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CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

CITY OF CAPE TOWN

TRAFFIC BY-LAW, 2021

CITY OF CAPE TOWN**TRAFFIC BY-LAW, 2021**

To provide for the regulation of public transport, municipal roads and traffic and safety on public roads in the area of jurisdiction of the City of Cape Town; and to provide for matters connected therewith.

Preamble

WHEREAS section 156(2) of the Constitution provides that a City may make and administer by-laws for the effective administration of the matters it has the right to administer;

WHEREAS municipal public transport is listed as a local government matter in Part B of Schedule 4, to the extent set out in section 155(6)(a) and (7) of the Constitution;

WHEREAS municipal roads, traffic and parking are listed as local government matters in Part B of Schedule 5, to the extent set out in section 155(6)(a) and (7) of the Constitution;

WHEREAS the City intends to control nuisances emanating from the operation of public transportation within the jurisdiction of the City of Cape Town;

WHEREAS by virtue of the Declaration of Peace Officers in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), law enforcement officers appointed by a municipality are provided with certain powers in relation to road traffic and road transportation legislation that is operative in the area of a municipality;

WHEREAS by virtue of section 80A of the National Road Traffic Act, the City may make by-laws not inconsistent with that Act with the concurrence of the Premier in respect of matters related to the safety of traffic on public roads, the duties of drivers and the use of vehicles on public roads, the provision of services involving the plying for hire or transporting of passengers for reward, the use of warning devices, the use of a public road by traffic in general, the limitation of age of drivers of vehicles drawn by animals, and any form or token deemed expedient and the nature and extent of information to be furnished for that purpose;

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

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CHAPTER 1: INTERPRETATION

1. Definitions

In this By-law, an expression defined in the Act and its Regulations has that meaning unless the context indicates otherwise and –

“Act” means the National Road Traffic Act, 1996 (Act 93 of 1996);

“authorised official” means an employee of the City authorised to carry out any duty or function or exercise any power in terms of this By-law and includes a traffic officer and a law enforcement officer;

“bus” means a motor vehicle designed or adapted for the conveyance of more than 16 persons, including the driver;

“City” means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), or any structure or employee of the City acting in terms of lawfully delegated authority;

“City manager” means the person appointed as the accounting officer of the City in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“electronic hailing service” means a public transport service operated by means of a motor vehicle, which –

(a) is available for hire while roaming; and

(b) is equipped with an electronic e-hailing technology-enabled application,

and the term **“e-hailing”** and **“e-hailing vehicles”** has the same meaning;

“e-hailing tag” means a tag issued in terms of section 13(1);

“holding area” in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

“holder” in relation to a rank token, means the owner to whom a rank token has been issued in terms of section 4(2);

“law enforcement officer” means a law enforcement officer appointed by the City in under Proclamation No. 1114 of 19 October 2018 promulgated under section 334(1) of the Criminal Procedure Act, 1977 (Act 51 of 1977) to enforce applicable road traffic and road transportation legislation that is operative in the municipal area of the City;

“licensing authority” means a registering authority appointed in terms of section 3 of the Act;

“motorcycle” means a motor vehicle which has two wheels and includes any vehicle having a sidecar attached but, for the purposes of this By-law, does not include an electric bicycle using rechargeable batteries that assist the bicycle’s pedal power;

“motor tricycle” means a motor vehicle, other than a motor cycle or a tractor, that has three wheels and is designed to be driven with the type of controls usually fitted to a motor cycle;

“motor vehicle” does not include an electric bicycle using rechargeable batteries that assist the bicycle’s pedal power;

“operating licence” means an **“operating licence”** as defined in section 1 of the National Land Transport Act, 2009 (Act 5 of 2009);

“pedal cycle” means any bicycle or tricycle designed for propulsion primarily by means of human power and includes an electric bicycle using rechargeable batteries that assist the bicycle’s pedal power;

“permit” means a **“permit”** as defined in section 1 of the National Land Transportation Act, 2009 (Act 5 of 2009);

“ply for hire” means the use of a vehicle for conveying passengers for hire or reward;

“prescribed” means prescribed by the City manager;

“public transport conductor” means a person who, in a place or on a public road, renders a conductor service to public transport drivers and passengers, including –

- (a) soliciting and touting for business;
- (b) controlling and managing access to vehicles; and

(c) collecting fares;

“public transport facility” means any space demarcated for specific public transport vehicles;

“public transport vehicle” means a public motor vehicle used for the conveyance of passengers for hire or reward and includes buses, taxis and e-hailing vehicles;

“public transport service” means a scheduled or unscheduled service for the carriage of passengers by road whether subject to contract or not, and where the service is provided for a fare or any other consideration or reward, and except where clearly inappropriate;

“rank” includes –

(a) a public transport interchange or a place upon a public road from which a public transport service may ply for hire or convey and drop off passengers for reward; and

(b) any place designated or demarcated as a rank for the exclusive parking of specific public transport vehicles by a road traffic sign;

“rank token” means a rank token issued in terms of section 4;

“Regulations” means the regulations promulgated under the Act;

“stopping place” in relation to –

(a) a taxi, means a place designated by the City where a taxi may stop to pick up or drop off passengers, and

(b) a bus, means a demarcated stop where a bus may stop to pick up or drop off passengers;

“taxi” means a public transport motor vehicle, other than a public bus, used for the conveyance of passengers excluding an e-hailing vehicle;

“taxi facility” means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designated by the City for the exclusive use of taxis;

“taxi rank” means any place designated or demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign; and

“traffic officer” means a traffic officer appointed by the City in terms of section 3A of the Act and any member of the Cape Town Metropolitan Police Force approved by the member of the Executive Council in terms of section 64A(4) of the South African Police Service Act, 1995 (Act 68 of 1995).

CHAPTER 2: POWERS AND DUTIES OF AUTHORISED OFFICIALS

2. Powers and duties of authorised official

- (1) An authorised official may for the purposes of enforcing this By-law –
 - (a) when in uniform, require the driver of any vehicle to stop the vehicle;
 - (b) drive any vehicle where necessary in the performance of duties if, in the case of a motor vehicle, the official is licensed to drive a motor vehicle of the class concerned;
 - (c) temporarily forbid a person to continue to drive or be in charge of a vehicle and make the arrangements for the safe disposal or placing of the vehicle as may appear necessary or desirable in the circumstances if that person, being the driver or the person apparently in charge of a motor vehicle, appears, by reason of their physical or mental condition, howsoever arising, to be incapable for the time being of driving or being in charge of that vehicle;
 - (d) regulate and control traffic upon any public road, and give such directions as may appear necessary for the safe and efficient regulation of the traffic, which may include the closing of any public road, and, if it appears that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from the road and to follow another route with the vehicle;
 - (e) require any person to furnish their name and address and other particulars that are required for identification or for any process if the officer reasonably suspects this person of having committed an offence in terms of this By-law or any other law or, if in the opinion of the officer, that person is able to give evidence in regard to the commission of any such offence;

- (f) demand the owner, operator or driver of any motor vehicle to produce any document prescribed in terms of this By-law or any other law; and
 - (g) impound any document produced in terms of paragraph (f), which may afford evidence of a contravention of or failure to comply with any provision of this By-law or any other law related to road traffic matters and if a document is impounded, the official must issue a receipt in respect of the documents to the person concerned.
- (2) For the purposes of this section –
- (a) a law enforcement officer may only exercise such powers conferred on the officer under his or her certificate of appointment within the municipal area of the City;
 - (b) a traffic officer, other than a member of a municipal police service, may only exercise powers within the municipal area of the City otherwise in accordance with an appointment under section 3A(1)(d) or (2) of the Act; and
 - (c) a member of a municipal police service may only exercise powers within the municipal area of the City otherwise in accordance with section 64F(3) of the South African Police Service Act, 1995 (Act 68 of 1995).

CHAPTER 3: PLYING FOR HIRE AND RANKING REQUIREMENTS

3. Parking and plying for hire

- (1) Subject to subsection (2), a driver of a public transport vehicle who plies for hire or picks up or drops off passengers may park the vehicle at a rank or any parking place demarcated for public transport vehicles.
- (2) Despite subsection (1), the City may, in emergencies or at recreational and other similar functions, set aside temporary public transport facilities identified by the authorised official as suitable for the parking and stopping of public transport vehicles.

- (3) No driver of a public transport vehicle may park the vehicle at a stopping place or any other place not demarcated for public transport vehicles.
- (4) A driver of a public transport vehicle may only, in exceptional circumstances or with the written authorisation of the relevant operating licensing entity, deviate from the allocated route and take short cuts through community roads to ply for hire or drive to pick up or drop off passengers.

4. Rank tokens

- (1) No person may rank with a taxi at a rank unless a rank token in respect of the vehicle has been issued to that person in terms of subsection (6).
- (2) No person may be issued with a rank token unless in possession of a valid operating licence.
- (3) No person may be issued with a rank token if that person has outstanding warrants for the non-payment of traffic fines.
- (4) The rank token referred to in subsection (1) is valid for as long as the operating licence is valid.
- (5) An application for approval for a rank token must be submitted to the authorised official –
 - (a) by the owner; and
 - (b) in a form determined by the City.
- (6) The authorised official, subject to subsections (2) and (3), must issue a rank token in respect of a taxi specifying –
 - (a) the rank at which the rank token applies;
 - (b) the period for which the rank token is granted;
 - (c) the registration number allotted to the vehicle concerned;
 - (d) the make of the vehicle;
 - (e) in respect of metered taxis, the number of the taxi meter approved for use in that vehicle;

- (f) the operating licence number of the vehicle; and
 - (g) the routes for which the vehicle has authority to ply for hire.
- (7) The authorised official may issue one rank token for each taxi.
- (8) Subject to section 77 of the National Land Transport Act, 2009 (Act 5 of 2009), the owner of the vehicle in respect of which a rank token has been issued must, in writing, advise the authorised official of –
- (a) any change of address during the operating period for which the rank token was issued;
 - (b) the disposing of or otherwise ceasing to be the owner of the vehicle during the period for which the token was granted;
 - (c) the name and address of the person to whom the vehicle was disposed of; and
 - (d) the reasons for disposing of or ceasing to be the owner of the vehicle within 7 days of the event.
- (9) The owner contemplated in subsection (8) must pay the City the prescribed charge for the use of each rank token issued in terms of this section.
- (10) No person may forge, imitate, deface, mutilate, alter or make a mark upon a rank token.

5. Display of rank token

No person may –

- (a) affix a rank token to any vehicle other than the vehicle in respect of which it is issued; or
- (b) ply for hire with a taxi –
 - (i) unless the rank token issued in respect of the vehicle for the current year is affixed to the left-hand side of the windscreen so that its face is clearly visible from outside;

- (ii) with any rank token affixed other than the rank token issued in respect of that vehicle for the current year; or
- (iii) with any rank token that has ceased to be valid affixed to that vehicle.

6. Rank token to be produced on demand

- (1) The holder of a rank token issued in terms of this By-law must –
 - (a) maintain the rank token in a good condition; and
 - (b) keep and display it on the motor vehicle to which it relates at all relevant times when it is being operated as a public transport vehicle.
- (2) Any authorised official may call upon the driver of a taxi to stop and may demand the driver –
 - (a) to produce the rank token required under the provisions of this By-law; and
 - (b) to supply their full name and address and the name and address of the owner or operator of the public transport service.
- (3) Any authorised official may demand from the driver of any taxi in a public transport facility to produce the rank token and supply the information referred to in subsection (2).
- (4) No driver referred to in subsection (2) and (3) may, when called upon to do so by any authorised official –
 - (a) refuse to stop;
 - (b) refuse to supply full name and address;
 - (c) refuse to supply the correct name and address of the owner or operator of the vehicle in the driver's charge;
 - (d) refuse to produce a rank token; or
 - (e) give a false name or address.
- (5) For the purpose of sub-section (3), “authorised official” includes an employee employed by the rank.

7. Suspension or withdrawal of a rank token

- (1) If the holder of a rank token has been found guilty of contravening this By-law, and in addition to any other penalty that has been imposed by a court of law, the City may, subject to section 8, after all the circumstances of the case have been taken into consideration, act in terms of subsection (2).
- (2) The City may, after considering all the circumstances of the case, suspend a rank token for a period determined by the authorised official or withdraw the rank token or tokens if –
 - (a) the owner of the taxi –
 - (i) does not comply with an instruction issued in terms of this By-law;
 - (ii) does not maintain the public transport vehicle at all times in a sanitary state and in a roadworthy condition; or
 - (iii) has outstanding arrest warrants for the payment of traffic fines;
 - (b) an authorised official inspects the taxi and finds that the vehicle –
 - (i) is constructed in such a way or is in such a condition that the public transport vehicle is unsafe for the number of passengers it is authorised to carry; or
 - (ii) does not comply with the conditions specified in this By-law or the Act.
- (3) No person may use or allow a vehicle to be used as a taxi at a public transport facility if that vehicle's rank token has been suspended, withdrawn or has expired.
- (4) If an operating licence has been suspended, cancelled or withdrawn by the relevant licensing authority, the rank token issued by the City is automatically suspended, cancelled or withdrawn.
- (5) If the holder of an operating licence appeals the suspension, cancellation or withdrawal to the City manager in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the City manager –

- (a) may, given the grounds of the suspension, cancellation or withdrawal, determine that that suspension, cancellation or withdrawal remains in force pending the appeal; and
- (b) must, if the suspension, cancellation or withdrawal of an operating licence is reversed, re-issue the rank token subject to any conditions the City Manager may specify.

8. Procedure for suspension, cancellation or withdrawal of a rank token

- (1) A rank token may not be suspended or withdrawn unless –
 - (a) the authorised official has given the holder of a rank token and any public transport association or council of which the holder is a member, at least 14 days' written notice by registered mail of the intention to suspend, cancel or withdraw the rank token, and the notice must give –
 - (i) the reasons for the proposed action and an adequate statement setting out the action's nature;
 - (ii) an invitation to the rank token holder to make written representations on the matter; and
 - (iii) an address for the submission of the representations as contemplated in sub-paragraph (ii).
- (2) The authorised official may, if considered necessary, give the holder of the rank token an opportunity to make further representations either in writing or in person.
- (3) The authorised official must give a ruling on whether to suspend, cancel or withdraw the rank token with reasons for the ruling in writing not later than 14 days after the date of representations contemplated in subsection (1) or 2 as the case may be.

9. Change of address

The holder of a rank token must give written notice to the City of any change of address and proof of such address within 14 working days by pre-paid registered post, telefax, hand delivery or by electronic mail.

10. Amendment and replacement of a rank token

- (1) If the particulars reflected on a rank token are incorrect due to a change in particulars or for any other reason, the rank token holder must submit the token to the City for amendment or inform the City of the amendment.
- (2) If a rank token is damaged so that the particulars cannot reasonably be ascertained, the holder of a damaged rank token must submit it to the City and an authorised official may replace it at the rank token holder's cost.

11. Use of ranks

- (1) The driver of a taxi must, when plying for hire at a rank, do so in an orderly manner.
- (2) No person may park or stop a taxi that is not in good working order as required by the Act, in a rank, or cause or permit the vehicle to remain in a rank.
- (3) No person may park or stop any vehicle in a rank except a taxi for which a rank token, specifying the rank and the period of its validity, has been issued in terms of section 4.
- (4) No person may wash any taxi at a rank, except at a wash bay at the facility specially constructed for this purpose.

12. Right of entry

An authorised official may, in enforcing the provisions of this By-law, at any reasonable time and without prior notice –

- (a) enter a public transport facility to inspect it;
- (b) enter any public transport vehicle or vehicle used to transport members of the public for reward; and
- (c) make enquiries from a person connected with the facility.

13. E-hailing vehicle tags

- (1) An e-hailing vehicle operating in the City's jurisdiction must display a tag in the prescribed form and in the prescribed place on the vehicle.

- (2) An e-hailing vehicle may only be driven by a driver who is a holder of a valid operating licence, which must be displayed on the front window of the vehicle.
- (3) The provisions of section 7 and 8 apply to the suspension or withdrawal of an e-hailing tag with the changes required by context.

CHAPTER 4: LICENCE AND OPERATING LICENCE

14. Driver of motor vehicle to be licensed

No person may drive a motor vehicle on a public road –

- (a) except under the authority of and in accordance with the conditions of a licence issued to the driver in terms of the Act or of any document deemed to be a licence for the purposes of the Act; and
- (b) unless the driver keeps the licence or document or any other prescribed authorisation in the vehicle.

15. Motor vehicle to be licensed

Subject to the provisions of the Act, every motor vehicle in the City must, whether or not it is operated on a public road, be licensed by the owner of that motor vehicle, in accordance with the provisions of the Act, with the relevant licensing authority.

16. Driver to have operating licence

- (1) Subject to the provisions of section 32 of the Act, a person may only drive a motor vehicle of a class prescribed in terms of that section on a public road if that person –
 - (a) has a professional driving permit issued in terms of the Act to drive a vehicle of that class;
 - (b) is in possession of that permit; and
 - (c) drives the vehicle in accordance with the conditions of that permit.

- (2) Subsection (1) does not apply to the holder of a learner's licence for that class of vehicle, who drives the motor vehicle while being accompanied by a person registered as a driver in respect of that class of vehicle.

17. Operating licence to be produced on demand

- (1) The holder of an operating licence must –
- (a) maintain the operating licence in a good and legible condition; and
 - (b) keep the operating licence in the motor vehicle to which it relates at all relevant times when the vehicle is being operated as a taxi, bus or e-hailing vehicle.
- (2) An authorised official may call on the driver of a taxi, bus or e-hailing vehicle to stop and may demand that the driver –
- (a) produce the operating licence; and
 - (b) give the driver's full name and address and also the full name and address of the owner of the taxi, bus or e-hailing vehicle.
- (3) A driver referred to in subsection (2) may not –
- (a) operate a public transport service without a valid operating licence; or
 - (b) allow the operating licence to be used for a vehicle other than that specified in the operating licence.

18. Unauthorised handing over or abandonment of public transport vehicle

No driver of a public transport vehicle may –

- (a) abandon the vehicle being driven; or
- (b) allow any other person to drive the vehicle under the driver's control without the written consent, in the prescribed form, of the holder of the operating licence or public permit concerned.

19. Display of licence number

No person may drive or operate a motor vehicle on a public road if it is not fitted with a number plate at –

- (a) the rear of a trailer or a motor cycle; or
- (b) the front and the rear of any other motor vehicle.

CHAPTER 5: EQUIPMENT ON OR IN RESPECT OF VEHICLES

20. Lights on motor vehicles

No person may operate a motor vehicle on a public road unless –

- (a) all lights are undamaged, properly secured and capable of being lit at all times; and
- (b) the head lights, rear lights and number plate lights are kept lit between the period of sunset and sunrise and at any other time when visibility is reduced due to insufficient light, smoke or unfavourable weather conditions.

21. Lights on vehicles

No person may drive a vehicle on a public road without its lights fitted in accordance with the Regulations and in working order.

22. Reflectors on vehicles

No person may drive a vehicle on a public road unless it is fitted with reflectors in accordance with the Regulations and clean, in good condition and not obscured.

23. Direction indicators

No person may drive a motor vehicle on a public road unless its direction indicators are in working order.

24. Hooter or warning devices

No person may operate a vehicle unless it is equipped with a hooter or warning device that is in good working order and capable of emitting a sound that is clearly audible by a person of normal hearing.

25. General prohibitions

No person –

- (a) who is the owner or operator, or is in charge or in control of a motor vehicle may employ or permit any other person to drive that vehicle on a public road unless that other person has –
 - (i) a valid driver's licence; or
 - (ii) a valid learner's licence and the learner driver is accompanied by a driver with a valid licence;
- (b) who is the holder of a learner's or driver's licence may allow that licence to be used by any other person;
- (c) may operate a motor vehicle of any class contemplated in section 45(1) of the Act as prescribed in the Regulations on a public road unless a valid operator card is displayed on that motor vehicle in the manner the Regulations require.
- (d) may, subject to section 42(5) of the Act, operate a motor vehicle referred to in section 42(3) of the Act, unless a valid roadworthy certificate disc issued in terms of the Act is displayed in the manner the Regulations require;
- (e) may drive a vehicle on a public road recklessly or negligently; for the purposes of this paragraph, without restricting the ordinary meaning of the word "recklessly", any person who drives a vehicle with wilful or wanton disregard for the safety of persons or property is deemed to drive that vehicle recklessly;
- (f) may drive a vehicle on a public road without reasonable consideration for any other person using the road;
- (g) may operate a motorcycle or a motor tricycle without wearing a protective helmet with the chin straps tied beneath the chin;
- (h) may throw or drop any object out of the window or door of a vehicle including a burning match, cigarette, other burning or smouldering item or material or any item or material capable of spontaneous combustion or self-ignition or any item or material capable of causing the spontaneous combustion of any material in or along a road or any other place;

- (i) may, subject to section 58(3) of the Act, while operating a vehicle ignore or disregard a road traffic sign, unless otherwise directed by an authorised official;
- (j) may disregard any channelling lines while operating a vehicle;
- (k) may, without reasonable cause or without consent of the owner, operator or person in lawful charge of a motor vehicle –
 - (i) set the vehicle in motion;
 - (ii) place the vehicle in gear;
 - (iii) in any way tamper with the machinery, accessories or parts of the vehicle;
 - (iv) enter or climb upon the vehicle;
 - (v) ride in or drive a vehicle without the consent of the owner, operator or person in lawful charge of the vehicle; and
 - (vi) without lawful excuse, tamper with a vehicle or with any part of the equipment or the accessories of the vehicle or wilfully damage it or throw any object at that vehicle;
- (l) may make a declaration or furnish information that the person knows to be false or misleading;
- (m) may refuse to make a declaration or furnish any information required in terms of this Act;
- (n) may not use, display or manufacture any number plate that does not comply with the specifications prescribed in the Act; or
- (o) may falsify or counterfeit or, with the intent to deceive, replace, alter, deface or mutilate or add anything to a certificate, licence or other document issued or recognised in terms of the Act or be in possession of a certificate, licence or other document that has been falsified or counterfeited or so replaced, altered, defaced or mutilated or to which anything has been added or

produce any document to be used for the purposes of the Act which differs in format or in content from a document prescribed under the Act.

26. Seatbelts

- (1) Unless a vehicle has been exempted from the requirements relating to seatbelts in terms of the Regulations, no person may, on a public road, operate a **motor** vehicle –
 - (a) that does not have seatbelts fitted for each seat in the vehicle;
 - (b) without wearing a seatbelt; and
 - (c) unless all passengers are wearing their seatbelts or, in the case of children under the age of seven, are restrained in a child restraining seat contemplated in subsection (3).
- (2) The seatbelts must not be damaged and must be in good working order.
- (3) All passengers in a vehicle on a public road below the age of seven must be restrained in a child restraining seat directly fixed onto a seat in the vehicle or mounted by means of a seatbelt specifically designed to protect children from injury or death in the event of a collision.

27. Tyres

No person may, on a public road, operate a vehicle if any of the tyres –

- (a) are in such a state of disrepair, wear or damage that the metal part of the wheel to which the tyre is fitted may come into contact with the road surface;
- (b) are in such a state of disrepair, wear or damage that the fabric or cord used in the construction of the tyre is exposed through the rubber;
- (c) have a tread depth of less than one millimetre across the breadth and around the circumference of the tyre;
- (d) have a tread depth that is level with a fitted tyre tread depth indicator; or
- (e) have a lump or bulge.

CHAPTER 6: CONDUCT OF DRIVERS, CONDUCTORS AND PASSENGERS

28. Preventing engagement of public transport vehicle

No person may, by using force, intimidation, threat or any other means, prevent or try to prevent –

- (a) any person from obtaining or engaging a public transport vehicle; or
- (b) the driver of a public transport vehicle from taking on passengers.

29. Conveying dangerous or offensive articles in public transport vehicles

A person who is in charge of a public transport vehicle may not knowingly convey a person or thing or allow that person or thing to be conveyed in that vehicle, whether or not the public transport vehicle has been engaged, if that person or thing –

- (a) is not permitted to be conveyed in terms of any law; or
- (b) has obviously been exposed to or contaminated by an infectious or contagious disease as contemplated in the Act.

30. Boarding and disembarking of public transport vehicles

- (1) No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.
- (2) No person may insist on boarding a public transport vehicle where the number of passengers would be in excess of the total number of passengers the vehicle is authorised to carry.
- (3) No person may board or alight or attempt to board or disembark from any public transport vehicle while the vehicle is in motion.

31. Queues at public transport facilities

- (1) At any established ranking facility, the City may erect or cause to be erected a queue sign that consists of a notice board indicating the location and the manner in which persons waiting to enter a public transport vehicle must stop and form a queue, and such a sign may be supplemented by queuing barriers in

the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.

- (2) Every passenger queuing must comply with the instructions given by a public transport conductor or authorised official on duty.

32. Garments and identification of public transport service conductor

Every public transport service conductor must, while on duty and presenting as available for service, be dressed in a retro-reflective bib or jacket and must ensure that an appropriately issued identification card in terms of any other law is visibly displayed.

33. Duty of care

The owner, driver and conductor of a public transport vehicle must, at all times, exercise a duty of care by maintaining the inside of that public transport vehicle in a sanitary state of affairs.

34. Payment of fares

A passenger on a bus or taxi must, on request, pay the determined fare for the journey.

35. Rights and duties of passengers when public transport vehicle becomes defective

- (1) If a public transport vehicle becomes defective or, for any reason, is unable to proceed, the passengers must, at the request of the driver, disembark from the defective vehicle and the passengers are entitled to a refund of their paid fares.
- (2) The driver must either refund the passengers their paid fares or arrange for the passengers to travel on the next available public transport vehicle for the remainder of their journey at the cost of the owner of the defective vehicle.
- (3) A driver who does not comply with subsection (2) commits an offence.

36. Actions prohibited on public transport vehicle

- (1) The following actions are prohibited on a public transport vehicle:

- (a) smoking;
 - (b) playing offensive or excessively loud music;
 - (c) using obscene or offensive language;
 - (d) interfering with any passenger;
 - (e) damaging anything and interfering with the public transport vehicle's equipment;
 - (f) forcibly causing the driver to deviate from the authorised route;
 - (g) endangering the life of another person;
 - (h) interfering with the driver's actions; and
 - (i) riotous or indecent behaviour.
- (2) Any person who commits any act referred to in subsection (1) may be removed from the vehicle and forfeits any fare paid.

37. Behaviour prohibited at public transport facility

A person who causes a disturbance or behaves in a riotous or indecent manner may be removed from the vicinity of a public transport facility by any authorised official.

38. Property left in public transport vehicles

The driver of a public transport vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must –

- (a) deliver that property to the person who left it behind; or
- (b) if the driver is unable to deliver that property to the person who left it behind –
 - (i) take the property, as soon as possible, to the lost property office of the driver's employer or at the nearest police station; and
 - (ii) obtain a receipt for it.

CHAPTER 7: ANIMALS

39. Animals

No passenger may enter a public transport vehicle with any animal other than a guide dog assisting a blind person.

40. Animals on public road

- (1) No owner of an animal may allow the animal to be untended on any section of a road reserve.
- (2) Any untended animal found on the road reserve is presumed to have been left there or allowed to stray onto the road by the owner.
- (3) No person may drive any animal on a public road, or any part of the road reserve without displaying a visible red light in front of and behind the animal to make it visible to traffic between the hours of sunset and sunrise.
- (4) An authorised official may impound any animal found within a road reserve in contravention of subsection (1).
- (5) An impounded animal must be held and released in terms of the City's Animal By-law, 2010 and any policies and procedures relating to animal impoundment.

CHAPTER 8: ROAD SAFETY

41. Circumstances under which persons may be carried on goods vehicle

No person may operate a goods vehicle conveying persons on a public road –

- (a) unless that portion of the vehicle in which the persons are being conveyed is enclosed to a height of 350 millimetres when seated and 900 millimetres when standing; and
- (b) in which a person is conveyed in the goods compartment with any tools or goods (except for personal effects) unless that person is separated by means of a partition from the portion in which the goods are being conveyed.

42. Overloading of public transport vehicles

No driver of a public transport vehicle may allow more than the specified number of passengers as indicated in the permit onto the vehicle while in operation.

43. Obstruction and disruption of traffic

- (1) No person may park or allow a public transport vehicle to park in a stopping place designated for another class of public transport vehicle.
- (2) No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.
- (3) No public transport vehicle may park for to ply for hire in a demarcated parking bay any longer than is required to enable waiting passengers to be picked up or dropped off.

44. Duties of pedestrians

- (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from the pedestrian crossing or intersection.
- (2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.
- (3) Where a traffic-control light signal, which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which that pedestrian is proceeding.
- (4) Where no pedestrian signals are operating at an intersection, but the intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which that pedestrian is proceeding.

- (5) Where a traffic-control light signal, which embodies pedestrian signals, is operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which that pedestrian is proceeding.
- (6) Pedestrians may not carelessly, negligently or recklessly disregard, or endanger their own safety, or the safety of a person or vehicle using a public road.

45. Use of hooter

No person may on a public road use the hooter or warning device of a vehicle except when necessary to comply with the provisions of this By-law or any other law or on the grounds of safety.

46. Vehicle causing excessive noise

No person may operate or permit to be operated on a public road a motor vehicle causing any excessive noise which could be avoided by the exercise of reasonable care.

47. Duty to indicate when changing lanes

- (1) The driver of a vehicle on a public road divided into traffic lanes by appropriate road traffic signs may not turn from one lane into or across another lane unless the driver can do so without obstructing or endangering other traffic.
- (2) A driver may not turn from one lane into or across another lane without giving a conspicuous signal visible to any person approaching from the front, from the rear or from the side, and of a duration sufficient to warn that person of the driver's intention to turn.

48. Passing of vehicle

- (1) Subject to sub-sections (2), (3) and (4), the driver of a vehicle intending to pass any other vehicle proceeding in the same direction on a public road –
 - (a) must pass to the right of it at a safe distance which in the case of a motor vehicle passing a pedal cycle must be at least one metre; and

- (b) must not again drive on the left side of the roadway until safely clear of that vehicle.
- (2) Subject to sub-section (3), a driver may pass a vehicle to the left of another vehicle on a public road if –
 - (a) it is safe for the driver, other drivers, pedestrians and any property that is on the road; and
 - (b) the vehicle being passed is turning to its right or the driver has signalled the intention to turn right; or
 - (c) the road –
 - (i) is restricted to vehicles moving in one direction; and
 - (ii) is divided into traffic lanes by appropriate road traffic signs; or
 - (iii) the roadway is of sufficient width for two or more lines of moving vehicles; or
 - (d) the roadway is of sufficient width for two or more lines of moving vehicles moving in each direction; or
 - (e) the driver is driving under the specific or general directions of an authorised official in accordance with those directions.
- (3) Subject to section 49, no driver may pass another vehicle as contemplated in sub-section (2) by driving on the shoulders of the roadway or on the verge of that road.
- (4) The driver of a vehicle may not pass other traffic proceeding in the same direction on a public road when approaching –
 - (a) the summit of a rise;
 - (b) a curve; or
 - (c) any other place, where the driver's view is so restricted that any such passing could create a hazard in relation to other traffic which might approach from the opposite direction, unless –

- (i) the driver can do so without encroaching on the right-hand side of the roadway; or
 - (ii) the roadway of the road is restricted to vehicles moving in one direction.
- (5) A driver of a vehicle on a public road, upon becoming aware of other traffic proceeding in the same direction and wishing to pass, must drive the vehicle as near to the left edge of the roadway as is possible, if it is safe for the driver, other drivers, pedestrians and any property that is on the roadway, and may not accelerate the speed of the vehicle until the other vehicle has passed.
- (6) When about to pass oncoming traffic on a public road, the driver of a vehicle must ensure that the vehicle does not encroach on the roadway to the right in a manner that may obstruct or endanger oncoming traffic.
- (7) The driver of a vehicle intending to pass a stationary bus on a public road must do so with due care for the safety of persons approaching or leaving or who may approach or leave the bus.

49. Prohibition on driving on shoulder of public road

- (1) Subject to sub-section (2) and section 115 (1) (e) of the Act, no person may drive a motor vehicle on the shoulder of a public road.
- (2) Notwithstanding sub-section (1), the driver of a motor vehicle may, during the period between sunrise and sunset, drive a motor vehicle on the shoulder of a public road that is designated for one lane of traffic in each direction –
 - (a) while the motor vehicle is being overtaken by another vehicle;
 - (b) if it is safe for the driver, other drivers, pedestrians and any property that is on the road; and
 - (c) if persons and vehicles upon the road are clearly discernible at a distance of at least 150 metres.

50. Right of way at certain road junctions

When intending to enter any portion of a public road that constitutes a junction of two or more public roads where vehicular traffic is required to move around a

traffic island within the junction, the driver of a vehicle on a public road must yield the right of way to all vehicular traffic approaching from the right within the junction, unless the entry into that junction is controlled by an instruction given by an authorised official or a direction conveyed by a road traffic sign requiring the driver to act differently.

51. Compulsory stops

- (1) The driver of a vehicle on a public road must stop the vehicle –
 - (a) in compliance with any direction conveyed by a road traffic sign or given by an authorised official in uniform; or
 - (b) at the request or on the signal of a person leading or driving any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich on the road.
- (2) A driver of a vehicle who disobeys a direction to stop in terms of subsection (1)(a) or attempts to evade or elude that officer, commits an offence.

52. Riding on pedal cycles

- (1) Persons riding pedal cycles on a public road may ride in single file except while overtaking another pedal cycle; two or more persons riding pedal cycles may not overtake another pedal cycle at the same time.
- (2) No person riding or seated on a pedal cycle on a public road may take hold of any other vehicle in motion.
- (3) No person riding a pedal cycle on a public road may deliberately cause it to swerve from side to side.
- (4) No person riding a pedal cycle on a public road may carry any person, animal or object that obstructs the cyclist's view or that prevents the cyclist from exercising complete control over the movements of the pedal cycle.
- (5) A person riding a pedal cycle on a public road must do so with at least one hand on the pedal cycle's handle bars.

- (6) Whenever a portion of a public road has been set aside for use by persons riding pedal cycles, no person may ride a pedal cycle on any other portion of the road.
- (7) A person riding a pedal cycle on a public road or a portion of a public road set aside for use by persons riding pedal cycles, must do so with all the pedal cycle's wheels in contact with the surface of the road at all times.

53. Racing and sport on public roads

- (1) For the purpose of this section, the expression "race or sport" includes –
 - (a) any race, speed trial, reliability trial, hill climbing competition or sports meeting; or
 - (b) any other activity whatsoever-
 - (i) which may constitute a source of danger to traffic; or
 - (ii) which may hamper, impede or disrupt the normal flow of traffic.
- (2) No driver may, without the prior written permission of the City, in or on a public road, public place or place to which the public has access –
 - (a) organise or take part in any race, speed test, or sport involving a motor vehicle;
 - (b) cause the vehicle's wheels to spin when pulling away from a stationary position;
 - (c) cause the vehicle's wheels to spin, causing the wheels to lose traction to make any part of the vehicle sway or drift while the wheels are spinning; or
 - (d) cause any of the wheels to lift off the ground while in motion.
- (3) No person may stand in or along the side of a public road, public place or place to which the public has access to watch or encourage drivers involved in unauthorised racing, speed tests or sport involving a motor vehicle.

54. Hindering or obstructing traffic on public road

- (1) No person may wilfully or unnecessarily prevent, hinder or interrupt the free and proper passage of traffic on a public road.
- (2) No person may place or abandon or cause to be placed or abandoned on a public road any object that may endanger or cause damage to traffic on the road.

55. Towing of vehicles

- (1) No person may operate any motor vehicle on a public road while towing or drawing another vehicle –
 - (a) if the owner of the vehicle being towed does not have a driver's licence for the category of vehicle being towed;
 - (b) with a tow rope or chain that is longer than three and a half metres; and
 - (c) exceeding the speed of 30 kilometres per hour when towing with a rope or a chain.
- (2) No operator of a motorcycle, motor tricycle, motor quad bike or pedal cycle may tow a vehicle, motorcycle, motor tricycle, motor quad bike or pedal cycle.

56. Parking of vehicles

- (1) Unless in accordance with road traffic markings, road traffic signs or on instruction of an authorised official, no person may park a vehicle on a public road,–
 - (a) in contravention of a road traffic sign;
 - (b) in any position or place which, in the opinion of the authorised official, may constitute a danger or an obstruction to traffic or pedestrians;
 - (c) within any subway or tunnel or within six metres thereof;
 - (d) on the right-hand side of the road facing on-coming traffic;
 - (e) within the railway reserve at a level crossing;
 - (f) within nine metres on either side of a pedestrian crossing;

- (g) on the same side as a fire-hydrant within an area bounded by the centre line of the roadway and lines at right angles to such centre line one and a half metres on either side of a fire hydrant;
 - (h) in a manner that obstructs any private or public vehicular entrance to the roadway;
 - (i) on a traffic island, in a pedestrian mall or pedestrian lane; or
 - (j) within five metres of an intersection.
- (2) No person may park a vehicle in a parking bay reserved for disabled persons without displaying the official sticker issued by provincial authorities for the conveying of disabled persons that has been issued for that vehicle.
- (3) No person may park a motor vehicle in a loading zone and leave it unattended for longer than –
- (a) five minutes in the case of a vehicle other than a delivery vehicle; or
 - (b) 30 minutes in the case of a delivery vehicle.
- (4) An authorised official may impound vehicles parked in contravention of subsection (1)(b), (e) and (g) in terms of section 62 of this Act.

57. General duties of driver or passenger of vehicle on public road

- (1) No person driving a vehicle on a public road may –
- (a) cause the vehicle to travel backwards unless it can be done in safety, or cause it to run backwards for a distance or time longer than may be necessary for the safety or reasonable convenience of any occupant of that vehicle or of other traffic on such road;
 - (b) follow another vehicle more closely than is reasonable and prudent having regard to the speed of the other vehicle and the traffic on and the condition of the roadway, or more closely than is prescribed in these sections;
 - (c) permit any person, animal or object to occupy any position in or on the vehicle which may prevent the driver from exercising complete control over

- the movements of the vehicle or signalling the intention of stopping, slowing down or changing direction;
- (d) when driving such vehicle, permit any person to take hold of or interfere with the steering or operating mechanism of the vehicle;
 - (e) when driving the vehicle, occupy a position without having complete control over the vehicle or without a full view of the roadway and the traffic ahead of the vehicle;
 - (f) allow the vehicle to remain unattended on the road without setting its brake or adopting such other method as would effectively prevent the vehicle from moving from the position in which it is left;
 - (g) if the vehicle is parked or is stationary at the side of the road, drive the vehicle from that position unless able to do so without interfering with moving traffic approaching from any direction and with safety to the driver and others;
 - (h) fail to give an immediate and absolute right of way to a vehicle sounding a device or displaying an identification light in terms of section 58(3) of the Act;
 - (i) allow any portion of the driver's body to protrude beyond the vehicle while it is in motion except to give any hand signal which the driver is required or authorised to give in terms of this section or unless the driver is engaged in examining or testing or parking the vehicle;
 - (j) permit any person or animal to occupy the roof, any step or running board or any other place on top of a vehicle while the vehicle is in motion;
 - (k) cause or allow the motor vehicle engine to run while it is stationary and unattended;
 - (l) negligently or wilfully deposit or cause or permit to be deposited any petrol or other liquid fuel or any oil, grease or other flammable or offensive matter, ashes or other refuse, of whatever nature, from the vehicle upon or alongside the road;

- (m) cause or allow the motor vehicle engine to run while petrol or other flammable fuel is being delivered into the vehicle's fuel tank, or cause or allow the engine to be started up before the delivery of the petrol or other flammable fuel into the vehicle's fuel tank has been completed and the fuel tank cover replaced, or
 - (n) unless lawfully overtaking another vehicle or as directed by an authorised official, drive in the oncoming lane.
- (2) No person, other than the driver, may take hold of or interfere with the steering or operating mechanism of a vehicle while it is in motion on a public road, unless it may reasonably be inferred that the driver is no longer capable of steering or controlling the vehicle.
 - (3) No passenger in a vehicle on a public road may permit any body part to protrude beyond the vehicle.
 - (4) No person may enter or alight from any vehicle on a public road unless the vehicle is stationary and unless it can be done without endangering anyone.
 - (5) No person may drive, pull or push a vehicle upon a sidewalk.

58. Damage to public roads

No person may on a public road –

- (a) cause any wheel of any vehicle to drag or spin upon the surface of the roadway, except in the case of an emergency; or
- (b) use any vehicle or thing or move any vehicle or thing on the roadway in a manner causing or likely to cause damage to the road.

59. Special provisions relating to freeways

- (1) No person may operate on a freeway –
 - (a) a vehicle drawn by an animal;
 - (b) a pedal cycle;
 - (c) a skateboard, roller skates, roller blades or similar device;

- (d) a motorcycle having an engine with a cylinder capacity not exceeding 50 cubic centimetres;
 - (e) a vehicle propelled by electrical power derived from storage batteries that is controlled by a pedestrian;
 - (f) any vehicle with a mass not exceeding 230 kilograms that is specifically designed and constructed, not merely adapted, for use by a person with a disability and which is used solely by that person;
 - (g) a motor tricycle or motor quad bike;
 - (h) a vehicle with a mass not exceeding 230 kilograms and specially designed, constructed or adapted for the use of a person suffering from a physical defect or disability; or
 - (i) a tractor or a haulage tractor.
- (2) No person may –
- (a) be on a freeway on foot except –
 - (i) within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign; or
 - (ii) for a cause beyond their control;
 - (b) leave or allow an animal –
 - (i) to be on a freeway except in or on a motor vehicle or within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign; or
 - (ii) leave an animal in a place from where it may stray onto a freeway;
 - (c) stop a vehicle on a freeway except –
 - (i) in compliance with a road traffic sign or a direction given by an authorised official;
 - (ii) within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign; or

- (iii) for any cause beyond the driver's control; or
 - (d) give a hand signal when driving a motor vehicle on a freeway except for a cause beyond the driver's control.
- (3) The provisions of –
 - (a) sub-section (1)(i) do not apply to a person who operates a tractor in connection with the construction or maintenance of a freeway;
 - (b) sub-section (2)(a) does not apply to –
 - (i) an authorised official in the performance of the official's duties;
 - (ii) a person engaged in rescue or salvage work;
 - (iii) a person engaged in the construction or maintenance of a freeway or the rendering of an essential public service; or
 - (c) sub-section (2) (c) does not apply to –
 - (i) the driver of –
 - (aa) an ambulance, fire-fighting vehicle or rescue vehicle; or
 - (bb) a breakdown vehicle while engaged in salvaging another motor vehicle;
 - (ii) an authorised official who drives a vehicle in the performance of the official's duties; or
 - (iii) a person who drives a vehicle while it is used in connection with the construction or maintenance of a freeway or the rendering of an essential public service.

CHAPTER 9: MOBILE TELEPHONES

60. Prohibition on use of mobile telephones while driving

- (1) For the purposes of this section, a 'mobile telephone'–
 - (a) includes a cellular telephone or other hand-held communication device;

- (b) does not include a telephone or device that is –
 - (i) affixed to the vehicle or is part of the fixture in the vehicle and remains affixed while being used or operated; or
 - (ii) specially adapted or designed to be attached to the driver's ears as headgear to enable the driver to use or operate the telephone or device without holding it in one or both hands or any other part of the body; .
- (c) excludes land mobile radio transmission and reception equipment operating in the frequency band 2 megahertz to 500 megahertz that is affixed to the vehicle or is part of the vehicle's fixtures.
- (2) Subject to any other law or subsection (9), no person may drive a vehicle on a public road while holding a mobile telephone in one or both hands or any other part of the body.
- (3) Subject to subsection (4), an authorised official may, in the public interest and the safety of the public, impound a mobile telephone used in contravention of subsection (2).
- (4) When impounding a mobile telephone, the authorised official must –
 - (a) inform the vehicle's driver of the reasons for impounding it;
 - (b) request the driver to shut the telephone down to prevent access to the phone's data;
 - (c) if the driver is not the owner, ask the driver for the owner's name and contact details;
 - (d) issue a receipt to the vehicle's driver stating the place at which the telephone may be retrieved;
 - (e) advise the vehicle's driver that if the telephone is not retrieved in three months from date of impoundment, it may, in accordance with the City's impoundment policies, be sold, donated or destroyed; and
 - (f) follow the Standing Operating Procedure on Impoundment of Goods and Animals.

- (5) If the owner of the mobile telephone is not the driver, the authorised official must notify the telephone's owner at the contact address provided in subsection (4)(c), together with a receipt issued in subsection (4)(d) –
 - (a) where the telephone may be retrieved; and
 - (b) that if the telephone is not retrieved within three months from date of impoundment, it will be destroyed.
- (6) The City may, upon prior written application, extend the three-month period referred to in subsections (4)(e) and (5)(b) provided that an extension is not granted more than twice.
- (7) The mobile telephone may only be retrieved by –
 - (a) the telephone's owner on proof of ownership of the telephone; or
 - (b) any other person upon presentation of –
 - (i) a letter of authorisation from the owner together with the owner's proof of ownership;
 - (ii) a certified copy of the owner's identity document or business registration; and
 - (iii) a certified copy of the identity document of the person collecting the telephone.
- (8) If the mobile telephone is not retrieved within the three months, the City may –
 - (a) sell or donate the telephone provided that all the private data on the telephone is deleted; or
 - (b) destroy the telephone.
- (9) Subsection (2) does not apply to the following persons in the execution of their duties:
 - (a) authorised officials;
 - (b) municipal police officers; and
 - (c) members of the South African Police Service; and

- (d) drivers of vehicles contemplated in section 58(3) of the Act.

CHAPTER 10: DRIVING WHILE UNDER THE INFLUENCE

61. General provisions relating to driving under the influence

- (1) In this chapter operating a vehicle includes sitting behind the steering wheel or operating mechanism of a motor vehicle while the engine is running and in the case of animal-drawn vehicles or pedal cycles while sitting on the seat and controlling the reins or handle bars.
- (2) No person may operate a motor vehicle, pedal cycle or animal-drawn vehicle on a public road while under the influence of intoxicating liquor or a drug having a narcotic effect.
- (3) If an authorised official reasonably suspects a driver of a vehicle of being under the influence of intoxicating liquor or a drug having a narcotic effect, the official may require the driver -
 - (a) to stop the vehicle; and
 - (b) to give a breath specimen using the prescribed equipment.
- (4) An authorised official may arrest the driver of a vehicle contemplated in subsection (3) if -
 - (a) that driver refuses to stop;
 - (b) that driver refuses to give a breath specimen; or
 - (c) that driver's breath specimen exceeds the prescribed limit.

CHAPTER 11: IMPOUNDMENT OF VEHICLES

62. General provisions relating to impoundment of vehicles

- (1) The authorised official may in the interest and safety of the public, without notice, impound a vehicle if –

- (a) the vehicle is being driven on a public road in a reckless manner or engaged in illegal street racing;
 - (b) the vehicle is being driven on a public road with defective lights or rear lights between the period of sunset and sunrise or at any other time when visibility is reduced due to insufficient light, smoke or unfavourable weather conditions;
 - (c) the vehicle is being driven on a public road in a damaged state or in a state of disrepair that, in the opinion of the authorised official, is not roadworthy and safe to drive;
 - (d) the driver of the vehicle is reasonably suspected of being under the influence of intoxicating liquor or a drug having a narcotic effect; or
 - (e) the driver did not stop when signalled to do so by an authorised official in uniform resulting in the driver having to be pursued and forced to stop.
- (2) An authorised official may, if satisfied on reasonable grounds and subject to verification, impound a vehicle -
- (a) if it is operated on a public road and in respect of which a notice to discontinue operation in terms of section 44(1) of the Act has been issued and that notice has not been complied with;
 - (b) if it is operated on a public road by a driver who is not a holder of-
 - (i) a valid driving licence;
 - (ii) professional driving permit; or
 - (iii) the necessary operating licence or permit;
 - (c) if it is operated on a public road contrary to the conditions of approval of its operating licence or permit or is off its approved route;
 - (d) that is not licensed or its licence disc has expired for more than 90 days;
 - (e) that is not registered in terms of section 15;
 - (f) that is not fitted with number plates or is fitted with false number plates; or

- (g) has been left abandoned.
- (3) The authorised official must issue the vehicle's driver with a receipt for the vehicle being impounded, which must –
 - (a) (i) state the physical condition of the vehicle clearly identifying any dents or damage to the vehicle; and
 - (ii) include a list of accessories on and in the vehicle at the time of impoundment;
 - (b) state the address of the pound where the vehicle will be kept;
 - (c) state the operating hours for the release of vehicles from the pound;
 - (d) describe the costs that may be payable before the vehicle may be released;
 - (e) inform the driver that the driver or the owner may make written representations regarding the impoundment and provide the name and contact details of the official to whom representation regarding the impoundment may be made;
 - (f) set out the date and time by which representations must be made;
 - (g) inform the driver of the vehicle of the maximum period of storage;
 - (h) provide information on the application process for the extension of the maximum period of storage; and
 - (i) inform the driver of the vehicle that the vehicle may be sold or destroyed if not retrieved within three months of its impoundment.
- (4) The authorised official must retain a copy of the receipt issued to the driver of the vehicle being impounded which serves as *prima facie* proof of the vehicle's condition at the time of impoundment.
- (5) If the driver is not the vehicle's owner, the authorised official must serve a copy of the receipt on the vehicle's owner by registered mail at the address recorded against the owner's name in the register of vehicles in the National Traffic Information System as defined in section 1 of the Act.
- (6) The City may charge a daily or monthly tariff for storage of impounded vehicles.

- (7) The City may levy an impoundment fee for the vehicle's impoundment.
- (8) The City may recover from the vehicle's owner costs and fees relating to impoundment, transport and storage of the vehicle in terms of its Credit Control and Debt Collection Policy and the Credit Control and Debt Collection By-law, 2006.
- (9) Owners of impounded vehicles will have three months from the date of impoundment within which to retrieve their impounded vehicles.
- (10) The City may, upon the owner's written application, extend the storage period before the end of the three-month period referred to subsection (9) provided that extension is not granted more than twice.

63. Release of impounded vehicles

- (1) Subject to subsections (5) and (6), vehicles impounded by the City –
 - (a) for reckless or negligent driving or illegal street racing in terms of section 62(1)(a) may only be released to the vehicle's owner or driver, upon the conclusion of the matter's prosecution;
 - (b) for being unlicensed or if the licence disc has expired for more than 90 days in terms of section 62(1)(b), may only be released to the vehicle's owner or driver upon presentation of a valid licence disc;
 - (c) for being unregistered in terms of subsection 62(1)(c), may only be released to the vehicle's owner or driver upon proof of registration and a valid licence disc being presented;
 - (d) for not displaying licence plates in terms of section 62(1)(d), may only be released to the vehicle's owner or driver upon presentation of valid licence plates and having them affixed to the vehicle; or
 - (e) for not being roadworthy in terms of section 62(1)(e), may only be released to the vehicle's owner or driver upon presentation of a roadworthy certificate.
- (2) (a) A vehicle that the City has impounded may be temporarily released at the owner's expense to effect the required repairs to the vehicle to –

- (i) a tow truck operating company to transport the vehicle to a vehicle repair centre on a flatbed trailer or with a tow bar or an A-frame;
 - (ii) a mechanic;
 - (iii) a panel beater;
 - (iv) an auto electrician; or
 - (v) another motor repair specialist.
- (b) A vehicle that has been temporarily released for repair in terms of subsection (2)(a) must be returned to the pound by the relevant mechanic, panel beater, auto electrician or other motor repair specialist who collected the vehicle once the necessary repairs have been done for inspection, testing where necessary and release of the vehicle to the vehicle's registered owner or driver.
- (3) If a vehicle needs to be transported to multiple venues to carry out the repairs, transportation may only be effected via a flatbed trailer, tow bar or A-frame up until the vehicle is roadworthy, registered, licensed and with the licence plates affixed to the vehicle.
- (4) It is an offence to remove an impounded vehicle from a pound without the proper authorisation to do so in the case of repairs, or without the relevant release papers issued by an authorised official.
- (5) An authorised official may grant an exemption from payment of the costs and fees relating to impoundment, transport and storage of the vehicle –
 - (a) if charges against the driver or owner have been withdrawn;
 - (b) if the driver or owner is found not guilty of the charges; or
 - (c) on good grounds based on representations made by the owner or driver in the prescribed form.
- (6) Subject to subsection (5), vehicles the City has impounded may only be released to the vehicle's owner or driver upon proof of payment of all costs relating to the impoundment, transport and vehicle storage;

- (7) An authorised official may only release the vehicle from a pound to the vehicle's owner on proof of ownership and valid proof of address.
- (8) An authorised official may only release an impounded vehicle to another person upon presentation of –
 - (a) a letter of authorisation from the owner together with the owner's proof of ownership; or
 - (b) if the owner is deceased, a certified copy of the death certificate from the estate administrator;
 - (c) a certified copy of the owner's identity document; and
 - (d) a certified copy of the identity document of the person collecting the vehicle.

64. Sale or destruction of impounded vehicle

- (1) If a vehicle is not retrieved or released within the three-month period referred to in section 62(8) or the extended period contemplated in section 62(9), an authorised official must notify the vehicle's owner in the prescribed form that –
 - (a) the City intends to –
 - (i) sell the vehicle to recover the its costs and fees relating to impoundment, transport and vehicle storage; or
 - (ii) destroy the vehicle; and
 - (b) if the owner intends to oppose the vehicle's sale or destruction, the owner must either –
 - (i) retrieve the vehicle after paying the City's costs; or
 - (ii) apply to court to stay the vehicle's sale or destruction within 30 days of the notice.
- (2) If the owner fails to retrieve the vehicle or apply to court to stay the vehicle's sale or destruction, the City –
 - (a) must appoint an independent valuator to determine the value of the impounded vehicle;

- (b) may –
 - (i) sell the vehicle by public auction with a reserve price determined by the valuator to recover the its costs including the auction costs; or
 - (ii) destroy the vehicle based on the valuator's valuation.
- (3) If the vehicle contemplated in subsection (2)(b)(i) is not sold at or above the reserve price, the City must –
 - (a) apply to court for an order permitting the vehicle to be sold below the reserve price or be destroyed; and
 - (b) serve a copy of the application on the owner.
- (4) If the vehicle is sold and, after the costs have been deducted, a balance remains in favour of the vehicle's owner, the City must –
 - (a) notify the owner of the balance; and
 - (b) pay the balance to the owner if the owner claims it.
- (5) For the purposes of this section, service and notification on the owner must take place either personally or by registered mail at the address recorded against the owner's name in the register of vehicles in the National Traffic Information System as defined in section 1 of the Act.

CHAPTER 12: GENERAL PROVISIONS

65. Contravention and penalties

- (1) A person who contravenes a provision of this By-law commits an offence.
- (2) A person who commits an offence referred to in subsection (1) is, on conviction, liable for a fine or a term of imprisonment not exceeding any limit imposed for a similar offence in terms of section 89 of the Act.

66. Indemnity

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

67. Repeal

The City of Cape Town: Traffic By-law, 2011 is hereby repealed.

68. Short title

This By-law is called the City of Cape Town: Traffic By-law, 2021, and shall come into operation on the date of publication in the Provincial Gazette.



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

STAD KAAPSTAD

VERORDENING OP

VERKEER, 2021

STAD KAAPSTAD**VERORDENING OP VERKEER, 2021**

Om bepalings neer te lê oor die regulering van openbare vervoer, munisipale paaie, en verkeer en veiligheid op openbare paaie in die regsgebied van die Stad Kaapstad, sowel as oor aangeleenthede wat daarmee verband hou.

Aanhef

AANGESIEN artikel 156(2) van die Grondwet bepaal dat 'n stad verordeninge kan uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer;

AANGESIEN munisipale openbare vervoer vermeld word as 'n plaaslike regeringsaangeleentheid in deel B van bylae 4 in soverre artikel 155(6)(a) en (7) dit uiteensit;

AANGESIEN munisipale paaie, verkeer en parkering vermeld word as plaaslike regeringsaangeleenthede in deel B van bylae 5 in soverre artikel 155(6)(a) en (7) dit uiteensit;

AANGESIEN die Stad voornemens is om stoornisse wat uit die bedryf van openbare vervoer in die regsgebied van die Stad Kaapstad spruit, te beheer;

AANGESIEN die verklaring van vredesbeamptes ingevolge artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977), munisipaal aangestelde wetstoepassingsbeamptes sekere bevoegdhede gee ten opsigte van die padverkeer- en padvervoerwetgewing wat in 'n munisipale gebied geld; en

AANGESIEN artikel 80A van die Nasionale Padverkeerswet die Stad in staat stel om met die instemming van die premier verordeninge uit te vaardig wat met daardie wet strook, oor aangeleenthede wat verband hou met verkeersveiligheid op openbare paaie, die pligte van bestuurders en die gebruik van voertuie op openbare paaie, die verskaffing van dienste wat ry-teen-huur of betaalde passasiersvervoer behels, die gebruik van waarskuwingstoestelle, die gebruik van 'n openbare pad deur algemene verkeer, beperkings op die ouderdom van bestuurders van voertuie wat deur diere getrek word, en enige vereiste vorms of bewyse wat as gepas beskou word, sowel as die aard en omvang van inligting wat vir daardie doel verstrek moet word;

VERORDEN die Raad van die Stad Kaapstad DUS NOU soos volg: –

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HOOFSTUK 1: VERTOLKING

1. Woordomskrywing

In hierdie verordening het 'n uitdrukking wat in die Wet en die gepaardgaande Regulasies omskryf word daardie betekenis, tensy daar uit die samehang anders blyk, en beteken –

“bedryfslisensie” 'n bedryfslisensie soos wat artikel 1 van die Wet op Nasionale Landvervoer, 2009 (Wet 5 van 2009), dit omskryf;

“beweegruiimte” met betrekking tot taxi's, 'n plek buiten 'n taxistaanplek waar 'n taxi tyd verwyd totdat daar plek is by 'n staan- of stilhouplek;

“bus” 'n motorvoertuig wat ontwerp of aangepas is vir die vervoer van meer as 16 persone, wat die bestuurder insluit;

“e-roepdiens” 'n openbarevervoerdienst wat deur middel van 'n motorvoertuig bedryf word en –

(a) te huur is terwyl dit rondbeweeg, en

(b) toegerus is met 'n elektroniese tegnologiegesteunde e-roep-toepassing,

en het die terme **“e-roep”** en **“e-roepvoertuig”** 'n soortgelyke betekenis;

“e-roepkaart” 'n kaart wat ingevolge artikel 13(1) uitgereik is;

“gemagtigde amptenaar” 'n werknemer van die Stad wat gemagtig is om enige plig, werksaamheid of bevoegdheid ingevolge hierdie verordening te verrig of uit te oefen, wat 'n verkeersbeampte en 'n wetstoepassingsbeampte insluit;

“houer” met betrekking tot 'n staanplekbewys, die eienaar aan wie 'n staanplekbewys ingevolge artikel 4(2) uitgereik is;

“lisensiëringsowerheid” 'n registrasieowerheid wat ingevolge artikel 3 van die Wet aangestel is;

“motordriewiel” 'n motorvoertuig, buiten 'n motorfiets of trekker, wat drie wiele het en ontwerp is om bestuur te word met die tipe kontroles waarmee 'n motorfiets gewoonlik toegerus is;

“motorfiets” ’n motorvoertuig met twee wiele, met inbegrip van enige voertuig waaraan ’n syspan geheg is, maar, vir die doel van hierdie verordening, nie enige elektriese fiets wat herlaaibare batterye gebruik om die trapkrag van die fiets te ondersteun nie;

“motorvoertuig” nié ’n elektriese fiets wat herlaaibare batterye gebruik om die trapkrag van die fiets te ondersteun nie;

“openbarevervoerdiens” ’n geskeduleerde of ongeskeduleerde diens vir die vervoer van passasiers per pad, hetsy ingevolge ’n kontrak of nie, welke diens in ruil vir reisgeld of enige ander vergoeding of beloning voorsien word, buiten waar dit duidelik onvanpas is;

“openbarevervoerfasiliteit” enige ruimte wat vir spesifieke voertuie vir openbare vervoer afgebaken is;

“openbarevervoerkondukteur” ’n persoon wat hetsy op ’n plek of ’n openbare pad ’n kondukteursdiens aan openbarevervoerbestuurders en -passasiers lewer, wat insluit –

- (a) die lok en werf van kliënte,
- (b) die beheer en bestuur van toegang tot voertuie, en
- (c) die insameling van reisgeld;

“permit” ’n permit soos wat artikel 1 van die Wet op Nasionale Landvervoer, 2009 (Wet 5 van 2009), dit omskryf;

“Regulasies” die regulasies wat ingevolge die Wet uitgevaardig is;

“ry-teen-huur” die gebruik van ’n voertuig om passasiers teen huur of in ruil vir beloning te vervoer;

“staanplek” onder andere –

- (a) ’n openbarevervoerwisselaar of plek langs ’n openbare pad van waar ’n openbarevervoerdiens teen huur mag ry of passasiers in ruil vir beloning mag vervoer en aflaai, en

- (b) enige plek wat deur 'n padverkeersteken aangewys of afgebaken is as 'n staanplek vir die uitsluitlike parkering van spesifieke voertuie vir openbare vervoer;

“staanplekbewys” 'n staanplekbewys wat ingevolge artikel 4 uitgereik is;

“Stad” die Stad Kaapstad wat ingestel is deur Provinsiale Kennisgewing 479 van 2000 ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), of enige struktuur of werknemer van die Stad wat ooreenkomstig regmatig gedelegeerde bevoegdheid handel;

“Stadsbestuurder” die persoon wat ingevolge artikel 54A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), as die rekenpligtige beampte van die Stad aangestel is;

“stilhouplek” met betrekking tot –

- (a) 'n taxi, 'n plek wat deur die Stad aangewys is waar 'n taxi mag stilhou om passasiers op of af te laai, en
- (b) 'n bus, 'n afgebakende halte waar 'n bus mag stilhou om passasiers op of af te laai;

“taxi” 'n motorvoertuig vir openbare vervoer wat gebruik word om passasiers te vervoer, maar sluit dit 'n openbare bus en 'n e-roepvoertuig uit;

“taxifasiliteit” 'n beweegruimte, spesiale parkeerplek, stilhouplek, staanplek, terminus en enige ander fasiliteit wat die Stad spesifiek en uitsluitlik vir gebruik deur taxi's identifiseer en afbaken;

“taxistaanplek” enige plek wat deur 'n padverkeersteken as 'n taxistaanplek of vir die uitsluitlike parkering van taxi's aangewys of afgebaken is;

“trapfiets” enige twee- of driewielfiets wat ontwerp is om hoofsaaklik deur menslike krag aangedryf te word, met inbegrip van 'n elektriese fiets wat herlaaibare batterye gebruik om die trapkrag van die fiets te ondersteun;

“verkeersbeampte” 'n verkeersbeampte wat ingevolge artikel 3A van die Wet deur die Stad aangestel is, en enige lid van die Kaapstadse metropolitaanse polisiemag wat ingevolge artikel 64A(4) van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995), deur die lid van die uitvoerende raad goedgekeur is;

“voertuig vir openbare vervoer” ’n openbare motorvoertuig wat gebruik word om passasiers teen huur of in ruil vir beloning te vervoer, wat busse, taxi’s en e-roepvoertuie insluit;

“voorgeskryf” voorgeskryf deur die Stadsbestuurder, en het **“voorgeskrewe”** en **“voorskryf”** ’n soortgelyke betekenis;

“Wet” die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996); en

“wetstoepassingsbeampte” ’n wetstoepassingsbeampte wat ingevolge Proklamasie 1114 van 19 Oktober 2018 kragtens artikel 334(1) van die Strafproseswet, 1977 (Wet 51 van 1977), deur die Stad aangestel is om die tersaaklike padverkeer- en padvervoerwetgewing wat in die munisipale gebied van die Stad van krag is, toe te pas.

HOOFSTUK 2: PLIGTE EN BEVOEGDHEDE VAN GEMAGTIGDE AMPTENARE

2. Pligte en bevoegdhede van gemagtigde amptenaar

- (1) Vir die doel van hierdie verordening mag ’n gemagtigde amptenaar –
 - (a) versoek dat die bestuurder van enige voertuig stilhou wanneer sodanige amptenaar in uniform is;
 - (b) enige voertuig bestuur wat vir die uitvoering van pligte vereis word indien, in geval van ’n motorvoertuig, die amptenaar gelisensieer is om die betrokke klas motorvoertuig te bestuur;
 - (c) ’n persoon tydelik verbied om ’n voertuig verder te bestuur of te beheer, en reëlings tref vir die veilige verwydering of plasing van die voertuig, na gelang van wat in die omstandighede nodig of wenslik blyk te wees, indien sodanige persoon, synde die persoon wat ’n motorvoertuig bestuur of oënskynlik beheer, op grond van enige fisiese of geestestoestand vir eers nie daartoe in staat blyk te wees om die voertuig te bestuur of te beheer nie;
 - (d) verkeer op enige openbare pad reël en beheer, en sodanige opdragte gee as wat nodig blyk te wees vir die veilige en doeltreffende reëling van die verkeer, wat die sluiting van enige openbare pad kan insluit, en indien dit voorkom of die bestuurder van ’n motorvoertuig die normale verkeersvloei

op 'n openbare pad verhinder of versper, sodanige bestuurder opdrag gee om die voertuig van die pad te verwyder en 'n ander roete met die voertuig te volg;

- (e) enige persoon versoek om sy/haar naam, adres en ander besonderhede te verstrek wat nodig is vir identifikasie of vir enige proses indien die beampte redelikerwys vermoed dat die persoon 'n misdryf ingevolge hierdie verordening of enige ander wet gepleeg het, of indien die persoon na die beampte se mening kan getuienis lewer met betrekking tot die pleging van enige sodanige misdryf;
- (f) daarop aandrang dat die eienaar, operateur of bestuurder van enige motorvoertuig enige dokument toon wat hierdie verordening of enige ander wet voorskryf; en
- (g) beslag lê op enige dokument wat ingevolge paragraaf (f) getoon word en wat kan bewys lewer van 'n oortreding óf versuim om te voldoen aan enige bepaling van hierdie verordening of enige ander wet ten opsigte van padverkeersaangeleenthede, en indien daar op 'n dokument beslag gelê word, moet die amptenaar die betrokke persoon van 'n ontvangsbewys ten opsigte van die dokument(e) voorsien.

(2) Vir die doel van hierdie artikel –

- (a) mag 'n wetstoepassingsbeampte slegs sodanige bevoegdhede uitoefen as wat ingevolge die beampte se sertifikaat van aanstelling in die munisipale gebied van die Stad aan hom/haar verleen word;
- (b) mag 'n verkeersbeampte buiten 'n lid van 'n munisipale polisie diens slegs bevoegdhede in die munisipale gebied van die Stad, of andersins ooreenkomstig 'n aanstelling ingevolge artikel 3A(1)(d) of (2) van die Wet, uitoefen; en
- (c) mag 'n lid van 'n munisipale polisie diens slegs bevoegdhede in die munisipale gebied van die Stad, of andersins ooreenkomstig 'n aanstelling ingevolge artikel 64F(3) van die Wet op die Suid-Afrikaanse Polisie diens, 1995 (Wet 68 van 1995), uitoefen.

HOOFSTUK 3: RY-TEEN-HUUR- EN STAANPLEKVEREISTES

3. Parkering en ry-teen-huur

- (1) Onderworpe aan subartikel (2) mag 'n bestuurder van 'n voertuig vir openbare vervoer wat teen huur ry of passasiers op- of aflaai die voertuig by 'n staanplek parkeer, of op enige parkeerplek wat vir voertuie vir openbare vervoer afgebaken is.
- (2) Ondanks subartikel (1) mag die Stad in noodgevalle of vir ontspannings- en ander soortgelyke geleenthede tydelike openbarevervoerfasiliteite aanwys wat die gemagtigde amptenaar as geskik vir die parkering en stilhou van voertuie vir openbare vervoer identifiseer.
- (3) Geen bestuurder van 'n voertuig vir openbare vervoer mag die voertuig by 'n stilhouplek of enige ander plek wat nie vir voertuie vir openbare vervoer afgebaken is, parkeer nie.
- (4) 'n Bestuurder van 'n voertuig vir openbare vervoer mag slegs in uitsonderlike omstandighede of met die skriftelike goedkeuring van die betrokke bedryfslisensiëringseenheid van sy of haar toegekende roete afwyk en gemeenskapspaaie gebruik as 'n korter roete om teen huur te ry of passasiers op of af te laai.

4. Staanplekbewyse

- (1) Geen persoon mag met 'n taxi by 'n staanplek staan tensy 'n staanplekbewys vir die voertuig ingevolge subartikel (6) aan daardie persoon uitgereik is nie.
- (2) 'n Staanplekbewys mag nie aan enige persoon sonder 'n geldige bedryfslisensie uitgereik word nie.
- (3) 'n Staanplekbewys mag nie aan enige persoon met uitstaande lasbriewe vir die niebetaling van verkeersboetes uitgereik word nie.
- (4) Die staanplekbewys waarna subartikel (1) verwys, geld solank die bedryfslisensie geld.
- (5) 'n Aansoek om goedkeuring van 'n staanplekbewys moet by die gemagtigde amptenaar ingedien word –

- (a) deur die eienaar; en
 - (b) in die vorm wat die Stad bepaal.
- (6) Onderworpe aan subartikel (2) en (3) moet die gemagtigde amptenaar 'n taxi van 'n staanplekbewys voorsien wat aandui –
- (a) vir watter staanplek die staanplekbewys geld;
 - (b) vir watter tydperk die staanplekbewys toegestaan word;
 - (c) watter registrasienommer aan die betrokke voertuig toegeken word;
 - (d) die voertuigfabrikaat;
 - (e) ten opsigte van metertaxi's, die nommer van die taximeter wat vir gebruik in daardie voertuig goedgekeur is;
 - (f) die bedryfslisensienommer van die voertuig; en
 - (g) die roetes waarop die voertuig teen huur mag ry.
- (7) Die gemagtigde amptenaar mag een staanplekbewys vir elke taxi uitreik.
- (8) Onderworpe aan artikel 77 van die Wet op Nasionale Landvervoer, 2009 (Wet 5 van 2009), moet die eienaar van die voertuig met betrekking waartoe 'n staanplekbewys uitgereik is die gemagtigde amptenaar skriftelik in kennis stel van –
- (a) enige adresverandering gedurende die bedryfstydperk waarvoor die staanplekbewys uitgereik is;
 - (b) die verkoop of ander tipe beëindiging van eienaarskap van die voertuig gedurende die tydperk waarvoor die staanplekbewys uitgereik is;
 - (c) die naam en adres van die persoon aan wie die voertuig nou behoort; en
 - (d) die redes vir die verkoop of beëindiging van eienaarskap van die voertuig, binne sewe dae daarna.
- (9) Die eienaar na wie subartikel (8) verwys, moet aan die Stad die voorgeskrewe heffing betaal vir die gebruik van elke staanplekbewys wat ingevolge hierdie artikel uitgereik is.

- (10) Geen persoon mag 'n staanplekbewys vervals, namaak, skend, beskadig, wysig of 'n merk daarop maak nie.

5. Vertoon van staanplekbewys

Dit is verbode vir enige persoon –

- (a) om 'n staanplekbewys aan te bring op enige voertuig buiten die voertuig met betrekking waartoe dit uitgereik is; of
- (b) om met 'n taxi teen huur te ry –
 - (i) tensy die staanplekbewys wat vir die huidige jaar met betrekking tot die voertuig uitgereik is links op die voorruit aangebring is sodat die voorkant daarvan duidelik van buite af sigbaar is;
 - (ii) met enige ander staanplekbewys op die voertuig aangebring as die een wat vir die huidige jaar met betrekking tot daardie voertuig uitgereik is; of
 - (iii) met enige ongeldige staanplekbewys op die voertuig aangebring.

6. Staanplekbewys moet op aanvraag getoon word

- (1) Die houer van 'n staanplekbewys wat ingevolge hierdie verordening uitgereik is, moet –
 - (a) die staanplekbewys in 'n goeie toestand hou; en
 - (b) die bewys bewaar en op die betrokke motorvoertuig vertoon wanneer dit ook al as 'n voertuig vir openbare vervoer gebruik word.
- (2) Enige gemagtigde amptenaar mag die bestuurder van 'n taxi vra om stil te hou en daarop aandrang dat die bestuurder –
 - (a) die staanplekbewys wat ingevolge die bepalings van hierdie verordening vereis word, toon; en
 - (b) sy of haar volle naam en adres sowel as die naam en adres van die eienaar of operateur van die openbarevervoerdiens verstrek.

- (3) Enige gemagtigde amptenaar mag daarop aandrang dat die bestuurder van enige taxi by 'n openbarevervoerfasiliteit die staanplekbewys toon en die inligting verstrek waarna subartikel (2) verwys.
- (4) Wanneer enige gemagtigde amptenaar so vra, mag geen bestuurder waarna subartikel (2) en (3) verwys –
 - (a) weier om stil te hou nie;
 - (b) weier om sy of haar volle naam en adres te verstrek nie;
 - (c) weier om die korrekte naam en adres te verstrek van die eienaar of operateur van die voertuig in die bestuurder se beheer nie;
 - (d) weier om 'n staanplekbewys te toon nie; of
 - (e) 'n vals naam of adres verstrek nie.
- (5) Vir die doel van subartikel (3) sluit “gemagtigde amptenaar” 'n werknemer van die staanplek in.

7. Opskorting of opheffing van 'n staanplekbewys

- (1) Indien die houer van 'n staanplekbewys aan 'n oortreding van hierdie verordening skuldig bevind word, kan die Stad, benewens enige ander straf wat 'n hof opla en onderworpe aan artikel 8, ingevolge subartikel (2) optree nadat alle omstandighede van die saak in ag geneem is.
- (2) Nadat alle omstandighede van die saak in ag geneem is, kan die Stad 'n staanplekbewys opskort vir 'n tydperk wat die gemagtigde amptenaar bepaal, of die staanplekbewys in die geheel ophef, indien –
 - (a) die eienaar van die taxi –
 - (i) nie gehoor gee aan 'n opdrag ingevolge hierdie verordening nie;
 - (ii) nie die voertuig vir openbare vervoer te alle tye in 'n higiëniese en padwaardige toestand hou nie; of
 - (iii) uitstaande lasbriewe vir inhegtenisneming het vir die niebetaling van verkeersboetes;

- (b) 'n gemagtigde amptenaar die taxi inspekteer en vind dat die voertuig –
 - (i) so gebou of in so 'n toestand is dat dit onveilig is vir die getal passasiers wat dit mag vervoer; of
 - (ii) nie aan die voorwaardes in hierdie verordening of die Wet voldoen nie.
- (3) Geen persoon mag 'n voertuig as 'n taxi by 'n openbarevervoerfasiliteit gebruik of laat gebruik indien die voertuig se staanplekbewys opgeskort of opgehef is of verval het nie.
- (4) Indien die tersaaklike lisensiëringsowerheid 'n bedryfslisensie opskort, intrek of ophef, word die staanplekbewys wat die Stad uitgereik het ook outomaties opgeskort, ingetrek of opgehef.
- (5) Indien die houer van 'n bedryfslisensie ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), by die Stadsbestuurder teen die opskorting, intrekking of opheffing appelleer –
 - (a) kan die Stadsbestuurder in die lig van die gronde vir die opskorting, intrekking of opheffing bepaal dat sodanige opskorting, intrekking of opheffing van krag bly hangende die beslissing van die appèl; en
 - (b) moet die Stadsbestuurder, indien die opskorting, intrekking of opheffing van 'n bedryfslisensie omgekeer word, die staanplekbewys heruitreik onderworpe aan enige voorwaardes wat die Stadsbestuurder dalk stel.

8. Prosedure vir opskorting, intrekking of opheffing van 'n staanplekbewys

- (1) 'n Staanplekbewys mag nie opgeskort of opgehef word nie tensy –
 - (a) die gemagtigde amptenaar die houer van 'n staanplekbewys, en enige openbarevervoervereniging of -raad waartoe die houer behoort, ten minste 14 dae skriftelike kennis gee per geregistreerde pos van die voorneme om die staanplekbewys op te skort, in te trek of op te hef, en sodanige kennisgewing –
 - (i) die redes vir die voorgestelde optrede én 'n voldoende verklaring oor die aard van die optrede bevat;

- (ii) die houer van die staanplekbewys nooi om skriftelike vertoë oor die aangeleentheid te rig; en
 - (iii) 'n adres aandui waar die vertoë waarna subparagraaf (ii) verwys, ingedien kan word.
- (2) Indien die gemagtigde amptenaar dit nodig ag, kan hy of sy die houer van die staanplekbewys 'n geleentheid bied om skriftelik óf van aangesig tot aangesig verdere vertoë te rig.
- (3) Die gemagtigde amptenaar moet teen nie later nie as 14 dae ná die datum van die vertoë in subartikel (1) of (2), na gelang van die geval, beslis of die staanplekbewys opgeskort, ingetrek of opgehef moet word, met skriftelike redes vir sodanige beslissing.

9. Adresverandering

Die houer van 'n staanplekbewys moet die Stad binne 14 dae per voorafbetaalde geregistreerde pos, faks, handaflewering of e-pos skriftelik kennis gee van enige adresverandering, en 'n bewys van sodanige adres voorsien.

10. Wysiging en vervanging van 'n staanplekbewys

- (1) Indien die besonderhede op 'n staanplekbewys verkeerd is as gevolg van 'n verandering in besonderhede of om enige ander rede, moet die staanplekbewyshouer die bewys by die Stad indien om gewysig te word, of die Stad van die wysiging in kennis stel.
- (2) Indien 'n staanplekbewys in so 'n mate beskadig is dat die besonderhede nie redelikerwys bepaal kan word nie, moet die houer van die beskadigde staanplekbewys dit by die Stad indien, en kan 'n gemagtigde amptenaar dit op die bewyshouer se onkoste vervang.

11. Gebruik van staanplekke

- (1) Wanneer 'n taxibestuurder teen huur ry, moet dit op 'n ordelike manier geskied.

- (2) Geen persoon mag 'n taxi by 'n staanplek parkeer, met 'n taxi by 'n staanplek stilhou of 'n taxi by 'n staanplek laat bly indien die voertuig nie in 'n goeie werkende toestand is soos wat die Wet vereis nie.
- (3) Geen persoon mag enige voertuig by 'n staanplek parkeer of met enige voertuig daar stilhou buiten 'n taxi waarvoor 'n staanplekbewys ingevolge artikel 4 uitgereik is wat die staanplek en die geldigheids tydperk aandui nie.
- (4) Geen persoon mag enige taxi by 'n staanplek was buiten in 'n wasvak by die fasiliteit wat spesiaal vir dié doel gebou is nie.

12. Betredingsreg

In die toepassing van die bepalings van hierdie verordening mag 'n gemagtigde amptenaar op enige redelike tyd en sonder voorafkennisgewing –

- (a) 'n openbarevervoerfasiliteit betree om dit te inspekteer;
- (b) enige voertuig vir openbare vervoer, of voertuig wat gebruik word om lede van die publiek in ruil vir beloning te vervoer, betree; en
- (c) navraag doen by 'n persoon wat aan 'n openbarevervoerfasiliteit verbonde is.

13. Kaarte vir e-roepvoertuie

- (1) 'n E-roepvoertuig wat in die regsgebied van die Stad gebruik word, moet 'n kaart in die voorgeskrewe vorm en op die voorgeskrewe plek op die voertuig vertoon.
- (2) 'n E-roepvoertuig mag slegs bestuur word deur 'n bestuurder wat oor 'n geldige bedryfslisensie beskik, wat op die voorruit van die voertuig vertoon moet word.
- (3) Die bepalings van artikel 7 en 8 is eweneens van toepassing op die opskorting of opheffing van 'n e-roepkaart, met die nodige kontekstuele aanpassings.

HOOFSTUK 4: LISENSIE EN BEDRYFSLISENSIE

14. Bestuurder van motorvoertuig moet gelisensieer wees

Geen persoon mag 'n motorvoertuig op 'n openbare pad bestuur nie –

- (a) buiten met die magtiging, en ooreenkomstig die voorwaardes, van 'n lisensie wat ingevolge die Wet aan die bestuurder uitgereik is, of enige dokument wat vir die doel van die Wet as 'n lisensie beskou word; en
- (b) tensy die bestuurder die lisensie of dokument of enige ander voorgeskrewe magtiging in die voertuig hou.

15. Motorvoertuig moet gelisensieer wees

Onderworpe aan die bepalings van die Wet moet elke motorvoertuig in die Stad, ongeag of dit op 'n openbare pad gebruik word of nie, deur die eienaar van die motorvoertuig by die relevante lisensiëringsowerheid gelisensieer word, soos wat die Wet bepaal.

16. Bestuurder moet oor bedryfslisensie beskik

- (1) Onderworpe aan die bepalings van artikel 32 van die Wet mag 'n persoon slegs 'n motorvoertuig van 'n klas wat daardie artikel voorskryf, op 'n openbare pad bestuur indien daardie persoon –
 - (a) 'n professionele bestuurspermit het om 'n voertuig van daardie klas te bestuur, welke permit kragtens die Wet uitgereik is;
 - (b) in besit is van daardie permit; en
 - (c) die voertuig ooreenkomstig die voorwaardes van die permit bestuur.
- (2) Subartikel (1) geld nie vir die houer van 'n leerlingrybewys vir daardie voertuigklas wat die motorvoertuig bestuur terwyl hy of sy vergesel is van 'n persoon wat as 'n bestuurder van die voertuigklas geregistreer is nie.

17. Bedryfslisensie moet op aanvraag getoon word

- (1) Die houer van 'n bedryfslisensie moet –
 - (a) die bedryfslisensie in 'n goeie en leesbare toestand hou; en
 - (b) die bedryfslisensie in die motorvoertuig hou waarop dit betrekking het wanneer die voertuig ook al as 'n taxi, bus of e-roepvoertuig gebruik word.
- (2) 'n Gemagtigde amptenaar mag die bestuurder van 'n taxi, bus of e-roepvoertuig vra om stil te hou en daarop aandring dat die bestuurder –

- (a) die bedryfslisensie toon; en
 - (b) die bestuurder se volle naam en adres sowel as die volle naam en adres van die eienaar van die taxi, bus of e-roepvoertuig verstrek.
- (3) 'n Bestuurder waarna subartikel (2) verwys, mag nie –
- (a) 'n openbarevervoerdiens sonder 'n geldige bedryfslisensie bedryf nie; of
 - (b) toelaat dat die bedryfslisensie gebruik word vir 'n ander voertuig as wat die bedryfslisensie bepaal nie.

18. Ongemagtigde oorhandiging of verlating van voertuig vir openbare vervoer

Geen bestuurder van 'n voertuig vir openbare vervoer mag –

- (a) die voertuig wat hy of sy bestuur, verlaat nie; of
- (b) toelaat dat die voertuig onder sy of haar beheer deur enigiemand anders bestuur word sonder die betrokke bedryfslisensie- of openbarepermithouer se skriftelike toestemming in die voorgeskrewe vorm nie.

19. Vertoon van lisensienommer

Geen persoon mag 'n motorvoertuig op 'n openbare pad bestuur of gebruik nie tensy dit toegerus is met 'n nommerplaat –

- (a) agter op 'n sleepwa of motorfiets; of
- (b) voor én agter op enige ander motorvoertuig.

HOOFSTUK 5: TOERUSTING AAN OF MET BETREKKING TOT VOERTUIE

20. Ligte aan motorvoertuie

Geen persoon mag 'n motorvoertuig op 'n openbare pad bestuur nie tensy –

- (a) alle ligte heel en behoorlik gemonteer is en te alle tye aangeskakel kan word; en

(b) die kopligte, agterligte en nommerplaatligte aangehou word tussen sononder en sonop, en in enige ander stadium wanneer sigbaarheid sleg is weens onvoldoende lig, rook of gure weer.

21. Ligte aan voertuie

Geen persoon mag 'n voertuig op 'n openbare pad bestuur tensy die voertuigligte ooreenkomstig die Regulasies gemonteer en in 'n werkende toestand is nie.

22. Weerkaatsers aan voertuie

Geen persoon mag 'n voertuig op 'n openbare pad bestuur tensy dit toegerus is met weerkaatsers wat ooreenkomstig die Regulasies gemonteer is, skoon en in 'n goeie toestand is, en nie verberg word nie.

23. Rigtingwysers

Geen persoon mag 'n motorvoertuig op 'n openbare pad bestuur tensy die rigtingwysers in 'n werkende toestand is nie.

24. Toeter of waarskuwingstoestelle

Geen persoon mag 'n voertuig bestuur tensy dit toegerus is met 'n toeter of waarskuwingstoestel wat in 'n goeie werkende toestand is en 'n geluid maak wat 'n persoon met normale gehoor duidelik kan hoor nie.

25. Algemene verbodsbepalings

Dit is verbode vir enige persoon –

(a) wat die eienaar of operateur is, of in beheer is, van 'n motorvoertuig om enige ander persoon aan te stel of toe te laat om daardie voertuig op 'n openbare pad te bestuur, tensy sodanige ander persoon –

(i) oor 'n geldige rybewys beskik; of

(ii) oor 'n geldige leerlingrybewys beskik en vergesel is van 'n bestuurder met 'n geldige rybewys;

(b) wat die houer is van 'n rybewys of leerlingrybewys om toe te laat dat enigiemand anders daardie rybewys gebruik;

- (c) om 'n motorvoertuig van enige klas in artikel 45(1) van die Wet, soos wat die Regulasies voorskryf, op 'n openbare pad te bestuur, tensy 'n geldige operateurskaart ooreenkomstig die voorskrifte in die Regulasies op die motorvoertuig vertoon word;
- (d) om, onderworpe aan artikel 42(5) van die Wet, 'n motorvoertuig in artikel 42(3) van die Wet te bestuur, tensy 'n geldige padwaardigheidsertifikaatskyf wat ingevolge die Wet uitgereik is, vertoon word soos wat die Regulasies vereis;
- (e) om 'n voertuig op onverskillige of nalatige wyse op 'n openbare pad te bestuur; vir die doel van hierdie paragraaf, en sonder om die gewone betekenis van die woord "onverskillig" te beperk, sal enige persoon wat 'n voertuig met opsetlike of kwaadwillige minagting vir die veiligheid van persone of eiendom bestuur, as 'n onverskillige bestuurder beskou word;
- (f) om 'n voertuig op 'n openbare pad te bestuur sonder redelike inagneming van enige ander persoon wat die pad gebruik;
- (g) om 'n motorfiets of motordriewiel te bestuur sonder om 'n beskermende valhelm te dra met die kenrieme onder die ken vasgemaak;
- (h) om enige voorwerp by die venster of deur van 'n voertuig uit te gooi of te laat uitval, wat insluit 'n brandende vuurhoutjie, sigaret, ander brandende of gloeiende item of materiaal, of enige item of materiaal wat spontaan kan ontbrand of ontsteek, of enige item of materiaal wat die spontane ontbranding van enige materiaal in of langs 'n pad of enige ander plek kan veroorsaak;
- (i) om, onderworpe aan artikel 58(3) van die Wet, 'n padverkeersteken te ignoreer of te verontagsaam terwyl hy of sy 'n voertuig bestuur, tensy 'n gemagtigde amptenaar anders opdrag gee;
- (j) om enige baanstrepe te verontagsaam terwyl hy of sy 'n voertuig bestuur;
- (k) om sonder redelike gronde of sonder die toestemming van die eienaar, die operateur of die persoon wat regmatig in beheer is van 'n motorvoertuig –
 - (i) die voertuig in beweging te bring;

- (ii) die voertuig se ratte te laat inskakel;
- (iii) op enige manier aan die masjinerie, toebehore of onderdele van die voertuig te peuter;
- (iv) in of op die voertuig te klim;
- (v) in 'n voertuig te ry of dit te bestuur sonder die toestemming van die eienaar, die operateur of die persoon wat regmatig in beheer is van die voertuig; en
- (vi) sonder 'n regmatige verskoning aan 'n voertuig of enige deel van die toerusting of toebehore van die voertuig te peuter, of dit opsetlik te beskadig, of enige voorwerp na die voertuig te gooi;
- (l) om 'n verklaring af te lê of inligting te verstrek wat die persoon wéét onwaar of misleidend is;
- (m) om te weier om 'n verklaring af te lê of enige inligting te verstrek wat die Wet vereis;
- (n) om enige nommerplaat te gebruik, te vertoon of te vervaardig wat nie aan die voorgeskrewe spesifikasies van die Wet voldoen nie; of
- (o) om 'n sertifikaat, lisensie of ander dokument wat ingevolge die Wet uitgereik of erken word, te vervals of na te maak, of dit te vervang, te wysig, te skend of te beskadig of enigiets daarby by te voeg met die bedoeling om te bedrieg, of in besit te wees van 'n sertifikaat, lisensie of ander dokument wat vervals of nagmaak of so vervang, gewysig, geskend of beskadig is of waarby enigiets bygevoeg is, of enige dokument te toon wat vir die doel van die Wet gebruik word, maar wat in formaat of inhoud verskil van 'n dokument wat die Wet voorskryf.

26. Sitplekgordels

- (1) Tensy 'n voertuig van die vereistes met betrekking tot sitplekgordels in die Regulasies vrygestel is, mag geen persoon 'n **motor**voertuig op 'n openbare pad bestuur nie tensy –
 - (a) elke sitplek in die voertuig met sitplekgordels toegerus is;

- (b) die bestuurder 'n sitplekgordel dra; en
 - (c) alle passasiers hulle sitplekgordels dra en kinders onder sewejarige ouderdom in 'n kinderstoeltjie ingevolge subartikel (3) vasgegespe is.
- (2) Die sitplekgordels moenie beskadig wees nie en moet in 'n goeie werkende toestand wees.
- (3) Alle passasiers onder sewejarige ouderdom in 'n voertuig op 'n openbare pad moet vasgegespe wees in 'n kinderstoeltjie wat direk op 'n sitplek in die voertuig vasgemaak of met behulp van 'n sitplekgordel gemonteer is en wat spesifiek ontwerp is om kinders in geval van 'n botsing teen besering of sterfte te beskerm.

27. Voertuigbande

Geen persoon mag 'n voertuig op 'n openbare pad bestuur nie indien enige van die voertuigbande –

- (a) in so 'n swak toestand, afgeslyt of beskadig is dat die metaalgedeelte van die wiel waaraan die band gemonteer is met die padoppervlak in kontak kan kom;
- (b) in so 'n swak toestand, afgeslyt of beskadig is dat die materiaal of koord wat in die bandkonstruksie gebruik is deur die rubber sigbaar is;
- (c) 'n loopvlakdiepte het van minder as een millimeter oor die breedte en die omtrek van die band;
- (d) 'n loopvlakdiepte het wat gelyk is met 'n gemonteerde loopvlakdiepte-aanwyser; of
- (e) 'n knop maak of uitbult.

HOOFSTUK 6: GEDRAG VAN BESTUURDERS, KONDUKTEURS EN PASSASIERE

28. Verhinderig dat 'n voertuig vir openbare vervoer gebruik word

Geen persoon mag met geweld, intimidasie, dreigemente of op enige ander manier verhinder of probeer verhinder nie –

- (a) dat enige persoon 'n voertuig vir openbare vervoer bekom of aanvra; of
- (b) dat die bestuurder van 'n voertuig vir openbare vervoer passasiers aanvaar.

29. Vervoer van gevaarlike of aanstootlike items in voertuie vir openbare vervoer

'n Persoon in beheer van 'n voertuig vir openbare vervoer mag nie willens en wetens 'n persoon of item in die voertuig vervoer, of toelaat dat 'n persoon of item in die voertuig vervoer word nie, ongeag of die voertuig aangevra is of nie, indien daardie persoon of item –

- (a) nie volgens wet vervoer mag word nie; of
- (b) ooglopend blootgestel is aan of besmet is met 'n infeksie- of aansteeklike siekte soos wat die Wet beskryf.

30. In- en uitklim by voertuie vir openbare vervoer

- (1) Geen persoon mag in 'n voertuig vir openbare vervoer klim voordat alle persone wat uit sodanige voertuig wil klim so gemaak het nie.
- (2) Geen persoon mag daarop aandring om in 'n voertuig vir openbare vervoer te klim indien die getal passasiers in so 'n geval die totale toegelate getal vir die voertuig sal oorskry nie.
- (3) Geen persoon mag in of uit enige voertuig vir openbare vervoer klim, of probeer in- of uitklim, terwyl die voertuig beweeg nie.

31. Toustaan by openbarevervoerfasiliteite

- (1) Die Stad mag by enige gevestigde staanplekfasiliteit 'n toustaanteken oprig of laat oprig wat bestaan uit 'n kennisgewingbord wat aandui waar en hoe persone

wat wag om in 'n voertuig vir openbare vervoer te klim tot stilstand moet kom en toustaan, en sodanige teken moet aangevul word met toustaanversperrings in die vorm van relings of strepe op die grondoppervlak van die area wat vir toustaan afgebaken word.

- (2) Elke passasier wat toustaan, moet gehoor gee aan die opdragte van 'n openbarevervoerkondukteur of gemagtigde amptenaar aan diens.

32. Drag en identifisering van kondukteurs van openbarevervoerdienste

Elke kondukteur van 'n openbarevervoerdienste moet, terwyl hy of sy aan diens is en hom of haar vir diens aanbied, 'n beffie of baadjie met retroweerkaatsers dra, en sorg dat 'n identifikasiekaart wat op gepaste wyse ingevolge enige ander wet aan hom of haar uitgereik is sigbaar vertoon word.

33. Sorgsaamheidsplig

Die eienaar, bestuurder en kondukteur van 'n voertuig vir openbare vervoer moet te alle tye hulle sorgsaamheidsplig nakom om die binnekant van die voertuig in 'n higiëniese toestand te hou.

34. Betaling van reisgeld

'n Bus- of taxipassasier moet op versoek die vasgestelde reisgeld vir die rit betaal.

35. Regte en pligte van passasiers ingeval voertuig vir openbare vervoer onklaar raak

- (1) Indien 'n voertuig vir openbare vervoer onklaar raak of om enige rede nie verder kan ry nie, moet die passasiers op die bestuurder se versoek uit die onklaar voertuig klim, en is die passasiers geregtig op 'n terugbetaling van die reisgeld wat hulle betaal het.
- (2) Die bestuurder moet hetsy die passasiers hulle reisgeld teruggee, of reël dat die passasiers op die onkoste van die eienaar van die onklaar voertuig die volgende beskikbare voertuig vir openbare vervoer haal om hulle reis te voltooi.
- (3) 'n Bestuurder wat nie aan subartikel (2) voldoen nie, pleeg 'n misdryf.

36. Verbode optrede in voertuig vir openbare vervoer

- (1) Dit is verbode om in 'n voertuig vir openbare vervoer:
- (a) te rook;
 - (b) aanstootlike of uitermate harde musiek te speel;
 - (c) onweloweglike of aanstootlike taal te gebruik;
 - (d) enige passasier lastig te val;
 - (e) enigiets te beskadig en aan die toerusting van die voertuig vir openbare vervoer te peuter;
 - (f) die bestuurder te dwing om van die goedgekeurde roete af te wyk;
 - (g) 'n ander persoon se lewe in gevaar te stel;
 - (h) met die bestuurder se handeling in te meng; en
 - (i) oproerig of onbetaamlik op te tree.
- (2) Enige persoon wat hom of haar aan enige handeling in subartikel (1) skuldig maak, kan uit die voertuig verwyder word en enige betaalde reisgeld verbeur.

37. Verbode gedrag by openbarevervoerfasiliteit

'n Persoon wat stoornis veroorsaak of op 'n oproerige of onbetaamlike manier optree, kan deur 'n gemagtigde amptenaar uit die omgewing van 'n openbarevervoerfasiliteit verwyder word.

38. Goedere wat in voertuie vir openbare vervoer agterbly

Die bestuurder van 'n voertuig vir openbare vervoer moet die voertuig ná 'n rit deeglik nagaan, en indien 'n passasier enige goedere in die voertuig vergeet het, moet die bestuurder –

- (a) die goedere oorhandig aan die persoon wat dit daar vergeet het; of
- (b) indien hy of sy nie die goedere kan oorhandig aan die persoon wat dit daar vergeet het nie –

- (i) die goedere so gou moontlik na sy of haar werkgewer se kantoor vir verlore goedere of die naaste polisiestasie neem; en
- (ii) 'n ontvangsbewys vir die goedere kry.

HOOFSTUK 7: DIERE

39. Diere

Geen passasier mag met enige dier in 'n voertuig vir openbare vervoer klim nie, buiten met 'n gidshond wat 'n blinde persoon bystaan.

40. Diere op 'n openbare pad

- (1) Geen eienaar van 'n dier mag toelaat dat die dier sonder 'n oppasser in enige gedeelte van 'n padreserwe kom nie.
- (2) Indien enige dier sonder 'n oppasser in die padreserwe aangetref word, sal daar aangeneem word dat die eienaar die dier daar agtergelaat het, of toegelaat het dat die dier op die pad ronddwaal.
- (3) Geen persoon mag enige dier op 'n openbare pad of in enige gedeelte van die padreserwe aanjaag sonder om tussen sonder en sonop 'n duidelike rooi lig voor en agter die dier te vertoon sodat dit sigbaar is vir verkeer nie.
- (4) 'n Gemagtigde amptenaar mag enige dier skut wat in stryd met subartikel (1) in 'n padreserwe aangetref word.
- (5) 'n Geskutte dier moet ingevolge die Stad se Verordening op Diere, 2010, en enige beleide en prosedures met betrekking tot die skut van diere aangehou en vrygelaat word.

HOOFSTUK 8: PADVEILIGHEID

41. Omstandighede waarin persone in goederevoertuig vervoer mag word

Geen persoon mag 'n goederevoertuig gebruik om persone op 'n openbare pad te vervoer nie tensy –

- (a) daardie gedeelte van die voertuig waarin die persone vervoer word, oordek is tot 'n hoogte van 350 millimeter vir sittende passasiers en 900 millimeter vir staande passasiers; en
- (b) waar 'n persoon in die goedereafdeling saam met enige gereedskap of goedere (buiten persoonlike besittings) vervoer word, sodanige persoon deur middel van 'n afskorting geskei word van die area waarin die goedere vervoer word.

42. Oorlading van voertuie vir openbare vervoer

Geen bestuurder van 'n voertuig vir openbare vervoer mag méér passasiers inlaat as die getal passasiers wat op die permit bepaal word nie.

43. Versperring en ontwrigting van verkeer

- (1) Geen persoon mag 'n voertuig vir openbare vervoer parkeer of laat parkeer by 'n stilhouplek wat vir 'n ander klas voertuig vir openbare vervoer aangewys is nie.
- (2) Geen voertuig vir openbare vervoer mag op 'n voetoorgang stilhou om passasiers op of af te laai nie.
- (3) Geen voertuig vir openbare vervoer mag met die oog op ry-teen-huur enigsins langer op 'n afgebakende parkeerplek parkeer as wat nodig is om wagtende passasiers op of af te laai nie.

44. Pligte van voetgangers

- (1) 'n Voetganger mag 'n openbare pad slegs by 'n voetoorgang of kruising of op 'n punt verder as 50 meter van die voetoorgang of kruising oorsteek.
- (2) Waar daar 'n gemerkte voetoorgang by 'n kruising is, mag 'n voetganger die kruising slegs op sodanige gemerkte voetoorgang oorsteek.
- (3) Waar 'n verkeersligstelsel mét voetgangerseine by 'n kruising in werking is, mag 'n voetganger nie die voetoorgang op die ryvlak by die kruising betree terwyl die rooi lig van die voetgangersein vertoon word in die teenoorgestelde rigting as waarin die voetganger loop nie.

- (4) Waar 'n verkeersligstelsel s nder voetgangerseine by 'n kruising in werking is, mag 'n voetganger nie die voetoorgang op die ryvlak by die kruising betree terwyl die rooi lig van die verkeersligstelsel vertoon word in die teenoorgestelde rigting as waarin die voetganger loop nie.
- (5) Waar 'n verkeersligstelsel m t voetgangerseine by 'n voetoorgang op 'n ander plek as by 'n kruising in werking is, mag 'n voetganger slegs die voetoorgang op die ryvlak betree wanneer die groen lig van die voetgangersein vertoon word in die teenoorgestelde rigting as waarin die voetganger loop.
- (6) Voetgangers mag nie hulle eie veiligheid  f die veiligheid van 'n persoon of voertuig wat 'n openbare pad gebruik, op agtelosige, nalatige of onverskillige wyse verontagsaam of in gevaar stel nie.

45. Gebruik van toeter

Geen persoon mag die toeter of waarskuwingstoestel van 'n voertuig op 'n openbare pad gebruik nie buiten waar dit nodig is om aan die bepalings van hierdie verordening of enige ander wet te voldoen, of om veiligheidsredes.

46. Voertuig wat uitermatige geraas veroorsaak

Geen persoon mag 'n motorvoertuig op 'n openbare pad gebruik of laat gebruik indien die voertuig enige uitermatige geraas veroorsaak wat deur die beoefening van redelike sorg verhoed kan word nie.

47. Plig om aan te dui wanneer daar van bane verwissel word

- (1) Die bestuurder van 'n voertuig op 'n openbare pad wat met gepaste padverkeerstekens in verkeersbane verdeel is, mag nie uit een baan in of oor 'n ander baan draai nie tensy die bestuurder dit kan doen sonder om ander verkeer te versper of in gevaar te stel.
- (2) 'n Bestuurder mag nie uit een baan in of oor 'n ander baan draai sonder om 'n opsigtelike sein te gee wat sigbaar is vir enige persoon wat van voor, agter of die kant aankom, en wat lank genoeg duur om enige sodanige persoon te waarsku dat die bestuurder van plan is om te draai nie.

48. Verbysteeke van voertuig

- (1) Onderworpe aan subartikel (2), (3) en (4) moet die bestuurder van 'n voertuig wat van plan is om enige ander voertuig wat in dieselfde rigting op 'n openbare pad ry, verby te steek –
 - (a) sodanige ander voertuig aan die regterkant verbysteeke op 'n veilige afstand, wat in die geval van 'n motorvoertuig wat 'n trapfiets verbysteeke, ten minste een meter moet wees; en
 - (b) nie weer aan die linkerkant van die ryvlak ry totdat hy of sy daardie voertuig veilig en volledig verbygesteeke het nie.
- (2) Onderworpe aan subartikel (3) mag 'n bestuurder 'n voertuig op 'n openbare pad aan die linkerkant verbysteeke indien –
 - (a) dit veilig is vir die bestuurder, ander bestuurders, voetgangers en enige eiendom langs die pad; en
 - (b) die voertuig wat verbygesteeke word besig is om regs te draai, of die bestuurder van daardie voertuig aangedui het dat hy of sy van plan is om regs te draai; of
 - (c) die pad –
 - (i) beperk is tot voertuie wat in een rigting beweeg; en
 - (ii) met gepaste padverkeerstekens in verkeersbane verdeel is; of
 - (iii) 'n ryvlak het wat breed genoeg is vir twee of meer bane bewegende voertuie; of
 - (d) die ryvlak breed genoeg is vir twee of meer bane bewegende voertuie in elke rigting; of
 - (e) die bestuurder volgens die spesifieke of algemene voorskrifte van 'n gemagtigde amptenaar bestuur.
- (3) Onderworpe aan artikel 49 mag geen bestuurder 'n ander voertuig verbysteeke soos wat subartikel (2) beoog deur op die skouers van die ryvlak of op die kant van die pad te ry nie.

- (4) Die bestuurder van 'n voertuig mag nie ander verkeer wat in dieselfde rigting op 'n openbare pad ry, verbystek voor –
- (a) die bopunt van 'n steilte nie;
 - (b) 'n draai in die pad nie; of
 - (c) enige ander plek waar die bestuurder se sig so beperk is dat enige sodanige verbystek 'n gevaar kan skep met betrekking tot ander verkeer wat dalk uit die teenoorgestelde rigting aankom nie, tensy –
 - (i) die bestuurder dit kan doen sonder om na die regterkant van die ryvlak oor te gaan; of
 - (ii) die ryvlak van die pad beperk is tot voertuie wat in een rigting beweeg.
- (5) Wanneer 'n bestuurder van 'n voertuig op 'n openbare pad bewus word van ander verkeer wat in dieselfde rigting ry en wat wil verbykom, moet die bestuurder so na as moontlik aan die linkerkant van die ryvlak ry, mits dit veilig is vir die bestuurder, ander bestuurders, voetgangers en enige eiendom langs die pad, en mag die bestuurder nie versnel totdat sodanige ander voertuig verby is nie.
- (6) Net voordat aankomende verkeer verbyry, moet die bestuurder van 'n voertuig op 'n openbare pad seker maak dat sy of haar voertuig nie na die regterkant van die ryvlak oorbeweeg op 'n wyse wat die aankomende verkeer kan versper of in gevaar stel nie.
- (7) Die bestuurder van 'n voertuig wat van plan is om by 'n stilstaande bus op 'n openbare pad verby te gaan, moet die nodige sorg aan die dag lê vir die veiligheid van persone wat die bus nader of verlaat, of kan nader of verlaat.

49. Verbod op ry op die skouer van 'n openbare pad

- (1) Onderworpe aan subartikel (2) hieronder en artikel 115(1)(e) van die Wet mag geen persoon 'n motorvoertuig op die skouer van 'n openbare pad bestuur nie.
- (2) Ondanks subartikel (1) mag die bestuurder van 'n motorvoertuig in die tyd tussen sonop en sononder op die skouer ry van 'n openbare pad wat vir een baan verkeer in elke rigting voorsiening maak –

- (a) terwyl die motorvoertuig deur 'n ander voertuig verbygesteek word;
- (b) indien dit veilig is vir die bestuurder, ander bestuurders, voetgangers en enige eiendom langs die pad; en
- (c) indien persone en voertuie op die pad duidelik sigbaar is op 'n afstand van ten minste 150 meter.

50. Voorrang by sekere padaansluitings

Wanneer die bestuurder van 'n voertuig op 'n openbare pad van plan is om enige gedeelte van die pad te gebruik waar twee of meer openbare paaie by mekaar aansluit en voertuigverkeer in die aansluiting om 'n verkeerseiland moet ry, moet die bestuurder voorrang gee aan alle voertuigverkeer wat van regs in die aansluiting aankom, tensy 'n gemagtigde amptenaar of 'n padverkeersteken by die ingang van die aansluiting anders aandui.

51. Plig om stil te hou

- (1) Die bestuurder van 'n voertuig op 'n openbare pad moet stilhou –
 - (a) ooreenkomstig enige opdrag van 'n padverkeersteken of 'n gemagtigde amptenaar in uniform; of
 - (b) wanneer 'n persoon wat enige bees, perd, donkie, muil, skaap, bok, vark of volstruis op die pad lei of aanjaag so versoek of aandui.
- (2) 'n Bestuurder van 'n voertuig wat 'n opdrag om stil te hou ingevolge subartikel (1)(a) verontagsaam of die amptenaar probeer ontwyk, pleeg 'n misdryf.

52. Ry op trapfietse

- (1) Persone wat op 'n openbare pad op trapfietse ry, mag in enkel gelid ry, buiten waar een trapfiets 'n ander verbysteek. Twee of meer persone wat op trapfietse ry, mag nie tegelyk 'n ander trapfiets verbysteek nie.
- (2) Geen persoon wat op 'n openbare pad op 'n trapfiets ry of sit, mag aan enige ander bewegende voertuig vashou nie.
- (3) Geen persoon wat op 'n openbare pad op 'n trapfiets ry, mag die fiets opsetlik van kant tot kant laat swenk nie.

- (4) Geen persoon wat op 'n openbare pad op 'n trapfiets ry, mag enige persoon, dier of voorwerp vervoer wat die fietsryer se sig belemmer, of verhoed dat die fietsryer volle beheer oor die beweging van die trapfiets uitoefen nie.
- (5) 'n Persoon wat op 'n openbare pad op 'n trapfiets ry, moet ten minste een hand op die stuurstang van die trapfiets hê.
- (6) Wanneer ook al 'n gedeelte van 'n openbare pad aangewys is vir gebruik deur persone wat op trapfietse ry, mag geen persoon op enige ander gedeelte van die pad 'n trapfiets ry nie.
- (7) 'n Persoon wat op 'n trapfiets ry op 'n openbare pad of 'n gedeelte van 'n openbare pad wat vir gebruik deur persone met trapfietse aangewys is, moet te alle tye so ry dat alle wiele van die fiets aan die oppervlak van die pad raak.

53. Renne en sport op openbare paaie

- (1) Vir die doel van hierdie artikel sluit die uitdrukking “renne of sport” in –
 - (a) enige ren, snelheidstoets, betroubaarheidstoets, heuwelren of sportbyeenkoms; of
 - (b) enige ander aktiwiteit hoegenaamd –
 - (i) wat 'n bron van gevaar vir verkeer kan inhou; of
 - (ii) wat die normale verkeersvloei kan belemmer, vertraag of ontwig.
- (2) Tensy die Stad vooraf skriftelike toestemming verleen, mag geen bestuurder in of op 'n openbare pad, openbare plek, of plek waartoe die publiek toegang het –
 - (a) enige ren, snelheidstoets of sport waarby 'n motorvoertuig betrokke is, reël of daaraan deelneem nie;
 - (b) 'n voertuig se wiele laat tol wanneer dit uit 'n stilstaande posisie wegtrek nie;
 - (c) 'n voertuig se wiele laat tol sodat die wiele trekkrag verloor en enige deel van die voertuig laat swenk of skuif terwyl die wiele tol nie; of
 - (d) enige van die wiele van 'n voertuig van die grond af laat lig terwyl die voertuig beweeg nie.

- (3) Geen persoon mag in of langs 'n openbare pad, openbare plek, of plek waartoe die publiek toegang het, staan om bestuurders wat by ongemagtigde renne, snelheidstoetse of motorvoertuigsport betrokke is dop te hou of aan te moedig nie.

54. Verhinderings van versperring van verkeer op openbare pad

- (1) Geen persoon mag die vrye en behoorlike deurgang van verkeer op 'n openbare pad opsetlik of onnodig verhinder, belemmer of onderbreek nie.
- (2) Geen persoon mag enige voorwerp op 'n openbare pad plaas of los, of daar laat plaas of los, wat die verkeer op sodanige pad in gevaar kan stel of beskadig nie.

55. Sleep van voertuie

- (1) Dit is verbode vir enige persoon om enige motorvoertuig op 'n openbare pad te bestuur terwyl hy of sy 'n ander voertuig sleep of trek –
- (a) indien die eienaar van die voertuig wat gesleep word nie oor 'n rybewys beskik vir die kategorie voertuig wat gesleep word nie;
- (b) met 'n sleeptou of -ketting van langer as drie en 'n halwe meter; en
- (c) teen 'n snelheid van meer as 30 kilometer per uur indien 'n tou of ketting gebruik word.
- (2) Geen operateur van 'n motorfiets, motordriewiel, motorvierwiel of trapfiets mag 'n voertuig, motorfiets, motordriewiel, motorvierwiel of trapfiets sleep nie.

56. Parkering van voertuie

- (1) Tensy padverkeersmerke, padverkeerstekens of 'n gemagtigde amptenaar anders aandui, is dit verbode vir enige persoon om 'n voertuig op 'n openbare pad te parkeer –
- (a) in stryd met 'n padverkeersteken;
- (b) in enige posisie of op enige plek wat na die gemagtigde amptenaar se mening 'n gevaar of versperring vir verkeer of voetgangers kan inhou;
- (c) in enige duikweg of tunnel, of nader as ses meter daaraan;

- (d) aan die regterkant van die pad in die rigting van aankomende verkeer;
 - (e) in die spoorwegreserwe by 'n spoorroorgang;
 - (f) nader as nege meter aan enige kant van 'n voetoorgang;
 - (g) aan dieselfde kant as 'n brandkraan in 'n area wat begrens word deur die middellyn van die ryvlak, en lyne wat haaks is op sodanige middellyn een en 'n halwe meter aan weerskante van die brandkraan;
 - (h) op 'n manier wat enige privaat of openbare voertuig se toegang tot die ryvlak versper;
 - (i) op 'n verkeerseiland, in 'n voetgangerstraat of wandellaan; of
 - (j) nader as vyf meter aan 'n kruising.
- (2) Geen persoon mag 'n voertuig parkeer op 'n parkeerplek wat vir persone met gestremdhede bedoel is nie tensy hy of sy die amptelike plakker vir die vervoer van persone met gestremdhede vertoon wat 'n provinsiale owerheid vir daardie voertuig uitgereik het.
- (3) Dit is verbode vir enige persoon om 'n motorvoertuig in 'n laaisone te parkeer en onbewaak te laat vir langer as –
- (a) vyf minute in geval van 'n voertuig buiten 'n afleweringsvoertuig; of
 - (b) 30 minute in geval van 'n afleweringsvoertuig.
- (4) 'n Gemagtigde amptenaar mag ingevolge artikel 62 van die Wet voertuie skut wat in stryd met subartikel (1)(b), (e) en (g) geparkeer is.

57. Algemene pligte van voertuigbestuurder of -passasier op openbare pad

- (1) Dit is verbode vir enige persoon wat 'n voertuig op 'n openbare pad bestuur –
- (a) om die voertuig te laat agteruitloop tensy dit veilig kan geskied, of die voertuig verder of vir 'n langer tyd te laat agteruitloop as wat dalk nodig is vir die veiligheid of redelike gerief van enige persoon in daardie voertuig of van ander verkeer op sodanige pad;

- (b) om 'n korter volgafstand van 'n ander voertuig te handhaaf as wat redelik en verstandig is met inagneming van die ander voertuig se snelheid, die ander verkeer en die toestand van die ryvlak, of 'n korter volgafstand as wat in hierdie bepaling voorgeskryf word;
- (c) om enige persoon, dier of voorwerp op enige plek in of op die voertuig toe te laat wat dit vir die bestuurder kan moeilik maak om volle beheer oor die bewegings van die voertuig uit te oefen, of aan te dui wanneer hy of sy van plan is om stil te hou, snelheid te verminder of van rigting te verander;
- (d) om terwyl hy of sy sodanige voertuig bestuur, toe te laat dat enige ander persoon die stuur- of beheermeganisme van die voertuig vashou of daaraan peuter;
- (e) om terwyl hy of sy sodanige voertuig bestuur, so geposisioneer te wees dat hy of sy nie volle beheer oor die voertuig het of die ryvlak en die verkeer voor die voertuig ten volle kan sien nie;
- (f) om die voertuig onbewaak te laat op die pad sonder om die rem te aktiveer of sodanige ander metode te gebruik om te verhoed dat die voertuig uit die posisie beweeg waarin dit gelaat word;
- (g) om indien die voertuig langs die pad geparkeer is of stilstaan, uit daardie posisie te begin ry, tensy dít moontlik is sonder om in te meng met bewegende verkeer wat uit enige rigting aankom, en sonder om die veiligheid van die bestuurder en ander in gevaar te stel;
- (h) om te versuim om dadelike en absolute voorrang te gee aan 'n voertuig wat ingevolge artikel 58(3) van die Wet 'n toestel laat afgaan of 'n identifiseringslig vertoon;
- (i) om enige gedeelte van sy of haar liggaam by die voertuig te laat uitsteek terwyl die voertuig beweeg, buiten om enige handsein te gee wat die bestuurder ingevolge hierdie artikel moet of mag gee, of tensy die bestuurder besig is om die voertuig te toets of te parkeer;

- (j) om toe te laat dat enige persoon of dier op die dak, enige trap of treeplank of enige ander plek bo-op 'n voertuig plaasneem terwyl die voertuig beweeg;
 - (k) om te veroorsaak of toe te laat dat die motorvoertuigenjin luier terwyl die voertuig stilstaan en onbewaak is;
 - (l) om op nalatige of opsetlike wyse enige petrol of ander vloeibare brandstof of enige olie, smeermiddel of ander vlambare of aanstootlike stof, as of ander vullis van watter aard ook al uit die voertuig op of langs die pad te stort of te laat stort;
 - (m) om te veroorsaak of toe te laat dat die motorvoertuigenjin luier terwyl petrol of ander vlambare brandstof by die brandstoftenk van die voertuig inloop, of dat die enjin aangeskakel word voordat die petrol of ander vlambare brandstof klaar ingeloopt het en die deksel van die brandstoftenk weer teruggesit is; of
 - (n) om in die aankomende baan te ry, tensy die bestuurder 'n ander voertuig op regmatige wyse verbystee, of in opdrag van 'n gemagtigde amptenaar.
- (2) Geen persoon buiten die bestuurder mag die stuur- of beheermeganisme van 'n voertuig vashou of daaraan peuter terwyl die voertuig op 'n openbare pad beweeg nie, tensy daar redelikerwys afgelei kan word dat die bestuurder nie meer die voertuig kan stuur of beheer nie.
 - (3) Geen passasier in 'n voertuig op 'n openbare pad mag enige gedeelte van sy of haar liggaam by die voertuig laat uitsteek nie.
 - (4) Geen persoon mag in of uit enige voertuig op 'n openbare pad klim tensy die voertuig stilstaan en dit gedoen kan word sonder om enigeen in gevaar te stel nie.
 - (5) Geen persoon mag 'n voertuig op 'n sypaadjie bestuur, sleep of stoot nie.

58. Skade aan openbare paaie

Dit is verbode vir enige persoon op 'n openbare pad –

- (a) om enige band van enige voertuig op die padoppervlak te laat sleep of tol, buiten in 'n noodgeval; of
- (b) om enige voertuig of item op die ryvlak te gebruik of te laat beweeg op 'n manier wat die pad beskadig of waarskynlik sal beskadig.

59. Spesiale bepalings met betrekking tot snelweë

- (1) Dit is verbode om op 'n snelweg te ry met –
 - (a) 'n voertuig wat deur 'n dier getrek word;
 - (b) 'n trapfiets;
 - (c) 'n skaatsplank, rolskaatse, rollemskaatse of 'n soortgelyke toestel;
 - (d) 'n motorfiets met 'n enjin met 'n silindervermoë van 50 kubieke sentimeter of minder;
 - (e) 'n voertuig wat aangedryf word met elektriese krag uit akkumulatorbatterye wat deur 'n voetganger beheer word;
 - (f) enige voertuig wat 230 kilogram of minder weeg wat spesifiek ontwerp en gebou is, en nie bloot aangepas is nie, vir gebruik deur 'n persoon met 'n gestremdheid en wat uitsluitlik deur daardie persoon gebruik word;
 - (g) 'n motordriewiel of -vierwiel;
 - (h) 'n voertuig wat 230 kilogram of minder weeg en spesiaal ontwerp, gebou of aangepas is vir gebruik deur 'n persoon met 'n fisiese belemmering of gestremdheid; of
 - (i) 'n trekker of sleeptrekker.
- (2) Dit is verbode vir enige persoon –
 - (a) om te voet op 'n snelweg te wees, buiten –
 - (i) in 'n area waar 'n gepaste padverkeersteken aandui dat voertuie mag stilhou of parkeer; of
 - (ii) om 'n rede buite sy of haar beheer;

- (b) om 'n dier te los of toe te laat –
 - (i) op 'n snelweg, buiten in of op 'n motorvoertuig of in 'n area waar 'n gepaste padverkeersteken aandui dat voertuie mag stilhou of parkeer; of
 - (ii) op 'n plek van waar die dier kan wegdwaal en op die snelweg beland;
 - (c) om met 'n voertuig op 'n snelweg stil te hou, buiten –
 - (i) ooreenkomstig 'n padverkeersteken of 'n opdrag van 'n gemagtigde amptenaar;
 - (ii) in 'n area waar 'n gepaste padverkeersteken aandui dat voertuie mag stilhou of parkeer; of
 - (iii) om enige rede buite die bestuurder se beheer; of
 - (d) om 'n handsein te gee terwyl hy of sy 'n motorvoertuig op 'n snelweg bestuur, buiten om 'n rede buite die bestuurder se beheer.
- (3) Die bepalings van –
- (a) subartikel (1)(i) is nie van toepassing op 'n persoon wat 'n trekker bestuur as deel van die konstruksie of instandhouding van 'n snelweg nie;
 - (b) subartikel (2)(a) is nie van toepassing nie –
 - (i) op 'n gemagtigde amptenaar in die uitvoering van sy of haar pligte as amptenaar;
 - (ii) op 'n persoon wat besig is met reddingswerk;
 - (iii) op 'n persoon wat besig is met die konstruksie of instandhouding van 'n snelweg of die lewering van 'n noodsaaklike openbare diens; of
 - (c) subartikel (2)(c) is nie van toepassing nie –
 - (i) op die bestuurder van –
 - (aa) 'n ambulans, brandbestrydingsvoertuig of reddingsvoertuig; of
 - (bb) 'n sleepwa wat besig is om 'n ander motorvoertuig te red;

- (ii) op 'n gemagtigde amptenaar wat 'n voertuig in die uitvoering van sy of haar pligte bestuur; of
- (iii) op 'n persoon wat 'n voertuig bestuur terwyl dit gebruik word vir die konstruksie of instandhouding van 'n snelweg of die lewering van 'n noodsaaklike openbare diens.

HOOFSTUK 9: MOBIELE TELEFONE

60. Verbod op gebruik van mobiele telefone terwyl daar bestuur word

- (1) Vir die doel van hierdie artikel sluit 'n “mobiele telefoon” –
 - (a) 'n selfoon of ander handtoestel vir kommunikasie in;
 - (b) nie 'n telefoon of toestel in nie –
 - (i) wat aan die voertuig vasgeheg is of deel is van die vaste toebehore van die voertuig, en vasgeheg bly terwyl dit gebruik word; of
 - (ii) wat spesiaal aangepas of ontwerp is as 'n kopstuk om teen die bestuurder se ore te bly sodat hy of sy die telefoon of toestel kan gebruik sonder om dit met een of albei hande of enige ander liggaamsdeel vas te hou;
 - (c) nie landgebaseerde mobiele toerusting vir radio-uitsending en -ontvangs in wat by frekwensies van 2 megahertz tot 500 megahertz funksioneer en aan die voertuig vasgeheg is of deel is van die vaste toebehore van die voertuig nie.
- (2) Onderworpe aan enige ander wet of subartikel (9) mag geen persoon 'n voertuig op 'n openbare pad bestuur terwyl hy of sy 'n mobiele telefoon met een of albei hande of enige ander liggaamsdeel vashou nie.
- (3) Onderworpe aan subartikel (4) mag 'n gemagtigde amptenaar, in die openbare belang en ter wille van die publiek se veiligheid, 'n mobiele telefoon skut wat in stryd met subartikel (2) gebruik word.
- (4) Wanneer die gemagtigde amptenaar 'n mobiele telefoon skut, moet die amptenaar –

- (a) die voertuigbestuurder van die redes vir skutting in kennis stel;
 - (b) versoek dat die bestuurder die telefoon afskakel om toegang tot die foondata te verhoed;
 - (c) indien die bestuurder nie die eienaar is nie, die bestuurder vir die eienaar se naam en kontakbesonderhede vra;
 - (d) die voertuigbestuurder 'n ontvangsbewys gee wat aandui waar die telefoon afgehaal kan word;
 - (e) die voertuigbestuurder in kennis stel dat indien die telefoon nie binne drie maande ná die datum van skutting afgehaal word nie, dit ooreenkomstig die Stad se skutbeleide verkoop, geskenk of vernietig kan word; en
 - (f) die standaardbedryfsprosedure vir die skutting van goedere en diere volg.
- (5) Indien die voertuigbestuurder nie die eienaar van die mobiele telefoon is nie, moet die gemagtigde amptenaar die eienaar van die telefoon by die kontakadres wat ingevolge subartikel (4)(c) voorsien is, en saam met 'n ontvangsbewys wat ingevolge subartikel (4)(d) uitgereik is, in kennis stel –
- (a) van waar die telefoon afgehaal kan word; en
 - (b) dat indien die telefoon nie binne drie maande ná die datum van skutting afgehaal word nie, dit vernietig sal word.
- (6) Indien daar vooraf skriftelik daarom aansoek gedoen word, kan die Stad die tydperk van drie maande waarna subartikel (4)(e) en (5)(b) verwys, verleng, mits verlenging nie meer as twee keer toegestaan word nie.
- (7) Die mobiele telefoon mag slegs afgehaal word deur –
- (a) die eienaar van die telefoon, by bewys van eienaarskap van die telefoon; of
 - (b) enige ander persoon, by die toon van –
 - (i) 'n magtigingsbrief van die eienaar, sowel as die eienaar se bewys van eienaarskap;
 - (ii) 'n gewaarmerkte afskrif van die eienaar se identiteitsdokument of sakeregistrasie; en

- (iii) 'n gewaarmerkte afskrif van die identiteitsdokument van die persoon wat die telefoon afhaal.
- (8) Indien die mobiele telefoon nie binne die drie maande afgehaal word nie, kan die Stad –
 - (a) die telefoon verkoop of skenk, mits alle privaat data op die telefoon uitgewis word; of
 - (b) die telefoon vernietig.
- (9) Subartikel (2) is nie van toepassing nie op die volgende persone in die uitvoering van hulle pligte:
 - (a) gemagtigde amptenare;
 - (b) munisipale polisiebeamptes;
 - (c) lede van die Suid-Afrikaanse Polisiediens; en
 - (d) bestuurders van voertuie soos wat artikel 58(3) van die Wet beoog.

HOOFSTUK 10: BESTUUR ONDER DIE INVLOED

61. Algemene bepalinge met betrekking tot bestuur onder die invloed

- (1) In hierdie hoofstuk sluit die bestuur van 'n voertuig in om agter die stuurwiel of beheermeganisme van 'n motorvoertuig te sit terwyl die enjin lui en, in geval van voertuie wat deur diere getrek word of trapfietse, om op die sitplek te sit en die teuels of stuurstang te beheer.
- (2) Geen persoon mag 'n motorvoertuig, trapfietse of voertuig wat deur 'n dier getrek word op 'n openbare pad bestuur terwyl hy of sy onder die invloed verkeer van alkoholiese drank of 'n middel met 'n bedwelmende uitwerking nie.
- (3) Indien 'n gemagtigde amptenaar redelikerwys vermoed dat 'n bestuurder van 'n voertuig onder die invloed van alkoholiese drank of 'n middel met 'n bedwelmende uitwerking verkeer, kan die amptenaar die bestuurder versoek –
 - (a) om stil te hou; en

- (b) om 'n asemtoets met behulp van die voorgeskrewe toerusting te laat doen.
- (4) 'n Gemagtigde amptenaar kan die bestuurder van 'n voertuig soos wat subartikel (3) beoog, in hegtenis neem indien –
 - (a) die bestuurder weier om stil te hou;
 - (b) die bestuurder weier om 'n asemtoets te laat doen; of
 - (c) die bestuurder se asemtoets die voorgeskrewe perk oorskry.

HOOFSTUK 11: SKUT VAN VOERTUIG

62. Algemene bepalinge met betrekking tot die skut van voertuig

- (1) Die gemagtigde amptenaar kan, in die openbare belang en ter wille van die publiek se veiligheid, 'n voertuig sonder kennisgewing skut indien –
 - (a) die voertuig op 'n openbare pad op 'n onverskillige manier bestuur word of by onwettige straatrenne betrokke is;
 - (b) die voertuig met onklaar kop- of agterligte op 'n openbare pad bestuur word tussen sonder en sonop, of op enige ander tyd wanneer sigbaarheid sleg is as gevolg van onvoldoende lig, rook of gure weer;
 - (c) die voertuig wat op 'n openbare pad bestuur word in so 'n swak of beskadigde toestand is dat dit na die gemagtigde amptenaar se mening nie padwaardig of veilig is om te bestuur nie;
 - (d) daar 'n redelike vermoede bestaan dat die bestuurder van die voertuig onder die invloed van alkoholiese drank of 'n middel met 'n bedwelmende uitwerking verkeer; of
 - (e) die bestuurder nie stilgehou het toe 'n gemagtigde amptenaar in uniform so aangedui het nie, wat daartoe gelei het dat die bestuurder agternagesit en tot stilstand gedwing moes word.
- (2) 'n Gemagtigde amptenaar kan, op redelike gronde en onderworpe aan bevestiging, 'n voertuig skut –

- (a) indien dit op 'n openbare pad bestuur word en daar ingevolge artikel 44(1) van die Wet 'n kennisgewing vir die staking van die gebruik van die voertuig uitgereik is, maar die kennisgewing verontagsaam word;
 - (b) indien dit op 'n openbare pad bestuur word deur 'n bestuurder sonder –
 - (i) 'n geldige rybewys;
 - (ii) 'n professionele bestuurspermit; of
 - (iii) die nodige bedryfslisensie of -permit;
 - (c) indien dit op 'n openbare pad bestuur word in stryd met die goedkeuringsvoorwaardes van die bedryfslisensie of -permit, of op 'n ander roete as wat goedgekeur is;
 - (d) wat nie gelisensieer is nie, of waarvan die lisensieskyf reeds langer as 90 dae gelede verval het;
 - (e) wat nie ingevolge artikel 15 geregistreer is nie;
 - (f) wat nie oor nommerplate beskik nie, of oor vals nommerplate beskik; of
 - (g) wat agtergelaat is.
- (3) Die gemagtigde amptenaar moet die voertuigbestuurder 'n ontvangsbewys gee vir die voertuig wat geskut word, en so 'n bewys moet –
- (a) (i) die fisiese toestand van die voertuig beskryf, met duidelike vermelding van enige duik of skade aan die voertuig; en
 - (ii) 'n lys insluit van die toebehore aan en in die voertuig ten tyde van skutting;
 - (b) die adres aandui van die skut waar die voertuig gehou sal word;
 - (c) die ure aandui wanneer voertuie uit die skut vrygestel kan word;
 - (d) die koste aandui wat dalk betaalbaar is voordat die voertuig vrygestel kan word;

- (e) die bestuurder in kennis stel dat hy of sy óf die eienaar skriftelike vertoë ten opsigte van die skutting kan rig, en die naam en kontakbesonderhede gee van die amptenaar aan wie sodanige vertoë gerig kan word;
 - (f) die datum en tyd aandui teen wanneer vertoë gerig moet word;
 - (g) die bestuurder van die voertuig van die maksimum bergingstydperk inlig;
 - (h) inligting voorsien oor die proses om aansoek te doen om 'n verlenging van die maksimum bergingstydperk; en
 - (i) die bestuurder van die voertuig in kennis stel dat die voertuig verkoop of vernietig kan word indien dit nie binne drie maande ná skutting afgehaal word nie.
- (4) Die gemagtigde amptenaar moet 'n afskrif hou van die ontvangsbewys wat aan die bestuurder van die geskutte voertuig uitgereik word, wat as *prima facie*-bewys dien van die toestand van die voertuig ten tyde van skutting.
 - (5) Indien die bestuurder nie die voertuigeienaar is nie, moet die gemagtigde amptenaar 'n afskrif van die ontvangsbewys per geregistreerde pos aan die voertuigeienaar bestel by die adres wat in die voertuigregister op die nasionale verkeersinligtingstelsel, soos wat artikel 1 van die Wet dit omskryf, onder die eienaar se naam verskyn.
 - (6) Die Stad kan 'n daaglikse of maandelikse tarief hef vir die berging van geskutte voertuie.
 - (7) Die Stad kan skutgeld vir die skutting van die voertuig hef.
 - (8) Die Stad kan ingevolge sy beleid oor kredietbeheer en skuldinvordering, en die Verordening op Kredietbeheer en Skuldinvordering, 2006, koste en fooie met betrekking tot die skutting, vervoer en berging van die voertuig van die voertuigeienaar verhaal.
 - (9) Eienaars van geskutte voertuie sal drie maande ná die datum van skutting hê om hulle geskutte voertuie af te haal.

- (10) Indien die eienaar skriftelik daarom aansoek doen, kan die Stad die bergingstydperk voor die einde van die drie maande waarna subartikel (9) verwys, verleng, mits verlenging nie meer as twee keer toegestaan word nie.

63. Vrystelling van geskutte voertuie

- (1) Onderworpe aan subartikel (5) en (6) kan voertuie wat deur die Stad geskut is –
- (a) vir onverskillige of nalatige bestuur of onwettige straatrenne ingevolge artikel 62(1)(a), slegs vrygestel word aan die voertuigeienaar of -bestuurder wanneer vervolging in die saak afgehandel is;
 - (b) vir 'n gebrek aan 'n lisensie óf 'n lisensieskyf wat langer as 90 dae gelede verval het ingevolge artikel 62(1)(b), slegs vrygestel word aan die voertuigeienaar of -bestuurder by die toon van 'n geldige lisensieskyf;
 - (c) vir 'n gebrek aan registrasie ingevolge artikel 62(1)(c), slegs vrygestel word aan die voertuigeienaar of -bestuurder by bewyslewering van registrasie en die toon van 'n geldige lisensieskyf;
 - (d) vir versuim om lisensieplate te vertoon ingevolge artikel 62(1)(d), slegs vrygestel word aan die voertuigeienaar of -bestuurder by die toon van geldige lisensieplate wat op die voertuig aangebring word; of
 - (e) vir onpadwaardigheid ingevolge artikel 62(1)(e), slegs vrygestel word aan die voertuigeienaar of -bestuurder by die toon van 'n padwaardigheidsertifikaat.
- (2) (a) 'n Voertuig wat deur die Stad geskut is, kan op die eienaar se onkoste tydelik vir vereiste herstelwerk vrygestel word aan –
- (i) 'n insleepmaatskappy om die voertuig op 'n platbaksleepwa of met 'n sleepstang of 'n A-raam na 'n voertuigherstelsentrum te vervoer;
 - (ii) 'n werktuigkundige;
 - (iii) 'n paneelklopper;
 - (iv) 'n outo-elektrisiën; of
 - (v) 'n ander motorherstelspesialis.

- (b) Indien 'n voertuig ingevolge subartikel 2(a) tydelik vir herstelwerk vrygestel word, moet die betrokke werktuigkundige, paneelklopper, outo-elektrisiën of ander motorherstelspesialis wat die voertuig in ontvangs geneem het, dit onverwyld ná die voltooiing van die nodige herstelwerk aan die skut terugbesorg vir inspeksie, toetsing indien dit nodig is, en vrystelling aan die geregistreerde voertuigeienaar of -bestuurder.
- (3) Indien 'n voertuig na verskeie lokale vir herstelwerk vervoer moet word, mag vervoer slegs deur middel van 'n platbaksleepwa, sleepstang of A-raam geskied totdat die voertuig padwaardig, geregistreer en gelisensieer is en die lisensieplate op die voertuig aangebring is.
- (4) Dit is 'n misdryf om 'n geskutte voertuig uit 'n skut te verwyder sonder die behoorlike magtiging in geval van herstelwerk, of sonder die tersaaklike vrystellingsdokumente wat deur 'n gemagtigde amptenaar uitgereik is.
- (5) 'n Gemagtigde amptenaar kan die koste en fooie met betrekking tot die skutting, vervoer en berging van die voertuig laat vaar –
- (a) indien die aanklagte teen die bestuurder of eienaar teruggetrek word;
 - (b) indien die bestuurder of eienaar vrygespreek word op die aanklagte; of
 - (c) indien die eienaar of bestuurder se verhoër wat in die voorgeskrewe vorm gerig is, op goeie gronde vir vrystelling dui.
- (6) Onderworpe aan subartikel (5) mag voertuie wat deur die Stad geskut is slegs vrygestel word aan die voertuigeienaar of -bestuurder by bewyslewering van die betaling van alle koste met betrekking tot die skutting, vervoer en berging van die voertuig.
- (7) 'n Gemagtigde amptenaar mag 'n geskutte voertuig slegs aan die voertuigeienaar vrystel by bewyslewering van eienaarskap en die toon van 'n geldige bewys van adres.
- (8) 'n Gemagtigde amptenaar mag 'n geskutte voertuig slegs aan 'n ander persoon vrystel by die toon van –

- (a) 'n magtigingsbrief van die eienaar, saam met die eienaar se bewys van eienaarskap; of
- (b) ingeval die eienaar oorlede is, 'n gewaarmerkte afskrif van die sterftesertifikaat wat van die boedeladministrateur bekom is;
- (c) 'n gewaarmerkte afskrif van die eienaar se identiteitsdokument; en
- (d) 'n gewaarmerkte afskrif van die identiteitsdokument van die persoon wat die voertuig afhaal.

64. Verkoop of vernietiging van geskutte voertuig

- (1) Indien 'n voertuig nie binne die tydperk van drie maande waarna artikel 62(8) verwys, of die verlengde tydperk soos wat artikel 62(9) beoog, afgehaal of vrygestel word nie, moet 'n gemagtigde amptenaar die voertuigeienaar in die voorgeskrewe vorm daarvan in kennis stel dat –
 - (a) die Stad van plan is –
 - (i) om die voertuig te verkoop om die koste en fooie met betrekking tot die skutting, vervoer en berging van die voertuig te verhaal; of
 - (ii) om die voertuig te vernietig; en
 - (b) indien die eienaar van plan is om die verkoop of vernietiging van die voertuig teen te staan, die eienaar hetsy –
 - (i) die voertuig moet afhaal nadat hy of sy die Stad se koste betaal het; of
 - (ii) by die hof moet aansoek doen om die verkoop of vernietiging van die voertuig binne 30 dae kennisgewing te stuit.
- (2) Indien die eienaar versuim om die voertuig af te haal of by die hof aansoek te doen om die verkoop of vernietiging van die voertuig te stuit –
 - (a) moet die Stad 'n onafhanklike waardeerder aanstel om die waarde van die geskutte voertuig te bepaal; en
 - (b) kan die Stad –

- (i) die voertuig op 'n openbare veiling verkoop met 'n insetprys wat deur die waardeerder bepaal is om die Stad se koste, waaronder die koste van die veiling, te verhaal; of
 - (ii) die voertuig vernietig op grond van die waardeerder se waardasie.
- (3) Indien die voertuig waarna subartikel (2)(b)(i) verwys, nie teen of vir meer as die insetprys verkoop nie, moet die Stad –
 - (a) by die hof aansoek doen om 'n bevel dat die voertuig vir minder as die insetprys verkoop óf vernietig kan word; en
 - (b) 'n afskrif van die aansoek aan die eienaar bestel.
- (4) Indien die voertuig verkoop word en daar ná die aftrekking van koste 'n bedrag ten gunste van die voertuigeienaar oorbly, moet die Stad –
 - (a) die eienaar van die bedrag in kennis stel; en
 - (b) die bedrag aan die eienaar oorbetaal indien die eienaar dit opeis.
- (5) Vir die doel van hierdie artikel moet bestelling en kennisgewing aan die eienaar hetsy persoonlik of per geregistreerde pos geskied by die adres wat in die voertuigregister op die nasionale verkeersinligtingstelsel, soos wat artikel 1 van die Wet dit omskryf, onder die eienaar se naam verskyn.

HOOFSTUK 12: ALGEMENE BEPALINGS

65. Oortreding en strafbepalings

- (1) 'n Persoon wat 'n bepaling van hierdie verordening oortree, pleeg 'n misdryf.
- (2) 'n Persoon wat 'n misdryf pleeg waarna subartikel (1) verwys, is by skuldigbevinding strafbaar met 'n boete of tronkstraf binne die perke wat ingevolge artikel 89 van die Wet vir 'n soortgelyke misdryf opgelê word.

66. Vrywaring

Nóg die Stad nóg enige gemagtigde amptenaar is aanspreeklik vir enige skade wat spruit uit enige regmatige doen of late van die Stad of die gemagtigde

amptenaar in die uitoefening van enige bevoegdheid of die uitvoering van enige plig ingevolge hierdie verordening.

67. Herroeping

Die Stad Kaapstad: Verordening op Verkeer, 2011, word hiermee herroep.

68. Kort titel

Hierdie verordening is bekend as die Stad Kaapstad: Verordening op Verkeer, 2021, en tree in werking op die datum wanneer dit in die Provinsiale Koerant verskyn.



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

ISIXEKO SASEKAPA UMTHETHO KAMASIPALA WEZENDLELA, KA2021

**ISIXEKO SASEKAPA
UMTHETHO KAMASIPALA WEZENDLELA, KA2021**

Wenzelwa ukuwisa umthetho malunga nolawulo lwezothutho lukawonkewonke, ndawonye nolawulo lwezithuthi kuyo yonke imimandla ephantsi kolawulo lweSixeko saseKapa; nokuwisa umthetho malunga nazo zonke izinto ezibandakanyeka kwezothutho.

Intshayelelo

NANGONA icandelo 156(2) loMgaqosiseko limemelela iSixeko ukuba ibe siso esinoxanduva lokusungula nokunqonqozisa imithetho kamasipala nje, ukuze siqinisekise ukuba yonke imiba ephantsi kolawulo laso ilawulwa ngendlela eyiyo;

NANGONA izithuthi zikamasipala zikawonkewonke zichazwe njengomcimbi ophantsi korhulumente wemimandla kwiSiqendu B seShedyuli 4, ngokohlobo ezichazwe ngalo kwicandelo 155(6)(a) no(7) woMgaqosiseko;

NANGONA iindlela zikamasipala, ezendlela kunye neendawo zokupaka zichazwe njengomcimbi ophantsi kolawulo lukarhulumente wemimandla kwiSiqendu B seShedyuli 5, ngokohlobo ezichazwe ngalo kwicandelo 155(6)(a) no(7) woMgaqosiseko;

NANGONA iSixeko sinenjongo yokulawula uqulukubhode oqhubeka kusetyenziso lwezithuthi zikawonkewonke ezisebenza kwimimandla ephantsi kolawulo lweSixeko saseKapa; yaye

NANGONA ngokwegunya leSibhengezo saMagosa oGcinocwangco ngokwecandelo 334 loMthetho weeNkqubo zoLwaphulomthetho, 1977 (uMthetho Nomb. 51 ka1977), amagosa anqonqozisa umthetho aqeshwe ngumasipala anikwe amagunya athile ngokunxulumene nomthetho wezosetyenziso lwendlela kunye nothutho lwezendlela osebenza kummandla kwamasipala lowo;

NANGONA ngokwegunya lecandelo 80A loMthetho wezeNdlela weSizwe, iSixeko sinokwenza imithetho kamasipala engangqinelaniyo noMthetho ngokumalunga nemicimbi enxulumene nezokhuseleko kwiindlela zikawonkewonke, imisebenzi yabaqhubi kwanokusetyenziswa kwezithuthi kwiindlela zikawonkewonke,

ukubonelelwa ngeenkonz eziquka ukulindela abakhweli okanye ukuthuthwa kwabakhweli ngenjongo yenzuzo, usetyenziso lwezixhobo zokulumkisa, usetyenziso lwendlela kawonkewonke zizithuthi ngokubanzi, ukuqingqwa kweminyaka yabaqhubi bezithuthi ezitsalwa zizilwanyana, nalo naluphi na uhlobo okanye ithokheni ethathwa njengekhawulezayo nohlobo kwanobungakanani beenkcukacha eziya kugqithiselwa loo njongo;

YAYE NGOKO KE, iBhunga leSixeko saseKapa likhupha isindululo malunga nendlela oza KUSEBENZA NGAYO LO MTHETHO KAMASIPALA ngolu hlobo lulandelayo: –

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ISAHLUKO 1: UTOLIKO

1. linkcazelo

Kulo Mthetho kaMasipala, incaciso echazwe kuMthetho nakwiMiqathango yawo inaloo ntsingiselo ngaphandle kokuba umxholo ubonakalisa ngenye indlela yaye –

“uMthetho” kuthetha uMthetho wezeNdlela weSizwe (uMthetho 93 ka1996);

“igosa eligunyazisiweyo” umqeshwa weSixeko ogunyaziswe ukuba enze nawuphi na umsebenzi okanye ifankshini okanye asebenzise naliphi na igunya ngokungqinelana nalo Mthetho kaMasipala yaye kuquka igosa lezendlela negosa lokunqonqozisa umthetho;

“ibhasi okanye uduladula” isithuthi esenzelwe okanye esilungelelaniselwe ukuthuthwa kwabantu abangaphezu kwe16, kuquka nomqhubi;

“iSixeko” iSixeko saseKapa, umasipala osekwe ngokweSaziso seSixeko seSixeko saseKapa uNomb. 479 sangowama22 kweyoMsintsi ka2000, esikhutshwe ngokungqinelana neCandelo 12 loMthetho weZiseko zooMasipala zeeNgingqi: zikaRhulumente waseKhaya (uMthetho 117 ka1998), okanye naso nasiphi na isiseko okanye umqeshwa weSixeko osebenza ngokungqinelana negunya elidluliselwe ngokusemthethweni;

“umphathi weSixeko” umntu oqeshwe njengegosa lokuphendula ngezemali weSixeko ngokungqinelana necandelo 54A loMthetho weeNkqubo zikaMasipala zikaRhulumente waseKhaya (uMthetho 32 ka2000);

“inkonzo yezothutho lukawonkewonke enobuxhakaxhaka beelektronikhi” kuthetha nayiphi na inkonzo yezithuthi zikawonkewonke esebenza ngesithuthi esiyimoto, yaye –

(a) iyafumaneka ukuba iqeshwe lo gama ihambahambayo; yaye

(b) ixhotyiswe ngobuxhakaxhaka beelektronikhi beiheyilingi obusebenza ngeteknoloji

kunye negama elithi **“iheyilingi”** nelithi **“izithuthi zeheyilingi”** linentsingiselo enye.

“ithegi yeiheyilingi” ithetha ithegi ekhutshwe ngokungqinelana necandelo 13(1);

“indawo yokumisa” ngokubhekiselele kwiteksi, kuthetha indawo, engeyiyo irenki, apho iteksi ishiyeka khona de kufumaneka indawo yayo erenkini okanye kwindawo yokumisa;

“umnini” ngokubhekiselele kwithokheni yerenki, kuthetha umnini lowo ukhutshelwe ithokheni yerenki ngokungqinelana necandelo 4(2);

“igosa logcino mthetho” igosa logcino mthetho eliqeshwe siSixeko phantsi kweSibhengezo esinguNomb. 1114 sowe19 kweyeDwarha 2018 esipapashwe phantsi kwecandelo 334(1) loMthetho weNkqubo yoLwaphulo mthetho (uMthetho 51 ka1977) ukunyanzelisa umthetho wezendlela kunye nowezothutho lwendlela osebenzayo kummandla kamasipala weSixeko;

“igunya elikhupha iilayisensi” igunya elibhalisayo eliqeshwe ngokungqinelana necandelo 3 loMthetho;

“isithuthuthu” isithuthi esinamavili amabini yaye kuquka nasiphi na isithuthi esinemoto esecaleni encanyathiselwe kuyo kodwa, ngokumalunga neenjongo zalo Mthetho kaMasipala, akuquki bhayisekile ehamba ngombane esebenzisa iibhetri ezitshajwayo ezincedisa amandla okunyawuza ibhayisekile;

“itrayisekile eyimoto” isithuthi esiyimoto, engeyiyo ibhayisekile eyimoto okanye itrektara, enamavili amathathu yaye yenzelwe ukuba iqhutywe ngohlobo lwezilawulo ezidla ngokufakelwa kwibhayisekile eyimoto;

“isithuthi esiyimoto” akuquki bhayisekile yombane esebenzisa iibhetri ezitshajekayo ezincedisa amandla okunyawuza ibhayisekile;

“ilayisensi yokusebenza” kuthetha **“ilayisensi yokusebenza”** njengoko ichaziweyo kwicandelo 1 loMthetho wezoThutho lweZithuthi eziHamba eMhlabeni (uMthetho 5 ka2009);

“ibhayisekile” kuthetha nayiphi na ibhayisekile enyovwayo okanye itrayisekile eqhutyelwa phambili ngokusebenza amandla omntu kukwaqukwa ibhayisekile ehamba ngombane esebenzisa iibhetri ezitshajisekayo ezincedisa amandla okunyawuza ebhayisekile;

“iphephamvume” lithetha **“iphephamvume”** njengoko lichaziweyo kwicandelo 1 loMthetho weSizwe wezoThutho lweZithuthi eziHamba eMhlabeni (uMthetho ka2009);

“ukukhangela abakhweli” kuthetha ukusebenza kwesithuthi sithutha abakhweli ngokuqeshisa okanye ukuba barhume;

“ukumiselwa” kuthetha okumiselwe ngumphathi weSixeko;

“ukondaktha wezothutho lukawonkewonke” kuthetha umntu oye athi, kwindawo okanye kwindlela kawonkewonke, abonelele ngenkonzo yobukondaktha kubaqhubi bezithuthi zikawonkewonke nakubakhweli, kuqukwa –

- (a) ukucela abakhweli ngokubakhwaza, ubabethele ihuta, kungenjalo ubabethele umlozi okanye wenze nayiphi na into ebarhwebeshayo;
- (b) ukulawula nokubeka esweni indlela yokungena kwizithuthi; kunye
- (c) nokuqokelela imali kubakhweli;

“indawo yezothutho lukawonkewonke” kuthetha nayiphi na indawo evulekileyo eqingqelwe ezothutho lukawonkewonke ngokukodwa;

“isithuthi sikawonkewonke” kuthetha isithuthi sikawonkewonke esisetyenziselwa ukuthutha abakhweli ekuqeshiwayo okanye ekurhunywayo ngaso yaye kuquka iibhasi okanye ooduladula, iiteksi nezithuthi ezinobuxhakaxhaka be-elektronikhi zeihayilingi;

“inkonzo yezothutho kawonkewonke” kuthetha inkonzo ecwangcisiweyo okanye engacwangciswa yokuthuthwa kwabakhweli kusetyenziswa indlela nokuba kuphantsi kwekhontraki okanye akunjalo, kunye nalapho kubonelelwa ngenkonzo khona okukhatshwa ngumrhumo okanye nayo nayiphi na enye into ephantsi kwengqwalaselo okanye erhunywayo, nangaphandle kwemeko apho kungafanelekanga ngokucace gca;

“irenki” kuquka –

- (a) iindawo ekutshintshwana kuzo zizithuthi zikawonkewonke okanye indawo ekwindlela kawonkewonke apho inkonzo yezithuthi zikawonkewonke inokukhangela abakhweli okanye ukuthutha nokwehlisa abakhweli kujongwe umrhumo; kunye
- (b) nayo nayiphi na indawo eyalathiweyo okanye esikelwe umda njengerenki eyenzelwe ukupaka ngokukhethekileyo ukupakwa kwezithuthi zikawonkewonke ezithile;

“ithokheni yerenki” kuthetha ithokheni ekhutshwe ngokungqinelana necandelo 4;

“iMiqathango” kuthetha imiqathango epapashwe phantsi kwalo Mthetho;

“indawo yokumisa” ngokubhekiselele –

(a) kwiteksi, kuthetha indawo etyunjwe siSixeko apho iteksi inokumisa khona ukukhwelisa okanye ukwehlisa abakhweli, kunye

(b) kwibhasi, kuthetha indawo yokumisa emiselweyo apho ibhasi inokumisa khona ukukhwelisa okanye ukwehlisa abakhweli;

“iteksi” kuthetha isithuthi sikawonkewonke, esingeyiyo ibhasi kawonkewonke, esisetyenziselwa ukuthuthwa kwabakhweli kungaqukwanga sithuthi esinobuxhakaxhaka beiheyilingi;

“indawo yeeteksi” kuthetha indawo yokulinda, indawo yokupaka ekhethekileyo, indawo yokumisa, irenki, itheminali kunye nayo nayiphi na enye indawo ephawulwe yaza yahlulwa siSixeko ukuba isetyenziswe ngokukhethekileyo ziiteksi;

“irenki yeeteksi” kuthetha nayiphi na indawo emiselwe okanye eyahlulwe njengerenki yeteksi okanye eyenzelwe ukupaka ngokukhethekileyo kweeteksi ecaleni kophawu olungumqondiso wendlela; yaye

“igosa lendlela” kuthetha igosa lendlela eliqeshwe siSixeko ngokungqinelana necandelo 3A loMthetho kunye nalo naliphi na ilungu leButho laMapolisa kaMasipala weSixeko elivunywe ngokusesikweni lilungu leQoqo loLawulo ngokungqinelana necandelo 64A(4) loMthetho weNkonzo yaMapolisa yaseMzantsi Afrika (uMthetho 68 ka1995).

ISAHLUKO 2: AMAGUNYA NEMISEBENZI YAMAGOSA AGUNYAZISIWEYO

2. Amagunya nemisebenzi yegosa eligunyazisiweyo

(1) Igosa eligunyazisiweyo linako ngokubhekiselele kwiinjongo zokunyanzelisa lo Mthetho kaMasipala –

(a) xa liseyunifomini, lifune umqhubi waso nasiphi na isithuthi ukuba amise isithuthi;

- (b) liqhube nasiphi na isithuthi apho kuyimfuneko ekwenzeni imisebenzi ukuba ngaba, kwimeko ebhekiselele kwisithuthi, igosa linelayisensi yokuqhuba isithuthi sodidi oluchaphazelekayo;
- (c) lithintele okwethutyana umntu ukuba makaqhubeke aqhube okanye ibe lilo elithathela kulo ulawulo lwesithuthi yaye lenze amalungiselelo okususa ngokukhuselekileyo okanye ukubeka isithuthi ngokwendlela enokukhangeleka iyimfuneko okanye inqweneleka ukuba loo mntu uthi engumqhubi, ekukhangeleka inguye owongamele isithuthi, kukhangeleka, ngesizathu semeko ngokwasemzimbeni okanye ngokwasengqondweni, nokuba kuziveza njani na oko, engumntu ongenako okweli xesha ukuqhuba okanye ukongamela eso sithuthi;
- (d) libeke iliso elilawula ezindlela kuyo nayiphi na indlela kawonkewonke, lize linike imiyalelo njengoko kunokukhangeleka kuyimfuneko ekubekeni iliso ngokukhuselekileyo nangobuchule kwezithuthi ezindleleni, limisele nokulawula izithuthi kuyo nayiphi na indlela kawonkewonke, yaye, ukuba kukhangeleka ngathi umqhubi wesithuthi uqhwalalisa okanye uthintela ukuhamba ngokuqhelekileyo kwezithuthi kwindlela kawonkewonke, yalela umqhubi ukuba asisuse isithuthi endleleni aze ahambe ngenye indlela ngesithuthi;
- (e) liyalele nabani na ukuba anike igama lakhe nedilesi kunye nezinye iinkcukacha ezifunekayo ukuzazisa okanye ukwenzela nayiphi na inkqubo ukuba igosa likrokrela lo mntu ngokwaphula umthetho ngokungqinelana noMthetho kaMasipala okanye nawo nawuphi na omnye umthetho, ukuba kuyenzeka ukuba umntu unako ukunika ubungqina ngokubhekiselele ekwenziweni kolo lwaphulomthetho;
- (f) linyanzelise umnini, iopareyitha okanye umqhubi waso nasiphi na isithuthi ukuvelisa naluphi na uxwebhu olumiselweyo ngokungqinelana nalo Mthetho kaMasipala okanye nawo nawuphi na omnye umthetho;
- (g) lohluthe naluphi na uxwebhu oluveziweyo ngokungqinelana nomhlathi (f), olunokunika ubungqina bokwaphulwa komthetho okanye ukungathobeli nawuphi na umqathango walo Mthetho kaMasipala okanye nawo nawuphi

na umthetho obhekiselele kwimicimbi yezendlela yaye ukuba uxwebhu lohluthiwe, igosa kufuneka likhuphele umntu lowo uchaphazelekayo irisithi ngokubhekiselele kumaxwebhu lawo.

(2) Ngokubhekiselele kwiinjongo zeli candelo –

(a) igosa lokunyanzelisa umthetho linokusebenzisa kuphela amagunya anjalo adluliselwe kwigosa phantsi kwesiqinisekiso sengqesho yakhe kummandla kamasipala weSixeko;

(b) igosa lendlela, elingelilo ilungu lenkonzo yamapolisa kamasipala, linokusebenzisa kuphela amagunya kummandla kamasipala weSixeko ngokuhambelanayo nengqesho phantsi kwecandelo 3A(1)(d) okanye lesi(2) lalo Mthetho;

(c) ilungu lenkonzo yamapolisa kamasipala linokusebenzisa amagunya kuphela kummandla kamasipala weSixeko ngenye indlela ngokuhambelanayo necandelo 64F(3) loMthetho weNkonzo yaMapolisa waseMzantsi Afrika, (uMthetho ka1995).

ISAPHLUKO 3: UKUKHANGELA ABAKHWELI NEEMFUNO ZOKURENKISHA

3. Ukupaka nokukhangela abakhweli

(1) Ngokuxhomekeke kwicandelwana lesi(2), umqhubi wesithuthi sikawonkewonke okhangela abakhweli okanye okhwelisa okanye owehlisa abakhweli unokupaka isithuthi erenkini okanye kuyo nayiphi na indawo evulelekileyo erenkini okanye nakweyiphi na indawo yokupaka elungiselelwe izithuthi zikawonkewonke.

(2) Ngokungaphandle kwecandelwana loku(1), iSixeko sinako, kwiimeko zongxamiseko okanye kwimisebenzi yezolonwabo nakweminye imisebenzi efana naleyo, ukubekela bucala iindawo zezothutho zethutyana ezityunjwe ligosa eligunyazisiweyo njengezifanelekileyo ukupaka nokumisa izithuthi zikawonkewonke.

(3) Akukho mqhubi wesithuthi sikawonkewonke uvumelekileyo ukuba apake isithuthi sakhe kwindawo yokumisa okanye kuyo nayiphi na enye indawo engalungiselelwanga ukusetyenziswa zizithuthi zikawonkewonke.

- (4) Umqhubi wesithuthi sikawonkewonke uvumeleke kuphela, kwiimeko ezikhethekileyo okanye ngogunyaziso olubhaliweyo lweziko elikhupha ilayisensi echaphazelekayo, ukunxaxha kwindlela ayabelweyo akramele ngeendlela ezimfutshane zasekuhlaleni esehla esenyuka efuna ukurhunywa okanye ukuqhuba khona xa eza kwehlisa abakhweli.

4. lithokheni zeerenki

- (1) Akukho mntu uvumelekileyo ukurenkisha ngeteksi ngaphandle kokuba uyikhutshelwe ithokheni yokurenkisha umntu lowo ngokubhekiselele kwisithuthi ngokungqinelana necandelwana lesi(6).
- (2) Akukho mntu uvumelekileyo ukukhutshelwa ithokheni yerenki ngaphandle kokuba unayo ilayisensi yokusebenza esemthethweni.
- (3) Akukho mntu unokukhutshelwa ithokheni yerenki ukuba umntu lowo uneewaranti azikhutshelweyo zokungahlawuli izohlwayo zendlela.
- (4) Ithokheni yerenki ekubhekiselelwe kuyo kwicandelwana loku(1) isemthethweni ukuba nje ilayisensi yokusebenza isemthethweni.
- (5) Isicelo sokuvunywa ngokusesikweni kwethokheni yerenki kufuneka singeniswe kwigosa eligunyazisiweyo –
- (a) ngumnini; yaye
 - (b) sibe kwimo emiselwe siSixeko.
- (6) Igosa eligunyazisiweyo, phantsi kwamacandelwana wesi(2) nelesi(3), kufuneka likhuphe ithokheni yerenki ngokubhekiselele kwiteksi elichaza –
- (a) irenki apho ithokheni isebenza khona;
 - (b) ithuba elikhutshelwe ithokheni yokurenkisha;
 - (c) inombolo yobhaliso enikwe isithuthi esichaphazelekayo;
 - (d) uhlobo lwesithuthi;
 - (e) ngokubhekiselela kwiiteksi zemitha, inombolo yeteksi yemitha evunywe ngokusesikweni ukuba isetyenziswe kweso sithuthi;

- (f) ilayisensi yokusebenza yesithuthi; kunye
 - (g) neendlela ezimiseliweyo isithuthi eso esinegunya lokuhla sinyuka sifuna ukurhunywa.
- (7) Igosa eligunyazisiweyo linokukhupha ithokheni yerenki kwiteksi nganye.
- (8) Phantsi kwecandelo 77 loMthetho wezoThutho lweZithuthi eziHamba eMhlabeni, (uMthetho 5 ka2009), umnini wesithuthi ngokubhekiselele kwithokheni yerenki ekhutshiweyo kufuneka, ngencwadi ebhaliweyo, azise igosa eligunyazisiweyo –
- (a) ngalo naluphi na utshintsho lwedilesi ngethuba lokusebenza ithokheni yokurenkisha ekhutshelwe lona;
 - (b) ukugqithiselwa kobumnini okanye ngenye indlela ukuyeka ukuba ngumnini wesithuthi ngethuba ebekukhutshwe ngalo ithokheni;
 - (c) igama nedilesi yomntu edluliselwa kuye; kunye
 - (d) nezizathu zokugqithiselwa kobumnini okanye ukuyeka ukuba ngumnini wesithuthi zingadlulanga iintsuku ezisi7 zesiganeko.
- (9) Umnini ochatshatshelweyo kwicandelwana lesi(8) kufuneka ahlawule iSixeko intlawulo emiselweyo ukusebenzisa ithokheni nganye ekhutshiweyo ngokungqinelana neli candelo.
- (10) Akukho mntu uvumelekileyo ukufoja, ukulinganisa, ukucima, ukonakalisa, ukutshintsha okanye ukwenza uphawu kwithokheni yerenki.

5. Ukuboniswa kwethokheni yerenki

Akukho mntu uvumelekileyo –

- (a) ukuncamathisela ithokheni yerenki kuso nasiphi na isithuthi esingesiso isithuthi ngokubhekiselele kwithokheni leyo ikhutshwayo; okanye
- (b) ukukhangela abakhweli usebenzisa iteksi –

- (i) ngaphandle kokuba ithokheni yerenki ekhutshwe ngokubhekiselele kwisithuthi ukwenzela lo nyaka umiyo le thokheni incanyathiselwe kwicala langasekhohlo lewindiskrini ukwenzela ukuba ubuso bayo bobunakale ngokuthe gca ukususela ngaphandle;
- (ii) ngayo nayiphi na ithokheni yokurenkisha encanyathiselweyo engeyiyo ithokheni yerenki ekhutshwe ngokubhekiselele kweso sithuthi salo nyaka umiyo; okanye
- (iii) enayo nayiphi na ithokheni engasekho semthethweni encanyathiselwe kweso sithuthi.

6. Ithokheni yerenki iya kuvezwa xa ifuneka

- (1) Umnini wethokheni yerenki ekhutshwe ngokungqinelana noMthetho kaMasipala kufuneka –
 - (a) ayigcine ithokheni yerenki ikwisimo esilungileyo; yaye
 - (b) ayigcine yaye ayibonise kwisithuthi eso ibhekiselele kuso ngawo onke amaxesha afanelekileyo xa sisetyenziswa njengesithuthi sikawonkewonke.
- (2) Naliphi na igosa eligunyazisiweyo linokumyalela umqhubi weteksi ukuba amise yaye linokunyanzelisa umqhubi –
 - (a) ukuba avelise ithokheni yerenki efunekayo phantsi kwemiqathango yalo Mthetho kaMasipala; yaye
 - (b) anike igama elipheleleyo lakhe kunye nedilesi yomnini okanye usomashishini wenkonzo yezothutho kawonkewonke.
- (3) Naliphi na igosa eligunyazisiweyo linokufuna kumqhubi wayo nayiphi na iteksi ekwindawo yezithuthi zikawonkewonke ukuvelisa ithokheni yerenki lize linike iinkcukacha ekubhekiselelwe kuzo kwicandelwana lesi(2).
- (4) Akukho mqhubi ekubhekiselelwe kuye kwicandelwana lesi(2) nelesi(3) uvumelekileyo, xa ebizwa lilo naliphi na igosa eligunyazisiweyo –
 - (a) ungavumi ukumisa;
 - (b) angavumi ukunika igama elipheleleyo nedilesi;

(c) angavumi ukunika igama elichanekileyo nedilesi yomnini okanye yeopareyitha yesithuthi enegunya kumqhubi;

(d) angavumi ukuthenga ithokheni yerenki; okanye

(e) anike igama nedilesi engachanekanga.

(5) Ngokwenjongo yecandelwana lesi(3), “igosa eligunyazisiweyo” libandakanya umqeshwa oqeshwe kwisikhundla eso.

7. Ukunqunyanyiswa okanye ukurhoxiswa kwethokheni yerenki

(1) Ukuba umnini wethokheni yerenki ufunyaniswe enetyala lokwaphula lo Mthetho kaMasipala, yaye ukongeza kuso nasiphi na isohlwayo esiwiswe yinkundla yezomthetho, iSixeko sinako, phantsi kwecandelo 8, emva kokuba zonke iimeko zetyala sele zithathelwe ingqalelo, ukwenza ngokungqinelana necandelwana lesi(2).

(2) ISixeko sinako, emva kokuqwalaselwa kwazo zonke iimeko zetyala, ukuyirhoxisa ithokheni yerenki ithuba ekugqitywe ngalo ligosa eligunyazisiweyo okanye ukurhoxisa ithokheni yerenki okanye iithokheni zerenki ukuba ngaba –

(a) umnini weteksi –

(i) akawuthobeli umyalelo okhutshwe ngokungqinelana nalo Mthetho kaMasipala;

(ii) akasigcini isithuthi sikawonkewonke sicocekile ngawo onke amaxesha yaye sikwimeko yokulungela indlela; okanye

(iii) uneewaranti zokubanjwa ezingekahlawulwa zokuhlawula izohlwayo zendlela;

(b) igosa eligunyazisiweyo lihlola iteksi lize lifumane isithuthi esigunyazisiweyo –

(i) esenziwe ngendlela okanye sikwimeko yokungakhuseleki kwesithuthi sikawonkewonke ukuthwala inani labakhweli esigunyaziselwe ukubathwala; okanye

- (ii) akayithobeli imiqathango echazwe kulo Mthetho kaMasipala okanye kulo Mthetho.
- (3) Akukho mntu uvumelekileyo ukusebenzisa okanye ukuvuma ukuba isithuthi sisetyenziswe njengeteksi kwindawo yezithuthi zikawonkewonke ukuba ngaba ithokheni yerenki iye yamiswa, yarhoxiswa okanye yaphelelwa lixesha.
- (4) Ukuba ilayisensi yokusebenza inqunyanyisiwe, ihlatyiwe okanye irhoxisiwe ligunya elijongene neelayisensi elichaphazelekayo, ithokheni yerenki ekhutshwe siSixeko inqunyanyiswe ngoko nangoko, ihlatyiwe okanye irhoxisiwe.
- (5) Ukuba umnini welayisensi yokusebenza wenza isibheni, ukuhlatywa okanye ukurhoxiswa kwayo kumphathi weSixeko ngokungqinelana necandelo lama62 loMthetho weeNkqubo zikaMasipala kaRhulumente waseKhaya (uMthetho 32 ka2000), umphathi weSixeko –
- (a) unokunika izizathu zokunqunyanyiswa, ukuhlatywa okanye ukurhoxiswa, athathe isigqibo sokuba oko kunqunyanyiswa, ukupheliswa kwethokheni yokurenkisha okanye ukurhoxiswa kwayo kusasebenza ngokuxhomekeke kwisibheni eso; yaye
- (b) kufuneka ukuba, ukunqunyanyiswa, ukucinywa okanye ukurhoxiswa kwelayisenisi yokusebenza kurhoxisiwe, kuphindwe kukhutshwe ithokheni ngokuxhomekeke kuyo nayiphi na imiqathango uMphathi weSixeko anokuyibalula.

8. Inkqubo yokunqunyanyiswa, ukucinywa okanye ukurhoxiswa kwethokheni yerenki

- (1) Ithokheni yerenki akuvumelekanga ukuba inqunyanyiswe okanye irhoxiswe ngaphandle kokuba –
- (a) igosa eligunyazisiweyo linike umnini wethokheni yerenki nawo nawuphi na umbutho wezothutho lukawonkewonke okanye ibhunga elo umnini alilungu lawo, ubuncinane isaziso esibhaliweyo seentsuku ezili14 esithunyelwa ngeposi ebhaliweyo eyazisa ngenjongo yokunqumamisa, ukucinywa okanye ukurhoxisa ithokheni yerenki, yaye nesaziso kufuneka sinike –

- (i) izizathu zenyathelo elicetyiswayo kunye nenkcazelo efanelekileyo ekubhalwe kuyo uhlobo lwenyathelo eliza kuthathwa;
 - (ii) isimemo esiya kumnini wethokheni yerenki ukuba angenise iinkcazelo ezibhaliweyo ezimalunga nalo mcimbi; kwaye
 - (iii) idilesi yokungeniswa kweenkcazelo ezibhaliweyo njengoko kuchatshazelweyo kumhlathana wesi(ii).
- (2) Igosa eligunyazisiweyo linako, ukuba oko kuthathwa njengokuyimfuneko, ukunika umnini wethokheni yerenki ithuba lokwenza iinkcazelo nokuba zezibhaliweyo okanye ezenziwa ngumntu lowo ubuqu.
- (3) Igosa eligunyazisiweyo kufuneka linike isigqibo esimalunga nokuba ingaba liza kuyinqumamisa, kuyihlaba okanye liza kuyirhoxisa ithokheni yerenki oko kukhatshwa zizizathu zokwenziwa kwesigqibo eso ngokubhaliweyo zingadlulanga iintsuku ezili14 emva komhla wokwenziwa kweenkcazelo ezichatshazelwe kwicandelwana loku(1) okanye u2 ngokwemeko leyo kuyiyo.

9. Utshintsho lwedilesi

Umnini wethokheni yerenki kufuneka anike isaziso esibhaliweyo kwiSixeko ngalo naluphi na utshintsho lwedilesi leyo zingadlulanga iintsuku ezili14 ngenkonzo yokuposa ehlawulelwa kwangaphambili nebhalisiweyo, ngethelefeksi, ngokusizisa ngesandla okanye ngokusithumela ngobuxhakaxhaka bekhompyutha.

10. Ukwenziwa kwezilungiso nokutshintshwa kwethokheni yerenki

- (1) Ukuba iinkcukacha ezibonisiwe kwethokheni yerenki azichanekanga ngenxa yokutshintsha kweenkcukacha okanye ngenxa yaso nasiphi na esinye izizathu, umnini wethokheni yerenki kufuneka angenise ithokheni kwiSixeko ukwenzela ukuba ilungiswe okanye kwaziswe iSixeko ngeso silungiso.
- (2) Ukuba ithokheni yerenki yonakele kangangokuba iinkcukacha azinako ukuqinisekiswa ngokufanelekileyo, umnini wethokheni yerenki eyonakeleyo kufuneka ayingenise kwiSixeko yaye igosa eligunyazisiweyo linokuyitshintsha ngokuyihlawulela ngendleko yomnini wethokheni yerenki.

11. Usetyenziso lweerenki

- (1) Umqhubi weteksi kufuneka ukuba, xa esehla esenyuka efuna ukurhunywa erenkini, makakwenze oko ngendlela enocwangco.
- (2) Akukho mntu uvumelekileyo ukuba apake okanye amise iteksi engekho kwimo yokusebenza eyiyo njengoko kufunwayo nguMthetho, kwirenki, okanye enze okanye avumele isithuthi ukuba sihlale siserenkini.
- (3) Akukho mntu uvumelekileyo ukupaka okanye ukumisa nasiphi na isithuthi erenkini ngokungaphandle kweteksi leyo enethokheni yerenki, echaza irenki kunye nethuba lokusebenza ngokusemthethweni kwayo, sele likhutshiwe ngokungqinelana necandelo lesi4.
- (4) Akukho mntu uvumelekileyo ukuhlambela erenkini nayiphi na iteksi, ngaphandle kwendawo emiselwe ukuhlamba iiteksi kwindawo eyakhiwe ngokukhethekileyo ukwenzela le njongo.

12. Ilungelo lokungena kwindawo yezithuthi zikawonkewonke

Igosa eligunyazisiweyo linokuthi, ekunyanzeliseni izibonelelo zalo Mthetho kaMasipala, ngalo naliphi na ixesha elifanelekileyo kwaye ngaphandle kokwazisa kwangaphambili –

- (a) lingene kwindawo yezithuthi zikawonkewonke ukuze lizihlole;
- (b) lingene kuso nasiphi na isithuthi sikawonkewonke okanye isithuthi esisetyenziselwa ukuthutha uwonkewonke ngenjongo yokufumana umvuzo; kunye
- (c) nokubuza imibuzo kumntu onxulumene nendawo leyo.

13. Iithegi zezothutho ezinobuxhakaxhaka beiheyilingi

- (1) Isithuthi esinobuxhakaxhaka *beiheyilingi* esisebenza kummandla weSixeko kufuneka sibonise ithegi kwifomu emiselweyo nakwindawo emiselweyo kwisithuthi eso.

- (2) Isithuthi esinobuxhakaxhaka *beiheyilingi* sinokuqhutywa kuphela ngumqhubi ongumnini welayisenisi yokusebenza esemthethweni, ekufuneka iboniswe kumphambili wefestile yesithuthi.
- (3) Imiqathango yeCandelo 7 nelesi8 isebenza ekunqunyanyisweni okanye ekurhoxisweni kwethegi yesithuthi esinobuxhakaxhaka *beiheyilingi* kunye notshintsho olufunekayo ngokwemekobume leyo.

ISAHLUKO 4: ILAYISENSI NELAYISENSI YOKUSEBENZA

14. Umqhubi wesithuthi kufuneka abe nelayisenisi

Akukho mntu uvumelekileyo ukuqhuba isithuthi kwindlela kawonkewonke –

- (a) ngaphandle kokuba phantsi kwegunya nangokuhambelana nemiqathango yelayisenisi ekhutshelwe umqhubi lowo ngokwalo Mthetho okanye nalo naluphi na uxwebhu oluthathwa njengelayisenisi ngelifezekisa iinjongo zalo Mthetho; yaye
- (b) ngaphandle kokuba umqhubi ugcina ilayisenisi okanye uxwebhu olo okanye naso nasiphi na esinye isigunyaziso kwisithuthi.

15. Isithuthi kufuneka sibe nelayisenisi

Phantsi kwemiqathango yalo Mthetho, sonke isithuthi esikwiSixeko kufuneka, nokuba ngaba sisetyenziswa okanye asisetyenziswa kwindlela kawonkewonke, sibe nelayisenisi yomnini weso sithuthi, ngokuhambelana nemiqathango yalo Mthetho, kunye negunya lokukhutshwa kweelayisenisi elichaphazelekayo.

16. Umqhubi kufuneka abe nelayisenisi yokuqhuba

- (1) Phantsi kwemiqathango yecandelo lama32 lalo Mthetho, umntu unokuqhuba kuphela isithuthi sodidi olumiselwe ngokungqinelana nelo candelo kwindlela kawonkewonke ukuba umntu lowo –
 - (a) unephephamvume lokuqeqeshelwa ukuqhuba elikhutshwe ngokwalo Mthetho ukuqhuba isithuthi solo didi;
 - (b) unalo iphephamvume elo; yaye

(c) uqhuba isithuthi ngokungqinelana nemiqathango yelo phephamvume.

- (2) Icandelwana loku(1) alisebenzi kumnini welayisenisi yomfundi yolo didi lwesithuthi, oqhuba isithuthi lo gama ekhatshwa ngumntu obhaliswe njengomqhubi kolo didi lweso sithuthi.

17. Ilayisenisi yokuqhuba kufuneka iveliswe isakufuneka

- (1) Umnini welayisenisi yokusebenza kufuneka –

(a) agcine ilayisenisi yokusebenza ikwimeko eyiyo enokufundeka; yaye

(b) agcine ilayisenisi yokusebenza kwisithuthi ebhekiselele kuso ngawo onke amaxesha achaphazelekayo xa isithuthi sisetyenziswa njengeteksi, ibhasi okanye isithuthi esinobuxhakaxhaka *beiheyilingi*.

- (2) Igosa eligunyazisiweyo linokuyalela umqhubi weteksi, wesithuthi esinobuxhakaxhaka *beiheyilingi* ukuba amise yaye lifune ukuba umqhubi –

(a) avelise ilayisenisi yokusebenza; yaye

(b) anike igama elipheleleyo lomqhubi nedilesi kwakunye negama elipheleleyo lomnini weteksi, webhasi okanye wesithuthi esinobuxhakaxhaka *beiheyilingi*.

- (3) Umqhubi ekubhekiswa kuye kwicandelwana lesi (2) akavumelekanga –

(a) aqhube inkonzo yezothutho likawonkewonke ngaphandle kwelayisenisi yokusebenza esemthethweni; okanye

(b) avumele ilayisenisi yokusebenza ukuba isetyenziselwe isithuthi esingesiso eso sichaziweyo kwilayisenisi yokusebenza.

18. Ukugqithiselwa okanye ukushiya esithubeni kwesithuthi

Akukho mqhubi wesithuthi sikawonkewonke uvumelekileyo –

(a) ukushiya isithuthi esiqhutywayo; okanye

(b) ukuvumela nawuphi na omnye umntu ukuba aqhube isithuthi esiphantsi kolawulo lomqhubi ongenayo imvume ebhaliweyo, kwifomu emiselweyo,

yomnini welayisenisi yokusebenza okanye iphephamvume lokuthutha uwonkewonke elichaphazelekayo.

19. Ukuboniswa kwenombolo yelayisenisi

Akukho mntu uvumelekileyo ukuqhuba okanye ukusebenzisa isithuthi kwindlela kawonkewonke ukuba isithuthi eso asifakwanga inombolo yepleyiti –

- (a) kumva wetreyila okanye wesithuthuthu; okanye
- (b) kumphambili nakumva waso nasiphi na esinye isithuthi.

ISAPHLUKO 5: ISIXHOBO ESIBHEKISELELE OKANYE ESIMALUNGA NEZITHUTHI

20. Izibane kwizithuthi

Akukho mntu uvumelekileyo ukusebenzisa isithuthi kwindlela kawonkewonke ngaphandle kokuba –

- (a) zonke izibane azonakalanga, zifakwe ngokukhuselekileyo yaye zinako ukukhanyiswa ngawo onke amaxesha; kunye
- (b) nezibane ezingaphambili, izibane ezingasemva yaye neenamba pleyiti zigcinwa zikhanyisiwe phakathi kwesithuba sokuphuma kwelanga nokutshona kwelanga kunye nangaliphi na ixesha xa ukubonakala kuncipha ngenxa yokukhanya okungonelanga, umsi okanye iimozulu ezingekho ntle.

21. Izibane kwizithuthi

Akukho mntu uvumelekileyo ukuqhuba isithuthi kwindlela kawonkewonke esingenazibane ezifakwe ngokuhambelana neMigaqo yaye ezikwimeko esebenzayo.

22. Iiriflektha kwizithuthi

Akukho mntu uvumelekileyo ukuqhuba isithuthi kwindlela kawonkewonke ngaphandle kokuba sifakelwe iiriflektha ngokuhambelana neMigaqo yaye zicocekile, zikwimeko esebenzayo yaye azifihlakalanga.

23. Ii-indikheyitha zokwalatha indlela

Akukho mntu uvumelekileyo ukuqhuba isithuthi kwindlela kawonkewonke ngaphandle kokuba ii-indikheyitha zokwalatha indlela ziyasebenza.

24. Ihuta okanye izixhobo zokulumkisa

Akukho mntu uvumelekileyo ukusebenzisa isithuthi ngaphandle kokuba isithuthi eso sixhotyiswe ngehuta okanye ngesixhobo sokulumkisa esisebenzayo nesikwaziyo ukukhupha isandi esiviwa ngokucace gca ngumntu okwaziyo ukuva ngeendlebe ngokwesiqhelo.

25. Izithintelo ngokubanzi

Akukho mntu –

- (a) ungumnini okanye iopareyitha, okanye obeka iliso okanye olawula isithuthi unokuqesha okanye avumele nawuphi na umntu ongomnye ukuba aqhube eso sithuthi kwindlela kawonkewonke ngaphandle kokuba loo umntu –
 - (i) unelayisenisi yokuqhuba esemthethweni; okanye
 - (ii) unelayisenisi yokuqhuba yomfundi esemthethweni yaye umqhubi lowo ungumfundi ukhatshwa ngumqhubi onelayisenisi esemthethweni;
- (b) ungumnini welayisenisi yokuqhuba yomfundi unokuvumela loo layisenisi ukuba isetyenziswe ngomnye nawuphi na umntu;
- (c) unokusebenzisa isithuthi salo naluphi na udidi lwesithuthi esichatshazelweyo kwicandelo lama45(1) lalo Mthetho njengoko umiselweyo kwiMigaqo kwindlela kawonkewonke ngaphandle kokuba kubonakaliswe ikhadi leopareyitha elisemthethweni kweso sithuthi ngokwendlela iMigaqo efuna ngayo.
- (d) unokuthi, phantsi kwecandelo lama42(5) loMthetho, ukuqhuba isithuthi ekubhekiselelwe kuso kwicandelo lama42(3) loMthetho, ngaphandle kokuba idiski yesiqinisekiso sokulungela ukuhamba endleleni esikhutshwe ngokungqinelana nalo Mthetho sixhonywe ngendlela imiMigaqo efuna ngayo;

- (e) unokuqhuba isithuthi kwindlela kawonkewonke ngokungakhathaliyo okanye ngokungenanyameko; ngokumalunga neenjongo zalo mhlathi, ngaphandle kokunciphisa intsingiselo eqhelekileyo yegama elithi, “ngokungenankathalo”, nawuphi na umntu oqhuba isithuthi ngokungahoyi ngabom okanye ngokuyimfeketho kungakhathalelwe kukhuseleka kwabantu okanye ipropathi oko kuthathwa njengokuqhuba isithuthi eso ngokungenankathalo;
- (f) unokuqhuba isithuthi kwindlela kawonkewonke engakhange athathele ingqalelo eyiyo omnye umntu osebenzisa indlela;
- (g) unokuqhuba isithuthuthu okanye imoto eyitrayisekile enganxibanga ihelmethi yokuzikhusela enemitya yokuyibopha phantsi kwesilevu;
- (h) unokugibisela okanye alahle nayiphi na into ngefestile okanye ngocango lwesithuthi kuqukwa umcinga wematshisi ovuthayo, isigarethi, enye into etshayo okanye into edangazela umlilo okanye nayo nayiphi na into okanye isixhobo esinako ukusuka sikhuphe umlilo ngokuzenzekelayo okanye esiwulumeka ngokwaso endleleni okanye ecaleni kwendlela okanye kuyo nayiphi na enye indawo;
- (i) unokuthi, phantsi kwecandelo lama58(3) lalo Mthetho, lo gama eqhuba isithuthi ukungawukhathaleli okanye angawuhoyi umqondiso oluphawu lwendlela, ngaphandle kokuba uyalelwe ukuba enze njalo ligosa eligunyazisiweyo;
- (j) unokungayikhathaleli nayiphi na imigca esendleleni emkhomba phambili lo gama eqhuba isithuthi;
- (k) unokuthi, ngaphandle kwesizathu esivakalayo okanye ngaphandle kwemvume yomnini, iopareyitha okanye umntu onoxanduva olusemthethweni lwesithuthi –
 - (i) aqhube isithuthi;
 - (ii) afake isithuthi egiyeni;
 - (iii) ngayo nayiphi na indlela aphazamise oomatshini, izinto ezisebenzayo okanye amalungu esithuthi;

- (iv) angena okanye akhwele kwisithuthi;
- (v) akhwele okanye aqhube isithuthi ngaphandle kwemvume yomnini waso, iopareyitha okanye umntu oselungelweni lokubeka iliso kwisithuthi; yaye
- (vi) ngaphandle kwesizathu esisemthethweni, aphazamise ukusebenza kwesithuthi okanye nalo naliphi na ilungu okanye izixhobo zesithuthi okanye ukonakalalisa ngabom okanye ukugibisela nayiphi na into kweso sithuthi;
- (l) unokwenza isaziso okanye anike iinkcukacha azaziyo umntu ukuba aziyonyaniso okanye ziyalahlekisa;
- (m) unokungavumi ukwenza isaziso okanye ukunika naziphi na iinkcukacha ezifunekayo ngokungqinelana nalo Mthetho;
- (n) akanako ukusebenzisa, ukubonisa okanye ukwenza nayiphi na inombolo pleyiti engazithobeliyo iinkcukacha ezimiselwe kulo Mthetho; okanye
- (o) unokwenza ubuxoki okanye umgunyathi okanye, ngenjongo yokukhohlisa, ukutshintsha, ukuguqula, ukucima okanye ukonakalisa okanye ukongeza nayiphi na into kwisiqinisekiso, kwilayisensi okanye kolunye uxwebhu olukhutshiweyo okanye oluvunyiweyo ngokungqinelana nalo Mthetho okanye abe nesiqinisekiso, ilayisensi okanye uxwebhu oluneenkcukacha ezingeyonyaniso okanye olulukhutshelo olungeyonyaniso okanye luye lwatshintshwa ngolo hlobo, lwatshintshwa, lwacinywa, okanye lonakaliswa okanye ekuye kongezwa kulo okanye kwaveliswa naluphi na uxwebhu oluya kusetyenziselwa iinjongo zalo Mthetho ezahlukileyo kwifomathi okanye ngokomxholo kuxwebhu olumiselwe phantsi kwalo Mthetho.

26. Amabhanti ezitulo okhuseleko

- (1) Ngaphandle kokuba isithuthi sixolelwe ekubeni sibe nazo iimfuneko ezibhekiselele kumabhanti ezokhuseleko ngokungqinelana nale Miqathango, akukho mntu uvumelekileyo, kwindlela kawonkewonke, ukuqhuba isithuthi esiyimoto –
 - (a) esingenawo amabhanti afakelwe kwisitulo ngasinye kwisithuthi;

- (b) ngaphandle kokufaka amabhanti ezitulo okhuseleko; yaye
- (c) ngaphandle kokuba bonke abakhweli banxibe amabhanti ezitulo okhuseleko abo, kwimeko yabantwana abanganeno kweminyaka esixhenxe yobudala, babotshelelwe kwisitulo esibotshelelwayo somntwana esichatshazelweyo kwicandelwana lesi(3).
- (2) Amabhanti ezitulo okhuseleko akufunekanga onakale yaye kufuneka abe kwimeko yokusebenza kakuhle.
- (3) Bonke abakhweli kwisithuthi esikwindlela kawonkewonke abanganeno kweminyaka esixhenxe yobudala kufuneka babotshelelwe kwisitulo somntwana esibotshelelwayo esifakwa ngqo kwisitulo sesithuthi okanye bafakwe ibhanti elilungiselelwe ukukhusela abantwana kumenzakalo okanye ekufeni kwimeko yokungqubana kwezithuthi.

27. Amatayara

Akukho mntu uvumelekileyo, kwindlela kawonkewonke, ukuqhuba isithuthi ukuba elinye lamatayara –

- (a) likwimeko engenakulungiseka, lityekile okanye lonakele kangangokuba indawo esisinyithi yevili ekwakhelwe kuyo itayara inokunxibelelana nomphezulu wendlela;
- (b) likwimeko engenakulungiseka, lityekile okanye lonakele kangangokuba umchako okanye umsonto osetyenziswayo ekwakhiweni kwetayara uvelile kwirabha;
- (c) linobunzulu bamaqoqo obunganeno kwemilimitha enye kumxweso wobubanzi nakumphakathi wetayara;
- (d) linobunzulu bamaqoqo obulinganayo nobesalathiso sobunzulu bamaqoqo etayara elinxityiswe kwivili; okanye
- (e) lidumbile okanye lineqhuma.

ISAHLUKO 6: INDLELA YOKUZIPHATHA KWABAQHUBI, IIKONDAKTHA KUNYE NABAKHWELI

28. Ukuthintelwa kokukhwelwa kwesithuthi sikawonkewonke

Akukho mntu uvumelekileyo, ngokusebenzisa amandla, ukugrogrisa, ukoyikisa okanye naziphi na ezinye iindlela, ukuthintela okanye ukuzama ukuthintela –

(a) nawuphi na umntu ekufumaneni okanye ekukhweleni kwisithuthi sikawonkewonke; okanye

(b) umqhubi wesithuthi sikawonkewonke ekuthatheni abakhweli.

29. Ukuthuthwa kwezinto eziyingozi okanye ezingekho semthethweni kwizithuthi zikawonkewonke

Umntu obeka iliso kwisithuthi sikawonkewonke unokuthi ngokungazi athuthe umntu okanye into okanye avumele loo mntu okanye loo nto ukuba ithuthwe kwisithuthi eso, nokuba ngaba isithuthi sikawonkewonke eso besikhe sasebenza okanye asasebenza, ukuba loo mntu okanye loo nto –

(a) ayivumelekanga ukuba ithuthwe ngokungqinelana nawo nawuphi na umthetho; okanye

(b) uye wasesichengeni okanye wasuleleka sisifo esosulelayo njengoko kuchatshazelweyo kulo Mthetho.

30. Ukukhwela nokuhla kwizithuthi zikawonkewonke

(1) Akukho mntu uvumelekileyo ukukhwela isithuthi sikawonkewonke kude kuthi kanti bonke abantu abehlayo kwisithuthi eso benze njalo.

(2) Akukho mntu uvumelekileyo ukunyanzelisa ukukhwela isithuthi sikawonkewonke apho inani labakhweli linokugqithisa kwinani lilonke labakhweli isithuthi eso ekugunyaziswe ukuba sibathwale.

(3) Akukho mntu uvumelekileyo ukukhwela okanye ukwehla okanye ukuzama ukwehla okanye ukukhwela isithuthi sikawonkewonke lo gama isithuthi sihamba.

31. Ukufola kwiindawo zezithuthi zikawonkewonke

- (1) Kuyo nayiphi na indawo yokurenkisha esekiweyo, iSixeko sinokumilisela okanye senze ukuba kumiliselwe uphawu olungumqondiso wokufola oqulathe ibhodi yokwazisa ebonisa indawo kunye nendlela lowo ulindele ukungena kwisithuthi sikawonkewonke kufuneka eme ngayo emgceni, kwaye olo phawu lingumqondiso lunokongezwa ngezithintelo zokufola eziluhlobo lweentsimbi okanye imigca ebhalwe phantsi kumphezulu wendawo leyo iphawulelwe injongo yokufola.
- (2) Wonke umkhweli kufuneka ayithobele imiyalelo enikiweyo ngukondaktha wesithuthi sikawonkewonke okanye igosa eligunyazisiweyo elisemsebenzini.

32. Izinxibo nendlela esinokumahlula ngayo ukondaktha wesithuthi sikawonkewonke

Nawuphi na ukondaktha wesithuthi sikawonkewonke kufuneka ukuba, lo gama esemsebenzini yaye ezichaza njengofumanekayo ukuba asebenze, kufuneka anxibe ibhibhi okanye ibhatyi ebuyisela ukukhanya yaye kufuneka aqinisekise ukuba liye lakhutshwa ikhadi lokuzazisa ngokungqinelana nawo nawuphi na omnye umthetho obonakaliswe ngokucace gca.

33. Umsebenzi wokunakekela

Umnini, umqhubi nekondaktha yesithuthi sikawonkewonke kufuneka, ngawo onke amaxesha, enze umsebenzi wokunakekela ngokugcina umphakathi weso sithuthi sikawonkewonke ukwimeko yokucoceka ngokukuko.

34. Intlawulo yemirhumo

Umkhweli osebhasini okanye oseteksini kufuneka, esakuba eceliwe, ahlawule umrhumo omiselweyo wohambo olo.

35. Amalungelo nemisebenzi yabakhweli xa isithuthi sikawonkewonke sisonakala

- (1) Ukuba isithuthi sikawonkewonke sifumana ukonakala, okanye, ngaso nasiphi na isizathu, akanako ukuqhubela phambili, abakhweli kufuneka ukuba,

ngokucelwa ngumqhubi, behle kwisithuthi esonakeleyo yaye abakhweli banelungelo lokubuyiselwa umrhumo wabo abawuhlawuleyo.

- (2) Umqhubi kufuneka enze nokuba kukubuyisela abakhweli imirhumo yabo abayihlawuleyo okanye ukulungiselela abakhweli ukuba bahambe ngesithuthi sikawonkewonke esilandelayo kuhambo ekusafuneka ukuba baluhambe ngendleko yomninisithuthi esonakeleyo.
- (3) Umqhubi ongalithobeliyo icandelwana lesi(2) waphula umthetho.

36. Izenzo ezingavumelekanga kwisithuthi sikawonkewonke

- (1) Ezi zizenzo ezingavumelekanga kwisithuthi sikawonkewonke:
 - (a) ukutshaya;
 - (b) ukudlala umculo okrwada okanye umculo ongxola ngokugqithisileyo;
 - (c) ukusebenzisa ulwimi olunentlamba okanye ulwimi olulumezayo;
 - (d) ukuphazamisana naye nawuphi na umkhweli;
 - (e) ukonakalisa nantoni na yaye uphazamise izinto zokusebenza zesithuthi sikawonkewonke;
 - (f) ukunyanzelisa umqhubi ukuba atenxe kwindlela agunyazisiweyo kuyo ukuba ayisebenzise;
 - (g) ukubeka engozini ubomi bomnye umntu;
 - (h) ukuphazamisana nomsebenzi womqhubi; kunye
 - (i) nezenzo zoqhushululu okanye ezingatshongo khona.
- (2) Nawuphi na umntu owenza isenzo ekubhekiselelwe kuso kwicandelwana loku(1) unokususwa kwisithuthi eso yaye aphulukane nawo nawuphi na umrhumo awuhlawuleyo.

37. Indlela yokuziphatha engavumelekanga kwindawo yezithuthi zikawonkewonke

Umntu obangela uphazamiseko okanye oziphatha ngendlela enoqhushululu okanye ngendlela engatshongo khona unokususwa kwindawo yezithuthi zikawonkewonke lilo naliphi na igosa eligunyazisiweyo.

38. Ipropathi eshiywe kwizithuthi zikawonkewonke

Umqhubi wesithuthi sikawonkewonke kufuneka aphonononge ngononophelo isithuthi eso emva kohambo, yaye umkhweli ushiye nayiphi na ipropathi kwisithuthi, umqhubi kufuneka –

(a) ase loo propathi kumntu lowo obeyishiye ngasemva; okanye

(b) ukuba umqhubi akanako ukusa loo propathi kumntu obeyishiye kwisithuthi –

(i) kufuneka ase ipropathi leyo, ngoko nangoko, kwiofisi yeempahla ezilahlekileyo kumqeshi womqhubi okanye kwesona sikhululo samapolisa sikufutshane; aze

(ii) afumane irisithi yayo.

ISAPHLUKO 7: IZILWANYANA

39. Izilwanyana

Akukho mkhweli uvumelekileyo ukuba angene kwisithuthi sikawonkewonke naso nasiphi na isilwanyana esingeyiyo inja ekhokelayo encedisa umntu ongaboniyo.

40. Izilwanyana ezisendleleni kawonkewonke

(1) Akukho mnini wesilwanyana unokuvumela isilwanyana singakhathalelwa kulo naliphi na icandelo logcino lwendlela.

(2) Nasiphi na isilwanyana esifunyenwe kwindlela eyenzelwe okuthile sithathwa njengesishiywe apho okanye sivunyelwe ukuba sibhadule.

(3) Akukho mntu uvumelekileyo ukuqhuba nasiphi na isilwanyana kwindlela kawonkewonke, okanye kulo naliphi na icandelo lendlela eyenzelwe okuthile

ngaphandle kokubonakala kwesibane esibomvu ngaphambili nasemva kwesilwanyana ukwenzela ukuba sibonakale kubasebenzisi bendlela phakathi kweeyure zokutshona nokuphuma kwelanga.

- (4) Igosa eligunyazisiweyo linokohlutha naso nasiphi na isilwanyana esifumaneke kwindlela eyenzelwe okuthile kusophulwa icandelwana loku(1).
- (5) Isilwanyana esithinjiweyo kufuneka sivalelwe size sikhululwe ngokungqinelana noMthetho weSixeko, ka2010 nemigaqo-nkqubo kunye neenkqubo ezibhekiselele ekuthinjweni kwezilwanyana.

ISAPHLUKO 8: UKHUSELEKO EZINDLELENI

41. Iimeko apho abantu banokuthuthwa zizithuthi zeempahla

Umntu unokuqhuba isithuthi seempahla esithutha abantu kwindlela kawonkewonke –

- (a) ngaphandle kokuba inxalenye yesithuthi eso abantu abathuthwayo ivalekile ukuya kutsho kumphakamo weemilimitha ezingama350 xa behleli phantsi kunye neemilimitha ezingama900 xa bemile; ukuze
- (b) apho umntu othuthwa kwindawo yeempahla kunye nazo naziphi na izixhobo okanye iimpahla (ngaphandle kwezinto ezizezakhe ubuqu) ngaphandle kokuba umntu lowo wohlulwe kwindawo eyinxalenye apho iimpahla zikhweliswa khona.

42. Ukuthwaliswa umthwalo ngokugqithisileyo kwezithuthi zikawonkewonke

Akukho mqhubi wesithuthi sikawonkewonke ungavumela ngaphezu kwenani elichaziweyo labakhweli njengoko kubonisiweyo kwiphephamvume elikwisithuthi lo gama sisebenza.

43. Ukuthintelwa nokuphazanyiswa kwezithuthi ezindleleni

- (1) Akukho mntu uvumelekileyo ukupaka okanye ukuvumela isithuthi sikawonkewonke ukuba sipake kwindawo emiselwe olunye udidi lwesithuthi sikawonkewonke.

- (2) Akukho sithuthi sikawonkewonke sivumelekileyo ukuhamba kwindledlana yokunqumla abahambi ngeenyawo xa simisela ukukhwelisa abakhweli ukuba bakhweliswe okanye behliswe.
- (3) Akukho sithuthi sikawonkewonke sivumelekileyo ukupaka ukwenzela ukukhangela abakhweli kwindawo yokupaka eqingqiweyo ixesha elide kunokuba kufuneka ukwenzela ukuba abakhweli abalindileyo bakhweliswe okanye behliswe.

44. Imisebenzi eluxanduva yabahambi ngeenyawo

- (1) Umhambi ngeenyawo unako ukunqumla indlela kawonkewonke kuphela kwindledlana yokunqumla abahambi ngeenyawo okanye kwindawo ekudibana kuyo iindlela okanye kumgama ongaphaya kweemitha ezingama50 ukusuka kwindledlana yokunqumla abahambi ngeenyawo okanye ekudibaneni kweendlela.
- (2) Apho kukho khona indledlana yokunqumla abahambi ekudibaneni kweendlela, umhambi ngeenyawo unokuyinqumla kuphela kwindawo ekudibana kuyo iindlela kwindledlana yokunqumla abahambi ngeenyawo.
- (3) Xa iirobhothi zidanyaza ekudibaneni kweendlela oko kuquka ukuvela kweempawu zabahambi ngeenyawo, wena mhambi ngeenyawo sukuwela indlela nokuba ubona indawo eyenzelwe abahambi ngeenyawo kusabonakala uphawu lomntu olubomvu kwiirobhothi ezikweli cala uya ngakulo.
- (4) Ukuba ke azikho iimpawu ezenzelwe abahamba ngeenyawo ekudibaneni kweendlela kodwa kube kukho iirobhothi ezilawulayo kuloo ndawo, wena mhambi ngeenyawo sukuqalisa ukuwela indlela nokuba ubona indawo eyenzelwe abahambi ngeenyawo iirobhothi zisebomvu kweli cala uya ngakulo.
- (5) Ukuba ke iirobhothi zidanyaza kwindawo nje engekho ekudibaneni kweendlela, oko kuquka ukuvela kweempawu ezenzelwe abahamba ngeenyawo, wena mhambi qalisa ukuwela indlela kwindawo eyenzelwe abahambi ngeenyawo kuphela xa iirobhothi ziluhlaza kweli cala uya ngakulo.

- (6) Abahambi ngeenyawo abayi kuvunyelwa ukuba bozonzakalise okanye bonzakalise abanye abasebenzisi-ndlela oko kuquka nezithuthi ngenxa yokungakhathali, ukungahoyi, nokungaqapheli.

45. Ukusetyenziswa kwehuta

Akukho mntu uvumelekileyo kwindlela kawonkewonke ukusebenzisa ihuta okanye isixhobo sokulumkisa ngaphandle kokuba eso senzo siyimfuneko ukuthobela imiqathango yalo Mthetho kaMasipala okanye nawo nawuphi na umthetho okanye izizathu zokhuseleko.

46. Isithuthi esenza ingxolo ngokugqithisileyo

Akukho mntu uvumelekileyo ukuqhuba okanye ukusebenzisa iphephamvume okanye kwisithuthi sikawonkewonke esibangela ingxolo egqithisileyo ebinokuthintelwa ngokusebenzisa inkathalo ngokufanelekileyo.

47. Umsebenzi oluxanduva lomqhubi wesithuthi xa etshintsha imizila yendlela

- (1) Umqhubi wesithuthi kwindlela kawonkewonke eyahlulwe yayimizila yendlela yezolawulondlela ngeempawu eziyimiqondiso yezolawulondlela ezifanelekileyo akuvumelekanga ukuba atshintshe angene komnye umzila wendlela okanye anqumle omnye umzila ngaphandle kokuba umqhubi angakwenza oko ngaphandle kokuthintela okanye ukubeka engozini ezinye izithuthi ezisendleleni.
- (2) Umqhubi akuvumelekanga ukuba atshintshe komnye umzila wendlela ukuya okanye anqumle omnye umzila wendlela engakhange anike phawu lungumqondiso lucace gca nakubani na ozayo ngaphambili, ngasemva okanye ecaleni, kunye nobungakanani bexesha obaneleyo ukulumkisa omnye umntu ngenjongo yomqhubi yokujika.

48. Ukugqithwa kwesithuthi

- (1) Phantsi kwamacandelwana wesi(3) nelesi(4), umqhubi wesithuthi esinenjongo yokudlula naso nasipha esinye isithuthi esiya kwicala elinye kwindlela kawonkewonke –

- (a) kufuneka sidlule ngasekunene kwaso kumgama okhuselekileyo othi kwimeko yesithuthi eso sigqitha ibhayisekile ngobuncinane bemitha enye; yaye
 - (b) akufunekanga kwakhona aqhube kwicala langasekhohlo lendledlana ade abe uthe qelele ngokukhuselekileyo kweso sithuthi.
- (2) Phantsi kwecandelwana lesi(3), umqhubi unako ukudlula isithuthi kwicala langasekhohlo lesinye isithuthi kwindlela kawonkewonke ukuba ngaba –
- (a) kukhuselekile kumqhubi, kwabanye abaqhubi, kubahambi ngeenyawo nakwipropathi esendleleni; yaye
 - (b) isithuthi esidlulwayo sijikela ngasekunene kwaso okanye umqhubi waso wenze uphawu olungumqondiso lokujikela ngasekunene; okanye
 - (c) indlela –
 - (i) ithintelwe kwizithuthi eziya kwicala elinye; yaye
 - (ii) yahlulwe yayimizila yolawulondlela ngeempawu ezingumqondiso zolawulondlela ezifanelekileyo; okanye
 - (iii) indledlana inobubanzi obaneleyo obuyimizila emibini okanye ngaphezulu yezithuthi ezihambayo; okanye
 - (d) indledlana inobubanzi obufanelekileyo bemizila emibini okanye nangaphezulu bezithuthi ezihambayo kwicala ngalinye eziya kulo; okanye
 - (e) umqhubi uqhuba phantsi kwemiyalelo ethile okanye ebanzi yegosa eligunyazisiweyo ngokuhambelana nalo miyalelo.
- (3) Phantsi kwecandelo lama49, akukho mqhubi uvumelekileyo ukudlula esinye isithuthi esichatshazelwe kwicandelwana lesi(2) ngokuqhuba egxalabeni lendledlana okanye emphethweni waloo ndlela.
- (4) Umqhubi wesithuthi akuvumelekanga ukuba adlule esinye isithuthi esiya kwicala elinye kwindlela kawonkewonke xa asondela –
- (a) ekunyukeni iqhina;
 - (b) kwigophe; okanye

(c) nayo nayiphi na enye indawo, apho ukukwazi ukubona komqhubi kuthintelwe kangangokuba nakuphi na ukudlula kunokubangela ingozi ngokubhekiselele nezinye izithuthi ezisendleleni ezinokuza zisuka kwelinye icala –

(i) umqhubi unokwenza njalo ngaphandle kokuya kwicala langasekunene lendledlana; okanye

(ii) indledlana yendlela ithintelwe kwizithuthi eziya kwicala elinye.

(5) Umqhubi wesithuthi kwindlela kawonkewonke, esakuba enolwazi wezinye izithuthi eziya kwicala elinye yaye enqwenela ukudlula, kufuneka asiqhube isithuthi kufutshane kangangoko kumphetho wasekhohlo wendledlana kangangoko kunako, ukuba kukhuselekile kumqhubi, kwabanye abaqhubi, kubahambi ngeenyawo nakuyo nayiphi na ipropathi ekwindledlana, yaye akuvumelekanga ukuba anyuse isantya sesithuthi de esinye isithuthi kuthi kanti sele sidlule kwesinye isithuthi.

(6) Xa sele kukufutshane ukuba agqithe izithuthi eziza ngaphambili kwindlela kawonkewonke, umqhubi wesithuthi kufuneka aqinisekise ukuba isithuthi asingeni kwindledlana engasekunene ngendlela enokuthi ithintela okanye ibeke engozini izithuthi eziza ngaphambili.

(7) Umqhubi wesithuthi onenjongo yokugqitha kwibhasi emileyo kwindlela kawonkewonke kufuneka enze njalo ngonakekelo olufanelekileyo ukwenzela ukhuseleko lwabantu abangenayo okanye abaphumayo okanye abasenokungena okanye ukuphuma ebhasini.

49. Ukuthintelwa kokuqhuba kwigxalaba lendlela kawonkewonke

(1) Phantsi kwecandelwana le115 (1) (e) lalo Mthetho, akukho mntu uvumelekileyo ukuqhuba isithuthi kwigxalaba lendlela kawonkewonke.

(2) Ngokungaphandle kwecandelwana loku(1), umqhubi wesithuthi uvumelekile ukuba, ngexesha eliphakathi kokuphuma nokutshona kwelanga, ukuqhuba isithuthi kwigxalaba lendlela kawonkewonke esikelwe umzila wendlela omnye wezithuthi kwicala ngalinye –

(a) lo gama isithuthi sidlulwa sesinye endleleni;

- (b) ukuba kukhuselekile kumqhubi, kwabanye abaqhubi, kubahambi ngeenyawo nakuyo nayiphi na ipropathi esendleleni; yaye
- (c) ukuba abantu nezithuthi ezisendleleni zibonakala ngokuthe gca kumgama ubuncinane oziimitha ezili150.

50. Ilungelo lokuhamba kuqala ekudibaneni kweendlela ezithile

Xa unenjongo yokungena kuyo nayiphi na inxalenye yendlela kawonkewonke ekudibaneni kweendlela zikawonkewonke ezimbini okanye nangaphezulu apho izithuthi kufuneka zijikeleze isiqithi sendlela phakathi kwesiphambuka, umqhubi wesithuthi kwindlela kawonkewonke kufuneka anike ilungelo lokuhamba kuqala kuzo zonke izithuthi ezisuka ngasekunene ngaphakathi kwesiphambuka, ngaphandle kokuba ukungena kweso siphambuka kulawulwa ngumyalelo onikwa ligosa eligunyazisiweyo okanye indlela echazwa luphawu olungumqondiso wolawulo lwezindlela olufuna umqhubi ukuba enze ngenye indlela.

51. Iindawo zokumisa ngokunyanzelekileyo

- (1) Umqhubi wesithuthi kwindlela kawonkewonke kufuneka amise isithuthi –
 - (a) Ukuthobela nawuphi na umyalelo ochazwa luphawu olungumqondiso wezolawundlela okanye onikwe ligosa eligunyazisiweyo elikwiyunifomu; okanye
 - (b) ngesicelo okanye ngophawu olungumqondiso lomntu okhokelayo okanye oqhuba isilwanyana esiyinkomo, ihashe, esile, imeyile, igusha, ibhokhwe, ihagu okanye inciniba endleleni.
- (2) Umqhubi wesithuthi ongawuthobeliyo umyalelo wokumisa ngokungqinelana necandelwana loku(1)(a) okanye uzama ukuzimela okanye ukuliphepha igosa elo, wophula umthetho.

52. Ukuqhuba iibhayisekile

- (1) Abantu abaqhuba iibhayisekile kwindlela kawonkewonke bavumelekile ukuziqhuba zingumngcelele omnye ngaphandle kwamaxesha apho begqitha

enye ibhayisekile; abantu ababini okanye ngaphezulu abaqhuba iibhayisekile akuvumelekanga ukuba bagqithe enye ibhayisekile ngexesha elinye.

- (2) Akukho mntu uqhuba okanye uhleli ebhayisekileni kwindlela kawonkewonke uvumelekileyo ukubambeleva kuso nasiphi na esinye isithuthi esihambayo.
- (3) Akukho mntu uqhuba ibhayisekile kwindlela kawonkewonke uvumelekileyo ukuba ayijikajikele kumacala ngamacala ngabom.
- (4) Akukho mntu uqhuba ibhayisekile kwindlela kawonkewonke uvumelekileyo ukukhwelisa nawuphi na umntu, isilwanyana okanye into emsithayo ekubeni angaboni umqhubi webhayisekile okanye oko kuthintela umqhubi webhayisekile ekuthatheleni kuye lonke ulawulo lweentshukumo zebhayisekile.
- (5) Umntu oqhuba ibhayisekile kwindlela kawonkewonke kufuneka akwenze oko ngesandla esinye ubuncinane sikwiimpondo zebhayisekile.
- (6) Ngalo naliphi na ixesha indlela kawonkewonke ibekelwe bucala ukuba isetyenziswe ngabantu abakhwele iibhayisekile, akukho mntu uvumelekileyo ukuba aqhube ibhayisekile kuyo nayiphi na inxalenye yendlela.
- (7) Umntu oqhuba ibhayisekile kwindlela kawonkewonke okanye kwinxalenye yendlela kawonkewonke ebekelwe bucala ukuba isetyenziswe ngabantu abakhwele iibhayisekile, kufuneka akwenze oko onke amavili ebhayisekile enxibelelene nomphezulu wendlela ngawo onke amaxesha.

53. Imidyarho nezemidlalo kwiindlela zikawonkewonke

- (1) Ngokumalunga nale njongo yeli candelo, ibinzana ethi “umdyarho okanye ezemidlalo” liquka –
 - (a) nawuphi umdyarho, uvavanyo lwesantya, uvavanyo lokuthembeka, ukhuphiswano lokunyuka intaba okanye indibano yezemidlalo; okanye
 - (b) nawo nawuphi na umsebenzi nokuba yintoni -
 - (i) enokuba ngunobangela wengozi kwizithuthi; okanye
 - (ii) enokuthibaza, ukuthintela okanye ukuphazamisa ukuhamba kwezithuthi ngokwesiqhelo.

- (2) Akukho mqhubi unokuthi, ngaphandle kwemvume ebhaliweyo yexesha elingaphambili yeSixeko, kwindlela kawonkewonke, kwindawo kawonkewonke okanye kwindawo apho uluntu lukwaziyo ukungena kuyo –
- (a) aququzelele okanye athathe inxaxheba kuwo nawuphi na umdyarho, uvavanyo lwesantya, okanye ezemidlalo eziquka isithuthi;
- (b) enze amavili esithuthi ukuba ajikeleze xa besimile;
- (c) enze amavili esithuthi ukuba ajikeleze, nto leyo ebangela ukuba amavili aphulukane nokuhamba ukuze enze nayiphi na indawo yesithuthi ukuba ishukume ngeli lixa amavili ejikeleza; okanye
- (d) enze ukuba nawaphi na amavili aphakame emhlabeni lo gama eshukuma.
- (3) Akukho mntu uvumelekileyo ukuba ame ecaleni kwindlela kawonkewonke, kwindawo kawonkewonke okanye kwindawo apho uluntu lukwaziyo ukungena lubukele okanye lukukhuthaza abaqhubi ababandakanyekayo ekugunyazisweni komdyarho, iimvavanyo zezantya okanye ezemidlalo eziquka isithuthi.

54. Ukuphazamisa okanye ukuthintela ukuhamba kwezithuthi kwindlela kawonkewonke

- (1) Akukho mntu uvumelekileyo ukuba ngabom okanye ngokungeyomfuneko athintele, anqande okanye aphazamise ukuhamba ngokukhululekileyo nangokufanelekileyo kwezithuthi kwindlela kawonkewonke.
- (2) Akukho mntu uvumelekileyo ukuba abeke okanye ashiye okanye enze ukuba kubekwe okanye kushiye kwindlela kawonkewonke nayiphi na into enokubeka engozini okanye yenze umonakalo kwizithuthi ezisendleleni.

55. Ukutsalwa kwezithuthi

- (1) Akukho mntu uvumelekileyo ukuqhuba nasiphi na isithuthi kwindlela kawonkewonke lo gama kutsalwa esinye isithuthi –
- (a) ukuba umnini isithuthi esitsalwayo akanalayisensi yokuqhuba udidi lwesithuthi esitsalwayo;

- (b) ngentambo yokutsala okanye itsheyina elibude bungaphezu kweemitha ezintathu ezinesiqingatha; yaye
- (c) ugqithayo kwisantya sama30 eekhilomitha ngeyure xa kutsalwa ngentambo okanye ngetsheyina.

56. Ukupakwa kwezithuthi

- (1) Ngaphandle kokuba kungqinelwana neempawu zolawulo zendlela, iimpawu zezolawulo lwendlela okanye umyalelo wegosa eligunyazisiweyo, akukho mntu uvumelekileyo ukupaka isithuthi kwindlela kawonkewonke,—
 - (a) ekwaphuleni umthetho wophawu olungumqondiso wolawulo lwezindlela;
 - (b) kuyo nayiphi na imeko okanye indawo apho kuye kwathi, ngokwembono yegosa eligunyazisiweyo, inokuba yingozi okanye uthintelo lwezithuthi okanye lwabahambi ngeenyawo;
 - (c) kwisabhuweyi okanye kwitonela okanye kwiimitha ezintandathu ukusuka kwindlela kawonkewonke;
 - (d) kwisandla sasekunene sendlela ejongene nezithuthi eziza ngaphambili;
 - (e) kwirizevu yesiporo sikaloliwe kwindawo emiselwe ukuba kunqunyulwe kuyo;
 - (f) kwiimitha ezisithoba kumacala omabini endawo emiselwe ukuba kunqunyulwe kuyo;
 - (g) kwicala elinye lesakhelo socimomlilo kwindawo ephakathi ebiyelweyo ngomgca osesazulwini kunye nemigca kwiiengile ezisekunene kwalo mgca usesazulwini kwimitha enesiqingatha kumacala omabini esakhelo socimomlilo;
 - (h) ngendlela ethintela nakuphi na ukungena kwesithuthi sabucala okanye sikawonkewonke kwindledlana;
 - (i) kumphakamo owohlula imizila yendlela, kwindawo emiselwe abahambi ngeenyawo kuphela okanye kumgca wabahambi ngeenyawo; okanye
 - (j) kwiimitha ezintlanu zokudibana kweendlela.

- (2) Akukho mntu uvumelekileyo ukupaka isithuthi kwindawo yokupaka egcinelwe abantu abakhubazekileyo ngaphandle kokubonisa istikha esisemthethweni esikhutshwa ngabasemagunyeni bephondo ukwenzela uthutho lwabantu abakhutshelwe isithuthi eso.
- (3) Akukho mntu uvumelekileyo ukupaka isithuthi sakhe kwindawo yokulayisha izinto aze asishiye engasihoyanga ngaphezu –
 - (a) kwemizuzu emihlanu kwimeko yesithuthi esingesiso isithuthi sokuthutha iimpahla; okanye
 - (b) imizuzu engama30 kwimeko yesithuthi sokuthutha iimpahla.
- (4) Igosa eligunyazisiweyo livumelekile ukuzithatha lizohluthe izithuthi ezipakiweyo zisaphula icandelwana loku(1)(b), (e) no(g) ngokungqinelana necandelo lama62 lalo Mthetho.

57. Imisebenzi eluxanduva ngokubanzi lomqhubi okanye lomkhweli wesithuthi kwindlela kawonkewonke

- (1) Akukho mntu uqhuba isithuthi kwindlela kawonkewonke uvumelekileyo ukuba –
 - (a) enze isithuthi ukuba sibuye umva ngaphandle kokuba oko kunokwenziwa ngokukhuselekileyo, okanye enze ukuba sibuye umva umgama othile okanye ixesha elide kunokuba yimfuneko kwezokhuseleko okanye ukunceda ngokufanelekileyo nabani na okwesithuthi okanye ezinye izithuthi ezikuloo ndlela;
 - (b) alandele esinye isithuthi ngokusondela kakhulu kunokuba kufanelekile yaye kuchubekile ukuthathela ingqalelo isantya sesinye isithuthi kunye nesezithuthi ezikwindledlana, okanye ukunika ingqwalaselo isantya sesinye isithuthi kunye nezithuthi malunga nemeko yendledlana leyo, okanye ngokusondeleyo ngaphezulu kunokuba kumiselweyo kula macandelo;
 - (c) ukuvumela nawuphi na umntu, isilwanyana okanye into ukuba ahlale nakweyiphi na indawo kwisithuthi okunokuthintela umqhubi ekuthatheni ulawulo ngokupheleleyo lweentshukumo zesithuthi okanye ukubonisa injongo yokumisa, ukusihambisa kancinci okanye ukutshintsha indlela;

- (d) xa kuqhutywa eso sithuthi, kuvunyelwe nawuphi na umntu ukuba abambe okanye aphazamisane nevili lokuqhuba okanye izinto zokuqhuba zesithuthi;
- (e) xa eqhuba isithuthi, ahlale kwindawo emenza ukuba angabikho selulawulweni ngokupheleleyo lwesithuthi, athathe indawo engenalulawulo lupheleleyo lwesithuthi okanye ukubona ngokupheleleyo indledlana kunye nezithuthi ezingaphambi kwesithuthi eso;
- (f) avumele isithuthi ukuba sihlale singahoywanga endleleni engabambanga ziqhoboshi zaso okanye ukusebenzisa enye inkqubo eluhlobo olunokuthintela ngempumelelo isithuthi ukuba sihambe kwindawo esishiywe kuyo;
- (g) ukuba isithuthi sipakiwe okanye simiswe ecaleni kwendlela, qhuba isithuthi eso kwindawo leyo sikuyo ngaphandle kokuba uyakwazi ukwenza njalo ngaphandle kokuphazamisana nezithuthi ezizayo ukusuka nakweliphi na icala nangokhuseleko kubaqhubi nakwabanye;
- (h) ukungakwazi ukunika ngoko nangoko nangokupheleleyo ilungelo lokuhamba kuqala kwesithuthi esenza isandi okanye esibonisa isibane sokuzazisa ngokungqinelana necandelo lama58(3) lalo Mthetho;
- (i) uvumela inxalenye yomzimba womqhubi ukuba uphumele ngaphandle kwisithuthi lo gama sihambayo ngaphandle kokunika naluphi na uphawu olungumqondiso wesandla ofunekayo okanye ogunyazisiweyo ukuba awunike ngokungqinelana neli candelo okanye ngaphandle kokuba umqhubi uzibandakanye ekuvavanyeni okanye ekuhloleni isithuthi;
- (j) uvumela nawuphi na umntu okanye isilwanyana ukuba sikhwele eluphahleni, kulo naliphi na inqanaba okanye ibhodi yokubaleka okanye nayo nayiphi na indawo ephezu kwesithuthi lo gama isithuthi sihambayo;
- (k) wenza okanye uvumela i-injini yesithuthi ukuba idume lo gama ime ngxi yaye ingahoywanga;
- (l) ngokungenankathalo okanye ngabom ugalela okanye ubangela ukuba okanye uvumela ukuba kugalelwe nayiphi na ipetroli okanye olunye ulwelo olusisibaso okanye nayiphi na ioyile, igrisi okanye isibaso esinokubangela

umlilo okanye ingozi, uthuthu okanye enye inkunkuma, nokuba yeyaluphi na uhlobo, ukusuka kwisithuthi okanye ecaleni kwendlela;

- (m) wenza okanye uvumela ukuba i-injini yesithuthi ukuba mayidume lo gama ipetroli okanye esinye isibaso esinokubangela umlilo sifakwa kwitanki lesithuthi, okanye wenza okanye uvumela i-injini yesithuthi idume phambi kokuba lo gama ipetroli okanye esinye isibaso esinokubangela umlilo sifakwa sivumela i-injini ukuba idume phambi kokuba ukufakwa kwepetroli okanye esinye isibaso kwitanki lesithuthi kugqitywe kwaza kwabuyiselwa isiciko setanki lamafutha, okanye
- (n) ngaphandle kokuba ugqitha ngokusemthethweni esinye isithuthi okanye njengoko ayalelwe ligosa eligunyazisiweyo, uqhuba kumzila wendlela okhawulelana naye ngaphambili.
- (2) Akukho mntu, ongenguye umqhubi, onokubamba okanye aphazamisane nevili lokuqhuba okanye isixhobo sokusebenza kwesithuthi lo gama sihambayo kwindlela kawonkewonke, ngaphandle kokuba kunokutshiwo ngokufanelekileyo ukuba umqhubi lowo akanako ukuqhuba okanye ukusilawula isithuthi.
- (3) Akukho mkhweli kwisithuthi esikwindlela kawonkewonke onokuvumela naliphi na ilungu lomzimba ukuba liphumele ngaphandle kwesithuthi.
- (4) Akukho mntu uvumelekileyo ukuba angene okanye aphume kuso nasiphi na isithuthi ngaphandle kokuba isithuthi eso simile ngxi yaye ngaphandle kokuba oko kunokwenziwa ngaphandle kokwenzakalisa mntu.
- (5) Akukho mntu uvumelekileyo ukuqhuba, ukutsala okanye ukutyhala isithuthi kwindledlana yeenyawo esecaleni kwendlela.

58. Umonakalo ezindleleni zikawonkewonke

Akukho mntu uvumelekileyo kwindlela kawonkewonke –

- (a) ukwenza ukuba naliphi na ivili lesithuthi lirhuqe okanye lijikeleziswe ngesiquphe kumphezulu wendledlana leyo, ngaphandle kwakwimeko yezongxamiseko; okanye

- (b) ukusebenzisa nasiphi na isithuthi okanye into okanye ukuhambisa isithuthi kwindledlana ngendlela eyenza okanye enokwenza ukuba kwenzeke umonakalo endleleni.

59. Imiqathango eyodwa ngokubhekiselele kwiindlela ezingoohola

- (1) Akukho mntu unokuqhuba kwindlela enguhola –

- (a) inqwelo etsalwa sisilwanyana;
- (b) ibhayisekile;
- (c) iskeyitibhodi, irolaskeyithi, irola bleyidi okanye isixhobo esikumila kunjalo;
- (d) isithuthuthu esineinjini enesilinda engadlulanga kwiisentimitha zetyhubhikhi ezingama50;
- (e) isithuthi siqhutywa ngamandla ombane asuka kwiibhetri ezigciniweyo ezilawulwa ngumhambi ngeenyawo;
- (f) nasiphi na isithuthi esinobunzima obungagqithanga kuma230 eekhilogramu esiyiliweyo saze sakhiwa, hayi nje ukulungiselelwa, ukuba sisetyenziswe ngumntu onokhubazeko nesisetyenziswa kuphela nguloo mntu;
- (g) itrayisekile esisithuthi okanye ikhwadi bhayikhi;
- (h) isithuthi esinobunzima obungagqithanga kuma230 eekhilogramu nesiylwe ngokukodwa, sakhiwa okanye salungiselelwa ukusetyenziswa ngumntu onesiphene okanye ukhubazeko ngokwasemzimbeni; okanye
- (i) itrektara okanye itrektara enetreyila.

- (2) Akukho mntu uvumelekileyo –

- (a) ukuba sendleleni enguhola ehamba ngeenyawo ngaphandle kokuba –
 - (i) ukwindawo egcinelwe ukumisa okanye ukupaka kwezithuthi ecaleni kophawu olungumqondiso wolawulo lwezindlela olufanelekileyo; okanye
 - (ii) yinjongo engaphaya kolawulo lwabo;
- (b) ukuyeka okanye ukuvumela isilwanyana –

- (i) ukuba sibe kwindlela enguhola ngaphandle kokuba sikwisithuthi okanye kwindawo egcinelwe ukumisa nokupaka kwezithuthi ecaleni kophawu olungumqondiso wolawulo lwezindlela olufanelekileyo; okanye
 - (ii) ukushiya isilwanyana kwindawo apho sinokubhadulela kwindlela enguhola;
 - (c) ukumisa isithuthi kwindlela enguhola ngaphandle kokuba –
 - (i) kuthotyelwa uphawu olungumqondiso wolawulo lwezindlela okanye umyalelo onikwa ligosa eligunyazisiweyo;
 - (ii) kwindawo egcinelwe ukumisa okanye ukupaka kwezithuthi ecaleni kophawu olungumqondiso lolawulo lwezindlela olufanelekileyo; okanye
 - (iii) ngenjongo engaphaya kolawulo lomqhubi; okanye
 - (d) ukunika uphawu olungumqondiso wesandla xa eqhuba isithuthi kwindlela enguhola ngaphandle kwimeko apho yenjongo engaphaya kolawulo lomqhubi.
- (3) Imiqathango yoku –
- (a) yecandelwana loku(1)(i) ayisebenzi kumntu oqhuba itrektara ngokubhekiselele nokwakhiwa okanye ukulungiswa kwendlela enguhola;
 - (b) icandelwana lesi(2)(a) alisebenzi apha –
 - (i) kwigosa eligunyazisiweyo ekwenzeni imisebenzi yalo;
 - (ii) umntu ozibandakanye kumsebenzi wokuhlangula okanye wokulondoloza;
 - (iii) umntu ozibandakanye kulwakhiwo okanye kulondolozo lwendlela enguhola okanye ukubonelela ngenkonzo kawonkewonke ebaluleke gqitha; okanye
 - (c) icandelwana lesi(2) (c) alisebenzi apha –
 - (i) kumqhubi –

- (aa) weambulensi, isithuthi socimomlilo okanye isithuthi sezohlangulo; okanye
- (bb) isithuthi esaphukileyo ngelixa sihlanguka esinye isithuthi;
- (ii) igosa eligunyazisiweyo eliqhuba isithuthi ekwenzeni imisebenzi yegosa elo; okanye
- (iii) umntu oqhuba isithuthi lo gama sisetyenziswa ngokubhekiselele kulwakhiwo okanye kulondolozo lwendlela enguhola okanye obonelela ngenkonzo kawonkewonke ebaluleke kakhulu.

ISAHLUKO 9: IIFONI EZIZIMOBHAYILI

60. Ukuthintelwa kosetyenziso lweefoni ezizimobhayili xa kuqhutywa

- (1) Ngokubhekiselele kwiinjongo zeli candelo, 'ifoni eyimobhayili'-
 - (a) iquka ifoni yeselula okanye isixhobo sonxibelelwano esibanjwa ngesandla;
 - (b) ayiquki foni okanye sixhobo –
 - (i) esincanyathiselwe kwisithuthi okanye siyinxalenye yesakhelo esikwisithuthi nesihlala sincanyathiselwe lo gama sisetyenziswayo okanye siqhutywa; okanye
 - (ii) esilungiselelwe ngokukodwa okanye sayilelwa ukuba siqhotyoshelwe kwiindlebe zomqhubi njengento egangxwa entloko ukwenzela ukuba umqhubi asebenzise okanye asebenze ngefoni okanye ngesixhobo esisetyenziswayo ngaphandle kokuyibamba ngesinye isandla okanye ngezandla zozibini okanye ngalo naliphi na elinye ilungu lomzimba; yaye
 - (c) ayiquki irediyo yonxibelelwano olumobhayili olunxityelelaniswe emhlabeni kunye nesixhobo sokwamkela umyalezo osebenza kumaza omoya angunombolo wesi2 *megahetsi* ukuya kuma500 *megahetsi* esiqhotyoshelwe kwisithuthi okanye esiyinxalenye yeendawo zesithuthi.
- (2) Phantsi kwawo nawuphi na omnye umthetho okanye icandelwana lesi(9), akukho mntu uvumelekileyo ukuqhuba isithuthi kwindlela kawonkewonke lo

gama ebambe ifoni eyimobhayili ngesandla esinye okanye ngezandla zozibini okanye ngalo naliphi na elinye ilungu lomzimba.

- (3) Phantsi kwecandelwana lesi(4), igosa eligunyazisiweyo livumelekile ukuba, ngenxa yoko kuyimfuno yoluntu nokhuseleko loluntu, ukuthinjwa kwefoni eyimobhayili esetyenzisiweyo ngokwenjenjalo kusophulwa icandelwana lesi(2).
- (4) Xa kuthinjwa ifoni eyimobhayili, igosa eligunyazisiweyo kufuneka ukuba –
 - (a) lazise umqhubi wesithuthi ngezizathu zokuthinjwa kwaso;
 - (b) licele umqhubi ayicime ifoni ukuthintela ukungena kwidatha yefoni;
 - (c) ukuba umqhubi akangomnini, cela kumqhubi igama lomnini neenkukacha zoqhagamshelwano zakhe;
 - (d) khuphela umqhubi irisithi echaza indawo apho ifoni inokuya kuthathwa kwakhona;
 - (e) lazise umqhubi wesithuthi ukuba xa ifoni ingayokuthathwa kwakhona zingadlulanga iinyanga ezintathu ukususela kumhla wokuthinjwa kwayo, kunokwenzeka, ngokungqinela nemigaqonkqubo yeSixeko yokuthinjelwa, inokuthengiswa, kunikelwe ngayo okanye itshatyalaliswe; yaye
 - (f) lilandele INkqubo eSebenza ngokusiSigxina yokuThinjwa kweeMpahla neZilwanyana siSixeko.
- (5) Ukuba umnini wefoni eyimobhayili akangomqhubi, igosa eligunyazisiweyo kufuneka azise umnini wefoni kwidilesi yoqhagamshelwano ekubonelelwe ngayo kwicandelwana lesi(4)(c), kunye nerisithi ekhutshwe kwicandelwana lesi(4)(d) –
 - (a) apho ifoni inokuya kuthathwa khona; yaye
 - (b) ukuba ngaba ifoni ayizokuthathwa zingadlulanga iinyanga ezintathu ukususela kumhla wokuthinjwa kwayo, iya kutshatyalaliswa.
- (6) ISixeko sinako ukuthi, ngokubhalwa kwesicelo kwangaphambili, silongeze ixesha eliziinyanga ezintathu ekubhekiselelwe kulo kumacandelwana wesi(4)(e)

nelesi5(b) ukuba ngaba eso songezelelo asinikwanga ngaphezulu kwamatyeli amabini.

- (7) Ifoni eyimobhayili inokuza kuthathwa kuphela –
 - (a) Ngumnini wefoni esakuba evelise ubungqina bobumnini befoni; okanye
 - (b) naye nawuphi na omnye umntu esakuba engenise –
 - (i) incwadi yesigunyaziso esuka kumnini kunye nobungqina bobumnini;
 - (ii) ikopi eqinisekisiweyo yesazisi somnini wefoni yemobhayili okanye ubungqina bobhaliso kwezamashishini; kunye
 - (iii) nekopi eqinisekisiweyo yesazisi somntu ozokuthatha ifowuni.
- (8) Ukuba ifoni eyimobhayili ayizanga kuthathwa zingadlulanga iinyanga ezintathu, iSixeko sinako –
 - (a) ukuthengisa okanye ukunikela ifoni ekubonelelwe ngayo ukuba ngaba zonke iinkcukacha zabucala ezisefonini zicinyiwe; okanye
 - (b) ukuyitshabalalisa ifoni.
- (9) Icandelwana lesi(2) alisebenzi kwaba bantu balandelayo ekwenzeni imisebenzi yabo:
 - (a) amagosa agunyazisiweyo;
 - (b) amapolisa kamasipala;
 - (c) namalungu eNkonzo yaMapolisa aseMzantsi Afrika; kunye
 - (d) nabaqhubi bezithuthi ezichatshazelwe kwicandelo lama58(3) lalo Mthetho.

ISAPHLUKO 10: UKUQHUBA UPHANTSI KWEMPEMBELELO

61. Imiqathango ngokubanzi ebhekiselele ekuqhubeni uphantsi kweempembelelo

- (1) Kwesi sahluko ukuqhuba isithuthi kuquka ukuhlala emva kwevili lokuqhuba okanye ukusebenza ngomatshini wesithuthi lo gama i-injini idumayo nakwimeko

yezithuthi ezitsalwa ngamahashe okanye iibhayisekile lo gama ehleli esitulweni elawula iintambo okanye ebambe iimpondo zebhayisekile.

- (2) Akukho mntu uvumelekileyo ukuqhuba isithuthi, ibhayisekile okanye isithuthi esitsalwa zizilwanyana kwindlela kawonkewonke lo gama aphantsi kwempembelelo yotywala obunxilisayo okanye isiyobisi esinomfutho obangela ukuqhunywa.
- (3) Ukuba igosa eligunyazisiweyo likrokrela ngokukuko ukuba umqhubi wesithuthi uphantsi kwempembelelo yotywala obunxilisayo okanye umfutho obangela ukuqhunywa, igosa linokuyalela umqhubi ukuba -
 - (a) amise isithuthi; aze
 - (b) anike isampuli yokuphefumliswa komqhubi esebenzisa isixhobo esimiselweyo.
- (4) Igosa eligunyazisiweyo livumelekile ukumbamba umqhubi wesithuthi ochatshazelwe kwicandelwana lesi(3) ukuba -
 - (a) umqhubi akavumi ukumisa;
 - (b) umqhubi akavumi ukunikeza ngesampuli yokuphefumliswa; okanye
 - (c) isampuli yokuphefumliswa komqhubi igqithisile kumda omiselweyo.

ISAPHLUKO 11: UKUTHINJWA KWEZITHUTHI

62. Imiqathango ngokubanzi ebhekiselele ekuthinjweni kwezithuthi

- (1) Igosa eligunyazisiweyo livumelekile ngokwemfuno nezokhuseleko loluntu, ngaphandle kwesaziso, ukuthimba isithuthi ukuba –
 - (a) isithuthi siqhutywa kwindlela kawonkewonke ngendlela engenankathalo okanye sibandakanyeka kumdyarho wasesitratweni ongekho semthethweni;
 - (b) isithuthi siqhutywa kwindlela kawonkewonke sinezibane ezineziphene okanye izibane zangasemva phakathi kwexesha lokutshona nokuphuma kwelanga okanye ngalo naliphi na elinye ixesha xa ukukwazi ukubona

kucuthekile ngenxa yokukhanya okunganelanga, umsi okanye iimeko zezulu ezingekho ntle;

- (c) isithuthi siqhutywa kwindlela kawonkewonke sikwimeko yokonakala okanye kwimeko yokonakala esithi, ngokwembono yegosa eligunyazisiweyo, asikulungelanga ukuba sendleleni yaye kukhuselekile ukusiqhuba;
 - (d) umqhubi wesithuthi uyakrokreleka ngokufanelekileyo ukuba uphantsi kwempembelelo yotywala obunxilisayo okanye umfutho wokuqhunywa; okanye
 - (e) umqhubi khangе amise xa bekuboniswa ngeempawu ezingumqondiso ukuba makame oko kusenziwa ligosa eligunyazisiweyo elikwiyunifomu okukhokelele ekubeni umqhubi makunyanzeleke ukuba aleqwe yaye anyanzeliswa ukumisa.
- (2) Igosa eligunyazisiweyo livumelekile ukuba, ukuba lanelisekile ngezizathu ezifanelekileyo yaye ngokuxhomekeke kuqinisekiso, lithimbe isithuthi -
- (a) ukuba siqhutywa kwindlela kawonkewonke nangokubhekiselele kwisaziso sokukuphelisa ukusebenza ngokungqinelana necandelo lama44(1) lalo Mthetho sele sikhutshiwe yaye eso saziso asithotyelwanga;
 - (b) ukuba siqhutywa kwindlela kawonkewonke ngumqhubi ongengomnini-
 - (i) onelayisensi yokuqhuba esemthethweni;
 - (ii) iphephamvume lokuqhuba okukuqeqeshelweyo; okanye
 - (iii) ilayisensi yokuqhuba eyimfuneko okanye iphephamvume;
 - (c) ukuba siqhutywa kwindlela kawonkewonke ngokunxamnye nemiqathango yokuvunywa kwelayisensi yokusebenza yaso okanye iphephamvume okanye sinxaxhile kwindlela evunyiweyo yaso;
 - (d) ukuba asinalayisensi okanye idiski yelayisensi yaso iphelelwe ngokungaphaya kweentsuku ezingama90;
 - (e) asibhaliswanga ngokungqinelana necandelo le15;

- (f) asifakwanga zinamba pleyiti okanye sifakwe iinamba pleyiti zobuxoki; okanye
 - (g) siye sashiywa ngokungahoywanga.
- (3) Igosa eligunyazisiweyo kufuneka likhuphele umqhubi wesithuthi irisithi yesithuthi esithinjwayo, ekufuneka –
- (a) (i) lichaze imeko yobume besithuthi ebonisa ngokucacileyo nakuphi na ukubetheka okanye ukonakala kwesithuthi; kunye
 - (ii) nokuquka uluhlu lwezinto nokufumaneka kwisithuthi ngethuba lokuthinjwa kwesithuthi;
 - (b) lichaze idilesi yendawo yokugcina izithuthi ezithinjiweyo apho isithuthi siya kugcinwa khona;
 - (c) lichaze malunga neeyure zokusebenza zokukhululwa kwezithuthi kwindawo ezithinjwe kuzo;
 - (d) lichaze iindleko ezinokuhlululwa phambi kokuba isithuthi sibe nokukhululwa;
 - (e) lazise umqhubi ukuba umqhubi okanye umnini wesithuthi unokungenisa incwadi ebhaliweyo emalunga nokuthinjwa kwesithuthi yaye kunokunikwa igama neenkukacha zoqhagamshelwano zegosa ekungeniswe kulo incwadi ebhaliweyo emalunga nokuthinjelwa isithuthi;
 - (f) limisele umhla nexesha ekunokungeniswa ngawo iincwadi ezibhaliweyo;
 - (g) lazise umqhubi wesithuthi malunga nexesha xa lilonke lokugcinwa kwezithuthi ezithinjiweyo;
 - (h) linike iinkukacha zenkqubo yokwenza isicelo sokwandiswa kwexesha xa lilonke lokugcinwa kwezithuthi ezithinjiweyo; yaye
 - (i) lazise umqhubi wesithuthi ukuba isithuthi sinokuthengiswa okanye sitshatyalaliswe ukuba asizanga kuza kuthathwa zingadlulanga iinyanga ezintathu zokuthinjwa kwaso.

- (4) Igosa eligunyazisiweyo kufuneka ligcine ikopi yerisithi ekhutshelwe umqhubi wesithuthi esithinjiweyo esisebenza njengobungqina obungenakuphikiswa bemeko isithuthi ebesikuyo ngexesha lokuthinjwa kwaso.
- (5) Ukuba umqhubi akangomnini wesithuthi, igosa eligunyazisiweyo kufuneka linikeze ikopi yerisithi kumnini wesithuthi oko likwenza ngeposi ebhalisiweyo kwidilesi ebhalwe ecaleni kwegama lomnini wesithuthi kwirejista yezithuthi kwiNkqubo yeSizwe yoLwazi lwezeNdlela njengoko ichaziweyo kwicandelo loku1 lalo Mthetho.
- (6) ISixeko sinako ukuhlawulisa umrhumo ngosuku ngalunye okanye ngenyanga ukwenzela ukugcinwa kwezithuthi ezithinjiweyo.
- (7) ISixeko singahlawulisa intlawulo engokuthinjwa kwesithuthi ngokubhekiselele ekuthinjweni kwesithuthi.
- (8) ISixeko sinako ukubuyekeza iindleko zomnini wesithuthi kunye neentlawulo ezibhekiselele ekuthinjweni, ekuthuthweni nasekugcinweni kwesithuthi ngokoMgaqonkqubo woLawulo lweTyala nokuQokelelwa kweTyala, ka2006.
- (9) Abanini bezithuthi ezithinjiweyo baya kuba neenyanga ezintathu ukususela kumhla wokuthinjwa kwazo ukuba bazokuthatha izithuthi ezithinjiweyo zabo.
- (10) ISixeko sinako ukuthi, ngemvume eyincwadi ebhaliweyo yomenzicelo, ukulandisa ixesha lokugcinwa kwesithuthi phambi kokuphela kwexesha eliziinyanga ezintathu ekubhekiselelwe kulo kwicandelwana lesi(9) ukuba ngaba olo longezelelo lwexesha alunikwa kaninzi.

63. Ukukhululwa kwezithuthi ezithinjiweyo

- (1) Phantsi kwamacandelwana wesi(5) nawesi(6), izithuthi ezithinjwe siSixeko –
 - (a) ngokuqhuba ngokungakhathali okanye ngokungenanyameko okanye ngomdyarho wesitalato ongekho semthethweni ngokungqinelana necandelo lama62(1)(a) zinokukhululelwa kumnini wesithuthi okanye umqhubi, usakube ugqityiwe lo mba wotshutshiso;
 - (b) ngokungabi nalayisensi okanye ukuba idiski yelayisensi iphelelwe kwiintsuku ezingaphaya kwama90 ngokungqinelana necandelo

- lama62(1)(b), sinokukhululelwa umnini wesithuthi okanye umqhubi kusakube kungeniswe idiski yelayisensi esemthethweni;
- (c) ngokungabhaliswa ngokungqinelana necandelwana lama62(1)(c), sinokukhululelwa kuphela umnini wesithuthi okanye umqhubi kusakuba kuboniswe idiski yelayisensi esemthethweni;
- (d) ngokungabonisi zinombolo pleyiti ngokungqinelana necandelo lama62(1)(d), sinokukhululelwa kuphela umnini wesithuthi okanye kusakuba kunikezwe iinombolo pleyiti zelayisensi ezisemthethweni kwanokuzincamathisela kwisithuthi; okanye
- (e) ngokungalungeli ukusetyenziswa endleleni ngokungqinelana necandelo lama62(1)(e), yaye sinokukhululelwa kuphela kumnini wesithuthi okanye kumqhubi emva kokunikezwa kwesiqinisekiso sokulungela kwesithuthi indlela.
- (2) (a) Isithuthi esithe sathinjwa siSixeko singakhululwa okwethutyana ngendleko yomnini ukwenzela ukuba silungiswe ngokufanelekileyo isithuthi –
- (i) Inkampani yeelori ezirhuqwayo ukuthutha isithuthi ukuya kwindawo yokulungisa isithuthi kwinqwelana enebhedi eflethi okanye ngesixhobo sokutsala isithuthi okanye iA-freyimi;
- (ii) umakhenikhi;
- (iii) iphanelibhitha;
- (iv) umlungisimbane wesithuthi; okanye
- (v) enye ingcali yokulungisa iimoto.
- (b) Isithuthi ebesikhe sakhululwa okwethutyana ukuze silungiswe ngokungqinelana necandelwana lesi (2)(a) kufuneka sibuyiselwe kwindawo esithinjwe kuyo ngumakhenikhi ochaphazelekayo, yiphanelibhitha, umlungisi wombane wesithuthi okanye enye ingcali yolungisozithuthi ethathe isithuthi nje ukuba ukulungiswa okuyimfuneko kugqityiwe ukwenziwa ukulungiselela uhlobo, uvavanyo apho kuyimfuneko kwanokukhululelwa kwesithuthi kumnini waso okanye kumqhubi.

- (3) Ukuba isithuthi sifuna ukusiwa kwiindawo ezininzi ukwenzela ukuba silungiswe, ukusiwa kwaso kunokwenziwa ngetreyila emcaba, itowubha okanye iA-freyimi side isithuthi eso sibe sasilungele ukuba sendleleni, sabhaliswa, sakhutshelwa iipleyiti zelayisensi ezincanyathiselwe kwisithuthi esohluthiweyo kwinqwelo yokusohlutha ngaphandle kogunyaziso olufanelekileyo lokwenza njalo kwimeko yokufuna ukulungiswa, okanye ngaphandle kwamaphepha okusikhulula afanelekileyo akhutshwa ligosa eligunyazisiweyo.
- (4) Kulityala ukususa isithuthi esivalelwe esikiti ngaphandle kwesigunyaziso esifanelekileyo sokwenza njalo kwimeko yokulungiswa, okanye ngaphandle kwamaphepha okukhululwa afanelekileyo akhutshwe ligosa eligunyazisiweyo
- (5) Igosa eligunyazisiweyo linokuyikhupha imvume yokuxolela kwintlawulo yeendleko nakwiimali ezibhekiselele ekohluthweni, ekuthuthweni nasekugcinweni kwesithuthi –
 - (a) ukuba iintlawulo ezibizwa kumqhubi okanye kumnini sele zirhoxisiwe;
 - (b) ukuba umqhubi okanye umnini ufumaniseka engenatyala lezityholo; okanye
 - (c) ngezizathu ezivakalayo ezisekelwe kwiinkcazelo ezibhaliweyo ezenziwe ngumnini okanye ngumqhubi kwifomu emiselweyo.
- (6) Phantsi kwecandelwana lesi(5), izithuthi ezithinjwe siSixeko zinokukhululelwa kuphela kumnini okanye kumqhubi lowo kusakuba kufumaneke ubungqina bentlawulo yazo zonke iindleko ezibhekiselele ekuthinjweni, izithuthi kunye nendawo yokugcinwa kwezithuthi;
- (7) Igosa eligunyazisiweyo linokusikhulula isithuthi ekuthinjweni sisiwe kumnini wesithuthi ngobungqina bobunini kunye nobungqina bedilesi esemthethweni.
- (8) Igosa eligunyazisiweyo linokukhulula isithuthi esithinjiweyo sisiwe komnye umntu kuphela xa kuthiwe thaca –
 - (a) ileta yokugunyazisa evela kumnini kunye nobungqina bobunini bomnini wesithuthi; okanye
 - (b) ukuba umnini uswelekile, ikopi eqinisekisiweyo yesiqinisekiso esingqina ukusweleka esuka kumlawuli wamafa;

(c) ikopi eqinisekisiweyo yesazisi somnini; kunye

(d) nekopi eqinisekisiweyo yesazisi somntu ozokuthatha isithuthi.

64. Ukuthengiswa okanye ukutshatyalaliswa kwesithuthi esithinjiweyo

(1) Ukuba isithuthi asithathwa kwakhona okanye lingadlulanga ithuba leenyanga ezintathu ekubhekiselelwe kulo kwicandelo lama62(8) okanye ithuba elichatshazelweyo kwicandelo lama62(9), igosa eligunyazisiweyo kufuneka lazise umnini wesithuthi ngokubhala kwifomu emiselweyo ukuba –

(a) iSixeko sinenjongo –

(i) yokuthengisa isithuthi ukubuyisa iindleko neemali zaso ezibhekiselele ekohluthweni, ekuthuthweni nasekugcinweni kwesithuthi; okanye

(ii) yokutshabalalisa isithuthi; kwaye

(b) ukuba umnini unenjongo yokuchasa ukuthengiswa okanye ukutshatyalaliswa kwesithuthi, umnini unokwenza nokuba –

(i) kukusifumana kwakhona isithuthi emva kokuhlawula iindleko zeSixeko; okanye

(ii) enze isicelo kwinkundla yezomthetho ukuba sikuhlehlise ukuthengiswa okanye ukutshatyalaliswa kwesithuthi zingadlulanga iintsuku ezingama30 zesaziso.

(2) Ukuba umnini uyasilela uluphinda asibuyisele isithuthi okanye enze isicelo kwinkundla yezomthetho ukuba sikuhlehlise ukuthengiswa okanye ukutshatyalaliswa kwesithuthi, iSixeko –

(a) kufuneka sityumbe ummiselimaxabiso ukumisela ixabiso lesithuthi esohluthiweyo; yaye

(b) sinako iSixeko –

(i) ukusithengisa isithuthi kwifandesi kawonkewonke ngexabiso elingumlinganiselo osezantsi elimiselwe ngummiselimaxabiso ukubuyisa iindleko zaso kuqukwa neendleko zefandesi; okanye

(ii) sisitshabalalise isithuthi ngokusekelwe kwingxelo yommiselimaxabiso.

- (3) Ukuba isithuthi esichatshazelweyo kwicandelwana lesi(2)(b)(i) asithengiswa ngokwakwixabiso okanye ngaphezulu kwexabiso elingumlinganiselo omncinane, iSixeko kufuneka –
- (a) senze isicelo kwinkundla yezomthetho sokufumana umyalelo ovumela isithuthi ukuba sithengiswe ngaphantsi kwexabiso elingumlinganiselo omncinane okanye sitshatyalaliswe; size
- (b) sizise ikopi yesicelo kumnini.
- (4) Ukuba isithuthi siyathengiswa kwaye, emva kokuba kutsalwe iindleko, imali eseleyo iselungelweni lokunikwa umnini, iSixeko kufuneka –
- (a) sazise umnini ngemali eseleyo; kwaye
- (b) sihlawule imali eseleyo kumnini ukuba umnini uyayibanga.
- (5) Ngokubhekiselele kwiinjongo zeli candelo, inkonzo nokwaziswa komnini makwenziwe nokuba kukudibana naye ubuso ngobuso okanye ngembalelwano ebhalisiweyo kwidilesi ebhalwe phantsi kwirejista yezithuthi kwiNkqubo engeeNkcukacha zezeNdlela zeSizwe njengoko ichaziweyo kwicandelo loku1 lalo Mthetho.

ISAPHLUKO 12: IMIQATHANGO NGOKUBANZI

65. Ulwaphulomthetho nezohlwayo

- (1) Umntu owophula umqathango walo Mthetho kaMasipala wophula umthetho.
- (2) Umntu owophula umthetho ekubhekiselelwe kuwo kwicandelwana loku(1) uya kuthi, esakuba egwetyiwe, afumane isohlwayo okanye ixesha lokuvallelwa entolongweni elingagqithanga kulo naliphi na ixesha elibekelwe ityala elifana nelo ngokwecandelo lama89 lalo Mthetho.

66. Ukuzikhusela

ISixeko kunye negosa eligunyazisiweyo alinabutyala ngawo nawuphi na umonakalo obangelwe yiyo nantoni na esemthethweni eyenziweyo okanye eshiyelelweyo siSixeko okanye ligosa eligunyazisiweyo ekwenzeni nawo

nawuphi na umsebenzi okanye uxanduva ngokungqinelana nalo Mthetho kaMasipala.

67. Ukurhoxiswa

ISixeko saseKapa: uMthetho kaMasipala wezeNdlela, ka2011 uyarhoxiswa.

68. Isihloko esifutshane

Lo Mthetho kaMasipala ubizwa ngokuba iSixeko saseKapa: uMthetho kaMasipala wezeNdlela, ka2021, kwaye uya kuqalisa ukusebenza ngomhla wokupapashwa kwawo kwiGazethi yePhondo.

