



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette  
Extraordinary**

**Buitengewone  
Provinsiale Koerant**

**Isongezelelo  
kwiGazethi yePhondo**

7662

7662

7662

Wednesday, 17 August 2016

Woensdag, 17 Augustus 2016

uLwesithathu, 17 kweyeThupha 2016

*Registered at the Post Office as a Newspaper*

**CONTENTS**

*(Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)*

**Local Authority**

City of Cape Town: Air Quality Management By-law, 2016 ..... 2

*As 'n Nuusblad by die Poskantoor Geregistreer*

**INHOUD**

*(Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)*

**Plaaslike Kennisgewing**

Stad Kaapstad: Verordening op Luggehaltebe-stuur, 2016 ..... 25

*Ibhaliswe ePosini njengePhephandaba*

**IZIQULATHO**

*(Ushicilelo oLutsha lufumaneka kwigumbi M21, kwiSakhiwo seNdlu yoWiso Mthetho sePhondo, 7 Wale Street, eKapa 8001.)*

**IGunya loMmandla**

ISixeko saseKapa: uMthetho kaMasipala woLawulo loMgangatho woMoya, 2016 ..... 48

## CITY OF CAPE TOWN

### AIR QUALITY MANAGEMENT BY-LAW, 2016

**To provide for air quality management and reasonable measures to prevent air pollution; to provide for the designation of the air quality officer; to provide for the establishment of local emissions norms and standards, and the promulgation of smoke control zones; to prohibit smoke emissions from dwellings and other premises; to provide for installation and operation of fuel burning equipment and obscuration measuring equipment, monitoring and sampling; to prohibit the emissions caused by dust, open burning and the burning of material; to prohibit dark smoke from compression ignition powered vehicles and provide for stopping, inspection and testing procedures; to prohibit emissions that cause a nuisance; to repeal the City of Cape Town: Air Quality Management By-law, 2010 and to provide for matters connected therewith;.**

#### PREAMBLE

**WHEREAS** everyone has the constitutional right to an environment that is not harmful to their health or well-being;

**WHEREAS** everyone has the constitutional right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-

- a) Prevent pollution and ecological degradation;
- b) Promote conservation; and
- c) Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

**WHEREAS** Part B of Schedule 4 of the Constitution lists air pollution as a local government matter to the extent set out in section 155(6)(a) and (7);

**WHEREAS** section 156(1)(a) of the Constitution provides that a municipality has the right to administer local government matters listed in Part B of Schedule 4 and Part B of Schedule 5;

**WHEREAS** section 156(2) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;

**WHEREAS** section 156(5) of the Constitution provides that a municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

**AND WHEREAS** the City of Cape Town seeks to ensure management of air quality and the control of air pollution within the area of jurisdiction of the City of Cape Town and to ensure that air pollution is avoided or, where it cannot be altogether avoided, is minimised and remedied.

**AND NOW THEREFORE, BE IT ENACTED** by the Council of the City of Cape Town, as follows:-

**TABLE OF CONTENTS****CHAPTER I****INTERPRETATION AND FUNDAMENTAL PRINCIPLES**

1. Definitions
2. Application of this By-law
3. Conflict with other laws

**CHAPTER II****DUTY OF CARE**

4. Reasonable measures to prevent air pollution

**CHAPTER III****DESIGNATION OF AIR QUALITY OFFICER**

5. Designation of the air quality officer

**CHAPTER IV****LOCAL EMISSIONS STANDARDS, NORMS AND STANDARDS AND SMOKE CONTROL ZONES****Part 1: Local Emission Standards**

6. Legal mandate

**Part 2: Norms and Standards**

7. Substances Identification Process
8. Declaration of air pollution control zone

**CHAPTER V****SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS**

9. Application
10. Prohibition of dark smoke from premises
11. Installation of fuel-burning equipment
12. Operation of fuel-burning equipment
13. Periodic emissions testing
14. Presumption
15. Installation and operation of obscuration measuring equipment

16. Monitoring and sampling

17. Temporary exemption

#### **CHAPTER VI**

##### **SMOKE EMISSIONS FROM DWELLINGS**

18. Prohibition of emission of dark smoke from dwellings

#### **CHAPTER VII**

##### **EMISSIONS CAUSED BY OPEN BURNING**

19. Authorisation of open burning and burning of material

20. Emissions caused by tyre burning and burning of rubber and other material for the recovery of metal

#### **CHAPTER VIII**

##### **EMISSIONS FROM COMPRESSION IGNITION POWERED VEHICLES**

21. Prohibition of dark smoke from compression ignition powered vehicles

22. Stopping of vehicles for inspection and testing

23. Testing procedure

24. Repair notice

#### **CHAPTER IX**

##### **EMISSIONS THAT CAUSE A NUISANCE**

25. Prohibition of emissions that cause nuisance

26. Dust emissions

27. Steps to abate nuisance

#### **CHAPTER X**

##### **GENERAL MATTERS**

28. Compliance notice

29. Enforcement

30. Appeals

31. Exemptions

32. Indemnity

## CHAPTER XI

### OFFENCES AND PENALTIES

- 33. Offences and penalties
- 34. Repeal and savings
- 35. Short title

#### Schedule 1- Standards and specifications for Fuel Burning Equipment

#### Schedule 2-Good management practices to prevent or minimise the discharge of smoke from open burning of vegetation

## CHAPTER I

### DEFINITIONS AND FUNDAMENTAL PRINCIPLES

#### Definitions

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

**“Air Quality Act”** means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

**“adverse effect”** means any actual or potential impact on the environment that impairs or would impair the environment or any aspect of it to an extent that is more than trivial or insignificant;

**“air pollutant”** includes any dust, smoke, fumes or gas that causes or may cause air pollution;

**“air pollution”** means any change in the environment caused by any substance emitted into the atmosphere from any activity, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

**“air pollution control zone”** means a geographical area declared in terms of section 8 of the By-Law to be an air pollution control zone for purposes of Chapter IV of the By-Law;

**“air quality management plan”** means the air quality management plan referred to in section 15 of the Air Quality Act;

**“air quality officer”** means the air quality officer designated as such in terms of section 14(3) of the Air Quality Act;

**“ambient air”** means **“ambient air”** as defined in section 1 of the Air Quality Act;

**“atmosphere”** means air that is not enclosed by a building, machine, chimney or other similar structure;

**“atmospheric emission”** or **“emission”** means any emission or entrainment process emanating from a point, non-point or mobile source, as defined in the Air Quality Act that results in air pollution;

**“authorised official”** means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-law, and includes employees delegated to carry out or exercise such duties, functions or powers;

**“best practicable environmental option”** means the option that provides the most benefit, or causes the least damage to the environment as a whole, at a cost acceptable in the long term as well as in the short term;

**“burnt metal”** means any metal that has had its exterior coating removed by means of burning in any place or device other than an approved incineration device, for the purpose of recovering the metal beneath the exterior coating;

**“chimney”** means any structure or opening of any kind from which or through which air pollutants may be emitted;

**“City”** means the City of Cape Town established by Provincial Notice No. 479 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) or any structure or employee of the City acting in terms of delegated authority;

**“City Manager”** means a person appointed by the Council in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“compression ignition powered vehicle”** means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

**“continuing offence”** means an offence where the act or omission giving rise to the issuing of a notice has not been repaired, removed or rectified by the expiry of a notice issued in terms of this By-law;

**“Council”** means the Municipal Council of the City;

**“dark smoke”** means -

- (a) in respect of Chapter V and Chapter VI of this By-law, smoke which, when measured using a light absorption meter, obscuration measuring equipment or other similar equipment, has an obscuration of 20% or greater;
- (b) in respect of Chapter VIII of this By-law –
  - (i) smoke emitted from the exhaust outlets of naturally aspirated compression ignition engines which has a density of 50 Hartridge smoke units or more or a light absorption co-efficient of more than  $1,61 \text{ m}^{-1}$  ; or 18,57 percentage opacity; and
  - (ii) smoke emitted from the exhaust outlets of turbo-charged compression ignition engines which has a density of 56 Hartridge smoke units or more or a light absorption co-efficient of more than  $1,91 \text{ m}^{-1}$  ; or 21,57 percentage opacity.

**“directive”** means an instruction issued by the delegated authority for a person to perform or cease to perform certain activities in order to prevent any detrimental effect on air quality, health or the environment;

**“dust”** means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

“**dwelling**” means any building or structure, or part of a building or structure used as a place of temporary or permanent residence, and includes any outbuilding or other structure ancillary to it;

“**environment**” means the surroundings within which humans exist and that are made up of—

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“**Executive Director: City Health**” means the Executive Director of the City responsible for health matters;

“**free acceleration test**” means the testing procedure described in section 23;

“**fuel-burning equipment**” means any installed furnace, boiler, burner, incinerator, smoking device, wood-fired oven, commercial wood or charcoal fired braai, barbecue or other equipment including a chimney –

- (a) designed to burn or capable of burning liquid, gas or solid fuel;
- (b) used to dispose of any material including general and hazardous waste by the application of heat at a rate of less than 10 kg of waste per day; or
- (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

but excludes standby generators and temporary standby generators; domestic fuel-burning equipment; and gas-fired commercial cooking equipment;

“**light absorption meter**” means a measuring device that uses a light sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

“**living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses;

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

“**nuisance**” means an unreasonable interference or likely interference caused by air pollution which has an adverse impact on -

- (a) the health or well-being of any person or living organism; or
- (b) the use and enjoyment by an owner or occupier of his or her property or the environment;

“**obscuration**” means the ratio of visible light attenuated by air pollutants suspended in the effluent streams to incident visible light, expressed as a percentage;

“**open burning**” means the combustion of any material by burning without a chimney to vent the emitted products of combustion to the atmosphere and includes fires for fire safety training purposes, but excludes any recreational or commercial braai, and “**burning in the open**” has a corresponding meaning;

“**operator**” means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

“**person**” means a natural person or a juristic person;

“**premises**” includes-

- (a) any building or other structure;
- (b) any adjoining land occupied or used in connection with any activities carried on in that building or structure;
- (c) any vacant land;
- (d) any locomotive, ship, boat or other vessel which operates in the jurisdiction of the City of Cape Town; and
- (e) any State-owned entity or land;

“**Provincial Government**” means the Provincial Government of the Western Cape;

“**public road**” means a road which the public has the right to use;

“**smoke**” means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;

“**specialist study**” means any scientifically based study relating to air quality conducted by an expert or recognised specialist of appropriate qualifications and competency in the discipline of air quality management;

“**spray area**” means an area or enclosure referred to in section 25 used for spray painting, and “**spray booth**” has a corresponding meaning;

“**unauthorised burning**” means burning of any material in any place or device on any premises other than in an approved incineration device without obtaining the prior written authorisation of the City; and

“**vehicle**” means any motor car, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

#### **Application of this By-law**

2. This By-law applies to all properties or premises within the area of jurisdiction of the City of Cape Town.

#### **Conflict with other laws**

3. In the event of any conflict between this By-law and any other by-law or any policy which regulates air pollution, the provisions of this By-law shall prevail in so far as it relates to air quality management.



## CHAPTER II DUTY OF CARE

### Reasonable measures to prevent air pollution

4. (1) Any person who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring must take all reasonable measures including the best practicable environmental option—
- (a) to prevent any potential significant air pollution from occurring; and
  - (b) to mitigate and, as far as reasonably possible, remedy the environmental impacts and consequences of any air pollution that has occurred.
- (2) The City may direct any person who fails to take the measures required under subsection (1) to—
- (a) investigate, evaluate and assess the impact on the environment of specific activities and report thereon;
  - (b) take specific reasonable measures before a given date;
  - (c) diligently continue with those measures; and
  - (d) complete them before a specified reasonable date,
- provided that prior to such direction the City must give such person adequate notice and direct him or her to inform the authorised official of his or her relevant interests.
- (3) The City may, if a person fails to comply or inadequately complies with a directive contemplated in subsection (2), take reasonable measures to remedy the situation.
- (4) The City may, if a person fails to carry out the measures referred to in subsection (1), recover all reasonable costs incurred as a result of it acting under subsection (3) from any or all of the following persons:
- (a) any person who is or was responsible for, or who directly or indirectly contributed to the air pollution or the potential air pollution;
  - (b) the owner of the land at the time when the air pollution or the potential for air pollution occurred;
  - (c) the person in control of the land or any person who has or had a right to use the land at the time when the—
    - (i) activity or the process in question is or was performed or undertaken; or
    - (ii) situation came about; or
  - (d) any person who negligently failed to prevent the—
    - (i) activity or the process being performed or undertaken; or
    - (ii) situation from coming about.
- (5) Any person who fails to comply with a directive referred to in 4(2) commits an offence in terms of Chapter XI of this By-Law.

### **CHAPTER III DESIGNATION OF THE AIR QUALITY OFFICER**

#### **Designation or appointment of the air quality officer**

5. The City Manager must, in consultation with the Executive Director: City Health, designate or appoint an employee of the City as the Air Quality Officer to be responsible for co-ordinating matters pertaining to air quality management and granting or rejecting Atmospheric Emission Licences or Provisional Atmospheric Emission Licences in terms of the Air Quality Act within the City's jurisdiction.

### **CHAPTER IV LOCAL EMISSIONS STANDARDS, NORMS AND STANDARDS AND SMOKE CONTROL ZONES**

#### **Part 1: Local Emissions Standards**

##### **Legal mandate**

6. (1) The City may, by notice -
  - (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the area of jurisdiction of the City of Cape Town or which the air quality officer reasonably believes present such a threat; and
  - (b) in respect of each of those substances or mixtures of substances, publish local standards for emissions from point, non-point or mobile sources in the area of jurisdiction of City of Cape Town.
- (2) The City may take the following factors into consideration in setting local emission standards:
  - (a) health, safety and environmental protection objectives;
  - (b) analytical methodology;
  - (c) technical feasibility;
  - (d) monitoring capability;
  - (e) socio-economic consequences;
  - (f) ecological role of fire in vegetation remnants; and
  - (g) best practicable environmental option.
- (3) Any person who is emitting substances or mixtures of substances as referred to in subsection (1) must comply with the local emission standards published in terms of this By-law and the failure to do so constitutes an offence in terms of Chapter XI of this By-law.

#### **Part 2: Norms and Standards**

##### **Substances identification process**

- 7.(1) The City must when identifying and prioritising the substances in ambient air that present a threat to public health, well-being or the environment consider the following:
  - (a) the possibility, severity and frequency of effects with regard to human health and the environment as a whole, with irreversible effects being of special concern;

- (b) ubiquitous and high concentrations of the substance in the atmosphere;
- (c) potential environmental transformations and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity persistence in the environment, particularly if the substance is not biodegradable and is able to accumulate in humans, the environment or food chains;
- (d) the impact of the substance taking the following factors into consideration:
  - (i) size of the exposed population, living resources or ecosystems;
  - (ii) the existence of particularly sensitive receptors in the zone concerned; and
- (e) substances that are regulated by international conventions.

(2) The air quality officer must, using the criteria set out in subsection (1), compile a list of substances in ambient air that present a threat to public health, well-being or the environment.

#### **Declaration of air pollution control zone**

8. (1) The entire area of the jurisdiction of the City of Cape Town is hereby declared to be an air pollution control zone.
- (2) The City may, within the air pollution control zone, from time to time by notice in the Provincial Gazette -
- (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
  - (b) prohibit or restrict the combustion of certain types of fuel;
  - (c) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
    - (i) different geographical portions;
    - (ii) specified premises;
    - (iii) classes of premises;
    - (iv) premises used for specified purposes; or
    - (v) mobile sources.
- (3) The City may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly and indirectly cause air pollution within an air pollution control zone.
- (4) No owner or occupier of any premises shall cause or permit the emanation or emission of smoke of such a density or content from such premises as will obscure light to an extent greater than twenty (20) per cent.

## **CHAPTER V SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS**

### **Application**

9. For the purposes of this Chapter “**premises**” does not include dwellings.

### **Prohibition of dark smoke from premises**

10. (1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three (3) minutes during any continuous period of thirty (30) minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment while such equipment is being started, overhauled or repaired, unless such emission could have been prevented using the best practical environmental option.
- (3) Subsections (1) and (2) do not apply to holders of atmospheric emission licences for activities listed in terms of section 21 of the Air Quality Act, and the emission standards listed in such atmospheric emission licences shall apply.

### **Installation of fuel-burning equipment**

11. (1) No person shall install, alter, extend, replace or operate any fuel-burning equipment on any premises without the prior written authorisation of the City, which may only be given after consideration of the completed prescribed application form together with the relevant plans and specifications.
- (2) No rights accrue to any person who has applied for written authorisation in terms of subsection (1) during the interim period whilst the application is under consideration.
- (3) A written authorisation granted by the City in respect of the installation, alteration, extension, replacement or operation of any fuel-burning equipment in terms of a by-law concerned with air quality management or a regulation in terms of the Atmospheric Pollution Prevention Act, which has been repealed shall be deemed to satisfy the requirements of subsection (1) where proof of such authorisation is presented to the authorised official.
- (4) Where fuel-burning equipment has been installed, altered, extended or replaced on premises contrary to subsection (1), the authorised official may, on written notice to the owner of the premises or to the operator of the appliance:
- (a) order the removal of the fuel-burning equipment from the premises, at the expense of the owner, operator or both within the period stated in the notice, or,
- (b) impose a fine not exceeding R10 000 before considering an application for written authorisation in terms of subsection (1).
- (5) When ownership of fuel-burning equipment which has been approved by the City is transferred to a new owner, the new owner must apply for written authorisation to use such equipment in terms of subsection (1).
- (6) Fuel-burning equipment must comply with the emission standards as contained in Schedule 1 of this By-law.

**Operation of fuel-burning equipment**

- 12.** (1) No person may use or operate any fuel-burning equipment on any premises contrary to a written authorisation referred to in section 11(1).
- (2) Where fuel-burning equipment has been used or operated on a premises contrary to subsection (1), the authorised official may on written notice to the owner of the premises or operator of the fuel-burning equipment -
- (a) revoke the written authorisation referred to in subsection (1); and
  - (b) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator within the period stated in the notice.
- (3) In the event that the owner of the premises or operator of the fuel-burning equipment fails to comply with a notice issued in terms of subsection (2), the authorised official may remove the fuel-burning equipment from the premises, and recover the reasonable costs incurred from the owner or operator in question.

**Periodic Emissions Testing**

- 13.** The authorised official may order the owner of the premises or operator of any fuel-burning equipment capable of burning solid fuels to conduct periodic emissions testing in accordance with the methods prescribed in Schedule 1 of this By-law.

**Presumption**

- 14.** (1) Dark smoke shall be presumed to have been emitted from a premises if it is shown that any fuel or material was burned on the premises, and that the circumstances were such that the burning was reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, can show that no dark smoke was emitted.
- (2) Where an authorised official has observed fuel-burning equipment emitting particulate emissions; or dark smoke for a period of greater than 3 minutes in every aggregate half hour, the authorised official may issue a compliance notice ordering the operator or owner to immediately cease the operation of the fuel-burning equipment until such time that the fuel-burning equipment has been repaired to the satisfaction of the authorised official.
- (3) Failure to comply with an order issued in terms of subsection (2) shall constitute an offence.

**Installation and operation of obscuration measuring equipment**

- 15.** (1) An authorised official may give notice to any operator of fuel-burning equipment, or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if -
- (a) unauthorised and unlawful emissions of dark smoke from the premises in question have occurred consistently and regularly over a period of at least two days;
  - (b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
  - (c) fuel-burning equipment has been, or is intended to be, installed on the premises in question which is reasonably likely to emit dark smoke;

- (d) the person on whom the notice is served has been convicted or paid an admission of guilt fine on more than one occasion in the preceding two years for a contravention committed under this Chapter or any previous by-law dealing with air quality matters and has not taken adequate measures to prevent further contravention of the provisions of this Chapter; or
- (e) the authorised official considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to pose a risk to human health or the environment.

### **Monitoring and sampling**

16. An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 15(1) must -

- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
- (b) if requested to do so by an authorised official –
  - (i) produce the record of the monitoring and sampling results for inspection; and
  - (ii) provide a written report, in a form and by a date specified by the authorised official, of part or all of the information in the record of the monitoring and sampling results.

### **Temporary exemption**

17.(1) Subject to section 31 and upon receipt of a fully motivated application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the City may grant a temporary exemption in writing from one or all the provisions of this Chapter.

(2) Any exemption granted under subsection (1) must state at least the following:

- (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
- (b) the reasons for granting the exemption;
- (c) the conditions attached to the exemption, if any;
- (d) the period for which the exemption has been granted; and
- (e) any other relevant information.

(3) The City may not grant a temporary exemption under subsection (1) until it has:

- (a) taken reasonable measures to ensure that all persons whose rights may be detrimentally affected by the granting of the temporary exemption, including adjacent land owners or occupiers, are aware of the application for temporary exemption and how to obtain a copy of it;
- (b) provided such persons with a reasonable opportunity to object to the application; and
- (c) duly considered and taken into account any objections raised.

## **CHAPTER VI SMOKE EMISSIONS FROM DWELLINGS**

### **Prohibition of emission of dark smoke from dwellings**

18. (1) Subject to section 4(1), no person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Subject to section 31, and on application in writing by the owner or occupier of any dwelling, the City may grant a temporary exemption in writing from one or all of the provisions of this Chapter.
- (3) Subject to section 4(1), no person shall emit or permit the emission of dark smoke so as to cause a nuisance.

## **CHAPTER VII EMISSIONS CAUSED BY OPEN BURNING**

### **Authorisation of open burning and burning of material**

19. (1) Subject to subsection (4), no person may carry out open burning of any material on any land or premises, unless such person has first obtained written authorisation for open burning from the City.
- (2)(a) Where a third party wishes to conduct open burning on behalf of the owner of a property, written permission must be obtained by the third party from the owner prior to making application to the City for authorisation to conduct open burning.
- (b) The City may undertake open burning where it is reasonably necessary and where the owner or occupier cannot be contacted.
- (3) The City may, in the written authorisation referred to in subsection (1) impose conditions with which the person requesting written authorisation must comply.
- (4) The City may not authorise open burning referred to in subsection (1) unless it is satisfied that the applicant has adequately addressed or fulfilled the following requirements:
- (a) the material will be open burned on the land from which it originated;
  - (b) the person requesting authorisation has investigated and assessed every reasonable alternative for reducing, reusing, recycling or removing the material in order to minimize the amount of material to be open burned, to the satisfaction of the City;
  - (c) the person requesting authorisation has investigated and assessed the impact the open burning will have on the environment to the satisfaction of the City;
  - (d) the person requesting authorisation has either placed a notice in a local newspaper circulating in the area or notified in writing the owners and or occupiers of all adjacent properties of –
    - (i) all known details of the proposed open burning; and
    - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the City within seven days of being notified;

- (e) the person requesting authorisation has provided proof that the written notification was received by the owners and or occupiers of all adjacent properties at least seven (7) days prior to the open burning application being considered;
  - (f) the prescribed fee has been paid to the City;
  - (g) the land on which that person intends to open burn the material is state land, a farm or small-holding, or land within a proclaimed township that is not utilised for residential purposes;
  - (h) the open burning is conducted at least 100 metres from any buildings or structures; and
  - (i) the open burning will not pose a potential hazard to human health or safety, private property or to the environment.
- (5) The provisions of this section shall not apply to -
- (a) recreational outdoor barbecue or braai activities on private premises or in designated spaces;
  - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes;
- (6) For the purposes of fire safety training sections (4)(a), (b), (f) and (g) shall not apply.
- (7) The management practices set out in schedule 2 to the By-law must be applied to prevent or minimise the discharge of smoke from open burning of vegetation within the City's jurisdiction.

**Emissions caused by tyre burning and burning of rubber and other material for the recovery of metal**

20. (1) No person may, without prior written authorisation by the City, on any premises –
- (a) carry out or permit the burning of any tyres, rubber products, cables, synthetically covered or insulated products, equipment or any other similar product for purposes of
    - (i) recovering the metal contained therein;
    - (ii) disposing of tyres or any other product described in (a) above as waste; or
    - (iii) for any other reason, except for the thermal treatment of general and hazardous waste in any device licensed in terms of section 41(1)(a) of the National Environmental Management: Air Quality Act;
  - (b) possess, store, transport or trade in any burnt metal recovered as a result of unauthorised burning.
- (2) An authorised official may for the purpose of gathering evidence, seize any burnt metal or metal in the process of being burnt where authorisation in terms of section 20(1) has not been obtained or cannot be provided by a person referred to in that subsection.



## **CHAPTER VIII EMISSIONS FROM COMPRESSION IGNITION POWERED VEHICLES**

### **Prohibition of dark smoke from compression ignition powered vehicles**

- 21.** (1) No person may on a public or private road or any premises drive or use, or cause to be used, a compression ignition powered vehicle that emits dark smoke.
- (2) For purposes of this Chapter the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

### **Stopping of vehicles for inspection and testing**

- 22.** (1) In order to enable an authorised official to enforce the provisions of this Chapter, the driver of a vehicle must comply with any reasonable direction given by an authorised official to conduct or facilitate the inspection or testing of the vehicle.
- (2) An authorised official may issue an instruction to the driver of a vehicle suspected of emitting dark smoke to stop the vehicle in order to –
- (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out –
    - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
    - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
  - (b) conduct a visual inspection of the vehicle and, if the authorised official reasonably believes that an offence has been committed under section 21 instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary in writing, to take the vehicle to a specified address or testing station, within a specified period of time, for inspection and testing in accordance with section 23.

### **Testing procedure**

- 23.** (1) An authorised official must use the free acceleration test method in order to determine whether a compression ignition powered vehicle is being driven or used in contravention of section 21 (1).
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorised official, the driver must start the vehicle, place it in neutral gear and engage the clutch;
  - (b) while the vehicle is idling, the authorised official must conduct a visual inspection of the emission system of the vehicle;
  - (c) the authorised official must rapidly, smoothly and completely depress the accelerator throttle pedal of the vehicle, or he may instruct the driver to do likewise under his supervision;
  - (d) while the throttle pedal is depressed, the authorised official must measure the smoke emitted from the emission system of the vehicle in order to determine whether or not it is dark smoke;

- (e) the authorised official must release the throttle pedal when the engine reaches cut-off speed;
  - (f) if the authorised official instructs the driver to depress the throttle, the driver may only release the throttle when it reaches cut-off speed or when instructed to do so by the authorised official.
- (3) If, having conducted the free acceleration test, the authorised official is satisfied that the vehicle -
- (a) is not emitting dark smoke, he or she must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 21; or
  - (b) is emitting dark smoke, he or she must issue the driver of the vehicle with a repair notice in accordance with section 24.

### **Repair notice**

- 24.** (1) In the event that a determination is made in terms of section 23(3) that a vehicle is emitting dark smoke the authorised official must instruct the owner of the vehicle in writing to repair the vehicle and present it for re-testing at the address specified in a repair notice;
- (2) A copy of the test results must be provided by the registered owner of the vehicle or his representative to the authorised official where the testing station is not a City testing facility on or before the due date of the repair notice.
- (3) The repair notice must contain the following information:
- (a) the make and registration number of the vehicle;
  - (b) the name, address and identity number of the driver of the vehicle; and
  - (c) if the driver is not the owner of the vehicle, the name and address of the vehicle owner.
- (4) The owner of a vehicle is deemed to have been notified of the repair notice on the date that such notice is issued.
- (5) The City may take whatever steps it considers necessary in the event that the requirements of subsection (1) are not complied with, including impounding the vehicle and recovering any costs incurred in that regard from the owner of the vehicle.

## **CHAPTER IX EMISSIONS THAT CAUSE A NUISANCE**

### **Prohibition of emissions that cause nuisance**

- 25.** (1) No person shall, within the area of jurisdiction of the City of Cape Town-
- (a) spray or apply any coat, plate or epoxy coat to any vehicle, article or object, inside an approved spray area or spray booth, so as to cause a nuisance; or
  - (b) spray, coat, plate or epoxy coat to be applied to any such vehicle, article or object or allow it to be sprayed, coated plated or epoxy coated or similar activity outside an approved spray area or spray booth.

- (c) cause any unreasonable interference or likely interference through air pollution, which may adversely affect -
  - (i) the health or well-being of any person or living organism; or
  - (ii) the use and enjoyment by an owner or occupier of his or her property or environment;
- (2) Any spray area or spray booth referred to in subsection (1) must be:
  - (a) constructed and equipped in accordance with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); and
  - (b) approved by the authorised official, for emissions, mechanical ventilation, noise and any other relevant Department as may be required by any other law.
- (3) Any person conducting sand blasting, shot blasting, grinding, finishing or similar activity which customarily produces emissions of dust that may be harmful to public health, or cause a nuisance, shall take the best practicable environmental option to prevent emissions into the atmosphere to the satisfaction of the authorised official.
- (4) Any person undertaking an activity referred to in subsection (3) must implement at least the following control measures:
  - (a) dust extraction control measures;
  - (b) any alternative control measure approved by the air quality officer or his or her delegated representative.
- (5) An occupier or owner of any premises must prevent the existence in, or emission of any air pollution nuisance from, his or her premises.
- (6) The occupier or owner of any premises from which an air pollution nuisance emanates, or where an air pollution nuisance exists, is guilty of an offence.

### **Dust emissions**

- 26.** (1) Any person who conducts any activity or omits to conduct any activity which causes or permits dust emissions into the atmosphere that may be harmful to public health and well-being or is likely to cause a nuisance to persons residing or present in the vicinity of such land, activity or premises shall adopt the best practical environmental option to the satisfaction of the authorised official, to prevent and abate dust emissions.
- (2) An authorised official may require any person suspected of causing a dust nuisance to submit a dust management plan within the time period specified in the written notice.
- (3) The dust management plan contemplated in subsection (2) must:
  - (a) identify all possible sources of dust within the affected site;
  - (b) detail the best practicable measures to be undertaken to mitigate dust emissions;
  - (c) detail an implementation schedule;
  - (d) identify the person responsible for implementation of the measures;

- (e) incorporate a dustfall monitoring plan; and
  - (f) establish a register for recording all complaints received by the persons regarding dustfall, and for recording follow up actions and responses to the complaints.
- (4) The authorised official may require additional measures to be detailed in the dust management plan.
- (5) The dust management plan must be implemented within a time period specified by the authorised official in a written notice.
- (6) Failure to comply with the provisions of this section constitutes an offence.

### **Steps to abate nuisance**

**27.** At any time, the City may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover the reasonable costs incurred from the person responsible for causing the nuisance.

## **CHAPTER X GENERAL MATTERS**

### **Compliance notice**

- 28.**(1) An authorised official may serve a compliance notice on any person whom he or she reasonably believes is likely to act contrary to, or has acted in contravention of the By-law, calling upon that person –
- (a) to comply with the relevant section of the By-law;
  - (b) to take all necessary steps to prevent a recurrence of the non-compliance; and
  - (c) to comply with any other conditions contained in the notice.
- (2) A compliance notice under subsection (1) may be served –
- (a) upon the occupier, manager or owner of any premises, by –
    - (i) delivering it to the occupier, manager or owner or, if the owner cannot be traced or is living abroad, the agent of the owner;
    - (ii) transmitting it by registered post to the last known address of the owner or the last known address of the agent; or
    - (iii) delivering it to the address where the premises are situated, if the address of the owner and the address of the agent are unknown;
- (3) Failure to comply with a compliance notice constitutes an offence.

**Enforcement**

29. (1) An authorised official must take all lawful, necessary and reasonable practicable measures to enforce the provisions of this By-law.
- (2) The City may develop enforcement procedures which should take into consideration any national or provincial enforcement procedures.

**Appeals**

- 30.(1) Any person may appeal against a decision taken by an authorised official under this By-law by giving a written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act.

**Exemptions**

31. (1) Any person may apply to the City, in writing, for exemption from the application of a provision of this By-law.
- (2) The City may-
- (a) approve or refuse an application for exemption; and
  - (b) impose conditions when granting approval for applications for exemption, made in terms of subsection (1).
- (3) An application in terms of subsection (1) must be accompanied by substantive reasons.
- (4) The City may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant interested and affected persons and the public.
- (5) The steps contemplated in subsection (4) must include the publication of a notice in at least two newspapers, one circulating provincially and one circulating within the jurisdiction of the City-
- (a) giving reasons for the application; and
  - (b) containing such other particulars concerning the application as the air quality officer may require.
- (6) The City may -
- (a) from time to time review any exemption granted in terms of this section, and may impose such conditions as it may determine; and
  - (b) on good grounds withdraw any exemption.
- (7) The City may not grant an exemption under subsection (1) until the City has:
- (a) taken reasonable measures to ensure that all persons whose rights may be detrimentally affected by the granting of the exemption, including adjacent land owners or occupiers, are aware of the application for exemption.
  - (b) provided such persons with a reasonable opportunity to object to the application; and
  - (c) duly considered and taken into account any reasonable objections raised.

**Indemnity**

- 32.** The City shall not be liable for any damage caused to any property or premises by any action or omission on the part of the employees or officials of the City when exercising any function or performing any duty in terms of this By-law, provided that such employees or officials must, when exercising such function or performing such duty, take reasonable steps to prevent any damage to such property or premises.

**CHAPTER XI  
OFFENCES AND PENALTIES****Offences and penalties**

- 33.**(1) A person who contravenes sections 4(1) and (2), 6(3), 10(1) and (2), 11(1), 12(1), 19(1), 19(3), 20(1), 20(2), 21(1), 22(1), 24(1), 25(3), (4) , (5) and (6) , 26(1), (2), (3) and (5), 28(1), (2) and (3) is guilty of an offence.
- (2) Any person who is guilty of an offence in terms of this By-law is liable to a fine or, upon conviction to, imprisonment not exceeding 1 year or to both such fine and such imprisonment.
- (3) Any person who commits a continuing offence may be liable to a fine for each day during which that person fails to comply with a directive, compliance notice or repair notice, issued in terms of this By-law.
- (4) It is an offence to supply false information to an authorised official in respect of any issue pertaining to this By-law.
- (5) Where no specific penalty is provided, any person committing an offence in terms of this By-law is liable to a fine and upon conviction to imprisonment for a period not exceeding one (1) year or to both such imprisonment and such fine.
- (6) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence under this By-law -
- (a) to remedy the harm caused; and
  - (b) to pay damages for harm caused to another person or to property.

**Repeal and savings**

- 34.** (1) The City of Cape Town: Air Quality Management By-law 2010 is hereby repealed.
- (2) Anything done or deemed to have been done under any other by-law relating to air quality remains valid to the extent that it is consistent with this By-law.

**Short title**

- 35.** This By-law is called the City of Cape Town: Air Quality Management By-law, 2016.

**SCHEDULE 1**  
**Standards and specifications for fuel-burning equipment:**

1. All fuel-burning equipment capable of burning more than 100kg/h of coal, biomass or other solid fuel shall be fitted with suitable control equipment so as to limit dust and grit emissions.
2. The control equipment shall be fitted in such a manner so as to facilitate easy maintenance.
3. The permitted concentration of grit and dust emissions from a chimney serving a coal fired boiler equipped with any mechanical draught fan system shall not be more than 250 mg/Nm<sup>3</sup> (as measured at 0°C, 101,3 kPa and 12% CO<sub>2</sub>). Where the fuel-burning equipment has been declared as a Controlled Emitter in terms of the Air Quality Act, the respective Controlled Emitter Regulations shall apply.  
The approved methods for testing shall be:

**US EPA:**

1. Method 17 - In-Stack Particulate (PM).
2. Method 5 - Particulate Matter (PM).

**ISO standards:**

ISO 9096: Stationary source emissions - Manual Determination of mass concentration of particulate matter.

**British standards:**

BS 3405:1983 Method for measurement of particulate emission including grit and dust (simplified method).

4. The City reserves the right to call upon the owner or his or her agent of the fuel burning equipment to have the emissions from such fuel burning equipment evaluated at his or her own expense as may be required by the authorised official.

**Insulation of chimneys:**

All fuel-burning equipment using Heavy Fuel Oil or other liquid fuels with a sulphur content equal to or greater than 2.5 % by weight must be fitted with a fully insulated chimney using either a 25mm air gap or mineral wool insulation to prevent the formation of acid smut. Such chimneys must be maintained in a good state of repair at all times.

**Wood-fired pizza ovens and other solid fuel combustion equipment:**

Wood-fired pizza ovens and other solid fuel combustion equipment shall be fitted with induced draft fans at the discretion of the authorised official.

## SCHEDULE 2

### Good management practices to prevent or minimise the discharge of smoke from open burning of vegetation

1. Consider alternatives to burning – e.g. mulching for recovery of nutrient value, drying for recovery as firewood.
2. Vegetation that is to be burned (such as trimmings, pruning or felling's cut from active growth) should as a general guide be allowed to dry to brown appearance prior to burning.
3. Except for tree stumps or crop stubble, the place of combustion should be at least 50 metres from any road other than a highway, and 100 metres from any highway or dwelling on a neighbouring property.
4. Due regard should be given to direction and strength of wind, and quantity and state of vegetation to be combusted, prior to initiating combustion.
5. In the case of vegetation previously treated by spray with any agrichemical, any manufacturer's instructions as on the label of any container in respect of the burning of treated vegetation must be observed.
6. Two days' fine weather should be allowed prior to burning.
7. Vegetation should be stacked loosely rather than compacted.
8. A small fire, started with the driest material, with further material continually fed onto it once it is blazing, is preferable to a large stack ignited and left unattended.

**Note:** Persons conducting open burning of vegetation must ensure compliance with the requirements of the National Veld and Forest Fire Act, 1998, (Act No. 101 of 1998) as amended.



## STAD KAAPSTAD

### VERORDENING OP LUGGEHALTEBESTUUR, 2016

Om bepalings neer te lê oor luggehaltebestuur en redelike maatreëls om lugbesoedeling te voorkom; om bepalings neer te lê oor die aanwysing van 'n luggehaltebeampte; om bepalings neer te lê oor die bepaling van plaaslike vrystellingsnorme en -standaarde sowel as die verklaring van rookbeheersones; om rookvrystellings uit wonings en van ander persele te verbied; om bepalings neer te lê oor die installering en hantering van brandstofverbrandingstoerusting en verduisteringsmeters sowel as oor monitering en monsterontleding; om vrystellings as gevolg van stof, oop verbranding en materiaalverbranding te verbied; om die vrystelling van donker rook uit voertuie met kompressieontstekingsenjins te verbied, en bepalings neer te lê oor voorkeer-, inspeksie- en toetsprosedures; om 'n verbod te plaas op atmosferiese vrystellings wat 'n steurnis veroorsaak; om die Stad Kaapstad Verordening op Luggehaltebestuur, 2010, te herroep, en om bepalings neer te lê oor sake bykomend daartoe.

#### AANHEF

**NADEMAAL** almal die grondwetlike reg het op 'n omgewing wat nie skadelik is vir hulle gesondheid of welstand nie;

**NADEMAAL** almal die grondwetlike reg het op die beskerming van die omgewing, ter wille van huidige en toekomstige geslagte, deur redelike wetgewende en ander maatreëls wat –

- a) besoedeling en ekologiese agteruitgang voorkom;
- b) bewaring bevorder; en
- c) die ekologiese volhoubare ontwikkeling en aanwending van natuurlike hulpbronne verseker terwyl dit regverdigbare ekonomiese en maatskaplike ontwikkeling bevorder;

**NADEMAAL** deel B van bylae 4 by die Grondwet lugbesoedeling opnoem as 'n plaaslikeregerings-aangeleentheid in soverre dit in artikel 155(6)(a) en (7) uiteengesit word;

**NADEMAAL** artikel 156(1)(a) van die Grondwet bepaal dat 'n munisipaliteit die reg het op die administrasie van die plaaslike regeringsaangeleenthede in deel B van bylae 4 en deel B van bylae 5;

**NADEMAAL** artikel 156(2) van die Grondwet bepaal dat 'n munisipaliteit verordeninge kan uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer;

**NADEMAAL** artikel 156(5) van die Grondwet bepaal dat 'n munisipaliteit die reg het om enige bevoegdheid uit te oefen met betrekking tot 'n aangeleentheid wat redelikerwys nodig is vir, of verband hou met, die doeltreffende verrigting van sy funksies;

**EN NADEMAAL** die Stad Kaapstad streef na die bestuur van luggehalte en die beheer van lugbesoedeling in die regsgebied van die Stad en wil verseker dat lugbesoedeling voorkom word of, waar dit nie geheel en al voorkom kan word nie, beperk en reggestel word;

**DAAROM VERORDEN** die raad van die Stad Kaapstad **NOU SOOS VOLG:**

## **INHOUDSOPGAWE**

### **HOOFSTUK I**

#### **VERTOLKING EN GRONDBEGINSELS**

1. Woordomskrywing
2. Toepassing van hierdie verordening
3. Strydigheid met ander wette

### **HOOFSTUK II**

#### **SORGSAMHEIDSPILIG**

4. Redelike maatreëls om lugbesoedeling te voorkom

### **HOOFSTUK III**

#### **AANWYSING VAN LUGGEHALTEBEAMPTTE**

5. Aanwysing van die luggehaltebeampte

### **HOOFSTUK IV**

#### **PLAASLIKE VRYSTELLINGSTANDAARDE, NORME EN STANDAARDE, EN ROOKBEHEERSONES**

##### **Deel 1: Plaaslike vrystellingstandaarde**

6. Wetlike mandaat

##### **Deel 2: Norme en standaarde**

7. Proses vir identifikasie van stowwe
8. Verklaring van lugbesoedelingsbeheersone

### **HOOFSTUK V**

#### **ROOKVRYSTELLINGS VAN PERSELE BUITEN WONINGS**

9. Toepassing
10. Verbod op die vrystelling van donker rook van persele
11. Installering van brandstofverbrandingstoerusting
12. Hantering van brandstofverbrandingstoerusting
13. Periodieke vrystellingstoetse
14. Veronderstelling
15. Installering en hantering van verduisteringsmeters
16. Monitering en monsterontleding

17. Tydelike vrystelling

#### **HOOFSTUK VI**

#### **ROOKVRYSTELLINGS UIT WONINGS**

18. Verbod op die vrystelling van donker rook uit wonings

#### **HOOFSTUK VII**

#### **VRYSTELLINGS AS GEVOLG VAN OOP VERBRANDING**

19. Magtiging van oop verbranding en materiaalverbranding
20. Vrystellings as gevolg van die verbranding van bande, rubber en ander materiaal vir metaalherwinning

#### **HOOFSTUK VIII**

#### **VRYSTELLINGS UIT VOERTUIE MET KOMPRESSIEONTSTEKINGSENJINS**

21. Verbod op die vrystelling van donker rook uit voertuie met kompressieontstekingsenjins
22. Voorkeer van voertuie vir inspeksie en toetsing
23. Toetsprosedure
24. Herstelkennisgewing

#### **HOOFSTUK IX**

#### **VRYSTELLINGS WAT 'N STEURNIS VEROORSAAK**

25. Verbod op vrystellings wat 'n steurnis veroorsaak
26. Stofvrystellings
27. Stappe om steurnis te verwyder

#### **HOOFSTUK X**

#### **ALGEMENE SAKE**

28. Voldoeningskennisgewing
29. Afdwinging
30. Appèlle
31. Vrystellings
32. Vrywaring

#### **HOOFSTUK XI**

#### **OORTREDINGS EN STRAFMAATREËLS**

33. Oortredings en strafmaatreëls
34. Herroeping en uitsonderingsbepalings

35. Kort titel

**Bylae 1 – Standaarde en spesifikasies vir brandstofverbrandingstoerusting**

**Bylae 2 – Goeie bestuurspraktyke om rookvrystelling by die oop verbranding van plantegroei te voorkom of te beperk**

**HOOFSTUK I  
VERTOLKING EN GRONDBEGINSELS**

**Woordomskrywing**

1. In hierdie verordening, tensy uit die samehang anders blyk, beteken -

“**atmosfeer**” lug wat nie deur 'n gebou, masjien, skoorsteen of ander soortgelyke struktuur ingesluit word nie;

“**atmosferiese vrystelling**” of “**vrystelling**” enige vrystelling- of meeslepingsproses uit 'n punt-, niepunt- of mobiele bron, soos die Wet op Luggehalte dit omskryf, wat tot lugbesoedeling lei;

“**bes uitvoerbare omgewingskeuse**” die keuse wat die grootste voordeel of die minste skade vir die omgewing in die geheel inhou, teen 'n koste wat op sowel lang as kort termyn vir die samelewing aanvaarbaar is;

“**brandstofverbrandingstoerusting**” enige geïnstalleerde oond, ketel, verbrander, verbrandingsoond, berokingstoestel, houtstoof, kommersiële hout- of houtskoolbraaitoestel of ander toerusting, met inbegrip van 'n skoorsteen, wat –

- (a) ontwerp of daartoe in staat is om vloeistof, gas of vaste brandstof te verbrand;
- (b) gebruik word om weg te doen met enige materiaal, waaronder algemene en gevaarlike afval, deur die aanwending van hitte, teen 'n hoeveelheid van minder as 10 kg afval per dag; of
- (c) gebruik word om vloeistof, gas of vaste brandstof aan enige proses te onderwerp waarby die aanwending van hitte betrokke is;

dog met uitsluiting van noodkragopwekkers en tydelike noodkragopwekkers, huishoudelike brandstofverbrandingstoerusting, en kommersiële kooktoerusting wat met gas werk;

“**donker rook**” -

- (a) met betrekking tot hoofstuk V en hoofstuk VI van hierdie verordening, rook wat 'n verduistering van 20% of meer toon as dit met 'n ligabsorpsiemeter, verduisteringsmeter of ander soortgelyke toerusting gemeet word;
- (b) met betrekking tot hoofstuk VIII van hierdie verordening –
  - (i) rook uit die uitlaat van normaal geaspireerde kompressieontstekingsenjins met 'n digtheid van 50 of meer Hartridge-rookeenhede, of 'n ligabsorpsiekoëffisiënt van meer as 1,61 m<sup>-1</sup>, of 'n ondeursigtigheidspersentasie van 18,57; en
  - (ii) rook uit die uitlaat van turboaangejaagde kompressieontstekingsenjins met 'n digtheid van 56 of meer Hartridge-rookeenhede, of 'n ligabsorpsiekoëffisiënt van meer as 1,91 m<sup>-1</sup>, of 'n ondeursigtigheidspersentasie van 21,57;

“**gemagtigde amptenaar**” ’n werknemer van die Stad met die verantwoordelikheid om enige plig, bevoegdheid of mag ingevolge hierdie verordening uit te voer of uit te oefen, met inbegrip van werknemers aan wie die verantwoordelikheid vir die uitvoering of uitoefening van sodanige pligte, bevoegdheid of magte gedelegeer is;

“**lewende organisme**” enige biologiese entiteit wat genetiese materiaal, waaronder steriele organismes en virusse, kan oordra of repliseer;

“**ligabsorpsiemeter**” ’n meettoestel wat ’n ligsensitiewe sel of verklikker gebruik om te bepaal hoeveel lig ’n lugbesoedelende stof absorbeer;

“**lugbesoedelende stof**” onder andere enige stof, rook, dampe of gas wat lugbesoedeling veroorsaak of kan veroorsaak;

“**lugbesoedeling**” enige verandering in die omgewing weens enige stof wat deur enige aktiwiteit in die atmosfeer vrygestel word, waar sodanige verandering ’n nadelige uitwerking het, of in die toekoms ’n nadelige uitwerking sal hê, op die mens se gesondheid of welstand, of op die samestelling, weerstand en produktiwiteit van natuurlike of bestuurde ekosisteme, of op materiale wat nuttig is vir die mens;

“**lugbesoedelingsbeheersone**” ’n geografiese gebied wat ingevolge artikel 8 van die verordening tot ’n lugbesoedelingsbeheersone vir die doeleindes van hoofstuk IV van die verordening verklaar word;

“**luggehaltebeampte**” die luggehaltebeampte wat ingevolge artikel 14(3) van die Wet op Luggehalte as sodanig aangewys word;

“**luggehaltebestuursplan**” die luggehaltebestuursplan waarna artikel 15 van die Wet op Luggehalte verwys;

“**nadelige uitwerking**” enige werklike of moontlike uitwerking op die omgewing wat die omgewing of enige aspek daarvan dermate benadeel of sou kon benadeel dat dit nie as onbeduidend of onbelangrik beskou kan word nie;

“**omgewing**” die milieu waarin mense bestaan en wat bestaan uit -

- (a) die grond, water en atmosfeer van die aarde;
- (b) mikro-organismes en die plante- en dierelewe;
- (c) enige deel of samevoeging van (a) en (b), en die onderlinge verwantskappe daartussen; en
- (d) die fisiese, chemiese, estetiese en kulturele eienskappe en toestande van voormelde wat mense se gesondheid en welstand raak;

“**omringende lug**” dieselfde as in artikel 1 van die Wet op Luggehalte;

“**ongemagtigde verbranding**” verbranding van enige materiaal op enige plek of met enige toestel op enige perseel buite met ’n goedgekeurde verbrandingstoestel sonder om die vooraf- skriftelike toestemming van die Stad te verkry;

“**oop verbranding**” die verbranding van enige materiaal sonder ’n skoorsteen waardeur die produkte van verbranding in die atmosfeer vrygestel word, met inbegrip van brande vir die doel van brandveiligheidsopleiding, dog met uitsluiting van enige ontspannings- of kommersiële braai, en “**verbranding in die ope lug**” het ’n ooreenstemmende betekenis;

**“opdrag”** 'n instruksie wat die gedelegeerde owerheid uitreik ingevolge waarvan 'n persoon sekere aktiwiteite moet uitvoer of staak om enige nadelige uitwerking op luggehalte, gesondheid of die omgewing te voorkom;

**“openbare pad”** 'n pad met betrekking waartoe die publiek gebruiksreg het;

**“operateur”** 'n persoon wat 'n onderneming besit of bestuur of 'n bedryf of proses beheer wat lugbesoedelende stowwe vrystel;

**“perseel”** onder andere -

- (a) enige gebou of ander struktuur;
- (b) enige aangrensende grond of wat met betrekking tot enige aktiwiteit in daardie gebou of struktuur beset of gebruik word;
- (c) enige oop grond;
- (d) enige lokomotief, skip, boot of ander tuig wat in die regsgebied van die Stad funksioneer; en
- (e) enige entiteit of grond in staatsbesit;

**“persoon”** 'n natuurlike of regspersoon;

**“provinsiale regering”** die provinsiale regering van die Wes-Kaap;

**“raad”** die munisipale raad van die Stad;

**“rook”** die gasse, deeltjies en produkte van verbranding wat met die verbranding of verhitting van materiaal in die atmosfeer vrygestel word, met inbegrip van die roet, grint en grinterige deeltjies wat as deel van rook vrygestel word;

**“skoorsteen”** enige struktuur of opening van enige aard waaruit of waardeur lugbesoedelende stowwe vrygestel kan word;

**“spesialisstudie”** enige wetenskaplik gegronde studie met betrekking tot luggehalte wat deur 'n kundige of erkende spesialis met toepaslike kwalifikasies en bevoegdheid op die vakgebied van luggehaltebestuur uitgevoer word;

**“spuitgebied”** 'n gebied of ingeslote area waarna artikel 25 verwys en wat vir spuitverfwerk gebruik word, en **“spuitkamer”** het 'n ooreenstemmende betekenis;

**“Stad”** die Stad Kaapstad wat volgens Provinsiale Kennisgewing nr 479 van 2000 ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) ingestel is, of enige struktuur of werknemer van die Stad wat ingevolge gedelegeerde bevoegdheid optree;

**“Stadsbestuurder”** 'n persoon wat die raad ingevolge artikel 54A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000) as sodanig aanstel;

**“steurnis”** wanneer lugbesoedeling onredelik inbreuk maak of waarskynlik sal maak, en 'n nadelige uitwerking het, op -

- (a) die gesondheid of welstand van enige persoon of lewende organisme; of
- (b) 'n eienaar of okkupeerder se gebruik en genieting van sy of haar eiendom of die omgewing;

**“stof”** enige vaste stof in 'n fyn of gedisintegreerde vorm wat in die atmosfeer kan versprei of sweef;

**“uitvoerende direkteur: stadsgesondheid”** die uitvoerende direkteur van die Stad wat vir gesondheidsake verantwoordelik is;

**“verbrande metaal”** enige metaal waarvan die buitenste laag verwyder is deur middel van verbranding op enige plek of met enige toestel buiten 'n goedgekeurde verbrandingstoestel ten einde die metaal onder die buitenste laag te herwin;

**“verduistering”** die verhouding van sigbare lig wat verswak is deur lugbesoedelende stowwe wat in die uitvloeistrome sweef, tot die inval van sigbare lig, uitgedruk as 'n persentasie;

**“voertuig”** enige motorkar, motorfiets, bus, vragmotor of ander vervoermiddel wat in die geheel of gedeeltelik deur enige vlugtige spiritus, stoom, gas of olie, of enige ander middel buiten menslike of dierekrag, aangedryf word;

**“voertuig met 'n kompressieontstekingsenjin”** 'n voertuig wat deur 'n binneverbranding-, kompressieontsteking-, diesel- of soortgelyke brandstofenjin aangedryf word;

**“voortgesette oortreding”** 'n oortreding waar die handeling of versuim wat tot die uitreiking van 'n kennisgewing aanleiding gee, nie herstel, verwyder of reggestel word teen die verstrykingsdatum van 'n kennisgewing wat ingevolge hierdie verordening uitgereik is nie;

**“vryversnellingstoets”** die toetsprosedure wat in artikel 23 beskryf word;

**“Wet op Luggehalte”** die Wet op Nasionale Omgewingsbestuur: Luggehalte, 2004 (Wet 39 van 2004);

**“Wet op Munisipale Stelsels”** die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000); en

**“woning”** enige gebou of struktuur, of deel van 'n gebou of struktuur, wat as tydelike of permanente woonplek gebruik word, met inbegrip van enige buitegebou of ander bykomstige struktuur.

### **Toepassing van hierdie verordening**

2. Hierdie verordening is van toepassing op alle eiendomme of persele in die regsgebied van die Stad.

### **Strydigheid met ander wette**

3. In geval van strydigheid tussen hierdie verordening en enige ander verordening of beleid wat lugbesoedeling reguleer, sal die bepalings van hierdie verordening geld in soverre dit met luggehaltebestuur verband hou.

## **HOOFSTUK II SORGSAAMHEIDSPILIG**

### **Redelike maatreëls om lugbesoedeling te voorkom**

4. (1) Enige persoon wat ten volle of gedeeltelik verantwoordelik is vir die ontstaan van lugbesoedeling of die skep van 'n lugbesoedelingsgevaar moet alle redelike maatreëls tref, met inbegrip van die bes uitvoerbare keuse –

- (a) om te voorkom dat enige moontlik beduidende lugbesoedeling plaasvind; en
- (b) om die omgewingsimpak en -gevolge van enige lugbesoedeling wat plaasgevind het te temper en so ver redelik moontlik te herstel.

- (2) Die Stad kan enige persone wat versuim om die vereiste maatreëls ingevolge subartikel (1) te tref, opdrag gee om –
- (a) die omgewingsimpak van sekere aktiwiteite te ondersoek, te evalueer en te beoordeel en daarvoor verslag te doen;
  - (b) voor 'n sekere datum bepaalde redelike maatreëls te tref;
  - (c) toegewyd met sodanige maatreëls vol te hou; en
  - (d) die maatreëls voor 'n bepaalde redelike datum af te handel;
- met dien verstande dat die Stad sodanige persone voor so 'n opdrag voldoende kennis sal gee en versoek om die gemagtigde amptenaar van hulle tersaaklike belange in te lig.
- (3) Indien 'n persoon versuim om gehoor te gee of voldoende gehoor te gee aan 'n opdrag wat in subartikel (2) beoog word, kan die Stad redelike maatreëls tref om die situasie reg te stel.
- (4) Indien 'n persoon versuim om die maatreëls in subartikel (1) te tref, kan die Stad alle redelike koste wat aangegaan word vir optrede ingevolge subartikel (3) van enige van of al die onderstaande persone verhaal:
- (a) enige persoon wat verantwoordelik is of was vir, of regstreeks of onregstreeks bygedra het tot, die lugbesoedeling of moontlike lugbesoedeling;
  - (b) die grondeienaar ten tyde van die lugbesoedeling of moontlike lugbesoedeling;
  - (c) die persoon in beheer van die grond of enige persoon met die huidige of gewese reg om die grond te gebruik -
    - (i) toe die betrokke aktiwiteit of proses uitgevoer of onderneem is; of
    - (ii) toe die situasie ontstaan het; of
  - (d) enige persoon wat op nalatige wyse versuim om te voorkom -
    - (i) dat die aktiwiteit of proses uitgevoer of onderneem word; of
    - (ii) dat die situasie ontstaan.
- (5) Enige persoon wat versuim om te voldoen aan 'n opdrag wat 4(2) hierbo beoog, is skuldig aan 'n oortreding ingevolge hoofstuk XI van hierdie verordening.

### **HOOFSTUK III AANWYSING VAN LUGGEHALTEBEAMPTTE**

#### **Aanwysing of aanstelling van die luggehaltebeampte**

5. Die Stadsbestuurder moet in oorleg met die uitvoerende direkteur: stadsgesondheid 'n werknemer van die Stad Kaapstad as die luggehaltebeampte aanwys of aanstel, wat verantwoordelik sal wees vir die koördinerings van aangeleenthede met betrekking tot luggehaltebestuur en die verlening of weiering van lisensies of voorlopige lisensies vir atmosferiese vrystellings ingevolge die Wet op Luggehaltebeheer in die regsgebied van die Stad.



## HOOFSTUK IV PLAASLIKE VRYSTELLINGSTANDAARDE, NORME EN STANDAARDE, EN ROOKBEHEERSONES

### Deel 1: Plaaslike vrystellingstandaarde

#### Wetlike mandaat

6. (1) Die Stad kan deur middel van kennisgewing -

- (a) stowwe of mengsels stowwe in die omringende lug identifiseer wat deur omringende konsentrasies, bioakkumulاسie, afsetting of op enige ander manier 'n bedreiging vir gesondheid, welstand of die omgewing in die regsgebied van die Stad Kaapstad inhou, of wat na die luggehaltebeampte se redelike oordeel sodanige bedreiging inhou; en
- (b) met betrekking tot elk van daardie stowwe of mengsels stowwe plaaslike standaarde vir vrystelling van punt-, niepunt- of mobiele bronne in die regsgebied van die Stad Kaapstad publiseer.

(2) In die vaststelling van plaaslike vrystellingstandaarde kan die Stad die volgende faktore in ag neem:

- (a) gesondheid-, veiligheid- en omgewingsbeskermingsdoelwitte;
- (b) ontledingsmetodologie;
- (c) die tegniese uitvoerbaarheid;
- (d) moniteringsvermoë;
- (e) sosio-ekonomiese gevolge;
- (f) die ekologiese rol van brande by plantreste; en
- (g) die bes uitvoerbare omgewingskeuse.

(3) Enige persoon wat stowwe of mengsels stowwe vrystel waarna subartikel (1) hierbo verwys, moet voldoen aan die plaaslike vrystellingstandaarde wat ingevolge hierdie verordening gepubliseer word, en versuim om daaraan te voldoen maak 'n oortreding ingevolge hoofstuk XI van hierdie verordening uit.

### Deel 2: Norme en standaarde

#### Proses vir identifikasie van stowwe

7.(1) In die identifikasie en prioritering van die stowwe in die omringende lug wat 'n bedreiging vir openbare gesondheid, welstand of die omgewing inhou, moet die Stad die volgende in ag neem:

- (a) die moontlikheid, ergheidsgraad en gereeldheid van die uitwerking op mense se gesondheid en die omgewing in die geheel, veral onomkeerbare uitwerkings;
- (b) alomteenwoordige en hoë konsentrasies van die stof in die atmosfeer;
- (c) moontlike omgewingstransformasies en metaboliese veranderinge in die stof, aangesien sodanige veranderinge tot die produksie van chemikalieë met groter toksiese nawerking in die omgewing kan lei, veral indien die stof nie bioafbreekbaar is nie en in mense, die omgewing of voedselkettings kan opbou;

- (d) die impak van die stof, gedagtig aan die volgende faktore:
  - (i) die omvang van die bevolking, lewende hulpbronne of ekosisteme;
  - (ii) die bestaan van bepaald sensitiewe reseptore in die betrokke sone; en
- (e) stowwe wat onder internasionale konvensies val.

(2) Die luggehaltebeampte moet aan die hand van die maatstawwe in subartikel (1) 'n lys opstel van stowwe in die omringende lug wat 'n bedreiging vir openbare gesondheid, welstand of die omgewing inhou.

### **Verklaring van lugbesoedelingsbeheersone**

8. (1) Hiermee word die hele regsgebied van die Stad Kaapstad tot 'n lugbesoedelingsbeheersone verklaar.

(2) Binne die lugbesoedelingsbeheersone kan die Stad van tyd tot tyd deur middel van kennisgewing in die Provinsiale Koerant -

- (a) die vrystelling van een of meer lugbesoedelende stowwe van alle of sekere persele verbied of beperk;
- (b) die verbranding van sekere soorte brandstof verbied of beperk;
- (c) verskillende luggehaltevereistes in 'n lugbesoedelingsbeheersone voorskryf met betrekking tot:
  - (i) verskillende geografiese gedeeltes;
  - (ii) bepaalde persele;
  - (iii) klasse persele;
  - (iv) persele wat vir bepaalde doeleindes gebruik word; of
  - (v) mobiele bronne.

(3) Die Stad kan beleide en riglyne, waaronder tegniese riglyne, opstel en publiseer met betrekking tot die regulering van aktiwiteite wat regstreeks of onregstreeks lugbesoedeling in 'n lugbesoedelingsbeheersone veroorsaak.

(4) Geen eienaar of okkupeerder van enige perseel mag veroorsaak of toelaat dat rook van sodanige perseel uitvloei of vrygestel word wat van so 'n digtheid of inhoud is dat dit lig met meer as twintig (20) persent sal verduister nie.

## **HOOFSTUK V ROOKVRYSTELLINGS VAN PERSELE BUITEN WONINGS**

### **Toepassing**

9. Vir die doeleindes van hierdie hoofstuk sluit "**persele**" nie wonings in nie.

**Verbod op die vrystelling van donker rook van persele**

10. (1) Onderworpe aan subartikel (2), mag donker rook nie vir langer as drie (3) minute altesaam gedurende enige aaneenlopende tydperk van dertig (30) minute van enige perseel vrystel word nie.
- (2) Hierdie artikel is nie van toepassing op donker rook wat deur brandstofverbrandings-toerusting vrystel word wanneer sodanige toerusting aangesit, nagesien of herstel word nie, tensy sodanige vrystelling deur middel van die bes uitvoerbare omgewingskeuse voorkom kon word.
- (3) Subartikel (1) en (2) is nie van toepassing op die houers van lisensies vir atmosferiese vrystellings vir aktiwiteite wat ingevolge artikel 21 van die Wet op Luggehaltebeheer gelys word nie, en die vrystellingstandaarde wat in sodanige lisensies vir atmosferiese vrystellings bepaal word, sal geld.

**Installering van brandstofverbrandingstoerusting**

11. (1) Geen persoon mag sonder die vooraf- skriftelike toestemming van die Stad enige brandstofverbrandingstoerusting op enige perseel installeer, wysig, uitbrei, vervang of hanteer nie, welke toestemming slegs na oorweging van die voltooide voorgeskrewe aansoekvorm sowel as die tersaaklike planne en spesifikasies verleen mag word.
- (2) Geen regte val enige aansoeker om skriftelike toestemming ingevolge subartikel (1) toe terwyl die aansoek nog oorweeg word nie.
- (3) Daar sal aangeneem word dat skriftelike toestemming deur die Stad met betrekking tot die installering, wysiging, uitbreiding, vervanging of hantering van enige brandstofverbrandingstoerusting ingevolge 'n verordening oor luggehaltebestuur of 'n regulasie ingevolge die Wet op Voorkoming van Atmosferiese Besoedeling wat nou herroep is, aan die vereistes van subartikel (1) voldoen indien bewys van sodanige toestemming aan die gemagtigde amptenaar voorsien word.
- (4) Waar brandstofverbrandingstoerusting strydig met subartikel (1) geïnstalleer, gewysig, uitgebrei of vervang word, kan die gemagtigde amptenaar deur middel van skriftelike kennisgewing aan die eienaar van die perseel of die operateur van die toestel:
- (a) gelas dat die brandstofverbrandingstoerusting binne die tydperk wat in die kennisgewing aangedui word op die eienaar, operateur of albei se onkoste van die perseel verwyder word, of
- (b) 'n boete van hoogstens R10 000 opleë voordat 'n aansoek om skriftelike toestemming ingevolge subartikel (1) oorweeg word.
- (5) Waar die eienaarskap van brandstofverbrandingstoerusting wat deur die Stad goedgekeur is na 'n nuwe eienaar oorgedra word, moet die nuwe eienaar ingevolge subartikel (1) aansoek doen om skriftelike toestemming om sodanige toerusting te gebruik.
- (6) Brandstofverbrandingstoerusting moet aan die vrystellingstandaarde in bylae 1 by hierdie verordening voldoen.

**Hantering van brandstofverbrandingstoerusting**

12. (1) Geen persoon mag enige brandstofverbrandingstoerusting op enige perseel in stryd met skriftelike toestemming ingevolge artikel 11(1) gebruik of hanteer nie.
- (2) Waar brandstofverbrandingstoerusting op die perseel in stryd met subartikel (1) gebruik of hanteer word, kan die gemagtigde amptenaar deur middel van skriftelike kennisgewing aan die eienaar van die perseel of die operateur van die brandstofverbrandingstoerusting -
- (a) die skriftelike toestemming waarna subartikel (1) verwys, terugtrek; en
  - (b) gelas dat die brandstofverbrandingstoerusting binne die tydperk wat die kennisgewing aandui op die eienaar en operateur se onkoste van die perseel verwyder word.
- (3) Ingeval die eienaar van die perseel of operateur van die brandstofverbrandingstoerusting weier om gehoor te gee aan 'n kennisgewing wat ingevolge subartikel (2) uitgereik is, kan die gemagtigde amptenaar die brandstofverbrandingstoerusting van die perseel verwyder, en die redelike koste wat daarvoor aangegaan is van die betrokke eienaar of operateur verhaal.

**Periodieke vrystellingstoetse**

13. Die gemagtigde amptenaar kan gelas dat die eienaar of operateur van enige brandstofverbrandingstoerusting wat vaste brandstowwe kan verbrand, periodieke vrystellingstoetse ooreenkomstig die voorgeskrewe metodes in bylae 1 by hierdie verordening uitvoer.

**Veronderstelling**

14. (1) Daar sal veronderstel word dat donker rook van 'n perseel vrygestel is indien daar aangetoon word dat enige brandstof of materiaal op die perseel verbrand is, en die omstandighede sodanig was dat die verbranding redelik waarskynlik tot die vrystelling van donker rook sou lei, tensy die eienaar, okkupeerder of operateur, na gelang van omstandighede, kan bewys dat geen donker rook vrygestel is nie.
- (2) Waar 'n gemagtigde amptenaar opmerk dat brandstofverbrandingstoerusting deeltjievrystellings vrystel, of donker rook vir altesaam meer as drie minute per halfuur, kan die gemagtigde amptenaar 'n voldoeningkennisgewing uitreik wat die operateur of eienaar gelas om onmiddellik die gebruik van die brandstofverbrandingstoerusting te staak totdat die brandstofverbrandingstoerusting tot die bevrediging van die gemagtigde amptenaar herstel is.
- (3) Versuim om gehoor te gee aan 'n bevel wat ingevolge subartikel (2) uitgereik is, maak 'n oortreding uit.

**Installering en hantering van verduisteringsmeters**

15. (1) 'n Gemagtigde amptenaar kan enige operateur van brandstofverbrandingstoerusting, of enige eienaar of okkupeerder van 'n perseel waar brandstofverbrandingstoerusting gebruik of hanteer word, of veronderstel is om gebruik of hanteer te word, kennis gee om op sy of haar onkoste 'n verduisteringsmeter te installeer, in stand te hou en te hanteer indien -
- (a) ongemagtigde en onregmatige vrystellings van donker rook van die betrokke perseel aanhoudend en gereeld oor 'n tydperk van minstens twee dae voorkom;
  - (b) ongemagtigde en onregmatige vrystellings van donker rook van die betrokke perseel met tussenposes oor 'n tydperk van minstens veertien dae voorkom;

- (c) brandstofverbrandingstoerusting op die betrokke perseel geïnstalleer is, of veronderstel is om geïnstalleer te word, wat redelik waarskynlik donker rook sal vrystel;
- (d) die persoon aan wie die kenisgewing bestel is by meer as een geleentheid in die vorige twee jaar skuldig bevind is of 'n afkoopboete betaal het met betrekking tot 'n oortreding ingevolge hierdie hoofstuk of enige vorige verordening oor luggehaltesake, en nie voldoende maatreëls getref het om verdere oortreding van die bepalings van hierdie hoofstuk te voorkom nie; of
- (e) die gemagtigde amptenaar van oordeel is dat die aard van die lugbesoedelende stowwe wat van die betrokke perseel vrygestel word, redelik waarskynlik 'n gevaar vir mense se gesondheid of die omgewing inhou.

### **Monitering en monsterontleding**

16. 'n Okkupeerder of eienaar van 'n perseel en die operateur van enige brandstofverbrandingstoerusting van wie daar vereis word om ingevolge artikel 15(1) 'n verduisteringsmeter te installeer, moet -

- (a) alle resultate van monitering en monsterontleding aanteken en vir minstens vier jaar nadat die resultate verkry is 'n afskrif van sodanige dokument bewaar;
- (b) indien 'n gemagtigde amptenaar so versoek –
  - (i) die dokument met die monitering- en monsterontledingsresultate vir inspeksie beskikbaar stel; en
  - (ii) 'n skriftelike verslag voorsien oor 'n deel van of al die inligting in die dokument met die monitering- en monsterontledingsresultate, in 'n vorm en teen 'n datum wat die gemagtigde amptenaar bepaal.

### **Tydlike vrystelling**

17.(1) Onderworpe aan artikel 34 en by ontvangs van 'n ten volle gemotiveerde skriftelike aansoek van die eienaar of okkupeerder van 'n perseel of die operateur van brandstofverbrandingstoerusting, kan die Stad skriftelik tydelike vrystelling van een van of al die bepalings van hierdie hoofstuk toestaan.

(2) Enige vrystelling wat ingevolge subartikel (1) toegestaan word, moet ten minste die volgende bevat:

- (a) 'n beskrywing van die brandstofverbrandingstoerusting en die perseel waar dit gebruik of hanteer word;
- (b) die redes waarom die vrystelling toegestaan word;
- (c) die voorwaardes verbonde aan die vrystelling, indien enige;
- (d) die tydperk waarvoor die vrystelling toegestaan word; en
- (e) enige ander tersaaklike inligting.

(3) Die Stad mag nie 'n tydelike vrystelling ingevolge subartikel (1) toestaan nie tensy die Stad:

- (a) redelike maatreëls getref het om te verseker dat alle persone wie se regte deur die toestaan van die tydelike vrystelling benadeel kan word, wat aanliggende grondeienaars of okkupeerders insluit, bewus is van die aansoek om tydelike vrystelling sowel as van hoe om 'n afskrif daarvan te bekom;

- (b) sodanige persone 'n redelike geleentheid gegun het om teen die aansoek beswaar te maak; en
- (c) enige besware wat ontvang is behoorlik oorweeg en in ag geneem het.

## **HOOFSTUK VI ROOKVRYSTELLINGS UIT WONINGS**

### **Verbod op die vrystelling van donker rook uit wonings**

- 18.** (1) Onderworpe aan artikel 4(1), mag geen persoon vir langer as drie minute altesaam in enige aaneenlopende tydperk van dertig minute donker rook uit enige woning vrystel of sodanige vrystelling toelaat nie.
- (2) Onderworpe aan artikel 31 en op skriftelike versoek deur die eienaar of okkupeerder van enige woning, kan die Stad skriftelik tydelike vrystelling van een van of al die bepalings van hierdie hoofstuk toestaan.
- (3) Onderworpe aan artikel 4(1), mag geen persoon donker rook vrystel of sodanige vrystelling toelaat in so 'n mate dat dit 'n steurnis veroorsaak nie.

## **HOOFSTUK VII VRYSTELLINGS AS GEVOLG VAN OOP VERBRANDING**

### **Magtiging van oop verbranding en materiaalverbranding**

- 19.** (1) Onderworpe aan subartikel (4), mag geen persoon enige materiaal in die ope lug op enige grond of perseel verbrand tensy sodanige persoon eers skriftelike toestemming vir oop verbranding van die Stad verkry het nie.
- (2)(a) Waar 'n derde party namens die eienaar van 'n eiendom oop verbranding wil uitvoer, moet die derde party skriftelike toestemming van die eienaar bekom voordat 'n aansoek om toestemming vir oop verbranding by die Stad ingedien word.
- (b) Die Stad kan oop verbranding uitvoer waar dit redelikerwys vereis word en die eienaar of okkupeerder nie bereik kan word nie.
- (3) In die skriftelike toestemming waarna subartikel (1) verwys, kan die Stad voorwaardes opleë waaraan die persoon wat die skriftelike toestemming versoek, moet voldoen.
- (4) Die Stad mag nie oop verbranding ingevolge subartikel (1) toelaat tensy die Stad tevrede is dat die persoon wat toestemming versoek die onderstaande vereistes voldoende nagekom of hanteer het nie:
- (a) die materiaal moet in die ope lug verbrand word op die grond waarvandaan dit kom;
  - (b) die persoon wat toestemming versoek moet tot die bevrediging van die Stad alle redelike alternatiewe vir die vermindering, hergebruik, herwinning of verwydering van die materiaal ondersoek en beoordeel het ten einde die hoeveelheid materiaal wat in die ope lug verbrand moet word te verminder;
  - (c) die persoon wat toestemming versoek moet die omgewingsimpak van die oop verbranding tot die bevrediging van die Stad ondersoek en beoordeel het;

- (d) die persoon wat toestemming versoek moet hetsy 'n kennisgewing geplaas het in 'n plaaslike koerant wat in die omgewing verskyn, of die eienaars en okkupeerders van alle aanliggende eiendomme skriftelik in kennis gestel het van –
    - (i) alle bekende besonderhede van die voorgestelde oop verbranding; en
    - (ii) die reg van die eienaars en okkupeerders van aanliggende eiendomme om binne sewe dae nadat hulle in kennis gestel is skriftelike besware teen die voorgestelde oop verbranding by die Stad in te dien;
  - (e) die aansoeker moet bewys gelewer het dat die eienaars en okkupeerders van alle aanliggende eiendomme die skriftelike kennisgewing minstens sewe (7) dae voor die oorwegin van die aansoek om oop verbranding ontvang het;
  - (f) die Stad moes die voorgeskrewe fooi ontvang het;
  - (g) die grond waarop die persoon voornemens is om die materiaal te verbrand moet staatsgrond, 'n plaas of kleinhoewe, of grond in 'n amptelike dorpsgebied wees wat nie vir residensiële doeleindes gebruik word nie;
  - (h) die oop verbranding moet ten minste 100 meter vanaf enige geboue of strukture uitgevoer word; en
  - (i) die oop verbranding moet nie 'n moontlike gevaar vir mense se gesondheid of veiligheid, privaat eiendom of die omgewing inhou nie.
- (5) Die bepalings van hierdie artikel is nie van toepassing nie op -
- (a) buitebraai-ontspanningsaktiwiteite op privaat persele of in aangewese ruimtes;
  - (b) klein, beheerde vure in informele nedersettings vir kosbereiding, waterverhitting en ander huishoudelike doeleindes.
- (6) Artikel (4)(a), (b), (f) en (g) is nie van toepassing op brandveiligheidsopleiding nie.
- (7) Die bestuurspraktyke wat in bylae 2 by die verordening uiteengesit word, moet toegepas word om die vrystelling van rook te voorkom of te beperk waar plantegroei in die ope lug in die Stad se regsgebied verbrand word.

**Vrystellings as gevolg van die verbranding van bande, rubber en ander materiaal vir metaalherwinning**

20. (1) Geen persoon mag sonder die vooraf- skriftelike toestemming van die Stad op enige perseel-
- (a) enige bande, rubberprodukte, kables, sinteties bedekte of geïsoleerde produkte, toerusting of enige ander soortgelyke produk verbrand of laat verbrand nie om –
    - (i) die metaal daarin te herwin;
    - (ii) met die bande of enige ander produk wat in (a) hierbo beskryf word as afval weg te doen nie; of
    - (iii) enige ander rede, buiten vir die termiese behandeling van algemene en gevaarlike afval in enige toestel wat ingevolge artikel 41(1)(a) van die Wet op Nasionale Omgewingsbestuur: Luggehalte gelisensieer is;
  - (b) enige verbrande metaal wat as gevolg van ongemagtigde verbranding herwin is, hê, berg, vervoer of verhandel nie.

- (2) Vir die doeleindes van bewysinsameling kan 'n gemagtigde amptenaar beslag lê op enige verbrande metaal of metaal wat besig is om verbrand te word waar die toestemming in artikel 20(1) nie verkry is of nie deur 'n persoon waarna daardie subartikel verwys, voorsien kan word nie.

## **HOOFSTUK VIII VRYSTELLINGS UIT VOERTUIG MET KOMPRESSIEONTSTEKINGSENJINS**

### **Verbod op die vrystelling van donker rook uit voertuie met kompressieontstekingsenjins**

- 21.** (1) Geen persoon mag 'n voertuig met 'n kompressieontstekingsenjien wat donker rook vrystel op 'n openbare of privaat pad of enige perseel bestuur of gebruik of laat gebruik nie.
- (2) Vir die doeleindes van hierdie hoofstuk word die geregistreerde eienaar van die voertuig as die bestuurder beskou, tensy teenbewys gelewer word.

### **Voorkeer van voertuie vir inspeksie en toetsing**

- 22.** (1) Ten einde 'n gemagtigde amptenaar in staat te stel om die bepalings van hierdie hoofstuk toe te pas, moet die bestuurder van 'n voertuig gehoor gee aan enige redelike opdrag van 'n gemagtigde amptenaar om die inspeksie of toetsing van die voertuig uit te voer of te fasiliteer.
- (2) 'n Gemagtigde amptenaar mag die bestuurder van 'n voertuig wat vermoedelik donker rook vrystel, opdrag gee om die voertuig te stop ten einde -
- (a) die voertuig langs die pad te inspekteer en te toets, in welke geval inspeksie en toetsing uitgevoer moet word -
    - (i) by of so na as moontlik aan die plek waar die opdrag om die voertuig te stop gegee is; en
    - (ii) so gou prakties moontlik, en in ieder geval binne 'n uur nadat die voertuig ooreenkomstig die opdrag gestop het; of
  - (b) 'n visuele inspeksie van die voertuig te doen, en indien die gemagtigde amptenaar van redelike oordeel is dat 'n oortreding ingevolge artikel 21 begaan is, die bestuurder van die voertuig, wat as die eienaar van die voertuig beskou sal word tensy hy of sy skriftelike teenbewys lewer, versoek om die voertuig binne 'n bepaalde tydperk vir inspeksie en toetsing ingevolge artikel 23 na 'n bepaalde adres of toetsstasie te neem.

### **Toetsprosedure**

- 23.** (1) 'n Gemagtigde amptenaar moet die vryversnellingstoetsmetode gebruik om vas te stel of 'n voertuig met 'n kompressieontstekingsenjien in stryd met artikel 21(1) bestuur of gebruik word.
- (2) Die volgende prosedure moet nagekom word ten einde 'n vryversnellingstoets uit te voer:
- (a) wanneer die gemagtigde amptenaar so vra, moet die bestuurder die voertuig aansit, dit na vryrat (neutraal) oorskakel, en die koppelaar los;
  - (b) terwyl die voertuig luier, moet die gemagtigde amptenaar 'n visuele inspeksie van die voertuig se uitlaatstelsel doen;



- (c) die gemagtigde amptenaar moet die voertuig se versnelpedaal vinnig, egalig en volledig intrap, of kan die bestuurder opdrag gee om dit onder die gemagtigde amptenaar se toesig te doen;
  - (d) terwyl die versnelpedaal ingetrap is, moet die gemagtigde amptenaar die rookvrystelling uit die voertuig se uitlaatstelsel meet ten einde vas te stel of donker rook vrygestel word of nie;
  - (e) die gemagtigde amptenaar moet die versnelpedaal los wanneer die enjin uitkakelsnelheid bereik;
  - (f) indien die gemagtigde amptenaar die bestuurder vra om die versnelpedaal in te trap, mag die bestuurder die versnelpedaal los slegs wanneer die enjin uitkakelsnelheid bereik of wanneer die gemagtigde amptenaar so vra.
- (3) Indien die gemagtigde amptenaar na afloop van die vryversnellingstoets tevrede is dat die voertuig -
- (a) nie donker rook vrystel nie, moet hy of sy die bestuurder van die voertuig van 'n sertifikaat voorsien wat aandui dat die voertuig nie in stryd met artikel 21 bestuur of gebruik word nie; of
  - (b) wél donker rook vrystel, moet hy of sy ingevolge artikel 24 'n herstelkennisgewing aan die bestuurder van die voertuig uitreik.

### **Herstelkennisgewing**

- 24.** (1) Ingeval 'n beslissing ingevolge artikel 23(3) gemaak word dat 'n voertuig donker rook vrystel, moet die gemagtigde amptenaar die eienaar van die voertuig skriftelik opdrag gee om die voertuig te herstel en vir 'n tweede toets te neem na die adres wat in 'n herstelkennisgewing aangedui word.
- (2) Waar die toetsstasie nie 'n toetsfasiliteit van die Stad is nie, moet die geregistreerde eienaar van die voertuig of sy of haar verteenwoordiger 'n afskrif van die toetsresultate voor of op die keerdatum op die herstelkennisgewing aan die gemagtigde amptenaar voorsien.
- (3) Die herstelkennisgewing moet die volgende inligting bevat:
- (a) die fabrikaat en registrasienommer van die voertuig;
  - (b) die naam, adres en identiteitsnommer van die bestuurder van die voertuig; en
  - (c) indien die bestuurder nie die eienaar van die voertuig is nie, die naam en adres van die voertuigeienaar.
- (4) Daar sal aangeneem word dat die eienaar van 'n voertuig van die herstelkennisgewing verwittig is op die datum waarop sodanige kennisgewing uitgereik is.
- (5) Ingeval daar nie aan die vereistes van subartikel (1) voldoen word nie, kan die Stad enige stappe doen wat dit nodig ag, wat insluit om die voertuig te skut en enige koste wat in daardie verband aangegaan word van die voertuigeienaar te verhaal.

## HOOFSTUK IX VRYSTELLINGS WAT 'N STEURNIS VEROORSAAK

### Verbod op vrystellings wat 'n steurnis veroorsaak

25. (1) Geen persoon mag in die regsgebied van die Stad -

- (a) in 'n goedgekeurde spuitgebied of -kamer enige deklaag, plateerlaag of epoksilaag op enige voertuig, item of voorwerp aanbring in so 'n mate dat dit 'n steurnis veroorsaak nie; of
- (b) buite 'n goedgekeurde spuitgebied of -kamer enige sproei, deklaag, plateerlaag of epoksilaag op enige voertuig, item of voorwerp aanbring, of toelaat dat dit aangebring word, of enige soortgelyke aktiwiteit uitvoer nie;
- (c) enigsins deur lugbesoedeling onredelik inbreuk maak of waarskynlik inbreuk maak, en 'n moontlike nadelige uitwerking hê, op -
  - (i) die gesondheid of welstand van enige persoon of lewende organisme nie; of
  - (ii) 'n eienaar of okkupeerder se gebruik en genieting van sy of haar eiendom of omgewing nie.

(2) Enige spuitgebied of -kamer waarna subartikel (1) verwys, moet:

- (a) opgerig en toegerus word ooreenkomstig die algemene veiligheidsregulasies wat ingevolge die Wet op Beroepsgesondheid en -veiligheid, 1993 (Wet 85 van 1993) uitgevaardig is; en
- (b) met betrekking tot vrystellings, meganiese ventilasie en geraas goedgekeur word deur die gemagtigde amptenaar en enige ander tersaaklike departement wat enige ander wet kan vereis.

(3) Enige persoon wat sandstraling, haelstraling, slypwerk, skrynwerk of 'n soortgelyke aktiwiteit onderneem wat gewoonlik stofvrystellings tot gevolg het wat openbare gesondheid kan benadeel of 'n steurnis veroorsaak, moet tot die bevrediging van die gemagtigde amptenaar die beste uitvoerbare keuse uitoefen om vrystellings in die atmosfeer te voorkom.

(4) Enige persoon wat 'n aktiwiteit onderneem waarna subartikel (3) verwys, moet ten minste die onderstaande beheermaatreëls tref:

- (a) beheermaatreëls vir stofonttrekking;
- (b) enige alternatiewe beheermaatreël wat die luggehaltebeampte of sy of haar gedelegeerde verteenwoordiger goedkeur.

(5) 'n Okkupeerder of eienaar van enige perseel moet die voorkoms van enige lugbesoedelingsteurnis op, of die vrystelling van enige lugbesoedelingsteurnis van, sy of haar perseel voorkom.

(6) Die okkupeerder of eienaar van enige perseel van waar 'n lugbesoedelingsteurnis vrygestel word of waar 'n lugbesoedelingsteurnis voorkom, is skuldig aan 'n oortreding.

### **Stofvrystellings**

- 26.** (1) Enige persoon wat enige aktiwiteit onderneem of versuim om te onderneem en sodoende stof in die atmosfeer vrystel of toelaat wat skadelik vir openbare gesondheid en welstand kan wees, of waarskynlik 'n steurnis sal veroorsaak vir persone wat in die omgewing van sodanige grond, aktiwiteit of perseel woon of teenwoordig is, moet tot die bevrediging van die gemagtigde amptenaar die beste praktiese omgewingskeuse uitoefen om stofvrystellings te voorkom en te verminder.
- (2) 'n Gemagtigde amptenaar kan van enige persoon wat vermoedelik 'n stofsteurnis veroorsaak, vereis om 'n stofbestuursplan in te dien binne die tydperk wat in die skriftelike kennisgewing aangedui word.
- (3) Die stofbestuursplan wat in subartikel (2) beoog word, moet:
- (a) alle moontlike stofbronne op die betrokke terrein bepaal;
  - (b) die mees uitvoerbare maatreëls beskryf wat getref sal word om stofvrystellings te temper;
  - (c) 'n inwerkingstellingsrooster uiteensit;
  - (d) aandui wie vir die inwerkingstelling van die maatreëls verantwoordelik sal wees;
  - (e) 'n plan vir die monitering van stofneerslae insluit; en
  - (f) 'n register instel waarin alle klagtes oor stofneerslae sowel as opvolgaksies en reaksies met betrekking tot die klagtes aangeteken kan word.
- (4) Die gemagtigde amptenaar kan versoek dat bykomende maatreëls in die stofbestuursplan beskryf word.
- (5) Die stofbestuursplan moet in werking gestel word binne 'n tydperk wat die gemagtigde amptenaar in 'n skriftelike kennisgewing bepaal.
- (6) Versuim om aan die bepalings van hierdie artikel gehoor te gee, maak 'n oortreding uit.

### **Stappe om steurnis te verwyder**

**27.** Die Stad kan te eniger tyd op eie onkoste enige stappe doen wat dit nodig ag ten einde die skade vanweë die steurnis reg te stel en 'n herhaling daarvan te voorkom, en kan die redelike koste wat hiervoor aangegaan word van die persoon verhaal wat vir die ontstaan van die steurnis verantwoordelik was.

## **HOOFSTUK X ALGEMENE SAKE**

### **Voldoeningskennisgewing**

- 28.**(1) 'n Gemagtigde amptenaar kan 'n voldoeningskennisgewing bestel aan enige persoon wat na die amptenaar se redelike oordeel waarskynlik strydig sal optree met óf strydig opgetree het met die verordening, en daardie persoon versoek -
- (a) om aan die tersaaklike artikel van die verordening te voldoen;

- (b) om alle nodige stappe te doen om 'n herhaling van die nievoldoening te voorkom; en
  - (c) om aan enige ander voorwaardes in die kennisgewing gehoor te gee.
- (2) 'n Voldoeningskennisgewing ingevolge subartikel (1) kan bestel word -
- (a) aan die okkupeerder, bestuurder of eienaar van enige perseel deur -
    - (i) dit af te lewer by die okkupeerder, bestuurder of eienaar, of by die eienaar se agent indien die eienaar nie opgespoor kan word nie of in die buiteland woon;
    - (ii) dit met geregistreerde pos na die mees onlangse bekende adres van die eienaar of van die agent te stuur; of
    - (iii) dit af te lewer by die adres waar die perseel geleë is indien die adres van die eienaar en die adres van die agent onbekend is.
- (3) Versuim om aan 'n voldoeningskennisgewing gehoor te gee, maak 'n oortreding uit.

### **Afdwinging**

- 29.** 1) 'n Gemagtigde amptenaar moet alle regmatige, nodige en redelik praktiese maatreëls tref om die bepalings van hierdie verordening af te dwing.
- (2) Die Stad kan afdwingingsprosedures opstel wat enige nasionale of provinsiale afdwingingsprosedures in ag behoort te neem.

### **Appelle**

- 30.**(1) Enige persoon kan teen 'n besluit deur 'n gemagtigde amptenaar ingevolge hierdie verordening appelleer deur ooreenkomstig die bepalings van artikel 62 van die Wet op Munisipale Stelsels skriftelike kennis van sodanige appèl te gee.

### **Vrystellings**

- 31.** (1) Enige persoon kan skriftelik by die Stad aansoek doen om vrystelling van die toepassing van 'n bepaling van hierdie verordening.
- (2) Die Stad kan -
- (a) 'n aansoek om vrystelling goedkeur of weier; en
  - (b) voorwaardes oplê in geval van die goedkeuring van aansoeke wat ingevolge subartikel (1) ingedien word.
- (3) 'n Aansoek ingevolge subartikel (1) moet van substantiewe redes vergesel word.
- (4) Die Stad kan van 'n aansoeker om vrystelling verwag om toepaslike stappe te doen om die aansoek onder die aandag van tersaaklike belangstellende en geaffekteerde persone sowel as die publiek te bring.
- (5) Die stappe wat in subartikel (4) beoog word, moet die publikasie van 'n kennisgewing in minstens twee koerante insluit, waarvan een provinsiaal en een in die regsgebied van die Stad verskyn -

- (a) met vermelding van die redes vir die aansoek; en
  - (b) met sodanige ander besonderhede van die aansoek as wat die luggehaltebeampte vereis.
- (6) Die Stad kan -
- (a) van tyd tot tyd enige vrystelling hersien wat ingevolge hierdie artikel toegestaan is en kan sodanige voorwaardes opleë as wat dit nodig ag; en
  - (b) enige vrystelling op goeie gronde terugtrek.
- (7) Die Stad mag nie 'n vrystelling ingevolge subartikel (1) toestaan nie tensy die Stad:
- (a) redelike maatreëls getref het om te verseker dat alle persone wie se regte deur die toestaan van die vrystelling benadeel kan word, wat aanliggende grondeienaars of okkupeerders insluit, bewus is van die aansoek om vrystelling en van hoe om 'n afskrif daarvan te bekom;
  - (b) sodanige persone 'n redelike geleentheid gegun het om teen die aansoek beswaar te maak; en
  - (c) enige besware wat ontvang is behoorlik oorweeg en in ag geneem het.

### **Vrywaring**

- 32.** Die Stad sal nie aanspreeklik wees vir enige skade aan enige eiendom of perseel weens enige optrede of versuim van die werknemers of amptenare van die Stad in die uitoefening van enige bevoegdheid of die uitvoering van enige taak ingevolge hierdie verordening nie, mits sodanige werknemers of amptenare in die uitoefening van sodanige bevoegdheid of die uitvoering van sodanige taak redelike stappe gedoen het om enige skade aan sodanige eiendom of perseel te voorkom.

## **HOOFSTUK XI OORTREDINGS EN STRAFMAATREËLS**

### **Oortredings en strafmaatreëls**

- 33.**(1) 'n Persoon wat strydig optree met artikel 4(1) en (2), 6(3), 10(1) en (2), 11(1), 12(1), 19(1), 19(3), 20(1), 20(2), 21(1), 22(1), 24(1), 25(3), (4), (5) en (6), 26(1), (2), (3) en (5), 28(1), (2) en (3) is skuldig aan 'n oortreding.
- (2) Enige persoon wat skuldig is aan 'n oortreding ingevolge hierdie verordening is strafbaar met 'n boete of, by skuldigbevinding, met tronkstraf van hoogstens 'n jaar, of sowel sodanige boete as sodanige tronkstraf.
- (3) Enige persoon wat 'n voortgesette oortreding begaan, kan strafbaar wees met 'n boete vir elke dag waarop daardie persoon versuim om gehoor te gee aan 'n opdrag, voldoeningskennisgewing of herstelkennisgewing wat ingevolge hierdie verordening uitgereik is.
- (4) Dit is 'n oortreding om met betrekking tot enige kwessie in verband met hierdie verordening valse inligting aan 'n gemagtigde amptenaar te voorsien.
- (5) Waar geen spesifieke strafmaatreël bepaal word nie, is enige persoon wat 'n oortreding ingevolge hierdie verordening begaan strafbaar met 'n boete en, by skuldigbevinding, met tronkstraf van hoogstens 'n jaar, of met sowel sodanige tronkstraf as sodanige boete.

(6) Benewens die oplegging van 'n boete of tronkstraf, kan 'n hof gelas dat enige persoon wat aan 'n oortreding ingevolge hierdie verordening skuldig bevind word -

- (a) die skade regstel wat veroorsaak is; en
- (b) vergoeding betaal vir die skade wat aan 'n ander persoon of aan eiendom veroorsaak is.

### **Herroeping en uitsonderingsbepalings**

**34.** (1) Hiermee word die Stad Kaapstad: Verordening op Luggehaltebestuur, 2010, herroep.

(2) Enigiets wat ingevolge enige ander verordening oor luggehalte gedoen is of as gedoen beskou word, bly geld in soverre dit met hierdie verordening strook.

### **Kort titel**

**35.** Hierdie verordening staan bekend as die Stad Kaapstad: Verordening op Luggehaltebestuur, 2016.

## **BYLAE 1**

### **Standaarde en spesifikasies vir brandstofverbrandingstoerusting**

1. Gepaste beheertoerusting moet gemonteer word op alle brandstofverbrandingstoerusting wat meer as 100 kg/h steenkool, biomassa of ander vaste brandstof kan verbrand, ten einde stof- en grintvrystellings te beperk.
2. Die beheertoerusting moet so gemonteer word dat dit maklike instandhouding moontlik maak.
3. Die toegelate konsentrasie grint- en stofvrystellings uit 'n skoorsteen wat 'n steenkoolketel bedien wat met enige meganiese trekwaaierstelsel toegerus is, mag nie 250 mg/Nm<sup>3</sup> oorskry nie (gemeet by 0°C, 101,3 kPa en 12% CO<sub>2</sub>). Waar die brandstofverbrandingstoerusting ingevolge die Wet op Luggehalte as 'n beheerde vrysteller verklaar is, is die betrokke regulasies oor beheerde vrystellers van toepassing.

Die goedgekeurde toetsmetodes is soos volg:

#### **Amerikaanse omgewingsbeskermingsagentskap (US EPA)**

1. Metode 17 - deeltjies in skoorsteen (PM)
2. Metode 5 - deeltjiesstof (PM)

#### **ISO-standaarde**

ISO 9096: Vrystellings uit stilstaande bron – handbepaling van massakonsentrasie deeltjiesstof

#### **Britse standaarde**

BS 3405:1983 Metode vir die meting van deeltjievrystelling, waaronder grint en stof (vereenvoudigde metode)

4. Die Stad behou die reg om die eienaar van die brandstofverbrandingstoerusting of sy of haar agent te versoek om die vrystellings uit sodanige brandstofverbrandingstoerusting op sy of haar eie onkoste te laat evalueer soos wat die gemagtigde amptenaar kan vereis.

### **Isolasie van skoorstene**

Alle brandstofverbrandingstoerusting wat swaar brandstofolie of ander vloeibare brandstowwe met 'n swawelinhoud van 2,5% per gewig of meer gebruik, moet oor 'n ten volle geïsoleerde skoorsteen beskik wat met hetsy 'n luggaping van 25 mm of mineraalwolisolasië geïsoleer is om die vorming van suur roet te voorkom. Sodanige skoorstene moet te alle tye in 'n goeie toestand gehou word.

### **Houtpizzaoonde en ander toerusting wat vaste brandstof verbrand**

Houtpizzaoonde en ander toerusting wat vaste brandstof verbrand, moet na die goeddunke van die gemagtigde amptenaar oor geïnduseerde trekwaaiers beskik.

## **BYLAE 2**

### **Goeie bestuurspraktyke om rookvrystelling by die oop verbranding van plantegroei te voorkom of te beperk**

1. Oorweeg alternatiewe vir verbranding, soos om die plantmateriaal met blare of strooi te bedek om voedingswaarde te herwin, of om dit te droog om as brandhout te gebruik.
2. Plantegroei wat verbrand moet word (soos snyfels, snoeisels of hakhout wat van aktiewe groei afgesny is), behoort as 'n algemene riglyn gedroog te word totdat dit bruin is voordat dit verbrand word.
3. Buiten boomstompe of gewasstoppels, behoort die verbrandingsplek minstens 50 meter vanaf enige pad buiten 'n snelweg en 100 meter vanaf enige snelweg of woning op 'n naburige eiendom te wees.
4. Voordat verbranding begin word, moet daar behoorlik ag geslaan word op die rigting en sterkte van die wind en die hoeveelheid en toestand van die plantegroei wat verbrand moet word.
5. In geval van plantegroei wat voorheen met enige chemiese landbousproei behandel is, moet enige vervaardigersaanwysings in verband met die verbranding van behandelde plantegroei wat op die etiket van enige houer verskyn, gevolg word.
6. Twee mooiweersdae behoort te verloop voordat verbranding plaasvind.
7. Plantegroei moet losweg opgestapel eerder as styf saamgepers word.
8. 'n Klein vuur wat met die droogste materiaal aangesteek en, sodra dit vlamvat, voortdurend met nóg materiaal gestook word, word verkies bo 'n groot stapel wat aan die brand gesteeke en sonder toesig gelaat word.

**Let wel:** Persone wat plantegroei in die ope lug verbrand, moet seker maak dat hulle voldoen aan die vereistes van die Nasionale Wet op Veld- en Bosbrande, 1998 (Wet 101 van 1998), soos gewysig.

## ISIXEKO SASEKAPA

### UMTHETHO KAMASIPALA WOLAWULO LOMGANGATHO WOMOYA, 2016

Ukubonelela ngolawulo lomgangatho womoya namanyathelo afanelekileyo okuthintela ungcoliseko lomoya; ukubonelela ngokunyulwa kwegosa lomgangatho womoya; ukubonelela ngokusekwa kweenqobo nemigangatho zokukhutshwa kwemisi kwingingqi, kunye nokubhengezwa kweezowuni ekulawulwa kuzo ukutshaya; ukuthintela ukukhutshwa komisi kwiindawo zokuhlala nakwezinye iindawo; ukubonelela ngokufakelwa nokusebenza kwesixhobo esitshisa amafutha kunye nesixhobo esilinganisa ubumnyama, esijongayo nesenza iisampuli; ukuthintela ukukhutshwa kwemisi edalwa luthuli, iindawo ezitshayo ezivulekileyo nokutshiswa kwempahla; ukuthintela umsi omnyama ophuma kwizithuthi ezidunyiswa ngoxinzelelo lwenjini nokubonelela ngokumiswa, kuvavanywe ze kuhlolwe izithuthi ngokwenkqubo; ukuthintela imisi edala inkathazo; ukuze kurhoxiswe umthetho kaMasipala weSixeko saseKapa: woLawulo loMgangatho woMoya, 2010 kunye nokubonelela ngemibandela engqamene noko;.

### IMBULAMBETHE

**NJENGOKUBA** wonke umntu unelungelo lomgaqo-siseko lokuba kwimeko-bume esingqongileyo engeyongozi kwimpilo okanye kwintlalo-ntle yakhe;

**NJENGOKUBA** wonke umntu unelungelo lomgaqo-siseko lokuba kwimeko-bume esingqongileyo ekhuselekileyo, kusenzelwa izizukulwana ezikhoyo nezizayo, ngokusetyenziswa kwemithetho efanelekileyo namanye amanyathelo athi-

- a) Athintele ungcoliseko kwaye athoba isidima sezinto eziphilileyo nendawo eziphila kuyo;
- b) Axhase ukulondolozwa kwendalo; kwaye
- c) Aqinisekisa uphuhliso ngokuzinzileyo kwezityalo nezilwanyana nendawo ezikuyo nokusetyenziswa kwemithombo yendalo ngeli xesha kuxhaswa uphuhliso loqoqosho nentlalo olufanelekileyo;

**NJENGOKUBA** iSiqendu B seShedyuli ye-4 yoMgaqo-siseko idwelisa ungcoliseko lomoya njengomcimbi omele ukujongwa kurhulumente wengingqi njengoko kumiselweyo kwicandelo le-155(6)(a) no-(7);

**NJENGOKUBA** icandelo le-156(1)(a) loMgaqo-siseko lichaza ukuba umasipala unelungelo lokulawula imibandela yorhulumente wengingqi edweliswe kwiSiqendu B seShedyuli 4 nakwiSiqendu B seShedyuli 5;

**NJENGOKUBA** icandelo le-156(2) loMgaqo-siseko limisela ukuba umasipala unakho ukuqulunqa nokulawula imithetho kamasipala esenzela ukulawulwa ngokukuko kwemicimbi anelungelo lokuyilawula;

**NJENGOKUBA** icandelo le-156(5) loMgaqo-siseko limisela ukuba umasipala unelungelo lokusebenzisa nawaphi na amagunya aphathelene nomcimbi oyimfuneko ngokufanelekileyo ukuze, okanye ongqinelana, aqhube imisebenzi yakhe ngokufanelekileyo;

**KWAYE NANJENGOKUBA** iSixeko saseKapa sizama ukuqinisekisa ulawulo lomgangatho womoya nokujongwa kongcoliseko lomoya kwindawo ephantsi kolawulo lweSixeko nokuqinisekisa ukuba kuyathintelwa ukungcoliswa komoya okanye, kwimeko apho oku kungenakuthintelwa ngokupheleleyo, kucuthwe kwaye ilungiswe lo meko.



**KWAYE KE NGOKU NGENXA YOKO, MAKUMISELWE NJENGOMTHETHO** liBhunga leSixeko saseKapa, ngolu hlobo:-

**ULUHLU LWEZIQULATHO**

**ISAHLUKO I**

**INKCAZA NEMITHETHO-SISEKO ENGUNDOQO**

1. Iinkcazelo
2. Ukusetyenziswa kwalo Mthetho kaMasipala
3. Ungquzulwano neminye imithetho

**ISAHLUKO II**

**UMSEBENZI WENKATHALO**

4. Amanyathelo afanelekileyo okuthintela ungcoliseko lomoya

**ISAHLUKO III**

**UKONYULWA KWEGOSA LOMGANGATHO WOMOYA**

5. Ukonyulwa kwegosa lomgangatho womoya

**ISAHLUKO IV**

**IMIGAQO YOKUKHUTSHWA KWEMISI KWINGINGQI, IINQOBO NEMIGAQO KUNYE NEMIDA YOLAWULO LOMSI**

**Isahluko 1: IMigaqo yokuKhutshwa koMsi kwingingqi**

6. Isigunyaziso ngokomthetho

**Isahluko 2: Iinqobo ezisesikweni neMigaqo**

7. INkqubo yokuFumanisa izinto eziseMoyeni
8. Ukwaziswa kwemida yolawulo longcoliseko lomoya

**ISAHLUKO V**

**UKUKHUTSHWA KWEMISI KUMAZIKO ANGEZIZO IINDAWO ZOKUHLALA**

9. Ukusetyenziswa
10. Ukuthintelwa komsi omnyama kwimida yezakhiwo
11. Ukufakelwa kwesixhobo esitshisa amafutha
12. Ukusetyenziswa kwesixhobo esitshisa amafutha

13. Ukuvavanywa kwemisi ekhutshwayo ngamaxesha athile
14. Ingqiniseko
15. Ukufakelwa nokusetyenziswa kwesixhobo somlinganiselo wobumnyama
16. Ukubek'iliso nokuthatha iisampuli
17. Ukukhululelwa okwethutyana

#### **ISAPHLUKO VI**

##### **UKUKHUTSHWA KOMSI KWIINDAWO EKUHLALA KUZO ABANTU**

18. Ukuthintelwa kokukhutshwa komsi omnyama kwiindawo ekuhlala kuzo abantu

#### **ISAPHLUKO VII**

##### **UMSI OKHUTSHWA YIMILILO EVUTHA PHANDLE**

19. Ugunyaziso lokubasa ngaphandle nokutshisa izinto
20. Umsi obangelwa kukutshiswa kwamatayari nokutshiswa kweerabha nezinye izinto kusenzelwa ukufumana isinyithi

#### **ISAPHLUKO VIII**

##### **UMSI OKHUTSHWA ZIZITHUTHI EZISEBENZISA AMAFUTHA**

21. Ukuthintelwa komsi omnyama ophuma kwizithuthi ezihamba ngamafutha
22. Ukumiswa kwezithuthi ukuze zihlolwe zivavanywe
23. Inkqubo yovavanyo
24. Isaziso solungiso

#### **ISAPHLUKO IX**

##### **UKUKHUTSHWA KOMSI OBANGELA INKATHAZO ELUNTWINI**

25. Ukuthintelwa kwemisi ebangela inkathazo eluntwini
26. Ukwenza uthuli
27. Amanyathelo okuphelisa inkathazo

**ISAHLUKO X****IMICIMBI JIKELELE**

28. Isaziso sokuthobela
29. Unyanzeliso-mthetho
30. Izibheno
31. Ukukhululelwa
32. Ukuzikhusela kumabango

**ISAHLUKO XI****AMATYALA NEZOHLWAYO**

33. Amatyala nezohlwayo
34. Ukubhangiswa neendawo ezinokugcinwa
35. Isihloko esifutshane

**IShedyuli yoku-1- linqobo ezisesikweni neenkukacha ezibalulweyo ngeZixhobo eziTshisa amaFutha**

**IShedyuli ye-2-Imisebenzi yolawulo olufanelekileyo ukuthintela okanye ukuctha ukukhushwa komsigodutshiswa kwezityalo phandle**

**ISAHLUKO I****IINKCAZELO NEMITHETHO-SISEKO ENGUNDOQO****Iinkcazelo**

1. Kulo Mthetho kaMasipala, ngaphandle kokuba umxholo ubonisa ngolunye uhlobo -

**“UMthetho woMgangatho woMoya”** kuthethwa uMthetho woLawulo lokuSingqongileyo kaZwelonke: woMgangatho woMoya, 2004 (uMthetho wama-39 ka-2004);

**“impembelelo engalunganag”** kuthethwa nayiphi na impembelelo eyenzekayo okanye enokwenzeka kwimeko-bume esingqongileyo eyonakalisa okanye enokuthi yonakalise imeko-bume esingqongileyo okanye nayiphi na imbonakalo yayo kangangokuba ide yenzeke imihla ngemihla okanye ngokungenamsebenzi;

**“isingcolisi somoya”** siquka naluphi uthuli, umsi, ukuqhuma okanye irhasi ebangela okanye enokubangela ukungcoliseka komoya;

**“ungcoliseko lomoya”** kuthethwa naluphi na utshintsho kwimeko-bume esingqongileyo olubangelwa yiyo nantoni na ekhutshelwa emoyeni ojikeleza umhlaba isuka kuwo nawuphi na umsebenzi, nalapho olo tshintsho lunempembelelo engalunganga kwimpilo yabantu okanye kwintlalo-ntle yabo okanye kulwakhiwo, kukomelela nemveliso yendalo okanye ekulawulweni kwezinto eziphilileyo, okanye kwizinto eziluncedo ebantwini, okanye oluya kuba nempembelelo kwixesha elizayo;

**“umda wolawulo longcoliseko lomoya”** kuthethwa indawo ngokwelizwe ebhengezwe ngokwemigaqo yecandelo le-8 lalo Mthetho kaMasipala ukuba ngumda wolawulo longcoliseko lomoya ngeenjongo zeSahluko IV soMthetho kaMasipala;

**“isicwangciso solawulo lomgangatho womoya”** kuthethwa isicwangciso solawulo lomgangatho womoya esichazwe kwicandelo le-15 loMthetho woMgangatho woMoya;

**“igosa lolawulo lomgangatho womoya”** kuthethwa igosa lolawulo lomgangatho womoya elonyulwe ngokwemigaqo yecandelo le-14(3) loMthetho woMgangatho woMoya;

**“umoya osingqongileyo”** kuthethwa **“umoya osingqongileyo”** njengoko uchaziwe kwicandelo 1 loMthetho woMgangatho woMoya;

**“umoya ojikeleza umhlaba”** kuthethwa umoya ongavalelekanga zizakhiwo, oomatshini, iitshimili okanye ezinye izakheko ezifana nezoz;

**“izinto ezikhutshelwa emoyeni”** okanye **“umsi okhutshwayo”** kuthethwa nawuphi na umsi okhutshwayo okanye inkqubo yomsi ohamba nawo ovela kwindawo ethile, apho kungekho ndawo okanye kumthombo wento ehambayo, njengoko kuchaziwe kuMthetho woMgangatho woMoya othi ukhokhelele ekungcolisweni komoya;

**“igosa eligunyazisiweyo”** kuthethwa umsebenzi weSixeko onoxanduva lokwenza nawuphi na umsebenzi okanye ukusebenzisa amagunya ngokungqinelana nalo Mthetho kaMasipala, kwaye kuqukwa abasebenzi abagunyaziselwe ukwenza imisebenzi efana noxanduva, imisebenzi okanye amagunya;

**“indlela esebenzayo yokusingqongileyo”** kuthethwa oko kunika eyona nzuzo ingcono, okanye okubangela owona monakalo mncinane kwimeko yokusingqongileyo ngokubanzi, ngeendleko ezamkelekileyo ngokwexesha elide nangokwexesha elifutshane;

**“isinyithi esitshisiweyo”** kuthethwa nasiphi isinyithi esithe isigqumathelo saso sasuswa ngokuthi sitshiswe nakuyiphi na indawo okanye isixhobo ngaphandle kwesixhobo esamkelweyo sokutshisa, ngenjongo yokufumana intsimbi isinyithi esingaphantsi kwesigqumathelo esingaphandle;

**“itshimini”** kuthethwa nasiphi isakhekho okanye umngxuma walo naluphi na uhlobo nalapho kuthi kuphume izingcolisi zomoya;

**“iSixeko”** kuthethwa iSixeko saseKapa esasekwa ngokweSaziso sePhondo esinguNomb. 479 ka-2000 ngokwemigaqo yecandelo le-12 loMthetho woRhulumente beNgingqi: olawula iZigaqeba zikaMasipala, 1998 (uMthetho onguNo. 117 ka-1998) okanye nasiphi isigqeba okanye umsebenzi weSixeko osebenza ngokungqinelana namagunya awanikezelweyo;

**“uMphathi weSixeko”** kuthethwa umntu owonyulwe liBhunga ngokwemigaqo yecandelo lama-54A loMthetho woRhulumente beNgingqi olawula iInkqubo zikaMasipala, 2000 (uMthetho onguNomb.32 ka-2000);

**“inqwelo-mafutha esebenzisa ucinezelo lwenjini”** kuthethwa isithuthi esixhotyiswe ngokutshiswa kwangaphakathi kwamafutha, ukucinezela kwenjini, idizili okanye amafutha enjini anjalo;

**“ityala eliqhubekayo”** kuthethwa ityala apho isenzo okanye ukukhutshwa komsi kukhokhelela ekukhutshweni kwesaziso kodwa lo monakalo ube ungekalungiswa, isuswe okanye ijongwe phambi kokuphelelwa kwesaziso esikhutshwe ngokungqinelana nalo Mthetho kaMasipala;

**“iBhunga”** kuthethwa iBhunga loMasipala weSixeko;

**“umsi omnyama”** kuthethwa -

- (a) ngokunxulumene neSahluko V kunye neSahluko VI salo Mthetho kaMasipala, umsi othi, xa ulinganiswa kusetyenziswa imitha elula yokufunxa, isixhobo sokulinganisa wobumnyama okanye esinye isixhobo esifana neso, sinamandla obumnyama akumyinge wama-20% okanye ngaphezulu;
- (b) ngokunxulumene neSahluko VIII salo Mthetho kaMasipala –
  - (i) umsi okhutshwa kwimibhobho ekhupha imisi kwizithuthi kwiinjini zoxinzelelo lwendalo nezinengxinano yomsi yeeyunithi zomsi ezingama-50 Hartridge okanye ngaphezulu okanye ukufunxa okulula okongeziweyo okungaphezu kwe-1,61 m<sup>-1</sup>; okanye 18,57 umyinge womthamo; kunye
  - (ii) nomsi okhutshwa kwimibhobho ekhupha umsi wezithuthi kwiinjini ezinoxinzelelo lokutshisa ngokumandla nezinomlinganiselo wama-56 Hartridge weeyunithi zomsi okanye ngaphezulu okanye ukufunxa ngokulula okongeziweyo ezingaphezu kwe-1,91 m<sup>-1</sup>; okanye 21,57 umyinge womthamo.”

**“umyalelo”** kuthethwa umyalelo okhutshwe ngugunyaziwe onikezelwe lo magunya ukuba umntu othile enze okanye azinxweme ekwenzeni izinto ezithile ezinokonzakalisa umgangatho womoya, impilo okanye imeko-bume esingqongileyo

**“uthuli”** kuthethwa nantoni na eqinileyo ethambileyo okanye engadibenanga nekwaziyo ukusasazeka okanye ichithelwe emoyeni;

**“indawo yokuhlala”** kuthethwa nasiphi na isakhiwo okanye isakheko, okanye inxalenye yesakhiwo okanye yesakheko esetyenziswa njengendawo yokuhlala okwethutyana okanye umphelo, kwaye kuqukwa nasiphi na isakhiwo esingaphandle kwesikhulu okanye esinye isakheko esidibene naso;

**“imeko-bume esingqongileyo”** kuthethwa iindawo ezingqongileyo apho kuhlala khona abantu kwaye lo ndawo yenziwe ngezi zinto—

- (a) umhlaba, amanzi nomoya ojikelezayo;
- (b) izinto eziphilayo, ubomi bezityalo nezilwanyana;
- (c) nayiphi na inxalenye okanye indibanisela yoko kuchazwe ku-(a) naku-(b) nobudlelwane bazo phakathi kwazo; kunye
- (d) nezinto ezibonakalayo, imichiza, iimpawu zobuhle nezenkcubeko kunye neemeko zoku ezichaphazela impilo nentlalo-ntle yabantu;

**“Umlawuli weSigqeba: icandelo lezeMpilo leSixeko”** kuthethwa umlawuli weSigqeba weSixeko onoxanduva kwimicimbi yezempilo;

**“uvavanyo ngokucinezela umcephe isithuthi simile”** kuthethwa inkqubo yovavanyo echazwe kwicandelo lama-23;

**“isixhobo esitshisa amafutha”** kuthethwa naliphi iziko lesinyithi elifakelweyo, ibhoyilara, imbiza yokubilisa amanzi, isitovu sokutshisa inkunkuma, isixhobo sokutshaya, i-onti evutha ngeenkuni, iinkuni zokuthengwa okanye iinkuni zokosa ezinamalahlle, ukosa inyama phandle okanye esinye isixhobo esiquka itshimini –

- (a) elungiselelwe ukutshisa okanye enokutshisa ulwelo, irhasi okanye amafutha aqinileyo;
- (b) esetyenziselwa ukulahla nantoni na kuqukwa inkunkuma eqhelekileyo neyingozi ngokusebenzisa ubushushu kwiqondo elingaphantsi kwe-10 kg yenkunkuma ngosuku; okanye
- (c) esetyenziselwa ukulungelelanisa ulwelo, irhasi okanye amafutha aziziqina kuyo nayiphi inkqubo ebandakanya ukusetyenziswa kobushushu;

kodwa ayibandakanyi oomatshini abaphehla umbane abangamalalela nabasetyenziswa okwethutyana; izixhobo zokutshisa amafutha emakhaya; kunye nezixhobo zokupheka koomatshini abasebenza ngerhasi ekuthengiseni;

**“imitha yokufunxa ukukhanya”** kuthethwa isixhobo sokulinganisa esisebenzisa iseli esebenza ngokukhanya okanye ukuchaza ubungakanani bokukhanya obufunxwe sisingcolisi somoya;

**“izinto eziphilayo”** kuthethwa into engezilwanyana okanye izityalo ekwaziyo ukudlulisa okanye ekhupha izinto zemveli ezifanayo, kuqukwa ezingenazintsholongwane kunye neentsholongwane ezincinane;

**“uMthetho olawula iiNkqubo zikaMasipala”** kuthethwa uMthetho woRhulumente weNgingqi: olawula iiNkqubo zikaMasipala, 2000, (uMthetho onguNomb. 32 ka-2000);

**“inkathazo”** kuthethwa ukuphazamisa okungafanelekanga okanye ungenelelo olungalunganga olubangelwa lungcoliseko lomoya olunempembelelo engathandekiyo -

- (a) kwimpilo okanye kwintlalo-ntle yakhe nawuphi na umntu okanye into ephilayo; okanye
- (b) ukusetyenziswa okanye ukonwatyelwa ngumnini okanye lowo uhlala kulo propati okanye kwimeko-bume esingqongileyo;

**“ukusitheka”** kuthethwa umlinganiselo wokukhanya oncitshiswe zizingcolisi zomoya ezibambeke kwimilanjana ukuya kukukhanya okubonakalayo, obuchazwa njengepesenti;

**“ukutshisa kwindawo evulekileyo”** kuthethwa ukutshiswa kwayo nantoni na ungenayo itshimini yokukhupha iimveliso ezifakwe apho zokubasa izise kumoya ojikelezileyo kwaye oko kuquka imililo yeenjongo zoqeqesho kwimililo, kodwa akubandakanywa nakuphi na ukutshisa ngeenjongo zokuzonwabisa okanye zokosa ngokorhwebo, kwaye **“ukutshisa kwindawo evulekileyo”** kunezi ntsingiselo zinxulumene nazo;

**“umsebenzisi”** kuthetha nabani na ongumnini okanye ophethe kwindawo ethile, okanye olawula umsebenzi okanye inkqubo ethile, evelisa izingcolisi zomoya;

**“umntu”** kuthethwa umntu ngokw nedalo okanye umntu ngokobulungisa;

**“amasango”** kuqukwa-

- (a) nasiphi na isakhiwo okanye esinye isakheko;
- (b) nawuphi na umhlaba ongenelela ekuhlala kuwo okanye osetyenziswa ngokunxulumene nemisebenzi eyenziwa kweso sakhiwo okanye isakheko;
- (c) nawuphi na umhlaba ongenanto;

(d) nayo nayiphi na into ehambayo, inqanawa, iphenyane okanye nawuphi na umkhumbi osebenza kummandla ophantsi kolawulo lweSixeko; kunye

(e) anawo nayiphi na iqumrhu likaRhulumente okanye umhlaba;

**“uRhulumente wePhondo”** kuthethwa uRhulumente wePhondo leNtshona Koloni;

**“indlela kawonke-wonke”** kuthetha indlela uluntu olunelungelo lokuyisebenzisa;

**“umsi”** kuthethwa nayiphi na irhasi, izinto ezithile neemveliso zokutshisa ezikhutshelwa emoyeni ojikelezileyo apho kutshiswe khona into okanye ibekwe ebushushwini kwaye oko kuquka umle okanye umsizi, uhlalutye nezinto ezinohlalutye eziphuma emsini;

**“uphando lobungcaphephe”** kuthethwa naluphi na uphando lobungcaphephe oluphathelelene nomgangatho womoya oluqhutywa yingcali okanye yingcaphephe eyamkelweyo eneziqinisekiso zemfundo ezifanelekileyo nobunye ubuchule kwikhondo lolawulo lomgangatho womoya;

**“indawo yokufefeza”** kuthethwa indawo okanye indawo evalelweyo echazwe kwicandelo lama-25 esetyenziselwa ukupayinta ngokufefeza, kunye **“negunjana lokufefeza”** likwathetha into efana nale;

**“ukutshisa okungagunyaziswanga”** kuthethwa ukutshiswa kwayo nantoni na naphi na okanye isixhobo kuwo nawuphi na amasango ngaphandle kwesixhobo sokutshisa esamkelweyo ngaphandle kokufumana imvume ebhaliweyo kwangaphambili kwiSixeko; kwaye;

**“isithuthi”** kuthethwa nayiphi na inqwelo mafutha, isithuthuthu, ibhasi, iloli okanye nasiphi na isithuthi esisebenzisa ngokuyinxalenye okanye xa siphatelele isipirithi esinokutsha, umphunga, irhasi okanye i-oli, okanye ngayo nayiphi indlela engengawo amandla omntu okanye esilwanyana.

#### **Ukusetyenziswa kwalo Mthetho kaMasipala**

2. Lo Mthetho kaMasipala usebenza kuzo zonke iipropati okanye amasango aphantsi kolawulo lweSixeko.

#### **Ungqzulwano neminye imithetho**

3. Xa kunokubakho uxambuliswano phakathi kwalo Mthetho kaMasipala neminye imithetho kamasipala okanye nawuphi umgaqo-nkqubo olawula ungcoliseko lomoya, imiqathango yalo Mthetho kaMasipala iya kuba yiyo elandelwayo ngokuphathelelene nolawulo lomgangatho womoya.

## **ISAHLUKO II UMSEBENZI WENKATHALO**

#### **Amanyathelo afanelekileyo okuthintela ungcoliseko lomoya**

4. (1) Nabani na onoxanduva ngokupheleleyo okanye ngokuyinxalenye ekudaleni ungcoliseko lomoya okanye ukudala umngcipheko wongcoliseko lomoya olwe-nzekayo makathathe onke amanyathelo afanelekileyo kuquka neyona ndlela anokuyikhetha yokukhusela okusingqongileyo ngokufanelekileyo–

(a) ukuthinbtela naluphi na ungcoliseko lomoya olumandla ekubeni lwenzeke; kwaye

- (b) makacuthe ze, ngokufanelekileyo kangangoko kunokwenzeka, alungise iimpembelelo zokusingqongileyo neziphumo zongcoliseko lomoya olwenzekileyo.
- (2) ISixeko sinakho ukuyalela nabani na ongakwaziyo ukuthatha amanyathelo afanelekileyo afunekayo phantsi kwecandelwana (1) ukuze—
- (a) siphande, siphengululwe ze sihlale impembelelo kokusingqongileyo yemisebenzi ekhethekileyo ze sinike ingxelo ngalo nto;
- (b) ukuthatha amanyathelo afanelekileyo phambi komhla ochaziweyo;
- (c) siqhube ngenyameko nalo manyathelo; kwaye
- (d) siwagqibezele phambi komhla ofanelekileyo ochaziweyo,
- kuphela ukuba phambi kwalo myalelo iSixeko kufuneka sinike lo mntu isaziso esifanelekileyo simyalele ukuba azise igosa eligunyazisiweyo ngeenjongo zakhe.
- (3) ISixeko sinakho ukuthi, ukuba umntu akaphumeleli ukuthobela okanye uthobela ngokungonelanga umyalelo ochazwe kwicandelwana (2), ukuthatha amanyathelo afanelekileyo okulungisa lo meko.
- (4) ISixeko sinakho ukuthi, ukuba umntu akaphumeleli ukuthatha amanyathelo achazwe kwicandelwana (1), ukufumana zonke iindleko ezifanelekileyo ezenzekileyo ngenxa yokuba sona sithe sathatha amanyathelo phantsi kwecandelwana (3) kuye nawuphi na okanye kwaba bantu balandelayo:
- (a) nawuphi na umntu othe okanye obenoxanduva, okanye obe negalelo ngqo kungcoliseko lomoya okanye kumathuba okwenza ungcoliseko lomoya;
- (b) umnini womhlaba ngelo xesha xa kusenzeka ungcoliseko lomoya okanye kukho amathuba okungcoliseka komoya;
- (c) umntu ophetheyo kulo mhlaba okanye nabani na onelungelo lokusebenzisa umhlaba ngelo xesha xa—
- (i) umsebenzi okanye inkqubo ekuthethwa ngayo yayivunyelwe okanye yayisenziwa; okanye
- (ii) ukudula kwale meko; okanye
- (d) nabani na ongazange aphumelele ngokungakhathali ukuthintela—
- (i) isenzo okanye inkqubo eyenziweyo okanye eyenziwayo; okanye
- (ii) ekubeni lo meko iqhubeke.
- (5) Nabani na ongaphumeleli ukuthobela umyalelo ochazwe ku-4(2) wophula umthetho ngokungqinelana neSahluko XI salo Mthetho kaMasipala.



### **ISAPHLUKO III UKONYULWA KWEGOSA LOMGANGATHO WOMOYA**

#### **Ukonyulwa okanye ukuqeshwa kwegosa lomgangatho womoya**

5. UMphathi weSixeko kufuneka, ngokubambisana noMlawuli weSigqeba: ezeMpilo kwiSixeko, onyule okanye aqeshe umsebenzi weSixeko saseKapa njengeGosa loMgangatho woMoya oza kuba noxanduva lokuququzelela imicimbi ephathelene nolawulo lomgangatho womoya nokunika okanye ukukhaba iiMpepha-mvume zokuKhuphela umsi eMoyeni osiNgqongileyo okanye iiMpepha-mvume zeThutyana zokukhuphela umsi kuMoya osiNgqongileyo ngokungqinelana noMthetho olawula uMgangatho woMoya phantsi kommandla wolawulo lweSixeko.

### **ISAPHLUKO IV IMIGAQO YOKUKHUTSHWA KWEMISI YENGINQI, IINQOBO NEMIMISELO KUNYE NEMIDA YOLAWULO LOMSI**

#### **Isahluko 1: IMigaqo yokukhutshwa kwemisi kwiNgingqi**

#### **Igunya elisemthethweni**

6. (1) ISixeko sinakho ukuthi, ngesaziso -

- (a) sichonge izinto okanye imixube yezinto ezikumoya osingqongileyo nalapho, ngenxa yoxinzelelo kumoya osingqongileyo, ukufumba ngomthamo omninzi, ukubeka okanye ngenye indlela, zibe yingozi kwimpilo, kwintlalo-ntle okanye kwimeko-bume esingqongileyo kummandla wogunyaziso weSixeko saseKapa okanye apho igosa lomgangatho womoya likholwa ukubaoko kuzisa obo bungozi; kwaye
- (b) ngokuphathelene nento nganye kwezo okanye umxube wezinto, zivelise umsi wezinto ezinokukhutshwa kulo ndawo, nokuba akukulo ndawo okanye kumthombo ohambayo kummandla wogunyaziso weSixeko saseKapa.

- (2) ISixeko sinokuthathela ezi nkalo zilandelayo ingqalelo ngokumisela imigangatho yokukhutshwa komsi kwiNgingqi:

- (a) kwimpilo, kukhuseleko nakwiinjongo zokukhusela okusingqongileyo;
- (b) inkqubo esetyenziswayo yokuhlola;
- (c) uphando-nzulu ngezinto ezinokwenzeka;
- (d) ubuchule bokubek'esweni;
- (e) iziphumo kwintlalo nakuqoqosho;
- (f) indima kwindalo yomlilo kwiintsalela zezityalo; kunye
- (g) neyona nto inokukhethwa inokwenziwa kokusingqongileyo.

- (3) Nabani na onento ayikhuphela emoyeni okanye umxube wezinto ezithile njengoko kuchaziwe kwicandelwana (1) makathobele imigaqo yokukhutshwa kwemisi eyabhengezwa ngokungqinelana nalo Mthetho kaMasipala kwaye ukungaphumeleli ukweza oko sisenzo solwaphulo-mthetho ngokungqinelana neSahlukoXI salo Mthetho kaMasipala.

**ICandelo le-2: Imigaqo emiselweyo  
Inkqubo elandelwayo yokufumanisa izinto ezisemoyeni**

7. (1) ISixeko kufuneka xa sifumanisa naxa sibeka phambili izinto ezisemoyeni ojikelezayo neziyingozi kwimpilo yoluntu, intlalo-ntle okanye kokusingqongileyo siqwalasele oku kulandelayo:
- (a) amathuba, ubuzaza nobuninzi beempembelelo ngokuphathelene nempilo yoluntu nakokusingqongileyo ngokubanzi, ngeempembelelo ezingenakujikwa eziyinkxalabo emandla;
  - (b) ukuba sendaweni yonke noxinzelelo olumandla lwezo zinto kumoya osingqongileyo;
  - (c) ukuba nokutshintshwa kwemeko yezendalo nokuguquka kwemeko yesingcolisi-moya, njengoko ezi nguqu zinokukhokhelela ekuvelisweni kwemichiza eyityhefu kakhulu kokusingqongileyo, ngokukodwa ukuba ezo zinto ngokukodwa ukuba lo nto inokuboliswa ziintsholongwane kwaye inakho ukuphinda-phindeka, kokusingqongileyo okanye kuthungelwano lomjikelo wokutya;
  - (d) impembelelo yezinto kuqwalaselwa ezi mpawu zilandelayo:
    - (i) ubungakanani babantu abasesichengeni, izinto eziphilayo okanye iindawo ezihla kuyo;
    - (ii) ubukho bezibnto ekulula kakhulu ukuba zingene kuzo ezi zingcolisi kulo ndawo ichaphazelekayo; kunye
  - (e) nezinto ezingcolisa umoya ezilawulwa yimigaqo yamazwe ngamazwe.
- (2) Igosa lomgangatho womoya kufuneka, lisebenzisa inkqubo emiselwe kwicandelwana (1), liqulunqe uluhlu lwezinto ezikumoya ojikelezileyo eziyingozi kwimpilo yoluntu, kwintlalo-ntle okanye kokusingqongileyo.

**Ukubhengezwa kommandla wolawulo longcoliseko lomoya**

8. (1) Iyonke le ndawo iphantsi kolawulo lweSixeko saseKapa ibhengezwa njengendawo yolawulo longcoliseko lomoya.
- (2) ISixeko sinokuthi, kumda wolawulo longcoliseko lomoya, ngamaxsha athile ngokwenza isaziso kwiPhepha-mvume lePhondo -
- (a) sithintele okanye siqande ukukhutshwa kwezingcolisi-moya ezohlukeneyo kuzo zonke iindawo okanye kwiindawo ezithile;
  - (b) sithintele okanye siqande ukutshiswa kweendidi ezithile zamafutha;
  - (c) limisele iimfuno ezohlukeneyo kumda wolawulo longcoliseko lomoya eziphathelene nomgangatho womoya ngokuphathelene:

- (i) neendawo ezohlukeneyo ngokwelizwe;
  - (ii) kumasango akhethekileyo;
  - (iii) kwiindidi zamaziko;
  - (iv) kumaziko asetyenziselwa iinjongo ezikhethekileyo; okanye
  - (v) kwimithombo ejikelezayo.
- (3) ISixeko sinakho ukuqulunqa nokupapasha imigaqo-nkqubo nezikhokhelo, kuqukwa nezikhokhelo zobuchwepheshe, ngokuphathelene nokulawulwa kwemisebenzi edala ngqo nangokungathanga ngqo ungcoliseko lomoya kumda wolawulo longcoliseko lomoya.
- (4) Akukho mnini okanye mntu uhlala kulo ndawo uya kudala okanye uya kuvumela ukukhutshwa komsa ongulo mthamo okanye ubukhulu kulo ndawo njengoko uya kuvalela ukukhanya ngomlinganiselo ongaphezu kweepesenti ezingamashumi amabini (20).

## **ISAHLUKO V UKUKHUTSHWA KOMSI KUMAZIKO ANGEZIZO IINDAWO ZOKUHLALA**

### **Ukusetyenziswa**

9. Ngenjongo zesi Sahluko “**amasango**” akabandakanyi izakhiwo.

### **Ukuthintelwa komsi omnyama ovela kumasango endawo**

10. (1) Ngokuxhomekeke kwicandelwana (2), umsi omnyama akuvumelekanga ukuba ukhutshwe nakuwaphi na amasango ixesha elingaphezu kwemizuzu emithathu (3) ngexesha eliqhubekayo lemizuzu engamashumi amathathu (30).
- (2) Eli candela alibhekisi kumsa omnyama okhutshwa kwisixhobo esitshisa amafutha ngexesha eso sixhobo sidunyuswa, sihlaziywa okanye silungiswa, ngaphandle kokuba lo msi ubunokuthintelwa kusetyenziswa eyona ndlela ingcono kokusingqongileyo.
- (3) Amacandelwana (1) no-(2) akasebenzi kwabo baneempepha-mvume zomoya ojikelezileyo zokwenza imisebenzi edweliswe ngokwemigaqo yecandelo lama-21 loMthetho woMgangatho woMoya, kunye nemigangatho yokukhutshwa komsi edweliswe kwezo mpepha-mvume zokukhupha imise kulo moya ujikelezileyo.

### **Ukufakelwa kwesixhobo esitshisa amafutha**

11. (1) Akukho mntu uya kufakela, atshintshe, andise, okanye asebenzise nasiphi isixhobo esitshisa amafutha kuwo nawaphi na amasango ngaphandle kokufumana imvume ebhaliweyo kwangaphambili kwiSixeko, nenokunikezelwa kuphela emva kokuba kuqwalaselwe uxwebhu lwesicelo olumiselweyo olugcwalisiweyo ndawonye nezicwangciso neenkukacha ezifanelekileyo.
- (2) Akukho mnalungelo aya kufunyanwa ngumntu owenze isicelo sesigunyaziso esibhaliweyo ngokungqinelana necandelwana (1) ngexesha elifutshane xa isicelo eso sisaqwalaselwa.

- (3) Isigunyaziso esibhaliweyo esinikezelwe siSixeko ngokuphathelene nokufakelwa, ukutshintshwa, ukwandiswa, okanye ukusetyenziswa kwesixhobo esitshisa amafutha ngokungqinelana nomthetho kamasipala ekuthethwa ngawo nolawulo lomgangatho womoya okanye umgaqo ngokungqinelana noMthetho wokuThintelwa koNgcoliseko kuMoya osiJikelezileyo, norhoxisiweyo ngoku siya kuthatyathwa njengesanelisa iimfuno zecandelwana (1) nalapho ubungqina boko buya kwandlalwa kwigosa eligunyazisiweyo.
- (4) Apho kufakelwe khona isixhobo esitshisa amafutha, satshintshwa, sandiswa okanye kwafakelwa esinye endaweni yesinye kumaziko ngokuchasene nemiqathango yecandelwana (1), igosa eligunyazisiweyo linakho ukuthi, ngesaziso esibhaliweyo kumnini wendawo okanye kumsebenzisi wesixhobo eso:
- (a) liyalele ukususwa kwesixhobo esitshisa amafutha kulo ndawo, ngeendleko zomnini, umsebenzisi okanye bobabini ngexesha elichazwe kwisaziso eso, okanye,
- (b) limisele umdliwo ongadlulanga kwi-R10 000 phambi kokuqwalasela isicelo sesigunyanyiso ngokungqinelana necandelwana (1).
- (5) Xa ubunini besixhobo esitshisa amafutha esiphunyezwe siSixeko budluliselwa kumnini omtsha, umnini omtsha kufuneka enze isicelo sesigunyaziso esibhaliweyo sokusebenzisa eso sixhobo ngokwemigaqo yecandelwana (1).
- (6) Isixhobo esitshisa amafutha masithobele imigaqo yokukhutshwa komisi equlethwe kwiShedyuli 1 yalo Mthetho kaMasipala.

#### **Ukusetyenziswa kwesixhobo esitshisa amafutha**

- 12.** (1) Akukho mntu uvumelekile ukusebenzisa nasiphi isixhobo esitshisa amafutha kuyo nayiphi na indawo ngokuchasene nesigunyaziso esibhaliweyo esichazwe kwicandelo 11(1).
- (2) Kwimeko apho isixhobo esitshisa amafutha sisetyenziswe kwindawo ngokuchasene nemiqathango yecandelwana (1), igosa eligunyazisiweyo linakho ukuthumelela isaziso esibhaliweyo umnini wendawo apho kukho isixhobo esitshisa amafutha -
- (a) lirhoxise isigunyaziso esibhaliweyo esichazwe kwicandelwana (1); kwaye
- (b) ukuyalela ukususwa kwesixhobo esitshisa amafutha kulo ndawo ngeendleko zomnini wendawo nomsebenzisi waso ngexesha elimiswe kwisaziso.
- (3) Kwimeko apho umnini wezakihiwo okanye umsebenzisi wesixhobo esitshisa amafutha engaphumeleli ukuthobela isaziso esikhutshwe ngokwemigaqo yecandelwana (2), igosa eligunyazisiweyo linakho ukususa isixhobo esitshisa amafutha kulo ndawo, ze lihlawulise iindleko ezifanelekileyo ezenziweyo ngumnini okanye umsebenzisi ekuthethwa ngaye.

#### **UVavanyo lokuKhutshwa komisi ngamaxesha athile**

- 13.** Igosa eligunyazisiweyo linakho ukuyalela umnini okanye umsebenzisi waso nasiphi isixhobo esitshisa amafutha esikwaziyo ukutshisa amafutha aziziqina ukwenza uvavanyo lwemisi ekhutshwayo ngamaxesha athile ngokungqinelana neendlela ezimiswe kwiShedyuli 1 yalo Mthetho kaMasipala.

### Ukucingela

14. (1) Umsi omnyama uya kucingelwa ukuba ukhutshwe kwindawo ethile ukuba kubonakala ukuba kutshiswe amafutha okanye into ethile kulo ndawo, kunye nokuba iimeko bezichaza ukuba oko kutshiswa bekunamathuba okwenza umsi ophumayo omnyama, ngaphandle kokuba umnini, lowo uhlala apho okanye umsebenzisi, ngokwemeko leyo, angabonisa ukuba akukho msi mnyama ukhutshiweyo apho.
- (2) Kwimeko apho igosa eligunyazisiweyo libone isixhobo esitshisa amafutha sikhupha umsi okhethekileyo; okanye umsi omnyama ixesha elingaphezulu kwemizuzu emi-3 rhoqo kwisiqingatha seyure esilinganisiweyo, igosa eligunyazisiweyo linakho ukukhupha isaziso sokuthobela esiyalela umsebenzisi okanye umnini ukuba awuyeke kwangelo xesha lo msebenzi wesixhobo esitshisa amafutha de kufike ixesha apho isixhobo esitshisa amafutha sibe silungisiwe ngokokwaneliseka kwegosa eligunyazisiweyo.
- (3) Ukungaphumeleli ukuthobela umyalelo okhutshwe ngokungaqinelana necandlwana 2 kuya kuba lulwaphulo-mthetho.

### Ukufakelwa nokusetyenziswa kwesixhobo esilinganisa ubumnyama bomsi

15. (1) Igosa eligunyazisiweyo linakho ukukhupha isaziso kuye nawuphi na umsebenzisi wesixhobo esitshisa amafutha, okanye umnini okanye lowo uhlala kulo ndawo apho kusetyenziswa, okanye kujoliswe ukusetyenziswa isixhobo esitshisa amafutha, ukufakela, ukulondoloza nokusebenzisa isixhobo esilinganisa ubumnyama bomsi ngeendleko zakhe, ukuba -
- (a) ukukhutshwa komsi omnyama okungagunyaziswanga nokungekho mthethweni kulo ndawo kuthethwa ngayo kwenzeka rhoqo kwaye kuyaqhubeka ixesha leentsuku ezimbini ubuncinane;
- (b) ukukhutshwa komsi omnyama okungagunyaziswanga nokungekho mthethweni kulo ndawo kwenzeka ngokweziqabu kwisithuba seentsuku ezilishumi elinesine ubuncinane;
- (c) isixhobo esitshisa amafutha sithe, okanye silungiselelwe ukuba, sifakelwe kwindawo leyo kuthethwa ngayo nenokuthi ikhuphe umsi omnyama;
- (d) umntu ekukhutshelwe yena isaziso ze wagwetywa okanye wahlawuliswa umdliwo wokuvuma ityala izihlandlo ezininzi kwiminyaka emibini edlulileyo ngokwaphula umthetho phantsi kweli Candelo okanye nawuphi na umthetho kamasipala ngemibandela yomgangatho womoya kwaye akathathanga manyathelo afanelekileyo ukuthintela okanye ukwaphula umthetho kwimiqathango yeli Candelo; okanye
- (e) igosa eligunyazisiweyo liqwalasela ukuba uhlobo lwezingcolisi-moya ezikhutshwa kulo ndawo zinokubeka umngcipheko okanye ubungozi kwimpilo okanye kwimeko-bume esingqongileyo.

### Ukubeka iliso kunye nokuvavanya

16. Lowo uhlala okanye umnini wendawo, kunye nomsebenzisi waso nasiphi isixhobo esitshisa amafutha, ekufuneka ukuba afakele isixhobo sokulinganisa ubumnyama bomsa ngokwemigaqo yecandelo 15(1) kufuneka -
- (a) abhale phantsi zonke iziphumo zokubek'iliso nezesampuli ze agcine ikopi yezi nkukacha ubuncinane iminyaka emine emva kokufumana iziphumo;
  - (b) ukuba ucelwe ukuba enze njalo ligosa eligunyazisiweyo -
    - (i) avelise iinkukacha zokubek'iliso nezeesampuli zohlolo; kwaye
    - (ii) abonelele ngengxelo ebhaliweyo, ngohlobo nangomhla ochazwe ligosa eligunyazisiweyo, ngenxalenye okanye ngazo zonke iinkukacha ezibhaliweyo zokubek'esweni nezesampuli.

### Ukukhululelwa okwexeshana

- 17.(1) Ngokuxhomekeke kwicandelo lama-34 nasekubeni kufunyenwe isicelo esinezizathu ezivakalayo ngokubhaliweyo ngumnini okanye lowo uhlala kweso siza okanye umsebenzisi wesixhobo esitshisa amafutha, iSixeko sinakho ukukhululela okwethutyana ngokubhaliweyo komnye okanye kuyo yonke imiqathango yeli Candelo.
- (2) Nakuphi ukukhululelwa okunikezelwe phantsi kwecandelwana (1) makuchaze ubuncinane oku kulandelayo:
- (a) inkcazelo ngesixhobo esitshisa amafutha nendawo esisetyenziselwa kuyo;
  - (b) izizathu zokunikezela olo khululelo;
  - (c) iimeko ezihambelana nolo khululelo, ukuba zikho;
  - (d) ixesha elinikezelweyo lokukhululelwa; kunye
  - (e) naziphi ezinye iinkukacha ezifanelekileyo.
- (3) ISixeko asinakho ukunikezela ngokhululo lwethutyana phantsi kwecandelwana (1) de sibe:
- (a) sithathe amanyathelo afanelekileyo ukuqinisekisa ukuba bonke abantu ekunokwenzeka ukuba amalungelo abo anyhashiwe ngokunikezelwa kokhululo lwethutyana, kuqukwa nabanini abamelene nalo okanye abo bahlala kulo propati, banolwazi ngesicelo sokukhululelwa okwethutyana nendlela yokufumana ikopi yaso;
  - (b) ukuba abo bantu bafumene amathuba afanelekileyo okuchasa isicelo; kwaye
  - (c) ziqwalaselwe ngokukuko kwaye zathathelwa ingqalelo ezo zicelo ziphakanyisiweyo.

## **ISAPHLUKO VI UKUKHUTSHWA KOMSI KWIINDAWO EKUHLALA KUZO ABANTU**

### **Ukuthintelwa kokukhutshwa komsi omnyama kwiindawo ekuhlala kuzo abantu**

18. (1) Ngokuxhomekeke kwicandelo 4(1), akukho mntu uya kukhupha okanye uya kuvumela ukukhutshwa komsi omnyama kuyo nayiphi na indawo ekuhlala kuyo abantu ixesha elilinganisiweyo elingaphezu kwemizuzu emithathu ngexesha eliqhubekayo lemizuzu engamashumi amathathu.
- (2) Ngokuxhomekeke kwicandelo lama-31, nokwenziwa kwesicelo esibhaliweyo ngumnini okanye lowo uhlala nakweyiphi na indawo yokuhlala, iSixeko sinakho ukunikezela ngokhululelo lwethutyana ngokubhaliweyo kumqathango omnye okanye yonke yesi Sahluko.
- (3) Ngokuxhomekeke kwicandelo 4(1), akukho mntu uya kukhupha okanye uya kuvumela ukukhutshwa komsi omnyama kangokuba ubangele inkathazo.

## **ISAPHLUKO VII UMSI OBANGELWA YIMILILO ETSHISWA NGAPHANDLE**

### **Isigunyaziso sokutshisa ngaphandle nokutshisa impahla**

19. (1) Ngokuxhomekeke kwicandelwana (4) akukho mntu uvumelekileyo ukutshisa ngaphandle nantoni na nakuwuphi na umhlaba okanye indawo, ngaphandle kokuba lo mntu uqale wafumana isigunyaziso esibhaliweyo sokutshisa ngaphandle kwiSixeko.
- (2) (a) Kwimeko apho umntu wangaphandle efuna ukutshisa ngaphandle egameni lomnini wepropati, makufunyanwe imvume ebhaliweyo ngulo mntu uzimeleyo kumnini wepropati phambi kokwenza isicelo kwiSixeko sesigunyaziso sokutshisa ngaphandle.
- (b) ISixeko singatshisa ngaphandle xa sibona kufanelekile nalapho umnini okanye lowo uhlala kulo propati engafumaneki.
- (3) ISixeko sinakho ukuthi, ngesigunyaziso esibhaliweyo esichazwe kwicandelwana (1) simisele imiqathango kulo mntu ekumele ukuba ayithobele lowo wenza isicelo esibhaliweyo.
- (4) ISixeko asinakho ukugunyazisa ukutshisa ngaphandle okuchazwe kwicandelwana (1) ngaphandle kokuba sonelisekile ukuba umfaki-sicelo ujongene ngokufanelekileyo nezi mfuno zilandelayo:
  - (a) impahla leyo iza kutshiselwa ngaphandle emhlabeni apho ivele kuwo;
  - (b) umntu ocela isigunyaziso ulwenzile na uphando nohlolo lwezinye iindlela ezinokwenziwa ngokufanelekileyo zokucutha, ukusebenzisa ngokutsha , ukusayiklisha okanye ukususa impahla ukuze kucuthwe umthamo wempahla leyo iza kutshiselwa ngaphandle, ngokokwaneliseka kweSixeko;
  - (c) lo mntu ucela isigunyaziso uwenzile na uphando okanye uhlolo ngempe-mbelelo yokutshisela ngaphandle kokusingqongileyo ngokokwaneliseka kweSixeko;

- (d) lo mntu ucela isigunyaziso usifakile na isaziso kwiphepha-ndaba lengingqi elijikeleziswa kwingingqi okanye wazisa ngokubhaliweyo abanini okanye abo bahlala kuzo zonke iipropati ezimelene nale –
    - (i) ngazo zonke iinkcukacha zokutshisela ngaphandle okucetywayo; kunye
    - (ii) nelungelo labanini nabo bahlala kwiiipropati ezimeleyo lokufaka izichaso ezibhaliweyo ngesiphakamiso sokutshisela ngaphandle kwiSixeko kwisithuba seentsuku ezi-7 sazisiwe;
  - (e) umntu lowo ucela isigunyaziso ubunikile na ubungqina bokuba isaziso esibhaliweyo sifunyenwe ngabanini okanye abo bahlala kwiiipropati ezimeleyo ubuncinane kwiintsuku ezisixhenxe (7) phambi kokuba siqwalaselwe isicelo sokutshisela ngaphandle.
  - (f) umrhumo omisiweyo sele uhlawuliwe kwiSixeko.
  - (g) umhlaba apho lo mntu ezimisele ukutshisela khona ngaphandle impahla ngumhlaba karhulumente, ifama okanye umhlatyana, okanye umhlaba okwilo kishi eyaziwayo ongasetyenziselwa iinjongo zendawo yokuhlala;
  - (h) ukutshisela ngaphandle kwenziwa ubuncinane kungama we-100 leemitha ukusuka kwizakhiwo okanye kwizakheko; kwaye
  - (i) ukutshisela ngaphandle akuzi kubeka ingozi kwimpilo yabantu okanye kukhuseleko, kwiiipropati zabucala okanye kokusingqongileyo.
- (5) Imiqathango yeli candelo ayizi kusebenza -
- (a) kwizenzo zokuzonwabisa ngaphandle apho kosiwa inyama okanye izenzo zokoja kwindawo ezimeleyo okanye kwiindawo ezilungiselelwe oko;
  - (b) kwimililo emincinane elawulwayo kwiindawo zamatyotyombe ngeenjongo zokupheka, ukuzifudumeza nezinye iinjongo zasekhaya;
- (6) Ngeenjongo zoqeqesho kukhuseleko kwimililo amacandelo (4)(a), (b), (f) no-(g) ayisayi kusebenza.
- (7) Imisebenzi yolawulo emiselwe kwishedyuli ye-2 yoMthetho kaMasipala mayisetyenziselwe ukuthintela okanye ukucutha ukukhutshwa komsi ekutshisweni ngaphandle kwezityalo eziphantsi kolawulo lweSixeko.

**Imisi ebangelwa kukutshiswa kwamatayala nokutshiswa kweerhabha nezinye izinto ngabo bafuna isinyithi**

- 20.** (1) Akukho mntu uvumelekileyo, ngaphandle kwesigunyaziso esibhaliweyo seSixeko, kuyo nayiphi na indawo –
- (a) Ukuqhuba okanye ukuvumela ukuba kutshiswe amatayala, iimveliso zerhabha, iintambo, ezogqunywe ngobunono okanye ezogqunywe ngerhabha, izixhobo okanye nayiphi enye imveliso efana nazo ngeenjongo –
    - (i) zokufumana isinyithi/intsimbi engaphakathi kuzo;



- (ii) zokulahla amatayala okanye ezinye iimveliso ezichazwe ku-(a) ngentla njengenkunkuma; okanye
  - (ii) ngaso nasiphi esinye isizathu, ngaphandle kokucoca ephathelene nobushushu benkunkuma jikelele nenkunkuma eyingozi kuso nasiphi isixhobo esinelayisenisi ngokungqinelana necandelo lama-41(1)(a) loMthetho woLawulo lokuSingqongileyo weSizwe: olawula uMgangatho woMoya;
  - (b) ukuba naso, ukusigcina, ukusithutha okanye ukurhweba ngentsimbi etshisiweyo efunyenwe ngenxa yokutshiswa okungagunyaziswanga.
- (2) Igosa eligunyazisiweyo linakho ukuthi ngenjongo yokuqokelela ubungqina, lithimbe nayiphi na intsimbi etshisiweyo okanye isinyithi kwinkqubo yokutshiswa kwazo nalapho isigunyaziso ngokwecandelo lama-20(1) singafunyanwanga okanye singenakubonelelwa ngumntu ochazwe kwelaa candelwana.

### **ISAHLUKO VIII**

#### **UKUKHUTSHWA KOMSI KWIINQWELO-MAFUTHA EZISEBENZISA UCINEZELO LWENJINI**

##### **Ukuthintelwa koms omnyama ophuma kwizithuthi ezihamba ngamafutha**

- 21** (1) Akukho mntu uvumelekileyo kwindlela kawonke-wonke okanye kwindlela yabucala okanye nakuyiphi na indawo ukuqhuba okanye ukusebenzisa, okanye ukubangela ukuba kusetyenziswe, isithuthi esisebenzisa amafutha ukuduma esikhupha umsi omnyama.
- (2) Ngeenjongo zeli Candelo umnini obhalisiweyo wesithuthi uya kucingelwa ukuba ngumqhubi lowo ngaphandle kokuba kunikwe ubungqina obuchasene noko.

##### **Ukumiswa kwezithuthi ukuba zihlolwe nokuvavanywa kwazo**

- 22.** (1) Ukuze igosa eligunyazisiweyo livunyelwe linyanzelise imiqathango yesi Sahluko, umqhubi wesithuthi kufuneka athobele nawuphi umyalelo ofanelekileyo okhutshwa ligosa eligunyazisiweyo ukuba lenze okanye liququzelele ukuhlolwa okanye ukuvavanywa kwesithuthi eso.
- (2) Igosa eligunyazisiweyo linakho ukukhupha umyalelo kumqhubi wesithuthi esikhupha umsi omnyama ukuba amise isithuthi eso ukuze -
- (a) lihlole kwaye livavanye isithuthi ecaleni kwendlela, nalapho uhlolo novavanyo olo kufuneka luqhutywe -
    - (i) endaweni okanye kufuphi nendawo efanelekileyo apho kunikwa khona umyalelo wokumisa isithuthi; kwaye
    - (ii) ngokukhawuleza kangangoko kunokwenzeka, kwaye nakuyo nayiphi imeko kwisithuba seyute enye, emva kokuba isithuthi simisiwe ngokungqinelana nomyalelo lowo; okanye
  - (b) liqhube uhlolo olubonwayo lwesithuthi kwaye, ukuba igosa eligunyazisiweyo likholwa ukuba kukho ukwaphulwa komthetho okwenziweyo phantsi kwecandelo lama-21 liya kuyalela umqhubi wesithuthi eso, ekucingelwa ukuba ngumnini wesithuthi ngaphandle kokuba uvelise ubungqina obuchasa oko obubhaliweyo, ase isithuthi eso kwidilesi emisiweyo okanye kwisikhululo sovavanyo lwezithuthi, ngexesha elimisiweyo, ukuze sihlolwe kwaye sivavanywe ngokungqinelana necandelo lama-23.

### Inkqubo yovavanyo

23. (1) Igosa eligunyazisiweyo malisebenzise inkqubo yokunyusa umcephe wesantya isithuthi singahambi ukuze kuqondisiswe ukuba isithuthi eso esisebenzisa ucinezelo lwenjini siqhutywa okanye sisetyenziswa ngokuchasene necandelo lama-21 (1).
- (2) Le nkqubo ilandelayo mayithotyelwe ukuze kuqhutywe uvavanyo lokunyusa umcephe ngesantya isithuthi simile:
- (a) xa eyalelwe ukwenza njalo ligosa eligunyazisiweyo, umqhubi makadumise isithuthi, asifake kwigiya ephakathi ze anyathele iklatshi;
  - (b) ngeli xesha isithuthi sidumayo, igosa eligunyazisiweyo maliqhube uvavanyo ngokubona indlela ophuma ngayo umsi kweso sithuthi;
  - (c) igosa eligunyazisiweyo malikhawuleze, ngononophelo licinezela ngamandla umcephe wokunyusa isantya kwisithuthi eso, okanye linokuyalela umqhubi ukuba enze njalo emjongile;
  - (d) ngeli xesha kucinezelwe umcephe, igosa eligunyazisiweyo malilinganise umsi ophuma kumbhobho okhupha umsi wesithuthi ukuze liqondisise ukuba lo msi mnyama okanye awumnyamanga;
  - (e) igosa eligunyazisiweyo maliyeke ukucinezela umcephe xa injini ifikelela ekugqibeleni kwesantya sesithuthi eso;
  - (f) ukuba igosa eligunyazisiweyo liyalele umqhubi ukuba acinezela umcephe, umqhubi unakho ukuyeka ukucinezela umcephe xa injini ifikelela kwisantya sokugqibela okanye xa eyalelwe ukwenza njalo ligosa eligunyazisiweyo.
- (3) Ukuba, emva kokuba kwenziwe uvavanyo lokunyusa umcephe isithuthi simile, igosa eligunyazisiweyo lonelisekile ukuba isithuthi -
- (a) asikhuphi umsi omnyama, kufuneka anike umqhubi wesithuthi isiqinisekiso esichaza ukuba isithuthi eso asiqhutywa okanye asisetyenziswa ngokuchasene necandelo lama-21; okanye
  - (b) sikhupha umsi omnyama, kufuneka akhuphele umqhubi wesithuthi isaziso sokulungiswa ngokungqinelana necandelo lama-24.

### Isaziso sokulungisa

24. (1) Kwimeko apho kwenziwe isigqibo ngokungqinelana necandelo lama-23(3) sokuba isithuthi eso sikhupha umsi omnyama igosa eligunyazisiweyo kufuneka liyalele umnini wesithuthi ngokubhaliweyo ukuba alungise isithuthi eso kwaye asingenisele ukuvavanywa kwakhona kwidilesi echazwe kwisaziso sokulungisa;
- (2) Ikopi yeziphumo zovavanyo mazinikezelwe ngumnini obhalisiweyo wesithuthi okanye ummeli wakhe kwigosa eligunyazisiweyo ukuba isikhululo sovavanyo asililo iziko lovavanyo leSixeko ngomhla okanye phambi wokugqibela ochazwe kwisaziso sokulungisa.
- (3) Isaziso sokulungisa masibandakanye ezi nkukacha zilandelayo:
- (a) uhlobo nenombolo yobhaliso yesithuthi eso;
  - (b) igama, idilesi nenombolo yesazisi yomqhubi wesithuthi; kunye

- (c) ukuba umqhubi ayinguye umnini wesithuthi, igama nedilesi yomnini wesithuthi.
- (4) Umnini wesithuthi kuya kuthathwa ngokuba wazisiwe ngesaziso sokulungisa ngomhla esikhutshwe ngayo eso saziso.
- (5) ISixeko singathatha nokuba ngawaphi na amanyathelo esibona efanelekile kwimeko yokuba iimfuno zecandelwana (1) azithotyelwa, kuqukwa nokuthinjwa kwesithuthi nokufunyanwa kweendleko ezenzekileyo kulo meko kumnini wesithuthi eso.

## **ISAHLUKO IX UKUKHUTSHWA KOMSI OBANGELA INKATHAZO ELUNTWINI**

### **Ukuthintelwa kwemisi ebanga inkathazo eluntwini**

**25.** (1) Akukho mntu uya kuthi, kwindawo ephantsi kolawulo lweSixeko-

- (a) afefeze okanye athambise ulwaleko oluthile, ipleyiti okanye ulwaleko kumphandle ngeplastiki enamathelayo kuso nasiphi isithuthu, nantoni na, ngaphakathi kwindawo evunyelwe ukuba ifefezwe okanye afefeze kwigunjana, ngenjongo yokudala inkathazo; okanye
- (b) afefeze, afake ulwaleko, ulwaleko lwezitywetywe okanye ngeplastiki eza kusetyenziswa nakusiphi na isithuthi, into okanye avumele ukuba kufefezwe, kufakwe ulwaleko lwezitywetywe okanye iplastiki enamathelayo okanye nawuphi na umsebenzi ofana nalo ngaphandle kwindawo ekuvumeleke ukuba kufefezwe kuyo okanye igunjana lokufefeza, ngenjongo yokudala inkathazo.
- (c) adale naluphi ungenelelo olungafanelekanga okanye olunjalo ngongcoliseko lomoya, olunokuchaphazela ngokungathandekiyo -
  - (i) impilo okanye intlalo-ntle yakhe nabani na okanye into ephilayo; okanye
  - (ii) ukusetyenziswa nokonwatyelwa ngumnini okanye lowo uhlala kwipropati yakhe okanye kwimeko-bume esingqongileyo;

(2) Nayiphi indawo yokufefeza okanye igunjana lokufefeza elichazwe kwicandelwana (1) kufuneka:

- (a) lakhiwe kwaye lifakwe izixhobo ngokungqinelana neMiqathango yoKhuseleko Jikelele eyabhengezwa ngokungqinelana noMthetho wezeMpilo noKhuseleko eMsebenzini, 1993 (uMthetho onguNomb. 85 ka-1993); kwaye
  - (b) uphunyezwe ligosa eligunyazisiweyo, ukuze kukhutshwe imise, imingxunya yoomatshini yomoya, ingxolo nalo naliphi elinye iSebe elinokunyanzeliswa nguwo nawuphi omnye umthetho.
- (3) Nabani na oqhuba umsebenzi otsazisa isanti, ukucoca ngokutshiza ngomoya, ukusila amatye, ukugudisa okanye umsebenzi ofana nalowo nowawufudula uvelisa umsi wothuli olunokuba yingozi kwimpilo yoluntu, okanye ubangele inkathazo eluntwini, uya kulandela awona manyathelo angcono kokusingqongileyo ukuthintela ukukhutshwa kwemisi kumoya ojikelezileyo ngokwaneliseka kwegunya eligunyazisiweyo.

- (4) Nabani na owenza umsebenzi ochazwe kwicandelwana (3) kufuneka amisele ubuncinane la manyathelo olawulo alandelayo:
- (a) amanyathelo okulawula ukufunxwa kothuli;
  - (b) naliphi elinye inyathelo lolawulo elamkelwe ligosa lomgangatho womoya okanye ummeli wakhe ogunyazisiweyo.
- (5) Lowo uhlala okanye umnini wendawo kufuneka athintele ukubakho ngaphakathi, okanye ukukhutshwa kwayo nayiphi into eyinkathazo engcolisa umoya evela kwindawo yakhe.
- (6) Lowo uhlala okanye umnini waso nasiphina isakhiwo apho kuvela khona inkathazo yongcoliseko lomoya, okanye apho kukho inkathazo yongcoliseko lomoya, unetyala lolwaphulo-mthetho.

### **Ukukhutshwa komsi wothuli**

26. (1) Nabani na owenza umsebenzi okanye ongenzi nto idala okanye ivumela ukukhutshwa kothuli kumoya ojikelezileyo olunokuba yingozi kwimpilo yoluntu nakwintlalo-ntle okanye olunokubangela inkathazo kubantu abahlala okanye abakhoyo kulo ndawo, umsebenzi okanye lo ndawo iya kwamkela elona cebo lingcono linokusebenza kokusingqongileyo ngokokwaneliseka kwegosa eligunya-zisiweyo, ukuthintela nokucutha ukukhutshwa kwemisi.
- (2) Igosa eligunyazisiweyo linokufuna nabani na okrokrelwa ngokudala inkathazo yothuli ukuba angenise isicwangciso solawulo lothuli ngexesha elimisiweyo kwisaziso esibhaliweyo.
- (3) Isicwangciso solawulo lothuli esichazwe kwicandelwana (2) kufuneka:
- (a) sichonge yonke imithombo yothuli kweso siza sichaphazelekileyo;
  - (b) sinike iinkcukacha ngawona manyathelo angcono anokwenzeka anokutha-tyathwa ukucutha ukukhutshwa kothuli;
  - (c) sinike iinkcukacha neshedyuli yokumisela;
  - (d) sichonge umntu onoxanduva lokumisela amanyathelo;
  - (e) siqulunqe isicwangciso sokubeka esweni ukuwa kweentlalutye esibhaka-bhakeni; kwaye
  - (f) siseke incwadi yokubhala zonke izikhalazo ezifunyenwe ngabantu ngokuphathelene neentlalutye eziwa esibhakabhakeni, ze kubhalwe namanyathelo oku-lungisa le meko neempendulo kwezo zikhalazo.
- (4) Igosa eligunyazisiweyo linakho ukufuna amanyathelo ongeziweyo ukuba achazwe ngakumbi kwisicwangciso solawulo lothuli.
- (5) Isicwangciso solawulo lothuli masimisilwe ngexesha elimisiweyo elichazwe ligosa eligunyazisiweyo kwisaziso esibhaliweyo.
- (6) Ukungaphumeleli ukuthobela imiqathango yeli candelo kuthetha ukwaphula umthetho.

### **Amanyathelo okupheliswa kwezinto eziyinkathazo eluntwini**

27. Nangaliphi na ixesha, iSixeko sinakho ukuhlawula ngokwalo naziphi iindleko ngokuthatha amanyathelo elibona ukuba ayimfuneko ukuze kulungiswe umonakalo obangelwa yinkathazo kwaye lithintele ukwenzeka kwakhona kwalo nkathazo, kwaye sinokuphinda sizifumane kwakhona ezo ndleko zifanelekileyo ezenziweyo kulo mntu unoxanduva lokudala inkathazo.

## **ISAHLUKO X IMIBANDELA GABALALA**

### **Isaziso sokuthobela**

28.(1) Igosa eligunyazisiweyo linakho ukuthumela isaziso sokuthobela kuye nabani na elikholelwa ukuba unokwenza ngokuchasene, okanye wenze ngokwaphula imiqathango yoMthetho kaMasipala, liyalele lo mntu ukuba -

- (a) athobele imiqathango efanelekileyo yecandelo loMthetho kaMasipala;
- (b) athathe amanyathelo afanelekileyo okuthintela ukwenzeka kwakhona kokungathotyelwa kwemigaqo; kunye
- (c) nokuthobela yonke imiqathango engeminye equlethwe kwisaziso.

(2) Isaziso sokuthobela phantsi kwecandelwana (1) sinokuthunyelwa -

- (a) emveni kokuba lowo uhlala kwindawo, umphathi okanye umnini wendawo leyo, ngokuthi -
  - (i) ithunyelwe kumntu ohlalayo, umphathi okanye umnini wendawo okanye, ukuba umnini akafumaneki okanye uhlala kumazwe aphesheya kweelwandle, i-arhente yomnini-propati;
  - (ii) ithunyelwe ngeposi ebhalisiweyo kwidilesi yokugqibela eyaziwayo yomnini okanye kwidilesi yokugqibela eyaziwayo ye-arhente; okanye
  - (iii) ithunyelwe kwidilesi apho kukho le ndawo, ukuba idilesi yomnini nedilesi ye-arhente azaziwa;

(3) Ukungaphumeleli ukuthobela isaziso kuya kuba lulwaphulo-mthetho.

### **Ukunyanzeliswa**

29. (1) Igosa eligunyazisiweyo malithathe onke amanyathelo asemthethweni, ayimfuneko nafanelekileyo ukuze kunyanzeliswe imiqathango yalo Mthetho kaMasipala.

(2) ISixeko sinakho ukuqulunqa iinkqubo zokunyanzelisa umthetho nekumele ukuba zithathele ingqalelo zonke iinkqubo zonyanzeliso-mthetho ezimiselwe ngurhulumente wesizwe okanye owephondo.

### **Izibheno**

30.(1) Nabani na unakho ukungenisa izibheno ngokuchasene nesigqibo esithathwe ligosa eligunyazisiweyo phantsi kwalo Mthetho kaMasipala ngokwenza isaziso esibhaliweyo ngesibheno ngokungqinelana nemiqathango yecandelo lama-62 loMthetho olawula iinkqubo zikaMasipala.

### Ukukhululelwa

31. (1) Nabani na unakho ukwenza isicelo kwiSixeko, ngokubhaliweyo, sokukhululelwa ekumiselweni kwemiqathango yalo Mthetho kaMasipala.
- (2) ISixeko sinakho-
- (a) ukuphumeza okanye ukukhaba isicelo sokukhululelwa; kwaye
- (b) ukunyanzelisa imiqathango xa sinikezela isiphumezo sezicelo zokukhululelwa, ezenziwe ngokungqinelana necandelwana (1).
- (3) Isicelo esenziwe ngokungqinelana necandelwana (1) masiphelekwe zizizathu eziva-kalayo.
- (4) ISixeko sinakho ukucela umfaki-sicelo owenza isicelo sokukhululelwa ukuba athathe amanyathelo afanelekileyo okuzisa eso sicelo kwingqwalasela yabantu abanomdla abafanelekileyo nabachaphazelekayo kunye noluntu.
- (5) Amanyathelo achazwe kwicandelwana (4) makabandakanye ukupapashwa kwesaziso ubuncinane kumaphepha-ndaba amabini, elinye elijikeleziswa kwiphondo ze elinye ibe lelijikeleziswa kummandla wolawulo lweSixeko-
- (a) enika izizathu zesicelo; kwaye
- (b) siqulethe ezinye iinkcukacha eziphathelele nesicelo ngokokufuna kwegosa lomgangatho womoya.
- (6) ISixeko sinakho -
- (a) ukuthi ngokuhamba kwexesha siphengulule nakuphi ukukhululelwa okunikezelwe ngokungqinelana neli candelo, kwaye sinokumisela eminye imiqathango esinokubona ifanelekile; kwaye
- (b) ngokwezizathu ezilungileyo singakurhoxisa ukukhululelwa.
- (7) ISixeko sinakho ukunganikezele ukukhululelwa phantsi kwecandelwana (1) de iSixeko sibe:
- (a) sithathe amanyathelo afanelekileyo okuqinisekisa ukuba bonke abantu ekunokwenzeka ukuba amalungelo abo achaphazeleke ngokungathandekiyo ngokunikezelwa koku kukhululelwa, kuqukwa nabanini bomhlaba abamelene naye okanye abo bahlala apho, babe banolwazi ngesicelo sokukhululelwa.
- (b) sibonelele abo bantu ngethuba elifanelekileyo lokuchasa eso sicelo; kwaye
- (c) siqwalasele ngokufanelekileyo sithathele ingqalelo naziphi izichaso eziphakanyisiweyo.

### Ukuzikhusela kumabango

32. ISixeko asisayi kuthwala xanduva ngawo nawuphi umonakalo owenzeke kuyo nayiphi ipropati okanye indawo ngesenzo okanye ngokungenzi ngakwicala labasebenzi okanye amagosa eSixeko xa esenza nayiphi imisebenzi okanye esenza nawuphi

umsebenzi ngokungqinelana nalo Mthetho kaMasipala, ukuba abo basebenzi okanye amagosa kufuneka, xa besenza lo msebenzi okanye beqhuba olo xanduva, bathathe amanyathelo afanelekileyo ukuthintela umonakalo kwezo propati okanye indawo.

## **ISAPHLUKO XI AMATYALA KUNYE NEZOHLWAYO**

### **Amatyala kunye nezohlwayo**

- 33.**(1) Umntu owaphula imiqathango yamacandelo 4(1) and (2), 6(3), 10(1) and (2), 11(1), 12(1), 19(1), 19(3), 20(1), 20(2), 21(1), 22(1), 24(1), 25(3), (4) , (5) nele-(6) , 26(1), (2), (3) and (5), 28(1), (2) nele-(3) uya kuba netyala lolwaphulo-mthetho.
- (2) Nabani na ofunyenwe enetyala lolwaphulo-mthetho ngokunxulumene nalo Mthetho kaMasipala uya kugwetywa isohlwayo okanye, esakugwetywa, uya kuvalelwa ixesha elingadlulanga kunyaka omnye (1) okanye zombini isohlwayo nokuvalelwa.
- (3) Nabani na owaphula umthetho ngokuqhubekayo uya kuthwaliswa uxanduva lokuhlulwa isohlwayo sosuku ngalunye ngexesha apho lo mntu engaphumeleli ngalo ukuthobela umyalelo, ukuthobela isaziso okanye isaziso sokulungisa, esikhutshwe ngokungqinelana nalo Mthetho kaMasipala.
- (4) Lulwaphulo-mthetho ukunikezela ngeenkukacha ezingenabunyaniso kwigosa eligunyazisiweyo ngokuphathelene nako nakuphi na ukukhutshwa okuphathelene nalo Mthetho kaMasipala.
- (5) Kwimeko apho kungabonelelwanga ngesohlwayo esikhethekileyo, nabani na owaphula umthetho ngokungqinelana nalo Mthetho kaMasipala unetyala lokuhlulwa isohlwayo nokuvalelwa ixesha elingadlulanga kunyaka omnye (1) okanye zombini oko kuvalelwa nesohlwayo.
- (6) Ngaphezu kokumiselwa kwesohlwayo okanye ukuvalelwa, inkundla inakho ukuyalela nabani na onetyala lokwaphula umthetho phantsi kwalo Mthetho kaMasipala -
- (a) ukuba alungise umonakalo owenziweyo; kunye
  - (b) nokuhlulwa iindleko zomonakalo obangelwe komnye umntu okanye kwenye ipropati.

### **Ukubhangiswa nokugcinwa kweendawo ezithile**

- 34.** (1) Ngenxa yoko uMthetho kaMasipala weSixeko saseKapa: woLawulo loMgangatho woMoya ka-2010 uyabhangiswa.
- (2) Nantoni na eyenziweyo okanye ethatyathwa njengeenziweyo phantsi kwawo nawuphi na umthetho kamasipala ophathelene nomgangatho womoya isasebenza kwaye isesemthethweni kangangoko ungqinelana nalo Mthetho kaMasipala.

### **Isihloko esifutshane**

- 35.** Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala weSixeko saseKapa: woLawulo loMgangatho woMoya, ka-2016.

## ISHEDYULI 1

### linqobo ezisemthethweno nengcaciso ngezixhobo zokutshisa amafutha:

1. Zonke izixhobo zokutshisa amafutha ezinakho ukutshisa ngaphezu kwe-100kg/h yamalahlle, umthamo opholeleyo okanye amanye amafutha aziziqina ziya kufakelwa isixhobo sokusilawula esifanelekileyo kulungiselelwa ukucutha ukukhupha kwaso iintlalutye nothuli.
2. Isixhobo sokulawula siya kufakelwa ngendlela elungiselela ukuba silondolozeke lula.
3. Uxinzelelo olwamkelekileyo lokukhutshwa kweentlalutye nothuli kwitshimini esebenzela ibhoyilara ebaswa ngamalahlle enenkqubo yomatshini epholisayo draught akuvumelekanga ukuba sibe ngaphezu kwama-250 mg/Nm<sup>3</sup> (njengoko ilinganiswe kwi-0°C, 101,3 kPa ne-12% CO<sub>2</sub>). Kwimeko apho isixhobo esitshisa amafutha sibhengezwe njengesixhobo esiKhuphayo ngokuLawulekayo ngokungqinelana noMthetho woMgangatho woMoya, kuya kusetyenziswa iMiqathango yesixhobo esiKhuphayo ngokuLawulekayo.

linkqubo ezamkelweyo zokuvavanya iya kuba zezi:

#### US EPA:

1. Inqubo ye-17 - In-Stack Particulate (PM).
2. Inqubo ye-5 - Particulate Matter (PM).

#### Imigangatho ye-ISO:

ISO 9096: Ukukhutshwa kwemisi evela kwizinto ezimileyo – Isixhobo sokuqwalasela esiphathwayo soxinzelelo oluninzi lwezinto ezihlangeneyo.

#### Imigangatho yaseBritane

BS 3405:1983 Inqubo yokulinganisa ukukhutshwa kweentlalutye eziquka iintlalutye nothuli (inqubo eyenziwe lula).

4. ISixeko sinelungelo lokumemelela umnini okanye i-arhente yesixhobo esitshisa amafutha ukuba imisi ephuma kweso sixhobo sitshisa amafutha siphengululwe ngeendleko zakhe ngokwendlela eya kufunwa ligosa eligunyazisiweyo.

#### Ukogquma ngerabha iitshimini:

Zonke izixhobo ezitshisa amafutha ezisebenzisa i-Oli yaMafutha aMakhulu okanye amanye amafutha olwelo afakwe isalfure elingana okanye engaphezu kwe-2.5 % ngokobunzima mazifakelwe iitshimini ezogqunywe ngokupheleleyo kusetyenziswa isithuba somoya esiyi-25mm okanye isixhobo sokogquma ngewulu yeminerali ukuthintela ukwakheka kwesidyobho se-asidi. Ezo tshimini mazilondolozwe zigcinwe zikwimo elungileyo ngalo lonke ixesha.

#### Ii-onti zokwenza ipizza ezibaswa ngeenkuni nezinye izixhobo zokubasa ezisebenzisa amafutha aziziqina:

Ii-onti zokwenza ipizza ezibaswa ngeenkuni nezinye izixhobo zokubasa ezisebenzisa amafutha aziziqina kufuneka zifakelwe iimpiko zokupholisa ngokomyalelo wegosa eligunyazisiweyo.



## ISHEDYULI YE-2

### **Imisebenzi yolawulo olufanelekileyo ukuthintela okanye ukucutha ukukhutshwa komsi ophuma kwizityalo ezitshayo ezingaphandle**

1. Makuqwalaselwe ezinye iindlela zokutshisa – umzekelo: ukugcina ukufuma emhlabeni kusenzelwa ukufunyanwa kwezakha-mziba zezityalo, zomiswe ukuze ziphinde zifunyanwe njengeenkuni.
2. Izityalo ezifanele ukuba zitshiswe (okufana nokucheba amagqabi, ukuzithena okanye ukugawula ukusuka kwindawo esenokukhula kwakhona) ngokomyalelo osisithethe jikelele zivunyelwe ukuba zome zibe nembonakalo emdakana ngokwebala phambi kokuba zitshiswe.
3. Ngaphandle kweziphunzi zomthi okanye izikhondo zezityalo, indawo ekutshiswa kuyo mayibe kumgama wama-50 eemitha ubuncinane ukusuka nakuyiphi na indlela ngaphandle kwendlela ehamba enkulu yezithuthi, kunye nomgama we-100 yeemitha ukusuka kwindlela enkulu yezithuthi okanye kwindawo ehlala abantu kwipropati ekufuphi.
4. Kufuneka kuqwalaselwe ngokukuko icala obheka kulo namandla omoya, nomgangatho nemeko yezityalo eziza kutshiswa, phambi kokuba kuqaliswe ukutshisa.
5. Kwimeko yezityalo ezanyangwe ngesifefezi esinemichiza yolimo, nayiphi imiyalelo yomvelisi ebhalwe kwimiqondiso yaso nasiphi na isiqulathi ngokuphathelene nokutshiswa kwezityalo ezinyangweyo mayiqwalaselwe.
6. Kufuneka kuvunyelwe iintsuku ezimbini zemozulu entle phambi kokuba kutshiswe.
7. Izityalo mazipakishwe ngokuqaqeneleyo kunokuba zicukaniswe ndawonye.
8. Umlilo ongephi, oqalwe ngezona zinto zome kakhulu, ze kufakwe ezinye izixhobo ngokuhamba kwexesha xa sele uvutha amadangatye, ungcono kunesiqhu esikhulu sezinto ezidityanisiweyo zitshiswe ze zishiywe zingakhathalelwanga.

**Qaphela:** Abantu abatshisa izityalo ngaphandle mabaqinisekise ukuba bathobela iimfuno zoMthetho olawula iMililo yaMadlelo neyaMahlathi weSizwe, 1998, (uMthetho we-101 ka-1998) owalungiswayo.





