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(Vervolg op bladsy 684)

CITY OF CAPE TOWN:

PROMULGATION OF DUMPING AND LITTERING BY-LAW

The City of Cape Town, on 11 June 2002, adopted a "Dumping and Littering By-law". The by-law is now published for promulgation.

DUMPING AND LITTERING BY-LAW**1. DEFINITIONS**

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

"Council" means the City of Cape Town;

"dump" means to dispose of waste in any manner other than a manner permitted by law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments and sewage and stormwater systems. The act of "littering", which retains its ordinary meaning, is excluded from the definition of "dump";

"person" includes a natural person, company, closed corporation, trust, association and partnership;

"waste" means any matter, whether liquid or solid or a combination thereof, which is a by-product, emission, residue or remainder of any product, process or activity and which has been discarded, but excludes any radioactive matter.

2. DUMPING AND LITTERING

- (1) No person may—
 - (a) litter or cause or permit littering of waste;
 - (b) dump or cause or permit the dumping of waste.
 - (2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice in terms of subsection (5), any or all of the following persons—
 - (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
 - (b) the generator of the waste, whether or not the generator is responsible for the contravention;
 - (c) the owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in subsection (3);
 - (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the land or premises where the contravention took place, if that person failed to take the steps set out in subsection (3);
 - (e) any person who negligently failed to prevent the contravention from taking place,
- to cease the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take whatever steps Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.
- (3) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for this purpose.
 - (4) Council may issue notices—
 - (a) for the purposes of giving directions in terms of subsection (2);
 - (b) for compelling persons to comply with their obligations under subsections (3); and
 - (c) for any other purpose under this by-law,

and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

- (5) In addition, or as an alternative to, the steps set out in subsection (2), or if a person fails to comply with directions given in a notice issued under subsection (4), Council may itself take whatever steps it considers necessary to clean up or remove the waste, to rehabilitate the premises or place and affected facets of the environment at which the waste has been dumped and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully. Council may then recover the costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefor.
- (6) The costs claimed under subsection (5) must be reasonable and may include, but are not limited to, labour, administrative, overhead, investigation and prosecution costs.

3. OFFENCES

Any person who—

- (1) contravenes section 2(1)(a);
- (2) contravenes section 2(1)(b);

- (3) contravenes section 2(3);
- (4) fails to comply with the terms of any notice issued under section 2(4);
- (5) obstructs Council when Council is taking steps under section 2(5),

is guilty of an offence.

4. PENALTIES AND CONVICTIONS

- (1) Any person guilty of an offence under section 3(1) is liable to a fine or imprisonment for a period not exceeding 60 days, or to both a fine and such imprisonment.
- (2) Any person guilty of an offence under sections 3(2), 3(3), 3(4) and 3(5) is liable to a fine or imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.
- (3) A court shall, on a second and on subsequent convictions of a person guilty of an offence under section 3(2) of this by-law, impose a sentence of a fine or imprisonment for a period not less than one year, or of both a fine and such imprisonment; provided that if the court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence, the court shall enter those circumstances on the record of the proceedings and may impose such a lesser sentence.
- (4) A court convicting a person of a first offence under this by-law may impose a sentence of community service in place of a fine or imprisonment.
- (5) A court may, when considering sentence, take into account as aggravating circumstances that, inter alia—
 - (a) a convicted person has delayed in complying with the terms of any notice or directions given to the person under this by-law;
 - (b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence.
 - (c) The dumped waste posed a potential or actual threat to public health, public safety or the environment.
- (6) If a person is convicted of an offence under this by-law which has caused damage to or loss of property or which has had an adverse impact on the environment then, in addition to any other sentence it imposes, the court may—
 - (a) if the property belongs to another person, and on the application of the injured person or the prosecutor acting on the instructions of the injured person, order the convicted person to pay the injured person compensation for the damage or loss in accordance with section 300 of the Criminal Procedure Act, 51 of 1977;
 - (b) order the convicted person to, at his or her cost, and to the satisfaction of the Council, repair the damage and/or make good the loss and/or rehabilitate the environment.
- (7) If a person is convicted of an offence under this by-law, the court may, in addition to any other punishment which it imposes, issue an order compelling the person to comply, within a period determined by the court, with the relevant provisions of this by-law or, where applicable, with the relevant provisions of any notice issued under this by-law.
- (8) If—
 - (a) a manager, agent or employee does or omits to do an act which it was his or her task to do or refrain from doing and which, under this by-law, is an offence for the employer to do or refrain from doing; and
 - (b) the act or the omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent the act or omission,

then the employer is guilty of the offence and proof of the act or omission by the manager, agent or employer is prima facie evidence that the employer is guilty under this subsection; provided that no penalty other than a fine shall be imposed if a conviction is based on this subsection.

5. REPEAL

The laws set out in Schedule 1 are hereby repealed to the extent set out in the third column of that Schedule.

SCHEDULE 1

Number and year of by-law	Title	Extent of repeal
P.N. 321/1957	Cape Divisional Council: Regulations for the Prevention and Suppression of Nuisances	Sections 8, 13, 20, 24 and 38
P.N. 352/1985	Cape Divisional Council: By-law relating to the Dumping of Material	The whole
P.N. 346/2000	City of Cape Town: By-law for the Control of the Dumping of Refuse	The whole, except insofar as it relates to the accumulation or storage of matter
P.N. 228/1999	South Peninsula Municipality: Solid Wastes By-law	Section 3(1), except insofar as it relates to the accumulation of matter Section 3(2)
P.N. 192/2000	South Peninsula Municipality: Parks By-law	Section 5(1)(t)

Number and year of by-law	Title	Extent of repeal
P.N. 492/1982	Milnerton Municipality: By-law relating to the Accumulation, Dumping or Storage or Depositing of Material	The whole, except insofar as it relates to the accumulation or storage of matter
P.N. 705/1993	Milnerton Municipality: Sanitary By-law	Sections 4 and 7
P.N. 88/1999	City of Tygerberg: By-law relating to Streets	Section 7
P.N. 89/1999	City of Tygerberg: By-law relating to Refuse Removal	Section 4, except insofar as it relates to the accumulation or storage of matter
P.N. 317/1999	Oostenberg Municipality: By-law relating to the Prevention of Nuisances	Sections 2(2) and 2(4) Sections 2(1), 2(13) and 5(1), except insofar as they relate to the accumulation or storage of matter
P.N. 956/1977	Strand Municipality: By-law relating to the Cleanliness of Premises	Sections 2(a) and 3, except insofar as they relate to the accumulation or storage of matter
P.N. 656/2000	Helderberg Municipality: By-law relating to the Removal of Refuse and Waste	Section 13(1), except insofar as it relates to the accumulation and storage of matter Section 15
P.N. 568/2000	Oostenberg Municipality: By-laws relating to Public Places	Section 6(a)
P.N. 282/1999	Blaauwberg Municipality: Hawkers Regulation	Section 4(a) except insofar as it relates to the accumulation and storage of matter Section 4(d) insofar as it refers to "waste"
P.N. 562/1987	Milnerton Municipality: Streets By-law	Section 7 except insofar as it relates to the accumulation of matter
P.N. 445/1968	Cape Divisional Council: Parks and Gardens	Section 3(a)
P.N. 667/1962	Cape Divisional Council: Camping Regulation	Section 21(e)
P.N. 814/1990	Cape Divisional Council: Nature Reserve Regulation	Section 24(a)(i)

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VERORDENING OP STORTING EN ROMMELSTROOIING

1. WOORDOMSKRYWING

In hierdie verordening sal, tensy die konteks anders aandui, die volgende betekenisse geld—

“**afval**” beteken enige materiaal, hetsy vloeibaar of solied, of ’n kombinasie daarvan, wat ’n afvalprodukt is of ’n vrystelling, neerslag of oorblyfsel van enige produk, proses of aktiwiteit en wat weggegooi is, maar wat enige radio-aktiewe stof uitsluit.

“**mens of persoon**” sluit in ’n natuurlike persoon, maatskappy, beslote korporasie, trust, vereniging of vennootskap;

“**Raad**” die Stad Kaapstad;

“**storting**” die wegdoen van afval op enige ander wyse as dit wat ingevolge die wet toegelaat is en dit sluit in, sonder afwyking van die algemeenheid van die voorgaande, om afval te plaas, te stort of uit te laat, hetsy die afval in ’n houër of ontvangstoestel is, op of in enige plek hoegenaamd, hetsy in private of openbare besit, insluitende, maar nie beperk nie tot oop terreine, riviere, kanale, opvanggebiede en dreinerings- of stormwaterstelsels. Die daad “rommelstrooiing”, met behoud van die gewone betekenis daarvan, is uitgesluit uit die definisie van “storting”.

2. STORTING EN ROMMELSTROOIING

- (1) Niemand mag—
 - (a) rommel strooi of veroorsaak of toelaat dat afval gestrooi word;
 - (b) afval stort of veroorsaak of toelaat dat afval gestort word nie.
- (2) Indien die bepaling van subartikel (1) oortree word, mag die Raad deur middel van ’n geskrewe kennisgewing ingevolge die bepalings van subartikel (5) enigeen of al ondergenoemde mense—
 - (a) enigeen wat die oortreding begaan het of wat direk of indirek die oortreding begaan het of wat toestemming daartoe verleen het;
 - (b) die skepper van die afval, hetsy die skepper verantwoordelik is vir die oortreding of nie;
 - (c) die eienaar van die grond of terrein waar die oortreding plaasgevind het, indien die eienaar nalaat om stappe te doen soos uiteengesit in subartikel (3);

- (d) die mens in beheer van, of die mens wat ten tye van die oortreding die reg het of gehad het om die grond of die terrein waar die oortreding plaasgevind het, te gebruik, indien sodanige mens nalaat om stappe te doen soos bepaal in subartikel (3);
 - (e) enigeen wat nalatig nie opgetree het om die oortreding te voorkom nie,
- of om die oortreding op 'n spesifieke tyd te beëindig, of om 'n verdere oortreding of die voortsetting van die oortreding te voorkom, of om welke stappe ook al nodig te doen wat die Raad as nodig beskou om die afval op te klaar of te verwyder ten einde te verseker dat die afval en enige besmette materiaal wat nie gereinig of herstel kan word nie, wettig verwyder word nie.
- (3) Enigiemand wat grond of eiendom besit of wat beheer het oor, of wat die reg tot gebruik van grond of eiendom het, mag sodanige grond nie gebruik of toelaat dat dit gebruik word vir onwettige storting van afval nie en moet redelike stappe doen om die gebruik van die grond of eiendom vir daardie doel te voorkom.
 - (4) Die Raad mag kennisgewing bedien—
 - (a) met die doel van die gee van riglyne ingevolge die bepalings van subartikel (2);
 - (b) ten einde mense te verplig om hulle verpligtinge ingevolge subartikel (3) na te kom; en
 - (c) vir enige ander doel ingevolge die bepalings van hierdie verordening,
 en mag, in sodanige kennisgewing, 'n redelike tyd aandui waarin aan die direkteure vervat in die kennisgewing voldoen moet word.
 - (5) Bykomend tot, of as alternatief tot die stappe uiteengesit in subartikel (2), of indien 'n betrokkene nalaat om te voldoen aan die riglyne gegee in 'n kennisgewing wat uitgereik word ingevolge subartikel (4), mag die Raad self sodanige stappe doen as wat nodig geag word om die afval op te klaar of te verwyder, die terrein of plek, of die aangetaste fasette van die omgewing waar die storting plaasgevind het, te herstel en ook om seker te maak dat die afval en enige besmette materiaal wat nie gereinig of gerehabiliteer kan word nie, wettig verwyder word. Die Raad mag dan sodanige koste verbonde aan die doen van hierdie stappe verhaal van enigeen van diegene gelys in subartikel (2), wat gesamentlik of afsonderlik aanspreeklik daarvoor sal wees.
 - (6) Die koste geëis ingevolge subartikel (5) moet redelik wees en mag die volgende insluit, maar nie beperk wees nie tot arbeid, administratiewe, oorhoofse, ondersoek- en vervolgingskoste.

3. OORTREDINGS

Enigeen wat—

- (1) artikel 2(1)(a) oortree;
- (2) artikel 2(1)(b) oortree;
- (3) artikel 2(3) oortree;
- (4) nalaat om te voldoen aan die bepalings van enige kennisgewing wat uitgereik word ingevolge artikel 2(4);
- (5) die Raad verhinder wanneer die Raad stappe doen ingevolge artikel 2(5),

Is skuldig aan 'n oortreding.

4. STRAWWE EN SKULDIGBEVINDINGS

- (1) Enigeen wat skuldig is aan 'n oortreding van subartikel 3(1) is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk wat nie meer is as 60 dae nie, of beide 'n boete en sodanige gevangenisstraf.
- (2) Enigeen wat skuldig is aan 'n oortreding ingevolge artikels 3(2), 3(3), 3(4) en 3(5) is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk wat nie een jaar te bowe gaan nie of beide 'n boete en sodanige gevangenisstraf.
- (3) 'n Hof sal, by 'n tweede en opeenvolgende skuldigbevinding van 'n mens skuldig aan 'n oortreding ingevolge artikel 3(2) van hierdie verordening, 'n vonnis oplê van 'n boete of gevangenisstraf vir 'n tydperk van nie minder nie as een jaar of beide 'n boete en sodanige gevangenisstraf, met dien verstande dat indien die hof oortuig is dat daar omstandighede is wat 'n ligter straf regverdig, sal die hof sodanige omstandighede aanteken in die verslag van die hofverrigtinge en mag 'n ligter straf dan toegedien word.
- (4) 'n Hof wat enigiemand skuldig bevind aan 'n eerste oortreding van hierdie verordening, mag 'n straf van gemeenskapsdiens in die plek van 'n boete of gevangenisstraf oplê.
- (5) 'n Hof mag, by die oorweging van vonnis, as verswarende omstandighede in ag neem dat, inter alia—
 - (a) 'n veroordeelde beskuldigde nagelaat het om te voldoen aan die bepalings van enige kennisgewing of direkteure wat ingevolge hierdie verordening uitgereik is aan sodanige mens;
 - (b) 'n finansiële voordeel geniet is, of geniet sou gewees het deur die veroordeelde weens die oortreding.
 - (c) Die gestorte afval 'n potensiële of werklike gevaar ingehou het vir openbare gesondheid, openbare veiligheid of die omgewing.
- (6) Indien enigiemand ingevolge hierdie verordening skuldig bevind word aan 'n oortreding wat verlies of skade aan eiendom meebring het, of wat 'n nadelige impak gehad het op die omgewing, mag die hof, bo en behalwe enige ander straf opgelê—
 - (a) indien die eiendom aan iemand anders behoort, of op versoek van die benadeelde individu, of die aanklaer wat optree namens die benadeelde individu, die veroordeelde beveel om die benadeelde individu kompensasie te betaal vir skade of verlies in ooreenstemming van artikel 300 van die Wet op Kriminele Vervolging, Wet 51 van 1977;

- (b) opdrag aan die veroordeelde gee om op sy of haar koste en tot bevreeding van die Raad, die skade te herstel en/of die verlies te vergoed en/of die omgewing te rehabiliteer.
- (7) Indien enigeen skuldig bevind word aan 'n oortreding ingevolge hierdie verordening, mag die hof, benewens enige ander straf wat dit mag opleë, 'n bevel uitreik wat die skuldige verplig om binne sodanige tydperk as wat die hof mag bepaal, te voldoen aan die relevante bepalings van hierdie verordening, of waar toepaslik, aan die relevante bepalings van enige kennisgewing wat ingevolge hierdie verordening uitgereik is.
- (8) Indien—
- (a) 'n bestuurder, agent of werknemer 'n daad verrig, of versuim om 'n daad te verrig wat sy of haar taak was om af te handel, of versuim om dit te doen en wat ingevolge hierdie verordening 'n oortreding is deur die werkgewer; en
- (b) die daad of versuim van die bestuurder, agent of werknemer plaasgevind het omdat die werkgewer nagelaat het om alle redelike stappe te doen om die optrede of versuim te verhoed,

sal die werkgewer skuldig wees aan die oortreding en bewys van die daad van versuim deur die bestuurder, agent of werknemer sal prima facie bewys wees dat die werkgewer skuldig is ingevolge hierdie subartikel, met dien verstande dat geen ander straf as 'n boete opgelê sal word indien daar skuldigbevinding is ingevolge hierdie subartikel nie.

5. HERROEPING

Die verordeninge uiteengesit in Aanhangsel 1 word hiermee herroep in dié mate wat uiteengesit word in die derde kolom van daardie Aanhangsel.

AANHANGSEL 1

Nommer en jaar van verordening	Titel	Omvang van herroeping
P.K. 321/1957	Kaapse Afdelingsraad: Regulasies op die Voorkoming en Onderdrukking van Hindernisse	Artikels 8, 13, 20, 24 en 38
P.K. 352/1985	Kaapse Afdelingsraad: Verordening op die Storting van Materiaal	In geheel
P.K. 346/2000	Stad Kaapstad: Verordening op die Beheer van die Storting van Afval	In geheel, met uitsondering in soverre dit verband hou met die opgaar of berg van stowwe
P.K. 228/1999	Munisipaliteit Suid-Skiereiland: Verordening op Vaste Afval	Artikel 3(1), met uitsondering in soverre dit verband hou met die opgaar van stowwe Artikel 3(2)
P.K. 192/2000	Munisipaliteit Suid-Skiereiland: Verordening op Parke	Artikel 5(1)(t)
P.K. 492/1982	Munisipaliteit Milnerton: Verordening op die Opgaar, Storting, Berging of Plasing van Stowwe	In geheel, met uitsondering in soverre dit verband hou met die opgaar of berging van stowwe
P.K. 705/1993	Munisipaliteit Milnerton: Verordening op Saniteit	Artikels 4 en 7
P.K. 88/1999	Stad Tygerberg: Verordening met Betrekking tot Strate	Artikel 7
P.K. 89/1999	Stad Tygerberg: Verordening op Vullisverwydering	Artikel 4, met uitsondering in soverre dit betrekking het op die opgaar of berging van stowwe
P.K. 317/1999	Munisipaliteit Oostenberg: Verordening op die Voorkoming van Steurnisse	Artikels 2(2) en 2(4) Artikels 2(1), 2(13) en 5(1), met uitsondering in soverre hulle verband hou met die opgaar en berging van stowwe
P.K. 956/1977	Munisipaliteit Strand: Verordening op die Sindelikeit van Persele	Artikels 2(a) en 3, met uitsondering in soverre hulle verband hou met die opgaar en berging van stowwe
P.K. 656/2000	Munisipaliteit Helderberg: Verordening op die Verwydering van Rommel en Afval	Artikel 13(1) en 3, met uitsondering in soverre hulle verband hou met die opgaar en berging van stowwe
P.K. 568/2000	Munisipaliteit Oostenberg: Verordening op Openbare Plekke	Artikel 6(a)
P.K. 282/1999	Munisipaliteit Blaauwberg: Smous-regulasies	Artikel 4(a) met uitsondering in soverre dit verband hou met die opgaar en berging van stowwe Artikel 4(d) in soverre dit verwys na "afval"
P.K. 562/1987	Munisipaliteit Milnerton: Verordening op Strate	Artikel 7, met uitsondering in soverre dit verband hou met die opgaar van stowwe
P.K. 445/1968	Kaapse Afdelingsraad: Parke en Tuine	Artikel 3(a)
P.K. 667/1962	Kaapse Afdelingsraad: Kamperingsregulasies	Artikel 21(e)
P.K. 814/1990	Kaapse Afdelingsraad: Regulasies op Natuureservate	Artikel 24(a)(i)

UMTHETHO KAMASIPALA WOKULAHHLWA KWENKUNKUMA NONGCOLISEKO

1. INKCAZELO

Kulo mthetho kamasipala, ngaphandle kokuba imeko ibonisa ngolunye uhlobo—

“**iBhunga**” lithetha iSixeko saseKapa;

“**ukulahla**” kuthetha ukulahlwa kwenkunkuma nokuba kungeyipina indlela nengeyiyo indlela evunyelwe ngumthetho kwaye iquka oku, ngaphandle kokugxeka intetho jikelele esele ikhankanyiwe, kumele ukulahla, ukukhupha, ukuchitha okanye ukukhulula inkunkuma nokuba ikwisikhongozeli okanye isitya okanye ayikho kuso, kuyo nayiphina indawo, nokuba yeyoluntu jikelele okanye yindawo yomntu othile esekhusini, ikwaquka nangona ingekho ncinane, umhlaba ongenanto, imilambo, iindlela zamanzi, iinkqubo zamanzi amdaka edolophu kunye namanzi ezikhukhula. Isenzo “sokulahla inkunkuma”, nesithi sigcine intsingiselo yaso yoqobo, sikhutshelwe ngaphandle kule nkcazelo “yokulahla”;

“**umntu**” uquka umntu oqhelekileyo, inkampani, iqumrhu elithile, umanyano lwabarhwebi (trust), umbutho kunye nolwahlululwano;

“**inkunkuma**” ithetha nayiphina into, nokuba ingamanzi nokuba iqinile okanye zombini zidibene, neyimveliso elisoloty, izinto eziphumayo, intsalela okanye intshiyekela yayo nayiphina imveliso, inkqubo okanye umsebenzi othe wapheliswa kodwa ayiquki nayiphina into enemitha ebangwa kukuqhekeka kwee-atom (radioactive matter).

2. UKULAHLA NONGCOLISEKO

(1) Akukho mntu onga—

- (a) lahla okanye abangele okanye avumele ukulahlwa kwenkunkuma;
- (b) lahla okanye abangele okanye avumele ungcoliseko lwenkunkuma.

(2) Xa amalungiselelo ecanandelwana (1) ethe afumana ukuchaswa okanye inkcaso, iBhunga lingayalela, ngokubhala inotisi ngokwecandelwana (5), nawuphina okanye bonke aba Bantu balandelayo—

- (a) nawuphina umntu owenze inkcaso okanye othe wanegalelo elithe ngqo okanye elingekho ngqo, wabangela okanye wavumela ukuchaswa okunjalo;
- (b) umenzi wenkunkuma, nokuba umnikazi wenkunkuma leyo unoxanduva okanye akanalo malunga nokuchaswa oko;
- (c) umnikazi womhlaba okanye wamaziko apho kwenzeka khona oku kuchasana, nalapho umnikazi onjalo ethe akaphumelela ukuthatha amanyathelo achazwe kwicandelwana (3);
- (d) umntu ophetheyo, okanye nawuphina umntu onelungelo okanye owaye nelungelo lokusebenzisa umhlaba okanye amaziko apho olu chaso lwenzeke khona ngeli xesha lokuchasana, apho umntu onjalo ethe akaphumelela ukuthatha amanyathelo achazwe kwicandelwana (3);
- (e) nawuphina umntu othe ngenxa yokungakhathali akaphumelela ukukhusela oku kuchasana ukuba kungenzek, i

kwixesha elibekiweyo lokuphelisa oku kuchasana okanye ukukhusela ukuchasana nomthetho okungokunye okanye okuqhubekayo kwakunye nokuthatha nawuphina amanyathelo iBhunga elicinga ukuba afanelekile ekucoceni okanye ekususeni inkunkuma, ekubuyiseleni kwimeko eqhelekileyo amaziko lawo okanye lo ndawo bekwenzeke kuyo oku kuchasana kunye nokuqinisekisa ukuba inkunkuma ilahlwa ngendlela esemthethweni.

(3) Umntu onomhlaba wakhe okanye amaziko akhe, okanye ophetheyo okanye onelungelo lokusebenzisa umhlaba okanye amaziko, akanako ukusebenzisa okanye avumele ukusetyenziswa komhlaba okanye amaziko ngenjongo zokulahlwa kwenkunkuma engekho mthethweni kwaye kufuneka ethathe amanyathelo aganelekileyo ekukhuseleni ukusetyenziswa komhlaba okanye amaziko ngenjongo ezinjalo.

(4) IBhunga linganikeza iinotisi—

- (a) ngeenjongo zokunika imiyalelo ngokwecandelwana (2);
- (b) ngeenjongo zokunyanzelisa abantu ukuba bathobelane neemfanelo zabo phantsi kwecandelwana (3); kwakunye
- (c) nayiphina injongo engenye ephantsi kwalo mthetho kamasipala,

kwaye, kule notisi, angachaza ixesha elifanelekileyo kule migaqo inikeziweyo enokuthi kufuneka ukuba ithotyelwe.

(5) Ukongeza koku okanye okunye okunokuthi kwenziwe kumanyathelo achazwe kwicandelwana (2), okanye xa umntu ethe akaphumelela ukuthobelana nemigaqo enikezwe kwintotisi phantsi kwecandelwana (4), iBhunga ngokwalo lingathatha nawuphina amanyathelo elicinga ukuba afanelekile ekucoceni lo ndawo okanye ekususeni inkunkuma leyo, ukubuyisela lo maziko okanye indawo kwimeko yayo yesiqhelo kunye namacala achaphazekileyo kule ndawo apho inkunkuma ibilahlwe khona kwakunye nokuqinisekisa ukuba inkunkuma kunye nayiphina into engcolisayo engenako ukucocwa okanye ibuyiselwe kwimeko yayo yesiqhelo, ilahlwe ngokusemthethweni. IBhunga lingafuna kuhlawulwe amaxabiso okuthatha la manyathelo kuye nawuphina umntu odweliswe kwicandelwana (2), noyakuthi abe noxanduva ngokuhlengeneyo nangokwahlukeneyo koku.

(6) Amaxabiso abangwa ngokwecandelwana (5) kufuneka afaneleke kwaye angaquka, kodwa enganyinwanga kumsebenzi, ulawulo, ixabiso elingaphezulu, uphando kunye namaxabiso esimangalo.

3. AMATYALA

Nawuphina umntu—

- (1) ochasana necandelo 2(1)(a);

- (2) ochasana necandelo 2(1)(b);
- (3) ochasana necandelo 2(3);
- (4) ongaphumeleliyo ukuthobela imigaqo yayo nayiphina inotisi ekhutshwe phantsi kwecandelo 2(4);
- (5) othintela iBhunga xa iBhunga lithatha amanyathelo phantsi kwecandelo 2(5),
uya kufunyanwa enetyala.

4. IZOHLWAYO KUNYE NEZIGWEBO

- (1) Nawuphina umntu ofunyenwe enetyala phantsi kwecandelo 3(1) unemfanelo ngokwasemthethweni kwisohlwayo okanye ukuhlala entolongweni kangangexesha elingekho ngaphezulu kweentsuku ezingamashumi amathandathu (60), okanye afumane isohlwayo kunye nokuya entolongweni.
- (2) Nawuphina umntu ofunyenwe enetyala phantsi kwamacandelo 3(2), 3(3), 3(4) no-3(5) unemfanelo ngokwasemthethweni kwisohlwayo okanye ukuhlala entolongweni kangangexesha elingekho ngaphezulu konyaka omnye, okanye afumane isohlwayo kunye nokuya entolongweni.
- (3) Inkundla kwisigwebo sesibini okanye esilandelayo somntu ofunyenwe enetyala phantsi kwecandelo 3(2) lalo mthetho kamasipala, iwise isigwebo sesohlwayo okanye ukuhlala entolongweni kangangexesha elingekho ngaphantsi konyaka omnye okanye afumane isohlwayo kunye nokuba entolongweni, ngaphandle kokuba inkundla yonelisekile kukuba imeko ezinyanisekileyo nezinyanzelisayo zikhona nezibangela ukunikezwa kwesigwebo esingaphantsi, inkundla iya kungena kwezo meko zalo nkqubo ize inikeze isigwebo eso esingaphantsi okanye esithotyweyo.
- (4) Inkundla egweba umntu kwityala lokuqala phantsi kwalo mthetho kamasipala ingawisa isigwebo sokusebenzela uluntu endaweni yesohlwayo okanye ukuya entolongweni.
- (5) Inkundla, xa iqwalasela isigwebo, ingayithathela ingqalelo njengemeko emandundu, ukuba—
 - (a) umntu ogwetyiweyo uye wacothisa ukuthobelana nayo nayiphina inotisi okanye imiyalelo enikeziweyo kulo mntu phantsi kwalo mthetho kamasipala;
 - (b) uncedo ngokwezimali lalifumanekile okanye ngelifumanekile ngulo mntu ogwetyiweyo ngesizathu sokugunyaziswa kweli tyala.
 - (c) Le nkunkuma ilahliweyo ivelisa ubungozi okanye isoyikiso kwimpilo yoluntu jikelele, ukhuseleko loluntu okanye olwandalo esingqongileyo.
- (6) Xa umntu egwetywe yinkundla ngenxa yokuba enetyala elithe lenza umonakalo okanye ilahleko kwimihlaba nezakhiwo okanye elithe lanempembelelo egwenxa kwindalo esingqongileyo, ukongeza kuso nasiphina isigwebo esingesinye, inkundla inga—
 - (a) xa umhlaba okanye izakhiwo izezomnye umntu kwaze ngexa lokwenziwa kwesicelo somntu owonzakeleyo okanye somtshutshisi osebenza phantsi kwemiyalelo yomntu owonzakeleyo, kwangoko inkundla ingavuzi lo mntu wonzakeleyo imbuyekezo ngenxa yalo monakalo okanye ilahleko ngokuhambelana namalungiselelo ecandelo 300 le-Criminal Procedure Act, uMthetho 51 ka-1977;
 - (b) ingayalela lo mntu ugwetyiweyo ukuba alungise esebenzisa imali yakhe kwaye onelise iBhunga, nawuphina umonakalo owenzekileyo, aze abuyisele kwimeko yesiqhelo indalo esingqongileyo.
- (7) Xa umntu egwetyelwe ityala phantsi kwalo mthetho kamasipala, inkundla, ukongeza kuso nasiphina isohlwayo ethe yasiveza, inganikeza umyalelo onyanzelisa lo mntu ukuba athobele, kwixesha elinikezwe yinkundlu, amalungiselelo afanelekileyo ayo nayiphina inotisi enikezwe phantsi kwalo mthetho kamasipala.
- (8) Xa—
 - (a) umanejala, umenzeli okanye umsebenzi esenza okanye engakwazi ukwenza isenzo esithile ebekufanele ukuba senziwe nguye okanye ayeke ukusenza nekuthi ngokwalo mmiselo, kube lityala elenziwe ngumqeshi okanye ayeke ukusenza; kunye
 - (b) isenzo okanye ukungakwazi kukamanejala, umenzeli okanye uMsebenzi senzeke kuba umqeshi engaphumelelanga ukuba athathe onke amanyathelo afanelekileyo ukukhusela eso senzo okanye angakwazi,

ke ngoko, umqeshi uya kufunyanwa enetyala lesenzo kwaye isiqinisekiso sesenzo okanye sokungasenzi kukamanejala, umenzeli okanye uMsebenzi iya kuba luluvo lokuqala lobungqina bokuba umqeshi unetyala phantsi kweli candelwana; ngaphandle kokuba akukho sohlwayo ngaphandle kokugwetywa okuya kuwiswa xa isigwebo sisekelwe phantsi kweli candelwana,

5. UKURHOXISA

Imithetho ebekwe kuShedyuli 1 kengoko iyarhoxiswa kangangexesha elichazwe kumgca wesithathu weShedyuli leyo.

ISHEDYULI 1

Inombolo noNyaka woMthethoka-Masi-pala	Isihloko	Ubude boRhoxiso
P.N. 321/1957	IBhunga loLwahlulo lweKapa: Imimiselo yokukhusela nokupheliswa kweenkathazo	Amacandelo 8, 13, 20, 24 no-38

Inombolo noNyaka woMthethoka-Masi-pala	Isihloko	Ubude boRhoxiso
P.N. 352/1985	IBhunga loLwahlulo lweKapa: uMthetho kaMasipala onxulumene nokulahlwa kwezinto	Uwonke
P.N. 346/2000	ISixeko saseKapa: uMthetho kaMasipala wolawulo lokulahlwa kwenkunkuma	Uwonke, ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto
P.N. 228/1999	UMasipala kuSingasiqithi oseMazantsi: uMthetho kaMasipala weNkunkuma eqinileyo okanye engengomanzi	Icandelo 3(1), ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto Icandelo 3(2)
P.N. 192/2000	UMasipala kuSingasiqithi oseMazantsi: uMthetho kaMasipala weePaki	Icandelo 5(1)(t)
P.N. 492/1982	UMasipala waseMilnerton: uMthetho kaMasipala onxulumene nokwanda, ukulahlwa okanye ukugcinwa okanye ukulahlwa kwezinto	Uwonke, ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto
P.N. 705/1993	UMasipala waseMilnerton: uMthetho kaMasipala woCoceko	Amacandelo 4 no-7
P.N. 88/1999	ISixeko saseTygerberg: uMthetho kaMasipala oNxulumene neziTalato	Icandelo 7
P.N. 89/1999	ISixeko saseTygerberg: uMthetho kaMasipala onxulumene nokususwa kwenkunkuma	Icandelo 4, ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto
P.N. 317/1999	UMasipala wase-Oostenberg: uMthetho kaMasipala oNxulumene noKhuselo lweNkathazo	Amacandelo 2(2) no- 2(4) Amacandelo 2(1), 2(13) no- 5(1), ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto
P.N. 956/1977	UMasipala waseStrand: uMthetho kaMasipala oNxulumene noCocelo lwamaZiko	Amacandelo 2(a) no-3, ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto
P.N. 656/2000	UMasipala waseHelderberg: uMthetho kaMasipala onxulumene nokususwa kobumdaka nenkunkuma	Icandelo 13(1), ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto Icandelo 15
P.N. 568/2000	UMasipala wase-Oostenberg: uMthetho kaMasipala onxulumene neeNdawo zoLuntu Jikelele	Icandelo 6(a)
P.N. 282/1999	UMasipala waseBlaauwberg: uMmiselo waBathengisi esiTalatweni	Icandelo 4(a) ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto Icandelo 4(d) xa libhekiselele "kwinkunkuma"
P.N. 562/1987	UMasipala waseMilnerton: uMthetho kaMasipala weziTalato	Icandelo 7 ngaphandle kwalapho umalunga nokwanda okanye ukugcinwa kwezinto
P.N. 445/1968	IBhunga loLwahlulo lweKapa: iiPaki neeGadi	Icandelo 3(a)
P.N. 667/1962	IBhunga loLwahlulo lweKapa: uMmiselo wokumisa intente/wokukhempa	Icandelo 21(e)
P.N. 814/1990	IBhunga loLwahlulo lweKapa: uMmiselo woGcino lweNdalo	Icandelo 24(a)(i)