



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI

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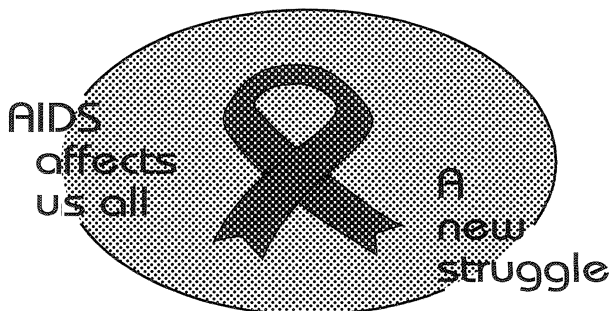
Vol. 7

PIETERMARITZBURG,

23 SEPTEMBER 2013
23 kuMANDULO 2013

No. 1026

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MUNICIPAL NOTICE—MUNISIPALE KENNISGEWING—ISAZISO SIKAMASIPALA

No. 109**23 September 2013****DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
REGULATION NOTICE****KWAZULU-NATAL REGULATIONS ON THE PARTICIPATION AND ROLE OF
TRADITIONAL LEADERS IN MUNICIPAL COUNCILS AND MUNICIPALITIES**

I hereby make the Regulations contained in the Schedule hereto under section 81(4) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), in order to regulate the participation of traditional leaders in the proceedings of municipal councils, and to prescribe the role of traditional leaders in the affairs of a municipality.

Given under my Hand at Pietermaritzburg on this day of, Two thousand and Thirteen.

N DUBE

Member of the Executive Council of the Province of KwaZulu-Natal
responsible for Local Government and Traditional Affairs

SCHEDULE

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), bears the meaning so assigned to it, and, unless the context otherwise indicates –

“**Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“**Provincial Gazette**” means the official *Provincial Gazette* of the Province of KwaZulu-Natal;

“**responsible Member of the Executive Council**” means the KwaZulu-Natal Member of the Executive Council responsible for Local Government and Traditional Affairs; and

“**traditional leader**” means a senior traditional leader recognised as such in accordance with the provisions of section 19 of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005), or the corresponding provision of any Provincial Act which may succeed or replace that Act, and who has, for the purposes of these Regulations, been identified by the responsible Member of the Executive Council by notice in the *Provincial Gazette*, in accordance with the provisions of section 81(2) of the Act.

Participation in municipal councils

2.(1) A traditional leader who is ordinarily resident in the area of jurisdiction of a municipality may participate in the proceedings of that municipal council.

(2) A traditional leader –

(a) may participate in the proceedings of the relevant municipal council and may perform such other official or ceremonial duties delegated to him or her by the municipal council;

- (b) may attend and participate in any meeting of the relevant municipal council, and may submit motions, make proposals and ask questions;
- (c) may attend and participate in meetings of a committee of the relevant municipal council established in terms of sections 79 and 80 of the Act, and may submit motions, make proposals and ask questions;
- (d) is subject to the appropriate provisions of the Code of Conduct contained in Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and the Standing Rules and Orders of the relevant municipality;
- (e) is not entitled to vote in any meeting of the municipal council or council committee and cannot be included for the purpose of establishing a *quorum* in the municipal council or council committee; and
- (f) may address and advise the municipal council on any –
 - (i) matter directly or indirectly affecting traditional leadership or the relevant traditional community; or
 - (ii) other matters involving traditional communities in the area of jurisdiction of the relevant municipal council.

Role of traditional leaders

3. A traditional leader must assume the following roles in the municipality –

- (a) identify and inform the municipality of community needs in a non-partisan manner;
- (b) influence the municipality in embracing and promoting heritage, language, customs and traditions in accordance with the letter and spirit of the Constitution;
- (c) facilitate the involvement of traditional communities in public participation and give input on the municipally integrated development plans;
- (d) support the municipality in promoting integrated local economic development planning;
- (e) alert the municipality to any hazard or calamity that threatens the relevant traditional community, thus contributing to disaster management;
- (f) participate in the development of policy and legislation in the municipality;
- (g) recommend appropriate interventions aimed at contributing to the development of, and service delivery in, the relevant traditional community; and
- (h) support the municipality in the development and implementation of its programmes.

Relationship between municipalities and traditional leaders

4. A municipality and traditional leaders must –

(a) recognise and respect –

- (i) the local sphere of government as a distinctive, interdependent and interrelated sphere of government as envisaged and provided for in the Constitution; and
- (ii) their respective status, roles, powers and functions as organs of state within the local sphere of government,

so as to give effect to the principles of co-operative governance as set out in Chapter 3 of the Constitution; and

(b) co-operate with one another in mutual trust and good faith by –

- (i) fostering sound working relations with one another;
- (ii) assisting and supporting one another in the execution of their roles and responsibilities;
- (iii) developing a communication strategy and mutually agreed upon protocols for information sharing, co-ordination and consultation purposes; and
- (iv) adopting mutually agreed upon procedures and internal dispute resolution mechanisms.

Breach of Code of Conduct

5. In the event of any breach of, or non-compliance with, the Code of Conduct contained in Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), by a traditional leader, the relevant municipal council must, forthwith –

- (a) inform the Provincial House of Traditional Leaders;
- (b) inform the responsible Member of the Executive Council; and
- (c) investigate and finalise the matter of any alleged breach or non-compliance in accordance with the provisions of Schedule 1 to the Local Government: Municipal Systems Act, 2000.

Short title

6. These Regulations are called the KwaZulu-Natal Regulations on the Participation and Role of Traditional Leaders in Municipal Councils and Municipalities, 2013.

No. 109

23 kuMandulo 2013

**UMNYANGO WEZOKUBUSA NGOKUBAMBISANA NEZOMDABU
ISAZISO NGEMITHETHONQUBO**

**IMITHETHONQUBO YAKWAZULU-NATALI EMAYELANA NEQHAZA NENDIMA YABAHOLI
BOMDABU EMIKHANDLWINI YOMASIPALA NAKOMASIPALA**

Ngalokhu ngenza iMithethonqubo equkethwe oHlelweni olungezansi ngaphansi kwesigaba 81(4) soMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998), ukuze kulawulwe iqhaza labaholi bomdabu emikhandlwini yomasipala, nokuthi kunqunywe indima yabaholi bomdabu ezindabeni ezithinta omasipala.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku, ku.....,
oNyakeni weziNkulungwane eziMbili neShumi naNtathu.

N DUBE

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali
elibhekele oHulumeni baseKhaya nezoMdabu

UHLELO

Izincazelo

1. Kule mithethonqubo, noma iliphi igama elinikezwe incazelo eMthethweni weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998), linaleyo ncazelo elinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile –

“iGazethi yesiFundazwe” kushiwo *iGazethi* esemthethweni yesiFundazwe saKwaZulu-Natali;

“iLungu loMkhandlu oPhethe” kushiwo iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele oHulumeni baseKhaya nezoMdabu;

“umholi womdabu” kushiwo umuntu obekwe njengomholi womdabu esikhundleni esiphezulu ngokuhambisana nezinhlinzeko zesigaba 19 soMthetho wobuHoli boMdabu nokuBusa, 2005 (uMthetho No. 5 ka 2005), noma nenhlinzeko ehambisana naso yanoma imuphi uMthetho wesiFundazwe ongalandela noma ongafakwa esikhundleni salowo Mthetho, futhi ngokwezinhloso zale Mithethonqubo, ohlonzwe iLungu loMkhandlu oPhethe ngesaziso *kwiGazethi* yesiFundazwe, ngokuhambisana nezinhlinzeko zesigaba 81(2) soMthetho;

“uMthetho” kushiwo uMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

“uMthethosisekelo” kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (uMthetho 108 ka 1996).

Ukubamba iqhaza emkhandlwini yomasipala

2.(1) Umholi womdabu ohlala endaweni engaphansi kukamasipala angabamba iqhaza kulowo mkhandlu kamasipala.

(2) Umholi womdabu –

(a) angabamba iqhaza emkhandlwini kamasipala othintekayo futhi angenza eminye

imisebenzi abelwe yona umkhandlu kamasipala;

(b) angethamela imihlangano noma abambe iqhaza kunoma imuphi umhlangano womkhandlu kamasipala othintekayo, futhi angaletha izethulo, enze neziphakamiso abuye abuze nemibuzo;

(c) angethamela imihlangano futhi abambe iqhaza emihlanganweni yekomidi lomkhandlu kamasipala othintekayo elisungulwe ngokwezigaba 79 no 80 zoMthetho, futhi angaletha izethulo, enze neziphakamiso abuye abuze nemibuzo;

(d) ubophezelwe izinhlinzeko zoMgomo wokuPhatha eziqukethwe oHlelweni 1 loMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), noMthetho eMile kanye neMiyalelo kamasipala othintekayo;

(e) akanalo ilungelo lokuvota kunoma imuphi umhlangano womkhandlu kamasipala noma wekomidi likamasipala futhi angeke abalwa uma kuhlangukiswa isibalo sabantu okufanele babambe umhlangano womkhandlu kamasipala noma wekomidi likamasipala; futhi

(f) angethula inkulumo aphinde eluleke umkhandlu kamasipala –

(i) nganoma iluphi udaba oluthinta ngqo noma ngandlela thile ubuholi bomdabu noma umphakathi wasemakhaya othintekayo;

(ii) nanganoma iluphi olunye udaba olubandakanya imiphakathi yasemakhaya endaweni engaphansi komkhandlu kamasipala othintekayo.

Indima yabaholi bomdabu

3. Umholi womdabu kumele adlale le ndima kumasipala –

(a) ukuhlonza kanye nokwazisa umasipala ngezidingo zomphakathi ngendlela engenakuchema;

(b) ukugqugquzela umasipala ukuthi wazise, uqhakambise amagugu, ulimi, amasiko nemithetho yomdabu ngokuhambisana nomoya woMthethosisekelo;

(c) ukuqinisekisa ukuthi imiphakathi yasemakhaya iyabandakanywa futhi ibeka izimvo zayo ezinhlelweni ezididiyele zentuthuko zikamasipala;

(d) ukweseka umasipala ekugqugquzeleni uhlelo oludidiyele lokuthuthukiswa komnotho ezingeni lomasipala;

(e) ukuqwashisa umasipala nganoma iyiphi ingozi noma inhlekelele engehlela umphakathi wasemakhaya, ngalokho usiza ekulawuleni izinhlekelele;

(f) ukubamba iqhaza ekusungulweni kwezinqubomigomo nemithetho kamasipala;

(g) ukwenza izincomo ezifanele ezihlose ukulekelela kwezentuthuko, ekulethweni kwezidingo emiphakathini wasemakhaya othintekayo;

(h) nokweseka umasipala ekusunguleni nasekuqaliseni izinhlelo zawo.

Ubudlelwano phakathi komasipala nabaholi bomdabu**4. Umasipala kanye nabaholi bomdabu kumele –****(a) baqonde futhi bahloniphe –**

(i) izinga lohulumeni basekhaya njengoluzimele, njengolusebenzisana nanjengoluyingxenye kahulumeni kazwelonke nowesifundazwe njengoba kubekiwe futhi kuhlizekiwe kuMthethosisekelo; kanye

(ii) nokubaluleka kwesikhundla, kwendima, kwamandla nemisebenzi yabo ngokwehlukana njengezinhlaka zombuso kohulumeni basekhaya,

ukufezekisa imigomo yokubusa ngokubambisana njengoba ibekwe kwiSahluko 3 soMthethosisekelo; futhi

(b) basebenzisane ngokubambisana nangokwethembana –

(i) ngokuqinisekisa ubudlelwane bokusebenzisana obusimeme;

(ii) ngokusizana nangokwesekana ekwenzeni imisebenziyabo nasekufezeni izibopho zabo;

(iii) ngokusungula indlela yokuxhumana kanye nezinqubo okuvunyelwene ngazo ngenhloso yokwabelana ngolwazi, yokudidiyela neyokubonisana; kanye

(iv) nokulandela izinqubo okuvunyelwene ngazo nezindlela zokuxazulula ukungaboni ngasolinye ngaphakathi.

Ukwephulwa koMgomo wokuziPhatha

5. Uma kwenzeka umholi womdabu ephula noma engawulandeli uMgomo wokuziPhatha oqukethwe oHlelweni 1 loMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), umkhandlu kamasipala othintekayo kumele ngokushesha –

(a) wazise iNdlu yabaHoli boMdabu yesiFundazwe;

(b) wazise iLungu loMkhandlu oPhethe; futhi

(c) uphenye bese uthatha isinqumo ngodaba lokwephula noma lokungalandeli uMgomo wokuziPhatha ngokuhambisana nezinhlinzeko zoHlelo 1 loMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000.

Isihloko esifingqiwe

6. Le Mithethonqubo izobizwa ngokuthi iMithethonqubo yaKwaZulu-Natali emayelana neQhaza neNdima yabaHoli boMdabu emiKhandlwini yoMasipala nakoMasipala.

No. 109

23 September 2013

**DEPARTEMENT VAN SAMEWERKENDE REGERING EN TRADISIONELE SAKE
REGULASIEKENNISGEWING**

**KWAZULU-NATAL REGULASIES BETREFFENDE DIE DEELNAME AAN EN ROL VAN
TRADISIONELE LEIERS IN MUNISIPALE RADE EN MUNISIPALITEITE**

Hiermee maak ek die Regulasies vervat in die Bylae hieraan, kragtens artikel 81(4) van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), ten einde om die deelname van tradisionele leiers aan die verrigtinge van munisipale rade te reguleer, en om die rol van tradisionele leiers in die aangeleenthede van 'n munisipaliteit voor te skryf.

Gegee onder my Hand te Pietermaritzburg op hierdie dag van,
Tweeuisend-en-dertien.

ME N DUBE, LPW

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal
verantwoordelik vir Plaaslike Regering en Tradisionele Sake

BYLAE**Omskrywings**

1. In hierdie Regulasies, enige woord of uitdrukking waaraan 'n betekenis geheg word in die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), dra die betekenis so toegeken aan dit, en, tensy uit die samehang anders blyk, beteken –

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);

“**Provinsiale Koerant**” die amptelike *Provinsiale Koerant* van die Provinsie van KwaZulu-Natal;

“**tradisionele leier**” 'n senior leier as sodanig erken in ooreenstemming met die bepalings van artikel 19 van die KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2005 (Wet No. 5 van 2005), of die ooreenstemmende bepaling van enige Provinsiale Wet wat daardie Wet kan opvolg of vervang, en wie, vir die doeleindes van hierdie Regulasies, deur die verantwoordelike Lid van die Uitvoerende Raad geïdentifiseer is, by kennisgewing in die *Provinsiale Koerant*, ooreenkomstig die bepalings van artikel 81(2) van die Wet;

“**verantwoordelike Lid van die Uitvoerende Raad**” die KwaZulu-Natal Lid van die Uitvoerende Raad verantwoordelik vir Plaaslike Regering en Tradisionele Sake; en

“**Wet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998).

Deelname aan munisipale rade

2.(1) 'n Tradisionele leier wat normaalweg woonagtig is in die juridiksiegebied van 'n munisipaliteit kan aan die verrigtinge van daardie munisipale raad deelneem.

(2) 'n Tradisionele leier –

(a) kan aan die verrigtinge van die betrokke munisipaliteit deelneem en kan sodanige ander amptelike of seremoniële pligte wat aan hom of haar gedelegeer is deur die munisipale raad verrig;

(b) kan enige vergadering van die betrokke munisipale raad bywoon en daaraan

- deelneem, en kan mosies indien, voorstelle maak en vrae stel;
- (c) kan vergaderings van 'n komitee van die tersaaklike munisipale raad, ingestel ingevolge artikels 79 en 80 van die Wet, bywoon en daaraan deelneem en kan mosies indien, voorstelle maak en vrae stel;
- (d) is onderhewig aan die toepaslike bepalings van die Gedragskode vervat in Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), en die Staande Reëls en Orders van die tersaaklike munisipaliteit;
- (e) is nie geregtig daarop om te stem by enige vergadering van die munisipale raad of raadskomitee nie en kan nie ingesluit word vir die doel om 'n kworum te bepaal in die munisipale raad of raadskomitee nie; en
- (f) kan die munisipale raad toespreek en van advies bedien oor enige –
- (i) aangeleentheid wat tradisionele leierskap of die tersaaklike gemeenskap regstreeks of onregstreeks beïnvloed; of
 - (ii) enige ander aangeleentheid wat van betrekking is op tradisionele gemeenskappe in die juridisdiksiegebied van die tersaaklike munisipale raad.

Rol van tradisionele leiers

3. 'n Tradisionele leier moet die volgende rolle in die munisipaliteit aanvaar –

- (a) op 'n onpartydige wyse, gemeenskapsbehoefte identifiseer en die munisipaliteit daarvan verwittig;
- (b) die munisipaliteit positief beïnvloed vir die aanneming en bevordering van erfenis, taal, gebruike en tradisies ooreenstemmend met die letter en gees van die Grondwet;
- (c) die betrokkenheid van tradisionele gemeenskappe by publieke deelname fasiliteer en insette lewer oor die munisipaal-geïntegreerde ontwikkelingsplanne;
- (d) die munisipaliteit ondersteun in die bevordering van geïntegreerde plaaslike ekonomiese ontwikkelingsbeplanning;
- (e) die munisipaliteit waarsku oor enige gevaar of ramp wat die tersaaklike tradisionele gemeenskap bedreig, aldus bydra tot rampsbestuur;
- (f) betrokke wees by beleids- en wetgewingsontwikkeling in die munisipaliteit;
- (g) aanbevelings maak vir toepaslike ingrypings gemik op lewering van bydraes tot die ontwikkeling van, en dienslewering in, die tersaaklike tradisionele gemeenskap; en
- (h) die munisipaliteit ondersteun in die ontwikkeling en implementering van sy programme.

Verhouding tussen munisipaliteite en tradisionele leiers

4. 'n Munisipaliteit en tradisionele leiers moet –

(a) die volgende erken en respekteer –

- (i) die plaaslike sfeer van regering as 'n eiesoortige, interafhanklike en wedersydse verbonde regeringsfeer, soos beoog en voorsien in die Grondwet; en
- (ii) hul onderskeie status, rolle, bevoegdhede en werksaamhede as staatsorgane binne die plaaslike sfeer van regering,

ten einde uitwerking te gee aan die beginsels van samewerkende regering soos uiteengesit in Hoofstuk 3 van die Grondwet; en

(b) met mekaar in wedersydse vertroue en te goeder trou saamwerk deur –

- (i) die kweek van gesonde onderlinge werksverhoudinge;
- (ii) onderlinge bystand en ondersteuning te lewer in die uitvoering van hul rolle en verantwoordelikhede;
- (iii) ontwikkeling van 'n kommunikasiestrategie en protokolle, waarvoor onderling ooreengekom is, vir die deel van inligting, koördinerings- en oorlegplegingsdoeleindes; en
- (iv) prosedures en interne geskilbeslegtingsmeganismes, wat onderling ooreengekom is, te aanvaar.

Skending van Gedragskode

5. In die geval van enige skending of nie-nakoming deur 'n tradisionele leier, in ooreenstemming met die Gedragskode vervat in Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), moet die tersaaklike munisipale raad onverwyld –

- (a) die Provinsiale Huis van Tradisionele Leiers verwittig;
- (b) die verantwoordelike Lid van die Uitvoerende Raad verwittig; en
- (c) die aangeleentheid van enige beweerde skending of nie-nakoming in ooreenstemming met die bepalings van Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, ondersoek en finaliseer.

Kort titel

6. Hierdie Regulasies word die KwaZulu-Natal Regulasies betreffende die Deelname aan en Rol van Tradisionele Leiers in Munisipale Rade en Munisipaliteite, 2013, genoem.

GENERAL NOTICE

No. 56**23 September 2013****DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****PUBLICATION OF THE DRAFT KWAZULU-NATAL REGULATIONS ON THE PARTICIPATION AND ROLE OF TRADITIONAL LEADERS IN MUNICIPAL COUNCILS AND MUNICIPALITIES, 2013, IN COMPLIANCE WITH SECTION 154(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996**

1. In compliance with section 154(2) of the Constitution of the Republic of South Africa, 1996, the Draft Regulations on the Participation and Role of Traditional Leaders in Municipal Councils and Municipalities, 2013, are hereby published for public comment.

2. Organised local government, municipalities and other interested persons are invited to submit comments in writing on the Draft Regulations by –

- (a) post to the Head of Department, Co-operative Governance and Traditional Affairs, Private Bag X9078, Pietermaritzburg, 3200;
- (b) hand delivery to Room 108, 14th Floor South Tower, Natalia Building, 330 Langalibalele Street, Pietermaritzburg, 3201;
- (b) facsimilie to 033 – 394 9714; or
- (c) electronic mail to hk@kzncogta.gov.za

3. All comments must be received by no later than 31 October 2013, and must clearly be marked:

For Attention: Mr. K W Kuhn

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