



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

ITLMPO-SA

“BY-LAW DEVELOPMENT & ENFORCEMENT”

- by COCT Law Enforcement Deputy Chief Leon Wentzel
- 26 August 2024

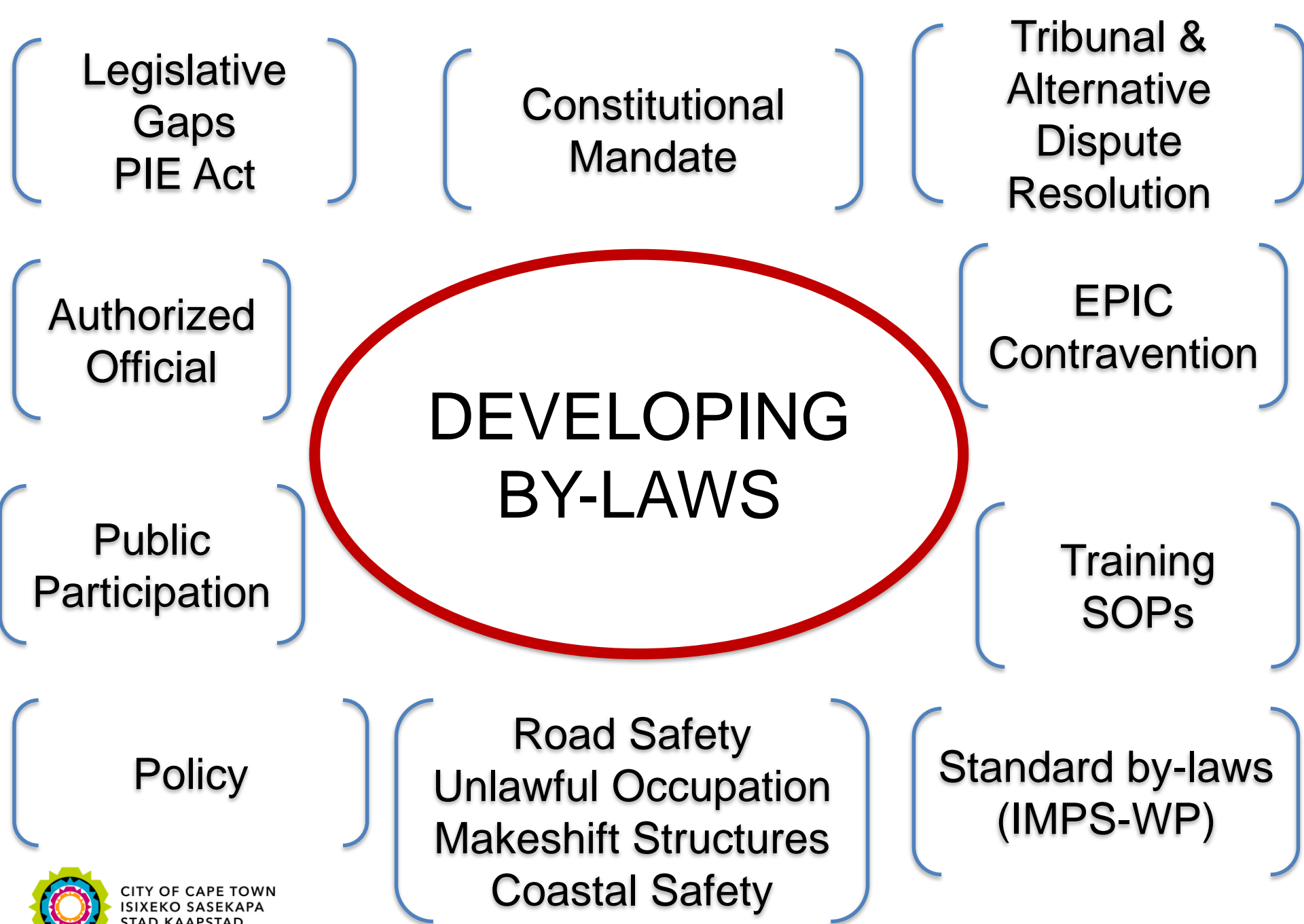
Making progress possible. **Together.**

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Development and Enforcement of By-laws

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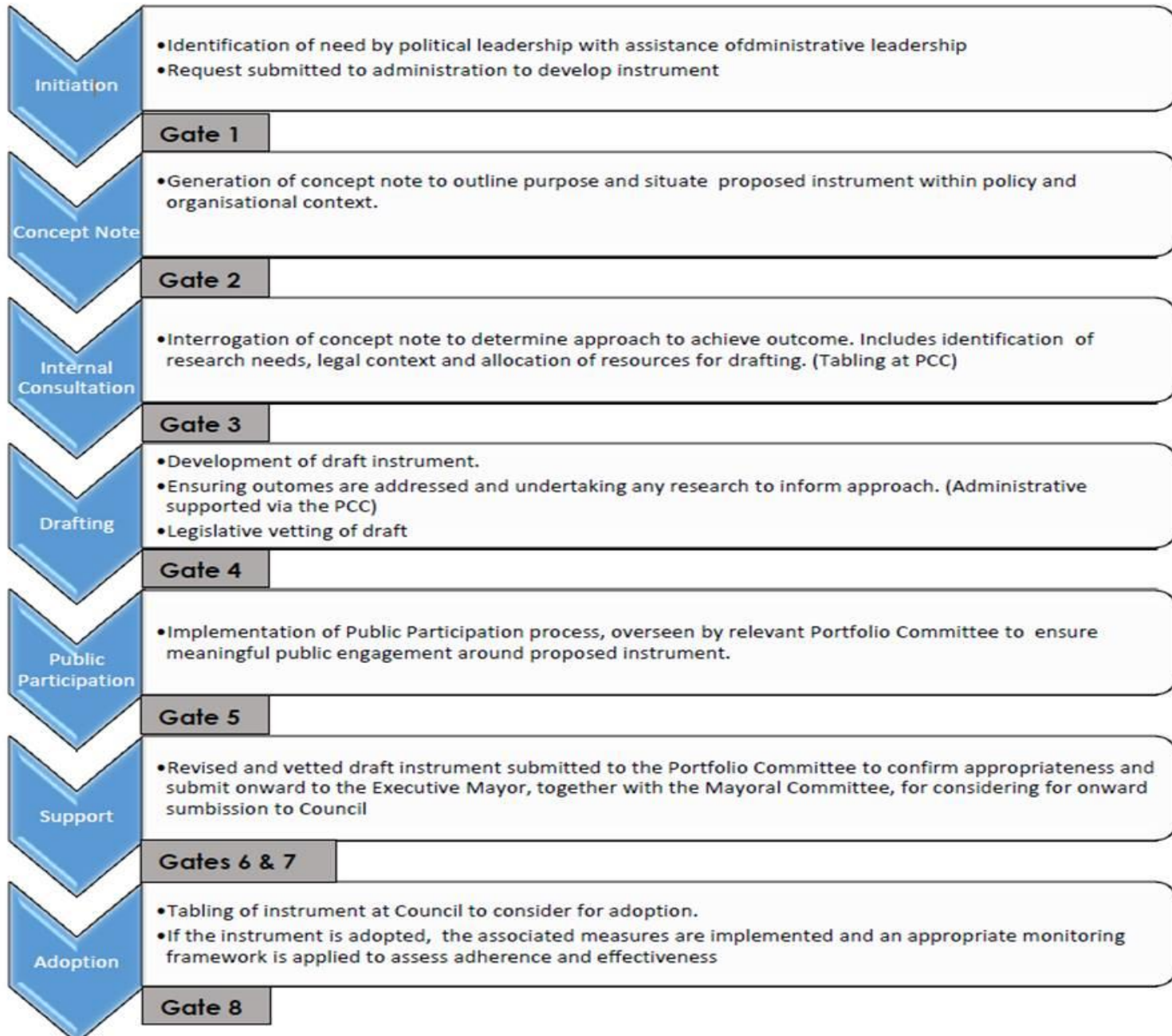
Questions/Discussion



COCT By-law Process

- Problem & Strategic Direction (Political)
- Generation of Concept Note within policy and organizational guidelines
- Line Submission to PCC (Policy Coordinating Committee) – Interrogation of Concept Note
- Formulation of Draft By-law (Internal and/or external) & Legislative vetting
- Implementing Public Participation Process overseen by the Portfolio Committee
- Revised and vetted Draft By-law submitted to Portfolio Committee then MAYCO
- Council Adoption and thereupon Promulgation
- Admission of Guilt Recommendation Application to Magistrates AG Committee

2. Process Overview



Importance of Definitions - Example

‘Authorised official’ means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-law and includes —

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

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

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

d. any other employee delegated or person authorised to carry out or exercise the duty, function

**COCT UNLAWFUL OCCUPATION BY-LAW,
PG 8551/2022**

‘Authorised official’ means an employee of the City responsible for carrying out a duty or function or exercising any power in terms of this By-Law and includes any employee delegated to carry out or exercise the duty, function or power;

(COCT Problem Property By-law)

CREATE OFFENSES

COCT UNLAWFUL OCCUPATION BY-LAW, PG 8551/2022

11. PROHIBITED CONDUCT:

(1) Any person who contravenes or fails to comply with any provision of this By-law or disobeys any instruction or compliance order by an authorised official enforcing this By-law, shall be guilty of an offence.

(2) No person may —

(a) instigate or organise the unlawful occupation of land;

(b) occupy land unlawfully;

(c) clear land, with the intention of occupying it, by removing vegetation or By any other means;

(h) solicit payment for arranging or organising for a person to occupy land without the consent of the owner of the land;

(i) sell or purport to sell land or structures on land that is or is intended to be occupied;

(k) transport persons, building materials and personal possessions for the purpose of an unlawful occupation;

Evidential Presumption/s

COCT UNLAWFUL OCCUPATION BY-LAW, PG 8551/2022

11. PROHIBITED CONDUCT CONTINUED:

(4) Any vehicle driven in contravention of this By-law –

(a) is deemed for the purpose of this By-law to have been driven, in the absence of evidence to the contrary —

(i) on the instructions or with the consent of the owner; or

(ii) by the owner, if a natural person; and

(b) may be impounded in terms of Chapter 6 together with the building materials and possessions conveyed in the vehicle.

Authorised Official & Powers in By-laws

- Correlation between Authorised Official and Powers set out in the By-law
- Streets, Public Places & Prevention of Noise Nuisance By-law an example of Peace Officer Powers v Authorised Official dilemma
- Powers in legislation complements Peace Officer powers
- COCT including these powers in all proposed and recent by-laws (Coastal By-law, Nature Reserves By-law, Unlawful Occupation By-law)
- General Powers – Search, Instructions to Leave, Inspection, right of entry
- Seizure and Impoundment – Prevent persistent and ongoing unlawful conduct
- Costs of enforcement accrue to the City via substantial tariffs (R8700)

POWERS WITHIN LEGISLATION

COCT UNLAWFUL OCCUPATION BY-LAW, PG 8551/2022

13. POWER TO SEARCH AND SEIZE

(1) An authorised official may **without a search warrant search any person, vehicle, or structure** for the purpose of seizing any article which is, or is on reasonable grounds believed to be, concerned with the commission of an offence in terms of this By-law if —

(a) the person consents to the search;

(b) the person does not consent, the official, on reasonable grounds believes —

(i) that a search warrant will be issued under paragraph (a) of section 21 (1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) if application is made for a warrant; and

(ii) that the delay in obtaining a warrant would defeat the object of the search; or

(c) in terms of section 23 of the Criminal Procedure Act, 1977

TRAFFIC BY-LAW, 2021 PG 8640/2022

Chapter 11: 62. General provisions relating to impoundment of vehicles

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

(a) the vehicle is being driven on a public road in a reckless manner or engaged in illegal street racing;

(b) the vehicle is being driven on a public road with defective lights or rear lights between the period of sunset and sunrise or at any other time when visibility is reduced due to insufficient light, smoke or unfavourable weather conditions;

(c) the vehicle is being driven on a public road in a damaged state or in a state of disrepair that, in the opinion of the authorised official, is not roadworthy and safe to drive

(d) the driver of the vehicle is reasonably suspected of being under the influence of intoxicating liquor or a drug having a narcotic effect; or

(e) the driver did not stop when signalled to do so by an authorised official in uniform resulting in the driver having to be pursued and forced to stop

PIONEERING PROVISIONS (ABUSE OF POWER)

COCT UNLAWFUL OCCUPATION BY-LAW, PG 8551/2022

(5) In taking any of the steps contemplated in this section —

(a) every authorised official must —

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

(ii) if force is required under the circumstances, ensure that the **level of force is justifiable and proportional**; and

(iii) in the absence of an authorised official contemplated in subsection (6), take steps to **prevent any other authorised official from exercising powers** in contravention of subparagraphs (i) and (ii).

(6) **The authorised official in charge** must exercise their duty of care by intervening and taking the necessary steps to **curtail any unreasonable exercise of powers** or disproportionate use of force by any official under their command.

AOGs for UO By-law

ADMISSION OF GUILT FINES

Meeting with Portfolio Committee
Chairperson, Representatives from Line
Department and Policy Formulation Unit

Recommend AGs and Motivations for
certain amounts

Nodal person submits to Chief
Magistrate who chairs their AG
Committee

Receive notice of the approved AGs
from the various Chief Magistrates of
the various districts

Assign codes, EPIC Inclusion

Utilize AGs

Section contravened	Description of Transgression	Admission of Guilt Fine determined
Section 9(5) r/w Section 11(1) & 11(3)	Fail to take steps to prevent another official unjustifiably exercising their powers or using disproportional force in the absence of authorised official in charge.	No AG determined
Section 9(6) r/w Section 11(1) & 11(3)	Authorised Official in charge fail to intervene and take the necessary steps to curtail any unreasonable exercise of powers or disproportionate use of force by any official under their command.	No AG determined
Section 10(1) r/w section 11(1) & 11(3)	Owner of land failing to inform the City immediately of any intended or executed unlawful occupation of their land and the measures taken to prevent the occupation.	No AG determined
Section 11(1)	Disobey any instruction or Compliance Order or Notice by an Authorised Official enforcing the By-law	R1500
Section 11(2)(a) r/w Section 11(1) & 11(3)	Instigate or organize the unlawful occupation of land	R5000
Section 11(2)(b) r/w Section 11(1) & 11(3)	Occupy land unlawfully	R3000
Section 11(2)(C) r/w Section 11(1) & 11(3)	Clear land, with the intention of occupying it, by removing vegetation or by any other means	R3000
Section 11(2)(d) r/w Section 11(1) & 11(3)	Remove or damage a sign put up in a managed settlement	R3000 1 st offense NAG 2 nd offense
Section 11(2)(e) r/w Section 11(1) & 11(3)	Remove or damage a sign put up on land that is not owned by the City	R3000 1 st offense NAG 2 nd offense
Section 11(2)(f) r/w Section	Remove or damage survey pegs installed by the City;	R3000 1 st offense



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

LAW ENFORCEMENT SERVICES

Authorised Official: _____

UNIT/AREA _____

T: +27 _____ F: +27 _____

E: lawenforcement@capetown.gov.za

COMPLIANCE NOTICE

COMPLIANCE NOTICE IN TERMS OF SECTION 11(1) OF THE CITY OF CAPE TOWN: UNLAWFUL OCCUPATION BY-LAW, PG 8551/2022 READ WITH GOVERNMENT NOTICE 1114 OF 2018

To: _____

Address: _____

Identity Number: _____ Tel: _____

This notice serves to inform you that you have to comply with the conditions set out in the Unlawful Occupation By-law and/or in contravention of, section/s 11 & _____ of the Unlawful Occupation By-law in that:-

1. You are herewith directed to comply with the lawful instructions issued by the undersigned authorized officer as set out in this notice. These instructions are in accordance with the applicable provisions of the Unlawful Occupation By-law, PG 8551/2022, in respect of the abovementioned contravention/s or conditions.
2. You are directed to ensure compliance immediately or within (_____) calendar days by taking the following steps to comply with such conditions and/or abate such contravention:

3. You may, within seven calendar days from date of receipt of this notice, make representation in writing to the Chief, Law Enforcement Services (TEL: 021 4445098) or his delegate in respect of this notice. Note that you are still legally obliged and directed to comply with the abovementioned instructions within the stipulated time frame.
4. Kindly note that failing to adhere to or to comply with the steps identified in this notice and/or necessary to abate such nuisance or contravention will or may lead to your arrest, further action, seizure and impoundment and prosecution as per the Unlawful Occupation By-law.
5. Furthermore, non-compliance with this notice is a criminal offence in terms of Section 11(1) of the Unlawful Occupation By-law, PG /2022 and this may therefore be referred for prosecution.

NB: A Peace Officer may, without a warrant, arrest any person who willfully obstructs him in the execution of his duty – Criminal Procedure Act 51 of 1977, Section 40(1)(j)

Acknowledgement that the abovementioned provisions and the consequences thereof have been explained to the recipient:

Signed: _____ Print Name : _____ Date: _____

Signature of Authorized Official: _____ Staff Number: _____

Print Name, Surname: _____ Date: _____

Standard Operating Procedures

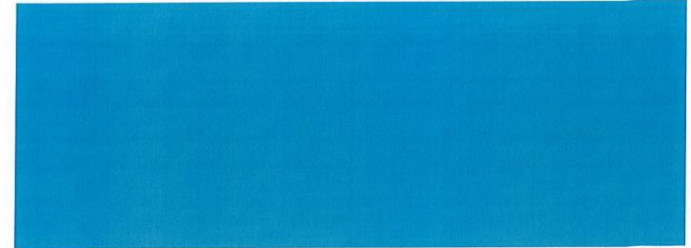


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Making progress possible. Together.

STANDARD OPERATING PROCEDURE FOR COMPLAINTS RELATING TO NOISE NUISANCES AND NOISE DISTURBANCES

Document control File name:	Standard Operating Procedure for Complaints Relating to Noise Nuisances and Noise Disturbances
Date:	21 April 2022
Version:	1.0
Document owner:	Vincent Botto & Ernest Sass



Standard Operating Procedure

Impounding of Vehicles Involved in Unlawful Occupation

A Standard Operating Procedure for the Impounding of vehicles involved in Unlawful Occupation in terms of the Unlawful Occupation By-law and/or similar legislation that will complement the proposed SOP for Unlawful Occupation, the Law Enforcement Standard Operating Procedure and the Code of Conduct

14 March 2022

New COCT By-laws in Progress

- **Streets, Public Places & Prevention of Noise Nuisances Amendment By-law**
- **Events Amendment By-law**
- **CCTV By-law**
- **Community Fire Safety Amendment By-law**
- **Animal Keeping By-law (new)**
- **Integrated Waste Management By-law**
- **Public Places By-law**
- **Problem Business By-law**

Miscellaneous Initiatives

- **Municipal Tribunal (Nuisances) for identified matters –Public Places By-law**
- **Regulatory Impact Reduction & Assessment (RIA) – Animal Keeping By-law**
- **Administrative Fines – Problem Property By-law**
- **Tiered approach when dealing with certain offenses and Street People (Rough Sleepers as well as the offer of suitable shelter**
- **Light Nuisance, Drones usage in particular circumstances identified as a nuisance**
- **Possession of Replica Firearms in expanded interpretation of Public Places**
- **Explore qualifying “*occupation*” & “*home*” - uphill battle**
- **Authorized Official powers**



DETAILS OF A

Full Name:

Address:

ID no:

COURT DATES:

PROCESS NO.:

CONTRAVENTION CODE:

COURT:

CASE NO.:

OFFENCE DETAILS

CHARGE ONE

Legislation Contravened:

Animal By Law 2010 Pg 6896

Section Contravened:

6(b)
Description of offence: Fail to prevent any dog from attacking, worrying or frightening any person or animal

CHARGE TWO/ALTERNATE CHARGE

Legislation Contravened:

Animal By Law 2010 Pg 6896

Section Contravened:

6(h)(v)
Description of offence: to constitute a source of danger or injury to any person outside the premises on which such dog is kept

DETAILS OF INITIATOR

Department:

Address:

Contact Person:

Contact Details - Tel No:

Cell No:

Fax:

APPOINTED AS A PEACE OFFICER (YES/NO):

YES

FINALISATION DETAILS

PRESIDING OFFICER:

Judgement Date:

Verdict:

Sentence Imposed:

Date

Prosecutor's Signature

(L359)

NB: AN EXTRACT OF THE RELEVANT ACT/BY-LAW ETC. OF ALL CHARGES MUST BE ANNEXED

DOCKET CONTENTS

Two cops put hearts into their beat Muizenberg street people helped to clean up their act

ASHLEY SMITH

Star Reporter

Two Muizenberg policemen armed with diplomas in community counselling are tackling the thorny issues of loitering and alcohol abuse among the hundreds of vagrants and street children in the area.

Sergeant Hendrik Mentoor and Constable Christopher Fataar have placed more than 70 street children in homes and returned 111 of them to school. They are now helping more than 80 homeless people in Muizenberg to become productive members of society again.

They have both successfully undergone a 10-week training course dealing with self development, community leadership, conflict management and assertiveness.

Organising three soup kitchens a week, arranging for 25 vagrants to be screened for TB at Wynberg Clinic and campaigning for a night shelter for the homeless are the key strategies being used to make a difference in the lives of the vagrants.

"We made the effort to get to know vagrants and at the same time let them know that while we would do what we can for them, we would be strict on crime," said Constable Fataar.

He added that 10 vagrants had already been arrested for loitering and for alcohol-related crimes including disturbing the peace and were sentenced to community service as punishment.

However, the police had to realise that problem of vagrancy was a social one, with alcohol abuse and loitering a natural consequence, he said.

"When we started with the project, we realised that we had to win the confidence



Community work: Sergeant Hendrik Mentoor, left, and Constable Christopher Fataar with the homeless people of Muizenberg

of these people, so we bought loaves of bread and tins of fish as a sign of friendship," said Sergeant Mentoor.

The two policemen have now thrown their weight behind plans to start a night

shelter for the homeless in the area.

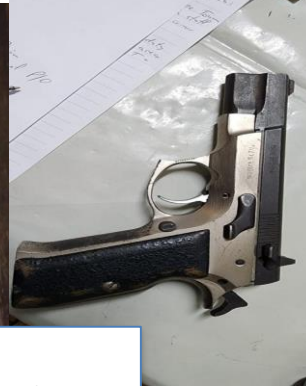
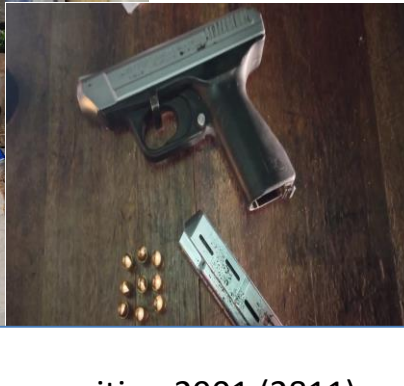
Elizabeth September, 26, a spokeswoman for the vagrants, said although they were very happy with the way Sergeant Mentoor and Constable Fataar

had helped them, they were still "regularly harassed by other policemen".

"We are also still experiencing problems among each other because of alcohol abuse and fighting," she added.







Firearms 288 (246), Ammunition 2901 (2811) -2021/2022



Mossel Bay

19 – 21 April 2023



IMPSA WESTERN CAPE - PUBLIC SAFETY WORKING GROUP 2023

Good afternoon all and a warm welcome to the Public Safety Role-players from various municipalities in the Western Cape.

This group is intended only for the Western Cape Municipalities - Public Safety Stakeholders.

The IMPSA Western Cape – Public Safety Working Group is in its inception/initial phase, and the objective to establish this structure through IMPSA is to:

1. Professionalize Public Safety & Law Enforcement
2. The curation of Accredited Public Safety Trainings (Unit Standards & Assessment); and
3. Shared services arrangements on Procurement of Fleet, Uniform and PPE across the municipalities.

We have now included almost all the municipality - Head of Public Safety in the list, pending those who have not confirmed the contact person(s) details.

Lindile Ntsabo

Portfolio Head : Protection Services

Office Of the Executive Deputy Mayor

Overstrand Municipality

T: +27 (0) 28 313 8016 | C: 081 491 0949

E: Intsabo@overstrand.gov.za

Questions? Discussion



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Thank You

For queries contact (Leon.Wentzel@capetown.gov.za)

Tel: 0214440231

Cell: 0835928883

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