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WITZENBERG MUNICIPALITY: INFORMAL TRADING BY-LAW

INFORMAL TRADING BY-LAW

To provide for the right to engage in informal trading; to establish informal trading areas and informal trading sites on municipal property; to provide for the granting of trading permits to trade on municipal property; to restrict and prohibit informal trading in certain areas; to regulate the conduct of informal traders; to regulate informal trading at special events; to provide for measures to ensure health and safety; to indicate offences and penalties; to provide for the repeal of by-laws; and to provide for matters incidental thereto.

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PREAMBLE

WHEREAS the Council recognises the key role that informal trading plays in poverty alleviation, income generation and entrepreneurial development and, in particular, the positive impact that informal trading has on historically disadvantaged individuals and communities;

WHEREAS the Council recognises the need to adopt a developmental approach to informal trading within a well-managed municipal area. This requires that, in managing informal trading, consideration must also be given to –

- (a) the promotion of social and economic development;
- (b) the promotion of a safe and healthy environment;
- (c) municipal planning;
- (d) the licensing and control of undertakings that sell food to the public; and
- (e) the management of public places and public roads;

WHEREAS the Council has competence in terms of Part B of schedules 4 and 5 of the Constitution relating to such matters such as the control of street trading, trading and markets;

AND WHEREAS the Witzenberg municipal Council has competence in terms of section 156(2) of the Constitution of the Republic of South Africa, as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended, to make and administer by-laws for the effective administration of the matters which it has the right to administer, hereby makes the following by-law:

CHAPTER 1 INTERPRETATION

Definitions

1. In this by-law, unless the context indicates otherwise –

“**act**” means the Businesses Act, 1991 (Act 71 of 1991).

“**abandoned goods**” mean:

- (a) goods found on a public road or in a public place that do not appear to be under the control of any person;
- (b) goods found on a public road or public place at the end of a day’s business that do not appear to be under the control of any person;
- (c) goods found in a manhole, stormwater drain, public toilet, taxi rank or in any tree or shrub where no evidence is available that it belongs to a specific person.

“**authorised official**” means a person authorised to implement the provisions of this by-law, including but not limited to:

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) a traffic officer appointed under section 3A of the National Road Traffic Act, 1996 (Act 93 of 1996);
- (c) a member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995); or
- (d) such employees, delegated nominees, representatives and service providers of the municipality as are specifically authorised by the municipality in this regard: provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer.

“**authorised trader representative**” means an individual granted the legal authority to act on behalf of a trader that has a valid informal trading permit. This person is empowered to handle official trading matters such as trading and signing documents at a demarcated stall. This person must comply with the same regulations and stipulations as the informal trading permit holder.

“**demarcated area**” means a trading space allocated and marked for informal trading.

“**foodstuffs**” mean foodstuffs intended for human consumption as defined in section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972).

“**goods**” mean any movable property displayed or kept by a person in a public or private place or public road used or intended to be used in connection with carrying on the business of an informal trader and includes wares, articles, receptacles, vehicles or structures.

“**illegal goods**” mean –

- (a) goods that may not lawfully be sold or bought including, but not limited to, counterfeit goods as defined in the Counterfeit Goods Act, 1997 (Act 37 of 1997);
- (b) goods that are bought or sold in an unlawful manner; or
- (c) goods that have been acquired in an unlawful manner.

"impoundment fee" means the applicable tariff charge, as determined by the Council from time to time, for the impounding and storing of goods impounded in terms of this by-law, as well as the disposal or releasing of the impounded goods and any associated costs;

"informal trader" means a person carrying on the business of street vendor, peddler or hawker and includes any authorised trader representative or a person, or an enterprise that is not registered or incorporated in terms of the corporate laws of South Africa and which engages in informal trading.

"informal trading" means the trading in goods and services in the informal sector by an informal trader in a public road or a public or a private place, irrespective whether it is in a residential area, town or informal settlement and which typically includes, without limitation, the following types of trading:

- (a) street trading;
- (b) trading in public places;
- (c) mobile trading, such as caravans, light delivery vehicles and trailers;
- (d) trading from kiosks, stalls or containers;
- (e) trading at special events;
- (f) trading at markets.

"kerb line" means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge, as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996).

"litter" includes any container, wrapping or other waste that has been discarded or left behind by an informal trader or by his or her customers.

"market" means an area within an informal trading area that is designated as a market on an informal trading plan and which is managed in a coordinated manner.

"motor vehicle" means any self-propelled vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996).

"municipal Council" or **"Council"** means the Witzenberg municipal Council, a municipal council referred to in section 157(1) of the Constitution.

"municipality" means the Witzenberg Municipality, a category B municipality as envisaged in terms of section 155(1) of the Constitution of South Africa.

"Municipal Manager" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal Council.

"municipal property" means property owned by, leased by or under the control of the municipality.

"national monument" means any one of the "public monuments and memorials" as defined in terms of section 2 of the National Heritage Resources Act, 1999 (Act 25 of 1999).

"non-municipal property" means property that is situated within the area of jurisdiction of the municipality but which is not owned by, leased by or under the control of the municipality.

"nuisance" means any conduct or behaviour by any person, or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, plant or animal, or causing or creating any

situation or condition in or on private property or in a public place or anywhere in the municipality that causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person.

"obstruct" means to do anything that blocks or is likely to block vehicular or pedestrian traffic flow on a public road.

"once-off event" means an event that occurs only once annually.

"park" means a garden or park to which the public has a right of access, and "garden" has the same meaning.

"permit-holder" means an informal trader who has been granted a permit by the municipality to conduct informal trading from a demarcated site situated in an informal trading area on municipal property.

"public parking space" means any space in a public place designated by the municipality for the parking of a motor vehicle.

"public place" means –

- (a) a public road;
- (b) a public parking space; and
- (c) any square, park, recreation ground, sports ground, shopping centre, municipal cemetery, open space, or vacant municipal land that is vested in the municipality, or in respect of which the public has the right of use, or which is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's office as having been provided for the use of the public or the owners of erven in such township.

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) that is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

"roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic, which is between the edges of the roadway, as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996).

"sell" includes –

- (a) bartering, exchanging or hiring out;
- (b) displaying, exposing, offering or preparing for sale;
- (c) storing on a public road or in a public place with a view to selling; and
- (d) providing a service for reward,

and "sale" or "selling" has a corresponding meaning.

"services", in relation to an informal trader, includes any advantage or gain given or supplied by the trader in return for consideration or reward.

"shoulder" means that portion of the road, street or thoroughfare between the edge of the roadway and the kerb line, as defined in the National Road Traffic Act, 1996 (Act 93 of 1996).

“**sidewalk**” means that portion of a verge intended for the exclusive use of pedestrians, as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996).

“**verge**” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway on the shoulder, as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996).

“**special event**” means events that include but are not limited to concerts, parades, circuses, fairs, festivals, block parties, community events, running and bicycle races.

Interpretation of by-law

2. If there is a conflict of interpretation between the English version of this by-law and a translated version, the English version prevails.

Objective of by-law

3. The objective of this by-law is to regulate informal trading in a manner that –
 - (a) ensures that informal trading is conducted in an orderly manner and on demarcated areas;
 - (b) enables access to job and entrepreneurial opportunities within the informal trading sector;
 - (c) harmonises the relationship between the informal trading sector and the formal trading sector;
 - (d) ensures the health and safety of the public; and
 - (e) ensures inclusive public participation that recognises and protects the rights of all those impacted by informal traders.

Application of by-law

4. This by-law applies to all areas which fall under the jurisdiction of the Witzenberg Municipality and is binding on all persons to the extent applicable.

CHAPTER 2

FREEDOM TO TRADE INFORMALLY

Freedom to engage in informal trading

5. Subject to compliance with the provisions of –
- (a) this by-law;
 - (b) any other applicable law;
 - (c) any applicable informal trading permit; and
 - (d) municipal rules governing informal trading or trading management policy.

Any qualifying person that resides legally within South Africa, and falls within the definition of informal trader and that has not been previously banned from trading at Witzenberg Municipality, is permitted to apply for an informal trading permit within the demarcated area that falls within the jurisdiction of the municipality.

CHAPTER 3

INFORMAL TRADING ON MUNICIPAL PROPERTY

Trading areas and trading sites

6. (1) The Council may, by resolution
- (a) set apart informal trading areas on municipal property within any area designated as an informal trading area, and
 - (b) demarcate informal trading sites within informal trading areas.
- (2) The Council may on reasonable and justifiable grounds, by resolution –
- (a) extend, move, reduce, establish or disestablish any informal trading area or informal trading site.
- (3) No person is allowed to trade on municipal property if it is not deemed a demarcated informal trading area by Council trading hours and other conditions.

Trading hours and other conditions

7. (1) The municipality may when setting apart informal trading areas, or at any time thereafter on reasonable notice, impose –
- (a) trading days and hours; and
 - (b) any other conditions.
- (2) The trading days will be:
- Mondays to Saturdays on trading hours as determined by the municipality;
 - Sunday trading is not allowed, except in special circumstances. A special permit allowing Sunday trading for the specific Sunday will be applicable and the application will be evaluated by administration. Additional costs for trading on the specific Sunday will apply. The application for the special Sunday trading must be received by the municipality at least 7 working days prior to the intended Sunday. Trading hours will be determined by the municipality.
- (3) Trading hours will determined by the Office of the Municipal Manager and are subjected to change based on operational requirements.

Prohibition: informal trading on municipal property without permit

8. No person may conduct informal trading on municipal property without a valid informal trading permit from the municipality.
- (a) Only the permit holder or his/her authorised trader representative may trade with the permit.

9. Informal trading permits

- (1) (a) No person may conduct informal trading on municipal property without a valid permit issued by the municipality. Applicants are required to submit an application for each financial year.
- (b) The application period will be open annually from 1 June to 30 June. Should trader space still be available after 30 June, applicants will still be permitted to apply, and the applicable tariffs will be payable in accordance

with approved Council tariffs. Permits must be applied for in the manner determined by the municipality annually.

- (2) The municipality must consider any application for an informal trading permit and –
 - (a) preference will be given to residents of the Witzenberg municipal area.
 - (b) may approve it subject to any conditions;
 - (c) may request that additional information be furnished within a specified timeframe; or
 - (d) may reject the application and provide reasons therefor.
- (3) The municipality may, when issuing an informal trading permit, impose any reasonable conditions, including but not limited to –
 - (a) minimum or maximum trading hours;
 - (b) restrictions regarding the type of goods or services in which the permit holder is permitted to trade;
 - (c) an expiry date for the permit;
 - (d) conditions regarding the type of structure or structures, if any, which may be erected on an informal trading site or in an informal trading area; and
 - (e) days of trading allowed.
- (4) An informal trading permit –
 - (a) must refer to a specified trading bay, as identified by its allocated number, to which the permit relates;
 - (b) displays only the permit holder, and his or her authorised trader representative, the right to use that trading bay subject to the conditions of the permit, and the provisions of any other conditions imposed in terms of this by-law; and
 - (c) must be kept at the place of trade at all times and must be produced on demand by an authorised official.

Informal trading fees

10. (1) The municipality is entitled to charge –
 - (a) an application fee to any person who applies for an informal trading permit, on submission of each application for an informal trading permit;
 - (b) different trading fees for under-roof, open demarcated spaces and food trailer spaces; and
 - (c) an additional fee or tariff in respect of additional costs incurred or services provided by the municipality, such as for trading on Sundays;
- (2) In the case where new under-roof structures are constructed on existing demarcated space during a financial year, the municipality may at its discretion not charge the current permit holder an under-roof tariff for the remaining term of the permit. In this case, the under-roof tariff must be applied and charged as from the next financial year.
- (3) In the case where the application is unsuccessful and/or withdrawn, application fees will not be refunded to the applicant.
- (4) Trading fees are not refundable.

Appointment of authorised trader representative

11. (1) Any permit holder will be allowed to appoint a representative to trade in terms of a permit, issued by the municipality, but subject to prior notification to the municipality and on terms and conditions prescribed by the municipality.
- (2) All prescriptions in this by-law will be applicable to the representative appointed by the permit holder, as would be the case of the permit holder.
- (3) It is the responsibility of the permit holder to notify the municipality of the appointment of any representative, with full details as required by the municipality. The municipality will include the representative's details on the permit.
- (4) If an authorised trader representative needs to be replaced, a new informal trading permit must be applied for to update the representative's details. A pro-rata application fee in terms of Council tariffs may be levied.

Transfer of informal trading permits

12. (1) (a) Permits are non-transferable unless, in the event of the death or severe illness of the permit holder, a permit may be permanently transferred, with the written approval of the municipality, to a dependant, or an assistant acting on behalf of the dependant, who will continue trading until the permit is no longer valid;
- (b) A permit may be temporarily transferred, with the written approval of the municipality, to a dependant or, where there is no dependant, to an individual nominated by the permit holder, for reasons such as an illness, pregnancy, family responsibility, religious or cultural matters, or any other personal matter for a period no longer than 3 months, provided that an affidavit is provided to the municipality stating the nature and period for which the permit holder requires the permit transfer.
- (2) No subletting of informal trading stands is allowed.

Duties of an informal trader

13. (1) A street trader must:
- (a) personally trade on the site allocated;
- (b) when he or she concludes business for the day, remove his or her property, except if stored in any structure approved and permitted by the municipality, to a place which is not part of a public road or public amenity;
- (c) when requested by an official of the municipality or by a person who has been authorised to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
- (d) keep the area or stand occupied by him or her in a clean and sanitary condition;
- (e) ensure that the area is free of litter at all times, and must, when he or she concludes business for the day, dispose of litter generated by his or her business in receptacles provided by the municipality for the public;

- (f) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading; and
 - g) ensure that the stall area and/or trader infrastructure does not look unsightly in any way for the public.
- (2) The municipality reserves the right to impose further duties on the trading permit.

Removal and suspension of informal trading permits

14. (1) The municipality may, within 2 days and after having given the informal trader an opportunity to make written representations, revoke or suspend an informal trading permit if the informal trader has –
- (a) breached any conditions of his or her informal trading permit;
 - (b) breached the provisions of this by-law or of any other law;
 - (c) been convicted of trading in illegal goods or of providing a service unlawfully;
 - (d) been found to have willfully supplied incorrect information to the municipality when required to provide that information.
- (2) A permit holder must immediately return the permit to the municipality when –
- (a) the municipality revokes the permit;
 - (b) the permit holder is refused permission to transfer the permit;
 - (c) the permit holder ceases trading on the demarcated space for a period of 2 months or more;
 - (d) the permit holder no longer wishes to trade as an informal trader from the relevant informal trading site before the expiry date;
 - (e) the permit holder has not utilised a second demarcated stall for a period of 2 months, which may constitute blocking other trader competition by keeping a stall space open next to their already demarcated stall space.

Temporary relocation and suspension

15. (1) The municipality may, on reasonable notice to an informal trader, temporarily or permanently –
- (a) relocate a permit holder;
 - (b) suspend the validity of a permit; or
 - (c) suspend informal trading in an informal trading area or a particular trading site or sites,
- if the continuation of trading from an informal trading area or trading site is impractical or inconvenient to the activities of the municipality, any sphere of government and any public and private entity, including their respective service providers.
- (2) No compensation is payable by the municipality to an informal trader in the event that –
- (a) the trader is relocated;
 - (b) the permit is suspended or revoked; or
 - (c) trading is suspended or prohibited from a particular informal trading area or trading site, irrespective whether an alternate site is provided to the permit holder.

CHAPTER 4

RESTRICTIONS AND PROHIBITIONS ON INFORMAL TRADING

Restricted or prohibited areas

16. (1) The Council may, by resolution, declare any place in its area of jurisdiction to be an area in which informal trading is restricted or prohibited.
- (2) The Council may, in restricting or prohibiting informal trade, indicate places where –
- (a) informal trading is prohibited; or
 - (b) informal trade in specified goods or services is prohibited.
- (3) The municipality must erect signs, markings or other devices to indicate the boundaries of –
- (a) areas where informal trading is restricted or prohibited (and the nature of any restriction); and
 - (b) informal trading areas and informal trading sites.
- (4) Any sign erected in terms of this by-law or any other law shall serve as sufficient notice to an informal trader that informal trading is prohibited or restricted in that area.

Restricted conduct: erection of structures

17. (1) An informal trader must not erect any structure, whether movable or immovable, other than approved by the municipality.

Restricted conduct: use of the site overnight

18. (1) An informal trader must not sleep overnight at the place where he or she carries on informal trading.
- (2) An informal trader must not, on concluding business for the day, leave his or her goods or trading structure at an informal trading site that is part of a public road or public place.

Restricted conduct: location of trading

19. (1) An informal trader must not –
- (a) place his or her goods on a public road or public place, with the exception of his or her motor vehicle or trailer from which informal trading is conducted: provided that such motor vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996 (Act 93 of 1996);
 - (b) allow his or her goods or area of activity to cover an area of a public road or a public place that –
 - (i) is greater than 6 square metres in area; or
 - (ii) is greater than 3 metres in length, unless otherwise approved by the municipality, on a specially demarcated trailer informal trading space;
 - (c) trade on a sidewalk or verge where the –

- (i) width of the sidewalk or verge is less than 3 metres;
 - (ii) sidewalk or verge is next to a public building, a place of worship such as a church, synagogue or mosque, or a national monument; or
 - (iii) sidewalk is contiguous to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the trader, if that person objects to informal trading taking place at that location;
- (d) trade on the half of a public road that is next to a building being used for residential purposes, if the owner or occupier of that building objects to informal trading taking place at that location;
 - (e) trade on any immediate sidewalk in front of a business or shop, whether it is with or without the permission of the relevant shop owner;
 - (f) obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), or any marking, notice or sign displayed or made in terms of a by-law;
 - (g) obstruct vehicular traffic;
 - (h) obstruct access to a pedestrian crossing, pedestrian arcade or mall;
 - (i) obstruct access to a vehicle;
 - (j) obstruct access to refuse disposal bins or other facilities intended for the use of the public;
 - (k) obstruct access to an automatic teller machine;
 - (l) obstruct the view of a CCTV camera;
 - (m) limit access to parking or loading bays or other facilities for vehicular traffic;
 - (n) trade within 5 metres of an intersection or fire hydrant or any other firefighting equipment; or
 - (o) trade in a park, unless such area has been declared by the Council as an informal trading area.
- (2) An informal trader must, in respect of any sidewalk, leave an unobstructed space for pedestrian traffic of not less than –
 - (a) 2 metres wide when measured from any contiguous building to his or her goods or area of activity; and
 - (b) 0,5 metres wide when measured from the kerb line to his or her goods or area of activity.

Restricted conduct: display and storage of goods

20. (1) An informal trader must not –
- (a) place or stack his or her goods in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;
 - (b) display his or her goods on or in a building, with or without the consent of the owner, lawful occupier, or person in control of such building or property;
 - (c) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
 - (d) place on a public road or public place any goods that are not capable of being easily removed to a storage place at the end of the day's business; and
 - (e) store or dispose of his or her goods or litter in a manhole, stormwater drain, public toilet, or in a tree.

Restricted conduct: fires

21. (1) An informal trader must not make a fire at any demarcated or non-demarcated place whatsoever to prepare foodstuffs by utilising an open-flame fire; gas-fired equipment must be utilised with the relevant fire extinguisher on hand.

Restricted conduct: litter

22. (1) An informal trader must dispose of litter generated by his or her informal trading in a refuse receptacle approved or supplied by the municipality.
- (2) An informal trader must not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store, deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property.

Restricted conduct: attachments

23. An informal trader must not attach any of his or her goods by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place.

Restricted conduct: alcohol, sound-emitting devices and electricity

24. An informal trader must not –
- (a) sell or promote alcoholic products;
 - (b) sell or promote prescriptive or related pharmaceutical medicine;
 - (c) sell any illegal substances or plants;
 - (d) sell any illegal goods;
 - (e) use bells, hooters, amplified equipment or similar devices that emit sound in order to attract customers; and
 - (f) use any electrical supply or a power generator, unless expressly approved by the municipality.

Restricted conduct: general

25. An informal trader must not carry on informal trading –
- (a) in a place or area in contravention of any prohibition or restriction imposed by the municipality; or
 - (b) in such a manner as to –
 - (i) act in a way that disturbs the reasonable peace, comfort or convenience and wellbeing of any other person, thus creating a nuisance;
 - (ii) damage or deface the surface of any public road or public place, or any public or private property;
 - (iii) create a traffic or health hazard or a health risk; or
 - (iv) contravene any of the terms and conditions of his or her informal trading permit.

Environmental health

- 26.** (1) An informal trader must –
- (a) keep the informal trading site or area or occupied by him or her for the purposes of conducting informal trading in a clean and sanitary condition;
 - (b) keep his or her goods in a clean and sanitary condition;
 - (c) ensure that, on completion of business each day –
 - (i) the informal trading site or area occupied by him or her for the purposes of conducting informal trading is free of litter and other waste; and
 - (ii) all his or her goods are collected and removed from any public road or public place and stored in a suitable facility;
 - (d) take necessary precautions in the course of conducting his or her business as may be necessary to prevent the spilling of fat, oil or grease onto a public road, or public place, or into a stormwater drain;
 - (e) ensure that no smoke, fumes or other substance, odours, or noise emanating from his or her activities associated with informal trading causes pollution of any kind;
 - (f) carry on business in a manner that does not cause a threat to public health or public safety; and
 - (g) at the request of an authorised official of the municipality, move or remove any object so that the area or informal trading site from which informal trading is conducted may be cleaned.
- (2) A certificate of acceptability, as contemplated in Regulations Governing General Hygiene Requirements for Food Premises, GN R638 of 22 June 2018, must first be obtained from the Cape Winelands District Municipality where food, irrespective of where such food was prepared, is sold or handled in an informal trading bay.

Temporary relocation

- 27.** (1) An informal trader must, at the request of an authorised official or a service provider appointed by the municipality, move his or her goods so as to permit the carrying out of any work in relation to a public road, public place or any work.
- (2) No compensation is payable by the municipality to any informal trader as a result of the temporary relocation of informal trading as contemplated in subsection (1).

Special events

- 28.** (1) The municipality may, on reasonable notice, prohibit or restrict informal trading for the duration of a special event and within a prescribed area, notwithstanding the provisions of any informal trading policy or any informal trading permit.
- (2) No compensation is payable by the municipality to any informal trader as a result of the prohibition or restriction of informal trading as contemplated in subsection (1).

Obligation of owners on non-municipal property

29. An owner of non-municipal property must –

- (a) ensure that any informal trading taking place on his or her property complies with this by-law and any other relevant legislation;
- (b) permit any authorised official access to his or her property for the purpose of ensuring compliance with this by-law;
- (c) ensure, at the owner's cost, that sufficient services are provided to maintain acceptable hygienic conditions in respect of the informal trading; and
- (d) ensure written approval or consent from all neighbours surrounding the immediate property.

CHAPTER 5 ENFORCEMENT

Removal and impoundment

30. (1) An authorised official may remove and impound any goods of an informal trader that he or she reasonably suspects is being used, has been used or is intended to be used for or in connection with informal trading that is in contravention of this by-law or any other applicable law, or in the event of a trader continuing or repeating a contravention in respect of which one or more notices have been issued to that trader.
- (2) The removal and impoundment of goods in terms of subsection (1) may be carried out irrespective of whether or not such goods are in the possession or under the control of any third party at the time.
- (3) Any authorised official who removes and impounds goods in terms of subsection (1) must, except where goods have been left or abandoned, issue the informal trader a receipt that –
- (a) captures the full name, identity number and contact details of the trader;
 - (b) contains an acknowledgement signed or marked by the informal trader confirming that the contents of the receipt are correct;
 - (c) itemises the goods to be removed and impounded;
 - (d) provides the address where the impounded goods will be kept;
 - (e) states the period of impoundment;
 - (f) states the terms and conditions that must be met to secure the release of the impounded goods;
 - (g) states the impoundment costs to be paid to secure the release of the impounded goods;
 - (h) states the terms and conditions on which unclaimed goods will be sold or otherwise disposed of; and
 - (i) provides the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which representations must be made.
- (4) If any goods to be impounded are attached to immovable property or a structure, an authorised official may order any person who appears to be in control of the immovable property or structure to remove the goods to be impounded and, if that person refuses or fails to comply, then –
- (a) that person shall be guilty of an offence; and
 - (b) the authorised official may remove the goods himself or herself.
- (5) Goods that have been impounded may be released after –
- (a) proof of ownership in the form of the presentation of the receipt contemplated in subsection (3); and
 - (b) payment of the impoundment fee is received.
- (6) (1) The municipality may at any time after the impoundment sell, destroy or otherwise dispose of –

- (a) impounded perishable goods if the goods represent or might represent a health risk or a nuisance; and
 - (b) foodstuffs that are unfit for human consumption, provided that notice has been served on the informal trader concerned, advising him or her –
 - (i) that his/her impounded goods are to be sold, destroyed or disposed of;
 - (ii) of the time of such sale, destruction or disposal; and
 - (iii) of the reasons for such sale, destruction or disposal.
- (7) Impounded goods other than perishable goods may be sold by the municipality if the owner does not, or is unable to, pay the impoundment fee within 30 days from the date of impoundment of those goods.
- (8) If impounded goods are sold by the municipality in terms of subsections (6) or (7), and upon the presentation of the receipt contemplated in subsection (3) as proof of ownership, the municipality must pay to the person presenting the inventory the proceeds of the sale less the impoundment fee.
- (9) In the event of the proceeds of any sale of goods contemplated in this section not being sufficient to defray any expenses incurred by the municipality in connection with the removal and impoundment thereof, the trader shall remain liable for the difference.
- (10) If such trader fails to claim such proceeds within 30 days from date on which such property was sold, the proceeds shall be forfeited to the municipality.
- (11) If, in the reasonable opinion of an authorised official, an informal trader is suspected of trading in illegal goods, then those goods may be immediately confiscated and, in the event of such a confiscation, the authorised official must –
- (a) comply with the requirements of this section; and
 - (b) immediately surrender the suspected illegal goods to the possession of the South African Police Service.

Offences

- 31.** (1) A person is guilty of an offence if he or she –
- (a) trades without an informal trading permit;
 - (b) contravenes any provision of this by-law;
 - (c) contravenes any condition on which a permit has been issued to him or her;
 - (d) fails to comply with any lawful instruction given in terms of this by-law;
 - (e) threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this by-law; or
 - (f) deliberately furnishes false or misleading information to an authorised official.
- (2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this by-law, requiring him or her to cease committing such offence, or after he or she has been convicted of such offence.

Penalties

32. (1) Whenever a law enforcement officer finds that any person contravenes any requirement or restriction of this by-law, such law enforcement officer may serve a fine on such a person as approved by the magistrate or notice to appear in court.
- (a) **First offence:** Upon a first contravention of any provision of this by-law, the municipality shall impose a fine in accordance with the prescribed schedule of penalties as determined and approved by the court.
 - (b) **Second offence:** Upon a second contravention of the same provision, a further fine shall be imposed as determined and approved by the court.
 - (c) **Third or subsequent offence:** Upon a third or any subsequent contravention of any provision of this by-law, the offender shall no longer be entitled to discharge liability by payment of a fine and shall be prosecuted in a court of law and will be banned from trading for a maximum period of 24 months.
- (2) Nothing in this section shall be construed as limiting or depriving the municipality of the right to approach the court directly, should the circumstances so warrant in the opinion of the municipality.

CHAPTER 6

MISCELLANEOUS PROVISIONS

Appeals

33. (1) A person whose rights are affected by a decision taken by the municipality in terms of this by-law may appeal against that decision in terms of the appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

Repeal of laws, and savings

34. (1) The Witzenberg Municipality Street Trading By-law gazetted on 16 August 2002 is hereby repealed and replaced by this by-law.
- (2) All permits issued under the Witzenberg Municipality Street Trading By-law published under Municipal Notice 97 of 1995 remain in full force and effect as if the said by-law has not been repealed as contemplated in subsection (1).
- (3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.
- (4) Notwithstanding the enactment of this by-law –
- (a) any declaration of an area within the jurisdiction of the municipality as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the Council adopts an informal trading policy in respect of such area in terms of this by-law;
- (b) where an informal trader had been issued with a permit prior to the enactment of this by-law that permits trading from a particular site, this permit shall comply with the regulations stated in this by-law.

Short title and commencement

35. This by-law is called the Witzenberg Municipality: Informal Trading By-law, 2026 and takes effect on the date on which it is published in the *Provincial Gazette* of the Western Cape.

WITZENBERG MUNISIPALITEIT: VERORDENING OP INFORMELE HANDEL

VERORDENING OP INFORMELE HANDEL

Om voorsiening te maak vir die reg om by informele handel betrokke te raak; om informelehandelsgebiede en informelehandelspersele op munisipale eiendom te vestig; om voorsiening te maak vir die toestaan van handelspermitte om op munisipale eiendom handel te dryf; om informele handel in sekere gebiede te beperk en te verbied; om die optrede van informele handelaars te reguleer; om informele handel op spesiale geleenthede te reguleer; om voorsiening te maak vir maatreëls om gesondheid en veiligheid te verseker; om misdrywe en strafbepalings aan te dui; om voorsiening te maak vir die herroeping van verordeninge; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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AANHEF

NADEMAAL die Raad erkenning gee aan die sleutelrol wat informele handel in armoedeverligting, inkomstegenerering en entrepreneuriese ontwikkeling speel, en veral die positiewe impak wat informele handel op histories benadeelde individue en gemeenskappe het;

NADEMAAL die Raad erkenning gee aan die noodsaaklikheid om 'n ontwikkelingsgerigte benadering met informele handel binne 'n goed bestuurde munisipale gebied te volg. Dit vereis dat die volgende ook in ag geneem moet word in die bestuur van informele handel –

- (a) die bevordering van maatskaplike en ekonomiese ontwikkeling;
- (b) die bevordering van 'n veilige en gesonde omgewing;
- (c) munisipale beplanning;
- (d) die lisensiëring van en beheer oor ondernemings wat voedsel aan die publiek verkoop; en
- (e) die bestuur van openbare plekke en openbare paaie;

NADEMAAL die Raad bevoegdheid het ingevolge Deel B van Bylae 4 en 5 van die Grondwet met betrekking tot aangeleenthede soos die beheer van straathandel, handeldrywing en markte;

EN NADEMAAL die Witzenberg- munisipale Raad bevoegdheid het ingevolge artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, soos gewysig, gelees saam met artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), soos gewysig, om verordeninge in te stel en te administreer vir die doeltreffende administrasie van die aangeleenthede wat die Raad die reg het om te administreer, word die volgende verorden:

HOOFSTUK 1 VERTOLKING

Woordomskrywings

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

“**afgebakende gebied**” ’n handelsruimte wat vir informele handel toegewys en gemerk is.

“**belemmer**” om enigiets te doen wat die vloei van voertuig- of voetgangerverkeer op ’n openbare pad blokkeer of waarskynlik sal blokkeer.

“**dienste**” met betrekking tot ’n informele handelaar onder meer enige voordeel of aanwinst wat deur die handelaar in ruil vir vergoeding of beloning gegee of verskaf word.

“**eenmalige gebeurtenis**” ’n gebeurtenis wat slegs een keer per jaar voorkom.

“**gemagtigde amptenaar**” ’n persoon wat gemagtig is om die bepalings van hierdie verordening te implementeer, insluitend, maar nie beperk nie tot:

- (a) vredesbeamptes soos bedoel in artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977);
- (b) ’n verkeersbeampte aangestel ingevolge artikel 3A van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);
- (c) ’n lid van die diens soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995); of
- (d) sodanige werknemers, gedelegeerde genomineerdes, verteenwoordigers en diensverskaffers van die munisipaliteit wat spesifiek in hierdie verband deur die munisipaliteit gemagtig is: met dien verstande dat vir die doeleindes van deursoeking en beslagneming, waar sodanige persoon nie ’n vredesbeampte is nie, sodanige persoon deur ’n vredesbeampte vergesel moet word.

“**gemagtigde handelaarverteenwoordiger**” ’n individu aan wie die regsbevoegdheid verleen is om namens ’n handelaar met ’n geldige informelehandelaarspermit op te tree. Hierdie persoon is gemagtig om amptelike handelsake soos handeldrywing en die ondertekening van dokumente by ’n afgebakende stalletjie te hanteer. Hierdie persoon moet voldoen aan dieselfde regulasies en stipulasies as die houer van die informelehandelaarspermit.

“**goedere**” enige roerende eiendom wat deur ’n persoon op ’n openbare of privaat plek of openbare pad vertoon of gehou word met die doel om in verband met die bedryf van die besigheid van ’n informele handelaar gebruik te word, en sluit handelsware, artikels, houers, voertuie of strukture in.

“**informele handel**” die handel in goedere en dienste in die informele sektor deur ’n informele handelaar op ’n openbare pad of ’n openbare of privaat plek, ongeag of dit in ’n residensiële gebied, dorp of informele nedersetting is en wat gewoonlik, sonder beperking, die volgende soorte handel insluit:

- (a) straathandel;
- (b) handel op openbare plekke;
- (c) mobiele handel, soos karavane, ligte afleweringvoertuie en sleepwaens;
- (d) handel vanuit kiosks, stalletjies of houers;
- (e) handel tydens spesiale geleenthede;
- (f) handel by markte.

“informele handelaar” ’n persoon wat die besigheid van straatverkoper of smous bedryf en sluit enige gemagtigde handelaarvertegenwoordiger of ’n persoon of ’n onderneming in wat nie ingevolge die korporatiewe wette van Suid-Afrika geregistreer of geïnkorporeer is nie en wat by informele handel betrokke is.

“mark” ’n gebied binne ’n informelehandelsgebied wat op ’n informelehandelsplan as ’n mark afgebaken is en wat op ’n gekoördineerde wyse bestuur word.

“motorvoertuig” enige selfaangedrewe voertuig soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996).

“Munisipale Bestuurder” ’n persoon aangestel as die hoof van administrasie van die munisipale Raad ingevolge artikel 54A van die Wet op Munisipale Stelsels.

“munisipale eiendom” eiendom in besit van, gehuur deur of onder die beheer van die munisipaliteit; **“munisipale Raad”** of **“Raad”** die Witzenberg- munisipale Raad, ’n munisipale raad soos na verwys in artikel 157(1) van die Grondwet.

“munisipaliteit” die Witzenberg Munisipaliteit, ’n kategorie B-munisipaliteit soos bedoel ingevolge artikel 155(1) van die Grondwet van Suid-Afrika.

“nasionale monument” enige van die “openbare monumente en gedenktekens” soos omskryf ingevolge artikel 2 van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999).

“niemunisipale eiendom” eiendom wat binne die regsgebied van die munisipaliteit geleë is, maar wat nie deur die munisipaliteit besit, gehuur of beheer word nie.

“onwettige goedere” –

- (a) goedere wat onwettig is om te verkoop of te koop, insluitend, maar nie beperk nie tot nagemaakte goedere soos omskryf in die Wet op Nagemaakte Goedere, 1997 (Wet 37 van 1997);
- (b) goedere wat op ’n onregmatige wyse gekoop of verkoop word; of
- (c) goedere wat op ’n onregmatige wyse verkry is.

“oorlas” enige handeling of optrede deur enige persoon, of die gebruik, aanhou, produsering, neweprodusering, verskuiling of vervoer, na die gelang van die geval, van enige item, middel, stof, materiaal, toerusting, gereedskap, aanleg of dier, of om enige situasie of toestand in of op privaat eiendom of in op ’n openbare plek of op enige plek in die munisipaliteit te veroorsaak of te skep wat skade, ergernis, ongemak of ongerief veroorsaak vir die publiek of vir enige persoon, in die uitvoering van regte algemeen tot alle persone of van enige persoon.

“openbare pad” enige pad, straat of deurgang of enige ander plek (hetsy ’n deurgang of nie) wat gewoonlik deur die publiek of ’n deel daarvan gebruik word of waartoe die publiek of enige deel daarvan ’n reg op toegang het, en sluit in –

- (a) die rand van enige sodanige pad, straat of deurgang;
- (b) enige brug, pont of drif waaroor enige sodanige pad, straat of deurgang loop; en
- (c) enige ander werk of voorwerp wat ’n deel uitmaak van of in verband met of behorende aan sodanige pad, straat of deurgang.

“openbare parkeerplek” enige ruimte op ’n openbare plek wat deur die munisipaliteit aangewys is as ’n plek waar ’n motorvoertuig kan parkeer.

“openbare plek” –

- (a) 'n openbare pad;
- (b) 'n openbare parkeerplek; en
- (c) enige plein, park, ontspanningsterrein, sportterrein, winkelsentrum, munisipale begraafplaas, oop ruimte of onbeboude munisipale grond wat in die munisipaliteit berus, of ten opsigte waarvan die publiek gebruiksreg het, of wat aangedui word op 'n algemene plan van 'n dorpsgebied wat by 'n aktekantoor of 'n Landmeter-generaal se kantoor op rekord is as 'n plek wat verskaf is vir die gebruik van die publiek of die eienaars van erwe in sodanige dorpsgebied.

“padrand” daardie gedeelte van 'n pad, straat of deurgang, insluitend die sygaardjie, wat nie die ryvlak op die skouer is nie, soos omskryf in afdeling 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 of 1996).

“park” 'n tuin of park waartoe die publiek toegangsreg het, en “tuin” dra dieselfde betekenis.

“permithouer” 'n informele handelaar aan wie 'n permit deur die munisipaliteit toegestaan is om informele handel vanaf 'n afgebakende perseel geleë in 'n informelehandelsgebied op munisipale eiendom te dryf.

“prysgegewe goedere”:

- (a) goedere wat op 'n openbare pad of openbare plek gevind word en klaarblyklik nie onder die beheer van enige persoon is nie;
- (b) goedere wat aan die einde van 'n besigheidsdag op 'n openbare pad of openbare plek gevind word en klaarblyklik nie onder die beheer van enige persoon is nie;
- (c) goedere wat in 'n mangat, stormwaterdrein, openbare toilet, taxistaanplek of in enige boom of struik gevind word en waar geen bewyse beskikbaar is dat dit aan 'n spesifieke persoon behoort nie.

“randsteenlyn” die grens tussen die skouer en die padrand of, in die afwesigheid van 'n skouer, die deel tussen die rand van die ryvlak en die padrand, soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996).

“rommel” onder meer enige houër, verpakking of ander afval wat deur 'n informele handelaar of deur sy of haar klante weggegooi of agtergelaat is.

“ryvlak” daardie gedeelte van 'n pad, straat of deurgang wat opgeknop, gebou of bedoel is vir voertuigverkeer en wat tussen die rande van die ryvlak geleë is, soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996).

“skouer” daardie gedeelte van die pad, straat of deurgang tussen die padrand van die ryvlak en die randsteenlyn, soos omskryf in die Nasionale Padverkeerswet, 1996 (Wet 93 of 1996).

“skutgelde” die toepaslike tariefheffing, soos van tyd tot tyd deur die Raad bepaal, vir die skutting en berging van goedere wat ingevolge hierdie verordening geskut is, asook die wegdoening of vrystelling van die geskutte goedere en enige gepaardgaande koste;

“spesiale geleentheid” onder meer geleenthede wat die volgende insluit, maar nie daartoe beperk is nie: konserte, parades, sirkusse, skoue, feeste, blokpartytjies, gemeenskapsgeleenthede, wedrenne en fietsrenne.

“sypaadjie” daardie gedeelte van 'n padrand wat bedoel is vir die uitsluitlike gebruik van voetgangers, soos omskryf in afdeling 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 of 1996).

“verkoop” onder meer –

- (a) ruilhandel, verruiling of verhuring;
 - (b) uitstalling, blootstelling, aanbieding of voorbereiding om te verkoop;
 - (c) berging op 'n openbare pad of op 'n openbare plek met die doel om te verkoop; en
 - (d) verskaffing van 'n diens teen beloning,
- en “verkope” dra 'n ooreenstemmende betekenis.

“voedingsmiddels” voedsel wat bedoel is vir menslike verbruik soos omskryf in artikel 1 van die Wet of Voedingsmiddels, Skoonheidsmiddels en Ontsmettingsmiddels, 1972 (Wet 54 van 1972).

“wet” die Wet op Besighede, 1991 (Wet 71 van 1991).

Vertolking van verordening

2. Indien daar 'n teenstrydigheid is in die vertolking tussen die Engelse weergawe van hierdie verordening en 'n vertaalde weergawe, geniet die Engelse weergawe voorrang.

Doelwit van verordening

3. Die doelwit van hierdie verordening is om informele handel te reguleer op 'n wyse wat –
 - (a) verseker dat informele handel op 'n ordelike wyse en in afgebakende gebiede plaasvind;
 - (b) toegang tot werk- en entrepreneuriese geleenthede in die informelehandelsektor moontlik maak;
 - (c) die verhouding tussen die informelehandelsektor en die formelehandelsektor harmoniseer;
 - (d) die gesondheid en veiligheid van die publiek verseker; en
 - (e) inklusiewe openbare deelname verseker wat erkenning gee aan, en die regte beskerm van, almal wat deur informele handelaars geraak word.

Toepassing van verordening

4. Hierdie verordening is van toepassing op alle gebiede wat onder die regsgebied van die Witzenberg Munisipaliteit val en is bindend op alle persone in die mate wat dit op hulle betrekking het.

HOOFSTUK 2

VRYHEID OM INFORMEEL HANDEL TE DRYF

Vryheid om by informele handel betrokke te wees

5. Onderworpe aan voldoening aan die bepalings van –
- (a) hierdie verordening;
 - (b) enige ander toepaslike wet;
 - (c) enige toepaslike informelehandelspermit; en
 - (d) munisipale reëls vir informele handel of beleid oor die bestuur van handel.

Enige kwalifiserende persoon wat wettig in Suid-Afrika woon en wat binne die omskrywing van informele handelaar val en wat nie voorheen verbied is om in Witzenberg Munisipaliteit handel te dryf nie, word toegelaat om aansoek te doen om 'n informelehandelspermit binne die afgebakende gebied wat binne die regsgebied van die munisipaliteit val.

HOOFSTUK 3 INFORMELE HANDEL OP MUNISIPALE EIENDOM

Handelsgebiede en handelspersele

6. (1) Die Raad kan by besluit –
- (a) informelehandelsgebiede op munisipale eiendom opsy sit binne enige gebied wat as 'n informelehandelsgebied aangewys is, en
 - (b) informelehandelspersele binne informelehandelsgebiede afbaken.
- (2) Die Raad kan op billike en geregverdigde gronde by besluit –
- (a) enige informelehandelsgebied of informelehandelsperseel uitbrei, skuif, verklein, vestig of ontbind.
- (3) Geen persoon word toegelaat om op munisipale eiendom handel te dryf as dit nie as 'n afgebakende informelehandelsgebied deur die Raad se handelsure en ander voorwaardes geag word nie.

Handelsure en ander voorwaardes

7. (1) Die munisipaliteit kan, wanneer informelehandelsgebiede opsy gesit word of op enige tydstip daarna, met billike kennisgewing –
- (a) handelsdae- en ure; en
 - (b) enige ander voorwaardes oplê.
- (2) Die handelsdae sal soos volg wees:
- Maandae tot Saterdag met handelsure soos deur die munisipaliteit bepaal;
 - handel op Sondag word nie toegelaat nie, behalwe onder spesiale omstandighede. 'n Spesiale permit wat handel op Sondag vir die spesifieke Sondag toelaat, sal van toepassing wees en die aansoek sal deur administrasie geëvalueer word. Bykomende koste vir handel op die spesifieke Sondag sal van toepassing wees. Die aansoek om die spesiale handel op Sondag moet minstens 7 werksdae voor die beoogde Sondag deur die munisipaliteit ontvang word. Handelsure sal deur die munisipaliteit bepaal word.
- (3) Handelsure sal deur die Kantoor van die Munisipale Bestuurder bepaal word en is onderworpe aan verandering op grond van bedryfsvereistes.

Verbod: informele handel op munisipale eiendom sonder permit

8. Geen persoon mag sonder 'n geldige informelehandelspermit vanaf die munisipaliteit informele handel op munisipale eiendom dryf nie.
- a. Slegs die permithouer of sy/haar gemagtigde handelaarverteenwoordiger mag met die permit handel dryf.
9. **Informelehandelspermitte**
- (1) (a) Geen persoon mag sonder 'n geldige permit wat deur die munisipaliteit uitgereik is, informele handel op munisipale eiendom dryf nie. Daar word van aansoekers vereis om elke boekjaar 'n aansoek in te dien.
- (b) Die aansoektydperk sal elke jaar van 1 Junie tot 30 Junie beskikbaar wees. Indien handelaarruimte ná 30 Junie nog beskikbaar is, sal

aanzoekers steeds toegelaat word om aansoek te doen en die toepaslike tariewe sal ingevolge die Raad se goedgekeurde tariewe betaalbaar wees. Daar moet om permitte aansoek gedoen word op die wyse wat jaarliks deur die munisipaliteit bepaal word.

- (2) Die munisipaliteit moet enige aansoek om 'n informelehandelspermit oorweeg en –
 - (a) voorkeur sal gegee word aan inwoners van die Witzenberg- munisipale gebied.
 - (b) kan dit onderworpe aan enige voorwaardes goedkeur;
 - (c) kan versoek dat bykomende inligting binne 'n gespesifiseerde tydraamwerk verskaf word; of
 - (d) kan die aansoek afkeur en redes daarvoor verskaf.

- (3) Wanneer 'n informelehandelspermit uitgereik word, kan die munisipaliteit enige billike voorwaardes opleë, insluitend, maar nie beperk nie tot –
 - (a) minimum of maksimum handelsure;
 - (b) beperkings met betrekking tot die soort goedere of dienste waarmee die permithouer toegelaat word om handel te dryf;
 - (c) 'n vervaldatum vir die permit;
 - (d) voorwaardes met betrekking tot die soort struktuur of strukture, indien enige, wat op 'n informelehandelsperseel of in 'n informelehandelsgebied opgerig kan word; en
 - (e) dae waarop handel gedryf kan word.

- (4) 'n Informelehandelspermit –
 - (a) moet verwys na 'n gespesifiseerde handelsplek, soos geïdentifiseer deur die toegewese nommer, waarop die permit betrekking het;
 - (b) toon slegs die permithouer en sy of haar gemagtigde handelaar-vertegenwoordiger, die reg om daardie handelsplek te gebruik behoudens die voorwaardes van die permit, en die bepalings van enige ander voorwaardes wat ingevolge hierdie verordening opgelê word; en
 - (c) moet te alle tye by die plek van handel gehou word en moet op aanvraag deur 'n gemagtigde amptenaar getoon word.

Gelde vir informele handel

10. (1) Die munisipaliteit is daarop geregtig om die volgende te hef:
 - (a) aansoekgelde van enige persoon wat om 'n informelehandelspermit aansoek doen, ná indiening van elke aansoek om 'n informelehandelspermit;
 - (b) verskillende handelsgelde vir bedekte, oop afgebakende ruimtes en ruimtes vir voedselsleepwaens; en
 - (c) bykomende gelde of 'n tarief ten opsigte van bykomende koste aangaan of dienste verskaf deur die munisipaliteit, soos vir handel op Sondae;

- (2) In die geval waar nuwe bedekte strukture gedurende 'n boekjaar op bestaande afgebakende ruimtes opgerig word, kan die munisipaliteit na eie goeddunke besluit om nie 'n tarief vir bedekte ruimtes vir die oorblywende permittermyn van die huidige permithouer te hef nie. In so 'n geval moet die tarief vir bedekte ruimtes vanaf die volgende boekjaar toegepas en gehef word.

- (3) Ingeval die aansoek onsuksesvol is en/of teruggetrek word, sal aansoekgelde nie aan die aansoeker terugbetaal word nie.
- (4) Handelsgelde is nie terugbetaalbaar nie.

Aanstelling van gemagtigde handelaarverteenvoordiger

11. (1) Enige permithouer sal toegelaat word om 'n verteenwoordiger aan te stel om ingevolge 'n permit, uitgereik deur die munisipaliteit, handel te dryf, maar dit is onderworpe aan voorafkennisgewing aan die munisipaliteit en volgens bepalinge en voorwaardes wat deur die munisipaliteit neergelê word.
- (2) Alle bepalinge van hierdie verordening sal van toepassing wees op die verteenwoordiger aangestel deur die permithouer, soos in die geval van die permithouer.
- (3) Dit is die permithouer se verantwoordelikheid om die munisipaliteit in kennis te stel van enige verteenwoordiger, met volledige besonderhede soos vereis deur die munisipaliteit. Die munisipaliteit sal die verteenwoordiger se besonderhede op die permit insluit.
- (4) Indien 'n gemagtigde handelaarverteenvoordiger vervang moet word, moet daar om 'n nuwe informelehandelspermit aansoek gedoen word om die verteenwoordiger se besonderhede op te dateer. Pro rata-aansoekgelde ingevolge die Raad se tariewe kan gehef word.

Oordrag van informelehandelspermitte

12. (1) (a) Permitte is nie oordraagbaar nie, behalwe in die geval van die afsterwe of ernstige siekte van die permithouer waar 'n permit met die skriftelike goedkeuring van die munisipaliteit permanent oorgedra kan word aan 'n afhanklike of 'n assistent wat namens die afhanklike optree, welke persoon sal voortgaan met handeldrywing totdat die permit nie meer geldig is nie;
- (b) 'n Permit kan, met die skriftelike goedkeuring van die munisipaliteit, vir 'n tydperk van hoogstens 3 maande tydelik oorgedra word aan 'n afhanklike of, waar daar geen afhanklike is nie, aan 'n individu wat deur die permithouer genomineer word, om redes soos siekte, swangerskap, gesinsverantwoordelikheid, godsdienstige of kulturele aangeleentheid of enige ander persoonlike aangeleentheid, met dien verstande dat die munisipaliteit voorsien word van 'n beëdigde verklaring met die aard en tydperk waarvoor die permithouer die permitoordrag benodig.
- (2) Geen onderverhuring van stalletjies vir informele handel word toegelaat nie.

Pligte van 'n informele handelaar

13. (1) 'n Straathandelaar moet:
 - (a) persoonlik op die toegewese perseel handel dryf;
 - (b) wanneer hy of sy haar besigheid vir die dag afhandel, sy of haar eiendom verwyder na 'n plek wat nie deel van 'n openbare pad of openbare gerief is nie, behalwe as dit geberg word in enige struktuur wat deur die munisipaliteit goedgekeur is en toegelaat word;
 - (c) wanneer hy of sy versoek word deur 'n amptenaar van die munisipaliteit of 'n persoon wat gemagtig is om munisipale dienste te verskaf, sy of

haar eiendom skuif sodat die amptenaar of ander persoon enige werk in verband met 'n openbare pad, openbare gerief of diens kan verrig;

- (d) die gebied of perseel wat deur hom of haar geokkupeer word, in 'n skoon en higiëniese toestand hou;
 - (e) verseker dat die gebied te alle tye vry van rommel is en moet, wanneer sy of haar besigheid vir die dag afgehandel word, wegdoen met die rommel wat deur sy of haar besigheid gegenereer is in houters wat vir die publiek deur die munisipaliteit verskaf is.
 - (f) op versoek van 'n amptenaar van die munisipaliteit sy of haar eiendom skuif sodat die gebied waar hy of sy handel dryf, skoongemaak kan word; en
 - (g) verseker dat die gebied om die stalletjie en/of handelaar se infrastruktuur nie op enige wyse onooglik vir die publiek is nie.
- (2) Die munisipaliteit behou die reg voor om verdere pligte ten opsigte van die handelspermit op te lê.

Opheffing en opskorting van informelehandelspermitte

14. (1) Die munisipaliteit kan, binne 2 dae en nadat 'n geleentheid aan die informele handelaar gegee is om skriftelike verhoë te rig, 'n informelehandelspermit herroep of opskort as die informele handelaar –
- (a) enige voorwaardes van sy of haar informelehandelspermit oortree het;
 - (b) die bepalings van hierdie verordening of enige ander wet oortree het;
 - (c) skuldig bevind word aan handel in onwettige goedere of die onwettige lewering van 'n diens;
 - (d) daaraan skuldig is dat hy of sy opsetlik verkeerde inligting aan die munisipaliteit verskaf het toe hy of sy versoek is om daardie inligting te verskaf.
- (2) 'n Permithouer moet die permit onmiddellik aan die munisipaliteit terugbesorg wanneer –
- (a) die munisipaliteit die permit herroep;
 - (b) die permithouer toestemming geweier word om die permit oor te dra;
 - (c) die permithouer vir 'n tydperk van 2 maande of meer ophou om op die afgebakende ruimte handel te dryf;
 - (d) die permithouer voor die vervaldatum nie meer as 'n informele handelaar op die betrokke informelehandelsperseel handel wil dryf nie;
 - (e) die permithouer vir 'n tydperk van 2 maande nie 'n tweede afgebakende stalletjie gebruik het nie, wat kan voorstel dat ander handelaar-mededinging geblokkeer word deur 'n stalletjie se ruimte langs hul reeds afgebakende stalletjie se ruimte oop te hou.

Tydlike hervestiging en opskorting

15. (1) Die munisipaliteit kan na billike kennisgewing aan 'n informele handelaar, tydelik of permanent –
- (a) 'n permithouer hervestig;
 - (b) die geldigheid van 'n permit opskort; of

- (c) informele handel in 'n informelehandelsgebied of op 'n spesifieke handelsperseel of -persele opskort
indien die voortsetting van handel vanaf 'n informelehandelsgebied of -perseel onprakties of ongerieflik is vir die aktiwiteite van die munisipaliteit, enige regeringsfeer en enige openbare en privaat entiteit, insluitend hul onderskeie diensverskaffers.
- (2) Geen vergoeding is deur die munisipaliteit aan 'n informele handelaar betaalbaar ingeval –
- (a) die handelaar hervestig word nie;
 - (b) die permit opgeskort of herroep word nie; of
 - (c) handel vanaf 'n spesifieke informelehandelsgebied of -perseel opgeskort of verbied word nie, ongeag of 'n alternatiewe perseel aan die permithouer verskaf word of nie.

HOOFSTUK 4

BEPERKINGS EN VERBODINGS OP INFORMELE HANDEL

Beperkte of verbode gebiede

16. (1) Die Raad kan by besluit enige plek in sy regsgebied verklaar as 'n gebied waarin informele handel beperk of verbied word.
- (2) Die Raad kan met die beperking van of verbod op informele handel plekke aandui waar –
- (a) informele handel verbied word; of
 - (b) informele handel in gespesifiseerde goedere of dienste verbied word.
- (3) Die munisipaliteit moet tekens, merke of ander toestelle oprig om die grense aan te dui van –
- (a) gebiede waar informele handel beperk of verbode is (en die aard van enige beperking); en
 - (b) informelehandelsgebiede en informelehandelspersele.
- (4) Enige teken wat ingevolge hierdie verordening of enige ander wet opgerig word, dien as voldoende kennisgewing aan 'n informele handelaar dat informele handel in daardie gebied verbode of beperk is.

Beperkte optrede: oprigting van strukture

17. (1) 'n Informele handelaar mag geen struktuur, hetsy roerend of onroerend, oprig buiten dié wat deur die munisipaliteit goedgekeur is nie.

Beperkte optrede: oornaggebruik van die perseel

18. (1) 'n Informele handelaar moet nie oornag slaap op die plek waar hy of sy informele handel dryf nie.
- (2) 'n Informele handelaar moet nie na afhandeling van die dag se besigheid sy of haar goedere of handelstruktuur agterlaat by 'n informelehandelsperseel wat deel is van 'n openbare pad of openbare plek nie.

Beperkte optrede: ligging waar handel plaasvind

19. (1) 'n Informele handelaar moet nie –
- (a) sy of haar goedere op 'n openbare pad of openbare plek plaas nie, met die uitsondering van sy of haar motorvoertuig of sleepwa waaruit informele handel gedryf word: met dien verstande dat sodanige motorvoertuig of sleepwa nie die beweging van voetganger- of voertuigverkeer belemmer nie en voldoen aan die bepalings van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);
 - (b) toelaat dat sy of haar goedere of plek van aktiwiteit 'n oppervlakte van 'n openbare pad of 'n openbare plek dek wat –
 - (i) meer as 6 vierkante meter in oppervlakte is nie; of

- (ii) meer as 3 meter lank is nie, tensy anders goedgekeur deur die munisipaliteit, op 'n spesiaal afgebakende informelehandelsruimte vir sleepwaens;
 - (c) handel dryf op 'n sypaadjie of padrand waar die –
 - (i) breedte van die sypaadjie of padrand minder as 3 meter is nie;
 - (ii) sypaadjie of padrand langs 'n openbare gebou, 'n plek van aanbidding, soos 'n kerk, sinagoge of moskee, of 'n nasionale monument is nie; of
 - (iii) sypaadjie aangrensend is aan 'n gebou waarin besigheid bedryf word deur enige persoon wat goedere van dieselfde of van 'n soortgelyke aard verkoop as die goedere wat deur die handelaar op sodanige sypaadjie verkoop word indien daardie persoon beswaar maak teen informele handel wat op daardie ligging plaasvind nie;
 - (d) handel dryf op die helfte van 'n openbare pad wat langs 'n gebou is wat vir residensiële doeleindes gebruik word indien die eienaar of okkupeerder van daardie gebou beswaar maak teen informele handel wat op daardie ligging plaasvind nie;
 - (e) handel dryf op enige sypaadjie wat direk voor 'n besigheid of winkel is nie, ongeag of dit met of sonder die toestemming van die betrokke winkeleienaar is;
 - (f) enige padverkeerstekens wat vertoon word ingevolge die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996) of enige merk, kennisgewing of teken wat vertoon of ingevolge 'n verordening aangebring word, belemmer nie;
 - (g) voertuigverkeer belemmer nie;
 - (h) toegang tot 'n voetgangeroorgang, voetganger-arkade of winkelsentrum belemmer nie;
 - (i) toegang tot 'n voertuig belemmer nie;
 - (j) toegang tot vullisdromme of ander fasiliteite bedoel vir die gebruik van die publiek belemmer nie;
 - (k) toegang tot 'n outomatiese tellermasjien belemmer nie;
 - (l) die uitsig van 'n kringtelevisiecamera (CCTV) belemmer nie;
 - (m) toegang tot parkering of laaiplekke of ander fasiliteite vir voertuigverkeer beperk nie;
 - (n) binne 5 meter van 'n kruising of brandkraan of enige ander brandbestrydings-toerusting handel dryf nie; of
 - (o) in 'n park handel dryf nie, tensy sodanige gebied deur die Raad as 'n informelehandelsgebied verklaar is.
- (2) 'n Informele handelaar moet met betrekking tot enige sypaadjie 'n onbelemmerde ruimte vir voetgangerverkeer laat van nie minder nie as –
- (a) 2 meter breed, gemeet vanaf enige aangrensende gebou tot sy of haar goedere of oppervlakte van aktiwiteit; en
 - (b) 0,5 meter breed, gemeet vanaf die randsteenlyn tot sy of haar goedere of oppervlakte van aktiwiteit.

Beperkte optrede: uitstalling en berging van goedere

20. (1) 'n Informele handelaar moet nie –

- (a) sy of haar goedere plaas of stapel op 'n wyse wat 'n gevaar vir enige persoon of eiendom sal inhou of waarskynlik enige persoon sal beseer of skade aan enige eiendom sal veroorsaak nie;

- (b) sy of haar goedere op of in 'n gebou uitstal nie, met of sonder die toestemming van die eienaar, wettige okkupeerder of persoon in beheer van sodanige gebou of eiendom;
- (c) inmeng met die vermoë van 'n persoon wat 'n sypaadjie gebruik om die goedere wat in 'n winkelvenster vertoon word, te sien nie of die aansig van sulke goedere verberg nie;
- (d) enige goedere wat aan die einde van die dag se besigheid nie maklik na 'n bergingsplek verskuif kan word nie, op 'n openbare pad of openbare plek plaas nie; en
- (e) sy of haar goedere of rommel in 'n mangat, stormwaterdrein, openbare toilet of in 'n boom berg of weggooi nie.

Beperkte optrede: brande

21. (1) 'n Informele handelaar moet nie op enige afgebakende of nieafgebakende plek hoegenaamd 'n vuur maak om voedingsmiddels voor te berei deur 'n oopvlamvuur te gebruik nie; gastoerusting moet gebruik word en 'n toepaslike brandblusser moet byderhand wees.

Beperkte optrede: rommel

22. (1) 'n Informele handelaar moet rommel wat deur sy of haar informele handel gegenerer word, weggooi in 'n vullishouer wat deur die munisipaliteit goedgekeur of voorsien is.
- (2) 'n Informele handelaar moet nie, behalwe in 'n vullishouer wat deur die munisipaliteit goedgekeur of voorsien is, op enige grond of perseel of enige openbare pad of openbare plek of op enige openbare eiendom enige rommel ophoop, stort, berg of neersit of veroorsaak of toelaat dat dit opgehoop, gestort, geberg of neergesit word nie.

Beperkte optrede: aanhegsels

23. 'n Informele handelaar moet nie enige van sy of haar goedere op enige manier heg aan enige gebou, struktuur, sypaadjie, boom, parkeermeter, lamp, paal, kragpaal, telefoonhokkie, posbus, verkeersteken, bank of enige ander straatmeubels in of op 'n openbare pad of openbare plek nie.

Beperkte optrede: alkohol, klanktoestelle en elektrisiteit

24. 'n Informele handelaar moet nie –
- (a) alkoholiese produkte verkoop of bevorder nie;
 - (b) voorskrif- of verwante farmaseutiese medikasies verkoop of bevorder nie;
 - (c) enige onwettige middels of plante verkoop nie;
 - (d) enige onwettige goedere verkoop nie;
 - (e) klokke, toeters, klankversterkers of soortgelyke toestelle gebruik met klank om klante te lok nie; en
 - (f) enige kragtoevoer of 'n kragopwekker gebruik tensy dit uitdruklik deur die munisipaliteit goedgekeur is nie.

Beperkte optrede: algemeen

25. 'n Informele handelaar moet nie informele handel dryf –

- (a) op 'n plek of in 'n gebied wat teenstrydig is met enige verbod of beperking wat deur die munisipaliteit opgelê is nie; of
- (b) op enige wyse wat –
 - (i) veroorsaak dat dit die billike rus en vrede, gerief of gemak en welstand van enige ander persoon ontwig en sodoende 'n oorlas skep nie;
 - (ii) die oppervlak van enige openbare pad of openbare plek of enige openbare of privaat eiendom beskadig of ontsier nie;
 - (iii) 'n verkeers- of gesondheidsgevaar of 'n gesondheidsrisiko skep nie; of
 - (iv) strydig is met enige bepalinge en voorwaardes van sy of haar informelehandelspermit nie.

Omgewingsgesondheid

26. (1) 'n Informele handelaar moet –

- (a) die informelehandelsperseel of -gebied of wat deur hom of haar geokkupeer word vir die doeleindes om informele handel te dryf, in 'n skoon en higiëniese toestand hou;
 - (b) sy of haar goedere in 'n skoon en higiëniese toestand hou;
 - (c) verseker dat, elke dag na afhandeling van besigheid –
 - (i) die informelehandelsperseel of -gebied wat deur hom of haar geokkupeer word vir die doeleindes om informele handel te dryf, vry is van rommel en ander afval; en
 - (ii) al sy of haar goedere van enige openbare pad of openbare plek versamel en verwyder word en in 'n geskikte fasiliteit geberg word;
 - (d) in die loop van die bedryf van sy of haar besigheid die nodige voorsorgmaatreëls tref wat nodig sal wees om die storting van vet, olie of smeersel op 'n openbare pad of openbare plek, of in 'n stormwaterdrein te voorkom;
 - (e) verseker dat geen rook, dampe of ander stowwe, reuke of geraas as gevolg van sy of haar aktiwiteite wat verband hou met informele handel, besoedeling van enige aard veroorsaak nie;
 - (f) sake doen op 'n wyse wat nie 'n bedreiging vir openbare gesondheid of openbare veiligheid inhou nie; en
 - (g) op versoek van 'n gemagtigde amptenaar van die munisipaliteit enige voorwerp skuif of verwyder sodat die informelehandelsgebied of -perseel waarop informele handel gedryf word, skoongemaak kan word.
- (2) Waar voedsel, ongeag waar die voedsel voorberei is, by 'n informelehandelsplek verkoop of hanteer word, moet 'n sertifikaat van aanvaarbaarheid, soos bedoel in die Regulasies insake Algemene Higiënevereistes vir Voedselpersele, GK R638 van 22 Junie 2018, eers vanaf die Kaapse Wynland Distriksmunisipaliteit verkry word.

Tydlike verskuiwing

27. (1) 'n Informele handelaar moet op versoek van 'n gemagtigde amptenaar of 'n diensverskaffer wat deur die munisipaliteit aangestel is, sy of haar goedere skuif sodat enige werk met betrekking tot 'n openbare pad, openbare plek of enige werk uitgevoer kan word.
- (2) Geen vergoeding is deur die munisipaliteit aan enige informele handelaar betaalbaar weens die tydelike verskuiwing van informele handel soos bedoel in subartikel (1) nie.

Spesiale geleentheid

28. (1) Die munisipaliteit kan, met redelike kennisgewing, informele handel verbied of beperk vir die duur van 'n spesiale geleentheid en binne 'n voorgeskrewe gebied, nieteenstaande die bepalings van enige informelehandelsbeleid of enige informelehandelspermit.
- (2) Geen vergoeding is deur die munisipaliteit aan enige informele handelaar betaalbaar weens die verbod of beperking van informele handel soos bedoel in subartikel (1) nie.

Verpligting van eienaars op niemunisipale eiendom

29. 'n Eienaar van niemunisipale eiendom moet –
- (a) verseker dat enige informele handel wat op sy of haar eiendom plaasvind, aan hierdie verordening en enige ander toepaslike wetgewing voldoen;
 - (b) aan enige gemagtigde amptenaar toegang gee tot sy of haar eiendom met die doel om voldoening aan hierdie verordening te verseker;
 - (c) verseker, op die eienaar se koste, dat voldoende dienste verskaf word om aanvaarbare higiëniese toestande ten opsigte van informele handel te handhaaf; en
 - (d) verseker dat skriftelike goedkeuring of toestemming van alle bure in die onmiddellike omgewing van die eiendom verkry word.

HOOFSTUK 5

AFDWINGING

Verwydering en skutting

30. (1) 'n Gemagtigde amptenaar kan enige goedere van 'n informele handelaar wat hy of sy redelikerwys vermoed gebruik word, gebruik is of bedoel is om gebruik te word vir of in verband met informele handel wat strydig is met hierdie verordening of enige ander toepaslike wet, verwyder en skut, of in die geval waar 'n handelaar voortgaan met 'n oortreding of 'n oortreding herhaal ten opsigte waarvan een of meer kennisgewings aan daardie handelaar uitgereik is.
- (2) Die verwydering en skutting van goedere ingevolge subartikel (1) kan uitgevoer word, ongeag of sodanige goedere op daardie tydstip in die besit of onder die beheer van enige derde party is of nie.
- (3) Enige gemagtigde amptenaar wat goedere ingevolge subartikel (1) verwyder of skut, moet, behalwe waar goedere gelaat of prysgegee is, aan die informele handelaar 'n kwitansie uitreik wat –
- (a) die volle naam, identiteitsnommer en kontakbesonderhede van die handelaar aandui;
 - (b) 'n erkenning bevat wat deur die informele handelaar onderteken of gemerk is ter bevestiging dat die inhoud van die kwitansie korrek is;
 - (c) die goedere spesifiseer wat verwyder en geskut sal word;
 - (d) die adres verskaf waar die geskutte goedere gehou sal word;
 - (e) die tydperk van skutting aandui;
 - (f) die bepalinge en voorwaardes aandui waaraan daar voldoen moet word om die vrystelling van die geskutte goedere te verseker;
 - (g) die skutkoste aandui wat betaal moet word om die vrystelling van die geskutte goedere te verseker;
 - (h) die bepalinge en voorwaardes aandui waarvolgens onopgeëiste goedere verkoop of andersins mee weggedoen sal word; en
 - (i) die naam en adres verskaf van 'n munisipale amptenaar waaraan enige vertoë in verband met die skutting gerig kan word, en die datum en tyd waarteen vertoë gerig moet word.
- (4) Indien enige goedere wat geskut moet word aan onroerende eiendom of 'n struktuur geheg is, kan 'n gemagtigde amptenaar enige persoon wat oënskylik in beheer van die onroerende eiendom of struktuur is, gelas om die goedere wat geskut moet word, te verwyder, en indien daardie persoon weier of versuim om te voldoen –
- (a) sal daardie persoon skuldig aan 'n misdryf wees; en
 - (b) kan die gemagtigde amptenaar self die goedere verwyder.
- (5) Goedere wat geskut is, kan vrygestel word na –
- (a) bewys van eienaarskap in die vorm van die voorlegging van die kwitansie bedoel in subartikel (3); en
 - (b) betaling van die skutgelde ontvang is.

- (6) (1) Die munisipaliteit kan enige tyd na die skutting die volgende verkoop, vernietig of andersins daarmee wegdoen –
- (a) geskutte bederfbare goedere as die goedere 'n gesondheidsrisiko of 'n oorlas voorstel of kan voorstel; en
 - (b) voedingsmiddels wat ongeskik vir menslike verbruik is, met dien verstande dat 'n kennisgewing aan die betrokke informele handelaar beteken is wat hom of haar meedeel –
 - (i) dat sy of haar geskutte goedere verkoop, vernietig of weggedoen staan te word;
 - (ii) van die tyd van sodanige verkoop, vernietiging of wegdoening; en
 - (iii) van die redes vir die verkoop, vernietiging of wegdoening.
- (7) Geskutte goedere buiten bederfbare goedere kan deur die munisipaliteit verkoop word indien die eienaar nie binne 30 dae na die datum van skutting van daardie goedere betaal of kan betaal nie.
- (8) Indien geskutte goedere ingevolge subartikel (6) of (7) deur die munisipaliteit verkoop word, en ná die voorlegging van die kwitansie bedoel in subartikel (3) as bewys van eienaarskap, moet die munisipaliteit aan die persoon wat die kwitansie voorlê, die opbrengs van die verkoop minus die skutkoste betaal.
- (9) Ingeval die opbrengs van enige verkoop van goedere bedoel in hierdie artikel nie voldoende is om enige uitgawes te dek wat deur die munisipaliteit in verband met die verwydering en skutting daarvan aangegaan is nie, sal die handelaar vir die verskil aanspreeklik bly.
- (10) Indien sodanige handelaar versuim om sodanige opbrengs binne 30 dae vanaf die datum waarop sodanige eiendom verkoop is, op te eis, sal die opbrengs aan die munisipaliteit prysgegee word.
- (11) Indien 'n gemagtigde amptenaar redelikerwys van mening is dat daar 'n vermoede is dat 'n informele handelaar in onwettige goedere handel dryf, kan daar onmiddellik op daardie goedere beslag gelê word en, in die geval van sodanige beslaglegging, moet die gemagtigde amptenaar –
- (a) aan die vereistes van hierdie artikel voldoen; en
 - (b) die vermoedelike onwettige goedere onmiddellik aan die Suid-Afrikaanse Polisie oorgee.

Misdrywe

31. (1) 'n Persoon is skuldig aan 'n misdryf as hy of sy –
- (a) handel dryf sonder 'n informelehandelspermit;
 - (b) enige bepaling van hierdie verordening oortree;
 - (c) enige bepaling waarvolgens 'n permit aan hom of haar uitgereik is, oortree;
 - (d) versuim of weier om te voldoen aan enige regmatige opdrag wat ingevolge hierdie verordening uitgereik is;
 - (e) enige gemagtigde amptenaar in die uitvoering van sy of haar amptelike pligte of funksies ingevolge of kragtens hierdie verordening bedreig, weerstaan, ontwrig of belemmer; of
 - (f) doelbewus vals of misleidende inligting aan 'n gemagtigde amptenaar verskaf.
- (2) 'n Persoon is skuldig aan 'n voortgesette misdryf as hy of sy voortgaan met 'n misdryf nadat 'n kennisgewing ingevolge hierdie verordening aan hom of haar beteken is wat van hom of haar vereis om sodanige misdryf te staak of nadat hy of sy aan sodanige misdryf skuldig bevind is.

Strafbepalings

32. (1) Indien 'n wetstoepassingsbeampte bevind dat enige persoon enige vereiste of beperking van hierdie verordening oortree, kan sodanige wetstoepassingsbeampte 'n boete aan sodanige persoon oplê, soos goedgekeur deur die landdros, of 'n kennisgewing uitreik om in die hof te verskyn.
- (a) **Eerste oortreding:** Die munisipaliteit sal met die eerste oortreding van enige bepaling van hierdie verordening 'n boete oplê in ooreenstemming met die voorgeskrewe skedule van strafgeld wat deur die hof bepaal en goedgekeur word.
 - (b) **Tweede oortreding:** Met 'n tweede oortreding van dieselfde bepaling, sal 'n verdere boete opgelê word, soos deur die hof bepaal en goedgekeur.
 - (c) **Derde of daaropvolgende oortreding:** Met 'n derde of enige daaropvolgende oortreding van enige bepaling van hierdie verordening, sal die oortreder nie meer geregtig wees om aanspreeklikheid deur die betaling van 'n boete te aanvaar nie, en sal in 'n hof vervolg en verbied word om vir 'n maksimum tydperk van 24 maande handel te dryf.
- (2) Niks in hierdie artikel sal vertolk word as 'n beperking of ontneming van die munisipaliteit se reg om die hof direk te nader nie, indien die omstandighede dit na die mening van die munisipaliteit regverdig.

HOOFSTUK 6

DIVERSE BEPALINGS

Appèlle

33. (1) 'n Persoon wie se regte geraak word deur 'n besluit wat ingevolge hierdie verordening deur die munisipaliteit geneem word, kan teen daardie besluit appèl aanteken ingevolge die bepaling oor appèlle vervat in die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000) deur binne 21 dae van die datum van kennisgewing van die besluit, skriftelike kennisgewing van die appèl en die redes daarvoor aan die Munisipale Bestuurder te gee.

Herroeping van wette, en voorbehoude

34. (1) Die Witzenberg Munisipaliteit Verordening op Straathandel wat op 16 Augustus 2022 uitgevaardig is, word hiermee herroep en deur hierdie verordening vervang.
- (2) Alle permitte wat uitgereik is ingevolge die Witzenberg Munisipaliteit Verordening op Straathandel wat in munisipale kennisgewing 97 van 1995 gepubliseer is, bly in volle krag asof dit nie herroep is soos bedoel in subartikel (1) nie.
- (3) Enige regte wat verleen is of verpligtinge wat opgelê is soos bedoel in die wette waarna in subartikel (2) verwys is, bly van krag asof daardie wette nie herroep is nie.
- (4) Nieteenstaande die bepalings van hierdie verordening –
- (a) bly enige verklaring van 'n gebied binne die regsgebied van die munisipaliteit as 'n gebied waarin die bedryf van die besigheid as straatverkoper of smous beperk of verbied word, geldig tot tyd en wyl die Raad 'n beleid oor informele handel ten opsigte van sodanige gebied aanvaar ingevolge hierdie verordening;
- (b) waar 'n permit voor die uitvaardiging van hierdie verordening aan 'n informele handelaar uitgereik is wat handeldrywing op 'n spesifieke perseel toelaat, sal hierdie permit voldoen aan die regulasies wat in hierdie verordening aangedui word.

Kort titel en inwerkingtreding

35. Hierdie verordening word die Witzenberg Munisipaliteit: Verordening op Informele Handel, 2026 genoem en tree in werking op die datum waarop dit in die *Provinsiale Koerant* van die Wes-Kaap gepubliseer word.

UMTHETHO WOMASIPALA WOKUTHENGISA ESITRATWENI: UMASIPALA WASEWITZENBERG

UMTHETHO WOMASIPALA WOKUTHENGISA ESITRATWENI

Lo mthetho ubonelela ngelungelo lokuthengisa esitratweni, ukumisa iindawo zokuthengisa esitratweni kunye neesayithi zokuthengisa ezitratweni kwiiprophi zomasipala. Lo mthetho ukhuthaza ukuziphilisa, wenza imisebenzi, kwaye unceda abathengisi abasakhulayo bafumane iimvume zokuthengisa kwiindawo ezisemthethweni zokuthengisa kwindawo eyiprophi yomasipala; uthintela walele ukuthengisa esitratweni kwiindawo ezithile; ulawula indlela yokuziphatha kwabathengisi basesitratweni; ulawula ukuthengisa kwasesitratweni ngexesha lemicimbi ekhethekileyo; ubonelela ngeenkqubo zokuqinisekisa ngempilo nokhuseleko; ubonisa amatyala nezohlwayo; ubonelela ngokurhoxiswa kwemithetho yomasipala; khonukuze kubonelelwe ngemiba ehambelana noko.

IZZIQLATHO

ISAPHLUKO 1 UKUTOLIKWA

1. Iinkcazelo
2. Ukutolika komthetho womasipala
3. Iinjongo zomthetho womasipala
4. Ukusetyenziswa kwemithetho yomasipala

ISAPHLUKO 2

INKULULEKO YOKUTHENGISA ESITRATWENI

5. Inkululeko yokuzibandakanya kuthengiso lwasesitratweni

ISAPHLUKO 3

UKUTHENGISA KWASESITRATWENI KWIPROPHATI YOMASIPALA

6. Iindawo kunye neesayithi zokuthengisa
7. Amaxesha kunye neemeko zokuthengisa ezizezinye
8. Ukwalelwa: kokuthengisa kwasesitratweni kwiprophati yomasipala ngaphandle kwemvume
9. Iimvume zokuthengisa esitratweni
10. Iintlawulo zokuthengisa esitratweni
11. Ukonyulwa kummeli ogunyazisiweyo wokuthengisa esitratweni
12. Ukutshintshelwa kweemvume zokuthengisa esitratweni
13. Imisebenzi yomthengisi wasesitratweni
14. Ukurhoxiswa kunye nokunqunyanyiswa kweemvume zokuthengisa esitratweni
15. Ukufuduka okwethutyana kunye nokunqunyanyiswa

ISAPHLUKO 4

UKWALELWA KUNYE NOKUTHINTELWA KOKUTHENGISA ESITRATWENI

16. Iindawo ezingavumelekanga okanye Iindawo ezithintelweyo
17. Izenzo ezingavumelekanga: ukwakhiwa kwezakhiwo
18. Izenzo ezingavumelekanga: ukusebenzisa isayithi ebusuku
19. Izenzo ezingavumelekanga: indawo yokuthengisa
20. Izenzo ezingavumelekanga: ukubonisa kunye nokugcina iimpahla
21. Izenzo ezingavumelekanga: imililo
22. Izenzo ezingavumelekanga: ukulahla izinto ezimdaka
23. Izenzo ezingavumelekanga: ukuncamathelisa izinto
24. Izenzo ezingavumelekanga: utywala, izixhobo ezikhupha isandi kunye nombane
25. Izenzo ezingavumelekanga: gabalala
26. Ezempilo kwimo esingqongileyo
27. Ukuhamba okwethutyana
28. Imicimbi ekhethekileyo
29. Uxanduva lwabaninimhlaba kwiprophati engeyokamasipala

ISAPHLUKO 5 UNYANZELISO

30. Ukususwa nokubanjwa
31. Amatyala
32. Izohlwayo

ISAPHLUKO 6 IZIBONELELO EZOHLUKENEYO

33. Izibheno
34. Ukurhoxiswa kunye nokugcinwa kwemithetho
35. Isihloko esifutshane nokuqalisa ukusebenza

INTSHAYELELO

NJENGOKO iBhunga liyiqonda indima ebalulekileyo edlalwa luthengiso lwasesitratweni ekunciphiseni intlupheko, ukwenza ingeniso kunye nophuhliso loshishino kunye, ngakumbi, kwimpembelelo entle yothengiso lwasesitratweni kubantu nakuluntu olwalucinezelwe;

NJENGOKO iBhunga lisiqonda isidingo sokwamkela indlela yophuhliso kuthengiso lwasesitratweni kwingingqi yomasipala elawulwa kakuhle. Oku kufuna ukuba, ukulawulwa kothengiso lwasesitratweni kuthathelwe ingqalelo oku kulandelayo –

- (a) Ukukhuthaza uphuhliso lwentlalo noqoqosho;
- (b) Ukukhuthaza iukhuseleko kunye nendawo yokusingqongileyo ekhuselekileyo nenempilo;
- (c) Isicwangciso somasipala;
- (d) Ukuvunyelwa nokulawulwa kwemibutho ethengisa ukutya eluntwini; kunye
- (e) Ukuphathwa kweendawo kunye neendlela zoluntu;

NJENGOKO iBhunga linobuchule ngokweCandelo B lweShedyuli4 neyesi5 loMgaqosiseko malunga nemiba enjengolawulo lokuthengisa esitratweni, iintengiso, neemarike;

KWAYE NJENGOKO iBhunga lomasipala waseWitzenberg linemvume ngokwecandelo 156(2) loMgaqosiseko weRiphabhlikhi yoMzantsi, njengoko ulungisiwe, uwufunde necandelo 13 loRhulumente baseKhaya: uMthetho ka2000, weeNkqubo zoMasipala (uMthetho wama32 ka2000), njengoko ulungisiwe, ukwenza kunye nokulawula ukusebenza okusebenzayo kweenkqubo zemithetho yomasipala nenelungelo lokulawula imicimbi, ngokwenza lo mthetho ulandelayo:

ISAPHLUKO 1 UKUTOLIKWA

iinkcazelo

1. Kulo mthetho womasipala, ngaphandle kokuba umxholo ubonisa okunye –

“abameli babathengisi abagunyazisiweyo” bathetha umntu ogunyaziswe ngokusemthethweni ukuba amele umthengisi wasesitratweni onemvume esemthethweni yokuthengisa njengomthengisi wasesitratweni. Lo mntu ugunyazisiwe ukuba ajonge imicimbi enje ngokuthengisa kunye nokutyikitya amaxwebhu kwizitolo ezimiseliweyo. Lo mntu kufuneka athobele imigaqo nemiqathango efanayo naleyo yomntu onemvume yokuthengisa esitratweni.

“ibhunga lomasipala” okanye **“ibhunga”** lithetha ibhunga loMasipala waseWitzenberg, ibhunga lomasipala elichazwe kwicandelo 157(1) loMgaqosiseko.

“Igosha eligunyazisiweyo” lithetha umntu ogunyaziswe ngumasipala ukuba aphonononge, enze, okanye anyanzelise imimiselo yalo mthetho womasipala. Oku kubandakanya abasebenzi abafana namapolisa kamasipala okanye nawuphi na umntu obekwe ngumasipala ukuba enze umsebenzi lowo, kubandakanya kodwa kungaphelelanga apho:

- (a) amagosa oxolo njengoko kuchaziwe kwicandelo lama334 loMthetho ka1977 weNkqubo yoLwaphulo Mthetho (uMthetho wama51 ka1977);
- (b) Igosha lezithuthi eziqhelekileyo elonyulwe phantsi kwecandelo 3A loMthetho ka1996 weZithuthi zeNdlela zeSizwe, 1996 (uMthetho wama93 ka1996);
- (c) Ilungu leNkonzo njengoko kuchaziwe kwicandelo 1 loMthetho ka1995 weNkonzo yamaPolisa aseMzantsi Afrika, (uMthetho wama68 ka1995); okanye
- (d) abo basebenzi, abatyunjwa abagunyazisiweyo, abameli kunye nababoneleli ngeenkonzo bakaMasipala abagunyaziswe ngokukodwa ngumasipala kulo mba: Oku kuthetha ukuba, ukuba umntu ongellio igosa loxolo ngesizathu sokuqhuba uphando uye wathatha iimpahla, kufuneka abe uhamba negosa loxolo ngalo lonke ixesha lo msebenzi usenziwa.

“Iimpahla” zithetha nayiphi na into eshukumayo ebonisiweyo okanye egcinwe ngumntu kwindawo yoluntu okanye kwindawo yabucala okanye kwindlela zoluntu, ezisetyenziswayo okanye ekujoliswe ukuba isetyenziswe ngokunxulumene nokuthengisa esitratweni kwaye oku kuquka iimpahla zokuthengisa, izinto, izikhongozeli, izithuthi okanye izakhiwo.

“Iimpahla ezilahliweyo” zithetha:

- (a) Iimpahla ezifunyenwe kwindlela yoluntu okanye kwindawo yoluntu ezingabonakaliyo ukuba ziphantsi kolawulo lwawo nawuphi na umntu;
- (b) Iimpahla ezifunyenwe endleleni yoluntu okanye kwindawo yoluntu ekupheleni kosuku lokushishina, nebonakala ngathi ayikho phantsi kolawulo lwawo nawuphi na umntu;
- (c) Iimpahla efunyenwe kwindlu yamanzi, kwijelo lamanzi emvula, kwindlu yangasese yoluntu, kwirensi yeeteki okanye kuwo nawuphi na umntu okanye isityalo apho kungekho bungqina bubonisa ukuba yeyomntu othile.

“Iinkonzo”, ngokuphathelele kumthengisi wasesitratweni, oku kubandakanya naluphi na uncedo, inzuzo okanye ilungelo elinikezwe okanye elibonelelwe ngurhwebi lowo ngenxa yentlawulo okanye iwonga.

“liprophati ezingezizo ezikamasipala” nezikummandla wolawulo lwakhe kodwa ezingaphethwanga okanye ezingaqeshwanga ngumasipala.

“Imarike” ithetha indawo ekwindawo yorhwebo olungekho mthethweni emiselwe njengemarike kwisicwangciso sorhwebo olungekho sesikweni, nalapho kulawulwa ngendlela edibeneyo.

“Imoto” ithetha nasiphi na isithuthi esizihambelayo esichazwe kwicandelo 1 loMthetho ka1996 wezoThutho eziNdleleni zikaZwelonke, (uMthetho wama93 ka1996).

“impahla engekho mthethweni” ithetha –

- (a) iimpahla ezingenakuthengiswa okanye zithengwe ngokusemthethweni kubandakanya, kodwa kungaphelelanga, kwizinto zomgunyathi njengoko kucacisiwe kuMthetho ka1997 weMpahla zoMgunyathi (uMthetho wama37 ka1997);
- (b) iimpahla ezithengwe okanye ezithengiswe ngokungekho mthethweni; okanye
- (c) iimpahla ezifunyenwe ngokungekho mthethweni.

“indawo emiselweyo” ithetha indawo emiselweyo/ebekiweyo yokuthengisa esitratweni.

“Indawo yokupaka yoluntu” ithetha nayiphi na indawo ekwindawo yoluntu echongwe ngumasipala ukuba kupakwe kuyo isithuthi.

“indawo yoluntu” ithetha

- (a) indlela yoluntu;
- (b) indawo yokupaka yoluntu; kunye
- (c) Nasiphi na isikwere, ipaki, indawo yolonwabo, ibala lezemidlalo, iziko leevenkile, ingcwaba likamasipala, indawo evulelekileyo, okanye umhlabawoamasipala ongenamuntu osetyenziswayo, ophantsi kolawulo lukaMasipala, okanye ekulowo uluntu lunelungelo lokusebenzisa, okanye obonakaliswe kwisicwangcisoqhingasasedolophini esifakwe kwirejista yamaxwebhu omhlaba okanye kwiOfisi yoMhlalutyi Jikelele njengendawo ebekelwe uluntu okanye abanini beziza kuloo dolophu.

“indlela esecaleni yabahambi ngeenyawo” ithetha isiqingathana sendlela esilungiselelwe ukuhanjwa ngabahambi ngenyawo kuphela, njengoko kuchaziwe kwicandelo 1 loMthetho ka1996 weZithuthi zeNdlela kuZwelonke (uMthetho wama93 ka1996).

“indlela yokuhamba iimoto” ithetha isiqingathana sendlela, isitrato okanye indlela ephambili ephuculiweyo, eyenzelwe izithuthi, nephakathi kwemida yendlela kwindlela yokuhamba iimoto, njengoko kuchaziwe kwicandelo 1 loMthetho ka1996 weZithuthi zeNdlela kuZwelonke (uMthetho wama93 ka1996).

“indlela yoluntu” ithetha nayiphi na indlela, isitrato okanye ndlela okanye nayiphi na enye indawo (nokuba yindlela okanye hayi) eqhele ukusetyenziswa luluntu okanye kulo naliphi na icandelo ekubhekiswa kulo linalo ilungelo lokufikelela, kwaye luiandakanya –

- (a) umda wayo nayiphi na indlela, isitrato okanye indawo eyindlela okanye engeyiyo;
- (b) nayiphi na ibhulorho, isikhitshane okanye ukhukuliseko oluwelwa yiyo nayiphi na indlela enjalo, isitrato okanye indlela ephambili; kunye
- (c) nawuphi na omnye umsebenzi okanye into eyinxalenye, edibene nayo, okanye efumanekak olo hlobo lwindlela, isitrato okanye indlela ephambili.

“Inkunkuma” iquka nasiphi na isikhongozeli, isongelo okanye enye inkunkuma elahlwe okanye eshiywe emva ngumthengisi wasesitratweni okanye abathengi bakhe.

“Intlawulo yokuBanjwa kweMpahla” ithetha intlawulo emiselweyo ebekwe liBhunga loMasipala ngamaxesha ngamaxesha, ehlawulelwa ukubanjwa nokugcinwa kwempahla ebanjwe ngokwalo mthetho womasipala, kunye neendleko zokulahla okanye zokukhulula loo mpahla ibanjweyo, kubandakanya nazo naziphi na iindleko ezinxulumene noko;

“ipaki” ithetha igadi okanye ipaki eyindawo efikelelwa luluntu, kwaye “igadi” ikwanentsingiselo efanayo.

“Iprophati kamasipala” ithetha ipropathi elawulwa, eqeshwe, okanye engaphantsi kolawulo lukamasipala.

“Isikhumbuzo sesizwe” sithetha nasiphi na isikhumbuzo soluntu njengoko kuchaziwe kwicandelo 2 loMthetho ka1999 weziBonelelo zeLifa leMveli leSizwe, (uMthetho wama25 ka1999). Ezi ziza, ezazikho phantsi koMthetho weNHRA, zikhusela izinto zelifa lemveli, amangcwaba, nezikhumbuzo.

“isiphazamiso” sithetha naziphi na izezo, ukuziphatha komntu, okanye ukusetyenziswa, ukugcinwa, ukuveliswa, ukufuywa, okanye ukuthuthwa kwento, isixhobo, isityalo, okanye isilwanyana — nokuba kusemhlabeni wabucala okanye kwindawo yoluntu — okubangela umonakalo, ukucaphukisa, ukukhathaza, okanye ukungonwabi kuluntu okanye nakubani na, ngelixa besenza amalungelo abo afanelekileyo okanye amanye amalungelo aphantsi kwalo mthetho.

“izinto zokutya” kuthetha naziphi na izinto zokutya okanye iziselo ezilungiselelwe ukutyiwa ngabantu, njengoko kuchaziwe kwicandelo loku1 loMthetho ka1972 wezinto Zokutya, izinto zokuThambisa kunye neZibulalantsholongwane, (uMthetho wama54 ka1972). Oku kuquka amacandelo okanye izithako ezisetyenziselwa ukutya, ukusela, okanye ukuthengiswa njengokutya.

“ukuthengisa” kubandakanya –

- (a) ukutshintshisa, ukutshintshiselana okanye ukuqesha;
 - (b) ukubonisa, ukuveza, ukunikela okanye ukulungiselela ukuthengisa;
 - (c) ukugcina (impahla) kwindlela yoluntu okanye kwindawo yoluntu ngenjongo yokuthengisa; kunye
 - (d) nokubonelela ngenkonzo yokuwonga,
- kwaye “ukuthenga” okanye “ukuthengisa” kunentsingiselo ehambelanayo.

“ukuthengisa esitratweni” kuthetha ukuthengisa iimpahla kunye nokuqhuba iinkonzo kwindawo engavulekanga ngumthengisi wasesitratweni kwindlela zoluntu okanye kwindawo yabucala, ngaphandle kokukhathalela ukuba ngaba ikwindawo ehlala abantu na, edolophini okanye kwindawo yamatyotyombe kwaye ezo zinto zihlala ziquka, ngaphandle komda, ezi ntlobo zokurhweba zilandelayo:

- (a) ukuthengisa esitratweni;
- (b) ukuthengisa kwiindawo zoluntu;
- (c) ukuthengisa ngenqwelo ehambayo, snjengeekharaveni, iimoto ezincinci zokuhambisa kunye nezikhoji;
- (d) ukuthengisa kwiikiyoski, izitolo okanye kwiikhonteyina;
- (e) ukuthengisa kwimicimbi ekhethekileyo;
- (f) ukuthengisa ezimarikeni.

“ukuthintela” kuthetha ukwenza nantoni na evala okanye enokuthi ivala indlela yeemoto okanye yeebhasi ngendlela yoluntu.

“umasipala” uthetha uMasipala waseWitzenberg, ongumasipala wodidi lukaB njengoko kuchaziwe kwicandelo le155(1) loMgaqosiseko woMzantsi Afrika.

“umcimbi” owenziwa kube kanye ngonyaka.

“umcimbi okhethekileyo” uthetha umcimbi oquka kodwa engaphelelanga kwiikonsathi, imibhiyozo yaseluhlangeni, iisekhasi, imiboniso, iifestivali, iigravu, imisitho yoluntu, imidyarho yokubaleka neyebhayisekile.

“umda wamatye” uthetha umda phakathi kongqameko kunye nomphetho wendlela okanye xa lungekho ungqameko, inxalenye ephakathi kongqameko kunye nomphetho wendlela; njengoko kuchaziwe kwicandelo 1 loMthetho ka1996 woLawulo lweNdlela kaZwelonke uMthetho wama93 ka1996).

“umda wendlela” uthetha isiqingatha sendlela, isitrato okanye indlela ephambili ephuculiweyo, kubandakanya nendlela esecaleni yabahambi ngeenyawo engeyiyo indlela ekungqameko njengoko kuchaziwe kwicandelo 1 loMthetho ka1996 weZithuthi zeNdlela kuZwelonke (uMthetho wama93 ka1996).

“umninimvume” uthetha umthengisi wasesitratweni onikezwe imvume ngumasipala ukuba athengise njengomthengisi wasesitratweni kwisayithi emiselwe kwindawo yokuthengisa esitratweni nekwisakhiwo somasipala.

“umphathi womasipala” uthetha umntu onyulwe ngokwesiqendu sama54A soMthetho weeNkqubo zoMasipala njengenhlolo yolawulo lwebhunga likamasipala.

“umthengisi wasesitratweni” uthetha umntu oqhuba eshishini njengomthengisi wasesitratweni, umthengisi wasesitratweni/umhambisi weempahla kunye kubandakanya namphi na ummeli wabathengisi ogunyazisiweyo okanye umntu, okanye ishishini elingabhaliswanga okanye ibandakanywe ngokwemigaqo yemithetho yequmrhu yaseMzantsi Afrika neqhuba uthengiso lwasesitratweni.

“umthetho” uthetha uMthetho ka1991 wezoShishino (uMthetho wama71 ka1991).

“ungqameko” luthetha isiqingathana sendlela, isitrato okanye indlela ephambili ephuculiweyo, eyenzelwe izithuthi, nephakathi kwelitye lomda wendlela kwindlela yokuhamba iimoto nongqameko njengoko kuchaziwe kwicandelo 1 loMthetho ka1996 weZithuthi zeNdlela kuZwelonke (uMthetho wama93 ka1996).

Ukutolikwa komthetho womasipala

2. Ukuba kukho ungquzulwano lokutolikwa phakathi kwenguqulelo yesiNgesi yalo mthetho womasipala nenguqulelo eguqulelwe kolunye ulwimi, inguqulelo yesiNgesi yiyo eya kuthatyathwa njengeyiyo (eyongamileyo).

Iinjongo zomthetho womasipala

3. Injongo yalo mthetho womasipala kukulawula uthengiso lwasesitratweni ngendlela apha–
- (a) eqinisekisa ukuba uthengiso lwasesitratweni [okanye: urhwebo lwasesitratweni] luqhutywa ngendlela ecwangcisiweyo, kwaye kwindawo ezimiselweyo;
 - (b) eyenza ukuba kufumaneke amathuba emisebenzi kunye nawoshishino kwicandelo lothengiso lwasesitratweni;
 - (c) ehambelanisa ubudlelwane phakathi kwecandelo lothengiso lwasesitratweni kunye necandelo lothengiso oluvumelekileyo
 - (d) eqinisekisa impilo nokhuseleko loluntu; kwaye
 - (e) eqinisekisa ukuthatha inxaxheba okubandakanya wonke umntu eluntwini, okuqaphela nokukhusela amalungelo abo bonke abachatshazelwa ngabathengisi basezitratweni.

Isihloko esifutshane nokuqalisa ukusebenza

4. Lo mthetho womasipala usebenza kummandla wonke ophantsi kolawulo lukaMasipala waseWitzenberg, kwaye ubophelela bonke abantu ngokwamanqanaba afanelekileyo.

ISAPHLUKO 2

INKULULEKO KUTHENGISO LWASESITRATWENI

Inkululeko yokuzibandakanya kuthengiso lwasesitratweni

- 5.** Kuxhomekeke ekuthotyelweni kwemimiselo yokuba –
- (a) lo mthetho womasipala;
 - (b) nawuphi na omnye umthetho osebenzayo;
 - (c) nayiphi na imvume esebenzayo yothengiso lwasesitratweeni; kunye
 - (d) imithetho yomasipala elawula uthengiso lwasesitratweni (informal trading) okanye umgaqonkqubo wolawulo lokuthengisa.

Nawuphi na umntu ofanelekileyo ohlala ngokusemthethweni eMzantsi Afrika, nongumthengisi wasesitratweni, nongazange avalwe ngaphambili ukuba athengise kumasipala waseWitzenberg, uvumelekile ukufaka isicelo semvume yokuthengisa esitratweni kwiindawo ezimiselweyo zolawulo lukamasipala.

ISAPHLUKO 3

UKUTHENGISA ESITRATWENI KWIPROPHATI YOMASIPALA

Iindawo kunye neesayithi zokuthengisa

6. (1) IBhunga lingathi, ngesigqibo,
 - (a) libeke bucala iindawo zokuthengisa esitratweni kwiprophati yomasipala, kwiindawo ezimiselwe njengemimandla yokuthengisa esitratweni, kwaye
 - (b) libeke imida yeesayithi zokuthengisela ngaphakathi kweendawo zokuthengisela zasesitratweni."
- (2) IBhunga lingathi, ngezizathu ezivakalayo nezilungeleleneyo, ngokwenza isigqibo –
 - (a) sokwandisa, ukufudusa, ukucutha, ukuseka okanye ukuyekisa ukusebenza kwayo nayiphi na isayithi okanye isiza sokuthengisa esitratweni.
- (3) Sokuba akukho mntu uvumelekileyo ukuba athengise kwiprophati yomasipala ukuba loo ndawo ayibonwa okanye ayimiselwanga njengendawo yokuthengisela esitratweni liBhunga, amaxesha okuthengisa kunye nezinye iimeko ezizezinye.

Amaxesha okuthengisa kunye nezinye iimeko ezizezinye

7. (1) UMasipala usenokuthi xa ebeka iindawo zokuthengisa lwasesitratweni, ngalo naliphi ixesha emva koko ngokunika isaziso esifanelekileyo, amisele –
 - (a) lintsuku kunye namaxesha okuthengisa; kunye
 - (b) Nezinye iimeko ezizezinye.
- (2) lintsuku zokuthengisa iya kuba zezi:
 - NgoMvulo ukuya ngoMgqibelo ngamaxesha okuthengisa njengoko kumiselwe ngumasipala;
 - Akuvumelekanga ukuthengisa ngeCawa, ngaphandle kweemeko ezizodwa. Imvume ekhethekileyo evumela ukuthengisa ngeCawa kucelwe nje loo Cawa iya kusebenza, kwaye isicelo eso siya kuphononongwa ngabaphathi. Kuza kubakho iindleko ezongezelelweyo zokuthengisa ngeCawa ethile. Isicelo esikhethekileyo sokuthengisa ngeCawa kufuneka sifikelele kumasipala ubuncinane kwiintsuku ezi7 zokusebenza ngaphambi kweCawa ecetywayo. Amaxesha okuthengisa aya kummiselwa ngumasipala.
- (3) Amaxesha okuthengisa ayakugqitywa yiOfisi yoMphathi kaMasipala kwaye anokutshintsha kuxhomekeke kwiimfuno zokusebenza.

Ukwalelwa: ukuba uthengise esitratweni kwiprophati yomasipala ngaphandle kwemvume

8. Akukho mntu uvumelekileyo ukuthengisa esitratweni kwindawo zomasipala ngaphandle kwemvume esemthethweni ekhutshwe ngumasipala.
 - (a) Ngumninimvume kuphela okanye ummeli wakhe ogunyazisiweyo onokuthengisa ngaloo mvume

9. Iimvume zokuthengisa esitratweni

- (1)
 - (a) Akukho mntu uvunyelweyo ukuba athengise esitratweni kwiprophati kamasipala ngaphandle kwemvume esemthethweni ekhutshwe ngumasipala. Abo bafaka izicelo kufuneka fake isicelo ngonyakamali ngamnye.
 - (b) Isithuba sokufaka isicelo siyakuvunywa rhoqo ngonyaka ngomhla we1 Juni ukuya kuma30 Juni. Ukuba emva kwam30 Juni kuye kwakho isithuba, kuya kuvunyelwa ukufakwa kwezicelo, kwaye iirhafu ezisebenzayo ziya kuhlululwa ngokungqinelana neerhafu zeBhunga eziphunyeziweyo Izicelo zemvume kufuneka zifakwe ngendlela emiselwe ngumasipala rhoqo ngonyaka.

- (2) Umasipala kufuneka aqwalasele nasiphi na isicelo semvume yokuthengisa esitratweni kwaye —
 - (a) Abantu abaya kunikwa ithuba kuqala ngabahlali bomasipala wase Witzenberg;
 - (b) unokusivuma phantsi kwayo nayiphi na imiqathango;
 - (c) angacela ukuba kunikezelwe ngeenkukacha ezongezelelweyo ngaphakathi kwexesha elibekiweyo; okanye
 - (d) angasala isicelo kwaye anike nezizathu zoko.

- (3) UMasipala usenokuthi, xa ekhupha imvume yothengiso lwasesitratweni, abeke nayiphi na imiqathango enengqiqo, kubandakanya kodwa kungaphelelanga kule miqathango elandelayo —
 - (a) amaxesha okuthengisa aphantsi okanye aphezulu;
 - (b) izithintelo malunga nohlobo lwempahla okanye iinkonzo umninimvume anikwe imvume yokuthengisa ngazo;
 - (c) umhla wokuphelelwa kwemvume;
 - (d) imeko ezimalunga nohlobo lwesakhiwo okanye izakhiwo, ukuba zikhona, ezinokumiswa kwindawo yothengiso lwasesitalatweni okanye kwindawo ekuvunyelwe ukuba kuthengiswe kuyo, apho umthengisi anokuthi akhe khona indawo yokukhusela okanye yokubeka iimpahla ngokwemvume kamasipala; kunye
 - (e) neentsuku ezivunyelweyo zookuthengisa.

- (4) Imvume yokuthengisa esitratweni —
 - (a) kufuneka kubhalwe indawo ethile yokuthengisa echongiweyo, ngokwenani layo elabelweyo, ekubhekiselele kuyo le mvume;
 - (b) inika kuphela umninimvume, kunye nommeli wakhe ogunyazisiweyo, ilungelo lokusebenzisa loo ndawo yokuthengisa, ngokwemeko yemvume, nangokwezinye iimeko ezibekwe ngokwalo mthetho womasipala, kwaye;
 - (c) kufuneka igcinwe kwindawo yokuthengisa ngalo lonke ixesha kwaye kufuneka iboniswe xa iceliwe ligosa eligunyazisiweyo.

Iintlawulo zokuthengisa esitratweni

10. (1) Umasipala unegunya lokuhlululisa –
- (a) iintlawulo yesicelo kuye nawuphi na umntu ofaka isicelo semvume yokuthengisa esitratweni, xa kungeniswa isicelo ngasinye semvume yokuthengisa esitratweni;
 - (b) iintlawulo zokuthengisa ezohlukeneyo kwiindawo ezingaphantsi kophahla, iindawo ezivulelekileyo ezimiseliweyo, kunye neendawo zeetreyila zokutyad; kwaye
 - (c) iintlawulo ezongezelelweyo kunye neerhafu ngokuphathelele kwiindleko ezongezweyo okanye iinkonzo ezibonelelwe ngumasipala, ezinje ngokuthengisa ngeCawa;
- (2) Xa kusakhiwa izakhiwo ezitsha ezinophahla kwindawo ebekusele kuphawulwe ukuba yeyomntu othile ngexesha lonyakamali, umasipala unelungelo lokuthatha isigqibo sokungamhlululisi lowo ungumninimvume irhafu yophahla kwixesha eliseleyo kwimvume yakhe.
 - (3) Kwimeko apho isicelo singaphumelelanga kunye/okanye sirhoxisiwe, imali yesicelo ayizukubuyiselwa kumfakisicelo.
 - (4) Iintlawulo zokuthengisa azibuyiselwa.

Ukonyulwa kummeli womthengisi ogunyazisiweyo

11. (1) Nawuphi na umninimvume uya kuvunyelwa ukuba onyule ummeli ukuba athengise ngokwemigaqo yemvume, enikezwe ngumasipala, kodwa oko kumele kwaziswe ngaphambili kumasipala kwaye kulandelwa imiqathango nemimiselo ebekwe ngumasipala
- (2) Yonke imimiselo ekulo mthetho womasipala iyasebenza nakuye nawuphi na ummeli oqeshwe ngumninimvume, njengokuba kunokuba njalo nakumninimvume.
 - (3) Kungumsebenzi womninimvume ukwazisa umasipala malunga nokonyula kwakhe namphi na ummeli, kunye neenkukacha ezipheleleyo njengoko kuyimfuneko kwamasipala. Umasipala uya kubandakanya iinkukacha zommeli kwimvume.
 - (4) Ukuba kufanele kungeniswe omnye ummeli womthengisi endaweni yalo ukhoyo, kufuneka kufakwe isicelo esitsha sokuthengisa esitratweni ukuze kuhlaziywe iinkukacha zommeli. Iintlawulo yesicelo ehambelana nexesha elisetyenzisiweyo, ngokwemigaqo namaxabiso kaMasipala, isenokuhlululiswa.

Ukutshintshelwa kweemvume zokuthengisa esitratweni

12. (1) (a) Iimvume azinakudluliselwa komnye umntu ngaphandle kokuba, kwenzeke ukufa okanye ukugula okungathethekiyo kumntu ongumninimvume, imvume ingatshintshelwa ngokusisigxina ngesivumelwano esibhaliweyo nesivunywe ngumasipala, kumntwana okanye umncedisi womninimvume osebenza endaweni yomntwana, oza kuqhubeka nokuthengisa de imvume iphelelwe;

- (b) Imvume ingatshintshelwa okwethutyana, ngemvume ebhaliweyo evela kumasipala. Kumntwana wakhe, okanye xa engekho, kumntu onyulwe ngumnini wemvume, ngezizizathu zilandelayo; ukugula, ukukhulelwa, kwimeko yoxanduva losapho, yenkolo neyenkcubeko, okanye nayiphi na imeko ejongene nobuqu kangangesithuba seenyanga ezintathu, ukuba kwenziwe ubungqina obunesizathu basiwa kwamasipala kunye nesithuba sexesha lokuba umninimvume azakutshintshela ngalo kulo mntu mtsha.
- (2) Akuvumelekanga ukurentisa ngezitendi zokuthengisa esitratweni.

Imisebenzi yomthengisi wasesitratweni

13. (1) Umthengisi wasesitratweni kufuneka:

- (a) athengise buqu kwisayithi ebekelwe oko;
- (b) xa egqibe intengiso yakhe yemini, makasuse impahla yakhe, ngaphandle kokuba igcinwe kuso nasiphi na isakhiwo esivunye kwaye sagunyaziswa ngumasipala, ayise kwindawo engeyiyo inxalenye yendlela yoluntu okanye indawo yoluntu;
- (c) xa eceliwe ligosa lomasipala okanye umntu ogunyazisiweyo ukuba anikezele ngeenkono zomasipala, ukuba asuse iprophati yakhe njengoko imvume esemthethweni okanye omnye umntu ongomnye ukuba asebenzise nawuphi na umsebenzi onxulumene nakwindlela yoluntu, izinto zoluntu okanye inkonzo;
- (d) ayicine indawo okanye isitandi ahlala kuso okanye asisebenzisayo sikwimeko ecocekileyo nesempilweni;
- (e) aqinisekise ukuba indawo yakhe icocekile ngalo lonke ixesha, kwaye kufuneka, xa egqibile ukusebenza ngaloo mini alahle inkunkuma eyenzeke ngexesha ebesebenza ngalo kwimigqomo kamasipala eyenzelwe uluntu;
- (f) xa eceliwe ligosa likamasipala, ukuba asuse impahla okanye izixhobo zakhe zokuthengisa ukuze kucocwe indawo athengisela kuyo xa kuyimfuneko; kwaye
- g) ainisekise ukuba indawo yentengiso kunye/okanye iziseko zentengiso azibonakali zingabukeki okanye zingcolile nangayiphi na indlela kuluntu.
- (2) Umasipala unelungelo lokubeka eminye imisebenzi kwimvume yokuthengisa.

Ukususwa nokumiswa kweemvumme zentengiso yasesitratweni

- #### **14. (1) Umasipala kwiintsuku ezi2 nasemva kokunika umthengisi wasesitratweni ithuba lokubhala izimvo zakhe angarhoxisa okanye amise okwethutyana imvume yokuthengngisa esitratweni ukuba umthengisi wasesitratweni wenze oku kulandelayo –**
- (a) owaphule nayiphi na imiqathango yemvume yakhe yokuthengisa esitratweni;
 - (b) owaphule izibonelelo zalo mthetho womasipala okanye nawuphi na umthetho;

- (c) ofunyanwe enetyala lokuthengisa izinto ezingekho mthethweni okanye lokubonelela ngenkonzo ngokungekho mthethweni;
- (d) ekufunyaniswe ukuba unikeze iinkcukacha ezingachanekanga ngabom kumasipala xa ecelwa ukuba anikeze ezo nkcukacha.
- (2) Umninimvume kufuneka eyibuyisele kwangoko imvume kumasipala xa –
 - (a) umasipala erhoxisa imvume;
 - (b) umasipala esala ukunikezela esala ukunikezela umninimvume imvume yokutshintshwa kwemvume yokuthengisa;
 - (c) umntu onemvume xa eyeka ukuthengisa njengomthengisi wasesitratweni kwindawo emiselweyo kangangesithuba seenyanga ezili12 okanye nangaphezulu;
 - (d) Umninimvume akasenawo umnqweno wokuba ngumthengisi wasesitratweni kwindawo leyo ichaziweyongaphambi komhla wokuphuma kwexesha lokuphelelwa kwemvume;
 - (e) Umninimvume akasisebenzanga isitolo sakhe sesibini sokuthengisa isithuba seenyanga ezimbini ezibekiweyo, nto leyo enokujongwa njengokuthintela abanye abathengisi ngokugcina indawo e evulekileyo esisitolo ecaleni kwendawo yakhe esele imakishiwe

Ukufuduka okwethutyana kunye nokunqunyanyiswa

- 15.** (1) UMasipala angathi, emva kokunika isaziso esifanelekileyo kumthengisi wasesitratweni, amisele okwethutyana okanye ngokusisigxina –
- (a) ukufuduka komninimvume;
 - (b) ukunqumamisa imvume esebenzayo ngokusemthethweni; okanye
 - (c) ukurhoxisa uthengiso lwasesitratweni kwindawo yokuthengisa esitratweni okanye kwindawo okanye iisayithi zokuthengisa,
- ukuba ukuthengisa esitratweni kuyaqhubeka kwindawo yokuthengisa ezitratweni okanye kwindawo yokuthengisa kuba nzima okanye kuphazamisa imisebenzi kamasipala, naziphi na izigaba zikarhulumente, kunye nazo naziphi na izinto zoluntu okanye kubandakanya nabo babonelela ngeenkonzo.
- (2) Ukuba kuye kwenzeka oku kulandelayo, akukho mbuyekezo iya kuhlawulwa ngumasipala kumthengisi wasesitratweni ukuba kuye kwenzeka ukuba –
- (a) umthengisi ufdukele kwenye indawo;
 - (b) imvume inqunyanyisiwe okanye lirhoxisiwe; okanye
 - (c) ukuba ukuthengisa kunqunyanyisiwe okanye kuthintelwe kwindawo ethile yokuthengisa esitratweni okanye kwisayithi okanye kwisayithi yokuthengisa, kwaye akukhathaliseki nokuba umninimvume uyinikiwe imvume okanye akayinikwanga.

ISAHLUKO 4

UKUNGAVUMELEKI NEZITHINTELO KUTHENGISO LWASESITRATWENI

Iindawo ezingavumelekanga nezithintelweyo

16. (1) IBhunga lingathi, ngesigqibo, libhengeze nayiphi na indawo ekummandla walo wolawulo ukuba yindawo engavumelekanga nehintelweyo okanye kuthengiso lwasesitrateni.
- (2) IBhunga lokungavumeli okanye ukuthintela uthengiso lwasesitratweni lungabonisa iindawo apho –
- (a) uthengiso lwasesitratweni luthintelwayo; okanye
- (b) uthengiso lwasesitratweni kwizinto okanye iinkonzo ezithile kuthintelwe.
- (3) Umasipala kufuneka emise imiqondiso, iimpawu okanye ezinye izixhobo zokubonisa imida–
- (a) Kwiindawo apho uthengiso lwasesitratweni lungavumelekanga okanye luthintelweyo (kunye nohlobo lwaso nasiphi na isithintelo); kunye
- (b) Neendawo zothengiso lwasesitratweni kunye neesayithi zothengiso lwasesitratweni.
- (4) Naziphi na iimpawu ezimiselwe ngokwalo mthetho kamasipala okanye nawuphi na omnye umthetho, ziya kuthathwa njengesaziso esaneleyo kumthengisi wasesitratweni sokuba ukuthengisa akuvumelekanga okanye luthintelwe kuloo ndawo.

Izenzo ezingavumelekanga: ukwakhiwa kwezakhiwo

17. (1) Umthengisi wasesitratweni akufuneki akhe nasiphi na isakhiwo, nokuba iyashukuma okanye ayishukumi, ngaphandle kwaleyo ivunyelwe ngumasipala.

Izenzo ezingavumelekanga: ukusebenzisa isayithi ebusuku

18. (1) Umthengisi wasesitratweni akufuneki ukuba alale ngobusuku kwindawo yokuthengisa esitratweni.
- (2) Umthengisi wasesitratweni akufuneki, xa egqiba ukuthengisa ngalo mhla, ashiye iimpahla zakhe okanye kwisakhiwo sokuthengisa, kwisayithi yokuthengisa esitratweni eyinxalenye yendlela yoluntu okanye kwindawo yoluntu. kwindawo yoluntu.

Izenzo ezingavumelekanga: indawo yokuthengisa

19. (1) Umthengisi wasesitratweni akufuneki ukuba –
- (a) abeke iimpahla zakhe kwindlela yoluntu okanye kwindawo yoluntu, ngaphandle kwesithuthi sakhe okanye itreyila athengisela kuyo: ngaphandle kokuba isithuthi okanye itreyila leyo ayithinteli abahambi ngeenyawo okanye ukuhamba kwezithuthi kwaye ithobela imigaqo yoMthetho ka1996 wezoThutho eziNdleleni zoLuntu, (uMthetho wama93 ka1996);
- (b) ayeke iimpahla zakhe okanye kwenzeka into kwindawo eyindlela yoluntu okanye kwindawo yabucala –
- (i) engaphezulu kweemitha zesikwere ezi6 kwindawo; okanye

- (ii) engaphezulu kweemitha ezi3 ubude, ngaphandle kokuba uvunyelwe ngumasipala, ngakumbi kwindawo emiselwe ukuba ibeke itreyila kwindawo yothengiso lwasesitratweni;
- (c) athengise kwindlela yabahambi okanye kwindawo apho –
- (i) ububanzi bendlela yabahambi okanye umda wendlela ungaphantsi kweemitha ezi3;
- (ii) indlela yabahambi okanye ungqameko olusecaleni kwesakhiwo soluntu, indawo yokunqula efana necawe, indlu yesikhungu okanye i-mosque, okanye isikhumbuzo sesizwe; okanye
- (iii) iindlela zokuhamba ezisecaleni kwesakhiwo ekuthengiselwa kusonguye nabani na othengisa iimpahla ezifanayo okanye ezifana nazo nezo zithengiswa ngumthengisi wasesitratweni, ukuba umthengisi uya kukhaba ukuba kuthengiswe kuloo ndawo;
- (d) athengise kwisiqingatha sendlela yoluntu esecaleni kwendlu yomntu, ahlala kuyo kwaye loo mntu akafuni ukuba kuthengiswe ecaleni kwendlu yakhe.
- (e) athengise kuyo nayiphi na indlela yokuhamba engaphambi kwesakhiwo okanye ivenkile, nokuba kungemvume okanye akukho ngemvume yomnini wevenkile ofanelekileyo;
- (f) afihle, ogqume, okanye athintele ukubonakala kophawu lwendlela, izaziso, okanye iimpawu ezimiselwe ngokoMthetho ka1996 weZithuthi zeNdlela kaZwelonke (uMthetho wama93 ka1996) okanye eyenziwe ngokwemigaqo yomthetho kamasipala;
- (g) aphazamise ukuhamba kwezithuthi;
- (h) aphazamise abahambi ngeenyawo ukuba bafikelele kwiindawo zokuwela, kwiindlela ezigutyungelweyo okanye kwizikwere zokuthenga;
- (i) aphazamise ukufikelela kwisithuthi;
- (j) aphazamise ukufikeleleka kwimigqomo yenkunkuma okanye ezinye izixhobo ezilungiselelwe ukusetyenziswa luluntu;
- (k) aphazamise ukufikelela kumatshini wokukhupha imali;
- (l) aphazamise imbonakalo yekhamera yeCCTV;
- (m) anciphise indlela yokungena kwiindawo zokupaka okanye iindawo zokuthulula impahla okanye ezinye iindawo ezilungiselelwe izithuthi;
- (n) athengise kwiimitha ezi5 apho kudibana khona indlela okanye kufutshane nompompi wamanzi wokucima umlilo okanye naso nasiphi na isixhobo esisesinye sokucima umlilo; okanye
- (o) athengise epakini, ngaphandle kokuba loo ndawo ibhengezwe liBhunga njengendawo yokuthengisa esitratweni.
- (2) Umthengisi wasesitratweni kufuneka, kuyo nayiphi na indlela yabahambi ashiye indawo engesosiphazamiso ukuze abahambi ngeenyawo babenakho ukuhamba, ingabi ngaphantsi–
- (a) kweemitha ezi2 ububanzi xa kulinganiswa ukusuka kuso nasiphi na isakhiwo esikufuphi ukuya kwimpahla zakhe okanye kwindawo yokusebenzela; kunye
- (b) kwiimitha ezingu0,5 ububanzi xa kulinganiswa umgama osuka kumda weekhelelwe ukuya kwimpahla zakhe okanye indawo asebenzela kuyo.

Izenzo ezingavumelekanga: ukuboniswa kunye nokugcinwa kweempahla

20. (1) Umsebenzi wasesitratweni akufuneki ukuba –
- (a) enze umtyibilizi okanye afumbe iimpahla zakhe ngendlela ebeka esichengeni abantu okanye iiprophati, okanye enokonzakalisa umntu okanye yonakalise nayiphi na iprophati;
 - (b) abeke impahla yakhe kwisakhiwo okanye phakathi kwisakhiwo, ngemvume okanye ngaphandle kwemvume yomnini, umhlali osemthethweni, okanye umntu olawula eso sakhiwo okanye loo prophati;
 - (c) athintele okanye anqande umntu ohamba kwindlela esecaleni ukuba abone iimpahla ezibekwe embonisweni ngasemva kwefestile yevenkile, okanye afihle ezo mpahla ukuze zingabonwa;
 - (d) abeke iimpahla okanye izinto zokuthengisa endleleni okanye kwindawo yoluntu, ezingenakufuduswa lula ukusiwa kwindawo ezigcinwa kuyo ekupheleni kosuku lokusebenza; kunye
 - (e) agcine okanye alahle iimpahla zakhe okanye inkunkuma yakhe kwimisele yeindle, kwimisele yamanzi emvula, ezindlwini zangasese zoluntu, okanye emthini.

Izenzo ezingavumelekanga: imililo

21. (1) Umthengisi wasesitratweni akufuneki ukuba abase umlilo kuyo nayiphi na indawo emiselweyo okanye engamiselwanga nakuphi na ukulungiselela ukutya ngokusebenzisa umlilo ovulekileyo; izixhobo zokupheka ezisebenzisa irhasi kufuneka zisetyenziswe kunye nesicimamlilo esifanelekileyo esikufutshane.

Izenzo ezingavumelekanga: inkunkuma

22. (1) Umthengisi wasesitratweni kufuneka alahle inkunkuma eyenziweyo ngexesha lokuthengisa esitratweni kwisitya senkunkuma esivunye okanye esibonelelwe ngumasipala.
- (2) Umthengisi wasesitratweni akufuneki ukuba, ngaphandle kokusebenzisa isitya senkunkuma esivunyiweyo okanye esinikezwe ngumasipala, aqokelele, alahle, agcine, okanye avumele ukuba kulahlwe inkunkuma kuyo nayiphi na indawo yoluntu, esitratweni, okanye kwiprophati kamasipala. Kufuneka inkunkuma ibe semigqomeni evunyiweyo kuphela.

Izenzo ezingavumelekanga: ukuncamathelisa izinto

23. Umthengisi wasesitratweni akufuneki ancamathelise naziphi na iimpahla zakhe ngalo naluphi na uhlobo kuso nasiphi na isakhiwo, indawo eyenziweyo, ipavumente, umthi, imitha yokupaka, isibane, ipali, ipali yombane, indlu yefowuni, ibhokisi yeposi, uphawu lwezithuthi zendlela, isitulo okanye nayiphi na ifenitshala eyenye yasesitratweni ekwindawo yoluntu okanye indawo yabucala.

Izenzo ezingavumelekanga: utywala, izixhobo ezikhupha isandi okanye izixhobo zombane

24. Umthengisi wasesitratweni akufuneki –
- (a) athengise okanye abhengeze iimveliso zotywala;
 - (b) athengise okanye abhengeze amayeza agunyazisiweyo;
 - (c) athengise naziphi na izinto ezingekho mthethweni okanye izityalo;
 - (d) athengise naziphi iimpahla ezingekho mthethweni;

- (e) asebenzise iintsimbi, iihutara, izixhobo zokukhulisa isandi okanye ezinye izinto ezikhupha isandi esikhulu ngenjongo yokutsala abathengi; kwaye
- (f) asebenzise naluphi na uhlobo lombane okanye umatshini wokuvelisa umbane, ngaphandle kokuba ufumene imvume ebhalelweyo nebonakalayo evela kumasipala.

Izenzo ezingavumelekanga: gabalala

25. Umthengisi wasesitratweni akufuneki aqhubeke nokuthengisa esitratweni –

- (a) kwindawo okanye kummandla owaphula nakuphi na ukuthintelwa okanye izithintelo ezibekwe ngumasipala; okanye
- (b) ngendlela enjengoku kulandelayo –
 - (i) ukuziphatha ngendlela ephazamisana noxolo, induduzo okanye lula kunye nempilo yomnye umntu, ngaloo ndlela udala ingxolo okanye isiphithiphithi esingeyomfuneko;
 - (ii) ukonakalisa okanye ukonakalisa imbonakalo yomphezulu wayo nayiphi na indlela yoluntu okanye indawo yoluntu, okanye nayiphi na iprophati yoluntu okanye yabucala;
 - (iii) ukudala ithrafikhi okanye ingozi yempilo okanye ingozi empilweni; okanye
 - (iv) ukuphula imiqathango okanye imimiselo yemvume yakhe yokuthengisa esitratweni.

Ezempilo kwimo esingqongileyo

26. (1) Umthengisi wasesitratweni kufuneka–

- (a) agcine agcine indawo yokuthengisela okanye isiza ahlala kuso ngeenjongo zentengiso yasesitratweni ikwimeko ecocekileyo nesempilweni;
 - (b) agcine indawo yokuthengisela okanye isiza ahlala kuso ngeenjongo zentengiso yasesitratweni ikwimeko ecocekileyo nesempilweni;
 - (c) aqinisekise ukuba ukuphela kosuku ngalunye –
 - (i) indawo yokuthengisela yasesitratweni okanye isiza ahlala kuso ngeenjongo zentengiso yasesitratweni ayinankunkuma kunye nezinye izinto ezimdaka; kwaye
 - (ii) zonke iimpahla zakhe ziyaqokelelwa kwaye zisuswe kuyo nayiphi na indlela yoluntu okanye indawo yoluntu kwaye zigcinwe kwindawo efanelekileyo;
 - (d) athathe amanyathelo afanelekileyo ngexesha lokuthengisa kwakhe ukuze athintele ukuchitheka kwamafutha, ioyile okanye igrisi endleleni yoluntu, okanye kwindawo yoluntu, okanye kwimisele yamanzi emvula;
 - (e) aqinisekise ukuba akukho kutshaya, umsi wemichiza, okanye naziphi na ezinye izinto, ivumba elibi, okanye ingxolo evela kwimisebenzi yakhe yokuthengisa esitratweni ebangela ungcoliseko lolo naluphi na uhlobo;
 - (f) aqhube ishishini ngendlela engabangeli mngcipheko kwimpilo yoluntu okanye kukhuseleko loluntu; kwaye
 - (g) xa eceliwe ligosa eligunyazisiweyo likamasipala, ukususa okanye ukuba asuse nayiphi na into ukuze indawo okanye isiza sentengiso yasesitratweni singacocwa.
- (2) Isiqinisekiso sokwamkeleka, ngokwemigaqo eLawula uCoceko ngokuBanzi ngokweMfuneko zeeNdawo zoKutya iGN R638 ye22 Juni ka2018), kufuneka kuqala

sifunyenwe kuMasipala waseWitzenberg apho ukutya kuthengiswa okanye kuphathwa kwindawo yentengiso yasesitratweni kungakhathaliseki nokuba oko kutya kuphekwe phi.

Ufuduko lwethutyana

27. (1) Umthengisi wasesitratweni kufuneka, xa eceliwe ligosa eligunyazisiweyo okanye umboneleli weenkondo oqeshwe ngumasipala, ukususa iimpahla zakhe ukuze kuvunyelwe umsebenzi owenziwayo endleleni yoluntu, kwindawo yoluntu okanye nawuphi na umsebenzi ohambelana nendlela yoluntu, indawo yabucala yoluntu okanye nawo nawuphi na umsebenzi.
- (2) UMasipala akasayi kuhlawula mbuyiselo nakubani na ongumthengisi wasesitratweni ngenxa yokufuduswa kwethutyana njengoko kukhankanyiwe kwicandelwana (1).

Imicimbi ekhethekileyo

28. (1) Umasipala unalo igunya lokumisa okanye lokuthintela ukuthengisa esitratweni ngexesha lomsitho okhethekileyo kwindawo emiselweyo, emva kokunika isaziso ngexesha elifanelekileyo, nangona umthengisi lowo enemvume ezibonelelo zawo nawuphi na umgaqonkqubo wokuthengisa esitratweni okanye nayiphi na imvume yokuthengisa esitratweni.
- (2) UMasipala akasayi kuhlawula mbuyiselo nakubani na ongumthengisi wasesitratweni xa evala okanye ethintela intengiso yasesitratweni ngenxa yezizathu ezichazwe kwicandelwana (1).

Uxanduva lwabaninimhlaba kwiprophati engeyokamasipala

29. Umniniprophati engeyiyo eyomasipala kufuneka—
- (a) aqinisekise ukuba naluphi na uthengiso lwasesitratweni olwenzeka kwiprophati yakhe luthobela lo mthetho kamasipala kunye nawo nawuphi na omnye umthetho ofanelekileyo;
 - (b) avumele naliphi na igosa eligunyazisiweyo ukuba lingene kwiprophati yakhe ngenjongo yokuqinisekisa ukuthotyelwa kwalo mthetho kamasipala;
 - (c) aqinisekise, ngemali yomninimhlaba, ukuba ukubonelelwa ngeenkondo ezaneleyo zokugcina iimeko zococeko ezamkelekileyo ngokunxulumene nothengiso lwasesitratweni; kwaye;
 - (d) aqinisekise ukuba ufumene imvume ebhalelwe phantsi ngabo bonke abamelwane abangqonge iprophati leyo.

ISAHLUKO 5 UNYANZELISO

Ukususwa nokubanjwa

30. (1) Igosa eligunyazisiweyo linokususa kwaye libambe naziphi na iimpahla ekusolwa ukuba zisetyenziswa ngumthengisi wasesitratweni, nezisetyenziswe okanye ezicwangciselwa ukusetyenziswa okanye ezisetyenziswa ngendlela engavumelekanga ngokwaphula lo mthetho womasipala okanye nawuphi na umthetho osebenzayo, okanye kwimeko aphoumthengisi eqhubeka ngokuphindaphinda ukwaphula umthetho malunga nokuba isaziso esinye okanye ngaphezulu sikhutshelwe lo mthengisi.
- (2) Ukususwa nokubanjwa kwempahla ngokwemiqathango yecandelwana (1) kunokwenziwa kungakhathaliseki ukuba ezo mpahla zisezandleni okanye phantsi kolawulo lwawo nawuphi na umntu wesithathu ngelo xesha okanye azikho ngelo xesha.
- (3) Naliphi na igosa eligunyazisiweyo ukususa kwaye livalele iimpahla ngokwecandelwana (1), ngaphandle kokuba iimpahla zishiyiwe okanye zilahliwe, kufuneka anike anike umthengisi wasesitratweni irisithi –
- (a) ebhalwe igama elipheleleyo, inombolo yesazisi kunye neenkukacha zoqhagamshelwano zomthengisi;
 - (b) enesiqinisekiso esityikityiweyo okanye esiphawulwe ngumrhwebi wasesitratweni esingqina ukuba izinto ezibhalwe kwirisithi zichanekile;
 - (c) edwelisa iimpahla eziza kususwa zize zivalelwe;
 - (d) enika idilesi apho iimpahla ezithatyathiweyo ziya kugcinwa khona;
 - (e) echaza isithuba sexesha lokuvallelwa;
 - (f) echaza imiqathango nemigaqo ekufuneka izalisekisiwe ukuze kukhululwe iimpahla ezibanjiweyo;
 - (g) echaza iindleko zokuvalelwa ekufuneka zihlawulwe ukuze kukhululwe iimpahla ezibanjiweyo;
 - (h) echaza imigaqo nemiqathango apho iimpahla ezingathathwanga ziya kuthengiswa okanye zilahle ngandlela ithile; kwaye
 - (i) enika igama nedilesi yegosa likamasipala ekunokwenziwa kulo iziphakamiso okanye izikhalazo malunga nokuvalelwa kwempahla, kunye nomhla nexesha lokugqibela lokuba ezo ziphakamiso zibe zenziwe.
- (4) Ukuba naziphi na iimpahla eziza kubanjwa zincanyathiselwe kwiprophati engashukumiyi okanye kwisakhiwo, igosa eligunyazisiweyo lingayalela nawuphina umntu obonakala elawula loo prophati engashukumiyi okanye isakhiwo ukuba asuse iimpahla ezo ziza kuvalelwa, kwaye, ukuba loo mntu uyala okanye uyasilela ukuthobela, ngoko ke–
- (a) loo mntu uya kuba netyala lolwaphulomthetho; kwaye
 - (b) igosa eligunyazisiweyo linakho ukuzisusa iimpahla ngokwalo.

- (5) Iimpahla ezibanjiweyo zingakhululwa emva–
- (a) kobungqina bobunini ngendlela yokunikezwa kwerisithi ekhankanywe kwicandelwana (3); kunye
 - (b) Intlawulo yemirhumo yokubanjwa ifunyenwe.
- (6) (1) Umasipala unakho nangaliphi na ixesha emva kokuthathwa kwempahla athengise, atshabalalise okanye alahle –
- (a) izinto ezinokubola zibanjwe ngumasipala ukuba ezo zinto zibonisa okanye zisenokubonisa ingozi empilweni okanye uphazamiseko kuluntu; kwaye
 - (b) Ukutya okungafanelanga ukutyiwa ngabantu, ngaphandle kokuba kukhutshwe isaziso kumthengisi wasesitratweni ochaphazelekayo, emaziswa okanye enikwa ingcebiso –
 - (i) ukuba iimpahla zakhe ezithinjiweyo zithengisiwe, zitshatyalaliswe okanye zilahliwe;
 - (ii) ngexesha lokuthengiswa, lokutshatyalaliswa okanye lokulahlwa kwempahla ezinjalo; kunye
 - (iii) ngezizathu zokuthengiswa, zokutshatyalaliswa okanye zokulahlwa.
- (7) Iimpahla ezibanjwe ngumasipala ngaphandle kwezo zonakala ngokukhawuleza zingathengiswa ngumasipala ukuba umniniyo akahlawulanga, okanye akanako ukuhlawula, imali yokukhulula iimpahla ezibanjiweyo kwiintsuku ezingama30 ukusukela ngomhla ezithathelwe ngawo.
- (8) Ukuba umasipala uthengise iimpahla ezibanjiweyo ngokwemiqathango yomasipala yamacandelwana (6) okanye (7), kunye nobungqina obuboniswe kwirisithi kwicandelwana (3) ukuba iimpahla zezakhe, umasipala kufuneka amnike imali efunyenweyo kuloo ntengiso yeempahla ezibanjiweyo.
- (9) Ukuba imali efunyenwe ngokuthengiswa kwempahla ayonelanga ukuhlawula iindleko zokuyithatha nokuyigcina kwindawo ekhuselekileyo, umthengisi usabophelekile ukuhlawula loo mali isalelayo.
- (10) Ukuba umthengisi uye wasilela okanye ukubanga iimali ezivela kwimpahla yakhe ethengisiweyo (mhlawumbi ibanjwe) kwisithuba sentsuku ezingama30 ukusukela ngomhla wokuthengiswa kwayoo, loo mali ayisayi kuba yeyakhe kwakhona. Iya kuthathwa ngokusemthethweni ngumasipala.
- (11) Ukuba, ngokubona ngokufanelekileyo kwegosa eligunyazisiweyo, umthengisi wasesitratweni ukrokrelwa ukuba uthengisa iimpahla ezingekho mthethweni, ezo mpahla zingathinjwa ngoko nangoko, kwaye xa kusenzeka oko kuthinjwa, igosa eligunyazisiweyo kufuneka –
- (a) lithobele neemfuno zeli candelo; kwaye
 - (b) linikezele ngokukhawuleza impahla ekrokreleka ukuba ayikho mthethweni kwiNkonzo yamaPolisa aMzantsi Afrika.

Amatyala

31. (1) Umntu ufunyaniswa enetyala ukuba –
- (a) uthengisa ngaphandle kwemvume yokuthengisa esitratweni;
 - (b) owaphula nawuphi na umqathango walo mthetho womasipala;
 - (c) owaphula nawuphi na umqathango ibe imvume inikezelwe kuye;
 - (d) ukusilela ukuthobela nayiphi na imiyalelo esemthethweni enikiweyo ngokwalo mthetho womasipala;
 - (e) usongela, uchasa, uphazamisa okanye uthintela naliphi na igosa

- eligunyazisiweyo ekwenzeni imisebenzi esemthethweni okanye imisebenzi ngokwalo mthetho womasipala; okanye
- (f) unikezela ngolwazi olungeyonyani okanye olulahlekisayo ngabom kwigosa eligunyazisiweyo.
- (2) Umntu uthathwa njengowenze ulwaphulomthetho oluqhubekayo ukuba uyaqhubeka nokwenza isenzo esingekho mthethweni emva kokuba ephiwe isaziso ngokwalo mthetho kamasipala esimyaleza ukuba ayeke olo lwaphulomthetho, okanye emva kokuba ekhutshelwe isigwebo okanye efumaneke enetyala ngolo lwaphulomthetho.

Izohlwayo

32. (1) Nanini na xa igosa lezokhuseleko lifumanisa ukuba nawuphi na umntu waphula imiqathango okanye izithintelo zalo mthetho womasipala, elo gosa lokhuseleko linganika loo mntu itikiti lefayini elivunywe ngumantyi, okanye linike isaziso sokuba avele enkundleni.
- (a) **Ukwaphula umthetho okokuqala:** Xa umntu eqala ukwaphula nawuphi na umgaqo walo mthetho womasipala, umasipala uya kumhlawulisa isohlwayo esihambelana noluhlu lwezohlwayo ezimiselweyo nezivunywe yinkundla.
- (b) **Ukwaphula umthetho okwesibini:** Xa umntu esaphula umthetho okwesibini, isohlwayo esongezelelekileyo siya kumiselwa njengoko kugqityiwe kwaye kuvunyiwe yinkundla.
- (c) **Ukwaphula umthetho okwesithathu:** okanye nangaphezulu, akasayi kuvunyelwa ukuhlawula ifayini ukuze ityala liphele. Uza kusiwa kwinkundla yamatyala, kwaye uza kuvalwa ukuba angathengisi kangangexesha elingangenyanga ezingama24.
- (2) Akukho nto ikweli candelo mayitolikwe njengento ethintelayo okanye eyohlutha umasipala ilungelo lokuya enkundleni ngqo, ukuba iimeko zifuna njalo ngokoluvo lukamasipala.

ISIAHLUKO 6

IZIBONELELO EZOHLUKENEYO

Izibheno

33. (1) Umntu onamalungelo achaphazelekayo kwisigqibo esithathwe ngumasipala ngokwalo mthetho womasipala angabhena kweso sigqibo ngokwemiba yezibheno equlethwe kuRhulumente waMakhaya: UMthetho ka2000 weeNkqubo zoMasipala (uMthetho wama32 ka2000) ngokunikezela ngesaziso esibhaliweyo sokubhena kunye nezizathu kumanejala womasipala kwisithuba seentsuku ezingama21 yomhla wesaziso sesi sigqibo.

Ukurhoxiswa kunye nokugcinwa kwemithetho

34. (1) UMthetho kaMasipala waseWitzenberg weNtengiso yaseSitrateni owapapashwa nge16 kweyeThupha 2002 urhoxisiwe waza wathathelwa indawo ngulo mthetho mtsha.
- (2) Zonke iimvume ezikhutshwe phantsi koMthetho woMasipala waseWitzenberg weNtengiso yaseSitrateni esasebenza ngokupheleleyo, kwiSaziso soMasipala sama97 kowama1995 ngokungathi loo mthetho awurhoxiswanga njengoko kuchaziwe kwicandelwana (1).
- (3) Nawaphi na amalungelo asele ekhona okanye izibophelelo ezenziwe phantsi kwemithetho ekhankanywe kwicandelwana (2) ziyaqhubeka zisebenza, ngokungathi loo mthetho ayikarhoxiswanga.
- (4) Ngaphandle kokuwisa kwalo mthetho womasipala –
- (a) Nakuphi na ukubhengezwa kwendawo engaphakathi kolawulo lukamasipala njengendawo apho ukuthengisa kwaselwatileni kunokuthintelwa okanye kuvalwe khona, kuya kuhlala kusemthethweni kude kube lixesha apho ibhunga lithatha umgaqonkqubo wokwamkela ukuthengisa esitratweningokwalo mthetho womasipala;
- (b) Apho umthengisi wasesitratweni eye wafumana imvume yokuthengisa kwindawo ethile ngaphambi kokuba kuqalise lo mthetho womasipala mtsha, le mvume kufuneka ithobeke imithetho nemimiselo edweliswe kulo mthetho mtsha womasipala.

Isihloko esifutshane nokuqalisa ukusebenza

36. Lo mthetho womasipala ubizwa ngokuba nguMthetho woMasipala waseWitzenberg: UMthetho woMasipala ka2026 woThengiso lwaseSitrateni kwaye uqale ukusebenza ngomhla opapashwe ngawo kwiGazethi yePhondo laseNtshona Koloni.

