UMASIPALA WETHEKU: UMTHETHO WEDOLOBHA WOHWEBO OLUSAKHULA, 2013

Wemukelwe nguMkhandlu mhla ka:

Ushaywe mhla ka:

UMTHETHO WEDOLOBHA WOHWEBO OLUSAKHULA, 2013

Ukunikeza ilungelo lokungena emkhakheni wohwebo olusakhula; ukwenza izindawo zohwebo olusakhula nezizinda zokuhwebela endaweni kamasipala; ukuhlinzekela ukukhishwa kwamaphemithi okuhweba endaweni kamasipala; ukuvimbela nokwenqabela ukuhweba okusakhula ezindaweni ezithile; ukulawula ukuziphatha kwabahwebi abasakhula; ukulawula uhwebo olusakhula ngemicimbi ethile; ukuhlinzekela izindlela zokuqinisekisa ezempilo nokuphepha; ukumisa amacala nezinhlawulo; ukuhlinzekela ukuchithwa kwemithetho*;* kanye nokuhlinzekela okunye okuphathelene nalokhu.

ISENDLALELO

NJENGOBA umkhandlu uliqonda iqhaza elibalulekile lohwebo olusakhula ekulwisaneni nobubha, ekungeniseni imali emakhaya nasekuthuthukisweni kwezamabhizinisi, ikakhulukazi umthelela omuhle uhwebo olusakhula onawo kubantu nemiphakathi eyayincishwe amathuba phambilini;

NJENGOBA umkhandlu usiqonda isidingo sokulandela indlela yokuthuthukisa uhwebo olusakhula endaweni kamasipala esingethwe ngendlela. Lokhu kudinga ukuba, ngesikhathi kusingethwe uhwebo olusakhula kuphinde kukhunjulwe lokhu –

(a) ukukhuthazwa kwentuthuko yenhlalo nomnotho;
(b) ukukhuthazwa kwendawo ephephile futhi enempilo;
(c) ukuhlela kukamasipala;
(d) ukukhishwa nokulawulwa kwalayisensi emisebenzi edayisela umphakathi ukudla; kanye
(e) nokuphathwa kwezindawo zomphakathi nemigwaqo yomphakathi;

NJENGOBA umkhandlu ukwazi ngokweNgxenye B kaSheduli 4 no-5 yoMthethosisekelo emayelana nezindaba ezinjengokulawulwa kohwebo lwasemgwaqweni, uhwebo, izimakethe kanye namabhishi;

FUTHI NJENGOBA umkhandlu kamasipala waseThekwini ukwazi ukwenza nokusebenzisa imithetho yedolobha ngokwesigaba 156 (2) soMthethosisekelo waseRiphabhlilki

yaseNingizimu Afrika ukuze usingathe ngendlela esebenzayo izindaba onelungelo lokuziphatha;

NGAKHO MANJE ngalokhu umkhandlu kamasipala waseThekwini ushaya umthetho wedolobha olandelayo ngokwesigaba 156 sifundwa kanye neNgxenye B kaSheduli 5 woMthethosisekelo waseNingizimu Afrika futhi sifundwa nesigaba 11 soMthetho iLocal Government: Municipal Systems Act, 2000 (uMthetho Nombolo 32 ka 2000:

OKUQUKETHWE

ISAHLUKO 1
UKUHUNYUSHWA

1. Izincazelo
2. Ukuhunyushwa komthetho wedolobha
3. Izinjongo zomthetho wedolobha
4. Ukusetshenziswa komthetho wedolobha

ISAHLUKO 2
INKULULEKO YOKUHWEBA OKUSAKHULA

5. Inkululeko yokungena ohwebeni olusakhula

ISAHLUKO 3
INQUBOMGOMO YOKUHWEBA OKUSAKHULA

6. Ukwamukelwa kwenqubomgomo yokuhweba okusakhula
7. Ukubamba iqhaza komphakathi
8. Ukuchitshiyelwa, ukuhoxiswa nokubuyekezwa kwenqubomgomo yokuhweba okusakhula

ISAHLUKO 4
UKUHWEBA OKUSAKHULA ENDAWENI KAMASIPALA

9. Izindawo nezizinda zokuhwebela
10. Izikhathi zokuhweba neminye imibandela
11. Ukwenqatshelwa: ukuhweba okusakhula endaweni kamasipala ngaphandle kwephemithi
12. Amaphemithi okuhweba okusakhula
13. Izimali ezikhokhelwa ukuhweba okusakhula
14. Ukwedluliselwa kwamaphemithi okuhweba okusakhula
15. Ukuthathwa nokumiswa kwamaphemithi okuhweba okusakhula
16. Ukuthuthwa nokumiswa kwesikhashana
17. Ukuthathwa nokumiswa kwamaphemithi okuhweba okusakhula

ISAHLUKO 5
IMIKHAWULO NOKWENQATSHELWA UKUHWEBA OKUSAKHULA

18. Izindawo ezinemikhawulo noma ezingavunyelwe
19. Izenzo ezinemikhawulo: ukwakhiwa kwemipheme
20. Izenzo ezinemikhawulo: ukusetshenziswa kwesizinda ebusuku
21. Izenzo ezinemikhawulo: indawo yokuhwebela
22. Izenzo ezinemikhawulo: ukubekwa nokugcinwa kwempahla
23. Izenzo ezinemikhawulo: impahla yasemgwaqeni
24. Izenzo ezinemikhawulo: imililo
25. Izenzo ezinemikhawulo: ukulahla
26. Izenzo ezinemikhawulo: ukunamathisela
27. Izenzo ezinemikhawulo: utshwala, okubanga umsindo kanye nogesi
28. Izenzo ezinemikhawulo: okwejwayelekile
29. Impilo yendawo
30. Ukuthutha kwesikhashana
31. Imicimbi eyisopesheli
32. Isibopho sabanikazi endaweni okungewona ekamasipala

ISAHLUKO 6
UKUPHOQELELWA

33. Imiyalelo ngokomthwetho
34. Ukubuyelwa zindleko
35. Ukususwa nokubanjwa kwempahla
36. Ukusuleleka ecaleni
37. Amacala
38. Izinhlawulo
39. Ukuhlangulwa esibophweni/ecaleni

ISAHLUKO 7
IMIBANDELA EYEHLUKENE

40. Ukwedlulisa amandla
41. Ukwedluliswa kwamacala
42. Ukuchithwa kwemithetho
43. Ukuhlinzekela isikhathi senguquko
44. Igama elifinyeziwe nokuqala kokusebenza komthetho

ISHEDULI: IMITHETHO YEDOLOBHA ECHITHIWE

ISAHLUKO 1
UKUHUNYUSHWA

Izincazelo

1. Kulo mthetho wedolobha ngaphandle uma ingqikithi isho okunye –

"isisebenzi esigunyaziwe" ngumuntu ogunyazwe ukulandela ukuthotshelwa kwezihlinzeko zalo mthetho wedolobha okufaka kodwa okungagcini ku:-

(a) abaqaphe ukuthula abachazwe esigabeni 334 soMthetho iCriminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) amaphoyisa kamasipala noma edolobha achazwe eMthethweni iSouth African Police Services Act, 1995 (Act No. 68 of 1995);

(c) nalabo basebenzi, ama-ejenti, abakhonjiwe, izithunywa nabajutshelwe ukwenzela umasipala imisebenzi njengokugunyazwa nguMasipala; ngalokhu.

“ibhishi” lisho indawo yomhlaba engaphezulu futhi egudla ugu okufaka unqenqema lotshani (uma lukhona);

“ukuhweba ebhishi” kusho ukuhweba okusakhula okwenziwa ebhishi okufaka nokuhweba okusakhula okwenzelwa endaweni yokupaka encikene nebhishi;

“umuntu omnyama” ngumuntu omnyama njengoba kuchazwe eMthethweni iBroad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**impahla kamasipala**” yimpahla engeyomkhandlu, oqashise ngayo noma engaphansi kwawo;

"**ukudla**" kusho ukudla okwenzelwe ukudliwa ngabantu njengoba kuchazwe esigabeni 1 soMthetho iFoodstuff, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"**impahla**" kusho noma iyiphi impahla esusekayo ebekwe noma egcinwe ngumuntu endaweni yomphakathi noma emgwaqweni womphakathi esetshenziswa noma ezosetshenziswa ekuqhubeni ibhizinisi lomhwebi osakhula okufaka noma iyiphi impahla, ikhonteyina, imoto, isakhiwo esisusekayo noma into ephilayo;

“**INhloko yoMnyango**” kusho umuntu –

(a) oqokwe nguMasipala njengeNhloko yakwa Business Support Unit;

(b) ogunyazwe ukubamba kuleso sikhundla; noma

(c) namuphi imuphi omunye umsebenzi kaMasipala okhonjwe nguye uMasipala ukuba enze wonke noma omunye wemisebenzi yeNhloko yoMnyango ngaphansi kwalo Mthetho wedolobha ngokwalawo mandla awanikiwe;

“**umaka wezinga eliphezulu lamanzi**” usho umaka wezinga eliphezulu lamanzi njengoba uchazwe eMthethweni iNational Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“**impahla engekho emthethweni**” isho –

(a) impahla engeke idayiswe noma ithengwe ngokusemthethweni, okufaka kepha okungagcini ngempahla eyimbombayi njengoba ichazwe eMthethweni iCounterfeit Goods Act, 1997 (Act No. 37 of 1997);

(b) impahla ethengwa noma edayiswa ngendlela engekho emthethweni; noma

(c) impahla etholakele ngendlela engekho emthethweni.

“**imali yokubamba**” isho itharifu elinqunywe ngumkhandlu izikhathi ngezikhathi yokubamba nokugcina impahla ebanjwe ngokwalo Mthetho wedolobha, kanjalo nokulahlwa noma ukudedelwa kwempahla ebanjiwe;

“**umhwebi osakhula**” ngumuntu oqhuba ibhizinisi lokuhweba elisakhula;

“u**kuhweba okusakhula**” kusho ukuhweba ngempahla nemisebenzi emkhakheni osakhula okwenziwa ngumhwebi osakhula emgwaqweni womphakathi noma endaweni yomphakathi, futhi okuvame ukuba yilokhu, kodwa kungagcini kukho:

(a) ukuhweba ebhishi;

(b) ukuhweba emgwaqweni;

(c) ukuhweba ezindaweni zabahamba ngezinyawo;

(d) ukuhweba ezimakethe noma *e-flea market*;

(e) ukuhweba emigwaqweni eyeqanayo;

(f) ukuhweba ezindaweni zomphakathi;

(g) ukuhwebela entweni ehambayo njengekharavani neveni elincane;

(h) ukuhwebela ezindlwaneni ezincanyana, emiphemeni noma emakhonteyineni;

(i) izindawo zokugezela izimoto;

(j) ukucwala izinwele;

(k) ukuthatha izithombe;

(l) abahwebi abazulazulayo, kubalwa nabaqhuba izinqola kungagcini lapho;

(m) nokuhweba emicimbini eyisipesheli;

"**impambanomgwaqo**" isho impambanomgwaqo njengoba ichazwe emithethweni eshaywe ngokoMthetho iNational Road Traffic Act, 1996 (Act No. 93 of 1996);

"**ukuphela konqenqema**" kusho umngcele phakathi kokuphela komgwaqo nonqenqema noma, uma ingekho, ingxenye ephakathi komgwaqo nonqenqema lwawo, njengoba kuchazwe esigabeni 1 soMthetho iNational Road Traffic Act, 1996 (Act No. 93 of 1996);

"**izibi**" zifaka noma yini yokufaka, yokusonga noma okunye okungeke kusasebenza okulahliwe noma okushiywe ngumhwebi osakhula noma ngabathengi bakhe;

"i**makethe**" yindawo elapho kuhwetshwa khona eklanyelwe njengemakethe ohlelweni lokuhweba okusakhula futhi ephethwe ngendlela ehlelekile;

"i**moto**" isho inqola ezihambelayo njengoba ichazwe esigabeni 1 soMthetho iNational Road Traffic, 1996 (Act No. 93 of 1996);

"umkhandlu kamasipala" noma **"umkhandlu**" usho umkhandlu kamasipala weTheku, umkhandlu kamasipala oshiwo esigabeni 157(1) soMthethosisekelo;

"**UMasipala**" usho uMasipala weTheku, uMasipala wesigaba A njengoba uchazwe esigabeni 155(1) soMthethosisekelo waseNingizimu Afrika owamiswa ngokwe Provincial Notice No. 43 of 2000 (KZN);

"imenenja kamasipala" kusho umuntu oqokwe njengenhloko yokuphathwa komkhandlu kamasipala ngokwesigaba 54A soMthetho iMunicipal Systems Act;

"**isikhumbuzo sesizwe**" yinoma yimaphi "amatshe noma izikhumbuzo zomphakathi" njengoba zichazwe ngokwesigaba 2 soMthetho iNational Heritage Resources Act, 1999 (Act No. 25 of 1999);

"**umhlaba okungewona okamasipala**" kusho umhlaba osendaweni engaphansi kukaMasipala kodwa okungeyona futhi engaqashiwe nguye noma ongekho ngaphansi kukaMasipala;

"inkathazo" 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;

"ukuvimba" kusho ukwenza noma yini evimbela noma engase ivimbele okuhamba kwezimoto noma abantu emgwaqweni womphakathi;

“umcimbi owenzeka kanye” kusho umcimbi owenzeka kanye ngonyaka;

"**ipaki**" isho ingadi noma ipaki umphakathi onelungelo lokungena kulo, kanti nengadi inencazelo efanayo;

“**umnikazi wephemithi**” kusho umhwebi osakhula onikezwe nguMasipala iphemithi yokuqhuba ibhizinisi lokuhweba esizindeni esiklanyiwe esendaweni yokuhweba okusakhula esendaweni kamasipala;

"**nqunyiwe**" kusho lokho okunqunywe ngokwesinqumo somkhandlu ngaleso naleso sikhathi;

"**ibhilidi lomphakathi**" kusho ibhilidi elisetshenziswa kumbe elingelanoma yiluphi uhlaka lukahulumeni kuphela, okufaka noMasipala;

"indawo yomphakathi yokupaka" isho noma isiphi isikhala endaweni yomphakathi umkhandlu oyiklamele ukupaka imoto;

"indawo yomphakathi" isho -

(a) umgwaqo womphakathi;

(b) indawo yomphakathi yokupaka;

(c) nanoma iliphi ibala, ipaki, indawo yokuqed’ isizungu, eyemidlalo, ibhishi, isikhungo sokuthenga, indawo yamangcwaba kamasipala, indawo evulekile noma engakhiwe esezandleni zomkhandlu kumbe umphakathi onelungelo

lokuyisebenzisa noma okhonjiswe eplanini yelokishi esehhovisi lamatayitela noma ehhovisi loMdabulimhlaba Omkhulu ebekelwe ukusetshenziswa ngumphakathi noma ngabanikazi bawo kulelo lokishi;

"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;

"**umgwaqo**" usho ingxenye yomgwaqo noma yendlela enqamulelayo eyenziwe ngcono, eyakhelwe noma okungeyezimoto ephakathi nonqenqema lomgwaqo njengoba kuchazwe esigabeni 1 soMthetho iNational Road Traffic Act, 1996 (Act No. 93 of 1996);

“**usebe**” lusho usebe njengoba luchazwe eMthwethweni iNational Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

"**dayisa**" kufaka -

(a) ukudayiselana, ukushintshanisa noma ukwebolekisa;

(b) ukubeka nokuveza noma ukulungisela ukuthengisa;

(c) ukubeka emgwaqweni womphakathi noma endaweni yomphakathi ngenhloso yokudayisa;

(d) ukwenza umsebenzi ukuze uhole,

bese "ukuthengisi” noma “ukudayisa” kuba nencazelo ehambisana nalena;

"**umsebenzi**", maqondana nokuhweba okusakhula, kufaka noma ikuphi ukusizakala noma ukuhlomula okunikezwa ngumhwebi ebheke ukucatshangelwa noma ukunikwa okuthile;

"**iphevumenti**" isho ingxenye yonqenqema okungeyabahamba ngezinyawo kuphela, njengoba kuchazwe esigabeni 1 soMthetho iNational Road Traffic Act, 1996 (Act No. 93 of 1996);

"**usebe lomgwaqo**" kusho ingxenye yomgwaqo noma yendlela enqamulelayo ephakathi kosebe lomgwaqo nonqenqema lomgwaqo njengoba kuchazwe eMthethweni iNational Road Traffic Act, 1996 (Act No. 93 of 1996);

"**umcimbi**" kusho noma imuphi umcimbi njengokuchaza koMthethwo iSafety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010), okuyimicimbi yemidlalo, eyokungcebeleka, eyokuqed' isizungu, eyenkolo, eyamasiko, eyombukiso nokunye okunjalo okwenzelwa enkundleni yemidlalo, endaweni edlula khona noma ngaphakathi kwemingcele yale ndawo;

"**ukuhweba emgwaqweni**" kusho ukudayiswa kwempahla noma ukuhlinzeka ngemisebenzi ukuze uhole okwenzelwa emgwaqweni womphakathi; kanti

"**unqenqema**" yingxenye yomgwaqo noma yendlela enqamulelayo efaka nendlela yabahamba ngezinyawo, engewona umgwaqo osebeni lomgwaqo njengoba kuchazwe esigabeni 1 soMthetho iNational Road Traffic Act, 1996 (Act No. 93 of 1996).

Ukuhunyushwa komthetho wedolobha

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

Izinhloso zoMthetho wedolobha

3. Inhloso yalo mthetho wedolobha ukulawula ukuhweba osakhula ngendlela –

(a) eqinisekisa ukuthi ukuhweba okusakhula kuqhutshwa ngendlela ehlelekile;

(b) esondeza amathuba omsebenzi nawamabhizinisi emkhakheni wohwebo olusakhula;

(c) edala ukuzwana phakathi komkhakha wokuhweba okusakhula nalowo osudlondlobele; futhi

(d) eqinisekisa impilo nokuphepha komphakathi.

Ukusetshenziswa komthetho wedolobha

4. Lo Mthetho wedolobha usebenza kuzo zonke izindawo ezingaphansi kukaMasipala weTheku futhi kumele uthotshelwe yibo bonke abantu abakulezo zindawo.

ISAHLUKO 2
INKULULEKO YOKUHWEBA EMKAKHENI OSAKHULA

Inkululeko yokuzihlanganisa nokuhweba okusakhula

5. Inqobo nje uma kuthotshelwa izihlinzeko –

(a) zalo Mthetho wedolobha;

(b) zanoma imuphi omunye osebenzayo;

(c) zanoma iyiphi iphemithi yokuhweba okusakhula,

Noma yimuphi umuntu uvunyelwe ukuzihlanganisa nokuhweba okusakhula endaweni engaphansi kukaMasipala.

ISAHLUKO 3
INQUBOMGOMO YOKUHWEBA OKUSAKHULA

Ukwamukelwa kwenqubomgomo yokuhweba okusakhula

6.(1) Ngezikhathi ezahlukene uMkhandlu ungemukela inqubomgomo yokuhweba okusakhula noma uchibiyele inqubomgomo ekhona yokuhweba okusakhula. Inqubomgomo ingafaka uhlelo olucatshangisiswe kahle lokuphathwa kokuhweba okusakhula ikakhulukazi lapho–

(a) kunokufana okukhulu phakathi kokuhweba okusakhula nosekudlondlobele;

(b) ziziningi khona izikhungo zezokuvakasha noma ezokuqed' isizungu; noma

(c) kunokubaluleka ngokwamasiko, umlando nemvelo.

(2) Inqubomgomo yokuhweba okusakhula ingavumela futhi ilawule ukuhweba okusakhula –

(a) emhlabeni kamasipala

(b) nasemhlabeni okungewona okamasipala, kuye ngamalungelo abanikazi bomhlaba.

(3) Inqubomgomo yokuhweba okusakhula ingafaka nohlelo─

(a) olucacisa umngcele wendawo yokuhweba okusakhula;

(b) oluklama izizinda zokuhweba okusakhula; lubuye

(c) luklame nanoma yiziphi izimakethe.

(4) Inqubomgomo yokuhweba okusakhula ingabhekana futhi nanoma iziphi ezinye izindaba ezilawula ukuhweba okusakhula kuleyo ndawo yokuhweba okusakhula, okufaka kodwa okungagcini lapho─

(a) amahora okuhweba;

(b) indlela intuthuko yenhlalo nomnotho wabahwebi abasakhula ezokwenziwa lula ngayo endaweni yohwebo okusakhula;

(c) ukuthi zizovikelwa kanjani izindawo zezokuvakasha, zokuqed' isizungu, zomlando nezemvelo endaweni yokuhweba okusakhula;

(d) nokuthi zizosebenza kanjani izimakethe endaweni yokuhweba okusakhula.

(5) Inqubomgomo yokuhweba okusakhula kufanele igcine izimiso zalo Mthetho wedolobha nezanoma imuphi omunye umthetho ofanele.

Ukubamba iqhaza komphakathi

7.(1) Ngaphambi kokwamukela inqubomgomo yokuhweba okusakhula, uMasipala kufanele axhumane nabantu abathintekayo okufaka abamele imikhakha esikhulile naleyo esakhula mayelana nokuqukethwe yinoma iyiphi inqubomgomo yokuhweba okusakhula. Le nqubo yokuxhumana kufanele okungenani ithobele izihlinzeko ezibekwe ezigatshaneni (2) kuya ku-(9).

(2) Uma uMasipala ekholwa ukuthi inqubomgomo yokuhweba okusakhula ifanelekile kuleyo ndawo, uMasipala kufanele─

(a) akhe uhlaka lwenqubomgomo yokuhweba okusakhula; futhi

(b) ashicilele isaziso─

(i) azisa umphakathi ukuthi uhlaka lwenqubomgomo yokuhweba okusakhula luyatholakala ezindaweni ezikhonjiwe nangezikhathi ezishiwo ukuze lubukwe;

(ii) ecela abathintekayo ukuba beze emhlanganweni womphakathi;

(iii) ecela nokuphawula nokuphikisa okuvela emphakathini ukuba kufike emkhandlwini lungakadluli usuku olushiwo zingakapheli izinsuku ezingama-30 siphumile isaziso.

(3) Isaziso esishiwo esigatshaneni (2) kufanele─

(a) sibe namaphuzu abalulekile ohlaka lwenqubomgomo yokuhweba okusakhula kafushane futhi

(b) sishicilelwe─

(i) emaphephandabeni amabili endawo ansuku zonke afundwa endaweni lapho indawo yokuhweba okusakhula ikhona; noma

(ii) uma kunephephandaba lomphakathi elitholakala mahhala emphakathini linikezwe abantu abakule ndaweni yokuhweba ehlongozwayo, bese kuthi isaziso sishicilelwe ephephandabeni lomphakathi nakwelilodwa lendawo lansuku zonke afundwa endaweni.

(4) Umhlangano womphakathi oshiwo esigatshaneni (2) kufanele ─

(a) ube kuleyo ndawo yokuhweba okusakhula noma ebangeni eligamakhilomitha ama-5 ukusuka emngceleni wendawo okuhlongozwa kuyo ukuhweba okusakhula; futhi

(b) ungabizwa zingakadluli isinsuku eziyi -7 kuphume leso saziso, noma ubanjwe zingakapheli izinsuku ezingama -60 kusukela esukwini lokushicilelwa kwesaziso esishiwo esigatshaneni (2).

(5) Emhlanganweni womphakathi uMasipala kufanele─

(a) ethule futhi achaze uhlaka lwenqubomgomo yokuhweba okusakhula;

(b) ayiphendule ngendlela eyanelisayo imibuzo eqondene nohlaka lwenqubomgomo yokuhweba okusakhula;

(c) anike abathintekayo ithuba lokuphawula nokuzwakalisa ukuphikisa; futhi

(d) athathe agcine namaminithi omhlangano.

(6) UMasipala kufanele akucubungule konke ukuphawula kumbe ukuphikisa okutholakele emphakathini mayelana nohlaka lwenqubomgomo yokuhweba okusakhula.

(7) Ngemuva kokucubungula ukuphawula nokuphikisa, esikhathini esingeside ngokweqile kusukela kwaqalwa uchungechunge lolubamba iqhaza komphakathi mayelana nalolu hlaka lohlelo lohwebo, umkhandlu kufanele ─

(a) wamukele uhlaka lwenqubomgomo yokuhweba okusakhula;

(b) uchibiyele bese emukela uhlaka lwenqubomgomo yokuhweba okusakhula; noma

(c) uluchithe uhlaka lwenqubomgomo yokuhweba okusakhula.

(8) Yize kunemibandela yesigaba 59 soMthetho iLocal Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) umkhandlu ungeze wawedlulisela amandla okuthatha izinqumo ashiwo ezigatshaneni (6) no-(7).

(9) Uma umkhandlu wamukela inqubomgomo yokuhweba okusakhula, kufanele kushicilelwe isaziso ngendlela eshiwo esigatshaneni (3).

Ukuchitshiyelwa, ukuchithwa nokubuyekezwa kwenqubomgomo yokuhweba okusakhula

8. Umkhandlu─

(a) ungachibiyela noma uchithe inqubomgomo yokuhweba okusakhula eyamukelwe inqobo nje uma ─

(i) uzolandela inqubo yokubamba iqhaza komphakathi echazwe esigabeni 7; futhi

(ii) unike noma ngubani okuhlukumezeka amalungelo akhe ngenxa yokuchitshiyelwa okuhlongozwayo amalungelo akhe obulungiswa; futhi

(b) kufanele ubuyekeze izinqubomgomo zokuhweba okusakhula ngezikhathi ezithile uma ubona kufanelekile.

ISAHLUKO 4
UKUHWEBA OKUSAKHULA ENDAWENI KAMASIPALA

Izindawo nezizinda zokuhweba

9.(1) Ngokuthatha isinqumo, umasipala–

(a) ungabeka eceleni izindawo zokuhweba okusakhula emhlabeni kamasipala endaweni eklanywe njengendawo yokuhweba okusakhula ngokwenqubomgomo yokuhweba okusakhula; futhi

(b) ungaklama izizinda zokuhweba okusakhula ezindaweni zokuhweba okusakhula.

(2) Nokuthatha isinqumo, umasipala –

(a) unganweba, unciphise noma uhlakaze noma iyiphi indawo yokuhweba okusakhula noma isizinda sokuhweba okusakhula; noma

(b) ungaqashisa nganoma iluphi unqenqema noma ingxenye yalo kumnikazi noma kohlala kunoma yikumuphi umhlaba oncikile uma nje umnikazi kumbe ohlala lapho ezovumela isibalo esibekiwe sabahwebi abasakhula ukuba bahwebe ezizindeni zalolo nqenqema ngaphansi kwemibandela ebekwe ngumkhandlu.

Izikhathi zokuhweba neminye imibandela

10. Ngesikhathi uMasipala ebeka eceleni izindawo zokuhweba okusakhula, kumbe noma nini emva kwalokho, ngokufaka isaziso esifanele, anganquma -

(a) izinsuku nezikhathi zokuhweba;

(b) neminye imibandela.

Okungavunyelwe: ukuhweba okusakhula endaweni kamasipala ngaphandle kwephemithi

11. Akukho muntu ovunyelwe ukuqhuba ukuhweba okusakhula endaweni kamasipala ngaphandle kwephemithi esebenzayo yokuhweba okusakhula ekhishwe nguMasipala.

Amaphemithi okuhweba okusakhula

12.(1) Noma imuphi umuntu angasifaka isicelo sephemithi yokuhweba okusakhula ukuqhuba ibhizinisi lokuhweba okusakhula endaweni kamasipala uma–

(a) engumhwebi osakhula noma efuna ukuba ngumhwebi osakhula;

(b) engakabi nephemithi yokuhweba okusakhula nomaphi yakwesinye isizinda esisendaweni engaphansi kukaMasipala;

(c) eyisakhamuzi saseNingizimu Afrika noma kungenjalo abe nephemithi yokusebenza esebenzayo efaka nephemithi yokuba ngowabaleka kukubi kwelakubo;

(d) engaqashile abantu abangaphezu kweshumi;

(e) engathinteki ebhizinisini noma obambiswanweni olungaphezu kolulodwa oluqhuba ibhizinisi lokuhweba okusakhula; noma

(f) okwamanje engasebenzi futhi ezoyibuyisa uma esethole umsebenzi.

(2) Isicelo sephemithi yokuhweba okusakhula kufanele sibe sefomini ekhonjwe yiNhloko yoMnyango izikhathi ngezikhathi.

(3) INhloko yoMnyango kufanele icubungule noma isiphi isicelo sephemithi yokuhweba okusakhula kanti—

(a) ingasivuma ngaphansi kwanoma imiphi imibandela;

(b) ingacela ukunikezwa ulwazi olwengeziwe esikhathini esithile esinqunyiwe; noma

(c) ingasichitha isicelo isho izizathu zalokho.

(4) INhloko yoMnyango ingabheka lokhu okulandelayo uma icubungula isicelo sephemithi yokuhweba okusakhula:

(a) isidingo sokucabangela abafake izicelo —

(i) abamnyama;

(ii) abangasebenzi;

(iii) abaqalayo ukungena emkhakheni osakhula;

(iv) abangahlali nomuntu onephemithi ngaphandle uma ofake isicelo engondliwa kumbe ngokwezimali encike kumnikazi wephemithi;

(v) abakhubazekile; futhi

(vi) ababhalise kwaSouth African Revenue Service njengabakhokhintela;

(b) ukuthi impahla ofake isicelo ahlose ukuyidayisa kumbe lokho afisa ukukwenza kuyavumelana yini nalokho okudayiswa noma okwenziwa ngabanye abahwebi abasakhula endaweni yokuhweba okusakhula noma abanye abahwebi abaseduze nendawo yokuhweba okusakhula;

(c) ukuthi eminyakeni emibili ngaphambi kokufaka isicelo, ofake isicelo uke walahlwa yini yicala eliphathelene nokuhweba okusakhula noma iphemithi yakhe ike yahoxiswa noma yamiswa;

(d) ukukwazi kofake isicelo ukuhlangabezana namahora okuhweba kuleyo ndawo yokuhweba okusakhula njengokunquma komkhandlu;

(e) nokuthi ofake isicelo ubhalisile yini njengomkhokhintela kwaSouth African Revenue Service futhi unegama elihle yini khona.

(5) Lapho iNhloko yoMnyango ikhipha iphemithi yokuhweba okusakhula, ingabeka noma imiphi imibandela ezwakalayo efaka kodwa engagcini kulokhu ─

(a) amahora okuhweba angeqiwe noma okungehwetshwe ngaphansi kwawo;

(b) imingcele mayelana nohlobo lwempahla noma okwenziwayo umnikazi wephemithi avunyelwe ukuhweba ngakho;

(c) usuku lokuphela kwephemithi; kanye

(d) nemibandela mayelana nohlobo lwesakhiwo noma izakhiwo ezingakhiwa esizindeni sokuhweba okusakhula noma endaweni yokuhweba okusakhula.

(6) Iphemithi yokuhweba okusakhula –

(a) kufanele ikhombe ikhombe ngqo isikhala sokuhweba iphemithi eqondene naso njengoba sikhonjwe yinombolo enikwe sona; futhi

(b) inikeza umnikazi wephemithi nabasebenzi bakhe kuphela ilungelo lokusebenzisa leso sikhala sokuhweba ngaphansi kwemibandela yephemithi, izihlinzeko zenqubomgomo yokuhweba okusakhula kanye nanoma imiphi eminye imibandela ebekwe ngokwalo Mthetho wedolobha.

(7) Izikole, amasonto nezinhlangano ezingenzi nzuzo zinikwa azidingi ukuba zithole iphemithi yokuhweba emcimbini owenzeka kanye.

Izimali zokuhweba okusakhula

13. UMasipala unelungelo lokukhokhisa -

(a) noma imuphi umuntu ofaka isicelo sephemithi yokuhweba okusakhula imali yokufaka isicelo lapho eletha leso naleso sicelo sephemithi yokuhweba okusakhula;

(b) noma imuphi umnikazi wephemithi yokuhweba okusakhula irenti yonyaka ngesizinda sokuhweba okusakhula esiqondene naleyo phemithi.

Ukwedluliselwa kwamaphemithi okuhweba okusakhula

14.(1) Iphemithi kayedluliseleki, futhi ngeke yaqashisa, yadayiswa noma kwehlukanwe nayo nangayiphi indlela ngaphandle kwemvume kaMasipala kuqala ngokwalesi sigaba.

(2) Ngemvume ebhaliwe yeNhloko yoMnyango kuqala, iphemithi ingedluliselwa okwesikhashana noma unomphelo komunye umuntu okhonjwe ngumnikazi wephemithi ngokubhala phansi lokho, futhi ngaphansi kokunikeza noma iluphi ulwazi olungase ludingwe yiNhloko yoMnyango izikhathi ngezikhathi.

(3) Uma iNhloko yoMnyango ivuma ukwedluliselwa okwesikhashana noma unomphelo kwephemithi yokuhweba okusakhula─

(a) INhloko yoMnyango ingabeka izidingo ezibona zifanele; futhi

(b) umuntu othathe indawo yomnikazi wephemithi angahweba isikhathi esithile esinqunywe yiNhloko yoMnyango uma ukwedluliswa kwephemithi kungokwesikhashana.

Ukuthathwa kanye nokumiswa kwamaphemithi okuhweba okusakhula

15. INhloko yoMnyango ingayihoxisa noma iyimise iphemithi yokuhweba okusakhula ngesaziso esifanele kumhwebi osakhula ngemuva kokumnikeza ithuba lokuzikhalela uma umhwebi osakhula─

(a) ephule noma imiphi imibandela yephemithi yakhe yokuhweba okusakhula;

(b) ephule noma iziphi izimiso zalo Mthetho wedolobha noma ezanoma imuphi omunye umthetho;

(c) elahlwe yicala lokuhweba ngempahla engekho emthethweni noma lokwenza umsebenzi ngokungemthetho; noma

(d) etholakele enikeza uMasipala ulwazi olungelona ngamabomu lapho kudingeka ukuba anikeze ulwazi.

Ukuthuthwa nokumiswa okwesikhashana

16.(1) Ngokunika umhwebi osakhula isaziso esifanele, iNhloko yoMnyango─

(a) ingamthuthisa okwesikhashana umnikazi wephemithi;

(b) ingamisa okwesikhashana ukusebenza kwephemithi; noma

(c) imise okwesikhashana ukuhweba endaweni yokuhweba okusakhula noma esizindeni sokuhweba okusakhula,

uma ukuqhubeka nokuhweba endaweni noma esizindeni sokuhweba okusakhula kungenakwenzeka noma kuphazamisa okwenziwa nguMasipala, nanoma iluphi uhlaka lukahulumeni noma isakhiwo somphakathi (okufaka nabajutshelwe ukwenza umsebenzi walezi zinhlaka).

(2) Akukho sinxephezelo uMasipala ayosikhokhela umhwebi osakhula uma kwenzeka ─

(a) umhwebi ethuthiswa;

(b) iphemithi imiswa; noma

(c) ukuhweba kumiswa endaweni noma esizindeni esithize sokuhweba okukhula.

(3) Akukho mali ebekiwe yokuhweba okusakhula eyokhokhwa nganoma isiphi isikhathi lapho–

(a) kumisiwe ukusebenza kwephemithi yokuhweba okusakhula; noma

(b) kumisiwe noma kwenqatshelwe ukuhweba okusakhula endaweni noma esizindeni esithize sokuhweba okusakhula ngaphandle kokunikezwa komnikazi wephemithi esinye isizinda.

Ukuthathwa nokumiswa kwamaphemithi okuhweba okusakhula

17. Umnikazi wephemithi kufanele abuyisele ngokushesha iphemithi yakhe kuMasipala uma isiphelelwe isikhathi noma uma─

(a) uMasipala eyihoxisa iphemithi;

(b) umnikazi wephemithi enqatshelwa ukudlulisela iphemithi yakhe komunye umhwebi;

(c) umnikazi wephemithi eyeka ukuhweba isikhathi esiyizinsuku ezingama 25 noma ngaphezulu;

(d) umnikazi wephemithi engasafuni ukuhweba njengomhwebi osakhula kuleso sizinda ahwebela kusona; noma

(e) umnikazi wephemithi ethola eqashwa ngokugcwele.

ISAHLUKO 5

IMIKHAWULO NOMA OKUNGAVUNYELWE KWEZOHWEBO OLUSAKHULA

Imikhawulo noma okungavunyelwe

18.(1) Umkhandlu unelungelo lokunquma ukuthi endaweni engaphansi kwakhe iyiphi indawo ibekelwe umkhawulo noma okungavumelekile ukuba kuhwetshelwe kuyona.

(2) Ezindaweni zokuhweba okusakhula ezinemikhawulo noma okungavumelekile ukuba kuhwetshwe kuzo, umkhandlu unhahlonza izindawo lapho─

(a) ukuhweba kungavunyelwe khona; noma

(b) ukwehweba ngezimpahla ezithile noma ukwenza imisebenzi ethile kungavunyelwe khona.

(3) UMasipala kumele axhome izimpawu, omaka noma okunye ukukhombisa imingcele ─

(a) yezindawo lapho kungavunyelwe noma kunemikhawulo ukuhweba okusakhula khona (kanye nohlobo lomkhawulo); kanye

(b) neyezindawo nezizinda zokuhweba okusakhula.

(4) Noma yiluphi uphawu oluxhonywe ngokwemithetho kaMasipala nanoma yimiphi eminye imithetho, iyothathwa njengesaziso esanele kubahwebi abasakhula sokuthi ukuhweba okusakhula akuvumelekile noma kunemikhawulo kuleyo ndwo.

Izenzo ezinemikhawulo: Ukugxumeka kwezakhiwo

19. Akukho mhwebi ovumelekile ukugxumeka noma isiphi isakhiwo, esisukayo noma esingasuki, ngaphandle kwalezo ezigunyazwe nguMasipala.

Izenzo ezinemikhawulo: ukusetshenziswa kwesizinda sokuhweba kuze kuse

20. (1) Umhwebi osakhula akuvumelekile ukuba alale endaweni lapho eqhuba khona umsebenzi wakhe wokuhweba.

(2) Umhwebi osakhula akavumelekile, ukuthi ekupheleni kosuku, ashiye ngemuva impahla yakhe esayithini esizindeni sokuhwebela esiyingxenye yomgaqo womphakathi noma indawo yomphakathi, ngaphandle kwesakhiwo esigunyazwe uMasipala.

Izenzo ezinemikhawulo: indawo yokuhwebela

21.(1) Umhwebi osakhula akavumelekile ─

(a) ukubeke impahla yakhe emgaqweni yomphakathi noma endaweni yomphakathi, ngaphandle kwemoto noma inqola yakhe emsiza ukuqhuba ibhizinisi lakhe: ngaphansi kokuthi leyo moto noma inqola yakhe ayivimbi abahamba ngezinyawo noma ukuhamba kwezimoto futhi ihambisane nezihlinzeko ze-National Road Traffic Act, 1996 (Act No. 93 of 1996);

(b) ukuvumela impahla yakhe endaweni yokusebenza ukuba imboze umgwaqo noma indawo yomphakathi─

(i) engaphezu kwamaskwemitha ayisithupha endaweni; noma

(ii) engaphezu kwamaskwemitha amathathu ubude,

ngaphandle ke uma kugunyazwe uMasipala;

(c) ahwebele onqenqemeni lo mgaqo lapho ─

(i) ububanzi bephevumenti noma unqenqema lomgwaqo ingaphansi kwamamitha amathathu;

(ii) iphevumenti noma unqenqema lomgwaqo lusondelene nesakhiwo somphakathi, indawo yokukhonzela efana nendlu yesonto, isinagoge noma ithempeli, noma isakhiwo esiyikhumbuzo sesizwe; noma

(iii) iphevumenti iqondene nebhilidi lapho kwenziwa khona ibhizinisi elidayisa impahla efanayo neyomunye umhwebi odayisa kwiphevumenti, uma lowo muntu enqaba ukuba kudayiswe kuleyo ndawo;

(d) uhweba engxenyeni yomgaqo womphakathi owakhelene nebhilidi ezisetshenziselwa ukuhlala abantu, uma umininilo noma ohlala kulelo bhilidi bephikisana nokuba kuqhutshwe amabhizini okuhweba okusakhula kuleyo ndawo;

(e) kusitha noma iziphi izimpawo zomgwaqo ezifakwe ngokumbisana noMthetho we-National Road Traffic Act, 1996 (uMthetho No. 93 ka 1996), noma omaka, izaziso noma izimpawu ezibekiwe noma ezifakwe ngokomthetho kamasipala;

(f) kuphazamisa ukuhamba kwezimoto;

(g) kuphazamisa indawo yokuwela abahamba ngezinyawo, umhume noma indawo yabahamba ngezinyawo;

(h) kuphazamisa indlela eya ezimotweni;

(i) kuphazamisa indlela yokuyolahla udoti emgqonyeni noma kwezinye izinto ezenzelwe ukusetshenziswa umphakathi;

(j) kuphazamisa indlela eya emshinini wokukhipha imali;

(k) kusitha ikhamera ye-CCTV;

(l) kunciphisa indlela eya endaweni yokupaka izimoto noma yokulayisha imphahla kanye noma okunye okusetshenziselwa ukuhamba kwezimoto;

(m) uhweba endaweni engamamitha amahlanu ukuska empambanweni yemigwaqo noma lapho kunempahla yokucima umlilo;

(n) uhweba ngezansi kwendawo engumaka ophezulu wamanziph; noma

(o) uhweba epaki, ngaphandle uma uMkhandlu usunqume ngokusemthethweni ukuthi leyo ndawo ingeyokuhwebela.

(2) Kumaphevumenti, umhwebi kufanele ashiye indawo engaphazamisekile yabahamba ngezinyawo engekho ngaphansi ─

(a) kwamamitha amabili ububanzi ukusuka ebhilidini kuya ezimphaleni noma endaweni adayisela kuyo;

(b) kwamamitha angu- 0.5 ububanzi uma bukalwa kusukela onqenqemeni lomgaqo kuya empahleni noma noma endaweni yakhe yokudayisela.

Izenzo ezibekelwe imikhawulo: Ukubekwa nokugcinwa kwezimpahla

22. Umhwebi akufanele─

(a) abeke noma apakishe impahla yakhe ngendlela engadala ubungozi kunoma imuphi omunye umuntu noma kwenye impahla, noma ngendlela engase ilimaze omunye umuntu noma engadala ukuba kulimale nanoma iyiphi impahla;

(b) abeke impahla yakhe ebhilidini, ngaphandle kwemvume yomnikazi, umhlali osemthethweni, noma umuntu owengamele lelo bhilidi;

(c) avimbele umuntu ohamba kwiphevumenti ukuba abona okudayiswa esitolo esingemuva kwalapho edayisela khona noma ngendlela engabangele leyo mpahla ukuba ingabonakali;

(d) abeke emgaqweni noma endaweni yomphakathi izimpahla ezingeke zithatheke kalula ukuyozibeka lapho kugcinwa khona impahla ekupheleni kosuku lokuhweba; futhi

(e) agcine noma alahle impahla izibo zakhe estamukokweni, emapayipini ahmbisa amanzi emvula, ezindlinsi zangasese, emphemeni wamabhasi noma esihlahleni.

Izenzo ezibekelwe imikhawulo: iphahla yasemgaqweni

23. Umhwebi osakhula akufanele avimbele ukungena, noma ukusetshenziswa kwempahla yasemgaqweni kanye nanoma iyiphi enye into ebekelwe ukuba isetshenziswe umphakathi.

Izenzo ezibekelwe imikhawulo: umililo

24. Umhwebi osakhula akufanele abase umlilo kunanoma iyiphi indawo ngaphandle uma evunyelwe ukuba pheke ukudla ngokubasa umlilo noma ngokusebenzisa igas. Uma umhwebi egunyaziwe ukuba abase umlilo, akufanele abase umlilo ezimweni lapho kungalimala khona abanye abantu noma amabhilidi, izakhiwo, izimoto noma enye impahla.

Izenezo ezibekelwe imikhawulo: Ukungcolisa

25.(1) Umhwebi kumele alahle udoti odalwe ukuhwema kwakhe ngokuwufaka eplastikini wezibi ovumelekile nogunyazwe noma awunikwe uMasipala.

(2) Umhwebi osakhula akavumelekile ukuba aqoqe, alahle, agcine, noma atshinge, noma noma adale okanye avumele ukuba kuqoqwe, kulahlwe, kugcinwe noma kutshingwe noma imuphi udoti, kunoma iyiphi indawo noma amagckeke noma kunoma imuphi ugwaqo noma indawo yomphakathi ngaphandle uma ufakwe eplastikini wezibi ovumelekile nogunyazwe noma awunikwe uMasipala.

Izenzo ezibekelwe imikhawulo: ukunamathisela

26. Umhwebi osakhula akavumelekile ukuba anamathisele impahla yakhe kunoma iliphi ibhilidi, isakhiwo, iphevumenti, isihlahla, imitha yokupaka, ilambu, ipali, isigxobo sikagesi, isigxobo socingo, ibhokisi leposi, izimpawu zomgaqo, ibhentshi kanye nakunoma iyiphi impahla ebekwe emgwaqeni noma endaweni yomphakathi.

Izenzo ezibekelwe imikhawulo: utshwala, noma yini ekhipha umsindo kanye nogesi

27. Umhwebi osakhula akavumelekile uku─

(a) dayisa noma akhangise ngananoma ibuphi utshwala;

(b) shaya insimbi, amahutha, izinsiza umsakazo noma okunye okukhipha umsindo, ukuze ahehe amakhasimende

(c) xhuma ugesi noma igeneretha ngaphandle uma ethole igunya kuMasipala.

Izenzo ezibekelwe imikhawulo: Okujwayelekile

28. Umhwebi osakhula akavumelekile ukuba aqhube umsebenzi wakhe wokuhweba ─

(a) endaweni engavumelekile noma ebekelwe imikhawulo umkhandlu; noma

(b) ngendlela ─

(i) edala isicefe;

(ii) elimaza noma isishintshe umgwaqo womphakathi noma indawo yomphakathi;

(iii) edala isiminyaminya noma ubungozi empilweni;

(iv) eyaphula noma imiphi imithetho nemibandela yephemithi yokuhweba yakhe;

(v) eyenza ukuba kuphazamiseke ukuthula, ukunethezeka nokukhululeka kanoma imuphi omunye umuntu.

Ukuhlanzeka kwendawo

29. Umhwebi osakhula kufanele–

(a) agcine isizinda noma indawo yokuhwebela noma indawo esetshenziswa nguye ukuqhuba ibhizinisi lakhe ihlale ihlanzekile;

(b) agcine impahla yakhe kanye nendawo asebenzela kuyo ihlanzekile;

(c) aqinisekise ukuthi, njalo ekupheleni kosuku lokudayisa–

(i) isizinda noma indawo yokuhwebela ayisebenzisayo ukuqhuba ibhizinisi lakhe ayingcolile futhi ayinawo udoti; nokuthi

(ii) yonke impahla yakhe iqoqiwe yasuswa emgaqweni noma endaweni yomphakathi;

(d) uthatha zonke izinyathelo ezifanele ngesikhathi eqhuba ibhizinisi lakhe ukugwema ukuchitheka kwamafutha, woyela noma ugrisi emgwaqeni womphakathi, endaweni yomphakathi, noma emapayipini ahambisa amanzi emvula;

(e) akukho ntuthu, ukushunqa, ukunuka, noma umsindo, okuphuma endaweni yakhe yokuhwebela nokuhlangene nokudayisa kwakhe, okudala ukungcoliseka komoya nganoma iluphi uhlobo;

(f) uqhuba ibhizinisi ngendlela engafaka izimpilo zabanye abantu engcupheni noma ezobeka impilo nokuphepha komphakathi engcupheni; futhi

(g) ngokucela kwephoyisa noma isisebenzi esigunyaziwe sikaMasipala, ususa noma yini ukuze indawo noma isizinda sokuhwebela sihlale sihlanzekile.

Ukuthuthelwa kwenye indawo kwesikhashana

30. Umhwebi osakhula kufanele ngokucela kwesisebenzi esigunyaziwe noma oqokwe ukuba enzele umasipala umsebenzi asuse izimpahla sakhe ukuze kwenziwe noma imuphi umsebenzi oqondene nemigwaqo yomphakathi, indawo yomphakathi kanye nanoma imuphi omunye umsebenzi.

Imicimbi eyisipesheli

31.(1) INhloko yoMnyango, ngngokunika isaziso esanele, ingenqabela noma ibeke umkhawulo endaweni yokuhweba okusakhula ngesikhathi kunomcimbi oyisipesheli owenzeka kuleyo ndawo, yize noma kunenqubomgomo yezokuhweba okusakhula kanye nanoma iyiphi iphemithi yokuhweba.

(2) Akukho sinxephezelo esiyokhokhwa nguMasipala kunanoma imuphi umhwebi ngenxa nokwenqatshwa noma yokubekwa kwemikhawulo ekuhwebeni okusakhula njengoba kuchazwe esigatshanane (1).

(3) Akukho mali yokuhweba okusakhula eyokhokhwa ngumhwebi ngesikhathi ukuhweba okusakhula kusamisiswe noma kubekelwe imikhawulo.

Isibopho kubanikazi bendawo okungeyona ekamasipala

32. Umnikazi wendawo okungeyona ekamasipala kumele –

(a) aqinisekise ukuthi ukuhwebela okusakhula okwenziwa endaweni yakhe kuthobela lo mthetho kamasipala;

(b) avumela noma isiphi isisebenzi sikamasipala esisemthethweni ukuba singene endaweni yakhe ngenhloso yokuqinisekisa ukuthi iyathotshelwa le mthetho kamasipala; futhi

(c) aqinisekise, ngezindleko zakhe, ukuthi kunamasevisi anele ukuze indawo yokuhwebela okusakhula ihlale ihlanzekile.

ISAHLUKO 6
UKUPHOQELELWA KOMTHETHO

Imiyalelo yomthetho

33. Ukuhluleka ukuthobela isicelo esizwakalayo sesisebenzi esigunyaziwe kuwukwephula lo mthetho kamasipala.

Ukuqoqwa kwezindleko

34. Uma umhwebi osakhula ephula noma iziphi izihlinzeko zalo mthetho kamasipala, inqubomgomo yokuhweba okusakhula noma iphemithi yakhe, futhi ehluleka noma enqaba ukuyeka leso senzo sokuphula umthetho, uMasipala ungathatha lezo zinyathelo ezifanele bese ebiza izindleko zalokho kulowo mhwebi osakhula. Lezo zindleko ziyofakwa ngaphezu kwaleyo nhlawulo umhwebi osakhula anganikwa yona.

Ukuthathwa nokuvalelwa kwempahla

35.(1) Isisebenzi esigunyaziwe singathatha aphinde sivalele noma iziphi izimpahla zomhwebi osakhula abona ukuthi ziyasetshenziswa, zasetshenziswa noma zihlose ukusetshenziswa ukuhweba ngendlela eyephula umthetho kamasipala.

(2) ngokwesigatshana (1), ukuthathwa nokuvalelwa kwezimpahla kungenziwa noma ngabe lezo zimpahla ziphethwe noma zilawulwa omunye umuntu wesithathu.

(3) Noma isiphi isisebenzi esigunyaziwe ukuthatha nokuvalela izimpahla ngokwesigatshana (1) kumele, ngaphandle uma izimpahla zishiywe zodwa, anikeze umhwebi irisidi─

(a) ebeka uhla lwazo zonke izimpahla ezithathwayo ziyovalelwa;

(b) elihlinzeka ngekheli lalapho kuzogcinwa khona izimpahla ezithathiwe zayovalelwa;

(c) elibeka isikhathi sokuvalelwa kwempahla;

(d) elibeka imigomo nemibandela ekumele kuhlangatshezwane nayo ukuze kukhululwe izimpahla ezivalelwe;

(e) elibeka imali ekumele ikhokhwe ukuze kudedelwe izimpahla ezivalelwe;

(f) elibeka imigomo nemibandela okuyodayiswa noma kulahlwe ngayo impahla ingalandwa; futhi

(g) elibeka igama nekheli lesisebenzi sikamasipala okumele kwenziwe kuso izethulo mayelana nempahla evalelwe, usuku nesikhathi ekumele kwenziwe ngalo lezo zethulo.

(4) uma kuwukuthi kukhona impahla ekumele ivalelwe ixhunywe empahleni engasuki noma isakhiwo, isisebenzi esigunyaziwe singayalela noma imuphi umuntu obonakala sengathi uyena olawula leyo mpahla noma isakhiwo esingasuki ukuba asuse izimpahla eziyovalelwa futhi, uma lowo muntu enqaba noma ehluleka ukuthobela lowo myalelo, lokho kusho ukuthi ─

(a) lowo muntu unecala lokwephula umthetho; futhi

(b) isisebenzi esigunyaziwe singazithathela sona lezo zimpahla.

(5) Izimpahla ezivalelwe zingadedelwa emva kokuba –

(a) kulethwe ubufakazi bobunikazi obubhalwe kwirisidi okukhulunywe ngayo kwisigatshana (3); buhambasina

(b) nenkokhelo yempahla evalelwe.

(6) uMasipala nganoma isiphi isikhathi emva kokuvalela impahla angakwazi ukudayisa, ephule noma alahle ─

(a) izimpahla ezivalelwe ezonakalayo uma lezo zimapha zinobungozi kwezempilo, zingaba ziyisicefe;

(b) ukudla okungakulungele ukudliwa abantu.

(7) izimpahla ezivalelwe ngaphandle kwezimpahla ezonakalyo, zingadayiswa uMasipala uma umnikazi engakwazi noma ehluleka ukukhokha imali yokuzidedela lezo zimpahla ezivalelwe.

(8) uma izimpahla ezivalelwe zidayiswa uMasipala ngokwezigatshana (6) noma (7), bese umnikazi eletha irisidi okukhulunywe ngalo kwisigatshana (3) njengobufakazi bobunikazi, uMasipala kumele ukhokhele lowo muntu oletha lobo bufakazi imali yempahla edayisiwe kodwa akhiphe leyo mali elingana neyokudedelwa kwezimpahla ezivalelwe.

(9) uma ngokubona kwesisebenzi esigunyaziwe, umhwebi osakhula esolakala ngokuhweba izimpahla ezingekho emthethweni, lezo zimpahla kumele zithathwe ngokushesha. Uma sekuthathwa lezo zimpahla, isisebenzi kumele ─

(a) sithobele izimfuno zesigaba 36; futhi

(b) sihambise lezo zimpahla ngokushesha emaphoyiseni aseNingizimu Afrika.

Ukwesuleleka ecaleni

36.(1) Uma isisebenzi noma i-ejenti yomhwebi osakhula siphula izihlinzeko zalo mthetho kamasipala, inqubomgomo yokuhweba okusakhula, noma iphemithi yokuhweba, lowo mhwebi osakhula uyothathwa ngokuthi nguye uqobo ophule lo mthetho kamasipala ngaphandle uma lowo mhwebi osakhula egculisa inkantolo ngobufakazi bokuthi yena wathatha izinyathelo ezifanele ukugwema lokho kwaphulwa komthetho.

(2) Ukuthi umhwebi osakhula unike isisebenzi noma i-ejenti imiyalelo, evimba lokho kwaphulwa komthetho, lokhu kukodwa akubona ubufakazi obanele bokuthi wathatha izinyathelo ezifanele.

Amacala

37.(1) Umuntu uyolahlwa icala uma─

(a) ehweba ngaphandle kwephemithi

(b) ephula izihlinzeko zalo mthetho kamasipala;

(c) ephula imibandela ebekiwe ngesikhathi enikwa iphemithi;

(d) ephula noma iziphi izihlinzeko zenqubomgomo yokuhweba okusakhula;

(e) ehluleka ukuthobela noma imuphi umyalelo obekiwe omayelana nale mithetho kamasipala;

(f) esabisa, enqaba, ephazamisa noma eme endleleni yanoma iliphi iphoyisa noma isisebenzi sikaMasipala uma senza umsebenzi waso ngokwale mithetho kamasipala; noma

(g) enika ngamabomu iphoyisa noma isisebenzi sikaMasipala imininingwane eholela ophathe noma okungeyona.

(2) Noma imuphi umuntu uyoba necala uma eqhubeka nokwephula umthetho uma esenikwe isaziso sokuphula umthetho ngokwale mithetho kamasipala esimucela ukuba ahlukane nalelo cala, noma emva kokuba eseke walahlwe ilelo cala.

Izinhlawulo

38. (1) Noma ubani otholakala enecala lokwephula isigaba 37 (1) (a) uyokhokhiswa inhlawulo yemali engama randi angeqile ku R5000 noma abhekane nokuboshwa isikhathi esingeqile onyakeni owodwa, noma akhokhishwe inhlawulo aphinde aboshwe.

(2) Noma ubani othalakala enecala ngaphansi kwalo mthetho kamasipala uyokhokhiswa inhlawulo yemali engama randi engeqile ku R1000 noma abhekane nokuboshwa isikhathi esingeqile ezinyangeni eziyisi-6, noma akhokhiswe inhlawulo aphinde aboshwe.

(2) Uma uqhubeka nokuphula umthetho, ungahlawuliswa enye imali ngaphezulu engeqile ku R150 noma aboshwe izinsuku ezingadlulile kweziyi 10, ngosuku ngalunye aqhubeke nokwenza ngalo lelo cala noma akhokhishwe leyo nhlawulo aphinde uboshwe.

Ukuhlangulwa ecaleni

39. Umkhandlu angeke wethweswe icala ngokulimala noma ukhokhe isinxephezelo nganoma yini eyenziwe yinoma yisiphi isisebenzi sawo ngezinhloso ezinhle nangokwalo mthetho kamasipala.

ISAHLUKO 7
IZIHLINZEKO EZIYINGXUBEVANGE

Ukunikezwa amandla

40.(1) Ngaphansi koMthethosisekelo kanye neminye imithetho kazwelonke neyesifundazwe, noma imaphi–

(a) amandla, ukuncishwa amandla okukhulunywe ngakoesigabeni 160(2) soMthethosisekelo;

(b) umsebenzi; noma

(c) umsebenzi mfanelo,

Onikeziwe, umasipala ngokwalo mthetho kamasipala, noma kwezinye izinhlaka zika masipala izikhulu zezepolitiki, amakhansela noma izisebenzi, unganikezwa noma udluliselwe yilezo zinhlaka zezombusazwe, isikhulu sezepolitiki, ikhansela, noma isisebenzi, kunoma iluphi uhlaka lwangaphakathi, noma kunoma isiphi isisebenzi esiqashwe uMasipala.

(2) Ukunikezwa amandla ngokwesigatshana (1) kumele kwenziwe ngokuhambisana nohlelo lokunikeza amandla olwavunywa uMkhandlu ngaphansi kwesigaba 59(1) soMthetho woHulumeni Basekhaya: iMunicipal Systems Act, 2000 (uMthetho No.32 ka 2000), ngokulandela indlela ebekwe esigabeni 59(2) salo mthetho.

(3) Noma ikuphi ukunikezela amandla okukhulunywa ngakho kulesi sigaba kumele kubhalwe kwi-Register of Delegations, okumele ibe nale minininggwane –

(a) uhlaka noma umuntu onikezela ngamandla;

(b) ukuvunywa kwamandla; futhi;

(c) imibandela ehambisana namandla anikiwe.

Ukudlulisa isikhalazo

41. (1) Umuntu amalungelo akhe aphazamisekile ngenxa yesinqumo esithathwe isisebenzi esigunyaziwe ngokwalo mthetho kamasipala unelungelo lokusidlulisela phambili leso sinqumo ngokwezihlinzeko zokudlulisa izikhalazo eziqukethwe kuMthetho woHulumeni Basekhaya: iMunicipal Systems Act, 2000 (uMthetho No. 32 ka 2000) ngokuthi athumele isaziso esibhalwe phansi sokufaka isicelo sokuslulisa isikhalazo asibhekise kwi Menenja yeDolobha zingakapheli izinsuku ezingama 21 siphumile isaziso sesinqumo.

(2) Imenenja yeDolobha kumele ithumele ngokushesha leso sicelo sokudlulisa isikhalazo esakhiweni esifanele.

(3) Isakhiwo sokudlulisa isikhalazo kufanele siqale ukusebenza leso sikhalo engakapheli amaviki ayisithupha futhi bakhiphe isinqumo kungakapheli isikhathi eside.

(4) Isakhiwo sokudlulisa isikhalazo kufanele siqinisekise, phikise noma sichithe leso sinqumo esathathwa, kodwa lokho kuphikisa noma ukuchitha isinqumo akufanele sisuse noma imaphi amalungelo abetholakale ngenxa yaleso sinqumo.

(5) Isakhiwo sokudlulisa izikhalazo kufanele sinikeze izizathu ezibhalwe phansi ngesinqumo saso kuzo zonke izilethwe kuso.

(6) Zonke izikhalazo ezidlulisiwe zenziwa ngokoMthetho woHulumeni Baekhaya: iMunicipal Systems Act, 2000 (uMthetho No. 32 ka 2000) futhi hhayi ngokwalo mthetho kamasipala.

Ukuchithwa kwemithetho and savings

42. (1) Imithetho ebaluliwe kukhalamu yokuqala neyesibili yesheduli yale mithetho kamasipala ngalokhu iyachithwa njengoba kuchazwe kwikhalamu yesithathu.

(2) Wonke amaphemithi akhishwe ngaphansi kwemithetho kaMasipala waseThekwini yezokuhweba okusakhula, ashicilelwa ngokweSaziso sika Masipala 97 sika 1995 azoqhubeka nokusebenza ngokugcwele futhi asebenze sengathi lowo mthetho kamasipala awukaze uchithwe njengoba kubekiwe kwisigatshana (1).

(3) Noma imaphi amalungelo noma izibopho ezitholakale njengoba kuchazwa emithethweni, kwisigatshana (2) azoqhubek nokutholakala, kube sengathi lawo malungelo awakaze achithwe.

Izihlinzeko zesikhashana

43. Yize noma lo mthetho wedolobha uphasisiwe ─

(a) noma ikuphi ukumemezela okwenziwe nendawo engaphansi kuka Masipala njenge ndawo ukudayisela kuyo emgwaqweni, kungabekelwa imikhawulo noma kwenqatshelwe, kuyoqhubeka nokusebenza kuze kube isikhathi lapho umkhandlu

wamukela inqubomgomo yokuhweba okusakhula maqondana naleyo ndawo ngokwalo mthetho makasipala;

(b) lapho umhwebi osakhula enikwe noma eqashiselwe iphemmithi ngaphambi kokuba kuphasiswe lo mthetho kamasipala ovumela ukuhwebela esizindeni esithize, lokho kuqashiselana noma iphemithi izoqhubeka nokusebenza kuze kube isikhathi lapho kwamukelwa uhlelo olusha lwamaphemithi emkhandlwini oluhambisana nohlelo lwamaphemithi njengoba luchaziwe kulo mthetho kamasipala.

Isihloko esifishane nokuqala kokusebenza komthetho

44. Lo mthetho kamasipala ubizwa ngoMthetho kamasipala wezokubuhweba okusakhula, 2013 futhi uyoqala ukusebenza kusukela ngosuku owashicilelwa ngalo kwiGazethi yeSifundazwe sakwa KwaZulu-Natali.

ISHEDULI

IMITHETHO ECHITHIWE

INGXENYE A: IMITHETHO KAMASIPALA

Inombolo nonyaka womthetho	***Isihloko***	***Indlela echithwe ngayo***
Isaziso soMasipala No. 97 sika 1995	Imithetho kamasipala waseThekwni yezokuhweba okusakhula	Wonke
Isaziso soMasipala No. 28 sika 1997	Imithetho kamasipala eqondene nokuqhuba ibhizinisi lokudayisa emgwaqweni, eMkhandlwini wendawo waseNingizimu	Wonke
Isaziso seSifundazwe No. 208 sika 1937	Imithetho kamasipala ejwayelekile Amanzimtoti Local Administration and Health Board Area	Isigaba 9
Isaziso seSifundazwe No. 30 sika 1954	Imithetho kamasipala ye Yacht Bank, edolobheni laseThekwini	Isigaba 10(f)

Isaziso seSifundazwe No. 237 sika 1941	Imithethonqubo ye Local Health Commission (Public Health Areas Control) Ordinance	Isahluko 2 neSigaba 7
Isaziso soMasipala No. 14 sika 2009	Imithetho kamasipala ye 2010 FIFA World Cup South Africa	Isahluko 6 neSigaba 7.5