



KwAZULU-NATAL PROVINCE  
KwAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SA KwAZULU-NATALI

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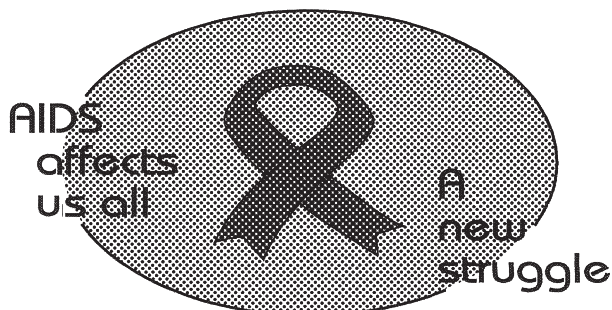
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**No. 1490**

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**MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS**

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**MUNICIPAL NOTICE 175 OF 2015**

**PUBLIC NOTICE**

**ETHEKWINI MUNICIPALITY: PROBLEM BUILDING BY-LAW**

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, 32 of 2000, the Problem Building By-law contained hereunder.

**Mr Sibusiso Sithole**

**City Manager**

City Hall

Dr Pixley Ka-Isaka Seme Street

Durban

**eTHEKWINI MUNICIPALITY: PROBLEM BUILDINGS BY-LAW, 2015**



Adopted by Council on the: **24 JUNE 2015**

## PROBLEM BUILDINGS BY-LAW, 2015

**To provide for the identification, control and rehabilitation of problem buildings; to create offences and penalties; and to provide for matters incidental thereto.**

### PREAMBLE

**WHEREAS** the eThekweni Municipality recognises the need to identify, control and rehabilitate problem buildings;

**WHEREAS** the eThekweni Municipality recognises the right to housing, as well as the need to address the infrastructural, social and economic disparities of the past;

**WHEREAS** the eThekweni Municipality has competence in terms of Part B of Schedule 4 of the Constitution of the Republic of South Africa, relating to such matters as building regulations, municipal planning and municipal health, and competence in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa, relating to such matters as the control of public nuisances;

**AND WHEREAS** the eThekweni Municipality has competence, in terms of section 156(2) of the Constitution of the Republic of South Africa, to make and administer By-laws for the effective administration of the matters which it has the right to administer;

**NOW THEREFORE** the eThekweni Municipal Council, acting in terms of section 156 read with Parts B of Schedules 4 and 5 of the Constitution of the Republic of South Africa, 1996 and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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## CHAPTER 1 INTERPRETATION

### Definitions

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

“**authorised official**” means a person authorised to implement the provisions of this By-law, including but not limited to–

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;



**“building”** has the meaning assigned to it in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

**“competent person”** means a competent person as contemplated in the National Building Regulations, Government Notice No. R. 2378 of 12 October 1990;

**“compliance notice”** means a notice issued to the owner of a problem building in terms of section 10 of this By-law;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

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

**“hijack”** in relation to a building means to unlawfully take over the management and control of a building, including but not limited to the collection of rentals from the owner, occupier or managing agent;

**“managing agent”** means a person who is appointed by –

- (a) an owner of a building to maintain and manage a building on the owner’s behalf; or
- (b) a tenant of the owner who has the power or obligation to sub-let, maintain and manage the building;

**“Municipality”** means the eThekweni Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of Provincial Notice No. 43 of 2000 (KZN);

**“occupier”** includes any person in actual occupation of a building or part of a building regardless of the title under which he or she occupies such building;

**“owner”** means the person in whose name the land on which a building is situated is registered in the relevant deeds office or–

- (a) in the case of a trust, the trustees of that trust;

- (b) the registered owner of a sectional title unit, where the interior of a sectional title unit is at issue;
- (c) the trustees of a body corporate, where the common property of a sectional title scheme is at issue;
- (d) the administrator of the body corporate of the sectional title scheme where the common property of a sectional title scheme is at issue and there are no elected trustees of the body corporate;
- (e) the executor, where the—
  - (i) owner of the building is deceased and the building has not yet been transferred out of the deceased's estate; or
  - (ii) estate of the owner has been sequestrated;
- (f) the curator, where the owner of the building has been declared by any court to be incapable of managing his or her own affairs or a prodigal;
- (g) the administrator, where the owner of the building is a mental health care user as defined in section 1 of the Mental Health Act, 2002 (Act No. 17 of 2002);
- (h) the liquidator, where the owner of the building is a judicial person or a trust and has been liquidated;
- (i) the former members of a close corporation which has been deregistered and in respect of which they have a continuing liability as contemplated in section 26 of the Close Corporations Act, 1984 (Act No. 69 of 1984), read with sections 83(2) and (3) of the Companies Act, 2008 (Act No. 71 of 2008);
- (j) the business rescue practitioner, where the owner of the building has been placed under business rescue;
- (k) the managing agent, where the owner of the building is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts; or
- (l) every person who is entitled to occupy or use a building, or who does occupy or use a building, where—
  - (i) the owner of the building is absent from the Republic of South Africa;
  - (ii) the Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and
  - (iii) there is no managing agent;

**“problem building”** means a building or portion of a building which—

- (a) is derelict in appearance or is showing signs of becoming unhealthy, unsanitary, unsightly, or objectionable;

- (b) has been abandoned by the owner, or appears to have been abandoned by the owner, regardless of whether or not rates or service charges are being paid;
- (c) is overcrowded;
- (d) has been hijacked;
- (e) has been the subject of one or more written complaints, charges or convictions regarding criminal activities being conducted in the building, as confirmed in writing by a member of the Durban Metropolitan Police Service or the South African Police Service;
- (f) is illegally occupied;
- (g) has refuse or waste material unlawfully accumulated, dumped, stored or deposited;
- (h) has been unlawfully erected or has a part which has been unlawfully erected;
- (i) has been changed and its subsequent usage is unauthorised;
- (j) is partially completed, or structurally unsound or showing signs thereof, and is or may be a threat or danger to life and property; or
- (k) is in contravention of one or more of the Municipality's By-laws.

### **Interpretation of By-law**

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

### **Objects of By-law**

3. The objects of this By-law are to–

- (a) provide a mechanism for the co-ordinated identification, control and rehabilitation of problem buildings;
- (b) set minimum standards for consultations with owners, and people who occupy or reside in problem buildings; and
- (c) ensure the health and safety of people occupying problem buildings and of the public in general.

### **Application of By-law**

4. This By-law applies to all areas which fall under the jurisdiction of the eThekweni Municipality and is binding on all persons to the extent applicable.

## CHAPTER 2 IDENTIFICATION OF PROBLEM BUILDINGS

### **Notice of intention to declare building a problem building**

**5.** In the event that the Municipality is of the opinion that a building should be declared a problem building, it must serve a written notice on the owner—

- (a) informing the owner that the Municipality intends to declare the building to be a problem building;
- (b) giving reasons why the Municipality intends to declare the building to be a problem building;
- (c) inviting the owner to make written representations, within 14 days of the notice, on why the building should not be declared a problem building; and
- (d) providing an address, fax number or email address to which representations may be submitted.

### **Declaration of a problem building**

**6.(1)** The Municipality must, after considering any representations received from the owner, as contemplated in section 5, either—

- (a) decide not to declare the building to be a problem building for the time being; or
- (b) declare the building to be a problem building.

(2) In the event that the Municipality decides to declare a building to be a problem building, the Municipality must give written notice to the owner, together with reasons.

## CHAPTER 3 CONTROL OF PROBLEM BUILDINGS

**Profiling problem buildings**

7.(1) The Municipality must, as soon as is reasonably possible after a building has been declared to be a problem building, undertake an investigation to identify–

- (a) those aspects of the building which are in contravention of this By-law or any other applicable law;
- (b) any risks to the safety of the occupiers of the problem building or the public; and
- (c) the occupiers of the problem building and, if the occupiers reside at the building, also profile the occupants to determine the following characteristics of the occupiers:
  - (i) the number of children;
  - (ii) the number of women;
  - (iii) the number of disabled people;
  - (iv) the number of elderly people;
  - (v) the number of people residing per room and the area of each room occupied as a residence; and
  - (vi) the total number of people residing in the building.

(2) The owner or the managing agent of the problem building is entitled to be present while the investigation is being undertaken and, if so present, must be given the opportunity to make representations during such investigation.

(3) Where verbal representations have been made in terms of subsection (2) the authorised official must write down such representations and ensure that the owner or the managing agent is given an opportunity to sign such representations.

**Ban on new occupants**

8. The Municipality may, once a problem building has been profiled, apply to court for an interdict restraining the owner and any managing agent from–

- (a) allowing any other people, in addition to those identified in the profile of occupants, from occupying or residing at the building; and
- (b) filling any vacancy which may arise as a result of any person identified in the profile of occupants vacating the building.

## CHAPTER 4 REHABILITATION OF PROBLEM BUILDINGS

### Engagement with owners

9.(1) The Municipality must, once a problem building has been profiled as contemplated in section 7, serve a further notice on the owner—

- (a) identifying those aspects of the building which are in contravention of this By-law or any other applicable law;
- (b) identifying any risks to the safety of the occupiers of the problem building or the public; and
- (c) specifying steps which the owner is obliged to take, within a reasonable period of time specified in the notice, in order to rectify those contraventions or remove those risks.

(2) The steps referred to in paragraph (1)(c) may include, but are not limited to—

- (a) repairs;
- (b) repainting;
- (c) renovations;
- (d) alterations;
- (e) installing proper ablutions;
- (f) demolition;
- (g) enclosing, fencing or otherwise securing the problem building;
- (h) closing the problem building;
- (i) removing all refuse;
- (j) submitting a building plan;
- (k) removing any source of danger or potential danger;
- (l) completing the construction of the problem building or any part of that building;
- (m) appointing and instructing, at the cost of such owner, a competent person to—
  - (i) examine any condition that gave rise to the declaration of a building as a problem building; and
  - (ii) report to the authorised official on the nature and extent of the steps to be taken, which in the opinion of the competent person, need to be taken in order to make the problem building safe;
- (n) giving notice to occupiers to vacate the problem building within a specified time period; and

(o) complying with any provision of this By-law or any other law.

### **Engagement with occupiers**

**10.(1)** If a problem building is occupied, the Municipality must serve a compliance notice on the occupiers and affix a copy of the compliance notice at the main entrance to the building, advising that–

- (a) the building has been declared a problem building;
- (b) the owner has been instructed to take specified steps within a specified period of time;
- (c) continued occupation of the problem building is unsafe; and
- (d) the Municipality will seek the eviction of the occupiers if the owner fails to comply with the compliance notice.

(2) In the event that the owner of a problem building which is occupied by residents fails to comply with the compliance notice, the Municipality must serve a further notice on the occupiers and affix a copy of the notice at the main entrance to the building–

- (a) advising that the owner of the problem building has failed to comply with the notice;
- (b) warning that continued occupation of the problem building is not safe;
- (c) advising that the Municipality intends seeking the eviction of the occupiers;
- (d) listing the details of possible alternative accommodation; and
- (e) providing the contact details of a municipal official available to assist the occupiers in finding alternative accommodation.

### **Eviction**

**11.** Where the owner of a problem building fails to comply with a compliance notice, the Municipality may, after having complied with the engagement process contemplated in terms of section 10, apply to court for the eviction of the occupiers.

### **Unsafe problem buildings**

**12.(1)** In the event that the authorised official has reason to believe that the condition of any problem building is such that steps should immediately be taken to protect life or property, he or she may take such steps as may be necessary in the circumstances without having to

comply with any other provision of this By-law and may recover the costs incurred from the owner.

(2) In the event that the authorised official deems it necessary to act in terms of subsection (1) he or she may for the purposes of ensuring the safety of any person, by notice in writing order—

(a) the owner of a problem building to—

(i) remove, within a period specified in the notice, any person residing in or otherwise occupying such problem building; and

(ii) take reasonable steps to ensure that no person who is not authorised by the Municipality enters such problem building; and

(b) any person residing in or otherwise occupying a problem building, to vacate such problem building.

(3) A person may not enter or continue to occupy, use or permit the occupation or use of any problem building in respect of which a notice was served in accordance with subsection (2), unless he or she has been given written permission to do so by the Municipality.

## **CHAPTER 5 ENFORCEMENT**

### **Entry by authorised official**

13.(1) An authorised official may enter any building at any reasonable time with a view to—

(a) determine whether the building should be declared a problem building in terms of this By-law;

(b) serve any notice required in terms of this By-law;

(c) determine whether the owner has complied with any compliance notice issued in terms of this By-law; or

(d) enforce any provision of this By-law.

(2) A person may not hinder or obstruct an authorised official in the exercise of his or her powers or duties in terms of this By-law.



(3) An authorised official must, when entering the building as contemplated in subsection (1), produce a valid identification document issued to him or her by the Municipality, to the owner and, if applicable, the managing agent, as well as to any occupier who asks to see the identification document.

#### **Powers of authorised officials**

**14.** An authorised official may, when entering a building—

- (a) inspect, monitor and investigate the building;
- (b) question the owner, the managing agent or any occupier of the building;
- (c) take photos of the building, whether of the outside of the building or any internal aspect of the building, including any residence;
- (d) remove evidence;
- (e) take samples; and
- (f) do anything necessary to implement the provisions of this By-law.

#### **Service of notices**

**15.(1)** Whenever a compliance notice is required to be served on a person in terms of this By-law, it is deemed to have been effectively and sufficiently served on such person—

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence or business in the Republic of South Africa with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic of South Africa and an acknowledgement of the posting thereof is produced;
- (d) if his or her address in the Republic of South Africa is unknown, when it has been served on his or her agent or representative in the Republic of South Africa in the manner contemplated in paragraphs (a), (b) or (c); or
- (e) if his or her address and agent in the Republic of South Africa are unknown, when it has been affixed to a conspicuous place on the building.

#### **Combined notices**

**16.** The Municipality is not restricted, when issuing a notice in terms of this By-law for –

(a) multiple contraventions of the provisions of this By-law or of any other By-law in respect of a problem building; or

(b) multiple failures or refusals to comply with a compliance notice in terms of this By-law,

to serve a combined notice dealing with all of those contraventions, failures or refusals, as the case may be.

### **Indemnity**

**17.** The Municipality and any authorised official is not liable for any damage caused by anything lawfully done or omitted by the Municipality or authorised official in carrying out any function or duty in terms of this By-law.

### **Lawful instructions**

**18.** Failure to comply with a lawful instruction of an authorised official constitutes a contravention of this By-law.

### **Recovery of costs**

**19.(1)** In the event that a person—

(a) contravenes the provisions of this By-law or of any other applicable law in respect of a problem building; or

(b) fails or refuses to comply with a compliance notice issued in terms of this By-law,

such person is guilty of an offence and the Municipality may take any steps required to remedy the contravention and recover the costs from such person.

(2) The recovery of costs contemplated in subsection (1) is in addition to any fine which may be imposed on the person concerned and may be charged to the owner's municipal account.

### **Vicarious liability**

**20.(1)** The owner of a problem building whose managing agent or tenant, in the case of a tenant who has the power or obligation to sub-let, maintain and manage the building or portion of the building—

(a) contravenes the provisions of this By-law or of any other By-law in respect of a problem building; or

(b) fails or refuses to comply with a compliance notice issued in terms of this By-law, is deemed to have committed such contravention himself or herself, unless the owner can show that he or she took reasonable steps to prevent such contravention: Provided that the fact that–

(i) the owner issued instructions to the managing agent or tenant, prohibiting such contravention; or

(ii) a written agreement making the managing agent, tenant or another third party responsible for compliance,

does not in itself constitute sufficient proof of such reasonable steps.

(2) The managing agent of a problem building or a tenant in a problem building, in the case of a tenant who has the power or obligation to sub-let, maintain and manage the building or portion of the building, is jointly and severally liable with the owner of such building if the owner –

(a) contravenes the provisions of this By-law or of any other applicable law in respect of a problem building; or

(b) fails or refuses to comply with a compliance notice issued in terms of this By-law, unless the agent or tenant can show that he or she took reasonable steps to prevent such contravention.

## **Offences**

**21.** Any person who–

(a) contravenes any provision of this By-law;

(b) fails or refuses to comply with a compliance notice;

(c) fails to comply with any lawful instruction given in terms of this By-law;

(d) threatens, resists, interferes with or obstructs any authorised official in the performance of his or her duties or functions in terms of or under this By-law; or

(e) deliberately furnishes false or misleading information to an authorised official,

is guilty of an offence.

## **Penalties**

**22.** (1) Any person who is convicted of an offence under this By-law is liable to–

- (a) a fine of an amount not exceeding R500 000;
- (b) imprisonment for a period not exceeding three years;
- (c) both such fine and imprisonment contemplated in paragraphs (a) and (b).

(2) In the case of a continuing offence–

- (a) an additional fine of an amount not exceeding R5 000; or
- (b) imprisonment for a period not exceeding 10 days,

for each day on which such offence continues, or both such fine and imprisonment, will be imposed.

### **Presumptions**

**23.** A person charged with an offence in terms of this By-law who is–

- (a) letting a problem building; or
- (b) acting as a managing agent in respect of a problem building,

is deemed, until the contrary is proved, to have knowingly let or managed a problem building.

## **CHAPTER 6 MISCELLANEOUS PROVISIONS**

### **Delegations**

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

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

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

(2) A delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local

Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

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

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

### **Appeals**

**25.(1)** A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

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

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

**Short title and commencement**

**26.** This By-law is called the eThekweni Municipality: Problem Buildings By-law, 2015 and takes effect six months from the date of publication thereof in the *Provincial Gazette* or on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.

**MUNICIPAL NOTICE 175 OF 2015****ISAZISO SOMPHAKATHI****ISAZISO NGOMTHETHO KAMASIPALA WAMABHILIDI AYINKINGA**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini usushaye iMithetho kaMasipala Emayelana Namabhilidi Ayinkinga, ngokweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, No.32 ka 2000 kanti le mithetho iyalandela lapha ngenzansi.

Sibusiso Sithole  
iMenenja yeDolobha

City Hall  
Dr Pixley ka-Isaka Seme Street  
eThekwini

**UMTHETHO KAMASIPALA WASETHEKWINI WEZAKHIWO EZIYINKINGA 2015**



Wamukelwa uMkhandlu mhla ka: 2015-06-24



**UMTHETHO KAMASIPALA WASETHEKWINI WEZAKHIWO EZIYINKINGA, 2015**

**Wokuhlinzekela ukuhlonzwa, ukulawulwa nokulungiswa kwezakhiwo eziyinkinga; ukwakha amacala nezigwebo; nokuhlinzekela okunye okuphathelene nalokho.**

**ISENDLALELO**

**LAPHO** uMasipala waseThekwini esibona isidingo sokuhlonza, ukulawula nokulungisa izakhiwo eziyinkinga;

**LAPHO** uMasipala waseThekwini esibona isidingo selungelo lezindlu, nesidingo sokulungisa ingqalasizinda, usikompilo nokushoda komnotho kwangesikhathi esedlule;

**LAPHO** uMasipala waseThekwini ngokugunyazwa nguSheduli 4 (Part B) woMthethosisekelo waseNingizimu Afrika, mayelana nemithetho yokwakha, ukuhlela nezempilo kumasipala, kanye nangokugunyazwa nguSheduli 5 (Part B) woMthethosisekelo waseNingizimu Afrika, ezintweni eziphathelene nokulawula isicunulo emphakathini;

**FUTHI LAPHO** uMasipala enesibopho namagunya ngokwesigaba 156(2) soMthethosisekelo weRiphabhliki yaseNingizimu Afrika, okwenza imithetho yeDolobha yokulawula nokuphatha izinto anegunya lokuzilawula;

**NGAKHO-KE MANJE** umkhandlu kamasipala kuMkhandludolobha waseThekwini ngokugunyazwa yisigaba 156 esifundwa noSheduli 4 (Part B) kanye noSheduli 5 (Part B) woMthethosisekelo, ofundwa nesigaba 98 no 11 soMthetho weziNhlelo zoMasipala, usungula lo mthetho kamasipala olandelayo::

**OKUQUKETHWE****ISAPHLUKO 1  
UKUHUNYUSHWA**

1. Izincazelo
2. Ukuhunyushwa koMthetho kaMasipala
3. Izinhloso zoMthetho kaMasipala
4. Ukusebenza koMthetho kaMasipala

**ISAPHLUKO 2  
UKUHLONZWA KWEZAKHIWO EZIYINKINGA**

1. Isaziso senhloso yokunquma ngokusemthethweni izakhiwo njengezinkinga
2. Ukumenyezela kwezakhiwo eziyinkinga

**ISAPHLUKO 3  
UKULAWULWA KWEZAKHIWO EZIYINKINGA**

3. Ukugagulwa kwezakhiwo eziyinkinga
4. Ukunqatshela kweziqashi ezintsha

**ISAPHLUKO 4  
UKULUNGISWA KWEZAKHIWO EZIYINKINGA**

5. Ukuxoxisana nabanikazi
6. Ukuxoxisana nabahlali
7. Ukukhishwa kwabahlali esakhiweni
8. Izakhiwo eziyinkinga ezingaphephile

**ISAPHLUKO 5  
UKUSETSHENZISWA KOMTHETHO**

9. Ukungena komsebenzi ogunyaziwe
10. Amandla omsebenzi ogunyaziwe
11. Ukukhishwa kwezaziso
12. Izaziso eziyinhlanganisela
13. Ukuzihlangula
14. Imiyalelo esemthethweni
15. Ukuqoqwa kwezindleko
16. Ukuthwala icala ngenxa yezenzo ze-ejenti noma zesiqashi
17. Amacala
18. Izigwebo
19. Imibono

## **ISAHLUKO 6 OKWEJWAYELEKILE**

20. Ukudluliswa kwamandla
21. Ukudluliswa kwamacala

## **ISAHLUKO 1 UKUHUNYUSHWA**

### **Izincazelo**

1. Kulo Mthetho kaMasipala, ngaphandle uma ingqikithi isho okwehlukile –

**"umsebenzi ogunyaziwe"**kushiwo umuntu ogunyazwe ukulandela izimiso zalo mthetho okufaka phakathi kokunye –

- (a) umsebenzi womthetho ochazwe esigabeni 334 soMthetho weNqubo yamaCala obuGebengu, 1977 (uMthetho No. 51 ka 1977);
- (b) amaphoyisa kaMasipala njengoba echazwe eMthethweni wamaPhoyisa aseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995); kanye
- (c) nalabo basebenzi, ama-ejenti, abadluliselwe amandla, izithunywa nabahlinzeka uMasipala ngomsebenzi: Kuncike ekutheni ngokwezinhloso

zokusesha nokushaqa impahla, uma lowo muntu engesiyena umuntu womthetho, kufanele aphelezwe umuntu womthetho;

**“isakhiwo”** kushiwo ngokwenzazelo eseSigabeni 1 soMthetho wamaZinga oKwakha neMithethonqubo yoKwakha kaZwelonke, 1977 (Umthetho No. 103 ka 1977);

**“umuntu onamakhono afanele”** kushiwo umuntu onamakhono afanele njengokuba kuchaziwe kwiMithethonqubo yoKwakha kaZwelonke, iSaziso sikaHulumeni No. R 2378 ka 12 Okthoba 1990;

**“isaziso sokuthobela umthetho”** kushiwo isaziso esinikezwa umnikazi wesakhiwo esiyinkingo ngokweSigaba 10 salo mthetho kaMasipala;

**“uMthethosisekelo”** kushiwo uMthethosisekelo weRiphabhliki yaseNingizimu Afrika, 1996;

**“umkhandlu”** noma **“umkhandlu kamasipala”** kushiwo umkhandlu kamasipala weTheku, umkhandlu kamasipala ohlongozwe esigabeni 157(1) soMthethosisekelo;

**“ukudunwa”** maqondana nebhilidi kushiwo ukudunwa kwebhilidi okungemthetho kubaphathi balo nokulawulwa kwalo, kubalwa kepha kungamile ekuqoqweni kwemali yerenti kumnikazi, kumhlali noma kwi-ejenti;

**“i-ejenti ephethe”** kushiwo umuntu okhethwe –

(a) umnikazi wesakhiwo ukuthi agcine esimweni futhi alawulele umnikazi wesakhiwo isakhiwo sakhe; noma

(b) isiqashi somnikazi wesakhiwo esinamandla noma isibopho sokuqashisa ngaphansi kwaso, ukugcina esimweni nokulawula isakhiwo;

**“uMasipala”** kushiwo umasipala weTheku, umkhakha A kamasipala obalulwe esigabeni 155(1) soMthethosisekelo owabunjwa ngokweSaziso soMphakathi No. 343 sika 2000 (KZN);

**“umhlali”** kusho noma ngubani ohlala ezakhiweni noma engxenyeni yazo ngaphandle kokubheka ukuthi uhlezi ngoba engubani empeleni;

“**umnikazi**” kushiwo umuntu okubhaliswe ngaye umhlaba okwakhiwe isakhiwo kuwo futhi obhaliswe ehhovisini lamatayitela elifanele –

- (a) uma kukhulunywa nge-trust, kuzoba ama-trustees aleyo-trust;
- (b) umnikazi obhalisile wendlu ekwixanxathela yezindlu, uma kukhulunywa ngengaphakathi lendlu ekwingxenywe yenxanxathela yezindlu;
- (c) ama-trustees e-body corporate, uma kukhulunywa ngendawo kawonkewonke kwixanxathela yezindlu;
- (d) unobhala we-body corporate yenxanxathela yezakhiwo ezinabanikazi abahlukene uma kukhulunywa ngendawo abayisebenzisa bonke futhi kunganama-trustee akhethiwe e-body corporate;
- (e) umphathi wefa, lapho khona—
  - (i) umnikazi wesakhiwo eseshonile futhi isakhiwo singakususwa emafeni omuntu oseshonile; noma
  - (ii) umnikazi engaphansi kohlelo lokuvala ibhizinisi
- (f) umgcini, lapho khona umnikazi wesakhiwo esenqunywe inkantolo njengohluleka ukuphatha impahla yakhe;
- (g) umphathi, lapho umnikazi wesakhiwo esesibhedlela sabagula ngengqondo njengokuba kuchaziwe esigabeni 1 soMthetho Wezempilo Yengqondo, 2002 (UMthetho No. 17 ka 2002);
- (h) umphathifa, lapho khona umnikazi wesakhiwo engumuntu ongaphansi komthetho noma engaphansi kwesikhwama esivaliwe;
- (i) amalunga akudala enkampani eseyesuliwe emabhukwini asenisibopho njengokuba kuchaziwe kwisigaba 26 soMthetho iClose Corporations, 1984 (Umthetho No. 69 ka 1984), ufundwa neSigaba 83(2) no (3) loMthetho Wezinkampani 2008 (Act No. 71 of 2008);
- (j) umtakuli wamabhizinisi, lapho umnikazi wesakhiwo esefakwe ngaphansi kohlelo lokutakula amabhizinisi;
- (k) i-ejenti ephethe, lapho khona umnikazi wesakhiwo engekho eRiphabhlikhi yaseNingizimu Afrika noma lapho uMasipala esezame amahlandla ambalwa ukumthola kepha engamtholi ukuthi ukuphi; noma
- (l) wonke umuntu onegunya lokuhlala noma lokusebenzisa isakhiwo, ohlala noma osebenzisa isakhiwo, lapho khona –
  - (i) umnikazi wesakhiwo engekho eRiphabhlikhi yaseNingizimu Afrika;
  - (ii) uMasipala esezame amahlandla ambalwa ukumthola kepha engamtholi ukuthi ukuphi; noma
  - (iii) ingekho i-ejenti ephethe;

**“isakhiwo esiyinkinga”** kushiwo isakhiwo noma ingxenye yesakhiwo—

- (a) esibonakala njengesinganakekeliwe, esikhombisa ukungabi nampilo, esingahlanzekile, esibukeka kabi, noma esibukeka njengento engamulekile
- (b) sishiywe kanjalo umnikazi, noma esibukeka njengesishiywe kanjalo umnikazi, noma ngabe imali yamasevisi namareyt iyakhokhwa noma cha;
- (c) sikhombisa ukuba nabantu abaningi ngokweqile;
- (d) siduniwe;
- (e) sibe ingxenye yesikhalazo esisodwa nanga phezulu, mayelana nokuthi kunezenzo zobugebengu ezenzeka kulesi sakhiwo, njengokuqinisekisa kwelunga lamaPhoyisa kaMasipala weTheku noma awoMbuso waseNingizimu Afrika;
- (f) kunabahlala kuso ngokungemthetho;
- (g) sino doti noma impahla elahliwe esiningi kakhulu, elahliwe, egciniwe noma ebekiwe;
- (h) sakhiwe ngokungemthetho noma sinengxenye eyakhiwe ngokungemthetho;
- (i) sishintshiwe futhi indlela esesisetshenziswa ngayo ingagunyaziwe;
- (j) siqedwe ingxenye; singazimelele phansi noma uma sikhombisa izimpawu zokungazimeleli phansi, futhi singadala ubungozi empilweni kanye nakwesinye isakhiwo; noma
- (k) uma sephula umthetho wedolobha owodwa nangaphezulu.

### **Ukuhunyushwa koMthetho kaMasipala**

2. Umakuba nokushayisana phakathi kwalo mthetho kamasipala obhalwe ngesiNgisi nohunyushiwe, kuyolandelwa owesiNgisi.

### **Izinhloso zoMthetho kaMasipala**

3. Izinhloso zalo Mthetho kaMasipala —

- (a) ukuhlinzeka ngezindlela zokuhlonza okuhlelekile, ukulawula nokulungisa izakhiwo esiyinkinga;
- (b) ukwenza imigomo yokuxoxisana nabanikazi, nabantu abasebenzisa noma abahlala esakhiweni esiyinkinga; kanye
- (c) nokuqinisekisa ezempilo nokuphepha kwempilo yabantu abahlala kule zakhiwo kanye nomphakathi jikelele.

**Ukusebenza kwalo Mthetho kamasipala**

4. Lo Mthetho kamasipala usebenza kuyo yonke indawo engaphansi kukaMasipala

**ISAHLUKO 2****UKUHLONZWA KWEZAKHIWO EZIYINKINGA****Isaziso senhloso yokunquma ngokusemthethweni amabhilidi njengayinkinga**

5. Uma uMasipala ebona ukuthi isakhiwo esithile sifanele ukunqunywa ngokusemthethweni njenge sakhiwo esiyinkinga, kufanele aabhalele umnikazi walesi sakhiwo isaziso –

- (a) esimazisayo umnikazi ukuthi uMasipala uhlose ukunquma leli bhilidi njenge liyinkinga;
- (b) esimnika izizathu zokuthi kungani uMasipala akhethe ukunquma le sakhiwo njengesiyinkinga;
- (c) esimema umnikazi ukuthi abhale phansi imibono yakhe, zingakapheli izinsuku eziyi-14 isaziso sikhishiwe, ezichazela uMasipala ukuthi kungani lesi sakhiwo singafanele ukunqunywa njengebhilidi eliyinkinga; futhi
- (d) esihlinzeka ngekheli, ifeksi noma i-email lapho iziphakamiso kufanele zihanjiswa khona.

**Ukugagulwa kwezakhiwo njengeziyinkinga**

6.(1) Kufanele ukuthi uMasipala, emva kokubheka iziphakamiso ezilethwe umnikazi, njengokuba kuchaziwe kwisigaba 5 –

- (a) anqume ukuthi angasigaguli isakhiwo njengesakhiwo esiyinkinga okwesikhashana; noma
- (b) agagule ukuthi isakhiwo siyisakhiwo esiyinkinga.

(2) Uma uMasipala ekhethe ukuthi agagule isakhiwo njengesakhiwo esiyinkinga, uMasipala kuyofanele akhiphe isaziso esibhaliwe esiya kumnikazi, esihambisana nezizathu.

### ISAHLUKO 3 UKULAWULWA KWEZAKHIWO EZIYINKINGA

#### Ukubekwa ezingeni kwesakhiwo esiyinkinga

7.(1) Kufanele umasipala, ngokukhulu ukushesha emva kokuba isakhiwo sigagulwe njengesakhiwo esiyinkinga, enze uphenyo lokuhlonza –

- (a) lezo zingxenye zebhilidi ezephula imkhawulo yalo mthetho kaMasipala neminye imithetho engasetshenziswa;
- (b) izimo zengcuphe kwezokuphepha kwabahlali bakulesi sakhiwo esiyinkinga kanye nomphakathi; kanye
- (c) nabahlali bakulesi sakhiwo esiyinkinga, uma behlala kusona lesi sakhiwo, kuphinde kuhlelwe nabahlali ukuze kuhlonzwe lokhu okulandelayo ngabahlali:
  - (i) isibalo sabantwana;
  - (ii) isibalo sabesifazane;
  - (iii) isibalo sabakhubazekile;
  - (iv) isibalo sogogo nomkhulu;
  - (v) isibalo sabantu abahlalayo igumbi ngalinye nendawo esetshenziswa njengendawo yokuhlala; kanye
  - (vi) nesibalo esiphelele sabantu abahlala kuleli bhilidi.

(2) Umnikazi noma i-ejenti ephethe ifanelwe ukuthi ibe khona ngesikhathi kwenziwa uphenyo futhi, uma ekhona, kufanele anikezwe ithuba lokuphawula ngesikhathi kwenziwa uphenyo.

(3) Lapho kwenziwe khona iziphakamiso ngomlomo ngokweSigaba (2) umsebenzi ogunyaziwe kufanele abhale phansi zonke iziphakamiso futhi enze isiqiniseko sokuthi umnikazi noma i-ejenti ephethe inikezwa ithuba lokusayina iziphakamiso zayo.

#### Ukuvalwa kwabahlali abasha

8. UMasipala angakwazi ukuthi, uma isakhiwo esigagulwe njengesiyinkinga futhi sesiqoshiwe, afake isicelo enkantolo esivimbela ukuthi umnikazi wesakhiwo noma i-ejenti ephethe ukuthi –

- (a) ivumele abanye abantu, ngaphezu kwalabo asebehlonziwe ngesikhathi kuqoshwa kwabahlali, ukuthi bazosebenzisa isakhiwo; futhi



(b) ukugcwalisa izikhala ezingavela uma umuntu ohlonziwe ngesikhathi kuqoshwa abahlali ephuma esakhiweni.

#### **ISAPHLUKO 4**

#### **UKULUNGISWA KWEZAKHIWO EZIYINKINGA**

##### **Izingxoxo nabanikazi**

**9.(1)** Kufanele ukuthi uMasipala, emva kokugagulwa kwebhilidi njengeliyinkinga, laqoshwa njengoba kuveziwe kwiSigaba 7, akhiphe esinye isaziso esiya kumikazi -

- (a) esihlonza lezo zinto esakhiweni ezephula imikhawulo yalo Mthetho kaMasipala kanye neminye imithetho esebenzayo;
- (b) esihlonza isimo segcuphe kwezokuphepha kwabahlala kulesi sakhiwo esiyinkinga noma umphakathi; futhi
- (c) esicacisa izinyathelo ekufanele zithathwe umnikazi, ngesikhathi esifanele esizobalulwa esazisweni, ukuze kulungiswe lawo maphutha okwephula umthetho noma kususwe lezo zimo zengcuphe

(2) izinyathelo ekukhulunywa ngazo kwisigaba (1)(c) kungabalwa kuzo lokhu, kepha akugcini kukho—

- (a) ukulungisa;
- (b) ukupenda kabusha;
- (c) ukulungisa isakhiwo;
- (d) ukuthasisela;
- (e) ukufaka izindlu zangasese ezisemthethweni;
- (f) ukubhidlizwa;
- (g) ukuvalwa, ukubiyelwa noma ukuvala isakhiwo esinobungozi;
- (h) ukuvala isakhiwo esiyinkinga
- (i) ukususa wonke udoti;
- (j) ukuletha iplani yesakhiwo;
- (k) ukususa zonke izinto ezinobungozi nezingadala ubungozi;
- (l) ukuqedela ukwakhiwa kwesakhiwo esiyinkinga noma ingxenye yaso;
- (m) ukuqoka nokuyalela, ngezindleko zomnikazi, umuntu onamakhono afanele ukuthi—

- (i) axilongwe izimo eziholele ekugagulweni kwaleso sakhiwo njengesiyinkinga; futhi
- (ii) abikele umsebenzi ogunyaziwe ngamazinga ezinyathelo ekufanele zithathwe, ngokubona kwakhe lo muntu onamakhono afanele, ezidinga ukuthi zithathwe ukuze lesii sakhiwo siphephe;
- (n) ukunikeza abahlali isaziso sokuthi baphume kulesi sakhiwo esiyinkinga ngesikhathi esinqunyiwe; futhi
- (o) athobele yonke imikhawulo yalo Mthetho kaMasipala kanye neminye imithetho.

### **Izingxoxo nabahlali**

**10.(1)** Uma isakhiwo esiyinkinga sinabantu abahlalayo kuso, uMasipala kufanele akhiphe isaziso ekufanele sithotshelwe abahlali bese enameka ikhophi yaso lesi saziso emasagweni amakhulu akule sakhiwo, esichaza ukuthi—

- (a) lesi sakhiwo sesigagulwe njengesiyinkinga;
- (b) umnikazi useyalelwe ukuthi athathe izinyathelo ezithile ngesikhathi esithile esinqunyiwe;
- (c) ukuqhubeka nokuhlala kulesi sakhiwo esigagulwe njengesiyinkinga akuphephile; futhi
- (d) uMasipala uzokwenza imizamo yokubakhipha yena abantu uma umnikazi ehluleka ukuthobela lesi saziso.

(2) Uma kwenzeka ukuthi umnikazi wesakhiwo esiyinkinga esihlala abantu ehluleka ukuthobela lesi saziso, uMasipala uzokhipha esinye isaziso esibhekise kubahlali bese esinameka emasagweni amakhulu okungena kule ndawo—

- (a) esibazisayo ukuthi umnikazi wesakhiwo uhlulekile ukuthobela isaziso abesinikiwe;
- (b) esixwayisayo ukuthi ukuqhubeka nokuhlala kule sakhiwo esiyinkinga akuphephile;
- (c) eselulekayo ukuthi uMasipala uhlose ukuthola igunya lokubakhipha ezindlini;
- (d) esibanikeza uhla lwemininingwane yezindawo abangafihlisa kuzo amakhanda; futhi
- (e) esihlinzeka ngenombolo yocingo yomsebenzi ogunyaziwe kaMasipala ukuze asize abahlali ukuthi bathole enye indawo yokufihla amakhanda.

### **Ukukhishwa ezindlini**

11. Lapho umnikazi webhilidi ehluleka ukuthobela isaziso esisemthethweni, uMasipala, emva kokulandela uhlelo lokuxhumana njengokuba lubaluliwe kwiSigaba 10, angafaka isicelo sokuthi inkantolo inqume ukuthi bakhishwe ezindlini abahlali.

### **Izakhiwo eziyinkinga ezinobungozi**

12.(1) Uma kwenzeka ukuthi umsebenzi ogunyaziwe enesizathu esiqinile sokukholelwa ukuthi isimo sesakhiwo esiyinkinga sisesimweni esibucayi kakhulu kangokuthi kufanele kuthahwe izinyathelo ngokushesha ukuze kuvikelwe impilo yesakhiwo, angakwazi ukuthi athathe lezo zinyathelo ezifanele ngaphandle kokulandela imikhawulo yalo mthetho kaMasipala, futhi angakwazi nokukhokhisa umnikazi wesakhiwo izindleko ezenzekile ngenxa yalokhu.

(2) Uma kungukuthi umsebenzi ogunyaziwe ubona kunesidingo sokuthi athathe izinyathelo ngokwesigatshana (1) angakwazi ukukwenza lokho ngezinhloso zokuphephisa abantu abangabahlali, ngokubanika isaziso esibhaliwe sokuthi –

(a) umnikazi wesakhiwo esiyinkinga enze lokhu okulandelayo–

(i) akhiphe, ngesikhathi esinqunyiwe, wonke umuntu ohlala noma osebenzisa lesi sakhiwo esiyinkinga; futhi

(ii) athathe izinyathelo ezifanele zokuthi akukho muntu ongagunyaziwe uMasipala ongangena kulesi sakhiwo; futhi

(b) noma ngabe ubani ohlala noma osebenzisa isakhiwo esiyinkinga, aphume kule sakhiwo esiyinkinga.

(3) Akuvumelekile ukuthi kube nomuntu ozohlala, asebenzise noma agunyaze ukuhlala noma ukusestshenziswa kwesakhiwo esiyinkinga esesakhishelwa nesaziso ngokwesigatshana (2), ngaphandle uma enikezwe imvume ebhalwe phansi nguMasipala.

## **ISAPHELA 5**

### **UKUPHOQELELWA KOMTHETHO**

#### **Ukungena komsebenzi ogunyaziwe**

13.(1) Umsebenzi ogunyaziwe ongangena esakhiweni noma ingasiphi isikhathi esamukelekile ukuze–

- (a) abheke ukuthi ngabe lesi sakhiwo sifanelekile yini ukuthi sigagulwe njengesakhiwo esiyinkinga ngokwalo Mthetho kaMasipala;
- (b) akhiphe isaziso ezidingekayo ngokwalo mthetho kaMasipala;
- (c) abheke ukuthi ngabe umnikazi wesakhiwo uzithobele yini ezinye izaziso ezikhishwe ngokwalo Mthetho kaMasipala; noma
- (d) aphoqebele okuhlinzekwe kulo mthetho kamasipala.

(2) Akekho umuntu ovumelekile ukuthi avimbele noma aphazamise umsebenzi ogunyaziwe ngesikhathi enza umsebenzi wakhe ngokwalo Mthetho kaMasipala.

(3) Kufanele ukuthi umsebenzi ogunyaziwe, uma engena esakhiweni njengokuba kuchaziwe kwisigatshana (1), aveze umazisi osemthethweni awunikezwa uMasipala, akhombise umnikazi, uma ekhona, noma i-ejenti ephethe, noma imuphi umhlali ofisa ukubona umazisi wokusebenza womsebenzi ogunyaziwe.

#### **Amandla omsebenzi ogunyaziwe**

**14.** Umsebenzi ogunyaziwe angakwazi ukuthi, uma engena esakhiweni –

- (a) ahlole, aqaphe futhi aphenye isakhiwo;
- (b) abuze umnikazi wesakhiwo, i-ejenti noma umhlali imibuzo;
- (c) athathe izithombe zesakhiwo, noma ngabe ingaphakathi noma ingaphandle kwesakhiwo, ngisho nezemininingwane yebhilidi ngaphakathi ngisho nekuhlala abantu kuso;
- (d) asuse ubufakazi;
- (e) athathe amasampula; futhi
- (f) enze noma ngabe yini ukuze ethule imikhawulo yalo Mthetho weDolobha.

#### **Ukukhishwa kwezaziso**

**15.(1)** Njalo uma kufanele kukhishwe isaziso sokuthobela umthetho ngokwalo Mthetho kaMasipala, sithathwa njengesikhishwe ngendlela efanele neyanele kulowo muntu –

- (a) uma sinikwe yena mathupha;
- (b) uma sishiywe lapho ehlala noma esebenza khona lapha eRiphabliki yaseNingizimu Afrika kumuntu oneminyaka engaphezu kweyi-16 ubudala;

- (c) uma sithunyelwe ngeposi elibhalisiwe noma eligxiviziwe ekhelini lakhe alihlinzekayo lokugcina lasekhaya noma emsebenzini olapha eRiphabliki yaseNingizimu Afrika kukhona nobufakazi bokuthi siposiwe;
- (d) uma ikheli lakhe lalapha eRiphabliki yaseNingizimu Afrika lingaziwa, uma lithunyelwe kwi-ejenti noma kumuntu omumele lapha eRiphabliki yaseNingizimu Afrika njengokuba kukhonjisiwe esiqephwini u (a), (b) no (c); noma
- (e) uma ikheli lakhe nele-ejenti lalapha eRiphabliki yaseNingizimu Afrika lingaziwa, uma sinamekwe endaweni esobala esakhiweni.

### **Izaziso eziyinhlanganisela**

**16.** Umasipala akanalutho olumuvimbayo, uma ekhipha izaziso ngokwalo Mthetho kaMasipala uma –

- (a) kwepfulwe kaningi imikhawulo yalo Mthetho kaMasipala neminye iMithetho kaMasipala emayelana nezakhiwo eziyinkinga; noma
- (b) uma kuhlulekwe noma kwaliwe kaningi ukuthobela imikhawulo yalo Mthetho kaMasipala,

Ukukhipha izaziso eziyinhlanganisela zalokho kwepfulwa komthetho, ukuhluleka nokwenqaba, noma ngabe kukhulunywa ngani.

### **Ukuzihlangula**

**17.** UMasipala kanye nanoma imuphi umsebenzi ogunyaziwe akazuthweswa cala uma kunomonakalo owenzekile odalwe inoma ngabe yini esemthethweni eyenziwe noma engenziwanga uMasipala noma umsebenzi ogunyaziwe ngesikhathi enza umsebenzi omayelana naloMthetho kaMasipala.

### **Imiyalelo esemthethweni**

**18.** Ukwehluleka ukuthobela umyalelo osemthethweni okhishwe umsebenzi ogunyaziwe kuwukwephula imikhawulo yalo Mthetho kaMasipala.

### **Ukukhokhwa kwezindleko**

**19.(1)** Uma ngabe umuntu –

(a) ephula imikhawulo yalo Mthetho kaMasipala noma eminye imithetho ehambisana nezakhiwo eziyinkinga; noma

(b) ehluleka ukuthobela izaziso zokuthobela umthetho ezikhishwe ngokwalo Mthetho kaMasipala,

lowo muntu unecala lokwephula umthetho futhi uMasipala angamthathela izinyathelo ezifanele zokwephula umthetho nokubiza izindleko kulowo muntu othintekayo.

(2) Ukubizwa kwezindleko njengokuba kuchaziwe esigatshaneni (1) kuyisithasiselo senhlawulo engakhokhiswa umuntu othintekayo futhi ingafakwa kwi-akhawunti yakhe kamasipala.

### **Ukuthwala icala ngenxa yezenzo ze-ejenti noma yesiqashi**

**20.**(1) Umnikazi wesakhiwo esiyinkinga i-ejenti noma siqashi sakhe, lapho khona isiqashi sinamandla noma isibopho sokuqashisa, ukugcina esimweni nokuphatha isakhiwo noma ingxenye yaso—

(a) yephula imikhawulo yaloMthetho kaMasipala noma eminye imithetho ehambisana nesakhiwo esiyinkinga; noma

(b) yehluleka noma yala ukuthobela isaziso esikhishiwe ngokwalo mthetho kaMasipala,

uthathwa njengowenze icala yena mathupha, ngaphandle uma uma umnikazi engakwazi ukuthi aveze ukuthi uthathe izinyathelo ezifanele ukuze agweme ukwepulwa komthetho ; Kepha inqobo uma –

(i) umnikazi ekhiphe imiyalelo eya kwi-ejenti ephethe noma kwisiqashi, esivimbela lokho kwepulwa komthetho; noma

(ii) isivumelwano esibhalwe phansi se-enjenti, isiqashi noma omunye umuntu othintekayo esicacisa ukuthi kufanele athobele umthetho,

kepha uma kukodwa akubona ubufakazi obanele bokuthi kuthathwe izinyathelo ezanele.

(2) I-ejenti ephethe isakhiwo esiyinkinga noma isiqashi sasesakhiweni esiyinkinga, lapho khona isiqashi sinamandla noma isibopho sokuqashisa ngaphansi kwaso, ukugcina esimweni nokuphatha isakhiwo esiyinkinga noma ingxenye yaso, ingathweswa icala kanye nomnikazi wesakhiwo uma umnikazi –

(a) ephula imikhawulo yalo Mthetho kaMasipala noma eminye imithetho emayelana nesakhiwo esiyinkinga; noma

(b) ehluleka noma ala ukuthobela isaziso sokuthobela umthetho esikhishwe ngokwaloMthetho kaMasipala,

Ngaphandle uma i-ejenti ephethe noma isiqashi sasesakhiweni esiyinkinga singakhombisa ukuthi sithathe izinyathelo ezisemthethweni zokugwema ukwepulwa komthetho.

### **Amacala**

**21.** Noma imuphi umuntu –

(a) owephula noma ohluleka ukulandela lo Mthetho kaMasipala;

(b) ohlulekayo noma owalayo ukuthobela isaziso somyalelo;

(c) ohlulekayo ukuthobela umyalelo osemthethweni awunikwayo ngokwalo Mthetho kaMasipala;

(d) osabisa, omelene, ophazamisa noma ovimbela usebenzi ogunyaziwe uma ethi wenza umsebenzi wakhe ngokwalo Mthetho; noma

(e) onikeza umsebenzi ogunyaziwe ulwazi olungelona iqiniso noma oludusayo ngamabomu,

unecala.

### **Izinhlawulo**

**22.** (1) Noma ngabe yimuphi umuntu otholakala enecala lokwephula lo Mthetho weDolobha unesibopho –

(a) sokukhokha inhlawulo engeqile ku R500000;

(b) ukuboshwa isikhathi esingeqile eminyakeni emithathu;

(c) noma zombili lezinhlawulo njengokuba zivela kwisigaba (a) no (b).

(2) Uma kwenzeka eqhubeka nokwephula lo mthetho–

(a) angakhokhiswa enye inhlawulo engeqile ku R5 000; noma

(b) ukuboshwa isikhathi esingeqile ezinsukwini eziyishumi

ngosuku ngalunye okuqhutshekwe ngalo ukwephula umthetho, noma anikezwe izigwebo zombili zokukhokhiswa inhlawulo aphinde afakwe ejele.

### **Okukholelwayo**

**23.** Uma kuthweswe umuntu icala ngokwalo Mthetho kaMasipala –

(a) oqashise ngale ndawo; noma

(b) osebenza njenge ejenti egunyaziwe yesakhiwo esiyinkinga, Uzothathwa, kuze kuvele ubufakazi obuphikisayo, njengobazi ukuthi uphethe isakhiwo esiyinkinga.

## **ISAHLUKO 6 OKWEJWAYELEKILE**

### **Ukudluliselwa kwamandla**

**24.(1)** Kuncike ezinhlinzekweni zoMthethosisekelo nakweminye imithetho kazwelonke neyesifundazwe esebenzayo, onke –

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

(b) imisebenzi; noma

(c) amajoka,

anikezwe, ngokwalo Mthetho kaMasipala, uMkhandlu, noma olunye uhlaka lukaMasipala lwezepolitiki, abasezikhundleni ngokwepolitiki, amakhansela noma abasebenzi, angadluliselwa noma angadluliswa yilolo hlaka lwezepolitiki, yilowo osesikhundleni ngokwezepolitiki, ikhansela noma umsebenzi, emhlanganweni noma kumsebenzi oqashwe uMasipala.

(2) Ukudluliselwa kwamandla ngokwesigatshana (1) kumele kwenzeke ngokuhambisana nohlelo lokudluliselwa kwamandla olwemukelwa umkhandlu ngokuhambisana nesigaba 59(1) soMthetho weziNhlelo zoMasipala, kuncike kwinqubo ebekwe esigabeni 59(2) soMthetho.

(3) Noma ikuphi ukudluliselwa kwamandla okuhlongozwe kulesi sigaba kumele kuqoshwe kwiRejista yokuDluliselwa kwaMandla, okumele iqukathe ulwazi mayelana –

(a) nohlaka noma nomuntu odlulisela amandla;

(b) okudluliselwa kuye amandla; kanye

(c) nemibandela ehambisana nokudluliswa kwamandla.



**Ukudluliswa kwamacala**

25.(1) Umuntu omalungelo akhe ayahlukumezeka ngesinqumo ezithathwe umsebenzi ogunyaziwe ngokwalo Mthetho kaMasipala angadlulisa udaba lwakhe ngaleso sinqumo ngowezinhlinzeko zokuDluliswa kwamaCala eziqukethwe esigabeni 62 soMthetho weziNhlelo zoMasipala ngokuthumela isaziso sokudlulisa icala nezizathu zakhe kwiMenenja kaMasipala ezinsukwini ezingu 21 kusukela osukwini aziswe ngalo ngesinqumo.

(2) IMenenja kaMasipala kumele idlulisele lokho kudluliswa kwecala egatsheni elibhekele ukudluliswa kwamacala.

(3) Igatsha elibhekeke ukudluliswa kwamacala kumele licubungule lelo cala elidlulisiwe emavikini ayisithupha bese lithatha isinqumo ngesikhathi esifanele.

(4) Igatsha elibhekele ukudluliswa kwamacala kumele liqinisekise, lishintshe noma lichithe isinqumo, kodwa ukushintshwa noma ukuchithwa kwesinqumo angeke kugudluke emalungelweni ahambisana nokuthathwa kwaleso sinqumo..

(5) Igatsha elibhekele ukudluliswa kwamacala kumele likhiphe izizathu ezibhalwe phansi ngesinqumo salo mayelana nodaba oludlulisiwe.

(6) Konke ukudlulisa kwamacala okwenziwayo kwenziwa ngokoMthetho weziNhlelo zoMasipala hhayi ngokwalo Mthetho kaMasipala.

(7) Lapho isinqumo siqinisekisiwe inkantolo futhi umuntu othweswe icala efisa ukudlulisela icala, lokho kudluliselwa kwecala kufanele kwenziwe ngokohlelo lokudlulisela amacala lwasenkantolo hhayi ngokwesigatshana (1) no (5).

**Isihloko esifingqiwe nokuqala kokusebenza komthetho**

26. Lo Mthetho kaMasipala ubizwa ngoMthetho kaMasipala wezakhiwo eziyinkinga, 2015 kanti uqala ukusebenza emva kwezinyanga eziyisithupha ushicilelwe *kwiGazethi Yesifundazwe* noma ngalolo suku elungaphambili olunganqunywa ngokuba kushicilelwe isaziso sosuku lokuqala ukusebenza esiyofakwa *kwiGazethi Yesifundazwe*.

**MUNICIPAL NOTICE 176 OF 2015****PUBLIC NOTICE****ETHEKWINI MUNICIPALITY: NUISANCE AND BEHAVIOUR IN PUBLIC PLACES BY-LAW**

NOTICE IS HEREBY GIVEN that the eThekweni Municipal Council has enacted, by way of resolution in terms of section 12 of the Local Government: Municipal Systems Act, 32 of 2000, the Nuisance and Behaviour in Public Places By-law contained hereunder.

**Mr Sibusiso Sithole**

**City Manager**

City Hall

Dr Pixley Ka-Isaka Seme Street

Durban

**eTHEKWINI MUNICIPALITY: NUISANCES AND BEHAVIOUR IN PUBLIC PLACES BY-  
LAW, 2015**



Adopted by Council on the: 24<sup>th</sup> June 2015

## **NUISANCES AND BEHAVIOUR IN PUBLIC PLACES BY-LAW, 2015**

**To provide for measures for preventing, minimising or managing public nuisances; to prohibit certain activities or conduct in public places; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.**

### **PREAMBLE**

**WHEREAS** the Municipality has competence in terms of section 156 (2) of the Constitution of the Republic of South Africa to make and administer By-laws for the effective administration of the matters which it has the right to administer;

**WHEREAS** the Municipality has competence in terms of Part B of Schedule 5 of the Constitution relating to such matters as the control of public nuisances, municipal roads, public places, and traffic and parking;

**AND WHEREAS** there is a need to develop legislation to deal with the prevention or minimisation of public nuisances and to regulate behaviour in public places;

**NOW THEREFORE** The Municipal Council of the eThekweni Metropolitan Municipality, acting in terms of section 156 read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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**SCHEDULE 1: LAWS REPEALED**

**CHAPTER 1  
INTERPRETATION**

**Definitions**

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

**"authorised official"** means a person authorised to implement the provisions of this By-law, including but not limited to–

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

**“construction”** means any building work or demolition and any activity ancillary to such building work or demolition;

**"Head of Health"** means the official of the eThekweni Municipality in charge of or responsible for the department of the Municipality dealing with matters relating to Public Health;

**“heavy-duty vehicle”** means buses and earth-moving or earth-working vehicles;

**"motor-vehicle"** means any self-propelled vehicle having an engine or motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such engine or motor for the purposes of transportation on any road of one or more persons or any material, item, substance or object, and includes a trailer, motor-bike, quad-bike or earth-moving or earth-working vehicle, but excludes any vehicle which is controlled by a pedestrian, or any vehicle with a mass not exceeding 230 kilograms which is specially designed and constructed solely for mobility of any person suffering from some physical defect or disability;

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

**"Municipality"** means eThekweni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa and established in terms of PN343 of 2000 (KwaZulu-Natal);

**"municipal manager"** means a person appointed in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as the head of administration of the municipal council;

**"nuisance"** means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or creating any situation or condition in or on private property or in a public place or anywhere in the Municipality which causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person;

**"overnight"** means the period from 20h00 in the evening to 06h00 in the morning;

**"public place"** means—

(a) a public road;

(b) any parking area, square, park, recreation ground, sports ground, swimming pool, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has—

(i) in connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;

(ii) at any time been dedicated to the public;

(iii) been used without interruption by the public for a period of at least thirty years expiring after 31 December 1959; or

(iv) at any time been declared or rendered as such by the Municipality or other competent authority;

(c) a public transportation motor-vehicle; or

(d) a municipal property, premises or facility which the public has access to,

but will not include public land that has been leased or otherwise alienated by the Municipality;

**"public road"** means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes –



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

**"public transportation motor-vehicle"** includes any train, bus, minibus or motor-vehicle travelling on land, water or in the air, conveying members of the public at a fee; and

**"waste"** means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the *Gazette*,

and includes waste generated by the mining, medical or other sector, but—

- (i) a by-product is not considered waste; and
- (ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste.

### **Interpretation of By-law**

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

## **CHAPTER 2 OBJECTS OF BY-LAW**

### **Objects of By-law**

3. The objects of this By-law are to provide—

- (a) measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public

place, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, that it is minimised and managed; and

(b) penalties for breach of its provisions.

### **CHAPTER 3 APPLICATION**

#### **Application of By-law**

4. This By-law applies to all areas which fall under the jurisdiction of the eThekweni Municipality and is binding on all persons to the extent applicable.

### **CHAPTER 4 PROHIBITED CONDUCT**

#### **General prohibition and nuisance behaviour**

5.(1) No person may in a public place—

- (a) act in a manner which is dangerous to life or which may damage property;
- (b) unlawfully enter a public place to which access has been restricted in terms of this By-law or any other law;
- (c) cause a nuisance; or
- (d) behave in an indecent, offensive or objectionable manner.

(2) No person may in a public place—

- (a) use abusive, threatening or foul language or gestures;
- (b) fight or act in a riotous or physically threatening manner;
- (c) urinate or defecate, except in a facility provided for such purpose;
- (d) bathe or wash himself or herself, except—
  - (i) in a bath or shower; or

- (ii) as part of a religious or cultural ceremony in an area where such ceremony is lawfully taking place: Provided no nuisance is caused thereby;
- (e) bathe or wash clothes, animals, or other articles;
  - (f) spit;
  - (g) perform any sexual act;
  - (h) appear in the nude or expose his or her genitalia;
  - (i) consume any liquor or be in a state of intoxication;
  - (j) use any drugs or be under the influence of drugs;
  - (k) solicit or importune any person for the purpose of prostitution, human trafficking or other illegal business;
  - (l) engage in gambling or wagering;
  - (m) start or keep a fire unless for the purposes of making a braai in an area where such activity is permitted, unless that person is authorised to make and keep such fire by the Municipality or in terms of law;
  - (n) other than a peace officer or other official or person acting in terms of the law, deposit, pack, unpack or leave any goods or articles in a public place, or cause any goods or articles to be deposited, packed, unpacked or left in a public place, other than for a reasonable period during the course of the loading, off-loading or removal of such goods or articles;
  - (o) carry or convey through a public road any object, item, material or substance which, owing to its smell, noise, vibration, size or anything to do with its nature, character or owing to the manner of its conveyance, is such that it causes or is likely to cause a nuisance, which includes but not limited to a carcass of an animal, any garbage, night-soil, refuse, litter, rubbish or manure, unless carried or conveyed in a manner allowed by law and which does not cause a greater level of discomfort, inconvenience or annoyance than that allowed by any such law;
  - (p) discharge fireworks except in accordance with the By-law of the Municipality dealing with fire and other applicable law;
  - (q) lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it;
  - (r) beg for money or goods whether by gesture, words or otherwise;
  - (s) associate or act in concert with other persons for any purpose or in any manner which causes or is likely to cause a breach of the peace;
  - (t) behave in a manner which causes or is likely to cause a danger to himself, herself or the public;
  - (u) loiter for the purpose of or with the intention of committing an offence; or

(v) in any way cause a nuisance.

(3) The Municipality may erect signage indicating prohibited or permissible conduct in a public place for the purposes of section 5.

### **Vegetation**

6.(1) No person may allow any tree or other growth on any premises under his or her control to—

(a) interfere with—

(i) any public service infrastructure; or

(ii) communal services infrastructure such as, but not limited to, overhead wires, storm water drainage or sewerage system; or

(b) become a source of annoyance, danger, inconvenience or discomfort to persons using a public road.

(2) The Municipality may by written notice direct the owner, occupier or person in control of premises contemplated in subsection (1) to prune or remove such tree or growth to the extent and within the period specified in such notice.

(3) If the person contemplated in subsection (2) fails to take measures contemplated in the notice issued in terms of that subsection, the Municipality may act and recover costs from that person.

(4) No person other than a duly authorised official of the Municipality may—

(a) plant a tree or plant in a public place, or in any way cut down a tree or shrub in a public place or remove it therefrom, except with the written permission of the Municipality;

(b) climb, break or damage a tree growing in a public place; or

(c) in any way mark or paint any tree growing in a public place or attach any advertisement or notice thereto.

### **Hanging of items on fences, walls, balconies or verandas**

7. No person may dry, spread or hang washing, bedding, carpet, rags, or any other item—

(a) in a public place;

- (b) over a fence or wall which borders the verge of a public road;
- (c) on premises in such a manner that it is visible from a public road; or
- (d) on a balcony or veranda in such a manner that it is visible from a public road.

### **Noise**

8.(1) No person may in a public place cause or permit to be caused any disturbance or impairment of the convenience or peace of any person by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, except where such noise or sound is emanating from—

- (a) an authorised public meeting, gathering, congregation or event; or
- (b) an emergency or rescue announcement,

which noise or sound is normally associated with such meeting, gathering, congregation, event or situation and in accordance with the conditions of authorisation of any such meeting, gathering, congregation, event or situation.

(2) Subject to subsection (1), no person may permit noise or sound from a private residence or business premises in his or her control to be audible to users outside of such premises to such an extent that it reasonably interferes with the use and enjoyment by an owner or occupier of his or her property, except for places of entertainment as defined in the planning scheme on zoned premises where noise or sound is normally associated with the normal use of such place and in accordance with the conditions of authorisation of that business: Provided that no person may permit any noise or sound to emanate from a private residence or business premises.

(3) Notwithstanding subsections (1) and (2), no person may cause or permit to be caused any disturbance or impairment of the convenience or peace of any person within the following times:

- (a) from Sunday to Thursday, between 21h30 to 07h00; and
- (b) from Friday to Saturday, between 00h00 to 08h00.

(4) No person may place or position any loudspeaker or any sound equipment at, near or outside the entrance or door of any premises for the purposes of using that loudspeaker or sound equipment to—

- (a) make any public announcements;
- (b) invite or lure customers or any persons into that premises or other premises; or

(c) entertain any person who is in a public place.

(5) No driver or person in control of a motor-vehicle may permit any amplified sound or noise to emanate from the motor-vehicle such that it is audible at a distance of more than 50 meters.

(6) No person may blow, or cause to be blown, a hooter of a motor-vehicle in a public place in such a manner or frequency that it creates a nuisance, unless the blowing of a hooter is necessary to alert any pedestrian or any user of another motor-vehicle of any danger or to alert any user of a motor-vehicle to any act or to desist from an act which is connected with the flow of traffic or parking of motor-vehicles.

(7) No person may rev the engine of a stationary motor-vehicle in such a way that it causes nuisance in a public place: Provided that a person may rev an engine for the purposes of repairing such motor-vehicle which has broken down in or near a public place.

(8) No person may engage in any construction or cause or allow such construction to occur, in a residential area–

(a) before 07h00 and after 18h00 from Monday to Saturday; and

(b) at any time on any Sunday or public holiday,

except–

(i) under circumstances where such construction is necessary in order to preserve property or the life, safety or health of persons; or

(ii) where a written exemption from paragraphs (a) and (b) were obtained from the Municipality for a specified period of time.

### **Litter**

9.(1) No person may within a public place, deposit, dump or discard any waste or litter–

(a) in a manner that detracts from the cleanliness of such public place or which causes a nuisance; and

(b) anywhere other than in a receptacle provided by the Municipality for that purpose.

(2) No person may permit any waste or litter from any land or premises to be discarded, dumped, stored, kept or disposed of in such a manner that such waste or litter causes a nuisance.

**Conduct regarding motor-vehicles**

10.(1) No person may in a public place—

- (a) wash or clean any motor-vehicle, except in an area designated by the Municipality for that purpose; or
- (b) effect any repairs to a motor-vehicle or boat, except where repairs are necessary for the purpose of removing such motor-vehicle from the place where it was involved in an accident or had a breakdown.

(2) No person may in a public place—

- (a) sleep in a stationary motor-vehicle except in an emergency, or where such person is the driver of a public transportation motor-vehicle, is guarding a motor-vehicle, or is in a designated rest area; or
- (b) reside in a motor-vehicle for longer than 24 hours,

unless that person sleeps for the purposes of resting after a long journey using that vehicle: Provided that an authorised official may at any time direct that person to move the vehicle away from such place or to desist from sleeping or residing in the vehicle.

(3) Unless permitted to do so by the Municipality or in terms of any land use scheme or legislation, no person may park a heavy-duty vehicle overnight on private premises or vacant land.

**Skating, roller-skating and other dangerous acts**

11.(1) No person may in a public place skate on roller-skates or a skate-board or similar device except where permitted by the Municipality.

(2) No person may in a public place do anything which may endanger the life or safety of any person or animal, including but not limited to shooting with a bow and arrow or catapult, or throwing a stone, stick or other projectile in, onto or across a public place: Provided that shooting with a pellet gun or similar object which is intended solely for recreational purposes is not prohibited if it is discharged safely.

**Obstructing, blocking or disturbing of traffic and pedestrians**

**12.(1)** No person may—

- (a) in a public place, intentionally block or interfere with the safe or free passage of a pedestrian or motor-vehicle, unless to the extent authorised by law; or
- (b) approach any pedestrian or a person inside a motor-vehicle on any public road or public road intersection or any other public place for the purposes of begging from such pedestrian or person in a motor-vehicle.

(2) Any person, who unlawfully blocks, occupies or reserves a public parking space, or begs, stands, sits, lies in a public place, or does anything which hinders or disturbs the flow of pedestrian or road traffic must immediately cease to do so when directed by an authorised official.

**Excavation in public places**

**13.(1)** No person may make or cause to be made an excavation, a pit, trench or hole in a public place—

- (a) except with the written permission of the Municipality; and
- (b) otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-law of the Municipality or any other law.

(2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place: Provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

**Weed-killers, herbicides, poisons or pesticides**

**14.** No person other than an authorised official or an authorised person who administers legally approved weed-killers, herbicides, poisons or pesticides may set or cast such substances in any public place.

**Municipal property**

**15.(1)** No person, unless authorised by the Municipality or in terms of any other law, may within a public place—

- (a) deface, damage, destroy or remove any property or part thereof which is affixed, placed or erected in or on a public place;



- (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
- (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
- (d) affix or place on any municipal property, or distribute, any printed matter; or
- (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.

(2) The provisions of subsection (1) do not apply to any person who is employed or authorised by the Municipality for the purposes of fixing, repairing, demolishing, renovating or providing any such service for or on behalf of the Municipality.

#### **Nuisance arising from the use of premises**

**16.** No owner, occupier or person in control of land or premises may use or allow such land or premises to be used in a manner which creates or is likely to create a nuisance.

## **CHAPTER 5**

### **GENERAL POWERS OF THE MUNICIPALITY**

#### **Goods and services offered for sale**

**17.(1)** The Municipality may, in terms of the By-law of the Municipality dealing specifically with informal trade, designate areas within public places, where marketing, display or offering for sale of any goods or services is prohibited or controlled in order to, amongst other reasons as contemplated in such By-law, constrain nuisances.

(2) Subsection (1) does not apply to the selling of newspapers at intersections or to the sale of goods by non-governmental organisations or developmental organisations who may apply for exemption for all their traders.

(3) Notwithstanding subsection (1), the Municipality may, in terms of the By-laws contemplated in subsection (1), issue permits for the sale of goods or services, and in so

doing, the Municipality may limit the number of permits for an area and stipulate such conditions as it may from time to time prescribe.

### **Designated areas**

**18.** The Municipality may in relation to any public place, to the extent empowered by law–

- (a) designate a public place or part thereof for a specific function or use at designated times or at all times, and prohibit certain activities or conduct in respect of any such public place;
- (b) develop any public place in the interest of the public;
- (c) erect, construct, establish or demolish municipal property; or
- (d) exercise any other power reasonably necessary for the discharge of its obligations in terms of this By-law relating to the management of public places or otherwise in terms of any other law.

### **Restricted access**

**19.(1)** The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to–

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

## **CHAPTER 6 ENFORCEMENT**

### **Powers of authorised officials**

**20.(1)** The authorised official may, in respect of premises, at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and–

- (a) inspect or monitor the land or premises;
- (b) question the owner, occupier or person in control of the land or premises;
- (c) serve any compliance notice to the owner, occupier or person in control;
- (d) take photos of any items used on the land or in the premises to cause a nuisance;
- and
- (e) take samples or other evidence in respect of any nuisance caused.

(2) A duly authorised official may, in respect of a nuisance caused or alleged to be caused in a public place, instruct a person to cease an act or conduct which causes such nuisance, with immediate effect.

(3) If it appears to the authorised official that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.

(4) When issuing a warning notice the authorised official must procure the signature of the offending person confirming receipt of a warning notice.

(5) The authorised official must inform the offending person that–

- (a) a signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
- (b) it is an offence in terms of this By-law to refuse to sign a warning notice issued by an authorised official.

## **CHAPTER 7 OFFENCES AND PENALTIES**

### **Offences**

**21.(1)** A person commits an offence if he or she–

- (a) contravenes any provision of this By-law;
- (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;
- (c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
- (d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or
- (e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence.

### **Penalties**

**22.**(1) Any person who is convicted of an offence under this By-law is be liable to a fine of an amount not exceeding R40 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R200 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

## **CHAPTER 8 GENERAL PROVISIONS**

### **Appeals**

**23.**(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

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

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

### **Repeals**

**24.** The By-laws and Notices listed in the Schedule to this By-law are hereby repealed to the extent mentioned in the third column of the said Schedule.

### **Delegations**

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

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

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

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

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

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

### Short title and commencement

26.(1) This By-Law is called the eThekweni Municipality: Nuisances and Behaviour in Public Places By-law, 2015 and takes effect six months from the date of publication thereof in the *Provincial Gazette* or on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*..

## SCHEDULE 1

### LAWS REPEALED

(in terms of Section 24 of this By-law)

#### PART A: BY-LAWS

<b>Number and year of law</b>	<b>Title</b>	<b>Extent of repeal</b>
Municipal Notice No. 25 of 1992 published in <i>Provincial Gazette</i> No. 4842 dated 27 February, 1992	Amanzimtoti Nuisances By-laws	The whole
Provincial Notice No. 22 of 1962 published in <i>Provincial Gazette</i> No. 3072 dated 11 January, 1962	Lower Illovo Regulation Relating to Nuisances	The whole
Provincial Notice No. 39 of 1968	Lower Illovo Health	Chapter XI

published in Provincial Gazette No. 3428 dated 25 January, 1968	Committee General Regulations	
Provincial Notice No. 748 of 1981 published in Provincial Gazette No. 4276 dated 31 December, 1981.	Borough of Pinetown Nuisance By-laws	The whole
Provincial Notice No. 56 of 1931 published in Provincial Gazette No. 1188 dated 26 February, 1931.	Tongaat Health Committee Regulations and Traffic Maintenance of Good Order	The whole
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March, 1953	Township of Tongaat, Standard By-laws	Chapter II
Municipal Notice No. 22 of 1993 published in Provincial Gazette No. 4898 dated 25 February, 1993.	Gillits By-laws Regarding Nuisances and the Overcrowding of Residential Premises	The whole
Municipal Notice No. 22 of 1993 published in Provincial Gazette No. 4898 dated 25 February, 1993.	Hillcrest By-laws Regarding Nuisances and the Overcrowding of Residential Premises	The whole
Provincial Notice No. 542 of 1982 published in Provincial Gazette No. 4325 dated 25 November, 1982.	Borough of New Germany Nuisances Bylaws	The whole
Provincial Notice No. 184 of 1988 published in Provincial Gazette No. 4639 dated 26 May, 1988	Borough of Queensburgh Street, Traffic, Nuisance and Entertainment By-laws	The whole
Provincial Notice No. 297 of 1951 published in Provincial Gazette No. 2359 dated 18 July, 1951	Borough of Queensburgh General By-laws	Schedule B Chapter XXI
Municipal Notice No. 140 of 2000 published in Provincial Gazette No. 5531 dated 6 July, 2000.	South Central Local Council By-laws for the Control of Public Behaviour	The whole
Municipal Notice No. 140 of 2000 published in Provincial Gazette No.	North Central Local Council By-laws for the Control of	The whole

5531 dated 6 July, 2000.	Public Behaviour	
Municipal Notice No. 140 of 2000 published in Provincial Gazette No. 5531 dated 6 July, 2000.	Durban Transitional Local Council By-laws for the Control of Public Behaviour	The whole
Provincial Notice No. 528 of 1973 published in Provincial Gazette No. 3760 dated 27 September 1973	Assagay Health Committee General	Chapter XI
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March, 1953	Isipingo Standard By-laws	Chapter II
Provincial Notice No. 109 of 1948 published in Provincial Gazette No. 2153 dated 18 March, 1948	Botha's Hill Health Committee General By-laws	Chapter VIII
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March, 1953	Kingsburgh Standard By-laws	Chapter II
Provincial Notice No. 187 of 1943 published in Provincial Gazette No. 1881 dated 24 June, 1943	Township of Kloof General By-laws	The Whole
Provincial Notice No. 565 of 1953 published in Provincial Gazette No. 2509 dated 3 December, 1953	Standard Marianhill Health Committee Regulations	Chapter VIII
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March, 1953	Township of Mount Edgecombe Standard By-laws	Chapter II
Provincial Notice No. 60 of 1957 published in Provincial Gazette No. 2751 dated 18 July, 1951	Saiccor Township Health Committee Regulations	Chapter VIII
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March, 1953	Township of Umkomaas Standard By-laws	Chapter II
Provincial Notice No. 59 of 1966 published in Provincial Gazette No. 3309 dated 3 February, 1966	Township of Umkomaas Protection Of Property By-Laws	The Whole



Municipal Notice No. 279 of 1989 published in Provincial Gazette No. 4714 dated 12 October 1989	Borough of Kloof Miscellaneous Matters	Chapter C
Provincial Notice No. 382 of 1958 published in Provincial Gazette No. 2867 dated 7 August, 1958	Widenham Health Committee General Regulations	Chapter VIII Section 1-7
Provincial Notice No. 380 of 1961 published in Provincial Gazette No. 3049 dated 24 August 1961	Canelands Health Committee General Regulations	Chapter VIII
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March, 1953	Borough of Westville Standard By-laws	Chapter II
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March 1953	Umhlanga Rocks Standard By-law	Chapter II
Provincial Notice No. 466 of 1961 published in Provincial Gazette No. 3059 dated 12 October, 1961	Yellow-wood Park Health Committee General Regulations	Chapter X
Provincial Notice No. 466 of 1955 published in Provincial Gazette No. 2639 dated 12 September, 1955	Drummond Health Committee General Regulations	Chapter VIII
Provincial Notice No. 204 of 1994 published in Provincial Gazette No. 5002 dated 1 December, 1994	City of Durban, General By-laws	The whole
Provincial Notice No. 154 of 1941 published in Provincial Gazette No. 1766 dated 8 May, 1941	Everton Health Committee General Regulations	Chapter VIII
Provincial Notice No. 346 of 1953 published in Provincial Gazette No. 2490 dated 20 August, 1953	Umbogintwini Health Committee General Regulations	Chapter IX
Provincial Notice No. 287 of 1963 published in Provincial Gazette No. 3164 dated 30 July, 1963	Township of Verulam General By-Laws	Chapter II Public Nuisances

Provincial Notice No. 491 of 1955 published in Provincial Gazette No. 2643 dated 27 September, 1955	Crestholme-Waterfall Health Committee General Regulations	Chapter VIII Control Of Roads And Traffic: Nuisances
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**MUNICIPAL NOTICE 176 OF 2015****ISAZISO SOMPHAKATHI****ISAZISO NGEMITHETHO KAMASIPALA YOKULAWULA IZINTO EZIWUHLUPHO KANYE  
NENDLELA YOKUZIPHATHA EZINDAWENI ZOMPHAKATHI**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini usushaye iMithetho kaMasipala Yokulawula Izinto Eziwuhlupho Kanye Nendlela Yokuziphatha Ezindaweni Zomphakathi, ngokweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, No.32 ka 2000 kanti le mithetho iyalandela lapha ngenzansi.

Sibusiso Sithole  
iMenenja yeDolobha

City Hall  
Dr Pixley ka-Isaka Seme Street  
eThekwini

**UMASIPALA WASETHEKWINI: UMTHETHO KAMASIPALA WOKULAWULA IZINTO  
EZIWUHLUPHO KANYE NENDLELA YOKUZIPHATHA EZINDAWENI ZOMPHAKATHI KA 2015**



Wamukelwa nguMkhandlu mhla ka: 2015-06-24

**UMTHETHO KAMASIPALA WOKULAWULA IZINTO EZIWUHLUPHO KANYE NENDLELA  
YOKUZIPHATHA EZINDAWENI ZOMPHAKATHI KA 2015**

**Ukuhlinzeka ngezinyathelo zokugwema, ukunciphisa noma ukulawula izinto eziwuhlupho emphakathini; ukunqabela imisebenzi ethile noma indlela ethile yokuziphatha ezindaweni zomphakathi; ukuhlinzekela ukuchithwa kwemithetho nokuhambisana nayo; kanye nokuhlinzekela izindaba eziphathelele nalokho.**

### **ISENDLALELO**

**NJENGOBA** uMkhandlu kaMasipala weTheku unamandla ngokwesigaba 156(2) soMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, ukumisa kanye nokwengamela iMithetho kaMasipala ukuze kuphathwe ngempumelelo izindaba onelungelo lokuzengamela.

**NJENGOBA NJENGOBA** uMasipala unamandla ngokweNgxenywe B kaSheduli 5 yoMthethosisekelo okulawula nezindaba ezifana nezinto eziwuhlupho emphakathini, imigwaqo kamasipala, izindawo zomphakathi, kanye nokuminyana kwezimoto emigwaqweni nezindawo zokupaka izimoto;

**FUTHI NANJENGOBA** kukhona isidingo sokwakha imithetho yokubhekana nokugwema noma ukwehlisa izinga lezinto eziwuhlupho emphakathini kanye nokulawula indlela yokuziphatha ezindaweni zomphakathi;

**MANJE NGAkho-KE** uMkhandlu kaMasipala weTheku, usebenza ngaphansi kwesigaba 156 sifundwa neNgxenywe B kaSheduli 5 woMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, siphinde sifundwe nesigaba 11 soMthetho Wezinhlelo Zomasipala: Ohulumeni Basekhaya ka-2000 (uMthetho No. 32 ka-2000) ngalokhu umisa lo Mthetho kaMasipala:

**ITHEBULA LOKUQUKETHWE****ISAPHLUKO 1  
UKUHUNYUSHWA**

1. Izincazelo
2. Ukuhunyushwa koMthetho kaMasipala

**ISAPHLUKO 2  
IZINLOSO ZALO MTHETHO KAMASIPALA**

3. Izinjongo zalo Mthetho kaMasipala

**ISAPHLUKO 3  
UKUSEBENZA KWALO MTHETHO KAMASIPALA**

4. Ukusebenza kwalo Mthetho kaMasipala

**ISAPHLUKO 4  
INDLELA YOKUZIPHATHA ENGAVUMELEKILE**

5. Izinto ezijwayelekile ezinqatshelwe kanye nendlela yokuziphatha ewuhlupho
6. Imithi emilayo
7. Ukugaxa izimpahla othangweni, ezindongeni, ebhalikhoni noma kuveranda
8. Umsindo
9. Ukungcola
10. Indlela yokuziphatha eqondene nezimoto
11. Ukudlala amabhodi okuskeytai, ukuskeyata ngezicathula ezinamasondo kanye nezinye izenzo ezinobungozi
12. Ukuvimbela, ukuvala noma ukuphazamisa izimoto noma abahamba ngezinyawo
13. Ukumba ezindaweni zomphakathi

14. Izibulali-lukhula, imithi yokubulala ukhula, imithi yokubulala izinambuzane
15. Impahla kaMasipala
16. Uhlupho oludalwa ukusetshenziswa kwendawo

**ISAPHLUKO 5**  
**AMANDLA AJWAYELEKILE KAMASIPALA**

17. Izimpahla nemisebenzi ethengiswayo
18. Izindawo ezikhonjiweyo
19. Izindawo lapho kungangeni khona noma ubani

**ISAPHLUKO 6**  
**UKUPHOQELELWA KOMTHETHO**

20. Amandla anikwe izisebenzi ezigunyaziwe

**ISAPHLUKO 7**  
**AMACALA KANYE NEZINHLAWULO**

21. Amacala
22. Izinhlawulo

**ISAPHLUKO 8**  
**IZIHLINZEKO EZIYINGXUBEVANGE**

23. Ukudluliswa kwezikhalo
24. Ukuchithwa
25. Ukwedlulisela amandla
26. Isihloko esifingqiwe kanye nokuqala kokusebenza komthetho

**ISHEDULI 1: UKUCHITHWA KWEMITHETHO**

## ISAHLUKO 1 UKUHUNYUSHWA

### Izincazelo

1. Kulo Mthetho kaMasipala, ngaphandle uma isimo okukhulunyelwa phezu kwaso siveza okuhlukile

–

**"isisebenzi esigunyaziwe"** kusho umuntu ogunyaziwe ukuqalisa izihlinzeko zalo Mthetho, kubandakanya kodwa kungacini lapho –

- (a) izikhulu ezibhekele uxolo njengoba kubekiwe esigabeni 334 soMthetho Wenqubo Yokubhekana Nobugebengu ka-1977 (uMthetho No. 52 ka-1977);
- (b) amaphoyisa kaMasipala njengoba kubekiwe eMthethweni Wezamaphoyisa WaseNingizimu Afrika ka-1995 (uMthetho No. 68 ka-1995); kanye
- (c) nabasebenzi, abaphatheli, abaphakanyiswa abajutshiwe, abamele nosonkontileka baMasipala abagunyazwe ngendlela efanele wuMasipala ngalokhu;

**"Ukwakha"** kusho noma imuphi umsebenzi wokwakha noma ukudiliza kanye nanoma yini ehambisana nalokho kwakha kumbe ukudiliza;

**"Inhloko Yezempilo"** kusho isisebenzi sikaMasipala waseThekwini esiphethe noma esinomsebenzi wokubheka umnyango kaMasipala obhekele izindaba eziphathele nezeMpilo Yomphakathi;

**"imoto enkulu"** kusho amabhasi kanye nezimoto zokumba;

**"ezakhiweni"** kusho indawo engenazo izinsiza ezilethwa ngendlela ehlelekile futhi ezinezindlu eziyizakhiwo, kuhlenganisa nendawo eyenzelwe ukuhlala noma ilokishi elinganikeziwe igunya lokuba lakhiwe ngokwanoma yimuphi omunye umthetho, noma ilokishi elihlukile kunaleli elihleliwe elichazwe esigabeni 1 se-Upgrading of Land Tenure Rights Act, 1991 (Umthetho Ongunombolo 112 ka 1991), kanye nanoma yimuphi umhlaba ohlinzekwe njengomhlaba wokwakha izindawo zokuhlala eziyizakhiwo ngokwesigaba 3(1) se-Less Formal Township Establishment Act, 1991 (Umthetho Ongunombolo 113 ka 1991);



**"imoto"** kusho noma iyiphi inqola ezihambelayo enenjini noma imoto nxa iyingxenye enkulu noma ihlangene nenqola ethile futhi eyakhelwe noma elungiselwe ukuba iqhutshwe kusetshenziswa injini eyilolo hlobo noma imoto eyakhelwe izinhloso zokuthutha abantu kunoma yimuphi umgwaqo womuntu oyedwa noma abaningi noma yini enye into enokuwusebenzisa, impahla, umzimba noma into, futhi kuhlanganisa nenqola edonswayo, isithuthuthu, isithuthuthu esinamasondo amane noma inqola ethutha umhlabathi noma esebenza umhlabathi, kodwa kungabandakanyi, noma iyiphi inqola eqhutshwa ngumuntu ohamba ngezinyawo, noma iyiphi enye inqola enesisindo esingeqile ku 230 kilogramu eyakhiwe ngokukhethekile futhi yenziwa ukuba ihambise kalula noma yimuphi umuntu ogula ngokukhubazeka noma ukuphazamiseka komzimba;

**"umkhandlu kamasipala"** noma **"umkhandlu"** kusho umkhandlu kamasipala waseThekwini, umkhandlu kamasipala okukhulunywe ngawo esigabeni 157(1) soMthethosisekelo;

**"UMasipala"** kusho uMasipala weTheku, okunguMasipala ongena ngaphansi komasipala bohlobo olungu-A njengoba kubekiwe esigabeni 155(1) soMthethosisekelo waseNingizimu Afrika, futhi owasungulwa ngokulandela iSaziso Sesifundazwe No. 43 sika-2000 (KwaZulu-Natali);

**"imenenja kamasipala"** kusho umuntu oqokwe ngokwesigaba 54A soMthetho Wezinhlalo Zomasipala, 2000 (uMthetho No. 32 ka 2000) njengenhloko yezokuphatha emkhandlwini kaMasipala;

**"Uhlupho"** isho noma isiphi isenzo noma ukuziphatha komuntu noma ukusebenzisa, ukugcina, ukukhiqiza, ukukhiqiza ngomkhiqizo, ukufuya noma ukuthwala noma yini okungaba impahla, ithuluzo, isitshalo noma isilwane noma ukubangela noma ukudala noma isiphi isimo endaweni okungeyomunye umuntu noma yomphakathi kumbe noma kuphi kuMasipala engadala umonakalo, isicefe, ukuphazamiseka noma ubungakhululeki emphakathini kumbe kunoma umuphi omunye umuntu ekwenzeni amalungelo anawo ngokomthetho;

**"ngobusuku"** kusho isikhathi esisukela ku 20h00 kuhwalala kuye kuyoshaya ihora lesi 06h00 ekuseni ngakusasa;

**"indawo yomphakathi"** kusho –

(a) umgwaqo womphakathi;

(b) noma iyiphi indawo yokupaka izimoto, indawo esagceke, ipaki, inkundla yezokungcebeleka, inkundla yemidlalo, umzila wenhlanzeko, indawo evulekile, ibhishi, indawo enenxanxathela yezitolo eyakhiwe emhlabeni kamasipala, umhlaba kamasipala ongakhiwe lutho noma ongasetshenzisiwe noma amangcwaba, enalokhu–

(i) mayelana nanoma yikuphi ukudatshulwa phakathi noma ukuklanywa komhlaba uklanyelwa ukwakha izindlu, iziza noma amabala, ezihlinzekelwe, ezigoddelwe noma ezibekelwe ukuba zisetshenziswe wumphakathi noma abanikazi noma abahlali kulezo ndawo zokwakha izindlu, iziza noma amabala, kungakhathaleki ukuthi ikhonjisiwe yini noma ayikhonjisiwe kwiplani elibanzi, iplani lokudabula umhlaba noma isilinganiso esidwetshiweyo;

(ii) enikezelwe ukuba isetshenziswe ngumphakathi noma nini;

(iii) ebilokhu isetshenziswa wumphakathi ngaphandle kokuphazamiseka esikhathini okungenani esingangeminyaka ebalelwa emashumini amathathu esiphela emuva komhla wama 31 Zibandlela 1959; noma

(iv) noma ngasiphi isikhathi enikezelelwe noma ekhishwe kanjalo nguMasipala noma olunye uhlaka olufanele ngokwegunya; noma

(c) inqola eyimoto yokuthutha umphakathi,

kodwa ngeke kubandakanye umhlaba womphakathi oqashisiwe noma ndlela thize odluliselwe kobunye ubunikazi nguMasipala;

**"umgwaqo womphakathi"** usho noma imuphi umgwaqo noma indlela enqamulelayo kumbe noma iyiphi enye indawo (enqamulelayo noma cha) evame ukusetshenziswa ngumphakathi noma ingxenye yayo umphakathi onelungelo lokuyisebenzisa, futhi ufaka –

(a) unqenqema lwalowo mgwaqo noma indlela enqamulelayo;

(b) noma iliphi ibhuloho, izibuko elinqanyulwa yilowo mgwaqo kumbe indlela enqamulelayo; kanye

(c) nanoma imuphi omunye umsebenzi noma into eyingxenye noma exhunywe noma engeyalowo mgwaqo noma indlela enqamulelayo;

**"inqola eyimoto yokuthutha umphakathi"** kubandakanya noma yisiphi isitimela, ibhasi, ikhumbi, noma inqola eyimoto ehamba emhlabeni, emanzini, noma phezulu emoyeni, ihambisa amalunga omphakathi ikhokhelwe imali ethile yokugibela; kanti

**"imfucuza"** kusho into, noma ngabe leyo nto ingakwazi ukuphunguleka, ukusetshenziswa kabusha, ukuvuselelwa ibuye isetshenziswe kabusha noma ibuye itholakale–

(a) okuyinsalela, okungasadingeki, okunqatsheliwe, okulahliwe, okushiye noma okuchithiwe;

- (b) okutholakala ukuthi umdali wakho akasezukudinga ukuze akusebenzisele izinhloso zokukhiqiza;
- (c) okumele kuhlanzwe noma kulahlwe;
- (d) okuhlonzwe njengemfucuzwa wuNgqongqoshe ngesaziso kwi*Gazethi*, futhi kubandakanya imfucuzwa edaleke ezimayini, embonini yezempilo noma kwenye imboni, kodwa –
- (i) umkhiqizo owenzelwe ukukhiqiza omunye;
- (ii) nayiphi ingxenye yemfucuzwa, uma seyike yaguqulelwa ukuphinde isebenziseke noma yavuseleleka, ayibe isaba yimfucuzwa;

### **Ukahunyushwa koMthetho kaMasipala**

2. Uma kunoshayisana phakathi kokuhunyushwa kwalo Mthetho wedolobha ngesiNgisi kanye nalowo ohunyushiwe, kuyosebenza lowo obhalwe ngesiNgisi.

## **ISAHLUKO 2**

### **IZINJONGO ZALO MTHETHO KAMASIPALA**

#### **Izinjongo Zomthetho kaMasipala**

3. Izinjongo zalo Mthetho kaMasipala yilezi zokuhlinzeka–

- (a) ngezinyathelo zokushaya imithethonqubo kanye nokulawula indlela yokwenza noma yokuziphatha ebangela noma okungenzeka ibangele ukungenami, ukucunuka noma ukuphazamiseka emphakathini noma kubasebenzisi banoma iyiphi indawo yomphakathi, ukuze kuqinisekiswa ukuthi noma yikuphi lokho kungenami, ukucunuka noma ukuphazamiseka kuyagwenywa, bese kuthi lapho khona ukugwenywa okuphelele kungeke kwenzeke noma kungelula, kuncishiswa izinga lakho futhi kulawulwe;
- (b) nezinhlawulo zokwepulwa kwezihlinzeko zawo lo Mthetho kaMasipala.

## **ISAHLUKO 3**

### **UKUSETSHENZISWA KOMTHETHO**

**Ukusetshenziswa KoMthetho kaMasipala**

4. Lo Mthetho kaMasipala usebenza kuzo zonke izindawo ezingena ngaphansi kwemingcele yendawo kaMasipala waseThekwini futhi lo mthetho usebenza kubo bonke abantu bakule ndawo.

**ISAHLUKO 4****INDLELA YOKUZIPHATHA ENGAVUMELEKILE****Izinto ezingavumelekile kanye nendlela yokuziphatha ewuhlupho**

5.(1) Akukho muntu ovunyelwe ukwenza lokhu endaweni yomphakathi–

- (a) ukwenza ngendlela enobungozi empilweni noma engadala umonakalo empahleni;
- (b) ukungena ngokungemthetho endaweni yomphakathi lapho khona ukungena kuyona kunomkhawulo ngokulawula kwalo Mthetho kaMasipala noma nanoma yimuphi omunye umthetho;
- (c) ukudala isenzo esiwuhlupho; noma
- (d) ukuziphatha ngendlela ebangela amahloni, enengayo noma engathandeki.

(2) Akukho muntu ovunyelwe ukwenza lokhu endaweni yomphakathi–

- (a) ukusebenzisa ulimi oluhlukumezayo, olunezinsongo noma olunehlamba; noma izenzo ezihambisana nalokhu;
- (b) ukulwa noma ukwenza ngendlela enokususa izidumo noma enokusongela ukulimaza omunye vumuntu;
- (c) ukuchama noma ukubhosha, ngaphandle uma ekwenza endlini ehlinzekelwe lokho;
- (d) ukubhava noma ukugeza, ngaphandle–
  - (i) uma ekwenza endlini yokugeza noma esisefeni sokugeza umzimba; noma
  - (ii) uma kwenzeka njengengxenye yomcimbi wenkolo noma wamasiko endaweni lapho khona lowo mcimbi wenzeka ngokuvunyelwa umthetho. Inqobo nje uma kungekho into ezoba wuhlupho ezodaleka ngalokho;
- (e) ukugeza noma awashe izingubo, izilwane kanye nanoma yini enye;
- (f) ukuphimisa;
- (g) ukwenza noma yisiphi isenzo esimayelana nokwenza ucansi; ukucambalala noma ukulala kunoma iliphi ibhentshi, indawo yokuhlala, umgwaqo, iphevuventi noma lokhu kusetshenziswe ngendlela evimbela abanye ukuba bayisebenzise;
- (h) ukuvela enqunu noma ukuveza isitho sakhe sangasese;

- (i) ukuphuza noma yibuphi utshwala noma adakwe;
- (j) asebenzise noma abe isiphi isiidakamizwa noma abe ngaphansi kwemsio sokudakwa yizidakamizwa;
- (j) ukunxusa noma ukubelesela noma yimuphi umuntu ngenhloso yokudayisa ngomzimba, ukushushumbiswa kwabantu noma omunye umsebenzi ongekho emthethweni;
- (k) ukugembula noma ukubheja;
- (l) ukubasa noma ukukhwezela umlilo ngaphandle uma ekwenza ngenhloso yokosa inyama endaweni lapho khona leso senzo sivunyelwe, ngaphandle uma lowo muntu egunyaziwe nguMasipala ukubasa noma ukukhwezela lowo mlilo noma ngokulawula komthetho; noma
- (m) ngaphandle komuntu oyisisebenzi esigcina ukuthula noma esinye isisebenzi noma umuntu owenza ngokugunyazwa wumthetho, ukubeka, ukubekelela, ukudiliza noma ukushiya noma yiziphi izimpahla noma izinto endaweni yomphakathi, noma ukubangela noma yiziphi izimpahla noma izinto ukuba zibekwe, zibekelele, zidilizwe noma zishiywe endaweni yomphakathi, ngaphandle uma kwenziwa ubude besikhathi obuzwakalayo ngesikhathi kulayishwa, kwethulwa noma kuthuthwa lezo zimpahla noma izinto;
- (n) ukuthwala noma ukuhambisa ngokusebenzisa umgwaqo womphakathi noma iyiphi into, impahla, into yokwenza noma isiqo okuthi, ngenxa yephunga laso, umsindo, ukungqangqazela, ubungako noma yini enye into emayelana nohlobo lwayo leyo nto noma ubunjalo bayo noma ngenxa yendlela ehanjiswa ngayo, kube wukuthi ibanga noma ingase ibange isicefe, lokhu kubandakanya kodwa akugcini lapho, isidumbu sesilwane, noma yiziphi izibi, okwasebhoshi, uvucu, imfucuzo, udoti, umanyolo, ngaphandle uma kuthwelwe noma kuhanjiswa ngendlela evunyelwe ngumthetho futhi engadali ubukhulu bezinga lokungenami, ukuphazamiseka, ukucunuka kunalelo elivunyelwe yilowo mthetho;
- (o) ukudedela iziqhumane ngaphandle uma kwenzeka ngokulawula koMthetho kaMasipala ophathelene nomlilo kanye neminye imithetho esebenzayo; noma
- (p) ukucambalala noma ukulala kunoma iliphi ibhentshi, endaweni yokuhlala, emgaqeni noma kuphevementi noma lokhu kusetshenziswe ngendlela evimbela abanye banatu ukuba bayisebenzise;
- (q) ukwenza izenzo zanoma iluphi uhlobo zokucela imali noma impahla;
- (r) ukucela imali noma izimpahla ngokwenza, ngamagama noma ngenye indlela
- (s) ukuzihlanganisa noma ukwenza ngokuvumelana nabanye abantu izenzo ezidala noma ezingadala ukuba kungabibikho ukuthula;
- (t) ukuziphatha ngendlela edala noma edala noma engadala ubungozi kuwe noma emphakathini;
- (u) ukuzulazula ngenhloso yokwenza amacala; noma
- (v) ngendlela edala uhlupho.

(3) UMasipala ungabeka izimpawu ezikhombisa izezo ezingavunyelwe noma ezivunyelwe endaweni yomphakathi ngezinhloso zesigaba 5.

### Izimila

6.(1) Akukho muntu ovumeleke ukuba avumele noma yisiphi isihlahla noma-ke yisiphi esinye isimila esikhulayo kunoma iyiphi indawo engaphansi kolawulo lwakhe ukuba –

(a) siphazamise –

(1) noma iyiphi ingqalasizinda yokulethwa kwezidingo emphakathini; noma (11) ingqalasizinda yezinsiza zomphakathi ezifana, kodwa kungacini lapho, ucingo oluhamba ngaphezulu, amapayipi ahambisa amanzi emvula noma amapayipi ahambisa indle; noma (b) sibe yisisusa sokucunuka, ingozi, ukuphazamiseka noma ukungenami kubantu abasebenzisa umgwaqo womphakathi.

(2) UMasipala unemvume yokuthi usebenzise isaziso esibhalwe phansi uyalele umnikazi, umuntu ohlala kuleyo ndawo noma umuntu ophethe leyo ndawo okuqondiswe kuyona esigatshaneni (1) ukuba aphandle noma asuse leso sihlahla noma isimila sifinyelela ezingeni elifanele kanye nangaleso sikhathi esiqagulwe kuleso sazi.

(3) Uma umuntu okukhulunywa ngaye esigatshaneni (2) ehluleka ukwenza izinyathelo okukhulunywa ngazo esazisweni esikhishwa ngokulawula kwaleso sigatshana, uMasipala ungathatha izinyathelo bese ubuyisa izimali ezilahlekile ngalokho ukhokhise yena lowo muntu.

(4) Akukho muntu ngaphandle kwesisebenzi esigunyaziwe sikaMasipala ovumeleke ukuba–

(a) atshale isihlahla noma ukutshala endaweni yomphakathi, noma nganoma iyiphi indlela agence isihlahla noma umuthi endaweni yomphakathi noma asisuse kuleyo ndawo, ngaphandle uma ethole imvume ebhalwe phansi eyinikezwe nguMasipala;

(b) akhwele, ephule noma adicilele phansi isihlahla simile endaweni yomphakathi, noma

(c) noma ngayiphi indlela abeke uphawu noma apende noma yisiphi isihlahla simile endaweni yomphakathi noma anamathisele noma hlobo luni lwesikhangisi noma isaziso kuleso sihlahla.

**Ukugaxwa kwezimpahla ezincingweni ezibiyele, ezindongeni, emabhalikhoni noma kuvulandi**

7. Akukho muntu ovumeleke ukomisa, ukweneka noma ukugaxa izimpahla eziwashiwe, izingubo zombhede, umata waphansi, namatshali, noma iyiphi enye impahla–

(a) endaweni yomphakathi;

(b) ezakhiweni, ngaphezu kocingo olubiyele noma udonga oluwumngcele womgwaqo womphakathi;

(c) ezakhiweni ngendlela yokuthi ize ibonakale ngisho usemgwaqweni womphakathi; noma

(d) ebhalikhoni noma kuvulande ngendlela yokuthi ize ibonakale ngisho usemgwaqweni womphakathi.

### **Umsindo**

8.(1) Akukho muntu ovumeleke ukuba endaweni yomphakathi abange noma avumele ukuba kubangeke ukuphazamiseka kokunethezeka noma ukuthula kwanoma imuphi umuntu ngokumemeza, ukuklabalasa noma ukwenza noma yimuphi umsindo ophezulu noma obeleselayo noma isawundi, kuhlenganisa nomsindo owandisiwe noma isawundi, ngaphandle kwesimo lapho khona lowo msindo noma isawundi iqhamuka –

(a) emhlanganweni ogunyaziwe womphakathi, umbuthano, ingqungquthela noma umcimbi; noma

(b) isimo esiphuthumayo noma isimemezelo sokuhlenga esimweni esiphuthumayo, lowo okuwumsindo ovame ukumataniswa nomhlangano oyilolo hlobo, umbuthano, ingqungquthela, umcimbi noma isimo futhi nangokuhambisana nemibandela yegunya elinikeziwe lalowo mhlango onjalo, umbuthano, ingqungquthela, umcimbi noma isimo.

(2) Ngokwesigatshana (1), akukho muntu ovumeleke ukuba avumele umsindo noma isawundi esuka endaweni yokuhlala ezimele noma amagceke ebhizinisi elingaphansi kolawulo lwakhe ukuba uzwakale kubantu abangaphandle kwaleyo ndawo ngendlela yokuthi kuphazamisa ukubebenzisa noma ukuthakasela indawo yabo uqobo njengabahlali noma abanikazi baleyo ndawo, ngaphandle kwezindawo kwezindawo zokuzijabulisa kanjengoba zichazwe ohlelweni lokuklanywa kwezindawo lapho khona umsindo noma isawundi ivame ukumataniswa nokusetshenziswa okuvamile kwaleyo ndawo futhi ngokuhambisana nemibandela yokugunyazwa kwalelo bhizinisi: Ngaphansi kokuthi akukho muntu oyovumela noma imuphi umsindo noma isawundi ukuba kuphume endaweni yakhe yokuhlala ezimele noma endaweni yebhizinisi.

(3) Ngale kwezigatshana (1) no (2), akukho muntu ongadala noma avume ukuba kubangeke ukuphazamiseka kokunethezeka noma ukuthula kwanoma imuphi umuntu ngalezi zikhathi ezilandelayo:

(a) kusukela ngeSonto kuya kuLwesine, phakathi kuka 21:30 kuya ku 07:00; kanye

(b) nangesikhathi esisukela kuLwesihlanu kuya kuMgqibelo, phakathi kuka 00:00 kuya ku 08:00.

(4) Akukho muntu ovumeleke ukubeka noma ukumisa noma yisiphi isipikha esinomsindo noma nanoma iyiphi into ekhipha umsindo emnyango, eduze kwawo noma ngaphandle komnyango wanoma iyiphi indawo ngenhloso yokusebenzisa lesi sipikha somsindo noma into ekhipha umsindo ukwenza lokhu –

(a) ukwenza noma yiziphi izimemezelo zomphakathi;

(b) ukumema noma ukuheha amakhasimende noma nanoma yibaphi abantu ubalethe kuleyo ndawo noma enye indawo: noma

(c) ukujabulisa noma yimuphi umuntu ohlezi endaweni yomphakathi.

(5) Akukho mshayeli noma umuntu oshayela imoto ovumeleke ukuba adedele noma iyiphi isawundi eyandisiwe noma umsindo ozobe uqhamuka emotweni kuze kube wukuthi uzwakala ebangeni eliqhele ngamamitha angaphezulu kwangamashumi amahlanu (50).

(6) Akukho muntu ovumeleke ukuba ashaye, noma abangele ukuba kushayeke, ihuthi yemoto endaweni yomphakathi ngendlela yokuthi noma kaningi ngangokuthi kuze kudaleke isicefe, ngaphandle uma ukushaywa kwehutha kunesidingo ukuze kuxwayiswe umuntu ohamba ngezinyawo noma nanoma yimuphi omunye umuntu osebenzisa imoto exwayiswa ngengozi noma ukuxwayisa noma yimuphi umuntu osebenzisa imoto nganoma yisiphi isenzo noma ukuba ayeke ukwenza isenzo esithile esiphathelene nokuhamba ngokukhululeka kwezimoto noma ukupaka kwazo.

(7) Akukho muntu ovumeleke ukudumisa kakhulu injini yemoto emileyo ngendlela yokuthi ize ibange isicefe endaweni yomphakathi, ngaphandle uma lowo muntu edumisa injini yaleyo moto ngenhloso yokukhanda leyo moto ephukele ngaphakathi noma eduzane nendawo yomphakathi.

(8) Akukho muntu oyokwenza umsebenzi wokwakha noma adale noma avumele lokho kwakha ukuba kwenziwe endaweni yokuhlala-

(a) ngaphambi kuka 07h00 nangemuva kuka 18h00 kusukela ngoMsombuluko kuya kuMgqibelo; kanye

(b) nanganoma isiphi isikhathi ngeSonto noma ngeholidi;



Ngaphandle-

- (i) uma kunezimo ezidala ukuba wenziwe lowo msebenzi wokwakha ukuze kuvikelwe indawo noma impilo, ukuphela kanye nokuphila kwabantu, noma
- (ii) kutholakale incwadi ebhaliwe kuMasipala evumela ukuba ingathotshelwa indima (a) no (b) isikhathi esithile esinqunyiwe.

### **Ukungcola**

9.(1) Akukho muntu ovunyelwe endaweni yomphakathi ukuba abeke, atshinge noma alahle noma luhlobo luni lwemfucuzo –

- (a) ngendlela ethunaza ukuhlanzeka kwaleyo ndawo yomphakathi noma ebanga uhlupho; futhi
- (b) kunoma iyiphi indawo ngaphandle komgqomo ohlinzekwe nguMasipala uwuhlinzekela ukwenza lokho.

(2) Akukho muntu ovumeleke ukuba avumele imfucuzo noma ukungcola okuvela kunoma iyiphi indawo ukuba kulahlwe, kutshingwe, kugcinwe, kulondolozwe noma kuchithwe ngendlela ezodala ukuba leyo mfucuzo noma ukungcola kudale uhlupho.

### **Indlela yokuphatha eqondene nezimoto**

10.(1) Akukho muntu endaweni yomphakathi ovumeleke ukuba –

- (a) awashe noma ahlanze noma iyiphi imoto, ngaphandle uma ekwenza endaweni ekhethwe nguMasipala eyikhethela ukwenza lokho; noma
- (b) enze noma yiluphi uhlobo lokukhanda imoto noma isikebhe, ngaphandle lapho khona ukukhanda kudingekile ngenhloso yokuba kususwe leyo moto endaweni lapho ibibandakanyeke khona engozini noma lapho ibiphukele khona.

(2) Akukho muntu endaweni yomphakathi ovumeleke ukuba –

- (a) alale emotweni emileyo ngaphandle uma kunesimo esiphuthumayo, noma lapho khona lowo muntu engumshayeli wemoto ethutha umphakathi noma egade imoto, noma imi endaweni eyakhelwe ukuba kuphunywulwe kuyona; noma
- (b) ahlale phakathi emotweni isikhathi esingaphezulu kwamahora angama 24,

Ngaphandle uma lowo muntu elele ngezinhloso zokuba aphumule emuva kohambo lwesikhathi eside esebenzisa yona leyo moto, inqobo nje uma kuzoba ukuthi isisebenzi esigunyaziwe sivumelekile ukuba noma ngasiphi isikhathi siyalele lowo muntu ukuba asuse imoto iqhele kuleyo ndawo noma ayeke ukulala noma ukuhlala emotweni.

(3) Ngaphandle uma ugunyazwe ukuba wenze njalo nguMasiplala noma ngokwanoma imiphi imithetho ephathelene nokusetshenziswa kwendawo, akukho muntu ongapaka imoto enkulu ubusuku bonke endaweni noma emhlabeni wakhe ozimele.

### **Ibhodi lokuskeyta, izicathutlo zokuskeyta ezinamasondo nezinye izenzo ezinobungozi**

**11.(1)** Akukho muntu ovumeleke ukuba endaweni yomphakathi ahambe ngesikeyiti esinamasondo noma ibhodi lokuskeyta noma into efana nalokho ngaphandle lapho khona kuvunyelwe nguMasipala;

(2) Akukho muntu ovumeleke endaweni yomphakathi ukuba enze noma iyiphi into engafaka impilo engozini noma ukuphepha kwanoma yimuphi umuntu noma isilwane, kubandakanya kodwa kungagcini lapho, ukudubula kusetshenziswa umcibisholo noma indwayimane, noma ukujikijela itshe, induku noma enye into ecijile phakathi noma uyidlulise endaweni yomphakathi: Ngaphandle uma lokho kudubula ngesibhamu sohlwayi noma into efanayo naso kwenzelwa ukuzijabulisa kungenqatshelwe uma kwenziwa ngokuqikelela ukuphepha.

### **Ukuvimbela, ukuvala noma ukuphazamisa ukuhamba kwezimoto kanye nabantu abahamba ngezinyawo**

**12.(1)** Akukho muntu ovumeleke ukuba—

(a) endaweni yomphakathi, avimbe ngenhloso noma aphazamise ukuhamba ngokuphepha noma ngokukhululeka komuntu ohamba ngezinyawo noma imoto, ngaphandle uma ekwenza ngomkhawulo ovunyelwe ngumthetho; noma

(b) asondele kunoma yimuphi umuntu ohamba ngezinyawo noma umuntu ongaphakathi emotweni kunoma yimuphi umgwaqo noma ezimpambanweni zomgwaqo noma kuyiphi enye indawo yomphakathi ngenhloso yokucela kulowo muntu ohamba ngezinyawo noma umuntu ophakathi emotweni.

(2) Noma yimuphi umuntu, ovimba ngokungemthetho, ohlala noma obekisa ngesikhala sokupaka somphakathi, noma ocela, oma, ohlala, olala endaweni yomphakathi, noma owenza noma yini ethiya noma ephazamisa ukuhamba kwabantu abahamba ngezinyawo noma ukuhamba kwezimoto emgwaqweni kufanele ngokushesha ayeke ukwenza kanjalo uma eyalelwa kanjalo yisisebenzi sokugcina ukuthula noma ilunga loMbuthe wamaPhoyisa kaMasipala waseThekwini.

**Ukumba ezindaweni zomphakathi**

**13.**(1) Akukho muntu ovumeleke ukuba enze noma adale ukuba kwenziwe isenzo sokumba noma ukugubha umhlabathi noma adale ukuba kugujwe umgodi, umsele noma isisele endaweni yomphakathi –

- (a) ngaphandle uma kwenziwe ngemvume ebhalwe phansi ephuma kuMasipala; kanye
- (b) noma ngokuhambisana nezidingo eziqagulwe nguMasipala noma ezigunyazwe ngokulawula koMthetho kaMasipala ofanele noma nanoma yimuphi-ke omunye umthetho.

(2) Izihlinzeko zesigatshana (1) azivimbeli umuntu ukuba agxumeke isambulela noma enye into efana naso endaweni yomphakathi: Inqobo nje uma indlela esigxunyekwe ngayo ingezukudala ukuba kube nomonakalo ezimileni noma inoma yini eyakha ingxenye yaleyo ndawo yomphakathi okuhleliwe kuyona.

**Izibulali-lukhula, imithi yokubulala amakhambi angadingeki, imithi yokubulala izinambuzane**

**14.** Akukho muntu ngaphandle kwesisebenzi sikaMasipala noma umuntu ogunyaziwe okuwuyena ophethe ezigunyazwe ngokomthetho izibulali-lukhula, imithi yokubulala amakhambi angadingeki, ophoyizeni noma imithi yokubulala izinambuzane ongabeka noma afake lobo buthi kunoma iyiphi indawo yomphakathi.

**Impahla kaMasipala**

**15.**(1) Akukho muntu, ngaphandle uma egunyazwe nguMasipala noma enza ngokulandela noma yimuphi omunye umthetho, ovumeleke ukuba endaweni yomphakathi–

- (a) adwebe imidwa, one, adicilele phansi noma asuse noma iyiphi impahla noma ingxenye yayo enanyathiselwe, ebekwe noma emiswe ngaphakathi noma endaweni yomphakathi;
- (b) appende noma adwebe imidwebo noma olunye uhlobo lobuciko noma into ayithandayo kunoma iyiphi impahla eyakha ingxenye yendawo yomphakathi;
- (c) amise, akhe noma ahlanganise noma yisiphi isakhiwo, kubandakanya iqhugwane, itende, isikrini, ibhodi lezimemezelo, ipali, isitende noma isiteji;
- (d) anamathisele noma abeke kunoma yisiphi isakhiwo sikaMasipala, noma asabalalise noma yini egayiweyo; noma

(e) apulake, aphazamise, noma ngayiphi indlela one noma yimaphi amapayipi amanzi, kagesi, omshini wokufudumeza noma ezinye izinto eziyingxenye noma okuxhunyiweyo.

(2) Izihlinzeko zesigatshana (1) azisebenzi kunoma yimuphi umuntu oqashwe noma ogunyazwe nguMasipala ngezinhloso zokuba alungise, akhande, adilize noma akhe kabusha noma yimuphi umsebenzi onjalo ewenzela noma ewenza egameni likaMasipala.

#### **Uhlupho oludaleka ngenxa yokusthenziswa kwendawo**

16. Akukho mnikazi, mhlali noma muntu olawula indawo ongasebenzisa leyo ndawo noma amageceke ukuba kusetshenziswe ngendlela edala noma engase idale uhlupho.

### **ISAPHLUKO 5**

#### **AMANDLA AJWAYELEKILE KAMASIPALA**

#### **Izimpahla kanye nezinsiza ezithengiswayo**

17.(1) UMasipala unelungelo lokuba, ngokulandela uMthetho kaMasipala obhekene ngqo nokuhweba okusakhula, akhombe izindawo ezindaweni zomphakathi, lapho khona ukudayisa imikhiqizo, ukukhombisa noma ukunikezela ukuthengiswa kwanoma yiziphi izimpahla noma izinsiza noma umkhiqizo kungavunyelwe noma kulawulwa ukuze, kwezinye zezizathu njengoba kuvezwe kulowo Mthetho onjalo kaMasipala, kuvinjelwe izinto eziwuhlupho.

(2) Isigatshana (1) asisebenzi ekuthengisweni kwamaphephandaba ezimpambanweni zemigwaqo noma ekuthengisweni kwezimpahla zithengiswa yizinhlangano ezingekho ngaphansi kukahulumeni noma izinhlangano zentuthuko ezivumeleke ukuba zifake izicelo zokukhululwa kwabo bonke abahwebi abangaphansi kwazo.

(3) Ngale kwesigatshana (1), uMasipala ngokulawula kweMithetho kaMasipala okukhulunywe ngayo esigatshaneni (1), angakhipha izimvume zokuthengisa izimpahla kanye nemikhiqizo, futhi ekwenzeni kanjalo, uMasipala uvumelekile ukuba ubeke umkhawulo wenani lezimvume ezizosebenza endaweni bese uqagula leyo mibandela ayibona ifanele ngaleso sikhathi.

#### **Izindawo ezikhonjiwe**

18. UMasipala unelungelo mayelana nanoma yiziphi izindawo zomphakathi, ukuyofika ezingeni elivunyelwe ngumthetho—

(a) ukukhomba indawo yomphakathi noma ingxenye yayo uyikhombele umsebenzi othile oqonde ngqo noma ukusetshenziswa ngezikhathi ezithile ezikhonjiwe noma ngazo zonke izikhathi, bese unqabela imisebenzi noma izenzo ezithile maqondana naleyo ndawo yomphakathi;

(b) ukuthuthukisa noma iyiphi indawo yomphakathi ngokucabangela umphakathi;

(c) ukumisa, ukwakha, ukusungula noma ukudiliza isakhiwo sikaMasipala; kanye

(d) nokusebenzisa noma yimaphi amandla adingekayo ngokuphusile ukwenza imisebenzi eyizimiso zawo ngokwalo Mthetho kaMasipala maqondana nokuphathwa kwezindawo zomphakathi noma ngenye indlela ngokulawula kwanoma yimuphi omunye umthetho.

**Izindawo lapho kungangeni khona noma ubani**

**19.(1)** UMasipala unemvume yokuthi, ngokusebenzisa izimpawu ezibekiwe ezifanele abeke umkhawulo wokungena kunoma iyiphi ingxenye yanoma iyiphi indawo yomphakathi kuze kuphele isikhathi esithile ukuze–

- (a) uvikele noma yimuphi umkhakha wemvelo osendaweni evulekile yomphakathi;
- (b) wehlise izinga lokucekelwa phansi kanye nokudicilelwa phansi kwempahla kaMasipala;
- (c) ukhuphule izinga lokuphathwa kwendawo evulelekile yomphakathi;
- (d) uthuthukise indawo evulelekile yomphakathi;
- (e) udedele umcimbi okhethekile onikezwe imvume ngokwalo Mthetho kaMasipala noma ngokwanoma yimuphi omunye umthetho; noma
- (f) wenze noma yimuphi umsebenzi uMasipala owubona udingekile ngokuphusile noma ufanele ukuze kufezwe izinhloso zalo Mthetho kaMasipala.

**ISAPHLUKO 6****UKUPHOQELELWA KOMTHETHO****Amandla anikezwe izisebenzi ezigunyaziwe**

**20.(1)** Isisebenzi esigunyaziwe, maqondana nezindawo, futhi nganoma isiphi isikhathi esifanele, sivumeleke ukuba singene kunoma iyiphi indawo noma amageceke lapho khona kwenzeka into ewuhlupho ngokwalo Mthetho kaMasipala noma lapho kusolakala ukuthi kwenzeka izinto eziwuhluphe bese–

- (a) sihlola noma siqaphe leyo ndawo noma amageceke;
- (b) siphose imibuzo umnikazi, umhlali noma umuntu olawula leyo ndawo noma amageceke;
- (c) sinikezele nganoma yisiphi isaziso esimayelana nokugcinwa komthetho kumnikazi, umhlali noma lowo muntu olawula indawo; bese
- (d) sithathe izithombe, amasampula kanye nanoma ibuphi ubufakazi kwanoma iyiphi impahla esetshenziswe kuleyo ndawo noma amageceke ukudala uhlupho.

(2) Isisebenzi esigunyazwe ngokufanele sivumeleke ukuba, mayelana nohlupho oludaliwe noma okusolakala ukuthi ludalwa endaweni yomphakathi, sinikeze umuntu umyalelo wokuyeka lesenzo noma indlela yokwenza okuyiyona edala lolo luhlupho, ngokuphuthuma.

(3) Uma isisebenzi esigunyaziwe sibona sona ukuthi akuzukwenzeka ukuthi lo muntu owonayo athobele umyalelo waso ngaso lesi sikhathi, isisebenzi esiphokelela ukugcinwa komthetho kufanele sikhuphe isaziso sesixwayiso sisebenzisa ifomu elivunyelwe nguMasipala, sinikeze umyalelo kulo muntu owonayo ukuba ayeke isenzo noma indlela yokwenza edala uhlupho esikhathini esikaleke kahle kusukela lapho.

(4) Lapho sikhupha isaziso sesixwayiso isisebenzi esigunyaziwe kufanele sithole isiginesha yalo muntu owonayo eqinisekisa ukuthi usitholile isaziso sesixwayiso.

(5) Isisebenzi esigunyaziwe kufanele sazise lo muntu owonile ukuthi–

- (a) isiginesha yalo muntu owonayo njengoba kulandisa isigatshana (3) ayisho yona iyodwa nje ukuthi lowo muntu uyalivuma icala; futhi
- (b) kuyicala ngokulandisa kwalo Mthetho kaMasipala ukwala ukusayina isixwayiso okhishelwe sona yisisebenzi esigunyaziwe.

## ISAHLUKO 7

### AMACALA KANYE NEZINHLAWULO

#### Amacala

21.(1) Umuntu wenza icala uma enza lokhu–

- (a) ephula noma yisiphi kulezi zihlinzeko zalo Mthetho kaMasipala;
- (b) ephula noma yimiphi imibandela, imikhawulo noma okwenqatshiwe ebekwe ngokulawula kwalo Mthetho kaMasipala;
- (c) ehluleka ukuthobela imigomo yanoma yisiphi isaziso noma uphawu olubekwe ngokulawula kwalo Mthetho kaMasipala;
- (d) evimba, enqabela, noma-ke nganoma iyiphi indlela egxambukela emsebenzini wesisebenzi esigunyaziwe esisebenza noma esinikwe imvume ngokulawula kwalo Mthetho kaMasipala; noma
- (e) ehluleka ukuthobela noma yimuphi umyalelo osemthethweni awunikezwa ngokulawula kwalo Mthetho kaMasipala.

(2) Umuntu uyotholakala eqhubeka nokwenza icala uma elokhu eqhubeka emuva kokuba esenikezwe isaziso ngokulawula kwalo Mthetho kaMasipala esimyalela ukuba ayeke ukwenza lelo cala atholakale ukuthi ulenzile.

### **Izinhlawulo**

**22.** (1) Namuphi umuntu ogwetshelwe icala ngaphansi kwalo Mthetho KaMasipala uyobophezeleka ukuba akhokhe inhlawulo engeqile ku-R40 000 noma abhadle ejele isikhathi esingeqile kwesiyiminyaka emibili noma kokubili – inhlawulo nokubhadla ejele.

(2) Esimweni lapho kuqhubeka kwenziwa icala, kuyobekwa inhlawulo eyengeziwe eyisamba esingeqile ku R200 noma ukubhadla ejele isikhathi esingeqile ezinsukwini eziyishumi (10), ngalolo nalolo suku okuqhubeka ngalo ukwenziwa kwalelo cala noma kokubili inhlawulo nokubhadla ejele.

## **ISAHLUKO 8**

### **IZIHLINZEKO EZIYINGXUBEVANGE**

#### **Ukudluliswa kwezinqumo**

**23.** (1) Umuntu omalungelo akhe achashazelwe yisinqumo seNhloko yezeMpilo noma esinye isisebenzi esigunyaziwe ngokulandela lo Mthetho KaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko lokudlulisa isinqumo oluqokethwe eMthethweni Wezinhlalo Zomasipala: uMthetho Wohulumeni Basekhaya ka-2000 (uMthetho No. 32 ka-2000) ngesaziso esibhaliwe sokudlulisa isinqumo kanye nezizathu kwiMenenja kaMasipala zingakapheli izinsuku ezingama-21 kusukela ngosuku lwesaziso ngesinqumo.

(2) IMenenja kaMasipala kumele ngokushesha yethule lesi sicelo sokuphikisana nesinqumo kwisiphathimandla sokudluliswa kwezinqumo esifanele.

(3) Isiphathimandla sokudluliswa kwezinqumo kumele siqalise uhlelo lokudlulisa isinqumo engakapheli amasonto ayisithupha futhi sinqume ngaleso sicelo esikhathini esifanele.

(4) Isiphathimandla sokudluliswa kwezinqumo kumele sivumelane, siguqule noma sichithe isinqumo, kodwa akukho guquko noma kuchithwa kwesinqumo okungahoxisa namaphi amalungelo angabe atholakele ngenxa yaleso sinqumo.



(5) Isiphathimandla sokudluliswa kwezinqumo kumele sinikeze izingathu ezibhaliweyo ngesinqumo saso kuzo zonke izindaba ezithinta ukudluliswa kwezinqumo.

(6) Zonke izicelo zokudluliswa kwezinqumo zenziwa ngokulandela uMthetho Wezinhlelo Zomasipala: uMthetho Wohulumeni Basekhaya, ka-2000 (uMthetho No. 32 ka-2000) hhayi ngokulandela lo Mthetho KaMasipala.

### **Ukuchithwa Kwemithetho**

**23.** IMithetho kaMasipala kanye neZaziso eziklelwe kwiSheduli ehambisana nalo Mthetho kaMasipala ngalokhu iyachithwa ngendlela egagulwe kwikhalamu yesithathu yale Sheduli okukhulunywa ngayo.

### **Ukudluliselwa kwamandla**

**24.** (1) Kweyame kuMthethosisekelo nemithetho efanele kazwelonke neyesifundazwe –

- (a) namaphi amandla, ngaphandle kwamandla okukhulunywa ngawo esigabeni 160(2) soMthethosisekelo;
- (b) namuphi umsebenzi; noma
- (c) nasiphi isibopho,

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

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

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

- (a) naleso sikhungo noma lowo muntu odlulisela amandla noma odlulisa amandla adluliseliwe;
- (b) nowemukela lawo mandla adluliseliwe noma odluliselwe amandla adluliseliwe; kanye

(c) nemibandela ehambisana nalawo mandla adluliselwe.

### Isihloko esifingqiwe kanye nokuqala ukusebenza komthetho

25.(1) Lo Mthetho kaMasipala ubizwa ngokuthi UMthetho kaMasipala Wokulawula Izinto Eziwuhlupho Kanye Nendlela Yokuziphatha, 2015 kanti uqala ukusebenza emva kwezinyanga eziyisithupha ushicilelwe *kwiGazethi Yesifundazwe* noma ngalolo suku elungaphambili olunganqunywa ngokuba kushicilelwe isaziso sosuku lokuqala ukusebenza esiyofakwa *kwiGazethi Yesifundazwe*.

## ISHEDULI 1

### IMITHETHO ECHITHIWE

(NgokweSigaba 24 salo Mthetho kaMasipala)

#### INGXENYE A: IMITHETHO KAMASIPALA

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Ingxenye echithwayo</i>
ISaziso sikaMasipala Esingunombolo 25 sika 1992 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 4842 yomhlaka 27 Nhlolanja, 1992	Amanzimtoti Nuisances By-laws	Uchithwe wonke
ISaziso sesiFundazwe Esingunombolo 22 sika 1962 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 3072 yomhlaka 11 Masingana, 1962	Lower Illovo Regulation Relating to Nuisances	Uchithwe wonke
ISaziso sesiFundazwe Esingunombolo 748 sika 1981 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 4276 yomhlaka 31 Zibandlela, 1981.	Borough of Pinetown Nuisance By-laws	Uchithwe wonke
ISaziso sesiFundazwe Esingunombolo 56 sika 1931 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 1188 yomhlaka	Tongaat Health Committee Regulations and Traffic Maintenance of Good Order	Uchithwe wonke

26 Nhlolanja, 1931.		
ISaziso sikaMasipala Esingunombolo 22 sika 1993 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 4898 yomhlaka 25 Nhlolanja, 1993.	Gillits By-laws Regarding Nuisances and the Overcrowding of Residential Premises	Uchithwe wonke
ISaziso sikaMasipala Esingunombolo 22 sika 1993 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 4898 yomhlaka 25 Nhlolanja, 1993.	Hillcrest By-laws Regarding Nuisances and the Overcrowding of Residential Premises	Uchithwe wonke
ISaziso sesiFundazwe Esingunombolo 542 sika 1982 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 4325 yomhlaka 25 Lwezi, 1982.	Borough of New Germany Nuisances Bylaws	Uchithwe wonke
ISaziso sesiFundazwe Esingunombolo 184 sika 1988 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 4639 yomhlaka 26 Nhlaba, 1988	Borough of Queensburgh Street, Traffic, Nuisance and Entertainment By-laws	Uchithwe wonke
ISaziso sikaMasipala Esingunombolo 140 sika 2000 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 5531 yomhlaka 6 Ntulikazi, 2000.	South Central Local Council By-laws for the Control of Public Behaviour	Uchithwe wonke
ISaziso sikaMasipala Esingunombolo 140 sika 2000 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 5531 yomhlaka 6 Ntulikazi, 2000.	North Central Local Council By-laws for the Control of Public Behaviour	Uchithwe wonke
ISaziso sikaMasipala Esingunombolo 140 sika 2000 esishicilelwe kwi <i>Gazette yesiFundazwe</i> Engunombolo 5531 yomhlaka 6 Ntulikazi, 2000.	Durban Transitional Local Council By-laws for the Control of Public Behaviour	Uchithwe wonke
Isaziso sesiFundazwe Esingunombolo 87 sika 1953 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2461 yomhla ka 10 Mashi, 1953	Isipingo Standard By-laws	Isahluko II – Uhlu pho
Isaziso sesiFundazwe Esingunombolo 87 sika	Kingsburgh Standard By-laws	Isahluko II –

1953 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2461 yomhla ka 10 Mashi, 1953		Uhlupho
Isaziso sesiFundazwe Esingunombolo 187 sika 1943 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 1881 yomhla ka 24 Juni, 1943	Township of Kloof General By-laws	Wonke
Isaziso sesiFundazwe Esingunombolo 187 sika 1943 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 1881 yomhla ka 24 Juni, 1943	Township of Kloof General By-laws	Wonke
Isaziso sesiFundazwe Esingunombolo 565 sika 1953 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2509 yomhla ka 3 Disemba, 1953	Standard Marianhill Health Committee Regulations	Isahluko VIII
Isaziso sesiFundazwe Esingunombolo 87 sika 1953 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2461 yomhla ka 10 Mashi, 1953	Township of Mount Edgecombe Standard By-laws	Isahluko II
Isaziso sesiFundazwe Esingunombolo 297 sika 1951 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2359 yomhla ka 18 Julayi, 1951	Borough of Queensburgh General By-laws	Isheduli B Isahluko XXI
Isaziso sesiFundazwe Esingunombolo 60 sika 1957 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2751 yomhla ka 18 Julayi, 1951	Saiccor Township Health Committee Regulations	Isahluko VIII
Isaziso sesiFundazwe Esingunombolo 87 sika 1953 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2461 yomhla ka 10 Mashi, 1953	Township of Umkomaas Standard By-laws	Isahluko II
Isaziso sesiFundazwe Esingunombolo 382 sika 1958 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2867 yomhla ka 7 Agasti, 1958	Widenham Health Committee General Regulations	Isahluko VIII Isigaba 1-7
Isaziso sesiFundazwe Esingunombolo 87 sika 1953 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 2461 yomhla ka 10 Mashi, 1953	Standard By-laws Borough of Westville	Isahluko II
Isaziso sesiFundazwe Esingunombolo 466	Yellow-wood Park Health	Isahluko X

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sika 1961 esishicilelwe kwi <i>Gazethi yesiFundazwe</i> Engunombolo 3059 yomhla ka 12 Octhoba, 1961	Committee General Regulations	
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**MUNICIPAL NOTICE 177 OF 2015****APPOINTMENT OF MEMBERS TO THE ETHEKWINI MUNICIPAL PLANNING TRIBUNAL IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, ACT 16 OF 2013**

In terms of section 37(4) of the Spatial Planning and Land Use Management Act (SPLUMA), Notice is hereby given that the eThekwini Municipality on 21 August 2015 appointed the following external persons and designated the following officials to serve as members of the eThekwini Municipality Municipal Planning Tribunal, established in terms of Section 35 of SPLUMA:

**External Persons**

Dr Koyi Mchunu
Mr. Mark Povall

**Municipal Officials**

Mr Bongumusa Thompson Mbhele
Mr Johannes Sibusiso Ndebele
Mr. Mnelisi Melokuhle Phewa
Ms. Chumisa Thengwa
Mr. Sbu Shezi

The above members are appointed as an independent panel to serve on the eThekwini Municipality Municipal Planning Tribunal in order to assist the Municipality in fulfilling its functions and obligations in relation to determining land use and development applications within its municipal area.

The commencement date of the eThekwini Municipal Planning Tribunal shall be the 2<sup>nd</sup> September 2015. The terms of office of the members shall be 3 years from date of commencement of the Tribunal.

Mr. Sibusiso Sithole

Municipal Manager

eThekwini Municipality

**MUNICIPAL NOTICE 177 OF 2015****Isaziso somphakathi**

**Ukuqokwa kwamalungu enkundla yezokuhlela kuMasipala weTheku  
ngaphansi komthetho iSpatial Planning and Land Use Management Act,  
(uMthetho No. 16 ka-2013)**

Lesi yisaziso ngaphansi kweSigaba 37(4) soMthetho iSpatial Planning and Land Use Management Act (SPLUMA), (uMthetho No. 16 ka-2013) sokuthi uMasipala waseThekwini, mhla ka 21 Agasti 2015, uqoke laba bantu abalandelayo bangaphandle kanye nabangaphakathi kuMasipala njengamalungu enkundla yezokuhlela kuMasipala weTheku, eyakhiwe ngaphansi kweSigaba 35 somthetho iSPLUMA.

**Abantu bangaphandle**

Dkt Koyi Mchunu
Mnu Mark Povall

**Abasebenzi baMasipala**

Mnu Bongumusa Thompson Mbhele
Mnu Johannes Sibusiso Ndebele
Mnu Mnelisi Melokuhle Phewa
Nks Chumisa Thengwa
Mnu Sbu Shezi

Lamalungu angenhla aqokwa njengohlaka oluzimele lwezokuhlela kuMasipala waseThekwini ukuze asize uMasipala enze umsebenzi wakhe futhi afeze nezibopho zakhe ezimayelana nokuthathwa kwezinqumo ngezicelo zokusetshenziswa komhlaba nentuthuko endaweni engaphakathi kwemingcele yakhe.

Lolu hlaka luzoqala ukusebenza mhla ka 2 Septhemba 2015 kanti lamalungu aqokelwe kulezi zikhundla isikhathi esiyiminyaka emithathu kusukela osukwini lokuqala ukusebenza kwalolu hlaka.

Mnu Sibusiso Sithole

iMenenja kaMasipala waseThekwini

# IMPORTANT Information from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

## GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).

