



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

## **COASTAL BY-LAW, 2020**

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## CONTENTS

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Page

### LOCAL AUTHORITY

City of Cape Town: Coastal By-law, 2020 ..... 2

## CITY OF CAPE TOWN COASTAL BY-LAW, 2020

To provide for measures for managing and protecting the coastal zone; protecting the natural environment of the coastal zone; managing public access to the coastal zone; manage, control and regulate public access and behaviour at beaches and beach areas; and to provide for matters incidental thereto.

### PREAMBLE

**WHEREAS** section 156(1) of the Constitution of the Republic of South Africa, 1996, confers on a municipality the executive authority and right to administer (a) the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution; (b) and any other matter assigned to it by national or provincial legislation;

**WHEREAS** the City has legislative and executive competence relating to matters such as, but not limited to, municipal planning, building regulations, use of and access to beaches, and nuisance, as pertaining to the coastal zone;

**WHEREAS** in terms of Part B of Schedule 4 of the Constitution of the Republic of South Africa, 1996, the City has legislative competence relating to pontoons, ferries, jetties, piers and harbours;

**WHEREAS** in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996, the City has legislative competence relating to beaches and amusement facilities, local amenities, noise pollution, and traffic and parking;

**WHEREAS** the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008), affords coastal municipalities the powers to administer matters contemplated in sections 18(1), 20(2) and 50 of the said Act;

**AND WHEREAS** there is a need to develop legislation to govern the access to and use of beaches and the coastal areas within the jurisdiction of the City.

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

### ARRANGEMENT OF BY-LAW

#### CHAPTER 1. DEFINITIONS

- 1 Definitions
- 2 Object of By-Law

#### CHAPTER 2. APPLICATION OF THIS BY-LAW AND CONFLICT OF LAWS

- 3 Application
- 4 Conflict with other laws

#### CHAPTER 3. PROTECTION OF COASTAL ZONE

- 5 Duty of care
- 6 Fishing

- 7 Protection of coastal environment
- 8 Encroachment
- 9 Unauthorised sea defence
- 10 Remediation of encroachment and unauthorised sea defence

**CHAPTER 4.  
REGULATION OF ACTIVITY**

- 11 Designation of areas
- 12 Bathing within certain areas
- 13 Surf-riding or surfing within certain areas
- 14 Safe and harmonious use of the coastal zone
- 15 Liquor, drugs, food, performances and hawking
- 16 Undesirable conduct
- 17 Animals

**CHAPTER 5.  
COASTAL CONNECTIONS AND COASTAL FACILITIES**

- 18 Coastal access land
- 19 Entry to and use of a coastal facility
- 20 Coastal closure

**CHAPTER 6.  
PUBLIC LAUNCH SITE**

- 21 Public launch site

**CHAPTER 7.  
ENFORCEMENT**

- 22 Instruction to leave
- 23 Compliance notice
- 24 Conditions of approval
- 25 Withdrawal or amendment of an authorisation or condition of approval
- 26 Powers and functions of authorised officials
- 27 Impounding of vessel or vehicle
- 28 Offences and penalties

**CHAPTER 8.  
GENERAL**

- 29 Appeals
- 30 Delegation
- 31 Exemption
- 32 Indemnity
- 33 Transitional provisions
- 34 Repeal
- 35 Short title and commencement

## CHAPTER 1. DEFINITIONS

(ss 1-2)

### 1 Definitions

(1) In this By-Law, unless the context indicates otherwise—

**'adverse effect'** means 'adverse effect' as defined in the Integrated Coastal Management Act;

**'authorised official'** means an employee of the City responsible for carrying out a 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;

**'bathing'** means swimming or entering the waters or any tidal pool provided by the City;

**'beach area'** means the beach and any part of the coastal area and its immediate surroundings, including any public open space, park, road, lane, parking space, pathway, or any municipal property or public amenity located in such area;

**'City'** means the municipality of the City of Cape Town established by Government Notice No 479 of 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 delegated authority;

**'coastal access land'** means 'coastal access land' as defined in the Integrated Coastal Management Act

**'coastal area'** means the seashore and the sea for a distance of 200 m seaward and 100 m inland, but excluding any privately owned land and including all Admiralty Reserves and Public Roads as defined in the Road Traffic Act, 1996 (Act 93 of 1996);

**'coastal environment'** means the environment within the coastal zone;

**'coastal zone'** means 'coastal zone' as defined in the Integrated Coastal Management Act;

**'delegated official'** means the official to whom the authority has been delegated in terms of the City of Cape Town's System of Delegations;

**'designated beach bathing area'** means any portion of the seashore that is demarcated as a bathing area and may be protected from sharks by whatsoever means and may be under the supervision of lifeguards, and includes the sea for a distance of 100 m seaward;

**'encroachment'** means a condition in the coastal zone arising through human activity that has the design, effect or appearance of extending the extent of a private property or appropriating any part of the coastal zone;

**'environment'** means 'environment' as defined in the National Environmental Management Act;

**'estuary'** means 'estuary' as defined in the Integrated Coastal Management Act;

**'fish'** means 'fish' as defined in the Marine Living Resources Act;

**'fishing'** means 'fishing' as defined in the Marine Living Resources Act;

**'high-water mark'** means the 'high-water mark' as defined in the Integrated Coastal Management Act;

**'illegal fishing'** means engaging in fishing without every permit required by law or using a fishing method or fishing gear that is prohibited by law;

**'infrastructure'** means an object or structure, whether permanent or temporary;

**'Integrated Coastal Management Act'** means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

**'low-water mark'** means 'low-water mark' as defined in the Integrated Coastal Management Act;

**'Municipal Coastal Management Programme'** means the municipal coastal management programme adopted by the City in terms of section 48 of the Integrated Coastal Management Act;

**'permit'** includes a licence, certificate, right or any other written permission granted by the City or any other competent authority;

**'person'** means a natural or juristic person and includes the state and an organ of state in the national, provincial or local sphere of government;

**'pollution'** means any human-induced change in the environment caused by—

(a) substances;

(b) radioactive or other waves, vibrations or shocks;

- (c) noise, odours, dust or heat—  
emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person, where that change has an adverse effect on human health or well-being, including where a noise nuisance is caused, or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

**'sea defence'** means a measure taken or an artificial structure intended to prevent or promote erosion or accretion of the seashore or for protecting property from a coastal process, including wind-blown sand and storm surge, irrespective of—

- (a) the material used, if any;  
(b) whether it is of a permanent or temporary nature;  
(c) whether it is on public or private property; and  
(d) whether it is on a person's own property or another person's property;

**'seashore'** or **'beach'** means the area between the low-water mark and the high-water mark, or as may be determined or adjusted from time to time in respect of the coastal zone boundaries by a competent national or provincial authority in terms of the National Environment Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

**'sign'** means a written notice erected by the City;

**'stormwater'** means 'stormwater' as defined in the City of Cape Town Stormwater Management By-Law;

**'surf riding'** or **'surfing'** means any activity on or in the water with or on a surfcraft or personal watercraft made of a hard substance that has the potential to cause injury or harm to bathers;

**'unauthorised sea defence'** means a sea defence which the City has not authorised in terms of section 9(1);

**'vessel'** means 'vessel' as defined in the Integrated Coastal Management Act;

**'waste'** means 'waste' as defined in the City of Cape Town Integrated Waste Management By-Law.

(2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

(3) A reference to another law includes an amendment and a future amendment to that law.

## 2 Object of By-Law

(1) The objects of the By-Law are to—

- (a) fulfil the responsibilities and duties assigned to the City by the Integrated Coastal Management Act;  
(b) ensure sustainable use and development of the coastal area by aligning municipal planning with the Integrated Coastal Management Act;  
(c) promote the protection of the natural environment of the coastal zone;  
(d) promote cooperative governance between the City and other relevant spheres of government relating to the management of the coastal zone;  
(e) promote fair, equitable, safe and sustainable access to the coastal zone by members of the public;  
(f) provide measures to mitigate and manage the impacts of coastal erosion and storm surge events;  
(g) provide for related matters.

**CHAPTER 2.**  
**APPLICATION OF THIS BY-LAW AND CONFLICT OF LAWS**  
(ss 3-4)

**3 Application**

- (1) This By-Law—
- (a) applies to the coastal zone;
  - (b) binds every person;
  - (c) binds the state;
  - (d) governs conduct that takes place either wholly or partially in, or impacts upon, the coastal zone.
- (2) This By-Law does not apply to the following activities when conducted by the City in the coastal zone—
- (a) provision of a safety measure intended to reduce the risk of injury to people;
  - (b) implementation of a measure intended to protect against coastal erosion, storm surge events, estuary migration and sea level rise;
  - (c) installation of shark exclusion nets for safe bathing;
  - (d) manipulation, maintenance or clearing of an estuary, river mouth, river or stormwater outlet;
  - (e) provision of a utility service, including water, desalinisation facilities, electricity, waste removal and disposal, stormwater management, and the demarcation and containment of pollution;
  - (f) clearing of alien vegetation;
  - (g) controlled burning of vegetation;
  - (h) cleaning of a beach area;
  - (i) management and disposal of sand that has accumulated on infrastructure, or lowering of beach levels for purposes of preventing wind-blown sand from smothering coastal infrastructure;
  - (j) construction and removal of a temporary structure in accordance with the City's Filming By-Law or Events By-Law; and
  - (k) rehabilitation and management of the coastal zone in accordance with the Municipal Coastal Management Programme and/or the Maintenance Management Plan: Dunes and Beaches.
- (3) An approval, instruction or exemption granted in terms of this By-Law and the provisions of subsection (2) do not release any person from their duty to also obtain any other authorisation or permit required by this By-Law or another law, and to comply with all law.

**4 Conflict with other laws**

- (1) If there is a conflict between this By-Law and another by-law, this By-Law prevails over the affected provision of the other by-law in respect of any matter concerning the regulation of the coastal zone.
- (2) If there is a conflict of interpretation between the English version of this By-Law and a translated version, the English version prevails.

**CHAPTER 3.**  
**PROTECTION OF COASTAL ZONE**  
(ss 5-10)

**5 Duty of care**

- (1) No person may cause, continue or contribute to an adverse effect on the coastal zone.
- (2) A person who—
- (a) causes an adverse effect in the coastal zone;
  - (b) contributes to an adverse effect in the coastal zone;
  - (c) allows an adverse effect to continue in the coastal zone; or
  - (d) owns, controls, or has the right to use land on, or premises in which an activity occurs, that—
    - (i) causes an adverse effect to continue in the coastal zone;
    - (ii) contributes to an adverse effect in the coastal zone; or

- (iii) allows an adverse effect to continue in the coastal zone—  
must take reasonable measures to prevent the adverse effect from occurring, or continuing from recurring, and must remedy the adverse effect.

## 6 Fishing

- (1) No person may engage in illegal fishing or be in possession of illegally caught fish.
- (2) No person may, while fishing, or while on the beach, use or permit the use of fishing equipment, including any rod, net, trap or other device, in such manner as to cause danger to any other person or in such a way as to cause an obstruction to or to interfere with personal privacy of any other person.
- (3) Every person must clear away all bait, refuse and any fishing equipment, other equipment and items before leaving the place where that person had been for the purpose of fishing, and take any such bait, refuse, and any fishing equipment and other items with him or her, or place these in a refuse receptacle provided by the City.

## 7 Protection of coastal environment

- (1) In this section, unless the context indicates otherwise, '**natural dynamic coastal process**' means a natural process that occurs within the coastal environment and which shapes the coastal environment, adjacent natural areas and inshore seabed and includes wind, wave, current and tidal action, river flow, long- and cross-shore sediment drift, coastal erosion, accretion and dune migration.
- (2) No person in the coastal zone may—
  - (a) interfere with, impede or restrict a natural dynamic coastal process unless written authorisation is granted by the City;
  - (b) prune, harvest or remove vegetation unless reasonably necessary;
  - (c) deposit, move, collect or remove sand, pebbles, rocks, shells, shell grit or kelp as per national thresholds and limits, provided that reasonable activity in relation to the listed actions together with the digging of holes by children or beachgoers in the ordinary use or enjoyment of the beach area is not prohibited; or
  - (d) interfere with geomorphic processes unless written authorisation is granted by the City.
- (3) Unless the City grants written authorisation, no person may within the coastal zone interfere with, cause damage to, collect, harvest, impede, harm, harass, hunt or restrict a living or dead wild animal or plant, or displace, disturb, destroy or remove its habitat, provided that reasonable activity in relation to the listed actions together with catching of fish in tidal pools by children in the ordinary use or enjoyment of the beach area is not prohibited.
- (4) No person in the coastal zone may—
  - (a) litter;
  - (b) without written authorisation from the City or any other competent authority—
    - (i) disturb, alter or contaminate a water body, water source or water supply or any portion thereof;
    - (ii) drain or redirect contaminated water from private land into the coastal zone; or
    - (iii) damage, dig, disturb, deface, destroy or remove a fossil, historical artefact or similar object.
- (5) No person may, without prior written authorisation from the City and where relevant a national permit is required, in the coastal zone—
  - (a) discharge solid, liquid or gaseous pollution;
  - (b) dump, deposit or store waste.
- (6) No person may use a vehicle without a permit issued in terms of, or contrary to the provisions of, the Control of Use of Vehicles in the Coastal Area Regulations, 2014, published in terms of the Integrated Coastal Management Act, or park a vehicle in any place where the use of a vehicle is prohibited under those Regulations.

## 8 Encroachment

- (1) No person in the coastal zone may –
  - (a) cause an encroachment;
  - (b) permit an encroachment;
  - (c) contribute to an encroachment; or



- (d) allow an encroachment to continue.
- (2) For purposes of subsection (1), an encroachment is caused by any of the following actions or activities, irrespective of whether the encroachment is of a temporary or permanent nature –
- (a) erection of a structure or building, including jetties, slipways, piers and pontoons;
  - (b) placement of an item;
  - (c) erection of a fence, wall, barrier, swimming bath, swimming pool, reservoir or bridge, or other structure connected therewith;
  - (d) erection of a facility or system for the provision of water supply, irrigation, drainage, sewerage or stormwater disposal, electricity supply or other similar service;
  - (e) any activity that causes an alteration to an estuary or water course;
  - (f) landscaping, gardening, planting, maintenance or removal of vegetation;
  - (g) placement, movement or removal of a dune; and
  - (h) dumping, infilling or excavation of any material or disposal of soil, rubble or garden refuse.
- (3) No owner of, person in control of, or person who has a right to use land which appears to be extended by or benefit from an encroachment may allow the encroachment to continue to exist, even if such owner or person did not cause, permit or contribute to the encroachment. A person who alleges that the owner of land that is encroached upon granted written, lawful permission for the encroachment has the onus of proving it.

#### **9 Unauthorised sea defence**

- (1) Unless authorised by the City in writing, no person may cause, permit or contribute to a sea defence or allow a sea defence to continue.
- (2) No owner of, person in control of, or person who has a right to use land which is intended to benefit from an unauthorised sea defence may allow the sea defence to continue to exist, even if such owner or person did not cause, permit or contribute to the sea defence.

#### **10 Remediation of encroachment and unauthorised sea defence**

- (1) In this section, unless the context indicates otherwise, **'responsible person'** means—
- (a) a person who has caused, causes, permits or contributes to an encroachment or unauthorised sea defence, or allows an encroachment or unauthorised sea defence to continue; or
  - (b) in respect of land which appears to be extended by or benefit from an encroachment or is intended to benefit from an unauthorised sea defence, a person who –
    - (i) owns, controls, or has a right to use the land; or
    - (ii) previously owned, controlled, or had a right to use the land at any time that the encroachment or unauthorised sea defence existed.
- (2) A responsible person must take measures at their cost to—
- (a) eliminate or remove the encroachment or unauthorised sea defence; and
  - (b) rehabilitate the affected land, to the satisfaction of the City.
- (3) Before undertaking the action contemplated in subsection (2), the responsible person must—
- (a) satisfy the City of the appropriateness and adequacy of the proposed action;
  - (b) obtain written authorisation for the proposed action from the City; and
  - (c) obtain any other permit required in terms of any other law.

### **CHAPTER 4. REGULATION OF ACTIVITY (ss 11-17)**

#### **11 Designation of areas**

- (1) In this section, unless the context indicates otherwise, **'activity'** includes an act, an omission, a state, a recreational activity and a non-recreational activity.
- (2) (a) The City may, at various places within the coastal zone, erect signs displaying pictograms that set out activities which—
- (i) are allowed; or
  - (ii) are prohibited.

- (b) No person may undertake any activity in conflict with what is allowed or prohibited in terms of subsection (2)(a).
- (3) The City may withdraw or amend any sign erected in terms of subsection (2)(a).
- (4) If the withdrawal or amendment of a sign materially and adversely affects the public, then the City must consult the public before making the withdrawal or amendment unless in the interest of public safety.
- (5) If urgent action is necessary or it would be impractical to undertake prior consultation, the City may erect, withdraw or amend a sign, and consult the public as soon as possible.
- (6) Signs displaying pictograms erected by the City must be published on the City's website and may—
  - (a) vary by time of day and day of the week;
  - (b) be temporary or permanent; and
  - (c) be subject to conditions.
- (7) The City may temporarily prohibit bathing, presence or any other activity in a part of the coastal zone for as long as is deemed necessary without the need to consult or publish signs displaying pictograms, where a situation or the conditions of the sea are unsafe requiring urgent intervention, and may communicate this in any manner appropriate in the circumstances.

## **12 Bathing within certain areas**

- (1) Subject to section 11(4), the City may erect signs in accordance with section 11(2) to permanently or temporarily prohibit bathing in any part of the beach area.
- (2) A delegated official may prohibit bathing in any part of the beach area at any time for as long as the conditions of the sea appear in his or her discretion to be unsafe.
- (3) No person may bathe in any part of the beach area where bathing is prohibited in terms of this section.
- (4) No person may, while a life-saving appliance or device is in use, perform an act which impairs or impedes or is likely in any manner to impair or impede its efficient operation.

## **13 Surf-riding or surfing within certain areas**

- (1) No person may engage in surf-riding or surfing within a designated beach bathing area.

## **14 Safe and harmonious use of the coastal zone**

- (1) Unless the City grants written authorisation, no person may undertake the following activities in the coastal zone where signs prohibiting such activities have been erected in terms of section 11 or another by-law of the City—
  - (a) start or maintain a fire;
  - (b) discharge a flare except in the event of a marine emergency;
  - (c) discharge a firework or firecracker or release a Chinese lantern;
  - (d) cause a motorised vessel to approach within 100 m of a person bathing or within 100 m of the low-water mark in a bathing area, save for rendering assistance in an emergency or in the course of law enforcement;
  - (e) fish—
    - (i) in a tidal pool;
    - (ii) within 100 m of a designated bathing area; or
  - (f) erect a structure of whatever nature, other than a beach umbrella or a gazebo that is safe, and no larger than 9 m<sup>2</sup>;
  - (g) erect a closed shelter;
  - (h) camp or sleep overnight;
  - (i) use a loudspeaker, amplifier or similar equipment.
- (2) No person may bathe, dive, snorkel or play within 50 m of or near a jetty or designated public launch site.

## **15 Liquor, drugs, food, performances and hawking**

No person, while on the beach area or coastal area, may—

- (1) offer for sale, market or hawk any illegal goods or services in contravention of the City's by-laws dealing with informal trading or any other applicable legislation;
- (2) be in possession of or consume any alcohol except on licensed premises or where a temporary liquor licence has been granted;

- (3) be in possession of, use or consume drugs or any other dependence-producing substance;
- (4) be under the influence of alcohol, drugs or any other dependence-producing substance;
- (5) hold, convene or organise any entertainment, display, performance, procession, public meeting, recreation, or event without the permission of the City or do so in contravention of any condition attached to any such authorisation.

#### **16 Undesirable conduct**

- (1) No person may in the coastal zone—
  - (a) handle, interfere with, disturb or remove a safety rope or other appliance provided for the protection of bathers or the assistance of a distressed bather, except for the purpose of rendering assistance to such a bather;
  - (b) damage, tamper with, destroy or deface any equipment, amenity or structure;
  - (c) act in a manner that poses a risk to life, human well-being or property;
  - (d) possess or bring into a tidal pool a container made of glass;
  - (e) behave in an improper, indecent, unruly, violent or anti-social manner or cause a disturbance;
  - (f) perform an indecent act.

#### **17 Animals**

- (1) No person may in the coastal zone cause or permit an animal belonging to them, or in their charge, to—
  - (a) be in an area where, or at a time when, animals are prohibited;
  - (b) behave in a manner that may pose a risk to, cause nuisance, disturb or harm another person, or cause damage to the beach area or infrastructure;
  - (c) approach, disturb, harass, chase, hunt, attack or kill a wild animal, fish or bird without a relevant and valid permit; or
  - (d) attack or kill a domesticated animal.
- (2) If a dog defecates in the beach area or coastal area, a person in charge of the dog must immediately remove the excrement, place it in a bag or wrapper and dispose of it in a refuse bin.
- (3) No person may bring or walk a dog in the beach area—
  - (a) except on a leash where the area is designated in terms of section 11 as an area where a dog may be permitted if leashed or which is under control where the area is designated in terms of section 11 as an area where a dog may be unleashed;
  - (b) which is ferocious, vicious or dangerous unless it is humanely muzzled and held on a leash in terms of subsection 17(3)(a).
- (4) Subsections (1)(a) and (2) do not apply to a person who is assisted by a guide dog.
- (5) If an animal is found under circumstances which constitute a contravention of this section, the City may seize the animal and deal with it in the manner prescribed by the City's by-laws, irrespective of whether the animal is in the charge of or accompanying its owner or another person.

### **CHAPTER 5. COASTAL ACCESS LAND AND COASTAL FACILITIES (ss 18-20)**

#### **18 Coastal access land**

- (1) Unless the City grants written authorisation, no person may block or impede coastal access land or damage or deface infrastructure relating to coastal access land.

#### **19 Entry to and use of a coastal facility**

- (1) In this section, '**coastal facility**' includes a public swimming pool, pavilion, change room, enclosure, shower, toilet, road, car park and boat shed situated within the coastal zone.
- (2) The City may—
  - (a) determine and indicate by means of a sign the times when a coastal facility may be entered and used;
  - (b) regulate the number of people entering and using a coastal facility;
  - (c) determine a fee for the entry to and use of a coastal facility; and
  - (d) prohibit entry to and use of a coastal facility.

- (3) An authorised official may—
- (a) refuse a person causing a nuisance admission to a coastal facility;
  - (b) order a person causing a nuisance to immediately leave the coastal facility;
  - (c) order a person who contravenes this section to immediately leave the coastal facility.
- (4) A person who has paid a fee contemplated in subsection 19(2)(c) must retain any proof of payment issued and produce it if required by an authorised official.
- (5) No person may—
- (a) enter or attempt to enter a coastal facility—
    - (i) other than through an entry point where an entry point is indicated; or
    - (ii) after a sign or an authorised official advises that the coastal facility is full;
  - (b) enter, attempt to enter or remain in a coastal facility—
    - (i) outside the times when the facility may be used; or
    - (ii) if the City has prohibited such entry or use;
  - (c) enter or attempt to enter a cubicle or other accommodation occupied or in use by another person without the consent of the other person;
  - (d) open or attempt to open a cupboard or locker unless authorised to do so by an authorised official or the person using it;
  - (e) impede or block access to a coastal facility.

## 20 Coastal closure

- (1) The delegated official may close or restrict access to the beach area and coastal area if the official considers it necessary in the public interest, including in the event of actual or anticipated—
- (a) pollution;
  - (b) dangerous sea conditions;
  - (c) severe weather;
  - (d) increased shark activity or shark bite;
  - (e) marine animal stranding;
  - (f) relocation of an animal or plant;
  - (g) breeding of a coastal animal;
  - (h) facilitation of the exercising of a fishing permit;
  - (i) ship or boat stranding or wreck;
  - (j) salvage operation;
  - (k) coastal rehabilitation;
  - (l) construction, repair or maintenance;
  - (m) concern for public health, safety or well-being; or
  - (n) emergency.
- (2) No person may enter or be present in an area closed or restricted in terms of this section unless authorised by an authorised official.
- (3) An authorised official may take reasonable steps to remove a person who enters or remains in an area in contravention of subsection (2).

## CHAPTER 6. PUBLIC LAUNCH SITE (ss 21)

### 21 Public launch site

- (1) In this section, '**public launch site**' means a site designated by the competent authority and published on the City's website as a site where a vessel may be launched in the coastal zone.
- (2) No person may launch a motorised vessel including a jet ski in the coastal zone unless—
- (a) the launch is from a public launch site;
  - (b) the person produces on demand to an authorised official all certificates, licences and permits required by applicable law; and
  - (c) the vessel carries—
    - (i) the certification, permits and identification required by law;
    - (ii) all the safety equipment required for that category of vessel; and
    - (iii) a kill switch and the kill switch is securely attached to the skipper during the launch and always while at sea, unless the vessel has an engine capacity of less than 15 hp.

- (3) No person may launch or operate a vessel in a manner or circumstance that causes harm, or poses a risk to the coastal zone or any person.
- (4) If another law requires a vessel to have a life jacket aboard, no person may launch the vessel unless all occupants are wearing the prescribed life jacket.
- (5) A person entering or in a public launch site with or operating a vessel must make the documentation contemplated in subsection (2) and the vessel and its safety equipment available for inspection by an authorised official.
- (6) No person may at a public launch site—
- (a) block or impede the launch site except to the extent necessary—
    - (i) to launch or recover their vessel;
    - (ii) in an emergency; or
    - (iii) under direction of an authorised official;
  - (b) damage or deface infrastructure relating to the public launch site;
  - (c) park a vehicle, vessel or trailer—
    - (i) overnight; or
    - (ii) other than in a parking place demarcated for a vehicle, vessel or trailers, unless otherwise directed by an authorised official;
  - (d) clean fish except where a fish cleaning facility is provided, or a fish cleaning site is allowed via signs erected by the City;
  - (e) sell or buy fish, except where allowed via signs erected by the City or with permission of an authorised official;
  - (f) dispose of fish waste, bait and bait packaging except in identified areas or containers designed for such waste disposal; or
  - (g) dispose of fuel or oil or wash blood from a vessel.

## **CHAPTER 7. ENFORCEMENT**

(ss 22-28)

### **22 Instruction to leave**

- (1) An authorised official may instruct a person who is in contravention of this By-Law to leave and remain out of an area of the coastal zone.
- (2) A person who fails to immediately comply with such an instruction is guilty of an offence.

### **23 Compliance notice**

- (1) The authorised official may serve a written compliance notice on a person if there are reasonable grounds for believing that the person is in contravention of this By-Law.
- (2) The compliance notice must—
- (a) describe the conduct constituting a contravention of this By-Law;
  - (b) indicate which provision of this By-Law or condition of approval is contravened;
  - (c) where relevant, state that the unlawful conduct constitutes an offence and indicate the penalty;
  - (d) where relevant, be issued together with a fine;
  - (e) instruct the person to cease the unlawful conduct;
  - (f) where relevant, impose conditions which must be complied with and specify the steps to be taken to comply;
  - (g) state that a failure to comply with the notice constitutes an offence and indicate the penalty; and
  - (h) state that, in the event of non-compliance with the notice, the City may take one or more of the following measures—
    - (i) issue the person with a fine for not complying with the compliance notice;
    - (ii) take steps to remedy any adverse effect arising from the person's actions and recover the costs from such person;
    - (iii) apply to a competent court for appropriate relief including the costs of the application; or
    - (iv) institute a criminal prosecution.

- (3) The compliance notice may—
- (a) instruct the person within a specified time to, in writing, inform the City what steps have been taken to comply with the notice;
  - (b) instruct a person at their cost to take specified action to the satisfaction of the City within a specified time to—
    - (i) cease, modify or control an activity or an activity causing, continuing or contributing to an adverse effect on the coastal zone, encroachment or unauthorised sea defence;
    - (ii) investigate, evaluate and assess the impact of a specific situation or activity and report thereon;
    - (iii) undertake and complete specific measures;
    - (iv) eliminate or remove an encroachment or unauthorised sea defence;
    - (v) rehabilitate the affected environment; or
    - (vi) any combination of the provisions listed in paragraphs (i) through (v).
- (4) Should the person on whom a compliance notice under subsection (3) or authorisation under section 10(3) was issued, fail to comply, or inadequately comply, with the compliance notice or authorisation, then the City may take measures that the City considers appropriate to remedy the situation and may authorise another person to take such measures.
- (5) The City may recover costs to the City, or an authorised person, for the measures to be undertaken under subsection (4), and all costs incurred as a result of acting under subsection (4), from any or all of the persons on whom the compliance notice or authorisation was issued in terms of its Credit Control and Debt Collection Policy and the Credit Control and Debt Collection By-Law.

#### **24 Conditions of approval**

- (1) The City, when granting an authorisation in terms of this By-Law, may impose reasonable conditions.
- (2) No person may contravene a condition of approval.

#### **25 Withdrawal or amendment of an authorisation or condition of approval**

- (1) The City may in writing withdraw or amend an authorisation or a condition of approval.
- (2) Before withdrawing or amending an authorisation or a condition of approval, the City must give advanced notice in writing to any person who would be materially and adversely affected and provide the person with a reasonable opportunity to make representations in writing.
- (3) If urgent action is necessary or it would be impractical to give advanced notice, the City may withdraw or amend an authorisation or a condition of approval, and give a person who would be materially and adversely affected an opportunity to make representations as soon as thereafter is reasonable.

#### **26 Powers and functions of authorised officials**

- (1) In this section, unless the context indicates otherwise, 'article' means anything, including a structure, object, document, book, record or electronic information or extract, part or sample therefrom that is reasonably suspected in the use of contravening this By-Law.
- (2) Without a warrant, an authorised official may stop, enter and search any vessel, vehicle, premises or person if the authorised official has reasonable grounds to believe that an offence in terms of this By-Law has been or is being committed on or in such vessel, vehicle or premises if—
  - (a) the person in control of the vessel, vehicle or premises consents to such stop, entry, search or seizure; or
  - (b) the authorised official has reasonable grounds to believe that a warrant will be issued, if the authorised official applied for it, and the delay caused by the obtaining of such a warrant would defeat the object of the stop, entry, search or seizure.
- (3) If subsection (2) does not apply, then an authorised official may stop, enter and search any vessel, vehicle, premises or person and may seize an article contemplated in subsection (5)(h) only on the authority of a warrant.
- (4) A judge in chambers may issue a warrant contemplated in subsection (3) on written application by an authorised official if it appears from information under oath or affirmation that—
  - (a) there are reasonable grounds for believing that a contravention of this By-Law has occurred;

- (b) the search and seizure is likely to yield information pertaining to the contravention; and
  - (c) the search and seizure is reasonably necessary for the purposes of this By-Law.
- (5) In enforcing or investigating compliance with this By-Law, an authorised official may—
- (a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;
  - (b) inspect any article which may be relevant to the investigation;
  - (c) examine, analyse, measure or make a copy of an article and remove it for examination, analysis, measurement, copying or extraction;
  - (d) require a person to produce or to deliver at such time and place as may be determined by the authorised official, an article for inspection;
  - (e) take a photograph or make an audiovisual recording of any person or anything for his or her investigation;
  - (f) question a person who, in the opinion of the authorised official, may be able to furnish information on a matter to which this By-Law relates;
  - (g) direct a person to appear before him or her at such time and place as may be determined by the authorised official and question such person either alone or in the presence of any other person on a matter to which this By-Law relates; and
  - (h) seize an article—
    - (i) which is concerned in or is on reasonable grounds believed to be concerned in an offence in terms of this By-Law;
    - (ii) which may afford evidence of an offence in terms of this By-Law; or
    - (iii) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence in terms of this By-Law.
- (6) A person who so requests may, if possible, make a copy of an article to be removed or seized in terms of this section.
- (7) When an authorised official removes or seizes an article, the authorised official must issue a receipt to the owner or person in control thereof and, if possible, return the article as soon as practicable after achieving the purpose for which the article was removed or seized.
- (8) An authorised official must exercise their powers and functions with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.

## **27 Impounding of vessel or vehicle**

- (1) An authorised official may, without a warrant, seize and impound a vessel or vehicle which is concerned or is on reasonable grounds believed to be concerned with the commission of an offence in terms of this By-Law.
- (2) The authorised official, at the time of the impoundment, must give the holder of the impounded vessel or vehicle a notice setting out—
- (a) the reason for the impoundment;
  - (b) a description of the impounded vessel or vehicle;
  - (c) the address and contact details of the pound;
  - (d) the impoundment fee; and
  - (e) a warning that the impounded vessel or vehicle may be sold to recover the impoundment fee and any fine, costs or damages.
- (3) The authorised official must cause an impounded vessel or vehicle to be taken to a designated pound where it must be retained and dealt with in terms of this section.
- (4) The City must release the impounded vessel or vehicle to the owner upon presentation of proof of ownership if, in relation to the offence contemplated in subsection (1)—
- (a) a criminal charge is not laid, a fine is not issued or a notice of intention to prosecute is not issued within 72 hours of the impoundment; or
  - (b) the criminal case against all accused persons is disposed of because—
    - (i) the charges are withdrawn;
    - (ii) the accused persons are acquitted; or
    - (iii) the accused persons are convicted and either the impoundment fee and any fine, costs and damages are paid.
- (5) An impounded vessel or vehicle is forfeited to the City if—
- (a) a court orders such forfeiture; or

- (b) the lawful owner of the vessel or vehicle cannot be traced within 90 days of such impoundment after reasonable efforts to trace the owner have not been successful.
- (6) If any payment contemplated in subsection (4)(b)(iii) is not made within such time as the City may determine, and if no appeal has been lodged at the expiry of the time limit for an appeal, the City may sell, donate, destroy or in any other manner dispose of an impounded vessel or vehicle and deal with any net proceeds in accordance with subsection (7).
- (7) Any net proceeds from the sale of an impounded vessel or vehicle must be applied as follows and in this order:
- (a) the recovery of costs incurred by the City during forfeiture and impoundment;
  - (b) the payment of the impoundment fee, and any fine, costs or damages ordered by a court in relation to an offence contemplated in subsection (1); and
  - (c) return to the person who lawfully owned the vessel or vehicle at the time of the impoundment.
- (8) The City may determine an impoundment fee and designate a pound contemplated in this section.

## **28 Offences and penalties**

- (1) A person is guilty of an offence if the person—
- (a) contravenes a provision of this By-Law;
  - (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-Law;
  - (c) fails to comply with the terms of any notice or signage displayed by the City in terms of this By-Law;
  - (d) contravenes a lawful instruction given by an authorised official in terms of this By-Law;
  - (e) threatens, obstructs, hinders or uses abusive language to an authorised official or a person lawfully accompanying the authorised official in the exercise of a power conferred in terms of this By-Law;
  - (f) when called upon by an authorised official to furnish information, furnishes false or misleading information;
  - (g) falsely holds himself or herself to be an authorised official or a person authorised to act on behalf of the City in terms of this By-Law.
- (2) A person guilty of an offence in terms of this By-Law is liable to a fine, and upon conviction to a period of imprisonment not exceeding two years.
- (3) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence in terms of this By-Law—
- (a) to rectify the harm caused;
  - (b) to forfeit to the City a vessel or vehicle impounded in terms of section 27;
  - (c) to pay the costs incurred by the City because of the contravention; and
  - (d) to pay damages for harm caused to another person or property within the coastal zone, which order shall have the force and effect of a civil judgment.

## **CHAPTER 8. GENERAL (ss 29-34)**

### **29 Appeals**

A person whose rights are affected by a decision made in terms of this By-Law may appeal against that decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), by giving written notice of the appeal and reasons thereof to the Municipal Manager within 21 days of the date of the notification of the decision.

### **30 Delegation**

A function, power or duty conferred on the City in terms of this By-Law may be delegated or sub-delegated to an employee of the City in accordance with the system of delegation adopted by the Municipal Council of the City in accordance with section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).



**31 Exemption**

- (1) The City may—
  - (a) in writing exempt a person, group of persons or an area of the coastal zone from the application of a provision or the whole of this By-Law for a specified period;
  - (b) impose conditions when granting an exemption; and
  - (c) may withdraw or amend the exemption.
- (2) Where exemption was granted to a person or group of persons, proof of exemption must be retained on the person at all times while in the coastal zone.
- (3) The City must publish on its website an exemption that applies to an area of the coastal zone.

**32 Indemnity**

The City and authorised officials are not liable for any loss sustained by or damage caused to a person by an act or omission in good faith relating to the performance of a duty under this By-Law, unless gross negligence is proved.

**33 Transitional provisions**

- (1) A prohibition, instruction, permission, determination, condition or sign in terms of regulations in terms of section 10(1) of the Seashore Act, 1935 (Act 21 of 1935), applicable to the coastal zone of the City and in existence at the commencement of this By-Law, is deemed to be in terms of this By-Law.
- (2) Subject to amendment in terms of section 21(1), a site listed as public launch site in terms of Regulation 2 of the Management of Public Launch Sites in the Coastal Zone Regulations published in terms of the Integrated Coastal Management Act is regarded as a public launch site contemplated in section 21(1).

**34 Repeal**

The following Regulations made in terms of the Seashore Act, 1935 (Act 21 of 1935), are hereby repealed:

- (a) Gordons Bay Seashore Regulations, 1991, published under Board Notice 68 of 1991 in the Western Cape Provincial Gazette 13239, dated 24 May 1991; and
- (b) Cape Town Municipality Seashore Regulations, 1994, published under Board Notice 38 of 1994 in the Western Cape Provincial Gazette 15636, dated 22 April 1994.

**35 Short title and commencement**

This By-Law is called the City of Cape Town Coastal By-Law, 2020.

**STAD KAAPSTAD  
KUSVERORDENING, 2020**

Om voorsiening te maak vir maatreëls vir die bestuur en beskerming van die kussone; die beskerming van die naturomgewing van die kussone; die bestuur van openbare toegang tot die kussone, die bestuur, beheer en regulering van openbare toegang tot en gedrag op strande en strandgebiede; en om voorsiening te maak vir aangeleenthede wat daarmee gepaard gaan.

**AANHEF**

**NADEMAAL** artikel 156(1) van die Grondwet van die Republiek van Suid-Afrika, 1996, aan 'n munisipaliteit die uitvoerende gesag verleen en die reg op die administrasie van (a) die plaaslike regeringsaangeleenthede wat in Deel B van Bylae 4 en Deel B van Bylae 5 van die Grondwet vermeld word; (b) en enige ander aangeleenthede wat deur nasionale of provinsiale wetgewing aan hom opgedra word;

**NADEMAAL** die Stad oor wetgewende en uitvoerende bevoegdheid beskik in verband met aangeleenthede soos, maar nie beperk nie tot, munisipale beplanning, bouregulasies, gebruik van en toegang tot strande, en steurnis, soos dit betrekking het op die kussone;

**NADEMAAL** die Stad ingevolge Deel B van Bylae 4 van die Grondwet van die Republiek van Suid-Afrika, 1996, oor wetgewende bevoegdheid beskik in verband met ponte, veerbote, hawe hoofde, piere en hawens;

**NADEMAAL** die Stad ingevolge Deel B van Bylae 5 van die Grondwet van die Republiek van Suid-Afrika, 1996, oor wetgewende bevoegdheid beskik in verband met strande en vermaaklikheidsgeriewe, plaaslike geriewe, geraasbesoedeling, en verkeer en parking;

**NADEMAAL** die Wet op Nasionale Omgewingsbestuur: Geïntegreerde Kusbestuur, 2008 (Wet 24 van 2008) aan kumunisipaliteite die bevoegdheids veroorloof vir die administrasie van aangeleenthede soos beoog in artikel 18(1), 20(2) en 50 van die genoemde Wet;

**EN NADEMAAL** daar 'n behoefte is om wetgewing te ontwikkel om die toegang tot en gebruik van strande en die kusgebiede binne die jurisdiksie van die Stad te bestuur;

**WORD DAAR DUS NOU** soos volg deur die Munisipale Raad van die Stad Kaapstad **VERORDEN**:

**INDELING VAN VERORDENING**

**HOOFSTUK 1.  
WOORDOMSKRYWINGS**

- 1 Woordomsrywings
- 2 Oogmerke van Verordening

**HOOFSTUK 2.  
TOEPASSING VAN HIERDIE VERORDENING EN STRYDIGHEID MET WETTE**

- 3 Toepassing
- 4 Strydigheid met ander wette

**HOOFSTUK 3.  
BESKERMING VAN KUSSONE**

- 5 Sorgsaamheidsplig
- 6 Visvang
- 7 Beskerming van kusomgewing
- 8 Oorskryding

- 9 Ongemagtigde kusverdedigingswerke
- 10 Regstelling van oorskryding en ongemagtigde kusverdedigingswerke

**HOOFSTUK 4.  
REGULERING VAN AKTIWITEIT**

- 11 Aanwysing van gebiede
- 12 Baaiery binne sekere gebiede
- 13 Branderry of branderplankry binne sekere gebiede
- 14 Veilige en eensgesinde gebruik van die kussone
- 15 Drank, dwelmmiddels, voedsel, vertonings en smousery
- 16 Ongewenste gedrag
- 17 Diere

**HOOFSTUK 5.  
KUSVERBINDINGS EN KUSFASILITEITE**

- 18 Kustoegangsgrond
- 19 Betreding en gebruik van 'n kusfasiliteit
- 20 Kussluiting

**HOOFSTUK 6.  
OPENBARE TEWATERLATINGSTERREIN**

- 21 Openbare tewaterlatingsterrein

**HOOFSTUK 7.  
TOEPASSING**

- 22 Opdrag om te verlaat
- 23 Nakomingskennisgewing
- 24 Voorwaardes vir goedkeuring
- 25 Terugtrekking of wysiging van 'n magtiging of goedkeuringsvoorwaarde
- 26 Bevoegdheids- en funksies van gemagtigde amptenare
- 27 Beslaglegging op 'n vaartuig of 'n voertuig
- 28 Oortredings en strafmaatreëls

**HOOFSTUK 8.  
ALGEMEEN**

- 29 Appèlle
- 30 Delegasie
- 31 Vrystelling
- 32 Vrywaring
- 33 Oorgangsbepalings
- 34 Herroeping
- 35 Kort titel en inwerkingtreding

**HOOFSTUK 1.  
WOORDOMSKRYWINGS  
(art. 1-2)**

- 1 **Woordomskrywings**

(1) In hierdie Verordening, tensy dit uit die samehang anders blyk, beteken –  
“**aangewese strandbaaigebied**” enige gedeelte van die seestrand wat as ’n baaigebied afgebaken is en op watter manier ook al teen haaie beskerm kan word en onder die toesig van lewensredders kan wees, en ook die see vir ’n afstand van 100 meter seewaarts;

“**afval**” afval soos omskryf in die Stad Kaapstad: Verordening op Geïntegreerde Kusbestuur;

“**baaiery**” om te swem of om die water of enige getypoel soos voorsien deur die Stad binne te gaan;

“**besoedeling**” enige mensveroorzaakte verandering in die omgewing soos veroorsaak deur –

- (a) stowwe;
- (b) radioaktiewe of ander golwe, vibrasies of skokke;
- (c) geraas, reuke, stof of hitte

vrygestel deur enige aktiwiteit, ook die berging of behandeling van afval of stowwe, konstruksie en die verskaffing van dienste, hetsy enige persoon daarby betrokke is, waar sodanige verandering ’n nadelige uitwerking het op menslike gesondheid of welstand, ook waar ’n geraassteurnis veroorsaak word, of op die samestelling, veerkragtigheid en produktiwiteit van natuurlike of bestuurde ekosisteme, of op materiale wat vir mense van nut is, of in die toekoms sodanige uitwerking sal hê;

“**bord**” ’n skriftelike kennisgewing soos opgerig deur die Stad;

“**branderry**” of “**branderplankry**” enige aktiwiteit op of in die water met of op ’n brandervaartuig of persoonlike watervaartuig gemaak van ’n harde materiaal wat die potensiaal het om baaiers te beseer of skade te berokken;

“**gedelegeerde amptenaar**” die amptenaar aan wie die bevoegdheid gedelegeer is ingevolge die Stad Kaapstad se delegasiesistelsel;

“**gemagtigde amptenaar**” ’n werknemer van die Stad wat verantwoordelik is vir die uitvoering van ’n plig of funksie of die uitoefening van enige bevoegdheid ingevolge hierdie Verordening en ook enige werknemer wat gedelegeer is om die plig, funksie of bevoegdheid uit te voer of uit te oefen;

“**hoogwatermerk**” hoogwatermerk soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**infrastruktuur**” ’n voorwerp of struktuur, hetsy permanent of tydelik;

“**kusgebied**” die seestrand en die see vir ’n afstand van 200 meter seewaarts en 100 meter landwaarts, maar met uitsluiting van enige grond in privaat besit en met inbegrip van admiraliteitsreservate en openbare paaie soos omskryf in die Padverkeerswet, 1996 (Wet 93 van 1996);

“**kusomgewing**” die omgewing binne die kussone;

“**kussone**” kussone soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**kustoegangsgrond**” kustoegangsgrond soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**kusverdedigingswerke**” ’n maatreël wat getref word of ’n kunsmatige struktuur wat ten doel het om erosie of aanslikking van die seestrand te voorkom of te steun, of vir die beskerming van eiendom teen ’n kusproses, ook waaisand en stormstuwing, ongeag –

- (a) die materiaal wat gebruik is, indien enige;
- (b) of dit permanent of tydelik van aard is;
- (c) of dit op openbare of privaat eiendom is; en
- (d) of dit op ’n persoon se eie eiendom of ’n ander persoon se eiendom is;

“**laagwatermerk**” laagwatermerk soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**Munisipale Kusbestuursprogram**” die munisipale kusbestuursprogram soos aangeneem deur die Stad ingevolge artikel 48 van die Wet op Geïntegreerde Kusbestuur;

“**nadelige uitwerking**” nadelige uitwerking soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**omgewing**” omgewing soos omskryf in die Wet op Nasionale Omgewingsbestuur;

“**ongemagtigde kusverdedigingswerke**” kusverdedigingswerke wat die Stad nie ingevolge artikel 9(1) gemagtig het nie;

“**onwettige visvang**” om vis te vang sonder elke permit soos vereis volgens die wet of deur gebruik te maak van ’n visvangmetode of visvangtoerusting wat volgens die wet verbied word;

“**oorskryding**” ’n toestand in die kussone voortspruitend uit menslike aktiwiteit met die doel, gevolg of voorkoms van die uitbreiding van die grootte van ’n privaat eiendom of die toe-eiening van enige deel van die kussone;

“**permit**” ook ’n lisensie, sertifikaat, reg of enige ander skriftelike toestemming soos toegestaan deur die Stad of enige ander bevoegde owerheid;

“**persoon**” ’n natuurlike of regs persoon en ook die staat en ’n staatsorgaan in die nasionale, provinsiale of plaaslike regeringsfeer;

“**riviermonding**” riviermonding soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**seestrand**” of “**strand**” die gebied tussen die laagwatermerk en die hoogwatermerk, of soos van tyd tot tyd ten opsigte van die kussonegrense bepaal of gewysig kan word deur ’n bevoegde nasionale of provinsiale owerheid ingevolge die Wet op Nasionale Omgewingsbestuur: Geïntegreerde Kusbestuur, 2008 (Wet 24 van 2008);

“**Stad**” die munisipaliteit van die Stad Kaapstad ingestel deur Regeringskennisgewing Nr. 479 van 2000 soos uitgereik 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 ingevolge gedelegeerde bevoegdheid optree;

“**stormwater**” stormwater soos omskryf in die Stad Kaapstad: Verordening op Stormwaterbestuur;

“**strandgebied**” die strand en enige deel van die kusgebied en sy onmiddellike omgewing, ook enige openbare oop ruimte, park, pad, laan, parkeerterrein, voetpaadjie, of enige munisipale eiendom of openbare gerief geleë in sodanige gebied;

“**vaartuig**” vaartuig soos omskryf in die Wet op Geïntegreerde Kusbestuur;

“**vis**” vis soos omskryf in die Wet op Lewende Mariene Hulpbronne;

“**visvang**” visvang soos omskryf in die Wet op Lewende Mariene Hulpbronne;

“**Wet op Geïntegreerde Kusbestuur**” die Wet op Nasionale Omgewingsbestuur: Geïntegreerde Kusbestuur, 2008 (Wet 24 van 2008).

(2) Woorde afgelei van die woord of terme soos omskryf, het ooreenstemmende betekenis, tensy dit uit die samehang anders blyk.

(3) ’n Verwysing na ’n ander wet sluit ’n wysiging en ’n toekomstige wysiging van sodanige wet in.

## **2 Oogmerke van Verordening**

(1) Die oogmerke van die Verordening is om –

- (a) die verantwoordelikhede en pligte na te kom soos toegeken aan die Stad deur die Wet op Geïntegreerde Kusbestuur;
- (b) volhoubare gebruik en ontwikkeling van die kusgebied te verseker deur die munisipale beplanning in ooreenstemming met die Wet op Geïntegreerde Kusbestuur te bring;
- (c) die beskerming van die naturomgewing van die kussone te bevorder;
- (d) samewerkende regeringsbestuur tussen die Stad en ander betrokke regeringsfere in verband met die bestuur van die kussone te bevorder;
- (e) regverdige, billike, veilige en volhoubare toegang tot die kussone deur lede van die publiek te bevorder;
- (f) maatreëls te bied om die impak van kuserosie en gevalle van stormstuwing te temper en te bestuur;
- (g) voorsiening te maak vir verwante aangeleenthede.

## **HOOFSTUK 2.**

### **TOEPASSING VAN HIERDIE VERORDENING EN STRYDIGHEID MET WETTE**

*(art. 3-4)*

## **3 Toepassing**

(1) Hierdie Verordening –

- (a) is van toepassing op die kussone;
- (b) bind elke persoon;
- (c) bind die staat;
- (d) reël gedrag wat óf ten volle óf gedeeltelik plaasvind in, of ’n uitwerking het op, die kussone.

(2) Hierdie Verordening is nie van toepassing op die volgende aktiwiteite wanneer dit deur die Stad in die kussone verrig word nie –

- (a) voorsiening van ’n veiligheidsmaatreël wat ten doel het om die beseringsrisiko vir mense te verminder;
- (b) implementering van ’n maatreël wat ten doel het om beskerming te bied teen kuserosie, gevalle van stormstuwing, verskuiwing van riviermondings en styging in seevlakke;
- (c) installering van haaiuitsluitingsnette vir veilige baaiery;

- (d) manipulering, instandhouding of skoonmaak van 'n riviermonding, riviermond, rivier of stormwateruitloop;
- (e) verskaffing van 'n nutsdiens, met inbegrip van water, ontsoutingsfasiliteite, elektrisiteit, afvalverwydering en -wegdoening, stormwaterbestuur en die afbakening en inperking van besoedeling;
- (f) uitroeiing van indringerplante;
- (g) beheerde brand van plantegroei;
- (h) skoonmaak van 'n strandgebied;
- (i) bestuur en wegdoening van sand wat op infrastruktuur opgehoop het, of verlaging van strandvlakke met die doel om te voorkom dat waaisand die kusinfrastruktuur begrawe;
- (j) konstruksie en verwydering van 'n tydelike struktuur ooreenkomstig die Stad se Verordening op Verfilming of Verordening op Geleenthede; en
- (k) rehabilitasie en bestuur van die kussone ooreenkomstig die Munisipale Kusbestuursprogram en/of die Instandhoudingsbestuursplan: Duine en Strande.

(3) 'n Goedkeuring, instruksie of vrystelling toegestaan ingevolge hierdie Verordening en die bepalings van subartikel (2) onthef nie enige persoon van sy of haar plig om ook enige ander magtiging of permit soos vereis deur hierdie Verordening of 'n ander wet te bekom, en alle wette na te kom nie.

#### **4 Strydigheid met ander wette**

(1) Indien daar strydigheid bestaan tussen hierdie Verordening en 'n ander verordening, geld hierdie Verordening bo die betrokke bepaling van die ander verordening ten opsigte van enige aangeleentheid rakende die regulering van die kussone.

(2) Indien daar strydige interpretasies tussen die Engelse weergawe van hierdie Verordening en 'n vertaalde weergawe bestaan, geld die Engelse weergawe.

### **HOOFSTUK 3. BESKERMING VAN KUSSONE** *(art. 5-10)*

#### **5 Sorgsaamheidsplig**

(1) Geen persoon mag 'n nadelige uitwerking op die kussone veroorsaak, voortsit of daartoe bydra nie.

(2) 'n Persoon wat –

- (a) 'n nadelige uitwerking in die kussone veroorsaak;
- (b) tot 'n nadelige uitwerking in die kussone bydra;
- (c) toelaat dat 'n nadelige uitwerking in die kussone voortgesit word; of
- (d) grond of 'n perseel besit, beheer, of die reg het om dit te gebruik, waarop 'n aktiwiteit plaasvind, wat –
  - (i) veroorsaak dat 'n nadelige uitwerking in die kussone voortgesit word;
  - (ii) bydra tot 'n nadelige uitwerking in die kussone; of
  - (iii) toelaat dat 'n nadelige uitwerking in die kussone voortgesit word,

moet redelike maatreëls tref om te verhoed dat die nadelige uitwerking voorkom, of voortgaan om weer voor te kom, en moet die nadelige uitwerking regstel.

#### **6 Visvang**

(1) Geen persoon mag betrokke wees by onwettige visvang of in besit wees van vis wat onwettig gevang is nie.

(2) Geen persoon mag, tydens visvang, of op die strand visvangtoerusting gebruik of die gebruik daarvan toelaat, met inbegrip van enige stok, net, vangtoestel of ander toestel, op sodanige manier dat dit enige ander persoon in gevaar stel of op so 'n manier dat dit 'n obstruksie veroorsaak of inbreuk maak op die persoonlike privaatheid van enige ander persoon nie.

(3) Elke persoon moet alle aas, vullis en enige visvangtoerusting, ander toerusting en items opruim voor die plek verlaat word waar daardie persoon vir die doel van visvang was, asook enige sodanige aas, vullis en enige visvangtoerusting en ander items saam met hom of haar neem, of dit in 'n vullishouer plaas soos deur die Stad voorsien is.

## 7 Beskerming van kusomgewing

- (1) In hierdie artikel, tensy dit uit die samehang anders blyk, beteken “**natuurlike dinamiese kusproses**” ’n natuurlike proses wat binne die kusomgewing plaasvind en wat die kusomgewing, aangrensende natuurgebiede en langslandige seebedding vorm, met inbegrip van wind-, golf-, stroom- en getyaksie, riviervloei, langsstrandse en dwarsstrandse sedimentdrywing, kuserosie, aanslikking en duinverskuiwing.
- (2) Geen persoon mag in die kussone –
- (a) ’n natuurlike dinamiese kusproses hinder, belemmer of beperk tensy skriftelike magtiging deur die Stad toegestaan word nie;
  - (b) plantegroei snoei, oes of verwyder tensy dit redelikerwys nodig is nie;
  - (c) sand, klipies, rotse, skulpe, skulpgruis of seegras agterlaat, verskuif, versamel of verwyder soos volgens nasionale perke en beperkings nie: met dien verstande dat redelike aktiwiteit met betrekking tot die gelyste aksies tesame met die grawe van gate deur kinders of strandgangers in die gewone gebruik of genieting van die strandgebied nie verbied word nie; of
  - (d) geomorfiese prosesse hinder tensy skriftelike magtiging deur die Stad toegestaan word nie.
- (3) Tensy die Stad skriftelike magtiging toestaan, mag geen persoon binne die kussone ’n lewende of dooie wilde dier of plant hinder, skade berokken, versamel, oes, belemmer, kwaad aandoen, teister, jag of beperk, of die habitat daarvan verdring, versteur, verwoes of verwyder nie met dien verstande dat redelike aktiwiteit met betrekking tot die gelyste aksies tesame met die vang van vis in getypoele deur kinders in die gewone gebruik of genieting van die strandgebied nie verbied word nie.
- (4) Geen persoon mag in die kussone –
- (a) rommelstrooi nie;
  - (b) sonder skriftelike magtiging van die Stad of enige ander bevoegde owerheid –
    - (i) ’n waterliggaam, waterbron of watervoorraad of enige gedeelte daarvan versteur, wysig of kontamineer nie;
    - (ii) gekontamineerde water vanaf privaat grond na die kussone dreineer of herlei nie; of
    - (iii) ’n fossiel, historiese artefak of soortgelyke objek beskadig, uitgrawe, versteur, skend, verwoes of verwyder nie.
- (5) Geen persoon mag, sonder vooraf skriftelike magtiging van die Stad en, waar van toepassing, ’n nasionale permit vereis word, in die kussone –
- (a) besoedeling in vaste, vloeistof- of gasagtige vorm uitstort nie;
  - (b) afval stort, agterlaat of stoor nie.
- (6) Geen persoon mag ’n voertuig gebruik sonder ’n permit soos uitgereik ingevolge, of strydig met die bepalinge van, die regulasies oor die beheer van die gebruik van voertuie in kusgebiede, 2014, soos gepubliseer ingevolge die Wet op Geïntegreerde Kusbestuur, of ’n voertuig in enige plek parkeer waar die gebruik van ’n voertuig verbied word ingevolge sodanige regulasies nie.

## 8 Oorskryding

- (1) Geen persoon mag in die kussone –
- (a) ’n oorskryding veroorsaak nie;
  - (b) ’n oorskryding toelaat nie;
  - (c) tot ’n oorskryding bydra nie; of
  - (d) toelaat dat ’n oorskryding voortgesit word nie.
- (2) Vir die toepassing van subartikel (1) word ’n oorskryding deur enige van die volgende aksies of aktiwiteite veroorsaak, ongeag of die oorskryding tydelik of permanent van aard is –
- (a) oprigting van ’n struktuur of gebou, met inbegrip van hawehoofde, sleephellings, piere en ponte;
  - (b) plasing van ’n item;
  - (c) oprigting van ’n heining, muur, versperring, swembad, reservoir of brug of ander struktuur wat daaraan geheg is;
  - (d) oprigting van ’n fasiliteit of stelsel vir die verskaffing van watervoorsiening, besproeiing, dreinerings, riool- of stormwaterwegdoening, elektrisiteitsvoorsiening of ander soortgelyke diens;

- (e) enige aktiwiteit wat 'n verandering aan 'n riviermonding of waterloop veroorsaak;
- (f) terreinverfraaiing, tuinmaak, die plant, instandhouding of verwydering van plantegroei;
- (g) plasing, verskuiwing of verwydering van 'n duin; en
- (h) storting, vulling of opgraving van enige materiaal of wegdoening van grond, rommel of tuinvullis.

(3) Geen eienaar van, persoon in beheer van, of persoon wat 'n reg het om grond te gebruik wat oënskynlik vergroot word deur of baat vind by 'n oorskryding mag toelaat dat die oorskryding voortgaan om te bestaan nie, selfs al het sodanige eienaar of persoon nie die oorskryding veroorsaak, toegelaat of daartoe bygedra nie. 'n Persoon wat beweer dat die eienaar van grond waarop oorskry word skriftelike, wettige toestemming vir die oorskryding toegestaan het, het die verantwoordelikheid om dit te bewys.

## **9 Ongemagtigde kusverdedigingswerke**

(1) Tensy dit skriftelik deur die Stad gemagtig is, mag geen persoon kusverdedigingswerke veroorsaak, toelaat of daartoe bydra of toelaat dat kusverdedigingswerke voortgesit word nie.

(2) Geen eienaar van, persoon in beheer van, of persoon wat 'n reg het om grond te gebruik wat ten doel het om baat te vind by ongemagtigde kusverdedigingswerke mag toelaat dat die kusverdedigingswerke voortgaan om te bestaan nie, selfs al het sodanige eienaar of persoon nie die kusverdedigingswerke veroorsaak, toegelaat of daartoe bygedra nie.

## **10 Regstelling van oorskryding en ongemagtigde kusverdedigingswerke**

(1) In hierdie artikel, tensy dit uit die samehang anders blyk, beteken “**verantwoordelike persoon**” –

- (a) 'n persoon wat 'n oorskryding of ongemagtigde kusverdedigingswerke veroorsaak het, veroorsaak, toelaat of daartoe bydra of toelaat dat 'n oorskryding of ongemagtigde kusverdedigingswerke voortgesit word; of
- (b) ten opsigte van grond wat oënskynlik vergroot word deur of baat vind by 'n oorskryding of ten doel het om baat te vind by ongemagtigde kusverdedigingswerke, 'n persoon wat –
  - (i) die grond besit, beheer, of 'n reg het om dit te gebruik; of
  - (ii) die grond voorheen besit het, beheer het, of 'n reg gehad het om dit te gebruik te eniger tyd dat die oorskryding of ongemagtigde kusverdedigingswerke bestaan het.

(2) 'n Verantwoordelike persoon moet op eie koste maatreëls tref om –

- (a) die oorskryding of ongemagtigde kusverdedigingswerke te elimineer of te verwyder; en
- (b) die betrokke grond tot die bevrediging van die Stad te rehabiliteer.

(3) Voor die handeling soos beoog in subartikel (2) onderneem word, moet die verantwoordelike persoon –

- (a) die Stad oortuig van die toepaslikheid en toereikendheid van die voorgestelde handeling;
- (b) skriftelike magtiging van die Stad bekom vir die voorgestelde handeling; en
- (c) enige ander permit bekom soos vereis ingevolge enige ander wet.

## **HOOFSTUK 4. REGULERING VAN AKTIWITEIT (art. 11-17)**

### **11 Aanwysing van gebiede**

(1) In hierdie artikel, tensy dit uit die samehang anders blyk, sluit “**aktiwiteit**” 'n handeling, 'n versuim, 'n staat, 'n ontspanningsaktiwiteit en 'n nieontspanningsaktiwiteit in.

- (2) (a) Die Stad kan, by verskeie plekke binne die kussone, borde opsit wat piktogramme vertoon en aktiwiteite uiteensit wat –
- (i) toegelaat word; of
  - (ii) verbied word.

(b) Geen persoon mag enige aktiwiteit onderneem wat strydig is met wat toegelaat word of verbied word ingevolge subartikel (2)(a) nie.

(3) Die Stad kan enige bord soos operig ingevolge subartikel (2)(a) verwyder of wysig.



(4) Indien die verwydering of wysiging van 'n bord die publiek wesenlik en nadelig affekteer, moet die Stad oorleg pleeg met die publiek voor die verwydering of wysiging gedoen word tensy dit in die belang van openbare veiligheid is.

(5) Indien dringende optrede nodig is of dit onprakties sou wees om vooraf oorlegpleging te onderneem, kan die Stad 'n bord opsit, verwyder of wysig, en so gou moontlik met die publiek oorleg pleeg.

(6) Borde soos opgerig deur die Stad wat piktogramme vertoon, moet op die Stad se webwerf gepubliseer word en kan –

- (a) wissel volgens die uur en dag van die week;
- (b) tydelik of permanent wees; en
- (c) aan voorwaardes onderworpe wees.

(7) Die Stad kan baaiery, teenwoordigheid of enige ander aktiwiteit in 'n gedeelte van die kussone tydelik verbied vir so lank as dit nodig geag word sonder om oorleg te pleeg of borde te publiseer wat piktogramme vertoon, waar 'n situasie of die seetoestande onveilig is en dringende ingryping vereis, en kan dit op enige manier kommunikeer wat in die omstandighede geskik is.

## **12 Baaiery binne sekere gebiede**

(1) Behoudens artikel 11(4) kan die Stad borde opsit ooreenkomstig artikel 11(2) om baaiery in enige gedeelte van die strandgebied permanent of tydelik te verbied.

(2) 'n Gedelegerde amptenaar kan baaiery in enige gedeelte van die strandgebied te eniger tyd verbied vir so lank as die seetoestande na sy of haar goedgevoel onveilig blyk.

(3) Geen persoon mag in enige gedeelte van die strandgebied baai waar baaiery ingevolge hierdie artikel verbied word nie.

(4) Geen persoon mag, tydens die gebruik van 'n reddingsapparaat of -toestel, 'n handeling onderneem wat die doeltreffende werking daarvan benadeel of belemmer of op enige manier dit waarskynlik sal benadeel of belemmer nie.

## **13 Branderry of branderplankry binne sekere gebiede**

(1) Geen persoon mag betrokke wees by branderry of branderplankry binne 'n aangewese strandbaaigebied nie.

## **14 Veilige en eensgesinde gebruik van die kussone**

(1) Tensy die Stad skriftelike magtiging toestaan, mag geen persoon die volgende aktiwiteite in die kussone onderneem waar borde opgesit is wat sodanige aktiwiteite ingevolge artikel 11 of 'n ander verordening van die Stad verbied nie –

- (a) om 'n vuur te maak of te laat aanhou brand;
- (b) om 'n fakkel af te skiet behalwe in geval van 'n noodgeval op see;
- (c) om 'n vuurwerk of klapper af te skiet of 'n Chinese lantern los te laat;
- (d) om te veroorsaak dat 'n gemotoriseerde vaartuig binne 100 m van 'n persoon wat baai of binne 100 m van die laagwatermerk in 'n baaigebied kom, behalwe om in 'n noodgeval of gedurende wetstoepassing bystand te verleen;
- (e) om vis te vang –
  - (i) in 'n getypoel;
  - (ii) binne 100 m van 'n aangewese baaigebied; of
- (f) om 'n struktuur van watter aard ook al op te rig, behalwe vir 'n strandsambreel of 'n gazebo wat veilig is, en nie groter as 9 m<sup>2</sup> is nie;
- (g) om 'n toegemaakte skuiling op te rig;
- (h) om oornag te kamp of die nag oor te bly;
- (i) om 'n luidspreker, klankversterker of soortgelyke toerusting te gebruik.

(2) Geen persoon mag binne 50 meter van of naby 'n hawehoof of aangewese openbare tewaterlatingsterrein baai, duik, snorkel of speel nie.

## **15 Drank, dwelmmiddels, voedsel, vertonings en smousery**

Geen persoon, in die strandgebied of kusgebied, mag –

(1) enige onwettige goedere of dienste te koop aanbied, bemark of smous in stryd met die Stad se verordenings insake informele handel of enige ander toepaslike wetgewing nie;

- (2) in besit wees van, of enige alkohol verbruik nie behalwe op gelisensieerde persele of waar 'n tydelike dranklisensie toegestaan is;
- (3) in besit wees van, of dwelmmiddels gebruik of verbruik of enige ander middel wat afhanklikheid skep nie;
- (4) onder die invloed wees van alkohol, dwelmmiddels of enige ander middel wat afhanklikheid skep nie;
- (5) enige vermaak, uitstalling, vertoning, optog, openbare vergadering, ontspanning, of geleentheid aanbied, byeenroep of organiseer sonder die toestemming van die Stad of in stryd met enige voorwaarde gekoppel aan enige sodanige magtiging nie.

## **16 Ongewenste gedrag**

- (1) Geen persoon mag in die kussone –
  - (a) 'n veiligheidstou of ander -toestel wat verskaf is vir die beskerming van baaiers of die bystand van 'n baaier in nood, hanteer, belemmer, versteur of verwyder nie, behalwe vir die doel om aan so 'n baaier bystand te verleen;
  - (b) enige toerusting, gerief of struktuur beskadig, daarmee peuter, of dit verwoes of skend nie;
  - (c) op 'n manier optree wat 'n risiko vir lewe, menslike welstand of eiendom inhou nie;
  - (d) 'n glashouer in 'n getypoel hê of inbring nie;
  - (e) op 'n onvanpaste, onbetaamlike, wanordelike, gewelddadige of antisosiale manier optree of 'n steurnis veroorsaak nie;
  - (f) 'n onsedelike daad pleeg nie.

## **17 Diere**

- (1) Geen persoon mag in die kussone 'n dier wat aan hom/haar behoort, of waarvan hy/sy in beheer is, laat of toelaat om –
  - (a) in 'n gebied te wees waar, of ten tyde waarvan, diere verbode is nie;
  - (b) op 'n manier op te tree wat vir 'n ander persoon 'n risiko kan inhou, 'n steurnis kan veroorsaak, die persoon kan versteur of kwaad aandoen, of skade aan die strandgebied of -infrastruktuur kan veroorsaak nie;
  - (c) 'n wilde dier, vis of voël te nader, versteur, teister, jag, aan te val of dood te maak sonder 'n toepaslike of geldige permit nie; of
  - (d) 'n mak dier aan te val of dood te maak nie.
- (2) Indien 'n hond op die strandgebied of kusgebied ontlas, moet 'n persoon in beheer van die hond die ontlasting onmiddellik verwyder, dit in 'n sak of omhulsel plaas en in 'n vullisblik weggooi.
- (3) Geen persoon mag 'n hond in die strandgebied bring of met 'n hond daar stap –
  - (a) behalwe aan 'n leiband waar die gebied aangewys is ingevolge artikel 11 as 'n gebied waar 'n hond toegelaat mag word indien aan 'n leiband of wat onder beheer is waar die gebied aangewys is ingevolge artikel 11 as 'n gebied waar 'n hond sonder 'n leiband mag wees nie;
  - (b) wat wild, kwaai of gevaarlik is nie tensy dit op 'n genadige manier genuilband word en ingevolge subartikel 17(3)(a) aan 'n leiband vasgehou word.
- (4) Subartikel (1)(a) en (2) is nie van toepassing op 'n persoon wat deur 'n gidshond van hulp verleen word nie.
- (5) Indien 'n dier aangetref word onder omstandighede wat 'n oortreding van hierdie artikel behels, kan die Stad op die dier beslag lê en dit hanteer op die manier soos voorgeskryf deur die Stad se verordeninge, ongeag of die dier onder beheer van die eienaar of 'n ander persoon is of hom/haar vergesel.

## **HOOFSTUK 5. KUSTOEGANGSGROND EN KUSFASILITEITE (art. 18-20)**

### **18 Kustoegangsgrond**

- (1) Tensy die Stad skriftelike magtiging toestaan, mag geen persoon kustoegangsgrond versper of belemmer of infrastruktuur wat met kustoegangsgrond verband hou, beskadig of skend nie.

## 19 Betreding en gebruik van 'n kusfasiliteit

- (1) In hierdie artikel sluit “**kusfasiliteit**” 'n openbare swembad, pawiljoen, kleedkamer, omheinde gebied, stort, toilet, pad, parkeerarea en bootskuur geleë binne die kussone in.
- (2) Die Stad kan –
  - (a) die tye wanneer 'n kusfasiliteit betree en gebruik mag word, bepaal en deur middel van 'n bord aandui;
  - (b) die getal mense wat 'n kusfasiliteit betree en gebruik, reguleer;
  - (c) toegangsgeld vir die betreding en gebruik van 'n kusfasiliteit bepaal; en
  - (d) betreding en gebruik van 'n kusfasiliteit verbied.
- (3) Enige gemagtigde amptenaar kan –
  - (a) 'n persoon wat 'n steurnis veroorsaak toegang tot 'n kusfasiliteit weier;
  - (b) 'n persoon wat 'n steurnis veroorsaak opdrag gee om die kusfasiliteit onmiddellik te verlaat;
  - (c) 'n persoon wat hierdie artikel oortree, opdrag gee om die kusfasiliteit onmiddellik te verlaat.
- (4) 'n Persoon wat toegangsgeld soos beoog in subartikel 19(2)(c) betaal het, moet enige bewys van betaling soos uitgereik, behou en dit toon indien versoek deur 'n gemagtigde amptenaar.
- (5) Geen persoon mag –
  - (a) 'n kusfasiliteit betree of probeer betree –
    - (i) buiten deur 'n ingangspunt waar 'n ingangspunt aangedui word nie; of
    - (ii) ná 'n bord of gemagtigde amptenaar aandui dat die kusfasiliteit vol is nie;
  - (b) 'n kusfasiliteit betree, probeer betree of daar bly –
    - (i) buite die tye wanneer die fasiliteit gebruik mag word nie; of
    - (ii) indien die Stad sodanige betreding of gebruik verbied het nie;
  - (c) 'n aantreklike of enige akkommodasie wat deur 'n ander persoon beset of in gebruik is, betree of probeer betree sonder die toestemming van die ander persoon nie;
  - (d) 'n kas of sluitkas oopmaak of probeer oopmaak nie tensy gemagtig deur 'n gemagtigde amptenaar of die persoon wat dit gebruik;
  - (e) toegang tot 'n kusfasiliteit belemmer of versper nie.

## 20 Kussluiting

- (1) Die gedelegeerde amptenaar kan toegang tot die strandgebied en kusgebied sluit of beperk indien die amptenaar dit nodig ag in die openbare belang, ook in die geval van werklike of verwagte –
  - (a) besoedeling;
  - (b) gevaarlike seetoestande;
  - (c) uiterste weer;
  - (d) verhoogde haaiaktiwiteit of 'n haai;
  - (e) seediërstranding;
  - (f) hervestiging van 'n dier of plant;
  - (g) broeityd van 'n kuddier;
  - (h) fasilitering van die uitoefening van 'n visvangpermit;
  - (i) stranding of skipbreuk van 'n skip of boot;
  - (j) bergingsoperasie;
  - (k) kusrehabilitasie;
  - (l) konstruksie, herstel of instandhouding;
  - (m) besorgdheid oor openbare gesondheid, veiligheid of welstand; of
  - (n) noodgeval.
- (2) Geen persoon mag 'n gebied wat ingevolge hierdie artikel gesluit of beperk is, betree of daar teenwoordig wees nie tensy hy deur 'n gemagtigde amptenaar gemagtig word.
- (3) 'n Gemagtigde amptenaar kan redelike stappe doen om 'n persoon wat 'n gebied strydig met subartikel (2) betree of daar bly, te verwyder.

**HOOFSTUK 6.**  
**OPENBARE TEWATERLATINGSTERREIN**  
*(art. 21)*

**21 Openbare tewaterlatingsterrein**

- (1) In hierdie artikel beteken “**openbare tewaterlatingsterrein**” ’n terrein wat deur die bevoegde owerheid aangewys is en op die Stad se webwerf gepubliseer is as ’n terrein waar ’n vaartuig in die kussone te water gelaat mag word.
- (2) Geen persoon mag ’n gemotoriseerde vaartuig, met inbegrip van ’n waterponie, in die kussone te water laat nie, tensy –
- (a) die tewaterlating vanaf ’n openbare tewaterlatingsterrein plaasvind;
  - (b) die persoon op versoek aan ’n gemagtigde amptenaar alle sertifikate, lisensies en permitte soos vereis deur die toepaslike wette toon; en
  - (c) die vaartuig –
    - (i) oor die sertifisering, permitte en identifikasie soos vereis deur die wet beskik;
    - (ii) oor al die veiligheidstoerusting soos vereis vir daardie kategorie vaartuig beskik; en
    - (iii) oor ’n smoorskakelaar beskik en die smoorskakelaar gedurende die tewaterlating en die heelyd terwyl op see stewig vas is aan die skipper, tensy die vaartuig ’n enjinvermoë van minder as 15 hp het.
- (3) Geen persoon mag ’n vaartuig op ’n manier of in omstandighede te water laat of bedryf wat skade veroorsaak of ’n risiko inhou vir die kussone of enige persoon nie.
- (4) Indien ’n ander wet van ’n vaartuig vereis om ’n reddingsbaadjie aan boord te hê, mag geen persoon die vaartuig te water laat tensy alle insittendes die voorgeskrewe reddingsbaadjie dra nie.
- (5) ’n Persoon op ’n openbare tewaterlatingsterrein of wat dit betree, met of sonder dat ’n vaartuig bedryf word, moet die dokumentasie soos beoog in subartikel (2) en die vaartuig en die veiligheidstoerusting daarvan beskikbaar stel vir inspeksie deur ’n gemagtigde amptenaar.
- (6) Geen persoon mag by ’n openbare tewaterlatingsterrein –
- (a) die tewaterlatingsterrein versper of belemmer nie behalwe in die mate wat nodig is
    - (i) om die vaartuig te water te laat of uit die water te haal;
    - (ii) in ’n noodgeval; of
    - (iii) onder die leiding van ’n gemagtigde amptenaar;
  - (b) infrastruktuur in verband met die openbare tewaterlatingsterrein beskadig of skend nie;
  - (c) ’n voertuig, vaartuig of sleepwa –
    - (i) oornag parkeer nie; of
    - (ii) iewers anders as in ’n parkeerplek wat vir ’n voertuig, vaartuig of sleepwa afgebaken is, parkeer nie, tensy soos andersins aangewys deur ’n gemagtigde amptenaar;
  - (d) vis skoonmaak behalwe waar ’n visskoonmaakfasiliteit voorsien word, of waar ’n visskoonmaakterrein toegelaat word volgens borde wat deur die Stad opgerig is nie;
  - (e) vis koop of verkoop nie, behalwe waar dit toegelaat word volgens borde wat deur die Stad opgerig is of met die toestemming van ’n gemagtigde amptenaar;
  - (f) visafval, aas en aasverpakking weggooi nie behalwe in geïdentifiseerde gebiede of houers wat vir sodanige afvalwegdoening ontwerp is; of
  - (g) brandstof of olie weggooi of bloed van ’n vaartuig afwas nie.

**HOOFSTUK 7.**  
**TOEPASSING**  
*(art. 22-28)*

**22 Opdrag om te verlaat**

- (1) ’n Gemagtigde amptenaar kan ’n persoon wat hierdie Verordening oortree, opdrag gee om ’n gebied van die kussone te verlaat en daaruit weg te bly.
- (2) ’n Persoon wat versuim om so ’n opdrag onmiddellik na te kom, is skuldig aan ’n oortreding.

**23 Nakomingskennisgewing**

- (1) Die gemagtigde amptenaar kan ’n skriftelike nakomingskennisgewing op ’n persoon bedien indien daar redelike gronde bestaan om te vermoed dat die persoon hierdie Verordening oortree.

- (2) Die nakomingskennisgewing moet –
- (a) die gedrag beskryf wat 'n oortreding van hierdie Verordening behels;
  - (b) aandui watter bepaling van hierdie Verordening of goedkeuringsvereiste oortree word;
  - (c) waar toepaslik, aangee dat die onwettige gedrag 'n oortreding behels en die straf aandui;
  - (d) waar toepaslik, saam met 'n boete uitgereik word;
  - (e) die persoon opdrag gee om die onwettige gedrag te staak;
  - (f) waar toepaslik, voorwaardes instel waaraan voldoen moet word en die stappe spesifiseer wat gedoen moet word om nakoming te verseker;
  - (g) aangee dat versuim om die kennisgewing na te kom, 'n oortreding behels en die straf aandui; en
  - (h) aangee dat, in geval van nienakoming van die kennisgewing, die Stad een of meer van die volgende maatreëls kan tref –
    - (i) om die persoon 'n boete op te lê vir die nienakoming van die nakomingskennisgewing;
    - (ii) om stappe te doen om enige nadelige uitwerking as gevolg van die persoon se dade reg te stel en die koste van sodanige persoon te verhaal;
    - (iii) om by 'n bevoegde hof aansoek te doen om gepaste vergoeding met inbegrip van die koste van die aansoek; of
    - (iv) om 'n strafregtelike vervolging in te stel.
- (3) Die nakomingskennisgewing kan –
- (a) die persoon opdrag gee om binne 'n spesifieke tyd die Stad skriftelik in kennis te stel watter stappe gedoen is om die kennisgewing na te kom;
  - (b) 'n persoon opdrag gee om op sy/haar eie koste spesifieke handeling te verrig tot die bevrediging van die Stad binne 'n spesifieke tyd om –
    - (i) 'n aktiwiteit of 'n aktiwiteit wat 'n nadelige uitwerking op die kussone, oorskryding of ongemagtigde kusverdedigingswerke veroorsaak, dit voortsit of daartoe bydra, te staak, te wysig of te beheer;
    - (ii) die impak van 'n spesifieke situasie of aktiwiteit te ondersoek, te evalueer en te assesser en daarvoor verslag te lewer;
    - (iii) spesifieke maatreëls te onderneem en te voltooi;
    - (iv) 'n oorskryding of ongemagtigde kusverdedigingswerke te elimineer of teverwyder;
    - (v) die aangetaste omgewing te rehabiliteer; of
    - (vi) enige kombinasie van die bepalings soos gelys in paragraaf (i) tot (v).
- (4) Indien die persoon op wie 'n nakomingskennisgewing ingevolge subartikel (3) of magtiging ingevolge artikel 10(3) bedien is, die nakomingskennisgewing of magtiging nie nakom nie, of op onvoldoende wyse nakom, kan die Stad maatreëls tref wat die Stad as toepaslik ag om die situasie reg te stel en kan 'n ander persoon gemagtig word om sodanige maatreëls te tref.
- (5) Die Stad kan koste vir die Stad, of 'n gemagtigde persoon, verhaal sodat die maatreëls ingevolge subartikel (4) onderneem kan word, en alle koste wat aangegaan word as gevolg van optrede ingevolge subartikel (4), van enige of al die persone op wie die nakomingskennisgewing of magtiging bedien is ingevolge die Stad se beleid oor kredietbeheer en skuldinvordering en die Verordening op Kredietbeheer en Skuldinvordering.

## **24 Goedkeuringsvoorwaardes**

- (1) Wanneer die Stad 'n magtiging ingevolge hierdie Verordening toestaan, kan dit redelike voorwaardes oplê.
- (2) Geen persoon mag 'n goedkeuringsvoorwaarde oortree nie.

## **25 Terugtrekking of wysiging van 'n magtiging of goedkeuringsvoorwaarde**

- (1) Die Stad kan 'n magtiging of 'n goedkeuringsvoorwaarde skriftelik terugtrek of wysig.
- (2) Voor 'n magtiging of 'n goedkeuringsvoorwaarde teruggetrek of gewysig word, moet die Stad vooraf skriftelik kennis gee aan enige persoon wat wesenlik en nadelig geraak sal word en die persoon 'n redelike geleentheid gee om skriftelike verhoë te rig.
- (3) Indien dringende optrede nodig is of indien dit onprakties sou wees om vooraf kennis te gee, kan die Stad 'n magtiging of goedkeuringsvoorwaarde terugtrek of wysig en 'n persoon wat wesenlik en nadelig geraak sal word die geleentheid gee om verhoë te rig so gou daarna as wat redelik is.

## 26 Bevoegdhede en funksies van gemagtigde amptenare

(1) In hierdie artikel, tensy dit uit die samehang anders blyk, beteken “**artikel**” enigiets, ook ’n struktuur, voorwerp, dokument, boek, verslag of elektroniese inligting of uittreksel, deel of voorbeeld daaruit wat redelik vermoed kan word betreffende die gebruik daarvan in die oortreding van hierdie Verordening.

(2) ’n Gemagtigde amptenaar kan sonder ’n lasbrief enige vaartuig, voertuig, perseel of persoon, stop, betree of deursoek indien die gemagtigde amptenaar oor redelike grond beskik om te vermoed dat ’n oortreding ingevolge hierdie Verordening op of in sodanige vaartuig, voertuig of perseel gepleeg word of gepleeg is indien

(a) die persoon in beheer van die vaartuig, voertuig of perseel instem tot sodanige stop, betreding, deursoeking of beslaglegging; of

(b) die gemagtigde amptenaar oor redelike gronde beskik om te vermoed dat ’n lasbrief uitgereik sal word, indien die gemagtigde amptenaar daarom aansoek sou doen, en die vertraging wat deur die verkryging van sodanige lasbrief veroorsaak sal word, die bedoeling van die stop, betreding, deursoeking of beslaglegging sou verydel.

(3) Indien subartikel (2) nie van toepassing is nie, kan ’n gemagtigde amptenaar enige voertuig, vaartuig, perseel of persoon stop, betree en deursoek en beslag lê op ’n artikel soos beoog in subartikel (5)(h) slegs op gesag van ’n lasbrief.

(4) ’n Regter op kamerhof kan ’n lasbrief soos beoog in subartikel (3) uitreik op skriftelike aansoek deur ’n gemagtigde amptenaar indien dit uit inligting onder eed of verklaring blyk dat –

(a) daar redelike gronde is om te vermoed dat ’n oortreding van hierdie Verordening plaasgevind het;

(b) die deursoeking en beslaglegging waarskynlik inligting in verband met die oortreding sal oplewer; en

(c) die deursoeking en beslaglegging redelikerwys nodig is vir die doel van hierdie Verordening.

(5) Wanneer ’n gemagtigde amptenaar nakoming van hierdie Verordening toepas of ondersoek, kan hy –

(a) vergesel word deur ’n tolk, ’n polisiebeampte of enige ander persoon wat met die inspeksie kan help;

(b) enige artikel inspekteer wat met die ondersoek verband hou;

(c) ’n artikel ondersoek, ontleed, meet of ’n kopie daarvan maak en dit verwyder vir ondersoek, ontleding, meting, kopiëring of onttrekking;

(d) van ’n persoon vereis om ’n artikel vir ondersoek te vertoon of af te lewer op sodanige tyd en plek soos deur die gemagtigde amptenaar bepaal kan word;

(e) ’n foto neem of ’n oudiovisuele opname van enige persoon of enigiets maak vir sy of haar ondersoek;

(f) ’n persoon ondervra wat, na die mening van die gemagtigde amptenaar, moontlik in staat is om inligting oor ’n saak waarmee hierdie Verordening verband hou, te voorsien;

(g) ’n persoon opdrag gee om voor hom of haar te verskyn op sodanige tyd en plek soos deur die gemagtigde amptenaar bepaal kan word en sodanige persoon ondervra, hetsy alleen of in die teenwoordigheid van enige ander persoon, oor ’n saak waarmee hierdie Verordening verband hou; en

(h) beslag lê op ’n artikel –

(i) wat betrokke is by of op redelike gronde vermoed word betrokke te wees by ’n oortreding ingevolge hierdie Verordening;

(ii) wat bewys kan lewer van ’n oortreding ingevolge hierdie Verordening; of

(iii) wat ten doel het om gebruik te word of wat op redelike gronde vermoed word ten doel het om gebruik te word in ’n oortreding ingevolge hierdie Verordening.

(6) ’n Persoon wat dit versoek, kan, indien moontlik, ’n kopie maak van ’n artikel wat verwyder moet word of waarop beslag gelê moet word ingevolge hierdie artikel.

(7) Wanneer ’n gemagtigde amptenaar ’n artikel verwyder of daarop beslag lê, moet die gemagtigde amptenaar ’n kwitansie aan die eienaar of persoon in beheer daarvan uitreik, en, indien moontlik, die artikel so gou prakties moontlik terugbesorg nadat die doel waarvoor die artikel verwyder of waarvoor daarop beslag gelê is, bereik is.

(8) 'n Gemagtigde amptenaar moet sy/haar bevoegdhede en funksies uitvoer met streng inagneming van fatsoenlikheid en orde, en met inagneming van elke persoon se reg op waardigheid, vryheid, sekuriteit en privaatheid.

## **27 Beslaglegging op 'n vaartuig of 'n voertuig**

(1) 'n Gemagtigde amptenaar kan, sonder 'n lasbrief, beslag lê op 'n vaartuig of voertuig wat betrokke is en wat op redelike gronde vermoed word dat dit betrokke is by die begaan van 'n oortreding ingevolge hierdie Verordening.

(2) Die gemagtigde amptenaar moet 'n kennisgewing gee aan die houer van die vaartuig of voertuig waarop beslag gelê is, op die tyd van die beslaglegging, waarin uiteengesit word –

- (a) die rede vir die beslaglegging;
- (b) 'n beskrywing van die vaartuig of voertuig waarop beslag gelê is;
- (c) die adres en kontakbesonderhede van die skut;
- (d) die beslagleggingsgeld; en
- (e) 'n waarskuwing dat die vaartuig of voertuig waarop beslag gelê is, verkoop kan word om die beslagleggingsgeld en enige boete, koste of skade te verhaal.

(3) Die gemagtigde amptenaar moet sorg dat 'n vaartuig of voertuig waarop beslag gelê is na 'n aangewese skut geneem word waar dit gehou moet word en ingevolge hierdie artikel hanteer moet word.

(4) Die Stad moet die vaartuig of voertuig waarop beslag gelê is aan die eienaar vrystel by aanbidding van bewys van eienskapskap indien met betrekking tot die oortreding beoog in subartikel

- (a) 'n kriminele klag nie gelê word nie, 'n boete nie opgelê word of 'n kennisgewing van voorneme om te vervolg nie binne 72 uur ná die beslaglegging uitgereik word nie; of
- (b) die kriminele saak teen alle aangeklaagde persone afgewys word omdat –
  - (i) die klagte teruggetrek word;
  - (ii) die aangeklaagde persone vrygespreek word; of
  - (iii) die aangeklaagde persone skuldig bevind word en of die beslagleggingsgeld en enige boete, koste en skadevergoeding betaal word.

(5) 'n Vaartuig of voertuig waarop beslag gelê is, word ten gunste van die Stad verbeur indien

- (a) 'n hof sodanige verbeurdverklaring beveel; of
- (b) die wettige eienaar van die vaartuig of voertuig nie binne 90 dae van sodanige beslaglegging opgespoor kan word nie ná redelike pogings om die eienaar op te spoor onsuksesvol was.

(6) Indien enige betaling soos beoog in subartikel (4)(b)(iii) nie gemaak word binne sodanige tyd as wat die Stad bepaal het nie, en indien geen appèl aangeteken is teen die verstryking van die tydgrens vir 'n appèl nie, kan die Stad 'n vaartuig of voertuig waarop beslag gelê is, verkoop, skenk, vernietig of op enige ander manier daarvan ontslae raak ooreenkomstig subartikel (7).

(7) Enige netto opbrengs uit die verkoop van 'n vaartuig of voertuig waarop beslag gelê is, moet soos volg en in hierdie volgorde aangewend word:

- (a) die verhaal van enige koste wat gedurende verbeuring en beslaglegging deur die Stad aangegaan is;
- (b) die betaling van die beslagleggingsgeld, en enige boete, koste of skadevergoeding wat deur 'n hof beveel word met betrekking tot 'n oortreding soos beoog in subartikel (1); en
- (c) terugbesorging aan die persoon wat die vaartuig of voertuig regmatig besit het ten tyde van die beslaglegging.

(8) Die Stad kan beslagleggingsgeld bepaal en 'n skut soos beoog in hierdie artikel aanwys.

## **28 Oortredings en strafmaatreëls**

(1) 'n Persoon is skuldig aan 'n oortreding indien die persoon –

- (a) 'n bepaling van hierdie Verordening oortree;
- (b) enige voorwaardes, beperkings of verbodsbepalings soos opgelê ingevolge hierdie Verordening oortree;
- (c) versuim om die bepaling van enige kennisgewing of bord soos vertoon deur die Stad ingevolge hierdie Verordening na te kom;
- (d) 'n wettige opdrag oortree soos gegee deur 'n gemagtigde amptenaar ingevolge hierdie Verordening;

- (e) 'n gemagtigde amptenaar dreig, belemmer, hinder of beledigende taal gebruik teenoor daardie amptenaar of 'n persoon wat die gemagtigde amptenaar wettiglik vergesel in die uitvoering van 'n mag wat ingevolge hierdie Verordening opgelê is;
  - (f) wanneer versoek word deur 'n gemagtigde amptenaar om inligting te voorsien, dan vals of misleidende inligting voorsien;
  - (g) hom- of haarself valslik voordoen as 'n gemagtigde amptenaar of 'n persoon wat gemagtig is om ingevolge hierdie Verordening namens die Stad op te tree.
- (2) 'n Persoon wat skuldig is aan 'n oortreding ingevolge hierdie Verordening is onderhewig aan 'n boete en by skuldigbevinding aan gevangenisstraf van hoogstens twee jaar.
- (3) Benewens oplegging van 'n boete of gevangenisstraf kan 'n hof enige persoon wat aan 'n oortreding ingevolge hierdie Verordening skuldig bevind word, gelas –
- (a) om die skade wat veroorsaak is, reg te stel;
  - (b) om 'n vaartuig of voertuig waarop ingevolge artikel 27 beslag gelê is ten gunste van die Stad te verbeur;
  - (c) om die koste te betaal wat as gevolg van die oortreding deur die Stad aangegaan is; en
  - (d) om skadevergoeding te betaal vir skade wat aan 'n ander persoon of eiendom binne die kussone veroorsaak is, welke bevel die gesag en regsgeeldigheid van 'n siviele uitspraak sal hê.

## **HOOFSTUK 8.**

### **ALGEMEEN**

*(art. 29-34)*

#### **29 Appèlle**

'n Persoon wie se regte aangetas word deur 'n besluit wat ingevolge hierdie Verordening geneem is, kan teen daardie besluit appèl aanteken ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), deur binne 21 dae van die kennisgewing van die besluit skriftelike kennisgewing van die appèl en redes daarvoor by die munisipale bestuurder in te dien.

#### **30 Delegasie**

'n Funksie, bevoegdheid of plig soos aan die Stad opgelê ingevolge hierdie Verordening kan aan 'n werknemer van die Stad gedelegeer of gesubdelegeer word ooreenkomstig die delegasiestelsel wat aangeneem is deur die Munisipale Raad ooreenkomstig artikel 59 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000).

#### **31 Vrystelling**

- (1) Die Stad kan –
- (a) skriftelik 'n persoon, groep persone of 'n gebied van die kussone vir 'n bepaalde tydperk vrystel van die toepassing van 'n bepaling van of die totale Verordening;
  - (b) voorwaardes oplê wanneer 'n vrystelling toegestaan word; en
  - (c) die vrystelling terugtrek of wysig.
- (2) Waar vrystelling aan 'n persoon of groep persone toegestaan is, moet bewys van vrystelling te alle tye by die persoon gehou word terwyl hy/sy in die kussone is.
- (3) Die Stad moet op sy webwerf 'n vrystelling publiseer wat op 'n gebied van die kussone van toepassing is.

#### **32 Vrywaring**

Die Stad en gemagtigde amptenare is nie aanspreeklik vir enige verlies wat gely word deur of skade wat veroorsaak word vir 'n persoon deur 'n handeling of versuim te goeder trou wat met die uitoefening van 'n plig ingevolge hierdie Verordening verband hou nie, tensy growwe nalatigheid kan bewys word.



### **33 Oorgangsbepalings**

(1) 'n Verbod, opdrag, toestemming, bepaling, voorwaarde of bord ingevolge regulasies ingevolge art. 10(1) van die Strandwet, 1935 (Wet 21 van 1935), soos van toepassing op die kussone van die Stad en soos bestaan by die inwerkingtreding van hierdie Verordening, word geag ingevolge hierdie Verordening te wees.

(2) Behoudens wysiging ingevolge artikel 21(1), word 'n terrein wat as 'n openbare tewaterlatingsterrein gelys word ingevolge regulasie 2 van die regulasies oor die bestuur van openbare tewaterlatingsterreine in die kussone soos gepubliseer ingevolge die Wet op Geïntegreerde Kusbestuur beskou as 'n openbare tewaterlatingsterrein soos beoog in artikel 21(1).

### **34 Herroeping**

Die volgende regulasies wat ingevolge die Strandwet, 1935 (Wet 21 van 1935), gemaak is, word hiermee herroep:

(a) Gordonsbaai: Strandregulasies, 1991, gepubliseer ingevolge Raadskennisgewing 68 van 1991 in die Wes-Kaapse Provinsiale Koerant 13239 van 1991; en

(b) Kaapstad-munisipaliteit: Strandregulasies, 1994, gepubliseer ingevolge Raadskennisgewing 38 van 1994 in die Wes-Kaapse Provinsiale Koerant 15636 van 22 April 1994.

### **35 Kort titel en inwerkingtreding**

Hierdie Verordening staan bekend as die Stad Kaapstad: Kusverordening, 2020

**ISIXEKO SASEKAPA  
UMTHETHO KAMASIPALA WAMANXWEME, 2020**

Ukubonelela ngemiqathango yokulawula nokukhusela iizowuni ezikumaxweme; ukukhusela indalo esingqongileyo yeezowuni ezikumaxweme; ukulawula ukufikelela koluntu kummandla okunxweme lolwandle; ukulawula nokwenza imigaqo emalunga nokungena koluntu kwiilwandle nakwimimandla ekufutshane neelwandle; nokubonelela ngemiba ehambelana naleyo.

**IMBULAMBETHE**

**NANGONA** icandelo 156(1) loMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 linika umasipala igunya lokulawula (a) imicimbi yorhulumente wemimandla echazwe kwiSiqendu B seShedyuli 4 neSiqendu B seShedyuli 5 yoMgaqosiseko; (b) kunye nawuphi na omnye umba abanikwe igunya lokuwusingatha ngokomthetho wesizwe nowephondo;

**NANGONA** iSixeko sinelungelo esilunikwa yimithetho nasisigqeba solawulo kwimiba enento yokwenza, kodwa engaphelelanga, kwizicwangciso zoomasipala, imiqathango yokwakha, ukusetyenziswa nokufikelela kumaxweme, nokujongana nezinto ezisisicefe, ezinento yokwenza nommandla okunxweme lolwandle;

**NANGONA** ngokweSiqendu B seShedyuli 4 yoMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 iSixeko sinelungelo esilunikwa yimithetho malunga nezikhithane, iibhulorho ezisemilanjani nezikumalwandle kunye namazibuko;

**NANGONA** ngokweSiqendu B seShedyuli 5 yoMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 iSixeko sinelungelo esilunikwa yimithetho malunga neelwandle kunye neendawo zokuzonwabisa, izibonelelo zemimandla, ingxolo, izithuthi neendawo zokupaka iimoto;

**NANGONA** uMthetho iNational Environmental Management: Integrated Coastal Management Act, 2008 (uMthetho 24 wango-2008) unika amagunya koomasipala abakufuphi namanxweme ukuba balawule imiba exelwe kumacandelo 18(1), 20(2) no-50 oMthetho okhankanyiweyo;

**YAYE NANGONA** kukho isidingo sokwenza umthetho wokulawula ukufikelela nokusebenzisa iilwandle nemimandla ekumaxweme ekwiSixeko;

**NGOKU KE MAWUPHUNYEZWE** liBhunga likaMasipala leSixeko saseKapa ngolu hlobo lulandelayo:

**ULANDELELWANISO LOMTHETHO KAMASIPALA**

**ISAHLUKO 1.  
INKCAZELO**

- 1 Inkcazelo
- 2 Injongo zoMthetho kaMasipala

**ISAHLUKO 2.**

**UKUSETYENZISWA KWALO MTHETHO KAMASIPALA NONGQUZULWANO LWEMITHETHO**

- 3 Usetyenziso
- 4 Ungquzulwano neminye imithetho

**ISAPHLUKO 3.  
UKHUSELO LWEMIMANDLA EKUMANXWEME**

- 5 Isinyanzelo sonakekelo
- 6 Ukuloba
- 7 Ukhuselelo lwezinto ezingqongile iilwandle
- 8 Uqgithiso
- 9 Ukhuseleko lolwandle olungagunyaziswanga
- 10 Ukulungiswa kugqithiso nokhuselelo lolwandle olungagunyaziswanga

**ISAPHLUKO 4.  
ULAWULO LWEZINTO EZENZIWAYO**

- 11 Uchongo lwemimandla
- 12 Ukudada kwimimandla ethile
- 13 Ukudada ngeplangwe okanye ukudada ngeplangwe kwiindawo ezithile
- 14 Usetyenziso olukhuselekileyo nolwentsebenziswano lwezizwani ezikumaxweme
- 15 Utywala, iziyobisi, ukutya, iziyunguma nokuthengisa
- 16 Ukuziphatha kakubi
- 17 Izilwanyana

**ISAPHLUKO 5.  
UMHLABA OFUMANEKA KUNXWEME NEZIBONELELO EZIKUNXWEME**

- 18 Umhlaba ofumaneka kunxweme
- 19 Ukungena nokusebenzisa izibonelelo ezikumaxweme
- 20 Ukuvalwa konxweme

**ISAPHLUKO 6.  
IBALA LOKUNDULUKELA LEENQANAWO**

- 21 Ibala lokundulukela leenqanawo

**ISAPHLUKO 7.  
UNYANZELISO-MTHETHO**

- 22 Umyalelo othi umntu makaphume
- 23 Isaziso sothobelo
- 24 Imiqathango yolwamkelo
- 25 Ukurhoxiswa okanye ukwenziwa kwezilungiso kugunyaziso okanye kwimiqathango yemvume
- 26 Amagunya nemisebenzi yamagosa agunyazisiweyo
- 27 Ukuthinjwa kwenqanawo okanye isithuthi
- 28 Amatyalane nezohlwayo

**ISAPHLUKO 8.  
IMIBA-GABALALA**

- 29 Izibheni
- 30 Unikezo-gunya
- 31 Isaphulelo
- 32 Ukungabi nabutyala
- 33 Imiqathango yethutyana
- 34 Ukubhangiswa
- 35 Isihloko esifutshane nokuqala kokusebenza

**ISAHLUKO 1**  
**IINKCAZELO**  
(ss1-2)

**1 linkcazelo**

(1) Kulo Mthetho kaMasipala, ngaphandle kokuba imeko ibhekisa kwenye into –

**'isiphumo esibi'** sixela isiphumo esibi njengoko sichaziwe kumthetho i-Integrated Coastal Management Act;

**'igosa eligunyazisiweyo'** lixela – umsebenzi weSixeko onikwe uxanduva lokwenza umsebenzi okanye lokusebenzisa naliphi igunya ngokwemiqathango yalo Mthetho kaMasipala yaye libandakanya nawuphi na umsebenzi ogunyaziswe ukuba enze umsebenzi othile okanye asebenzise igunya;

**'ukuqubha'** kuthetha ukungena nakuwaphi amanzi anamaza abonelelwa siSixeko;

**'ummandla wolwandle'** uthetha ulwandle okanye nayiphi inxenye engakunxweme nendawo ewungqongileyo, kubandakanywa indawo yoluntu elibala, ipaki, indlela, iindlelana, indawo yokupaka, umzila okanye ipropati kamasipala okanye isibonelelo soluntu esikulo mmandla;

**'isixeko'** sithetha umasipala weSixeko saseKapa omiselwe ngokweSaziso sikaRhulumente esinguNomb 479 ka-2000 esikhutshwe kulandelwa icandelo 12 lomthetho iLocal Government: Municipal Structures Act, 1998 (uMthetho 117 ka-1998), okanye nasiphi isigqeba okanye umsebenzi weSixeko owenza umsebenzi ngokwegunya alinikiweyo;

**'umhlaba ongena kunxweme'** uthetha umhlaba ongena kunxweme njengoko uchaziwe kumthetho i-Integrated Coastal Management Act;

**'ummandla okunxweme'** uthetha ummandla okufuphi nolwandle kumgama oyi-200 yeemitha ukuya ngaselwandle ne-100 yeemitha ukuphuma ngaselwandle kodwa awubandakanyi umhlaba ongawabantu, ubandakanya iiAdmiralty Reserves neeNdllela zikaWonkewonke njengoko zichaziwe kwiRoad Traffic Act, 1996 (UMthetho 93 ka-1996);

**'izinto ezingqonge iilwandle'** zithetha izinto ezifumaneka kummandla okunxweme lolwandle;

**'izowuni ekunxweme'** ithetha 'izowuni ekunxweme' njengoko ichaziwe kumthetho i-Integrated Coastal Management Act;

**'igosa elinikwe igunya'** lixela igosa elinikwe igunya kulandelwa iNkqubo yeSixeko saseKapa yoNikezo-magunya;

**'indawo yokuhlamba elwandle'** ithetha nawuphi ummandla wolwandle obekelwe ukuba uluntu luhlamba kuwo yaye usenokukhuselwa kookrebe nangayiphi na indlela yaye usenokugadwa ngoonogada baselwandle, yaye ubandakanya ulwandle ne-100 yeemitha ukuya ngaselwandle;

**'ugqithelo'** yimeko kummandla okunxweme lolwandle eyenzeke ngenxa yezinto ezenziwa ngabantu ethi ibe nedizayini, isiphumo okanye inkangeleko yokongezeka kwepropati yomntu okanye ethi ibe kwinxalenye ekwiizowuni ezikumaxweme;

**'okusingqongileyo'** kuxela 'okusingqongileyo' njengoko kuchaziwe kumthetho iNational Environmental Management Act;

**'ichweba'** lixela 'ichweba' njengoko lichaziwe kumthetho Integrated Coastal Management Act;

**'intlanzi'** ithetha 'intlanzi' njengoko ichaziwe kumthetho iMarine Living Resources Act;

**'ukuloba'** kuthetha 'ukuloba' njengoko kuchaziwe kumthetho iMarine Living Resources Act';

**'indawo ephezulu amanzi olwandle aphela kuyo'** ixela 'indawo amanzi olwandle aphela kuyo' njengoko uchaziwe kumthetho i-Integrated Coastal Management Act;

**'ukuloba okungekho mthethweni'** kuxela ukuloba ungenazo iimvume ofanele ukuba unazo ngokusemthethweni okanye indlela yokuloba okanye isinxibo sokuloba esingavunyelwayo ngumthetho;

**'isibonelelo'** sixela into okanye isakhiwana, nokuba sesisigxina okanye sesethutyana;

**'Umthetho woLawulo lwaManxweme ohlanganisiweyo'** uthetha umthetho iNational Environmental Management: Integrated Coastal Management Act, 2008 (Umthetho 24 wango-2008);

**'indawo esezantsi aphela kuyo amanzi aselwandle'** ithetha 'indawo esezantsi aphela kuyo amanzi aselwandle' njengoko ichaziwe kumthetho i-Integrated Coastal Management Act;

**'Inkqubo yoLawulo lwaManxweme kaMasipala'** ixela inkqubo yolawulo lwamanxweme kamasipala eyamkelwe siSixeko ngokwecandelo 48 le-Integrated Coastal Management Act;

**'ipemethi'** ibandakanya ilayisenisi, isatifikethi, ilungelo okanye nayiphi imvume ebhaliweyo enikezwe siSixeko okanye nawuphi na ugunyaziwe ofanelekileyo;

**'umntu'** uxela umntu okanye iqumrhu yaye ubandakanya urhulumente neziko likarhulumente lesizwe, lephondo okanye elemimandla;

**'ungcoliseko'** luthetha naluphi ungcoliseko olwenziwe ngumntu kwindalo olwenziwa –

- (a) ngezinto
- (b) amaza enziwe ngemitha okanye amanye amaza
- (c) ingxolo, amavumba, uthuli okanye ubushushu

oluphuma kuyo nayiphi na into eyenziwayo, kubandakanywa ukugcina okanye ukucoca inkunkuma okanye izinto, ulwakhiwo nobonelelo lweenkonzo, noba oko kwenziwe ngowuphi umntu, apho olo tshintsho lunesiphumo esibi kwimpilo yoluntu okanye kwintlalontle, kubandakanywa ingxolo eyenziwayo, okanye kubume, kulomelelo nakwimveliso yendalo okanye kuthungelwano lwendalo olulawulwayo, okanye kwimathiriyeli esetyenziswa luluntu okanye into eza kuba nesiphumo esibi kwixa elizayo;

**'ukhuselo kulwandle'** luthetha amanyathelo athatyathiweyo okanye isakhiwo sethutyana esenzelwe ukunqanda ukhukuliseko okanye okanye ukongezeka konxweme okanye ukukhusela ipropati kwiinkqubo zolwandle, kubandakanywa isant ekhukuliswe ngumoya neziphango, nokuba –

- (a) kusetyenziswe imathiriyeli, ukuba ikhona;
- (b) nokuba isisigxina okanye yeyethutyana;
- (c) nokuba ikwipropati kawonkewonke okanye yomntu, kananjalo
- (d) nokuba ikwipropati yomntu okanye kwipropati yomnye umntu;

**'unxweme'** okanye **'ulwandle'** luthetha ummandla ophakahi kwendawo esezantsi aphela kuyo amanzi aselwandle nendawo ephezulu aphela kuyo amanzi, okanye ngohlobo ekuya kumane kuchazwa ngalo amaxesha ngamaxesha malunga nemida ekwiizowuni ezikumaxweme kuchazwa oko ngugunyaziwe wesizwe okanye wephondo ngokomthetho iNational Environment Management: Integrated Coastal Management Act, 2008 (UMthetho 24 wango-2008);

**'uphawu'** luthetha isaziso esibhaliweyo esimiswe siSixeko;

**'amanzi esiphango'** athetha 'amanzi esiphango' njengoko ichaziwe kuMthetho weSixeko saseKapa waManzi eSiphango;

**'ukudada ngeplangwe'** kuthetha nayiphi into eyenziwa emanzini ngumntu ekhwele phezu kweplangwe lokudada elenziwe ngemathiriyeli eqinileyo enokuba nobungozi kwabo badadayo;

**'ukhuselo lolwandle olungagunyaziswanga'** luthetha ukhuselo lolwandle olungagunyaziswanga siSixeko ngokwemiqathango yecandelo 9(1);

**'inqanawe'** ithetha 'inqanawe' njengoko uchaziwe kumthetho i-Integrated Coastal Management Act;

**'inkunkuma'** ithetha 'inkunkuma' njengoko ichaziwe kuMthetho kaMasipala woLawulo lweNkunkuma oHlanganisiweyo weSixeko saseKapa;

(2) Amagama athathwe egameni elithile okanye kumabinzana anentsingiselo ebufana nalo okanye nawo, ngaphandle kokuba imeko ibhekisa kwenye into.

(3) Isalathiso komnye umthetho sibandakanya nezilungiso zangoku nezexesha elizayo.

## **2 Injongo yalo Mthetho kaMasipala**

(1) Injongo zalo Mthetho kaMasipala kukwenza ezi zinto –

- (a) ukuphumeza uxanduva nemisebenzi enikwe iSixeko ngumthetho i-Integrated Coastal Management Act;
- (b) ukuqinisekisa usetyenziso oluzinzileyo nophuhliso lommandla okumanxweme ngokulungelelanisa ucwangciso lokumasipala ne-Integrated Coastal Management Act;
- (c) ukukhuthaza ukukhuselwa kwendalo ekwiizowuni ezikumaxweme;
- (d) ukukhuthaza ulawulo lwentsebenziswano phakathi kweSixeko namanye amanqwanqwa karhulumente kumba wolawulo lweezowuni ezikumaxweme;
- (e) ukukhuthaza ufikelelo loluntu olunobulungisa, olungakhethiyo, olukhuselekileyo noluhubekayo kummandla okunxweme lolwandle;
- (f) ukuza namanyathelo okulungisa nokulawula ifuthe kukhukuliseko kumanxweme neziphango;
- (g) ukulungiselela iimeko ezihambelana nezi.

**ISAPHLUKO 2**  
**USETYENZISO LWALO MTHETHO KAMASIPALA NONGQUZULWANO LWEMITHETHO**  
(ss 3-4)

**3 Usetyenziso**

- (1) Lo Mthetho kaMasipala –
- (a) usebenza kummandla okunxweme lolwandle;
  - (b) ubophelela wonke umntu;
  - (c) ubophelela urhulumente;
  - (d) ulawula indlela yokuziphatha eyenzeka ngokupheleleyo, okanye inxalenye yayo, okanye ethi ibe nefuthe kwizowuni ekunxweme.
- (2) Lo Mthetho kaMasipala awuchaphazeli ezi zinto zilandelayo xa zisenziwa siSixeko kummandla okunxweme lolwandle–
- (a) ubonelelo lwamanyathelo okhuseleko okucutha umngcipheko wokwenzakala kwabantu;
  - (b) umiselo lwamanyathelo enzelwe ukukhusela ukhukuliseko lwamanxweme, iimpuphuma, ukuhamba kwechweba nokunyuka kolwandle;
  - (c) ukufakelwa komnatha wokuthintela ookrebe ukuze abantu badade bekhuselekile;
  - (d) utshintsho, umenteyino nokucocwa kwechweba, intsele yomlambo okanye indawo yokukhupha amanzi eziphango;
  - (e) ubonelelo lwenkonzo elulutho, ebandakanya amanzi, izibonelelo zokukhupha ityuwa kumanzi, umbane, ukususwa nokulahlwa kwenkunkuma, ulawulo lwamanzi eziphango kunye nokusikwa kwemida enamanzi ongcoliseko;
  - (f) ukususwa kotyani olungafanele ukuba kuloo ndawo;
  - (g) utshiso olugadwayo lotyani;
  - (h) ukucoca kommandla ongaselwandle;
  - (i) ulawulo nokulahlwa kwesanti epakishileyo kunxweme, okanye ukuhlisa izinga lolwandle ngeenjongo zokunqanda isani evuthelwe ngumoya ukuba ingagqumeleli unxweme;
  - (j) ukwakhiwa nokususwa kwezakhwana zethutyana kulandelwa uMthetho kaMasipala weSixeko wokwenza iiFilimu okanye uMthetho kaMasipala weZiganeko; kunye
  - (k) nokuvuselela nokulawula iizowuni ezikumaxweme ngokweNkqubo yoLawulo lwaManxweme kaMasipala kunye okanye iSicwangciso soLawulo lokuMenteyina: iziDuli zeNtlabathi ezingaseLwandle neeLwandle.
- (3) Imvume, umyalelo nesaphulelo ezinikezwa kulandelwa lo Mthetho kaMasipala nezibonelelo zecandelwana (2) aziyekisi umntu emsebenzini wakhe wokufumana naluphi ugunyaziso okanye imvume edingekayo ngokwalo Mthetho kaMasipala okanye omnye umthetho, nokuthobela wonke umthetho.

**4 Ungquzulwano neminye imithetho**

- (1) Ukuba kukho ungquzulwano phakathi kwalo Mthetho kaMasipala nomnye uMthetho kaMasipala, kuya kusetyenziswa lo uMthetho kaMasipala endaweni yemiqathango yomnye uMthetho kaMasipala kuwo nawuphi umba omalunga nolawulo lweezowuni ezikumaxweme.
- (2) Ukuba kukho ungquzulwano kwingcaciso phakathi kwenguqulelo yeSingesi kunye nenguqulelwe kolunye ulwimi yalo Mthetho kaMasipala, kuya kusetyenziswa inguqulelo yeSingesi.

**ISAPHLUKO 3**  
**UKHUSELO LWEZOWUNI EKUNXWEME**  
(ss 5-10)

**5 Uxanduva lokhathalelo**

- (1) Akukho mntu unokuthi enze, aqhubeke okanye abe negalelo kwisiphumo esibi kummandla okunxweme lolwandle.
- (2) Umntu othi –
- (a) enze into enesiphumo esibi kummandla okunxweme lolwandle;
  - (b) abe negalelo kwisiphumo esibi kummandla okunxweme lolwandle;

- (c) kummandla okunxweme lolwandle; okanye
- (d) ongumnini, olawula, okanye onelungelo lokusebenzisa umhlaba, okumda ekwenzeka kuwo loo nto, ethi –
  - (i) ibe nesiphumo esibi ukuba iqhubeke kummandla okunxweme lolwandle;
  - (ii) ibe negalelo kwisiphumo esibi kummandla okunxweme lolwandle; okanye
  - (iii) avumele isiphumo esibi ukuba siqhubeke kummandla okunxweme lolwandle

makathathe amanyathelo okuthintela isiphumo esibi ukuba singabikho, okanye singaqhubeki okanye singaphindi senzeke yaye makalungise eso siphumo sibi.

## 6 Ukuloba

- (1) Akukho mntu unokuloba ngokungekho mthethweni okanye afunyaniswe enentlanzi elotywe ngokungekho mthethweni.
- (2) Akukho mntu unokuthi, ngeli lixa eloba, okanye eselwandle oya kuthi asebenzise okanye avumele ukuba kusetyenziswe isixhobo sokuloba, kubandakanywa nayiphi intongana, umnatha, isigu okanye nasiphi isixhobo ngendlela eya kuba yingozi kuye nawuphi omnye umntu okanye ngendlela eyenza uthintelo okanye iphazamisane naye nawuphi na umntu.
- (3) Wonke umntu makacoce nasiphi isithiyeli, inkunkuma kunye nasiphi na isixhobo sokuloba, esinye isixhobo nezinye izinto phambi kokushiya indawo umntu ebekuyo ngenjongo yokuloba ze athathe nasiphi isithiyeli, inkunkuma kunye nasiphi na isixhobo sokuloba, esinye isixhobo nezinye izinto, okanye afake ezi zinto kumgqomo obonelelwe iSixeko.

## 7 Ukhusele lwezinto ezingqonge iilwandle

- (1) Kweli candelo, ngaphandle kokuba imeko ibhekisa kwenye into, '**inkqubo yamanxweme eziguqukelayo ngokwayo**' ithetha inkqubo yendalo eyenzeka kwizinto ezingqonge iilwandle nebumba izinto ezingqonge iilwandle, imimandla yendalo emelene nalo, kunye nentsele yolwandle yaye ibandakanya intshukumo yomoya neyamanzi, ukuhamba kwamanzi, ukutshintsha kwentlenga isiya kwelinye icala, ukhukuliseko lonxweme, ukwanda nokuhamba kweziDuli zeNtlabathi.
- (2) Akukho mntu kummandla okunxweme lolwandle oya kuthi–
  - (a) aphazamisane okanye athintele inkqubo yamanxweme eziguqukelayo ngaphandle kokuba ufumene imvume ebhaliweyo esuka kwiSixeko;
  - (b) athene, avune okanye asuse izityalo ngaphandle kokuba kukho isizathu soko;
  - (c) afake, ahambise, aqokelele okanye asuse isanti, iingqalutye, amatye, oonokrwece, imvuthuluka yoonokrwece okanye imbuyambuya ngokobungakanani obubekwe ngurhulumente wesizwe, ngaphandle kokuba kwenziwa into efana neyokuba abantwana begrumba esantini okanye abantu abaziyele elwandle beyokudada beziqokelela ezi zinto kuba beyokonwaba elwandle, nto leyo evumelekileyo; okanye
  - (d) aphazamisane neenkqubo zokutshintsha kwemo yolwandle ngaphandle kokuba ufumene imvume ebhaliweyo esuka kwiSixeko.
- (3) Ngaphandle kokuba iSixeko sinikeze imvume ebhaliweyo, akukho mntu unokuthi kummandla okunxweme lolwandle aphazamisane, adale umonakalo, aqokelele, avune, athintele, enzakalise, agrogrise, azingele okanye anyine isilwanyana okanye isityalo sasendle, okanye asuse, atshabalalise isizinda saso, ngaphandle kokuba kwenziwa into eyamkelekileyo kwezi zinto zidwelisiweyo kunye nokuloba iintlanzi nokudlala kwabantwana kwipuli eziselwandle zabantwana xa bezonwabela beselwandle.
- (4) Akukho mntu kummandla okunxweme lolwandle onokuthi –
  - (a) angcolise;
  - (b) ngaphandle kokufumana imvume ebhaliweyo yeSixeko naye nawuphi na omnye ugunyaziwe ofanelekileyo-
    - (i) aphazamise, atshintshe okanye angcolise amanzi, umthombo wamanzi okanye ubonelelo lwamanzi okanye inxalenye yoko;
    - (ii) akhuphe okanye ase kwelinye icala amanzi angcolileyo ukusuka kumhlaba womntu ukuya kummandla okunxweme lolwandle; okanye
    - (iii) amoshe, agrumbe, aphazamise, atshabalalise okanye asuse izinto zakudala (iifosili) nezinye izinto zembali.
- (5) Akukho mntu unokuthi, ngaphandle kokuba ufumene imvume ebhaliweyo esuka kwiSixeko okanye eyesizwe apho kuyimfuneko, kummandla okunxweme lolwandle–
  - (a) agalele izinto ezimdaka ezingamanzi okanye eziqinileyo ezinegesi;
  - (b) alahle okanye agcine inkunkuma;

(6) Akukho mntu unokusebenzisa isithuthi engafumenanga mvume ekhutshwe kulandelwa, okanye engahambelani nemiqathango ye-Control of Use of Vehicles in the Coastal Area Regulations, 2014 eyapapashwa kulandelwa i-Integrated Coastal Management Act, okanye amise isithuthi kuyo nayiphi na indawo apho kungavumelekanga ukuba kusetyenziswe isithuthi ngokwaloo Migaqo.

## **8 Uggithiso**

- (1) Akukho mntu kummandla okunxweme lolwandle unokuthi –
- (a) agqithisele kumda awubekelweyo;
  - (b) avumele uggithiso;
  - (c) adlale indima kugqithiso; okanye
  - (d) avumele uggithiso luqhubeke.
- (2) Ngeenjongo zecandelwana (1) uggithiso lwenziwa ngala manyathelo alandelayo okanye izinto ezenziwayo nokuba olo gqithiselo lolwethutyana okanye lusingxina –
- (a) ukwakhiwa kwesakhelo okanye isakhiwo, kubandakanywa ibhulorho ezakhiwa elwandle kubandakanywa nokusetyenziswa kwezikhithshana ukwenza iindlelana;
  - (b) ukubekwa kwezinto;
  - (c) ukufakwa kocingo, udonga, isahluli, indawo yokudada, ipuli yokudada, idama okanye ibhulorho okanye esinye isakhelo esihambelana neso;
  - (d) ukwenziwa kwesibonelelo okanye inkqubo yobonelelo ngamanzi, unkcenkceshelo, imibhobho yokuhambisa amanzi, eyokuhambisa ilindle okanye eyokuhambisa amanzi esiphango, ubonelelo ngombane okanye enye inkonzo ebufana nezi;
  - (e) nayiphi into eyenziwayo ephazamisa ichweba okanye umzila wamanzi;
  - (f) ukujika imbonakalo-mhlaba, ukwenza igadi, ukulima, ukumenteyina okanye ukususa utyani;
  - (g) ukubeka, ukuhambisa okanye ukususa isiduli sentlabathi; kunye
  - (h) nokulahla, okanye ukugromba nayiphi imathiriyeli okanye ukulahla umhlaba, inkunkuma okanye imfucu yegadi.
- (3) Akukho mnini, umntu olawula, okanye umntu onelungelo kumhlaba obonakala wongeziwe okanye ozuzayo kugqithiso oya kuvumela uggithiso ukuba luqhubeke, nokuba loo mnini okanye umntu khange alwenze, aluvumele okanye abe nendima kugqithiso. Umntu otyhola ukuba umnini womhlaba ekugqithiswe kuwo unikwe imvume ebhaliweyo nesemthethweni yogqithiso kufuneka abonise ubungqina boko.

## **9 Ukhuselelo lolwandle olungagunyaziswanga**

- (1) Ngaphandle kokuba umntu ugunyaziswe siSixeko ngembalelwano, akukho mntu unokuthi enze, avumele okanye abe negalelo kukhuselelo lolwandle okanye avumele ukhuselelo lolwandle ukuba luqhubeke.
- (2) Akukho mnini, umntu olawula, okanye umntu onelungelo kusetyenziso lomhlaba owenzelwe ukuzuza kukhuselelo lolwandle olungagunyaziswanga onokuvumela ukhuselelo lolwandle ukuba luqhubeke nokuba loo mnini okanye umntu khange enze, avumele okanye abe negalelo kukhuselelo lolwandle.

## **10 Ukulungiswa kugqithiso nokhuselelo lolwandle olungagunyaziswanga**

- (1) Kweli candelo, ngaphandle kokuba imeko ibhekisa kwenye into, 'umntu onoxanduva' uthetha –
- (a) umntu owenze, owenza, ovumela okanye onegalelo kugqithiso okanye ukhuselelo lolwandle olungagunyaziswanga okanye ovumela uggithiso okanye ukhuselelo lolwandle olungagunyaziswanga ukuba luqhubeke; okanye
  - (b) kumhlaba obonakala ngathi wongeziwe okanye ozuzayo kugqithiso okanye owenzelwe ukuzuza kukhuselelo lolwandle olungagunyaziswanga, umntu –
    - (i) ongumnini, olawula, okanye onelungelo kumhlaba; okanye
    - (ii) owakhe wangumnini, walawula, okanye wanelungelo lokusebenzisa loo mhlaba nanini na uggithiso okanye ukhuselelo lolwandle olungagunyaziswanga lukhona.
- (2) Umntu onoxanduva makathathe amanyathelo ngeendleko zakhe –
- (a) ukucutha okanye ukususa uggithiso okanye ukhuselelo lolwandle olungagunyaziswanga; yaye
  - (b) avuselele loo mhlaba uchaphazelekileyo, ngendlela eyanelisa iSixeko.



- (3) Ngaphambi kokuthatha amanyathelo axelwe kwicandelwana (2) umntu onoxanduva kufuneka –
- (a) anelise iSixeko ngokufaneleka nokwanela kwenyathelo eliphakanyiswayo;
  - (b) afumane imvume ebhaliweyo yelo nyathelo esuka kwiSixeko; yaye
  - (c) afumane nayiphi na enye imvume efunekayo ngokweminye imithetho.

#### **ISAPHLUKO 4** **ULAWULO LWEZINTO EZENZIWAYO** (ss 11-17)

#### **11 Uchongo lwemimandla**

- (1) Kweli candelo, ngaphandle kokuba imeko ibhekisa kwenye into, 'into eyenziwayo' ibandakanya isenzo, ukungenzi, imeko, into eyenzelwa ulonwabo nengeyeyolonwabo.
- (2) (a) ISixeko singathi, kwiindawo eziliqela ezikummandla okunxweme lolwandle, iimise iimpawu ezibonisa imifanekiso exela izinto ezenziwayo -
- (i) ezivumelekileyo; okanye
  - (ii) ezingavunyelwanga.
- (b) Akukho mntu unokuthi enze nantoni na engahambelani noko kuvunyelweyo okanye okungavumelekanga ngokwecandelwana (2)(a).
- (3) ISixeko singarhoxisa okanye sitshintshe naluphi uphawu olumiswe kulandelwa icandelwana (2a).
- (4) Ukuba urhoxiso okanye utshintsho lophawu luluchaphazela kakubi uluntu, kuya kufuneka iSixeko sibonisane noluntu phambi korhoxiso okanye utshintsho ngaphandle kokuba oko sikwenza sijonge ukhuseleko loluntu.
- (5) Ukuba kufuneka kuthathwe amanyathelo akhawulezileyo okanye akukwazeki ukuba kuqalwe kuboniswane noluntu kuqala, iSixeko singaxhoma, sirhoxise okanye sitshintshe ze ngokukhawuleza emva koko sibonisane noluntu.
- (6) Iimpawu ezinemifanekiso ezixhonywe siSixeko kufuneka zipapashwe kwiwebhusayithi yeSixeko yaye-
- (a) zingatshintsha ngokuhamba kwemini okanye ngosuku ngalunye lweveki;
  - (b) zingazethutyana okanye zibe sisigxina; yaye
  - (c) zingaxhomekeka kwimiqathango.
- (7) ISixeko singathi okwethutyana simise ukudada, ubukho babantu okanye nayiphi na enye into eyenziwayo kwinxalenye yeezowuni ezikumaxweme xa kukho isizathu sokwenza oko, yaye asidingi ubonisana noluntu okanye sixhome iimpawu ezinemiyalezo etshoyo, apho imeko yolwandle ingakhuselekanga yaye ifunisa ungenelelo olukhawulezileyo, yaye singakuchaza oku kuluntu ngendlela esibona ifanelekile phantsi kwezo meko.

#### **12 Ukuqubha kwiindawo ezithile**

- (1) Kuxhomekeke kwicandelo 11(4), iSixeko singaxhoma iimpawu ngokwecandelo 11(2) ukunqanda isigxina okanye okwethutyana ukuqubha kuyo nayiphi na inxalenye yolwandle.
- (2) Igosa elinikwe igunya lingakunqanda ukudada kuyo nayiphi na inxalenye yolwandle nangaliphi na ixesha ukuba iimeko zolwandle zibonakala, ngokokubona kwakhe, zingakhuselekanga.
- (3) Akukho mntu unokudada kuyo nayiphi na inxalenye yolwandle apho kungavumelekanga ukudada khona ngokwemiqathango yeli candelo.
- (4) Akukho mntu unokuthi, ngeli lixa angumatiloshe okanye esebenzisa izixhobo zokunceda abantwawilayo, enze into ephazamisana okanye esenokuphazamisana nokwenza umsebenzi wakhe wokunceda abantu abantwawilayo.

#### **13 Ukudada ngeplangwe okanye ukudada ngeplangwe kwiindawo ezithile**

- (1) Akukho mntu unokuthi unokudada ngeplangwe kwiindawo zokuqubha abantu.

#### **14 Usetyenziso olukhuselekileyo nolwentsebenziswano lweezowuni ezikumaxweme**

- (1) Ngaphandle kokuba iSixeko sinikeze isigunyaziso esibhaliweyo, akukho mntu unokwenza ezi zinto zilandelayo kummandla okunxweme lolwandle apho kukho iimpawu ezibekwe kulandelwa icandelo **Error! Reference source not found.** okanye omnye uMthetho kaMasipala weSixeko –

- (a) ukuqala okanye ukubasela umlilo;
  - (b) ukutakisa umlilo ngaphandle kwaxa kukho ingxaki elwandle;
  - (c) ukudubula izitakisi-zintlantsi okanye ilanteni yamaTshayina;
  - (d) ukuzisa inqanawe kwi-100m yendawo umntu adada kuyo okanye kwi-100m ukusuka ezantsi kwindawo yokudada, ngaphandle kwaxa izele ukuzokunceda umntu ngexesha likaxakeka okanye xa ize kunyanzelisa umthetho;
  - (e) alobe –
    - (i) kwindawo yokudada;
    - (ii) ekwi-100m ukusuka kwindawo yokudada abantu; okanye
  - (f) ukumisa isakhiwo salo naluphi na uhlobo, ngaphandle kwesambreni saselwandle okanye igazibho ekhuselekileyo, engekho ngaphezulu kwe-9 m<sup>2</sup>;
  - (g) akhe ikhusi elivaliweyo;
  - (h) akhempishe okanye alale ubusuku bonke kude kuse;
  - (i) asebenzise umboko wokukhwaza, okanye nasiphi isixhobo esingxolayo;
- (2) Akukho mntu unokuthi aqubhe, alandele intlanzi okanye adlale kwiimitha eziyi-50 okanye ecaleni kwesikhitshane okanye ecaleni kwesiza esenziwe elwandle.

### **15 Utywala, iziyobisi, ukutya, iziyunguma nokuthengisa**

Akukho mntu, oya kuthi ngeli xesha aselwandle okanye ekufutshane nonxweme, –

- (1) athengise, amakethe abonelele ngezinto okanye iinkonzo ezingekho mthethweni okanye ezinxamnye noMthetho kaMasipala weSixeko wokuthengisa ezitratweni okanye nawuphi na omnye umthetho;
- (2) aphaathe okanye asele nabuphi utywala ngaphandle kwaxa ekwindawo enelayisenisi yokuthengisa nokuselela utywala apho kunikezwe ngelayisenisi yotywala yethutyana;
- (3) aphaathe, okanye asebenzise iziyobisi okanye nayiphi into umntu aphela exhomekeka kuyo;
- (4) anxile, aqhunywe asebenzise isiyobisi umntu aphela exhomekeka kuyo;
- (5) abambe, ahlanganise okanye aququzelele nasiphi isici solonwabo, somboniso, sokucula, umngcelele, intlanganiso yoluntu, umcimbi wolonwabo, okanye isiganeko engafumanenga mvume kwiSixeko okanye akwenze oko esaphula nayiphi imiqathango eqhotyoshelwe kugunyaziso.

### **16 Ukuziphatha kakubi**

- (1) Akukho mntu unokuthi kummandla okunxweme lolwandle –
  - (a) aphaathe, aphazamise okanye asuse intambo yokhuseleko okanye nasiphi isixhobo esibekelwe ukhuseleko lwabadadi okanye sokunceda abadadi abantywilayo ngaphandle kwaxa eza kunceda umntu odadayo;
  - (b) onakalise, aphaatha-phaathe, atshabalalise okanye amoshe nasiphi isixhobo okanye into eyakhiweyo;
  - (c) aziphathe ngendlela enokuba nobungozi kubomi, kubantu okanye kwipropati;
  - (d) eze okanye aphaathe elwandle ikhonteyina eyenziwe ngeglesi;
  - (e) aziphathe ngendlela engafanelekanga, elihlazo, ekwada, enobundlobongela okanye ephazamisa abanye abantu okanye ecaphukisayo;
  - (f) enze into elihlazo.

### **17 Izilwanyana**

- (1) Akukho mntu unokuthi kummandla okunxweme lolwandle enze okanye avumele isilwanyana sakhe okanye asigadileyo, ukuba –
  - (a) sibe kummandla, ekungavumelekanga zilwanyana kuwo;
  - (b) siziphathe ngendlela enokuba nobungozi, ephazamisayo, okanye senzakalise umntu, okanye senze umonakalo elwandle okanye kwisibonelelo esikummandla wolwandle;
  - (c) sisondele, siphazamise, silandele, sileqe, sizingele, sihlasele okanye sibulale isilwanyana sasendle, intlanzi okanye intaka ngaphandle kwemvume esesikweni; okanye
  - (d) sihlasele okanye sibulale isilwanyana sasekhaya.
- (2) Ukubainja ituwile elwandle okanye kummandla wonxweme, umntu waloo nja makasuse loo tuwa ngoko nangoko, ayifake kwisingxobo ayilahle emgqomeni.
- (3) Akukho mntu unokuzisa okanye aze kuhambisainja elwandle –

- (a) ngaphandle kokuba uyirhuqa ngentambo kummandla ochongelwe oko ngokwecandelo 11 ekuvumeleke ukuba kuhanjiswa inja ebotshelelweyo apho anokuthi ayikhulule khona;
- (b) ebukhali, elumayo okanye enobungozi ngaphandle kokuba ivalwe umlomo ngesicheme yaye ibanjwe ngentambo ngokwecandelwana17(3)(a).
- (4) Amacandelwana (1)(a) no-(2) akasebenzi kumntu osebenzisa inja yokumkhokela.
- (5) Ukuba isilwanyana sifunyenwe sikwimeko ebonisa ukwaphula eli candelo, iSixeko singathi sisithathe eso silwanyana ze sisiphathe ngendlela exelwe kuMthetho kaMasipala weSixeko, nokuba eso silwanyana sihamba nomntu waso okanye omnye umntu.

**ISAHLUKO 5**  
**UQHAGAMSHELWANISO NONXWEME NEZIBONELELO EZIKUNXWEME**  
*(ss 18-20)*

**18 Umhlaba ongakunxweme**

- (1) Ngaphandle kokuba iSixeko sinikeze isigunyaziso esibhaliweyo, akukho mntu unokubhloka okanye avale kumhlaba okunxweme okanye amoshe isibonelelo esihlangene nomhlaba okunxweme.

**19 Ukungena nokusebenzisa izibonelelo ezikunxweme**

- (1) Kweli candelo, 'isibonelelo eskunxweme' sibandakanya indawo yokudada abantu, iphaviliyoni, igumbi lokutshintshela, indawo ebiyelweyo, indlu yangasese, indlela, indawo yokumisa iimoto nezikhitshane ekummandla okunxweme lolwandle.
- (2) ISixeko singathi –
  - (a) sigqibele ze sibonise ngophawu amaxesha okungena nawokusebenzisa unxweme;
  - (b) silawule inani labantu abangena nabasebenzisa izibonelelo zonxweme;
  - (c) sibeke umrhumo wokungena nokusebenzisa amamxweme; kunye
  - (d) nokuthintela ukungena nokusebenzisa izibonelelo zonxweme.
- (3) Igosa eligunyazisiweyo linokuthi –
  - a) lingamvumeli umntu owenza into ecaphukisayo ukuba angene kwindawo ekunxweme;
  - b) liyalele umntu owenza into ecaphukisayo ukuba aphume ngoko nangoko kwindawo ekunxweme;
  - c) liyalele umntu owophule eli candelo ukuba aphume ngoko nangoko kwindawo ekunxweme.
- (4) Umntu ohlawule intlawulo exelwe kwicandelwana-19(2)(c) makagcine ubungqina bentlawulo abunikiweyo ze abukhuphe xa bufunwa ligosa eligunyazisiweyo.
- (5) Akukho mntu unokuthi –
  - (a) angene okanye azame ukungena kwindawo ekunxweme –
    - (i) ngaphandle kwakwisango elingena abantu nelibhalwe ngolo hlobo; okanye
    - (ii) emva kokuba kubekwe uphawu okanye igosa eligunyazisiweyo lichaze ukuba indawo ekunxweme igcwele;
  - (b) angene okanye azame ukungena okanye ahlale kwindawo ekunxweme –
    - (i) xa ixesha lokusebenzisa loo ndawo livalile; okanye
    - (ii) ukuba iSixeko asivumi ukuba kungenwe apho okanye loo ndawo isetyenziswe;
  - (c) angene okanye azame ukungena kwigunjana okanye enye indawo yokuhlala enomntu okanye esetyenziswa ngomnye umntu ngaphandle kwemvume yaloo mntu;
  - (d) avule okanye azame ukuvula ikhabhathi okanye ilokhari ngaphandle kokuba ugunyazisiwe ukuba enze njalo ligosa eligunyazisiweyo okanye ngumntu oyisebenzisayo;
  - (e) athintele okanye abhloke indawo yokungena kwindawo ekunxweme.

**20 Ukuvalwa konxweme**

- (1) Igosa eligunyazisiweyo lingavala okanye licuthe inani labantu abanokungena elwandle nakummandla wonxweme ukuba igosa libona kuyimfuneko ngenxa yokukhusela uluntu, kubandakanywa, xa kukho okanye xa kunokubakho –
  - (a) ungcoliseko;
  - (b) iimeko zolwandle eziyingozi;

- (c) imozulu embi;
  - (d) xa kukho ookrebe abaninzi okanye umntu olunywe ngukrebe;
  - (e) xa kukho isilwane saselwandle esenzakeleyo;
  - (f) xa kuthuthwa isilwanyana okanye isityalo sisiwa kwenye indawo;
  - (g) xa kusanyiswa okanye kukhuliswa isilwanyana saselwandle;
  - (h) xa kuboniswa indlela yokusebenzisa ipemethi yokuloba;
  - (i) xa inqanawe okanye umkhumbi uxingile okanye wophukile;
  - (j) xa kusenziwa uhlangulo;
  - (k) uhlaziyo lonxweme;
  - (l) ulwakhiwo, ulungiso okanye ukumenteyina;
  - (m) inkxalabo ngempilo yoluntu, ukhuseleko okanye intlalontle; okanye
  - (n) uncedo olukhawuzekileyo.
- (2) Akukho mntu unokungena okanye abe khona kummandla ovaliweyo okanye othintelweyo ngokweli candelo ngaphandle kokuba ugunyaziswe ligosa eligunyazisiweyo.
- (3) Igosa eligunyazisiweyo lingathatha amanyathelo afanelekileyo ukususa umntu ongena okanye abe kummandla ekungangenwa kuwo esaphula imiqathango yecandelwana (2).

## ISAHLUKO 6 IBALA LOKUNDULUKELA LEENQANAWE (ss 21)

### 21 Ibala lokundulukela leenqanawe

- (1) Kweli candelo, 'ibala lokundulukela leenqanawe' lithetha isiza esichongwe ngugunyaziwe ofanelekileyo saze sapapashwa kwiwebhusayithi yeSixeko njengesiza apho inqanawe inokundulukela khona kummandla okunxweme lolwandle.
- (2) Akukho mntu unokundulukisa inqanawe kubandakanywa isikhitshane sogqatso lwaselwandle ijete kummandla okunxweme lolwandle ngaphandle kokuba—
- (a) olo nduluko lusukela kwibala lokundulukela leenqanawe;
  - (b) umntu uveza zonke izatifikethi, iilayisenisi neepemithi xa zifunwa ligosa eligunyazisiweyo zemithetho ochaphazela oku; yaye
  - (c) inqanawe iphethe –
    - (i) izatifikethi, iipemethi kunye neempepha zabaqhubi ezifunwa ngumthetho;
    - (ii) zonke izixhobo zokhuseleko zolo hlobo lweenqanawe; yaye
    - (iii) ineqhosha lokuyicima xa kukho ingxaki yaye elo qhosha liqhotyoshelwe kwinqanawana leyo okanye likukapteni wenqanawe xa induluka naxa iselwandle, ngaphandle kokuba inqanawe enenjini engaphantsi kwe-15 hp.
- (3) Akukho mntu unokuhambisa inqanawe okanye ayiqhube ngendlela edala umonakalo, enobungozi kummandla okunxweme lolwandle okanye kuye nawuphi na umntu.
- (4) Ukuba umthetho ufuna ukuba inqanawe ukuba ibe nelayifujakethi, akukho mntu unokususa inqanawe ihambe ngaphandle kokuba bonke abaphakathi kuyo banxibe iilayifujakethi ezixeliweyo.
- (5) Umntu ongenayo okanye okwibala lokundulukela leenqanawe okanye oqhuba inqanawe makaqinisekise ukuba amaxwebhu axelwe kwicandelwana (2) akhona, inqanawe ikhona kunye nezixhobo zayo zokhuseleko zikho zonke ukuze zihlolwe ligosa eligunyazisiweyo.
- (6) Akukho mntu unokuthi ekwibala lokundulukela leenqanawe –
- (a) abhloke okanye aphazamise ibala lokundulukela ngaphandle kwaxa oko kuyimfuneko
    - (i) ukundulukisa okanye ukufumana inqanawe yabo;
    - (ii) kwimeko kaxakeka; okanye
    - (iii) ngokomyalelo wegosa eligunyazisiweyo;
  - (b) amoshe okanye onakalise isibonelelo esimalunga nebala lokundulukela leenqanawe;
  - (c) apake isithuthi, inqanawe okanye itreyila –
    - (i) ubusuku bonke; okanye
    - (ii) ngaphandle kwakwindawo yokupaka elungiselelwe isithuthi, inqanawe okanye itreyila, ngaphandle kokuba uyalelwe ligosa eligunyazisiweyo;
  - (d) acoce intlanzi ngaphandle kwakwindawo yokucocela intlanzi, apho kukho iimpawu ezixhonywe siSixeko ezibonisa indawo yokucocela iintlanzi;
  - (e) athenge okanye athengise intlanzi, ngaphandle apho kukho iimpawu ezixhonywe siSixeko okanye ngemvume yegosa eligunyazisiweyo;

- (f) alahle ubumdaka beentlanzi, izinto ebeloba ngazo neepakethi zazo ngaphandle kwakwindawo ezichongelwe oko okanye kwiikhonteyina zokulahla inkunkuma; okanye
- (g) alahle ipetroli okanye idizili okanye ioli okanye ahlambe igazi eliphuma kwinqanawe.

**ISAHLUKO 7**  
**UNYANZELISO**  
(ss 22-28)

**22 Umyalelo othi umntu makaphume**

- (1) Igosa eligunyazisiweyo lingayalela umntu owaphule lo Mthetho kaMasipala ukuba emke kummandla weezowuni ezikumaxweme.
- (2) Umntu ongawuthobeliyo loo myalelo unetyala.

**23 Isaziso sothobelo**

- (1) Igosa eligunyazisiweyo lingahambisa isaziso sothobelo esibhaliweyo kumntu ukuba ngaba kukho izizathu ezivakalayo zokukholelwa ukuba umntu wophule lo Mthetho kaMasipala.
- (2) Isaziso sothobelo kufuneka –
  - (a) sichaza le ndlela yokuziphatha edala ulwaphulo lwalo Mthetho kaMasipala;
  - (b) ichaze ukuba ngowuphi lo mqathango walo Mthetho kaMasipala okanye umqathango wemvume owophulweyo;
  - (c) apho kuyimfuneko, sichaze ukuba le ndlela yokuziphatha ingekho mthethweni idala ubutyala ze ichaze nesigwebo;
  - (d) apho kuyimfuneko, sikhutshwe kunye nesohlwayo sentlawulo;
  - (e) siyalele umntu ukuba ayeke le ndlela yokuziphatha ingekho mthethweni;
  - (f) apho kuyimfuneko sinike imiqathango emayithotyelwe namanyathelo emakathatyathwe ukuthobela umthetho;
  - (g) sichaze ukuba ukungathobeli isaziso kulityala ze ichaze nesigwebo; yaye
  - (h) ichaze nokuba, xa kungathotyelwa esi saziso, iSixeko singathatha elinye lala manyathelo alandelayo –
    - (i) singanika umntu isohlwayo sentlawulo ngokungahoyi isaziso sothobelo;
    - (ii) singathatha amanyathelo ukulungisa iziphumo ezibi ezenzeke ngenxa yeentshukumo zomntu ze sifune iindleko zaso kuloo mntu;
    - (iii) singafaka isicelo kwinkundla yamatyala ukuba incede kule ngxaki kubandakanywa nokufuna iindleko zesimangalo; okanye
    - (iv) ifake isimangalo kwinkundla ngokusesikweni.
- (3) Isaziso sothobelo singenza oku –
  - (a) singayalela umntu kwisithuba esixeliweyo, ngembalelwano, ukuba achazele iSixeko ukuba uthathe awaphi amanyathelo ukuthobela isaziso;
  - (b) singayalela umntu ngeendleko zakhe ukuba athathe amanyathelo anelisa iSixeko kwixesha elibekiweyo –
    - (i) ayeke, atshintshe okanye alawule intshukumo okanye into eyenza okanye eqhubekisa okanye enegalelo kwisiphumo esibi kummandla okunxweme lolwandle, kugqithiso okanye kukhuselo lolwandle olungagunyaziswanga;
    - (ii) aphande, ahlole ze aphonononge ifuthe lemeko ethile okanye intshukumo ze anike ingxelo;
    - (iii) athathe amanyathelo de awagqibe;
    - (iv) asuse lonke ugqithiso okanye ukhuselo lolwandle olungagunyaziswanga;
    - (v) avuselele indalo echaphazelekileyo; okanye
    - (vi) angahlanganisa naziphi kwezi zinto zikwimihlathi (i) ukuya ku-(v).
- (4) Umntu okhutshelwe isaziso sothobelo ngokwecandelwana (3) okanye isigunyaziso ngokwecandelo 10(3) aze angasithobeli isaziso sothobelo okanye isigunyaziso, iSixeko singathatha amanyathelo esiwabona efanelekile ukulungisa loo meko yaye angagunyazisa omnye umntu ukuba athathe loo manyathelo.
- (5) ISixeko singafuna iimbuyekezo yeendleko ezisetyenziswe siSixeko, okanye ezisetyenziswe ngumntu ogunyazisiweyo, zamanyathelo athathwe kulandelwa icandelwana (4), nazo zonke iindleko ezichithwe ngenxa yecandelwana (4), ezisuka nakubani obethe wanikwa isaziso sothobelo okanye obekhutshelwe ugunyaziso ngokoMgaqonkqubo woLawulo lwaMatyala noQokelelo lwaMatyala noMthetho kaMasipala woLawulo lwaMatyala noQokelelo lwaMatyala.

## **24 Imiqathango yolwamkelo**

- (1) ISixeko, xa sinikeza isigunyaziso ngokwalo Mthetho kaMasipala, singabeka imiqathango efanelekileyo.
- (2) Akukho mntu unokwaphula umqathango wemvume.

## **25 Ukurhoxiswa okanye ukwenziwa kwezilungiso kugunyaziso okanye kwimiqathango yemvume**

- (1) ISixeko singarhoxisa okanye senze izilungiso ngembalelwano sogunyaziso okanye somqathango wemvume.
- (2) Phambi kokurhoxisa okanye kokwenza izilungiso kumqathango wemvume, iSixeko masinike isaziso kwangethuba esibhaliweyo sisinike nawuphi na umntu oza kuchaphazeleka kakubi ngenxa yorhoxiso ze loo mntu anikwe ithuba elaneleyo lokuvakalisa izimvo zakhe ngembalelwano.
- (3) Ukuba kufuneka amanyathelo angxamisekileyo okanye akukwazeki ukunika isaziso phambi kwethuba, iSixeko singarhoxisa okanye senze izilungiso kwisigunyaziso okanye umqathango wemvume, ze kunikwe ithuba umntu ithuba elaneleyo lokuvakalisa izimvo zakhe ngokukhawuleza emva koko.

## **26 Amagunya nemisebenzi yamagosa agunyazisiweyo**

- (1) Kweli candelo, ngaphandle kokuba imeko ibhekisa kwenye into, 'umhlathi' uxela nantoni na, kubandakanywa ubume, into, uxwebhu, incwadi, irekhodi okanye iinkcukacha ezikwikhompuyutha okanye ucaphulo, inxalenye okanye isampule yayo ekukrokreleka ukuba isetyenziswe ekwaphuleni lo Mthetho kaMasipala.
- (2) Lingaphethanga mpepha zakusetsha, igosa eligunyazisiweyo lingamisa, lingene ze lisetshe nayiphi inqanawe, isithuthi, amasango okanye umntu ukuba igosa eligunyazisiweyo linezizathu ezivakalayo zokukholelwa ukuba kwenziwe ityala ngokwalo Mthetho kaMasipala kuloo nqanawe, kweso sithuthi okanye kweso sakhiwo ukuba,
  - (a) umntu olawula loo nqanawe, isithuthi, amasango uyavuma ukuma, ukuba kungenwe, kusetshwe okanye kuthathwe izinto; okanye
  - (b) igosa eligunyazisiweyo linezizathu ezivakalayo zokukholelwa ukuba kuza kuza kukhutshwa iwaranti, ukuba igosa eligunyazisiweyo belifake isicelo yaye ukulibaziseka kwayo kuza kulwisana nenjongo yokumisa, yokungena yokusetsha neyokuthatha izinto.
- (3) Ukuba icandelwana 26 alisetyenziswa, igosa eligunyazisiweyo lingamisa, lingene ze lisetshe nayiphi inqanawe, isithuthi, amasango okanye umntu yaye lingathatha izinto ezixelwe kwicandelwana (5)(h) lisebenzisa igunya lewaranti.
- (4) Ijaji yenkundla ingakhupha iwaranti exelwe kwicandelwana (3) xa ifumene isicelo esibhaliweyo ligosa eligunyazisiweyo ukuba kwezo nkcukacha zifungelweyo kukho –
  - (a) izizathu ezibambekayo zokukholelwa ukuba kukho ulwaphulo lwalo Mthetho kaMasipala olwenzekileyo;
  - (b) ukusetsha nokuthatha izinto kuza kuzisa iinkcukacha ezibonisa ulwaphulo-mthetho; yaye
  - (c) ukusetsha nokuthatha izinto ukusetsha nokuthatha izinto kuyadingeka ukuphumeza iinjongo zalo Mthetho kaMasipala.
- (5) Xa linyanzelisa okanye liphanda ukuthotyelwa kwalo Mthetho kaMasipala, igosa eligunyazisiweyo lingathi –
  - (a) likhatshwe yitoliki, lipolisa okanye nawuphi na umntu onokulincedisela kuhlolo;
  - (b) lihlole nawuphi umhlathi woxwebhu onokuba nento yokwenza nophando;
  - (c) lihlole, livavanye, liphonononge, okanye lenze ikopi yomhlathi ze liwususe liye kuwujongisisa, liwuhlole, liwumete, liwukope okanye liwucaphule;
  - (d) lifune ukuba umntu aveze okanye ase uxwebhu olo endaweni ethile ngexesha elithile, ngokomyalelo wegosa eligunyazisiweyo, ukuze lihlolewe;
  - (e) athathe ifoto okanye arekhode incoko yaye nawuphi na umntu okanye nayiphi into ayiphandayo;

- (f) libuze umntu elibona ngokokucinga kwalo igosa eligunyazisiweyo, angalinika iinkcukacha ezinentso yokwenza nombamba omalunga nalo Mthetho kaMasipala;
  - (g) lingayalela umntu ukuba aze kulibona lithethe naye ngexesha nakwindawo egqitywe ligosa eligunyazisiweyo ze libuze imibuzo loo mntu eyedwa okanye ehamba naye nawuphi na umntu ohlangene nombamba onentso yokwenza nalo Mthetho kaMasipala; yaye
  - (h) lingathatha uxwebhu –
    - (i) olunentso yokwenza okanye ekukholeleka ukuba lintsentso yokwenza nokwaphulwa kwalo Mthetho kaMasipala;
    - (ii) olunokunikeza ubungqina betyala ngokwalo Mthetho kaMasipala; okanye
    - (iii) oluza kusetyenziswa okanye ekukholelwa ukuba beluza kusetyenziselwa ukwaphula umthetho ngokwalo Mthetho kaMasipala.
- (6) Umntu ocelayo, angenza ikopi yoxwebhu oluthathwayo ligosa ngokweli candelo.
- (7) Xa igosa eligunyazisiweyo lisusa okanye lithatha uxwebhu oluthile, igosa eligunyazisiweyo kufuneka linikeze irisithi kumnini okanye umntu ophetheyo apho yaye, ukuba kuyakwazeka, lilibuyise olo xwebhu ngokukhawuleza kangangoko emva kokuba liyenzile le nto belifuna ukuyenza ngalo okanye emva kokuba lisetyenziselwe injongo ebelithathelwa yona.
- (8) Igosa eligunyazisiweyo malisebenzise amagunya alo yaye lenze nomsebenzi walo ngesidima, ngentlonipho nangocwangco, yaye lithathele ingqalelo ilungelo lesidima, lenkululeko, lokhuseleko lomntu ngamnye nelungelo lomntu lokukwazi ukuzenzela izinto zakhe bucala.

## **27 Ukuthimba inqanawe okanye isithuthi**

- (1) Igosa eligunyazisiweyo lingathi, lingafumenanga mpepha zokubamba, lithathe ze lithimbe inqanawe okanye isithuthi ekukholeleka okanye ekucingeleka ukuba senze into engekho mthethweni, senze ubutyala ngokwalo Mthetho kaMasipala.
- (2) Igosa eligunyazisiweyo, ngexesha lokuthimba, malinike lowo unalo nqanawe okanye uneso sithuthi sithinjiweyo isaziso esichaza –
- (a) Isizathu sokuthinjwa kwaso;
  - (b) Inkcazelo yenqanawe okanye isithuthi esithinjiweyo;
  - (c) Idilesi neenkukacha zoqhagamshelwano zesikiti;
  - (d) Intlawulo yokuthimba; kunye
  - (e) nesilumkiso sokuba inqanawe okanye isithuthi esithinjiweyo singathengiswa ukubuyisa imali yokuthimba kunye nokuhlawulela nayiphi na enye intlawulo, iindleko okanye umonakalo.
- (3) Igosa eligunyazisiweyo malise inqanawe okanye isithuthi esithinjiweyo kwisikiti esilungiselwe oko apho mayigcinwe khona ze iphathwe ngendlela echazwe kweli candelo.
- (4) ISixeko masikhulule inqanawe okanye isithuthi esithinjiweyo sisinike umnini xa ekhuphe iimpepha zobunini, ukuba kwityala elixeliweyo kwicandelwana (1) ukuba –
- (a) Akufakwanga tyala enkundleni, akho ntlawulo ekuthwe mayihlawulwe okanye isaziso sokugweba asikhutshwanga kwiiyure eziyi-72 emva kokuthinjwa kwaso; okanye
  - (b) Ityala ebelibekwe abantu abamangelelweyo liyekive kuba –
    - (i) izityholo zirhoxisiwe;
    - (ii) abantu abamangelelweyo befunyenwe bengenatyala; okanye
    - (iii) abantu abamangelelweyo bagwetyiwe yaye bahlawuliswe imali yokuthimba nayo nayiphi na enye intlawulo, iindleko nomonakalo.
- (5) Inqanawe okanye isithuthi esithinjiweyo; sithathwa siSixeko ukuba –
- (a) Inkundla iyalela ukuba sithinjwe; okanye
  - (b) Umnini osemthethweni wenqanawe okanye isithuthi esithinjiweyo akafumaneki ndawo kwiintsuku ezingama-90 emva kolo thinjo emva kokuba kuthathwe amanyathelo afanelekileyo okukhangela umnini yaye akafumaneki.
- (6) Ukuba nayiphi intlawulo exelwe kwicandelwana (4)(b)(iii) ayihlawulwa kwixesha elibekwe siSixeko, yaye akukho sibheni sifakiweyo de kwaphela ixesha lokubhena, iSixeko singathengisa, siphise, sitshabalalise okanye sinikeze ngaloo nqanawe okanye isithuthi esithinjiweyo; ze sijongane nengeniso silandela icandelwana (7).
- (7) Nayiphi ingeniso esuka ekuthengisweni kwenqanawe okanye isithuthi esithinjiweyo; mayisebenze ngolu hlobo nangolu landelelwano:
- (a) ukufumana iindleko ezichithwe siSixeko xa bekubanjwa yaye kuthinjwa eso sithuthi;
  - (b) Intlawulo yemali yokuthimba nayo nayiphi na enye intlawulo, iindleko nomonakalo oyalwelele yinkundla omalunga netyala elixelwe kwicandelwana (1); yaye

- (c) ukubuyela kumntu ongumnini wenqanawe ngokusemthethweni ngexesha lokuthinjwa kwayo.
- (8) ISixeko singathi sigqibe ngemali yokuthimba kunye nesikiti esixelwe kweli candelo.

## **28 Amatyala nezohlwayo**

- (1) Umntu unetyala ukuba ngaba umntu –
  - (a) wophule umqathango walo Mthetho kaMasipala;
  - (b) wophule nayiphi imiqathango, okanye izithintelo ezibekwe ngokwalo Mthetho kaMasipala;
  - (c) osilelayo ukuthobela imiqathango yaso nasiphi isaziso okanye naluphi uphawu olubekwe siSixeko ngokwalo Mthetho kaMasipala;
  - (d) wophule umyalelo osemthethweni onikezwe ligosa eligunyazisiweyo ngokwalo Mthetho kaMasipala;
  - (e) ogrogrisa ophazamisa, onqanda okanye osebenzisa ulwimi oluthukayo kwigosa eligunyazisiweyo okanye umntu okhapha ngokusemthethweni igosa eligunyazisiweyo elisebenzisa igunya elilunikwe ngulo Mthetho kaMasipala;
  - (f) xa kuthwe makanike iinkcukacha ligosa eligunyazisiweyo anikeze iinkcukacha ezibubuxoki;
  - (g) ozenza igosa eligunyazisiweyo okanye umntu ogunyaziswe siSixeko ngokwalo Mthetho kaMasipala.
- (2) Umntu onetyala ngokwalo Mthetho kaMasipala uya kuhlululwa intlawulo ze athi xa egwetyiwe abanjwe isithuba esingekho ngaphezu kweminyaka emibini.
- (3) Ngaphezu kwentlawulo nokubanjwa, inkundla ingayalela nawuphi umntu ogwetywele ityala ngokwalo Mthetho kaMasipala —
  - (a) ukuba alungise umonakalo owenzekileyo;
  - (b) axuthelwe inqanawe okanye isithuthi esibanjweyo sinikwe iSixeko ngokwecandelo 27.
  - (c) ahlawule iindleko ezihlawulwe siSixeko ngenxa yolwaphulo-migaqo; kananjalo
  - (d) ahlawule umonakalo awenzileyo komnye umntu okanye kwipropati ekummandla okunxweme lolwandle, yaye lo myalelo uya kunyanzeliswa yinkundla yamatyala.

## **ISAHLUKO 8 IMIBA-GABALALA (ss 29-34)**

### **29 Izibheno**

Umntu onamalungelo achatshazelwe sisigqibo esenziwe kulandelwa lo Mthetho kaMasipala angabhena kweso sigqibo ngokwecandelo 62 loMthetho wobuRhulumente boMmandla ongeeNkqubo zikaMasipala wango-2000 (uMthetho 32 ka-2000) ngokubhala isaziso sesibheno nezizathu zaso asithumele kuManejala kaMasipala zingaphelanga iintsuku ezingama-21 ukususela kumhla wesaziso sesigqibo.

### **30 Unikezo-gunya**

Umsebenzi okanye igunya elinikwe iSixeko ngokwalo Mthetho kaMasipala ungadluliselwa kumsebenzi weSixeko ngokwenkqubo yonikezo-gunya eyamkelwa liBhunga likaMasipala leSixeko ngokwecandelo 59 loMthetho wobuRhulumente boMmandla ongeeNkqubo zikaMasipala wango-2000 (uMthetho 32 ka-2000).

### **31 Isaphulelo**

- (1) ISixeko singathi –
  - (a) ngembalelwano simaphulele umntu, iqela labantu okanye ummandla weezowuni ezikumaxweme ekusetyenzisweni komqathango okanye uwonke nje lo Mthetho kaMasipala isithuba esithile esichaziweyo.
  - (b) sibeke imiqathango xa sinikeza isaphulelo; yaye
  - (c) singlarhoxisa okanye senze izilungiso kwisaphulelo.
- (2) Apho kunikezwe isaphulelo kumntu okanye iqela labantu, kufuneka umntu ahlale esiphethe kuye isaphulelo xa ekummandla okunxweme lolwandle.



(3) ISixeko masipapashe kwiwebhusayithi yaso isaphulelo esisebenza kummandla okwizowuni ezikumaxweme.

### **32 Ukungabi nabutyala**

ISixeko namagosa agunyazisiweyo akanatyala layo nayiphi ilahleko okanye ingozi eyenzeke kumntu ngenxa yesenzo okanye ukungenziwa kwento elibaleke manyhani enento yokwenza nokwenziwa komsebenzi phantsi kwalo Mthetho kaMasipala, ngaphandle kokuba kubekho ubungqina bokungakhathali okumandla.

### **33 Imiqathango yethutyana**

(1) Uthintelo, umyalelo, imvume, isigqibo, umqathango okanye uphawu ngokwemiqathango yecandelo-10(1) yeSea-shore Act 21 ka-1935 (uMthetho 21 ka-1935), esebenza kummandla okunxweme lolwandle weSixeko nebikhona xa kuqala ukusebenza kwalo Mthetho kaMasipala, ithathwa ngokuba yenziwe kulandelwa lo Mthetho kaMasipala.

(2) Kuxhomekeke kwizilungiso ezenziwe ngokwecandelo 21(1), isiza esichazwe njengesiza sokundulukela iinqanawe kulandelwa umgaqo 2 woLawulo lwaMabala okuNdulukela iinqanawe kwiMigaqo yoLawulo lweMimandla ekuNxweme loLwandle epapashwe kulandelwa i-Integrated Coastal Management Act sithathwa njengesiza sokundulukela iinqanawe ngokwecandelo 21(1).

### **34 Ubhangiso**

Le migaqo ilandelayo eyayenziwe ngokwe-Seashore Act, 1935 (Umthetho 21 ka-1935) kungokunje iyabhangiswa:

- (a) iGordons Bay Seashore Regulations, 1991 eyapapashwa ngokweSaziso seBhodi esingu-68 sika-1991 kwiGazethi yePhondo leNtshona Koloni 13239 somhla we-24 Meyi 1991; kunye
- (b) neCape Town Municipality Seashore Regulations, 1994 eyapapashwa ngokweSaziso seBhodi esingu-38 sika-1994 kwiGazethi yePhondo leNtshona Koloni 15636 somhla we-22 Epreli 1994.

### **35 Isihloko esifutshane nokuqala kokusebenza**

Lo Mthetho kaMasipala ubizwa uMthetho kaMasipala wamaNxweme weSixeko saseKapa, 2020.