganisa nanoma yiyiphi indawo yomphakathi kanye nomhlaba ongowomnikazi, wonke amabhilidi, amagumbi, izindlu zokuqashisa, amaqhugwana, kumbe nanoma yisiphi esinye isakhiwo kanjalo namabala noma umhlaba othintekayo, futhi kuyohlenganisa nanoma 'iyiphi indlu', njengoba kuchaziwe eMthethweni Wezigaba Zamatayitela, we-1986;

'izindawo zomphakathi ezenza impilo ibe lula' kusho izinsiza ezethulwa ngumasipala ukuze zisetshenziswe ngumphakathi wonkana ngale kwenkinga;

'indawo yomphakathi' kusho nanoma iyiphi indawo, ipaki, inkundla yokungecebeleka noma indawo evulekile -

- (a) engekamasipala; kumbe
- (b) umphakathi onelungelo lokuyisebenzisa; noma
- (c) ekhonjiswe epulanini yelokishi esemafayilini ehhovisi lokubhaliswa kwezindawo kumbe ehhovisi loMklami- Jikelele futhi ehlinzekelwe noma egcinelwe ukuba isetshenziswe ngumphakathi noma abanikazi beziza eziselokishini;

'imoto yomphakathi' kusho nanoma iyiphi imoto noma into ethuthayo engekamasipala kumbe elawulwa ngumasipala futhi esetshenziselwa ukuthutha, ukuhlomulisa amalungu omphakathi;

'udoti', ngale kokungqinda ubunjalo bencazelo ejwayelekile yegama, kusho nanoma iyiphi imoto engasetshenzisiwe noma umshini umbe ingxenywe yawo, okusansimbi okulahlwe, imvuthuluka ephuma uma kwakhiwa, udoti wasengadini, imfucumfucu, izibi, amathayi kumbe nanoma yini enye into elahlwe noma eshiyiwe;

'imoto' kusho nanoma iyiphi into yokuthutha ekwazi ukuhambisa umuntu oyedwa nangaphezulu, ngaphandle kwesihlalo esinamasondo noma inqola efana naso esetshenziselwa ukuthwala umuntu okhubazekile.

ISIAHLUKO 2

IZINDAWO ZOMPHAKATHI

2. Ukuphazanyiswa kokuthula

Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -

- (a) evimba, ethuka, egxambukela, echukuluza, esabisa noma ehlukumeza omunye umuntu
- (b) ezihlenganisa noma edudana nabanye abantu ngendlela edala noma ebukeya ingadala ukuphazamiseka kokuthula; nom
- (c) elwa kumbe egqugquzela noma ecela inselelo komunye umuntu ukuba balwe.

3. Ukuziphatha okungenasizotha

- (1) Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -

- (a) engagqokile ngendlela enesizotha eyenza ukuthi kufihleke izitho zakhe zangasese; noma
- (b) enza nanoma isiphi isenzo sokungazihloniphi, noma egqugquzela omunye umuntu ukuba enze icala elifanayo.

(2) Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -

- (a) ezikhulula noma echama, ngaphandle uma ekwenza lokhu endaweni ehlinzekwe umasipala ukuba yenze lokho;
- (b) engena endlini yangasese ehlinzekelwe abantu bobulili obungafani nobakhe;
- (c) ephimisa amathe;
- (d) edakiwe noma ephuza utshwala ngendlela yokuthi ngokubona kwesisebenzi esigunyaziwe lowo muntu angagcina esebange isicefe kwabanye abantu;
- (e) edakiwe noma esebenzise izidakamizwa njengoba kuchaziwe eMthethweni Wezidakamizwa kanye Nokushushumbiswa Kwazo, 1992 [uMthetho No. 140 we-1992], kumbe zitholakale kuyena noma komunye umuntu; noma
- (f) enza nanoma isiphi isenzo sokungazihloniphi kumbe esingamukelekile noma akhumule ngamabomu.

4. Inhlamba kumbe amagama alumelayo

Umuntu usuke enza icala, uma esendaweni yomphakathi nokuyilapho abantu bemuzwa khona uma, ekhuluma amagama alumelayo noma ecula amaculo anehlamba kumbe anezinhlamvu ezilumelayo.

5. Imibhalo enokuhlambalaza kanye nokumeleleka

Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -

- (a) ebukisa, esabalalisa, eveza noma edayisa kumbe ezama ukudayisa, ngendlela enokuhlambalaza nanoma yiziphi izithombe ezingakhombisi nhlonipho, noma yikuphi ukumeleleka okubhaliwe kumbe okuprintiwe; noma
- (b) edweba, eprinta, ebhala kumbe ngandlela thize ekhiqiza nanoma yimiphi imifanekiso, uhlamvu, isithombe, igama noma yikuphi ukumeleleka ngendlela yokuthi lokho kubonwe umphakathi noma omunye umuntu.

6. Izenzo eziyingozi

(1) Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -

- (a) eqalisa, ebamba noma esebenzisa nanoma yiyiphi impahla noma into engaholela ekulimaleni komunye umuntu, kumbe esabisa omunye umuntu noma ecekela phansi impahla noma enza izinto ngendlela engagcina seyimlimazile, isabise noma idale umonakalo;
- (b) ethula noma ephethe nanoma iyiphi impahla, into ewuketshezi kumbe eqinile ngokwesimo sayo noma ngokwendlela eyethulwa kumbe ephethwe ngayo ingaba yisisusa esisha sengozi kubantu noma empahleni, noma-ke kubukeka ingadala ingozi;
- (c) ebasa, esebenzisa, noma ehlomla emlilweni, ngaphandle uma kusezindaweni zomphakathi ezihlinzekwe umasipala ukuba zenze lowo msebenzi;
- (d) enamathisela nanoma yini, kumbe elengisa nanoma yini kwi-canopy, ebhulohweni, kuveranda noma akha nanoma yini, esigxotsheni kumbe eposini, kuya ngokwezihlinzekelo zesigaba 9(e); noma
- (e) enza nanoma yisiphi isenzo esingagcina sesilimaza omunye umuntu kumbe sidale umonakalo empahleni, ngaphandle uma egunyazwe noma evunyelwe umthetho ukuba enze njalo, noma-ke ekwenza lokho enemvume ebhalwe phansi ekhishwe yisisebenzi esigunyaziwe futhi kuhambisane nanoma yiziphi izimo ezishiwo yiso.

(2) Maqondana nokuqhunyiswa kumbe ukusetshenziswa kweziqhumane –

- (a) akukho muntu oyoqhumisa iziqhumane kunoma yiyiphi indawo yomnikazi kumbe indawo yomphakathi ngaphandle kwemvume ebhalwe phansi ekhishwe ngumasipala;

- (b) izicelo zemvume ebhalwe phansi okuningwe ngayo ngokwesigatshana (a) kufanele zenziwe -
- (i) zithunyelwe zibhalwe phansi ezinsukwini eziyi-14 (eziyishumi nane) ngaphambi komcimbi; futhi
- (ii) zihambisane nemvume ebhalwe phansi yomakhelwane abaseduze kakhulu abahlala ezakhiweni ezisondelene nabangaphesheya komgwaqo ukusuka kuleyo ndawo yomnikazi kumbe indawo yomphakathi lapho kuzoqhunyiswa khona iziqhumane.
- (b) akukho okuqukethwe kulesi sigaba okuyohunyushwa ngenhloso yokuphambuka ezidingweni zoMthetho Weziqhumane, 2003 [uMthetho No. 15 wezi-2003], kumbe nanoma yimiphi imithethonqubo eyakhishwa ngaphansi kwawo.

7. Ukulahla udoti

- (1) Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -
- (a) eshiya, edabula, elahla noma echitha kumbe ebanga noma evumela ukulahlwa noma ukuchithwa kwanoma yimuphi udoti kumbe nanoma iyiphi imfucuzo kumbe into, kungaba ewuketshezi noma eqinile ngaphandle uma isemgqonyeni ohlinzekelwe lokho; noma
- (b) ekhipha udoti emgqonyeni ohlinzekelwe ukulahlwa kukadoti nanoma yini ephakathi kumbe evumela ukuthi kukhishwe okunjalo kulowo mgqomo.
- (2) Umuntu obanga noma oduda omunye umuntu ukuba enze nanoma yiziphi izenzo ezichazwe esigatshaneni (1) uyotholakala enecala.
- (3) Nanoma iyiphi impahla noma into umuntu ayiwisa kumbe avumela ukuba iwe phansi angasheshi ukuyicosha, ngokwezinhloso zesigatshana (1) ewiswa ngumuntu kumbe avumela ukuba iwele phansi angasheshi kuyothathwa ngokuthi leyo mpahla uyilahlile.
- (4) Nanoma iyiphi impahla noma into etholakale endaweni yomphakathi edala izinsolo zokuthi kunecala elenziwe ngokwesigatshana (1) futhi enegama lomuntu kumbe okunezinsolo ezinkulu zokuthi ngeyakhe noma ingaphansi kwehlo lakhe, kuyothathwa ngokuthi uyilahlile noma uyishiyile ngokwezinhloso zesigatshana (1), ngaphandle uma eveza ubufakazi obuphikisa lokho.
- (5) Umuntu oshanelela, kumbe olahla udoti nganoma iyiphi indlela endaweni yomphakathi uyothathwa njengowuchithile ngokwesigatshana (1).
- (6) Umuntu obonwe yisisebenzi esigunyaziwe ukuthi wephula izihlinzekelo zesigatshana (1) siyomyalela ukuba asuse lowo doti, leyo mpahla noma leyo nto ayifake emgqonyeni kadoti ohlinzekwe umasipala kumbe egameni likamasipala, futhi uma ehluleka ukulandela lowo myalelo uyobe enza icala.

8. Ukhlanzwa kwezindlela eziseceleni komgwaqo kanye nezingqema

- (a) Ohlalayo emagcekeni okuqhutshwa kuwo ibhizinisi, okusetshenzelwa kuwona, okudayiselwa kumbe okukhiqizelwa kuwo kufanele ngaso sonke isikhathi, uma kukhona umsebenzi owenziwayo, agcine indlela eseceleni komgwaqo kanye nonqenqema kumbe ingxenye yalo exhumeke emagcekeni, kuhlanganisa ogadasi kanye nemisele yamanzi esemgwaqeni, ihlanzekile, ingenazibi futhi isesimweni esigculisayo futhi asuse wonke udoti oseceleni komgwaqo.
- (b) Ohlalayo okukhulunywe ngaye esigatshaneni (a) kufanele aqikelele ukuthi wonke udoti uyasuswa ngokwesigatshana esichaziwe ufakwe emgqonyeni kadoti ohlinzekwe ngumasipala, noma egameni likamasipala kumbe imvume ebhalwe phansi ekhishwe yisisebenzi esigunyaziwe okumele ulahlwe ngendlela evunye yisisebenzi esigunyaziwe.

9. Izithiyo

Umuntu usuke enza icala uma, esendaweni yomphakathi, enza lokhu -

- (a) eshiya nanoma yini inganakiwe, kube kunguye oyibeke lapho, bese iba yisithiyo kumbe kubukeke ingaba yisithiyo kubantu noma ezimotweni;
- (b) ethwala, elahla, ephatha noma eletha nanoma yini ezoba yisithiyo kumbe iphazamise ukuhamba kwabantu noma kwezimoto, noma ukusetshenziswa kwendawo yomphakathi ngabantu kumbe izimoto, noma engalimaza abantu, kumbe ilimaze nanoma iyiphi enye impahla;
- (c) elahla nanoma yini egcekeni, ngenhloso yokulayisha noma yokuthulula imoto, kumbe ukuletha leyo nto kulawo magceke eseme kulowo mgwaqo isikhathi eside kunaleso esifanele ukwenza lowo msebenzi;
- (d) esitha uphawu lomgwaqo, njengoba kuchaziwe eMthethweni Kazwelonke Wezemgwaqo, 1996 [uMthetho No. 93 we-1996];
- (e) eneka noma edonsa nanoma yini ngaphezu kobonda noma evumela nanoma yini ukuba ilunguze ngaphezu kwalolo bonda noma ixhumeke ngokungemthetho kulo, ngaphandle kokuthola imvume ebhalwe phansi kumasipala, leyo mvume iyokhishwa ngaphansi kwemigomo nemibandela efanele;
- (f) ehlanganyela noma ehlela umhlangano wabanye abantu endaweni kumbe ngendlela engathikameza noma ivimbele kumbe iphazamise ukuhamba kwabantu noma kwezimoto, kumbe ukusetshenziswa noma injabulo yokuba sendaweni yomphakathi yabantu noma yezimoto;
- (g) enza nanoma yisiphi isenzo esingaba nomphumela ochazwe esigatshaneni (b).

10. Ukulahlwa kwempahla etholakale endaweni yomphakathi

- (1) Uma kunento eshiywe endaweni yomphakathi, ngokuphikisana nesigaba 9, isisebenzi esigunyaziwe singayisusa siyoyigcina endaweni eyakhiwe ngumasipala ukwenza lowo msebenzi, ngaphandle-ke uma kungukuthi leyo nto ngokokubona kwesisebenzi esigunyaziwe ayikho esimweni sokuthi idayiseke, isisebenzi esigunyaziwe singayilahla ngendlela esibona ifanele, bese kuthi umuntu okunguyena owenze lelo cala abhekane nezindleko zalokho kulahlwa njengokunquma kwesisebenzi esigunyaziwe.
- (2) Izinto ezisuswe zayogcinwa ngokwesigatshana (1) ziyokhululelwa nanoma ngubani oyofika ezinsukwini eziyisikhombisa (7) leyo nto isusiwe noma emva kwesikhathi eside esingavunywa yisisebenzi esigunyaziwe okuyisona esibhekele indawo yokugcina impahla, aveze ubufakazi bokuthi impahla ngeyakhe kumbe unelungelo lokuyithatha, emva kokuba esekhokhe izindleko zokususwa kanye nokugcinwa kwayo, njengokunquma kwesisebenzi esigunyaziwe, ngokuhambisana nohlelo lwentela kamasipala enqunyiwe.
- (3) Izinto ezingadedelwanga ngokwesigatshana (2) ziyodayiswa kumbe zilahlwe emva kwesaziso esiyokhishwa ngendlela isisebenzi esigunyaziwe esibhekele indawo yokugcina impahla esiyobona ifanelekile maqondana nesimo salezo zinto;
- (4) Imali eyotholakala ngalokho kodayisa ngokwesigatshana (3) iyosetshenziselwa ukukhokhela -
 - (a) izindleko zokususwa nokugcinwa kwempahla njengoba kunqunywe ngokwesigatshana (2)
 - (b) nanoma yiziphi izindleko ezenzeke ngesikhathi kuzanywa ukuthola umninizo;
 - (c) izindleko zokodayisa; bese kuthi imali eyosala iyocwila esikhwameni sikamasipala uma esikhathini esiwunyaka owodwa (1) kusukela osukwini lokodayiswa kwempahla singengiwanga isibizo sayo ngumuntu oveza ubufakazi bokuthi unelungelo ngokusemthethweni laleyo mpahla.
- (5) uma imali etholakale ngokodayisa impahla ingenele ukuhlangabezana nezindleko okukhulunywe ngazo esigatshaneni (4), umnikazi wezinto ezidayisiwe kanye nomuntu owenze icala maqondana nazo, ngokuhlanganyela bayobhekana necala kumasipala lokukhokha ingxenye eshodayo.
- (6) Uma izinto zingeke zidayiswe ngokwesigatshana (3), isisebenzi esigunyaziwe esibhekele indawo yokugcina impahla singazilahla ngendlela esiyoyibona ifanele, futhi izihlinzekelo zesigatshana (5) ziyosebenza njengoba kumisiwe maqondana nokukhokhwa kwezindleko eziyodaleka ngokulahlwa kwaleyo mpahla.

- (7) Ukusetshenziswa kwanoma yimaphi amandla anikezwe yilo mthetho kamasipala angeke kwenze ukuthi umasipala noma isisebenzi esigunyaziwe babhekane necala lokulahleka kumbe ukwebiwa noma ukulimala kwanoma yini esusiwe ngokwesigatshana (1), ngaphandle uma lokho kulahleka, kuntshontshwa noma kulimala kwenzeke ngenxa yobudedengu bukamasipala kumbe isisebenzi esigunyaziwe okukhulunywa ngaso.

11. Ukuvinjelwa yizihlahla

- (1) Uma kukhula isihlahla noma ihlashana kumbe esinye nje isihlahla kunoma iyiphi indawo yomnikazi siphumele endaweni yomphakathi kumbe nanoma iyiphi ingxenye yaleso sihlahlala -

- (a) iphazamisa ukubona komshayeli wanoma iyiphi imoto ekuleyo ndawo yomphakathi;
- (b) iphazamisa, kumbe sibanga isicefe kubantu abasebenzisa leyo ndawoyomphakathi; noma
- (c) sisitha uphawu lomgwaqo,

isisebenzi esigunyaziwe singanikeza umnikazi waleyo ndawo kumbe ohlalayo isaziso, esimcela ukuba asinqume, asisuse kumbe asithene leso sihlahlala ngakuleyo ngxenye ebanga isicefe kuze kuphele isikhathi esinqunywe esazisweni futhi nanoma ngubani ohluleka ukuhambisana nomyalelo wesaziso esikhathini esibekiwe uyotholakala enecala.

- (2) Uma umuntu okhishelwe isaziso ngokwesigatshana (1) ehluleka ukuhambisana nemibandela ebekiwe esikhathini esinqunywe, isisebenzi esigunyaziwe singenza ukuthi umsebenzi obalulwe esazisweni wenziwe bese lowo muntu abhekane necala kumasipala lezindleko zomsebenzi, njengokuhlola kwaleso sisebenzi esigunyaziwe.

12. Imibuthano

- (1) Akukho muntu oyoqalisa noma abe yingxenye yanoma yimuphi umbuthano kunoma iyiphi indawo yomphakathi, isikhungo esingaphandle noma izakhiwo zikamasipala-

- (a) ongabanga isicefe, njengoba kuchaziwe; kumbe
- (b) ongaphula noma yisiphi isihlinzekelo soMthetho Wemithethonqubo Yemibuthano, 1993 [uMthetho No.205 we-1993].

- (2) Izihlinzekelo zesigatshana (1) akumele zihunyushwe ngendlela ephazamisa noma yiliphi ilungelo lomuntu ngokomthethosisekelo lokuhlanganisa, ukuveza, ukuteleka kanye nokwethula uhlu lwezikhalo nezethulo.

13. Izikhulisamsindo kanye nemishini

- (1) Akukho muntu oyosebenzisa noma avumele ukusetshenziswa kombhobho, isandisimsindo kumbe nanoma yini enye ebangisa umsindo noma ekhulisa umsindo kunoma iyiphi indawo yomphakathi ngenhloso yokwenza isimemezelo, isikhangisi kumbe nanoma yini enye yalolo hlobo, engaqalanga ngokuthola imvume kamasipala.
- (2) Umasipala unganqaba ukunikeza imvume uma unezizathu ezizwakalayo ezenza ukholwe ukuthi ukusetshenziswa kombhobho, isandisimsindo noma enye into kungabanga kumbe kungahle kubange isicefe, njengoba kuchaziwe.
- (3) UMasipala ungayihoxisa imvume uma kubonakala ukuthi kubangeke isicefe, noma kungahle kubangeke isicefe.

14. Imidlalo

Umuntu usuke enza icala, uma esendaweni yomphakathi, edlala nanoma yiluphi uhlobo lomdlalo, noma engcebeleka nganoma yiluphi uhlobo, noma kungebalwe konke kodwa, njengokushushuluza esebenzisa ama-roller skate noma ama-rollerboard ngendlela engabanga isicefe

15. Amacala avamile

- (a) Umuntu usuke enza icala uma, esendaweni yomphakathi, endaweni yomnikazi, esikhungweni sangaphandle sokwenza impilo ibe lula emphakathini kumbe esakhiweni sikamasipala noma isikhungo kumbe isakhiwo okukhulunywe ngaso esenganyelwe ngumasipala, enza noma eyeka ukwenza, bese kuholeleka ekubangekeni kwesicefe ngesikhathi yena esakuleyo ndawo.
- (b) Izihlinzekelo zesigatshana (a) azisebenzi uma muntu ekwenza lokho ngokusemthethweni, esebenzisa ilungelo, noma enza umsebenzi wakhe.

**ISAHLUKO 3
INDAWO YOMNIKAZI**

16. Ukusetshenziswa kwendawo yomnikazi

- (1) Umuntu usuke enza icala uma ekunoma iyiphi indawo yomnikazi-
 - (a) emba noma esusa isihlabathi kumbe enye impahla endaweni yayo maqondana nmananye amageceke noma indawo yomphakathi ukuze asuse okweseke ingxenye yalawo magceke noma indawo yomphakathi, kumbe ukwakha isisusa sento engaba nobungozi empilweni kumbe ilimaze impahla;
 - (b) engumnikazi noma engumuntu ohlalayo kuleyo ndawo yomnikazi evumela nanoma iliphi ichibi, ithangi, idamu lokubhukuda, imbobo, umgodi, kumbe nanoma yisiphi isitshalo esikuleyo ndawo yomnikazi sibe sendaweni kumbe singavikeleki ngendlela yokuthi singadala ingozi kwezokuphepha kubantu nasempahleni;
 - (c) ebanga noma evumela nanoma yini ekhula endaweni yomnikazi ukuba iwelele ngaphezu noma endaweni yomphakathi, ngaphandle uma kusendaweni eklanyelwe imisebenzi yezimboni ngaphansi kohlelo lokuklanywa kwendawo, futhi kwenziwe ngendlela efanayo efanele mayelana nokusetshenziswa komhlaba ngokusemthethweni;
 - (d) engumnikazi noma engumuntu ohlalayo kuleyo ndawo yomnikazi, elahla, egcina noma edala, evumela ukuthi kulahlwe noma kugcinwe kumbe kunqwabelaniswe udoti, kushiywe impahla yasendlini engasasetshenziswa, imishini, izimoto nanoma yini kumbe izihlahla noma izinsimbi ezilahliwe noma imfucuza ngendlela yokuthi uze ubonakale kubantu abasendaweni yomphakathi;
 - (e) echoma kumbe ebeka nanoma yini kuleyo ndawo yomnikazi ngaphandle kwemvume yomnikazi kumbe ohlalayo ngendlela esitha leyo ndawo yomnikazi, kungaba ngokubhala ngoshoki, u-inki noma upende kumbe nanoma yini nje, ngaphandle uma egunyazwe ngumthetho ukwenza lokho.
- (2) Isisebenzi esigunyaziwe singayalela umuntu ophikisana nesigatshana (1)(d) noma (e) ukuba asuse endaweni yomnikazi lezo zinto okukhulunywa ngazo ngesikhathi esithile, umaehlulwa yilokho kuyosebenza izihlinzekelo zesigaba 10 njengoba kubekiwe.

17. Ama-alamu avikela ukugqokeza

- (1) Umnikazi kumbe ohlalayo endaweni yomnikazi efakwe uhlelo lwe-alamu evikela ukugqokeza uyotholakala enecala uma iyoqhubeka nokubanga umsindo kumbe ibelesele isikhathi esingaba yimizuzu eyishumi (10) emva kokuba isicushiwe;
- (2) Leyo alamu iyothathwa njengebeleselayo ngokwezinhloso zesigatshana (1) inqobo nje uma iqhubeka nokubanga umsindo nganoma yisiphi isikhawu ngale kokuqhamuka kwembangela entsha; inqobo nje uma kuzoba yisizathu esihle ngesikhathi secala lokwephula isigatshana (1) uma kungaba nobufakazi bokuthi kwaba nephutha emshinini wehluleka ukusebenza futhi kwakungaphezu kwamandla alowo ohlalayo, akubanga ubudedengu bakhe.
- (3) Uma uhlelo lwe-alamu yokuvikela ukugqokeza lufakiwe emagecekeni, omnikazi kumbe ohlalayo kulawo magceke, ngaphandle uma le Ndlela yomshini okukhulunywe ngayo esigatshaneni (1) ifakiwe, kumele afake abuye anakekele isaziso esangweni lokungena emagecekeni esichaza igama nenombolo yocingo yabantu abakwazi ukungena emagecekeni zikhathi zonke ngenhloso yokuzocima i-alamu noma kuzomele ahlele ukuthi kube nendlela yokuzibikela kwe-alamu kubalawuli bayo zikhathi zonke.

18. Izinto ezisebenza ngogesi ukukhipha umoya obandayo

- (1) Umnikazi noma ohlalayo endaweni yomnikazi ofake noma onakekela abuye asebenzise into esebenza ngogesi ekhipha umoya obandayo kumele aqinisekise ukuthi leyo nto esebenza ngogesi ifakwe, yanakekelwa ngendlela ezovimbela-
 - (a) ukudaleka komsindo, iphunga noma ukudledlezela okuyisicefe, njengoba kuchaziwe; kanye
 - (b) nokuphuma noma ukudaleka kokuconsa kwamanzi okwehlela endaweni yomphakathi okungabanga isicefe, njengoba kuchaziwe.
- (2) Akukho okuqokethwe kulesi sigaba okuyohunyushwa ngendlela ephikisana nezidingo zoMthetho kaZwelonke Wamazinga Okwakha kanye Nemithethonqubo Yezokwakha, 1977 [uMthetho No 103 we-1977] kanye noMthetho Obhekelela Ezempilo neZokuphepha, 1993 [uMthetho No. 85 we-1993] kanye nanoma yimiphi eminye imithethonqubo emenyezelwe ngokwale mithetho okukhulunywe ngayo.

19. Izicefe ngenxa yokusetshenziswa kwendawo yomnikazi

- (1) Akukho mnikazi kumbe ohlalayo endaweni yomnikazi -
 - (a) oyoyisebenzisa ngenhloso;
 - (b) oyobanga noma avumele ukusetshenziswa kwayo ngenhloso;
 - (c) oyohlela noma avumele umsebenzi noma umcimbi ngaphandle uma kugujwa usuku lokuzalwa, kunomethembiso, kunomshado noma imicimbi efana nale,

ngendlela eyophikisana nohlelo lokuklanywa kwendawo noma ezinye izithiyo ezinjalo ezibekwe ngumthetho wokuhlelwa kwedolobha, okuthi ngokwesimo sawo noma nganoma iyiphi enye indlela kumbe ngesizathu semiphumela yokusetshenziswa kwayo kubangeke isicefe.
- (2) Ngale kwesigatshana (1), akukho okuyovimbela umnikazi noma ohlalayo endaweni yomnikazi ukuba enze lokhu okulandelayo:-
 - (a) nanoma yisiphi isakhiwo esisemthethweni noma umsebenzi wenkontileka awenzayo noma awenzelwayo; kanye
 - (b) nokubamba iqhaza kunoma yimuphi umdlalo wokuzijabulisa ohlanganisa izinto zakhe noma ezisetshenziswa nguye edinga ukuxhunywa kugesi njenge- angle grinder, umshini wokuxova udaka nokunye okunjalo inqobo nje uma –
 - (i) ukusetshenziswa kwaleyo mishini esebenza ngogesi kungeke kuphazamise ukugqama kwesithombe sikamabonakude noma ukudonsa komsakazo kunoma yimuphi umuzi ongumakhelwane, nokuthi kumele kwenziwe konke okufanele ukunciphisa umsindo kanye nesikhathi ozosetshenziswa sona; nokuthi lowo msebenzi owenziwayo awuhlobene nowenziwa kwenye indawo yomnikazi kwenye indawo.
 - (ii) lesa sakhiwo noma umsebenzi wenkontileka kanye nokusetshenziswa kwezinto ezisebenza ngogesi kulowo mdlalo wokuzijabulisa kuyokwenziwa ngalama hora kusukela ngelesi- 07h00 kuya kwelesi-19h00.
- (3) Noma kunini lapho ngokombono waso isisebenzi esigunyaziwe sibona sengathi umuntu odlala umdlalo wokuzijabulisa uyaphambana nezigatshana (1) no (2), singayalela umnikazi kumbe ohlalayo kuleyo ndawo yomnikazi kumbe nanoma ngubani obhekele noma osebenzisa, obambe iqhaza emdlalweni, emcimbini ukuba athathe izinyathelo ezifanele njengokucacisa kwesisebenzi esigunyaziwe, ukuvimba isicefe noma ukugwema ukudaleka kwesicefe, uma kungukuthi lokhu kungenzeka ngokuthi kumiswe ukusetshenziswa kwendawo, ukwenziwa komcimbi kumbe uqedwe esikhathini esibekwe yisisebenzi esigunyaziwe.
- (4) Uma umnikazi noma umuntu obhekele noma obambe iqhaza ekusetshenzisweni noma emcimbini okukhulunywe ngawo esigatshaneni (3) ehluleka ukuthobela isaziso noma imiyalelo ayinikwa yisisebenzi esigunyaziwe, lesa sisebenzi siyokhipha isexwayiso ngokweSigaba 341 soMthetho Wenqubo Yamacala Obugebengu, 1977 (uMthetho No. 51 we-1977) sinike umnikazi, ohlalayo noma lowo obhekele wendawo lapho kusetshenziswe khona, kwenzelwe khona umcimbi okukhulunywa ngawo.

20. Ukubaswa kwemililo

- (a) Akukho muntu okuyothi kunoma yimaphi amageceke abase umlilo noma ashise kumbe azame ukushisa nanoma yiziphi izibi kumbe imfucuza noma utshani kumbe izitshalo ngale kokuqikelela ukuvimbela ukubhebhetheka komlilo okungalawuleki kumbe ukudaleka kwesicefe, okungaba ngenxa yokwakheka komlotha, amalangabi, ukushisa, intuthu kumbe nanganoma iyiphi indlela.
- (b) Uma umuntu eqhubeka nokushisa nanoma yiluphi uhlobo lwento ngale kokuthatha izinyathelo zokuqikelela ezichazwe esigatshaneni (a), uma lokho kusha kulandela izikhalo ezifakwe kumasipala, umasipala ngokusebenzisa isisebenzi sawo esigunyaziwe uyoba nelungelo lokungena kuleyo ndawo yomnikazi eshayo ukuze ucime umlilo bese ubeka icala lowo muntu othintekayo.

21. Ukuhlatshwa kwezilwane kanye nokulahlwa kwezidumbu zezilwane

- (1) Akukho muntu –
 - (a) oyohlaba nanoma yisiphi isilwane kunoma iyiphi indawo ngaphandle kwasemadeleni;
 - (b) oyovumela ukuhlatshwa kwanoma yisiphi isilwane kunoma iyiphi indawo eyenganyelwe nguye, ngaphandle uma leyo ndawo ingamadele, noma
 - (c) oyodayisa kumbe ahlinzeke ngenyama ezodliwa abantu noma izilwane, ngaphandle uma leyo nyama ihlatshwe emadeleni.
- (2) Izihlinzeko zesigatshana (1) azisebenzi uma uhlabela ukuzidlela wena, noma ukugcina imicimbi yesintu kumbe yezenkolo, inqobo nje uma -
 - (a) ngaphambi kokuhlatsha kwanoma yisiphi isilwane endaweni yomnikazi, umnikazi kumbe ohlalayo -
 - (i) ezothola imvume ebhalwe phansi kumasipala; futhi
 - (ii) ezohlinzeka ngesexwayiso esifanele komakhelwane abaseduze kanye nalabo abangaphesheya komgwaqo ukusuka endaweni yomnikazi lapho lapho isilwane sizohlatshelwa khona; futhi
 - (b) lokho kuhlaba kungeke kubange isicefe, njengoba kuchaziwe.
- (3) Akukho muntu oyongcwaba noma abeke nanoma yisiphi isidumbu sesilwane noma ingxenye ethile yaso kumbe nanoma yini ebolayo kumbe ecasulayo okungeyakhe, noma ayengamele endaweni yakhe noma kuphi kwenye indawo, kumbe ihlale lapho ngendlela ebanga isicefe.
- (4) Esimweni lapho nanoma ngubani ehlulekile ukulahlala nanoma yini engamukeleki noma engcwabe nanoma yisiphi isidumbu sesilwane ngokwesigatshana (3), kuyomele ahlele nomasipala ukwenza lokho bese ekhokha imali enqunyiwe.
- (5) Akukho lutho oluqukethwe kulesi sigaba okuyohunyushwa ngendlela ephikisana nezidingo zoMthetho Wezokuphepha Kwenyama, 2000 (uMthetho no.40 wezi-2000), kanye nanoma yimiphi eminye imithethonqubo emenyezelwe kanye nawo.

22. Ukususwa kokhula, kwezihlahla nesikhotha

- (1) Akukho muntu oyovumela nanoma iyiphi inhlobo yotshani, izihlahla kumbe ukhula noma izihlahla zokufika, ezisohlwini loMthetho Wezokongiwa Kwezolimo, 1983 (uMthetho No.43 we-1983), kanye nanoma yimiphi imithethonqubo emenyezelwe, ukuba kukhule kunoma iyiphi indawo yomnikazi kumbe umhlaba ongenalutho ongowakhe.
- (2) Umuntu kumele alandele nanoma yisiphi isaziso esikhishwe yisisebenzi esigunyaziwe simyalela ukuba acekele phansi noma asike futhi asuse kumbe enze ukuba kususwe nanoma yibuphi utshani, izihlahla noma isikhotha, ukhula noma izihlahla zokufika esikhathini esithile esizobe sishiwo esazisweni futhi kumele kube ngendlela ebalulwe eMthethweni Wezokongiwa Kwezolimo, wezi-1983 kanye nemithethinqubo yawo.
- (3) Uma lowo muntu ehluleka ukuhambisana nomyalelo wesaziso esibhaliwe uyotholakala enecala lokwephula lo mthetho kamasipala futhi ngaphezu kwalokho umasipala uyothatha izinyathelo oyobona zifanele ukuze uqhubeke egameni lalowo muntu okukhulunywa ngaye, nezidingo zesaziso futhi izindleko ziyokhokhwa ngumnikazi noma ohlalayo ngokuhambisana nohlelo lwentela kamasipala.

23. Ukulawulwa komiyane, izimpukane, izilwane eziququdayo kanye nezinye izilokazana eziyinkathazo

- (1) Kuyokuba ngumsebenzi wawo wonke umnikazi kanye nohlalayo ukuvimbela ukwanda komiyane, izimpukane, izilwane eziququdayo kanye nezinye ezinye izilokazana eziyinkathazo ekutheni zibe khona noma zakhele kunoma iyiphi indawo yomnikazi noma okuhlala kuyo lowo mnikazi kumbe ohlalayo, futhi nanoma yimuphi umnikazi kumbe ohlalayo ohlulekayo ukuvumelana nezihlinzekelo ezilapha uyothathwa njengowephule lo mthetho kamasipala.
- (2) Umnikazi kumbe ohlalayo endaweni yomnikazi lapho enikezwa isaziso esisayinwe yisisebenzi esigunyaziwe, uyothatha lezo zinyathelo njengoba zibalulwe kusona, zokuthi kususwe izimo ezivuna ukwanda, ukwakhela komiyane, izimpukane, izilwane eziququdayo noma izilokazana eziyinkathazo, kungakapheli isikhathi esibalulwe esazisweni.
- (3) Uma umnikazi kumbe ohlalayo engavumi ukuthatha lezi zinyathelo ezibalulwe esazisweni esikhishiwe ngokwalo mthetho kamasipala, noma ehluleka ukwenze lokho esikhathini esibaluliwe, lapho-ke isisebenzi esigunyaziwe singahlela ukuba lezo zinyathelo zithathwe, bese kuthi izindleko ezakheke ekwenzeni njalo ziyolandwa ngumasipala kulowo muntu onikwe isaziso, ngentengo ebalulwe ohlelweni lwemali yentela kamasipala.

24. Ukugcinwa noma ukuphathwa kwendlu yokudayisa ngomzimba

- (1) Akukho muntu oyophatha kumbe enze noma asize ekugcinweni noma ekuphathweni kwendlu yokudayisa ngomzimba kunoma iyiphi indawo yomnikazi.
- (2) Akukho muntu, engumnikazi, eqashile noma engohlalayo kunoma iyiphi indawo yomnikazi, oyovumela ngamabomu ukuthi leyo ndawo yomnikazi kumbe nanoma iyiphi ingxenye yayo kumbe igumbi elikuyo ukuba lisetshenziselwe njengendlu yokudayisa ngomzimba kumbe ngenhloso yokuqhuba umsebenzi wobuluthandoda, noma ibe yingxenye yayo ukuba isetshenziselwe leyo nhloso.
- (3) Akukho muntu, engumnikazi wanoma iyiphi indawo yomnikazi noma engumelekeleli walowo mnikazi, oyoqashisa ngaleyo ndawo yomnikazi kumbe nanoma iyiphi ingxenye yayo kumbe nanoma yiliphi igumbi elikuyona, enolwazi lokuthi leyo ndawo yomnikazi, ingxenye yayo kumbe igumbi lelo lizosetshenziswa njengendlu yokudayisa ngomzimba kumbe lizosetshenziselwa izinhloso zobuluthandoda.
- (4) Akukho okuqukethwe kulesi sigaba okuyohunyushwa ngendlela ephambana nezidingo zoMthetho Wamacala Aphathelene Nocansi, 1957 [uMthetho No.23 we-1957].

25. Ukuphazamiseka Kokuthula

- (1) Akukho muntu ongaphakathi emagcekeni omnikazi, oyophazamisa ukuthula komakhelwane balawo magceke ngokuthi abange nanoma yiluphi uhlobo lomsindo ongafanele okungaba ukuthetha, ukulwa, yingxabano noma ukucula kumbe ukudlala izinsimbi zomculo isikhathi eside, umsakazo, kumbe nanoma yini efana nalokho, kumbe ngokuqhubeka nokusebenzisa isikhulisamsindo okugcina sekubanga isicefe komakhelwane namaphethelo.
- (2) Nanoma ngubani okungagcina kungumnikazi waleyo ndawo, kufanele ahambisane nanoma yisiphi isaziso esikhishwe yisisebenzi esigunyaziwe, esidinga ukuba aqinisekise ukuthi umsindo obangwayo ogcina ubange isicefe komakhelwane, uyayekwa.
- (3) Uma lowo muntu ehluleka ukuhambisana naleso saziso esibhaliwe, uyobe esebekwa icala lokwephula lo mthetho kamasipala, futhi umasipala ungathatha lezo zinyathelo oyobona zifanele ngokweSigaba 28(2) no (3)

ISAPHELA 4

INDAWO KAMASIPALA KANYE NENDAWO ENGAPHANSI KUKAMASIPALA

26. Amacala ajwayelekile

- (1) Umuntu usuke enza icala uma, maqondana nanoma iyiphi indawo okungekamasipala noma engaphansi kukamasipala, noma ngabe iyasuseka noma ayisuseki, futhi kuhlanganisa nanoma iyiphi indawo yomphakathi kumbe yomnikazi elawulwa ngumasipala, -
 - (a) evumela, noma edala ukuba kwenzeke nanoma yisiphi isenzo ngokubona kukamasipala esingadala ukuguguleka komhlabathi
 - (b) evumela, noma edala ukuba kwenzeke, nanoma yikuphi ukunqunywa, ukususwa, kumbe ukuthintwa kwezimila, ngokokubona kukamasipala okungagcina kucekelele phansi lezo zimila;

- (c) ecekela phansi ngamabomu kumbe ngokunganaki leyo ndawo kumbe ingxenye yayo;
 - (d) esusa noma yimuphi umhlabathi, isihlabathi, ukhethe, amatshe, izidindi kumbe nanoma yini enye into noma ingxenye yayo;
 - (e) ephula, esika, ecekela phansi noma esusa nanoma yiliphi ihlathi, isikhotha, isihlahla kumbe ezinye izitshalo kumbe esusa nanoma yiliphi igatsha, imbali, iqabunga noma iyiphi enye ingxenye yalokho;
 - (f) enamathelisa, noma ebeka phezu kumbe eduze kwaleyo ndawo nanoma yini, kuhlanganisa nanoma yisiphi isikhangiso, amapheshana, izincwajana, izingqwembe noma ama-poster noma yini enye yokukhangisa, ebhaliwe noma ephrintiwe kumbe alengise noma agaxe nanoma yini ngaphezu kwayo noma kuyona;
 - (g) engcolisa leyo ndawo kungaba ngokuyibhala ngoshoki, u-inki noma upende, kumbe nanoma yingayiphi enye indlela;
 - (h) ecisha nanoma yiliphi ilambu noma ukukhanya kumbe esusa nanoma yiluphi udonga, uthango, ilambu, ukukhanya, isaziso noma uphawu;
 - (i) enza nanoma yikuphi ukumba, noma ephazamisa ingaphezulu laleyo ndawo;
 - (j) egibela noma ehlala ngaphezu, elengisa, kumbe eshayelela utho kuleyo ndawo;
 - (k) engenisa nanoma yini kumbe egxumeka nanoma hlobo luni lwesakhiwo, kuleyo ndawo;
 - (l) engena kuleyo ndawo noma ehlala khona;
 - (m) evumela, noma edala ukuba nanoma ngubani enze nanoma yisiphi isenzo kwesekukhulunywe ngazo, ngaphandle uma ekwenza lokho esebenzisa ilungelo lakhe kumbe enza umsebenzi noma kungukuthi uqale ngokuthola imvume esisebenzini esigunyaziwe kumbe kuhambisana nezihlinzekelo zanoma yimuphi umthetho.
- (2) Ngale kosekukhulunywe, akukho okungavimbela umnikazi kumbe ohlalayo endaweni yomnikazi ukuba atshale futhi anakekele utshani nezihlahla kuleyo ngxenye esonqenqemeni lomgwaqo encikene naleyo ndawo kamasipala kumbe engaphansi kukamasipala, inqobo nje uma kungaphazamiseki imihubhe esemthethweni yokuhamba izimoto nabahamba ngezinyawo futhi utshani nezihlahla kunakekelwe ngendlela futhi akusibangi isicefe.
- (3) Nanoma ngubani oboshelwe ukwenza icala ngokwesigatshana (1) uyokhokhela umasipala izindleko zokulungisa nanoma yikuphi ukulahleka noma umonakalo umasipala angene kukho ngenxa yokwenzeka kwalelo cala, kanye nezindleko zokususwa nokulahlwa kwanoma iyiphi impahla, into noma into eyakhiwe ebandakanyekayo kulelo cala, futhi ngokwale nhloso, kuyosebenza izihlinzekelo zesigaba se-10.
- (4) (a) Akukho muntu ongaphakathi endaweni yomphakathi eyenza impilo ibe lula, noma endaweni yomphakathi noma emotweni, oyophazamisa ukuthula komakhelwane balawo magceke ngokuthi abange nanoma yiluphi uhlobo lomlando ongafanele okungaba ukuthetha, ukulwa, yingxabano noma ukucula kumbe ukudlala izinsimbi zomculo isikhathi eside, umsakazo, kumbe nanoma yini efana nalokho, kumbe ngokuqhubeka nokusebenzisa isikhulisamsindo okugcina sekubanga isicefe emphakathini.
- (b) Nanoma ngubani okungagcina kungumnikazi waleyo ndawo, kufanele ahambisane nanoma yisiphi isaziso esikhishwe yisisebenzi esigunyaziwe, esidinga ukuba aqinisekise ukuthi umsindo obangwayo ogcina ubange isicefe emphakathini, uyayekwa.
- (c) Uma lowo muntu ehluleka ukuhambisana naleso saziso esibhaliwe, uyobe esebekwa icala lokwephula lo mthetho kamasipala, futhi umasipala ungathatha lezo zinyathelo oyobona zifanele ngokweSigaba 28(2) no (3)

ISAHLUKO 5 UKUHLAWUMBISELA, AMACALA KANYE NEZINHLAWULO

27. Ukuhlawumbisela

Uma isisebenzi, ngesikhathi sisaqashiwe, senza nanoma yisiphi isenzo, noma sitholakala sinecala lokweqa umthetho, okuthathwa njengecala ngokwale mithetho kamasipala, umqashi naye uyothathwa njengosenzile leso senzo kumbe onecala lokweqa umthetho, futhi uyobhekana nokukhokha inhlawulo ebaluliwe ngokwesigaba 28, ngaphandle uma kungaba nobufakazi

bokuthi-

- (a) ekwenzeni isenzo, kumbe ekuvumelelni ukweqiwe umthetho, isisebenzi sakwenza umqashi waso engenalo ulwazi futhi engavumanga;
- (b) umqashi uzithathe zonke izinyathelo ezifanele ukugwema isenzo noma ukweqiwa komthetho okukhulunywa ngakho; futhi
- (c) kwakungekho ngaphansi kwegunya noma umsebenzi wesisebenzi esiqashelwe wona ukwenza lesenzo noma ukuvumela ukweqiwa komthetho okukhulunywa ngakho.

28. Amacala nezinhlawulo

- (1) Nanoma ngubani-
 - (a) ophikisa nanoma yiziphi izihlinzekelo zalo mthetho kamasipala, lokho kuphikisa okungabekiwe kwacaca ukuthi kuyicala;
 - (b) ophikisa nanoma yisiphi isimo noma imikhawulo enqunyiwe ekuvunyweni kwanoma yisiphi isicelo, ukuvunywa, ukugunyazwa, ukuvuma noma imvume ngokwalo mthetho kamasipala; noma
 - (c) ohluleka ukuhambisana nemibandela yanoma yisiphi isaziso anikwa sona, noma umyalelo awunikwayo ngokwale mthetho kamasipala, uyobekwa icala.
- (2) Nanoma ngubani ophikisana nanoma yiziphi zalezi zihlinzekelo uyobekwa icala, futhi uma eselahlwe yicala, uyokhokha inhlawulo njengoba kuningwe eMithethweni kaMasipala waseNdumeni ephathelene Namacala, Izinhlawulo kanye Nokudluliswa Kwamacala njengoba kwamanyezelwa ngokusemthethweni mhla ziyisi-6 kuMandulo wezi-2011.
- (3) Inhlawulo yokuvuma icala ingakhokhwa nanoma ngubani okhishelwe isamanisi noma isaziso esibhaliwe ngokuphikisana nalo mthetho kamasipala, njengoba kuningwe ngokweZigaba 56 no- 57 zoMthetho Wezinqubo Zamacala Obugebengu, 1977[uMthetho No. 51 we-1977]

29. Imithethonqubo

- (1) UMasipala angenza imithethonqubo maqondana-
 - (a) nokunikezwa kwemvume ebhaliwe kanye nemibandela ehambisana nayo –
 - (i) ngokwenziwa kwesenzo esiyingozi njengoba kuningwe ngokwesigaba 6 (1)(e); kanye
 - (ii) nokuqhunyiswa kweziqhumane ngokwesigaba 6 (2);
 - (b) nokulahlwa kukadoti ngumuntu ohlalayo emagcekeni okuqhutshwa kuwo nanoma yiluphi uhlobo lwebhizinisi, umsebenzi, ukuhweba noma ukukhiqiza, njengoba kuningwe ngokwesigaba 8 (b);
 - (c) nokunikezwa kwemvume ebhaliwe kanye nemibandela ehambisana nayo kanye nezithiyo ekulengisweni kwanoma yini ngaphezu kwendawo yomphakathi kumbe kwenziwe ngendlela engadala ukuphazamisa, njengoba kuningwe ngokwesigaba 9(e)
 - (d) nokulahlwa kwempahla etholakala endaweni yomphakathi kuhlenganisa-
 - (i) indlela umasipala obona kumbe omisa ngayo ukugcinwa kwempahla esusiwe ngokwesigaba 10(1);
 - (ii) izinkombandlela zokumiswa kwenani lentengo yempahla esusiwe;
 - (iii) uhlelo lwemali yentela kamasipala mayelana nokususwa nokugcinwa kwezimpahla, njengoba kuningwe ngokwesigaba 10(2);
 - (iv) izinqubo ezizolandelwa maqondana nokudayiswa noma ukulahlwa kwezimpahla ngokwesigaba 10(3) no- (6)
 - (e) nokuqokethwe kanye nokunikezelwa kwesaziso kumnikazi kumbe ohlalayo endaweni yomnikazi, ukwenziwa komsebenzi odingekayo ukuze isaziso siqale ukusebenza, kanye nezinkombandlela zokunqunywa kwezindleko ezifanele zalokho, njengoba kuningwe ngokwesigaba 11(1) no-(2);
 - (f) nokunikezwa kwemvume yokusebenzisa imishini yokwandisa umsindo kanye nemishini, njengoba kuningwe ngokwesigaba 13;
 - (g) nokuvimbela isicefe endaweni yomnikazi kuhlenganisa –
 - (i) izinqubo zokususwa kwanoma yini endaweni yomnikazi, njengoba kuningwe ngokwesigaba 16(2);
 - (ii) ukunikezwa kwemiyalelo nokwazisa lowo ohlalayo endaweni yomnikazi, ngokunciphisa noma ukuyeka lokho okuyisicefe, njengoba kuningwe ngokwesigaba 19(3) no-(4);

- (iii) izinqubo zokungena endaweni yomnikazi, ngenhloso yokucima umlilo, njengoba kuningwe ngokwesigaba 20(b);
- (iv) ukuhlathwa kwanoma yisiphi isilwane ngenhloso yokuzidlela kumbe ukugcina imicimbi yezamasiko noma ezenkolo, njengoba kuningwe ngokwesigaba 21(2), kanye nokwamukela kanye nokuqalisa kokusebenza kohlelo lwemali yentela kamasipala yokulahlwa kanye nokugqitshwa kwanoma yini ecasulayo, kuhlanganisa nezidumbu zezilwane, njengoba kuningwe ngokwesigaba 21(4).
- (v) okuqokethwe kanye nokunikezwa kwesaziso sokususwa kwezimila, kanye nezinqubo zokuqalisa ukususwa kwempahla ngumasipala uqobo kanye nohlelo lwentela kamasipala, njengoba kuningwe ngokwesigaba 22(2) no-(3); kanye
- (vi) okuqokethwe kanye nokunikezwa kwesaziso sokulawulwa kwezilokazana eziyinkathazo, nezinqubo ezithinta ukulawula okubonakalayo okwenziwa ngumasipala uqobo kanye nohlelo lwentela kamasipala, njengoba kuningwe ngokwesigaba 23(2) no-(3);
- (vii) okuqokethwe kanye nokunikezwa kwesaziso sokuyeka izinga lomsindo elibanga isicefe nohlelo lwemali yentela kamasipala, njengoba kuningwe ngokwesigaba 28(2) no-(3);
- (h) izinhlinzekelo zemvume ekhishwa yisisebenzi esigunyaziwe mayelana nanoma yimuphi umthetho oqondene nendawo kamasipala kumbe engaphansi kukamasipala, njengoba kuningwe ngokwesigaba 26(1)(m);
- (i) uhlelo lwemali yentela kamasipala noma isheduli yezindleko, zokulungiswa kwanoma yikuphi ukulahleka kumbe ukulimala umasipala angene kukho ngenxa yokwenziwa kwecala ngokwesigaba 26(3);
- (j) (i) ukubekwa kwezinhlawulo zamacala aningwe ngokwesigaba 28; kanye
(ii) nokuchitshiyelwa kwalezo zinhlawulo izikhathi ngezikhathi;
- (k) nanoma yiluphi udaba olungabekwa ngokwalo mthetho kamasipala, kanye nanoma yiluphi udaba olungenza ukusebenza kwalo mthetho kamasipala kusheshe
- (2) [a] Umasipala esikhathini esingekho ngaphansi kwenyanga eyodwa (1) ngaphambi kokumenyezelwa komthethonqubo ngokwesigatshana 1, uzokwenza ukuthi kube nokuxhumana nomphakathi mayelana nohlaka kwezinqubo futhi luyokwenziwa lutholakale emphakathini ngokwesigaba 21 no- 21 A zoMthetho Wezinhlalo Zomasipala: kuHulumeni Wasekhaya, 2000 [uMthetho No. 32 wezi-2000], uhlangene nesaziso esidalula inhloso kamasipala yokukhipha lezo zinqubo kanye nokumema imibono kumbe ukumeleleka.
- [b] Um umasipala ukhetha ukuguqula uhlaka lwezinqubo ngenxa yemibono nokumeleleka okuthole emva kokukhipha isimemo, ngeke sisaba khona isidingo sokuxhumana nokuthi zenziwe zitholakale emphakathini ngaphambi kokuba kumenyezelwe uhlaka olusha oseluchitshiyelwe njengomthethonqubo.

30. Ukuchithwa kwemithetho kamasipala

Nanoma yimiphi imithetho kamasipala ephathelene nokujinjelwa kwesicefe eyamukelwa ngumasipala kumbe nanoma yimuphi omunye umkhandlu kamasipala phambilini manje osunophiko lwezokuphathwa kwehhovisi likamasipala uyochithwa kusukela osukwini okuyomenyezelwa ngalo lo mthetho kamasipala.

31. Isihloko esifishane

Lo mthetho kamasipala ubizwa ngokuthi uMthetho kaMasipala Ophathelene Nokulawulwa Kwezicefe Emphakathini, wezi- 2012, futhi uyoqala ukusebenza ngosuku olunqunywe ngumasipala ngokwesimemezelo kwiGazethi yesiFundazwe.

