# Umthetho Wokuchibiyela Umthetho Wabahwebi Basemgwaqweni Kamasipala Wasethekwini, Ka-2017

Uphasiswe uMkhandlu mhla ka:

**UMTHETHO WOKUCHIBIYELA UMTHETHO WABAHWEBI BASEMGWAQWENI KAMASIPALA WASETHEKWINI, KA-2017**

**IZINCAZELO EZEJWAYELEKILE:**

**[ ]** Amagama akubakaki abayizikwele asho okususiwe mthethweni kaMasipala okhona.

_____ Amagama adwetshelwe ngomugqa ohlangene asho okufakiwe emthethweni kaMasipala okhona.

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**Wokuchibiyela uMthetho Wabahwebi Basegwaqeni kaMasipala waseThekwini ka 2014 ukuze kuvinjelwe umhwebi wasemgwaqweni ukuba ahwebe endaweni lapho kwenqatshelwe noma kunemikhawulo khona yokuhweba emgwaqweni; ukuhweba ezindaweni ezinemikhawulo; ukuhlinzekela imikhawulo ethile yokuhweba emgwaqweni; wokuhlinzekela ukushaqwa kwempahla; wokuhlinzekela ukulawulwa kwezimpahla ezishiywe zodwa; nokuhlinzekela okunye okuphathelene nalokho.**

Mawushaywe wuMkhandlu kaMasipala waseThekwini kanje:

**Isichibiyelo Ohlwini Lokuqukethwe loMthetho Wabahwebi Basegwaqeni kaMasipala waseThekwini ka 2014**

**1.** Lapha kuchitshiyelwa Uhlu Lokuqukethwe loMthetho Wabahwebi Basemgwaqweni kaMasipala waseThekwini ka 2014 (ngemuva kwalokhu ozobizwa ngoMthetho omkhulu kaMasipala) ngokuthi kufakwe lesi sihloko esilandelayo:

"**35A. Izimpahla ezishiywe zodwa**".

**Ukuchitshiyelwa kwesigaba 18 soMthetho Wabahwebi Basemgwaqweni kaMasipala waseThekwini ka 2014**

**2.** Isigaba 18 soMthetho omkhulu kaMasipala lapha siyachitshiyelwa ngokuthi kwengezwe lesi sigatshana ngaphambi kwesigatshana (4):

"(5) Umhwebi wasemgwaqweni akumele ahwebe kunoma iyiphi indawo lapho kunemikhawulo noma kwenqatshelwe khona ukuhweba kwasemgwaqweni ngokwalo Mthetho kaMasipala."

**Ukuchitshiyelwa kwesigaba 21 soMthetho Wabahwebi Basemgwaqweni kaMasipala waseThekwini ka 2014**

**3.** Isigaba 21 soMthetho omkhulu kaMasipala lapha siyachitshiyelwa–

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

"(a) abeke izimpahla zakhe emgwaqweni womphakathi **[noma endaweni yomphakathi, ngaphandle uma kuyisemotweni yakhe noma enqoleni yakhe lapho ehwebela khona: Kuncike ekutheni leyo moto noma leyo nqola ayiphazamisi abahamba ngezinyawo noma ukuhamba kwezimoto emgwaqweni futhi ithobela izinhlinzeko zoMthetho kaZwelonke Wokuhamba Kwezimoto Emgwaqweni ka 1996 (uMthetho No. 93 ka 1996)]**;";

(b) ngokufaka kwisigatshana (1)(b) emagameni andulela indinyana (i) lawa magama alandelayo:

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

(c) ngokushitsha kwisigatshana (1) ezindimeni (n) no (o) kufakwe lesi zindima:

"(n) ahwebe ngaphansi komaka obekiwe wamanzi aphakeme; **[noma]**

(o) ahwebe epaki, ngaphandle uma leyo ndawo ivulwe wumkhandlu njengendawo yokuhweba abahwebi basemgwaqweni**[.]**;

(d) ngokwengeza kwisigatshana (1) lezi zindima ezilandelayo ngaphambi kwendima (o):

"(p) ahwebele kwinqola ephushwayo noma okuthi akufane nayo; noma

(q) ahwebele emotweni."; futhi

(e) ngokwengeza lesi sigatshana ezilandelayo ngaphambi kwesigatshana (2):

"(3) Noma ngubani–

(a) ohweba ngezimpahla noma ngamasevisi; noma

(b) okhangisa ngezimpahla noma ngamasevisi,

endaweni yomphakathi uyothathwa njengomuntu oqhuba ibhizinisi lokuhweba emgwaqweni.”

**Izinguquko sesigaba 35 soMthetho Wabahwebi Basemgwaqweni kaMasipala waseThekwini ka 2014**

**4.** Lesi sigaba ezilandelayo lapha siyashintshwa ngesigaba 35 soMthetho omkhulu kaMasipala:

“**Ukuthathwa Nokushaqwa**

35.(1) Kuncike kwisigatshana (3), umsebenzi ogunyaziwe angathatha futhi ashaqe izimpahla ngokoMthetho Wenqubo Yamacala Obugebengu ka 1977 (uMthetho No. 51 ka 1977) zanoma yimuphi umhwebi wasemgwaqweni asola ngezizathu ezifanele ukuthi zisetshenziswa noma kuhloswe ukuba zisetshenziselwe −

(a) ukuhweba endaweni−

(i) lapho kungavunyelwe noma kunemikhawulo yokuhweba emgwaqweni, njengoba kusho isigaba 18(5); noma

(ii) kwenqatshelwe noma kunemikhawulo ebekwe nguMasipala, ngokwesigaba 31(1);

(b) ukuhweba ngaphandle kwephemithi esemthethweni yokuhweba emgwaqweni ekhishwe nguMasipala, njengokusho kwesigaba 11; noma

(c) ukuhweba ngezimpahla ezingekho emthethweni.

(2) Umsebenzi ogunyaziwe angathatha futhi ashaqe izimpahla agcilusekile futhi ngezizathu ezizwakalayo abona ukuthi zishiywe zodwa.

(3) Ukuthathwa noma ukushaqwa kwalezo zimpahla ngokwesigatshana (1) kungenzeka ngisho noma lezo zimpahla ngaleso sikhathi zisezandleni zomunye umuntu wesithathu noma kungenjalo.

(4) Noma yimuphi umsebenzi ogunyaziwe othatha noma oshaqa izimpahla ngokuhlonipha isigatshana (1) kumele, ngaphandle uma lezo zimpahla zishiywe zodwa njengoba kulandisa isigaba 35A, anikeze umhwebi wasemgwaqweni isiliphu─

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

(b) esishoyo ukuthi yisiphi isigaba soMthetho kamasipala esiphulwe ngumhwebi wasemwaqeni;

(c) esisho izimpahla ezithathwayo noma ezishaqwayo ngokwahlukana kwazo;

(d) esisho ukuthi zizovalelwa isikhathi esingakanani;

(e) esisho imigomo nemibandela okumele ilandelwe ukuze kudedelwe lezo zimpahla ezishaqiwe;

(f) esisho imali ezokhokhelwa ukushaqwa kwezimpahla ukuze zidedelwe;

(g) esisho indawo lapho izimpahla ezishaqiwe ezizobe zigcinwe khona nokuthi umnikazi angaya kuphi futhi akhokhe kuphi izimali ezikhokhwayo ukuze kudedelwe izimpahla zakhe;

(h) esiqukethe uphawu lokuvuma noma isiginesha yomhwebi lapho evuma khona ukuthi −

(i) okuqukethwe yisiliphu kuyiqiniso;

(ii) bamchazelile ngokuqukethwe yisiliphu; futhi

(iii) uyayiqonda imibandela ehambisana nokushaqwa kwezimpahla zakhe nokumele akwenze ukuze izimpahla zakhe ezishaqiwe zikhululwe; futhi

(i) esiqukethe igama lomsebenzi ogunyaziwe othintekayo nesikhathi nosuku okushaqwe ngalo impahla.

(5) UMasipala kumele uma sekulethwa lezo zimpahla ephawundini lokugcina impahla eshaqiwe−

(a) abe nerejista yezimpahla ezishaqiwe;

(b) abhale ngokushesha kwirejista −

(i) imininingwane yomhwebi njengoba kushiwo kwisigatshana (4);

(ii) imininingwane yezimpahla ezisusiwe noma ezishaqiwe, kubandakanya isimo salezo zimpahla;

(iii) indawo lapho lezo zimpahla zisuswe khona;

(iv) igama lomsebenzi ogunyaziwe okunguyena owengamele ukususwa nokushaqwa kwezimpahla; kanye

(v) nesikhathi sokususwa nokushaqwa kwezimpahla.

(6) Izimpahla ezishaqiwe kumele, kuncike kwisigatshana (10), zikhululwe ngemuva kobufakazi bobunikazi okumele buvezwe ngokuthi kukhishwe isiliphu esihlongozwe esigatshaneni (3) sihambisana–

(a) nobufakazi bokukhokhwa kwezimali zokushaqwa kwempahla;

(b) nobufakazi bokukhokhwa kwenhlawulo ebekiwe; noma

(c) nobufakazi bokukhokhwa kwezimali zokushaqwa kwezimpahla kanye nenhlawulo ebekiwe uma kukhona.

(7) Uma izimpahla ezishaqiwe kuyizimpahla ezonakalayo noma kungukudla, uMasipala, kuncike kwisigatshana (8), angadayisa, angachitha noma angalahla lezo zimpahla noma lokhu kudla uma umhwebi wasemgwaqweni engafiki ukuzokhipha izimpahla zakhe ezonakalayo noma ukudla kwakhe ngokwesigatshana (8) engakedluli amahora angu-48 kushaqiwe.

(8) Kuncike kwisigatshana (7), uMasipala noma nini uma usushaqe izimpahla, ungazidayisa, uzilahle noma uzichithe zimpahla ezishaqiwe ─

(a) ezingukudla okonakalayo uma lezo zimpahla zingase zibe yingozi kwezempilo noma zidale ukungcola; futhi

(b) kungukudla okungafanele ukudliwa ngabantu: Kuncike ekutheni−

(i) izimpahla ezonakalayo noma ukudla kuyahlolwa kuqala ngumsebenzi ogunyaziwe woMnyango Wezempilo kaMasipala futhi isaziso sikhishiwe sokudayiswa, sokuchithwa noma sokulahlwa kwalezo zimpahla ezonakalayo noma ukudla; futhi

(ii) isaziso sihanjisiwe kumhwebi wasemgwaqweni othintekayo esimazisa −

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

(bb) isikhathi sokudayiswa, ukulahlwa noma ukuchithwa kwazo;

(cc) nezizathu zokudayiswa, ukulahlwa noma ukuchithwa kwazo.

(9) Izimpahla ezishaqiwe okungezona izimpahla ezonakalayo noma ezingukudla zingadayiswa uMasipala uma umhwebi wasemgwaqweni engakhokhi noma engakwazi ukukhokha imali yokudedela impahla yakhe eshaqiwe ezinyangeni ezintathu kusukela ngosuku okushaqwe ngalo lezo zimpahla.

(10) Uma izinyanga ezintathu okukhulunywe ngazo kwisigatshana (7) seziphelile, uMasipala kumele uthumelele umhwebi wasemgwaqweni othintekayo isaziso umazisa −

(a) ukuthi uMasipala unezinhloso zokudayisa izimpahla zakhe ezishaqiwe ngenxa yokuthi akakwazi ukuzozilanda izimpahla zakhe ngesikhathi esinqunyiwe;

(b) usuku, isikhathi nendawo lapho umhwebi wasemgwaqweni angeza khona ezosho ukuthi kungani uMasipala kungamele udayise izimpahla zakhe; kanye

(c) nosuku, isikhathi nendawo lapho kuzodayiswa khona izimpahla uma umhwebi wasemgwaqweni ehluleka emizamweni yakhe yokuba izimpahla zakhe zikhululwe njengoba kushiwo endimeni (b).

(11) Uma izimpahla esishaqiwe sidayiswa nguMasipala ngokwesigatshana (9), futhi uma kuvezwa isiliphu esihlongozwe kwisigatshana (4) sobufakazi bobunikazi, uMasipala kumele ukhokhele umuntu oletha leso siliphu imali ezosala uma sekubanjwe izimali zokushaqwa kwempahla.

(12) Uma ngokubona komsebenzi ogunyaziwe, umhwebi wasemgwaqweni esolwa ngokudayisa izimpahla ezingekho emthethweni, lezo zimpahla zingadliwa ngaso leso sikhathi, futhi uma kudliwa lezo zimpahla, umsebenzi ogunyaziwe kumele ─

(a) alandele imibandela yalesi sigaba; futhi

(b) lezo zimpahla azihambise ngokushesha ezandleni zoPhiko lwamaPhoyisa aseNingizimu Afrika."

**Ukufakwa kwesigaba 35A soMthetho Wabahwebi Basemgwaqweni kaMasipala waseThekwini, ka-2014**

**5.** Kufakwa lesi sigaba ngaphambi kwesigaba 35 soMthetho omkhulu kaMasipala:

"**Izimpahla ezishiywe zodwa**

35A.(1) UMasipala kumele izimpahla uzithathe njengezishiywe zodwa uma:

(a) izimpahla zitholakala emgwaqweni womphakathi noma endaweni yomphakathi okungaveli muntu oyilawulayo;

(b) izimpahla zitholakala emgwaqweni womphakathi noma endaweni yomphakathi ngale kwamahora okusebenza; noma

(c) izimpahla zitholakala zishuthekwe emgodini, epayipini, ezindlini zangasese zomphakathi, ngaphansi kwemipheme yezithuthi zomphakathi noma kunoma yiziphi izihlahla noma ifuku.

(2) Noma yiziphi iziphahla ezishiywe zodwa ezitholwa ngumasipala zingashaqwa ngaleso sikhathi ziyiswe ephawundini.

(3) UMasipala kumele─

(a) ugcine irejista yazo zonke izimpahla ezishiywe zodwa kuzona zonke izindawo ezingamaphawundi,

(b) kumele ngokushesha abhale kwirejista−

(i) imininingwane yezimpahla ezithathiwe, kubandakanya nesimo salezo zimpahla;

(ii) indawo lapho lezo zimpahla zithathwe khona;

(iii) igama lesikhulu esigunyaziwe okuyisona esithathe lezo zimpahla;

(iv) nesikhathi nosuku lokuthathwa kwalezo zimpahla,

uma sezethulwa lezo zimpahla ephawundini.

(4) Uma kungekho olanda izimpahla ezishiywe zodwa ezinsukwini ezingu-14 zekhalenda kusukela osukwini esithathwe ngalo, uMasipala−

(a) angazilahla lezo zimpahla uma zingeke zidayiseke; noma

(b) kuncike esigabeni 35(13), angazidayisa lezo zimpahla esidlangalaleni.

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

**Isihloko esifingqiwe nokuqala kokusebenza koMthetho**

**6.** Lo Mthetho kaMasipala ubizwa ngoMthetho Wokuchibiyela uMthetho Wabahwebi Bsemgwaqweni kaMasipala waseThekwini ka 2017 futhi uqala ukusebenza ngosuku oyoshicilelwa ngalo kwiGazethi yesiFundazwe.