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**INHOUD**

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*Ibhaliswe ePosini njengePhephandaba*

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## **PROBLEM PROPERTY BY-LAW**

### **PREAMBLE**

**Noting** the constitutional mandate of municipalities to administer the regulation of buildings within their jurisdiction and to control public nuisance;

**Noting** the need to identify problem properties and to take the necessary measures to ensure compliance with the City's by-laws, policies and plans and legislation related to property and the use of property;

**And noting** that the principal purpose of this By-law is to secure compliance rather than demolition and re-development;

**Be It therefor enacted** by the Council of the City of Cape Town as follows: —

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## PART 1: DEFINITIONS AND APPLICATION

### 1 Definitions

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

**“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 or any other applicable by-law and includes an employee delegated to carry out such duties, functions or exercise such powers;

**“building”** includes-

- (a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with the-
  - (i) accommodation or convenience of human beings or animals;
  - (ii) manufacture, processing, storage, display or sale of any goods;
  - (iii) rendering of any service;
  - (iv) destruction or treatment of refuse or other waste materials;
  - (v) cultivation or growing of any plant or crop;
- (b) any wall or part of the building;

**“City”** means the City of Cape Town, a municipality established by City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms 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;

**“licensed waste disposal facility”** means a site, or premises which is licensed in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and used for the accumulation or disposal of waste;

**“National Building Regulations Act”** means the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977);

**“owner”** means-

- (a) the person or trust in whose name the property is registered in the relevant deeds office; or
- (b) if the property affected is a sectional title unit, the registered owner of the sectional title;

**“problem property”** means any property that has been declared under section 10 to be a problem property;

**“property”**-

- (a) means any piece of land registered as a separate entity of land in a deeds registry as an erf, lot, plot, farm, stand or agricultural holding and includes any unit and land contemplated in the Sectional Title Act, 1986 (Act No. 95 of 1986); and
- (b) includes any building on that piece of land.

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

This By-law applies to all properties within the area of jurisdiction of the City including properties owned by the State.

## **PART 2: DUTY AND LIABILITY OF OWNERS**

### **3 Duty of owners**

- (1) Every owner of a property must-
  - (a) maintain the property in a good state of repair and in a safe condition;
  - (b) notify the City if the condition of any property is dangerous to life or property in terms of section 12(2) of the National Building Regulations Act;
  - (c) not permit it to be unlawfully occupied or used for criminal activities; and

- (d) not permit the dumping of waste on the property.
- (2) During the erection of a building, the owner of the property must proceed with its erection without delay and take reasonable measures during its erection to prevent unauthorised access to the building.
- (3) For the purposes of subsection (2), delay means any period in excess of three months.

#### **4 Duty to take measures**

- (1) If a property is unlawfully occupied or used for criminal activities, the owner must take the necessary measures to evict the occupants.
- (2) If waste has been dumped or accumulated on the property, the owner must remove the waste and transport it to a licensed designated disposal facility at the owner's cost.

#### **5 Liability of owners for damages and costs**

- (1) An owner is liable for the costs incurred by the City to-
  - (a) maintain, repair, renovate, or alter the property;
  - (b) secure, close or barricade the property;
  - (c) demolish a building on the property; or
  - (d) otherwise enforce compliance with this By-law.
- (2) Any damages and costs must be paid by the owner to the City upon demand.

### **PART 3: INVESTIGATION AND COMPLIANCE ORDERS**

#### **6 Investigation**

- (1) Subject to subsection (2), an authorised official may enter any property at a reasonable time to inspect and determine whether the owner of the property complies with this by-law.
- (2) An authorised official may only enter a property in terms of subsection (1)-

- (a) with the consent of the owner or occupant;
  - (b) on 7 days written notice to the owner or occupant of an intention to inspect the property;
  - (c) with a warrant to enter and search the property issued by a magistrate; or
  - (d) without a warrant if the authorized official reasonably believes that the delay in the issue of the warrant will defeat the purposes of the entry.
- (3) A search warrant may be issued if it appears on information provided on oath that there are reasonable grounds for believing that the property is unlawfully occupied or used for criminal activities.
- (4) An authorised official may be accompanied by any approved competent person as contemplated in Part A-19 of the National Building Regulations Act who is instructed to examine the building and report on the state of the building and any measures to be taken.
- (5) A notice issued in terms of subsection (2)(b) permits the authorised official to enter the property in terms of subsection (1) more than once provided that it is on written notice that may be less than 7 days.

## **7 Compliance notice**

- (1) An authorised official may issue a compliance notice on the owner of a property if that official considers that-
- (a) the owner has failed to comply with the duties of an owner under Part 2; and
  - (b) the failure can be remedied without the declaration of a problem property in terms of Part 4.
- (2) The compliance notice must-
- (a) specify-
    - (i) the measures that the owner must take to remedy the non-compliance with the owner's duties under Part 2;



- (ii) a reasonable period within which the measures must be taken;
  - (iii) the amount of the administrative fine imposed, if the owner fails to comply with subparagraphs (i) and (ii); and
  - (iv) the date by which the owner may make representations to amend or withdraw the notice.
- (b) be in the form determined by the City Manager in terms of section 24.
- (3) The measures contemplated in subsection (2)(a) include-
- (a) cleaning, repairing, repainting, renovating or altering the property;
  - (b) securing, fencing or barricading the property;
  - (c) completing the construction of a building or structure on that property;
  - (d) closing or demolishing a structure, building or part of a building;
  - (e) disposing of, or removing, any waste dumped or stored on a property.
- (4) The authorised official may amend the compliance order after receiving any representations from the owner contemplated in subsection (2)(a)(iv).

## **8 Failure to comply with compliance order**

- (1) If the owner of the property fails to comply with a compliance order issued in terms of section 7, an authorised official -
- (a) may extend the period or otherwise amend the compliance order;
  - (b) may declare the property to be a problem property in terms of section 10;
  - (c) must impose the administrative fine referred to in section 7(2)(a)(iii).
- (2) The owner contemplated in subsection (1) is liable for the costs incurred in respect of an approved competent person for examining and reporting on the state of the building and the measures to be taken in terms of section 6(4).

## PART 4: DECLARATION OF A PROBLEM PROPERTY

### 9 Notice of intention to declare a problem property

- (1) An authorised official may issue a notice of intention to declare a property to be a problem property if the official is satisfied that there are good grounds for believing that the property-
- (a) is abandoned or derelict;
  - (b) is unlawfully occupied or overcrowded;
  - (c) is or is becoming unhealthy, unsanitary, unsightly, dilapidated or objectionable;
  - (d) is illegally connected to electricity, supplies or sewers;
  - (e) is being used for criminal activities;
  - (f) has without, planning permission, been altered so as to have the effect of preventing the South African Police Service, the City Police, its inspection authorities and authorised officials from lawfully entering the property without notice in order to frustrate the purpose of an investigation;
  - (g) is structurally unsound or is or becoming dangerous to life or property;
  - (h) is being used to dump waste or allowed to accumulate waste; or
  - (i) the construction of which is incomplete and has not been proceeded with for more than three months.
- (2) The notice in subsection (1) must-
- (a) give the owner 7 days within which to make representations as to why the building should not be declared a problem property and why the measures specified in subsection (b) should be amended or withdrawn;
  - (b) specify the measures and the time period within which the measures must be taken to prevent the building being declared a problem property.

- (3) If in the representations the owner undertakes, in writing, to take the measures specified in subsection (2)(b), subject to such conditions that the authorised official may require, the official may defer a decision in terms of section 10(1).

## **10 Declaration of a problem building**

- (1) An authorised official may declare a building a problem building if-
  - (a) the owner fails to comply with a compliance notice issued in terms of section 7(1);
  - (b) the owner fails to make representations;
  - (c) representations have been made, but the official is nevertheless satisfied that there are good grounds to declare the building a problem building;
  - (d) the owner fails to comply with the undertaking given in terms of section 9(3).
- (2) The declaration, in a form to be determined by the City Manager in terms of section 24, must set out the measures and the dates within which the measures must be taken by the owner.
- (3) The measures contemplated in subsection (2) include-
  - (a) any measure contemplated in section 7(3);
  - (b) an order requiring the evacuation of the property if the official has reason to believe that the property is unsafe and requires immediate evacuation;
  - (c) a requirement that the owner take the necessary steps to evict the occupants of the property.
- (4) A measure contemplated in subsection (3)(c) may only require an owner to institute proceedings in a court of law to evict occupants on the property if-
  - (a) the occupants are unlawfully occupying the property;
  - (b) the premises are being used for criminal activities;
  - (c) it is in the interests of safety and security of the occupants or the public or both that occupants are temporarily or permanently evicted; or

- (d) one of the measures contemplated in subsection (3)(a) requires that the premises be vacated either temporarily or permanently in order to either effect alterations to the property or to demolish a building or structure on the property.
- (5) The City must-
- (a) serve the declaration on the owner;
  - (b) at the owner's cost, erect sign boards and publish advertisements in community newspapers notifying the public that the building has been declared a problem building setting out the measures to be taken and any orders or requirements as to access or occupation in the declaration.

#### **11 Owner's failure to comply with the declaration**

- (1) If the owner fails to comply with any measure required in section 10(2), the City may-
- (a) impose an administrative fine in terms of section 18; and
  - (b) carry out the measure, including approaching a court for orders contemplated in Part 6; or
  - (c) apply to court for the appointment of an administrator in accordance with section 12.
- (2) If the City gives effect to the measure under subsection (1)(b), the owner is liable for the costs and expenses of effecting the measure.

### **PART 4: APPOINTMENT OF ADMINISTRATOR**

#### **12 Appointment of administrator**

- (1) The City may apply to the Court for the appointment of an administrator if the property or building has been declared a problem property in terms of section 10 and the Court may appoint the administrator on such terms as it deems fit in the circumstances to give effect to the measures contained in the declaration.

- (2) The remuneration and expenses of the administrator are payable through cost recovery or from the owner.
- (3) An administrator appointed by the Court has the powers and duties of the registered owner of the property, including the following powers, or such powers and duties as the Court may direct:
  - (a) The collection of rental and other charges from the occupiers;
  - (b) The maintenance, repair or renovation of the problem property utilizing the rental so collected or from other funding as obtained from whatever source;
  - (c) The payment of charges for the supply of electricity, water, sanitation and rates and taxes from such rental or other funding as obtained from whatever source;
  - (d) The appointment of a committee to assist in the management of the problem property;
  - (e) The opening and operating of an account with a bank;
  - (f) Any other action-
    - (i) required to give effect to measures contemplated in section 10(2)(a);
    - (ii) contemplated in Part 5;
    - (iii) reasonably required to be taken in terms of managing the problem property;
    - (iv) which the owner would, in normal course of business and management of the problem property, have been able to take.
- (4) The administrator must submit the following documents to the owner, the City and the Court-
  - (a) A monthly report in the form determined by the City Manager in terms of section 24;
  - (b) A final report and account in the form determined by the City Manager in terms of section 24 on the completion of the administrator's mandate.

- (5) The Court may, at its discretion or on the application of the owner or the City –
- (a) replace the administrator;
  - (b) require the administrator to account for and justify any action taken in terms of subsection (3);
  - (c) reverse or amend any decision taken by the administrator in terms of subsection (3);
  - (d) terminate the mandate of the administrator.

## **PART 5: EVACUATION, EVICTION AND DEMOLITION**

### **13 Evacuation**

- (1) If a building has been declared to be a problem property in terms of section 10(1) and an authorised official has reasonable grounds for believing that a building is dangerous to life and property and that the immediate evacuation of the property is necessary-
- (a) the official may make an order requiring the evacuation of the property as contemplated in section 10(3)(b); and
  - (b) if the order is not obeyed, the City may apply to court on an urgent basis for an order-
    - (i) compelling all persons on the property to evacuate the property;
    - (ii) prohibiting any person from entering the property.
- (2) A court may-
- (a) grant an order contemplated in subsection (1)(b) if it is satisfied that the building is unsafe and that the immediate evacuation of the property is necessary;
  - (b) require the owner to provide temporary accommodation for the occupants to be evacuated;

(c) make, in addition to any order of costs against the owner, an order regarding the costs incurred in implementing the order.

(3) It is an offence for any person not to comply with an order contemplated in subsection (2)(a).

#### **14 Eviction**

(1) If an authorised official has reasonable grounds for believing that an eviction is a necessary measure in terms of section 10(3)(c) to achieve the purposes of the By-law, the City may-

(a) require the owner to take all necessary lawful steps to evict the occupants of the property; or

(b) institute eviction proceedings in a court against the occupants on the following grounds-

(i) the occupants are in unlawful occupation of the property;

(ii) the property is being used for criminal activities;

(iii) it is in the interests of the safety or security of the occupants or the public; and

(c) join the owner in the proceedings contemplated in paragraph (b) and seek, in addition to any order of costs against the owner, the costs of implementing the order.

(2) A court may-

(a) grant an order contemplated in subsection (1)(b) and (c) if it is satisfied that eviction is a necessary measure in terms of section 10(3)(c) to achieve the purpose of the By-law;

(b) make, in addition to any order of costs against the owner, an order regarding the costs incurred in implementing the order.

## 15 Demolition

- (1) If an authorised official has reasonable grounds for believing that the demolition of a building is a necessary measure in terms of section 10(3)(a) read with section 7(3)(d), the City may-
  - (a) require the owner to demolish the structure, building or part of a building; or
  - (b) institute proceedings in a court to order directing the owner or authorising the City to demolish the building on one or more of the following grounds-
    - (i) the building or its alteration is without planning permission;
    - (ii) the building is structurally unsafe and not capable of being made safe;
    - (iii) the building is or becoming dangerous to life and property;
    - (iv) the owner has failed to comply with the measures issued in terms of section 10(3)(a) and the costs of complying with those measures exceed the costs of demolition.
- (2) A court may-
  - (a) grant an order for the demolition of a building if it is satisfied that the demolition is a necessary measure in terms of section 10(3)(a) read with section 7(3)(d); and
  - (b) make an order of costs against the owner including the costs of the demolition.

## 16 Expropriation

- (1) The City may apply to court to expropriate a problem property if -
  - (a) the owner fails to comply with the measures contemplated in section 10(3)(a); and
  - (b) it is unlikely that its costs in effecting the measures required in terms of section 10(3)(a) are likely to be recovered from the owner or from a sale in execution of the property pursuant to a court order for the recovery of the City's costs.



## **PART 6: ENFORCEMENT**

### **17 Civil proceedings**

- (1) The City or administrator may, by way of civil proceedings and in accordance with the City of Cape Town: Credit Control and Debt Collection By-law, 2006, recover from the owner-
  - (a) any costs incurred in effecting any measure or performing any function in terms of this By-law; and
  - (b) any unpaid administrative fine imposed in terms of this By-law.

### **18 Administrative fines**

- (1) An authorised official may impose an administrative fine for a failure to comply with this By-law or any notice or declaration made in terms of it.
- (2) The amounts of the administrative fines are set out in Schedule A.

### **19 Offences and penalties**

- (1) Subject to subsection (5), a person is guilty of an offence and, on conviction, liable to a penalty in terms of subsections (2) and (3), if that person –
  - (a) contravenes or fails to comply with any provision of this By-law;
  - (b) contravenes or fails to comply with any requirement set out in a notice served on him in terms of this By-law;
  - (c) fails to comply with a lawful instruction of an authorised official;
  - (d) threatens, resists, interferes with or obstructs any authorised official in the performance of that official's duties or functions in terms of this By-law;
  - (e) knowingly makes a false statement.
- (2) Any person who is convicted of an offence under this By-law is liable to-
  - (a) a fine;
  - (b) imprisonment for a period not exceeding 3 years; or

- (c) both such fine and imprisonment.
- (3) In the case of a continuing offence, the court may impose in respect of each day on which the offence continues-
- (a) an additional fine;
  - (b) imprisonment for a period not exceeding 10 days; or
  - (c) both such fine and imprisonment,
- (4) The court may in terms of section 300 of the Criminal Procedure Act 51 of 1977, determine any costs incurred by the City or administrator in effecting any measure or performing any function in terms of this By-law and make an appropriate order including an order for legal costs.
- (5) If civil proceedings have been instituted for the collection of an administrative fine in terms of section 18(1) against any person in respect of a contravention contemplated in subsection (1), no criminal proceedings may be instituted against that person in respect of that contravention.

## **PART 7: GENERAL**

### **20 Appeals**

Any person, who objects to a compliance notice, declaration or administrative fine issued by an authorised official, may appeal to the City Manager in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

### **21 Appointment of authorised officials**

The delegated authority may appoint authorised officials to implement this By-law and may appoint such official as a building control officer in terms of section 5 of the National Building Regulations Act.

## **22 Delegation**

The City Manager is authorised to exercise all the powers and perform all the duties and functions conferred on the City under this By-law and may delegate such powers and functions to authorised officials other than the powers and functions contemplated in this section and sections 20.

## **23 Powers of authorised officials**

- (1) An authorised official may, when entering a property-
  - (a) inspect or investigate the property;
  - (b) question the owner, management agent or occupier of the property;
  - (c) take photographs of the property;
  - (d) take samples and remove any document, sample or thing for the purpose of evidence in any civil or criminal proceedings.
- (2) Subject to section 6(2), an authorised official may exercise any power conferred on a building control officer in terms of section 15 of the National Building Regulations Act.

## **24 Form of notices, declarations and sign boards**

The City Manager must determine the form of the notices, declarations and sign boards that are required to be issued or erected in terms of this By-law.

## **25 Service of notices**

- (1) Whenever any notice or declaration is required to be served on a person in terms of this By-law, it is deemed to have been effectively and sufficiently served-
  - (a) when delivered to that person personally;
  - (b) when it has been left with a person apparently over the age of 16 years at that person's place of residence or business or registered address in the Republic of South Africa;

- (c) when it is posted by registered or certified mail to that person's last known residential or business address and an acknowledgement of the posting is produced; or
  - (d) when it is affixed to a conspicuous place on the building or property.
- (2) Service on any of the following persons or addresses constitutes service on the owner of the property:
- (a) an agent appointed by the owner to sell, lease or manage the property;
  - (b) a person appointed to supervise the property;
  - (c) a person seemingly in charge of the property or collecting rent from occupants on the property.

## **26 Indemnity**

The City and any authorised official are not liable for any damages caused by anything lawfully done or omitted by the City or the authorised official in carrying out any function or duty in terms of this By-law.

## **27 Repeal**

The City of Cape Town: Problem Building By-law, 2010 as published in the Provincial Gazette 6767 of 31 March 2010 is hereby repealed.

## **28 Short title**

This By-law is called the City of Cape Town: Problem Property By-law, 2019.

## **SCHEDULE A: FINES**

The City may impose the following administrative fines in respect of contraventions of the relevant applicable sections of this By-law.

- (1) In respect of section 7(2)(iii) read with section 8(1)(c), if the owner fails to comply with a compliance order, the City may impose an initial fine of between R20 000 and R50 000 and subject to item (2) an additional fine of R10 000 for each day thereafter until the measures as contemplated in the compliance notice are met.
- (2) The fines will continue to accumulate until the date that the property is declared a problem property for purposes of section 10.
- (3) Once the declaration under section 10 has occurred and the owner continues to fail to take the measures contemplated in subsection 10(2) and (3) a further fine may be imposed, the amount of which is calculated at 10% of the municipal valuation of the property as provided in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

## VERORDENING OP PROBLEMEIENDOMME

### AANHEF

**Nademaal** die Grondwet munisipaliteite opdrag gee om die regulasie van geboue in hulle regsgebied te administreer en openbare steurnisse te beheer;

**en nademaal** daar 'n behoefte is om problemeiendomme te identifiseer en die nodige maatreëls te tref om nakoming van die Stad se verordening, beleide, planne en wetgewing met betrekking tot eiendom en eiendomsgebruik te verseker;

**en nademaal** die hoofdoelwit van hierdie verordening voldoening eerder as sloping en herontwikkeling is;

**word daar dus nou** soos volg deur die Raad van die Stad Kaapstad **verorden:—**

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## DEEL 1: WOORDOMSKRYWING EN TOEPASSING

### 1 Woordoms krywing

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

**“eienaar”** -

- (a) die persoon of trust in wie se naam die eiendom by die tersaaklike aktekantoor geregistreer is; of
- (b) indien die betrokke eiendom 'n deeltiteleenheid is, die geregistreerde eienaar van die deeltitel;

**“eiendom”** -

- (a) enige stuk grond wat in 'n aktereregister as 'n afsonderlike grondentiteit geregistreer is as 'n erf, perseel, kleinhoewe, plaas, standplaas of landbouhoewe, wat insluit enige eenheid en grond wat in die Wet op Deeltitels, 1986 (Wet 95 van 1986), beoog word; en
- (b) ook enige gebou op daardie stuk grond;

**“gebou”** onder meer -

- (a) enige struktuur, hetsy van 'n tydelike of permanente aard en ongeag die materiaal wat vir die oprigting daarvan gebruik is, wat opgerig is of gebruik word vir of in verband met die -
  - (i) huisvesting of gerief van mense of diere;
  - (ii) vervaardiging, verwerking, berging, vertoon of verkoop van enige goedere;
  - (iii) lewering van enige diens;
  - (iv) vernietiging of behandeling van vullis of ander afvalmateriaal;
  - (v) verbouing of kweek van enige plant of gewas;
- (b) enige muur of gedeelte van die gebou;

**“gelisensieerde afvalwegdoeningsfasiliteit”** ’n terrein of perseel wat ingevolge die Wet op Nasionale Omgewingsbestuur: Afval, 2008 (Wet 59 van 2008), vir afvalophoping of -wegdoening gelisensieer is en gebruik word;

**“gemagtigde amptenaar”** ’n werknemer van die Stad wat daarvoor verantwoordelik is om enige plig of werksaamheid te verrig of enige bevoegdheid uit te oefen ingevolge hierdie verordening of enige ander toepaslike verordening, wat insluit ’n werknemer aan wie sodanige pligte, werksaamhede of bevoegdhede gedelegeer is;

**“probleemeiendom”** enige eiendom wat ingevolge artikel 10 tot ’n problemeiendom verklaar is;

**“Stad”** die Stad Kaapstad, ’n munisipaliteit wat ingestel is deur die Stad Kaapstad: Instellingskennisgewing, nr. 479 van 22 September 2000, welke kennisgewing uitgereik is kragtens die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), of enige struktuur of werknemer van die Stad wat ingevolge gedelegeerde bevoegdheid optree;

**“Wet op Nasionale Bouregulasies”** die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977).

## **2 Toepassing van hierdie verordening**

Hierdie verordening is van toepassing op alle eiendomme in die regsgebied van die Stad, wat staatseiendomme insluit.

## **DEEL 2: PLIG EN AANSPREEKLIKHEID VAN EIENAARS**

### **3 Plig van eienaars**

(1) Elke eenaar van ’n eiendom moet -

(a) die eiendom in ’n goeie en veilige toestand hou;

(b) die Stad ingevolge artikel 12(2) van die Wet op Nasionale Bouregulasies in kennis stel indien die toestand van enige eiendom lewe of ander eiendom in gevaar stel;

- (c) verhoed dat die eiendom onregmatig beset of vir misdadige bedrywighede gebruik word; en
  - (d) verhoed dat afval op die eiendom gestort word.
- (2) Die eienaar van die eiendom moet gedurende die oprigting van 'n gebou sonder vertraging met sodanige oprigting voortgaan en redelike maatreëls tref om in dié tyd ongemagtigde toegang tot die gebou te verhoed.
- (3) Vir die doeleindes van subartikel (2) beteken “vertraging” enige tydperk langer as drie maande.

#### **4 Plig om maatreëls te tref**

- (1) Indien 'n eiendom onregmatig beset of vir misdadige bedrywighede gebruik word, moet die eienaar die nodige maatreëls tref om die okkupeerders uit te sit.
- (2) Indien afval op die eiendom gestort of opgehoop word, moet die eienaar die afval op eie onkoste verwyder en na 'n gelisensieerde aangewese wegdoeningsfasiliteit vervoer.

#### **5 Eienaar se aanspreeklikheid vir skade en koste**

- (1) 'n Eienaar is aanspreeklik vir die koste wat die Stad aangaan om -
- (a) die eiendom in stand te hou, te herstel, op te knap of te verbou;
  - (b) die eiendom te beveilig, te sluit of af te sper;
  - (c) 'n gebou op die eiendom te sloop; of
  - (d) voldoening aan hierdie verordening op 'n ander manier af te dwing.
- (2) Die eienaar moet enige skadevergoeding en koste op aanvraag aan die Stad betaal.

### DEEL 3: ONDERSOEK EN VOLDOENINGSBEVELE

#### 6 Onderzoek

- (1) Behoudens subartikel (2) kan 'n gemagtigde amptenaar enige eiendom op 'n redelike tyd betree om dit te inspekteer en te bepaal of die eienaar van die eiendom aan hierdie verordening voldoen.
- (2) 'n Gemagtigde amptenaar kan 'n eiendom slegs ingevolge subartikel (1) betree -
  - (a) met die toestemming van die eienaar of okkupeerder;
  - (b) met sewe dae skriftelike kennisgewing aan die eienaar of okkupeerder van 'n voorneme om die eiendom te inspekteer;
  - (c) met 'n lasbrief wat deur 'n landdros uitgereik is om die eiendom te betree en te deursoek; of
  - (d) sonder 'n lasbrief indien die gemagtigde amptenaar redelikerwys glo dat die vertraging om 'n lasbrief uitgereik te kry die doel van die betreding sal verydel.
- (3) 'n Lasbrief vir deursoeking kan uitgereik word indien dit na aanleiding van inligting wat onder eed voorsien word, blyk dat daar redelike gronde is om te glo dat die eiendom onregmatig beset of vir misdadige bedrywighede gebruik word.
- (4) 'n Gemagtigde amptenaar kan vergesel word van enige goedgekeurde bevoegde persoon ingevolge deel A19 van die Wet op Nasionale Bouregulasies wat opdrag het om die gebou te ondersoek en verslag te doen oor die toestand van die gebou en enige maatreëls wat getref moet word.
- (5) 'n Kennisgewing wat ingevolge subartikel (2)(b) uitgereik is, verleen toestemming aan die gemagtigde amptenaar om die eiendom meer as een keer ingevolge subartikel (1) te betree, met dien verstande dat dit met skriftelike kennisgewing geskied wat minder as sewe dae kan wees.

## 7 Voldoeningskennisgewing

- (1) 'n Gemagtigde amptenaar kan 'n voldoeningskennisgewing aan die eienaar van 'n eiendom uitreik indien daardie amptenaar dink dat -
  - (a) die eienaar versuim het om die pligte van 'n eienaar ingevolge deel 2 na te kom; en
  - (b) die versuim reggestel kan word sonder om die eiendom ingevolge deel 4 tot 'n probleem eiendom te verklaar.
- (2) Die voldoeningskennisgewing moet -
  - (a) aandui -
    - (i) watter maatreëls die eienaar moet tref om die versuim van die eienaar se pligte ingevolge deel 2 reg te stel;
    - (ii) binne watter redelike tydperk die maatreëls getref moet word;
    - (iii) watter administratiewe boete opgelê sal word indien die eienaar nie aan subparagraaf (i) en (ii) gehoor gee nie; en
    - (iv) teen wanneer die eienaar vertoë kan rig om die kennisgewing te wysig of terug te trek;
  - (b) in die vorm wees wat die Stadsbestuurder ingevolge artikel 24 bepaal.
- (3) Die maatreëls wat in subartikel (2)(a) hierbo beoog word, sluit in -
  - (a) die skoonmaak, herstel, verf, opknapping of verbouing van die eiendom;
  - (b) die beveiliging, omheining of afsperring van die eiendom;
  - (c) die voltooiing van bouwerk aan 'n gebou of struktuur op daardie eiendom;
  - (d) die sluiting of sloping van 'n struktuur, gebou of gedeelte van 'n gebou;
  - (e) die wegdoening of verwydering van enige afval wat op 'n eiendom gestort of geberg word.
- (4) Die gemagtigde amptenaar kan die voldoeningsbevel wysig nadat enige vertoë ingevolge subartikel (2)(a)(iv) van die eienaar ontvang is.

## **8 Versuim om aan voldoeningsbevel gehoor te gee**

- (1) Indien die eienaar van die eiendom versuim om gehoor te gee aan 'n voldoeningsbevel wat ingevolge artikel 7 uitgereik is -
  - (a) kan 'n gemagtigde amptenaar die tydperk verleng of die voldoeningsbevel op 'n ander manier wysig;
  - (b) kan 'n gemagtigde amptenaar die eiendom ingevolge artikel 10 tot 'n probleemeiendom verklaar;
  - (c) moet 'n gemagtigde amptenaar die administratiewe boete oplê waarna artikel 7(2)(a)(iii) verwys.
- (2) Die eienaar wat in subartikel (1) beoog word, is aanspreeklik vir die koste wat aangegaan word ten opsigte van 'n goedgekeurde bevoegde persoon om ingevolge artikel 6(4) ondersoek te doen na, en verslag te doen oor, die toestand van die gebou en die maatreëls wat getref moet word.

## **DEEL 4: VERKLARING VAN 'N EIENDOM TOT 'N PROBLEEMEIENDOM**

### **9 Kennisgewing van voorneme om 'n eiendom tot 'n probleemeiendom te verklaar**

- (1) 'n Gemagtigde amptenaar kan 'n kennisgewing van voorneme uitreik om 'n eiendom tot 'n probleemeiendom te verklaar indien die amptenaar oortuig is dat daar goeie gronde is om te glo dat die eiendom -
  - (a) verlate of verwaarloos is;
  - (b) onregmatig beset word of oorvol is;
  - (c) ongesond, onhigiënies, onooglik, bouvallig of aanstootlik is of word;
  - (d) onwettig by elektrisiteits- en ander toevoer of riolering aangesluit is;
  - (e) vir misdadige bedrywighede gebruik word;
  - (f) sonder beplanningsgoedkeuring verbou is om te verhoed dat die Suid-Afrikaanse polisie en die Stad se metropolisie, inspeksieowerhede en

gemagtigde amptenare die eiendom regmatig sonder kennisgewing betree ten einde 'n ondersoek te dwarsboom;

- (g) struktureel onveilig is, of 'n gevaar vir lewe of eiendom is of word;
- (h) gebruik word om afval te stort of te laat ophoop;
- (i) nie klaar gebou is nie, en bouwerk reeds langer as drie maande vertraag is.

(2) Die kennisgewing in subartikel (1) moet -

- (a) die eienaar sewe dae gun om verhoë te rig oor waarom die gebou nie tot 'n probleem eiendom verklaar moet word nie, en waarom die maatreëls in subartikel (b) hieronder gewysig of teruggetrek moet word;
- (b) aandui watter maatreëls binne watter tydperk getref moet word om te verhoed dat die gebou tot 'n probleem eiendom verklaar word.

(3) Indien die eienaar in die verhoë skriftelik onderneem om die maatreëls in subartikel (2)(b) te tref, onderworpe aan sodanige voorwaardes wat die gemagtigde amptenaar kan stel, kan die amptenaar 'n besluit ingevolge artikel 10(1) uitstel.

## **10 Verklaring van 'n gebou tot 'n probleemgebou**

(1) 'n Gemagtigde amptenaar kan 'n gebou tot 'n probleemgebou verklaar indien -

- (a) die eienaar versuim om gehoor te gee aan 'n voldoeningskennisgewing wat ingevolge artikel 7(1) uitgereik is;
- (b) die eienaar geen verhoë rig nie;
- (c) verhoë gerig is, maar die amptenaar nietemin oortuig is dat daar goeie gronde is om die gebou tot 'n probleemgebou te verklaar;
- (d) die eienaar versuim om die onderneming ingevolge artikel 9(3) gestand te doen.

(2) Die verklaring, wat in 'n vorm moet wees wat die Stadsbestuurder ingevolge artikel 24 bepaal, moet die maatreëls uiteensit wat die eienaar moet tref, sowel as teen watter datums die maatreëls getref moet word.

- (3) Die maatreëls wat in subartikel (2) beoog word, sluit in -
- (a) enige maatreël wat in artikel 7(3) beoog word;
  - (b) 'n bevel wat die ontruiming van die eiendom gelas indien die amptenaar rede het om te glo dat die eiendom onveilig is en dat onmiddellike ontruiming noodsaaklik is;
  - (c) 'n vereiste dat die eienaar die nodige stappe doen om die okkupeerders van die eiendom uit te sit.
- (4) 'n Maatreël wat in subartikel (3)(c) beoog word, kan slegs vereis dat 'n eienaar regstappe doen om die okkupeerders van die eiendom uit te sit indien -
- (a) die okkupeerders die eiendom onregmatig beset;
  - (b) die perseel vir misdadige bedrywighede gebruik word;
  - (c) dit in die belang van die okkupeerders, die publiek of albei se veiligheid en sekuriteit is dat die okkupeerders tydelik of permanent uitgesit word; of
  - (d) een van die maatreëls wat in subartikel (3)(a) beoog word, vereis dat die perseel hetsy tydelik of permanent ontruim word om die eiendom te verbou of 'n gebou of struktuur op die eiendom te sloop.
- (5) Die Stad moet -
- (a) die verklaring aan die eienaar beteken;
  - (b) op die eienaar se onkoste inligtingsborde oprig en advertensies in gemeenskapskoerante plaas om die publiek in kennis te stel dat die gebou tot 'n probleemgebou verklaar is, met vermelding van die maatreëls wat getref moet word en enige bevele of vereistes oor toegang of besetting wat in die verklaring verskyn.

## **11 Versuim deur die eienaar om aan die verklaring te voldoen**

- (1) Indien die eienaar versuim om te voldoen aan enige maatreël wat ingevolge artikel 10(2) vereis word, kan die Stad -
- (a) ingevolge artikel 18 'n administratiewe boete oplê; en



- (b) self die maatreël tref, wat insluit om 'n hof te nader vir die bevele wat in deel 6 beoog word; of
  - (c) ingevolge artikel 12 by 'n hof aansoek doen om 'n administrateur aan te stel.
- (2) Indien die Stad self die maatreël ingevolge subartikel (1)(b) tref, is die eienaar aanspreeklik vir die koste en uitgawes verbonde daaraan.

## **DEEL 4: AANSTELLING VAN ADMINISTRATEUR**

### **12 Aanstelling van administrateur**

- (1) Die Stad kan by die hof aansoek doen om 'n administrateur aan te stel indien die eiendom of gebou ingevolge artikel 10 tot 'n probleem eiendom verklaar is, welke administrateur aangestel kan word op voorwaardes wat die hof in die omstandighede as gepas beskou om uitvoering te gee aan die maatreëls wat die verklaring vereis.
- (2) Die vergoeding en koste van die administrateur kan deur kosteverhaling of deur die eienaar betaal word.
- (3) 'n Administrateur wat deur die hof aangestel word, het die bevoegdhede en pligte van die geregistreerde eienaar van die eiendom, wat die bevoegdhede hieronder insluit, of sodanige bevoegdhede en pligte wat die hof kan beveel:
- (a) die invordering van huurgeld en ander tariewe van die okkupeerders;
  - (b) die instandhouding, herstel of opknapping van die probleem eiendom met behulp van die huurinkomste wat sodoende ingevorder word, of met ander finansiering uit watter ander bron ook al;
  - (c) die betaling van heffings vir die voorsiening van elektrisiteit, water en sanitasie sowel as die betaling van belasting en diensgeld uit sodanige huurinkomste of ander finansiering uit watter ander bron ook al;
  - (d) die aanstelling van 'n komitee om met die bestuur van die probleem eiendom te help;

- (e) die opening en instandhouding van 'n bankrekening;
- (f) enige ander handeling -
  - (i) wat vereis word om uitvoering te gee aan maatreëls wat in artikel 10(2)(a) beoog word;
  - (ii) wat in deel 5 beoog word;
  - (iii) wat redelikerwys vereis word om die probeemeiendom te bestuur;
  - (iv) wat die eienaar in die gewone gang van sake en bestuur van die problemeiendom sou kon uitvoer.
- (4) Die administrateur moet die volgende dokumente aan die eienaar, die Stad en die hof voorlê -
  - (a) 'n maandelikse verslag in die vorm wat die Stadsbestuurder ingevolge artikel 24 bepaal;
  - (b) 'n finale verslag en rekening by die afhandeling van die administrateur se mandaat, in die vorm wat die Stadsbestuurder ingevolge artikel 24 bepaal.
- (5) Die hof kan na eie goeddunke óf op aanvraag van die eienaar of die Stad -
  - (a) die administrateur vervang;
  - (b) van die administrateur vereis om verantwoording te doen oor, of 'n regverdiging te bied vir, enige handeling ingevolge subartikel (3);
  - (c) enige besluit wat die administrateur ingevolge subartikel (3) neem nietig verklaar of wysig;
  - (d) die administrateur se mandaat beëindig.

## **DEEL 5: ONTRUIMING, UITSETTING EN SLOPING**

### **13 Ontruiming**

- (1) Indien 'n gebou ingevolge artikel 10(1) tot 'n probleemgebou verklaar is en 'n gemagtigde amptenaar redelike gronde het om te glo dat die gebou lewe en

eiendom in gevaar stel en dat die onmiddellike ontruiming van die gebou noodsaaklik is -

(a) kan die amptenaar 'n bevel vir die ontruiming van die eiendom uitreik soos wat artikel 10(3)(b) beoog; en

(b) kan die Stad, indien die bevel nie gehoorsaam word nie, dringend by 'n hof aansoek doen om 'n bevel -

(i) wat alle persone op die eiendom verplig om die eiendom te ontruim;

(ii) wat enigeen verbied om die eiendom te betree.

(2) 'n Hof kan -

(a) 'n bevel wat in subartikel (1)(b) beoog word, toestaan indien die hof oortuig is dat die gebou onveilig is en dat die onmiddellike ontruiming van die eiendom noodsaaklik is;

(b) van die eienaar verwag om 'n tydelike heenkome te bied aan die okkupeerders wat ontruim moet word;

(c) benewens enige kostebevel teen die eienaar, ook 'n bevel uitreik met betrekking tot die koste wat aangegaan word om die bevel te implementeer.

(3) Dit is 'n misdryf vir enige persoon om 'n bevel wat in subartikel (2)(a) beoog word te verontagsaam.

## **14 Uitsetting**

(1) Indien 'n gemagtigde amptenaar redelike gronde het om te glo dat uitsetting ingevolge artikel 10(3)(c) 'n noodsaaklike maatreël is om die doelwitte van die verordening te bereik, kan die Stad -

(a) van die eienaar verwag om alle nodige regmatige stappe te doen om die okkupeerders van die eiendom uit te sit; of

(b) regstappe doen vir die uitsetting van die okkupeerders indien -

(i) die okkupeerders die eiendom onregmatig beset;

(ii) die eiendom vir misdadige bedrywighede gebruik word;

- (iii) uitsetting in belang van die okkupeerders of die publiek se veiligheid of sekuriteit is; en
  - (c) die eienaar byvoeg by die verrigtinge wat in paragraaf (b) beoog word en, benewens enige kostebevel teen die eienaar, ook op die koste vir die implementering van die bevel aandrang.
- (2) 'n Hof kan -
- (a) 'n bevel wat in subartikel (1)(b) en (c) beoog word, toestaan indien die hof oortuig is dat uitsetting ingevolge artikel 10(3)(c) 'n noodsaaklike maatreël is om die doelwit van die verordening te bereik;
  - (b) benewens enige kostebevel teen die eienaar, ook 'n bevel uitreik met betrekking tot die koste wat aangegaan word om die bevel te implementeer.

## 15 Sloping

- (1) Indien 'n gemagtigde amptenaar redelike gronde het om te glo dat sloping van 'n gebou 'n noodsaaklike maatreël is ingevolge artikel 10(3)(a) in samehang met artikel 7(3)(d), kan die Stad -
- (a) van die eienaar verwag om die struktuur, gebou of gedeelte van 'n gebou te sloop; of
  - (b) regstappe doen om die eienaar te beveel óf die Stad toestemming te gee om die gebou te sloop indien -
    - (i) die gebou of die verbouing daarvan geen beplanningsgoedkeuring het nie;
    - (ii) die gebou struktureel onveilig is en nie veilig gemaak kan word nie;
    - (iii) die gebou 'n gevaar vir lewe en eiendom is of word;
    - (iv) die eienaar versuim het om aan die maatreëls te voldoen wat ingevolge artikel 10(3)(a) vereis is, en die koste om aan daardie maatreëls te voldoen die slopingskoste oorskry.

(2) 'n Hof kan -

(a) 'n bevel vir die sloping van 'n gebou toestaan indien die hof oortuig is dat die sloping 'n noodsaaklike maatreël is ingevolge artikel 10(3)(a) in samehang met artikel 7(3)(d); en

(b) 'n kostebevel teen die eienaar uitreik, wat die slopingkoste insluit.

## **16 Onteining**

(1) Die Stad kan by die hof aansoek doen om 'n probleemeiendom te onteien indien -

(a) die eienaar versuim om te voldoen aan die maatreëls wat in artikel 10(3)(a) beoog word; en

(b) dit onwaarskynlik is dat die koste om uitvoering te gee aan die vereiste maatreëls ingevolge artikel 10(3)(a) verhaal sal kan word van die eienaar of uit 'n geregtelike veiling van die eiendom na aanleiding van 'n hofbevel om die Stad se koste te verhaal.

## **DEEL 6: AFDWINGING**

### **17 Siviele verrigtinge**

(1) Die Stad of administrateur kan deur middel van siviele verrigtinge en ooreenkomstig die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering, 2006, die volgende van die eienaar verhaal -

(a) enige koste wat aangegaan word om enige maatreël of enige werksaamheid ingevolge hierdie verordening uit te voer; en

(b) enige onbetaalde administratiewe boete wat ingevolge hierdie verordening opgelê is.

## 18 Administratiewe boetes

- (1) 'n Gemagtigde amptenaar kan 'n administratiewe boete oplê vir versuim om aan hierdie verordening of aan enige kennisgewing of verklaring ingevolge hiervan te voldoen.
- (2) Die bedrae van die administratiewe boetes word in bylae A uiteengesit.

## 19 Misdrywe en strawwe

- (1) Behoudens subartikel (5) is 'n persoon skuldig aan 'n misdryf, en by skuldigbevinding strafbaar met 'n strafmaatreeël ingevolge subartikel (2) en (3), indien daardie persoon –
  - (a) enige bepaling van hierdie verordening oortree, of versuim om daaraan te voldoen;
  - (b) enige vereiste in 'n kennisgewing wat ingevolge hierdie verordening aan hom/haar beteken is, oortree, of versuim om daaraan te voldoen;
  - (c) versuim om gehoor te gee aan 'n regmatige opdrag van 'n gemagtigde amptenaar;
  - (d) enige gemagtigde amptenaar in die uitvoering van daardie amptenaar se pligte of werksaamhede ingevolge hierdie verordening dreig, teëgaan, lastig val of verhinder;
  - (e) willens en wetens 'n valse verklaring aflê.
- (2) Enige persoon wat ingevolge hierdie verordening aan 'n misdryf skuldig bevind word, is strafbaar met -
  - (a) 'n boete;
  - (b) tronkstraf vir hoogstens drie jaar; of
  - (c) sowel sodanige boete as tronkstraf.
- (3) In geval van 'n voortgesette misdryf kan die hof ten opsigte van elke dag waarop die misdryf voortduur -
  - (a) 'n bykomende boete oplê;

- (b) tronkstraf vir hoogstens tien dae oplê; of
  - (c) sowel sodanige boete as tronkstraf oplê.
- (4) Die hof kan ingevolge artikel 300 van die Strafproseswet 51 van 1977 enige koste vasstel wat die Stad of administrateur moes aangaan om enige maatreël of werksaamheid ingevolge hierdie verordening uit te voer, en kan 'n gepaste bevel uitreik, wat 'n bevel vir regskoste insluit.
- (5) Indien siviele verrigtinge ingestel word teen enige persoon vir die verhalings van 'n administratiewe boete ingevolge artikel 18(1) met betrekking tot 'n oortreding wat in subartikel (1) beoog word, kan geen strafregtelike verrigtinge ten opsigte van daardie oortreding teen sodanige persoon ingestel word nie.

## **DEEL 7 : ALGEMEEN**

### **20 Appèlle**

Enige persoon wat beswaar maak teen 'n voldoeningskennisgewing, verklaring of administratiewe boete wat deur 'n gemagtigde amptenaar uitgereik is, kan ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), by die Stadsbestuurder appelleer.

### **21 Aanstelling van gemagtigde amptenare**

Die gedelegeerde owerheid kan gemagtigde amptenare aanstel om hierdie verordening te implementeer, en kan sodanige amptenaar as 'n boubeheerbeampte ingevolge artikel 5 van die Wet op Nasionale Bouregulasies aanwys.

### **22 Delegasie**

Die Stadsbestuurder is gemagtig om alle bevoegdhede uit te oefen en alle pligte en werksaamhede uit te voer wat ingevolge hierdie verordening aan die Stad toegeken word, en kan sodanige bevoegdhede en werksaamhede, buiten die bevoegdhede en werksaamhede wat in hierdie artikel en artikel 20 beoog word, aan gemagtigde amptenare delegeer.

### **23 Bevoegdhele van gemagtigde amptenare**

- (1) Wanneer 'n gemagtigde amptenaar 'n eiendom betree, kan hy/sy -
- (a) die eiendom inspekteer of ondersoek;
  - (b) die eienaar, bestuursagent of okkupeerder van die eiendom ondervra;
  - (c) foto's van die eiendom neem;
  - (d) monsters neem en enige dokument, steekproef of item verwyder om as bewysstukke in enige siviele of strafregtelike verrigtinge te dien.
- (2) Behoudens artikel 6(2) kan 'n gemagtigde amptenaar enige bevoegdheid uitoefen wat ingevolge artikel 15 van die Wet op Nasionale Bouregulasies aan 'n boubeheerbeampte toegeken word.

### **24 Vorm van kennisgewings, verklarings en inligtingsborde**

Die Stadsbestuurder moet die vorm van die kennisgewings, verklarings en inligtingsborde bepaal wat ingevolge hierdie verordening uitgereik of opgerig moet word.

### **25 Betekening van kennisgewings**

- (1) Wanneer ook al enige kennisgewing of verklaring ingevolge hierdie verordening aan 'n persoon beteken moet word, sal dit as behoorlik en voldoende beteken beskou word -
- (a) wanneer dit persoonlik by daardie persoon afgelewer is;
  - (b) wanneer dit gelaat is by iemand wat oënskynlik ouer is as 16 jaar by daardie persoon se woon- of werkplek of geregistreerde adres in die Republiek van Suid-Afrika;
  - (c) wanneer dit met geregistreerde of aangetekende pos gestuur is na daardie persoon se laaste bekende woon- of werksadres, en sodanige versending bewys kan word; of
  - (d) wanneer dit op 'n opsigtelike plek op die gebou of eiendom aangebring is.



- (2) Betekening aan enige van die volgende persone of by enige van die volgende adresse kom neer op betekening aan die eienaar van die eiendom:
- (a) 'n agent wat deur die eienaar aangestel is om die eiendom te verkoop, te verhuur of te bestuur;
  - (b) 'n persoon wat as toesighouer oor die eiendom aangestel is;
  - (c) 'n persoon wat skynbaar in beheer is van die eiendom, of wat huur van okkupeerders van die eiendom invorder.

## **26 Vrywaring**

Nóg die Stad nóg enige gemagtigde amptenaar is aanspreeklik vir enige skade wat veroorsaak word deur enige regmatige doen of late deur die Stad of die gemagtigde amptenaar in die uitvoering van enige werksaamheid of plig ingevolge hierdie verordening.

## **27 Herroeping**

Die Stad Kaapstad: Verordening op Probleemgeboue, 2010, wat in Provinsiale Koerant 6767 van 31 Maart 2010 verskyn het, word hiermee herroep.

## **28 Kort titel**

Hierdie verordening is bekend as die Stad Kaapstad: Verordening op Probleemeiendomme, 2019.

## BYLAE A: BOETES

Die Stad kan die volgende administratiewe boetes met betrekking tot die oortreding van die tersaaklike toepaslike artikels van hierdie verordening oplê.

- (1) Ten opsigte van artikel 7(2)(iii) in samehang met artikel 8(1)(c), ingeval die eienaar versuim om aan 'n voldoeningsbevel gehoor te gee, kan die Stad 'n aanvanklike boete van tussen R20 000 en R50 000 oplê en, behoudens item (2), 'n bykomende boete van R10 000 vir elke dag daarná, totdat daar voldoen word aan die maatreëls wat die voldoeningskennisgewing beoog.
- (2) Die boetes sal aanhou oploop tot en met die datum waarop die eiendom vir doeleindes van artikel 10 tot 'n problemeiendom verklaar word.
- (3) Indien die verklaring ingevolge artikel 10 gedoen is en die eienaar steeds versuim om die maatreëls in subartikel 10(2) en (3) te tref, kan 'n verdere boete opgelê word, waarvan die bedrag bereken word teen 10% van die munisipale waardasie van die eiendom ingevolge die bepalings van die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, 2004 (Wet 6 van 2004).

## UMTHETHO OSAYILWAYO WEEPROPATI EZIYINGXAKI

### IMBULAMBETHE

**Kuthathelwa ingqalelo** umsebenzi onikwe oomasipala ngokomgaqosiseko wokulawula izakhiwo ezikwiingqiqi zabo nokulawula ingxolo ephazamisa uluntu;

**Kuthathelwa ingqalelo** isidingo sokuchonga iipropati eziyingxaki nokuthatha amanyathelo adingekayo ukuqinisekisa ukuthotyelwa kwemithetho kamasipala yeSixeko, imigaqonkqubo, izicwangciso nemithetho kamasipala enento yokwenza neepropati nokusetyenziswa kweepropati;

**Yaye kuthathelwa ingqalelo** into yokuba eyona njongo iphambili yalo Mthetho kaMasipala luthotyelo-mithetho endaweni yodilizo nokokha ngokutsha;

**Mawumiselwe ngoko** liBhunga leSixeko saseKapa ngolu hlobo lulandelayo:

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## ISIQENDU 1: IINKCAZELO NOKUSETYENZISWA

### 1 Iinkcazelo

Kulo Mthetho kaMasipala, ngaphandle kokuba imeko ibhekisa kwenye into-

**“igosa eligunyazisiweyo”** lithetha umsebenzi weSixeko onoxanduva lokwenza nawuphi na umsebenzi okanye asebenzise nawuphi na amagunya ngokwalo Mthetho kaMasipala okanye nawuphi na omnye umthetho kamasipala ochaphazelekayo yaye ubandakanya umsebenzi onikwe loo misebenzi okanye onikwe loo magunya;

**“isakhiwo”** sibandakanya-

- (a) nasiphi isakhiwo, nokuba sesokuhlala ixeshana okanye sesokuhlala isigxina yaye akukhathaliseki ukuba sakhiwe ngemathiriyeli enjani, esakhelwe okanye esisetyenziselwa-
  - (i) ukuhlalisa abantu okanye ukulungisela abantu okanye izilwanyana;
  - (ii) ukwenza imveliso, ukuprosesa, ukugcina, ukubonisa okanye ukuthengisela naziphi izinto;
  - (iii) ukunikeza nayiphi na inkonzo;
  - (iv) ukutshabalalisa okanye ukucoca inkunkuma okanye imathiyeli yenkunkuma;
  - (v) ukutyala okanye ukukhulisa nasiphi isityalo;
- (b) naluphi udonga okanye inxalenye yesakhiwo;

**“ISixeko”** sithetha iSixeko saseKapa, umasipala omiselwe kulandelwa iSaziso soMiselo seSixeko saseKapa esinguNombolo 479 sowe-22 kweyoMsintsi (Septemba) 2000, esikhutshwe kulandelwa umthetho iLocal Government: Municipal Structure Act, 1998 (Umthetho Nomb. 117 wango-1998) okanye nasiphi isigqeba okanye umsebenzi weSixeko osebenza ngokwegunya alinikiweyo;

**“indawo yokulahla inkunkuma enikwe ilayisenisi”** ithetha isiza, okanye indawo enelayisenisi ekhutshwe ngokweNational Environmental Management: Waste Act, 2008 (Umthetho Nomb. 59 wango-2008) ekupakishwa kuyo okanye ekulahlwa kuyo inkunkuma;

**“iNational Building Regulations Act”** ngumthetho iNational Building Regulations and Building Standards Act, 1977 (Umthetho Nomb.103 wango-1977);

**“umnini”** uthetha-

- (a) umntu okanye itrasti ekubhaliswe ngayo ipropati kwiofisi yokubhaliswa kwezinto zabantu; okanye
- (b) ukuba ipropati leyo iyinxalenye yesakhiwo esinezindlu ngezindlu, umnini obhalisiweyo walo ndlu ikwezo zindlu;

**“ipropati eyingxaki”** ithetha nayiphi ipropati ebhengezwe phantsi kwecandelo 10 njengepropati eyingxaki;

**“ipropati”-**

- (a) ithetha nawuphi umhlaba obhaliswe kwiincwadi zobhaliso ezisemthethweni njengento ezimeleyo esisiza, iploti, ifama, isitendi okanye indawo yezolimo yaye ibandakanya nayiphi na iyunithi nomhlaba oxelwe kwiSectional Title Act, 1986 (Umthetho Nomb. 95 wango-1986); kanaanjalo
- (b) ibandakanya nasiphi isakhiwo esikuloo mhlaba.

## **2 Ukusetyenziswa kwalo Mthetho kaMasipala**

Lo Mthetho kaMasipala usebenza kuzo zonke iipropati ezilawulwa neziphantsi kommandla weSixeko kuquka iipropati zikaRhulumente.

## **ISIQENDU 2: UMSEBENZI NOXANDUVA LWABANINI**

### **3 Umsebenzi wabanini**

- (1) Umnini ngamnye wepropati kufuneka-
  - (a) agcine ipropati ikwimo efanelekileyo, ayilungise yaye ihlale ikhuselekile;
  - (b) azise iSixeko ukuba imeko yayo nayiphi ipropati inobungozi kubomi babantu ngokwemiqathango yecandelo 12(2) lomthetho iNational Building Regulations Act;
  - (c) angavumeli ukuba kuhlalwe kuyo ngokungekho mthethweni yaye angavumeli ukuba isetyenziselwe ulwaphulo-mthetho; kananjalo
  - (d) angavumeli ukuba kulahlwe inkunkuma kwipropati yakhe.
- (2) Xa kusakhiwa isakhiwo, umnini wepropati kufuneka aqhubeke nokusakha engalibazisi yaye xa sisakhiwa kufuneka athathe amanyathelo okuqinisekisa ukuba akungeni bantu abangagunyaziswanga ukuba babe kweso sakhiwo.
- (3) Ukulungiselela icandelwana (2), ulibaziseko luthetha isithuba esingaphezu kweenyanga ezintathu.

### **4 Uxanduva lokuthatha amanyathelo**

- (1) Ukuba kuhleliwe kwipropati ngokungekho mthethweni okanye ipropati isetyenziselwa izezo zolwaphulo-mthetho, umnini kufuneka athathe amanyathelo afunekayo okukhupha abantu abahlala apho.
- (2) Ukuba kulahlwe inkunkuma kwipropati okanye yapakishwa kuyo, umnini kufuneka ayisuse inkunkuma ayithuthe ayise kwiziko elibhaliswe ngokusemthethweni elinelayisenisi yendawo yokulahla ngeendleko zomnini.

### **5 Uxanduva lwabanini lomonakalo neendleko**

- (1) Umnini unoxanduva lweendleko ezichithwe siSixeko ukwenza oku-
  - (a) ukumenteyina, ukulungisa, ukuhlaziya, okanye ukutshintsha ipropati;
  - (b) ukukhusela, ukuvala okanye ukubeka imiqobo kwipropati;



- (c) ukuchitha isakhiwo esikwipropati; okanye
  - (d) ukunyanzelisa uthotyelo-mthetho lwalo Mthetho kaMasipala.
- (2) Nawuphi umonakalo neendleko kufuneka zihlawulwe ngumnini kwiSixeko xa zifunwa.

### **ISIQENDU 3: UPHANDO NEMIALELO YOTHOTYELO-MITHETHO**

#### **6 Uphando**

- (1) Kulandelwa imiqathango yecandelwana (2), igosa eligunyazisiweyo lingangena kuyo nayiphi ipropati ngexesha elamkelekileyo ukuhlola nokuqinisekisa ukuba ingaba umnini wepropati uyawuthobela lo Mthetho kaMasipala na.
- (2) Igosa eligunyazisiweyo lingangena kwipropati ngokwecandelwana (1) kuphela-
- (a) ngemvume yomnini okanye umntu ohlala apho;
  - (b) emva kokukhupha isaziso esibhaliweyo seentsuku ezisi-7 esiya kumnini okanye umntu ohlala apho senjongo yokuhlola loo propati;
  - (c) ngesinyanzeliso senkundla (iwaranti) sokungena nokusetsha ipropati esikhutshwe yimantyi; okanye
  - (d) xa kungekho sinyanzeliso senkundla (iwaranti), igosa eligunyazisiweyo lingahlola ipropati ukuba likholelwa ukuba ulibaziso lwewaranti luza kuphazamisa injongo yokuya kuhlola loo propati.
- (3) Iwaranti yokusetsha ingakhutshwa xa kubonakala, ngokweenkcukacha ezinikiweyo, ukuba kukho izizathu ezivakalayo zokukholelwa ukuba kuloo propati kuhleli abantu kuyo ngokungekho mthethweni okanye lo propati isetyenziselwa ulwaphulo-mthetho.
- (4) Igosa eligunyazisiweyo lingathi likhatshwe ngumntu okwazi ukwenza umsebenzi oyokwenziwa apho njengoko kuxeliwe kwiSiqu A 19 seNational Building Regulations Act oyalelwe ukuba ahlole isakhiwo ze anike ingxelo ngemo yesakhiwo kunye nawo nawuphi amanyathelo emakathatyathwe.

- (5) Isaziso esikhutshwe ngokwecandelwana (2)(b) sivumela igosa eligunyazisiweyo ukuba lingene kwipropati ngokwecandelwana (1), nakangaphi na ukuba nje linikeze isaziso esibhaliweyo esisenokuba ngaphantsi kweseentsuku ezisi-7.

## **7 Isaziso sothotyelo-mthetho**

- (1) Igosa eligunyazisiweyo lingakhupha isaziso sothotyelo-mthetho esiya kumnini wepropati ukuba igosa libona ukuba-

(a) umnini usilele ukwenza umsebenzi womnini phantsi kweSiqendu 2; yaye

(b) olo silelo lungalungiswa kungenziwanga isibhengezo sepropati eyingxaki ngokwesiqendu 4.

- (2) Isaziso sothotyelo-mthetho kufuneka-

(a) sixele-

(i) amanyathelo ekufuneka umnini awathathe ukulungisa ukungenzi kwakhe imisebenzi yomnini ebhalwe phantsi kweSiqendu 2;

(ii) isithuba esamkelekileyo emakuthathwe ngaso amanyathelo;

(iii) ubungakanani besohlwayo sentlawulo sokophula imiqathango ebekwe liziko, ukuba umnini uyasilela ukuthobela imihlathana (i) no-(ii); yaye

(iv) umhla umnini anokuza kucela ukuba kutshintshwe okanye kurhoxiswe isaziso.

(b) sibhalwe ngohlobo oluxelwe nguMphathi weSixeko ngokwemiqathango yecandelo 24.

- (3) Amanyathelo axelwe kwicandelwana (2)(a) abandakanya-

(a) ukucoca, ukulungisa, ukupeyinta kwakhona, ukulungisa okanye ukutshintsha indlela ejongeka ngayo ipropati;

(b) ukubiyela ipropati;

(c) ukugqibezela ulwakhiwo lwesakhiwo okanye isakhelo sepropati;

(d) ukuvala okanye ukuchitha isakhiwo okanye inxalenye yesakhiwo;

- (e) ukulahla, okanye ukususa, nayiphi inkunkuma elahlwe okanye egcinwe kwipropati
- (4) Igosa eligunyazisiweyo lingawutshintsha umyalelo wothotyelo-mithetho emva kokufumana into evela kumnini exelwe kwicandelwana (2)(a)(iv).

## **8 Ukusilela ukuthobela umyalelo wothotyelo-mthetho**

- (1) Ukuba umnini wepropati uyasilela ukuthobela umyalelo wothotyelo-mthetho okhutshwe ngokwemiqathango yecandelo 7, igosa eligunyazisiweyo -
- (a) lingongeza isithuba okanye litshintshe umyalelo wothotyelo-mithetho;
- (b) lingabhengeza ipropati njengepropati eyingxaki ngokwemiqathango yecandelo 10;
- (c) kufuneka limisele isohlwayo sentlawulo sokophula imiqathango ebekwe liziko esixelwe kwicandelo 7(2)(a)(iii).
- (2) Umnini oxelwe kwicandelwana (1) unoxanduva lweendleko ezichithiweyo zokuhlawula umntu oyingcali oqeshelwe ukuba aye kuhlola ze anike ingxelo ngemo yesakhiwo kunye nangamanyathelo emakathatyathwe ngokwemiqathango yecandelo 6(4).

## **ISIQENDU 4: UKUBHENGEZWA KWEPROPATI EYINGXAKI**

### **9 Isaziso senjongo yokubhengeza ipropati eyingxaki**

- (1) Igosa eligunyazisiweyo lingakhupha isaziso senjongo yokubhengeza ipropati njengepropati eyingxaki ukuba igosa linezizathu ezivakalayo zokukholelwa ukuba ipropati-
- (a) ayihlali mntu;
- (b) kuhleliwe kuyo ngokungekho mthethweni okanye igcwele ngokugqithisileyo;
- (c) iyingxaki ngokwempilo, imdaka, idlakadlaka okanye ikwimeko embi;
- (d) kufakelwe umbane ngokungekho mthethweni okanye imibhobho yogutyulo ayikho mthethweni;

- (e) isetyenziselwa ulwaphulomthetho;
  - (f) ithe, inganikwanga mvume yokujika iplani yolwakhiwo lwayo, yatshintshwa ukuze kungakwazi ukungena kuyo aMapolisa oMzantsi Afrika, aMapolisa eSixeko, amagosa enza uhlolo kunye namagosa agunyazisiweyo ngaphandle kokunika isaziso kusenzelwa ukuba kube nzima ukwenza uphando kuloo propati;
  - (g) ayakhiwanga ngendlela eyiyo okanye inobungozi kubomi babantu;
  - (h) isetyenziselwa ukulahla inkunkuma okanye ivunyelwa ukuba igcwale inkunkuma;
  - (i) eyekwe phakathi ukokhiwa yaye ulwakhiwo alwaqhubeka kwadlula iinyanga ezintathu.
- (2) Isaziso kwicandelwana (1) kufuneka-
- (a) sinike umnini iintsuku ezisi-7 ukuba anike inkcazelo yokuba kutheni eso sakhiwo singenakubhengezwa njengepropati eyingxaki yaye kutheni amanyathelo axelwe kwicandelwana (b) kufuneka etshintshiwe okanye arhoxiswe;
  - (b) sichaze amanyathelo nexesha okanye isithuba amanyathelo ekufuneka ethathwe ngaso ukunqanda ukuba eso sakhiwo sibhengezwe njengepropati eyingxaki.
- (3) Ukuba kwinkcazelo umnini uyazibophelela, ngembalelwano, ukuthatha amanyathelo axelwe kwicandelwana (2)(b), ngokwemiqathango ebekwe ligosa eligunyazisiweyo, igosa lingasimisa isigqibo semiqathango yecandelo 10(1).

## **10 Ukubhengezwa kwesakhiwo esiyingxaki**

- (1) Igosa eligunyazisiweyo lingabhengeza isakhiwo isakhiwo esiyingxaki ukuba-
- (a) umnini uyasilela ukuthobela isaziso sothotyelo-mthetho esikhutshwe ngokwemiqathango yecandelo 7(1);
  - (b) umnini uyasilela ukunika inkcazelo;

- (c) inkcazelo inikiwe, kodwa igosa lisenezezizathu ezivakalayo sokubhengeza eso sakhiwo njengesakhiwo esiyinxaki;
  - (d) umnini uyasilela ukuthobela isibophelelo asenze ngokwemiqathango yecandelo 9(3).
- (2) Isibhengezo, esenziwe ngokwendlela egqitywe nguMphathi weSixeko ngokwemiqathango yecandelo 24, kufuneka sichaze amanyathelo nemihla ekufuneka kuthathwe amanyathelo ngayo ngumnini.
- (3) Amanyathelo exelwe kwicandelwana (2) abandakanya-
- (a) naliphi inyathelo elixelwe kwicandelo 7(3);
  - (b) umyalelo wokukhutshwa kwipropati ukuba igosa linezizathu zokukholelwa ukuba loo propati ayikhuselekanga yaye kufuneka kukhutshwe kuyo abantu ngokukhawuleza;
  - (c) isinyanzeliso sokuba umnini athathe amanyathelo adingekayo okukhupha abantu abahlala kuloo propati.
- (4) Inyathelo elixelwe kwicandelwana (3)(c) lingafuna kuphela umnini ukuba alandele iinkqubo zenkundla yomthetho ukukhupha abantu abahlala kwipropati ukuba-
- (a) abantu abahlala kulo propati bahleli ngokungekho mthethweni okanye;
  - (b) isakhiwo sisetyenziselwa ulwaphulo-mthetho;
  - (c) ukwenzelwa ukhuselo nokhuseleko lwabantu abahlala apho okanye uluntu okanye bonke, abantu kufuneka bekhutshwe okwethutyana okanye isigxina; okanye
  - (d) elinye lamanyathelo axelwe kwicandelwana (3)(a) lifunisa ukuba isakhiwo sikhe singabi namntu, bakhutshwe okwethutyana okanye isigxina ukuze kwenziwe ulungiso kwipropati okanye kuchithwe isakhiwo okanye into eyakhiwe kuloo propati.
- (5) ISixeko kufuneka-
- (a) sihambise isibhengezo kumnini;

(b) ngeendleko zomnini, sixhome iibhodi zeempawu ze sipapashe izaziso kumaphephandaba asekuhlaleni sisazisa uluntu ukuba isakhiwo sibhengezwe njengesakhiwo esiyinxaki kuchazwe amanyathelo emakathatyathwe kunye nayiphi na eminye imiyalelo okanye iimfuno zokungena kwisakhiwo okanye ukuhlala kuso, konke oko kuchazwe kwisibhengezo.

## **11 Ukusilela komnini ukuthobela isibhengezo**

(1) Ukuba umnini uyasilela ukuthobela naliphi inyathelo elifunekayo ngokwecandelo 10(2), iSixeko singathi-

(a) simnike isohlwayo sentlawulo sokophula imiqathango esibekwe liziko ngokwemiqathango yecandelo 18; yaye

(b) singathatha amanyathelo abandakanya ukuya enkundleni ukufumana umyalelo wenkundla oxelwe kwiSiquendu 6; okanye

(c) singafaka isicelo kwinkundla ukuba kutyunjwe umlawuli kulandelwa icandelo 12.

(2) Ukuba iSixeko siphumeza inyathelo elikwicandelwana (1)(b), umnini unoxanduva lweendleko zokuphumeza eloo nyathelo.

## **ISIQENDU 4: UKUTYUNJWA KOMLAWULI**

### **12 Ukutyunjwa koMlawuli**

(1) ISixeko singafaka isicelo kwiNkundla sokutyunjwa komlawuli ukuba ipropati okanye isakhiwo sibhengezwe njengepropati eyinxaki ngokwemiqathango yecandelo 10 yaye iNkundla ingatyumba umlawuli ngokwemiqathango ebona ifanelekile ngokwemeko leyo ukuze kuphunyezwe amanyathelo aqulethwe kwisibhengezo.

(2) Intlawulo neendleko zomlawuli ziya kutsalwa xa kubuyiswa iindleko eziza kutsalwa kumnini.

- (3) Umlawuli otyunjwe yiNkundla unamagunya nomsebenzi womnini obhalisiweyo wepropati, kubandakanywa amagunya nemisebenzi enothi yalélwe yiNkundla:
- (a) yokuthatha irenti nezinye iindleko kubantu abahlala kuloo propati;
  - (b) Ukumenteyina, ukulungisa okanye ukuvuselela ipropati eyingxaki kusetyenziswa irenti ehlawulweyo okanye imali esuka kweminye imithombo yenkxasomali;
  - (c) Ukuhlawula iindleko zombane, amanzi, ucoceko, iireyithi neerhafu kuloo mali yerenti okanye kwimali esuka kweminye imithombo yenkxasomali;
  - (d) Ukutyunjwa kwekomiti yokuncedisa ukulawula ipropati eyingxaki;
  - (e) Ukuvula nokusebenzisa iakhawunti yebhanki;
  - (f) Naliphi elinye inyathelo-
    - (i) elidingekayo ukuphumeza amanyathelo axelwe kwicandelo 10(2)(a);
    - (ii) elixelwe kwiSiqendu 5;
    - (iii) ekudingeka ukuba lithathwe ukulawula ipropati eyingxaki;
    - (iv) ebelinokuthathwa ngumnini ngokwesiqhelo ukulawula ipropati eyingxaki.
- (4) Umlawuli kufuneka angenise la maxwebhu alandelayo kumnini, iSixeko nakwiNkundla-
- (a) Ingxelo qho ngenyanga ngokohlobo oluxelwe nguMphathi weSixeko ngokwemiqathango yecandelo 24;
  - (b) Ingxelo yokugqibela ngokohlobo oluxelwe nguMphathi weSixeko ngokwemiqathango yecandelo 24 xa umlawuli egqibile ukwenza umsebenzi awunikiweyo.
- (5) INkundla ingathi, ngokubona kwayo, okanye xa umnini okanye iSixeko sifake isicelo -,
- (a) ifake omnye umlawuli endaweni yalowo ebetyunjiwe;

- (b) ifune ukuba umlawuli anike ingxelo okanye izizathu zalo naliphi inyathelo alithathileyo ngokwecandelwana (3);
- (c) ijike okanye yenze izilungiso kuso nasiphi isigqibo esithathwe ngumlawuli ngokwecandelwana (3);
- (d) iyekise umsebenzi onikwe umlawuli.

## **ISIQENDU 5: UKUKHUTSHWA, UKUSUSWA NOKUCHITHWA KWESAKHIWO**

### **13 Ukukhutshwa**

- (1) Ukuba isakhiwo sibhengezwe njengepropati eyingxaki ngokwemiqathango yecandelo 10(1) yaye igosa eligunyazisiweyo linezizathu ezivakalayo zokukholelwa ukuba isakhiwo sinobungozi kubomi babantu nakwipropati yaye kudingeka ukuba kukhutshwe abantu ngoko nangoko kuloo propati-
  - (a) igosa lingenza umyalelo onyanzelisa ukukhutshwa kwabantu kwipropati njengoko kuxeliwe kwicandelo 10(3)(b); yaye
  - (b) ukuba umyalelo awuthotyelwa, iSixeko singafaka isicelo esingxamisekileyo kwinkundla somyalelo-
    - (i) onyanzelisa bonke abantu abakuloo propati ukuba baphume kwipropati;
    - (ii) wokunqanda nawuphi na umntu ukuba angene ipropati.
- (2) Inkundla ingathi-
  - (a) inike umyalelo oxelwe kwicandelwana (1)(b) ukuba yanelisekile ukuba isakhiwo asikhuselekanga sokuba kukhutshwe abantu ngoko nangoko kuloo propati;
  - (b) ifune ukuba umnini abonelele ngendawo yokuhlala yethutyana yabantu abahlala kweso sakhiwo bakhutshwa kuso;
  - (c) yenze, ukongeza kuwo nawuphi umyalelo weendleko emazihlawulwe ngumnini, umyalelo weendleko zokumisela lo myalelo.



- (3) Lityala kuye nawuphi na umntu ukungathobeli umyalelo oxelwe kwicandelwana (2)(a).

#### **14 Ukususwa**

- (1) Ukuba igosa eligunyazisiweyo linezizathu ezivakalayo zokukholelwa ukuba ukususwa kwabantu linyathelo elidingekayo ngokwemiqathango yecandelo 10(3)(c) ukuphumeza iinjongo zoMthetho kaMasipala, iSixeko singathi-

(a) sifune ukuba umnini athathe amanyathelo adingekayo nasemthethweni ukukhupha abantu abahlala kwipropati; okanye

(b) lingafuna umnini ukuba alandele iinkqubo zenkundla yomthetho ukususa abantu abahlala kwipropati ngezi zizathu zilandelayo-

(i) abantu bahlala kulo propati bahleli ngokungekho mthethweni okanye;

(ii) ipropati isetyenziselwa ulwaphulo-mthetho;

(iii) ukwenzelwa ukhuselo nokhuseleko lwabantu abahlala apho okanye uluntu; yaye

(c) sijoyine umnini kwinkqubo yenkundla exelwe kumhlathi (b) ze ngaphezu kweendleko zomyalelo sifune ukuba umnini ahlawule iindleko zokumisela umyalelo.

- (2) Inkundla ingathi-

(a) inike umyalelo oxelwe kwicandelwana (1)(b) no-(c) ukuba ukuba yanelisekile ukuba ukususwa linyathelo elidingekayo ngokwemiqathango yecandelo 10(3)(c) ukuphumeza injongo yoMthetho kaMasipala;

(b) ingenza ukuba, ngaphezu kweendleko zomyalelo ifune ukuba umnini ahlawule iindleko zokumisela umyalelo umyalelo.

#### **15 Ukuchithwa**

- (1) Ukuba igosa eligunyazisiweyo linezizathu ezivakalayo zokukholelwa ukuba ukuchithwa kwesakhiwo linyathelo elidingekayo ngokwemiqathango yecandelo 10(3)(a) elifundwa necandelo 7(3)(d), iSixeko singathi-

- (a) sifune ukuba umnini ukuba achithe isakhiwo okanye inxalenye yesakhiwo; okanye
  - (b) aqale inkqubo kwinkundla zomyalelo oyalela ukuba umnini okanye ogunyazisa iSixeko ukuba sichithe isakhiwo ngesizathu okanye ngezi zizathu zilandelayo-
    - (i) isakhiwo okanye izilungiso kuso zenziwe ngaphandle kwemvume yokulandela iplani yesakhiwo;
    - (ii) isakhiwo asikhuselekanga ngokobume yaye asinakukwazi ukwenziwa ukuba sibe sesikhuselekileyo;
    - (iii) isakhiwo sinobungozi kubomi babantu nakwipropati;
    - (iv) umnini usilele ukuthobela amanyathelo akhutshwe ngokwemiqathango yecandelo 10(3)(a) neendleko zokuthobela loo manyathelo zingaphezu kweendleko zokuchithwa kwesakhiwo.
- (2) Inkundla ingathi-
- (a) inike umyalelo wokuchithwa kwesakhiwo ukuba yanelisekile ukuba ukuchithwa linyathelo elidingekayo ngokwemiqathango yecandelo 10(3)(a) elifundwa necandelo 7(3)(d); yaye
  - (b) yenze umyalelo wokuhlawulwa kweendleko ngumnini kubandakanywa iindleko zokuchithwa kwesakhiwo.

## 16 Ukuxutha

- (1) ISixeko singafaka isicelo kwinkundla sokuxutha ipropati eyingxaki ukuba -
- (a) umnini uyasilela ukuthobela amanyathelo axelwe kwicandelo 10(3)(a); yaye
  - (b) akukho ndlela yokuba iindleko zokuthathwa kwamanyathelo adingekayo ngokwemiqathango yecandelo 10(3)(a) zingafumaneka kumnini okanye ngokuyithengisa loo propati emva kokulandela umyalelo wenkundla wokufumana iindleko zeSixeko.

## **ISIQENDU 6: UNYANZELISO-MTHETHO**

### **17 Ukuhlawulisa ngokwenkqubo yomthetho**

- (1) ISixeko okanye umlawuli angathi elandela inkqubo yokuhlawulisa ngokwenkqubo yomthetho, nangokoMthetho kaMasipala weSixeko saseKapa: woLawulo lweKhredithi naMatyala, wango-2006, angafumana kumnini-
  - (a) naziphi iindleko ezisetyenziswe ekuthatheni naliphi inyathelo okanye ekwenzeni nawuphi umsebenzi ngokwalo Mthetho kaMasipala; kunye
  - (b) nasiphi isohlwayo sentlawulo sokophula imiqathango ebekwe liziko esingahlawulangwa esibekwe kulandelwa lo Mthetho kaMasipala.

### **18 Iintlawulo zezohlwayo zeziko**

- (1) Igosa eligunyazisiweyo lingabeka isohlwayo sentlawulo sokophula imiqathango ebekwe liziko ngokusilela ukuthobela lo Mthetho kaMasipala okanye nasiphi isaziso okanye isibhengezo esenziwe kulandelwa wona.
- (2) Izixa zeentlawulo zezohlwayo zeziko zichazwe kwiShedyuli A.

### **19 Amatyala nezohlwayo**

- (1) Kulandelwa imiqathango yecandelwana (5), umntu unetyala yaye xa egwetyiwe, uya kuhlawula isohlwayo ngokwamacandelwana (2) no(3), ukuba loo mntu –
  - (a) wophule okanye uyasilela ukuthobela nawuphi umqathango walo Mthetho kaMasipala;
  - (b) wophule okanye uyasilela ukuthobela naziphi iimfuno zesaziso asinikiweyo ngokwalo Mthetho kaMasipala;
  - (c) uyasilela ukuthobela umyalelo osemthethweni wegosa eligunyazisiweyo;
  - (d) uyagrogrisa, uyala, ungenelela okanye uphazamisa naliphi igosa eligunyazisiweyo ekwenzeni umsebenzi walo osemthethweni ngokwalo Mthetho kaMasipala;
  - (e) wenza ingxelo engenabunyani esazi ukuba uyaphosisa.

- (2) Nawuphi na umntu ogwetyelwe ityala phantsi kwalo Mthetho kaMasipala uya kuhlawuliswa-
  - (a) imali yesohlwayo;
  - (b) unokuthi avalelwe etrongweni isithuba esingekho ngaphezu kweminyaka emi-3; okanye
  - (c) loo ntlawulo kunye nokuvalelwa etrongweni.
- (3) Xa umntu eqhubeka esophula umthetho, iNkundla ingamnika isigwebo sosuku ngalunye esaphula umthetho-
  - (a) imali yesohlwayo eyongeziweyo;
  - (b) ukuvalelwa etrongweni isithuba esingekho ngaphezu kweentsuku ezili-10; okanye
  - (c) loo ntlawulo kunye nokuvalelwa etrongweni,
- (4) INkundla ingathi ngokwemiqathango yecandelo 300 leCriminal Procedure Act, igqibe ngendleko ezichithwe siSixeko okanye umlawuli ekuphumezeni naliphi inyathelo okanye ekwenzeni nawuphi umsebenzi ngokwalo Mthetho kaMasipala ze yenze umyalelo ofanelekileyo weendleko zomthetho.
- (5) Ukuba ukuhlawulisa ngokwenkqubo yomthetho sele kwenziwe ngesohlwayo sentlawulo sokophula imiqathango ebekwe liziko ngokwemiqathango yecandelo 18(1) kuye nawuphi na umntu owaphule imiqathango exelwe kwicandelwana (1), loo mntu akanakubanjiselwa olo lwaphulo-mthetho.

## **ISIQENDU 7: IMIBA-GABALALA**

### **20 Izibheno**

Nawuphi na umntu, ochasa isaziso sothotyelo-mthetho, isibhengezo okanye isohlwayo sentlawulo sokophula imiqathango ebekwe liziko, esikhutshwe ligosa eligunyazisiweyo, angafaka isibheno kuMphathi weSixeko ngokwemiqathango yecandelo 62 leLocal Government: Municipal Systems Act, 2000 (Umthetho 32 wango-2000).

## **21 Ukutyunjwa kwamagosa agunyazisiweyo**

Ugunyaziwe onikwe igunya angathi atyumbe amagosa agunyazisiweyo ukuba amisele lo Mthetho kaMasipala yaye angathi atyumbe igosa njengegosa lolawulo lwesakhiwo ngokwemiqathango yecandelo 5 leNational Building Regulations Act.

## **22 Unikezo-magunya**

UMphathi weSixeko unegunya lokusebenzisa amagunya akhe nokwenza umsebenzi awunikwe siSixeko phantsi kwalo Mthetho kaMasipala yaye angathi anike loo magunya nalo msebenzi kumagosa agunyazisiweyo ngaphandle kwamagunya nomsebenzi oxelwe kweli candelo nakwicandelo 20.

## **23 Amagunya amagosa agunyazisiweyo**

(1) Igosa eligunyazisiweyo lingathi, xa lingena kwipropati-

- (a) lihlole okanye liphande ipropati;
- (b) libuze umnini, iarhente elawula isakhiwo okanye umntu ohlala kwipropati;
- (c) lithathe iifoto zepropati;
- (d) lithathe iisampula ze lisuse namaxwebhu, isampula into eliza kuyisebenzisa njengobungqina xa kuxoxwa ityala elo.

(2) Kulandelwa imiqathango yecandelo 6(2), igosa eligunyazisiweyo linganika igunya igosa lolawulo lwesakhiwo ngokwemiqathango yecandelo 15 leNational Building Regulations Act.

## **24 Uhlobo lwezaziso, izibhengezo neebhodi zeesayini**

UMphathi weSixeko kufuneka agqibe ngohlobo lwezaziso, izibhengezo neebhodi zeesayini emazikhutshwe okanye zixhonywe ngokwalo Mthetho kaMasipala.

## 25 Ukuhanjiswa kwezaziso

- (1) Qho xa kufuneka ukuba nasiphi isaziso okanye isibhengezo sisiwe kumntu ngokwalo Mthetho kaMasipala, kuthathwa ukuba sikhutshiwe okanye sisiwe -
  - (a) xa sisiwe saze sanikwa loo mntu ngqo esandleni;
  - (b) xa sishiywe kumntu oneminyaka engaphezu kweyi-16 kwindlu ehlala loo mntu okanye kwishishini lakhe okanye kwidilesi ebhaliswe kwiRiphabliki yoMzantsi Afrika;
  - (c) xa siposiwe ngeposi erejistarishiweyo okanye eqinisekisiweyo eya kwidilesi eyaziwayo yaloo mntu okanye idilesi yomsebenzi yaye kugcinwe ubungqina bokuposwa kweso saziso; okanye
  - (d) xa sixhonywe kwindawo ebonakalayo ekwisakhiwo okanye ipropati.
- (2) Xa kunikwe isaziso kwaba bantu balandelayo okanye kwezi dilesi, kuthathwa ukuba isaziso sinikwe umnini wepropati:
  - (a) i-arhente etyunjwe ngumnini ukuba athengise, arentise okanye alawule ipropati;
  - (b) umntu otyunjwe ukuba alawule ipropati;
  - (c) umntu ophethe kuloo propati okanye oqokelela irenti kubantu abahlala kuloo propati.

## 26 Ukungabi nabutyala

ISixeko kunye naliphi igosa eligunyazisiweyo asinatyala lawo nawuphi umonakalo owenzeke kusenziwa into esemthethweni okanye into engenziwanga siSixeko okanye igosa eligunyazisiweyo xa belisenza nawuphi umsebenzi ngokwalo Mthetho kaMasipala.

## 27 Utshitshiso

UMthetho kaMasipala weSixeko saseKapa: weZakhiwo eziyiNgxaki, 2010 njengoko upapashwe kwiGazethi yePhondo 6767 yowe-31 kweyoKwindla (Matshi) 2010 uyatshitshiswa.

## 28 Isihloko esifutshane

Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala weSixeko saseKapa: weZakhiwo eziyiNgxaki, 2019.

### ISHEDYULI A: IINTLAWULO ZEZOHLWAYO

ISixeko singathi sihlawulise ezi ntlawulo zezohlwayo zeziko zilandelayo xa kophulwe amacandelo achaphazelekayo alo Mthetho kaMasipala.

- (1) Ngokwecandelo 7(2)(iii) elifundwa necandelo 8(1)(c), ukuba umnini uyasilela ukuthobela umyalelo wothotyelo-mthetho, iSixeko singathi simhlawulise imali yesohlwayo ephakathi kweR20 000 neR50 000 ze ngokuxhomekeke kumba (2), simhlawulise enye imali eyongezelelekileyo eyiR10 000 ngosuku ngalunye emva koko, de athathe onke amanyathelo axelwe kwisaziso sothotyelo-mthetho.
- (2) Iintlawulo zezohlwayo ziya kuqhubeka ukunyuka de ibe ngumhla eya kuthi ipropati ibhengezwe njengepropati eyingxaki ukulungiselela icandelo 10.
- (3) Xa kwenziwe isibhengezo phantsi kwecandelo 10 aze umnini aqhubeke nokusilela ukuthatha amanyathelo axelwe kwicandelwana 10(2) no-(3) angaphinde ahlawuliswe enye imali yentlawulo, eya kuthi ibalwe nge10% yexabiso lepropati kamasipala njengoko kuchaziwe kumthetho iLocal Government: Municipal Property Rates Act, 2004 (Umthetho Nomb. 6 wango-2004).