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KWAZULU-NATAL PROVINSIE
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MUNICIPAL NOTICE—IZAZISO ZIKAMASIPALA

No. 85**8 August 2008****INFORMAL TRADING BYLAWS**

Municipal Notice No. 084/2008

The municipal council of the Hibiscus Coast Municipality, acting under the authority of section 156(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) read with section 11 (3) (m), 12 and 13 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the following bylaws as adopted by the municipal council at its meeting held on 26 February 2008, which bylaws shall come into effect on the first day of the month following publication hereof.

S W MKHIZE

MUNICIPAL MANAGER

To provide for development and management of informal sector trading (Second Economy) in the area of the municipality.

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CHAPTER 1 – DEFINITIONS AND APPLICATION

1. PREAMBLE

- 1.1 The Constitution of the Republic of South Africa, 1996 provides that municipal government is responsible for "trading regulations" and "street trading" within its area of jurisdiction, and a municipal government objective is to promote social and economic development.
- 1.2 The Municipality recognizes the key role that informal trading plays in poverty alleviation, income generation and entrepreneurial development and, in particular, the positive impact that informal trading has on historically disadvantaged individuals and communities.
- 1.3 The Municipality acknowledges the need to adopt a developmental approach to the informal trading sector in order to create an environment that is conducive to the growth of businesses in the informal trading sector.
- 1.4 The Municipality further acknowledges the need for a balanced relationship between the informal and formal trading sectors in order to promote social and economic development.
- 1.5 These bylaws, accordingly aims to:-
- 1.5.1 Consolidate into a single set of bylaws, the bylaws passed by the predecessors in law of the Hibiscus Coast Local Municipality; and
 - 1.5.2 Govern informal trading within its area of jurisdiction.
- 1.6 The Municipality conducted a public participation process before adopting these bylaws.

2. INTERPRETATION

- 2.1 In these bylaws, the English text prevails in the event of any conflict with the isiZulu texts and, unless the context indicates otherwise –

- 2.1.1 "black person" is a generic term which means Africans, Coloureds and Indians;
- 2.1.2 "Constitution" means the Constitution of the Republic of South Africa, 1996;
- 2.1.3 "Council" or "the Council" means the Council of the Hibiscus Coast Municipality;
- 2.1.4 "historically disadvantaged individual" means a South African citizen who—
- 2.1.4.1. is a black person; and/or
 - 2.1.4.2. is a woman; and/or
 - 2.1.4.3. has a disability;
- 2.1.5 "impoundment costs" means all costs incurred by the Municipality in impounding and storing property impounded in terms of section 18.5.3, and, where applicable, the costs incurred as a result of the disposal of the impounded property;
- 2.1.6 "informal trader" means a person, or an enterprise which is not registered or incorporated in terms of the corporate laws of South Africa, and who or which engages in informal trading whether such person is registered as a informal trader under section 8 of these Bylaws or not;
- 2.1.7 "informal trading" also referred to as the "Second Economy" means trading in goods and services in the informal sector by an informal trader and which typically constitutes the types of trading described in section 3.1, provided that such trading takes place on at least five(5) days in any calendar month;
- 2.1.8 "trading plan area" means an area for which a trading plan has been adopted in terms of these bylaws;

- 2.1.9 "market" means a demarcated area within an trading plan area which is designated as such in a trading plan and which is managed in a co-ordinated manner;
- 2.1.10 "Municipality" means the Hibiscus Coast Local Municipality, KwaZulu-Natal;
- 2.1.11 "Municipal area" means the area of jurisdiction of the Municipality determined in terms of section 21 of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);
- 2.1.12 "non-Municipal property" means property that is situated in Municipal area but which is not owned, leased by, or under the management control of the Municipality;
- 2.1.13 "nuisance" includes, but is not limited to, an act or omission which is offensive, injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace or quiet of the public, or which adversely affects the public at large.
- 2.1.14. "officer" means –
- 2.1.14.1. a traffic officer appointed in terms of section 3 of the Road Traffic Act 1989 (Act No.29 of 1989);
 - 2.1.14.2. a member of the South African Police Service; or
 - 2.1.14.3. a peace officer contemplated in section 334 of the Criminal Procedure Act 1977 (Act No. 51 of 1977);
- 2.1.15. "prescribe" means prescribe by regulation;
- 2.1.16. "public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof, or to which the public or any section thereof has a right of access and includes:

- 2.1.16.1. any road reserve,
- 2.1.16.2. the verge of any such road, street or thoroughfare;
- 2.1.16.3. any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- 2.1.16.4. any other work or object forming part of, or connected with, or belonging to such road, street or thoroughfare;

2.1.17. "public place" means any beach, square, park, recreation ground, garden, commonage or enclosed or open space in the area of the municipality which:

- 2.1.17.1. is vested by deed of title in the municipality for the use and the benefit of the public or which being in the ownership of the municipality is by resolution of the municipality specifically established as or declared to be a public place; or
- 2.1.17.2. the public has the right to use; or
- 2.1.17.3. is shown on a general plan or diagram of any private township filed in the Deeds Registry or in the Surveyor-General's Office and to which the owners of erven or lots in such township have a common right;

2.1.18. "registration" means a registration as an informal trader in terms of section 8 of these Bylaws;

2.1.19. "registered trader" means an informal trader who is registered as an informal trader by the Municipality under section 8 of these Bylaws;

2.1.20. "Registrar" means the Registrar of Informal Traders appointed by the Municipality in terms of section 8,

2.1.21. "special events" may include, but are not limited to, sports events, night markets, flea markets, bazaars, traditional events, cultural events, music festivals, promotional events and religious vents;

2.1.22. "street trading" means the selling of any goods (including a living thing) or the supplying or offering to supply any service for reward, as an informal trader, street vendor, peddler or hawker in a public place or a public road but does not include the sale of newspapers only.

2.1.23. "Systems Act" means the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000);

2.1.24. "trading plan" means a trading plan adopted by the Municipality to govern informal trading within a informal trading plan area;

3. TYPES OF INFORMAL TRADING

3.1. Informal trading may include, amongst others:-

- 3.1.1 street trading;
- 3.1.2 trading in pedestrian malls;
- 3.1.3 trading at markets;
- 3.1.4 trading at transport interchanges or public road intersections;
- 3.1.5 trading in a public place;
- 3.1.6 mobile trading, such as from a bicycle, a caravan, or any other vehicle;
- 3.1.7 roving traders; and
- 3.1.8 trading at special events.

4. RIGHT TO ENGAGE IN INFORMAL TRADING

4.1 Subject to the provisions of these Bylaws, any regulations made in terms of section 24, and any other applicable law, informal trading is permitted in any part of the Municipal area, subject to the general prohibitions and restrictions outlined in sections 12 and 13 of these bylaws.

CHAPTER 2 – TRADING PLAN AREAS AND TRADING PLANS

5. ADOPTION OF TRADING PLANS

- 5.1. The Municipality may, by regulation made in terms of section 24, adopt trading plans, particularly in areas where there is or is likely to be significant informal trading.
- 5.2. A trading plan may allow and regulate informal trading on non-Municipal property, subject to the rights and the written consent of the owner of such property.
- 5.3. Such consent and any conditions agreed upon between such owner and the Municipality governing the inclusion of such non-Municipal land in a trading plan, must be recorded in a written agreement between such owner and the Municipality.
- 5.4. A trading plan must:
 - 5.4.1. define the geographic boundary of a trading plan area to which the trading plan shall apply;
 - 5.4.2. demarcate informal trading bays and markets where informal trading is permitted within such trading plan area,
 - 5.4.3. define the tenure rights or conditions of allocation which will apply to a registered trader who is allocated a trading bay or permitted to trade in any market,
 - 5.4.4. describe the criteria to be applied to the allocation of trading bays and access to, and occupation of markets,
 - 5.4.5. set out any tariff applicable and payable in respect of the occupation of any trading bay or market,
 - 5.4.6. make provision for the management and administration of the trading plan area, and
 - 5.4.7. be compatible with, and be included in, the provisions of any town planning scheme or spatial development framework adopted by the Municipality under any law.

- 5.5. A trading plan may include any other matters governing informal trading in the relevant trading plan area, including, without limitation:
- 5.5.1. the manner in which social and economic development will be promoted through the trading plan;
 - 5.5.2. matters relating the legal arrangements between the Municipality and any third party in respect of the obligations relating to the general management of the market in terms of which the third party is responsible for at least the following:
 - 5.5.2.1. the management of the operations of the market;
 - 5.5.2.2. the management of informal traders operating within the market;
 - 5.5.2.3. ensuring that all relevant persons participate in appropriate decisions;
 - 5.5.2.4. providing guidance to the informal traders operating within the market with business support and development services; and
 - 5.5.2.5. any service which is in addition to the services provided by the Municipality.
- 5.6. A trading plan must comply with sections 12, 13 and 14 of these bylaws and with any other applicable law.
- 5.7. Any person shall be entitled to request the Municipality to consider the adoption of a trading plan and the Municipality must duly consider such a request, within a reasonable period of time after receipt by the Municipality of such a request;
- 5.8. When considering a request for the adoption of a trading plan, the Municipality must have due regard for any existing and proposed trading plans in the vicinity of the proposed trading plan area in order to determine the desirability of the adoption of a trading plan.

6. PUBLIC PARTICIPATION IN RESPECT OF THE ADOPTION OF A TRADING PLAN

- 6.1. Before adopting a trading plan, the Municipality is obliged to:

- 6.1.1. consult with interested and affected persons, including participants in the informal and formal business sectors and owners and occupiers of land in the vicinity of the trading plan area to be subject to the proposed trading plan;
- 6.1.2. compile a draft trading plan following the consultation process in terms of section 6.1.1.;
- 6.1.3. give notice to all interested and affected persons by:
 - 6.1.3.1. publication of a notice in a local newspaper regularly circulating in the Municipal area, such notice to be in both English and isiZulu,
 - 6.1.3.2. erecting such number of notices, in the English and isiZulu languages, at or near the intended location of the trading plan area designated in such trading plan,
 - 6.1.3.3. publicly broadcasting the contents of such notices by loudhailer or loudspeaker at or near the intended location of the trading plan area designated in such trading plan, and
 - 6.1.3.4. by causing the information contained in such notices to be broadcast by a local radio-stations that broadcast in the English and isiZulu languages in the Municipal area.
- 6.2. In the notices referred to in section 6.1.3.1. to 6.1.3.4., the Municipality must provide sufficient information to enable interested and affected persons to identify the location of the intended trading plan area designated in the intended trading plan and the purpose of the trading plan, and invite such persons:
 - 6.2.1. to lodge objections or comments to the demarcation of a trading plan within a period specified in such notice, which period shall not be less than 60 (sixty) days. and
 - 6.2.2. invite interested and affected parties to a public meeting.
- 6.3. The public meeting referred to in clause 6.2.1 must be held –
 - 6.3.1. in the vicinity of the proposed trading plan area; and
 - 6.3.2. after seven (7) days but not later than sixty (60) days from the date of publication of the notice in terms of section 0.

- 6.4. At the public meeting, the Municipality must –
- 6.4.1. be represented by a person duly authorized by the Municipality who must make a presentation to the public present at the meeting in which the draft trading plan is explained;
 - 6.4.2. reasonably respond to any queries related to the draft trading plan which may be posed by the public at the public meeting; and
 - 6.4.3. give interested and affected parties an opportunity to make comments and objections at the public meeting, which comments and objections must be recorded.
- 6.5. The Municipality must consider all objections or comments that the Municipality may receive pursuant to the process outlined in this section.
- 6.6. After having considered the comments and objections, the Municipality must, within a reasonable period of time after the commencement of the public participation process in respect of the relevant draft trading plan, notwithstanding the provisions of any other law, including, but not limited to laws pertaining to municipal planning, and at a meeting of the Council–
- 6.6.1. adopt the draft trading plan;
 - 6.6.2. amend and adopt the draft trading plan; or
 - 6.6.3. reject the draft trading plan.
- 6.7. Notwithstanding the provisions of section 59 of the Systems Act, the Council may not delegate the decision-making powers referred to in section 6.6, above.
- 6.8. Public Notice of the adoption of a trading plan by the Municipality in terms of sections 6.6.1 or 6.6.2 shall, in addition to publication in the Provincial Gazette as required by section 24.1, be given by publication of a notice of such adoption publication of a notice in a local newspaper regularly circulating in the Municipal area, such notice to be in both English and isiZulu, and by erecting such number of permanent notices as are reasonably necessary, in the English and isiZulu languages, at or near the intended location of the trading area, which informs the public:

- 6.8.1. that the draft trading plan has been adopted as a trading plan, with or without amendment;
- 6.8.2. of the key aspects of the trading plan; and
- 6.8.3. that the trading plan is available for inspection at a specified location within the Municipal area.

7. AMENDMENT, REVOCATION AND REVIEW OF TRADING PLANS

7.1. The Municipality –

- 7.1.1. may by regulation amend an adopted trading plan, provided that if the amendment deviates materially from the trading plan, then the Municipality must comply with section 6 with the necessary changes; and
- 7.1.2. must review trading plans from time to time as the Municipality deems fit.

CHAPTER 3 – MANAGEMENT OF INFORMAL TRADING

8. REGISTRATION OF INFORMAL TRADERS

8.1. The Municipality must:

- 8.1.1. designate an official in the office of the head of the department of the Municipality responsible for local economic development and in the full time employ of the Municipality as its Registrar of Informal Traders,
- 8.1.2. establish an Informal Trader Registration Committee comprising of the head of the departments of the Municipality responsible for local economic development, policing, planning and operations or their nominees.

8.2. The head of the department of the Municipality responsible for local economic development shall be the chairperson of the Informal Trader Registration Committee and such head shall be primarily responsible for the administration of these bylaws.

8.3. The Registrar must:

- 8.3.1. establish and maintain an annual Register of Informal Traders;

- 8.3.2. administer the registration process comprising at least:
 - 8.3.2.1. the receipt of applications for registration,
 - 8.3.2.2. the investigation of the feasibility of the application and the compilation of a report thereon,
 - 8.3.2.3. the submission of the application and the feasibility report to the Informal Trader Registration Committee,
 - 8.3.2.4. the issue of a Registration Card.

- 8.4. The Informal Trader Registration Committee, having received an application and a feasibility report from the Registrar, must review and consider each application for registration and, if satisfied that the requirements of these Bylaws have been met, instruct the Registrar to register the applicant as a registered trader on an annual basis.

- 8.5. The Register of Informal Traders must at least contain:
 - 8.5.1. the full name and identity number of the informal trader concerned,
 - 8.5.2. the physical and postal address of the informal trader concerned,
 - 8.5.3. the location where the informal trader concerned is authorized by such registration to carry on business as an informal trader, and if such registration applies to a trading plan area, the trading bay or market allocated to such informal trader in accordance with the applicable trading plan,
 - 8.5.4. a description of the goods and / or services that the informal trader concerned may be authorized by such registration to sell or provide,
 - 8.5.5. a distinguishing registration number, and
 - 8.5.6. any other information that may be required by these bylaws or be prescribed by regulation.

- 8.6. A registered trader must be issued with a card, made of durable material, being not bigger than 5 centimetres by 9 centimetres, on which must be printed the name and identity number of the registered trader, the distinguishing registration number allocated to such registered trader and a summary of the information required to be entered in the Register of Informal Traders in terms of section 8.5.3 and 8.5.4.

- 8.7. The production of the card referred to in section 8.6 shall be prima facie proof of the registration of the registered trader and of the information contained thereon.
- 8.8. A registration card referred to in clause 8.6 remains the property of the Municipality at all times and is issued personally and on an annual basis to the registered trader, who may not permit or authorize any other person to conduct any informal or other trading save to the extent permitted by these bylaws.
- 8.9. Any person who intends carrying on business as an informal trader must annually register as an informal trader with the Municipality in terms of these bylaws.
- 8.10. Whenever it comes to the notice of the Municipality that an informal trader is carrying on any informal trading in any part of the Municipal area, an official of the Municipality appointed for that purpose must give a written notice and a verbal instruction, in one of the official languages of the Republic of South Africa that such person understands, to such informal trader requiring such informal trader to make application for registration in terms of section 8.9, and such notice and instructions must provide such person with such additional information that will enable him or her to understand the procedure to register and the consequences thereof as contained in these bylaws.
- 8.11. Any informal trader on whom a notice and instruction is served in terms of section 8.10 shall within sixty (60) days of the notice and instructions being served on him or her:
- 8.11.1. apply for registration as an informal trader in terms of section 8.9 of these Bylaws, failing which he or she shall deemed be trading in contravention of these bylaws unless he or she ceases such informal trading forthwith, or
- 8.11.2. submit prove to the Municipality that he or she is not an informal trader.
- 8.12. The Municipality must, within six (6) months of the commencement of these bylaws give notice to all persons engaged in informal trading in the Municipal

area of the adoption of these bylaws and the obligation to register in terms of section 8.9, by:

- 8.12.1. publication of a notice in a local newspaper regularly circulating in the Municipal area, such notice to be in both English and isiZulu,
 - 8.12.2. erecting such number of notices, in the English and isiZulu languages, containing the information at or near all locations in the Municipal area where informal trading is or is likely to take place, and
 - 8.12.3. publicly broadcasting the contents of such notices by loudhailer or loudspeaker in places where informal trading is or is likely to take place,
 - 8.12.4. by causing the information contained in such notices to be broadcast on radio on local radio-stations that broadcast in the English and isiZulu languages in the Municipal area.
- 8.13. Compliance with the provision of section 8.12 shall be deemed to constitute the notice and instruction required to be given to an informal trader in terms of section 8.10 in the case of all informal traders carrying on informal trading at the commencement of these bylaws, provided that in any proceedings in any court, an informal trader may prove to the satisfaction of the court that, despite such compliance with the provisions of clause 8.12, he or she was not aware of the need to register as an informal trader.
- 8.14. The Municipality is entitled to charge a registered trader:
- 8.14.1. a periodic trading fee; and
 - 8.14.2. an additional fee or tariff, which is to be determined by the Municipality in its sole discretion, in respect of additional costs or services where the registered trader trades within an informal trading area.
- 8.15. In order to qualify for registration, the applicant:
- 8.15.1. must be an informal trader;
 - 8.15.2. may not already be registered as a registered trader;
 - 8.15.3. must be a South African citizen, unless such person is authorized to carry on business as an informal trader in terms of the Immigration Act, 2002 (Act No 13 of 2002);

- 8.15.4. must not employ and actively utilize the services of more than five (5) persons;
- 8.15.5. must re-apply on an annual basis.
- 8.16. The Municipality must take into account the following factors when considering an application for registration:
- 8.16.1. the applicant's ability to meet the trading hours (if any) for the relevant trading plan area as the Municipality may determine;
- 8.16.2. the need to give preference to applicants that are historically disadvantaged individuals;
- 8.16.3. where there are a limited number of trading bays available in the trading plan area in respect of which a registration is sought, the need to give preference to applicants who have not previously engaged in informal trading within the Municipal area;
- 8.16.4. the nature of the trading goods which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading plan area or in its immediate vicinity;
- 8.16.5. the need to give preference to unemployed applicants;
- 8.16.6. the need to give preference to applicants who do not share a household with an existing registered trader, unless the number of available trading bays for the relevant trading plan area is greater than the number of applicants seeking registrations for those trading bays;
- 8.16.7. whether the applicant has, in terms of these bylaws, been convicted of an offence and/or had a registration revoked.
- 8.17. The Municipality may, by regulation, impose such terms and conditions in respect of any registration as it deems fit, including but not limited to, the right to:-
- 8.17.1. specify :-
- 8.17.1.1. the trading hours during which the registered trader may trade;
- 8.17.1.2. the nature of the goods or services the registered trader is registered to trade; and
- 8.17.1.3. the registered trader's trading bay number;

- 8.17.2. allocate the informal trader an alternative bay in the same trading plan area;
 - 8.17.3. specify the type of structure(s), if any, which may be erected on a trading bay and/or in a trading plan area;
 - 8.17.4. impound trading goods in terms of section 18.5.3 in the event of a contravention of any provision of these bylaws or any other law;
 - 8.17.5. suspend a registration for a special event on prior notice to the informal trader, with no compensation payable to the informal trader, notwithstanding that informal trading may be authorized by the Municipality at the special event in terms of section 15;
- 8.18. Notwithstanding the contents of any relevant trading plan, the Municipality has the right, upon prior notice to the informal trader and with no compensation payable by the Municipality to the registration holder, temporarily to:
- 8.18.1. relocate a registered trader,
 - 8.18.2. suspend the validity of any registration, or
 - 8.18.3. prohibit a registered trader from trading at the relevant trading bay,
 - 8.18.4. should it be necessary to do so if circumstances arise which renders the continuation of trading from the relevant trading bay impractical, unsafe or for good and sufficient reason severely inconvenient, which circumstances shall include, but not be limited to, the maintenance or construction of infrastructure or buildings required to be undertaken by the Municipality, property developments, alterations or refurbishments by any entity, or activities by public entities conducted in terms of their powers and functions.
- 8.19. The registration of a registered trader may be cancelled by the Registrar if:
- 8.19.1. the registered trader voluntarily and in writing consents to such cancellation,
 - 8.19.2. subject to the provisions of section 9, upon the death of the registered trader,
 - 8.19.3. in the event of a transfer of registration in terms of section 9 being refused and the registered trader concerned fails to carry on the informal trading for which such registration was granted within a reasonable period after such refusal, provided that the Municipality shall have first given such

registered trader not less than 14 (fourteen) days written notice of the intention to cancel the registration of such registered trader in terms of this sub-section, or

8.19.4. the provisions of sections 10.8 or 18.10 are invoked by the Municipality.

8.20. Any action taken by the Municipality in terms of this section 8 must comply with the provisions of the Promotion of Administrative Justice, 2000 (Act No 3 of 2000).

9. TRANSFER OF REGISTRATION

9.1. For the purposes of this section 9, "dependant" means, in addition to its ordinary meaning, a spouse of the registered trader, a civil union partner of the registered trader in a civil union as defined in the Civil Union Act, 2006 (Act No. 17 of 2006), a person married to the registered trader in accordance with the indigenous law ordinarily adhered to by the registered trader and a partner of the registered trader who lives or who has lived with the registered trader in a relationship having the outward attributes of a marriage.

9.2. The registration of a registered trader may be permanently transferred, with the written approval of the Municipality, to a dependant of the registered trader, or an assistant acting on behalf of such dependant, who will continue trading as a registered trader until the registration is cancelled for any valid reason, in the event of –

9.2.1. the death of the registered trader; and

9.2.2. if the loss of income generated by the informal trading would place such dependant under undue or severe economic hardship.

9.3. A registration may be temporarily transferred, with the written approval of the Municipality, to a dependant of a registered trader, if the registered trader –

9.3.1. is incapable of informal trading because of an illness, provided that:-

9.3.1.1. proof from a medical practitioner is provided to the Municipality which certifies that the registered trader is unable to trade; and

- 9.3.1.2. the dependant or assistant is only permitted to replace the registered trader for the period stipulated by the medical practitioner in the certificate for which the registered trader will be incapable of trading;
- 9.3.2. is unable to carry on informal trading for an extended period due to an obligation to fulfill religious, traditional or cultural duties, provided that where the validity of the registration extends beyond 1 (one) month, then the registered trader must resume trading within 1 (one) month, unless the Municipality consents to a longer period in exceptional circumstances.
- 9.4. Subject to sections 9.2 and 9.3, a registered trader may not transfer his or her registration to any other person in any manner, including but not limited to, by way of lease or sale.
- 9.5. The transfer of any registration in terms of sections 9.2 or 9.3 shall be notified to the Registrar who shall record such transfer in the Register of Informal Traders and no transfer shall be valid until so recorded.

10. TRADING IN FOODSTUFFS

- 10.1. For the purposes of this section 10:
- 10.1.1. "foodstuff" means any article or substance ordinarily eaten or drunk by humans or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;
- 10.1.2. "designated business" shall mean the sale or supply to consumers by an informal trader of:
- 10.1.2.1. any foodstuff in the form of meals for consumption on or off the designated location where the informal trader ordinarily conducts business; or
- 10.1.2.2. any perishable foodstuff,
- including such sale or supply:

- 10.1.2.3. which is conveyed from place to place, whether by vehicle or otherwise;
 - 10.1.2.4. on a public road or at any other place accessible to the public; or
 - 10.1.2.5. in, on or from a movable structure or stationary vehicle,
- 10.1.3. "designated location" means the place at which an informal trader carries on a designated business,
- 10.1.4. "designated conveyance" means the mode of transport used by an informal trader and from which he carries on a designated business,
- 10.1.5. "perishable foodstuff" shall mean any foodstuff or category of foodstuffs declared by the Municipal Manager of the Municipality, with the concurrence of the Council, by regulation to be a perishable foodstuff,
- 10.2. No person shall, with effect from a date six months after the commencement of these bylaws carry on any designated business in the Municipal area:
- 10.2.1. unless such person is a registered trader,
 - 10.2.2. contrary to a condition imposed as a consequence of registration,
 - 10.2.3. unless the designated location or the designated conveyance is approved by the Municipality for the purposes of a designated business.
- 10.3. The Registrar shall not register an informal trader to carry on a designated business unless:
- 10.3.1. the designated location or the designated conveyance complies with the relevant Municipal town planning provisions and with any law or regulation providing for the safety or health of the public,
 - 10.3.2. any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, including perishable foodstuffs, complies with a requirement of any law or regulation relating to the safety and health of the public;
 - 10.3.3. the applicant for registration, whether or not he is or will be in actual and effective control of the designated business; or if another person is or will be so in control, that other person, is a suitable person to carry on the

business, whether by reason of his character or otherwise, having regard to any conviction recorded against him, his previous conduct or for any other reason;

- 10.4. For the purposes of section 10.3, the Registrar may request the South African Police Services for a report stating particulars of all convictions (if any) recorded against an applicant concerned or against any person referred to in subsection 10.3.3.
- 10.5. For the purposes of such a report any member of the South African Police Services may require the applicant or person concerned to furnish such information and particulars (including any finger-print, palm-print or foot-print) as that member may consider necessary.
- 10.6. The Registrar may grant an application for registration on condition that:
 - 10.6.1. the designated location or the designated conveyance concerned does at all times comply with a requirement contemplated in section 10.3.1,
 - 10.6.2. any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance, article or place does at all times comply with a requirement contemplated in section 10.3.2, and
- 10.7. The Registrar may, on his own initiative, at the request of the Municipality or of the registered trader concerned, and after giving the registered trader concerned a reasonable opportunity to be heard,
 - 10.7.1. amend a condition;
 - 10.7.2. revoke a condition;
 - 10.7.3. indicate that a condition specified as a condition of registration has been complied with.
- 10.8. The Municipality may at any time, after giving the registered trader a reasonable opportunity to be heard, withdraw or suspend the registration of such registered trader on the grounds that:
 - 10.8.1. the designated location or the designated conveyance do not comply with a requirement contemplated in section 10.3.1,

- 10.8.2. any foodstuff, including perishable foodstuffs, sold by the registered trader does not comply with a requirement of a law relating to the health of the public;
- 10.8.3. any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, does not comply with a requirement of a law relating to the health of the public.
- 10.9. When the Municipality decides to refuse an application for registration or to withdraw or suspend such registration, it shall as soon as practicable—
- 10.9.1. notify the applicant or registered trader concerned in writing, of its decision;
- 10.9.2. furnish the applicant or registered trader concerned in writing, with the reasons for its decision;
- 10.9.3. inform the applicant or registered trader concerned in writing, of his right of appeal under section 17.
- 10.10. The registration of an informal trader who carries on a designated business shall not relieve the registered trader from complying with any law or legal requirement in connection with the designated business, the designated location or the designated conveyance.

11. OBLIGATIONS ON OWNERS OF NON-MUNICIPALITY PROPERTY

- 11.1. An owner of non-Municipal property which has been demarcated in a trading plan as land where informal trading is carried out must:
- 11.1.1. ensure that all informal trading that takes place on the owner's property complies with the applicable trading plan and these bylaws;
- 11.1.2. allow any officer access to the owner's property to enforce the provisions of these bylaws;
- 11.1.3. ensure, at the owner's cost, that sufficient services are provided to maintain acceptable hygienic conditions in respect of the informal trading;
- 11.1.4. ensure that informal trading does not encroach upon the property of another property owner or the premises of any formal business;

11.1.5. comply with the conditions contained in any agreement referred to in section 5.2.

12. GENERAL PROHIBITIONS ON INFORMAL TRADING

12.1. Subject to the provisions of these bylaws and any regulations made in terms of section 24, informal trading may not be conducted where it:

12.1.1. obstructs access to fire fighting equipment ;

12.1.2. obstructs any entry to or exit from a building;

12.1.3. substantially obstructs pedestrians in their use of a sidewalk; or

12.1.4. obstructs vehicular traffic.

12.1.5. obstructs access to street furniture, bus passenger benches and shelters, queuing lines, refuse disposal bins or other facilities intended for the use of the general public;

12.1.6. obstructs the visibility of a display window of business premises, and if the person carrying on business in that business premises objects thereto;

12.1.7. obstructs access to a pedestrian crossing;

12.1.8. obstructs access to a vehicle;

12.1.9. obscures any road traffic sign;

12.1.10 obstructs access to an automatic teller machine;

12.1.11. limits access to parking or loading bays or other facilities for vehicular traffic; or

12.1.12. obstructs access to a pedestrian arcade or mall.

13. RESTRICTIONS ON INFORMAL TRADING

13.1. No person shall in any part of the Municipal area, including in any trading plan area:

13.1.1. obstruct access to any municipal service or municipal service works;

13.1.2. unless prior written approval is granted by the Municipality, on any public road or at any public place:

13.1.2.1. stay overnight at the place where informal trading is conducted; or

- 13.1.2.2. erect any structure, other than as stipulated in the relevant trading plan and/or permit conditions, for the purpose of providing shelter;
- 13.1.3. carry on business as an informal trader in a manner which:
 - 13.1.3.1. creates a nuisance;
 - 13.1.3.2. damages or defaces the surface of any public road or public place or any other property belonging to the Municipality; or
 - 13.1.3.3. creates a traffic hazard;
- 13.1.4. attach an object to any building, structure, pavement, tree, parking meter, lamp pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture or device in or on a public road or public place that is generally intended for public use;
- 13.1.5. make a fire at any place or in circumstances where it could harm any person or damage a building or vehicle or any structure referred to in section 13.1.4.;
- 13.1.6. deliver or provide goods or equipment to an informal trader if that trader trades in contravention of these bylaws; and
- 13.1.7. after having been requested to do so by any person carrying out a lawful activity at any place who requires access to a facility or area, fail to remove or move any goods, or refuse to do so.

14. WASTE REMOVAL, CLEANSING AND HYGIENE

- 14.1. An informal trader must –
 - 14.1.1. collect all refuse, scrap or waste material produced while trading and deposit such material only in the refuse receptacles of a size and type approved by the Municipality;
 - 14.1.2. maintain the informal trader's allocated informal trading site in a clean and sanitary condition;
 - 14.1.3. on a daily basis and at the conclusion of trading, remove from any public road or public place all waste, packaging material, stock and equipment

that are utilized in connection with the informal trader's business, unless the Municipality grants a written exemption in this regard;

14.1.4. carry on business in a manner which does not cause a threat to public health or public safety; and

14.1.5. at the request of an officer or duly authorized employee of the Municipality, move or remove any object so that the area or site from which informal trading is conducted may be cleaned.

15. SPECIAL EVENTS

15.1. The Municipality may permit or prohibit informal trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading plan area.

16. GUIDELINES AND POLICIES

16.1. The Municipality may at any time publish guidelines or policies in respect of informal trading in the municipal area.

17. APPEALS

17.1. A person whose rights are affected by a decision taken by the Municipality in terms of these bylaws under a duty or power which has been delegated or sub-delegated, may appeal against that decision in terms of section 62 of the Systems Act.

18. ENFORCEMENT

18.1. An officer may issue a person with a written warning, if, in the opinion of the officer, that person has traded goods or provided services in contravention of these bylaws, including but not limited to, in violation of any condition applicable to registration of a registered trader, or any condition imposed in respect of any trading plan area, or of any other applicable law.

- 18.2. A written warning must:
- 18.2.1. be signed and dated by the officer who issues it,
 - 18.2.2. state the authority of the officer to sign and issue the warning,
 - 18.2.3. indicate the nature of the contravention the warning refers to,
 - 18.2.4. state the nature of any penalty that may be imposed if such contravention is continued or repeated, including the possible impoundment of any goods, and
 - 18.2.5. set out the official telephone number of the officer and the physical address where he or she may be contacted during ordinary business hours.
- 18.3. A warning issued in terms of section 18.1 shall lapse on the expiry of six months after the date of its issue.
- 18.4. A copy of the written warning, signed by the officer who signed such warning in terms of section 18.2.1, shall within twenty four (24) hours of being served in terms of section 18.1, be served on the Registrar who shall record the provisions of such warning in the register referred to in section 8.3.1.
- 18.5. In the event of a person, within the period of six months referred to in section 18.3, continuing or repeating the contravention in respect of which the written warning was issued to that person, or in the event of a person being issued with two or more warnings in terms of section 18.1 in any one eighteen month period, then an officer may:
- 18.5.1. refer such contravention to the South African Police Services for investigation and prosecution,
 - 18.5.2. if the person concerned is a registered trader, by written notice handed to such person, suspend the registration of such registered trader, in which case:
 - 18.5.2.1. such notice must be signed and dated by the officer who issues it,
 - 18.5.2.2. state the authority of the officer to suspend the registration,
 - 18.5.2.3. indicate the nature of the contravention the warning refers to, and

- 18.5.2.4. set out the official telephone number of the officer and the physical address where he or she may be contacted during ordinary business hours.
- 18.5.3. impound, in the case of an informal trader, any property used by the informal trader in conducting the informal trade, and in the case of any other person, any property, including but not limited to, goods, equipment, structures and motor vehicles used in and about such informal trading, in which case the officer must:
- 18.5.3.1. compile a full written inventory of all the property that has been impounded;
- 18.5.3.2. affix his or her signature to such inventory and the date thereof,
- 18.5.3.3. provide the person with a copy of the inventory in one of the official languages of the Republic of South Africa that he or she can understand and signed and dated by such official;
- 18.5.3.4. provide the person with a written notice, in one of the official languages of the Republic of South Africa that he or she can understand, signed and dated by such official, setting out:
- 18.5.3.4.1. the reasons for such impoundment;
- 18.5.3.4.2. the address and physical location of the place where such goods as have been impounded shall be stored by the municipality,
- 18.5.3.4.3. what steps such person may take to obtain possession of the goods impounded, including the payment of impoundment fees and the amount thereof,
- 18.5.3.4.4. the right to approach a court to challenge the validity of the impoundment or any aspect thereof,
- 18.5.3.4.5. the provisions of section 22, and
- 18.5.3.4.6. invite such person to make written or oral representations to the municipality within a period of not less than 30 days on any aspect of the

alleged contravention, the impoundment of goods or the circumstances arising therefrom generally. If a person elects to make oral representations, then the Municipality must make suitable arrangements for that to take place.

18.5.3.5. immediately store the impounded property in an area designated by the Municipality for the storage of impounded property, and

18.6. A copy of the notice referred to in section 18.5.3.4, signed by the officer who issued such notice, shall within 24 (twenty four) hours of being delivered to the person concerned in terms of that section, be served on the Registrar who shall record the provisions of such notice in the register referred to in section 8.3.1.

18.7. If as a result of a referral to the South African Police Services in terms of section 18.5.1:

18.7.1. no charges under these Bylaws are brought against such person, or if such charges are brought against such person and the person is acquitted by a court of such offence, then upon production of the inventory referred to in section 18.5.3.1. to the Registrar together with proof of identity to the satisfaction of the Registrar and payment to him or her of the impoundment costs, the Municipality shall release the property impounded,

18.7.2. a charge under these Bylaws is brought against such person, then a court convicting a person of such offence may, in addition to any penalty imposed under section 23.1, order that the impounded goods must be restored to the possession of the person concerned or that they be sold by public auction.

18.8. If a court orders that the impounded goods must be sold by public auction, then such public auction may be conducted by or on behalf of the Municipality and, after deduction of the impoundment costs and the reasonable costs of the public auction, the proceeds, if any, must be paid to the person concerned.

- 18.9. If any goods impounded are perishable goods, then the Municipality may, on notice to the person from whom the goods have been impounded, apply to a Magistrates Court for an order authorizing it to dispose of such goods in accordance with such directions as the court may order.
- 18.10. On prior notice to the informal trader, the Municipality may revoke the registration of a registered trader in the event of such registered trader:
- 18.10.1. breaching any provisions of the registration and/or these Bylaws or any other law;
 - 18.10.2. being convicted of trading in illegal goods or providing a service unlawfully; or
 - 18.10.3. willfully supplying incorrect information when required to provide the Municipality with information.

CHAPTER 4 – INFORMAL TRADER REPRESENTATIVE ENTITIES

19. PROCEDURE FOR ESTABLISHMENT OF INFORMAL TRADER ASSOCIATION

- 19.1. The Municipality may, after receiving a proposal referred to in section 20.1 by resolution of the Council —
- 19.1.1. recognize an informal traders association, or
 - 19.1.2. recognize the amendment of the constitution of an established informal traders association.
- 19.2. The Municipality may—
- 19.2.1. require a person who has submitted a proposal in terms of section 20.1 to provide the Municipality with additional information to that required by section 20.1, and
 - 19.2.2. instruct the Municipal Manager to conduct an investigation regarding—
 - 19.2.3. the establishment of an informal traders association; or
 - 19.2.4. a proposal submitted in terms of section 20.1.

20. PROPOSAL FOR ESTABLISHMENT OF INFORMAL TRADERS ASSOCIATION.

- 20.1. A proposal to recognize an informal trader association must contain at least—
- 20.1.1. the reasons for making the proposal;
 - 20.1.2. a proposed name and area of operation for the association;
 - 20.1.3. the proposed activities of the association;
 - 20.1.4. a description of any existing or proposed informal trading taking place or intended to take place within the proposed area of operation which is relevant to the proposed activities of the association;
 - 20.1.5. the proposed constitution of the association,
 - 20.1.6. a list of the proposed members or categories of members of the association; and
 - 20.1.7. an indication whether there has been consultation in developing the proposal, the names of the persons consulted and their interest in the proposal and the results of the consultation.
- 20.2. The Municipality may assist a person to develop such a proposal.

21. CONSTITUTION OF INFORMAL TRADERS ASSOCIATION

- 21.1. The constitution of a informal trader association must, if it is to be recognized by the Municipality, contain at least—
- 21.1.1. details of the principal and ancillary functions of the association;
 - 21.1.2. the criteria, procedures and requirements for admitting new members to the association;
 - 21.1.3. the voting powers of members;
 - 21.1.4. procedures for terminating membership;
 - 21.1.5. procedures for electing the management committee of the association;
 - 21.1.6. procedural requirements for appointment of employees of the association;
 - 21.1.7. procedural requirements for obtaining loans;
 - 21.1.8. procedures to amend the constitution, and
 - 21.1.9. the financial obligations of members towards the association.

- 21.2. A constitution must also incorporate such other provisions as the Municipality may reasonably require and must be adopted by the members of the association and approved by the Municipality before it can exercise any powers or perform any duties under these bylaws.
- 21.3. A constitution adopted by an informal trader association is binding on all its members.

22. FUNCTION OF INFORMAL TRADERS ASSOCIATION

- 22.1. In addition to any other function vested in an informal traders association by its constitution, an informal traders association recognized by the Municipality may be appointed to undertake the tasks which may be allocated to third party in terms of section 5.5.2 of these bylaws, subject to such terms and conditions as may be agreed upon in writing between the Municipality and the informal traders association concerned.

CHAPTER 5 – OFFENCES AND PENALTIES

23. OFFENCES

- 23.1. A person is guilty of an offence and liable on conviction to a fine not exceeding R5,000.00 (five thousand Rand) or to imprisonment for a period not exceeding 3 (three) months, subject to the Adjustment of Fines Act 1991, (Act No. 101 of 1991), if such person:
- 23.1.1. contravenes any provision of these bylaws, any regulations made in terms of section 24, or fails to comply with any condition imposed in terms thereof;
 - 23.1.2. threatens, resists, interferes with or obstructs any officer or any employee of the Municipality in the performance of official duties or functions in terms of or under these bylaws; or

- 23.1.3. deliberately furnishes false or misleading information to an officer or an employee of the Municipality,

CHAPTER 6 – REGULATIONS

24. REGULATIONS

- 24.1. The Municipal Manager may, by publication in the Provincial Gazette and with the approval of the Council, make regulations not in conflict with the provisions of these Bylaws:
- 24.1.1. regarding any matter which may or must be prescribed in terms of these Bylaws,
 - 24.1.2. conferring additional powers on or assigning additional duties to the Registrar or on the head of the department of the Municipality responsible for local economic development,
 - 24.1.3. better providing for exercise of the powers, duties and functions of the Registrar or on the head of the department of the Municipality responsible for local economic development imposed on them under these Bylaws.
 - 24.1.4. providing for the establishment of advisory committees for trading plan areas, the appointment of members and their role;
 - 24.1.5. setting norms and standards for the proper performance of any function contemplated in these Bylaws, and the monitoring and enforcing of such norms and standards;
 - 24.1.6. regarding any other matter which it is necessary or expedient to prescribe for the proper implementation or administration of these Bylaws.
- 24.2. Any regulation with material financial implications must be made with the concurrence of the Chief Financial Officer of the Municipality and in compliance with the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

- 24.3. Before publishing any regulation contemplated in subsection 24.1, the Municipality must publish the draft regulations in the Provincial Gazette for public comment.

CHAPTER 7 – MISCELLANEOUS

25. ASSISTANCE TO INFORMAL TRADERS

- 25.1. The Municipality must appoint an officer conversant in the home languages of informal traders who are illiterate or not able functionally to understand the purpose and consequences of the provisions of these Bylaws and any regulation made hereunder to assist such informal traders in complying with the provisions of these bylaws and any such regulations and generally to ensure that such informal traders are treated fairly and in accordance with the provisions of these Bylaws, and such officer must at all times act impartially in regard to such assistance and must observe the confidentiality of any information imparted to him or her by such informal trader unless authorised to disclose such information by the informal trader.

CHAPTER 8 – REPEALS AND TRANSITIONAL ARRANGEMENTS

26. REPEALS

- 26.1. The bylaws promulgated under the former municipalities that now form the Hibiscus Coast Municipality are hereby replaced. These include, but are not restricted to the following bylaws:
- Margate Transitional Local Council: Bylaws relating to the carrying on of the business of Street Vendor, Pedlar or Hawker, published on 31 October 1996 under Provincial Notice no. M.N.120 of 1996;

- Margate Transitional Local Council: Bylaws relating to the carrying on of the business of Street Vendor, Pedlar or hawker: Amendment, published on 9 October 1997 under Provincial Notice no. M.N. 108 of 1997.
- Margate Transitional Local Council: Hawking: Prohibited Area, published on 5 December 1996 under Provincial Notice no. M.N.141 of 1996.
- Port Shepstone Transitional Local Council: Bylaws relating to Street traders, Pedlars or Hawkers, published on 23 October 1997 under Provincial Notice no. M.N.112 of 1997.
- Hibberdene Transitional Local Council: Bylaws relating to the carrying on of the business of Street Vendor, Pedlar or Hawker, published on 10 April 1997 under Provincial Notice no. M.N. 11 of 1997.
- Umtamvuna /Port Edward Transitional Local Council: Bylaws relating to Street traders, Pedlars or Hawkers, published on 10 February 2000 under Provincial Notice no. M.N. 18 of 2000.

27. TRANSITIONAL ARRANGEMENTS

27.1. Notwithstanding the enactment of these bylaws:

27.1.1. any declaration in terms of the Businesses Act, 1991 (Act No. 71 of 1991) of an `area within the jurisdiction of the Municipality as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the Municipality adopts a trading plan in respect of such area in terms of these bylaws;

27.1.2. where an informal trader had been issued with a lease prior to the enactment of these bylaws which permits trading from a particular bay, such lease shall remain valid until the Municipality adopts a trading plan in respect of the area to which such lease applies, or such lease terminates in terms of

27.2. The lessee under any lease referred to in section 27.1.2 shall, if such lease is cancelled as a consequence of the area leased being included in a trading plan area, be given an opportunity to apply for a trading bay or to be permitted to carry

on informal trading in any market established in terms of the applicable trading plan.

CHAPTER 9 – COMMENCEMENT

28. COMMENCEMENT OF THESE BYLAWS

- 28.1. These Bylaws will take effect on the date upon which they are published in the Provincial Gazette in terms of section 13(1) of the Systems Act, save for sections 12 and 13 which will take effect on a date six months after such publication.

No. 85

8 kuNcwaba 2008

**ISIPHAKAMISO SEMITHETHODOLOBHA EZOCUTSHUNGULWA KANYE
NEZITHASISELO.**

uMasipala waseNdaweni yase Hibiscus Coast

**IMITHETHODOLOBHA YEZINDAWO ZOKUDAYISA EMGWAQENI NO 084 KA 2008
(E-HIBISCUS COAST)**

**Mayimiswe nguMkhandlu kaMasipala waseNdaweni yase Hibiscus Coast,
ngaphansi kwamandla engiwanikwe yiSigaba 156(2) soMthethosisekelo
weRiphabhuliki yaseNingizimu Afrika, 1996, kanje:**

**Ukuhlinzeka ngokuthuthukiswa kanye nokuphathwa kwendawo yokuhweba
engahlelekile ngokuphelele endaweni kaMasipala.**

UMasipala waseNdaweni yase Hibiscus Coast.....	
Mawumiswe nguMkhandlu kaMasipala waseNdaweni yase-Hibiscus Coast, ngaphansi kwamandla engiwanikwe yiSigaba 156(2) soMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996, kanje:	
Ukuhlinzeka ngokuthuthukiswa kanye nokuphathwa kwendawo yokudayisa engahlelekile ngokuphelele endaweni kaMasipala.	
1 ISANDULELO	
2 INCAZELO	
3 IZINHLOBO ZOKUDAYISA EMGWAQENI	
4 ILUNGELO LOKUBAMBA IQHAZA EKUDAYISENI EMGWAQENI	
5 UKWEMUKELWA KWEZINHLELO ZOKUDAYISA	
6 UKUBAMBA IQHAZA KOMPHAKATHI MAQONDANA NOKWEMUKELWA KOHLELO LOKUDAYISA	
7 UKUCHITSHIYELWA, UKUCHITHWA KANYE NOKUHLAZIYWA KABUSHA KWEZINHLELO ZOKUDAYISA.....	
8 UKUBHALISWA KWABADAYISI BASENMGWAQENI	

9	UKUDLULISWA KOKUBHALISWA	
10	UKUDAYISA	
	UKUDLA.....	
11	ISIBOPHO KUBANIKAZI BEZINDAWO OKUNGEZONA EZIKAMASIPALA.....	
12	OKUJWAYELWE UKWENQATSHELWA UKUDAYISWA EMGWAQENI	
13	OKUNGAVUNYELWE UKUDAYISA EMGWAQENI	
14	UKUSUSWA KWEMFUCUZA, UKUHLANZA KANYE NEZEMPILO.....	
15	IMICIMBI EYISIPESHELI	
16	IMIGOMO KANYE NENQUBOMGOMO.....	
17	IZIKHALAZO	
18	UKUPHOQELELWA	
19	INQUBO YOKUSUNGULWA KWENHLANGANO YABADAYISI BASEMGWAQENI	
20	ISICELO SOKUSUNGULWA KWENHLANGANO YABADAYISI BASEMGWAQENI	
21	UMTHETHOSISEKELO WENHLANGANO YABADAYISI BASEMGWAQENI	
22	UMSEBENZI WENHLANGANO YABADAYISI BASEMGWAQENI	
23	UKWEPHULA UMTHETHO.....	
24	IMITHETHONQUBO.....	
25	UKULEKELELWA KWABADAYISI BASEMGWAQENI	
26	UKUCHITHWA KWEMITHETHO.....	
27	AMALUNGISELELO EZINGUQUKO	
28	UKUQALISWA	KWALE
	MITHETHODOLOBHA.....	

ISANLUKO 1 – IZINCAZELO KANYE NOKUFAKWA KWEZICELO**1 ISANDULELO**

- 1.1 UMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996 uhlinzeka ngokuthi uMasipala ubhekele "imithethonqubo yokudayisa" kanye "nokudayisa emgwaqeni" endaweni yawo esemthethweni, futhi injongo kaMasipala ukugquguzela inhlonhle kanye nokuthuthukiswa komnotho.
- 1.2 UMasipala uyayiqonda indima enkulu edlalwa ngabadayisi basemgwaqeni abangahlelekile ngokuphelele ekulweni nobubha, ukuzakhela inzuzo kanye nokuthuthuka kwezamabhizinisi futhi, ikakhulu, iqhaza elikhulu ukudayisi emgwaqeni ngokungahlelekile ngokuphelele elinakho kubantu qobo ababencishwe amathuba phambilini kanye nasemphakathini.
- 1.3 UMasipala uyasibona isidingo sokwemukela indlela yokuthuthukiswa kwendawo yabadayisi basemgwaqeni ukuze kwenziwe indawo ekahle yokuthuthukisa ibhizinisi endaweni yabadayisi basemgwaqeni abangahlelekile ngokuphelele.
- 1.4 UMasipala futhi uyasibona isidingo sokuba khona kobudlelwano obusimeme phakathi kwezindawo zabadayisi basemgwaqeni abangahlelekile kanye nabadayisi basemgwaqeni abahleleke ngokuphelele ukuze kugquguzelwe inhlonhle kanye nokuthuthukiswa komnotho.
- 1.5 Le Mithethodolobha, ngakhoke ihlose:-
- 1.5.1 Ukuhlenganisa kumthethodolobha owodwa imithethodolobha eyayishaywe ngababephetha izikhundleni phambilini kuMthethodolobha waseNdaweni yase- Hibiscus Coast; kanye
- 1.5.2 Nokuphathwa kokudayisa emgwaqeni okungahlelekile ngokuphelele endaweni yawo esemthethweni.
- 1.6 UMasipala ubambisane nomphakathi ngaphambi nokuthi kwemukelwe le Mithethodolobha.

2 INCAZELO

- 2.1 Kulo Mithethonqubo, incwadi yesiNgisi yedlula kunoma yisiphi isehlakalo

sokwehlukana phakathi kwezincwadi zesiBhunu noma zesiZulu futhi, ngaphandle uma ingqikithi isho okwehlukile –

- 2.1.1 "umuntu omnyama" itemu elejwayelekile elisho abantu abaNsundu, amaKhaladi noma amaNdiya;
- 2.1.2 "UMthethosisekelo" kusho uMthethosisekelo waseRiphabhuliki yaseNingizimu Afrika, 1996;
- 2.1.3 "Mkhandlu" noma "uMkhandlu" kusho uMkhandlu kaMasipala;
- 2.1.4 "Umuntu qobo owayencishwe amathuba phambilini" kusho iSakhamuzi saseNingizimu Afrika –
- a esingumuntu omnyama; kanye/noma
 - b esingumuntu wesifazane; futhi/okanye
 - c esinokukhubazeka;
- 2.1.5 "izindleko zokubanjelwa" kusho izindleko ezakheke ngokubanjwa noma ngokugcinelwa impahla nguMasipala ngokwesigaba 18.5.3, futhi, lapho zingena khona, izindleko ezakheke ngenxa yesizathu sokulahlekelwa izimpahla ezibanjiwe;
- 2.1.6 "umdayisi wasemgwaqeni ongahlelekile ngokuphelele" kusho umuntu, noma ibhizinisi elingabhalisiwe noma elingenziwa ngokwemithetho yaseningizimu Afrika, futhi lowo noma ozibandakanye ekudayiseni emgwaqeni ngokungahlelekile ngokuphelele ngaphansi kwesigaba 8 seMithethodolobha noma ongazibandakanyile;
- 2.1.7 "ukudayisa emgwaqeni okungahlelekile ngokuphelele" kusho ukudayisa ngezimpahla kanye nokwenza imisebenzi endaweni yokudayisa emgwaqweni ngokungahlelekile ngokuphelele futhi okuqukethe izinhlobo zokudayisa ezichazwe esigabeni 3.1, kuncike ekutheni lokho kudayisa kwenzeka okungenani izinsuku eziyi-5 (ezinhlanu) kunoma kuyiphi inyanga;
- 2.1.8 "indawo eyinkundla yokudayisa" kusho indawo evumelekile ukuba yinkudla yokudayisela ngokoMthethodolobha;

- 2.1.9 "imakethe" kusho indawo eklanywe enkundleni yokudayisa ekhethelwe ukudayisa futhi ephathwa ngendlela elifanayo;
- 2.1.10 "UMasipala" kusho uMasipala wasendaweni yase-Hibiscus Coast, KwaZulu-Natali;
- 2.1.11 "Indawo kaMasipala" kusho indawo esemthethweni kaMasipala enqunywe ngokwesigaba 21 soHulumeni baseKhaya: uMthetho wokuKlanywa kweMingcele kaMasipala, 1998 (uMthetho No 27 ka 1998);
- 2.1.12 "indawo engekho kuMasipala" kusho indawo esendaweni kaMasipala kepha engaphethwe nguMasipala, engaqashiwe nguMasipala, noma engekho ngaphansi kokwenganyelwa nguMasipala;
- 2.1.13 "okuphazamisayo" kubandakanya, kepha kungapheleli lapho, ukwenza noma ukushiya okuyicala, ukulimaza noma okunobungozi empilweni, okuphazamisa ukuhlala kahle, ithuba elifanele, ukuthula noma ukuhlala ngokuthula komphakathi noma okuphazamisa kakhulu umphakathi.
- 2.1.14 "isikhulu" kusho –
- a iphoyisa lomgwaqo eliqokwe ngokwesigaba 3 soMthetho wezokuHamba kweziMoto eMgwaqeni, 1989 (uMthetho No. 29 ka 1989);
 - b ilungu lezeMisebenzi yamaPhoyisa aseNingizimu Afrika; noma
 - c isikhulu sezokuthula esihlongozwe esigabeni 334 soMthetho wokuQulwa kwaMacala obuGebengu, 1977 (uMthetho No. 51 ka 1977);
- 2.1.15 "okubekiwe" kusho imithethonqubo ebekiwe;
- 2.1.16 "umgwaqo womphakathi" kusho noma yimuphi umgwaqo, isitaladi noma indlela yokuhamba bonke abantu noma enye indawo (okanye indlela noma akusiyona) ngokwejwayelekile

esetshenziswa ngumphakathi noma enye ingxenye yalokho inendlela yokungena, futhi ubandakanya:

- a noma yimuphi umgwaqo ogodliwe,
- b unqenqema lwanoma yimuphi umgwaqo, isitaladi noma indlela yokuhamba abantu;
- c ibhuloho, isikejana noma indawo yokuwela kunoma yimuphi umgwaqo, isitaladi noma indlela yokuhamba abantu; kanye
- d nanoma yimuphi omunye umsebenzi noma into eyingxenye yawo noma exhumana nawo noma izinto zalowo mgwaqo, isitaladi noma indlela yokuhamba abantu;

2.1.17 indawo yomphakathi” kusho noma yiliphi ibhishi, indawo eyisikwele, ipaki noma izindawo zokungcebeleka, ingadi, indawo evulekile noma evalekile engudeda ngendlela endaweni kaMasipala:

- a enikezwe itayitela nguMasipala ukuze isetshenziswe futhi kuzwe umphakathi ngayo noma indawo ephethwe nguMasipala ngokwezisombululo ezisungulwe nguMasipala noma emenyezwe nguMasipala njengendawo yomphakathi; noma
- b umphakathi onelungelo lokuyisebenzisa; okanye
- c ekhonjiswe kwipulani eyejwayelekile noma kumboniso mdwebo wanoma yiliphi ilokishi elizimele Kwirejista yamaTayitela noma eHhovisi likaSaveya Jikelele futhi kulona umnikazi weziza noma isiza kulelo lokishi onelungelo elivamile;

2.1.18 “ukubhaliswa” kusho ukubhaliswa njengomdayisi wasemgwaqeni ngokwesigaba 8 seMithethodolobha;

- 2.1.19 "umdayisi obhalisiwe" kushiwo umdayisi wasemgwaqeni obhaliswe njengomdayisi wasemgwaqeni nguMasipala ngaphansi kwesigaba 8 soMthethodolobha;
- 2.1.20 "UMbhalisi" kusho uMbhalisi wabaDayisi basemgwaqeni abangahlelekile ngokuphelele oqokwe ngokwesigaba 8 nguMasipala,
- 2.1.21 "imicimbi ekhethekile" ingabandakanya, kepha ingacini lapho, imidlalo, imicimbi, izimakethe zasebusuku, izimakethe ezivulekile, isitolo, imicimbi yesintu, imicimbi yamasiko, amafestivali omculo, imicimbi yokupromotha kanye nemicimbi yezenkolo;
- 2.1.22 "ukudayisa emgwaqeni" kusho ukudayiswa kwanoma yiziphi izimpahla (kubandakanya into ephilayo) noma ukuhlinzeka noma ukufuna ukuhlinzeka noma yimuphi umsebenzi ukuze akhokhelwe, njengomdayisi wasemgwaqeni ongahlelekile ngokuphelele, umdayisi wasemgwaqeni, ohamba ethengisa noma ohamba hamba edayisa ezindaweni zomphakathi noma emgwaqeni womphakathi kepha akuhlanganisi ukudayisa iphephandaba kuphela.
- 2.1.23 "UMthetho weziNhlelo" kusho oHulumeni baseKhaya: uMthetho weziNhlaka zoMasipala, 2000 (uMthetho No. 32 ka 2000);
- 2.1.24 "uhlelo lokudayisa" kusho uhlelo lokudayisa oluvunywe nguMasipala ukwengamela ukudayisela emgwaqeni okungahlelekile ngokuphelele endaweni esohlelweni lokudayisela emgwaqeni ngokungahlelekile ngokuphelele;

3 IZINHLOBO ZOKUDAYISA EMGWAQENI NGOKUNGAHLELEKILE NGOKUPHELELE

- 3.1.1 Ukudayisa emgwaqeni okungahlelekile ngokuphelele kungabandakanya, ngaphezu kwezinye izinto:-
- 3.1.2 Ukudayisa emgwaqeni;
- 3.1.3 Ukudayisa enxanxatheleni yzimpambano zabahamba ngezinyawo;

- 3.1.4 Ukudayisa emakethe;
- 3.1.5 Ukudayisa ezimpambanweni zezimoto noma zemigwaqo yomphakathi;
- 3.1.6 Ukudayisa endaweni yomphakathi;
- 3.1.7 Ukudayisa endlini engumahamba nendlwanwa, njengebhayisikili, ikharaveni, noma ezinye izithuthi;
- 3.1.8 Abadayisi abazulazulayo; kanye
- 3.1.9 Nokudayisa emicimbini ekhethekile.

4 ILUNGELO LOKUZIBANDAKANYA EKUDAYISENI EMGWAQENI OKUNGAHLELEKILE NGOKUPHELELE

- 4.1.1 Kweyame ezihlinzekweni zale Mithethodolobha, noma yimiphi imithethonqubo eyenziwe ngokwesigaba 24, kanye nanoma yimiphi imithetho esetshenziswayo, ukudayisa emgwaqeni okungahlelekile ngokuphelele kuvumeleke kunoma kuyiphi ingxenywe yendawo kaMasipala, kweyame ekunqatshelweni okwejwayelekile noma kokuvunyiwe okubekwe ezigabeni 12 kanye no 13 zale Mithethodolobha.

ISAPHLUKO 2 – IZINDAWO EZIHLELELWE UKUDAYISA KANYE NEZINHLELO ZOKUDAYISA

5 UKUVUNYWA KWEZINHLELO ZOKUDAYISA

- 5.1 UMasipala ngokwemithethonqubo eyenziwe esigabeni 24, ungemukela izinhlelo zokudayisa, ikakhulukazi ezindaweni lapho kukhona noma okuvame ukudayiswa ngendlela engahlelekile ngokuphelele.
- 5.2 Uhlelo lokudayisa lungavumela futhi luqondise ukudayisa kwasemgwaqeni endaweni engekho ngaphansi kukaMasipala, ngokuncike kumalungelo, kanye nemvume ebhaliwe, yomnikazi waleyo ndawo.
- 5.3 Leyo mvume kanye nanoma yimiphi imibandela okuvunyelwene ngayo

phakathi komnikazi kanye noMasipala owengamele ukufakwa phakathi kwalowo mhlaba ongekho ngaphansi kukaMasipala ohlelweni lokudayisa kumele irekhodwe esivumelwaneni esibhaliwe phakathi kwalowo mnikazi kanye nalowo Masipala.

5.4 Uhlelo lokudayisa kumele:

5.4.1 Iuchaze imingcele yemephu yendawo yohlelo lokudayisa lapho uhlelo lokudayisa okuzofakwa khona;

5.4.2 Iuklaye izindawo zokudayisela emgwaqeni ngokungahlelekile ngokuphelele kanye nezimakethe lapho ukudayisela emgwaqeni ngokungahlelekile kuvunyelwe ukuba kwenziwe endaweni ehlelelwe ukudayisela emgwaqeni,

5.4.3 Iuchaze ilungelo noma imibandela yakho konke ukufakwa ezosetshenziswa kumdayisi obhalisiwe nofakelwe indawo yokudayisa noma novumeleke ukudayisa kunoma kuyiphi imakethe,

5.4.4 Iuchaze indlela esetshenziwe ukufaka izindawo zokudayisela kanye nokungena kuzo, nomsebenzi wazo, nezimakethe

5.4.5 Iubeke noma yiziphi izintela ezifakwayo nezikhokhwa maqondana nokusebenza kwendawo yokudayisela noma imakethe,

5.4.6 Iuhlinzeke ngokuphatha nangokuphathwa kwendawo yohlelo lokudayisa, futhi

5.4.7 Iube ngolufaneleyo, futhi lubandakanywe, ezihlinzekweni zanoma yiluphi uhlelo lokuhlelwa kwedolobha noma isiphakamiso sokuthuthukiswa kohlaka olwemukelwe nguMasipala ngaphansi kwanoma yimuphi umthetho.

5.5 Uhlelo lokudayisa lungabandakanya noma yiluphi udaba olwengamele ukudayisela emgwaqeni ngokungahlelekile ngokuphelele endaweni ehlelelwe ukudayisa ethintekayo, kubandakanya, ngaphandle kokuba nezithiyo:

5.5.1 Indlela inhlalakahle kanye nokuthuthukiswa komnotho okuzogqugquzelwa ngayo ngokohlelo lokudayisa;

5.5.2 Izindaba eziphathelene namalungiselelo asemthethweni phakathi kukaMasipala kanye nanoma ngubani othintekayo maqondana nesibopho esiphathelene nokuphathwa jikelele kwemakethe ngokuthi lowo muntu nguyena ozobhekelela okungenani lezi zinto ezilandelayo:

- a ukuphathwa kokusebenza kwemakethe;
- b ukuphathwa kwabadayisi basemgwaqeni abangahlelekile ngokuphelele abasebenzela emakethe;
- c ukuqinisekisa ukuthi bonke abantu abathintekayo babamba iqhaza ezinqumeni ezithathwayo;
- d ukuhlinzekwa kokuphathwa kwabadayisi basemgwaqeni abangahlelekile ngokuphelele abasebenzela emakethe ngokwesekwa kwebhizinisi kanye nokuthuthukiswa kwemisebenzi; kanye
- e nanoma yimuphi umsebenzi owengezwe emisebenzini ehlinzekwa nguMasipala.

5.6 Uhlelo lokudayisa kumele luhambisane nezigaba 12, 13 kanye no 14 zale Mithethodolobha kanye neminye imithetho esetshenziswayo.

5.7 Noma yimuphi umuntu kufanele akwazi ukucela uMasipala ukuba ucubungule ukwemukelwa kohlelo lokudayisa futhi uMasipala kumele ngokufanele ucubungule leso sicelo, esikhathini esingengakanani uMasipala usitholile leso sicelo;

5.8 Ngenkathi ucubungula isicelo sokwemukela uhlelo lokudayisa, uMasipala kumele ubheke zonke izinhlelo ezikhona kanye nezihlongozwayo zohlelo lokudayisa endaweni esohlelweni lokudayisa oluhlongozwayo ukuze unqume ngokudingakala kokwemukelwa kohlelo lokudayisa.

6 UKUBAMBA IQHAZA KOMPHAKATHI MAQONDANA NOKWEMUKELWA KOHLELO LOKUDAYISA

6.1 Ngaphambi kokwemukelwa kohlelo lokudayisa, uMasipala unesibopho:

- 6.1.1 sokuthintana nabanentshisekelo kanye nabantu abaphazamisekayo, kubandakanya ababambe iqhaza ezingxenyeni ezingahlelekile ngokuphelele kanye nezihleleke ngokuphelele zamabhizinisi kanye nabanikazi nabahleli kumhlaba oyindawo yohlelo lokudayisa ukuze kukhulunywe nabo ngokuhlongozwa kohlelo lokudayisa;
- 6.1.2 sokuhlanganisa isiphakamiso sohlelo lokudayisa ngokulandela indlela yokuxhumana ngokwesigaba 0;
- 6.1.3 sokukhiphela bonke abantu abanentshisekelo kanye nabaphazamisekayo isaziso:
- a ngokushicilela kwiphephandaba elilodwa lwesiNgisi kanye nelilodwa lesiZulu, omabili aphuma endaweni kaMasipala, leso saziso sibe ngolimi olusetshenzisa kulelo phephandaba,
 - b nokumisa isibalo sezaziso, ngolimi lwesiNgisi kanye nolwesiZulu, endaweni noma eduze nendawo okuhlelwa kuyo uhlelo lokudayisa,
 - c nokusakaza emphakathini okuqukethwe yilezo zaziso ngezwi elikhulu noma ngemishini enezelela izwi endaweni noma eduze nendawo okuhlelwa kuyo uhlelo lokudayisa, futhi
 - d nokusakaza imininingwane equkethwe yilezo zaziso emisakazweni esakaza endaweni kaMasipala ngolimi lwesiNgisi kanye nolwesiZulu.
- 6.2 Kwizaziso okukhulunywa ngazo esigabeni 0 a, b, c, futhi uMasipala kumele uhlinzeke ngemininingwane efanele ukwenzela ukuthi abantu abanentshisekelo kanye nabaphazamisekayo ukuthi bakhombe indawo ehlelelwa ukudayisa ekhethwe kuhlelo lokudayisa kanye nezinhloso zohlelo lokudayisa, futhi kuphindwe bamenywe labo bantu:

- 6.2.1 Abaphikisana noma abethula izimvo ngokuklanywa kwendawo yokudayisa esikhathini esibekwe kuleso saziso, okufanele singabi ngaphansi kwezinsuku ezinga-60 (amashumi ayisithupha). futhi
- 6.2.2 Kumenywe zonke izinhlango ezinentshisekelo kanye neziphazamisekayo emhlanganweni womphakathi.
- 6.3 Umhlangano womphakathi okukhulunywe nawo kwisiqephu 6.2.1 kumele ubanjelwe –
- 6.3.1 endaweni ehlongozelwa uhlelo lokudayisa; futhi
- 6.3.2 ngemuva kwezinsuku eziyi-7 (isikhombisa) kepha kungeqi ezinsukwini ezingama-60 (amashumi ayisithupha) kusukela osukwini lokushicilelwa kwesaziso ngokwesigaba 0.
- 6.4 Emhlanganweni womphakathi, uMasipala kumele –
- 6.4.1 Umelwe ngumuntu ogunyazwe nguMasipala okumele athulele umphakathi okhona osemhlanganweni ngokuchazwa ngohlaka lohlelo lokudayisa;
- 6.4.2 Ukuphendula yonke imibuzo ephathelene nohlaka lohlelo lokudayisa engabuzwa ngumphakathi emhlanganweni; futhi
- 6.4.3 Anikeze abanentshisekelo kanye nezinhlangano eziphazamisekayo ithuba lokhwethula izimvo zazo kanye nokuphisikisana nohlelo emhlanganweni womphakathi, okumele lokho kwethulwa kwezimvo kanye nokuphikisa kuqoshwe.
- 6.5 UMasipala kumele ucubungule konke ukuphikisa noma izethulo zezimvo lezo uMasipala ongazithola zifanelwe ukulungiswa ezibekwe kulesi sigaba.
- 6.6 Ngemuva kokucubungula izimvo kanye nokuphikisa, uMasipala kumele, ngaphambi kwesikhathi esibekiwe ngemuva kokuqaliswa kokubamba iqhaza komphakathi maqondana nohlaka lohlelo lokudayisa, ngaphandle kwezihlinzeko zanoma yimuphi umthetho, kubandakanya kepha kungagcini lapho imithetho elinganiselwe ephathelene nokuhlelwa kukaMasipala, kepha emhlanganweni woMkhandlu
- 6.6.1 wemukele isiphakamiso sohlelo lokudayisa;

- 6.6.2 uchibiyele futhi wemukele isiphakamiso sohlelo lokudayisa; noma
- 6.6.3 wenqabe isiphakamiso sohlelo lokudayisa.
- 6.7 Ngaphandle kwezihlinzeko zesigaba 59 soMthetho weziNhlelo, uMkhandlu unganika amandla okuthatha izinqumo okukhulunywa ngazo esigabeni 6.6, ngenhla.
- 6.8 Isaziso soMphakathi wokwemukelwa kohlelo lokudayisa nguMasipala ngokwezigaba 6.6.1 noma 6.6.2 kufanele, ukongeza okushicilelwe kwiGazethi yesiFundawe njengalokhu kudingwa ukumiswa yisigaba 24.1, kwenziwe ngokushicilela isaziso salokho kuvuma ngolimi lesiNgisi kanye nelesiZulu ephephandabeni, omabili aphuma endaweni kaMasipala, lesa saziso sibe ngolimi olusetshenziswa kulelo phephandaba, futhi ngokumisa isibalo sezaziso eziyohlala zikhona njalo njengalokhu kudingekile, ngolimi lwesingisi kanye nolwesiZulu, endaweni noma eduze nendawo yokudayisela, esazisa umphakathi:
- 6.8.1 Ngokuthi isiphakamiso sohlelo lokudayisa semukelwe njengohlelo lokudayisa, ngokuchitshiyelwa noma ngaphandle kokuchitshiyelwa;
- 6.8.2 Ngokubonakalisa ukubaluleka kohlelo lokudayisa; kanye
- 6.8.3 Nokuthi uhlelo lokudayisa luyakwazi ukuhlonzwa endaweni ebekelwe lokho endaweni kaMasipala.
- 7 UKUCHITSHIYELWA, UKUCHITHWA KANYE NOKUHLAZIYWA KWEZINHLELO ZOKUDAYISA
- 7.1 UMasipala –
- 7.1.1 Ngokomthethonqubo ungachibiyela uhlelo lokudayisa olumukelwe, kuncike ekutheni uma ukuchitshiyelwa kwehluka kakhulu kokubonakalayo kuhlelo lokudayisa, laphoke uMasipala kumele uhambisane nesigaba 6 ngokwenza ushintsho oludingekayo; futhi
- 7.1.2 Kumele uhlaziye izinhlelo zokudayisa ngaso sonke isikhathi njengalokhu uMasipala ungabona kufanele.

**ISAPHLUKO 3 – UKUPHATHWA KOKUDAYISA EMGWAQENI OKUNGAHLELEKILE
NGOKUPHELELE**

**8 UKUBHALISWA KWABADAYISI BASEMGWAQENI ABANGAHLELEKILE
NGOKUPHELELE**

8.1 UMasipala kumele:

8.1.1 ukhethé isikhulu ehhovisi lenhloko yomnyango kaMasipala esibhekele ukuthuthukiswa komnotho wasendaweni futhi ngokugcwele esiqashwe nguMasipala njengoMbhalisi wabaDayisi baseMgwaqeni abangahlelekile ngokuphelele,

8.1.2 usungule iKomidi eliBhalisa abaDayisi baseMgwaqeni abangahlelekile ngokuphelele elinenhloko yomnyango kaMasipala ebhekele ukuthuthukiswa komnotho wasendaweni, ukuze ligade, lihlele futhi libheke nokusebenza noma abakhethelwa ukungena ohlelweni lokudayisa.

8.2 Inhloko yomnyango kaMasipala ebhekele ukuthuthukiswa komnotho wasendaweni kufanele ibe ngusihlalo weKomidi eliBhalisa abaDayisi baseMgwaqeni abangahlelekile ngokuphelele futhi leyo nhloko kufanele ibhekele ukuphathwa kweMithethodolobha.

8.3 UMbhalisi kumele:

8.3.1 Asungule futhi agcine iRejista yabaDayisi baseMgwaqeni abangaHlelekile ngokuphelele;

8.3.2 Ahlele amalungiselelo okubhaliswa okungenani ahlanganisa:

a Ilisidi yesicelo sokubhaliswa,

b Uphenyo ngokwenziwa kwesicelo kanye nokuhlanganiswa kombiko walokho,

c Ukufakwa kwesicelo kanye nokwenziwa kombiko eKomidini lokuBhaliswa kwabaDayisi baseMgwaqeni,

d Udaba lweKhadi lokuBhaliswa.

8.4 IKomidi lokuBhaliswa kwabaDayisi baseMgwaqeni abangahlelekile

ngokuphelele, ekumukeleni isicelo kanye nokwenziwa kombiko osuka kuMbhalisi, kumele lihlazie futhi licubungule isicelo ngasinye sokubhaliswa, uma leneliseka ngokuthi okudingwa yile Mithethodolobha siyahambisana nakho, lizoyalela uMbhalisi ukuba abhalise umfakisicelo abe ngumdayisi obhalisiwe.

8.5 Irejista yabaDayisi basemgwaqeni abangahlelekile ngokuphelele okungenani kumele iqukathe:

8.5.1 amagama aphelele kanye nezinombolo zikamazisi zomdayisi wasemgwaqeni othintekayo,

8.5.2 ikheli lendawo ahlala kuyo kanye nesikhwama seposi lomdayisi wasemgwaqeni ongahlelekile ngokuphelele,

8.5.3 indawo lapho umdayisi wasemgwaqeni othintekayo agunyazwa ukuba adayisele kuyo emgwaqeni ngokubhaliswa kwakhe, futhi uma lokho kubhaliswa kungena endaweni ehlelelwe ukudayisa, indawo edwetshiwe noma imakethe afakwe kuyo lowo mdayisi wasemgwaqeni ngokuhambisana nohlelo lokudayisa,

8.5.4 ukuchazwa kwezimpahla kanye/noma imisebenzi umdayisi wasemgwaqeni othintekayo angagunyazelwe ukuyenza ngokubhaliswa ukuba adayise noma awuhlinzeke,

8.5.5 inombolo abhaliswe ngayo, kanye

8.5.6 nanoma yimiphi eminye imininingwane engadingwa yiMithethodolobha noma okubhalwe kwimithethonqubo.

8.6 Umdayisi obhalisiwe kumele anikezwe ikhadi, elenziwe ngoqwembe, ubukhulu balo bungeqi kumasentimitha ayi- 5 ubude obungu 9 bamasentimitha, kulona okumelwe kubhalwe igama kanye nenombolo kamazisi womdayisi obhalisiwe, inombolo yokubhaliswa enikezwe lowo mdayisi kanye nemininingwane okudingeka ukuba ifakwe kwiRejista yabaDayisi baseMgwaqeni ngokwesigaba 8.5.3 kanye no 8.5.4.

8.7 Ukwenziwa kwekhasi okukhulunywa ngakho esigabeni 8.6 kufanele kube nobufakazi obuqavile bokubhaliswa komdayisi wasemgwaqeni kanye nemininingwane equkethwe kulona.

- 8.8 Ikhadi lokubhalisa okukhulunywa ngalo kwisiqephu 8.6 lingelikaMasipala ngazo zonke izikhathi futhi likhishelwa umdayisi wasemgwaqeni kuphela ongeke avumele noma agunyaze noma yimuphi umuntu ukuba adayise ngokungemthetho noma enze okunye ukuhweba okungale kwalokhu okuvunywe yile Mithethodolobha.
- 8.9 Noma yimuphi umuntu ofuna ukuqhuba ibhizinisi ngengomdayisi wasemgwaqeni kumele abhalise njengomdayisi wasemgwaqeni kuMasipala ngokoMthethodolobha.
- 8.10 Noma yinini lapho uMasipala uthola khona ukuthi umdayisi wasemgwaqeni uqhuba noma yikuphi ukudayisa kunoma kuyiphi ingxenye yendawo kaMasipala, isikhulu sikaMasipala esiqokelwe lokho kumele simkhiphele isaziso esibhaliwe ebese simnika umyalelo ngomlomo, ngolunye lwezilimi ezivumeleke kuMthethosisekelo waseNingizimu Afrika lowo muntu futhi aluqondayo ngokuphelele, ngalokho kudayisa okungahlelekile ngokuphelele akwenzayo, okufunele lokho kudayisa akufakele isicelo sokubhaliswa ngokwesigaba 8.9, futhi lesa saziso kanye nomyalelo kumele sihlizwe lowo muntu ngemininingwane eyongeziwe ezomenza ukuba akwazi ukuqonda inqubo yokubhaliswa kanye nezingqinamba zalokho njengalokhu ziqukethwe kuMthethodolobha.
- 8.11 Noma yimuphi umdayisi wasemgwaqeni ongahlelekile ngokuphelele okhishelwe isaziso kanye nomyalelo ngokwesigaba 8.10 kufanele ngaphambi kwezinsuku ezinga-60 (amashumi ayisithupha) ekhishelwe isaziso kanye nomyalelo:
- 8.11.1 Afake isicelo sokubhaliswa njengomdayisi wasemgwaqeni ongahlelekile ngokuphelele ngokwesigaba 8.9 sale Mithethodolobha, uma ehluleka noma kufanele ayekiswe ukudayisa ngokwephula lo Mthethodolobha ngaphandle uma ekuyeka lokho kudayisa ngaleso sikhathi, noma
- 8.11.2 Eletha ubufakazi kuMasipala bokuthi akasiyena umdayisi wasemgwaqeni ongahlelekile ngokuphelele.
- 8.12 UMasipala kumele, ngaphambi kwezinyanga eziyi-6 (isithupha) kuqaliswe le Mithethodolobha akhiphele bonke abantu abangabadayisi basemgwaqeni

abasendaweni kaMasipala isaziso sokwemukelwa kwale Mithethodolobha kanye nesibopho sokubhalisa ngokwesigaba 8.9, ngokuthi:

- 8.12.1 ushicilele isaziso ngolimi olulodwa lwesiNgisi kanye nolwesiZulu ephaphandabeni, omabili aphuma endaweni uMasipala akuyo, leso saziso sibe ngolimi olusetshenziswa kulelo phephandaba,
- 8.12.2 nokumisa isibalo sezaziso, ngolimi lwesiNgisi kanye nolwesiZulu, endaweni noma eduze nendawo kaMasipala okuhlelwa kuyo ukwenziwa kohlelo lokudayisa; kanye
- 8.12.3 nokusakaza emphakathini okuqukethwe yilezo zaziso ngezwi elikhulu noma ngemishini enezelela izwi endaweni noma eduze nendawo okuhlelwa kuyo uhlelo lokudayisa, futhi
- 8.12.4 ngokusakaza imininingwane equkethwe yilezo zaziso emsakazweni yasendaweni esakaza ngolimi lwesiNgisi.

8.13 Ukuhambisana nezihlinzeko zesigaba 8.12 kufanele kube nokusho kokumiswa kwesaziso kanye nomyalelo okudingeka unikelzwe umdayisi wasemgwaqeni ngokwesigaba 8.10 lapho bonke abadayisi basemgwaqeni abaqhuba ukudayisa okungahlelekile ngokuphelele ngokuqaliswa kwale Mthethodolobha, kuncike ekutheni kunoma yikuphi ukuqula enkantolo, ngokweneliseka inkantolo komdayisi wasemgwaqeni ngokuthi, ngaphandle kokuhlangabezana nezihlinzeko zesiqephu 8.12, akaziswanga ngesidingo sokuthi abhaliswe njengomdayisi wasemgwaqeni ongahlelekile ngokuphelel.

8.14 UMasipala unelungelo lokumhlawulisa umdayisi wasemgwaqeni:

- 8.14.1 imali yokudayisa ngezikhathi ezithile; kanye
- 8.14.2 nemali eyongeziwe noma intela, ezonqunywa nguMasipala ngokubona kwawo, maqondana nezimali ezongeziwe noma imisebenzi lapho umdayisi obhalisiwe edayisa endaweni yokudayisela emgwaweni.

8.15 Ukuze ufaneleke ukubhalisa, umfakisicelo:

- 8.15.1 Kumele abe ngumdayisi wasemgwaqeni ongahlelekile ngokuphelele;
- 8.15.2 Angabi ngosebhalisiwe ngengomdayisi wasemgwaqeni;
- 8.15.3 Kumele abe yisakhamuzi saseNingizimu Afrika, ngaphandle uma lowo muntu egunyaziwe ukuqhuba ibhizinisi njengomdayisi wasemgwaqeni ngokoMthetho weziFiki, 2002 (uMthetho No 13 ka 2002),
- 8.15.4 Kumele angaqashi futhi enze imisebenzi yabantu abangaphezulu kwaba yi-5 (abahlanu).
- 8.16 UMasipala kumele ubheke lokhu okwenzekayo uma ucubungula isicelo sokubhalisa:
- 8.16.1 ukwazi komfakisisicelo ukuhambisana nezikhathi zokudayisa (uma zibekiwe) endaweni ethintekayo ehlelelwe ukudayisa njengalokhu uMasipala unganquma;
- 8.16.2 isidingo sokucatshangelwa kuqala kwabantu ababencishwe amathuba phambilini;
- 8.16.3 lapho kunesibalo esilingene sezindawo zokudayisa ezidwetshelwe endaweni yokudayisa eqondene nokubhlisa, kunesidingo sokucabangela kuqala abantu abangakaze badayise emgwaqeni endaweni kaMasipala;
- 8.16.4 uhlobo lwezimpahla ezidayiswa umfakisisicelo, noma imisebenzi umfakisisicelo afuna ukuyenza, ebeke isithombe emqondweni ngohlobo lwamabhizinisi asendaweni yokudayisa noma ngokushesha endaweni akuyo;
- 8.16.5 isidingo sokucabangela kuqala abafakizicelo abangasebenzi;
- 8.16.6 isidingo sokucabangela kuqala abafakizicelo abangahlanganyele indlu nomunye umdayisi wasemgwaqeni okhona, ngaphandle uma isibalo sezinombolo zezindawo ezidwetshiwe zokudayisa endaweni yokudayisa okukhulunywa ngayo sisikhulu kunesibalo sabafakizicelo abafuna ukubhalisela lezo zindawo ezidwetshelwe zokudayisa;

- 8.16.7 Okanye umfakisicelo, ngokwale Mithethodolobha, useke waboshwa ngecala futhi/noma useke wachithwa ekutheni abe ngumuntu obhaliswayo.
- 8.17 UMasipala, ngokomthethonqubo, ungabeka leyo migomo kanye nemibandela maqondana nanoma yikuphi ukubhaliswa njengalokhu ubona kufanele, kubandakanya kepha kungagcni lapho, ilungelo loku:-
- 8.17.1 balula:
- a izikhathi zokudayisa umdayisi angadayisa ngazo;
 - b uhlobo lwezimpahla noma imisebenzi umdayisi wasemgwaqeni abhaliselwe ukuyenza; kanye
 - c nenombolo yendawo edwetshelwe yokudayisa;
- 8.17.2 ungafaka umdayisi wasemgwaqeni endaweni edwetshiwe endaweni ehlelelwe ukudayisa;
- 8.17.3 ungabalule izinhlobo zezinhlobo, uma zikhona, ezingamiswa endaweni edwetshelwe ukudayisa futhi/noma endaweni ehlelelwe ukudayisa;
- 8.17.4 ungadla izimpahla ngokwesigaba 18.5.3 esimweni lapho kunokuphambana nezihlinzeko zale Mithethonqubo noma eminye imithetho;
- 8.17.5 ungamisa ukubhaliswa komcimbi oyisipesheli ngokunikeza umdayisi wasemgwaqeni isaziso, ngaphambi kokumkhokhela, ngaphandle kokuthi ukudayisa emgaqweni kungagunyazwa nguMasipala emcimbini oyisipesheli ngokwesigaba 15;
- 8.18 Ngaphandle kwalokho ingqikithi ephathelene nanoma yiluphi uhlelo lokudayisa, uMasipala unelungelo, ngaphambi kokunikeza umdayisi wasemgwaqeni isaziso futhi nangaphandle kokuthi uMasipala umkhokhele kophethe ukubhalisa, okwesikhashana:
- 8.18.1 ukumfaka futhi umdayisi obhalisiwe,
- 8.18.2 ukumisa ukusebenza kwanoma yikuphi ukubhaliswa, noma

- 8.18.3 ukwenqabela umdayisi obhalisiwe ukuba adayise endaweni edwetshiwe yokudayisa,
- 8.18.4 uma kunesidingo sokwenza lokho uma kuvela izithiyo ezenza ukudayisa endaweni edwetshiwe yokudayisa ezenza ukuba kungasebenzeki, kungabi nokuphepha noma ngezizathu ezikahle nezizwakalayo eziphazamisayo, lezo zithiyo kufanele zibandakanye, futhi zingagcini lapho, ukulungiswa kanye nokwakhiwa kwezingqalazinda noma izakhiwo kudingeka ukuba kwenziwe nguMasipala, ukuthuthukiswa komhlaba, ukulungiswa noma ukuvuswa kabusha kwanoma yini, noma izinto ezenziwayo zomphakathi ezenziwa ngokwamandla abo kanye nemisebenzi.
- 8.19 Ukubhaliswa komdayisi wasemgwaqeni kungahoxiswa nguMbhali uma:
- 8.19.1 umdayisi obhalisiwe ngokuzivumela ngokwakhe futhi ngokubhala phansienikeza imvume yalokho kuhoxiswa,
- 8.19.2 ngokweyame ezihlinzekweni zesigaba 9, ekufeni komdayisi obhalisiwe,
- 8.19.3 esimweni lapho kudluliselwa komunye ukubhaliswa ngokwesigaba 9 kwenqatshelwa futhi umdayisi obhalisiwe ehluleka ukuqhubeka nokudayisa emgwaqeni ngokubhaliswa okwakunikwe isikhathi esithile ngemuva kwalokho kwenqatshelwa, kuncike ekutheni uMasipala kufanele engabe ukwenze lokho kubhaliswa komdayisi wasemgwaqeni ezinsukwini ezingengo ngaphansi kweziyi-14 (eziyishumi nane) ngaphambi kwesaziso sokuhoxiswa kokubhaliswa komdayisi wasemgwaqeni ngokwesigatshana, noma
- 8.19.4 izihlinzeko zezigaba 10.8 noma 18.10 zisizwa nguMasipala.
- 8.20 Noma yisiphi isinyathelo esithathwa nguMasipala ngokwesigaba 8 kumele sihambisane nezihlinzeko zoMthetho wokuGquguzelwa kokuPhathwa koBulungiswa No 3 ka 2000.

9 UKUDLULISWA KOKUBHALISWA

- 9.1 Ngokwesigaba 9, “ongaphansi kwesandla” ngaphezu kokomqondo oqukethwe ileligama umuntu oshade nomthengisi, umasihlekisana owaziwayo ngokusemthethweni womthengisi njengokulandisa komthetho iCivil Union Act No 17 of 2006, nomuntu oshade nomdayisi ngokwesiko kanye nomasihlalisane womdayisi.
- 9.2 Ubulungu bomdayisi obhalisiwe bungadluliswa ngokugcwele ngemvume ebhaliwe egunyazwe uMasipala kulowo muntu ongaphansi kwesandla somdayisi obhalisiwe noma umelekeleli omelet lo muntu ongaphansi kwesandla somdayisi ongaqhubeka njengomdayisi obhalisiwe kuze kube ukubhaliswa kwakhe kuyakhanselwa ngezizathu ezimileyo, uma kwenzeka lokhu –
- 9.2.1 Ukushona komdayisi obhalisiweyo; kanye
- 9.2.2 Ukulahleka kwenzuzo etholakala ekudayiseni kwasemgwaqeni okungabeka lo muntu ongaphansi kwesandla sakhe esimeni esibi sezimali.
- 9.3 Ubulungu bungadluliswa okwesikhashana ngemvume ebhalwe uMasipala, kulowo ongaphansi kwesandla somdayisi uma umdayisi obhalisiwe –
- 9.3.1 Engasakwazi ukuqhubeka nokudayisa emgwaqeni ngoba egula, lokhu kungenzeka uma :-
- a Kunobufakazi okuvela kudokotela okuchaza ukuthi umdayisi akakwazi ukusebenza obunikezwe uMasipala; futhi
- b Lowo ongaphansi kwesandla somdayisi noma umsizi wakhe uvumeleke ukuba abambe umdayisi sikhathi esibhalwe encwadini kadokotela;
- 9.3.2 Uma umdayisisi engakwazi ukuqhubeka nokusebenza ngenxa yokuthi kumele agcine izinto zenkolo, ezamasiko, lokhu kokwenzeka isikhathi esingangenyanga eyodwa. Umdayisi obhalisiwe kumele abuyele emsebenzini emva kokuphela kweisikhathi esingangenyanga ngaphandle uma uMasipala

egunyaza isikhathi esengeziwe ngokwehluka hluka kwezimo ezithile.

- 9.4 Ngokubheka izigaba 9.2 no 9.3, umdayisi obhalisiwe akakwazi ukudlulisela ubulungu bakhe inoma kanjani kubalwa ukuqashisa noma ukudayisa.
- 9.5 Ukudluliselwa kobulunga bokubhalisa ngokwesigaba 9.2 noma 9.3 kumele kwaziswe uMbhali okomele akushicilele phansi lokhu kudluliswa Kumqulu wabadayisa emgwaqeni akukho ukudluliswa kobulungu okuyokuba semthethweni ngaphambi kokuba kubhalwe phansi.

10 UKUDAYISA UKUDLA

10.1 Izinhlalo zalesi sigaba 10:

10.1.1 "Ukudla" kusho yonke into edliwa noma iphuzwe umuntu noma engalungela lokho noma ekhiqizwe noma engadayiselwa ukuthi idliwe abantu okubalwa kuyo noma ngabe yini eyingxenyane noma isithako sokwenza into okumele idliwe;

10.1.2 "ukuthengiswa" kusho noma ngabe yini engathengiswa noma inikezwe abathengi ngumdayisi wasemgwaqeni:

- a Noma ngabe yini ewukudla okulungiselelwe ukuba kudliwe endaweni ethile noma kuphi lapho umdayisi wasemgwaqeni aqhuba khona ibhizinisi lakhe; noma
- b Noma ikuphi ukudla okubolayo,

Kubalwa ngisho ukuthengisa noma ukunikezela ngakho:

- c Okususwa kwenye indawo kuya kwenye noma ngabe ngemoto noma ngezinye izithuthi;
 - d Emgwaqeni womphakathi noma ngabe ikhuphi lapho umphakathi ufinyelela khona; okanye
 - e Noma ngabe kuthengiselwa kumahamba nendlwana noma kwimoto emileyo,
- 10.1.3 "indawo ekhethiwe" kuqondwe indawo eqokiwe umdayisi wasemgwaqeni ukuba athengisele kuyo,

- 10.1.4 "indlela ekhethiwe yokuthutha" kushiwo uhlobo lokuthutha impahla olusetshenziswa umdayisi wasemgwaqeni aqhubela kulo ibhizinisi lakhe,
- 10.1.5 "ukudla okubolayo" kushiwo uhlobo lokudla olukhethwe Imenenja kaMasipala ebambisene noMkhandlu ngokulandela imithethonqubo yokudla okubolayo,
- 10.2 Akekho umuntu okufanele, kusukela osukwini olungemuva kwezinyanga ezisithupha kuqalise lo Mthethodolobha oyoqhuba ibhizinisi endaweni kaMasipala:
- 10.2.1 Ngaphandle uma lowo muntu kuwumdayisi obhalisiwe,
- 10.2.2 Ngaphandle uma kunombandela obekiwe ngenxa yohlelo lokubhaliswa,
- 10.2.3 Ngaphandle uma indawo ekhethiwe yokudayisela noma indlela yokuthutha igunyazwe uMasipala ngokohlobo lwalelo bhizinisi elizoqhutshwa.
- 10.3 UMBhalisi omkhulu kufanele angambhalisi umdayisi wasemgwaqeni ukuba aqhuba ibhizinisi lakhe ngaphandle uma:
- 10.3.1 Indawo ekhethiwe yokudayisela noma uhlobo lwezokuthutha lungahambisani nemithetho emisiwe ngokukaMsaipala noma nanoma iyiphi imithetho noma izimiso zokubhekela ukuphepha nezimpilo zomphakathi,
- 10.3.2 Izinto zokusebenza, indawo yokubeka, indawo yokusebenzela, isakhiwo, izimoto, izinto zokuthutha noma ngabe yini esetshenziselwa ukulungiselela ukudla, ukuphatha ukudla noma ukuthengisa ukudla, kubalwa nokudla okubolayo kuhambisana nemogomo yanoma imuphi umthetho ophathelene nokuphepha nezimpilo zomphakathi;
- 10.3.3 Uma umfakisicelo sokubhaliswa kunguye ozongamela nozolawula indawo ekhethiwe yokudayisela noma ngomunye umuntu ozongamela kufanele lowo muntu abe sesimeni sokuqhuba ibhizinisi, kungaba ukuziphatha kwakhe noma okunye kufanele

kube ukuthi akaze abe necala elisegameni lakhe esikhathini esiphambili;

- 10.4 Ngokwezinhloso zesigaba 10.3, UMbhalisi omkhulu angafaka isicelo emaphoyiseni (South African Police Services) ukuthi athole yonke imininingwane maqondana namacala (uma ekhona) abhekene nabafake izicelo noma umuntu okukhulunywe ngaye lapha kusigatshana 10.3.3.
- 10.5 Ngokwezinhloso zalo mbiko nanoma iliphi iphoyisa lingacela ukuba umuntu ofake isicelo noma omunye othintekayo ukuba aze ngaphambili nalolu lwazi kanye nemininingwane (kubalwa izithombe zezithupha, izandla, noma izinyawo) lokho okoshiwa yiphoyisa ngokubheka isimo.
- 10.6 UMbhalisi omkhulu angasigunyaza isicelo sokubhaliswa ngaphansi kwalezi zimo:
- 10.6.1 Indawo ekhethiwe yokudayisela noma isithuthi esithintekayo asihambisana nayo yonke imithetho ebalulwe esigabeni 10.3.1,
- 10.6.2 Izinto zokusebenza, indawo yokubeka, indawo yokusebenzela, isakhiwo, izimoto, izinto zokuthutha, izinto zokusebenza nendawo yokusebenzela kuhambisana nemigomo emisiwe ebalulwe esigabeni 10.3.2, futhi
- 10.7 UMbhalisi omkhulu, ngokwakhe, ngokucelwa uMasipala noma umdayisi wasemgwaqeni othintekayo emva kokumnika ithuba lokuba abeke uvo lwakhe
- 10.7.1 Angachibiyelo imigomo;
- 10.7.2 Angachitha imigomo;
- 10.7.3 Angakhombisa ukuthi imigomo ebalulwe njengemigomo yokubhaliswa okumele ilandelwe.
- 10.8 UMasipala nanoma isiphi isikhathi, ngemva kokunika umdayisi wasemgwaqeni ithuba lokuzwakalisa ilaka lakhe, lokukhishwa noma lokumiswa kokubhalisa kwalowo mdayisi wasemgwaqeni obhaliswe ngezizathu zokuthi:
- 10.8.1 Indawo ekhethiwe yokudayisela noma izinto zokuthutha zingahambisani nezimiso ezibalulwe esigabeni 10.3.1,

- 10.8.2 Inoma ikuphi ukudla kubalwa nalokhu okubolayo okudayiswa umdayisi obhalisiwe uma kungahambisani nemithetho ephathelene nempilo yomphakathi;
- 10.8.3 Inoma iziphi izinto zokusebenza, indawo yokubeka, indawo yokusebenzela, isakhiwo, izimoto, izinto zokuthutha noma yini esetshenziselwa ukulungiselela, ukuthengisa ukudla engahambisani nemithetho ephathelene nempilo yomphakathi.
- 10.9 Uma uMasipala ethatha isinqumo sokwenqaba isicelo sokubhaliswa noma ukhipha noma umisa lokho kubhaliswa, ngesikhathi uqala nje ngokushesha ukwenza lokho—
- 10.9.1 Wazise umfakisicelo noma umdayisi obhalisiwe othintekayo ngesinqumo osithathile ngokuthi umbhalele;
- 10.9.2 Unike umfakisicelo noma umdayisi othintekayo ngezizathu ngesinqumo sawo;
- 10.9.3 Wazise umfakisicelo noma umdayisi othintekayo ngelungelo lakhe lokukhalaza ngaphansi kwesigaba 17.
- 10.10 Ukubhaliswa komdayisi wasemgwaqeni oqhuba ibhizinisi elithile komele alandele yonke imithetho eqondene nabadayisi emabhizinisini anhlobonhlobo, indawo yokuthengisela noma izinto zokuthutha.

11 ISIBOPHO KUBANIKAZI BEZINDAWO OKUNGEZONA EZIKAMASIPALA

- 11.1 Umnikazi wendawo okungeyona kaMasipala eklanywe njengendawo yokuqhuba ibhizinisi ezinhlelweni zikaMasipala okumele kudayiselwe kuyona kumele:
- 11.1.1 Aqinisekise ukuthi ukudayisa kwasemgwaqeni okwenzeka endaweni yakhe kuhamba ngaphansi kwezinhlelo zikaMasipala futhi kulandela lo Mthethodolobha;
- 11.1.2 Avumele wonke umsebenzi kaMasipala endaweni yakhe ozoqapha ukuthi imigomo yalo Mthethodolobha iyalandelwa;

- 11.1.3 Aqinisekise ukuthi kukhona zonke izidingo zokuhlazeka kuleyo ndawo futhi kuyizindleko zakhe ukugcina indawo isesimeni esihle maqondana nezimiso zokudayisa kwasemigwaqeni;
- 11.1.4 Aqinisekise ukuthi ukudayisa kwasemigwaqeni akukapakeli endaweni kamakhelwane noma endaweni yelinye ibhizinisi;
- 11.1.5 Ahambisane nayo yonke imigomo equkethwe kunoma yiziphi izivumelwane okukhulunywe ngazo esigabeni 5.2.

12 OKUJWAYELWE UKWENQATSHELWA UKUDAYISWA EMGWAQENI

- 12.1 Ngokweyame ezinhlelweni zalo Mthethodolobha kanye nanoma iyiphi imithethonqubo eyenziwe ngokwesigaba 24, ukudayisela emgwaqeni ngeke kwenzeke lapho:
 - 12.1.1 Kuvimbela ukufinyelela kuzinto zokucima umlilo;
 - 12.1.2 Kuvimbela ukungena nokuphuma ebholidini;
 - 12.1.3 kuvimbela ukuhamba kwabantu endleleni; noma
 - 12.1.4 kuvimbela ukuhamba kwezemoto.
 - 12.1.5 Kuvimbela ifenisha yasesitaladini, amasheltha namabhentshi asezitobhini zamabhasi, olayini, imigqomo kadoti, noma ngabe yini okumele isethsensiswe umphakathi;
 - 12.1.6 kuvimbela ukubonakala kokukhonjiswe emawindini asezitolo, umuntu noma izinto zalelobhizinisi;
 - 12.1.7 kuvimbela abantu ukuba badlule endaweni yokuwela abantu;
 - 12.1.8 kuvimbela ukngena emotweni;
 - 12.1.9 kuvimbela izimpawu zomgwaqo;
 - 12.1.10 kuvimbela ukufinyelela kwimishini yokukhipha imali (automatic teller machine);
 - 12.1.11 kunciphisa indawo yokupaka nendawo yokwethulela izimpahla noma ezinye izindawo zezimoto; noma

- 12.1.12 kuvimbela ukuhamba kwabantu emihubheni nasenxanxatheleni yezitolo.

13 OKUNGAVUMELEKILE UKUDAYISWA EMGWAQENI

- 13.1 Akekho muntu ovumelekile endaweni kaMasipala noma kuyiphi indawo engaphansi kwezinhlelo zokuqhuba ibhizinisi ukuba:

- 13.1.1 aqashe omunye umuntu ngaphandle kwezimo ezithile, abe inkontilaka ezimele noma i-agent, ingane okuphikisana nomthetho, noma ukuvumela ukuqashwa komuntu okuphikisana nomthetho;

- 13.1.2 aqhube ibhizinisi emgwaqeni womphakathi noma kuyiphi indawo yomphakathi ngaphambi kokuba athole imvume ebhaliwe ephuma kuMasipala:

a ukuba ahlale noma alale ubusuku bonke endaweni yokudayisela; noma

b ukwakha noma isakhiwo esinjani, ngaphandle kwaleso esisohlelweni noma ukwenza indawo ibe sesimeni sokugoba amadlangala;

- 13.1.3 aqhube ibhizinisi lokudayisa emgwaqeni ngendlela:

a eyenza inkinga;

b eyonakalisa noma ebulala umgwqo noma indawo yomphakathi noma iyiphi indawo yomphakathi noma impahla kaMasipala; noma

c ukwenza inkinga yokuvimbela ukuhamba kwezimoto emgwaqeni;

- 13.1.4 Ukumisa noma yini ebholidini, esakhiweni, kwipavement, esihlahleni, kwiparking mitha, isigxobo sikagesi, isigubhu socingo, isigxobo seposi, izimpawu zomgwao, irobhothi, amabhentshi, noma iyiphi ifenisha esesitaladini noma yini ebekiwe emgwaqeni

noma endaweni yomphakathi ebekelwe ukuba isetshenziswe umphakathi;

- 13.1.5 Ukubasa umlilo inoma ikuphi noma lapho kungenzeka khona ube yingozi komunye umuntu noma ushise amabhilidi noma izimoto noma iziphi izakhiwo ezibalwe esigabeni 0;
- 13.1.6 Ukudiliva noma ukunikezela ngezimpahla noma izinto zokusebenza kumdayisi wasemgwaqeni uma umdayisi ephambana nemigomo yalo Mthethodolobha; kanye
- 13.1.7 Emva kokuba uceliwe ngumuntu wezomthetho ukuba avule indlela noma indawo bese eyehluleka ukususa izimpahla zakhe noma anqabe ukwenza lokho.

14 UKUSUSWA KWEMFUCUZA, UKUHLANZA KANYE NEZEMPILO

14.1 Umdayisi wasemgwaqeni kumele –

- 14.1.1 Aqoqe wonke udoti, nayo yonke imfucuza edale ke ngesikhathi edayisa akufake ezikhwameni nasendaweni ezifanele ngezinhlobo zikadoti njengokusho kwenqubo kaMasipala;
- 14.1.2 Agcine indawo asebenzela kuyo ihlanzekile ngazo zonke izikhathi;
- 14.1.3 Zonke izinsuku uma esevala ukuthengisa asuse wonke udoti, izinto zokusebenza izinto zokufaka nakho konke okunye okusetshenzwa ngakho emgwaqeni nasendaweni yomphakathi ngaphandle uma uMasipala enikeza imvume ebhaliwe maqondana nalokhu;
- 14.1.4 Aqhube ibhizinisi ngendlela engabeki umphakathi encupheni noma izimpilo kanye nokuphepha komphakathi; kanye
- 14.1.5 Asuse izimpahla zakhe uma ecelwa abomthetho noma umsebenzi kaMasipala ukuthi asuse noma ngabe izimpahla zini uma ecelwa khona kuzoklinwa kuleyo ndawo.

15 IMICIMBI EYISIPESHELI

15.1 UMasipala angakhipha noma avimbele abadayisi basemgwaqeni ukuba

badayise kulemicimbi eyisipesheli uma ebona kufanele. Ngale kokulandelwe kwemigomo yezinhlelo zokuqhuba ibhizinsi noma izimvume zikhishwe kabusha maqondana nohlelo lwendawo yokudayisela.

16 IMIGOMO KANYE NENQUBOMGOMO

16.1 UMasipala nanoma isiphi isikhathi angashicilela imigomo noma inqubomgomo maqondana nokudayisa emgwaqeni endaweni kaMasipala.

17 IZIKHALAZO

17.1 Umuntu obona ukuthi ilungelo lakhe liphazamisekile ngenxa yesinqumo esithathwe uMasipala ngenxa yalo Mthethodolobha nangenxa yomsebenzi noma amandla agunyaziwe angadlulisela isikhalazo esiphikisa isinqumo phamabili ngokwesigaba 62 somthetho i-the Systems Act.

18 UKUPHOQELELWA

18.1 Umuntu womthetho anganikeza umuntu isexwayiso esibhaliwe uma ebona ukuthi kudayiswa izimpahla noma kuphathwa izimpahla noma kwenziwa izinto eziphambene noMthethodolobha nanoma imuphi omunye umthetho uma enza noma yini ephikisana nezimiso zokubhalisa komdayisi wasemgwaqeni maqondana nendawo yokudayisela.

18.2 Isexwayiso esibhaliwe kumele:

18.2.1 Sikhishwe isikhulu esisemthethweni sisisayine futhi sifake nosuku,

18.2.2 Sisho namandla omuntu womthetho okumele asayine futhi akhiphe isexwayiso,

18.2.3 Isexwayiso siveze umthetho owephuliwe,

18.2.4 Sisho ubunjalo besigwebo maqondana nomthetho owephuliwe uma kuphindwa wephulwa umthetho, kubalulwe nokuthathwa kwezimpahla uma kunesdingo , kanye

- 18.2.5 Kubhalwe kucaciswe inamba yasemsebenzini yomuntu wezomthetho kanye nekheldi lalapho asebenza khona ukuze athinteki ngezikhathi zomsebenzi.
- 18.3 Isexwayiso esikhishiwe siyophelelwa isikhathi ngokwesigaba 18.1 emva kwezinyanga ezisithupha kusukela kusuku esakhishiwa ngalo.
- 18.4 Ikhophi ebhaliwe yesexwayiso esayinwe umuntu wezomthetho onegunya lokwenza lokhu ngokulandisa kwesigaba 18.2.1, kofanele ngokwesikhathi samahora angamashumi amabili nane (24) emva kokukhishwa kwesixwayiso ngokulandisa kwesigaba 18.1, ukuthi kumele sinikezwe uMbhali omkhulu ukuze ashicilele lokho okushiwo isexwayiso kumqulu okukhulunywe ngawo esigabeni 8.3.1.
- 18.5 Uma kwenzeka ukuthi umuntu uyaqhubeka nokwenza lokho abexwayiswe ngakho zingaka pheli izinyanga ezisithupha okukhulunywe ngazo esigabeni 18.3, noma etholakala esenezixwayiso ezimbili noma ngaphezulu ngokwesigaba 18.1 esikhathini esingangezinyanga ezishumi nesishagalombili, umuntu wezomthetho anga:
- 18.5.1 Dlulisela emaphoyiseni lokhu kuphulwa komthetho khona ezophenya futhi kushushiswe,
- 18.5.2 Uma lowo muntu kungumdayisi wasemgwaqeni obhalisiwe, enikezwa isexwayiso esibhaliwe, kungamiswa ubulungu bakhe okwesikhashana, esimeni lapho:

- a Umuntu wezomthetho kumele asayine futhi afake usuku kuleso sexwayiso esikhishwayo,
- b Sazise igunya lamandla alowo muntu womthetho okumele amise ukubhaliswa,
- c Ukwazisa ngesimo sokuphulwa komthetho okubhalwe kwisixwayiso, kanye,
- d Kubhalwe kucace inamba yocingo kanye nekheli kwalapho kusebenza khona umuntu wezomthetho khona engathintwa ngezikhathi zomsebenzi.

18.5.3 Ukubanjwa kwezimpahla, zomdayisi wasemgwaqeni noma ngabe ubani osebenzayo ngesikhathi ethengisa, okungaba inoma yini, kungabalwa kuphela izimpahla ezisetshenziswayo, izakhiwo, izimoto ezisetshenziselwa ukuqhuba lelibhizinisi, umuntu wezomthetho kufanele enze lokhu:

- a Abhale uhla lwazo zonke izimpahla ezibanjiwe ;
- b Asayine futhi afake usuku kuloluhlu lwezimpahla,
- c Anikeze lowo muntu ikhophi esayiniwe futhi enosuku yaloluhlu lwezimpahla ezibanjiwe, ngolimi aluqondayo kwezinye zezilimi ezisemthethweni eRiphabliki yaseNingizimu Afrika aluqondayo;
- d Anikeze lowo muntu isexwayiso esibhaliwe sasayinwa safakwa nosuku, sicacisa:
 - i. Isizathu sokubanjwa kwempahla,
 - ii. Ikheli lalapho izimpahla zizobe zigcinwe khona uMasipala,
 - iii. Indlela angayilandela lowo muntu ukuthola izimpahla zakhe ezibanjiwe, kubalulwa nenani lemali yokukhokhela lezi zimaphla ezibanjiwe,
 - iv. Ilungele lokudlulisela loludaba enkantolo uma umuntu enganelisekile ngendaba yokuthathwa

kwezimpahla nanoma ikuphi okunye maqondana nalokhu,

- v. Izimiso ezibalulwe esigabeni 22, kanye
- vi. Ukumema lo muntu ukuba azokwethula udaba lwakhe kuMasipala ngokulubhala phansi noma alusho ngomlomo esikhathini esingangezinsuku ezingamashumi amathathu (30) maqondana necal abekwe lona, nokuthathelwa kwezimpahla nanoma ikuphi okunye okusondelene nalokho. Uma umuntu ekhatha ukuzobeka udaba lwakhe ngomlomo uMasipala kumele enze onke amalungiselelo aqondene nalokho.

- e Abeke ngokushesha zonke izimpahla ezibanjiwe kuleyo ndawo elungiselwe lokho nguMasipala, kanye

18.6 Ikhophi yesexwayiso okukhulunywe ngayo esigabeni 18.5.3.d, esayinwe umuntu wezomthetho ofanele ukwenza lokho, kumele ibe isidluliselwe kuMbhalisi omkhulu ngaphambi kokuphela kwamahora amashumi amabili nane (24) emva kokuba esenikeziwe lowo muntu. Umbhalisi omkhulu kofanele ashicilele phansi kumqulu imininingwane yalesi sexwayiso ngokwesigaba 8.3.1

18.7 Uma ngokomphumela wokudlulisela lesi sexwayiso emaphoyiseni ngokulandisa kwesigaba 18.5.1:

18.7.1 Uma umuntu engabekwa cala ngaphansi kwale Mithethodolobha noma ebekwa icala lo muntu kodwa aliwine icala enkantolo, uma esekhipha ikhophi yohlu lwezimpahla ezithathiwe okukhulunywe ngayo esigabeni 18.5.3.a eseyinika uMbhalisi omkhulu kanye nomazisi wakhe nemali okumele ayikhokhe yokugcinwa kwezimpahala, uMasipala uyokhulula izimpahla ezibanjiwe,

18.7.2 Uma etholakale enecala ngaphansi kwale Mithethodolobha, nenkantolo yamthola enecala, nangaphezulu kwenhlawulo ebalulwe esigabeni 23.1, ukuthi izimpahla ezibanjiwe

mazibuyiselwe kumnikazi noma zidayiselwe umphakathi esidlangaleleni.

- 18.8 Uma inkantolo ikhipha umyalelo othi izimpahla azidayiselwe umphakathi esidlangaleleni, lokhu kudayiswa kokwenzelwa uMasipala, emva kokususwa kwezindleko zokubanjwa kwempahla kanye nezindleko zokudayisa esidlangaleleni, okusele uma kukhona kungakhokhelwa umnikazi wezimpahla.
- 18.9 Uma izimpahla ezibanjiwe kuwukudla okubolayo, uMasipala ngokushesha angazisa umnikazi wezimpahla ngokuthi uzofaka isicelo esiphuthumayo enkantolo sokuthola igunya lokuchitha lezi mpahla ngokulandela umlayelo wenkantolo maqondana nalolu daba.
- 18.10 UMasipala angakhipha isaziso esisa kumdayisi wasemgwaqeni maqondana nokumisa ukubhaliswa kwalo mdayisi wasemgwaqeni uma enza lokhu okulandelayo:
- 18.10.1 Engahambisani nemigomo yokubhaliswa kwakhe noma kanye nale Mithethodolobha noma nayiphi eminye imithetho;
- 18.10.2 Uma ebanjwe edayisa izimpahla ezingekho emthethweni noma enza noma yini ephikisana nomthetho; noma
- 18.10.3 Uma ekhohlisa uMasipala ngokumnika ulwazi olungeyilona.

ISAPHLUKO 4 – IZINHLANGANO EZIMELE ABADAYISA EMGWAQENI

- 19 INQUBO YOKUSUNGULWA IZINHLANGANO ZABADAYISA EMGWAQENI.
- 19.1 Uma umsaipala ethola isicelo okukhulunywa ngaso esigabeni 20.1 ngokweziphakamiso zoMkhandlu —
- 19.1.1 Ukwamukela inhlangotho yabadayisa basemgwaqeni, noma
- 19.1.2 Ukwamukela ukuchibiyela komthethosisekelo wenhlangotho yabadayisi basemgwaqeni.
- 19.2 UMasipala anga—

- 19.2.1 Cela lowo muntu ofake isicelo ngokwesigaba 20.1 ukuba alethe leyo mininingwane edingwa uMasipala ngokulandela okushiwo isigaba 20.1, kanye
- 19.2.2 Cela imenenja kaMasipala ukuba yenze uphenyo maqondana—
- 19.2.3 Nokusungulwa kwenhlangano yabadayisa emgwaqeni; noma
- 19.2.4 Nesicelo esifakiwe ngokulandela isigaba 20.1.

20 ISICELO SOKUSUNGULA INHLANGANO YABADAYISA EMGWAQENI.

20.1 Isicelo sokwemukelwa kwenhlangano yabadayisi basemgwaqeni kumele sibe nalokhu—

- 20.1.1 Izizathu zokufaka isicelo;
- 20.1.2 Igama elicatshangwayo kanye nendawo inhlangano efisa ukusebenzela kuyo;
- 20.1.3 Izinto okucatshangwa ukuthi zizokwenziwa inhlangano;
- 20.1.4 Ukuchazwa noma ukuhlongozwa kwezinto ezingadayiswa noma indawo okucatshangelwa ukuthi ingakulungela lokho okufiswa inhlangano;
- 20.1.5 Umthethosisekelo ohlongozwayo wenhlangano,
- 20.1.6 Uhlu noma izigaba zamagama abantu abangase babe amalungu alenhlangano; kanye
- 20.1.7 Kufanele kube namagama abantu okuxoxisanwe nabo azoba ubufakazi bokuthi kube nokubonisana maqondana nalesi sicelo futhi kuvele nezinhloso zabo mayelana naloludaba lwesicelo.

20.2 UMasipala angalekelela umuntu obhala lesi sicelo.

21 UMTHETHOSISEKELO WENHLANGANO YABADAYISA EMGWAQENI

21.1 Ukuze umthethosisekelo wenhlangano edayisa emgwaqeni yamukeleke kuMasipala kufanele ibe nalokhu okungenani—

- 21.1.1 Kuvele imininingwane egcwele maqondana nemisebenzi yenhlangano esemqoka kanye naleyo emincane;

- 21.1.2 Indlela, inqubo kanye nokudingekayo ukuze kwamukelwe ilungu elisha enhlanganweni;
 - 21.1.3 Indlela yokuvota kwamalungu;
 - 21.1.4 Inqubo yokumisa ubulungu;
 - 21.1.5 Inqubo yokukhetha ikomiti labaphathi benhlangano;
 - 21.1.6 Inqubo okumele ilandelwe ukuqasha abasebenzi benhlangano;
 - 21.1.7 Inqubo okumele ilandelwe uma kubolekwa imali;
 - 21.1.8 Inqubo yokuchibiyela umthethosisekelo, kanye
 - 21.1.9 Izimali okumele zikhokhwe amalungu enhlanganweni.
- 21.2 Umthethosisekelo kumele uzifake ezinye izinto ezingadingwa umasiapala futhi kufanelwe zamukelwe amalungu enhlangano bese zigunyazwa uMasipala ngaphambi kokuba kulandelwe izimiso zalo Mthethodolobha.
- 21.3 Umthethosisekelo owamukelwe inhlangotho yabadayisi basemgwaqeni ibophezela wonke amalungu.

22 UMSEBENZI WENHLANGANO YABADAYISI BASEMGWAQENI

- 22.1 Ngaphezu kwemisebenzi ekumthethosisekelo yenhlangano yabadayisa emgwaqeni, ingenza omunye umsebenzi ngokucelwa uMasipala uma eyamukelile leyo nhlangano, ingenza lowo msebenzi njengo muntu wesithathu njengoba kusho isigaba 5.5.2 salo Mthethodolobha futhi kofane kube nesivumelwano esibhalwe phansi phakathi kuka masipala naleyo nhlangano yabadayisi basemgwaqeni abathintekayo.

ISAPHELA 5 – UKWEPHULA UMTHETHO NENHLAWULO

23 UKWEPHULA UMTHETHO

- 23.1 Umuntu ophule umthetho unecala futhi kufanele ahlawule ngemali engadluli kuzi R5,000.00 (izinkulungwane ezinhlanu zamarandi) noma aboshwe isikhathi esingaphezulu kwezinyanga ezi 3 (ntathu), ngokulandela umthetho i-Adjustment of Fines Act, No 101 of 1991, uma lowo muntu:

- 23.1.1 Enza okuphambene nezimiso zalo Mthethodolobha, imigomo esesigabeni 2.4, noma ehluleka ukugcina izimiso ezibekiwe;
- 23.1.2 Esabisa, enqaba noma aphazamisa umuntu womthetho noma umsebenzi kaMasipala ukuba enze umsebenzi wakhe osemthethweni ngokusho kwalo Mthethodolobha; noma
- 23.1.3 Enikezela ngenhloso ulwazi olungesilona iqiniso enzela ukudukisa umsebenzi wezomthetho noma kaMasipala,

ISAPHLUKO 6 – IMITHETHO

24 IMITHETHONQUBO

- 24.1 Imenenja kaMasipala ngokwegunya alinikezwa uMkhandlu angashicilela kusomqulu wesifundazwe umthetho ongaphikisani nezimiso zaloMthethodolobha:
 - 24.1.1 Maqondana nanoma iluphi udaba okumele lwaziswe ngesimo sale mithetho kamsipala,
 - 24.1.2 Beqinisekisa eminye imisebenzi noma bengeza imisebenzi kambhalisi omkhulu noma inhloko yomnyango kaMasipala eyengamele ukuthuthukiswa komnotho wendawo,
 - 24.1.3 Ukuqinisekisa ukuthi uMbhalisi omkhulu noma inhloko yomnyango kamsipala eyengamele ukuthuthukiswa komnotho wendawo benza kahle imisebenzi yokwengamela njengokulindisa kwale mithetho kamsipala.
 - 24.1.4 Belungiselela ukusungulwa kwekomiti lezoluleko maqondana nezinhlelo zezindawo zokudayisela, ukhethwa kwamalungu kanye namaqhaza abazowabamba;
 - 24.1.5 Behlela indlela nemigomo yokubheka ukuthi yonke imisebenzi ebalulwa ile mithetho kaMasipala yenzeka ngokwezimiso zokuqaphela nokujezisa lapho kufanele khona;

- 24.1.6 Nanoma ikuphi okunye okudingekayo noma okuphuthumayo ukuze kulandelwe ukuze kuqaliswe ngendlela noma kusingathwe lemithetho kamasiapala.
- 24.2 Inoma imuphi omunye umthetho othinta ezezimali kufanele kuxhunyanwe nomphathi wezimali zikaMasipala (Chief Financial Officer of the Municipality).
- 24.3 Ngaphambi kokushicilela nanoma imuphi umthetho okukhulunywe ngayo kwisigatashana 24.1, UMasipala kumele ushicilele umthethohlongozwayo kusomqulu wesifundazwe khona umphakathi uzokwethula imibono yawo,

ISIHLUKO 7 – OKUXUBILE

25 UKULEKELELWA KWABADAYISI BASEMGWAQENI

- 25.1 UMasipala kumele aqashe umuntu okwaziyo ukukhuluma ulimi lwebele lwabadayisi basemgwaqeni abangafundile noma abangakwazi ukuqonda injongo nemiphumela yeimngomo yalemithetho kamsipala kanye nayo yonke eminye imithetho engasiza umdayisis wasemgwaqeni ukuze athole ukuphatheka ngendlela okuyiyona yona njengokulandisa kwelimithetho kamsipala. Umsebenzi kaMasipala kuafanele ngazo zonke izikhathi angathathi icala uma elekelela futhi agcine izimfihlo atshelwe zona ngazo zonke izikhathi ngaphandle uma egunyazwe umdayisi ukuba azikhiphe.

ISIAHLUKO 8 – UKUCHITHWA KWEMITHETHO KANYE NEZINHLELO ZESIMO ESIGUQUKAYO

26 UKUCHITHWA KWEMITHETHO

To be inserted

27 AMALUNGISELELO EZINGUQUKO

- 27.1 Ngokungaphikisani nokuphasiswa kwalemithetho kaMasipala:
- 27.1.1 Konke okuvezwa umthetho Businesses Act No 71 of 1991 ngendawo engaphansi kukaMasipala lapho kudayiswa khona

ezitaladini, abaqhuba izinqola, abadayisa ngokungena ezindlini bangavinjelwa noma bamiswe, kuze kuba umsaipla ubanohlelo lokuqhutshwa amabhizinisi aloluhlobo ngkwalo mthetho kamsipala;

27.1.2 Uma umdayisi wasemgwaqeni ebesenayo imvume yokuthengisa kuleyo ndawo athengisa kuyo ngaphambi kokuphasa kwalomthetho kamsipala, uyoqhubeka ngaleyo mvume kuze kube umasipla uqalisa uhlelo lokuqhuma amabhizinisi maqondana naleyo ndawo, noma koze kuphele isikahathi salesosivumelwano noma ikuphi okokwenzeka kuqala.

27.2 Umuntu oqashisiwe okukhulunywe ngaye esigabeni 27.1.2, isivumelwano sikhangakhanselwa ngenxa yokuthi indawo asebenzela kuyo ingaphansi kohlelo lwezindawo zokuqhuba ibhizinisi, anganikwa elinye ithuba lokuba afake isicelo kabusha sokuqhubeka asebenza endaweni yakhe noma athole imvume yokuthengisa emgwaqeni noma kuphi lapho kuvulwe khona imakethe ngokulandela imigomo yohlelo lwezokuqhuba ibhizinisi.

ISAPHLUKO 9 – UKUQALISWA

28 UKUQALISWA KWALE MITHETHODOLOBHA

28.1 Le Mithethodolobha iyoqaliswa mhla isishicilelwe kusomqulu wesifundazwe ngokwezimiso zesigaba 13(1) zomthetho i- Systems Act, okuqokethwe isigaba 12 no 13 okusho ukuthi uyoqaliswa ngosuku olungemuva kwezinyanga ezisithupha ushicilelwa.