



Provincial Gazette

Provinsiale Koerant

6677

6677

Friday, 20 November 2009

Vrydag, 20 November 2009

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

CONTENTS

(*Reprints are obtainable at Room 9-06, Provincial Building, 4 Dorp Street, Cape Town 8001.)

No.	Page
Provincial Notices	
433 Cape Agulhas Municipality: Removal of restrictions	2058
434 City of Cape Town (Southern District): Removal of restrictions	2058
435 George Municipality: Declaration of a local disaster.....	2058
436 Hessequa Municipality: Removal of restrictions	2058
437 Knysna Municipality: Removal of restrictions	2059
438 Mossel Bay Municipality: Declaration of a local disaster ...	2059
Removal of restrictions in towns	
Applications:	2059
Tenders:	
Notices	2067
Local Authorities	
Cape Agulhas Municipality: Re-subdivision, rezoning, and special consent	2067
Cape Agulhas Municipality: Closing, rezoning, and consolidation.....	2068
Cape Agulhas Municipality: Subdivision, rezoning, and closure	2068
Cape Agulhas Municipality: Closure and use of erf for informal trade	2069
City of Cape Town: Informal trading by-law	2081
City of Cape Town (Helderberg District): Special consent and departure.....	2069
City of Cape Town (Northern District): Rezoning and permanent building line departures	2070
City of Cape Town (Southern District): Rezoning, subdivision and consent.....	2071
City of Cape Town (Table Bay District): Rezoning.....	2072
City of Cape Town (Tygerberg Region): Rezoning and various regulation departures.....	2073
City of Cape Town (Tygerberg Region): Rezoning.....	2073

INHOUD

(*Herdrukke is verkrygbaar by Kamer 9-06, Provinsiale-gebou, Dorpsstraat 4, Kaapstad 8001.)

Nr.	Bladsy
Provinsiale Kennisgewings	
433 Kaap Agulhas Munisipaliteit: Opheffing van beperkings.....	2058
434 Stad Kaapstad (Suidelike Distrik): Opheffing van beperkings	2058
435 George Munisipaliteit: Afkondiging van 'n plaaslike ramp.	2058
436 Hessequa Munisipaliteit: Opheffing van beperkings.....	2058
437 Knysna Munisipaliteit: Opheffing van beperkings.....	2059
438 Mosselbaai Munisipaliteit: Afkondiging van 'n plaaslike ramp.....	2059
Opheffing van beperkings in dorpe	
Aansoek:	2059
Tenders:	
Kennisgewings:	2067
Plaaslike Owerhede	
Kaap Agulhas Munisipaliteit: Heronderverdeling, hersonering en spesiale vergunning	2067
Kaap Agulhas Munisipaliteit: Sluiting, hersonering en konsolidasie	2068
Kaap Agulhas Munisipaliteit: Onderverdeling, hersonering en sluiting	2068
Kaap Agulhas Munisipaliteit: Sluiting en gebruik van erf vir informele handel.....	2069
Stad Kaapstad: Verordening op informele handel.....	2105
Stad Kaapstad (Helderberg Distrik): Spesiale toestemming en afwyking	2069
Stad Kaapstad (Noordelike Distrik): Hersonering en permanente boulynafwykings	2070
Stad Kaapstad (Suidelike Distrik): Hersonering, onderverdeling en toestemming	2071
Stad Kaapstad (Tafelbaai Distrik): Hersonering	2072
Stad Kaapstad (Tygerberg Distrik): Hersonering en verskillende regulasieafwykings	2073
Stad Kaapstad (Tygerberg Distrik): Hersonering	2073

CITY OF CAPE TOWN

INFORMAL TRADING BY-LAW

TABLE OF CONTENTS

	Page No.
1. PREAMBLE.....	3
2. INTERPRETATION	3
3. TYPES OF INFORMAL TRADING	6
4. FREEDOM TO ENGAGE IN INFORMAL TRADING.....	7
5. ADOPTION OF TRADING PLANS	7
6. PUBLIC PARTICIPATION IN RESPECT OF THE ADOPTION OF A TRADING PLAN.....	9
7. AMENDMENT, REVOCATION AND REVIEW OF TRADING PLANS	11
8. PERMITS	11
9. TRANSFER OF PERMITS	15
10. OBLIGATIONS ON OWNERS OF NON-CITY PROPERTY.....	16
11. GENERAL PROHIBITIONS ON INFORMAL TRADING.....	16
12. RESTRICTIONS ON INFORMAL TRADING	18
13. WASTE REMOVAL, CLEANSING AND HYGIENE.....	19
14. SPECIAL EVENTS	20
15. GUIDELINES AND POLICIES	20
16. POWERS AND FUNCTIONS	20
17. APPEALS.....	20
18. ENFORCEMENT.....	21
19. OFFENCES.....	22
20. TRANSITIONAL PROVISIONS	23
21. REPEAL OF BY-LAWS	23
22. SHORT TITLE AND COMMENCEMENT.....	24

1. PREAMBLE

- 1.1 In terms of the Constitution, the City is responsible for "*trading regulations*", "*markets*", "*street trading*" and "*beaches*" within its area of jurisdiction. One of the City's objects is to promote social and economic development.
- 1.2 The City recognises the key role that informal trading plays in poverty alleviation, income generation and entrepreneurial development and, in particular, the positive impact that informal trading has on historically disadvantaged individuals and communities.
- 1.3 The City acknowledges the need to adopt a developmental approach to the informal trading sector in order to create an environment that is conducive to the growth of businesses in the informal trading sector.
- 1.4 The City further acknowledges the need for a balanced relationship between the informal and formal trading sectors in order to promote social and economic development within a well-managed municipal area.
- 1.5 This By-Law, accordingly aims to:-
- 1.5.1 consolidate in a single By-Law, the By-Laws passed by the predecessors in law of the City of Cape Town; and
- 1.5.2 govern informal trading within its area of jurisdiction.

2. INTERPRETATION

In this By-Law, the English text prevails in the event of any conflict with the Afrikaans or the isiXhosa texts and, unless the context indicates otherwise –

- 2.1 "***beach***" means the portion of land above and contiguous to the seashore and includes any grass verge (where such verge exists);
- 2.2 "***beach trading***" means informal trading that takes place on a beach and includes trading on a parking area adjacent to the beach;

- 2.3 **"black person"** is a generic term as contemplated in the Employment Equity Act, No. 55 of 1998 which means Africans, Coloureds, Indians and South African Chinese persons;
- 2.4 **"Businesses Act"** means the Businesses Act, No. 71 of 1991 including any regulations issued thereunder;
- 2.5 **"City"** means the municipality of the City of Cape Town duly established in terms of the Local Government: Municipal Structures Act, No. 117 of 1998;
- 2.6 **"City property"** means property owned, leased by, or under the management control of the City;
- 2.7 **"Constitution"** means the Constitution of the Republic of South Africa, 1996;
- 2.8 **"Council"** or **"the Council"** means the Council of the City as contemplated in section 118 of the Local Government: Municipal Structures Act, No. 117 of 1998;
- 2.9 **"high-water mark"** means the *high water mark* as defined in the Seashore Act, No. 21 of 1935 as amended from time to time;
- 2.10 **"historically disadvantaged individual"** means a South African citizen who –
- 2.10.1 is a black person;
- 2.10.2 is a woman; and/or
- 2.10.3 has a disability;
- 2.11 **"illegal goods"** means -
- 2.11.1 Goods that it is illegal to sell or to buy (including but not limited to counterfeit goods as defined in the Counterfeit Goods Act No. 37 of 1997);
- 2.11.2 Goods that are bought or sold in a manner which contravenes the law.

- 2.12 **"impoundment costs"** means all costs incurred by the City in impounding and storing property impounded in terms of section 18.2, and, where applicable, the costs incurred as a result of the disposal or releasing of the impounded property and any other associated costs;
- 2.13 **"informal trader"** means a person, or an enterprise which is not registered or incorporated in terms of the corporate laws of South Africa and which engages in informal trading;
- 2.14 **"informal trading"** means the trading in goods and services in the informal sector by an informal trader and which typically constitutes the types of trading described in section 3.1 and section 3.2;
- 2.15 **"market"** means a demarcated area within a trading area which is designated as such in a trading plan and which is managed in a co-ordinated manner;
- 2.16 **"non-City property"** means property that is situated within the jurisdictional area of the City but which is not owned, leased by, or under the management control of the City;
- 2.17 **"nuisance"** includes, but is not limited to, an act or omission which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely affects the public at large;
- 2.18 **"officer"** means –
- 2.18.1 a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- 2.18.2 a member of the South African Police Service;
- 2.18.3 a peace officer contemplated in section 334 of the Criminal Procedure Act, No. 51 of 1977;
- 2.18.4 a municipal police officer of the Metropolitan Police, which has been established in terms of section 64A of the South African Police Services Act, No. 68 of 1995; or

- 2.18.5 an employee, agent, representative and/or service provider of the City who are specifically authorised by the City in this regard;
- 2.19 **"permit-holder"** means an informal trader who has been granted a permit by the City to conduct informal trading in a trading area;
- 2.20 **"seashore"** holds the same meaning as it is defined in the Sea Shore Act, No. 21 of 1935 as amended from time to time;
- 2.21 **"special events"** may include, but are not limited to, sports events, night markets, cultural events, music festivals, promotional, filming activities and religious events;
- 2.22 **"Systems Act"** means the Local Government: Municipal Systems Act, No. 32 of 2000;
- 2.23 **"trading area"** means an area in respect of which a trading plan has been adopted in terms of this By-Law;
- 2.24 **"trading plan"** means a trading plan adopted by the City to govern informal trading within a trading area.

3. TYPES OF INFORMAL TRADING

- 3.1 Informal trading may include, amongst others:-
- 3.1.1 street trading;
- 3.1.2 trading in pedestrian malls;
- 3.1.3 trading at markets;
- 3.1.4 trading at transport interchanges;
- 3.1.5 trading in public open spaces;
- 3.1.6 mobile trading, such as from caravans, and light delivery vehicles;
- 3.1.7 roving traders; and
- 3.1.8 trading at special events.

3.2 Beach trading includes –

- 3.2.1 trading from fixed trading bays;
- 3.2.2 mobile trading, such as from caravans and light delivery vehicles;
- 3.2.3 roving traders; and
- 3.2.4 mobile and/or removable kiosks.

4. FREEDOM TO ENGAGE IN INFORMAL TRADING

Informal trading is permitted in any area within the jurisdiction of the City, subject to any trading plans adopted by the City, the provisions of this By-Law and any other applicable law.

5. ADOPTION OF TRADING PLANS

- 5.1 The City must, where appropriate, adopt trading plans, particularly in areas where there is a significant overlap between formal and informal trading. A trading plan may allow and regulate informal trading on non-City property, subject to the rights of the owners of such property.
- 5.2 A trading plan must:
 - 5.2.1 define the geographic boundary of the trading area; and
 - 5.2.2 demarcate informal trading bays and markets where informal trading is permitted, outside of which informal trading shall be prohibited in that trading area.
- 5.3 A trading plan may include any other matters governing informal trading in the relevant trading area, such as -
 - 5.3.1 prescribing any informal trading conditions, including such terms and conditions to be imposed in terms of permits to be issued by the City in terms of section 8 and subject to any requirements of this By-Law;
 - 5.3.2 the manner in which social and economic development will be promoted through the trading plan;

- 5.3.3 the manner in which sensitive heritage and environmental areas within the proposed trading area will be protected;
- 5.3.4 matters relating to a market which may be located within the relevant trading area, including, but not limited to:
 - 5.3.4.1 the demarcation of the area within the trading area which constitutes a market;
 - 5.3.4.2 where appropriate, the demarcation of trading bays within the market;
 - 5.3.4.3 the legal arrangements between the City and any third party in respect of the obligations relating to the general management of the market in terms of which the third party is responsible for at least the following:
 - 5.3.4.3.1 the management of the operations of the market;
 - 5.3.4.3.2 the management of informal traders operating within the market;
 - 5.3.4.3.3 ensuring that all relevant persons participate in appropriate decisions;
 - 5.3.4.3.4 providing guidance to the informal traders operating within the market with business support and development services; and
 - 5.3.4.3.5 any service which is in addition to the services provided by the City.
- 5.4 A trading plan must comply with sections 11, 12 and 13 of this By-Law and with any other applicable law.
- 5.5 Any person shall be entitled to request that the City considers the adoption of a trading plan; provided that where a proposed trading plan contemplates trading taking place on non-City property, the request is accompanied by the written consent of the owner of such non-City property. The City must consider and decide upon the request within a reasonable period.

- 5.6 When considering a request for the adoption of a trading plan, the City shall have due regard to any existing and proposed trading plans in the vicinity of the proposed trading area in order to determine the desirability of the adoption of a trading plan.

6. PUBLIC PARTICIPATION IN RESPECT OF THE ADOPTION OF A TRADING PLAN

Public Notice requesting comments and objections

Before adopting a trading plan, the City is obliged to –

- 6.1 consult with interested and affected role players including the informal and formal sectors with the view to compiling a draft trading plan;
- 6.2 compile a draft trading plan following the consultation process in terms of section 6.1;
- 6.3 publish notices in 2 (two) local daily newspapers that are circulated in the area in which the proposed trading area is situated, unless a community newspaper which is free to the public is circulated in such area in which case 1 (one) of the 2 (two) notices must be published in such community newspaper, that -
- 6.3.1 contains the key aspects of the draft trading plan and which notifies the public that the draft trading plan is available for inspection at a specified location; and
- 6.3.2 invites comments and objections from the public in relation to such draft trading plan, to be received by the City within 30 (thirty) days from the date of publication of the notice.
- 6.4 When the City publishes a notice in terms of section 6.3, it must, where applicable, convey the contents of the notice by radio on a local radio-station that broadcasts in the area concerned.

Public meeting

- 6.5 In the notice referred to in section 6.3, the City must invite interested and affected parties to a public meeting.

- 6.6 The public meeting must be held –
 - 6.6.1 within the vicinity of the proposed trading area; and
 - 6.6.2 after 7 (seven) days but not later than 60 (sixty) days from the date of publication of the notice published in terms of section 6.3.
- 6.7 At the public meeting, the City must –
 - 6.7.1 be represented by a person duly authorised by the City who must make a presentation to the public present at the meeting in which the draft trading plan is explained;
 - 6.7.2 reasonably respond to any queries related to the draft trading plan which may be posed by the public at the public meeting; and
 - 6.7.3 give interested and affected parties an opportunity to make comments and objections at the public meeting, and such comments and objections must be recorded.

Consideration of options prior to adoption of a trading plan

- 6.8 The City must consider all objections or comments that the City may receive pursuant to the process outlined in this section.
- 6.9 After having considered the comments and objections, the Council must, within a reasonable period from the commencement of the public participation process in respect of the relevant draft trading plan, notwithstanding the provisions of any other law, and at a meeting of the Council –
 - 6.9.1 adopt the draft trading plan;
 - 6.9.2 amend and adopt the draft trading plan; or
 - 6.9.3 reject the draft trading plan.
- 6.10 Notwithstanding the provisions of section 59 of the Systems Act, the Council may not delegate the decision-making powers referred to in section 6.9.

6.11 In the event that the City adopts a draft trading plan, a notice must be published in 2 (two) daily newspapers circulated in the trading area, unless a community newspaper which is free to the public is circulated in such area in which case 1 (one) of the 2 (two) notices must be published in such community newspaper, and the Provincial Gazette, which informs the public:

6.11.1 that the draft trading plan has been adopted as a trading plan;

6.11.2 of the key aspects of the trading plan including the date upon which it shall become effective; and

6.11.3 that the trading plan is available for inspection at a specified location.

7. AMENDMENT, REVOCATION AND REVIEW OF TRADING PLANS

The City –

7.1 may amend or revoke an adopted trading plan, provided that:

7.1.1 if the amendment deviates materially from the trading plan, the City must comply with section 6 with the necessary changes required by the context, provided further that where persons are adversely affected by a proposed amendment that does not require compliance with section 6, such persons will be afforded their just administrative rights; or

7.1.2 In the case of a revocation the City shall afford all affected persons their administrative justice rights.

7.2 must review trading plans from time to time as the City deems fit.

8. PERMITS

8.1 No person may conduct informal trading on City property in a trading area without a valid permit from the City.

8.2 The City is entitled to charge a permit-holder:

8.2.1 a trading fee;

8.2.2 an application fee; and

- 8.2.3 an additional fee or tariff, which is to be determined by the City in its sole discretion, in respect of additional costs incurred or services provided by the City, including but not limited to circumstances where the permit-holder trades within a market.
- 8.3 In the event that a person qualifies for a permit, but has motivated in writing the inability to pay the fee contemplated in section 8.2 and has provided sufficient proof thereof to the reasonable satisfaction of the City, the City may waive the fee in whole or in part, or may determine a payment system in terms of which the person may pay the fee over a stipulated period by way of instalments.
- 8.4 In order to qualify for a permit, the applicant –
- 8.4.1 must be an informal trader;
- 8.4.2 may not already hold a permit in respect of the trading area in respect of which a permit is being applied;
- 8.4.3 must be a South African citizen, failing which, must be in possession of a valid work permit which includes, but is not limited to, a refugee permit; and
- 8.4.4 must not employ and actively utilise the services of more than 20 (twenty) persons.
- 8.5 The City must take into account the following factors when considering an application for a permit –
- 8.5.1 the applicant's ability to meet the trading hours for the relevant trading area as the City may determine;
- 8.5.2 the need to give preference to applicants that are historically disadvantaged individuals;
- 8.5.3 where there are a limited number of trading bays available in the trading area in respect of which a permit is sought, the need to give preference to applicants that would be new entrants to informal trading within the City;

- 8.5.4 the nature of the trading goods which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading area or in its immediate vicinity;
- 8.5.5 the need to give preference to unemployed applicants;
- 8.5.6 the need to give preference to applicants who do not share a household with an existing permit-holder, unless:
 - 8.5.6.1 the number of available trading bays for the relevant trading area is more than the number of applicants seeking permits for those trading bays; or
 - 8.5.6.2 the applicant who shares a household with a permit-holder is not a dependant or financially reliant upon such permit-holder;
- 8.5.7 whether the applicant has, in terms of this By-Law, been convicted of an offence and/or had a permit revoked or suspended;
- 8.5.8 whether the applicant is a suitable person to carry on the lawful business at the allocated site, whether by reason of his character, having regard to any conviction recorded against him, or his previous conduct for any reason;
- 8.5.9 where trading plans are adopted in areas previously not subject to such plans, the need to give preference to applicants who have an established informal trading operation in the location for which a new trading area is adopted.
- 8.6 The City is entitled to impose such terms and conditions in respect of permits as it deems fit, subject to the provisions of the applicable trading plan, including but not limited to the right to -
 - 8.6.1 specify the:
 - 8.6.1.1 trading hours during which the permit-holder may trade;
 - 8.6.1.2 nature of the goods or services the permit-holder is permitted to trade; and

- 8.6.1.3 permit-holder's trading bay number;
- 8.6.2 allocate the informal trader an alternative bay in the same trading area;
- 8.6.3 specify the type of structure(s), if any, which may be erected on a trading bay and/or in a trading area;
- 8.6.4 impound trading goods in terms of section 18.2 or section 18.8 in the event of a contravention of any provision of this By-Law or any other law;
- 8.6.5 suspend a permit for a special event on reasonable prior notice where practicable to the informal trader, with no compensation payable to the informal trader, notwithstanding that informal trading may be permitted by the City at the special event in terms of section 14;
- 8.6.6 on reasonable prior notice to the informal trader and after affording the relevant informal trader an opportunity to make written representations, revoke or suspend a permit in the event of an informal trader -
 - 8.6.6.1 breaching any provisions of the permit and/or the By-Law or any other law;
 - 8.6.6.2 being convicted of trading in illegal goods or providing a service unlawfully; or
 - 8.6.6.3 wilfully supplying incorrect information when required to provide the City with information;
 - 8.6.6.4 being found to be unsuitable as contemplated in section 8.5.8 with the necessary changes required by the context.
- 8.7 Notwithstanding the contents of the relevant trading plan, the City has the right to, upon reasonable prior notice to the informal trader and with no compensation payable by the City to the permit-holder, temporarily:
 - 8.7.1 relocate a permit-holder;
 - 8.7.2 suspend the validity of a permit; or
 - 8.7.3 prohibit a permit-holder from trading at the relevant trading bay;

should it be necessary to do so because of the performance of activities which renders the continuation of trading from the relevant trading bay impractical or severely inconvenient.

- 8.8 Activities referred to in section 8.7 shall include, but not be limited to, maintenance or construction of infrastructure or buildings performed by the City, property developments, alterations or refurbishments by any entity, or activities by public entities conducted in terms of their powers and functions.

9. TRANSFER OF PERMITS

- 9.1 A permit may be permanently transferred, with the written approval of the City, to a dependant, or an assistant acting on behalf of the dependant, who will continue trading until the permit is no longer valid, in the event of –

- 9.1.1 the death of the permit-holder; and

- 9.1.2 if the loss of income generated by the informal trading would place the dependant under undue or severe economic hardship.

- 9.2 A permit may be temporarily transferred, with the written approval of the City, to a dependant or, where there is no dependent, to an individual nominated by the permit-holder, where the permit-holder –

- 9.2.1 is incapable of trading because of an illness, provided that:

- 9.2.1.1 proof from a medical practitioner is provided to the City which certifies that the permit-holder is unable to trade; and

- 9.2.1.2 the dependant or assistant is only permitted to replace the permit-holder for the period stipulated by the medical practitioner in the certificate for which the permit-holder will be incapable of trading;

- 9.2.2 has to be absent for an extended period in order to fulfill religious or cultural duties, provided that where the validity of the permit extends beyond 1 (one) month, then the permit-holder must resume trading within 1 (one) month, unless the City consents to a longer period in exceptional circumstances.

- 9.3 Subject to section 9.2, a permit-holder may not transfer a permit to any other person in any manner, including but not limited to, by way of lease or sale.
- 9.4 A permit must immediately be returned to the City should the City revoke such permit in the event of the permit-holder –
- 9.4.1 being refused permission to transfer the permit and the permit-holder failing to resume trading; and
- 9.4.2 no longer wishing to trade as an informal trader from the relevant trading bay.

10. OBLIGATIONS ON OWNERS OF NON-CITY PROPERTY

An owner of non-City property which has been demarcated in a trading plan as land where informal trading is permitted, must -

- 10.1 ensure that all informal trading that takes place on the owner's property complies with the applicable trading plan and this By-Law;
- 10.2 permit any officer access to the owner's property to enforce the provisions of this By-Law;
- 10.3 ensure, at the owner's cost, that sufficient services are provided to maintain acceptable hygienic conditions in respect of the informal trading;
- 10.4 ensure that trading from formal business premises do not encroach upon the property of another property owner.

11. GENERAL PROHIBITIONS ON INFORMAL TRADING

Informal trading may not be conducted:-

- 11.1 in a garden or park under the control of the City and to which the public has the right of access, unless such area has been declared by the City as a trading area;
- 11.2 on a verge or sidewalk (as defined in section 1 of the National Road Traffic Act, No. 93 of 1996) next to –

- 11.2.1 a building belonging to or occupied solely by the State or City, unless the City has given its prior written consent after it has -
 - 11.2.1.1 duly considered any relevant trading plan; and
 - 11.2.1.2 consulted with the relevant property owner and, where relevant, the tenant of such property;
- 11.2.2 a place of worship such as a church, synagogue or mosque unless a trading plan permits informal trading at that area; or
- 11.2.3 a national monument as determined in accordance with the provisions of the National Heritage Resources Act, 25 of 1999;
- 11.3 at a place where it –
 - 11.3.1 obstructs access to fire fighting equipment;
 - 11.3.2 obstructs any entry to or exit from a building;
 - 11.3.3 substantially obstructs pedestrians in their use of a sidewalk;
 - 11.3.4 obstructs vehicular traffic;
 - 11.3.5 and in a manner by which it creates a traffic hazard;
 - 11.3.6 obstructs access to street furniture, bus passenger benches and shelters, queuing lines, refuse disposal bins or other facilities intended for the use of the general public;
 - 11.3.7 obstructs the visibility of a display window of business premises, and if the person carrying on business in that business premises objects thereto;
 - 11.3.8 obstructs access to a pedestrian crossing;
 - 11.3.9 obstructs access to a vehicle;
 - 11.3.10 obscures any road traffic sign;
 - 11.3.11 obstructs access to an automatic teller machine;

- 11.3.12 limits access to parking or loading bays or other facilities for vehicular traffic;
- 11.3.13 obstructs access to a pedestrian arcade or mall;
- 11.3.14 obstructs the view of CCTV cameras; or
- 11.3.15 falls below the high water mark, unless a trading plan expressly provides for informal trading at that area;
- 11.4 on the half of a public road which is next to a building that is being used for residential purposes, if the owner or occupier of that building objects to the informal trading taking place at that location.

12. RESTRICTIONS ON INFORMAL TRADING

No person shall:-

- 12.1 obstruct access to any service of the municipality or municipal service works;
- 12.2 unless prior written approval is granted by the City, at any public road or public place –
 - 12.2.1 stay overnight at the place where informal trading is conducted; or
 - 12.2.2 erect any structure, other than as stipulated in the relevant trading area plan and/or permit conditions, for the purpose of providing shelter;
- 12.3 carry on business as an informal trader in a manner which –
 - 12.3.1 creates a nuisance;
 - 12.3.2 damages or defaces the surface of any public road or public place or any other property belonging to the City; or
 - 12.3.3 creates a traffic hazard;
- 12.4 attach an object to any building, structure, pavement, footway, tree, parking meter, lamp pole, electricity pole, telephone booth, postbox, traffic sign, bench or any other street furniture or device in or on a public road or public place that is generally intended for public use;

- 12.5 make a fire at any place or in circumstances where it could harm any person or damage a building or vehicle or any structure referred to in section 12.4, unless authorised to prepare foodstuffs by utilising open-flame fire or gas-fired equipment;
- 12.6 deliver or provide goods or equipment to an informal trader if that trader trades in contravention of this By-Law;
- 12.7 after having been requested to do so by any person carrying out an activity contemplated in section 8.7 who requires access to a facility or area, fail to remove or move any goods, or refuse to do so; and
- 12.8 if permitted to conduct beach trading:
 - 12.8.1 sell or promote alcoholic products;
 - 12.8.2 use bells, hooters, amplified equipment or similar devices, which emit sound, in order to attract customers; or
 - 12.8.3 use any electrical supply or power generator, unless expressly approved and provided for in the relevant permit.

13. WASTE REMOVAL, CLEANSING AND HYGIENE

- 13.1 An informal trader must –
 - 13.1.1 maintain the informal trader's allocated informal trading site in a clean and sanitary condition;
 - 13.1.2 on a daily basis and at the conclusion of trading, collect and remove from any public road or public place all waste, packaging material, stock and equipment that are utilised in connection with or produced by the informal trader's business, unless the City grants a written exemption in this regard;
 - 13.1.3 carry on business in a manner which does not cause a threat to public health or public safety; and

- 13.1.4 at the request of an officer or duly authorised employee of the City, move or remove any object so that the area or site from which informal trading is conducted may be cleaned.

- 13.2 Failure to comply with the provisions of this section or the lawful request of an officer in terms of this section, will be regarded as a contravention of the By-Law and the informal trader shall be subject to the enforcement provisions of this By-Law.

14. SPECIAL EVENTS

The City may permit or prohibit informal trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading area.

15. GUIDELINES AND POLICIES

The City may at any time publish or amend guidelines or policies in respect of informal trading in the municipal area.

16. POWERS AND FUNCTIONS

- 16.1 Subject to section 16(3), the City Manager shall be responsible for:
- 16.1.1 all functions and decisions contemplated in this By-Law; and
- 16.1.2 the administration of this By-Law.
- 16.2 The City Manager may delegate any of his powers and functions to an appropriate official with the power to sub-delegate in order to maximise administrative and operational efficiency.
- 16.3 The decisions contemplated in sections 6.9, 7.1.1 and 7.1.2 must be taken by Council and may not be delegated.

17. APPEALS

A person whose rights are affected by a decision taken by the City in terms of this By-Law under a duty or power which has been delegated or sub-delegated, may appeal against that decision in terms of section 62 of the Systems Act.

18. ENFORCEMENT

- 18.1 An officer may issue a person with a written warning if, in the opinion of the officer, that person has traded in goods or provided services in contravention of this By-Law or that person has contravened this By-Law in any other manner, including but not limited to, in violation of a permit condition, or any other applicable law.
- 18.2 In the event of a person continuing or repeating a contravention in respect of which a written warning has already been issued to that person, then an officer may impound, in the case of an informal trader, any property used by the informal trader in conducting the informal trade, and in the case of any other person, any property, including but not limited to, goods, equipment, structures and motor vehicles, in which case the officer must –
- 18.2.1 complete a full inventory of all the property that has been impounded and such inventory must include information on the consequences of such impoundment should the person fail to pay the impoundment costs and collect the goods;
- 18.2.2 provide the person with a copy of the inventory; and
- 18.2.3 immediately store the impounded property in an area designated by the City for the storage of impounded property.
- 18.3 Property which has been impounded from a person may be released after the presentation by the person of the inventory contemplated in section 18.2 and the payment of the impoundment costs, provided that the City is reasonably satisfied that the relevant person will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded; provided further that, where the City is not so satisfied, it may withhold the goods for up to 30 (thirty) days after payment of any fine and/or impoundment costs.
- 18.4 Perishable goods that have been impounded may, at any time after the impoundment, be sold or otherwise disposed of by the City. The City may destroy the goods if the condition of those goods renders them unfit for human consumption.

- 18.5 Impounded property other than perishable goods, may be sold by the City if the owner does not, or is unable to, pay the impoundment costs within 1 (one) month from the date of impoundment of that property.
- 18.6 In the event of the impounded property being sold by the City in terms of sections 18.4 or 18.5, and upon the presentation of the inventory as contemplated in section by the owner, the City must pay to that owner –
- 18.6.1 the proceeds of the sale less the impoundment costs; or
- 18.6.2 if the owner has previously paid the impoundment costs, the proceeds must be paid to the owner free of any such deduction.
- 18.7 If the owner does not claim the proceeds derived from the sale of the impounded goods within 3 (three) months from the date of impoundment, then the proceeds will be forfeited to the City.
- 18.8 If in the reasonable opinion of an officer, an informal trader is suspected of trading in illegal goods or that a supplier as contemplated in section 12.6 is supplying the trader with illegal goods, then such goods may be immediately confiscated. In the event of such a confiscation, the officer must:
- 18.8.1 complete a full inventory of all the property that has been confiscated;
- 18.8.2 provide the informal trader or person contemplated in section 12.6 with a copy of the inventory; and
- 18.8.3 immediately surrender the suspected illegal goods to the possession of the South African Police Service.

19. OFFENCES

Any person who –

- 19.1 contravenes any provision of this By-Law or fails to comply with any condition imposed in terms hereof;
- 19.2 threatens, resists, interferes with or obstructs any officer or any employee of the City in the performance of official duties or functions in terms of or under this By-Law; or

- 19.3 deliberately furnishes false or misleading information to an officer or an employee of the City;

is guilty of an offence and liable on conviction to a fine not exceeding R5,000.00 (five thousand Rand) or to imprisonment for a period not exceeding 3 (three) months, subject to the Adjustment of Fines Act, No 101 of 1991.

20. TRANSITIONAL PROVISIONS

Notwithstanding the enactment of this By-Law:

- 20.1 any declaration in terms of the Businesses Act of an area within the jurisdiction of the City as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the City adopts a trading plan in respect of such area in terms of this By-Law;
- 20.2 where an informal trader had been issued with a lease or permit prior to the enactment of this By-Law which permits trading from a particular bay, such lease or permit shall remain valid until an integrated permit system is adopted by the City which complies with the permit system as contemplated in this By-Law.

21. REPEAL OF BY-LAWS

The following By-Laws are hereby repealed:

- 21.1 By-Law published in Provincial Gazette of 13 December 1996, PN 522/1996, in respect of the area of the former Cape Town Municipality;
- 21.2 By-Law published in Provincial Gazette of 23 April 1999, PN 136/1999, in respect of the area of the former City of Tygerberg;
- 21.3 By-Law published in Provincial Gazette of 27 August 1999, PN 282/1999, in respect of the area of the former Blaauberg Municipality;
- 21.4 By-Law published in Provincial Gazette of 20 November 1998, PN 633/1998, in respect of the area of the former South Peninsula Municipality;
- 21.5 By-Law published in Provincial Gazette of 10 March 2000, PN 76/2000, in respect of the area of the former Helderberg Municipality;

- 21.6 By-Law published in Provincial Gazette of 29 May 1998, PN 290/1998, in respect of the area of the former Oostenberg Municipality.

22. Short title and commencement

This By-Law is called the City of Cape Town: Informal Trading By-Law and takes effect on the date of publication in the *Provincial Gazette*.

ooooOooooOoooo

STAD KAAPSTAD

VERORDENING OP INFORMELE HANDEL

INHOUDSOPGAWE**Bladsyno.**

1.	AANHEF.....	3
2.	INTERPRETASIE.....	3
3.	TIPES INFORMELE HANDEL.....	6
4.	VRYHEID OM INFORMEEL HANDEL TE DRYF.....	7
5.	AANVAARDING VAN HANDELSPLANNE.....	7
6.	OPENBARE DEELNAME RAKENDE AANVAARDING VAN 'N HANDELSPLAN	9
7.	WYSIGING, HERROEPING EN HERSIENING VAN HANDELSPLANNE.....	11
8.	PERMITTE.....	12
9.	OORDRAG VAN PERMITTE.....	15
10.	VERPLIGTINGE VAN EIENAARS VAN NIE-STADSEIENDOM.....	17
11.	ALGEMENDE VERBODINGE OP INFORMELE HANDEL.....	17
12.	BEPERKINGE OP INFORMELE HANDEL.....	19
13.	AFVALVERWYDERING, SKOONMAAK EN HIGIËNE.....	20
14.	SPEZIALE GELEENTHEDE.....	21
15.	RIGLYNE EN BELEID.....	21
16.	BEVOEGDHEDE EN FUNKSIES.....	21
17.	APPËLLE.....	21
18.	TOEPASSING.....	22
19.	MISDRYWE.....	23
20.	OORGANGSBEPALINGS.....	24
21.	HERROEPING VAN VERORDENINGE.....	24
22.	KORT TITEL EN INWERKINGTREDING.....	25

1. AANHEF

- 1.1 Ingevolge die Grondwet is die Stad verantwoordelik vir "*handelsregulasies*", "*markte*", "*straathandel*" en "*strande*" binne sy regsgebied. Een van die Stad se doelwitte is om maatskaplike en ekonomiese ontwikkeling te bevorder.
- 1.2 Die Stad is bewus van die sleutelrol wat informele handel speel in armoedeverligting, skepping van inkomste en ondernemersontwikkeling en, in die besonder, die positiewe uitwerking wat informele handel op histories benadeelde individue en gemeenskappe het.
- 1.3 Die Stad erken die behoefte om 'n ontwikkelingsbenadering ten opsigte van die informele sektor te volg ten einde 'n omgewing te skep wat bevorderlik vir die groei van ondernemings in die informele handelsektor is.
- 1.4 Die Stad erken verder die behoefte aan 'n gebalanseerde verhouding tussen die informele en formele sektore ten einde maatskaplike en ekonomiese ontwikkeling in 'n behoorlik bestuurde munisipale gebied te bevorder.
- 1.5 Dié Verordening is dienooreenkomstig daarop gemik
- 1.5.1 om die verordeninge wat die Stad se regsvoorgangers aanvaar het, in 'n enkele verordening te konsolideer; en
- 1.5.2 om informele handel binne sy regsgebied te bestuur.

2. INTERPRETASIE

In dié Verordening sal die Engelse teks ingeval van 'n teenstrydigheid in die Engelse, Xhosa- en Afrikaanse weergawes beslissend wees, tensy die konteks die teendeel toon, en

2.1 beteken "*beampte*"

- 2.1.1 'n verkeersbeampte wat ingevolge artikel 3 van die Padverkeerswet, Wet 29 van 1989, of artikel 3A van die Wet op Nasionale Padverkeer, Wet 93 van 1996, aangestel is, na gelang van die geval;

- 2.1.2 'n lid van die Suid-Afrikaanse Polisie;diens;
- 2.1.3 'n vredesbeampte bedoel in artikel 334 van die Strafproseswet, Wet 51 van 1977;
- 2.1.4 'n munisipale polisiebeampte van die Metropolitaanse Polisie, wat ingevolge artikel 64A van die Wet op die Suid-Afrikaanse Polisie, Wet 68 van 1995, tot stand gebring is; of
- 2.1.5 'n werknemer, agent, verteenwoordiger en/of diensverskaffer van die Stad wat spesifiek in dié verband deur die Stad gemagtig is;
- 2.2 beteken **"beslagleggingskoste "** alle koste wat die Stad aangaan by die beslaglegging en berging van goedere waarop daar ingevolge artikel 18.2 beslag gelê word, en, waar dit van toepassing is, die koste aangegaan vanweë die verkoop of vrystelling van die eiendom waarop beslag gelê is, en enige ander gepaardgaande koste;
- 2.3 beteken **"ergernis"** 'n handeling of versuim, maar is nie daartoe beperk nie, wat hinderlik of skadelik is of wat 'n gesondheidsgevaar inhou, of wat 'n wesenlike uitwerking op die gewone gemak, gerief, rus of vrede van die publiek het, of wat 'n nadelige uitwerking op die groot publiek het;
- 2.4 beteken **"Grondwet"** die Grondwet van die Republiek van Suid-Afrika, 1996;
- 2.5 beteken **"handelsgebied "** 'n gebied ten opsigte waarvan 'n handelsplan ingevolge dié Verordening aanvaar is;
- 2.6 beteken **"handelsplan "** 'n handelsplan wat die Stad aanvaar het om informele handel binne 'n handelsgebied te bestuur;
- 2.7 beteken **"histories benadeelde individu"** 'n Suid-Afrikaanse burger wat
- 2.7.1 'n swart persoon is;
- 2.7.2 'n vrou is; en/of
- 2.7.3 'n ongeskiktheid het;

- 2.8 beteken **"hoogwatermerk"** die *hoogwatermerk* soos omskryf in die Seestrandwet, Wet 21 van 1935, soos van tyd tot tyd gewysig;
- 2.9 beteken **"informele handel "** die handeldryf in goedere en dienste in die informele sektor deur 'n informele handelaar en wat tipies die soorte handel uitmaak wat in artikels 3.1 en 3.2 beskryf word;
- 2.10 beteken **"informele handelaar"** 'n persoon of onderneming wat nie geregistreer of geïnkorporeer is ingevolge die korporatiewe wette van Suid-Afrika nie, en wat informeel handel dryf;
- 2.11 beteken **"mark"** 'n afgebakende gebied binne 'n handelsgebied wat as sodanig in 'n handelsplan bestem is en wat op 'n gekoördineerde manier bestuur word;
- 2.12 beteken **"nie-Stadseiendom"** eiendom wat binne die regsgebied van die Stad geleë is, maar wat nie deur die Stad besit of verhuur word nie, of onder sy bestuursbeheer is nie;
- 2.13 beteken **"onwettige goedere "**
- 2.13.1 goedere waarvan die verkoop of koop onwettig is (met inbegrip van, maar nie daartoe beperk nie) soos omskryf in die Wet op Vervalste Goedere, Wet 37 van 1997);
- 2.13.2 goedere wat op 'n wyse gekoop of verkoop word wat die wet oortree;
- 2.14 beteken **"permithouer"** 'n informele handelaar aan wie die Stad 'n permit toegestaan het om informeel in 'n handelsgebied handel te dryf;
- 2.15 beteken **"raad"** of **"die raad"** die raad van die Stad soos bedoel in artikel 118 van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998;
- 2.16 behou **"seestrand"** dieselfde betekenis soos dit omskryf is in die Seestrandwet, Wet 21 van 1935, soos van tyd tot tyd gewysig;
- 2.17 beteken **"spesiale geleenthede"**, maar is nie daartoe beperk nie, sportgeleenthede, aandmarkte, kulturele geleenthede, musiekfeeste, reklame- en verfilmingsaktiwiteite, en godsdienstige geleenthede;

- 2.18 beteken **"Stad"** die munisipaliteit van Kaapstad, behoorlik tot stand gebring ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1988;
- 2.19 beteken **"Stadseiendom "** eiendom wat deur die Stad besit of verhuur word, of onder sy bestuursbeheer is;
- 2.20 beteken **"Stelselwet "** die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000;
- 2.21 beteken **"strand"** die gedeelte grond bokant die seestrand en aangrensend aan die seestrand en sluit enige rand in (waar sodanige rand bestaan);
- 2.22 beteken **"strandhandel "** enige informele handel wat op 'n strand plaasvind, met inbegrip van handel op 'n parkeerterreine aangrensend aan die strand;
- 2.23 is **"swart persoon "** 'n generiese term soos bedoel in die *Employment Equity Act*, Wet 55 van 1998, en beteken dit Swartes, Kleurlinge, Indiërs en Suid-Afrikaanse Chinese persone;
- 2.24 beteken **"Wet op Besighede "** die Wet op Besighede, Wet 71 van 1991, met inbegrip van enige regulasies wat ingevolge daarvan uitgereik is.

3. TIPES INFORMELE HANDEL

- 3.1 Informele handel kan onder andere die volgende insluit -
- 3.1.1 straathandel;
- 3.1.2 handel in voetgangerwandellane;
- 3.1.3 handel op markte;
- 3.1.4 handel by vervoerkruisings;
- 3.1.5 handel in openbare oop ruimtes;
- 3.1.6 mobiele handel, byvoorbeeld uit karavane en bakkies;
- 3.1.7 swerfhandelaars; en
- 3.1.8 handel by spesiale geleenthede.

3.2 Strandhandel sluit in –

- 3.2.1 handel op vaste handelspersele;
- 3.2.2 mobiele handel, byvoorbeeld uit karavane en bakkies;
- 3.2.3 swerfhandelaars; en
- 3.2.4 mobiele en/of verwyderbare kiosks.

4. VRYHEID OM INFORMEEL HANDEL TE DRYF

Informele handel word in enige gebied binne die Stad se regsgebied toegelaat, onderhewig aan handelsplanne wat die Stad aanvaar het, die bepalings van dié Verordening en enige ander toepaslike wet.

5. AANVAARDING VAN HANDELSPLANNE

- 5.1 Die Stad moet, waar dit van toepassing is, handelsplanne aanvaar, veral in gebiede waar daar 'n wesenlike oorvleueling tussen formele en informele handel is. 'n Handelsplan kan informele handel op nie-Stadseiendom toelaat en reguleer, onderhewig aan die regte van die eienaars van sodanige eiendom.
- 5.2 'n Handelsplan moet
 - 5.2.1 die geografiese grense van die handelsgebied definieer; en
 - 5.2.2 informele handelspersele en markte afbaken waar informele handel toegelaat word, buite welke handelspersele en markte informele handel in die betrokke gebied verbode is.
- 5.3 'n Handelsplan kan ander aangeleenthede insluit wat informele handel in die betrokke handelsgebied reguleer, byvoorbeeld
 - 5.3.1 die voorskryf van enige informele-handelsvoorwaardes, met inbegrip van sodanige bepalings en voorwaardes wat opgelê sal word ingevolge permitte wat deur die Stad uitgereik sal word ingevolge artikel 8, en onderhewig aan enige vereistes van dié Verordening;

- 5.3.2 die wyse waarop maatskaplike en ekonomiese ontwikkeling deur middel van die handelsplan bevorder sal word;
- 5.3.3 die wyse waarop sensitiewe erfenis- en omgewingsgebiede binne die beoogde handelsgebied beskerm sal word;
- 5.3.4 aangeleenthede rakende 'n mark wat in die betrokke handelsgebied geleë kan wees, met inbegrip van, maar nie daartoe beperk nie,
 - 5.3.4.1 die afbakening van die gebied binne die handelsgebied wat 'n mark uitmaak;
 - 5.3.4.2 waar toepaslik, die afbakening van handelspersele binne die mark;
 - 5.3.4.3 die wetlike reëlins tussen die Stad en enige derde party ten opsigte van die verpligtinge wat met die algemene bestuur van die mark verband hou, ingevolge waarvan die derde party vir minstens die volgende verantwoordelik is -
 - 5.3.4.3.1 die bestuur van die werksaamhede van die mark;
 - 5.3.4.3.2 die bestuur van informele handelaars wat binne die mark werksaam is;
 - 5.3.4.3.3 om te sorg dat alle relevante persone aan toepaslike besluite deelneem;
 - 5.3.4.3.4 die bied van leiding aan die informele handelaars wat binne die mark werksaam is, ten opsigte van sakesteun en ontwikkelingsdienste; en
 - 5.3.4.3.5 enige diens benewens die dienste wat die Stad verskaf.
- 5.4 'n Handelsplan moet aan artikels 11, 12 en 13 van dié Verordening en aan enige ander wet voldoen.
- 5.5 Enige persoon is geregtig om te versoek dat die Stad die aanvaarding van 'n handelsplan oorweeg, met dien verstande dat waar 'n voorgestelde handelsplan beoog dat handel op 'n nie-Stadseiendom plaasvind, die

versoek van die skriftelike toestemming van die eienaar van sodanige nie-Stadsgrond vergesel word. Die Stad moet die versoek binne 'n redelike tydperk oorweeg en daaroor besluit.

- 5.6 Wanneer 'n versoek om die aanvaarding van 'n handelsplan oorweeg word, moet die Stad behoorlike oorweging skenk aan enige bestaande en voorgestelde handelsplanne in die omgewing van die voorgestelde handelsgebied, ten einde te bepaal of die aanvaarding van 'n handelsplan gewens is.

6. OPENBARE DEELNAME RAKENDE AANVAARDING VAN 'N HANDELSPLAN

Openbare kennisgewing waarin kommentaar en besware gevra word

Voordat 'n handelsplan aanvaar word, is die Stad verplig

- 6.1 om oorleg te pleeg met belanghebbendes en rolspelers wat geraak word, met inbegrip van die informele en formele sektore, met die oog op die opstel van 'n konsephandelsplan;
- 6.2 om 'n konsephandelsplan op te stel na die oorlegplegingsproses ingevolge artikel 6.1;
- 6.3 om kennisgewings in 2 (twee) plaaslike dagblaai te publiseer wat versprei word in die gebied waarin die voorgestelde handelsgebied geleë is, tensy 'n gemeenskapskoerant gratis onder die publiek in sodanige gebied versprei word, in welke geval 1 (een) van die 2 (twee) kennisgewings in sodanige gemeenskapskoerant gepubliseer moet word, wat -
- 6.3.1 die sleutelaspekte van die konsephandelsplan bevat, en wat die publiek in kennis stel dat die konsephandelsplan op 'n spesifieke plek ter insae beskikbaar is; en
- 6.3.2 kommentaar en besware van die publiek uitnoodi ten opsigte van sodanige konsephandelsplan, wat deur die Stad ontvang moet word binne 30 (dertig) dae van die publikasiedatum van die kennisgewing.
- 6.4 Wanneer die Stad 'n kennisgewing ingevolge artikel 6.3 publiseer, moet hy, waar dit toepaslik is, die inhoud van die kennisgewing per radio oordra deur middel van 'n plaaslike radiostasie wat in die betrokke gebied uitsaai.

Openbare vergadering

- 6.5 In die kennisgewing waarna daar in artikel 6.3 verwys word, moet die Stad belanghebbendes en partye wat geraak word, na 'n openbare vergadering uitnooi.
- 6.6 Die openbare vergadering moet gehou word –
- 6.6.1 In die omgewing van die voorgestelde handelsgebied; en
- 6.6.2 Na 7 (sewe) dae, maar nie later as 60 (sestig) dae na die publikasiedatum van die kennisgewing wat ingevolge artikel 6.3 gepubliseer is nie.
- 6.7 Op die openbare vergadering moet die Stad –
- 6.7.1 verteenwoordig word deur 'n persoon wat behoorlik deur die Stad gemagtig is en wat aan die publiek wat op die vergadering teenwoordig is, 'n aanbieding moet doen waarin die konsephandelsplan verduidelik word;
- 6.7.2 redelikerwys antwoord op alle vrae wat met die konsephandelsplan verband hou, en wat die publiek op die openbare vergadering kan vra; en
- 6.7.3 belanghebbendes en partye wat geraak word, die geleentheid bied om op die openbare vergadering kommentaar te lewer en besware te opper, en sodanige kommentaar en besware moet opgeteken word.

Oorweging van opsies voor die aanvaarding van 'n handelsplan

- 6.8 Die Stad moet alle besware of kommentaar oorweeg wat hy kan ontvang ingevolge die proses wat in dié afdeling uiteengesit is.
- 6.9 Nadat die raad die kommentaar en besware oorweeg het, moet hy binne 'n redelike tydperk van die aanvangs van die openbare-deelnameproses ten opsigte van die betrokke konsephandelsplan, ondanks die bepalings van enige ander wet, en op 'n vergadering van die raad
- 6.9.1 die konsephandelsplan aanvaar;

- 6.9.2 die konsephandelsplan wysig en aanvaar; of
- 6.9.3 die konsephandelsplan van die hand wys.
- 6.10 Ondanks die bepalings van artikel 59 van die Stelselwet, mag die raad nie die besluitnemingsbevoegdhede delegeer waarna daar in artikel 6.9 verwys word nie.
- 6.11 Ingeval die Stad 'n konsephandelsplan aanvaar, moet 'n kennisgewing in 2 (twee) dagblaaie publiseer wat in die voorgestelde handelsgebied versprei word, tensy 'n gemeenskapskoerant gratis onder die publiek in sodanige gebied versprei word, in welke geval 1 (een) van die 2 (twee) kennisgewings in sodanige gemeenskapskoerant gepubliseer moet word, en in die Provinsiale Koerant, wat die publiek in kennis stel
- 6.11.1 dat die konsephandelsplan as handelsplan aanvaar is;
- 6.11.2 van die sleutelaspekte van die handelsplan, met inbegrip van die datum waarop dit moet in werking tree; en
- 6.11.3 dat die handelsplan op 'n gespesifiseerde plek ter insae beskikbaar is.

7. WYSIGING, HERROEPING EN HERSIENING VAN HANDELSPLANNE

Die Stad

- 7.1 Mag 'n aanvaarde handelsplan wysig of herroep, op voorwaarde dat
 - 7.1.1 as die wysiging wesenlik van die handelsplan afwyk, die Stad aan artikel 6 moet voldoen met die nodige veranderinge wat deur die konteks vereis word, en verder op voorwaarde dat, waar persone nadelig deur 'n voorgestelde wysiging geraak word wat nie voldoening aan artikel 6 vereis nie, sodanige persone hulle billike administratiewe regte gebied sal word; of
 - 7.1.2 in die geval van 'n herroeping moet die In Stad alle persone wat geraak word, hulle billike administratiewe regte bied;.
- 7.2 moet handelsplanne van tyd tot tyd hersien na gelang hy goeddink.

8. PERMITTE

- 8.1 Geen persoon mag informeel handel dryf op Stadseiendom in 'n handelsgebied sonder 'n geldige permit van die Stad nie.
- 8.2 Die Stad is daarop geregtig om die permithouer
- 8.2.1 handelsgelde te vra;
- 8.2.2 aansoekgelde te vra; en
- 8.2.3 en 'n bykomende bedrag of tarief te vra, wat die Stad na eie goeëdunke kan bepaal, ten opsigte van bykomende koste deur die Stad aangegaan of dienste deur hom gelewer, met inbegrip van, maar nie daartoe beperk nie, omstandighede waar die permithouer binne 'n mark handel dryf.
- 8.3 Ingeval 'n persoon vir 'n permit kwalifiseer, maar skriftelik gemotiveer het waarom hy/sy nie die gelde bedoel in artikel 8.2 kan betaal nie, en afdoende bewys daarvan gelewer het tot die redelike bevrediging van die Stad, kan die Stad heeltemal of deels van die gelde afstand doen, of 'n betaalstelsel bepaal waarvolgens die persoon die gelde oor 'n gestipuleerde tydperk in paaielemente kan betaal.
- 8.4 Ten einde vir 'n permit te kwalifiseer,
- 8.4.1 moet die aansoeker 'n informele handelaar wees;
- 8.4.2 mag die aansoeker nie reeds oor 'n permit beskik vir die handelsgebied ten opsigte waarvan daar om 'n permit aansoek gedoen word nie;
- 8.4.3 moet die aansoeker 'n Suid-Afrikaanse burger wees, by gebreke waarvan hy/sy oor 'n geldige werkspermit moet beskik, met inbegrip van, maar nie daartoe beperk nie, 'n vlugtelingepermit; en
- 8.4.4 mag die aansoeker nie meer as 20 (twintig) persone in diens hê of aktief van meer as soveel persone se dienste gebruik maak nie.
- 8.5 Die Stad moet die volgende faktore in ag neem wanneer 'n aansoek om 'n permit oorweeg word –

- 8.5.1 die aansoeker se vermoë om aan die betrokke handelsgebied se handelstye te hou, na gelang die Stad mag bepaal;
- 8.5.2 die behoefte daaraan om voorkeur te gee aan aansoekers wat histories benadeelde individue is;
- 8.5.3 waar daar 'n beperkte getal handelspersele in die handelsgebied beskikbaar is ten opsigte waarvan 'n permit verlang word, die behoefte daaraan om voorkeur te gee aansoekers wat nuwe toetreders tot informele handel binne die Stad sal wees;
- 8.5.4 die aard van die handelsware wat die aansoeker voornemens is om te verkoop, of die dienste wat die aansoeker voornemens is om te lewer, met inagneming van die ondernemings binne dié handelsgebied of in die onmiddellike omgewing daarvan;
- 8.5.5 die behoefte daaraan om voorkeur aan werklose aansoekers te gee;
- 8.5.6 die behoefte daaraan om voorkeur te gee aan aansoekers wat nie 'n huishouding met 'n bestaande permithouer deel nie, tensy
 - 8.5.6.1 die getal beskikbare handelspersele vir die betrokke handelsgebied meer is as die getal aansoekers wat permitte vir dié handelspersele wil hê; of
 - 8.5.6.2 die aansoeker wat 'n huishouding met 'n permithouer deel, nie van sodanige permithouer afhanklik is of finansiëel op hom staatmaak nie;
- 8.5.7 of die aansoeker ingevolge dié Verordening aan 'n misdryf skuldig bevind is en/of sy permit herroep of opgeskort is;
- 8.5.8 of die aansoeker 'n geskikte persoon is om die wettige onderneming op die aangewese perseel te bedryf, hetsy na gelang van sy/haar karakter, met inagneming van enige skuldigbevinding wat teen/haar hom aangeteken is, of sy/haar vorige gedrag om enige rede;
- 8.5.9 waar handelsplanne aanvaar word in gebiede wat nie voorheen aan sodanige planne onderhewig was nie, die behoefte daaraan om voorkeur te gee aan aansoekers wat 'n gevestigde informele-

handelsonderneming het op die plek waarvoor 'n nuwe handelsgebied aanvaar word.

- 8.6 Die Stad is daarop geregtig om na goeë dunke bepalings en voorwaardes ten opsigte van permitte op te lê, onderhewig aan die voorwaardes van die toepaslike handelsplan, met inbegrip van, maar nie daartoe beperk nie, die reg om
- 8.6.1 die volgende te spesifiseer -
- 8.6.1.1 die handelsure waartydens die permithouer mag handel dryf;
- 8.6.1.2 die aard van die goedere of dienste waarmee die permithouer mag handel dryf; en
- 8.6.1.3 die permithouer se handelsperseelnommer;
- 8.6.2 'n alternatiewe handelsperseel in dieselfde handelsgebied aan die informele handelaar toe te wys;
- 8.6.3 die soort struktuur (strukture) te spesifiseer, as daar is, wat op 'n handelsperseel en/of handelsgebied opgerig kan word;
- 8.6.4 beslag te lê op handelware ingevolge artikel 18.2 of artikel 18.8 in die geval van 'n oortreding van enige bepaling van dié verordening of enige ander wet;
- 8.6.5 'n permit vir 'n spesiale geleentheid op te skort by redelike vooraf kennisgewing aan die informele handelaar waar die prakties moontlik is, met geen vergoeding betaalbaar aan die informele handelaar nie, nieëtaastaande die feit dat informele handel by die spesiale geleentheid deur die Stad toegelaat kan word ingevolge artikel 14;
- 8.6.6 by redelike vooraf kennisgewing aan die informele handelaar, en nadat die betrokke informele handelaar die geleentheid gebied is om skriftelike vertoë te rig, 'n permit te herroep of op te skort ingeval 'n informele handelaar -
- 8.6.6.1 strydig met enige bepalings van die permit en/of dié Verordening of enige ander wet handel;

- 8.6.6.2 aan handel in onwettige goedere skuldig bevind word of 'n diens onwettig lewer;
- 8.6.6.3 opsetlik verkeerde inligting verstrek wanneer inligting aan die Stad verskaf moet word;
- 8.6.6.4 ongeskik bevind word soos bedoel in artikel 8.5.8, met die nodige veranderinge wat deur die konteks vereis word.
- 8.7 Nieteenstaande die inhoud van die betrokke handelsplan, het die Stad die reg om, by redelike vooraf kennisgewing aan die informele handelaar, en sonder vergoeding betaalbaar deur die Stad aan die permithouer,
- 8.7.1 'n permithouer tydelik te verskuif;
- 8.7.2 die geldigheid van 'n permit tydelik op te skort; of
- 8.7.3 'n permithouer tydelik te verbied om op die betrokke handelsperseel handel te dryf;
- as dit nodig is om dit te doen as gevolg van die uitvoering van aktiwiteite wat voortgesette handel op die betrokke handelsperseel onprakties of uiters ongeleë maak.
- 8.8 Aktiwiteite waarna in artikel 8.7 verwys word, maar nie daartoe beperk is nie, sluit in instandhouding of konstruksie van infrastruktuur of geboue wat deur die Stad uitgevoer word, eiendomsontwikkelings, veranderings of opknappings deur enige entiteit, of aktiwiteite deur openbare entiteite wat ingevolge hulle bevoegdhede en funksies uitgevoer word.

9. OORDRAG VAN PERMITTE

- 9.1 'n Permit kan, met die skriftelike goedkeuring van die Stad, oorgedra word aan 'n afhanklike, of 'n helper wat namens die afhanklike optree, welke persoon sal aanhou handel dryf totdat die permit nie meer geldig is nie, ingeval –
- 9.1.1 van die afsterwe van die permithouer; en

- 9.1.2 die verlies aan inkomste wat deur die informele handel gegenereer word, die afhanklike aan onverdiende en ernstige ekonomiese ontbering blootstel.
- 9.2 'n Permit kan, met die skriftelike goedkeuring van die Stad, tydelik oorgedra word aan 'n afhanklike, of waar daar geen afhanklike is nie, aan 'n individu wat deur die permithouer benoem word, ingeval die permithouer –
- 9.2.1 vanweë siekte nie kan handel dryf nie, op voorwaarde dat
- 9.2.1.1 dat bewys van 'n mediese praktisyn aan die Stad gelewer word, wat sertifiseer dat die permithouer nie kan handel dryf nie; en
- 9.2.1.2 die afhanklike of helper slegs toegelaat word om die permithouer te vervang vir die tydperk gestipuleer in die sertifikaat deur die mediese praktisyn, waartydens die permithouer nie sal kan handel dryf nie;
- 9.2.2 vir 'n geruime tyd afwesig moet wees ten einde godsdienstige of kulturele pligte te vervul, op voorwaarde dat, waar die geldigheid van die permit langer as 1 (een) maand is, die permithouer binne 1 (een) maand weer moet begin handel dryf, tensy die Stad in uitsonderlike omstandighede tot 'n langer tydperk toestem.
- 9.3 Onderhewig aan artikel 9.2, mag 'n permithouer nie 'n permit op enige wyse aan enige ander persoon oordra nie, met inbegrip van, maar nie daartoe beperk nie, deur middel van verhuring of verkoop.
- 9.4 'n Permit moet onmiddellik aan die Stadsraad terugbesorg word as die Stad sodanige permit sou herroep, ingeval die permithouer –
- 9.4.1 toestemming geweier word om die permit oor te dra en die permithouer versuim om handeldryf te hervat; en
- 9.4.2 nie meer as informele handelaar op die betrokke handelsperseel wil handel dryf nie.

10. VERPLIGTINGE VAN EIENAARS VAN NIE-STADSEIENDOM

'n Eienaar van nie-Stadseiendom wat in 'n handelsplan as grond afgebaken is waarop informele handel toegelaat word, moet -

- 10.1 sorg dat alle informele handel wat op die eienaar se eiendom plaasvind, aan die toepaslike handelsplan en dié Verordening voldoen;
- 10.2 enige beampte toegang tot die eienaar se eiendom verleen om die bepalinge van dié Verordening toe te pas;
- 10.3 op die eienaar se koste sorg dat voldoende dienste verskaf word om aanvaarbare higiëniese toestande ten opsigte van die informele handel te handhaaf;
- 10.4 sorg dat handel op informele-handelspersele nie op die eiendom van 'n ander grondeienaar oorskry nie.

11. ALGEMENE VERBODINGE OP INFORMELE HANDEL

Informele handel mag nie plaasvind -

- 11.1 in 'n tuin of park wat onder beheer van die Stad is en waartoe die publiek 'n die reg van toegang het nie, tensy die Stad sodanige gebied as handelsgebied verklaar het;
- 11.2 'n padrand of sypaadjie (soos omskryf in artikel 1 van die Wet op Nasionale Padverkeer, Wet 93 van 1996) langs –
 - 11.2.1 'n gebou wat slegs deur die staat of die Stad besit of geokkupeer word nie, tensy die Stad vooraf skriftelike toestemming verleen het nadat hy -
 - 11.2.1.1 enige toepaslike handelsplan behoorlik oorweeg het; en
 - 11.2.1.2 met die eienaar van die betrokke eiendom, of waar toepaslik, met die huurder van sodanige eiendom, oorleg gepleeg het nie;
 - 11.2.2 'n plek van aanbidding, byvoorbeeld 'n kerk, sinagoge of moskee nie, tensy 'n handelsplan informele handel op dié plek toelaat; of

- 11.2.3 'n nasionale monument soos bepaal in ooreenstemming met die bepalings van die Wet op Nasionale Erfenishulpbronne, Wet 36 van 1999;
- 11.3 op 'n plek waar dit –
- 11.3.1 toegang tot brandbestrydingstoerusting versper nie;
- 11.3.2 enige toegang tot of uitgang uit 'n gebou versper nie;
- 11.3.3 'n wesenlike struikelblok vir voetgangers by die gebruik van 'n sypaadjie is nie;
- 11.3.4 voertuigverkeer belemmer nie;
- 11.3.5 'n verkeersgevaar skep nie;
- 11.3.6 toegang tot straatmeubels, buspassasiersbanke en -skuilings, toustaanplekke, vullishouers of ander fasiliteite versper wat vir gebruik deur die groot publiek bedoel is nie;
- 11.3.7 die uitsig van 'n vertoonvenster van 'n sakeperseel belemmer, en die persoon wat op die betrokke sakeperseel sake doen, daarteen beswaar maak nie;
- 11.3.8 toegang tot 'n voetgangeroorgang versper nie;
- 11.3.9 toegang tot 'n voertuig versper nie;
- 11.3.10 enige padteken verberg nie;
- 11.3.11 toegang tot 'n outomatiese tellermasjien versper nie;
- 11.3.12 toegang tot parkeer- of laaiplekke of ander fasiliteite vir voertuigverkeer belemmer nie;
- 11.3.13 toegang tot 'n voetgangersarkade of -wandellaan versper nie;
- 11.3.14 die uitsig van kringtelevisiekameras belemmer nie; of
- 11.3.15 benede die hoogwatermerk val nie, tensy 'n handelsplan uitdruklik vir informele handel op dié plek voorsiening maak;

- 11.4 op die helfte van 'n openbare pad wat langs 'n gebou is wat vir residensiële doeleindes gebruik word nie, as die eienaar of bewoner van die betrokke gebou beswaar maak daarteen dat informele handel op dié plek plaasvind.

12. BEPERKINGE OP INFORMELE HANDEL

Geen persoon mag -

- 12.1 enige toegang tot enige diens van die munisipaliteit of munisipale diensaanleg versper nie;
- 12.2 tensy skriftelike toestemming vooraf deur die Stad verleen is, op enige openbare pad of openbare plek –
- 12.2.1 oornag op die plek waar informele handel plaasvind nie; of
- 12.2.2 enige ander struktuur oprig as dié wat in die toepaslike handelsgebiedplan en/of permitvoorwaardes gestipuleer word, met die doel om skuling te verskaf nie;
- 12.3 as informele handelaar handel dryf op 'n manier wat –
- 12.3.1 'n ergernis skep nie;
- 12.3.2 die oppervlakte van enige openbare pad of openbare plek of enige ander eiendom wat aan die Stad behoort, beskadig of ontsier nie; of
- 12.3.3 'n verkeersgevaar skep nie;
- 12.4 enige voorwerp aan enige gebou, struktuur, sypaadjie, voetpad, boom, parkeermeter, lamppaal, elektrisiteitspaal, telefoonhokkie, posbus, verkeersteken, bank of enige ander straatmeubels of toestel in of op 'n openbare pad of openbare ruimte vasmaak wat gewoonlik vir openbare gebruik bedoel is nie;
- 12.5 op enige plek of onder enige omstandighede 'n vuur maak waar dit enige persoon kan skaad of 'n gebou of voertuig of enige struktuur kan beskadig waarna in artikel 12.4 verwys word nie, tensy daartoe gemagtig om kos voor te berei deur oopvlam- of gasverhitte toerusting te gebruik;

- 12.6 goedere of toerusting by 'n informele handelaar aflewer of aan hom/haar verskaf as die betrokke handelaar in stryd met dié Verordening handel dryf nie;
- 12.7 nadat hy/sy deur enige persoon versoek is wat 'n aktiwiteit bedoel in artikel 8.7 uitvoer en wat toegang tot 'n fasiliteit of gebied verlang, versuim om enige goedere te verwyder of te skuif, of weier om dit te doen nie; en
- 12.8 as hy/sy toegelaat word om strandhandel te bedryf
 - 12.8.1 alkoholiese produkte verkoop of aanmoedig nie;
 - 12.8.2 klokke, toeters, klankversterkingstoerusting of soortgelyke toestelle gebruik wat klank voortbring, ten einde klante te lok nie; of
 - 12.8.3 enige elektriese toevoer of generator gebruik nie, tensy dit uitdruklik goedgekeur is en in die betrokke permit daarvoor voorsiening gemaak word.

13. AFVALVERWYDERING, SKOONMAAK EN HIGIËNE

- 13.1 'n Informele handelaar moet –
 - 13.1.1 die informele handelaar se aangewese informele-handelsperseel in 'n skoon en higiëniese toestand hou;
 - 13.1.2 op 'n daaglikse grondslag, en na afloop van handel, alle afval, verpakkingsmateriaal, voorraad en toerusting opruim en verwyder wat gebruik word in verband met of geproduseer word deur die informele handelaar se besigheid, tensy die Stadsraad 'n skriftelike vrystelling in dié verband toestaan;
 - 13.1.3 handel dryf op 'n wyse wat nie 'n bedreiging vir openbare gesondheid of openbare veiligheid is nie; en
 - 13.1.4 op versoek van 'n beampte of behoorlik gemagtigde werknemer van die Stad, enige voorwerp skuif of verwyder sodat die gebied of perseel waar informele handel plaasvind, skoongemaak kan word.

- 13.2 Versuim om aan die bepalinge van dié artikel of 'n wettige versoek van 'n beampte ingevolge dié artikel te voldoen, sal 'n oortreding van dié Verordening geag word, en die informele handelaar is onderhewig aan die toepassingsbepalinge van dié Verordening.

14. SPESIALE GELEENTHEDE

Die Stad mag informele handel met die oog op spesiale geleentheid toelaat of verbied volgens sodanige bepalinge en voorwaardes wat hy goeddink, ondanks die bepalinge van enige handelsplan of enige permitte wat ten opsigte van die betrokke handelsgebied uitgereik is.

15. RIGLYNE EN BELEID

Die Stad mag te eniger tyd riglyne of beleid ten opsigte van informele handel in die munisipale gebied publiseer of wysig.

16. BEVOEGDHEDE EN FUNKSIES

- 16.1 Onderhewig aan artikel 16.3 is die stadsbestuurder verantwoordelik vir
- 16.1.1 alle funksies en besluite bedoel in dié Verordening; en
- 16.1.2 die administrasie van dié Verordening.
- 16.2 Die stadsbestuurder kan enige van sy bevoegdhede of funksies deleger aan 'n toepaslike amptenaar met die bevoegdheid om te subdeleger ten einde bedryfs- en administratiewe doeltreffendheid te maksimaliseer.
- 16.3 Die besluite bedoel in artikels 6.9, 7.1.1 en 7.1.2 moet deur die raad geneem word en mag nie gedelegeer word nie.

17. APPÈLLE

'n Persoon wie se regte geraak word deur 'n besluit wat deur die Stad geneem is ingevolge dié Verordening kragtens 'n plig of bevoegdheid wat gedelegeer of gesubdelegeer is, kan ingevolge artikel 62 van die Stelselwet teen die betrokke besluit appelleer.

18. TOEPASSING

- 18.1 'n Beampte mag 'n skriftelike waarskuwing aan 'n persoon uitreik as dié persoon na die beampte se mening in stryd met dié Verordening met goedere handel gedryf het of dienste gelewer het, of die betrokke persoon dié Verordening op enige ander wyse oortree het, met inbegrip van, maar nie daartoe beperk nie, in stryd met 'n permitvoorwaarde of enige ander toepaslike wet.
- 18.2 Ingeval 'n persoon 'n oortreding voortsit of herhaal ten opsigte waarvan 'n skriftelike waarskuwing reeds aan die betrokke persoon uitgereik is, mag 'n beampte dan, in die geval van 'n informele handelaar, beslag lê op enige eiendom wat die informele handelaar gebruik om informeel handel te dryf, en in die geval van enige ander persoon, op enige eiendom, met inbegrip van, maar nie daartoe beperk nie, goedere, toerusting, strukture en motorvoertuie, in welke geval die beampte –
- 18.2.1 'n volledige inventaris moet opstel van alle eiendom waarop beslag gelê is, en sodanige inventaris moet inligting insluit oor die gevolge van sodanige beslaglegging, as die persoon sou versuim om die beslagleggingskoste te betaal en die goedere af te haal;
- 18.2.2 die persoon van 'n afskrif van die inventaris moet voorsien; en
- 18.2.3 onmiddellik die goedere waarop beslag gelê is, moet berg in 'n gebied wat die Stad aangewys het vir die berging van goedere waarop beslag gelê is.
- 18.3 Eiendom waarop beslag gelê is, kan vrygestel word by voorlegging deur die betrokke persoon van die inventaris bedoel in artikel 18.2 en die betaling van die beslagleggingskoste, op voorwaarde dat die Stad redelikerwys oortuig is dat die betrokke persoon nie by vrystelling van die eiendom sal voortgaan om enige oortreding te pleeg wat tot die beslaglegging op die eiendom gelei het nie; verder op voorwaarde dat, waar die Stad nie daarvan oortuig is nie, hy die goedere vir tot 30 (dertig) dae na die betaling van enige boete en/of beslagleggingskoste kan terughou.
- 18.4 Bederfbare goedere waarop beslag gelê is, kan te eniger tyd na die beslaglegging deur die Stad verkoop of andersins van die hand gesit word.

Die Stad kan die goedere vernietig as die toestand van dié goedere dit ongeskik vir menslike gebruik maak.

- 18.5 Ander eiendom as bederfbare goedere waarop beslag gelê is, mag deur die Stad verkoop word as die eienaar nie die beslagleggingskoste binne 1 (een) maand van die beslagleggingsdatum van sodanige eiendom betaal, of kan betaal nie.
- 18.6 Ingeval die eiendom waarop beslag gelê is, ingevolge artikels 18.4 of 18.5 deur die Stad verkoop is, en by voorlegging van die inventaris bedoel in artikel 18.2.1 deur die eienaar, moet die Stad aan die betrokke eienaar –
- 18.6.1 die opbrengs van die transaksie minus die beslagleggingskoste betaal; of
- 18.6.2 as die eienaar vroeër die beslagleggingskoste betaal het, die opbrengs sonder enige sodanige aftrekking aan die eienaar betaal.
- 18.7 As die eienaar nie die opbrengs verkry uit die verkoop van die goedere waarop beslag gelê is, binne 3 (drie) maande van die beslagleggingsdatum eis nie, sal die opbrengs aan die Stad verbeur word.
- 18.8 As 'n informele handelaar, na die redelike mening van 'n beampte, van handel in onwettige goedere verdink word, of 'n verskaffer bedoel in artikel 12.6 die handelaar van onwettige goedere voorsien, mag sodanige goedere onmiddellik verbeurd verklaar word. Ingeval van sodanige verbeurdverklaring moet die beampte
- 18.8.1 'n volledige inventaris opstel van alle goedere wat verbeurd verklaar is;
- 18.8.2 die informele handelaar of persoon bedoel in artikel 12.6 van 'n afskrif van die inventaris voorsien; en
- 18.8.3 onmiddellik die verdagte onwettige goedere in besit van die Suid-Afrikaanse Polisiediens oorgee.

19. MISDRYWE

Enige persoon wat –

- 19.1 enige bepaling van dié Verordening oortree of versuim om aan enige voorwaarde te voldoen wat ingevolge daarvan opgelê is;
- 19.2 enige beampte of enige werknemer van die Stad dreig, lasting val of dwarsboom by die uitvoering van amptelike pligte of funksies ingevolge dié Verordening; of
- 19.3 opsetlik onjuiste of misleidende inligting aan 'n beampte of 'n werknemer van die Stad verskaf;

begaan 'n misdryf en stel hom/haar by skuldigbevinding bloot aan 'n boete van hoogstens R5 000,00 (vyfduisend rand) of tronkstraf vir 'n tydperk van hoogstens 3 (drie) maande, onderhewig aan die Wet op die Aanpassing van Boetes, Wet 101 van 1991.

20. OORGANGSBEPALINGS

Nieteenstaande die aanvaarding van dié Verordening

bly enige verklaring ingevolge die Wet op Besighede van 'n gebied binne die regsgebied van die Stad as gebied waarin handeldryf as straatverkoper, venter of smous beperk of verbode mag wees, geldig tot tyd en wyl die Stad 'n handelsplan ten opsigte van sodanige gebied ingevolge dié Verordening aanvaar;

- 20.1 ingeval 'n huurooreenkoms of permit aan 'n informele handelaar uitgereik is voor die aanvaarding van dié Verordening, wat handel op 'n bepaalde perseel toe laat, bly sodanige permit geldig totdat die Stad 'n geïntegreerde permitstelsel aanvaar wat aan die permitstelsel bedoel in dié Verordening voldoen.

21. HERROEPING VAN VERORDENINGE

Die volgende Verordeninge word hiermee herroep:

- 21.1 Verordening wat in die Provinsiale Koerant van 13 Desember 1996, PN 522/1996, gepubliseer is ten opsigte van die gebied van die voormalige Kaapstadse munisipaliteit.
- 21.2 Verordening wat in die Provinsiale Koerant van 23 April 1999, PN 136/1999, gepubliseer is ten opsigte van die gebied van die voormalige Stad Tygerberg.

- 21.3 Verordening wat in die Provinsiale Koerant van 27 Augustus 1999, PN 282/1999, gepubliseer is ten opsigte van die gebied van die voormalige Blaauwberg-munisipaliteit.
- 21.4 Verordening wat in die Provinsiale Koerant van 20 November 1998, PN 633/1998, gepubliseer is ten opsigte van die gebied van die voormalige Suid-Skiereiland-munisipaliteit.
- 21.5 Verordening wat in die Provinsiale Koerant van 10 Maart 2000, PN 76/2000, gepubliseer is ten opsigte van die gebied van die voormalige Helderberg-munisipaliteit.
- 21.6 Verordening wat in die Provinsiale Koerant van 29 Mei 1998, PN 290/1998, gepubliseer is ten opsigte van die gebied van die voormalige Oostenberg-munisipaliteit.

22. **Kort titel en inwerkingtreding**

Dié Verordening word die Stad Kaapstad se Verordening op Informele Handel genoem, en tree in werking op die datum van publikasie in die *Provinsiale Koerant*.

ooooOooooOoooo

ISIXEKO SASEKAPA

**UMTHETHO KAMASIPALA WORHWEBO OLUNGABHALISWANGA
NGOKUSESIKWENI**

IPHEPHA LEZIQULATHO

	Iphepha
1. IMBULA-MBETHE	3
2. UKUTOLIKWA.....	3
3. IINTLOBO ZAMASHISHINI ANGABALISWANGA NGOKUSESIKWENI.....	6
4. ILUNGELO LOKUQHUBA URHWEBO OLUNGABHALISWANGA NGOKUSESIKWENI.....	7
5. UKWAMKELWA KWEZICWANGCISO ZORHWEBO	7
6. INDIMA YOLUNTU NGOKUPHATHELENE NOKWAMKELWA KWESICWANGCISO SORHWEBO.....	9
7. IZILUNGISO, UKURHOXISWA NOKUHLALUTYWA KWEZICWANGCISO ZORHWEBO.....	11
8. AMAPHEPHA-MVUME.....	11
9. UKUTSHINTSHWA KWAMAPHEPHA-MVUME.....	15
10. UXANDUVA LWABANIKAZI BEPROPATI ENGEYEOYESIXEKO.....	16
11. IIMEKO GABALALA ZOKUTHINTELWA KOSHISHINO OLUNGABHALISWANGA NGOKUSESIKWENI.....	16
12. IZITHINTELO KURHWEBO OLUNGABHALISWANGA NGOKUSESIKWENI.....	18
13. UKUTHUTHWA KWENKUNKUMA, UKUCOCA NEMPILO.....	19
14. AMATHEKO AKHETHEKILEYO	20
15. IZIKHOKELO NEMIGAQO	20
16. AMAGUNYA NEMISEBENZI.....	20
17. IZIBHENO	20
18. UKUNYANZELISWA.....	21
19. AMATYALA.....	22
20. IZIBONELELO ZETHUTYANA.....	23
21. UKURHOXISWA KWEMITHETHO KAMASIPALA.....	23
22. ISIHLOKO ESIFUTSHANE NOKUQALISA.....	24

1. IMBULA-MBETHE

- 1.1 NgokoMgaqo-siseko, isiXeko ngumthwalo waso “*imithetho yezorhwebo*”, “*iimarike*”, “*urhwebo ezitratweni*” kunye “*neebhitshi*” ezikummandla waso ngokomthetho. Ezinye zeenjongo zesiXeko kukukhuthaza ukuphuhlisa kwentlalo noqoqosho.
- 1.2 IsiXeko siyayihlonipha indima ephambili edlalwa lurhwebo olungabhaliswanga ngokusesikweni ekulweni nendlala, ukungenisa imali nokuphuhlisa ushishino olukhulayo ingakumbi ifuthe elihle urhwebo olungabhaliswanga ngokusemthethweni elinalo kuluntu olwaluhlelekile ngaphambili.
- 1.3 IsiXeko siyaqonda imfuneko yokugxininisa indlela ephuhlisayo kushishino olungabhaliswanga ngokusesikweni ukuze kudaleke iimeko ezikukhuthazayo ukukhula kwamashishini kurhwebo olungabhaliswanga ngokusesikweni.
- 1.4 IsiXeko siyaqonda imfuneko yentsebenziswano eyiyo phakathi kwamashishini abhaliswe ngokusesikweni nalawo angabhaliswanga ngokusesikweni ukuze bakhuthaze ukuphuhla kwentlalo noqoqosho kummandla kamasipala olawulwa ngokukuko.
- 1.5 Lo mthetho kaMasipala ke ngoko ujolise:-
 - 1.5.1 ekuhlanganiseni yonke imithetho kaMasipala eyaphunyezwa ngokwemithetho yangaphambili yesiXeko ibe ngumthetho kaMasipala omnye; kwakunye
 - 1.5.2 nasekulawuleni urhwebo olungabhaliswanga ngokusesikweni olukummandla ophantsi kwakhe ngokomthetho.

2. UKUTOLIKWA

Kulo mthetho kaMasipala, lowo ubhalwe ngesiNgesi ngosisikhokelo xa kunokubakho ukungaqiniseki ngebhalwe ngesi-Afrikansi okanye isiXhosa, ngaphandle kokuba kubhekiswa kwenye into –

- 2.1 “*ibhitshi*” ithetha indawo yomhlaba ephakamileyo neyayamene nonxweme lolwandle kwaye ibandakanya nengca ekudini (kwiindawo ekhoyo kuzo loo ngca);
- 2.2 “*urhwebo ebhitshini*” luthetha ukushishina okungabhaliswanga ngokusesikweni okuqhubeka ebhitshini kwaye kubandakanya ukushishinela kwiindawo zokumisa izithuthi ezikufutshane neebhitshi;
- 2.3 “*umntu omnyama*” ligama eliqukayo ekubhekiswa kulo kuMthetho wokuQeshwa ngokuLingana, uNombolo 55 ka-1998 othetha abaNtsundu, abeBala, amaNdiya namaTshayina aseMzantsi Afrika;

2.4 **“uMthetho wamaShishini”** uthetha uMthetho wamaShishini, uNombolo 71 ka-1991 kubandakanya nemithetho ephunyezwe phantsi kwawo;

2.5 **“isiXeko”** sithetha umasipala weSixeko saseKapa owamiselwa ngokufanelekileyo ngokoMthetho weZakhiwo zikaMasipala: uRhulumente wooMasipala, uNombolo 117 ka-1998;

2.6 **“ipropati yesiXeko”** ithetha ipropati eyeyesiXeko, esiqeshise ngayo okanye elawulwa sisiXeko;

2.7. **“uMgaqo-siseko”** uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, ka-1996;

2.8 **“iBhunga”** lithetha iBhunga lesiXeko njengoko kucaciswe kwicandelo 118 loMthetho weZakhiwo zikaMasipala: uRhulumente wooMasipala, uNombolo 117 ka-1998;

2.9 **“uphawu olubonakalisa umthamo wamanzi”** luthetha uphawu olubonakalisa ubuninzi bamanzi njengoko kucacisiwe kuMthetho wezeNcweme loLwandle, uNombolo 21 ka-1935 njengoko umana ulungiswa amaxesha ngamaxesha;

2.10 “umntu owayehlelekile ngaphambili” uthetha ummi woMzantsi Afrika

2.10.1 omnyama;

2.10.2 ongumfazi; okanye

2.10.3 nokhubazekileyo

2.11 “impahla ezingekho mthethweni” zithetha

2.11.1 Impahla ekungekho mthethweni ukuyithenga okanye ukuyithengisa (kubandakanga kodwa kungapheleli kwezomgunyathi njengoko zicacisiwe kuMthetho weeMpahla zoMgunyathi uNombolo 37 ka-1987)

2.11.2 Impahla ezithengwe okanye zathengiswa ngendlela eyaphula umthetho;

2.12 **“iindleko zokuthimba”** zithetha zonke iindleko isiXeko esingene kuzo xa besithimba sigcina impahla ethinjiweyo ngokwecandelo 18.2, kwaye apho zikhoyo khona, iindleko zokulahla okanye ukukhulula iimpahla ezithinjiweyo kwakunye nazo zonke ezinye iindleko ezihambelana noku;

2.13 **“umrhwebi ongabhaliswanga ngokusesikweni”** uthetha umntu okanye ishishini elingabhaliswanga okanye elingeloshishini ngokusesikweni ngokwemithetho yoshishino yoMzantsi Afrika oqhuba ushishino olungabhaliswanga ngokusemthethweni;

2.14 **“urhwebo olungabhaliswanga ngokusesikweni”** luthetha iimpahla neenkonzo ezikushishino olungabhaliswanga ngokusesikweni ngumrhwebi ongabhaliswanga ngokusesikweni olubandakanya ushishino oluchazwe kwicandelo 3.1 necandelo 3.2;

2.15 “imarike”ithetha indawo esikiweyo kwindawo yokurhweba ecandwe ngolo hlobo kwisicwangciso sorhwebo kwaye elawulwa ngendlela ephucukileyo;

2.16 “**ipropati engeyeyoyesixeko**”ithetha ipropati eme kummandla ophantsi kwesiXeko ngokusemthethweni kodwa engalawulwa, iqeshiswe okanye eyeyesiXeko;

2.17 “**inkathazo**” ibandakanya, kodwa ingapheli apho, inyathelo okanye ukungenzi nto, okukhubekisayo, okunokonzakalisa okanye okunobungozi kwimpilo okanye ephazamisa ngokubonakalayo nolonwabo, ubumnandi, inzolo okanye uxolo kuluntu, okanye echaphazela kakubi uluntu gabalala;

2.18 “**igosa**” lithetha –

2.18.1 igosa lendlela eliqeshwe ngokwecandelo 1 loMthetho wezoMthetho wezeNdlela, uNombolo 29 ka-1989 okanye icandelo 3A loMthetho weSizwe wezoMthetho wezeNdlela uNombolo 93 ka-1996 njengoko kunjalo;

2.18.2 ilungu leNkonzo zezaMapolisa zoMzantsi Afrika;

2.18.3 igosa loxolo ekubhekiswa kulo kwicandelo 334 loMthetho weeNkqubo zoLwaphulo-mthetho, uNombolo 51 ka-1977;

2.18.4 ipolisa likamasipala laMapolisa esiXekokazi aqulunqwa ngokwecandelo 64A loMthetho weeNkonzo zaMapolisa oMzantsi Afrika, uNombolo 68 ka-1995; okanye

2.18.5 umqeshwa, umthunywa, ummeli okanye nomnikezeli nkonzo wesiXeko, ogunyaziselwe kanye oku sisiXeko;

2.19 “**umntu onephepha-mvume**” uthetha umrhwebi ongabhilisanga ngokusesikweni okhutshelwe iphepha-mvume sisiXeko ukuba aqhube urhwebo olungabhaliswa ngokusesikweni kwindawo yokurhwebela;

2.20 “**unxweme lolwandle**” linentsingiselo enye njengoko kuchaziwe kuMthetho woNxweme lolwandle, uNombolo 21 ka-1935 njengeko umana ulungiswa amaxesha ngamaxesha;

2.21 “**amatheko ekhethekileyo**” angabandakanya, kodwa engaphelelanga kwezi, imidlalo, imarike ezithengisa ebusuku, amatheko ezenkcubeko, iminyhadala yemiculo, ukufota iifilimu, ukusasaza namatheko ezenkolo;

2.22 “**uMthetho weeNkqubo**” uthetha uMthetho weeNkqubo zikaMasipala: uRhulumente wooMasipala;

2.23 “**indawo yokurhwebela**” ithetha indawo isicwangciso sorhwebo esasisekelwe kuyo ngokwalo mthetho kaMasipala;

2.24 “**isicwangciso sorhwebo**” sithetha isicwangciso sokurhweba esamkelwa sisiXeko sokulawula urhwebo olungabhaliswanga ngokusesikweni kwindawo yokurhweba.

3. IINTLOBO ZORHWEBO OLUNGABHALISWANGA NGOKUSEMTHETHWENI

3.1 Urhwebo olungabhaliswanga ngokusemthethweni lungaquka, kwezinye:-

3.1.1 ukuthengisela esitratweni;

3.1.2 ukuthengisela kwiindawo zabahambi ngenyawo;

3.1.3 ukuthengisa kwiimarike;

3.1.4 ukuthengisela kwiindawo eziphithizela izithuthi;

3.1.5 ukuthengisela kwiindawo zikawonke-wonke ezivulelekileyo;

3.1.6 ukuthengisa uhamba-hamba, okufana nokuthengiselwa kwikharaveni, nezithuthi ezincinci zokuhambisa iimpahla;

3.1.7 oonojikeleza;

3.1.8 ukuthengisa xa kukho into ethile.

3.2 Ukurhweba ebhitshini kuquka -

3.2.1 ukuthengisela kwiindawo zokurhwebela ezingenakususwa;

3.2.2 ukuthengisa uhamba-hamba, okufana nokuthengiselwa kwikharaveni, nezithuthi ezincinci zokuhambisa iimpahla;

3.2.3 oonojikeleza;

3.2.4 iivenkilana ezihambayo okanye nezinokususwa.

4. ILUNGELO LOKUQHUBA URHWEBO OLUNGABHALISWANGA NGOKUSESIKWENI

Urhwebo olungabhaliswanga ngokusesikweni kuvumelekile kuyo nayiphi indawo ephantsi kwesiXeko ngokusemthethweni, kuxhomekeka kodwa nakusiphi isicwangciso sorhwebo esamkelweyo sisiXeko, izibonelelo zalo mthetho kaMasiplala kwakunye nayiphi eminye imithetho efanelekileyo.

5. UKWAMKELWA KWEZICWANGCISO ZORHWEBO

5.1 IsiXeko apho kufanelekileyo masamkele izicwangciso zorhwebo ingakumbi kwiindawo apho kukho ukuyelelena okukhulu phakathi korhwebo olubhalisiweyo ngokusesikweni nolungabhaliswanga ngokusesikweni. Isicwangciso sorhwebo singavumela silawule urhwebo olungabhaliswanga ngokusesikweni kwipropati engeyeyoyesiXeko kuxhomekeke kumalungelo abanikazi balo propati.

5.2 Isicwangciso sorhwebo kufuneka:

5.2.1 siwuchaze umda wendawo yokurhwebela; kwaye

5.2.2 sicande iindawo zorhwebo olungabhaliswanga ngokusesikweni neemarike apho urhwebo olungabhaliswanga ngokusesikweni luvumelekileyo, ngaphandle kwemida yale ndawo isikiweyo urhwebo olungabhaliswanga ngokusesikweni aluvumelekanga.

5.3 Isicwangciso sorhwebo singaquka neminye imibandela elawula urhwebo olungabhaliswanga ngokusesikweni kulo ndawo yokurhweba kubhekiswa kuyo, efana –

5.3.1 nokumisela naziphi iimeko zorhwebo olungabhaliswanga ngokusesikweni, kubandakanya imiqathango nemigaqo ezakunyanzeliswa ngokwamaphepha-mvume aza kukhutshwa sisiXeko ngokwecandelo 8 kwaye oku kuxhomekeka kuyo nayiphi imqathango yalo mthetho kaMasipala;

5.3.2 indlela ekuza kukhuthazwa ngayo uphuhliso lwentlalo noqoqosho ngesicwangciso sorhwebo;

5.3.3 indlela eziza kukhuselwa ngayo iindawo ezinochuku zamafa nezokusingqongileyo ezikule ndawo yokurhweba icetywayo;

5.3.4 imibandela ehambelana neemarike ezinokuba kule ndawo yokurhweba kubhekiswa kuyo, kubandakanya kodwa kungaphelelanga:

5.3.4.1 kukusikwa kwendawo eza kuba yimarike kule ndawo yokurhweba;

5.3.4.2 apho kufanelekileyo, ukusikwa kweendawana zokurhwebela kwalapha emariken;

5.3.4.3 izivumelwano ngokomthetho phakathi kwesiXeko nabanye abantu ngoxanduva olubhekisele kulawulo gabalala lwemarike ngemiqathango abo bantu bayinxelenye kwisivumelwano babe noxanduva ubuncinane koku kulandelayo;

5.3.4.3.1 ukulawulwa kwendlela imarike esebenza ngayo;

5.3.4.3.2 ukulawulwa kwabarhwebi abangabhaliswanga ngokusesikweni abasebenzela emariken;

5.3.4.3.3 ukuqinisekisa ukuba bonke abantu abafanelekileyo bayinxelenye yezigqibo ezifanelekileyo;

5.3.4.3.4 ukucebisa abarhwebi abangabhaliswanga ngokusesikweni abasebenzela emariken ngenkxaso ngokoshishino neenkonzozo zokuziphuhlisa; kunye

5.3.4.3.5 nayiphi inkonzozo eyongezelela kwiinkonzozo ezinikezelwa zisiXeko.

5.4 Isicwangciso sorhwebo kufuneka sihambelana namacandelo 11,12 no-13 alo mthetho kaMasipala kwakunye neminye imithetho efanelekileyo.

5.5 Nawuphi umntu uyakuba nelungelo lokucela isiXeko ukuba sikuqwalasela ukwamkela kwesicwangciso sorhwebo; ngaphandle kokukuba isicwangciso sorhwebo esicetywayo sinombono worhwebo luqhubeka kwipropati engeyeyoyesiXeko, isicelo masikhatshwa bubungqina bemvume ebhaliweyo esuka

kumnikazi walo propati ingeyoyesiXeko. IsiXeko masisiqwalasele esi sicelo sithathe isigqibo ngaso ngexesha elifanelekileyo.

5.6 Xa isiXeko siqwalasela isicelo sokwamkelwa kwesicwangciso sorhwebo kufuneka sizithathele ingqalelo izicwangciso zorhwebo ezikhoyo nezisacetywayo kule ndawo yokurhweba icetywayo ukuze sikwazi ukugqiba ngemfuneko yokwamkela esinye isicwangciso sorhwebo.

6. INXAXHEBA YOLUNTU NGOKUPHATHELENE KUKWAMKELWA KWESICWANGCISO SORHWEBO

Isaziso soluntu esicela izimvo nenkcaso

Phambi kokuba samkelwe isicwangciso sorhwebo, isiXeko sinyanzelekile ukuba –

6.1 sithethane nemibutho echaphazelekeyo nenomdla kuquka nabarhwebi ababhalisileyo ngokusesikweni nabo bangabhalisanga ngokusesikweni ngenjongo yokubhala idrafti yesicwangciso sorhwebo;

6.2 sibhale idrafti yesicwangciso sorhwebo emva kokungqubanisa iintloko njengoko kucacisiwe kwicandelo 6.1;

6.3 sipapashe izaziso kumaphaphe-ndaba ama-2 (amabini) engingqi athengiswa kule ndawo esi sicwangciso sorhwebo sicetyelwa yona, ngaphandle kokuba iphepha-ndaba lengingqi elilelasimahla kuluntu likhona kulo ndawo xa kunjalo ke esi-1 (esinye) sezi zaziso zi-2 (zibini) masipapashwe kwelo phepha-ndaba; isaziso kufuneka

6.3.1 sinayo imiba ephambili yedrafti yesicwangciso sorhwebo kwaye esazisa uluntu ukuba idrafti yesicwangciso sorhwebo ikhona ingayokuhlalutywa kwindawo ethile echaziweyo; kwaye

6.3.2 sicele uluntu ukuba luhlomle lukhabe lo drafti yesicwangciso zize ezo zimvo zabo zifike kwisiXeko zingaphelanga iintsuku ezingama-30 (amashumi amathathu) ukusuka kulo mhla wokupapashwa kwesaziso.

6.4 Xa isiXeko sipapasha isaziso ngokwecandelo 6.3, kufuneka, apho kunokwenzeka khona, sisasaze umongo weso saziso kunomathothotholo kwisikhululo sikanomathotholo esisasaza kule ndawo kuthethwa ngayo.

Intlanganiso yoluntu

6.5 Kwesi sisaziso kubhekiswa kuso kwicandelo 6.3, isiXeko masimemele abantu abachaphazelekayo nabanomdla kwintlanganiso yoluntu.

6.6 Intlanganiso yoluntu mayibanjwe –

6.6.1 kule ndawo yokurhweba icetywayo; kwaye

6.6.2 emva kweentsuku ezisi-7 (ezisixhenxe) kodwa zingekapheli iintsuku ezingama-60 (amashumi amathandathu) ukusuka kusuku lokupapashwa kwesaziso esipapashwa ngokwecandelo 6.3.

6.7 Kwintlanganiso yoluntu, isiXeko kufuneka –

6.7.1 simelwe ngumntu ogunyaziswe ngokufanelekileyo sisiXeko okufuneka enze intetho-ngcaciso kubantu abakhoyo kwintlanganiso ekuza kucaciswa kuyo idrafti yesicwangciso sorhwebo;

6.7.2 siphendule kangangoko nayiphi imibuzo enxulumene nedrafti yesicwangciso sorhwebo enokubuzwa ngabantu abasentlanganisweni yoluntu; kwaye

6.7.3 sinike ithuba abo bachaphazelekayo nabanomdla bahlomle baphikise kwintlanganiso yoluntu, kwaye loo nxaxheba yabo ibhalwe phantsi.

Ukuqwalasela kwezinye izicwangciso phambi kokuba kwamkelwe isicwangciso sorhwebo

6.8 IsiXeko masizithathele ingqalelo zonke izimvo zokuhlomla nokukhaba okanye ukuphikisa isiXeko esinokuzifumana emva kokuba kulandelwe le nkqubo icaciswe kweli candelo.

6.9 Emva kokuba izimvo zokuhlomla nokuchasa zithathelwe ingqalelo, iBhunga kufuneka, ngexesha elifanelekileyo ukusuka komhla wokuqalwa kweentlanganiso zikawonke-wonke eziphathelene nedrafti yesicwangciso efanelekileyo, singazilibalanga izibonelelo zawo nawuphi umthetho, kwaye kwintlanganiso yeBhunga –

6.9.1 lamkele idrafti yesicwangciso sorhwebo;

6.9.2 lilungise lamkele idrafti yesicwangciso sorhwebo; okanye

6.9.3 likhabe idrafti yesicwangciso sorhwebo.

6.10 Nangona izibonelelo zecandelo 59 zoMthetho weeNkqubo, iBhunga alinakuthumela linikezela amagunya okuthatha isigqibo ekubhekiswa kuso kwicandelo 6.9.

6.11 Kwimeko apho isiXeko samkela idrafti yesicwangciso sorhwebo, isaziso masipapashwe kumaphaphe-ndaba ama-2 (amabini) engingqi athengiswa kule ndawo esi sicwangciso sorhwebo sicetyelwa yona, ngaphandle kokuba iphepha-ndaba lengingqi elilelasimahla kuluntu likhona kulo ndawo xa kunjalo ke esi-1

(esinye) sezi zaziso zi-2 (zibini) masipapashwe kwelo phepha-ndaba lengingqi, ize iGazethi yePhondo, eyazisa uluntu:

6.11.1 ukuba idrafti yesicwangciso sorhwebo yamkelwe njengesicwangciso sorhwebo;

6.11.2 ngemiba ephambili yesicwangciso sorhwebo equka umhla esiza kuqala ukusebenza ngawo;

6.11.3 nokuba isicwangciso sorhwebo sikhona ukuze sihlalutywe kwindawo ethile exeliweyo.

7. IZILUNGISO, UKURHOXISWA NOKUHLALUTYWA KWEZICWANGCISO ZORHWEBO

IsiXeko –

7.1 singasilungisa okanye sisirhoxise isicwangciso sorhwebo esamkelweyo, ukuba:

7.1.1. isilungiso siyanxaxha ngokubonakalayo kwisicwangciso sorhwebo, isiXeko masithobele icandelo 6 nezilungiso ezifanelekileyo ezifunwa kulo meko, ingakumbi ukuba kukho abantu abachaphazeleka kakhulu zezi zilungiso ziziswe ngaphambili azizukufuna ukuba zilungelelaniswa necandelo 6 abo bantu baza kuikwa ilungelo labo; okanye

7.1.2 kwimeko yokurhoxiswa isiXeko siza kuwahlonipha amalungelo ngokomthetho abo bantu bachapazelekayo.

7.2 masiziqwalasele kwakhona izicwangciso zorhwebo amaxesha ngamaxesha ngokokubona kwaso isiXeko.

8. AMAPHEPHA-MVUME

8. Akukho mntu unokuqhuba urhwebo olungabhaliswanga ngokusesikweni kwipropati yesiXeko kwindawo yokurhweba engenamvume isemthethweni isuka kwisiXeko.

8.2 IsiXeko sinelungelo lokuhlawulisa umnikazi wephepha-mvume:

8.2.1 imali yokurhweba;

8.2.2 imali yokufaka isicelo;

8.2.3 imali okanye umrhumo owongezelelweyo oza kumiselwa sisiXeko ngokokubona kwaso sona, ukubuyekeza iindleko ekungenwe kuzo okanye iinkonzo ezihanjiswe sisiXeko, kuquka kodwa kungaphelelanga kuzo, iimeko apho umnikazi phepha-mvume erwebela ngaphakathi emarikeneni.

8.3 Kwimeko apho umntu ofanelekileyo ukuba abe nephepha-mvume, kodwa oye wabhala isicelo ecacisa ukuba akakwazi kuyihlawula imali ekuthethwa ngayo kwicandelo 8.2 kwaye ubuvezile nobungqina obuvakalayo kwaye sanela nesiXeko, isiXeko singangayibizi imali yonke okanye inxalenye yayo, okanye singacebisa ngenye indlela yokuhlawula emiqathango yayo umntu anokubhatala ngexesha elithile elimisiweyo ngezavenge.

8.4 Ukuze ube nakho ukulifuma iphepha-mvume, umfaki-sicelo –

8.4.1 makabe ngumrhwebi ongabhaliswanga ngokusesikweni;

8.4.2 makangabi nalo iphepha-mvume lale ndawo yokurhweba afakela yona isicelo sephepha-mvume;

8.4.3 makabe ngummi waseMzantsi Afrika, ukuba akenguye, makabe nalo iphepha-mvume lokusebenza elisemthethweni elibandakanya kodwa lingaphelelanga kulo, iphepha-mvume lobumbacu; kwaye

8.4.4 makangaqeshi asebenzise abantu abangaphezulu kuma-20 (amashumi amabini).

8.5 IsiXeko masithathele ingqalelo ezi meko zilandelayo xa siqwalasela isicelo sephepha-mvume –

8.5.1 ukuba umfaki-sicelo uza kuba nakho na ukumelana neeyure zokurhweba ezifanelekileyo njengoko zimiselwe sisiXeko;

8.5.2 ukubaluleka kokuba nedolo kubafaki-sicelo abangababantu ababesekola ngaphambili;

8.5.3 apho kukho iziza ezimbalwa kwindawo yokurhweba ekufunwa iphepha-mvume layo, imfuneko yokukhetha abafaki-sicelo abaza kuqala ukuba kurhwebo olungabhaliswanga ngokusesikweni kwisiXeko;

8.5.4 uhlobo lweempahla umfaki-sicelo aza kuzithengisa okanye iinkonzo umfaki-sicelo aceba ukunceda ngazo, lungalitywanga kodwa uhlobo loshishino oluqhutywayo kule ndawo yokurhweba okanye iindawo emelene nazo;

8.5.5 ukubaluleka kokwenzela idolu kubafaki-sicelo abangaphangeliyo;

8.5.6 ukubaluleka kokwenzela idolu kubafaki-sicelo abangahlali kumakhaya abo nomntu ongenampepha-mvume, ngaphandle kokuba:

8.5.6.1. inani leziza ezikhoyo zokurhweba zale ndawo yokurhweba kubhekiswa kuyo zingaphezulu kwinani labafaki-sicelo abafuna iphepha-mvume lezo ziza zokurhweba; okanye

8.5.6.2 abafaki-sicelo abahlala kwikhaya lomntu onephepha-mvume abaxhomekekanga okanye abancediswa ngamali ngumnini phepha-mvume;

8.5.7 ukuba umfaki-sicelo, ngokwalo mthetho kaMasipala, wakhe wabanjelwa ukwaphula umthetho okanye nokurhoxiswa okanye ukumiswa kwephepha-mvume;

8.5.8 ukuba umfaki-sicelo ngumntu ofanelekileyo na ukuqhuba ishishini elisemthethweni kweso siza sibekiwe, nokuba ngenxa yendlela aziphethe ngayo, kubalwa nembali yakhe yokubanjwa esezincwadini, okanye indlela awayeziphethe ngayo ngaphambili;

8.5.9 apho izicwangciso zorhwebo zamkelwe kwindawo ezazingabekelwanga ezo zicwangciso, ukubaluleka kokukhetha abafaki-sicelo abasele benalo ishishini lorhwebo olungabhaliswanga ngokusesikweni elikhoyo kule ndawo yokurhweba intsha isicwangciso sorhwebo samkelelwa yona.

8.6 IsiXeko sinelungelo lokunyanzelisa imiqathango neemeko ngokuphathelene namaphepha-mvume xa sibona kufanelekile, kodwa kuxhomekeke kwizibonelelo zesicwangciso sorhwebo, kuquka kodwa kungaphelelanga kwilungelo –

8.6.1 ukucacisa:

8.6.1.1 amaxesha okurhweba umnikazi phepha-mvume anokurhweba ngawo;

8.6.1.2 uhlobo lweempahla okanye iinkonzo umnikazi phepha-mvume ekuvumelekileyo ukuba arhwebe ngazo; kunye

8.6.1.3 nenombolo yesiza sokurhweba somnikazi phepha-mvume;

8.6.2 ukunika umrhwebi ongabhaliswanga ngokusesikweni esinye isiza kule ndawo yokurhweba inye;

8.6.3 ukucacisa uhlobo lwezi zinto zokumisa okanye ukugxumeka, ukuba zikhona, ezinokumiswa kwisiza sokurhweba okanye nakwindawo yokurhweba;

8.6.4 ukuthimba iimpahla zokurhweba ngokwecandelo 18.2 okanye icandelo 18.8 kwimeko apho kophulwe nokuba sesiphi isibonelelo salo mthetho kaMasipala okanye nawuphi umthetho;

8.6.5 lokunqumamisa iphepha-mvume kumatheko akhethekileyo emva kokuba kwaziswe kwangaphambili kwangethuba elifanelekileyo apho kukwazekayo kumrhwebi ongabhaliswanga ngokusesikweni, kungalitalwanga ukuba urhwebo olungabhaliswanga ngokusesikweni lungavunyelwa sisiXeko kwitheko elikhethekileyo ngokwecandelo 14.

8.6.6 emva kokwaziswa kwangethuba ngaphambili komrhwebi ongabhaliswanga ngokusesikweni kwaye emva kokunikwa komrhwebi ongabhaliswanga ngokusesikweni ithuba lokubhala isicelo esicacisayo, sirhoxise okanye sinqumamise apho umrhwebi ongabhaliswanga ngokusesikweni –

8.6.6.1 ephule izibonelelo zephepha-mvume okanye nomthetho kaMasipala okanye nawuphi umthetho;

8.6.6.2 ebanjwe ngokurhweba ngeempahla ezingekho mthethweni okanye ahambise inkonzo ngokungekho mthethweni; okanye

8.6.6.3 enikise ngolwazi olungenabunyani esazi xa isiXeko besifune anikezele ngolwazi;

8.6.6.4 efunyenwe ukuba akazilungelanga iinguqu ezifunekayo ngokwemeko njengoko kucingelwa kwicandelo 8.5.8

8.7 Ungalitalwanga umongo wesicwangciso sorhwebo ekubhekiswa kuso, isiXeko sinalo ilungelo, emva kokuba umrhwebi ongabhaliswanga ngokusesikweni aziswe kwangethuba elaneleyo kwangaphambili kwaye isiXeko singazikuhlawula mbuyekezo ngoku kumnikazi phepha-mvume:

8.7.1 lokufudusa umnikazi phepha-mvume okwethutyana;

8.7.2 ukulingumamisa okwethutyana iphepha-mvume; okanye

8.7.3 ukumvala okwethutyana umnikazi phepha-mvume ukuba makarhwebe kwesiza sokurhweba ekubhekiswa kuso;

ukuba kukho imfuneko yokwenza njalo ngenxa yendlela ezihamba ngayo izinto zibonakalise ukuba ukuqhuba kurhwetywa kweso siza sokurhweba kubhekiswa kuso akukwazeki kwaye kuphazamisa kakhulu okanye kuyinkxamleko enkulu.

8.8 Izinto ekubhekiswa kuzo kwicandelo 8.7 zibandakanya, kodwa zingaphelelanga kuzo, ukulungiswa okanye ukwakhiwa kweziseko zophuhliso okanye izakhiwo sisiXeko, ukwakhiwa kwezindlu, ukutshintshwa okanye ukuhlaziywa kusenziswa nokuba yiyiphi imibutho, okanye imisebenzi eyenziwa yimibutho yoluntu ngokwamagunya nemisebenzi yayo.

9. UKUTSHINTSHWA KWAMAPHEPHA-MVUME

9.1 Iphepha-mvume lingatshintshelwa ngokusisigxina, ngemvume ebhaliweyo esuka kwisiXeko, kumntu uxhomekeke kuwe okanye umcebisi egameni lalo mntu uxhomekeke kuwe, oza kuqhuba yena erhweba lide iphepha-mvume libe liphelelwe, kwimeko apho –

9.1.1 kusweleka umnikazi phepha-mvume; kunye

9.1.2 nokulahleka komvuzo obusiza kolu rhwebo lungabhaliswanga ngokusesikweni okuthi kubeke lo mntu uxhomekeke kuwe phantsi kweenzima ngezimali.

9.2 Iphepha-mvume lingatshintshelwa okwethutyana, ngemvume ebhaliweyo esuka kwisiXeko, kumntu uxhomekeke kuwe okanye, apho kungekho mntu uxhomekeke kuwe, kumntu okhethwe ngumnikazi phepha-mvume, apho umnikazi phepha-mvume –

9.2.1 engakwazi ukuqhubeka erhweba ngenxa yokugula, ngaphandle kokuba

9.2.1.1 sibunikiwe isiXeko ubungqina obusuka kugqirha obuqinisekiso ukuba umnikazi phepha-mvume akanakukwazi ukurhweba; kwaye

9.2.1.2 umntu oxhomekeke kuwe okanye oncedayo uvumeleke kuphela ukuthatha indawo yomnikazi phepha-mvume ngesithuba esichazwe ngugqirha kwiphepha-siqinisekiso sokuba umnikazi phepha-mvume akazukukwazi ukurhweba:

9.2.2 engazukubakho ixesha elide ehambele izinto zezenkolo okanye zenkcubeko, ukuba ukusebenza kwephepha-mvume kuyagqitha kwisithuba esingaphaya kwenyanga e-1 (enye), umnikazi phepha-mvume makaqalise ukurhweba ingaphelanga inyanga e-1 (enye), ngaphandle kokuba isiXeko siyalivumela ixesha elide kwiimeko ezithile.

9.3 Kuxhomekeke kwicandelo 9.2, umnikazi phepha-mvume akanakukwazi ukulitshintshela iphepha-mvume nakuwuphi umntu nangayiphi indlela, kuquka kodwa kungaphelanga, ukuqeshisa ngalo okanye ukulithengisa.

9.4 Iphepha-mvume malibuyiselwe ngoko nangoko kwisiXeko ukuba isiXeko sikhe salirhoxisa elo phepha-mvume kwimeko apho umnikazi phepha-mvume –

9.4.1 engavunyelwa ukuba makatshintshe iphepha-mvume kwaye nomnikazi phepha-mvume engade aqalise ukurhweba; kwaye

9.4.2 akasenamdla wakurhweba njengomrhwebi ongabhaliswanga ngokusesikweni kwesi siza sokurhweba kubhekiswa kuso.

10 UXANDUVA LWABANIKAZI BEPROPATI ENGEYEOYESIXEKO

Umnikazi propati engeyeyoyesiXeko ebekiweyo kwisicwangciso sorhwebo njengomhlaba apho kuza kuvumeleka ukuqhuba urhwebo olungabhaliswanga ngokusesikweni, kufuneka -

10.1 aqinisekise ukuba urhwebo olungabhaliswanga ngokusesikweni oluqhubeka kwipropati yomniniyo luyahambelana nesicwangciso sorhwebo kwaye nalo mthetho kaMasipala;

10.2 alivumele naliphi igosa ukuba lingene kwipropati yakhe ukunyanzelisa izibonelelo zalo mthetho kaMasipala;

10.3 aqinisekise, ngendleko zomnikazi, ukuba iinkonzo ezifanelekileyo zikhona ukuyigcina le ndawo icokeke ngokufanelekileyo kurhwebo olungabhaliswanga ngokusesikweni;

10.4 aqinisekise ukuba urhwebo olusuka kumashishini abhaliswe ngokusesikweni alugqitheli lungene kwipropati yomnye umnikazi propati.

11. IIMEKO GABALALA ZOKUTHINTELWA KOSHISHINO OLUNGABHALISWANGA NGOKUSESIKWENI

Urhwebo olungabhaliswanga ngokusesikweni alunakuqhutyelwa:-

11.1 egadini okanye epakini ephantsi kwesiXeko uluntu elinelungelo kuyo,

ngaphandle kokuba loo ndawo ibekwe sisiXeko njengendawo yokurhwebela

11.2 kwidini lendlela okanye indledlana yenyawo (njengoko kuchaziwe kwicandelo 1 loMthetho weSizwe wezeMithetho yezeNdlalela, uNombolo 93 ka-1996) kufutshane –

11.2.1 nesakhiwo esiseseSizwe okanye isiXeko okanye esisetyenziswa siSizwe okanye isiXeko kuphela, ngaphandle kokuba isiXeko siyinikile imvume ebhalwe phantsi emva kokuba –

11.2.1.1 siqwalasele ngokufanelekileyo nasiphi isicwangciso sorhwebo ekubhekiswa kuso; kwaye

11.2.1.2 sidibene nomnikazi propati ekubhekiswa kuye, kwaye apho kufaneleke khona umntu oqeshe kulo propati;

11.2.1 indawo yokunqula efana necawe, icawe yamaJuda okanye eyaMasilamsi ngaphandle kokuba isicwangciso sorhwebo siyaluvumela urhwebo olungabhaliswanga ngokusesikweni kulo ndawo; okanye

11.2.3 ilitye lesikhumbuzo lesizwe njengoko kucacisiwe ngokwezibonelelo zoMthetho waMafa eSizwe, u-25 ka-1999;

11.3 kwindawo apho –

11.3.1 luphazamisa iindlela eya kwizixhobo zokucima umlilo;

11.3.2 luthintela indlela engenayo okanye ephumayo kwisakhiwo;

11.3.3 luvala indlela yabahambi ngeenyawo

11.3.4 luphazamisana nokuhamba kwezithuthi endleleni;

11.3.5 ngendlela enokubangela ingozi kwizithuthi endleleni;

11.3.6 luthintela indlela eya kwifenitshala yesitrato, izitulo kwizikhululo zebhasi neendawo zokusithela, imigca yokudwela, imigqomo yenkunkuma kunye nezinye izinto ezibekelwe ukusetyenziswa luluntu gabalala;

11.3.7 lusitha izinto eziboniswe ezifestileni kwizakhiwo zamashishini, kwaye lo mntu uqhuba ishishini ngakweso sakhiwo sokushishina uyakukhaba oku;

11.3.8 luvala indlela engena kwindawo yokunqumla abahambi ngenyawo endleleni;

11.3.9 luvala indlela eya ezithuthini;

11.3.10 luyalusitha uphawu lomthetho wendlela;

11.3.11 luvala indlela eya kumatshini wokukhupha imali;

11.3.12 luyayiphazamisa indlela eya kwindawo yokupaka okanye ukulayisha okanye ezinye iindawo zezithuthi endleleni;

- 11.3.13 luvala indlela yabahambi ngenyawo enophahla okanye eya ezivenkileni
- 11.3.14 lusitha iikhamera zohlobo lwe-CCTV; okanye
- 11.3.15 lusezantsi kophawu olubonakalisa ubuninzi bamanzi, ngaphandle kokuba isicwangciso sorhwebo siyaluvumela ngokucacileyo urhwebo olungabhaliswanga ngokusesikweni kuloo ndawo;
- 11.4 kwicala lendlela kawonke-wonke ekufutshane nesakhiwo esisetyenziswa njengendawo yokuhlala, ukuba umnikazi okanye umntu ohlala kweso sakhiwo uyakukhaba ukuqhutywa korhwebo olungabhaliswanga ngokusesikweni kulo ndawo.

12 IZITHINTELO KURHWEBO OLUNGABHALISWANGA NGOKUSESIKWENI

Akukho mntu –

- 12.1 unokuvala indlela eya nakweyiphi inkonzo kamasipala okanye umsebenzi weenkonzos kamasipala
- 12.2 ngaphandle kokuba kukho okubhalwe kwangaphambili okuvumayo sisiXeko, nakuyiphi indlela kawonke-wonke okanye indawo kawonke-wonke –
 - 12.2.1 onokuhlala ubusuku bonke kwindawo ekuqhutywa kuyo urhwebo olungabhaliswanga ngokusesikweni; okanye
 - 12.2.2 agxumeke nayiphi into engekho kwezichazwe kwisicwangciso sendawo sorhwebo okanye nakwimiqathango yephepha-mvume, ngeenjongo zokwenza indawo yokusithela;
- 12.3 aqhube ishishini njengomrhwebi ongabhaliswanga ngokusesikweni ngendlela –
 - 12.3.1 ebangela inkathazo;
 - 12.3.2 eyonakalisa okanye igxungule umphezulu wayo nayiphi indlela kawonke-wonke okanye indawo yoluntu okanye nayiphi ipropati eyeyesiXeko; okanye
 - 12.3.3 ebangela ingozi endleleni;
- 12.4 unokoyamisa into kwisakhiwo, ipavumente, indledlana yeenyawo, umthi, umatshini wendawo yokupaka izithuthi, ipali yesibane, ibali yombane, indlwana yefowuni, ibhokisi yeposi, uphawu lwendlela, isitulo okanye nayiphi ifanitshala yesitrato okanye isixhobo esikwindlela kawonke-wonke okanye indawo kawonke-wonke ebekelwe ukusetyenziswa luluntu;
- 12.5 unokubasa umlilo nakuyiphi indawo okanye kwiimeko apho unokonzakalisa nawuphi umntu okanye wonakalise isakhiwo okanye isithuthi okanye nasiphi na isakhiwo ekubhekiswa kuso kwicandelo 12.4 ngaphandle kokuba ugunyazisiwe ukuba makalungise into etyiwayo ngokusebenzisa umlilo onedangatye okanye isitovu segesi;

12.6 unokuhambisa okanye anikeze ngeempahla okanye isixhobo kumrhwebi ongabhaliswanga ngokusesikweni ukuba lo mrhwebi waphula lo mthetho kaMasipala ngokurhweba;

12.7 emva kokucelwa ukuba enze njalo nguye nawuphi umntu owenza umsebenzi ochazwe kwicandelo 8.7 ofuna ukuya kwindawo ethile, angakwazi ukususa naziphi iimpahla okanye angafuni ukwenza njalo;

12.8 ukuba uvunyelwe ukuqhuba urhwebo ebitshini:

12.8.1 athengise okanye azise ngeziselo ezinxilisayo;

12.8.2 asebenzise iintsimbi, akhalise ihutara, izixhobo ezikhala kakhulu okanye izinto ezifana nazo ezinesandi ukuze atsale abathengi; okanye

12.8.3 asebenzise umbane okanye ijenaretha, ngaphandle kokuba kuyavunyelwa kwaye kwamkelekile ngokucacileyo kwiphepha-mvume elifanelekileyo.

13 UKUTHUTHWA KWENKUNKUMA, UKUCOCA NEMPILO

13.1 Umrhwebi ongabhaliswanga ngokusesikweni kufuneka –

13.1.1 agcine isiza sorhwebo esingabhaliswanga ngokusesikweni somrhwebi ongabhaliswanga ngokusesikweni sicocekile kwaye sikwimeko enempilo;

13.1.2 yonke imihla ngethuba kuvalwa urhwebo, aqokelele asuse nakuyiphi indlela kawonke-wonke okanye indawo kawonke-wonke yonke inkunkuma, izinto zokusongela, iimpahla nezixhobo ezisetyenziswa okanye eziveliswa kwishishini lomrhwebi ongabhaliswanga ngokusesikweni, ngaphandle kokuba isiqinisekiso esibhaliweyo sisiXeko asimballi koku;

13.1.3 aqhube ushishino ngendlela engayibeki mngciphekweni impilo yoluntu okanye ukhuseleko loluntu; kwaye

13.1.4 ngokucelwa ligosa okanye umqeshwa ogunyaziswe ngokufanelekileyo wesiXeko, asuse nayiphi into ukuze indawo okanye isiza ekuqhutyelwa kuyo urhwebo icocwe;

13.2 Ukungathobeli ezi zibonelelo zeli candelo okanye isicelo esisemthethweni segosa ngokweli candelo, kuza kuthathwa njengokwaphula umthetho kaMasipala kwaye umrhwebi ongabhaliswanga ngokusesikweni uza kunyanzeliswa ngokwezibonelelo zalo mthetho kaMasipala.

14 AMATHEKO AKHETHEKILEYO

IsiXeko singavumela okanye siluthintele urhwebo olungabhaliswanga ngokusesikweni kumatheko akhethekileyo ngokwemiqathango nemimiselo esiyibona

ifanelekile, kodwa ingayilwanga imiqathango yaso nasiphi isicwangciso sorhwebo okanye amaphepha-mvume akhutshelwa lo ndawo yokurhweba kubhekiswa kuyo.

15. IZIKHOKELO NEMIGAQO

IsiXeko singapapasha okanye silungise izikhokelo okanye imigaqo nanini ephathelene norhwebo olungabhaliswanga ngokusesikweni kuloo masipala.

16 AMAGUNYA NEMISEBENZI

16.1 Kuxhomekeke kwicandelo 16 (3), uMlawuli wesiXeko uya kuba noxanduva:

16.1.1 Iwayo yonke imisebenzi nezigqibo ekubhekiswe kuzo kulo mthetho kaMasipala; kunye

16.1.2 nokulawulwa kwalo mthetho kaMasipala.

16.2 UMlawuli wesiXeko angabela namawaphi na amagunya nemisebenzi igosa elifanelekileyo elinegunya lokuthumela ukuze umsebenzi uhambe ngokukhawuleza.

16.3 Izigqibo ekubhekiswa kuzo kumacandelo 6.9, 7.1.1 no-7.1.2 mazithathwe liBhunga kwaye akunakuthunyelwa kuzo.

17 IZIBHENO

Umntu amalungelo akhe achatshezelweyo sisigqibo esithatyathwe sisiXeko ngokwalo mthetho kaMasipala phantsi komsebenzi okanye igunya ebelithunyelwe, angabhena asiphikise eso sigqibo ngokwecandelo 62 soMthetho weNkqubo.

18. UKUNYANZELISWA

18.1 Igosa lingakhuphela umntu isilumkiso esibhaliweyo ukuba, ngokwegosa, loo mntu urhwebe ngeempahla okanye unikezele ngeenkonzo ezaphula lo mthetho kaMasipala okanye loo mntu waphule lo mthetho kaMasipala nangayiphi indlela, kubandakanya kodwa kungaphelelanga apho, ukwaphula imiqathango yephepha-mvume okanye nawuphi umthetho ochaphazelekayo.

18.2 Kwimeko apho umntu aqhubelekayo okanye aphindayo ophule umthetho ngokubhekisele kwisilumkiso esibhaliweyo ebesikhutshulwe loo mntu, kuloo imeko igosa lingathimba, kwimeko yomrhwebi ongabhaliswanga ngokusesikweni, nayiphi na impahla esetyenziswa ngumrhwebi ongabhaliswanga ngokusesikweni ukuqhuba urhwebo lwakhe olungabhaliswanga ngokusesikweni, kwaye kwimeko apho nawuphi omnye umntu, nayiphi ipropati, kubandakanya kodwa kungaphelelanga, iimpahla, izixhobo, izakhiwo nezithuthi, kulo meko igosa kufuneka -

18.2.1 lenze uluhlu lwayo yonke impahla ethinjiweyo kwaye olo luhlu kufuneka luquke ulwazi ngeziphumo zolo thimbo xa loo mntu engakwazanga ukuhlawula iindleko zokuthimba athathe iimpahla;

18.2.2 anike loo mntu ikopi yoluhlu lweempahla;

18.2.3 ngoko nangoko ayigcine loo mpahla ithinjiweyo kwindawo ebekelwe ukugcina impahla ethinjiweyo sisiXeko.

18.3 Impahla ethinjiweyo emntwini ingakhululwa emva kokuba umntu lowo eveze uluhlu lweempahla ekubhekiswe kulo kwicandelo 18.2 kwaye nentlawulo yeendleko zokuthimba yenziwe, nokuba isiXeko sanelisekile ukuba loo mntu kubhekiswa kuye akazukuphinda, emva kokukhululwa kweempahla, aqhubeleke esaphula laa mthetho mnye ububangele ukuba iimpahla zithinjwe; nokuba futhi, apho isiXeko singonelisekanga khona, singazibamba iimpahla kude kube zintsuku ezingama-30 (amashumi amathathu) emva kokuba kuhlululwe nasiphi isohlwayo okanye neendleko zokuthimba.

18.4 Izinto ezonakalayo ebezithinjiwe zingathengiswa okanye zisuke zilahlwe sisiXeko nanini emva kokuba zithinjwe. IsiXeko singazitshabalalisa iimpahla ukuba iimeko yazo ezo mpahla izibangela ukuba zingabi nakutyiwa ngabantu.

18.5 Enye iimpahla ethinjiweyo ngaphandle kwezi zonakalayo, ingathengiswa sisiXeko ukuba umnikazi wayo akazihlawuli, okanye akakwazi, iindleko zokuthimba ingaphelanga inyanga e-1 (enye) ukusuka kumhla wokuthinjwa kweempahla.

18.6 Kwimeko apho impahla ethinjiweyo iye yathengiswa sisiXeko ngokwecandelo 18.4 okanye u-18.5, nasemva kokuba umnikazi wazo eveze uluhlu lweempahla ekubhekiswa kulo kwicandelo 18.3, isiXeko masihlawule umnikazi –

18.6.1 imali ezithengiswa ngayo kutsalwe iindleko zokuthimba; okanye

18.6.2 ukuba umnikazi wayesele ezihlawule iindleko zokuthimba ngaphambili, imali eyenziweyo ngazo mayihlawulwe kumnikazi ingatsalwanga.

18.7 Ukuba umnikazi akayibizi imali eyenziwe ngokuthengisa iimpahla ebezithinjiwe zingaphelanga iinyanga ezi-3 (ezintathu) ukusuka kumhla wokuthinjwa, imali eyenziweyo iza kutshona kwisiXeko.

18.8 Ukuba ngokokubona okuqiqileyo kwegosa, umrhwebi ongabhaliswanga ngokusesikweni ukrokrelwa ngokurhweba ngeempahla ezingekho mthethweni okanye lowo athenga kuye kubhekiswa kuye kwicandelo 12.6 uthengisela umrhwebi iimpahla ezingekho mthethweni, ezo mpahla zingathinjwa ngoko nangoko. Ukuba ziye zathinjwa, igosa kufuneka:

18.8.1 lenze uluhlu oluzeleyo lazo zonke iimpahla ezithinjiweyo;

18.8.2 linike umrhwebi ongabhaliswanga ngokusesikweni okanye umntu ekubhekiswa kuye kwicandelo 12.6 ikopi yoluhlu;

18.8.3 lakugqiba, linikezele iimpahla ezikrokreleka ngokungabi semthethweni kwiNkonzo yamaPolisa oMzantsi Afrika.

19. AMATYALA

Nawuphi umntu –

19.1 owaphula isibonelelo salo mthetho kaMasipala okanye ongathobeli nawuphi umqathango onyanzelisiwe apha;

19.2 ogrogrisa, owalela, ophazamisana okanye othintela igosa okanye nawuphi umqeshwa wesiXeko ekwenzeni imisebenzi esemthwethweni ngokwalo mthetho kaMasipala; okanye

19.3 onikeza ngolwazi olungenabunyani okanye olulahlekisayo ngabom kwigosa okanye umqeshwa wesiXeko;

unetyala lokophula umthetho kwaye angohlwaywa akuba egwetyiwe isohlwayo esingekho ngaphezulu kuma-R5,000,000 (amawaka amahlanu eeRandi), okanye ukubanjwa isithuba esingenakudlula kwiinyanga ezi-3 (ezithathu), kuxhomekeke kuMthetho wokuHlenga-hlengiswa kweZohlwayo, uNombolo 101 ka-1991.

20 IZIBONELELO ZETHUTYANA

Kungalitalwanga ukuwiswa kwalo mthetho kaMasipala:

20.1 nasiphi isaziso ngokoMthetho wezamaShishini wendawo ephantsi kwesiXeko ngokomthetho njengendawo apho ukuqhuba ushishino lokuthengiswa esitalatweni, isimawusi okanye umntu ohamba-hamba ethengisa kungavumelekanga, siza kuhlala sisebenza sinjalo side isiXeko samkele isicwangciso sorhwebo esiphathelene naloo ndawo ngokwalo mthetho kaMasipala;

20.2 apho umrhwebi ongabhalisanga ngokusesikweni ekhutshelwe isiqinisekiso sokuqesha okanye iphepha-mvume phambi kokuwiswa kwalo mthetho kaMasipala esivumela ukurhweba kwisiza esithile, eso siqinisekiso okanye phepha-mvume siza kuhlala sisebenza ide inkqubo yamaphepha-mvume ehlanganisiweyo yamkelwe sisiXeko ehambelana nenkqubo yamaphepha-mvume ekubhekiswa kuyo kulo mthetho kaMasipala.

21. UKURHOXISWA KWEMITHETHO KAMASIPALA

Le mithetho kaMasipala ilandelayo irhoxisiwe:

21.1 Umthetho kaMasipala opapashwe kwiGazethi yePhondo yomhla we-13 Disemba 1996, PN 522/1995, ngokubhekisele kwindawo kaMasipala waseKapa wangaphambili;

21.2 Umthetho kaMasipala opapashwe kwiGazethi yePhondo yomhla wama-21 Apreli 1999, PN 136/1999 ngokubhekisele kwindawo yesiXeko saseTygerberg sangaphambili.

21.3 Umthetho kaMasipala opapashwe kwiGazethi yePhondo yomhla wama-27 Agasti 1999, PN 282/1999 ngokubhekisele kwindawo kaMasipala waseBlaauberg wangaphambili.

21.4 Umthetho kaMasipala opapashwe kwiGazethi yePhondo yomhla wama-20 Novemba 1998, PN 633/1998 ngokubhekisele kwindawo kaMasipala we-South Peninsula wangaphambili.

21.5 Umthetho kaMasipala opapashwe kwiGazethi yePhondo yomhla we-10 Matshi 2000, PN 76/2000 ngokubhekisele kwindawo kaMasipala waseHelderberg wangaphambili.

21.6 Umthetho kaMasipala opapashwe kwiGazethi yePhondo yomhla wama-29 Meyi 1998, PN 136/1999 ngokubhekisele kwindawo kaMasipala waseOostenberg wangaphambili.

22. Isihloko esifutshane nokuqalisa

Lo mthetho kaMasipala ubizwa ngokuba isiXeko saseKapa: uMthetho kaMasipala woRhwebo olungaBhaliswanga ngokuseSikweni kwaye uza kuqala ukusebenzisa ngomhla wokupapashwa kwiGazethi yePhondo.

ooooOooooOoooo