



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SAKWAZULU-NATALI

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**Vol. 8**

**PIETERMARITZBURG,**

27 JUNE 2014  
27 JUNIE 2014  
27 kUNHLANGULANA 2014

**No. 1173**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

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DEPARTMENT OF HEALTH

**Prevention is the cure**

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**MUNICIPAL NOTICES—IZAZISO ZIKAMASIPALA**

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**No. 69**

**27 June 2014**

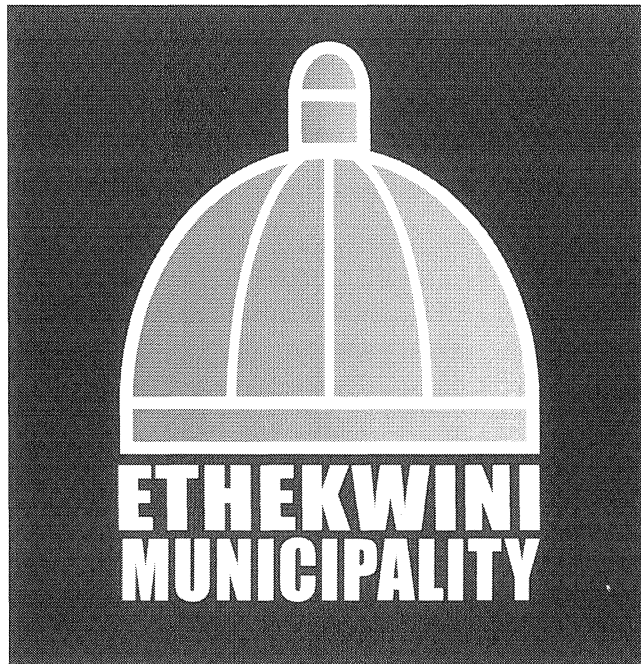
**PUBLIC NOTICE**

**ETHEKWINI MUNICIPALITY: RETAIL MARKETS BY-LAW, 2014**

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 Retail Markets By-law, 2014 contained hereunder.

Mr Sibusiso Sithole  
City Manager

City Hall  
Dr Pixley Kaseme Street  
Durban

**eTHEKWINI MUNICIPALITY: RETAIL MARKET BY-LAW, 2014**

Adopted by Council on the:

Promulgated on:

**RETAIL MARKET BY-LAW, 2014**

To provide for the control and regulation of the Retail Markets which are owned or controlled by the Municipality; for the repeal of laws and savings; and for matters incidental thereto.

**PREAMBLE**

**WHEREAS** there is a need for the Municipality to regulate and manage the operation of the retail markets that are owned or controlled by the Municipality;

**WHEREAS** the Municipality has competence in terms of the 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 legislative and executive competence relating to Markets;

**AND WHEREAS** it is necessary for the Municipality to maintain the standard and quality of goods sold at its markets;

**NOW THEREFORE** the Municipal Council of the eThekweni Metropolitan Municipality, acting in terms of section 156 read with Part B of Schedule 5 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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**CHAPTER 1**  
**INTERPRETATION AND APPLICATION**

**Definitions**

1. In this By-law, unless the context indicates otherwise—  
    “**allocations policy**” means the policy adopted by the Municipality to regulate the allocation of stalls in the market;

**"article"** means any fresh produce, goods or thing which is approved by the Municipality to be brought onto the market for sale to the public;

**"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;

**"buyer"** means any person entering the market for the purpose of buying any article offered for sale on the market or any person with whom a stallholder has concluded a direct sale on behalf of a supplier;

**"Constitution"** means the Constitution of the Republic of South Africa, 1996;

**"fresh produce"** means any kind of grown agricultural product authorised by the Municipality for sale in the market;

**"Head"** means the Head of the markets, and includes any person–

- (a) acting in that position; or
- (b) to whom the Head has delegated or sub-delegated a power, function or duty in accordance with the system of delegation developed by the Municipal Manager in terms of section 59 of the Systems Act;

**"manufacturer"** means any person who sells or exposes for sale within the market, baskets or such articles manufactured by himself or herself, as the Municipality may authorise;



**"market"** means any retail market which is owned or controlled by the Municipality, including any land, building or premises on or in which the business of the market is conducted;

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

**"Municipal Finance Management Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**"Municipality"** means eThekweni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution 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 as the head of administration of the municipal council;

**"permit"** means an official document issued by the Municipality authorising a person to sell or expose for sale upon or within the market any article which is authorised by the Municipality for sale in the market;

**"person"** means a natural person or juristic person;

**"refuse container bay"** means an area for the placing of refuse containers, whether it is a demarcated or a designated refuse container bay;

**"stall"** means any space demarcated and allocated by the Municipality to a trader in the traders' section of the market for the purpose of selling such articles as the Municipality may permit to be sold in terms of this By-law;

**"stallholder"** means the holder of –

- (a) a valid permit issued by the Municipality permitting a person to occupy a stand in the traders' section of the market; and

(b) a trading licence for the sale of goods so permitted;

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"**table holder**" means a *bona fide* farmer authorised to occupy a table in terms of this By-law;

"**tariff of charges**" means the tariff of charges, fees, etc, payable to the Municipality in respect of articles sold or services rendered at the market, as fixed in terms of the Municipality's Tariffs By-law and any applicable policy; and

"**trader**" means any person who sells or exposes for sale within the traders' section of the market any produce which has not been grown by such person.

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

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

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

3. The objects of this By-law are to—

- (a) ensure effective management of the markets under the ownership and control of the Municipality;
- (b) regulate proper conduct of persons within the precincts of the markets; and
- (c) provide for matters incidental thereto.

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

4. This By-law applies to all the Markets under the ownership and control of the Municipality, irrespective of the area in which they are located.

## CHAPTER 2 MANAGEMENT AND CONTROL

### **Management authority**

5. The Municipality is responsible for the management and control of the business of the markets.

### **Vehicular traffic**

6.(1) The Municipality is empowered to control and regulate the volume and movement of traffic entering the market and within the precincts of the market, including the –

- (a) demarcation of parking bays and the allocation thereof;
- (b) determination and levying of tariff charges for the use of parking bays; and
- (c) imposition of fines and impounding of vehicles for non-compliance with the traffic signage and rules within the precincts of the market, as well as the recovery thereof.

(2) For the purposes of this section, the registered owner of a vehicle is presumed to be the driver of such vehicle until the contrary is proved.

(3) Any vehicle which is used in contravention of the traffic signage and rules applicable within the market may be impounded by the Municipality: Provided that reasonable steps must be taken by the Municipality to bring to the attention of road users within the market the relevant traffic signage and rules and, where practicable, the penalties for the contravention thereof.

(4) A vehicle impounded in terms of subsection (1) may be held by the Municipality until a fine in the amount determined by the Municipality is paid in full to secure the release thereof, together with an additional amount for storage if the vehicle concerned is not claimed within the prescribed timeframe.

## CHAPTER 3

## TRADING AND RELATED ACTIVITIES

### Poultry and birds

7.(1) All live poultry or birds brought upon the market for sale must—

- (a) be in a healthy condition and free from disease;
- (b) be exposed in crates or boxes;
- (c) be open to public view; and
- (d) not be tied by the legs.

(2) The stallholder must ensure that such poultry and birds are fed and given drinkable water in such a manner and at such times as may be determined by the Municipality.

(3) The sale of poultry and birds on the market must be conducted in a manner determined by the Municipality.

(4) After a sale has been concluded, poultry and birds must not be left in the crates or boxes for longer than it is necessary for the delivery to be made to the buyer: Provided that the Municipality may instruct the stallholder to remove the poultry or birds as soon as they have been sold.

(5) The Municipality may refuse to release poultry or birds if there is a reason to believe that they are unhealthy, or if the buyer has failed to comply with any condition of sale imposed.

(6) No person may slaughter, destroy, pluck or clean poultry or birds on the premises of the market.

(7) The Municipality may take all such steps as it may deem advisable to prevent or to stop the infliction of suffering, cruelty or rough handling of any poultry or birds.

### Stallholder's permit

8. (1) Any person who wishes to occupy a stall in the market must—

- (a) make an application to the Municipality on a prescribed form for the occupation of such stall;
- (b) make payment of the prescribed fee; and
- (c) obtain a permit issued by the Municipality authorising such person to occupy an allotted stall and conduct business therein on such terms and conditions as may be determined.

(2) The issuing of a stallholder's permit in terms of subsection (1) is at the sole discretion of the Municipality, subject to section 11, the availability of stalls and the suitability of the applicant as determined by the Municipality.

(3) Subject to due compliance with the applicable provisions of the Constitution and the rules of natural justice, the Municipality may, at any time, cancel a stallholder's permit issued to any person who is found guilty of committing an offence in terms of this By-law or any other law relevant to such person's business at the market.

#### **Fees and charges**

9.(1) A stallholder's permit may not be issued by the Municipality in terms of section 8 unless the applicant has paid the prescribed fee in advance and obtained a receipt for such payment entitling such applicant to occupation of the stall designated thereon.

(2) The person to whom a receipt is issued must retain it for the period of its validity and must, when required to do so during that period, produce such receipt for the purpose of inspection by an authorised official.

#### **Default in payment of stall fees**

10.(1) In the event of failure by a stallholder to make payment of a fee referred to in subsection 9(1) for the occupation of a stall on or before the stipulated date, as and when such fee becomes due, the right of the stallholder concerned to occupy such stall may be terminated in writing by the Municipality on written notice to the stallholder to vacate the relevant stall within a period stipulated in such notice.

(2) Any failure or refusal by a stallholder to comply with a notice issued by the Municipality in terms of subsection (1) constitutes a further contravention of this By-law entitling the Municipality to eject without further notice the stallholder concerned from the relevant stall.

### **Allocation of stalls**

11. Notwithstanding anything to the contrary contained in this By-law, the allocations of stalls at the market must be carried out by the Municipality in accordance with the allocations policy.

### **Responsibilities of stallholders**

12.(1) A stallholder must—

- (a) conduct business within the confines of the stall allotted to such stallholder by the Municipality in terms of this By-law;
- (b) ensure that any poultry or birds sold in the market is sold from a crate or box approved by the Municipality containing suitable drinking vessels with a sufficient supply of clean water: Provided that the number of poultry or birds permitted to be accommodated in a cubicle must be determined by the Municipality;
- (c) sell all articles by private treaty; and
- (d) keep clean and tidy to the satisfaction of the Municipality any vehicle, basket or other receptacle brought in the market for the conveyance of goods for sale at the market.

### **Entrance and exit to the market**

13. All articles which are brought into the market for sale must be brought in through the gate set aside by the Municipality for such purpose.

### **Closing hour**

14.(1) At the closing hour a warning bell must be rung, after which no further sales may take place in the market and all stallholders must forthwith remove all articles from the market.

(2) Notwithstanding subsection (1), stallholders may, at the discretion of the Municipality and at their own risk, leave unsold articles on their allotted stalls.

(3) Members of the public may not enter the market after the closing hour and any member of the public who is within the market at the closing hour must leave the market within 30 minutes after the closing hour.

#### **Posting of notices**

15.(1) The Municipality may affix any notice relating to any matter affecting the market on a notice board in a prominent position within the market.

(2) It is the responsibility of a stallholder to ensure that he or she consults the notice board on a daily basis.

(3) Where the notice relates to any matter affecting a particular stallholder, such notice must be delivered to the stallholder concerned.

(4) Notwithstanding subsection (3) all notices affixed on the notice board is deemed to be sufficient notice of any such matter to any person to whom any such notice is addressed.

### **CHAPTER 4 POLICING CONDUCT AND LIMITATION OF LIABILITY**

#### **Personal attendance and supervision**

16.(1) A stallholder must –

- (a) be in personal attendance at his or her stall;
- (b) personally supervise the business carried on at his or her stall unless he or she has first obtained written permission from the Municipality to allow a third party to supervise and carry on the said business on his or her behalf; and
- (c) at all times keep his or her stall clean and tidy to the satisfaction of the Municipality.

**Vicarious Liability**

17.(1) A stallholder is responsible for the conduct in the market of any person employed by such stallholder or whom the stallholder concerned permits or allows to assist in carrying on the business of such stallholder, and must ensure that any such person complies with the provisions of this By-law.

(2) Any reference in this By-law to a stallholder is deemed to include any person employed by or rendering assistance to a stallholder.

**Inspection of articles**

18. (1) The Municipality may inspect or cause to be inspected any fresh produce or food exposed for sale on the market in order to ascertain whether it is healthy and free from disease, infection or contamination and may, if any fresh produce is found to be unhealthy, diseased, infected or contaminated, take or cause to be taken such steps as the Municipality may deem appropriate, including the seizure, condemnation or destruction of the fresh produce concerned.

(2) Any fresh produce which is required by law to be graded may not be offered for sale or sold on the market unless—

- (a) it has been submitted by the stallholder concerned for inspection and has been inspected as prescribed by law; and
- (b) the grade assigned to it as a result of such inspection has been clearly marked on it by such stallholder or inspector.

(3) Any fresh produce which is required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner, may not be offered for sale or sold or removed from the market unless it complies in every respect with the requirements of such law.

**Municipality not responsible for loss**

19. Neither the Municipality nor its authorised officials are liable for any loss or damage caused by fire, flood, theft or from any other cause whatsoever, of any article or property brought onto the market by any person.



**Prohibited conduct**

20.(1) A person entering the market must at all times act in strict compliance with this By-law, as well as such lawful instructions and orders as may be issued or given by the Municipality from time to time for the proper management and control of the market.

(2) Subject to subsection (1), a person may not commit, in or about the market, any act which disrupts, or is, in the opinion of the Municipality, likely to disrupt the normal business of the market, including the following:

- (a) causing a nuisance, or behaving in a manner which is disorderly or unseemly, or use of threatening, obscene, abusive, violent or offensive language;
- (b) touting for customers;
- (c) interfering with or obstructing any employee of the market in the execution of his or her duties;
- (d) organising or conducting a meeting without obtaining the prior written consent of the Municipality;
- (e) touching, tasting, smelling, handling or removing any fresh produce exposed for sale in such a way as to expose it to contamination or disease;
- (f) keeping or exposing for sale any article or item of an offensive nature;
- (g) smoking in any part of the market where a notice prohibiting smoking is displayed;
- (h) lighting a fire, save at such times and in such places as have been authorised by the Municipality;
- (i) standing, sitting, laying upon or leaning against any article or container;
- (j) without lawful reason tampering with or removing or causing to be removed any produce placed or exposed for sale, or any container, or any label on such fresh produce or container;
- (k) causing or permitting any solids or other matter likely to cause blockage in or damage to drains to enter any drain or gulley, or causing to permit any sewage, oil, foul water or other objectionable substance to enter any stormwater drain;
- (l) without the permission of the Municipality, washing, packing, sorting, grading, or cleaning any fresh produce in an area not designed for that purpose;
- (m) throwing or depositing in any place other than receptacles provided for that purpose, any fruit, peel or any other vegetable matter or refuse;

- (n) bringing any intoxicating substance into the market or entering or remaining upon the market while under the influence of an intoxicating substance;
- (o) damaging, ruining or tampering with any article brought into the market, or any building or property within the market which belongs to the Municipality; and
- (p) bringing onto the market any refuse, garbage or vegetable matter for the purpose of discarding such refuse, garbage or vegetable matter within the precinct of the market.

(3) A person may not, without the prior written approval of the Municipality,—

- (a) occupy a stall in the market other than the table allotted to such person by the Municipality;
- (b) bring or cause to be brought onto the market any animal which is not for sale, except a guide dog used by a person who is visual impaired; or
- (c) bring or cause to be brought onto the market or sell or expose or offer for sale or cause or permit to be sold or exposed or offered for sale any agricultural produce or articles other than those varieties thereof as have been determined by the Municipality from time to time, and otherwise than in compliance with such restrictions as to quantity or mass as the Municipality may from time to time specify.

(4) An authorised official is entitled to remove from the market any person who is in a state of intoxication or who behaves in a manner which is disorderly or unseemly or who causes a nuisance within the precincts of the market.

(5) A person removed from the market in terms of subsection (4) must not re-enter any part of the market on the same day on which such person was so removed.

(6) Notwithstanding subsections (4) and (5), the Municipality is empowered to exclude any person referred to in subsection (4) from the market for any period not exceeding 14 days.

(7) Subject to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), an authorised official is empowered to arrest without a warrant any person found committing any offence within the precincts of the market or any person whom the authorised official believes, on reasonable grounds, to have committed a serious offence in terms of this By-law or any other law.

## CHAPTER 5 MISCELLANEOUS

### **Delegations**

21.(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 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 50(2) of the 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**

22.(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 Systems Act 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 Systems Act, 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 subsection (1) to (5).

### **Offences and penalties**

23.(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 any order, signage or terms of any notice displayed or served on such person 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, or after he or she has been convicted of such offence.

(3) A person who is convicted of an offence under this section may be sentenced to a fine or imprisonment for a period not exceeding two years, or to both a fine and a period of imprisonment.

(4) In the case of a continuing offence, an additional fine or imprisonment for each day on which such offence continues or both such fine and imprisonment, will be imposed.

(5) Notwithstanding the provisions of subsection (3), and subject to the rules of natural justice and the Constitution, the Head may conduct an informal inquiry into an alleged breach of any provision of this By-law by any person which, in the opinion of the Head, is not serious enough to warrant prosecution in terms of subsection (3).

(6) If sufficient evidence is adduced to the satisfaction of the Head that the person referred to in subsection (5) has committed an alleged breach of this By-law, the Head may summarily find such person guilty of committing the alleged breach and impose upon him or her such penalty as he or she may deem appropriate, subject to the right of the person concerned to appeal against the Head's finding or penalty in terms of this By-law.

#### **Repeal of laws and savings**

24.(1) The By-laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) Any rights accrued or obligations incurred under the repealed by-laws remain in force as if those by-laws have not been repealed.

#### **Short title and commencement**

25. This By-law is called the Retail Market By-law 2014, and takes effect on the date of the publication thereof in the *Provincial Gazette*.

### **SCHEDULE**

**LAWS REPEALED**

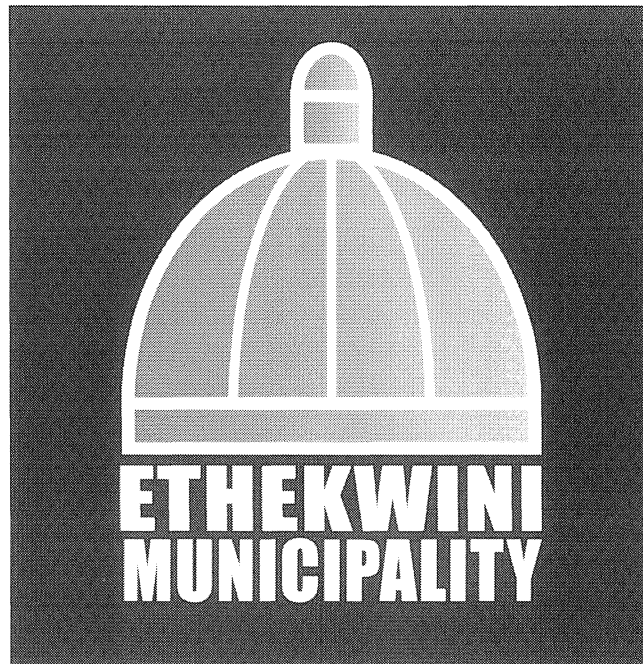
<b><i>Number and year of law</i></b>	<b><i>Title</i></b>	<b><i>Extent of repeal</i></b>
Provincial Notice No. 42 of 1972 published in Provincial Gazette No. 3658 dated 20 January 1972	Indian Market Bylaw (Early Morning Section)	The whole
Provincial Notice No. 298 of 1959 published in Provincial Gazette dated 2 July 1959	Standard Bylaws (Pinetown)	Chapter 7
Provincial Notice No. 287 of 1963 published in Provincial Gazette No. 3164 dated 30 July 1963	General Bylaws Chapter xiv (Verulam)	The Whole
Provincial Notice No. 87 of 1953 published in Provincial Gazette No. 2461 dated 10 March 1953	Standard Bylaws (Mount Edgecombe)	Chapter 7
Provincial Notice No. 237 of 1942	Regulations for the purpose of local health commission (Public Health Areas Control) Ordinance No. 20 of 1942	The Whole

**No. 69****27 kuNhlanguvana 2014****ISAZISO SOMPHAKATHI****ISAZISO NGEMITHETHO KAMASIPALA EQONDENE NEZIMAKETHE ZOKUDAYISA, YONYAKA  
KA-2014**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini usushaye iMithetho kaMasipala Eqondene Nezimakethe Zokudayisa, yonyaka ka-2014, ngokweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, No.32 ka 2000, alapha ngenzansi.

Sibusiso Sithole  
iMenenja yeDolobha

City Hall  
Dr Pixley kaSeme Street  
Durban

**UMTHETHO KAMASIPALA WETHEKU WEZIMAKETHE ZOKUDAYISA, 2014**

Wemukelwe uMkhandlu mhla ka:

Wamiswa mhla ka:



**UMTHETHO KAMASIPALA WEZIMAKETHE ZOKUDAYISA, 2014**

**Wokuhlinzekela ukuphathwa nokulawulwa kweziMakethe Zokudayisa eziphethwe noma ezilawulwa uMasipala; ukuhlinzekela ukuchithwa kwemithetho nokuhambisana nayo; kanye nokuhlinzekela izindaba eziphathelene nalokho.**

**ISENDLALELO**

**NJENGOBA** kunesidingo sokuthi uMasipala ushaye imithetho futhi ulawule ukusebenza kweziMakethe Zokudayisa eziphethwe noma ezilawulwa uMasipala;

**NJENGOBA** uMasipala unamandla ngokwesigaba 156(2) soMthethosisekelo weRiphabhlikhi yaseNingizimu Afrika okusungula nokushaya imithetho kamasipala ukuze ulawule ngendlela efanele izindaba onelungelo lokuzilawula;

**NANJENGOBA** kubalulekile kuMasipala ukuthi ugcine amazinga namaqophelo empahla edayiswa ezimakethe zawo ephezulu;

**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 olandelayo:

**OKUQUKETHWE****ISAPHLUKO 1****UKUHUNYUSHWA NOKUSEBENZA KOMTHETHO**

1. Izincazelo
2. Ukuhunyushwa kwalo mthetho
3. Izinhloso zalo mthetho
4. Ukusebenza kwalo mthetho

**ISAPHLUKO 2****UKUPHATHA NOKULAWULA**

5. Amandla okuphatha
6. Ukuhamba kwezimoto

**ISAPHLUKO 3****UKUHWABA NEMINYE IMISEBENZI EHAMBISANA NAKHO**

7. Izinkukhu nezinyoni
8. Imvume yokuba netafula
9. Izimali ezibizwayo nezikhokhwayo
10. Ukwahluleka ukukhokha imali yetafula
11. Ukwabiwa kwamatafula
12. Imisebenzi yabahwebi nabanikazi bamatafula
13. Ukungena nokuphuma emakethe yokudayisa
14. Isikhathi sokuvala
15. Ukuchonywa kwezaziso

**ISAPHLUKO 4****IZINDLELA ZOKUQAPHA NEMIKHAWULO YOKUBA NECALA**

16. Ukuba khona nokubeka iso
17. Ukuthwala icala lomunye umuntu

18. Ukuhlolwa kwempahla
19. Umasipala awuhlangene nokulahlekelwa
20. Ukuziphatha okungavumelekile

## ISAPHLUKO 5 OKUYINGXUBEVANGE

21. Ukudluliswa kwamandla
22. Ukudluliswa kwezinqumo
23. Amacala Nezinhlawulo
24. Ukuchithwa kwemithetho nokuhambisana nayo
25. Isihloko esifingqiwe nokuqala kokusebenza komthetho

## ISHEDULI IMITHETHO ECHITHIWE

### ISAPHLUKO 1 UKUHUNYUSHWA NOKUSEBENZA KOMTHETHO

#### **Izincazelo**

1. Kule Mithetho kaMasipala, ngaphandle uma ingqikithi isho okunye -

**"isisebenzi esigunyaziwe"** kushiwo umuntu ogunyazwe ukusebenzisa izihlinzeko zalo Mthetho kaMasipala, okubandakanya phakathi kokunye –

(a) isikhulu somthetho njengoba sichazwe esigabeni 334 soMthetho weNqubo yamaCala, 1977 (uMthetho No. 51 ka 1977);

(b) iPhoyisa likaMasipala noma loMkhandludolobha njengoba lichazwe eMthethweni wamaPhoyisa waseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995);

**"umthengi"** kushiwo noma imuphi umuntu ongena ezakhiweni zemakethe ngenhloso yokuyothenga isivuno esisha nanoma yini enye edayiswayo emakethe yinoma imuphi umuntu i-ejenti yezimakethe emdayisele ngqo impahla egameni lomdayisi;

**"IsiKhulu esiPhezulu kwezeziMali"** kushiwo umuntu oqashwe uMasipala ngokwesigaba 57 soMthetho weziNhlelo zoMasipala osebenza njengesikhulu esiPhezulu kwezeziMali kuMasipala, futhi kubandakanya noma imuphi umuntu okudluliselwe kuye amandla, amajoka noma imisebenzi yesiKhulu esiPhezulu kwezeziMali ngokuhambisana nohlelo lokudluliselwa kwamandla olusungulwe yiMenenja kaMasipala ngokwesigaba 59 soMthetho weziNhlelo zoMasipala, 2000 (uMthetho No. 32 ka 2000);

**"uMthethosisekelo"** kushiwo uMthethosisekelo weRiphabhlikhi yaseNingizimu Afrika, 1996;

**"umlimi"** usho noma ngubani ogunyazwe yiNhloko ngokubhaliwe ukuba adayise emakethe yokudayisa, noma imiphi imikhiqizo yolimo ekhiqizwe yilowo muntu;

**"itafula lomlimi"** lisho indawo eklanywe yabiwa yiNhloko yabe isinika umlimi endaweni yabalimi yasemakethe ngenhloso yokudayisela kuyo impahla egunyaziwe;

**"isivuno esisha"** kushiwo noma imuphi umkhiqizo wezolimo ogunyazwe yiNhloko ukuze udayiswe emakethe;

**"iNhloko"** kushiwo iNhloko yezimakethe kanye nanoma ngubani –

(a) obambe kuleso sikhundla noma;

(b) ngubani iNhloko edlulisele kuye amandla, umsebenzi namajoka ngokuhambisana nezinhlelo zokudluliswa kwamandla ezimiswe yiMenenja yeDolobha ngokweSigaba 59 soMthetho Wezinhlelo Zomasipala, 32 ka 2000.

**"umkhiqizi"** kushiwo noma imuphi umuntu odayisa emakethe, ngobhasikidi leyo mpahla ekhiqizwe nguye uqobo, kanjengoba kungagunyaza iNhloko;

**"imakethe"** kushiwo iMakethe Yokudayisa yaseThekwini, kubandakanya indawo, isakhiwo noma izakhiwo ezingaphansi noma ezilawulwa uMasipala lapho kuqhutshwa khona ibhizinisi lezimakethe ngokuhambisana nezihlinzeko zalo Mthetho kaMasipala;

**"uMthetho Wokuphathwa Kwezimali Zomasipala"** kushiwo uMthetho woHulumeni baseKhaya: Wokuphathwa Kwezimali Zomasipala ka 2003 (uMthetho No. 56 ka 2001);

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

**"uMasipala"** kushiwo uMasipala waseThekwini, umasipala osemkhakheni A njengoba kuchazwe esigabeni 155(1) soMthethosisekelo waseNingizimu Afrika wase usungulwa ngokweSaziso soMphakathi No. 343 sika 2000 (KwaZulu-Natali);

**"imenenja yedolobha"** kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo zoMasipala njengenhloko yezokuphatha yomkhandlu kaMasipala;

**"umuntu"** kushiwo umuntu owejwayelekile noma umuntu ngokomthetho;

**"imvume"** kushiwo incwadi esemthethweni ekhishwe yiNhlelo egunyaza ukuqashwa kwanoma imuphi umuntu ukuba asebenze njengomdayisi emakethe;

**"inqubomgomo yokwaba"** isho yinqubomgomo eyemukelwe nguMasipala ukulawula ukwabiwa kwamatafula emakethe yokudayisa;

**"incwadi yokungenisa umkhiqizo"** kushiwo incwadi esemthethweni ekhishwa yiNhlelo inikezwe umlimi ngaphambi kokuba lowo mlimi angene emakethe equkethe ulwazi olunganqunywa yiNhlelo izikhathi ngezikhathi;

**"indawo yokubeka imigqomo izibi"** isho indawo yokubeka imigqomo yezibi, okungaba indawo edwetshiwe noma eklanyelwe ukuba kubekwe kuyo imigqomo yezibi;

**"umdayisi"** usho umlimi noma umkhiqizi njengoba kuchazwe kulesi sigaba;

**"itafula"** lisho noma iyiphi indawo eklanywe yiNhloko yayabela umhwebi engxenyeni yabahwebi emakethe ngenhloso yokudayisa izimpahla ezingavunywa yiNhloko ukuba zidayiswe ngokwalo Mthetho kaMasipala;

**"umnikazi wetafula labahwebi"** usho umnikazi –

- (a) wephemithi esebenzayo ekhishwe yiNhloko evumela umuntu ukuba abe netafula engxenyeni yabahwebi emakethe; kanye
- (b) nelayisense yokuhweba nokudayisa impahla evumelekile;

**"umnikazi wetafula labalimi"** usho umlimi woqobo ogunyazwe ukuba asebenzise itafula ngokwalo Mthetho kaMasipala;

**"izimali zamatharifu"** kushiwo izimali zamatharifu abizwayo, izimali ezikhokhwayo, nokunye okukhokhelwa uMasipala mayelana nempahla edayisiwe nemisebenzi eyenziwe emakethe, njengoba enqunyiwe ngokweMithetho kaMasipala yamaTharifu nangokwanoma iyiphi enye inqubomgomo ekhona;

**"umhwebi"** usho noma ngubani odayisa engxenyeni yabahwebi noma isiphi isivuno esitshalwe nguye;

**"uMthetho Wezinhlelo Zomasipala"** kushiwo uMthetho woHulumeni baseKhaya: uMthetho Wezinhlelo Zomasipala, 2000 (uMthetho No. 32 ka 2000);

### **Ukahunyushwa kwalo Mthetho kaMasipala**

2. Uma kunokushayisana phakathi kokuhunyushwa kombhalo wesiNgisi nalowo ohunyushiwe, umbhalo wesiNgisi iwona oyothathwa njengosebenzayo.

### **Izinhloso zalo Mthetho kaMasipala**

3. Izinhloso zalo Mthetho kaMasipala—

- (a) ukuqinisekisa ukuphathwa ngendlela efanele kwezimakethe zikaMasipala futhi ezilawulwa nguye;
- (b) ukuqondisa ukuziphatha okufanele kwabantu ngaphakathi kwemakethe;

(c) nokuhlinzekela izindaba ezihambisana nalokho.

### **Ukusetshenziswa kwalo Mthetho kaMasipala**

4. Lo Mthetho kaMasipala usebenza kuzo zonke izimakethe zokudayisa zikaMasipala futhi ezilawulwa nguye noma ngabe zikuyiphi indawo.

## **ISAHLUKO 2**

### **UKUPHATHA NOKULAWULA**

#### **Igunya lokuphatha**

5. iNhlolo, emelwe isisebenzi esigunyaziwe, inomsebenzi wokuphatha nokulawula ukusebenza nokwenzeka ezimakethe.

#### **Ukuhamba kwezimoto**

6. (1) INhlolo inamandla okulawulwa nokushaya imithetho mayelana nomthamo wezimoto kanjalo nokuhamba kwezimoto ezingena ezakhiweni zemakethe, kubandakanya –

- (a) ukuklama nokwaba izindawo zokupaka;
- (b) ukunquma nokubiza izimali zamatharifu mayelana nezindawo zokupaka; kanye
- (c) nokuhlawulisa abephula umthetho wezimpawu zomgwaqo nemithetho ngaphakathi ezimakethe, kanjalo nokuqoqa lezo zinhlawulo.

(2) Ngokwenhloso yalesi sigaba, umnikazi obhalisile wanoma iyiphi imoto kuyothathwa ngokuthi uyena obeshayela leyo moto kuze kuqinisekise ukuthi ibishayelwa ngomunye umuntu.

(3) Noma iyiphi imoto esetshenziswe kwephulwa imithetho noma izimpawu zomgwaqo emakethe ingadonswa uMasipala: Kuncike ekutheni uMasipala kumele uqinisekise ukuthi abashayeli bazibona kalula izimpawu zomgwaqo nemithetho, futhi bayazi ngezinhlawulo zokuphulwa kwemithetho uma zikhona.

(4) Imoto edonswe uMasipala ngokwesigatshana (1) ingagcinwa uMasipala kuze kube kukhokhwa yonke inhlawulo enqunywe yiNhloko ukuze iyidedele, kanjalo nemali yokugcinwa kwemoto uma imoto ingalandwanga emahoreni angu-12.



**ISAHLUKO 3****UKUHWEDA NOKUNYE OKUHAMBISANA NAKHO****Izinkukhu nezinyoni**

7.(1) Zonke izinkukhu noma izinyoni eziphilayo ezilethwa emakethe ukuzodayiswa kufanele—

- (a) ziphile saka zingabi nazifo;
- (b) zibonakale kahle emabhokisini noma emakesini;
- (c) umphakathi ukwazi ukuzibona kahle; futhi
- (d) zingaboshwa imilenze.

(2) I-ejenti yasemakethe kufanele iqinisekise ukuthi lezo zinyoni kanye nezinkukhu zinikwa ukudla namanzi ngendlela nangezikhathi ezinqunywe yiNhloko.

(3) Ukudayiswa kwezinkukhu nezinyoni emakethe kumele kwenziwe ngendlela enqunywe yiNhloko.

(4) Ngemuva kokudayisa, izinkukhu nezinyoni akufanele zishiywe emabhokisini noma emakesini isikhathi eside kunesidingekayo ukuba zidilivelwe umthengi wazo: Ngaphansi kokuthi iNhloko ingayalela i-ejenti yasemakethe ukuba izisuse izinkukhu noma izinyoni ngokushesha emva kokuba sezidayisiwe: Nangaphansi kokuthi iNhloko ingenqaba ukudedela izinkukhu noma izinyoni uma inesizathu sokukholwa ukuthi kaziphilile, noma uma umthengi ehlulekile ukuthobela noma imuphi umbandela wokudayisa obekwe yiNhloko.

(5) Akukho muntu ovunyelwe nganoma isiphi isizathu, ukuba ahlabe, ashabalalise, ahlukhe noma uhlanze izinkukhu noma izinyoni emagcekeni asemakethe.

(6) INhloko ingathatha zonke izinyathelo ezibona zifanele ukuvimbela noma ukuqeda ubuzwiswa ubuhlungu, unya noma ukuphathwa dlakadlaka kwezinkukhu noma izinyoni.

### **Iphemithi yomnikazi wetafula**

8. (1) Umuntu ofisa ukuba netafula emakethe kufanele—

- (a) afake isicelo koyiNhloko efomini efanele yokuba nalelo tafula; futhi
- (b) athole iphemithi ekhishwe yiNhloko emgunyaza ukuba abe netafula abelwe lona ukuze aqhube ibhizinisi kulo ngaphansi kwemigomo nemibandela ebekwe yiNhloko.

(2) Ukukhishwa kwephemithi yomnikazi wetafula ngokwesigatshana (1) kuyonqunywa yiNhloko kuphela, kuye ngokuthi akhona yini amatafula kanye nokufaneleka kofake isicelo ngokunquma kweNhloko.

(3) Emva kokuthobela izihlinzeko zoMthethosisekelo nemigomo yezobulungiswa, iNhloko inamandla okuhoxisa noma inini, iphemithi yanoma yimuphi umnikazi wetafula otholakala enecala lokwephula umthetho ngokwalo Mthetho kaMasipala, kanye noma imuphi omunye umthetho oqondene nokusebenza kwalowo muntu emakethe.

### **Izimali ezikhokhwayo nezibizwayo**

9.(1) INhloko ingeke ikwazi ukukhipha iphemithi yomnikazi wetafula ngokwesigaba 8 ngaphandle uma ofake isicelo esekhokhe imali enqunyiwe kuqala wathola nerisidi elimgunyaza ukuba abe netafula lokuba asebenze endaweni anikwe yona.

(2) Umuntu onikwe irisidi kufanele aligcine sonke isikhathi sokusebenza kwayo, futhi aliveze uma kudingeka ukuba enze njalo ngaleso sikhathi, ukuze lihlolwe yiNhloko kumbe noma ngubani oqokwe yiNhloko ukuba enze lokho.

**Ukungayikhokhi imali yetafula**

10.(1) Uma umnikazi wetafula ehluleka ukukhokha imali ebekwe esigatshaneni 9 (1) ukuze asebenzise itafula ngaphambi noma ngosuku olunqunyiwe, ilungelo lomnikazi walelo tafula lokusebenzisa itafula lelo lingahoxiswa yiNhlolo ngokumbhalela isaziso sezinsuku ezintathu sokuba asuke kulelo tafula singakapheli isikhathi esinqunywe kuleso saziso.

(2) Noma ikuphi ukwenqaba komnikazi wetafula kokuthobela isaziso esikhishwe yiNhlolo ngokwesigatshana (1) kudala okunye ukwepulwa kwalo Mthetho kaMasipala, okunika iNhlolo igunya lokumkhipha lowo mnikazi wetafula emakethe ngaphandle kokumnika esinye isaziso.

**Ukwabiwa kwamatafula**

11. Ngale kokusho okunye okuphikisana nalokho okukule Mithetho kaMasipala, ukwabiwa kwamatafula ezimakethe kufanele kwenziwe yiNhlolo ngokwenqubomgomo yokwaba amatafula.

**Imisebenzi yabahwebi noma abanikazi bamatafula**

12.(1) Umnikazi wetafula kufanele—

- (a) aqhube ibhizinisi etafuleni Abelwe lona yiNhlolo ngokwalo Mithetho kaMasipala;
- (b) aqinisekise ukuthi noma iziphi izinkukhu ezidayiswa emakethe zidayiselwa ekesini noma ehhokweni elivunye yiNhlolo elinesitsha sokuphuza esifanele esinamanzi enele nahlanzekile: Ngaphansi kokuthi isibalo sezinkukhu esivumeleke ukuba sifakwe ehhokweni sizonqunywa yiNhlolo;
- (c) adayise yonke impahla ngesivumelwano sangasese; futhi
- (d) agcine noma iyiphi imoto, ubhasikidi noma isikhwama afike naso emakethe ethwele impahla ayidayisayo sihlanzekile ngendlela egculisa iNhlolo;

**Ukungena nokuphuma emakethe yokudayisa**

13. Yonke impahla engena emakethe izodayiswa kufanele ingene ngesango lalokho elihlonzwe yiNhloko.

#### **Isikhathi sokuvala**

14.(1) Ngesikhathi sokuvala kumele kukhale insimbi ngemuva kwalokho kungabe kusadayiswa emakethe bonke abahwebi nabanikazi bamatafula basuse yonke impahla emakethe. Abanikazi bamatafula bangayishiya ematafuleni abo impahla engadayiswanga ngokubona kweNhloko, kepha lokho bayokwenza ngokuthanda kwabo futhi ngeke babeke uMasipala icala nganoma ikuphi ukonakala okungenzeka empahleni yabo.

(2) Ilungu lomphakathi angeke likwazi ukungena emakethe ngemuva kwesikhathi sokuvala. Noma iliphi ilungu lomphakathi elisemakethe ngemuva kwesikhathi sokuvala kufanele liphume ingakapheli imizuzu engama-30 sishayile isikhathi sokuvala.

#### **Ukuchoma izaziso**

15. INhloko ingachoma noma isiphi isaziso esiqondene nanoma iluphi udaba oluthinta imakethe ebhodini lezaziso endaweni esobala emakethe, futhi lokho kuchoma kuthathwa njengesaziso esanele sanoma iluphi udaba noma sanoma imuphi umuntu isaziso lesa esiqondiswe kuye.

### **ISAPHLUKO 4**

#### **IZINDLELA ZOKUQAPHA NEMIKHAWULO YOKUBA NECALA**

#### **Ukuba khona nokubeka iso**

16.(1) Umnikazi wetafula kufanele –

- (a) abe khona etafuleni lakhe;

(b) abeke iso yena ngokwakhe emsebenzini owenziwa etafuleni lakhe ngaphandle uma eqale ngokuthola imvume ebhalwe yiNhlolo evumela omunye umuntu abeke iso aqhube umsebenzi egameni lakhe; futhi

(c) agcine itafula lakhe lihlanzekile futhi liqoqekile ngendlela egculisa iNhlolo.

### **Ukuthwala icala lomunye umuntu**

17.(1) Umhwebi noma umnikazi wetafula uyothwala icala lanoma ikuphi ukuziphatha komuntu oqashwe nguye emakethe noma lowo muntu umhwebi noma umnikazi wetafula onemvume efanele evumela lowo muntu ukuba aqhubele lowo mhwebi noma lowo mnikazi wetafula ibhizinisi, futhi kumele aqinisekise ukuthi lowo muntu uthobela izimiso zalo Mthetho kaMasipala.

(2) Noma ikuphi kulo Mthetho kaMasipala lapho kukhulunywa khona ngomhwebi noma umnikazi wetafula kuyothathwa ngokuthi kufakwa nanoma ngubani oqashwe noma osiza umhwebi noma umnikazi wetafula.

### **Ukuhlolwa kwempahla**

18.(1) INhlolo ingahlola noma icele ukuba kuhlolwe noma imiphi imikhiqizo yesivuno esisha noma ukudla okudayiswayo emakethe ukuze kutholakale ukuthi ngabe kunempilo futhi akunamagciwane, akunazifo noma akunakungcola kanti futhi, uma kutholakala ukuthi imikhiqizo yesivuno esisha ayinampilo, inamagciwane, inezifo noma inokungcola, iNhlolo ingathatha izinyathelo noma iyalele ukuba kuthathwe izinyathelo engabona zifanele, kubandakanya ukudliwa, ukukhishwa noma ukulahlwa kwaleso sivuno esisha.

(2) Noma isiphi isivuno esisha okudingeka ngokomthetho ukuba sikalwe izinga angeke sikhangiswe noma sidayiswe emakethe ngaphandle uma –

(a) silethwe yi-ejenti yezimakethe ethintekayo ukuba izohlolwa futhi isihloliwe njengoba kusho umthetho; futhi

(b) izinga enikezwe lona ngenxa yalokho kuhlolwa selibhalwe ngokucacile kuyona yileyo ejenti yezimakethe noma umhloli.

(3) Noma isiphi isivuno esisha okudingeka ngokomthetho ukuba sidayiswe noma sithengwe siyisamba, noma esidinga ukupakishwa, sifakwe omaka noma amazinga ngendlela enqunyiwe, angeke sidayiswe noma sithengwe noma sisuswe kwi-ejenti yezimakethe ngaphandle uma ilandela zonke izidingo ezingokomthetho: Kuncike ekutheni iNhlolo, ngokubona kwayo, ingayalela ukuthi noma isiphi isivuno esisha sidayiswe uma ibona ukuthi ukwenze njalo kulungile.

### **UMasipala akanacala ngokulahleka kwempahla**

19. INhlolo kumbe uMasipala angeke abe necala ngokulahleka noma ngokonakala okudalwe ngumliilo, izikhukhula, ukwebiwa kumbe yinoma yini nje empahleni esemakethe noma ngabe ifike nobani.

### **Ukuziphatha okungavumelekile**

20.(1) Umuntu ongena emakethe kufanele ngaso sonke isikhathi aziphathe ngendlela ethobela le Mithetho kaMasipala, kanye neminye imiyalelo engase ikhishwe yiNhlolo izikhathi ngezikhathi ukuze kwenganyelwe futhi kulawulwe kahle imakethe.

(2) Ngokulandela isigatshana (1), umuntu angeke enza utho oluphazamisa noma ngokubona kweNhlolo olungase luphamazise ukusebenza okwejwayelekile kwemakethe eduze noma ngaphakathi kwemakethe, okufaka nalokhu okulandelayo:

- (a) ukudala isicefe noma ukuziphatha ngendlela edala isidididi noma engafanele noma ukusebenzisa ulimi olwesabisayo, olungcolile, oluhlukumezayo, olunochuku, olucasulayo noma olwenyanyekayo;
- (b) ukunxenxa amakhasimende;
- (c) ukugxambukela noma ukuvimba noma imuphi umsebenzi wasemakethe ekwenzeni umsebenzi wakhe;
- (d) ukuhlela noma ukuba nomhlangano engathole mvume ebhaliwe koyiNhlolo kuqala;
- (e) ukuthinta, ukunambitha, ukuhogela, ukuphatha noma ukususa isivuno esisha esivezelwe ukudayiswa ngendlela ezosenza singcole;
- (f) ukugcina noma ukuvezela ukudayisa noma iyiphi impahla engemukelekile;

- (g) ukubhema noma ikuphi lapho kunesaziso esibekiwe esenqabela ukubhema;
- (h) ukokhela umlilo ngaphandle kwangesikhathi nasendaweni egunyazwe yiNhlolo;
- (i) ukuma, ukuhlala, ukubeka noma ukweyama ngempahla noma ngokuyiqukethe;
- (j) ngaphandle kwesizathu esisemthethweni ukuganga noma ukususa noma ukuthumela ukuba kususwe isivuno esisha esibekelwe ukudayiswa noma isikhwama noma umbhalo esivunweni esisha noma esikhwameni;
- (k) ukwenza noma ukuvumela noma yini engavala noma idale umonakalo emapayipini ukuba ingene emapayipini noma ukuvumela ukuchitha, amafutha, amanzi angcolile nanoma yini engafanele ukuba ingene emapayipini okuhambisa amanzi emvula;
- (l) ukuwasha, ukupakisha, ukubeka ngononina, ukubeka ngokwamazinga noma ukuhlanza isivuno esisha endaweni okungeyona eyalokho ngaphandle kwemvume kaMasipala;
- (m) ukulahla noma ukufaka kwezinye izindawo ngale kwalezo zitsha ezihlinzekelwe lokho, noma iziphi izithelo, amakhasi nanoma yini enye yemifino noma elahlwayo;
- (n) ukufika nanoma yini edakayo emakethe noma ukungena noma ukuba semakethe uphuze okudakayo;
- (o) ukulimaza, ukonela phansi noma ukuganga nganoma iyiphi impahla elethwe emakethe kumbe kunoma isiphi isakhiwo esisemakethe okungekaMasipala;
- (p) ukufika nemfucumfucu, izibi, namakhasi ngenhloso yokukulahla ngaphakathi emakethe.

(3).(1) Umuntu ongenamvume ebhaliwe yeNhlolo kuqala angeke—

- (a) asebenzise itafula emakethe ngale kwetafula alabelwe yiNhlolo;
- (b) afike noma abe nesandla ekufikeni nanoma isiphi isilwane emakethe sibe singadayisi;
- (c) afike noma abe nesandla ekufikeni emakethe yokudayisa , noma ekudayiseni noma ekuqhakambiseni noma ekudaleni ukuba kudayiswe noma imuphi umkhiqizo wezolimo ongafikanga nalowo muntu ewuthathe kumlimi ngokwalo Mthetho kaMasipala noma ngaphansi kwemibandela ye -Early Morning Market: Ngaphandle uma lokho kunemvume

ebhalwe phansi yeNhlolo, futhi lowo muntu uyokhokha u-5% wenanini lalowo mkhiziqo emva kokuba usuhlolwe yiNhlolo; futhi angeke

(d) angenisa noma abe nesandla ekungeniseni noma ekudayiseni noma adale noma avumele ukuba kudayiswe noma imiphi imikhiziqo yezolimo noma izimpahla emakethe ngaphandle kwezinhlobo ezinqunywe yiNhlolo ngaleso naleso sikhathi, futhi ezilandela imikhawulo yenani noma isisindo okunqunywe yiNhlolo ngaleso naleso sikhathi.

(4) Inhlolo, noma isisebenzi esigunyaziwe, inelungelo lokususa emakethe noma yimuphi umuntu ophuze okudakayo noma oziphatha ngendlela engafanele nengamukelekile noma odala isicefe emagcekeni asemakethe.

(5) Umuntu okhishwe emakethe ngokwesigatshana (3) akufanele abuye angene kunoma iyiphi ingxenye yemakethe ngalolo suku akhishwe ngalo.

(6) Ngale kwesigatshana (3) no (4) ngenhla, iNhlolo inamandla okuvimbela noma imuphi umuntu okukhulunywe ngaye esigatshaneni (3) ukuba aphinde angene emakethe isikhathi esingeqile ezinsukwini eziyi -14.

(7) INhlolo noma isisebenzi esigunyaziwe inelungelo lokubopha ngaphandle kwencwadi egunyaza lokho, noma imuphi umuntu owephula imithetho emagcekeni asemakethe kanye nanoma imuphi umuntu iNhlolo noma iphoyisa abakholwa ngale kokungabaza, ukuthi wenze icala elibomvu ngokwale Mithetho kaMasipala kanye noma ngokwanoma imiphi eminye imithetho.

## ISAHLUKO 5

### OKUYINGXUBEVANGE

#### Ukudluliselwa kwamandla

21.(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 adlulisiwe;
- (b) nowemukela lawo mandla adlulisiwe noma odluliselwe amandla adlulisiwe; kanye
- (c) nemibandela ehambisana nalawo mandla adluliselwe.

### **Ukudluliswa kwezinqumo**

22. (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 oluqukethwe 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 izizathu ezibhaliweyo ngesinqumo saso kuzo zonke izindaba ezithinta ukudluliswa kwezinqumo.

(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;

(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.

### **Amacala Nezinhlawulo**

23. (1) Umuntu wenza icala uma enza lokhu—

(c) ephula noma yisiphi kulezi zihlinzeko zalo Mthetho kaMasipala;

(d) 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;

(2) Umuntu olahlwe icala lokwephula umthetho ngaphansi kwalesi sigaba angahlawuliswa noma aboshwe isikhathi esingeqile eminyakeni emibili, noma lokhu kokubili.

(3) Ngale kwezimiso zesigatshana (2), nangaphansi kwemigomo yezobulungiswa, kanye noMthethosisekelo, iNhlolo ingenza uphenyo mayelana nezinsolo zanoma ngubani

zokwepfulwa kwanoma iziphi izimiso zalo Mthetho kaMasipala, lapho iNhloko ibona ukuthi lezo zinsolo azizimbi kangako ukuba zingaze zishushiswe ngokwesigatshana (2).

(4) Uma kukhishwa ubufakazi obenele obugculisa iNhloko obuthi umuntu oshiwo esigatshaneni (3) uwepfulile lo Mthetho kaMasipala, iNhloko ingamthola enecala khona manjalo ngaphandle kokuqulwa kwecala ngokwenqubo emisiwe futhi imnike isijeziso esibona simfanele, ngaphansi kokuthi lowo muntu uyonikwa ilungelo lokwedlulisela phambili ukungagculiseki kwakhe ngesinqumo noma ngesijeziso seNhloko ngokwalo Mthetho kaMasipala.

#### **Ukuchithwa kwemithetho nokusilele**

24. (1) Imithetho yedolobha ebalulwe kwikhalamu yokuqala neyesibili yeshedulli yalo Mthetho kaMasipala ngalokhu iyachithwa ngendlela ebekwe kwikhalamu yesithathu yayo leyo Sheduli.

(2) Wonke amalungelo atholakele noma izibopho umuntu anazo ngaphansi kweMithetho kaMasipala echithwayo azoqhubeka nokuba khona kube sengathi leyo Mithetho kaMasipala ayikaze ichithwe.

#### **Isihloko esifingqiwe kanye nokuqala ukusebenza komthetho**

25. Lo Mthetho kaMasipala ubizwa ngokuthi uMthetho kaMasipala Wezimakethe Zokudayisa, 2014 kanti uyoqala ukusebenza ngosuku oyoshicilelwa ngalo kwi-Gazette Yesifundazwe noma lokho okubekiwe kuleso saziso seGazethi.

### **ISHEDULI**

#### **IMITHETHO ECHITHIWE**

<i>Inombolo womthetho</i>	<i>nonyaka</i>	<i>Isihloko</i>	<i>Ingxenye echithwayo</i>
Isaziso sesiFundazwe No. 42 sika 1972 esashicilelwa		Indian Market Bylaw (Early Morning Section)	Wonke

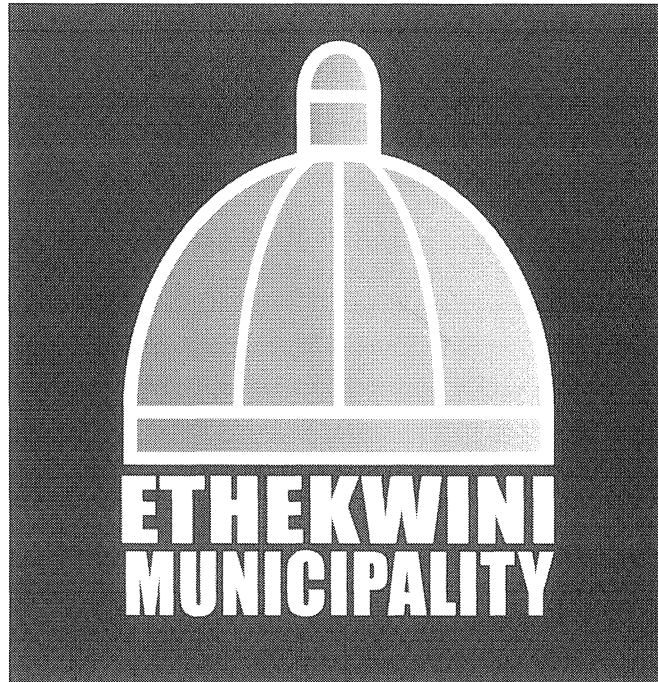
kwiGazethi yesiFundazwe No. 3658 yangomhlaka 20 Januwari 1972		
iSazizo sesiFundazwe No. 298 sika 1959 esashicilelwa kwiGazethi yesiFundazwe yangomhlaka 2 Julayi 1959	Standard Bylaws (Pinetown)	Isahluko 7
iSazizo sesiFundazwe No. 287 sika 1963 esashicilelwa kwiGazethi yesiFundazwe No.3164 yangomhlaka 30 Julayi 1963	General Bylaws Chapter xiv (Verulam)	Wonke
iSazizo sesiFundazwe No. 87 sika 1953 esashicilelwa kwiGazethi yesiFundazwe No.2461 yangomhlaka 10 Mashu 1953	Standard Bylaws (Mount Edgecombe)	Isahluko 7
Isaziso sesiFundazwe No. 237 sika 1942	Regulations for the purpose of local health commission (Public Health Areas Control) Ordinance No. 20 of 1942	Wonke

**No. 70****27 June 2014****PUBLIC NOTICE****ETHEKWINI MUNICIPALITY: INFORMAL TRADING BY-LAW, 2014**

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 Informal Trading By-law, 2014 contained hereunder.

Mr Sibusiso Sithole  
City Manager

City Hall  
Dr Pixley KaSeme Street  
Durban

**eTHEKWINI MUNICIPALITY: INFORMAL TRADING BY-LAW, 2014**

Adopted by Council on the:

Promulgated on:

## INFORMAL TRADING BY-LAW, 2014

To provide for the right to engage in informal trading; to establish informal trading areas and informal trading sites on municipal property; to provide for the granting of trading permits to trade on municipal property; to restrict and prohibit informal trading in certain areas; to regulate the conduct of informal traders; to regulate informal trading at special events; to provide for measures to ensure health and safety; to create offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

### PREAMBLE

**WHEREAS** the council recognises the key role that informal trading plays in poverty alleviation, income generation and entrepreneurial development and, in particular, the positive impact that informal trading has on historically disadvantaged individuals and communities;

**WHEREAS** the council recognises the need to adopt a developmental approach to informal trading within a well-managed municipal area. This requires that, in managing informal trading, consideration must also be given to –

- (a) the promotion of social and economic development;
- (b) the promotion of a safe and healthy environment;
- (c) municipal planning;
- (d) the licensing and control of undertakings that sell food to the public; and
- (e) the management of public places and public roads;

**WHEREAS** the council has competence in terms of Part B of Schedules 4 and 5 of the Constitution relating to such matters as the control of street trading, trading, markets and beaches;

**AND WHEREAS** the eThekweni municipal council has competence, in terms of the 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 Part B of Schedule 5 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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## 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;

**“beach”** means the portion of land above and contiguous to the seashore and includes any grass verge, where such verge exists;

**“beach trading”** means informal trading that is conducted on a beach and includes informal trading in a parking area adjacent to the beach;

**“black person”** means a black person as defined in the Broad-based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

**“event”** means an event as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010), namely sporting, entertainment, recreational, religious, cultural, exhibitional, organisational or similar activities hosted at a stadium, venue or along a route or within their respective precincts;

**“foodstuff”** means foodstuff intended for human consumption as defined in section 1 of the Foodstuff, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

**“goods”** means any movable property displayed or kept by a person in a public place or public road used or intended to be used in connection with carrying on the business of an informal trader and includes any article, container, vehicle, movable structure or living thing;

**“high-water mark”** means the high water mark as defined in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

**“illegal goods”** means –

- (a) goods which may not lawfully be sold or bought including, but not limited to, counterfeit goods as defined in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);
- (b) goods that are bought or sold in an unlawful manner; or
- (c) goods that have been acquired in an unlawful manner.

**"impoundment fee"** means the applicable tariff charge, as determined by the council from time to time, for the impounding and storing of goods impounded in terms of this By-law, as well as the disposal or releasing of the impounded goods;

**"informal trader"** means a person who carries on the business of informal trading;

**"informal trading"** means the trading in goods and services in the informal sector by an informal trader in a public road or public place, and which typically includes, without limitation, the following types of trading:

- (a) beach trading;
- (b) street trading;
- (c) trading in pedestrian malls;
- (d) trading at markets or flea markets;
- (e) trading at transport interchanges;
- (f) trading in public places;
- (g) mobile trading, such as caravans and light delivery vehicles;
- (h) trading from kiosks, stalls or containers;
- (i) car wash;
- (j) hair dressing;
- (k) photography;
- (l) roving traders, including without limitation, trading from trolleys; and
- (m) trading at special events;

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

**"kerb line"** means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**"litter"** includes any container, wrapping or other waste which has been discarded or left behind by an informal trader or by his or her customers;

**"market"** means an area within an informal trading area which is designated as a market on an informal trading plan and which is managed in a co-ordinated manner;

**"motor vehicle"** means any self-propelled vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

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

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

**"municipal manager"** means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

**"municipal property"** means property owned by, leased by or under the control of the Municipality;

**"national monument"** means any one of the "public monuments and memorials" as defined in terms of section 2 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

**"non-municipal property"** means property that is situated within the area of jurisdiction of the Municipality but which is not owned by, leased by or under the control of the Municipality;

**"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, plant 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;

"**obstruct**" means to do anything which blocks or is likely to block vehicular or pedestrian traffic flow on a public road;

"**one-off event**" means an event that occurs only once annually;

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

"**permit-holder**" means an informal trader who has been granted a permit by the Municipality, to conduct informal trading from a designated site situated in an informal trading area on municipal property;

"**prescribed**" means as determined by resolution of the council from time to time;

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

"**public parking space**" means any space in a public place designated by the Municipality for the parking of a motor vehicle;

"**public place**" means -

(a) a public road;

(b) a public parking space; and

(c) any square, park, recreation ground, sports ground, beach, shopping centre, municipal cemetery, open space, or vacant municipal land which is vested in the Municipality, or in respect of which the public has the right of use, or which is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's office as having been provided for the use of the public or the owners of erven in such township;

**"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;

**"roadway"** means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic, which is between the edges of the roadway, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**"seashore"** means the seashore as defined in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

**"sell"** includes -

- (a) bartering, exchanging or hiring out;
- (b) displaying, exposing, offering or preparing for sale;
- (c) storing on a public road or in a public place with a view to selling; and
- (d) providing a service for reward,

and "sale" or "selling" has a corresponding meaning;

**"services"**, in relation to an informal trader, includes any advantage or gain given or supplied by the trader in return for consideration or reward;

**"shoulder"** means that portion of the road, street or thoroughfare between the edge of the roadway and the kerb line, as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**"sidewalk"** means that portion of a verge intended for the exclusive use of pedestrians, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**"street trading"** means the selling of goods or the supply of services for reward in a public road; and

"verge" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway on the shoulder, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996).

### **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 object of this By-law is to regulate informal trading in a manner which –

- (a) ensures that informal trading is conducted in an orderly manner;
- (b) enables access to job and entrepreneurial opportunities within the informal trading sector;
- (c) harmonises the relationship between the informal trading sector and the formal trading sector; and
- (d) ensures the health and safety of the public.

### **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**

### **FREEDOM TO TRADE INFORMALLY**

#### **Freedom to engage in informal trading**

5. Subject to compliance with the provisions of –

- (a) this By-law;
- (b) any other applicable law; and
- (c) any applicable informal trading permit,



any person is permitted to engage in informal trading within the area of jurisdiction of the Municipality.

### **CHAPTER 3 INFORMAL TRADING POLICY**

#### **Adoption of informal trading policy**

6.(1) The council may, adopt an informal trading policy or amend an existing informal trading policy. The policy may include a strategic plan for the management of informal trade particularly in areas where there—

- (a) is a significant overlap between formal and informal trading;
- (b) are significant tourist or recreational facilities; or
- (c) is a cultural, historical or environmental significance.

(2) An informal trading policy may allow and regulate informal trading on—

- (a) municipal property; and
- (b) non-municipal property, subject to the rights of the owners of the property.

(3) An informal trading policy may include a plan which—

- (a) defines the geographic boundary of an informal trading area;
- (b) demarcates informal trading sites; and
- (c) demarcates any markets.

(4) The informal trading policy may also deal with any other matters governing informal trading in the informal trading area concerned, including but not limited to—

- (a) trading hours;
- (b) the manner in which the socio-economic development of the informal traders in the informal trading area will be facilitated;
- (c) how tourist, recreational, historical and environmental areas within the informal trading area will be protected; and
- (d) how any markets within the informal trading area will operate.

(5) An informal trading policy must comply with the provisions of this By-Law and with any other applicable law.

### **Public participation**

7.(1) Before adopting an informal trading policy, the Municipality must consult with interested and affected persons, including representatives of the informal and formal sectors regarding the contents of any proposed informal trading policy. This consultation process must comply with at least the provisions set out in subsections (2) to (9).

(2) If the Municipality believes that an informal trading policy is desirable for the area concerned, the Municipality must—

(a) compile a draft informal trading policy; and

(b) publish a notice—

(i) informing the public that the draft informal trading policy is available for inspection at a specified location and between specified hours;

(ii) inviting interested and affected persons to attend a public meeting; and

(iii) inviting comments and objections from the public, to be received by the council by a specified date not less than 30 days after the publication of the notice.

(3) The notice referred to in subsection (2) must—

(a) contain a summary of the key aspects of the draft informal trading policy; and

(b) be published—

(i) in 2 local daily newspapers that circulate in the area in which the proposed informal trading area is situated; or

(ii) in a community newspaper, if a community newspaper which is free to the public is circulated in the area in which the proposed informal trading area is situated, and 1 local daily newspaper that is circulated in the area.

(4) The public meeting referred to in subsection (2) must be held—

(a) within the informal trading area concerned or within 5 kilometres of the boundary of the proposed informal trading area; and

(b) not less than 7 days or more than 60 days after the date of the publication of the notice referred to in subsection (2).

(5) At the public meeting, the Municipality must—

- (a) present and explain the draft informal trading policy;
- (b) reasonably respond to any queries related to the draft informal trading policy;
- (c) give interested and effected parties an opportunity to make comments and to lodge objections; and
- (d) keep a minute of the meeting.

(6) The Municipality must consider all objections or comments received from the public regarding the draft informal trading policy.

(7) After having considered the comments and objections, the council must, within a reasonable period from the commencement of the public participation process in respect of the relevant draft trading plan—

- (a) adopt the draft informal trading policy;
- (b) amend and adopt the draft informal trading policy; or
- (c) reject the draft informal trading policy.

(8) Notwithstanding the provisions of section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) the council may not delegate the decision-making powers referred to in subsections (6) and (7).

(9) If the council adopts an informal trading policy, a notice must be published in the manner contemplated in subsection (3).

### **Amendment, revocation and review of informal trading policy**

**8.** The council—

- (a) may amend or revoke an adopted informal trading policy, provided that the council must—
  - (i) follow the public participation process set out in section 7; and
  - (ii) afford to any person whose existing rights are adversely affected by a proposed amendment their rights to administrative justice; and
- (b) must review informal trading policies from time to time as the council deems fit.

## CHAPTER 4 INFORMAL TRADING ON MUNICIPAL PROPERTY

### Trading areas and trading sites

9.(1) The council may, by resolution—

- (a) set apart informal trading areas on municipal property within any area designated as an informal trading area in terms of an informal trading policy; and
- (b) demarcate informal trading sites within informal trading areas.

(2) The council may, by resolution –

- (a) extend, reduce or disestablish any informal trading area or informal trading site; or
- (b) lease any verge or any portion of a verge to the owner or occupier of any contiguous land on condition that the owner or occupier must allow a specified number of informal traders to trade from sites on such verge on such terms and conditions as the council may determine.

### Trading hours and other conditions

10. The Municipality may when setting apart informal trading areas, or at any time thereafter on reasonable notice, impose -

- (a) trading days and hours; and
- (b) any other conditions.

### Prohibition: informal trading on municipal property without permit

11. No person may conduct informal trading on municipal property without a valid informal trading permit from the Municipality.

### Informal trading permits

12.(1) A person may apply for an informal trading permit, to conduct informal trading on municipal property, if that person—

- (a) is an informal trader or a person who wants to become an informal trader;
- (b) does not already hold a permit in respect of any other informal trading site within the area of jurisdiction of the Municipality;
- (c) is a South African citizen or, failing which, has a valid work permit which includes, but is not limited to, a refugee permit;
- (d) does not employ more than 10 persons;
- (e) does not have an interest in more than 1 entity or partnership which conducts informal trading; or
- (f) is currently unemployed, and on becoming gainfully employed surrender such permit.

(2) An application for an informal trading permit must be on the form prescribed by the Municipality from time to time.

(3) The Municipality must consider any application for an informal trading permit and may—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame; or
- (c) reject the application and provide reasons thereof.

(4) The Municipality may take into account the following factors when considering an application for an informal trading permit:

- (a) the need to give preference to applicants who—
  - (i) are black persons;
  - (ii) are unemployed;
  - (iii) are entering the informal sector for the first time;
  - (iv) do not share a household with an existing permit-holder, unless the applicant is not a dependant on or financially reliant upon that permit-holder; and
  - (v) are physically challenged;
- (b) whether the goods which the applicant intends selling, or the services which the applicant intends providing, fit with those sold or supplied by other informal traders in the informal trading area or other traders in the immediate vicinity of the informal trading area;

- (c) whether the applicant has, in the two year period prior to his or her application, been convicted of an offence relating to informal trading or has had his or her informal trading permit revoked or suspended;
  - (d) the applicant's ability to meet the trading hours for the relevant informal trading area as the council may determine; and
  - (e) whether the applicant is registered as a tax payer with the South African Revenue Service and is in good standing with the South African Revenue Service.
- (5) The Municipality may, when issuing an informal trading permit, impose any reasonable conditions, including but not limited to—
- (a) minimum or maximum trading hours;
  - (b) restrictions regarding the type of goods or services in which the permit-holder is permitted to trade;
  - (c) an expiry date for the permit; and
  - (d) conditions regarding the type of structure or structures, if any, which may be erected on an informal trading site or in an informal trading area.
- (6) An informal trading permit –
- (a) must refer to a specified trading bay, as identified by its allocated number, to which the permit relates; and
  - (b) gives only the permit-holder, and his or her employees, the right to use that trading bay subject to the conditions of the permit, the provisions of an applicable informal trading policy and any other conditions imposed in terms of this By-law.
- (7) Schools, religious bodies and non-profit organisations are exempted from the requirement of obtaining an informal trading permit for a one-off event.

### **Informal trading fees**

#### **13. The Municipality is entitled to charge -**

- (a) any person who applies for an informal trading permit, an application fee on submission of each application for an informal trading permit; and
- (b) any informal trading permit-holder, an annual rental in respect of the informal trading site to which the permit relates.

**Transfer of informal trading permits**

14.(1) A permit is non-transferable and may not be leased, sold or otherwise disposed of except with the prior consent of the Municipality in terms of this section.

(2) A permit may, with the prior written approval of the Municipality, be temporarily or permanently transferred to a person nominated by a permit-holder in writing, and subject to the provision of any information which the Municipality may reasonably require from time to time.

(3) If the Municipality consents to the temporary or permanent transfer of an informal trading permit, the—

- (a) Municipality may impose such requirements as it deems fit; and
- (b) person replacing the permit-holder will be entitled to trade, if the transfer is temporary, for the period of time indicated by the Municipality.

**Removal and suspension of informal trading permits**

15. The Municipality may, on reasonable notice to an informal trader and after having given the informal trader an opportunity to make written representations, revoke or suspend an informal trading permit if the informal trader has—

- (a) breached any conditions of his or her informal trading permit;
- (b) breached the provisions of this By-law or of any other law;
- (c) been convicted of trading in illegal goods or of providing a service unlawfully; or
- (d) been found to have wilfully supplied incorrect information to the Municipality when required to provide that information.

**Temporary relocation and suspension**

16.(1) The Municipality may, on reasonable notice to an informal trader, temporarily—

- (a) relocate a permit-holder;
- (b) suspend the validity of a permit; or
- (c) suspend informal trading from an informal trading area or a particular trading site or sites,

if the continuation of trading from an informal trading area or trading site is impractical or inconvenient to the activities of the Municipality, any sphere of government or any public entity, including their respective service providers.

(2) No compensation is payable by the Municipality to an informal trader in the event that—

- (a) the trader is relocated;
- (b) the permit is suspended; or
- (c) trading is suspended from a particular informal trading area or trading site.

(3) No informal trading fee shall be payable during any period where –

- (a) the validity of an informal trading permit is suspended; or
- (b) informal trading in an informal trading area or from a particular informal trading site is suspended or prohibited, without an alternate site being provided to the permit-holder concerned.

### **Removal and suspension of informal trading permits**

17. A permit-holder must immediately return his or her permit to the Municipality when the permit expires or if the—

- (a) Municipality revokes the permit;
- (b) permit-holder is refused permission to transfer the permit;
- (c) permit-holder ceases trading for a period of 25 or more days;
- (d) permit-holder no longer wishes to trade as an informal trader from the relevant informal trading site; or
- (e) permit-holder becomes employed in the formal sector.

## **CHAPTER 5**

### **RESTRICTIONS AND PROHIBITIONS ON INFORMAL TRADING**

#### **Restricted or prohibited areas**

18.(1) The council may, by resolution, declare any place in its area of jurisdiction to be an area in which informal trading is restricted or prohibited.



(2) The council may, in restricting or prohibiting informal trade, indicate places where—

- (a) informal trading is prohibited; or
- (b) informal trade in specified goods or services is prohibited.

(3) The Municipality must erect signs, markings or other devices to indicate the boundaries of—

- (a) areas where informal trading is restricted or prohibited (and the nature of any restriction); and
- (b) informal trading areas and informal trading sites.

(4) Any sign erected in terms of this By-law or any other law, shall serve as sufficient notice to an informal trader that informal trading is prohibited or restricted in that area.

**Restricted conduct: erection of structures**

19. An informal trader must not erect any structure, whether movable or immovable, other than a device approved by the Municipality.

**Restricted conduct: use of the site overnight**

20. (1) An informal trader must not sleep overnight at the place where he or she carries on informal trading.

(2) An informal trader must not, on concluding business for the day, leave his or her goods at an informal trading site which is part of a public road or public place, except any structure permitted by the Municipality.

**Restricted conduct: location of trading**

21.(1) An informal trader must not—

- (a) place his or her goods on a public road or public place, with the exception of his or her motor vehicle or trailer from which informal trading is conducted: provided that such motor vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and

complies with the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

(b) allow his or her goods or area of activity to cover an area of a public road or a public place which—

(i) is greater than 6 square meters in area; or

(ii) is greater than 3 meters in length,

unless otherwise approved by the Municipality;

(c) trade on a sidewalk or verge where the—

(i) width of the sidewalk or verge is less than 3 meters;

(ii) sidewalk or verge is next to a public building, a place of worship such as a church, synagogue or mosque, or a national monument; or

(iii) sidewalk is contiguous to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the trader, if that person objects to informal trading taking place at that location;

(d) trade on the half of a public road which is next to a building that is being used for residential purposes, if the owner or occupier of that building objects to informal trading taking place at that location;

(e) obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), or any marking, notice or sign displayed or made in terms of a by-law;

(f) obstruct vehicular traffic;

(g) obstruct access to a pedestrian crossing, pedestrian arcade or mall;

(h) obstruct access to a vehicle;

(i) obstruct access to refuse disposal bins or other facilities intended for the use of the public;

(j) obstruct access to an automatic teller machine;

(k) obstruct the view of a CCTV camera;

(l) limit access to parking or loading bays or other facilities for vehicular traffic;

(m) trade within 5 metres of an intersection or fire hydrant or any other fire fighting equipment;

(n) trade below the high water mark; or

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

(2) An informal trader must, in respect of any sidewalk, leave an unobstructed space for pedestrian traffic of not less than—

- (a) 2 meters wide when measured from any contiguous building to his or her goods or area of activity; and
- (b) 0.5 meters wide when measured from the kerb line to his or her goods or area of activity.

**Restricted conduct: display and storage of goods**

22. An informal trader must not—

- (a) place or stack his or her goods in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;
- (b) display his or her goods on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (c) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- (d) place on a public road or public place any goods that are not capable of being easily removed to a storage place at the end of the day's business; and
- (e) store or dispose of his or her goods or litter in a manhole, storm water drain, public toilet, bus shelter or in a tree.

**Restricted conduct: street furniture**

23. An informal trader must not obstruct access to, or the use of, street furniture or any other facility designed for the use of the public.

**Restricted conduct: fires**

24. An informal trader must not make a fire at any place unless authorised to prepare foodstuffs by utilising open-flame fire or gas-fired equipment and, where the informal trader is authorised to make a fire, he or she must not make a fire in circumstances where it could harm any person or damage any building, structure, vehicle or other property.

**Restricted conduct: litter**

25.(1) An informal trader must dispose of litter generated by his or her informal trading in a refuse receptacle approved or supplied by the Municipality.

(2) An informal trader must not, other than in a refuse receptacle approved or supplied by the Municipality, accumulate, dump, store, deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property.

**Restricted conduct: attachments**

26. An informal trader must not attach any of his or her goods by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place.

**Restricted conduct: alcohol, sound-emitting devices and electricity**

27. An informal trader must not—

- (a) sell or promote alcoholic products;
- (b) use bells, hooters, amplified equipment or similar devices which emit sound, in order to attract customers; and
- (c) use any electrical supply or a power generator, unless expressly approved by the Municipality.

**Restricted conduct: general**

28. An informal trader must not carry on informal trading—

- (a) in a place or area in contravention of any prohibition or restriction imposed by the Municipality; or
- (b) in such a manner as to—
  - (i) create a nuisance;
  - (ii) damage or deface the surface of any public road or public place, or any public or private property;
  - (iii) create a traffic or health hazard or a health risk;
  - (iv) contravene any of the terms and conditions of his or her informal trading permit; or

(v) act in a way which disturbs the reasonable peace, comfort or convenience and well-being of any other person.

### **Environmental health**

**29.** An informal trader must –

- (a) keep the informal trading site or area occupied by him or her for the purposes of conducting informal trading in a clean and sanitary condition;
- (b) keep his or her goods in a clean and sanitary condition;
- (c) ensure that, on completion of business each day –
  - (i) the informal trading site or area occupied by him or her for the purposes of conducting informal trading is free of litter and other waste; and
  - (ii) all his or her goods are collected and removed from any public road or public place and stored in a suitable facility;
- (d) take necessary precautions in the course of conducting his or her business as may be necessary to prevent the spilling of fat, oil or grease onto a public road, or public place, or into a storm water drain;
- (e) ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities associated with informal trading, causes pollution of any kind;
- (f) carry on business in a manner which does not cause a threat to public health or public safety; and
- (g) at the request of an authorised official of the Municipality, move or remove any object so that the area or informal trading site from which informal trading is conducted may be cleaned.

### **Temporary relocation**

**30.** An informal trader must, on request by an authorised official or a service provider appointed by the Municipality, move his or her goods so as to permit the carrying out of any work in relation to a public road, public place or any work.

### **Special events**

31.(1) The Municipality may, on reasonable notice, prohibit or restrict informal trading for the duration of a special event and within a prescribed area, notwithstanding the provisions of any informal trading policy or any informal trading permit.

(2) No compensation is payable by the Municipality to any informal trader as a result of the prohibition or restriction of informal trading as contemplated in subsection (1).

(3) No informal trading fee shall be payable by an informal trader during any period during which informal trading is prohibited or restricted.

#### **Obligation of owners on non-municipal property**

32. An owner of non-municipal property must –

- (a) ensure that any informal trading taking place on his or her property complies with this By-law;
- (b) permit any authorised official access to his or her property for the purpose of ensuring compliance with this By-law; and
- (c) ensure, at the owner's cost, that sufficient services are provided to maintain acceptable hygienic conditions in respect of the informal trading.

## **CHAPTER 6 ENFORCEMENT**

#### **Lawful instructions**

33. Failure to comply with a lawful request of an authorised official is a contravention of this By-law.

#### **Recovery of costs**

34.(1) If an informal trader contravenes any provision of this By-law, an applicable informal trading policy or his or her permit and fails or refuses to cease the contravention, or to take

steps to rectify any contravention, then the Municipality may take those steps itself and recover the costs from the informal trader.

(2) The costs mentioned in subsection (1) is in addition to any fine which may be imposed on the informal trader.

### **Removal and impoundment**

35.(1) An authorised official may remove and impound any goods of an informal trader which he or she reasonably suspects is being used, has been used or is intended to be used for or in connection with informal trading which is in contravention of this By-law or any other applicable law.

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

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

- (a) itemises the goods to be removed and impounded;
- (b) provides the address where the impounded goods will be kept;
- (c) states the period of impoundment;
- (d) states the terms and conditions which must be met to secure the release of the impounded goods;
- (e) states the impoundment fee to be paid to secure release of the impounded goods;
- (f) states the terms and conditions on which unclaimed goods will be sold or otherwise disposed of; and
- (g) provides the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which representations must be made.

(4) If any goods to be impounded are attached to immovable property or a structure, an authorised official may order any person who appears to be in control of the immovable property or structure to remove the goods to be impounded and, if that person refuses or fails to comply, then—

- (a) that person shall be guilty of an offence; and
- (b) the authorised official may remove the goods himself or herself.

(5) Goods which have been impounded may be released after –

- (a) proof of ownership in the form of the presentation of the receipt contemplated in subsection (3); and
- (b) payment of the impoundment fee,

is received.

(6) The Municipality may at any time after the impoundment sell, destroy or otherwise dispose of—

- (a) impounded perishable goods if the goods represent or might represent a health risk or a nuisance; and
- (b) foodstuffs which are unfit for human consumption.

(7) Impounded goods other than perishable goods, may be sold by the Municipality if the owner does not, or is unable to, pay the impoundment fee within 1 month from the date of impoundment of those goods.

(8) If impounded goods are sold by the Municipality in terms of subsections (6) or (7), and upon the presentation of the receipt contemplated in subsection (3) as proof of ownership, the Municipality must pay to the person presenting the inventory the proceeds of the sale less the impoundment fee.

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

- (a) comply with the requirements of this section; and
- (b) immediately surrender the suspected illegal goods to the possession of the South African Police Service.

### **Vicarious liability**

**36.(1)** When an employee or agent of an informal trader contravenes a provision of this By-law, any informal trading policy or informal trading permit, the informal trader shall be deemed



to have committed such contravention himself or herself unless such informal trader satisfies the court that he or she took reasonable steps to prevent such contravention.

(2) The fact that the informal trader issued instructions to the employee or agent, prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

### **Offences**

**37.(1)** A person is guilty of an offence if he or she—

- (a) trades without an informal trading permit;
- (b) contravenes any provision of this By-law;
- (c) contravenes any condition on which a permit has been issued to him or her;
- (d) contravenes any provision of an applicable informal trading policy;
- (e) fails to comply with any lawful instruction given in terms of this By-law;
- (f) threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this By-law; or
- (g) deliberately furnishes false or misleading information to an authorised official.

(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, or after he or she has been convicted of such offence.

### **Penalties**

**38.(1)** Any person who is convicted of contravening paragraph 37(1)(a) shall be liable to a fine of an amount not exceeding R5 000 or to imprisonment for a period not exceeding 1 year, or to both such fine and imprisonment.

(2) Subject to subsection (1), any person who is convicted of an offence under this By-law shall be liable to a fine of an amount not exceeding R1 000 or to imprisonment for a period not exceeding 6 months, or to both such fine and imprisonment.

(3) In the case of a continuing offence, an additional fine of an amount not exceeding R150 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.

**Exemption from liability**

39. The Municipality shall not be liable for damages or compensation arising from anything lawfully done in good faith by it or any authorised official or employee thereof in terms of this By-law.

**CHAPTER 7  
MISCELLANEOUS PROVISIONS****Delegations**

40.(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 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**

41. (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 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 subsection (1) to (5).

**Repeal of laws and savings**

42. (1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All permits issued under the eThekweni Municipality Street Trading By-laws published under Municipal Notice 97 of 1995 remain in full force and effect as if the said By-law has not been repealed as contemplated in subsection (1).

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

### Transitional provisions

43. Notwithstanding the enactment of this By-law—

(a) any declaration of an area within the jurisdiction of the Municipality as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the council adopts an informal trading policy in respect of such area in terms of this By-law;

(b) where an informal trader had been issued with a lease or permit prior to the enactment of this By-law which permits trading from a particular site, such lease or permit shall remain valid until a new permit system is adopted by the council which complies with the permit system as contemplated in this By-law.

### Short title and commencement

44. This By-law is called the eThekweni Municipality: Informal Trading By-law, 2014 and takes effect on the date on which it is published in the *Provincial Gazette* of KwaZulu-Natal.

## SCHEDULE REPEALED BY-LAWS

### PART A: BY-LAWS

<b><i>Number and year of law</i></b>	<b><i>Title</i></b>	<b><i>Extent of repeal</i></b>
Municipal Notice No. 97 of 1995	Street Trading By-laws, eThekweni Municipality	The whole
Municipal Notice No. 28 of 1997	By-laws Relating to the Carrying on of the Business of Street Vendor, Pedlar or Hawker, South Local Council	The whole
Provincial Notice No. 208 of 1937	General By-laws, Amanzimtoti Local Administration and Health Board Area	Section 9

Provincial Notice No. 30 of 1954	Yacht Bank By-laws, City of Durban	Section 10(f)
Provincial Notice No. 237 of 1941	Regulations of the Purposes of the Local Health Commission (Public Health Areas Control) Ordinance	Chapter 2 and Section 7
Municipal Notice No. 14 of 2009	2010 FIFA World Cup South Africa By-law, eThekwini Municipality	Chapter 6 and Section 7.5

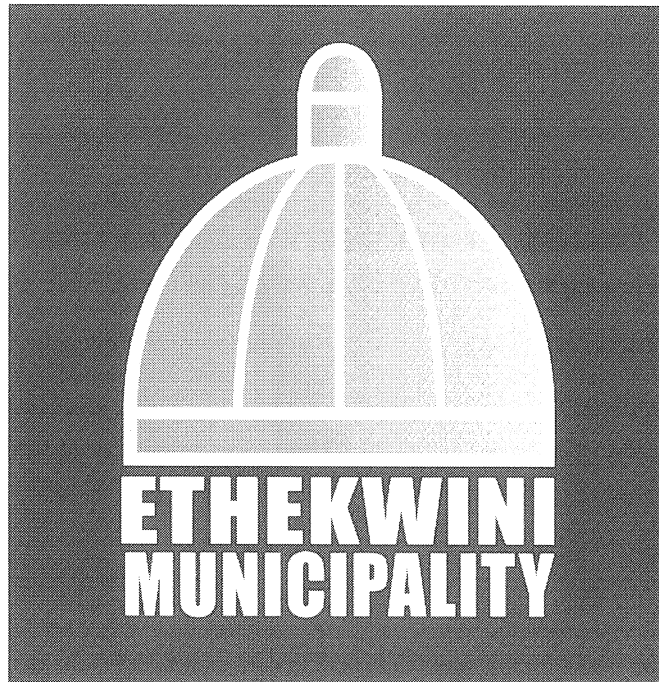
**No. 69****27 kuNhlangula 2014****ISAZISO SOMPHAKATHI****ISAZISO NGEMITHETHO KAMASIPALA YEZOHWEDO OLUSAKHULA YONYAKA KA-2014**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini usushaye iMithetho kaMasipala Yezohwebo Olusakhula yonyaka ka-2014, ngokweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, No.32 ka-2000, alapha ngenzansi.

Sibusiso Sithole  
iMenenja yeDolobha

City Hall  
Dr Pixley kaSeme Street  
Durban

**UMASIPALA WETHEKU: UMTHETHO WEDOLOBHA WOHWEBU OLUSAKHULA, 2014**



Wemukelwe nguMkhandlu mhla ka:

Ushaywe mhla ka:

**UMTHETHO WEDOLOBHA WOHWEBO OLUSAKHULA, 2014**

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 okuphathelele nalokhu.

**ISENDLALELO**

**NJENGOBA** umkhandlu uliqonda iqhaza elibalulekile lohwebo olusakhula ekulwisaneni nobubha, ekungeniseni imali emakhaya nasekuthuthukisweni kwezamabhezini, 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 waseRiphabhlikini



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 YOKUHWEDA OKUSAKHULA**

5. Inkululeko yokungena ohwebeni olusakhula

### **ISAHLUKO 3 INQUBOMGOMO YOKUHWEDA OKUSAKHULA**

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

**ISAPHLUKO 4**  
**UKUHWABA 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

**ISAPHLUKO 5**  
**IMIKHAWULO NOKWENQATSHELWA UKUHWABA 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 eyisopeseli
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. Ukuhlangukwa 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;

**“ukuhweba 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 ezindlwani 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;

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

**"imoto"** 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 esiklanyawe 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).

### **Ukunyushwa komthetho wedolobha**

2. Uma kunoshayisana phakathi kokunyushwa 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.

**ISAPHLUKO 2****INKULULEKO YOKUHWABA 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.

**ISAPHLUKO 3****INQUBOMGOMO YOKUHWABA 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 nose kudlondlobele;
- (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 lesa 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 esingaside 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 nokubuyezwa 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**  
**UKUHWABA 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 bahweba 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 yiNhlolo yoMnyango izikhathi ngezikhathi.
- (3) INhlolo 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) INhlolo 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 iNhlolo 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 esizindeneni sokuhweba okusakhula noma endaweni yokuhweba okusakhula.

(6) Iphemithi yokuhweba okusakhula –

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

(b) inikeza umnikazi wephemithi nabasebenzi bakhe kuphela ilungelo lokusebenzisa lesi 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 lesi 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 kwehlukane nayo nangayiphi indlela ngaphandle kwemvume kaMasipala kuqala ngokwalesi sigaba.

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

(3) Uma iNhlolo yoMnyango ivuma ukwedluliselwa okwesikhashana noma unomphelo kwephemithi yokuhweba okusakhula—

(a) INhlolo yoMnyango ingabeka izidingo ezibona zifanele; futhi

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

#### **Ukuthathwa kanye nokumiswa kwamaphemithi okuhweba okusakhula**

15. INhlolo 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, iNhlolo yoMnyango—

(a) ingamthuthisa okwesikhashana umnikazi wephemithi;

(b) ingamisa okwesikhashana ukusebenza kwephemithi; noma

(c) imise okwesikhashana ukuhweba endaweni yokuhweba okusakhula noma esizindeneni 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 esiyingxenywe 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 mgwaqo lapho —
- (i) ububanzi bephevementi noma unqenqema lomgwaqo ingaphansi kwamamitha amathathu;
  - (ii) iphevementi noma unqenqema lomgwaqo lusondelene nesakhiwo somphakathi, indawo yokukhonzela efana nendlu yesonto, isinagoge noma ithempeli, noma isakhiwo esiyikhumbuzo sesizwe; noma
  - (iii) iphevementi iqondene nebhilidi lapho kwenziwa khona ibhizinisi elidayisa impahla efanayo neyomunye umhwebi odayisa kwiphevementi, uma lowo muntu enqaba ukuba kudayiswe kuleyo ndawo;
- (d) uhweba engxenyeni yomgwaqo womphakathi owakhelene nebhilidi ezisetshenziselwa ukuhlala abantu, uma umininilo noma ohlala kulelo bhilidi bephikisana nokuba kuqhutshwe amabhizini okuhweba okusakhula kuleyo ndawo;
- (e) kusitha noma iziphi izimpawu 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 impahla 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) Kumaphevementi, 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 kwiphevementi 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: ipahla yasemgaqweni**

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

**Izenzo ezibekelwe imikhawulo: umlilo**

**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.**

**Izenzo 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, iphevementi, 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 isiminyamina 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 ugriisi 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, nngokunika 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 lesenzo sokuphula umthetho, uMasipala ungathatha lezo zinyathelo ezifanele bese ebiza izindleko zalokho 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 sokuvallelwa 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 iminingwane 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 otholakala enecala ngaphansi kwalo mthetho kamasipala uyokhokhiswa inhlawulo yemali engama randi engeqile ku R1000 noma abhekane nokuboshwa isikhathi esingeqile ezinyangeni eziyisi-6, noma akhokhishwe 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.

## **ISAPHLUKO 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 mininingwane –

- (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 Meneja yeDolobha zingakapheli izinsuku ezingama 21 siphumile isaziso sesinqumo.

(2) Imeneja 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 kamasipala;

(b) lapho umhwebi osakhula enikwe noma eqashiselwe iphemithi 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, 2014 futhi uyoqala ukusebenza kusukela ngosuku owashicilelwa ngalo kwiGazethi yeSifundazwe sakwa KwaZulu-Natali.

## ISHEDULI IMITHETHO ECHITHIWE

### INGXENYE A: IMITHETHO KAMASIPALA

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Indlela echithwe ngayo</i>
Isaziso soMasipala No. 97 sika 1995	Imithetho kamasipala waseThekwini 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)

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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

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