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ISIFUNDAZWE SAKWAZULU-NATALI

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI

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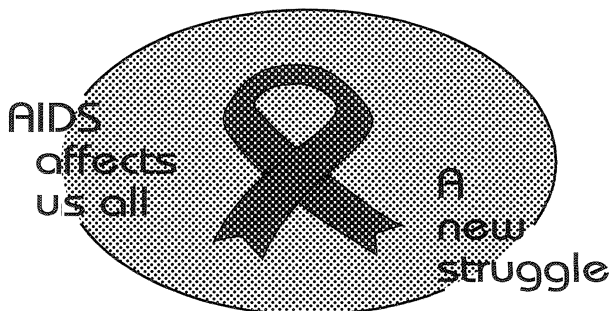
Vol. 7

PIETERMARITZBURG,

15 AUGUST 2013
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No. 1008

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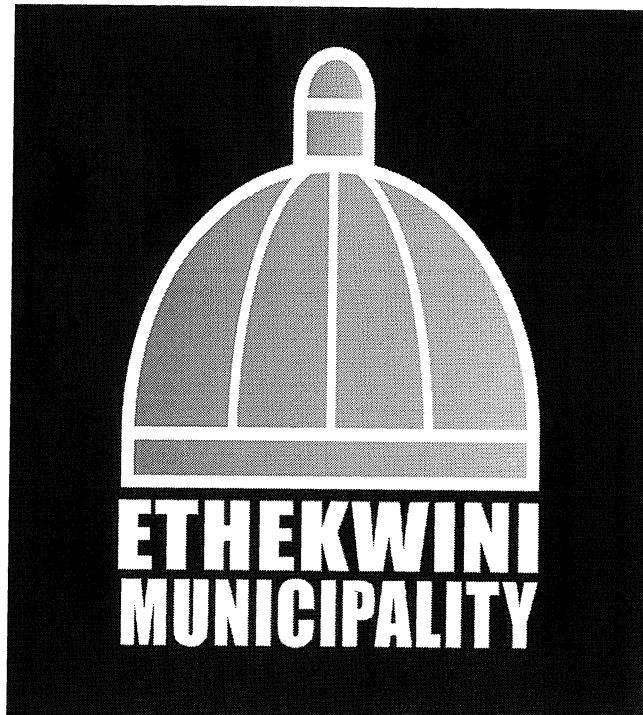
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MUNICIPAL NOTICE—ISAZISO SIKAMASIPALA

No. 94

15 August 2013

ETHEKWINI MUNICIPALITY: TARIFF BY-LAW, 2013



Adopted by Council on:

Promulgated on:

TARIFF BY-LAW 2013

To provide for the adoption and implementation of a tariff policy; for the general power to levy and recover fees, charges and tariffs and for matters incidental thereto.

PREAMBLE

WHEREAS section 229(1) of the Constitution authorises a municipality to impose—

- (a) rates on property and surcharges on fees for services provided by or on behalf of a municipality; and
- (b) if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls;

WHEREAS in terms of Section 75A of the Municipal Systems Act, a municipality may—

- (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
- (b) recover collection charges and interest on any outstanding amount;

WHEREAS in terms of Section 74(1) of the Municipal Systems Act, a municipal council must adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and which complies with the provisions of the Municipal Systems Act, the Municipal Finance Management Act and any other applicable legislation;

WHEREAS in terms of Section 75 of the Municipal Systems Act, a municipal council must adopt By-laws to give effect to the implementation and enforcement of its tariff policy;

AND WHEREAS the By-laws adopted in terms of section 75 of the Municipal Systems Act may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

NOW THEREFORE the Municipal Council of the eThekweni Metropolitan Municipality, acting in terms of section 156 of the Constitution of the Republic of South Africa, and read with

section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1 INTERPRETATION

Definitions

1. In this By-law, unless the context indicates otherwise –

“**Constitution**” means the Constitution of the Republic of South Africa;

“City Hall” refers to the main administrative office of the municipality, situated on Dr. Pixley KaSeme Street, Durban;

“MEC for local government” means the MEC responsible for local government in KwaZulu-Natal;

“municipal council” or **“council”** means the eThekweni municipal council, a municipal council referred to in section 157(1) of the Constitution;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

“municipality” means eThekweni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of PN343 of 2000 (KZN);

“tariff” means fees and charges levied by the municipality in respect of any function or service provided by the municipality to the local community, and includes a surcharge on such tariff but excludes the levying of rates by the Municipality in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

Interpretation of the By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 APPLICATION

Adoption and Implementation of Tariff Policy

3.(1) The municipality must adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and which complies with the provisions of the Municipal Systems Act, the Municipal Finance Management Act and any other applicable legislation.

(2) The tariff policy adopted in terms of subsection (1) must be reviewed annually by the municipality.

(3) The municipality shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

Tariff Policy

4.(1) The municipality's tariff policy applies to all tariffs imposed by the municipality.

(2) The tariff policy must reflect the principles referred to in the Municipal Systems Act, namely that—

- (a) users of municipal services should be treated equitably in the application of tariffs;
- (b) the amount individual users pay for municipal services should generally be in proportion to their use of that service;
- (c) poor households must have access to at least basic services through—
 - (i) tariffs that cover only operating and maintenance costs;
 - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service;
 - (iii) any other direct or indirect method of subsidisation of tariffs for poor households;
- (d) tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;
- (e) tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidisation from sources other than the service concerned;
- (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;

- (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
- (h) the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged; and
- (i) the extent of subsidisation of tariffs for poor households and other categories of users should be fully disclosed.

(3) The municipality's tariff policy must—

- (a) specify the manner in which the principles referred to in subsection (2) are to be implemented;
- (b) specify the basis of differentiation, if any, between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination; and
- (c) include any further enforcement mechanisms the municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection By-law and Policy.

General Power to Levy and Recover Fees, Charges and Tariffs

5.(1) The municipality has the power to—

- (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
- (b) recover collection charges and interest on any outstanding amount.

(2) Fees, charges and tariffs referred to in subsection (1) are levied by resolution passed by the municipal council with a supporting vote of a majority of its members.

(3) After a resolution contemplated in terms of subsection (2) has been passed, the municipal manager must, without delay—

- (a) conspicuously display a copy of the resolution for a period of at least 30 days at the City Hall and at such other places within the municipality to which the public has access as the municipal manager may determine;
- (b) publish in a newspaper of general circulation in the municipality a notice stating—
 - (i) that a resolution as contemplated in subsection (3) has been passed by the council;
 - (ii) that a copy of the resolution is available for public inspection during office hours at the City Hall and at the other places specified in the notice; and

- (iii) the date on which the determination will come into operation; and
- (c) seek to convey the information referred to in paragraph (b) to the local community by means of radio broadcasts covering the area of the municipality.

(4) The municipal manager must forthwith send a copy of the notice referred to in subsection (3)(b) to the MEC for local government concerned.

Enforcement of Tariff Policy

6.(1) The municipality's tariff policy shall be enforced through—

- (a) its Credit Control and Debt Collection By-law and Policy; and
- (b) any other enforcement mechanism stipulated in the Tariff Policy.

CHAPTER 3 GENERAL MATTERS

Delegations

7.(1) Subject to the Constitution and applicable national and provincial laws, any –

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) function; or
- (c) duty

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act."

(3) Any delegation contemplated in this section must be recorded in the System of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation;
- (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Short Title and Commencement

8. This By-law is called the eThekweni Municipality: Tariff By-law, 2013, and takes effect on the date of the publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

No. 94**15 kuNcwaba 2013****UMTHETHO KAMASIPALA WAMATHARIFU 2013**

Wenzelwe ukuhlinzekela ukusungulwa nokusetshenziswa kwenqubomgomo yamatharifu; ukunikeza amandla okubiza nokuqoqa izimali, izimali ezibizwayo kanye namatharifu nokuhlinzekela okunye okuphathelene nalokho.

ISENDLALELO

NJENGOBA isigaba 229(1) soMthethosisekelo sigunyaza umasipala ukuba ukhokhise –

- (a) amarates omhlaba nezimali ezengeziwe ezimalini ezikhokhelwa imisebenzi ehlinzekwa umasipala noma egameni likamasipala; futhi
- (b) uma ugunyazwa umthetho kazwelonke, ukhokhise ezinye izintela, izimali nemisebenzi ehambisana nohulumeni basekhaya noma nomkhakha wohulumeni basekhaya lowo masipala ongena ngaphansi kwabo;

NJENGOBA ngokwesigaba 75A se-Municipal Systems Act, umasipala –

- (a) ungabiza futhi uqoqe izimali, ukhokhise noma ufune amatharifu mayelana nanoma imuphi umsebenzi noma izinsiza ezihlinzekwa umasipala; futhi
- (b) ungakhokhisa izindleko zokuqoqa izikweletu nenzalo kunoma isiphi isikweletu esingakhokhiwe;

NJENGOBA ngokwesigaba 74(1) se-Municipal Systems Act, umkhandlu kamasipala kumele usungule futhi usebenzise inqubomgomo yamatharifu mayelana nokubizwa kwezimali ezikhokhelwa imisebenzi kamasipala ehlinzekwa umasipala ngqo noma ngokwezivumelwano zokuhlinzekwa kwezidingo, futhi ehambisanayo nezinhlinzeko ze-Municipal Systems Act, i-Municipal Finance Management Act neminye imithetho esebenzayo;

NJENGOBA ngokwesigaba 75 se-Municipal Systems Act, umkhandlu kamasipala kumele usungule umthetho kamasipala ozokwenza kuqaliswe futhi kuphoqeletwe ukusetshenziswe kwenqubomgomo yawo yamatharifu;

NANJENGOBA umthetho kaMasipala osungulwe ngokwesigaba 75 se-Municipal Systems Act ungahlukanisa phakathi kwemikhakha ehluhahlukene yabasebenzisa izidingo zikamasipala, yabakweletayo, yabahlinzeka izidingo, yemisebenzi, yamazinga emisebenzi kanjalo nezindawo ezahlukahlukene uma nje lokho kwahlukanisa kungeke kuholele ekucwaseni okungafanele.

NGAKHO-KE uMkhandlu kaMasipala waseThekwini, ngokwesigaba 156 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1998, sifundwa nesigaba 11 se-Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), ngalokhu usungula lo Mthetho kaMasipala olandelayo:

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2. Ukuhunyushwa koMthetho kaMasipala

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3. Ukusungulwa nokuSebenza kweNqubomgomo yamaTharifu
4. Inqubomgomo yamaTharifu
5. Amandla ejwayelekile okubiza nokuqoqa izimali, okukhokhisa namatharifu
6. Ukuphoqelelwa kweNqubomgomo yamatharifu

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7. Ukudluliselwa kwamandla
8. Isihloko esifingqiwe nokuqala kokusebenza komthetho

ISAPHLUKO 1 UKUHUNYUSHWA

Izincazelo

1. Kulo Mthetho kaMasipala, ngaphandle uma ingqikithi isho okwehlukile –
“uMthethosisekelo” kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika;

“i-City Hall” kushiwo amahhovisi amakhulu ezokuphatha kamasipala, atholakala ku-Dr Pixley KaSeme Street, eThekwini;

“uNgqongqoshe wezohulumeni basekhaya” kushiwo uNgqongqoshe obhekele ezohulumeni basekhaya KwaZulu-Natali;

“umkhandlu kamasipala” noma **“umkhandlu”** kushiwo umkhandlu kamasipala waseThekwini, umkhandlu kamasipala okukhulunywe ngawo esigabeni 157 soMthethosisekelo;

“i-Municipal Finance Management Act” kushiwo Local Government: Municipal Finance Management Act, 2003 (uMthetho No. 56 ka 2003);

“imenenja kamasipala” kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo zoMasipala njengenhloko yezokuphatha yomkhandlu kamasipala;

“i-Municipal Systems Act” kushiwo i-Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“umasipala” kushiwo uMasipala waseThekwini, umasipala osemkhakheni A njengoba kuhlangoziwe ngokwesigaba 155(1) soMthethosisekelo futhi osungulwe ngokweSaziso sesiFundazwe No. 343 sika 2000 (KZN);

Ukuhunyushwa koMthetho kaMasipala

2. Uma kuba nokushayisana phakathi kombhalo wesiNgisi nombhalo ohunyushiwe walo Mthetho kaMasipala, kuyosebenza umbhalo wesiNgisi.

ISAHLUKO 2

UKUSEBENZA KOMTHETHO

Ukwamukelwa nokuqaliswa kokusebenza kweNqubomgomo yamaTharifu

3.(1) Umasipala kumele amukele futhi aqalise ukusebenza kwenqubomgomo yamatharifu emayelana nokubizwa kwezimali ezikhokhelwa imisebenzi ehlinzekwa umasipala ngqo noma

ehlinzekwa ngokwezivumelwano zokuhlinzekwa kwemisebenzi, futhi ehambisanayo nezinhlinzeko zoMthetho weziNhlelo zoMasipala, noMthetho wokuPhathwa kweziMali zoMasipala nanoma imuphi omunye umthetho osebenzayo.

(2) Inqubomgomo esungulwe ngokwesigatshana (1) kumele ibuyezwe minyaka yonke umasipala.

(3) Umasipala angeke ukwazi ukunquma amatharifu ngaphandle kwenqubomgomo yamatharifu esemthethweni.

Inqubomgomo yamaTharifu

4.(1) Inqubomgomo yamatharifu kamasipala isebenza kuwona wonke amatharifu anqunywe umasipala.

(2) Inqubomgomo yamatharifu kumele ikhombise imigomo okukhulunywe ngayo eMthethweni weziNhlelo zoMasipala okungukuthi –

(a) abantu abasebenzisa izinsiza zikamasipala kumele baphathwe ngendlela elinganayo uma sekunqunywa amatharifu;

(b) inani elikhokhwa abantu abathola izinsiza zikamasipala kumele silingane nesamba sezinsiza abazitholile;

(c) imizi entulayo kumele ikwazi ukuthola okungenani izidingongqangi –

(i) ngamatharifu abhekelela izindleko zokuqhuba umsebenzi nokugcina impahla isesimweni esifanele kuphela;

(ii) ngamatharifu ayisipesheli noma okubonelela kulabo abazisebenzisa kancane izinsiza noma abathola izidingongqangi ezisemthethweni kuphela;

(iii) nanoma iyiphi enye indlela engasetshenziswa ukukhokhisa ngqo noma ngandlela thile amatharifu emizini ehlwempu;

(d) amatharifu kumele akhombise izindleko ezihambisana nokuhlinzekwa kwezidingo kubandakanya izindleko zemisebenzi emikhulu, izindleko zokuqhuba umsebenzi, zokugcina impahla isesimweni esifanele, zokuphatha nokushintsha impahla, kanye nenzalo;

(e) amatharifu kumele anqunywe ngendlela ezoqinisekisa ukubhekela isimo sezimali sangomuso, kubhekelelwa ukuxhaswa ngezimali ngeminye imithombo ngale kwalezo zinsiza ezihlinzekwayo;

(f) kungaphinde kuhlinzekelwe, ezimweni ezifanele ukuba kubizwe imali eyengeziwe kwitharifu yomsebenzi ohlinzekiwe;

(g) kungahlinzekelwa ukuthi kugqugquzelwe ukuthuthukiswa komnotho wendawo ngokuthi kunqunywe amatharifu ayisipesheli azokhokhwa imikhakha ethile yezamabhezini nezimboni;

(h) kumele kugqugquzelwe ukuthi kusetshenziswe izinsiza ngendlela eyongayo, efanele nelungile, kuvusetshenziswe kabusha izibi ezingaphinde zisebenziseke, kanye nezinye izindlela ezivikela imvelo; futhi

(i) kumele kudalulwe ngokusobala umxhaso wezimali wamatharifu emizi entulayo neminye imikhakha yabathola izinsiza.

(3) Inqubomgomo yamatharifu kamasipala kumele –

(a) isho indlela okusosetshenziswa ngayo imigomo okukhulunywe ngayo kwisigatshana (2);

(b) isho izizathu zokuhlukaniswa, uma kukhona, kwemikhakha ehlukehukene yabasebenzisa izinsiza zikamasipala, yabakweletayo, yabahlizeka ngemisebenzi, yemisebenzi, yamazanga emisebenzi, yezindawo ezahlukehene nokunye uma nje ukwahlukana kungeke kuholele ekucwaseni okungafanele; futhi

(c) ibandakanye noma iziphi ezinye izindlela zokuphoqelela umasipala afisa ukuzibeka ngaphezu kwalezo eziqokethwe iNqubomgomo noMthetho kaMasipala wokuLawula nokuQoqa iziKweletu.

Amandla ejwayelekile okubiza nokuqoqa izimali, izimali ezibizwayo namatharifu

5.(1) Umasipala unamandla –

(a) okubiza nokuqoqa izimali, okukhokhisa noma okufuna amatharifu mayelana nanoma imuphi umsebenzi noma usizo oluhlinzekwe umasipala; kanye

(b) nokubiza imali yokuqoqa izikweletu kanye nenzalo mayelana nanoma iyiphi imali engakhokhiwe.

(2) izimali ezikhokhwayo namatharifu okukhulunywe ngawo kwisigatshana (1) kunqunywa ngesinqumo esithathwa umkhandlu kamasipala ngokwesekwa yiningi lamalungu awo.

(3) Uma sekuthathwe isinqumo esihlongozwe ngokwesigatshana (2), umenenja kamasipala kumele, ngaphandle kokupholisa amaseko –

(a) ibeke obala ikhophi yesinqumo okungenani isikhathi esiyizinsuku ezingama-30 e-City Hall nakwezinye izindawo ezikumasipala lapho umphakathi ukwazi ukufinyelela khona njengoba kunganquma imenenja kamasipala;

(b) ishicilele isaziso ephephandabeni elitholakala kumasipala, esiveza ukuthi –

(i) isinqumo okukhulunywe ngaso esigabeni 3.5 siphasisiwe umkhandlu;

(ii) ukuthi ikhophi yesinqumo iyathokakala ukuze ibonwe umphakathi ngezikhathi zokusebenza e-City Hall nakwezinye izindawo ezibalwe esazisweni; futhi

(iii) esisho usuku okuyoqala ukusebenza ngalo isinqumo; futhi

(c) izame ukudlulisa ulwazi okukhulunywe ngalo endimeni (b) emphakathini ngokuthi lusakazwe emsakazweni olalelwa endaweni engaphansi kukamasipala.

(4) Imenenja kamasipala kumele ngokushesha ithumele ikhophi yesaziso okukhulunywe ngayo kwisigatshana (3)(b) kuNgqongqoshe wezohulumeni basekhaya othintekayo.

Ukuphoqelelwa kweNqubomgomo yamaTharifu

6.(1) Inqubomgomo yamatharifu kamasipala kumele iphoqeletwe –

(a) ngokusebenzisa iNqubomgomo noMthetho kaMasipala wokuLawula nokuQoqa iziKweletu; kanye

(b) nanoma iluphi olunye uhlelo olungasetshenziswa olubalulwe kwiNqubomgomo yamaTharifu.

ISAPHLUKO 3

IZINHLINZEKO EZEJWAYELEKILE

Ukudluliselwa kwamandla

67. (1) Kweyame kuMthethosisekelo nemithetho efanele kazwelonke neyesifundazwe –

(a) namaphi amandla, ngaphandle kwamandla okukhulunywa ngawo esigabeni 160(2) soMthethosisekelo;

(b) namuphi umsebenzi; noma

(c) nasiphi isibopho,

ngokwalo Mthetho KaMasipala, okunikezwe uMasipala noma naziphi ezinye izinhlaka zikaMasipala zezombusazwe, abaphathizikhundla bezombusazwe, ikhansela, umsebenzi, kungaphinde kudluliselwe yilolo hlaka lwezombusazwe, yilowo mphathisikhundla wezombusazwe, yilelo khansela, noma yilowo msebenzi esikhungweni sangaphakathi, noma kumsebenzi oqashwe wuMasipala.

(2) (2) Ukwedlulisela amandla ngokulawula kwesigatshana (1) kufanele kwenziwe ngokulandela uhlelo lokwedluliswa kwamandla olwemukelwa ngumkhandlu ngokulandela isigaba 59(1) se Local Government: Municipal Systems Act, 2000 (Umthetho Ongunombolo 32 ka 2000), kuncike endleleni esetshenziswayo ebalulwe esigabeni 59(2) salo mthetho obaluliwe.

(3) Nakuphi ukudluliselwa kwamandla okuhlongozwa kulesi sigaba kumele kuqoshwe ohleni lwamandla adluliseliwe, okumele luqukathe ulwazi mayelana –

(a) naleso sikhungo noma lowo muntu odlulisela amandla noma odlulisa amandla adlulisiwe;

(b) nowemukela lawo mandla adlulisiwe noma odluliselwe amandla adlulisiwe; kanye

(c) nemibandela ehambisana nalawo mandla adluliselwe.

Isihloko esifingqiwe nokuqala kokusebenza koMthetho

8. Lo Mthetho kaMasipala ubizwa noMthetho wamaTharifu kaMasipala weTheku, 2013, kanti uqala ukusebenza ngosuku oyoshicilelwa ngalo kwiGazethi yesiFundazwe, noma ngosuku oluyobhalwa esazisweni esiyoshicilelwa lapho.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510