



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

ENVIRONMENT CONSERVATION ACT, 1989

WESTERN CAPE NOISE CONTROL REGULATIONS

The Provincial Minister of Local Government, Environmental Affairs and Development Planning in the province of the Western Cape has made the regulations in the Schedule under section 25 of the Environment Conservation Act, 1989 (Act 73 of 1989).

SCHEDULE

Definitions

1. In these regulations a word or expression to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989), or the relevant Standards South Africa publication (SANS) has the meaning so assigned and, unless the context indicates otherwise—

“**ambient noise**” means the all-encompassing sound in a given situation at a given time, measured as the reading on an integrated impulse sound level meter for a total period of at least 10 minutes;

“**animal**”, in relation to a person, means any animal in the possession or under the control of that person, and includes birds and poultry;

“**authorised person**” means—

- (a) a designated person;
- (b) a member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a municipal police officer, traffic official, law enforcement officer or traffic warden appointed under any law; or
- (d) a person who has been declared a peace officer under section 334(1) of the Criminal Procedure Act, 1977 (Act 51 of 1977);

“**dBa**” means the sound pressure level measured in decibels which is A-weighted to approximate the response of the human ear;

“**designated person**” means a person designated or appointed by a local authority in terms of regulation 9;

“**disturbing noise**” means a noise, excluding the unamplified human voice, which—

- (a) exceeds the rating level by 7 dBA;
- (b) exceeds the residual noise level where the residual noise level is higher than the rating level;
- (c) exceeds the residual noise level by 3 dBA where the residual noise level is lower than the rating level; or
- (d) in the case of a low-frequency noise, exceeds the level specified in Annex B of SANS 10103;

“**emergency**” means a situation that arises suddenly and involves imminent or actual—

- (a) danger to persons; or
- (b) damage to property or the environment,

and which demands immediate action;

“**local authority**” means the municipality having jurisdiction;

“**low-frequency noise**” means sound which contains sound energy at frequencies predominantly below 100 Hz;

“**model aircraft**” includes an unmanned recreational aircraft, whether full size or scaled down;

“**NEMA**” means the National Environmental Management Act, 1998 (Act 107 of 1998);

“**noise nuisance**” means any sound which impairs or may impair the convenience or peace of a reasonable person;

“**noise sensitive activity**” means any activity that could be negatively impacted by noise, including residential, healthcare, educational or religious activities;

“**person**” includes a juristic person and an organ of state;

“**premises**” means a piece of land or any building or part of a building, place of residence, tent or other structure;

“**property projection plane**” means a vertical or horizontal plane, whichever is applicable, on a boundary line of premises defining a boundary of the premises in space;

“**Province**” means the Province of the Western Cape;

“**public event**” means any event—

(a) to which the public or any section thereof has access, including a show, air show, music concert, festival, sports event or any similar event; and

(b) at which any amplified music is played or reproduced;

“**rating level**” means the applicable outdoor equivalent continuous rating level indicated in Table 2 of SANS 10103;

“**residual noise**” means the all-encompassing sound in a given situation at a given time, measured as the reading on an integrated impulse sound level meter for a total period of at least 10 minutes, excluding noise alleged to be causing a noise nuisance or disturbing noise;

“**SANS 10103**” means the latest edition of Standards South Africa publication No. 10103 titled “The measurement and rating of environmental noise with respect to annoyance and to speech communication”, as amended from time to time, or its corresponding replacement;

“**SANS 10117**” means the latest edition of Standards South Africa publication No. 10117 titled “Calculation and prediction of aircraft noise around airports for land use purposes”, as amended from time to time, or its corresponding replacement, as referred to in SANS 10328;

“**SANS 10210**” means the latest edition of Standards South Africa publication No. 10210 titled “Calculating and predicting road traffic noise”, as amended from time to time, or its corresponding replacement, as referred to in SANS 10328;

“**SANS 10328**” means the latest edition of Standards South Africa publication No. 10328 titled “Methods for environmental noise impact assessments”, as amended from time to time, or its corresponding replacement;

“**SANS 658**” means the latest edition of Standards South Africa publication No. 658 titled “Integrating-averaging sound level meters”, as amended from time to time, or its corresponding replacement;

“**sound level**” means the equivalent continuous rating level as defined in SANS 10103, taking into account impulse, tone and night-time corrections;

“**vehicle**” means any device designed or adapted mainly to travel on wheels or crawler tracks, whether self-powered or not, other than such a device which travels solely on rails, including—

(a) a motor vehicle;

(b) a motorcycle;

(c) an off-road vehicle, such as a scrambler, quadricycle or dune buggy; and

(d) a model vehicle;

“**vessel**” means any watercraft, including—

(a) a jet ski;

(b) a ski boat; and

(c) a model vessel.

Prohibition of disturbing noise

2. A person may not—

(a) cause a disturbing noise; or

(b) allow a disturbing noise to be caused by any person, animal, machine, device, apparatus, vehicle, vessel or model aircraft, or any combination thereof.

Prohibition of noise nuisance

3. In so far as it causes or is likely to cause a noise nuisance, a person may not—

(a) operate or play, or allow to be operated or played, a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier, or loudspeaker system, or any similar device producing, reproducing or amplifying sound;

(b) market or advertise any article or service for sale;

(c) allow an animal to make noise;

(d) discharge fireworks in a manner that does not comply with the local authority's requirements;

(e) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, model aircraft or any other object, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, in or near a residential area;

(f) use or discharge any explosive, firearm or similar device that emits any sound impulse, or allow it to be used or discharged, without the written permission of the local authority;

- (g) except in an emergency, emit a sound, or cause a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device;
- (h) operate any machinery, power tool, lawnmower, power garden tool or similar device or allow it to be operated;
- (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other article, or allow it to be loaded, unloaded, opened, shut or handled;
- (j) drive or operate a vehicle, vessel or model aircraft or allow it to be driven or operated; or
- (k) make any other noise not indicated in paragraphs (a)-(j).

Land use

4. (1) The local authority, or any other authority responsible for considering an application for a building plan approval, business licence approval, planning approval or environmental authorisation, may instruct the applicant to conduct and submit, as part of the application—
- (a) a noise impact assessment in accordance with SANS 10328 to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103; or
 - (b) where the noise level measurements cannot be determined, an assessment, to the satisfaction of the local authority, of the noise level of the proposed land use or activity.
- (2) (a) A person may not construct, erect, upgrade, change the use of or expand any building that will house a noise-sensitive activity in a predominantly commercial or industrial area, unless he or she insulates the building sufficiently against external noise so that the sound levels inside the building will not exceed the appropriate maximum rating levels for indoor ambient noise specified in SANS 10103.
- (b) The owner of a building referred to in paragraph (a) must inform prospective tenants or buyers in writing of the extent to which the insulation measures contemplated in that paragraph will mitigate noise impact during the normal use of the building.
- (c) Paragraph (a) does not apply when the use of the building is not changed.
- (3) Where the results of an assessment undertaken in terms of subregulation (1) indicate that the applicable noise rating levels referred to in that subregulation will likely be exceeded, or will not be exceeded but will likely exceed the existing residual noise levels by 5 dBA or more—
- (a) the applicant must provide a noise management plan, clearly specifying appropriate mitigation measures to the satisfaction of the local authority, before the application is decided; and
 - (b) implementation of those mitigation measures may be imposed as a condition of approval of the application.
- (4) Where an applicant has not implemented the noise management plan as contemplated in subregulation (3), the local authority may instruct the applicant in writing to—
- (a) cease any activity that does not comply with that plan; or
 - (b) reduce the noise levels to an acceptable level to the satisfaction of the local authority.

Noise from machinery in residential areas

5. A person may not use a pool pump, irrigation pump, refrigeration unit, or any heating, ventilation or air-conditioning equipment, or any similar device, in a residential area if the noise on the property projection plane exceeds 50 dBA or exceeds the residual noise level by more than 5 dBA, except if authorised by the local authority or in an emergency.

Places of late-night entertainment

6. (1) A person may not conduct the business of a nightclub, or any similar late-night entertainment involving amplified sound, on or from any premises, unless the premises are soundproofed sufficiently so that a disturbing noise will not be caused outside the property projection plane of the premises.
- (2) The local authority may require a person referred to in subregulation (1) to provide proof of the soundproofing, or may require access to the premises to assess the efficacy of the soundproofing.
- (3) A person who conducts a business referred to in subregulation (1) on the date of publication of these regulations is exempted from the application of that subsection for a period of six months after that date.

Events

7. (1) A person may not stage a public event without a written exemption issued by the local authority in terms of regulation 12.
- (2) Subject to subregulation (4) and the applicable provisions of any other law, the local authority may seize any instrument or equipment used to generate music or amplify sound at a public event if—
- (a) an exemption in terms of regulation 12 has not been issued for that event; or
 - (b) the conditions imposed in such an exemption have not been met.
- (3) An instrument or equipment seized under subregulation (2) must be kept in safe custody by the local authority which seized it.
- (4) A local authority must return an instrument or equipment seized in terms of subregulation (2) upon recovery of reasonable expenses incurred by it for the purposes of subregulations (2) and (3).

- (5) If a local authority has reason to believe that a proposed event, other than a public event, could cause a disturbing noise or noise nuisance, it may instruct the person intending to host the event in writing to apply for an exemption in terms of regulation 12(1)(b).
- (6) A person may not stage an event in respect of which a local authority has given an instruction contemplated in subregulation (5) without a written exemption issued by the local authority in terms of regulation 12.

Measurement and calculation procedures

- 8. (1) A person using sound measuring equipment for the purposes of these regulations must ensure that—
 - (a) the equipment complies with the requirements for type 1 instruments as indicated by SANS 658; and
 - (b) the measurement and calculation procedures comply with SANS 10103, SANS 10328, SANS 10117 and SANS 10210, as the case may be.
- (2) The person taking a measurement may in his or her discretion determine the measuring or calculation point as—
 - (a) a point where the complainant is most affected by the noise; or
 - (b) a point on the property projection plane of the premises concerned that is representative of the noise matter concerned.

Designation of employees by local authorities to perform noise control functions

- 9. A local authority must within a year of the publication of these regulations—
 - (a) designate an employee of the local authority with the necessary competencies who must be responsible for the administration of these regulations within the area of jurisdiction of the local authority;
 - (b) designate an employee of the local authority with appropriate knowledge and skills for conducting noise control or acoustic measurement, and who is registered with a science, engineering or health-related professional body, who must be responsible for—
 - (i) analysing, evaluating, approving and advising on noise impact assessments and noise management plans;
 - (ii) approving sound mitigation measures;
 - (iii) conducting noise impact measurements and calculating sound levels; and
 - (iv) scrutinising sound modelling and techniques; and
 - (c) if it cannot designate an employee as contemplated in paragraph (b)—
 - (i) by agreement with another local authority, appoint an official of the other local authority to fulfil the duties of such an employee; or
 - (ii) appoint a professional consultant who is qualified in noise control and competent to fulfil the duties of such an employee, when necessary.

Procedure for control of noise

- 10. (1) When a person lodges a complaint of a suspected disturbing noise to a local authority, a designated person must—
 - (a) investigate the complaint and determine by calculation or measurement in accordance with SANS 10328 whether it is a disturbing noise;
 - (b) apply the rating level except where the residual noise level differs by more than 10 dBA from the rating level; and
 - (c) if a noise is a disturbing noise, issue written instructions to—
 - (i) the person causing the noise or who is responsible for the noise; or
 - (ii) the owner, tenant, occupant or person in charge of the premises concerned,
 to cease the disturbing noise or to mitigate it to a level conforming to the requirements of these regulations within the period specified in the instructions.
- (2) If a person is found to be responsible for or creating a disturbing noise, the local authority may hold that person liable for the cost of appointing a professional consultant as contemplated in regulation 9(c)(ii) to investigate the complaint.
- (3) A complaint to a local authority on an alleged noise nuisance must be in the form of an affidavit, specifying—
 - (a) the nature of the alleged noise nuisance;
 - (b) when the noise nuisance was first noticed;
 - (c) the duration of the noise nuisance;
 - (d) if applicable, how often the noise nuisance has occurred;
 - (e) the origin of the noise nuisance; and
 - (f) if obtainable, the name and address of the occupant of the premises from which the nuisance originates.

- (4) On receipt of a complaint of a noise nuisance, an authorised person—
- (a) must investigate the complaint; and
 - (b) if, in the opinion of the authorised person, a noise is or may be a noise nuisance, he or she may issue written instructions to—
 - (i) the person causing the noise or who is responsible for the noise; or
 - (ii) the owner, tenant, occupant or person in charge of the premises concerned,
 to cease or mitigate the noise nuisance within the period specified in the instruction.

General powers of local authorities and authorised persons

- 11.** (1) A local authority may—
- (a) impose conditions when granting any permission or exemption in terms of these regulations; and
 - (b) subject to the applicable provisions of any other law, place sound-level measuring instruments or similar devices, and road traffic signs or notices related to noise, at any place within its area of jurisdiction.
- (2) An authorised person may, in respect of a complaint of a noise nuisance or a disturbing noise, enter any premises to conduct any appropriate examination, inquiry or inspection subject to subregulation (3).
- (3) An authorised person may not enter residential premises for the purposes of subregulation (2) except—
- (a) with the consent of the owner or person in charge of the premises; or
 - (b) on the authority of a warrant issued by a magistrate after the magistrate has been satisfied that reasonable grounds exist to justify the warrant.

Exemptions

- 12.** (1) A local authority may exempt any person or venue or type of venue from any provision of these regulations—
- (a) on its own initiative; or
 - (b) on application by any person.
- (2) The applicant referred to in subregulation 1(b) must—
- (a) provide full reasons for the application; and
 - (b) in a manner determined by the local authority, solicit written comment regarding the application.
- (3) The process referred to in subregulation (2) must afford an opportunity to potential interested and affected parties to submit written representations on the proposed exemption, and the applicant may comment in writing on any representations received.
- (4) A local authority must in writing, after considering an application or a proposal for the granting of an exemption, where applicable in accordance with the principles of environmental management under NEMA—
- (a) grant an exemption and set out the conditions, if any, in terms of which the exemption is granted;
 - (b) refuse to grant an exemption and upon request provide reasons for the refusal; or
 - (c) require a noise impact assessment in terms of SANS 10328 before making a decision referred to in paragraph (a) or (b).
- (5) The conditions referred to in subregulation (4)(a) may include, where applicable—
- (a) the period for which the exemption is granted, including the times and days when acts that may cause noise are exempted;
 - (b) whether a notice as set out in Annexure 1 must be placed, in a clearly visible position at each public entrance to the premises;
 - (c) whether noise levels must be monitored and, if so, the manner in which it must be done and how records must be kept for inspection; and
 - (d) any other conditions of the exemption.
- (6) The local authority may amend an exemption or condition granted or imposed by it under subregulation 4(a)—
- (a) on its own initiative; or
 - (b) on application by the holder of the exemption.
- (7) An application in terms of subregulation (6)(b) must be in writing and accompanied by a motivation for the amendment.

- (8) Upon receipt of an application referred to in subregulation (6)(b), the local authority—
- (a) must consider whether approving the application is likely to adversely affect the rights or interests of other parties; and
 - (b) may for that purpose request the applicant to furnish additional information.
- (9) An exemption referred to in subregulation (4) may not exceed one year, unless it is in respect of an authorisation contemplated in regulation 4.
- (10) If any condition of an exemption is not complied with, the local authority may—
- (a) instruct the responsible person to comply with that condition; or
 - (b) suspend or withdraw the exemption forthwith.
- (11) A written exemption must be kept on the premises for which it is granted or in the possession of the exemption holder, for inspection by a local authority or an authorised person upon request.

Offences and penalties

13. (1) A person commits an offence if he or she—
- (a) contravenes or fails to comply with regulation 2, 3, 4(2), 5, 6(1), 7(1) or 7(6);
 - (b) fails or refuses to comply with a written condition, written instruction or written notice imposed, given or issued by a local authority or an authorised person in terms of these regulations;
 - (c) tampers with, removes, puts out of action, damages or impairs the functioning of any object used or placed in position by or on behalf of a local authority or an authorised person for the purposes of these regulations, including a noise monitoring system, noise limiter, sound-level measuring instrument or acoustic device, or a road traffic sign or notice related directly or indirectly to noise;
 - (d) fails or refuses to grant admission to an authorised person to enter and to inspect premises on the authority of a warrant issued in terms of regulation 11(3)(b);
 - (e) fails or refuses to give information to an authorised person, which may lawfully be required of him or her by that authorised person;
 - (f) hinders or obstructs an authorised person in the execution of his or her duties; or
 - (g) gives false or misleading information to an authorised person knowing that it is false or misleading.
- (2) A person convicted of an offence in terms of these regulations is liable to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.
- (3) A person convicted of an offence in terms of these regulations, and who after the conviction persists in the act or omission which constituted the offence, commits a continuing offence and is liable on conviction to a fine not exceeding R50 000 or imprisonment for a period not exceeding twenty days, or to both such fine and imprisonment for every day the offence continues.

Application of regulations

14. These regulations apply to all local authorities in the Province.

Repeal of regulations

15. The regulations published under Provincial Notice 627 of 1998 (in Provincial Gazette 5309 of 20 November 1998) are repealed.

Short title

16. These regulations are called the Western Cape Noise Control Regulations, 2013.

Annexure 1

The warning notice referred to in regulation 12(5)(b) must not be smaller than 30 cm by 20 cm, and the lettering not smaller than 12 mm in height. The notice must contain the following wording:

<p>WARNING</p> <p>HIGH NOISE LEVEL INSIDE</p> <p>EXTENDED EXPOSURE MAY DAMAGE YOUR HEARING</p>

P.K. 200/2013

20 Junie 2013

DEPARTEMENT VAN OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING

WET OP OMGEWINGSBEWARING, 1989

WES-KAAPSE GERAASBEHEERREGULASIES

Die Provinsiale Minister van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning in die provinsie Wes-Kaap het die regulasies in die Bylae kragtens artikel 25 van die Wet op Omgewingsbewaring, 1989 (Wet 73 van 1989), gemaak.

BYLAE

Woordomskrywing

1. In hierdie regulasies het 'n woord of uitdrukking waaraan 'n betekenis in die Wet op Omgewingsbewaring, 1989 (Wet 73 van 1989), of die betrokke Suid-Afrikaanse Nasionale Standaard-publikasie (SANS) toegeskryf is, die betekenis aldus daaraan toegeskryf en, tensy dit uit die samehang anders blyk, beteken—

“aangewese persoon” ’n persoon wat ingevolge regulasie 9 deur ’n plaaslike owerheid aangewys of aangestel is;

“aanslagpeil” die toepaslike buitenshuise ekwivalente deurlopende aanslagpeil aangedui in Tabel 2 van SANS 10103;

“dBA” die klankdrukpeil gemeet in desibel en wat A-aangepas is om die reaksie van die menslike oor by benadering vas te stel;

“dier”, met betrekking tot ’n persoon, enige dier in die besit of onder die beheer van daardie persoon, en sluit voëls en pluimvee in;

“eiendomsprojeksievlak” ’n vertikale of horisontale vlak, watter een ook al van toepassing is, op ’n grenslyn van ’n perseel wat ’n grens van die perseel in ruimte omskryf;

“gemagtigde persoon”—

(a) ’n aangewese persoon;

(b) ’n lid van die Diens soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995);

(c) ’n munisipale polisiebeampte, verkeersbeampte, wetstoepassingsbeampte of verkeersopsigter aangestel kragtens enige wet; of

(d) ’n persoon wat tot vredesbeampte verklaar is kragtens artikel 334(1) van die Strafproseswet, 1977 (Wet 51 van 1977);

“geraasoerlas” enige geluid wat die gerief of rus van ’n redelike persoon versteur of kan versteur;

“geraassensitiewe aktiwiteit” enige aktiwiteit wat negatief geraak kan word deur geraas, met inbegrip van residensiële, gesondheidsorg-, opvoedkundige of godsdienstige aktiwiteite;

“klankpeil” die ekwivalente deurlopende aanslagpeil soos omskryf in SANS 10103, met inagneming van impuls, toon en regstellings snags;

“laefrekwensiegeraas” ’n geluid wat klankenergie bevat teen frekwensies wat grotendeels laer as 100 Hz is;

“model-lugvaartuig” ook ’n onbemande ontspanningslugvaartuig, hetsy volgrootte of na verhouding verklein;

“noodsituasie” ’n situasie wat skielik ontstaan en dreigende of werklike—

(a) gevaar vir mense; of

(b) skade aan eiendom of die omgewing, inhou en onmiddellike optrede vereis;

“omgewingsgeraas” die allesomvattende geluid in ’n gegewe situasie op ’n gegewe tyd, gemeet as die lesing op ’n geïntegreerde impulsklankpeilmeter vir ’n totale tydperk van minstens 10 minute;

“openbare gebeurtenis” enige gebeurtenis—

(a) waartoe die publiek of enige gedeelte daarvan toegang het, met inbegrip van ’n vertoning, lugvertoning, musiekkonsert, fees, sportgebeurtenis of enige dergelike gebeurtenis; en

(b) waar musiek oor ’n klankversterker gespeel of gereproduceer word;

“perseel” ’n stuk grond of enige gebou of gedeelte van ’n gebou, woonplek, tent of ander struktuur;

“persoon” ook ’n regs persoon en ’n staatsorgaan;

“plaaslike owerheid” die munisipaliteit wat jurisdiksie het;

“Provinsie” die provinsie Wes-Kaap;

“residuele geraas” die allesomvattende geluid in ’n gegewe situasie op ’n gegewe tyd, gemeet as die lesing op ’n geïntegreerde impulsklankpeilmeter vir ’n totale tydperk van minstens 10 minute, behalwe geraas wat beweert word ’n geraasoerlas of steurende geraas te veroorsaak;

“SANS 10103” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10103 getitel “The measurement and rating of environmental noise with respect to annoyance and to speech communication” (“Die meting en aanslag van omgewingsgeraas met betrekking tot steurnis en spraakkommunikasie”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan;

“SANS 10117” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10117 getitel “Calculation and prediction of aircraft noise around airports for land use purposes” (“Berekening en voorspelling van lugverkeergeraas naby lughawens vir grondgebruiksdoeleindes”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan; soos bedoel in SANS 10328;

“SANS 10210” jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10210 getitel “Calculating and predicting road traffic noise” (“Berekening en voorspelling van padverkeergeraas”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan, soos bedoel in SANS 10328;

“SANS 10328” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10328 getitel “Methods for environmental noise impact assessments” (“Metodes waarvolgens die impak van omgewingsgeraas geassesseer word”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan;

“SANS 658” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 658 getitel “Integrating-averaging sound level meters” (“Geïntegreerde-gemiddelde-klankpeilmeters”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan;

“steurende geraas” ’n geraas, behalwe die onversterkte menslike stem, wat—

- (a) die aanslagpeil met 7 dBA oorskry;
- (b) die residuele geraaspeil oorskry waar die residuele geraaspeil hoër as die aanslagpeil is;
- (c) die residuele geraaspeil met 3 dBA oorskry waar die residuele geraaspeil laer as die aanslagpeil is; of
- (d) in die geval van ’n laefrekwensiegeraas, die peil vermeld in Bylae B van SANS 10103 oorskry;

“vaartuig” enige watertuig, met inbegrip van—

- (a) ’n waterponie;
- (b) ’n skiboot; en
- (c) ’n modelvaartuig;

“voertuig” toestel wat ontwerp of aangepas is om hoofsaaklik op wiele of rusperbande te loop, hetsy selfgedrewe of nie, behalwe so ’n toestel wat uitsluitlik op ’n spoor loop, met inbegrip van—

- (a) ’n motorvoertuig;
- (b) ’n motorfiets;
- (c) ’n veldvoertuig, byvoorbeeld ’n veldmotorfiets, vierwielmotorfiets of duinebesie; en
- (d) ’n modelvoertuig;

“WNOB” die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998).

Verbod op steurende geraas

2. ’n Persoon mag nie—

- (a) ’n steurende geraas veroorsaak nie; of
- (b) toelaat dat ’n steurende geraas deur enige persoon, dier, masjien, toestel, apparaat, voertuig, vaartuig of model-lugvaartuig, of enige kombinasie daarvan, veroorsaak word nie.

Verbod op geraasoorlas

3. Vir sover ’n geraasoorlas daardeur veroorsaak word of waarskynlik daardeur veroorsaak sal word, mag ’n persoon nie—

- (a) ’n radio, televisiestel, grammofoon, opnametoestel, trom, musiekinstrument, klankversterker, luidsprekerstelsel of enige dergelike toestel wat klank voortbring, reproduseer of versterk, gebruik, speel of bespeel, of toelaat dat dit gebruik, gespeel of bespeel word nie;
- (b) enige artikel of diens as te koop bemark of adverteer nie;
- (c) ’n dier toelaat om geraas te maak nie;
- (d) vuurwerke afvuur op ’n wyse wat nie voldoen aan die vereistes van die plaaslike owerheid nie;
- (e) ’n voertuig, vaartuig, vliegtuig, model-lugvaartuig of enige ander voorwerp bou, maak, inmeekaarsit, herstel, herbou, modifiseer, gebruik of toets, of toelaat dat dit gebou, gemaak, inmeekaarsit, herstel, herbou, gemodifiseer, gebruik of getoets word in of naby ’n woongebied nie;
- (f) plofstof, vuurwapen of dergelike toestel wat enige klankimpuls vrystel, gebruik of afvuur of toelaat dat dit gebruik of afgevuur word, sonder die skriftelike verlof van die plaaslike owerheid nie;
- (g) behalwe in ’n noodsituasie, ’n geluid voortbring of laat voortbring deur middel van ’n klok, klokkespel, sirene, toeter, statiese alarm, fluitjie, luidspreker of dergelike toestel nie;
- (h) enige masjinerie, kraggereedskap, grassnyer, krag- tuingereedskap of dergelike toestel gebruik of toelaat dat dit gebruik word nie;
- (i) ’n krat, kis, houër, boumateriaal, vullishouer of enige ander artikel oplaai, aflaai, oopmaak, toemaak of op enige ander manier hanteer, of toelaat dat dit opgelaai, afgelaai, oopgemaak, toegemaak of gehanteer word nie;
- (j) ’n voertuig, vaartuig of model-lugvaartuig bestuur of gebruik of toelaat dat dit bestuur of gebruik word nie; of
- (k) enige ander geraas maak wat nie in paragrawe (a)–(j) aangedui word nie.

Grondgebruik

4. (1) Die plaaslike owerheid, of enige ander owerheid verantwoordelik daarvoor om 'n aansoek om 'n bouplan-, sakelisenensie- of beplanningsoedkeuring of omgewingsmagtiging te oorweeg, kan die aansoeker opdrag gee om die volgende uit te voer en voor te stel as 'n deel van die aansoek:
- (a) 'n Geraasimpakassessering ooreenkomstig SANS 10328 om vas te stel of die geraasimpakaanslag van die voorgestelde grondgebruik of aktiwiteit die gepaste aanslagpeil vir 'n spesifieke distrik, soos in SANS 10103 aangedui, oorskry; of
- (b) waar die geraaspeilmettings nie vasgestel kan word nie, 'n assessering, tot bevrediging van die plaaslike owerheid, van die geraaspeil van die voorgestelde grondgebruik of aktiwiteit.
- (2) (a) 'n Persoon mag geen gebou wat 'n geraassensitiewe aktiwiteit sal huisves in 'n oorwegend handels- of nywerheidsgebied bou, oprig, opgradeer, die gebruik daarvan verander of uitbreidings daaraan aanbring nie, tensy hy of sy die gebou voldoende teen eksterne geraas insuleer sodat die klankpeile binne die gebou nie die toepaslike maksimum aanslagpeile vir binnenshuise omgewingsgeraas in SANS 10103 vermeld, sal oorskry nie.
- (b) Die eenaar van 'n gebou bedoel in paragraaf (a) moet voornemende huurders of kopers skriftelik inlig oor die mate waarin die insulasiemaatreëls bedoel in daardie paragraaf die geraas-impak gedurende die normale gebruik van die gebou sal demp.
- (c) Paragraaf (a) is nie van toepassing wanneer die gebruik van die gebou nie verander word nie.
- (3) Waar die resultate van 'n assessering wat ingevolge subregulasie (1) onderneem is, aandui dat die toepaslike geraasaanslagpeile bedoel in daardie subregulasie, waarskynlik oorskry sal word, of nie oorskry sal word nie maar waarskynlik die bestaande residuele geraaspeile met 5 dBA of meer sal oorskry—
- (a) moet die aansoeker 'n geraasbestuursplan verskaf, wat duidelik gepaste dempmaatreëls aandui, tot bevrediging van die plaaslike owerheid, waar daar oor die aansoek besluit word; en
- (b) kan die implementering van daardie dempmaatreëls opgelê word as 'n voorwaarde vir die goedkeuring van die aansoek.
- (4) Waar 'n aansoeker nie die geraasbestuursplan soos in subregulasie (3) beoog geïmplementeer het nie, kan die plaaslike owerheid die aansoeker skriftelik opdrag gee om—
- (a) enige aktiwiteit te staak wat nie aan daardie plan voldoen nie; of
- (b) die geraaspeile te verminder tot 'n aanvaarbare peil tot bevrediging van die plaaslike owerheid.

Geraas van masjinerie in woongebiede

5. 'n Persoon mag nie 'n swembadpomp, besproeiingspomp, verkoelingsseenheid, of enige verwarmings-, ventilasie- of lugversor-gingstoerusting, of enige dergelike toestel, in 'n woongebied gebruik indien die geraas op die eiendomsprojeksievlak 50 dBA oorskry of die residuele geraaspeil met meer as 5 dBA oorskry nie, behalwe indien dit deur die plaaslike owerheid gemagtig is, of tydens 'n noodsituasie.

Plekke van laatnag-vermaaklikheid

6. (1) 'n Persoon mag nie die onderneming van 'n nagklub bedryf, of enige dergelike laatnag-vermaaklikheid wat versterkte klank behels, in of vanaf enige perseel nie, tensy die perseel voldoende klankdig gemaak is sodat 'n steurende geraas nie buite die eiendomsprojeksievlak van die perseel veroorsaak word nie.
- (2) Die plaaslike owerheid kan vereis dat 'n persoon in subregulasie (1) bedoel bewys lewer van die klankdigting, of kan toegang tot die perseel vereis om die doeltreffendheid van die klankdigting te assesser.
- (3) 'n Persoon wat 'n onderneming bedoel in subregulasie (1) op die datum van die publikasie van hierdie regulasies bedryf, is vrygestel van die toepassing van daardie subartikel vir 'n tydperk van ses maande na daardie datum.

Gebeurtenisse

7. (1) 'n Persoon mag nie 'n openbare gebeurtenis aanbied sonder skriftelike vrystelling wat ingevolge regulasie 12 deur die plaaslike owerheid uitgereik is nie.
- (2) Behoudens subregulasie (4) en die toepaslike bepalinge van enige ander wet, kan die plaaslike owerheid beslag lê op enige instrument of toerusting wat gebruik word om by 'n openbare gebeurtenis musiek te maak of klank te versterk indien—
- (a) 'n vrystelling ingevolge regulasie 12 nie vir daardie gebeurtenis uitgereik is nie; of
- (b) die voorwaardes van sodanige vrystelling nie nagekom is nie.
- (3) 'n Instrument of toerusting waarop ingevolge subregulasie (2) beslag gelê is, moet in veilige bewaring gehou word deur die plaaslike owerheid wat daarop beslag gelê het.
- (4) 'n Plaaslike owerheid moet 'n instrument of toerusting waarop ingevolge subregulasie (2) beslag gelê is, terugbesorg na die verhaling van redelike uitgawes wat deur hom aangegaan is vir die doeleindes van subregulasies (2) en (3).
- (5) Indien 'n plaaslike owerheid rede het om te vermoed dat 'n voorgestelde gebeurtenis, uitgesonderd 'n openbare gebeurtenis, 'n steurende geraas of geraasoorlas sou kan veroorsaak, kan hy die persoon wat beoog om die geleentheid aan te bied, skriftelik opdrag gee om aansoek te doen om 'n vrystelling ingevolge regulasie 12(1)(b).

- (6) 'n Persoon mag nie 'n gebeurtenis aanbied ten opsigte waarvan 'n plaaslike owerheid 'n opdrag in subregulasie (5) beoog, uitgereik het, sonder 'n skriftelike vrystelling wat ingevolge regulasie 12 deur die plaaslike owerheid uitgereik is nie.

Metings- en berekeningsprosedures

8. (1) 'n Persoon wat klankmetingstoerusting gebruik vir die doeleindes van hierdie regulasies moet toesien dat—
- die toerusting voldoen aan die vereistes vir tipe 1-instrumente soos deur SANS 658 aangedui; en
 - die metings- en berekeningsprosedures voldoen aan SANS 10103, SANS 10328, SANS 10117, en SANS 10210, na gelang van die geval.
- (2) Die persoon wat 'n meting neem kan na goeë dunks die metings- of berekeningspunt bepaal as—
- 'n punt waar die klaer die ergste deur die geraas geraak word; of
 - 'n punt op die eiendomsprojeksievlak wat verteenwoordigend van die betrokke geraas is.

Aanwysing van werknemers deur plaaslike owerhede om geraasbeheerfunksies te verrig

9. 'n Plaaslike owerheid moet binne 'n jaar van die publikasie van hierdie regulasies—
- 'n werknemer van die plaaslike owerheid aanwys wat oor die nodige bekwaamheid beskik, om verantwoordelik te wees vir die uitvoering van hierdie regulasies binne die regsgebied van die plaaslike owerheid;
 - 'n werknemer van die plaaslike owerheid aanwys wat oor gepaste kennis en vaardighede beskik om geraasbeheer of akoestieke meting uit te voer en wat by 'n wetenskaplike, ingenieurs- of gesondheidsverwante professionele liggaam geregistreer is, om verantwoordelik te wees vir—
 - die ontleding, evaluering en goedkeuring van, en raadgewing oor, geraasimpak-assesserings en geraasbestuursplanne;
 - die goedkeuring van klankdempingsmaatreëls;
 - die uitvoering van geraasimpakmetings en die berekening van klankpeile; en
 - die noukeurige ondersoek van klankmodellering en klanktegnieke; en
 - indien hy nie 'n werknemer soos beoog in paragraaf (b) kan aanwys nie—
 - deur 'n ooreenkoms met 'n ander plaaslike owerheid 'n beampte van die ander plaaslike owerheid aanstel om die pligte van so 'n werknemer uit te voer; of
 - 'n professionele konsultant aanstel wat in geraasbeheer gekwalifiseer is en bekwaam is om, wanneer nodig, die pligte van so 'n werknemer uit te voer.

Prosedure vir beheer van geraas

10. (1) Wanneer 'n persoon 'n klagte by 'n plaaslike owerheid indien oor wat vermoedelik 'n steurende geraas is, moet 'n aangewese persoon—
- die klagte ondersoek en deur berekening of meting ooreenkomstig SANS 10328 vasstel of dit 'n steurende geraas is;
 - aanslagpeil toepas, behalwe waar die residuele geraaspeil met meer as 10 dBA van die aanslagpeil verskil; en
 - indien 'n geraas 'n steurende geraas is, 'n skriftelike opdrag uitreik aan—
 - die persoon wat die geraas veroorsaak of daarvoor verantwoordelik is; of
 - die eienaar, huurder, bewoner of persoon in beheer van die betrokke perseel,
 om die geraas te staak of dit te demp tot 'n peil wat aan die vereistes van hierdie regulasies voldoen binne die tydperk in die opdrag vermeld.
- (2) Indien bevind word dat 'n persoon 'n steurende geraas veroorsaak of daarvoor verantwoordelik is, kan die plaaslike owerheid daardie persoon aanspreeklik hou vir die onkoste om 'n professionele konsultant aan te stel soos in regulasie 9(c)(ii) bedoel om die klag te ondersoek.
- (3) 'n Klagte by 'n plaaslike owerheid oor 'n beweerde geraasoorlas moet in die vorm van 'n beëdigde verklaring wees, wat die volgende vermeld:
- Die aard van die beweerde geraasoorlas;
 - wanneer die geraasoorlas die eerste opgemerk is;
 - die duur van die geraasoorlas;
 - indien van toepassing, hoe dikwels die geraasoorlas voorgekom het;
 - die oorsprong van die geraasoorlas; en
 - indien verkrygbaar, die naam en adres van die bewoner van die perseel waarvandaan die geraasoorlas ontstaan.

- (4) By ontvangs van 'n klagte oor 'n geraasoorlas moet 'n gemagtigde persoon—
- (a) die klagte ondersoek; en
 - (b) indien, na die mening van die gemagtigde persoon, 'n geraas 'n geraasoorlas is of kan wees, kan hy of sy 'n skriftelike opdrag uitreik aan—
 - (i) die persoon wat die geraas veroorsaak of daarvoor verantwoordelik is; of
 - (ii) aan die eienaar, huurder, bewoner of persoon in beheer van die betrokke perseel, om die geraas te staak of te demp binne die tydperk in die opdrag vermeld.

Algemene bevoegdhede van plaaslike owerhede en gemagtigde persone

11. (1) 'n Plaaslike owerheid kan—
- (a) voorwaardes opelê wanneer enige toestemming of vrystelling ingevolge hierdie regulasies gegee word; en
 - (b) behoudens die toepaslike bepalinge van enige ander wet, klankpeil-meetinstrumente of soortgelyke toestelle, en padverkeerstekens of kennisgewings wat met geraas verband hou, op enige plek in sy regsgebied oprig.
- (2) 'n Gemagtigde persoon kan, ten opsigte van 'n klagte oor 'n geraasoorlas of 'n steurende geraas, enige perseel binnegaan om enige gepaste ondersoek, navraag of inspeksie uit te voer, behoudens subregulasie (3).
- (3) 'n Gemagtigde persoon mag nie 'n woonperseel binnegaan vir die doel van subregulasie (2) nie, behalwe—
- (a) met die toestemming van die eienaar of persoon in beheer van die perseel; of
 - (b) op gesag van 'n lasbrief deur 'n landdros uitgereik nadat die magistraat oortuig is dat daar redelike gronde bestaan wat die lasbrief regverdig.

Vrystellings

12. (1) 'n Plaaslike owerheid kan enige persoon of plek of soort plek van enige bepaling van hierdie regulasies vrystel—
- (a) uit eie beweging; of
 - (b) op aanvraag van enige persoon.
- (2) Die aansoeker bedoel in subregulasie 1(b) moet—
- (a) volledige redes vir die aansoek verstrek; en
 - (b) op 'n wyse bepaal deur die plaaslike owerheid, skriftelike kommentaar aangaande die aansoek aanvaar.
- (3) Die proses in subregulasie (2) bedoel, moet 'n geleentheid bied aan moontlik belanghebbende en geraakte partye om skriftelike versoë om die voorgestelde vrystelling te rig, en die aansoeker kan skriftelik kommentaar lewer op enige versoë wat ontvang is.
- (4) 'n Plaaslike owerheid moet, nadat 'n aansoek of voorstel vir die toekenning van 'n vrystelling oorweeg is, waar van toepassing ooreenkomstig die beginsels van Omgewingsbestuur kragtens WNOB, skriftelik—
- (a) vrystelling verleen en die voorwaardes uiteensit, indien daar is, ingevolge waarvan die vrystelling verleen word;
 - (b) weier om vrystelling te verleen en die redes vir die weiering verskaf; of
 - (c) 'n geraasimpak-assessering ingevolge SANS 10328 vereis voordat 'n besluit in paragraaf (a) of (b) bedoel, geneem word.
- (5) Die voorwaardes bedoel in subregulasie 4(a) kan, waar van toepassing, die volgende insluit:
- (a) Die tydperk waarvoor die vrystelling verleen word, met inbegrip van die tye en dae wanneer handeling wat geraas kan veroorsaak, vrygestel word;
 - (b) of 'n kennisgewing soos uiteengesit in Aanhangsel 1 aangebring moet word, op 'n duidelik sigbare plek by elke openbare toegang tot die perseel;
 - (c) of geraaspeile gemonitor moet word en, indien wel, die manier waarop dit gedoen moet word en hoe rekords vir inspeksie gehou moet word; en
 - (d) enige ander voorwaardes van die vrystelling.
- (6) Die plaaslike owerheid kan 'n vrystelling of voorwaarde wat hy kragtens subregulasie 4(a) verleen of opgelê het, wysig—
- (a) uit eie beweging; of
 - (b) op aanvraag van die houër van die vrystelling.
- (7) 'n Aansoek ingevolge subregulasie (6)(b) moet op skrif wees en van 'n motivering vir die wysiging vergesel wees.

- (8) By ontvangs van 'n aansoek in subregulasie (6)(b) bedoel—
- (a) moet die plaaslike owerheid oorweeg of die goedkeuring van die aansoek die regte of belange van ander partye waarskynlik negatief sal raak; en
- (b) kan die plaaslike owerheid vir daardie doel bykomende inligting van die aansoeker aanvra.
- (9) 'n Vrystelling in subregulasie (4) bedoel, mag nie een jaar oorskry nie, tensy dit ten opsigte van 'n magtiging beoog in regulasie 4 is.
- (10) Indien daar aan enige voorwaarde van 'n vrystelling nie voldoen word nie, kan die plaaslike owerheid—
- (a) die verantwoordelike persoon opdrag gee om aan daardie voorwaarde te voldoen; of
- (b) die vrystelling summier opskort of terugtrek.
- (11) 'n Geskrewe vrystelling moet op die perseel waarvoor dit toegeken is gehou word, of in die besit van die houer van die vrystelling wees, vir inspeksie deur 'n plaaslike owerheid of 'n gemagtigde persoon op versoek.

Misdrywe en strawwe

13. (1) 'n Persoon pleeg 'n misdryf indien hy of sy—
- (a) regulasie 2, 3, 4(2), 5, 6(1), 7(1) of 7(6) oortree of versuim om daaraan te voldoen;
- (b) versuim of weier om te voldoen aan 'n skriftelike voorwaarde, skriftelike opdrag of skriftelike kennisgewing ingevolge hierdie regulasies opgelê, gegee of uitgereik deur 'n plaaslike owerheid of 'n gemagtigde persoon;
- (c) peuter met enige voorwerp wat gebruik word of aangebring is deur of namens 'n plaaslike owerheid of 'n gemagtigde persoon vir die doeleindes van hierdie regulasies, met inbegrip van 'n geraasmoniteringstelsel, geraasdemper, klankpeil-meetinstrument of akoestiese toestel, of 'n padverkeerstekens of kennisgewing wat direk of indirek met geraas verband hou, of indien hy of sy sodanige voorwerp buite werking stel of beskadig, of die werking daarvan belemmer;
- (d) versuim of weier om toegang te verleen aan 'n gemagtigde persoon om 'n perseel te betree en te inspekteer op gesag van 'n lasbrief ingevolge regulasie 11(3)(b) uitgereik;
- (e) versuim of weier om inligting wat regtens van hom of haar vereis kan word deur 'n gemagtigde persoon, aan daardie gemagtigde persoon te verstrek;
- (f) 'n gemagtigde persoon by die uitvoering van sy of haar pligte verhinder of dwarsboom; of
- (g) foutiewe of misleidende inligting aan 'n gemagtigde persoon verstrek met die wete dat dit foutief of misleidend is.
- (2) 'n Persoon wat aan 'n misdryf ingevolge hierdie regulasies skuldig bevind word, is strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar, of met beide die boete en die gevangenisstraf.
- (3) 'n Persoon wat aan 'n misdryf ingevolge hierdie regulasies skuldig bevind word, en wat ná die skuldigbevinding voortgaan met die daad of versuim, pleeg 'n voortdurende misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens R50 000 of gevangenisstraf van hoogstens twintig dae, of met beide die boete en gevangenisstraf vir elke dag wat die misdryf voortgesit word.

Toepassing van regulasies

14. Hierdie regulasies is op alle plaaslike owerhede in die Provinsie van toepassing.

Herroeping van regulasies

15. Die regulasies gepubliseer by Provinsiale Kennisgewing 627 van 1998 (in Provinsiale Koerant 5309 van 20 November 1998) word herroep.

Kort titel

16. Hierdie regulasies staan bekend as die Wes-Kaapse Geraasbeheerregulasies, 2013.

Aanhangsel 1

Die waarskuwingskennisgewing in regulasie 12(5)(b) bedoel, moet nie kleiner as 30 cm by 20 cm wees nie, en die letters nie kleiner as 12 mm in hoogte nie. Die kennisgewing moet die volgende bewoording bevat:

WAARSKUWING

HOË GERAASVLAK HIERBINNE

LANGDURIGE BLOOTSTELLING KAN U GEHOOR BESKADIG

ISEBE LEMICIMBI YOKUSINGQONGILEYO NOCWANGCISO LOPHUHLISO

“ENVIRONMENT CONSERVATION ACT, 1989”

IMGAQO EPATHELELE KULAWULO LWENGXOLO

UMphathiswa wePhondo woRhulumente beMimandla, iMicimbi yezokusiNgqongileyo noCwangciso loPhuhliso kwiphondo leNtshona Koloni wenze imigaqo elapha kwiShedyuli elandela imiqathango yecandelo 25 loMthetho woLondolozo lokusiNgqongileyo, 1989 (UMthetho 73 ka-1989).

ISHEDYULI

Iinkcazelo

1. Kule migaqo, naliphi na igama okanye intetho enikwe intsingiselo kulo Mthetho woLondolozo lokusiNgqongileyo, 1989 (UMthetho 73 ka-1989), okanye upapasho lweMigangatho yoMzantsi Afrika echaphazelekayo (SANS), liya kuba nentsingiselo eliyinikiweyo apha, ngaphandle kokuba imeko elisetyenziswe kuyo inenye intsingiselo—

“i-dBA” ithetha izinga loxinzelelo lwesandi elimetwa ngokweedesibheli elikumgangatho ka-A elihambelana nendlela indlebe yomntu eva ngayo;

“imeko kaxakaka” ithetha imeko ethi gqi qhaphu ngokukhawuleza ebandakanya ingozi eza kubakho okanye ekhoyo kubantu okanye umonakalo kwipropati okanye kwindalo ethi ifunise ukuba kukhawulezwe kuthathwe amanyathelo;

“iNEMA” ibhekisa kuMthetho woLawulo lweNdalo, (*iNational Environment Management Act*), ka-1998 (uMthetho we-107 ka-1998);

“ingxolo ekuloo ndawo” ibhekisa kuso sonke isandi esivakalayo kwindawo nemeko ethile nangexesha elithile, ethi ichazwe ngokweemitha zezinga lengxolo ezibalwa ngezinqi sayo kangangexesha eliyimizuzu eli-10;

“ingxolo ephazamisayo” ithetha ingxolo, ngaphandle kwelizwi lomntu elingongezwanga ngesixhobo sesandi, ethi—

(a) ibe ngaphezulu kwezinga eliyi-7dBA;

(b) ibe ngaphezulu kwezinga lengxolo eshiyekeleyo elithi libe ngaphezulu kwezinga lokubala elisetyenziswayo;

(c) ibe ngaphezulu kwezinga lengxolo eshiyekeleyo kangange-3dBA apho ingxolo eshiyekeleyo ingaphantsi kwezinga lokubala elisetyenziswayo; okanye

(d) kwimeko yengxolo esezantsi, eba ngaphezulu kwezinga elichazwe kwiSihlomo B se-SANS 10103;

“ingxolo ekwizinga eliphantsi” ithetha isandi esinamandla esandi akwizinga elingaphantsi kwe-100Hz;

“ingxolo eyinkathazo” ibhekisa kuso nasiphi na isandi esiphazamisa okanye esinokuphazamisa ukuphola okanye uxolo lwaye nawuphi na umntu;

“inqwelomoya eyimodeli” ibandakanya nayiphi na inqwelomoya yokuzonwabisa engagadwanga, nokuba yenkulu okanye encinane;

“iPhondo” libhekisa kwiPhondo leNtshona Koloni;

“ingxolo eshiyekeleyo” ibhekisa kuso sonke isandi esivakalayo kwindawo nemeko ethile nangexesha elithile, ethi ichazwe ngokweemitha zezinga lengxolo ezibalwa ngezinqi sayo kangangexesha ubuncinane eliyimizuzu eli-10, ngaphandle kwengxolo ethathwa njengengxolo ecaphukisayo okanye ephazamisayo;

“isakhiwo” sibhekisa kumhlatyanyana okanye isakhiwo okanye inxalenye yesakhiwo, yendawo, yendlu, yentente okanye esinye isakhelo;

“i-SANS 10103” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10103, olusihloko salo sithi: “Ukumetwa nokumisela kwamaqondo engxolo esingqongileyo okuphathelile ekusetyenzisweni komhlaba, kwimpilo, kwizinto ezithukuthezelayo nakuqhagamshelwano ngentetho”, njengoko lumana lulungiswa ngamaxeshathile okanye kolunye ushicilelo oluthatha indawo yalo;

“i-SANS 10117” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10117, olusihloko salo sithi: “Ukubalwa nokuqikelelwa kwengxolo yeenqwelo-moya kwizikhululo zeenqwelo-moya kulungiselelwa ukusetyenziswa komhlaba” njengoko lumana lulungiswa ngamaxeshathile okanye kolunye ushicilelo oluthatha indawo yalo; njengoko kuchaziwe kwi-SANS 10328;

“i-SANS 10210” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10210, olunesihloko esithi: “Ukubalwa nokuqikelelwa kwengxolo yezithuthi zendlela”, njengoko lumana lulungiswa ngamaxeshathile okanye kolunye ushicilelo oluthatha indawo yalo; njengoko kuchaziwe kwi-SANS 10328;

“i-SANS 10328” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10328, olunesihloko esithi: “Iindlela zokuhlolwa kwendlela echaphazeleka ngayo indalo yingxolo”, njengoko lumana lulungiswa ngamaxeshathile okanye kolunye ushicilelo oluthatha indawo yalo;

“i-SANS 658” ithetha uhlelo lokugqibela lopapasho lwe-*Standards South Africa*, olunguNomb. 658 olunesihloko esithi, “*Integrating-averaging sound level meters*”;

“isiganeko sikawonkewonke” sithetha nasiphi na isiganeko—

(a) uluntu olunokusizimasa, esibandakanya umbhuyo, umboniso wasemoyeni, ikonsathi yomculo, ifestivali, isiganeko sezemidlalo okanye nasiphi na isiganeko esibunjalo; kananjalo

(b) apho kudlalwa umculo ongxolayo okanye odlalelwa phezulu.

“isilwanyana”, xa sihlanganiswa nomntu, sithetha nasiphi na isilwanyana esisesaloo mntu yaye sibandakanya iintaka neenkukhu;

“isithuthi” sithetha nayiphi na into ehamba ngamavili okanye erhubuluzwa emzileni, nokuba izihambela ngamandla ayo okanye ayizihambeli, ngaphandle kwezo zihamba kwimizila yoololiwe; kubandakanywa—

- (a) imoto;
- (b) isithuthuthu;
- (c) isithuthi esingahambi ndleleni, isithuthuthu esiyikhwadi okanye esihamba esantini; kunye
- (d) nesithuthi esiyimodeli;

“**isityaba somda wepropati**” sithetha isityaba esimiyo okanye esileleyo, nokuba sesiphi na ekubhekiswa kuso, kumda wesakhiwo esibonisa apho uphela khona umda wesakhiwo kuloo ndawo sikuyo;

“**inqanawe**” nayiphi na into ehamba emanzini, ebandakanya—

- (a) i-jet ski;
- (b) isikibhowuthi; kunye
- (c) nenqanawe eyimodeli;

“**izinga lesandi**” lithetha izinga eliqhubekayo lokumeta isandi njengoko lichaziwe kwiSANS 10103, kuthathelwa ingqalelo isingqi, ithowuni nolungelelwaniso lwexesha lasebusuku;

“**izinga lokubala**” libhekisa kwizinga lokubala elisetyenziswa ngaphandle kuloo meko yeloo xesha kulawo achazwe kwiTheyibhile 2 yeSANS 10103;

“**ugunyaziwe wommandla**” ubhekisa kumasipala onegunya kwingingqi;

“**umntu**” uthetha umntu onamalungelo omthetho kunye nequmrhu likarhulumente;

“**umntu ogunyazisiweyo**” uthetha—

- (a) umntu okhethiweyo;
- (b) ilungu leeNkonzo yesipolisa elichazwe kwicandelo 1 lomthetho *iSouth African Police Service Act, 1995* (UMthetho 68 ka-1995);
- (c) ipolisa likamasipala, igosa lezendlela, ipolisa logcino-cwango okanye iwadeni yezendlela eqeshwe phantsi kwawo nawuphi na umthetho; okanye
- (d) umntu omiselwe njengegosa logcino-xolo ngokwemiqathango yecandelo 334(1) lomthetho *iCriminal Procedure Act, 1977* (UMthetho 51 ka-1977);

“**umntu okhethiweyo**” uthetha umntu otyunjwe ngugunyaziwe wommandla elandela imiqathango yomgaqo 9;

“**umsebenzi ongadibaniyo nengxolo**” ubhekisa kumsebenzi onokuchaphazeleka kakubi yingxolo; loo misebenzi ibandakanya imisebenzi esezindlini, kumacandelo ezempilo, kwawezemfundo, okanye iinkonzo.

UThintelo lweNgxolo ePhazamisayo

2. Akukho mntu uya kwenza—

- (a) ingxolo ephazamisayo; okanye
- (b) avumele ukuba mayenziwe nguye nawuphi na umntu, sisilwanyana, ngumatshini, sisithuthi, sisithuthi sokuzonwabisa, sisixhobo okanye zizo naziphi na izinto ezidityanisiweyo kwezi zichaziweyo.

UThintelo lweNgxolo eyiNkathazo

3. Apho oku kuza kudala ingxolo eyinkathazo, akukho mntu uya kuthi—

- (a) asebenzise okanye adlale, okanye avumele ukuba kusetyenziswe okanye kudlalwe ireyidiyo, umabonakude, igubu, isixhobo somculo, isixhobo sokwandisa isandi, isistimu yesandisi-zwi okanye esinye isixhobo esifanayo esikhupha, isandisi-zwi okanye esinye isixhobo esifanayo esikhupha isandi;
- (b) amakethe okanye athengise nayiphi into ethengiswayo;
- (c) avumele isilwanyana ukuba senze ingxolo;
- (d) adlale ngezitaka-ntlantsi ngendlela engahambelaniyo nemiqathango kamasipala wengingqi yakhe;
- (e) okhe, enze, adibanise, alungise, okhe ngokutsha, asebenzise okanye avavanye isithuthi, isikhophe okanye into ethile, okanye avumele ukuba kwakhiwe, kwenziwe, kudityanise, kulungiswe, kwakhiwe ngokutsha, kusetyenziswe okanye kuvavanywe ezi zinto, kwindawo enezindlu ekuhlalwayo kuzo okanye kufutshane nazo;
- (f) asebenzise okanye adubule nayiphi na into edubulayo, umpu okanye isixhobo esifana nawo esikhupha isandi esidubulayo, okanye avumele ukuba sisetyenziswe okanye sidutyuliswe, ngaphandle kokuba ufumene invume ebhalwe phantsi kumasipala onegunya lokulawula kuloo mmandla;
- (g) ngaphandle kwaxa kukho imeko engxamisekileyo, avakalise isandi, okanye abangele ukuba kwenziwe isandi ngentsimbi, ngentsimbi ebethwa ngomatshini, ngesayireni, ngehutara, ngesilumkisi esinesandi, ngempempe, ngesandisi-zwi, okanye ezinye isixhobo esifanayo nezi;
- (h) asebenzise nasiphi na isixhobo soges, umatshini wokucheba ingca, isixhobo sasegadini esisebenzisa umbane, okanye esinye isixhobo esifanayo okanye nasiphi na kwezi zixhobo;

- (i) afake izinto, akhuphe izinto, avule okanye avale okanye nangayiphi na enye indlela apha the ihkreyithi, ibhokisi, into yokufaka izinto, izinto zokwakha, umgqomo wokufaka inkunkuma okanye enye into, okanye avumele ukuba le nto kufakwe kuyo izinto, kukhutshwe kuyo izinto, ivulwe okanye ivalwe okanye iphathwe;
- (j) aqhube isithuthi endleleni kawonke-wonke, inqanawe okanye inqwelomoya eyimodeli okanye avunyelwe ukuba sisetyenziswe; okanye
- (k) enze nayiphi na enye ingxolo engachazwanga kwimihlathi (a)-(j).

UkuSetyenziswa koMhlaba

4. (1) Ugunyaziwe wommandla, okanye nawuphi na ugunyaziwe, onoxanduva lokuqwalasela izicelo zeeplani zezakhiwo, ulwamkelo lweelayisenisi zamashishini, ulwamkelo lweeplani okanye ugunyaziso kwimiba yokusingqongileyo angayalela umfaki-sicelo ukuba enze ze angenise, njengenxalenye yesicelo sakhe—
 - (a) Uvavanyo lwefuthe lengxolo ngokwemiqathango yeSANS 10328 ukuze afumanise ukuba ngaba ifuthe lengxolo kusetyenziso lwaloo mhlaba okanye kwinto eyenziwayo kuloo ndawo ingaba lingaphezulu na kwizinga ekungafanelanga kudlulwa kulo kweso sithili eliyiSANS 10103; okanye
 - (b) Apho lingaziwayo izinga lengxolo, kufuneka kungeniswe iziphumo zovavanyo eziya kuthi zanelise umasipala waloo ngingqi zezinga lengxolo eza kuba khona kusetyenziso lwaloo mhlaba okanye kwinto eza kwenziwa apho.
- (2) (a) Okhe okanye amise nasiphi na isakhiwo okanye enze iinguqu kwisakhiwo esikhoyo esikwindawo yokuhlala, apho kuza kwenziwa ushishino okanye kwindawo enemizi-mveliso ngaphandle kokuba kuyangqinwa ukuba emva kokuba esi sskhiwo sakiwe, samiswa okanye saguqulwa, siza kwenziwa ngendlela efanelekileyo eza kusikhusela ngokwaneleyo ukuba ingxolo yangaphandle ingavakali kuso, ukuze amaqondo engxolo angaphakathi angabikho ngaphezulu kwalawo afanelekileyo nangawona aphezulu engxolo efanelekileyo yangaphakathi, achazwe kwi-SANS 10103.
 - (b) Umnini-sakhiwo ekubhekiswe kuye kumhlathi (a) kufuneka abachazele abantu abaza kusebenzisa eso sakhiwo okanye abaza kusithenga ngokuthi ababhalele, ngamanyathelo okunqanda ingxolo aza kuwathatha ngesha lesiqhelo lokusetyenziswa kweso sakhiwo.
 - (c) Umhlathi (a) awusebenzi apho ukusetyenziswa kwesakhiwo kungatshintshwanga.
- (3) Apho iziphumo zovavanyo oluthathiweyo ngokomqathangwana (1) zibonisa ukuba amazinga engxolo ekubhekiswe kuwo kulo mqathangwana kuza kudlulwa ngapha kwawo okanye akuzi kudlulwa kuwo kodwa kuza kudlulwa kwizinga elingu-5dBA okanye ngaphezulu—
 - (a) umfaki-sicelo makangenise isicwangciso sokulawula ingxolo apho achaza ngokuphandle amanyathelo okunqanda ingxolo aya kuthi anelise umasipala waloo ngingqi phambi kokuba kuthathwe isigqibo; kananjalo
 - (b) ukumiselwa kwaloo manyathelo okunqanda ingxolo angasetyenziswa njengomqathango wokwamkelwa kweso sicelo.
- (4) Apho umfaki-sicelo engamiselanga isicwangciso sokulawula ingxolo njengoko kuchaziwe kumqathangwana (3), umasipala waloo ngingqi angayalela umfaki-sicelo ukuba—
 - (a) ayeke kwamsebenzi ongathobeli eso sicwangciso; okanye
 - (b) athobe izinga lengxolo ukuba libe kwiqondo elamkelekileyo elanelisa umasipala waloo ngingqi.

Ingxolo esuka koomatshini abakwiilokishi ezihlala uluntu

5. Umntu akanakusebenzisa impompo yepuli, impompo yokunkcnceshela, ifriji, okanye nasiphi na isishushubezi, isixhobo sokungenisa nokukhupha umoya okanye nantoni eburnjalo kwindawo enezindlu zabantu ukuba ngaba ingxolo ekuloo propati ingaphezulu kwe-50dBA okanye ingaphezulu kwezinga lengxolo eshiyakelelayo engu-5dBA, ngaphandle kokuba ufumene imvume kumasipala, okanye oko kwenzeka kwimeko kaxakeka.

Iindawo zokonwaba ebusuku

6. (1) Akukho mntu unokwenza umsebenzi weklabhu yasebusuku, okanye nawuphi na umsitho wasebusuku onengxolo egqumzayo ephezulu kuso nasiphi na isakhiwo ngaphandle kokuba akuphumeli ngxolo kweso sakhiwo ukwenzela ukuba kungabikho ngxolo ikhathazayo iya kuphumela ngaphandle kwemida yeso sakhiwo.
 - (2) Umasipala angafuna ukuba umntu ekubhekiswe kuye kumqathangwana (1) ukuba eze nobungqina bokuba ingxolo ayiphumeli kwisakhiwo eso, okanye angacela ukuba avunyelwe ukuba angene kweso sakhiwo aze kuziqinisekisele ukuba ingxolo ayiphumeli.
 - (3) Umntu owenza ushishino okanye umsebenzi ekuthethwa ngawo kumqathangwana (1) ngomhla wokupapashwa kwale miqathango, uyaxoleleka kuwo ukuba angangawuthobeli isithuba seenyanga ezintandathu emva kwaloo mhla.

Imisitho okanye iziganeko

7. (1) Akukho mntu unokwenza umsitho wasesidlangalaleni engafumenanga mvume ebhaliweyo esuka kumasipala waloo ngingqi ngokwemiqathango yomgaqo 12.
 - (2) Kulandelwa umgaqwana (4) nayo yonke imiqathango echaphazelekayo yawo nawuphi na omnye umthetho, umasipala wengingqi angathatha nasiphi na izixhobo ebekusenziwa ngazo umculo okanye ebezinyusa ingxolo kumsitho kawonke-wonke ukuba—
 - (a) abasindleki baloo msitho khangе bafumane nto ibavumela ukuba bangangawuthobeli umgaqwana (1) kuloo msitho; okanye
 - (b) imiqathango ebibekiwe xa benikwa isaphulelo kulo mgaqwana ayithotyelwanga.

- (3) Isixhobo esiye sathathwa phantsi komgaqwana (2) kufuneka sigcinwe sikhuselekile nguloo masipala usithathileyo.
- (4) Umasipala wengingqi kufuneka abuyise isixhobo ebesibambile ngokomgaqwana (2) emva kokuba efumene iindleko azichithileyo elandela imigaqwana (2) no-(3).
- (5) Ukuba umasipala wengingqi unesizathu sokukholelwa ukuba umsitho ocetywayo, ngaphandle kokawonke-wonke, unokwenza ingxolo ephazamisayo okanye ecaphukisayo, angayalela umntu loo ufuna ukusindleka umsitho lowo ukuba abhale acele ukuba noko ophulelwe kwimiqathango yomgaqo 12(1)(b).
- (6) Akukho mntu uya kwenza umsitho apho umasipala anike umyalelo ochazwe kumgaqwana (5) ngaphandle kwemvume ebhaliweyo emvumelayo ukuba angathobeli imigaqo ethobeli, mvume leyo evela kumasipala ngokomgaqo 12.

Iinkqubo zokumeta nezokubala

8. (1) Umntu osebenzisa isixhobo esinesandi, ngokwale migaqo kufuneka aqinisekise ukuba—
 - (a) Isixhobo eso sithobela imiqathango yezixhobo ezikuluhlu 1 njengoko kuchaziwe kwi-SANS 658; kananjalo
 - (b) Iinkqubo zokumeta nokubala kufuneka zithobele iSANS 10103, SANS 10328, SANS 10117 neSANS 10210, kuxhomekeka ekubeni yeyiphi na echaphazelekayo.
- (2) Izinga lokumeta nokubala liya kugqitywa nguloo mntu umetayo—
 - (a) njengezinga elichaphazela kakhulu loo mntu ufake isikhalazo sengxolo; okanye
 - (b) njengezinga kwisityaba sepropati ekuthethwa ngayo elimele umba lowo wengxolo ekukhalazwa ngawo.

Ukubekwa kwabasebenzi abajongene nengxolo bebekwa ngoomasipala bengingqi

9. Umasipala wengingqi kufuneka athi ungaphelanga unyaka emva kopapasho lwale migaqo—
 - (a) abeke umsebenzi kamasipala okwaziyo ukwenza lo msebenzi ukuba athathe uxanduva lokuphunyezwa kwale migaqo kummandla waloo masipala;
 - (b) abeke umsebenzi kamasipala onolwazi nezakhono zokulawula ingxolo nokumeta izinga lengxolo, obhalisiweyo kwibhunga lezobunzululwazi, ubunjini ne nezempilo, ekufuneka ejongene—
 - (i) nophononongo, uhlobo, ukwamkela nokucebisa ngovavanyo lwefuthe lengxolo nezicwangciso zokulawula ingxolo;
 - (ii) ukwamkela amanyathelo okunqanda ingxolo;
 - (iii) amete ifuthe lezinga lengxolo abale nezinga lengxolo; yaye
 - (iv) aphonononge iimodeli kunye neentlobo zezixhobo zengxolo; yaye
 - (c) ukuba umasipala akabeki msebenzi njengoko kuchaziwe kumhlathi (b)—
 - (i) enze isivumelwano nomnye umasipala, atyume igosa lomnye umasipala ukuba lenze umsebenzi waloo msebenzi; okanye
 - (ii) aqeshe ingcali enezakhono zokulawula ingxolo ekwaziyo ukwenza imisebenzi efanele ukwenziwa nguloo msebenzi, xa kuyimfuneko.

Iinkqubo yokulawula ingxolo

10. (1) Xa umntu efake isikhalazo sengxolo ephazamisayo kumasipala wengingqi, umntu otyunjweyo—
 - (a) makaphande ngesikhalazo eso ze abale okanye amete elandela imiqathango ye-SANS 10328 ukuba ingaba okunene loo ngxolo iyaphazamisa na;
 - (b) makasebenzise izinga lokubala ngaphandle kwalapho ingxolo eshiyekeleyo inomahluko ongaphuzulu kwe-10dBA kwizinga lokubala;
 - (c) ukuba ngaba loo ngxolo okunene iyaphazamisa, makakhuphe imiyalelo ebhaliweyo—
 - (i) ayithumele kumntu owenza ingxolo okanye ongunobangela waloo ngxolo; okanye
 - (ii) umnini, umntu ohlala okanye onoxanduva lweso sakhwiwo kuthethwa ngaso,
 ukuba ayeke ukwenza ingxolo ephazamisayo okanye ayithobe iye kufikelela kwizinga elibekiweyo ngokweemfuno zale miqathango singaphelanga isithuba esibekwe kuloo myalelo.
- (2) Ukuba umntu ufunyaniswe ukuba wenza ingxolo ephazamisayo, umasipala wengingqi angamhlawulisa iindleko zokuqesha ingcali echazwe kumgaqo 9(c)(ii) eya kuphanda eso sikhalazo.
- (3) Isikhalazo esingene kumasipala wengingqi nengxolo ecaphukisayo kufuneka singene sibhalwe sayiafidavithi, echaza—
 - (a) uhlobo lwengxolo ekhathazayo;
 - (b) ixesha eyathi yaqatshelwa ngalo okokuqala le ngxolo;
 - (c) yathatha ixesha elingakanani na;

- (d) yayiphuma phi na le ngxolo iyinkathazo; kananjalo
- (e) ukuba iyafumaneka, kunikwe nedilesi negama lomntu ohlala kuloo ndawo iphuma kuyo le ngxolo ikhathazayo.
- (4) Xe efumene isikhalazo sengxolo ecaphukisayo, umntu ogunyazisiweyo—
- (a) kufuneka aphande ngesi sikhalazo; yaye
- (b) ukuba, ngokokubona kwakhe, okunene loo ngxolo iyacaphukisa okanye iyakhathaza, angathumela imiyalelo ebhaliweyo—
- (i) ayithumele kumntu owenza ingxolo okanye ongunobangela waloo ngxolo; okanye
- (ii) umntu, umntu ohlala okanye onoxanduva lweso sakhiwo kuthethwa ngaso,
- ukuba ayeke ukwenza ingxolo ecaphukisayo singaphelanga isithuba esibekwe kuloo myalelo.

Amagunya oomasipala beengingqi nabantu abagunyazisiweyo

11. (1) UMasipala unakho—
- (a) ukubeka imiqathango xa enikeza imvume okanye esaphulela umntu ukuba angangathobeli le migaqo; kananjalo
- (b) esebenzisa imiqathango echaphazelekayo yawo nawuphi na omnye umthetho, angabeka izixhobo zokumeta izinga lengxolo okanye izixhobo ezibunjalo, iimpawu zendlela okanye izaziso naphi na apho anegunya lokulawula khona.
- (2) Umntu ogunyazisiweyo, angathi elandela isikhalazo esingenileyo, sengxolo ecaphukisayo okanye ephazamisayo, angene ngaphakathi kwisakhiwo ukuya kwenza uhloko okanye ukuya kuphanda kodwa oko kuya kuxhomekeka kumgaqwana (3).
- (3) Umntu ogunyazisiweyo akanakungena kwindlu yomntu esiya kunyanzelisa imiqathango yomgaqwana (2) ngaphandle kokuba—
- (a) ufumene imvume yomninindlu okanye umntu ojongene naloo ndlu; okanye
- (b) abe ufumene isigunyaziso (iwaranti) ekhutshwe ngumantyi emva kokuba umantyi ezanelisile ukuba kukho isizathu sokukhutshwa kweso sigunyaziso.

Iimeko ezizolelwayo okanye ezaphulelwayo

12. (1) Umasipala wengingqi angavumela nawuphi umntu okanye indawo ukuba angayithobeli imiqathango yale migaqo—
- (a) ngokokubona kwakhe, okanye
- (b) xa umntu efake isicelo enika izizathu ezipheleleyo zokufaka eso sicelo.
- (2) Umfaki-sicelo ekubhekiswe kuye kumgaqwana 1(b) kufuneka, ngokwenkqubo efunwa ngumasipala, afumane izimvo ezibhaliweyo malunga nesicelo asifakileyo.
- (3) Inkqubo ekubhekiswe kuyo kumgaqwana (2) mayinike abantu abanomdla nabachaphazelekayo ithuba lokuba bangenise izimvo zabo ezibhaliweyo malunga nokuvunyelwa kwaloo mntu ukuba angathobeli le miqathango, yaye umfaki-sicelo anganika impendulo ebhaliweyo ephendula ezo zimvo zingenisiweyo.
- (4) Umasipala kufuneka, emva kokuqwalasela isicelo esifakiweyo, ngokwemimiselo yolawulo lwendalo esingqongileyo, phantsi kwemigaqo yeNEMA enze enye yezi zinto zilandelayo, ekwenza oko ngembalelwano—
- (a) amvumele umntu ofake isicelo ukuba axoleleke ekuthobeleni imigaqo, ebeka imiqathango yoxoleleko olo, ukuba ikhona;
- (b) usenokugavumi ukophulela umntu ze xa eceliwe anike izizathu zokwala ukunika isaphulelo; okanye
- (c) afune uvavanyo lwefuthe lwengxolo ngokwemiqathango yeSANS 10328 phambi kokuba enze isigqibo ekubhekiswe kuso kumhlathi (a) okanye (b).
- (5) Imiqathango ekubhekiswe kuyo kumgaqwana (4)(a) ingabandakanya oku, xa oko kuyimfuneko—
- (a) isithuba sesaphulelo eso, kubandakanywa amaxesha neentsuku apho izenzo ezinokwenza ingxolo zinokuvunyelwa khona;
- (b) ukuba ingaba isaziso esikwiSihlomo 1, kufuneka sibekwe kwindawo ecacileyo na, nakwindawo nganye engena uluntu kweso sakhiwo;
- (c) ukuba ingaba amazanga engxolo kufuneka ebekelwe iliso na, ukuba kunjalo, kufuneka oko kwenziwe njani kwanokuba iirekhodi zigcinwe ndawoni na xa kukho umntu ofuna ukuzibona; kunye
- (d) nayiphi na eminye imiqathango yesaphulelo.
- (6) Umasipala wengingqi angenza izilungiso okanye atshintshe isaphulelo okanye imiqathango ayibekileyo kumgaqwana 4(a)—
- (a) ngokwakhe; okanye
- (b) xa umntu ofumene isaphulelo efake isicelo.

- (7) Isicelo esifakwe kulandelwa imiqathango yomgaqwana (6)(b) kufuneka sibhalwe yaye sikhathshwe zizizathu zezilungiso okanye zotshintsho.
- (8) Emva kokufumana isicelo kulandelwa imiqathango yomgaqwana (6)(b), umasipala wengingqi—
- (a) kufuneka athathe ingqalelo yokuba ingaba ukuvuma eso sicelo kungachaphazeli kakubi na amalungelo abanye abantu okanye amaqela; yaye
- (b) unokuthi ngenxa yoko acele umfaki-sicelo anikeze ngezinye iinkcukacha.
- (9) Isaphulelo ekubhekiswe kuso kumgaqwana (4) asinakuba ngaphezulu konyaka omnye, ngaphandle kokuba sigunyaziswe ngokwemiqathango yomgaqo 4.
- (10) Ukuba kukho umqathango woxolelo ongathotyelwanga, umasipala wengingqi—
- (a) angayalela loo mntu unoxanduva ukuba athobele loo mqathango; okanye
- (b) arhoxise eso saphulelo ngoko nangoko.
- (11) Imbalelwano yesaphulelo kumele ukuba igcinwe endaweni leyo sikhutshelwe yona isaphulelo okanye igcinwe ngumntu owophulelweyo, ukuze umasipala okanye igosa lokuqinisekiswa kokuthotyelwa komthetho likwazi ukuyihlola xa licele ukuyibona.

Amatyala nezohlwayo

13. (1) Umntu wenza ityala ukuba—
- (a) wophula okanye akathobeli imigaqo 2, 3, 4(2), 5, 6(1), 7(1) okanye 7(6);
- (b) akathobeli okanye uyala ukuthobela umqathango obhaliweyo, umyalelo obhaliweyo, isaziso esibhaliweyo athe wasinikwa okanye esikhutshwe ngumasipala wengingqi okanye umntu ogunyazisiweyo ngokwemiqathango yale migaqo;
- (c) ubhucabhuca, ususa, uyekisa, wonakalisa okanye wenze ukuba kungasebenzi nantoni na esetyenziswe okanye ebekwe kwindawo ethile ibekwa ngumasipala okanye ibekwa egameni likamasipala wengingqi okanye ngumntu ogunyazisiweyo esenzela ukuthotyelwa kwale miqathango, kubandakanya umatshini wokubeka iliso kwingxolo, umatshini ocutha ingxolo, isixhobo sokumeta ingxolo okanye umatshini wesandi, okanye uphawu lwendlela okanye isaziso esinentso yokwenza nengxolo;
- (d) uyala ukunika invume kumntu ogunyazisiweyo ukuba angene ahlole isakhiwo ngokwegunya lewaranti ekhutshwe kulandelwa imiqathango yomgaqo 11(3)(b);
- (e) uyala ukunika iinkcukacha okanye ulwazi kumntu ogunyazisiweyo, ezifunwayo ngokusenthethweni nguloo mntu ogunyazisiweyo;
- (f) uphazamisa okanye unqanda umntu ogunyazisiweyo ukuba enze umsebenzi wakhe; okanye
- (g) unika ulwazi olungelulo okanye uphosisela umntu ogunyazisiweyo esazi ukuba uyaphosisa okanye uyamlehlekisa.
- (2) Umntu ogwetyele ukona ngokwale miqathango unokuthi ahlawuliswe imali okanye afakwe entolongweni isithuba esingekho ngaphezulu kweminyaka emibini okanye azifumane zombini ezi zigwebo, esemali nesokubanjwa.
- (3) Umntu ogwetyelwe ukona ngokwale miqathango, nothi emva kokugwetywa aqhubeke esenza loo nto ayigwetyelweyo, okanye engenzi loo nto ebefanele ukuyenza, nto leyo ebonwa njengobutyala, wenza elinye ityala yaye unokuhlawulisa imali engekho ngaphezulu kwama-R50 000 okanye afakwe isithuba esingekho ngaphezulu kweentsuku ezingamashumi amabini okanye azifumane zombini ezi zigwebo zibe zezosuku ngalunye esenza eli tyala.

Ukusebenza kwemigaqo

14. Le migaqo isebenza kubo bonke oomasipala abakwiPhondo.

Ubhangiso lwemigaqo

15. Le migaqo isebenza endaweni yemigaqo epapashwe kwiSaziso sePhondo esinguNombolo 627 sika-1998 (iGazethi yePhondo yama-5309 yomhla wama-20 Novemba 1998) ebhangiswayo kungokunjje.

Isihloko esifutshane

16. Le migaqo ibizwa ngokuba yiMigaqo yoLawulo lweNngxolo eNtshona Koloni, 2013.

Isihlomo 1

Isaziso sokulumkisa ekubhekiswe kuso kumgaqo 12(5)(b) kufuneka singabikho ngaphantsi kwe-30 cm x 20 cm, ze isayizi yamagama ingabikho ngaphantsi ko-48. Isaziso kufuneka sibe nala magama alandelayo:

ISILUMKISO

**INGXOLO IPHEZULU APHA NGAPHAKATHI
UKUBA UHLELI IXESHA ELIDE, UNGAPHETHA USISITHULU**

BERGRIVIER MUNICIPALITY

BY-LAW RELATING TO PREVENTION OF PUBLIC NUISANCES AND PUBLIC NUISANCES ARISING FROM THE KEEPING OF ANIMALS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Bergrivier Municipality enacts as follows:—

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1. Definitions

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

“**agent**”, in relation to the owner of a property, means a person appointed by the owner of the property—

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“**animal**” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“**bird**” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“**cattery**” means any establishment where cats are bred or boarded;

“**district municipality**” means the West Coast District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“**drunk**” means a person who, by reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

“**kennel**” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

“**municipality**” means the Bergrivier Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person—

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility;

“**owner**”—

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to public nuisances contemplated in Part 1 of this by-law—
 - (i) a person in whom the legal title to a premises is vested;
 - (ii) in the case of property being subject to a lease agreement, the tenant of such property;
 - (iii) in cases where the person in whose name property is registered is insolvent or deceased, or insane or whose estate has been designated for profit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or proxy or administrator;
 - (iv) in cases where the owner as described above is absent, the agent or person who receives the rental of the relevant property; and
 - (v) in any case where the property is inhabited in terms of a servitude or similar right, the inhabitant of such property.

“**pet**” means a tame animal which is kept in a household;

“**pet parlour**” means an establishment where pets are groomed;

“**pet shop**” means an establishment where pets are kept for trading purposes;

“**poultry**” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

“**premises**” means—

- (a) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

“**public nuisance**” means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and “**nuisance**” has the same meaning;

“**public place**” means any land, square, building, park, recreation ground or open space which:

- (a) is vested in the municipality;

- (b) the public has the right to use, or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

"responsible authority" means the Bergrivier Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

"street" means any street, road, cycle path, thoroughfare or any other place, including—

- (a) the verge of any such road, street or thoroughfare
 - (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
 - (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
 - (d) any other object belonging to such road, street or thoroughfare, which has at any time been—
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or
 - (iv) constructed by a local authority, and
 - (v) any land, with or without buildings or structures thereon, which is shown as a street on—
 - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office;
- unless such land is on such plan or diagram described as a private street;

"structure" means any container, stable, shed, pigsty, kraal, aviary, paddock, poultry house, enclosure, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

2. Objectives and application of by-law

- (1) The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Bergrivier area by fostering an environment in which the public in general may enjoy peaceful and harmonious living conditions.
- (2) Sections 4(1), 14(1), 15(1), 21(1) and 26 do not apply to—
 - (a) premises which are legally used for bona fide agricultural purposes; or
 - (b) premises identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (3) A person who keeps animals on premises contemplated in subsection (2) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

CHAPTER 1

GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

- (1) Despite the provisions of any other by-law, no person may—
 - (a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;
 - (b) subject to any approval in terms of the relevant Town Planning Scheme Regulations, carry on any trade, business, profession or hobby which causes discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, building rubble, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
 - (f) use any stoep or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) enclose any stoep or veranda of any shop or business premises by any means otherwise than by such means as approved by the municipality;
 - (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
 - (i) be foul, misuse or damage public toilets;
 - (j) carry or convey in any street or public place, any objectionable material or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
 - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;

- (l) erect, or allow to be erected or use on any premises any structure in a manner that causes a nuisance to people; or
 - (m) by an action allow that a nuisance be created or continued;
 - (n) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
 - (o) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
 - (p) cause a nuisance by—
 - (i) loitering in any street or public place;
 - (ii) being drunk or under the influence of drugs;
 - (iii) soliciting or importuning any person for the purposes of prostitution or any other immoral act;
 - (iv) continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
 - (v) playing loud music or the use of music instruments on any premises;
 - (q) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (r) in any street or public place use any abusive or threatening language;
 - (s) cleanse or wash any vehicle or part in any street or public place;
 - (t) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of section 3(1)(a) to (m), the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefor.
- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1)(c) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.
- (3) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under is guilty of an offence.

CHAPTER 2

GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals

- (1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.
- (2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.
- (3) The municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.
- (4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

5. Plans for structures and management

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

6. Consideration of application and imposition of conditions

- (1) The municipality may, after consideration of—
 - (a) the input or comments obtained in terms of section 4(3);
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and site plans submitted in terms of section 5; or
 - (d) any other information relating to the application including, but not limited to, grazing, fencing, availability of water, etc. refuse to grant consent or grant consent.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.

- (3) Where consent is granted, the municipality may impose conditions.

7. Visibility of structures on premises

- (1) All structures in which animals are kept must be suitably screened from any street.
(2) A person who fails to comply with subsection (1) commits an offence.

8. Wavering of requirements and withdrawal of authorisations

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

9. Validity of authorisations

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

10. Duties of owner or keeper of animal

- (1) The owner or keeper of an animal—
(a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
(b) must provide such animal with shelter, veterinary care, water and proper food ;
(c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and
(d) must exercise control over his or her animals in order to prevent damage to property or gardens;
(e) may not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road.
(2) A person who contravenes a provision of subsection (1) commits an offence.

11. Animals kept in unsatisfactory manner

- (1) Whenever animals kept on any premises are a public nuisance, or where animals are kept in contravention of any of the provisions of section 10, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance or to comply with any condition or instruction imposed in terms of subsection (2).
(2) The municipality may prescribe the steps that need to be taken or the work that must be done to comply with the notice contemplated in terms of subsection (1).
(3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.
(4) If a person fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required, including the seizure and impoundment of such animals, and recover the cost thereof from such owner.
(5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

12. Destruction of animals

- (1) The municipality may order the euthanization or destruction of an animal which is—
(a) dangerous or ferocious; or
(b) injured or diseased to such an extent that it would be humane to do so.
(2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
(3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

13. Hawking of animals

- (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.
(2) A person who contravenes subsection (1) commits an offence.

CHAPTER 3

PROVISIONS RELATING TO KEEPING OF DOGS AND CATS

Part 1:

General Provisions relating to dogs and cats

14. Number of dogs and cats

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises—
 - (a) more than two dogs; and
 - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

15. Breeders of dogs and cats

- (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats must obtain permission from the municipality.
- (2) The municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.
- (3) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

16. Breeders of pets

- (1) A person who breeds pets must obtain the approval of the municipality.
- (2) The provisions of section 15(2) are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

17. Conditions and restrictions

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.

18. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

19. Dogs or cats in streets or public places

- (1) Subject to the provisions of the Public Amenities by-law, the owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is on a leash or the cat is under physical control.
- (2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

Part 2:

Specific provisions relating to dogs

20. Control of dogs

- (1) No person may—
 - (a) permit a bitch on heat to be in a street or public place without supervision;
 - (b) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
 - (c) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
 - (d) permit a dog—
 - (i) to trespass on private property;
 - (ii) to constitute a hazard to traffic using any public road;

- (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
 - (iv) to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
- (c) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by—
- (i) barking, yelping, howling or whining;
 - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner.
- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection (2) may be released to the owner upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 4

DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

21. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- (2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (3) A person who contravenes subsection (1) or (2) commits an offence.

CHAPTER 5

CO-OPERATION BETWEEN MUNICIPALITIES

22. Service delivery agreements

In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared.

23. Powers of municipality in case of omission by District Municipality

If the service delivery referred to in section 22 is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of section 22 the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, 1996, proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the district municipality.

CHAPTER 6

GENERAL PROVISIONS

24. Right of entry and inspection

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area at a reasonable time in order to determine whether there is compliance with the provisions of this by-law; provided that a private dwelling may not be entered for routine inspection purposes.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

25. Service of documents and process

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person—
 - (a) when it has been delivered to him personally;
 - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
 - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
 - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her

but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

26. Transitional provisions

- (1) A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 14(1) may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

27. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

28. Offences and Penalties

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

29. Exemptions

Notwithstanding the provisions of this by-law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

30. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of—
- (a) creating conditions for a local community to participate in the affairs of the municipality; and
 - (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of—
- (a) a member of members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a councillor.
- (3) (a) the municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
- (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

31. Conflict with other legislation

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

32. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

33. Short title and commencement

This by-law shall be known as the By-law relating to Public Nuisances and Public Nuisances arising from the Keeping of Animals and shall come into operation on the date of publication thereof in the Provincial Gazette.