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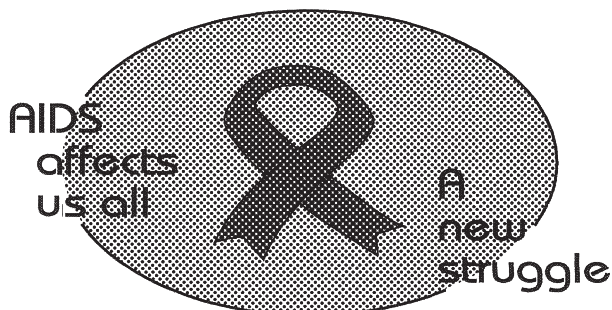
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from Government Printing Works

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MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

MUNICIPAL NOTICE 120 OF 2015

ETHEKWINI MUNICIPALITY: LIBRARIES BY-LAW

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

Mr Sibusiso Sithole
City Manager

City Hall
Dr Pixley Ka-Isaka Seme Street
Durban

Dated: 2015-09-17

eTHEKWINI LIBRARIES BY-LAW, 2015



Adopted by Council on the: 24 June 2015

LIBRARIES BY-LAW, 2015

To promote reading for education, entertainment and research; to regulate the operation and use of libraries; to determine the duties and powers of librarians; to create offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality recognises the contribution that libraries make to encouraging reading and the key role that libraries play in education and research;

WHEREAS the Municipality has competence in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996, to control local amenities;

AND WHEREAS the eThekweni Municipality has competence, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, 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, 1996, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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SCHEDULE: REPEALED BY-LAWS

CHAPTER 1 INTERPRETATION

Definitions

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

“**adult**” means a person who is 18 years old or older;

“**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;

“**borrower**” means a member, temporary member or visitor who borrows library material from a library;

“**branch library**” means any library which is designated by the Municipality as a branch of the central library;

“**central library**” means the library which is designated by the Municipality as its main library;

“**child**” means a person below the age of 13 years;

“**council**” means the eThekweni municipal council, a municipal council referred to in section 157(1) of the Constitution of the Republic of South Africa, 1996;

“**cyber zone**” means a section of a library where computers and other electronic devices are made available to users for the purpose of accessing –

- (a) library material in digital format;
- (b) multi-media items; and
- (c) the Internet;

“**disabled, blind and visually impaired section**” means a section of a library set aside for library materials intended for those who are disabled, blind or visually impaired;

“**e-book**” means content, whether in the form of text, images or otherwise, which is made available in digital format and is readable on a computer or another electronic device;

“**educational toy**” means a toy which is typically designed for and used by children, and is intended to teach a child about a particular topic or help a child to learn a particular skill;

“**facility**” means any facility made available to users at a library and includes any –

- (a) reference section;
- (b) reading room;
- (c) study section;

- (d) special collection;
- (e) periodicals section;
- (f) cyber zone;
- (g) printing and copying section;
- (h) general activities room;
- (i) blind and visually impaired section;
- (j) auditoria;
- (k) video or conferencing rooms; and
- (l) any other space or facility set aside by the librarian within a library;

“general activities room” means a section of the library made available to users for hire;

“librarian” means the person designated by the Municipality as being in charge of the central library or a branch library, as the case may be;

“library” means a place where a collection of library materials are maintained and made available to the public by the Municipality, and includes the central library and any branch library;

“library material” means any item made available to users at a library and includes any –

- (a) book;
- (b) e-book;
- (c) periodical;
- (d) photograph;
- (e) film;
- (f) music or other recording;
- (g) art reproduction;
- (h) multi-media item;
- (i) educational toy;
- (j) microfiche;
- (k) microfilm;
- (l) barcode label;
- (m) date sheet;
- (n) property label;

- (o) loss control tag;
- (p) tablet;
- (q) eReader;
- (r) laptop;
- (s) daisy reader;
- (t) printer;
- (u) scanner with a built in reader for the visually impaired; or
- (v) any library equipment;

“member” means a person who is registered as a member of a library in terms of this By-law;

“multi-media item” means any library material which combines different media or formats including, but not limited to, text, audio, images, animation, video and interactive features;

“Municipality” means the eThekweni Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa, 1996, 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;

“periodical” means any newspaper, magazine or other item published on a periodic basis;

“periodicals section” means a section of a library where periodicals are made available for reading or borrowing;

“prescribed” means as determined by resolution of the council;

“printing and copying section” means a section of the library where users may print, scan or copy library materials or other materials;

“reference section” means a section of a library where library materials are made available for reading or study, but not for lending;

“**special collection**” means a section of a library where library materials are kept which cannot be made available to users without restriction, whether by reason of their value, rarity, fragility or otherwise;

“**study section**” means a section of a library set aside for users for the purposes of studying;

“**temporary member**” means a person who has applied for membership of a library, but who has not yet been granted membership of that library and who wishes to borrow library materials from the library on a temporary basis pending the approval of his or her membership;

“**user**” means any person who uses a library, including a person who is a member of that library;

“**visitor**” means a person who does not permanently reside within the Municipality’s jurisdiction, but who is visiting the area and wishes to borrow library materials from a library on a temporary basis; and

“**young adult**” means a person between the ages of 13 and 18 years old;

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.

Object of By-law

3. The object of this By-law is to facilitate the provision of library services in a manner which promotes –

- (a) access to books and information for the purposes of education, entertainment and research;
- (b) reading as an activity; and
- (c) the operation of libraries in a manner which ensures their sustainability.

Application of By-law

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

**CHAPTER 2
OPERATION OF LIBRARIES****Functions and powers of librarians**

5.(1) A librarian has the authority to manage his or her library, and to control the day-to-day operations of that library.

(2) A librarian may impose fines and penalties, and exercise any other power or perform any other function granted to him or her, in accordance with this By-law and any policy adopted by council.

Library opening hours

6.(1) Each library's opening and closing times must be –

- (a) determined by the Municipality; and
- (b) displayed on a sign at the entrance of the library.

(2) The Municipality may set different opening and closing times for different libraries.

(3) The authorised official may temporarily close a library for stock take, maintenance or any other purpose.

(4) A period of temporary closure must be advertised on a sign at the entrance to the affected library for not less than seven calendar days prior to its closure.

(5) No person may enter or use a library outside of the opening hours or when the library is temporarily closed.

Access to libraries

7.(1) Access to a library is –

- (a) available to any member of the public during library opening hours; and
- (b) free of any charge.

(2) A member of the public may use library materials at a library, but may not borrow library materials from that library unless they are a member, temporary member or have been granted visitor status.

Order to leave library

8. Any person who contravenes any provision of this By-law or any policy adopted by the council may, in addition to any fine which may be imposed, be ordered to leave a library by the librarian or by any other authorised official.

Stocking of libraries

9.(1) The authorised official must determine which library materials are made available for use or lending at a particular library.

(2) The Municipality is not obliged to provide any particular item at any particular library, regardless of whether or not that item is described as a library material in this By-law.

CHAPTER 3 MEMBERS AND VISITORS

Membership

10.(1) Any person who is permanently resident, works permanently or who is a student at an educational institution within the area of jurisdiction of the Municipality, may apply for membership of a library.

(2) An application for membership of a library must be made on the prescribed form and must be accompanied by the following documents:

- (a) a copy of the applicant's identity document;
- (b) proof of the applicant's physical address or, if proof of address cannot be provided because the applicant lives in an informal settlement without formal street addresses, a letter from the relevant ward councillor –
 - (i) confirming this fact;
 - (ii) confirming that the applicant is known to him or her; and
 - (iii) specifying the location of the applicant's residence to the extent reasonably possible; and
- (c) such other documents as may be specified in a policy adopted by council.

(3) If an application for membership of a library is made by or on behalf of a child or young adult, the application must be accompanied by –

- (a) the written consent of his or her parent or guardian to become a member of the library; and
- (b) an undertaking by his or her parent or guardian to pay all amounts which may become due and payable to the Municipality arising from the minor's use of the library or from the borrowing of any library materials by the minor.

(4) An incorporated entity, an association or other institution may apply for membership of a library and the librarian may impose any terms and conditions relating to that membership as he or she may deem appropriate.

Scope of membership

11. A person is –

- (a) a member of the library to which he or she has made application for membership;
- (b) not entitled to be a member of more than one library operated by the Municipality;
- (c) in respect of the library of which he or she is a member, allocated membership of one of the following:
 - (i) the adult library, if he or she is an adult;
 - (ii) the young adult library, if he or she is a young adult; or
 - (iii) the junior library, if he or she is a child.

Period of membership

12.(1) Membership of a library is valid for a period of two years, commencing on the date on which notice is given to the member confirming that membership has been approved.

(2) A member is entitled to apply for renewal of his or her membership.

(3) An application for renewal of membership must be made on the prescribed form and must be accompanied by such documents as may be required by the librarian.

Temporary membership

13.(1) Any person who has applied for membership of a library but who has not yet been granted membership may apply for temporary membership of that library in the prescribed manner.

(2) Temporary membership of the library concerned may be granted on such terms and conditions as may be prescribed by the librarian.

Change of contact details

14. A member must give written notice to the library of any change in his or her—

- (a) address or place of residence;
- (b) landline or cell phone numbers;
- (c) name; or
- (d) email address,

within seven days of the change taking effect.

Suspension of membership

15.(1) A member's membership of a library may be suspended by the librarian if the member has failed to pay fines or other monies due to the library within a period prescribed by the Municipality.

(2) A librarian may temporarily suspend the membership of the members of a library, or a class of members, with a view to compelling those members to approach a library to update their contact or other details as recorded in the Municipality's database.

Termination of membership by member

16. A member may terminate his or her membership of a library by –

- (a) giving written notice to this effect to the librarian; and
- (b) returning his or her library card and any other library material in his or her possession to the library.

Termination of membership by Municipality

17. A member's membership of a library may be terminated by the librarian if the member –

- (a) contravenes a provision of –
 - (i) this By-law; or
 - (ii) any policy adopted by council,on three or more occasions;
- (b) no longer qualifies for membership in accordance with this By-law;
- (c) fails to apply for the renewal of his or her membership;
- (d) fails to collect his or her library card within the period prescribed by the Municipality; or
- (e) fails, following the suspension of his or her membership, to pay any fines or other monies due to the library within a further period prescribed by the Municipality.

Effect of termination of membership

18. Despite the termination of a member's membership –

- (a) any fines or other monies due by the member to the library remain due and payable by the member to the Municipality; and
- (b) the member remains obliged to immediately return his or her library card and any other library material in his or her possession to the library.

Visitors

19.(1) Any person who is not permanently resident within the area of jurisdiction of the Municipality and who wishes to borrow library materials from a library may apply to be

registered as a visitor in respect of that library in the prescribed manner and against payment of the prescribed fee.

(2) Visitor status in respect of the library concerned may be granted on such terms and conditions as may be prescribed by the librarian.

CHAPTER 4 BORROWING LIBRARY MATERIAL

Library cards

20.(1) A librarian must issue a library card to each member to be used when borrowing library materials from the library.

(2) A library card must contain the following details:

- (a) the identity number or date of birth of the member;
- (b) the residential address of the member;
- (c) whether the member is a member of the adult, young adult or junior library; and
- (d) any other information required by the authorised official.

(3) A library card is for the use of the member only and is not transferable to any other person.

(4) The librarian may re-issue a member's card if it is lost, stolen or damaged upon payment of the prescribed fee as determined by the council.

(5) A member is responsible for the library materials issued on his or her card.

Issuing of library material

21.(1) A person may not remove any library material from a library unless the library material has been issued to him or her by the librarian using his or her library card, in accordance with this By-law and any policy adopted by council.

(2) A member shall establish that any library material is in an undamaged condition before the library material may be issued to him or her and shall report any damage observed by him or her before such issuing.

(3) Subject to subsection (2), library material issued in terms of this by-law shall be deemed to be in complete and in a good and undamaged condition.

Borrowing rights

22.(1) Membership of a library entitles a member to borrow any library material from the central library or any branch library, excluding –

- (a) library material from any special collections section, the reference section or the periodicals section; and
- (b) any other library material designated by the librarian as being available for reading or use at the library only.

(2) The Municipality must determine the number and type of items of library material which may be borrowed by a member, a temporary member or a visitor against his or her library card at any time.

(3) The council may determine a fee payable by visitors per item of library material borrowed.

(4) The authorised official may require a deposit or other form of security from a visitor before issuing library material to that visitor.

(5) A person who is a –

- (a) young adult member;
- (b) junior member; or
- (c) temporary member or visitor who is not yet an adult,

may only borrow library material from the adult library if that person's parent or guardian has provided his or her written consent to the librarian.

Reservation of library material

23.(1) Library material may be reserved at the request of a member, temporary member or visitor.

(2) An application to reserve library material must be –

- (a) made on the prescribed form; and
- (b) accompanied by the prescribed fee.

Loan of library material from other libraries

24.(1) A member, temporary member or visitor may request that library material be loaned from another library to the library of which he or she is a member.

(2) An application to loan library material from another library must be –

- (a) made on the prescribed form; and
- (b) accompanied by the prescribed fee.

CHAPTER 5 RETURNING LIBRARY MATERIAL

Returning library material

25.(1) All library material borrowed from a library must be returned by a borrower –

- (a) within 14 days, or within such other time period as the Municipality may determine;
- (b) to the library from which the library material was borrowed; and
- (c) in the condition in which the library material was received at the time of borrowing, fair wear and tear excepted.

(2) The librarian may, despite the provisions of subsection (1) instruct a member to immediately return any library material to a library.

(3) The librarian may impose a fee, as prescribed by council, for the–

- (a) repair of damaged library material; or

(b) replacement of library material that is lost or damaged beyond repair, regardless of whether the damage or loss was caused by a member or a non-member.

(4) Every borrower must report any library material which has been lost or damaged to the librarian as soon as reasonably possible after the borrower becomes aware of the loss or damage.

(5) The payment of a fee in accordance with subsection (3) does not entitle a borrower to keep –

- (a) a damaged item of library material; or
- (b) an item of library material which was lost but is subsequently found.

(6) No borrower may attempt to repair damaged library material himself or herself.

After hours collection boxes

26.(1) A borrower may make use of an afterhours collection box designated at a library for the deposit of returned library material outside of the library's opening hours.

(2) A borrower who makes use of an after hour collection box does so at his or her own risk and is presumed not to have returned the library material, unless he or she proves to the reasonable satisfaction of the librarian that the library material was properly placed in the collection box.

Renewal of library material

27.(1) A borrower may request, telephonically or in person, that borrowed library material be renewed.

(2) Borrowed library material may be renewed –

- (a) unless the material has been reserved;
- (b) in intervals of two weeks, up to a maximum period of six weeks; and
- (c) at the discretion of the librarian.

Overdue library material

28.(1) Fines are payable by a borrower on all library material not returned by the borrower within the time period specified in section 25(1).

(2) A librarian may waive a fine where he or she is reasonably satisfied that the late return of the library material was as a result of circumstances beyond the borrower's control and the borrower provides reasonable proof thereof.

(3) The authorised official may grant an amnesty regarding fines and other amounts due to a library on such terms and conditions as he or she may deem fit.

**CHAPTER 6
FACILITIES****Facilities at libraries**

29.(1) The authorised official must determine which facilities are made available to users at a particular library.

(2) Nothing in this By-law obliges the Municipality to provide any particular facility at a particular library, regardless of whether or not that facility is described in this By-law.

Reference sections

30.(1) The librarian may designate any part of a library as a reference section.

(2) Library materials kept in a reference section may not be removed from the reference section or be borrowed by users without the consent of the librarian.

(3) A user may keep reference library material for a period not exceeding 60 minutes and must, thereafter, return any item of reference library material within 15 minutes of a request from a librarian.

Reading rooms

31.(1) The librarian may designate any part of a library as a reading room.

(2) A user may only use a reading room for the purpose of reading library materials or other reading materials.

Study sections

32.(1) The librarian may designate any part of a library as a study section.

(2) The use of study sections is limited to users who can demonstrate to the librarian that they are –

- (a) school learners; or
- (b) undertaking another course of study, whether at a tertiary education institution or otherwise.

Special collections

33.(1) The librarian may designate any part of a library as a special collection which is available to users only on a restricted basis and under the supervision of the librarian.

(2) A user may access a special collection –

- (a) on written application in the prescribed form;
- (b) at times designated by the librarian; and
- (c) subject to any other requirements imposed by the librarian.

Periodicals sections

34.(1) The librarian may designate any part of a library as a periodicals section.

(2) Library materials kept in a periodicals section may not be removed from the periodicals section or be borrowed by a user without the consent of the librarian.

(3) A user may keep a periodical for a period not exceeding 15 minutes and must, thereafter, return any periodical within five minutes of a request from a librarian.

Cyber zones

35.(1) The librarian may designate any part of a library as a cyber zone.

(2) A user may use the facilities provided at a cyber zone free of charge: Provided that a charge must be levied for printing as contemplated in section 37.

(3)(a) The librarian may limit or prohibit access to the Internet or to any other facility provided at a cyber zone in any reasonable manner.

(b) A limitation or prohibition contemplated in paragraph (a) may be imposed against –

- (i) all users; or
- (ii) any individual user,

who has breached the provisions of this By-law.

(4) A user may not use any facility provided at a cyber zone –

- (a) to invade the privacy of other persons;
- (b) to threaten, harass or defame other persons;
- (c) to access or distribute material which is obscene, pornographic, racist or otherwise inappropriate in nature;
- (d) to hack any remote site or computer; or
- (e) for any other unlawful purpose.

(5) The Municipality does not guarantee that –

- (a) the use of its cyber zone facilities is free of viruses or other harmful items; and
- (b) cyber zone facilities will be available and free from down time during opening hours.

General activities room

36.(1) The librarian may designate any part of a library as a general activities room.

(2) A user may hire a general activities room for purposes consistent with the activities of a library and subject to—

- (a) any other applicable eThekweni Municipality By-law; and
- (b) any fee that may be prescribed by council.

Printing and copying sections

37.(1) The librarian may designate any part of a library as a printing and copying section.

(2) The use of printing, copying and faxing services is subject to a fee as determined by council.

Disabled, blind and visually impaired sections

38.(1) The librarian may designate any part of a library as a disabled, blind and visually impaired section.

(2) The librarian may impose reasonable restrictions on the use of the disabled, blind and visually impaired section.

Copyright and other intellectual property rights

39. A user may not, when making use of a library or any facility at a library, contravene the provisions of the Copyright Act, 1978 (Act No. 98 of 1978) or any other law relating to copyright or intellectual property right.

Private areas

40. A librarian may exclude users from any part of a library which is designated as being accessible to staff of the library only.

E-books

41.(1) The authorised official may determine that e-books be lent to members by any particular library subject to any policy which may be adopted by council.

(2) The authorised official may determine that e-books be lent to members either from a library itself or via a website.

(3) The borrowing of e-books is subject to members possessing appropriate electronic devices with the correct software and file formats to enable access to e-books.

CHAPTER 7 CONDUCT

Conduct in library

42. A person may not–

- (a) engage in audible conversation in a library, read aloud, sing, whistle or otherwise create a noise which may disturb any other user;
- (b) sleep or behave in a disorderly manner in any part of the library;
- (c) disturb any other users in their use of the library;
- (d) eat or drink in a library, unless in an area specifically designated for that purpose;
- (e) bring any animal into a library, unless the animal is–
 - (i) a guide dog for the blind; or
 - (ii) participating in a library programme which relates to animals and the librarian's permission has been obtained;
- (f) bring any weapon into a library;
- (g) enter a library while inappropriately dressed in such a manner which may cause a nuisance or disturbance to other users;
- (h) enter a library while under the influence of alcohol or any narcotic substances;
- (i) contravene any reasonable instruction given by a librarian;
- (j) enter a library when he or she has been ordered to leave the library by the librarian and he or she has not obtained the librarian's permission to return;
- (k) damage any part of a library building, its surroundings or any library material or equipment;
- (l) use a library or facility at a library to invade the privacy of or to threaten, harass or defame other persons; or
- (m) contravene any provision of this By-law or any policy adopted by council.

Care of library material

43.(1) A person may not–

- (a) damage, deface, mark or soil any library material;
- (b) fold or turn down a leaf or page of a book;

- (c) expose any library material to excessive heat, dust, moisture or adverse weather conditions; or
- (d) make copies of any illustrations in a book by means of tracing without the permission of the librarian.

(2) A member to whom library material has been issued shall keep such library material in a clean and sound condition and shall take all such steps as may be necessary to protect it while en route to and from the library in wet weather.

CHAPTER 8 MISCELLANEOUS PROVISIONS

Offences and penalties

44.(1) A person who –

- (a) contravenes any provision of this By-law;
- (b) contravenes any condition which has been imposed on him or her;
- (c) contravenes any provision of a policy adopted by council applicable to libraries;
- (d) fails to comply with any lawful instruction given in terms of this By-law;
- (e) threatens, resists, interferes with or obstructs any authorised official of the Municipality in the performance of official duties or functions in terms of this By-law; or
- (f) deliberately furnishes false or misleading information to an authorised official of the Municipality,

is guilty of an offence.

(2) Any person who is convicted of an offence under this By-law is liable to –

- (a) a fine of an amount not exceeding R20 000;
- (b) imprisonment for a period not exceeding one year; or
- (c) both such fine and imprisonment contemplated in paragraphs (a) and (b).

(3) In the case of a continuing offence –

- (a) an additional fine of an amount not less than R100; or
- (b) imprisonment for a period not less than 1 day,

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

Presumptions

45. Unless the contrary is proved, it is presumed that any library material –

- (a) lent to a borrower was lent in good condition; and
- (b) which is stamped with the Municipality's official stamp is the property of the Municipality, unless library material is stamped as having been donated or otherwise discarded by the Municipality.

Delegations

46.(1) Subject to the Constitution of the Republic of South Africa, 1996, and applicable national and provincial laws, any –

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

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

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

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

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

Appeals

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

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

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

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

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

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

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

Repeal of laws and savings

48.(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.

Short title and commencement

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

SCHEDULE
REPEALED BY-LAWS

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Provincial Notice No. 121 of 1978	By-laws relating to the Public Library, Hillcrest	Whole
Provincial Notice No. 586 of 1978	By-laws relating to the Public Library, Kloof	Whole
Provincial Notice No. 448 of 1981	Hire of the Library General Activities Room, New Germany	Whole
Provincial Notice No. 262 of 1964	Queensburgh Public Library: Library By-laws	Whole
Provincial Notice No. 117 of 1978	Library Regulations	Whole
Provincial Notice No. 164 of 1989	Library By-laws: City of Durban	Whole
Provincial Notice No. 120 of 1978 and inserted into Provincial Notice No. 7 of 1953 has been adopted by the Borough of Amanzimtoti by Provincial Notice No. 653 of 1978	Library By-laws, Amanzimtoti	Whole
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 has been adopted by the Borough of Isipingo by Provincial Notice No. 343 of 1979	Library By-laws, Isipingo	Whole
Provincial Notice No. 120 of 1978 and inserted into Provincial Notice No. 87	Library By-laws, Kingsburgh	Whole

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
of 1953 has been adopted by the Borough of Kingsburgh by Provincial Notice No. 51 of 1979		
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 2461 of 1953 has been adopted by the Borough of Mount Edgecombe by Provincial Notice No. 120 of 1978	Library By-laws, Mount Edgecombe	Whole
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 has been adopted by the Township of New Germany by Provincial Notice No. 619 of 1978	Library By-laws, New Germany	Whole
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 as amended by Provincial Notice No. 150 of 1985 has been adopted by the Borough of Queensburgh by Provincial Notice No. 246 of 1986	Library By-laws, Queensburgh	Whole
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 has been adopted by the Borough of	Library By-laws, Tongaat	Whole

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Tongaat by Provincial Notice No. 60 of 1978		
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 has been adopted by the Borough of Umhlanga Rocks by Provincial Notice No. 680 of 1978	Library By-laws, Umhlanga Rocks	Whole
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 has been adopted by the Township of Verulam by Provincial Notice No. 109 of 1979	Library By-laws, Verulam	Whole
Provincial Notice No. 87 of 1953 and inserted into Provincial Notice No. 120 of 1978 has been adopted by the Borough of Westville by Provincial Notice No. 265 of 1982	Library By-laws, Westville	Whole

MUNISIPALE KENNISGEWING 120 VAN 2015**ISAZISO SOMPHAKATHI****ISAZISO NGOMTHETHO WEMITAPO YOLWAZI KAMASIPALA**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini usushaye uMthetho Wemitapo Yolwazi kaMasipala, ngokweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, No.32 ka 2000 kanti lo mthetho uyalandela lapha ngenzansi.

Sibusiso Sithole
iMenenja yeDolobha

City Hall
Dr Pixley ka-Isaka Seme Street
eThekwini

Usuku: 2015-09-17

UMTHETHO KAMASIPALA WASETHEKWINI WEMITAPO YOLWAZI, 2015



Wemukelwe uMkhandlu mhla ka: 24 June 2015

UMTHETHO KAMASIPALA WEMITAPO YOLWAZI, 2015

Wokukhuthaza ukufunda ngenhloso yokuthola ulwazi, ukuzijabulisa nokwenza ucwangingo; wokulawula ukusebenza nokusetshenziswa kwemitapo yolwazi; wokunquma imisebenzi namandla abasebenzi bemitapo yolwazi; wokunquma amacala nezinhlawulo; wokuhlinzekela imithetho echithwayo negcinwayo; nokuhlinzekela okunye okuphathelene nalokho.

ISENDLALELO

NJENGOBA uMasipala eyihlonipha indima edlalwa imitapo yolwazi ekukhuthazeni ukufunda izincwadi kanye neqhaza lemitapo yolwazi kwezemfundo nakwezocwangingo;

NJENGOBA uMasipala enegunya ngokukaSheduli 5 (Ingxenye B) woMthethosisekelo weRiphabhliki yaseNingizimu Afrika, 1996, lokulawula izinsiza zomphakathi;

FUTHI NJENGOBA uMasipala enegunya ngokwesigaba 156(2) soMthethosisekelo weRiphabhliki yaseNingizimu Afrika, 1996, lokushaya imithetho kamasipala, ukuqaliswa nokusetshenziswa kwayo ezindabeni onelungelo lokuzilawula;

NGAKHO-KE MANJE umkhandlu kamasipala kuMkhandludolobha waseThekwini ngokugunyazwa yisigaba 156 sifundwa noSheduli 4 (Part B) kanye noSheduli 5 (Part B) woMthethosisekelo, futhi sifundwa nesigaba 11 soMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), usungula lo mthetho kamasipala olandelayo:

OKUQUKETHWE**ISAHLUKO 1
UKUHUNYUSHWA**

1. Izincazelo
2. Ukuhunyushwa koMthetho kaMasipala

3. Izinjongo zoMthetho kaMasipala
4. Ukusebenza koMthetho kaMasipala

ISAPHLUKO 2

UKUSETSHENZISWA KWEMITAPO YOLWAZI

5. Amandla nemisebenzi yabasebenzi bemitapo yolwazi
6. Izikhathi zokuvulwa kwemitapo yolwazi
7. Ukungena kwimitapo yolwazi
8. Ukuxoshwa kumtapo wolwazi
9. Ukufakwa kwempahla kwimitapo yolwazi

ISAPHLUKO 3

AMALUNGU NEZIVAKASHI

10. Ubulungu
11. Incazelo yobulunga
12. Isikhathi sobulunga
13. Ubulungu besikhashana
14. Ukushintsha kwemininingwane yelunga
15. Ukumiswa kobulungu
16. Ukuvala ubulungu okwenziwa yilungu uqobo
17. Ukuvalwa kobulungu nguMasipala
18. Imithelela yokuvalwa kobulungu
19. Izivakashi

ISAPHLUKO 4

UKUBOLEKWA KWEMPAHLA YOMTAPO WOLWAZI

20. Amakhadi omtapo wolwazi
21. Ukukhishwa kwempahla yomtapo wolwazi
22. Amalungelo okweboleka
23. Ukubekiswa kwempahla yomtapo wolwazi
24. Ukuboleka impahla yomtapo wolwazi komunye umtapo wolwazi

ISAPHLUKO 5

UKUBUYISWA KWEMPAHLA YOMTAPO WOLWAZI

25. Ukubuyiswa kwempahla yomtapo wolwazi
26. Amabhokisi okubuyisa izincwadi uma sekuvaliwe
27. Ukuvuselelwa kwempahla yomtapo wolwazi
28. Impahla yomtapo wolwazi esidlulelwe isikhathi sokubuyiswa

ISAPHLUKO 6

IZINSIZA

29. Izinsiza zemitapo yolwazi
30. Indawo lapho kutholakala khona okungabukelwa kukho
31. Amagumbi okufundela
32. Izindawo zokutadishela
33. Ukulandwa kwempahla ekhethekile
34. Indawo yamaphephabhuku
35. Indawo yamakhompyutha
36. Igumbi lokwenza okwejwayelekile
37. Indawo yokushicilela nokwenza amakhophi
38. Indawo yabakhubazekile, abangaboni emehlweni nabanenkinga yamehlo
39. Amalungelo obunikazi namanye amalungelo empahla
40. Izindawo zangasese
41. Izincwadi zamakhompyutha

ISAPHLUKO 7

UKUZIPHATHA

42. Ukuziphatha uma usebenzisa umtapo wolwazi
43. Ukunakekelwa kwempahla yomtapo wolwazi

ISAPHLUKO 8

OKUNGXUBEVANGE

44. Amacala nezinhlawulo
45. Izilinganiso
46. Ukudluliselwa kwamandla
47. Ukudluliswa kwamacala
48. Imithetho echithwayo negcinwayo
49. Isihloko esifingqiwe kanye nokuqala kokusebenza komthetho

UHLELO**IMITHETHO KAMASIPALA ECHITHWAYO****ISAHLUKO 1
UKUHUNYUSHWA****Izincazelo**

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

"umuntu omdala" kushiwo umuntu oneminyaka eyi-18 nangaphezulu;

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

(a) umsebenzi womthetho ochazwe esigabeni 334 soMthetho weNqubo yamaCala obuGebengu, 1977 (uMthetho No. 51 ka 1977);

(b) amaphoyisa kaMasipala njengoba echazwe eMthethweni wamaPhoyisa aseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995); kanye

(c) nalabo basebenzi, ama-ejenti, abadluliselwe amandla, izithunywa nabahlinzeka uMasipala ngomsebenzi: Kuncike ekutheni ngokwezinhloso zokusesha nokushaqa impahla, uma lowo muntu engesiyena umuntu womthetho, kufanele aphekezwe umuntu womthetho;

"umuboleki" kushiwo ilungu, ilungu lesikhashana noma isivakashi esiboleka impahla yomtapo wolwazi;

"igatsha lomtapo wolwazi" kushiwo noma imuphi umtapo wolwazi kaMasipala ogagulwe njengegatsha lomtapo wolwazi omkhulu;

"umtapo wolwazi omkhulu" kushiwo umtapo wolwazi ogagulwe nguMasipala njengomtapo wolwazi omkhulu;

“ingane” kushiwo noma imuphi umuntu oneminyaka ephakathi kweyi-13 neyi -18 ubudala;

“umkhandlu” kushiwo ukhandlu kamasipala weTheku, umkhandlu kamasipala njengokuba uchaziwe esigabeni 157(1) soMthethosisekelo;

“izindawo zamakhompyutha” kushiwo ingxenye yomtapo wolwazi lapho kukhona khona amakhompyutha nezinye izinsiza zikagesi ezihlinzekelwa abasebenzisa umtapo wolwazi ukuze bafinyelele -

- (a) impahla yomtapo wolwazi eyizinombolo;
- (b) izimpahla ze-multi-media; kanye
- (c) ne-Internet;

“ingxenye yabakhubazekile, abangaboni nabanenkinga yokubona” kushiwo indawo eshiyelwe ukubekela labo abakhubazekile, abangaboni nabangaboni kahle impahla yomtapo wolwazi;

“i-ebook” kushiwo ulwazi, olubhaliwe noma izithombe nokunye olutholakala kwikhompyutha noma kwezinye izinsiza zikagesi;

“amathoyizi ezemfundo” kushiwo ithoyizi elakhelwe ukuthi lisetshenziswe abantwana, okuhloswe ngalo ukuthi lifundise abantwana ngesihloko esithile noma ngekhono elithile;

“izinsiza” kushiwo noma ngabe iziphi izinsiza ezihlelelwe ukuthi zisetshenziswe kumtapo wolwazi kubalwa –

- a) indawo okubhekwa kuyo;
- b) indawo yokufunda;
- c) izingxenye zokutadisha
- d) indawo yempahla ekhethekile;
- e) ingxenye yamaphephabhuku;
- f) indawo yamakhompyutha;
- g) izingxenye zokushicilela nokwenza amakhophi;
- h) igumbi lemicimbi yomtapo wolwazi jikelele;
- i) ingxenye yabakhubazekile, abangaboni emehlweni nabanenkinga yamehlo;

- j) ihholo;
- k) igumbi le-video noma lenkomfa; kanye
- l) noma ngabe iyiphi enye indawo noma izinsiza ezibekwe eceleni ukuba zisetshenziswe kumtapo wolwazi;

“igumbi lezinto ezahlukahlukene” kushiwo ingxenye yendawo evuleleke kwabasebenzisa umtapo wolwazi;

“umsebenzi womtapo wolwazi” kushiwo umuntu oqashwe uMasipala ukuba aphanthe umtapo wazi omkhulu noma igatsha lawo;

“umtapo wolwazi” kushiwo indawo lapho kugcinwa futhi kusingathwe khona impahla eyahlukahlukene yomtapo wolwazi ehlinzekwa umasipala ukuze umphakathi ukwazi ukufinyelela kuyo, kungaba umtapo wolwazi omkhulu noma igatsha lawo;

“impahla yomtapo wolwazi” kushiwo impahla engasesthenziswa abasebenzisa umtapo wolwazi okubalwa -

- (a) incwadi;
- (b) i-ebook;
- (c) imibhalo eqoshiwe;
- (d) isithombe;
- (e) ifilimu;
- (f) umculo noma okunye okuqoshiwe;
- (g) umkhiqizo womdwebo;
- (h) impahla eqoshiwe;
- (i) ithoyizi lezemfundo;
- (j) i-microfiche;
- (k) i-microfilm;
- (l) ilebula eline-barcode;
- (m) imibhalo yezinsuku;
- (n) amalebula endawo;
- (o) amalebula okulawula ukulahleka kwempahla;
- (p) ama-tablet;
- (q) i-ereader;

- (r) i-laptop;
- (s) i-daisy reader;
- (t) i-printer;
- (u) i-scanner esinento efundayo ngaphakathi eyakhelwe abanenkinga yamehlo; noma
- (v) ngabe iyiphi enye impahla yomtapo wolwazi;

“ilungu” kushiwo umuntu obhalise njengelunga lomtapo wolwazi ngokwalo mthetho kaMasipala;

“impahla eqoshiwe” kushiwo impahla yomtapo wolwazi ehlanganisa ukucoshela izindaba okuxubile, okubandakanya phakathi kokunye, okubhaliwe, okulalelwayo, izithombe, opopayi, i-video nokunye okuphathelene nokuqopha;

“uMasipala” kusho umasipala weTheku, umkhakha A kamasipala okukhulunywe ngawo esigabeni 155(1) soMthethosisekelo owabunjwa ngokweSaziso sesiFundazwe No. 43 ka 2000 (KZN);

“imenenja kamasipala” kusho umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo zoMasipala njengenhloko yokuphathwa komkhandlu kamasipala;

“iphephabhuku” kushiwo iphephandaba, ibhuku noma noma imuphi umbhalo oshicilelwa ngezikhathi ezithile;

“indawo yamaphephabhuku” kushiwo indawo lapho kugcinwa khona imibhalo eshicilelwe ngezikhathi ezithile ukuze ifundwe noma ibolekwe;

“okunqunywe” kushiwo okunqunywe umkhandlu;

“indawo yokuphrinta nokwenza amakhophi” kushiwo indawo yomtapo wolwazi lapho abasebenzisi bomtapo wolwazi bengakwazi ukuthi baphrinte, ba-scane noma benze khona amakhophi empahla yomtapo wolwazi njll;

"indawo yokubheka" kushiwo indawo eskumtapo wolwazi lapho khona kunempahla yomtapo wolwazi engasetshenziselwa khona ukuze ifundwe noma itadishwe; kepha ingabolekisi;

"impahla ekhethekile" kushiwo ingxenye yomtapo wolwazi lapho kugcinwa khona impahla enikezwa abadinga ukuyisebenzisa ngaphansi kwemikhawulo ethile kuphela, ngenxa yokubiza, ukushoda, ubugugu bayo nokunye;

"indawo yokutadishela" kushiwo indawo yomtapo wolwazi ehlukaniselwe ukuthi abasebenzisa umtapo wolwazi bakwazi ukutadishela kuyo;

"ilungu lesikhashana" kushiwo umuntu ofake isicelo sokuba yilungu lomtapo wolwazi, kepha ongakalitholi igunya lobulunga bakulowo mtapo wolwazi kepha ofisa ukuboleka impahla yomtapo wolwazi okwesikhashana kuze kube uyanikezwa igunya lobulunga ngokuphelele;

"umsebenzisi" kushiwo umuntu osebenzisa umtapo wolwazi, ngisho naloyo oyilungu lomtapo wolwazi imbala;

"isivakashi" kushiwo umuntu ongahlali emingceleni kaMasipala, kepha ovakashele endaweni kepha ofisa ukuboleka impahla yomtapo wolwazi okwesikhashana; bese

"intsha" kushiwo umuntu oneminyaka ephakathi kweyi-12 ne-18;

Ukahunyushwa koMthetho kaMasipala

2. Uma kunokushayisana phakathi kwalo mthetho kamasipala obhalwe ngesiNgisi nohunyushiwe, kuyolandelwa owesingisi.

Izinhloso zoMthetho kaMasipala

3. Izinhloso zalo Mthetho kaMasipala ukwenza ukuthi amasevisi askumtapo wolwazi ahlinzekwe ngendlela ekhuthaza –

- (a) ukutholakala lwezincwadi nolwazi ngenhloso yokufundisa, ukuzijabulisa nokwenza ucwaningo;
- (b) ukujwayela ukufunda; kanye
- (c) nokulawuleka kwemitapo yolwazi ngendlela egcineka esimweni.

Ukusebenza kwalo Mthetho kamasipala

4. Lo Mthetho kamasipala usebenza kuyo yonke indawo engaphansi kukaMasipala futhi ubophezela wonke umuntu kukho konke okushoyo.

ISAHLUKO 2

UKUSEBENZA KWEMITAPO YOLWAZI

Imisebenzi namandla abasebenzi baskumtapo wolwazi

5.(1) Umsebenzi womtapo wolwazi unegunya lokwengamela umtapo wolwazi wakhe, nokulawula ukusebenza kwansuku zonke kwalowo mtapo wolwazi.

(2) Umsebenzi womtapo wolwazi unegunya lokubiza izinhlawulo, nokusebenzisa amanye amandla noma amanye amajoka awanikeziwe, ngokwalo mthetho kaMasipala nezinye izinqubomgomo ezigunyazwe umkhandlu.

Izikhathi zokusebenza zomtapo wolwazi

6. (1) Izikhathi zokusebenza zomtapo wolwazi ngamunye kufanele –

- (a) zinqunywe uMasipala; futhi
- (b) zikhangiswe ophawini olusemnyango womtapo wolwazi.

(2) UMasipala angabeka izikhathi zokuvula nokuvala ezahlukene kwimitapo yolwazi eyahlukene.

(3) Umsebenzi ogunyaziwe angakwazi ukuthi awuvale umtapo wolwazi okwesikhashana ngenhloso yokubala impahla, ukugcina indawo isesimweni neminye imisebenzi.

(4) Isikhathi sokuvalwa kwesikhashana komtapo wolwazi kufanele sikhangiswe emnyango womtapo wolwazi okungenani izinsuku ezingekho ngaphansi kwezizikhombisa zekhalenda ngaphambi kokuvalwa.

(5) Akekho umuntu ovumelekile ukuthi angene kumtapo wolwazi ngale kwezikhathi zokuvula noma uma umtapo wolwazi uvalwe okwesikhashana.

Ukungena nokuphuma kumtapo wolwazi

7.(1) Ukungena nokuphuma kumtapo wolwazi –

- (a) kuvulelekele emphakathini wonke ngezikhathi zomsebenzi; futhi
- (b) kumahhala.

(2) Amalungu omphakathi avumelekile ukuthi asebenzise impahla yomtapo wolwazi, kepha awavumelekile ukuthi aboleke izimpahla khona ngaphandle uma engamalungu, noma engamalungu esikhashana askumtapo wolwazi noma uma enikwe imvume njengezivakashi.

Ukuxoshwa kumtapo wolwazi

8. Noma ngabe yimuphi umuntu owephula izihlinzeko zalo Mthetho kaMasipala, nanoma iyiohi inqubomgomo egunyazwe umkhandlu, ngaphezu kwanoma iyiphi inhlawulo anganikwa yona, angaphinde axoshwe ngumphathi womtapo wolwazi kanye nayinoma yimuphi umsebenzi womtapo wolwazi ogunyaziwe.

Ukupakishwa kwempahla kumtapo wolwazi

9.(1) UMsebenzi ogunyaziwe uyena okufanele ahlonze ukuthi iyiphi impahla ekufanele isetshenziswe noma ibolekiswa etapweni wolwazi.

(2) UMasipala akanaso isibopho sokuhlazeka impahla ethize kunanoma ngabe imuphi umtapo wolwazi, noma ngabe leyo mpahla ibaluliwe kulo Mthetho kaMasipala noma cha.

ISAHLUKO 3

AMALUNGU NEZIVAKASHI**Ubulungu**

10.(1) Noma yimuphi umuntu oyilungu lomphakathi ngokuphelele, oqashwe ngokugcwele noma ongumfundi esikhungweni sezemfundo esiseduze nendawo engaphansi kwegunya likaMasipala, angakwazi ukufaka isicelo sokuba yilungu lomtapo wolwazi.

(2) Isicelo sokuba yilungu lomtapo wolwazi kufanele sifakwe ngokugcwalisa ifomu elifanele, futhi bese likhashwa yilokhu okulandelayo:

- (a) ikhophi kamazisi womfakisisicelo;
- (b) ubufakazi bekheli umfakisisicelo ahlala kulo noma, uma engakwazi ukuletha lobo bufakazi ngenxa yokuthi uhla ezakhiweni ezingenalo ikheli lomgwaqo, angaletha incwadi yekhansela langakubo –
 - (i) eqinisekisa lolu daba;
 - (ii) eqinisekisa ukuthi liyamazi umfakisisicelo; futhi
 - (iii) eqinisekisa ukuthi umfakisisicelo uhlala kuphi kahle kahle ngendlela ecacile; kanye
- (c) neminye imibhalo ebaluliwe kwinqubomgomo ebalulwe umkhandlu.

(3) Uma isicelo sokuba yilungu lomtapo wolwazi sifakelwe yingane noma yintsha, leso sicelo kufanele siphelzelwe -

- (a) incwadi yegunya evela kumzali wakhe noma umuntu omdala omgadile, ukuthi abe yilungu lomtapo wolwazi; kanye
- (b) nokuzibophezela komzali noma komuntu omdala omgadile ukukhokhela zonke izindleko ezifunwa umasipala ukuze umntwana akwazi ukusebenzisa umtapo wolwazi nokuboleka impahla yakhona futhi.

(4) Inkampani, inhlangotho nezinye izikhungo nazo zingakwazi ukufaka isicelo sokuba yilungu lomtapo wolwazi, bese umsebenzi omkhulu wasukumtapo wolwazi angabalula imigomo nemibandela ayibona ifanele ngalobu bulunga.

Imikhawulo yobulunga

11.Umuntu -

- (a) uyilungu lalowo mtapo wolwazi afake isicelo sokuba yilungu kuwo;

- (b) akavumelekile ukuthi abe yilungu lakomunye umtapo wolwazi olawula nguMasipala;
- (c) kulo mtapo wolwazi ayilungu kuwo, angaba yilungu -
 - (i) lomtapo wolwazi wabantu abadala; uma engumuntu omdala;
 - (ii) lomtapo wolwazi wentsha; uma eyintsha
 - (iii) lomtapo wolwazi wezingane; uma eyingane.

Isikhathi sokuba yilungu

12.(1) Ubulungu bomtapo wolwazi buthatha iminyaka emibili kuphela, kusukela ngosuku lapho kukhishwe khona isaziso esiqinisekisa ukuthi ilungu selivunyelwe ukuba yilungu.

(2) Ilungu livumelekile ukuthi lifake isicelo sokuvuselela ubulungu.

(3) Isicelo sokuvuselela ubulungu kufanele sifakwe ngokusebenzisa ifomu lokuvuselela ubulungu elisemthethweni futhi kumele liphelezwe amaphepha athile angadingwa umsebenzi womtapo wolwazi.

Ubulungu besikhashana

13.(1) Noma ngabe ubani ofake isicelo sokuba yilungu lomtapo wolwazi, ongakagunyazwa ukuba yilungu angafaka isicelo sokuba ilungu lalowo mtapo wolwazi okwesikhashana ngendlela esemthethweni.

(2) Ubulungu besikhashana bomtapo wolwazi bungagunyazwa ngokwemigomo nemibandela egagulwe umsebenzi womtapo wolwazi.

Ukushintsha kweminingwane

14. Kufanele ukuthi ilungu libhale phansi isaziso esiya kumtapo wolwazi uma kunoshintsho eminingwaneni yalo -

- (a) yekheli lalapho ilungu lihlala khona;
- (b) yocingo lwasendlini noma iselula;
- (c) yegama; noma
- (d) ye-email,

zingakapheli izinsuku eziyisikhombisa ushintsho lwenzekile.

Ukumiswa kobulungu

15.(1) Ubulungu belungu lomtapo wolwazi bungamiswa umsebenzi womtapo wolwazi uma ilungu lihlulekile ukuthi likhokhe izinhlawulo noma ezinye izimali ekufanele zikhokhelwe umtapo wolwazi ngesikhathi esigagulwe uMasipala.

(2) Umsebenzi womtapo wolwazi angamisa okwesikhashana ubulungu belungu lomtapo wolwazi, noma iqoqo elithile lamalungu ngenhloso yokuphoqelela lawo malunga ukuthi azovuselela imininingwane yawo njengokuba ebhaliwe lohlwini lukaMasipala.

Ukuvalwa kobulungu okwenziwa yilungu uqobo

16. Ilungu lingakwazi ukuthi libuvale ubulungu balo bomtapo wolwazi ngokuthi –

- (a) libhale isaziso esazisa umsebenzi womtapo wolwazi ngalokhu; futhi
- (b) libuyise ikhadi lalo lomtapo wolwazi kanye nenye impahla yomtapo wolwazi engakulona.

Ukuvalwa kobulungu uMasipala

17. Ubulungu belungu lomtapo wolwazi bungavalwa umsebenzi womtapo wolwazi uma ilungu –

- (a) lephula imikhawulo –
 - (i) yalo Mthetho kaMasipala;
 - (ii) yanoma ngabe iyiphi inqubomgomo egunyazwe uMkhandlu, izihlandla ezintathu nangaphezulu;
- (b) lingasazifezi izidingo zokuba yilungu ngokwale nqubo mgomo;
- (c) lihluleka ukufaka isicelo sokuvuselela ubulungu;
- (d) lihluleka ukulanda ikhadi lalo lomtapo wolwazi ngesikhathi esinqunywe uMasipala; noma
- (e) lihluleka, emva kokumiswa kobulungu balo, ukukhokha inhlawulo nezinye izimali zaskumtapo wolwazi ngesikhathi esinqunywe uMasipala.

Umthelela wokuvalwa kobulungu

18. Ngale kokuvalwa kobulungu belungu -

- (a) zonke izinhlawulo nezimali ilungu ekufanele lizikhokhele umtapo wolwazi, kulindeleke ukuthi zikhokhwe yilungu kuMasipala; futhi
- (b) ilungu lifanelwe ukubuyisa ikhadi lomtapo wolwazi ngokuphazima kweso kanye nenye impahla yomtapo wolwazi esangakulona ilungu uqobo ngesikhathi esinqunywe uMasipala.

Izivakashi

19.(1) Noma ngabe yimuphi umuntu ongahlali ngokuphelele endaweni kaMasipala kepha ofisa ukuboleka impahla yomtapo wolwazi, angafaka isicelo sokubhalisa njengesivakashi sakuloyo mtapo wolwazi, ngendlela esemthethweni nokukhokha imali efanele.

(2) Umuntu angathathwa njengesivakashi sakuloyo mtapo wolwazi kuphela ngaphansi kwemikomo nemibandela egagulwe uSomtapolwazi.

ISAHLUKO 4**UKUBOLEKWA KWEMPAHLA YOMTAPO WOLWAZI****Amakhadi omtapo wolwazi**

20.(1) USomtapolwazi kufanele anikeze ilungu ngalinye ikhadi lomtapo wolwazi elizolisebenzisa njalo uma liboleka impahla yomtapo wolwazi.

(2) Kufanele ukuthi ikhadi lomtapo wolwazi libe nale mininingwane elandelayo:

- (a) inombolo yamazisi noma usuku lokuzalwa lwelunga;
- (b) ikheli lelunga;
- (c) ukuthi ngabe leli lungu liyilungu lomtapo wolwazi wabantu abadala, wentsha noma wabantwana; futhi
- (d) nolunye ulwazi oludingwa umsebenzi ogunyaziwe.

(3) Ikhadi lomtapo wolwazi lingelokusetshenziswa ilungu kuphela futhi ngeke likwazi ukusetshenziswa omunye umuntu.

(4) Umsebenzi womtapo wolwazi angalikhapha kabusha ikhadi uma lilahlekile, lebiwe noma limoshakele emva kokukhokhwa kwemali efanele egagulwe umkhandlu.

(5) Kuyisibopho selungu ukubheka impahla yomtapo wolwazi ekhishwe ngekhadi lalo.

Ukukhishwa kwempahla yomtapo wolwazi

21. (1) Akunamuntu ovumelekile ukuthi akhiphe impahla yomtapo wolwazi ngaphandle uma eyikhishelwe uSomtapolwazi ngokusebenzisa ikhadi lakhe lomtapo wolwazi, nangokuhambisana nemikhawulo yalo mthetho kaMasipala neminye imigomo egunyazwe uMkhandlu.

(2) Umuntu kumele abheke ukuthi impahla yomtapo wolwazi ayilimele ngaphambi kokuba anikwe yona futhi uyobika noma ikuphi ukulimala kwanoma iyiphi impahla yomtapo wolwazi akubonile ngaphambi kokuba anikwe leyo mpahla.

(3) Ngaphansi kwesigatshana (2), impahla yomtapo wolwazi ekhishwe ngokwalo Mthetho kaMasipala iyothathwa njengephelele, esesimweni esihle futhi engalimele.

Amalungelo okuboleka

22. (1) Ukuba yilungu lomtapo wolwazi kwenza ukuthi ilungu likwazi ukuboleka noma ngabe iyiphi impahla yomtapo wolwazi kumtapo wolwazi omkhulu noma emagatsheni awo, ngaphandle –

(a) kwempahla yomtapo wolwazi yekhethelo, yalapho kubukelwa khona kanye nekumaphephabhuku; kanye

(b) nenye impahla yomtapo wolwazi ebekwe umphathi womtapo wolwazi ukuze abantu bakwazi ukuyifundela kumtapo wolwazi kuphela.

(2) UMasipala kufanele agagule isibalo sempahla yomtapo wolwazi ilungu lomtapo wolwazi, ilungu lesikhashana noma isivakashi esingakwazi ukuthi siyiboleke ngekhadi laso.

(3) Umkhandlu ungagagula inani ekufanele likhokhwe isivakashi ngempahla ngayinye esiyibolekayo.

(4) Umsebenzi ogunyaziwe angacela idiphozi noma imali yesibambiso kwisivakashi uma siboleka impahla yomtapo wolwazi.

(5) Umuntu –

(a) oyintsha

(b) oyingane; noma

(c) oyilungu lesikhashana noma isivakashi esingakabi umuntu omdala,

angakwazi ukuboleka impahla yomtapo wolwazi kumtapo wolwazi wabantu abadala kuphela uma umzali noma lowo omgadayo ebhalele umsebenzi womtapo wolwazi incwadi emgunyazayo ukwenza njalo.

Ukubekiswa kwempahla yomtapo wolwazi

23.(1) Impahla yomtapo wolwazi ingabekiswa ngokwesicelo esingenziwa yilungu, ilungu lesikhashana noma isivakashi.

(2) Kufanele isicelo sokubekisa impahla yomtapo wolwazi -

(a) senziwe kwifomu elisemthethweni; futhi

(b) siphelzelwe imali egaguliwe ngokusemthethweni.

Ukuboleka impahla kweminye imitapo yolwazi

24.(1) Ilungu, ilungu lesikhashana noma isivakashi singafaka isicelo sokubolekwa impahla yakomunye umtapo wolwazi ilethwe kulo mtapo wolwazi lona eliyilungu lawo.

(2) Isicelo sokubolekelwa impahla komunye umtapo wolwazi kufanele –

(a) senziwe kwifomu elisemthethweni; futhi

(b) liphelezelwe imali egaguliwe ngokusemthethweni.

ISAHLUKO 5

UKUBUYISWA KWEMPAHLA YOMTAPO WOLWAZI

Ukubuyiswa kwempahla yomtapo wolwazi

25.(1) Yonke impahla yomtapo wolwazi ebolekiwe kufanele ibuyiselwe kuwona yilowo osuke eyibolekile –

- (a) zingakapheli izinsuku eziyi-14, noma ngokwesikhathi esinqunywe uMasipala;
- (b) kulo mtapo wolwazi impahla esuke ibolekwe kuwo; futhi
- (c) ibe kule simo ethathwe ikusona ngalesikhathi ibolekwa, ukuguga okujwayelekile kwamukelekile.

(2) Umsebenzi womtapo wolwazi, ngale kwemikhawulo yesigatshana (1) angakwazi ukuthi ayalele ilungu ukuthi libuyise impahla yomtapo wolwazi ngokushesha.

(3) Umsebenzi womtapo wolwazi angakwazi ukubiza imali, enqunywe umkhandlu, yokuthi –

- (a) kulungiswe impahla yomtapo wolwazi esigugile;
- (b) kuthengwe impahla esikhaleni sempahla elahlekile noma esiguge kakhulu, ngale nje kokuthi impahla ilahlwe noma igugiswe yilungu noma umuntu ongelona ilungu.

(4) Wonke umuntu oboleka impahla yomtapo wolwazi umelwe ukubika impahla yomtapo wolwazi elahlekile noma emoshakele kumsebenzi womtapo wolwazi ngokushesha uma ilungu lelo selibonile ukuthi impahla leyo isilahlekile noma imoshekile.

(5) Ukukhokhwa kwemali ngokuhambisana nesigatshana (3) akunikezi umuntu obolekile igunya lokugcina –

- (a) impahla yomtapo wolwazi emoshekile; noma
- (b) impahla yomtapo wolwazi ebikade ilahlekile kepha yase iyatholakala.

(6) Akekho umuntu oboleke impahla yomtapo wolwazi ovumelekile ukuthi azame ukuzilungisela yena impahla emoshekile.

Amabhokisi okubuyisa impahla yomtapo wolwazi uma sekuvaliwe

26.(1) Oboleke impahla yomtapo wolwazi angakwazi ukuthi abuyisele impahla ayibolekile emabokisini aba ngaphandle komtapo wolwazi uma sekuvaliwe.

(2) Oboleke impahla yomtapo wolwazi okhetha ukusebenzisa amabhokisi okubuyisela impahla uma sekuvaliwe, ukwenza lokho ngokuthanda kwakhe futhi uthathwa njengongayibuyisanga

impahla yomtapo wolwazi, ngaphandle uma engakwazi ukuveza ubufakazi obunganelisa umsebenzi womtapo wolwazi ukuthi ngempela impahla leyo yafakwa kahle kulawa mabhokisi okubuyisa impahla uma sekuvaliwe kumtapo wolwazi.

Ukuvuselela ukubolekwa kwempahla yomtapo wolwazi

27.(1) Oboleke impahla angacela, ukwengeza isikhathi sempahla ebolekiwe ngokushaya ucingo noma ngokuzifikela yena mathupha.

(2) Impahla yomtapo wolwazi ingavuselelwa –

- (a) ngaphandle uma isibekisiwe;
- (b) izikhawu ezingamasonto amabili kuze kube amasonto ayisithupha; futhi
- (c) ngokubona komsebenzi womtapo wolwazi.

Impahla yomtapo wolwazi esidlulelwe isikhathi

28.(1) Kunemali yenhlawulo ekhokhwa obolekayo ngayo yonke impahla ayibolekile wangabe esayibuyisa njengokwesikhathi esinqunyiwe ngokwesigaba 25(1).

(2) Umsebenzi womtapo wolwazi angangayibiza inhlawulo uma ethola ukuthi izimo ezibangele ukubuyiswa kwempahla emva kwesikhathi bezingaphezu komboleki futhi nomboleki elethe ubufakazi balokho.

(3) Umsebenzi ogunyaziwe angakhipha ushwele mayelana nenhlawulo okufanele ikhokhelwe umtapo wolwazi lapho khona kunemigomo nemibandela ayibona ifanele.

ISAHLUKO 6

IZINSIZA

Izinsiza kumtapo wolwazi

29.(1) Umsebenzi ogunyaziwe kufanele agagule ukuthi yiziphi izinsiza ezingasetshenziswa abantu kumtapo wolwazi othile.

(2) Ayikho into kulo mthetho kaMasipala ephoqelela uMasipala ukuthi ahlinzeke izinsiza ezithile kumtapo wolwazo othile, noma ngabe leyo nsiza ibaluliwe kulo mthetho kaMasipala.

Izindawo zokubheka

30.(1) Umsebenzi womtapo wolwazi angagagula ingxeye yomtapo wolwazi njengendawo engasetshenziswa njengendawo yokubheka.

(2) Impahla yomtapo wolwazi egcinwe kule ngxenye yomtapo wolwazi akuvumelekile ukuthi isuswe kule ndawo futhi ayikwazi ukubolekwa ngale kokutholakala kwegunya lomsebenzi womtapo wolwazi.

(3) Osebenzisa umtapo wolwazi ukwazi ukusebenzisa impahla yokubheka imizuzu engevile kwengama-60 futhi, emva kwalokho, kufanele abuyise impahla yakule ngxenye yomtapo wolwazi emva kwemizuzu eyi-15 emva kukuba iceliwe umsebenzi womtapo wolwazi.

Amagumbi okufunda

31.(1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengegumbi lokufunda.

(2) Osebenzisa umtapo wolwazi angakwazi ukusebenzisa amagumbi okufunda kuphela ngenhloso yokuzofunda impahla yomtapo wolwazi nokunye.

Amagumbi okutadisha

32.(1) USomtapolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengegumbi lokutadisha.

(2) Le ndawo ingasetshenziswa kuphela abantu abangaveza ubufakazi kumsebenzi womtapo wolwazi, bokuthi -

(a) bayizingane zesikole; noma

(b) benza izifundo thizeni, okungaba abafundi basesikhungweni semfundo ephakeme njl.

Impahla ekhethekile

33.(1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengegumbi ekugcinwa kulo impahla ekhethekile engasetshenziswa abasebenzisi bomtapo wolwazi ngaphansi kwemikhawulo ethile, futhi beqashwe umsebenzi womtapo wolwazi.

(2) Le ndawo ekugcinwa kuyo impahla yekhethelelo ingasetshenziswa –

- (a) ngokufaka isicelo kwifomu elisemthethweni;
- (b) ngezikhathi ezishiwo umsebenzi womtapo wolwazi; futhi
- (c) ngokuhambisana nezidingo ezinqunye umsebenzi womtapo wolwazi.

Indawo yamaphephabhuku

34.(1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengendawo yamaphephabhuku.

(2) Akuvumelekile ukuthi impahla egcinwe kule ngxenye isuswe noma ibolekwe osebenzisa umtapo wolwazi ngale kokuthola igunya elivela kumsebenzi womtapo wolwazi.

(3) Osebenzisa umtapo wolwazi angakwazi ukusebenzisa impahla egcinwa kule ngxenye yomtapo wolwazi isikhathi esingeqile emizuzwini eyi-15, bese kuthi, emva kwalokho abuyise leyo mpahla emizuzwini engeqile kweyi-5 emva kokucelwa umsebenzi womtapo wolwazi.

Izindawo zamakhompyutha

35.(1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengendawo zamakhompyutha.

(2) Osebenzisa umtapo wolwazi angayisebenzisa mahhala le ndawo: Kuncike ekutheni kuzobizwa imali yokuphrinta njengokuba ibaluliwe esigabeni 37.

(3)(a) Umsebenzi womtapo wolwazi anganciphisa noma avale amalungelo okusebenzisa i-internet nezinye izinsiza ezihlinzekwa kule ngxenye yomtapo wolwazi ngendlela eyamukelekile.

(b) Ukunciphisa noma ukuvala okukhulunya ngakho esiqeshaneni (a) kungenziwa –

- (i) kubo bonke abasebenzisa umtapo wolwazi; noma
- (ii) kumuntu oyedwa,

owephule imikhawulo yalo mthetho kaMasipala.

(4) Osebenzisa umtapo wolwazi angeke asebenzise indawo yamakhompyutha –

- (a) ukuphazamisa ingasee lomunye umuntu;
- (b) ukwesabisa, ukuhlukumeza noma ukuphoxa omunye umuntu;
- (c) ukuthola nokusabalalisa izinto ezingahloniphekile, ezihlobene nocansi, ezicwasayo noma okunye okungafanele;
- (d) ukungena ngokungemthetho kwezinye izinhlelo noma amakhompyutha; noma
- (e) nanoma ikuphi okunye okungekho emthethweni.

(5) UMasipala akakuqinisekisi ukuthi –

- (a) ukusetshenziswa kwamakhompyutha angeke kube namagciwane noma okunye okuyingozi; futhi
- (b) amakhompyutha ayoba khona futhi avuleleke ukusetshenziswa zisuka nje uma kuvulwa.

Indawo yemicimbi ezejwayelekile

36.(1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengendawo yokwenza noma imiphi imicimbi ejwayelekile.

(2) Osebenzisa umtapo wolwazi angakwazi ukuqasha indawo yemicimbi ejwayelekile ngenhloso yokwenza okuthile okuhambisana nomtapo wolwazi nangokuhambisana –

- (a) nemithetho kamasipala weTheku, kanye
- (b) nangokukhokha zonke izimali ezinqunywe uMkhandlu.

Indawo yokuphrinta nokwenza amakhophi

37.(1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengendawo yokuphrinta nokwenza amakhophi.

(2) Ukusetshenziswa kwemishini yokuphrinta, ukwenza amakhophi nokufeksa kuyakhokhelwa njengokuba kunqume uMkhandlu.

Indawo yabakhubazekile, abangaboni nabangaboni kahle

38. (1) Umsebenzi womtapo wolwazi angagagula noma iyiphi ingxenye yomtapo wolwazi njengendawo yabakhubazekile, abangaboni nabangaboni kahle.

(2) Umsebenzi womtapo wolwazi angenza imikhawulo eyamukelekile mayelana nokusetshenziswa kwendawo yabakhubazekile, abangaboni nabangaboni kahle.

Amalungelo okushicilela kanye namalungelo empahla

39. Umuntu osebenzisa umtapo wolwazi akavumelekile ukuthi, uma esebenzisa umtapo wolwazi noma izincwadi zalapha, ephule imikhawulo yoMthetho wamaLungelo okuShicilela, 1978 (Umthetho No. 98 ka 1978) kanye neminye imithetho emayelana namalungelo obunikazi kanye namalungelo empahla.

Izindawo zangasese

40. Umsebenzi womtapo wolwazi angavimbela ukuthi abasebenzisi bomtapo wolwazi bangene endaweni ethile ngenhloso yokuthi isetshenziswe abasebenzi bomtapo wolwazi kuphela.

Ama-e-books

41.(1) Umsebenzi ogunyaziwe anganquma ukuthi ama-e-books abolekwe amalungu umtapo wolwazi othile ngokuhambisana nanoma yiziphi izinqubomgomo ezivunye umkhandlu.

(2) Umsebenzi ogunyaziwe anganquma ukuthi amalungu abolekwe ama-e-books umtapo wolwazi uqobo noma ngokusebenzisa i-website.

(3) Ukubolekwa kwama-e-books kwencike ekutheni amalungu anazo yini izinsiza ezifanele ukuze akwazi ukufinyelela kuwona ama-e-books.

**ISAHLUKO 7
UKUZIPHATHA**

Ukuziphatha kumtapo wolwazi**42.** Akuvumelekile ukuthi umuntu –

- (a) akhulumele phezulu kumtapo wolwazi, afunde kakhulu, acule, ashaye ikhwela noma enze umsindo ongaphazamisa abanye abantu abasebenzisa umtapo wolwazi;
- (b) alale noma aziphathe ngendlela ephazamisayo kunoma iyiphi ingxenye yomtapo wolwazi;
- (c) phazamise abanye abantu abasebenzisa umtapo wolwazi;
- (d) adle noma aphuze kumtapo wolwazi, ngaphandle uma esendaweni efanele lokho;
- (e) alethe isilwane kumtapo wolwazi, ngaphandle –
 - (i) uma leso silwane sizobe sisebenza njengenja engumsizi womuntu ongaboni emehlweni;
 - (i) uma leso silwane sizobe yingxenye yohlelo lomtapo wolwazi, futhi kutholakele negunya elivela kumsebenzi womtapo wolwazi;
- (f) alethe isikhali kumtapo wolwazi;
- (g) angene kumtapo wolwazi egqoke ngendlela engemukelekile ngendlela yokuthi anganenga noma aphazamise abanye abasebenzisa umtapo wolwazi;
- (h) angene kumtapo wolwazi edakwe utshwala noma izidakamizwa;
- (i) ephule imiyalelo eyamukelekile ayinikwa umsebenzi womtapo wolwazi;
- (j) angene kumtapo wolwazi ebe esecelwe kahle umsebenzi womtapo wolwazi ukuthi ahambe kumtapo wolwazi futhi engakalitholi negunya lokuthi usengabuya;
- (k) aphule noma ngabe iyiphi ingxenye yesakhiwo somtapo wolwazi, ingxenye yaso, impahla nemishini;
- (l) asebenzise umtapo wolwazi noma izinsiza zawo ukuze aphazamise izimfihlo, ethuse, ahlukumeze noma ehlise isithunzi somunye umuntu; noma
- (m) ephule imikhawulo yalo mthetho kaMasipala noma ezinye izinqubomgomo ezigunyazwe umkhandlu.

Ukunakekelwa kwmpahla yomtapo wolwazi**43.** (1) Akuvumelekile ukuthi umuntu –

- (a) ephule, ahlephule, amake noma angcolise noma iyiphi impahla yomtapo wolwazi;
- (b) aqoqe noma aphenyulele ngaphakathi ikhasi lencwadi;
- (c) abeke impahla yomtapo wolwazi elangeni elishisa kakhulu, ezintulini, endaweni eswakeme noma esimweni sezulu esixakile;

(d) enze amakhophi anoma imuphi umdwebo encwadini ngokutreyisa ngaphandle kwemvume ayinikwe umphathi womtapo wolwazi.

(2) Ilungu elinikwe impahla yomtapo wolwazi liyogcina leyo mpahla ihlanzekile futhi isesimweni esikahle futhi liyothatha zonke izinyathelo ezifanele ukuyivikela esimweni sezulu esimbi ngesikhathi ikuye nangesikhathi isibuyela emtapweni wolwazi.

ISAPHLUKO 8 OKUNGXUBEVANGE

Amacala nezinhlawulo

44. (1) Umuntu –

- (a) ophula noma iziphi izihlinzeko zalo Mthetho kaMasipala;
- (b) ophula noma imiphi imibandela anikezwe yona;
- (c) ophula noma iziphi izihlinzeko zemigomo egunyazwe umkhandlu emayelana nemitapo yolwazi;
- (d) ohluleka ukuthobela umyalelo osemthethweni okhishwe ngokwalo Mthetho kaMasipala;
- (e) osabisa, ovimbela, ogxambukela noma ophazamisa umsebenzi ogunyaziwe uma enza umsebenzi wakhe ngokwalo Mthetho kaMasipala; noma
- (f) ohlinzeka ngabomu imininingwane engamanga noma eholela ophathe kumsebenzi ogunyaziwe,

unecala lokwephula umthetho.

(2) Noma ubani otholakale enecala lokwephula umthetho ngaphansi kwalo Mthetho kaMasipala unesibopho –

- (a) sokukhokha inhlawulo engekho ngaphansi kuka R20 000;
- (b) sokuboshwa isikhathi esingekho phansi konyaka owodwa; noma
- (c) kokubili inhlawulo nokuboshwa okukhulunywe ngakho endimeni (a) no (b).

(3) Uma esaqhubeka neyicala elifanayo –

- (a) inhlawulo iyokwengezwa ngemali engeqile ku R100; noma
- (b) umuntu aboshwe isikhathi esingeqile osukwini olu-1,

usuku nosuku lapho ukuphulwa komthetho kuqhubeka noma kusetshenziswe kokubili ukuboshwa nenhlawulo.

Okulindelekile

45. Ngaphandle uma kunobufakazi bokuthi akunjalo, kuthathwa ngokuthi impahla yomtapo wolwazi –

- (a) ebolekwe umuntu iphume isesimweni esihle; futhi
- (b) egxivizwe ngesigxivizo sikamasipala esisemthethweni, ithathwa njengempahla kaMasipala, ngaphandle uma inesigxivizo sokuthi umasipala useyinikele kwenye indawo.

Ukudluliselwa kwamandla

46.(1) Kuncike ezinhlinzekweni zoMthethosisekelo weRiphabhliki yaseNingizimu Afrika, 1996, neminye imithetho kazwelonke neyesifundazwe esebenzayo, onke –

- (a) amandla, ngaphandle kwamandla okukhulunywe ngawo esigabeni 160(2) soMthethosisekelo;
- (b) imisebenzi; noma
- (c) amajoka,

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

(2) Ukudluliselwa kwamandla ngokwesigatshaa (1) kumele kwenzeke ngokuhambisana nohlelo lokudluliselwa kwamandla olwemukelwa umkhandlu ngokuhambisana nesigaba 59(1) soMthetho weziNhlelo zoMasipala, kuncike kwinqubo ebekwe esigabeni 50(2) soMthetho.

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

- (a) nohlaka noma nomuntu ohlulisela amandla;
- (b) okudluliselwa kuye amandla; kanye
- (c) nemibandela ehambisana nokudluliswa kwamandla.

Ukudluliswa kwamacala

47.(1) Umuntu omalungelo akhe ayahlukumezeka ngesinqumo ezithathwe uMasipala ngokwalo Mthetho kaMasipala angadlulisa udaba lwakhe ngaleso sinqumo ngowezinhlinzeko zokuDluliswa kwamaCala eziqukethwe kuMthetho weziNhlelo zoMasipala woHulumeni baseKhaya Act, 2000 (uMthetho No. 32 ka 2000) ngokuthumela isaziso sokudlulisa icala nezizathu zakhe kwiMenenja kaMasipala ezinsukwini ezingu 21 kusukela osukwini aziswe ngalo ngesinqumo.

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

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

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

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

(6) Konke ukudlulisa kwamacala okwenziwayo kwenziwa ngokoMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000) hhayi ngokwalo Mthetho kaMasipala.

(7) Uma inkantolo yomthetho iqinisekisa icala futhi nobekwe icala efisa ukufaka isicelo sokudlulisa lelo cala, ukudlulisa kwecala kumele kwenziwe ngaphansi kwezinhlelo zenkantolo zokudluliswa kwamacala hhayi ngaphansi kwesigaba (1) kuya ku (5).

Imithetho echithwayo negcinwayo

48.(1) IMithetho kaMasipala ebalulwe ohlwini lokuqala nolwesibili lweSheduli ekulo Mthetho kaMasipala ngalokhu iyachithwa ngobubanzi obubalulwe ohlwini lwesithathu lwale Sheduli.

Isihloko esifingqiwe nokuqala kokusebenza komthetho

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

**UHLELO
IMITHETHO ECHITHWAYO**

<i>Inombolo ngonyaka</i>	<i>Isihloko</i>	<i>Ubungako obuchithwayo</i>
Isaziso sikaMasipala No. 121 ka 1978	UMthetho kaMasipala woMtapo wolwazi wase-Hillcrest	Wonke
Isaziso sikaMasipala No. 586 ka 1978	UMthetho kaMasipala woMtapo wolwazi wase-Kloof	Wonke
Isaziso sikaMasipala No. 448 ka 1981	Ukuqashwa kwegumbi lemicimbi jikelele kuMtapo wolwazi wase-New Germany	Wonke
Isaziso sikaMasipala No. 262 ka 1964	uMtapo wolwazi womphakathi wase-Queensburgh: UMthetho kaMasipala waseThekwini woMtapo wolwazi	Wonke
Isaziso sikaMasipala No. 117 ka 1978	Imithethonqubo yoMtapo wolwazi	Wonke
Isaziso sikaMasipala No. 164 ka 1989	UMthetho kaMasipala woMtapo wolwazi wase-Thekwini	Wonke
Isaziso sikaMasipala No. 120 ka 1978 kwafakwa nesaziso sikaMasipala No. 7 ka 1953 esagunyazwa iDolobha	UMthetho kaMasipala woMtapo wolwazi wase-Amanzimtoti	Wonke

<i>Inombolo ngonyaka</i>	<i>Isihloko</i>	<i>Ubungako obuchithwayo</i>
laseManzimtoti ngesaziso sikaMasipala No. 653 ka 1978		
Isaziso sikaMasipala No. 87 ka 1953 kwafwa nakwisaziso sikaMasipala No. 120 ka 1978 esagunyazwa iDolobha laseSipingo ngeSaziso sikaMasipala No. 343 ka 1979	UMthetho kaMasipala woMtapo wolwazi wase-Isipingo	Wonke
Isaziso sikaMasipala No. 120 ka 1978 kwafakwa nakwisaziso sikaMasipala No. 87 ka 1953 esagunyazwa iDolobha laseKingsburgh ngesaziso sikaMasipala No. 51 ka 1979	UMthetho kaMasipala woMtapo wolwazi wase-Kingsburgh	Wonke
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala No. 2461 ka 1953 esagunyazwa iDolobha laseMount Edgecombe ngesaziso sikaMasipala No. 120 ka 1978	UMthetho kaMasipala woMtapo wolwazi wase-Mount Edgecombe	Wonke
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala No. 120 of 1978 esagunyazwa iDolobhana laseNew Germany ngesaziso sikaMasipala No. 619 ka 1978	UMthetho kaMasipala woMtapo wolwazi wase-New Germany	Wonke
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala	UMthetho kaMasipala woMtapo wolwazi wase-Queensburgh	Wonke

<i>Inombolo ngonyaka</i>	<i>Isihloko</i>	<i>Ubungako obuchithwayo</i>
No. 120 ka 1978 as esachibiyelwa ngokwesaziso sikaMasipala No. 150 ka 1985 eyagunyazwa iDolobha laseQueensburgh ngesaziso sikaMasipala No. 246 ka 1986		
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala No. 120 ka 1978 esagunyazwa iDolobha laseTongaat ngesaziso sikaMasipala No. 60 ka 1978	UMthetho kaMasipala woMtapo wolwazi wase-Tongaat	Wonke
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala No. 120 ka 1978 esagunyazwa iDolobha laseMhlanga Rocks ngesaziso sikaMasipala No. 680 of 1978	UMthetho kaMasipala woMtapo wolwazi wase-Umhlanga Rocks	Wonke
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala No. 120 of 1978 esagunyazwa iDolobha laseVerulam ngesaziso sikaMasipala No. 109 ka 1979	UMthetho kaMasipala woMtapo wolwazi wase- Verulam	Wonke
Isaziso sikaMasipala No. 87 ka 1953 kwafakwa nakwisaziso sikaMasipala No. 120 ka 1978 esagunyazwa iDolobha laseWestville ngesaziso sikaMasipala No. 265 ka 1982	UMthetho kaMasipala woMtapo wolwazi wase-Westville	Wonke

IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

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

Please take note of these guidelines when completing your form.

GPW Business Rules

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

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

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



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