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**IZIQULATHO**

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## OUTDSHOORN LOCAL MUNICIPALITY

### CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC BY-LAW, 2019.

**To provide for the control of undertakings selling liquor to the public in order to ensure a safe and healthy environment in the area of jurisdiction of Oudtshoorn Local Municipality; to provide for days and hours of trade in liquor by licensed undertakings that sell liquor to the public; and to provide for matters related thereto.**

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#### **1. Definitions**

In this By-Law, unless the context indicates otherwise –

**“authorised official”** means a delegated employee of the Oudtshoorn Local Municipality’s Directorate: Community Services and includes any other authorised official delegated to enforce the provisions of this by-law;

**“casino”** means a casino as defined in the National Gambling Act, 2004 (Act No. 7 of 2004) and includes a hotel, business premises, venue for hosting of events, place

of entertainment or other recreation facility or tourist attraction as part of the complex;

**“compliance notice”** means written instruction of an authorised official as contemplated in section 7;

**“Council”** means the Municipal Council of Oudtshoorn Local Municipality as referred to in Section 157 (1) of the Constitution of the Republic of South Africa, 1996 and

**“Municipal Council”** shall have a corresponding meaning,

**“guest accommodation establishment”** means premises used as temporary residential accommodation and includes the provision of meals for transient guest for compensation and includes a backpacker’s lodge, a bed-and-breakfast establishment, guest house and guest farm or lodge, as well as facilities for business meetings, conferences, events or training sessions of residents/ guests, but excludes a hotel;

**“hotel”** means premises used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes-

- (a) a restaurant forming part of the hotel;
- (b) a conference and entertainment facility that is subservient and ancillary to the dominant use of the premises as a hotel; and
- (c) premises licensed to sell liquor for consumption on the property, but excludes an off-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

**“licensee”** means a person who is licensed to sell liquor in terms of the Act and includes the manager who is responsible for the management of the business and is subject to the same duties, obligations and liabilities as the licensee;

**“liquor”** means liquor as defined in the Liquor Products Act, No. 60 of 1989 as amended;

**“Liquor By-Law Committee”** means a committee which has been delegated by Council to make recommendations regarding liquor licence applications and to approve, amend or refuse application for extensions of liquor trading days and hours for both on- and off consumption premises; and to reduce the trading hours as set out in the Schedule to his By-law in respect of certain on- and off consumption premises.

**“Municipality”** means

- (a) the Oudtshoorn Local Municipality, a local municipality established in terms of section 12 of the Structures Act and its successors-in-title; or
- (b) subject to the provisions of any other law and only if expressly or impliedly required or permitted by this By-law, the Municipal Manager or his/her delegate in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms of this by-law or any other law; or
- (c) an authorised agent of the Oudtshoorn Municipality;

**“Municipal Manager”** means the person appointed by the Municipal Council as the Municipal Manager as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and includes any person to whom the Municipal Manager has delegated a power, function or duty but only in respect of that delegated power, function or duty.

**“off-consumption premises”** means the place of business from which a licensee sells liquor to be consumed at a location removed from the place or business;

**“on-consumption premises”** means the place of business and location in which liquor is sold and consumed;

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

**“population certificate”** means an occupancy certificate aimed at the prevention and control of overcrowding;

**“revocation notice”** means a written notice to revoke extended liquor trading days and hours as contemplated in section 8;

**“schedule”** means the schedule for trading days and hours for licensed businesses which forms part of this By-law;

**“sell” includes –**

- (a) to supply, exchange, offer for sale, display for the purpose of sale; or
  - (b) to authorise, direct or allow a sale, supply, exchange, offer for sale or display for sale; for the exchange of money or any other type of consideration and
- “sale”** and **“sold”** have corresponding meanings;

**“standard trading”** means trading days and trading hours as contemplated in sections 4 and 5 of this By-law, and excludes extended or reduced trading days and hours that may be approved by the Liquor By-law Committee in terms of sections 6 and 7 of this By-law;

“**the Act**” means the Western Cape Liquor Act, 2008 (Act No. 4 of 2008) as amended;

“**zoned**” means zoned as the case may be in terms of the Oudtshoorn Local Municipality Zoning Scheme By-law; and “zoning” has a corresponding meaning

## **2. Application and interpretation**

- (1) This By-law is applicable to the sale of liquor by any person to the public within the jurisdiction of the Municipality.
- (2) In the event of an inconsistency between the English, Afrikaans or Xhosa text, the English text shall prevail.

## **3. General prohibition**

No person may sell liquor to the public for on consumption or off consumption –

- (a) outside of the days and hours that have been determined by the Municipality; and
- (b) without a valid liquor licence that has been issued as contemplated in the Act.

## **4. Standard trading times: on-consumption premises**

- (1) A licensee may sell liquor for consumption on the licensed premises on the following days and hours:
  - (a) On any day of the week from Monday to Sunday;
  - (b) During the hours of trade as set out in the Schedule; and
  - (c) Any such days or hours as the Council may determine, as set out in the Schedule.
- (2) A licensee may allow a patron to complete the consumption of liquor on the premises at a time when the sale of liquor is not permitted by this By-law, but may not allow such consumption on the premises for more than 30 minutes after the time permitted by this By-law.
- (3) A hotel or guest accommodation establishment licensed to sell liquor for on consumption, may provide access to a bar facility inside each private suite or room for the enjoyment of a guest occupying such private suite or room, and may offer a room service facility,

## **5. Standard trading times: off consumption premises**

A licensee may sell liquor for consumption off the licensed premises on the following days and hours –

- (a) on any day of the week from Monday to Sunday;
- (b) during the hours of trade as set out in the Schedule; and
- (c) On any such days or hours as the Council may determine, as set out in the Schedule.

**6. Extended trading times: application for extended trading days and hours**

- (1) Subject to subsection (5), (6) and (7) a licensee may upon payment of the required fee as determined by Council, submit a written application to the Municipality to extend the liquor trading days and hours of licensed premises for a maximum period of one year.
- (2) The Liquor By-law Committee may approve, amend or refuse an application for an extension of liquor trading days and hours for both on and off-consumption premises.
- (3) An application for extension of trading days and hours is not automatically renewable and –
  - (a) Must be submitted to the Liquor By-law Committee for consideration on an annual basis;
  - (b) May be approved by the Liquor By-law Committee, subject to the imposition of conditions for extended liquor trading days and hours.
- (4) Applications and yearly renewals will only be considered or processed for approval by the Liquor By-law Committee during the period starting 1 January and ending 31 October of the same year.
- (5) The Liquor By-law Committee may approve, amend or refuse an application for the extension of liquor trading hours -
  - (a) Up to 03:00 the next day for on-consumption premises from Monday to Sunday; and
  - (b) Up to 23:00 for off-consumption premises from Monday to Saturday.
- (6) No rights accrue to any licensee who has submitted an application for extension of trading days and hours before the proof of written approval is received from the Liquor By-law Committee by such licensee.
- (7) The Liquor By-law Committee must, before approving an application for the extension of trading days and hours, reasonably and fairly consider further factors which may include, inter alia –
  - (a) the validity of the liquor licence;

- (b) where applicable, the validity of a business licence issued in terms of the Business Act of 1991 (Act no. 71 of 1991);
- (c) location of the establishment of the licensee;
- (d) previous suspension, amendment or revocation of extended trading days and hours including previous records of complaints investigated and confirmed in respect of the last twelve months preceding a current application for extension;
- (e) the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities;
- (f) outcome of community consultation and the recommendation of the relevant ward committee;
- (g) the potential impact on the surrounding environment;
- (h) whether it is in the public interest to approve and grant an extension of trading days and hours;
- (i) the period for which application is made; and
- (j) a motivation from the applicant dealing with the impact of – the risk to and nuisance on the surrounding community; mitigation measures to assist the control of risks and nuisances; and possible benefits of extended liquor trading days and hours on the surrounding community.

#### **7. Reduced trading hours**

The Liquor By-law Committee may on application / recommendation and in its discretion, reduce the trading hours as set out in the schedule for certain on- and off-consumption premises after taking into consideration the zoning and location of the premises, as well as any other factors it may deem relevant.

#### **8. Compliance notice**

- (1) An authorised official may serve a compliance notice on a licensee thereby instructing such licensee to comply with the provisions on this By-law.
- (2) The compliance notice must specify –
  - (a) the contravention and expected remedy of the contravention;
  - (b) the time frame in which the licensee must remedy the contravention and comply with any lawful instruction contained in the compliance notice; and
  - (c) the consequences of failure to comply with paragraphs (a) and (b).

(3) A licensee commits an offence if such licensee fails to adhere to the instructions contained in a compliance notice.

**9. Revocation of extended liquor trading days and hours**

- (1) An authorised official may –
- (a) after the time frame specified in the compliance notice has lapsed; and
  - (b) upon delivery of a revocation notice to the licensee immediately revoke the licensee's extended trading days and hours.
- (2) No person may continue selling liquor to the public during the extended days and hours of liquor trading which have been revoked.
- (3) The Municipality may not be held responsible for any loss of income suffered by a licensee due to the revocation of extended trading days and hours.

**10. Prevention of sale of liquor and seizure of liquor**

- (1) The Municipality may, in the instance that the licensee has contravened this By-law and failed to adhere to a compliance or revocation notice that was served.
- (a) cause the prevention of sale of liquor; and
  - (b) seize any liquor on the premises in accordance with the procedures as contemplated in the Criminal Procedure Act, 1977 (Act no. 51 of 1977).
- (2) Where the sale of liquor is prevented and liquor is seized as contemplated in subsection (1), the Municipality may recover any costs incurred by the Municipality from the licensee.

**11. Display of signage, population certificate and other obligations of licensee**

- (1) The licensee must ensure that the relevant approval relating to hours of trade together with the population certificate, for on consumption premises, are always present and displayed on the premises.
- (2) Licensee must ensure that the licensed premises meet and complies with all environmental-, health-, planning- and safety laws; business licenses and conditions imposed by the Liquor By-law Committee.

**12. Safety and security**

The licensee must ensure that reasonable safety and security measures are in place for the protection of patrons of the licensed premises by ensuring that, inter alia –



- (a) the storage of goods and equipment and the condition of the premises and any structure thereon do not cause a danger to the safety of patrons inside the premises;
- (b) the premises adhere to the requirements of the National Buildings Regulations and Building Standards Act, 1977, (Act 103 of 1977); the Oudtshoorn Local Municipality By-law Relating to Community Fire and Safety 2009 and any other permission granted by the Municipality; and
- (c) there is adequate lighting on the outside of the premises where patrons and staff access and exit the licensed premises.

### **13. Nuisances**

A licensee who is selling liquor to the public must take reasonable steps to ensure that the residents of the surrounding community are not unreasonably affected and inconvenienced by noise nuisances emanating from the premises.

### **14. Offences and penalties**

- (1) Any person or licensee who –
  - (a) contravenes or fails to comply with any provision of this By-law;
  - (b) fails to comply with the terms of a notice served upon him in terms of this By-law;
  - (c) interferes, obstructs, hampers or handicaps or furnishes false or misleading information to any authorised official in the execution of any power or the performance of any duty or function in terms of any provision of this By-law,

is guilty of an offence and on conviction, is liable to a fine or imprisonment, or to both such fine and such imprisonment;

- (2) In the case of a continuing offence, and on conviction, a person or licensee referred to in subsection (1) is liable to an additional fine or an additional period of imprisonment, or to both such additional fine and imprisonment for each day on which such offence is continued; and

- (3) A person or licensee referred to in subsection (1) is liable to further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

**15. Administration and enforcement**

- (1) The Council may, with exclusion of Sections 4 and 5, delegates, the responsibility for the administration and enforcement of this By-law to any Director.
- (2) The Director may delegate in writing any power or duty granted to him/her in terms of this By-law an official in his/her Directorate.

**16. Right of appeal**

Any licensee or objector whose rights have been affected by a final decision taken with regards to –

- (a) an application for extended trading days and hours;
- (b) the amendment or revocation of extended trading days and hours, or
- (c) the reduction of trading hours,

may appeal against that final decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

**17. Repeal of existing municipal liquor by-law**

The provisions of Oudtshoorn Local Municipality By-law on Trading Days and Hours for Liquor Licensed Premises 2011, (as amended in 2015) is hereby repealed.

**18. Short title and commencement**

- (1) This By-law is called the Oudtshoorn Local Municipality: Control of Undertakings that sell Liquor to the Public By-law, 2019.
- (2) This By-law shall come into operation on the date of publication thereof in the Provincial Gazette.

### SCHEDULE FOR TRADING DAYS AND HOURS FOR LICENSED BUSINESSES

Trading days and hours of liquor for licensed businesses selling liquor for consumption on and off the licensed premises. Licenses granted in terms of section 33 of the Act.

TYPE OF LICENSE	TRADING HOURS
Section 33(a) license – Micro production and sale of liquor both on and off consumption (cellars, winemakers, home distillers)	<b>On Consumption</b> <b>09:00 – 18:00 Monday to Saturday</b> <b>09:00 – 15:00 Sunday</b> <b>Off Consumption</b> <b>09:00 – 18:00 Monday to Saturday</b> <b>09:00 – 15:00 Sunday</b>
Section 33(b) licenses for the sale of liquor for consumption on the premises Sport clubs, bar, sports bar, night club, jazz club, pub and grub, tavern, restaurants) Hotel, B&B's and Casino	<b>09:00 – 02:00 (the next day Monday to Saturday)</b> <b>09:00 – 22:00 Sunday</b> <b>24 hours per day</b>
Section 33(c) licenses off consumption sales, (Liquor stores, general dealers, supermarkets, boutiques, food stores, wholesalers)	<b>09:00 – 20:00 Monday – Saturday</b> <b>CLOSED – Sunday</b>
Section 33(d) licenses for sale of liquor both on and off consumption (Exceptional Circumstances)	<b>09:00 – 00:00 (Monday to Thursday)</b> <b>09:00 – 02:00 (next day Friday to Saturday)</b> <b>CLOSED – Sunday</b>

Section 33(e) licenses for sale of liquor for both on and off consumption at special events (concerts, festivals, sport and entertainment events)	<b>08:00 – 00:00 Monday to Sunday</b>
Temporary License in terms of section 33(f) for sale for liquor for both on and off consumption	<b>The trading hours will be similar to those contained in this schedule, depending on the type of license applied for.</b>

## OUTSHOORN PLAASLIKE MUNISIPALITEIT

### BEHEER VAN ONDERNEMINGS WAT DRANK AAN DIE PUBLIEK VERKOOP VERORDENING, 2019

**Om voorsiening te maak vir die beheer van ondernemings wat drank aan die publiek verkoop om 'n veilige en gesonde omgewing in die jurisdiksiegebied van die Oudtshoorn Plaaslike Munisipaliteit te verseker; voorsiening te maak vir dae en ure se handel in drank deur gelisensieerde ondernemings wat drank aan die publiek verkoop; en om voorsiening te maak vir sake wat daarmee verband hou.**

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#### 1. Definisies

In hierdie Verordening, tensy uit die samehang anders blyk, moet -

**“Gemagtigde amptenaar”** beteken 'n gedelegeerde werknemer van die Direkoraat: Gemeenskapsdienste van die Oudtshoorn Plaaslike Munisipaliteit en omvat enige ander gemagtigde amptenaar wat gedelegeer is om die bepalings van hierdie verordening af te dwing;

**“Casino”** beteken 'n casino soos omskryf in die Nasionale Dobbelwet, 2004 (Wet No. 7 van 2004) en dit sluit 'n hotel, sakeperseel, lokaal vir die aanbied van geleenthede, plek van vermaak of 'n ander ontspanningsfasiliteit of toeristeaantreklikheid in as deel van die kompleks;

**“Nakomingskennisgewing”** beteken skriftelike opdrag van 'n gemagtigde amptenaar soos beoog in artikel 7;

**“Raad”** beteken die Munisipale Raad van die Oudtshoorn Plaaslike Munisipaliteit soos bedoel in Artikel 157 (1) van die Grondwet van die Republiek van Suid-Afrika, 1996, en

**“Munisipale Raad”** het 'n ooreenstemmende betekenis,

**“Gaste-akkommodasie-instansie”** beteken 'n perseel wat as tydelike residensiële akkommodasie gebruik word, en sluit die voorsiening van etes vir verbygaande gaste in vir vergoeding, en dit sluit 'n rugsakreisiger in 'n gastehuse, 'n bed-en-ontbyt-onderneming, gastehuis en gasteplaas of -hut in, asook fasiliteite vir besigheidsvergaderings, konferensies, geleenthede of opleidingsessies van inwoners/gas, maar sluit nie 'n hotel in nie;

**“Hotel”** beteken 'n perseel wat gebruik word as tydelike huisvesting vir verbygaande gaste waar akkommodasie of maaltye voorsien word vir vergoeding, en sluit in:

- (a) 'n restaurant wat deel uitmaak van die hotel;
- (b) 'n konferensie- en onthaalfasiliteit wat ondergeskik is aan die oorheersende gebruik van die perseel as 'n hotel; en
- (c) persele wat gelisensieer is om drank vir verbruik op die eiendom te verkoop, maar sluit 'n buite-verbruiksfasiliteit, gastehuisvesting, woonhuis of wooneenheid uit;

**“Lisensiehouer”** beteken 'n persoon wat ingevolge die Wet 'n dranklisensie het om drank te verkoop en die bestuurder insluit wat verantwoordelik is vir die bestuur van die onderneming en onderhewig is aan dieselfde pligte, verpligtinge en verpligtinge as die lisensiehouer;

**“Drank”** drank soos omskryf in die Wet op Drankprodukte, No. 60 van 1989, soos gewysig;

**“Drankverordeningskomitee”** beteken 'n komitee wat deur die Raad afgevaardig is om aanbevelings te doen rakende dranklisensie-aansoeke en om aansoeke vir verlengings van handelsdae en -ure vir drankies sowel as buite verbruikerspersele goed te keur, te

wysig of te weier; en om die vasgestelde handelsure soos uiteengesit in die Bylae van sy Verordening ten opsigte van sekere binne- en buiteverbruikspersone te verminder.

**“Munisipaliteit”** beteken

(a) die Oudtshoorn Plaaslike Munisipaliteit, 'n plaaslike munisipaliteit wat ingevolge artikel 12 van die Struktuurwet ingestel is en die titel wat daarin geslaag is; of

(b) behoudens die bepalings van enige ander wet en slegs uitdruklik of stilswyend deur hierdie Verordening vereis of toegelaat word, die Munisipale Bestuurder of sy / haar gedelegeerde afgevaardigde ten opsigte van die verrigting van enige funksie, of die uitoefening van enige plig, verpligting, of reg ingevolge hierdie verordening of enige ander wet; of

(c) 'n gemagtigde agent van die Oudtshoorn Munisipaliteit;

**Munisipale Bestuurder** " die persoon deur die Munisipale Raad is as die Munisipale Bestuurder soos omskryf in die Plaaslike regering: Wet op Munisipale Stelsels, 2000 (Wet No. 32 van 2000) en omvat elke persoon aan wie die Munisipale Bestuurder 'n bevoegdheid, funksie of plig afgevaardig het, maar slegs ten opsigte van daardie gedelegeerde bevoegdheid, funksie of plig.

**“Perseel buite verbruik”** die besigheidsplek waar 'n lisensiehouer drank verkoop om verbruik te word op 'n plek wat van die plek of besigheid verwyder is;

**“Perseel op verbruik”** die plek van besigheid en die plek waarin drank verkoop en verbruik word;

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

**“Bevolkingsertifikaat”** 'n besettingsertifikaat wat daarop gemik is om die oorbevolking te voorkom en te beheer;

**“Herroepingskennisgewing”** 'n skriftelike kennisgewing om die verlengde drank- en handelsdae soos in artikel 8 beoog, te intrek;

**“Skedule”** die skedule vir handelsdae en -ure vir gelisensieerde ondernemings wat deel uitmaak van hierdie Verordening;

**“Verkoop” sluit in -**

(a) om te verkoop, uit te ruil, te koop aanbied, te vertoon met die doel om te verkoop; of

(b) 'n verkoop, aanbod, ruil, aanbod te koop of vertoon te koop magtig, regisseur of toelaat ; vir die uitruil van geld of enige ander vorm van vergoeding, en '**verkoop**' en '**verkoop**' het ooreenstemmende betekenis;

**“Standaardverhandeling”** beteken handelsdae en handelsure soos beoog in artikels 4 en 5 van hierdie Verordening, en sluit verlengde of verkorte handelsdae en -ure uit wat deur die Drankverordeningskomitee goedgekeur kan word ingevolge artikels 6 en 7 van hierdie Verordening;

**“Die Wet”** die Wes-Kaapse Drankwet, 2008 (Wet No. 4 van 2008) soos gewysig;

**“Gesoneer”** beteken gesoneer na gelang van die geval volgens die Verordening vir die Soneringskema vir Oudtshoorn Plaaslike Munisipaliteit; en “sonering” het 'n ooreenstemmende betekenis

## **2. Aansoek**

(1) Hierdie verordening is van toepassing op die verkoop van drank deur enige persoon aan die publiek binne die jurisdiksie van die munisipaliteit.

(2) In geval van 'n teenstrydigheid tussen die Engelse, Afrikaanse of Xhosa-teks, sal die Engelse teks geld.

## **3. Algemene verbod**

Niemand mag drank aan die publiek verkoop vir verbruik of buite verbruik nie -

(a) buite die dae en ure wat deur die Munisipaliteit bepaal is; en

(b) sonder 'n geldige dranklisensie wat uitgereik is soos beoog in die Wet.

## **4. Standaard verhandelingsstye: perseel binne-verbruik**

(1) 'n Lisensiehouer mag drank vir die volgende dae en ure op die gelisensieerde perseel verkoop vir verbruik:

(a) op enige dag van die week van Maandag tot Sondag;

(b) gedurende die handelsure soos uiteengesit in die Bylae; en

(c) enige dae of ure wat die Raad bepaal, soos uiteengesit in die Bylae.

(2) 'n Lisensiehouer mag 'n beskermheer toelaat om die verbruik van drank op die perseel te voltooi op 'n tydstip wanneer die verkoop van drank nie deur hierdie verordening toegestaan word nie , maar mag nie die verbruik op die perseel nie langer as 30 minute daarna toelaat nie die tyd wat hierdie verordening toelaat.



(3) 'n Hotel- of gaste-akkommodasie-instansie wat gelisensieer is om drank te verkoop vir verbruik, kan toegang verleen tot 'n kroeggerief in elke privaat suite of kamer vir die genot van 'n gas wat 'n privaat suite of kamer beset, en kan 'n kamerdiensfasiliteit bied.

#### **5. Standaard verhandelingsstye: Nie-verbruikerspersele**

'N Lisensiehouer mag drank op die volgende dae en ure op die gelisensieerde perseel verkoop vir drank -

- (a) op enige dag van die week van Maandag tot Sondag;
- (b) gedurende die handelsure soos in die Bylae uiteengesit; en
- (c) op enige dae of ure wat die Raad bepaal, soos uiteengesit in die Bylae.

#### **6. Uitgebreide handelstye: aansoek om verlengde handelsdae en -ure**

(1) Behoudens subartikels (5), (6) en (7) kan 'n lisensiehouer by betaling van die vereiste fooi soos bepaal deur die Raad, dien 'n skriftelike aansoek by die munisipaliteit indien die handelsdae en ure van dranklisensies met 'n gelisensieerde perseel vir 'n maksimum periode van een jaar te verleng.

(2) Die Drankverordeningskomitee kan 'n aansoek goedkeur, wysig of weier om 'n verlenging van drankdae en -dae vir beide die perseel sowel as buite verbruik.

(3) 'n Aansoek om verlenging van handelsdae en -ure kan nie outomaties hernu word nie en -

- (a) moet jaarliks aan die Drankverordeningskomitee voorgelê word vir oorweging;
- (b) kan deur die Drankverordeningskomitee goedgekeur word, onderhewig aan die oplegging van voorwaardes vir verlengde drank- en daehandel.

(4) Aansoeke en jaarlikse hernuwings sal slegs oorweeg of verwerk word vir goedkeuring deur die Drankverordeningskomitee gedurende die periode wat op 1 Januarie en tot 31 Oktober van dieselfde jaar eindig.

(5) Die Drankverordeningskomitee kan 'n aansoek om verlenging van drankhandelsure goedkeur, wysig of weier -

- (a) tot Maandag tot Sondag tot 03:00 die volgende dag vir perseel vir verbruik; en

- (b) tot 23:00 vir persele wat buite verbruik is, van Maandag tot Saterdag.
- (6) Geen regte val op 'n lisensiehouer wat 'n aansoek om verlenging van handelsdae en -ure voor die jaar ingedien het nie 'n bewys van skriftelike goedkeuring ontvang het van die Drankverordeningskomitee deur die sodanige lisensiehouer nie.
- (7) Die Drankverordeningskomitee moet, alvorens 'n aansoek om die verlenging van handelsdae en -ure goedgekeur word, verdere faktore redelik en billik oorweeg wat onder meer die volgende kan insluit:
- (a) die geldigheid van die dranklisensie;
  - (b) waar van toepassing, die geldigheid van 'n besigheid lisensie uitgereik ingevolge die Besigheidswet van 1991 (Wet No 71 van 1991.);
  - (c) die ligging van die vestiging van die lisensiehouer ;
  - (d) vorige opskorting, wysiging of herroeping van verlengde handelsdae en -ure, insluitend vorige rekords van klagtes wat ondersoek is en bevestig is ten opsigte van die afgelope twaalf maande voorafgaande aan 'n huidige aansoek om verlenging;
  - (e) die nabyheid van die gelisensieerde perseel aan omliggende residensiële sones, kulturele, godsdienstige en opvoedkundige fasiliteite;
  - (f) die uitkoms van gemeenskap konsultasie en die aanbeveling van die betrokke wyk komitee ;
  - (g) die potensiële impak op die omgewing;
  - (h) of dit in die openbare belang is om die verlenging van handelsdae en -ure goed te keur en toe te staan ;
  - (i) die tydperk waarvoor aansoek gedoen word; en
  - (j) 'n motivering van die aansoeker wat handel oor die impak van - die risiko vir en oorlas vir die omliggende gemeenskap; versagende maatreëls om die beheer van risiko's en oorlas te help; en moontlike voordele van uitgebreide drankdae en -ure op die omliggende gemeenskap.

## **7. Verminderde handelsure**

Die Drankverordeningskomitee kan op aansoek / aanbeveling en na goeddenke die handelsure verkort soos uiteengesit in die skedule vir sekere perseel binne- en

buiteverbruik, met inagneming van die sonering en ligging van die perseel, asook enige ander faktore wat dit relevant mag ag.

### **8. Kennisgewing van nakoming**

(1) 'n Gemagtigde amptenaar kan 'n nakomingskennisgewing aan 'n lisensiehouer voorlê en sodanige lisensiehouer opdrag gee om aan die bepalings in hierdie Verordening te voldoen.

(2) Die kennisgewing oor nakoming moet spesifiseer -

(a) die oortreding en verwagte remedie van die oortreding;

(b) die tydsraamwerk waarin die lisensiehouer die oortreding moet regstel en moet voldoen aan enige wettige opdrag vervat in die nakomingskennisgewing; en

(c) die gevolge van versuim om aan paragrawe (a) en (b) te voldoen.

(3) 'n Lisensiehouer begaan 'n misdryf as sodanige lisensiehouer in gebreke bly om die instruksies vervat in 'n kennisgewing van voldoening na te kom.

### **9. Herroeping van verlengde drankdae en ure**

(1) 'n Gemagtigde amptenaar kan -

(a) na verstryking van die tydsbestek wat in die nakomingskennisgewing gespesifiseer is; en

(b) by die aflewering van 'n herroepingskennisgewing aan die lisensiehouer herroep, onmiddellik die verlengde handelsdae en -ure van die lisensiehouer herroep.

(2) Niemand mag drank aan die publiek verkoop gedurende die verlengde dae en ure van drankhandel wat herroep is nie.

(3) Die munisipaliteit mag nie verantwoordelik gehou word vir enige verlies aan inkomste wat 'n lisensiehouer ly as gevolg van die herroeping van verlengde handelsdae en -ure nie.

### **10. Voorkoming van verkoop van drank en beslaglegging op drank**

(1) Die munisipaliteit kan, in die geval dat die lisensiehouer hierdie verordening oortree het en versuim het om te voldoen aan 'n kennisgewing van voldoening of herroeping wat beteken is -

(a) die voorkoming van die verkoop van drank veroorsaak; en

(b) besoek enige drank op die perseel in ooreenstemming met die prosedures soos in die Strafproseswet, 1977 (Wet no. 51 van 1977).

(2) Waar die verkoop van drank verhoed word en daar op beslag gelê word soos beoog in subartikel (1), kan die munisipaliteit enige koste deur die munisipaliteit van die lisensiehouer aangegaan verhaal.

### **11. Vertoning van naamborde, bevolkingserifikaat en ander verpligtinge van die lisensiehouer**

(1) Die lisensiehouer moet toesien dat die toepaslike goedkeuring met betrekking tot ure van handel tesame met die bevolkingserifikaat altyd op die perseel aanwesig is en op die perseel vertoon word.

(2) Lisensiehouer moet toesien dat die gelisensieerde perseel voldoen aan alle omgewings-, gesondheids-, beplannings- en veiligheidswette; besigheidslisensies en voorwaardes opgelê deur die Drankverordeningskomitee.

### **12. Veiligheid en sekuriteit**

Die lisensiehouer moet toesien dat daar redelike veiligheids- en veiligheidsmaatreëls ingestel word vir beskerming van kliënte van die gelisensieerde perseel deur te verseker dat, onder andere -

(a) die berging van goedere en toerusting en die toestand van die perseel en enige struktuur daarop, hou geen gevaar vir die veiligheid van kliënte binne die perseel inhou nie;

(b) die perseel voldoen aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977); die Oudtshoorn Plaaslike Munisipaliteit Verordening rakende Gemeenskapsbrand en Veiligheid 2009 en enige ander toestemming verleen deur die Munisipaliteit; en

(c) daar is voldoende beligting aan die buitekant van die perseel waar gaste en personeel toegang tot die gelisensieerde perseel verkry en verlaat.

### **13. Oorlaste**

'N Lisensiehouer wat drank aan die publiek verkoop, moet redelike stappe doen om te verseker dat die inwoners van die omliggende gemeenskap nie onredelik geraak word nie en dat dit geraas word as gevolg van geraas-ongemak wat op die terrein voortspruit nie.

#### **14. Misdrywe en boetes**

- (1) Enige persoon of lisensiehouer wat -
- (a) enige bepalings van hierdie Verordening ontree of versuim om daaraan te voldoen;
  - (b) versuim om te voldoen aan die voorwaarde bepalings van 'n kennisgewing wat ingevolge hierdie Verordening aan hom beteken is;
  - (c) inmeng, belemmer, of vals of misleidende inligting verskaf aan enige gemagtigde amptenaar in die uitvoering van enige bevoegdheid of die uitvoering van enige plig of funksie ingevolge enige bepaling van hierdie Verordening is skuldig.
  - (d) is skuldig aan 'n misdryf en by skuldigbevinding, strafbaar is met 'n boete of gevangenisstraf, of met sowel 'n boete as sodanige gevangenisstraf,

Tot 'n boete of gevangenisstraf, of tot sowel 'n boete as sodanige gevangenisstraf.

(2) In die geval van 'n voortdurende misdryf en by skuldigbevinding, is 'n persoon of lisensiehouer bedoel in subartikel (1) aanspreeklik vir 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf, of vir beide sodanige addisionele boete en gevangenisstraf vir elke dag waarop sodanige oortreding voortgesit word; en

(3) 'n Persoon of lisensiehouer bedoel in subartikel (1) is aanspreeklik vir 'n verdere bedrag gelykstaande aan enige koste en uitgawes wat deur die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim .

#### **15. Administrasie en toepassing**

(1) Die Raad kan, met uitsluiting van artikels 4 en 5, die verantwoordelikheid vir die administrasie en afdwinging van hierdie Verordening aan enige direkteur.

(2) Die Direkteur mag aan 'n amptenaar in sy / haar Direktooraat skriftelik alle pligte oordra wat aan hom / haar verleen word ingevolge hierdie Verordening.

#### **16. Appèlreg**

Enige lisensiehouer of beswaarmaker wie se regte beïnvloed is deur 'n finale besluit wat geneem is met betrekking tot -

- (a) 'n aansoek om verlengde handelsdae en -ure;
- (b) die wysiging of herroeping van 'n uitgebreide handelsdae en -ure, of

(c) die vermindering van handelsure ,

kan appelleer teen daardie finale beslissing ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000)

**17. Herroeping van bestaande munisipale drankverordening**

Die bepalings van die Oudtshoorn Plaaslike Munisipaliteit se verordening oor handelsdae en -ure vir dranklisensies 2011, (soos gewysig in 2015), word hierby herroep.

**18. Kort titel en inwerkingtreding**

(1) Hierdie verordening heet die Oudtshoorn Plaaslike Munisipaliteit: Beheer van ondernemings wat drank aan die publiek verkoop verordening, 2019.

(2) Hierdie verordening tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

**SKEDULE VIR VERHANDELINGS DAE EN URE VIR GELISENSIEERDE BESIGHEDE**

Verhandel dae en ure van drank vir gelisensieerde ondernemings wat drank verkoop vir verbruik op en buite die gelisensieerde perseel. Lisensies ingevolge artikel 33 van die Wet verleen.

<b>TIPE LISENSIE</b>	<b>HANDELSURE</b>
Artikel 33 (a) lisensie - Mikro-produksie en verkoop van drank sowel as buite verbruik (kelders, wynmakers, tuis distilleerders)	<b>Op verbruik</b> <b>09:00 - 18:00 Maandag tot Saterdag</b> <b>09:00 - 15:00 Sondag</b> <b>Afverbruik</b> <b>09:00 - 18:00 Maandag tot Saterdag</b> <b>09:00 - 15:00 Sondag</b>
Artikel 33 (b) lisensies vir die verkoop van drank vir verbruik op die perseel Sportklubs, kroeg, sportkroeg, nagklub, jazzklub, kroeg en besproeiing, taverne, restaurante) Hotel, B & B's en Casino	<b>09:00 - 02:00 (die volgende dag Maandag tot Saterdag)</b> <b>09:00 - 22:00 Sondag</b>  <b>24 uur per dag</b>
Artikel 33 (c) lisensies buite verbruiksverkope, (drankwinkels, algemene handelaars, supermarkte, boetiëks, voedselwinkels, groothandelaars)	<b>09:00 - 20:00 Maandag - Saterdag</b> <b>GESLUIT - Sondag</b>
Artikel 33 (d) lisensies vir die verkoop van drank sowel as buite verbruik (buitengewone omstandighede)	<b>09:00 - 00:00 (Maandag tot Donderdag)</b> <b>09:00 - 02:00 (volgende dag Vrydag tot Saterdag)</b> <b>GESLUIT - Sondag</b>

Artikel 33 (e) lisensies vir die verkoop van drank vir sowel as buite verbruik tydens spesiale geleenthede (konserte, feeste, sport- en vermaaklikheidsgeleenthede)	<b>08:00 - 00:00 Maandag tot Sondag</b>
Tydelike lisensie ingevolge artikel 33 (f) te koop vir drank vir sowel as buite verbruik	<b>Afhangend van die tipe lisensie waarvoor aansoek gedoen word, sal die handelsure soortgelyk wees aan dié in hierdie skedule.</b>



## UMASIPALA WASE-OUTDSHOORN

### UMTHETHO KAMASIPALA WOLAWULO LAMASHISHINI ATHENGISELA ULUNTU UTYWALA, 2019

**Ukubonelela ngolawulo lwezinto ezithengisa utywala eluntwini ukuze kuqinisekiswa indawo ekhuselekileyo nenempilo kwindawo yolawulo lukaMasipala waseKhaya wase-Oudtshoorn; ukubonelela ngeentsuku neeyure zokurhweba ngotywala ngento enamaphepha mvume athengisa utywala ebantwini; nokulungiselela imicimbi enxulumene noku.**

#### ULUHLU LWEZIQULATHO

1. Inkcazelo
2. Ukusetyenziswa
3. Ukuthintelwa ngokubanzi
4. Amaxesha orhwebo amiselweyo: lindawo zokusetyenziselwa kwangaphakathi
5. Amaxesha orhwebo amiselweyo: lindawo zokusetyenziselwa kwangaphandle
6. Amaxesha orhwebo ongezelelweyo: Isicelo sentsuku ezongezelelekileyo ngeeyure
7. Isaziso sokuthobela
8. Ukurhoxiswa kweentsuku neeyure ezandisiweyo zokuthengisa utywala
9. Ukuthintela ukuthengiswa kunye nokuxuthwa kotywala
10. Ukuboniswa kwezalathisi, isiqinisekiso senani labantu kunye nezinye izibophelelo zelayisensi
11. Ezokhuselo noKhuseleko
12. Iziphazamiso
13. Ulwaphula mthetho kunye nezohlwayo
14. Ulawulo kunye nonyanzeliso
15. Ilungelo lokuBhena
16. Ukurhoxiswa komthetho kaMasipala wezoshishino ngoywala
17. Isihloko esifutshane nokumiliselwa
18. Ishedyuli (imihla yokuthengisa kunye neeyure zamashishini aneeLayisensi)

## 1. Inkcazelo

Kulo mthetho kamasipala, ngaphandle kokuba imeko ibonisa enye into -

**"Igosha eligunyazisiweyo"** lithetha umsebenzi ogunyaziswe liCandelo loLawulo lukaMasipala wase-Oudtshoorn: linkonzo zoLuntu kwaye kubandakanya naliphi na elinye igosa eligunyazisiweyo ukunyanzelisa imimiselo yalo mthetho kamasipala;

**"Ikhasino"** lithetha ikhasino njengoko ichaziwe kuMthetho kaZwelonke woNgcakazo, ka-2004 (umThetho onguNombolo 7 ka-2004) kwaye ibandakanya ihotele, indawo yeshishini, indawo yokubamba iminyhadala, indawo yokonwabisa okanye enye indawo enomtsalane kubakhenkethi njengenxalenye kudederhu lwamashishini.

**"Isaziso sokuthobela"** sithetha umyalelo ngokubhaliweyo kwigosha eligunyazisiweyo njengoko kuchaziwe kwicandelo 7;

**"IBhunga"** lithetha iBhunga likaMasipala waseKhaya lase-Oudtshoorn njengoko kuqulathiwe kwiCandelo le-157 (1) loMgaqo-siseko weRiphabhlikhi yoMzantsi Afrika, ka-1996 kunye **"neBhunga likaMasipala"** liya kuba nentsingiselo ehambelanayo ,

**"Indawo yokuhlala yendwendwe"** kuthetha indawo esetyenziselwa njengendawo yokuhlala okwethutyana kwaye ibandakanya ukubonelelwa ngokufumana indwendwe okwexeshana ngembuyiselo kwaye kubandakanya nendawo yokulala yabackpackers, indawo yokulala nesidlo sakusasa, indlu yeendwendwe neefama zokutyelela kwendwendwe okanye indawo zokuchophela iintlanganiso zoshishino, ingqungquthela, imicimbi yeseshoni zoqeqesho zabahlali/zeendwendwe, kodwa zingabandakanyi zihotele;

**"Ihotele"** kuthetha indawo esetyenziselwa njengendawo yokuhlala yethutyana yeendwendwe zethutyana apho indawo yokuhlala okanye yokutya ngentlawulo, kwaye kubandakanya-

(a) indawo yokutyela eyinxalenye yehotele;

(b) ukubambela inkomfa kunye nezixhobo zokuzonwabisa ezincedisayo ekusetyenzisweni kwezakhiwo njengehotele; kwaye

(c) neendawo ezinamaphepha-mvume okuthengisa utywala bokusetyenziselwa ngaphandle kwesakhiwo, kodwa ayibandakanyi indawo yokuhlala okanye iyunithi;

**“Umntu onamaphepha- mvume”** uthetha umntu onikwe iphepha-mvume lokuthengisa utywala phantsi kwemiThetho kwaye kubandakanya umphathi ophethe uxanduva lokulawula ishishini kwaye uxhomekeke kwimisebenzi efanayo, izibophelelo kunye namatyala njengomphathi wephepha-mvume;

**“Utywala”** buthetha yotywala njengoko kuchaziwe kumthetho wemveliso zotywala, umthetho nombolo 60 ka-1989 njengoko ulungisiwe;

**“IKomiti kaMasipala yoTywala”** kubhekiselelwe kwikomiti egunyazisiweyo liBhunga ukuba yenze izindululo malunga nezicelo zamaphepha-mvume otywala kunye nokuvuma, ukuguqula okanye ukwala isicelo sokongezwa kweentsuku kunye neeyure zokuthengisa kwindawo enotywala kunye nokunciphisa iiyure zokuthengisa njengoko kuchaziwe kwiShedyuli yoMthetho kaMasipala.

**“UMasipala”** uthetha

(a) uMasipala weNgingqi wase-Oudtshoorn, umasipala wasekhaya osekwe ngokwemigaqo yecandelo le-12 loMthetho weziseko kunye nezihloko ezikhoyo; okanye

(b) ngokuxhomekeke kwimigaqo yawo nawuphi na omnye umthetho kwaye kuphela ngokucacileyo kufunwa okanye kuvunyelwe ngulo mthetho kamasipala , uManejala kaMasipala okanye lowo kudluliselwe kuye umsebenzi ngokunxulumene nawo nawuphi na umsebenzi, isibophelelo, okanye nawuphi na omnye umthetho; okanye,

(c) i—arhente egunyazisiweyo kamasipala wase-Oudtshoorn

**Municipal Manager** " uthetha umntu oqeshwe yi-Municipal Council njengomanejala kamasipala ngokwemigaqo yecandelo lama 82 loMthetho bakaRhulumente wasekhaya ka 1998 ( umThetho onguNombolo117 ka 1998) kwaye ubandakanya nawuphi na umntu othe uMphuthi Masipala wanikezela kuye igunya amandla, umsebenzi okanye uxanduva kodwa ngokubhekisele kulowo unikezwele igunya, umsebenzi okanye uxanduva.

**“Indawo engasetyenziselwa ukusela”** kuthetha indawo yeshishini apho umnini phepha-mvume athengise ngotywala ukuba buselwe kwindawo ethe yasuswa kwindawo okanye kwishishini;

**“Indawo ekuselelwa kuyo utywala”** kuthetha indawo yeshishini kunye nendawo apho kuthengiswa khona utywala nalapho bunokuselelwa khona;

**"Umntu"** uthetha umntu ngokwendalo okanye umntu ngokomthetho;

**"Isiqinisekiso senani labemi"** sithetha isatifikethi sokuhlala esijolise kuthintelo kunye nolawulo lokugcwala;

**"Isaziso sokurhoxisa"** sithetha isaziso esibhaliweyo sokurhoxisa imihla eyandisiweyo yokuthengisa utywala kunye neeyure njengoko kuchaziwe kwicandelo 8;

**"Ishedyuli"** kuthetha ishedyuli yeentsuku zokurhweba kunye neeyure zamashishini anelayisensi eziyinxalenye yalo mthetho kamasipala;

**"Ukuthengisa" kubandakanya -**

(a) ukunikezela, ukunaniselana ukuthengiselana, ukubonisa ngenjongo yokuthengisa; okanye

(b) ukugunyazisa, ukuqondisa okanye ukuvumela ukuthengisa, ukubonelela, ukutshintsha, ukutshintshiselana ngemali okanye naluphi na olunye uhlobo lokuqwalaselwa kunye nentsingiselo ezihambelana noko ;

**"Ukurhweba okuqhelekileyo"** kuthetha iintsuku zorhwebo kunye neeyure zokuthengisa njengoko kuchaziwe kwicandelo 4 nele-5 lalo mthetho kamasipala, kwaye kungabandakanywa iintsuku ezandisiweyo okanye ezincitshisiweyo zorhwebo ezinokuvunywa yiKomiti kaMasipala yoTywala ngokwemigaqo yecandelo 6 nele-7. ngalo mthetho kamasipala;

**"UmThetho"** uthetha umthetho woTywala weNtshona Koloni, ka-2008 (umThetho onguNomb. 4 ka-2008) njengoko ulungisiwe;

**"Ukucandwa "** kuthetha ukucandwa ngokungqamenenoMthetho omayela nokucanda womasipala wase Oudtshoorn kwaye ukucanda kunentsingiselo efanayo

## **2. Ukumiliselwa**

(1) Lo mthetho kamasipala Ubhekisele kwintengiso yotywala nguye nawuphi na umntu ophantsi kolawulo lwemida kaMasipala ekubhekiselelwe kuye.

(2) Kwimeko apho kukho ukungangqinelani phakathi kwesiNgesi, isi-Afrikansi okanye isiXhosa, isicatshulwa sesiNgesi siya kuphumelela.

## **3. Izithintelo ngokubanzi**

Akukho namnye umntu ovumelekileyo ukuba athengisele uluntu utywala ukuba buselwe;

(a) ngaphandle kweentsuku neeyure ezimiselwe nguMasipala; kwaye

- (b) ngaphandle kwelayisensi esebenzayo yotywala ekhutshiweyo njengoko kuchaziwe kulomthetho.

#### **4. Amaxesha aqhelekileyo orhwebo**

(1) Umnini layisenisi angabuthengisa utywala bokuselwa kwindawo enelayisensi ngezi ntsuku neeyure zilandelayo;

- (a) ngalo naluphi na usuku evekini ukusuka ngoMvulo ukuya ngeCawa;
- (b) ngexesha leeyure zorhwebo njengoko zichaziwe kwiShedyuli; kwaye
- (c) naziphi na iintsuku okanye iiyure njengoko iBhunga linokugqiba, njengoko kuchaziwe kwiNkqubo.

(2) Umnini layisenisi unokuvumela umthengi ukuba agqibe ukusebenzisa/ukusela utywala kwindawo leyo ngexesha lokuthengiswa kotywala kungavunyelwa ngulo mthetho kamasipala, kodwa angavunyelwa ukuba asele ngaphezulu kwexesha elibekiweyo kungedluli kwimizuzwana eyi -30 emva kwexesha elivunyelwe ngulo mthetho kamasipala.

(3) Ihotele okanye indawo yokuhlala iindwendwe enelayisensi yokuthengisa utywala nokusela ngaphakathi inokubonelela ngofikelelo kwindawo yesibambiso ngaphakathi kwecandelo ngalinye labucala okanye kwigumbi lokuzonwabela undwendwe oluhlala kwigumbi labucala okanye igumbi, kwaye linokubonelela ngendawo yenkonzo yegumbi ,

#### **5. Amaxesha aqhelekileyo okurhweba: ngaphandle kwendawo yokurhweba**

Umnini layisenisi angabuthengisa utywala bokuselwa ngaphandle kwendawo enelayisensi ngezi ntsuku neeyure zilandelayo -

- (a) ngalo naluphi na usuku lweveki ukusukela ngoMvulo ukuya ngeCawa;
- (b) ngexesha leeyure zorhwebo njengoko zichaziwe kwiShedyuli; kwaye
- (c) ngazo naziphi na iintsuku okanye iiyure njengoko iBhunga linokugqiba, njengoko kuchaziwe kwiNkqubo.

## **6. Amaxesha ongezlelweyo okurhweba: isicelo seentsuku ezandisiweyo zorhwebo kunye neeyure**

(1) Ngokuxhomekeka kwicandelwana (5), (6) no (7) umnini welayisenisi emva kwentlawulo ekufuneka ayihlawule kwiBhunga njengoko kumiselweyo angenise isicelo esibhaliweyo kuMasipala ukuze andise intsuku zokuthengisa utywala kunye neeyure zezakhiwo ezinelayisenisi ixesha elingaphezulu konyaka.

(2) IKomiti kaMasipala yoTywala isenokuthi isivume, isilungelelanise okanye saliwe isicelo sokongezwa kweentsuku kunye neeyure zokuthengiswa kotywala kwizakhiwo nakwindawo ekuselelwa kuyo.

(3) Ukuhlaziywa kwesicelo sokongezwa kweentsuku kunye neeyure akusiyinto yenzeka ngokuzithandela kwaye;

(a) kufuneka isicelo singeniswe kwiKomiti kaMasipala yoTywala ukuze iqwalaselwe rhoqo ngonyaka;

(b) inokuvunywa yiKomiti kaMasipala yoTywala, ngokuxhomekeke ekubekweni kwemiqathango yeentsuku neeyure ezandisiweyo zokuthengisa utywala.

(4) Izicelo kunye nohlaziyo lonyaka ziya kuqwalaselwa kuphela okanye ziqwalaselwe ukuze zivunywe yiKomiti kaMasipala yoTywala ngexesha eliqala ngomhla woku-1 kuJanuwari kuye kuthi kuphele ngomhla wama-31 ku-Okthobha kunyaka omnye.

(5) IKomiti kaMasipala yoTywala isenokuvuma, ihlengahlengise okanye isale isicelo sokongezwa kweeyure zokuthengiswa kotywala -

(a) ukuya kuthi xhaxhe ngo-03: 00 ngosuku olulandelayo kwizakhiwo ekuselelwa kuzo ukusetyenziswa gca ukusuka ngoMvulo ukuya ngeCawa; kwaye

(b) ukuya kutsho kuma-23: 00 kumasango asetyenzisiweyo ngaphandle koMvulo ukuya ngoMgqibelo.

(6) Akukho malungelo ongezlelweyo kuye nawuphina umnini layisenisi ongenise isicelo sokongezwa kweentsuku kunye neeyure ngaphambi kokuba ubungqina bokubhala bufunyenwe kwiKomiti kaMasipala yoTywala ngulo mntu unelayisenisi.

(7) IKomiti kaMasipala yoTywala kufuneka, ngaphambi kokuvuma isicelo sokongezwa kweentsuku neeyure zokuthengisa, iqwalasele ngokufanelekileyo ezinye izinto ezinokuthi zibandakanye, phakathi kwezinye izinto -

- (a) ukuba semthethweni kwe mvume yotywala;
- (b) apho kufanelekileyo ukuba semthethweni kwempepha-mvume lokushishina elikhutshwe ngokwemigaqo ye-Business Act ka-1991 (umThetho onguNombolo 71 ka-1991);
- (c) indawo isakhiwo seshishini somnini layisenisi ;
- (d) ukumiswa kwangaphambili, ukulungiswa okanye ukurhoxiswa kweentsuku kunye neeyure ezandisiweyo zorhwebo kubandakanya irekhodi elidlulileyo lezikhalazo eziphandiweyo zaqinisekiswa malunga neenyanga ezilishumi elinambini ezidlulileyo ngaphambi kwesicelo sokongezwa;
- (e) ukusondela kwendawo enephepha-mvume lokuhlala kwiindawo ezingqongileyo ezihlanganisiweyo, inkcubeko, inkolo kunye namaziko emfundo;
- (f) Iziphumo zothetha-thethwano nabahlali kunye neengcebiso zekomiti yewadi echaphazelekayo ;
- (g) ifuthe elinokubakho kwindalo esingqongileyo;
- (h) ingaba kukwimfuno zoluntu ukuba yamkele kwaye inike ulwandiso lweentsuku namaxesha orhwebo ;
- (i) ixesha elenzelwe isicelo ; kwaye
- (j) Inkuthazo evela kumenzi-sicelo ejongene neempembelelo - zomngcipheko nakwinkathazo kuluntu olujikelezileyo; amanyathelo okunciphisa ukunceda ukulawula umngcipheko kunye neenkathazo; kunye nezibonelelo ezinokubakho zeentsuku ezongeziweyo zorhwebo lotywala kunye neeyure kuluntu olujikelezileyo.

## **7. Ukunciphisa iiyure zokurhweba**

IKomiti kaMasipala yoTywala inokuthi ngesicelo / ekucebiseni nasekuboneni kwayo, inciphise iiyure zorhwebo njengoko zimiselwe kwishedyuli yendawo ethile ekusetyenzwa kuyo ngaphandle kwesakhiwo nasemva kokuthathela ingqalelo ukubekwa komhlaba nendawo ezikuyo izakhiwo, kunye naziphi na ezinye izinto ezinokubona kufanelekile.

## **8. Isaziso sokuthobela**

(1) Igosa eligunyazisiweyo linokunikezela ngesaziso sokuthobela umnini welayisenisi ukuyalela loo mntu unelayisenisi ukuba athobele imiqathango yalo mthetho kamasipala.

(2) Isaziso sokuthobela kufuneka sichaze -

(a) ukwaphula umthetho kunye noluleko lolwaphulo mthetho;

(b) ixesha elifanelekileyo apho umnini layisenisi kufuneka alungise ukwaphula kwakhe umthetho kwaye athobele nawuphi na umthetho osemthethweni oqulathwe kwisaziso sokuthobela; kwaye

(c) iziphumo zoku kusilela ekuthobeleni imihlathana (a) no- (b).

(3) Lowo mntu unikwe ilayisenisi uya kuba wophula umthetho ukuba loo mntu unikwe ilayisenisi usilele ukuthobela imiyalelo equlethwe kwisaziso sokuthobela.

## **9. Ukurhoxiswa kweentsuku neeyure ezandisiweyo zokurhweba ngotywala**

(1) Igosa eligunyazisiweyo-

(a) emva kwisakhelo nexesha elikhankanywe kwisaziso sothotyelo liphelelwe; kwaye

(b) emva kokunikezelwa kwesaziso sokurhoxiso-mvume ngokukhawuleza kumnini llayisenisi ukurhoxisa iintsuku zorhwebo elandisiweyo mvume kunye neeyure.

(2) Akukho mntu uvumelekileyo ukuba aqhubeke athengisele uluntu ngeentsuku ezongeziweyo kunye neeyure zokuthengiswa kotywala oburhoxisiweyo.

(3) UMasipala akanakubekwa tyala ngayo nayiphi na ilahleko yengeniso ethe yafunyanwa ngumnini layisenisi ngenxa yokurhoxiswa kweentsuku zokusebenza neeyure ezongeziweyo.

## **10. Ukuthintela ukuthengiswa kotywala kunye nokohlutha**

(1) UMasipala unokuthi, kwimeko apho umnini welayisenisi waphule lo mthetho kaMasipala, kwaye wasilela ukuthobela isithembiso sokuthobela okanye sokurhoxisa esidlulisiweyo -

(a) unokuthintelwa ukuthengiswa kotywala; kwaye

(b) axuthwe nabuphi na utywala kwindawo ngokuhambelana neenkqubo



njengoko kuchaziwe kwi-Criminal Procedure Act, 1977 (uMthetho no. 51 ka- 1977).

(2) Apho ukuthengiswa kotywala kuthintelwe kwaye ubutywala bubanjiwe njengoko kuchaziwe kwicandelwana (1), uMasipala unokufumana naziphina iindleko ezenziwe nguMasipala kumnini welayisensi.

#### **11. Ukubonakaliswa kwemiqondiso, isatifikethi sabantu kunye nezinye iimbophelelo zelayisensi**

(1) Lowo unikwe ilayisenisi kufuneka aqinisekise ukuba imvume efanelekileyo enxulumene neeyure zorhwebo kunye nesiqinisekiso senani loluntu kwizakhiwo ezisetyenziswayo zihlala zikho kwaye ziyabonakala kwindawo ekuthengiswa kuyo.

(2) Ilayisenisi kufuneka ziqinisekise ukuba indawo enephepha-mvume kufuneka aqinisekise ukuba izakhiwo ezinelayisenisi iyahambelana nayo yonke imo yokwendalo esingqongileyo, impilo, ucwangciso- kunyenemithetho yokhuseleko ilayisenisi zeshishini kunye neemeko ezimiselwe yiKomiti kaMasipala yoTywala.

#### **12. Ukhuselelo kunye nokhuseleko**

Umnini layisenisi kufuneka aqinisekise ukuba amanyathelo afanelekileyo okhusele kunye nokukhuseleka ayathatyathatha ukukhusela abaxhasi kwindawo leyo enelayisenisi ukuba phakathi kwezinye izinto -

- (a) ukugcinwa kwempahla nezixhobo kunye imeko yesakhiwo kunye nasiphi na isakhiwo esinobangela umngcipheko kukhuseleko lwabaxhasi ngaphakathi kwesakhiwo.
- (b) ogcina izakhiwo zihambelana neemfuno zoMthetho weZakhiwo zeSizwe kunye neMigangatho yeZakhiwo, ka-1977, (uMthetho 103 ka-1977); UMthetho kaMasipala weNgingqi wase-Oudtshoorn onxulumene noMlilo noKhuseleko loLuntu ngo-2009 kunye nayo nayiphi na eminye imvume enikezwe nguMasipala; kwaye
- (c) apha ukhanyiso olwaneleyo ngaphandle kwezakhiwo nalapho abathengi kunye nabasebenzi baphuma bengena.

#### **13. Iziphazamiso**

Umntu onikwe ilayisenisi yokuthengisa utywala kuluntu kufuneka athathe amanyathelo afanelekileyo okuqinisekisa ukuba abahlali abangabamelwane noluntu

oluwungqongileyo abachaphazeleki kwaye bengaphazanyiswa yingxaki yengxolo evela kwizakhiwo ekuthengiselwa kuyo.

#### **14. Ulwaphulo-mthetho nezohlwayo**

- (1) Nawuphi na umntu okanye umnini welayisensi -
  - (a) owaphule okanye osilela ukuthobela nawuphi na umthetho walo mthetho kamasipala;
  - (b) usilele ekuthobeleni imiqathango yesaziso asinikiweyo ngokwalo Mthetho kaMasipala;
  - (c) ungenelela, uthintele okanye enika ulwazi olungeyonyani okanye olulahlelekisayo kulo naliphi na igosa eligunyazisiweyo ekusebenzeni kwalo naliphi na igunya okany ukwenziwa kwawo nawuphi na umsebenzi ngokungqamene nalo mthetho kaMasipala unetyala lolwaphulo mthetho kwaye unokugwetywa.

Ukuhlawuliswa okanye ukuvalelwa entolongweni okanye zozibini, isohlwayo sentlawulo kunye nokuvalelwa entolongweni.

- (2) Kwimeko yolaphulo-mthetho oluqhubekayo, isohlwayo sentlawulo okanye ixesha naliphi na igosa eligunyazisiweyo ekusebenzeni kwalo naliphi na igunya okanye ukwenziwa kwawo nawuphi na umsebenzi ngokungqamene nalo mthetho kamasipala, unetyala lokwaphula umthetho kwaye unokugwetywa imali eyongezelelweyo elingana naziphi na indleko zikaMsipala ezifunyaniswe yinkundla ngenxa yolwaphulo olo okanye ukusilela.

- (3) Umntu okanye nawuphina umnini layisensi ekubhekiselelwe kuyo kwicandelwana (1) unoxanduva lokuhlawula imali engaphezulu ebekwe yinkundla malunga nendleko kunye neendleko ezifunyaniswe yinkundla ukuba zenziwe ngumasipala ngenxa yokwaphula umthetho okanye ukungaphumeleli.

#### **15. Ulawulo kunye nokunyanzeliswa**

- (1) IBhunga linokuthi, ngaphandle namaCandelo-4 no-5, lunikele uxanduva lolawulo kunye nokunyanzeliswa kwalo Mthetho kaMasipala kuwo nawuphi uMphathi.

(2) Umlawuli unokunikezela ngembalelwano nawaphi na amagunya okanye umsebenzi awunikiweyo ngokwalo mthetho kamasipala kwigosa elkwiCandelo lakhe.

#### **16. Ilungelo lokubhena**

Nawuphi na umnini welayisenisi okanye ochaphazelekayo onamalungelo akhe achatshazelwa sisigqibo malunga -

- (a) nesicelo seentsuku neeyure zokurhwebo ezongeziweyo;
- (b) ukulungiswa okanye ukurhoxiswa kweentsuku kunye neeyure ezongezelelweyo zorhwebo,okanye
- (c) ukuncitshiswa kweyure zokuthengisa ,

angabhena malunga nesigqibo sokugqibela ngokwemigaqo yecandelo 62 likaRhulumente waseKhaya: Umthetho weeNkqubo zikaMasipala, 2000 (Umthetho Nombolo 32 ka-2000)

#### **17. Ukuchithwa komthetho kamasipala ngotywala**

Izibonelelo zoMthetho kaMasipala wezeKhaya wase-Oudtshoorn ngeentsuku zokurhweba neeYure zeeLayisenisi zeeLayisenisi zoTywala zika-2011, (njengoko zilungisiwe ngo-2015) ziyabhangiswa.

#### **18. Isihloko nokumiliselwa**

- (1) Lo mthetho kamasipala ubizwa ngokuba nguMthetho Kamasipala Wolawulo Lamashishini aAthengisela Uluntu Utywala,2019 .
- (2) Lo mthetho kamasipala uya kuqalisa ukusebenza ngomhla wokupapashwa kwawo kwiGazethi yePhondo.

**ISHEDYULI YOLAWULO LAMASHISHINI ATHENGISELA ULUNTU UTYWALA**

lintsuku zokuthengisa kunye neeyure zotywala kumashishini anelayisensi athengisa utywala bokuselwa ngaphakathi nangaphandle kwendawo enephepha-mvume. Iilayisensi ezinikezwe ngokwecandelo lama-33 loMthetho.

<b>UCWANGCISO LWEZILWANYANA</b>	<b>UKUHLAZIYA IYURE</b>
Icandelo lama-33 (a) ilayisensi-Imveliso encinci kunye nokuthengiswa kotywala botywala kunye nasekusetyenzisweni kude (iselars, oomatshini bokuhambisa iimveliso ezindlini, abahambisa izindlu basekhaya)	<b>Kwisigqibo</b> <b>9:00-18:00 NgoMvulo ukuya ngoMgqibelo</b> <b>9:00-15:00 ngeCawa</b> <b>Ukuchitha</b> <b>9:00-18:00 NgoMvulo ukuya ngoMgqibelo</b> <b>9:00-15:00 ngeCawa</b>
Icandelo lama-33 (b) ilayisensi zokuthengiswa kotywala bokuselwa kwindawo yeeklabhu zeMidlalo, ibha, ibha yezemidlalo, iklabhu yasebusuku, iklabhu yejazz, i-pub kunye nebrub, iivenkile yokutyela) Ihotele, ii-B & B kunye neeKhasino	<b>Ngo-09:00-02:00 (ngosuku olulandelayo ngoMvulo ukuya ngoMgqibelo)</b> <b>9:00-22:00 ngeCawa</b> <b>Iiyure ezingama-24 ngosuku</b>
Icandelo lama-33 (c) ilayisensi zokuthengiswa kotywala, (iivenkile zotywala, abathengisi ngokubanzi, iivenkile ezinkulu, iivenkile zokutyela, iivenkile zokutya, abathengisi abathengisayo)	<b>9:00-20:00 NgoMvulo -Mgqibelo</b> <b>Kuvalwa - ngeCawa</b>
Icandelo lama-33 (d) ilayisensi zokuthengiswa kotywala kokubini kude	<b>Ngo-09:00-00:00 (ngoMvulo ukuya ngoLwesine)</b>

kusetyenziso (ngaphandle kweemeko)	<b>Ngo-09: 00- 02:00 (ngosuku olulandelayo uLwesihlanu ukuya kuMgqibelo) KUALWA - ngeCawa</b>
Icandelo lama-33 (e) ilayisensi zokuthengiswa kotywala bokuthenga nokusebenzisa kude kwimisitho ethile (ikonsathi, iminyhadala, imidlalo kunye nolonwabo)	<b>08:00-00:00 NgoMvulo ukuya ngeCawa</b>
Ilayisensi yeXeshana ngokwecandelo lama-33 (f) lokuthengiswa kotywala buthengiswa	<b>Iiyure zokuthengisa ziya kufana nezo zikule shedyuli, kuxhomekeke kuhlobo lwelayisensi ebelifakiweyo.</b>