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WITZENBERG MUNICIPALITY**House Shop By-law**

To control and regulate house shops within the authority's area of jurisdiction

PREAMBLE

WHEREAS Section 156(2) and (5) 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, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 4 to the Constitution lists municipal planning as local government matters to the extent set out in Section 155(6) (a) and (7);

AND WHEREAS the Witzenberg Municipality seeks to manage, control and regulate municipal land use planning and any matters connected therewith;

BE IT ENACTED by the Council of the Witzenberg Municipality as follows:—

SCHEDULE**Classification of sections**

1. Definitions
2. Application of this by-law
3. Classification of house shops
4. Applications for house shops
5. Requirements for a house shop
6. Restrictions
7. Non-liability of the municipality
8. Compliance notices
9. Penalty
10. Application
11. Transitional arrangements
12. Delegation
13. Failure to comply
14. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates:

“authorised official” means an employee of the Council appointed by the Municipal Manager to exercise the powers of an authorised official in terms of the provisions of this by-law, and includes a law enforcement officer;

“approval period” means a maximum of five years in terms of the Witzenberg Land Use Planning By-law, P.N. 289/2015, after which an extension for the period must be applied for;

“Council” means the municipal Council of the municipality;

“house shop” means a retail business operated from a dwelling for the convenience of the immediate community by the registered owner of the dwelling, who must occupy the dwelling; provided that the primary use of the dwelling shall remain residential;

“municipal manager” means a person appointed by the Council in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“municipality” means the Witzenberg Municipality;

“national building regulations” means the National Building Regulations promulgated in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

“public nuisance” means any act, omission or condition, which is offensive to the public, which is detrimental to or dangerous for public health, which materially interferes with the ordinary comfort, convenience, peace or quiet of the public, or which adversely affects the safety of the public;

“zoning scheme” means a zoning scheme promulgated in terms of the Land Use Planning Ordinance 15 of 1985 or the Integrated Zoning Scheme promulgated in terms of SPLUMA, 2013 (Act 16 of 2013);

“zoning scheme regulations” means Section 7 and Section 8 of the Scheme Regulations in terms of the Land Use Planning Ordinance 15 of 1985 or the Integrated Zoning Scheme promulgated in terms of SPLUMA, 2013 (Act 16 of 2013);

2. Application of this by-law

- (1) This by-law is applicable to the entire area of jurisdiction of the Witzenberg Municipality.

- (2) The provisions of this by-law do not derogate from the provisions of any other legislation.
- (3) No person may operate a house shop without prior approval by the municipality in terms of this by-law.

3. Classification of house shops

- (1) House shops are classified as follows:
 - (a) a profit-seeking house shop;
 - (b) a house shop with an identified shop area inside an existing dwelling;
 - (c) a house shop where formal advertising takes place;
 - (d) a house shop where goods are purchased and delivered;
 - (e) a house shop where business hours are maintained;
 - (f) a house shop where the primary use of the premises is residential and the secondary use is for the purposes of a house shop.

4. Applications for house shops

- (1) Only the owner of the property, and who resides on the property, may apply to operate a house shop.
- (2) An application for a house shop will be done in terms of the Witzenberg Land Use Planning By-law, P.N. 289/2015 and specifically as a departure.
- (3) The following documents must accompany an application for a house shop:
 - (a) The fully completed application form;
 - (b) A site and floor plan of the business component of the proposed house shop;
 - (c) Proof of the written consent of all surrounding/adjacent owners for a house shop to be operated on the relevant premises;
 - (d) Application fee as per the Council's tariffs;
 - (e) Copy of the applicant's identity document.
- (4) The application will be circulated to the municipal departments and local Councillor for comment.
- (5) Thirty days will be granted for comment.
- (6) The authorised official will consider the application and make a decision within a timeframe not exceeding 3 months whether to approve the application or not.
- (7) The applicant and objectors, if applicable, will be notified in writing of the decision of the authorised official.
- (8) Objections will be handled in terms of the Witzenberg Land Use Planning By-law, P.N. 289/2015.

5. Requirements for a house shop

- (1) House shops must meet the following requirements—
 - (a) The house shop may only be operated from a dwelling that complies with the Scheme Regulations applicable to the specific area and the National Building Regulations;

- (b) The extent and location of the business component must be indicated on a scaled plan, and shall not exceed 45% of the total floor area of the dwelling house;
 - (c) The erf from which the house shop is operated must contain a dwelling as a primary residential property;
 - (d) The house shop may not be located within the road reserve;
 - (e) The part of the house utilised as the shop may not be occupied.
- (2) Should any of the aforementioned provisions not be complied with or contravened, the Council reserves the right to withdraw the approval at any time.

6. Restrictions

- (1) Any alterations to the existing dwelling must blend in with the residential character of the area concerned.
- (2) All legislation, regulations and safety measures regarding the operation of the house shop and merchandise therein must be adhered to by the owner.
- (3) The operation of the house shop may not cause a public nuisance.
- (4) No explosive or flammable substances may be kept or sold.
- (5) Consent to operate a house shop is granted to the registered owner of the premises and is not transferable.
- (6) Business hours will be determined by the municipality.
- (7) Should an applicant wish to erect advertising signage—
 - (a) an application must be submitted in advance to the municipality;
 - (b) only one unlighted sign or notice, no larger than 2 000 cm² in extent, indicating the name of the owner, business and the nature thereof only, may be displayed;
 - (c) the prior written approval of the municipality must be obtained.
- (8) Only the registered owner and his direct dependants, who reside on the property, may operate the house shop.
- (9) Additional service connections will not be allowed;
- (10) The total amount of house shops allowed per street is as follows:
 - Street length shorter than 100 m – 1 shop
 - Street length 100 m to 200 m – 2 shops
 - Street length 200 m to 400 m – 3 shops
 - Street length 400 m and over – 4 shops
- (11) Section 6(10) is not applicable for Nduli until Nduli's scheme regulations are repealed.

7. Non-liability of the municipality

The municipality shall not be liable for any direct or consequential loss or damage suffered or sustained by the owner of the house shop premises as a result of or arising from the approval of the house shop.

8. Compliance notices

- (1) Whenever an authorised official or law enforcement officer finds that any person contravenes any provision of this by-law or that a situation arises which causes a public nuisance or which could possibly lead to a public nuisance as a result of any person's actions or failure to act, such an official or officer is authorised to issue a compliance notice on such a person.
- (2) Should a notice be served, it must contain the following—
 - (a) The provision of the by-law that is being or will be contravened, should the situation be allowed to continue;
 - (b) The measures to be taken to rectify the situation; and
 - (c) The timeframe for compliance with the notice.

9. Penalties

Whenever a law enforcement officer finds that any person contravenes any requirement or restriction under clauses 5 and 6 of this by-law, such law enforcement officer may serve a fine on such a person as approved by the Magistrate or a notice to appear in court.

10. Application

The provisions of this by-law do not detract from the provisions of any other legislation in terms of which provision is made for the control of house shops as stipulated in that legislation.

11. Transitional arrangements

- (1) A person who can prove that the Council has already granted approval for the operation of a house shop at the time of implementation of this by-law, may continue to act in accordance with the approval in terms of such by-law, provided that:
 - (a) Approval is not transferred from the original applicant to another person;
 - (b) The owner of the house shop provides proof of the Council's approval; and
 - (c) The registered owner shall within 6 months of the proclamation of this by-law comply with the requirements and restrictions under clauses 5 and 6.

12. Delegation

The Municipal Manager may delegate any power or function conferred on the Municipal Manager in terms of the provisions of this by-law in writing to an authorised official of the municipality.

13. Failure to comply

- (1) If a person fails to comply with a compliance notice, the Municipality may—
- (a) lay a criminal charge against the person; or
 - (b) apply to the Court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
 - (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted.

14. Short title and commencement

This by-law is called the Witzenberg Municipality House Shop By-law 2018 and shall be in operation on the date of its promulgation in the Provincial Gazette.

WITZENBERG MUNISIPALITEIT**Verordening insake huiswinkels**

Om huiswinkels binne die owerheid se regsgebied te beheer en reguleer.

AANHEF

NADEMAAL artikel 156(2) en (5) 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, en 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 Deel B van Bylae 4 tot die Grondwet munisipale beplanning lys as 'n plaaslike regeringsaangeleentheid in die mate in artikel 155(6) (a) en (7) uiteengesit;

EN NADEMAAL die Witzenberg Munisipaliteit poog om munisipale grondgebruikbeplanning en enige aangeleenthede wat daarmee in verband staan te bestuur, beheer en reguleer;

WORD DAAR soos volg deur die Witzenberg Munisipaliteit BEPAAL:—

BYLAE**Indeling van Artikels**

1. Woordbepaling
2. Toepassing van hierdie verordening
3. Klassifisering van huiswinkels
4. Aansoeke vir huiswinkels
5. Vereistes vir 'n huiswinkel
6. Beperking
7. Nie-aanspreeklikheid van die munisipaliteit
8. Kennisgewing
9. Boete
10. Toepassing
11. Oorgangsmaatreëls
12. Delegasie
13. Versuim om te voldoen
14. Kort titel en inwerkingtreding

1. Woordbepaling

In hierdie verordening, tensy teenstrydig met die sinsverband, beteken:

“gemagtigde beampte” ’n werknemer van die Raad wat deur die munisipale bestuurder aangestel is om die magte van ’n gemagtigde beampte ingevolge die bepalings van hierdie verordening uit te oefen;

“goedkeuringstydperk” ’n maksimum van vyf jaar ingevolge die Witzenberg Verordening op Grondgebruikbeplanning, P.K. 289/2015, waarna daar weer aansoek gedoen moet word vir verlenging.

“huiswinkel” die aanwending van ’n kleinhandel onderneming vanaf ’n woonhuis vir die gerief van die onmiddellike gemeenskap deur die geregistreerde eienaar van die woonhuis, wat die woonhuis moet bewoon; met dien verstande dat die oorhoofse gebruik van die struktuur residensieël sal bly;

“munisipale bestuurder” ’n persoon wat in deur die raad ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) aangestel is;

“munisipaliteit” die Munisipaliteit van Witzenberg;

“nasionale bouregulasies” beteken die Nasionale Bouregulasies wat ingevolge die Wet op Nasionale Bouregulasies en Boustandaarde, Wet No. 103 van 1977, afgekondig is;

“openbare oorlas” enige handeling, versuim of toestand wat aanstootlik is, wat nadelig of gevaarlik is vir die gesondheid, wat die gewone gemak, gerief, rus of stilte van die publiek wesenslik belemmer of wat die veiligheid van die publiek nadelig raak;

“Raad” die munisipale raad van die Munisipaliteit;

“Soneringskema” soneringskema afgekondig in terme van die Ordonnansie op Grondgebruikbeplanning, no. 15 van 1985 of die Ge-integreerde Soneringskema afgekondig in terme van SPLUMA, 2013 (Wet 16 van 2013);

“Soneringskema regulasies” Artikel 7 en Artikel 8 Skema regulasies ingevolge die Ordonnansie op Grondgebruikbeplanning, no. 15 van 1985 of die Ge-integreerde Soneringskema afgekondig in terme van SPLUMA, 2013 (Wet 16 van 2013).

2. Toepassing van hierdie verordening

- (1) Hierdie verordening is van toepassing op die totale regsgebied van Witzenberg Munisipaliteit.
- (2) Die bepalings van hierdie verordening doen nie afbreuk aan die bepalings van enige ander wetgewing nie.

- (3) Geen persoon mag 'n huiswinkel bedryf sonder vooraf goedkeuring van die munisipaliteit in terme van hierdie Verordening nie.

3. Klassifisering van huiswinkels

- (1) Huiswinkels word as volg geklassifiseer:
 - (a) 'n huiswinkel met winsbejag;
 - (b) 'n huiswinkel met 'n geïdentifiseerde winkelarea binne bestaande strukture;
 - (c) 'n huiswinkel waar formele advertering plaasvind;
 - (d) 'n huiswinkel waar voorraad aangekoop en afgelewer word;
 - (e) 'n huiswinkel waar besigheidsure gehandhaaf word;
 - (f) en 'n huiswinkel waar die oorheersende gebruik van die perseel residensieel is, met die huiswinkel sekondêr.

4. Aansoeke vir huiswinkels

- (1) Slegs die eienaar van die eiendom, en woonagtig op die eiendom, mag aansoek doen om 'n huiswinkel te bedryf.
- (2) Aansoek vir 'n huiswinkel sal geskied in terme van die Witzenberg Verordening op Grondgebruikbeplanning, P.K. 289/2015 en wel as 'n afwykende gebruik.
- (3) Die volgende dokumente moet 'n aansoek om 'n huiswinkel vergesel:
 - (a) Die volledig voltooide aansoekvorm;
 - (b) 'n terrein- en vloerplan van die besigheidskomponent van die voorgestelde huiswinkel;
 - (c) Bewys van die skriftelike toestemming van alle omliggende/aangrensende eienaars om 'n huiswinkel op die betrokke perseel te bedryf;
 - (d) Aansoekfooi ingevolge die Raad se tariewe;
 - (e) Afskrif van die applikant se Identiteitsdokument
- (4) Die aansoek sal vir kommentaar gesirkuleer word na die munisipale afdelings en plaaslike Raadslid.
- (5) Dertig dae sal deur die munisipaliteit verleen word om kommentaar te lewer.
- (6) Die gevolgmagtigde amptenaar sal die aansoek oorweeg en 'n besluit neem, binne 'n tydperk van nie meer as 3 maande, oor die goedkeuring daarvan al dan nie.
- (7) Die aansoeker en beswaarmakers, indien van toepassing, sal skriftelik in kennis gestel word van die besluit van die gevolgmagtigde amptenaar.
- (8) Besware sal hanteer word in terme van die Witzenberg Verordening op Grondgebruikbeplanning, P.K. 289/2015.

5. Vereistes vir 'n huiswinkel

- (1) Huiswinkels moet aan die volgende vereistes voldoen:
 - (a) Die huiswinkel mag slegs bedryf word vanuit 'n woongebou wat voldoen aan die Skema regulasies toepaslik op die betrokke area en die Nasionale Bouregulasies;
 - (b) Die omvang en ligging van die besigheidskomponent moet op 'n skaalplan aangedui word, en sal nie meer as 45% van die totale vloeroppervlakte van die woonhuis wees nie;
 - (c) Die erf waaruit die huiswinkel bedryf word moet 'n woonhuis as 'n primêre residensiële eiendom bevat;
 - (d) Die huiswinkel mag nie binne die straatreserwe geleë wees nie;
 - (e) Die gedeelte van die huis wat as winkel aangewend word mag nie bewoon word nie.
- (2) Die Raad behou die reg voor om die goedkeuring te enige tyd in te trek indien enige van die voorgemelde riglyne nie nagekom word nie, of verbreek word.

6. Beperkings

- (1) Enige verandering aan die bestaande woonhuis moet by die residensiële karakter van die betrokke gebied inpas.
- (2) Alle wetgewing, regulasies, omgewingsgesondheid en veiligheidsmaatreëls ten opsigte van die bedryf van 'n huiswinkel en die ware daarin moet aan voldoen word deur die eienaar.
- (3) Die bedryf van die huiswinkel mag nie 'n openbare oorlas veroorsaak nie.
- (4) Geen plofbare of vlambare stowwe mag aangehou of verkoop word nie.
- (5) Toestemming om 'n huiswinkel te bedryf word aan die geregistreerde eienaar van die perseel toegestaan en is nie oordraagbaar nie.
- (6) Besigheidsure sal deur die munisipaliteit bepaal word.
- (7) Indien 'n aansoeker 'n advertensieteken wil oprig, moet—
 - (a) vooraf by die Munisipaliteit aansoek gedoen word;
 - (b) mag slegs een onbeligte bord of kennisgewing, wat nie 2000 cm² in grootte oorskry nie en wat slegs die naam van die eienaar, besigheid en die aard daarvan aandui, vertoon word;
 - (c) die Munisipaliteit se geskrewe goedkeuring vooraf verkry word.
- (8) Slegs die eienaar van die eiendom en sy direkte afhanklikes, en woonagtig op die eiendom, mag die huiswinkel bedryf.
- (9) Addisionele dienste aansluitings sal nie toegelaat word nie.
- (10) Die totale aantal huiswinkels wat per straat toegelaat word is as volg:

Straat lengte korter as 100m – 1 winkel

Straat lengte 100m tot 200m – 2 winkels

Straat lengte 200m tot 400m – 3 winkels

Straat lengte 400m en meer – 4 winkels

7. Nie-aanspreeklikheid van die munisipaliteit

Die munisipaliteit is nie aanspreeklik vir enige regstreekse of gevolglike verlies of skade wat die eienaar van die huiswinkel perseel mag ly of opdoen as gevolg van of voortspruitend uit die goedkeuring van die huiswinkel nie.

8. Kennisgewing

- (1) Wanneer ookal 'n gemagtigde beampte of wetstoepasser bevind dat enige persoon 'n bepaling van hierdie verordening oortree of dat as gevolg van enige persoon se optrede of versuim 'n toestand ontstaan het wat 'n openbare oorlas veroorsaak of moontlik aanleiding kan gee tot die ontstaan van 'n openbare oorlas, kan so 'n gemagtigde beampte of toepasser 'n kennisgewing dien aan sodanige persoon.
- (2) Sou 'n kennisgewing uitgereik word, moet dit die volgende bevat—
 - (a) Die bepaling van die verordening wat oortree word of oortree sal word as die toestand toegelaat word om voort te duur;
 - (b) Die maatreëls wat getref moet word om die toestand reg te stel, en
 - (c) Die tydperk waarbinne aan die kennisgewing voldoen moet word.

9. Boete

Wanneer ookal 'n wetstoepasser bevind dat enige persoon 'n vereiste of beperking onder klosule 5 en 6 van hierdie verordening oortree, kan so 'n wetstoepasser aan sodanige persoon 'n boete dien soos goedgekeur deur die Landdroshof en of kennisgewing dien om voor die hof te verskyn.

10. Toepassing

- (1) Die bepalings van hierdie verordening doen nie afbreuk aan die bepalings van enige ander wetgewing ingevolge waarvan voorsiening gemaak is vir die beheer van huiswinkels soos bepaal in daardie wetgewing.

11. Oorgangsmatreëls

- (1) 'n Persoon wat kan bewys dat die Raad ten tyde van die inwerkingstelling van hierdie verordening reeds goedkeuring toegestaan het om 'n huiswinkel te bedryf, mag voortgaan om op te tree in ooreenstemming met die goedkeuring ingevolge sodanige verordening, op voorwaarde dat:—
 - (a) Geen goedkeuring vanaf die oorspronklike aansoeker na 'n ander persoon oorgedra mag word nie; en
 - (b) Die eienaar van die huiswinkel bewys lewer van die Raad se goedkeuring.
 - (c) Die geregistreerde eienaar binne 6 maande vanaf proklamering van hierdie verordening sal voldoen aan die vereistes en beperkings onder klosule 5 en 6.

12. Delegasie

Die munisipale bestuurder mag enige bevoegdheid of plig wat ingevolge die bepalings van hierdie verordening aan die munisipale bestuurder toegeken is, skriftelik aan 'n gemagtigde amptenaar van die munisipaliteit delegeer.

13. Versuim om the voldoen

- (1) die munisipaliteit mag in die geval waar 'n persoon versuim om aan 'n kennisgewing te voldoen
 - (a) 'n kriminele klag teen die persoon maak;
 - (b) aansoek doen by 'n hof vir 'n bevel wat daardie persoon verhoed om verder onwettig te handel, enige struktuur of gebou af te breek, te verwyder of reg te stel wat onwettig opgerig was sonder die betaling van vergoeding of kompensasie of die rehabilitasie van die betrokke grond of
 - (c) in die geval van 'n tydelike afwyking of vergunning die toestemming wat toegestaan was onttrek.

14. Kort titel en inwerkingtrede

Hierdie verordening word genoem die Witzenberg Munisipaliteit Huiswinkel Verordening 2018 en sal in werking tree op die datum van die promulgering daarvan in die Provinsiale Koerant.

UMASIPALA WASEWITZENBERG**UMthetho kaMasipala oMalunga neeVenkile ezisemaKhaya****Ukulawula nokubekela umthetho iivenkile ezisemakhaya kumhlaba ophantsi kolawulo lwalo masipala****ISINDULULO**

NANGONA iCandelo 156(2) kunye no-(5) loMgaqo-siseko lisithi umasipala makazibekela imithetho yakhe kunjalo nje ayijonge ukuba iyalandelwa ukwenzela ukulungiswa kwemiba anelungelo lokuyilungisa kwanokuba asebenzise nawaphi na amagunya anawo ngokunxulumene nombala ojongene nokwenza ukuba umasipala akwazi ukwenza imisebenzi yakhe;

YAYE NANGONA iCandelo B leShedyuli yesi-4 yoMgaqo-siseko libeka ucwangciselwa lukamasipala njengomba ofanele ukwenziwa ngurhulumente wendawo ngokwendlela ebekwe kwiCandelo 155(6)(a) kunye no-(7);

YAYE NANGONA uMasipala waseWitzenberg uzama ukulawula ubeke esweni ukucwangciselwa kokusetyenziswa komhlaba kamasipala kunye nayo nayiphi imiba enxulumene nako;

IBhunga likaMasipala waseWitzenberg LIPHUMEZA ngolu hlobo:—

ISHEDYULI**Ukucazululwa kwamacandelo**

1. lingcaciso
2. Ukusetyenziswa kwalo mthetho kamasipala
3. Ukwahlulwa kweevenkile ezisemakhaya
4. Ukufakwa kwezicelo zokuba neevenkile ezisemakhaya
5. Iimfuno zokuba neevenkile esekhaya
6. Izithintelo
7. Ukungabi nabutyala kukamasipala
8. Izaziso zokulandelwa komthetho
9. Izohlwayo
10. Ukusetyenziswa
11. Amalungiselelo ethutyana
12. Ukumelwa
13. Ukungalandeli mthetho
14. Isihloko esifutshane kunye nokuqalisa kwalo mthetho kamasipala

1. **lingcaciso**

Kulo mthetho kamasipala, ngaphandle kokuba oku kusetyenziswe komnye umxholo:

“igosa eligunyazisiweyo” lithetha umsebenzi weBhunga onyulwe nguMlawuli kaMasipala ukuba lisebenzise amagunya egosa eligunyazisiweyo ngokwemigaqo yalo mthetho kamasipala, yaye liquka igosa lokuqinisekisa ngokulandelwa komthetho;

“ithuba lokuvunywa kwesicelo” lithetha ithuba elingedlulanga kwiminyaka emihlanu ngokoMthetho kaMasipala wokuCwangciselwa kokuSetyenziswa koMhlaba waseWitzenberg, P.N. 289/2015, ekuya kuthi emva koko kufakwe isicelo sokwandiselwa ithuba;

“iBhunga” lithetha iBhunga likamasipala;

“ivenkile esekhaya” ithetha ishishini elenzelwa kwindawo yokuhlala kuba umnini waloo ndawo obhalisiweyo elungiselela ukuthengisela uluntu olukufutshane, mnini-ndawo lowo kufuneka ahlale kuloo ndawo; ngokuxhomekeke ekubeni eyona nto iyisetyenziselwayo loo ndawo iya kuhlala ikukuba yindawo yokuhlala;

“umlawuli kamasipala” uthetha umntu onyulwe liBhunga ngokoRhulumente weNdawo: uMthetho wamaCandelo kaMasipala (iMunicipal Structures Act), ka-1998 (uMthetho we-117 ka-1998);

“umasipala” uthetha uMasipala waseWitzenberg;

“imigaqo yezakhiwo kazwelonke” ithetha imiGaqo yeZakhiwo kaZwelonke eyabhengezwa ngokoMthetho ka-1977 kaZwelonke wemiGaqo yeZakhiwo nemiMiselu yeZakhiwo (uMthetho we-103 ka-1977);

“ukuphazamisana noluntu” kuthetha nawuphi umthetho, ushiyelelo okanye umqathango, ocaphukisayo eluntwini, onobungozi okanye oyingozi kwimpilo yoluntu, ophazamisana noxolo lwesiqhelo, ukungaphazanyiswa nto, uxolo nokuthula koluntu, okanye okufuthela kakubi ukhuseleko loluntu;

“uxwebhu olulawula ucando-mhlaba” luthetha uxwebhu olulawula ukucandwa komhlaba olubhengezwe ngokwesiBhengezo se-15 sango-1985 sokuCwangciselwa kokuSetyenziswa koMhlaba okanye uXwebhu oluLawula ukuCandwa koMhlaba okuNdindeneyo olubhengezwe ngokweSPLUMA, 2013 (uMthetho we-16 ka-2013);

“imigaqo yoxwebhu olulawula usiko-mhlaba” ithetha iCandelo lesi-7 neCandelo lesi-8 lemiGaqo yokuCandwa koMhlaba ngokwesiBhengezo se-15 sango-1985 sokuCwangciselwa kokuSetyenziswa koMhlaba okanye uXwebhu oluLawula ukuCandwa koMhlaba okuNdindeneyo olubhengezwe ngokweSPLUMA, 2013 (uMthetho we-16 ka-2013);

2. Ukusetyenziswa kwalo mthetho kamasipala

- (1) Lo mthetho kamasipala usebenza kuyo yonke indawo ephantsi kolawulo loMasipala waseWitzenberg.
- (2) Imigaqo yalo mthetho kamasipala ayinxaxhi kwimigaqo yayo nayiphi eminye imithetho.
- (3) Akukho mntu unokuqhuba venkile esekhaya engakhange aqale afumane imvume kumasipala ngokwalo mthetho kamasipala.

3. Ukwahlulwa kweevenkile ezisemakhaya

- (1) Iivenkile ezisemakhaya zahlulwa ngolu hlobo:
 - (a) Iivenkile esekhaya eyenza inzuzo;
 - (b) Iivenkile esekhaya elungiselelwe indawo ethile yevenkile engaphakathi kwindawo ekuhlalwa kuyo;
 - (c) Iivenkile esekhaya ekwenziwa kuyo izibhengezo ezisesikweni;
 - (d) Iivenkile esekhaya apho kuthengwa kuze kuziswe impahla;
 - (e) Iivenkile esekhaya esebenza ngamaxesha omsebenzi athile;
 - (f) Iivenkile esekhaya apho owona msebenzi waloo ndawo ikukuba yindawo yokuhlala kodwa iphinde isetyenziswe njengendawo yokuthengisa.

4. Ukufakwa kwezicelo zokuba neevenkile ezisemakhaya

- (1) Ngumnini-ndawo kuphela, ohlala kuloo ndawo, onokufaka isicelo sokuthengisela ekhaya.
- (2) Isicelo sevenkile esekhaya kufuneka senziwe ngokoMthetho kaMasipala wokuCwangciselwa kokuSetyenziswa koMhlaba waseWitzenberg, P.N. 289/2015 uze uthathwe njengesiqalo ekujoliswe kuso nangakumbi.
- (3) Isicelo sokuthengisela endlwini kufuneka sikhathshwe ngala maxwebhu alandelayo:
 - (a) Ifomu yesicelo egcwaliswe ngokupheleleyo;
 - (b) Iplani yesiza okanye yomgangatho lowo iza kuba kuwo loo ndawo yokuqhubela iivenkile esekhaya;
 - (c) Ubungqina bemvume ebhaliweyo esuka kubo bonke abanini-zindlu eza kumelana nabo loo venkile isekhaya icetywayo;
 - (d) Intlawulo yesicelo, ngokwamaxabiso eBhunga;
 - (e) Ikopi yesazisi somfaki wesicelo.
- (4) Isicelo siya kujikeleziswa kumasebe kamasipala kunye noCeba wendawo ukuba banike izimvo zabo malunga naso.
- (5) Kuya kunikwa iintsuku ezingamashumi amathathu ukwenzela ukuba kuhlonyulwe malunga neso sicelo.
- (6) Igosa eligunyazisiweyo liya kusithathela ingqalelo eso sicelo lize lithathe isigqibo sokuba lisivume na okanye lisikhabe, lingaphelanga ithuba elibekiweyo elingayi kudlula kwiinyanga ezi-3.
- (7) Umfaki wesicelo kunye nabachasi bakhe, ukuba bakhona, baya kwaziswa ngokubhaliweyo malunga nesigqibo selo gosa ligunyazisiweyo.
- (8) Izichaso ziya kuphathwa ngokoMthetho kaMasipala wokuCwangciselwa kokuSetyenziswa koMhlaba waseWitzenberg, P.N. 289/2015.

5. Iimfuno zokuba nevenkile esekhaya

- (1) Iivenkile ezisemakhaya mazilandele ezi mfuno zilandelayo—
 - (a) Ivenkile esekhaya inokuqhutywa kwindawo yokuhlala ehambelana nemiGaqo yokuCandwa komhlaba efanelekileyo ngokwaloo ndawo kunye nemiGaqo yeZakhiwo kaZwelonke kuphela;
 - (b) Uhlobo eza kusebenza ngalo kunye nendawo eza kuba kuyo loo ndawo yokushishinela kufuneka iboniswe kwiplani ebonisa iingcombolo, yaye ayiyi kuba ngaphezu kwe-45% yomgangatho waphantsi waloo ndlu kuhlalwa kuyo;
 - (c) Kufuneka eso siza iqhutyelwa kuso loo venkile isekhaya ibe yindawo yokuhlala abantu;
 - (d) Ivenkile esekhaya inokuba sendaweni ekungqameko lwendlela;
 - (e) Kufuneka ingahlali mntu loo nxenye yendlu isetyenziswa njengevenkile.
- (2) Xa kunokungalandelwa okanye kophulwe nawuphi kule migaqo ilapha ngasentla, iBhunga linelungelo lokuyirhoxisa loo mvume nangaliphi na ixesha.

6. Izithintelo

- (1) Nakuphi ukulungiswa kwendawo esele kuhlalwa kuyo kufuneka kuhambelane nobume baloo ndawo ikuyo loo ndlu.
- (2) Kufuneka umnini-ndawo alandele yonke imithetho, imigaqo kunye neendlela zokhuseleko ngokunxulumene nokuqhutywa kwaloo venkile isekhaya kunye naloo nto ithengiswa kuyo.
- (3) Akufunekanga ukuqhutywa kwaloo venkile isekhaya kuphazamisane nokuzola kwentlalo yoluntu lwaloo ndawo.
- (4) Akufunekanga kugcinwe okanye kuthengiswe izinto ezinokuqhushumba okanye zibangele umlilo.
- (5) Imvume yokuqhuba ivenkile esekhaya iya kunikwa umnini waloo ndawo obhalisiweyo yaye ayiyi kudluliseleka komnye umntu.
- (6) Iiyure zomsebenzi ziya kubekwa ngumasipala.
- (7) Xa umfaki wesicelo enokufuna ukuxhoma ibhodi yesaziso—
 - (a) kufuneka kuqale kufakwe isicelo kwamasipala;
 - (b) kunokuxhonywa isibhengezo okanye isaziso esingalayitiyo kuphela, nekufuneka singaxandi ngaphezu kwe-2 000 cm², sibonisa igama lomnini, ishishini kunye nohlobo lweshishini;
 - (c) kufuneka kuqale kufunyanwe imvume ebhaliweyo kumasipala.
- (8) Ngumnini-ndawo obhalisiweyo kunye nabo baphantsi kokhathalelo lwakhe kuphela, abahlala kuloo ndawo, abanokuqhuba ivenkile esekhaya.
- (9) Akuyi kuvunyelwa kuxokonyezelelwa kwezinye iinkonzo;
- (10) Nali inani elipheleleyo leevenkile ezisekhaya ezivumelekileyo kwisitalato ngasinye:

Isitalato esibude buzii-100m nangaphantsi – ivenkile e-1

Isitalato esibude buzii-100m ukuya kwii-200 – iivenkile ezi-2

Isitalato esibude buzii-200m ukuya kwii-400 – iivenkile ezi-3

Isitalato esibude buzii-400m nangaphezulu – iivenkile ezi-4

- (11) Icandelo 6(10) asisebenzi eNduli de ibe irhoxisiwe imigaqo yokucandwa komhlaba waseNduli.

7. Ukungabi nabutyala kukamasipala

Umasipala akayi kuba natyala ngayo nayiphi ilahleko okanye umonakalo ongqalileyo okanye abangelwa kokuthile othe wehlela umnini wendawo yevenkile esekhaya ngenxa okanye obangelwe kukuvunywa kwaloo venkile yekhaya.

8. Izaziso zokulandelwa komthetho

- (1) Nanini na apho igosa eligunyazisiweyo okanye igosa eliqwalasela ukulandelwa komthetho lifumana umntu owaphula lo mthetho kamasipala okanye ukuba kuvela imeko ebangela ukuphazamiseka koluntu okanye enokukhokelela ekuphazamisekeni koluntu ngenxa yezenzo zomntu okanye ukungenziwa kokuthile, elo gosa ligunyaziswe ukuba likhuphele loo mntu isaziso sokungalandelwa komthetho.
- (2) Xa kudluliswa isaziso, kufuneka ibe noku kulandelayo—
- (a) Umgaqo walo mthetho kamasipala owophulwayo okanye owophuliweyo, xa kunokwenzeka ukuba loo meko ivunyelwe ukuba iqhubeka;
 - (b) Amanyathelo ekufuneka ethathiwe ukulungisa loo meko; kunye
 - (c) Ithuba ekufuneka lingedluli kungekalungiswa oko kwaphulwa komgaqo.

9. Izohlwayo

Nanini na xa igosa lokuqwalaselwa kokulandelwa komthetho lifumanisa ukuba kukho nabani na owaphule naziphi iimfuno okanye izithintelo kwezo zibekwe kwigatya lesi-5 nelesi-6 kulo mthetho kamasipala, elo gosa linokumnika isohlwayo loo mntu ngokwendlela evunywe nguMantyi okanye isaziso sokuba avele enkundleni.

10. Ukusetyenziswa

Imigaqo yalo mthetho kamasipala ayishenxi kwimigaqo yayo nayiphi eminye imithetho elungiselelwe ukulawula iivenkile ezisemakhaya ngokwendlela ecaciswe kuloo mthetho.

11. Amalungiselelo ethutyana

- (1) Umntu onokuza nobungqina bokuba iBhunga sele linike imvume yokuqhutywa kwevenkile esekhaya ngethuba lokuqhutywa kwalo mthetho kamasipala, unakho ukuqhuba nokwenza ngokwemvume leyo ngokwalo mthetho kamasipala, ngokuxhomekeke ekubeni:
- (a) Loo mvume ayidluliselwa komnye umntu;
 - (b) Umnini wevenkile esendlwini uza nobungqina bemvume yeBhunga; yaye
 - (c) Umnini-ndlu obhalisiweyo uza kulandela iimfuno nezithintelo eziphantsi kwegatya lesi-5 nelesi-6 zingaphelanga iinyanga ezi-6 ubhengeziwe lo mthetho kamasipala.

12. Ukumelwa

UMlawuli kaMasipala unokudlulisela ngokubhaliweyo nawaphi amagunya okanye umsebenzi anikwe nguMlawuli kaMasipala ngokwemigaqo yalo mthetho kamasipala ewadlulisela kwigosa eligunyazisiweyo likamasipala.

13. Ukungalandeli mthetho

- (1) Ukuba umntu akalandeli oko kubhalwe kwisaziso sokungalandeli kwakhe imigaqo, uMasipala—
- (a) unokumbeka ityala loo mntu; okanye
 - (b) kufakwe isicelo seNkundla sokuba ikhuphe umyalelo ovalela loo mntu ekuqhubeni loo nto ayenzayo ingekho mthethweni, achithe, okanye asuse kungenjalo alungise nasiphi isakhiwo okanye nantoni na eyakhiwe ngokungekho mthethweni kungahlawulelwanga mbuyekezo okanye mbuyiselo yaloo mhlaba uchaphazelekayo; okanye
 - (c) kwimeko yaxa esuke okwethutyana emthethweni okanye ekusebenziseni imvume, umasipala unokuyirhoxisa loo mvume ebeyinikile.

14. Isihloko esifutshane kunye nokuqalisa kwalo mthetho kamasipala

Lo mthetho kamasipala ubizwa ngokuba nguMthetho kaMasipala ka-2018 oMalunga neeVenkile ezisemaKhaya kuMasipala waseWitzenberg yaye uya kuqala ukusebenza ngomhla wokubhengezwa kwawo kwiGazethi yePhondo.