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*Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe*

**GAZETTE EXTRAORDINARY — BUITENGEWONE KOERANT — IGAZETHI EYISIPESHELI**

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*(Irejistiwee njengephephandaba eposihhovisi)*

**PIETERMARITZBURG**

**Vol. 13** 5 DECEMBER 2019
5 DESEMBER 2019
5 KUZIBANDLELA 2019 **No. 2145**

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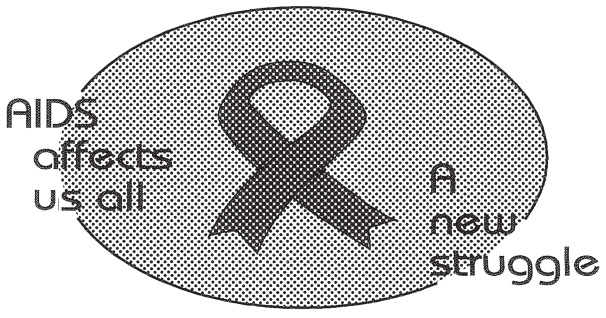


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ISSN 1994-4558
9 771994 455008 02145

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**MUNICIPAL NOTICE 144 OF 2019**

## PUBLIC NOTICE

## ETHEKWINI MUNICIPALITY: INFORMAL TRADING AMENDMENT BY-LAW, 2018

NOTICE IS HEREBY GIVEN that the eThekwini Municipal Council has enacted, by way of resolution in terms of section 12 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Informal Trading Amendment By-law, 2018, contained hereunder.

Mr Sipho Nzuza
City Manager

City Hall
Dr Pixley Ka-Isaka Seme Street
Durban

Dated: 5 December 2019

## eTHEKWINI MUNICIPALITY: INFORMAL TRADING AMENDMENT BY-LAW, 2018

Adopted by Council on 23 October 2018

## INFORMAL TRADING AMENDMENT BY-LAW, 2018

**GENERAL EXPLANATORY NOTE:**

**[ ]** Words in bold type in square brackets indicate omissions from the existing By-law.

_____ Words underlined with a solid line indicate insertions in existing By-law.

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**To amend the eThekwini Municipality: Informal Trading By-Law, 2014 so as to insert various definitions; to regulate and control an informal trader from trading in an area or place where informal trading is prohibited or restricted; to provide for certain restrictions on informal trading; to amend section 35 relating to the impoundment of goods; to provide for the regulation of abandoned goods; and to provide for matters connected therewith.**

BE IT MADE by the eThekwini Municipal Council as follows:

**Amendment of the Table of Contents of the eThekwini Municipality: Informal Trade By-law, 2014**

**1.** The Table of Contents of the eThekwini Municipality: Informal Trading By-law, 2014 (hereinafter referred to as the Principal By-law) is hereby amended by the insertion of the following heading after the heading "35.Removal and Impoundment":

"**35A. Abandoned goods**".

**Amendment of section 1 of the eThekwini Municipality: Informal Trading By-law, 2014**

**2.** Section 1 of the Principal By-law is hereby amended−

(a) by the insertion of the following definition before the definition of **"authorised official"**:

**" "abandoned goods"** means any goods which have been left unattended for more than 24 hours and whose owner cannot be located;" ;

(b) by the deletion of the word "and" after the definition of **"street trading"**;

(c) by the insertion of the following definition after the definition of **"street trading"** :

**" "trading hours"** means the hours between 05h00 and 22h00, or extended hours stipulated by the Municipality;" ; and

(d) by the insertion of the following definition before the definition of **"verge"** :

" **"trolley"** means a wheel and cart device approved by the Municipality; and".

**Amendment of Section 18 of the eThekwini Municipality: Informal Trading By-Law, 2014**

**2.** Section 18 of the Principal By-law is hereby amended by the addition of the following subsection after subsection (4):

"(5) An informal trader must not trade in any place or area where informal trading is restricted or prohibited in terms of this By-law.".

**Amendment of Section 21 of the eThekwini Municipality: Informal Trading By-Law, 2014**

**3.** Section 21of the Principal By-law is hereby amended–

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) place his or her goods on a public road**[or public place, with the exception of his or her motor vehicle or trailer from which informal trading is conducted: provided that such motor vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996)]**;";

(b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) allow his or her goods or area of activity to cover an area of a **[public road or a]**public place which–";

(c) by the substitution in subsection (1) for paragraphs (n) and (o) of the following paragraphs:

"(n) trade below the high water mark; **[or]**

(o) trade in a park, unless such area has been declared by the council as an informal trading area**[.]**;

(d) by the addition in subsection (1) of the following paragraphs after paragraph (o):

"(p) trade from a trolley or similar device, which has not been approved by the Municipality; or

(q) trade from a motor vehicle."; and

(e) by the addition of the following subsection after subsection (2):

"(3) Any person–

(a) trading in goods or services; or

(b) displaying goods or services,

in a public place will be regarded as engaging in informal trading."

**Substitution of Section 35 of the eThekwini Municipality: Informal Trading By-Law, 2014**

**4.** The following section is hereby substituted for section 35 of the Principal By-law:

"**Removal and impoundment**

35.(1) Subject to subsection (3), an authorised official may, in terms of the Criminal Procedure Act, 1977 (Act No 51 of 1977), remove and impound any goods of an informal trader which he or she reasonably suspects is being used, has been used or is intended to be used for or in connection with−

(a) trading in a place or area−

(i) where informal trading is prohibited or restricted, as per section 18; or

(ii) prohibited or restricted by the Municipality, as per section 31(1);

(b) trading without a valid informal trading permit issued by the Municipality in terms of section 12; or

(c) trading in illegal goods.

(2) The removal and impoundment of goods in terms of subsection (1) may be carried out irrespective of whether or not such goods are in the possession or under the control of any third party at the time.

(3) Any authorised official who removes and impounds goods in terms of subsection (1) must, except where goods have been abandoned in terms of section 35A, issue the informal trader a receipt which—

(a) captures the full name, identity number and contact details of the informal trader;

(b) states the relevant section of the by-law contravened by the informal trader;

(c) itemises the goods to be removed and impounded;

(d) states the period of impoundment;

(e) states the terms and conditions which must be met to secure the release of the impounded goods;

(f) states the impoundment fee to be paid to secure release of the impounded goods;

(g) states the place at which the goods will be kept and where representations may be made for the payment of the fee and release of such goods;

(h) contains an acknowledgement signed or marked by the informal trader confirming that−

(i) the contents of the receipt are correct;

(ii) the contents of the receipt have been explained to him or her; and

(iii) he or she understands the consequences of impoundment and the requirements for the release of such impounded goods; and

(i) contains the name of the authorised official concerned and the time and date of impoundment.

(4) The Municipality must upon the presentation of such goods at the place of impoundment−

(a) keep a register of impounded goods;

(b) immediately enter in the register the−

(i) details of the informal trader as per subsection (3)(a);

(ii) details of the goods removed and impounded, including the condition of such goods;

(iii) place and area where such goods were removed from;

(iv) name of the authorised official who attended to the removal and impoundment of the goods; and

(v) date and time of such removal and impoundment.

(5) Goods which have been impounded must, subject to subsection (9), be released upon presentation of proof of ownership in the form of the receipt contemplated in subsection (3) together with–

(a) proof of payment of the impoundment fee;

(b) proof of payment of a fine imposed; or

(c) where applicable proof of payment of both the impoundment fee and the imposed fine.

(6) Where perishable goods and foodstuffs were impounded, the Municipality may, subject to subsection (7), sell, destroy or dispose of such goods and foodstuffs if the informal trader did not secure the release of such perishable goods and foodstuffs in terms of subsection (5) within 72 hours of such impoundment.

(7) Subject to subsection (6) and (9), the Municipality may at any time after the impoundment sell, destroy or otherwise dispose of impounded–

(a) perishable goods if the goods represent or might represent a health risk or a nuisance; and

(b) foodstuffs which are unfit for human consumption: Provided−

(i) an assessment of the perishable goods or foodstuffs is conducted by an authorised official of the Municipality's Health Department and a notice has been issued by such authorised official for the sale, destruction or disposal of such perishable goods and foodstuffs; and

(ii) a notice has been served on the informal trader concerned advising him or her−

(aa) that his or her impounded goods are to be sold, destroyed or disposed of;

(bb) of the time and place of such sale, destruction or disposal; and

(cc) of the reasons for such sale, destruction or disposal.

(8) Other impounded goods not provided for under subsection (6) may be sold by the Municipality if the informal trader does not pay the impoundment fee within three months from the date of impoundment of those goods.

(9) Where the Municipality intends selling impounded goods, a notice must be served on the informal trader concerned advising him or her−

(a) that the Municipality intends selling his or her impounded goods as a result of his or her failure to secure the release of such goods within the specified time;

(b) of the date, time and place where representations may be made by the informal trader as to why the Municipality should not sell his or her goods; and

(c) of the date, time and place of such sale should the informal trader prove to be unsuccessful in his or her attempt to have such goods released as per paragraph (b).

(10) If impounded goods are sold by the Municipality in terms of subsection(8), and upon the presentation of the receipt contemplated in subsection (3) as proof of ownership, the Municipality must pay to the person presenting the receipt the proceeds of the sale less the impoundment fee.

(11) A claim referred to in subsection (10) may not be recognised after the expiration of 90 days from the date of sale, and in such case all the proceeds of such sale shall be forfeited to the Municipality

(12) If in the reasonable opinion of an authorised official, an informal trader is suspected of trading in illegal goods, then those goods may be immediately confiscated and, in the event of such a confiscation, the authorised official must–

(a) comply with the requirements of this section where applicable; and

(b) immediately surrender the suspected illegal goods to the possession of the South African Police Service."

(13) The sale of all impounded goods in terms of this by-law must be sold in accordance with municipal processes and procedures.

**Insertion of section 35A of the eThekwini Municipality: Informal Trading By-Law, 2014**

**5.** The following section is hereby inserted after section 35 of the Principal By-law:

"**Abandoned goods**

35A.(1) The Municipality shall regard the following as abandoned goods:

(a) goods found on a public road or public place that do not appear to be under the control of any person; or

(b) goods found in a manhole, storm water drain, public toilet, public transport shelter or in any tree or shrub.

(2) Any abandoned goods found by the Municipality may be removed and immediately delivered to a place of impoundment.

(3) The Municipality must−

(a) keep a register of abandoned goods at all places of impoundment;

(b) immediately enter in the register the−

(i) details of the goods removed, including the condition of such goods;

(ii) place and area where such goods were removed from;

(iii) name of the authorised official who attended to the removal of the goods; and

(iv) time and date of such removal,

upon the presentation of such goods at the place of impoundment.

(4) Where abandoned goods have not been claimed within 14 days from the date of removal, the Municipality may−

(a) destroy the goods where the sale of such goods is not feasible; or

(b) sell such goods subject to section 35(13).

(5) Where abandoned goods have been sold in terms of paragraph 4(b), the proceeds of such sale are to be forfeited to the Municipality.”.

**Short title and commencement**

**6.** This By-law is called the eThekwini Municipality: Informal Trading Amendment By-Law, 2018 and comes into operation on the date of publication in the *Provincial Gazette.*

**ISAZISO SOMPHAKATHI**

**UMASIPALA WASETHEKWINI: UMTHETHO KAMASIPALA WOKUCHIBIYELA UMTHETHO WOHWEBO OLUSAKHULA, KA-2018**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini, ngaphansi kweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, ka-2000 (uMthetho No.32 ka-2000), usushaye uMthetho kaMasipala Wokuchibiyela uMthetho Wohwebo Olusakhula, ka-2018, oqukethwe lapha ngenzansi.

Mnu Sipho Nzuza
iMenenja yeDolobha

City Hall
Dr Pixley Ka-Isaka Seme Street
eThekwini

Usuku: 5 Disemba 2019

# UMTHETHO KAMASIPALA WASETHEKWINI WOKUCHIBIYELA UMTHETHO WOHWEBO OLUSAKHULA, KA-2018

Waphasiswa uMkhandlu mhla ka 23 Okthoba 2018

**UMTHETHO KAMASIPALA WOKUCHIBIYELA UMTHETHO WOHWEBO OLUSAKHULA, 2018**

**IZINCAZELO EZEJWAYELEKILE:**

**[ ]** Amagama abhalwe ngokugqamile kubakaki abayizikwele akhombisa okukhishiwe eMthethweni kaMasipala okhona.

_____ Amagama adwetshelwe ngomugqa ohlangene akhombisa okwengeziwe eMthethweni kaMasipala okhona.

---

**Wokuchibiyela uMthetho kaMasipala waseThekwini Wohwebo Olusakhula ka-2014, ukuze kufakwe izincazelo ezehlukene, wokulawula nokukhalima umhwebi osakhula ekutheni ahwebe endaweni lapho kungavunyelwe noma kunemigomo khona yohwebo olusakhula; wokubeka eminye imigomo mayelana nohwebo olusakhula; wokuchibiyela isigaba 35 esiphathelene nokushaqwa kwezimpahla; wokuhlinzekela ukusingathwa kwezimpahla ezishiywe dengwane; nokuhlinzekela okunye okuphathelene nalokho.**

MAWUSHAYWE nguMkhandlu kaMasipala waseThekwini kanje:

**Ukuchitshiyelwa kohlu Lokuqukethwe loMthetho kaMasipala waseThekwini Wohwebo Olusakhula ka-2014**

**1.** Okuqukethwe eMthethweni kaMasipala waseThekwini Wohwebo Olusakhula ka-2014 (ngemuva kwalokhu ozobizwa ngoMthetho oMkhulu) lapha kuyachitshiyelwa ngokuthi kufakwe lesi sihloko esilandelayo ngemuva kwesihloko “35. Ukususwa Nokushaqwa”:

“**35A. Izimpahla ezishiywe dengwane**”.

**Ukuchitshiyelwa kwesigaba 1 soMthetho kaMasipala waseThekwini Wohwebo Olusakhula ka-2014**

**2.** Isigaba 1 soMthetho omkhulu lapha siyachitshiyelwa−

(a) ngokuthi kufakwe le ncazelo elandelayo ngaphambi kwencazelo yegama **“umsebenzi ogunyaziwe”**:

**“izimpahla ezishiywe dengwane”** kushiwo izimpahla ezishiywe zingagadwe muntu isikhathi esingaphezu kwamahora angu-24 futhi ongatholakali umnikazi wazo;” ;

(b) ngokususwa kwegama elithi “kanye” ngemuva kwencazelo yegama elithi “**ukuhweba emgwaqweni**”;

(c) ngokufakwa kwale ncazelo elandelayo ngemuva kwencazelo yegama elithi **“ukuhweba emgwaqweni”** :

**“amahora okuhweba”** kushiwo amahora aphakathi kuka-05h00 no-22h00, noma amanye amahora eluliwe njengoba kungasho uMasipala;” ; kanye

(d) nokufakwa kwale ncazelo elandelayo ngaphambi kwencazelo yegama elithi **“unqenqema”** :

“ **“inqola”** kushiwo inqola enamasondo egunyazwe nguMasipala; kanye”.

**Ngokuchitshiyelwa kweSigaba 18 soMthetho kaMasipala waseThekwini Wohwebo Olusakhula ka-2014**

**2.** ISigaba 18 soMthetho oMkhulu lapha siyachitshiyelwa ngokuthi kwengezwe lesi sigatshana esilandelayo ngemuva kwesigatshana (4):

“(5) Umhwebi osakhula akumele ahwebe endaweni lapho ukuhweba kwabahwebi abasakhula kwenqatshelwe khona nakunoma iyiphi indawo lapho uhwebo olusakhula lwenqatshelwe noma lubekelwe imigomo khona ngokwalo Mthetho kaMasipala.”.

**Ukuchitshiyelwa kwesigaba 21 soMthetho kaMasipala waseThekwini Wohwebo Olusakhula ka-2014**

**3.** Isigaba 21 soMthetho oMkhulu ngalokhu siyachitshiyelwa –

(a) ngokufaka esikhundleni sendima (a) yesigatshana (1) le ndima elandelayo:

"(a) abeke impahla yakhe emgwaqweni womphakathi **[noma endaweni yomphakathi, ngaphandle kwasemotweni yakhe noma enqoleni yakhe lapho ehwebela khona: kuncike ekutheni leyo moto noma leyo nqola ayiphazamisi ukuhamba kwabantu noma kwezimoto futhi kuyahambisana nezinhlinzeko zoMthetho kaZwelonke Wokuhamba Kwezimoto Emgwaqweni ka-1996 (uMthetho No. 93 ka 1996)]**;";

(b) ngokuthi kufakwe esikhundleni sendima (b) yesigatshana (1) le ndima elandelayo:

"(b) avumele ukuba izimpahla zakhe noma indawo asebenzela kuyona ikapakele endaweni **[emgwaqweni womphakathi noma]** yomphakathi–";

(c) ngokuthi kufakwe esikhundleni sezindima (n) no (o) zesigatshana (1) lezi zindima ezilandelayo:

"(n) ukuhweba endaweni engezansi kwalapho kuhamba khona amanzi aphakeme ezikhukhula; **[noma]**

(o) ukuhweba epaki, ngaphandle uma leyo ndawo imenyezelwe wumkhandlu njengendawo yokuhweba abahwebi abasakhula**[.]**;

(d) ngokwengeza kwisigatshana (1) lezi zindima ngemuva kwendima (o):

"(p) ukuhwebela enqoleni noma kwenye into ethi ayibe njalo, engagunyaziwe wuMkhandlu; noma

(q) ukuhwebela emotweni."; kanye

(e) nokwengeza lesi sigatshana esilandelayo ngemuva kwesigatshana (2):

"(3) Noma ngubani–

(a) ohweba ngezimpahla noma ngamasevisi; noma

(b) okhangisa ngezimpahla noma ngamasevisi,

endaweni yomphakathi uyothathwa njengomuntu owenza uhwebo olusakhula."

**Ukushintshwa kweSigaba 35 soMthetho kaMasipala waseThekwini Wohwebo Olusakhula, 2014**

**4.** Lesi sigaba esilandelayo singena endaweni yesigaba 35 soMthetho oMkhulu:

"**Ukususwa nokushaqwa kwempahla"**

35.(1) Kuncike kwisigatshana (3), umsebenzi ogunyaziwe, ngokoMthetho Wenqubo Yamacala Obugebengu ka-1977 (uMthetho No. 51 ka 1977), angasusa noma ashaqe noma yiziphi izimpahla zomhwebi osakhula asola noma abona ukuthi zisetshenziswa noma kuhloswe ukuba zisetshenziswe mayelana−

(a) nendawo yokuhweba−

(i) lapho uhwebo olusakhula lwenqatshelwe noma lunemigomo, njengoba kushiwo esigabeni 18; noma

(ii) lapho kwenqatshelwe noma kubekelwe imigomo nguMasipala, ngokwesigaba 31(1);

(b) nokuhweba ngaphandle kwephemithi yabahwebi abasakhula ekhishwe nguMasipala ngokwesigaba 12; noma

(c) ukuhweba ngezimpahla ezingekho emthethweni.

(2) Ukususwa nokushaqwa kwezimpahla ngokwesigatshana (1) kumele kwenziwe noma ngabe lezo zimpahla zisezandleni zomunye umuntu wesithathu ngaleso sikhathi.

(3) Noma yimuphi umsebenzi ogunyaziwe osusa noma oshaqa izimpahla ngokwesigatshana (1) kumele, ngaphandle uma lezo zimpahla zishiywe dengwane ngokweSigaba 35A, anikeze umhwebi osakhula isiliphu ─

(a) esibhalwe amagama ephelele, inombolo kamazisi nemininingwane yokuxhumana yomhwebi osakhula;

(b) esisho izigaba ezithile zomthetho kamasipala lowo mhwebi osakhula aziphulile;

(c) esiveza uhlu lwezimpahla esisuswayo futhi ezishaqwayo;

(d) esisho isikhathi sokushaqwa kwazo;

(e) esiveza imigomo nemibandela okumele ilandelwe ukuze kudedelwe izimpahla ezishaqiwe;

(f) esisho imali okumele ikhokhelwe ukushaqwa kwempahla ukuze izimpahla ezishaqiwe zidedelwe;

(g) esisho indawo lapho kuzogcinwa khona izimpahla ezishaqiwe nalapho kungayiwa khona ukuze kukhokhwe imali yokudedela lezo zimpahla;

(h) esinendawo lapho umhwebi osakhula evuma khona ukuthi−

(i) okubhalwe esiliphini kuyiqiniso;

(ii) uchazeliwe ngokubhalwe esiliphini; futhi

(iii) uyazi futhi uyaqonda ukuthi kusho ukuthini ukushaqwa kwezimpahla zakhe nokumele akwenze ukuze abuyelwe yizimpahla zakhe; futhi

(i) esiqukethe igama lomsebenzi ogunyaziwe othintekayo nezikhathi nosuku lokushaqwa kwezimpahla.

(4) UMasipala kumele uma kufika lezo zimpahla ephawundini lezimpahla−

(a) abhale bhansi kwirejista lezo zimpahla ezishaqiwe;

(b) ngokushesha abhale kwirejista−

(i) imininingwane yomhwebi osakhula njengoba kushiwo kwisigatshana (3)(a);

(ii) imininingwane yezimpahla ezithathiwe futhi ezishaqiwe, kubandakanya isimo salezo zimpahla;

(iii) indawo lapho izimpahla zishaqwe khona;

(iv) igama lomsebenzi ogunyaziwe okunguyena othathe izimpahla wazishaqa; kanye

(v) nosuku nesikhathi okuthathwe nokushaqwe ngaso lezo zimpahla.

(5) Izimpahla ezishaqiwe kumele, kuncike kwisigatshana (9), zikhululwe uma sekuvezwe ubufakazi bobunikazi, ngokuthi kuvezwe isiliphu okukhulunywe ngaso kwisigatshana (3) kanye–

(a) nobufakazi bokukhokhwa kwezimali zokushaqwa kwempahla;

(b) ubufakazi bokukhokhwa kwenhlawulo ebiziwe; noma

(c) uma kunesidingo, ubufakazi bokukhokhwa kwezimali zokushaqwa kwempahla kanye nenhlawulo ebiziwe.

(6) Uma kushaqwe izimpahla ezonakalayo noma eziwukudla, uMasipala, kuncike kwisigatshana (7), angadayisa, angachitha noma alahle lezo zimpahla uma umhwebi osakhula engazilandi lezo zimpahla ezonakalayo noma eziwukudla ngokwesigatshana (5) engakedluli amahora angu-72 lezo zimpahla zishaqiwe.

(7) Kuncike kwisigatshana (6) no (9), uMasipala noma nini ngemuva kokushaqa izimpahla, angazidayisa, angazichitha noma azilahle izimpahla ezishaqiwe—

(a) ezonakalayo uma lezo zimpahla zingaba yingozi kwezempilo noma zingadala ukungcola; futhi

(b) kuwukudla okungasalungele ukuba kudliwe ngabantu: Kuncike ekutheni−

(i) kumele ukudla okonakalayo kuhlolwe ngumsebenzi ogunyaziwe ovela eMnyangweni Wezempilo kaMasipala futhi lowo msebenzi esekhiphe

isaziso sokuba kudayiswe, kulahlwe noma kuchithwe lezo zimpahla ezonakalayo noma eziwukudla; futhi

(ii) isaziso sesihanjisiwe kumhwebi osakhula othintekayo simazisa −

(aa) ukuthi izimpahla zakhe ezishaqiwe zizodayiswa, zizochithwa noma zizolahlwa;

(bb) isikhathi nendawo lapho zizodayiswa, zizochithwa noma zizolahlwa khona; kanye

(cc) nezizathu zokudayiswa, ukuchithwa noma ukulahlwa kwazo.

(8) Ezinye izimpahla ezingahlinzekelwe ngokwesigatshana (6) zingadayiswa nguMasipala uma umhwebi osakhula engayikhokhi imali yokushaqwa kwazo ezinyangeni ezintathu kusukela osukwini ezishaqwe ngalo lezo zimpahla.

(9) Uma uMasipala ehlose ukudayisa izimpahla ezishaqiwe, kumele anikeze umhwebi osakhula othintekayo isaziso lapho umhwebi aziswa khona −

(a) ukuthi uMasipala uhlose ukudayisa izimpahla zakhe ezishaqiwe ngenxa yokuthi yena uyehluleka ukuzikhipha lezo zimpahla zakhe ngesikhathi esinqunyiwe;

(b) ngosuku, isikhathi nendawo lapho umhwebi osakhula angeza khona ukuzokwenza izethulo ngokuthi kungani uMasipala kungamele udayise izimpahla zakhe; kanye

(c) nosuku, isikhathi nendawo okuzodayiswa khona izimpahla uma umhwebi osakhula ehluleka emizamweni yakhe ngokwendima (b) ukukhipha izimpahla zakhe.

(10) Uma izimpahla ezishaqiwe zidayiswa nguMasipala ngokwesigatshana (8), futhi uma kuvezwa isiliphu esingubufakazi bobunikazi balezo zimpahla ngokwesigatshana (3), uMasipala kumele ukhokhele umuntu oveza leso siliphu izimali okudayiswe ngazo izimpahla zakhe sekudonswe izimali zokushaqwa kwezimpahla.

(11) Isicelo sokukhokhelwa izimali ngokwesigatshana (10) angeke siphumelele uma sekwedlule izinsuku ezingu-90 kusukela osukwini okudayiswe ngalo izimpahla, futhi uma kuba njalo yonke imali yokudayiswa kwempahla iyogwinywa nguMasipala.

(12) Uma ngokubona komsebenzi ogunyaziwe, umhwebi osakhula esolwa ngokudayisa izimpahla ezingekho emthethweni, lezo zimpahla kumele zithathwe futhi, uma sezithathiwe, umsebenzi ogunyaziwe kumele—

(a) alandele izidingo zalesi sigaba lapho kufanele khona; futhi
(b) ngokushesha ahambise lezo zimpahla okusolakala ukuthi azikho emthethweni oPhikweni Lwamaphoyisa lwaseNingizimu Afrika (SAPS).”

(13) Ukudayiswa kwezimpahla ezishaqiwe ngokwalo mthetho kaMasipala kumele kwenziwe ngokuhambisana nezinqubo nemigomo kamasipala.

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**Ukufakwa kweSigaba 35A soMthetho kaMasipala waseThekwini Wabahwebi Abasakhula ka-2014**

**5.** Lapha kufakwa lesi sigaba esilandelayo ngemuva kwesigaba 35A eMthethweni oMkhulu:

“**Izimpahla ezishiywe dengwane”**
35A.(1) Lezi zimpahla ezilandelayo uMasipala uyozithatha njengezimpahla ezishiywe dengwane:

(a) izimpahla ezitholakale emgwaqweni womphakathi noma endaweni yomphakathi angatholakali noma angabonakali umnikazi wazo; noma
(b) izimpahla ezitholakale emapayipini, emigodini, ezindlini zangasese, ngaphansi kwemipheme yezithuthi zomphakathi noma esihlahleni noma esikhotheni.

(2) Noma yiziphi izimpahla ezitholwe nguMasipala zishiywe dengwane zingashaqwa ngaleso sikhathi zihanjiswe ephawundini.

(3) UMasipala kumele−
(a) agcine irejista yezimpahla ezishaqiwe ephawundini;
(b) abhale ngokushesha kwirejista−
(i) imininingwane yezimpahla ezishaqiwe kubandakanya isimo salezo zimpahla;
(ii) indawo lapho lezo zimpahla zithathwe khona;
(iii) igama lomsebenzi ogunyaziwe okunguyena obebhekene nokususwa kwalezo zimpahla; kanye
(iv) nesikhathi nosuku lokususwa kwazo,
uma kulethwa lezo zimpahla ephawundini.

(4) Uma izimpahla ezishiywe dengwane zingalandwa kuze kudlule izinsuku ezingu-14 kusukela osukwini lokuthathwa kwazo, uMasipala−

(a) angazilahla lezo zimpahla uma zingeke zikwazi ukudayiswa; noma

(b) angadayisa lezo zimpahla ngokwesigaba 35(13).

(5) Uma izimpahla ezishiywe dengwane zidayiswa ngokwendima 4(b), izimali zokudayiswa kwazo ziyodliwa nguMasipala.”

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**Isihloko esifingqiwe nokuqala kokusebenza kwalo mthetho**

**6.** Lo Mthetho kaMasipala ubizwa ngokuthi uMthetho kaMasipala waseThekwini Wokuchibiyela uMthetho Wohwebo Olusakhula ka-2018 futhi uqala ukusebenza ngosuku oyoshicilelwa ngalo kwiGazethi yeSifundazwe.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

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