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CITY OF CAPE TOWN

STREETS, PUBLIC PLACES AND PREVENTION OF NOISE NUISANCES AMENDMENT BY-LAW, 2025

CITY OF CAPE TOWN

STREETS PUBLIC PLACES AND THE PREVENTION OF NOISE NUISANCES AMENDMENT BY-LAW, 2025

GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing enactments.
_____	Words underlined with a solid line indicate insertions in existing enactments.

To amend the provisions in the City of Cape Town: By-law Relating to Streets, Public Places and the Prevention of Noise Nuisances, 2007 (as amended in 2021); to amend, substitute and delete certain definitions; to provide for the amendment of enforcement powers; to amend the offences and penalties section and to provide for matters connected therewith.

_____

BE IT ENACTED by the Council of the City of Cape Town, as follows:—

Amendment of section 1 of the City of Cape Town: By-law Relating to Streets, Public Places and the Prevention of Noise Nuisances, 2007 (herein referred to as the Principal By-law) as amended by the Streets, Public Places and the Prevention of Noise Nuisances Amendment By-law, 2021.

1. Section 1 of the Principal By-law is hereby amended —

(a) by the substitution of the definition for “authorised official”:

‘***“authorised official”*** means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-Law and includes any employee delegated to carry out or exercise the duty, function or power **[;]**, and includes:

(a) member of the Cape Town Metropolitan Police Department established in terms of section 64A of the South African Police Service Act, 1995 (Act No. 68 of 1995);

(b) a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

(c) a law enforcement officer declared to be a peace officer in terms of Notice No. 1114 of 2018 issued in terms of section 334(1)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and

(d) any other employee delegated, or person authorised to carry out or exercise the duty, function or power;'.

(b) by the insertion after the definition for "roadway" of the following definition:

'"***SAPS officer***" means a member of the South African Police Service appointed in terms of the South African Police Services Act, 1995 (Act 68 of 1995).';

(c) by the deletion of the definition for ***"shelter"***; and

(d) by the insertion after the definition for ***"street entertainer"*** of the following definition:

'***"street-based person"*** means a person who is living or sleeping in public places, road verges, or in vehicles parked in public places or on road verges and includes persons sleeping in or on pavements or abandoned buildings;'.

Amendment of section 22 of the Principal By-law

2. Section 22 of the Principal By-law is hereby amended by the deletion of subsection (2).

Amendment of section 22A of the Principal By-law as amended by the City of Cape Town: Streets, Public Places and the Prevention of Noise Nuisance Amendment By-law, 2021

3. Section 22A of the Principal By-law is hereby amended as follows:

`Enforcement powers

22A. (1) An authorised official or SAPS official may, for the purposes of enforcing this By-Law—

(a) direct a person who is in contravention to—

(i) stop the conduct prohibited under the By-law;

(ii) remove any obstruction to the safe or free passage of a pedestrian or motor vehicle; or

(iii) leave and remain out of a specified public place;

(b) issue a written compliance notice on a person who contravenes**[ing]** the By-Law, which must include the following:

(i) describe the conduct constituting a contravention of the By- law;

(ii) indicate the section of the By-Law contravened;

(iii) specify the steps to be taken to comply with the notice;

(iv) specify the time periods within which the steps have to be taken;

(v) state that the failure to comply with the compliance notice constitutes an offence in addition to the contravention of the section contemplated in subparagraph (ii); and

(vi) state that, in the event of non-compliance, that person will be liable for a fine for both the contravention and for not complying with the compliance notice and state the amount of the fine;

(c) issue a notice in terms of sections 56 or 341 of the Criminal Procedure Act, 51 of 1977 **[if–]** on any person who contravenes, or continues to contravene, the By-law, notwithstanding the service of a directive and a compliance notice on that person in terms (a) or (b) above, and such person may be liable to a fine or to imprisonment as the court may deem fit to impose or to both a fine and imprisonment, not exceeding the maximum penalty as provided for in analogous national legislation;

[(i) a person contravenes a provision of the By-Law; or

(ii) a person fails or refuses to comply with a direction in terms of paragraph (a) or a compliance notice in terms of paragraph (b);

(d) subject to subsection (2), arrest a person, who commits an offence in terms of the By-Law, in terms of section 40(1)(a) to (f), (h) and (j) of the Criminal Procedure Act, 51 of 1977 and, if necessary, search the person arrested in terms of section 23 of that Act;]

(e) impound, in accordance with the City's Standard Operating Procedure on the Impoundment of Goods and Animals, **[2012]** any materials **[used in making of transient shelter or camping overnight and personal items of persons arrested in accordance with subsection (2)]**that do not form part of an occupied structure which constitutes a person's home and do not constitute personal items of the affected person; or

(f) require any person to furnish their name and address and other particulars that are required for identification or for any process if the authorised official or SAPS official reasonably suspects this person of having committed an offence in terms of this By-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.

[(2) The power to arrest in subsection (1)(d) may only be exercised in respect of a contravention of section 2(3)(m) if the person refuses to accept an offer of alternative shelter.]

(3) In exercising any power under this section every authorised official or SAPS official must—

(a) exercise their powers reasonably, with due regard to every person's fundamental rights under Chapter 2 of the Constitution; and

(b) ensure if force is required under the circumstances, the level of force is justifiable and proportional.**[; and]**

[(c) in the absence of an authorised official contemplated in subsection (4), take steps to prevent any other authorised official from exercising powers in contravention of subsections (a) and (b).]

(4) **[The authorised official in charge must intervene and take the necessary steps to curtail any unreasonable exercise of powers or disproportionate use of force by any other authorised official under the command of that official]** This By-law shall not be used for the purpose of evicting persons from their homes.';

Amendment of section 23 of the principal By-law as amended by the City of Cape Town: Streets, Public Places and the Prevention of Noise Nuisance Amendment By-law, 2021.

4. Section 23 of the Principal By-law is hereby amended by—

(a) the substitution of subsection (1) with the following sub-section:

`23.(1) Any person who contravenes this By-law in relation to prohibited conduct referred to in sections 2(3)(d) and 2(3)(m), or 22 after—

(a) a written compliance notice has been issued in terms of s 22A (1) (b);

(b) in the event that the written compliance notice is not complied with, an

offer of suitable shelter has been made to the street-based person;

(c) in the event of the offer of suitable shelter having been refused, a social worker has consulted with the street-based person and explained the nature

of the alternative shelter and why acceptance thereof would be in the best interests of the street based person; and

(d) the offer of suitable shelter is nonetheless still rejected by the street-based person,

shall be guilty of an offence and liable to a fine or imprisonment for a period not exceeding six months, or to both a fine and such imprisonment, subject to it being proven that the person in question has refused an offer of alternative shelter.';

(b) the substitution of subsection (2) with the following sub-section:

`23.(2) Any person who contravenes any other provision of this By-law, or disobeys any directive or compliance notice by an authorised official or SAPS official enforcing this By-law, including those relating to prohibited conduct referred to in sections 2 (3) (g), (h), (i), (j) or (k), shall be guilty of an offence and be liable to a fine or to imprisonment as the court may deem fit to impose **[or to imprisonment as the court may deem fit to impose]** or to both a fine and imprisonment, not exceeding the maximum penalty as provided for in analogous national legislation. Where there is no maximum penalty as provided for in analogous national legislation the maximum penalty provided for in subsection (1) applies.'.

Short title

5. This By-law is called the Streets, Public Places and the Prevention of Noise Nuisance Amendment By-law, 2025.

STAD KAAPSTAD

WYSIGINGSVERORDENING OP STRATE, OPENBARE PLEKKE EN DIE VOORKOMING VAN STOORNISSE, 2025

STAD KAAPSTAD

WYSIGINGSVERORDENING OP STRATE, OPENBARE PLEKKE EN DIE VOORKOMING VAN STOORNISSE, 2025

ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woord in vetdruk in vierkanthakies dui op weglatings uit bestaande verordeninge.
_____	Woorde wat deur 'n aaneenlopende lyn onderstreep is, dui op byvoegings tot bestaande verordeninge.

Om die bepalings in die Stad Kaapstad: Verordening met betrekking tot Strate, Openbare Plekke en die Voorkoming van Stoornisse, 2007 (soos in 2021 gewysig) te wysig; om sekere omskrywings te wysig, te vervang en te skrap; om voorsiening te maak vir die wysiging van toepassingsbevoegdhede; om die artikel oor oortredings en boetes te wysig en om vir verwante aangeleenthede voorsiening te maak.

_____

VERORDEN die Raad van die Stad Kaapstad soos volg:—

Wysiging van artikel 1 van die Stad Kaapstad: Verordening met betrekking tot Strate, Openbare Plekke en Voorkoming van Stoornisse, 2007 (hierna die hoofverordening genoem) soos gewysig deur die Verordening op Strate, Openbare Plekke en die Voorkoming van Stoornisse, 2021.

1. Artikel 1 van die hoofverordening word hiermee gewysig —

(a) deur die omskrywing van **"gemagtigde amptenaar"** te vervang met:

> '***"gemagtigde amptenaar"*** 'n werknemer van die Stad wat verantwoordelik is vir die uitvoering van enige plig of funksie of uitoefening van enige bevoegdheid ingevolge hierdie Verordening en sluit in enige werknemer wat gedelegeer is om die plig, funksie of bevoegdheid uit te voer of uit te oefen **[;]**, en sluit in:

(a) 'n lid van die Kaapstad- metropolitaanse polisiedepartement ingestel ingevolge artikel 64A van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995);

(b) 'n verkeersbeampte aangestel ingevolge artikel 3A van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);

(c) 'n wetstoepassingsbeampte wat as 'n vredesbeampte verklaar is ingevolge kennisgewing no. 1114 van 2018 uitgereik ingevolge artikel 334(1)(a) van die Strafproseswet, 1977 (Wet 51 van 1977); en

(d) enige ander werknemer wat gedelegeer is, of persoon wat gemagtig is om die plig, funksie of bevoegdheid uit te voer of uit te oefen;'.

(b) deur die volgende omskrywing na die omskrywing van **"ryvlak"** in te voeg:

'**"*SAPD-beampte"*** 'n lid van die Suid-Afrikaanse Polisiediens aangestel ingevolge die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995).';

(c) deur die omskrywing vir **"skuiling"** te skrap; en

(d) deur die volgende omskrywing na die omskrywing van **"Stad"** in te voeg:

'***"straat-gebaseerde persoon"*** 'n persoon wat op openbare plekke, padkante, of in voertuie wat in openbare plekke of op padkante geparkeer is, woon of slaap en sluit in persone wat in of op sypaadjies of verlate geboue slaap;'.

Wysiging van artikel 22 van die hoofverordening

2. Artikel 22 van die hoofverordening word hiermee gewysig deur subartikel (2) te skrap.

Wysiging van artikel 22A van die hoofverordening soos gewysig deur die Stad Kaapstad: Wysigingsverordening op Strate, Openbare Plekke en die Voorkoming van Stoornisse, 2021

3. Artikel 22A van die Hoofverordening word hiermee soos volg gewysig:

`Toepassingsbevoegdhede

22A.(1) 'n Gemagtigde amptenaar of SAPD-beampte kan, met die doel om hierdie Verordening toe te pas—

(a) aan 'n persoon wat 'n oortreding begaan, opdrag gee om—

(i) die gedrag wat kragtens die Verordening verbied word, te staak;

(ii) enige versperring wat die veilige of vrye deurgang van ’n voetganger of motorvoertuig belemmer, te verwyder; of

(iii) ’n spesifieke openbare plek te verlaat en daaruit weg te bly;

(b) ’n skriftelike nakomingskennisgewing uitreik aan ’n persoon wat die Verordening oortree, wat die volgende moet insluit:

(i) beskryf die gedrag wat ’n oortreding van die Verordening uitmaak;

(ii) dui aan watter artikel van die Verordening oortree is;

(iii) meld die stappe wat gedoen moet word om die kennisgewing na te kom;

(iv) meld die tydperke waarbinne die stappe gedoen moet word;

(v) meld dat die versuim om aan die nakomingskennisgewing te voldoen ’n bykomende oortreding behels buiten die oortreding van die artikel beoog in subparagraaf (ii); en

(vi) meld dat in die geval van nienakoming, daardie persoon hom/haar blootstel aan ’n boete, beide vir die oortreding en vir nienakoming van die nakomingskennisgewing, en meld die bedrag van die boete;

(c) ’n kennisgewing uitreik ingevolge artikel 56 of 341 van die Strafproseswet, Wet 51 van 1977 **[, indien –]** aan enige persoon wat die Verordening oortree of voortgaan om te oortree nieteenstaande die betekening van ’n opdrag en ’n nakomingskennisgewing aan daardie persoon ingevolge (a) of (b) hier bo, en sodanige persoon kan homself/haarself blootstel aan ’n boete of tronkstraf soos deur die hof gepas geag of beide ’n boete en tronkstraf, wat nie die maksimum straf soos deur ooreenstemmende nasionale wetgewing bepaal, oorskry nie;

[(i) ’n persoon ’n bepaling van die Verordening oortree; of

(ii) ’n persoon versuim of weier om ’n opdrag ingevolge paragraaf (a) of ’n nakomingskennisgewing ingevolge paragraaf (b) na te kom;

(d) onderworpe aan subartikel (2), ’n persoon wat ’n oortreding ingevolge die Verordening begaan, in hegtenis neem ingevolge artikel 40(1)(a) tot (f), (h) en (j) van die Strafproseswet, Wet 51 van 1977, en, indien nodig, die persoon wat in hegtenis geneem is ingevolge artikel 23 van daardie Wet deursoek;]

(e) enige materiaal **[wat gebruik word om ’n tydelike skuiling of oornagkamp op te rig en persoonlike items van persone wat ooreenkomstig subartikel (2) in hegtenis geneem word,]** wat nie deel vorm van ’n geokkupeerde struktuur wat ’n persoon se tuiste uitmaak nie en

nie persoonlike items van die betrokke persoon is nie, ooreenkomstig die Stad se standaardbedryfsprosedure oor die skut van goedere en diere, **[2012,]** skut;

(f) van enige persoon verwag om hul naam en adres en ander besonderhede te verskaf wat nodig is vir identifisering of vir enige proses indien die gemagtigde amptenaar of SAPD-beampte 'n redelike vermoede het dat hierdie persoon 'n oortreding ingevolge hierdie Verordening begaan het of, indien na die mening van die amptenaar, daardie persoon in staat is om getuienis te lewer oor die pleeg van enige sodanige oortreding.

[(2) Die bevoegheid om iemand in hegtenis te neem in subartikel (1)(d) mag slegs uitgeoefen word ten opsigte van 'n oortreding van artikel 2(3)(m) indien die persoon weier om 'n aanbod van alternatiewe skuiling te aanvaar.]

(3) In die uitoefening van enige bevoegdheid kragtens hierdie artikel, moet elke gemagtigde amptenaar of SAPD-beampte—

(a) hul bevoegdhede redelikerwys uitoefen met die nodige agting vir elke persoon se fundamentele regte kragtens hoofstuk 2 van die Grondwet; en

(b) toesien dat indien hardhandigheid in die omstandighede gebruik word, die mate van hardhandigheid regverdigbaar en proporsioneel is. **[; en]**

[(c) by gebrek aan 'n gemagtigde amptenaar beoog in subartikel (4), stappe doen om te verhoed dat enige ander gemagtigde amptenaar bevoegdhede in stryd met subartikel (a) en (b) uitoefen.]

(4) **[Die gemagtigde beampte in beheer moet toetree en die nodige stappe doen om enige onredelike uitoefening van bevoegdhede of disproporsionele uitoefening van hardhandigheid deur enige ander gemagtigde amptenaar onder die leiding van daardie amptenaar te bekamp.]** Hierdie Verordening mag nie gebruik word met die doel om persone uit hul huise te sit nie.';

Wysiging van artikel 23 van die hoofverordening soos gewysig deur die Stad Kaapstad: Wysigingsverordening op Strate, Openbare Plekke en die Voorkoming van Stoornisse, 2021.

4. Artikel 23 van die Hoofverordening word hiermee gewysig —

(a) deur subartikel (1) met die volgende subartikel te vervang:

`23.(1) Enige persoon wat hierdie Verordening met betrekking tot verbode gedrag waarna in artikel 2(3)(d) en 2(3)(m), of 22 verwys word, oortree, nadat—

(a) 'n skriftelike nakomingskennisgewing ingevolge artikel 22A(1)(b) uitgereik is;

(b) in die geval van nienakoming van die skriftelike nakomingskennisgewing, 'n aanbod van geskikte skuiling aan die straat-gebaseerde persoon gemaak is;

(c) in die geval van weiering van die aanbod van geskikte skuiling, 'n maatskaplike werker die straat-gebaseerde persoon geraadpleeg het en die aard van die alternatiewe skuiling verduidelik het en waarom aanvaarding daarvan in die beste belang van die straat-gebaseerde persoon sal wees; en

(d) die aanbod van geskikte skuiling desondanks deur die straat-gebaseerde persoon geweier word,

is skuldig aan 'n oortreding en onderworpe aan 'n boete of tronkstraf vir 'n tydperk van hoogstens ses maande, of aan beide 'n boete en sodanige tronkstraf by lewering van bewys dat die betrokke persoon 'n aanbod van alternatiewe skuiling geweier het.';

(b) deur subartikel (2) met die volgende subartikel te vervang:

`23.(2) Enige persoon wat in stryd is met enige ander bepaling van hierdie Verordening, of enige opdrag of nakomingskennisgewing uitgereik deur 'n gemagtige amptenaar of SAPD-beampte wat hierdie Verordening toepas, insluitende die verbode optrede waarna in artikel 2(3)(g), (h), (i), (j), of (k) verwys word, verontagsaam, is skuldig aan 'n oortreding en stel hom/haar bloot aan 'n boete of aan tronkstraf soos die hof gepas ag om op te lê **[of vir tronkstraf soos deur die hof as gepas geag]** of beide 'n boete of tronkstraf, en wat nie die maksimum straf soos deur ooreenstemmende nasionale wetgewing bepaal, oorskry nie. Waar daar geen maksimum straf is volgens ooreenstemmende nasionale wetgewing nie, geld die maksimum straf soos in subartikel (1) bepaal.'.

Kort titel

5. Hierdie verordening staan bekend as die Wysigingsverordening op Strate, Openbare Plekke en die Voorkoming van Stoornisse, 2025.

ISIXEKO SASEKAPA

UMTHETHO KAMASIPALA WEZILUNGISO ONXULUMENE NEZITALATO, IINDAWO ZIKAWONKE-WONKE NOTHINTELO LWEENKATHAZO

ZENGXOLO, WANGO2025

ISIXEKO SASEKAPA

IZILUNGISO KUMTHETHO KAMASIPALA ONXULUMENE NEZITALATO, IINDAWO ZIKAWONKEWONKE NOTHINTELO LWEENKATHAZO ZENGXOLO, WANGO2025

INGCACISO-GABALALA:

[ ]	Amagama abhalwe ngqindilili akwizibiyeli ezizikwere abonisa oko kucinyiweyo kwimithetho ekhoyo.
_____	Amagama akrwelelwe umgca ongqindilili abonisa oko kufakelweyo kwimithetho ekhoyo.

Ukuba kwenziwe izilungiso kwimiqathango yoMthetho kaMasipala weSixeko saseKapa oNxulumene neZitalato, iiNdawo zikaWonkewonke noThintelo lweeNkathazo zeNgxolo wango2007 (owalungiswa ngo2021); ukuze ulungise, ufakele kwaye ucime iingcaciso ezithile; ngeenjongo zokulungisa onyanzeliso; ukulungisa icandelo lamatyala nezohlwayo kunye nokubonelela ngemiba enxulumene noko.

KUMISELWA lo mthetho liBhunga leSixeko saseKapa, ngolu hlobo lulandelayo:—

Ukwenziwa kwezilungiso kwicandelo 1 loMthetho kaMasipala weSixeko saseKapa oNxulumene neZitalato, iiNdawo zikaWonkewonke noThintelo lweeNkathazo zeNgxolo, wango2007 (ekubhekiswe kuwo apha njengo-Mthethongqangi kaMasipala) njengoko ulungisiwe ngoMthetho kaMasipala weSixeko saseKapa oNxulumene neZitalato, iiNdawo zikaWonkewonke noThintelo lweeNkathazo zeNgxolo, wango2021.

1. Ukwenziwa kwezilungiso kwicandelo 1 loMthethongqangi kaMasipala —

(a) ngokufaka le ngcaciso ilandelayo “yegosa eligunyazisiweyo”:

“‘igosa eligunyazisiweyo” lithetha umsebenzi weSixeko onoxanduva lokwenza umsebenzi okanye ukusebenzisa naliphi na igunya ngokwalo Mthetho kaMasipala kwaye kubandakanya nawuphi na umsebenzi

onikwe igunya lokwenza umsebenzi, okanye ukusebenzisa igunya **[;]**, kwaye kubandakanya:

(a) ilungu leSebe laMapolisa kaMasipala waseKapa elamiselwa ngokwecandelo 64A loMthetho ongeNkonzo yamaPolisa oMzantsi Afrika, wango1995 (uMthetho onguNomb.68 ka1995);

(b) igosa lezothutho eliqeshwe ngokwecandelo 3A loMthetho weSizwe ongeziThuthi eziNdleleni, 1996 (uMthetho unguNomb. 93 ka1996);

(c) igosa elinyanzelisa umthetho elibhengezwe njengegosa loxolo, ngokweSaziso esinguNomb. 1114 sika2018, esakhutshwa ngokwecandelo lama334(1)(a) loMthetho weNkqubo yolwaPhulo-Mthetho, wango1977 (uMthetho ongunombolo 51 ka1977); kwakhona

(d) nawuphi na omnye umsebenzi ogunyazisiweyo, okanye umntu ogunyazisiweyo ukuba enze okanye enze umsebenzi, athathe uxanduva okanye asebenzise igunya;'.

(b) ngokufaka emva kwengcaciso "yendlela yezithuthi" le ngcaciso ilandelayo:

'"***igosa* leSAPS"** lithetha ilungu leNkonzo yamaPolisa oMzantsi Afrika eliqeshwe ngokwemigaqo yoMthetho ongeeNkonzo zamaPolisa aseMzantsi Afrika, wango1995 (uMthetho 68 ka1995).';

(c) ngokucima ingcaciso **"yekhusi"**; kunye

(d) ngokufaka emva kwengcaciso **"yomonwabisi wasesitratweni"** le ngcaciso ilandelayo:

'**"umntu ohlala esitratweni"** uthetha umntu ohlala okanye olala kwiindawo zikawonkewonke, ecaleni kwendlela, okanye kwizithuthi ezipakwe kwiindawo zikawonkewonke okanye ecaleni kwendlela kwaye kubandakanya abantu abalala kwipavumente okanye kwizakhiwo ezingasasetyenziswayo;'.

Ukwenziwa kwezilungiso kwicandelo 22 loMthetho-ngqangi kaMasipala

2. Icandelo 22 loMthethongqangi kaMasipala lenziwa izilungis ngokuthi kususwe icandelwana (2)

Ukwenziwa kwezilungiso kwicandelo 22A loMthetho-ngqangi kaMasipala njengoko ulungisiwe ngoMthetho kaMasipala weSixeko saseKapa oNxulumene neZitalato, iiNdawo zikaWonkewonke noThintelo lweeNkathazo zeNgxolo, wango2021

3. Kulungiswa icandelo 22A loMthetho-ngqangi kaMasipala ngolu hlobo lulandelayo:

`Amagunya okunyanzelisa

22A.(1) Igosa eligunyazisiweyo okanye igosa leSAPS linakho, ngeenjongo zokunyanzelisa loMthetho kaMasipala —

(a) ukuyalela umntu ongawuthobeliyo lo mthetho kamasipala ukuba-

(i) ayiyeke indlela yokuziphatha engamkelekanga phantsi koMthetho kaMasipala;

(ii) asuse nayiphi na into ephazamisana nokhuseleko okanye nokuhamba ngokukhululekileyo kwabahambi ngeenyawo nezithuthi; okanye

(iii) aphume okanye ahlale ngaphandle kwendawo yoluntu echaziweyo;

(b) ukukhupha isaziso esibhaliweyo sokuthobela umthetho kamasipala kumntu owophula uMthetho kaMasipala, ekufuneka sibandakanye oku kulandelayo:

(i) sichaze indlela yokuziphatha echasene nokwaphulwa koMthetho kaMasipala;

(ii) sibonise icandelo elingathotyelwanga loMthetho kaMasipala;

(iii) sichaze amanyathelo aza kuthatyathwa ukuthobela isaziso eso;

(iv) sichaze amaxesha ekufuneka kuthathwe ngawo amanyathelo;

(v) sichaze ukuba ukusilela ekuthobeleni isaziso lityala elongeza kwelo lokungathobeli icandelo elikhankanywe kumhlathana (ii); kwaye

(vi) sichaze ukuba, xa siye asathotyelwa isaziso, umntu lowo uyakuba noxanduva lwesohlwayo solwaphulo loMthetho kaMasipala nokungathobeli isaziso kwaye sichaze nesixamali sesohlwayo;

(c) ukukhupha isaziso ngokwamacandelo 56 okanye 341 oMthetho iCriminal Procedure Act, uMthetho 51 ka1977 **[ukuba–]** kuye nawuphi na umntu owaphula, okanye oqhubelekayo ukwaphula, uMthetho kaMasipala, ngaphandle kwenkonzo yomyalelo kunye nesaziso sokuthotyelwa kuloo mntu ngokwemiqathango (a) okanye (b) engentla apha, kwaye loo mntu unokuba noxanduva lokuhlawuliswa okanye avalelwe entolongweni njengoko inkundla ibona kufanelekile ukuba anyanzeliswe okanye kuzo zombini izigwebo ukuhlawuliswa kunye nokuvalelwa entolongweni, esingagqithanga kwisohlwayo esiphezulu somthetho wesizwe obekiweyo;

[(i) umntu akawuthobeli umqathango woMthetho kaMasipala;

(ii) umntu uyasilela okanye uyala ukuthobela umyalelo ngokwemiqathango yomhlathi (a) okanye isaziso sokuthobela ngokwemiqathango yomhlathi (b);

(d) ngokuxhomekeke kwicandelwana (2), ukubamba umntu, owaphula umthetho ngokwemiqathango yoMthetho kaMasipala, ngokwecandelo 40(1)(a) ukuya ku(f), (h) kunye no(j) loMthetho iCriminal Procedure Act, uMthetho 51 ka1977 kwaye, ukuba kuyimfuneko, ukusetsha umntu obanjiweyo ngokwemiqathango yecandelo 23 lalo Mthetho;]

(e) ukuthimba, ngokungqinelana neNkqubo yokuSebenza eMiselweyo yeSixeko engokuThinjwa kweeMpahla neZilwanyana, **[ka2012]** naziphi na izixhobo **[ezisetyenziselwa ukwenza indawo yokuhlala yethutyana okanye yokumisa inkampu ngobusuku kunye nezinto zabantu ababanjiweyo ngokungqinelana necandelwana (2)]** ezingeyonxalenye yesakhiwo ekuhlalwa kuso nesingelilo ikhaya lamntu kwaye esingenazinto zaloo mntu uchaphazelekayo;

(f) ukufuna ukuba nawuphi na umntu anike igama lakhe kunye nedilesi kunye nezinye iinkcukacha ezifunekayo njengesazisi okanye nayiphi na inkqubo ukuba igosa eligunyazisweyo okanye igosa leSAPS likrokrela ngokufanelekileyo ukuba lo mntu wenze ityala ngokwalo Mthetho kaMasipala okanye, ukuba ngokoluvo lwegosa, loo mntu unako ukunika ubungqina malunga nokwenziwa kwalo naliphi na ityala elilolo hlobo.

[(2) Igunya lokubamba elikwicandelwana (1)(d) linokusetyenziswa kuphela kwimeko apho kungakhange kuthotyelwe icandelo 2(3)(m) ukuba umntu uyala ukwamkela unikezelo lwendawo yokuhlala engenye.]

(3) Ukusebenzisa naliphi na igunya eliphantsi kweli candelo igosa ngalinye eligunyazisiweyo okanye igosa leSAPS kufuneka —

(a) lisebenzise amagunya alo ngokufanelekileyo ngokuthathela ingqalelo amalungelo asisiseko omntu ngamnye phantsi kweSahluko 2 soMgaqosiseko; kwaye

(b) liqinisekise ukuba kufuneka amandla phantsi kweemeko ezithile, umgangatho wamandla uyathetheleleka kwaye uyalingana.**[; kwaye]**

[(c) xa lingekho igosa eligunyazisiweyo elikhankanywe kwicandelwana (4), lithathe amanyathelo okuthintela naliphi na elinye igosa eligunya-zisiweyo ekusebenziseni amagunya achasene namacandelwana (a) kunye no(b).]

(4) **[Igosa eligunyazisiweyo eliphetheyo kufuneka lingenelele kwaye lithathe amanyathelo afanelekileyo ukunqanda nakuphi na ukusetyenziswa kwamagunya ngokungafanelekanga okanye ukusetyenziswa kwamandla ngendlela engafanelekanga lilo naliphi na elinye igosa eligunyazisiweyo phantsi komyalelo welo gosa.”]** Lo Mthetho kaMasipala awusayi kusetyenziselwa iinjongo zokukhupha abantu kumakhaya abo.’;

Ukwenziwa kwezilungiso kwicandelo 23 loMthetho-ngqangi kaMasipala njengoko ulungisiwe ngoMthetho kaMasipala weSixeko saseKapa oNxulumene neZitalato, iiNdawo zikaWonkewonke noThintelo lweeNkathazo zeNgxolo, wango2021.

4. Icandelo 23 loMthetho-ngqangi kaMasipala lenziwa izilinguso ngokuthi—

(a) Kufakwe endaweni yecandelwana (1) eli candelwana lilandelayo:

`23.(1) Nawuphi na umntu owaphula lo Mthetho kaMasipala ngokuphathelene nendlela yokuziphatha engavumelekanga ekubhekiswa kuyo kumacandelo 2(3)(d) no-2(3)(m), okanye 22 emva kokuba —

(a) isaziso sokuthobela sikhutshiwe ngokwemiqathango yecandelo 22A (1) (b);

(b) kwimeko apho isaziso esibhaliweyo sokuthobela siye asathotyelwa, apho kuye kwanikezelwa ngekhusi elifanelekileyo kumntu ohla esitratweni;

(c) kwimeko apho kuye kwakhatywa isibonelelo sekhusi elifanelekileyo, kuye kwabizwa unontlalontle nomntu ohlala esitratweni kwaze kwachazwa uhlobo lwenye indawo yokuhlala kwaye kutheni ukwamkelwa kwayo kuya kuba luncedo kumntu ohla esitratweni; kwaye

(d) unikezelo kwekhusi elifanelekileyo lisakhatywa ngumntu ohlala esitratweni,

uya kuba netyala lokwaphula umthetho kwaye abe noxanduva lokuhlawuliswa okanye avalelwe entolongweni ixesha elingadlulanga kwiinyanga ezintandathu, okanye zozibini ukuhlawuliswa kunye nokuvalelwa entolongweni, ngokuxhomekeke ekubeni kukho ubungqina bokuba loo mntu kuthethwa ngaye uye wala ukunikwa enye indawo yokuhlala.';

(b) Kufakwe endaweni yecandelwana (2) eli candelwana lilandelayo:

`23.(2) Nawuphi na umntu owaphula nawuphi na omnye umqathango walo Mthetho kaMasipala, okanye ongathobeli nawuphi na umyalelo okanye isaziso sokuthobela segosa eligunyazisiweyo okanye igosa leSAPS elinyanzelisa lo Mthetho kaMasipala, kubandakanywa naleyo inxulumene nendlela yokuziphatha engapvumelekanga ekubhekiswa kuyo kumacandelo 2 (3) (g), (h), (i), (j) okanye (k), uyakuba netyala lokwaphula umthetho kwaye abe noxanduva lokuhlawuliswa okanye ukuvalelwa entolongweni njengoko inkundla ibona kufanelekile ukunyanzelisa **[okanye ukuvalelwa entolongweni njengoko inkundla ibona kufanelekile ukunyanzelisa]** okanye kuzo zombini ukuhlawuliswa kunye nokuvalelwa entolongweni, esingagqithanga kwisohlwayo esiphezulu somthetho wesizwe obekiweyo. Apho kungekho sohlwayo siphezulu njengoko kuchaziwe kumthetho wesizwe

obekiweyo esona sohlwayo siphezulu esichazwe kwicandelwana (1) siyasebenza.'.

Isihloko esifutshane

5. Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala weSixeko saseKapa wezilungiso oNxulumene neZitalato, iiNdawo zikaWonkewonke noThintelo lweeNkathazo zeNgxolo wango2025.

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