



KWAZULU-NATAL PROVINCE
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ISIFUNDAZWE SAKWAZULU-NATALI

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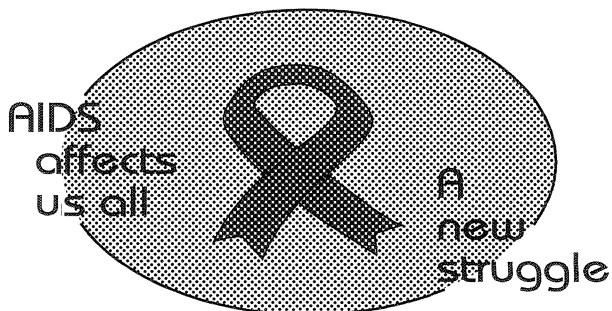
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PIETERMARITZBURG,

29 JULY 2013
29 JULIE 2013
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No. 997

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MUNICIPAL NOTICE—MUNISIPALE KENNISGEWING—ISAZISO SIKAMASIPALA

No. 89

29 July 2013

MUNICIPALITY OF ENDUMENI
TRADING BY-LAW

The Municipal Manager hereby publishes in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the Trading By-law.

Purpose of By-law

The purpose of this by-law is to regulate trading, for the benefit of the public residing and carrying on business within the municipal boundaries of the Endumeni Municipality.

1. **Definitions** – In this by-law, the singular includes the plural and vice versa, and, unless the context otherwise indicates -

"**the Act**" means the Businesses Act, 1991 [Act No. 71 of 1991], and includes the regulations promulgated thereunder; and

"**approval**" means approval by the municipality, and "approved" shall have a corresponding meaning;

"**authorised official**" means –

- (a) an official of the municipality who has been authorised to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];
- (e) an environmental health officer who is registered in terms of legislation to provide environmental health services and/or municipal health services referred to in Schedule 4, Part B of the Constitution and determined in terms of national legislation;

"**foodstuff**" means any article or substance (except a medicine as defined in the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965)) ordinarily eaten or drunk by a person or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;

"**garden or park**" means a garden or park to which the public has a right of access;

"**goods**" means any movable property, and includes a living thing;

"**intersection**" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

"**kerb line**" means a kerb line as defined in Section 1 of the National Road Traffic Act, 1996;

"**licence**" means a licence referred to in Section 2(3) of the Act;

"**litter**" includes any receptacle, container, or other matter, which has been discarded, abandoned, or left behind, by a street trader, or by his or her customers;

"**motor vehicle**" means a motor vehicle as defined in Section 1 of the National Road Traffic Act, 1996;

"**municipal services**" means any system conducted by or on behalf of the municipality, for the collection, conveyance, treatment or disposal of refuse, sewage or storm water, or for the generation, impounding, storage, purification or supply of water, electricity or other services;

"**municipal service works**" means all property or works of whatever nature necessary for or incidental to any municipal services;

"**municipality**" means the Municipality of Endumeni, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"**nuisance**" means, without limiting the generality of the term, an act, omission, condition or state of affairs that-

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

and "**public nuisance**" shall have a corresponding meaning;

"**prescribed**" means determined, from time to time, by resolution of the municipality;

"**property**", in relation to a trader, means any article, container, vehicle or structure used, or intended to be used, in connection with such business, and includes goods in which he or she trades;

"**public building**" means a building belonging to, or occupied solely by, any sphere of the government, including the municipality;

"public monument" means any one of the "public monuments and memorials", as defined in terms of Section 2 of the National Heritage Resources Act, 1999 [Act No. 25 of 1999];

"public place" means any square, park, recreation ground or open space which is vested in the municipality or to which the public has the right to use, or which is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's office, and has been provided for the use of the public or the owners of erven in such township;

"public road" means a public road as defined in Section 1 of the National Road Traffic Act, 1996;

"roadway" means a roadway as defined in Section 1 of the National Road Traffic Act, 1996;

"sell" includes -

[a] barter, exchange or hire out;

[b] display, expose, offer or prepare for sale;

[c] store on a public road or public place with a view to sell; or

[d] provide a service for reward;

and **"hawk"** has a corresponding meaning;

"sidewalk" means a sidewalk as defined in Section 1 of the National Road Traffic Act, 1996;

"street furniture" means any furniture installed by the municipality on the street, for public use;

"trader" means a person who carries on the business of trading, and includes any employee of such person;

"trading" means the selling of any goods or the supplying or offering to supply of any service for reward, in a public road, or public place, by a trader;

"verge" means a verge as defined in Section 1 of the National Road Traffic Act, 1996.

2. **Meaning of words and expressions in Businesses Act incorporated in this by-law**
Unless the context otherwise indicates, any words or expressions to which a meaning has been assigned in the Act shall have a corresponding meaning in this by-law.
3. **Single act constitutes trading**
For the purpose of this by-law, a single act of selling or offering or rendering of services in a public road or public place shall constitute trading.
4. **Reference to legislation includes regulations made thereunder**
For the purpose of this by-law, a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.
5. **Assigning responsibilities of a municipal employee to an employee of a service provider, where a service provider has been appointed**
If any provision in this by-law imposes any responsibility of the municipality in or on an employee of the municipality and such responsibility has, in terms of Section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] or any other law, been assigned to a service provider, then the reference in such a provision to such employee must be read as a reference to the service provider or a duly authorised employee of the service provider.
6. **Prohibited conduct**
 - [1] No person shall carry on the business of a trader -
 - [a] at a place or in an area declared by the municipality in terms of Section 6A(2)(a) of the Act as a place or area in which trading is prohibited;
 - [b] in a garden or park to which the public has a right of access;
 - [c] on a verge contiguous to -
 - [i] a building belonging to, or occupied solely by, the municipality, or any other sphere of government;
 - [ii] a church, mosque, synagogue, or other place of worship;
 - [iii] a building declared to be a public monument;
 - [iv] an autoteller bank machine;
 - [d] at a place where it causes an obstruction in respect of -
 - [i] a fire hydrant; or
 - [ii] any entrance to, or exit from, a building;
 - [e] at a place where it is likely to obstruct vehicular traffic;
 - [f] at a place where it could substantially obstruct a pedestrian, in his or her use of a sidewalk;
 - [g] on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control, or any occupier, of that building objects thereto, and such objection is made known to the trader by an authorised official;
 - [h] on a stand or in any area demarcated by the municipality in terms of Section 6A(3)(b) of the Act, if he or she is not in possession of proof that he or she has hired such stand or area from the municipality, or that such stand has otherwise been allocated to him or her by the municipality; and

- [i] on a sidewalk contiguous to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the trader, if the goods are sold by the street without the prior consent of first-mentioned person, and an authorised official has informed the trader that such consent does not exist.
- [2] A person who has hired a stand from, or who has been allocated a stand by, the municipality, as contemplated in terms of subsection (1)(h), may not trade in contravention of the terms and conditions of such lease or allocation.
- 7. Licensing of businesses**
- [1] Any person required to obtain a licence for the carrying on of a business shall comply with the relevant requirements contained in the Act.
- [2] The municipality may establish a procedure for obtaining such licence, including the payment of any fee.
- 8. Restrictions in respect of trading**
- A person carrying on the business of a trader -
- [a] may not sleep overnight at the place of such business;
- [b] may not erect any structure for the purpose of providing shelter, other than a structure provided or approved by the municipality;
- [c] may not place his or her property on a public road or public place, with the exception of his or her motor vehicle or trailer from which trade is conducted, provided that such vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996;
- [d] must ensure that his or her property or area of activity -
- [i] does not cover an area of a public road, or a public place which is greater than 6 (six) square metres (with a maximum length of 3 (three) metres) in extent, unless otherwise approved by the municipality; and,
- [ii] in respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5 (one and a half) metres wide when measured from any contiguous building to the property or area of activity, and not less than 0.5 (one half) metres wide when measured from the kerb line to the property or area of activity;
- [e] may not trade on a sidewalk where the width of such sidewalk is less than 3 (three) metres;
- [f] may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person, or cause damage to any property;
- [g] may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- [h] must, on request by an authorised official or supplier of telecommunications or electricity, or other municipal services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place, or any such service;
- [i] may not attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, postbox, traffic sign, bench or any other street furniture in or on a public road or public place;
- [j] may not carry on such business in such a manner as to -
- [i] create a nuisance;
- [ii] damage or deface the surface of any public road or public place, or any public or private property; or
- [iii] create a traffic or health hazard, or health risk, or both;
- [k] may not make an open fire on a public road or public place, except at a facility designated for such purpose;
- [l] may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
- [m] may not obstruct access to a pedestrian crossing, a parking or loading bay, or other facility for vehicular or pedestrian traffic;
- [n] may not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- [o] may not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of this by-law;
- [p] may not carry on business, or take up a position, or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law;

- [q] may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
- [r] may not place, on a public road or public place, such of his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;
- [s] must, on concluding business for the day, remove his or her property, except any structure provided or approved by the municipality, to a place which is not part of a public road or public place;
- [t] may not store his or her property in a manhole, storm water drain, public toilet, bus shelter or tree; and
- [u] may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of Section 6A(2)(a) of the Act.
- 9. Cleanliness**
A trader must -
- [a] keep the area or site occupied by him or her for the purposes of such business in a clean and sanitary condition;
- [b] keep his or her property in a clean, sanitary and well-maintained condition;
- [c] dispose of litter generated by his or her business in whatever refuse receptacle is provided by the municipality for the public, or at a dumping site of the municipality;
- [d] not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- [e] ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of trade is free of litter;
- [f] take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road, or public place, or into a storm water drain;
- [g] ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities, causes pollution of any kind; and,
- [h] on request by an authorised official, move his or her property, so as to permit the cleansing of the space, or the area or site where he or she is trading, or the effecting of municipal services.
- 10. Signs indicating restricted and prohibited areas**
- [1] The municipality may, by resolution, and in terms of Section 6A(2) of the Act, declare any place in its area of jurisdiction to be an area in which trading is restricted or prohibited, and must, to enable compliance therewith, prescribe, or make, signs, markings or other devices indicating -
- [a] specified hours, goods or services in respect of which trading is restricted or prohibited;
- [b] the location of boundaries in respect of restricted or prohibited areas; and
- [c] any other restriction or prohibition against trading with regard to the area in question.
- [2] The municipality must display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area concerned.
- [3] Any sign erected in terms of this by-law or the Act shall serve as sufficient notice to a street trader, of the prohibition or restriction in respect of the area concerned.
- [4] Any sign may be amended from time to time and displayed by the municipality for the purpose of this by-law, and shall have the same effect as a road sign in terms of the National Road Traffic Act, 1996.
- 11. Leasing of verge and designation of stands or areas for purposes of trading**
- [1] The municipality may, by resolution, and in terms of Section 6A(3)(a) to (c) of the Act -
- [a] lease any verge, or any portion thereof, to the owner or occupier of the contiguous land, on the condition that such owner or occupier shall admit a specified number of traders in stands or places on such verge designated by such owner or occupier;
- [b] set apart and demarcate stands or areas for the purposes of trading on any public road, the ownership or management of which is vested in the municipality, or on any other property in the occupation and under the control of the municipality.
- [c] extend, reduce or disestablish any stand or area referred in the previous subsections; and
- [d] let or otherwise allocate any such stand or area.

- [2] Any such stands or areas may be extended, reduced or disestablished, by resolution of the municipality.
- 12. Removal and impoundment**
- [1] An authorised official may remove and impound any property of a trader which -
- [a] he or she reasonably suspects is being used, or which is intended to be used, or has been used, for or in connection with trading; and
- [b] is found at a place where trading is restricted or prohibited.
- [2] The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
- [3] Any authorised official acting in terms of subsection [1] must, except where goods have been left or abandoned, issue to the person carrying on the business of a trader, a receipt for any property so removed and impounded, which receipt must -
- [a] itemize the property to be removed and impounded;
- [b] provide the address where the impounded property will be kept, and the period of such impoundment;
- [c] state the terms and conditions for the release of the impounded property;
- [d] state the terms and conditions relating to the sale of unclaimed property by public auction; and
- [e] provide the name and contact details of a municipal official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.
- [3] If any property about to be impounded is attached to any immovable property or structure, and such property or structure is under the apparent control of a person present thereat, then any authorised official may order such person to remove the property, and if such person refuses or fails to comply, then he or she shall be guilty of an offence.
- [4] When any person fails to comply with an order to remove the property referred to in subsection [3], any authorised official may take such steps as may be necessary to remove such property.
- 13. Duty and liability of municipality with regard to removal and impoundment**
- [1] In the event that an authorised official removes and impounds any property in terms of the preceding section, the authorised official shall take reasonable steps to ensure that such property is not damaged or lost.
- [2] The municipality shall not be liable for any damage or loss caused to any such property that is removed and impounded, unless such damage or loss is caused as a result of the negligence of the municipality.
- 14. Vicarious responsibility of persons carrying on business**
- [1] When an employee or agent of a trader contravenes a provision of this by-law, the trader shall be deemed to have committed such contravention him- or herself unless such trader satisfies the court that he or she took reasonable steps to prevent such contravention.
- [2] The fact that the trader issued instructions to the employee or agent, prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.
- 15. Offences and penalties**
- [1] Any person who -
- [a] contravenes, or fails to comply with, any provision of this by-law;
- [b] fails to comply with any notice issued in terms of this by-law;
- [c] fails to comply with any lawful instruction given in terms of this by-law; or
- [d] who obstructs or hinders any authorised official in the execution of his or her duties under this by-law -
- is guilty of an offence, and the provisions of the Endumeni Municipality's Offences, Penalties and Appeals Bylaws shall apply *mutatis mutandis* to these Bylaws.
- 16. Regulations**
- [1] The municipality may make regulations regarding -
- [a] the procedure for obtaining a licence, the form of any application to this effect and a tariff of fees payable, as contemplated in terms of section 7(2);
- [b] the provision or approval of any structure for purposes of providing shelter, as contemplated in terms of section 8(b) and (s);
- [c] the declaration of any place to be an area in which trading is restricted or prohibited, and the prescription or making of signs, markings or other devices, as contemplated in terms of section 10;
- [d] the leasing of any verge or any portion thereof, and the setting apart, demarcation, letting or allocation of stands or areas for the purposes of trading, and the extension, reduction or disestablishment thereof, as contemplated in terms of section 11;

- [e] [i] the disposal of any property which has been removed and impounded, as contemplated in terms of section 12; and
 - [e] [ii] the liability of any person for any reasonable expenses incurred in connection with such removal, impoundment and disposal;
 - [f] [i] the prescription of penalties for the offences contemplated in terms of section 15(1);
 - [f] [ii] the issuing of any summons or written notice and payment of an admission of guilt fine, as contemplated in terms of section 15; and
 - [f] [iii] the amendment of such penalties or fines from time to time;
 - [g] any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this by-law.
- [2] [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection [1], cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.
- 17. Repeal of by-laws**
Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter regulated in this by-law, shall be repealed from the date of promulgation of this by-law.
- 18. Short title**
This by-law is called the Trading By-law, 2012, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

ENDUMENI MUNISIPALITEIT
VERORDENING INSAKE HANDEL

Die Munisipale Bestuurder publiseer hiermee ingevolge artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), saamgelees met artikel 162 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), die Verordening insake Handel.

Doel van verordening

Die doel van hierdie verordening is om handel te reguleer, tot die voordeel van die publiek wat binne die munisipale grense van die Endumeni munisipaliteit woon en sake doen.

1. Omskrywings

In hierdie verordening, sluit die enkelvoud die meervoud in en omgekeerd, en, tensy uit die konteks anders blyk, beteken –

"die Wet" die Wet op Besighede, 1991 (Wet No. 71 van 1991), met inbegrip van die regulasies wat daarkragtens uitgevaardig is;

"eetgoed" enige item of middel (behalwe medisyne soos omskryf in die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965 (Wet No. 101 van 1965) wat gewoonlik deur 'n persoon geëet of gedrink word, of bedoel is dat dit geskik is, of vervaardig of verkoop word, vir menslike gebruik, insluitend enige deel of bestanddeel van enige sodanige item of middel, of enige middel wat gebruik word of beoog of bestem is om gebruik te word as 'n deel of bestanddeel van enige sodanige item of middel;

"eiendom", met betrekking tot 'n handelaar, enige item, houer, voertuig of struktuur gebruik, of beoog om gebruik te word, in verband met sodanige besigheid, insluitend goedere waarin hy of sy handel dryf;

"gemagtigde beampte" –

- (a) 'n beampte van die munisipaliteit wat gemagtig is om die bepalings van hierdie verordening te administreer, implementeer en af te dwing;
- (b) 'n verkeersbeampte aangestel ingevolge artikel 3A van die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996);
- (c) 'n lid van die polisie diens, soos omskryf ingevolge artikel 1 van die Wet op die Suid-Afrikaanse Polisie diens, 1995 (Wet No. 68 van 1995);
- (d) 'n vredesbeampte, bedoel ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No. 51 van 1977);
- (e) 'n omgewingsgesondheidsbeampte wat ingevolge wetgewing geregistreer is om omgewingsgesondheidsdienste en/of munisipale gesondheidsdienste vermeld in bylae 4, deel B van die Grondwet en bepaal ingevolge nasionale wetgewing te verskaf;

"goedere" enige roerende eiendom, insluitend 'n lewendige ding;

"goedkeuring" goedkeuring deur die munisipaliteit, en **"goedgekeur"** dra 'n ooreenstemmende betekenis;

"handelaar" 'n persoon wat sake doen deur handel te dryf, insluitend enige werknemer van sodanige persoon;

"handeldryf" die verkoop van enige goedere of die verskaffing of aanbied om te verskaf van enige diens teen vergoeding, in 'n openbare pad, of openbare plek, deur 'n handelaar;

"kruising" 'n kruising soos omskryf in die regulasies soos ingevolge die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996) uitgevaardig;

"lisensie" 'n lisensie vermeld in artikel 2(3) van die Wet;

"motorvoertuig" 'n motorvoertuig soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"munisipale dienste" enige stelsel wat deur of namens die munisipaliteit gebruik word vir die afhaal, vervoer, behandeling of beskikking oor vullis, riool of stormwater, of vir die skepping, beslaglegging, stoor, suiwing of voorsiening van water, elektrisiteit of ander dienste;

"munisipale dienswerke" alle eiendom of werke van watter aard ook al nodig vir of bykomstig tot enige munisipale dienste;

"munisipaliteit" die Endumeni munisipaliteit, ingestel ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), met inbegrip van enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent of enige werknemer daarvan wat ooreenkomstig hierdie verordening optree uit hoofde van 'n bevoegdheid wat by die munisipaliteit berus en gedelegeer is aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer;

"oorlas", sonder om die algemene betekenis van die term te beperk, 'n handeling, versuim, toestand of situasie wat –

- (a) die algemene publiek hinder, aanstoot gee, in gevaar stel of verontref; of
- (b) wesenlike ongerief by die gewone en gemaklike gebruik of genieting van privaat eiendom veroorsaak,

en **"openbare oorlas"** dra 'n ooreenstemmende betekenis;

"openbare gebou" 'n gebou wat behoort aan, of alleenlik geokkupeer word deur, enige regeringsfeer, insluitend die munisipaliteit;

"openbare monument" enigeen van die "openbare monumente en gedenktekens" soos omskryf ingevolge artikel 2 van die Wet op Nasionale Erfenisbronne, 1999 (Wet No. 25 van 1999);

"openbare pad" 'n openbare pad soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"openbare plek" enige plein, park, ontspanningsterrein of oop ruimte wat by die munisipaliteit berus of wat die publiek die reg het om te gebruik, of wat aangedui word op 'n algemene plan van 'n dorpsgebied wat in die akteregistrasiekantoor of 'n landmeter-generaal se kantoor geliasseer is, en verskaf is vir die gebruik van die publiek of die eienaars van erwe in sodanige dorpsgebied;

"randlyn" 'n randlyn soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"rommel" insluitend enige bak, houer of ander voorwerp wat deur 'n straathandelaar, of deur sy of haar klante weggegooi, gelos of agtergelaat is;

"rypad" 'n rypad soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"soom" 'n soom soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"straatmeubels" enige meubels wat deur die munisipaliteit op die straat vir openbare gebruik geïnstalleer is;

"sypaadjie" 'n sypaadjie soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996;

"tuin of park" 'n tuin of park waartoe die publiek die reg van toegang het;

"verkoop" insluitend –

(a) ruil, omruil of verhuur;

(b) uitstal, blootstel, aanbied of voorberei vir verkoop;

(c) berg op 'n openbare pad of openbare plek met die doel om te verkoop; of

(d) 'n diens verskaf teen vergoeding;

en "smous" het 'n ooreenstemmende betekenis; en

"voorgeskryf" bepaal, van tyd tot tyd, deur beslissing van die munisipaliteit.

2. **Betekenis van woorde en uitdrukkings in Besigheidswet in hierdie verordening opgeneem**

Tensy uit die konteks anders blyk, dra enige woorde of uitdrukkings waaraan 'n betekenis geheg is in die Wet, 'n ooreenstemmende betekenis in hierdie verordening.

3. **Enkele daad maak handeldryf uit**

Vir die doel van hierdie verordening word 'n enkele daad van verkoping of aanbied of lewering van dienste in 'n openbare pad of openbare plek as handeldryf beskou.

4. **Verwysing na wetgewing sluit regulasies wat daarvolgens uitgevaardig is, in**

Vir die doel van hierdie verordening, is 'n verwysing na enige wetgewing 'n verwysing na daardie wetgewing en die regulasies wat daarkragtens uitgevaardig is.

5. **Oplegging van verantwoordelikhede van 'n munisipale werknemer aan 'n werknemer van 'n diensverskaffer, waar 'n diensverskaffer aangestel is**

Indien enige bepaling in hierdie verordening enige verantwoordelikhede van die munisipaliteit aan 'n werknemer van die munisipaliteit oplê en sodanige verantwoordelikhede is, ingevolge artikel 76(b) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000) of enige ander wet, aan 'n diensverskaffer opgelê, moet die verwysing in sodanige bepaling na sodanige werknemer gelees word as 'n verwysing na die diensverskaffer of 'n behoorlik gemagtigde werknemer van die diensverskaffer.

6. **Verbode gedrag**

(1) Geen persoon mag as 'n handelaar sake doen nie –

(a) op 'n plek of in 'n gebied wat deur die munisipaliteit ingevolge artikel 6A(2)(a) van die Wet verklaar is as 'n plek of gebied waarin handeldryf verbode is;

(b) in 'n tuin of park waartoe die publiek 'n reg van toegang het;

(c) op 'n soom aangrensend aan –

(i) 'n gebou wat behoort aan, of alleenlik geokkupeer word deur die munisipaliteit, of enige ander regeringsfeer;

(ii) 'n kerk, moskee, sinagoge of ander plek van aanbidding;

(iii) 'n gebou wat as 'n openbare monument verklaar is;

(iv) 'n outoteller-bankmasjien;

(d) op 'n plek waar dit 'n obstruksie veroorsaak ten opsigte van –

(i) 'n brandkraan; of

(ii) 'n ingang na, of uitgang van, 'n gebou;

(e) op 'n plek waar dit na alle waarskynlikheid voertuigverkeer sal belemmer;

(f) op 'n plek waar dit 'n voetganger wesenlik kan belemmer in sy of haar gebruik van 'n sypaadjie;

- (g) op daardie helfte van 'n openbare pad aangrensend aan 'n gebou gebruik vir woondoeleindes, indien die eienaar of persoon in beheer of enige okkupeerder van daardie gebou daarteen beswaar maak, en sodanige beswaar word deur 'n gemagtigde beampte aan die handelaar bekend gemaak;
 - (h) op 'n stalletjie of in enige gebied afgebaken deur die munisipaliteit ingevolge artikel 6A(3)(b) van die Wet, indien hy of sy nie in besit is van bewyse dat hy of sy sodanige stalletjie of gebied van die munisipaliteit gehuur het, of dat sodanige stalletjie op 'n ander manier deur die munisipaliteit aan hom of haar toegeken is nie; en
 - (i) op 'n sypaadjie aangrensend aan 'n gebou waarin sake gedoen word deur enige persoon wat goedere verkoop van dieselfde of van 'n soortgelyke aard as die goedere wat op sodanige sypaadjie deur die handelaar verkoop word, indien die goedere op straat verkoop word sonder vooraf toestemming van eersgenoemde persoon, en 'n gemagtigde beampte die handelaar ingelig het dat geen sodanige toestemming gegee is nie.
- (2) 'n Persoon wat 'n stalletjie gehuur het van, of aan wie 'n stalletjie deur die munisipaliteit toegeken is soos beoog ingevolge subartikel (1)(h), mag nie handel dryf strydig met die terme en voorwaardes van sodanige huurkontrak of toedeling nie.

7. **Lisensiering van besighede**

- (1) Enige persoon van wie vereis word om 'n lisensie te verkry vir die doen van sake moet aan die tersaaklike vereistes voldoen soos in die Wet vervat.
- (2) Die munisipaliteit kan 'n prosedure instel vir die verkryging van sodanige lisensie, met inbegrip van die betaling van enige gelde.

8. **Beperkings ten opsigte van handel**

'n Persoon wat as 'n handelaar sake doen –

- (a) mag nie by die plek waar sodanige besigheid gedoen word, oornag nie;
- (b) mag nie 'n struktuur oprig vir die doel om skuiling te verskaf nie, buiten 'n struktuur wat deur die munisipaliteit verskaf of goedgekeur is nie;
- (c) mag nie sy of haar eiendom op 'n openbare pad of openbare plek plaas nie, met die uitsondering van sy of haar motorvoertuig of sleepwa vanwaar handel gedryf word, met dien verstande dat sodanige voertuig of sleepwa nie die beweging van voetganger- of voertuigverkeer belemmer nie en voldoen aan die bepalinge van die Nasionale Padverkeerswet, 1996;
- (d) moet verseker dat sy of haar eiendom of aktiwiteitsgebied –
 - (i) nie 'n deel van 'n openbare pad, of 'n openbare plek dek wat groter is as 6 (ses) vierkante meter (met 'n maksimum lengte van 3 (drie) meter) nie, tensy anders deur die munisipaliteit goedgekeur; en
 - (ii) ten opsigte van enige sypaadjie, 'n onbelemmerde ruimte vir voetgangerverkeer laat wat nie minder as 1,5 meter wyd is wanneer dit gemeet word vanaf enige aangrensende gebou na die eiendom of aktiwiteitsgebied nie, en nie minder as 0,5 meter wyd is wanneer dit gemeet word vanaf die randlyn na die eiendom of aktiwiteitsgebied nie;
- (e) mag nie op 'n sypaadjie handel dryf waar die breedte van sodanige sypaadjie minder is as 3 (drie) meter nie;
- (f) mag nie sy of haar eiendom op sodanige wyse plaas of opstapel dat dit 'n gevaar vir enige persoon of eiendom inhou, of in alle waarskynlikheid 'n persoon mag beseer, of skade aan enige eiendom mag veroorsaak nie;
- (g) mag nie sy of haar goedere of ander eiendom uitstal op of in 'n gebou, sonder die toestemming van die eienaar, wettige okkupeerder, of persoon in beheer van sodanige gebou of eiendom nie;
- (h) moet, op versoek van 'n gemagtigde beampte of verskaffer van telekommunikasie of elektrisiteit, of ander munisipale dienste, sy of haar eiendom skuif om sodoende die verrigting van enige werk met betrekking tot 'n openbare pad, openbare plek, of enige sodanige diens toe te laat;
- (i) mag geen eiendom wat aan hom of haar behoort op enige wyse aan enige gebou, struktuur, sypaadjie, boom, parkeermeter, lamp, paal, elektrisiteitspaal, telefoonhokkie, posbus, verkeerstek, bank of enige ander straatmeubels in of op 'n openbare pad of openbare plek heg nie;
- (j) mag nie sake op so 'n manier doen dat dit –
 - (i) 'n oorlas skep nie;
 - (ii) die oppervlak van enige openbare pad of openbare plek, of enige openbare of privaat eiendom beskadig of skend nie; of
 - (iii) 'n verkeers- of gesondheidsgevaar, of gesondheidsrisiko, of beide skep nie;

- (k) mag nie 'n oop vuur op 'n openbare pad of openbare plek maak, behalwe by 'n fasiliteit wat vir sodanige doel toegewys is nie;
- (l) mag nie inmeng met 'n persoon wat 'n sypaadjie gebruik se vermoë om na die goedere wat agter 'n winkelvertoonvenster uitgestal word, te kyk of die uitsig op sodanige goedere belemmer nie;
- (m) mag nie toegang tot 'n voetoorgang, 'n parkeer- of laairuimte, of ander fasiliteit vir voertuig- of voetgangerverkeer belemmer nie;
- (n) mag nie toegang tot, of die gebruik van, straatmeubels en enige ander fasiliteit ontwerp vir gebruik deur die publiek belemmer nie;
- (o) mag nie die uitsig op enige padverkeersteken vertoon ingevolge die Nasionale Padverkeerswet, 1996, of enige teken, kennisgewing of uithangbord vertoon of gemaak ingevolge hierdie verordening belemmer nie;
- (p) mag nie sake doen, of 'n plek inneem, of sy of haar eiendom op 'n gedeelte van 'n sypaadjie of openbare plek plaas wat strydig is met 'n kennisgewing of uithangbord wat deur die munisipaliteit opgerig of vertoon is vir die doel van hierdie verordening nie;
- (q) mag geen rommel op enige grond of perseel of enige openbare pad of openbare plek of op enige openbare eiendom ophoop, stort, berg of neersit, of toelaat dat dit opgehoop, gestort, geberg of neergesit word nie, buiten in 'n vullishouer wat deur die munisipaliteit goedgekeur of verskaf word;
- (r) mag nie soveel van sy of haar eiendom op 'n openbare pad of openbare plek plaas dat dit nie maklik aan die einde van die besigheidsdag verwyder kan word na 'n bergplek weg van sodanige openbare pad of openbare plek nie;
- (s) moet, wanneer hy of sy ophou om sake te doen vir die dag, sy of haar eiendom, behalwe enige struktuur wat deur die munisipaliteit verskaf of goedgekeur word, verwyder na 'n plek wat nie deel is van 'n openbare pad of openbare plek nie;
- (t) mag nie sy of haar eiendom in 'n inspeksiegat, stormwaterafvoerpyp, openbare toilet, bushalte of boom berg nie; en
- (u) mag nie sake doen op 'n plek of gebied strydig met enige verbod of beperking goedgekeur deur die munisipaliteit ingevolge artikel 6A(2)(a) van die Wet nie.

9. Sindelikheid

'n Handelaar moet –

- (a) die gebied of terrein wat deur hom of haar geokkupeer word ten einde sodanige sake te bedryf, in 'n skoon en sanitêre toestand hou;
- (b) sy of haar eiendom in 'n skoon, sanitêre en goed onderhoude toestand hou;
- (c) rommel wat deur sy of haar besigheid geskep word weggooi in 'n vullishouer deur die munisipaliteit vir die publiek verskaf word, of by 'n stortingsterrein van die munisipaliteit;
- (d) nie rommel in 'n inspeksiegat, stormwaterafvoerpyp of ander plek wat nie bedoel is vir die weggooi van rommel nie, weggooi nie;
- (e) verseker dat by die sluit van besigheid vir die dag, die gebied of terrein wat deur hom of haar geokkupeer word ten einde handel te dryf, vry is van rommel;
- (f) sodanige voorsorgmaatreëls tref wanneer hy of sy sake doen as wat nodig is om die mors van enige vet, olie of ghries op 'n openbare pad of openbare plek of in 'n stormwaterafvoerpyp te voorkom;
- (g) verseker dat geen rook, dampe of ander middel, reuke, of geraas, wat uit sy of haar bedrywighede voortspruit, besoedeling van enige aard veroorsaak nie; en
- (h) op versoek deur 'n gemagtigde beampte, sy of haar eiendom skuif om die skoonmaak van die ruimte, of die gebied of terrein waar hy of sy handel dryf, of die verrigting van munisipale dienste toe te laat.

10. Uithangborde wat beperkte en verbode gebiede aandui

- (1) Die munisipaliteit kan, ooreenkomstig 'n besluit, en ingevolge artikel 6A(2) van die Wet, enige plek in sy jurisdiksiegebied verklaar as 'n gebied waarin handeldryf beperk of verbied word, en moet uithangborde, tekens of ander toestelle voorskryf of maak om nakoming daarvan te vergemaklik, wat die volgende aandui –
 - (a) gespesifiseerde ure, goedere of dienste ten opsigte waarvan handel beperk of verbied word;
 - (b) die ligging van grense ten opsigte van beperkte of verbode gebiede; en
 - (c) enige ander beperking of verbod teen handel met betrekking tot die betrokke gebied.
- (2) Die munisipaliteit moet enige sodanige uithangbord, teken of toestel in sodanig posisie en op sodanige wyse vertoon dat dit enige beperking of verbod en die ligging of grense van die betrokke gebied aandui.

- (3) Enige uithangbord wat opgerig is ingevolge hierdie verordening of die Wet dien as voldoende kennisgewing aan 'n straathandelaar, van die verbod of beperking ten opsigte van die betrokke gebied.
- (4) Enige uithangbord kan van tyd tot tyd deur die munisipaliteit gewysig en vertoon word vir die doel van hierdie verordening, en het dieselfde uitwerking as 'n padteken ingevolge die Nasionale Padverkeerswet, 1996.
- 11. Verhuur van some en toewysing van stalletjies of gebiede vir die doel van handel**
- (1) Die munisipaliteit kan, ooreenkomstig 'n besluit, en ingevolge artikel 6A(3)(a) tot (c) van die Wet –
- (a) enige soom, of enige gedeelte daarvan, aan die eienaar of okkupeerder van die aangrensende grond verhuur, op voorwaarde dat sodanige eienaar of okkupeerder 'n gespesifiseerde aantal handelaars in stalletjies of plekke op sodanige soom toelaat soos deur sodanige eienaar of okkupeerder toegewys;
- (b) stalletjies of gebiede opsy sit en afbaken vir die doel van handeldryf op enige openbare pad, waarvan die eienaarskap of bestuur by die munisipaliteit berus, of op enige ander eiendom beset deur en onder die beheer van die munisipaliteit;
- (c) enige stalletjie of gebied vermeld in die vorige subartikels vergroot, verklein of beëindig; en
- (d) enige sodanige stalletjie of gebied verhuur of anders toeken.
- (2) Enige sodanige stalletjies of gebiede kan vergroot, verklein of beëindig word ooreenkomstig 'n besluit van die munisipaliteit.
- 12. Verwydering en beslaglegging**
- (1) 'n Gemagtigde beampte kan enige eiendom van 'n handelaar verwyder en daarop beslag lê indien –
- (a) hy of sy redelikerwys vermoed dat dit gebruik word of gaan word of gebruik is vir of in verband met handel; en
- (b) dit gevind word op 'n plek waar handel beperk of verbied word.
- (2) Die verwydering van en beslaglegging op eiendom ingevolge subartikel (1) kan uitgevoer word ongeag of sodanige eiendom op daardie tydstip in die besit of onder die beheer van enige derde party is of nie.
- (3) Enige gemagtigde beampte wat ingevolge subartikel (1) handel, moet, behalwe waar goedere agtergelaat of gelos is, 'n kwitansie aan die persoon wat sake as 'n handelaar doen, uitreik vir enige eiendom wat sodoende verwyder en op beslag gelê is, welke kwitansie –
- (a) die eiendom wat verwyder en op beslag gelê moet word, moet lys;
- (b) die adres moet verskaf waar die eiendom waarop beslag gelê is, gehou gaan word, en die tydperk van sodanige beslaglegging;
- (c) die terme en voorwaardes moet meld vir die lossing van die eiendom waarop beslag gelê is;
- (d) die terme en voorwaardes moet meld met betrekking tot die verkoop van onopgeëisde eiendom deur middel van 'n openbare veiling; en
- (e) die naam en kontakbesonderhede moet verskaf van 'n munisipale beampte aan wie enige verhoë aangaande die beslaglegging gerig kan word, en die datum en tyd waarteen dit gedoen moet word.
- (3) Indien enige eiendom waarop beslag gelê gaan word tot enige onroerende eiendom of struktuur behoort, en sodanige eiendom of struktuur is onder die klaarblyklike beheer van 'n persoon wat daarby teenwoordig is, kan enige gemagtigde beampte sodanige persoon gelas om die eiendom te verwyder, en indien sodanige persoon weier of versuim om daaraan te voldoen, is hy of sy skuldig aan 'n misdryf.
- (4) Wanneer enige persoon versuim om te voldoen aan 'n bevel om die eiendom vermeld in subartikel (3) te verwyder, kan enige gemagtigde beampte sodanige stappe doen as wat nodig mag wees om sodanige eiendom te verwyder.
- 13. Plig en aanspreeklikheid van munisipaliteit met betrekking tot verwydering en beslaglegging**
- (1) Indien 'n gemagtigde beampte enige eiendom ingevolge die voorafgaande artikel verwyder en daarop beslag lê, moet die gemagtigde beampte redelike stappe doen om te verseker dat sodanige eiendom nie beskadig word of verlore raak nie.
- (2) Die munisipaliteit is nie aanspreeklik vir enige skade of verlies wat veroorsaak is aan enige sodanige eiendom wat verwyder en waarop beslag gelê is nie, tensy sodanige skade of verlies veroorsaak is as gevolg van die munisipaliteit se nalatigheid.
- 14. Gedelegeerde verantwoordelikheid van persone wat sake doen**
- (1) Wanneer 'n werknemer of agent van 'n handelaar 'n bepaling van hierdie verordening oortree, word daar geag dat die handelaar sodanige oortreding self gepleeg het tensy

- sodanige handelaar die hof tevrede stel dat hy of sy redelike stappe gedoen het om sodanige oortreding te voorkom.
- (2) Die feit dat die handelaar instruksies aan die werknemer of agent uitgereik het wat sodanige oortreding verbied, word nie op sigself beskou as voldoende bewys van sodanige redelike stappe nie.
- 15. Misdrywe en strawwe**
- (1) Enige persoon wat –
- (a) enige bepaling van hierdie verordening oortree of versuim om daaraan te voldoen;
 - (b) versuim om te voldoen aan enige kennisgewing wat ingevolge hierdie verordening uitgereik is;
 - (c) versuim om te voldoen aan enige wettige instruksie wat ingevolge hierdie verordening gegee is; of
 - (d) enige gemagtigde beampte verhinder of belemmer in die uitvoering van sy of haar pligte kragtens hierdie verordening –
- is aan 'n misdryf skuldig, en die bepalings van die Endumeni munisipaliteit se Verordenings insake Misdrywe, Strawwe en Appelle is *mutatis mutandis* van toepassing op hierdie verordenings.
- 16. Regulasies**
- (1) Die munisipaliteit kan regulasies uitvaardig aangaande –
- (a) die prosedure vir die verkryging van 'n lisensie, die formaat van enige sodanige aansoek en 'n tarief van gelde betaalbaar soos beoog ingevolge artikel 7(2);
 - (b) die voorsiening of goedkeuring van enige struktuur vir die doel om skulling te verskaf, soos beoog ingevolge artikel 8(b) en (s);
 - (c) die verklaring van enige plek as 'n gebied waarin handel beperk of verbied word, en die voorskryf of maak van uithangborde, tekens of ander toestelle, soos beoog ingevolge artikel 10;
 - (d) die verhuur van enige soom of enige deel daarvan, en die opsysit, afbakening, huur of toedeling van stalletjies of gebiede vir die doel van handeldryf, en die vergroting, verkleining of beëindiging daarvan, soos beoog ingevolge artikel 11;
 - (e) (i) die beskikking oor enige eiendom wat verwyder en waarop beslag gelê is, soos beoog ingevolge artikel 12; en
(ii) die aanspreeklikheid van enige persoon vir enige redelike uitgawes wat aangegaan is in verband met sodanige verwydering, beslaglegging en beskikking;
 - (f) (i) die voorskryf van strawwe vir die misdrywe bedoel kragtens artikel 15(1);
(ii) die uitreiking van enige dagvaarding of skriftelike kennisgewing en betaling van 'n skulderkenningsboete, soos beoog ingevolge artikel 15; en
(iii) die wysiging van sodanige strawwe of boetes van tyd tot tyd;
 - (g) enige aangeleentheid wat ingevolge hierdie verordening voorgeskryf mag wees, en enige aangeleentheid wat die toepassing van hierdie verordening kan vergemaklik.
- (2) (a) Die munisipaliteit moet, nie minder nie as 1 (een) maand voor die uitvaardiging van 'n regulasie ingevolge subartikel (1), 'n konsep van die regulasie aan die plaaslike gemeenskap laat kommunikeer en openbaar maak kragtens artikels 21 en 21A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), saam met 'n kennisgewing wat die bedoeling van die munisipaliteit verklaar om sodanige regulasie uit te reik en 'n uitnodiging om kommentaar of versoë te rig.
- (b) Indien die munisipaliteit besluit om die konsepregulasie te verander as gevolg van kommentaar of versoë ontvang na aanleiding van sodanige uitnodiging, is dit nie nodig om die verandering te kommunikeer en openbaar te maak voor die gewysigde konsep as 'n regulasie uitgevaardig word nie.
- 17. Herroeping van verordenings**
- Enige verordenings wat uitgevaardig is deur die munisipaliteit of enige vorige munisipale raad wat nou 'n administratiewe eenheid van die munisipaliteit uitmaak, en met betrekking tot enige aangeleentheid wat in hierdie verordening gereguleer word, moet herroep word vanaf die datum van uitvaardiging van hierdie verordening.
- 18. Kort titel en inwerkingtreding**
- Hierdie verordening word genoem die Verordening insake Handel, 2012 en tree in werking op 'n datum soos deur die munisipaliteit deur middel van afkondiging in die *Provinsiale Koerant* bepaal.

ISAZISO SIKAHULUMENI WENDAWO
UMASIPALA WASENDUMENI
IMITHETHO KAMASIPALA YEZOKUHWEBA

_IMenenja kaMasipala, ngokweSigaba 13 soMthetho Wezinhlelo Zomasipala kuHulumeni Wendawo, 2000 [uMthetho No. 32 wezi-2000], sifundwa kanye neSigaba 162 soMthethosisekelo weRiphabhulukhi yaseNingizimu Afrika [uMthetho No. 108 we-1996], lapha ishicilela iMithetho kaMasipala Yezokuhweba.

Inhloso yeMithetho kaMasipala

Inhloso yale mithetho kamasipala wukulawula ezohwebo, ukuze kuhlomule umphakathi ohlala noqhuba amabhezini awo endaweni eyenganyelwe nguMasipala waseNdumeni

1. Izincazelo – Kule mithetho kamasipala, ubunye buhlanganise nobuningi kanjalo nobuningi buhlanganise ubunye, ngaphandle uma ingqikithi ikhomba okwehlukile -

"uMthetho" kusho uMthetho Wezamabhezini, 1991 [uMthetho No.71 we-1991], futhi kubandakanya nemithethonqubo emenyazelwe ngaphansi kwawo; kuthi

"imvume" kusho imvume ekhishwa umasipala, kanti "okuvunyiwe" kuyoba nencazelo efanayo;

"umsebenzi ogunyaziwe" kusho –

- (a) Umsebenzi kamasipala ogunyazwe ukuphatha, ukuqalisa kokusebenza kanye nokuphoqelelwa kwezihlinzekelo zale mithetho kamasipala;
- (b) iphoyisa lezomgwaqo eliqashwe ngokweSigaba 3A soMthetho Wezemigqwaqo kaZwelonke, 1996 [uMthetho No.93 we-1996];
- (c) ilungu lombutho wezomaphoyisa, njengoba lichaziwe ngokweSigaba 1 soMthetho Wezemisebenzi Yamaphoyisa aseNingizimu Afrika, 1995 [uMthetho No.68 we-1995]; noma
- (d) isikhulu esibhekele ezokuthula, okuningwe ngaso ngokweSigaba 334 soMthetho Wezinqubo Zezobugebengu, 1977 [uMthetho No.51 we-1977];
- (e) isisebenzi esibhekele ezempilo endaweni esibhaliswe ngokomthetho ukuba sihlizwe ngemisebenzi yezempilo endaweni kanye/ noma imisebenzi kamasipala yezempilo okukhulunywe ngayo kuSheduli 4, iNgxenywe B yoMthethosisekelo futhi enqunywe ngokomthetho kazwelonke;

"okokudla" kusho nanoma yini (ngaphandle komuthi njengalokhu uchazwe eMthethweni Wezemithi kanye Nezidakamizwa Eziphathelene Nezemithi, 1965 (uMthetho No.101 we-1965) edliwayo noma ephuzwa ngumuntu noma ethathwa njengefanele, noma ekhiqizelwe kumbe edayiselwe ukuba idliwe ngabantu, futhi kubandakanya nanoma iyiphi ingxenywe kumbe isithako sanoma iyiphi into esetshenziselwa noma okuhloswe kumbe eyogcina isetshenziswe njengengxenywe noma isithako sanoma ngabe yini;

"indawo yokuphola noma ipaki" kusho indawo yokuphola noma ipaki lapho umphakathi unelungelo lokungena khona;

"izimpahla" kusho noma iyiphi impahla egudluzekayo, kubandakanya nezinto Eziphilayo/eziphfumulayo;

"impambanomgwaqo" kusho impambanomgwaqo njengalokhu ichazwe emithethweninqubo eyamenyazelwa ngokoMthetho Wezemigqwaqo kaZwelonke, 1996 [uMthetho No.93 we-1996];

"Umugqa wonqenqema lomgwaqo" kusho umugqa wonqenqema lomgwaqo njengalokhu uchazwe eSigabeni 1 soMthetho Wezemigqwaqo kaZwelonke, 1996;

"ilayisensi" kusho ilayisensi okukhulunywe ngayo eSigabeni 2(3) soMthetho;

"udoti" kubandakanya nanoma isiphi isitsha, noma okunye okunjalo, okulahlwe, kwashiywa ngabadayisa emgwaqeni kumbe abathengi bakhe;

"imoto" kusho imoto njengalokhu ichazwe eSigabeni 1 soMthetho Wezemigqwaqo kaZwelonke, 1996;

"imisebenzi kamasipala" kusho noma yiluphi uhlelo olwenziwa ngumasipala kumbe olwenziwa egameni likamasipala, maqondana nokuqoqwa, ukuthuthwa, ukuphathwa noma ukulahlwa kwemfucuzo, indle noma amanzi ezikhukhula, noma maqondana nokuphehlwa, ukugcinwa, ukuhlanzwa noma ukunikezelwa kwamanzi, ugesi noma eminye imisebenzi;

"ezemisebenzi kamasipala" kusho yonke impahla noma imisebenzi yanoma yiluphi uhlobo esemqoka ukubhekela nanoma yimiphi imisebenzi kamasipala;

"umasipala" kusho uMasipala waseNdumeni, osungulwe ngokweSigaba 12 soMthetho Wezinhlelo Zomasipala kuHulumeni Wendawo, 1998 [uMthetho 117 we-1998], kuphinde kubandakanye noma yiluphi uhlobo lwezepolitiki, iziphathimandla kwezepolitiki, amakhansela, izithunywa ezigunyazwe ngokugcwele kumbe nanoma yisiphi isisebenzi esisebenza ngokulandela le mithetho kamasipala ngokwamandla anikezwe umasipala wabe esewadlulisela kulolo hlobo lwezepolitiki, isiphathimandla kwezepolitiki, ikhansela, isithunywa noma isisebenzi;

"**isicefe**" ngaphandle kokunqinda ububanzi bencazelo yaleli gama, kusho isenzo, ukweqa, umbandela kumbe isimo sento -

- (a) esivimbela, khuba, beka engozini noma phazamisa umphakathi ngokubanzi; noma
- (b) esidala ukuphazamiseka lapho umuntu eesebenzisa ngendlela ejwayelekile kumbe efuna ukuthokozela ukusebenzisa into yakhe,

kanti "**isicefe somphakathi**" kuyoba nencazelo efanayo;

"**okunqunyiwe**" kusho okunqunywa izikhathi ngezikhathi kulandela izinqumo ezithathwa umasipala;

"**impahla**", maqondana nabahwebi, kusho nanoma iyiphi into, isitsha, imoto noma isakhiwo esisetshenziswa, noma okuhloswe ukuba sisetshenziswe maqondana nebhizinisi, futhi kubandakanya nezimpahla abahweba ngazo;

"**isakhiwo somphakathi**" kusho isakhiwo sikahulumeni noma elisetshenziswa kuphela, kumbe nanoma yisiphi isigaba sikahulumeni, kubandakanya nomasipala;

"**isithombe (esibaziwe) esiyisikhumbuzo somphakathi**" kusho nanoma yisiphi "isithombe somphakathi kanye nezikhumbuzo", njengalokhu kuchazwe eSigabeni 2 soMthetho Wemithombo Yamagugu kuZwelonke, 1999 [uMthetho No. 25 we-1999];

"**Indawo Yomphakathi**" kusho noma yiliphi igceke, ipaki, inkundla yezokungcebeleka noma indawo evulekile engaphansi kukamasipala noma umphakathi onelungelo lokuyisebenzisa, noma evela epulanini enkulu yelokishi egcinwe kumafayela ehhovisi okubhaliswa kulo amatayitela noma ehhovisi loMklami Jikelele, futhi ehlinzekelwe ukuba isetshenziswe ngumphakathi noma abanikazi beziza kulelo lokishi;

"**umgwaqo womphakathi**" kusho umgwaqo womphakathi njengalokhu uchazwe eSigabeni 1 soMthetho Wezemigqwaqo kaZwelonke, 1996;

"**indledlana**" kusho indledlana njengalokhu ichazwe kuSigaba1 soMthetho WezoMgqwaqo KaZwelonke, 1996;

"**ukudayisa**" kubandakanya -

[a] ukushintshiselana, noma ukuqashisa;

[b] ukukhangisa, ukuveza obala, ukufaka noma ukulungisela ukufaka endalini;

[c] ukubeka emgwaqeni womphakathi noma endaweni yomphakathi ngenhloso yokudayisa; noma

[d] ukwenza umsebenzi ngenhloso yokuthola iholo;

kanti futhi "**ukuhamba udayisa**" kuyoba nencazelo efanayo;

"**indlela eseceleni komgwaqo**" kusho indlela eseceleni komgwaqo njengalokhu ichazwe eSigabeni 1 soMthetho Wezemigqwaqo kaZwelonke, 1996;

"**ifenisha yasemgwaqeni**" kusho noma iyiphi ifenisha efakwe ngumasipala emgwaqeni ukuze isetshenziswe ngumphakathi;

"**umhwebi**" kusho umuntu oqhuba ibhizinisi, kubandakanya nabantu abaqashile;

"**ukuhweba**" kusho ukudayiswa kwanoma iyiphi impahla noma ukunikezela noma ukuzinikela ukwenza umsebenzi ukuze uhole, okwenziwa ngumhwebi emgwaqeni womphakathi noma endaweni yomphakathi;

"**unqenqema**" kusho unqenqema njengalokhu luchazwe eSigabeni1 soMthetho Wezemigqwaqo kaZwelonke, 1996.

2. Incazelo yamagama kanye nezisho eziseMthethweni Wezababhizinisi efakiwe kule mithetho kamasipala

Ngaphandle uma ingqikithi ikhomba okwehlukile, nanoma yimaphi amagama noma izisho okunikezwe incazelo eMthethweni kuyoba nencazelo efanayo nakule mithetho kamasipala.

3. Isenzo esisodwa sisho ukuhweba

Ngokwale mithetho kamasipala, isenzo esisodwa sokudayiswa noma sokwethembisa noma sonikezela umsebenzi emgwaqeni womphakathi noma endaweni yomphakathi siyokusho ukuthi uyahweba.

4. Ukubhekisa emthethweni kubandakanya nemithethonqubo engaphansi kwawo

Ngokwale mithetho kamasipala, ukubhekisa kunoma yimuphi umthetho kuyoba kusho ukubhekisa kulowo mthetho kanye nakuleyo mithethonqubo engaphansi kwawo.

5. Ukunikezela ngemisebenzi yomsebenzi kamasipala kumsebenzi wabahlinzeka ngemisebenzi, uma kuqashwe abahlinzeka ngemisebenzi

Uma nanoma yisiphi isihlinzekelo esiphokelela ukuba nanoma yimuphi umsebenzi kamasipala onikezwe umsebenzi kamasipala futhi lowo msebenzi ngokweSigaba 76(b) soMthetho Wezinhlalo Zomasipala kuHulumeni Wendawo, 2000 (uMthetho No.32 wezi-2000) kumbe nanoma yimiphi eminye imithetho, sewunikezwe abahlinzeka ngemisebenzi, inkomba yaleso sihlinzekelo kulowo msebenzi kumele sifundwe njengenkomba enikezwe abahlinzeka ngemisebenzi noma umsebenzi ogunyazwe ngokugcwele wabahlinzeka ngemisebenzi.

6. Indlela yokuziphatha engavumelekile

[1] Akukho muntu ovumeleke ukuqhuba ibhizinisi njengomhwebi -

- [a] endaweni eqagulwe ngumasipala ngokweSigaba 6A(2)(a) soMthetho njengendawo okungavunyelwe kuyo ukuhweba;
- [b] endaweni yokuphola noma ipaki umphakathi onelungelo lokungena kuyo;
- [c] onqenqemeni oluseduze –
- [i] nebhilidi likamasipala, noma elisetshenziswa kuphela umasipala, noma yinoma yiluphi olunye uhlaka lukahulumeni;
- [ii] nendlu yesonto (yamaKrestu, amaHindu, amaJuda) kumbe nanoma iyiphi enye indawo yokukhonzela;
- [iii] nebhilidi eliqagulwe njengeliyisikhumbuzo somphakathi;
- [iv] nomshini wasebhangе wokukhipha imali;
- [d] endaweni lapho kungadaleka khona ukuvimbeleka maqondana -
- [i] nesicishamillo; noma
- [ii] nanoma iyiphi indawo yokungena, noma yokuphuma ebhilidini;
- [e] endaweni okungaphazamiseka kuyo ukuhamba kwezimoto;
- [f] endaweni okungaphazamiseka kakhulu abantu abahamba ngezinyawo endleleni eseceleni komgwaqo;
- [g] kuleyo ngxenye yomgwaqo esondelene nebhilidi elisetshenziselwa ukuhlalisa abantu, uma umnikazi noma lowo ophethe, nanoma ngubani ohlala kulelo bhilidi ephikisana nalokho, futhi uma umsebenzi ogunyaziwe emazisile ohwebayo ngalokho kuphikisa;
- [h] esitendeni kumbe kunoma iyiphi indawo eklanywe ngumasipala ngokweSigaba 6A(3)(b) soMthetho, uma engenabo ubufakazi bokuthi usiqashile leso sitende kumbe indawo kumasipala, noma ubufakazi bokuthi leso sitende wasabelwa umasipala; kanye
- [i] nasendleleni esondelene nebhilidi okuqhutshelwa kulo ibhizinisi elithengisa impahla efana naleyo ethengiswa umhwebi kule ndlela, uma impahla ithengiswa ngaphandle kwemvume yomuntu obalulwe kuqala, futhi uma umsebenzi ogunyaziwe emazisile umhwebi ukuthi ayikho leyo mvume.
- [2] Umuntu oqashe isitende kumasipala, noma owabelwe sona ngumasipala, njengokuninga kwesigatshana (1)(h), angeke ahwebe ngokuphikisana nemigomo nemibandela yalokho kuqashiselwa noma ukwabelwa.
- 7. Ukukhishwa kwelayisensi yebhizinisi**
- [1] Nanoma ngubani ofisa ukuthola ilayisensi yokuqhuba ibhizinisi kuyomele ahambisane nezidingo eziqokethwe eMthethweni.
- [2] Umasipala uyokwakha inqubo ezolandelwa ukuze kutholakale leyo layisensi, kubandakanya nokukhokhwa kwanoma iyiphi imali.
- 8. Izithibelo maqondana nokuhweba**
- Umuntu oqhuba ibhizinisi lokuhweba-
- [a] angeke alale ubusuku bonke endaweni aqhuba kuyo ibhizinisi;
- [b] ngeke agxumeke nanoma yisiphi isakhiwo ngenhloso yokuzenzela umpheme, ngaphandle kwesakhiwo esihlinzekwe noma esivunywе ngumasipala;
- [c] angeke abeke/ endlale impahla yakhe emgwaqeni womphakathi noma endaweni yomphakathi, ngaphandle uma kuyimoto noma inqola adayisela kuyona, inqobo nje uma leyo moto noma inqola ingaphazamisi abahamba ngezinyawo noma ukuhamba kwezimoto futhi ihambisana nezimiso zoMthetho WezoMgqwaqo KaZwelonke, 1996; kumele aqinisekise ukuthi impahla yakhe noma indawo asebenzela kuyona –
- [i] ayiyivimbi indawo yomgwaqo womphakathi, noma indawo yomphakathi ngaphezu kwamanyathelo ayisi-6 (6m²) (enesilinganiso esiphezulu sobude obungama-3m (amathathu) ububanzi, ngaphandle uma kuvunywе umasipala; futhi ,
- [ii] maqondana nezindlela eziseceleni komgwaqo, ishiya indawo evulekile engenalutho yabahamba ngezinyawo, engekho ngaphansi kwe-1.5m ububanzi uma ikalwa kusukela kunoma iliphi ibhilidi eliseduze kuya lapho kunempahla khona noma endaweni okuqhutshwa kuyo ibhizinisi, futhi ingabi ngaphansi kwe-0.5m (ingxenye eyodwa) ububanzi uma ikalwa kusukela onqenqemeni kuya lapho kunempahla khona noma endaweni okuqhutshwa kuyo ibhizinisi;
- [e] angeke ahwebe endleleni eseceleni komgwaqo uma ububanzi baleyo ndlela bungaphansi kwama-3m;
- [f] angeke abeke noma anqwabele impahla yakhe ngendlela engaba nobungozi komunye umuntu noma esakhiweni, kumbe ngendlela ebukeka ingahle ilimaze omunye umuntu, noma idale umonakalo esakhiweni;

- [g] angeke akhangise ngempahla yakhe ebhilidini, ngaphandle kwemvume yomnikazi webhilidi, umuntu ohlala kulo ngokusemthethweni noma umuntu olawula ukuphathwa kwalo;
- [h] kumele, uma enxuswa umsebenzi ogunyaziwe, noma abahlinzeka ngezokuxhumana ngezincingo noma abahlinzeka ngogesi noma eminye imisebenzi kamasipala, asuse impahla yakhe ukuze bakwazi ukuqhubeka nokwenza nanoma yimiphi imisebenzi ephathelene nezomgwaqo womphakathi, indawo yomphakathi, kumbe nanoma yimiphi eminye imisebenzi enjalo;
- [i] angeke anamathisele impahla yakhe nanoma yingayiphi indlela kunoma yiliphi ibhilidi, isakhiwo, umpheme wogwaqo, isihlahla, umshini okala isikhathi sokupaka, isibani sikagesi, isigxobo, isigxobo sikagesi, ibhokisana lokushaya ucingo, ibhokisi leposi, uphawu lwezomgwaqo, ibhentshi kumbe nanoma iyiphi ifenisha yasemgwaqeni esemgwaqeni womphakathi noma endaweni yomphakathi;
- [j] angeke aqhube ibhizinisi lakhe ngendlela -
 [i] engabanga isicefe;
 [ii] engadala umonakala noma yonakalise nanoma yimuphi umgwaqo womphakathi noma indawo yomphakathi, noma indawo yomnikazi; noma
 [iii] engadala ubungozi ekuhambeni kwezimoto noma kwezempilo, noma engabeka impilo engcupheni, noma kukho kokubili lokhu;
- [k] angeke abase umlilo emgwaqeni womphakathi noma endaweni yomphakathi, ngaphandle uma kusendaweni evele ibekelwe ukwenza lokho;
- [l] angeke asithe umuntu ohamba endleleni eseceleni komgwaqo ukuba akwazi ukubuka izimpahla ezikhangiswe emafasiteleni esitolo, noma avimbe lezi zimpahla ekutheni zibonakale;
- [m] angeke aphazamise abahamba ngezinyawo ukuba bawele endaweni eyenzelwe ukuba bawele kuyo, indawo yokupaka noma yokulayisha impahla, noma enye indawo yokuhamba izimoto noma abahamba ngezinyawo;
- [n] angeke aphazamise ukufinyelela noma ukusetshenziswa kwefenisha yasemgwaqeni kumbe nanoma yini enye eyenzelwe ukuba isetshenziswe ngumphakathi wonkana;
- [o] angeke avimba nanoma yiluphi uphawu lomgwaqo olukhonjiswe ngokoMthetho Wezemigwaqo kaZwelonke 1996, noma omaka, izaziso, noma izimpawu ezifakwe zakhonjiswa ngokwale mithetho kamasipala;
- [p] angeke aqhube ibhizinisi, noma abe nesikhundla, noma abeke impahla yakhe engxenyeni ethile yendlela eseceleni komgwaqo noma indawo yomphakathi, ngendlela ephikisana nesaziso noma uphawu olugxunyekwe noma olukhonjiswe ngumasipala ukuze kufezeke le mithetho;
- [q] angeke aqoqele ndawonye, alahle budedengu, agcine kumbe achithe noma avumele ukuba kuqoqelwe ndawonye, kulahlwe budedengu, kugcinwe noma kuchithwe nanoma yimuphi udoti kunoma yimaphi amagceke noma umhlaba noma umgwaqo womphakathi, indawo yomphakathi kumbe nanoma sisiphi isakhiwo somphakathi uma kungesikhona emgqonyeni kadoti ovunywe noma ohlinzekwe ngumasipala.
- [r] angeke abeke emgwaqeni womphakathi noma endaweni yomphakathi, impahla yakhe okungelula ukuba isuswe iyobekwa endaweni lapho ingagcineka khona kude nomgwaqo womphakathi noma indawo yomphakathi uma sekuphele usuku;
- [s] kumele uma eseqedile ukuhweba ngalolo suku, asuse impahla yakhe, ngaphandle kwesakhiwo esihlinzekwe noma esivunywe ngumasipala, ayoyigcina endaweni engesiyona ingxenywe yomgwaqo womphakathi noma indawo yomphakathi;
- [t] angeke agcine impahla yakhe emgodini wokubheka amapayipi nemisele engaphansi komhlabathi, emiseleni yokuhambisa amanzi ezikhukhula, ezindlini zangasese zomphakathi, emphemeni lapho kugitshelwa khona amabhasi noma esihlahleni; futhi
- [u] angeke aqhube ibhizinisi endaweni ngendlela ephikisa nanoma yiziphi izithibelo ezivunywe ngumasipala ngokweSigaba 6A(2)(a) soMthetho.

9. Inhlanzeko

Umhwebi kumele -

- [a] agcine indawo noma isiza asisebenzisela ukuqhuba ibhizinisi sihlanzekile futhi sisesimweni esihle;
- [b] agcine impahla yakhe isesimweni esihlanzekile futhi inakekelwe ngendlela efanele;
- [c] alahle udoti odaleke ngenxa yebhizinisi lakhe emigqonyeni kadoti ehlinzekwe ngumasipala ukuze usetshenziswe ngumphakathi noma alahle endaweni kamasipala yokulahla imfucuza; manhole
- [d] angalahli udoti emgodini wokubheka amapayipi nemisele engaphansi komhlabathi, emiseleni yokuhambisa amanzi ezikhukhula kumbe enye indawo ehlelelwe ukulahla udoti;

- [e] aqinisekise ukuthi uma sekuphele usuku, indawo ahwebela kuyona ayinawo udoti;
 [f] aqaphele ukuthi ngesikhathi esaqhuba ibhizinisi lakhe, akuchitheki mafutha, uwoyela noma izitaputapu emgwaqeni womphakathi, noma endaweni yomphakathi, noma emiseleni ehambisa amanzi ezikhukhula;
- [g] aqinisekise akukho ntuthu, kunuka noma okunye okunjalo, amaphunga, noma umsindo okudaleka ngesikhathi eqhuba ibhizinisi lakhe, okudala ukungcoliseka kwemvelo nganoma iyiphi indlela; futhi,
- [h] uma enxuswa ngumsebenzi ogunyaziwe, asusa impahla yakhe, ukuze kube lula ukuhlanza indawo, noma isiza lapho eqhubela khona ibhizinisi lakhe, noma ukuze kuqhutshwe imisebenzi kamasipala.
- 10. Izimpawu ezikhombisa izindawo okungavunyelwe ukuhweba kuzona**
- [1] Umasipala ungamemezela indawo engaphansi kwawo njengendawo okungavumelekile ukuthi kuhwetshwe kuyo, ngokwesinqumo sawo nangokweSigaba 6A (2), futhi ukuze kube lula ukulandelwa kwezimiso, unganquma, wenze kumbe ufake izimpawu, omaka kanye nanoma yini ekhombisa –
- [a] amahora abekiwe, impahla noma imisebenzi okungavumelekile ukuba kuhwetshwe ngayo;
- [b] imingcele yezindawo lapho kungavumelekile khona ukuhweba; kanye
- [c] nezinye izithibelo noma ukungavumeleki maqondana nokuhweba kuleyo ndawo.
- [2] Umasipala kumele ubeke obala nanoma yiziphi izimpawu, omaka noma izinto ngendlela ezokhombisa ukungavumeleki noma ukuthibelwa kokuhweba kanye nendawo noma imingcele yaleyo ndawo ethintekayo.
- [3] Nanoma yiluphi uphawu olugxunyekwe ngokwale mithetho kamasipala noma ngokoMthetho luyosebenza ngesaziso esanele kwabahweba emgwaqeni, sokuthi indawo ethile akuvumelekile noma kuthibelwe ukuhweba kuyo.
- [4] Izikhathi ngezikhathi, umasipala angachibiyela aphinde akhangise nanoma yiluphi uphawu ngokwale mithetho kamasipala futhi lungasebenza ngendlela efanayo njengophawu lomgwaqo ngokoMthetho Wezemigqwaqo kaZwelonke, 1996.
- 11. Ukuqashiswa konqenqema kanye nokuklanywa kwezitende noma izindawo zokuhweba**
- [1] Umasipala kungathi ngokwesinqumo noma ngokweSigaba, 6A(3)(a) kuya ku- (c) soMthetho –
- [a] aqashe nanoma yiluphi unqenqema, kumbe nanoma iyiphi ingxenye yalo, kumnikazi noma kumuntu ohlala endaweni esondelene nawo, inqobo nje uma lowo mnikazi noma lowo mhlali eyokwamukela isibalo esibekiwe sabahwebi ezitendeni noma ezindaweni ezikulolo nqenqema oluklanywe yilowo mnikazi kumbe umhlali;
- [b] ehlukalise futhi aklame izitende noma izindawo zokuhweba kunoma yimuphi umgwaqo womphakathi, ubunikazi noma ukulawulwa kwawo okungaphansi kukamasipala, kumbe kunoma yisiphi esinye isakhiwo esisetshenziswa futhi esilawulwa ngumasipala.
- [c] anwebe, anciphise noma abhidlize nanoma yisiphi isitende noma indawo okukhulunywe ngayo ezigatshaneni ezedule; futhi
- [d] aqashise kumbe anikezele nanoma yisiphi kulezo zitende noma indawo.
- [2] ngokwesinqumo sikamasipala nanoma yisiphi salezo zitende noma izindawo, zinngawetshwa, zincishiswe noma zibhidlizwe.
- 12. Ukususwa kanye nokuboshwa kwempahla**
- [1] umsebenzi ogunyaziwe angasusa aphinde abophe nanoma iyiphi impahla yomhwebi uma-
- [a] esola ukuthi isetshenziselwa, noma kuhloswe ukuba isetshenziselwe, noma ibivele isetshenziswa maqondana nokuhweba; futhi
- [b] itholakale endaweni lapho ukuhweba kungavumelekile khona.
- [2] ukususwa kanye nokuboshwa kwempahla ngokwesigatshana [1] kungenziwa kungakhathaleki ukuthi leyo mpahla itholakale komunye umuntu ongesiyena umnikazi wayo ngaleso sikhathi.
- [3] Nanoma yimuphi umsebenzi ogunyaziwe osebenza ngokwesigatshana [1] kumele, anikeze umuntu oqhuba ibhizinisi lokuhweba irisidi yanoma iyiphi impahla esusiwe kanye neboshiwe, ngaphandle uma kuyizimpahla ezivele zashiywa nje, kanti leyo risidi kumele -
- [a] ikhombise impahla okumele isuswe nokumele iboshwe;
- [b] ihlinzeke ngekhele lalapho kuzocinwa khona impahla eboshiwe, kanye nesikhathi impahla ezosihlala iboshiwe;

- [c] isho imigomo nemibandela yokukhululwa kwempahla eboshiwe;
- [d] isho imigomo nemibandela emaqondana nokudayiswa kwempahla engalandiwe, endalini evuleleke emphakathini; futhi
- [e] ihlinzeke ngegama kanye neminingwane yokuxhumana yomsebenzi kamasipala okungaxhunyanwa naye maqondana nempahla eboshiwe, ngokunjalo nosuku kanye nesikhathi lokhu okungenziwa ngaso.
- [3] Uma nanoma iyiphi impahla okumele iboshwe ixhunywe kunoma iyiphi impahla kumbe isakhiwo esingadluleki futhi leyo mpahla kumbe isakhiwo silawulwa ngumuntu ovele ekhona lapho, umsebenzi ogunyaziwe angayalela lowo muntu ukuba asuse leyo mpahla, kanti-ke uma lowo muntu enqaba noma ehluleka ukwenza lokho, uyobe esebekwa icala.
- [4] Uma ngabe nanoma ngubani ehluleka ukuhambisana nomyalelo wokuba asuse impahla okukhulunywe ngaso esigatshaneni [3], nanoma yimuphi umsebenzi ogunyaziwe angathatha izinyathelo abona zifanele ukuze kususwe leyo mpahla.
- 13. Umsebenzi kanye nokubophezeleka kukamasipala maqondana nokususwa kanye nokuboshwa kwempahla**
- [1] Esimweni lapho umsebenzi ogunyaziwe esusa noma ebopha nanoma iyiphi impahla ngokwesigaba esingenhla, lowo msebenzi ogunyaziwe uyothatha izinyathelo ezifanele ukuqinisekisa ukuthi leyo mpahla ayilimali noma ayilahleki.
- [2] Angeke kube yicala likamasipala ukulimala noma ukulahleka kwempahla esuswayo kanye neboshowo, ngaphandle uma lokho kulimala noma ukulahleka kudalwe ubudedengu bukamasipala.
- 14. Umthwalo osemahlombe abantu abaqhuba ibhizinisi**
- [1] Uma ngabe umsebenzi noma lowo omele umhwebi ephula izihlinzekelo zalo mthetho kamasipala, kuyothathwa ngokuthi umhwebi uqobo nguye ozephulile, ngaphandle uma incazelo yomhwebi yenelisa inkantolo ukuthi wathatha izinyathelo ezifanele ukuvikela lokho kwephula umthetho.
- [2] Ukuthi umhwebi wakhapha umyalelo wokuvimbela umsebenzi noma lowo ommele ekutheni angephuli izihlinzekelo, angeke kukodwa nje kuthathwe njengobufakazi obanele ngalezo zinyathelo ezifanele.
- 15. Amacala kanye nezinhlawulo**
- [1] Nanoma ngubani –
- [a] owephula, noma owehluleka ukugcina nanoma yiziphi izihlinzekelo zalo mthetho kamasipala;
- [b] owehluleka ukuhambisana nezaziso ezikhishwe ngokwalo mthetho kamasipala;
- [c] owehluleka ukuhambisana nanoma yimuphi umyalelo osemthethweni okhishwe ngokwalo mthetho kamasipala; noma
- [d] ovimbela kumbe ophazamisa nanoma yimuphi umsebenzi ogunyaziwe uma enza umsebenzi wakhe ngokwalo mthetho kamasipala -
- Uyobekwa icala, kanti futhi kuyosethenziswa izihlinzekelo zeMithetho kaMasipala ephathelene Namacala, Izinhlawulo kanye Nokudluliswa Kwamacala ezikule Mithetho kaMasipala.
- 16. Imithethonqubo**
- [1] Umasipala ungenza imithethonqubo maqondana–
- [a] nenqubo yokuthola ilayisensi, ifomu lokufaka isicelo saleyo layisensi kanye nemali yentela ekhokhwayo, njengalokhu kuningwe ngokwesigaba 7(2);
- [b] nezihlinzekelo noma ukuvunywa kwanoma yisiphi isakhiwo ngenhloso yokuhlinzeka ngompheme, njengalokhu kuningwe ngokwesigaba 8(b) kanye no-(s);
- [c] nokumenyezela kwanoma iyiphi indawo njengendawo okungavunyelwe ukuba kuqhutshwe uhwebo kuyona, kanye nokugunyazwa noma ukwenziwa kwezimpawu, omaka noma ezinye izinto njengalokhu kuningwe ngokwesigaba 10;
- [d] nokuqashiswa kwanoma yiluphi unqenqema kumbe nanoma iyiphi ingxenye yalo, kanye nokuhlukaniswa, ukuklanywa, ukuqashiswa kumbe ukwabiwa kwezitende noma izindawo ukuze kuqhutshwe ezohwebo, kanye nokunwetshwa, ukuncishiswa noma ukubhidlizwa kwazo, njengalokhu kuningwe ngokwesigaba 11;
- [e] [i] nokulahlwa kwanoma iyiphi impahla esusiwe noma eboshiwe njengalokhu kuningwe ngokwesigaba 12; kanye
- [ii] nokubophezeleka kwanoma ngubani ngezindleko ezidaleke ngokususwa kwempahla, ukuboshwa kanye nokulahlwa kwayo;
- [f] [i] nokunqunywa kwezijeziso zamacala njengalokhu kuningwe ngokwesigaba 15(1);

- [ii] nokukhishwa kwamasamanisi noma izaziso ezibhaliwe kanye nokukhokhwa kwezinhlawulo zokuvuma amacala njengalokhu kuningwe ngokwesigaba 15; kanye
- [g] [iii] nokuchitshiyelwa kwezijeziso noma izinhlawulo izikhathi ngezikhathi; nanoma yiluphi udaba olunganqunywa ngokwalo mthetho kamasipala, kanye nanoma yikuphi okunye okungalekelela ekusetshenzisweni kwalo mthetho kamasipala.
- [2] [a] Umasipala uyoqinisekisa ukuthi kuba nokuxoxisana nomphakathi wendawo ngohlaka lomthethonqubo esikhathini esingekho ngaphansi kwenyanga, ngaphambi kokuwumemezela umthethonqubo njengoba kuningwe esigatshaneni [1], futhi uyowenza utholakale emphakathini ngokweSigaba 21 kanye no-21A soMthetho Wezinhlelo Zomasipala kuHulumeni Wendawo, 2000 [uMthetho No. 32 wezi-2000], kanye nesaziso esimemezela inhloso kamasipala yokukhipha umthethonqubo siphinde sicele ukuphawula noma ukumeleleka komphakathi.
- [b] Uma umasipala enquma ukulungisa uhlaka lomthethonqubo emva kokuphawula noma ukumeleleka komphakathi okwenziwe ngenxa yesimemo, siyobe singasekho isidingo sokuxoxisana nokwazisa umphakathi ngokulungiswa okwenziwe ngaphambi kokuba uhlaka lumenyezelwe njengomthethonqubo.
17. **Ukuchithwa kwemithetho kamasipala**
Nanoma yimiphi imithetho kamasipala eshaywe ngumasipala noma umkhandlu kamasipala waphambilini manje osufake nophiko lukamasipala lwezokuphatha, kanye nangokuphatelene nanoma yini elawulwa yile mithetho kamasipala, iyochithwa kusukela ngosuku lokumenyezelwa kwale mithetho kamasipala.
18. **Isihloko esifushane**
Lo mthetho kamasipala ubizwa ngokuthi uMthetho kaMasipala Wezokuhweba, wezi-2012, kanti uyoqala ukusebenza ngosuku oluyoqagulwa ngumasipala ngokuwumemezela kwiGazethi yesiFundazwe.

