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KwaZulu-Natal Provinsie
Isifundazwe saKwaZulu-Natali

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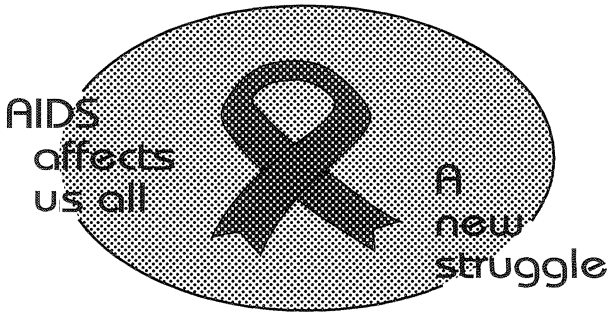
We all have the power to prevent AIDS



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DEPARTMENT OF HEALTH

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GENERAL NOTICE—ALGEMENE KENNISGEWING—ISAZISO SIKAWONKEWONKE

No. 13 **19 March 2015**

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION OF STANDARD DRAFT BY-LAWS

1. The Member of the KwaZulu-Natal Executive Council responsible for local government, under the powers vested in her by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), proposes to publish the following notice:

"I, in my capacity as Member of the KwaZulu-Natal Executive Council responsible for local government, and under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), after having consulted the Minister of Cooperative Governance and Traditional Affairs, Organised Local Government in the Province and Municipalities in the Province, hereby make the standard draft By-laws contained in the Schedule hereto."

2. Municipalities, the public and interested parties are invited to submit comments in writing on the standard draft by-laws, by no later than thirty days after the publication hereof, by –

(a) post to the Head of Department, Co-operative Governance and Traditional Affairs, Pietermaritzburg, Private Bag X 9123, 3200, for the attention of Ms. Sinegugu Makhaye;

(b) hand delivered to the 7th Floor, Southern Life Plaza, 271 Church Street, Pietermaritzburg, 3201, for the attention of Ms. Sinegugu Makhaye;

(c) facsimile to 033 - 355 6559; or

(d) email to sinegugu.makhaye@kzncogta.gov.za

SCHEDULE

1. Rules and orders
2. Pounds
3. Credit Control
4. Street Trading
5. Cemeteries, Crematoria and Undertakers

RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES OF THE COUNCIL BY- LAW

Be it enacted by the Council of the _____ Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

ARRANGEMENT OF SECTIONS

Section

1. Definitions
2. Application of this by-law
3. Interpretation of this by-law
4. Council meetings
5. Admission of public
6. Notice to attend an ordinary council meeting
7. Special meetings
8. Service of notices and agenda
9. Non-receipt of notice
10. Quorum
11. Cancellation and adjournment in absence of quorum
12. Attendance
13. Leave of absence
14. Non-attendance
15. Adjourned meeting
16. Continuation meeting
17. Speaker and chairpersons of meetings
18. Minutes

19. Order of business
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26. General matters of an urgent nature
27. Interpretation
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31. Dissenting votes
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34. Opportunity to speak
35. Relevance
36. Length of speeches
37. Councillors to speak only once
38. Precedence of the speaker or chairperson
39. Points of order
40. Explanation
41. General conduct
42. Misconduct
43. Rules Committee
44. Own rules
45. The chairperson
46. Declaration of pecuniary interest
47. Breach
48. Sanction
49. Suspension of a rule or order
50. Adoption as by-law
51. Repeal of existing by-laws
52. Short title and commencement

CHAPTER 1

DEFINITIONS

Definitions

1. In this by-law, unless inconsistent with the context –

"by-law" means legislation passed by the council of a municipality;

"chairperson" means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

"Council" means —

(a) the _____ Municipality, exercising its legislative and executive authority through its municipal council;

(b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act; and

(d) a service provider fulfilling a responsibility under this by-law;

"Code of Conduct" means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

"contact details" means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular phone number;

"calendar day" means a twenty-four hour day as denoted on the calendar;

"councillor" means a member of a municipal council;

"day" means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

"deputation" means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

"executive committee" means the council's executive committee established in terms of section 43 of the Structures Act;

"in-committee" means any council or committee meeting at which the public and or officials of the municipality are excluded;

"integrated development plan" means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

"mayor" means a councillor elected as the mayor of the municipality in terms of section 48 of the Structures Act;

"meeting" means a meeting of the council or any one of its committees;

"**municipality**" means the _____ municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"municipal asset" means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

"municipal manager" means the person appointed municipal manager in terms of section 54A of the Systems Act and includes any person acting in that capacity;

"notice of motion" means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of section 23 of this By-law;

"Peace Officer" means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

"point of order" means the pointing out of any deviation from or anything contrary to, the conduct and or any other irregularity in the proceedings of a meeting;

"precincts" means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

"public" includes the media and means any person residing within the Republic of South Africa;

"service delivery agreement" means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

"speaker" means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

"table" means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of this By-law.

CHAPTER 2
APPLICATION AND INTERPRETATION OF RULES AND ORDERS

Application of this by-law

2. This By-law governs the proceedings of the council and committees of the council which bind and must be complied with by –

(a) all councillors;

(b) any member of the public while present in the precincts;

(c) any deputation addressing the council or a committee of the council; and

(d) any municipal official of the municipality.

Interpretation of this by-law

3.(a) Any interpretation of this By-law must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.

(b) The ruling of the speaker or chairperson with regard to the interpretation of this By-law at a meeting of the council or committee of the council will, subject to sections 3(e) and 3(f), be final and binding.

(c) The interpretation and the ruling of the speaker or chairperson on any of this By-law must be recorded in the minutes of the council or committee meeting.

(d) The municipal manager must keep a register of the rulings and legal opinions.

(e) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of section 3(b), to obtain clarity on the interpretation and ruling and to report to the council or committee of the council.

(f) The council or committee of the council may after consideration of the report in terms of section 3(e) confirm, amend or substitute the ruling of the speaker or chairperson, subject to any rights which any third party may have accrued as a result of the ruling and all decisions effecting the rights of others must be in writing and reasons must be recorded of such decisions.

CHAPTER 3

FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS

Council meetings

4.(a) The council must hold an ordinary meeting of the council not less than once in every three months.

(b) The speaker must convene all meetings of the council in accordance with section 4(a) and subject to section 6.

Admission of public

5.(1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.

(2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters –

(a) a draft by-law tabled in the council;

(b) a budget tabled in the council;

(c) the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;

(d) the municipality's performance management system, or any amendment of the system, tabled in council;

(e) the decision to enter into a service delivery agreement;

(f) any reports on an award in terms of supply chain management policy;

(g) the disposal or acquisition of municipal capital asset;

(h) any other matter prescribed by legislation.

(3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the council or committee of the council and any special or urgent meeting of the council or committee of the council, and dates for continuation meetings where meetings had been adjourned except when time constraints make this impossible.

Notice to attend an ordinary council meeting

6.(1) The speaker must convene meetings of the council, at least once every three months, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.

(2) Notice to attend a meeting in terms of section 6(1) must be given at least –

(a) five calendar days prior to an ordinary meeting; and

(b) two calendar days prior to a special meeting.

Special meetings

7.(1) The speaker must call a special meeting of the council –

(a) for the purpose of pertinent or urgent council business; or

(b) or at the request of a majority of the councillors of the municipality.

(2) A special meeting must be held in compliance with section 6(2)(b) and in terms of section

7(1)(b) no later than four days from the date of receipt of a request.

(3) A request for the calling of a special meeting, as contemplated in section 7(1)(b), must –

(a) be signed by no less than fifty percent plus one of all councillors of the municipality; and

(b) be accompanied by –

(i) a duly signed notice of motion; and

(ii) a written statement by the councillor signing the notice of motion giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.

(c) If the speaker fails to convene a meeting in terms of this section, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.

Service of notices and agenda

8.(1) Notice to attend a meeting or any other official communication from the council, must be delivered to –

(a) a physical address within the area of jurisdiction of the municipality; or

(b) an e-mail address;

(c) facsimile; or

(d) by a short message service:

Provided that contact details must be supplied by each councillor to the municipal manager in writing within two days of a councillor's election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor will accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

(2) All documentation relevant to any council or committee meeting, except special meetings convened in terms of section 7, must be given to all councillors at least five calendar days prior to an ordinary council or committee meeting and two calendar days prior to a special council or special committee meeting.

(3) All councillors must inform the speaker of any change of his contact details within three days of such change.

(4) Subject to section 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

Non-receipt of notice

9.(a) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.

(b) Non-receipt of a notice to attend a meeting will not affect the validity of any meeting or proceedings of council or any of its committees.

CHAPTER 4
QUORUM

Quorum

10.(1)(a) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent plus one of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.

(b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the council meeting.

(2)(a) Notwithstanding that there may be vacancies, a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter.

b) Subject to a quorum, the failure of any councilor to vote will not invalidate the proceedings of the committee meeting.

Cancellation and adjournment in absence of quorum

11.(1) No meeting may take place, if no quorum is present fifteen minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding fifteen minutes for a quorum, whereafter if no quorum is present, the meeting must be cancelled.

(2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she must –

(a) count the councillors present;

(b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;

(c) if a quorum becomes present after the adjournment then the meeting must

continue;

(d) if no quorum becomes present after the adjournment then the chairperson or speaker must forthwith adjourn the meeting.

(3) When a meeting is adjourned as a result of no quorum, the meeting will be re-convened within seven days as a continuation meeting.

CHAPTER 5
ATTENDANCE

Attendance

12.(1) All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when –

(a) leave of absence is granted in terms of section 13;

(b) that councillor is required to withdraw in terms of section 46(b); or

(c) that councillor is absent with the permission of the speaker or chairperson.

(2) Each councillor attending any meeting of the council or a committee of the council must sign an attendance register provided for that purpose.

(3) The attendance register must be filed in the office of the municipal manager.

(4) Any councillor who is entitled to leave of absence in terms of section 13 and no longer requires such leave, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.

Leave of absence

13.(1) Leave of absence must not be granted in such a manner that more than the number required for a quorum will at any one time be absent.

(2) If a councillor –

(a) is unable to attend a meeting of which notice had been given; or

(b) is unable to remain in attendance at a meeting; or

(c) will arrive after the stipulated commencement time of a meeting,

he or she will, as soon as is reasonably possible and prior to that meeting, lodge with the

municipal manager a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and bona fide reasons for the application and show good cause for the granting of the application.

(3) The municipal manager must as soon as possible inform the speaker or chairperson of the meeting concerned of any application for leave of absence received.

(4) The speaker or chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his decision.

(5) The municipal manager must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision.

(6) A councillor will be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she –

(a) failed to attend a meeting; or

(b) failed to remain in attendance at a meeting.

(7) Where a councillor fails to remain in attendance at a meeting –

(a) without being granted permission to do so; or

(b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting,

the time of leaving must be recorded in the minutes of the meeting and that councillor will be deemed to have been absent without leave at that meeting.

(8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of section 12(2).

(9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.

Non-attendance

14.(1)(a) Subject to compliance with the procedure set out in section 13 and the provisions of

item 4(2) of Schedule 1 of the Systems Act, a councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.

(b) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3 of Schedule 1 of the Systems Act, must be removed from office as a councillor in accordance with section 14(2)(e) of the Systems Act.

(c) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt.

(2) Where a councillor has been absent without obtaining leave from a meeting–

(a) the Rules Committee as contemplated in section 43 or the speaker or chairperson as the case may be, must invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;

(b) the speaker or chairperson must consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;

(c) the councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision.

(d) the council or committee, as the case may be, must –

(i) allow the councillor an opportunity to make representations, oral or written; and

(ii) consider the councillor's appeal, together with any comments from the speaker or chairperson of the meeting concerned;

(iii) make a finding as to whether the councillor was absent with or without good cause.

(3) The municipal manager must keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and must submit a written report to the speaker whenever a councillor is absent from three or more consecutive meetings which that councillor was required to attend.

(4) Where the speaker receives a report in terms of section 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

CHAPTER 6
ADJOURNMENT

Adjourned meetings

15. Subject to section 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

Continuation meeting

16.(a) When a meeting is adjourned, notice of the continuation meeting must be served in terms of section 8.

(b) No business will be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

CHAPTER 7
PROCEEDINGS

Speaker and chairpersons of meetings

17.(1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, will be the chairperson and will perform the duties stipulated in terms of section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of this By-law and the Code of Conduct.

(2) The speaker and chairperson of council and committee meetings –

(a) must maintain order during meetings;

(b) must ensure compliance in the council with the Code of Conduct for Councillors; and

(c) must ensure that meetings are conducted in accordance with this By-law.

(3) If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councillor to act as speaker or chairperson as the case may be.

(4) No meeting of the council or a committee of the council may commence or continue

unless a speaker or chairperson presides at a meeting.

Minutes

18.(a) The proceedings of every council meeting must be accurately and electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.

(b) Written minutes of the proceedings of each council and committee meeting must contain an accurate record of the resolutions adopted by council at such meeting.

(c) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.

(d) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

Order of business

19.(1) The order of business at every meeting of the council or its executive committee or committee of council is as follows:

(a) notice of meeting;
(b) applications for leave of absence;
(c) confirmation of minutes of previous meeting;
(d) announcements by the chairperson;
(e) declarations of pecuniary or other interests;
(f) deputations;
(g) reports;
(h) notices of motion;
(i) questions of which notice has been given; and
(j) general matters of an urgent nature.

(2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

Confirmation of minutes of previous meeting

20.(1) The minutes of every meeting must be confirmed at the next ordinary meeting of that council or committee and must be signed by the speaker or chairperson.

(2) No motion or discussion will be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

Deputations

21.(a) A deputation wishing to address the council or a committee of council must submit a memorandum to the municipal manager in which is set out the representations it wishes to make.

(b) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.

(c) The municipal manager must submit the memorandum to the council or a committee of the council, which may receive the deputation.

(d) Any matter requiring consideration arising from a deputation, will not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.

(e) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, must obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.

(f) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson.

(g) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts.

(h) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of section 21(f) and section 21(g) will be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

Reports

22.(a) Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of section 8.

(b) The speaker or chairperson must allow debate in accordance with sections 34, 35, 36, 37, 38, 39 and 40 on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take

place for any reason whatsoever, then the debate in respect of that report must be held, at the next meeting.

Motions

23.(1) No subject will be brought before council or a committee of council by a councillor except by way of notice of motion.

(2) A notice of motion must –

(a) be in writing; and

(b) be signed by the councillor submitting it and by another councillor acting as seconder; and

(c) refer to one matter only.

(3) A notice of motion must, subject to section 7, be lodged with the municipal manager before 12h00 seven calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.

(4) The municipal manager must –

(a) date and number each notice of motion;

(b) enter each notice of motion lodged in a register, which must be open to inspection by any councillor and the public; and must

(c) enter each notice of motion on the agenda in the order received.

(5) The speaker or chairperson must –

(a) read out the number of every motion and the name of the mover and seconder;

(b) ascertain which motions are unopposed and these will be passed without debate; and

(c) call the movers of the opposed motions in the order they appear on the agenda.

(6) A councillor submitting a motion must move such motion and will have the right of reply.

(7) A motion will lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.

(8) A councillor will be allowed not more than three notices of motion on the same agenda.

(9) The speaker or chairperson must not reject a motion received by him or her in terms of

this By-law.

Questions

24.(a) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councilor receives a written reply from that political or municipal office bearer, at the council or committee meeting.

(b) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question.

Supply of information to a councillor

25.(a) No councillor may approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.

(b) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

General matters of an urgent nature

26.(a) General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or chairperson, which consent will not be unreasonably withheld.

(b) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

Interpretation

27. If a majority of councillors present so resolve, an interpreter may be used in meetings of

the council and committees of the council.

In-committee

28.(a) Subject to section 5, the council or a committee of council may, at any time, resolve to proceed in-committee.

(b) The public will be excluded from any in-committee meetings.

(c) The municipal manager or another official exempted from this section by the speaker or chairperson, will not be excluded from any in-committee meeting.

(d) All proceedings in-committee must be recorded in terms of section 18(1) and 18(2) and must be confidential.

(e) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

CHAPTER 8

VOTING

Decisions by voting

29.(1) A quorum must be present in order for a vote to be taken.

(2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice –

(a) the passing of by-laws;

(b) the approval of budgets;

(c) the imposition of rates and other taxes, levies and duties;

(d) the raising of loans;

(e) the rescission of a council resolution within 6 months of the taking thereof; and

(f) any other matter prescribed by legislation.

(3) All other questions before the council must be decided by a majoritv of the votes cast by the councillors present.

(4) If on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson will not exercise a casting vote during the election of any office bearer of council.

Method of voting

30.(a) Voting will be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.

(b) During the taking of a vote no councillor may leave the council chamber or committee room.

(c) The municipal manager or his nominee, will count the votes cast and will record the result of voting, but the speaker or chairperson will announce the result.

Dissenting votes

31. A councillor may request that his dissenting vote be recorded as evidence of how he or she voted on the motion.

CHAPTER 9

REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS

Revocation of Council Resolutions

32.(a) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.

(b) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.

(c) Any revocation or alteration of a council resolution must be made in terms of section 29(2)(e).

Revocation of Committee Resolutions

33.(a) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.

(b) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.

(c) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

CHAPTER 10
DEBATE

Opportunity to speak

34.(a) A councillor may only speak when so directed by the speaker or chairperson.

(b) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld.

(c) Councillors and officials must stand when speaking and must direct their address to the speaker or chairperson.

Relevance

35. Every speaker must restrict him or herself strictly to the matter under consideration.

Length of speeches

36. Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech will exceed five minutes in length without the consent of the speaker or chairperson.

Councillors to speak only once

37. A councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the speaker or chairperson provided that the mover of the motion may speak to the motion, will have the right of reply and the reply will be confined to answering previous speakers and will not introduce any new matter into the debate.

Precedence of the speaker or chairperson

38. Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

Points of order

39.(a) Any councillor may raise a point of order at any time by standing to draw the attention

of the speaker or chairperson.

(b) The point of order takes precedence over everything else in the meeting and the speaker or chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.

(c) The ruling of the speaker or chairperson on a point of order will be final and will not be open to discussion.

(d) Points of order must be limited to relevance.

Explanation

40. Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

CHAPTER 11

CONDUCT

General conduct

41. Councillors and officials must during any council or committee meeting –

(a) conduct the business in the highest decorum and integrity that the occasion deserves;

(b) must, at all times adhere to the principles contained in the code of conduct and this By-law;

(c) must at all times adhere to the rule of law and the by-laws of the municipality;

(d) must be dressed appropriately for the dignity of the meeting;

(e) not wear any political party attire in the municipal chamber;

(f) must not use offensive or objectionable language; and

(g) must not use a cellular phone during, bring a firearm or any dangerous weapon into, a meeting of council or any of its committees.

Misconduct

42.(a) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.

(b) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker must direct the councillor or councillors to conduct himself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.

(c) In the event of persistent disregard of the directions of the speaker, the speaker must direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalised.
(d) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of this By-law and the Code of Conduct.
(e) Any councillor who refuses to leave a meeting of the council or a committee of the council when directed to do so by the speaker or chairperson of a meeting in terms of any section in this By-law, may be forcibly removed and will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

CHAPTER 12
COMMITTEES

Rules Committee

43.(a) The municipal council may by resolution of a majority of councillors establish a special committee to be known as the Rules Committee to investigate and make findings on any alleged breaches of the Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning this By-law.
(b) The Rules Committee will consist of the speaker, the mayor and one representative of each political party represented on the council, such representative to be nominated from time to time by each political party.

Own rules

44.(a) Every committee of the council must determine its own procedures subject to any directions from council and this By-law.
(b) Sections 34, 35, 36, 37, 38, 39 and 40 of this By-law may be relaxed by a chairperson of a committee to accommodate interactive and effective participation, provided that the chairperson may, at his/her discretion, apply the provisions of any section contained in chapter 10.

The chairperson

45.(1) The chairperson of a committee must–

(a) preside at every meeting of the committee at which he or she is present; and

(b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, will give a second or casting vote.

(2) In his absence, the acting or deputy chairperson will have the same powers and rights of voting as those possessed by the chairperson.

CHAPTER 13
PECUNIARY INTEREST

Declaration of pecuniary interest

46.(a) A councillor must disclose to the municipal council , or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or committee.

(b) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.

(c) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.

(d) The disclosure of interests in terms of section 46(a) and benefit in terms of section 46(c) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

(e) When elected or appointed, a councillor must within 60 days or as soon as possible thereafter declare in writing to the municipal manager the financial interests referred to in item 7 of schedule 1 of the Systems Act.

CHAPTER 14
BREACH AND SANCTIONS

Breach

47. Any councillor who fails or refuses to obey this By-law, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

Sanction

48. Where it is alleged that a councillor has breached this By-law, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and may impose a sanction.

CHAPTER 15
GENERAL PROVISIONS

Suspension of a rule or order

49. In instances of urgency or where a council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a section, provided that–

(a) such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;

(b) no section may be relaxed when the removal of any political office bearer is before the council.

(b) the suspension or relaxation of the section relates to an item on the agenda for the meeting of the council or committee of the council; and

(c) section 22 must not be suspended; and

(d) the reasons for the suspension of the section are recorded in the minutes of the meeting.

Adoption as by-law

50. This By-law must be adopted as a by-law of the municipality.

Repeal of existing by-laws

51. The council's existing by-laws in respect of rules and orders are hereby repealed.

Short title and commencement

52. This By-law will be called the _____Municipal Standing Rules and Orders, 20____.

POUND BY- LAW

Be it enacted by the Council of the _____ Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

ARRANGEMENT OF SECTIONS

Section

1. Definitions
2. Application
3. Establishment of pound
4. Appointment of poundkeeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
7. Release of animals before removal to pound
8. Care of trespassing animals
9. Pound to which animals must be taken
10. Information to be supplied to poundkeeper
11. Acceptance at pound of animals to be impounded
12. Pound register
13. Notice to owners of animals
14. Care of impounded animals
15. Isolation of infected animals
16. Impounded animals not to be worked
17. Death of or injury to impounded animals
18. Copies of by-laws
19. Fees and costs payable

20. Release of impounded animals
21. Sale of impounded animals
22. Poundkeeper may not purchase impounded animals
23. Animals unsuccessfully offered for sale
24. Proceeds
25. Action for recovery of damages
26. Procedure to be followed in application to Court
27. Indemnity
28. Offences and penalties
29. Schedules 1 and 2 form part of this by-laws
30. Repeal of by-laws
31. Short title

Definitions

1. In this by-law, unless inconsistent with the context –

"**animal**" includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and "**animals**" will have a corresponding meaning;

"Council" means —

(a) the Municipality, exercising its legislative and executive authority through its municipal council;

(b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of Systems Act; and

(d) a service provider fulfilling a responsibility under this By-law;

"**Court**" means a Magistrate's Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

"***Gazette***" means the official Provincial Gazette of KwaZulu-Natal;

"**municipality**" means the _____ municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal

Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"**owner**" includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

(a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or

(b) land, includes the owner, lessee or lawful occupier of such land or his or her agent;

"**pound**" means a pound established as contemplated in section 3;

"**poundkeeper**" means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed poundkeeper;

"**public place**" means any place to which the public has access including, without limiting the generality of the aforegoing any –

(a) square;

(b) park;

(c) recreation ground;

(d) sports ground;

(e) open space;

(f) beach;

(g) shopping centre on municipal land;

(h) unused or vacant municipal land; or

(i) cemetery;

"**public road**" means a public road as contemplated in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996); and

"**service delivery agreement**" means a service delivery agreement as defined in section 1 of the Systems Act.

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

Application

2. This By-law applies to the area of jurisdiction of the Municipality: Provided that nothing prevents any animal detained in terms of this By-law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

Establishment of pound

3.(1) The Municipality must establish a pound at any convenient place within its area of jurisdiction: Provided that the Municipality may, on application, enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Systems Act, to provide for the establishment and operation of a pound to service its area of jurisdiction.

(2) The Municipality must give notice of the establishment of a pound by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Municipality.

(3) A person who intends to establish a pound as contemplated in subsection (1), must apply in the prescribed manner to the Council as contemplated in subsection (4).

(4) Council must within 90 days of receipt of an application contemplated in subsection (1) and any other information at his or her disposal, if any, relating to the application –

(a) approve an application for registration and issue a registration license;

(b) approve an application for registration and issue a registration license subject to conditions determined by the Council; or

(c) reject an application and provide written reasons for the rejection of the application.

(5) Council may at any time revoke a license after due consideration of the circumstances and consultation with the owner of the pound and must notify the owner of the pound in writing with reasons for such a decision.

Appointment of poundkeeper

4. The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a poundkeeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(1).

Trespassing or straying animals may be impounded

5.(1) The owner of land upon which any animal is found trespassing may seize such animal: Provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 48 hours prior to the removal to the pound.

(2) Any animal found straying untended upon any public road or public place may be seized for impounding by –

(a) a member of the South African Police Services;

(b) a member of the South African National Defence Force;

(c) a member of the KwaZulu-Natal Road Traffic Inspectorate;

(d) a member of the municipal protection services; or

(e) the owner of any land through or alongside which such road passes or which abuts on such public place.

(3) A person may not keep an animal, seized for purposes of impounding in terms of subsections (1) and (2), for a period longer than six hours without supplying such animal with adequate food and water.

(4) Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.

Animals too vicious, intractable or wild to be impounded

6. If a State Veterinarian or official contemplated in section 5(2)(a) to (d) is satisfied that an animal found trespassing on any land, or straying untended upon any public road or public place, is too dangerously vicious, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal.

Release of animals before removal to pound

7.(1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(1) for the release of such animal prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) –

(a) may release such animal forthwith; or

(b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

(3) The owner of an animal seized in terms of section 5(2) may apply for the release of such animal prior to its removal to the pound, in which event the person who seized the animal must release such animal forthwith.

Care of trespassing animals

8. A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

Pound to which animals must be taken

9. An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that animals of different species must be separated at all times according to their species.

Information to be supplied to poundkeeper

10. A person sending animals to the pound must advise the poundkeeper in writing of –

(a) the number and descriptions of the animals;

(b) the land upon which they were found trespassing; and

(c) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

Acceptance at pound of animals to be impounded

11.(1) The poundkeeper may not refuse to accept an animal for impounding.

(2) The pound manager must, upon acceptance of a detained animal –

(a) record the particulars furnished in terms of section 10 above and enter the same in a book maintained for the purpose;

(b) furnish the person delivering the animal with a receipt reflecting –

(i) his or her name;

(ii) a description of the animal; and

(iii) the date and time of receipt of the animal at the pound; and

(c) keep a copy of each receipt issued.

Pound register

12.(1) The poundkeeper must –

(a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and

(b) complete the pound register immediately upon the acceptance into the pound of any animal.

(2) If the poundkeeper –

(a) neglects or refuses to comply with any of the provisions of subsection (1);

(b) knowingly makes a false entry in the pound register;

(c) fraudulently destroys or erases any previous entry in the pound register; or

(d) wilfully delivers a false copy or extract from the pound register to any person,

he or she is guilty of an offence.

Notice to owners of animals

13. The owner of an animal contemplated in sections 5(1), 6, 14(2)(b), 17(b), 21(1)(b), and 23(a), must be notified by –

(a) addressing a written notice to him or her; or

(b) placing a copy of the notice to the owner on the Municipal Notice Board; and

(c) publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

Care of impounded animals

14.(1) The poundkeeper –

(a) is responsible for the proper care of all impounded animals;

(b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and

(c) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.

(2)(a) If the poundkeeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court which may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.

(b) Where the Court authorises the destruction or disposal of an animal on application by the poundkeeper, the poundkeeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

Isolation of infected animals

15. If the poundkeeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –

(a) provide separate accommodation for such animal;

(b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and

(c) immediately notify the owner of the animal of such disease in writing.

Treatment of impounded animals

16. The poundkeeper –

(a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and

(b) must ensure that all impounded male animals are at all times kept apart from female animals.

Death of or injury to impounded animals

17. If an impounded animal is injured or dies, the poundkeeper must –

(a) record the injury or cause of death in the pound register referred to in section 12; and

(b) notify the owner of the animal in writing of the injury or death.

Copies of by-laws

18. The poundkeeper must ensure that copies of this By-law in English and *isiZulu* are available at the pound for inspection.

Fees and costs payable

19. The poundkeeper must –

(a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Systems Act; and

(b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this By-law or in accordance with any other law.

Release of impounded animals

20.(1) The poundkeeper must immediately release an impounded animal, and give the owner a receipt, upon the owner –

(a) providing proof of ownership of such animal; and

(b) paying the fees and costs contemplated in section 19.

(2) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the poundkeeper may retain such animal in order to recover such fees or costs as may be due and payable.

Sale of impounded animals

21.(1) The poundkeeper must –

(a) within 14 days of the impounding of an animal, apply to the Court for authority to sell the animal; and

(b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in sub-section (2) with the owner.

(2) The statement contemplated in subsection (1)(b) must include –

(a) the fees and costs due in terms of this By-law; and

(b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.

(3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –

(a) summarily enquire into the matter;

(b) enquire whether notice was given to the owner of the animal by the poundkeeper; and

(c) make such order as it considers just and equitable, including an order –

(i) as to costs; and

(ii) on the process to be followed by the poundkeeper in the sale of the animal.

Poundkeeper may not purchase impounded animals

22. The poundkeeper, or a family member, or a close associate of the poundkeeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

Animals unsuccessfully offered for sale

23. In the event that any animal is not sold as contemplated in section 21 –

(a) the poundkeeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and

(b) the Court may make such order as it may deem just and equitable.

Proceeds

24. All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund: Provided that in the event that any impounded animal is sold at a price in excess of –

(a) the fees and costs incurred; and

(b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

Action for recovery of damages

25. Nothing in this By-law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

Procedure to be followed in application to Court

26. An application to Court for –

(a) the impoundment of an animal in terms of this By-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and

(b) the sale of an impounded animal in terms of this By-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court,

made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

Indemnity

27. The Municipality, poundkeeper and any officer, employee, or agent of the Municipality will not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

Offences and penalties

28. A person who –

(a) releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;

(b) unlawfully seizes an animal for the purpose of impounding it;

(c) unlawfully impounds an animal; or

(d) contravenes any provision of this By-law,

is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding one year.

Schedules 1 and 2 form part of this By-laws

29. Schedules 1 and 2 to this By-law form part of this By-law for all purposes.

Repeal of existing By-laws

30. The Municipality's existing Pound by-laws are hereby repealed.

Short title

31. This by-law will be called the _____ Municipality Pounds By-Law, 20____.

SCHEDULE 1

Code of Good Practice on the Handling and Transportation of Impounded Animals

(*Section 5(4)*)

PART I

Paddock requirements

1. Different species of animals must be kept in separate paddocks.

2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.

3. Fractious animals may not be kept with other animals.

4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.

5. Provision must be made in paddocks for –

(a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;

(b) water troughs with an adequate supply of suitable fresh water at all times;

(c) sufficient facilities for the adequate cleaning of paddocks; and

(d) facilities for the safe handling of animals.

6.(a) The paddocks must at all times be maintained in a good state of repair.
(b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.

7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II

Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.

9. The following must be kept in mind when handling animals –

(a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and

(b) herd animals respond more readily to being driven when in a group rather than singly.

10. Animals may not be dragged by their legs, or carried by their head, ears or tail.

11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.

12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.

13. Electric prodders, sticks or goads may not be used on young calves.

14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III

Movement of animals

15. Animals driven on the hoof must at all times be under proper and competent supervision.

16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.

17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.

18. No animal on the hoof may be moved in excess of the following distances –

(a) during a journey of not more than one day's duration –

(i) 20 kilometres for sheep and goats; and

(ii) 30 kilometres for cattle; and

(b) during a journey of more than one day's duration –

(i) 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and

(ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.

19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.

20. Animals may not be moved in the dark.

21. No sick, injured or disabled animal may be moved on the hoof.

PART IV

Vehicles used in transporting animals

22. Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.

23. All vehicles and trailers referred to in item 22 must have –

(a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;

(b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;

(c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress;

(d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle: Provided that –

(i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;

(ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and

(iii) the minimum height must be 750 millimetres in the case of any smaller animals;

(e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;

(f) floors that are solid and impervious;

(g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and

(h) gates, with or without partitions –

(i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and

(ii) that open and close freely and are able to be well-secured.

24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is–

(a) 1,4 square metres per large animal; and

(b) 0,5 square metre per small animal.

PART V

Watering and feeding of live animals prior to loading

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

Loading and off-loading procedure

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.

27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

28. No animals may be loaded or off-loaded otherwise than –

(a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or

(b) at a loading bank equal to the height of the floor of the vehicle or, at off- loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.

29. Where a truck is equipped with an onboard removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.

30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.

31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.

32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.

33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.

34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.

35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.

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36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.

37. In the event of –

(a) a breakdown of the transport vehicle;

(b) an accident or collision in which the transport vehicle is involved; or

(c) injury to, or death of, any animal in transit,

the carrier must immediately report the details to, and request assistance from –

(i) in the case of paragraph (a), a breakdown service;

(ii) in the case of paragraph (b), the South African Police and the traffic authorities; or

(iii) in the case of paragraph (c), a veterinarian.

PART VI

Restraining of animals during transportation

38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.

39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.

40. No wire or bailing twine may be used for tying the animal's legs or feet.

41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2

Pound register information

(*Section 12*)

A pound register must, at least, contain the following information –

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal
5. Ear tag number assigned by the poundkeeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land
9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance from location where animal was seized to pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution

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CREDIT CONTROL BY- LAW

Be it enacted by the Council of the _____ Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

ARRANGEMENT OF SECTIONS

Section

1. Definitions
2. Application of this By-law
3. Provision of municipal services to applicants
4. General terms and conditions for the provision of municipal services
5. Estimated consumption
6. New service agreements and deposits or security by existing customers
7. Termination of service agreements
8. Notices of compliance
9. Accounts
10. Account information
11. Account Administration
12. Queries or complaints in respect of accounts
13. Appeals against decision by service providers on queries and complaints
14. Arrear accounts
15. Action to secure payment
16. Power to terminate or restrict provision of municipal services
17. Reinstatement of municipal services
18. Interest charges
19. Collection charges
20. Full and final settlement of an amount
21. Accounts outstanding after the due date
22. Agreements for the payment of arrears in instalments
23. Disputes as to amounts owing
24. Dishonoured cheques
25. Registration as indigent person
26. Council's right of access to premises
27. Conflicting laws

28. Preservation of rights consequent on non-compliance
29. Transmission of documentation
30. Prima facie evidence of documentation
31. Appeals
32. Offences
33. Repeal of By-laws
34. Short title and commencement

CHAPTER 1
DEFINITIONS AND APPLICATION

Definitions

1. In this by-law, unless inconsistent with the context –

"account" means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Council in respect of the following –

(a) electricity consumption or availability fees based on a meter reading or estimated consumption;

(b) water consumption or availability fees based on a meter reading or estimated consumption;

(c) refuse removal and disposal~

(d) sewerage services and sewer availability fees;

(e) rates;

(f) interest; and

(g) miscellaneous and sundry fees and collection charges.

"Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"authorised official" means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of this By-law;

"By-law" means a By-law adopted and promulgated by the Council;

"collection charges" means charges which may be recovered by the Council in terms of section 75A of the Act, and includes the cost –

(a) of reminding customers of arrears;

(b) for the termination, restriction and reinstatement of municipal services;

(c) of any notice rendered, sent or delivered in terms of this By-law; and

(d) all legal costs, including attorney and client costs, incurred in the recovery of arrear amounts;

"Council" means —

(a) the _____ Municipality, exercising its legislative and executive authority through its municipal council;

(b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; and

(d) a service provider fulfilling a responsibility under this By-law;

"customer" means any occupier of premises to which the Council has agreed to provide or is actually providing any municipal service, or if there is no occupier, the owner of the premises concerned;

"fee" means a fee prescribed for or in respect of any municipal service;

"municipal manager" means the person appointed municipal manager in terms of section 54A of the Act and includes any person acting in that capacity;

"municipal service" means any or all of the services specified in subparagraphs (i) to (iv), inclusive, of section 2(1)(b);

"occupier" means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;

"owner"–

(a) in relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;

(b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in favour of whom the right is registered;

(c) in relation to a right referred to in paragraph (c) of the definition of "property", means a person in favour of whom the right is registered or to whom it was granted in terms of any law; and

(d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure, and includes a person who the Council may for the purpose of this By-law regard as the owner of a property in the following cases –

(i) A trustee, in the case of a property in a trust excluding state trust land;

(ii) an executor or administrator, in the case of a property in a deceased estate;

(iii) a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;

(iv) a judicial manager, in the case of a property in the estate of a person under judicial management;

(v) a curator, in the case of a property in the estate of a person under curatorship;

(vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;

(vii) a lessee, in the case of a property that is registered in the name of the Council and is let by it; or

(viii) a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

"Policy" means the Credit Control and Debt Collection Policy adopted by the Council;

"prescribed" means prescribed by the Council from time to time, by resolution;

"premises" means any piece of land, with our without any building or structure thereon, the external surface boundaries of which are delineated on –

(a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937); or

(b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986),

which is situated within the area of jurisdiction of the Council;

"property" means –

(a) immovable property registered in the name of a person, including, in the case of a Sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in favour of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in favour of a person or granted to a person in terms of any law; or

(d) public service infrastructure; and

"rates" means a municipal rate on property levied in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

Application of this By-law

2.(1) This By-law only applies in respect of amounts of money due and payable to the Council for –

(a) rates;

(b) fees and surcharges on fees in respect of the following municipal services –

(i) The provision of water and the availability thereof;

(ii) refuse removal and disposal;

(iii) sewerage and the availability thereof; and

(iv) electricity consumption and the availability thereof;

(c) interest which has or will accrue in respect of any amount of money due and payable or which will become due and payable to the Council in regard to rates and municipal services; and

(d) collection charges;

(2) This By-law also applies to any municipal service provided through pre-paid meters, in so far as the By-law may be relevant.

CHAPTER 2

SERVICE AGREEMENTS AND GENERAL TERMS AND CONDITIONS OF PROVISION OF MUNICIPAL SERVICES

Provision of municipal services to applicants

3.(1) No municipal service may be provided to any applicant, unless and until –

(a) application for the service has been made in writing on a form substantially similar to the form prescribed;

(b) any information and documentation required by the Council have been furnished;

(c) a service agreement, in the form substantially similar to the form of agreement prescribed, has been entered into between the customer and the Council; and

(d) an amount equal to the amount prescribed, in cash or a bank cheque, has been deposited as security or other acceptable security, as prescribed, has been furnished.

(2) If an applicant for a municipal service is an existing customer of the Council in respect of any other municipal service in respect of which the account is in arrears –

(a) such arrears must be paid; or

(b) an agreement for payment of the arrears in terms of section 22 must have been entered into and payment in terms thereof must not be in arrears, before an application for a new service in terms of this section may be considered.

(3) The Council may at any time require a customer to increase a deposit paid or security furnished in terms of subsection (1)(d);

(4) No interest is payable on any amount deposited in terms of subsection (1)(d) or (3).

General terms and conditions for the provision of municipal services

4. The general terms and conditions for the provision of any municipal service set out in a service agreement contemplated in section 3(1)(c) are deemed to be incorporated in this By-law and apply to the provision of such service to any customer.

Estimated consumption

5. The Council may have an estimate made of the consumption of water or electricity for any relevant period if –

(a) no meter reading could be obtained in respect of the period concerned; or

(b) no meter has been installed to measure the consumption on the premises concerned, and the customer concerned is liable for payment of the prescribed fee in respect of such estimated consumption.

New service agreements and deposits or security by existing customers

6.(a) Any existing customer, or the trustee, liquidator, judicial manager or curator of such customer, may be required by the Council to enter into a new service agreement to replace an existing agreement of the customer concerned, and to pay a deposit or furnish security contemplated in section 3, notwithstanding the fact that a service agreement was previously entered into in respect of the municipal service concerned and the provisions of section 3(3) apply in respect of such new agreement.

(b) The provisions of section 3(4) apply to a deposit referred to in subsection (1).

Termination of service agreements

7.(1) Subject to the provisions of sections 14 and 22 –

(a) a customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than seven days' to the Council, of his or her intention to do so;

(b) the Council may, subject to compliance with the provisions of this By-law and any other applicable law, by notice in writing of not less than 14 days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer –

(i) has not used the municipal service during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement; or

(ii) has, in relation to the municipal service concerned, failed to comply with any provision of this By-law and has failed to rectify such failure after the service on him or her of a notice of compliance in terms of section 8;

(iii) has failed to pay any prescribed fee, collection charge or interest due and payable in respect of the municipal service concerned;

(iv) has made an arrangement with another services provider to provide the municipal service concerned to the customer; or

(v) has vacated the premises to which the agreement concerned relates.

(2) A customer to whom notice has been given in terms of subsection (1)(b), may within the period of 14 days referred to in that subsection, make written representations to the Council why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may only be terminated if the decision on such representations justifies it.

Notices of compliance

8. If a customer fails or refuses to comply with any provision of this By-law, a notice of compliance must be served on that customer, requesting him or her, subject to the provisions of section 7(2), to forthwith comply with the provision concerned to avoid the termination of his or her agreement in terms of section 7(1)(b)(ii).

CHAPTER 3
ACCOUNT ADMINISTRATION

Accounts

9.(1) Accounts must be rendered and administered in accordance with the Policy, other prescribed requirements and any other law.

(2) Failure by the Council to render an account does not relieve a customer of the obligation to pay any amount that is due and payable in terms of this By-law.

(3) The Council may, in accordance with the provisions of section 102 of the Act –

(a) consolidate any separate accounts of a customer liable for payments in terms of this By-law to the Council;

(b) credit any payment by such customer against any account of that customer; and

(c) implement any of the debt collection and credit control measures provided for in this By-law in relation to any arrears on any of the accounts of a customer.

(4) The amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will, subject to the provisions of section 20(a), be allocated in reduction of the consolidated debt in the order prescribed.

(5)(a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 15(b).

(b) No interest is payable on any amount contemplated in paragraph (a)

Account information

10. Accounts must contain the following –

(a) the consumption or estimated consumption as determined for the measuring or consumption period;

(b) the measuring or consumption period;

(c) the applicable prescribed fee;

(d) the amount due based on the estimated consumption;

(e) the amount due and payable for any other municipal service;

(f) the amount in arrears, if any;

(g) the interest payable on any arrears, if any;

(h) collection charges insofar as they may be relevant;

(i) the final date for payment; and

(j) the methods, places and approved agents where payment may be made.

Account administration

11. The Council must, subject to the provisions of section 5, endeavour to ensure —

(a) accurate metering of consumption at fixed intervals with the minimum delay between service connection and first and subsequent rendering of accounts;

(b) accurate and up-to-date information in accounts;

(c) accurate monthly accounts with the application of the appropriate and correct prescribed fees, rates and other related amounts due and payable;

(d) the timely dispatch of accounts;

(e) adequate provision and the efficient operation of facilities for payment throughout the municipal area;

(f) the appointment of agents to accept payments on behalf of the Council; and

(g) appropriate hours of business in order to facilitate account payments.

Queries or complaints in respect of accounts

12.(1) A customer may lodge a query or complaint in respect of the accuracy of any amount due and payable in terms of an account rendered to him or her in terms of this By-law.

(2) A query or complaint must be lodged with the Council before or on the due date for payment specified in the account concerned, or as soon as reasonably possible thereafter.

(3) If a query or complaint is lodged after the due date for payment specified in the account concerned, such query or complaint must be accompanied by the payment of at least an

amount equal to the average amount per month that was due and payable in respect of the service concerned during the preceding three months.

(4) An authorised official must register the query or complaint and provide the customer with a reference number.

(5) The Council must –

(a) investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after the query or complaint was received; and

(b) inform the customer, in writing, of its finding as soon as possible after conclusion of the investigation, instructing that any amount found to be due and payable must, subject to the provisions of section 22, be paid within 21 days from the date on which the customer is notified thereof, unless an appeal is lodged within that period in terms of subsection (6) or section 13.

(6) A customer may, subject to the provisions of section 13, lodge an appeal with the municipal manager in terms of section 62 of the Act against a decision referred to in subsection (5), within 21 days of the date of the notification of the decision.

(7) The Council must inform the customer concerned in writing of the decision on the appeal, instructing that any amount found to be due and payable, must be paid within seven days from the date on which the customer is notified thereof.

Appeals against decision by service providers on queries and complaints

13.(1) If a decision contemplated in section 12(5) has been made in respect of a municipal service provided by a service provider fulfilling a responsibility under this By-law, assigned to it in terms of section 81(2) of the Act, a customer may lodge an appeal against that decision by giving written notice of the appeal and reasons to the chief executive officer of the service provider concerned, within 21 days of the date of the notification of the decision.

(2) The chief executive officer must promptly submit the appeal to the appropriate appeal authority specified in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation may detract from any rights that may have accrued as a result of the decision.

(4) If an appeal is against a decision taken by –

(a) a staff member, other than the chief executive officer, the chief executive officer is the appeal authority;

(b) the chief executive officer or any committee of the service provider –

(i) the board of directors of the service provider; or

(ii) a committee of directors who were not involved in the decision concerned and appointed by the board of directors for this purpose, is the appeal authority.

(5) An appeal authority contemplated in subsection (4), must commence with an appeal within 42 days and decide the appeal within a reasonable period.

(6) A service provider must comply with the provisions of section 12(7).

Arrear accounts

14.(1) If a customer fails to pay an amount due and payable for any municipal service or rates on or before the due date for payment specified in the account concerned, a final demand notice may be sent to the customer.

(2) Failure by the Council to send a final demand notice does not relieve a customer from paying the arrears concerned.

(3) A final demand notice referred to in subsection (1), must contain the following –

(a) the amount in arrears and any interest payable, and a statement that payment must be made within 14 days of the date of the final demand notice;

(b) that the customer may in terms of section 22, conclude a written agreement with the Council for payment of the amount in arrears in instalments within the period contemplated in paragraph;

(c) that if no such agreement is entered into within the period stipulated in paragraph (b), that the water or electricity services may be terminated or restricted and that legal action may be instituted for the recovery of any amount in arrear without further notice;

(d) that the customer's name may be made public, and may be listed with a credit bureau in terms of section 21(1)(a);

(e) that the account may be handed over to a debt collector or attorney for collection;

(f) that proof of registration as an indigent person in terms of section 25 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);

(g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and

(h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 14 days contemplated in paragraph (a).

Action to secure payment

15. The Council may, in addition to the normal civil legal steps to secure payment of any in arrear amount of accounts, take the following action to secure payment of such amount –

(a) The termination or restriction of the provision of any municipal service in terms of section 16; and

(b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 9(5)(a), as payment for arrear municipal service fees or rates, in terms of section 20.

Power to terminate or restrict provision of municipal services

16.(1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 12(5)(b), 12(7), 13(6) and 14(1).

(2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the prescribed termination and restriction procedures, to any premises if the customer in respect of the municipal service concerned –

(a) fails to make full payment of arrears specified in a final demand notice sent to the customer concerned, before or on the date for payment contemplated in sections 12(5)(b), 12(7), 13(6) or 14(1), whichever is applicable, and no circumstances have arisen which requires the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer –

(i) fails to enter into an agreement in terms of section 22, in respect of the arrears concerned before termination or restriction of the service concerned; or

(f) that proof of registration as an indigent person in terms of section 25 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);

(g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and

(h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 14 days contemplated in paragraph (a).

Action to secure payment

15. The Council may, in addition to the normal civil legal steps to secure payment of any in arrear amount of accounts, take the following action to secure payment of such amount –

(a) The termination or restriction of the provision of any municipal service in terms of section 16; and

(b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 9(5)(a), as payment for arrear municipal service fees or rates, in terms of section 20.

Power to terminate or restrict provision of municipal services

16.(1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 12(5)(b), 12(7), 13(6) and 14(1).

(2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the prescribed termination and restriction procedures, to any premises if the customer in respect of the municipal service concerned –

(a) fails to make full payment of arrears specified in a final demand notice sent to the customer concerned, before or on the date for payment contemplated in sections 12(5)(b), 12(7), 13(6) or 14(1), whichever is applicable, and no circumstances have arisen which requires the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer –

(i) fails to enter into an agreement in terms of section 22, in respect of the arrears concerned before termination or restriction of the service concerned; or

(ii) fails to submit written proof of registration as an indigent person in terms of section 25, before such termination or restriction;

(b) fails to pay any instalment payable in terms of an agreement referred to in paragraph (a)(i) before or on the due date;

(c) fails to comply with any condition of provision in respect of electricity or water, as the case may be, imposed by the Council;

(d) obstructs the efficient provision of electricity or water to another customer;

(e) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;

(f)causes a situation relating to electricity or water which, in the opinion of the Council, is dangerous or constitutes a contravention of any applicable law, including the common law;

(g) in any way reinstates the provision of a previously terminated or restricted electricity or water service;

(h) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Council requiring such service agreement in terms of section 6.

(3) The Council may send a termination notice to a consumer informing him or her –

(a) that the provision of the service concerned will be, or has been terminated on the date specified in such notice; and

(b) of the steps which can be taken to have the service reinstated.

(4) Any action taken in terms of subsections (1) and (2) is subject to compliance with:

(a) sections 3 and 4 of the Water Services Act, 1997 (Act No. 108 of 1997), if the provision of water is involved;

(b) the relevant provisions of the Electricity Act, 1987 (Act No. 41 of 1987), if the provision of electricity is involved;

(c) the relevant provisions of the Health Act, 2003, (Act No. 61 of 2003), and any regulations made in terms of that Act; and

(d) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in so far as it is applicable.

Reinstatement of municipal services

17.(1) The Council must reinstate full levels of provision of any electricity or water service terminated or restricted in terms of section 16(1) after –

(a) the full amount of arrears, including interest and collection charges, if any, have been paid; or

(b) an agreement for payment of the arrears contemplated in paragraph (a) has been entered into in terms of section 22; or

(c) the full amount of arrears in respect of any agreement referred to in paragraph (b), including interest and collection charges if any, and any increase deposit, have been paid, or any additional security required has been provided, and any other condition of the Policy that the Council may consider appropriate, has been complied with.

(2) Any reinstatement in terms of subsection (1) may only be done after an authorised official has issued a written certificate of authorisation to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reinstated.

Interest charges

18. All arrears in respect of accounts for rates and municipal services bear interest at a rate prescribed.

Collection charges

19. A prescribed collection charge may be levied against the account of a customer, in respect of any relevant action taken in terms of, or for the purposes of, this By-law.

Full and final settlement of an amount

20.(a) The Council may appropriate monies received in respect of any debt contemplated in this By-law at its sole discretion, unless the customer otherwise instructs in writing.

(b) If any amount due and payable to the Council in terms of this By-law has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, does not constitute payment in full and final settlement of the full amount, unless the lesser amount was accepted in full and final settlement in writing, under a power delegated or sub-delegated to such employee in terms of section 59 of the Act.

Accounts outstanding after the due date

21.(1) If an account for assessment rates or any municipal service rendered to a customer remains unpaid, wholly or in part, after the due date for payment stipulated in the account concerned –

(a) the defaulting customer's name may be made public, and may be listed with a credit bureau; and

(b) may be handed over to a debt collector or an attorney for collection.

(2) A customer is liable for any interest and collection charges and in addition payment of a higher deposit or the provision of additional security, if required by the Council.

(3) No action taken in terms of this section may be suspended or withdrawn, unless the arrears, any interest thereon, collection charges, and higher deposit, if required by the Council, have been paid in full or, instead of a higher deposit, additional security has been provided, if so required.

Agreements for the payment of arrears in instalments

22.(1) A customer with positive proof of identity or a person authorised, in writing, by such customer, may, subject to the approval of the Council, enter into an agreement in a form substantially similar to a form prescribed, for the payment of arrears in instalments.

(2) The amount due and payable by a customer in terms of an agreement contemplated in subsection (1), constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order prescribed, unless the customer otherwise instructs in writing.

(3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an agreement, contemplated in subsection (1), has been entered into.

(4) Subject to the provisions of subsection (5), no agreement for the payment of arrears may allow for a period of payment of longer than 24 months.

(5)(a) The Council may allow a period of payment in excess of 24 months for the payment of arrears, but not exceeding a period of 60 months, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the Council, warrant a longer period of payment.

(b) Documentary proof of any special circumstances as contemplated in paragraph (a), must be furnished by a customer on request by the Council.

(6) The Council must, in exercising its discretion in terms of subsection (5), have regard to a customer's –

(a) credit record;

(b) consumption;

(c) ability to afford the proposed instalments, taking into account the customer's financial situation;

(d) level of service;

(e) previous breaches of agreements for the payment of arrears in instalments; and

(f) any other relevant factor.

(7) A copy of an agreement contemplated in subsection (1), must, on request, be furnished to the customer concerned.

(8) If a customer fails to comply with an agreement contemplated in subsection (1), the total outstanding amount, including the arrears, any interest thereon, any collection charges, and payment of a higher deposit if required by the Council, will immediately become due and payable, and additional security, if so required, must be provided, without further notice.

(9) If a customer fails to comply with an agreement contemplated in subsection (1), entered into after receipt of a termination notice for water or electricity services, or both, as the case may be, the municipal service concerned may be terminated without further notice, in addition to any other action taken against or which may be taken against the customer concerned.

(10) No customer is permitted to enter into an agreement contemplated in subsection (1), if that customer has failed to honour a previous agreement for the payment of arrears in instalments, unless the Council otherwise decides.

(11) Once an agreement contemplated in subsection (1), has been concluded, the amount in arrears must be reflected as a current amount, and no further interest may be added.

Disputes as to amounts owing

23. If any dispute arises as to any amount owing by a customer, the customer must, pending resolution of that dispute, continue to make regular monthly payments in respect of rates, if applicable, and in respect of any municipal service concerned based on the average monthly fees for the preceding three months prior to the dispute arising, plus interest if applicable, until the resolution of that dispute.

Dishonoured cheques

24. If any payment is made to the Council by a negotiable instrument, and such negotiable instrument is dishonoured, the Council may levy costs and administration fees against the account of the defaulting customer at a prescribed rate.

CHAPTER 4

INDIGENT PERSONS

Registration as indigent person

25.(1) A person who wishes to receive assistance in terms of the Council's policy for the provision of municipal services to indigent persons, must make application for registration as an indigent person on a prescribed form at any of the Council's offices.

(2) An application in terms of subsection (1), must be considered by the Council which must adhere to the principles of transparency, equity, consistency, non-discrimination, accessibility, empathy, integrity, confidentiality and objectivity during the evaluation process.

(3) An applicant, contemplated in subsection (1), must, at the request of the Council, furnish any further information to enable the Council to arrive at a decision and the Council may, for the purpose of properly evaluating the application, also conduct any investigation which it considers appropriate.

(4) An applicant must be informed that he or she will automatically be disqualified from receiving any assistance contemplated in subsection (1), and be liable to –

(a) refund the amount of any such assistance received from the Council, if the application or information contemplated in subsection (3), contains any false information; and

(b) prosecution if any false information as contemplated in paragraph (a) is furnished by the applicant.

(5) If the Council finds an applicant to be indigent, such applicant is entitled to assistance in terms of the Policy referred to in subsection (1), and his or her personal particulars must be recorded in a prescribed register of indigent persons.

(6) The position of every indigent person so recorded, must be reviewed annually by an authorised official in accordance with the directives of the Council.

(7) A successful applicant must be informed in writing that he or she must immediately notify the Council when his or her indigent status has changed.

CHAPTER 5
MISCELLANEOUS

Council's right of access to premises

26. The Council may exercise its right of access to premises in terms of section 101 of the Act through the municipal manager or any authorised official or any duly appointed agent of the Council, authorised thereto in writing.

Conflicting laws

27. If there is any conflict between a provision in this By-law and a provision of any other By-law, the provision in this By-law must prevail.

Preservation of rights consequent on non-compliance

28. A failure by the Council to comply with any provision of this By-law does not in any way affect the liability of any person to pay any amount due and payable to the Council as contemplated in this By-law, nor the Council's right to recover such amount.

Transmission of documentation

29. Subject to the provisions of any law, if in terms of or for the purposes of this By-law any written communication must or may be rendered, sent or delivered –

(a) by the Council to any person, such communication must be –

(i) delivered by hand –

(aa) to that person's domicilium citandi et executandi, as stipulated in an agreement entered into in terms of section 3(1)(c) or 6(a); or

(bb) in the absence of such agreement, to that person's most recently recorded address; or

(cc) to the premises concerned in respect of which rates are levied or any municipal service is provided, whichever is relevant; or

(ii) sent by post to the address referred to in subparagraph (i)(aa) or (bb), whichever is applicable, or to the address of the premises contemplated in subparagraph (i)(cc).

(b) by any person to the Council, such communication must be –

(i) delivered by hand to –

(aa) the Council's domicilium citandi et executandi stipulated in the agreement contemplated in paragraph (a)(i)(aa); or

(bb) another address, if the Council in writing furnished such an address to the person concerned; or

(ii) sent by post to the address referred to in subparagraph (i)(aa) or, in the circumstances contemplated in subparagraph (i)(bb), to the address contemplated in that subparagraph.

Prima facie evidence of documentation

30. For the purposes of the recovery of any amount due and payable to the Council in terms of this By-law –

(a) a copy of any relevant account; and

(b) an extract from the Council's records relating to the quantity of consumption or provision of any municipal service and the period of provision of such service, certified by an authorised official as being correct,

constitute prima facie evidence of the information contained in such documents.

CHAPTER 6

APPEALS

Appeals

31.(1) A person whose rights are affected by a decision taken by any authorised official under this By-law, may appeal against the decision by giving written notice of the appeal and

reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(4) When the appeal is against a decision taken by –

(a) a staff member other than the municipal manager, the municipal manager is the appeal authority; or

(b) the municipal manager, the executive mayor is the appeal authority.

(5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

CHAPTER 7

GENERAL

Offences

32. Any person who -

(a) contravenes or fails to comply with any provisions of this By-law;

(b) fails to comply with any lawful instruction given in terms of this By-law; or

(c) obstructs or hinders any authorised official in the execution of his or her duties under this By-law –

will be guilty of an offence and will be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

Repeal of existing By-laws

33. The Council's existing Credit Control and Debt Collection By-laws are hereby repealed.

Short title and commencement

34. This By-law will be called the _____ Municipality Credit Control By-law, 20_____.

STREET TRADING BY-LAW

Be it enacted by the Council of the _____ Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

ARRANGEMENT OF SECTIONS

Section

1. Definitions
2. Purpose of the By-law
3. Forms of informal trading
4. Freedom to engage in informal trading
5. Designated areas
6. Lease and allocation of lands
7. Environmental health and safety
8. Prohibition
9. Restrictions
10. Display of goods
11. Removal and impoundment
12. Disposal of impounded goods
13. Vicarious liability of persons carrying on informal trading
14. Offences and penalties
15. Policy
16. Repeal of By-laws
17. Short title

Definitions

1. In this By-law, unless inconsistent with the context –

"the Act" means the Business Act, 1991 (Act No. 71 of 1991) and includes the regulations promulgated thereunder,

"**approval**" means approval by an authorised official and "approve" has a corresponding meaning;

"**Authorised official**" means –

(a) any official of the Municipality who has been authorised by the Municipality to administer, implement or 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 Services 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)

"Council" means —

(a) the _____ Municipality, exercising its legislative and executive authority through its municipal council;

(b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act; 2000 (Act No. 32 of 2000); and

(d) a service provider fulfilling a responsibility under this By-law;

"**demarcated stand**" means stand demarcated by Municipality for the purposes of street trading in terms of section 6(A)(3)(b) of the Act;

"designated area" means an area prescribed by the Council in terms of this By-law, subject to the Act, as the area in which informal trading can be conducted;

"foodstuff" means any article or substance, except a drug as defined in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), ordinarily eaten or drunk by persons or purporting to be suitable to be sold for human consumption and includes any part or ingredient or substance used or intended or destined to be used as a part or ingredient of any such article or substance, as defined in section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 (Act No.54 of 1972).

"garden" or "park" means a garden or park to which the public has a right of access;

"**goods**" means any movable property used in connection with street trading and, without limiting the generality of the foregoing, includes products for sale, display tables, stands, receptacles, vehicles, structures or animals;

"impoundment costs" means all those costs incurred by the Council in respect of impounding and storing of impounded goods or property and, where applicable, costs incurred in respect of disposal of impoundment goods;

"informal trader" means the selling of goods and/or services by an informal trader in the designated area, which includes, without any limitation, the forms of trading included in this By-law;

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"kerb line" means, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;

"linear market" means a designated area located in a pedestrian environment.

"litter" includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by an informal trader or by his or her customers;

"motor vehicle" means any self-propelled vehicle as more fully defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"**municipality**" means the _____ Municipality established in terms of section 155(6) of the Constitution of the Republic of South Africa, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998),

"periodic markets" means sale of legal goods and or services by individuals and or groups in locations designated for informal trading for a period no longer than 5 days;

"prescribed" means as determined by resolution of the Council from time to time;

"property" in relation to an informal trader, includes any article, goods container, motor vehicle or structure used or intended to be used in connection with informal trading;

"public building" means a building belonging to or occupied solely by any sphere of the government, including the Council;

"public monument" means any one of the public monuments and memorials as defined in terms of section 2 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

"**public place**" means any square, park, recreation ground or open space which is vested in the Council or to which the public has the right to use or is shown on a general plan of a township filed in the deeds registry or Surveyor-General's office and has been provided for the use of the public or the owners of erven in such township;

"**public road**" means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), and is any road, street or thoroughfare or any place commonly used by the public or any section thereof or to which the public or any section thereof has the right of access;

"rental" means an amount payable by the informal trader for the allocated trading space in the designated area as agreed between the Council and an informal trader;

"**roadway**" means a roadway as defined in section 1 of the National Road Traffic Act, 1996, (Act No. 93 of 1996), but excludes a public place;

"sell" includes –

(a) barter, exchange or hire out;

(b) display, expose, offer or prepare for sale;

(c) store on a public road or public place with a view to sell; or

(d) provide a service for reward,

and **"sale"** or **"selling"** has a corresponding meaning;

"**sidewalk**" means a sidewalk as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

"shoulder" means, as defined in the National Road Traffic Act 1996 (Act No. 93 of 1996) that portion of the road, street or thoroughfare between the edge of the roadway and kerb line;

"special events" means special events that occur from time to time, including without limitation, sports events, religious events, social, cultural or political gatherings and music festivals;

"street furniture" means any furniture installed by the Council on the street for public use;

"street trader" means a person who sells, barters, exchanges, hires out, displays, exposes, offers or prepares for sale, barter, exchange or hire any goods or who provides or offers any service for reward as a street vendor, hawker or pedlar in a public road or in a public place, but does not include any person who sells newspapers only;

"the Traffic Act" means the National Road Traffic Act, 1996 (Act No. 93 of 1996); and

"verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996).

Purpose of the By-law

2.(1) The Council recognises the objective of its existence in terms the Constitution which includes –

(a) to promote social and economic development;

(b) to promote a safe and healthy environment; and

(c) municipal planning, trading regulations, licensing and control of undertakings that sell food to the public, markets, public places, municipal roads and street trading.

(2) The Council therefore recognises the need to adopt a developmental approach to enable access to job and entrepreneurial opportunities within the informal trading sector, to harmonise the relationship between the informal trading sector and the formal trading sector and to facilitate the migration of the informal trading sector into the formal trading sector.

(3) The purpose of this By-law is to regulate the informal trading within the jurisdictional area of the Municipality in a manner that recognises and enhances the municipality's constitutional and other statutory obligations.

Forms of informal trading

3.(1) Informal trading may include any of the following forms of trading –

(a) street trading, which comprises the selling of goods or supply of services for reward in a public road;

(b) selling of goods in linear market;

(c) sale of goods or services in a public place

(d) mobile trading such as from caravans, and light motor vehicles;

(e) selling of goods in stalls or kiosks; and

(f) selling of goods at special events

Freedom to engage in informal trading

4. Subject to compliance with the provisions of this By-law, the Act and any other applicable law, any member of the community of the municipality may be permitted to engage in informal trading.

Designated areas

5.(a) The Council may by resolution in terms of section 6A(3)(b) of the Act, set apart and demarcate stands or areas for the purposes of informal trading on any public road, the ownership or management of which is vested in the Council, or on any other property in the occupation and under the control of the Council.

(b) Any such stands or areas demarcated for informal trading may be extended, reduced or disestablished by resolution of the Council.

(c) The Council may, by resolution in terms of section 6A(3)(a) of the Act, lease any verge or any portion thereof to the owner or occupier of the contiguous land on condition that such owner or occupier will admit a specified number of informal traders in stands or places on such verge designated by the owner or occupier.

Lease and allocation of stands

6.(1) Any person who intends to carry on a business as an informal trader in terms of the provisions of this By-law may apply to the Council in the prescribed manner for the lease or allocating of a stand in terms of section 6A(3)(c) of the Act.

(2) The Council may grant subject to conditions, or refuse an application referred to in subsection (1).

(3) If such application is successful –

(a) an informal trader must enter into a lease agreement with the Council in respect of such stand, which lease agreement must be produced at the request of an Authorised Official;

(b) in respect of the allocation, as well as the lease of a stand, a token will be issued to an informal trader as proof of an informal trader's rights to occupy the stand for the purpose of conducting informal trading;

(c) an informal trader must, at all times while carrying on business on the stand or public space, retain such token on his/her person ready for display to an Authorised Official, if requested; and

(d) the Council may, on the written request of the informal trader issue a token to a bona fide employee of the informal trader.

(4) Any person who carries on informal trading on a stand or public place and who, without a reasonable explanation, is unable to produce a valid lease agreement or token as envisaged in subsection (3) above, will be guilty of an offence.

(5) Any person who carries on informal trading on a stand or public place and who, without a reasonable explanation, fails to comply with the terms of conditions of the lease agreement will be guilty of an offence.

Environmental health and safety

7.(1) An informal trader must –

(a) keep the area or site occupied by him or her for the purposes of conducting business in a clean and sanitary condition;

(b) keep his or her property in a clean, sanitary and well maintained condition;

(c) dispose of litter generated by his or her business in whatever refuse receptacle is provided by the Council for the public or at a dumping site of the Council;

(d) not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;

(e) ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of conducting informal trading is free of litter;

(f) take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road, or public place, or into a storm water drain, any fat, oil or grease;

(g) ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities associated with informal trading causes pollution of any kind;

(h) on request by an authorised official, move his or her property so as to permit the cleansing of the space or the area or site where he or she is conducting informal trading, or the effecting of municipal services.

Prohibition

8.(1) No street trader may carry on or undertake street trading –

(a) on a verge contiguous to–

(i) a building belonging to or occupied solely by the state or the Municipality;

(ii) a church or other place of worship, or

(iii) a building declared to be a national monument in terms of the National Monuments Act, 1969 (Act No. 28 of 1969);

(b) on any verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as, or of similar nature to, goods being sold by the street trader or who offers services of the same nature as, or of a similar nature to, a service offered by the street trader concerned without the consent of such person;

(c) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;

(d) at any place where the carrying on of such business causes an obstruction to–

(i) the entrance to or exit from a building, or

(ii) a fire hydrant;

(e) in any declared area identified as such in terms of section 6A(2) of the Act in respect of which the carrying on of the business of street trader has been –

(i) prohibited by the Municipality, or

(ii) restricted by the Municipality, unless such business is carried on in accordance with such restrictions;

(f) at any place which has been set apart and demarcated as stands or areas by the Municipality in terms of section 6A(3)(b) of the Act for the purposes of the carrying on of the business of a street trader, unless such business is carried on in accordance with –

(i) an agreement with the Municipality, or

(ii) the allocation by the Municipality to the street trader of any area or stand; and

(g) in any public garden or park except with prior written consent of the Municipality.

(2) The Council may, by resolution in terms of section 6(A)(2) of the Act, declare any place in its area of jurisdiction to be an area in which informal trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating –

(a) Specified places, goods or services in respect of which informal trading is restricted or prohibited;

(b) the location of boundaries in respect of restricted or prohibited areas;

(c) the boundaries of a stand or area set apart for the purposes of carrying on the business of informal trading;

(d) the fact that any such stand or area has been let or otherwise allocated; and

(e) any restriction or prohibition against informal trading in terms of the By-laws.

(3) The Council may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area or stand concerned.

(4) Any sign erected in terms of this By-law or any other law, will serve as sufficient notice to an informal trader of the prohibition or restriction in respect of the area concerned.

(5) The resolution of the Council will be subject to the provisions of section 6A(2)(b) to (j) of the Act, which require, *inter alia*, that the Council first consider the effect its resolution will have on the existing informal traders in the designated area in question.

(6) Any sign may be amended from time to time and displayed by the Council for the purpose of this By-law and will have the same effect as a road sign in terms of the Traffic Act.

Restrictions

9.(1) No person engaging in street trading may –

(a) sleep overnight at the business site;

(b) erect any permanent structure in a public place or public road for the purpose of providing shelter, or

(c) place or store any goods in such a manner or position as to constitute a danger to any person;

(d) carry on such business in such a manner as to–

(i) create a nuisance;

(ii) damage or deface any public road or public place or any public or private property; or

(iii) create a traffic hazard;

(e) obstruct access to a service or to service works of the Municipality or of the State or any statutory body;

(f) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;

(g) obstruct access to a pedestrian arcade or mall;

(h) carry on such business in a place or area in contravention of any restriction imposed by a Municipal resolution in terms of section 6A(2)(a) of the Act;

(i) place or store his or her goods on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;

(j) attach any of his or her goods by any means to the building structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;

(k) make an open fire on a public road or public place;

(l) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;

(m) obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; or

(n) obstruct or inhibit the use of street furniture and any other facility designed for the use of the general public.

Display of goods

10. A street trader must ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods –

(a) is maintained in a good state of repair and in a clean and sanitary condition; and

(b) is not so placed or stored so as to constitute a danger to any person.

Removal and impoundment

11.(1) An inspector may remove and impound any goods which he or she –

(a) reasonably suspects are being used or intended to be used or have been used in or connection with the carrying on of the business of a street trader, and

(b) finds at a place where the carrying on of such business is prohibited or restricted in terms of this By-law, whether or not such goods are in the possession or under the control of any person at the time of such removal and impoundment.

(2) An inspector removing and impounding any goods may –

(a) except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof and stating –

(i) the place where the goods will be kept;

(ii) the amount payable in respect of expenses incurred by the Municipality in impounding and removing the goods; and

(iii) the date on or after which the goods will be sold or destroyed unless claimed; and

(b) forthwith place such goods in safe custody within the control of the Municipality.

(3) Neither the Municipality nor any inspector, officer or employee of the Municipality will be liable for any loss, theft or damage to any goods removed and impounded in terms of this By-law.

Disposal of impounded goods

12(1) Any goods impounded in terms of this By-law must be dealt with as follows –

(a) if the goods are claimed, the street trader must pay the expenses incurred by the Municipality for impoundment; and

(b) if the goods are not claimed within the period specified on the receipt issued in terms of this By-law, the goods must be sold to defray expenses incurred by the Municipality in impounding and removing the goods.

(2) In the event that the goods –

(a) are not capable of being sold, they must be destroyed after the time specified on the receipt issued in terms of this By-law; and

(b) are perishable, they may be sold or destroyed as soon as may be necessary.

(3) If the proceeds contemplated by this section are insufficient to pay for the expenses incurred by Municipality, the owner will be liable for any excess.

Vicarious liability of persons carrying on informal trading

13.(a) When an employee or agent of an informal trader contravenes a provision of this By-law, the informal trader will be deemed to have committed such contravention unless such informal trader satisfies the court that he or she took reasonable steps to prevent such contravention.

(b) The fact that the informal trader issued instructions to the employee or agent, prohibiting such contravention, will not in itself constitute sufficient proof of such reasonable steps.

Offences and penalties

14.(1) Whenever the Municipality is of the opinion that a person has not complied with the provisions of this section, it may serve a written notice on such person, calling upon him or her to comply with such provisions within a period specified in the notice.

(2) Any person who –

(a) contravenes or fails to comply with any provision of this By-law; or

(b) fails to comply with the terms of any notice served upon or given to him in terms of this By-law,

is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding one year

Policy

15.(1) The Council may make policy regarding –

(a) the declaration of any place to be an area in which informal trading is restricted or prohibited and the prescription or making of signs, markings or other devices, as contemplated in this By-law;

(b) The setting apart and demarcation of stands or areas for the purposes of street trading and the extension, reduction or disestablishment therefrom as contemplated in terms of this By-law;

(c) The disposal of any property which has been removed and impounded, as contemplated in this By-law;

(d) The liability of any person for any reasonable expenses incurred in connection with such removal, impoundment and disposal;

(e) The prescription of penalties for the offences contemplated in terms of this By-law;

(f) The amendment of such penalties from time to time; and

(g) 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 Council will not within one month before promulgating a policy 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 Council to issue such a regulation and inviting comments or representations.

(b) If the Council decides to alter the draft policy as a result of comments or representations received pursuant to such invitation, then it will not be necessary to communicate and make public the alteration before the amended draft is promulgated as a policy.

Repeal of existing By-laws

16. The Municipality's existing Street trading By-laws are hereby repealed.

Short title

17. This By-law will be called the _____ Municipality Street Trading By-Law, 20____.

CEMETERIES, CREMATORIA AND UNDERTAKERS BY- LAW

Be it enacted by the Council of the _____ Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

ARRANGEMENT OF SECTIONS

Section

1. Definitions
2. Establishment of cemeteries
3. Official hours
4. Register
5. Numbering of graves
6. Reservation of graves
7. Transfer of reserved rights
8. Number of corpses in a grave
9. Number of Corpses in a coffin
10. Application for a burial
11. Burial of a corpse
12. Indigent persons
13. Burial of ashes
14. Burial of a cadaver
15. Persons dying outside the municipal area
16. Grave measurements
17. Applications for cremation
18. Cremations
19. Coffins for cremation
20. Duties of proprietor
21. Council may establish sections in a cemetery
22. Monumental section
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24. Landscape section
25. Gardens of remembrance
26. Cremation and corpse reduction facility
27. Memorial square

28. Mausoleum
29. Surface grave units
30. Denominational section
31. Consent of the Council
32. Requirements for the erection of memorial work
33. Position, movement and removal of memorial work
34. Work and maintenance in respect of memorial work
35. Damaging of a memorial work
36. Vehicle and tools
37. Complying with directives of the Council
38. Times for bringing in material and doing work
39. Subsiding soil conditions
40. Production of written consent
41. Application for exhumation
42. Conditions of exhumations
43. Exhumation and reburial
44. Screening of exhumation
45. Emergency exhumations
46. Reduction burial
47. Appointment of officer in charge
48. Children
49. Keeping to path
50. Prohibited conduct in a cemetery
51. Use and closure of a disused cemetery
52. Injuries and damages
53. Fire-arms and traditional weapons
54. Complaints
55. Charges
56. Rights on Graves
57. Consents, Notices and Orders
58. Notice of compliance and representations
59. Religious Ceremonies
60. Hearses and vehicles at Cemeteries
61. Exposure of Bodies
62. Instruction of Caretaker
63. Music Inside Cemetery
64. Interments Attended by large Numbers of People

65. Preparation of corpses
66. Application for issue of transfer certificate
67. Issue or transfer of certificate of competence
68. Validity and transfer of certificate of competence
69. Issue of provisional certificate of competence
70. Duties of Holder
71. Suspension or revocation of a certificate of competence or provisional certificate of competence
72. Requirements relating to funeral undertaker premises.
73. Conveyance of mortal remains
74. Hygiene
75. Appeal
76. Exemptions
77. Offences and Penalties
78. Repeal of existing By-laws
79. Short title and commencement

CHAPTER 1
DEFINITIONS

1. Definitions

In this by-law, unless inconsistent with the context –

"**adequately ventilated and illuminated**" means adequately ventilated and illuminated as contemplated in the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977), as amended or the health bylaws applicable within the area of jurisdiction of the Council;

"**adult**" means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;

"**above-ground burial**" means when a structure is employed for the interment of a body and such a structure is located above normal ground level;

"after-hours fee" means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours, save in the case of cremations or burials which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

"approved" means approved by the Council;

"ashes" means the cremated remains of a body;

"ash grave" means a grave for the burial of cremated remains, with such grave covered by a memorial plaque or slab;

"authorised official" means an official of the Council authorised to implement and enforce the provisions of this By-law;

"berm section" means a grave section in a cemetery set aside by the Council where memorial work is restricted to a headstone only with ground cover planted over the length of the grave;

"biodegradation" means a process whereby the corpse is disposed of by bio-friendly chemical dissolution;

"Births and Deaths Registration Act" means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

"body" means any dead human body, including the body of a stillborn child;

"burial order" means an order issued in terms of the Births and Deaths Registration Act;

"burial" means burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body;

"cemetery" means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;

"**certificate of competence**" means a document contemplated in section 5 of this bylaw;

"**child**" means a deceased person who is not an adult;

"**Commonwealth war grave**" means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

"**corpse**" means the remains of a deceased person and includes a still-born child and foetus;

"**corpse reduction**" means any process used to reduce corpses including cremation, freeze reduction and biodegradation;

"**Council**" means —

(a) the _____ Municipality, exercising its legislative and executive authority through its municipal council;

(b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act; 2000 (Act No. 32 of 2000); and

(d) a service provider fulfilling a responsibility under this By-law;

"**cremation**" means the process of disposing of a human body by fire;

"**crematorium**" the buildings in which the ceremony is conducted and the cremation carried out;

"**crematorium section**" means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

"**cremated remains**" means all recoverable ashes after the cremation process;

"**environmental health practitioner**" means a person who is an employee of Council, or contracted by Council and who is registered with the Health Professions Council of South Africa and is designated in terms the Health Act;

"**established practice**" means a practice in terms of which the owner or person in charge or his or her predecessor in title routinely gave permission to people residing on land to bury deceased members of their family on that land in accordance with their religion or cultural belief;

"**existing funeral undertaker's premise**" means existing funeral undertakers 'premises, which are used as such, on the date of commencement of this By-law;

"**exhumation**" means the removal of a body from its grave;

"**family**" in relation to an occupier, and for the purposes of –

(a) the definition of an "established practice";

(b) section 10(2)(b)(ii); and

(c) section 10(2)(c)(i)

means spouse or spouses, partner or partners, direct or adopted child or children, or grandchild or grandchildren, parent or parents, grandparent or grandparents, as well as dependent or dependents.

"**freeze reduction**" means the process whereby the corpse is disposed of by freeze drying;

"**funeral undertaker's premises**" means that premises that are or will be used for the preparation and or storage of corpses;

"**garden of remembrance**" means a section of a cemetery or crematorium set aside for the erection of memorial work , placing or scattering of ashes, but does not include a columbarium;

"**grave**" means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;

"grave of conflict" means the grave of a person who died while defending the country;

"hero" means a person who performed a heroic act for the country and is given the status of a hero by the Council;

"holder" means the person in whose name a certificate of competence has been issued;

"indigent person" means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or non governmental organisation can be found to bear the burial or cremation costs of such deceased person and includes a pauper;

"indigent relief" means assistance received for the burial or cremation of an indigent person;

"in ground burial" means when land is excavated for the interment of a body;

"interment" means to commit a corpse or ashes to its final resting place

"land", for the purposes of –

(a) the definitions of –

(i) established practice;

(ii) occupier;

(ii) owner; and

(iv) person in charge; and

(b) sections 10(2(b)(ii) and 10(2)(c)(i),

means land predominantly used for agricultural purposes;

"landscape section" means a grave section in a cemetery set aside by the Council where memorial work is restricted to a horizontally placed plaque or a memorial slab, with a ground cover planted over the length of a grave

"Minister" means that member of the Cabinet of the Province of KwaZulu-Natal whose portfolio includes the responsibility for cemeteries and crematoria;

"mausoleum" means an above-ground burial chamber or chambers to accommodate a body and a coffin with such chambers stacked vertically in varying forms and heights

"medical officer of health" means the officer appointed by Council or any other person acting in the capacity of the medical officer of health;

"memorial section" means a section of a cemetery set aside for the erection of memorials;

"memorial wall" means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

"memorial work" means any headstone, monument, plaque, or other work, or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

"monumental section" means a grave section in a cemetery set aside for the erection of memorial work

"multiple burial" means subsequent interments in the remaining depth of the grave

"municipal area" means the area under the control and jurisdiction of the Council;

"new funeral undertaker's premises" means undertaker's premises that start operating as such after the date of commencement of this By-law;

"next of kin" means the surviving spuse, unless otherwise determined by customers, or if there is no surviving spouse, the surviving child or children, or where there is no surviving child, the closest surviving descendant or descendants, or if there are no surviving descendants, the surviving parent or parents, or where there is no surviving parent or parents, the surviving sibling or siblings, or where there is no surviving sibling or siblings, the other blood relation or blood relations of the deceased who are related to him or her in the next degree, provided that where this By-law requires the consent of the next of kin, and the next of kin refers to more than one person, in terms of this definition, then the consent of all these persons will be required;

"niche" means a compartment in a columbarium or garden of remembrance for the placing of ashes;

"notifiable disease" means any disease that is required by law to be reported to government authorities when diagnosed even at death;

"**nuisance**" means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof;

"occupier" means a person residing on land which belongs to another person and who has consent or another right in law to do so;

"officer-in-charge" means the person in the employ of the Council who, from time to time, is in control of any cemetery;

"owner" means the owner of land at the time of death contemplated in section 10(2)(b);

"ossuary" means a chest, building, well or site made to serve as the final resting place of human skeletal remains;

"person in charge" means a person who at the time of a death contemplated in section10(2)(b) had or has a legal authority to give consent to a person to reside on the land in question;

"**preparation**" means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and will include the embalming of such corpse for the said purpose, and

"**prepare**" and any work derived there from will have a corresponding meaning;

"prescribed" means prescribed by the Council;

"**prescribed fee**" means a fee determined by the Council by resolution of that Council or its successor.

"private cemetery" means land which is used as a cemetery but not owned by the Council

"private crematorium" means a building where deceased persons are cremated but is not owned or managed by the Council

"provisional certificate of competence" means a document as referred to in section 68;

"public grave" means a grave in which a second burial of any member of the public may take place after a period of five years and on which the erection of a headstone is not permitted for either the first or second burial;

"pure water" means clean and clear water that contains no Escherichia coli organisms and is free from any substance in concentrations that are detrimental to human health;

"reduction burial" refers to the making of a grave available for a subsequent interment after a specific period;

"rodent-proof" means rodent-proof as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage, etc. in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R. 1411 of 23 September 1966

"South African Heritage Resources Agency" means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

"stone mason" means a person carrying on business as a stone mason;

"the Act" means the Health Act, 2003 (Act No. 61 of 2003), and any expression to which a meaning has been assigned in the Act will have such meaning and, unless the context otherwise indicates; and

"thermometer" means an apparatus which can give the temperature readings referred to in the bylaws, the combined accuracy of such a thermometer and its temperature – sensitive sensor being approximately $0,5^{0}C$.

"victim of conflict" means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

CHAPTER 2
ESTABLISHMENT AND MANAGEMENT OF CEMETERIES

Establishment of cemeteries

2. The Council may from time to time set aside and reserve suitable municipal land within the municipality for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Council may deem necessary.

Official hours

3.(a) The cemetery and the office of the caretaker will be open during the hours as determined by the Council. The cemetery office of the caretaker will be open from Monday to Friday.

(b) Burials will take place on the days and during the hours as determined by the Council.

(c) The Council has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Council may deem fit

(d) No person must be or remain in a cemetery or part thereof before or after the official hours as determined by the Council or during any period when it is closed for the public, without the permission of the caretaker.

(e) The Council may, if the case is one of emergency or the custom or conventions of a religious or cultural group, permit internment outside the times contemplated in subsection.

Register

4.(a) A register of graves and burials must be kept by the caretaker.

(b) Such register must be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

Numbering of graves

5.(a) All graves in a cemetery that are occupied or for which a burial has been authorised in terms of the provisions of this by-law must be numbered by the Council.

(b) The number must be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

Reservation of graves

6.(a) No reservation of a grave in a cemetery will be allowed.

(b) Reservation of graves made and recorded in the official records of the Council in terms of any previous by-laws will still be valid and the Council must honour such reserved rights.

Transfer of reserved rights

7.(a) A reserved right as contemplated in section 6(b) may not be transferred without the prior approval of the Council.

(b) Application to transfer such right must be made to the caretaker in writing by completing and submitting a prescribed application form.

(c) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder.

(d) The reserved right may be cancelled on request of the holder and if the request is approved by the Council, the amount paid by the holder (if any) minus 10% administration fees, will be refunded to the holder.

Number of corpses in a grave

8.(a) Only one corpse may be buried in a grave with measurements as contemplated in this by-law.

(b) Only two corpses may be buried in a grave with measurements as set out in sub-section 16(d): Provided that application for the burial of two corpses has been made to the caretaker in writing by completing and submitting the required application form before the first corpse is buried.

(c) After the re-opening of a grave for the purpose of the burial of a second corpse as mentioned in sub-section 9(b) in that grave, a concrete layer of not less than 25 mm thick must be cast above the coffin previously buried.

(d) If on re-opening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation will be handled in consultation with the Medical Officer of Health.

Number of Corpses in a coffin

9.(a) A deceased stillborn child and his or her deceased mother may be buried in the same coffin at the fee for a single interment of an adult.

(b) Still-born twin babies may be buried in the same coffin at the fee for a single interment of a stillborn child.

(c) Subject to subsection (a) and (b), only one corpse may be contained in a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or the next of kin, or where there is no next of kin any other closest family member.

(d) If there is more than one body in a coffin, each must be contained in a separate body bag

CHAPTER 3

BURIALS

Application for a burial

10.(1) Application for permission for a burial in a cemetery must be made to the caretaker in writing by completing and submitting a prescribed application form. An application must be accompanied by –

(a) a burial order issued in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

(b) the prescribed fees; and

(c) a reservation certificate, if applicable;

(d) the death certificate of the corpse

(e) an affidavit by the next of kin of the deceased, or where not applicable, other close relative, consenting to the disposal of the corpse when such corpse is to be buried in the manner requested;

(f) in the instance where a person was suffering from a notifiable disease, this must be indicated in the application; and

(g) details of cultural or religious practices that need to be adhered to.

(2)(a) No person may, subject to section 10(2)(b), without the prior written approval of the Council, execute, cause, or allow a burial or cremation in any other place in the municipality than in a cemetery or crematorium established and managed by the Council.

(b) An occupier may –

(i) be buried on the land on which he or she resided at the time of his or her death; and

(ii) bury a member of his or her family on the land on which the occupier resides.

(c) A burial contemplated in section 10(2)(b) may take place –

(i) after notification to the owner or person in charge by the occupier or his or her family members; and

(ii) if an established practice exists in respect of the land on which the occupier resides.

(3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(4) No person may execute a burial or cause or allow a burial to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date, and time for the burial has been arranged with the caretaker.

(5) In allocating a date and time for a burial, the caretaker must have regard to the customs of the deceased's relatives and their religion or church affiliation.

(6) In allocating a grave the caretaker will as far as possible allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his of her choice, but not the individual grave of his or her choice. The allocation of a specific grave is the sole responsibility and discretion of the caretaker and a burial will be executed only in a grave allocated by him or her.

(7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.

(8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.

(9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

(10) Except with the permission of the Council, no person may place or cause any coffin constructed of any material other than natural wood or other perishable material to be placed in any grave.

(11) The Council reserves the right to inspect the contents of a coffin before interment, in the event of there being any irregularities in the paperwork.

(12) The Council may refuse a person, including a funeral undertaker, permission to inter a corpse if the relevant documentation required by the Council has not been submitted prior to the interment.

Burial of a corpse

11.(a) All graves must be, subject to section 10(2) provided by the caretaker with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work must be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.

(b) There must be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.

(c) All corpses must be placed in a coffin for the burial thereof, except as provided for the Muslim community.

(d) No person may without the prior permission of the caretaker conduct any religious ceremony or service according to the rites of one denomination in any portion of a cemetery reserved by the Council in terms of the provisions of this by-law, for the use of some other denomination.

(e) No person may permit any hearse in a cemetery to leave the roads provided, and every hearse must leave the cemetery as soon as possible after the funeral for which it was engaged.

(f) Every person taking part in any funeral procession or ceremony must comply with the directions of the caretaker as to the route to be taken within the cemetery.

(g) No person may convey or expose a corpse or any part thereof in an unseemly manner in any street, cemetery or public space.

(h) Every application and every document relating to any burial must be marked with a number corresponding to the number in the register referred to in section 4 and must be filed and preserved by the Council for a period of not less than ten years.

(i) Every coffin or body upon being placed in any grave must, at once, be covered with 500 mm of earth.

(j) No person may disturb any human remains or any soil adjacent thereto in any cemetery, except where such disturbance is expressly permitted by this bylaw or by an order of court.

(k) On completion of interment, the person referred to in subsection (a) or persons who dug the grave must clear the surrounding areas including pathways and graves of all soil, debris and other matter or material exposed by the digging of the grave.

(l) The person who arranged the interment must take all reasonable steps to ensure that no damage occurs to surrounding property during the interment ceremony, including any collapse of grave walls and take steps to prevent such collapse.

(m) The Council has the right to flatten any area on, or surrounding any grave including the grave mound three months after the burial has taken place.

Indigent persons

12. A person making application for the burial of an indigent person, must make a declaration to that effect.

Burial of ashes

13.(1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave; provided that a coffin does not exceed the average body weight of 70 kg, and further-more that the grave is re-adjusted to the prescribed depth and measurements.

(2) No person may execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date, and time for the burial has been arranged with the caretaker.

(3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility must be made to the caretaker in writing by completing and submitting a prescribed application form.

(4) Niches will be allocated by the caretaker strictly in the order in which the applications therefore are received and no reservations for future use will be made.

(5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(6) An urn or casket containing ashes that has been deposited in a building, columbarium, or other facility must not be removed without the caretaker's prior written consent.

(7) Every niche containing ashes must be sealed by a tablet approved by the Council and may only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it will once again be sealed.

(8) Application for the opening of a niche must be made to the caretaker in writing by completing and submitting a prescribed application form.

(9) No person may introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein unless and until:

(a) approval for the burial has been obtained from Council;

(b) approval for the erection of the memorial work has been obtained from Council; and

(c) the prescribed fees have been paid which will be determined by Council from time to time.

(10) Any person engaged upon any work on the columbarium, must execute such work to the satisfaction of the caretaker, and such work must be undertaken during the official office hours of the cemetery.

(11) No permanent wreaths, sprays, flowers, or floral tributes may be placed in or on a columbarium.

(12) The columbarium may be visited daily during the official cemetery hours as determined by Council.

(13) Plaques must be made of material approved by the Council and must be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

Burial of a cadaver

14. The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in sub-section 16(d): Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.

Persons dying outside the municipal area

15. The provisions of this By-law will apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the municipality

16. Grave measurements

(a) The excavation of a grave for an adult must be at least 1820 mm deep, 2300 mm long, and 760 mm wide.

(b) The excavation of a grave for a child must be at least 1400 mm deep, 1520 mm long, and 610 mm wide.

(c) In the event that a grave of a greater depth, length or width than those specified above is required, application in respect thereof, together with extra prescribed fees that are due, must be made to the caretaker together with the application to obtain permission for a burial.

(d) The excavation of an extra deep grave for the burial of two corpses must be at least 2400 mm deep 2300 mm long and 760 mm wide.

(e) Deviations from measurements of graves must be as follows:

Extra wide	: 2300 mm long
	: 840 mm wide
Extra long	: 2530 mm long
	: 760 mm wide
Rectangular small	: 2300 mm long
	: 900 mm wide
Brick-nogging	: 2600 mm long
	: 1050 mm wide

(f) The area of a rectangular grave for an adult must be 1500 mm wide by 2600 mm long.

(g) The area of a grave for an adult must be 1210 mm wide by 2430 mm long.

(h) The area of a grave for a child must be 1210 mm wide by 1520 mm long. If a coffin is too large, an adult grave must be used.

CHAPTER 4
CREMATIONS

Applications for Cremation

17.(1) Applications for cremation must be made upon terms, at times and places and upon payment of fees as determined by the Council.

(2) A person may only cremate or cause to be cremated any body within any crematorium after –

(a) Complying with applicable legislation;

(b) Obtaining approval from the Council; and

(c) Complying with the conditions as determined by the Council.

Cremations

18.(a) Where a member of the public desires to be present at a cremation, a request for such member to be present must be made to the Council, which will consider the request as it deems fit.

(b) Any corpse which contains a cardiac pacemaker or radio-active implant of any kind or any other material which may result in an explosion or harmful emissions when incinerated may not be cremated unless it is removed.

(c) A crematorium must be fitted with equipment in order to prevent the dispersion of ash into the atmosphere

Coffins for cremation

19.(a) When cremated a corpse must be contained within a coffin.

(b) A coffin in which a corpse is cremated must be made of wood or other non-toxic material.

(c) Non-toxic varnish, paint or glue must be utilised in the manufacturing of the coffin in which a corpse is cremated.

(d) When cremated, a coffin may only contain combustible material, including clothing, shoes and other adornments of whatsoever nature, and the Council will have the right to remove non-combustible material from the coffin.

(e) Before a cremation is permitted to take place, the applicant or his or her representative will be obliged to produce a certificate certifying that the coffin complies with subsections (b) and (c) above.

(f) No corpse may be removed from any coffin for the purpose of incineration and a coffin may not be opened in the crematorium except with the permission of the Council, which must not be unreasonably withheld.

CHAPTER 5
PRIVATE CEMETERIES AND CREMATORIA

Duties of proprietors

20.(1) The proprietor of a private cemetery or crematoria for which the consent of the Council has been obtained must –

(a) comply with –

(i) any special conditions which may be determined by the Council in respect of private cemeteries and crematoria from time to time; and

(ii) the relevant provisions of this By-law and any other applicable law;

(b) maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;

(c) allow an authorised official of the Council to enter or inspect the cemetery or crematoria and all records kept in connection therewith; and

(d) appoint a suitably qualified person to manage the cemetery and to keep the records.

(2) The owner of a private cemetery, a private crematorium, or private property may on reasonable grounds, refuse permission to have a corpse interred or cremated in the cemetery or crematorium.

CHAPTER 6
SECTIONS IN A CEMETERY

The Council may establish sections in a cemetery

21. The Council may establish one or more of the following sections in its cemeteries:

(a) Monumental section

(b) Berm section

(c) Landscape section

(d) Memorial square

(e) Garden of remembrance

(f) Crematoria or corpse reduction facility

(g) Mausolea

(h) Surface grave units

(i) Denominational section

Monumental section

22.(a) A monumental section is a grave section in a cemetery set aside for the erection of memorial work at graves.

(b) The Council may in the course of time level all graves and plant grass thereon.

(c) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.

Berm section

23.(a) A berm section is a grave section in a cemetery set aside by the Council where memorial work is restricted to a headstone only, with ground cover planted over the extent of the grave.

(b) Headstones may contain two receptacles for flowers.

(c) Headstones must be erected on the concrete plinth supplied by the Council or on a suitable foundation to support the headstone, which must be embedded horizontally at ground level in the position indicated by the Council.

(d) No kerb or frame demarcating the grave or a slab covering is permitted.

(e) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.

Landscape section

24.(a) A landscape section is a grave section in a cemetery set aside by the Council where memorial work is restricted to a horizontally placed plaque or memorial slab only, with ground cover planted over the extent of the grave.

(b) No object other than the memorial plaque or slab may be placed on the grave.

(c) No kerb or frame demarcating the grave or slab covering is permitted.

(d) Flowers, foliage, wreaths or any adornment may be placed upon or beside the plaque or memorial slab, except in the case of graves that have not yet been levelled.

Gardens of remembrance

25.(a) A garden of remembrance is a section in a cemetery set aside for the erection of memorials to an individual, a group of people or an event, memorial walls, niche walls, the establishment of ash graves and the scattering of ashes.

(b) Flowers and wreaths may be placed only on the places provided therefore.

Crematorium and corpse reduction facility

26. The Council may set aside sections in a cemetery for the establishment of a crematorium and a corpse reduction facility

Memorial Square

27.(a) A memorial square is a grave section in a cemetery set aside for the interment and memorialisation of heroes and celebrated persons

(b) No person may be interred or commemorated in this section unless the status of a hero or celebrated person has been confirmed by the Council in writing.

Mausolea

28. A mausolea section may be established in a cemetery in which corpses are interred in mausolea.

Surface grave units

29. A surface grave unit may be established in a cemetery in which corpses are interred in surface grave units.

Denominational section

30.(a) The Council may set aside denominational sections in its cemeteries for the exclusive use of a specific faith, religious or cultural group where the burial requirements of such group dictates a physical arrangement of graves with reference to orientation, density and depth other than be the norm.

(b) The allocation of such sections may not be to the detriment of the burial requirements of the general residents.

CHAPTER 7
ERECTION AND MAINTENANCE OF MEMORIAL WORK AND CARE OF GRAVES

Consent of the Council

31.(1) No person may bring any memorial into a cemetery or erect, alter, paint, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Council and payment of the required fee, other than for the purpose of routine maintenance work.

(2) Before erecting memorial work an application must be submitted to the Council for approval at least five working days prior to the proposed erection, such an application must include –

(a) a plan which gives an indication of its measurements and its position;

(b) specification of the material which the memorial work is to be constructed; and

(c) the wording of the epitaph.

(3) The Council may approve the application referred to in subsection (2) with or without conditions as it deems necessary, and may refuse the application if it does not comply with the requirements in respect of memorial work as determined by the Council.

(4) No person may bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless –

(a) the provisions of subsection (1) to (3) have been complied with; and

(b) proof of payment in respect of the work to be carried out has been submitted.

(5) The consent for the proposed work is valid only for a period of twelve months from the date on which it is approved, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.

Requirements for the erection of memorial work

32. A person erecting a memorial work must comply with the following –

(a) proceedings must be of such a nature that no damage may be caused to any structure or offence given;

(b) with the applicants permission, the name of the maker or manufacturer can be displayed on a memorial work, but no address or any particulars may be added thereto, and the space utilised for it may not be larger that 40 x 100 mm;

(c) all unused material after the completion of the work must be removed and the adjoining areas must be left neat and clean; and

(d) any damage caused must be repaired at the cost of the person responsible for such damage and should the responsible person fail to affect such repair, after due notice, the Council may undertake the remedial work at the cost of the person who erected the memorial work.

Position, movement and removal of memorial work

33.(a) No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated in terms of an approved plan.

(b) Should the condition referred to in subsection (a), the Council may on written notice to such person, alter the position of the memorial work and recover the costs of the alteration from the person who erected the remedial work.

(c) In the instance where a memorial work has originally been placed in a certain position with the express consent of the Council, any alteration of the position in terms of the provisions of this section executed at the expense of the Council.

Work and maintenance in respect of memorial work

34.(a) Any person engaged in any work, must effect such work under the supervision of the Council.

(b) Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Council may serve a notice of compliance on such a person.

(c) The Council may, after due notice, at any time change or alter the position of a memorial work in a cemetery placed without the express consent of the Council and recover the cost thereof from the owner of the memorial work.

(d) A memorial work placed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such a manner that any of the provisions in this By-law are contravened, may be removed by the Council at the cost of the person responsible, after due notice, without payment of any compensation.

Damaging of a memorial work

35. The Council is not responsible for any damage that may occur to a memorial work that is not due to the negligence of the authorised officials of the Council.

Vehicle and tools

36.(a) Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances comply with the provisions of this By-law and any other applicable law, and do not block roads or pathways.

(b) No person may convey any materials, stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck which may cause damage to paths or grounds or structures of the cemetery.

Complying with the directives of the Council

37. A person carrying out work within a cemetery must in all respects comply with the directives of the Council.

Times for bringing in material and doing work

38.(a) No person may bring memorial work or material in connection therewith, or do any work other than the dismantling of memorial work for the interment purposes within a cemetery except during the times determined by the Council.

(b) No person may engage in work which may disturb or intrude upon a funeral for the duration of the funeral.

Subsiding soil conditions

39. The Council is not liable for damage to memorial work resulting from any subsiding soil.

Production of written consent

40.(1) A person charged with performing work or on his or her way to or from work within a cemetery must upon demand from the Council or its authorised official, produce the written consent issued to him or her.

CHAPTER 8

RE - OPENING OF GRAVES AND EXHUMATIONS

Application for exhumation

41. An application for exhumation must be submitted to the Council and must include the following –

(a) the completed application form;

(b) a copy of the death certificate; and

(c) a letter or affidavit from the next of kin of the deceased consenting to the exhumation.

Conditions of exhumations

42.(1) No person may exhume or cause to be exhumed a body without the written consent of the –

(a) Minister;

(b) the Council;

(c) the provincial Department of Health;

(d) the Administrator of cemeteries;

(e) the Council's Medical Officer of Health or

(f) by an order of a court having jurisdiction over such matters.

(2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.

(3) A member of the South African Police Services must always be present when an exhumation is being conducted.

(4) The written consent referred to in subsection (1) must be submitted to the environmental health practitioner at least five working days prior to the approved exhumation date.

(5) The environmental health practitioner may impose conditions with respect to the exhumation and the exhumation may only proceed when such conditions have complied with.

(4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.

(5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;

(6)(a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and
(b) The authority referred to in paragraph (1)(d) of this Section and the prescribed fee must accompany such notice.

(7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.

(8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.

(9) The remains of the deceased person must, pending reburial or cremation be kept at a registered funeral undertakers premises.

(11) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

(12) The South African Police Services must –
(a) if there is proof of illegal burial immediately exhume the body; and
(b) take it to a government mortuary for investigation.

(13) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.

(14) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

Exhumation and reburial

43.(1) The Council may, if a body has been buried in contravention of this By-law, cause the body to be exhumed and re-buried in another grave.

(2) The relatives of the deceased must be –

(a) notified of the intended exhumation and re-burial; and

(b) allowed to attend.

Screening of exhumation

44. A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.

Emergency exhumations

45. No body may be exhumed less than eighteen months after burial, other than in compliance with a court order.

Reduction burial

46.(1) The Council may, after a lapse of a minimum period of 10 years after the most recent burial in a grave, exhume the remains of a corpse for the purposes of the reduction of the corpse and rebury the remains of that corpse in the same grave, in a smaller coffin, or at a greater depth subject to the conditions that –

(a) any holders of private rights in that grave and the next of kin or closest surviving relative of the deceased have given their consent.

(b) in respect of any grave where no private rights have been acquired, where the next of kin, or the closest surviving relative have given their consent

CHAPTER 9

THE ADMINISTRATION AND CONTROL OF CEMETERIES

Appointment of an officer in charge

47.(a) The Council must appoint an officer in charge for each cemetery to control and administer the cemetery

(b) The officer in charge must take into account the customs of the deceased person and the persons responsible for the interment and must accommodate these within the framework of this By-law.

Children

48. No child under 12 years of age may enter a cemetery unless he or she is under the supervision and care of a responsible adult person.

Keeping to path

49. All persons are required to keep to the paths indicated in a cemetery, where such paths exist.

Prohibited conduct within a cemetery

50.(1) No person may –

(a) commit or cause a nuisance within a cemetery

(b) ride an animal , cycle, or skateboard for recreational purposes or partake in any other form of recreational or sporting activity within any cemetery, unless otherwise determined by the Council.

(c) with the exception of a blind person, bring into or allow an animal to wander inside any cemetery, provided that dogs on leashes will be permitted unless otherwise determined by the Council;

(d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the Council;

(e) hold or take part in a protest in any cemetery

(f) interrupt or disrupt –

(i) the performance of duties of an authorised official or workman employed by the Council

(ii) a funeral undertaken in a cemetery

(g) obstruct, resist or oppose the officer in charge on the course of his or her duty, or refuse to comply with an order or request which the officer in charge is entitled under this By-law to make;

(h) mark, draw, scribble, paint or place an object on a wall, building, fence, gate, memorial work or other erection within any cemetery other than for official purposes;
(i) use water for any form of gardening without the permission of the Council;
(j) leave any rubbish, soil, stone, debris, garbage or litter within any cemetery;
(k) in any way damage, deface or desecrate any part of a cemetery or anything therein;
(l) enter or leave a cemetery, except by an entrance or exit provided for these purposes;
(m) solicit or conduct any business, order, exhibit, distribute or leave a tract, business card or advertisement within a cemetery, other than in the area designated for such purposes by the Council and with the prior permission of the Council;
(n) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
(o) enter an office, building or fenced place in a cemetery except in connection with lawful business;
(p) expose a corpse or part thereof in a cemetery;
(q) exceed the prescribed limit of 20 km per hour in a cemetery;
(r) use any cemetery as thoroughfare
(s) allow or cause any animal to enter any cemetery with the exception of an officer in charge, living on site and who is keeping pets with the prior approval of the Council
(t) bring any alcohol into or consume any alcohol in a cemetery or discharge any firearms in a cemetery except in the case of the police, state or military funeral;
(u) make or ignite a fire in a cemetery without the prior permission of the Council;
(v) hunt or harm any animals or birds;
(w) graze domestic animals in unused areas amongst the graves or;
(x) bring into a cemetery excavation equipment, saws or metal detecting equipment, other than with the permission of the Council; and
(y) conduct driving lessons in a cemetery.

(2) An authorised official of the Council working in any cemetery may not enter into an agreement with a member of the public for the purpose of undertaking work in a cemetery on behalf of such a person, such as maintaining or digging a grave or any other related work.

(3) The Council may impound an animal found in any cemetery.

(4) Gazebos larger than two metres by three metres may not be erected in a cemetery without the prior permission of the Council.

CHAPTER 10
USE AND CLOSURE OF DISUSED CEMETERIES

Use and closure of disused cemeteries

51.(a) Despite any provision of this By-law, and subject to the provisions of subsection (f) the Council may use any cemetery or portion thereof, of which it is the cemetery authority, which has been disused for a period of not less than 20 years for such a purpose as will not desecrate the ground and any human remains or any memorials in such a cemetery.

(b) Despite any provision of this By-law, and subject to the provisions of subsection (f), the Council may close any cemetery or any part thereof, of which it is the cemetery authority, which has been disused for a period of not less than 20 years, or if good closure for such closure exists.

(c) Despite any provision in this By-law, and subject to the provisions of subsection (f), the Council may use a cemetery or portion thereof, which has been used for another purpose in terms of subsection (a), or reopen any cemetery or portion thereof, which has been closed in terms of subsection (b).

(d) The Council may, subject to the provisions of subsection (f), remove to another cemetery the human remains, memorials and other structures from a cemetery of which it is the cemetery authority, which has been closed or disused for a period of not less than 20 years and which has been approved for other usage by the competent authority or authorities as the case may be.

(e) All rights possessed or enjoyed by any person in respect of a cemetery contemplated in subsection (a) and (b) will thereupon cease.

(f) Before acting in terms of subsection (a), (b), (c) and (d) the Council must give notice of its intention to do so.

CHAPTER 11
MISCELLANEOUS

Injuries and damages

52.(a) A person using a cemetery do so at his own risk, and the Council accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.

(b) A person using a cemetery accepts full responsibility for any incident, damages or injuries that may be caused by or that may result from the aforementioned use of the cemetery and he or she accordingly indemnifies the Council, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by himself, his or her dependants or third parties in respect of any patrimonial loss, consequential damages, injuries or personal prejudice that may be suffered or sustained in connection with or resulting from such a person's use of a cemetery. The aforementioned indemnity also applies to injuries sustained by employees of the Council while on duty at the cemetery, as well as damages to Council property at the cemetery.

Fire-arms and traditional weapons

53. No fire-arms and traditional weapons may be allowed in a cemetery.

Complaints

54. Any person wishing to lodge a complaint must lodge such complaint, in writing with the Director.

Charges

55. The charges set forth in the tariff in respect of the various items therein contained, must be paid to the Council in advance.

Rights on Graves

56. No person may acquire any right to or interest in any ground or grave in any cemetery.

Consents, Notices and Orders

57. Any written consent, notice or other order issued by the Council in terms of this By-law, with the exception of consent by the Director or any officer authorised by him and will be prima force evidence of the contents of such a signed consent, notice or other order.

Notice of compliance and representations

58.(1) A notice of compliance must state –

(a) the name, residential and postal of the address of the person;

(b) the nature of the state of disrepair;

(c) sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;

(d) that the person must, within a specific time period, take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;

(e) that failure to comply with the requirements of the notice within the period contemplated in subsection (d) is an offence; and

(f) that written representations, as contemplated in subsection (3) may within the time period stipulated in subsection (d) , be made to the Council at a specified place.

(2) The Council, when considering any measure or time period envisaged in subsections (1)(d) and (e) must have regard to –

(a) the principles and objectives of this By-law;

(b) the cause and state of disrepair;

(c) any measures proposed by the person by the person on whom measures are to be imposed; and

(d) any other relevant factors.

(3) A person may within the time period contemplated in subsection (1)(f) make representations, in the form of a sworn statement or affirmation to the Council at the place specified in the notice.

(4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.

(5) The Council must consider the representations and any response thereto by an authorised official or any other person.

(6) The Council may, on its own volition, conduct any further investigations to verify the facts necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and Council must also consider the further response.

(7) The Council must, after consideration of the representations and responses, make an order in writing and serve a copy of it on the person.

(8) The order must –

(a) set out the findings of the Council;

(b) confirm, alter or set aside in whole or in part, the notice of compliance; and

(c) specify a period within which the person must comply with the order made by the Council.

(9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the Council will inform the person that he or she must discharge the obligations set out in the notice within the time specified therein.

(10) Where there has been no compliance with the requirements of the notice within the time specified therein, the Council may take steps as it deems necessary to repair the monumental work and the cost thereof must be paid to the Council by such person.

Religious Ceremonies

59.(a) The members of any religious denomination may conduct religious ceremonies in connection with any interment of memorial service subject to the control and by-laws of the Council.

(b) No animal may be slaughtered on the premises of the cemetery regardless of any religious ceremony which may require an animal to be slaughtered.

Hearses and vehicles at Cemeteries

60.(a) No person may cause any hearse or vehicle, as defined by the National Road Traffic Act, 1996 (Act No. 93 of 1996) while within a cemetery to depart from the road.

(b) Every hearse or vehicle must leave the cemetery by the route indicated by the caretaker.

(c) The cemetery is a public place and all laws applicable to the driving of a vehicle and the use of a public road will be applicable inside the premises of the cemetery.

Exposure of Bodies

61. No person may convey a dead body, which is not covered, or whose any such body or any part thereof in any street, cemetery or public place.

Instruction of Caretaker

62. Every person taking part in any funeral procession or ceremony must comply with the directions of the caretaker while such person is within a cemetery.

Music Inside Cemetery

63. Only sacred singing will be allowed in any cemetery, except in the case of police and military funerals.

Interments Attended by large Numbers of People

64. In any case where it is probable that an unusually large number of persons will be present at any interment, the person giving notice of such interment must notify the caretaker the day before the funeral.

CHAPTER 12
UNDERTAKERS

Preparation of corpses

65.(a) Corpses to be prepared only at funeral undertaker's premises in respect of which a certificate of competence has been issued

(b) Unless otherwise provided for in this bylaw, no person may prepare and/or store any corpse except on a funeral undertaker's premises in respect of which a certificate of competence has been issued and is in effect.

Application for the issue or transfer of a certificate of competence

66.(1)(a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises will, not less than 21 days before submitting his application to the Council cause a notice of his intention to be published in English, and two other official South African languages in a newspaper that circulates in the area in which such premises will be or is situated.

(b) Such notice must contain information to the effect that an application for the issue of a certificate of competence in terms of this By-law is to be submitted to the Council and that any person who wishes to object to such use may lodge his or her objection,

together with substantiated representations, with the Council in writing within 21 days of the date of publication of such notice.

(2) An application for the issue of a certificate of competence must be made to the Council in writing on the prescribed form and must be accompanied by –

(a) a description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.

(b) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system

(c) a plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and the purpose for which such premises are being utilized or are to be utilized;

(d) Particulars of any person other than the applicant or any of his or her employees who prepares or will prepare corpses on the premises;

(e) a contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown; and

(f) a cleansing and disinfection programme.

(g) details of registered health care waste remover, transporter and disposer

(3) The Council, when considering issuing a certificate of competence, may request from the applicant or any other person any such further information required.

(4) The Council will not issue or transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by an environmental health practitioner appointed by the Council and the environmental health practitioner's report on such inspection, including recommendation on such issue or transfer, is in possession of the Council.

Issue or transfer of certificate of competence

67. When the Council is satisfied that the premises concerned –

(a) complies with all requirements laid down in this By-law and any other applicable legislation;

(b) are in all respects suitable for the preparation of corpses; and

(c) will not be offensive to any occupants of premises in the immediate vicinity of such premises, it will, on conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the

applicant in such form as it may determine or will, by endorsement, transfer an existing certificate of competence to a new holder, as the case may be.

Validity and transfer of certificate of competence

68. A certificate of competence, excluding a provisional certificate of competence, is, on endorsement by the Council, be transferable from one holder to a new holder and such certificate is, if so endorsed, be valid from the date of which it was issued until it is revoked or suspended in terms of this bylaw.

Issue of provisional certificate of competence

69.(a) Notwithstanding the fact that the Council is not satisfied as contemplated in section 4 with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, the Council may, in the case of existing funeral undertaker's premises and subject to such conditions as Council may determine, issue a provisional certificate of competence in respect of such premises.

(b) A certificate referred to in subsection (a) will only be issued if the Council is satisfied that the use of such funeral undertaker's premises does not and will not create a nuisance, and will be issued for a maximum period of six months to enable the applicant to alter such premises in order to comply with the provisions of this By-law.

(c) If, after the period referred to in subsection (b), the premises does not comply with the provisions of this By-law, the Council may revoke the provisional certificate of competence.

Duties of holder

70.(a) The holder must immediately inform the Council in writing if there are any changes in the particulars or circumstances supplied to the Council in the application for certificate of competence.

(b) A funeral undertaker must not dispose of a body in any place or premises other than a cemetery or crematoria registered in terms of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. of 1996).

(c) The holder must comply with the provisions of this By-law, applicable legislation and any conditions imposed by the Council.

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Suspension or revocation of a certificate of competence or provisional certificate of competence

71.(1) If the Council is of the opinion, on the strength of an inspection report and/or recommendation by a medical officer of health or environmental health practitioner, that there are reasonable grounds to suspect that –

(a) the funeral undertaker's premises concerned are utilized in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created on the funeral undertaker's premises concerned; or

(b) the premises concerned are utilized in contravention of the provisions of the Health Act, 2003 (Act No. 61 of 2003), this bylaw or other applicable legislation or any conditions imposed by the certificate of competence or provisional certificate of competence, the Council may in its discretion –

(i) revoke certificate of competence or provisional certificate of competent concerned;

(ii) suspend the certificate of competence or provisional certificate of competence concerned for such period as the Council may determine, to enable the holder to comply with the applicable legislation and/or conditions imposed; provided that if the holder fails to comply within the period stipulated in the notice of suspension, the Council may revoke the relevant certificate without further notice.

(2) A notice issued by the Council in terms of section 71(b)(ii) must be issued in writing, and then served on the holder.

(3) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this bylaw will have the effect that, from the date of the notice of suspension or revocation –

(a) no preparation of any corpse must be performed on the premises concerned;

(b) no corpse must be received for preparation on the premises concerned; and

(c) no corpse must be preserved on the premises concerned and every corpse must immediately be removed to a mortuary under the control of the State, a provincial administration or the Councillor any other funeral undertaker's premises, provided that this bylaw will not be applicable and the said notice must not be so construed as to restrict any other business activity relating to the funeral undertaking profession including the sale of coffins and policies.

(4) Where the Council is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this bylaw was corrected after such revocation, it may, on

written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

Requirements relating to funeral undertaker's premises

72.(1) Provision for the following must be made on a funeral undertaker's premises -

(a) a preparation room for the preparation of corpse;

(b) change-rooms, separate for each sex, for the use of the employees employed at such premises;

(c) refrigeration facilities for the refrigeration of corpses;

(d) facilities for washing and cleaning of utensils and equipment inside the building;

(e) facilities for cleaning of vehicles on the premises; and

(f) facilities for loading and unloading corpses as contemplated in clause 72(6).

(2) No room on a funeral undertaker's premises must be used for any purpose other than the purpose for which it is intended.

(3) The preparation room -

(a) must be so designed as to –

(i) be separate from all other rooms on the premises and so as not to be directly accessible from or in view of any office or salesroom: Provided that, where a preparation room on existing funeral undertaker's premises is so situated, the entrance thereto must be so concealed that the interior of the preparation room is completely out of sight of any person in any adjoining office or salesroom;

(ii) enable obnoxious odours and vapours to be adequately treated; and

(iii) be sufficiently ventilated and lighted.

(b) must have a floor-covering an area of not less than 6 m^2 for the first table of the kind referred to in section 72(3)(e) and 8m^2 for each additional table; constructed of concrete or similar waterproof material with a smooth non-slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by the Council; and which, if it is replaced or laid after the date of commencement of this By-law, will be provided with half round filling where it meets the walls -

(i) must have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other suitable, smooth, waterproof, light-coloured and washable material;

(ii) must be provided with a ceiling not less than 2,4 m above the floor level, which ceiling must be dust proof and painted with a light-coloured washable paint;

(iii) must contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;

(iv) must contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;

(v) must have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces; and

(vi) must have door openings that are not less than 0, 82 m in width and 2, 00 m in height so that corpses can be taken into and out of such room without any difficulty.

(4) Each change-room must contain at least the following –

(a) one hand-basin with hot and cold running water for every six employees or part thereof;

(b) disposable towels, soap, nailbrushes and disinfectant; and

(c) not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal must be permissible for every 30 men or part thereof.

(5) Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses, must be installed in or close proximity of such preparation room and –

(a) where refrigerators are used, it must be constructed of a material that does not absorb moisture, must be provided with removable trays and must be so designed as to drain into an approved drainage system and be easy to clean;

(b) be of such nature that the surface temperature of any corpse must be no higher than 5^0C during preparation. An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.

(c) In instances where cold chambers are used, it must comply with sections 10(3)(a)(ii), (b)(ii), (c), (d) and (h) and must be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean; and

(d) Corpses are not be to be stored on top of each other and must be stored individually on the trays or shelves.

(6) The cleansing, loading and unloading facilities must consist of a paved area, screened from public view, with a drainage system into a gulley connected to a sewer system approved by the Council.

(7) The loading and unloading of corpses and the cleansing of vehicles must not take place anywhere except in the area contemplated in section 72(6).

(8) The funeral undertaker's premises must be rodent-proof.

Conveyance of Mortal Remains

73. No person may convey any mortal remains –

(a) unless the mortal remains have been sealed in an airtight container and placed in a non-transparent, sturdy, sealed coffin; or

(b) no coffin container in which the mortal remains have been placed may be conveyed unless –

(i) the outer surface of such coffin or container is free from any leakages or any other secretion matter emanating from such mortal remains; and

(ii) offensive odours are absent.

Hygiene

74.(1) All health care waste generated must be stored, removed, transported and disposed of in accordance with Council's Environmental Health Bylaws.

(2) Every holder of a certificate of competence relating to funeral undertaker's premises must–

(a) provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the preparation of

corpses or post-mortems, and each such employee or other person must, at all times when so involved, wear such clothing;

(b) keep such premises free of pests and insects at all times;

(c) clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared;

(d) wash and disinfect all equipment used for the preparation of corpses immediately after use;

(e) wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis;

(f) keep such premises clean and tidy at all times; and

(g) if a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

CHAPTER 13
APPEAL, EXEMPTIONS AND OFFENCES

Appeal

75. A person whose rights are affected by a decision delegated by the Council may appeal against that decision by given written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems, 2000 (Act No. 32 of 2000) to the Council within 21 days of the date of the notification of the decision.

Exemptions

76.(1) Any person may by means of a written application, in which the reasons are given in full, apply to the Council for exemption from any provision of this By-law.

(2) The Council may –

(a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;

(b) alter or cancel any exemption or condition in an exemption; or

(c) refuse to grant an exemption.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Council under subsection (2). If any activity is

commenced with before such undertaking has been submitted to the Council, the exemption granted will be of no force of effect.

(4) If any condition of an exemption is not complied with, the exemption lapses immediately.

(5) The failure to comply with a condition of an exemption in terms of subsection (2) constitutes an offence.

Offences and penalties

77.(1) Any person –

(a) contravening or failing to comply with any of the provisions of this By-law;

(b) makes a false statement knowing it to be false or deliberately furnishes misleading information to an authorised official or employee of or for the council;

(c) threatens, resist, interferes with or obstructs an authorised officer or employee for or of the council in the performance of their duties or functions under this By-law,

will be guilty of an offence and will upon conviction by a court be labile to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act. 1944 (Act No 32 of 1944).

(2) Any expense incurred by the Council as a result of a contravention of this By-law or in the doing of anything which a person was directed to do under this By-law and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

CHAPTER 14

REPEAL OF BY-LAWS

Repeal of existing By-laws

78. The Council's existing Cemeteries, Crematoria and Undertakers By-laws are hereby repealed.

Short title and commencement

79. This By-law will be called the _____ Municipality Cemetery, Crematoria and Undertakers By-Law 20___.

No. 13 **19 Maart 2015**

DEPARTEMENT VAN KO-OPERATIEWE REGERING EN TRADISIONELE SAKE

KENNISGEWING KRAGTENS ARTIKEL 14(2)(a)(i) VAN DIE PLAASLIKE BESTUUR: MUNISIPAAL STELSELS WET, 2000: PUBLIKASIE VAN STANDAARD STADSVERORDENING KONSEPWET

Ek, Nomusa Dube, in my kapasiteit as Lid van die Kwa Zulu-Natal Uitvoerende Raad verantwoordelik van plaaslike bestuur, en onder mag berus by my deur artikel 14(2)(a)(i) van die Plaaslike Bestuur: Munisipaal Stelsels Wet, 2000 (Wet Nr. 32 van 2000), na die Minister van Ko-operatiewe Regering en Tradisionele Sake en Georganiseerde Plaaslike Bestuur in die Provinsie en Munisipalilteite in die Provinsie, hiermee maak die standard skets van Stadsverordening ingehou in die Opgawe hiertoe.

Gegewe onder my hand te ---------- op dié ---------- dag van Julie, Twee Duisend en Veertien.

Mevrou N DUBE-NCUBE, LPW

Lid van die Uitvoerende Raad van die Provinsie van Kwa Zulu-Natal verantwoordelik vir Plaaslike Bestuur

OPGAWE

1. Reëls en bevels
2. Skutkrale
3. Krediet Opsig
4. Straat Handelend
5. Begrafplase, Krematoriums en Lykbesorgers

REËLS EN BEVELS VAN MUNISIPAAL RADE EN KOMITEES VAN DIE RAAD SE STADSVERORDENING

Daar word bepaal deur die Raad van die ----------Munisipa liteit, kragtens artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 gelees saam met artikel 11(3)(m) van die Plaaslike Beheer: Munisipaal Stelsels Wet, 2000 (Wet Nr. 32 van 2000), soos volg:

RANGSKIKKING VAN ARTIKELS

Artikel

1. Bepalings
2. Applikasie van dié Stadsverordening
3. Interpretasie van die Stadsverordening
4. Raad se vergaderings
5. Toelating van publiek
6. Kennis om 'n gewone raad se vergadering te bywoon
7. Spesiale vergaderings
8. Betokening van kennisgewings en agenda
9. Oninontvangs van kennisgewings
10. Kworum
11. Kansellasie en verdaging by afwesigheid van kworum
12. Bywoning
13. Verlof tot afwesigheid
14. Nie-bywoning
15. Verdaagde vergadering
16. Voorsettingsvergadering
17. Speaker en voorsitters van vergaderings
18. Notules

19. Orde van besigheid
20. Bevestiging van vorige vergadering se notules
21. Deputasies
22. Verslae
23. Mosies
24. Vrae
25. Inligtingverskaffing aan raadslede
26. Algemene sake van dringende geaardheid
27. Interpretasie
28. In-komitee
29. Beslissing deur stemreg
30. Stemregsmetode
31. Afgeskeie stems
32. Herroeping van raad se beslisthede
33. Herroeping van komitee se beslisthede
34. Geleentheid om te praat
35. Toepaslikheid
36. Lengte van sprake
37. Raadslede sal net eenkeer praat
38. Speaker of voorsitter se superioriteit
39. Punte van orde
40. Verklaring
41. Algemene gedrag
42. Wangedrag
43. Reëlskomitee
44. Eie reëls
45. Die voorsitter
46. Bekendmaking van geldelikke belang
47. Breking
48. Sanksie
49. Opskorting van 'n reel of orde
50. Aanneming van Stadsverordening
51. Opheffing van bestaande Stadsverordening
52. Kort titel en inwerkingtreding

HOOFSTUK 1

BEPALINGS

Bepalings

1. In dié Stadsverordening, tensy dit strydig is met konteks –

"Stadsverordening" beteken wetgewing gepaseer deur die raad van 'n munisipaliteit;

"voorsitter" beteken 'n raadslid verkies in 'n vaste of waarnemende hoedanigheid om te beheer en bestuur enige vergadering van 'n komitee van die raad;

"Raad" beteken –

(a) Die ---------- Munisipaliteit, wat sy wetgewende en uitvoerende mag oefen deurgaande munisipale raad;
(b) Sy regsopvolger;
(c) 'n struktuur of persoon wat gedelegeerde mag oefen of 'n las uitvoer, waar enige mag in die' Stadsverordening gedelegeerd of subgedelegeerd, of 'n las gegee, soos in artikel 59 van die Stelsels Wet; en
(d) 'n Diensverskaffer wat 'n verantwoordelikheid onder die' Stadsverordening vervul.

"Gedradskode" beteken Gedragskode vir raadslede ingesluit in die Opgawe Nommer 1 aan die Stelsels Wet.

"kontak details" beteken woonadres, posadres, elektroniese posadres, telefoon nommer, faksimilee nommer en sellulernommer;

"kalenderdag" beteken 'n vier-en-twintig ure dag soos in die kalender aangedui;

"raadslid" beteken 'n lid van 'n munisipale raad;

"dag" beteken enige ordinêre dag buiten Saterdag, Sondag of Openbarevakansie, mits dit vermeld word;

"deputasie" beteken 'n persoon of 'n groep mense wat persoonlik voor die raad of raadskomitee wil verskyn om die raad of raadskomitee aan te spreek.

"uitvoerende komitee" beteken die raadsuitvoerende komitee gestig ingevolge artikel 43 van die Strukture Wet.

"in-komitee" beteken enige raad of komitee se vergadering waar die publiek en of raadsamptenare is uitgesluit;

"geintegreerde ontwikkelingsbeplanning" beteken 'n enkele, insluitend en strategiese plan vir ontwikkeling van die munisipaliteit en toepaslik ingevolge Hoofstuk 5 van die Stelselswet;

"burgermeester" beteken 'n raadslid verkies as burgermeester ingevolge artikel 48 van die Strukture Wet.

"vergadering" beteken 'n raad se vergadering of enige van sy komitees;

"munisipaliteit" beteken die ---------- Munisipaliteit gestig ingevolge artikel 155(6) van die Grondwet, 1996, en gestig deur en onder artikels 11 en 12 van die Strukture Wet, gelees saam met artikels 3, 4 en 5 van die Kwa Zulu-Natal Beslistheid tipes van Munisipaal Wet, 2000 (Wet Nr. 7 van 2000);

"munisipaal aanwins" beteken enige roerende, onroerende, tasbare, ontasbare, voelbare en onvoelbare eiendom waaroor die munisipaliteit die titel behou;

"munisipaal bestuurder" beteken die persoon aangestel as munisipaal bestuurder ingevolge artikel 54A van die Stelselswet en ook behels enige persoon wat in waarnemende hoedanigheid aangestel word.

"kennisgewing van mosie" beteken die instrument waardeur raadslede besprekingspunte op die agenda kan bring ingevolge artikel 23 van die Stadsverordening.

"Vredesbeampte" beteken enige persoon gedeklaleer as Vredesbeampte ingevolge Strafproses Wet Nr 51 van 1977;

"punt van orde" beteken aantoning van enige afwyking van alles in stryd met die gedrag of enige onreelmatigheid gedurende die verrigtinge van 'n vergadering;

"gebiede" beteken die raadskamer en alle plekke waar vergaderings gehou word, die areas waar toegang aan die publiek toegelaat word en al ander vergaderplekke waar vergaderings van die raad of 'n komitee gehou word;

"publiek" behels die media en beteken enige persoon woonagtig binne die Republiek van Suid-Afrika.

"diensaflewering ooreenstemming" beteken 'n ooreenstemming tussen 'n institusie of persoon gemeld in artikel 76(b) van Stelselswet waaredeur munisipaal dienste word deur daardie institusie of persoon verskaf, of vir homself of namens die munisipaliteit;

"Speaker" beteken die voorsitter van die raad verkies ingevolge artikel 36 van die Strukture Wet en dit sluit in enige waarnemende Speaker verkies om funksies van die Speaker uit te voer;

"Strukture Wet" beteken die Plaaslike Bestuur; Strukture Wet, 1998 (Wet Nr. 117 van 1998);

"Stelselswet" beteken die Plaaslike Bestuur; Munisipaal Stelselswet, 2000 (Wet Nr. 32 van 2000);

"tabelleer" beteken om 'n verslag of enige amptelike document aan die raad of raadskomitee voor te lê in 'n vergadering van die raad of raadskomitee vir oordenking waar kennisgewing gegee gewees kragtens dié Stadsverordening.

HOOFSTUK 2

APPLIKASIE EN INTERPRETASIE VAN REËLS EN ORDES

Applikasie van dié Stadsverordening

2. Dié Stadsverordening beheer die verrigtinge van die raad en raadskomitees wat bind en deur –

(a) Al lede;
(b) Enige lid van die publiek teenwoordig in die gebied;
(c) Enige deputasie wat die raad of raadskomitee aanspreek; en
(d) Enige munisipaal amptenaar – nagekom moet word.

Interpretasie van dié Stadsverordening

3(a) Enige interpretasie van dié Stadsverordening moet gedoen word met betrekking tot die oppermatigheid van die Grondwet, nasionale, provinsiale en munisipale wetgewing, die regsreël en die reëls van natuurlike geregtigheid.

(b) Die uitwysing van die Speaker of voorsitter met betrekking tot die interpretasie van dié Stadsverordening op 'n vergadering van die raad of raadskomitee sal, onderworpe artikels 3(e) en 3(f), beslissend en verpligtend wees.

(c) Die interpretasie en uitwysing van die Speaker of voorsitter op enige van dié Stadsverordening moet in notules van raad of raadskomitee se vergadering neergeskryf word.

(d) Die munisipaal bestuurder moet 'n register van uitwysings en regsadvies bewaar.

(e) Enige raadslid mag 'n skriftelike aansoek doen aan die munispaal bestuurder, binne vyf dae na die uitwysing gedoen word ingevolge artikel 3(b), om klaarheid op interpretasie en uitwysing te behaal en rapporteur aan die raad of raadskomitee.

(f) Die raad of raadskomitee mag na oordenking van die verslag ingevolge artikel 3(e) bevestig, amendeer of substitueer die uitwysing van die Speaker of voorsitter, onderworpe enige regte wat 'n derdemannetjie mog aangegroei as gevolg van die uitwysing en al beslissings wat ander mense se regte bewerk moet skriftelik wees en redes vir sulke beslissings moet neergeskryf word.

HOOFSTUK 3

HERHALENDHEID, TOELATING VAN PUBLIEK EN KENNISGEWING VAN VERGADERINGS

Raad se vergaderings

4(a) Die raad moet 'n gewone raadsvergadering nie minder as eenkeer elke drie maandeliks hou nie.

(b) Die Speaker moet al raadsvergaderings byeenroep in ooreenstemming met artikel 4(a) en onderworpe artikel 6.

Toelating van publiek

5(1) Al vergaderings van die raad en dié van sy komitees moet aan die publiek geopen word, en die raad of raadskomitee mag nie die publiek van die vergadering uitsluit nie, tensy wanneer die raad of raadskomitee weens die aard van besigheid afgehandel word of waar die blootlêgging van enige material mag skadelik wees vir die munisipaliteit se belange, beskou as billik en geregverdig om dit te doen na eerbied gehad aan beginsels van 'n ope en demokratiese gemeenskap.

(2) Die raad of raadskomitee mag onder geen omstandighede sluit die publiek uit wanneer verkiesing of aantekening van volgende inhoue beskou word –

(a) 'n skets Stadsverordening wat in die raad getabelleer;

(b) 'n begroting wat in die raad getabelleer;

(c) die munisipaliteit se geintegreerde ontwikkelings plan, of enige plan se amendement wat in die raad getabelleer;

(d) die prestasie leiding stelsel, of enige amendement van die stelsel wat in die raad

getabeleer;

(e) die beslissing om in 'n diensaflewering ooreenstemming te tref;

(f) enige verslae op 'n belonging ingevolge staatsbeleid op reeks verskaffing hantering;

(g) die wegmaking of verkryging van munisipaal se hoof aanwins;

(h) enige ander saak wat deur wetgewing voorgeskryf.

(i) Die munisipaal bestuurder moet kennisgewing aan die publiek gee, op 'n manier deur die raad beslis, van die tyd, datum en vergaderplek van elke gewone raad of raadskomitee en enige spesiale of dringende raad of raadskomitee se vergaderings, tensy weens tyd beperking nie moontlik is om dit te doen nie.

(j) Raadslede saam met publieklede wat enige raad of komitee se vergaderings bywoon moet die deftigheid die vergadering verdien akkordeer deur om toepaslik aan te kleed kragtens Reël 41(d) en moet nie politiese kleding dra nie.

Kennisgewing om 'n gewone raadsvergadering te bywoon

6. (1) Die speaker moet raadsvergaderings altans eers elke drie maande, deurgaande 'n verskuldigde "Kennisgewing van Raadsvergadering" wat die datum, vergaderplek en tyd van die vergadering meld en moet die agenda van die voorgestelde vergadering bevat.

(2) Kennisgewing om 'n vergadering te bywoon ingevolge artikel 6(1) moet gegewe altans –

(a) vyf kalenderdae voorafgaande aan 'n gewone vergadering; en

(b) twee kalenderdae voorafgaande aan 'n spesiale vergadering.

Spesiale vergaderings

7(1) Die speaker moet 'n spesiale raadsvergadering byeenroep –

(a) Vir tersaaklike of dringende raadsbesigheid; of
(b) Op aanvraag van meerderheid van raadslede.

(2) 'n Spesiale vergadering moet ter voldoening van artikel 6(2)(b) en ingevolge artikel 7(1)(b) gehou uiterlik vier dae vanaf die datum die aansoek ontvang geword.

(3) 'n Aansoek vir die byeenroeping van 'n spesiale vergadering soos in artikel 7(1)(b) beskou, moet –

(a) geteken uiterlik vyftig persent plus een van al munisipale raadslede; en

(b) begelei deur –

(i) 'n verskuldigde getekende Kennisgewing van mosie; en

(ii) 'n geskrewe verklaring deur die raadslid wat die Kennisgewing van mosie teken waarin hy redes meld hoekom die bedoelde besigheid van die spesiale vergadering is dringend en kan nie wag vir 'n gewone raadsvergadering nie.

(c) Indien die speaker nie 'n vergadering byeenroep nie ingevolge hierdie artikel, die munisipaal bestuurder moet die sulke vergadering byeenroep en uitvoer verkiesing vir 'n waarnemende speaker ingevolge artikel 41 van die Strukture Wet.

Betekening van kennisgewings en agenda

8(1). Kennisgewing om 'n vergadering te bywoon of enige ander mededeling van die raad af, moet afgelewer word aan –

(a) 'n woonadres binne die area van ampsgebied van die munisipaliteit; of
(b) 'n e-pos adres;
(c) Faksimilee; of
(d) Deur 'n kort boodskap diens.

Onder voorbehoud dat kontak besonderhede deur elk raadslid aan die munisipaal bestuurder skriftelik verskaf moet word binne twee dae na 'n raadslid se verkiesing en daarna, telkens die raadslid 'n adres wil verander of 'n adres waar Kennisgewing om 'n vergadering te bywoon kan ontvang of enige ander amptelike mededeling van die raad af.

(2) Al dokumentasie toepaslik aan enige raad of komitee se vergadering, behalwe spesiale vergaderings byeengeroep ingevolge artikel 7, moet aan al raadslede altans vyf kalenderdae voorafgaande 'n gewone raad of komitee se vergadering en twee kalenderdae voorafgaande spesiale raad of spesiale komitee vergadering.

(3) Al raadslede moet die speaker van enige verandering van kontak besonderhede meedeel binne drie dae van sulke verandering.

(4) Onderworpe artikel 5(3) Kennisgewing om 'n vergadering te bywoon moet aan die publiekaanplakbord van die munisipaliteit vertoon.

Oninontvangs van kennisgewings

9.(a) 'n Raadslid mag aansoek doen tot ondersoek aangaande oninontvangs van Kennisgewing om 'n vergadering te bywoon.

(b) Oninontvangs van 'n Kennisgewing om 'n vergadering te bywoon sal nie die geldigheid van enige vergadering of verrigtinge van die raad of sy komitees affekteer nie.

HOOFSTUK 4

KWORUM

Kworum

10.(1)(a) Ongeag dat daar vakatures mag wees, 'n raad se kworum moet vyftig persent plus een van die total aantal van raadslede bepaald ooreenkomstig met die munisipaliteitse stigting se kennisgewing, voor 'n verkiesing op enige onderwerp.

(2)(a) Ongeag dat daar vakatures mag wees, die meerderheid van raadslede aangestel aan 'n raadskomitee moet teenwoordig wees in'n vergadering van die komitee voor 'n verkiesing op enige onderwerp.

(b) Onderworpe 'n kworum, die versuim deur enige raadslid om te kies sal nie die verrigtinge van die komitee se vergaderingo ngeldig maak nie

Kansellasie en verdaging by afwesigheid van kworum

11.(1) Geen vergadering mag plaasvind, indien daar geen kworum is vyftien minute na die tyd die vergadering moes begin het, tensy die raadslede wat teenwoordig is eenstemming saamstem om nie meer as verder vyftien minute te wag nie, waarna die vergadering gekanselleerd sal wees as daar geen kworum is nie.

(2) As die aandag van die speaker of voorsitter vestig op die aantal radslede teenwoordig gedurende die diskussie van enige item in enige raads of raadskomitee vergadering, hy of sy moet –

(a) tel die raadslede wat teenwoordig is;

(b) indien daar geen kworum is nie, die speaker of voorsitter die vergadering vir vyftien minute vir 'n kworum moet verdaag;

(c) die vergadering sal voortgaan na die verdaging indien daar 'n kworum is;

(d) maar as daar geen kworum is na die verdaging die speaker of voorsitter moet die vergadering dadelik verdaag.

(3) Wanneer die vergadering verdaag word as gevolg van daar geen kworum is nie, dit sal as 'n voortgaande vergadering binne sewe dae weer byeengeroep word.

HOOFSTUK 5

BYWONING

Bywoning

12.(1) Al raadslede moet stip op tyd en ter beskikking wees op elke vergadering van die raad of komitee waar hy of sy 'n lid is behalwe wanneer –

(a) aansoek om verlof vergun gewees ingevolge artikel 13;

(b) daardie raadslid word versoek om terug te staan ingevolge artikel 46(b); of

(c) daardie raadslid is met die toelating van die speaker of voorsitter afwesig.

(2) Elk raadslid wat enige vergadering van die raad of raadskomitee bywoon moet 'n bywonings register teken verskaf vir dieselfde doel.

(3) Die bywoningsregister moet in die munisipaal bestuurder se kantoor geliasseerd word.

(4) Enige raadslid wie met verlof tot afwesigheid getiteld ingevolge artikel 13 en nie meer sulke verlof nodig nie, is getiteld om by te woon, deelneem en verkies in die vegadering waarvan verlof tot afwesigheid vergun het en moet ook die bywoningsregister teken.

Verlof tot afwesigheid

13.(1) Verlof tot afwesigheid moet nie vergun op dié manier dat 'n aantal nodig vir 'n kworum is nie daar nie.

(2) Indien 'n raadslid –

(a) nie in staat om 'n vergadering by te woon nie na Kennisgewing gegewe gewees; of

(b) nie in staat om ter beskikking te wees; of

(c) nie op die vasgestelde tyd van die vergadering kom, hy of sy so gou as redelike moontlik voor die vergadering sal met die munisipaal bestuurder deponeer 'n skriftelike aansoek om verlof tot afwesigheid van die heel of deel van die verrigtinge van die vergadering, en die' aansoek moet redelike en te goeder trou redes verskaf waarom dit vergun sal word.

(3) Die munisipaal bestuurder moet so gou as moontlik die speaker of voorsitter van die vergadering meedeel van enige aansoek van verlof tot afwesigheid ontvang.

(4) Die speaker of voorsitter van die vergadering moet so gou as moontlik oordink die aansoek van verlof tot afwesigheid en 'of vergun 'of van die hand wys met redes en dadelik die munisipaal bestuurder van sy beslissing meedeel.

(5) Die munisipaal bestuurder moet so gou as redelike moontlik die raadslid wat aansoek gedoen het van verlof tot afwesigheid inlig van die speaker of voorsitter se beslissing.

(6) 'n Raadslid sal gemeen om afwesig te wees waar 'n aansoek van verlof tot afwesigheid nie vergun was nie en hy of sy –

(a) versuim het om die vergadering by te woon; of

(b) versuim het om ter beskikking te wees in 'n vergadering.

(7) Wanneer 'n raadslid versuim om ter beskikking te wees in 'n vergadering –

(a) sonder 'n toelating om dit te doen; of

(b) sonder 'n toelating van die speaker of voorsitter om weg te gaan voorafgaande aan die afsluiting van die vergadering,

die tyd wanneer die raadslid weggegaan het moet in die notules genoteer en daardie raadslid sal gemeen om afwesig sonder verlof gewees.

(8) Wanneer 'n raadslid laat vir die vergadering kom sonder 'n toelating om dit te doen, die tyd waarop hy gekom het en die redes waarom hy laat gekom het moet genoteer word en die raadslid mag die vergadering bywoon en teken die bywoningsregister ingevolge artikel 12(2).

(9) Verlof tot afwesigheid vir twee of meer gevolgaanduidende raads of komitee se vergaderings moet deur die raad of toepaslike komitee gesanksioneer.

Nie-bywoning

14.(1)(a) Onderworpe inskiklikheid met proseduur aangewys in artikel 13 en die bepalings van item 4(2) van Bylae 1 van die Stelselswet, 'n raadslid wat afwesig is van 'n vergadering af sonder goeie rede waar kenisgewing gegewe is, sal stel bloot aan 'n boete gelykstaande met 'n week se remunerasie, die boete sal van die remunerasie passend aan die betrokke raadslid afgetrek word.

(b) 'n Raadslid wie afwesig is op drie of meer gevolgaanduidende raadsvergadering, of op drie of meer gevolgaanduidende komitee se vergaderings en wat item 3 van Bylae 1 van die Stelselswet eis, moet as 'n raadslid in ooreenstemming met item 14(2)(e) van Bylae 1 van die Stelselswet afgesit.

(c) Verrigtinge van oplegging van 'n boete of waar 'n raadslid afgesit word moet aangevoer in ooreenstemming met uniform blywende proseduur wat elk raadslid moet aanneem.

(2) Waar 'n raadslid afwesig is sonder verlof van 'n vergadering ontvang het –

(a) die Reëls Komitee soos in artikel 43 beskou of die speaker of voorsitter na gelang van omstandighede, moet die raadslid versoek om 'n formele verklaring te verskaf waarin hy aanwys die redes vir die raadslid se absentisme in die vergadering;

(b) die speaker of voorsitter moet die verklaring oordenk en beslis al dan nie die raadslid met goeie rede afwesig was en moet passende redes vir die beslissing verskaf;

(c) die raadslid mag skriftelik appeleer aan die speaker of voorsitter se beslissing binne sewe dae van ontvangs van sulke beslissing.

(d) die raad of komitee, na gelang van omstandighede, moet –

(i) vergun die raadslid 'n geleentheid om vertoë lewer, mondeliks of skriftelik; en

(ii) oordenk die raadslid se appél, saam met enige kommentare van die speaker of voorsitter van die betrokke vergadering;

(iii) beslis hetsy die raadslid met goeie rede afwesig was of nie.

(3) Die munisipaal bestuurder moet 'n aantekening van al voorvalle ten aansien van wanneer raadslede afwesig of gemeen om sonder verlof en sonder goeie redes afwesig gewees en moet 'n skriftelike verslag aan die speaker betoog in elke geval 'n raadslid in drie of meer gevolgaandduidende vergaderings afwesig was ofskoon hy dit behoort by te woon het.

(4) Wanneer die speaker 'n verslag ingevolge artikel 14(3) ontvang, hy moet die verslag aan die raad betoog en dirigeer dat die saak ondersoek word in ooreenstemming met item 14 van die Gedragskode.

HOOFSTUK 6

VERDAGING

Verdaagde vergaderings

15. Onderworpe artikel 11(3), 'n vergadering van die raad of komitee mag, deur meerderheidstem verdaag word na 'n ander dag of uur maar uiterlik op 14 dae na die oorspronklike vergadering.

Voorsettingsvergadering

16.(1) Wanneer 'n vergadering verdaagd word, kennis moet aangegee vir die voorsettingsvergadering ingevolge artikel 8.

(2) Geen besigheid sal afgehandel word op 'n voorsettingsvergadering behalwe wat in die kennis van die vergadering gespesifeer.

HOOFSTUK 7

VERRIGTINGE

Speaker en voorsitter van vergaderings

17.(1) Op elke vergadering van die raad, die speaker, of indien hy of sy afwesig is, 'n waarnemende speaker, sal die voorsitter wees en sal pligte gestipuleerd ingevolge artikel 37 van die Strukture Wet vervul en moet verseker dat elk raadslid 'n afskrif van dié Stadsverordening en die Gedragskode gegee word as hy die bewind aanvaar.

(2) Die speaker en voorsitter van raad en komitee vergaderings –

(a) moet orde gedurende vergaderings volhou;

(b) moet verseker dat daar inskiklikheid is met die Raadse Gedragskode; en

(c)moet verseker dat vergaderings in ooreenstemming met dié Stadsverordening aangevoer.

(3) Indien die speaker of voorsitter van die raad of komitee van die raad afwesig is of nie beskikbaar nie om funksies van die speaker of voorsitter, of gedurende 'n vakature, die raad of komitee onder leiding van die munisipaal bestuurder of sy/haar genomineerde moet ander raadslid verkies om 'n waarnemende speaker of voorsitter na gelang van omstandighede.

(4) Geen vergadering van die raad of 'n komitee se raad mag begin of aangaan tensy 'n speaker of voorsitter presideer in 'n vergadering.

Notules

18.(a) Die verrigtinge van elke raadse vergadering moet noukeurig en elektroniese genoteer en behou in ooreenstemming met die Argiewe en Opgawediens van Suid-Afrika Wet, 43 van 1996.

(b) Geskrewe notules van die verrigtinge van elk raadse en komitee vergadering moet 'n noukeurige opgawe van die resolusies bevat wat deur die raad op sulke vergadering aangeneem.

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(c) Die goedgekeurde notules van elke vergadering van 'n raad of komitee buiten in-komitee vergaderings moet aan die publiek beskikbaar wees.

(d) Wanneer die munisipaal bestuurder van die mening is dat enige resolusie of verrigting van 'n raads of komitee vergadering in stryd met enige wet of Stadsverordening mag wees, hy of sy moet die raad of komitee dienooreenkomstig raadgee en volle details van sulke mening moet in notules genoteer word.

Orde van besigheid

19.(1) Die orde van besigheid op elke vergadering van die raad of sy uitvoerende komitee of raadskomitee sal soos volg wees:

(a) kennis van vergadering;

(b) aansoek om verlof tot afwesigheid;

(c) bevestiging van notules van vorige vergadering;

(d) aankondigings deur die voorsitter;

(e) bekendmakings van geldelike of ander belange;

(f) deputasies;

(g) verslae;

(h) kennisgewings van mosie;

(i) vrae waarop kennisgewings gegewe gewees; en

(j) algemene kwessies van 'n dringende aard.

(2) Die speaker of voorsitter mag, hy beskik daaroor, op enige stadium bring voor enige besigheid wat op die agenda papier is.

Besigheid van notules van vorige vergadering

20.(1) Die notules van elke vergadering moet op die vlogende gewone vergadering aan die raad of komitee bevestig word en geteken deur die speaker of voorsitter.

(2) Geen mosie of diskussie toegelaat sal word bo-op die notules van 'n vorige vergadering, buiten aangaande presiesheid van daardie notules.

Deputasies

21.(a) 'n Deputasie wat die raad of 'n raadskomitee wil toespreek moet 'n memorandum aan die munisipaal bestuurder oorlê waarin die bedenkings hy wil maak word uitgesit.

(b) 'n Versoek deur 'n deputasie om die raad of raadskomitee toe te spreek goedgekeur deur die speaker of toepaslike voorsitter moet word.

(c) Die munisipaal bestuurder moet die memorandum aan die raad of raadskomitee oorlê en dit mag die deputasie verwelkom.

(d) Enige saak wat oordenking verlang vloei voort uit 'n deputasie, sal nie deur die raad of komitee verder beskou nie tot die deputasie teruggetrek gewees op voorwaarde dat vrae van klaarheid toegelaat mag word.

(e) 'n Lid van die publiek, buiten 'n deputasie, wie te 'n raads of komitee vergadering wil praat, moet die speaker of voorsitter se toelating kry voorafgaande aan die begin van die vergadering.

(f) Wanneer 'n lid van die publiek en deputasie te 'n raads of komitee vergadering praat, hulle moet gehoor gee aan enige direksies en ordes wat deur die speaker of voorsitter gegewe.

(g) Ingeval 'n lid van die publiek of 'n deputasie himself/haarself in 'n wanordelike en onhebbelike manier op enige stadium gedra, die speaker of voorsitter moet dirigeer dat dieselfde lid himself of deur 'n Vredesbeampte van die gebied af verwyder.

(h) Enige lid van die publiek of deputasie wie faal of weier om gehoor te gee aan die speaker of voorsitter se direksies ingevolge artikel 21(f) en artikel 21(g) sal skuldig van 'n misdaad wees en stel bloot aan 'n boete of gevangenskap vir 'n tydperk nie meer as een maand of beide van sulke boete en sulke gevangenskap.

Verslae

22.(a) Enige verslag wat aan die raad of komitee oorgelê moet, met die uitsondering van 'n verslag wat deur die speaker of voorsitter as 'n dringende saak geaksepteer, aan die raadslede verskaf ingevolge artikel 8.

(b) Die speaker of voorsitter moet die debaat in ooreenstemming met artikels 34, 35, 36, 37, 38, 39, en 40 toelaat oor enige verslag wat aan die raad of raadskomitee oorgelê, by die vergadering waar die verslag oorgelê gewees en indien die debaat onvolledig is of vir enige redes nie plaasvind nie, die debaat moet dan in verband met daardie verslag op die volgende vergadering gehou word.

Mosies

23.(1) Geen onderwerp sal voor die raad of 'n raadskomitee deur 'n raadslid gebring word tensy by wyse van kennis van mosie.

(2) 'n Kennis van mosie moet –

(a) Skriftelik wees; en

(b) geteken deur die raadslid wat dit oorle en deur 'n ander raadslid wat dit bystaan; en

(c) verwys na slegs een saak.

(3) 'n Kennisgewing van mosie, onderwerp artikel 7, met die munisipaal bestuurder ingelewer word voor 12h00 sewe kalenderdae voorafgaande aan die volgende vergadering, anders die Kennisgewing in die daaropvolgende vergadering oorgedink word.

(4) Die munisipaal bestuurder moet –

(a) dateer en numereer elke Kennisgewing van mosie;

(b) noteer in die register elk ingelewerde Kennisgewing van mosie, iedereen kan daar insae van neem deur enige raadslid en die publiek; en moet

(c) elk Kennisgewing van mosie op die agenda in die volgorde ontvang noteer.

(5) Die speaker sal 'n mosie verskop –

(a) wat, in die speaker se mening, nie ooreenkomstig met die bepalinge van dié seksie;

(b) Ten aansien van 'n saak geaffekteer deur 'n hangende beslissing van 'n regterlike of kwasie-geregterlike vereniging;

(c) wat, indien dit geadopteer sou in teensteling met enige wet of nie in staat om uitgevoer te kan word nie.

(6) Die speaker of voorsitter moet nie 'n regsgeldige mosie verskop nie wat deur hom of haar ingevolge die' Stadsverordening ontvang.

(7) Die speaker of voorsitter moet –

(a) die nommer van elke mosie uitlees en die naam van iemand wat die mosie aangedryf het en ook die naam van die men swat bygestaan het.

(b) vasstel watter mosies is onbestrede en dieselfde sal sonder debaat aangeneem; en

(c) roep persone wat die bestrede mosies aangedryf in die orde waarop hulle in die agenda verskyn.

(8) 'n Raadslid wat 'n mosie oorlê moet sulke mosie aandryf en sal die reg he om 'n antwoord te kry.

(9) Indien 'n raadslid wat 'n mosie oorgele het nie aan die mosie kan praat nie of die raadslid en iemand wat hom bygestaan het afwesig is te die vergadering wanneer die mosie gedebateer word, die mosie moet afloop en mag nie weer aangedryf sonder verder Kennisgewing ingevolge dié Stadsverordening.

(10) 'n Raadslid sal toegelaat nie meer as drie kennisgewings van mosie op die einste agenda en nie meer as 7 mosies in een bedryfsjaar.

Vrae

24.(a) 'n Raadslid mag 'n vraag stel wat 'n skriftelike antwoord nodig vanaf enige polities of munisipaal ampsdraer of die munisipaliteit aangaande enige saak rakende effektiewe nakoming van die munisipaliteit se funksies en die uitoefening van sy bevoegdhede, op voorwaarde dat skriftelike Kennisgewing van die vraag met die speaker of voorsitter en die munisipaal bestuurder ingelewer altans sewe dae voorafgaande die raad of komitee se vergadering en die munisipaal bestuurder moet verseker dat die raadslid 'n skriftelike antwoord ontvang an daardie polities of munisipaal ampsdraer, te raad of komitee se vergadering.

(b) Waarna 'n antwoord gegewe is, 'n raadslid is van mening dat die antwoord onklaarblyklik en dubbelsinnig is, hy of sy mag, met die toestemming van die speaker of voorsitter, versoek 'n vervolge vraag.

Verskaffing van inligting aan 'n raadslid

25.(a) Geen raadslid mag benader of kommunikeer met enige offisier van die munisipaal administrasie aangande die besigheid van die munisipaliteit buiten wanneer hy of sy regte of vryhede as 'n gewone lid van publiek oefen.

(b) 'n Raadslid mag benader en kommunikeer met die munisipaal bestuurder of enige departementshoof of enige offisier van die munisipaal administrasie uitdruklike deur die munisipaal bestuurder aangewys of deur die departementshoof verantwoordelik vir dié doel, met die oogmerk om sulke inligting te kry soos hy of sy mag nodig vir die behoorlike nakoming van sy pligte as 'n radslid.

Algemene sake van 'n dringende aard

26.(a) Algemene items van 'n dringende aard mag op 'n agenda deur die munisipaal bestuurder en enige lid van die raad aangestel met die voorafgaande toestemming van die speaker of voorsitter en die toestemming sal nie onbillik teruggehou word.

(b) Voorafgaande adopsie, raadslede moet skiklike tyd verskaf om noukeurig te bekyk en oordink enige verslag of amptelike dokumente wat aan die raad oorgelê is.

Vertolking

27. Indien 'n meerderheid van raadslede teenwoordig so besluit, 'n tolk gebruik kan word in vergaderings van die raad en dit van raadskomitees.

In-komitee

28.(a) Onderworpe artikel 5, die raad of 'n raadskomitee mag, te eniger tyd, besluit om in-komitee te aangaan.

(b) Die publiek sal van enige in-komitee vergaderings uitgesluit word.

(c) Die munisipaal bestuurder of 'n ander amptenaar wat vry is van dié artikel sal nie van enige in-komitee vergadering uitgesluit word nie.

(d) Alle verrigtinge van die in-komitee moet genoteer word ingevolge 18(1) en 18(2) en moet vertroulik wees.

(e) Ongemagtige blootlegging van enige vertroulike saak moet ingevolge die Gedragskode behandel.

HOOFSTUK 8

STEMMING

Beslissing deur stemreg

29.(1) 'n Kworum moet teenwoordig wees met 'n oogmerk om 'n stem te hou.

(2) Alle vrae aangaande volgende sake moet vasgestel deur 'n raadse beslissing geneem met 'n ondersteunende stemming van 'n meerderheid van die aantal raadslede vasberade in ooreenstemming met die munisipaliteitsinstelling kennisgewing –

(a) Stadsverordeningsaanneming

(b) goedkeuring van begrotings

(c) die belasting van tariewe en ander belastings, heffings en aksyns;

(d) uitskrywing van lenings;

(e) die nietigverklaring van 'n raad se resolusie binne 6 maande van inneming daarvan; en

(f) enige ander saak wat deur wetgewing voorgeskryf.

(3) Al ander vrae voor die raad moet beslis deur die meerderheid van stemmings wat deur teenwoordig raadslede gegooi.

(4) Indien daar 'n gelykopstemming op enige saak, die speaker of voorsitter mag 'n beslissende stem oefen daarenbowe 'n gewone stem, onder voorbehou dat 'n speaker of voorsitter nie 'n beslissende stem gedurende die verkiesing van enige raadsampsdraer sal oefen nie.

Stemregsmetode

30.(a) Stemming sal met handsopsteking wees tensy anders die reg voorskryf, of die raad of die komitee deur die resolusie van 'n meerderheid van raadslede teenwoordig om met 'n skriftelike geheime stembriefie.

(b) Geen raadslid mag weggaan van die raadskamer of komitee kamer gedurende die aaneming van 'n stemming.

(c) Die munisipaal bestuurder of sy genomineerde sal die stems tel en noteer die uitslag, maar die speaker of voorsitter sal die uitslag aankondig.

Teenstemme

31. 'n Raadslid mag versoek dat sy teenstem genoteer as getuienis ten opsigte van hoe hy of sy op mosie gestem het.

HOOFSTUK 9

HERROEPING VAN RAAD EN KOMITEE SE BESLISTHEDE

Herroeping van raad se beslisthede

32.(a) Goedkeuring om te herroep of verander 'n beslistheid van die raad mag nie aan enige person of komitee gedelegeerd nie.

(b) Voorafgaande Kennisgewing van 'n bedoeling om 'n mosie vir herroeping of verandering van 'n raad se beslistheid aan te dryf gegee moet word.

(c) Enige herroeping of verandering van 'n raad se beslistheid moet ingevolge artikel 29(2)(e) gedoen word.

Herroeping van Komitee se Beslisthede

33.(a) Goedkeuring om te herroep of verander 'n raads komitee se beslistheid mag nie aan enige person gedelegeerd nie.

(b) Voorafgaande Kennisgewing van 'n bedoeling om 'n mosie vir herroeping van 'n raads komitee se beslistheid aan te dryf gegee moet word.

(c) Enige herroeping of verandering van 'n raads komitee moet deur 'n meerderheid van die aantal lede van daadie komitee goedgekeur.

HOOFSTUK 10

DEBAAT

Geleentheid om te praat

34.(a) 'n Raadslid mag slegs praat wanneer hy deur die speaker of voorsitter gedirigeer.

(b) 'n Raadslid mag 'n wens om te praat deur sy hand op te steek en wag vir indikasie van die speaker of voorsitter, en dieselfde indikasie moet nie teruggehou word nie.

(c) Raadslede en amptenare moet staan wanneer hy praat en moet sy toespraak aan die speaker of voorsitter dirigeer.

Toepaslikheid

35. Elke spreker moet himself of haarself stiptelik aan die saak in oorweging beperk.

Lengte van sprake

36. Buiten die aflewering van die burgermeester se verslag of die aanbieding van skattings van inkomste en besteding geen spraak sal vyf minute lang sonder die toestemming van die speaker of voorsitter oorskry nie.

Raadslede sal net een keer praat

37. 'n Raadslid mag nie op enige mosie of aanbod meer as een keer praat nie tensy toelating om dit te doen deur die speaker of voorsitter vergun is onder voorbehoud dat die raadslid wat die mosie aangedryf het aan die mosie mag praat, sal die reg om te antwoord hê en die antwoord sal met betrekking tot vorige speakers wees en sal nie nuwe saak in die debaat inbring nie.

Superioriteit van die speaker of voorsitter

38. Telkens as die speaker of voorsitter gedurende 'n debaat in optand kom, enige raadslid wat praat of bereid wees om te praat moet himself laast sit en swyg, so dat die speaker of voorsitter sonder onafgebroke gehoor kan word.

Punte van orde

39.(a) Enige raadslid mag op enige stadium 'n punt van orde opwerp deur om in opstand te kom so dat die speaker of voorsitter se aandag op vestig word.

(b) Die punt van orde het die voorrang bo al die res in die vergadering

en die speaker of voorsitter moet dadelik gehoor gee aan die raadslid wat die punt van orde opgewerp het en gevolglik regeer.

(c)Die beslissing van die speaker of voorsitter op 'n punt van orde sal 'n eindbeslissing wees en nie gedebatteer sal word nie.

Verklaring

40. Enige raadslid mag in verklaring praat, onder voorbehoud dat

dieselfde verklaring beperk word aan tersaaklike deel van die bespreking wat misverstaan kon gewees het.

HOOFSTUK 11

GEDRAG

Algemene gedrag

41.(1) Raadslede en amptenare moet gedurende enige raads of komitee vergadering –

(a) die besigheid in die hoë decorum en volledigheid dit die okkasie verdien aanvoer;

(b) elke keer aan die beginsels wat in die Gedagskode en die Stadsverordening bevat vashou;

(c) elke keer na die regsreël en die munisipaliteit se stadsverordenings vashou;

(d) passend gekleed vir die vergadering se deftigheid en nie dra in die Raadskamer politiese kleding of kleure verbonde met hulle politiese partye nie.

(e) moet nie ergerlike of laakbare spraak gebruik nie; en

(f) moet nie 'n sellulêrfoon in die vergadering gebruik nie en moet ook nie 'n vuurwapen of enige gevaarlike wapens bring nie.

Wangedrag

42.(a) Die speaker mag bevel 'n raadslid om terug te trek en verontskuldiging vra vir enige woord, verklaring, mening of gebaar wat deur die raadslid gedoen word.

(b) Indien 'n raadslid of raadslede onbehoorlik sig gedra gedurende 'n vergadering van die raad of enige van sy komitees, die speaker moet die raadslid of raadslede vra om behoorlik te gedra en indien hy praat hy moet stop en herneem sy sitplek.

(c) Ingeval van aanhoudend miskenning deur die speaker, hy moet dirigeer dat die raadslid of raadslede retireer van die vergadering en homself verwyder van die vergaderplek tot die item wat bespreek word is afgehandel.

(d) Ingeval dat enige wangedrag deur 'n raadslid of raadslede die verrigtinge van die raad of komitee prejudisieer die speaker of voorsitter moet die vergadering verdaag en enige wangedrag deur 'n raadslid of raadslede moet ingevolge die Stadsverordening en die Gedragskode behandel word.

(e) Enige raadslid wie weier om van die vergadering van die raad of komitee af weg te gaan na hy deur die speaker of voorsitter gevra om dit te doen ingevolge enige artikel in die' Stadsverordening, krag mag gebruik word om hom te verwyder en sal skuldig van 'n misdaad wees en stel bloot aan 'n boete of gevangenskap vir 'n tydperk nie meer as een maand of beide van sulke boete en sulke gevangenskap.

HOOFSTUK 12

KOMITEES

Reëls Komitee

43.(a) Die munisipaal raad mag deur resolusie van 'n meerderheid van raadslede stig 'n spesiale komitee wat bekend as die Reëls Komitee sal wees om te ondersoek en beslis op enige beweerde brekings van die Gedragskode, ingeslote sanksies vir nie-bywoning te vergaderings en maak rekommendasies met betrekking tot enige ander saak aangaande die' Stadsverordening.

(b) Die Reëls Komitee sal bestaan uit die speaker, die burgermeester en een verteenwoordiger van elke politiese party in die raad, dieselfde verteenwoordiger sal deur elk politiese party so noe en dan genomineerd sal word.

Eie reëls

44.(a) Elke raadskomitee moet sy eie prosedure bepaal onderworpe enige direksies van die raad én die' Stadsverordening af.

(b) Artikels 34, 35, 36, 37,38,39 en 40 van die' Stadsverordening mag verslag word deur 'n voorsitter van 'n komitee om aan te pas wisselwerkinge en effektiewe deelneming,onder voorbehoud dat die voorsitter mag, na sy/haar goeddunke, aanwend die bepalings van enige artikel ingesluit in hoofstuk 10.

Die voorsitter

45.(1)Die voorsitter van 'n komitee moet –
(a) presideer op elke vergadering van die komitee waar hy of sy teenwoordig is; en

(b) getiteld om in die eerste geval te stem en in die geval van 'n staking van stemme daarenbowe sy gewone stem, hy sal 'n tweede of beslissende stem gee.

(2) In sy afwesigheid, die waarnemende of adjunk-voorsitter sal die dieselfde kragte en regte hê om te stem soos wat die voorsitter bevat.

HOOFSTUK 13

GELDELIKKE BELANG

Bekendmaking van geldelikke belang

46. (a) 'n Raadslid moet aan die mun isipaal raad blootlê, of aan enige komitee waarvan die raadslid 'n lid is, enige direkte of indirekte perrsoonlike of privaat besigheid belang dat daardie raadslid, of

enige wederhelf, vennoot of bedryf vennoot daardie raadslid mag in enige saak voor die raad of komitee hê.

(b) Die raadslid wat 'n blootlêgging maak moet aan die verrigtinge van die raad of komitee onttrek tensy die raad of komitee besluit dat raadslid se belang in daardie saak niksbeduidend en toepaslik is.

(c) 'n Raadslid wie, of wie se wederhelf, vennoot, bedryf vennoot of nabestaande famielielid, verkry of mag verkry enige direct wins van 'n kontrak aangaan met die munisipaliteit, moet volle besonderhede van die wins booltê waarvan die raadslid bewus is op die eerste vergadering van die raad waar moontlik is vir die raadslid om 'n blootlêgging te maak.

(d) Die blootlêgging van belange ingevolge arrtikel 46(a) en wins ingevolge artikel 46(c) is nie van toepasing aan 'n belang of wins wat 'n raadslid, of 'n wederhelf, venoot, bedryf vennoot of nabestaande famielielid, hê of verkry net soos ander inwoners van die munisipaliteit.

(e) Wanneer verkies of benoem, 'n raadslid moet binne bo dae of so gou as moontlik daarna skriftelik aan die munisipaal bestuurder die finansiële belange verwys in item 7 van Bylae 1 van die Stelselswet.

HOOFSTUK 14

BREKING EN SANKSIES

Breking

47.Enige raadslid wat versuim of weier om na dié Stadsverordening gehoorsaam te wees, of enige resolusie van die Raad, mag skuldig van 'n breking van die Gedragskode wees.

Sanksie

48. Wanneer daar 'n bewering is dat 'n raadslid dié Stadsverordening gebreek het, die raad moet, ingevolge item 14 van die Gedragskode, ondersoek die beweerde breking en mag 'n sanksie oplê.

HOOFSTUK 15

ALGEMENE BEPALINGE

Opskorting van 'n reël van orde

49.(1) In gevalle van dringenheid of waar 'n raad beskou dat aanklewing aan 'n artikel sou onbillik wees en sou prejudisieer die verrigtinge van 'n vergadering, dan die raad mag met die goedkeuring van die meerderheid van die aantal raadslede in die munisipaliteit en vir die voortduring van daardie vergadering, tydelike versag die bepalinge van 'n artikel, ondeer voorbehoud dat:

(a) sulke versagtig moet nie teenstrydig met enige nasionale of provinsiale wetgewing of enige stadsverordening van die munisipaliteit;

(b) geen artikel mag versag word wanneer die verwydering van enige politiese ampsdraer is voor die raad.

(b) die opskorting of versagting van die artikel rakende 'n item op die agenda vir die vergadering van die raad of komitee van die raad; en

(c) artikel 22 moet nie opgeskort word nie; en

(d) die redes vir die opskorting van die artikel word genoteer in die notules van die vergadering.

Aanneming as stadsverordening

50. Dié Stadsverordening moet as 'n stadsverordening van die munisipaliteit aangeneem word.

Opheffing van bestaande verordenings

51. Die raadse bestaande stadsverordenings ten aansien van reëls en ordes word hierby opgehef.

Kort titel en inwerkingtreding

52.Die stadsverordening sal die ---------- Munisipaal Vaste Reëls en Ordes, 20 ----

SKUTKRALE STADSVERORDENINGS

Verorden word deur die Raad van die ---------- Munisipaliteit, kragtens artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, gelees met artikel 11(3)(m) van die Plaaslike Regering: Munisipaal Stelselswet, 2000 (Wet Nr. 32 van 2000), soos volg:

RANGSKIKKING VAN ARTIKELS

Artikel

1. Bepalinge
2. Applikasie
3. Stigting van skutkraal
4. Benoeming van skutmeester
5. Oortreding of loslopende diere verbeurd verklaar mag word
6. Baie visieuse, onhandelbare of wilde diere verbeurd verklaar sal word
7. Vrylating van diere voor verwydering na skutkraal
8. Versorging van oortreding diere
9. Skutkraal waarna diere geneem moet word
10. Inligting aan die skutmeester verskaf sal word
11. Aanvarding te skutkraal van diere verbeurd sal word
12. Skutkraal register
13. Kennisgewing aan eienare van diere
14. Versorging van verbeurde diere
15. Isolasie van geïnfekteerde diere
16. Diere in die skutkraal gesit nie gewerk sal word nie

17. Dood van of besering aan verbeurde diere
18. Afskrifte van stadsverordenings
19. Gelde en koste betaalbaar
20. Vrylating van verbeurde diere
21. Verkoping van verbeurde diere
22. Skutmeester mag nie verbeurde diere koop nie
23. Diere onsuksevolle te koop aangebied
24. Winste
25. Aksie van herkryging van skade
26. Prosedure met betrekking tot applikasie na Hof
27. Vergoeding
28. Misdade en strawwe
29. Opgawes 1 en 2 deel van dié stadsverordening uitmaak

30. Opheffing van stadsverordening
31. Kort titel

Bepalings

1. In dié stadsverordening, tensy dit strydig is met die konteks –

"dier" sluit in 'n perd, bees, donkie, skaap, bok,vark, volstruis, hond, kat of die baster van enige sulke dier, en diere sal korresponderende betekenis hê;

"Raad" beteken –

(a) Die munisipaliteit, wat sy wetgewingde en uitvoerende magting deur sy raad oefen;
(b) Sy regsopvolger;
(c) 'n struktuur of person wat 'n gedelegeerde krag oefen of 'n opdrag uitvoer, waar enige krag in dié Stadsverordening gedelegeerd of sub-gedelegeerd, of gegewe instruksie, soos in artikel 59 van Stelselswet; en
(d) 'n diensverskaffer wat 'n verantwoordelikheid onder die Stadsverordening voldoen;

"Hof" beteken 'n Landdroshof soos in artikel 166(d) van die Gronwet, 1996 verwys, met regsgebied in die area waar die skutkraal geleë word;

"Koerant" beteken die amptelike Provinsiale Koerant van KwaZulu-Natal;

"munisipaliteit" beteken die ---------- Munisipaliteit gestig ingevolge artikel 155(6) van die Grondwet, 1996, en gestig deur en onder artikels 3, 4 en 5 van die Kwa Zulu-Natal Bepaling van Tipe van Munisipaliteit Wet, 2000 (Wet Nr. 7 van 2000);

"eienaar" sluit in 'n eienaar wat bekend is, of wie se identiteit met billik ywer verseker kan word, en met betrekking tot enige –

(a) Dier, sluit in die agent van die eienaar of 'n ander person met die regmatig bewaring of eiendom van sulke dier; of
(b) Land, sluit in die eienaar, huurder of regmatig besitter van sulke land of sy of haar agent;

"skutkraal" beteken 'n skutkraal gestig soos in artikel 3 oorwoë;

"skutmeester" beteken die person benoem so nou en dan soos in artikel 4 oorwoë en sluit in enige person wat waarnemend is;

"publiek plek" beteken enige plek waaraan die publiek toegang hê ingeslote, maar sonder beperking van algemeene voorgaande enige –

(a) Plein;
(b) Park;
(c) Sportterrein;
(d) Speelterrein;
(e) Oopte;
(f)Strand;

(g) Winkelsentrum op munisipaal land;
(h) Ongebruik of munisipale onbeboude land; of
(i) Begraafplaas

"openbare pad" beteken 'n openbare pad soos oorwoë in artikel 1 van die Nasionale Pad Verkeers Wet, 1996 (Wet Nr. 93 van 1996); en

"diensaflewering ooreenstemming" beteken 'n diensaflewering ooreenstemming soos in artikel 1 van die Stelselswet bepaald.

"Strukture Wet" beteken Plaaslike Regering: Munisipaal Strukture Wet, 1998 (Wet Nr. 117 van 1998);

"Stelselswet" beteken die Plaaslike Regering: Munisipaal Stelselswet 2000 (Wet Nr. 32 van 2000)

Applikasie

2. Hierdie verordening geld te die gebied van jurisdiksie van die Munisipaliteit: voorsien dat niks verhoed enige diere aangehou in terme van hierdie verordening van beslag te word in n` skut of enige soortgelykte fasiliteit gestig deur enige ander munisipaliteit of ander wettige magtiging.

VERSTIGING VAN SKUT

3. {1} Die Munisipaliteit moet n` skut vestig by enige gerieflike plek binne gebied van jurisdiksie: voorsien dat die Munisipaliteit mag met aansoeking ingaan in n` diens aflewering ooreenkoms met n` instelling of person genome in artikel 76[b] van die stelsel Wet, om voorsien na die vestiging van werking van n` skut met diens in die gebied van jurisdiksie.

{2} die Munisipaliteit moet kennisgewing gee van die vestiging van n` skut deur kennisgewing uitsaai in ten minste twee nuus koerante wat in die gebied van jurisdiksie van die munisipaliteit sirkuleer.

[3] N` person wie van plan is om n` skut te vestig soos beoog in subseksie[1] moet aansoek doen met die voorgeskrewe manier aan die Raad soos beoog in subseksie [4].

{4} Raad moet in 90 dae van die ontvang van die aansoek soos beoog in subseksie [1} en enige ander inligting in hom of haar se beskiking indien enige betrekking die aansoek –

[a]aansoek vir registrasie keur en n` registrasie lesensie kwesie

[b] aansoek vir registrasie keur en n` registrasie lesensie kwesie onderhewig aan voorwaardes bepaal deur die Raad, of

[c] n` aansoek verwerp voorsien daar skriftelike redes met rede na die verwerping van die aansok.

[5] Raad kan op enige tyd n` lesensie herroep na oorweging van omstandighede en konsultasie met die eienaar van die skut en moet die eienaar skriftelik in kennis stel met die redes van n` besluit.

AANSTELLING VAN N` SKUTMEESTER

4. Die Munisipaliteit moet in terme van die menslike hulpbronne beleid n` paslike geskoolde en ervaarde person as n` skutmeester aanstel, tensy die skut is gevestig en bedryf in terme van n` diensvlak ooreenkoms beoog in seksie 3 {1}.

BETREDENDE OF PONDLOOP DIERE MAG GESKUT WORD

5.[1]Die eienaar van land op mee enige dier gevind betree of rondloop mag sulke dier beslag:

Voorsien dat sulke dier nie verwyder word na n` skut toe nie, voordat skriftelike kennisgewing na die eienaar geen minder as 48 ure voor die verwydering na n`skut gedoen word nie.

[2] Enige dier wat gevind rondloop sonder toepasing op n` publieke pad of publieke plek mag verwyder word vir verskuting, deur

[a] N` lid van die Suid Afrikaanse Polisie Dienste

[b] N` lid van die Suid Afrikaanse Nasinale Weermag

[c] N` lid van die KwaZulu Natal Nasinale Verkeer Inspektoraat

[d] N` lid van die Munisipaliteit se Beskermings Dienste

[e] Die eienaar van enige land deur of langsaan sulke pad verbygaan of wat n` grens is van sulke publike plek.

[3]N` person mag nie n` dier wat beslag word met die doel van skuting in terme van subseksie {1}

en {2} vir n` tydperk langer as se sure sonder om sulke diere genoeg kos en water te gee nie.

{4} enige person wie n` dier beslag het met doel van skuting moet voldoen met die voorsiening van die kode van Goeie Praktyt in die behandeling en vervoering van beslagde dier soos vervart in skudile 1.

DIERE TE BOOS, ONREGEERBAAR OF WILD OM VERWYDER TE WORD

6. As n` Staats Veearts of amptelik beoog in seksie 5[2][a] tevrede is dat n1 dier gevind op enige land betree of rondloop op enige publike pad of publike plek is te gevaarlik boos, onregeerbaar of wild om te beslag laat word, hy of sy mag die magtiging vir die menslike vernietiging of ander beskikking van die dier nadat skrieftelike redes en skriftelike kennisgewing daarvan na die eienaar van die dier gemaak word.

VRYLATING VAN DIERE VOOR DIE VERWYDERING NA SKUT

7.{1} Die eienaar van n` dier wat in terme van seksie 5{1] beslag is mag aansoek doen aan die eienaar van die land soos beoog in seksie 5{1] vir die vrylating van sulke dier voor die verwydering na n` skut.

{2} Die eienaar van die land verwys in seksie 5[1] –

[a]Mag sulke dier onverwyld vrylaat, of

[b]Mag weier dat die dier vrygelaat word, waarna hy of sy aansoek doen na die Hof vir die magting om die dier te beslag of vir enige skade vergoeding eis w thy of sy gely het, insluitend n` bevel van koste wat die hof passend en billike beskou.

{3} Die eienaar van n` beslagte dier in terme van seksie 5{2} mag aansok doen vir die vrylating van sulke dier voor die verwydering na n` skut in welke geval die person wat die dier beslag het sulke dier onverwyld vrylaat.

OMGEE VAN BETREDENDE DIER

8.N` person mag nie n` die in die prosesie van verwydering na n` skut laat werk of mishandle wat gevind betree op enige land nie.

SKUT WAARNA N` DIER GENEEM MOET WORD

9. N` dier beslag vir die doel van skuting soos beoog in artikel 5, moet na die naaste toegaanlike skut verwyder word, om die korste proktiese toete en binne die korste praktiese tyd: Voorsien dat diere van verskillende spesies moet ten alle tye apart gehou word volgens hul spesies.

INLIGTING VERSKAF AAN DIE SKUTMEESTER

10.N` person wat diere na die skut stuur moet skriftelik die Stutsmeester aanmai van:

[a] die nomer en diskripsie van die dier

{b} die land waarop hulle gevind betree; en

{c} die afstand in kilometres, om die korste praktiese roete tussen die plek en sulke land

waar hulle beslag was en die skut.

AANVAARING BY SKUT VAN DIERE WAT GESKUT MOET WORD

11.{1}Die skutmeester mag nie weier om n` dier vir beskuting te aanvaar nie.

[2] Die skut bestuurder moet na aanvaaring van n` aangehoude dier –

[a} rekode neem van besonderhede verstrek in terme van Artikel 10 bo en tik dieselfde in n` boek stand gehou word vir die doel.

{b]Die person wat die dier aflewer verstrek met n` kwitansie weerspieel -

i. Hom of haar naam
ii. N` beskrywing van die dier, en

Die datum en tyd van die ontvangs van die dier by die skut, en

[c] Hou n` kopie van elke uitgereikde kwitansie

SKUT REGISTER

12[1] Die Skutmeester moet –

[a]Die skut register in stand hou met inligting beoog in Skedule 2, wat beskikbaar is vir

Publike inspeksie te alle redelike tye, en

[b] Voltooi die skut register ontmiddelik met aanvaaring van enige dier in die skut.

[2] As die skutmeester –

[a] verwaarloos of weier om enige bepalings van subseksie[1] voldoen.

[b]willens n` valse inskrywing in die skut register maak.

[c] bedrieglik n` vorige inskrywing in die skut register verniel of afvee of;

[d]opsitlik n` valse kopie lewer of uitreksel van die skut register aan enige person, hy of sy is

Skuldig met n` ooetreding

KENNISGEWING NA EIENAARS VAN DIERE

13. Die eienaar van n` dier beoog in seksie5[1], 6, 14[2][b}, 17{b}, 21{1}[b], en 23[a], moet kennis gestel word deur –

[a] Spreek van n` skriftelike kennisgewing aan hom of haar, of

[b] Plasing van n` afskrif van kennisgewing aan die eienaar op die Munisipaliteitse

Kennisgewing Raad en

[c] n` kopie van die kennisgewing in ten minste twee ende dae in n` koerant uitgesaai word

Of algemene sirkulasie in die Munisipaliteit.

OMGEE VAN GESKULDE DIERE

14.{1} Die skutmeester –

[a] is verantwoordelik vir die behoorlike versoging van alle geskullende diere,

[b] moet verseker dat vars water en genoeg kos beskikbaar is aan beskuttende diere met alle tye, en

[c] is aanspreeklik aan die eienaar van die beskuttende dier vir enige skade wat hy of sy opsetlik of verwaarlose dade of uitlaatinge veroorsaak het.

{2}[a] As die skutmeester van die mening is dat die beskuttende dier gevaarlik boos is, Permantlik gestrem of terminal siek, hy of sy moet aansoek doen na die Hof, wat mag magtig na die vernietiging of ander beskikking van die beslagdte dier, as die Hof tevrede is dat die toestand van sulke dier grond die vernietiging of beskikking van sulke dier.

[b]Waar die Hof die vernietiging of beskikking van n` dier met aansoek deur die skutmeester, die Skutmeester moet ontmiddelik die eienaar skriftelike kennisgewing van die bevel van die Hof en die vernietiging of beskikking van die dier.

ISOLASIE VAN BESMETE DIERE

15. As die skutmeester vermoed of bewus is dat die beskuttende dier of n` dier wat beskyt gaan word Is besmet met enige siekte beoog in die Diere Siekte Wet 1984 [Wet Nommer 35 van 1984] hy of sy moet -

[a] Voorsien na n` afsonderlike akkommodasie vir sulke dier

[b]Ontmiddelik die dier isoleer en die siekte aan die naaste Stat se Veearts verslag, en

[c]ontmiddelike die eienaar van dier van sulke siekte in skritelike kennisgewing laat weet.

BEHANDELING VAN BESLAGTE DIERE

16.DIE Skutmeester –

[a] mag nie n` beskuttende dier laat werk of in enige manier die dier gebruik of toelaat dat

sulke dier te laat werk of gebruik moet word nie deur enige ander person, en

[b] moet verseker dat alle beskuttende manlike diere is met alle tye apart gehou van

Vroulike diere.

DIE DOOD VAN OF BESERING VAN BESKUTTENDE DIERE

17.As n` beskuttende dier beseer of dood is, die skutmeester moet –

[a] die beseering verslag of veroorsaak van dood in die skut register verwys in seksie 12, en

[b] die eienaar van die dier skriftelike kennisgewing gee van die besering of dood.

18. Die skutmeester moeet verseker dat kopies van die verordening in Engels en isiZulu beskikbaar is by die skut vir inspeksie.

FOOIE EN KOSTE BETAALBAAR

19. Die skutmeester moet –

[a] Die eienaar van die baskuttende dier met fooie belas soos uiteengesit by die

Munisipaliteit van tyd tot tyd soos beoog in seksie 75A van die Stelsels Wet, en

[b] herself die koste van enige indompeling, mediese behandeling wat mag benodig of

Vereis mag word in terme van hierdie verordening of in ooreenstemming met enige ander

Wet.

VRYLAATING VAN BESLAGTE DIERE

20.{1}Die skutmeester moet ontmiddelik n` beskuttende dier vrylaat en die eienaar n` kwitansie gee

Waarop die eienaar,

[a]voorsiening gee met eienskap van sulke dier, en

[b]betaaling van fooie en koste beoog in seksie 19.

[2] waneer die eienaar van beskuttende dier nie die fooie of koste kan betaal nie beoog in seksie

19, die skutmeester mag sulke dier behou om sulke fooie en koste te herstel wat betaalbaar

Is.

VERKOOPING VAN BESKUTTENDE DIERE

21.{1}Die skutmeester moet –

[a] binne 14 dae van die beskut van n` dier aansoek na die Hof vir magtiging om die dier Verkoop, en

[b] in die aansoek beoog in paragraph[a], die Hof met bewys voorsien da thy of sy n` Verklaaring klag soos beoog in subseksie {2} met die eienaar.

{2} Die verklaaring beoog in subseksie {1}[b] moet insluit –

[a] die fooie en koste verskuldig is in terme van hierdie verordening, en

[b] die bedrag vir enige skadevergoeding wat die eienaar van die land op wie die beskuttende dier betree het, mag gely het.

{3} Die Hof hetsy die bedrag uiteengesit in die verklaaring beoog in sub seksie{1}[b] word betwis of nie, moet –

[a] summier navraaging in die saak doen.

[b] navraag of kennisgewing na die eienaar van die dier deur die skutmeester gegee was en,

[c] maak sulke bevel wat die passend en billike vind, insluitend van n` bevel –

i. Van die koste en

ii. Op die posesie wat gevolg moet word deur die skutmeester in die verkoop van die dier.

SKUTMEESTER MAG NIE BESLAGTE DIERE KOOP NIE

22. Die skutmeester of n` familie lid of naby medewerker van die skutmeester mag nie n` dier met verkooping by die skut of persoonlik of deur ander person direk of ondirek koop nie.

DIERE ONSUKSEVOLLENDE AANGEBIED VIR VERKOOPING

23. In die geval dat enige dier nie verkoop is soos beoog in seksie 21 –

[a] die skutmeester moet ontmiddelik die Hof en die eienaar adviseer van sy Beraamde waarde en die vooie en koste aangegaan, en

[b] die Hof mag sulke bevel maak wat die Hof passend en billike beskou.

OPBRENGS

24. Al die opbrengs van die versameling van fooie en koste beoog in seksie 19 moet in die munisipale inkomste fond inbetaal word : met dien verstande dat enige beslagte dier is verkoop met n` prys in meer van –

[a] die fooie en koste aangegaan, en

[b] enige skadevergoeding toegeken in terme van seksie 21{3}[c], sulke meering

Moet na die eienaar betaal word binne 30 dae van die verkooping behalwe die

identiteit van die eienaar nie gestig is nie in watter geval die meer moet in die

munisipale inkomste fond betaal word fond betaal word.

AKSIE VIR DIE HERSTELING VAN SKADEVERGOEDERING

25. Niks in hierdie verordening verhoed die eienaar van die land os enige ander person van aksie instelling teen die eienaar van n` betreedende dier, in die Hof van jurisdiksie vir die herstelling van sulke betreedende dier.

PROSEDURE VAN GEVOLG IN DIE AANSOEK NA DIE HOF

26.N` aansoek na die Hof vir –

[a] Die skutting van n` dier in terme van hierdie verordening, moet veldoen met die procedure beoog in Reel 55 van die Hof Reels, en

[b] die verkoop van n` geskutte dier in terme van hierdie verordening, moet met die procedure veldoen beoog in seksie 66 van die Magistraatse Hof Wet 1944 [Wet

No.32 van 1944] en Reels 41 van die Hof Reels, gemaak deur die Reels Rood vir

Howe in terme van artikel 6 van die Reels Raad vir Howe Wete, 1985 [Wet no. 107 van 1985], en gepubliseer onder Goewernts kennisgewing nom R.1108 in Regulasie Staatskoerent Nom.980 van 21 Junie 1968 soos gewysig van tyd tot tyd gelees met die noodsaaklikke veranderinge.

VRYWAARING

27. Die Munisipaliteit, skutmeester en enige beampte, werknemer, of agent van die Munisipaliteit sal nie aaspreeklik wees vir die dood of besering van enige dier ontstaan as gevolg van aanhouding, skutting of vrylating, ontstaaning gedurende sy skutting.

OORTEDING EN BOETE

28. N` person wie –

[a] n` dier wat wetig beslag was vir die doel van skutting of wat wetig beslag is vrylaat,

[b] onwetig n` dier beslag met die doel van die dier te skut;

[c] onwetig n` dier skut, of

[d] oortree enige voorsiening van hierdie verordening is skuldig met n` oortreding en is

Aanspreeklik na skuldig bevinding na n` vonnis of gevangenis straf van n` typerk oorskyend van een jaar.

SKEDULE 1 EN 2 VORM DEEL VAN HIERDIE VERORDENING

29. Skedule 1 en 2 na hierdie verordening vorm deel van hierdie verordening vir alle doeleindes.

HERROEPING VAN BESTAANDE VERORDENING

30. Die Munisipaliteit se bestaande skut verordening is hiermee herroep.

KORT TITEL

31. Hierdie verordening sal die Munisipaliteit se skut verordening 20 genoem word.

SKEDULE 1

KODE VAN GOEIE PRAKTYK VAN DIE HANTERING EN VERVOERING VAN GESKUTTE DIERE

SEKSIE 5{4}

DEEL 1

KRAAL VEREISTES

1. Verskulinde spesies van diere moet in afsonderlike krale gehou word.

2. Diere mag nie in oorvol penne geplaas word nie en penne ruimte wat voorsien is vir elke kraal moet voldoende wees om alle diere toelaat om neer te le op die selde tyd en moet nie minder as 1;5 vierkante meter van die vloer gebied vir elke dier wees nie.

3. Lastige diere mag nie met ander diere gehou word nie.

4. Jonk en gespeende jeugdige diere, mag nie gepen word met volwasende diere behalwe in die saak van moeder en nageslag.

5. Voorsiening moet gemaak word vir krale vir –
[a] fosiliteite soos rake, krip of ander behoorlike voed houers wat maklik is om skoon te maak wat sal toelaat na die voiding van diere af die vloer, en wat gediens kan word sonder om die diere te pla,
[b] Waterbakke met voldoende aanbod van geskikde vars water ann alle tye
[c]Voldoende fasiliteite vir die aanbod skoonmaking van kampe, en
[d]Fasiliteite vir die beskeremde hantering van diere.

6.[a]Die kampe moet met alle tye in n` goeie staat van hersteling gehou word.

[b] Skerp punte soos draad eindes,gebreekde plante, kronkelende eindes of uitsteekunde

Skarniere of boute wat kan besering veroorsaak aan diere, moet wegeneem word of anders behoorlik toegemaak.

7.Die vloer van die hele kamp, insluitend van die banke of lewering, rasse, gedeeltes moet sou gebou word so om voldoende onsleperage oppervlaktes wat doeltreffend en behoorlik skoon en droog en in n` kondisie passelik vir dier houding.

DEEL II
HANTERING VAN DIERE

8.Diere moet met alle tye menslik gehanteer word met geduld en verdraagsaamheid.

9.Die volgende moet ingedagtenis gehou word wanneer diere hanteer –

[a] diere reageer meer gereedlik wanneer gedryf word as die drywer agter die dier staan binne sy Gesigsveld, en

[b] trop diere reageer meer gereedlik om n` trappe gedryf word anders as in enkel vorm.

10. Diere mag nie met hulle binne gesleep word nie of met hulle kop, ore en stert gedra word nie.

11. Jong kalwe moet gedra word as hulle nie met verligting kan loop nie, deur die kalf rondom die bors en agterlyf optelig, altenatiewelik moet hulle met een hand aan die agterlyf en die ander nader die skouer of nek en gelei na die vereisde rigting op n` toepaslike en gerieflike tempo.

12. Net stokke met doek of bande flappe mag gebruik word wanneer n` dier dryf dit is verkieslik om die grond te slaan agter die dier anders as om die dier te slaan.

13. Elektriese aandrif, stoke en prikkels mag nie op kalwe gebruik word nie.

(c) Versuimom te voldoen aan enige voorwaarde van die voorsiening ten opsigte van elektrisiteit of water, soos die geval mag wees, soos bepaal deur die Raad.

(d) Die doeltreffende voorsiening van elektrisiteit of water aan 'n ander kliënt.

(e) Verskaf elektrisiteit of water aan 'n persoon wat nie daarop geregtig is, of toelaat dat sodanige voorsiening om voort te gaan.

(f) 'n Situasie met betrekking tot elektrisiteit of water veroorsaak, wat na die mening van die Raad gevaarlik is , of 'n oorteding van enige toepaslike wet, insluitend die gemenereg.

(g) In enige manier herstel die voorsiening van 'n voorheen beëinding of beperk elektrisiteit of water diens.

(h) Is onder voorlopige sekwestrasie, likwidasie of geregttelike bestuur word geplaas, of 'n daad van insolvensie pleeg ingevolge van die Insolvensiewet. 1936 (Wet No. 24 van 1936), of is onderhewig aan 'n administrasiebevel toegestaan in terme van artikel 74 van die Wet op Landdroshowe, 1994, en is daar 'n mislukking in 'n nuwe diens ooreenkoms binne 14 dae van die Raad vereis dat sodanige diens- ooreenkoms in terme van artikel 6 i te voer.

(3) Die Raad kan 'n beëindiging kennisgewing stuur na 'n verbruiker om hom of haar te vertel –

(a) dat die bepaling van de betrokke sal diens, of het op die datum wat in sodanige kennisgewing beëindig.

(b) Van die stappe wat geneem kan word om die diens te hê opgehou.

(4) Enige optrede ingevolge subartkels (1) en (2) is onderhewig aan voldoen met:

(a) Artikels (3) en (4) van die Wet op Waterdienste, 1997 (Wet No. 108 van 1997), indien die voorsiening van water betrokke is;

(b) Die tersaaklike bepalings van die Wet op Elektrisiteit, 1987 (Wet No. 41 van 1987), indien die voorsiening van elektrisiteit betrokke is;

(c) Die tersaaklike bepalings van die Wet op Gesondheid, 2003 (Wet No. 61 van 2003), en enige regulasies gemaak ingevolge daardie Wet; en

(d) Die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 3 van 2000), in sover dit van toepassing is.

Herinstelling van munisipale dienste

17. (1) Die Raad moet 'n volledige vlakke van voorsiening van enige elektrisiteit of water diens beëindig of beperk in terme van Artikel 16 na herstel (1) agter-

(a) Die volle bedrag van agterstallig is, insluitende rente en invorderingskostes, indien enige, betaal is; of

(b) 'n Ooreenkoms vir die betaling van die agterstallige beoog in paragraaf (a) is in terme van artikel 22 aagegaan; of

(c) Die volle bedrag van agterstallige bedrae ten opsigte van enige ooreenkoms na verwys in paragraaf (b), insluitende rente en invorderingskostes indien enige, en enige toename deposito, betaal is, of enige bykomende sekuriteit vereis verskaf, en enige ander voorwaarde van die beleid wat die Raad geskik ag, nagekom is.

(2) Enige herinstelling in terme van subseksie (1) mag slegs gedoen word nadat 'n gemagtigde amptenaar het 'n skriftelike sertifikaat van magtiging uitgereik tot die effek dat elke toepassing voorwaarde beoog in subartikel (1) nagekom is en dat die betrokke munisipale diens kan herstel word uitgereik.

Rente

18. Alle agterstallige bedrae ten opsigte van rekeninge vir eiendomsbelasting en munisipale dienste dra rente teen 'n koers voorgeskryf.

Invorderingsheffings

19. 'n Voorgeskryf versameling Kostes kan teen die rekening van 'n kliënt, ten opsigte van enige handeling wat in terme van, of vir die doeleindes van hierdie verordening.

Volle en finale vereffening van 'n bedrag

20. (a) Die Raad kan enige gelde wat ontvang is ten opsigte van enige skuld beoog in hierdie verordening in sy uitsluitlike diskresie aanwend nie, tensy die kliënt anders gelas in te skryf.

(b) Indien enige bedrag verskuldig en betaalbaar aan die Raad in terme van hierdie verordening is nie ten volle betaal en enige kleiner bedrag aangebied en deur enige munisipale werknemer aanvaar, nie betaling in volle en finale vereffening van die volle bedrag uitmaak, tensy die mindere bedrag is in volle en finale vereffening skriftelik aanvaar, kragtens 'n bevoegdheid gedelegeer of sub- om daardie werknemer gedelegeer ingevolge artikel 59 van die Wet.

Rekeninge uitstaande is na die betaaldatum

21. (1) Indien 'n rekening vir eiendomsbelasting of enige munisipale diens aan 'n kliënt onbetaald, in die geheel of gedeeltelik, na die sperdatum vir die betaling vermeld in die rekening betrokke-

(a) die gebreke kliënt se naam kan openbaar gemaak word, en gelys kan word by 'n kredietburo; en

(b) kan 'n skuldinvorderaar versamelaar of 'n prokureur vir invordering oorhandig word.

(2) 'n Kliënt is aanspreeklik vir enige rente en invorderingskostes en in Daarbenewens betaling van 'n hoër deposito of die verskaffing van bykomende sekuriteit, indien so vereis deur die Raad.

(3) Geen aksie geneem in terme van hierdie artikel kan opgeskort of ingetrek word, tensy agterstallig is, rente daarop, invorderingsheffings en hoër deposito, het bykomende sekuriteit verskaf, indien dit verlang.

Ooreenkomste vir die betaling van agterstallige gelde in paaiemente

22. (1) 'n Kliënt met 'n positiewe bewys van identiteit of 'n persoon wat gemagtig is, skriftelik deur sodanige kliënt, kan, onderhewig aan die goedkeuring van die Raad, 'n ooreenkoms in 'n vorm wat baie soortgelyk aan 'n vorm wat voorgeskryf word vir die betaling van agterstallige gelde in paaiemente .

(2) Die bedrag verskuldig en betaalbaar deur 'n kliënt in terme van 'n ooreenkoms beoog in subartikel 1, maak 'n gekonsolideerde skuld en enige betalings deur 'n kliënt van 'n bedrag minder as die totale bedrag verskuldig is, moet in die vermindering van die gekonsolideerde skuld in die toegeken word Om voorgeskryf, tensy die kliënt anders gelas in te skryf.

(3) 'n kliënt vereis word om 'n debietorder vir die betaling van agterstallige bedrae ten opsigte waarvan 'n ooreenkoms, soos beoog in subartikel 1 stig aangegaan te reël.

(4) Behoudens die bepalings van subartikel 5, mag geen ooreenkoms vir die betaling van agterstallige toelaat vir 'n tydperk van die betaling van meer as 24 maande.

(5) (a) Die Raad kan 'n tydperk van betaling van meer as 24 maande vir die betaling van agterstallige meer as 'n tydperk van 60 maande laat, maar nie as spesiale omstandighede wat die kliënt nie redelikerwys kon verhoed of vermy, heers en wat, na die mening van die Raad, waarborg 'n langer tydperk van betaling.

(b) Dokumentêre bewys van enige spesiale omstandighede soos beoog in paragraaf (a) moet voorsien word deur die kliënt op versoek van die Raad.

(6) Die Raad moet, in die uitoefening van sy diskresie ingevolge subartikel (5), het betrekking tot 'n kliënt se-

(a) krediet rekord;

(b) verbruik;

(c) vermoë om die voorgestelde paaiemente kan bekostig nie, met inagneming van die kliënt se finansiële situasie;

(d) vlak van diens;

(e) vorige oortredings van ooreenkomste vir die betaling van agterstallige gelde in paaiemente; en

(f) enige ander tersaaklike faktor.

(7) 'n Afskrif van 'n ooreenkoms beoog in subartikel (1) moet, op versoek, verstrek word aan die betrokke kliënt.

(8) As 'n kliënt versuim om te voldoen aan 'n ooreenkoms beoog in subartikel (1), die totale uitstaande bedrag, insluitende die agterstallige bedrag, rente, enige versameling koste, en die betaling van 'n hoër deposito indien vereis deur die Raad, sal onmiddellik verskuldig en betaalbaar is, en bykomende sekuriteit, indien so vereis, moet voorsien word, sonder verdere kennisgewing.

(9) As 'n kliënt versuim om te voldoen aan 'n ooreenkoms beoog in subartikel (1), aangegaan is na ontvangs van 'n beëindiging kennisgewing vir water of elektrisiteit dienste, of albei, soos die geval mag wees, mag die betrokke munisipale diens beëindig word sonder verdere kennisgewing, benewens aan enige ander optrede teen of wat geneem kan word teen die betrokke kliënt.

(10) Geen klant toegelaat word om 'n ooreenkoms beoog in subartikel (1) te gaan, as dat die kliënt het 'n vorige ooreenkoms vir die betaling van agterstallige gelde in paaiemente te eer nie, tensy die Raad anders besluit.

(11) Sodra 'n ooreenkoms beoog in subartikel (1), afgehandel is, moet die agterstallige bedrag weerspieël word as 'n lopende bedrag, en geen verdere rente bygevoeg word.

Geskille te Bedrae verskuldig

23. Indien enige geskil met betrekking tot die bedrag verskuldig deur 'n kliënt, die kliënt moet hangende beslegting van daardie geskil, voortgaan gereelde maandelikse betalings te maak ten opsigte van eiendomsbelasting, indien van toepassing, en ten opsigte van enige munisipale diens betrokke gebaseer op die gemiddelde maandelikse gelde vir die voorafgaande drie maande voor die dispuut ontstaan, plus rente, indien van toepassing, tot en met die oplossing van daardie geskil.

Geweierde tjeks

24. Indien enige betaling aan die Raad deur 'n verhandelbare instrument, en sodanige verhandelbare instrument gedishonoreer word, kan die Raad koste en administrasiefooie op die rekening van die wanbetalende kliënt op 'n voorgeskrewe koers hef.

HOOFSTUK 4

BEHOEFTIGE PERSONE

Registrasie as hulpbehoewende persoon

25. (1) 'n Persoon wat hulp in terme van die Raad se beleid vir die voorsiening van munisipale dienste aan behoeftige persone te ontvang, moet aansoek doen om registrasie as hulpbehoewende persoon op 'n voorgeskrewe vorm by enige Raad se kantore.

(2) 'n Aansoek ingevolge subartikel (1), moet deur die Raad, wat tydens die evalueringsproses moet voldoen aan die beginsels van deursigtigheid, gelykheid, konsekwentheid, nie-diskriminasie, toeganklikheid, empatie, integriteit, vertroulikheid en objektiwiteit oorweeg word.

(3) 'n Aansoeker beoog in subartikel (1) moet, op versoek van die Raad verstrek enige verdere inligting kan die Raad in staat te stel om 'n besluit te kom en die Raad kan, vir die doel van die behoorlike evaluering van die aansoek, doen ook 'n ondersoek wat dit gepas ag.

(4) 'n Aansoeker moet ingelig word dat hy of sy outomaties gediskwalifiseer word van die ontvangs van enige bystand beoog in subartikel (1), en strafbaar met -

(a) terugbetaling van die bedrag van enige sodanige bystand ontvang van die Raad, indien die aansoek of inligting beoog in subartikel 3, enige vals inligting bevat; en

(b) vervolging indien enige vals inligting, soos beoog in paragraaf 1 word deur die aansoeker verstrek.

(5) Indien die Raad bevind 'n aansoeker behoeftige te wees, is so 'n aansoeker geregtig op bystand in terme van die beleid in subartikel 1, en sy of haar persoonlike besonderhede moet in 'n voorgeskrewe register van behoeftige mense aangeteken word.

(6) Die posisie van elke hulpbehoewende persoon so aangeteken, moet jaarliks deur 'n gemagtigde beampte in ooreenstemming met die voorskrifte van die Raad hersien word.

(7) 'n suksesvolle aansoeker moet skriftelik in kennis gestel dat hy of sy die Raad onmiddellik in kennis moet stel wanneer sy of haar behoeftige status verander het.

HOOFSTUK 5

DIVERSE

Raad se regte van toegang tot die perseel

26. Die Raad mag sy reg van toegang tot 'n perseel in terme van artikel 101 van die Wet uitoefen deur die munisipale bestuurder of enige gemagtigde beampte of behoorlik aangestelde agent van die Raad, skriftelik daartoe gemagtig is.

Teenstrydige wette

27. As daar enige konflik tussen 'n bepaling van hierdie verordening en 'n bepaling van enige ander verordening, moet die bepaling in hierdie verordening geld.

Behoud van regte in verband met die nie-nakoming

28. 'n Versuim deur die Raad om te voldoen aan enige bepaling van hierdie verordening nie op enige wyse beïnvloed die aanspreeklikheid van enige persoon enige bedrag verskuldig en betaalbaar aan die Raad betaal soos beoog in hierdie verordening, of die Raad se reg om te herstel sodanige bedrag.

Oordrag van dokumentasie

29. Onderhewig aan die bepalings van enige wet, as in terme van of vir die doeleindes van hierdie verordening enige skriftelike kommunikasie moet of kan gelewer word, gestuur of afgelewer –

(a)deur die Raad aan enige persoon, sodanige kommunikasie

(i) per hand afgelewer

(aa) aan daardie persoon se domiciliumcitandi et executandi, soos uiteengesit in 'n ooreenkoms aangegaan ingevolge artikel 3(1)(c) of 6(a); of

(bb) in die afwesigheid van sodanige ooreenkoms, aan daardie persoon se mees onlangs aangeteken adres; of

(cc) aan die betrokke ten opsigte waarvan belasting gehef is of enige munisipale diens nie voorsien, wat ook al betrokke is perseel; of

(ii) deur die pos gestuur word na die adres waarna in subparagraaf (i)(aa) of (bb), wat ook al van toepassing is, of aan die adres van die perseel in subparagraaf (i)(cc).

(b) deur enige persoon aan die Raad, moet sodanige kommunikasie

(i) per hand afgelewer te -

(aa) die Raad se domiciliumcitandi et executandi uiteengesit in die ooreenkoms beoog in Paragraaf (a)(i)(aa); of

(bb) 'n ander adres, indien die Raad skriftelik so 'n adres aan die betrokke persoon verstrek; of

(ii) deur die pos gestuur word na die adres waarna in subparagraaf (i)(aa) of, in die omstandighede beoog in subparagraaf (i)(bb), na die adres in daardie paragraaf beoog.

Prima facie-bewys van dokumentasie

30. Vir die doeleindes van die verhaal van enige bedrag verskuldig en betaalbaar aan die Raad in terme van hierdie verordening-

(a) 'n afskrif van enige relevante rekening; en

(b) 'n uittreksel uit die Raad se rekords met betrekking tot die hoeveelheid verbruik of bepaling van enige munisipale diens en die tydperk van die voorsiening van sodanige diens, gesertifiseer deur 'n gemagtigde amptenaar as korrek, prima facie bewys van die inligting vervat in die dokumente.

HOOFSTUK 6

APPÈLLE

Appèlle

31. (1) 'n Persoon wie se regte geraak word deur 'n besluit geneem deur 'n gemagtigde amptenaar ingevolge hierdie verordening, kan teen die besluit appelleer deur skriftelike kennisgewing van die appèl en redes aan die munisipale bestuurder binne 21 dae van die datum van die kennisgewing van die besluit.

(2) Die munisipale bestuurder moet gee om die appèl aan die paslike appèlowerheid genoem in subartikel (4).

(3) Die appèl owerheid moet die appèl oorweeg en bevestig, wysig of herroep, maar geen sodanige verandering of herroeping van 'n besluit mag afbreuk doen aan enige regte wat moontlik toegeval het as 'n gevolg van die besluit.

(4) Wanneer die appèl 'n besluit geneem deur -

(a) 'n personeellid as die munisipale bestuurder, is die munisipale bestuurder die appèlowerheid; of

(b) die munisipale bestuurder, die uitvoerende burgemeester die appèl owerheid.

(5) 'n appèl owerheid moet met 'n appèl binne ses weke en die appèl binne 'n redelike tydperk.

HOOFSTUK 7

GENERAL

Misdrywe

32. (1) Enige persoon wat -

(a) oortree of versuim om te voldoen aan enige van die bepalings van hierdie verordening;

(b) versuim om te voldoen aan enige wettige opdrag wat ingevolge hierdie verordening; of

(c) belemmer of kragtens hierdie verordening in die uitvoering van sy of haar pligte verhinder om enige gemagtigde amptenaar

skuldig aan 'n misdryf en by skuldigbevinding strafbaar sal wees om 'n boete van hoogstens R5000 of gevangenisstraf vir 'n tydperk van hoogstens 3 maande of beide.

Herroeping van bestaande verordeninge

33. Die Raad se bestaande Kredietbeheer en Skuldinvordering verordeninge word hiermee herroep.

Kort titel en inwerkingtreding

34. Hierdie verordeninge sal die _____ Munisipaliteit Credit Control verordening genoem word, 20____.

STRAATHANDEL VERORDENING

Dit word bepaal deur die Raad van die _____ Munisipaliteit, in terme van artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, saamgelees met artikel 11(3)(m) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), soos volg:

INDELING VAN ARTIKELS

Artikel

1. Definisies
2. Doel van die verordening
3. Vorme van informele handel
4. Vryheid om betrokke te raak in informele handel
5. Aangewese gebiede
6. Huurkontrak en die toekenning van grond
7. Omgewingsgesondheid en veiligheid
8. Verbod
9. Beperkings
10. Vertoning van goedere
11. Verwydering en skut
12. Beskikking van geskutte goedere

13. Middellike aanspreeklikheid van persone wat op informele handel
14. Misdrywe en strawwe
15. Beleid
16. Herroeping van verordeninge
17. Kort titel

Definisies

1 In hierdie verordening, tensy onbestaanbaar met te konteks-

"Die Wet" beteken die Wet op Besighede, 1991 (Wet No. 71 van 1991) en sluit die regulasies daarkragtens uitgevaardig,

"Goedkeuring" beteken goedkeuring deur 'n gemagtigde beampte en goed te keur 'n ooreenstemmende betekenis;

"Gemagtigde amptenaar" beteken -

(a) enige amptenaar van die Munisipaliteit te bestuur, te implementeer of die bepalings van hierdie verordening te dwing;
(b) 'n verkeersbeampte aangestel in terme van artikel 3A van die Wet op Nasionale Padverkeer, 1996 (Wet No. 93 van 1996);
(c) 'n lid van die polisiediens, soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995);
(d) 'n vredesbeampte, beoog in terme van artikel 334 van die Strafproseswet, 1997 (Wet No. 51 vn 1997); of
(e) 'n diensverskaffer en sy werknemers 'n bevoegdheid uitoefen in terme van artikel 81(2) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, of enige ander relevante wetgewing.

"Raad" beteken -

(a) die _____ Munisipaliteit, die uitoefening van sy wetgewende en uitvoerende gesag deur sy munisipale raad;
(b) sy opvolger-in-titel;
(c) 'n struktuur of persoon uitoefening van 'n gedelegeerde bevoegdheid of die uitvoering van 'n opdrag waar enige krag in hierdie verordening gedelegeer of gesubdelegeer,of 'n opdrag gegee het, soos beoog in artikel 59 van die Wet op Plaaslike Regering: Munisipale Stelsels; 2000 (Wet No. 32 van 2000); en
(d) 'n diensverskaffer wat 'n verantwoordelikheid ingevolge hierdie verordening;

"afgebakende stand" beteken staan afgebaken deur die Munisipaliteit vir die doeleindes van straathandel in terme van artikel 6(A)(3)(b) van die Wet;

"aangewese gebied" is 'n gebied wat deur die Raad ingevolge hierdie verordening, onderhewig aan die Wet, soos die gebied waarin informele handel uitgevoer kan word;

"voedings" beteken enige artikel of stof, behalwe 'n dwelm soos omskryf in die Dwelms en Wet, 1992 (Wet No. 140 van 1992), ontvoering, gewoonlik geëet of gedrink deur persone of voorgee om geskik vir menslike verbruik verkoop te word en sluit in enige deel of bestanddeel gebruik word of bedoel of bestem is om te gebruik word as 'n deel van bestanddeel van enige sodanige artikel of stof, soos omskryf in artikel 1 van die Skoonheidsmiddels en Ontsmettingsmiddels Voedingsmiddels Wet, 1972 (Wet No.54 van 1972).

"tuin" of "park" beteken 'n tuin of park waartoe die publiek'n reg van toegang het;

"goedere" is enige roerende eiendom wat n verband met straathandel en, sonder om die algemeenheid van die voorafgaande, sluit ander produkte te koop, te vertoon tafels, staan, houers, voertuie, strukture of diere;

"skut koste" is koste wat aangegaan is deur die Raad ten opsigte van geskutte goedere of eiendom en, waar van toepassing, die koste wat aangegaan is ten opsigte van die verkoop van skut goedere;

"informele handelaar"beteken die verkoop van goedere en / of dienste deur 'n informele handelaar in die aangewese gebied, wat insluit, sonder enige beperking, die vorme van handel in hierdie verordening;

"informele ekonomie" beteken aktiwiteite soos omskryf in die KZN Beleid oor Informele Ekonomie 2010;

"kruising" is 'n kruising soos omskryf in die regulasies uitgevaardig in terme van die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996);

"randsteenlyn" beteken, soos omskryf in artikel 1 van te Nasionale Padverkeerswet, 1996, die grens tussen die skouer en die rand of, in die afwesigheid van 'n skouer, die deel tussen die ryvlak en die rand;

"lineêre mark" beteken 'n aangewese gebied geleë in 'n voetganger omgewing.

"rommel" is enige houer, houer of ander saak, wat reeds weggegooi, verlate of agter gelaat deur 'n informele handelaar of deur sy of haar kliënte;

"motorvoertuig" is enige selfaangedrewe voertuig soos meer volledig omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"munisipaliteit" beteken die _____ Munisipaliteit gestig in terme van artikel 155(6) van die Grondwet van die Republiek van Suid-Afrika, 1996, en ingestel deur en kragtens artikels 11 en 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

"periodieke markte" is die verkoop van die reg om goedere en / of dienste deur mense en / of groepe in plekke wat vir informele handel vir 'n tydperk nie langer as 5 dae;

"voorgeskrewe" wyse soos van tyd tot tyd by besluit van die Raad bepaal.

"eiendom" met betrekking tot 'n informele handelaar, sluit 'n artikel, goedere houer, voertuig of struktuur wat gebruik word of bedoel is om in verband met informele handel gebruik word;

"openbare gebou" beteken 'n gebou wat behoort aan of geokkupeer deur 'n gebied van die regering, insluitende die Raad;

"openbare monument" is een van die openbare monumente en gedenktekens soos gedefinieer deur in terme van artikel 2 van die Wet op Nasionale Erfenishulpbronne, 1999;

"openbare plek" enige plein, park, ontspanningsoord of oop ruimte wat gevestig is in die Raad, of waartoe die publiek het die reg om te gebruik;

"openbare pad" soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 is 'n pad, straat of deurgang of enige plek wat algemeen gebruik word deur die publiek of enige deel daarvan of waartoe die publiek het die reg om toegang te verkry;

"huur" is 'n bedrag betaalbaar deur die informele handelaar vir die toegekende handelsruimte ek die aangewese gebied soos ooreengekom tussen die Raad en 'n informele handelaar;

"pad" beteken 'n pad soos omskryf in artikel 1 van die Wet op Nasionale Padverkeer, 1996, maar sluit 'n openbare plek;

"sell" sluit

(a) ruil, ruil of te huur;
(b) vertoon, blootstel, aanbied of voorberei vir verkoop;
(c) stoor op 'n openbare pad of openbare plek met 'n doel om te verkoop; of
(d) 'n diens vir beloning;

en **"koop"** of **"verkoop"** het 'n ooreenstemmende betekenis;

"sypaadjie" beteken 'n sypaadjie soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"skouer"verwys na daardie deel van die pad, straat of deurgang tussen die rand van die ryvlak en randsteenlyn;
"spesiale geleenthede" beteken spesiale gebeure wat van tyd tot tyd plaasvind nie, insluitend, sonder beperking, sport gebeure, godsdienstige gebeure, sosiale, kulturele of politieke byeenkomste en musiekfeeste;

"straat meubels" is enige meubels geïnstalleer deur die Raad op die straat vir openbare gebruik;

"straathandelaar" beteken 'n persoon wat verkoop of barters, verhuur, uitstallings, ontbloot, bied of berei vir die verkoop van goedere of wat 'n diens lewer vir beloning as 'n straathandelaar, venter of smous in 'n openbare pad of in 'n openbare plek, maar beteken enige persoon wat net koerante verkoop nie, insluit;

"die verkeer Wet" beteken die Wet op Nasionale Padverkeer, 1996 (Wet No. 93 van 1996);

"rand" is 'n rand, soos beskryf in artikel 1 van die Wet hierbo.

Doel van die verordening

2. (1)Die Raad erken die doel van sy bestaan in terme van die Grondwet wat insluit
(a) maatskaplike en ekonomiese ontwikkeling te bevorder;
(b) 'n veilige en gesonde omgewing te bevorder; en
(c) munisipale beplanning, handel regulasies, lisensiëring en beheer van ondernemings wat voedsel aan die publiek verkoop, markte, openbare plekke, munisipale paaie en straathandel.

(2)die Raad erken dus die behoefte om 'n ontwikkelingsbenadering te neem toegang tot werk in staat te stel 'n entrepreneuriese geleenthede binne die informele handelsektor, die verhouding tussen die handelsektor en informele die formele handelsektor en te harmoniseer die migrasie van die informele handelsektor te fasiliteer in die formele handel sektor.

Die doel van hierdie verordening is die informele handel binne die regsgebied van die Munisipaliteit in 'n wyse te reguleer daterken en die munisipaliteit se grondwetlike en ander statutêre verpligtinge verhoog.

Vorme van informele handel

3. (1) Informele handel kan enige van die volgende vorme van wetlike handel sluit:

(a)straathandel
(b) verkoop van goedere in lineêre mark
(c)verkoop van goedere of dienste in 'n openbare plek
(d) mobiele handel soos uit karavane en ligte motorvoertuie;
(e) verkoop van goedere in stalletjies of kiosks; en
(f) verkoop van goedere op spesiale geleenthede

Vryheid om betrokke te raak in informele handel

4. Onderhewig aan die nakoming van die bepalings van die verordening, die Wet en enige ander toepaslike wet, kan enige lid van die gemeenskap van die munisipaliteit toegelaat word om betrokke te raak in informele handel.

Aangewese gebiede

5. (a) Die raad kan by resolusie in terme van artikel 6 van die Wet, afgesonder en afbaken staanplekke of gebiede vir die doeleindes van informele handel op enige openbare pad, die eienaarskap of bestuur van wat berus by die Raad, of op enige ander eiendomin die beroep en onder die beheer van die Raad.

(b) Enige sodanige staanplekke of gebiede afgebaken vir informele handel verleng kan word, verminder of afgeskaf deur 'n resolusie van die Raad.

(c) Die Raad kan, by besluit ingevolge artikel 6A(3)(c)van die Wet, enige soom aan die eienaar of die okkupeerder van die aangrensende grond, op voorwaarde dat sodanige eienaar of bewoner sal 'n gespesifiseerde aantal informele handelaars in erwe of plekke op sodanige rand erken wat deur die eienaar of okkupeerder.

Huurkontrak en die toekenning van erwe

6. (1) Enige persoon wat voornemens is om 'n besigheid as 'n informele handelaar in terme van die bepalings van hierdie verordening mag t die Raad aansoek doen op die voorgeskrewe wyse vir die huur of toewysing van 'n erf in terme van artikel 6 van die Wet.

(2) Die Raad kan toestaan onderworpe aan voorwaardes, of weier om 'n aansoek bedoel in subartikel 1.

(3) Indien die aansoek suksesvol is-
(a) 'n informele handelaar moet 'n huurooreenkoms met die Raad ten opsigte van die stand, wat die huurkontrak moet geproduseer word op versoek van 'n gemagtigde beampte ingaan;

(b) ten opsigte van die toekenning, sowel as die huur van 'n perseel, 'n teken van 'n informele handelaar uitgereik word as bewys van hul regte die standpunt vir die doel van die uitvoer van informele handel te bewoon;

(c) 'n informele handelaar moet te alle tye, terwyl die uitvoering van die besigheid op die perseel of openbare ruimte behou wat teken op sy of haar persoon gereed vir die vertoning op 'n amptelike, indien versoek;

(d) die Raad kan, op skriftelike versoek van die informele handelaar kwessie 'n teken van 'n bona fide werknemer van die handelaar.

(4) Enige persoon wat op informele handel op 'n staanplek of openbare plek, insluitende rondreisende, container, bakkies en woonwaens en wat, sonder 'n redelike verduideliking, is nie 'n geldige huurkontrak te teken aan produseer soos beoog in subartikel 3 hierbo, skuldig aan 'n misdryf.

(5) Enige persoon wat op informele handel op 'n staanplek of openbare plek, en wat, sonder 'n redelike verduideliking, versuim om te voldoen aan die terme en voorwaardes van die huurooreenkoms sal skuldig aan 'n misdryf.

Omgewingsgesondheid en veiligheid

7. (1) 'n Informele handelaar moet

(a) hou die gebied bewoon deur hom of haar vir die doeleindes van besigheid skoon en sanitêre;

(b) gooi die rommel wat deur sy of haar besigheid in watter houer word verskaf deur die Raad vir die publiek of by'n stortingsterrein van die Raad;

(c) nie weg met rommel in 'n stormwaterdrein of enige ander plek wat nie bedoel vir die verwydering van rommel.

(d) verseker dat geen rook, dampe of ander stof, reuke of geraas van sy of haar aktiwiteite veroorsaak dat enige soort van besoedeling;

(e) op versoek van 'n beampte, beweeg sy of haar eiendom vir die skoonmaak van die terrein deur munisipale dienste.

Verbod

8. (1) Geen straatverkoper kan voer oor of onderneem straathandel

(a) op 'n soom aangrensend aan

(b) 'n gebou wat behoort aan of geokkupeer deur die staat;

(c) 'n motor teller bank masjien of bank perseel;

(d) 'n kerk of plek van aanbidding;

(e) 'n gebou tot nasionale monument verklaar te wees;

(f) op enige punt in die voorkant van 'n gebou wat beset is deur iemand wat goedere van dieselfde aard verkoop, sonder hul toestemming.

(g) op enige plek waar besigheid sou belemmer

(i) die ingang of uitgang van 'n gebou
(ii) 'n brandkraan
(g)in enige verklaarde gebied waar handel verbied is deur die munisipaliteit.

(2)Die Raad kan by besluit van die Wet, enige plek in dit regsgebied 'n gebied waarin informele verbode is om te wees, en moet tekens nakoming in staat te stel hiermee aandui die grense van beperkte gebiede maak.

(3)Die Raad kan enige sodanige teken vertoon, merk of apparaat so 'n beperking of 'n plek van die handel aan te dui.

(4) Enige teken opgerig in terme van hierdie verordening of enige ander wet, sal as voldoende kennisgewing dien om 'n informele handelaar van 'n beperking op die gebied.

(5) Die besluit van die Raad sal onderhewig wees aan die bepalings van artikel 6 van die Wet, wat onder andere vereis word, dat die Raad eers na die uitwerking van sy besluit sal hê op die bestaande handelaars in 'n gebied.

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Beperkings

9. (1) Geen persoon betrokke in straathandel

- slaap oornag by die besigheid webwerf
- enige permanente struktuur oprig sonder die skriftelike goedkeuring van die Raad.
- winkel goedere in 'n gevaarlike wyse
- toegang tot 'n diens of diens van die munisipaliteit verhinder
- heg enige van sy of haar goedere aan 'n gebou struktuur, sypaadjie, lamppaal, parkeermeter, ens.
- maak 'n oop vuur, tensy skriftelike goedkeuring van die Raad gestuur
- belemmer toegang tot 'n voetoorgang, laaisone,
- inhibeer die gebruik van die straat meubels of ander openbare geriewe.

Vertoning van goedere

10. (1) A straathandelaar, moet verseker dat enige struktuur of voorwerp wat gebruik word deur hom of haar vir voorbereiding, vertoon of stoor
(a) word in 'n skoon en in 'n goeie toestand gehou

(b) nie gebruik word nie of gestoor word sodat as 'n gevaar vir 'n persoon te veroorsaak.

Verwydering en skut

11. (1) 'n Inspekteur kan enige goedere verwyder en skut wat hy of sy-

(a)verdagtes word gebruik vir die bedryf van die besigheid van straathandelaar

(b) vind 'n plek waar besigheid is verbode of beperk in terme van die verordening.

(2) 'N inspekteur skut goedere

(a)reik die eienaar van die goedere met 'n kwitansie vir die verwydering van die goedere, wat verklaar

- die plek waar die goedere sal gehou word
- die bedrag betaalbaar ten opsigte van die koste van die skut
- die datum of waarop die goedere sal vernietig word of verkoop as onopgeëis.

(b) plaas die goedere in die veilige bewaring van die munisipaliteit.

(c) die inspekteur en die munisipaliteit sal nie aanspreeklik wees vir verlies of skade aan goedere gehou word.

Stoor en verkoop van goedere waarop beslag

12. (1) Enige goedere geskut sal hanteer word soos volg

(a) Die handelaar sal betaal vir beweer goedere die koste vir die munisipaliteit vir skut te dek.

(b) indien die goedere nie geëis word, moet die goedere verkoop word om die koste van die skut te dek.

(2) indien die opbrengs onvoldoende is uitgawes aangegaan, te dek, dan is die eienaar aanspreeklik is vir die betaling.

Middellike aanspreeklikheid van mense wat deelneem in informele handel

13. (a) Wanneer 'n werknemer of agent van 'n formele handelaar die Verordening oortree, sal hy of sy het om te wys dat hulle het redelike stappe so 'n aksie te voorkom.

(b) uitreiking van instruksies aan 'n werknemer verbied om sodanige oortreding nie neerkom bewys van redelike stappe.

Misdrywe en strawwe

14. (1) Indien die munisipaliteit van mening is dat 'n persoon nie voldoen het aan die verordening, kan dit skriftelike kennisgewing te dien, 'n beroep op tem om te voldoen.

(2)Enige persoon wat versuim om te voldoen aan die bepalings van hierdie wet of die bepalings van kennisgewing wat op hulle is skuldig aan 'n misdryf en is aanspreeklik vir 'n boete of gevangenisstraf, hoogstens 3 maande.

(3) In die geval van deurlopende oortreding, sal die oortreder bloot aan 'n verdere boete nie groter as R50 per dag, of gevangenisstraf wat nie een dag oorskry nie, vir die voortsetting van die oortreding.

Beleid

15. Die Raad kan die beleid rakende die volgende:
    (a) 'n verklaring van enige plek 'n gebied van verbode of beperkte handel te wees
    (b) die afbakening van staanplekke of gebiede vir die doel van die informele handel
    (c) die verkoop van enige eiendom wat geskut soos beoog deur hierdie wet
    (d) die aanspreeklikheid van enige persoon vir enige redelike uitgawes aangegaan gedurende skut
    (e) die voorskrif van strawwe vir die misdrywe bedoel in terme van die verordening
    (f) die wysiging van sodanige boetes van tyd tot tyd; en
    (g) Enige aangeleentheid wat ingevolge hierdie verordening en enige aangeleentheid wat die toepassing van hierdie verordening mag fasiliteer voorgeskryf word.

HOOFSTUK 10

GEBRUIK EN BEKENDMAKING VAN ONBRUIK BEGRAAFPLAATSEN

Gebruik en sluiting van begraafplasewat in onbruik

51. (a) Ten spyte van 'n bepaling van hierdie Verordening, en onderhewig aan die bepalings van subsection (f), kan die Raad 'n begraafplaas of gedeelte daarvan te gebruik, wat reeds in onbruik vir 'n tydperk van nie minder nie as 20 jaar vir so 'n doel gebruik nie die grond en enige menslike oorskot of enige gedenktekens in so 'n begraafplaas skend.

(b) Ten spyte van 'n bepaling van hierdie Verordening, en onderhewig aan die bepalings van subartikel (f), kan die Raad 'n begraafplaas, of enige deel daarvan, waarvan dit die begraafplaas owerheid, wat reeds in onbruik vir 'n tydperk van nie minder nie as 20 sluit jaar, of as rede vir die sluiting bestaan.

(c) Ondanks enige bepaling in hierdie verordening, en onderhewig aan die bepalings van subartikel (a), my die Raad gebruik 'n begraafplaas of gedeelte daarvan, wat gebruik is vir 'n ander doel ingevolge subartikel 1, of heropen n begraafplaas of gedeelte daarvan, wat gesluit is in terme van subartikel (b).

(d) Die Raad kan, onderhewig aan die bepalings van subartikel (f), verwyder na 'n ander begraafplaas die menslike oorskot, gedenktekens en ander strukture van 'n begraafplaas, waarvan dit die begraafplaas gesag, wat gesluit is of in onbruik vir 'n tydperk van nie minder

nie as 20 jaar en wat goedgekeur is vir ander gebruik deur die bevoegde owerheid of owerhede soos die geval mag wees.

(e) Alle regte besit of geniet word deur enige persoon ten opsigte van 'n begraafplaas soos bedoel in subartikel (1) en (b) en sal daarna ophou.

Voordat ingevolge subartikel (a), (b), (c) en (d) van die Raad moet kennis gee van sy voorneme om dit te doen gee.

HOOFSTUK 11

DIVERSE

Beserings en skade

52. (a) 'n Persoon wat 'n begraafplaas, doen dit op eie risiko, en die Raad aanvaar geen aanspreeklikheid hoegenaamd vir enige persoonlike beserings opgedoen deur so 'n persoon of vir enige verlies van of skade aan sodanige persoon se eiendom met betrekking tot of as gevolg van die bogenoemde gebruik van die begraafplaas.

(b) 'n persoon wat 'n begraafplaas aanvaar volle verantwoordelikheid vir enige voorval, skade of beserings wat veroorsaak kan word deur of wat mag voortspruit uit die voormelde gebruik van die begraafplaas en hy of sy dienooreenkomstig vrywaar die Raad, dit is lede, werknemers of agente, hetsy in persoonlike of amptelike hoedanigheid van aanspreeklikheid vir alle eise van welke aard ook deur homself,sy of haar afhanklikes of derde partye ten opsigte van enige vermoënsverlies, gevolglike skade, beserings of persoonlike nadeel wat gely of opgedoen in verband met of as gevolg van so 'n persoon se gebruik van 'n begraafplaas mag word. Die voormelde vrywaring geld ook vir beserings opgedoen deur werknemers van die Raad, terwyl aan diens by die begraafplaas, asook skade aan die raad se eiendom by die begraafplaas.

Vuurwapens en tradisionele wapens

53. Geen vuurwapens en tradisionele wapens mag in 'n begraafplaas toegelaat word nie.

Klagtes

54. Enige persoon wat 'n klagte in te dien, moet sodanige klagte, skriftelik aan die direkteur.

Aanklagte

55. Die aanklagte soos uiteengesit in die tarief ten opsigte van die verskillende items wat daarin vervat is, moet vooraf aan die Raad betaal word.

Regte op Grawe

56. Geen persoon mag enige reg of belang in enige grond of graf in 'n begraafplaas verkry.

Toestemmings, Kennisgewings en Bestellings

57. Enige skriftelike toestemming, kennisgewing of ander bevel uitgereik deur die Raad in terme van hierdie verordening, met die uitsondering van toestemming deur die Direkteur of enige beampte deur hom gemagtig is en sal prima krag bewys van die inhoud van so 'n getekende toestemming, kennisgewing of ander orde.

Kennisgewing van voldoening en vertoë

58. (1) 'n kennisgewing van voldoening moet:

(a) die naam, woon- en posadres van die persoon;

(b) die aard van die toestand van verval;

(c) voldoende besonderhede nakoming in staat te stel met die kennisgewing, die maatreëls vereis dat die gedenkteken op te los;

(d) dat die persoon binne 'n spesifieke tydperk, neem die maatreëls om te voldoen aan die kennisgewing te ywerig voortgaan met die maatreëls, en die maatreëls voor 'n spesifieke datum te voltooi;

(e) wat versuim om te voldoen aan die vereistes van die kennisgewing in die tydperk beoog in subartikel (d) is 'n misdryf; en

(f) dat skriftelike vertoë, soos beoog in sub-artikel (3) binne die tydperk soos bepaal in subartikel (d), gemaak word aan die Raad op 'n spesifieke plek.

(2) Die Raad, wanneer enige maatreël of tydperk bedoel in subartikels (1)(d) en (e) moet betrekking tot:

(a) die beginsels en doelwitte van hierdie wet;

(b) dat oorsaak en toestand van verval;

(c) enige maatreëls deur die persoon op wie die stappe ingestel gaan word; en

(d) enige ander relevante faktore.

(3) 'n Persoon mag binne die tydperk bedoel in subartikel 1 vertoë in die vorm van 'n beëdigde verklaring of bevestiging aan die Raad op die plek in die kennisgewing vermeld.

(4)Vertoë wat nie binne die tydperk ingedien sal nie oorweeg word nie, tensy die persoon goeie redes aangevoer en die Raad kondoneer die laat indiening van die vertoë.

(5) Die Raad moet die vertoë en enige reaksie daarop deur 'n gemagtigde beampte of enige ander persoon oorweeg.

(6) Die Raad kan, op sy eie beweging enige verdere ondersoeke die feite nodig om te verifieer, en die resultate van die ondersoek moet aan die persoon wat dit moet 'n geleentheid om 'n verdere reaksie gegee word beskikbaar gestel word indien hy of sy wil , en die Raad moet ook oorweeg om die verdere reaksie.

(7) Die Raad moet, na oorweging van die vertoë en antwoorde, maak 'n skriftelike bevel en dien 'n afskrif daarvan aan die persoon.

(8) Die bevel moet:

(a) uiteengesit om die bevindinge van die Raad;

(b) bevestig, wysig of tersyde stel in die geheel of gedeeltelik, moet die kennisgewing van nakoming; en

(c) 'n tydperk spesifiseer waarin die persoon moet voldoen aan die bevel wat deur die Raad.

(9) Indien die kennisgewing van voldoening bevestig, in die geheel of gedeeltelik, of gewysig maar nie ter syde gestel word, sal die Raad die persoon wat hy of sy moet die verpligtinge soos uiteengesit in die kennisgewing binne die tydperk daarin vermeld inlig.

(10) Waar daar geen ooreenstemming met die vereistes van die kennisgewing in die tyd daarin vermeld, kan die Raad stappe doen as dit nodig ag om die monumentale werk om te herstel en die koste daarvan moet deur so 'n persoon aan die Raad betaal word.

Godsdienstige seremonies

59. (a) Die lede van enige kerkgenootskap kan godsdiens in verband met enige teraardebestelling van roudiens onderworpe aan die beheer en verordeninge van die Raad.

(b) Geen dier mag geslag word op die perseel van die begraafplaas, ongeag van enige godsdienstige plegtigheid wat kan 'n dier benodig om geslag te word.

Lykswaens en voertuie by begraafplase

60. (a) Geen persoon mag enige lykswa of voertuig veroorsaak, soos gedefinieer deur die Wet op Nasionale Padverkeer, 1996, terwyl in 'n begraafplaas te wyk van die pad.

(b) Lykswa of voertuig moet die begraafplaas verlaat deur die roete aangedui deur die opsigter.

(c) Die begraafplaas is 'n openbare plek en al die wette van toepassing op die bestuur van 'n voertuig en die gebruik van 'n openbare pad sal van toepassing binne die perseel van die begraafplaas.

Blootstelling van liggame

61. Geen persoon mag 'n lyk, wat nie gedek word nie, of wie se liggaam of enige deel daarvan in 'n straat, begraafplaas of openbare plek dra.

Opdrag van opsigter

62. Elke persoon wat aan 'n begrafnisstoet of plegtigheid moet voldoen aan die voorskrifte van die opsigter, terwyl so 'n persoon is in 'n begraafplaas.

Musiek in begraafplaas

63. Slegs gewyde sang toegelaat sal word in 'n begraafplaas nie, behalwe in die geval van die polisie en militêre begrafnisse.

Begrafnisse bygewoon deur 'n groot aantal mense

64. In 'n geval waar dit waarskynlik is dat 'n buitengewoon groot aantal persone by enige begrafnis teenwoordig sal wees, moet die persoon wat kennis van sodanige teraardebestelling die opsigter die dag stel voor die begrafnis.

HOOFSTUK 12

BEGRAFNISONDERNEMERS

Voorbereiding van lyke

65. (a) Lyke om voorbereid te wees net op begrafnisondernemers perseel ten opsigte waarvan 'n sertifikaat van bevoegdheid uitgereik is.

(b) Tensy anders in hierdie verordening, mag geen persoon en / of 'n lyk stoor behalwe op 'n begrafnisondernemer se perseel ten opsigte waarvan 'n sertifikaat van bevoegdheid uitgereik is en is in effek.

Aansoek vir die uitreiking of oordrag van 'n sertifikaat van bevoegdheid

66. (1) (a) Enige persoon wat wil aansoek doen om 'n sertifikaat van bevoegdheid ten opsigte van nuwe begrafnisondernemer se perseel sal nie minder nie as 21 dae voor die indiening van die aansoek aan die Raad 'n kennisgewing van sy voorneme om in Engels gepubliseer is, en twee ander amptelike Suid-Afrikaanse tale in 'n koerant wat sirkuleer in die gebied waarin sodanige perseel sal wees of is.

(b) Sodanige kennisgewing moet inligting aan die effek wat 'n aansoek vir die uitreiking van 'n sertifikaat van bevoegdheid in terme van hierdie wet is om aan die Raad en dat enige persoon wat beswaar wil aanteken teen sodanige gebruik kan sy of haar beswaar ingedien word bevat saam met gemotiveerde vertoë, met die Raad skriftelik binne 21 dae van die datum van publikasie van die kennisgewing.

(2) 'n Aansoek vir die uitreiking van 'n sertifikaat van bevoegdheid moet gemaak word aan die Raad skriftelik op die voorgeskrewe vorm en moet vergesel word deur

(a) 'n beskrywing van die perseel en die plek daarvan; insluitende toerusting, stoor fasiliteite, voorbereiding gebiede en toiletgeriewe.

(b) 'n Volledige grondplan van die voorgestelde konstruksie of van die bestaande geboue op 'n skaal van 1: 1000 insluitend die uitvloeisel rioolstelsel.

(c) 'n plan van die perseel waarop die noorde word getoon aandui aangrensende persele wat reeds deur die aansoeker of ander persone en die doel waarvoor sodanige perseel benut of aangewend word beset;

(d) besonderhede van enige ander persoon as die aansoeker en enige van sy of haar werknemers wat voorberei of sal lyke op die perseel op te stel;

(e) 'n gebeurlikheidsplan vir die berging van lyke in die geval van 'n koel of koue kamer breek; en

(f) 'n reiniging en ontsmetting program.

(g) besonderhede van geregistreerde gesondheidsorgafval remover, vervoerder en beskikker.

(3) Die Raad, by die oorweging uitreiking van 'n sertifikaat van bevoegdheid, kan versoek van hy enige sodanige verdere inligting wat vereis aansoeker of enige ander persoon.

(4) Die Raad sal nie 'n sertifikaat van bevoegdheid tensy 'n volledige inspeksie van die betrokke perseel uitgevoer deur 'n omgewingsgesondheid praktisyn wat deur die Raad en die omgewingsgesondheid praktisyn se verslag oor sodanige inspeksie, insluitend aanbeveling oor sulke uitreiking of oordrag, is in besit van die Raad.

Uitreiking of oordrag van 'n sertifikaat van bevoegdheid

67. Wanneer die Raad oortuig is dat die betrokke perseel:

(a) voldoen aan al die vereistes wat in hierdie verordening en enige ander toepaslike wetgewing;

(b) is in alle aspekte wat geskik is vir die voorbereiding van lyke; en

(c) sal nie aanstoot aan insittendes van 'n perseel in die onmiddellike omgewing van sodanige perseel wees, sal dit op die voorwaardes wat hy mag ten opsigte van die begrafnisondernemer se perseel, 'n sertifikaat van bekwaamheid in die naam van die aansoeker in die vorm wat bepaal dit bepaal of sal deur endossement, dra 'n bestaande bevoegdheidsertifikaat na 'n nuwe houer, soos die geval mag wees.

Geldigheid en oordrag van sertifikaat van bevoegdheid

68. 'n Sertifikaat van bevoegdheid, uitgesluit 'n voorlopige sertifikaat van bevoegdheid word, op endossement deur die Raad, oordraagbaar wees van een houer na 'n nuwe houer en sodanige sertifikaat, indien wel onderskryf, geldig vanaf die datum van wat dit uitgereik is totdat dit herroep of opgeskort in terme van hierdie wet.

Kwessie van voorlopige sertifikaat van bevoegdheid

69. (a) Ondanks die feit dat die Raad nie tevrede is nie, soos in artikel 4 met betrekking tot begrafnisondernemer se perseel ten opsigte waarvan 'n sertifikaat van bevoegdheid aansoek gedoen, kan die Raad, in hy geval van bestaande begrafnisondernemer se perseel en onderhewig aan sodanige voorwaardes as die Raad mag bepaal, 'n voorlopige sertifikaat van bevoegdheid ten opsigte van sodanige perseel.

(b) 'n Sertifikaat in subartikel (a) sal slegs uitgereik word indien die Raad oortuig is dat die gebruik van sulke begrafnisondernemer se perseel nie en sal nie 'n oorlas skep, en sal uitgereik word vir 'n maksimum tydperk van ses maande die aansoeker in staat te stel om te verander sodanige perseel ten einde te voldoen aan die bepalings van hierdie verordening.

(c) Indien, na die tydperk bedoel in subartikel (b), die perseel nie aan die bepalings van hierdie verordening voldoen nie, kan die Raad die voorlopige sertifikaat van bevoegdheid herroep.

Pligte van houer

70. (a) Die houer moet die Raad onmiddellik skriftelik in kennis stel indien daar enige veranderinge in die besonderhede of omstandighede wat aan die Raad in die aansoek om 'n bevoegdheidsertifikaat.

(b) A begrafnisondernemer moet nie weg van 'n liggaam in 'n plek of 'n ander perseel as 'n begraafplaas of krematoriums geregistreer in terme van die Wet op Kwazulu-Natal begraafplase en krematoriums, 1996.

(c) Die houer moet voldoen aan die bepalings van hierdie verordening, toepaslike wetgewing en enige voorwaardes deur die Raad.

Opskorting of intrekking van 'n sertifikaat van bevoegdheid of voorlopige sertifikaat van bevoegdheid

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71. (1) Indien die Raad van mening is, op die krag van 'n inspeksie verslag en / of aanbeveling deur 'n mediese beampte van gesondheid of omgewingsgesondheid praktisyn, dat daar redelike gronde is om te vermoed dat:

(a) betrokke benut word in so 'n manier as 'n oorlas skep of dat toestande wat 'n oorlas is of geskep word op die betrokke begrafnisondernemer se perseel die begrafnisondernemer se perseel; of

(b) die betrokke perseel benut word in stryd met die bepalings van die Wet op Gesondheid, 2003, deur-wet of ander toepaslike wetgewing of enige voorwaardes deur die sertifikaat van bevoegdheid, kan dit die Raad na goeddunke:

(i) herroep sertifikaat van bevoegdheid of voorlopige sertifikaat van bevoegde bekommerd;

(ii) die sertifikaat van die betrokke vir sodanige tydperk as wat die Raad mag bepaal bevoegdheid skort, die houer in staat te stel om te voldoen aan die toepaslike wetgewing en / of voorwaardes opgelê; met dien verstande dat indien die houer versuim om te voldoen binne die tydperk in die kennisgewing van opskorting, kan die Raad die betrokke sertifikaat sonder verdere kennisgewing herroep.

(2) 'n kennisgewing uitgereik deur die Raad ingevolge artikel 71(b)(ii) uitgereik word skriftelik en dan bedien op die houer.

Die opskorting of intrekking van 'n sertifikaat van bevoegdheid of voorlopige sertifikaat van bevoegdheid in terme van hierdie wet sal die effek hê dat vanaf die datum van die kennisgewing van opskorting of intrekking

(a) geen voorbereiding van 'n lyk, moet op die betrokke perseel uitgevoer word;
(b) geen lyk moet ontvang word vir voorbereiding op die betrokke perseel; en
(c) geen lyk moet bewaar word op die betrokke en elke lyk moet onmiddellik verwyder word na 'n lykshuis onder die beheer van die Staat perseel,'n provinsiale administrasie of die raadslid, enige ander begrafnis perseel, met dien verstande dat hierdie verordening sal nie van toepassing wees en die genoemde kennisgewing moet nie so uitgelê word as enige ander sake-aktiwiteit wat verband hou met die begrafnis onderneming beroep insluitend die verkoop van doodskiste te beperk en beleid.

(4) Waar die Raad van mening is dat 'n toestand wat aanleiding gee tot die herroeping van 'n sertifikaat gegee soos beoog in hierdie verordening reggestel na sodanige herroeping, kan dit, op skriftelike aansoek deur of namens die houer, herroeping van sodanige herroeping deur endossement op die betrokke sertifikaat.

Vereistes met betrekking tot begrafnisondernemer se perseel

72. (1) Voorsiening vir die volgende moet op 'n begrafnisondernemer se perseel gemaak word:

(a) 'n voorbereiding kamer vir die voorbereiding van 'n lyk;

(b)verander-kamers skei vir elke geslag, vir die gebruik van die werknemers in diens by sodanige perseel;

(c) verkoeling geriewe vir die verkoeling van lyke;

(d) was- en skoonmaak gereedskap en toerusting in die gebou;

(e) fasiliteite vir die skoonmaak van voertuie op die perseel; en

(f) fasiliteite vir die laai en aflaai lyke soos beoog in klousule 72 (6).

(2) Geen plek op 'n begrafnisondernemer se perseel moet gebruik word vir enige ander doel as die doel waarvoor dit bedoel is.

(3) Die voorbereiding kamer-

(a) moet ontwerp word om as te:

(i) wees apart van alle ander kamers op die perseel en sodat dit nie direk toeganklik te wees van of in die lig van 'n kantoor of verkope kamer met dien verstande dat, waar 'n voorbereiding kamer op bestaande begrafnisondernemer se perseel so geleë is, moet die ingang daarvan so wees versteekte dat die binnekant van die voorbereiding kamer is heeltemal buite sig van enige persoon in die aangrensende kantoor of verkope huis;

(ii) in staat stel om skadelike reuke en dampe wees voldoende behandel word; en

(iii) voldoende geventileer en verlig.

(b) moet 'n vloer-met 'n oppervlakte van nie minder nie as $6m^2$ vir die eerste tafel van die soort bedoel in artikel 72(3)(e) en $8m^2$ vir elke bykomende tafel; van beton of soortgelyke waterdigte materiaal met 'n gladde nie-glibberige oppervlak wat maklik is om skoon te maak, en helling teen 'n hoek enige afloop te verseker, sal dreineer in 'n afvoerstelsel deur die Raad goedgekeur is; en wat, indien dit vervang of gelê na die datum van inwerkingtreding van hierdie verordening, sal voorsien word met 'n halwe ronde te vul waar ditvoldoen aan die mure-

(i) moet mure met 'n binneste oppervlak het met 'n gladde afwerking en is bedek met 'n lig-gekleurde wasbare verf of ander geskikte, gladde, waterdig, lig-gekleurde en wasbare materiaal;

(ii) moet voorsien word met 'n plafon nie minder nie as 2,4m bo die vloer vlak, wat plafon stof bewys moet wees en geverf met 'n lig-gekleurde, wasbare verf;

(iii) moet nie minder nie as 1 vlekvrye staal of glas erdewerk, toegerus met 'n verhoogde rand aan die buitekant, 'n kraan met koue lopende water waarin 'n buigsame pyp gekoppel kan word en 'n dreinering opening gekoppel aan die goedgekeurde rioolstelsel bevat;

(iv) moet bevat nie minder nie as een wasbak vir elke tafel, gemaak van vlekvrye staal of ander geskikte materiaal, met 'n werkende oppervlak van dieselfde materiaal, krane met warm en koue lopende water en 'n dreinering opening permanent gekoppel aan 'n goedgekeurde rioolstelsel;en voorsien wegdoenbare handdoeke, 'n spyker-kwas en seep;

(v) moet nie minder nie as een kraan met lopende water waarin 'n buigsame pyp, lank genoeg al die uithoeke van die kamer te bereik, kan verbind word vir die skoonmaak van die binneland oppervlaktes; en

(vi) moet deur openinge wat nie minder nie as 0,82m in breedte en 2,00m in hoogte sodat lyke kan in en uit so 'n vertrek geneem word sonder enige probleme.

(4) Elke verandering-kamer moet die volgende bevat ten minste:

(a) een hand-wasbak met warm en koue lopende water vir elke ses werknemers of gedeelte daarvan;

(b) wegdoenbare handdoeke, seep, naelborsels en ontsmettingsmiddel; en

(c) nie minder nie as een toilet vir elke 15 manlike werknemers en nie minder nie as 1 toilet vir elke 15 vroulike werknemers in diens by die betrokke begrafnisondernemer se perseel, met dien verstande dat, waar 'n afsonderlike urinaal vir mans deel van sulke fasiliteite, een toilet plus een afsonderlike urinaal moet toelaatbaar vir elke 30 mans of 'n deel daarvan wees.

(5) Verkoeling geriewe soos verkoeling of koue kamers vir die aanhou van lyke, moet geïnstalleer word in of in die nabyheid van sodanige voorbereiding kamer en-

(a)waar yskaste gebruik word, moet dit gebou wees van 'n materiaal wat nie vog absorbeer, moet voorsien word met verwyderbare bak en moet ontwerp word om te dreineer in 'n goedgekeurde dreineringstelsel en maklik om skoon te maak;

(b) van so 'n aard is dat die oppervlak temperatuur van 'n lyk nie hoër as 5 tydens voorbereiding moet wees. 'N akkurate termometer moet voorsien word teen die yskas of koue kamer en moet te alle tye in werking wees.

(c) in gevalle waar die koue kamers gebruik word, moet dit voldoen aan artikels 10 (3)(a)(ii), (b)(ii), (c), (d) en (h) en moet voorsien word met rakke vervaardig van 'n materiaal wat nie vog absorbeer en dit is maklik om skoon te maak; en

(d) Lyke is nie op die top van mekaar gestoor word en moet individueel gestoor word op die bak of rakke.

(6) Die reiniging, laai en los fasiliteite moet bestaan uit 'n geplaveide area, van die publieke oog, met 'n dreineringstelsel in rioolput gekoppel aan 'n rioolstelsel deur die Raad goedgekeur is.

(7) Die laai en los van lyke en die reiniging van voertuie moet nie plaasvind nie oral behalwe in die gebied bedoel in artikel 72(6).

(8) Die begrafnisondernemer se perseel moet knaagdierdigte wees.

Vervoer van stoflike oorskot

73. Geen persoon mag enige oorblyfsels dra

(a) tensy die oorblyfsels is verseël in 'n lugdigte houer en in 'n nie-deursigtige, stewige, verseël kis geplaas; of

(b) geen kis houer waarin die stoflike oorskot is geplaas kan oorgedra word tensy:

(i) die buitenste oppervlak van sodanige kis of houer is vry van enige lekkasies of enige ander afskeiding saak wat uit sodanige oorblyfsels; en

(ii) aanstootlike reuke afwesig

Higiëne

74. (1) Alle gesondheidsorgafval gegenereer moet gestoor word, verwyder, vervoer en weggedoen word in ooreenstemming met die Raad se Environmental Health By-wette.

(2)Elke houer van 'n sertifikaat van bevoegdheid met betrekking tot begrafnisondernemer se perseel moet

(a) verskaf skoon, beskermende klere uit chirurgiese handskoene, gumboots, gesigmaskers en jasse / oorpakke te alle werknemers en alle ander persone wat betrokke is by die voorbereiding van lyke of lykskouings, en elke sodanige werknemer of ander persoon moet, te alle tye, wanneer so betrokke, soos klere dra;

(b) sodanige perseel hou vry van peste en insekte te alle tye

(c) skoon onmiddellik na die voorbereiding van 'n lyk, al werk gebiede of oppervlaktes op sodanige perseel waar lyke is bereid;

(d) was en ontsmet alle toerusting wat gebruik word vir die voorbereiding van lyke onmiddellik na gebruik;

(e) was, skoonmaak en ontsmet al beskermende klere wat op die perseel op 'n daaglikse basis gebruik;

(f) sodanige perseel skoon en netjies te hou ten alle tye; en

(g) As 'n lyk is sonder 'n vog-bewys bedekking vervoer, was en ontsmet die laai ruimte van die betrokke nadat die lyk verwyder is voertuig.

HOOFSTUK 13

APPÈL, VRYSTELLINGS EN MISDRYWE

Appèl

75. 'n Persoon wie se regte geraak word deur 'n besluit deur die Raad gedelegeer kan teen daardie besluit appelleer deur skriftelike kennisgewing van die appèl en die redes gee dus in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000) aan die Raad binne 21 dae van die datum van die kennisgewing van die besluit.

Vrystellings

76. (1) Enige persoon ma deur middel van 'n skriftelike aansoek waarin die redes volledig gegee word, is van toepassing op die Raad vir vrystelling van enige bepaling van hierdie verordening.

(2) Die Raad kan:

(a) 'n vrystelling skriftelik en die voorwaardes in terme van watter, indien enige, en die tydperk waarvoor sodanige vrystelling verleen word, moet daarin uiteengesit word;

(b) verander of enige vrystelling kanselleer of voorwaarde Ek 'n vrystelling; of

(c) weier om 'n vrystelling te verleen.

(3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om te voldoen aan al die voorwaardes y die Raad kragtens subartikel (2). Indien enige aktiwiteit begin voordat sodanige onderneming aan die Raad voorgelê is, die vrystelling sal van geen krag wees van die effek.

(4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, die vrystelling verval onmiddellik.

(5) Die versuim om te voldoen aan 'n voorwaarde van 'n vrystelling ingevolge subartikel 2 is 'n misdryf.

Misdrywe en strawwe

77. (1) Enige persoon

(a) oortree of versuim om te voldoen aan enige van die bepalings van hierdie verordening;

(b) 'n valse verklaring wetende dat dit vals of opsetlik wees verstrek misleidende inligting aan 'n gemagtigde beampte of werknemer van of vir die Raad;

(c)dreig, teenstaan, inmeng met of 'n gemagtigde beampte of werknemer van of vir die Raad in die uitvoering van hul pligte of funksies belemmer onder hierdie verordening,

skuldig aan 'n oortreding en sal by skuldigbevinding deur 'n hof strafbaar met 'n boete van hoogstens R60000,of gevangenisstraf vir 'n tydperk van hoogstens 3 jaar of beide 'n boete sowel as 'n tydperk van gevangenisstraf, of sodanige ander boete of gevangenisstraf wat die Minister van Justisie, kan van tyd tot tyd bepaal in terme van die bepalings van artikel 92 van die landdroshowe Act.1994 (Wet No. 32 van 1994).

(2) Enige koste wat aangegaan is deur die Raad as gevolg van 'n oortreding van hierdie verordening of in die doen van enigiets wat 'n persoon is gerig om te doen wat ingevolge hierdie verordening en wat hy of sy as versuim het om te doen nie, kan deur die Raad verhaal word van die persoon wat die oortreding begaan het of versuim het om sodanige ding te doen.

HOOFSTUK 14

HERROEPING VAN VERORDENINGE

Herroeping van bestaande verordeninge

78. Die Raad se bestaande begraafplase, krematoriums en Begrafnisondernemers By-wette word hierby herroep.

Kort titel en inwerkingtreding

Hierdie Verordening sal genoem word die _____ Munisipaliteit Begraafplaas, krematoriums en Begrafnisondernemers By-Law 20___

(c) Versuimom te voldoen aan enige voorwaarde van die voorsiening ten opsigte van elektrisiteit of water, soos die geval mag wees, soos bepaal deur die Raad.

(d) Die doeltreffende voorsiening van elektrisiteit of water aan 'n ander kliënt.

(e) Verskaf elektrisiteit of water aan 'n persoon wat nie daarop geregtig is, of toelaat dat sodanige voorsiening om voort te gaan.

(f) 'n Situasie met betrekking tot elektrisiteit of water veroorsaak, wat na die mening van die Raad gevaarlik is , of 'n oorteding van enige toepaslike wet, insluitend die gemenereg.

(g) In enige manier herstel die voorsiening van 'n voorheen beëinding of beperk elektrisiteit of water diens.

(h) Is onder voorlopige sekwestrasie, likwidasie of geregttelike bestuur word geplaas, of 'n daad van insolvensie pleeg ingevolge van die Insolvensiewet. 1936 (Wet No. 24 van 1936), of is onderhewig aan 'n administrasiebevel toegestaan in terme van artikel 74 van die Wet op Landdroshowe, 1994, en is daar 'n mislukking in 'n nuwe diens ooreenkoms binne 14 dae van die Raad vereis dat sodanige diens- ooreenkoms in terme van artikel 6 i te voer.

(3) Die Raad kan 'n beëindiging kennisgewing stuur na 'n verbruiker om hom of haar te vertel –

(a) dat die bepaling van de betrokke sal diens, of het op die datum wat in sodanige kennisgewing beëindig.

(b) Van die stappe wat geneem kan word om die diens te hê opgehou.

(4) Enige optrede ingevolge subartkels (1) en (2) is onderhewig aan voldoen met:

(a) Artikels (3) en (4) van die Wet op Waterdienste, 1997 (Wet No. 108 van 1997), indien die voorsiening van water betrokke is;

(b) Die tersaaklike bepalings van die Wet op Elektrisiteit, 1987 (Wet No. 41 van 1987), indien die voorsiening van elektrisiteit betrokke is;

(c) Die tersaaklike bepalings van die Wet op Gesondheid, 2003 (Wet No. 61 van 2003), en enige regulasies gemaak ingevolge daardie Wet; en

(d) Die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 3 van 2000), in sover dit van toepassing is.

Herinstelling van munisipale dienste

17. (1) Die Raad moet 'n volledige vlakke van voorsiening van enige elektrisiteit of water diens beëindig of beperk in terme van Artikel 16 na herstel (1) agter-

(a) Die volle bedrag van agterstallig is, insluitende rente en invorderingskostes, indien enige, betaal is; of

(b) 'n Ooreenkoms vir die betaling van die agterstallige beoog in paragraaf (a) is in terme van artikel 22 aagegaan; of

(c) Die volle bedrag van agterstallige bedrae ten opsigte van enige ooreenkoms na verwys in paragraaf (b), insluitende rente en invorderingskostes indien enige, en enige toename deposito, betaal is, of enige bykomende sekuriteit vereis verskaf, en enige ander voorwaarde van die beleid wat die Raad geskik ag, nagekom is.

(2) Enige herinstelling in terme van subseksie (1) mag slegs gedoen word nadat 'n gemagtigde amptenaar het 'n skriftelike sertifikaat van magtiging uitgereik tot die effek dat

elke toepassing voorwaarde beoog in subartikel (1) nagekom is en dat die betrokke munisipale diens kan herstel word uitgereik.

Rente

18. Alle agterstallige bedrae ten opsigte van rekeninge vir eiendomsbelasting en munisipale dienste dra rente teen 'n koers voorgeskryf.

Invorderingsheffings

19. 'n Voorgeskryf versameling Kostes kan teen die rekening van 'n kliënt, ten opsigte van enige handeling wat in terme van, of vir die doeleindes van hierdie verordening.

Volle en finale vereffening van 'n bedrag

20. (a) Die Raad kan enige gelde wat ontvang is ten opsigte van enige skuld beoog in hierdie verordening in sy uitsluitlike diskresie aanwend nie, tensy die kliënt anders gelas in te skryf.

(b) Indien enige bedrag verskuldig en betaalbaar aan die Raad in terme van hierdie verordening is nie ten volle betaal en enige kleiner bedrag aangebied en deur enige munisipale werknemer aanvaar, nie betaling in volle en finale vereffening van die volle bedrag uitmaak, tensy die mindere bedrag is in volle en finale vereffening skriftelik aanvaar, kragtens 'n bevoegdheid gedelegeer of sub- om daardie werknemer gedelegeer ingevolge artikel 59 van die Wet.

Rekeninge uitstaande is na die betaaldatum

21. (1) Indien 'n rekening vir eiendomsbelasting of enige munisipale diens aan 'n kliënt onbetaald, in die geheel of gedeeltelik, na die sperdatum vir die betaling vermeld in die rekening betrokke-

(a) die gebreke kliënt se naam kan openbaar gemaak word, en gelys kan word by 'n kredietburo; en

(b) kan 'n skuldinvorderaar versamelaar of 'n prokureur vir invordering oorhandig word.

(2) 'n Kliënt is aanspreeklik vir enige rente en invorderingskostes en in Daarbenewens betaling van 'n hoër deposito of die verskaffing van bykomende sekuriteit, indien so vereis deur die Raad.

(3) Geen aksie geneem in terme van hierdie artikel kan opgeskort of ingetrek word, tensy agterstallig is, rente daarop, invorderingsheffings en hoër deposito, het bykomende sekuriteit verskaf, indien dit verlang.

Ooreenkomste vir die betaling van agterstallige gelde in paaiemente

22. (1) 'n Kliënt met 'n positiewe bewys van identiteit of 'n persoon wat gemagtig is, skriftelik deur sodanige kliënt, kan, onderhewig aan die goedkeuring van die Raad, 'n ooreenkoms in 'n vorm wat baie soortgelyk aan 'n vorm wat voorgeskryf word vir die betaling van agterstallige gelde in paaiemente .

(2) Die bedrag verskuldig en betaalbaar deur 'n kliënt in terme van 'n ooreenkoms beoog in subartikel 1, maak 'n gekonsolideerde skuld en enige betalings deur 'n kliënt van 'n bedrag minder as die totale bedrag verskuldig is, moet in die vermindering van die gekonsolideerde skuld in die toegeken word Om voorgeskryf, tensy die kliënt anders gelas in te skryf.

(3) 'n kliënt vereis word om 'n debietorder vir die betaling van agterstallige bedrae ten opsigte waarvan 'n ooreenkoms, soos beoog in subartikel 1 stig aangegaan te reël.

(4) Behoudens die bepalings van subartikel 5, mag geen ooreenkoms vir die betaling van agterstallige toelaat vir 'n tydperk van die betaling van meer as 24 maande.

(5) (a) Die Raad kan 'n tydperk van betaling van meer as 24 maande vir die betaling van agterstallige meer as 'n tydperk van 60 maande laat, maar nie as spesiale omstandighede wat die kliënt nie redelikerwys kon verhoed of vermy, heers en wat, na die mening van die Raad, waarborg 'n langer tydperk van betaling.

(b) Dokumentêre bewys van enige spesiale omstandighede soos beoog in paragraaf (a) moet voorsien word deur die kliënt op versoek van die Raad.

(6) Die Raad moet, in die uitoefening van sy diskresie ingevolge subartikel (5), het betrekking tot 'n kliënt se-

(a) krediet rekord;

(b) verbruik;

(c) vermoë om die voorgestelde paaiemente kan bekostig nie, met inagneming van die kliënt se finansiële situasie;

(d) vlak van diens;

(e) vorige oortredings van ooreenkomste vir die betaling van agterstallige gelde in paaiemente; en

(f) enige ander tersaaklike faktor.

(7) 'n Afskrif van 'n ooreenkoms beoog in subartikel (1) moet, op versoek, verstrek word aan die betrokke kliënt.

(8) As 'n kliënt versuim om te voldoen aan 'n ooreenkoms beoog in subartikel (1), die totale uitstaande bedrag, insluitende die agterstallige bedrag, rente, enige versameling koste, en die betaling van 'n hoër deposito indien vereis deur die Raad, sal onmiddellik verskuldig en betaalbaar is, en bykomende sekuriteit, indien so vereis, moet voorsien word, sonder verdere kennisgewing.

(9) As 'n kliënt versuim om te voldoen aan 'n ooreenkoms beoog in subartikel (1), aangegaan is na ontvangs van 'n beëindiging kennisgewing vir water of elektrisiteit dienste, of albei, soos die geval mag wees, mag die betrokke munisipale diens beëindig word sonder verdere kennisgewing, benewens aan enige ander optrede teen of wat geneem kan word teen die betrokke kliënt.

(10) Geen klant toegelaat word om 'n ooreenkoms beoog in subartikel (1) te gaan, as dat die kliënt het 'n vorige ooreenkoms vir die betaling van agterstallige gelde in paaiemente te eer nie, tensy die Raad anders besluit.

(11) Sodra 'n ooreenkoms beoog in subartikel (1), afgehandel is, moet die agterstallige bedrag weerspieël word as 'n lopende bedrag, en geen verdere rente bygevoeg word.

Geskille te Bedrae verskuldig

23. Indien enige geskil met betrekking tot die bedrag verskuldig deur 'n kliënt, die kliënt moet hangende beslegting van daardie geskil, voortgaan gereelde maandelikse betalings te maak ten opsigte van eiendomsbelasting, indien van toepassing, en ten opsigte van enige munisipale diens betrokke gebaseer op die gemiddelde maandelikse gelde vir die voorafgaande drie maande voor die dispuut ontstaan, plus rente, indien van toepassing, tot en met die oplossing van daardie geskil.

Geweierde tjeks

24. Indien enige betaling aan die Raad deur 'n verhandelbare instrument, en sodanige verhandelbare instrument gedishonoreer word, kan die Raad koste en administrasiefooie op die rekening van die wanbetalende kliënt op 'n voorgeskrewe koers hef.

HOOFSTUK 4

BEHOEFTIGE PERSONE

Registrasie as hulpbehoewende persoon

25. (1) 'n Persoon wat hulp in terme van die Raad se beleid vir die voorsiening van munisipale dienste aan behoeftige persone te ontvang, moet aansoek doen om registrasie as hulpbehoewende persoon op 'n voorgeskrewe vorm by enige Raad se kantore.

(2) 'n Aansoek ingevolge subartikel (1), moet deur die Raad, wat tydens die evalueringsproses moet voldoen aan die beginsels van deursigtigheid, gelykheid, konsekwentheid, nie-diskriminasie, toeganklikheid, empatie, integriteit, vertroulikheid en objektiwiteit oorweeg word.

(3) 'n Aansoeker beoog in subartikel (1) moet, op versoek van die Raad verstrek enige verdere inligting kan die Raad in staat te stel om 'n besluit te kom en die Raad kan, vir die doel van die behoorlike evaluering van die aansoek, doen ook 'n ondersoek wat dit gepas ag.

(4) 'n Aansoeker moet ingelig word dat hy of sy outomaties gediskwalifiseer word van die ontvangs van enige bystand beoog in subartikel (1), en strafbaar met -

(a) terugbetaling van die bedrag van enige sodanige bystand ontvang van die Raad, indien die aansoek of inligting beoog in subartikel 3, enige vals inligting bevat; en

(b) vervolging indien enige vals inligting, soos beoog in paragraaf 1 word deur die aansoeker verstrek.

(5) Indien die Raad bevind 'n aansoeker behoeftige te wees, is so 'n aansoeker geregtig op bystand in terme van die beleid in subartikel 1, en sy of haar persoonlike besonderhede moet in 'n voorgeskrewe register van behoeftige mense aangeteken word.

(6) Die posisie van elke hulpbehoewende persoon so aangeteken, moet jaarliks deur 'n gemagtigde beampte in ooreenstemming met die voorskrifte van die Raad hersien word.

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(7) 'n suksesvolle aansoeker moet skriftelik in kennis gestel dat hy of sy die Raad onmiddellik in kennis moet stel wanneer sy of haar behoeftige status verander het.

HOOFSTUK 5

DIVERSE

Raad se regte van toegang tot die perseel

26. Die Raad mag sy reg van toegang tot 'n perseel in terme van artikel 101 van die Wet uitoefen deur die munisipale bestuurder of enige gemagtigde beampte of behoorlik aangestelde agent van die Raad, skriftelik daartoe gemagtig is.

Teenstrydige wette

27. As daar enige konflik tussen 'n bepaling van hierdie verordening en 'n bepaling van enige ander verordening, moet die bepaling in hierdie verordening geld.

Behoud van regte in verband met die nie-nakoming

28. 'n Versuim deur die Raad om te voldoen aan enige bepaling van hierdie verordening nie op enige wyse beïnvloed die aanspreeklikheid van enige persoon enige bedrag verskuldig en betaalbaar aan die Raad betaal soos beoog in hierdie verordening, of die Raad se reg om te herstel sodanige bedrag.

Oordrag van dokumentasie

29. Onderhewig aan die bepalings van enige wet, as in terme van of vir die doeleindes van hierdie verordening enige skriftelike kommunikasie moet of kan gelewer word, gestuur of afgelewer –

(a)deur die Raad aan enige persoon, sodanige kommunikasie

(i) per hand afgelewer

(aa) aan daardie persoon se domiciliumcitandi et executandi, soos uiteengesit in 'n ooreenkoms aangegaan ingevolge artikel 3(1)(c) of 6(a); of

(bb) in die afwesigheid van sodanige ooreenkoms, aan daardie persoon se mees onlangs aangeteken adres; of

(cc) aan die betrokke ten opsigte waarvan belasting gehef is of enige munisipale diens nie voorsien, wat ook al betrokke is perseel; of

(ii) deur die pos gestuur word na die adres waarna in subparagraaf (i)(aa) of (bb), wat ook al van toepassing is, of aan die adres van die perseel in subparagraaf (i)(cc).

(b) deur enige persoon aan die Raad, moet sodanige kommunikasie

(i) per hand afgelewer te -

(aa) die Raad se domiciliumcitandi et executandi uiteengesit in die ooreenkoms beoog in Paragraaf (a)(i)(aa); of

(bb) 'n ander adres, indien die Raad skriftelik so 'n adres aan die betrokke persoon verstrek; of

(ii) deur die pos gestuur word na die adres waarna in subparagraaf (i)(aa) of, in die omstandighede beoog in subparagraaf (i)(bb), na die adres in daardie paragraaf beoog.

Prima facie-bewys van dokumentasie

30. Vir die doeleindes van die verhaal van enige bedrag verskuldig en betaalbaar aan die Raad in terme van hierdie verordening-

(a) 'n afskrif van enige relevante rekening; en

(b) 'n uittreksel uit die Raad se rekords met betrekking tot die hoeveelheid verbruik of bepaling van enige munisipale diens en die tydperk van die voorsiening van sodanige diens, gesertifiseer deur 'n gemagtigde amptenaar as korrek, prima facie bewys van die inligting vervat in die dokumente.

HOOFSTUK 6

APPÈLLE

Appèlle

31. (1) 'n Persoon wie se regte geraak word deur 'n besluit geneem deur 'n gemagtigde amptenaar ingevolge hierdie verordening, kan teen die besluit appelleer deur skriftelike kennisgewing van die appèl en redes aan die munisipale bestuurder binne 21 dae van die datum van die kennisgewing van die besluit.

(2) Die munisipale bestuurder moet gee om die appèl aan die paslike appèlowerheid genoem in subartikel (4).

(3) Die appèl owerheid moet die appèl oorweeg en bevestig, wysig of herroep, maar geen sodanige verandering of herroeping van 'n besluit mag afbreuk doen aan enige regte wat moontlik toegeval het as 'n gevolg van die besluit.

(4) Wanneer die appèl 'n besluit geneem deur -

(a) 'n personeellid as die munisipale bestuurder, is die munisipale bestuurder die appèlowerheid; of

(b) die munisipale bestuurder, die uitvoerende burgemeester die appèl owerheid.

(5) 'n appèl owerheid moet met 'n appèl binne ses weke en die appèl binne 'n redelike tydperk.

HOOFSTUK 7

GENERAL

Misdrywe

32. (1) Enige persoon wat -

(a) oortree of versuim om te voldoen aan enige van die bepalings van hierdie verordening;

(b) versuim om te voldoen aan enige wettige opdrag wat ingevolge hierdie verordening; of

(c) belemmer of kragtens hierdie verordening in die uitvoering van sy of haar pligte verhinder om enige gemagtigde amptenaar

skuldig aan 'n misdryf en by skuldigbevinding strafbaar sal wees om 'n boete van hoogstens R5000 of gevangenisstraf vir 'n tydperk van hoogstens 3 maande of beide.

Herroeping van bestaande verordeninge

33. Die Raad se bestaande Kredietbeheer en Skuldinvordering verordeninge word hiermee herroep.

Kort titel en inwerkingtreding

34. Hierdie verordeninge sal die _____ Munisipaliteit Credit Control verordening genoem word, 20____.

STRAATHANDEL VERORDENING

Dit word bepaal deur die Raad van die _____ Munisipaliteit, in terme van artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, saamgelees met artikel 11(3)(m) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), soos volg:

INDELING VAN ARTIKELS

Artikel

18. Definisies
19. Doel van die verordening
20. Vorme van informele handel
21. Vryheid om betrokke te raak in informele handel
22. Aangewese gebiede
23. Huurkontrak en die toekenning van grond
24. Omgewingsgesondheid en veiligheid
25. Verbod
26. Beperkings
27. Vertoning van goedere
28. Verwydering en skut
29. Beskikking van geskutte goedere
30. Middellike aanspreeklikheid van persone wat op informele handel
31. Misdrywe en strawwe
32. Beleid
33. Herroeping van verordeninge
34. Kort titel

Definisies

1 In hierdie verordening, tensy onbestaanbaar met te konteks-

"Die Wet" beteken die Wet op Besighede, 1991 (Wet No. 71 van 1991) en sluit die regulasies daarkragtens uitgevaardig,

"Goedkeuring" beteken goedkeuring deur 'n gemagtigde beampte en goed te keur 'n ooreenstemmende betekenis;

"Gemagtigde amptenaar" beteken -

(f) enige amptenaar van die Munisipaliteit te bestuur, te implementeer of die bepalings van hierdie verordening te dwing;
(g) 'n verkeersbeampte aangestel in terme van artikel 3A van die Wet op Nasionale Padverkeer, 1996 (Wet No. 93 van 1996);
(h) 'n lid van die polisiediens, soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995);
(i) 'n vredesbeampte, beoog in terme van artikel 334 van die Strafproseswet, 1997 (Wet No. 51 vn 1997); of
(j) 'n diensverskaffer en sy werknemers 'n bevoegdheid uitoefen in terme van artikel 81(2) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, of enige ander relevante wetgewing.

"Raad" beteken -

(e) die _____ Munisipaliteit, die uitoefening van sy wetgewende en uitvoerende gesag deur sy munisipale raad;
(f) sy opvolger-in-titel;
(g) 'n struktuur of persoon uitoefening van 'n gedelegeerde bevoegdheid of die uitvoering van 'n opdrag waar enige krag in hierdie verordening gedelegeer of gesubdelegeer,of 'n opdrag gegee het, soos beoog in artikel 59 van die Wet op Plaaslike Regering: Munisipale Stelsels; 2000 (Wet No. 32 van 2000); en
(h) 'n diensverskaffer wat 'n verantwoordelikheid ingevolge hierdie verordening;

"afgebakende stand" beteken staan afgebaken deur die Munisipaliteit vir die doeleindes van straathandel in terme van artikel 6(A)(3)(b) van die Wet;

"aangewese gebied" is 'n gebied wat deur die Raad ingevolge hierdie verordening, onderhewig aan die Wet, soos die gebied waarin informele handel uitgevoer kan word;

"voedings" beteken enige artikel of stof, behalwe 'n dwelm soos omskryf in die Dwelms en Wet, 1992 (Wet No. 140 van 1992), ontvoering, gewoonlik geëet of gedrink deur persone of

voorgee om geskik vir menslike verbruik verkoop te word en sluit in enige deel of bestanddeel gebruik word of bedoel of bestem is om te gebruik word as 'n deel van bestanddeel van enige sodanige artikel of stof, soos omskryf in artikel 1 van die Skoonheidsmiddels en Ontsmettingsmiddels Voedingsmiddels Wet, 1972 (Wet No.54 van 1972).

"tuin" of "park" beteken 'n tuin of park waartoe die publiek'n reg van toegang het;

"goedere" is enige roerende eiendom wat n verband met straathandel en, sonder om die algemeenheid van die voorafgaande, sluit ander produkte te koop, te vertoon tafels, staan, houers, voertuie, strukture of diere;

"skut koste" is koste wat aangegaan is deur die Raad ten opsigte van geskutte goedere of eiendom en, waar van toepassing, die koste wat aangegaan is ten opsigte van die verkoop van skut goedere;

"informele handelaar"beteken die verkoop van goedere en / of dienste deur 'n informele handelaar in die aangewese gebied, wat insluit, sonder enige beperking, die vorme van handel in hierdie verordening;

"informele ekonomie" beteken aktiwiteite soos omskryf in die KZN Beleid oor Informele Ekonomie 2010;

"kruising" is 'n kruising soos omskryf in die regulasies uitgevaardig in terme van die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996);

"randsteenlyn" beteken, soos omskryf in artikel 1 van te Nasionale Padverkeerswet, 1996, die grens tussen die skouer en die rand of, in die afwesigheid van 'n skouer, die deel tussen die ryvlak en die rand;

"lineêre mark" beteken 'n aangewese gebied geleë in 'n voetganger omgewing.

"rommel" is enige houer, houer of ander saak, wat reeds weggegooi, verlate of agter gelaat deur 'n informele handelaar of deur sy of haar kliënte;

"motorvoertuig" is enige selfaangedrewe voertuig soos meer volledig omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"munisipaliteit" beteken die _____Munisipaliteit gestig in terme van artikel 155(6) van die Grondwet van die Republiek van Suid-Afrika, 1996, en ingestel deur en kragtens

artikels 11 en 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);
"periodieke markte" is die verkoop van die reg om goedere en / of dienste deur mense en / of groepe in plekke wat vir informele handel vir 'n tydperk nie langer as 5 dae;

"voorgeskrewe" wyse soos van tyd tot tyd by besluit van die Raad bepaal.

"eiendom" met betrekking tot 'n informele handelaar, sluit 'n artikel, goedere houer, voertuig of struktuur wat gebruik word of bedoel is om in verband met informele handel gebruik word;

"openbare gebou" beteken 'n gebou wat behoort aan of geokkupeer deur 'n gebied van die regering, insluitende die Raad;

"openbare monument" is een van die openbare monumente en gedenktekens soos gedefinieer deur in terme van artikel 2 van die Wet op Nasionale Erfenishulpbronne, 1999;

"openbare plek" enige plein, park, ontspanningsoord of oop ruimte wat gevestig is in die Raad, of waartoe die publiek het die reg om te gebruik;

"openbare pad" soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 is 'n pad, straat of deurgang of enige plek wat algemeen gebruik word deur die publiek of enige deel daarvan of waartoe die publiek het die reg om toegang te verkry;

"huur" is 'n bedrag betaalbaar deur die informele handelaar vir die toegekende handelsruimte ek die aangewese gebied soos ooreengekom tussen die Raad en 'n informele handelaar;

"pad" beteken 'n pad soos omskryf in artikel 1 van die Wet op Nasionale Padverkeer, 1996, maar sluit 'n openbare plek;

"sell" sluit

(e) ruil, ruil of te huur;
(f) vertoon, blootstel, aanbied of voorberei vir verkoop;
(g) stoor op 'n openbare pad of openbare plek met 'n doel om te verkoop; of
(h) 'n diens vir beloning;

en **"koop"** of **"verkoop"** het 'n ooreenstemmende betekenis;

"sypaadjie" beteken 'n sypaadjie soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"skouer"verwys na daardie deel van die pad, straat of deurgang tussen die rand van die ryvlak en randsteenlyn;
"spesiale geleenthede" beteken spesiale gebeure wat van tyd tot tyd plaasvind nie, insluitend, sonder beperking, sport gebeure, godsdienstige gebeure, sosiale, kulturele of politieke byeenkomste en musiekfeeste;

"straat meubels" is enige meubels geïnstalleer deur die Raad op die straat vir openbare gebruik;

"straathandelaar" beteken 'n persoon wat verkoop of barters, verhuur, uitstallings, ontbloot, bied of berei vir die verkoop van goedere of wat 'n diens lewer vir beloning as 'n straathandelaar, venter of smous in 'n openbare pad of in 'n openbare plek, maar beteken enige persoon wat net koerante verkoop nie, insluit;

"die verkeer Wet" beteken die Wet op Nasionale Padverkeer, 1996 (Wet No. 93 van 1996);

"rand" is 'n rand, soos beskryf in artikel 1 van die Wet hierbo.

Doel van die verordening

2. (1)Die Raad erken die doel van sy bestaan in terme van die Grondwet wat insluit
(d) maatskaplike en ekonomiese ontwikkeling te bevorder;
(e) 'n veilige en gesonde omgewing te bevorder; en
(f) munisipale beplanning, handel regulasies, lisensiëring en beheer van ondernemings wat voedsel aan die publiek verkoop, markte, openbare plekke, munisipale paaie en straathandel.

(2)die Raad erken dus die behoefte om 'n ontwikkelingsbenadering te neem toegang tot werk in staat te stel 'n entrepreneuriese geleenthede binne die informele handelsektor, die verhouding tussen die handelsektor en informele die formele handelsektor en te harmoniseer die migrasie van die informele handelsektor te fasiliteer in die formele handel sektor.

Die doel van hierdie verordening is die informele handel binne die regsgebied van die Munisipaliteit in 'n wyse te reguleer daterken en die munisipaliteit se grondwetlike en ander statutêre verpligtinge verhoog.

Vorme van informele handel

3. (1) Informele handel kan enige van die volgende vorme van wetlike handel sluit:

(h) straathandel
(i) verkoop van goedere in lineêre mark
(j) verkoop van goedere of dienste in 'n openbare plek
(k)mobiele handel soos uit karavane en ligte motorvoertuie;
(l) verkoop van goedere in stalletjies of kiosks; en
(m)verkoop van goedere op spesiale geleenthede

Vryheid om betrokke te raak in informele handel

4. Onderhewig aan die nakoming van die bepalings van die verordening, die Wet en enige ander toepaslike wet, kan enige lid van die gemeenskap van die munisipaliteit toegelaat word om betrokke te raak in informele handel.

Aangewese gebiede

5. (a) Die raad kan by resolusie in terme van artikel 6 van die Wet, afgesonder en afbaken staanplekke of gebiede vir die doeleindes van informele handel op enige openbare pad, die eienaarskap of bestuur van wat berus by die Raad, of op enige ander eiendomin die beroep en onder die beheer van die Raad.

(b) Enige sodanige staanplekke of gebiede afgebaken vir informele handel verleng kan word, verminder of afgeskaf deur 'n resolusie van die Raad.

(d) Die Raad kan, by besluit ingevolge artikel 6A(3)(c)van die Wet, enige soom aan die eienaar of die okkupeerder van die aangrensende grond, op voorwaarde dat sodanige eienaar of bewoner sal 'n gespesifiseerde aantal informele handelaars in erwe of plekke op sodanige rand erken wat deur die eienaar of okkupeerder.

Huurkontrak en die toekenning van erwe

6. (1) Enige persoon wat voornemens is om 'n besigheid as 'n informele handelaar in terme van die bepalings van hierdie verordening mag t die Raad aansoek doen op die voorgeskrewe wyse vir die huur of toewysing van 'n erf in terme van artikel 6 van die Wet.

(2) Die Raad kan toestaan onderworpe aan voorwaardes, of weier om 'n aansoek bedoel in subartikel 1.

(3) Indien die aansoek suksesvol is-

(a) 'n informele handelaar moet 'n huurooreenkoms met die Raad ten opsigte van die stand, wat die huurkontrak moet geproduseer word op versoek van 'n gemagtigde beampte ingaan;

(b) ten opsigte van die toekenning, sowel as die huur van 'n perseel, 'n teken van 'n informele handelaar uitgereik word as bewys van hul regte die standpunt vir die doel van die uitvoer van informele handel te bewoon;

(c) 'n informele handelaar moet te alle tye, terwyl die uitvoering van die besigheid op die perseel of openbare ruimte behou wat teken op sy of haar persoon gereed vir die vertoning op 'n amptelike, indien versoek;

(d) die Raad kan, op skriftelike versoek van die informele handelaar kwessie 'n teken van 'n bona fide werknemer van die handelaar.

(4) Enige persoon wat op informele handel op 'n staanplek of openbare plek, insluitende rondreisende, container, bakkies en woonwaens en wat, sonder 'n redelike verduideliking, is nie 'n geldige huurkontrak te teken aan produseer soos beoog in subartikel 3 hierbo, skuldig aan 'n misdryf.

(5) Enige persoon wat op informele handel op 'n staanplek of openbare plek, en wat, sonder 'n redelike verduideliking, versuim om te voldoen aan die terme en voorwaardes van die huurooreenkoms sal skuldig aan 'n misdryf.

Omgewingsgesondheid en veiligheid

7. (1) 'n Informele handelaar moet

(a) hou die gebied bewoon deur hom of haar vir die doeleindes van besigheid skoon en sanitêre;

(b) gooi die rommel wat deur sy of haar besigheid in watter houer word verskaf deur die Raad vir die publiek of by'n stortingsterrein van die Raad;

(c) nie weg met rommel in 'n stormwaterdrein of enige ander plek wat nie bedoel vir die verwydering van rommel.

(d) verseker dat geen rook, dampe of ander stof, reuke of geraas van sy of haar aktiwiteite veroorsaak dat enige soort van besoedeling;

(e) op versoek van 'n beampte, beweeg sy of haar eiendom vir die skoonmaak van die terrein deur munisipale dienste.

Verbod

8. (1) Geen straatverkoper kan voer oor of onderneem straathandel

(a) op 'n soom aangrensend aan

(b) 'n gebou wat behoort aan of geokkupeer deur die staat;

(c) 'n motor teller bank masjien of bank perseel;

(d) 'n kerk of plek van aanbidding;

(e) 'n gebou tot nasionale monument verklaar te wees;

(f) op enige punt in die voorkant van 'n gebou wat beset is deur iemand wat goedere van dieselfde aard verkoop, sonder hul toestemming.

(g) op enige plek waar besigheid sou belemmer

(i) die ingang of uitgang van 'n gebou
(ii) 'n brandkraan
(n) in enige verklaarde gebied waar handel verbied is deur die munisipaliteit.

(2)Die Raad kan by besluit van die Wet, enige plek in dit regsgebied 'n gebied waarin informele verbode is om te wees, en moet tekens nakoming in staat te stel hiermee aandui die grense van beperkte gebiede maak.

(3)Die Raad kan enige sodanige teken vertoon, merk of apparaat so 'n beperking of 'n plek van die handel aan te dui.

(4) Enige teken opgerig in terme van hierdie verordening of enige ander wet, sal as voldoende kennisgewing dien om 'n informele handelaar van 'n beperking op die gebied.

(5) Die besluit van die Raad sal onderhewig wees aan die bepalings van artikel 6 van die Wet, wat onder andere vereis word, dat die Raad eers na die uitwerking van sy besluit sal hê op die bestaande handelaars in 'n gebied.

Beperkings

9. (1) Geen persoon betrokke in straathandel

- slaap oornag by die besigheid webwerf
- enige permanente struktuur oprig sonder die skriftelike goedkeuring van die Raad.
- winkel goedere in 'n gevaarlike wyse
- toegang tot 'n diens of diens van die munisipaliteit verhinder
- heg enige van sy of haar goedere aan 'n gebou struktuur, sypaadjie, lamppaal, parkeermeter, ens.

- maak 'n oop vuur, tensy skriftelike goedkeuring van die Raad gestuur
- belemmer toegang tot 'n voetoorgang, laaisone,
- inhibeer die gebruik van die straat meubels of ander openbare geriewe.

Vertoning van goedere

10. (1) A straathandelaar, moet verseker dat enige struktuur of voorwerp wat gebruik word deur hom of haar vir voorbereiding, vertoon of stoor

(a) word in 'n skoon en in 'n goeie toestand gehou

(b) nie gebruik word nie of gestoor word sodat as 'n gevaar vir 'n persoon te veroorsaak.

Verwydering en skut

11. (1) 'n Inspekteur kan enige goedere verwyder en skut wat hy of sy-

(c) verdagtes word gebruik vir die bedryf van die besigheid van straathandelaar

(d) vind 'n plek waar besigheid is verbode of beperk in terme van die verordening.

(2) 'N inspekteur skut goedere

(d) reik die eienaar van die goedere met 'n kwitansie vir die verwydering van die goedere, wat verklaar

- die plek waar die goedere sal gehou word
- die bedrag betaalbaar ten opsigte van die koste van die skut
- die datum of waarop die goedere sal vernietig word of verkoop as onopgeëis.

(e) plaas die goedere in die veilige bewaring van die munisipaliteit.

(f) die inspekteur en die munisipaliteit sal nie aanspreeklik wees vir verlies of skade aan goedere gehou word.

Stoor en verkoop van goedere waarop beslag

13. (1) Enige goedere geskut sal hanteer word soos volg

(c) Die handelaar sal betaal vir beweer goedere die koste vir die munisipaliteit vir skut te dek.

(d) indien die goedere nie geëis word, moet die goedere verkoop word om die koste van die skut te dek.

(3) indien die opbrengs onvoldoende is uitgawes aangegaan, te dek, dan is die eienaar aanspreeklik is vir die betaling.

Middellike aanspreeklikheid van mense wat deelneem in informele handel

13. (a) Wanneer 'n werknemer of agent van 'n formele handelaar die Verordening oortree, sal hy of sy het om te wys dat hulle het redelike stappe so 'n aksie te voorkom.

(b) uitreiking van instruksies aan 'n werknemer verbied om sodanige oortreding nie neerkom bewys van redelike stappe.

Misdrywe en strawwe

16. (1) Indien die munisipaliteit van mening is dat 'n persoon nie voldoen het aan die verordening, kan dit skriftelike kennisgewing te dien, 'n beroep op tem om te voldoen.

(2)Enige persoon wat versuim om te voldoen aan die bepalings van hierdie wet of die bepalings van kennisgewing wat op hulle is skuldig aan 'n misdryf en is aanspreeklik vir 'n boete of gevangenisstraf, hoogstens 3 maande.

(3) In die geval van deurlopende oortreding, sal die oortreder bloot aan 'n verdere boete nie groter as R50 per dag, of gevangenisstraf wat nie een dag oorskry nie, vir die voortsetting van die oortreding.

Beleid

17. Die Raad kan die beleid rakende die volgende:

(h) 'n verklaring van enige plek 'n gebied van verbode of beperkte handel te wees

(i) die afbakening van staanplekke of gebiede vir die doel van die informele handel

(j) die verkoop van enige eiendom wat geskut soos beoog deur hierdie wet

(k) die aanspreeklikheid van enige persoon vir enige redelike uitgawes aangegaan gedurende skut

(l) die voorskrif van strawwe vir die misdrywe bedoel in terme van die verordening

(m) die wysiging van sodanige boetes van tyd tot tyd; en

(n) Enige aangeleentheid wat ingevolge hierdie verordening en enige aangeleentheid wat die toepassing van hierdie verordening mag fasiliteer voorgeskryf word.

(b) enige lyk wat 'n hart pasaangeër bevat of 'n radio aktiv inplanting van enige sort of enige ander material wat in 'n ontploffing kan gevolg of skadelike uitworp wanneer verbrand is mag nie veras word nie tensy dit verwyder word.

(c) 'n Krematorium moet toegerus word met toerusting om verspreing of as in die atmosfeer te voorkom.

Kis vir verasing

19.(a) Wanneer versa is moet 'n lyk in 'n kis vervat word.

(b) 'n Kis waaarin 'n lyk versa is moet van hout of ander nie-giftige material gemaak word.

(c) Nie-giftige vernis, verf of gom moet gebruik word in die vervaardiging van die kis binne wat die lyk veras is.

(d) Wanneer veras is, moet 'n kis net brandbare material insluitend van klere, skoene, en ander versierings van hoegenaamd natuur en die Raad sal die reg hê om onbrandbare material van di kis verwyder.

(e) Voor verasing toegelaat is om plaas te vind die aansoeker óf hom óf haar verteenwoordiger sal verplig is om 'n sertifikaart wat sertifiseer dat die kis voldoenend is met subseksie (b) en (c) bo.

(f) Die lyk mag verwyder word van enige kis vir die doel van verbranding en 'n kis mag nie oopgemaak word nie by die crematorium behalwe met die toestemming van die Raad wat nie onredelik weerhou moet word nie.

HOOFSTUK 5

Private Begraafplase Krematorium

Pligte van Eienaars

20.(1) Die eienaar van 'n private begraafplaas of crematorium voor wie die toestemming van die Raad gekry het moet –

(a) voldoen met –

(i) enige spesiale voorwaardes wat bepaal mag word deur die Raad ten opsigte van private begraafplaase en crematorium van tyd tot tyd; en

(ii) die relevante voorsienings van hierdie Verordening en enige ander toepaslike Wet.

(b) die gronde, heinings, hekke, paaie, paadjies en dreine in 'n goeie toestand en duidelik van onkruid en oorgroei handhaaf.

(c) toelaat dat 'n gemagtigde beampte van die Raad om die begraafplaas of crematorium te betree of inspekteer en ale rekords gehou word in verband daarmee; en

(d) 'n paslike gekwalifiseerde person aanstel om die begraafplaas te bestuur en die rekords te hou.

(2) die eienaar van die private begraafplaas, 'n private crematorium of private eiendom, mag op redelike gronde toestemming weier om die lyk wat ingebring of veras is in die begraafplaas of crematorium.

HOOFSTUK 6

Gedeeltes in 'n Begraafplaas

Die Raad mag gedeeltes in 'n Begraafplaas Vestig

21.(1) Die Raad mag een of meer van die volgende gedeeltes in die begraafplaas vestig.

(a) Monumentale gedeelte

(b) Berm gedeelte

(c) Landskap gedeelte

(d) Gedenkteken gedeelte

(e) tuin van herinnering gedeelte

(f) Krematorium of lyk vermindering fasiliteit

(g) Mausoleums

(h) oppervlak begraafplaas eenhede

(i) Kerklike gedeelte

Monumentale gedeelte

22.(a) 'n Monumentale gedeelte is 'n begraafplaas gedeelte in die begraafplaas tersyde vir die ereksie van gedenkteken werk by die begraafplaase.

(b) Die Raad mag in die loop van tyd alle begraafplaase gelykmaak en gras daarop te plant.

(c) Blomme, blare, kranse of enige versierings mag daarop geplaas word met die berm van net begraafplaase wat nog nie gelyk gemaak is nie.

Berm gedeelte

23.(a) 'n Berm gedeelte is 'n begraafplaas gedeelte in 'n begraafplaas tersyde gestel geword deur die Raad waar gedenkteken werk beperk is aan net 'n grafsteen, met grondbedekking geplant oor die omvang van die begraafplaas.

(b) Grafstene mag twee houers vir blomme bevat.

(c) Grafstene moet op die konkreet voetstuk opgerig word deur Raad verskaf of op 'n geskikde fundament om die grafsteen te steun, wat horisontaal ingebed op grondvlak moet wees in die posisie aangedui deur die Raad.

(d) Geen randsteen of raam afbakening wat die begraafplaas of blad bedecking is toegelaat nie.

(e) Blomme, blare, kranse of enige versierings mag daarop geplaas word met die berm van net begraafplaase behalwe in die saak van begraafplaase wat nog nie gelyk gemaak is nie.

Landskap gedeelte

24.(a) 'n Landskap gedeelte is 'n begraafplaas gedeelte in 'n begraafplaas tersyde deur die Raad waar gedenkteken werk beperk tot 'n horisontaal geplaasde plaat of net 'n gedenkteken blad met grondbedekking oor die omvang van die begraafplaas.

(b) Geen voorwerp anders as die gedenkteken plaat of blad mag op die begraafplaas geplaas word nie.

(c) Geen randsteen of raam afbakening wat die begraafplaas of blad bedecking is toegelaat nie.

(d) Blomme, blare, kranse of enige versieerings mag daarop geplaas word met die berm van net begraafplaase, behalwe in die saak van begraafplaase wat nog nie gelyk gemaak is nie.

Tuine van herinnering

25.(a) 'n Tuin van herinnering is 'n gedeelte in 'n begraafplaas tersyde vir die ereksie van gedenktekeninge aan 'n person, 'n groep mense of gebeurtenis, gedenktekening mure, nis mure, die verskafing van as begraafplaase of verstrooing van roet.

(b) Blomme of kranse mag net op die plekke voorsien daarvoor geplaas word.

Crematorium en lyk vermindering fasiliteit

Die Raad mag tersyde gedeeltes in die begraafplaas vir die teraardebestelling engedenktekening van 'n lyk vermindering fasiliteit.

Gedenktekening Plein

27.(a) 'n Gedenktekening plein is 'n begraafplaas gedeelte in 'n begraafplaas tersyde vir die teraadebesteling en gedenktekening van helde en gevierde persone.

(b) Geen person mag begrawe of herdenk word in hierdie gedeelte nie behalwe as die status van die held of gevierde person bevestig is.

Mausoleums

28. 'n Mausoleum gedeelte mag in 'n begraafplaas gestig word waarin lyke in 'n mausoleum begrawe is.

Oppervlak begraafplaas eenhede

29. 'n Oppervlak begraafplaas eenheid mag in 'n begraafplaas gestig word waarin lyke begrawe is in oppervlakte begraafplaas eenhede.

Kerklike gedeelte

30.(a) Die Raad mag tersyde 'n kerklike gedeelte in sy begraafplaase vir die gebruik van 'n spesifieke geloof, godsdienstige of kultuurige groep waar die begrafnis vereistes van sulke groep dikteer 'n fisiese reëling van begraafplaase met verwysing na die oriëntasie, digtheid en diepte anders as die norm.

(b) Die toekening van sulke gedeeltes mag nie tot badeel van die begrafnis vereistes van die algemene inwoners wees nie.

HOOFSTUK 7

Oprigting en onderhoud van gedenktekening werk en omgee van begraafplaase

Toestemming van die Raad

31.(1) Geen person mag enige gedenktekening in 'n begraafplaas of opsig, verander, verf, restoureer, versier, verwyder of inmeng met enige gedenktekeings werk of die inskripsie daarop sny nie, sonder die skriftelike toestemming van die Raad en betaaling van die vereisde fooie anders as vir die doel van roetine onderhoudswerk.

(2) Voordat gedenktekening werk opgestig is 'n aansoek moet ingegee word na die Raad vir goedkeuring ten minste vyf werksdae voor die voorgestelde oprigting, sulke aansoek moet insluitend wees van;

(a) 'n Plan wat aanduiding gee van sy meting en posisie

(b) Spesifikasie van die material wat die gedenktekening werk gebou gaan word; en

(c) Die woording van die grafskrif

(3) Die Raad mag die aansoek verwys in subseksie (2) goedkeur met of sonder voorwaardes as wat dit nootsaaklik ag en mag die aansoek weier as dit nie met die vereistes ten opsigte van gedenktekening werk as bepaal deur die Raad.

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(4) Geen person mag enige material vir die doel van bou daarmee in die begraafplaas inbring nie of enige begraafplaas behalwe as –

(a) Die voorsienings van subseksie (1) tot (3) voldoenend is;

(b) bewys van betaaling van die werk wat gedoen gaan word voorgelê.

(5) Die toestemming vir die voorgestelde werk net geldig vir 'n tydperk van twaalf maande van die datum wanneer dit goedgekeur is, en in die geval van die gedenktekening werk nie opgestig binne die voorgeskrewe tyd nie 'n nuwe applikasie mot voorgelê word.

Voorwaardes vir die opsigting van gedenktekening werk

32.(1) 'n Peersoon wat 'n gedenktekening werk opsig moet met die volgende voldoen –

(a) Verrigtinge moet van sulke natuur wees dat geen skade moet veroorsaak word nie aan enige struktuur of aanstoot gegee.

(b) Met die aansoeker se toestemming kan die naam van die maker of vervaardiger op die gedenkteken werk vertoon word, maar geen adres of enige besonderhede mag bygevoeg word daartoe en die ruimte wat gebruik is nie grooter as 40x100mm;

(c) alle ongebruikde material na die voltooing van die werk moet verwyder word en die aangegrensende geblede moet netjies en skoon gelaat word.

(d) enige skade wat veroorsaak word moet herstel word ten koste van die person verantwoordelik vir sulke skade en as die verantwoordelike persoon misluk om sulke hersteling te affekteer, na weens Kennisgewing, die Raad mag die remediërende werk onderneem ten koste van die persoon wat die gedenkteken werk opgestig het.

Posisie beweging en verwydering van gedenkteken werk

33.(a) Geen persoon mag 'n gedenkteken werk op 'n begraafplaas opstig nie voordat die posisie in wat sulke gedenkteken werk geplaas is, is aangedui in terme van 'n goedgekeurde plan.

(b) moet die voorwaarde verwys in subseksie (a) die Raad mag op skriftelike Kennisgewing na sulke persoon die posisie van die gedenkteken werk verander en die koste van herstelling van die persoon wat die remediërende werkgestig het.

(c) in die geval waar 'n gedenkteken werk oorspronklik geplaas was in 'n sekere posisie met die uitdrukkinde toestemming van die Raad, enige verandering van die posisie in terme van die voorsienings van die seksie uitgevoer op die koste van die Raad.

Werk en onderhoudten opsigte van gedenkteken werk

34.(a) Enige persoon wat betrokke is in enige werk moet sulke werk effek onder die toesig van die Raad.

(b) moet die persoon wat die gedenkteken werk gestig het toelaat dat sulk gedenkteken werk binne sulke staat van veval dat dit gevaar of ontsier van die begraafplaas, die Raad mag 'n Kennisgewing van toegeeflikheid dien aan sulke persoon,

(c) die Raad mag na weens Kennisgewing op enige tyd verandering of verandering van posisie van 'n gedenkteken werk in 'n begraafplaas geplaas sonder die uitdrukkende toestemming van die Raad en die herstelling van koste daarvan van die eienaar van die gedenkteken werk.

(d) 'n Gedenkteken werk geplaas, verander of versier, geverf of anders hanteerd is in 'n begraafplaas in sulke manier dat enige van die voorsienings in hierdie Verordening is oortree.

Skadiging van gedenkteken werk

35. Die Raad is nie verteenantwoordelik vir enige skade wat aan die gedenkteken werk voorkomend is nie wat nie as gevolg van nalatigheid van die gemagtigde beamptes van die Raad.

Voertuig en gereedskap

36.(a) Elke persoon wat betrokke is met werk op 'n begraafplaas of plot moet verseker dat die voertuie, gereedskap of toestelle is voldoenend met die voorsienings van hierdie Verordening en enige ander toepaslike Wet, en wat nie paaie en paaitjies blokkeer nie.

(b) Geen persoon mag enige materiaals vervoer, klip, steen of bedenkteken werk of 'n porsie daarvan binne 'n begraafplaas op 'n voertuig of trok wat skade mag veroorsaak na die paaitjies of gronde of struukture van die begraafplaas.

Voldoenend wees met die voorskrifte van die Raad

37. 'n Persoon wat werk in die begraafplaas uitvoer moet in alle opsigte voldoenend wees met die voorskriftes van die Raad.

Tyde vir material en doen werk inbring

38.(a) Geen persoon mag gedenkteken werk of material in verband daarmee, of enige werk doen anders as aftakeling van bedenkteken werkvir die teraardebestelling doel binne 'n begraafplaas behalwe gedurende die tye bepaal deur die Raad.

(b) Geen persoon mag in werk wat mag steur of indring op 'n vergrafnes betrek nie vir die duur van die begraftenis.

Dalende grond voorwaardes

39. Die Raad is nie aanspreeklik vir skade aan die gedenteken werk wat in die resultaat is van enige dalende grond.

Produksie van skriftelike toesteming

40.(1) 'n Persoon wat met presterende werk of hom of haar op pad na en van werk af binne 'n begraafplaas moet op die eis van die Raad os sy magtigde amptelik, die skriftelike toestemming wat aan hom of haar uitgereik is produseer.

HOOFSTUK 8

Heropening van begraafplaase en opgraawings

Aansoek vir opgraawing

41.(1) 'n Aansoek vir opgraawing moet na die Raad ingegee word en moet instilling wees van die volgende –

(a) die voltooide aansoek vorm

(b) 'n afskrif van die doodssertifikaart, en

(c) 'n brief of beëdigde verklaring van die naasbestanders van die toestemming vir opgraawing.

Voorwaardes van opgraawing

42.(1) Geen persoon mag 'n lyf of veoorsaak dat 'n lyf opgegrawe word sonder skriftelike toestemming van die –

(a) die Minister

(b) die Raad

(c) die Provinsiaal Departement van Gesondheid

(d) die Administreer van begraafplaase

(e) die Raad se Mediese Beampte van Gesondheid, of

(f) 'n hof bevel wat jurisdiksie oor sulke sake hê.

(2) Wanneer ook al 'n opgrawing sal plaasvind, die beampte in beheer moet die Provinsiaal Kommissaris bekendstel van die Suid-Afrikaanse Polisiedienste.

(3) 'n Lid van die Suid-Afrikaanse Polisiedienste moet altyd teenwoordig is wanneer opgrawing plaasvind.

(4) Die skriftelike toestemming verwys in subseksie (1) moet aan die omgewings gesondsheidspraktisyn te minste vyf dae voor die toegestemmde opgrawing datum.

(5) Die omgewing gesondheidspraktisyn mag opgelê voorwaardes met verband met opgrawing en die opgrawing mag net voortgaan wanneer sulke voorwaardes nagekom is.

(4) Die opgrawing plaasvind wanneer die begrafplaas oop is aan die publiek en moet plaasvind onder die toesig van die beampte in beheer.

(5) Die oorblyfsels is om opgegrawe te nees van enige begraafplaas, net die begrafnisondernemer onder die toesig van die beampte in beheer mag veroorsaak dat die begraafplaas uitgegrawe is in sulke opgrawing.

(6)(a) Die begraafplaas is om uitgegrewe te wees vir die opgrawing, die beampte in beheer moet 48 ure skriftelike Kennisgewing gegee word voor die opgrawing tyd, en

(b) Die gesag verwys in paragraaf (1)(d) van hierdie seksie en die voorgestrewe fooi moet sulke Kennisgewing vergesel.

(7) 'n Persoon wat graag wens om die oorblyfsels van 'n hulpbehoewende persoon uitgrawe moet die koste wat aangegaan deur die Raad betaal ten tyde van die begrafnis, aan die Administreer van Begraafplaase.

(8) Die persoon wat die uitgrawing uitvoer moet verseker dat die lyf en begraafplaas behoorlik ontsmet is en ontsmetten.

(9) Die oorblyfsels van die oorledende persoon moet hangend van die oorbegrawing of verassing by 'n geregestreerde begrafnisondernemeer se perseel gehou word.

(11) Die persoon wat die uitgrawing uitvoer moet met 'n geskikkde houer vir elke lyf of oorblyfsels gehou word.

(12) Die Suid-Afrikaanse Polisiedienste moet –

(a) as daar bewys is van onwettige begrawing ontmiddelik die lyf uitgrawe; en

(b) dit na die regering lykhuis neem vir ondersoeking.

(13) Die bgraafplaas van slagoffers van konflik en 'n begraafplaas wat ouer as 60 jare is mag net met die toestemming van die Suid-Afrikaanse Erfnis Hulpbronne Agentskap opgegrawe word.

(14) 'n Statebond oorlog begraafplaas moet net opgegrawe word in ooreenstemming met die voorsienings van seksie 3 van die Statebond Oorlog Begraafplaas Wet, 1992.

Opgrawing en oorbegrawing

43.(1) Die Raad mag, as 'n lyf in stryd met hierdie Verordening veroorsaak dat die lyf opgegrawe word en oorbegrawe is in 'n ander begraafplaas.

(2) Die familie van die oorledende moet –

(a) in kennis gestel word van die beoogde opgrawing en oor begrawing; en

(b) toegelaat word om by te woon.

Keuring van opgrawing

44. 'n Begraafplaas wat se lyf uitgegrawe sal word moet gekeur is uit die oog van die publiek gedurende die uitgrawing.

Noodgeval uitgrawes

45. Geen lyf mag minder as agtien maande na begrafnis opgegrawe word nie anders as met nakoming van 'n Wet bevel.

Vermindering begrafnis

46.(1) Die Raad mag na die verloop van die minimum tydperk van 10 jare na die mees onlangse begrafnis in 'n begraafplaas, die oorblyfsels van 'n lyf opgrawe vir die doel van vermindering van die lyk en oorblyfsels oorbegrawe van daardie lyk in dieselfdebegraafplaas, in 'n kleiner kis of in meer diepte onderwerp te die voorsienings dat –

(a) die houeers van private regte in daardie begraafplaas en die naasbestaandes of naaste oorlewende familie van die oorledende het toestemming gegee.

(b) ten opsigte van enige begraafplaas waar geen private regte verkry is nie, waar die naasbestaande of naaste oorlewende familie hulle toestemming gegee het.

HOOFSTUK 9

Die Administrasie en Beheer van Begraafplaase

Aanstelling van 'n beampte in beheer

47.(a) Die Raad moet 'n beampte in beheer aanstel vir elke begraafplaas om te beheer en die begraafplaas admnistreer.

(b) Die beampte in beheer moet die gebruik van die oorledende in ag neem en die persone verantwoordelik vir die teraardebestelling en moet hierdie akkommodeer binne die raamwerk van hierdie Verordening.

Kinders

48. Geen kinders onder 12 jare mag 'n begraafplaas ingaan nie behalwe as hy of sy onder die toesig en omgee van 'n verantwoordelike volwasse persoon.

Hou aan paaidjie

(49) Alle persone is vereis om die paaidjies aangedui in die begraafplaas waar sulk paaidjie bestaan.

Verbiede gedrag binne 'n begraafplaas

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50.(1) Geen persoon mag –

(a) 'n oorlas pleeg of veroorsaak binne 'n begraafplaas.

(b) op 'n dier rit, siklus of skaatsplank vir ontspanningsbeleindes of deelneem in enige ander ontspanning of sport aktiwiteit binne die begraafplaas, behalwe anders bepaal deur die Raad

(c) met die uitsondering van 'n blinde persoon 'n dier inbring of toelaat dat die dier binne enige begraafplaas ronddwaal met dienverstande dat die honed aan leibande is sal toegelaat behalwe anders bepaal deur die Raad.

(d) te plant, sny, pluk of boom struik of blom verwyder sonder die toestemming van die Raad.

(e) Hou of deelneem in 'n protes in enige begraafplaas

(f) Onderbreek of ontwrig –

(i) die verrigting van pligte van 'n bemagde beampte of werksman in dien van die Raad

(ii) 'n begrafnis onderneem in 'n begraafplaas

(g) belemmer, weerstaan of die beampte teenstaan op die verloop van hom of haar pligte of weier om 'n bevel of versoek te voldoen wat die beampte in beheer geregtig is onder hierdie Verordening.

(h) Merk, teken, gekribble, verf of voorwerp op 'n muur, gebou, heining, hek gedenkteken werk of enige ander stigting binne enige begraafplaas anders as vir amptelike doel;

(i) geen water gebruik virenige vormvan tuinwerk sonder die toestemming van die Raad.

(j) enige Rommel, grond, klip, puin, vullis of Rommel binne enige begraafplaas.

(k) in enige manier skade, ontsier of enige deel van die begraafplaas skend of enige iets daarin;

(l) in of uit die begraafplaas behalwe deur 'n ingang of uitgang voorsien vir hierdie doele.

(m) werf of enige besigheid gedrag bestel, uitstal, versprei of 'n kanaal laat, besigheid kaart of advertensie binne 'n begraafplaas anders as in die gebied aangewese vir sulke doel deur die Raad en met die vorige toestemming van die Raad.

(n) behandel 'n begraafplaas of gedenkteken werk met respek, so as om te klim of op die begraafplaas of gedenkteken werk te sit.

(o) in te gaan in 'n kantoor, gebou of 'n omheinde plek in die begraafplaas behalwe in verband met wettige besigheid

(p) 'n lyk blootstel of deel daarvan in die begraafplaas;

(q) oorskry die voorgeskrewe limiet van 20km per uur in 'n begraafplaas.

(r) enige begraafplaas as 'n deurgang gebruik

(s) toelaat of veroorsaak dat 'n dier enige begraafplaas ingaan met die uitsondering van 'n beampte in beheer, wat op site woon en wie diere hou met vorige toestemming van die Raad

(t) enige alkohol of alkohol drink in die begraafplaas behalwe in die saak van die polisie, staat of militêre begrafnis

(u) 'n vuur maak of aansteek in 'n begraafplaas sonder die vorige toestemming van die Raad.

(v) jag of enige skade van diere en voëls

(w) wei husdiere en ongebruikt gebiede tussen begraafplaase of

(x) uitgrawing toerusting binne die begraafplaas inbring, saag en metal opsporing toerusting anders die toestemming van die Raad; en

(y) dryf lesse werf in die begraafplaas

(z) 'n gemagtigde beampte of die Raad wat in enige begraafplaas werk mag nie in 'n ooreenstemming ingaan met 'n lid van die publiek vir die doel van werk aanneem in die begraafplaas om onthalwe van sulke persoon, soos handhawing of grawe van 'n graf of enige verwante werk.

(3) Die Raad mag enige dier wat in die begraafplaas gevind is beslag.

HOOFSTUK 10

GEBRUIK EN BEKENDMAKING VAN ONBRUIK BEGRAAFPLAATSEN

Gebruik en sluiting van begraafplasewat in onbruik

51. (a) Ten spyte van 'n bepaling van hierdie Verordening, en onderhewig aan die bepalings van subsection (f), kan die Raad 'n begraafplaas of gedeelte daarvan te gebruik, wat reeds in onbruik vir 'n tydperk van nie minder nie as 20 jaar vir so 'n doel gebruik nie die grond en enige menslike oorskot of enige gedenktekens in so 'n begraafplaas skend.

(b) Ten spyte van 'n bepaling van hierdie Verordening, en onderhewig aan die bepalings van subartikel (f), kan die Raad 'n begraafplaas, of enige deel daarvan, waarvan dit die begraafplaas owerheid, wat reeds in onbruik vir 'n tydperk van nie minder nie as 20 sluit jaar, of as rede vir die sluiting bestaan.

(c) Ondanks enige bepaling in hierdie verordening, en onderhewig aan die bepalings van subartikel (a), my die Raad gebruik 'n begraafplaas of gedeelte daarvan, wat gebruik is vir 'n ander doel ingevolge subartikel 1, of heropen n begraafplaas of gedeelte daarvan, wat gesluit is in terme van subartikel (b).

(d) Die Raad kan, onderhewig aan die bepalings van subartikel (f), verwyder na 'n ander begraafplaas die menslike oorskot, gedenktekens en ander strukture van 'n begraafplaas, waarvan dit die begraafplaas gesag, wat gesluit is of in onbruik vir 'n tydperk van nie minder nie as 20 jaar en wat goedgekeur is vir ander gebruik deur die bevoegde owerheid of owerhede soos die geval mag wees.

(e) Alle regte besit of geniet word deur enige persoon ten opsigte van 'n begraafplaas soos bedoel in subartikel (1) en (b) en sal daarna ophou.

Voordat ingevolge subartikel (a), (b), (c) en (d) van die Raad moet kennis gee van sy voorneme om dit te doen gee.

HOOFSTUK 11

DIVERSE

Beserings en skade

52. (a) 'n Persoon wat 'n begraafplaas, doen dit op eie risiko, en die Raad aanvaar geen aanspreeklikheid hoegenaamd vir enige persoonlike beserings opgedoen deur so 'n persoon

of vir enige verlies van of skade aan sodanige persoon se eiendom met betrekking tot of as gevolg van die bogenoemde gebruik van die begraafplaas.

(b) 'n persoon wat 'n begraafplaas aanvaar volle verantwoordelikheid vir enige voorval, skade of beserings wat veroorsaak kan word deur of wat mag voortspruit uit die voormelde gebruik van die begraafplaas en hy of sy dienooreenkomstig vrywaar die Raad, dit is lede, werknemers of agente, hetsy in persoonlike of amptelike hoedanigheid van aanspreeklikheid vir alle eise van welke aard ook deur homself,sy of haar afhanklikes of derde partye ten opsigte van enige vermoënsverlies, gevolglike skade, beserings of persoonlike nadeel wat gely of opgedoen in verband met of as gevolg van so 'n persoon se gebruik van 'n begraafplaas mag word. Die voormelde vrywaring geld ook vir beserings opgedoen deur werknemers van die Raad, terwyl aan diens by die begraafplaas, asook skade aan die raad se eiendom by die begraafplaas.

Vuurwapens en tradisionele wapens

53. Geen vuurwapens en tradisionele wapens mag in 'n begraafplaas toegelaat word nie.

Klagtes

54. Enige persoon wat 'n klagte in te dien, moet sodanige klagte, skriftelik aan die direkteur.

Aanklagte

55. Die aanklagte soos uiteengesit in die tarief ten opsigte van die verskillende items wat daarin vervat is, moet vooraf aan die Raad betaal word.

Regte op Grawe

56. Geen persoon mag enige reg of belang in enige grond of graf in 'n begraafplaas verkry.

Toestemmings, Kennisgewings en Bestellings

57. Enige skriftelike toestemming, kennisgewing of ander bevel uitgereik deur die Raad in terme van hierdie verordening, met die uitsondering van toestemming deur die Direkteur of enige beampte deur hom gemagtig is en sal prima krag bewys van die inhoud van so 'n getekende toestemming, kennisgewing of ander orde.

Kennisgewing van voldoening en vertoë

58. (1) 'n kennisgewing van voldoening moet:

(a) die naam, woon- en posadres van die persoon;

(b) die aard van die toestand van verval;

(c) voldoende besonderhede nakoming in staat te stel met die kennisgewing, die maatreëls vereis dat die gedenkteken op te los;

(d) dat die persoon binne 'n spesifieke tydperk, neem die maatreëls om te voldoen aan die kennisgewing te ywerig voortgaan met die maatreëls, en die maatreëls voor 'n spesifieke datum te voltooi;

(e) wat versuim om te voldoen aan die vereistes van die kennisgewing in die tydperk beoog in subartikel (d) is 'n misdryf; en

(f) dat skriftelike vertoë, soos beoog in sub-artikel (3) binne die tydperk soos bepaal in subartikel (d), gemaak word aan die Raad op 'n spesifieke plek.

(2) Die Raad, wanneer enige maatreël of tydperk bedoel in subartikels (1)(d) en (e) moet betrekking tot:

(a) die beginsels en doelwitte van hierdie wet;

(b) dat oorsaak en toestand van verval;

(c) enige maatreëls deur die persoon op wie die stappe ingestel gaan word; en

(d) enige ander relevante faktore.

(3) 'n Persoon mag binne die tydperk bedoel in subartikel 1 vertoë in die vorm van 'n beëdigde verklaring of bevestiging aan die Raad op die plek in die kennisgewing vermeld.

(4)Vertoë wat nie binne die tydperk ingedien sal nie oorweeg word nie, tensy die persoon goeie redes aangevoer en die Raad kondoneer die laat indiening van die vertoë.

(5) Die Raad moet die vertoë en enige reaksie daarop deur 'n gemagtigde beampte of enige ander persoon oorweeg.

(6) Die Raad kan, op sy eie beweging enige verdere ondersoeke die feite nodig om te verifieer, en die resultate van die ondersoek moet aan die persoon wat dit moet 'n geleentheid om 'n verdere reaksie gegee word beskikbaar gestel word indien hy of sy wil , en die Raad moet ook oorweeg om die verdere reaksie.

(7) Die Raad moet, na oorweging van die vertoë en antwoorde, maak 'n skriftelike bevel en dien 'n afskrif daarvan aan die persoon.

(8) Die bevel moet:

(a) uiteengesit om die bevindinge van die Raad;

(b) bevestig, wysig of tersyde stel in die geheel of gedeeltelik, moet die kennisgewing van nakoming; en

(c) 'n tydperk spesifiseer waarin die persoon moet voldoen aan die bevel wat deur die Raad.

(9) Indien die kennisgewing van voldoening bevestig, in die geheel of gedeeltelik, of gewysig maar nie ter syde gestel word, sal die Raad die persoon wat hy of sy moet die verpligtinge soos uiteengesit in die kennisgewing binne die tydperk daarin vermeld inlig.

(10) Waar daar geen ooreenstemming met die vereistes van die kennisgewing in die tyd daarin vermeld, kan die Raad stappe doen as dit nodig ag om die monumentale werk om te herstel en die koste daarvan moet deur so 'n persoon aan die Raad betaal word.

Godsdienstige seremonies

59. (a) Die lede van enige kerkgenootskap kan godsdiens in verband met enige teraardebestelling van roudiens onderworpe aan die beheer en verordeninge van die Raad.

(b) Geen dier mag geslag word op die perseel van die begraafplaas, ongeag van enige godsdienstige plegtigheid wat kan 'n dier benodig om geslag te word.

Lykswaens en voertuie by begraafplase

60. (a) Geen persoon mag enige lykswa of voertuig veroorsaak, soos gedefinieer deur die Wet op Nasionale Padverkeer, 1996, terwyl in 'n begraafplaas te wyk van die pad.

(b) Lykswa of voertuig moet die begraafplaas verlaat deur die roete aangedui deur die opsigter.

(c) Die begraafplaas is 'n openbare plek en al die wette van toepassing op die bestuur van 'n voertuig en die gebruik van 'n openbare pad sal van toepassing binne die perseel van die begraafplaas.

Blootstelling van liggame

61. Geen persoon mag 'n lyk, wat nie gedek word nie, of wie se liggaam of enige deel daarvan in 'n straat, begraafplaas of openbare plek dra.

Opdrag van opsigter

62. Elke persoon wat aan 'n begrafnisstoet of plegtigheid moet voldoen aan die voorskrifte van die opsigter, terwyl so 'n persoon is in 'n begraafplaas.

Musiek in begraafplaas

63. Slegs gewyde sang toegelaat sal word in 'n begraafplaas nie, behalwe in die geval van die polisie en militêre begrafnisse.

Begrafnisse bygewoon deur 'n groot aantal mense

64. In 'n geval waar dit waarskynlik is dat 'n buitengewoon groot aantal persone by enige begrafnis teenwoordig sal wees, moet die persoon wat kennis van sodanige teraardebestelling die opsigter die dag stel voor die begrafnis.

HOOFSTUK 12

BEGRAFNISONDERNEMERS

Voorbereiding van lyke

65. (a) Lyke om voorbereid te wees net op begrafnisondernemers perseel ten opsigte waarvan 'n sertifikaat van bevoegdheid uitgereik is.

(b) Tensy anders in hierdie verordening, mag geen persoon en / of 'n lyk stoor behalwe op 'n begrafnisondernemer se perseel ten opsigte waarvan 'n sertifikaat van bevoegdheid uitgereik is en is in effek.

Aansoek vir die uitreiking of oordrag van 'n sertifikaat van bevoegdheid

66. (1) (a) Enige persoon wat wil aansoek doen om 'n sertifikaat van bevoegdheid ten opsigte van nuwe begrafnisondernemer se perseel sal nie minder nie as 21 dae voor die indiening van die aansoek aan die Raad 'n kennisgewing van sy voorneme om in Engels gepubliseer is, en twee ander amptelike Suid-Afrikaanse tale in 'n koerant wat sirkuleer in die gebied waarin sodanige perseel sal wees of is.

(b) Sodanige kennisgewing moet inligting aan die effek wat 'n aansoek vir die uitreiking van 'n sertifikaat van bevoegdheid in terme van hierdie wet is om aan die Raad en dat enige persoon wat beswaar wil aanteken teen sodanige gebruik kan sy of haar beswaar ingedien word bevat saam met gemotiveerde vertoë, met die Raad skriftelik binne 21 dae van die datum van publikasie van die kennisgewing.

(2) 'n Aansoek vir die uitreiking van 'n sertifikaat van bevoegdheid moet gemaak word aan die Raad skriftelik op die voorgeskrewe vorm en moet vergesel word deur

(a) 'n beskrywing van die perseel en die plek daarvan; insluitende toerusting, stoor fasiliteite, voorbereiding gebiede en toiletgeriewe.

(b) 'n Volledige grondplan van die voorgestelde konstruksie of van die bestaande geboue op 'n skaal van 1: 1000 insluitend die uitvloeisel rioolstelsel.

(c) 'n plan van die perseel waarop die noorde word getoon aandui aangrensende persele wat reeds deur die aansoeker of ander persone en die doel waarvoor sodanige perseel benut of aangewend word beset;

(d) besonderhede van enige ander persoon as die aansoeker en enige van sy of haar werknemers wat voorberei of sal lyke op die perseel op te stel;

(e) 'n gebeurlikheidsplan vir die berging van lyke in die geval van 'n koel of koue kamer breek; en

(f) 'n reiniging en ontsmetting program.

(g) besonderhede van geregistreerde gesondheidsorgafval remover, vervoerder en beskikker.

(3) Die Raad, by die oorweging uitreiking van 'n sertifikaat van bevoegdheid, kan versoek van hy enige sodanige verdere inligting wat vereis aansoeker of enige ander persoon.

(4) Die Raad sal nie 'n sertifikaat van bevoegdheid tensy 'n volledige inspeksie van die betrokke perseel uitgevoer deur 'n omgewingsgesondheid praktisyn wat deur die Raad en die omgewingsgesondheid praktisyn se verslag oor sodanige inspeksie, insluitend aanbeveling oor sulke uitreiking of oordrag, is in besit van die Raad.

Uitreiking of oordrag van 'n sertifikaat van bevoegdheid

67. Wanneer die Raad oortuig is dat die betrokke perseel:

(a) voldoen aan al die vereistes wat in hierdie verordening en enige ander toepaslike wetgewing;

(b) is in alle aspekte wat geskik is vir die voorbereiding van lyke; en

(c) sal nie aanstoot aan insittendes van 'n perseel in die onmiddellike omgewing van sodanige perseel wees, sal dit op die voorwaardes wat hy mag ten opsigte van die begrafnisondernemer se perseel, 'n sertifikaat van bekwaamheid in die naam van die aansoeker in die vorm wat bepaal dit bepaal of sal deur endossement, dra 'n bestaande bevoegdheidsertifikaat na 'n nuwe houer, soos die geval mag wees.

Geldigheid en oordrag van sertifikaat van bevoegdheid

68. 'n Sertifikaat van bevoegdheid, uitgesluit 'n voorlopige sertifikaat van bevoegdheid word, op endossement deur die Raad, oordraagbaar wees van een houer na 'n nuwe houer en sodanige sertifikaat, indien wel onderskryf, geldig vanaf die datum van wat dit uitgereik is totdat dit herroep of opgeskort in terme van hierdie wet.

Kwessie van voorlopige sertifikaat van bevoegdheid

69. (a) Ondanks die feit dat die Raad nie tevrede is nie, soos in artikel 4 met betrekking tot begrafnisondernemer se perseel ten opsigte waarvan 'n sertifikaat van bevoegdheid aansoek gedoen, kan die Raad, in hy geval van bestaande begrafnisondernemer se perseel en

onderhewig aan sodanige voorwaardes as die Raad mag bepaal, 'n voorlopige sertifikaat van bevoegdheid ten opsigte van sodanige perseel.

(b) 'n Sertifikaat in subartikel (a) sal slegs uitgereik word indien die Raad oortuig is dat die gebruik van sulke begrafnisondernemer se perseel nie en sal nie 'n oorlas skep, en sal uitgereik word vir 'n maksimum tydperk van ses maande die aansoeker in staat te stel om te verander sodanige perseel ten einde te voldoen aan die bepalings van hierdie verordening.

(c) Indien, na die tydperk bedoel in subartikel (b), die perseel nie aan die bepalings van hierdie verordening voldoen nie, kan die Raad die voorlopige sertifikaat van bevoegdheid herroep.

Pligte van houer

70. (a) Die houer moet die Raad onmiddellik skriftelik in kennis stel indien daar enige veranderinge in die besonderhede of omstandighede wat aan die Raad in die aansoek om 'n bevoegdheidsertifikaat.

(b) A begrafnisondernemer moet nie weg van 'n liggaam in 'n plek of 'n ander perseel as 'n begraafplaas of krematoriums geregistreer in terme van die Wet op Kwazulu-Natal begraafplase en krematoriums, 1996.

(c) Die houer moet voldoen aan die bepalings van hierdie verordening, toepaslike wetgewing en enige voorwaardes deur die Raad.

Opskorting of intrekking van 'n sertifikaat van bevoegdheid of voorlopige sertifikaat van bevoegdheid

71. (1) Indien die Raad van mening is, op die krag van 'n inspeksie verslag en / of aanbeveling deur 'n mediese beampte van gesondheid of omgewingsgesondheid praktisyn, dat daar redelike gronde is om te vermoed dat:

(a) betrokke benut word in so 'n manier as 'n oorlas skep of dat toestande wat 'n oorlas is of geskep word op die betrokke begrafnisondernemer se perseel die begrafnisondernemer se perseel; of

(b) die betrokke perseel benut word in stryd met die bepalings van die Wet op Gesondheid, 2003, deur-wet of ander toepaslike wetgewing of enige voorwaardes deur die sertifikaat van bevoegdheid, kan dit die Raad na goeddunke:

(i) herroep sertifikaat van bevoegdheid of voorlopige sertifikaat van bevoegde bekommerd;

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(ii) die sertifikaat van die betrokke vir sodanige tydperk as wat die Raad mag bepaal bevoegdheid skort, die houer in staat te stel om te voldoen aan die toepaslike wetgewing en / of voorwaardes opgelê; met dien verstande dat indien die houer versuim om te voldoen binne die tydperk in die kennisgewing van opskorting, kan die Raad die betrokke sertifikaat sonder verdere kennisgewing herroep.

(2) 'n kennisgewing uitgereik deur die Raad ingevolge artikel 71(b)(ii) uitgereik word skriftelik en dan bedien op die houer.

Die opskorting of intrekking van 'n sertifikaat van bevoegdheid of voorlopige sertifikaat van bevoegdheid in terme van hierdie wet sal die effek hê dat vanaf die datum van die kennisgewing van opskorting of intrekking

(a) geen voorbereiding van 'n lyk, moet op die betrokke perseel uitgevoer word;
(b) geen lyk moet ontvang word vir voorbereiding op die betrokke perseel; en
(c) geen lyk moet bewaar word op die betrokke en elke lyk moet onmiddellik verwyder word na 'n lykshuis onder die beheer van die Staat perseel,'n provinsiale administrasie of die raadslid, enige ander begrafnis perseel, met dien verstande dat hierdie verordening sal nie van toepassing wees en die genoemde kennisgewing moet nie so uitgelê word as enige ander sake-aktiwiteit wat verband hou met die begrafnis onderneming beroep insluitend die verkoop van doodskiste te beperk en beleid.

(4) Waar die Raad van mening is dat 'n toestand wat aanleiding gee tot die herroeping van 'n sertifikaat gegee soos beoog in hierdie verordening reggestel na sodanige herroeping, kan dit, op skriftelike aansoek deur of namens die houer, herroeping van sodanige herroeping deur endossement op die betrokke sertifikaat.

Vereistes met betrekking tot begrafnisondernemer se perseel

72. (1) Voorsiening vir die volgende moet op 'n begrafnisondernemer se perseel gemaak word:

(a) 'n voorbereiding kamer vir die voorbereiding van 'n lyk;

(b)verander-kamers skei vir elke geslag, vir die gebruik van die werknemers in diens by sodanige perseel;

(c) verkoeling geriewe vir die verkoeling van lyke;

(d) was- en skoonmaak gereedskap en toerusting in die gebou;

(e) fasiliteite vir die skoonmaak van voertuie op die perseel; en

(f) fasiliteite vir die laai en aflaai lyke soos beoog in klousule 72 (6).

(2) Geen plek op 'n begrafnisondernemer se perseel moet gebruik word vir enige ander doel as die doel waarvoor dit bedoel is.

(3) Die voorbereiding kamer-

(a) moet ontwerp word om as te:

(i) wees apart van alle ander kamers op die perseel en sodat dit nie direk toeganklik te wees van of in die lig van 'n kantoor of verkope kamer met dien verstande dat, waar 'n voorbereiding kamer op bestaande begrafnisondernemer se perseel so geleë is, moet die ingang daarvan so wees versteekte dat die binnekant van die voorbereiding kamer is heeltemal buite sig van enige persoon in die aangrensende kantoor of verkope huis;

(ii) in staat stel om skadelike reuke en dampe wees voldoende behandel word; en

(iii) voldoende geventileer en verlig.

(b) moet 'n vloer-met 'n oppervlakte van nie minder nie as $6m^2$ vir die eerste tafel van die soort bedoel in artikel 72(3)(e) en $8m^2$ vir elke bykomende tafel; van beton of soortgelyke waterdigte materiaal met 'n gladde nie-glibberige oppervlak wat maklik is om skoon te maak, en helling teen 'n hoek enige afloop te verseker, sal dreineer in 'n afvoerstelsel deur die Raad goedgekeur is; en wat, indien dit vervang of gelê na die datum van inwerkingtreding van hierdie verordening, sal voorsien word met 'n halwe ronde te vul waar ditvoldoen aan die mure-

(i) moet mure met 'n binneste oppervlak het met 'n gladde afwerking en is bedek met 'n lig-gekleurde wasbare verf of ander geskikte, gladde, waterdig, lig-gekleurde en wasbare materiaal;

(ii) moet voorsien word met 'n plafon nie minder nie as 2,4m bo die vloer vlak, wat plafon stof bewys moet wees en geverf met 'n lig-gekleurde, wasbare verf;

(iii) moet nie minder nie as 1 vlekvrye staal of glas erdewerk, toegerus met 'n verhoogde rand aan die buitekant, 'n kraan met koue lopende water waarin 'n buigsame pyp gekoppel kan word en 'n dreinering opening gekoppel aan die goedgekeurde rioolstelsel bevat;

(iv) moet bevat nie minder nie as een wasbak vir elke tafel, gemaak van vlekvrye staal of ander geskikte materiaal, met 'n werkende oppervlak van dieselfde materiaal, krane met warm en koue lopende water en 'n dreinering opening permanent gekoppel aan 'n goedgekeurde rioolstelsel;en voorsien wegdoenbare handdoeke, 'n spyker-kwas en seep;

(v) moet nie minder nie as een kraan met lopende water waarin 'n buigsame pyp, lank genoeg al die uithoeke van die kamer te bereik, kan verbind word vir die skoonmaak van die binneland oppervlaktes; en

(vi) moet deur openinge wat nie minder nie as 0,82m in breedte en 2,00m in hoogte sodat lyke kan in en uit so 'n vertrek geneem word sonder enige probleme.

(4) Elke verandering-kamer moet die volgende bevat ten minste:

(a) een hand-wasbak met warm en koue lopende water vir elke ses werknemers of gedeelte daarvan;

(b) wegdoenbare handdoeke, seep, naelborsels en ontsmettingsmiddel; en

(c) nie minder nie as een toilet vir elke 15 manlike werknemers en nie minder nie as 1 toilet vir elke 15 vroulike werknemers in diens by die betrokke begrafnisondernemer se perseel, met dien verstande dat, waar 'n afsonderlike urinaal vir mans deel van sulke fasiliteite, een toilet plus een afsonderlike urinaal moet toelaatbaar vir elke 30 mans of 'n deel daarvan wees.

(5) Verkoeling geriewe soos verkoeling of koue kamers vir die aanhou van lyke, moet geïnstalleer word in of in die nabyheid van sodanige voorbereiding kamer en-

(a)waar yskaste gebruik word, moet dit gebou wees van 'n materiaal wat nie vog absorbeer, moet voorsien word met verwyderbare bak en moet ontwerp word om te dreineer in 'n goedgekeurde dreineringstelsel en maklik om skoon te maak;

(b) van so 'n aard is dat die oppervlak temperatuur van 'n lyk nie hoër as 5 tydens voorbereiding moet wees. 'N akkurate termometer moet voorsien word teen die yskas of koue kamer en moet te alle tye in werking wees.

(c) in gevalle waar die koue kamers gebruik word, moet dit voldoen aan artikels 10 (3)(a)(ii), (b)(ii), (c), (d) en (h) en moet voorsien word met rakke vervaardig van 'n materiaal wat nie vog absorbeer en dit is maklik om skoon te maak; en

(d) Lyke is nie op die top van mekaar gestoor word en moet individueel gestoor word op die bak of rakke.

(6) Die reiniging, laai en los fasiliteite moet bestaan uit 'n geplaveide area, van die publieke oog, met 'n dreineringstelsel in rioolput gekoppel aan 'n rioolstelsel deur die Raad goedgekeur is.

(7) Die laai en los van lyke en die reiniging van voertuie moet nie plaasvind nie oral behalwe in die gebied bedoel in artikel 72(6).

(8) Die begrafnisondernemer se perseel moet knaagdierdigte wees.

Vervoer van stoflike oorskot

73. Geen persoon mag enige oorblyfsels dra

(a) tensy die oorblyfsels is verseël in 'n lugdigte houer en in 'n nie-deursigtige, stewige, verseël kis geplaas; of

(b) geen kis houer waarin die stoflike oorskot is geplaas kan oorgedra word tensy:

(i) die buitenste oppervlak van sodanige kis of houer is vry van enige lekkasies of enige ander afskeiding saak wat uit sodanige oorblyfsels; en

(ii) aanstootlike reuke afwesig

Higiëne

74. (1) Alle gesondheidsorgafval gegenereer moet gestoor word, verwyder, vervoer en weggedoen word in ooreenstemming met die Raad se Environmental Health By-wette.

(2)Elke houer van 'n sertifikaat van bevoegdheid met betrekking tot begrafnisondernemer se perseel moet

(a) verskaf skoon, beskermende klere uit chirurgiese handskoene, gumboots, gesigmaskers en jasse / oorpakke te alle werknemers en alle ander persone wat betrokke is by die voorbereiding van lyke of lykskouings, en elke sodanige werknemer of ander persoon moet, te alle tye, wanneer so betrokke, soos klere dra;

(b) sodanige perseel hou vry van peste en insekte te alle tye

(c) skoon onmiddellik na die voorbereiding van 'n lyk, al werk gebiede of oppervlaktes op sodanige perseel waar lyke is bereid;

(d) was en ontsmet alle toerusting wat gebruik word vir die voorbereiding van lyke onmiddellik na gebruik;

(e) was, skoonmaak en ontsmet al beskermende klere wat op die perseel op 'n daaglikse basis gebruik;

(f) sodanige perseel skoon en netjies te hou ten alle tye; en

(g) As 'n lyk is sonder 'n vog-bewys bedekking vervoer, was en ontsmet die laai ruimte van die betrokke nadat die lyk verwyder is voertuig.

HOOFSTUK 13

APPÈL, VRYSTELLINGS EN MISDRYWE

Appèl

75. 'n Persoon wie se regte geraak word deur 'n besluit deur die Raad gedelegeer kan teen daardie besluit appelleer deur skriftelike kennisgewing van die appèl en die redes gee dus in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000) aan die Raad binne 21 dae van die datum van die kennisgewing van die besluit.

Vrystellings

76. (1) Enige persoon ma deur middel van 'n skriftelike aansoek waarin die redes volledig gegee word, is van toepassing op die Raad vir vrystelling van enige bepaling van hierdie verordening.

(2) Die Raad kan:

(a) 'n vrystelling skriftelik en die voorwaardes in terme van watter, indien enige, en die tydperk waarvoor sodanige vrystelling verleen word, moet daarin uiteengesit word;

(b) verander of enige vrystelling kanselleer of voorwaarde Ek 'n vrystelling; of

(c) weier om 'n vrystelling te verleen.

(3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om te voldoen aan al die voorwaardes y die Raad kragtens subartikel (2). Indien enige aktiwiteit begin voordat sodanige onderneming aan die Raad voorgelê is, die vrystelling sal van geen krag wees van die effek.

(4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, die vrystelling verval onmiddellik.

(5) Die versuim om te voldoen aan 'n voorwaarde van 'n vrystelling ingevolge subartikel 2 is 'n misdryf.

Misdrywe en strawwe

77. (1) Enige persoon

(a) oortree of versuim om te voldoen aan enige van die bepalings van hierdie verordening;

(b) 'n valse verklaring wetende dat dit vals of opsetlik wees verstrek misleidende inligting aan 'n gemagtigde beampte of werknemer van of vir die Raad;

(c)dreig, teenstaan, inmeng met of 'n gemagtigde beampte of werknemer van of vir die Raad in die uitvoering van hul pligte of funksies belemmer onder hierdie verordening,

skuldig aan 'n oortreding en sal by skuldigbevinding deur 'n hof strafbaar met 'n boete van hoogstens R60000,of gevangenisstraf vir 'n tydperk van hoogstens 3 jaar of beide 'n boete sowel as 'n tydperk van gevangenisstraf, of sodanige ander boete of gevangenisstraf wat die Minister van Justisie, kan van tyd tot tyd bepaal in terme van die bepalings van artikel 92 van die landdroshowe Act.1994 (Wet No. 32 van 1994).

(2) Enige koste wat aangegaan is deur die Raad as gevolg van 'n oortreding van hierdie verordening of in die doen van enigiets wat 'n persoon is gerig om te doen wat ingevolge hierdie verordening en wat hy of sy as versuim het om te doen nie, kan deur die Raad verhaal word van die persoon wat die oortreding begaan het of versuim het om sodanige ding te doen.

HOOFSTUK 14

HERROEPING VAN VERORDENINGE

Herroeping van bestaande verordeninge

78. Die Raad se bestaande begraafplase, krematoriums en Begrafnisondernemers By-wette word hierby herroep.

Kort titel en inwerkingtreding

Hierdie Verordening sal genoem word die _____ Munisipaliteit Begraafplaas, krematoriums en Begrafnisondernemers By-Law 20___.

CONTINUES ON PAGE 246—PART 2

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KwaZulu-Natal Province
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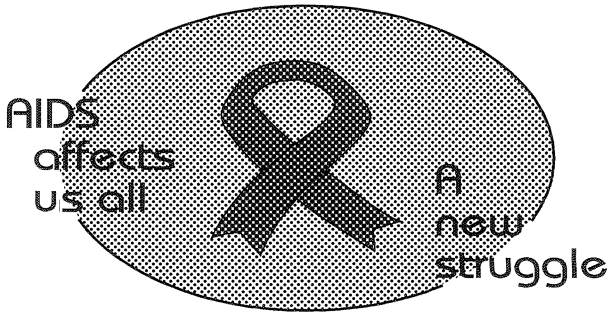
We all have the power to prevent AIDS



Prevention is the cure

AIDS HELPLINE
0800 012 322
DEPARTMENT OF HEALTH

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PART 2 OF 2

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No. 13 **19 kuNdasa 2015**

UMNYANGO WEZOKUBUSA NGOKUBAMBISANA NEZINDABA ZOMDABU

ISAZISO NGOKWEMIBANDELA YESIGABA 14(2)(a)(i) YO HULUMENI WASEKHAYA: UMTHETHO WEZINHLELO ZIKAMASIPALA, 2000: UKUSHICILELWA KOHLAKA LWEMITHETHO EVAMILE KAMASIPALA

Mina, Nomusa Dube, ngesikhundla sami njenge Lungu loMkhandlu Onamandla okwenza kwa Zulu Natali, elibhekene no Hulumeni Wasekhaya, nangaphansi kwamandla engiwagunyazwe isigaba 14(2)(a)(i) sika Hulumeni Wasekhaya: Umthetho Wezinhlelo ZikaMasipala, 2000 (Umthetho No. 32 ka 2000), ngemuva kokuthintana no Ngqongqoshe Wokubusa nezaMasiko eNdabuko kanye Nokuhlela Kokubuswa kweSifundazwe noMasipala eSifundazweni, ngalokhu ngenza isandulela semithetho evamile kaMasipala equkethwe kusheduli engezansi.

Inikezwe ngaphansi kwesandla sami e .....ngosuku luka..... kuJulayi ka 2014.

MRS N DUBE-NCUBE, MPL

ILungu loMkhandlu Onamandla Okwenza kwi Sifundazwe sakwa Zulu Natali elibhekene noHulumeni Wasekhaya

ISHEDULI

1. Imithetho kanye nezinqumo
2. Izikiti
3. Ukulawulwa kwezikweletu
4. Ukuhweba emgwaqweni
5. Amangcwaba, ukulothiswa kanye nabangcwabi

IMITHETHO KANYE NEZINQUMO ZEMIKHANDLU KANYE NAMAKOMIDI KAMASIPALA KWIMITHETHO YOMKHANDLU

Loku akuphasiswe uMkhandlu ka Masipala wase _____ , ngokwemibandela yesigaba 156(2) yoMthethosisekelo wase Riphablikhi yase Ningizimu Afrika, 1996, esifundwa kanye nesigaba 11(3)(m) so Hulumeni base/wase Khaya: uMthetho Wezinhlelo zikaMasipala, 2000 (UMthetho No.32 ka 2000), ngokulandelayo:

UKUHLELWA KWEZIGABA

Isigaba

1. Izincazelo
2. Ukusetshenziswa kwaloMthetho kaMasipala
3. Ukuchazwa kwaloMthetho kaMasipala
4. Imihlangano yomKhandlu
5. Ukwamukelwa komphakathi
6. Isaziso sokubakhona emhlanganweni ojwayelekile woMkhandlu
7. Imihlangano ekhethekile
8. Ukwamukelisa kwezaziso kanye nohlelo
9. Ukungatholi isaziso
10. Isilinganiso esincane esifanele samaLungu sokuqhubeka nomhlangano (ikhoramu)
11. Ukuchithwa nokuhlehliswa uma kungekho isilinganiso esincane esifanele samaLungu sokuqhubeka nomhlangano
12. Ukuthamela
13. Ukuphutha okugunyaziwe
14. Ukungathameli
15. Umhlangano ohlehlisiwe
16. Umhlangano oqhubekayo
17. USomlomo kanye no Sihlalo bemihlangano
18. Amaminithi
19. Ukuhleleka komhlangano

20. Ukuqinisekiswa kwamaminithi omhlangano odlule
21. Amathimba
22. Imibiko
23. Iziphakamiso
24. Imibuzo
25. Ukuphakela ulwazi kumaKhansela
26. Izindaba jikelele kodwa zohlobo oluphuthumayo
27. Ukuhumusha
28. Umhlangano weKomidi lapho umphakathi noma izikhulu zikaMasipala zingekho
29. Izinqumo ngokuvota
30. Indlela yokuvota
31. Amavoti ahlukayo
32. Ukusulwa kwezinqumo zoMkhandlu
33. Ukusulwa kwezinqumo ze Komidi
34. Ithuba lokukhuluma
35. Ukuhambisana
36. Ubude bezinkulumo
37. AmaKhansela awakhulume kanye
38. Ukwandulela kuka Somlomo noma uSihlalo
39. Amaphuzu okuqondisa
40. Incazelo
41. Ukuziphatha ngokujwayelekile
42. Ukungaziphathi kahle
43. IKomidi lezinqumo
44. Ukuzenzela Imithetho
45. USihlalo
46. Ukudalula ngokuthinteka/ngokubandakanyeka kwezomnotho
47. Ukwephula
48. Isijeziso
49. Ukumiswa komthetho noma kwesinqumo
50. Ukwemukelwa njengo Mthetho kaMasipala
51. Ukuchithwa kweMithetho kaMasipala ekhona
52. Isihloko esifushane nokuqala

ISAHLUKO 1

IZINCAZELO

Izincazelo

1. KuloMthetho kaMasipala, ngaphandle uma kungahambisani nengqikithi –

"umthetho kaMasipala" kuchaza umthetho ophasiswe wu Mkhandlu kaMasipala;

"usihlalo" kuchaza iKhansela elikhethwe unomphelo noma oyibamba ukuthi alawule futhi aphathe noma yimuphi umhlangano weKomidi yoMkhandlu;

"uMkhandlu" kuchaza –

a) UMasipala wase _____ , esebenzisa igunya lomthetho nelamandla awo ngoMkhandlu ka Masipala wawo;
b) Olandelayo esikhundleni;
c) Uhlaka noma umuntu osebenzisa igunya alinikiwe noma owenza umyalelo, lapho amandla kuloMthetho kaMasipala agunyazwe noma agunyazweogunyaziwe, noma umyalo onikiwe, njengoba kuhlongozwe kusigaba 59 soMthetho weZinhlelo; kanye
d) Umlethi wezinsiza egcina izimpendulelo ngaphansi kwaloMthetho kaMasipala;

"Imithetho yokuziphatha"kuchaza Imithetho Yokuziphatha yama Khansela equkethwe ku Sheduli 1 kuMthetho Wezinhlelo;

"imininingwane yokuthintana" kuchaza ikheli lendawo, ikheli leposi, ikheli le *email,* inamba yocingo, inamba ye *fax* (isikhahlamezi) kanye nenamba kamakhal'ekhukhwini *(cellphone)*;

"ikhalenda yosuku"kuchaza usuku olunamahora angamashumi amabili nane njengoba luchazwa ekhalendeni;

"Ikhansela"kuchaza iLungu loMkhandlu kaMasipala;

"usuku" kuchaza noma yiluphi usuku olujwayelekile ngaphandle koMgqibelo, iSonto noma iHolide, ngaphandle kokuthi kuchazwe ngokwehlukile;

"Ithimba" kuchaza umuntu noma iqoqo labantu abanesifiso sokuzivelela mathupha phambi koMkhandlu noma iKomodi yoMkhandlu ngenjongo yokukhuluma no Mkhandlu noma iKomidi loMkhandlu;

"IKomidi elinamandla okwenza" kuchaza iKomidi elinamandla okwenza loMkhandlu elisungulwe ngemibandela yesigaba 43 soMthetho Wezinhlaka;

"iKomidi elingaphakathi" kuchaza noma ngabe yimuphi umhlangano woMkhandlu noma weKomidi lapho umphakathi kanye/noma izikhulu zikaMasipala zingafakiwe;

"Isu elididiyele lokuthuthukisa" kuchaza isu elilodwa, elihlanganisele kanye necebo lokuthuthukisa uMasipala futhi okuqondene nemibandela yeSahluko 5 woMthetho Wezinhlelo;

"USodolobha" kuchaza iKhansela elikhethwe njengoSodolobha kaMasipala ngokwemibandela yesigaba 48 woMthetho weZinhlaka;

"Umhlangano" kuchaza umhlangano woMkhandlu noma ngabe yimuphi owamaKomidi;

"UMasipala" kuchaza uMasipala wase _____ osungulwe ngemibandela yesigaba 155(6) soMthethosisekelo, 1996, futhi usungulwe ngaphansi kwezigaba 11 no 12 zoMthetho Wezinhlaka, ufundwa kanye nesigaba 3, 4 no 5 soMthetho wa KwaZulu Natali Wokunquma Kwezinhlobo zoMasipala, 2000 (UMthetho No. 7 ka 2000);

"Impahla kaMasipala" kuchaza impahla ethathekayo, engathatheki, eyisiqu, engenasiqu, yoqobo, engesiyo yoqobo lapho uMasipala enobunikazi kuyo;

"Umenenja kaMasipala" kuchaza umuntu obekelwe ukuba uMenenja kaMasipala ngokwemibandela yesigaba 54A woMthetho Wezinhlelo futhi kubandakanya umuntu obambe kulesosikhundla;

"Isaziso sokuphakamisa" kuchaza indlela yokusebenza amaKhansela angaletha ngayo izindaba kuhlelo lomhlangano woMkhandlu ngokwemibandela yesigaba 23 saloMthetho kaMasiplala;

"USoxolo" kuchaza noma ngabe ubani owaziswe njengeSoxolo ngokwemibandela ye Criminal Procedure Act No. 51 ka 1977;

"Amaphuzu okuqondisa" kuchaza ukuvezanoma yini ehlukile kokuziphatha futhi/noma yikuphi okunye okungajwayelekile ezinqubeni zomhlangano;

"Amagceke" kuchaza igumbi loMkhandlu nazozonke izindawo zomhlangano, izindawo lapho umphakathi uvumeleke ukungena kanye nazo zonke izinkundla lapho imihlangano yoMkhandlu noma iKomidi loMkhandlu ubanjelwa khona;

"Umphakathi" kubandakanya abezindaba futhi kuchaza wonke umuntu ohlala phakathi kwe Riphabliki yase Ningizimu Afrika;

"Isivumelwano sokulethwa komsebenzi" kuchaza isivumelwano phakathi kuka Masipala kanye nesikhungo noma umuntu oqagulwe kusigaba 76(b) woMthetho Wezinhlelo ngokwemibandela lapho umsebenzi kaMasipala owenziwa yilesosikhungo noma umuntu, noma wenzelwa sona uqobo noma egameni lika Masipala;

"USomlomo" kuchaza uSihlalo woMkhandlu okhethwe ngemibandela yesigaba 36 woMthetho Wezinhlaka futhi ubandakanya noma yimuphi oyibamba lika Somlomo uma ekhethelwe ukwenza umsebenzi ka Somlomo;

"UMthetho Wezinhlaka" kuchaza uHulumeni Wasekhaya: UMthetho KaMasipala Wezinhlaka, 1998 (UMthetho No. 117 ka 1998);

UMthetho Wezinhlelo" kuchaza uHulumeni Wasekhaya: UMthetho KaMasipala Wezinhlelo, 2000 (UMthetho No. 32 ka 2000);

"Ukuphakamisa" kuchaza ukufaka umbiko noma iyiphi incwadi esemthethweni kuMkhandlu noma iKomidi loMkhandlu ukuze kuhlongozwe emhlanganweni wo Mkhandlu noma iKomidi loMkhandlu osaziso sawo silethwe ngokwemibandela yaloMthetho kaMasipala;

ISAHLUKO 2

UKUSETSHENZISWA NOKUHUNYUSHWA KWEMITHETHO NEMIYALELO

Ukusetshenziswa kwaloMthetho kaMasipala

2. LoMthetho kaMasipala ulawula izinqubo zoMkhandlu nama Komidi oMkhandlu obophezela futhi okumele ugcinwe yilaba –

(a) Yiwo wonke amaKhansela;
(b) Yinoma yiliphi iLungu lomphakathi uma liphakathi kwamagceke;
(c) Noma ngabe yiliphi ithimba elikhuluma noMkhandlu noma iKomidi lo Mkhandlu; futhi
(d) Noma yisiphi isikhulu sikaMasipala.

Ukuchazwa kwaloMthetho kaMasipala

3 (a) Yinoma yikuphi ukuchazwa kwaloMthetho kaMasipala akwenziwe kucatshangelwa ubukhulu boMthetho woMthethosisekelo, kaZwelonke, beSifundazwe kanye noMasipala, ukubusa komthetho kanye nemithetho yobulungiswa bendalo.

(b) Isinqumo sika Somlomo noma uSihlalo maqondana nokuchazwa kwaloMthetho kaMasipala emhlanganweni woMkhandlu noma weKomidi loMkhandlu, kuncike kuzigaba 3(e) no 3(f), kuzoba umnqamula juqu futhi kube yisibopho.

(c) Ukuchazwa nesinqumo sika Somlomo noma uSihlalo kunoma yimuphi loMthetho kaMasipala kufanele kuqoshwe kumaminithi omhlangano woMkhandlu noma weKomidi loMkhandlu.

(d) UMenenja kaMasipala kufanele agcine ibhuku lemininingwane yezinqumo kanye nemibono kwezomthetho.

(e) Noma ngabe yiliphi iKhansela lingacela uMenenja kaMasipala, ngokubhalwe phansi, phakathi kwezinsuku ezinhlanu sekuthathwe isinqumo, ngokombandela wesigaba 3(b), sokuthola ukucaciseleka ngokuchazwa kanye nesinqumo futhi libike kuMkhandlu noma kwiKomidi yoMkhandlu.

(f) UMkandlu noma iKomidi loMkhandlu ungaqinisekisa, ulungise noma ufake okunye esikhundleni sesinqumo sika Somlomo noma uSihlalo, ngemuva kokubuyekeza umbiko ngokwemibandela wesigaba 3(e), kuncike kunoma imaphi amalungelo omunye umuntu angabe ewathole ngesizathu sesinqumo nazozonke izinqumo ezinomphumela kumalungelo abanye kumele kubhalwe futhi nezizathu zezinqumo ezinjalo ziqoshwe.

ISAHLUKO 3

UKUVAMA, UKWAMUKELWA KOMPHAKATHI KANYE NESAZISO SEMIHLANGANO

Imihlangano yoMkhandlu

4 (a) UMkhandlu ufanele ubambe umhlangano ojwayelekile woMkhandlu kungabi ngaphansi kokunye njalo ezinyangeni ezintathu.

(b) USomlomo kufanele abize yonke imihlangano yoMkhandlu ngokuhambisana nesigaba 4(a) futhi kuncike kusigaba 6.

Ukwemukelwa komphakathi

5. (1) Yonke imihlangano yoMkhandlu naleyo yama Komidi kumele ivuleleke kumphakathi, futhi uMkhandlu noma iKomidi lo Mkhandlu lingewunqabele umphakathi emhlanganweni, ngaphandle kokuthi uMkhandlu noma iKomidi, ngenxa yohlobo lwalowo msebenzi owenziwayo noma ukudalula kwanoma yiluphi udaba kungacekela phansi isimo sika Masipala, likubona kufanele futhi kunobulungiswa ukwenza lokho kwenziwe lokho kube kubhekelelwe izimiso zomphakathi ovulelekile nowentando yeningi.

(2) UMkhandlu noma iKomidi loMkhandlu, alifanele noma kungasizathu sini, uvalele umphakathi ngesikhathi kubhekelelwa, kuvotwa noma kuphawulwa noma yikuphi kwaloku okulandelayo –

a) UMthetho kaMasipala osezingeni lesandulelo obekelwe ukudingidwa eMkhandlwini;
b) Uhlahlo lwezimali oluphakanyiselwe ukudingidwa eMkhandlwini;
c) Isu elididiyele lokuthuthukisa lika Masipala, noma yiliphi isu elichitshiyelwe, noma yiliphi isu elichitshiyelwe eliphakanyiswe eMkhandlwini;
d) Izinhlelo zikaMasipala zokuphathwa kokufeza umsebenzi, noma yiluphi oluchitshiyelwe oluphakanyiswe eMkhandlwini;
e) Isinqumo sokungena kwisivumelwano sokulethwa komsebenzi;
f) Noma yimiphi imibiko yokuhlomulisangokwemibandela yenqubomgomo yokuphathwa kweketanga lohlelo lokunikezela (*supply chain management*)
g) Ukwabiwa noma ukutholakala kwezimpahla ezibalulekile zikaMasipala;
h) Noma yiluphi udaba olunqunywe wumthetho.

(3) UMenenja kaMasipala kufanele anikeze isaziso kumphakathi, ngendlela enqunywe wu Mkhandlu, ngesikhathi, usuku kanye nendawo yawowonke umhlangano ojwayelekile woMkhandlu noma iKomidi loMkhandlu kanye noma yimuphi umhlangano okhethekile noma ophuthumayo woMkhandlu noma iKomidi loMkhandlu, ngaphandle kokuthi ngokumpintsheka kwesikhathi akulula ukwenza lokhu.

(4) AmaLungu oMkhandlu kanye namaLungu omphakathi athamele noma yimiphi imihlangano yo Mkhandlu noma iKomidi kumele banikeze umhlangano isithunzi esiwufanele ngokugqoka ngokufanelekile njengokweSinqumo 41(d) futhi abafanele bagqoke noma yikuphi okungahle kubayamanise neqembu lepolitiki.

Isaziso sokuthamela umhlangano woMkhandlu ojwayelekile

6. (1) USomlomo kumele abize imihlangano yoMkhandlu, okungenani kanye njalo ezinyangeni ezintathu, nge "Isaziso so Mhlangano wo Mkhandlu" yasayindwa ngokuyikho, ebeka usuku, indawo kanye nesikhathi somhlangano futhi ihambisane noma iqukathe uhlelo lomhlangano ohlongozwayo.

(2) Isaziso sokuthamela umhlangano ngokombandela wesigaba 6(1) kumele sitholakale okungenani –

(a) Ezinsukwini zekhalenda ezinhlanu ngaphambi komhlangano ojwayelekile; futhi
(b) Ezinsukwini zekhalenda ezimbili ngaphambi komhlangano okhethekile.

Imihlangano ekhethekile

7.(1) USomlomo kumele abize umhlangano woMkhandlu okhethekile –

(a) Ngenhloso eqondene noma ephuthumayo ephathelene nezindaba zoMkhandlu; noma
(b) Noma okungenani ngesicelo seningi lamaKhansela kaMasipala.

(2) Umhlangano okhethekile kumele ubanjwe ngokuhambisana nesigaba 6(2)(b) futhi nangemibandela yesigaba 7(1)(b) kungakapheli izinsuku ezine kusukela osukwini lokuthola isicelo.

(3) Isicelo sokubizwa umhlangano okhethekile, njengoba kuhlongozwe ku sigaba 7(1)(b), kumele –

(a) Isayinwe yiwowonke amaKhansela kaMasipala angekho ngaphansi kwenani lamaphesenti angamashumi amahlanu nelilodwa; futhi
(b) Ahambisane ne –

(i). Isiphakamiso esisayindwe ngokuphelele; kanye

(ii). Nesitatimende esibhaliwe yiKhansela, lisayina isaziso sesiphakamiso linikeza izizathu zokuthi kungani umsebenzi ohlosiwe womhlangano okhethekile ungophuthumayo futhi ungakwazi ukulinda umhlangano wo Mkhandlu ojwayelekile.

(c) Uma uSomlomo ehluleka ukubiza umhlangano ngokwemibandela yalesisigaba, uMenenja kaMasipala kumele awubize lowomhlangano futhi enze ukhetho lebamba lika Somlomo ngokwemibandela yesigaba 41 woMthetho Wezinhlaka.

Ukwamukelisa izaziso kanye nohlelo lomhlangano

8. (1) Isaziso sokuthamela umhlangano noma yikuphi okunye ukuxhumana okusemthethweni okuvela eMkhandlwini, kumele sifikiswe –

(a) Ekhelini lalapho umuntu ehlala khona eliphakathi kolawulo lukaMasipala; noma
(b) Ngekheli leposi lwe emeyili (e-mail);
(c) Ngefekisi noma isikhahlamezi (facsimile); noma
(d) Ngohlelo lomlayezo omfushane (sms)

Inqobo leyo minininingwane inikeziwe yokuxhumana inikezelwe kuMenenja kaMasipala yilelo nalelo Khansela, ngokulotshiwe ezinsukwini ezimbili zokukhethwa kwe Khansela futhi, ngemva kwalokho, noma nini uma iKhansela lifisa ukushintsha noma yiliphi ikheli nokuthi kuliphi ikheli lapho iKhansela lizomukela khona kanye noma ukuthola isaziso sokuthamela umhlangano kanye nanoma yikuphi ukuxhumana okusemthethweni okuvela eMkhandlwini.

(2) Zonke izincwadi eziqondene noma yimuphi umhlangano woMkhandlu noma iKomodi, ngaphandle kwemihlangano ekhethekile ebizwe ngokwemibandela yesigaba 7, kumelwe zinikwe wonke amaKhansela okungenani ezinsukwini zekhalenda ezinhlanu ngaphambi komhlangano wo Mkhandlu noma we Komidi futhi izinsuku zekhalenda ezimbili ngaphambi komhlangano okhethekile wo Mkhandlu noma iKomidi.

(3) Wonke amaKhansela kumele azise uSomlomo nganoma uluphi ushintsho emininingwaneni yawo yokuthintana ngaphakathi kwezinsuku ezintathu kwenzeke lolo shintsho.

(4) Ngokuzeleka ku sigaba 5(3), isaziso sokuthamela umhlangano kumele sichaywe emabhodini kaMasipala ezaziso zomphakathi.

Ukungatholi isaziso

9. (a) Ikhansela lingacela uphenyo maqondana nokungatholi isaziso sokuthamela umhlangano.

(b) Ukungatholi isaziso sokuthamela umhlangano ngeke kube nomthelela omubi kunoma yimuphi umhlangano noma izinqubo zo Mkhandlu noma yimaphi amaKomidi awo.

ISAHLUKO 4

INANI ELAMUKELEKILE LOKUQHUBEKA NOMHLANGANO (QUORUM)

Inani elamukelekile lokuqhubeka nomhlangano (ikhoramu)

10. (1)(a) Ngale kokuthi kungaba nezikhala, inani elamukelekile lokuqhubeka nomhlangano kumele kube amaphesenti angamashumi amahlanu nokukodwa enani eliphelele lamaKhansela elinqunywe ngokuhambisana nesaziso sokusungulwa kukaMasipala, ngaphambi kokuthi ukuvota kwenzeke kunoma yiluphi udaba.

(b) Ngokuzeleka enanini elamukelekile lokuqhubeka nomhlangano, ukwahluleka kwanoma yiliphi iKhansela ukuvota kungeke kungaqinisekisi inqubo yomhlangano woMkhandlu.

(2)(a) Ngale kokuthi kungaba nezikhala, iningi lenani lamaKhansela aqokelwe eKomidini loMkhandlu kumele abekhona emhlanganweni weKomidi ngaphambi kokwenzeka kwevoti olungathathwa kunoma yiluphi udaba.

(b) Ngokuzeleka enani elamukelekile lokuqhubeka nomhlangano, ukuhluleka kwanoma yiliphi iKhansela ukuvota kungeke kungaqinisekisi inqubo yomhlangano weKomidi.

Ukuchitha noma ukuhlehlisa lapho inani elamukelekile lokuqhubeka nomhlangano lingekho

11. (1) Awukho umhlangano ongenzeka, uma inani elamukelekile lokuqhubeka nomhlangano lingekho emizuzwini eyishumi nanhlanu ngemuva kwesikhathi ebesinqunyelwe ukuqala komhlangano, ngaphandle kokuthi amaKhansela akhona avumelana ngo elethu ukunweba ngeminye imizuzu futhi engevile kweyishumi nanhlanu ukuthola inani elamukelekile lokuqhubeka nomhlangano, lapho ngemva kwalokho inani elamukelekile lokuqhubeka nomhlangano lingekho, umhlangano kumele uchithwe.

(2) Uma ngesikhathi kudingidwa udaba emhlanganweni woMkhandlu noma elinye lamaKomidi awo, uSomlomo noma uSihlalo uqasheliswa ngenani lamaKhansela akhona, kumele–

(a) Abale amaKhansela akhona;
(b) Uma kutholakala ukuthi inani elamukelekile lokuqhubeka nomhlangano alikho, uSomlomo noma uSihlalo kumele awumise umhlangano imizuzu eyishumi nanhlanu futhi avumele inani elamukelekile lokuqhubeka nomhlangano libekhona;
(c) Uma inani elamukelekile lokuqhubeka nomhlangano libakhona ngemuva kokumisa umhlangano, kumele uqhubeke umhlangano;
(d) Uma inani elamukelekile lokuqhubeka nomhlangano alibikhona ngemuva kokumiswa komhlangano, uSihlalo noma uSomlomo kumele ngalesosikhathi awumise umhlangano.
(3) Lapho umhlangano umisiwe ngesizathu senani elamukelekile lokuqhubeka nomhlangano lingekho, umhlangano uzobizwa futhi njengomhlangano oqhubekayo kungakapheli izinsuku eziyisikhombisa.

ISAHLUKO 5

UKUTHAMELA

Ukuthamela

12. (1) Wonke amaKhansela kumele agcine isikhathi sokuthamela umhlangano futhi ahlale kulowo nalowo mhlangano woMkhandlu ne Komidi lapho iKhansela liyi Lungu khona, ngaphandle uma –

(a) Ilungelo lokuphutha ligunyaziwe ngemibandela yesigaba 13;
(b) Lelo Khansela kumele lihoxise ngokwemibandela yesigaba 46(b), noma
(c) Lelo Khansela liphuthe ngemvume kaSomlomo noma uSihlalo.

(2) IKhansela ngalinye elethamele umhlangano woMkhandlu noma weKomidi loMkhandlu kumele lisayinde uhla lwabakhona olwenzelelwe lokho.

(3) Uhla lwabakhona kumele lugcinwe ehovisi leMenenja kaMasipala.

(4) Noma ngabe yiliphi iKhansela elinelungelo lokuphutha ngokwemibandela yesigaba 13 kodwa lingasadingi ukuphutha linelungelo lokwethamela, libambe iqhaza futhi livote emhlanganweni lowo elalinikezelwe wona igunya lokuphutha futhi asayinde uhla lwabakhona.

Ukuphutha okugunyaziwe

13. (1) Ukuphutha okugunyaziwe akumele kugunyazwe ngendlela yokuthi kunqundeke inani elamukelekile lokuqhubeka nomhlangano nganoma yisiphi isikhathi.

(2) Uma iKhansela –

a) Lingakwazi ukuthamela umhlangano anikezelwe isaziso sawo; noma
b) Alikwazi ukuhlala likhona emhlanganweni; noma
c) Lizofika ngemuva kwesikhathi esinqunyiwe sokuqala komhlangano,ngokushesha okungenzeka futhi ngaphambi kwalowo mhlangano lizofaka isicelo esibhaliwe segunya lokuphutha emhlanganweni wonke noma ingxenye yalowo mhlangano, kuMenenja kaMasipala, lesosicelo kumele sinikeze izizathu futhi izizathu zangempela futhi zibeke imbangela ephathekayo ukuze kugunyazwe lesosicelo.

(3) UMenenja kaMasipala kumele, ngokuphazima kweso, azise uSomlomo noma uSihlalo walowo mhlangano othintekayo nganoma ngasiphi isicelo sokuphutha asitholile.

(4) USomlomo noma uSihlalo walowo mhlangano othintekayo kumele, ngokuphazima kweso, acubungule isicelo sokuphutha futhi asamkele noma asichithe ngezizathu futhi ngokushesha azise uMenenja kaMasipala ngesinqumo sakhe.

(5) UMenenja kaMasipala kumele, ngokuphazima kweso, azise iKhansela elifake isicelo sokungabikho ngesinqumo sika Somlomo noma uSihlalo.

(6) IKhansela lizothathwa njengeliphuthile ngaphandle kwemvume kulowo mhlangano othintekayo lapho isicelo sokuphutha singavunyiwe futhi –

a) Lizobe lihlulekile ukuthamela umhlangano; noma
b) Lizobe lihlulekile ukuhlala lisemhlanganweni.

(7) Lapho iKhansela lihluleka ukuhlala lisemhlanganweni –

a) Ngaphandle kokunikezwa imvume yokwenza lokho; noma

b) Ngaphandle kokuthola imvume kuSomlomo noma uSihlalo ukushiya umhlangano ngaphambi kokuthi uvalwe,

isikhathi sokuhamba kumele siqoshwe phansi kumaminithi futhi leloKhansela lizothathwa njengeliphuthile kulowo mhlangano ngaphandle kokugunyazwa.

(8) Lapho iKhansela lifike ngemuva kwesikhathi emhlanganweni, ngaphandle kokuthola igunya lokwenza lokho, isikhathi sokufika kanye nezizathu zokufika ngemuva kwesikhathi emhlanganweni kumele kuqoshwe kumaminithi omhlangano kanti futhi iKhansela lingawuthamela umhlangano lisayinde uhla lwabakhona ngokwemibandela yesigaba 12(2).

(9) Ukuphutha izinsuku ezimbili noma ezevile ezilandelananyo emhlanganweni woMkhandlu noma iKomidi kumele kugunyazwe uMkhandlu noma iKomidi eliqondene nalokho.

Ukungabibikho/Ukuphutha

14. (1)(a) Ngokuzeleka ekulandeleni inqubo njengokubekeka kusigaba 13 kanye nokubhekelwe isibaluli 4(2) sika Sheduli 1 weMithetho Yezinhlelo, iKhansela eliphuthe ngaphandle kwesizathu esizwakalayo emhlanganweni,obekade laziswe ngawo, lizofanele likhokhe inhlawulo elingana neholo lesonto, leyonhlawulo ingadonswa eholweni okumele likhokhelwe iKhansela elithintekayo.

(b)IKhansela eliphuthe emihlanganweni emithathu noma evile elandelanayo yoMkhandlu ka Masipala, noma kusuka kwemithathu noma eyevile imihlangano elandelananyo ye Komidi, lelo Khansela lilindeleke ukuba liyethamele ngokwemibandela yesigaba 3 sika Sheduli 1 woMthetho Wezinhlelo, kumele lisuswe esikhundleni njengeKhansela ngokuhambisana nesibaluli 14(2)(e) sika Sheduli 1 Womthetho Wezinhlelo.

(c) Izinqubo zokunquma inhlawulo noma ukususwa kweKhansela kumele kwenziwe ngokuhambisana nenqubo emisiwe efanayo okufanele lowo nalowo Mkhandlu ka Masipala uwamukele.

(2) Lapho iKhansela liphuthile ngaphandle kokuthola igunya emhlanganweni –

(a) IKomidi Lezinqumo, njengoba kuhlongozwe kusigaba 43 noma uSomlomo noma uSihlalo kunoma yisiphi isimo, ameme iKhansela ukuthi linikezele incazelo ezobeka izizathu ezizwakalayo zokuphutha kweKhansela emhlanganweni;
(b) USomlomo noma uSihlalo kumele ahlaziye ngencazelo bese enquma noma iKhansela liphuthe ngesizathu esinohlonze noma cha, anike izizathu ezifanelekile zesinqumo;
(c) IKhansela lingazwakalisa isikhalo ngokubhalwe phansi ngesinqumo sikaSomlomo noma sikaSihlalo ezinsukwini eziyisikhombisa zokuthola isinqumo esinjalo.
(d) UMkhandlu noma iKomidi, njengoba kungaba njalo, kumele –
  (i) Uvumele iKhansela ithuba lokwenza izethulo, ngenkulumo noma ngokulotshiwe; futhi
  (ii) Uhlaziye isedluliso seKhansela, kanye nanoma yikuphi ukuphawula okwenziwe uSomlomo noma uSihlalo walowo mhlangano othintekayo;
  (iii)Wenze isinqumo sokuthi ngabe iKhansela laphutha ngesizathu esinohlonze noma cha.

(3) UMenenja kaMasipala kumele agcine irekhodi yazozonke izigameko lapho amaKhansela etholwe ephuthile noma athathwa njengaphuthile ngaphandle kwegunya nangaphandle kwesizathu esinohlonze futhi anikezele ngombiko obhaliwe kuSomlomo njalo uma iKhansela liphuthe emihlanganweni kwaze kwaba zikhawu ezintathu noma ezevile zilandelana okwakufanele leloKhansela liwethamele.

(4) Lapo uSomlomo ethola umbiko ngokwemibandela yesigaba 14(3), uSomlomo kumele anikezele ngombiko eMkhandlwini futhi ayalele ukuthi udaba luphenywe ngokuhambisana neSibaluli 14 soMqulu Wokuziphatha.

ISAHLUKO 6

UKUHLEHLISWA

Imihlangano ehlehlisiwe

15. Ngokuzeleka kusigaba 11(3), umhlangano woMkhandlu noma weKomidi, ngevoti leningi, ungahlehliselwa olunye usuku noma ihora kodwa kungabi ngale kwezinsuku eziyishumi nane emva komhlangano uqobo.

Umhlangano oqhubekayo

16. (1) Uma umhlangano uhlehlisiwe, isaziso sokuqhuba umhlangano kumele sinikezelwe ngokwemibandela yesigaba 8.

(2) Alukho olunye udaba oluzobhungwa emhlanganweni oqhutshwayo ngaphandle kwalokhu okuchazwe esazisweni somhlangano, lo owawuhlehlisiwe.

ISAHLUKO 7

IZINQUBO

USomlomo kanye noSihlalo bemihlangano

17. (1) Kuwowonke umhlangano woMkhandlu, uSomlomo, noma uma engekho, iBamba lika Somlomo, lizoba uSihlalo futhi lizokwenza imisebenzi eqagulwe ngokwemibandela yesigaba 37 woMthetho Wezinhlaka futhi liqinisekise ukuthi iKhansela ngalinye, uma lemukela isikhundla, linikwa ikhophi yaloMthetho kaMasipala kanye noMqulu Wokuziphatha.

(2) USomlomo noSihlalo bemihlangano yo Mkhandlu nama Komidi –

(a) Kumele bagcine ukuhleleka ngesikhathi somhlangano;
(b) Kumele baqinisekise ukulandelwa koMqulu Wokuziphatha wama Khansela eMkhandlwini; futhi
(c) Kumele baqinisekise ukuthi imihlangano iphathwa ngokuhambisana naloMthetho kaMasipala.

(3) Uma uSomlomo noma uSihlalo woMkhandlu noma weKomidi loMkhandlu engekho noma engatholakali ukuthi enze imisebenzi kaSomlomo noma uSihlalo, noma ngesikhathi kukhona lesosikhala, uMkhandlu noma iKomidi, ngaphansi kolawulo lukaMenenja wakaMasipala noma oqokwe nguyena, kumele akhethe elinye iKhansela ukuthi libambe njengoSomlomo noma uSihlalo njengoba kuyodingeka.

(4) Awukho umhlangano woMkhandlu noma we Komidi ozoqala noma uqhubeke ngaphandle kokuthi uSomlomo noma uSihlalo engamele lowomhlangano.

Amaminithi

18. (a) Izinqubo zawowonke umhlangano woMkhandlu kumele ziqoshwe ngokuyikho futhi ngomshini futhi zigcinwe ngokuhambisana noMthetho Wokugcinwa Kwemilando namaRekhodi wase Ningizimu Afrika (Archives and Record Service of South Africa), 43 ka 1996.

(b) Amaminithi abhaliwe enqubo yomhlangano woMkhandlu noma iKomidi kumele aqukathe irekhodi eliqondile lezixazululo ezemukelwe wu Mkhandlu emhlanganweni onjalo.

(c) Amaminithi amukeliwe ayo yonke imihlangano yoMkhandlu noma yeKomidi ngaphandle komhlangano woMkhandlu noma iKomidi lapho umphakathi noma izikhulu zika Masipala zingekho, kumele umphakathi ukwazi ukuwathola.

(d) Lapho uMenenja kaMasipala enombono wanoma yisiphi isixazululo noma inqubo yomhlangano woMkhandlu noma weKomidi ungahle kube wephula noma imuphi umthetho noma uMthetho kaMasipala, kumele aluleke uMkhandlu noma iKomidi mayelana nemininingwane yalowo mbono kumele uqoshwe kumaminithi.

Ukuhleleka komhlangano

19. (1) Ukuhleleka komhlangano kulowo nalowo mhlangano woMkhandlu noma iKomidi elinamandla okwenza lo Mkhandlu noma iKomidi lo Mkhandlu kunje ngalokhu okulandelayo:

(a) Isaziso somhlangano;
(b) Izicelo zokuphutha;
(c) Ukuqinisekiswa kwamaminithi omhlangano odlule;
(d) Izimemezelo ngu Sihlalo;
(e) Ukudalulwa ngokuthinteka kwezomnotho noma okunye
(f) Amathimba;
(g) Imibiko;
(h) Izaziso zokuphakamisa;
(i) Imibuzo ebinikezelwe ngesaziso; futhi
(j) Izindaba ezijwayelekile ezohlobo oluphuthumayo.

(2) USomlomo noma uSihlalo angadonsela phambili noma iluphi udaba olusephepheni lohlelo lomhlangano, ngokubona kwakhe.

Ukuqinisekiswa kwamaminithi omhlangano odlule

20. (1) Amaminithi ayoyonke imihlangano kumele aqinisekiswe emhlanganweni olandelayo ojwayelekile walowo Mkhandlu noma iKomidi futhi kumele asayinwe uSomlomo noma uSihlalo.

(2) Asikho isiphakamiso noma ingxogxo ezovunyelwa phezu kwamaminithi omhlangano odlule, ngaphandle kokubeka ubuqotho balawo maminithi.

Amathimba

21. (a) Ithimba elifisa ukukhuluma noMkhandlu noma iKomidi lo Mkhandlu kumele lilethe incwadi kuMenenja kaMasipala lapho libeka khona izethulo elifisa ukuzenza.

(b) Isicelo sethimba sokwethula inkulumo kuMkhandlu noma kuKomidi yo Mkhandlu kumele sivunywe uSomlomo noma uSihlalo obhekene nalolodaba.

(c) Umenenja kaMasipala kumele afake incwadi eMkhandlwini noma iKomidi loMkhandlu, ozokwamukela lelothimba.

(d) Noma ngabe yiluphi udaba oludinga ukucutshungulwa oluqubuka kwithimba, ngeke kuqhutshekwe ukuthi lucutshungulwe wuMkhandlu noma iKomidi kuze kube lelothimba liyahoxa inqobo nje uma imibuzo yokucacisa ivumeleka.

(e) ILungu lomphakathi, ngaphandle kwethimba, elifisa ukukhuluma nomhlangano woMkhandlu noma weKomidi, kumele lithole igunya kuSomlomo noma uSihlalo ukwenza lokho, ngaphambi kokuqalwa komhlangano.

(f) Uma iLungu lomphakathi kanye nethimba likhuluma emhlanganweni woMkhandlu noma we Komidi, kumele lihambisane nakokonke ukuqondiswa nokuyalwa okukhishwa uSomlomo noma uSihlalo.

(g) Uma iLungu lomphakathi noma ithimba liziphatha ngokungahlelekile nangokungalawuleki noma ngasiphi isikhathi, uSomlomo noma uSihlalo kumele ayale ukuthi lelo Lungu liphumele phandle noma likhishwe uSoxolo emagcekeni.

(h) Noma yiliphi iLungu lomphakathi noma ithimba elihluleka noma lenqaba ukuthobela umyalo kaSomlomo noma kaSihlalo ngokwemibandela yesigaba 21(f) nesigaba 21(g) lizoba necala futhi libhekane nenhlawulo noma liye ejele isikhathi esingevile enyangeni noma kokubili, inhlawulo leyo kanye nokuya ejele, uma litholakala linecala.

Imibiko

22. (a) Noma yimuphi umbiko othulwe kuMkhandlu noma iKomidi kumele, ngaphandle kombiko owamukelwe uSomlomo noma uSihlalo njengophuthumayo, unikezwe amaKhansela ngokwemibandela yesigaba 8.

(b) USomlomo noma uSihlalo kumele avumele inkulumo mpikiswano ngokuhambisana nezigaba 34, 35, 36, 37, 38, 39 no 40 kunoma yimuphi umbiko olethwe ku Mkhandlu noma iKomidi loMkhandlu, kulowo mhlangano lapho lowo mbiko ulethwe khona futhi uma inkulumo mpikiswano ingaphelele noma ingenzeki ngenxa yanoma yisiphi isizathu, kuyothi-ke inkulumo mpikiswano yalowo mbiko kumele ibanjwe, emhlanganweni olandelayo.

Iziphakamiso

23. (1) Asikho isihloko esizolethwa ngaphambi koMkhandlu noma iKomidi loMkhandlu yiKhansela ngaphandle kwendlela yesaziso sesiphakamiso

(2) Isaziso sesiphakamiso kumele –

(a) Sibhalwe phansi; futhi
(b) Sisayindwe iKhansela elisilethile futhi nelinye iKhansela elisesimweni sokuliseka; futhi
(c) Libhekise odabeni olulodwa kuphela.

(3) Isaziso sesiphakamiso kumele sizeleke kusigaba 7, sifakwe kuMenenja kaMasipala ngaphambi kuka 12h00 emini, ezinsukwini eziyisikhombisa zekhalenda ngaphambi komhlangano olandelayo, ukuhluleka kuloko, isaziso sizobhekelelwa kumhlangano olandelayo.

(4) UMenenja kaMasipala kumele –

(a) Afake usuku nenombolo kusaziso sesiphakamiso ngasinye;
(b) Afake leso naleso saziso sesiphakamiso kurejista, okumele livuleleke ukuthi lihlolwe yinoma yiliphi iKhansela nomphakathi; futhi kumele
(c) Afake leso naleso saziso sesiphakamiso kuhlelo lomhlangano ngokulandelana ngendlela ezitholwe ngayo

(5) USomlomo uzosichitha isiphakamiso –

(a) Okuzothi, ngokubona kuka Somlomo, asihambisani nezihlinzeko zalesisigaba;
(b) Zimayelana nodaba oluthintekayo nge sinqumo esisazothathwa yinkantolo noma enye inqubo esazothatha isinqumo;
(c) Okuzothi, uma samukelwe, sizophikisana nanoma yimuphi umthetho noma kwehlulekwe ukuphumelelisa isinqumo.

(6) USomlomo noma uSihlalo akumele achithe isiphakamiso esisemthethweni asitholile ngokwemibandela yaloMthetho kaMasipala.

(7) USomlomo noma uSihlalo kumele –

(a) Afunde inombolo yaleso naleso siphakamiso negama lomphakamisi nomsekeli;
(b) Athole ukuthi yiziphi iziphakamiso ezingaphikiswa futhi lezo zizophasiswa ngaphandle kwenkulumo mpikiswano; futhi
(c) Abize abaphakamisi beziphakamiso eziphikiswayo ngendlela abavela ngayo ohlelweni lomhlangano.

(8) IKhansela eliletha isiphakamiso kumele liphakamise lesosiphakamiso futhi linelungelo lokuphendulwa.

(9) Uma iKhansela eliletha isiphakamiso alikwazi ukusikhulumela isiphakamiso noma uma iKhansela nomsekeli abalethe lesiphakamiso abekho emhlanganweni ngesikhathi isiphakamiso leso kuphikiswana ngaso, isiphakamiso kumele senyele futhi kungenzeka singadingidwa futhi ngaphandle kwesaziso ngokwemibandela yaloMthetho kaMasipala.

(10) IKhansela lizovunyelwa izaziso ezingekho ngaphezu kwezintathu zesiphakamiso kuhlelo lomhlangano olufanayo futhi hayi ngaphezu kweziphakamiso eziyisikhombisa onyakeni wezimali owodwa.

Imibuzo

24. (a) IKhansela lingaba nombuzo kunoma ubani wezepolitiki noma osesikhundleni kuMasipala, odinga impendulo ebhaliwe, maqondana nanoma yiluphi udaba oluhlobene nokusebenza ngempumelelo imisebenzi kaMasipala nokusetshenziswa kwamandla akhe uMasipala, inqobo nje isaziso esibhalwe phansi salowombuzo sifakelwe uSomlomo noma uSihlalo kanye noMenenja kaMasipala okungenani izinsuku eziyisikhombisa ngaphambi komhlangano wo Mkhandlu noma we Komidi futhi uMenenja ka Masipala kumele aqinisekise ukuthi iKhansela lelo lithola impendulo ebhaliwe evela kulowo wezepolitiki noma ophethe isikhundla kuMasipala, emhlanganweni wo Mkhandlu noma we Komidi.

(b) Uma ngemuva kokuba umbuzo uphenduliwe, iKhansela linombono wokuthi impendulo ayicacile futhi iyadida, ngemvume ka Somlomo noma uSihlalo, angacela umbuzo wokulandelela.

Ukudlulisela kwemininingwane eKhanseleni

25. (a) Alikho iKhansela elizobonana noma lithintane nanoma ubani osesikhundleni sokuphathwa kukaMasipala maqondana nomsebenzi kaMasipala ngaphandle uma esebenzisa ilungelo noma inkululeko yakhe njengomuntu nje womphakathi.

(b) Ikhansela lingabonana noma lithintane noMenenja kaMasipala noma ngabe yiyiphi iNhloko yomnyango noma osesikhundleni sokuphathwa kukaMasipala obekelwe ngqo lesisizathu, uMenenja kaMasipala noma yiNhloko yomnyango othintekayo, ukuze athole imininingwane enjalo njengoba engacela, ngokunokwenzeka, ukusebenza okufanele kwemisebenzi yakhe njenge Khansela.

Izindaba ezijwayelekile zohlobo oluphuthumayo

26. (a) Izibaluli ezijwayelekile kodwa zohlobo oluphuthumayo zingafakwa ohlelweni lomhlangano ngu Menenja kaMasipala noma yiliphi iLungu lo Mkhandlu ngemvume etholakale phambilini kuSomlomo noma uSihlalo, leyomvume ngeke igodlwe ngokungenasizathu.

(b) Ngaphambi kokwamukela, ama Khansela kumele anikwe isikhathi esanele ukucubungula nokubonelela noma yimuphi umbiko noma izincwadi ezisemthethweni ezethulwe ku Mkhandlu.

Ukuhumusha

27. Uma iningi lama Khansela akhona livumelana kanjalo, uMhumushi angasetshenziswa emihlanganweni yemi Khandlu noma yama Komidi oMkhandlu.

Umhlangano we Komidi lapho umphakathi noma izikhulu zika Masipala zingekho *(In-Committee)*

28. (a) Ngokuzeleka kusigaba 5, uMkhandlu noma iKomidi lo Mkhandlu, noma sikhathi sini, ungavumelana ukuqhubeka nomhlangano we Komidi lapho umphakathi noma izikhulu zika Masipala zingekho.

(b) Umphakathi awuyikuvunyelwa kunoma imiphi imihlangano oyi *In-Committee*.

(c) UMenenja kaMasipala noma esinye isikhulu ovikelelwe kulesigaba ngu Somlomo noma uSihlalo, ngeke angabikho kulemihlangano ye *in-Committee*.

(d) Zonke izinqubo zemihlangano ye *in-Committee* kumele ziqoshwe ngokwemibandela yesigaba 18 (1) no 18 (2) futhi zimele zibe ezesifuba.

(e) Ukuvezwa okungagunyaziwe kwanoma yiluphi udaba oluyisifuba kumele lifakelwe izibuko ngokwemibandela yoMqulu Wokuziphatha.

ISAHLUKO 8

UKUVOTA

Izinqumo ngevoti

29. (1) Kumele kube nekhoramu ukuze kwenziwe ivoti.

(2) Yonke imibuzo emayelana nezindaba ezilandelayo kumele kwenzeke ngesinqumo esithathwe uMkhandlu ngokusekelwa ukuvota ngobuningi kwama Khansela okunqunywe kuSaziso Sokusungula sika Masipala(Establishment Notice) –

(a) Ukuphumelelisa kweMithetho kaMasipala;
(b) Ukugunyazwa kwesabelozimali;
(c) Ukunqunywa kwezintela nezinye izikweletu zentela, nezinye izinhlobo zentela *(levies and duties);*
(d) Ukukhushulwa kwemalimboleko/kwezikweletu;
(e) Ukuchithwa kwesinqumo so Mkhandlu esikhathini esiyizinyanga eziyisithupha sithathiwe lesosinqumo; kanye
(f) Noma ngabe yiluphi udaba olunqunywe umthetho.

(3) Yonke eminye imibuzo ephambi koMkhandlu kumele inqunywe ngenani lamavoti amaningi enziwe amaKhansela akhona.

(4) Uma kunoma yiluphi udaba kunokulingana kwamavoti, uSomlomo noma uSihlalo uzosebenzisa ivoti lakhe ukwengeza evotini elijwayelekile alenze njenge Khansela, uma nje uSomlomo noma uSihlalo engezukulisebenzisa ilungelo lokuvota okhethweni lanoma ubani osesikhundleni woMkhandlu.

Indlela yokuvota

30. (a) Ukuvota kuzokwenzeka ngokuphakamisa izandla ngaphandle kokunquma komthetho ngokunye, noma uMkhandlu noma iKomidi ngesinqumo seningi lama Khansela linquma ukuqhubeka ngevoti elibhaliwe eliyimfihlo.

(b) Ngesikhathi kuthathwa amavoti alikho iKhansela elizoshiya igumbi loMkhandlu noma iKomidi.

(c) UMenenja kaMasipala noma oqokiwe wakhe, uzobala amavoti enziwe bese eqopha umphumela wevoti, kodwa uSomlomo noma uSihlalo uyena ozomemezela umphumela.

Amavoti aphikisayo

31. Ikhansela lingacela ukuthi ivoti lalo elihlukayo liqoshwe njengofakazi ukuthi uvote kanjani esiphakamisweni.

ISAHLUKO 9

UKUCHITHWA KWEZINQUMO ZOMKHANDLU NE KOMIDI

Ukuchithwa kwezinqumo zoMkhandlu

32. (a) Ukugunyazwa kokuchithwa noma ukuguqula isinqumo soMkhandlu akuzukunikezwa noma ubani noma iKomidi.

(b) Isaziso esifakwe ngaphambilini senhloso yokufaka isiphakamiso sokuchitha noma ukuguqula isinqumo soMkhandlu kumele sinikezwe.

(c) Noma ngabe yikuphi ukuchithwa noma ukuguqulwa kwesinqumo soMkhandlu kumele kwenziwe ngokwemibandela yesigaba 29(2)(e).

Ukuchithwa kwezinqumo zeKomidi

33. (a) Ukugunyazwa kokuchithwa noma ukuguqula isinqumo seKomidi loMkhandlu akuzukunikezwa noma ubani.

(b) Isaziso esifakwe ngaphambilini senhloso yokufaka isiphakamiso sokuchitha noma ukuguqula isinqumo seKomidi loMkhandlu kumele sinikezwe.

(c) Noma ngabe yikuphi ukuchithwa noma ukuguqulwa kwesinqumo seKomidi loMkhandlu kumele kugunyazwe iningi lenani lamaLungu alelo Komidi.

ISAHLUKO 10

INKULUMO MPIKISWANO

Ithuba lokukhuluma

34. (a) IKhansela lingakhuluma kuphela uma liyalwe uSomlomo noma uSihlalo.

(b) IKhansela lingabonisa isifiso sokukhuluma ngokuphakamisa isandla salo futhi lilinde umyalo kaSomlomo noma uSihlalo, umyalo okungamele ukuthi ugodlwe.

(c) AmaKhansela neziphathimandla kumele basukume uma bekhuluma futhi baqondise inkulumo yabo kuSomlomo noma uSihlalo.

Ukuhambisana

35. Yileso nalesosikhulumi kumele sikhulume kuphela odabeni oludingidwayo.

Ubude bezinkulumo

36. Ngaphandle kokulethwa kombiko kaSodolobha noma ukwethulwa kwezilinganiso zemali engenayo nezindleko, ayikho inkulumo ezodlula imizuzu emihlanu ngobude ngaphandle kokugunyazwa uSomlomo noma uSihlalo.

AmaKhansela azokhuluma kanye kuphela

37. IKhansela lingekhulume kweve kokukodwa kunoma isiphi isiphakamiso noma umbono ngaphandle kokugunyazwe uSomlomo noma uSihlalo ukwenza lokho inqobo nje umsunguli walesosiphakamiso uzoba nelungelo lokuphendula futhi impendulo izoncika ekuphenduleni izikhulumi ezingaphambilini futhi angethuli olunye udaba olusha kwinkulumompikiswano.

Igunya lokwandulela lika Somlomo noma uSihlalo

38. Njalo uma uSomlomo noma uSihlalo esukuma nenkulumo phakathi kwenkulumo mpikiswano, noma yiliphi iKhansela elikhulumayo noma elihlongoza ukukhuluma kumele lihlale phansi futhi lithule, ukuze uSomlomo noma uSihlalo ezolalelwa ngaphandle kokuthikanyezwa.

Amaphuzu okuqondisa

39. (a) Noma iliphi iKhansela lingasukuma nephuzu lokuqondisa noma yinini ngokusukuma ahehe uSomlomo noma uSihlalo.

(b) Iphuzu lokuqondisa lenzeka kuqala ngaphezu kwanoma yini enye emhlanganweni futhi uSomlomo noma uSihlalo kumele agunyaze ukulalelwa ngokushesha eKhanseleni elisukuma nephuzu lokuqondisa futhi anqume ngokufanelekileyo.

(c) Isinqumo sika Somlomo noma uSihlalo ephuzwini lokuqondisa lizoba umnqamlajuqu futhi angeke sivuleleke ukuthi kudingidwe ngaso.

Incazelo

40. Noma yiliphi iKhansela lingakhuluma uma lichaza, inqobo leyoncazelo izeleke kokuthile kwengxenye yaloku okudingidwayo, okungenzeka ukuthi akuzwakalanga kahle.

ISAHLUKO 11

UKUZIPHATHA

Ukuziphatha ngokujwayelekile

41. (1) Amakhansela kanye nezikhulu kumele, phakathi komhlangano woMkhandlu noma iKomidi –

(a) Bahambise umsebenzi ngendlela esezingeni eliphakeme lokuhlonipheka nangobuqotho lobo obudingekayo;
(b) Kumele, ngazozonke izikhathi, ahambisane nemigomo equkethwe kuMqulu Wokuziphatha futhi nakuloMthetho kaMasipala;
(c) Kumele ngazozonke izikhathi ahambisane nolawulo lomthetho kanye neMithetho kaMasipala;
(d) Kumele agqoke ngendlela emukelekile ukuhlonipha umhlangano futhi angagqoki izevatho zepolitiki noma imibala emanyaniswa namaqembu awo epolitiki eGunjini loMkhandlu;
(e) Kawavumelekile ukugqoka imifaniswno yanoma iliphi iqembu eGunjini lomkhandlu;
(f) Akumele asebenzise ulimi lokweyisa noma olunganambithiseki; futhi
(g) Akumele asebenzise umakhal'ekhukhwini ngesikhathi, alethe isibhamu noma yisiphi isikhali esinobungozi emhlanganweni woMkhandlu noma yimaphi ama Komidi awo oMkhandlu.

Ukungaziphathi kahle

42. (a) USomlomo anganquma ukuthi iKhansela lihoxise futhi lixolisele noma iliphi igama, isitatimende, umbono noma ukulingisa okwenziwe yilelo Khansela.

(b) Uma iKhansela noma amaKhansela engaziphathi kahle ngesikhathi somhlangano wo Mkhandlu noma wanoma imaphi ama Komidi awo, uSomlomo kumele aqondise iKhansela noma ama Khansela ukuthi liziphathe noma aziphathe ngendlela eyamukelekile futhi, uma esakhuluma, athule futhi athathe indawo yakhe yokuhlala noma izindawo zabo zokuhlala.

(c) Lapho kuphikelela khona ukungalandeli imiyalo ka Somlomo, uSomlomo kumele aqondise lelo Khansela noma ama Khansela ukuthi ahoxe emhlanganweni futhi liphume noma aphume endaweni yomhangano kuze kube isibaluli leso okudingidwa ngaso siyaphothulwa.

(d) Lapho ukungaziphathi kahle kwe Khansela noma ama Khansela kucekela phansi inqubo yo Mkhndlu noma iKomidi, uSomlomo noma uSihlalo kumele ahlehlise umhlangano futhi yinoma yikuphi ukungaziphathi kahle kwe Khansela noma ama Khansela kumele kusetshenzwe ngokwemibandela yaloMthetho ka Masipala kanye no Mqulu Wokuziphatha.

(e) Noma ngabe yiliphi iKhansela elenqaba ukushiya umhlangano woMkhandlu noma we Komidi lo Mkhandlu lapho liqondiswa kanjalo wuSomlomo noma uSihlalo womhlangano ngokwemibandela yanoma yisiphi isigaba kulo Mthetho ka Masipala, lingakhishwa ngenkani futhi lizoba necala futhi libhekane nenhlawulo noma ukuya ejele isikhathi esingevi enyangeni noma kokubili, inhlawulo nokuya ejele, uma etholwa enecala.

ISAHLUKO 12

AMAKOMIDI

IKomidi yeMithetho (Rules Committee)

43. (a) UMkhandlu kaMasipala ungathi, ngokwesinqumo seningi lamaKhansela, usungule iKomidi elikhethekile elizokwaziwa ngokuthi iKomidi leMithetho, elizophenya futhi lenze izinqumo kunoma yikuphi okuhlongoziwe njengokuphula uMqulu Wokuziphatha, ohlanganisa izijeziso sokuphutha emhlanganweni nokwenza izincomo mayelana nanoma yiluphi olunye udaba oluphathelene noMthetho kaMasipala.

(b) IKomidi leMithetho lizoba noSomlomo, uSodolobha kanye neLungu elimele iqembu lepolitiki ngalinye elikhona eMkhandlwini, labo abangabameli bazoqokwa ngezikhathi nezikhathi yiqembu lepolotiki ngalinye.

Ukuzenzela Imithetho

44. (a) Wonke amaKomidi oMkhandlu kumele anqume izinqubo zawo kuzeleke kunoma yimiphi imiyalelo evela ku Mkhandlu naloMthetho kaMasipala.

(b) Izigaba 34, 35, 36, 37, 38, 39, no 40 zaloMthetho kaMasipala zingahle zixegiswe ngu Sihlalo we Komidi ukuze abonelele ukusebenzisana nokuhlanganyela okunempumelelo, inqobo uma uSihlalo, ngokubona kwakhe, esebenzise izinhlinzeko zanoma isiphi isigaba esikusahluko 10.

USihlalo

45. (1) USihlalo weKomidi kumele –

(a) Angamele kuyoyonke imihlangano ye Komidi uma ekhona; futhi
(b) Uzoba nelungelo lokuvota okokuqala futhi lapho kukhona ukulingana kwamavoti, ukwengeza evotini lakhe, uzokwenza ivoti lesibili noma ivoti lokwakha.

(2) Uma engekho, ibamba noma isekela lika Sihlalo lizoba namandla namalungelo afanayo okuvota njengalawo uSihlalo anawo.

ISAHLUKO 13

UKUTHINTEKA NGOKOMNOTHO

Ukudalula ukuthinteka ngokomnotho

46. (a) IKhansela kumele lidalule eMkhandlwini ka Masipala, noma kuliphi iKomidi lelo iKhansela eliyiLungu khona, noma yikuphi ukuthinteka okuqondene ngqo noma okungaqondile noma ngokwesiqu noma kwebhizinisi ubudlelwane nama bhizinisi elinabo lelo Khansela, noma owakwakhe, umlingani noma umhlobo kwezamabhizinisi yalelo Khansela angahle abenalokunoma iluphi udaba oluphambi ko Mkhandlu noma iKomidi.

(b) IKhansela elenza ukudalula kumele lihoxe ezinqubeni zo Mkhandlu noma iKomidi ngaphandle kokuthi uMkhandlu noma iKomidi libona ukuthi ubudlelwane obuqondile noma obungaqondile beKhansela kulolo daba buncane futhi abuhambisani nodaba.

(c) IKhansela eli, noma owakwalo, umlingani, umhlobo kwezamabhizinisi noma iLungu lomndeni elisondele, othole noma onokuthola noma iyiphi inzuzo eqondile kwinkontileka yomsebenzi ezobe ephethwe noMasipala, kumele lidalule imininingwane ephelele yenzuzo leyo iKhansela elaziyo ngayo emhlanganweni wokuqala wo Mkhandlu lapho kungenzeka ukuthi iKhansela likwazi ukudalula.

(d) Ukudalula ukuthinteka ngokwemibandela yesigaba 46(a) kanye nenzuzo ngokwemibandela yesigaba 46(c) akusebenzi ekuthintekeni noma inzuzo lapho iKhansela, noma owakwalo, umlingani, umhlobo kwezamabhizinisi, noma iLungu lomndeni elisondele, elinako noma elikutholayo okufana nokwabanye abahlali baka Masipala.

(e) Ngenkathi likhethiwe noma libekiwe, iKhansela kumele ngesikhathi sezinsuku ezingu 60 noma ngokushesha okunokwenzeka ngemva kwalokho lidalule ngokubhaliwe kuMenenja ka Masipala ngokuthinteka ngokomnotho okukhulunywa ngako ku sibaluli 7 sika sheduli 1 so Mthetho Wezinhlelo.

ISAHLUKO 14

UKWEPHULA NEZIJEZISO

Ukwephula

47. Noma iliphi iKhansela elehluleka noma lenqabe ukuthobela loMthetho kaMasipala, noma yisiphi isinqumo so Mkhandlu, lingaba necala lokwephula Umqulu Wokuziphatha.

Isijeziso

48. Lapho kusolakala ukuthi iKhansela lephule lo Mthetho kaMasipala, uMkhandlu kumele, ngokwemibandela yesibaluli 14 soMqulu Wokuziphatha, uphenye izinsolo zokwephula futhi ungaphoqelela ngesijeziso.

ISAHLUKO 15

UKUHLINZEKA OKUJWAYELEKILE

Ukumiswa koMthetho noma isinqumo

49. (1) Ezimweni eziphuthumayo noma lapho uMkhandlu ucubungula khona ukuthi ukulandelwa kwesigaba kungaba okungaphatheki futhi kungacekela phansi izinkambiso zomhlangano wo Mkhandlu, lapho uMkhandlu, ngokuvuma kweningi lenani lama Khansela kaMasipala nangobude balowo mhlangano, ungaxegisa okwesikhashana okuhlinzekwe esigabeni, inqobo:

(a) Loko kuxegisa kungaphambani nomthetho kaZwelonke noma weSifundazwe noma yimuphi uMthetho kaMasipala;
(b) Asikho isigaba esingaxegiswa uma ukususwa esikhundleni yinoma yisiphi isikhulu sezepolitiki siphambi koMkhandlu.
(c) Ukumiswa noma ukuxegisa kwesigaba kumayelana nesibaluli esisohlelweni lomhlangano, okuwumhlangano wo Mkhandlu noma we Komidi yo Mkhandlu; futhi
(d) Isigaba 22 akumele simiswe; futhi
(e) Izizathu zokumiswa kwesigaba ziqoshwa kumaminithi omhlangano.

Ukwamukelwa njengoMthetho kaMasipala

50. LoMthetho ka Masipala kumele wamukelwe njengoMthetho ka Masipala.

Ukuchithwa kweMithetho ka Masipala ekhona

51. IMithetho ekhona yoMkhandlu ka Masipala mayelana nemithetho nezinqumo ngalokhu iyachithwa.

Isihloko esifushane kanye nokuqala

52. LoMthetho kaMasipala uzobizwa U _____ UMthetho Omile kanye Nezinqubo zikaMasipala, 20_____.

UKUSHAQA NGOKUSEMTHETHWENI

Akwenziwe kube uMthetho ngu Mkhandlu ka Masipala wase _____, ngokwemibandela yesigaba 156(2) so Mthetho sisekelo wase Riphabliki yase Ningizimu Afrika, 1996, ofundwa nesigaba 11(3)(m) sika Hulumeni Wasekhaya: UMthetho Wezinhlelo zikaMasipala, 2000 (uMthetho No. 32 ka 2000), njengokulandelayo:

UKUHLELWA KWEZIGABA

Isigaba

1. Izincazelo
2. Ukusetshenziswa
3. Ukusungulwa kwesikidi
4. Ukubekwa koMgcini sikidi
5. Izilwane ezifohlayo noma eziwuvanzi zingashaqwa
6. Izilwane ezibukhali, ezingaphathwa noma ezidlokovulayo/ezasendle azishaqwe
7. Ukudedelwa kwezilwane ngaphambi kokuthi zisiwe esikidi
8. Ukunakekelwa kwezilwane ezifohlayo
9. Isikidi lapho izilwane kumele zisiwe khona
10. Imininingwane okumele ihlinzekwe uMgcini sikidi
11. Ukwamukelwa kwezilwane esikidi okumele zishaqwe
12. Irejista yase sikidi
13. Isaziso kubanini bezilwane
14. Unakekelolwezilwane ezishaqiwe
15. Ukuhlukaniswa kwezilwane ezisulelekile
16. Izilwane ezishaqiwe azingasetshenziswa
17. Ukufa noma ukulimala kwesilwane esishaqiwe
18. Amakhophi eMithetho kaMasipala
19. Izimali nezindleko ezikhokhwayo
20. Ukudedelwa kwezilwane ezishaqiwe
21. Ukudayiswa kwezilwane ezishaqiwe
22. UMgcini sikidi angezithenge izilwane ezishaqiwe

23. Izilwane okuhlulekwe ukuba zidayiswe

24. Inzuzo

25. Izinyathelo zokubuyisa izindleko

26. Inqubo okumele ilandelwe ukufaka isicelo eNkantolo

27. Isivikelo

28. Amacala kanye nezinhlawulo

29. Ama Sheduli 1 no 2 ayingxenye yaloMthetho kaMasipala

30. Ukuchithwa kweMithetho ka Masipala

31. Isihloko esifushane

Izincazelo

1. KuloMthetho ka Masipala, ngaphandle kokuthi akuhambisani nengqikithi –

"isilwane" kubandakanya ihashi, isilwane esinobudlelwano nezinkomo *(bovine)*, imbongolo, imvu, imbuzi, ingulube, intshe, inja, ikati, noma yiluphi uhlobo lokuzalana ngale kohlobo olulodwa lwalezizilwane, futhi **"izilwane"** kuzoba nencazelo ehambisanayo;

"uMkhandlu" kuchaza –

(a) uMasipala, esebenzisa igunya lakhe lomthetho kanye namandla okwenza ngokusebenzisa uMkhandlu wawo;
(b) Olandelayo esikhundleni;
(c) Isakhiwo noma umuntu osebenzisa amandla egunya alinikiwe noma ofeza umyalo, lapho noma imaphi amandla kulo Mthetho kaMasipala ewagunyaziwe noma wanikezela ngegunya, noma umyalo onikeziwe, njengoba kuhlongozwe kusigaba 59 soMthetho Wezinhlelo; futhi
(d) Umlethi wezibonelelo egcwalisa impendulelo yakhe ngaphansi kwaloMthetho ka Masipala;

"iNkantolo" kuchaza iNkantolo ka Mantshi njengoba kushiwo ku sigaba 166(d) soMthethosisekelo, 1996, engamele indawo lapho isikidi sizinze khona;

"iGazethi" kuchaza iGazethi esemthethweni ye Sifundazwe sakwa Zulu Natali;

"uMasipala" kuchaza i_____ ka Masipala eyakhiwe ngokwemibandela yesigaba 155(6) so Mthethosisekelo, 1996, futhi esungulwe nangaphansi kwesigaba 11 no 12 so Mthetho Wezinhlaka, efundwa nezigaba 3, 4 no 5 zo Mthetho Wokunquma Izinhlobo zoMasipala KwaZulu Natali, 2000 (uMthetho No. 7 ka 2000);

"umnini" kubandakanya umnini owaziwayo, noma ubuyena bakhe, ngokwenza okufaneleyo ngokuzimisela kungaqinisekiswa futhi nangokuhlobene ne -

(a) silwane, kubandakanya umenzeli womnini noma omunye umuntu ogcine noma onaleso silwane ngokusemthethweni; noma
(b) umhlaba, kubandakanya umnini, umqashi noma umhlali walowomhlaba osemthethweni noma umenzeli womnini;

"isikidi" kuchaza isikidi esisungulwe njengoba kuhlongozwe esigabeni 3;

"uMgcini sikidi" kuchaza umuntu oqokiwe izikhathi nezikhathi njengoba kuhlongoziwe esigaben 4 futhi kubandakanya noma ngabe ubani oyibamba noma osebenza egameni lo Mgcini Sikidi oqokiwe;

"indawo yomphakathi" kuchaza noma ngabe yiyiphi indawo la umphakathi ukwazi ukufika kuyona kubandakanya, ngaphandle kokukhawulisa okujwayelekile okukhulunywe ngako ngenhla -

I. isikwele;
II. ipaki;
III. inkundla yokuncebeleka;
IV. inkundla yezemidlalo;
V. indawo evulekile;
VI. usebe lolwandle/ibhishi;
VII. isizinda sezitolo esisemhlabeni ka Masipala;
VIII. Indawo kaMasipala engasetshenziswa noma engahlali muntu; noma
IX. Emangcwabeni;

"umgwaqo womphakathi" kuchaza umgwaqo womphakathi njengoba kuhlongozwe kusigaba 1 soMthetho weNational Road Traffic, 1996 (uMthetho No. 93 ka 1996); futhi

"Isivumelwano sokulethwa kwezibonelelo" kuchaza isivumelwano sokulethwa kwezibinelelo njengoba kuchazwe kusigaba 1 soMthetho Wezinhlelo.

"uMthetho Wezinhlaka" kuchaza uHulumeni Wasekhaya: uMthetho Wezinhlaka zika Masipala, 1998 (uMthetho No. 117 ka 1998);

"uMthetho Wezinhlelo" kuchaza uHulumeni Wasekhaya: uMthetho Wezinhlelo zika Masipala, 2000 (uMthetho No. 32 ka 2000);

Ukusetshenziswa

2. LoMthetho kaMasipala usebenza endaweni yolawulo lika Masipala: Inqobo nje ukuthi akukho okuvimbela noma isiphi isilwane esiboshiwe ngokwemibandela yalo Mthetho ka Masipala ukuthi sishaqelwe esikidi noma esinye isakhiwo esakhiwe nganoma imuphi omunye uMasipala, noma onegunya ngokusemthethweni.

Ukusungulwa kwesikidi

3. (1) UMasipala kumele asungule isikidi nganoma ngabe kukuyiphi indawo efanelekile endaweni yakhe yokulawula: Yinqobo nje ukuthi uMasipala angangena, ngokwesicelo, esivumelwaneni nesikhungo noma umuntu oqagulwe kusigaba 76(b) so Mthetho Wezinhlelo, ukuhlinzekela ukusungulwa nokusebenza kwesikidi asebenze endaweni yakhe yolawulo.

(2) UMasipala kumele akhiphe isaziso sokusungula isikidi ngokushicilela isaziso kumaphephandaba okungenani, amabili, asakazwa endaweni yolawulo yalowo Masipala.

(3) Umuntu ocabanga ukusungula isikidi, njengoba kuhlongozwe kusigatshana (1), akafake isicelo ngendlela ebekiwe kuMkhandlu njengoba kuhlongoziwe kusigatshana (4).

(4) UMkhandlu kumele, kungakapheli izinsuku ezingu 90 ngemuva kokuthola isicelo, okuhlongoziwe kusigatshana (1) kanye nanoma yiluphi ulwazi olukuyena angalusebenzisa, uma lukhona, kuhlobene nesicelo –

(a) Avumele isicelo soku rejista futhi akhiphe ilayisense yokurejista.
(b) Avumele isicelo soku rejista futhi akhiphe ilayisense yokurejista kuzeleke kuzimiso ezinqunywe uMkhandlu; noma
(c) Asichithe isicelo futhi akhiphe izizathu ezibhaliwe zokuchitha isicelo.

(5) uMkhandlu ungathi, noma inini uyihoxise ilayisense ngemuva kokubhekelela izimo kanye nokubonisana nomnini we sikidi futhi azise umnini we sikidi ngokubhala izizathu zesinqumo esinjalo.

Ukubekwa koMgcini sikidi

4. UMasipala kumele, ngokwemibandela yenqubo yokuphathwa kwabasebenzi bawo, abeke umuntu onekhono elifanele futhi onespiliyoni njengoMgcini Sikidi, ngaphandle kokuthi isikidi sesisunguliwe futhi siyasetshenziswa ngokwemibandela yesivumelwano sezinga lokusebenza ehlongozwe kusigaba 3(1).

Izilwane ezifohlayo noma eziwuvanzi zingashaqwa

5. (1) Umnini wendawo lapho noma yisiphi isilwane esitholakala sifohla khona angasishaqa lesosilwane: Inqobo ukuthi lesosilwane singesuswe ukuyiswa esikidi ngaphambi kokunikeza umnini waso isaziso ngokubhaliwe esingekho ngaphansi kwamahora angu 48 ngaphambi kokusisa esikidi.

(2) Noma yisiphi isilwane esitholakala sidukile singanakiwe kunoma yimuphi umgwaqo womphakathi noma indawo yomphakathi singashaqwa ukusiwa esikidi yi –

(a) Lungu Lamaphoyisa ase Ningizimu Afrika;
(b) Lungu Lombutho Wezokuvikela WaseNingizimu Afrika;
(c) Lungu la KwaZulu Natal Road Traffic Inspectorate;
(d) Lungu lezokuvikela ku Masipala; noma
(e) Umnini wanoma yiyiphi indawo lapho umgwaqo onjalo udlula khona noma ngakhona noma ithinta leyondawo yomphakathi.

(3) Umuntu obambe isilwane, esithathwe ngenhloso yokushaqwa ngokwemibandela yezigatshana (1) no (2), isikhathi eseve emahoreni ayisithupha ngaphandle kokunika lesosilwane ukudla okwanele namanzi.

(4) Noma ubani obambe isilwane ngenhloso yokusishaqa kumele ahambisane kanye nezinhlizeko zoMqulu Wokwenza Kahle okhuluma ngoKuphathwa noKuhanjiswa Kwezilwane Ezishaqiwe okuqukethwe uSheduli 1.

Izilwane ezibukhali kakhulu, ezingaphathwa noma ezidlokovulayo/ezasendle azishaqwe

6. Uma uDokotela Wezilwane kaHulumeni noma isikhulu njengoba kuhlongozwe kusigaba 5(2)(a) kuya ku (d) senelisekile ukuthi isilwane esitholakale sifohlile kunoma yiyiphi indawo, noma silahlekile singanakiwe kunoma imuphi umgwaqo womphakathi noma indawo, sibukhali kakhulu, asiphatheki noma esidlokovulayo/esasendle kumele sishaqwe, anganika igunya lokubulala ngendlela enobuntu noma okunye kokulahla lesosilwane, ngemuva kokunika izizathu ezibhaliwe nesaziso esibhaliwe salokho kumnini wesilwane.

Ukudedelwa kwezilwane ngaphambi kokuthi zisiwe esikidi

7. (1) Umnini wesilwane, esishaqwe ngokwemibandela yesigaba 5(1) angafaka isicelo kumnini wendawo njengoba kuhlongoziwe kusigaba 5(1) sokudedela lesosilwane ngaphambi kokuthi siyiswe esikidi.

(2) Umnini wendawo okukhulunywa ngaye kusigaba 5(1) –

(a) Angasidedela lesosilwane khona manjalo; noma
(b) Angenqaba ukudedela isilwane, lapho kumele afake isicelo eNkantolo selungelo lokushaqa isilwane noma afake isimangalo sanoma yiziphi izindleko angahle angene kuzo, nalapho iNkantolo ingenza umyalelo, okubandakanya umyalelo ngokwezindleko iNkantolo ezibona zinobulungisa futhi zifanelekile.

(3) Umnini wesilwane esishaqiwe ngokwemibandela yesigaba 5(2) angafaka isicelo sokuthi isilwane leso sidedelwe ngaphambi kokuthi sithathwe sisiwe esikidi, kulesosimo umuntu oshaqe isilwane kumele asidedele lesosilwane khona manjalo.

Ukunakekelwa kwezilwane ezifohlayo

8. Umuntu angeke asisebenzise noma asihlukumeze isilwane esitholakale sifohlile kunoma yiyiphi indawo noma uma sisohlelweni lokuthi sisuswe ukuyiswa esikidi.

Isikidi lapho izilwane kumele zisiwe khona

9. Isilwane esibanjwe ngenhloso yokushaqwa njengoba kuhlongoziwe kusigaba 5, kumele siyiswe esikidi esiseduze okufinyelelekayo kuso, ngomzila omfushane okunokwenzeka, futhi ngesikhathi esifishane okunokwenzeka: Inqobo lesosilwane sohlobo oluhlukile siyahlukaniswa ngazozonke izikhathi ngokwezinhlobo zazo.

Imininingwane okumele inikezwe uMgcini sikidi

10. Umuntu othumela izilwane esikidi kumele azise uMgcini sikidi ngokubhaliwe nge –

(a) Inani nokuchazwa kwezilwane;

(b) Indawo lapho zitholakale khona zifohlile; futhi
(c) Ubude ngamakhilomitha, ngomzila omfishane okunokwenzeka, phakathi kwendawo lapho isilwane sitholakale khona nesikidi.

Ukwamukelwa kwezilwane esikidi okumele zishaqwe

11. (1) uMgcini sikidi angeke enqabe ukwamukela isilwane ukuthi sishaqwe.

(2) uMgcini sikidi kumele, ngenkathi emukela islwane esibanjiwe –

(a) Aqophe imininingwane enikeziwe ngokwemibandela yesigaba 10 ngenhla afake loko ebhukwini eligcinelwe leyonhloso;
(b) Anikeze umuntu olethe isilwane irisidi ebonisa –
(i) igama lakhe;

(ii) ukuchazwa kwesilwane; kanye

(iii) usuku nesikhathi sokuthola isilwane esikidi; kanye

(c) Agcine ikhophi yerisidi ngayinye ayikhiphile.

Irejista yase sikidi

12. (1) uMgcini sikidi kumele –

(a) Agcine irejista yasesikidi enemininingwane ehlongozwe ku Sheduli 2, okumele ivuleleke kumphakathi ukuthi uyihlole ngazozonke izikhathi ezinokwenzeka; futhi
(b) Agcwalise kurejista yesikidi ngokushesha ngenkathi emukela noma isiphi isilwane esikidi.
(2) Uma uMgcini sikidi –

(a) Edembesela noma enqaba ukulandela noma iziphi izinhlizeko zesigatshana (1);
(b) Azikahle kodwa abhale okungelona iqiniso kurejista yasesikidi;
(c) Ashabalalise noma acishe ngokukhwabanisa noma umuphi umbhalo owenziwe ngaphambilini ku rejista yase sikidi; noma
(d) Ngabomu anikezele ngekhophi noma okukhishiwe ku rejista yesikidi okungekona kunoma ubani, unecala.

Isaziso kubanini bezilwane

13. Umnini wesilwane njengoba kuhlongozwe kusigaba 5(1), 6, 14(2)(b), 17(b), 21(1)(b), no 23(a), kumele baziswe ngo –

(a) Kwethula isaziso esibhaliwe kuyena; noma
(b) Beka ikhophi yesaziso kumnini eBhodini Lezaziso lika Masipala; kanye
(c) Nokushicilela ikhophi yesaziso okungenani izinsuku ezimbili ezilandelananyo ephephandabeni elijwayele ukusakazwa kuMasipala.

Unakekelo lwezilwane ezishaqiwe

14. (1) uMgcini sikidi –

(a) Unempendulelo yokunakekela ngokufanele zonke izilwane ezishaqiwe;

(b) Kumele aqinisekise ukuthi amanzi amasha nokudla okwanele kukhona ezilwaneni ezishaqiwe ngasosonke isikhathi; futhi
(c) Unokubekwa icala ngumnini wesilwane esishaqiwe ngokulimaza kwakhe ngenhloso noma ngokudembesela, ngokwenza noma ngokungenzi.

(2)(a) Uma uMgcini sikidi enombono wokuthi isilwane esishaqiwe sibukhali ngokunobungozi, sikhubazekile unomphelo noma sigulela ukufa, kumele afake isicelo eNkantolo, engahle igunyaze ukubulala noma okunye, ukuqedelwa kwesilwane esishaqiwe. Uma iNkantolo yaneliseka ukuthi isimo saleso silwane sigunyaza ukubulawa noma ukuqedelwa.

(b) Lapho iNkantolo igunyaza ukubulawa noma ukuqedelwa kwesilwane ngesicelo so Mgcini sikidi, uMgcini sikidi kumele ngokushesha azise umnini waso ngokubhala umyalo we Nkantolo nangokubulawa noma ukuqedelwa kwesilwane.

Ukuhlukaniswa kwezilwane ezisulelekile

15. Uma ngabe uMgcini sikidi esola, noma enolwazi, ukuthi isilwane esishaqiwe, noma isilwane esizoshaqwa, sisuleleke nganoma yisiphi isifo esihlongozwe ku Mthetho Wezifo Zezilwane, 1984 (uMthetho No.35 ka 1984), kumele –

(a) Ahlinzeke isilwane leso ngenye indawo
(b) Ngokushesha ahlukanise isilwane, futhi abike ngalesosifo kuDokotela kaHulumeni Wezilwane oseduze; futhi
(c) Masinyane azise umnini wesilwane ngalesosifo ngokubhala.

Ukuphathwa kwezilwane ezishaqiwe

16. UMgcini sikidi –

(a) Angesisebenzise noma asebenze ngaso noma ngayiphi indlela isilwane esishaqiwe noma avumele isilwane esinjalo ukuthi sisebenze noma sisetshenziswe yinoma ubani; futhi
(b) Kumele aqinisekise ukuthi zonke izilwane ezingamaduna ezishaqiwe zigcinwa ngasosonke isikhathi zodwa kunezensikazi.

Ukufa noma ukulimala kwesilwane esishaqiwe

17. Uma isilwane esishaqiwe silimele noma sifa, uMgcini sikidi kumele –

(a) Abhale ukulimala noma imbangela yokufa kurejista yesikidi okukhulunywa ngayo kusigaba 12; futhi
(b) Azise umnini wesilwane ngokubhala, ngokulimala noma ukufa kwesilwane.

Amakhophi eMithetho kaMasipala

18. UMgcini sikidi kumele aqinisekise ukuthi amakhophi aloMthetho kaMasipala ngesiNgisi nangesiZulu ayatholakala esikidi ukuthi ahlolwe.

Izimali nezindleko ezikhokhwayo

19. UMgcini sikidi kumele –

(a) Abize umnini wesilwane esishaqiwe imali ebekwe uMasipala izikhathi ngezikhathi njengoba kuhlongoziwe kusigaba 75A soMthetho Wezinhlelo; futhi
(b) Abuyise izindleko zanoma ukuphi ukudishwa, ukulashwa, ukugonywa noma okunye ukwelashwa okunesidingo noma okudingekayo ngokwemibandela yaloMtetho ka Masipala noma ngokuhambisana nanoma imuphi umthetho.

Ukudedelwa kwezilwane ezishaqiwe

20.(1) UMgcini sikidi kumele ngokushesa adedele isilwane esishaqiwe, futhi anikeze umnini irisidi, lapho umnini –

(a) Akhiphe ubufakazi bobunikazi balesosilwane; futhi
(b) Akhokhe izimali nezindleko njengoba kuhlongoziwe kusigaba 19.

(2) Uma umnini wesilwane esishaqiwe engakwazi ukukhokha imali noma izindleko njengoba kuhlongoziwe kusigaba 19, uMgcini sikidi angasigcina lesosilwane ukwenzela ukubuyisa lezozimali noma izindleko ezilindelekile futhi okufanele zikhokhelwe.

Ukudayiswa kwezilwane ezishaqiwe

21. (1) UMgcini sikidi –

(a) Ezinsukwini ezingu 14 zokushaqwa kwesilwane, afake isicelo sokugunyazwa eNkantolo ukuthi adayise isilwane; futhi
(b) Esicelweni leso esihlongoziwe kuparagrafu (a), anikeze iNkantolo ngobufakazi ukuthi wafaka istatimende njengoba kuhlongozwe kusigatshana (2) nomnini wesilwane.

(2) Lesisitatimende esihlongozwa kusigatshana (1)(b) kumele sibandakanye –

(a) Izimali nezindleko ezimele zikhokhwe ngokwemibandela yalo Mthetho kaMasipala; futhi
(b) Inani lanoma imuphi umonakalo umnini womhlaba lapho isilwane esishaqiwe sifohle khona, okungenzeka ubhekane nazo.

(3) INkantolo, noma ngabe inani eliqagulwe kusitatimende ngokuhlongozwa kusigatshana (1)(b) liyaphikiswa noma cha –

(a) Kumele masinyane icubungule udaba;
(b) Icubungule ukuthi isaziso sanikezwa umnini wesilwane ngu Mgcini Sikidi; futhi
(c) Yenze umyalelo onjalo ebona ukuthi unobulungiswa futhi ulingene, kubandakanya umyalelo –

(i) ngokwezindleko; futhi

(ii) indlela okumele ilandelwe nguMgcini Sikidi ekudayisweni kwesilwane.

UMgcini sikidi angezithenge izilwane ezishaqiwe

22.UMgcini sikidi, noma iLungu lomndeni, noma umhlobo osondelene no Mgcini Sikidi, abakwazi ukuthenga isilwane esinikelwe ukudayiswa endalini ye sikidi, kungaba uyena mathupha noma ngomunye umuntu, ngokuqondile noma ngokungaqondile.

Izilwane okuhlulekwe ukuba zidayiswe

23. Uma noma yisiphi isilwane singadayiswanga njengoba kuhlongozwa kusigaba 21 –

(a) UMgcini sikidi kumele ngokushesha azise iNkantolo nomnini wesilwane inani elicatshangelwayo kanye nezimali nezindleko ezenzekile; futhi
(b) INkantolo ingenza umyalelo ngokubona kwayo ukuthi kunobulungiswa nokulingana.

Izinzuzo

24. Zonke izinzuzo ezitholakala ngokuqokelela izimali nezimali zezindleko njengoba kuhlongozwa kusigaba 19 kumelwe zikhokhwe esikhwameni sezimali ezingenayo sika Masipala: Inqobo nje ukuthi uma isilwane esishaqiwe sidayiswe ngemali eyevile ku

(a) Izimali nezindleko ezenzekile; futhi
(b) Noma imuphi umonakalo onqunyelwe ngokwemibandela yesigaba 21(3)(c),

Leyo mali evile kumele ikhokhelwe umnini wesilwane ezinsukwini eziwu 30 sekwenzekile ukudayiswa, ngaphandle kokuthi ubuyena bobunini abukaziwa, lapho imali evile kumele ikhokhwe esikhwameni semali engenayo sika Masipala.

Izinyathelo zokubuyisa izindleko

25. Akukho kulo Mthetho ka Masipala okuvimbela umnini mhlaba, noma ngubani omunye umuntu, ukuthathela umnini wesilwane esifohlile izinyathelo, kunoma yiyiphi iNkantolo enolawulo lwaleyondawo, ukubuyisa umonakalo owenzakele ngesizathu sokufohla kwesilwane.

Inqubo okumele ilandelwe ukufaka isicelo eNkantolo

26. Isicelo eNkantolo soku –

(a) Ukushaqa isilwane ngokwemibandela yaloMthetho kaMasipala, kumele ihambisane nenqubo ehlongozwe ku *Rule 55* ye *Rules of Court*; futhi
(b) Ukudayisa isilwane esishaqiwe ngokwemibandela yaloMthetho ka Masipala, kumele kuhambisane nenqubo ehlongozwe kusigaba 66 *se Magistrate s' Courts*, 1944 (UMthetho No. 32 ka 1944), kanye ne *Rule 41* ye Rules of Court, ezenziwe iRules Board for Courts of Law ngokwemibandela yesigaba 6 soMthetho we *Rules Board for Courts of Law,* 1985 (UMthetho No. 107 ka 1985), futhi okushicilelwe ngaphansi kwe Government Notice No. R.1108 ku Regulation Gazette No. 980 ka 21 Juni 1968, njengoba ichitshiyelwa izikhathi ngezikhathi, zifundwa kanye nokushintsha okudingekile.

Isivikelo

27.UMasipala, uMgcini sikidi nanoma isiphi isikhulu, uMsebenzi, noma umenzeli ka Masipala akazukubekwa icala ngokufa noma ukulimala kwanoma isiphi isilwane okwenzeka ngenxa yokubanjwa, ukushaqwa noma ukudedelwa, noma kwenzeke ngesikhathi sisekushaqweni.

Amacala kanye nezinhlawulo

28. Umuntu o –

(a) Odedela isilwane ebesibanjwe ngokomthetho ngenjongo yokuthi sishaqwe noma ebesishaqiwe ngokusemthethweni;
(b) Obamba isilwane ngokungemthetho ngenjongo yokusishaqa;
(c) Ashaqe isilwane ngokungemthetho; noma
(d) Aphule noma yikuphi ukuhlinzekela kwalo Mthetho kaMasipala,

Unecala lokwephula umthetho futhi akhokhe, uma etholakala enecala, inhlawulo, noma aye ejele isikhathi esingevile onyakeni owodwa.

Ama Sheduli 1 no 2 ayingxenye yaloMthetho kaMasipala

29. Ama Sheduli 1 no 2 kuloMthetho kaMasipala enza ingxenye yalo Mthetho kaMasipala nganoma iziphi izinhloso.

Ukuchithwa kweMithetho ka Masipala

30. IMithetho ka Masipala ekhona yokuShaqa ngalokhu ayachithwa.

Isihloko esifushane

31. LoMthetho kaMasipala uzobizwa ngokuthi uMthetho kaMasipala wokuShaqa, 20____.

ISHEDULI 1

Umqulu Wokwenza Kahle ngoKuphathwa noKuhanjiswa Kwezilwane Ezishaqiwe

ISheduli 5(4)

INGXENYE I

Izidingo zamagumbi okuhlala izilwane

1. Izinhlobo zezilwane kumele zigcinwe emagunjini ahlukene okuhlala izilwane.

2. Izilwane azingagqishwa emagunjini aminyene, futhi indawo yokuhlala ehlinzekiwe kulelo nalelo gumbi kumele yenele ukuvumela zonke izilwane ukuthi zilale phansi ngesikhathi esisodwa futhi ingabi ngaphansi kuka 1,5m² yendawo yaphansi yaleso naleso silwane.

3. Izilwane ezintekenteke azingagcinwa nezinye izilwane.

4. Izilwane ezisencane, eziphusile, azingavalelwa nezilwane ezindala, ngaphandle uma kungunina nenzalo yakhe.

5. Ukuhlinzeka kumelwe kwenziwe kuma gumbi –

(a) Izinsiza ezinjengama shalofu, okokuphatha ukudla noma yikuphi okoyiziphatho zokuphakela ezifanele okulula ukuthi zihlanzwe, okuzovumela ukuphakelwa kwesilwane kungabi phansi, futhi okuzokwazi ukuthi sinakekelwe ngaphandle kokuphazamisa izilwane;
(b) Imigudu yamanzi ibe namanzi anele futhi amasha ngasosonke isikhathi;
(c) Izinsiza ezanele zokuhlanzwa kwamagumbi ezilwane; futhi
(d) Izinsiza zokuphatha izilwane ngendlela ephephile.

6. (a) Amagumbi okuhlala izilwane kumele agcinwe esesimweni esihle nesilungisekile ngazozonke izikhathi.

(b) Izinto ezihlabayo njengocingo, amabhodi aphukile, izinto ezicijile noma amahinjisi aphumile noma imishudo, okungahle kubange ukulimala kwezilwane, kumele kususwe noma kwembozwe ngokufanelekile.

7. Iphansi lendawo yonke yokuhlala izilwane, kubandakanya nezindawo zokwehlisa, izindawo zemijaho, namaphaseji, kumele kwakhiwe ngendlela yokuthi kunika isimo esilungile sephansi elingasheleli elingakwazi ukuthi lihlanziwe ngekhono nangokufanele futhi igcinwe yomile futhi isesimweni esikulungele ukugcina izilwane.

INGXENYE II

Ukuphathwa kwezilwane

8. Kumele izilwane ziphathwe ngendlela enobuntu futhi ngokubekezela nangesineke.

9. Loku okulandelayo kumelwe kukhunjulwe uma kuphathwa izilwane –

(a) Izilwane zilalela kangcono uma ziqhutshwa umshayeli wazo ema ngemumva kwaso isilwane kodwa esikhaleni sokubona kwaso; futhi
(b) Umhlambi wezilwane ulalela kangcono uma ziqhutswa ziyisixuku kunoma ngasodwa.

10. Izilwane azingadonswa ngemilenze yazo, noma ziphathwe ngezinhloko zazo, amadlebe noma umsila.

11. Amathole amancane kumele aphathwe uma ngabe awakwazi ukuhamba kalula, ngokuliphakamisa ithole ngasesifubeni kanye nemileze yangemuva, kungenjalo kumele aqondiswe ngesandla esisodwa kwimilenze yawo yasemuva esinye isandla sibe seduze nehlombe noma intamo, sihanjiswe endleleni efunekayo ngendlela okuyiyona yona futhi ngegxathu elikhululekile.

12. Izinduku ezinoseyili noma amabhande anezibhamba ezibhakuzayo kuphela okungasetshenziswa uma kuqhutshwa izilwane futhi kukhethwa ukuthi kushaywe phansi ngemuva kwesilwane kunokuba kushaywe isilwane.

13. Imihlokolozo kagesi, izinduku, noma izikhuthazo zingesetshenziswe ematholeni amancane.

14. Imihlokolozo kagesi akumele isetshenziswe ngokweqile noma ngokungakhethi noma isetshenziswe ebusweni, ingemuva, ezinqeni nasebulilini besilwane.

INGXENYE III

Ukuhanjiswa kwezilwane

15. Izilwane eziqhutshwa ngezinselo kumele ngazozonke izikhathi zibe ngaphansi kolawulo oluqondile futhi olunekhono.

16. Izilwane ezinezinselo kumele ziqhutshwe ngendlela enokuthula ngegxathu elinethezekile futhi elithokomele, eliyindalo kulesosilwane, futhi kungasheshi ukwedlula ukushesha kwesilwane esihamba kancane.

17. Izilwane azingahanjiswa izikhathi ezevile kumahora angu 10 ngaphandle kokuphunyuzwa isikhathi okungenani esiyihora elilodwa zinikwe amanzi alingene, afananelekile, amasha, futhi zithole zonke izilwane.

18. Asikho isilwane esinezinselo esingahanjiswa ngokwevile emabangeni alandelayo –

(a) Ohambeni olungevile ebudeni bosuku olulodwa –

(i) izimvu nezimbuzi amakhilomitha angu 20; futhi

(ii) izinkomo amakhilomitha angu 30; futhi

(b) Ohambeni olwevile ebudeni bosuku -

(i) amakhilomitha angu 20 usuku lokuqalakanye namakhilomitha ayi 15 ngesikhathi sosuku olulandelayo ezimvini nasezimbuzini; futhi

(ii) izinkomo kube amakhilomitha angu 25 osukwini lokuqala futhi kube amakhilomitha angu 20 osukwini nosuku olulandelayo.

19. Izilwane kumele zihlinzekwe ngamanzi futhi masinyane uma kufikwe ekamu lazo eliqondile noma ohambeni lwazo lokugcina, ziphiwe ukudla okwanele futhi kwezinga futhi kohlobo oluhambisana nohlobo lwazo.

20. Izilwane azingahanjiswa ebumnyameni.

21. Asikho isilwane esigulayo, esilimele noma esikhubazekile esingahanjiswa ngezinselo.

INGXENYE IV

Izimoto ezisetshenziswa ukuthutha izilwane

22. Izimoto nezinqodlana ezidonswa izimoto ezisetshenziselwa ukuhambisa izilwane ezinezinselo kumele zibe sesimweni esifanele loko kuhambisa kwalezizilwane ezinjalo futhi zibe sesimweni sokuba semgwaqeni.

23. Zonke izimoto nezinqodlana ezidonswa izimoto okukhulunywa ngazo kusibaluli 22 kumele zibe –

(a) Nephansi elifanele futhi elingasheleli ukuze kuphazamise ukuhlanzwa kwephansi lemoto, enamahinji noma amabhodi asusekayo noma amanethi ensimbi avumelekile;
(b) Afake umoya owanele nokukhanya ngenkathi ihamba nalapho imile, kungabi yimoto evaleke ngci;
(c) Nokuvikeleka okwanele entuthwini evela ku ekzozo, ngoba ukuvelela entuthwini kuphazamisa ukuphefumula noma kubanga ukuhlukumezeka kwesilwane;
(d) Izindonga ezisemaceleni zibezinde ngokwanele ukugwema izilwane ekweqeni noma ukuwela ngaphandle kwemoto: inqobo –

(i) izinhlangothi noma izithiyo, uma zisetshenziswa emotweni ukuhlukanisa izilwane ezifakwe lapho, kumele kube nobude obungabufishane kunelunga lehlombe lesilwane esikhulu kunazozonke kwezihanjiswayo;

(ii) Lapho kuyinkomo ngaphandle kwamathole, ubuncane bobude kumele kube 1 800 wama milimitha; futhi

(iii) Ubuncane bobude kumele kube 750 wama milimitha uma kuyizilwane ezincanyana;

(e) Ezimotweni ezinezinhla ezakhiwe phezu kwezinye,ubude phakathi kwezinhla lezo kumele kube obanele, futhi lapho kuyizimvu nezingulube kungabi ngaphansi kuka 1 000 ama milimitha, ukwenzela ukuthi isilwane esikhulukazi kulezo sikwazi ukuma ngokwemvelo, ngokukhululeka futhi siqondile ngokuphelele nokuvumela isikhala esanele somoya ohelezayo ukuthi ungene kahle ngaphezu kwezilwane;
(f) Iphansi eliqinile futhi elingangenimanzi;
(g) Izindawo ezivulekile zokulayisha nokudiliza ngemuva emotweni ezibanzi ngokulingana nobubanzi bemoto noma, uma ziseceleni, zibe nobubanzi obungekho ngaphansi kuka 2 400 ama milimitha; futhi
(h) Amasango, ahlukanisiwe noma engahlukanisiwe –
(i) enziwe futhi akhiwe ngokuqinile ngokwanele futhi afanele ukuhambisa umthwalo ohlosiwe; futhi

(ii) loko kuvuleka nokuvaleka ngokukhululekile, futhi kube nokuphepha okufanele.

24. Ukuminyana kwezilwane ezitakelwe kunoma isiphi isikhala kumele kube nesiqinisekiso sokuphepha nokunethezeka kwezilwane ngenkathi zihanjiswa, futhi nesikhala sendawo ephansi esinconyiwe ngesilwane ngasinye siwu –

(a) 1,4m² ngesilwane esikhulu; futhi
(b) 0,5m² ngesilwane esincane.

INGXENYE V

Ukuthelela amanzi nokuphakela izilwane eziphilayo ngaphambi kokuzilayisha

25. Izilwane azihlinzekwe ngokudla okulingene futhi okufanele namanzi amasha kuze kube ukuqala kohambo.

Indlela yokulayisha nokudiliza

26. Ukulayisha nokudiliza emotweni kumele kwenzeke ngokuthula futhi nangokuzinza okungenzeka, ngesineke nangokubekezela futhi ngaphandle kokuhlukunyezwa okungadingekile, ukusabisa izilwane, ukuklwebha, ukulimaza, ukuhlushwa noma ingcindezi engadingekile.

27. Asikho isilwane esizolayishwa noma sidilizwe ngokusiphakamisa ngenhloko yaso, uboya, isikhumba, amadlebe, imisila, izimpondo noma imilenze.

28. Asikho isilwane esizolayishwa noma sidilizwe noma ikanjani ngaphandle –

(a) Kwendlela yommango enephansi elingasheleli, oqine ngokwanele ukusekela isisindo salolohlobo lwezilwane eziphethwe, ube namabhodi emaceleni noma izinduku zensimbi engamelana nokuvimbela izilwane ukuthi zingeqi noma ziwe kusizinzo kanye nanoma umqansa ongakhuphukeli ukwedlula 25^0; noma

(b) Noma osebeni lokulayisha olulingana nephansi lemoto ngobude noma, lapho kudilizwa khona, kungabi ngale kwama milimitha angu 310 ngaphansi kwesilinganiso semoto edilizayo futhi esinokukhuphukela okungekho ngaphezu kuka 25^0.

29. Lapho ithrakhi/iloli lihlinzekwe ngesizinzo esisusekayo simele sibe nephansi elingasheleli futhi libe nobude obanele uma sehlisiwe, ukuthi umqansa ungakhuphukeli umkhuphukelo oshiwo kusibaluli 28, ube nebanga ukusuka phansi ukuya ekwenyukeni kwesizinzo okungevile ku 120 wamilimitha.

30. Isizinzo kumele silinganiswe/si-ajastwe ngendlela okuyiyona ubude obulingana ncimishi nephansi lemoto.

31. Izinkambo zimele ziqale masinyane ngemuva kokulayisha izilwane eziphilayo futhi izilwane kumele zidilizwe ngokushesha uma sekufikwe lapho kuyiwa khona.

32. Ngaphandle kokuthi ukuhlinzeka okwanele kwenziwe ukuthi kuhlukaniswe ngokunempumelelo, izinhlobo ezahlukene zezilwane azingalayishwa futhi zingahanjiswa emotweni eyodwa.

33. Izilwane zeminyaka eyahlukene, ubukhulu kanye nobulili azingalayishwa zihanjiswe emotweni eyodwa ngaphandle kokuthi ukuhlinzekwa okwanele kwenziwe kokuzihlukanisa ngempumelelo lezozilwane.

34. Izinkomo ezindala ezinezimpondo azingahanjiswa nezinkomo ezingenazimpondo futhi azivalelwe ngokwahlukana.

35. Lapho kunesizathu noma kubonakala sengathi isilwane singahle sizale ohambeni oluhlongozwayo, isilwane asingalayishwa emotweni.

36. Esimweni sesilwane esizala ngenkathi sihanjiswa, kumele kuthathwe izinyathelo ezanele ukuqinisekisa ukuvikeleka kukanina kanye nenzalo yakhe, ukungagandwa noma okunye ukulimala noma ukuhlukunyezwa ezinye izilwane.

37. Uma kwenzeka –

(a) Ukufa kwemoto ethutha izilwane;
(b) Ingozi noma ukushayisa, ukuthinteka kwesithuthi semoto; noma
(c) Ukulimala noma ukufa, kwanoma yisiphi isilwane esithuthwayo,
Umthwali kumele abike imininingwane ngokushesha , futhi acele usizo ku –

(i) uma kwenzeke ngokuka phalagilafu (a), usizo lwemoto edonsa izimoto ezifile

(ii) uma kwenzeka ngokukaphalagilafu (b), AmaPhoyisa ase Ningizimu Afrika kanye nabaphathi bezemigwaqo; noma

(iii) uma kwenzeke ngokuka phalagilafu (c), uDokotela Wezilwane.

INGXENYE VI

Ukuthiba izilwane ngesikhathi zithuthwa

38. Lapho ukuthuthwa kwanoma yisiphi isilwane kungahle kudale ukulimala kusona noma esinye isilwane, kumele sithitshwe ngendlela yokuthi kugwenywe loko kulimala.

39. Asikho isilwane okumele sigcinwe kusithibo kuze kweve amahora angu 4 kunoma yisiphi isikhathi samahora angu 24.

40. Akungasetshenziswa ucingo noma intambo ukubopha imilenze nezinyawo zesilwane.

41. Ukugwema ukukhameka noma ukwephuka kwentamo, ifindo elikwazi ukuqaqeka ngokudonswa alingasetshenziswa lapho izilwane ziboshelwe emotweni ngezimpondo noma intamo, futhi intambo imele iboshelwe emotweni endaweni elingana namadolo esilwane ukuze uma isilwane siwa, esimweni sokuwa kwesilwane ukwenzeka kokulimala kanzulu noma ukufa kuncishiswe, ngentambo ende ngokwanele ukuvumela isilwane silale ngokukhululeka esimweni semvelo inhloko yaso ime ngokuphelele.

ISHEDULI 2

Imininingwane yerejista yesikidi

(Isigaba 12)

Irejista yasesikidi kumele, okungenani, ibenale mininingwane elandelayo –

1. Igama lesikidi
2. Usuku lokwamukelwa kwesilwane
3. Inani nokuchazwa kwezilwane
4. Uhlobo noma izimpawu esilwaneni
5. Inombolo yesiqhaso sendlebe esinikezwe uMgcini sikidi
6. Igama nekheli lomuntu obambe isilwane
7. Igama nekheli lomuntu olethe isilwane esikidi
8. Igama nekheli lomnini mhlaba
9. Igama nekheli lomnini wesilwane
10. Igama nekheli noma ukuchazwa kwendawo lapho isilwane sitholakale khona
11. Ibanga ukusuka lapho isilwane sitholakale khona ukuya esikidi
12. Imininingwane yomonakalo obangwe yisilwane
13. Imali yokuthutha okumelwe ikhokhwe
14. Imininingwane yokubhujiswa noma ukuqedelwa kwesilwane
15. Imbangela yokufa noma ukulimala kwesilwane esishaqiwe
16. Ukuchaza kanye nemali yokushaqa
17. Isinqumo somonakalo yiNkantolo
18. Usuku lokudedelwa kwesilwane
19. Usuku lokudayiswa kwesilwane
20. Inzuzo ekudayisweni kwesilwane
21. Igama nekheli lomthengi
22. Imali eyevile (uma ikhona) ekhokhelwe umnini noma uMasipala
23. Inombolo yerisiti
24. Imininingwane yomyalelo weNkantolo mayelana nokungadayiseki kwesilwane ekugcineni lowo myalelo

UMTHETHO KAMASIPALA WOKULAWULWA KWEZIKWELETU

Akuphasiswe loku wu Mkhandlu ka Masipala wase_____, ngokwemibandela yesigaba 156(2) yo Mthethigceke we Riphabliki yase Ningizimu Afrika, 1996, ufundwa nesigaba 11(3)(m) woMthetho ka Hulumeni WaseKhaya:UMthetho kaMasipala Wezinhlelo, 2000 (UMthetho No. 32 ka 2000), ngokulandelayo:

UKUHLELWA KWEZIGABA

Isigaba

1. Izincazelo
2. Ukusetshenziswa kwaloMthetho kaMasipala
3. Ukulethwa kwezinhlinzeko zika Masipala kubafakizicelo
4. Imibandela nezimiso ezijwayelekile zokuletha izinhlinzeko zika Masipala

5. Isilinganiso sokusetshenziswa
6. Izivumelwano ezintsha zezinhlinzeko nama diphozi noma izibambiso ngamakhasimende akhona vele
7. Ukuqedwa kwezivumelwano zezinhlinzeko
8. Izaziso zokuthobela
9. Ama akhawunti
10. Imininingwane yama akhawunti
11. Ukusingatha ama akhawunti
12. Imibuzo noma izikhalo mayelana nama akhawunti
13. Ukudluliswa kokunganeliseki ngesinqumo somlethi wezinhlinzeko emibuzweni nasezikhalweni
14. Ama akhawunti asilele emuva ngenkokhelo
15. Izinyathelo zokuqinisekisa inkokhelo
16. Amandla okunquma noma ukulawula ukulethwa kwezihlinzeko zika Masipala
17. Ukubuyiselwa kwezihlinzeko zika Masipala
18. Izindleko zenzalo
19. Izindleko zokuqoqa
20. Ukuqedwa ngokugcwele nokuphelele kwenani
21. Ama akhawunti asilele ngemuva kosuku lokukhokha
22. Izivumelwano zokukhokha imali esilele ngezitolimende
23. Ukuphikisana ngezimali ezikweletwayo
24. Amasheke angakhokhelwanga
25. Ukubhalisa njengomuntu oswelayo
26. Ilungelo loMkhandlu ukungena emagcekeni
27. Imithetho eshayisanayo
28. Ukulondolozwa kwamalungelo kulandela ukungathotshelwa
29. Ukuhanjiswa kwezincwadi
30. Ubufakazi obungahle bubekhona bezincwadi (*prima facie*)
31. Izedluliso
32. Amacala
33. Ukuchithwa kweMithetho ekhona ka Masipala
34. Isihloko esifushane nokuqala

ISAHLUKO 1

IZINCAZELO NEZICELO

Izincazelo

1. KuloMthetho kaMasipala, ngaphandle uma ngabe kungahambisani nengqikithi –

"akhawunti/account" kuchaza isaziso ngendlela yesitatimende sa akhawunti kumuntu okumele akhokhe noma ngabe yiliphi inani okumele alikhokhele kuMkhandlu mayelana nokulandelayo –

(a) Ukusetshenziswa kuka gesi noma izimali zokutholakala kwawo kwesekelwe ukufundwa kwemitha noma ukulinganisa ukusetshenziswa;
(b) Ukusetshenziswa kwamanzi noma izimali zokutholakala kwawo kwesekelwe ukufundwa kwemitha noma ukulinganisa ukusetshenziswa;

(c) Ukuhanjiswa kuka doti nokulahlwa kwawo;
(d) Izihlinzeko zokuthutha indle kanye nezimali zokutholakala kwezihlinzeko zendle;
(e) Intela;
(f) Inzalo; kanye ne
(g) Izimali ezixubile nezahlukahlukene kanye nezindleko zokuqoqa.

"UMthetho" kuchaza uHulumeni Wasekhaya: UMthetho Wezinhlelo zika Masipala, 2000 (UMthetho No. 32 ka 2000);

"Umsebenzi ogunyaziwe" kuchaza noma yimuphi umsebenzi noma umsebenzeli woMkhandlu ogunyazwe yiwo ukusingatha, ukwenza nokuqhuba okuhlinzekwe yiloMthetho ka Masipala;

"UMthetho ka Masipala" kuchaza uMthetho omukelwe futhi wamiswa uMkhandlu;

"Ukuqoqa izindleko" kuchaza izindleko ezingabuyiswa uMkhandlu ngokwemibandela yesigaba 75A woMthetho, futhi kubandakanya izindleko –

(a) Zokukhumbuza amakhasimende ngokusalela emuva kwawo ngokukhokha;
(b) Ukuqeda, ukunquma nokuphindisela izihlinzeko zika Masipala;
(c) Zanoma yisiphi isaziso esikhishiwe, sathunyelwa noma sayiswa ngokwemibandela yaloMthetho ka Masipala; futhi
(d) Zonke izindleko zamacala, kubandakanya ezabaMeli nama khasimende, ezenzeke ngenkathi kubuyiswa izimali ezisilele;

"UMkhandlu" kuchaza –

(a) UMasipala wase _____, esebenzisa amandla akhe ngokomthetho nangamandla akhe okwenza ngokusebenzisa uMkhandlu kaMasipala;
(b) Olandelayo esikhundleni;
(c) Isakhiwo noma umuntu esebenzisa amandla awagunyaziwe noma enza umyalelo, lapho noma amaphi amandla kuloMthetho ka Masipala agunyaziwe noma agunyazwe ogunyaziwe, noma umyalelo onikeziwe, njengoba kuhlongozwa kusigaba 59 soMthetho; futhi
(d) Umlethi zihlinzeko egcina izimiselelo zakhe ngaphansi kwalo Mthetho ka Masipala;

'ikhasimende" kuchaza noma ngabe imuphi umuntu ohlala emagcekeni lapho uMkhandlu uvumile ukuletha noma unikezela yiziphi izihlinzeko zika Masipala, noma uma kungena muntu ohlala khona, umnini wamagceke lawo;

"imali" kuchaza imali enqunywe noma maqondana nezihlinzeko zikaMasipala;

"uMenenja kaMasipala" kuchaza umuntu obekwe ukuba umenenja kaMasipala ngokwemibandela yesigaba 54A soMthetho futhi kubandakanya noma yimuphi umuntu oyibamba kulesosikhundla;

"izihlinzeko zikaMasipala" kuchaza noma yiziphi noma zonke izihlinzeko ezichaziwe kusigatshana (i) ukuya ku (iv), kuhlangene, nesi gaba 2(1)(b);

"umhlali" kuchaza noma ngabe ubani ohlala kunoma imaphi amagceke noma ingxenye yawo, ngaphandle kokunaka isikhundla anaso njengomhlali;

"umnini" –

(a) Mayelana nempahla okukhulunywa ngayo kuphalagilafu (a) yencazelo ye "indawo/impahla", kuchaza umuntu orejiste indawo/impahla ngegama lakhe;
(b) Maqondana nelungelo okukhulunywa ngalo ku phalagilafu (b) yencazelo ye "indawo/impahla", kuchaza umuntu olungelo lakhe lirejistwe ngaye;
(c) Maqondana ne lungelo okukhulunywa ngalo ku phalagilafu (c) wencazelo ye "indawo/impahla", kuchaza umuntu olungelo lakhe lirejistwe ngaye noma ayenikwe lona ngokwemibandela yanoma imuphi umthetho; futhi
(d) Maqondana nezihlinzeko zenqalasizinda zomphakathi okukhulunywa ngazo ku phalagilafu (d) yencazelo ye "indawo/impahla", kuchaza noma iluphi uhlaka luka Hulumeni olungumnini noma lilawula lezo zihlinzeko zenqalasizinda zomphakathi, futhi kubandakanya umuntu ongahle athathwe uMkhandlu njengomuntu ongumnini wendawo ngokwenhloso yalo Mthetho ka Masipala kulezizimo ezilandelayo –

(i) Umphatheli obekiwe, esimweni sendawo ephathelwe abanye ngaphandle komhlaba ka Hulumeni ophethwe ngabanye;

(ii) Umhlanganisi noma umsingathi, esimweni sendawo efeni lomufi;

(iii) Umphatheli obekiwe noma umkhokhisi wezikweletu, esimweni sempahla ehlulekayo ukukhokha izikweletu noma umnini ohlulekayo ukukhokhela izikweletu;

(iv) IMenenja yokwahlulela, esimweni sendawo/impahla yefa lomuntu ongaphansi komenenja yokwahlulela;

(v) Umgcini wemiqulu, esimweni sendawo/impahla efeni lomuntu ongaphansi komgcini wemiqulu;

(vi) Umuntu orejistwe njengomnini wendawo/impahla ukuyisebenzisa okwesikhashana noma umuntu onegunya lokusebenzisa umhlaba womuntu ngokwesivumelwano kurejistiwe, kusimo sendawo/impahla lapho umuntu erejistwe njengomnini wendawo/impahla ukuyisebenzisa okwesikhashana noma umuntu onegunya lokusebenzisa umhlaba womuntu ngokwesivumelwano kurejistiwe;

(vii) Umtshelekisi, esimweni lapho indawo/impahla eyadayiswa uMkhandlu futhi yanikezwa umthengi kusalindwe ukuthi ishintshelwe egameni lomthengi;

"Inqubo" kuchaza Inqubo Yokulawulwa Kwezikweletu kanye ne Nqubo Yokuqoqa Izikweletueyamukelwe uMkhandlu;

"Ukunquma" kuchaza okunqunywe uMkhandlu isikhathi nesikhathi, ngokwesivumelwano;

"Amagceke" kuchaza noma iyiphi ingxenye yomhlaba, enesakhiwo noma engenaso kuwona, ingaphandle lemingcele yawo ichazwe ku –

(a) Ipulani elijwayelekile noma umdwebo orejistiwe ngokwemibandela yoMthetho Wokucwaningwa koMhlaba,1927 (Land Survey Act,1927), (UMthetho No. 9 ka 1927), noma ngokwemibandela yoMthetho Wokurejistwa Kwemihlaba,1937 (Deeds Registry Act, 1937), (UMthetho No. 47 ka 1937); noma

(b) I-*Sectional* plani elirejistwe ngokwemibandela yoMthetho wama Tayitela,1986 (Titles Act, 1986), (UMthetho No. 95 ka 1986),

Esendaweni yokulawula kwalowo Mkhandlu;

"impahla" kuchaza –

(a) Impahla engasuseki erejistwe ngagama lomuntu, kubandakanya, esimweni se Sectional title scheme, sectional title unit, erejistwe egameni lomuntu;

(b) Ilungelo elirejistwe ngokubambisa ngampahla engasuseki egameni lomuntu, ngaphandle kwe sikweletu esirejistwe ngokubambisa ngempahla;

(c) Igunya lokusebenzisa umhlaba egameni lomuntu noma linikwe umuntu ngokwemibandela yanoma imuphi umthetho; noma

(d) Izinhlinzeko zengqalasizinda zomphakathi;

"izintela" kuchaza izintela zika Masipala ezikhokhelwa impahla ngokwemibandela yo Hulumeni Wasekhaya: UMthetho kaMasipala Wentela Yendawo, 2004 (Municipal Property Rates Act, 2004), (UMthetho No. 6 ka 2004).

Ukusetshenziswa kwaloMthetho kaMasipala

2. (1) LoMthetho ka Masipala usebenza kuphela mayelana nezimali ezikweletwa futhi zilindeleke ukuthi zikhokhwe kuMkhandlu –

(a) Izintela;

(b) Izimali kanye nezinye ezingenhla mayelana nalezizinhlinzeko zika Masipala ezilandelayo

(i) Ukuhlinzeka ngamanzi nokubakhona kwawo;

(ii) Ukuthuthwa kwendle nokulahlwa kwayo;

(iii) Izinhlinzeko zokuthutha indle kanye nokutholakala kwazo; futhi

(iv) Ukusetshenziswa kuka gesi nokutholakala kwawo

(c) Inzalo eqongelelwe noma esazoqongelelwa mayelana nanoma yiziphi izimali ezikweletwayo nokumelwe zikhokhwe noma ezizokweletwa futhi zimelwe zikhokhwe eMkhandlwini mayelana nezintela nezinhinzeko zika Masipala; futhi
(d) Ukuqoqwa kwezindleko;

(2) LoMthetho kaMasipala usebenza futhi kunoma yiziphi izinhlinzeko zika Masipala ezilethwa ngamamitha akhokhelwe imali ngaphambilini, ukufikela lapho loMthetho kaMasipala ofanele khona.

ISAHLUKO 2

IZIVUMELWANO ZEZINHLINZEKO KANYE NEMIBANDELA NEZIMISO OKUJWAYELEKILE KOKUHLINZEKA KWEZINHLINZEKO ZIKAMASIPALA

Ukulethwa kwezinhlinzeko zika Masipala kubafakizicelo

3. (1) Azikho izinhlinzeko zika Masipala ezingahlinzekwa kunoma imuphi umfaki sicelo, ngaphandle futhi kuze –

(a) Isicelo sezinhlinzeko senziwe ngokubhala kwi fomu efana kakhulu nefomu enqunyelwe;
(b) Yonke imininingwane noma izincwadi ezidingwa uMkhandlu zilethiwe;
(c) Isivumelwano sezinhlinzeko, efomini efana kakhulu nefomu yesivumelwano enqunyelwe, senziwe phakathi kwekhasimende no Mkhandlu; futhi
(d) Imali, elingana nemali enqunyelwe, engukheshi noma isheke lasebhange eliqinisekisiwe, kudiphozwe njengesibambiso noma esinye isibambiso esamkelekayo, njengoba kuqunyiwe, kulethiwe.

(2) Uma umfaki sicelo sezinhlinzeko zika Masipala eyikhasimede loMkhandlu elivele likhona mayelana nezinye izinhlinzeko zika Masipala kodwa leyo akhawunti isilele emuva ngokukhokha –

(a) Leyo mali esilele emuva kumele ikhokhwe; noma
(b) Isivumelwano sokukhokha leyo mali esilele emuva ngokwemibandela yesigaba 22 kumele senziwe futhi nenkokhelo ngokwemibandela yalapho kumele ingasileli emuva, ngaphambi kokuthi isicelo sezinhlinzeko ezintsha ngokwemibandela yalesisigaba sicutshungulwe.

(3) UMkhandlu, noma inini, ungacela ikhasimende ukukhuphula idiphosi ekhokhiwe noma isibambiso silethwe ngokwemibandela yesigatshana (1)(d);

(4) Ayikho inzalo ezokhokhwa kunoma iyiphi imali yediphosi ngokwemibandela yesigatshana (1)(d) noma (3).

Imibandela nezimiso ezijwayelekile zokuletha izinhlinzeko zika Masipala

4. Imibandela nezimiso ezijwayelekile zokuhlinzeka izinhlinzeko zanoma iziphi izinhlinzeko zika Masipala ezibalulwe esivumelwaneni sezinhlinzeko ezibonelelwe kusigaba 3(1)(c) ithathwa njengefakiwekuloMthetho ka Masipala futhi ayasebenza ekuhlinzekenikwaleyo nhlinzeko kunoma yiliphi ikhasimende.

Isilinganiso sokusetshenziswa

5. UMkhandlu ungenza isilinganiso sokusetshenziswa kwamanzi noma ugesi sesikhathi esifanele esithile uma –

(a) Ukufundwa kwemitha akwenzeki maqondana nesikhathi esithintekayo; noma
(b) Ayikho imitha efakiwe ukukala ukusetshenziswa emagcekeni elithintekayo, futhi ikhasimende elithintekayo libhekeke ukukhokha imali eqokiwe maqondana naloko kulinganiswa kokusetshenziswa.

Izivumelwani ezintsha zezinhlinzeko nama diphozi noma izibambiso ngamakhasimende akhona vele

6.(a) Noma yiliphi ikhasimende elivele likhona, noma umphathi obekiwe, owengamele, iMenenja kwezokwahlulela noma umphathi wemiqulu walelo khasimende, angadingeka ukungena esivumelwaneni esisha sezinhlinzeko uMkhandlu endaweni yesivumelwano esikhona sekhasimende elithintekayo, nokukhokha idiphozi noma anikeze ngesibambiso njengoba kuhlongoziwe kusigaba 3, ngaphandle kweqiniso lokuthi isivumelwano sezinhlinzeko sasikhona phambilini maqondana nezinhlinzeko zika Masipala othintekayo futhi nokuhlinzeka kwesigaba 3(3) kuyasebenza maqondana nalesosivumelwano.

(b) Ukuhlinzeka kwesigaba 3(4) kusebenza kwidiphozi okukhulunywa ngayo kusigatshana (1).

Ukuqedwa kwezivumelwano zezinhlinzeko

7. (1) Kuzeleke ekuhlinzekweni kwesigaba 14 no 22 –

(a) Ikhasimende lingaqeda isivumelwano sokuhlinzeka kuka Masipala noma yiziphi izinhlinzeko ngokufaka isaziso esibhaliwe esingekho ngaphansi kwezinsuku eziyisikhombisa kuMkhandlu, senhloso yakhe yokwenza njalo;
(b) UMkhandlu unga, kuzeleke ekulandelweni kokuhlinzeka kwaloMthetho kaMasipala futhi noma imuphi omunye umthetho osebenzayo, ngokwenza isaziso ngokubhala singabi ngaphansi kwezinsuku ezingu 14, kukhasimende, uqede isivumelwane sakhe sokuhlinzekwa ngalezo zinhlinzeko zika Masipala ezithintekayo,

(i) Akazange asebenzise izinhlinzeko zikaMasipala ezinyangeni eziyisithupha ezedlule futhi akenzanga uhlelo ngokugculiseka koMkhandlu ukuqhubeka nesivumelwano; noma

(ii) Uhlulekile, maqondana nezinhlinzeko zika Masipala ezithintekayo, ukulandela ukuhlinzeka kwaloMthetho kaMasipala futhi uhlulekile ukulungisa loko kuhluleka ngemuva kokuba isaziso sokulandela ngokwemibandela yesigaba 8 siyiswe kuyena;

(iii) Uhlulekile ukukhokhanoma yiyiphi imali enqunyiwe, imali yoluqoqa noma inzalo ekweletwayo nokumele ikhokhwe mayelana nezinhlinzeko lezo zika Masipala ezithintekayo;

(iv) Wenze uhlelo nomunye umlethi wezinhlinzeko ukuhlinzeka izinhlinzeko zikaMasipala ezithintekayo kukhasimende; noma

(v) Uphumile emagcekeni alapho leso sivumelwano sithinteka khona.

(2) Ikhasimende elinikezwe isaziso ngokwemibandela yesigatshana (1)(b), li, kungakapheli isikhathi sezinsuku eziwu 14 okukhulunywa ngazo kuleso sigatshana, ngenza izethulo ezibhaliwe kuMkhandlu ukuthi kungani isivumelwano esithintekayo kungamele siqedwe futhi

uma lezozethulo zingaphumeleli, noma zonke noma ingxenye, lesosivumelwano esithintekayo singaqedwa kuphela uma isinqumo kulezozethulo siyakufakazela lokho.

Izaziso zokuthobela

8. Uma ikhasimende lihluleka noma linqaba ukulalela noma ikuphi ukuhlinzekwa kwaloMthetho ka Masipala, isaziso sokulalela kumele samukeliswe lelo khasimende, ukumcela, kuzeleke ekuhlinzekweni usigaba 7(2), ukuthobela ngalesosikhathi izinhlinzeko lezo ezithintekayo ukuze kugwemeke ukuqedwa kwesivumelwano sakhe ngokwesigaba 7(1)(b)(ii).

ISAHLUKO 3

UKUSINGATHWA KWAMA AKHAWUNTI

Ama akhawunti

9. (1) Ama akhawunti kumele awakhishwe futhi asingathwe ngokuhambisana ne nqubomgomo, ezinye izidingo ezinqunyiwe kanye nanoma imuphi umthetho.

(2) Ukuhluleka koMkhandlu ukukhipha i akhawunti akulikhululi ikhasimende esibophweni salo sokukhokha noma yiyiphi imali ekweletwayo nokumele ikhokhwe ngokwemibandela yaloMthetho ka Masipala.

(3) UMkhandlu kumele, ngokuhambisana nokuhlinzekwe kusigaba 102 soMthetho –

(a) Uhlanganise noma yimaphi ama akhawunti ahlukene ekhasimende okumele akhokhelwe ku Mkhandlu ngokwemibandela yaloMthetho kaMasipala;
(b) Ukufaka kunoma iyiphi i akhawunti noma ngabe yiyiphi inkokhelo eyenziwe yilelo khasimende; futhi
(c) Uqalise nganoma yiziphi izinyathelo zokuqoqa izikweletu kanye nokulawula imali engenayo okuhlinzekelwekuloMthetho kaMasipala mayelana nanoma iyiphi imali esilele kunoma yimaphi ama akhawunti ekhasimende.

(4) Imali ekweletwayo futhi ekumele ikhokhelwe yikhasimende idala isikweletu esihlanganisiwe, futhi noma ngabe yiyiphi imali ekhokhwe yikhasimende okuyimali engaphansi kwemali ephelele okumele ikhokhwe, kuzeleke ekuhlinzekweni isigaba 20(a), izokwabelwa ekwehliseni kwesikweletu esihlanganisiwe ngendlela enqunyiwe.

(5)(a) Noma yiyiphi imali ekhokhwe yikhasimende ngaphezu kwemali ekhona ekweletwayo ingagcinelwa ikhasimende njengemali ekhokhelwe ngenhla ukulindela izintela nezimali zezinhlinzeko zika Masipala zesikhathi esizayo noma ngezinhloso ezihlongozwe kusigaba 15(b).

(b) Ayikho inzalo ezokhokhwa kunoma yiyiphi imali ehlongozwe kuphansigilafu (a)

Imininingwane yama akhawunti

10. Ama akhawunti kumele abe naloku okulandelayo –

(a) Ukusetshenziswa noma isilinganiso sokusebenzisa njengoba kunqunyelwe ukulinganisa noma ukusetshenziswa ngalesosikhathi;
(b) Isikhathi sokulinganisa noma sokusetshenziswa;
(c) Imali efanele ebekiwe;
(d) Imali okumele ikhokhwe esekelwe isilinganiso sokusetshenziswa;
(e) Imali ekweletwayo futhi okumele ikhokhwe yanoma yiyiphi inhlinzeko ka Masipala;
(f) Imali esilele, uma ikhona;
(g) Inzalo okumelwe ikhokhwe kunoma yiyiphi imali esilele, uma ikhona;
(h) Izindleko zokuqoqa kangangoba kungahle kuhambisane;
(i)Usuku lokugcina lokukhokha; kanye
(j)Izindlela, izindawo kanye nabasebenzeli abagunyaziwe lapho kungakhokhwa khona.

Ukusingatha ama akhawunti

11. UMkhandlu kumele, kuzeleke ekuhlinzekweni isigaba 5, azame ukuqinisekisa –

(a) Izilinganiso zokukala ukusetshenziswa okuqondile ngezikhawu ezimisiwe ngokubambezeleka okuncane phakathi kokuxhuma inhlinzeko nokukhishwa kokuqala kwe akhawunti nalandelayo;
(b) Imininingwane eqondile futhi abe awalesosikhathi;
(c) Ama akhawunti enyanga aqondile akweletayo futhi okumele akhokhelwe, okusetshenziswe kuwo izimali, izintela nezinye izimali ezihambelana nako ngendlela eqondile futhi elungile;
(d) Ukuhanjiswa kwama akhawunti ngesikhathi;
(e) Ukuhlinzeka okwanele kanye nokusebenza okunekhono kwezinsiza ukukhokhelwa kuzozonke izindawo zika Masipala
(f) Ukubekwa abasebenzeli ukwamukela inkokhelo egameni loMkhandlu; kanye
(g) Amahora alingene okusebenza ukuze kuhlinzekelwe ukukhokhewla kwama akhawunti.

Imibuzo noma izikhalo mayelana nama akhawunti

12. (1) Ikhasimende lingafaka umbuzo noma isikhalo mayelana nobuqiniso banoma iyiphi imali ekweletwayo nefanele ikhokhwe maqondana ne akhawunti ekhishiwe lanikezwayona ngokwemibandela yalo Mthetho ka Masipala.

(2) Umbuzo noma isikhalo kumele sifakwe ku Mkhandlu ngaphambili noma ngosuku lokukhokha kwenkokhelo echaziwe kuleyo akhawunti ethintekayo, noma masinyane okungenzeka emva kwalokho.

(3) Uma umbuzo noma isikhalo sifakwe ngemuva kosuku lokukhokha oluchaziwe ku akhawunti ethintekayo, loyo mbuzo noma isikhalo kumele sihambisane nenkokhelo yemali okungenani elingana nemali emaphakathi yenyanga ebe ikweletwa futhi kumele ikhokhwe mayelana nenhlinzeko ethintekayo ezinyangeni ezintathu ezingaphambili.

(4) Umsebenzi ogunyaziwe kumele awubhalise umbuzo noma isikhalo bese enikeza ikhasimende inombolo yenkomba.

(5) UMkhandlu kumele –

(a) Uphenye noma ubonakalise ukuphenya umbuzo noma isikhalo phakathi kwezinsuku eziwu 14, noma ngokushesha okungenzeka ngemva kokuthola umbuzo noma isikhalo; futhi

(b) Wazise ikhasimende, ngokubhaliwe, ngomphumela masinyane okunokwenzeka ngemuva kokuqeda uphenyo, uyalele ukuthi imali etholwe ukuthi iyakweletwa futhi kumele ikhokhwe, kuzeleke kokuhlinzekwe ku sigaba 22, ikhokhwe ezinsukwini ezingu 21 ukusuka osukwini ikhasimende elitshelwe ngalo loku, ngaphandle kokuthi isedluliso sifakiwe phakathi kwalesosikhathi ngokwemibandela yesigatshana (6) noma isigaba 13.

(6) Ikhasimende linga, kuncike ekuhlinzekweni kwesigaba 13, faka ukudlulisa no Menenja ka Masipala, ngokwemibandela yesigaba 62 soMthetho, ngokumelene nesinqumo okukhulunywa ngaso kusigatshana (5), kungakapheli izinsuku ezingu 21 ukusuka kusuku elaziswe ngalo ngesinqumo.

(7) UMkhandlu kumele wazise ikhasimende elithintekayo ngokubhalwe phansi, ngesinqumo sokudlulisa, uyalele ukuthi noma iyiphi imali etholwe ukuthi iyakweletwa futhi kumele ikhokhwe, kumelwe ikhokhiwe phakathi kwezinsuku eziyisikhombisa ukusuka osukwini ikhasimende elitshelwe ngalo loku.

Ukudluliswa kokunganeliseki ngesinqumo somlethi wezinhlinzeko emibuzweni nasezikhalweni

13. (1) uma isinqumo esihlongozwe kusigaba 12(5) senziwe maqondana nezinhlinzeko zika Masipala ezinikezwe umlethi egcwalisa isibopho ngaphansi kwalo Mthetho ka Masipala, athunywe wona ngokwemibandela yesigaba 81(2) so Mthetho, ikhasimende lingakwazi ukufaka isedluliso ngalesosinqumo ngokuletha isaziso esibhaliwe sokudlulisa kanye nezizathu, ku CEO somhlinzeki wezinhlinzeko othintekayo, phakathi kwezinsuku ezingu 21 sosuku lwesaziso sesinqumo.

(2) U CEO kumele masinyane alethe isedluliso kwabafanele isedluliso abanegunya abakhazwe kusigatshana (4).

(3) Abanegunya kwezokudlulisa kumele bacubungule isedluliso, bese bayaqinisekisa, baguqule noma babuyise isinqumo, kodwa akukho loko kuguqula noma ukubuyisa okungehlisa noma imaphi amalungelo angabe atholakele ngenxa yesinqumo.

(4) Uma isedluliso simaqondana nesinqumo esithathwe u –

(a) Umsebenzi, ngaphandle kuka CEO, u CEO nguyena onamandla ezidluliso;

(b) U CEO noma yinoma yiyiphi iKomidi yomlethi wezinhlinzeko –

(i) IBhodi laba Qondisi lomhlinzeki wezinhlinzeko; noma

(ii) IKomidi laba Qondisi ababengabandanyekile esinqumweni esithintekayo futhi bebekwe yi Bhodi laba Qondisi ngokwalenhloso, linamandla ezidluliso.

(5) Iziphathimandla zezedluliso ezihlongozwe kusigatshana (4), kumele ziqale ngesedluliso phakathi kwezinsuku ezingu 42 futhi baphethe isedluliso esikhathini esifanele.

(6) Umlethi wezinhlinzeko kumele ahambisane nokuhlinzekwe kusigaba 12(7).

Ama akhawunti asilele emuva ngenkokhelo

14. (1) Uma ikhasimende lehluleka ukukhokha imali ekweletwayo nokufanele ikhokhwe yanoma iziphi izinhlinzeko zika Masipala noma intela ngosuku noma ngaphambi kosuku okumelwe kukhokhwe ngalo oluchaziwe ku akhawunti ethintekayo, isaziso sokugcina sokubiza singathunyelwa ekhasimendeni.

(2) Ukwehluleka uMkhandlu ukuthumela isaziso sokubiza sokugcina akulikhululi ikhasimende ekukhokheni isikweletu esisilele esithintekayo.

(3) Isaziso sokubiza sokugcina okukhulunywa ngaso kusigatshana (1), kumele sibe naloku okulandelayo –

(a) Imali esilele emuva nanoma iyiphi inzalo okumelwe ikhokhwe, nesitatimende sokuthi imali kumelwe ikhokhwe phakathi kwezinsuku ezingu 14 sosuku lwesaziso sokubiza sokugcina;
(b) Ukuthi ikhasimende linga, ngokwemibandela yesigaba 22, liphethe isivumelwano esibhaliwe no Mkhandlu ukukhokhela imali esilele ngezitolimende ngesikhathi esihlongoziwe ku pharagilafu;
(c) Ukuthi uma isivumelwano esinjalo asenziwanga ngesikhathi esibaluliwe ku pharagilafu (b), ukuthi izinhlinzeko zamanzi noma zika gesi zinganqunywa noma zilawulwe futhi izinyathelo zomthetho zingathathwa ukuthola noma yiyiphi imali esilele ngaphandle kwesaziso esinye;
(d) Ukuthi igama lekhasimende lingaziswa emphakathini, futhi angafakwa kumqulu wezikweletu ngokwemibandela yesigaba 21(1)(a);
(e) Ukuthi ikhawunti ingadluliselwakumqoqi wezikweletu noma uMeli ukuthi aqoqe;

Izinyathelo zokuqinisekisa inkokhelo

15. UMkhandlu unga, ngokwengeza kwenqubo ejwayelekile ngezinyathelo zomthetho ukuzuza inkokhelo yanoma ikuphi ukusalela kwenkokhelo kwama akhawunti, uthathe izinyathelo ezilandelayo ukuzuza inkokhelo yemali yalolo hlobo –

(a) Ukunqanyulwa noma ukulawulwa kokulethwa kwezinhlinzeko zika Masipala ngokwemibandela yesigaba 16; futhi
(b) Ukunikelwa kwenkokhelo ye akhawunti yonke noma ingxenye yayo, noma yonke noma ingxenye yenkokhelo yangaphambili yama akhawunti asazokwenzeka njengoba kuhlongozwe ku sigaba 9 (5)(e) njengenkokhelo yezimali ezisilele zika Masipala noma intela, ngokwemibandela yesigaba 20.

Amandla okunquma noma ukulawula ukulethwa kwezinhlizeko zika Masipala

16. (1) Ngokwenhloso yesigatshana (2), isaziso somqamla juqu kuchaza isaziso njengokuhlongoziwe kuzigaba 12(5)(b), 12(7), 13(6) no 14(1).

(2) Ngokuzeleka ekuhlinzekweni isigatshana (4), uMkhandlu unganqamula noma ulawule ukuphakelwa kwamazi noma ugesi, noma kokubili, noma ikuphi ukuhlinzeka okuhambisana nakho, ngokwemibandela ye Nqubo Yokubekwa Kokunqanyulwa noKulawula (Prescribed Termination and Restriction Procedures), kunoma imaphi amagceke uma ikhasimende, maqondana nezinhlinzeko zika Masipala elithintekayo –

(a) Ehluleka ukwenza inkokhelo egcwele yezimali ezisilele ezobe iqagulwe kusaziso so mqamla juqu esithunyelwe kukhasimende elithintekayo, ngaphambi noma ngosuku lwenkokhelo ngokuhlongozwa kuzigaba 12(5)(b), 12(7), 13(6) or 14(1), noma ikuphi okuhambisanayo, futhi asikho isimo esiqubukile esidinga ukuthi uMkhandlu uthumele esinye isaziso somqamla juqu kulelo khasimende ngokwemibandela yanoma yiziphi lezozigaba, futhi ikhasimende –

(i) lihluleka ukungena esivumelwaneni ngokwemibandela yesigaba 22, okumayelana nesikweletu esithintekayo ngaphambi kokunqanyulwa noma ukulawulwa kwenhlinzeko ethintekayo; noma

(ii)lihluleka ukwethula isiqinisekiso esibhaliwe sokubhalisa njengomuntu oswelayo ngokwemibandela yesigaba 25, ngaphambi kwaloko kunqanyulwa noma ukulawula;

(b) Ukuhluleka ukukhokha noma isiphi istolimende esikhokheleka ngokwezivumelwano eziqagulwe ku phalagilafu (a)(i) ngaphambi noma ngelanga lokukhokha;
(c) Ukuhluleka ukuhambisana nanoma imiphi imibandela yezinhlinzeko ezimayelana nogesi noma amanzi, ngokungaba njalo, okunqunywe uMkhandlu;
(d) Ukuvimbela ukuletha izinhlinzeko zamanzi noma ugesi kwelinye ikhasimende;
(e) Enikezela ngamanzi noma ugesi kumuntu ongenalo igunya lako noma avumele uhlinzeko olunjengalolo ukuba luqhubeke;
(f) Abange isimo esihambisana nogesi noma amanzi ngokombono, woMkhandlu, kuyingozi noma kwephula noma imuphi umthetho ohambisana naloko, okuhlanganisa nomthetho ojwayelekile;
(g) Noma ngandlelani avuselele ukuphakelwa okwanqanyulwa noma okwalawulwa, kogesi noma kwamanzi;
(h) Okubekwe ngaphansi kwesimo somuntu obekwe nje ngongenamali okwesikhashana (provisional sequestration), ukuchithwa kwebhizinisi (liquidation) noma ukumenenjwa ngokwahlulela (judicial management), noma enze izenzo zokuhluleka ukukhokha izikweletu (insolvency) ngokwemibandela ye Insolvency Act, 1936 (Act No. 24 of 1936) noma ungaphansi kwesinqumo senkantolo ngesicelo sabakweletwayo ukubeka umsingathi (administration order) ngokwemibandela yesigaba 74 se Magistrates Court Act, 1944 (Act No. 32 of 1944), futhi kube nokwehluleka ukungena esivumelwaneni esisha sezinsiza esikhathini esingangezinsuku eziwu 14 lapho uMKhandlu udinga isivumelwano sezinsiza ngokwesigaba 6.

(3) UMkhandlu unako ukuthi uthumele isaziso sokunqamula esazisa yena –

(a) Ukuthi ukuphakelwa kwalezizinsiza ezithintekayo zizo, noma sezinqanyuliwe ngosuku olunqunyiwe kwisaziso esinjengaleso; futhi
(b) Nezinyathelo ezingathathwa ukuze kuvuselelwe izinsiza.

(4) Noma isiphi isinyathelo esithathwe ngokwemibandela yesigatshana (1) no (2) kuzeleke ekuhambisaneni no:

(a) Izigaba 3 no 4 zo Mthetho Wokuhlinzeka kwaManzi, 1997 (Water Services Act, 1997) (Act No. 108 of 1997), uma kuthinteka nokuhlinzekwa kwamanzi;
(b) Ukuhlinzeka okuhambisana noMthetho ka Gesi,1987 (Electricity Act, 1987) (Act No. 41 of 1987), uma kuthinteka ukuhlinzekwa kuka gesi;
(c) UMthetho ohambisana nezinhlinzeko zeZempilo, 2003 (Health Act, 2003, (Act No. 61 of 2003), futhi noma yiluphi ulawulo olwenziwe ngokwemibandela yalowo Mthetho; futhi
(d) UMthetho Wokukhuthaza Ubulungiswa,2000 (Promotion of Administrative Justice Act, 2000) (Act No. 3 of 2000), kangangoba uma kuhambisana.

Ukubuyiselwa kwezinhlinzeko zika Masipala

17. (1) UMkhandlu kumele ubuyisele izinhlinzeko zanoma ugesi noma amanzi ngokuphelele, obekunqanyuliwe noma obekulawuliwe ngokwemibandela yesigaba 16(1) ngemuva –

(a) Imali ephelele esilele emuva, kuhlanganisa nenzalo nezindleko zokuqoqa, uma zikhona, kukhokhiwe; noma
(b) Isivumelwano sokukhokha imali esilele kuhlongoziwe ku pharagilafu (a) senziwe ngokwemibandela yesigaba 22; noma
(c) Imali ephelele esilele emuva ngokwesivumelwano okukhulunywa ngaso ku pharagilafu (b), kuhlangene nenzalo nezindleko zokuqoqa uma zikhona, nanoma yiyiphi imali yediphozi ekhushuliwe, kukhokhiwe, noma yisiphi isibambiso sihinzekiwe, noma yimuphi omunye umbandela weNqubomgomo uMkhandlu ongawucabanga ukuthi ufanele, kuhanjiswane nako.

(2) Noma ikuphi ukubuyiselwa ngokwemibandela yesigatshana (1) kungenziwa ngemuva kokuthi osesikhundleni ogunyaziwe akhiphe isitifikethi esibhaliwe sokugunyaza ukuthi yonke imibandela efanele ehlongozwe kusigatshana (1) ilandelwe nokuthi izinhlinzeko zikaMasipala ezithintekayo zingabuyiselwa.

Izindleko zenzalo

18. Yonke imali esilele ngemuva maqondana nama akhawunti entela nawezinhlinzeko zika Masipala athwala inzalo ngesilinganiso senzalo ebekiwe.

Izindleko zokuqoqa

19. Imali yezindleko ebekiwe yokuqoqa ingafakwa e akhawuntini yekhasimende, maqondana nanoma isiphi isinyathelo esithathiwe ngokwemibandela ya, noma ngenhloso yaloMthetho ka Masipala.

Ukuqedwa ngokugcwele nokuphelele kwenani

20. (a) UMkhandlu ungaba izimali ozitholile maqondana nanoma isiphi isikweletu esihlongozwe kulo Mthetho kaMasipala ngokubona kwawo wodwa, ngaphandle kokuthi ikhasimende licacise ngokunye ngokubhala.

(b) Uma noma iyiphi imali ekweletwayo futhi kumele ikhokhwe eMkhandlwini ngokwemibandela yalo Mthetho ka Masipala ingakhokhiwe ngokuphelele, noma yiyiphi imali engaphansi ekhokhiwe futhi eyamukelwe umsebenzi ka Masipala, ayikwenzi lokho kube inkokhelo egcwele futhi yokugcina yokuqeda yonke imali, ngaphandle kokuthi leyomali engaphansi yamukelwe njengemali ephelele futhi yokugcina yokukhokha ngokubhaliwe, ngaphansi kwamandla anikezwe noma umnikezwa wanikezela ngawo, kulowo msebenzi ngokwemibandela yesigaba 59 wo Mthetho.

Ama akhawunti asilele ngemuva kosuku lokukhokha

21. (1) Uma i akhawunti izohlolelwa intela noma yiyiphi inhlinzeko ka Masipala elethelwe ikhasimende iloku ingakakhokhelwa, ngokuphelele noma ingxenye, ngemuva kosuku lokukhokha ebekwe ku akhawunti ethintekayo –

(a) Igama lekhasimende elingakhokhi linganekelwa umphakathi, futhi lingafakwa ohlwini Lomqulu weZikweletu; futhi
(b) Lingadluliselwa kumqoqi zikweletu noma uMeli ukuqoqa isikweletu.

(2) Ikhasimende linempendulelo yanoma iyiphi inzalo kanye nezimali zokuqoqa futhi, imali yediphozi engenhla noma ukuhlinzeka isibambiso esengeziwe, uma kuyisidingo so Mkhandlu.

(3) Asikho isinyathelo esithathwe ngokwemibandela yalesisigaba esingamiswa noma sihoxiswe, ngaphandle kokuthi imali esilele emuva, inzalo yalapho, izindleko zokuqoqa, kanye nediphozi engenhla, uma kudingeka wu Mkhandlu, kube sekukhokhiwe ngokuphelele noma, esikhundleni sediphozi engenhla, isibambiso esengeziwe kunikiwe, uma kudingeka.

Izivumelwano zokukhokha imali esilele ngezitolimende

22. (1) Ikhasimende elinobufakazi bobuyena impela noma umuntu ogunyaziwe, ngokubhala, yilelo khasimende, kuncike ekuvunyelweni uMkhandlu, lingangena kusivumelwano esisefomini ethi ayifane ncamashi kunaleyo ebekiwe, ukukhokhela imali esilele ngezitolimende.

(2) Imali ekweletwayo futhi okumele ikhokhwe yikhasimende ngokwemibandela yesivumelwano esihlongozwayo kusigatshana (1), kwakha isikweletu esihlanganisiwe futhi noma ngabe iyiphi inkekhelo eyenziwe yikhasimende yemali engaphansi kwemali ephelele ekweletwayo, kumele yabelwe ekuhliseni isikweletu ngendlela okunqunywe ngayo, ngaphandle kokuthi ikhasimende linikeza umyalo omunye ngokubhala.

(3) Ikhasimende lingadingeka ukuthi lenze uhlelo lokukhokha oluphuma ebhange lakhe liye ngqo ekukhokheleni imali esilele lapho isivumelwano, esihlongozwa kusigatshana (1), sesnziwe.

(4) Ngokuncike ukuhlinzeka kwesigatshana (5), asikho isivumelwano sokukhokha imali esilele esingavumela isikhathi esingenhla kwezinyanga ezingu 24 ukukhokha.

(5)(a) UMkhandlu ungavumela isikhathi sokukhokha esevile ezinyangeni eziwu 24 ukukhokhela imali esilele, kodwa kungevi ezinyangeni eziwu 60, uma kunezimo ezikhethekile lapho ikhasimende lingabanga namandla okuvikela noma ukugwema, ukwehlula kanye nokuthi, embonweni wo Mkhandlu, kugunyaza isikhathi eside ukukhokha.

(a) Ubufakazi bezincwadi bezimo ezikhethekile njengoba kuhlinzekwe ku paraglafu (a), kumele kulethwe yikhasimende ngokucelwa uMkhandlu.

(6) UMkhandlu kumele, uma usebenzisa ukubona kwawo ngokwemibandela yesigatshana (5), ubonelele ikhasimende –

(a) Irecodi lalo lezikweletu;
(b) Ukusebenzisa;
(c) Ikhono lokukwazi ukumelana nezitolimende ezihlongozwayo, nokucabangela isimo semali sekhasimende;
(d) Ubungako benhlinzeko;
(e) Ukwehluleka ukungagcini izivumelwano zokukhokha imali esilele ngaphambilini; futhi
(f) Noma ngabe ikuphi okungakhuthaza.

(7) Ikhophi yesivumelwano esihlongozwayo kusigatshana (1), kumele, uma iceliwe, inikezwe ikhasimende lelo elithintekayo.

(8) Uma ikhasimende lehluleka ukuhambisana nesivumelwano esihlongozwe kusigatshana (1), imali ephelele kweletwayo, kuhlanganise imali esilele, inzalo yayo, noma iziphi izindleko

zokuqoqa, nenkokhelo yediphozi engenhla uma kudingwa uMkhadlu, kuzoba okukweletwayo futhi okumele kukhokwe ngalesosikhathi, futhi nesibambiso esengeziwe, uma sidingeka, kumele kulethwe, ngaphandle kwesexwayiso esinye.

(9) Uma ikhasimende lehluleka ukuhambisana nesivumelwano esihlongozwe kusigatshana (1), okungenwe kuso ngemuva kokuthola isaziso sokunqamula izinhlinzeko zamanzi noma ugesi, noma kokubili, ngokuya kodaba, izinhlenzeko zikaMasipala ezithintekayo zinganqanyulwa ngaphandle kwesaziso esinye, ngaphezu kwesinyathelo esithathelwe noma esingathathelwa ikhasimende elithintekayo.

(10) Alikho ikhasimende elivumeleke ukungena esivumelwaneni ngokuhlongozwe kusigatshana (1), uma ikhasimende lehlulekile ukugcwalisa isivumelwano esingaphambilini ukuhokhela imali esilele ngezitolimende, ngaphandle kokuthi uMkandlu unquma ngenye indlela.

(11) Uma isivumelwano esihlongozwayo kusigatshana (1), sesenziwe, imali esilele kumele ifakwe njengemali yamanje, futhi ayikho inzalo engabe isafakwa.

Ukuphikisana ngezimali ezikweletwayo

23. Uma ukuphikisana noma ikuphi kubakhona maqondana nemali ekweletwa yikhasimende, ikhasimende kumele, kusalindwe isixazululo salokokuphikisana, liqhubeke ukukhokha ngokuvamile zinyanga zonke maqondana nezintela, uma kufanele, futhi maqondana nanoma yiziphi izinhlinzeko zika Masipala ezithintekayo ngokwenani elilinganisiwelanyanga zonke lezimali ezinyangeni ezintathu ezedlule ngaphambi kokuphikisana okukhona, kuhlangene nenzalo uma kufanele, kuze kubekhona ukuxazululwa kwaloko kuphikisana.

Amasheke angakhokhelwanga

24. Noma ngabe yiyiphi inkokhelo eyenziwe kuMkhandlu ngezinhlelo ezisetshenziswayo zokukhoka zamabhange, futhi lolohlelo lokukhokha alikhokhanga, uMkhandlu ungongeza izindleko nemali yokusingatha e akhawuntini yekhasimende eliphuthayo ngentela engunyiwe.

ISAHLUKO 4

ABANTU ABASWELAYO

Ukubhalisa njengomuntu oswelayo

25, (1) Umuntu ofisa ukuthola usizo ngokwemibandela yeNqubomgomo yo Mkhandlu ukuletha izihlinzeko kubantu abantulayo, kumele enze isicelo ukubhaliswa njengomuntu oswelayo ngefomu ebekiwe kunoma imaphi amahovisi oMkhandlu.

(2) Isicelo ngokwemibandela kusigatshana (1), kumele ibukwe uMkhandlu okumele unamathele kuzimiso zokusebenza obala, ukulingana, nokungacuquki, ukungacwasi, ukungeneka, uzwela, ubuqotho, isifuba kanye nempokophelo ngesikhathi kucutshungulwa.

(3) Umfaki sicelo, ohlongozwe kusigatshana (1), kumele, ngokucelwa uMkhandlu, alethe noma ngabe yimiphi eminye imininingwane ukulekelela uMkhandlu ukufika esinqumweni futhi uMkhandlu unga, ngenhloso yokuhlola ngokuyikona isicelo, futhi lenze noma iluphi ucwaningo obona ukuthi luyadingeka.

(4) Umfaki sicelo kumele aziswe ukuthi ngokuzenzakalela uzongafaneleki ukuthola noma iluphi usizo oluhlongozwe kusigatshana (1), futhi abenomthwalo –

(a) Wokubuyisa nani lanoma yiluphi usizo alutholile eMkhandlwini, uma isicelo noma imininingwane ehlongozwe kusigatshana (3), inanoma yiyiphi imininingwane engelona iqiniso; futhi
(b) Ukubekwa icala, uma nganoma iyiphi imininingwane engelona iqiniso nengoba kuhlongoziwe ku pharagilafu (a) ilethwe umfaki sicelo.

(5) Uma uMkhandlu uthola umfaki sicelo ukuthi uyantula, loyo mfaki sicelo unelungelo losizo ngokwemibandela yeNqubomgomo okukhulunywe ngayo kusigatshana (1), futhi imininingwane ephathelene naye kumele iqoshwe kurejista elinqunyelwe abantu abantulayo.

(6) Isimo sanoma imuphi umuntu oswelayo ofakwe kurejista, kumele sibuyekezwe njalo ngonyaka ngumsebenzi ogunyaziwe ngokuhambisana neziqondiso zoMkhandlu.

(7) Umfaki sicelo ophumelele kumele aziswe ngokubhala ukuthi maninyane kumele azise uMkhandlu uma isimo sakhe sokuntula sishintsha.

Isahluko 5

OKUYINDIDIYELA

Ilungele loMkhandlu ukungena emagcekeni

26. UMkhandlu ungasebenzisa ilungelo lawo ukungena emagcekeni ngokwemibandela yesigaba 101so Mthetho ngo Menenja ka Masipala noma umsebenzi ogunyaziwe noma umsebenzeli wo Mkhandlu oqokwe ngokufanele, umgunyaze ngalokho ngokubhaliwe.

Imithetho eshayisanayo

27. Uma ngabe kukhona ukushayisana phakathi nokuhlinzekwe kuMthetho ka Masipala nokuhlinzekwe kunoma imuphi uMthetho ka Masipala, ukuhlinzeka okukulo Mthetho ka Masipala yiwona ozoba namandla.

Ukulondolozwa kwamalungelo kulandela ukungathobeli

28. Ukwehluleka koMkhandlu ukuthobela yinoma yikuphi ukuhlinzeka kwalo Mthetho ka Masipala akuzukuthinta nganoma iyiphi indlela, isikweletu sanoma umuphi umuntu ukukhokha noma iyiphi imali ekweletwayo futhi okufanele ikhokhwe ku Mkhandlu ngokuhlongozwa kulo Mthetho kaMasipala, kanye nelungelo loMkhandlu ukuthola izimali ezinjalo.

Ukuhanjiswa kwezincwadi

29. Ngokuzeleka kokuhlinzekwe kunoma imuphi umthetho, ngokwemibandela noma ngenhloso yaloMthetho ka Masipala noma ngabe yikuphi ukuxhumana okubhaliwe kumele noma kungalethwa, kuthunyelwe noma kuhanjiswe –

(a) UMkhandlu kunoma ubani umuntu, lokokuxhumana kumele kube –
(i) Kudilivwe ngesandla –

(aa) ekhelini lapho ehlala khona lowo muntu, njengoba kubekiwe esivumelwaneni esenziwe ngokwemibandela yesigaba 3(1)(c) noma 6(a); noma

(bb) uma isivumelwano singekho, ekhelini lalowo muntu elisanda kuqoshwa; noma

(cc) emagcekeni athintekayo maqondana nentela ekhokhwayo noma yikuphi okuyinhlinzeko ka Masipala okulethwayo, noma yikuphi okuyikona; noma

(ii)Kuthunyelwe ngeposi ekhelini okukhulunywa ngalo kusigatshana (i)(aa) noma (bb), noma yikhuphi okusebenzayo, noma ekhelini lamagceke ahlongozwe endinyaneni (i)(cc).

(b) KuMkhandlu ngunoma ubani umuntu, loko kuxhumana kumele ku –
(i) kudilivwe ngesandla ku –

(aa) ekhelini Lalapho ukhona uMkhandlu njengoba kubekiwe esivumelwaneni njengoba kucatshangelwe kupharagilafu (a)(i)(aa); noma

(bb) elinye ikheli, uma uMkhandlu ulinikeze lelo kheli ngokubhala kumuntu othintekayo; noma

(ii) kuthunyelwe ngeposi ekhelini okukhulunywa ngalo endinyaneni (i)(aa) noma, ezimweni ezibukelwe endinyaneni (i)(bb), ekhelini okukhulunywa ngalo kuleyo ndinyana.

Ubufakazi obungahle bubekhona bezincwadi (*prima facie*)

30. Ngokwezinhloso zokuthola noma ngabe yiyiphi imali ekweletwayo futhi okumele ikhokhwe kuMkhandlu ngokwemibandela yaloMthethi ka Masipala –

(a) Ikhophi yanoma iyiphi i akhawunti efanele; futhi
(b) Ucaphuno kuma rekhodi oMkhandlu maqondana nobuningi bokusebenzisa noma ukulethwa kwanoma iziphi izinhlinzeko zika Masipala kanye nesikhathi sokuletha kwalezozinhlinzeko, okuqinisekiswe umsebenzi ogunyaziwe ukuthi kuliqiniso, kwakha ubufakazi obungahle bubekhona bezincwadi/imibhalo.

ISAHLUKO 6

UKUDLULISA

Ukudlulisa

31. (1) Umuntu okuthinteke amalungelo akhe yisinqumo esithathwe umsebenzi ogunyaziwe ngaphansi walo Mthetho ka Msipala, angadlulisa isinqumo ngokuletha isaziso esibhaliwe

sokudlulisa nezizathu ku Menenja ka Masipala phakathi kwezinsuku ezingu 21 kusukela osukwini lwesaziso sesinqumo.

(2) UMeneja ka Masipala kumele alethe ngokushesha isidluliso kusiphathimandla esifanele okukhulunywa ngaso kusigatshana (4).

(3) Isiphathimandla sokudlulisa kumele acabangele isidluliso, aqinisekise, aguqule noma abuyise isinqumo, kodwa ukuqinisekisa noma ukuguqula isinqumo kungelulaze noma imaphi amalungelo okwenzeke ukuthi atholakale ngenxa yesinqumo.

(4) Uma isidluliso siphikisana nesinqumo esithathwe u –

(a) Umsebenzi ngaphandle kuka Menenja ka Masipala, uMenenja ka Masipala uyisiphathimandla sokudlulisa; noma
(b) Menenja ka Masipala, uSodolobhu nguyena isiphathimandla sokudlulisa.

(5) Isiphathimandla sokudlulisa kumele siqalise ngesidluliso phakathi kwamasonto ayisithupha futhi sinqume kusidluliso esikhathini esamukelekile.

ISAHLUKO 7

OKUJWAYELEKILE

Amacala

32. (1) Noma ubani umuntu o –

(a) Ephula noma ehluleka ukuhambisana nanoma ikuphi ukuhlinzeka kwaloMthetho kaMasipala;
(b) Ehluleka ukuhambisana nanoma imuphi umyalo okhishiwe ngokwemibandela yalo Mthetho ka Masipala; noma
(c) Uphazamisa noma ukhinyabeza noma ngabe ubani osesikhundleni ogunyaziwe ekwenzeni umsebenzi wakhe ngaphansi kwaloMthetho ka Hulumeni –

Uzothweswa icala futhi uzomele, uma etholwa enecala, akhokhe inhlawulo engekho ngaphezu kuka R5 000 noma ukuya ejele isikhathi esingevi ezinyangeni ezi 3 noma kokubili.

Ukuchithwa kweMithetho ekhona ka Masipala

33. Imithetho ka Masipala ekhona Yokulawula Izikweletu no Kuqoqa Izikweletu ngalokhu iyachithwa.

Isihloko esifushane nokuqala

34. LoMthetho kaMasipala uzobizwa uMthetho ka Masipala wase_____ Wokulawulwa Kwezikweletu, 20_____.

UMTHETHO KAMASIPALA WOKUHWEBA EMGWAQENI

Akube umthetho wedolobha ngu Mkhandlu ka Masipala wase _____, ngokwemibandela yesigaba 156(2) soMthethosisekelo wase Riphabliki yase Ningizimu Afrika, 1996, sifundwa kanye nesigaba 11(3)(m) we Hulumeni Wasekhaya: UMthetho ka Masipala Wezinhlelo, 2000 (uMthetho No. 32 ka 2000), kanje:

UKUHLELWA KWEZIGABA

Isahluko

1.Izincazelo

2. InhlosoZomthetho kaMasipala

3. Izinhlobo zohwebo olusakhula

4. Inkululeko yokungena ohwebeni olusakhula

5. Izindawo ezibekelwe ukuhweba

6. Ukuqasha kanye nokwabiwa komhlaba

7. Ezemvelo ezempilo nokuphepha

8. Ukwenqatshelwa

9. Okulawulwayo

10. Ukuchaywa kwezimpahla

11. Ukususwa nokushaqwa

12. Ukugcinwa nokushatshalaliswa kwezimpahla ezishaqiwe

13. Isikweletu esihlawulelwayo sabantu abahweba uhwebo olosakhula

14. Amacala kanye nezinhlawulo

15. Inqubomgomo

16. Ukuchithwa kwemithetho

17. Isihloko esifinyeziwe

Izincazelo

1. KuloMthetho ka Masipala, ngaphandle uma ngabe kungahambisani nokuqukethwe –

"UMthetho" kuchazaUMthetho Wamabhizinisi, 1991 (UMthetho No. 71 ka 1991) futhi kubandakanya ulawulo olumiswe ngaphansi kwaloko,

"Ukuvunyelwa" kuchaza ukuvunyelwa ngumsebenzi ogunyaziwe futhi "ukuvuma" kunencazelo ehambelanayo;

"Umsebenzi ogunyaziwe" kuchaza

(a) noma yimuphi umsebenzi ka Masipala ogunyazwe uMasipala ukusingatha, ukuqalisa noma ukuphoqelela okuhlinzekweyli Mthetho ka Masipala;
(b) Umlawuli wezithuthi oqokwe ngokwemibandela yesigaba 3A soMthetho we National Road Traffic, 1996 (UMthetho No. 93 ka 1996);
(c) iLungu laMaphoyisa, njengoba kuchazwe ngokwemibandela yesigaba 1 soMthetho Wamaphoyisa ase Ningizimu Africa, 1995 (UMthetho No. 68 ka 1995);
(d) Umqaphi wokuthula, kuhlongozwe ngokwemibandela yesigaba 334 soMthetho Wenqubo Yobugebengu, 1977 (UMthetho No. 51 ka 1977); noma
(e) Umlethi wezinhinzekofuthi njengabasebenzi besebenzisa amandla ngokwemibandela yesigaba 81(2) so Hulumeni Wasekhaya: UMthetho ka Masipala Wezinhlelo, 2000, noma imuphi ukthetho ofanele;

"UMkhandlu" kuchaza –

(a) UMasipala wase_____, esebenzisa amandla akhe ngokomthetho nangomandla akhe okwenza ngokusebenzisa uMkhandlu kaMasipala;
(b) Umlandeli wawo esikhundleni;
(c) Isakhiwo noma umuntu esebenzisa amandla awgunyaziwe noma enza umyalelo, lapho noma amaphi amandla kuloMthetho ka Masipala agunyaziwe noma agunyazwe ogunyaziwe, noma umyalelo onikeziwe, njengoba kuhlongozwa kusigaba 59 so Hulumeni Wasekhaya: UMthetho ka Masipala Wezinhlelo, 2000 (uMthetho No. 32 ka 2000); futhi
(d) Umlethi zinhlinzeko egcina impendulelo yakhe ngaphansi kwalo Mthetho ka Masipala;

"indawo eklanyiwe" kuchaza indawo eklanywe umasipala ngenhloso yokuhweba emgwaqeni ngokwemibandela yesigaba 6(A)(3)(b) so Mthetho;

"indawo ekhethiwe" kuchaza indawo ebekiwe uMkhandlu ngokwaloMthetho ka Masipala, kuzeleke ku Mthetho, njengendawo lapho ukuhweba kwabo okusakhula kwenziwa khona;

"ukudla" kuchaza into noma isiqa ngaphandle kwesidakwamizwa njengoba sichazwa kuMthetho Wezidakamizwa nNokuzishushumbisa, 1992 (UMthetho No. 140 ka 1992), ngenjwayelo okudliwayo noma kuphuzwe abantu noma okuthathwa ngokuthi kukulungele ukuthi kudayiselwe ukudliwa abantu futhi kubandakanya noma ngabe iyiphi ingxenye yesithako noma isiqa okusetshenziswe noma okwenzelwe noma okuyosetshenziswa njengengxenye noma isithako sanoma iyiphi into noma isiqa, njengoba kuchaziwe kusigaba 1 soMthetho woKudla Izimonyo kanye Nezibulalimagciwane, 1972 (UMthetho No. 54 ka 1972).

"ingadi noma ipaki" kuchaza ingadi noma ipaki lapho imphkathi unelungelo lokungena;

"izimpahla" kuchaza noma iyiphi impahla engasuseka esetshenziselwa maqondana nokuhweba emgwaqeni futhi, ngaphandle komkhawulookujwayelekileokuhambela phambili, kubandakanya imikhiqizo edayiswayo, ukuchaya ematafuleni, izitandi,amakhonteyina, izimoto, izakhiwo noma izilwane;

"izindleko zokushaqa" kuchaza zonke lezondleko ezenzekile kuMkhandlu maqondana nokushaqa nokugcina izinto ezishaqiwe noma impahla kanye, lapho kusebenza khona, izindleko maqondana nokulahlwa kwezinto ezishaqiwe;

"umhwebi osakhula" kuchaza ukudayisa izinto kanye/noma nezinhlinzeko ngumhwebi osakhula endaweni eklanyiwe, okubandakanya, ngaphandle komkhawulo, izindlela zokuhweba ezifakiwe kulo Mthetho ka Masipala;

"umnotho osakhula" kuchaza imisebenzi njengoba kuchazwe ku Nqubomgomo ye KZN yomnotho osakhula, 2010;

"impambanamgwaqo" kuchaza impambanamgwaqo njengoba kuchaziwe kwimithethonqubo kusakazwe ngokoMthetho we National Road Traffic, 1996 (UMthetho No. 93 ka 1996);

"ukuphela konqenqema" kuchaza, njengoba kuchaziwe esigabeni 1 soMthetho iNational Road Traffic, 1996 (UMthetho No. 93 of 1996), umngcele phakathi kokuphela komgwaqo nonqenqema noma, uma lungekho, ingxenye ephakathi komgwaqo nonqenqema lwawo;

"indawo eklanyiwe yokuhweba ngokuxhumana ewumugqa" kuchaza indawo eklanyiwe esendaweni yabahamba ngezinyawo.

"**izibi**" kubandakanya noma yini ayisiphatho, isiqukathi noma okunye okulahliwe noma okushiywe ngumhwebi osakhula noma ngamakhasimende akhe;

"**imoto**" kuchaza inqola ezihambelayo njengoba ichazwe kabanzi nokuphelele esigabeni 1 soMthetho iNational Road Traffic, 1996 (UMthetho No. 93 of 1996);

"**uMasipala**" kuchaza Masipala wase_____ omiswe ngokwemibandela yesigaba 155(6) soMthethosisekelo wase Riphabliki yase Ningizimu Afrika, 1996, futhi owamiswa ngokwe futhi ngaphansi kwezigaba 11 no 12 zo uHulumeni Wasekhaya: UMthetho Wezinhlaka zika Masipala, 1998 (UMthetho No. 117 ka 1998),

"izimakethe yezikhathi ezithile" kuchaza ukudayiswa kwezimpahla ezisemthethweni kanye noma izinhlinzeko ezinikwa ngumuntu ngamunye kanye noma iqoqo labantu ezindaweni eziklanyelwe ukuhweba okusakhula isikhathi esingevile ezinsukwini ezingu 5;

"**okunqunyiwe**" kuchaza lokho okunqunywe ngokwesinqumo soMkhandlu ngaleso naleso sikhathi;

'Impahla" maqondana nomhwebi osakhula, kubandakanya noma yiyiphi into, isiphatho sezimpaha, imoto noma isakhiwo okusetshenziselwa noma kwenzelwe ukusetshenziswa maqondana nokuhweba okusakhula;

"isakhiwosomphakathi" kuchaza isakhiwo lika noma lokuhlala okuqondene no Hulumeni kuphela, okubandakanya uMkhandlu;

"**isikhumbuzo somphakathi**" kuchaza noma yimaphi amatshe noma izikhumbuzo zomphakathi njengoba kuchazwe kusigaba 2 soMthetho iNational Heritage Resources, 1999 (UMthetho No. 25 ka 1999);

"indawo yomphakathi" kuchaza noma iyiphi indawo eyigceke, ipaki, igceke lokungcebeleka noma indawo evulekile eyabelwe uMkhandlu noma lapho umphakathi unelungelo lokuyisebenzisa noma ivezwa ku plani elijwayelekile lelokishi/idolobha elifakwe kurejista lezemihlaba noma ehovisi lika Surveyor-General futhi ihinzekelwe ukusetshenziswa umphakathi noma abanini beziza kulelo lokishi/dolobha;

"umgwaqo womphakathi" kuchaza umgwaqo womphakathi njengoba kuchazwe kusigaba 1 so Mthetho iNational Road Traffic, 1996 (UMthetho No. 93 ka 1996), futhi yinoma imuphi umgwaqo, isitaladi noma indlela enqamulelayo kumbe noma iyiphi enye indawo evame

ukusetshenziswa umphakathi noma ingxenye yayo umphakathi noma lapho umphakathi noma iyiphi ingxenye yayo unelungelo lokuyisebenzisa;

"ukurenta" kuchaza imali okumele ikhokhwe nguhwebi osakhula ekhokhela indawo yokuhweba anikezwe yona endaweni eklanyiwe njengoba kuvunyelwene no Mkhandlu kanye nomhwebi osakhula;

"indlela yomgwaqo" kuchaza indlela yomgwaqo njengoba ichaziwe kusigaba 1 so Mthetho iNational Road Traffic, 1996 (UMthetho No. 93 ka 1996), kodwa kungabandakanyi indawo yomphakathi;

"dayisa" kubandakanya –

(a) ukunana, ukushintshanisa noma ukwebolekisa;
(b) ukuchaya, ukuveza, nikezela noma ukulungisela ukudayisa;
(c) ukugcina emgwaqweni womphakathi noma endaweni yomphakathi ngenhloso yokudayisa; noma
(d) ukwenza umsebenzi ukuze azuze,
bese**"ukuthengisi"** noma **"ukudayisa"** kuba nencazelo ehambisana nalena;

"indlela yokuhamba eseceleni komgwaqo" kuchaza indlela yokuhamba eseceleni komgwaqo njengoba kuchazwe kusigaba 1 soMthetho iNational Road Traffic, 1996 (UMThetho No. 93 ka 1996);

"**usebe lomgwaqo**" kuchaza, njengoba kuchazwe kuMthetho iNational Road Traffic, 1996 (UMthetho No. 93 of 1996) leyo ngxenye yomgwaqo, isitiladi noma indlela enqamulelayo ephakathi kosebe lendlela yokuhamba eseceleni komgwaqo nokuphela konqenqema;

Imicimbi ekhethekile" kuchaza imicimbi ekhethekileeyenzeka isikhathi ngesikhathi, kubandakanya, ngaphandle kokunquma, imicimbi yezemidlalo, imicimbi yezenkolo, ukuhlalisana kwabantu, amasiko noma ukuhlangana ngokwepolitiki kanye imikhosi yomculo;

"ifenisha yasemgwaqeni" kuchaza noma yiyiphi ifenisha efakwe uMkhandlu ezitaladini ukusetshenziswa umphakathi;

"**ukuhwebaemgwaqweni**" kuchaza umuntu odayisayo, onanayo, oshintshanisayo, obolekisayo, ochayayo, ukuvezayo, onikezelayo noma olungisela ukudayisa, ukunana, ukushintshanisa noma ukubolekisa noma yiyiphi impahla noma ohlinzeka noma owenza umsebenzi ukuze azuze njengomhwebi wasemgwaqeni, ozulazula edayisa, noma umdayisiemgwaqeni womphakathi noma endaweni yomphakathi, kodwa akubandakanyi umuntu odayisa iphephandaba kuphela;

"uMthetho Wezithuthi" kuchaza uMthetho iNational Road Traffic, 1996 (UMThetho No. 93 ka 1996); kanye

"unqenqema" kuchaza yingxenye yomgwaqo njengoba kuchazwe kusigaba 1 soMthetho iNational Road Traffic, 1996 (UMthetho No. 93 ka 1996).

Inhloso Zomthetho kaMasipala

2. (1) UMkhandlu uyayiqaphela injongo yokubakhona wawo ngokwemibandela yoMthethosisekelo okubandakanya –

(a) Ukugqugquzela ukuthuthukisa kwezomphakathi nakwezomnotho;

(b) Ukugqugquzela indawo okuhlalwa kuyo iphephile futhi inempilo; futhi

(c) Uhlelo lukaMasipala, izinqubomgomo zokuhweba, okwamalayisense futhi nokulawula okuyizimpendulelo zokudayisa ukudla emphakathini, emakethe, ezindaweni zomphakathi, emigwaqeni ka Masipala kanye nokuhweba kwasesitaladini.

(2) Ngakhoke uMkhandlu uyaqaphela isidingo sokuqoka izindlela zentuthuko ukwenzela ukufinyelela kumathuba emisebenzi nawamabhizinisi ngaphakathi komkhakha wokuhweba okusakhula, ngokuvumela ubudlelwano phakathi komkhakha wabahwebi abasakhula nabahwebi asebedlondlobele futhi nokwelekelela ekususeni umkhakha wokuhweba okusakhula kuye emkhakheni wokuhweba okudlondlobele.
(3) Inhloso yaloMthetho kaMasipala ukulawula ukuhweba okusakhula ngaphakathi kwendawo enganyelwe kaMasipala ngendlela yokwamukela futhi egqugquzela izibopho zobulungiswa kanye nezinye zomthetho.

Izinhlobo zohwebo olusakhula

3. (1) Ukuhweba okusakhula kungabandakanya noma ikuphi kwalezinhlobo zomthetho zokuhweba ezilandelayo –

(a) Ukuhweba esitaladini, okubandakanya ukudayisa izimpahla noma ukuhlinzeka umsebenzi ukuthola inzuzo emgwaqeni womphakathi;

(b) Ukudayisa impaha endaweni eklanyiwe yokuhweba ngokuxhumana emgqeni;

(c) Ukudayisa izimpahla noma ukuhlinzeka umsebenzi endaweni yomphakathi

(d) Ukuhwebela entweni ehambayo njengekharavani nezimoto ezincane;

(e) Ukuhdayisela ema tafuleni noma ezindlwaneni ezincanyana; kanye

(f) Ukudayisa izimpahla emicimbini ekhethekileyo

Inkululeko yokungena ohwebeni olusakhula

4. Inqobo nje uma kuthotshelwa izihlinzeko zalo Mthetho ka Masipala, uMthetho futhi nanoma imuphi omunye osebenzayo, noma imuphi oyi Lungu lomphakathi ka Masipala angavunyelwa ukubamba iqhaza ohwebeni olusakhula.

Izindawo ezibekelwe ukuhweba

5. (a) UMkhandlu, ngokunquma ngokwemibandela yesigaba 6A(3)(b) so Mthetho, ubekele engxenye noma uklame izitandi noma izindawo ngenhloso yokuhweba okusakhula, kunoma imuphi umgwaqo womphakathi, ubunini noma ukulawulwa kwako kugunyazwe kuMkhandlu, noma kunoma kukuyiphi indawo okuhlala noma elawulwa uMkhandlu.

(b) Noma iziphi izi izitandi ezinjalo noma izindawo eziklanyelwe ukuhweba okusakhula kungakhuliswa, kuncishiswe noma kupheliswe ngokunquma koMkhandlu.

(c) UMkhandlu unga, ngokunquma ngokwemibandela yesigaba 6A(3)(a) so Mthetho, uqashe unqenqema noma iyiphi ingxenyeyalo kumnini noma umhlali wendawo ehlangene inqobo nje lowo mnini noma umhlali uzovumela inani elibaluliwe lwabahwebi abasakhula ezi izitandi noma ezindaweni lapho unqenqema olukhethwe umnini nma umhlali.

Ukuqasha kanye nokwabiwa kwezitandi

6. (1) Noma ubani ohlose ukwenza ibhizinisi lokuhweba okusakhulangokwemibandela ehlinzekwe yilo Mthetho ka Masipala angafaka isicelo eMkhandlwini ngendlela ebekiwe, ukuqasha noma ukwabelwa iisitandii ngokwemibandela yesigaba 6A(3)(c) so Mthetho.

(2) UMhandlu ungasivumela isicelokuncike kumibandela, noma unqabe isicelo okukhulunywa ngaso kusigatshana (1).

(3) Uma isicelo esinjalo siphumelele –

(a) Umhwebi osakhula kumele angene esivumelwaneni sokuqasha noMkhandlu maqondana naleso isitandi, okufanele sikhishwe uma ecelwa abasebenzi abasemagunyeni;
(b) Maqondana nakokonke ukuklanywa, kanye nokuqasha kwe isitandi, isigqebhezana sizonikezwa umhwebi osakhula njengesiqiniseko samalungelo akhe ukuba kuleso isitandi ngenhloso yokuhweba uhwebo olusakhula;
(c) Umhwebi osakhula kumele, ngasosonke isikhathi uma enza ibhizinisi kwi isitandi noma endaweni yomphakathi, agcine lesosigqebhezana kuyena alungele ukuyibonisa umsebenzi osemagunyeni, uma ecelwa; futhi
(d) UMkhandlu unga, ngesicelo esibhaliwe ngumhwebi osakhula, anikeze umsebenzi wangempela womhwebi osakhula isigqebhezana.

(4) Noma ubani umuntu oqhubeka ngokuhweba okusakhula ku isitandi noma indawo yomphakathi, okubandakanya okunamasondo, okuhanjiswayo, okuyisiqukathi, amabhaki kanye nama kharavani futhi, ngaphandle kwesizathu esizwakalayo, ozongakwazi ukuveza isivumelwano sokuqasha esisebenzayo noma isigqebhezana njengoba kucatshwanga kusigatshana (3) phezulu, uzoba necala lokwephula umthetho.

(5) Noma ubani umuntu oqhubeka ngokuhweba okusakhula ku isitandi noma indawo yomphakathi, ngaphandle kokuchaza okuzwakalayo, ahluleke ukuhambisana nemibandela nezimo zesivumelwano sokuqasha uzoba necala lokwephula umthetho.

Ezemvelo ezempilo nokuphepha

7. (1) Umhwebi osakhula kumele –

(a) Agcine indawo noma indawana esetshenziswa uyena ngenhloso yokwenza ibhizinisi, isesimweni esihlanzekile futhi esinganamagciwane;
(b) Agcine impahla yakhe isesimweni esihlanzekile, esinganamagciwane esinakekelwa kahle;
(c) Alahle ukungcola okwakhiwe yibhizinisi lakhe kunoma yisiphi isiphatho sika doti esihlinzekelwe umphakathi nguMkhandlu noma indawo yo Mkhandlu yokulahla udoti;
(d) Angalahli udoti emgodini, kupayipi lokuchitha amanzi ezikhukhula noma enye indawo engenzelwanga ukulahla udoti;
(e) Aqinisekise ukuthi uma ephetha usuku lwake lwebhizinisi, indawo noma indawana akuyo ngenhloso yokwenza uhwebo olusakhula ayinako ukungcola;
(f) Acophelele ngenkathi enza ibhizinisi lakhe njengoba kudingeka ukuvikela ukuchitheleka emgwaqeni womphakathi, noma inadwo yomphakathi, noma kupayipi lokuchitha amanzi ezikhukhula, noma imaphi amafutha, uwoyela noma ugilisi;
(g) Aqinisekise ukuthi ayikho intuthu, igesi noma okunye okuyisiqa, iphunga, umsindo, osuka ekwenzeni kwakhe ibhizinisi lokuhweba okusakhula, okuzodunga noma ngandlelani;

(h) Uma ecelwa ngumsebenzi osegunyeni, asuse impahla yakhe ukuze avulele ukuhlanzwa kwesikhala noma indawo noma indawana lapho ehwebela khona, noma ukuphumelelisa izinsiza zika Masipala.

Ukwenqatshelwa

8. (1) Akekho umhwebi wasesitaladini ongenza noma aqale ukuhweba esitaladini –

(a) Kunqenqema oluhlangene ne –

(i) sakhiwo lika noma okuhlala kulo kuphela uHulumeni noma uMasipala;

(ii) umshini ozisebenzelayo wasebhange noma amagceke asebhange;

(iii) isonto noma indawo yokudumisa; noma

(iv) isakhiwo eqokwe njengesikhumbuzo sikazwelonke ngokwemibandela yoMthetho we National Monuments, 1969 (UMthetho No. 28 ka 1969);

(b) Kunoma iluphi uqenqema oluhlangene nesakhiwo lapho kwenziwa ibhizinisi ngunoma ubani odayisa izimpahla ezifana, noma zithi azifane, nalezo ezidayiswa umhwebi wasesitaladini noma onikezela ngomsebenzi ofanayo, noma othi mawufane, nalemisebenzi enikezelwa umhwebi wasesitaladini othintekayo ngaphandle kwemvume yalowo muntu;

(c) Kuleyongxenye yonqenqema lomgwaqo womphakathi ohlangene nesakhiwo esisetshenziselwa izinhloso zokuhlala, uma umnini noma umuntu oyilawulayo noma yimuphi ongumhlali webhilidi ephikisana nalokhu;

(d) Kunoma yiyiphi indawo lapho ukwenziwa kwalelobhizinisi kubanga ukuvimbeka –

(i) ukungena noma ukuphuma esakhiweni, noma

(ii) ipayipi lokukhipha amanzi ukulwa nomlilo;

(e) Kunoma iyiphi indawo eqokwe yakhonjwa njengalokho ngokwemibandela yesigaba 6A(2) so Mthetho mayelana nokuthi ukuqhubeka ukwenza ibhizinisi komhwebi wasesitaladini ku –

(i) kunqatshelwe uMasipala, noma

(ii) kulawulwa uMasipala, ngahandle kokuthi lele bhizinisi lenziwa lapho ngokuhambisana naloko kulawula;

(f) Kunoma kukuyiphi indawo ebekelwe eceleni futhi yaklanywa njenge izitandi noma izindawo ngu Masipala ngokwemibandela yesigaba 6A(3)(b) ngenjongo yokuqhubeka nebhizinisi lomhwebi wasesitaladini, ngaphandle kokuthi lelo bhizinisi lenziwa ngokuhambisana –

(i) nesivumelwano no Masipala, noma

(ii) ngokuklanyelwa yinima iyiphi indawo noma isitandi komhwebi wasesitaladini nguMasipala;

(g) Ngaphakathi kwamamitha awu 5 empambanamgwaqo; futhi

(h) Noma kukuyiphi ingadi uomphakathi noma ipaki ngaphandle kokutholakala phambilini kwemvume ebhaliwe ku Masipala.

(2) UMkhandlu unga, ngokunquma kwawo ngokwemibandela yesigaba 6(A)(2) so Mthetho, memezela yinoma yiyiphi indawo ekulawulo lwawo ukuba yindawo lapho ukuhweba okusakhula kuyalawulwa noma kunqatshelwe, futhi kumele, ukuvumela ukuhambisana nalokho, unqume noma wenze izimpawu, omaka noma okunye kokwenzaokubonisa –

(a) Izindawo ezichaziwe, izimpahla noma iznhlinzeko ekutheni ukuhweba okusakhula kuyalawulwa noma kwenqatshelwe;
(b) Lapho imingcele ikhona mayelana nokulawulwa noma ukwenqatshelwa ezindaweni;
(c) Imingcee ye isitandi noma indawo ebekwe eceleni ngenhloso yokwenza ibhizinisi lokuhweba okusakhula;
(d) Iqiniso lokuthi noma yisiphi esinjalo noma indawo iqashisiwe noma inikezwe kanjani; futhi
(e) Yinoma yikuphi ukulawulwa noma ukunqatshelwa komhwebi osakhula ngokwemibandela yeMithetho ka Masipala.

(3) UMkhandlu ungakhangisa nganoma yiluphi uphawu olunjalo, umaka noma yikuphi okokwenza ngokuma nangendlela ezobonisa noma ngabe yikuphu ukulawula noma ukwenqatshelwa kanye nalapho kukhona noma imingcele yendawo noma isitandi esithintekayo.

(4) Noma ngabe yiluphi uphawu olwakhiwe ngemibandela yalo Mthetho ka Masipala noma ngabe yimuphi omunye umthetho, kuzothathwa njengokwanele ukuthi kube isaziso kunoma yimuphi umhwebi osakhula sokwenqatshelwa noma ukulawulwa maqondana nendawo ethintekayo.

(5) Isinqumo soMkhandlu sizeleke kokuhlinzekwe kusigaba 6(A)(2)(b) kuya ku (j) wo Mthetho, ofuna, *phakathi kokunye (inter alia)*, ukuthi uMkhandlu uqale ngokubonelela imiphumela yesinqumo sawo ezothinta abahwebi abasakhula abavele bekhona endaweni eklanyiwe okukhulunywa ngayo.

(6) Yinoma uluphi uphawu lungachitshiyelwa izikhathi nezikhathi futhi luchaywe uMkhandlu ngenhloso yalo Mthetho ka Masipala futhi luzoba nemiphumela efanayo nophawu lwasemgwaqeni ngokwemibandela yo Mthetho we Zithuthi.

Okulawulwayo

9. (1) Akekho umuntu ohweba kuhwebo lwasesitaladini onga –

(a) Lala ebusuku endaweni yebhizinisi;
(b) Akhe noma yisiphi isakhiwo okonomphelo endaweni yomphakati noma ugwaqo womphakathi ngenhloso yokwenza indawo yokukhosela ngaphandle ugunyaziwe ngokubhaliwe nguMkhandlu, noma
(c) Abeke noma agcine noma yiziphi zalezompahla ngendlela noma ngokuma ezokwenza kube yingozi kunoma ubani;
(d) Aqhubeke nalelo bhizinisi ngendlela yokuthi –

(i) lenzauhlupho;

(ii) yenzakalisa noma yona noma ngabe imuphi umgwaqo wo mphakathi noma iyiphi impahla yomphakathi noma yomuntu ngayedwa; noma

(ii) yenza ingozi kuzithuthi;

(e) Kuvimbela ukutholakala kwenhlinzeko noma umsebenzi wokuhlinzeka ka Masipala nom aka Hulimeni noma yiluphi uhlaka lomthetho;
(f) Kuphazamise ukwazi kwabantu abasebenzisa indlela eseceleni komgwaqo ukubuka izimpahla ezichayiwe ngemuva kwefasitela lesichayo sesitolo noma kufiphaza lezozimpahla ukuba zibonakale;
(g) Kuphazamise ukufinyelela endaweni yokuhamba yabahamba ngezinyawo noma endaweni yokuthenga;

(h) Ukuqhubeka nalelobhizinisi endaweni noma isiqingithi ngokuphambana nanoma yikuphi ukulawula okuphoqelelwe yisinqumo sika Masipala ngokwemibandela yesigaba 6(A)(2)(a) wo Mthetho;
(i) Abeke noma agcine izimpahla zakhe phezulu noma phakathi kwesakhiwo, ngaphandle kwemvue yomnini, umhlali osemthethweni, noma umuntu olawula leso sakhiwo noma indawo;
(j) Anamathisele noma yiziphi izimpahla zakhe noma ngandlelani esakhiweni, endleleni eseduze nomgwaqo, isihlahla, isikali sokupaka, isibani, ipali, ipali lika gesi, indlwana yocingo, ibhokisi leposi, uphawu lwezithuthi, ibhentshi noma enye ifenisha yasemgwaqeni emgwaqeni womphakathi noma endaweni yomphakathi;
(k) Enze umlilo ovulekile emgwaqeni womphakathi noma endaweni yomphakathingaphandle imvume ebhaliwe itholakele eMkhandlwini;
(l) Aphazamise ukwazi komuntu osebenzisa indlela eseceleni komgwaqo ukubuka izimpahla ezichayiwe ngemuva kwefasitela lesichayo sesitolo noma kufiphaza lezozimpahla ukuba zibonakale;
(m) Ukuvimbela ukufinyelela endaweni yokunqamula, indawo yokupaka noma indawo yokukayisha noma yiziphi izinsiza zbasebenzisa izimoto noma zabahamba ngezinyawo; noma
(n) Ukuvimbela noma ukuthiya ukusetshenziswa kwefenisha yomgwaqo noma yini enye insiza eyenzelwe ukusetshenziswa umphakathi.

Ukuchaywa kwezimpahla

10. (1) Umhwebi wasesitaladini kumele aqinisekise ukuthi noma yisiphi isakhiwo, isiphatho, iphansi noma yini esetshenziswa nguyena ukuzilungiselela, ukuchaya, ukugcina noma ukuhambisa izimpahla zakhe –

(a) Zigcinwa zisesimweni esinakekelwa kahle, futhi esihlanzekile nesinganamagciwane; futhi
(b) Azibekwa noma zigcinwe ngendlela yokudala ingozi kunoma ubani umuntu.

Ukususwa nokushaqwa

11. (1) Umhloli angasusa futhi ashaqe noma iyiphi impahla uma –

(a) Ngokweqiniso esola ukuthi zikhonela ukusetshenziselwa noma zisetshenziselwe maqondana ukwenza ibhizinisi lomhwebi wasesitaladini, futhi
(b) Ezithola zisendaweni lapho ukwenza ibhizinisi kunqatshelwe noma kulawulwa ngokwemibandela yalo Mthetho ka Masipala, noma ngabe impahla leyo ikumuntu noma ngaphansi kolawulo lanoma ubani umuntu noma cha, ngesikhathi kokuysusa okunjalo noa ukuyishaqa.

(2) Umhloli osusa noa oshaqa noma yiyiphi impahla –

(a) Ngaphandle la izimpahla zibonakala engathi zishiyiwe noma lapho umnini noma uuntu onolawulo lazo akatholakali, anike umnini noma umuntu onolawulo lalezo zimpahla irisidi yokususa nokushaqa lezozimpahla futhi elicacisa –

(i) indawo lapho izimpahla zizogcinwa khona;

(ii) imali okumele ikhokhwe maqondana nezindleko uMasipala angene kuzo ekuzishaqeni kanye nasekuzisuseni; futhi

(iii) usuku loku noma lwangemuva lapho impahla ezodayiswa noma ezoshatshalaliswa ngalo ngaphandle kokuthi kunesicelo sobunikazi; kanye

(b) ngokushesha abeke lezozimpahla endaweni ephephile enolawulo luka Masipala.
(3) Akukho uMasipala, noma yimuphi umhloli, isikhulu noma umsebenzi ka Masipala ozoba nempendulelo ekulahlekeni, ekuntshontshweni noma ekonakaleni kwanoma iyiphi impahla esuswe noma eshaqiwe ngokwemibandela yalo Mthetho ka Masipala.

Ukugcinwa noshatshalaliswa kwezimpahla ezishaqiwe

12. (1) Noma yiziphi izimpahla ezishaqiwe ngokwemibandela yalo Mthetho ka Masipalakumele isetshenzwe ngendlela elandelayo –

(a) uma kunesicelo sobunikazi bezimpahla, umhwebi wasesitaladini kumele akhokhe izindleko ezingenhla uMasipala angene kuzo ngokushaqa; futhi
(b) Uma izimpahla azifakelwanga isicelo sobunini kungakapheli isikhathi esibalulwe kurisidielikhishiwe ngokwemibandela yalo Mthetho ka Masipala, izimpahla kumele zidayiswe ukukhokhela izindleko uMasipala angene kuzo ngokushaqa nokuzisusa.

(2) Lapho izimpahla –

(a) Zingadayiseki, kumele zishatshalaliswe ngemuva kwesikhathi esishiwo kwirisidi ekhishwe ngokwemibandela yalo Mthetho ka Masipala; futhi
(b) Ngezibolayo, zinga dayiswa noma zishatshalaliswe ngokushesha okungadingakala.

(3) Uma inzuzo njengoba kuhlongozwe yilesisigaba akwanele ukukhokhela izindleko umasipala angene kuzo, umnini unempendulelo yokungenhla.

Isikweletu esihlawulelwayo sabantu abahweba uhwebo olosakhula

13. (a) Ua umsebenzi noma umsebenzeli womhwebi osakhula ephula ukuhlinzekwa kwaloMthetho ka Masipala, umhwebi osakhula uzothathwa njengophule loko kuhlinzekwa ngaphandle lowo mhwebi osakhula wenelisa iNkantolo ukuthi uthathe izinyathelo ezingenzeka ukuvikela lokukuphula.

(b) Ukuthi umhwebi osakhula ukhiphe umyalelo kumsebenzi noma umsebenzeli wakhe, ukuvimbela lokukuphula, ngoko kodwa akuz'ukudala ubufakazi obanele bezinyathelo ezanele.

Amacala kanye nezinhlawulo

14. (1) Njalo uma uMasipala enombono ukuthi umuntu akahambisanga nokuhlinzekwe yilo Mthetho ka Masipala, kungasebenza njengesaziso esibhaliwe kulowo muntu, ukumphoqa ukuthi akahambisane nezinhlinzeko ezinjalo ngesikhathi esinqunyiwe esazisweni.

(2) Yinoma ubani o –

(a) Ophula noma ohluleka ukuhambisana nanoma ikuphi ukuhlinzeka kwaloMthetho; noma
(b) Ehluleka ukuhambisana nemibandla yanoma isiphi isaziso asamukelisiwe noma asinikwe ngokwemibandela yalo Mthetho ka Masipala,

unecala futhi unempendulelo, uma egwetshiwe, yenhlawulo, noma ukuya ejele isikhathi esingevile izinyanga ezintathu.
(3) Lapho kuqhubeka khona ukwephula umthetho, umoni uzoba nempendulelo yenhlawulo enye engevile ku R50 ngelanga, noma uma ehluleke ukukhokha, aye ejele isikahthi esingevile osukwini olulodwa, yosuku nosuku okuqhubeka ngalo lokukuphindwa kwecala,

ngemuva kokuthi isaziso esibhaliwe sikhishiwe ngu Mkhandlu, sanikezwa lowo muntu othintekayo, ucela kuphele ukwenza lelo cala.

Inqubomgomo

15. UMkhandlu ungenza inqubomgomo maqondana –

(a) Ukudalula noma iyiphi indawo ukuba yindawo la ukuhweba okusakhula kulawulwe noma kunqatshelwe kanye nokunqumela noma ukwenza izimpawu, omaka noma okunye, njengoba kuhlinzekwe kulo Mthetho ka Masipala;
(b) Ukuhlukanisa noma ukuklama kwezi izitandi noma izindawo ngenhloso yokuhweba esitaladini kanye nokunwetshwa, ukuncishiswa noma ukuqedwa kwako njengoba kuhlongozwe ngokwemibandela yalo Mthetho ks Masipala;
(c) Ukushatshalaliswa kwanoma iyiphi impahla esusiwe futhi yashaqwa, njengoba kuhlinzekiwe yilo Mthetho ka Masipala;
(d) Impendulelo yanoma yimuphi umuntu yanoma iziphi izindleko ezizwakalayoezenzeke maqondana nokususwa okunjalo, ukushaqwa kanye nokushatshalaliswa;
(e) Izinhlawulo ezibekiwe zamacala ahlongozwe ngokwemibandela yalo Mthetho ka Masipala;
(f) Ukuchitshiyelwa kwalezozinhlawulo ngesikhathi nesikhathi; futhi
(g) Noma ngabe uluphi udaba olubekiwe ngokwemibandela yalo Mthetho ka Masipala futhi noma yiluphi udaba olungavumela ukusetshenziswa kwalo Mthetho ka Masipala.

Ukuchithwa kwemithetho

16. UMthetho ka Masipala wokuhweba kwasesitaladini okukhona njengamanje ngalokhu iyachithwa.

Isihloko esifinyeziwe

17. LoMthetho ka Masipala uzobizwa Municipality Street Trading, 20___.

UMTHETHO KAMASIPALA WAMANGCWABA, UKULOTHISWA KANYE NABAGCWABI

Loku akuphasiswe uMkhandlu ka Masipala wase _____, ngokwemibandela yesigaba 156(2) yoMthethosisekelo wase Riphablikhi yase Ningizimu Afrikha, 1996, esifundwa kanye nesigaba 11(3)(m) so Hulumeni baseKhaya: uMthetho Wezinhlelo zikaMasipala, 2000 (UMthetho No.32 ka 2000), kanje:

UKUHLELWA KWEZIGABA

Isigaba

1. Izincazelo

2. Ukusungulwa kwamangcwaba

3. Amahora asemthethweni
4. Irejista
5. Ukunikeza amathuna izinombolo
6. Ukugodlelwa amathuna
7. Ukudluliswa kwamalungelo agodliwe
8. Inani lezidumbu engcwabeni
9. Inani lezidumbu ebhokisini longcwabo
10. Isicelo sokungcwaba
11. Ukungcwatshwa kwesidumbu
12. Abantu abantulayo
13. Ukungcwatshwa komlotha
14. Ukungcwatshwa kwesidumbu esisetshenziselwe ucwaningo lesayensi noma lwezempilo
15. Abantu abashona ngaphandle kwendawo ka Masipala
16. Izikalo zamangcwaba
17. Izicelo zokulothiswa
18. Ukulothiswa
19. Amabhokisi okulothisa
20. Imisebenzi yomnini
21. UMkhandlu ungenza izigaba emangcwabeni
22. Izindawo zesikhumbuzo
23. Indawoyamagquma omhlabathi
24. Indawoyokubukeka kwezwe ngamehlo
25. Izingadi zesikhumbuzo
26. Indawo yokulothisa nokunciphisa isidumbu
27. Isikwele sesikhumbuzo
28. Igumbi lokuncwaba
29. Izindlwana eziphezulu komhlabathi sokungcwaba
30. Ingxenye yezamahlelo
31. Imvume yo Mkhandlu
32. Izidingo zokwakhiwa komsebenzi wesikhumbuzo
33. Ukuma, ukuhanjiswa nokususwa komsebenzi wesikhumbuzo
34. Umsebenzi kanye nokunakekelwa maqondana nomsebenzi wesikhumbuzo

35. Ukulinyazwa komsebenzi wesikhumbuzo
36. Izimoto namathuluzi
37. Ukuhanbisana nomyalo wo Mkhandlu
38. Izikhathi zokuletha okokusebenza kanye nokwenza umsebenzi
39. Izimo zomhlabathi ozikayo
40. Ukuveza imvume ebhaliwe
41. Isicelo sokugubha ithuna
42. Izimiso zokugubha ithuna
43. Ukugubha ithuna nokungcwaba
44. Ukuhenqa ukumbiwa kwethuna
45. Ukugubha ithuna okuphuthumayo
46. Ukungcwaba ngokunciphisa
47. Ukuqokwa kophethe isikhundla
48. Izingane
49. Ukugcina endleleni
50. Ukuziphatha okungavumelekile emathuneni
51. Ukusebenzisa nokuvalwa kwmangcwaba angasasebenzi
52. Ukulimala nomonakalo
53. Izibhamu kanye nezikhali zendabuko
54. Izikhalo
55. Izindleko
56. Amalungelo phezu kwamathuna
57. Izimvume, izaziso kanye nemiyalelo
58. Isaziso sokulandela nezethulo
59. Imicimbi yezenkolo
60. Izimoto zokuthwala izidumbu kanye nezinye izimoto emathuneni
61. Ukuba sobala kwemiziba
62. Imiyalelo yo Mnakekeli
63. Umculo phakathi emathuneni
64. Imingcwabo okuze abantu abaningi
65. Ukulungiswa kwezidumbu
66. Isicelo sokukhishwa noma sokudluliswa kwesitifiketi sekhono

67. Ukukhishwa noma ukudluliswa kwesitifiketi sekhono

68. Ukuba semthethweni nokudluliswa kwesitifiketi sekhono

69. Ukukhishwa kwesitifiketi sekhono sesikhashana

70. Imisebenzi yomnikazi sitifiketi

71. Ukumisa noma ukusula isitifiketi sekhono noma isitifiketi sekhono sesikhashana

72. Izidingo maqondana negceke lomngcwabi

73. Ukuthuthwa kwesidumbu zesidumbu

74. Inhlanzeko

75. Ukudlulisa

76. Ukuvikelwa

77. Amacala nezinhlawulo

78. Ukuchithwa kweMithetho ka Masipala ekhona manje

79. Isihloko esifinyeziwe nokuqala

ISAHLUKO 1

IZINCAZELO

1. Izincazelo

KuloMthetho ka Masipala, ngaphandle kokuthi akuhambisani nengqikithi –

"ukufaka umoya kanye nokukhanya okwanele" kuchaza ukufaka umoya kanye nokukhanya okwanele njengoba kuhlongozwa ku Mthetho we NationalBuilding Regulations and Isitandiards, 1977 (UMthetho No. 103 ka 1977), njengoba uchitshiyelwe noma iMithetho ka Masipala yezempilo okusebenza endaweni yolawulolo Mkhandlu;

"omdala" kuchaza umuntu oshonile oneminyaka evile kweyi 12 kanye noa ubani umuntu oshonile ozilinganiso zebhokisi lakhe azilingani egodini eliwu 1,40m ubude kanye no 400mm ububanzi;

"ukungcwaba ngaphezu komhlaba" kuchaza uma isakhiwo esisetshenzisiwe sokungcwaba umzimba futhi isakhiwo esinjengaleso sibekwe ngaphezu kokulingana komhlaba okujwayelekile;

"inkokheloyangemuva kwesikhathi sokusebenza" kuchaza inkokhelo engaphezu kwebekelwe okujwayelekile yokungcwaba noma yokulothisa ngale kosuku lwesonto olujwayelekile lokusebenza kwamngcwaba, ngaphandle kwesimo sokulothisa noma imingcwabo e, ngenxa yezinkolelo zenkolo, zenziwa ngemvwa kwalawo mahora, noma esimweni sokungcwaba, lapho abazili bezinikela ukuthi bayovala ithuna;

"ukuvuma" kuchaza osekuvunywe uMkhandlu;

"umlotha" kuchaza izinsalela zomzimba olothisiwe;

"ithuna lomlotha" kuchaza ithuna lokungcwaba izinsalela ezilothisiwe, ngethuna elinjalo elimbozwe ngetshe lesikhumbuzo;

"isikhulu esigunyaziwe" kuchaza isikhulu soMKhandlu esigunyazwe ukusebenzisa kanye nokufaka ensebenzweni ukuhlinzeka kwalo Mthetho ka Masipala;

"ingxenyeyamatshe esikhumbuzo ekhanda aqondiswe nse" kuchaza ingxenye yethuna esemangcwabeni ebekelwe eceleni uMkhandlu lapho umsebenzi wesikhumbuzo onqunyelwe ukuba netshe lesikhumbuzo lekhanda kuphela nokumbozwa kwephansi ngomhlabathi okuhlanyelwe phezu kobude bethuna;

"ukuncibilikisa ngamakhemikhali" kuchaza indlela lapho isidumbu sincibilikiswa khona ngemithi enobuhlobo nemvelo (bio-fierndly chemical dissolution);

"uMthetho wokurejistwa kwabazelwe nabashonile" kuchazauMthetho Wokurejista Kwabazelwe no Nabafile, 1992 (UMthetho No. 51 ka 1992);

"umzimba" kuchaza noma imuphi umzimba womuntu oshonile, okuhlanganisa umzimba wengane ezalwe isishonile;

"umyalo wokungcwaba" kuchaza umyalo okhishwe ngokwemibandela yo Mthetho Wokurejista Kwabazelwe no Nabafile;

"ukungcwaba" kuchaza ukungcwaba noma ukufaka egodini emhlabathini noma iluphi olunye uhlobo lokungcwaba futhi oluhlanganisa iliba futhi noma iyiphi enye indlela yokufihlwa kwesidumbu;

"emangcwabeni" kuchaza noma iyiphi indawo noma ingxenye yayo ephakathi kwendawo ka Masipaa ebekelwe engxenye uMkhandlu noma egunyazwe uMkhandlu njengamangcwaba;

"isitifiketi sekhono" kuchaza incwadi njengokuhlongozwe kusigaba 5 saloMthetho ka Masipala;

"ingane" kuchaza umuntu oshonile ongemdala;

"ithuna lempi ye commonwealth" kuchaza yinoma yiliphi ithuna, itshe lethuna, isakhiwo noma isikhumbuzo esihlangane nomngcwabo wempi ye Commonwealth ngokwemibandela ye Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

"isidumbu" kuchazaizinsalela zomuntu oshonile futhi kubandakanya ingane ezalwe isishonile kanye nombungu;

"ukunciphisa isidumbu" kuchaza lonke uhlelo olusetshaenziselwa ukunciphisa izidumbu okuhlanganisa ukulothisa, ukuncishiswa ngamakhaza kanye nendlela yokunciphisa ngamakhemikhali;

"uMkhandlu" kuchaza –

(a) UMkhandlu ka Masipala osebenzisa amandla awo omthetho namandla awo okwenza ngoMkhandlu ka Masipala;
(b) Umlandeli wawo ngesikhundla;
(c) Isakhiwo noma umuntu osebenzisa amandla awagunyaziwe noma ukuqhubekisa umyalo, lapho noma imaphi amadla akulomthetho ka Masipala lapho unikezelwe onikezelwe noma ukuqhubezela umyalo, lapho noma imaphi amandla alomthetho ka Masipala anikezelwe nona anikezelwe onikezelwe noma umyalo onikezelwe

njengokuhlongoziwe kusifaba 59 WoHulumeni Wasekhaya(Local Government):UMthetho ka Masipala Wezinhlelo;2000 (Municipal Systems Act) (UMthetho No. 2000 ka 2000); futhi

(d) Umhlinzeki wezinsiza ogcwalisa impendulelo ngaphansi kwaloMthetho ka Masipala;

"ukulothisa" kuchaza indlela yokulothisa isidumbu somuntu ngomlilo

"indlu yokulothisa" kuchaza isakhiwo lapho umcimbi wenziwa khona futhi nokulothiswa kwenziwa khona;

"ingxenyeyabalothisiwe" kuchaza ingxenye yasemangcwabeni noma indawo yokulothisa ebekelwe eceleni uMkhandlu ukungcwaba umlotha;

"izinsalela zokulothisiwe" kuchaza wonke umlotha ongatholakala ngemuva kwenqubo yokulothiswa;

"umuntu onobuchwepheshe bezemvelo nezempilo" kuchaza umuntu ongumsebenzi wo Mkhandlu, noma onesivumelwano no Mkhandlu futhi orejistiwe ne Health Professions Council of South Africa futhi osesikhundleni ngokwemibandela yoMthetho Wezempilo;

"uhwebo osolusunguliwe" kuchazauhwebo oselukhona ngokwemibandela lapho umnini noma umuntu ophethe noma owandulela yena ngesikhundla, anike imvume njalo kubantu abahlala endaweni ukungcwaba amalungu emindeni yawo kuleyo ndawo ngokwenkolo noma amasiko abo;

"igceke lomncwabi eselisunguliwe" kuchazaamagceke abangcwabi asekhona, asetshenziselwa lokho, osukwini lokuqala laloMthetho ka Masipala;

"ukugujwa" kuchaza ukukhishwa kwesidumbu ethuneni laso;

"umndeni" kuchaza ngokuhlobene nomhlali, futhi ngenhloso yo –

(a) Ukuchazwa "uhwebo oselusunguliwe";
(b) Isigaba 10(2)(b)(ii); kanye
(c) Isigaba 10(2)(c)(i)

Kuchaza abaganene, umlingani noma abalingani, ingane noma izingane zakho zoqobo noma ingane noma izingane ozamukele, noma umzukulu noma abazukulu, umzali noma abazali, umkhulu nogogo noma omkhulu nogogo, kanye nongaphansi noma abangaphansi kwako.

"ukunciphisa isidumbu ngokuhlonzisa" kuchazaukufihla isidumbu ngokusihlonzisa somiswe

"amagceke abangcwabi"kuchaza lawomagceke asetshenziselwa noma azosetshenziselwa ukulungisa futhi noma ukugcina izidumbu;

"ingadi yesikhumbuzo" kuchaza ingxenye yasemangcwabeni noma indawo yokulothisa ebekelwe eceleni ukwakha umsebenzi wesikhumbuzo, ukubekwa noma ukufafazwa komlotha, kodwa akuhlanganisiigumbi noma isakhiwo esinengosi;

"ithuna" kuchaza noma yisiphi isiqephu somhlaba esigujelwe ukungcwaba isidumbu ngaphakathi emangcwabeni futhi kuhlanganisa okuqukethwe, itshe lekhanda noma ngabe ikuphi ukubekisa kwendawo enjalo noma isiphi esinye isakhiwo phezu noma esihlanganiswe nendawo enjalo

"ithuna lempi" kuchaza ithuna lomuntu oshone ngenkathi evikela izwe;

"iqhawe" kuchaza umuntu owenzela izwe isenzo sobuqhawe futhi unikezwa ukuhlonishwa njengeqhawe uMkhandlu;

"umphathi" kuchaza umuntu okuthe isitifiketi sekhono sakhishwa ngegama lakhe;

"umuntuoswelayo" kuchaza umuntu ontulayo oshonele ezimweni zokuswela, noma enganasihlobo noma omunye umuntu, izinhlangano zononhlalakahle noma ezingekho ngaphansi kuka Hulumeni zingatholakala sezithwala izindleko zomngcwabo nomazokulothisa kwalowo muntu oshonile futhi kubandakanya ompofu;

"usizokumuntu oswelayo" kuchaza ulekelelo olutholakelelwe ukungcwaba noma ukulothisa umuntu oswelayo;

"ukungcwaba egodini" kuchaza uma umhlabathi ugujiwe ukwenzela ukungcwaba umziba;

"umngcwabo" kuchaza ukubeka isidumbu noma umlotha endaweni yaso yokuphumula yokugcina

"umhlaba", ngenhloso yalokhu –

(a) Izincazelo ze –

(i) uhwebo osolusunguliwe;

(ii) umhlali;

(iii) umnini; futhi

(iv) umuntu ophethe; futhi

(b) Izigaba 10(2)(b)(ii) no 10(2)(c)(i),

Kuchaza umhlaba okukakhulukazi usetshenziselwa izinhloso zokulima;

"indawo yokubukeka kwezwe ngamehlo" kuchaza ingxenye yendawo yethuna esemangcwabeni ebekelwe eceleni ngu Mkhandlu lapho umsebenzi wesikhumbuzo unqunyelwe kuqwembe olubekwe lwavundla noma ikhekheba lika simende lesikhumbuzo, elinephansi lokumboza etshalwe ngaphezu kobude bethuna

"uNgqongqoshe" kuchaza iLungu leSishayamthetho se Sifundazwe sakwa Zulu Natali umsebenzi wakhe kweminye, kuhlanganisa impendulelo yasemangcwabeni kanye nezindawo zokulothisa;

"igumbi lokungcwaba" kuchaza igumbi noma amagumbi okungcwaba angenhla komhlabathi ukunika indawo isidumbu kanye nebhokisi lawo magumbi atakwe ama ngezindlela nangobude obahlukene

"isikhulu sezempilo" kuchaza isiphathimandla esibekwe uMkhandlu noma ubani omunye obambe esikhundleni sesikhulu sezempilo

"ingxenye yesikhumbuzo"kuchaza ingxenye yasemangcwabeni ebekelwe eceleni ukwakhiwa kwezikhumbuzo;

"udonga lwesikhumbuzo" kuchaza udonga emangcwabeni noma endaweni yokulothisa eyenzelwe ukubeka amatshe abhaliwe okukhumbula abantu abashonile;

"umsebenzi wesikhumbuzo" kuchaza noma ngabe yiliphi itshe lekhanda, itshe lesikhumbuzo, uqwembe noma omunye umsebenzi, noma utho, eyakhelwe noma ezokwakhiwa emangcwabeni noma endaweni yokulothisa ukukhumbula umuntu oshonile,

futhi kuhlanganisa unqenqema oluhlukanisa ithuna, kanye nekhekheba lika simende elivale ithuna;

"ingxenye yesikhumbuzo" kuchaza indawo yamathuna emangcwabeni ebekelwe eceleni ukwakha umsebenzi wesikhumbuzo

"ukungcwabakaningi" kuchaza ukungcwaba okulandelanayo ekudepheni obobodwa obukhona bethuna

"indawo ka Masipala" kuchaza indawo engaphansi kolawulo loMkhandlu;

"igcekelomngcwabi elisha" kuchaza igceke labangcwabi abaqale ukusebenza kanjalo ngemuva kosuku lokuqala kwalo Mthetho ka masipala;

"isihlobo" kuchaza oganene naye ophilayo, ngaphandle uma kuqagulwe ngendlela ethile ngamakhasimende,noma uma engekho owakwakho ophilayo, ingane noma izingane eziphilayo, noma lapho kungekho ingane ephilayo, isizukulwane noma izizukulwane ezisondele eziphilayo, noma uma kungenazizukulwane eziphilayo, umzali noma abazali abaphilayo, noma lapho kungenamzali noma abazali, ingane noma izingane zakwenu eziphilayo, noma lapho kungenangane noma izingane zakwenu eziphilayo, omunye noma abanye begazi abizihlobo zoshonile abahlobene naye ezingeni elilandelayo, uma nje lapho loMthetho ka Masipala udinga imvume yesihlobo, futhi isihlobo kubhekisa kubantu abevile koyedwa, ngokwalokuchaza, kanjalo imvume yabobonke lababantu iyodingeka;

"ingosi" kuchaza ingosi esekamelweni noma esakhiweni noma engadini yesikhumbuzo ukufaka khona imilotha;

"isifo okumelwe sibikwe" kuchaza noma yisiphi isifo okufanele ngokomthetho sibikwe kwabasegunyeni kuHulumeni uma sitholakele ngisho nasekufeni;

"uhlupho"kuchaza noma ngabe simo sini, utho, ukwenza noma ukungenzi okuyicala noma kulimaze empilweni noma kuvame ukucekela phansi ukuphepha, uhlelo oluhle noma impilo yendawo noma ingxenye yayo;

"umhlali" kuchaza umuntu ohlala kumhlaba ongowomunye umuntu futhi onike imvume noma elinye ilungelo elisemthethweni ukwenza njalo;

"isikhulu esiphethe" kuchaza umuntu osebenzela uMkhandlu onolawulo lanoma imaphi amangcwaba izikhathi ngezikhathi;

"umnini" kuchaza umnini womhlaba ngesikhathi eshona njengoba kuhlongozwe kusigaba 10(2)(b);

"isiphatho samathambo" kuchaza isiphatho,isakhiwo, umthombo noma indawo esebenza njengendawo yokugcina yokuphumula yezinsalela zamathambo omuntu;

"umuntu ophethe" kuchaza umuntu okuthe ngenkathi eshona okuhlongozwe kusigaba 10(2)(b) ube noma unegunya elisemthethweni ukunika imvume kumuntu ukuthi ahlale kulowo mhlaba othintekayo;

"ukulungiswa" kuchaza noma ikuphi ukwenza okuqondiswe ekulungiseleni isidumbu umngcwabo noma ukulothiswa, ukuyiswa kwelinye izwe noma okunye ukufihlwa futhi kuzohlanganisa ukugqumisa kwalesosidumbu ngenhloso yalokho, futhi

"lungisa" kanye nanoma imuphi umsebenzi osuselwa lapho uzoba nencazelo ehambisanayo;

"okunqunyiwe" kuchaza okunqunywe uMkhandlu;

"imali enqunyiwe" kuchaza imali enqunywe uMkhandlu ngesinqumo salowo Mkhandlu noma olandelayo.

"amathuna angasese" kuchaza umhlaba osetshenziswa njengasemangcwabeni kodwa ongewona owo Mkhandlu

"indawo yokulothisa yangasese" kuchaza isakhiwo lapho abantu abashonile belothiswa khona kodwa akuyona futhi ayilawulwa uMkhandlu

"isitifiketi sesikhashana sekhono" kuchaza incwadi njengoba kushiwo kusigaba 68;

"ithuna lomphakathi" kuchaza ithuna lapho ukungcwaba kwesibili kwanoma iliphi ilungu lomphakathi kungenzeka ngemuva kwesikhathi seminyaka emihlanu futhi kulo akuvumelekile ukwakha itshe lekhanda lalowo wokuqala noma wesibili ukungcwaba;

"amanzi amsulwa" kuchaza amanzi ahlanzekile futhi acwebile anganako okuphilayo kwe *Escherichia coli* futhi awanaso noma isiphi isiqa esisezingeni elinobungozi empilweni yomuntu;

"ukungcwaba ngokunciphisa" kuchaza ukwenza ithuna litholakalele ukungcwaba okulandelayo ngemuva kwesikhathi esithile;

"indawo evikeleke emagundaneni" kuchaza okungaba ukuvikeleka emagundaneni njengoba kubekwe phansi emithethweni emaqondana no *Prevention of Rodent Infestation and the Storage of Grain, Forage, etc.* ezindaweni Zamadolobha neZasemakhaya zase Riphabliki yase Ningizimu Afrika kusakazwe yi Nothisi ka Hulumeni R.1411 ka 23 Septemba 1966 (Government Notice R.1411 of 23 September 1966)

"**South African Heritage Resources Agency**" kuchaza *iSouth African Heritage Resources Agency*, esungulwe ngokwemibandela yesigaba 11 soMthetho iNational Heritage Resources,1999 (UMthetho No.25 ka 1999)

"umakhi wamatshe" kuchaza umuntu owenza ibhizinisi njengomakhi wamatshe;

"uMthetho" kuchaza uMthetho Wezempilo, 2003 (uMthetho No. 61 ka 2003), noma ngabe yikuphi ukusho okungathi ukuchazwa kwako kwabelwe ku Mthetho, kuzoba nencazelo enjalo futhi, ngaphandle kokuthi ingqikithi isho ngokunye; futhi

"isikalisezinga lokushisa noma lokubanda (*thermometer*)" kuchaza isikali esinganika ukufundwa kwamazinga okushisa noma okubanda okukhulunywa ngaso kwiMithetho ka Masipala, ukunemba kwaso nezinga laso –

Inzwa ezwelayo ibe cishe 0,5°C.

"isisulu sodweshu" kuchaza umuntu ochazwe kusigaba 1 soMthetho *iNational Heritage*, 1999 (uMthetho No. 25 ka 1999).

ISAHLUKO 2

UKUSUNGULWA NOKULAWULWA KWAMANGCWABA

Ukusungulwa kwamangcwaba

2.UMkhandlu ungathi ngezikhathi nezikhathi ubekele eceleni futhi ugodle umhlaba ka Masipala ofanele noMasipala ukusungula nokulawulwa kwamangcwaba. UMkhandlu ungacabanga futhi ugunyaze isicelo sokusungulwa nokulawulwa kwamangcwaba. UMkhandlu ungacabanga futhi ugunyaze isicelo sokusungulwa nokugcina esimweni kwamangcwaba angasese noma indawo enamakhosomba yangasese esemhlabeni wangasese ngemibandela uMkhandlu ongabona ifanele.

Amahora asemthethweni

3. (a) Amangcwaba nehovisi lomgcini kuzovulwa emahoreni anqunywe uMkhandlu. Ihovisi lomgcini elisemangcwabeni lizovulwa kusukela ngoMsombuluko kuya ku Lwesihlanu.

(b) Ukungcwaba kuzokwenzeka ngezinsuku futhi ngamahora anqunywe uMkhandlu.

(c) UMkhandlu unelungelo lokuvala amangcwaba noma iyiphi ingxenye yawo kumphakathi kulezo zikhathi nalezo zizathu uMkhandlu ozibona zifanele.

(d) Akekho umuntu ongaba noma asale emangcwabeni noma ingxenye yakho ngaphambili noma ngemuva kwamahora asemthethweni anqunyiwe uMkhandlu noma phakathi nanoma yisiphi isikhathi lapho kuvalelwe khona umphakathi, ngaphandle kwemvume kamgcini.

(e) UMkhandlu unga, uma ngabe udaba oluphuthumayo noma umbuthano wezenkolo noma wezomdabu, ukuvunyelwa ukungcwaba ngale kwezikhathi ezihlongozwe kusigatshana.

Irejista

4. (a) Irejista yamathuna nemingcwabo kumele igcinwe ngumgcini.

(b) Lelorejista kumele ligcwaliswe ngendlela enobungako masinyane emva kokuba umngcwabo usuwenzekile, ngenkomba yemininingwane ebekiwe esohlelweni lokungcwaba okuthintekayo.

Ukunikeza amathuna izinombolo

5. (a) Wonke amathuna asemangcwabeni asebenzile noma ukungcwabela kuwo sekugunyaziwe ngokwemibandela yezinhlinzeko zalo Mthetho kumele anikwe izinombolo uMkhandlu.

(b) Inombolo kumele ifakwe ethuneni futhi iboniswe ku plani okumele ligcinwe litholakala ehovisi lika mgcini.

Ukugodlelwa amathuna

6. (a) Akukho ukugodlelwa kwamathuna emangcwabeni okuzovumeleka.

(b) Ukugodlelwa kwamathuna okwenziwe futhi kwaqoshwa emarekhodini asemthethweni oMkhandlu ngokwemibandela yeMithetho ka Masipala edlule kuzobe kusasebenza futhi uMkhandlu kumele akuhloniphe lawo malungelo okugodla.

Ukudluliswa kwamalungelo agodliwe

7. (a) Ilungelo lokugodla njengoba kuhlongoziwe kusigaba 6(b) lingeke lingedluliselwe ngaphandle kwemvume angaphambilini yoMkhandlu.

(b) Iscelo sokudlulisa lelo lungelo kumele lenziwe kumnakekeli ngokubhaliwe nokugcwalisa futhi kulethwe ngefomu ebekiwe.

(c) Uma isicelo sivunyiwe, isitifiketi sizokhishwa ngegama lobambele osezoba ngumphathi

(d) Ilungelo elogodliwe lingesulwa ngesicelo sika mphathi futhi ma isicelo sivunyiwe uMkhandlu, imali ekhokhwe u mphathi (uma ikhona) kukhishwe u 10% wezindleko zokusingatha, izobuyiselwa ku mphathi.

Inani lezidumbu engcwabeni

8. (a) Sinye kuphela isidumbu esingangcwatshwa ethuneni elinesilinganiso ngokuhlongoziwe kulo Mthetho ka Masipala.

(b) Zimbili kuphela izidumbu ezingangcwatshwa ethuneni elinesilinganiso njengoba kubekiwe kusigatshana16 (d): Uma lesosicelo sokungcwaba izidumbu ezimbili senziwe nomgcini ngokubhaliwe nokugcwalisa futhi kulethwe ngefomu edingakalayo ngaphambi kokuthi isidumbu sokuqala singcwatshwe.

(c) Ngemuva kokuvulwa kwethuna ngenhloso yokungcwaba isidumbu sesibili, njengoba kushiwo kusigatshana 9(b) kulelo thuna, ungwengwezi luka khonkolo olungaluncane ngaphansi kuka 25mm ukujiya, kumele lubekwe phezu kwebhokisi elingcwatshwe ngaphambilini.

(d) Uma kuvulwa futhi noma yiliphi ithuna, uSosayensi weZempilo ethola ukuthi umhlabathi unokuhlukumeza noma ubungozi empilweni ejwayelekile yabantu, isimo sizohanjiswa ngokubonisana no Sosayensi weZempilo.

Inani lezidumbu ebhokisini longcwabo

9. (1)(a) Ingane ezalwe isishonile kanye nonina wayo oshonile bangangcwatshwa ndawonye ebhokisini elilodwa ngemali yomngcwabo owodwa womuntu omdala.

(b) Izingane ezingamawele ezizalwe sezishonile zingangcwatshwa ebhokisini elilodwa ngemali yomngcwabo owodwa yengane ezalwe isishonile.

(c) Ngokuzeleka kusigatshana (a) no (b), sinye kuphela isidumbu esingaba sebhokisini, ngaphandle kokuthi loko kuphikisana nenkolelo yosiko, yemikhuba noma izinkolelo zezenkolo zalona oshonile noma isihlobo sakhe, noma lapho kungena sihlobo, noma ngabe yimuphi osondele owomndeni.

(d) Uma kukhona izidumbu ezingenhla kwesisodwa ebhokisini, ngasinye kumele sifakwe esikhwameni zomzimba ezahlukene

ISAHLUKO 3

IMINGCWABO

Isicelo sokungcwaba

10. (1) Isicelo semvume yokungcwaba emangcwabeni kumele senziwe kumnakekeli ngokubhaliwe, ngokugcwalisa futhi kulethwe ngefomu enqunyiwe. Isicelo asihambisane ne –

(a) Umyalelo wokungcwaba okhishwe ngokwemibandela yo Mthetho we Births and Deaths Registration, 1992 (UMthetho No.51 ka 1992);
(b) Izimali ezinqunyiwe; kanye
(c) Isitifiketi sokugodlwa, uma kudingekile;
(d) Isitifiketi sokkuchazana sesidumbu
(e) Isifungo esenziwe isihlobo somufi, noma lapho kungafanele, ezinye izihlobo ezisondele, sivuma ukulahlwa kwesidumbu uma lesosidumbu sizongcwatshwa ngendlela eceliwe;
(f) Esimweni la umuntu ubenesifo okufanele kwaziswe uHulumeni ngaso, kumele kuvezwe esicelweni; futhi
(g) Imininingwane yesiko noma inkolelo yezenkolo okumelwe kulandelwe.

(2)(a) Akekho umuntu, kuzeleke kusigaba 10(2)(b), ngaphandle kwemvume etholakele kuMkhandlu ngaphambilini ebhaliwe, ozokwenza, adale noma avumele umngcwabo noma ukulothiswa noma ngabe iyiphi indawo kuMasipala ngaphandle kwasemangcwabeni noma endaweni yokulothisa esungulwe futhi ephethwe uMkhandlu.

(b) Umhlali –

(i) angcwatshwa kumhlaba abehlala kuwo ngenkathi eshona; futhi

(ii) angangcwaba ilungu lomndeni wakhe kumhlaba lapho umhlali kade ehlala khona.

(c) Umngcabo ohlongozwa kusigaba 10(2)(b) ungenzeka –

(i) ngemuva kwesaziso kumnini noma umuntu ophethe ngumhlali noma amalungu omndeni wakhe; futhi

(ii) uma imikhuba esunguliwe ikhona maqondana nomhlaba lapho umhlali ebehlala khona.

(3) Isicelo semvume yokungcwaba kumele sinikezwe umnakekeli okungenani amahora angu 24 ngaphambi komngcwabo ohleliwe, ukuhluleka ukukwenza lokho kungadala ukuthi umnakekeli anqabe isicelo.

(4) Akekho umuntu ozokwenza, adale noma avumele umngcwabo wenzeke emangcwabeni, ngaphandle kokuthola imvume ebhaliwe yomngcwabo, igodi elithile linikezelwe ngenhloso yokungcwaba nosuku, nesikhathi somngcwabo kuhleliwe nomnakekeli.

(5) Uma kukhishwa usuku nesikhathi sokungcwaba, umnakekeli kumele ukuba unake amasiko ezihlobo zikamufi nenkolo yabo noma ubulungu besonto.

(6) Uma enikezela ngegodi, umnakekeli uzovumela, ngokungako, umuntu onegunya ukuba abone i*plani* lasemangcwabeni, ebonisa zonke izinhlobo zezindawo, futhi amvumele ukukhetha indawo ayithandayo, kodwa kungabi yigodi uqobo alithandayo. Ukunikezela

ngegodi elithile kuyimpendulelo futhi nokucabanga kuka mnakekeli futhi umngcwabo uzokwenzeka kuphela kulelogodi elikhishwe uyena.

(7) UMkhandlu, ngokubona kwawo, ungavumela ukuthi umngcwabo uqhubeke ngaphandle kokukhokha imali enqunyiwe yengxenye yendawo yasemangcwabeni ebekelwe eceleni ngokwalenhloso futhi ngendlela obona ngayo.

(8) Isaziso sokwesula noma ukuhlehlisa umngcwabo kumele ulethwe kumnakekeli okungenani amahora angu 4 ngaphambi kwesikhathi esibekelwe ukungcwaba.

(9) Ukunikezwa imvume yokungcwaba kanye nokunikwa igodi elithile emangcwabeni, akunikezi ofake isicelo, onegunya noma ubani omunye noma yiliphi ilungelo maqondana nalelo godi ngaphandle kokungcwaba isidumbu kulelo godi.

(10) Ngaphandle kwemvume yoMkhandlu, akekho umuntu ozobeka noma adale ukuthi noma yiliphi ibhokisi elenziwe nganoma iyiphi impahla ngaphandle kokhuni noma iyiphi enye eyonakalayo, lifakwe egodini.

(11) UMkhandlu ugodla amalungelo awo ukuhlola okuqukethwe ibhokisi ngaphambi kokungcwaba, esikhathini lapho kukhona noma ngabe ikuphi okungahambi kahle emininingwaneni esemaphepheni.

(12) UMkhandlu unganqabela umuntu, kubandakanya umngcwabi, imvume yokufaka isidumbu egodini uma amaphepha adingwa nguMkhandlu awaka yiswa eMkhandlwini ngaphambi komngcwabo.

Ukungcwatshwa kwesidumbu

11. (a) Wonke amathuna kumele, kuncike esigabeni 10(2), ahlinzekwe umnakekeli ngaphandle kokwakhelwa ngezitina noma ukhonkolo, kulezozimo umsebenzi wezitina noma ukhonkolo kumele wenziwe umngcwabi ngaphansi kweso lokamnakekeli futhi ngokulandela ucaciso olusebenza emathuneni ajwayelekile.

(b) Kumele kube, okungenani, 1200mm yomhlabathi phakathi nephezulu lebhokisi lomuntu omdala kanye neliphansi, futhi okungenani 900mm wenhlabathi phakathi kwephezulu lebhokisi lengane neliphansi.

(c) Zonke izidumbu kumele zifakwe emabhokisini okungcwatshwa, ngaphandle, njengoba kunikezwelwe umphakathi wama *Muslim.*

(d) Akekho umuntu, ngaphandle kwemvume etholakele kumnakekeli ngaphambilini, ongenza noma ngabe yimuphi umcimbi wezenkolo noma inkonzo ngokwamalungelo ehlelo olulodwa kunoma iyiphi indawo yasemangcwabeni eqokwe uMkhandlu ngokwemibandela yokuhlinzekwa yiloMthetho ka Masipala, ukusetshenziselwa amanye amahlelo.

(e) Akekho umuntu ongavumela emangcwabeni imoto ethwala izidumbu ukuthi isuke emigwaqeni ebekelwe yona, futhi zonke izimoto ezithwala izidumbu kumele zihambe emangcwabeni masinyane ngemuva komngcwabo lowo ekade iwuzele.

(f) Wonke umuntu obebambe iqhaza kunoma yimuphi umngcwabo noma umcimbi kumele ahambisane nezilawulo zika mnakekeli ukuthi yiyiphi indlela okumele ithathwe phakathi emangcwabeni.

(g) Akekho umuntu ongahambisa noma ambule isidumbu noma iyiphi ingxenye yaso ngendlela enyantisayo kunoma imuphi umgwaqo, amangcwaba noma indawo yomphakathi.

(h) Sonke isicelo kanye nencwadi okumaqondana nanoma ikuphi ukungcwaba kumele kufakwe uphawu oluhambisana nenombolo kurejista okukhulunywe ngayo kusigaba 4 futhi kumele ifayilwe futhi yongiwe uMkhandlu isikhathi esingengaphansi kweminyaka elishumi.

(i) Lonke ibhokisi noma umzimba uma usubekiwe phezu kwanoma iliphi igodi kumele, ngaso leso sikhathi, kuvalwe ngo 500mm womhlabathi.

(j) Akekho umuntu ongaphazamisa noma ngabe yisiphi isidumbu noma umhlabathi osondelene naso noma kumaphi amangcwaba, ngaphandle lapho lokokuphazamisa kugunyaziwe yiloMthetho ka Masipala noma umyalo we Nkantolo.

(k) Ekupheleni kokungcwaba, umuntu okukhulunywa ngaye esigatshaneni (a) noma umuntu ogubhe igodi kumele aqoqe izindawo ezisondele kubandakanya izindlela zezinyawo namathuna, konke okuwumhlabathi, imfucumfucu nokunye okuyimpahla okuvuleke ngenxa yokugubha lelogodi.

(l) Umuntu ohlele umngcwabo kumele athathe zonke zinyathelo ezingathatheka ukuqinisekisa ukuthi akukho monakalo owenzekayo empahleni emaduzane ngesikhathi somcimbi womngcwabo, kubandakanya ukuwa kwezindonga zamathuna futhi athathe izinyathelo zokuvikela loko ukuthi kwenzeke.

(m) UMkhandlu unelungelo lokwenza noma ngabe yiyiphi indawo ibe yisicaba elapho, noma emaduze nanoma yiliphi ithuna kubandakanya indunduma yethuna izinyanga ezintathu ngemva komngcwabo wenziwe.

Abantu abantulayo

12. Umuntu ofaka isicelo sokungcwaba umuntu oswelayo, kumele adalule ngaloko.

Ukungcwatshwa komlotha

13. (1) Umlotha ungangcwatshwa ebhokisini futhi amabili kuphela amabhokisi aphethe umlotha angangcwatshwa ethuneni elidephe ngokweqile; inqobo uma ibhokisi lingadluli isilinganiso esimaphakathi sokusinda komzimba okungu 70kg, futhi okunye, ukuthi igodi lilungiswa kabusha lidephe ngesikalo esinquyiwe.

(2) Akekho umuntu ongenza umngcwabo noma enze umngcwabo womlotha emangcwabeni, ngaphandle kwemvume yomngcwabo ebhaliwe itholakale, igodi elithile noma ikhosomba kunikelwe ngenhloso yokungcwaba kanye nosuku, nesikhathi somngcwabo kuhleliwe nomnakekeli.

(3) Isicelo sokungcwaba umlotha isikhathi esithile noma unaphakade, noma ukuhlinzeka kwamatafula esikhumbuzo empahla evunyelwe ukulungiswa ebhilidini, indawo yamakhosomba noma iyiphi indawo kumele senziwe kumnakekeli ngokubhaliwe ngokugcwalisa futhi sinikezwe ngefomu elinqunyiwe.

(4) Amakhosombana azokhishwa umnakekeli ngokulandela kuphela indlela izicelo ezingene ngayo futhi akuzoba khona ukugodlelwa ikusasa okuzosebenza.

(5) Isicelo semvume sokungcwaba kumele senziwe okungenani amahora angu 24 okusebenza ngaphambi kongcwabo ohleliwe, ukuhluleka ukukukwenza lokho kungenza umnakekeli asenqabe isicelo.

(6) Ivasi noma ibhokisi okuphethe umlotha okubekwe ebhilidini, ikamelo noma okunye kokuphatha kumele kungasuswa ngaphandle kwemvume yangaphambilini kamnakekeli.

(7) Ikhosomba nekhosomba eliphethe umlotha kumele livalwe ngoqwembe olugunyazwe uMkhandlu futhi lingavulwa kuphela ngenhloso yokuthatha ivasi noma ibhokisi elifakwe lapho ukuyolilahla kwenye indawo, noma ngenhloso yokufaka enye ivasi noma ibhokisi okuzothi emva kwalokho livalwe.

(8) Isicelo sokuvula ikhosombana kumele senziwe kumnakekeli ngokubhaliwe ngokugcwalisa nokunikezela ngefomu yesicelo enqunyiwe.

(9) Akekho umuntu ongethula noma ngabe iyiphi impahla phakathi kwekamelo ngenhloso yokwakha noma ukuhlanganisa noma ngabe yimuphi umsebenzi wesikhumbuzo ngaphakathi ngaphandle noma kuze kube:

(a) imvume yokungcwaba itholakele kuMkhandlu;

(b) imvume yokwakha umsebenzi wesikhumbuzo itholakele ku Mkhandlu; kanye

(c) Izimali ezinqunyiwe zikhokhiwe ezizoqagulwa ngu Mkhandlu isikhathi nesikhathi.

(10) Noma ngabe ubani umuntu ozibandakanya nomsebenzi ekamelweni, kumele awenze lowo msebenzi ngendlela egculisa umnakekeli, futhi lowo msebenzi kumele wenziwe phakathi kwamahora asemthethweni okusebenza emangcwabeni.

(11) Awekho amagoda noma imiqhele yezimbali yanomphelo, izifafazo, izimbali, noma imibalabala yokuhlonipha engabekwa phakathi noma phezulu kwekamelo.

(12) Ikamelo lingavakashelwa nsukuzonke phakathi kwamahora okusebenza asemthethweni asemangcwabeni njengoba kubekwe uMkhandlu.

(13) Izinqwembe kumele zenziwe ngezinto zokwakha ezigunyazwe uMkhandlu futhi kumele zibethelwe ngesikhathi esisodwa sokufaka umlotha futhi phakathi wezinsuku ezingu 30 zokuthola imvume.

Ukungcwatshwa kwesidumbu esisetshenziselwe ucwaningo lwesayensi noma lwezempilo

14. Okuseleyo kwesidumbu esisetshenziswe esikhungweni sokufundisa ngokufundisa abafundi, ngokujwayelekile ebizwa ngesidumbu esisetshenziselwe ucwaningo lesayensi noma lwezempilo, kungangcwatshwa ebhokisini elilodwa futhi amabhokisi anjalo amabili aphethe loko angangcwatshwa egodini elidephe ngokweqile njengoba kuhlongozwe kusigatshana 16(d): inqobo uma ibhokisi lingadluli isisindo esimaphakathi somzimba sika 70kg, futhi ngale kwalokho, igodi lilungiswa kabusha lidephe ngesikalo esinquyiwe.

Abantu abashona ngaphandle kwendawo ka Masipala

15. Ukuhlinzeka kwalo Mthetho ka masipala uzosebenza *mutatis mutandis* kunoma ikuphi ukungcwaba emangcwabeni, komuntu oshone ngaphandle kuka Masipala

16. Izikalo zamangcwaba

(a) Ukwembiwa kwethuna lomuntu omdala kumele okungenani lidephe ngo 1820mm, 2300mm ubude, futhi 760mm ububanzi.

(b) Ukwembiwa kwethuna lengane kumele okungenani lidephe ngo 1400mm, 1520mm ubude no 610mm ububanzi.

(c) Esimweni la ithuna elingenhla kokudepha, ubude noma ububanzi kwaloku okuchaziwe ngenhla kudingakala, isicelo saloko, kuhambisana nezimali ezingenhla ezinqunyiwe okumele zikhokhwe, kumele kwenziwe kumnakekeli kuhambisana nesicelo sokuthola imvume yokungcwaba.

(d) Ukwembiwa kwegodi elidephe ngokweqile ukungcwaba izidumbu ezimbili kumele kube okungenani 2400mm ukudepha, 2300mm ubude no 760mm ububanzi.

(e) Ukwehluka kulezizikalo zamagodi kumele kube kanje:

Ububanzi obeqile	:2300mm ubude
	: 840mm ububanzi
Ubude obeqile	:2530mm ubude
	:760mm ububanzi
Unxande omncane	:2300mm ubude
	900mm ububanzi
Isisekelo sezitina	:2600mm ubude
	:1050mm ububanzi

(f) Indawo yegodi eliwunxande yomuntu omdala kumele kube 1500mm ububanzi no 2600mm ubude.

(g) Indawo yegodi lomuntu omdala kumele libe 1210mm ububanzi no 2430mm ubude.

(h) Indawo yegodi lengane kumele libe 1210mm ububanzi no1520mm ubude. Uma ibhokisi lilikhulu kakhulu, igodi lomuntu omdala kumele lisetshenziswe.

ISAHLUKO 4

UKULOTHISWA

Izicelo zokulothiswa

17. (1) Izicelo zokulothisa kumele zenziwe ngokwemibandela, izikhathi kanye nezindawo futhi uma sekukhokhiwe izimali eziqaguliwe uMkhandlu.

(2) Umuntu angalothisa kuphela noma enze ukuthi kulothiswe noma imuphi umzimba phakathi kwendawo yokulothisa ngemuva –

(a) Kokuhambisana nomthetho osebenzayo;
(b) Kokuthola imvume kuMkhandlu; futhi
(c) Kokuhambisa nezimiso njengoba kuqagulwe uMkhandlu.

Ukulothiswa

18. (a) Iapho ilungu lomphakathi lifisa ukuba khona uma kulothiswa, isicelo salelo lungu ukuthi libe khona kumele senziwe kuMkhandlu, ozocubungula isicelo ngendlela obona ngayo.

(b) Noma isiphi isidumbu esinemifakela yezicubu zenhliziyo noma izinsiza zokwelapha ezifakwa lapho khona izicubu ezidliwa umdlazuva ngenhloso yokuzelapha noma yini okunye okungadala ukuqhuma noma yini engadala ukukhishwa kwegesi uma kushiswa, singelothiswe ngaphandle kokuthi zikhishiwe.

(c) Indawo yokulothisa kumele ifakwe imishini ukwenzela ukuvikela ukuchitheka komlotha emkhathini

Amabhokisi okulothisa

19. (a) Uma silothiswa, isidumbu kumele sihlaliswe phakathi kwebhokisi.

(b) Ibhokisi lapho isidumbu silothiselwa khona kumele lenziwe ngokhuni noma ngezinto zokwenza ezinganabuthi.

(c) Upende wokhuni ongenabuthi, upende noma inhlaka kumele kusetshenzisiwe lapho kukhandwa khona ibhokisi lokulothisa isidumbu.

(d) Uma sekulothisiwe, ibhokisi lingaphatha kuphela izinto ezishisekayo, kuhlanganisa izingubo zokugqoka, izicathulo nokunye kokuhloba okwanoma iluphi uhlobo, futhi uMkhandlu uzoba nelungelo ukukhipha okungashiseki ebhokisini.

(e) Ngaphambi kokuthi ukulothiswa kuvumeleke ukuthi kwenzeke, umfaki sicelo noma ummeli wakhe bayophoqeleka ukuveza isitifiketi esiqinisekisa ukuthi ibhokisi lihambisana nezigatshana (b) no (c) ngenhla.

(f) Asikho isidumbu esizosuswa kunoma iliphi ibhokisi ngenhloso yokushisa futhi ibhokisi lingevulwe endaweni yokulothisa ngaphandle kwemvume yoMkhandlu, okungamele igodlwe ngokungenasizathu.

ISAHLUKO 5

AMANGCWABA KANYE NEZINDAWO ZOKULOTHISA ZANGASESE

Imisebenzi yomnini

20. (1) Umnini bhizinisi wamangcwaba noma indawo yokulothisa yangasese uMkhandlu olinikeze imvume kumele –

(a) Ahambisane –

(i) nanoma isiphi isimo esithe phecelezi esingaqagulwa uMkhandlu maqondana namangcwaba kanye nendawo zangasese isikhathi ngesikhathi; kanye

(ii) nokuhlinzekiwe, okufanelekile, kwaloMthetho ka Masipala kanye nanoma imuphi umthetho ofanele;

(b) Agcine iphansi, ofenisi, amasango, imigwaqo, izindlela kanye namapayipi okuchitha amanzi kusohlelweni nesimo esihle futhi kungekho ukhula kanye nokukhula kwezimila okweqile;

(c) Avumele umuntu osegunyeni lo Mkhandlu ukungena noma ukuhlola emangcwabeni noma indawo yokulothisa nawowonke amarekhodi agciniwe maqondana nalokhu; futhi

(d) Akhethe umuntu onekhono elifanele ukuphatha emangcwabeni kanye nokugcina amarekhodi.

(2) Umnini wamangcwaba angasese, indawo yokulothisa yangasese, indawo yangasese, ngezizathu ezizwakalayo, anganqaba imvume yokungcwaba isidumbu noma ukusilothisa emangcwabeni noma endaweni yokulothisa.

ISAHLUKO 6

IZINGXENYE EMANGCWABENI

UMkhandlu ungenza izigaba emangcwabeni

21. (1) UMkhandlu ungasungula ingxenye eyodwa noma ezingaphezulu ezilandelayo emangcwabeni wawo:

(a) Ingxenye yezikhumbuzo
(b) Ingxenye yendawo yamatshe esikhumbuzo ekhanda aqondiswe nse
(c) Ingxenye yendawo yokubukeka kwezwe ngamehlo
(d) Ingxenye yamatshe ezikhumbuzo
(e) Ingadi yesikhumbuzo
(f) Indawo yokulothisa noma yokunciphisa isidumbu
(g) Indlu enamagumbi amathuna
(h) Izindlwana zokungcwaba ezakhelwe ngaphezulu komhlabathi
(i) Ingxenye yezenkolo

Izindawo zesikhumbuzo

22. (a) Ingxenye yesikhumbuzo yingxenye yamathuna emangcwabeni ebekelwe ukukhandwa komsebenzi wezikhumbuzo mamathuna.

(b) UMkhandlu, ngokuhamba kwesikhathi, ungalinganisa wonke amathuna utshale utshani lapho.

(c) Izimbali, amahlamvu, amagoda ezimbali noma imihlobiso kungabekwa phezu kwendawo yamatshe esikhumbuzo ekhanda aqondiswe nse kuphela yamangcwaba, ngaphandle lapho amathuna awakwalinganiswa.

Ingxenye yendawo yamatshe esikhumbuzo ekhanda aqondiswe nse

23. (a) Ingxenye yendawo esemangcwabeni ebekelwe eceleni uMkhandlu lapho umsebenzi wesikhumbuzo ugcina etsheni lekhanda kuphela, kanye nokumbozwa kwephansi kutshalwe ngobungako bethuna

(b) Amatshe asekhanda angaba nama vasi amabili ezimbali

(c) Amatshe asekhanda kumele akhiwe ekhekhebeni likakhonkolo elihlinzekwa uMkhandlu noma phezu kwesisekelo esifanele ukwesekela itshe lasekhanda, okumele sembelwe ngokuvundlile phansi ngokuma okukhonjiswe uMkhandlu.

(d) Alukho unqenqema noma uphahla oluklama ithuna noma ikhekheba lika simende likakhonkolo elimbozayo elivumelekile

(e) Izimbali, amahlamvu, amagoda ezimbali noma imihlobiso kungabekwa phezu kwe ndawo yamatshe esikhumbuzo ekhanda aqondiswe nse kuphela yamangcwaba, ngaphandle lapho amathuna awakalinganiswa.

Ingxenye yokubukeka kwezwe ngamehlo

24.(a) Ingxenye yokubukeka kwezwe ngamehlo yingxenye yamathuna emangcwabeni ebekelwe eceleni uMkhandlu lapho umsebenzi wesikhumbuzo ugcina oqwembeni oluvundlisiwe noma ikhekheba lika simende likakhonkolo lesikhumbuzo kuphela, kube neliphansi elemboze ubungako bethuna

(b) Akukho okunye okungabekwa phezu kwethuna ngaphandle koqwembe noma ikhekheba likakhonkolo lesikhumbuzo

(c) Alukho unqenqema noma uphahla oluklama ithuna noma ikhekheba lika simende likakhonkolo elimbozayo elivumelekile

(d) Izimbali, amahlamvu, amagoda ezimbali noma imihlobiso kungabekwa phezu noma eceleni koqwembe noma ikhekheba lika simende likakhonkolo lesikhumbuzo, ngaphandle lapho amathuna awaka linganiswa:

Izingadi zesikhumbuzo

25. (a) Ingadi yesikhumbuzo yingxenye esemangcwabeni ebekelwe eceleni ukwakha kwezikhumbuzo zomuntu ngamunye, isiqumbi sabantu noma isehlo, izindonga zesikhumbuzo, izindonga zamakhosomba, ukusungulwa kwamathuna omlotha kanye nokusabalaliswa komlotha;

(b) Izimbali kanye namagoda ezimbali kungabekwa kuphela ezindawenı ezihlinzekiwe lapho.

Indawo yokulothisa nokunciphisa isidumbu

26. UMkhandlu ungabekela eceleni izingxenye emangcwabeni ukusungula kwendawo yokulothisa nokunciphisa izidumbu

Isikwele sesikhumbuzo

27. (a) Isikwele sesikhumbuzo ingxenye yamathuna emangcwabeni ebekelwe eceleni ukungcwaba nokukhumbula amaqhawe nabantu abadumile

(b) Akekho umuntu ongangcwatshwa noma akhunjulwe kulengxenye ngaphandle kokuthi isimo sakhe sobuqhawe noma ukuduma kuqinisekisiwe uMkhandlu ngokubhala.

Amagumbi okungcwaba

28. Ingxenye yamagumbi okungcwaba ingasungulwa emangcwabeni lapho izidumbu zingcwatshwa emagunjini.

Izindlwana zokungcwaba ezakhelwe ngaphezulu komhlabathi

29. Izindlwana ezingaphezulu komhlabathi zokungcwaba zingasungulwa emangcwabeni lapho izidumbu zingcwatshwa ezindlwaneni eziphezulu komhlabathi.

Ingxenye yezamahlelo

30. (a) UMkhandlu ungabekela eceleni ingxenye yezamahlelo emangcwabeni wawo ukusebenzisela okukhethekile kokholo oluthile, inkolo noma isiqumbi samasiko lapho izidingo zokungcwaba ziphoqa ukulungisa mathupha kwegodi maqondana nokumiswa, ukujiya kanye nokudepha ngale kokujwayelekile.

(b) Ukwabiwa kwezingxenye ezinjalo akuzukulimaza izidingo zokungcwaba zabahlali abajwayelekile.

ISAHLUKO 7

UKWAKHIWA NOKUGCINWA KWEMISEBENZI YESIKHUMBUZO NOKUNAKEKELWA KWAMATHUNA

Imvume yoMkhandlu

31. (1) Akekho umuntu ongaletha noma ikuphi okuyisikhumbuzo emangcwabeni noma akhe, ashintshe, apende, alungise, ahlobise, asuse noma ngandlela thile aphazamise noma imuphi umsebenzi wesikhumbuzo noma asike noma ngabe umuphi umbhalo oqoshwe kuwo emangcwabeni ngaphandle kwemvume ebhalwe uMkhandlu futhi nenkokhelo yemali edingakalayo, ngaphandle kwenhloso yomsebenzi wokunakekela omisiwe.

(2) Ngaphambi kokwakha umsebenzi wesikhumbuzo, umfaki sicelo kumele alethe eMkhandlwini kuzogunyazwa okungenani izinsuku ezinhlanu zokusebenza ngaphambi kokwakha okuhlongoziwe, isicelo leso kumele simbandakanye –

(a) Iplani elinikeza isiboniso sazikalo sawo nesimo sawo;
(b) Ukuchazwa kwezinto ezizokwenza umsebenzi wesikhumbuzo; futhi
(c) Namagama ombhalo.

(3) UMkhandlu ungasivuma isicelo okukhulunywa ngaso kusigatshana (2) ngezimiselo noma ngaphandle kwazo njengoba ungabona kufanelekile, futhi ungasenqaba isicelo uma singahambisani nezidingo maqondana nomsebenzi wesikhumbuzo njengoba kunqunywe uMkhandlu.

(4) Akekho umuntu ongaletha emangcwabeni noma ngabe yini okokwakha ngenhloso yokwakha lapho noma ngabe yiwuphi umsebenzi wesikhumbuzo kunoma yiliphi ithuna ngaphandle –

(a) Ukuhlinzekwa kwesigatshana (1) kuya ku (3) kulandelwe; futhi
(b) Ubufakazi bokukhokha maqondana nomsebenzi okumele wenziwe sekwenziwe.

(5) Ukuvumela umsebenzi ohlongozwayo kuzosebenza kuphela ezinyangeni eziyishumi nambili ukusukela osukwini okuvunywe ngalo, futhi uma kwenzeka umsebenzi wesikhumbuzo ungenziwa ngaphakathi kwesikhathi esinqunyiwe, isicelo esisha kumele sifakwe.

Izidingo zokwakhiwa komsebenzi wesikhumbuzo

32. (1) Umuntu owakha umsebenzi wesikhumbuzo kumele ahambisane naloku okulandelayo–

(a) Ukusebenza akwenzeke ngendlela yokuthi akukho okulimalayo kunoma isiphi isakhiwo noma ukona;
(b) Ngemvume yomfaki sicelo, igama lomakhi noma umkhiqizi lingakhangiswa emsebenzini wesikhumbuzo, kodwa akukho kheli noma imiphi eminye imininingwane engavezwa kuwona, futhi isikhala esisetshenziselwe kona singabi sikhulu kuno 40x100mm;
(c) Yonke impahla yokwakha engasetshenziswanga ngemuva kokuqeda umsebenzi kumele isuswe futhi izindawo ezimaduze kumele zishiywe zinobunono futhi zihlanzekile; futhi
(d) Noma ngabe yimuphi umonakalo owenzekile kumele ulungiswe ngezindleko zomuntu owenze lowo monakalo futhi uma umuntu onempendulelo ehluleka ukwenza loko kulungisa, ngemuva kwesexwayiso esifanele, uMkhandlu ungaqala ukwenza umsebenzi wokubuyisela esimweni ngezindleko zalomuntu owakhe umsebenzi wesikhumbuzo.

Ukuma, ukuhanjiswa nokususwa komsebenzi wesikhumbuzo

33. (a) Akekho umuntu ongakha umsebenzi wesikhumbuzo ethuneni ngaphambi kwesimo lapho lowomsebenzi kumele ube khona ukhonjisiwe ngokweplani eligunyaziwe.

(b) Uma isimiso okukhulunywa ngaso kusigatshana (a), uMkhandlu ungazisa lowo muntu ngokubhala, ushintshe isimo somsebenzi wesikhumbuzo futhi wenze umuntu abuyise izindleko zokushintsha lapho umsebenzi wokulungisa wenziwe khona.

(c) Esimweni lapho umsebenzi wesikhumbuzo ekuqaleni umiswe ngandlela thile ngokuvuma koMkhandlu, noma ngabe ikuphi ukushintshwa kokuma, kuyokwenziwa ngezindleko zoMkhandlu, ngokwemibandela yokuhlinzeka kwalesisigaba.

Umsebenzi kanye nokunakekelwa maqondana nomsebenzi wesikhumbuzo

34. (a) Noma ubani umuntu obandakanyeka kunoma imuphi umsebenzi, kumele enze lowo msebenzi ngaphansi kolawulo loMkhandlu.

(b) Uma umuntu owakhe umsebenzi wesikhumbuzo evumela lowo msebenzi wesikhumbuzo ukuthi ubesesimweni sokungalungiseki, ukuthi kungenza ingozi noma konakalise emangcwabeni, uMkhandlu unganikezela ngesexwayiso sokuhambisana nemithetho kulowo muntu.

(c) UMkhandlu, ngemuva kwesexwayiso esifanele, noma inini ushintshe noma uguqule ukuma komsebenzi wesikhumbuzo obekwe emangcwabeni ngaphandle kwemvume yoMkhandlu futhi ubuyise izindleko ongene kuzo kumnini womsebenzi wesikhumbuzo.

(d) Umsebenzi wesikhumbuzo obekwe, wakhiwa, washintshwa, wahlotshiswa, wapendwa noma wenziwani emangcwabeni ngendlela yokuthi noma yikuphi ukuhlinzekwa kwaloMthetho ka Masipala kuphuliwe, ungasuswa uMkhandlu ngezindleko zalowo muntu obandakanyekayo, ngemuva kwesexwayiso, ngaphandle kwenkokhelo yesinxephezelo.

Ukulinyazwa komsebenzi wesikhumbuzo

35. UMkhandlu awunampendulelo nanoma yikuphi ukulinyazwa okungenzeka emsebenzini wesikhumbuzo okungenzekanga ngenxa yobudedengu babantu abasemagunyeni kuMkhandlu.

Izimoto namathuluzi

36. Noma ngabe imuphi umuntu ozibandakanya nomsebenzi ethuneni noma endaweni kumele aqinisekise ukuthi izimoto, amathuluzi noma okunye kokwenza umsebenzi kuhambisana nokuhlinzeka kwaloMthetho kaMasipala futhi nanoma imuphi omunye umthetho ofanele, futhi akuvimbi imigwaqo nezindlela.

(b) Akekho umuntu ongathinta izinto zokusebenza, amatshe, izitina noma umsebenzi wesikhumbuzo noma ingxenye yako ngaphakathi emangcwabeni phezu kwemoto noma iloli okungenza umonakalo ezindleleni noma phansi noma isakhiwo sasemangcwabeni.

Ukuhambisana nomyalo woMkhandlu

37. Umuntu osebenza phakathi emangcwabeni kumele ngakokonke ahambisane nemiyalo yoMkhandlu.

Izikhathi zokuletha okokusebenza kanye nokwenza umsebenzi

38. (a) Akekho umuntu ongaletha umsebenzi wesikhumbuzo noma izinto zokusebenza maqondana nalokhu, noma enze noma imuphi umsebenzi ngaphandle kokudilizwa komsebenzi wesikhumbuzo ngenhloso yokungcwaba ngaphakathi emangcwabeni ngaphandle ezikhathini ezinqunywe uMkhandlu.

(b) Akekho umuntu ongazibandakanya emsebenzini ongaphazamisa noma ophazamisa emngcwabeni ngesikhathi somngcwabo.

Izimo zomhlabathi ozikayo

39. UMkandlu awunampendulelo ekulinyazweni komsebenzi wesikhumbuzo owenzeke kunoma ikuphi ukuzika komhlabathi.

Ukuveza imvume ebhaliwe

40. (1) Umuntu ophethe ukwenziwa komsebenzi noma endleleni yakhe eya noma ebuya emsebenzini ngaphakathi emangcwabeni kumele ngenkathi uMkhandlu noma umuntu osegunyeni efuna kuye, akhiphe imvume ebhaliwe ekhishelwe yena.

ISAHLUKO 8

UKUVULWA FUTHI KWAMATHUNA NOKUGUJWA

Isicelo sokugubha ithuna

41. (1) Isicelo sokugubha ithuna kumele sinikezwe uMkhandlu futhi sibandakanye lokhu okulandelayo –

(a) Ifomu yesicelo egcwalisiwe;
(b) Ikhophi yesitifiketi sokufa; futhi
(c) Incwadi noma isifungo esifungelwe ephuma esihlotsheni somufi evumela ukugujwa kwethuna

Izimiso zokugubha ithuna

42. (1) Akekho umuntu ongagubha ithuna noma enze ukuthi kugujwe isidumbu ngaphandle kwemvume ebhaliwe ka –

(a) UNgqongqoshe;
(b) UMkhandlu;
(c) Umnyango Wezempilo wesifundazwe;
(d) Administrator of cemeteries;
(e) *Council's Medical Officer of Health* noma
(f) Ngomyalo weNkantolo onolawulo ezindabeni ezinjena.

(2) Njalo lapho ukugujwa kwethuna kuzokwenzeka, umuntu osegunyeni ophethe kumele azise u *Provincial Commissioner of the South African Police Services*.

(3) ILungu le *South African Police Services* kumele njalo libe khona uma kugujwa ithuna.

(4) Imvume ebhaliwe okukhulunywa ngayo kusigatshana (1) kumele inikwe udokotela wezemvelo nezempilo okungenani zinsuku ezinhlanu zokusebenza ngaphambi kosuku lolo lokugubha ithuna.

(5) Udokotela wezemvelo nezempilo angaphoqa izimiso maqondana nokukhishwa kwesidumbu futhi ukukhishwa kwesidumbu kungaqhubeka uma ngabe lezozimiso zigciniwe.

(6) Ukukhishwa kwesidumbu akungenzeki uma emangcwabeni kuvulelwe umphakathi futhi kumele kwenzeke ngaphansi kolawulo lomuntu ophethe osegunyeni.

(7) Uma okuseleyo kwesidumbu kumele kukhishwe ethuneni umngcwabi kuphela, ngaphansi kolawulo lophethe osegunyeni, ongenza ithuna ligujelwe loku;

(8)(a) Uma ithuna kumele ligujwe ukukhipha isidumbu, umphathi osegunyeni kumele anikezwe amahora angu 48 esaziso esibhaliwe ngaphambi kwesikhathi sokukhishwa kwesidumbu, futhi

(b) Osegunyeni okukhulunywa ngaye kupharagilafu (1)(d) wale Sigaba kanye nemali equnyiwe kumele kuhambe nalesosaziso.

(9) Umuntu ofisa ukukhipha okusele kwesidumbu komuntu oswelayo kumele akhokhe izindleko uMkhandlu angena kuzo ngenkathi kungcwatshwa, ku *Administrator of Cemeteries.*

(10) Umuntu owenza ukukhishwa kwesidumbu ethuneni kumele aqinisekise ukuthi umzimba kanye nasethuneni kubulawa amagciwane futhi kuqholwe.

(11) Okusele komufi kumele, kulindwe ukungcwatshwa kabusha noma ukulothiswa, kugcinwe emagcekeni abangcwabi abasemthethweni.

(12) Umuntu okhipha isidumbu emgodini kumele ahlinzeke isiphatho salowo nalowo mzimba noma okusele komzimba.

(13) I *South African Police Services* kumele –

(a) Uma kukhona ubufakazi bokungcwaba obungekho emthethweni basikhiphe isidumbu; futhi
(b) Basise emakhazeni kaHulumeni ukwenza ucwaningo.

(14) Ithuna lezisulu zodweshu kanye nethuna elidala ngaphezu kweminyaka engu 60 kungakhishwa kuphela ngemvume ye *South African Heritage Resources Agency*.

(15) Ithuna lempi ye *Commonwealth* lingagujwa ngokuhlinzeka kwesigaba 3 so Mthetho we *Commomnwealth War Graves*, 1992.

Ukugubha ithuna nokungcwaba

43. (1) Umkhandlu, uma umzimba ungcwatshwe ngokuphikisana nalo Mthetho ka Masipala, ungenza ukuthi umziba ugujwe futhi ungcwatshwe kabusha kwelinye igodi.

(2) Izihlobo zoshonile kumele –

(a) Zitshelwe ngokuhlongozwa kokugujwa futhi nokungcwatshwa kabusha; futhi
(b) Zivunyewe ukubakhona.

Ukuhenqa ukumbiwa kwethuna

44. Ithuna lapho umzimba uzombiwa khona kumele lihenqwe emehlweni omphakathi ngesikhathi ligujwa.

Ukugubha ithuna okuphuthumayo

45. Awukho umzimba ongakhishwa kungakapheli izinyanga eziyishumi nesishiyagalombili ungcwatshiwe, ngaphandle uma kulandelwa umyalelo we Nkantolo.

Ukungcwaba ngokunciphisa

46. (1) UMkhandlu, ngemuva kokuphela kwesikhathi seminyaka ewu 10 ngemuva kokungcwatshwa kokugcina ethuneni, ungakhipha okusele kwesidumbu ngenhloso yokunciphisa isidumbu bese ungcwaba kabusha okusele kwesidumbu kulelo thuna, ebhokisini elincane, noma ekudepheni okukhulu kuzeleke kwizimiso ukuthi –

(a) Noma obani abaphethe amalungelo angasese kulelo thuna nezihlobo noma izihlobo ezisondele kumufi banikeze imvume.
(b) Maqondana nanoma yiliphi ithuna lapho engekho amalungelo angasese atholakele, lapho izihlobo, noma izihlobo ezisondele banike imvume

ISAHLUKO 9

UKUSINGATHWA NOKUPHATHWA KWAMANGCWABA

Ukuqokwa kophethe isikhundla

47. (a) UMkhandlu kumele uqoke umphathi osegunyeni ukuphatha indawo yasemangcwabeni ngayinye futhi nokusingatha leyondawo

(b) Umphathi osegunyeni okumele akuthathele emqondweni amasiko omufi nomuntu oqondene nokungcwaba futhi kumele akubekezelele loku ngaphakathi kohlaka lwalo Mthetho ka Masipala.

Izingane

48. Ayikho ingane engaphansi kweminyaka ewu 12 engangena emangcwabeni ngaphandle kokuthi ingaphansi kolawulo nonakekelo lomuntu onempendulelo omdala.

Ukugcina endleleni

49. Bonke abantu babhekeke ukuthi bahambe ezindleleni ezikhonjisiwe emangcwabeni, lapho izindlela ezinjalo zikhona.

Ukuziphatha okungavumelekile emangcwabeni

50. (1) Akekho umuntu –

(a) Ongenza noma adale inkathazo phakathi emangcwabeni
(b) Agibele isilwane, ibhayisikili elimasondomabili noma amathathu, noma i-skateboard ngenhloso yokuzithokozisa noma ukubamba iqhaza kunoma yiluphi uhlobo lokuzithokozisa noma yini yezemidlalo ngaphakathi emangcwabeni, ngaphandle kokuthi kunqunywe uMkhandlu ngenye indlela.
(c) Ngaphandle komuntu oyimpumputhe, ozoletha noma avumele isilwane ukuhambahamba ngaphakathi emangcwabeni, inqobo uma izinja ezibanjwe ngamabhande zizovumeleka ngaphandle uMkhandlu unquma ngenye indlela;
(d) Atshale, anqume, athathe noma asuse isihlahla, isitshalo, izihlahlana noma izimbali ngaphandle kwemvume yoMkhandlu;
(e) Abambe noma abandakanyeke ekutelekeni phakathi emangcwabeni
(f) Aphazamise noma athikameze –

(i) ukwenza imisebenzi komphathi osegunyeni noma osebenzayo oqashwe uMkhandlu

(ii) umngcwabo owenzekayo emangcwabeni

(g) Avimbe, azabalaze noma aphikisane nomphathi osegunyeni enza umsebenzi wakhe, noma enqabe ukuhambisana nomyalelo noma isicelo umphathi osegunyeni onelungelo lokukwenza ngaphansi kwalo Mthetho ka Masipala;
(h) Amake, adwebe, abhale, apende noma abeke into odongeni, kubhilidi, kufenisi, esangweni, emsebenzini wesikhumbuzo noma akhe ngaphakathi kwamangcwaba, ngaphandle kwenhloso esemthethweni;
(i)Asebenzise amanzi ukuchelela ingadi, noma okunjani, ngaphandle kwemvume yo Mkhandlu;
(j)Ashiye inkunkuma, inhlabathi, itshe, imfucumfucu, izibi noma udoti ngaphakathi emangcwabeni;
(k) Noma ngayiphi indlela onakalise, acekela phansi noma aphathe ngendluzula noma ngabe iyiphi ingxenye yasemangcwabeni noma yini lapho;
(l)Angene noma aphume emangcwabeni, ngaphandle kwendawo yokungena noma yokuphuma ebekelwe leyonhloso;
(m) Akhankase noma enze ibhizinisi, uhlelo, enze umbukiso, asabalalise noma ashiye indawo, ikhadi lebhizinisi noma ukukhangisa ngaphakathi emangcwabeni, ngaphandle kwendawo ebekelwe izinhloso ezinje ngu Mkhandlu futhi ngesivumelwano sangaphambilini soMkhandlu;
(n) Aphathe ithuna noma umsebenzi wesikhumbuzo ngokungahloniphi, njengokugibela noma ukuhlala phezu kwethuna noma umsebenzi wesikhumbuzo;
(o) Angene ehovisi, kubhilidi noma endaweni ebiyelwe emangcwabeni ngaphandle uma kusemthethweni;
(p) Aveze isidumbu noma ingxenye yaso emangcwabeni;

(q) Adlule inani lokuhamba kwemoto emangcwabeni elingu 20km ngehora;
(r) Asebenzise indawo yasemangcwabeni njengendawo enqamulelayo
(s) Avume noma enze noma isiphi isilwane ukungena kunoma iyiphi indawo yasemangcwabeni ngaphandle komphathi osegunyeni, ohlala khona futhi ogcina izilwane ezifuyiwe ngemvume etholakele phambilini ku Mkhandlu
(t) Eze nophuzo oludakayo noma aphuze noma ikuphi okudakayo emangcwabeni noma aqhumise noma isiphi isibhamu emangcwabeni ngaphandle uma kungumngcwabo wamaphoyisa, ka Hulumeni noma wamasosha;
(u) Enze noma okhele isibhamu emangcwabeni ngaphandle kwemvume yangaphambilini noMkandlu;
(v) Azingele noma alimaze noma isiphi isilwane noma izinyoni;
(w) Alukise izilwane zasekhaya ezindaweni ezingasetshenzisiwe phakathi kwamathuna noma;
(x) Alethe emangcwabeni izinto zokugubha, amasaha noma izinto ezithola okusansimbi, ngaphandle kwemvume yo Mkhandlu; futhi
(y) Afundise izifundo zokushayela emangcwabeni.

(2) Umphathi osegunyeni woMkhandlu osebenza kunoma yimaphi amangcwaba akakwazi ukungena esivumelwaneni nelungu lomphakathi ngenhloso yokwenza umsebenzi emangcwabeni ngegama lalowomuntu, njengokunakekela noma ukugubha igodi noma imuphi umsebenzi ofuze lowo.

(3) UMkhandlu ungashaqa noma isiphi isilwane esitholakala emangcwabeni.

(4) Amatende amakhulu ukudlula 2mx3m awavunyelwe ukumiswa emangcwabeni ngaphandle kwemvume etholakele phambilini kuMkhandlu.

ISAHLUKO 10

UKUSEBENZISA NOKUVALWA KWAMANGCWABA ANGASASEBENZI

Ukusebenzisa nokuvalwa kwamangcwaba angasasebenzi

51. (a) Phezu kokuba noma ikuphi ukuhlinzeka kwalo Mthetho kaMasipala, futhi kuzeleke ekuhlinzekweni kwesigatshana (f), uMkhandlu ungasebenzisa noma imaphi amangcwaba noma ingxenye yawo, lapho kungosegunyeni wasemangcwabeni, engasasetshenziswa isikhathi esingekho ngaphansi kweminyaka engu 20 ngenhloso yalokhu, okungazophatha ngendluzula iphansi noma yikuphi okusalile komuntu noma izikhumbuzo kulawo mangcwaba.

(b) Phezu kokuba noma ikuphi ukuhlinzeka kwalo Mthetho ka Masipala, futhi kuzeleke ekuhlinzekweni kwesigatshana (f), uMkhandlu ungavala noma imaphi amangcwaba noma iyiphi ingxenye yawo, lapho kungosegunyeni wasemangcwabeni, engasasetshenziswa isikhathi esingekho ngaphansi kweminyaka engu 20, noma ukuvala okuhle kwalokhu kuvala kukhona.

(c) Phezu kokuba yinoma ukuphi ukuhlinzeka kuloMthetho ka Masipala, futhi kuzeleke ekuhlinzekeni kwesigatshana (f), uMkhandlu ungasebenzisa indawo yasemangcwabeni noma ingxenye yayo, esetshenziselwe enye inhloso ngokwesigatshana (a), noma uvule futhi indawo yasemangcwabeni noma ingxenye yayo, ebeyivaliwe ngokwesigatshana (b).

(d) UMkhandlu, kuzeleke ekuhlinzekweni kwesigatshana (f), unga susa uyise kwenye indawo yasemangcwabeni okusalile komuntu, izikhumbuzo kanye nezinye izakhiwo endaweni yasemangcwabeni, engamangcwaba asegunyeni, akade esevaliwe noma engasasetshenziswa isikhathi esingengaphansi kweminyaka engu 20 futhi eseyivunyelwe ukusetshenziselwa okunye onekhono osegunyeni noma abasegunyeni njengoba kungaba njalo.

(e) Wonke amalungelo akhona noma abenanelwa yinoma imuphi umuntu maqondana nasemangcwabeni njengoba kuhlongoziwe kusigatshana (a) no (b) kuyophela manjalo.

(f) Ngaphambi kokwenza ngokwesigatshana (a), (b), no (c), uMkhandlu kumele ukhiphe isaziso senhloso yokwenza njalo.

ISAHLUKO 11

OKUHLANGENE

Ukulimala nomonakalo

52. (a) Umuntu osebenzisa amangcwaba ukwenza loko ngokuzifaka yena engozini, futhi uMkhandlu awuthathi impendulelo neze yanoma ubani olimalayo noma ikuphi ukulahlekelwa noma umonakalo empahleni yalowo muntu okumaqondana noma okwenzeke ngokusebenzisa amangcwaba okushiwo ngenhla.

(b) Umuntu osebenzisa amangcwaba uyavuma impendulelo ephelele yakokonke okungenzeka, umonakalo noma ukulimala okungenziwa noma kuyimiphumela yaloku kusebenzisa amangcwaba okushiwo ngenhla futhi kanjalo uvikela uMkhandlu, amaLungu awo, abasebenzi noma abasebenzeli, noma umuntu uqobo noma ngokuba segunyeni, ngokumelene nempendulelo kwakokonke ukubanga kunoma kunhloboni kuyena, abangaphansi kwakhe noma abanye bangaphandle maqondana nanoma yikuphi ukulahlekelwa ilungelo lefa, umonakalo olandela loko, ukulimala noma ukucekeleka phansi komuntu angabhekana nakho noma okungabakhona maqondana noma ngemiphumela yokuthi lowo muntu usebenzise amangcwaba. Loko kuvikela okushiwo ngenhla kusebenza futhi ekulimaleni okutholwe abasebenzi boMkhandlu ngenkathi besemsebenzini emangcwabeni, ngokunjalo futhi nomonakalo owenzeke empahleni yoMkhandlu emangcwabeni.

Izibhamu kanye nezikhali zendabuko

53. Azikho izibhamu kanye nezikhali zendabuko ezingavunyelwa emangcwabeni.

Izikhalo

54. Noma ubani ofisa ukufaka isikhalo kumele afake isikhalo esinjalo, ngokubhaliwe no Mqondisi.

Izindleko

55. Izindleko ezibekiwe kuhlelo lwentela maqondana nezinto ezihlukahlukene ezilapho, kumele zikhokhelwe ngaphambilini eMkhandlwini.

Amalungelo phezu kwamathuna

56. Akekho umuntu ongathola noma iliphi ilungelo noma ilukuluku kunoma iliphi iphansi noma ithuna kunoma imaphi amangcwaba.

Izimvume, izaziso kanye nemiyalelo

57. Noma ngabe yikuphi ukuvuma okubhaliwe, isaziso noma umyalelo okhishwe uMkhandlu ngokwemibandela yalo Mthetho kaMasipala, ngaphandle kwemvume yo Mqondisi noma imuphi omunye osegunyeni ogunyazwe uye futhi izoba *prima facie* yokuqukethwe kwalokuvuma okusayindiwe, isaziso noma omunye umyalelo.

Isaziso sokulandela nezethulo

58. (1) Isaziso sokulandela kumele sisho –

(a) Igama, ikheli lokuhlala nelokuposa lomuntu;
(b) Isimo sendlela yokungalungile;
(c) Imininingwane eyanele ukwenzela ukulandela nesaziso, izinyathelo ezidingakalayo ukwenza ngcono umsebenzi wesikhumbuzo;
(d) Ukuthi umuntu kumele, ngesikhathi esinqunyiwe, athathe izinyathelo zokulandela isaziso, ngenkuthalo aqhubeke nezinyathelo, futhi aphothule izinyathelo ngosuku olunqunyiwe;
(e) Ukuthi ukuhluleka ukulandela izimfuneko zesaziso ngesikhathi esihlongoziwe kusigatshana (d) kuyicala; futhi
(f) Ukuthi izethulo ezibhaliwe, njengoba kuhlongozwa kusigatshana (3) kungathi ngesikhathi asinqunyiwe kusigatshana (d), zenziwe ku Mkhandlu endaweni enqunyiwe.

(2)UMkhandlu, uma ucubungula noma iziphi izinyathelo noma isikhathi esicatshangwayo kusigatshana (1)(d) no (e) kumele uqondise ku –

(a) Izimiso kanye nezinhloso zalo mthetho ka Masipala;
(b) Ukwenza nesimo sokungakhandeki;
(c) Noma ngabe yizphi izinyathelo eziphakanyiswayo umuntu lowo okufanele aphoqwe ngazo; futhi
(d) Noma ngabe yiziphi ezinye izimo ezifanele.

(3) Umuntu angathi, ngesikhathi esihlongozwe kusigatshana (1)(f) enze izethulo, ngendlela yesitatimende esifungelwe noma isiqinisekiso eMkhandlwini endaweni enqunyiwe kusaziso.

(4) Izethulo ezingafakiwe ngesikhathi azizukucutshungulwa, ngaphandle lapho umuntu ubonisile isizathu esizwakalayo futhi uMkhandlu uyavumelana nokufaka kwezethulo ngemuva kwesikhathi.

(5) UMkhandlu kumele ucubungule izethulo futhi noma ngabe ikuphi ukuphendula kuloko kwenziwe osegunyeni noma nanoma ubani.

(6) UMkhandlu unga, ngokwawo, wenze noma ngabe yiluphi ucwaningo ukuqinisekisa okubaluliwe okufanele, futhi nemiphumela yocwaningo kumele inikezwe umuntu lowo, okumele anikwe ithuba lokuphendula futhi uma ngabe efisa, futhi uMkhandlu kumele ucubungule ukuphendula kwakhe futhi.

(7) UMkhandlu kumele, ngemuva kokucubungula izethulo nezimpendulo, wenze umyalo obhaliwe futhi unikeze ikhophi yawo kumuntu.

(8) Umyalo kumele –

(a) Ubeke okutholakele koMkhandlu;
(b) Uqinisekise, ushintshe noma ubekele eceleni konke noma ingxenye, isaziso sokulandela; kanye
(c) Unqume isikhathi lapho umuntu kumele alandele umyalo owenziwe uMkhandlu.

(9) Uma isaziso sokulandela siqinisekiswa, ngokuphelele noma ingxenye, noma siyashintshwa kodwa singabekelwa eceleni, uMkhandlu uzokwazisa umuntu ukuthi kumele enze izibopho ezibekwe kusaziso ngesikhathi esinqunywe lapho.

(10) Lapho kungekho ukulandela okudingakalayo okusesazisweni ngesikhathi esinqunyiwe lapho, uMkhandlu ungathatha izinyathelo ngokubona kwawo ukulungisa umsebenzi wesikhumbuzo futhi izindleko zalokho kumele zikhokhelwe uMkhandlu yilowo muntu.

Imicimbi yezenkolo

59. (a) Amalungu anoma yiliphi ihlelo lwezenkolo lingenza umcimbi wezenkolo maqondana nanoma imuphi umngcwabo noma inkonzo yesikhumbuzo kuzeleke ekulawulweni neMithetho kaMasipala woMkhandlu.

(b) Asikho isilwane esingahlatshwa emagcekeni amangcwaba akukhathalekile nanoma imuphi umcimbi wezenkolo ongadinga ukuthi isilwane sihlatshwe.

Izimoto zokuthwala izidumbu kanye nezinye izimoto emathuneni

60.(a) Akekho umuntu ongenza noma iyiphi imoto yokuthwala izidumbu noma imoto, njengoba ichazwe uMthetho *iNational Road Traffic*, 1996 (UMthetho No. 93 ka 1996) ngenkathi esemangcwabeni, ukusuka emgwaqeni.

(b) Zonke izimoto ezithwala izidumbu noma izimoto kumele zisuke emangcwabeni ngendlela ephawuliwe ngu mnakekeli.

(c) Emangcwabeni yindawo yomphakathi futhi yonke imithetho esebenzayo ekushayeleni imoto nokusetshenziswa komgwaqo womphakathi kuyosebenza ngaphakathi emangcwabeni.

Ukuba sobala kwemizimba

61. Akekho umuntu ongahambisa isidumbu, esingamboziwe, noma kungaba imuphi umzimba noma yiyiphi ingxenye yawo kunoma imuphi umgwaqo, emangcwabeni noma endaweni yomphakathi.

Imiyalelo yoMnakekeli

62. Wonke umuntu ohlanganyela kunoma iluphi udwendwe lomngcwabo noma umcimbi kumele ahambisane nemiyalo yomnakekeli ngenkathi lowo muntu esemangcwabeni.

Umculo phakathi emathuneni

63. Kuphela ukucula okungcwele okungavumeleka kunoma imaphi amangcwaba, ngaphandle kwemingcwabo yamaphoyisa namasotsha.

Imingcwabo okuze abantu abaningi

64. Kunoma ikuphi, lapho kungenzeka ukuthi inani elingajwayelekile labantu lizoba khona kunoma imuphi umngcwabo, umuntu owenza isaziso salowo mngcwabo kumele azise umnakekeli osukwini ngaphambi komngcwabo.

ISAHLUKO 12

ABANGCWABI

Ukulungiswa kwezidumbu

65. (a) Izidumbu kumele zilungiswe kuphela emagcekeni omngcwabi onikezwe isitifiketi sekhono

(b) Ngaphandle kokuthi kuhlinzekwe ngenye indlela yilo Mthetho ka Masipala, akekho umuntu ongalungisa futhi/noma agcine noma ngabe isiphi isidumbu ngaphandle kwasemagcekeni omngcwabi onikezwe isitifiketi sekhono futhi esisebenzayo.

Isicelo sokukhishwa noma sokudluliswa kwesitifiketi sekhono

66. (1)(a) Noma ubani umuntu ofisa ukufaka isicelo sesitifiketi sekhono maqondana nesisekelo sabangcwabi esisha kuyothi, kungakabi ngaphansi kwezinsuku ezingu 21 ngaphambi kokuthi alethe isicelo sakhe eMkhandlwini ukudala isaziso senhloso yakhe ukuthi sishicilelwe ngesiNgisi, kanye nezinye ezimbili izilimi ezisemthethweni ye *South African Languages*, ephepheni lezindaba elisakazwa endaweni lapho lawo magceke ezoba khona noma ekhona.

(b) Leso saziso kumele siqukathe imininingwane ekutheni isicelo sokunikezwa isitifiketi sekhono ngokwemibandela yalo Mthetho kaMasipala sizoyiswa eMkhandlwini nokuthi noma ubani umuntu ofisa ukuphikisa kuloko kusebenza angafaka ukuphikisa kwakhe, kanye

nezethulo ezisekelwe, noMkhandlu ngokubhaliwe kungakadluli izinsuku ezingu 21 osukwini lokushicilelwa kwesicelo esinjalo.

(2) Isicelo sokukhishelwa isitifiketi sekhono kumele senziwe ku Mkhandlu nokubhaliwe efomini enqunyiwe futhi sihambisane –

(a) Ukuchazwa kwamagceke nokuthi akuphi; kubandakanya okokusebenza, indawo yokugcina imizimba, izindawo zokulungisela nezindawo zezindlu ezincane.
(b) Iplani lephansi eliphelele yokwakha okuhlongozwayo noma kwamabhilidi asekhona ngokukala kwe 1:100 kubandakanya uhlelo lokulahlwa kukadoti
(c) Iplani lamagceke lapho iNyakatho iboniswa khona ebonisa amagceke ancikile esesetshenziswa ngumfaki sicelo noma abanye abantu nenhloso lawo magceke asetshenziselwa yona noma azosetshenziselwa yona;
(d) Imininingwane yanoma ubani umuntu, ngaphandle komfaki sicelo noma abasebenzi bakhe abalungisa noma abazolungisa izidumbu emagcekeni;
(e) Iplani elichaza ukuhlinzeka ukugcinwa kwezidumbu uma kwenzeka isiqandisi noma ikamelo lapho amazinga okushisa egcinwa ephansi kungasebenzi; futhi
(f) Uhlelo lokukhuculula nokuqedwa kwamagciwane.
(g) Imininingwane yalowo obhekelele ezempilo ukususwa kukadoti, ukuhanjiswa nokulahlwa

(3) UMkhandlu, uma ucubungula ukukhipha isitifiketi sekhono, ungacela kumfaki sicelo noma ubani omunye umuntu noma ngabe yiyiphi eminye imininingwane edingakalayo.

(4) UMkhandlu ungeke ukhiphe noma wedlulise isitifiketi sekhono ngaphandle kokuthi uhlolo oluphelele lwamagceke athintekayo selwenziwe ngudokotela wezemvelo nezempilo oqokwe uMkhandlu futhi umbiko wakhe waloko kuhlolwa, kubandakanya izincomo kulolodaba noma ukudlulisa, uphethwe uMkhandlu.

Ukukhishwa noma ukudluliswa kwesitifiketi sekhono

67. Uma uMkhandlu wanelisekile ukuthi amagceke athintekayo –

(a) Ahambisana nazozonke izidingo ezibekwe phansi kulo Mthetho kaMasipala kanye nanoma imuphi umthetho ofanele;
(b) Ngazozonke izimo ukulungele ukulungisa izidumbu;
(c) Angeke alulaze noma obani abahlala endaweni eduze nalawo magceke, uzo, ngezimiso njengoba uzozinquma maqondana namagceke omngcwabi othintekayo, ukhiphe isitifiketi sekhono egameni lomfaki sicelo efomini elinqunyiwe noma uzo, ngokuvumela, udlulise isitifiketi sekhono esisebenzayo kumnikazi omusha, njengoba kungaba njalo.

Ukuba semthethweni nokudluliswa kwesitifiketi sekhono

68. Isitifiketi sekhono, ngaphandle kwesitifiketi sekhono sesikhashana, ngokuvuma koMkhandlu, singadluliselwa kosiphethe ukuya komunye omusha futhi lesositifiketi si, uma sivunywe kanjalo, sebenza ukusukela kulolo suku esikhishwe ngaso kuze kube siyachithwa noma siyamiswa ngokwalo Mthetho kaMasipala.

Ukukhishwa kwesitifiketi sekhono sesikhashana

69. (a) Naphezu kokuthi uMkhandlu awanelisekile njengoba kuhlongozwe kusigaba 4 maqondana namagceke omngcwabi afakelwe isicelo sesitifiketi sekhono, uMkhandlu, uma amagceke omngcwabi avele ekhona futhi kuzeleke kulezo zimiso uMkhandlu ongazisho, ungakhipha isitifiketi sekhono sesikhashana maqondana nalawo magceke.

(b) Isitifiketi okukhulunywa ngaso kusigatshana (a) sizokhishwa kuphela uma uMkhandlu waneliseka ukuthi ukusetshenziswa kwalawo magceke omngcwabi akudali futhi akuzukudala uhlupho, futhi sizokhishwa isikhathi esingadluli izinyanga eziyisithupha ukwenzela umfaki sicelo ukuba ashintshe lawo magceke ukuze ahambisane nokuhlinzekwe kulo Mthetho ka Masipala.

(c) Uma, ngemuva kwesikhathi esishiwo kusigatshana (b), amagceke awahambisani nokuhlinzekiwe kulo Mthetho ka Masipala, uMkhandlu ungasibuyisa isitifiketi sekhono sesikhashana.

Imisebenzi yomnikazi sitifiketi

70. (a) Umnini sitifiketi kumele azise masinyane uMkhandlu uma ngabe kukhona noma iluphi ushintsho emininingwaneni noma esimweni esinikezwe uMkhandlu esicelweni sesitifiketi sekhono.

(b) Umngcwabi akumele alahle umzimba kunoma yiyiphi indawo noma amagceke ngaphandle kwase mangcwabeni noma endaweni yokulothisa ngokwemibandela yoMthetho iKwaZulu-*Natal Cemeteries and Crematoria*, 1996 (uMthetho No. ka 1996).

(c) Umnikazi kumele ahambisane nokuhlinzekwa kwalo Mthetho ka Masipala, imithetho efaneleyo futhi nezinye izimiso ezingaphoqelelwa uMkhandlu.

Ukumisa noma ukusula isitifiketi sekhono noma isitifiketi sekhono sesikhashana

71. (1) Uma uMkhandlu unombono, ngenxa yombiko wokuhlola futhi/noma izincomo zika dokotela wezempilo nezemvelo, ukuthi kukhona izizathu ezizwakalayo ukusola ukuthi –

(a) Amagceke omngcwabi athintekayo asetshenziswa ngendlela yokuthi adala ukukhathaza noma izimiso ezidala ukukhathaza zidalekile noma ziyadaleka emagcekeni omngcwabi athintekayo; noma

(b) Amagceke athintekayo asetshenziselwa ukuphambana nokuhlinzekwe uMthetho weZempilo, 2003 (uMthetho No. 61 ka 2003), loMthetho kaMasipala noma eminye imithetho noma izimiso eziphoqiwe yisitifiketi sekhono noma isitifiketi sekhono sesikhashana, uMkhandlu, ngokubona kwawo, unga –

(i) usule isitifiketi sekhono noma isitifiketi sekhono sesikhashana esithintekayo;

(ii) umise isitifiketi sekhono noma isitifiketi sekhono sesikhashana esithintekayo isikhathi uMkhandlu ongasinquma, ukwenzela umnikazi ukuthi ahambisane nemithetho efanele futhi/noma izimiso eziphoqiwe; ngaphandle kokuthi uma umnikazi ehluleka ukuhambisana esikhathini esinqunyiwe esazisweni sokumisa, uMkhandlu ungasesula lesositifiketi ngaphandle kesaziso esinye.

(2) Isaziso esikhishiwe uMkhandlu ngokwemibandela yesigaba 71(b) (ii) kumele sikhiwe ngokubhala, futhi sinikezwe umnikazi.

(3) Ukumisa noma ukususa isitifiketi sekhono noma isitifiketi sekhono sesikhashana ngokwemibandela yaloMthetho ka Masipala kuzoba nomthelela, ukuthi kusukela ngesikhathi sesaziso sokumiswa noma sokususa –

(a) Akukho ukulungiswa kwezidumbu okumele kwenzeke emagcekeni athintekayo;
(b) Asikho isidumbu okumele samukelwe ukusilungiselela emagcekeni athintekayo; futhi
(c) Asikho isidumbu okumele silondolozwe emagcekeni athintekayo futhi isidumbu nesidumbu kumele masinyane zisuselwe emakhazeni angaphansi kolawulo luka Hulumeni, i-*provincial administration* noma iKhansela noma emagcekeni omunye umngcwabi, ngokuthi loMthetho ka Masipala ngeke usebenze futhi leso saziso okukhulunywa ngaso akumele sithathwe ngendlela yokuthi sivimbella noma yikuphi ukwenza ibhizinisi maqondana nomkhakha wokungcwaba kubandakanya ukudayiswa kwamabhokisi nemishwalense.

(4) Lapho uMkhandlu unombono wokuthi izimiso ezenza ukuthi isitifiketi sisuswe njengoba kuhlongozwa kulo Mthetho ka Masipala, zalungiswa emuva kwaloko kususwa kwaso, unga, ngokubhalwa kwesicelo umnikazi noma ngegama lomnikazi, uchithe lokokususwa ngokufaka esitifiketini esithintekayo ukuvumela.

Izidingo maqondana negceke lomngcwabi

72. (1) Ukuhlinzeka kwaloku okulandelayo kumele kwenziwe emagcekeni omngcwabi –

(a) Ikamelo lokulungisa ukulungiselela isidumbu;
(b) Amakamelo okushintsha, ahlukene ngobulili, ukusetshenziswa abasebenzi abaqashwe kulawo magceke;
(c) Izindawo zokuqandisa ukuqandisa izidumbu;
(d) Izindawo zokuwasha nokuhlanza amathuluzi kanye nezinsizakusebenza ngaphakathi kwebhilidi;
(e) Izindawo zokugeza izimoto emagcekeni; kanye
(f) Izindawo zokulayisha nokwehlisa izidumbu njengoba kuhlongozwe engxenyeni 72(6).

(2) Alikho igumbi emagcekeni omngcwabi okumele asetshenziselwe enye inhloso ngaphandle kwenhloso elenzelwe yona.

(3) Igumbi lokulingisela –

(a) Kumele lakhiwe ngendlela ukuze –

(i) lehlukaniswe nawowonke amakamelo emagcekeni futhi ukuthi kungafinyelelwa kulona kalula ukusuka noma ekubonakaleni kwelinye ihovisi noma igumbi lokudayisa: kulokho, lapho ikamelo lokulungisela emagcekeni omngcwabi avele ekhona akhiwe kanjalo, indawo yokungena lapho ifihlwe ngendlela yokuthi ingaphakathi lekamelo lokulungiselela alibonakali kunoma ubani umuntu okwelinye lamahovisi noma ikamelo lokudayisa ahlangene nalo;

(ii) livumele amaphunga amabi kanye nomhwamuko kulashwe ngokwanele; futhi

(iii)libenokushaya komoya nokukhanya okwanele.

(b) Kumele libe nendawo evala iphansi engekho ngaphansi kuka 6m² itafula lokuqala lohlobo olushiwo kusigaba 72(3)(e) futhi 8m² itafula netafula elingeziwe; elenziwe ngosimende noma uhlobo olunjalo olungangeneli amanzi elinephezulu elibushelelezi lingasheleli elilula ukulihlanza, futhi litsheke ukwenzela ukuthi noma yini echithekayo iye kuhlelo lokulahla/lokuchita olugunyazwe uMkhandlu; futhi, uma libuyiselwa noma

lendlalwa ngemuva kosuku lokuqala laloMthetho ka Masipala, lizokwenezwa ngokuyisigamu sika rawondi sokugcwaliswayo lapho lihlangana khona nezindonga –

(i) kumele libe nezindonga iphakathi lalo libe bushelelezi futhi lembozwe ngopende onombala okhanyayo, owashekayo noma okunye okufanele, kubushelelezi, akungenwa amanzi, kunombala okhanyayo futhi kuyawasheka;

(ii) kumele libe nesilingi engekho ngaphansi kuka 2,4m ngaphezulu kwesilingano sephansi, isilingi leyo kumele ingabi ethatha izintuli futhi ipendwe ngo pende okhanyayo owashekayo;

(iii) kumele kungabi ne tafula elingaphansi kwelilodwa lensimbi engagqwali noma elimbozwe ngokobumba noma okunye okufanele, kube nempahla ephakanyisiwe ekugcineni ngaphandle, umpompi onamanzi agijmayo abandayo okuxhunywe kuwo ipayipi nokuvuleka kwesichithi samanzi esixhunywe kuhlelo lokulahla olugunyaziwe;

(iv) Kumele libe nobheseni wokuwasha ongengaphansi kowodwa itafula ngalinye, owenziwe ngensimbi engagqwali noma okunye okufanele, okunendawo yokusebenzela yempahla efanayo, ompompi bamanzi ashisayo nabandayo nesichitha manzi esixhunywe unomphelo ohlelweni lokulahla olugunyaziwe, futhi lunikwe amathawula antshingwayo, ibhulashi lezinzipho nensipho;

(v) kumele lingabi nompompi ongaphansi kowodwa onamanzi agijmayo okungaxhunywa kuwo ipayiphi elipetekayo, elide ngokwanele ukufika emakhoneni alelokamelo, lixhunywe ukucoca ingaphakathi lephansi; futhi

(vi) kumele libe nendawo ewumnyango evulekayo engekho ngaphansi kuka 0,82m ububanzi no 2,00m ukuphakama ukuze isidumbu singalethwa ngaphakathi sikhishelwe nangaphandle kwalelo kamelo ngaphandle kwanoma ibuphi ubunzima.

(4) Ikamelo lokushintsha ngalinye kumele libe naloku okulandelayo okungenani –

(a) Ubheseni wezandla owodwa onamanzi agijimayo ashisayo nabandayo yabasebenzi abayisithupha noma ingxenye yakho;
(b) Amathawula antshingwayo, insipho, ibhulashi lezinzipho kanye nesiqedamagciwane; futhi
(c) Kungabi nendlu yangasese engaphansi kweyodwa ngabasebenzi besilisa abangu 15 noma ingxenye yabo futhi kungabi ngaphansi kwendlu yangasese eyodwa ngabasebenzi besifazane abangu 15 noma ingxenye yabo abasebenza emagcekeni omngcwabi othintekayo, nokuthi lapho isiphatho sokuchama sabantu besilisa esihlukene siyingxenye yalezizinsiza, indlu eyodwa yangasese kanye nesiphatho sokuchama esehlukene sabantu besilisa kumele sivumeleke ngabasebenzi abangu 30 noma ingxenye yabo.

(5) Izinsiza zokuqandisa njenge friji noma amagumbi aqandisayo ukugcina izidumbu, kumele kufakwe phakathi noma eduze kwalelo kamelo lokulungisela futhi –

(a) Lapho kusetshenziswa amafriji, kumele enziwe ngezinto ezinganceli umwsakama, kumele ihlinzekwe ngamathileyi futhi enziwe ngendlela ezochithela ohlelweni lokulahla olugunyaziwe futhi kuhlanzeke kalula;
(b) Ibe ngalendlela yokuthi izinga lokubanda langaphezulu lanoma yisiphi isidumbu lingabi ngaphezu kuka 5°C ngenkathi kulungiswa. Isikalo sezinga lokubanda esifanele kumele sihlinzekwe efrijini noma ekamelweni eliqandisayo futhi kusebenze ngazozonke izikhathi.
(c) Ezimweni la amakamelo aqandisayo esetshenziswa, kumele ahambisane nezigaba 10(3)(a)(ii), (b)(11), (c), (d) no (h) futhi ahlinzekwe ngamashalofu enziwe ngezinto ezinganceli umswakama futhi ezilula ukuzihlanza; futhi

(d) Izidumbu akumele zigcinwe esinye ngaphezu kwesinye futhi kumele zigcinwe ngasinye kumathileyi noma amashalofu.

(6) Izindawo zokucoca, ukulayisha nokukudiliza kumele zibe ezigandayiwe, zahenqelwa ukungabonwa umphakathi, zibe nohlelo lokuchithela entubeni exhunywe ohlelweni lwepayipi lokuchitha oluvunywe uMkhandlu.

(7) Ukulayisha nokudiliza izidumbu nokucocwa kwezimoto akumele kwenzeke kwenye indawo ngaphandle kwendawo ehlongozwe kusigaba 72(6).

(8) Amagceke omngcwabi kumele abenesivikela magundwane.

Ukuhanjiswa kokusele koshonile

73. Akekho umuntu ongahambisa kokusele koshonile –

(a) Ngaphandle isidumbu sivalelwe esiphathweni esingangenisi umoya futhi safakwa ebhokisini elingabonisi, elizinzile, elivaliwe; noma

(b) Asikho isiphatho sebhokisi lakufakwe khona isidumbu kungahanjiswa ngaphandle –

(i) ingaphandle lalelobhokisi noma isiphatho akuvuzi nomangabe yini noma ngabe yikuphi okuvuzayo okuphuma kulesisidumbu; futhi

(ii) Awekho amaphunga anyantisayo.

Inhlanzeko

74. (1) Wonke udoti wezempilo owenzekile kumele ugcinwe, ususwe, uhanjiswe futhi ulahlwe ngokuhambisana neMithetho kaMasipala yoMkhandlu / *Environmental Health*.

(2) Wonke umnikazi wesitifiketi sekhono mayelana namagceke abangcwabi kumele –

(a) Akhiphe izingubo zokusebenza ezihlanzekile nezivikelayo okubandakanya amagilavu okuhlinza, amabhuzi amade enjoloba, amaphinifa eplastiki enziwe ngendlela yokuthi iphambili lawo lilengela phezu kwama bhuzi, izamfonyo kanye nama jazi/ama avaloni kubobonke abasebenzi nabanye abantu ababandanyekayo ekulungiseni izidumbu noma uhlolo lwesidumbu, futhi bonke abasebenzi abanjalo noma abanye abantu kumele, ngasosonke isikhathi uma benza lokho, bagqoke lezozingubo.

(b) Agcine lawo magceke engana zinambuzane nezilokazana ngasosonke isikhathi

(c) Ahlanze masinyane ngemuva kokulungisa isidumbu, zonke izindawo zokusebenzela noma ilingaphezulu noma ilingaphandle lazo kulawo magceke lapho isidumbu silungiswa khona;

(d) Ahlanze futhi akhiphe amagciwane kukokonke obekusetshenziswa ngenkathi kulungiswa isidumbu ngokushesha emva kokusebenzisa;

(e) Awashe, ahlanze futhi akhiphe amagciwane kukokonke okokugqoka kokuvikela okusetshenziswe emagcekeni nsuku zonke;

(f) Ukugcina lawo magceke ehlanzekile futhi ehlelekile ngasosonke isikhathi; futhi

(g) Uma ngabe isidumbu sihanjiswe ngaphandle kwesembozo esingavikeli ukuswakama, ageze futhi akhiphe amagciwane indawo yokulayisha yemoto ethintekayo ngemuva kokuba lesosidumbu sesisusiwe.

ISAHLUKO 13

UKUDLULISA, UKUVIKELWA KANYE NAMACALA

Ukudlulisa

75. Umuntu okuthinteke amalungelo akhe ngenxa yesinqumo esikhishwe uMkhandlu angadlulisa maqondana nalesosinqumo ngokuletha isaziso esibhaliwe nezizathu zaso ngokwemibandela yesigaba 62 se *Local Government: Municipal Systems*, 2000 (Act No. 32 of 2000) kuMkhandlu kungakapheli izinsuku ezingu 21 osukwini lokuphuma kwesaziso sesinqumo.

Izivikelo

76. (1) Noma ubani, ngokufaka isicelo, lapho enikeza ngezizathu ngokuphelele, angafaka isicelo eMkhandlwini ukuvikeleka kunoma ikuphi ukuhlinzeka kwaloMthetho kaMasipala.

(2) UMkhandlu unga –

(a) Vumela ukuvikeleka ngokubhaliwe nezimiso ngokwemibandela yakhona, uma ikhona, nesikhathi saloko kuvikeleka kumele sishiwo lapho;
(b) Shintsha noma ucishe noma ngabe ikuphi ukuvikeleka noma isimiso ekuvikelekeni; noma
(c) Nqaba ukuvuma ukuvikeleka.

(3) Ukuvikeleka akuzi kuqala kuno kuthi umfaki sicelo athembise ngokubhala ukuhambisana nezimiso eziphoqwe uMkhandlu ngaphansi kwesigatshana (2). Uma ngabe kukhona okwenzakalayo okuqaliwe ngaphambi kwalezizithembiso ezilethiwe ku Mkhandlu, ukuvikeleka okutholakele akuzukusebenza.

(4) Uma ngabe noma yisiphi isimiso asigcinwanga, ukuvikeleka kuyaphela ngalesosikhathi.

(5) Ukuhluleka ukuhambisana nesimiso sokuvikeleka ngokwemibandela yesigatshana (2) kwenza icala.

Amacala nezinhlawulo

77. (1) Noma ubani –

(a) Ophambana noma ohluleka ukuhambisana nanoma yikuphi ukuhlinzeka yilo Mthetho ka Masipala;
(b) Owenza isitatimende samanga, azi ukuthi singamanga noma ngabomu anikezele imininingwane edukisayo kosemagunyeni noma umsebenzi wo, noma umsebenzeli uMkhandlu;
(c) Osabisayo, ozabalazayo, ophazamisayo noma ovimbela osegunyeni noma umsebenzeli noma umsebenzi woMkhandlu ekwenzeni umsebenzi wakhe ngaphansi kwalo Mthetho kaMasipala, uzoba necala futhi kuzothi uma esetholwe enecala yi Nkantolo abe nempendulelo yenhlawulo engadluli ku R60 000, noma ukuya ejele isikhathi esingevile eminyakeni emithathu noma kokubili, inhlawulo nesikhathi ejele, noma enye inhlawulo noma isikhathi ejele *uMinister of Justice* angasibeka isikhathi

nesikhathi okwenziwe ngokwemibandela yokuhlinzeka kwesigaba 92 ka *Magistrate's Courts Act. 1944 (Act No 32 of 1944).*

(2) Zonke izindleko uMkhandlu ongene kuzo ngenxa yokuphambana nalo Mthetho ka Masipala noma ukwenza noma yini umuntu ebeyalwe ukuba ayenze ngaphansi kwaloMthetho ka Masipala futhi ahlulekile ukukwenza, zingabuyiswa uMkhandlu kulowo muntu owenze loko kuphambana noma ohlulekile ukwenza lokho.

ISAHLUKO 14

UKUCHITHWA KWEMITHETHO KAMASIPALA

Ukuchithwa kweMithetho ka Masipala ekhona manje

78. Imithetho ekhona ka Masipala yo Mkhandlu i *Cemeteries, Cremetoria and Undertakers* ngalokhu iyachithwa.

Isihloko esifinyeziwe nokuqala

79. LoMthetho kaMasipala uzobizwa uMthetho kaMasipala wase_____ *Municipal Cemeteries, Cremetoria and Undertakers* 20____.

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