

CITY OF CAPE TOWN

AIR QUALITY MANAGEMENT  
BY-LAW, 2010

APPROVED BY COUNCIL : 31 MARCH 2010

C 55/03/10

PROMULGATED 30 JULY 2010  
PG 6772; LA 22157



# Provincial Gazette

# Provinsiale Koerant

6772

6772

Friday, 30 July 2010

Vrydag, 30 Julie 2010

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

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

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**CITY OF CAPE TOWN**  
**AIR QUALITY MANAGEMENT BY-LAW, 2010**

To repeal the City of Cape Town: Air Pollution Control By-law, 2003; to provide for air quality management; and to provide for matters incidental thereto.

**PREAMBLE**

**WHEREAS** section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

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

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

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

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**CHAPTER I**  
**DEFINITIONS AND FUNDAMENTAL PRINCIPLES**

**Definitions**

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

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

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

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

“**air pollution control zone**” means the geographical area to which Chapter IV of this By-law is declared to apply;

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

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

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

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

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

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

“**authorised person**” means any employee of the City delegated by the Executive Director: City Health to implement any provision of this By-law;

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

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

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

“**City Manager**” means a person appointed by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No.117 of 1998);

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

“**Council**” means the Council of the City or any of the other political structures, political office bearers, councillors or staff members, of the City duly authorised by delegation;

“**dark smoke**” means —

- (a) in respect of Chapter V and Chapter VI of this By-law, smoke which when measured using a light absorption meter, obscuration measuring equipment or other similar equipment, has an obscuration of 20% or greater;
- (b) in respect of Chapter VIII of this By-law —
  - (i) smoke emitted from the exhaust outlets of naturally aspirated compression ignition engines which has a density of 50 Hartridge smoke units or more or a light absorption co-efficient of more than 1.6m-1;
  - (ii) smoke emitted from the exhaust outlets of turbo charged compression ignition engines which has a density of 56 Hartridge smoke units or more or a light absorption co-efficient of more than 1.10m-1;

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

“**dwelling**” means any building or structure, or part of a building or structure, used as a dwelling and any outbuildings ancillary to it, but excludes informal settlements;

“**environmental management inspector**” means an environmental management inspector referred to in section 5;

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

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

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

**“free acceleration test”** means the method described in section 25;

**“fuel-burning equipment”** means any furnace, boiler, incinerator, or other equipment, including a chimney —

- (a) designed to burn or capable of burning liquid, gas or solid fuel;
- (b) used to dispose of any material or waste by burning; or
- (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

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

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

**“nuisance”** means an unreasonable interference or likely interference caused by air pollution with —

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

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

**“open burning”** means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and **“burning in the open”** has a corresponding meaning;

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

**“proclaimed township”** means any land unit zoned and utilized for residential purposes;

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

**“premises”** includes—

- (a) any building or other structure;
- (b) any adjoining land occupied or used in connection with any activities carried on in that building or structure;
- (c) any vacant land;
- (d) any locomotive, ship, boat or other vessel which operates in the precincts of any harbour,

within the area of the jurisdiction of the City;

**“Province”** means the Province of the Western Cape;

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

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

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

**“spray area”** means an area or enclosure referred to in section 27 and must be used for spray painting, and **“spray booth”** has a corresponding meaning;

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

**“the NEMA”** means the National Environmental Management Act, 1998 (Act No.107 of 1998); and

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

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

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

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

3. In the event of any conflict between this By-law and any other by-law or any policy which regulates air pollution, the provisions of this By-law shall prevail.

## **CHAPTER II DUTY OF CARE**

#### **Reasonable measures to prevent air pollution**

4. (1) Any person who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring must take all reasonable measures including the best practicable environmental option—

- (a) to prevent any potential significant air pollution from occurring; and

(b) to mitigate and, as far as reasonably possible, remedy any significant air pollution that has occurred.

(2) The Council may direct any person who fails to take the measures required under subsection (1) to—

- (a) investigate, evaluate and assess the impact of specific activities and report thereon;
- (b) take specific reasonable measures before a given date;
- (c) diligently continue with those measures; and
- (d) complete them before a specified reasonable date,

provided that prior to such direction the authorised person must give such person adequate notice and direct him or her to inform the authorised person of his or her relevant interests, and the authorised person may consult with any other organ of state.

(3) The authorised person may, if a person fails to comply or inadequately complies with a directive contemplated in subsection (2), take reasonable measures to remedy the situation.

(4) The authorised person may, if a person fails to carry out the measures referred to in subsection (1), recover all reasonable costs incurred as a result of him or her acting under subsection (3) from any or all of the following persons:

- (a) any person who is or was responsible for, or who directly or indirectly contributed to the air pollution or the potential air pollution;
- (b) the owner of the land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
- (c) the person in control of the land or any person who has or had a right to use the land at the time when the —
  - (i) activity or the process in question is or was performed or undertaken; or
  - (ii) situation came about; or
- (d) any person who negligently failed to prevent the —
  - (i) activity or the process being performed or undertaken; or
  - (ii) situation from coming about.

(5) If more than one person is liable under subsection (4), the liability may be apportioned among the persons concerned according to the degree to which each person was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1) and (2).

### CHAPTER III

#### DESIGNATION OF THE AIR QUALITY OFFICER AND ENVIRONMENTAL MANAGEMENT INSPECTORS

##### Designation or appointment of the air quality officer and environmental management inspectors

5. (1) The City Manager must, in consultation with the Executive Director: City Health, designate or appoint an employee of the City or any person as the air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the City.

(2) The Executive Director: City Health may request the MEC responsible for environment in the Province to appoint environmental management inspectors in terms of section 31C of the NEMA.

##### Duties and functions of the air quality officer and environmental management officers

6. (1) The air quality officer must —

- (a) co-ordinate the development of the air quality management plan for inclusion in the Integrated Development Plan of the City, in accordance with Chapter 5 of the Systems Act;
- (b) prepare an annual report of the City on air quality;
- (c) exercise the duties and powers assigned to him or her under this By-law under the directions of the Executive Director: Health; and
- (d) submit the annual report referred to in paragraph (b) to the air quality officer appointed by the MEC responsible for environment in the Province.

(2) The annual report referred to in subsection (1)(b) must, amongst others, include the progress of the City towards the implementation of the air quality management plan.

(3) The air quality officer may require the holder of a provisional atmospheric emission licence or the holder of an atmospheric emission licence to designate an emission control officer as contemplated in section 48 of the Air Quality Act.

### CHAPTER IV

#### LOCAL EMISSIONS STANDARDS, NORMS AND STANDARDS AND SMOKE CONTROL ZONES

##### *Part 1: Local Emission Standards*

##### Legal Mandate

7. (1) The authorised person may, by notice —

- (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the City or which the air quality officer reasonably believes present such a threat; and
- (b) in respect of each of those substances or mixtures of substances, publish local standards for emissions from point, non-point or mobile sources in the City.

(2) The authorised person shall take the following factors into consideration in setting local emission standards:

- (a) health, safety and environmental protection objectives;
- (b) analytical methodology;



- (c) technical feasibility;
- (d) monitoring capability;
- (e) socio-economic consequences;
- (f) ecological role of fire in vegetation remnants; and
- (g) best practicable environmental option.

(3) Any person who is emitting substances or mixtures of substances as referred to in subsection(1) must comply with the local emission standards published in terms of this By-law.

### *Part 2: Norms and Standards*

#### **Substances identification process**

8. (1) The authorised person must apply the following criteria when identifying and prioritising the substances in ambient air that present a threat to public health, well-being or the environment:

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

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

#### **Publication of local emission standards**

9. For the purposes of publication of the local emission standards, the City must follow a consultative process in terms of Chapter 4 of the Systems Act.

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

10. (1) The whole area within the area of jurisdiction of the City is hereby declared an air pollution control zone.

(2) The Council may, within the air pollution control zone, from time to time by notice in the Provincial Gazette —

- (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
- (b) prohibit or restrict the combustion of certain types of fuel;
- (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted;
- (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
  - (i) different geographical portions;
  - (ii) specified premises;
  - (iii) classes of premises;
  - (iv) premises used for specified purposes; or
  - (v) mobile sources

(3) The Council may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly and indirectly cause air pollution within an air pollution control zone.

(4) Subject to section 44, the Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from this section.

## **CHAPTER V**

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

#### **Application**

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

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

12. (1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.

(2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practical environmental option.

(3) Subsections (1) and (2) do not apply to holders of atmospheric emission licences for activities listed in terms of section 21 of the Air Quality Act, and the emission standards listed in such licence shall apply.



**Installation of fuel-burning equipment**

**13.** (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of Council, which may only be given after consideration of the relevant plans and specifications.

(2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved for the purposes of this section by the Council, shall be presumed until the contrary is proved to comply with the provisions of subsection (1).

(3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises contrary to subsection (1), Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

(4) The Executive Director: City Health may take whatever steps he or she considers necessary in order to remedy the harm caused by the installation, alteration, extension or replacement on premises and prevent any further occurrence, and may recover the reasonable costs so incurred from the person responsible for causing such harm.

**Operation of fuel-burning equipment**

**14.** (1) No person may use or operate any fuel-burning equipment on any premises contrary to the authorisation referred to in section 13.

(2) Where fuel-burning equipment has been used or operated on the premises in contrary to subsection (1), Council may on written notice to the owner and occupier of the premises —

(a) revoke his or her authorisation under section 13; and

(b) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator within the period stated in the notice.

(3) The Council may, if the owner or occupier of the premises fails to comply with the notice referred to in subsection (2), remove the fuel burning equipment from the premises and may recover the reasonable costs incurred from such owner or occupier of such premises.

**Presumption**

**15.** Dark smoke shall be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning was reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, shows that no dark smoke was emitted.

**Installation and operation of obscuration measuring equipment**

**16.** (1) An authorised person may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if —

(a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;

(b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;

(c) fuel-burning equipment has been or is intended to be installed on the relevant premises which are reasonably likely to emit dark smoke;

(d) the person on whom the notice is served has been convicted more than once under this Chapter and has not taken adequate measures to prevent further contravention of the provisions of this Chapter; or

(e) the authorised person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.

(2) A notice referred to in subsection (1) must inform the person to whom it is addressed of —

(a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;

(b) that person's right of appeal under section 43;

(c) that person's right to request written reasons for the issuing of the notice; and

(d) the measures that must be taken and the potential consequences if the notice is not complied with.

**Monitoring and sampling**

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

(a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;

(b) if requested to do so by an authorised person, produce the record of the monitoring and sampling results for inspection; and

(c) if requested to do so by an authorised person, provide a written report, in a form and by a date specified by the authorised person, of part or all of the information in the record of the monitoring and sampling results.

**Temporary exemption**

**18.** (1) Subject to section 44 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Council may grant a temporary exemption in writing from one or all the provisions of this Chapter.

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

(a) a description of the fuel-burning equipment and the premises on which it is used or operated;

(b) the reasons for granting the exemption;

- (c) the conditions attached to the exemption, if any;
  - (d) the period for which the exemption has been granted; and
  - (e) any other relevant information.
- (3) The Council may not grant a temporary exemption under subsection (1) until the Council has —
- (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the temporary exemption, including adjacent land owners or occupiers, are aware of the application for temporary exemption and how to obtain a copy of it;
  - (b) provided such persons with a reasonable opportunity to object to the application; and
  - (c) duly considered and taken into account any objections raised.

## CHAPTER VI

### SMOKE EMISSIONS FROM DWELLINGS

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

**19.** (1) Subject to section 4(1), no person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.

(2) Subject to section 44 and on application in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Chapter.

## CHAPTER VII

### EMISSIONS CAUSED BY DUST EMISSIONS, OPEN BURNING AND BURNING OF MATERIAL

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

**20.** (1) Subject to subsection (4), any person who intends to carry out open burning of any material on any land or premises, must apply for prior written authorisation of such open burning to the Council.

(2) The Council may, in the written authorisation referred to in subsection (1) impose conditions with which the person requesting authorisation must comply.

(3) The Council may not authorise open burning referred to in subsection (1) unless it is satisfied that the following requirements have been adequately addressed or fulfilled:

- (a) the material will be open burned on the land from which it originated;
  - (b) that the person requesting authorisation has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimize the amount of material to be open burned, to the satisfaction of the Council;
  - (c) that person requesting authorisation has investigated and assessed every reasonable alternative for removing the material from the land or premises to the satisfaction of the Council;
  - (d) that person requesting authorisation has investigated and assessed the impact the open burning will have on the environment to the satisfaction of the Council;
  - (e) that person requesting authorisation has notified in writing the owners and occupiers of all adjacent properties of —
    - (i) all known details of the proposed open burning; and
    - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
  - (f) the prescribed fee has been paid to the Council.
  - (g) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act No.101 of 1998) has not been published for the region;
  - (h) the land on which that person intends to open burn the material is state land, a farm or small-holding, or land within a proclaimed township that is not utilised for residential purposes;
  - (i) the open burning is conducted at least 100 metres from any buildings or structures; and
  - (j) the open burning will not pose a potential hazard to human health or safety, private property or the environment.
- (4) The provisions of this section shall not apply to —
- (a) recreational outdoor barbecue or braai activities on private premises;
  - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
  - (c) any other defined area or defined activity to which the Council has declared this section not to apply.

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

**21.** (1) No person may without authorisation in writing by Council —

- (a) carry out or permit the burning of any tyres or rubber or other synthetically coated, covered or insulated products and electronic or other equipment on any land or premises;
- (b) carry out or permit the burning of any tyres, rubber products, cables or any other products, on any land or premises for the purpose or recovering the scrap metal or fibre reinforcements, or of disposing of tyres, or the rubber products or cables as waste; or
- (c) possess, store, transport or trade in any burnt metal or fibre reinforcements referred to in paragraph (a) and (b).

(2) The Council may take whatever steps it considers necessary in order to remedy the harm caused by the burning referred to in paragraphs (a) and (b) and the possession referred to in paragraph (c), and prevent any occurrence of it, and may recover the reasonable costs incurred from the person responsible for causing such harm.

#### **Dust Emissions**

22. Any person who —

- (a) conducts any activity; or
- (b) causes or permits dust emissions to occur,

shall adopt the best practical environmental option to the satisfaction of the authorised person, to prevent and abate dust emissions into the atmosphere that may be harmful to public health and well-being or is likely to cause a nuisance to persons residing or present in the vicinity of such land, activity or premises.

### **CHAPTER VIII**

#### **EMISSIONS FROM COMPRESSION IGNITION POWERED VEHICLES AND POWER GENERATORS**

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

23. (1) No Person may on a public or private road or any premises drive or use, or cause to be used, a compression ignition powered vehicle or power generator that emits dark smoke.

(2) For purposes of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

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

24. (1) In order to enable an authorised person to enforce the provisions of this Chapter, the driver of a vehicle must comply with any reasonable direction given by an authorised person —

- (a) to stop the vehicle; and
- (b) to facilitate the inspection or testing of the vehicle.

(2) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised person may —

- (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out —
  - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
  - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
- (b) conduct a visual inspection of the vehicle and, if the authorised person reasonably believes that an offence has been committed under section 23(1), instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 25.

##### **Testing procedure**

25. (1) An authorised person must use the free acceleration test method in order to determine whether a compression ignition powered vehicle is being driven or used in contravention of section 23(1).

(2) The following procedure must be adhered to in order to conduct a free acceleration test:

- (a) when instructed to do so by the authorised person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
- (b) while the vehicle is idling, the authorised person must conduct a visual inspection of the emission system of the vehicle;
- (c) the authorised person must rapidly, smoothly and completely depress the accelerator throttle pedal of the vehicle, or he may instruct the driver to do likewise under his supervision;
- (d) while the throttle pedal is depressed, the authorised person must measure the smoke emitted from the emission system of the vehicle in order to determine whether or not it is dark smoke;
- (e) the authorised person must release the throttle pedal when the engine reaches cut-off speed;
- (f) if the authorised person instructs the driver to depress the throttle, the driver may only release the throttle when it reaches cut-off speed or when instructed to do so by the authorised person.

(3) If, having conducted the free acceleration test, the authorised person is satisfied that the vehicle —

- (a) is not emitting dark smoke, he or she must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 23(1); or
- (b) is emitting dark smoke, he or she must issue the driver of the vehicle with a repair notice in accordance with section 26.

##### **Repair notice**

26. (1) The authorised person must with a written repair notice, direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(2) The repair notice must contain the following information:

- (a) the make and registration number of the vehicle;
- (b) the name, address and identity number of the driver of the vehicle; and
- (c) if the driver is not the owner, the name and address of the vehicle owner.

(3) It shall not be a defence in proceedings relating to the non compliance of the repair notice and non re- testing of the vehicle referred to in subsection (1) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

(4) If the owner of the vehicle fails to comply with the notice and the re-test referred to in subsection (1), the City may take whatever steps it considers necessary in order to remedy the harm including towing the vehicle away and may recover the costs incurred from the owner of the vehicle.

## CHAPTER IX

### EMISSIONS THAT CAUSE A NUISANCE

#### Prohibition of emissions that cause nuisance

27. (1) No person shall, within the area of jurisdiction of the City—

- (a) inside an approved spray area or spray booth, spray or apply any coat, plate or epoxy coat to any vehicle, article or object, so as to cause a nuisance; or
- (b) outside an approved spray area or spray booth, allow any spray, coat, plate or epoxy coat to be applied to any such vehicle, article or object.

(2) The spray area or spray booth referred to in subsection (1) must be constructed and equipped in such a manner that complies with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and must be approved by the authorised person, for emissions, mechanical ventilation, noise and any other relevant Department as may be required by any other law.

(3) Any person conducting sand blasting, shot blasting, grinding, finishing or similar activity which customarily produce emissions of dust that may be harmful to public health or cause a nuisance shall take control measures to prevent emissions into the atmosphere.

(4) Any person undertaking an activity referred to in (3) must implement the following control measures:

- (a) dust extraction control measures;
- (b) any alternative control measure approved by the air quality officer or his or her delegated representative.

(5) An occupier or owner of any premises —

- (a) must prevent the existence in, or emission of any nuisance from, his or her premises.
- (b) from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

#### Abatement notice

28. (1) An authorised person may serve an abatement notice on any person whom he or she reasonably believes is likely to act in contrary or has acted in contrary of section 27, calling upon that person —

- (a) to abate the nuisance within a period specified in the notice;
- (b) to take all necessary steps to prevent a recurrence of the nuisance; and
- (c) to comply with any other conditions contained in the notice.

(2) An abatement notice under subsection (1) may be served —

- (a) upon the owner of any premises, by —
  - (i) delivering it to the owner or, if the owner cannot be traced or is living abroad, the agent of the owner;
  - (ii) transmitting it by registered post to the last known address of the owner or the last known address of the agent; or
  - (iii) delivering it to the address where the premises are situated, if the address of the owner and the address of the agent are unknown;
- (b) upon the occupier of the premises, by —
  - (i) delivering it to the occupier; or
  - (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.

#### Steps to abate nuisance

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

## CHAPTER X

### PESTICIDE AND CROP SPRAYING

#### Spraying of a pesticide, herbicide or other related material

30. (1) No person may carry out or permit the spraying of a pesticide, herbicide or other related material unless such pesticide, herbicide or material is registered in terms of section 3 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(2) Any person who contravenes subsection (1) of this By-law is guilty of an offence as set out in section 18(1)(c) of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(3) A person who carries out or permits the spraying of pesticides, herbicides or other materials referred to in subsection (1), within the area of jurisdiction of the City, must comply with the following controlled measures:

- (a) obtain prior written authorisation of the City which may be granted by the City with conditions, including —
  - (i) the area of land on which the pesticide, herbicide or other material may be applied; and
  - (ii) the period of time in which the pesticide, herbicide or other material may be applied;
- (b) notify in writing the owners and occupiers of all adjacent properties within 150 metres of the proposed area of land, of —
  - (i) the details of such land;
  - (ii) the reason for use of pesticide, herbicide or other material;
  - (iii) the active ingredient of pesticide, herbicide or other material;
  - (iv) the date and approximate time of the use of pesticide, herbicide or other material;
  - (v) in the event of inclement weather conditions, an alternative date or dates on which the use of pesticide, herbicide or other material may occur;

- (vi) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application of the pesticide, herbicide or other material;
  - (vii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Council within seven days of being notified; and
  - (viii) the prescribed fee has been paid to the Council.
- (4) Any person who contravenes subsection (3) is guilty of an offence.
- (5) A person may apply to the City for an exemption if —
- (a) the spraying of the pesticide is for the management of pests that transmit human diseases or adversely impact agriculture or forestry;
  - (b) the spraying of the pesticide is for the management of pests that threaten the integrity of sensitive ecosystems; or
  - (c) the need for the use of the pesticide is urgent.
- (6) The provisions of this section are not applicable to —
- (a) residential areas of farms;
  - (b) buildings or inside of buildings; or
  - (c) any other defined area or defined activity to which the City has declared this section not to apply.

## CHAPTER XI

### LICENSING OF LISTED ACTIVITIES

#### Establishment of Atmospheric Emission Licensing System

31. The Council hereby establishes an Atmospheric Emission Licensing System as contemplated in Chapter 5 of the Air Quality Act.

#### Purpose of the Atmospheric Emission Licensing System

32. The purpose of the Atmospheric Emission Licensing System is to —

- (a) identify and register all sources of air pollution in the City;
- (b) regulate and ensure compliance with the licence conditions;
- (c) gather information for the purposes of compiling the air quality management plan of the City, as contemplated in section 15 of the Air Quality Act;
- (d) undertake strategic planning; and
- (e) provide information to any person in order to —
  - (i) facilitate monitoring of the performance of the City, and if applicable, a licensee;
  - (ii) stimulate research by acknowledged institutions; and
  - (iii) assist the City to achieve the main objectives of this By-law.

#### Application for atmospheric emission licence

33. (1) No person shall undertake a listed activity, as published in terms of section 21 of the Air Quality Act, without being in possession of an atmospheric emission licence issued by the air quality officer.

(2) An application for an atmospheric emission licence must be —

- (a) made in writing on the application form as prescribed by the air quality officer;
- (b) accompanied by documents or information as may be required by the air quality officer; and
- (c) on payment of the prescribed application fee.

(3) The air quality officer must on receipt of an application for an atmospheric emission licence —

- (a) acknowledge receipt, within 14 days, of the application together with the prescribed fee;
- (b) check whether the application is properly completed and contains the information required in the application form; and
- (c) is accompanied by the required information or documents required in terms of this By-law.

(4) Before considering an application made in terms of subsection (2), the air quality officer may require the applicant to furnish additional information or a specialist air quality impact study.

(5) Any person who undertakes a listed activity without an atmospheric emission licence is guilty of an offence and is subject to the penalties as set out in section 52 of the Air Quality Act.

#### Factors to be taken into account

34. The air quality officer must, in addition to the factors set out in section 39 of the Air Quality Act, consider each application having regard to the following factors:

- (a) compliance with the Air Quality Act and this By-law; and
- (b) the environmental, health and safety record of the applicant.

**Decisions on applications for atmospheric emission licence**

35. (1) After considering the application in terms of section 33, the air quality officer must, within 60 days of receipt of the application, either —
- (a) approve the application by issuing a provisional atmospheric emission licence or an atmospheric emission licence, subject to such conditions as the air quality officer may impose; or
  - (b) reject the application.
- (2) If the air quality officer fails to grant or reject an application for an atmospheric emission licence within 60 days after considering the application in terms of section 33, he or she must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

**Terms and conditions of the atmospheric emission licence**

36. (1) When issuing an atmospheric emission licence, the air quality officer may impose reasonable conditions as he or she may deem necessary.
- (2) An atmospheric emission licence issued under this section must —
- (a) comply with section 43 of the Air Quality Act;
  - (b) contain a requirement that the licence holder must comply with and ensure compliance by his or her employees, agents and sub-contractors with this By-law and other applicable national or provincial legislation.

**Variation of atmospheric emission licences**

37. No building, plant or works used by a holder of a licence referred to in section 33 shall be —
- (a) materially extended; and
  - (b) altered or added to,

and no changes in process, procedures or significant production increases may be undertaken without the prior approval of the air quality officer.

**Cessation of atmospheric emission licence**

38. The holder of a licence referred to in section 33 must on cessation of operations to which the licence relates notify the air quality officer of such cessation.

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

39. (1) A person who contravenes sections 13(1), 14(1), 19(1), 20(1), 20(3), 21(1), 22, 23(1), 24(1), 26(1), (3) and (4), 27 (1), (3) and (4), 28(1), or 30(1) and (3), is guilty of an offence.
- (2) Any person who is guilty of an offence in terms of section 19(1), 23(1) or 27(1) is liable on conviction to imprisonment not exceeding 30 days or to a fine or to both a fine and imprisonment.
- (3) Any person who is guilty of an offence in terms of sections 13(1), 14(1), 20(1), 20(3), 21(1), 24(1), 26(1), 26(3) and (4), 28(1), 30(1) and (3), is liable on conviction to imprisonment for a period not exceeding two years or a fine or to both such fine and such imprisonment.
- (4) Any person who contravenes section 22 is liable on conviction to imprisonment not exceeding one year or a fine or both such fine and such imprisonment.
- (5) It is an offence to—
- (a) supply false information to an authorised person in respect of any issue pertaining to this By-law; or
  - (b) refuse to co-operate with the request of an authorised person made in terms of this By-law,
- and any person convicted of such offence is liable to imprisonment for a period not exceeding 30 days or a fine or both such fine and such imprisonment.
- (6) Where no specific penalty is provided, any person committing an offence in terms of this By-law is liable on conviction to imprisonment for a period not exceeding one (1) year or to a fine or to both such imprisonment and such a fine.
- (7) Failure to comply with a notice, direction or instruction referred to in this By-law constitutes a continuing offence.
- (8) Any person who commits a continuing offence shall be guilty of an offence for each day during which that person fails to comply with a notice, direction or instruction referred to in this By-law.
- (9) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence under this By-law —
- (a) to remedy the harm caused;
  - (b) to pay damages for harm caused to another person or to property, which order shall have the force and effect of a civil judgment; and
  - (c) to install and operate at the person's own expense obscuration reading equipment referred to in section 16.
- (10) In addition to any other penalty the court may impose, it may order a person convicted of an offence under this By-law to take such steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.



## CHAPTER XIII

### GENERAL MATTERS

#### Compliance Monitoring

**40.** (1) For the purposes of compliance monitoring, the designated environmental management inspectors must exercise the powers as set out in sections 31G to 31L of the NEMA.

(2) The environmental management inspectors may request from any polluter that significantly contributes or is likely to contribute to poor air quality, ambient and isokinetic monitoring and any other air quality related study, programs or reports to be conducted by a recognised and competent third party, at the cost of the polluter.

#### Enforcement

**41.** (1) The authorised person must take all lawful, necessary and reasonable practicable measures to enforce the provisions of this By-law.

(2) The City may develop enforcement procedures which should take into consideration any national or provincial enforcement procedures.

#### Recognition programmes

**42.** An air quality officer may establish a programme for the public recognition of significant achievements in the area of pollution prevention.

#### Appeals

**43.** Any person may appeal against a decision taken by an authorised person under this By-law by giving a written notice of the appeal in accordance with the provisions of section 62 of the Systems Act.

#### Exemptions

**44.** (1) Any person may, in writing, apply for exemption from the application of a provision of this By-law to the Council.

(2) An application in terms of subsection (1) must be accompanied by substantive reasons.

(3) The Council may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant interested and affected persons and the public.

(4) The steps contemplated in subsection (3) must include the publication of a notice in at least two newspapers, one circulating provincially and one circulating within the jurisdiction of the City —

- (a) giving reasons for the application; and
- (b) containing such other particulars concerning the application as the air quality officer may require.

(5) The Council may —

- (a) from time to time review any exemption granted in terms of this section, and may impose such conditions as it may determine; and
- (b) on good grounds withdraw any exemption.

(6) The Council may not grant an exemption under subsection (1) until he or she has —

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

#### Indemnity

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

#### Repeal and savings

**46.** (1) The City of Cape Town: Air Pollution Control By-law, 2003 is hereby repealed.

(2) Anything done or deemed to have been done under any other law remains valid to the extent that it is consistent with this By-law, or until anything done under this By-law overrides it.

#### Short title

**48.** This By-law is called the City of Cape Town: Air Quality Management By-law, 2010.



## STAD KAAPSTAD

## VERORDENING OP LUGGEHALTEBESTUUR, 2010

Om die Stad Kaapstad: Verordening op Lugbesoedelingsbeheer, 2003, te herroep, en voorskrifte neer te lê vir luggehaltebestuur en sake bykomend daartoe.

**AANHEF**

**NADEMAAL** artikel 156(2) en (5) van die Grondwet bepaal dat 'n munisipaliteit verordeninge kan uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer, en voorts die reg het om enige bevoegdheid uit te oefen met betrekking tot 'n aangeleentheid wat redelikerwys nodig is vir, of verband hou met, die doeltreffende verrigting van sy funksies;

**NADEMAAL** deel B van bylae 4 by die Grondwet munisipale gesondheidsdienste as 'n plaaslikeregeringsfunksie lys in soverre dit in artikel 155(6)(a) en (7) uiteengesit word;

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

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

**INHOUDSOPGAWE****HOOFSTUK I****VERTOLKING EN GRONDBEGINSELS**

1. Woordoms krywing
2. Toepassing van hierdie verordening
3. Strydigheid met ander wetgewing

**HOOFSTUK II****SORGSAAAMHEIDSPLIG**

4. Redelike maatreëls om lugbesoedeling te voorkom

**HOOFSTUK III****AANWYSING VAN LUGGEHALTEBEAMPTTE EN OMGEWINGSBESTUURSINSPEKTEURS**

5. Aanwysing van die luggehaltebeampte en omgewingsbestuursinspekteurs
6. Pligte en funksies van die luggehaltebeampte en omgewingsbestuursinspekteurs

**HOOFSTUK IV****PLAASLIKE VRYSTELLINGSTANDAARDE, NORME EN STANDAARDE, EN ROOKBEHEERSONES*****Deel 1: Plaaslike vrystellingstandaarde***

7. Wetlike mandaat

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

8. Proses vir eiening van stowwe
9. Publikasie van plaaslike vrystellingstandaarde
10. Verklaring van lugbesoedelingsbeheersone

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

11. Toepassing
12. Verbod op donkerrookvrystelling van persele
13. Installering van brandstofverbrandingstoerusting
14. Hantering van brandstofverbrandingstoerusting
15. Veronderstelling
16. Installering en hantering van verduisteringsmeters
17. Monitering en toetsing
18. Tydelike kwytstelling

**HOOFSTUK VI**  
**ROOKVRYSTELLINGS VAN WONINGS**

19. Verbod op donkerrookvrystelling van wonings

**HOOFSTUK VII**  
**VRYSTELLINGS WEENS STOF, OOP VERBRANDING EN MATERIAALVERBRANDING**

20. Magtiging van oop en materiaalverbranding  
21. Vrystellings weens die verbranding van bande, rubber en enige ander materiaal vir metaalherwinning  
22. Stofvrystellings

**HOOFSTUK VIII**  
**VRYSTELLINGS VAN KOMPRESSIEONTSTEKINGSAANGEDREWE VOERTUIE**

23. Verbod op donkerrookvrystelling van kompressieontstekingsaangedrewe voertuie  
24. Die voorkeer van voertuie vir inspeksie en toetsing  
25. Toetsprosedure  
26. Herstelkennisgewing

**HOOFSTUK IX**  
**VRYSTELLINGS WAT 'N STEURNIS VEROORSAAK**

27. Verbod op vrystellings wat 'n steurnis veroorsaak  
28. Verwyderingskennisgewing  
29. Stappe om steurnis te verwyder

**HOOFSTUK X**  
**PLAAGDODER EN GEWASBESPUITING**

30. Die spuit van plaagdoder

**HOOFSTUK XI**  
**LISENSIERING VAN GELYSDE WERKSAAMHEDE**

31. Instel van lisensiëringstelsel vir atmosferiese vrystellings  
32. Doel van die lisensiëringstelsel vir atmosferiese vrystellings  
33. Aansoek om lisensie vir atmosferiese vrystellings  
34. Faktore wat in ag geneem moet word  
35. Beslissing van aansoeke om lisensies vir atmosferiese vrystellings  
36. Bepalings en voorwaardes van die lisensie vir atmosferiese vrystellings  
37. Afwyking van lisensie vir atmosferiese vrystellings  
38. Kansellasië van lisensie vir atmosferiese vrystellings

**HOOFSTUK XII**  
**OORTREDINGS EN STRAFMAATREELS**

39. Oortredings en strafmaatreëls

**HOOFSTUK XIII**  
**ALGEMENE SAKE**

40. Nakomingsmonitering  
41. Toepassing  
42. Erkenningsprogramme  
43. Appèlle  
44. Kwytskeldings  
45. Vrywaring  
46. Herroeping en uitsonderingsbepalings  
47. Kort titel

## HOOFSTUK I

### VERTOLKING EN GRONDBEGINSELS

#### Woordomskrywing

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

“**amptelike dorpsgebied**” enige grondeenheid wat vir residensiële doeleindes gesoneer en aangewend word;

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

“**atmosferiese vrystelling**” of “**vrystelling**” enige vrystellings- of meeslepingsproses uit ’n punt-, niepunt- of mobiele bron wat tot lugbesoedeling lei;

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

“**brandstofverbrandingstoerusting**” enige smeltoond, stoomketel, verbrandingsoond of ander toerusting, wat ’n skoorsteen insluit, wat:

- (a) ontwerp of daartoe in staat is om vloeistof, gas of vaste brandstof te verbrand;
- (b) gebruik word om deur middel van verbranding met enige materiaal of afval weg te doen; of
- (c) gebruik word om vloeistof, gas of vaste brandstof aan enige proses waarby die aanwending van hitte betrokke is, te onderwerp;

“**donker rook**”

- (a) met betrekking tot hoofstuk V en hoofstuk VI van hierdie verordening, rook wat ’n verduistering van 20% of meer toon as dit met ’n ligabsorpsiemeter, verduisteringsmeter of ander soortgelyke toerusting gemeet word;
- (b) met betrekking tot hoofstuk VIII van hierdie verordening:
  - (i) rook uit die uitlaat van normaal geaspireerde kompressieontstekingsaangedrewe enjins met ’n digtheid van 50 of meer Hartridge-rookeenhede, of ’n ligabsorpsiekoëffisiënt van meer as 1,6m-1;
  - (ii) rook uit die uitlaat van turboaangejaagde kompressieontstekingsenjins met ’n digtheid van 56 of meer Hartridge-rookeenhede, of ’n ligabsorpsiekoëffisiënt van meer as 1,19m-1;

“**gemagtigde persoon**” enige werknemer van die Stad wat deur die uitvoerende direkteur: Stadsgesondheid gemagtig word om enige bepaling van hierdie verordening toe te pas;

“**kompressieontstekingsaangedrewe voertuig**” ’n voertuig wat deur binneverbranding, kompressieontsteking, of ’n diesel- of soortgelyke brandstofenjien aangedryf word;

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

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

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

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

“**lugbesoedelingsbeheersone**” die geografiese gebied waarvoor hoofstuk IV van hierdie verordening geldig verklaar is;

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

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

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

“**NEMA**” die Wet op Nasionale Omgewingsbestuur, 1998 (nr. 107 van 1998);

“**omgewing**” die milieu waarin mense bestaan, en wat saamgestel is uit:

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

“**omgewingsbestuursinspekteur**” ’n omgewingsbestuursinspekteur waarna artikel 5 verwys;

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

“**oop verbranding**” die verbranding van materiaal sonder ’n skoorsteen waardeur die produkte van verbranding in die atmosfeer vrygestel word, met “**verbranding in die ope lug**” as sinoniem;

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

“**operateur**” ’n persoon wat ’n saak besit of bestuur, of ’n bedryf of proses beheer, wat lugbesoedelende stowwe vrystel;

“**perseel**” onder andere:

- (a) enige gebou of ander struktuur;
- (b) enige grond wat daaraan grens of wat met betrekking tot enige aktiwiteit in daardie gebou of struktuur beset of gebruik word,

(c) enige oop grond;

(d) enige lokomotief, skip, boot of ander tuig wat in die omgewing van enige hawe funksioneer;

in die regsgebied van die Stad;

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

**“provinsie”** die provinsie van die Wes-Kaap;

**“raad”** die raad van die Stad of enige van die ander politieke strukture, politieke ampsdraers, raadslede of enige personeellede van die Stad wat ingevolge delegasie behoorlik gemagtig is;

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

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

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

**“spuitgebied”** ’n gebied of ingeslote area waarna artikel 27 verwys, en wat vir spuitverfwerk gebruik word, met **“spuitkamer”** as sinoniem;

**“Stad”** die Stad Kaapstad soos ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (nr. 117 van 1998), volgens Provinsiale Kennisgewing, nr. 479 van 2000, ingestel;

**“stadsbestuurder”** die persoon wat die raad as sodanig aanstel ingevolge artikel 82 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (nr. 117 van 1998);

**“steurnis”** die verskynsel wanneer lugbesoedeling ’n onredelike of waarskynlike inbreuk maak op:

(a) die gesondheid of welstand van enige persoon of lewende organisme; of

(b) ’n eienaar of okkupeerder se gebruik en genieting van sy/haar eiendom of die omgewing;

**“stof”** enige vaste stof in ’n fyn of gedisintegreerde vorm wat in staat is om in die atmosfeer versprei of gesuspendeer te word;

**“Uitvoerende Direkteur: Stadsgesondheid”** die uitvoerende direkteur van die Stad verantwoordelik vir gesondheidsake;

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

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

**“vryeversnellingstoets”** die metode wat in artikel 25 beskryf word;

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

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

**“woning”** enige gebou of struktuur, of deel van ’n gebou of struktuur, wat as ’n woonplek gebruik word, sowel as enige buitegeboue daarby, maar wat informele nedersettings uitsluit.

### **Toepassing van hierdie verordening**

2. Hierdie verordening geld alle eiendomme of persele in die regsgebied van die Stad.

### **Strydigheid met ander wetgewing**

3. In geval van strydigheid tussen hierdie verordening en enige ander verordening of beleid wat lugbesoedeling reguleer, sal die bepalings van hierdie verordening geld.

## **HOOFSTUK II SORGSAAMHEIDSPLEG**

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

4. (1) Enige persoon wat ten volle of gedeeltelik vir die ontstaan van lugbesoedeling of die skep van ’n lugbesoedelingsgevaar verantwoordelik is, moet alle redelike maatreëls tref, wat die bes uitvoerbare omgewingskeuse insluit—

(a) om te verhoed dat enige moontlik beduidende lugbesoedeling voorkom; en

(b) om enige beduidende lugbesoedeling wat voorkom, te temper en so ver redelik moontlik reg te stel.

(2) Die raad kan enigeen wat versuim om die maatreëls ingevolge subartikel (1) hier bo te tref, opdrag gee—

(a) om die impak van bepaalde werksaamhede te ondersoek, te evalueer en te beoordeel, en daaroor verslag te doen;

(b) om voor ’n sekere datum bepaalde redelike maatreëls te tref;

(c) om toegewyd met sodanige maatreëls vol te hou; en

(d) om die maatreëls voor ’n bepaalde redelike datum af te handel,

mits die gemagtigde persoon voor so ’n opdrag die betrokke persone voldoende kennis gee, en hulle versoek om die gemagtigde persoon van hulle tersaaklike belange in kennis te stel, met dien verstande dat die gemagtigde persoon enige ander staatsinstelling kan raadpleeg.

(3) Indien 'n persoon sou versuim om 'n opdrag ingevolge subartikel (2) hier bo uit te voer of voldoende uit te voer, kan die gemagtigde persoon redelike maatreëls tref om die situasie reg te stel.

(4) Indien 'n persoon sou versuim om aan die maatreëls ingevolge subartikel (1) hier bo uitvoering te gee, kan die gemagtigde persoon alle redelike koste wat vir optrede ingevolge subartikel (3) hier bo aangegaan word van enige van of al onderstaande persone verhaal:

- (a) enige persoon wat verantwoordelik is vir, of regstreeks of nieregstreeks bygedra het tot, die lugbesoedeling of moontlike lugbesoedeling;
- (b) die grondeienaar ten tyde van die voorkoms van lugbesoedeling of moontlike lugbesoedeling, of daardie eienaar se opvolger in titel;
- (c) die persoon in beheer van die grond, of enige persoon met die huidige of gewese reg om die grond te gebruik:
  - (i) toe die betrokke werksaamheid of proses uitgevoer of onderneem is; of
  - (ii) toe die situasie ontstaan het; en/of
- (d) enige persoon wat op nalatige wyse versuim om te voorkom:
  - (i) dat die werksaamheid of proses uitgevoer of onderneem word; of
  - (ii) dat die situasie ontstaan.

(5) Indien meer as een persoon ingevolge subartikel (4) hier bo aanspreeklik is, kan die aanspreeklikheid onder hulle verdeel word na gelang van die mate waarin elkeen, weens hulle onderskeie versuim om die vereiste maatreëls ingevolge subartikel (1) en (2) hier bo te tref, vir die omgewingskade verantwoordelik was.

### HOOFSTUK III

#### AANWYSING VAN LUGGEHALTEBEAMPTES EN OMGEWINGSBESTUURSINSPEKTEURS

##### Aanwysing van die luggehaltebeamptes en omgewingsbestuursinspekteurs

5. (1) Die stadsbestuurder moet in ooreenstemming met die Uitvoerende Direkteur: Stadsgegesondheid 'n werknemer van die Stad of enige ander persoon as luggehaltebeampte aanwys, wat vir die koördinerende van sake met betrekking tot luggehaltebestuur in die Stad verantwoordelik sal wees.

(2) Ingevolge artikel 31C van NEMA, kan die uitvoerende direkteur: Stadsgegesondheid die Lid van die Uitvoerende Raad (LUR) verantwoordelik vir omgewingsake in die provinsie versoek om omgewingsbestuursinspekteurs aan te stel.

##### Pligte en funksies van die luggehaltebeamptes en omgewingsbestuursinspekteurs

6. (1) Die luggehaltebeampte moet—

- (a) die ontwikkeling van die luggehaltebestuursplan koördineer sodat dit ingevolge hoofstuk 5 van die Wet op Stelsels by die Stad se geïntegreerde ontwikkelingsplan ingesluit kan word;
- (b) 'n jaarverslag oor die stad se luggehalte voorberei;
- (c) die pligte en funksies vervul wat ingevolge hierdie verordening en die opdragte van die uitvoerende direkteur: Stadsgegesondheid aan hom/haar toegewys word;
- (d) die jaarverslag waarna paragraaf (b) hier bo verwys by die luggehaltebeampte indien wat die LUR verantwoordelik vir omgewingsake in die provinsie aangewys het.

(2) Die jaarverslag waarna subartikel (1)(b) verwys, moet onder andere die Stad se vordering met die toepassing van die luggehaltebestuursplan bevat.

(3) Die luggehaltebeampte kan van die houder van 'n voorlopige lisensie vir atmosferiese vrystellings, of die houder van 'n lisensie vir atmosferiese vrystellings, verwag om ingevolge artikel 48 van die Wet op Luggehalte 'n vrystellingsbeheerbeampte aan te wys.

### HOOFSTUK IV

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

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

##### Wetlike mandaat

7. (1) Die gemagtigde persoon kan deur middel van 'n kennisgewing—

- (a) stowwe of vermengings van stowwe in die omringende lug eien wat deur omringende konsentrasies, bioakkumulering of afsetting, of op enige ander manier, 'n bedreiging vir gesondheid, welstand of die omgewing in die stad inhou, of wat na die luggehaltebeamptes se redelike oordeel sodanige bedreiging inhou; en
- (b) met betrekking tot elkeen van dié stowwe of vermengings van stowwe, plaaslike standaarde vir vrystellings van punt-, niepunt- of mobiele bronne in die stad vasstel.

(2) In die vasstelling van die plaaslike vrystellingstandaarde, sal die gemagtigde persoon onderstaande faktore in ag neem:

- (a) gesondheids-, veiligheids- en omgewingsbeskermingsdoelwitte;
- (b) die ontledingsmetode;
- (c) tegniese uitvoerbaarheid;
- (d) moniteringsvermoë;

- (e) sosio-ekonomiese gevolge;
- (f) die ekologiese rol van brande by plantegroei-oorblyfsels; en
- (g) die bes uitvoerbare omgewingskeuse.

(3) Enigeen wat stowwe of vermengings van stowwe waarna subartikel (1) hier bo verwys, vrystel, moet aan die plaaslike vrystellingstandaarde voldoen wat ingevolge hierdie verordening gepubliseer word.

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

### **Proses vir eiening van stowwe**

8. (1) Die gemagtigde persoon moet onderstaande maatstawwe gebruik wanneer hy of sy die stowwe in die omringende lug wat 'n bedreiging vir openbare gesondheid, welstand of die omgewing inhou, eien en volgens voorrang orden:

- (a) die moontlikheid, ergheidsgraad en gereeldheid van die uitwerking op mense se gesondheid en die omgewing in sy geheel, veral onomkeerbare uitwerkings;
- (b) alomteenwoordige en hoë konsentrasies van die stof in die atmosfeer;
- (c) moontlike omgewingstransformasies en metabolisme veranderinge in die stof, aangesien sodanige veranderinge tot die produksie van chemikalieë met groter toksisiteit kan lei, of ander onsekerhede tot gevolg kan hê;
- (d) nawerking in die omgewing, veral indien die stof nie bioafbreekbaar is nie, en in mense, die omgewing of voedselkettings kan opbou;
- (e) die impak van die stof, gedagtig aan onderstaande faktore:
  - (i) die grootte van die bevolking, lewende hulpbronne of ekosisteme wat daaraan blootgestel word;
  - (ii) die bestaan van bepaald sensitiewe reseptors in die betrokke sone; en
- (f) stowwe wat deur internasionale konvensies gereguleer word.

(2) Die gemagtigde persoon moet, met behulp van die maatstawwe soos in subartikel (1) hier bo uiteengesit, 'n lys opstel van die stowwe in die omringende lug wat 'n bedreiging vir openbare gesondheid, welstand of die omgewing inhou.

### **Publikasie van plaaslike vrystellingstandaarde**

9. Vir die doeleindes van die publikasie van die plaaslike vrystellingstandaarde, moet die Stad 'n raadplegingsproses ingevolge hoofstuk 4 van die Wet op Stelsels volg.

### **Verklaring van lugbesoedelingsbeheersone**

10. (1) Hiermee word die hele gebied binne die regsbevoegdheid van die Stad tot lugbesoedelingsbeheersone verklaar.

(2) Binne die lugbesoedelingsbeheersone kan die raad van tyd tot tyd deur middel van 'n kennisgewing in die Provinsiale Koerant—

- (a) die vrystelling van een of meer lugbesoedelende stowwe van alle of sekere persele verbied of beperk;
- (b) die verbranding van sekere soorte brandstof verbied of beperk;
- (c) rookvrye sones verklaar waarin rookvrystellings met 'n verduistering van meer as 10% verbode is;
- (d) verskillende vereistes vir luggehalte in 'n lugbesoedelingsbeheersone voorskryf, en wel met betrekking tot—
  - (i) verskillende geografiese gedeeltes;
  - (ii) bepaalde persele;
  - (iii) klasse persele;
  - (iv) persele wat vir bepaalde doeleindes gebruik word; of
  - (v) mobiele bronne.

(3) Die Stad kan beleid en riglyne ontwikkel en publiseer, wat tegniese riglyne insluit, met betrekking tot die regulering van werksaamhede wat regstreekse en nieregstreekse lugbesoedeling in 'n lugbesoedelingsbeheersone veroorsaak.

(4) Onderworpe aan artikel 44, kan die raad sekere persele, klasse persele, of persele wat vir bepaalde doeleindes gebruik word, skriftelik van hierdie artikel vrystel.

## **HOOFSTUK V**

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

#### **Toepassing**

11. Vir die doeleindes van hierdie hoofstuk, sluit 'perseel' nie wonings in nie.

#### **Verbod op donkerrookvrystelling van persele**

12. (1) Onderworpe aan subartikel (2) hier onder, mag donker rook nie vir langer as drie minute in totaal in enige aaneenlopende tydperk van 30 minute van enige perseel vrygestel word nie.

(2) Hierdie artikel geld nie donker rook wat deur brandstofverbrandingstoerusting vrygestel word wanneer sodanige toerusting aangesit, nagesien of herstel word, of wag om nagesien of herstel te word nie, tensy sodanige vrystelling deur middel van die bes uitvoerbare omgewingskeuse voorkom kon word.

(3) Subartikels (1) en (2) hier bo geld nie die houers van lisensies vir atmosferiese vrystellings vir werksaamhede wat ingevolge artikel 21 van die Wet op Luggehalte gelys word nie, in welke geval die vrystellingstandaarde wat in sodanige lisensie bepaal word, sal geld.

#### **Installering van brandstofverbrandingstoerusting**

**13.** (1) Geen persoon sal sonder die vooraf- skriftelike toestemming van die raad enige brandstofverbrandingstoerusting op enige perseel installeer, wysig, uitbrei of vervang nie, welke toestemming slegs ná oorweging van die betrokke planne en spesifikasies verleen mag word.

(2) Enige brandstofverbrandingstoerusting wat op enige perseel geïnstalleer, gewysig, uitgebrei of vervang word ooreenkomstig planne en spesifikasies wat vir die doeleindes van hierdie artikel by die raad ingedien en deur hulle goedgekeur is, sal hanteer word in die veronderstelling dat dit aan die bepalings van subartikel (1) hier bo voldoen, tot en met teenbewys gelewer word.

(3) Waar brandstofverbrandingstoerusting strydig met subartikel (1) hier bo op enige perseel geïnstalleer, gewysig, uitgebrei of vervang word, kan die raad, deur skriftelike kennisgewing aan die eienaar en okkupeerder van die perseel, op die verwydering van die brandstofverbrandingstoerusting van die perseel aandrang, op onkoste van die eienaar en operateur, en binne die tydperk soos in die kennisgewing bepaal.

(4) Die uitvoerende direkteur: Stadsgesondheid kan enige stappe doen wat hy/sy nodig ag ten einde die skade wat die installering, wysiging, uitbreiding of vervanging op die perseel aangerig het, te herstel, en enige verdere voorkoms daarvan te voorkom, en kan die redelike koste wat hiervoor aangegaan word van die persoon verhaal wat vir sodanige skade verantwoordelik was.

#### **Hantering van brandstofverbrandingstoerusting**

**14.** (1) Geen persoon sal enige brandstofverbrandingstoerusting op enige perseel in stryd met die toestemming ingevolge artikel 13 hier bo gebruik of hanteer nie.

(2) Waar brandstofverbrandingstoerusting op die perseel in stryd met subartikel (1) hier bo gebruik of hanteer word, kan die raad, deur skriftelike kennisgewing aan die eienaar en okkupeerder van die perseel—

- (a) die toestemming ingevolge artikel 13 intrek; en
- (b) op die verwydering van die brandstofverbrandingstoerusting van die perseel aandrang, op onkoste van die eienaar en operateur, en binne die tydperk soos in die kennisgewing bepaal.

(3) Waar die eienaar of okkupeerder van die perseel versuim om aan die kennisgewing in subartikel (2) hier bo te voldoen, kan die raad die brandstofverbrandingstoerusting van die perseel verwyder, en die redelike koste wat hiervoor aangegaan word van sodanige perseeleienaar of -okkupeerder verhaal.

#### **Veronderstelling**

**15.** Daar sal veronderstel word dat donker rook van 'n perseel vrygestel is indien dit sou blyk dat enige brandstof of materiaal op die perseel verbrand is, en die omstandighede sodanig was dat die verbranding redelik waarskynlik tot die vrystelling van donker rook sou lei, tensy die eienaar, okkupeerder of operateur, na gelang van omstandighede, bewys dat geen donker rook vrygestel is nie.

#### **Installering en hantering van verduisteringsmeters**

**16.** (1) 'n Gemagtigde persoon kan aan enige operateur van brandstofverbrandingstoerusting, of enige eienaar of okkupeerder van 'n perseel waar brandstofverbrandingstoerusting gebruik of hanteer word, of veronderstel is om gebruik of hanteer te word, kennis gee om op sy of haar onkoste 'n verduisteringsmeter te installeer, in stand te hou en te hanteer indien—

- (a) ongemagtigde en onregmatige vrystellings van donker rook van die betrokke perseel aanhoudend en gereeld oor 'n tydperk van minstens twee dae voorkom;
- (b) ongemagtigde en onregmatige vrystellings van donker rook van die betrokke perseel met tussenposes oor 'n tydperk van minstens 14 dae voorkom;
- (c) brandstofverbrandingstoerusting op die betrokke perseel geïnstalleer is, of veronderstel is om geïnstalleer te word, wat redelik waarskynlik donker rook sal vrystel;
- (d) die persoon aan wie die kennisgewing bestel is meer as een keer ingevolge hierdie hoofstuk skuldig bevind is, en nie voldoende maatreëls getref het om verdere oortreding van die bepalings van hierdie hoofstuk te voorkom nie; of
- (e) die gemagtigde persoon van oordeel is dat die aard van die lugbesoedelende stowwe wat van die betrokke perseel vrygestel word, redelik waarskynlik 'n gevaar vir mense se gesondheid of die omgewing inhou.

(2) 'n Kennisgewing ingevolge subartikel (1) hier bo moet die persoon aan wie dit bestel word, in kennis stel—

- (a) van sy/haar reg om skriftelike vertoë te rig en persoonlik te verskyn om inligting en betoë met betrekking tot die kennisgewing aan te bied en te betwis, en moet 'n redelike tydperk bepaal waarin voormelde moet geskied;
- (b) van sy/haar reg op appèl ingevolge artikel 43;
- (c) van sy/haar reg om skriftelike redes vir die uitreiking van die kennisgewing te versoek; en
- (d) van die maatreëls wat getref moet word, sowel as die moontlike gevolge indien die kennisgewing verontagsaam sou word.

#### **Monitering en toetsing**

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



- (a) alle moniterings- en toetsresultate boekstaaf, en vir minstens vier jaar nadat die resultate verkry is 'n afskrif van sodanige dokument bewaar;
- (b) indien 'n gemagtigde persoon so versoek, die dokument met moniterings- en toetsresultate vir inspeksie beskikbaar stel; en
- (c) indien 'n gemagtigde persoon so versoek, skriftelik verslag doen van 'n deel van of al die inligting in die dokument met die moniterings- en toetsresultate, en wel in 'n formaat en teen 'n datum wat die gemagtigde persoon bepaal.

### **Tydlike kwyskelding**

**18.** (1) Onderworpe aan artikel 44, en op skriftelike versoek deur die eienaar of okkupeerder van die perseel, of die operateur van brandstofverbrandingstoerusting, kan die raad skriftelik tydelike kwyskelding van een van of al die bepalinge van hierdie hoofstuk toestaan.

(2) Enige kwyskelding ingevolge subartikel (1) moet minstens onderstaande bevat:

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

(3) Die raad mag nie 'n tydelike kwyskelding ingevolge subartikel (1) hier bo toestaan nie, totdat die raad—

- (a) redelike maatreëls getref het om te verseker dat alle persone wie se regte beduidend deur die toestaan van die tydelike kwyskelding benadeel kan word, wat aanliggende grondeienaars of okkupeerders insluit, bewus is van die aansoek om tydelike kwyskelding, sowel as hoe om 'n afskrif daarvan te bekom;
- (b) sodanige persone 'n redelike geleentheid gegun het om teen die aansoek beswaar te maak; en
- (c) enige besware wat ontvang is deeglik oorweeg en in ag geneem het.

## **HOOFSTUK VI**

### **ROOKVRYSTELLINGS VAN WONINGS**

#### **Verbod op donkerrookvrystelling van wonings**

**19.** (1) Onderworpe aan artikel 4(1), sal geen persoon vir langer as drie minute in totaal in enige aaneenlopende tydperk van 30 minute donker rook van enige woning vrystel of sodanige vrystelling toelaat nie.

(2) Onderworpe aan artikel 44, en op skriftelike versoek van die eienaar of okkupeerder van enige woning, kan die raad skriftelik tydelike vrystelling van een van of al die bepalinge van hierdie artikel toestaan.

## **HOOFSTUK VII**

### **VRYSTELLINGS WEENS STOF, OOP VERBRANDING EN MATERIAALVERBRANDING**

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

**20.** (1) Onderworpe aan subartikel (4) hier onder, moet enige persoon wat op enige stuk grond of perseel enige materiaal in die ope lug verbrand vooraf skriftelike goedkeuring vir sodanige oop verbranding van die raad bekom.

(2) In die skriftelike toestemming waarna subartikel (1) hier bo verwys, kan die raad voorwaardes oplê waaraan die persoon wat toestemming versoek, moet voldoen.

(3) Die raad mag nie oop verbranding ingevolge subartikel (1) hier bo toelaat, tensy hulle tevrede is dat onderstaande vereistes voldoende nagekom word of hanteer is nie:

- (a) die materiaal sal in die ope lug verbrand word op die grond waar dit vandaan kom;
- (b) die persoon wat toestemming versoek, het tot die bevrediging van die raad alle redelike alternatiewe vir die vermindering, hergebruik of herwinning van die materiaal ondersoek en beoordeel ten einde die hoeveelheid materiaal wat in die ope lug verbrand word, te verminder;
- (c) die persoon wat toestemming versoek, het tot die bevrediging van die raad alle redelike alternatiewe vir die verwydering van die materiaal van die grond of perseel ondersoek en beoordeel;
- (d) die persoon wat toestemming versoek, het tot die bevrediging van die raad die impak van oop verbranding op die omgewing ondersoek en beoordeel;
- (e) die persoon wat toestemming versoek, het die eienaars en okkupeerders van alle aanliggende eiendomme in kennis gestel—
  - (i) van alle bekende besonderhede van die voorgestelde oop verbranding; en
  - (ii) van die eienaars en okkupeerders se reg om binne sewe dae nadat hulle in kennis gestel is skriftelike besware teen die voorgestelde oop verbranding by die raad in te dien;
- (f) die raad het die voorgeskrewe fooi ontvang;
- (g) 'n Waarskuwing ingevolge artikel 10(1)(b) van die Nasionale Wet op Veld- en Bosbrande, 1998 (nr. 101 van 1998) is nie vir die streek gepubliseer nie;

- (h) die grond waarop die persoon voornemens is om die materiaal in die ope lug te verbrand, is staatsgrond, 'n plaas of kleinhoewe, of grond in 'n amptelike dorpsgebied wat nie vir residensiële doeleindes gebruik word nie;
  - (i) die oop verbranding geskied minstens 100 meter vanaf enige geboue of strukture;
  - (j) die oop verbranding sal nie 'n moontlike gevaar vir mense se gesondheid of veiligheid, privaat eiendom of die omgewing inhou nie;
- (4) Die bepalings van hierdie artikel is nie van toepassing nie op—
- (a) buitebraai-ontspanningsaktiwiteite op privaat grond;
  - (b) klein, beheerde brande in informele nedersettings vir kosmaak-, waterverhittings- en ander huishoudelike doeleindes; of
  - (c) enige ander omskrewe gebied of werksaamheid wat volgens die raad nie deur hierdie artikel geraak word nie.

#### **Vrystellings weens die verbranding van bande, rubber en enige ander materiaal vir metaalherwinning**

**21.** (1) Geen persoon mag sonder die skriftelike toestemming van die raad—

- (a) enige bande of rubber of ander sinteties bedekte, omhulde of geïsoleerde produkte, en elektroniese of ander toerusting, op enige grond of perseel verbrand of laat verbrand nie;
- (b) enige bande, rubberprodukte, kables of enige ander produkte op enige grond of perseel verbrand of laat verbrand ten einde die skrootmetaal of veselversterkings daarin te herwin, of met die bande, rubberprodukte of kables as afval weg te doen nie; of
- (c) enige verbrande metaal of veselversterkings waarna daar in paragraaf (a) en (b) hier bo verwys word, besit, berg, vervoer of verhandel nie.

(2) Die raad kan enige stappe doen wat dit nodig ag ten einde die skade weens die verbranding in subartikel 21(1)(a) en (b) en/of die besit in subartikel 21(1)(c) hier bo reg te stel, en enige verdere voorkoms daarvan te verhoed, en kan die redelike koste wat hiervoor aangegaan word van die persoon verhaal wat vir sodanige skade verantwoordelik was.

#### **Stofvrystellings**

**22.** Enige persoon wat—

- (a) enige werksaamheid onderneem; of
- (b) stofvrystellings veroorsaak of toelaat,

sal die bes uitvoerbare omgewingskeuse tot die bevrediging van die gemagtigde persoon uitvoer ten einde stofvrystellings in die atmosfeer wat openbare gesondheid en welstand kan skaad, of waarskynlik 'n steurnis sal veroorsaak vir persone wat in die omgewing van sodanige grond, werksaamheid of perseel woon of teenwoordig is, te voorkom en te verwyder.

### **HOOFSTUK VIII**

#### **VRYTELLINGS VAN KOMPRESSIEONTSTEKINGSAANGEDREWE VOERTUIG**

##### **Verbod op donkerrookvrystelling van kompressieontstekingsaangedrewe voertuig**

**23.** (1) Geen persoon mag 'n kompressieontstekingsaangedrewe voertuig of kragvoortbrenger wat donker rook vrystel op 'n openbare of privaat pad of enige perseel bestuur of gebruik, of laat bestuur of gebruik nie.

(2) Vir die doeleindes van hierdie artikel, sal die geregistreerde eienaar van die voertuig as die bestuurder of operateur gereken word, tensy teenbewys gelewer word.

##### **Die voorkeer van voertuig vir inspeksie en toetsing**

**24.** (1) Ten einde 'n gemagtigde persoon in staat te stel om die bepalings van hierdie hoofstuk toe te pas, moet die bestuurder van 'n voertuig gehoor gee aan enige redelike opdrag van 'n gemagtigde persoon—

- (a) om die voertuig te stop; en
- (b) om die inspeksie of toetsing van die voertuig moontlik te maak.

(2) Wanneer 'n bestuurder 'n opdrag ingevolge subartikel (1) hier bo gehoorsaam en die voertuig gestop het, kan die gemagtigde persoon—

- (a) die voertuig langs die pad inspekteer en toets, in welke geval inspeksie en toetsing uitgevoer moet word—
  - (i) by of so na as moontlik aan die plek waar die opdrag om te stop aan die voertuig gegee is; en
  - (ii) so gou prakties uitvoerbaar, en in ieder geval binne 'n uur nadat die voertuig ooreenkomstig die opdrag gestop het; of
- (b) 'n visuele inspeksie van die voertuig doen en, indien die gemagtigde persoon van redelike oordeel is dat 'n oortreding ingevolge artikel 23(1) hier bo begaan is, die bestuurder van die voertuig, wat as die eienaar van die voertuig gereken sal word tensy hy/sy teenbewys lewer, skriftelik versoek om die voertuig binne 'n bepaalde tydperk vir inspeksie en toetsing ingevolge artikel 25 na 'n toetsstasie te neem.

##### **Toetsprosedure**

**25.** (1) 'n Gemagtigde persoon moet die vryeversnellingsmetode gebruik ten einde vas te stel of 'n kompressieontstekingsaangedrewe voertuig in stryd met artikel 23(1) bestuur of gebruik word.

(2) Onderstaande prosedure moet nagekom word ten einde 'n vryeversnellingsmetode uit te voer:

- (a) wanneer die gemagtigde persoon so vra, moet die bestuurder die voertuig aansit, dit na vryrat (neutraal) oorskakel, en die koppelaar los;
  - (b) terwyl die voertuig luier, moet die gemagtigde persoon 'n visuele inspeksie van die voertuig se uitlaatstelsel doen;
  - (c) die gemagtigde persoon moet die voertuig se versnelpedaal vinnig, egalig en volledig intrap, óf kan die bestuurder opdrag gee om dit onder die gemagtigde persoon se toesig te doen;
  - (d) Terwyl die versnelpedaal ingetrap is, moet die gemagtigde persoon die rookvrystelling van die voertuig se uitlaatstelsel meet ten einde vas te stel of donker rook vrygestel word of nie;
  - (e) Die gemagtigde persoon moet die versnelpedaal los wanneer die enjin uitkakelsnelheid bereik;
  - (f) Indien die gemagtigde persoon die bestuurder vra om die versnelpedaal in te trap, kan die bestuurder die versnelpedaal los slegs wanneer die enjin uitkakelsnelheid bereik of wanneer die gemagtigde persoon so vra.
- (3) Indien die gemagtigde persoon na afloop van die vryeversnellingsstoets tevrede is dat die voertuig—
- (a) nié donker rook vrystel nie, moet hy/sy die bestuurder van die voertuig van 'n sertifikaat voorsien wat aandui dat die voertuig nie in stryd met artikel 23(1) bestuur of gebruik word nie; of
  - (b) wél donker rook vrystel, moet hy/sy ingevolge artikel 26 hier onder 'n herstellkennisgewing aan die bestuurder van die voertuig uitreik.

### **Herstellkennisgewing**

**26.** (1) Die gemagtigde persoon moet deur middel van 'n herstellkennisgewing die eienaar van die voertuig opdrag gee om die voertuig binne 'n bepaalde tydperk te herstel, en die voertuig voor die verstryking van sodanige tydperk vir 'n tweede toets te neem na 'n plek wat in die kennisgewing bepaal word.

(2) Die herstellkennisgewing moet onderstaande inligting bevat:

- (a) die fabrikaat en registrasienommer van die voertuig;
- (b) die naam, adres en identiteitsnommer van die voertuigbestuurder; en
- (c) indien die bestuurder nie die eienaar is nie, die naam en adres van die voertuigeienaar.

(3) In 'n regsgeding met betrekking tot die nienakoming van die herstellkennisgewing en versuim om die voertuig vir 'n tweede toets te neem ingevolge subartikel (1) hier bo, sal dit nie as verweer beskou word om te betuig dat die bestuurder van die voertuig nagelaat het om die herstellkennisgewing onder die voertuigeienaar se aandag te bring nie.

(4) Indien die eienaar van die voertuig versuim om aan die kennisgewing en versoek vir 'n tweede toets ingevolge subartikel (1) hier bo te voldoen, kan die Stad enige stappe doen wat dit nodig ag om die skade te herstel, wat die wegsleep van die voertuig insluit, en kan die Stad die koste wat hiervoor aangegaan word van die voertuigeienaar verhaal.

## **HOOFSTUK IX**

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

#### **Verbod op vrystellings wat 'n steurnis veroorsaak**

**27.** (1) Geen persoon sal in die regsgebied van die Stad—

- (a) in 'n goedgekeurde spuitgebied of -kamer enige deklaag, plateerlaag of epoksilaag op enige voertuig, item of voorwerp aanbring in so 'n mate dat dit 'n steurnis veroorsaak nie; of
- (b) toelaat dat enige sproei, deklaag, plateerlaag of epoksilaag buite 'n goedgekeurde spuitgebied of -kamer op enige sodanige voertuig, item of voorwerp aangebring word nie.

(2) Die spuitgebied of -kamer waarna subartikel (1) hier bo verwys, moet ingevolge die Algemene Veiligheidsregulasies gebou en toegerus word wat kragtens die Wet op Beroepsgesondheid en -veiligheid, 1993 (nr. 85 van 1993) uitgevaardig is, en moet met betrekking tot vrystellings, meganiese ventilasie en geraas, deur die gemagtigde persoon en enige ander tersaaklike departement wat enige ander wet kan vereis, goedgekeur word.

(3) Enige persoon wat sandstraling, haelstraling, slypwerk, skrynwerk of 'n soortgelyke aktiwiteit onderneem wat gewoonlik stofvrystellings tot gevolg het wat openbare gesondheid kan benadeel of 'n steurnis veroorsaak, sal beheermaatreëls tref om vrystellings in die atmosfeer te voorkom.

(4) Enige persoon wat 'n aktiwiteit waarna subartikel (3) hier bo verwys, onderneem, moet onderstaande beheermaatreëls in werking stel:

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

(5) 'n Okkupeerder of eienaar van enige perseel—

- (a) moet die voorkoms van enige steurnis op sy of haar perseel, of die vrystelling van 'n steurnis van die perseel, voorkom; en
- (b) van waar 'n steurnis vrygestel word, of waar 'n steurnis voorkom, is skuldig aan 'n oortreding.

### **Verwyderingskennisgewing**

**28.** (1) 'n Gemagtigde persoon kan 'n verwyderingskennisgewing aan enige persoon bestel wat na die gemagtigde persoon se redelike oordeel waarskynlik 'n oortreding ingevolge artikel 27 hier bo begaan of begaan het, en kan in so 'n kennisgewing daardie persoon vra—

- (a) om die steurnis binne 'n tydperk soos die kennisgewing bepaal, te verwyder;
- (b) om alle nodige stappe te doen om 'n herhaling van die steurnis te voorkom; en

- (c) om aan enige ander voorwaardes in die kennisgewing te voldoen.
- (2) 'n Vrystellingskennisgewing ingevolge subartikel (1) hier bo kan bestel word—
  - (a) aan die eienaar van enige perseel deur middel van—
    - (i) aflewering by die eienaar of, indien die eienaar nie opgespoor kan word nie of in die buiteland woon, daardie persoon se agent;
    - (ii) versending per geregistreerde pos na die eienaar of die agent se mees onlangse bekende adres; of
    - (iii) aflewering by die adres waar die perseel geleë is indien nóg die eienaar nóg die agent se adres bekend is;
  - (b) aan die okkupeerder van die perseel deur middel van—
    - (i) aflewering by die okkupeerder; of
    - (ii) versending per geregistreerde pos aan die okkupeerder by die adres waar die perseel geleë is.

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

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

## **HOOFSTUK X PLAAGDODER EN GEWASBESPUITING**

#### **Gewasbespuiting van plaagdoder, onkruidmiddel of ander verwante materiaal**

**30** (1) Geen persoon mag plaagdoder, onkruidmiddel of ander verwante materiaal spuit of laat spuit nie, tensy sodanige plaagdoder, onkruidmiddel of materiaal ingevolge artikel 3 van die Wet op Misstawe, Veevoedsel, Landboumiddels en Veemiddels (nr. 36 van 1947) geregistreer is.

(2) Enige persoon wat subartikel (1) hier bo oortree, is skuldig aan 'n oortreding soos dit in artikel 18(1)(c) van die Wet op Misstawe, Veevoedsel, Landboumiddels en Veemiddels (nr. 36 van 1947) uiteengesit word.

(3) 'n Persoon wat plaagdoder, onkruidmiddel of ander materiaal waarna subartikel (1) hier bo verwys in die regsgebied van die Stad spuit of laat spuit, moet onderstaande beheermaatreëls tref:

- (a) die verkryging van vooraf- skriftelike toestemming van die Stad, welke toestemming op sekere voorwaardes verleen kan word, wat insluit—
  - (i) die bepaalde grondgebied en -oppervlakte waarop plaagdoder, onkruidmiddel of ander materiaal aangewend mag word; en
  - (ii) die bepaalde tydperk waarbinne plaagdoder, onkruidmiddel of ander materiaal aangewend mag word.
- (b) skriftelike kennisgewing aan die eienaars en okkupeerders van alle aanliggende eiendomme binne 150 meter van die voorgestelde grondgebied, met bepaalde vermelding van—
  - (i) die besonderhede van sodanige grond;
  - (ii) die rede vir die gebruik van plaagdoder, onkruidmiddel of ander materiaal;
  - (iii) die aktiewe bestanddeel van die plaagdoder, onkruidmiddel of ander materiaal;
  - (iv) die datum en geraamde tyd wanneer die plaagdoder, onkruidmiddel of ander materiaal gebruik sal word;
  - (v) in geval van gure weersomstandighede, 'n alternatiewe datum of datums waarop die gebruik van plaagdoder, onkruidmiddel of ander materiaal mag plaasvind;
  - (vi) die tyd, indien enige, wanneer die gebied volgens die produketiket weer sonder gevaar ná aanwending van die plaagdoder, onkruidmiddel of ander materiaal betree kan word;
  - (vii) die reg van die eienaars en okkupeerders van aanliggende eiendomme om binne sewe dae nadat hulle kennis ontvang het skriftelike besware teen die voorgestelde spuit van plaagdoder by die raad in te dien; en
  - (viii) die voorgeskrewe fooi wat aan die raad betaal moet word.
- (4) Enige persoon wat subartikel (3) hier bo oortree, is skuldig aan 'n oortreding.
- (5) 'n Persoon kan by die Stad om vrystelling aansoek doen indien—
  - (a) die spuit van plaagdoder bedoel is vir die bestuur van plae wat menslike siektes oordra of 'n nadelige uitwerking op landbou of bosbou het;
  - (b) die spuit van plaagdoder bedoel is vir die bestuur van plae wat die integriteit van sensitiewe ekosisteme bedreig; of
  - (c) daar 'n dringende behoefte is aan die gebruik van plaagdoder.
- (6) Die bepalinge van hierdie artikel is nie van toepassing nie op—
  - (a) residensiële gedeeltes van plase;
  - (b) geboue of die binnekant van geboue; of
  - (c) enige ander omskrewe gebied of werksaamheid waarvoor hierdie artikel volgens amptelike verklaring deur die Stad nie geld nie.

## HOOFSTUK XI

### LISENSIERING VAN GELYTE WERKSAAMHEDE

#### Instel van lisensiëringstelsel vir atmosferiese vrystellings

31. Hiermee stel die raad 'n lisensiëringstelsel vir atmosferiese vrystellings in, soos dit in hoofstuk 5 van die Wet op Luggehalte beoog word.

#### Doel van die lisensiëringstelsel vir atmosferiese vrystellings

32. Die doel van die lisensiëringstelsel vir atmosferiese vrystellings is—

- (a) om alle lugbesoedelingsbronne in die stad uit te wys en te registreer;
- (b) om nakoming van lisensievoorwaardes te reguleer en te verseker;
- (c) om inligting te versamel ten einde die Stad se luggehaltebestuursplan op te stel, soos dit in artikel 15 van die Wet op Luggehalte beoog word;
- (d) om strategiese beplanning te doen; en
- (e) om aan enige persoon inligting te voorsien ten einde—
  - (i) prestasie-monitoring van die Stad en, indien van toepassing, 'n lisensiehouer moontlik te maak;
  - (ii) navorsing deur erkende instellings aan te moedig; en
  - (iii) die Stad by te staan om die hoofdoelwitte van hierdie verordening te verwesenlik.

#### Aansoek om lisensie vir atmosferiese vrystellings

33. (1) Geen persoon sal 'n gelyste werksaamheid ingevolge artikel 21 van die Wet op Luggehalte onderneem sonder dat hy/sy in besit is van 'n lisensie vir atmosferiese vrystellings wat deur die luggehaltebeampte uitgereik is nie.

(2) 'n Aansoek om 'n lisensie vir atmosferiese vrystellings moet—

- (a) skriftelik geskied op die aansoekvorm wat die luggehaltebeampte voorskryf;
- (b) van enige dokumente of inligting vergesel word wat die luggehaltebeampte kan vereis; en
- (c) van die voorgeskrewe aansoekgeld vergesel word.

(3) Die luggehaltebeampte moet by ontvangs van 'n aansoek om 'n lisensie vir atmosferiese vrystellings—

- (a) binne 14 dae ontvangs erken van die aansoek sowel as die voorgeskrewe aansoekgeld;
- (b) nagaan of die aansoekvorm behoorlik ingevul is en die vereiste inligting bevat soos dit op die aansoekvorm aangedui word; en
- (c) nagaan of die aansoek van die vereiste inligting of dokumente ingevolge hierdie verordening vergesel is.

(4) Voordat 'n aansoek ingevolge subartikel (2) hier bo oorweeg word, kan die luggehaltebeampte bykomende inligting of 'n spesialisstudie van die impak van luggehalte van die aansoeker vereis.

(5) Enige persoon wat sonder 'n lisensie vir atmosferiese vrystellings 'n gelyste werksaamheid onderneem, is skuldig aan 'n oortreding, en strafbaar met die maatreëls ingevolge artikel 52 van die Wet op Luggehalte.

#### Faktore wat in ag geneem moet word

34. Buiten die faktore ingevolge artikel 39 van die Wet op Luggehalte, moet die luggehaltebeampte elke aansoek met inagneming van onderstaande faktore oorweeg:

- (a) nakoming van die Wet op Luggehalte, en hierdie verordening
- (b) die omgewings-, gesondheids- en veiligheidsgeskiedenis van die aansoeker

#### Beslissing van aansoeke om lisensies vir atmosferiese vrystellings

35. Ná oorweging van die aansoek ingevolge artikel 33 hier bo, moet die luggehaltebeampte binne 60 dae ná ontvangs daarvan die aansoek hetsy—

- (a) goedkeur deur 'n voorlopige lisensie vir atmosferiese vrystellings, of 'n lisensie vir atmosferiese vrystellings, uit te reik, onderworpe aan sodanige voorwaardes as wat die luggehaltebeampte kan oplê; of
- (b) van die hand wys.

(2) Indien die luggehaltebeampte versuim om binne 60 dae ná oorweging van 'n aansoek ingevolge artikel 33 hier bo, 'n lisensie vir atmosferiese vrystellings uit te reik of van die hand te wys, moet die beampte die aansoeker skriftelik verwittig dat die oorwegingstydperk verleng word, met vermelding van die sperdatum vir 'n besluit.

#### Bepalings en voorwaardes van die lisensie vir atmosferiese vrystellings

36. (1) Met die uitreik van 'n lisensie vir atmosferiese vrystellings, kan die luggehaltebeampte sodanige redelike voorwaardes oplê as wat hy of sy nodig ag.

(2) 'n Lisensie vir atmosferiese vrystellings wat ingevolge hierdie artikel uitgereik word, moet—

- (a) aan artikel 43 van die Wet op Luggehalte voldoen; en
- (b) 'n vereiste bevat dat die lisensiehouer aan hierdie verordening en ander toepaslike nasionale of provinsiale wetgewing moet voldoen, en voorts moet verseker dat sy of haar werknemers, agente en subkontraakteurs daaraan voldoen.

#### **Afwyking van lisensie vir atmosferiese vrystellings**

37. Geen gebou, aanleg of werke wat deur 'n lisensiehouer waarna artikel 33 hier bo verwys, gebruik word, mag—

- (a) wesenlik uitgebrei word nie; of
- (b) verbouings of aanbouings ondergaan nie,

en geen proses, prosedurele veranderinge of wesenlike produksietoenames mag aangebring word of geskied, sonder die luggehaltebeampte se vooraftoestemming nie.

#### **Kansellasië van lisensie vir atmosferiese vrystellings**

38. Die lisensiehouer waarna artikel 33 hier bo verwys, moet by die staking van werksaamhede waarop die lisensie betrekking het, die luggehaltebeampte van sodanige staking inlig.

### **HOOFSTUK XII**

#### **OORTREDINGS EN STRAFMAATREELS**

##### **Oortredings en strafmaatreëls**

39. (1) 'n Persoon is skuldig aan 'n oortreding indien hy/sy artikel 13(1), 14(1), 19(1), 20(1), 20(3), 21(1), 22, 23(1), 24(1), 26(1), (3) en (4), 27(1), (3) en (4), (28(1) of 30(1) en (3) van hierdie verordening oortree.

(2) Enige persoon wat 'n oortreding ingevolge artikel 19(1), 23(1) of 27(1) begaan, is by skuldigbevinding strafbaar met tronkstraf van hoogstens 30 dae, of 'n boete, of sowel 'n boete as tronkstraf.

(3) Enige persoon wat 'n oortreding ingevolge artikel 13(1), 14(1), 20(1) en (3), 21(1), 24(1), 26(1), 26(1), (3) en (4), 28(1), 30(1) en (3) begaan, is by skuldigbevinding strafbaar met tronkstraf van hoogstens twee jaar, of 'n boete, of sowel 'n boete as tronkstraf.

(4) Enige persoon wat artikel 22 oortree, is by skuldigbevinding strafbaar met tronkstraf van hoogstens nie meer nie as 'n jaar, of 'n boete, of sowel 'n boete as tronkstraf.

(5) Dit is 'n oortreding om—

- (a) met betrekking tot enige kwessie wat met hierdie verordening verband hou valse inligting aan 'n gemagtigde persoon te verstrek; of
- (b) te weier om met die versoek van 'n gemagtigde persoon ingevolge hierdie verordening saam te werk;

en enige persoon wat aan sodanige oortreding skuldig bevind word, is strafbaar met tronkstraf van hoogstens 30 dae, of 'n boete, of sowel 'n boete as tronkstraf.

(6) Waar geen spesifieke straf bepaal word nie, is enige persoon wat ingevolge hierdie verordening 'n oortreding begaan, by skuldigbevinding strafbaar met tronkstraf van hoogstens 'n jaar, of 'n boete, of sowel tronkstraf as 'n boete.

(7) Versuim om aan 'n kennisgewing, opdrag of instruksie waarna hierdie verordening verwys, te voldoen, maak 'n voortgesette oortreding uit.

(8) Enige persoon wat 'n voortgesette oortreding begaan, sal skuldig wees aan 'n oortreding vir elke dag wat hy of sy versuim om aan 'n kennisgewing, opdrag of instruksie waarna hierdie verordening verwys, te voldoen.

(9) Buiten die oplegging van 'n boete of tronkstraf, kan 'n hof enige persoon wat ingevolge hierdie verordening aan 'n oortreding skuldig bevind word, beveel—

- (a) om die skade wat aangerig is, te herstel;
- (b) om vergoeding te betaal vir die skade wat aan 'n ander persoon of eiendom aangerig is, welke bevel van dieselfde krag en effek as 'n siviele vonnis sal wees; en
- (c) om op sodanige oortreder se onkoste 'n verduisteringsmeter waarna artikel 16 verwys, te installeer en te hanteer.

(10) Buiten enige ander strafmaatreël wat die hof kan opleë, kan dit ook 'n persoon wat aan 'n oortreding van hierdie verordening skuldig bevind word, beveel om binne 'n tydperk wat die hof bepaal sodanige stappe te doen as wat die hof nodig ag ten einde 'n herhaling van die steurnis te voorkom.

### **HOOFSTUK XIII**

#### **ALGEMENE SAKE**

##### **Nakomingsmonitering**

40. (1) Vir die doeleindes van nakomingsmonitering, moet die aangewese omgewingsbestuursinspekteurs hulle bevoegdhede ingevolge artikel 31G tot 31L van NEMA uitoefen.

(2) Die omgewingsbestuursinspekteurs kan van enige besoedelaar wat wesenlik tot swak luggehalte bydra of waarskynlik daartoe bydra, verwag om op eie onkoste 'n erkende en bevoegde derde party opdrag te gee om omringendelug- en isokinetiese monitering uit te voer, sowel as om enige ander luggehalteverwante studie, program of verslag te voorsien.

**Toepassing**

41. (1) Die gemagtigde persoon moet alle regmatige, nodige en redelik uitvoerbare maatreëls tref om die bepalings van hierdie verordening toe te pas.
- (2) Die Stad kan toepassingsprosedures ontwikkel wat enige nasionale of provinsiale toepassingsprosedures in ag behoort te neem.

**Erkenningsprogramme**

42. 'n Luggehaltebeampte kan 'n program vir openbare erkenning van beduidende prestasies op die gebied van besoedelingsvoorkoming instel.

**Appèlle**

43. Enige persoon kan teen 'n besluit deur 'n gemagtigde persoon ingevolge hierdie verordening appelleer, deur ooreenkomstig die bepalings van artikel 62 van die Wet op Stelsels skriftelike kennis van sodanige appèl te gee.

**Kwytskeldings**

44. (1) Enige persoon kan skriftelik by die raad om kwytskelding van 'n bepaling van hierdie verordening aansoek doen.
- (2) 'n Aansoek ingevolge subartikel (1) hier bo moet van substantiewe redes vergesel word.
- (3) Die raad kan van 'n aansoeker om kwytskelding verwag om toepaslike stappe te doen om die aansoek onder die aandag van tersaaklike belangstellende en geaffekteerde persone sowel as die publiek te bring.
- (4) Die stappe wat in subartikel (3) hier bo beoog word, moet die publikasie van 'n kennisgewing in minstens twee koerante insluit, waarvan een provinsiaal en een in die regsgebied van die Stad verskyn—
- (a) met vermelding van die redes vir die aansoek; en
  - (b) met sodanige ander besonderhede van die aansoek as wat die luggehaltebeampte kan vereis.
- (5) Die raad kan—
- (a) van tyd tot tyd enige kwytskelding hersien wat ingevolge hierdie artikel toegestaan is, en kan sodanige voorwaardes oplê as wat dit nodig ag; en
  - (b) enige kwytskelding op goeie gronde terugtrek.
- (6) Die raad mag nie kwytskelding ingevolge subartikel (1) hier bo toestaan nie, tensy hulle—
- (a) redelike maatreëls getref het om te verseker dat alle persone wie se regte beduidend deur die toestaan van die kwytskelding benadeel kan word, wat aanliggende grondeienaars en okkupeerders insluit, bewus is van die aansoek om kwytskelding, en van hoe om 'n afskrif daarvan te bekom;
  - (b) sodanige persone 'n redelike geleentheid gegun het om teen die aansoek beswaar te maak; en
  - (c) enige besware wat ontvang is deeglik oorweeg en in ag geneem het.

**Vrywaring**

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

**Herroeping en uitsonderingsbepalings**

46. (1) Hiermee word die Stad Kaapstad: Verordening op Lugbesoedelingsbeheer, 2003 herroep.
- (2) Enigiets wat ingevolge enige ander wet gedoen is, of as sodanig geag word, bly geld in soverre dit met hierdie verordening strook, of totdat enige optrede ingevolge hierdie verordening dit neutraliseer.

**Kort titel**

47. Hierdie verordening staan bekend as die Stad Kaapstad: Verordening op Luggehaltebestuur, 2010.



**ISIXEKO SASEKAPA****UMTHETHO KAMASIPALA WOLAWULO LONGCOLISEKO LOMOYA, 2010**

**Ukubhangisa uMthetho kaMasipala woLawulo loNgcoliseko loMoya ka-2003 wesiXeko saseKapa; ukulungiselela ulawulo longcoliseko lomoya; kwakunye nokulungiselela imibandela engqamene noko.**

**IMBULAMBETHE**

**NGENXA YOKUBA** icandelo 156(2) nelesi-(5) loMgaqo-siseko livumela ukuba umasipala angazenzela ze azilawulele imithetho kamasipala ukuze imicimbi yakhe ilawuleke ngempumelelo nangemfezeko, kwakunye nokusebenzisa igunya lakhe malunga nokwenza oko kuyimfuneko ukuphumeza imisebenzi yakhe;

**YAYE NANGENXA YOKUBA** iNxalenye B kaShedyuli 4 woMgaqo-siseko edwelisa iinkonzo zempilo zikamasipala njengomba ophantsi korhulumente wommandla njengoko uchaziwe kwicandelo 155(6) (a) nelesi-(7);

**YAYE NANGENXA YOKUBA** isiXeko saseKapa sifuna ukuqinisekisa ulawulo lomgangatho womoya osingqongileyo kwakunye nokulawula ungcoliseko lomoya osingqongileyo kummandla ophantsi kwesiXeko kwakunye nokuphepha ukungcoliseka komoya, okanye apho oku kungenakuphetshwa kuqinisekiswa ukuba noko kuyacuthwa okanye kuyalungiswa.

**NGOKU KE**, iBhunga lesiXeko saseKapa **LIPHUMEZA LO MTHETHO** ngolu hlobo lulandelayo:—

**ISIQULATHO****ISIAHLUKO I****INKCAZO KUNYE NEMITHETHO-SISEKO ENGUNDOQO**

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

**ISIAHLUKO II****UMSEBENZI WENKATHALO**

4. Amanyathelo afanelekileyo okunqanda ungcoliseko lomoya

**ISIAHLUKO III****UKONYULWA KWAMAGOSA OLAWULO LONGCOLISEKO LOMOYA KUNYE NABAHLOLI BOLAWULO BENDALO ESINGQONGILEYO**

5. Ulonyulo lweGosa loNgcoliseko loMoya kunye nabahloli bolawulo lokusingqongileyo
6. Imisebenzi yegosa lolawulo longcoliseko lomoya kunye nabahloli bolawulo lokusingqongileyo

**ISIAHLUKO IV****IMIGAQO YENGINGQI YEZINGCOLISI-MOYA, IMIGAQO EMISELWEYO, KUNYE NEMIDA YOLAWULO LOMSI*****Icandelo 1: Imigaqo yezingcolisi-moya***

7. Igunya elisemthethweni

***Icandelo 2: Imigaqo emiselweyo***

8. Inkqubo elandelwayo yokufumanisa izinto ezisemoyeni
9. Ukwazisa ngemigaqo yenginqi yezingcolisi-moya
10. Isibhengezo somda wolawulo longcoliseko lomoya

**ISIAHLUKO V****UKUKHUTSHWA KOMSI KUMAZIKO ANGEZIZO IINDAWO ZOKUHLALA**

11. Usetyenziso
12. Ukuthintelwa komsi omnyama kwimida yezakhiwo
13. Ukufakelwa kwesixhobo esitshisa amafutha
14. Ukusetyenziswa kwesixhobo esitshisa amafutha
15. Ukucingela
16. Ukufakelwa kunye nokusetyenziswa kwesixhobo somlinganiselo wobumnyama
17. Ukubek' iliso kunye novavanyo
18. Ukukhululwa okwexeshana

**ISIAHLUKO VI****UKUKHUTSHWA KOMSI KWIINDAWO EKHULALA KUZO ABANTU**

19. Uthintelo lokukhutshwa komsi omnyama kwiindawo ezihlala abantu

**ISAPHLUKO VII****UMSI OKHUTSHWA LUTHULI, YIMILILO NOKUTSHISWA KWEZINTO**

20. Ugunyaziso lokubasa umlilo phandle nokutshisa izinto
21. Imisi ebangelwa kukutshiswa kwamatayari nokutshiswa kwerabha kunye nezinye izinto ukulungiselelela ukufumana isinyithi
22. Ukukhupha uthuli

**ISAPHLUKO VIII****UMSI OPHUMA KWIZITHUTHI EZISEBENZISA AMAFUTHA**

23. Ukuthintelwa komsi omnyama ophuma kwizithuthi ezihamba ngamafutha
24. Ukumiswa kweenqwelo-mafutha ukuze kwenziwe uhlolo novavanyo
25. Inkqubo yovavanyo
26. Isaziso solungiso

**ISAPHLUKO IX****UKUKHUTSHWA KOMSI OBANGELA IINKATHAZO ELUNTWINI**

27. Uthintelo lokukhutshwa kothuli okanye ingxolo ebangela inkathazo eluntwini
28. Isaziso sopheliso
29. Amanyathelo okupheliswa kwezinto eziyinkathazo eluntwini

**ISAPHLUKO X****IZIBULALI ZEZITSHABALALISI NOKUTSHIZWA KWEZITYALO**

30. Ukutshizwa kwezityalo ngeyeza lokubulala izitshabalalisi

**ISAPHLUKO XI****UKUKHUTSHWA KWAMAPHEPHA-MVUME EMISEBENZI EDWELISIWEYO**

31. Ukumiselwa kwenkqubo yamaphepha-mvume olawulo longcoliseko lomoya
32. Injongo yeNkqubo yaMaphepha-mvume oLawulo loNgcoliseko loMoya
33. Isicelo sephepha-mvume lokukhupha isingcolisi-moya
34. Izinto ezifanele ukuthathelwa ingqalelo
35. Izigqibo malunga nezicelo zelayisenisi yokukhupha isingcolisi-moya
36. Imigaqo nemiqathango yephepha-mvume lokukhupha isingcolisi-moya
37. Ukwahlukahlukana kwamaphepha-mvume okukhupha isingcolisi-moya
38. Ukurhoxiswa kwephepha-mvume lokukhupha isingcolisi-moya

**ISAPHLUKO XII****AMATYALA KUNYE NEZOHLWAYO**

39. Amatyala kunye nezohlwayo

**ISAPHLUKO XIII****IMIBA GABALALA**

40. Uhlolo lokuthobela
41. Ukunyanzelisa ukulandelwa kwemigaqo
42. Inkqubo zonakano
43. Izibheni
44. Ukungachaphazeleki
45. Ukungabi nabutyala
46. Ubhangiso nogcino
47. Isihloko esifutshane

**ISAPHLUKO I****INKCAZO KUNYE NEMITHETHO-SISEKO ENGUNDOQO****Iintsingiselo**

1. Kulo Mthetho kaMasipala, ngaphandle kokuba umxholo uchaza ngenye indlela—

“**isiphumo esingalunganga**” sithetha nayiphi na impembelelo ekhoyo okanye enokuthi ibe khona kwindalo esingqongileyo nethi yonakalise okanye enokuthi yonakalise indalo esingqongileyo okanye nayiphi na imbonakalo yayo kangangokuba ide yenzeke imihla ngemihla okanye ngokungenamsebenzi;

**“isingcolisi somoya”** siquka uthuli, umsi, ukuqhuma kunye nerhasi ezibangela okanye ezinokuthi zibangele ungcoliseko lomoya;

**“ungcoliseko lomoya”** luthetha nakuphi na ukutshintsha okwenzeka kwindalo esingqongileyo okubangelwa yiyo nantoni na ekhutshelwa emoyeni ojikeleza umhlaba isuka kuwo nawuphi na umsebenzi, nalapho oku kutshintsha kunesiphumo esingalunganga kwimpilo yoluntu okanye kwimpilo jikelele okanye kulwakhiwo, ukomelela kwakhona ngokukhawuleza kunye nemveliso yendalo okanye ulawulo lwezinto eziphilayo, okanye kwizinto eziluncedo eluntwini, okanye eziyakuthi zibe noncedo olunjalo kwixesha elizayo;

**“umda wolawulo longcoliseko lomoya”** uthetha ummandla othile emhlabeni nalapho iSahluko IV salo mthetho kamasipala simiselwe ukuba sisebenze khona;

**“UMthetho woLawulo loNgcoliseko loMoya”** uthetha uMthetho weSizwe woLawulo loNgcoliseko loMoya, ka-2004 (uMthetho onguNomb. 39 ka-2004);

**“isicwangciso solawulo longcoliseko lomoya”** sithetha isicwangciso solawulo longcoliseko lomoya ekubhekiswa kuso kwicandelo 15 loMthetho woLawulo loNgcoliseko loMoyaka;

**“igosa lolawulo longcoliseko lomoya”** lithetha igosa lolawulo longcoliseko lomoya elimiselwe oku ngokwecandelo 14(3) loMthetho woLawulo loNgcoliseko loMoya;

**“umoya osingqongileyo”** uthetha umoya osingqongileyo njengoko uchaziwe kwicandelo 1 loMthetho woLawulo loNgcoliseko loMoya;

**“umoya ojikeleza umhlaba”** uthetha umoya ongavalelwanga sisakhiwo, umatshini, itshimini okanye ezinye ezinto ezinjalo;

**Izinto ezikhutshelwa emoyeni okanye umsi** ubhekisa kuyo nayiphi na into ephumela kumoya ojikeleze umhlaba isuka kwindawo ethile okanye kwisithuthi, nto ethi idale ungcoliseko lomoya;

**“umntu ogunyazisiweyo”** uthetha nawuphi na umntu ogunyaziswe nguMphathi weSixeko ukuba azalisekise nawaphi na amalungiselelo alo Mthetho kaMasipala;

**“iindlela zokusebenza ezifanelekileyo”** zithetha oko kukona kunika inzuzo okanye oko kubangela owona monakalo mncinane kuko konke oko kusingqongileyo, ngexabiso elamkelekileyo kuluntu kwisithuba sexesha elide nakwisithuba sexesha elifutshane;

**“itshimini”** ithetha nayiphi na into eyakhiweyo okanye evulekileyo elulo naluphi na uhlobo nalapho izinto ezingcolisa umoya zinokuthi ziphume khona;

**“IsiXeko”** sithetha iSixeko saseKapa esimiselwe ngokweSaziso sePhondo esinguNomb. 479 sika-2000 ngokwecandelo 12 loMthetho woBume bukaMasipala woRhulumente weNqila ka1998 (uMthetho onguNomb. 117 ka1998);

**“UMphathi wesiXeko”** uthetha umntu oqeshwe njengomanejala kamasipala liBhunga phantsi kwecandelo 82 le-Local Government: Municipal Structures Act, 1998 (uMthetho onguNomb. 117 ka1998);

**“inqwelo-mafutha esebenzisa ucinezelo lwenjini”** ithetha inqwelo-mafutha esebenzisa ukutshiswa kwangaphakathi, ucinezelo lwenjini, idizile okanye amafutha enjini anjalo;

**“iBhunga”** lithetha iBhunga lesiXeko saseKapa okanye nawaphi na amanye amacandelo ezopolitiko, abaphathi ababambe izikhundla zezopolitiko, ooceba okanye abaqeshwa abagunyazisiweyo beSixeko;

**“umsi omnyama”** uthetha—

- (a) ngokunxulumene neSahluko V neSahluko VI salo Mthetho kaMasipala, umsi othi xa kusetyenziswa umlinganiselo wawo kusetyenziswe imitha elula yokufunxa okanye isixhobo esenza umlinganiselo wobumnyama nesinobumnyama obungamashumi amabini ekhulwini (20%) okanye ngaphezulu;
- (b) ngokunxulumene neSahluko VIII salo Mthetho kaMasipala—
  - (i) umsi onokuxinana okungamashumi amahlanu (50) Hartridge eeyunithi zomsi okanye ngaphezulu, ngokunxulumene nokuphuma komsi osuka kwiinqwelo-mafutha ezisebenzisa injini yesiqhelo okanye onokufunxa okulula onenani elandisayo elingaphezulu kwe-1.16m-1;
  - (ii) umsi onokuxinana okungamashumi amathandathu (56) Hartridge eeyunithi zomsi okanye ngaphezulu, ngokunxulumene nokuphuma komsi osuka kwiinqwelo-mafutha ezisebenzisa injini yomsinga werhasiokanye ukufunxa okulula okunenani elandisayo elingaphezulu kwe-1.19m-1;

**“uthuli”** luthetha nayiphi na into engelolwelo nekwimo eolekileyo enakho ukusasazeka kwakunye nokubambeka emoyeni ojikeleza umhlaba;

**“indawo yokuhlala”** ithetha nasiphi na isakhiwo okanye into eyakhiweyo okanye inxenywe yesakhiwo esetyenziswa njengendawo yokuhlala, kwakunye naziphi na ezinye izakhiwo ezingaphandle ezisecaleni kwayo, kodwa akuquki amatyotyombe kunye nezinye iindawo zokuhlala ezingekho sesikweni;

**“umhloli wolawulo lokusingqongileyo”** uthetha ngomhloli wolawulo lokusingqongileyo ekubhekiswe kuye kwicandelo 5;

**“indalo esingqongileyo”** ithetha konke okusingqongileyo nalapho kukho khona abantu, kwaye kukho nezi zinto zilandelayo —

- (a) umhlaba, amanzi kunye nomoya ojikeleza umhlaba;
- (b) izinto eziphilayo, ubomi bezityalo nezilwanyana;
- (c) nayiphi na inxenywe okanye kokubini okuchazwe ku-(a) no-(b) kwakunye nolwalamano lwangaphakathi kubo naphakathi kwabo; kwakunye
- (d) nezinto zasemzimbeni, amachiza, ubuhle kunye nenkcubeko kwakunye neemeko eziqhubekayo ezithi zibe nempembelelo kwimpilo yoluntu nempilo jikelele;

**“UMphathi oyintloko: Ezempilo”** uthetha uMphathi oyintloko wesiXeko onoxanduva lwemicimbi yezempilo;

**“uvavanyo lokuqhuba”** luthetha inkqubo echazwe kwicandelo 25;

**“isixhobo sokutshisa amafutha”** sithetha naliphi na iziko lesinyithi, ibhoyila okanye imbiza yokubilisa amanzi, isitovu sokutshisa inkunkuma, okanye esinye isixhobo, kuquka netshimini—

- (a) esenzelwe ukutshisa okanye esinako ukutshisa izinto ezilulwelo, irhasi okanye amafutha angelolwelo;
- (b) esisetyenziswa ekutshabalaliseni nayiphi na into okanye inkunkuma ngokuyitshisa; okanye

(c) esisetyenziswa ekufakeni amanzi, irhasi okanye amafutha angelolwelo kuyo nayiphi na inkqubo equka ukusetyenziswa kobushushu; **“imitha yokufunxa ukukhanya”** ithetha isixhobo sokulinganisa esisebenzisa iseli esebena ngokukhanya ekuchazeni ubungakanani bokukhanya obufunxwe sisingcolisi somoya;

**“izinto eziphilayo”** zithetha nayiphi na into engezilwanyana okanye izityalo enako ukugqithisa okanye ekhupha izinto zemveli ezifanayo, ukuquka izinto ezingenazintsholongwane kunye neentsholongwane ezincinane kakhulu;

**“into eyinkathazo eluntwini”** ithetha ukuphazamiseka okungafanelekanga okanye into enokubangela ukuphazamiseka okwenziwa lungcoliseko lomoya—

(a) kwezempilo okanye kwimpilo entle yakhe nawuphi na umntu okanye yezinto eziphilayo; okanye

(b) ukusetyenziswa kunye nokonwabela komnini okanye umhlali kwindawo yakhe okanye kwindawo emngqongileyo;

**“ukusitheka”** kuthetha umlinganiselo wokukhanya obonakalayo oncitshiswe zizingcolisi zomoya ezibambeke kwimilanjana busiya kukukhanya okubonakalayo nobuchazwe njengepesenti;

**“ukutshisa kwindawo evulekileyo”** kuthetha ukutshiswa kwezinto ungenayo itshimini yokungenisa nokukhupha umoya wezinto ezitshayo iwuse kumoya ojikeleze umhlaba kwaye **“ukutshisa endaweni evulekileyo”** kunentsingiselo efanayo;

**“umsebenzi”** uthetha umntu ongumnini okanye olawula okuthile, okanye olawula umsebenzi okanye inkqubo ethi ikhuphe izinto ezingcolisa umoya;

**“ukwaziswa kwehlo mela ledolophu”** kuthetha nawuphi na umhlaba okwiyunithi yomda osetyenziswa njengendawo yokuhlala;

**“umntu”** uthetha umntu ngokwendalo okanye umntu ngokwezobulungisa;

**“umda wesakhiwo”** ubandakanya—

(a) nasiphi na isakhiwo okanye esinye isakheko;

(b) nawuphi na umhlaba odibana nawo nokuhlala kuwo abantu okanye osetyenziswa ngokunxulumene nawo nawuphi na umsebenzi ongomnye owenziwa kwelo ziko okanye kweso sakheko;

(c) kwaye ukwaquka umhlaba ongenaso nasiphi na isakhiwo;

(d) kwakunye nayiphi na into ehambayo, inqanawa, iphenyane okanye nayiphi na enye into esebenza okanye ekhoyo ngaphakathi kummandla ophantsi kolawulo lwesiXeko okanye kwindawo ebiyelweyo yalo naliphi na izibuko elikulo mandla;

**“iPhondo”** lithetha iPhondo leNtshona Koloni;

**“indlela kawonke-wonke”** ithetha indlela apho uluntu jikelele okanye uwonke-wonke anelungelo lokuyisebenzisa;

**“umsi”** uthetha irhasi, izinto ezithile kunye nemveliso yokutsha ekhutshelwe kumoya ojikeleza umhlaba xa kutshiswe into ethile okanye ibekwe ebushushwini kuquka umle okanye umsizi, uhlalutye kunye nezinto ezinohlalutye eziphuma emsini;

**“uphando lobungcaphephe”** luthetha naluphi na uphando olusekelwe kubunzululwazi olunxulumene nolawulo longcoliseko lomoya olwenziwe yingcali okanye ingcaphephe evunyiweyo enemfundo efanelekileyo kwakunye nolwazi malunga nombandela wolawulo longcoliseko lomoya;

**“ummandla wokuspreya”** ubhekisa kummandla okanye isakhiwo ekubhekiswe kuso kwicandelo 27 emasetyenziselwe ukuspreya izithuthi ukanti **“negunjana lokuspreya”** likwathetha kwa into efana nale;

**“Umthetho weeNkqubo”** uthetha uMthetho weeNkqubo zikaMasipala kaRhulumente weNqila, 2000 (uMthetho onguNomb. 32 ka-2000);

**u“NEMA”** uthetha uMthetho weSizwe woLawulo lwezeNdalo, ka1998 (uMthetho onguNomb. 107 ka-1998); kunye

**“isithuthi”** sithetha nayiphi na imoto, isikhoji semoto, isithuthuthu, ibhasi, ilori okanye nasiphi na esinye isithuthi esisebenzisa xa sisonke okanye inxenye yaso isipirithi esinokutsha, umphunga, irhasi okanye i-oyile okanye nayiphi na enye indlela engengawo amandla omntu okanye esilwanyana.

## Ukusebenza kwalo Mthetho kaMasipala

2. Lo Mthetho kaMasipala usebenza kuzo zonke iipropati okanye izakhiwo eziphantsi kolawulo lwesiXeko.

## Ungqzulwano neminye imithetho

3. Xa kunokuvela uxambuliswano phakathi kwalo Mthetho kamasipala kunye nomnye umthetho kamasipala okanye nawo nawuphi na umgaqo-nkqubo olawula ungcoliseko lomoya kummandla ophantsi kolawulo lwesiXeko, imihlathi okanye imimiselo yalo mthetho kaMasipala iyakuba yiyo eya kulandelwa.

## ISAHLUKO II

### UMSEBENZI WENKATHALO

#### Amanyathelo afanelekileyo okunqanda ungcoliseko lomoya

4. (1) Nawuphi na umntu onoxanduva lulonke okanye inxenye yalo ekudaleni ungcoliseko lomoya okanye ovulele ithuba lokuba kusenokwenzeka ungcoliseko lomoya kufuneka athathe onke amanyathelo afanelekileyo—

(a) ukuthintela naluphi na ungcoliseko lomoya olunokwenzeka ukuba lungabi senzeka; aze

(b) anciphise kangangoko anako athathe amanyathelo ukulungisa okanye xa kufanelekile, ukulungisa naluphi na ungcoliseko lomoya oluthe lwenzeka.

(2) iBhunga lingayalela nabani na othe wasilela ukuthatha amanyathelo afanelekileyo phantsi kwecandelwana (1) —

(a) ukuba aphande, enze uvavanyo kunye nohlolo lwefuthe lwemisebenzi ethile ukuze anike ingxelo yoko;

(b) aqalise ukuthatha amanyathelo afanelekileyo ngaphambi komhla obekiweyo;

(c) aqhubekeke ngenyameko ngalo manyathelo; kwaye

(d) awagqibe ngaphambi kokufika komhla obekiweyo,

xa ngaba phambi kokukhutshwa kwaloo miyalelo, lowo ugunyazisiweyo uthe wanika ithuba eloneleyo lokubazisa abantu abachaphazelekayo malunga nezinto ezibachaphazelayo yaye lowo ugunyazisiweyo angabonisa nalo naliphi na icandelo likarhulumente.

(3) Xa umntu ethe akakuthobela oku, okanye akakuthobela ngokwaneleyo, phantsi komyalelo ochazwe kwicandelwana (2), umntu lowo ugunyazisiweyo angathatha amanyathelo afanelekileyo okulungisa le meko.

(4) Ukuba umntu lowo uthe wasilela ukuthatha amanyathelo ekubhekiswa kuwo kwicandelwana (1), umntu ogunyazisiweyo unakho ukufuna intlawulo yayo yonke inkcitho ethe yenzeka ngokuthatha amanyathelo phantsi kwecandelwana (3) kuye nawuphi okanye kubo bonke aba bantu balandelayo:

- (a) nawuphi na umntu eluxanduva lakhe okanye ebuluxanduva lakhe, okanye obe negalelo ngokuthe ngqo okanye ngokungathanga ngqo okanye osenokuba ube negalelo kungcoliseko lomoya;
- (b) umnini womhlaba ngelo xesha lokwenzeka kongcoliseko lomoya okanye umntu olandela umnini lowo ngokwetayitile;
- (c) umntu ophetheyo kulo mhlaba okanye nawuphi na umntu onelungelo okanye owayenelungelo lokusebenzisa umhlaba lowo ngexesha —
  - (i) lokwenzeka komsebenzi lowo okanye inkqubo ekuthethwa ngayo; okanye
  - (ii) lokwenzeka kwale meko; okanye
- (d) nawuphi na umntu othe ngokungabi nankathalo wasilela ukuthintela —
  - (i) umsebenzi okanye inkqubo eyenziweyo okanye eqhubekileyo; okanye
  - (ii) imeko enjalo ukuba iqhubeka.

(5) Ukuba kungaphezulu komntu omnye onemfanelo ngokwasemthethweni phantsi kwecandelwana (4), imfanelo leyo ingohlulelwa abo bantu bachaphazelekayo ngokweqondo loxanduva lomntu ngamnye ekonakaliseni indalo esingqongileyo nokubangele ukusilela kwabo ekuthatheni amanyathelo afanelekileyo nafunekayo phantsi kwamacandelwana (1) kunye no-(2).

### ISIAHLUKO III

## UKONYULWA KWAMAGOSA OLAWULO LONGCOLISEKO LOMOYA KUNYE NABAHLOLI BOLAWULO BENDALO ESINGQONGILEYO

### Uloniyulo lweGosa loNgcoliseko loMoya kunye nabahloli bolawulo lokusingqongileyo

5. (1) UManejala wesiXeko kufuneka, ebonisene kunye noMphathi oyiNtloko: wezeMpilo onyule umsebenzi wesiXeko okanye nawuphi na umntu njengegosa lolawulo longcoliseko lomoya lokulungelelanisa imibandela enxulumene nolawulo longcoliseko lomoya kwiSixeko.

(2) Umlawuli weCandelo: lezeMpilo lesiXeko angacela uMphathiswa wePhondo onoxanduva lwezobume bendalo esingqongileyo ukuba onyule abahloli bolawulo lwendalo esingqongileyo ngokwecandelo 31C le-NEMA.

### Imisebenzi yegosa lolawulo longcoliseko lomoya kunye nabahloli bolawulo lokusingqongileyo

6. (1) Igosa lolawulo longcoliseko lomoya kufuneka —

- (a) lilungelelanise uphuhliso lwesicwangciso solawulo longcoliseko lomoya ukuba siqukwe nje ngesahluko kwiSicwangciso soPhuhliso oluDityanisiweyo, ngokungqinelana nesahluko 5 soMthetho weeNkqubo zikaMasipala;
- (b) lilungise ingxelo yonyaka yesiXeko kulawulo longcoliseko lomoya;
- (c) lenze imisebenzi yalo elinikwe phantsi kwemiqathango yalo Mthetho kaMasipala phantsi kwemiyalelo yoMlawuli oyiNgqonyela: wezeMpilo; kwaye
- (d) kufuneka le ngxelo ekubhekiswe kuyo kumhlathi (b) liyifake kwigosa lolawulo longcoliseko lomoya elonyulwe nguMphathiswa wePhondo onoxanduva lezobume bendalo kunye nokusingqongileyo kuRhulumente wePhondoka-2;

(2) Ingxelo yonyaka ekubhekiswe kuy kwicandelwana (1) (b) kufuneka phakathi kwezinye zezinto, iquke inkqubela yeSixeko malunga nokusetyenziswa kwesicwangciso solawulo longcoliseko lomoya.

(3) Igosa lolawulo longcoliseko lomoya kusenokufuneka ukuba libe nephepha-mvume lephondo lwezingcolisi-moya osingqongileyo okanye iphepha-mvume lezingcolisi-moya ukuze libe nokonyula igosa lolawulo lezingcolisi-moya njengoko kuchazwe kwicandelo 48 loMthetho woLawulo loNgcoliseko loMoya.

### ISIAHLUKO IV

## IMIGAQO YENGINGQI YEZINGCOLISI-MOYA, IMIGAQO EMISELWEYO, KUNYE NEMIDA YOLAWULO LOMSI

### *Icandelo 1: Imigaqo yezingcolisi-moya*

### Igunya elisemthethweni

7. (1) Umntu ogunyazisiweyo angakhupha isaziso —

- (a) esichaza izinto okanye imixube yezinto ezikumoya osingqongileyo ezinokuthi zibe nobungozi kwezempilo nakumoya osingqongileyo kwisiXeko ngenxa yokuqungana ndawonye okanye elithi iGosa loLawulo loNgcoliseko loMoya likholelwe ukuba zingaba nobungozi kwezempilo; kunye
- (b) ngokunxulumene nezo zinto okanye lo mixube yezinto amisele imigaqo yengingqi yezingcolisi-moya kwindawo ethile, kuyo yonke indawo okanye kwinto ejikelezayo kwisiXeko.

(2) Umntu ogunyazisiweyo uya kuthathela ingqalelo le miba ilandelayo xa emisela imigaqo yengingqi yezingcolisi-moya:

- (a) iinjongo zezempilo nokhuseleko kunye nokhuselo lwendalo esingqongileyo;
- (b) indlela esetyenziswayo yokuhlalutya;
- (c) inganakho naukwenzeka into ethile ngokobugcisa;

- (d) amandla nobuchule bokubeka phantsi koqwalaselo;
- (e) iziphumo kwezentlalo nezoqoqosho;
- (f) indima kwindalo yomlilo kwiintsalelo zezityalo; kunye
- (g) neyona nto inokukhetheka enokukwazi ukwenziwa.

(3) Wonke umntu onento ayikhuphela emoyeni okanye umxube wezinto njengoko kuchaziwe kwicandelwana (1) kufuneka athobele imigaqo epapashwe phantsi kwalo Mthetho kaMasipala.

### *Icandelo 2: Imigaqo emiselweyo*

#### **Inkqubo elandelwayo yokufumanisa izinto ezisemoyeni**

**8.** (1) Umntu ogunyazisiweyo kufuneka alandele ezi nqobo zilandelayo xa ehumanisa kwaye ezilandelelanisi ngokokubaluleka kwzo izinto ezikhoyo emoyeni ezinobungozi kwezempilo nakwimpilo yoluntu okanye kubume obusingqongileyo:

- (a) ubungakanani bamathuba, ubuzaza kwakunye nobuninzi bokwenzeka kweziphumo ezingafanelekanga ngokunxulumene nempilo yabantu kunye nobume bendalo iyonke, nekuthi iziphumo ezingafanelekanga ibe yeyona nkxalabo ingamandla;
- (b) ukuba sendaweni yonke nobungakanani bobuninzi ndaweni nye kwesingcolisi-moya;
- (c) ukuba nokutshintsha kobume bezendalo obusingqongileyo kunye nenguquko yokutshintsha kwesingcolisi-moya eso, njengoko ezi nguqu zinokukhokhelela ekuveliseni amachiza anetyhefu eyongezelelekileyo okanye ziveze ezinye iingxaki;
- (d) ukuzingisa ukubakho emoyeni, ngokungakumbi ukuba isibi eso asiboliswa zintsholongwane kwaye siyakwazi ukukhula ebantwini, kubume bendalo esingqongileyo okanye ekutyeni;
- (e) ifuthe lesingcolisi-moya eso, kuthathelwa ingqalelo ezi zinto zilandelayo:
  - (i) ubungakanani babantu abasesichengeni, bezinto eziphilayo okanye kunye nendawo echaphazelekayo;
  - (ii) ubukho bezinto ekulula ngamandla ukuba zingene kuzo ezi zingcolisi-moya kulo mmandla uchaphazelekayo; kunye
- (f) nezingcolisi-moya ezilawulwa yimigaqo yamazwe ngamazwe.

(2) Umntu ogunyazisiweyo kufuneka avelise uluhlu lwezingcolisi-moya ezisemoyeni ezinobungozi kwezempilo, kwimpilo yoluntu nakubume bezendalo.

#### **Ukwazisa ngemigaqo yenginqi yezingcolisi-moya**

**9.** Ukulungiselela ukwazisa ngemigaqo yenginqi yezingcolisi-moya, iSixeko kufuneka silandele inkqubo yokubonisana njengoko kuchaziwe kwisahluko 4 soMthetho weNkqubo zikaMasipala.

#### **Isibhengezo somda wolawulo longcoliseko lomoya**

**10.** (1) Wonke ummandla ophantsi kolawulo lweSixeko uchazwa nje ngommandla wolawulo longcoliseko lomoya.

(2) Ngaphakathi komda wolawulo longcoliseko lomoya, iBhunga lingathi kumaxesha ngamaxesha, likhuphe isaziso kwiGazethi yePhondo laseNtshona Koloni—

- (a) ukuthintela okanye ukunqanda ukukhutshwa kwesingcolisi-moya esinye okanye izingcolisi-moya ezininzi ezisuka kuwo onke amaziko okanye amaziko athile;
- (b) ukuthintela okanye ukunqanda ukutshiswa kweendidi ezithile zamafutha;
- (c) lazise iindawo ekufuneka kungekho msi kuzo, nalapho umsi onobumnyama obungaphezulu kweshumi ekhulwini (10%) lungasayi kuvunyelwa;
- (d) lichaze iimfuno ezohlukeneyo kumda wolawulo longcoliseko lomoya ezinxulumene nomgangatho wongcoliseko lomoya ngokunxulumene:
  - (i) nenxenye yeendawo ezithile ezohlukeneyo;
  - (ii) amaziko achaziweyo;
  - (iii) Iindidi zamaziko;
  - (iv) amaziko asetyenziswa kwiinjongo ezithile; okanye
  - (v) izithuthi.

(3) iBhunga lingaphuhlisa lize lipapashe imigaqo-nkqubo kunye nezikhokelo, kuquka izikhokelo zobugcisa ezinxulumene nolawulo lwemisebenzi ethi ngokuthe ngqo okanye ngokungathanga ngqo ibangele ungcoliseko lomoya ngaphakathi kumda wolawulo longcoliseko lomoya.

(4) Ngokwecandelo 44, iBhunga lingabhala phantsi likhulule amaziko athile, iindidi zamaziko okanye amaziko asetyenziselwa iinjongo ezithile phantsi kweli candelo.

## **ISIAHLUKO V**

### **KUKHUTSHWA KOMSI KUMAZIKO ANGEZIZO IINDAWO ZOKUHLALA**

#### **Usetyenziso**

**11.** Kwiinjongo zesi Sahluko, “**izakhiwo**” aziquki iindawo zokuhlala.

#### **Ukuthintelwa komsi omnyama kwimida yezakhiwo**

**12.** (1) Ngokokwecandelwana (2), umsi omnyama akufunekanga ukhutshwe kulo naliphi na iziko kangangexesha elingaphezulu kwemizuzu emithathu kulo naliphi na ixesha eliqhubekayo lemizuzu engamashumi amathathu.

(2) Eli candelo alibhekiselelanga kumsi omnyama ophuma kwizixhobo ezisebenzisa amafutha nokuthi oku kwenzeke ngexa isixhobo esinjalo sidunyiswayo okanye ngexa esi sixhobo singcitywa okanye silungiswa, okanye silindele ukungcitywa okanye ukulungiswa, ngaphandle kokuba ukukhutshwa komsi okunjalo ngekuthintelwe kusetyenziswa ezona ndlela zifanelekileyo ezikhoyo.

(3) Amacandelwana (1) nele(2) akabachaphazeli abanini-zilayisensi abanegunya lokukhupha umsi wemisebenzi edweliswe kwicandelo 21 loMthetho woLawulo loNgcoliseko loMoya, kuya kuthi kusebenze kubo imiqathango yokukhutshwa komoywa edweliswe kulo layisenisi.



### Ukufakelwa kwesixhobo esitshisa amafutha

**13.** (1) Akukho mntu oya kufakela, atshintshe, andise okanye afakele isixhobo esisesinye sokutshisa amafutha kuwo nawaphi na amaziko ngaphandle kokuqala ufumane imvume ebhaliweyo esuka kwiBhunga, neyakuthi inikwe kuphela emva kokuqwalaselwa kwezicwangciso ezifanelekileyo nezinto ezizodwa.

(2) Nasiphi na isixhobo esitshisa amafutha esifakelweyo, satshintshwa, sandiswa okanye kwafakelwa esinye endaweni yesinye ngokuhambelana nezicwangciso nezinto ezizodwa ezigqithisiweyo zaze zamkelwa njengeenjongo zeli candelo liBhunga, siya kusetyenziswa kude okuchasene noku kwamkelwe ukuba kuthobela amalungiselelo ecandelwana (1).

(3) Apho kufakelwe khona isixhobo esitshisa amafutha, satshintshwa, sandiswa okanye kwafakelwa esinye endaweni yesinye kumaziko ngokuchasene necandelwana (1), iBhunga lingabhala phantsi isaziso esiya kumnini kunye nomhlali kulo maziko limyalele ukuba akhuphe isixhobo sokutshisa amafutha kumaziko ngeendleko zomnini kunye nomsebenzisi kwaye oko kwenzeke kwixesha elichazwe kwisaziso eso.

(4) Umlawuli oyiNtloko: kwezeMpilo angathatha nawaphi na amanyathelo awabona eyimfuneko ukuze kulungiswe ubungozi obenziwe lufakelo, ulungiso, ukongezelela okanye utshintsho kwisakhiwo anqande nokuba lo nto ingaphinde yenzeke yaye usenokubiza zonke iindleko kumntu lowo ongunobangela waloo ngozi.

### Ukusetyenziswa kwesixhobo esitshisa amafutha

**14.** (1) Akukho mntu oya kusebenzisa nasiphi na isixhobo sokutshisa amafutha kuwo nawaphi na amaziko ngokuchasene negunya elichazwe kwicandelo 13.

(2) Apho kuthe kwasetyenziswa isixhobo esitshisa amafutha kumaziko ngokuchasene necandelwana (1), iBhunga lingabhala isaziso esiya kumnini kunye nomhlali kulo maziko—

- (a) arhoxise igunya lalo phantsi kwecandelo 13; kwaye
- (b) ayalele ukususwa kwesixhobo sokutshisa amafutha kulo maziko ngeendleko zomnini okanye umsebenzisi kwaye lingadlulanga ithuba elichazwe kwesi saizo.

(3) Xa umnini-sakhiwo engathobeli isaziso ekubhekiswe kuso kwicandelwana (2), iBhunga linokususa eso sixhobo esitshisa amafutha kwisakhiwo eso ze libize iindleko zalo zokususa eso sixhobo kumnini-sakhiwo.

### Ukucingela

**15.** Umsi omnyama kuya kucingelwa ukuba ukhutshwe kumaziko lawo xa kukho into ebonakalisa ukuba nawaphi na amafutha okanye okuthile bekutshisiwe kumaziko lawo kwaye neemeko bezibonisa ukuba olu tshiso bekufanele ukuba lukhuphe umsi omnyama ngaphandle kokuba umnini, umhlali okanye umsebenzisi, xa kunjalo, abonise ukuba akukho msi omnyama othe waphuma.

### Ukufakelwa kunye nokusetyenziswa kwesixhobo somlinganiselo wobumnyama

**16.** (1) Umntu ogunyazisiweyo angakhupha isaziso kuye nawuphi na umsebenzisi wesixhobo sokutshisa amafutha okanye kuye nawuphi na umnini okanye umhlali kumaziko apho bekusetyenziswe khona isixhobo sokutshisa amafutha, okanye kukho injongo yokusisebenzisa, ukufakelwa, ukugcinwa kunye nokusetyenziswa kwesixhobo somlinganiselo wobumnyama ngexabiso lakhe, xa—

- (a) ukuphuma komsi omnyama okungagunyaziswanga nokungekho mthethweni kumaziko kuthe kwenzeka ngokulandelelanayo narhoqo kwixesha leentsuku ezimbini ubuncinane;
- (b) ukuphuma komsi omnyama okungagunyaziswanga nokungekho mthethweni kumaziko okuthe kwenzeka ngokulandelelanayo narhoqo kwixesha leentsuku ezilishumi elinesine ubuncinane;
- (c) isixhobo sokutshisa amafutha sifakelwe okanye kujongwe ukuba sifakelwe kula maziko nokunokuthi kwenzeke ngokwembono yegosa eligunyazisiweyo ukuba kukhutshwe umsi omnyama;
- (d) umntu okhutshelwe isaziso sele ebanjwe ngaphezulu kwesinye phantsi kwesi Sahluko kwaye akathathanga manyathelo afanelekileyo ukuthintela ukuchasana okungokunye namagatya esi Sahluko; okanye
- (e) umntu ogunyazisiweyo unoluvo lokuba uhlobo lwezi zingcolisi zomoya zikhutshiweyo kula maziko kusenokudala ubungozi kwimpilo yoluntu okanye kwindalo esingqongileyo.

(2) Isaziso ekubhekiswa kuso kwicandelwana (1) kufuneka sazise umntu esibhalelwe yena—

- (a) ilungelo lalo mntu lokwenza ingxelo ebhaliweyo okanye eze ngaphambili ukuza kunika ulwazi kwakunye nokuchasana noku kunye nokuphikisana okunxulumene nesaziso, kwaye kufuneka sichaze isithuba sexesha esifanelekileyo ekufuneka kwenziwe ngalo oku;
- (b) ilungelo lalo mntu lokubhena phantsi kwecandelo 43;
- (c) ilungelo lalo mntu lokucela izizathu ezibhaliweyo zokuba anikwe eso saizo; kunye
- (d) namanyathelo ekufuneka ethatyathiwe kunye neziphumo ezinokubakho xa isaziso eso singathotyelwanga.

### Ukubeka iliso kunye novavanyo

**17.** Umhlali okanye umnini wezakhiwo kunye nomsebenzisi waso nasiphi na isixhobo sokutshisa amafutha ekufuneka efakele isixhobo sokulinganisa ubumnyama phantsi kwecandelo 16(1) kufuneka—

- (a) abhale ingxelo yeziphumo zizonke zokongamela kunye novavanyo aze agcine ikopi yale ngxelo kangangeminyaka emine ubuncinane emva kokufumana iziphumo;
- (b) xa ecelwe ngumntu ogunyazisiweyo aveze iziphumo zokongamela kunye novavanyo ukuze zihlolwe enze njalo; kwaye
- (c) xa ecelwe ngumntu ogunyazisiweyo abonelele ngengxelo ebhaliweyo ephelileyo okanye eyinxalenye yengcaciso ekwiziphumo zokongamela novavanyo kwifomu nangomhla ochaziweyo.

### Ukukhululwa okwexeshana

**18.** (1) Ngokuxhomekeke kwicandelo 44 nangokwesicelo esibhaliweyo, ngumnini okanye ngumhlali weziko okanye umsebenzisi wesixhobo sokutshisa amafutha, iBhunga linganika ukhululo lwethutyana olubhalwe phantsi ngokomnye okanye ngokwayo yonke imihlati ephantsi kwesi Sahluko.



(2) Naluphi na ukhululo olwenziwe phantsi kwecandelwana (1) kufuneka ubuncinane, luchaze oku kulandelayo:

- (a) inkcazelo ngesixhobo sokutshisa amafutha kunye namaziko apho sisetyenziswa khona;
- (b) izizathu zovunyelwelo lolu khululo;
- (c) imiqathango ehamba nolu khululo, ukuba ikhona;
- (d) isithuba sexesha lolu khululo luvunyelweyo; kunye
- (e) nayo nayiphi na enye ingcaciso efanelekileyo.

(3) IBhunga alinakuvumela ukukhululelwa okwexeshana phantsi kwecandelwana-(1), kude kube iBhunga—

- (a) lithabathe amanyathelo afanelekileyo ukuqinisekisa ukuba bonke abo bantu apho baya kuthi amalungelo abo achaphazeleke ngakumbi ngokuthi kunikezelwe ukukhululelwa okwexeshana, kuquka nabanini abakufutshane bomhlaba okanye abo bahlala kuwo ukuba bathi baziswe ngesi sicelo sokukhululelwa kwakhona baziswe ngendlela ikopi efumaneka ngayo;
- (b) libonelele/linikezele abo bantu ngethuba elifanelekileyo lokuba bangenise isichaso kwisicelo eso; lize
- (c) liqwalasele kwaye lithathele ingqalelo Naziphina izichaso ezithe zaphakanyiswa.

#### ISAPHLUKO VI

#### UKUKHUTSHWA KOMSI KWIINDAWO EKHULALA KUZO ABANTU

19. (1) Ngokokwecandelo 4(1), akukho mntu oya kukhupha okanye avumele ukukhutshwa komsi omnyama kuyo nayiphi na indawo ekhulala kuyo abantu kangangexesha elingaphezulu kwemizuzu emithathu kulo naliphi na ixesha eliqhubekayo kwimizuzu engamashumi amathathu.

(2) Ngokuxhomekeke kwicandelo 44 kwakunye nangokufaka isicelo esibhaliweyo ngumnini okanye umhlali waso nasiphi na isakhiwo, iBhunga lingavumela ukhululo olubhaliweyo lwethutyana phantsi komnye okanye kwayo yonke imihlathi yesi Sahluko.

#### ISAPHLUKO VII

#### UMSI OKHUTSHWA LUTHULI, YIMILILU NOKUTSHISWA KWEZINTO PHANDLE

##### Ugunyaziso lokubasa umlilo phandle nokutshisa izinto

20. (1) Ngokuxhomekeke kwicandelwana (4), nawuphi na umntu ophemba umlilo phandle kuwo nawuphi na umhlaba okanye iziko, uya kufunyanwa enetyala ngaphandle kokuba uqale wafumana imvume yeBhunga.

(2) IBhunga linokuthi xa linika imvume ekubhekiswe kuyo phantsi kwecandelwana (1), libeke imiqathango ekufuneka lowo ufake isicelo ayilandele.

(3) IBhunga lingakuvumeli ukuphenjwa komlilo kwindawo ephandle phantsi kwecandelwana (1) ngaphandle kokuba lanelisekile kukuba ezi mfundo zilandelayo ziyafezekiswa ngokwaneleyo:

- (a) Into leyo iza kutshiselwa kumhlaba ovulekileyo apho iphuma khona;
- (b) lo mntu ucela ilungelo lokuvunyelwa ukubasa umlilo wenze uphando waze wavavanya konke okufanelekileyo okungokunye ekunciphiseni, ekusebenziseni kwakhona okanye ekulungiseni oko besele kusetyenzisiwe ukuze kube nokusetyenziswa kwakhona ekwenzeni into entsha ukuze kuncitshiswe izinto ekufuneka zitshisiwe kumlilo ovulekileyo ngokwanelisekisa iBhunga;
- (c) lo mntu wenze isicelo selungelo lokubasa wenze uphando waze wavavanya konke okufanelekileyo okungokunye ekususeni okufuneka kutshisiwe emhlabeni okanye kumaziko, ngokwanelisekisa iBhunga;
- (d) lo mntu wenze isicelo selungelo lokubasa wenze uphando waze wavavanya konke okunokuthi kube nempembelelo kolu tshiso kwindalo esingqongileyo, ngokwanelisekisa iBhunga;
- (e) lo mntu wenze isicelo selungelo lokubasa ubazisile ngokubabhelela abanini kunye nabo bahlala kwizakhiwo ezimelene nesakhe malunga —
  - (i) nazo zonke iinkcukcha ezazekayo zoku kubasa kwindawo evulekileyo; kunye
  - (ii) nelungelo labanini kunye nabahlali abakwimihlaba nezakhiwo ezisecaleni kwakhe ukuba bafake inkcaso ebhaliweyo kwesi sindululo sicetywayo sokutshisa kwindawo evulekileyo kwiBhunga kwiintsuku ezisixhenxe (7) emva kokuba baziswe;
- (f) umrhumo ochaziweyo sele uhlawuliwe kwiBhunga;
- (g) isilumkiso phantsi kwecandelo 10(1)(b) lomthetho obizwa ngokuba yi-National Veld and Forest Fire Act, 1998 (uMthetho 101 ka-1998) asikabhengezwa kulo mmandla;
- (h) umhlaba apho lo mntu unenjongo yokutshisa kuwo izinto kwindawo evulekileyo ingumhlaba kaRhulumente, yifama okanye yifama encinci okanye umhlaba okwihlomela ledolophu owazisiweyo nongasetyenziswayo njengendawo yokuhlala abantu;
- (i) ukutshisa kwindawo evulekileyo kwenziwa kangangeemitha ezili-100 ukusuka kuso nasiphi na isakhiwo; kwaye
- (j) ukutshisa kwindawo evulekileyo akusayi kubangela ukuvela kwengozi kwimpilo yabantu okanye ukhuseleko, kumhlaba nezakhiwo zabucala okanye kwindalo esingqongileyo.

(4) Imihlathi yeli candelo ayisayi kusebenza —

- (a) kwiindawo zolonwabo lwangaphandle okanye imisebenzi yokojiwa kwenyama kumaziko abucala;
- (b) imililo emincinci ephantsi kolawulo kwiindawo zokuhlala ezingekho sikweni ngeenjongo zokupheka, ukushushubeza amanzi kunye nezinye izinto ezenziwa ekhaya; okanye
- (c) nakuyiphi na indawo eyenye echaziweyo okanye umsebenzi ochaziweyo nalapho iBhunga limise ukuba eli candelo alisayi kusebenza kuyo.

##### Imisi ebangelwa kukutshiswa kwamatahari nokutshiswa kwerabha kunye nezinye izinto ukulungiselelela ukufumana isinyithi

21. (1) Akukho bani ongenayo imvume ebhaliweyo evela kwiBhunga unakho —

- (a) ukutshisa okanye ukuvumela ukuba kutshiswe amatahari okanye irabha okanye ezinye iimveliso ezigqunywe ngenye imatiriyeli kunye nezinye izixhobo ezisebenza ngee-elektroni ngaphandle kokufumana imvume ebhaliweyo kumntu ogunyazisiweyo;

- (b) ukutshisa okanye ukuvumela ukuba kutshiswe amatayari okanye irabha okanye ezinye iimveliso ezigqunywe ngenye imatiriyeli kunye nezinye izixhobo ezisebenza ngee-elektroni ngenjongo yokufumana isinyithi okanye izinto ezingaphakathi kwezi matiriyeli okanye zokutshabalalisa amatayari okanye izinto ezenziwe ngerabha; okanye
- (c) ukuba naso nasiphi na isinyithi okanye izinto eziphuma kwimicu (fibre) ekubhekiswa kuzo kumhlathi (a) no-(b).

(2) IBhunga lingathatha nawaphi na amanyathelo elibona eyimfuneko ukuze kulungiswe ubungozi obenziwe kukutshisa okanye umlilo ekubhekiswe kuwo kwimihlathi (a) no (b) nokuba nezinto zabantu ekubhekiswe kuzo kumhlathi (c) kananjalo lingaqanda nokuba lo nto ingaphinde yenzeke yaye lisenokubiza zonke iindleko kumntu lowo ongunobangela waloo ngozi.

#### **Ukukhupha uthuli**

**22.** Nawuphi na umntu —

- (a) owenza nantoni na; okanye
- (b) obangela okanye ovumela ukuphuma kothuli

uza kwenza konke anako, nokwanelisa umntu ogunyazisiweyo, ukuthintela ukuphuma kothuli lube kumoya osingqongileyo olunokuba yingozi kwimpilo nasekuphileni ngokufanelekileyo koluntu nolunokuba yingxaki kubantu abahlala kufuphi naloo mhlaba, loo msebenzi okanye eso sakhiwo.

### **ISIAHLUKO VIII**

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

##### **Ukuthintela komsi omnyama ophuma kwizithuthi ezihamba ngamafutha**

**23.** (1) Akukho mntu oya kuthi kwindlela kawonke-wonke aqhube okanye asebenzise okanye abangele ukuba aqhutyelwe okanye asebenzise inqwelo-mafutha esebenzisa ucinezelo lwenjini nekhupha umsi omnyama.

(2) Ngokwenjongo yeli candela, umnini obhalisiweyo wenqwelo-mafutha kuya kuthathwa ukuba ngumqhubi ngaphandle kokuba oku kuqinisekiswa ukuba akunjalo.

##### **Ukumiswa kweenqwelo-mafutha ukuze kwenziwe uhlolo novavanyo**

**24.** (1) Ukuze umntu ogunyazisiweyo akwazi ukugunyazisa imihlathi yesi Sahluko, umqhubi wenqwelo-mafutha kufuneka athobele nawuphi na umyalelo ofanelekileyo onikwe ngumntu ogunyazisiweyo —

- (a) ukumisa inqwelo-mafutha; kunye
- (b) nokuqhuba uhlolo okanye uvavanyo lwenqwelo-mafutha.

(2) Xa inqwelo-mafutha ithe yamisa ithobela umyalelo onikwe kwicandelwana (1), umntu ogunyazisiweyo anga —

- (a) hlola kwaye avavanye inqwelo-mafutha leyo ecaleni kwindlela, xa kunjalo ke kufuneka kuqhutywe uhlolo novavanyo-
  - (i) kulo ndawo okanye kufutshane kangangoko nendawo apho umyalelo wokuba kumiswe inqwelo-mafutha unikwe khona; aze
  - (ii) ngokukhawuleza kangangoko kunokwenzeka, phofu ke nje kwisithuba seyure enye emva kokuba inqwelo-mafutha imile ngokokuhambelana nomyalelo onikiweyo; okanye
- (b) ayihlole nje ngamhlo inqwelo-mafutha leyo, kwaye xa umntu ogunyazisiweyo ekholelwa ekubeni kukho ityala elenziweyo phantsi kwecandelo 23(1), angayalela umqhubi wenqwelo-mafutha leyo nekuthathwa ukuba ngumnini wenqwelo-mafutha ngaphandle kokuba avelise ubungqina obuphikisana noku, ngokubhala phantsi ukuba athathe inqwelo-mafutha leyo ayise kwisikhululo sovavanyo kwisithuba sexesha elichaziweyo ukuze ihlolwe kwaye ivavanywe ngokwecandelo 25.

##### **Inkqubo yovavanyo**

**25.** (1) Umntu ogunyazisiweyo kufuneka asebenzise indlela yovavanyo yokunyathela umcephe wokunyusa isantya ukuze abone ukuba kuqhutywa okanye kusetyenziswa inqwelo-mafutha esebenzisa ucinezelo lwenjini na ngokuchasene necandelo 23(1).

(2) Le nkqubo ilandelayo kufuneka ilandelwe ukuze kwenziwe uvavanyo lokunyathela umcephe:

- (a) xa eyalelwe ukuba enze njalo ligosa eligunyazisiweyo, umqhubi kufuneka adumise inqwelo-mafutha, ayifake kwigiya ephakathi aze anyathele iklathi;
- (b) ngexa inqwelo-mafutha iduma, igosa eligunyazisiweyo kufuneka lenze uhlolo ngokujonga indlela ophuma ngayo umsi kwinqwelo-mafutha;
- (c) ligosa eligunyazisiweyo kufuneka ngokukhawuleza linyathele ngononophelo nangamandla umcephe wokunyusa isantya wenqwelo-mafutha okanye liyalele umqhubi wenqwelo-mafutha ukuba enze o phantsi kweliso lelo gosa eligunyazisiweyo;
- (d) ngethuba kunyathelwe umcephe wokunyusa isantya, igosa eligunyazisiweyo kufuneka lenze umlinganiselo womsi ophuma kwinqwelo-mafutha ukuze libone ukuba kuphuma umsi omnyama okanye ongekho mnyama na;
- (e) igosa eligunyazisiweyo lingayeka ukunyathela umcephe wokunyusa isantya kuphela xa injini ifikelele apho kuphela khona isantya;
- (f) Ukuba igosa eligunyazisiweyo liyalele umqhubi wenqwelo-mafutha ukuba anyathele umcephe wokunyusa isantya, umqhubi lowo angayeka ukunyathela umcephe wokunyusa isantya kuphela xa injini ifikelele apho kuphela khona isantya okanye xa eyalelwe ligosa eligunyazisiweyo.

(3) kuba emva kwindlela yovavanyo yokunyathela umcephe igosa eligunyazisiweyo lanelisekile kukuba inqwelo-mafutha —

- (a) ayikhuphi umsi omnyama, igosa eligunyazisiweyo kengoko kufuneka linike umqhubi wenqwelo-mafutha leyo isiqinisekiso esibonisa ukuba inqwelo-mafutha yakhe ayiqhutywa okanye ayisetyenziswa ngokuchasene necandelo 23(1); okanye
- (b) ikhupha umsi omnyama, igosa eligunyazisiweyo kufuneka linike umqhubi wenqwelo-mafutha isaziso solungiso ngokuhambelana necandelo 26.

##### **Isaziso solungiso**

**26.** (1) Isaziso solungiso esibhaliweyo kufuneka siyalele umnini wenqwelo-mafutha ukuba alungise inqwelo-mafutha leyo kwisithuba sexesha elibekiweyo, aze ayithathe inqwelo-mafutha ayise kwindawo echazwe kwisaziso eso ukuze ivavanywe kwakhona singadlulanga isithuba sexesha elibekiweyo.

(2) Isaziso solungiso kufuneka siqulathe le ngcaciso ilandelayo:

- (a) uhlobo kunye nenombolo yobhaliso yenqwelo-mafutha;
- (b) igama, idilesi kunye nenombolo yesazisi yomqhubi wenqwelo-mafutha; kwaye
- (c) ukuba umqhubi akanguye umnini wenqwelo-mafutha, igama nedilesi yomnini wenqwelo-mafutha;

(3) Ukungqina ukuba umqhubi wenqwelo-mafutha usilele ekwaziseni umnini wenqwelo-mafutha ngesaziso solungiso akusayi kuba kukuzikhusela kwisimangalo setyala elenziwe phantsi kwecandelwana (1).

(4) Ukuba umnini-sithuthi akasithobeli isaziso novavanyo ekubhekiswe kulo kwicandelwana (1), isiXeko singathatha nawaphi na amanyathelo esiwabona eyimfuneko ukulungisa obo bungozi, amanyathelo abandakanya ukusirhuqa asithathe eso sithuthi yaye iindleko zoko zisenokutsalwa kumnini wesithuthi eso.

## ISIAHLUKO IX

### UKUKHUTSHWA KOMSI OBANGELA IINKATHAZO ELUNTWINI

#### Uthintelo lokukhutshwa kothuli okanye ingxolo ebangela inkathazo eluntwini

27. (1) Kummandla olawulwa sisiXeko, akukho umntu uya kuthi —

- (a) kummandla ekuspreyela kuwo, aspreye umphandle wemoto, okanye aspreye nantoni na ngendlela apha eya kuchaphazela abanye abantu kakubi okanye enze ingxolo egqithisileyo, okanye ngendlela echaphazela impilo yabo; okanye
- (b) avumele nasiphi na ispreyi ukuba sisetyenziswe kwisithuthi okanye nantoni kummandla ekungavunyelwanga ukuba kuspreywe kuwo.

(2) Ummandla wokuspreya ekubhekiswe kuwo kwicandelwana (1) kufuneka wakhiwe ngendlela ethathela ingqalelo iMiqathango Gabalala yoKhuseleko eqononondiswe phantsi komthetho—ongezeMpilo kwiNdawo yokuXelengela noKhuseleko onguNomb.85 wangowe-1993 yaye kufuneka loo ndawo iphunyezwe ngumntu onegunya lokwenza oko ojongene nezinto ezikhutshwa apho, umoya, ingxolo nalo naliphi elinye iSebe elichaphazelekayo ngokwemiqathango yawo nawuphi na omnye umthetho.

(3) Nabani na owenza umsebenzi otsazisa isanti okanye ezinye izinto, umsebenzi wokusila okanye ukuguba, owukugudisa okanye nawuphi na osondele kulowo okhupha uthuli olunokuba nobungozi kwimpilo yoluntu okanye onxolayo okanye odala nje inkathazo, uya kuthi athathe amanyathelo olawulo ukunqanda ukuba ezo zinto ziphuma apho zingaphumeli kumoya osingqongileyo.

(4) Nawuphi na umntu owenza umsebenzi ochazwe ku(3), kufuneka ethathe la manyathelo alandelayo:

- (a) amanyathelo olawulo lokufunxwa kothuli;
- (b) naliphi na elinye inyathelo lolawulo elamkelwe ligosa lolawulo lomoya okanye umntu ogunyaziswe lelo gosa.

(5) Umhlali okanye umnini wamaziko —

- (a) kufuneka athintele ubukho okanye ukukhutshwa kwayo nayiphi na into eyinkathazo kuluntu ephuma kwimida yesakhiwo sakhe;
- (b) wendawo ekuphuma khona inkathazo enobungozi eluntwini okanye apho kukho khona inkathazo; uthi abe nobutyala.

#### Isaziso sopheliso

28. (1) Umntu ogunyazisiweyo anganika isaziso sopheliso kuye nawuphi na umntu akholelwa ukuba unetyala okanye wenze ityala phantsi kwecandelo 27, ze abize umntu onjalo ukuze—

- (a) aphelise lo nkathazo singadlulanga isithuba sexesha elibekwe kwisaziso;
- (b) athathe onke amanyathelo afanelekileyo ukuthintela ukwenzeka kwenkathazo ekwafana nale kwixesha elizayo; kunye
- (c) athobele nayiphi na imiqathango equlathwe kwisaziso.

(2) Isaziso sokupheliswa phantsi kwecandelwana (1) singenziwa —

- (a) kumnini walo naliphi na iziko —
  - (i) ngokuziswa kwaso kumnini okanye ukuba umnini akafumaneki okanye uhlala phesheya kolwandle, ithunyelwa kwiarhente yakhe;
  - (ii) ngokuthunyelwa ngeposi yerejistala kwidilesi yokugqibela yomnini eyaziwayo, okanye kwidilesi yearhente yokugqibela eyaziwayo; okanye
  - (iii) ngokuthunyelwa kwidilesi apho kume khona iziko, xa ingaziwa idilesi yomnini okanye idilesi yearhente;.
- (b) kumhlali weziko elo —
  - (i) ngokusiwa kumhlali; okanye
  - (ii) ngokuthunyelwa ngeposi yerejistala kumhlali kwidilesi apho kume khona iziko.

#### Amanyathelo okupheliswa kwezinto eziyinkathazo eluntwini

29. Ngalo naliphi na ixesha, iBhunga lingahlawula ngokwalo inkcitho, lithathe nawaphi na amanyathelo elifumanisa ukuba afanelekile ukuze liphelise umonakalo owenziwe yinkathazo lize lithintele ukwenzeka koko kwakhona, zize iindleko ezo zibuyekwezwe ngulowo unoxanduva lokubangela inkathazo leyo.

## ISIAHLUKO X

### UKUBULALA, UKUTSHABALALISA KUNYE NOKUTSHIZA IZITYALO

#### Iyeza lokubulala izitshabalalisi kunye nokutshizwa kwezityalo

30. (1) Akukho mntu unokutshiza okanye avumele utshizo lwezityalo ngeyeza lokubulala izinambuzane ngezibulali-zinambuzane okanye ngezibulali-tyani (khula) okanye izinto ezifana nezi, ngaphandle kokuba olo hlobo lwechiza libhaliswe ngokwecandelo 3 le-Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (uMthetho onguNomb. 36 ka-1947).

(2) Nawuphi na umntu owaphula icandelwana (1) lalo Mthetho kaMasipala ufunyanwa enetyala njengoko kuchazwe kwicandelo 18(1)(c) le-Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (uMthetho onguNomb. 36 ka-1947).

(3) Umntu owenza okanye ovumela utshizo ngezibulali zinambuzane okanye ngezibulali khula (tyani) okanye izinto ezifana nezi, ekubhekiswe kuzo kwicandelana (1) kummandla ophantsi kwesiXeko, kufuneka athobele la manyathelo olawulo alandelayo, kuquka:

- (a) ukuqala afumane isigunyaziso esibhaliweyo seBhunga anokusinikwa kunye nemiqathango, kuquka —
  - (i) ummandla womhlaba apho isibulali sinambuzane, isibulali tyani namanye amachiza zinokuwasebenzisa khona; kunye
  - (ii) nesithuba sexesha onokuzisebenzisa ngaso;
- (b) ubhalele usazisa abanini nabahlali abakwizakhiwo ezisecaleni kwakho kangangomgama oli-150 leemitha somhlaba ondulula ukuwutshiza ngala machiza —
  - (i) iinkcukacha zalo mhlaba;
  - (ii) isizathu sokusebenzisa ezi zibulali zinambuzane, zibulali tyani okanye ezinye;
  - (iii) iimpawu eziphambili zala machiza;
  - (iv) umhla kunye noqikelelo lwexesha lokuwasebenzisa;
  - (v) xa inokuthi ibe mbi imozulu, omnye okanye eminye imihla ozakuthi uwasebenzise ngayo;
  - (vi) chaza ixesha ukuba likhona eliboniswe kwileyibhile ekunokuphinda kukhuseleke ngalo ukungena kulo mmandla emva kokuba kusetyenziswe la machiza;
  - (vii) ilungelo labanini kunye nabahlali bezakhiwo ezisecaleni kwakho lokufaka inkcaso ebhaliweyo kwibhunga malunga nokutshiza ngala machiza kwisithuba seentsuku ezisixhenxe emva kokuba bazisiwe; kunye
  - (viii) nokuhlululwa komrhumo omiselweyo kwiBhunga.
- (4) Nawuphi na umntu owaphula icandelwana (3) ufunyanwa enetyala.
- (5) Umntu angafaka kwiBhunga isicelo sokukhululwa ukuba —
  - (a) ukutshizwa kwesibulali zinambuzane kukulawula izinambuzane ezihambisa izifo ezisulela abantu okanye ezinefuthe elibikwezolimo okanye kwezamahlathi;
  - (b) ukutshizwa kwesibulali zinambuzane kukulawula izinambuzane ezinobungozi kwimo yezendalo; okanye
  - (c) imfuneko yokusebenzisa isibulali zinambuzane ingxamisekile.
- (6) Imihlathi yeli candelo ayisebenzi —
  - (a) kwiindawo zokuhlala zasezifama;
  - (b) kwizakhiwo okanye ngaphakathi kwezakhiwo; okanye
  - (c) nakweyiphi na enye indawo echaziweyo okanye umsebenzi ochaziweyo apho isiXeko sithe sachaza ukuba eli candelo alisebenzi kuwo.

## ISIAHLUKO XI

### UKUKHUTSHWA KWAMAPHEPHA-MVUME EMISEBENZI EYENZA UNGCOLISEKO LOMOYA

#### Ukumiselwa kwenkqubo yamaphepha-mvume olawulo longcoliseko lomoya

**31.** Ibhunga limisela inkqubo yamaphepha-mvume olawulo longcoliseko lomoya njengoko ichaziwe kwiSahluko 5 soMthetho woLawulo loNgcoliseko loMoya.

#### Injongo yeNkqubo yaMaphepha-mvume oLawulo loNgcoliseko loMoya

**32.** Injongo yenkqubo yamaphepha-mvume olawulo longcoliseko lomoya ku—

- (a) kwazi nokubhalisa onke amajelo ongcoliseko lomoya kwisiXeko;
- (b) kukulawula nokuqinisekisa ukuthotyelwa kwemigaqo yephepha-mvume;
- (c) ukuqokelela ulwazi ngenjongo zokuqulunqa isicwangciso sikamasipala solawulo longcoliseko lomoya, njengoko kuchaziwe kwicandelo 15 loMthetho woLawulo loNgcoliseko loMoya;
- (d) kuqalisa ucwangciso olucetyiweyo; kunye
- (e) nokunikisa ngengcaciso nakuwuphi na umntu ukuze —
  - (i) kuncediswane nolongamelo lwendlela esiqhuba ngayo isXeko, kwaye ukuba kuyakwazeka, abo banamaphepha-mvume;
  - (ii) kukhuthazwe uphando olwenziwa ngamaziko anakanwayo; kwaye
  - (iii) kuncediswe isiXeko ekufezekiseni kwaso ezona njongo ziphambili zalo Mthetho kaMasipala.

#### Isicelo sephepha-mvume lokukhupha isingcolisi-moya

**33.**(1) Akukho mntu uza kwenza umsebenzi okuluhluloludwelisiweyo ngaphandle kwephepha-mvume lokukhupha isingcolisi-moya njengoko kupapashiwe kwicandelo 21 loMthetho woLawulo loNgcoliseko loMoya.

(2) Isicelo sephepha-mvume lokukhupha isingcolisi-moya kufuneka —

- (a) sibhalwe kwifomu yokufaka isicelo echazwe ligosa lolawulo longcoliseko-moya;
- (b) sihambe kunye namaxwebhu okanye ingcaciso enokuthi ifunwe ligosa longcoliseko lomoya; kwaye
- (c) sihambe nentlawulo yomrhumo wokufaka isicelo.
- (3) Ukufumana kwalo isicelo sephepha-mvume lokukhupha isingcolisi-moyangcolisi-moya, igosa lolawulo longcoliseko-moya kufuneka —
  - (a) likhuphe irisiti echaza ukuba lisifumene isicelo zingadlulanga iintsuku ezili-14 kunye naleyo yomrhumo omiselweyo;
  - (b) likhangele ukuba ingaba isicelo eso sigwaliswe ngokupheleleyo kwaye siqulathe ingcaciso leyo ifunekayo kwifomu yesicelo; kwaye
  - (c) ingaba sikhathshwa yingcaciso okanye amaxwebhu afunekayo ngokwalo Mthetho kaMasipala.
- (4) Ngaphambi kokuqwalasela isicelo esenziwe ngokwecandelwana (2), iSixeko singafuna ukuba umfaki sicelo angenise enye ingcaciso eyongezekileyo okanye uphando olulodwa.
- (5) Nawuphi na umntu ofuna ukwenza umsebenzi okuluhluloludwelisiweyo ngaphandle kwephepha-mvume lokukhupha isingcolisi-moya ufunyanwa enetyala kwaye angafumana izohlwayo njengoko kuchaziwe kwicandelo 52 loMthetho woLawulo loNgcoliseko loMoya.

**Izinto ezifanele ukuthathelwa ingqalelo**

**34.** Ukongeza kwizinto ezichazwe kwicandelo 39 loMthetho woLawulo loNgcoliseko loMoya, iSixeko kufuneka siqwalasele isicelo ngasinye sithathele ingqalelo ezi zinto zilandelayo:

- (a) uthotyelo loMthetho woLawulo loNgcoliseko loMoya kunye nalo Mthetho kaMasipala; kunye
- (b) nengxelo yomfaki sicelo kwezobume bendalo esingqongileyo, kwezempilo kunye nokhuseleko.

**Izigqibo malunga nezicelo zelayisenisi yokukhupha isingcolisi-moya**

**35.** (1) Emva kokuqwalasela isicelo ngokwecandelo 33, igosa lolawulo longcoliseko-moya kufuneka zingadlulanga iintsuku ezingama-60 lifumene isicelo —

- (a) lisamkele isicelo eso ngokukhupha iphepha-mvume lokhupha isingcolisi-moya, elinemiqathango enokuthi ibekwe ligosa lolawulo longcoliseko-moya; okanye
- (b) lisikhabe isicelo eso.

(2) Ukuba igosa lolawulo longcoliseko-moya alikwazi ukukhupha okanye ukukhaba iphepha-mvume lokukhupha isingcolisi-moya zingadlulanga iintsuku ezingama-60 emva kokuqwalasela isicelo eso ngokwecandelo 33, kufuneka libhalele umfaki sicelo, limazise ukuba isithuba sexesha loqwalaselo songeziwe kwaye simazise nangomhla esiza kuthathwa ngawo isigqibo.

**Imigaqo nemiqathango yephepha-mvume lokukhupha isingcolisi-moya**

**36.** (1) Xa igosa lolawulo longcoliseko-moya ikhupha iphepha-mvume lokukhupha isingcolisi-moya, lingabeka imiqathango esibona ukuba iyimfuneko.

(2) Iphepha-mvume elikhutshwe phantsi kweli candelo kufuneka —

- (a) livumelane necandelo 43 loMthetho woLawulo loNgcoliseko loMoya;
- (b) liqulathe imfuneko yokuba umnini phepha-mvume kufuneka athobele kwaye aqinisekise ukuba uthotyelo lwalo Mthetho kaMasipala ngabasebenzi bakhe, iarhente kunye nabo basebenza phantsi kwakhe bathobele nomthetho wesizwe kunye nowephondo ochaphazelekayo.

**Ukwahlukahlukana kwamaphepha-mvume okukhupha isingcolisi-moya**

**37.** Akukho sakhiwo, matshini wokusebenza, okanye misebenzi esetyenziswa ngumnini phepha-mvume ekubhekiswa kuye kwicandelo 33 eziza —

- (a) kwandiswa; kwaye
- (b) zitshintshwe okanye zongezelelwe,

kwaye kungazi kubakho zinguqu kwindlela yokusebenza, kwinkqubo okanye ukunyuka kungamandla kwimveliso ngaphandle kokuqala kufunyanwe imvume yegosa lolawulo longcoliseko-moya.

**Ukuyekwa kwemisebenzi esebenzisa iphepha-mvume lokukhupha isingcolisi-moya**

**38.** Umnini phepha-mvume ekubhekiswa kuye kwicandelo 33 kufuneka azise igosa lolawulo longcoliseko-moya xa aza kuyiyeka imisebenzi yakhe emayela nelo phepha-mvume.

**ISAHLUKO XII****AMATYALA KUNYE NEZOHLWAYO****Amatyala kunye nezohlwayo**

**39.** (1) Umntu ufunyanwa enetyala ukuba lo mntu wophule gatya 13(1), 14(1), 19(1), 20(1), 20(3), 21(1), 22, 23(1), 24(1), 26(1), (3) no- (4), 27(1), (3) no-(4), 28(1) okanye 30(1) no- (3), alo Mthetho kaMasipala.

(2) Nabani na onetyala ngokwamacandelwana 19(1), 23(1) okanye elama-27(1) umntu ofunyenwe enetyala ekubhekiswa kulo kwicandelwana (1) unokufumana isohlwayo okanye avalelwe entolongweni kangangethuba elingadlulanga kwiintsuku ezingama-30, okanye zombini ukufumana isohlwayo kwakunye nokuvallelwa entolongweni.

(3) Nawuphi na umntu ofunyenwe enetyala ngokwamacandelo 13(1), 14(1), 20(1), 20(3), 21(1), 24(1), 26(1),(3) no- (4),28(1), 28(1), 30(1) no-(3)uya kuvalelwa entolongweni ithuba elingekho ngaphezulu kweminyaka emibini okanye afumane isohlwayo okanye afumane zombini isohlwayo kunye nokuvallelwa entolongweni.

(4) Nawuphi na umntu owophula icandelo 22, ukuba ufunyaniswe enetyala uya kuvalelwa entolongweni ithuba elingekho ngaphezulu konyaka omnye okanye afumane isohlwayo okanye afumane zombini isohlwayo kunye nokuvallelwa entolongweni.

(5) Lityala uku—

- (a) nika ingcaciso engeyonyaniso kumntu ogunyazisiweyo malunga nawo nawuphi na umbandela ophathelele kulo Mthetho kaMasipala; okanye
- (b) ukwala ukusebenzisana nesicelo somntu ogunyazisiweyo ngokwalo Mthetho kaMasipala,

nawuphi na umntu ofunyenwe enetyala uya kuvalelwa entolongweni ithuba elingekho ngaphezulu kweentsuku ezinga-30 okanye afumane isohlwayo okanye afumane zombini isohlwayo kunye nokuvallelwa entolongweni.

(6) Apho kungekho sohlwayo simiyo, nawuphi na umntu owenze ityala ngokwalo Mthetho kaMasipala uya kuvalelwa entolongweni ithuba elingekho ngaphezulu konyaka okanye afumane isohlwayo okanye afumane zombini isohlwayo kunye nokuvallelwa entolongweni.

(7) Ukungasithobeli isaziso okanye umyalelo ekubhekiswa kuwo kulo Mthetho kaMasipala kuthetha ukuqhubekeka nokwaphula umthetho

(8) Nawuphi na umntu oqhubekeka nokwaphula umthetho uza kuba netyala lokwaphula umthetho kusuku ngalunye lo mntu engasithobeli isaziso okanye umyalelo ekubhekiswa kuwo ngulo Mthetho kaMasipala.

(9) Ukongeza ngaphezu kokunika isohlwayo okanye nokuvallelwa entolongweni, inkundla ingayalela nawuphi na umntu ofunyaniswe enetyala phantsi kwalo Mthetho kaMasipala —



- (a) ukuba awulungise umonakalo lowo;
- (b) ukuba awuhlawule umonakalo lowo wenziwe komnye umntu okanye kwisakhiwo, myalelo lowo uya kuba negunya kunye neziphumo zesigwebo senkundla yamatyala; kunye
- (c) nokufakela kwaye asebenzise ngendleko zalo mntu isixhobo sokufunda ubumnyama ekubhekiswa kuso kwicandelo 16.

(10) Ngaphezu kwaso nasiphi na isohlwayo esikhutshwe yinkundla, isenokuyalela umntu ukuba athatha amanyathelo phantsi kwalo Mthetho kaMasipala ewabona yona eyimfuneko ngokwesithuba esigqitywe yinkundla leyo ukunqanda ukuba le nkathazo ingabe iphinde ibe khona.

### ISIAHLUKO XIII

### IMIBA GABALALA

#### Ulongamelo lokuthobela

40. (1) Ukulungiselela ulongamelo lokuthobela, abahloli abamiselweyo bezolawulo zobume bezendalo beSixeko kufuneka basebenzise amagunya achazwe kumacandelo e-NEMA ukusuka ku-31G ukuya ku-31L.

(2) Abahloli bolawulo lokusingqongileyo bangacela nabani na okhupha isingcolisi somoya onegalelo elikhulu okanye ekulindeleke ukuba unegalelo kwimo embi yomgangatho womoya, ukuba kwenziwe uqwalaselo okanye uphando lwezongcoliseko lomoya, phando olo luza kwenziwa liqela elaziwayo nelithembekileyo kulo msebenzi, oko kusenziwa ngendleko zalowo uchaphazelekayo.

#### Ukuqinisekisa ukulandelwa kwemigaqo

41. (1) Umntu ogunyazisiweyo kufuneka ukuba athathe onke amanyathelo asemthethweni, ayimfuneko nekukwazekayo ukuwathatha ukuqinisekisa ukuba iyalandelwa imigaqo yalo Mthetho kaMasipala.

(2) ISixeko singaphuhlisa inkqubo nemigaqo yokuqinisekisa ukulandelwa kwalo Mthetho kaMasipala, kwaye oko kufuneka kuthathele ingqalelo iinkqubo nemigaqo yesizwe kwakunye neyephondo.

#### Iinkqubo zonakano

42. Igosa longcoliseko lomoya lingamisela inkqubo yonakano luluntu lwezinto ezilulutho ezithe zazalisekiswa ngokumayela nothintelo longcoliseko lomoya.

#### Izibheni

43. Nawuphi na umntu angabhena kwisigqibo esithathwe ngumntu ogunyazisiweyo phantsi kwalo Mthetho kaMasipala ngokunika isaziso esibhaliweyo sesibheni ngokwamatyala ecandelo 62 loMthetho weeNkqubo zikaMasipala.

#### Ukukhululwa

44. (1) Nawuphi na umntu angafaka kwiBhungaisicelo esibhaliweyo sokukhululwa ekubeni kusetyenziswe lo Mthetho kaMasipala.

(2) Isicelo ngokwecandelwana (1) kufuneka sihambe nezizathu ezivakalayo.

(3) IBhunga lingafuna ukuba umfaki sicelo sokukhululwa athathe amanyathelo afanelekileyo okuba isicelo eso sifikelele kubantu abachaphazelekayo nakuluntu.

(4) Amanyathelo alindelekileyo kwicandelwana (3) kufuneka aqube ukupapashwa kwesaziso kumaphepha-ndaba amabini ubuncinane, elinye ibe lelilikeleza kwiphondo lize elinye libe kummandla ophantsi kwalo Masipala —

- (a) sinika izizathu sesicelo; kwaye
- (b) siqulathe nezinye iinkcukacha elinokuthi iBhunga lizifune malunga nesicelo.

(5) IBhunga —

- (a) kumaxesha ngamaxesha lisenokukuhlola ukukhululwa okuvunyelwe ngokweli candelo; lize
- (b) xa kukho izizathu ezivakalayo likurhoxise ukukhululwa.

(6) IBhunga alikwazi kukhulula umntu ukuba angachatshazelwa licandelwana (1) de libe —

- (a) lithathe amanyathelo afanelekileyo ukuqinisekisa ukuba bonke abantu abachaphazelekayo abamalungelo abo anokuchaphazeleka ngokukhululwa komntu kweli candelo, babe bayazi ngeso scelo siokhululo nangendlela yokusifumana eso sicelo;
- (b) linike abo bantu ithuba elaneleyo lokuba basikhabe eso sicelo; kananjalo
- (c) libe lithathele ingqalelo naziphi na izichaso ezinokuab zikhona.

#### Imbuyekezo

45. IsiXeko asinakubanalo uxanduva lawo nawuphina umonakalo othe wenziwa kuyo nayiphina ipropati okanye kwizakhiwo, oye wenziwa ngenxa yenyathelo okanye ukhululelo olwenziwe ngabaqeshwa okanye amagosa esiXeko xa beqhuba nawuphina umsebenzi abawugunyaziselweyo ngokwalo Mthetho kaMasipala, ingakumbi ukuba abo baqeshwa okanye amagosa xa beqhuba loo msebenzi wabo baye bachule ukunyathela okanye bawenza ngobunono ukuze kuthinteleke nawuphina umonakalo kuloo propati okanye kweso sakhiwo.

#### Ubhangiso nogcino

46. (1) UMthetho kaMasipala wesiXeko saseKapa ongoLawulo loNgcoliseko loMoya wangowe-2003, kengoko uyabhangiswa.

(2) Nantoni na ebisenziwa kuthotyelwa nawuphi na omnye umthetho ivumelekile ukuba ngaba ihambelana nalo Mthetho kaMasipala okanye ivumelekile de kubekho enye into eyenziweyo phantsi kwalo Mthetho kaMasipala ethatha indawo yaleyo ibiyenziwe ngaphambili.

#### Isihloko esifutshane

47. Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala wesiXeko saseKapa woLawulo loNgcoliseko loMoya wangowama-2010.

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