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ISIFUNDAZWE SAKWAZULU-NATALI

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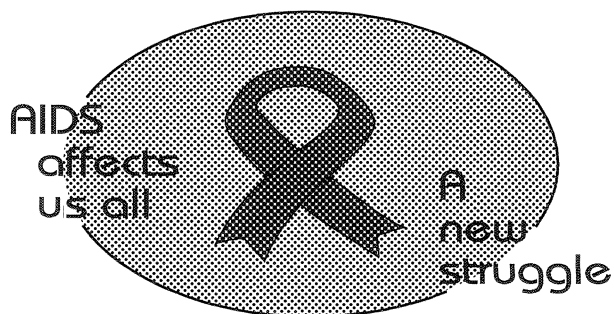
Vol. 6

PIETERMARITZBURG,

20 SEPTEMBER 2012
20 kuMANDULO 2012

No. 821

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**AIDS
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DEPARTMENT OF HEALTH

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<i>No.</i>		<i>Page</i>
MUNICIPAL NOTICE		
88	The Msunduzi Municipality: Credit Control and Debt Collection Amendment By-laws	3
89	do.: General By-laws	4
90	do.: Indigent Policy By-laws	25
91	do.: Waste Management By-laws.....	28
 IZAZISO ZIKAMASIPALA		
89	UMasipala uMsunduzi: IMithetho kaMasipala Evamile	14
91	UMasipala uMsunduzi: IMithetho kaMasipala emaqondana Nokulawulwa Kwemfucuza.....	44

MUNICIPAL NOTICES—IZAZISO ZIKAMASIPALA

No. 88**20 September 2012****THE MSUNDUZI MUNICIPALITY
CREDIT CONTROL AND DEBT COLLECTION AMENDMENT BYLAWS**

The Municipal Manager of the Msunduzi Municipality, acting in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), hereby publishes the Credit Control and debt Collection Amendment Bylaws for the Msunduzi Municipality, as adopted by its Council, as set out hereunder.

The Credit Control and Debt Collection Bylaws, as published in Provincial Gazette No. 465 on 1 July 2010 under Notice No 53 are hereby amended -

1. by the insertion of the following after the word "arrears" at the end section 4(g) :

"provided that such termination or restriction of services complies with any legislation or Constitutional Court ruling relating to such matters;"

2. by the substitution of section 4(h) with the following:

"(h)matters relating to the unauthorised consumption and theft of, tampering with, or damage to, the Municipality's services;"

3. by inserting the following bylaws after section 7:

"Illegal Connections and Tampering

7A(1) No person shall connect to the Municipality's services without the consent of the Municipality, or tamper with its services.

- (2) Where there is evidence of an illegal connection or services are found to have been tampered with, the owner or occupier of the property, on or in which such illegal connection or tampering is discovered, shall be deemed to have been responsible for such illegal connection or tampering, unless such owner or occupier proves otherwise.
- (3) An owner or occupier who illegally connects to, or tampers with, the Municipality's services, shall be guilty of an offence and liable to a fine or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.
- (4) Where an owner or occupier is convicted of an offence under section 7A(1), the Court may, in addition to sentencing such person to a fine or to a period of imprisonment, further order such owner or occupier to pay any outstanding arrears in respect of the property referred to in section 7A(2), together with interest and administration charges as determined by resolution of the Council, on or before a date specified in such order.
- (5) The penalties that may be imposed in terms of subsections (3) and (4) are in addition to any charges or tariffs which may be imposed for illegal connections to, theft of, or tampering with, any of the Municipality's services under the Municipality's Credit Control and Debt Collection Policy or its Tariff Register."

These bylaws shall come into effect on the first day of the month following the date of publication.

No. 89

20 September 2012

THE MSUNDUZI MUNICIPALITY**GENERAL BYLAWS**

The Municipal Manager of the Msunduzi Municipality hereby, in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the General Bylaws for the Msunduzi Municipality, as adopted by its Council, as set out hereunder.

Definitions

1. In these bylaws, except as otherwise expressly provided, or unless the context otherwise requires –

“authorized official” means an official of the Council to whom it has assigned or delegated a duty, function or power under these bylaws in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such officer and any member of the South African Police Services;

“canopy” means a rigid roof-like projection from the wall of a building;

“City” means the City of Pietermaritzburg and includes any area comprising part of the area of jurisdiction of the Council;

“Council” means the Msunduzi Municipality and its successors in law, and includes the Council of the Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties in relation to these bylaws;

“dependence-producing substance” means a dependence-producing substance as defined in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992);

“discharge” in relation to the use of a gun includes the act of discharging a blank cartridge;

“gun” includes a weapon of any description from which any bullet, pellet, shot or any missile of any description can be discharged, whether or not activated by an explosive;

“police officer” means a member of any police force established under any law and includes a traffic officer employed by the Municipality;

“prescribed” means prescribed by the Council;

“public place” means any land which –

- (a) owned by an organ of State; or
- (b) is controlled and managed by the Municipality and is either –
 - (i) set aside in terms of any law, zoning scheme or spatial plan, for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
 - (ii) is predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;
- (c) managed by or on behalf of the Municipality for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes;
- (d) is managed by or on behalf of the Municipality for public recreational purposes, and includes any park, botanical garden, sports ground and playground, but excludes any golf course.

“road traffic sign” bears the meaning given to it by the Road Traffic Act, 1989 (Act No. 29 of 1989);

“sidewalk” means the portion of a verge intended for the exclusive use of pedestrians;

“special event” means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot or similar event which requires, for that purpose, exclusive use of a part of a public place;

“verge” means that portion of a street which is not constructed, or intended, for vehicular traffic;

“waste” means –

- (a) domestic waste
- (b) garden waste;
- (c) building and demolition waste;
- (d) business waste; and
- (e) the categories of other waste as defined in the Municipality’s Waste Management Bylaws.

“water body” means any body of water within a public place and includes any fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river and wetland.

Restricting access

2. The Municipality may restrict access to any public place or to any part of a public place for a specified period of time –

- (a) to protect any aspect of the environment within such public place;
- (b) to reduce vandalism and destruction of property;
- (c) to improve the administration of such public place;
- (d) to develop a public place;
- (e) to enable a special event which has been permitted by the Municipality;
- (f) to undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of these bylaws.

Powers of authorized officials

3. In relation to any public place, an authorized official may –

- (a) to the extent authorized by the Municipality, administer, implement and enforce the provisions of these bylaws;
- (b) issue any notice in terms of section 18;
- (c) instruct any person to leave a public place if such authorized official believes that such person is contravening any provision of these bylaws and fails to immediately terminate such contravention upon the instruction of that official; and
- (d) if such official is a peace officer, exercise any power which may be exercised by a peace officer under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Breaches of the peace

4. No person shall, in a street or public place –

- (a) accost, insult, interfere with, threaten or harass another person;

- (b) associate, or act in concert, with, another person in a manner which causes or is likely to cause a breach of the peace;
- (c) fight or incite or invite another person to fight.

Indecent behavior

5(1) No person shall, in view of a street or public place –

- (a) expose his person or be clothed in a manner which results in such exposure;
- (b) perform any indecent act or incite any person to commit such an act.

(2) No person shall loiter in any street or public place for the purpose of prostitution or solicit any other person for such purpose.

Indecent or offensive literature or representation

6. No person shall, in a street or public place –

- (a) display, distribute, expose to view or sell or offer for sale, in a manner likely to cause offence, any indecent or offensive picture or other representation or written or printed matter;
- (b) draw, print, write or otherwise produce, any immoral, indecent or offensive, figure, letter, picture, word or other representation or matter so that the same is in the public view or may be seen by any other person.

Dangerous acts

7. No person shall, in a street or public place –

- (a) handle or use any material, object or thing which is likely to cause injury to a person or to intimidate such person or to damage property or does so in a manner likely to result in such injury, intimidation or damage;
- (b) lights, uses or benefits from a fire other than in a facility provided by the Council for that purpose;
- (c) attach any object to, or suspend any object from, a canopy, verandah, pillar, pole, post or other projection, in a manner likely to cause damage or injury to a person, unless such object is attached or suspended with the approval of the Council;
- (d) perform any act which may cause injury or damage to a person or to property.

General offences

8(1) No person shall, in a street or public place –

- (a) defecate or urinate except in a facility provided by or on behalf of the Council for that purpose;
- (b) spit;
- (c) be under the influence of liquor;
- (d) be under the influence of a dependence-producing substance or administer a dependence-producing substance, to himself or another person, or sell or give a dependence-producing substance to another person.
- (e) contravene the provisions of any notice within any public place;
- (f) unlawfully enter a public place to which access has been restricted.
- (g) bathe, wade or swim in, or wash himself, an animal or any object, including clothing, in any water body.

- (2) No person shall keep any wild or ferocious animal so as to be a danger to the public and any such animal found to be at large may, if considered necessary to safeguard human life, be destroyed by an authorized official.
- (3) No person shall turn loose or allow to wander in any street or public place, any horse, cattle, donkey, pig, sheep or goat and any such animal so found, may be impounded.
- (4) No person shall allow any duck, goose or poultry to be at large or to trespass on any private property.

Cleaning of sidewalks and verges

- 9(1) An occupier of premises which constitute a factory as defined in subsection (3) or on or in which there is carried on any business, occupation or trade, shall at all times while any activity is being carried on in the factory or while the premises are open for business or the occupation or trade is being carried on, keep any sidewalk or verge abutting or adjoining the premises, including any gutter or kerb, free of waste and put or keep the same in a clean and satisfactory state.
- (2) The occupier referred to in subsection (1) shall cause all waste removed in terms that subsection, to be placed in a refuse receptacle provided by the Council for such purpose.
- (3) For the purpose of subsection (1), "factory" shall have the meaning given to it in the Occupational Health and Safety Act, 1993 and the regulations thereunder.

Obstructions

10. No person shall, in a street or public place –

- (a) leave anything unattended so as to cause or be likely to cause an obstruction to persons or vehicles;
- (b) carry, deposit, handle or introduce anything so as to obstruct or interfere with the free movement of persons or vehicles or with the use of a street or public place by persons or vehicles or to cause injury to any person or damage to any property;
- (c) deposit on such street or in such public place, for the purpose of, or in the course of, loading or unloading, a vehicle or of delivering anything to premises having access to such street or public place for a period longer than is necessary for such purpose;
- (d) obscure a road traffic sign or obscure, or place any poster, sign, billboard or the like in front of, any surveillance camera;
- (e) gather with, or cause a gathering of, persons in a place or in a manner which obstructs or is likely to obstruct or interfere with the movement of persons or vehicles or the use or enjoyment of the street or public place, unless such gathering has been authorized in terms of the Regulation of Gatherings Act, 1996 (Act No. 90 of 1996).

Obstructions caused by plants

11(1) If a tree, shrub or other plant, or any part or portion of such tree, shrub or plant, growing on any premises which abut a street or public place –

- (a) obstructs the view of the driver of any vehicle in such street or public place;
- (b) obscures a road traffic sign;
- (c) obscures, or interferes with the operation of, a street surveillance camera;
- (d) obstructs or causes a nuisance to persons using such street or public place,

or if any part of such tree, shrub or plant causes or is likely to cause a nuisance or danger to person or property, an authorized officer may serve a notice on the owner of the premises or, if the premises are occupied by a person other than the owner, on the

occupier thereof, requiring him to cut down, remove or trim the tree, shrub or plant from which the nuisance or source of danger originates, within the period stated in the notice, and any person who fails to comply with such notice shall be guilty of an offence.

- (2) If a person on whom a notice has been served in terms of subsection (1) fails to comply with such notice within the period stated therein, an authorized official may cause the work specified in such notice to be carried out and such person shall be liable to the Council for the cost of the work incurred by the Council.

Disposal of property found in street or public place

- 12(1) When anything has been left in a street or public place in terms of section 10(a), an authorized official may remove it to a store designated by the Municipality for such purposes: provided that if such thing is in the opinion of the authorized official of no commercial value, he may dispose of same in such manner as he deems fit and the person who committed the offence shall be liable to the Council for the costs of such disposal as determined by such authorized official.
- (2) Anything which has been removed to a store in terms of subsection (1) shall be released to the person who, within seven days of such removal or within such longer period as may be allowed by the authorized official in charge of such store, proves to the satisfaction of the authorized official that he is the owner of such item or is entitled to possession thereof, and pays for the cost of removal and storage thereof in accordance with the Council's tariff of charges: provided that such authorized official may cause an item which is of a perishable nature and has not been claimed before it has ceased to have any commercial value, or before it has become offensive or a danger to health, to be destroyed or otherwise disposed of in such manner as he deems fit or to be removed to a municipal waste disposal site.
- (3) Any item which has not been released or disposed of in terms of subsection (2) shall be disposed of in terms of the Council's policy on the disposal of movable assets.
- (4) The proceeds of any sale in terms of subsection (3) shall first be applied in payment of –
 - (a) the cost of removal and storage as determined in terms of subsection (2);
 - (b) any costs which may have been incurred in attempting to trace the owner of the item;
 - (c) the costs of sale of the item,and the balance shall be forfeited to the Council if not claimed within one year from the date of the sale by the person who established his legal right thereto.
- (5) If the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4) the owner of the item sold and the person who committed any offence in terms of these bylaws in relation thereto, shall be jointly and severally liable to the Council for payment of the unsatisfied balance.
- (6) If the item cannot be sold in terms of subsection (3) the authorized official in charge of the store may dispose of such item in such manner as he deems fit and the provisions of subsection (5) shall *mutatis mutandis* apply in respect of any costs incurred in effecting such disposal.
- (7) The exercise of any powers conferred by this section shall not render the Council or any authorized official liable for loss or theft of, or any damage to, anything removed in terms of subsection (1).

Begging and gambling

13. No person shall, in a street or public place –

- (a) beg for money or goods or ask for or solicit anything, whether by gesture, word or otherwise;
- (b) gamble or play any game for gain, whether monetary or otherwise,

or cause or induce another person to perform any of the activities mentioned in paragraphs (a) or (b).

Camping and sleeping

14. No person shall, in a street or public place, or on any premises owned or under the control of the Council not intended for such purpose –

- (a) camp, sleep or use any portion thereof for the purpose of habitation, except with the express permission of the Council;
- (b) lie or sleep on any bench or seat provided by the Council for the use of the public.

Nuisances arising from the use of premises

15(1) No owner or occupier of premises shall –

- (a) use them for a purpose;
- (b) cause, allow or permit their use;
- (c) organize or allow or permit an activity, event or function therein,

which by its nature or otherwise, or by reason of its consequences, creates or is likely to create, a nuisance.

- (2) Whenever an authorized official is of the opinion that a contravention of subsection (1) is being committed, he may instruct the owner or occupier of the premises or any person responsible for, or participating in, the use, activity, event or function, to take such steps as he may specify to abate the nuisance or to avoid the creation of a nuisance or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith or within a time prescribed by him.
- (3) In enforcing the provisions of subsection (2), an authorized official may invoke the provisions of the Municipality's Noise Abatement Bylaws or any noise regulations promulgated under national legislation.

Lighting of fires

16. No person shall on any premises light a fire or burn or attempt to burn any rubbish or refuse or any grass or other vegetation without taking adequate precautions to prevent the uncontrolled spread of fire or the creation of a nuisance, whether as a result of the production of ash, flames, fumes, heat, smoke or otherwise.

General offences relating to municipal property

17(1) No person shall, in relation to any property in the ownership or possession of or under the control of the Council, whether movable or immovable, and including any street or public property –

- (a) willfully or negligently damage or destroy such property or any part thereof;
- (b) remove any earth, sand, shale, stone, turf or any other material or part thereof;
- (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
- (d) break, cut, destroy or remove any bush, shrub, tree or other plant or remove any branch, flower, leaf or other part thereof;
- (e) attach to or place next to, such property, any thing, including any advertisement, bill, pamphlet, placard or poster or other illustrative, written or printed matter, or hang or suspend any thing on or from such property;
- (f) deface any such property by any means whatsoever or plug, tamper with or in any way damage any plumbing, electrical, heating or other fixtures or installations;
- (g) extinguish any lamp or light or displace or remove any barricade or enclosure, fence, lamp, light, notice or sign;
- (h) make any excavation in or disturb the surface of such property or alter the slope or drainage pattern of such property so as to interfere with the access of water, air or nutrients to any tree or other plant;
- (i) climb or sit upon, hang onto, or from, or mount, such property;
- (j) introduce any object or material, or erect any structure, on such property;
- (k) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way, disturb any animal, fish or bird;
- (l) disturb, damage or destroy any bird nest or egg;
- (m) walk any dog unless –

- (i) it is in a public place or any part thereof which has not been designated by the Municipality as an area where no dogs are allowed, and it is on a leash and under the control of a person; or
- (ii) it is in a public place or any part thereof designated by the Municipality as area where dogs may run free: Provided that if any dog excretes in a public place, the person in control of the dog shall immediately remove such excrement and dispose of it in a waste bin or other receptacle provided by the Municipality for that purpose;

- (n) allow, cause or permit any other person to commit any of the aforesaid acts,

unless he does so in the performance of a lawful right or duty or with the prior consent of an authorized official or in accordance with the provision of any law: Provided that nothing contained herein shall prevent the owner or occupier of premises from planting and maintaining grass or plants on that portion of the verge of a street which abut such premises as long as the lawful passage of vehicles and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed or impeded and such grass or plants are properly maintained and do not give rise to a nuisance.

- (2) No person shall, within a public place –

- (a) deposit, dump or discard any waste, other than in a receptacle provided by the Municipality for that purpose; or
- (b) pollute a water body or deposit any waste or thing in a manner which may detrimentally impact on a water body; or
- (c) act in any manner which contravenes the Municipality's Waste Management Bylaws.

- (3) Any person who is convicted of an offence under subsection (1) shall pay to the Council the cost of remedying any loss or damage suffered by the Council as a result of the commission of that offence and the cost of removal or disposal of any material, object or structure involved in the commission of the offence and for this purpose the provisions of section 12 shall apply.

Selling and special events

18(1) No person shall, within a public place –

- (a) use municipal property in a way that unfairly restricts or prevents other users of such place from enjoying such municipal property; or
- (b) except within such public place or part thereof, which has been let to a person by the Municipality for that purpose, sell, hawk, offer or display any goods or articles for sale or hire.

Private premises

19(1) No person shall on any private premises –

- (a) excavate or remove soil or other material in a position in relation to a boundary of the premises with other premises or a street or public place which removes or is likely to remove lateral support from those premises or that street or public place or to create a source of danger to life or damage to property;
- (b) allow any well, pond reservoir, pit, hole, excavation or earthwork or any tree or other vegetation on such premises to be in such a condition or to be so unprotected as to constitute a danger to the safety of persons or property;
- (c) cause or allow anything to project from such premises over or into a street or public place, except in an area zone for industrial purposes, and to an extent necessarily consistent with the use to which such premises are put;
- (d) whether such person is the owner or occupier of such premises, deposit, store or cause, allow or permit, to be deposited or stored, or accumulate so as to be visible from a street or public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof or scrap metal or other derelict or waste materials;
- (e) without the consent of the owner or occupier thereof, attach or place anything to or on any premises or in any way deface such premises, whether by use of chalk, ink or paint or by any other means whatsoever, unless he is authorized by any law to do so.

(2) An authorized official may order a person who has contravened or is contravening paragraph (c) or (e) of subsection (1) to remove the thing to which the contravention relates from the premises concerned within a specified time and if he fails to do so, the provisions of section 12 shall, *mutatis mutandis*, apply.

Naming of streets

20(1) The Council reserves the right to give such names as it may deem fit to any new streets or roads or to alter the names of existing streets or roads or public places within its jurisdiction.

(2) The Council may paint or otherwise place the names of streets or roads at some conspicuous point or on any building at or near the corner of any street or road.

Restoration or removal notices

- 21(1) Unless permission or a permit to do so has been issued by the Municipality, an authorized official may issue a restoration or removal notice to any person who has in a public place –
- (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - (b) erected, built or assembled a structure; or
 - (c) dumped, discarded or deposited any waste other than in a receptacle provided by the Municipality for that purpose.
- (2) The restoration or removal notice may direct the person concerned within a reasonable time specified in the notice to take stated reasonable steps specified in the notice –
- (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the Municipality; or
 - (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

Presumptions

- 22(1) When an employee of a person in the course of his employment performs any act or is guilty of an omission which constitutes an offence under these bylaws, the employer shall be deemed also to have performed the act or to be guilty of the omission, and shall be liable on conviction to the penalties referred to in section 23 unless he proves to the satisfaction of the Court that –
- (a) his employee was acting without his knowledge or permission;
 - (b) all reasonable steps were taken by him to prevent the act or omission in question;
 - (c) it was not within the scope of the authority or in the course of the employment of the employee to perform an act of the kind in question.
- (2) The fact that an employer issued an instruction forbidding any act or omission of the kind referred to in subsection (1) shall not of itself be accepted as sufficient proof that he took all steps referred to in paragraph (b) of subsection (1).
- (3) When an employer is by virtue of the provisions of subsection (1) liable for any act or omission of his employee, that employee shall also be liable to prosecution for that offence.
- (4) In any prosecution for an offence under these bylaws, an allegation in the charge concerned that any place was situate in a street or public place or within a particular area or was a place of a specified kind, shall be presumed to be correct unless the contrary is proved.

Offences and penalties

- 23(1) Any person who contravenes or fails to comply with any provisions of these by-laws or fails to comply with any lawful instruction given in terms of these bylaws or fails to comply with any notice issued or displayed in terms of these by-laws or obstructs or hinders any representative or employee of the Municipality in the execution of his or her duties under these by-laws shall be guilty of an offence and liable on conviction to a fine or to imprisonment or to both such fine or imprisonment decided by a competent Court, provided that in the case of a continuing offence such person shall be liable on

conviction to an additional fine or imprisonment for each day on which such offence continues.

- (2) Nothing in these bylaws shall detract from a Court's discretion to postpone the passing of sentence on the condition that a person convicted under these by-laws shall perform community service as contemplated in section 297 of the Criminal Procedure Act, No. 51 of 1977, as amended.

Repeal of Bylaws

24. The following provisions of the General Bylaws, published on 9 July 1931 under Provincial Notice No. 230 of 1931, as amended, are hereby repealed: The definitions under Chapter 1, sections 1 to 7, 14, 18 A – J, L – P and 19.

No. 89

20 kuMandulo 2012

UMASIPALA UMSUNDUZI**IMITHETHO KAMASIPALA EVAMILE**

IMenenja Kamasipala uMsunduzi ngokwesigaba 13(a) soMthetho Wezinhlelo Zomasipala kuHulumeni Wasekhaya, 2000 (uMthetho No. 32 wezi-2000), lapha ushicilela iMithetho Kamasipala Evamile kaMasipala uMsunduzi, njengoba yamukelwa uMkhandlu njengalokhu kukhonjiswe lapha ngezansi.

Izincazelo

1. Kule mithetho kamasipala, ngaphandle uma kubekwe ngenye indlela noma ingqikithi ikhomba okunye –

“Isisebenzi esigunyaziwe” kusho isisebenzi soMkhandlu esinikezwe kumbe esijutshelwe umsebenzi noma esinikwe amandla ngaphansi kwale mithetho kamasipala maqondana nokwenziwa kwalowo msebenzi noma ukusetshenziswa kwalawo mandla futhi kuhlenganisa nanoma yisiphi isisebenzi esibambile ngaphansi kwaleso sikhulu kanye nanoma yiliphi ilungu Lemisebenzi Yezamaphoyisa aseNingizimu Afrika

“umpheme” kusho umpheme omise okophahla oweqe udonga lwesakhiwo;

“Idolobha” kusho iDolobha laseMgungundlovu futhi kuhlenganisa nanoma iyiphi indawo eyakhiwo yizingxenywe zendawo elawulwa nguMkhandlu;

“UMkhandlu” kusho uMasipala uMsunduzi kanye nabazolandela ngokwezikhundla, futhi kubandakanya noMkhandlu kaMasipala noma iKomidi Elilawulayo kumbe nanoma yiluphi olunye uhloko olubambile ngokwamandla oluwanikeziwe ngokomthetho kanjalo nanoma yisiphi isikhulu esinikezwe amandla nemisebenzi yiKomidi Elilawulayo maqondana nale mithetho kamasipala;

“izidakamizwa” kusho izidakamizwa njengoba zichazwa eMthethweni Wezidakamizwa kanye Nokushushumbiswa Kwezidakamizwa, 1992 (uMthetho No. 140 we-1992);

“okuphumayo” maqondana nokusetshenziswa kwesibhamu kuhlenganisa nesenzo sokuphuma kwebhosho elingenalutho;

“isibhamu” kuhlenganisa isikhali esingachazwa nganoma iyiphi indlela okuphuma kuso inhlamvu, iphilisi, esidubulayo sikhuphe nanoma yimuphi umcibisholo ongachazwa nganoma iyiphi indlela, kungaba sifakwe iziqhumane noma cha;

“iphoyisa” kusho ilungu lanoma yimuphi umbutho wamaphoyisa osungulwe ngaphansi kwanoma yimuphi umthetho futhi kuhlenganisa namaphoyisa omgwaqo aqashwe nguMasipala;

“okunqunywe” kusho okunqunywe nguMkhandlu;

“indawo yomphakathi” kusho nanoma imuphi umhlaba –

(a) ongokaHulumeni; noma

(b) olawulwa futhi ophethwe nguMasipala futhi okungenzeka ukuthi –

- (i) ubekwe eceleni ngokwanoma yimuphi umthetho, uhlelo lokuklama kumbe uhlelo lomumo wendawo, ngenhloso yokungcebeleka komphakathi, ukonga, ukufakwa kwengqalasizinda yomphakathi kumbe ezolimi; noma
- (ii) awuthuthukisiwe futhi uvulekile ube ungabekwanga eceleni ngenhloso ethile ngokwanoma yimuphi umthetho, uhlelo lokuklama noma uhlelo lomumo wendawo;

- (c) ophethwe nguMasipala noma egameni likaMasipala ngenhloso yokuhlinzeka imisebenzi kahulumeni, ehlanganisa ezemigwaqo kanye nezindawo ezifaka ugesi, amapayipi kanye neminye imisebenzi kahulumeni;
- (d) ophethwe nguMasipala noma egameni likaMasipala ngenhloso yokungcebeleka komphakathi futhi uhlanganisa nanoma yiliphi ipaki, ingadi yezimbali, izinkundla zezemidlalo kodwa ayihlanganisi nanoma yiyiphi inkundla yegalofu.

“uphawu lomgwaqo” lunencazelo enikezwe kulo nguMthetho Wezemigwaqo, 1989 (uMthetho No. 29 we-1989);

“indlela yokuhamba abantu” kusho ingxenye yonqenqema okuhloswe ngayo ukuthi isetshenziswe ngabahamba ngezinyawo;

“umcimbi oyisipesheli” kusho inhlalaluhide, umjaho, idili, umbukiso, umgubho, ukuthwetshulwa kwamafilimu noma umcimbi ofuze lowo odinga ukuthi wenzelwe engxenye ekhethekile yendawo yomphakathi;

“unqenqema” kusho ingxenye yomgwaqo engakhelwe noma engenzelwanga inhloso yokuthi ihambe izimoto;

“imfucuza” kusho –

- (a) imfucuza yasekhaya
- (b) imfucuza yasengadini;
- (c) imfucuza yezakhiwo kanye nokudilizwa;
- (d) imfucuza yamabhezini; kanye
- (e) nemikhakha yenye imfucuza njengoba ichazwe eMithethweni Kamasipala Emaqondana Nokuphathwa Kwemfucuza.

“uhlaka lwamanzi” kusho uhlaka lwamanzi olungaphakathi endaweni yomphakathi futhi kuhlanganisa nanoma yimuphi umthombo, umsele wamanzi owakhiwe, idamu, ichibi, umgudu, ithange, umfula noma ixhaphozi.

Ukunqandwa kokufinyelela

2. Umasipala ungavimba ukungena kunoma iyiphi indawo yomphakathi noma kunoma iyiphi ingxenye yendawo yomphakathi isikhathi esithile esinqunyiwe –

- (a) ukuze uvikele nanoma iyiphi ingxenye yezemvelo ngaphakathi endaweni yomphakathi;
- (b) ukuze unciphise ukucekelwa phansi kwesakhiwo;
- (c) ukuze kwenziwe ngcono ukuphathwa kwaleyo ndawo yomphakathi;
- (d) ukuze kuthuthukiswe indawo yomphakathi;
- (e) ukuze uvumele umcimbi oyisipesheli onikezwe imvume nguMasipala;
- (f) ukuze wenze nanoma yimuphi umsebenzi uMasipala owubona ubalulekile noma ufanelekile ukuze kufezwe izinhloso zale mithetho kamasipala

Amandla ezisebenzi ezigunyaziwe

3. Maqondana nanoma iyiphi indawo yomphakathi, isisebenzi esigunyaziwe –

- (a) ngokwezinga eligunyazwe nguMasipala, singalawula, siqalise ukusebenza kanye nokuqiniswa kwezihlinzekelo zale mithetho kamasipala;

- (b) singakhipha nanoma yisiphi isaziso ngokwesigaba 18;
- (c) singayalela nanoma ngubani ukuba asuke endaweni yomphakathi uma lesi sisebenzi esigunyaziwe sikhohlwa ukuthi lowo muntu wephule nanoma yiziphi izihlinzekelo zale mithetho kamasipala futhi uyehluleka ukusheshe ayeke lokho kwephula ngesikhathi eyalelwa yilesi sisebenzi; futhi
- (d) uma lesi sisebenzi siyisikhulu esibhekele ukuthula, sisebenzisa nanoma yimaphi amandla angasetshenziswa yisikhulu esibhekele ukuthula ngaphansi koMthetho Wenqubo Yobugebengu, 1977 (uMthetho No. 51 we-1977).

Ukuphazanyiswa kokuthula

4. Akukho muntu okuyothi esendaweni yomphakathi noma emgwaqeni—

- (a) abhekane, ethuke, agxambukele, esabise kumbe ahlukumeze nanoma ngubani;
- (b) azihlanganise noma azibandakanye nanoma ngubani ngendlela edala noma ebukeya ingadala ukuphazamiseka kokuthula;
- (c) alwe noma agqugquzele kumbe ameme omunye umuntu ukuba alwe.

Ukuziphatha okungavumelekile

5(1) Akukho muntu okuyothi esendaweni ebonakalayo emgwaqeni noma endaweni yomphakathi –

- (a) embule ubuntu kumbe agqoke ngendlela ezophetha ngokuthi bubonakale;
- (b) enze izenzo zobudlova noma akhuthaze omunye umuntu ukuba enze okunjalo

(2) akukho muntu oyothilileka kunoma yimuphi umgwaqo noma indawo yomphakathi ngenhloso yokudayisa ngomzimba kumbe anxenxe nanoma ngubani ukuba enze okunjalo.

Ubucikomazwi noma ukumeleleka okungamukelekile kumbe okulumelayo

6. Akukho muntu okuyothi esendaweni yomphakathi noma emgwaqeni –

- (a) akhombise, asabalalise, aveze noma adayise kumbe athembise ukudayisa ngendlela engadala icala, nanoma yisiphi isithombe esinokulumela kumbe okunye ukumeleleka noma into ebhaliwe kumbe eshicilelwe;
- (b) adwebe, abhale kumbe akhiqize nganoma iyiphi indlela nanoma yimuphi umfanekiso, incwadi, isithombe, igama noma okunye ukumeleleka okungamukelekile noma okulumelayo ngendlela yokuthi kubonwe ngumphakathi kumbe ngunoma ngubani.

Izenzo ezinobungozi

7. Akukho muntu okuyothi esendaweni yomphakathi noma emgwaqeni—

- (a) abambe noma asebenzise nanoma iyiphi impahla, into engahle idale ukulimala kumuntu kumbe yesabise lowo muntu noma ilimaze isakhiwo ngendlela engahle iphethe ngalokho kulimala, ukwesaba noma ukucekeleka phansi;
- (b) akhanyise, asebenzise kumbe ahlomule ngomlilo ngaphandle uma kusendaweni ehlinzekelwe lokho nguMkhandlu;
- (c) anamathelise nanoma yini noma asuse nanoma yini emphemeni, ensikeni, esigxotsheni ngendlela engahle icekele phansi noma ilimaze umuntu, ngaphandle uma leyo nto inanyatheliswe noma isuswe ngokwemvume yoMkhandlu;

- (d) enze nanoma yisiphi isenzo esingahle silimaze kumbe sicekele phansi umuntu noma isakhiwo.

Amacala avamile

8(1) Akukho muntu okuyothi esendaweni yomphakathi noma emgwaqeni–

- (a) azikhulule noma achame ngaphandle uma kusendaweni ehlinzekelwe ukwenza lokho nguMkhandlu
 - (b) aphimise;
 - (c) adakwe utshwala;
 - (d) adakwe yizidakamizwa kumbe afihle izidakamizwa kuye noma komunye umuntu noma adayise kumbe anikezele ngezidakamizwa komunye umuntu.
 - (e) aphikisane nezihlinzekelo zanoma yisiphi isaziso esikunoma iyiphi indawo yomphakathi;
 - (f) angene ngokungemthetho endaweni yomphakathi okungavunyelwe ukungena kuyo.
 - (g) ageze, azabalaze noma abhukude kumbe ahlambe, ahlambe isilwane kumbe nanoma yini kuhlenganisa nezingubo zokugqoka kunoma yimuphi umzimba wamanzi.
- (2) Akukho muntu oyogcina nanoma yisiphi isilwane sasendle esingaba nobungozi emphakathini futhi uma leso silwane sitholakala siwuvanzi, uma kunesidingo sokuvikela impilo yabantu, siyobulawa yisisebenzi esigunyaziwe.
- (3) Akukho muntu oyodedela noma avumele nanoma yiliphi ihhashi, inkomo, imbongolo, ingulube, imvu noma imbuzi ukuba intante kunoma yimuphi umgwaqo noma indawo yomphakathi, uma itholakele iyothathwa iyogcinwa enkanjini.
- (4) Akukho muntu oyovumela nanoma yiliphi idada, igalikuni noma inkukhu ukuba ibe wuvanzi noma yeqele endaweni yomnikazi.

Ukuhlanzwa kwezindlela ezihamba abantu kanye nezinqenqema

- 9(1) Ohlalayo emagcekeni anefemu njengoba kuchazwe esigatshaneni (3) noma okuqhutshwa kuwo ibhizinisi elithile, okwenziwa kulo umsebenzi othile kumbe okudayiswayo kuwo kuyomele zikhathi zonke ngesikhathi kuqhutshwa umsebenzi efemini kumbe uma amagceke evulelwe ukuthi kusetshenzwe, agcine izindlela ezihamba abantu noma izinqenqema ezixhumene namagceke kuhlenganisa nogadasi zingenamfucuzwa futhi zihlanzekile ngendlela egculisayo.
- (2) Ohlalayo okukhulunywe ngaye esigatshaneni (1) uyosusa yonke imfucuzwa ngokwaleso sigatshana, ayifake emigqonyeni kadoti ehlinzekwe nguMkhandlu.
- (3) Ngokwezinhloso zesigatshana (1), "ifemu" inencazelo enikezwe eMthethweni Obhekele Ezempilo Nokuphepha, 1993 kanye nemithethonqubo engaphansi kwawo.

Izithiyo

10. Akukho muntu okuyothi esendaweni yomphakathi noma emgwaqeni–

- (a) ashiye nanoma yini inganakiwe bese iba kumbe okungenzeka ibe yisithiyo kubantu noma ezimotweni;
- (b) aphaathe, abeke, abambe noma aveze nanoma yini engaba yisithiyo noma iphazamise ukuhamba kwabantu noma izimoto noma ukutsetshenziswa komgwaqo noma indawo yomphakathi ngabantu nezimoto noma engadala ukulimala kubantu kumbe ilimaze impahla;
- (c) abeke emgwaqeni noma endaweni yomphakathi imoto ngenhloso yokulayisha noma

yokwehlisa kumbe ukuthutha nanoma yini emagcekeni isikhathi esingaphezu kwaleso esibekelwe lokho;

- (d) avimbe uphawu lomgwaqo kumbe afake nanoma yiluphi uqwembe, uphawu, ibhodi lokukhangisa kumbe okunjalo ngaphambi kwe-camera eqaphile;
- (e) ahlngane, enze umhlangano wabantu endaweni ngendlela ephazamisa noma engahle iphazamise ukuhamba kwabantu nokwezimoto kumbe ukusetshenziswa ngenkululeko kwemigwaqo noma indawo yomphakathi, ngaphandle uma lowo mhlngano ugunyazwe ngokoMithetho Wemithethonqubo Yemihlangano, 1996 (uMthetho No. 90 we-1996).

Izithiyo ezidalwa yizihlahla

11(1) Uma isihlahla, ihlashana noma ezinye izihlahla noma ingxenye yesihlahla etshalwe kunoma yimaphi amagceke axhunyiwe emgwaqeni noma endaweni yomphakathi –

- (a) siphazamisa umshayeli wanoma iyiphi imoto ukuba abone umgwaqo noma indawo yomphakathi;
- (b) sivimba uphawu lomgwaqo;
- (c) sivimba noma siphazamisa ukusebenza kwe-camera eqaphile esemgwaqeni;
- (d) siphazamisa noma sibanga isicefe kubantu abasebenzisa lowo mgwaqo noma indawo yomphakathi,

noma uma ingxenye yaleso sihlahla noma ihlashana libanga isicefe noma ingozi kubantu noma esakhiweni, isikhulu esigunyaziwe singakhipha isaziso kumnikazi wamagceke noma kohlalayo uma kungukuthi emagcekeni kuhlala umuntu ongesiye umnikazi, esicela ukuba anqume, asuse noma athene isihlahla, ihlashana okuyikhona okubanga isicefe noma okuyisisusa sengozi, esikhathini esibekiwe esazisweni futhi nanoma ngubani owehluleka ukuhambisana naleso saziso uyotholwa enecala.

(2) Uma umuntu onikezwe isaziso ngokwesigatshana (1) ehluleka ukuhambisana naleso saziso esikhathini esibekiwe, isisebenzi esigunyaziwe singaphoqa ukuthi umsebenzi okuleso saziso wenziwe bese kuthi lowo muntu atholakale enecala eMkhandlini ngezindleko zomsebenzi owenziwe nguMkhandlu.

Ukulahlwa kwempahla etholwe emgwaqeni noma endaweni yomphakathi

12(1) Uma kushiye nanoma yini emgwaqeni noma endaweni yomphakathi ngokwesigaba 10(a), isisebenzi esigunyaziwe singayisusa siyoyibeka esitolo esibekelwe lokho nguMasipala: inqobo nje uma leyo nto ngokokubona kwesisebenzi esigunyaziwe ingenasisindo kwezohwebo, singayilahla ngendlela efanayo esibona ifanele futhi umuntu owenze lelo cala uyotholwa nguMkhandlu enecala lezindleko zalokho kulahlwa njengoba kunqunywe yilesi sisebenzi esigunyaziwe.

(2) Nanoma yini esuswe yabekwa esitolo ngokwesigatshana (1) iyokhululwa inikezelwe umuntu, ezinsukwini eziyisikhombisa isusiwe noma isikhathi esiluliwe njengokokuvuma kwesisebenzi esigunyaziwe esibhekele isitolo, oyogculisa lesi sisebenzi esigunyaziwe ukuthi ungumnikazi waleyo mpahla noma unelungelo lokuthatha leyo mpahla, bese ekhokha izindleko zokususwa kanye nokugcinwa ngokuhambisana nohlelo lwentela kamasipala yoMkhandlu: inqobo nje uma lesi sisebenzi esigunyaziwe sizokwenza ukuthi impahla ebolayo ilandwe ngaphambi kokuba yonakale noma ngaphambi kokuthi ingamukeleki kumbe idale ubungozi kwezempilo; ukuthi ilahlwe ngendlela esibona ifanele noma ibekwe endaweni kamasipala yokulahlwa.

(3) Nanoma yini elandiwe noma elahliwe ngokwesigatshana (2) iyolahlwa ngokwenqubomgomo yoMkhandlu mayelana nokulahlwa kwempahla.

(4) Imali eyotholakala ngokudayiswa ngokwesigatshana (3) iyokhokha kuqala–

- (a) izindleko zokususwa kanye nokugcinwa njengoba kubekiwe ngokwesigatshana (2);
 - (b) nanoma yiziphi izindleko ezingadaleka ngemizamo yokucinga umnikazi wempahla;
 - (c) izindleko zokudayiswa kwempahla kuthi umehluko uthathwe nguMkhandlu uma ungalandwanga esikhathini esingunyaka kusukela osukwini lokudayiswa ngumuntu onelungelo ngokomthetho
- (5) Uma imali engene ngokudayiswa ingenele ukuhlangabezana nezindleko okukhulunywe ngazo esigatshaneni (4) umnikazi wempahla edayisiwe kanye nomuntu owenze nanoma yiliphi icala ngokwale mithetho kamasipala, bobabili ngokuhlanganyela bayophoqeleka ukukhokhela uMkhandlu umehluko wemali eshodayo.
- (6) uma impahla ingeke idayiseke ngokwesigatshana (3) isisebenzi esigunyaziwe okuyisona esibhekele isitolo singalahla leyo mpahla ngendlela esibona ifanelekile futhi izihlinzekelo zesigatshana (5) ziyosebenza njengoba kuhleliwe maqondana nanoma yiziphi izindleko ezidaleke kwenziwa lokho kulahlwa.
- (7) Ukusetshenziswa kwanoma yimaphi amandla anikezwe ngokwalesi sigaba angeke kuholele uMkhandlu kumbe isisebenzi esigunyaziwe ukuthi sibe necala lokulahleka noma ukuntshontshwa kumbe ukulimala kwanoma yini esuswe ngokwesigatshana (1).

Ukucela nokugembula

13. Akekho umuntu okumele, esitaladini noma endaweni yomphakathi –

- (a) acele imali noma izimpahla noma acele yinoma yini, okungaba ngokukhombisa ngomzimba, ngokusho noma ngenye indlela;
- (b) agembule noma adlale yinoma yimuphi umdlalo ukuze athole inzuzo, okungaba imali noma okunye,

noma enze kumbe ahehe omunye umuntu ukuba enze nanoma yimiphi imidlalo ebalwe ezigabeni (a) no (b).

Ukunkanisa nokulala

14. Akekho umuntu okumele, esitaladini noma endaweni yomphakathi noma kunoma yiyiphi indawo ekungeyoMkhandlu engahloselwe lokho –

- (a) ankanise, alale noma asebenzise yinoma yiyiphi ingxenye yaso ngenhloso yokuhlala, ngaphandle kwemvume eqondiwe yoMkhandlu;
- (b) acambalale noma alale kunoma yiliphi ibhentshi noma isihlalo esihlinzekwe nguMkhandlu ukuba lisetshenziswe ngumphakathi.

Inkathazo edaleka ekusetshenzisweni kwezakhiwo

15(1) Akekho umnikazi noma osebenzisa isakhiwo okumele –

- (a) asisebenzisele inhloso;
- (b) enze, avumele noma ayalele ukusetshenziswa kwaso;
- (c) ahlele noma avumele noma ayalele umdlalo, umcimbi ukuba wenziwe khona,

ngokwesimo sawo noma okunye, noma ngenxa yesizathu sawo, uzodala noma ungadala inkathazo.

- (2) Lapho isisebenzi esigunyaziwe sibona ukuthi kwephulwe isigatshana (1), singayalela umnikazi noma osebenzisa indawo noma nanoma yimuphi umuntu obhekele, noma obambe iqhaza ekusetshenzisweni, emdlalweni, emcimbini, athathe izinyathelo ezithile angazinquma ukuba anciphise inkathazo noma ukugwema ukudalwa kwenkathazo noma kungatholwa ngokukhawulwa kokusetshenziswa, komdlalo, umcimbi ukuba uphele khona lapho noma ngesikhathi esinqunywe yiso.
- (3) Ekuphoqeleleni izihlinzekelo zesigatshana (2), isisebenzi esigunyaziwe singacela ukuba izihlinzekelo zeMithetho Kamasipala Zokunciphisa Umsindo noma eminye imithethonqubo emayelana nomsindo imenyezwe ngaphansi kwemithetho esebenzayo kazwelonke.

Ukushiswa kwemililo

16. Akekho umuntu okumele kunoma yisiphi isakhiwo okhele umlilo noma ashise noma azame ukushisa yinoma yimuphi udoti noma imfucumfucu noma yinoma yibuphi utshani noma ezinye izimila ngaphandle kokuba athathe izivimbelo ezanele ukuvimbela ukubhehetheka komlilo noma ukudaleka kwenkathazo, okungaba ngenxa yomlotha, amalangabi, intuthu, ukushisa, ukushunqa noma okunye.

Ukwaphulwa kwemithetho okujwayelekile okuphathele nempahla kamasipala

- 17(1) Akekho umuntu okumele, ngokuphathele nanoma yiyiphi impahla okungeyoMkhandlu, okungaba egudlukayo noma engagudluki, futhi kumbandakanya yinoma yisiphi isitaladi noma isakhiwo somphakathi–
 - (a) ngamabomu kumbe ngokunganaki alimaze noma acekele phansi lesa sakhiwo noma ingxenye yaso;
 - (b) asuse nanoma yimuphi umhlaba, isihlabathi, ukhetho, itshe, isidindi noma enye into kumbe ingxenye yayo;
 - (c) agxumeke, akhe noma ahlanganise yinoma yisiphi isakhiwo, kufaka nendlu, itende, isihenqo, ibhodi lezimemezelo, ipali, isitende noma isiiteji;
 - (d) aphule, asike, acekele phansi noma asuse nanoma yisiphi isihlahla, isihlahlana, noma esinye isitshalo noma asuse nanoma yiliphi igatsha, imbali, iqabunga noma enye ingxenye yalo;
 - (e) ahlanganise noma abeke eduze kwesakhiwo esithile, yinoma yini, kumbandakanya yinoma yisiphi isikhangiso, umthethosivivinywa, incwajana, uqwembe lwesaziso olukhulu noma iphepha lokwazisa noma okunye okucacisayo, udaba olubhaliwe noma olugoshiwe, noma alengise noma apanyeke yinoma yini esakhiweni esithile;
 - (f) onakalise nanoma yisiphi isakhiwo nganoma yini noma avimbe noma agange nganoma yiyiphi indlela yokulimaza yinoma yimaphi amapayipi, ugesi, isishisisa noma ezinye izinto ezixhunyiwe;
 - (g) acishe nanoma yiliphi ilambu noma okokukhanyisa noma agudluze noma asuse yinoma yisiphi isivimbelo noma uthango, ilambu, okokukhanyisa, isaziso noma uphawu;
 - (h) enze nanoma yikuphi ukumba noma aphazamise ingaphezulu lesakhiwo esithile noma aguqule ukuma komsele wokuhambisa amanzi ukuze athikameze ukuhamba kwamanzi, umoya noma izakhi kunoma yisiphi isihlahla noma kwesinye isitshalo;
 - (i) aqhwakele noma ahlale, alengise noma agibele esakhiweni esithile;
 - (j) angenise nanoma yini noma agxumeke nanoma yisiphi isakhiwo kunoma yisiphi isakhiwo;

- (k) abambe noma azame ukubamba, asukele, adubule, alimaze, ajikejijele into, agcone, ahlophe noma yingayiphi enye indlela, athikameze nanoma yisiphi isilwane, inhlanzi noma inyoni;
- (l) athikameze, alimaze noma acekele phansi yinoma yisiphi isidleke noma amaqanda;
- (m) ahambise nanoma iyiphiinja ngaphandle uma –

- (i) kusendaweni yomphakathi noma kunoma yiyiphi ingxenye yayo engakhethiwe nguMasipala njengendawo lapho izinja zingavumelekile khona, futhi idonswa ngentambo futhi iqashwe ngumuntu; noma
- (ii) isendaweni yomphakathi noma kunoma yiyiphi ingxenye yayo ekhethwe nguMasipala njengendawo lapho izinja zingazigijimela ngokukhululeka: Inqobo nje uma nanoma iyiphiinja ingcolisa ngokuzikhulula endaweni yomphakathi, umuntu oyiqaphile kuyomele ngokushesha asuse lokho kungcolisa kokuzikhulula bese ekulahla emgqomeni wemfucuzana noma kwesinye isitsha esihlinzekelwe nguMasipala leyo nhloso;

- (n) avumele, enze noma ayekele yinoma yimuphi omunye umuntu ukuba enze yinoma yiziphi izenzo ezishiwo ngaphambili,

ngaphandle uma enze njalo ekwenzeni ilungelo noma umsebenzi osemthethweni noma ngokuqala athole imvume esikhulwini esigunyaziwe noma ngokuhambisana nesimiselo sanoma yimuphi umthetho: Ngaphandle uma kungekho lutho oluqokethwe lapha oluzovimbela umnikazi noma osebenzisa indawo ukuba atshale futhi anakekele utshani kulolo ngenqema lomgwaqo olunqikene naleso sakhiwo inqobo nje uma umhubhe osemthethweni lezimoto nesiminyaminyana sabahamba ngezinyawo kanye nendawo yokupaka izimoto esemthethweni kungazokuphazamiseka noma kungavimbeka futhi lobo tshani noma izitshalo zinakekelwa ngendlela futhi zingakhuli zize zibe yinkathazo.

- (2) Akekho umuntu okuyomele, endaweni yomphakathi–

- (a) abeke, athulule noma aphonse yinoma yiyiphi imfucuzana, ngale kwasesitsheni esihlinzekelwe leyo nhloso nguMasipala; noma
- (b) angcolise uhlaka lwamanzi noma afake yinoma yiyiphi imfucuzana ngendlela yokuthi inganukubeza uhlaka lwamanzi; noma
- (c) enze nganoma yiyiphi indlela ezophikisana neMithetho kaMasipala Yokulawulwa Kwemfucuzana.

- (3) Yinoma yimuphi umuntu olahlwe yicala ngaphansi kwesigatshana (1) kuyomele akhokhele uMkhandlu izindleko zokulungisa yinoma yikuphi ukulahleka noma ukulimala uMkhandlu akuzwile ngenxa yokwenziwa yiloko kwaphulwa komthetho kanye nezindleko zokususwa noma ukuchithwa kwanoma yini, into noma uhlaka oluthinteka ekwenziweni kwecala futhi ngale nhloso izihlinzekelo zesigaba 12 kumele zisebenze.

Ukudayisa nemicimbi eyisipesheli

- 18(1)** Akekho umuntu okuyomele, endaweni yomphakathi –

- (a) asebenzise impahla kamasipala ngendlela yokuthi avimbele ngobudedengu abanye abasebenzisi baleyo ndawo ekuzithokoziseni ngaleyo mpahla kamasipala; noma
- (b) akhiphe leyo ndawo yomphakathi noma ingxenye yayo, eqashiselwe umuntu nguMasipala ngaleyo nhloso, ukudayisa, ukuthengisa emgwaqeni, alinge ukuthengisa noma akhangise nganoma yiziphi izimpahla zendali noma zokuqashisa.

Indawo okungeyomnikazi

19(1) Akekho umuntu okuyomele kunoma yiyiphi indawo yomnikazi –

agubhe noma ambe inhlabathi noma enye into endaweni emaqondana nomngcele wesakhiwo kanye nesinye isakhiwo noma umgwaqo noma indawo yomphakathi esusa okuphase lezo zakhiwo noma lowo mgwaqo noma indawo yomphakathi noma engaba yisisusa sengozi empilweni noma umonakalo empahleni;

avumele yinoma yimuphi umthombo, ichibi, umgodi, isisele, indawo embiwe noma indunduma yomhlabathi noma yinoma yisiphi isihlahla noma esinye isimila esikuleso sakhiwo ukuba sibe sesimweni noma ukuba singavikeleki kanjalo ukuze senze ingozi ekuphepheni kwabantu noma empahleni;

enze noma avumele yinoma yini ukuba iphume ibe ujojo sisuka kuleso sakhiwo sidlulele noma emgwaqeni noma endaweni yomphakathi, ngaphandle endaweni yezimboni, futhi ubude obufanelekile obuhambisana nokusetshenziswa kwaleso sakhiwo bubekiwe;

okungaba lowo muntu ungumnikazi noma osebenzisa leyo ndawo, abeke, agcine noma enze, avumele noma ayekele, ukuba kubekwe noma kugcinwe, noma kuqokelelwe kuze kube kubonakala usesitaladini noma usendaweni yomphakathi, izinto ezingasetshenziswa, ifenisha, imishini, izimoto noma ezinye izinto noma izingxenye zazo noma insimbi elahliwe noma ezinye izinto eziyimfucuzwa ezilahliwe;

(a) ngaphandle kwemvume yomnikazi noma osebenzisa indawo leyo, anamathisele noma abeke yinoma yini kunoma yisiphi isakhiwo noma nganoma yiyiphi indlela ezonakalisa lesa sakhiwo, okungaba ngoshoki, uyinki noma upende noma nganoma yini enye into yaloko, ngaphandle uma egunyazwe yinoma yimuphi umthetho ukwenze njalo.

(2) Isisebenzi esigunyaziwe singayalela umuntu ophule umthetho noma ophula indima (c) noma (e) yesigatshana (1) ukuba asuse into ehambisana nokwaphulwa loko esakhiweni esiqondene ngaleso sikhathi esibaluliwe futhi uma ehluleka ukwenze njalo, kuyomele kusebenze izihlinzekelo zesigaba 12.

Ukuqanjwa kwezitaladi

20 (1) UMkhandlu unelungelo lokunikeza lawo magama ongawabona efanelekile kunoma yiziphi izitaladi noma imigwaqo emisha kumbe ukuguqula amagama ezitaladi noma emigwaqo noma ezindawo zomphakathi ezingaphansi kolawulo lwawo.

(2) UMkhandlu ungapenda noma ubeke ngenye indlela amagama ezitaladi noma imigwaqo endaweni ethile esobala noma kunoma yiliphi ibhilidi elisekhoneni kumbe eduze kwekhona lanoma yisiphi isitaladi noma umgwaqo.

Izaziso zokubuyisela noma zokususa

21(1) Ngaphandle imvume yokwenzenjalo ikhishiwe nguMkhandlu, isisebenzi esigunyaziwe singakhipha izaziso sokubuyisela noma zokususa kunoma yimuphi umuntu endaweni yomphakathi –

(a) olimaze, onakalise, othikameze, ocekele phansi, odilize noma osuse izimila noma isakhiwo sikamasipala;

(b) ogxumeke, owakhe noma omise isakhiwo; noma

- (c) olahle, ochithe noma ophonse nanoma yiyiphi imfucuza ngale kwasesitsheni esihlinzekelwe leyo nhloso nguMasipala.
- (2) Isaziso sokubuyisela noma sokususa singayalela umuntu oqondene ngesikhathi esifanele esibalulwe esazisweni ukuba athathe izinyathelo ezifanelekile ezibalulwe esazisweni –
- (a) ukuba abuyisela noma alungise leyo ndawo ethintekile ngendlela ezogculisa uMasipala; noma
- (b) Ukuba asusa isakhiwo noma into kanye nokubuyisela esimweni ndawo ethintekile, njengoba kungacishe kwenzeka ukuba ibesesimweni sayo sangaphambilini.

Ukungathekisa

- 22 (1) Uma isisebenzi somuntu ngesikhathi sisaqashiwe senza nanoma yisiphi isenzo noma sitholakala sinecala lokweqa umthetho okuyicala ngokwale mithetho kamasipala, umqashi naye uyothathwa njengosenzile leso senzo kumbe onecala lokweqa futhi uyobhekana nokukhokha inhlawulo ebalulwe esigabeni 23 ngaphandle uma eveza ubufakazi obugculisa iNkantolo ukuthi-
- (a) ekwenzeni leso senzo esiyicala lokweqa umthetho, isisebenzi esasenza singenalo ulwazi kumbe imvume yakhe;
- (b) kuthathwe zonke izinyathelo ezifanele ukuvimba leso senzo noma ukweqa okukhulunywa ngakho;
- (c) kwakungekho emandleni esisebenzi ukwenza leso senzo okukhulunywa ngaso.
- (2) Ukuthi umqashi ukhiphe umyalelo onqabela nanoma yisiphi isenzo noma seqa umthetho okukhulunywe ngakho esigatshananeni (1) akuyokwamukelwa njengobufakazi obanele bokuthi uthathe zonke izinyathelo okukhulunywe ngazo esigabeni (b) wesigatshana (1).
- (3) Uma umqashi ngokugunyazwa yizihlinzekelo zesigatshana (1) ebekwa icala lanoma yisiphi isenzo noma lokweqa umthetho kwesisebenzi sakhe, leso sisebenzi naso kungenzeka siboshelwe lelo cala.
- (4) Kunoma yikuphi ukumangalelwa kokwenza icala ngaphansi kwale mithetho kamasipala, izinsolo zokubekwa icala okuqondene nanoma yisiphi isisitaladi noma indawo yomphakathi noma indawo ethile kumbe endaweni okwabe kuyomsebenzi othile, kuyothathwa ngokuthi kuliqiniso kuze kube kuba nobufakazi obuphikisayo.

Amacala nezigwebo

- 23(1) Nanoma yimuphi umuntu owephula noma ohluleka ukuhambisana nanoma yiziphi izihlinzekelo zale mithetho kamasipala noma ohluleka ukuhambisana nanoma yisiphi isaziso esikhishiwe ngokwale mithetho kamasipala noma othikameza noma ophazamisa yinoma yimuphi omele uMasipala noma isisebenzi sakhe ekwenzeni imisebenzi yakhe ngaphansi kwale mithetho kamasipala uyotholakala enecala lokwaphula umthetho futhi uyobhekana ngokuthi akhokhe inhlawulo noma agqunywe ejele, kumbe kokubili inhlawulo nokugqunywa ejele, okuyonqunywa iNkantolo, kuncike ekutheni lapho

kuyicala eliqhubekayo, inkantolo inganquma inhlawulo eyengeziwe ngosuku uma kusaqhubeka nokwepulwa lowo mthetho.

- (2) Akukho lutho kule mithetho kamasipala okuyomele kuphazamise isinqumo senkantolo sokuhlehlisa ukukhishwa kwesigwebo ngombandela wokuthi umuntu obekwe icala ngaphansi kwale mithetho kamasipala kuyomele enze imisebenzi yomphakathi njengoba kucacisiwe esigabeni 297 soMthetho Wenqubo Yamacala, uNo.51 we-1977, njengalokhu uchitshiyelwe.

Ukuchithwa KweMithetho Kamasipala

24. Izihlinzekelo ezilandelayo zeMithetho Kamasipala Evamile, ezamenezelwe mhla ziyi- 9 kuNtulikazi we-1931 ngaphansi KweSaziso Sesifundazwe uNo. 230 we-1931, njengalokhu sichitshiyelwe, ziyachithwa. Izincazelo zamagama ngaphansi kweSahluko 1, izigaba 1 kuya 7,14, 18 A- J,L- P no 19.

No. 90

20 September 2012

THE MSUNDUZI MUNICIPALITY**INDIGENT POLICY BYLAWS**

The Municipal Manager of the Msunduzi Municipality, acting in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Indigent Policy Bylaws for the Msunduzi Municipality, as adopted by its Council, as set out hereunder.

Definitions

1. In these bylaws, unless the context indicates otherwise –

“beneficiary” means –

- (a) the owner or occupier of a property; or
- (b) the owner and occupiers of a property, where the owner occupies a property with other occupiers; or
- (c) the occupiers of a property, where the owner does not occupy the property and where the combined income of the owner and occupiers does not exceed the level determined by the Council, by resolution, from time to time;

“beneficiary property” means a residential property owned or occupied by a beneficiary or beneficiaries;

“Council” means the Msunduzi Municipality and its successors in law, and includes the Council of the Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties in relation to these bylaws;

“consumption” means the ordinary use of municipal services for domestic or household purposes;

“due date”, in the absence of any express agreement to the contrary, means the date determined from time to time by the Council as the final date on which any account for municipal services rendered, shall be paid;

“free basic water allocation” means the maximum amount of water which will be provided free of charge to indigent persons as reflected in the Council’s Tariff of Charges from time to time;

“free basic service” means a service provided by the Municipality free of charge to persons who qualify therefor;

“income level” means the total, combined income of –

- (a) the owner and all occupiers of a beneficiary property where the owner occupies the property with other occupiers;
- (b) all the occupiers of a beneficiary property where the owner does not occupy the property, regardless of the source of income;

“life line service” means a service provided at a life line tariff determined by resolution of the Council from time to time;

“municipal value” means the total combined value of land and buildings on a beneficiary property, as reflected in the municipal valuation roll;

“occupier” means any person in actual occupation of a beneficiary property without regard to the title under which he occupies such property;

owner" means the person in whom from time to time is vested the legal title to a beneficiary property.

Free Basic Services Qualification

2.. The owner and/or occupier of a beneficiary property shall qualify for free basic services provided that he meets the criteria for such concessions as specified under the heading "Qualification for concessions" in the Indigent Policy or as determined by resolution of the Council from time to time and reflected in the Council's Tariff Register.

Excess consumption

3. Where the consumption of any municipal service on the beneficiary property exceeds the free basic allocation thereof, such excessive consumption shall be billed at the normal tariff as determined by the Council from time to time.

Voluntary restriction

4(1). A beneficiary may request the Council to restrict the supply of any municipal service in any manner possible, including, where possible, installing a variable flow-restricting device to the supply of such service to the beneficiary property in order to ensure that consumption does not exceed the free basic allocation thereof.

(2) The charge for the installation of a variable flow-restricting device in terms of subsection (1) shall be the charge specified in the Council's Tariff Register.

Non-payment

5. In the event that a beneficiary fails to pay any account by due date, notwithstanding that the beneficiary may qualify for free basic services, the Council may -

- (a) restrict the supply of the municipal service concerned to the beneficiary property;
- (b) disconnect or discontinue the supply of such service to the beneficiary property; or
- (c) take any other action permitted in terms of the Council's Credit Control and Debt Collection Bylaws.

Application for life-line services

6 The owner and/or occupier of a residential property may apply in writing to the Council for life-line services.

Non-payment

7. In the event that an owner or occupier fails to pay any account by due date, notwithstanding that the owner or occupier may have been granted life-line services, the Council may-

- (a) restrict the supply of water to the property;
- (b) disconnect the electricity supply to the property; or
- (c) take any other action permitted in terms of the Council's Credit Control and Debt Collection Bylaws.

Appeals

8(1). A person whose rights are affected by a decision taken by any authorised official under these bylaws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager shall promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(4) When the appeal is against a decision taken by -

(a) a staff member other than the municipal manager, the municipal manager shall be the appeal authority; or

(b) the municipal manager, the Mayor shall be the appeal authority.

(5) An appeal authority shall commence with an appeal within six weeks and decide the appeal within a reasonable period.

Date of commencement

9.. These by-laws shall come into operation on date of publication in the Provincial Gazette.

No. 91

20 September 2012

THE MSUNDUZI MUNICIPALITY
WASTE MANAGEMENT BYLAWS

The Municipal Manager of the Msunduzi Municipality, acting in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Waste Management Bylaws for the Msunduzi Municipality, as adopted by its Council, as set out hereunder.

PREAMBLE

WHEREAS the Municipality, aware of the Constitutional right of every person to an environment that is not harmful to his or her health or well-being and protecting present and future generations of persons in the Municipal area by providing, in conjunction with applicable laws, a legal and administrative framework in terms of which the Municipality can develop and manage its obligations under the Waste Act;

AND WHEREAS at present the Municipality does not provide a waste removal service to all areas under its control and has indentified the need for this to be addressed in its Integrated Waste Management Plan which has been developed in terms of section 12 of the Waste Act;

AND WHEREAS the Municipality recognises that any National Waste Management Strategy will require the Municipality to introduce waste minimisation and recycling in order to ensure sustainability of resources and that the adoption of bylaws shall provide the enabling legislation to achieve the targets which may be prescribed by the Minister of MEC,

NOW THEREFORE IT IS ENACTED AS FOLLOWS:

Definitions

1. In these bylaws, unless the context indicates otherwise -

“authorized official” means an official of the Council to whom it has assigned or delegated a duty, function or power under these bylaws in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

“commercial services” means any service, excluding a municipal service, relating, or connected, to, accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

“DAEARD” means the Department of Agriculture, Environmental Affairs and Rural Development;

“disposal site” means a site used for the accumulation of waste for the purpose of disposing or treatment of such waste;

“DWAF” means the Department of Water Affairs;

“environmental management inspector” means a suitably trained person appointed in terms of Chapter 7 of MEMA;

“garden service” means the provision of a garden service including the cutting of grass, pruning of trees and any other horticultural activity including landscaping to any domestic, business, commercial or industrial property;

“industrial effluent” means any liquid, either with or without any particles of matter in

suspension therein, which is discharged from, or wholly, or in part, produced by or in connection with or as a result of any manufacture, trade, mixing, mining or chemical process or industry carried on in any premises;

“Integrated Waste Management Plan” means a plan prepared in terms of section 12 of the Waste Act;

“litter” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste disposal or processing facility;

“local community”, in relation the Municipality, means that body of persons comprising-

- (a) the residents of the Msunduzi Municipality;
- (b) the ratepayers of the Msunduzi Municipality;
- (c) the private sector, any civic organization, non-governmental organization, labour organization or body which is involved in local affairs within the municipal area; and
- (d) a visitor or other person residing outside of the Msunduzi Municipality who, because of his or her presence in the Municipality, makes use of services or facilities of the Municipality;

“MEC” means the Member of the Executive Council of the Province of Kwa-Zulu Natal who is responsible for waste management in the province;

“minimization”, when used in relation to waste, means the avoidance of the amount and toxicity of waste that is generated and, in the event that waste is generated, the reduction of the amount and toxicity of waste that is disposed of;

“Minister” means the Minister of Agriculture, Environmental Affairs and Rural Development;

“municipal area” means any area within the boundary of the Msunduzi Municipality as demarcated by the Demarcation Board or as amended by such Board from time to time;

“municipality” means The Msunduzi Municipality and its successors in law, and includes the Council of the Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties in relation to these bylaws;

“municipal service” means a service relating to the collection of waste provided exclusively by the Municipality in accordance with the provisions of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

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

“nuisance” means any injury, harm, damage, inconvenience or annoyance to any person or the environment which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste, or by littering;

“occupier”, in relation to any premises, means any person who is in actual occupation

of such premises and if no person is in actual occupation thereof, any person who whether as owner, lessee, licensee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purposes of such street trader's business;

"owner" means -

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in the case where the person in whom the legal title is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such person's property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings thereon;
- (d) in a case where such premises have been leased for a period of thirty years or longer, the lessee thereof;
- (e) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

"person" includes a juristic person such as a registered company or a registered close corporation;

"pollution" means any change in the environment caused by -

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

"property" means -

- (a) immovable property registered in the name of a person including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

“prescribed fee” means a fee prescribed by the Municipality in terms of applicable legislation;

“public place” means any land which –

- (a) owned by an organ of State; or
- (b) is controlled and managed by the Municipality and is either –
 - (i) set aside in terms of any law, zoning scheme or spatial plan, for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
 - (ii) is predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;
- (c) managed by or on behalf of the Municipality for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes;
- (d) is managed by or on behalf of the Municipality for public recreational purposes, and includes any park, botanical garden, sports ground and playground, but excludes any golf course.

“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 has a right of access, and includes -

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“recycle” means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use, and the processing of that separated material as a product of raw material;

“recycling station” means any site designated by the Municipality for the purpose of reclaiming waste for further use;

“resident”. In relation to the Municipality, means a person who is ordinarily resident in the municipal area;

“re-use” means to utilize articles from the waste stream for similar or different purposes without changing the form or properties of the articles;

“street trader” means a person who sells, barter, exchanges, hires out, displays, exposes, offers or prepares for sale, barter, exchange or hire, any goods, or who provides or offers any service for reward as a street vendor, hawker or pedlar but does not include any person who sells newspapers only;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“tariff” means the use charge for the provision of a municipal service as determined

by the Municipality in terms of applicable legislation;

"verge" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder of the road, street or thoroughfare.

"waste" means -

- (a) any substance, whether or not that substance can be reduced, re-used, recycled or recovered –
 - (i) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
 - (ii) for which the generator has no further use for the purposes of production;
 - (iii) that must be treated or disposed of; or
 - (iv) that is identified as waste by the Minister by notice in the Gazette, and includes waste generated by the medical or other sector, and further includes –
- (b) "builder's waste" which means waste generated by demolition, excavation or building activities on any premises;
- (c) "bulky waste" which means waste which cannot by virtue of its mass, shape, size or temporary extraordinary generation conveniently be stored in a waste receptacle or container, but shall not include builders waste or special domestic waste;
- (d) "commercial waste" which means solid waste generated on property used for non-residential purposes such as office buildings, stores, markets, theatres, hotels, warehouses, industrial operations and manufacturing processes and which are occupied by wholesale, retail, institutional or service establishments, and includes waste generated by office workers or employees of these establishments, as well as street traders as defined in the Municipality's Street Trading Bylaws;
- (e) "domestic waste" which means waste of a kind normally produced or generated on residential premises but does not include garden waste, sand, liquid matter, the carcass of any animal or industrial waste or builders' waste;
- (f) "garden waste" which means waste generated as a result of normal gardening activities on any premises, including grass cuttings, leaves, plants, hedge clippings and the like, excluding logs, the size of which shall be determined by the Municipality from time to time;
- (g) "hazardous waste" which means any waste that directly or indirectly represents an immediate or potential threat to human health or to the environment by introducing one or more of the following risks:
 - explosions or fire;
 - infections, pathogens, parasites or their vectors;
 - chemical instability reactions or corrosion;
 - acute or chronic toxicity to animals or human beings;
 - cancer, mutations, tumours or birth defects;
 - toxicity, or damage to the ecosystems or natural resources;
 - accumulation in biological food chains, persistence in the environment, or multiple effects,

so that it requires special attention and cannot be released into the environment, or be added to sewage, or be stored in a situation which is either open to the air or from which leachate could emanate.

- (h) "industrial waste" which means waste in solid form which is generated as a result of activities carried on in a factory, but shall not include builders' waste, special industrial waste or trade waste;
- (i) "inert waste" which means waste that –
 - (i) does not undergo any significant physical, chemical or biological transformation after disposal;
 - (ii) does not burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; or
 - (iii) does not impact negatively on the environment because of its pollutant content and because the toxicity of its leachate is insignificant;
- (j) "trade waste" which means waste generated as a result of commercial or industrial activities from any premises including shops, offices, hotels, restaurants, guest houses and the like and shall include litter and waste generated by a street trader as defined in the Municipality's Street Trading Bylaws;

"Waste Act" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008)

"waste bin" means a receptacle, the size and quality of which shall be approved by the Municipality from time to time, for the temporary storage and removal of waste;

"waste collector" means a person who is registered under the provisions of these bylaws as a waste collector;

"waste container" means a receptacle which is larger than a waste bin, the size and quality of which shall be approved by the Municipality from time to time, and supplied by the Municipality or a private waste service provider for the temporary storage and removal of waste;

"waste disposal facility" means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DAEARD or where such facility is an incinerator, and includes waste transfer facilities and recycling stations;

"waste container" means a receptacle, which is larger than a waste bin, the size and quality of which shall be approved by the Municipality from time to time, and supplied by the Municipality or a private waste service provider for the temporary storage and removal of waste;

"waste generator" means any person that generates or produces waste;

"waste management activity" means any activity listed in Schedule 1 of the Waste Act or published by notice in the Government Gazette in terms of section 19 of the Waste Act, and includes –

- (a) the importation and exportation of waste;
- (b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;

- (c) the accumulation and storage of waste;
- (d) the collection and handling of waste;
- (e) the reduction, re-use, recycling and recovery of waste;
- (f) the trading in waste;
- (g) the transfer of waste;
- (h) the treatment of waste; or
- (i) the disposal of waste;

“waste management control officer” means a waste management control officer designated under section 58(1) of the Waste Act;

‘waste management licence’ means a licence issued under section 49 of the Waste Act;

‘waste management service’ means a service that relates to one or more waste management activities;

‘waste minimization program’ means a program that is intended to promote the reduced generation and disposal of waste;

‘waste oil’ means mineral or synthetic oil which is contaminated, spoilt or otherwise unfit for its original purpose;

“waste recycler” means any person that provides a waste minimization service by separating waste which has been received at a waste transfer station or a waste disposal facility into all or some of the following categories:

- (a) paper;
- (b) metals;
- (c) glass;
- (d) plastic; or
- (e) organic materials

for the purposes of resale and re-use as recyclable material;

“waste removal service area” means the designated portion of the municipal area for which the Municipality provides a waste removal service, as amended from time to time;

“waste transfer facility” means a facility or site that is used to accumulate and temporarily store waste before it is transported to a recycling station or a waste disposal facility.

Designation of Waste Management Officers and Environmental Management Inspectors

- 2(a) In terms of section 10(3) of the Waste Act, the Municipality shall designate, in writing, a Waste Management Officer from its administration to be responsible for co-ordinating matters pertaining to waste management activities in the Municipality in the manner as set out in the National Waste Management Strategy established in terms of section 6 of the Waste Act or as determined by the Minister or MEC by notice in the Gazette.
- (b) The designation referred to in subsection (a) may be subdelegated by that officer to another officer within the Municipality subject to conditions and limitations as may be determined.
- (c) The Municipality shall further appoint sufficiently trained environmental management

inspectors in terms of Chapter 7 of NEMA to undertake monitoring and enforce compliance with the Waste Act and these bylaws.

The Municipal Integrated Waste Management Plan

- 3(a) In terms of section 12(2)(c) to (i) and section 12(3) of the Waste Act, the Municipality shall compile and annually review an Integrated Waste Management Plan in conjunction with the relevant Provincial Department and collect and provide all information required in order to complete this Provincial plan.
- (b) The Municipality shall report annually on the progress made in the implementation of its Integrated Waste Management Plan, including the performance as it relates to section 12(2)(a) to (i) of the Waste Act and in terms of section 46 of the Systems Act.

Dumping and littering

- 4(1) No person shall dump, deposit, discharge, spill or release waste, or cause or permit such waste to be dumped, discharged, spilled or released, whether or not the waste is in a container or receptacle, in or at any place, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments, sewers and stormwater drains, except in a container or at a place which has been specially indicated, provided or set apart for such purpose.
- (2) The prohibition referred to in subsection (1) shall apply to any person who, for whatever reason, opens a receptacle containing waste material and dumps, deposits, discharges, spills or releases such waste onto a public street and who thereafter fails to return such waste material to the receptacle.
- (3) No person shall, while driving a vehicle, or while being conveyed in a vehicle, throw or deposit waste in or on any public place, public road or private premises within the Municipality and no driver of a vehicle shall allow or permit any passenger in such vehicle to throw or deposit such waste in a like manner.
- (4)
- (a) No person shall throw, discard or deposit any circular, pamphlet or other advertisement in or on any public road or private property or place within the Municipality.
 - (b) No person shall throw, discard or deposit any circular, pamphlet, or other advertisement in or on any private premises if requested by any person thereon not to do so, or if there is placed on the premises in a conspicuous position a sign indicating in any manner that the occupants of the said premises do not wish to have any such circular, pamphlet, or other advertisement left in or on such premises.
 - (c) No person shall drive or move any vehicle in the Municipality unless such vehicle is constructed or loaded so as to prevent any load, contents or waste from being blown or deposited in or on any public road or on private property.
- (5)
- (a) Where, in the case of any part of a public road, the Municipality considers that, in order to facilitate the cleaning of such part of the road on a particular day, it is appropriate to prohibit the parking of vehicles in that part of the road during certain hours of such day, the Municipality may give notice in accordance with the following provisions of this section prohibiting such parking.
 - (b) Such notice shall specify the particular area, the particular day and the hours in question and shall -

- (i) be served on the occupier of any premises adjoining the particular area; and
- (ii) be conspicuously displayed at places in the area concerned.

Waste minimization and recycling of waste

- 5(1) The Municipality shall take all steps necessary to introduce waste minimization programs in the municipal area in accordance with any norms and standards provided for in the National Waste Management Strategy and in terms of section 8(3) of the Waste Act.
- (2) The waste minimization programs referred to in subsection (1) may take the form of –
 - (a) the introduction of norms and standards for the design and packaging of products produced within the municipal area at the manufacturing stage to ensure that waste can be avoided and/or reduced at pre-consumer stage while encouraging the manufacture of products that are reusable or recyclable at post-consumer stage;
 - (b) the sorting, re-use, recycling and recovery of waste from areas within the municipal boundary;
 - (c) the separation of waste at the point of generation and collection of such separated waste;
 - (d) the appointment of waste recyclers to undertake commercial services at designated waste disposal facilities within the municipal area.
- (3) Any waste generator may, by written notice served on him by the Municipality, be called upon to participate in such waste minimization programs by separating his waste at the point of generation on his premises, with some or all of the cost of such waste separation being borne by the waste generator concerned.
- (4) All other costs relating to the collection, transportation and disposal of this separated waste by the Municipality, or any private waste services provider tasked therewith, shall be borne by the Municipality.
- (5) In accordance with subsection (2)(d), the Municipality or a private waste recycler appointed by the Municipality, may undertake the recycling of waste already disposed of at a waste disposal facility in order to extend the lifespan of the facility.
- (6) No person may commence, undertake or conduct a waste management activity within the Municipality, except in accordance with the requirements or standards of a waste management licence or the norms and standards which have been developed by the Municipality where no licensing process is required in terms of the Waste Act.

Collection and removal of waste

- 6(1) The Municipality shall, where possible, provide a waste removal service for all occupied premises within the waste removal service area and the occupier of any premises shall be liable for all charges levied for such service, irrespective of whether or not such service is utilised, and regardless of whether or not the service is provided on a day other than the normal day of collection. Any charges levied for such service shall be prescribed in the Municipality's tariff of charges.
- (2) The occupier of premises shall within seven days of the occupation of such premises notify the Municipality in writing that the premises have been occupied and whether the service the occupier requires relates to the removal of domestic, commercial or industrial waste, or a combination of these.
- (3) The occupier of any premises shall ensure that all waste generated on such premises is placed and kept in waste containers, waste bins, bags or other

receptacles which shall be covered or sealed and retained on the premises until they are removed.

Conditions of use of the waste removal service

- 7(1) On the day determined by the Municipality for waste removal for a particular area, the occupier of any premises within such area shall, unless directed otherwise by the Municipality, place any waste bins, bags or other receptacles on the verge immediately outside the boundary of such premises.
- (2) No hot ash, unwrapped glass fragments or other waste which may cause damage to the Municipality's containers or bins, or injury to the persons or vehicles employed in removing waste from any premises, shall be placed in any waste bins or bags unless appropriate steps have been taken to avoid any damage or injury.
- (3) No material, including any liquid, which by reason of its mass or other characteristics is likely to render any waste container, waste bin, bag or other receptacle unreasonably difficult for the Municipality's employees to handle, shall be placed therein.
- (4) Every waste container or waste bin on or outside any premises shall be covered by means of a lid or other covering so as to prevent any nuisance or health hazard, and any such container or bin shall be kept clean and in an hygienic condition.
- (5) The waste container, waste bins or bags placed outside the premises of the occupier or owner remains the sole responsibility of the occupier or owner until such time as the refuse has been collected by the Municipality, whether or not such service is provided on a day other than the normal day of collection.
- (6) The Municipality shall determine the capacity of waste bins, bags or receptacles which shall be utilised by occupiers for waste removal purposes, or the number of such bins, bags or receptacles and the days on which the service shall operate.

Provision of waste containers

- 8(1) The Municipality, or a private waste service provider, may deliver waste containers to premises if, having regard to the quantity of waste generated on the premises concerned, the suitability of such waste for storage in waste containers, and the accessibility and adequacy of the space provided by the occupier of any premises for waste collection vehicles, such waste would, in the opinion of the Municipality, be more appropriately stored in waste containers rather than waste bins.
- (2) Any waste containers delivered by the Municipality, or a private waste service provider, in terms of this section shall remain in the ownership of the Municipality or the private waste service provider, as the case may be.
- (3) An occupier of premises shall be liable for the replacement or repair costs of a lost, stolen or damaged waste container at the applicable replacement cost of such container.
- (4) An occupier of any premises shall provide sufficient space and any other facilities deemed necessary on such premises for the storage of waste containers delivered by the Municipality, or a private waste service provider, in terms of subsection (2).
- (5) A waste container shall -
 - (a) be placed in such a position on the premises as will allow its storage without it

being visible from a public road;

- (b) where trade waste is generated on the premises, be placed in such a position as will allow the collection and removal of such waste by the Municipality's employees without hindrance, or by a private waste services provider, as the case may be;
- (c) be so located as to permit convenient access to and egress from such premises by the Municipality's waste collection vehicles or by the vehicles of a private waste services provider.

Hazardous waste

- 9(1) Whenever any hazardous waste is stored, generated or treated on any premises, the Municipality may, by written notice served on the waste generator –
- (a) prohibit the removal, disposal, treatment, storage, conveyance or handling of such hazardous waste, or
 - (b) order the removal, disposal or treatment of such hazardous waste in a specified manner and at certain times within a period stipulated in such notice.
- (2) If such waste generator fails to comply with the terms of a notice contemplated by subsection (1), he shall be guilty of an offence and the Municipality may remove, or cause to be removed, dispose of or treat such hazardous waste in any suitable manner and recover the expenses incurred in doing so from such waste generator.
- (3) No person shall -
- (a) remove or convey hazardous waste from any premises, or
 - (b) convey or transport hazardous waste on or over any public road, unless such hazardous waste is securely and properly contained in a receptacle or vehicle designed to prevent spillage or contamination.
- (4) The Municipality may, by written notice served on a waste generator on whose premises hazardous waste is generated, stored, treated or disposed of, requiring him to provide the Municipality in writing with such particulars, verified by a suitably qualified industrial chemist, as may be stipulated in such notice, relating to -
- (a) the quantity and composition of hazardous waste generated on such premises, and
 - (b) the method of storage, treatment or disposal of such hazardous waste.
- (5) The waste generator shall in similar manner inform the Municipality of any change in the quantity or composition or the method of storage, treatment or disposal of such hazardous waste.
- (6) No person shall deliver to, or discharge at, a disposal site, any hazardous waste.
- (7) No person shall deliver to, or discharge at, a disposal site, any industrial effluent or cause the same to be done except with the prior written consent of the Municipality and in accordance with any conditions it may deem appropriate.
- (8) Any costs which may be incurred by the Municipality in remedying any damage or in abating any nuisance caused by the discharge of hazardous waste or industrial effluent in contravention of the provisions of these bylaws, or any conditions imposed by the Municipality in terms of these bylaws, shall be borne by and be recoverable

from the owner of, or the person responsible for the discharge of, such waste or effluent.

Garden waste

- 10(1) The Municipality may, from time to time, set aside certain sites for the disposal of garden waste and certain recyclable materials.
- (2) The sites referred to in subsection (1) shall be designated by means of notice boards erected at such sites.
- (3) Any waste referred to in subsection (1) shall be brought to such site in or on a vehicle capable of carrying a load of not more than one ton.
- (4) No person, entering such a site shall deposit any waste other than that contemplated in subsection (1) in the containers provided at such sites.
- (5) No private garden service, or maintenance, operator or contractor may enter a site designated by the Municipality for the disposal of garden waste, unless such operator or contractor enters the site in the course and scope of the business of such operator or contractor.
- (6) The Municipality may appoint a waste recycler or various waste recyclers to conduct commercial services at any or all of the sites designated in subsection (1) for the purpose of separating waste into various categories for the purposes of resale and reuse as recyclable material.

Builders waste

- 11(1) Where in the opinion of the Municipality, excessive rubble, rubbish, other debris or waste material is allowed to accumulate on a site before or during building operations, it may, by written notice, order the owner of such site to have such rubble, rubbish, other debris or waste material removed within the period specified in such notice.
- (2) Any owner who fails to comply with such notice shall be guilty of an offence and the Municipality may remove such rubble, rubbish, other debris or waste material from such site and may recover the costs of such removal from the owner.
- (3) Any person erecting or demolishing any building shall remove any surplus material and matter arising from such erection or demolition from the site and from any other land or public place affected by such material or matter during or after completion of such erection or demolition, failing which the Municipality may, by written notice, order the owner of such building to have such surplus material and matter removed within a period specified in such notice.
- (4) Any person who removes any material in terms of subsection (3), shall produce to the Municipality a copy of the weighbridge ticket, if the material has been moved to the Municipality's landfill site, or other documentary proof in the event that the material has been removed to some other area or site, indicating the site or area to which the material has been removed.
- (5) Any person who fails to comply with a provision of subsection (3) or a notice served on such person in terms thereof, shall be guilty of an offence.

Conduct at waste disposal facility

- 12(1) Every person who, for the purpose of disposing of waste, enters a waste disposal facility controlled by the Municipality, shall -
- (a) enter such facility at an authorised access point indicated as such;
 - (b) present the waste for weighing in the manner required by the Municipality's official having authority at such site;
 - (c) give such official all the particulars required in regard to the composition of the waste;
 - (d) provide such official with full information as to the person who is liable to pay the tariff charge for the waste deposited to enable an account to be rendered to such person;
 - (e) ensure that any container brought on to the site shall have its correct tare legibly displayed on both sides;
 - (f) follow all instructions given to such person in regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited.
- (2) Any person who contravenes any of the provisions of subsection (1) may be refused entry to, or be removed from, the waste disposal facility.
- (3) No person shall enter a waste disposal facility controlled by the Municipality for any purpose other than the disposal of waste in terms of these by-laws, and then only at such times and between such hours as the Municipality may from time to time determine.
- (4) The Municipality may at any time require a vehicle and/or its container to be weighed at a weighbridge on the site.
- (5) At any disposal site the official having authority at such site may refuse to accept waste which may, in such official's opinion, have a detrimental impact on the environment, or may accept such wastes subject to such conditions as the official may deem appropriate.
- (6) All waste removed by the Municipality to a waste disposal facility and all waste on a waste disposal facility controlled by the Municipality shall be the property of the Municipality and no person who is not duly authorised by the Municipality to do so shall remove or interfere therewith.
- (7) No person shall cause, or allow, a vehicle under such person's control to remain at a disposal site for longer than is necessary for the discharge of waste.
- (8) If, owing to mechanical failure, a vehicle becomes incapable of leaving a disposal site, the person in charge of such vehicle shall take immediate steps to prevent any obstruction on the site by making arrangements for the removal of the vehicle from the site.
- (9) If, for any reason, the person in charge of the vehicle fails to remove the vehicle from the site within a reasonable time, the Municipality's official on duty at the site may take whatever steps the official deems necessary to remove the vehicle from the site so as not to cause further obstruction, at the cost of the owner of such vehicle, and neither the Municipality nor any employee of the Municipality shall incur any liability to the owner for any loss or damage which may be suffered by the owner as a result of such action.
- (10) Any person entering a landfill site for the purposes of disposing of waste shall, in

addition to complying with the above provisions, comply with all conditions stipulated in any permit issued by the Department of Water Affairs and Forestry.

Access to premises

- 13(1) The occupier of premises to which the Municipality provides a waste removal service shall grant the Municipality access to the premises for the purpose of collecting and removing waste and shall ensure that nothing obstructs, frustrates or hinders the Municipality in the carrying out of its service.
- (2) If, in the opinion of the Municipality, the collection or removal of waste from any premises is likely to result in damage to the premises or to the Municipality's property, or injury to the waste collectors or any other person, it may, as a condition of rendering a waste collection service in respect of the premises, require the occupier to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.

Waste information system

- 14(1) In terms of the Waste Act the Municipality shall establish a waste information system in order to obtain accurate waste balance information and to enable adequate waste management planning and prioritization.
- (2) Where a waste generator generates more than 100kg of waste daily, he shall –
- (a) register as such with the Municipality, and report at monthly intervals to the Municipality on the quantities of the different types of waste generated on his premises; and
 - (b) report on the waste management options that are being utilized to manage such waste.
- (3) All waste recyclers who conduct commercial services at any Municipal waste management facilities, undertaking waste separation, recovery, recycling, treatment, reuse and disposal services shall –
- (a) provide monthly reports on the quantities and types of waste received, to the Municipality; and
 - (b) report on the waste management options that are being utilized to manage the different waste streams.

Offences and penalties

- 15(1) In terms of these bylaws, any person who fails –
- (a) to take all reasonable measures to ensure that where waste must be disposed of, such waste shall be treated or disposed of in an environmentally sound manner;
 - (b) to manage waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impact;
 - (c) to commence, undertake or conduct a waste management activity in accordance with the requirements or standards determined for that activity or in terms of the requirements of a waste management licence issued in respect of that activity;
 - (d) to obtain authority to dispose of waste on any land, waterbody or other facility; or
 - (e) to comply with a condition or requirement of a waste management licence,

shall be guilty of an offence and, if convicted, shall be liable to a fine to be determined by a Court of competent jurisdiction in addition to any other penalty or award that may be imposed or made in terms of NEMA or the Waste Act.

- (2) Any person who –
- (a) fails to store waste correctly on his premises that results in pollution of the environment or harm to health as a result of spillage, leakage, wind-blown litter, odour, poor visual impact or breeding of vectors;
 - (b) fails to store waste in a municipal-approved container and location;
 - (c) fails to obtain authorization to collect waste where such authorization is required;
 - (d) intentionally or negligently throws, drops, spills or discards any litter into or onto any public space, land, vacant erf, watercourse, street, road or any place to which the public has access;
 - (e) fails to comply with a norm or standard established in terms of the Waste Act;
 - (f) knowingly supplies false or misleading information to a Waste Management Control Officer or an Environmental Management Inspector;

shall be guilty of an offence and, if convicted, shall be liable to a fine to be determined by a Court of competent jurisdiction in addition to any penalty or award that may be imposed or made in terms of NEMA or the Waste Act.

- (3) Any person who fails to furnish data, information, documents, samples or materials to the Municipality as required in terms of these bylaws shall be guilty of an offence and, if convicted, shall be liable to a fine to be determined by a Court of competent jurisdiction in addition to any other penalty or award that may be imposed or made in terms of NEMA or the Waste Act.
- (4) Any person who is convicted of an offence under these bylaws or the Waste Act and who persists after having been so convicted, with the act or omission that constituted the offence, shall be liable to a fine not exceeding R1000 or to imprisonment for a period not exceeding 20 days or to both such fine and imprisonment in respect of each day that such person persists with such act or omission.
- (5) The Municipality may serve a notice on the occupier of any premises, requiring such occupier to clear any waste on such premises in a manner and within a time specified in such notice.
- (6) If a person on whom a notice has been served under subsection (5), fails to comply with the requirements imposed by the notice, such person shall be guilty of an offence and liable on conviction to the penalties prescribed from time to time by a Court of competent jurisdiction.
- (7) If a person on whom a notice is served in terms of subsection (5), fails to comply with any requirements imposed by such notice, the Municipality may -
- (a) enter on the premises and clear the waste; and
 - (b) recover from the occupier the expenditure incurred in having done so.
- (8) Where on any occasion an authorised officer of the Municipality finds any person who such officer has reason to believe has on that occasion committed an offence under these bylaws, he may serve a notice on that person offering such person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (9) Where a person is served with a notice under subsection (8) -

- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and
 - (b) such person shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (10) A notice under subsection (8) shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall specify -
 - (a) the period provided for in subsection 9(a);
 - (b) the amount of the fixed penalty; and
 - (c) to whom, and the address at which, the fixed penalty may be paid.
- (11) The fixed penalty payable to the Municipality in pursuance of a notice under subsection (8) shall be prescribed by the Municipality from time to time.

Repeal of bylaws

- 16. The Solid Waste Bylaws published on 17 March 25 under Provincial Notice No. 8 of 2005, are hereby repealed.

No. 91

20 kuMandulo 2012

**UMASIPALA UMSUNDUZI
IMITHETHO KAMASIPALA EMAQONDANA NOKULAWULWA KWEMFUCUZA**

IMenenja kaMasipala uMsunduzi, ngokulandlea isigaba 13(a) soMthetho Wezinhlelo Zikamasipala: Ohulumeni Basekhaya, wezi-2000 (uMthetho uNo. 32 wezi-2000), ikhipha iMithetho kaMasipala emaqondana Nokulawulwa Kwemfucuza kuMasipala UMsunduzi njengalokhu yamukelwe nguMkhandlu wawo njengoba kubekiwe lapha ngezansi.

ISINGENISO

NJENGALOKHU uMasipala elazi ilungelo loMthethosisekelo lalowo nalowo muntu lokuhlala endaweni engenabungozi empilweni yakhe nevikela izizukulwane zamanje nezizayo endaweni kaMasipala ngokuhlinzeka, ngokuhlanganisa nemithetho esebenzayo, uhlaka lwezomthetho nolwezokuphatha uMasipala angalusebenzisa ukuzakhela nokulawula izibophezelo zawo ngaphansi koMthetho Wemfucuza;

NJENGALOKHU FUTHI okwamanje uMasipala ungahlinzeki ngemisebenzi yokuthuthwa kwemfucuza kuzo zonke izindawo ezingaphansi kwawo kanti futhi sewuhlonze isidingo sokukulungisa lokhu oHlelweni lwayo Oludidiyele Lokulawulwa Kwemfucuza olwakhiwe ngokwesigaba 12 soMthetho Wemfucuza;

NJENGALOKHU FUTHI uMasipala uyabona ukuthi nanoma yiliphi Isu likaZwelonke Lokulawulwa Kwemfucuza lizodinga ukuba uMasipala aqalise izinhlelo zokuncishiswa kwemfucuza nokusetshenziswa kabusha kwayo ukuze kuqinisekise ukusimama kwengebo kanye nokuthi ukwamukelwa kwemithetho kamasipala kuyohlinzeka ngemithetho efanele ukuze kuzuzwe lokhu okubekwe phambili okunganqunywa nguNgqongqoshe wesiFundazwe,

NGALOKHO- KE UMISWE NGALE NDLELA:

Izincazelo

1. Kule mithetho kamasipala, ngaphandle uma ingqikithi ichaza okunye-

“isisebenzi esigunyaziwe” kusho isisebenzi soMkhandlu esinikezwe umsebenzi noma amandla ngaphansi kwale mithetho kamasipala emaqondana nokusetshenziswa noma ukwenziwa kwalowo msebenzi noma amandla futhi kubandakanya nanoma yisiphi isisebenzi esisebenza ngaphansi kolawulo nangokuyalela kwaleso sisebenzi;

“imisebenzi yezohwebo” kusho nanoma yimuphi umsebenzi, ngaphandle komsebenzi kamasipala, ophathelene noma oxhumene nokuqongelelwa, ukuqoqwa, ukulawulwa, ukusetshenziswa kabusha, ukuhlungwa, ukugcinwa, ukuhlelwa, ukuthuthwa, ukulahlwa, ukuthengwa noma udayiswa kwemfucuza noma iyiphi enye indlela yokuphatha kwemfucuza;

“I-DAEARD” kusho uMnyango Wezolimo, Ezemvelo kanye Nokuthuthukiswa Kwemiphakathi Yasemakhaya;

“indawo yokulahla imfucuza” kusho indawo esetshenziselwa ukuqongelela imfucuza ngenhloso yokuyilahla noma yokuyihlela;

“I-DWAF” kusho uMnyango Wezamanzi Namahlathi;

“umhloli wezokuphatha kwezemvelo” kusho umuntu oqeqeshwe ngokwanele oqashwe ngokweSahluko 7 se-MEMA;

“umsebenzi wezingadi” kusho ukuhlinzekwa komsebenzi wezingadi kumbandakanya nokusikwa kotshani, ukunqunywa kwezihlahla kanye nanoma yimiphi eminye imsebenzi ephathelene nokulima okumbandakanya nokuhlelwa komhlaba ezindaweni zokuhlala, zezamabhezini, zezohwebo noma zezezimbongi;

“ukungcola okukhishwa yizimbongi” kusho nanoma yiluphi uketshezi, olunezinhlaiyana noma olungenazo, olukhishwa ngokuphelele noma ngengxenywe, olukhiqizwa njengomphumela wanoma yikuphi ukwakhiwa, noma ukuhweba, ukuxutshwa, ukumba noma imisebenzi yamakhemikhali noma yezimbongi eyenziwe kunoma iyiphi indawo;

“Uhlelo Oludidiyele Lokulawulwa Kwemfucuzwa” kusho uhlelo olwakhiwe ngokwesigaba 12 soMthetho Wemfucuzwa;

“imfukumfuku” kusho nanoma yini elahlwe ngumuntu kunoma iyiphi indawo okungesiyona ehlelelwe ukuba kulahlwe imfucuzwa noma ihlelwe khona;

“umphakathi wendawo”, maqondana noMasipala, kusho uhlaka lwabantu okubalwa kubo-

- (a) abahlali bakaMasipala uMsunduzi;
- (b) abakhokhintela bakaMasipala uMsunduzi;
- (c) abezimbongi ezizimele, nanoma yiyiphi inhlangotho yomphakathi, inhlangotho engekho ngaphansi kukahulumeni, inhlangotho yezabasebenzi noma inhlangotho eqondene nezindaba zendawo kumasipala; kanye
- (d) Nesivakashi noma yimuphi omunye umuntu ohlala ngaphandle koMasipala uMsunduzi osebenezisa izidingongqangi noma izikhungo zikaMasipala ngesikhathi ekulo Masipala;

“uNgqongqoshe Wesifundazwe” kusho iLungu Lesigungu Esiphezulu SesiFundazwe saKwaZulu Natali elibhekele ukulawulwa kwemfucuzwa esifundazweni;

“ukunciphisa”, uma kubhekiswe kwimfucuzwa, kusho ukugwenywa komthamo kanye nobuthi bemfucuzwa obudalekayo kanye nokwehlisa umthamo nobuthi bemfucuzwa elahliwe, uma kwenzekile kwadaleka imfucuzwa;

“UNgqongqoshe KaZwelonke” kusho uNgqongqoshe Wezolimo, Ezemvelo Nokuthuthukiswa Kwemiphakathi Yasemakhaya;

“indawo kamasipala” kusho nanoma yiyiphi indawo engaphansi kwemingcele kaMasipala uMsunduzi njengalokhu iklanywe yiBhodi Lemingcele noma njengalokhu ichtshiyelwe yileli Bhodi izikhathi ngezikhathi;

“umasipala” kusho uMasipala uMsunduzi kanye nabayolandela ngokomthetho, futhi kumbandakanya uMkhandlu kaMasipala noma iKomidi lawo Lesigungu Esiphezulu noma yiliphi olunye uhlaka olusebenza ngokwegunya elilinikezwe ngokomthetho, ngokunjalo nanoma yisiphi esinye isikhulu esinikezwe amandla nemisebenzi yiKomidi Lesigungu Esiphezulu maqondana nale mithetho kamasipala;

“umsebenzi kamasipala” kusho umsebenzi ophathelene nokuqoqwa kwemfucuzwa ohlinzekwa ngumasipala kuphela ngokwezimiselo ZoHulumeni Basekhaya: UMthetho Wezinhlalo ZoMasipala, wezi-2000 (UMthetho uNo.-32 wezi-2000);

“I- NEMA” kusho uMthetho Wokuphathwa Kwezemvelo kuZwelonke, we-1998 (UMthetho uNo.107 we-1998);

“inkathazo” kusho nanoma yikuphi ukulimala, ingozi, umonakalo, ukukhathaza noma ukucasula kunoma ubani noma emvelweni okudalwa ukuphathwa noma ukulawulwa kwemfucuba ngokungesikho nanoma ngayiphi indlela engalungile, okumbandakanya kodwa kungagcini ngalokhu, ukugcinwa, ukubekwa, ukuqoqwa, ukuthuthwa noma ukulahlwa kwemfucuba, noma ngokungcolisa;

“osebenzisa indawo”, maqondana nanoma yisiphi isakhiwo, kusho nanoma ubani osebenzisa leso sakhiwo kanti uma kungekho umuntu osebenzisa leyo ndawo, yinoma ubani okungaba ungumnikazi, oqashile, onelayisensi noma okunye anako okwesikhashana, olawula leso sakhiwo futhi kuyobandakanya odayisa emgwaqeni osebenzisa indawo ngezinhloso zokuqhuba ibhizinisi njengomdayisi wasemgwaqeni;

“umnikazi” kusho-

- (a) umuntu onikezwa igunya lobunikazi besakhiwo ngokusemthethweni izikhathi ngezikhathi;
- (b) esimweni lapho lowo onengunya lobunikazi ehluleka ukukhokha izikweletu noma edlula emhlabeni, noma engena emacaleni anoma yini, umuntu onikezwe ukuphatha noma ukulawula indawo yalowo muntu ubekwa ngomphathi, umphatheli obekiwe, umabi wamafa, umphathi, imenenja yezomthetho, okhokhisa izikweletu zomuntu noma ummeli wezomthetho;
- (c) kunoma yisiphi isimo lapho uMasipala engakwazi ukuhlonza lo muntu, umuntu onelungelo lokuhlomula ekusetshenzisweni kwaleso sakhiwo noma kwebhilidi noma amabhilidi akhiwe lapho;
- (d) esimweni lapho leso sakhiwo besiqashisiwe isikhathi esingaphezulu kweminyaka engamashumi amathathu noma ngaphezulu, oqashile lapho;
- (e) maqondana-
 - (i) nesiqeshana sendawo esichazwe epulanini yengxenyana yendaawo erejistwe ngokoMthetho Wesigatshana Samatayitela, we-1986 (UMthetho uNo. 95 we-1986), ngumthuthukisi noma uhlaka losomabhizinisi maqondana nemihlaba; noma
 - (ii) nesigceme njengalokhu sichazwe kulo Mthetho, umuntu esirejistwe egameni lakhe lesi sigceme ngaphansi kwetayitela lobunikazi besigceme, okubalwa nomphatheli osemthethweni walowo muntu;

“umuntu” kumbandakanya umuntu ngokubuka okomthetho njengenkampani erejistiwe noma ibhizinisi elinamalungu angeqile kwayishumi;

“ukunukubezeka kwemvelo” kusho noma yiluphi ushintsho emvelweni oludalwa –

- (a) yizinto; noma
- (b) okukhishwa yimisebe yelanga, noma okunye, amagagasi; noma
- (c) umsindo, iphunga elibi, uthuli, ukushisa okukhishwa ukwenza yinoma yimuphi umsebenzi, okubalwa kuyo ukugcina noma ukuphathwa kwemfucuba noma izinto, ukwakha nokuhlinzeka ngemisebenzi, noma ngabe kwenziwa yinoma yimuphi umuntu noma uhlaka lukahulumeni, lapho lolo shintsho lunemithelela empilweni yabantu noma kwinhlahakhe noma ekubunjweni, ekuqineni kanye nasekukhiqizeni

kwenhlaliswanomvelo yemvelo noma elawulwayo, noma ezintweni ezilusizo kubantu, noma okuyoba nomthelela onjalo esikhathini esizayo;

“impahla” kusho–

- (a) impahla engagudluzeki erejistwe egameni lomuntu kumbandakanywa, esimweni sohlelo lwamatayitela ezingxenyana zendawo, indlu enetayitela lezingxenyana zendawo erejistwe egameni lomuntu;
- (b) ilungelo elirejistwe ngempahla engagudluzeki egameni lomuntu, ngaphandle kwesibambiso sendlu esibhaliswe ngempahla;
- (c) ilungelo lomhlaba elirejistwe egameni lomuntu noma elinikezwe umuntu ngokomthetho; noma
- (d) ingqalasizinda yemisebenzi yomphakathi;

“imali enqunyiwe” kusho imali enqunywe nguMasipala ngokulandela imithetho ebekiwe esebenzayo;

“indawo yomphakathi” kusho nanoma yimuphi umhlaba –

- (a) okungowohlaka lukaHulumeni; noma
- (b) olawulwa futhi ophethwe uMasipala kanti futhi okungenzeka ukuba–
 - (i) ubekwe eceleni ngokulandela nanoma yimuphi umthetho, uhlelo lokuklama noma uhlelo lwezindawo, ukuze usetshenziselwe ukungcebeleka komphakathi, ukongiwe kwemvelo, ukwakiwa kwengqalasizinda yomphakathi noma ezolimo; noma
 - (ii) awuthukisiwe futhi uvulekile futhi awuhlelwe kwenza lutho ngokwanoma yimuphi umthetho, ngokohlelo lokuklama noma ngokohlelo lwezindawo;
- (c) olawulwa nguMasipala noma ngokukaMasipala ngezinhloso zokuhlinzeka imisebenzi yomphakathi, ebandakanya indawo eshiyelwe umgwaqo kanye nezindawo zezigxobo zikagesi, amapayipi kanye nezinye izinsiza zomphakathi;
- (d) olawulwa nguMasipala noma ngokukaMasipala ngezinhloso zokungcebeleka komphakathi, futhi kubandakanya yinoma yiliphi ipaki, izingadi zezimbali, izinkundla zemidlalo nezindawo zokudlala, kodwa hhayi izinkundla zokudlala igalofu.

“umgwaqo womphakathi” kusho nanoma yimuphi umgwaqo, isitaladi noma umhubhe noma iyiphi enye indawo (noma ngabe ingumhubhe noma cha) evame ukusetshenziswa umphakathi noma iyiphi engxenywe yayo noma umphakathi onelungelo lokungena kuyo, kanti futhi kubandakanya-

- (a) unqenqema lwanoma yimuphi umgwaqo, isitaladi noma umhubhe othile;
- (b) nanoma yiliphi ibhuloho, umfudlana noma umhoshha onqanyulwa yilo mgwaqo, isitaladi noma umhubhe; kanye
- (c) nanoma yimuphi omunye umsebenzi noma into eyingxenywe noma exhumene noma engowalo mgwaqo, isitaladi, noma umhume;

“ukuvuselelwa kwemfucuzwa” kusho inqubo lapho imfucuzwa ilungiswa ukuze iphinde yakhe into ezobuye isebenze, lenqubo ifaka ukuhluzwa kwemfucuzwa ethile enqwabeni yemfucuzwa ukuze iphinde isetshenziswe, bese-ke leyo mfucuzwa ehluziwe iyasetshenzwa;

“isikhungo sokusetshenzwa kabusha kwemfucuzwa” kusho indawo uMasipala ayibekele ukuba kuvuselelwe kuyo imfucuzwa ukuze iphinde yakhe into ezobuye

isebenze;

“isakhamuzi”. Maqondana noMasipala, kusho umuntu ohlala endaweni kamasipala;

“ukusebenzisa kabusha” kusho ukusebenzisa izinto eziphuma kwimfucuzi ngomsebenzi ofanayo noma owehlukile ngaphandle kokushintsha isimo sayo noma izimpawu zayo;

“umdayisi wasemgwaqweni” kusho umuntu othengisa, oshintshiselana, othengisa, oqashisa, okhangisa, okhombisa, onikela noma olungisa ukuze adayise, othengisa, oshintshiselana noma oqasha, noma iyiphi impahla, noma ohlinzeka noma onikezela nganoma imuphi umsebenzi ukuze athole inzuzo njengomdayisi wasemgwaqeni, umdayisi, umhwebi kodwa hhayi umuntu odayisa amaphephandaba nje kuphela;

“UMthetho Wezinhlaka” kusho uHulumeni Wasekhaya: UMthetho Wezinhlaka ZikaMasipala, we-1998 (UMthetho Uno.117 we-1998);

“UMthetho Wezinhlelo” kusho uHulumeni Wasekhaya: UMthetho Wezinhlelo ZikaMasipala, wezi-2000 (UMthetho uNo. 32 wezi-2000);

“Inkokhelo emisiwe” kusho inhlawulo yokuhlinzekwa kwezidingongqangi zikamasipala njengalokhu inqunywe nguMasipala ngokulandela imithetho efanele;

“unqenqema” kusho leyo ngxenyana yomgwaqo, isitaladi noma umhubhe, okubalwa nendledlana yabahamba ngezinyawo, engesiwona indlela eseceleni komgwaqo, isitaladi noma umhubhe.

“imfucuzi” - kusho

- (a) nanoma iyiphi into, noma ngabe leyo nto inganciphiseka, ingasetshenziswa kabusha, ingasethsenzwa kabusha kumbe yenziwe ngcono noma cha–
 - (i) eyizinsalela, engasadingeki, enqatshiwe, engadingekile, elaxaziwe noma elahliwe;
 - (ii) umenzi wayo angesakuyisebenzisela ukukhiqiza;
 - (iii) okumele ilungiswe noma ilahlwe; noma
 - (iv) ehlonzwe uNgqongqoshe kuGazethi kaHulumeni njengemfucuzi, okubalwa nemfucuzi edalwa embonini yezokwelapha noma kwenye imboni, okuphinda futhi kumbandakanye –
- (b) **“imfucuzi edaleka lapho kwakhiwa”** isho imfucuzi edalwa ukubhidliza, ukumba noma imisebenzi yokwakha kunoma yiziphi izakhiwo;
- (c) **“imfucuzi eyizindunduma”** okusho imfucuzi engeke igcineke kalula emigqonyeni kadoti ngenxa yesisindo, umumo, ubungako noma ukukhiqizeka kwesikhashana okwedlulele, kodwa hhayi imfucuzi edaleke lapho kwakhiwa noma imfucuzi ekhethekile yasemakhaya;
- (d) **“imfucuzi yezamabhezini”** okusho imfucuzi eyomile ekhiqizwa endaweni engasetshenziselwa ukuhlala abantu njengamabhezini amahhovisi, izitolo, izimakethe, amathiyetha, amahhotela, amadepho, imisebenzi yasezimbomini kanye nemisebenzi yezokukhiqiza futhi ephethwe ngamawolisela, abezohwebo, izikhungo zemisebenzi, okuphinda kubalwe kuyo imfucuzi edalwa abasebenzi basemahhovisi noma abasebenzi balezi zikhungo, ngokunjalo nabadayisi basemigwaqeni njengalokhu bechazwe eMithethweni KaMasipala Yokuhweba Emigwaqeni KaMasipala;

- (e) **"imfucuza yasekhaya"** okusho uhlobo lwemfucuza ngokuvamile olukhiqizwa ezindaweni ezihlala abantu kodwa hhayi imfucuza yasengadini, isihlabathi okusaluketshezi, isidumbu sesilwane esizifele noma imfucuza yasezimbonini noma imfucuza edaleka lapho kwakhiwa;
- (f) **"imfucuza yasengadini"** okusho imfucuza ekhiqizwa ukusebenza engadini okujwayelekile kunoma iyiphi indawo, okubandakanya nokusikwa kotshani, amaqabunga, izihlahla, ukuphungulwa kwezihlahla, kanye nokunye okunjalo, kodwa hhayi izinkuni, ubude bazo obuyohlonzwa uMasipala izikhathi ngezikhathi;
- (g) **"imfucuza eyingozi"** okusho nanoma iyiphi imfucuza ngokuqondile noma ngokungaqondile ekhombisa ingozi engase yenzeka maduze noma ingozi engase yenzeke empilweni yabantu noma kwimvelo ngokuletha eyodwa noma eziningi yalezi zingcuphe ezilandelayo:
- ukuqhuma noma umlilo;
 - ukuhaqeka, amagciwane, izimbungulu noma okuzithwalayo;
 - amakhemikhali angalungile noma ukubola;
 - ubuthi obukhulu ezilwaneni noma kubantu;
 - umdlavuzwa, ushintsho, izimila noma izihlisa zokuzalwa;
 - ubuthi, noma umonakala kwinhlalisanomvelo noma emagugwini emvelo;
 - ukunqwabelana kokudla, ukuphazamiseka kwemvelo, noma imithelela enhlobonhlobo,
- ngendlela yokuthi idinga unakekelo olukhethekile kanti futhi angeke ikhululwe emvelweni, noma ixutshwe nokungcola, noma igcinwe endaweni evulekile noma lapho okungaqala khona ukuvuza.
- (h) **"imfucuza yasezimbonini"** okusho imfucuza eyomile ewumphumela wemisebenzi eyenziwa ezimbonini, kodwa hhayi imfucuza edaleka lapho kwakhiwa, imfucuza ekhethekile yasezimbonini noma imfucuza yezohweba;
- (i) **"imfucuza engaboli"** okusho imfucuza—
- (i) engaguquki noma engaboli noma ingayiphi indlela emva kokulahlwa;
 - (ii) engashi, engabulawa ngamakhemikhali noma iphazamise okunye ethintana nakho emvelweni; noma
 - (iii) engaphazamisi imvelo ngobuthi bayo nangenxa yokuthi ubuthi bokuvuza kwayo abunabungozi;
- (j) **"imfucuza yezohwebo"** okusho imfucuza ewumphumela wemisebenzi eyenziwa ezindaweni zokuhwebo nasezimbonini kunoma iyiphi indawo okubalwa izitolo, amahhovisi, amahhotela, izindawo zokudlela, izindawo zabavakashi kanye nezinye ezinjalo kanti futhi kubalwa ukungcola nemfucuza edalwa abadayisi basemigwaqeni njengalokhu bechazwe eMithethweni KaMasipala Yokuhweba Emigwaqeni KaMasipala;

"UMthetho Wemfucuza" kusho UMthetho kaZwelonke Wokuphathwa Kwezemvelo: UMthetho Wemfucuza, wezi-2008 (UMthetho uNo.59 wezi-2008)

"umgqomo wemfucuza" kusho umgqomo, ubungako nezinga lawo eliyophasiswa uMasipala izikhathi ngezikhathi, ukuze ugcine futhi uthuthe imfucuza;

"umqoqi wemfucuza" kusho umuntu orejiste ngaphansi kwale mithetho kamasipala njengomqoqi wemfucuza;

“umgqomo omkhulu wemfucuzi” kusho umgqomo omkhudlwana kunomgqomo ojwayelekile wemfucuzi, ubungako nezinga lawo eliyophasiswa uMasipala izikhathi ngezikhathi futhi, uyohlinzekwa nguMasipala noma noma umhlinzekimsebenzi ozimele ukuze ugcine futhi uthuthe imfucuzi;

“indawo yokulahlela imfucuzi” kusho indawo noma isiza okulahlelwa kuyo imfucuzi, futhi esetshenziswa ngokwemvume ekhishwe i-DAEARD noma lapho le ndawo isetshenziswa njengendawo yokushisa imfucuzi, okubalwa nezindawo zokudlulisela imfucuzi kanye nezi zokuvuselela imfucuzi;

“umgqomo omkhulu wemfucuzi” kusho umgqomo omkhudlwana kunomgqomo ojwayelekile wemfucuzi, ubungako nezinga lawo eliyophasiswa uMasipala izikhathi ngezikhathi futhi, uyohlinzekwa nguMasipala noma noma umhlinzekimsebenzi ozimele ukuze ugcine futhi uthuthe imfucuzi;

“umkhiqizi wemfucuzi” kusho noma ubani odala noma okhiqiza imfucuzi;

“umsebenzi wokulawula imfucuzi” kusho nanoma imuphi umsebenzi obalulwe kuSheduli 1 yoMthetho Wemfucuzi noma okhishwe ngesaziso kuGazethi kaHulumeni ngokwesigaba 19 soMthetho Wemfucuzi, futhi okubandakanya–

- (a) ukuyiswa kwemfucuzi kwamanye amazwe kanye nokungena kwemfucuzi ivela kwamanye amazwe;
- (b) Ukudalwa kwemfucuzi, okubandakanya yinoma yimuphi umsebenzi noma umshikashika ongase ukhiqize imfucuzi;
- (c) ukunqwabelana kanye nokugcinwa kwemfucuzi;
- (d) ukuqoqwa kanye nokuphathwa kwemfucuzi;
- (e) ukuncishiswa, ukusetshenziswa kabusha, ukuvuselelwa kwemfucuzi ukuba yakhe okanye okuzobuye isebenze kanye nokwenziwa ngcono kwemfucuzi;
- (f) ukuhweba ngemfucuzi;
- (g) ukudluliswa kwemfucuzi;
- (h) ukulungiswa kwemfucuzi; noma
- (i) ukulahlwa kwemfucuzi;

“isikhulu esilawula ukuphathwa kwemfucuzi” kusho isikhulu esilawula ukuphathwa kwemfucuzi esikhethwe ngokwesigaba 58(1) soMthetho Wemfucuzi;

“ilayisensi yokulawulwa kwemfucuzi” kusho ilayisensi ekhishwe ngaphansi kwesigaba 49 soMthetho Wemfucuzi;

“umsebenzi wokulawulwa kwemfucuzi” kusho umsebenzi ophathelene nokulawulwa kwemfucuzi;

“uhlelo lokuncishiswa kwemfucuzi” kusho uhlelo okuhloswe ngalo ukugqugquzela ukunciphisa ukukhiqizeka kwemfucuzi kanye nokulahlwa kwemfucuzi;

“uwoyela oyimfucuzi” kusho uwoyela ombiwa phansi noma uwoyela okhandiwe ongolile, owonakele noma ongakulungele ukwenza umsebenzi owawukhandelwe wona;

“umuntu ovuselela kabusha imfucuzi” kusho nanoma yimuphi umuntu ohlinzeka ngomsebenzi wokunciphisa imfucuzi elethwe esikhungweni sokudluliselwa kwemfucuzi noma endaweni yokulahlela imfucuzi ngokuyihluza ngazo zonke noma

ezinye zalezi zigaba:

- (a) iphepha;
- (b) izinsimbi;
- (c) izingilazi;
- (d) uplastiki; noma
- (e) umanyolo

ngenhloso yokuba iphinde idayiswe futhi iphinde isethsensiswe njengempahla esivuselelwe kabusha;

“**indawo okuthuthelwa kuyo imfucuzi**” kusho ingxenya ekhethiwe endaweni kamasipala lapho uMasipala ehlinzekela khona umsebenzi wokuthuthwa kwemfucuzi, njengalokhu uchitshiyelwa izikhathi ngezikhathi;

“**indawo yokudluliselwa kwemfucuzi**” kusho indawo noma isiza sokuqokelelwa nokugcina imfucuzi okwesikhashana ngaphambi kokuba ithuthelwe endaweni yokuyivuselela ukuba yakhe enye into ezosebenza noma endaweni yokulahlela imfucuzi.

Ukuqokwa Kwezikhulu Zokulawulwa Kwemfucuzi kanye Nabahloli Bezokulawulwa Kwezemvelo

- 2(a) Ngokwesigaba 10(3) soMthetho Wemfucuzi, uMasipala uyoqoka, ngokubhala phansi, iSikhulu Sokulawulwa Kwemfucuzi emkhandlwini wawo esiyodidiyela izindaba eziphathelene nokulawulwa kwemfucuzi kuMasipala ngendlela ebalulwe ohlelweni Lwamasu Likazwelonke Lokulawulwa Kwemfucuzi olwasungulwa ngokwesigaba 6 soMthetho Wemfucuzi noma njengokusho kukaNgqongqoshe Kazwelonke noma Wesifundazwe ngokukhipha isaziso kwiGazethi.
- (b) Ukuqokwa okushiwo esigatshaneni (a) kungadluliswa yilesi sikhulu kwesinye isikhulu kuMasipala ngokulandela imibandela nemikhawulo ebekiwe.
- (c) UMasipala uyoqhubeka uqoke abahloli bokulawulwa kwezemvelo abaqeqeshwe ngokwanele ngokweSahluko 7 se-NEMA ukuze baqaphe baphinde baqinisekise ukulandelwa koMthetho Wemfucuzi kanye nale mithetho kamasipala.

Uhlelo LukaMasipala Oludidiyele Lokulawulwa Kwemfucuzi

- 3(a) Ngokwesigaba 12(2)(c) kuya ku(i) kanye nesigaba 12(3) soMthetho Wemfucuzi, uMasipala uyohlenganisa apha iphinde abuyekeze uHlelo Oludidiyele Lokulawulwa Kwemfucuzi njalo ngonyaka ngokubambisana noMnyango Wesifundazwe oqondene bese uqoqa uphinde uhlinzeke ngolwazi oludingekayo ukuze kuphothulwe lolu Hlelo Lwesifundazwe.
- (b) UMasipala uyobika njalo ngonyaka ngenqubekela phambili ekuqaliseni uHlelo Oludidiyele Lokulawulwa Kwemfucuzi, ngokunjalo nokusebenza maqondana nesigaba 12(2)(a) kuya ku (i) soMthetho Wemfucuzi kanye nangokwesigaba 46 soMthetho Wezinhlalo.

Ukulahla nokungcolisa

- 4(1) Akekho umuntu okumele alahle, abeke, akhulule, achithe noma aphonse imfucuzi, noma abangele noma avumele ukuba kulahlwe, kukhululwe, kuchithwe noma kuphonswe imfucuzi noma ngabe leyo mfucuzi isemgqonyeni noma cha, kunoma iyiphi indawo, noma endaweni yomphakathi noma endaweni yomuntu ozimele, kumbandakanya kodwa kungagcini ngomhlaba ongenalutho, imifula, imihosha, amaxhaphozi, amapayipi endle kanye namapayipi amanzi, ngaphandle

- kwasemgqonyeni noma endaweni ehlonzwe ngokukhethekile, ehlinzekiwe noma ehlelelwe ukwenza lo msebezi.
- (2) Isivimbelo esibalulwe esigatshaneni (1) siyosebenza kunoma ubani okuyothi noma ngasiphi isizathu, avule umgqomo onemfucuzwa bese elahla, akhulule, aphonse, achithe noma atshinge leyo mfucuzwa emgwaqweni womphakathi bese engabe esayibuyisela leyo mfucuzwa emgqonyeni.
- (3) Akekho umuntu okuyothi ngesikhathi ehamba ngemoto, noma ngesikhathi egibele emotweni, okuyomele aphonse noma alahle imfucuzwa phakathi noma kunoma iyiphi indawo yomphakathi, umgwaqo womphakathi noma indawo ekungeyomuntu ekuMasipala futhi akekho umshayeli wemoto okuyomele avumele umgibeli waleyo moto ukuba aphonse noma alahle leyo mfucuzwa ngendlela efanayo.
- (4) (a) Akekho umuntu okuyomele aphonse, achithe noma alahle yinoma iyiphi incwadimbiko, ibhukwana noma esinye isikhangiso phakathi noma kunoma yimuphi umgwaqo womphakathi noma endaweni ekungeyomuntu noma indawo ekuMasipala.
- (b) Akekho umuntu okuyomele aphonse, achithe noma alahle nanoma iyiphi incwadimbiko, ibhukwana noma esinye isikhangiso phakathi noma kunoma iyiphi indawo ekungeyomuntu uma ecelwa unoma ubani olapho ukuba angakwenzi lokho, noma uma kuleyo ndawo kubekwe uphawu olusendaweni esobala olukhombisa ukuthi abahlali baleyo ndawo abafisi ukuba leyo ncwadimbiko, ibhukwana, noma esinye isikhangiso kushiye kuleyo ndawo.
- (c) Akekho umuntu okuyomele ashaye kumbe ahambise nanoma iyiphi imoto kuMasipala ngaphandle uma leyo moto yakhelwe noma ilayishelwe ukugwema nanoma imuphi umthwalo, okuqokethwe noma imfucuzwa ukuba ingaphephuki noma iwele phakathi noma kunoma yimuphi umgwaqo womphakathi noma endaweni ekungeyomuntu.
- (5) (a) Esimweni lapho uMasipala ebona ukuthi, kunoma imuphi umgwaqo womphakathi, kuyinto engcono ukuvimbela ukupakwa kwezimoto kuleyo ngxenye yomgwaqo ngamahora athile, ukuze kuhlanzwe leyo ngxenye mgwaqo ngalolo lusuku, uMasipala enganikeza isaziso ngokulandela izihlinzeko zalesi sigaba ezivimbela lokhu kupaka.
- (c) Lesi saziso siyoqagula indawo, usuku kanye namahora okukhulunywa ngawo bese-
- (i) sithunyelwa kwabahlala ngakuleyo ndawo; bese futhi
- (ii) sibekwa obala ezindaweni ezithintekile.

Ukuncishiswa kwemfucuzwa nokuvuselelwa kwemfucuzwa

- 5(1) UMasipala uyothatha zonke izinyathelo ezifanele ukuqalisa izinhlelo zokuncishiswa kwemfucuzwa endaweni kamasipala ngokuhambisana nanoma yimaphi amazanga namaqophelo ahlinzekwe kuMasu kaZwelonke Okulawulwa Kwemfucuzwa kanye nangokwesigaba 8(3) soMthetho wemfucuzwa.
- (2) Izinhlelo zokuncishiswa kwemfucuzwa okubhekiswe kuzo esigatshaneni (1) zingathatha isimo –
- (a) sokwethulwa kwamazinga namaqophelo okuhlela nokugoqwa kwemikhiqizo

- ekhiqizwe endaweni kamasipala ezingeni lokwakha ukuze kuqinisekiswa ukuthi imfucuzwa ingagwemeka futhi/ noma ingancishiswa ezingeni elingaphambi kokusetshenziswa ngesikhathi kugqugquzelwa ukwakhiwa kwemikhiqizo ebuye isebenziseke noma enokuvuseleleka ukuba yakhe enye into ezokusebenza emva kokuba seyisetsheziwe;
- (b) sokuhlelwa, ukubuye kusetsheziwe, ukuvuselelwa kwemfucuzwa esuka ezindaweni ezingaphakathi komngcele kamasipala;
 - (c) sokuhluzwa kwemfucuzwa esigabeni sokwenzeka nokuqoqwa kwaleyo mfucuzwa ehluziwe;
 - (d) sokuqokwa kwenkampani yokuvuselela imfucuzwa ezokwenza imisebenzi yokuthengisa ezindaweni eziqokiwe zokulahla imfucuzwa ezingaphakathi endaweni kamasipala.
- (3) Nanoma yimuphi umuntu oqokelela imfucuzwa angayalelwa, ngesaziso esibhaliwe asinikezwe nguMasipala, angabizwa ukuba abambe iqhaza kulezo zinhlelo zokunciphisa imfucuzwa ngokuhlukanisa imfucuzwa yakhe esigabeni sokuqokelela esakhiweni sakhe, ngezindleko eziyingcosana noma ngazo zonke izindleko zokuhlukaniswa kwaleyo mfucuzwa ophethwe yilowo menzi wemfucuzwa othintekayo.
- (4) Zonke ezinye izindleko ezimaqondana nokuqoqwa, ukuthuthwa nokulahlwa kwaleyo mfucuzwa ohlukanisiwe nguMasipala, noma yimuphi omunye umhlinzekimsebenzi wemfucuzwa ozimele onikezwe lowo umsebenzi, kumele zikhokhwe nguMasipala.
- (5) Ngokuhambisana nesigatshana (2) (d), uMasipala noma inkampani yokusebenzisa udoti ukwakha enye into ezosebenza ezimele eqokwe nguMasipala, ingasebenzisa imfucuzwa ukwakha enye into ezosebenza esivele ilahliwe endaweni yokulahla imfucuzwa ukuze kunwetshwe isikhathi sokuba khona kwendawo.
- (6) Akekho umuntu ongaqala, ongenza noma ongaqhuba umsebenzi wokulawulwa kwemfucuzwa ngaphakathi kuMasipala, ngaphandle kokuhambisana nezidingo noma amaqophelo asungulwe nguMasipala lapho kungadingeki khona ilayisense ngokoMthetho Wemfucuzwa.

Ukuqoqwa kanye nokuthuthwa kwemfucuzwa

- 6(1) UMasipala, lapho kunokwenzeka, ungahlinzeka ngomsebenzi wokuthuthwa kwemfucuzwa kuzo zonke izakhiwo ezinabantu ezisendaweni engaphakathi yokuthuthwa kwemfucuzwa futhi osebenzisa yinoma yisiphi isakhiwo uyoba nesibopho sokukhokha imali enqunyiwe yalowo msebenzi, noma ngabe lesi sihlizeko sisetsheziwe noma cha, futhi ngokunganaki ukuthi umsebenzi uhlinzekiwe yini noma cha ngosuku ngaphandle kosuku olujwayelekile lokuqoqwa. Noma iyiphi imali enqunyiwe eyilevi yalowo msebenzi kumele inqunywe ohlelweni lenkokhelo emisiwe kaMasipala.
- (2) Osebenzisa isakhiwo kumele azise uMasipala ngokubhaliwe ukuthi isakhiwo sesiyasetshenziswa kungakapheli izinsuku eziyisikhombisa zokuhlala kuleso sakhiwo nokuthi ngabe osebenzisa isakhiwo uyakudinga yini ukuhlinzekwa okumaqondana nokuthuthwa kwemfucuzwa yasezindlini, yasebhizinisini noma yasembonini, noma inhlanganisela yalokhu.
- (3) Osebenzisa nanoma yisiphi isakhiwo kumele aqinisekise ukuthi yonke imfucuzwa eyakheke kuleso sakhiwo ibekwa futhi igcinwa esitsheni semfucuzwa, emigqomeni yemfucuzwa, ezikhwameni noma kwezinye izitsha okumele zembozwe noma zivalwe ngci bese zigcinwa esakhiweni kuze kube ziyathuthwa.

Imibandela yokusebenzisa imisebenzi yokuthuthwa kwemfucuzwa

- 7(1) Ngosuku olunqunywe nguMasipala lokuthutha imfucuzwa yendawo ethile, osebenzisa

yunoma yisiphi isakhiwo kuleyo ndawo, ngaphandle uma eyalelwe ngokunye nguMasipala, kumele abeke yinoma yimiphi imigqomo yemfucuzo, izikhwama noma ezinye izitsha onqenqemeni duzane nje nengaphandle lwaleso sakhiwo.

- (2) Akukho mlotha oshisayo, izingcezu zengilazi ezingasongiwe noma enye imfucuzo engadala umonakalo ezitsheni noma emigqomeni kaMasipala, noma ukulimala kubantu noma izimoto eziqashelwe ukuthutha imfucuzo kunoma yisiphi isakhiwo, okumele ufakwe kunoma yimuphi umgqomo wemfucuzo noma isikhwama ngaphandle uma sekuthathwe izinyathelo ezifanele ukugwema umonakalo noma ukulimala.
- (3) Akukho mpahla, kumbandakanya yinoma yikuphi okusaluketshezi, ngesisindo sako noma omunye umumo wakho ongenza ukuba isitsha semfucuzo, umgqomo wemfucuzo, isikhwama noma isitsha esikhulu kube nzima kubasebenzi bakaMasipala ukuba basiqukule, okumele ifakwe phakathi.
- (4) Zonke izitsha zemfucuzo noma imigqomo yemfucuzo engaphakathi noma engaphandle kwanoma yisiphi isakhiwo kumele yembozwe ngesivalo noma ngesinye isembozo ukuze kugwemeke nanoma iyiphi inkathazo noma ubungozi empilweni, futhi kumele leso sitsha noma umgqomo ugcinwe uhlanzekile futhi usesimweni sezempilo esimukelekile.
- (5) Isitsha semfucuzo, imigqomo yemfucuzo noma izikhwama ezibekwe ngaphandle kwesakhiwo somuntu osebenzisayo noma umnikazi kubophezelekile ukuba zinakekelwe osebenzisa isakhiwo noma umnikazi kuze kube yileso sikhathi imfucuzo seyithuthwa nguMasipala, yize noma lowo msebenzi uhlinzekiwe noma cha ngosuku okungelona lolo lokuqoqwa olujwayelekile.
- (6) UMasipala kuyomele unqume ubukhulu bemigqomo yemfucuzo, izikhwama noma izitsha okumele zisetshenziswe ngabasebenzisi besakhiwo ngezinhloso zokuthuthwa kwemfucuzo, noma isibalo saleyo migqomo, izikhwama noma izitsha ngokunjalo nezinsuku umsebenzi wokuthuthwa oyoqhutshwa ngazo.

Ukuhlinzekwa kwezitsha zemfucuzo

- 8(1) UMasipala, noma umhlinzekimsebenzi wokuthuthwa kwemfucuzo ozimele, angaletha izitsha zemfucuzo ezakhiweni uma, ngokubuka ubungako bemfucuzo eyakheka esakhiweni esithintekayo, ukufaneleka kwaleyo mfucuzo ukuba igcinwe ezitsheni zemfucuzo, kanye nokukwazi ukufinyelela kwezimoto ezithutha imfucuzo endaweni ehlinzekwe ngosebenzisa yinoma yisiphi isakhiwo, leyo mfucuzo, ngokubona kukaMasipala, izogcineka ngendlela efanele kakhulu ezitsheni zemfucuzo kunasemigqonyeni yemfucuzo.
- (2) Nanoma yiziphi izitsha zemfucuzo ezilethwe nguMasipala, noma umhlinzekimsebenzi wokuthuthwa kwemfucuzo ozimele, ngokwalesi sigaba kuyomele zihlale kungezikaMasipala noma ngezikamhlinzekimsebenzi wokuthuthwa kwemfucuzo ozimele, lokho okungenzeka.
- (3) Osebenzisa isakhiwo uyoba nesibopho sokuhlulwula izindleko zokubuyisela noma izindleko zokukhandwa kwesitsha semfucuzo esilahlekile, esintshontshiwe noma esonakele ngenani elifanele lokubuyiselwa kwaleso sitsha.
- (4) Osebenzisa nanoma yisiphi isakhiwo kuyomele ahlinzeke ngendawo eyanele kanye nezinye izindawo acabanga ukuthi zifanelekile kuleyo ndawo ukuba kugcinwe izitsha zemfucuzo ezilethwe nguMasipala, noma umhlinzekimsebenzi wokuthuthwa

kwemfucuzwa ozimele, ngokuhambisana nesigatshana (2).

- (5) Isitsha semfucuzwa kuyomele -
- (a) sibekwe ngendlela ethile esakhiweni ezovumela ukugcinwa kwaso ngaphandle kokuba sibonakale emgwaqeni womphakathi;
 - (b) lapho kwakheka khona imfucuzwa yebhizinisi lokuthengisa esakhiweni, kumele sibekwe ngaleyo ndlela ezovumela ukuqoqwa nokuthuthwa kwaleyo mfucuzwa ngabasebenzi bakaMasipala ngaphandle kwezithiyo, noma ngumhlizzekimsebenzi wokuthuthwa kwemfucuzwa ozimele, lokho okungenzeka;
 - (c) zibekwe ngendlela ezovumele ukukwazi ukufinyelelea nokuphuma kuleso sakhiwo kwezimoto zokuthutha imfucuzwa zikaMasipala noma kwezimoto zomhlizzekimsebenzi wokuthuthwa kwemfucuzwa ozimele.

Imfucuzwa eyingozi

- 9(1) Lapho kusuke kugcinwe khona imfucuzwa eyingozi, eyakheke noma esetshenzwe kunoma yisiphi isakhiwo, uMasipala ngokukhipha isaziso esibhaliwe kulowo odale imfucuzwa –
- (a) ungavimba ukuthuthwa, ukulahlwa, ukubekwa, ukugcinwa, ukuthwalwa noma ukusetshenzwa kwaleyo mfucuzwa eyingozi, noma
 - (b) ungayalela ukuthuthwa, ukulahlwa noma ukusetshenzwa kwaleyo mfucuzwa eyingozi ngendlela eshiwo futhi ngezikhathi ezithile kungakapheli isikhathi esikhonjwe kuleso saziyo.
- (2) Uma lowo muntu odala imfucuzwa ehluleka ukuhambisana nezimiso zesaziyo okukhulunywe ngazo esigatshaneni (1), uyobekwa icala lokwephula umthetho futhi uMasipala ungasusa, noma wenze ukuba kususwe, kulahlwe noma kusetshenzwe leyo mfucuzwa eyingozi ngendlela efanele bese ufuna izindleko ezakheke ekwenzeni lokho kulowo odale emfucuzwa.
- (3) Akekho umuntu -
- (a) ungasusa noma ongathutha imfucuzwa eyingozi kunoma yisiphi isakhiwo, noma
 - (b) ongathutha imfucuzwa enobungozi emgwaqweni noma phezu komgwaqo womphakathi, ngaphandle uma leyo mfucuzwa eyingozi igcinwe kusikhongozelo ngokuphephile futhi ngendlela efanele noma emotweni eyakhelwe ukugwema ukuchitheka noma ukonokala.
- (4) UMasipala ungakhipha isaziso esibhaliwe esibhekiswe kulowo obangele ukuthi endaweni yakhe kwakhekhe, kwagcinwa, kwasetshenzwa noma kwalahlwa imfucuzwa eyingozi, esimcela ukuba ahlinzeke uMasipala ngokubhala ngaleyo mininingwane, efakazelwe usokhemisi oqeqeshekile wemisebenzi yokwenza impahla, njengalokhu kungayalezwa kuleso saziyo, esiqondene -
- (a) nobungako kanye nokuqukethwe yimfucuzwa eyingozi eyakheke kuleso sakhiwo, kanye
 - (b) nendlela yokugcina, ukusetshenzwa nokulahlwa kwaleyo mfucuzwa eyingozi.
- (5) Lowo odale imfucuzwa uyokwazisa ngaleyo ndlela efanayo uMasipala nganoma yiluphi ushintsho kubungako nokuqukethwe noma ngendlela yokugcinwa,

ukusetshenzwa noma ukulahlwa kwaleyo mfucuzwa eyingozi.

- (6) Akekho umuntu oyothuthela nanoma yiyiphi imfucuzwa eyingozi endaweni yokulahlwa.
- (7) Akekho umuntu oyothuthela noma oyochithela esakhiweni sokulahlwa imfucuzwa nanoma yikuphi okusaluketshezi kwasezimbonini noma abangele lokhu ukuba kwenzeka ngaphandle ngokubhala kuqala imvume kuMasipala futhi ngokuhambisana nanoma yimiphi imbandela angacabanga ukuthi ifanele.
- (6) Nanoma yiziphi izindleko umasipala angene kuzo ngenkathi ezama ukulungisa nanoma yimuphi umonakalo kumbe ukunciphisa nanoma yiyiphi inkathazo edalwe ukuchithwa kwemfucuzwa eyingozi noma kokethsenzi lwasezimbonini ngokuphikisana nemibandela enqunywe nguMasipala ngokwale mithetho kamasipala, ziyothwalwa futhi zitholakale kumnikazi wayo, noma kumuntu okunguyena owachitha lowo doti noma lelo ketshezi.

Imfucuzwa yasengadini

- 10(1)** UMasipala ungabeka eceleni izindawo ezithile zokulahlwa kwemfucuzwa yasengadini kanye nempahla ethile evuseleleka kabusha, izikhathi ngezikhathi.
- (2) Izindawo ezishiwo esigatshaneni (1) kuyomele ikhonjiswe ngokusebenzisa amabhodi ezaziso agxunyekwe kulezo zakhiwo.
- (3) Nanoma yimuphi udoti okukhulunywa ngawo esigatshaneni (1) kuyomele ulethwe kuleyo ndawo ngemoto engakwazi ukuthutha umthwala ongekho ngaphezu kwethani elilodwa.
- (4) Akekho umuntu, ongena kuleyo ndawo oyolahla nanoma yiyiphi imfucuzwa ngaphandle kwaleyo eshiwo esigatshaneni (1) ezitsheni ezihlinzekwe kulezo zindawo.
- (5) Akukho muntu ohlinzeka ngomsebenzi wasezingadini ozimele, umsebenzi wokunakekela, usonkontileka ongangena endaweni ekhonjwe nguMasipala yokulahlwa imfucuzwa yasengadini, ngaphandle uma lowo msebenzisi noma usonkontileka engena kuleyo ndawo ngendlela noma ngenhloso yebhizinisi lalowo msebenzisi noma usonkontileka.
- (7) UMasipala angaqasha umuntu ovuselela kabusha imfucuzwa noma abantu abehlukene abavuselela kabusha imfucuzwa ukuba baqhube imisebenzi yebhizinisi kunoma yiyiphi indawo noma kuzo zonke izindawo ezishiwo esigatshaneni (1) ngenhloso yokuhluzwa imfucuzwa ngezinhlobo ezehlukene ngenhloso yokuphinde kudayiswe noma kubuyele kusetshenziswe njengempahla evuselelewe kabusha.

Imfucuzwa edaleka lapho kwakhiwa

- 11(1)** Lapho ngombono kaMasipala imfukumfuku esele, izibi, nanye imvithimvithi noma izinto ezilahliwe kuvumelekile ukuba zibuthelane endaweni ngaphambi noma ngesikhathi kwakhiwa, kungaba ngesaziso esibhaliwe, uyalela umnikazi waleso sakhiwo ukuba asuse leyo mfukumfuku, izibi, noma enye imvithimvithi kumbe impahla elahliwe kungakapheli isikhathi esinqunywe kuleso saziso.
- (2) Nanoma yimuphi umuntu ohlulekayo ukuhambisana naleso saziso uyoba necala lokwephula umthetho futhi uMasipala angasusa leyo mfukumfuku, izibi, nanye imvithimvithi noma impahla elahliwe kuleso sakhiwo bese efuna izindleko zalokho kususwa kwemfucuzwa kumnikazi.

- (3) Nanoma yimuphi umuntu ogxumeka noma obhidliza nanoma yiliphi ibhilidi kuyomele asuse nanoma yiziphi ezinye izinto eziyizinsalela noma izinto ezibangelwe yilokho kugxunyekwa noma ukubhidliza esakhiweni noma kunoma yimuphi umhlaba noma indawo yomphakathi ethintekayo kulezo zinto ngesikhathi kubhidlizwa noma emva kokuqedwa kwalokho kugxunyekwa noma ukubhidlizwa, uma kuhlulekeka uMasipala ungayalela ngesaziso esibhaliwe ukuba umnikazi walelo bhilidi enze kususwe lezo zimpahla eziyizinsalela kanye nezinye izinto kungakapheli isikhathi esishiwo esazisweni.
- (4) Nanoma yimuphi umuntu osusa nanoma iyiphi impahla maqondana nesigatshana (3), uyokhipha kuMasipala ikhophi yethikithi lalapho kukalwa khona izimoto, uma impahla isisusiwe iyiswe kwenye indawo noma isakhiwo, ekhomba isakhiwo noma indawo okuthuthelwe kuyo imfucuzwa.
- (5) Nanoma yimuphi umuntu ohluleka ukuhambisana nezimiso zesigatshana (3) noma isaziso esikhishelwe yena, uyobekwa icala lokwephula umthetho.

Ukuziphatha endaweni yokulahla imfucuzwa

- 12(1) Wonke umuntu ongena andaweni yokulahla imfucuzwa elawulwa nguMasipala ngenhloso yokulahla imfucuzwa -
 - (a) uyongena kuleyo ndawo ngesango lokungena elisemthethweni nelikhonjwe kanjalo;
 - (b) uyoletsa imfucuzwa ukuba ikalwe ngendlela edingwa yisisebenzi sikaMasipala elawula leso sakhiwo;
 - (c) uyonika leso sisebenzi yonke imininingwane edingekayo maqondana nokuqokethwe yileyo mfucuzwa;
 - (d) uyohlinzeka leso sisebenzi ngolwazi olugcwele olumayelana nomuntu onesibopho sokukhokha inkokhelo emisiwe yemfucuzwa elahliwe ukukwazi ukuthi isikweletu sifakwe ngaphansi kwegama lalowo muntu;
 - (e) uyoqinisekisa ukuthi nanoma yisiphi isitsha esilethwe endaweni yokulahla sizokuba nesisindo esifanele esivezwe ngokubonakalayo kumacala womabili.
 - (f) uyolandela imiyalelo anikezwe yona maqondana nokungena endaweni ngqo yokulahla nangendlela imfucuzwa okufanele ilahlwe ngayo.
- (2) Nanoma yimuphi umuntu ophikisa noma yiziphi izihlinzeko zesigatshana (1) angenqatshelwa ukungena, noma angasuswa endaweni yokulahla imfucuzwa.
- (3) Akekho umuntu oyongena endaweni yokulahla imfucuzwa elawulwa nguMasipala nganoma iyiphi inhloso ngaphandle kokulahla imfucuzwa mayelana nale mithetho kamasipala, futhi kuphela ngaleso sikhathi kuphela naphakathi kwalawo mahora njengoba kunganquma uMasipala izikhathi ngezikhathi.
- (4) Umasipala ungadinga imoto kanye/ noma isitsha sayo ukuba sikalwe lapho kukalwa khona izimoto esakhiweni nanoma ngasiphi isikhathi.
- (5) Isisebenzi esigunyaziwe kuleyo ndawo yokulahla imfucuzwa, singenqaba ukwamukela imfucuzwa ngokubona kwaso engaba nomthelela onobungozi kwimvelo, noma angamukela leyo mfucuzwa kuncike kuleyo mibandela njengoba isisebenzi singabona ukuthi kufanele.
- (6) Yonke imfucuzwa esuswe nguMasipala endaweni yokulahla imfucuzwa nayo yonke imfucuzwa elawulwa nguMasipala endaweni yokulahla imfucuzwa izokuba yimpahla

kaMasipala futhi akekho umuntu ongagunyaziwe njengokufaneleyo nguMasipala ukwenza kanjalo oyoyisusa noma oyoyithikameza.

- (7) Akekho umuntu oyodala, noma oyovumela, imoto engaphansi kolawulo lwalowo muntu ukuba isale esakhiweni sokulahla imfucuzo isikhathi eside kunesidingekalayo sokuthululwa kwemfucuzo.
- (8) Uma, ngenxa yokuphuka, imoto, ingakwazi ukuphuma endaweni yokulahla imfucuzo, umuntu ophethe leyo moto uzothatha izinyathelo eziphuthumayo ukugwema noma yikuphi ukuphazamiseka esakhiweni ngokwenza izinhlelo zokususwa kwemoto esakhiweni.
- (9) Uma, noma yingasiphi isizathu, umuntu ophethe imoto ehluleka ukususa imoto esakhiweni kungakapheli isikhathi esifanele, isikhulu sikaMasipala esisebenza esakhiweni singathatha noma yiziphi izinyathelo esicabanga ukuthi zifanele ukususa imoto esakhiweni ukuze kungaqhubeki kudaleke ukuphazamiseka, ngezindleko zomnikazi waleyo moto, futhi akuwona uMasipala noma yisiphi isisebenzi sikaMasipala ongenza icala lesibopho semali kumnikazi ngenxa yaleso senzo.
- (10) Nanoma yimuphi umuntu ongena endaweni yokulahla imfucuzo ngenhloso yokulahla imfucuzo, ngaphezu kokuhambisana nezihlinzeko ezingenhla, kuyomele ahambisane nayo yonke imibandela ebekwe kunoma iyiphi imvume ekhishwe nguMnyango wezaManzi namaHlathi.

Ukungena esakhiweni

- 13(1) Umhlali wasesakhiweni lapho uMasipala ehlinzeka khona ngemisebenzi yokuthuthwa kwemfucuzo uyovumela uMasipala ukungena esakhiweni ngenhloso yokuqoqa nokususa imfucuzo futhi uyoqinisekisa ukuthi akukho okuphazamisa, okuvimbela noma ukuthikazisa uMasipala ekwenzeni umsebenzi wawo.
- (2) Uma, ngombono kaMasipala, ukuthuthwa noma ukususwa kwemfucuzo esakhiweni kungenzeka kugcine konakalise isakhiwo noma impahla kaMasipala, noma ukulimala kulowo othutha imfucuzo noma yimuphi omunye umuntu, njengombandela wokwenza umsebenzi wokuthutha imfucuzo maqondana nesakhiwo, kungadinga ukuba umhlali ukuba azibophezele ngokubhaliwe maqondana nanoma yimuphi lowo monakalo noma ukulimala noma yiziphi izimangalo eziqhamuka kunoma yikuphi.

Uhlelo Lwezokwazisa Ngemfucuzo

- 14(1) Ngokomthetho Wemfucuzo uMasipala kumele usungule uhlelo lwezokwazisa ngemfucuzo ukuze kutholakale ulwazi oluyilo ngemfucuzo kanye nokuvumela ukuhlelwa kokulawulwa nokubeka phambili kwemfucuzo okwanele.
- (2) Lapho umuntu edala imfucuzo engaphezu kwama- 100kg njalo ngosuku, kuyomele –
 - (a) arejistele lokho kuMasipala, futhi abike njalo ngenyanga kumasipala ngesamba sezinhlobo ezahlukeni zemfucuzo edalekile esakhiweni sakhe; futhi
 - (b) abike ngezindlela zokulawula imfucuzo ezisetshenziswayo ukulawula leyo mfucuzo.
- (3) Bonke abavuselela imfucuzo kabusha abaqhuba ibhizinisi kunoma yiziphi izikhungo zokulawulwa kwemfucuzo zikamasipala, abenza umsebenzi wokuhlulwa imfucuzo, ukuyivuselela, ukuyilungisa, ukuyenza ibuye isebenze nokuyilahla kuyomele –

- (a) bahlinzeke ngemibiko yanyangazonke ngesamba nezinhlobo zemfucuzo abayimukelayo, kumasipala; futhi
- (b) babike ngezindlela zokulawula imfucuzo ezisetshenziswayo ukulawula leyo mfucuzo.

Amacala nezigwebo

15(1) Ngokwale mithetho kamasipala, nanoma yimuphi umuntu ohluleka –

- (a) ukuthatha izinyathelo ezifanele ukuqinisekisa ukuthi imfucuzo ilahlwa lapho okufanele ukuba ilahlwe khona, leyo mfucuzo iyolungiswa noma ilahlwe ngendlela ephephile emvelweni;
- (b) ukuphatha imfucuzo ngendlela engadali ingozi empilweni noma emvelweni noma engadali inkathazo ngomsindo, iphunga noma enomthelela wokungakwazi ukubona kahle;
- (c) ukuqalisa, ukwenza noma ukuphatha umsebenzi wokulawulwa kwemfucuzo ngokuhambisana nezidingo namaqophelo anqunyiwe alowo msebenzi noma maqondana nezidingo zelayisense yokulawulwa kwemfucuzo ekhishiwe maqondana nalowo msebenzi;
- (d) ukuthola igunya lokulahla imfucuzo kunoma yimuphi umhlaba, amanzi noma enye indawo, noma
- (e) ukuhambisana nombandela noma isidingo selayisense yokulawulwa kwemfucuzo,

uyobekwa icala lokuphula umthetho futhi uma eselahlwe icala, uyoba nesibopho senhlawulo eyonqunywa yiNkantolo enamandla esikhundla esifanele ukwengeza kunoma yisiphi isigwebo noma umklomelo okungenzeka uphoqeletwe noma wenziwe maqondana ne-NEMA noma uMthetho Wemfucuzo.

(2) Nanoma yimuphi umuntu –

- (a) ohluleka ukugcina imfucuzo ngendlela efanele esakhiweni sakhe okugcina sekungcolise imvelo noma ukulimala empilweni ngenxa yokuchitheka, ukuvuza, izibi ezipheshulwe wumoya, iphunga, umthethela wokungakwazi ukubona kahle noma amagciwane azalelekayo;
- (b) ohluleka ukugcina imfucuzo esitsheni esivunywe ngumasipala nendawo;
- (c) ohluleka ukuthola igunya lokuthutha imfucuzo lapho lelo gunya lidingeka khona;
- (d) ophonsa, owisa, ochitha noma ojikijela ngenhloso noma ngobudedengu nanoma yiziphi izibi endaweni noma phakathi endaweni yomphakathi, kumhlaba, esizeni esingahlali muntu, umsele wamanzi, isitaladi, umgwaqo noma kunoma iyiphi indawo umphakathi akwazi ukungena kuyo;
- (e) ohluleka ukuvumelana namazinga kanye namaqophelo amisiwe maqondana noMthetho Wemfucuzo;
- (f) onikezele ngolwazi olungelona iqiniso noma olukhohlisayo ngabomu esikhulwini esiLawula ukuPhathwa Kwemfucuzo noma uMhloli Wezokuphathwa Kwemvelo;

uyobekwa icala lokuphula umthetho futhi uma eselahlwe icala, uyoba nesibopho senhlawulo eyonqunywa yiNkantolo enamandla afanele esikhundla ukwengeza kunoma yisiphi isigwebo noma umklomelo okungenzeka uphoqeletwe noma wenziwe maqondana ne-NEMA noma uMthetho Wemfucuzo.

(3) Nanoma yimuphi umuntu ohluleka ukunika imininingwane, ulwazi, imibhalo,

amasampula noma izimpahla kuMasipala njengoba kudingeka maqondana nale mithetho kamasipala uyobekwa icala lokuphula umthetho futhi uma eselahlwe yicala, uyokuba nesibopho sokukhokha inhlawulo eyonqunywa yiNkantolo enamandla esikhundla esifanele ukwengeza kunoma yisiphi isigwebo noma umklomelo okungenzeka uphoqelelwe noma wenziwe maqondana ne- NEMA noma uMthetho Wemfucuzwa.

- (4) Nanoma yimuphi umuntu ogwetshiwe ngaphansi kwalo mthetho kamasipala noma uMthetho Wemfucuzwa futhi ophikelelayo emva kokuba esegwetshwe kanjalo, ngesenzo noma iphutha elenze icala, uyokuba nesibopho sokukhokha inhlawulo engeqile kuma- R1000 noma ukuvalelwa ejele isikhathi esingeqile ezinsukwini ezingama- 20 noma kokubili, inhlawulo nokubhadla ejele maqondana nosuku ngalunye lolo umuntu ngamunye ephikelela naleso senzo noma iphutha.
- (5) UMasipala angakhipha isaziso kumhlali wanoma yisiphi isakhiwo, edinga ukuba lowo mhlali asuse noma yimuphi udoti kuleso sakhiwo ngendlela futhi kungakapheli isikhathi esibalulwe kuleso saziso.
- (6) Uma umuntu onikezwe isaziso ngaphansi kwesigatshana (5), ehluleka ukuhambisana nezidingo ezinqunywe yisaziso, lowo muntu uyobekwa icala lokuphula umthetho futhi uyoba nesibopho ngesikhathi sokulahlwa yicala sezinhlawulo ezinqunywa isikhathi nezikhathi yiNkantolo enamandla afanele esikhundla.
- (7) Uma umuntu onikezwe isaziso ngokwesigatshana (5), ehluleka ukuhambisana nanoma yiziphi izinto ezidingekayo ezishiwo yilesa saziso, uMasipala-
 - (a) ungangena esakhiweni ususe imfucuzwa; futhi
 - (b) ungafuna izindleko ezidaleke ngokwenzenjalo kumuntu osebenzisa indawo.
- (8) Lapho nganoma yisiphi isikhathi isikhulu esigunyaziwe sikaMasipala sithola yinoma yimuphi umuntu esikholelwa ngokwesizathu esithile ukuthi ngaleso sikhathi uphule umthetho ngaphansi kwale mithetho kamasipala, singanikeza lowo muntu isaziso esinikeza lowo muntu ithuba lokuzikhipha ecaleni ngokuba akhokhe inhlawulo ebekiwe.
- (9) Lapho umuntu enikezwa isaziso ngaphansi kwesigatshana (8) -
 - (a) akuyoqhutshekwa nalelo cala kuze kube kuphela izinsuku eziyishumi nane ngemuva kosuku lokhishwa kwesaziso; futhi
 - (b) lowo muntu akayokubekwa icala uma inhlawulo ebekiwe ikhokhiwe ngaphambi kokuphela kwaleso sikhathi.
- (10) Isaziso esingaphansi kwesigatshana (8) kumele sinikeze iminingwane yesimo okusolakala ukuba sidale ukwaphulwa komthetho njengalokhu kufaneleke ukuba sinikeze ulwazi oluzwakalayo lokwaphula umthetho futhi kumele sicacise-
 - (a) isikhathi esihlinzekelwe esigatshananeni 9(a);
 - (b) isamba semali yenhlawulo ebekiwe; kanye
 - (c) nokuthi siya kubani, nekheli lapho inhlawulo ebekiwe engakhokhwa khona.
- (11) Inhlawulo ebekiwe ekhokhwa kuMasipala ngokuyalelwa yisaziso ngaphansi kwesigatshana (8) iyonqunywa nguMasipala izikhathi ngezikhathi.

Ukuchithwa kwemithetho kamasipala

16. Imithetho kaMasipala Yemfucuza eyashicilelwa mhla ziyi-17 kuMbaso wezi- 2005 ngaphansi kweSaziso sesiFundazwe uNo. 8 yowezi- 2005, iyachithwa lapha.
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