

**MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS**

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**MUNICIPAL NOTICE 117 OF 2016**

**ETHEKWINI MUNICIPALITY: WASTE REMOVAL BY-LAW, 2016**

NOTICE IS HEREBY GIVEN that the eThekweni Municipal Council has enacted, by way of resolution in terms of section 12 of the Local Government: Municipal Systems Act, 32 of 2000, the Waste Removal By-law, 2016 contained hereunder.

Sibusiso Sithole  
City Manager

City Hall  
Dr Pixley Ka-Isaka Seme Street  
Durban

**eTHEKWINI MUNICIPALITY: WASTE REMOVAL BY-LAW, 2016**



Adopted by Council on the:

## WASTE REMOVAL BY-LAW, 2016

To make provision for the collection and removal of domestic waste and business waste; to require waste generators to collect and remove bulky waste, building waste, garden refuse, hazardous waste, industrial waste, health care waste, special domestic waste and special industrial waste; to provide for the temporary storage of waste pending collection; to provide for the operation of garden refuse sites; to impose obligations regarding special industrial waste, hazardous waste and health care waste; to provide for proof of disposal of building waste; to impose obligations regarding event waste; to provide for waste management plans; to encourage the recycling of waste; to provide for the conduct at municipal waste disposal sites; to regulate private waste removal contractors; to impose penalties for dumping and other offences and to provide for matters incidental thereto.

### PREAMBLE

**WHEREAS** everyone has the right to an environment that is not harmful to their health or well-being in terms of section 24(a) of the Constitution;

**WHEREAS** one of the objects of the eThekweni municipal council is, in terms of section 152(d) of the Constitution, the promotion of a safe and healthy environment;

**WHEREAS** there is a need to regulate waste removal within the area of jurisdiction of the eThekweni Municipality in order to ensure a safe and healthy environment;

**WHEREAS** the Municipality has the competence in terms of Part B of Schedule 5 of the Constitution to control refuse removal, refuse dumps and solid waste disposal;

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

**NOW THEREFORE** the eThekweni municipal council, acting in terms of section 156 read with 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—

**“accommodation establishment”** means an accommodation establishment as defined in the Municipality's Accommodation Establishment By-law;

**“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 contractors 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;

**“authorised waste removal contractor”** means—

(a) a private waste removal contractor who has been contracted by the Municipality to provide waste removal services on behalf of the Municipality; or

(b) a private waste removal contractor who holds a permit from the Municipality authorising it to contract directly with waste generators to provide waste removal services for its own account;

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

**“bed and breakfast”** means an accommodation establishment, as defined in the Municipality's Accommodation Establishment By-law;

**“building waste”** means any waste produced during—

(a) excavation; or

(b) the construction, alteration, repair or demolition of any structure,

including building rubble, earth, vegetation and rock displaced during these activities;

**“bulk waste container”** means a container designed for the temporary storage of waste, with a capacity of more than 2m<sup>3</sup> and less than 6m<sup>3</sup>, whether supplied with wheels or not, and which complies with—

(a) South African Bureau of Standards specification 493-1973: Steel waste bins;  
or

(b) South African Bureau of Standards specification 1310-1980: Waste bins of polymeric materials

**“bulky waste”** means domestic waste or business waste which, by virtue of its mass, shape, size or quantity, cannot be conveniently—

(a) stored in a waste container; or

(b) removed as part of the Municipality's normal domestic or business waste removal service;

**“business waste”** means waste generated on premises used for non-residential purposes and includes waste generated by informal traders and waste generated on residential premises from which business activities are undertaken, regardless of whether or not these activities are lawful, but excludes:

(a) bulky waste;

(b) building waste;

(c) garden refuse;

(d) hazardous waste;

(e) industrial waste;

(f) health care waste;

(g) recyclable waste; and

(h) special industrial waste;

**“domestic waste”** means waste typically generated on residential premises, including the manure or dung of any animal or bird kept as a domestic pet, but excluding–

- (a) sand;
- (b) earth;
- (c) liquid matter;
- (d) garden refuse;
- (e) the carcass of any animal; and
- (f) special domestic waste;

**“dump”** means to dispose of waste in a manner which is not permitted by this By-law and includes the depositing, discharging, dropping, spilling, releasing or storing of waste in or at any place, whether publicly or privately owned, including but not limited to–

- (a) a public place;
- (b) a public road;
- (c) a sewage or storm water system;
- (d) a vacant erf;
- (e) the beach or the seashore; and
- (f) a water resource;

**“event”** means any sporting, entertainment, cultural, religious or other event that is held within the Municipality;

**“event organiser”** means any person who plans, is in charge of, manages, supervises or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event, as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

**“event waste”** means waste generated by or at an event, or from activities related to an event, regardless of whether or not the event takes place on private or public property;

**“garden refuse”** means waste of an organic origin which is generated as a result of normal gardening activities on any premises, such as–

- (a) grass cuttings;
- (b) leaves;

- (c) plants;
- (d) flowers;
- (e) weeds; and
- (f) the clippings of trees, hedges or fences: Provided that this excludes branches with a diameter exceeding 40 mm;

**“garden refuse site”** means a site provided by the Municipality for the disposal and temporary storage of garden refuse at the discretion of the Municipality;

**“guest house”** means an accommodation establishment, as defined in the Municipality's Accommodation Establishment By-law;

**“hazardous waste”** means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment, as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

**“Head of Department”** means the person appointed as head of the municipal department responsible for cleansing and solid waste matters;

**“health care waste”** means waste generated by a hospital, clinic, nursing home, doctor's rooms, medical laboratory, research facility, dental practitioner, medical practitioner, traditional healer, traditional surgeon, veterinarian or any other place where health care waste which is infectious or potentially infectious is generated, and includes but is not limited to—

- (a) microbial waste which can cause disease in humans, including but not limited to cultures, stocks and associated biologicals;
- (b) human blood and blood products, including but not limited to serum, plasma and other blood components;
- (c) pathological waste of human origin, including but not limited to tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal waste including but not limited to animal carcasses, body parts and bedding which has been exposed to infectious agents;
- (e) isolation waste associated with human beings or animals known to be infected with highly communicable diseases;

- (f) contaminated and uncontaminated sharps, including but not limited to clinical items which can cause a cut, puncture or injection, such as needles, syringes, blades and microscope slides;
- (g) used medical equipment and other medical material which is capable of or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, including but not limited to used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy and other catheter bags, gloves, drip bags, administration dines and tongue depressors;
- (h) pharmaceutical products, including but not limited to human and animal vaccines, medicine and drugs; and
- (i) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source;

**“industrial waste”** means waste in solid form generated as a result of manufacturing, maintenance, fabricating or dismantling activities, as well as the activities of railway marshalling yards, including waste of this nature which is generated from a residential premises as a result of a business activity, regardless of whether or not the activity is being lawfully conducted from those premises, but does not include building waste, business waste, domestic waste or special industrial waste;

**“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. 343 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;

**“mutagen”** means a physical or chemical agent that increases the frequency of mutations by changing the genetic material of an organism;

**“occupier”** includes—

- (a) any person, including the owner, in actual occupation of premises regardless of the title under which he or she occupies those premises, if any; and

(b) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants, whether for his or her own account or as an agent for a person entitled to the rent;

**“owner”** means—

(a) the person who is the registered owner of the premises in the relevant Deeds Office;

(b) where the registered owner of the premises is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;

(d) in a case where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or

(e) in relation to—

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) as common property, the developer or the body corporate in respect of the common property; or

(ii) a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

**“public place”** means—

(a) a public road;

(b) a public parking space; or

(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;

**“premises”** means any erf or land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, lagoon, an opened, covered or enclosed drain or ditch, whether improved or not and whether public or private;

**“recyclable waste”** means any waste intended for recycling or a remanufacture process and which is separated from other waste and managed as a potential resource by the waste generator or someone acting on his or her behalf;

**“recycling”** means the collection, selection or removal of waste for the purpose of reselling or re-using selected materials in a manufacturing, remanufacturing or other process;

**“residential premises”** means premises occupied for the purposes of human habitation, but excludes an accommodation establishment as defined in the Municipality's Accommodation Establishment By-law;

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

**“skip”** means a container, with a capacity of between 6m<sup>3</sup> and 18m<sup>3</sup>, designed for the temporary storage of waste and to be loaded onto a truck for removal, rather than being emptied on site;

**“special domestic waste”** means domestic waste which cannot by virtue of its mass, shape or size be conveniently—

- (a) stored in a waste container; or
- (b) removed as part of the Municipality's normal domestic waste removal service;

**“special industrial waste”** means waste consisting of a liquid or sludge, resulting from—

- (a) a manufacturing process; or
- (b) the pre-treatment, for disposal purposes, of any industrial liquid waste, which, in terms of the Municipality's Sewage By-law, may not be discharged into a sewer without the consent of the Municipality, which consent has not been granted;

**“tariff charge”** means the prescribed charge for any service provided by the Municipality in terms of this By-law as set out in the tariff of charges adopted by resolution of the council;

**“venue owner”** means a person who owns, manages or is entitled to exercise the rights of an owner or occupier of a venue used for events, as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

**“waste”** means any substance, as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), whether or not that substance can be reduced, re-used, recycled and recovered—

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
  - (b) which the generator has no further use of for the purposes of production;
  - (c) that must be treated or disposed of; or
  - (d) that is identified as waste by the Minister of Water and Environmental Affairs by notice in the Gazette, and
- includes waste generated by the mining, medical or other sector, but—
- (i) a by-product is not considered waste; and
  - (ii) any portion of waste, once re-cycled and recovered, ceases to be waste;

**“waste bin”** means a container designed for the temporary storage of waste, with a capacity of less than 2m<sup>3</sup>, whether wheeled or not, and which complies with—

- (a) South African Bureau of Standards specification 493-1973: Steel waste bins; or
- (b) South African Bureau of Standards specification 1310-1980: Waste bins of polymeric materials;

**“waste container”** means either a waste bin, a bulk waste container or a skip;

**“waste disposal site”** means a site, excluding a garden refuse site, for the disposal of waste and which site may be owned or set aside by–

- (a) the Municipality; or
- (b) a private person and operated by that person in terms of a permit or licence issued by a responsible authority;

**“waste generator”** means any person who, or entity which, generates or produces waste and includes–

- (a) the occupier of any premises on which waste is generated; and
- (b) in the case of premises which are occupied by more than one person, the owner of that premises;

**“waste removal service”** means the collection and removal of domestic, garden, industrial and business waste as provided for in this By-law; and

**“water resource”** means a river, spring or natural channel in which water flows regularly or intermittently, a wetland, lake or dam into which or from which water flows, surface water, an estuary or aquifer and includes any borehole, structure, earthwork or equipment installed or used for or in connection with the storage, distribution, provision or use of water.

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

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

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

3. The objects of this By-law are to–

- (a) regulate the collection and removal of domestic waste and business waste by the Municipality in order to ensure the efficient and effective provision of this service;
- (b) provide for the collection and removal of other types of waste;
- (c) ensure proper waste management at events;
- (d) impose special requirements regarding the disposal of building waste;

- (e) provide for the registration of waste removal contractors;
- (f) prohibit dumping and impose appropriate penalties on dumping and other offences;
- and
- (g) manage and promote the recycling of waste.

#### **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 DOMESTIC AND BUSINESS WASTE**

#### **Domestic and business waste removal service**

5.(1) The Municipality must itself, or through an authorised waste removal contractor, provide a service for the collection and removal of domestic waste and business waste from premises within its area of jurisdiction.

(2) The Municipality is not required to collect and remove business waste from any premises in respect of which—

- (a) the waste generator has given written notice that he or she wishes the Municipality to stop providing waste removal services;
- (b) the waste generator has contracted with an authorised waste removal contractor to provide waste removal services in respect of the premises; and
- (c) waste is being effectively and timeously removed from those premises.

(3) Where a waste generator has contracted with an authorised waste removal contractor as contemplated in subsection (2), the waste generator must provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

### **Waste bins and bulk waste containers**

6.(1) Waste generators must make adequate provision for the temporary storage of domestic waste and business waste in either waste bins or bulk waste containers.

(2) Every waste generator must ensure that all the domestic waste or business waste generated on his or her premises is placed and kept in waste containers for removal by the Municipality or an authorised waste removal contractor, as the case may be.

(3) Nothing in this By-law prevents any waste generator who has obtained the Municipality's prior written consent from—

- (a) selling or otherwise disposing of recyclable waste;
- (b) selling or disposing of swill for non-human consumption; or
- (c) using suitable domestic waste for making compost: Provided that—
  - (i) neither the waste nor the compost causes a nuisance or is a fire threat; and
  - (ii) the waste and the compost are kept on the premises on which they are generated or made and are not kept on any verge or neighbouring property.

(4) Every waste generator must ensure that all waste bins and bulk waste containers on his or her premises are—

- (a) kept clean and hygienic;
- (b) in good condition; and
- (c) replaced when necessary.

(5) In the event of non-compliance with this section, the Municipality may, in addition to any fines imposed on the waste generator, remove the waste container and have it cleaned at the expense of the waste generator.

(6) The Municipality may give written notice to any waste generator calling on him or her to comply with the provisions of this section within a period specified in the notice.

### **Waste containers supplied by Municipality**

7.(1) The Municipality may, in its discretion, supply bulk waste containers or skips to premises if it considers these containers more suitable than waste bins in view of the—

- (a) quantity of the domestic or business waste generated on the premises;

(b) nature of the domestic or business waste and the suitability of waste bins for storing this type of waste; and

(c) accessibility of the waste storage area to the Municipality's waste collection vehicles.

(2) Waste containers supplied to a waste generator by the Municipality for the purpose of the temporary storage of domestic waste or business waste must be used only for the purpose of storing that waste.

(3) Waste containers supplied by the Municipality remain the property of the Municipality and may, at any time in the discretion of the Municipality, be replaced or removed by the Municipality.

(4) If the Municipality removes a bulk waste container, the occupier or owner of the premises concerned must immediately make adequate provision for the storage of waste in either waste bins or bulk waste containers.

(5) No waste generator may willfully or negligently damage a waste container supplied by the Municipality.

(6) Each waste generator is responsible for the safekeeping of any waste container supplied by the Municipality and is liable to the Municipality to replace any container which is lost or damaged, except where loss or damage is caused by the Municipality's employees.

(7) Each waste generator must immediately report to the Municipality any loss of or damage to a waste container supplied to him or her by the Municipality.

(8) No waste generator may, without the Municipality's prior written consent, remove waste containers from the premises in respect of which they were supplied by the Municipality.

(9) The Municipality may charge a rental at the applicable tariff charge in respect of any waste containers supplied by the Municipality to a waste generator.

### **Waste storage areas**

8.(1) Every waste generator must provide a reserved waste storage area on his or her premises for the keeping of waste containers and such storage area must–

- (a) be appropriate given the number and size of the waste containers;
- (b) be such that the waste containers are not visible from a street or a public place;
- (c) comply with the Municipality's Building By-laws; and
- (d) comply with any other requirements of the Municipality.

(2) Each waste generator must–

- (a) place the waste containers, or cause the waste containers to be placed, in the waste storage area; and
- (b) at all times keep the waste containers in the waste storage area, except when they are removed for emptying.

(3) The waste generator must ensure that the–

- (a) waste storage area and the waste containers are kept neat, clean and hygienic at all times;
- (b) waste storage area and the waste containers do not cause a nuisance to any person; and
- (c) waste containers are properly covered by means of a lid or other covering supplied with the container.

### **Waste collection day**

9.(1) The Municipality must indicate the days on which it will collect domestic waste and business waste from the different areas under its jurisdiction.

(2) A waste generator must, before 07:00 on waste collection day for the area within which his or her premises fall, ensure that all waste containers and disposable plastic refuse bags containing domestic waste or business waste are placed–

- (a) immediately outside the boundary of the premises;
- (b) on the nearest street boundary; or
- (c) in such other place as may be determined by the Municipality.

(3) The waste generator must ensure that the waste containers are properly closed and that they do not cause any obstruction to pedestrian or vehicular traffic.

### **Prohibited use of waste containers**

**10.(1)** The following items may not be placed in any waste container:

- (a) hot ash;
- (b) unwrapped glass or china pieces or fragments;
- (c) waste or other waste material, including any liquid which, by reason of its mass or other characteristics, is likely to render the waste containers unreasonably difficult to handle; and
- (d) any other waste or other waste material which may cause damage to waste containers or waste removal vehicles or which may cause injury to the Municipality's employees while they carry out their duties in terms of this By-law, unless suitable steps have been taken to avoid such damage or injury.

(2) No person may place any item which is not domestic waste or business waste as defined in this By-law, in a waste container intended for domestic waste or business waste, and in addition, the following items may not be placed in a waste container intended for domestic waste or business waste:

- (a) any metal item;
- (b) timber rests;
- (c) soil, pebbles or rocks; and
- (d) any other material which is not commonly generated in gardens or households, or in businesses.

(3) In the event of non-compliance with this section, the Municipality may leave the waste container concerned unserviced and may, in addition, impose a fine on the waste generator.

### **Notice to Municipality of new waste generators**

**11.(1)** The occupier of premises on which business waste or domestic waste is about to be generated for the first time or after a period of inactivity or, in the case of premises being occupied by more than one person, the owner of the premises must, notify the Municipality in writing before beginning to generate the waste.

(2) In notifying the Municipality of the generation of the waste, the occupier or owner, as the case may be, must provide the Municipality with full details of the waste to be generated and must, on request, supplement those details as required by the Municipality.

**Notice to Municipality of changed circumstances**

12.(1) The occupier of premises on which business waste or domestic waste is generated or, in the case of premises being occupied by more than one person, the owner of the premises must, notify the Municipality in writing within seven days of—

- (a) registration of transfer of ownership in the premises;
- (b) any change in the identity of an occupier of the premises;
- (c) new occupation of the premises following a period of non-occupation; and
- (d) any change in the nature, mass or volume of the waste generated.

(2) In notifying the Municipality of the changed circumstances, the occupier must provide the Municipality with full details of the change and must, on request, supplement those details as required by the Municipality.

**Disposable plastic bags and waste containers for domestic waste**

13.(1) The Municipality must provide each domestic waste generator with a—

- (a) number of refuse bags as determined by the Municipality; or
- (b) waste container if, in the Municipality's discretion, the waste generated by the waste generator is more appropriately stored in a waste container.

(2) The Municipality may, in its discretion, distribute the disposable plastic refuse bags at intervals which are convenient given its operations in each of the areas under its jurisdiction.

(3) Every waste generator must, if he or she has been provided with disposable plastic refuse bags by the Municipality, ensure that waste generated from his or her premises is placed only in waste bins lined with those bags and is not placed directly into a waste bin.

**Tariffs: domestic and business waste removal**

14.(1) Each waste generator is liable to the Municipality for the applicable tariff charge for the collection, removal and disposal of waste from premises on which domestic waste or business waste is generated.

(2) The occupier or owner, as the case may be, of premises on which domestic waste or business waste is generated remains liable for payment of the tariff until—

- (a) the occupier has submitted proof to the satisfaction of the Municipality that he or she is no longer liable for payment of the tariff in terms of this By-law; or
- (b) registration of transfer of the premises into the name of a new owner has taken place.

**Home businesses: tariff charge for business waste**

**15.(1)** Where business waste is generated as a result of business activities conducted from a residential premises, the waste generator concerned is liable to the Municipality for the applicable tariff charge for the collection, removal and disposal of business waste from premises.

(2) In the circumstances referred to in subsection (1), the Municipality shall be entitled to levy the tariff charge for the removal and disposal of business waste in respect of all waste generated in respect of the premises concerned, regardless of whether that waste is domestic waste or business waste.

**CHAPTER 3**

**GARDEN REFUSE, SPECIAL DOMESTIC WASTE AND BULKY WASTE**

**No garden refuse, special domestic waste or bulky waste removal by Municipality**

**16.** The Municipality is not obliged to collect and remove garden refuse, special domestic waste or bulky waste.

**Garden refuse, special domestic waste or bulky waste removal**

**17.(1)** Each waste generator of garden refuse, special domestic waste or bulky waste must—

- (a) remove the waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal and the disposal of the waste at a waste disposal site at the waste generator's cost.

(2) Nothing in this By-law prevents a waste generator from retaining garden refuse for the purpose of making compost: Provided that—

- (a) neither the waste nor the compost causes a nuisance or is a fire threat; and
- (b) the waste and the compost are kept on the premises on which they are generated or made and are not kept on any verge or neighbouring property.

(3) The Municipality may, by notice in writing, instruct a waste generator who generates garden refuse, special domestic waste or bulky waste to comply with the provisions of subsection (1) or to dispose of the waste—

- (a) in such manner; and
- (b) at such frequencies,

as may be required by the Municipality.

#### **Garden refuse sites**

18.(1) Garden refuse must, once it has been removed from the premises on which it was generated, be deposited at a—

- (a) garden refuse site, subject to the requirements of subsection (2); or
- (b) waste disposal site.

(2) A waste generator may deposit reasonable quantities of garden refuse at a garden refuse site at no charge, unless otherwise determined by the Municipality, and provided that—

- (a) the waste was generated on residential premises;
- (b) the waste is delivered by means of a vehicle not exceeding a 750 kg or  $\frac{3}{4}$  ton pay load; and
- (c) each waste generator deposits such waste not more than once a week.

(3) Garden refuse generated at an accommodation establishment, a bed and breakfast, a guest house or any other business premises may only be deposited at a waste disposal site or other designated site against payment of the tariff charge.

(4) The Municipality is entitled to levy the tariff charge on any waste deposited at a garden refuse site if it is reasonably satisfied that the waste was not generated at a residential premises or that it was delivered to the garden refuse site in a manner which does not comply with the provisions of this By-law.

(5) The Municipality shall be entitled to determine the operating hours of garden refuse sites, which times must be indicated on notice boards erected at these sites.

(6) No person may deposit any waste other than garden refuse at a garden refuse site except with the permission of the Municipality.

#### **Disposal of special domestic waste and bulky waste**

19. Special domestic and bulky waste must, once it has been removed from the premises on which it was generated, be deposited at a waste disposal site, against payment of the tariff charge.

#### **Municipality's special service**

20. At the request of the waste generator and against payment of the applicable tariff charge, the Municipality may, in its discretion, remove garden refuse, special domestic waste or bulky waste from any premises.

### **CHAPTER 4 INDUSTRIAL WASTE**

#### **No industrial waste removal by Municipality**

21. The Municipality is not obliged to collect and remove industrial waste.

#### **Industrial waste removal**

22.(1) Each waste generator who generates industrial waste must—

- (a) remove, or cause to be removed, the waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by written notice instruct a waste generator who—

- (a) generates industrial waste; or
- (b) keeps equine or bovine animals for the purpose of business or trade,

to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to dispose of it in such other manner as may be approved by the Municipality.

(3) In giving notice in terms of subsection (2), the Municipality may instruct that the waste be removed and disposed of at any frequency deemed reasonably appropriate by the Municipality.

(4) Where a waste generator has contracted with an authorised waste removal contractor for the removal of industrial waste, the waste generator must, on written request from the Municipality, provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

#### **Waste bins and bulk waste containers: industrial waste**

**23.**(1) Waste generators must—

- (a) make adequate provision for the temporary storage of industrial waste in either waste bins or bulk waste containers; and
- (b) comply with the provisions of section 6 to the extent applicable.

(2) The Municipality has the same powers in respect of waste generators who produce industrial waste as it has in respect of the generators of domestic and business waste as set out in section 6.

#### **Waste storage areas: industrial waste**

**24.** Waste generators must—

- (a) provide a reserved waste storage area on his or her premises for the keeping of waste containers; and
- (b) comply with the provisions of section 8 to the extent applicable.

**Municipality's special service: industrial waste**

**25.** At the request of the waste generator and against payment of the applicable tariff charge, the Municipality may, in its discretion, remove industrial waste from any premises.

**CHAPTER 5**

**SPECIAL INDUSTRIAL WASTE, HAZARDOUS WASTE AND HEALTH CARE WASTE**

**No special industrial waste, hazardous waste and health care waste removal by Municipality**

**26.** The Municipality is not obliged to collect and remove special industrial waste, hazardous waste or health care waste.

**Special industrial waste, hazardous waste and health care waste removal**

**27.(1)** Each waste generator who generates special industrial waste, hazardous waste or health care waste must—

- (a) remove, or caused to be removed, such waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who generates special industrial waste, hazardous waste or health care waste to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to be disposed of in such other manner as may be approved by the Municipality.

(3) Where a waste generator has contracted with an authorised waste removal contractor for the removal of special industrial waste, hazardous waste or health care waste, the waste generator must on written request from the Municipality provide proof, to the reasonable satisfaction of the Municipality, that a waste removal contract is in place.

**Waste bins and bulk waste containers**

**28.**(1) Waste generators must–

- (a) make adequate provision for the temporary storage of special industrial waste, hazardous waste and health care waste in either waste bins or bulk waste containers; and
- (b) comply with the provisions of section 6 to the extent applicable.

(2) The Municipality has the same powers in respect of waste generators who produce special industrial waste, hazardous waste and health care waste as it has in respect of the generators of domestic and business waste as set out in section 6.

**Special industrial waste, hazardous waste and health care waste storage areas**

**29.**(1) Waste generators must–

- (a) provide a reserved waste storage area on his or her premises for the keeping of waste containers;
- (b) ensure that the area is suitable for the storage of waste;
- (c) store the waste and ensure that any sharps or other hazardous items are stored in such a manner that it does not become a nuisance or a safety hazard or pollute the environment; and
- (d) comply with the provisions of section 8 to the extent applicable.

(2) If special industrial waste, hazardous waste or health care waste is not stored in accordance with the provisions of this By-law, the Municipality may order the waste generator to remove the waste within a reasonable time and, if the waste is not removed within that time, the Municipality may, at the waste generator's expense, remove the waste itself or have the waste removed.

**Notification of generation of waste**

**30.**(1) A waste generator who generates special industrial waste, hazardous waste or health care waste must notify the Municipality, before beginning to generate that waste, of–

- (a) the composition of the waste;
- (b) the quantity of the waste;
- (c) the method of storage of the waste;

- (d) the proposed duration of the storage of the waste; and
- (e) the manner in which the waste will be removed, in terms of the provisions of section 27.

(2) If required by the Municipality, the notification referred to in subsection (1) must be substantiated by an analysis of the waste certified by an appropriately qualified industrial chemist or a person designated by the Municipality.

(3) Subject to the provisions of any applicable legislation, an authorised official may enter any premises at a reasonable time to ascertain whether special industrial waste, hazardous waste or health care waste is generated on the premises and may take samples of and test any waste found on the premises to ascertain its composition.

(4) A person referred to in subsection (1) must notify the Municipality of any changes in the composition and quantity of the special industrial waste, hazardous waste or health care waste occurring after the notification in terms of subsection (1).

### **Special industrial waste, hazardous waste and health care waste removal service**

**31.(1)** No person may operate or conduct a waste removal service for special industrial waste, hazardous waste or health care waste, irrespective of whether such service is rendered for payment or not, unless that person has the written consent of the Municipality.

(2) The Municipality may refuse or grant consent subject to such terms and conditions as the Municipality may deem fit.

(3) The waste generator may only have special industrial waste, hazardous waste or health care waste removed by a waste removal contractor approved by the Municipality in compliance with the relevant legislation.

(4) Special industrial waste, hazardous waste and health care waste may only be transported by a waste removal contractor who is approved by the Municipality and meets the Municipality's requirements in respect of the—

- (a) competence of the contractor to remove the particular type of waste concerned;
- (b) containers used by the contractor;
- (c) markings on the containers used by the contractor;

- (d) manner of construction of the containers used by the contractor;
- (e) contractor's procedures for safety and cleanliness; and
- (f) contractor's documentation relating to the source, transportation and disposal of waste.

(5) An authorised waste removal contractor must inform the Municipality, at such intervals as the Municipality may stipulate, of the—

- (a) removal of special industrial waste, hazardous waste or health care waste;
- (b) identity of the contractor who will remove the waste;
- (c) date on which the waste will be removed; and
- (d) quantity and the composition of the waste to be removed.

(6) Should a person be convicted of contravening the provisions of this section, he or she must, notwithstanding any penalty imposed on him or her, dispose of the waste as directed by the Municipality or, alternatively, the Municipality may dispose of the waste itself at the expense of that person.

## CHAPTER 6 BUILDING WASTE

### **No building waste removal by Municipality**

**32.** The Municipality is not obliged to collect and remove building waste.

### **Building waste removal**

**33.(1)** Each waste generator who generates building waste must—

- (a) remove, or cause to be removed, such waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who generates building waste to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to be disposed of in such other manner as may be approved by the Municipality.

(3) In giving notice in terms of subsection (2), the Municipality may instruct that the waste be removed and disposed of at any frequency deemed reasonably appropriate by the Municipality.

(4) Where a waste generator has contracted with an authorised waste removal contractor for the removal of building waste, the waste generator must on written request from the Municipality, provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

(5) Any building contractor whose activities produce building waste is jointly and severally liable with the waste generator to ensure that the waste is removed and disposed of in terms of this section.

#### **Storage of building waste**

**34.** The waste generator and the building contractor whose activities produce the building waste must ensure that—

- (a) adequate provision for the temporary storage of building waste is provided;
- (b) the waste is not unsightly;
- (c) it does not constitute a nuisance or a safety hazard to any person; and
- (d) it does not pollute the environment.

#### **Disposal of building waste**

**35.(1)** It is an offence for any person to deposit building waste at any place other than a waste disposal site.

(2) Builder's waste may, with the prior written consent of the Municipality, be deposited at a place other than one of the Municipality's waste disposal sites for the purpose of reclaiming land.

(3) Any consent given in terms of subsection (2) must be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality must have regard to—

- (a) the safety of the public;
- (b) the environment of the proposed disposal site;
- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of waste at the site;
- (e) the levelling of the site;
- (f) the control of dust; and
- (g) any other relevant factors.

(4) Every waste generator, building contractor and waste removal contractor is obliged, when depositing building waste at a waste disposal site, to obtain and retain for a period of 12 months a weigh bill from the authorised official at the waste disposal site confirming the nature and weight of building waste deposited.

(5) It shall be presumed, until the contrary has been proven, that building waste has been disposed of contrary to the provisions of this section if the waste generator, building contractor or waste removal contractor is unable to produce a weigh bridge certificate or certificates confirming that—

- (a) the building waste was disposed of at a waste disposal site; or
- (b) an amount of building waste was disposed of at a waste disposal site which could reasonably be expected to have been generated from the building operations concerned as determined by the Head of Department or any other qualified person designated by him or her.

## **CHAPTER 7 EVENT WASTE**

### **Responsibility for event waste**

**36.(1)** An event organiser and venue owner, as defined in section 1, is responsible for storing, collecting, recycling and disposing of waste generated before, during and after an event.

(2) An event organiser and venue owner must ensure that an authorised waste removal contractor is contracted to collect and dispose of waste generated before, during and after an event in terms of this By-law.

### **Integrated waste management plans for events**

**37.(1)** An event organiser and venue owner must develop an integrated waste management plan in respect of each event.

(2) The integrated waste management plan must—

- (a) be delivered to the Municipality at least 10 working days before the proposed event; and
- (b) deal with at least the following matters:
  - (i) the full names and contact details of the event organiser;
  - (ii) the full names and contact details of the owner of the premises at which the event will be held;
  - (iii) the nature and duration of the event;
  - (iv) the estimated costs of waste management associated with the event; and
  - (v) the information as required under subsection 38(2).

(3) The Municipality must consider the integrated waste management plan and—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame;
- (c) require amendments to be made within a time frame so specified; or
- (d) reject the plan and provide reasons therefore.

(4) If an event organiser and venue owner fail to comply with any provision of this section or the integrated waste management plan submitted in terms of this section, the Municipality may arrange for the collection, recycling and disposal of the waste at the cost of the event organiser and venue owner and recover the cost from the deposit paid.

(5) If no deposit was paid by the event organiser and venue owner, the event organiser and venue owner are jointly and severally liable for any expenses incurred by the Municipality in this regard.

(6) Should an event holder fail to provide an integrated waste management plan in respect of an event, the Municipality may appoint a service provider to obtain information and prepare a plan at the cost of the event organiser.

## **CHAPTER 8 WASTE MANAGEMENT PLANS**

### **Integrated waste management plans**

**38.**(1) An integrated waste management plan must be submitted to the Municipality by waste generators who generate the following types of waste before they begin generating such waste:

- (a) business waste;
- (b) industrial waste;
- (c) building waste;
- (d) event waste;
- (e) hazardous waste; and
- (f) health care waste.

(2) An integrated waste management plan must include at least the following information:

- (a) a description of the type of waste that will be generated;
- (b) an assessment of the quantity of waste that will be generated;
- (c) the premises at which the waste will be generated;
- (d) how waste generated will be stored, collected, recycled and disposed of;
- (e) the full names and contact details of any authorised waste removal contractor contracted by the waste generator and proof that he or she has been contracted to collect and dispose of waste;
- (f) a description of how the waste generator intends separating recyclable and non-recyclable material at the point of source;
- (g) a description of the waste generator's waste minimisation and pollution prevention plans;
- (h) an assessment of the impact or potential impact on the environment of the waste generated;
- (i) the waste generator's targets for waste reduction, re-use and recycling; and

(j) the waste generator's reduction measures or programmes that can minimise the consumption of natural resources.

(3) The Municipality may, on 90 days notice, instruct any waste generator to supply a new or amended integrated waste management plan in order to comply with this By-law and any other relevant legislation.

(4) When instructed to submit an integrated waste management plan or a new or amended integrated waste management plan in terms of this By-law, a waste generator shall do so within the time stipulated in the instruction.

(5) The Municipality must consider the integrated waste management plan and—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame;
- (c) require amendments to be made within a time frame so specified; or
- (d) reject the plan and provide reasons therefore.

(6) If an integrated waste management plan is rejected or not submitted at all, the Municipality shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator fail to take such measures within the time frame specified by the Municipality, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.

(7) The Head of Department may by written notice require any person to provide such information as he or she requires when considering an integrated waste management plan.

(8) Should a person fail to provide the information referred to in this section, the Municipality may appoint a service provider to obtain information and prepare a plan at the cost of the waste generator.

### **Exemptions from submitting an integrated waste management plan**

**39.**(1) A waste generator may apply in writing for exemption from the requirement to prepare an integrated waste management plan.

(2) The Municipality may declare—

- (a) certain classes of waste;
- (b) a particular mass or volume of waste;
- (c) a particular waste generator or a class of waste generators; or
- (d) waste generators whose waste management plans have been approved by other spheres of government in terms of applicable legislation,

to be exempt from the requirement to submit an integrated waste management plan.

## CHAPTER 9

### RECYCLING, RE-USE, SORTING AND REDUCTION OF WASTE

#### **Recycling, re-use, sorting and reduction of waste**

40.(1) No person may, except for their own domestic purposes—

- (a) recycle, re-use or recover waste;
- (b) sort waste; or
- (c) operate as a scrap dealer or buy-back centre,

without a permit issued by the Municipality .

(2) When applying for a permit from the Municipality, the applicant must—

- (a) submit an environmental impact assessment or any similar assessment required by national or provincial legislation, showing that the proposed recycling, re-use or reduction of the waste will be less harmful to the environment than its disposal;
- (b) submit an integrated waste management plan; and
- (c) comply with any other requirements set by the Municipality.

(3) Any person who handles, transports, processes, treats or disposes of waste for recycling purposes must provide the Municipality with a written report on their activities in a format and at such frequencies as may be determined by the Municipality.

(4) The Municipality may exempt waste generators, handlers, transporters or agents from the requirements of this Chapter in circumstances where the mass or volume of the waste generated is below a threshold stipulated by the Municipality.

(5) The Municipality may determine—

- (a) categories of waste which must be recycled;
- (b) categories of waste generators which must engage in specified forms of recycling;

and

- (c) standards and other rules applicable to recycling.

## CHAPTER 10 WASTE DISPOSAL SITES

### **Waste prohibited at municipal disposal sites**

**41.**(1) No person may deliver to, or discharge at, a municipal waste disposal site any of the following types of waste without the specific prior written approval of the Municipality:

- (a) any waste which is a fire hazard by virtue of having a closed cup flashpoint greater than 61°C;
- (b) any waste containing a substance which is a Group A or Group B carcinogen as defined by the International Agency for Research on Cancer;
- (c) any waste containing a substance which is a Group C or Group D carcinogen as defined by the International Agency for Research on Cancer at a concentration greater than 1%;
- (d) any waste containing a substance which is a mutagen;
- (e) any health care waste, unless it has been incinerated at 800°C or higher for at least 1 second;
- (f) any waste containing a substance with a median lethal dose of LD50 for acute oral toxicity, as defined in SABS 0228: 1995, less than or equal to 5000 milligrams per kilogram;
- (g) any waste containing a substance with a median lethal dose of LD50 for acute dermal toxicity, as defined in SABS 0228: 1995, less than or equal to 2000 milligrams per kilogram;
- (h) any waste containing a substance with a lethal concentration of LC50 for acute toxicity on inhalation, as defined in SABS 0228: 1995 less than or equal to 10 milligrams per litre;
- (i) any waste with a pH less than 6 or greater than 12;

- (j) any waste which falls into Class 1 (explosives), Class 2 (compressed gases) or Class 7 (radioactive materials) as specified in SABS 0228:1995;
- (k) any waste containing a substance listed in SABS 0228:1995;
- (l) any waste which is difficult to analyse and classify;
- (m) paints and paint sludges;
- (n) laboratory chemicals;
- (o) any waste which will or might reasonably chemically attack the waste disposal facility; and
- (p) any waste which separately, or when mixed with other waste, creates or has the potential to create a health hazard or a nuisance.

(2) The waste generator and any waste removal contractor are jointly and severally liable for any costs incurred by the Municipality in remedying damage or in abating any nuisance caused by the discharge of waste at a disposal site in contravention of this By-law, and for the amount of any legal liability or costs incurred by the Municipality in respect of any claim arising from any nuisance.

#### **Conduct at municipal disposal sites**

**42.(1)** No person may enter a waste disposal site controlled by the Municipality for any purpose other than the disposal of waste in terms of this By-law and then only at such times and between such hours as the Municipality may from time to time determine.

(2) Every person who, for the purpose of disposing of waste, enters a waste disposal site controlled by the Municipality must—

- (a) enter the waste disposal site only at an authorised access point as indicated by the Municipality;
- (b) present the waste for weighing in the manner required by the authorised official;
- (c) give to the authorised official all the particulars required in regard to the composition of the waste;
- (d) follow all instructions given to him or her with regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited;
- (e) provide the authorised official with full information as to the person who is liable to pay the tariff charge for the waste deposited to enable an account to be rendered to him or her, and

(f) provide the authorised official with a cash payment on his or her own behalf or on behalf of any person who is liable to pay the tariff charge for the waste deposited,  
: Provided that the provisions of paragraphs (b), (c) and (e) above do not apply to a person who, in terms of section 18(2) of this By-law, has entered a disposal site for the purpose of disposing of garden refuse.

(3) No person may bring any intoxicating liquor or any drug onto a waste disposal site controlled by the Municipality.

(4) No person may cause or allow a vehicle in his or her charge to remain at a disposal site for longer than is necessary for the discharge of waste.

(5) If for any reason a vehicle becomes incapable of leaving the site under its own power the person in charge of the vehicle must take immediate steps to prevent any obstruction on the site by the vehicle and to remove it from the site.

(6) In failing to comply with subsection (5), an authorised official may take steps to remove the vehicle from the site, or cause these steps to be taken, at the cost of the owner of the vehicle.

(7) Neither the Municipality nor any employee of the Municipality incurs liability to the owner for any loss or damage which may be suffered by him or her as a result of any action taken in terms of subsection (6).

(8) No person may deliver to or discharge at a waste disposal site any liquid waste or cause the same to be done, except with the prior written permission of the Municipality and in accordance with such conditions as may be imposed by it.

#### **Waste suitable for use**

**43.** Notwithstanding anything contained in this By-law, no charge is payable when a person wishes to deposit at a waste disposal site controlled by the Municipality any waste approved by the Municipality as suitable for top cover, road surfacing or other purposes connected with the waste disposal site.

## CHAPTER 11 PRIVATE WASTE REMOVAL CONTRACTORS

### **Private waste removal contractors**

44.(1) Waste may only be collected and removed from premises by a waste removal contractor who has been—

- (a) issued with a scheduled activity permit in terms of the Municipality's Scheduled Activities By-law; and
- (b) authorised in writing by the Municipality.

(2) Application for authorisation as a waste removal contractor must be made to the Municipality on the form prescribed.

(3) The authority contemplated by subsection (1) may be granted or refused at the discretion of the Municipality and may be subject to such conditions, whether as to period of validity, the type of waste which may be collected and removed, or otherwise, as the Municipality may impose.

(4) No person must hold himself or herself out to be, or act as, a waste removal contractor if—

- (a) he or she has not been authorised to do so in terms of subsection (1); or
- (b) his or her approval has expired or been withdrawn.

(5) No waste removal contractor may contravene any condition imposed on him or her in terms of subsection (3).

(6) No person may employ a waste removal contractor who has not been authorised in writing by the Municipality in terms of subsection (1).

(7) Any waste generator who intends to appoint an authorised waste removal contractor must notify the Municipality in writing of that fact and must likewise notify the Municipality whenever such engagement is terminated.

(8) If the waste generator has given notice in terms of subsection (7), the waste generator is thereafter responsible for ensuring that waste, excluding domestic waste, is collected and

removed in compliance with the provisions of this By-law within a reasonable time after the generation thereof.

(9) The Municipality may, if waste is not being collected and removed to the Municipality's satisfaction from any premises by an approved waste removal contractor, by written notice to a waste generator instruct him or her to terminate the services of the contractor concerned and to use the service provided by the Municipality for the collection and removal of waste with effect from a date specified in such notice.

(10) A waste removal contractor may not remove waste from any premises unless he or she is provided with proof that the waste generator has notified the Municipality in writing that the waste generator has entered into a contract with a waste removal contractor for the removal of such waste and that the Municipality should not provide a service to the premises for its removal.

(11) If the Municipality believes that there are grounds to suspend or withdraw authorisation given to a waste removal contractor, the following procedure must be followed:

(a) the Municipality must give the waste removal contractor at least 21 days written notice by hand delivery or registered mail of the Municipality's intention to suspend or withdraw the authorisation;

(b) the notice referred to in paragraph (a) must include:

(i) a statement setting out the nature of the proposed action;

(ii) the reasons for the proposed action;

(iii) an invitation to make written representations on the matter;

(iv) an address at which representations may be submitted; and

(v) the date, time and place of a hearing, which may not be less than 15 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the waste removal contractor may submit representations and appear at the hearing;

(c) the waste removal contractor must be given an opportunity to, either personally or through his or her duly authorised representative, appear at a hearing and to make representations before the Head of Department;

(d) if a waste removal contractor wishes to appear at a hearing and to oppose the proposed action, he or she must, within seven days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by registered mail to the address indicated in the notice; and

(e) after the hearing, the Head of Department must give a ruling on whether or not to suspend or withdraw the authorisation and must give the waste removal contractor its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

## CHAPTER 12 ENFORCEMENT

### **Accumulation of waste**

**45.**(1) If waste accumulates on premises so as to constitute a nuisance, or in such a way that it is likely that a nuisance will be created, the Municipality may at the waste generator's cost remove the waste or cause the waste to be removed.

(2) Where the Municipality removes such waste, the waste generator shall be liable for the tariff charge of collecting and removing the waste.

### **Waste needing special treatment**

**46.**(1) The Municipality may serve written notice on the occupier of any premises or in the case of vacant land, on the owner of the premises, requiring that special measures be taken for the collection, temporary storage, disposal or treatment of any waste on the premises concerned, within such time period as may be stipulated, if the Municipality is of the opinion that the measures are required in order to avoid or remove a health hazard or nuisance.

(2) Failure to comply with a notice issued in terms of subsection (1) is an offence.

(3) In the event of non-compliance with subsection (1), the Municipality may, in addition to any fines imposed on the waste generator, arrange for such measures to be carried out at the expense of the person on whom the notice was served.

### **Access to premises**

**47.**(1) An authorised official is entitled to access any premises on which waste is generated for the—

- (a) purpose of ensuring compliance with this By-law; and
- (b) delivery of any notice required under this By-law.

(2) An authorised official is entitled to take samples of waste and to test any waste found on the premises in order to ascertain its composition.

### **Transporting of waste**

**48.**(1) Any person removing or transporting waste or other offensive matter must remove the waste or matter—

- (a) only by means of a properly constructed and enclosed vehicle; and
- (b) in such manner as will prevent the waste from accidentally falling from the vehicle or from any other nuisance arising.

(2) No person may, without the prior written consent of the Municipality, transport waste from any premises along a street or public place in order to gain access to a waste storage area located elsewhere on the same premises.

(3) The Municipality may serve a written notice upon any person who transports waste or offensive material by means of a street or public place, imposing any conditions on the manner in which, or the times during which, waste may be transported if it is of the opinion that the transport of the waste is likely to be objectionable or to give rise to nuisance.

## **CHAPTER 13 OFFENCES AND PENALTIES**

### **Dumping: general**

**49.**(1) No person may dump waste in a manner not permitted in terms of this By-law, nor may any person allow a person under his or her control to do so.

(2) Any person found guilty of dumping shall be liable for a fine or imprisonment as set out in this By-law.

(3) The Municipality may take such measures as are necessary to remove and dispose of waste which has been dumped and the person responsible for dumping the waste shall, in addition to any penalties imposed in terms of this By-law, be liable for the Municipality's costs in removing and disposing of the waste.

### **Dumping on private land**

**50.**(1) The owner of private land to which the public has access must ensure that sufficient containers are provided to contain litter which is discarded by the public.

(2) If subsection (1) is contravened, the Municipality may direct, by way of a written notice to the owner, that he or she—

- (a) cease the contravention, in a specified time;
- (b) prevent a further contravention or the continuation of the contravention; and
- (c) take whatever measures the Municipality considers necessary to clean up or remove the waste and to rehabilitate the area, to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully.

(3) The Municipality may in respect of the notice contemplated in subsection (2)(c) state that the owner must, within a maximum of five working days remove the waste or litter, provided the Municipality may grant a further 2 days, on request by the owner, to remove the litter or waste.

(4) A person who owns land or premises, or who is in control of or has a right to use land or premises, must—

- (a) not use or permit the use of the land or premises for unlawful dumping of waste;
- (b) take reasonable steps to prevent the use of the land or premises for that purpose; and
- (c) report all unlawful dumping of waste on the land or premises to the Municipality.

(5) The Municipality may take such measures as are necessary to remove and dispose of waste which has been dumped in contravention of subsection (4) and the person

responsible for dumping the waste shall, in addition to any penalties imposed in terms of this By-law, be liable for the Municipality's costs in removing and disposing the waste.

#### **Dumping: whistle blowing**

**51.(1)** The Municipality may establish mechanisms to assist members of the public to report instances of dumping in contravention of this By-law.

(2) Any whistle blowing mechanism established in terms of subsection (1) may, at the discretion of the Municipality, provide for the reporting of dumping on an anonymous or other basis.

#### **Dumping: naming and shaming**

**52.(1)** The Municipality may publish the name of any person convicted of dumping in contravention of this By-law, along with details of that person's offence.

(2) The names and details of dumping in contravention of this By-law, as contemplated in subsection (1), may be published—

- (a) on the Municipality's website;
- (b) by posting these details on the Municipality's notice boards;
- (c) in the media; or
- (d) in any other manner deemed appropriate by the Municipality.

#### **Offences**

**53.** A person is guilty of an offence under this By-law if he or she—

- (a) unlawfully prevents an authorised official entry to his or her premises or causes or permits any other person to prevent entry;
- (b) obstructs or hinders an authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the official;
- (c) refuses or fails to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
- (d) knowingly gives false or misleading information to an authorised official;
- (e) impersonates an authorised official;
- (f) contravenes or fails to comply with any provision of this By-law;

- (g) dumps waste;
- (h) contravenes any provision or condition in respect of a consent or authorisation given to him or her; or
- (i) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

### **Penalties**

**54.**(1) Any person who is convicted of an offence under this By-law shall be liable to a fine of an amount not exceeding R500 000 or to imprisonment for a period not exceeding 3 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R500 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed

## **CHAPTER 14 MISCELLANEOUS PROVISIONS**

### **Ownership of waste**

**55.** All waste removed by the Municipality and all waste deposited at waste disposal sites controlled by the Municipality is the property of the Municipality.

### **Delegations**

**56.**(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 Municipality, 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 Municipality 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**

**57.** (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**

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

(2) All notices published under the Refuse Removal By-law, Municipal Notice number 47 of 2002 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.

### **Short title and commencement**

**59.** This By-law is called the eThekweni Municipality Waste Removal By-law, 2016 and takes effect six months from the date of publication thereof in the *Provincial Gazette* or on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.

**SCHEDULE 1:  
LAWS REPEALED**  
*(Section 58)*

**BY-LAW OF THE FORMER MUNICIPALITY OF DURBAN**

<b><i>Number and year of law</i></b>	<b><i>Title</i></b>	<b><i>Extent of repeal</i></b>
Municipal Notice No. 40 of 1985	Tariff of Charges in terms of the Refuse Removal By-laws, Municipality of Durban	The whole
Municipal Notice No. 47 of 2002	Refuse Removal By-laws, eThekweni Municipality	The whole

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**ISAZISO SOMPHAKATHI**

**UMTHETHO KAMASIPALA WOKUSUSWA KWEMFUCUZA, KA-2016**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini ngokwesinqumo esathathwa ngokwesigaba 12 soMthetho i-Local Government: Municipal Systems Act, 2000 (uMthetho No. 32 ka-2000), usushaye uMthetho kaMasipala Wokususwa Kwemfucuza, ka-2016.

**Sibusiso Sithole**  
**iMenenja yeDolobha**

City Hall  
Dr Pixley ka-Isaka Seme Street  
eThekwini

**UMASIPALA WETHEKU: UMTHETHO KAMASIPALA WOKUSUSWA KWEMFUCUZA  
KA-2016**



Wemukelwe wuMkhandlu mhla ka:

Ushaywe mhla ka:

**UMTHETHO KAMASIPALA WOKUSUSWA KWEMFUCUZA KA-2016**

**Wokuhlinzekela ukuqoqwa nokususwa kwemfucuzi yasekhaya neyamabhizinisi; wokuyalela ukuba abadali bemfucuzi bayiqoqe futhi basuse imfucuzi eyinqwaba, imfucuzi yokwakha, imfucuzi yasengadini, imfucuzi enobungozi, imfucuzi yezimboni, imfucuzi yezempilo, imfucuzi yasekhaya ekhethekile kanye neyezimboni ekhethekile; wokuhlinzekela ukugcinwa okwesikhashana kwemfucuzi ngaphambi kokuba iqoqwe; wokuhlinzekela ukusebenza kwezindawo zokulahla imfucuzi yasengadini; wokubeka izibopho mayelana nemfucuzi yezimboni ekhethekile, imfucuzi enobungozi neyezempilo; wokuhlinzekela ukuba kube nobufakazi bokuhlwa kwemfucuzi yokwakha; wokubeka izibopho mayelana nemfucuzi yemicimbi; wokuhlinzekela ukuba kube nezinhlelo zokwenganyelwa kwemfucuzi; wokukhuthaza ukuguqulwa kwemfucuzi iphinde isebenziseke; wokuhlinzekela ngendlela yokuziphatha ezindawo zokulahla imfucuzi zikaMasipala; wokulawula osonkontileka abasusa imfucuzi abazimele kanye nokuhlawulisa labo abalahla ngokungemthetho kanye namanye amacala kanye nokuhlinzekela izindaba eziphathelene nalokho.**

**ISENDLALELO**

**NJENGOBA** wonke umuntu enelungelo lokuba sendaweni ephaphile empilweni noma kwinhlalakahle yakhe ngokwesigaba 24(a) soMthethosisekelo;

**NJENGOBA** enye yezinjongo zoMkhandlu kaMasipala weTheku, ngokwesigaba 152(d) soMthethosisekelo, kungukukhuthaza ukuba kube nezindawo eziphaphile nezinempilo;

**NJENGOBA** kunesidingo sokulawula ukuthuthwa kwemfucuzi kuyo yonke indawo engaphansi kukaMasipala weTheku ukuze kuqinisekise ukuthi indawo iphaphile futhi inempilo;

**NJENGOBA** uMasipala unamandla ngokweNgxenywe B kaSheduli 5 yoMthethosisekelo okulawula ukususwa kwemfucuzi, izindawo zolahlwa ngokungemthetho kwemfucuzi kanye nokuhlwa kwemfucuzi eqinile.

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

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

## OKUQUKETHWE

### ISAPHLUKO 1 UKUHUNYUSHWA

1. Izincazelo
2. Ukuhunyushwa kwalo Mthetho kaMasipala
3. Izinjongo zalo Mthetho kaMasipala
4. Ukusebenza kwalo Mthetho kaMasipala

### ISAPHLUKO 2 IMFUCUZA YASEKHAYA NEYEBHIZINISI

5. Umsebenzi wokususwa kwemfucuzo yasekhaya neyebhizinisi
6. Imigqomo yemfucuzo neziqokathi zemfucuzo eyinqwaba
7. Iziqukathi zemfucuzo ezihlinzekwe wuMasipala
8. Izindawo zokugcina imfucuzo
9. Usuku lokuqoqwa kwemfucuzo
10. Okungavumelekile ukufakwa kwiziqukathi zemfucuzo
11. Isaziso sikaMasipala mayelana nabadali bemfucuzo abasha
12. Isaziso sikaMasipala mayelana nokuguquka kwezimo
13. Opulasitiki bemfucuzo abalahlwayo kanye neziqokathi zemfucuzo yasekhaya
14. Izimali ezikhokhelwa ukususwa kwemfucuzo yasekhaya neyamabhizinisi
15. Izimali ezikhokhelwa ukususwa kwemfucuzo emabhizinisini asekhaya

### **ISAPLUKO 3**

#### **IMFUCUZA YASENGADINI, IMFUCUZA EKHETHEKILE YASEKHAYA NEYINQWABA**

16. Akukho mfucuza yasengadini, ekhethekile yasekhaya noma eyinqwaba eyosuswa wuMasipala
17. Imfucuza yasengadini, ekhethekile yasekhaya noma eyinqwaba
18. Izindawo zokulahla imfucuza yengadi
19. Ukulahlwa kwemfucuza ekhethekile yasekhaya neyinqwaba
20. Imisebenzi ekhethekile kaMasipala

### **ISAPLUKO 4**

#### **IMFUCUZA YEZIMBONI**

21. Akukho mfucuza yezimboni eyosuswa wuMasipala
22. Ukususwa kwemfucuza yezimboni
23. Imigqomo yemfucuza neziqukathi zemfucuza eyinqwaba: imfucuza yezimboni
24. Izindawo zokugcina imfucuza: imfucuza yezimboni
25. Umsebenzi kaMasipala okhethekile: imfucuza yezimboni

### **ISAPLUKO 5**

#### **IMFUCUZA YEZIMBONI EKHETHEKILE, ENOBUNGOZI NEYEZEMPILU**

26. Akukho mfucuza yezimboni ekhethekile, imfucuza enobungozi noma yezempilo eyosuswa wuMasipala
27. Ukususwa kwemfucuza yezimboni ekhethekile, enobungozi neyezempilo
28. Imigqomo yemfucuza neziqukathi zemfucuza eyinqwaba
29. Izindawo zokugcina imfucuza ekhethekile yezimboni, enobungozi neyezempilo
30. Isaziso ngokudalwa kwemfucuza
31. Ukususwa kwemfucuza yezimboni ekhethekile, enobungozi neyezempilo

### **ISAPLUKO 6**

#### **IMFUCUZA YOKWAKHA**

32. Akukho mfucuza yokwakha eyosuswa wuMasipala
33. Ukususwa kwemfucuza yokwakha

- 34. Ukugcinwa kwemfucuza yokwakha
- 35. Ukulahlwa kwemfucuza yokwakha

**ISAPHLUKO 7  
IMFUCUZA YEMICIMBI**

- 36. Ukubophezeleka ngemfucuza yemicimbi
- 37. Izinhlelo ezididiyelwe zokwengamela imfucuza yemicimbi

**ISAPHLUKO 8  
IZINHLELO ZOKWENGANYELWA KWEMFUCUZA**

- 38. Izinhlelo ezididiyelwe zokwengamela imfucuza
- 39. Ukukhululwa ekwethuleni uhlelo oludidiyelwe lokwengamela imfucuza

**ISAPHLUKO 9  
UKUVUSELELA, UKUSEBENZISA KABUSHA NOKUNCIPHISA IMFUCUZA**

- 40. Ukuvuselela, ukusebenzisa kabusha, ukuhlela nokunciphisa imfucuza

**ISAPHLUKO 10  
IZINDAWO ZOKULAHLA IMFUCUZA**

- 41. Imfucuza engavumelekile ezindaweni zokulahla zikaMasipala
- 42. Ukuziphatha ezindaweni zokulahla zikaMasipala
- 43. Imfucuza elungele ukusetshenziswa

**ISAPHLUKO 11  
OSONKONTILEKA ABASUSA IMFUCUZA ABAZIMELE**

- 44. Osonkontileka abasusa imfucuza abazimele

**ISAPHLUKO 12**  
**UKUQINISWA KOMTHETHO**

- 45. Ukunqwabelana kwemfucuza
- 46. Imfucuza edinga ukunakekelwa okukhethekile
- 47. Ukufinyelela ezakhiweni
- 48. Ukuthuthwa kwemfucuza

**ISAPHLUKO 13**  
**AMACALA NEZINHLAWULO**

- 49. Ukulahla ngokungemthetho: okwejwayelekile
- 50. Ukulahla ngokungemthetho emhlabeni ozimele
- 51. Ukulahla ngokungemthetho: inhlabamkhosi
- 52. Ukulahla ngokungemthetho: ukudalula nokuhlaza
- 53. Amacala
- 54. Izinhlawulo

**ISAPHLUKO 14**  
**IZIHLINZEKO EZIYINGXUBEVANGE**

- 55. Ubunikazi bemfucuza
- 56. Ukudluliselwa kwamandla
- 57. Ukudluliswa kwezinqumo
- 58. Ukuchithwa kwemithetho nokuhambisana nayo
- 59. Isihloko esifingqiwe nokuqala ukusebenza komthetho

## USHEDULI 1: IMITHETHO ECHITHWAYO

### ISAPHLUKO 1 UKUHUNYUSHWA

#### Izincazelo

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

**“izindlu zokuhlala”** kushiwo izindlu zokuhlala njengoba zichazwe eMthethweni kaMasipala weZindlu zokuHlala;

**“umsebenzi ogunyaziwe”** kushiwo umuntu ogunyaziwe ukusebenzisa izihlinzeko zalo Mthetho, kubandakanya phakathi kokunye –

(a) abasebenzi ababhekele ukuthula njengoba kubekiwe esigabeni 334 soMthetho Wenqubo Yokubhekana Nobugebengu ka-1977 (uMthetho No. 52 ka-1977);

(b) amaphoyisa kaMasipala njengoba kubekiwe eMthethweni Wezamaphoyisa WaseNingizimu Afrika ka-1995 (uMthetho No. 68 ka-1995); kanye

(c) nabasebenzi, ama-ejenti, izithunywa, nosonkontileka bakaMasipala abagunyazwe ngendlela efanele wuMasipala ngalokhu: Kuncike ekutheni ngokwezinhloso zokusesha nokudla impahla, uma lowo muntu engelona iphoyisa, lowo muntu kumele aphekezelwe yiphoyisa.

**“usonkontileka osusa imfucuzo ogunyaziwe”** kushiwo –

(a) usonkontileka osusa imfucuzo ozimele onesivumelwano noMasipala ukuba ahlinzeke imisebenzi yokususa imfucuzo egameni likaMasipala; noma

(b) usonkontileka osusa imfucuzo ozimele onemvume kaMasipala emgunyaza ukuba asayine isivumelwano ngqo nabadali bemfucuzo ukuze abahlinzeke ngemisebenzi yokususa imfucuzo bamkhokhele ngokwabo.

**“ibhishi”** kushiwo isiqephu somhlaba esingaphezu futhi esigudle ugu lolwandle esihlanganisa notshani obusonqenqemeni (uma bukhona);

**“indawo yokulala nesidlo sasekuseni”** kushiwo indlu yokuhlala, njengoba kuchazwe eMthethweni kaMasipala weziNdlu zokuHlala;

**“imfucuzo yokwakha”** kushiwo nayiphi imfucuzo edaleke ngenkathi –

(a) kumbiwa; noma

(b) kwakhiwa, kulungiswa noma kudilizwa noma isiphi isakhiwo, kubandakanya izinsalela zokubhidliza, umhlabathi, utshani namatshe okukhishwe ngenkathi kwakhiwa;

**“isiqukathi semfucuzo eyinqwaba”** kushiwo isiqukathi esakhelwe ukugcina okwesikhashana imfucuzo, esinesisindo esingaphezu kwamamitha amabili ( $2m^3$ ) kodwa angaphansi kwamamitha ayisithupha ( $6m^3$ ), kungaba esinamasondo noma esingenawo, futhi esihambisana –

(a) nezimfuneko zabakwa-SABS ezingunombolo 493-1973: ezimayelana nemigqomo yemfucuzo yensimbi; noma

(b) nezimfuneko zabakwa-SABS ezingunombolo 1310-1980: ezimayelana nemigqomo yemfucuzo eyakhiwe ngokusapulastiki;

njengoba zashicilelwa eSazisweni Sikawonkewonke No. 463 sangomhlaka 9 kuJulayi 1982;

**“imfucuzo eyinqwaba”** kushiwo imfucuzo yasekhaya noma yebhizinisi okuthi, ngenxa yokusinda, yokuma, kasayizi noma yobuningi bayo, okungeke kube lula –

(a) ukuba igcinwe esiqukathini semfucuzo; noma

(b) ukuba isuswe ngokohlelo olwejwayelekile lukaMasipala lokususwa kwemfucuzo yasekhaya noma yamabhizinisi;

**“imfucuzo yebhizinisi”** kushiwo imfucuzo edaleke esakhiweni esisetshenziselwa izinhloso okungezona zokuhlala futhi ihlanganisa nemfucuzo edalwa ngabadayisi basemgwaqeni kanye nemfucuzo edaleka esakhiweni sokuhlala lapho kwenzelwa khona ibhizinisi, akukhathaleki noma ngabe leyo misebenzi isemthethweni noma cha, kepha ayikufaki lokhu -

(a) imfucuzo eyinqwaba;

(b) imfucuzo yokwakha;

(c) imfucuzo enobungozi;

- (d) imfucuza yezimboni;
- (e) imfucuza yezempilo;
- (f) imfucuza eguqulekayo iphinde isebenze; kanye
- (g) nemfucuza yezimboni ekhethekile.

**“imfucuza yasekhaya”** kushiwo imfucuza edaleka esakhiweni okuhlalwa kuso, kubalwa umanyolo noma umquba wanoma yisiphi isilwane noma inyoni esifuyiwe ekhaya, kodwa hhayi lokhu okulandelayo –

- (a) isihlabathi;
- (b) umhlaba;
- (c) okusaketshezi;
- (d) imfucuza yasengadini;
- (e) isidumbu sesilwane esifile; kanye
- (f) nemfucuza yasekhaya ekhethekile.

**“ukulahla ngokungemthetho”** kushiwo ukulahla imfucuza ngendlela engavumelekile ngokwalo Mthetho KaMasipala futhi kubandakanya, ngale kokufaka umkhawulo ekuxubeni kwalokhu osekushiwo, ukuthulula, ukwethula, ukwehlisa, ukuchitha, ukudedela noma ukugcina imfucuza nakuyiphi indawo, kungaba eyomphakathi noma ezimele, kubandakanya kodwa kungagcini lapho –

- (a) indawo yomphakathi;
- (b) umgwaqo womphakathi;
- (c) amapayipi endle noma amanzi emvula;
- (d) umhlaba ongasebenzi;
- (e) ibhishi noma unqenqema lolwandle; kanye
- (f) nomthombo wamanzi.

**“umcimbi”** kushiwo namuphi umcimbi wezemidlalo, ezobumnandi, ezamasiko, ezenkolo noma omunye umcimbi osingathwe ngaphansi kukaMasipala;

**“umhleli womcimbi”** kushiwo namuphi umuntu onezinhlelo, owengamele, osingethe, ophethe noma onamalungelo oxhaso mayelana nomcimbi, noma ngayiphi indlela, olawula noma onentshisekelo ekusingathweni komcimbi, njengoba kuchaziwe eMthethweni Wezokuphepha Emicimbini Yezemidlalo Neyokungcebeleka, ka-2010 (uMthetho No. 2 ka-2010);

**“imfucuza yomcimbi”** kushiwo imfucuza edalwe noma edaleke ngenkathi kunomcimbi noma nakuphi okuhlobene nomcimbi, akukhathalekile ukuthi lowo mcimbi wenzeka esakhiweni somuntu sangasese noma esakhiweni somphakathi;

**“imfucuza yasengadini”** kushiwo imfucuza evundile edaleka ngenkathi kusetshenzwa ezaleni lanoma yisiphi isakhiwo, njengalokhu –

- (a) utshani obunqunyiwe;
- (b) amaqabunga;
- (c) izitshalo;
- (d) izimbali;
- (e) ukhula; kanye
- (f) nezihlahla ezinqanyuliwe, uheshi noma ucingo (inqobo nje uma kungenamagatsha anokuvuleka okwedlula amamilimitha angama-40);

**“indawo yemfucuza yasengadini”** kushiwo indawo ehlinzekwe wuMasipala ukuba kulahlwe noma kugcinwe kuyo imfucuza yasengadini okwesikhashana ngokubona kukaMasipala;

**“umuzi wokusingatha izivakashi”** kushiwo indawo yokuhlalisa izivakashi njengoba kuchaziwe eMthethweni KaMasipala omayelana nendawo yokuhlalisa izivakashi;

**“imfucuza enobungozi”** kushiwo noma iyiphi imfucuza equkethe okuphilayo noma okungaphili okungathi ngenxa yomumo wakho, amakhemikhali akho noma ubuthi obukuyo kube nomthelela owubungozi empilweni nakwindalo njengoba kuchaziwe eMthethweni Wokwenganyelwa Kwemvelo Kazwelonke Omayelana Nemfucuza (uMthetho No. 59 ka-2008);

**“iNhloko Yomnyango”** kushiwo umuntu –

- (a) oqokwe njengenhloko yomnyango obhekele ukuhlanzeka nezindaba eziphathelele nemfucuza eqinile kuMasipala izikhathi ngezikhathi;
- (b) ogunyazwe ukuba enze lowo msebenzi;
- (c) nasiphi esinye isikhulu sikaMasipala esiphakanyiswe nguwo uMasipala ukuba senze ingxenye noma yonke le misebenzi yeNhloko Yomnyango ngaphansi kwalo Mthetho KaMasipala ngokuhambisana nalokho kuphakanyiswa;

“**imfucuz** **yezempilo**” kushiwo imfucuz edaleke esibhedlela, emtholampilo, endaweni okuhlala kuyo abahlengikazi, emagunjini odokotela, emalabholethri ezempilo, ezikhungweni zocwaningo, endaweni kadokotela wamazinyo, egunjini likadokotela wezifo zonke, endaweni yomelaphi wendabuko, endaweni kadokotela wesintu, endaweni kadokotela wezilwane noma nayiphi enye indawo lapho imfucuz yezempilo ethathelanayo noma enokuthathelana idaleka khona, kanti futhi ihlanganisa nalokhu okulandelayo nakuba kungagcini lapho –

- (a) imfucuz yamagciwane angadala isifo kubantu, kubandakanya kodwa kungagcini lapho, ezicutshini, emfuyweni nakwezinye izinto eziphilayo;
- (b) igazi lomuntu kanye nemikhiqizo yegazi, kubandakanya kodwa kungagcini lapho, umantshu, igazi eselikhishwe ububomvu balo kanye nezinye izingxenyegazi;
- (c) imfucuz yasemalabholethri exhumene nezifo zabantu, kubandakanya kodwa akugcini lapho, izicubu, izingxenyegazi zomzimba okukhishwe ngesikhathi kuhlinzwa abantu noma kuhlonzwa imbangela yokufa;
- (d) imfucuz yezilwane engcolisekile, kubandakanya kodwa kungagcini lapho, izidumbu zezilwane ezifile, izicubu zomzimba esezize zatholwa amagciwane athathelanayo;
- (e) imfucuz yabantu noma izilwane okubekwa emagunjini akho kodwa ngenxa yokuthi kuphethwe yizifo ezithathelana kalula;
- (f) izinaliti nemimese okungcolisekile noma okungangcolisekile, kubandakanya kodwa kungagcini lapho, izinto ezingadala ukusikeka ukujoveka ezifana nezinaliti, imijovo, imimese kanye namabhodlela;
- (g) amathuluzi ezempilo asesebenzile kanye nezinye izimpahla zezempilo ezingahle zidale noma zibhebhethekise isifo noma zidale ukubhebhetheka kwegciwane, kubandakanya kodwa kungagcini lapho, izindwangu zokubopha izilonda, amabhandishi, izikhwama zegazi, imfucuz yaselabholethri, amashubhu okumoma igazi, isikhwama sendle yomuntu ohlinzwe amathumbu, amagilavu, izikhwama zedriphu, amapulangwana okucindezela ulimi;
- (h) imikhiqizo yasekhemisi, kubandakanya kodwa kungagcini lapho, okokugoma izilwane nabantu, imithi nezidakamizwa; kanye
- (i) nemfucuz yekhemikhali elilimaza intwalalufuzo (i-DNA) okuvela uma kuzanywa ukuhlonza noma kuhlolwa okuthile noma kunanoma yimuphi omunye umthombo.

**“imfucuza yezimboni”** kushiwo imfucuza eqinile edaleka ngenxa yokukhiqiza, ukulungisa, noma ukudiliza noma imisebenzi yomashali bolayini bezitimela, okufaka nemfucuza yalolu hlobo ekhiqizwa ezindaweni zokuhlala ngenxa yokuqhuba ibhizinisi kulezo zindawo, ngale kokuthi lelo bhizinisi lenziwa ngokusemthethweni noma cha, kodwa ayibandakanyi imfucuza yokwakha, imfucuza yebhizinisi, imfucuza yasekhaya, imfucuza yezimboni ekhethekile. Imfucuza yezimboni ibandakanya imfucuza yalolu hlobo edaleka esakhiweni sokuhlala okuhweshelwa kuso, akukhathalekile noma ngabe lokho kuhweba okwenzelwa kuleso sakhiwo kusemthethweni noma cha;

**“umkhandlu kaMasipala”** noma **“umkhandlu”** kushiwo uMkhandlu kaMasipala weTheku, umkhandlu kaMasipala okukhulunywa ngawo esigabeni 157(1) soMthethosisekelo;

**“uMasipala”** kushiwo uMasipala weTheku, okunguMasipala ongena ngaphansi komasipala bohlobo olungu-A njengoba kubekiwe esigabeni 155(1) soMthethosisekelo waseNingizimu Afrika, futhi owasungulwa ngokulandela iSaziso Sesifundazwe No. 343 sika-2000 (KwaZulu-Natali);

**“imenenja kaMasipala”** kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho Wezinhlalo Zomasipala njengenhloko yezokuphatha emkhandlwini kaMasipala;

**“okokubolisa”** kushiwo umuthi noma ikhemikhali esheshisa ukubola ngokushintsha isimo sento eboliswayo;

**“umhlali”** kubandakanya –

(a) namuphi umuntu, kubalwa nomnikazi, okunguye ohlala esakhiweni, akukhathalekile ukuthi uhlala ngaphansi kwasiphi isikhundla kuleso sakhiwo, uma sikhona; kanye

(b) esimweni sesakhiwo esiqashiselwe abantu abangaphezulu koyedwa, nomuntu owemukela imali yerenti (yokuqasha) ekhokhwa ngabaqashile, kungabe uyazenzela noma ubambeke umuntu ofanele ukwemukela leyo mali yokuqasha;

**“umnikazi”** kushiwo –

(a) umuntu obhalisiwe njengomnikazi wesakhiwo ehhovisi eliqondene lokubhaliswa kwamatayitela;

(b) lapho umnikazi obhalisiwe wesakhiwo eshona noma enezikweletu ngokungahledeki, noma engaphansi kwesimo esithile sokukhubazeka esisemthethweni, lowo muntu osingethe noma olawula leso sakhiwo onikezwe amandla okuba wumbheki, umphatheli, umabi wamafa, umsingathi, imenenja yasenkantolo, umhlakazi noma omunye ommele wezomthetho;

(c) kunanoma yisiphi isimo lapho uMasipala ungakwazi ukuthola ukuthi ngubani lowo muntu, umuntu onelungelo lokuhlomula ekusetshenzisweni kwaleso sakhiwo noma kwalelo bhilidi noma amabhilidi kuleso sakhiwo;

(d) esimweni lapho leso sakhiwo sesiqashiswe isikhathi esiyiminyaka engama-30 noma ngaphezulu, oqashisiwe esakhiweni; noma

(e) mayelana –

(i) nesiqephu somhlaba esehlukaniswe ngokwepulani yezingxenyana ebhalisiwe ngokulandela uMthetho Wamatayitela Ezingxenyana ka-1986 (uMthetho No. 95 ka-1986), njengempahla enobunikazi obubambisene, umthuthukisi noma inhlango yabanikazi maqondana nalowo mhlaba oxube ubunikazi; noma

(ii) ingxenye njengoba kuchaziwe eMthethweni Wamatayitela Ezingxenyana, umuntu leyo ngxenye ebhaliswe ngaphansi kwegama lakhe ngaphansi kwetayitela lengxenye yomhlaba, futhi kubandakanya umphatheli oqokwe ngokusemthethweni yilowo muntu.

**“indawo yomphakathi”** kushiwo –

(a) umgwaqo womphakathi

(b) indawo yokupaka yomphakathi; noma

(c) nayiphi ipaki, inkundla yokungcebeleka, ibhishi, inxanxathela yezitolo, amathuna kaMasipala, indawo evulelekile, noma umhlaba ongasetshenziswa kaMasipala okusingethwe nguMasipala, noma umphakathi onelungelo lokuyisebenzisa, noma ekhonjiswa epulanini kawonkewonke elokishini yase ithunyelwa ohleni lwamatayitela abhalisiwe noma ehhovisi loMklamimhlaba Jikelele njengendawo ehlinzekelwe ukusetshenziswa wumphakathi noma abanikazi baleso siza kulelo lokishi;

**“umgwaqo womphakathi”** kushiwo namuphi umgwaqo, isitaladi noma indlela yokudlula noma nayiphi enye indawo (kungaba yindlela yokudlula noma cha)

evamise ukusetshenziswa wumphakathi noma yingxenywe yawo, noma umphakathi noma ingxenywe yawo enelungelo lokufinyelela kuyo, futhi kubandakanya –

- (a) unqenqema lwalowo mgwaqo, isitaladi noma indlela yokudlula;
- (b) naliphi ibhulohwe, isishushumbisi noma isikebhe okunqamula kulowo mgwaqo, isitaladi noma indlela yokudlula; kanye
- (c) namuphi omunye umsebenzi noma okuthile okuyingxenywe noma okuxhumene noma okungaphansi kwalowo mgwaqo, isitaladi noma indlela yokudlula;

**“isakhiwo”** kushiwo nasiphi isiza noma isiqephu somhlaba, ibhilidi, ikamelo, uhlaka, itende, iveni, imoto, umfudlana, idamu, ichibi, iphuli, umsele ovulekile, omboziwe noma ozibekelwe, okungakhathalekile ukuba uthuthukisiwe noma cha futhi okungakhathalekile noma owomphakathi noma owangasese;

**“imfucuzwa evuselelekayo”** kushiwo nanoma iyiphi imfucuzwa okuhloswe ukuba iphinde ikhiqizwe kabusha futhi ehlukaniwe kwenye imfucuzwa futhi esingethwe njengengaba wusizo wumdali wemfucuzwa noma umuntu osebenzela lowo mdali wemfucuzwa;

**“ukuvuselela imfucuzwa”** kushiwo ukuqoqwa, ukuhlukaniwa nokuthuthwa kwemfucuzwa ukuze iyodayiswa kabusha noma isetshenziswe kabusha uma sekukhiqizwa enye noma kwezinye izinhlelo;

**“isakhiwo okuhlalwa kuso”** kushiwo isakhiwo okuhlala kuso abantu, kodwa asifaki isikhungo sendawo yokulala izihambeli njengoba kuchaziwe eMthethweni KaMasipala omayelana nezikhungo zendawo yokulala izihambeli;

**“ugu lolwandle”** kushiwo unqenqema lolwandle njengoba kuchaziwe eMthethweni Wezemvelo Kazwelonke: Ukwenganyelwa Kogu Okudidiyelwe, ka-2008 (uMthetho No. 24 ka-2008);

**“isiqukathikazi”** kushiwo isiqukathi, esinesisindo esiphakathi kwamamitha ayisithupha (6m<sup>3</sup>) nayishumi nesishiyagalombili (18m<sup>3</sup>), esakhelwe ukugcina okwesikhashana imfucuzwa futhi esizolayishwa elolini ukuze kususwe leyo mfucuzwa kunokuba sithululelwe esakhiweni;

**“imfucuza ekhethekile yasekhaya”** kushiwo imfucuza yasekhaya okungathi ngenxa yokusinda, ukuma noma usayizi wayo kungabi lula –

- (a) ukuba igcinwe esiqukathini semfucuza; noma
- (b) ukuba isuswe ngokohlelo olwejwayelekile lukaMasipala lokususwa kwemfucuza yasekhaya;

**“imfucuza yezimboni ekhethekile”** kushiwo imfucuza, okubalwa kuyo uketshezi noma ubishi, edalwa –

- (a) uhlelo lokukhiqiza ezimbonini; noma
- (b) ukuhlanzwa, ngenhloso yokuchithwa, kwanoma yiluphi uketshezi lwemboni olungasadingeki, ngokwezihlinzeko zemithetho kaMasipala emayelana nokuhanjiswa kwendle, okungafanele ichithwe lapho kuhamba khona indle ngale kokuthola invume kaMasipala, ibe leyo mvume ingakagunyazwa;

**“izimali ezikhokhwayo”** kushiwo izimali ezinqunyiwe zokukhokhela nanoma yimuphi umsebenzi ohlinzekwa wuMasipala ngokulandela lo Mthetho KaMasipala njengoba kubekiwe ohlweni lwezimali ezikhokhelwa imisebenzi ezemukelwe ngokwesinqumo somkhandlu izikhathi ngezikhathi;

**“umnikazi wendawo yomcimbi”** kushiwo umuntu ongumnikazi, ophethe noma onelungelo lokusebenzisa amalungelo omnikazi noma umhlali wendawo esetshenziselwa imicimbi njengoba kuchaziwe eMthethweni Wezokuphepha Emicimbini Yezemidlalo Neyokungcebeleka, ka-2010 (uMthetho No. 2 ka-2010);

**“imfucuza”** kushiwo nayiphi into, njengoba kuchaziwe eMthethweni Wezokwenganyelwa Kwemvelo Ophathelene Nemfucuza, ka-2008 (uMthetho No. 59 ka-2008), noma ngabe leyo nto inganciphiseka noma ingasebenziseka kabusha noma ingaguqulwa iphinde isebenziseke noma ingaphinde ivuseke –

- (a) okuyinsalela, okungasadingeki, okunqatsheliwe, okulahliwe, okushiye noma okuchithiwe;
- (b) okutholakala ukuthi umdali wakho akasezukulungisa ukuze akusebenzisele izinhloso zokukhiqiza;
- (c) okumele kuhlanzwe noma kulahlwe;

(d) okuhlonzwe njengemfucuzwa wuNgqongqoshe Wezamanzi Nezemvelo ngesaziso kwiGazethi, futhi

kubandakanya imfucuzwa edaleke ezimayini, embonini yezempilo noma kwenye imboni, kodwa –

(i) umkhiqizo owenzelwe ukukhiqiza omunye;

(ii) nayiphi ingxenye yemfucuzwa, uma seyike yaguqulelwa ukuphinde isebenziseke noma yavuseleleka, ayibe isaba yimfucuzwa;

**“umgqomo wemfucuzwa”** kushiwo isiqukathi esakhelwe ukugcina okwesikhashana imfucuzwa, esinesisindo esingaphansi kwamamitha amabili ( $2m^3$ ), kungaba esinamasondo noma esingenawo, futhi esihambisana nalokhu:

(a) izimfuneko zabakwa-SABS ezingunombolo 493-1973: ezimayelana nemigqomo yemfucuzwa yensimbi; noma

(b) izimfuneko zabakwa-SABS ezingunombolo 1310-1980: ezimayelana nemigqomo yemfucuzwa eyakhiwe ngokusapulasitiki;

njengoba zashicilelwa eSazisweni Sikawonkewonke esingunombolo. 463 sangomhlaka 9 kuJulayi 1982;

**“isiqukathi semfucuzwa”** kushiwo umgqomo wemfucuzwa, isiqukathi semfucuzwa eyinqwaba noma isiqukathikazi;

**“indawo yokulahla imfucuzwa”** kushiwo indawo, engafaki phakathi indawo yemfucuzwa yasengadini, okulahlwa kuyo imfucuzwa, futhi okuyindawo okungaba nona engahlinzekwa –

(a) nguMasipala; noma

(b) umuntu ozimele bese iqhutshwa yilowo muntu ngokulandela izimiso zemvume noma ilayisensi ayinikezwe yisikhungo esifanele;

**“umdali wemfucuzwa”** kushiwo namuphi umuntu, noma isikhungo, okudala noma okukhiqiza imfucuzwa, futhi kubandakanya –

(a) umhlali wanoma yisiphi isakhiwo lapho kudaleka khona imfucuzwa; kanye

(b) esimweni sesakhiwo okuhlala kuso abantu abangaphezulu koyedwa, nomnikazi waleso sakhiwo.

“**umsebenzi wokususa imfucuza**” kushiwo ukuqoqwa nokususwa kwemfucuza yasekhaya, yasengadini, yezimboni neyebhizinisi njengoba kuhlinzekelwe kulo Mthetho KaMasipala; futhi

“**umthombo wamanzi**” kushiwo umfula, isiphethu noma umgudu wemvelo lapho kuhamba khona amanzi njalo noma ngezikhawu, idamu, ixhaphozi okugelezela khona noma okuphuma khona amanzi, amanzi angaphezulu komhlaba, isizalo somfula noma isivivane samanzi angaphansi futhi kufaka nanoma yiliphi ipitsi, uhlaka, imishini exhunyelwe noma esetshenziselwa ukugcina, ukusabalalisa, ukuhlinzeka noma ukusebenzisa amanzi.

### **Ukahunyushwa kwalo Mthetho KaMasipala**

2. Uma kukhona ukushayisana phakathi kombhalo wesiNgisi walo Mthetho KaMasipala nombhalo ohunyushiwe, kuyosebenza owesiNgisi.

### **Izinjongo zalo Mthetho KaMasipala**

3. Izinjongo zalo Mthetho KaMasipala –

- (a) ukulawula ukuqoqwa nokususwa kwemfucuza yasekhaya nemfucuza yebhizinisi nguMasipala ukuze kuqinisekise ukuhlinzekwa ngempumelelo kwalo msebenzi;
- (b) ukuqinisekisa ukuqoqwa nokususwa kwezinye izinhlobo zemfucuza;
- (c) ukuhlinzeka ukwenganyelwa kwemfucuza okufanele emicimbini;
- (d) ukubeka izimfuneko ezikhethekile mayelana nokulahlwa kwemfucuza yokwakha;
- (e) ukuhlinzekela ukubhaliswa kosonkontileka abasusa imfucuza;
- (f) ukuvimbela ukulahlwa ngokungemthetho kwemfucuza kanye nokubeka izinhlawulo ezifanele mayelana nokulahlwa ngokungemthetho kanye namanye amacala; kanye
- (g) nokwengamela kanye nokukhuthaza ukuvuselelwa kwemfucuza.

### **Ukusebenza kwalo Mthetho KaMasipala**

4. Lo Mthetho KaMasipala usebenza kuzo zonke izindawo ezingena ngaphansi kukaMasipala weTheku futhi ubophezela bonke abantu abangaphansi kwalo Masipala.

## **ISAPHLUKO 2**

### **IMFUCUZA YASEKHAYA NEYEBHIZINISI**

#### **Umsebenzi wokususwa kwemfucuzwa yasekhaya neyebhizinisi**

5.(1) UMasipala kumele ngokwawo, noma ngokusebenzisa usonkontileka osusa imfucuzwa ogunyaziwe, ahlinzeke umsebenzi wokuqoqwa nokususwa kwemfucuzwa yasekhaya neyebhizinisi ezakhiweni ezingaphansi kwendawo yawo.

(2) UMasipala awudingeki ukuba uqoqe noma ususe imfucuzwa yebhizinisi kunanoma yisiphi isakhiwo lapho –

- (a) umdali wemfucuzwa esenikeze isaziso sokuthi ufisa uMasipala uyeke ukuhlinzeka lo msebenzi wokususwa imfucuzwa;
- (b) umdali wemfucuzwa eseqashe usonkontileka osusa imfucuzwa ogunyaziwe ukuba ahlinzeke imisebenzi yokususwa kwemfucuzwa kuleso sakhiwo; kanye
- (c) nalapho imfucuzwa isuswa ngesikhathi nangempumelelo kuleso sakhiwo.

(3) Lapho umdali wemfucuzwa eseqashe usonkontileka osuswa imfucuzwa ogunyaziwe njengoba kubekiwe esigatshaneni (2) ngenhla, umdali wemfucuzwa kumele anikeze uMasipala ubufakazi obenelisayo, bokuthi sikhona isivumelwano sokususwa kwaleyo mfucuzwa.

#### **Imigqomo yemfucuzwa neziqukathi zemfucuzwa eyinqwaba**

6.(1) Abadali bemfucuzwa kumele benze izihlinzeko ezenele zokugcinwa okwesikhashana kwemfucuzwa yasekhaya neyebhizinisi kungaba yisemigqonyeni yemfucuzwa noma eziqukathini zemfucuzwa eyinqwaba.

(2) Lowo nalowo mdali wemfucuzwa kumele aqinisekise ukuthi yonke imfucuzwa yasekhaya noma yebhizinisi edaleke esakhiweni sakhe ifakwa noma igcinwa eziqukathini zemfucuzwa ukuze uMasipala noma usonkontileka osusa imfucuzwa ogunyaziwe ayisuse, kuye ngesimo.

(3) Akukho lutho kulo Mthetho KaMasipala okuvimbela namuphi umdali wemfucuzwa osethole imvume kuqala kaMasipala ebhaliweyo –

- (a) yokudayisa noma yokulahla imfucuzwa eguqulekayo iphinde isebenziseke;
- (b) yokudayisa noma yokulahla ukudla kwezinguqube okungadliwa ngabantu; noma

- (c) yokusebenzisa imfucuzwa efanele yasekhaya ukwenza umquba: Inqobo nje uma –
- (i) leyo mfucuzwa noma lowo mquba kungadali isiphazamiso noma kube nobungozi bomlilo; futhi
  - (ii) imfucuzwa kanye nomquba kugcinwa esakhiweni lapho kwenzelwe noma kudaleke khona, lokho nje okungaba yikho, futhi, ngale kokufaka umkhawulo walokhu osekushiwo, kungagciniwe onqenqemeni noma esakhiweni esingumakhelwane.

(4) Lowo nalowo mdali wemfucuzwa kumele aqinisekise ukuthi yonke imigqomo yemfucuzwa neziqukathi zemfucuzwa okusesakhiweni sakhe –

- (a) kugcinwa kuhlanzekile;
- (b) kusesimweni esihle; futhi
- (c) kuyashintshwa uma kunesidingo.

(5) Esimweni lapho kunokungalandelwa kwalesi sigaba, uMasipala, ukwengeza kunanoma yiziphi izinhlawulo ezinikezwe umdali wemfucuzwa, ungasusa nasiphi isiqukathi semfucuzwa bese sihlanzwa kukhokhe umdali wemfucuzwa.

(6) UMasipala unganikeza isaziso esibhaliweyo kunamuphi umdali wemfucuzwa umtshela ukuba alandele izihlinzeko zalesi sigaba singakadluli isikhathi esithile esibekwe esazisweni.

### **Iziqukathi zemfucuzwa ezihlinzekwe wuMasipala**

7.(1) UMasipala, ngokubona kwakhe, angahlinzeka iziqukathi zemfucuzwa esakhiweni uma ubona ukuthi lezi ziqukathi zifaneleke kangcono kunemigqomo yemfucuzwa uma kubukwa lokhu okulandelayo –

- (a) inani lemfucuzwa yasekhaya noma yebhizinisi edaleka kuleso sakhiwo;
- (b) uhlobo lwemfucuzwa yasekhaya noma yebhizinisi kanye nokufaneleka kwemigqomo yemfucuzwa ukugcina lolu hlobo lwemfucuzwa;
- (c) nokuthi izimoto zikaMasipala eziqoqa imfucuzwa ziyafinyelela yini endaweni okugcinwa kuyo imfucuzwa.

(2) Iziqukathi zemfucuzwa ezihlinzekwa umdali wemfucuzwa wuMasipala ngenhloso yokuba agcine imfucuzwa yebhizinisi noma yasekhaya okwesikhashana kumele zisetshenziselwe kuphela ukugcina leyo mfucuzwa.

(3) Iziqukathi zemfucuzwa ezihlinzekwa wuMasipala ziyohlala zingezikaMasipala futhi, nangasiphi isikhathi, ngokubona kukaMasipala, ziyoshintshwa noma zisuswe wuMasipala.

(4) Uma uMasipala esusa isiqukathi semfucuzwa eyinqwaba, kungekhona okwesikhashana, umhlali noma umnikazi waleso sakhiwo, kuye ngesimo, kumele enze izinhlelo ngokushesha zokuba kugcinwe leyo mfucuzwa okwesikhashana kungaba yisemigqomeni yemfucuzwa noma eziqukathini zemfucuzwa eyinqwaba.

(5) Akukho mdali wemfucuzwa ongalimaza ngenhloso noma ngobudedengu isiqukathi semfucuzwa esihlinzekwe wuMasipala.

(6) Lowo nalowo mdali wemfucuzwa unesibopho sokugada nasiphi isiqukathi semfucuzwa esihlinzekwe nguMasipala kanti futhi ubophezeleke ukuthi afake esinye esikhundleni sesintshontshiwe noma esilimele, ngaphandle kwesimo lapho ukulahleka noma ukulimala kudalwe ngabasebenzi bamasipala.

(7) Lowo nalowo mdali wemfucuzwa kumele ngokushesha abikele uMasipala mayelana nokulahleka noma ukulimala kwesiqukathi semfucuzwa esihlinzekwe wuMasipala.

(8) Akukho mdali wemfucuzwa, ngale kwemvume kaMasipala ebhaliweyo, ongasusa iziqukathi zemfucuzwa esakhiweni esihlinzekelwe wuMasipala.

(9) UMasipala ungakhokhisa imali yerenti efanele mayelana nanoma yiziphi iziqukathi zemfucuzwa ezihlinzekwe wuMasipala kumdali wemfucuzwa.

### **Izindawo zokugcina imfucuzwa**

8.(1) Lowo nalowo mdali wemfucuzwa kumele ahlinzeke indawo yokugcina imfucuzwa esakhiweni sakhe ebekelwe ukugcina iziqukathi zemfucuzwa futhi leyo ndawo yokugcina imfucuzwa kumele –

- (a) ifaneleke ngokubuka isibalo kanye nosayizi kweziqukathi zemfucuzwa;
- (b) ibe ngale ndlela yokuthi iziqukathi azibonakali esitaladini noma emgwaqeni womphakathi;
- (c) ihambisane nanoma yiziphi ezinye izimfuneko ezibekwa wuMasipala.

(2) Lowo nalowo mdali wemfucuzwa kumele –

- (a) abeke iziqukathi zemfucuzwa, noma enze ukuba kubekwe iziqukathi zemfucuzwa, endaweni yokugcinwa kwemfucuzwa; futhi
- (b) ngazo zonke izikhathi agcine iziqukathi zemfucuzwa endaweni zokugcinwa kwemfucuzwa, ngaphandle uma zisuselwe ukuchitha imfucuzwa.

(3) Umdali wemfucuzwa kumele aqinisekise ukuthi –

- (a) indawo yokugcina imfucuzwa kanye neziqukathi zemfucuzwa kuyahlanzeka ngazo zonke izikhathi;
- (b) indawo yokugcina imfucuzwa kanye neziqukathi zemfucuzwa akuphazamisi muntu; futhi
- (c) iziqukathi zemfucuzwa zimbozwe ngokufanele ngesidikiselo noma okunye kokwemboza okuhlinzekwe nesiqukathi.

#### **Usuku lokuqoqwa kwemfucuzwa**

9.(1) UMasipala kumele, izikhathi ngezikhathi, wazise izinsuku ozoqoqa ngazo imfucuzwa yasekhaya noma yebhizinisi ezindaweni ezahlukene ngaphansi kwendawo yawo.

(2) Lowo nalowo mdali wemfucuzwa kumele, ngaphambi kwehora lesikhombisa ekuseni ngosuku lokuqoqwa kwemfucuzwa endaweni ayakhele, aqinisekise ukuthi zonke iziqukathi zemfucuzwa esakhiweni eziqukethe imfucuzwa yasekhaya noma yebhizinisi zibekwa –

- (a) ngokushesha ngaphandle kwesakhiwo;
- (b) eduze konqenqema lomgwaqo; noma
- (c) kwezinye izindawo ezinqunywe uMasipala.

(3) Uma umdali wemfucuzwa ehlinzekwe ngezikhwanyana zepulasitiki zemfucuzwa nguMasipala, zonke izikhwanyana eziqukethe imfucuzwa yasekhaya noma yebhizinisi kumele zibekwe –

- (a) ngaphandle nje komngcele wesakhiwo sakhe;
- (b) eduze konqenqema lomgwaqo; noma
- (c) kwenye indawo enganqunywa wuMasipala.

(4) Umdali wemfucuzwa kumele aqiniseke ukuthi zonke iziqukathi zemfucuzwa zivalwe ngendlela nokuthi azizivimbi izimoto noma abantu abahamba ngezinyawo emgwaqeni.

**Okungavunyelwe ukusetshenziselwa kweziqukathi zemfucuzi**

10.(1) Lezi zinto ezilandelayo azivumelekile ukuba zifakwe kunanoma yisiphi isiqukathi zemfucuzi:

- (a) umlotha oshisayo;
- (b) ingilazi engasongiwe noma izitsha zengialzi ezihlotshisiwe;
- (c) imfucuzi noma okunye okudala imfucuzi, kubandakanya naluphi uketshezi, okungathi ngenxa yokusinda kwayo noma ezinye izimpawu zayo, kungahle kudale ukuba kube nzima ngokungenasidingo ukuphatha lezi ziqukathi zemfucuzi;
- (d) nayiphi enye imfucuzi noma okunye okudala imfucuzi okungadala umonakalo eziqukathini zemfucuzi noma ezimotweni ezisusa imfucuzi, noma ezingadala ukulimala kwabasebenzi bamasipala ngenkathi benza imisebenzi yabo ngokulandela lo Mthetho KaMasipala, ngaphandle uma izinyathelo ezifanele sezithathiwe ukuzama ukugwema lowo monakalo noma lokho kulimala.

(2) Akukho muntu ongabeka nayiphi into okungeyona imfucuzi yasekhaya noma yebhizinisi, njengoba kuchaziwe kulo Mthetho KaMasipala, esiqukathini zemfucuzi esihloswe ukusetshenziselwa imfucuzi yasekhaya noma yebhizinisi; futhi ukwengeza, lezi zinto ezilandelayo angeke zafakwa esiqukathini zemfucuzi okuhloswe ukuba sisetshenziselwe imfucuzi yasekhaya noma yebhizinisi:

- (a) nanoma yini okusansimbi;
- (b) isiqu sesihlahla (isigxobo);
- (c) inhlabathi, amatshe noma izimbokodo; kanye
- (d) nanoma yini imfucuzi engavamisile ukudaleka ezingadini noma emakhaya, noma emabhizinisini.

(3) Esimweni lapho kuba khona ukwephulwa kwalesi sigaba, uMasipala ungashiya lesi siqukathi singathuthiwe, futhi, ukwengeza ungalawulisa lowo odale leyo mfucuzi.

**Isaziso kuMasipala mayelana nabadali bemfucuzi abasha**

11.(1) Umhlali wesakhiwo lapho imfucuzi yebhizinisi noma yasekhaya izodaleka okokuqala noma emva kwesikhathi eside kade ingadaleki noma esimweni lapho kuhlala abantu abangaphezu koyedwa esakhiweni esisodwa, umnikazi waleso sakhiwo, kumele azise uMasipala ngokubhaliwe ngaphambi kokuba aqale adale imfucuzi.

(2) Ekwaziseni uMasipala mayelana nokuguquka kwezimo, umhlali noma umnikazi, kanjengoba kungenzeka, kumele anikeze uMasipala imininingwane egcwele mayelana nalolo guquko futhi kumele, uma ecelwa, esekele leyo mininingwane njengoba kufuna uMasipala.

#### **Isaziso kuMasipala mayelana nokuguquka kwezimo**

**12.(1)** Umhlali wesakhiwo lapho imfucuzwa yebhizinisi noma yasekhaya idaleka noma, esimweni sesakhiwo okuhlala kuso abantu abangaphezu koyedwa, umnikazi waleso sakhiwo kumele azise uMasipala ngokubhaliwe zingakapheli izinsuku eziyisikhombisa –

- (a) ngokubhaliswa kokudluliselwa kobunikazi baleso sakhiwo;
- (b) nganoma yiluphi uguquko lwegama lomhlali waleso sakhiwo;
- (c) ngokuhlalwa kabusha kwesakhiwo kulandela isikhashana kungahlali muntu; kanye
- (d) nanganoma yiluphi uguquko mayelana nohlobo, isisindo nobuningi kwemfucuzwa edalekile.

(2) Ekwaziseni uMasipala mayelana nokuguquka kwezimo, umhlali kumele anikeze uMasipala imininingwane egcwele mayelana nalolo guquko futhi kumele, uma ecelwa, esekele leyo mininingwane njengoba kufuna uMasipala.

#### **Izikhwama zopulasitiki ezilahlwayo neziqukathi zemfucuzwa yasekhaya**

**13.(1)** UMasipala kumele uhlinzeke lowo nalowo mdali wemfucuzwa yasekhaya lokhu –

- (a) isibalo sezikhwama zemfucuzwa njengoba kunqume uMasipala ngokubona kwawo; noma
- (b) nasiphi isiqukathi zemfucuzwa uma, ngokubona kukaMasipala, leyo mfucuzwa edalwe yilowo mdali wemfucuzwa igcinwe ngokulungile kunokuba igcinwe esiqukathini zemfucuzwa.

(2) UMasipala, ngokubona kwawo, ungasabalalisa izikhwama ezilahlwayo zepulasitiki zemfucuzwa ngezikhawu eziwulungele ngokubuka imisebenzi kuleyo naleyo ndawo engaphansi kwawo.

(3) Loyo naloyo mdali wemfucuzwa kumele, uma enikezwe izikhwama ezilahlwayo zepulasitiki zemfucuzwa nguMasipala, aqinisekise ukuthi imfucuzwa edaleke esakhiweni sakhe ifakwa emigqonyeni yemfucuzwa kuphela eboshwe ngalezi zikhwama nokuthi ayifakwa emigqonyeni engenazo lezi zikhwama.

#### **Izimali ezikhokhelwa ukususwa kwemfucuzwa yasekhaya neyebhizinisi**

**14.**(1) Loyo naloyo mdali wemfucuzwa ubophezeleke ukuba akhokhele uMasipala izimale ezifanele mayelana nokuqoqwa, ukususwa nokuchithwa kwemfucuzwa esakhiweni lapho kudaleka khona imfucuzwa yebhizinisi neyasekhaya.

(2) Umhlali noma umnikazi wesakhiwo lapho kudaleka khona imfucuzwa yasekhaya noma yebhizinisi uyoqhubeka nokukhokha le mali kuze kube –

- (a) loyo mhlali uselethe ubufakazi obenelisa uMasipala ukuthi akasafanele ukukhokha lezo zimale ezibekwe ngokulandela lo Mthetho KaMasipala; noma
- (b) ukubhaliswa kokudluliselwa kwesakhiwo egameni lomnikazi omusha sekwenzekile.

#### **Izimale ezikhokhelwa ukususwa kwemfucuzwa yebhizinisi**

**15.**(1) Uma kudaleke imfucuzwa ngenxa yemisebenzi yebhizinisi elenziwa ezakhiweni zokuhlala, umdali wemfucuzwa uyena oyokhokhela uMasipala izimale ezibizwayo zokuqoqwa kwemfucuzwa yebhizinisi, zokuthuthwa kwayo nokulahlwa kwayo.

(2) Ezimweni ezibalulwe ngasenhla kwisigatshana (1), uMasipala unelungelo lokubiza izimale zamatharifu zokuqoqwa nokulahlwa kwemfucuzwa mayelana nayo yonke imfucuzwa evela kulezo zakhiwo ezithintekayo, kungakhathaleki ukuthi imfucuzwa ngeyasendlini noma eyebhizinisi.

### **ISAPHLUKO 3**

#### **IMFUCUZA YASENGADINI, EKHETHEKILE YASEKHAYA NEYINQWABA**

#### **Akukho mufucuzwa yasengadini, yasekhaya ekhethekile noma eyinqwaba eyosuswa wuMasipala**

**16.** UMasipala awubophezelekile ukuba uqoqe futhi ususe imfucuzwa yasengadini, yasekhaya ekhethekile noma eyinqwaba.

**Ukususwa kwemfucuzwa yasengadini, yasekhaya ekhethekile noma eyinqwaba**

**17.(1)** Lowo nalowo mdali wemfucuzwa yasengadini, yasekhaya ekhethekile neyinqwaba kumele –

- (a) ayisuse futhi ayilahle leyo mfucuzwa endaweni yokulahla imfucuzwa bese ekhokha imali ekhokhwayo; noma
- (b) enze izinhlelo nosonkontileka osusa imfucuzwa ogunyaziwe ukuba kususwe futhi kulahlwe leyo mfucuzwa endaweni yokulahla imfucuzwa bese kukhokha loyo obange leyo mfucuzwa.

(2) Akukho lutho kulo Mthetho KaMasipala oluvimbela umdali wemfucuzwa ukuba agcine imfucuzwa yasengadini ngenhloso yokwakha umquba: Inqobo nje –

- (a) uma leyo mfucuzwa noma lowo mquba kungesona isiphazamiso noma kungebona ubungozi bokuqubula umlilo; futhi
- (b) leyo mfucuzwa nalowo mquba kugcinwe esakhiweni lapho kudaleke noma kwenzelwe khona, kuye ngesimo, futhi, ngale kokunciphisa ukusebenza jikelele kwalokhu okungenhla, kungagciniwe onqenqemeni noma esakhiweni esingumakhelwane.

(3) UMasipala, ngesaziso esibhaliweyo, angayalela umdali wemfucuzwa odale imfucuzwa yasengadini, ekhethekile yasekhaya noma eyinqwaba ukuba alandele izihlinzeko zesigatshana (1) noma alahle imfucuzwa –

- (a) ngendlela; kanye
- (b) nangezikhawu,

okunganqunywa uMasipala.

**Izindawo zemfucuzwa yasengadini**

**18.(1)** Imfucuzwa yasengadini, uma seyisusiwe esakhiweni lapho idaleke khona, kumele ilahlwe

- (a) endaweni yemfucuzwa yasengadini, kweyame ezihlinzekweni zesigatshana (2); noma
- (b) endaweni yokulahla imfucuzwa.

(2) Umdali wemfucuza engachitha inani elemukelekile lemfucuza yasengadini endaweni yemfucuza yasengadini mahhala, ngaphandle uma uMasipala unquma ngokwehlukile, futhi kuncike ekutheni –

- (a) leyo mfucuza idaleke esakhiweni sokuhlala;
- (b) leyo mfucuza ithuthwa ngemoto engeqile esisindweni esingamakhilo angama-750 noma amakota amathathu ethani omthwalo okhokhelwayo;
- (c) loyo naloyo mdali wemfucuza ulahla leyo mfucuza isikhathi esingeqile kokudwa ngesonto.

(3) Imfucuza yasengadini edaleke esakhiweni okuhlalwa kuso, endaweni yokulala nesidlo sasekuseni (i-B&B), endaweni yokulalisa izihambeli noma nasiphi esinye isakhiwo sebhizinisi ingalahlwa kuphela endaweni yokulahla imfucuza noma enye indawo enqunyiwe uma sekukhokhwe izimali ezikhokhelwa lowo msebenzi.

(4) Isikhulu esigunyaziwe sinelungelo lokukhokhisa izimali zemisebenzi mayelana nanoma yiyiphi imfucuza elahlwe endaweni yemfucuza yasengadini uma lesi sikhulu seneliseka ngokufanele ukuthi leyo mfucuza ayidalekanga esakhiweni sokuhlala noma ihanjiswe endaweni yemfucuza yasengadini ngendlela engahambisani nezihlinzeko zalo Mthetho KaMasipala.

(5) UMasipala uyoba nelungelo, izikhathi ngezikhathi, lokunquma izikhathi zokusebenza zezindawo zemfucuza yasengadini, okuyizikhathi okumele zikhonjiswe emabhodini ezaziso aphanyekwe kulezi zindawo.

(6) Akukho muntu ongalahla noma iyiphi imfucuza okungeyona imfucuza yasengadini endaweni yemfucuza yasengadini ngaphandle uma enemvume kaMasipala.

#### **Ukulahlwa kwemfucuza yasekhaya ekhethekile noma eyinqwaba**

**19.** Imfucuza yasekhaya ekhethekile neyinqwaba kumele, uma seyisusiwe esakhiweni lapho idaleke khona, ilahlwe endaweni yokulahla imfucuza, ngokukhokha imali ebekelwe lowo msebenzi.

### **Imisebenzi kaMasipala ekhethekile**

**20.** Ngokucela komdali wemfucuzwa futhi sekukhokhwe nemali efanele yalo msebenzi, uMasipala, ngokubona kwawo, ungayisusa imfucuzwa yasengadini, eyasekhaya ekhethekile noma eyinqwaba kunanoma yisiphi isakhiwo.

## **ISAHLUKO 4 IMFUCUZA YEZIMBONI**

### **Akukho mfucuzwa yezimbongi eyosuswa wuMasipala**

**21.** UMasipala akabophezelekile ukuba aqoqe futhi asuse imfucuzwa yezimbongi.

### **Ukususwa kwemfucuzwa yezimbongi**

**22.(1)** Lowo nalowo mdali wemfucuzwa odala imfucuzwa yezimbongi kumele –

(a) asuse, noma enze ukuba kususwe, imfucuzwa bese ilahlwa endaweni yokulahla imfucuzwa ngokukhokha imali efanele; noma

(b) ahlele nosonkontileka osusa imfucuzwa ogunyaziwe ukuba kususwe leyo mfucuzwa bese iyolahlwa endaweni yokulahla imfucuzwa ngokukhokha imali ekhokhelwa lowo msebenzi.

(2) UMasipala, ngesaziso esibhaliweyo, angayalela umdali wemfucuzwa –

(a) odala imfucuzwa yezimbongi; noma

(b) ofuye izilwane ezisankomo noma ezisahhashi ngenhloso yokwenza ibhizinisi noma uhwebo,

ukuba asuse leyo mfucuzwa, noma enze ukuba leyo mfucuzwa isuswe, isiwe endaweni yokulahla imfucuzwa noma endaweni yokushisa imfucuzwa ngokubona kukaMasipala noma ukuba ayilahle ngendlela engagunyazwa uMasipala.

(3) Uma ukhipha isaziso ngokwesigatshana (2), uMasipala angayalela ukuba imfucuzwa isuswe bese ilahlwa ngezikhawu ezithathwa njengezifanele uMasipala.

(4) Uma umdali wemfucuzwa esayine isivumelwano nosonkontileka osusa imfucuzwa ogunyaziwe ukuba asuse imfucuzwa yezimbongi, umdali wemfucuzwa kumele, ngesicelo esibhaliweyo sikaMasipala, anikeze ubufakazi kuze kweneliseke uMasipala ukuthi sikhona isivumelwano sokususwa kwemfucuzwa.

**Imigqomo yemfucuzo neziqukathi zemfucuzo eyinqwaba: imfucuzo yezimbongi**

**23.**(1) Abadali bemfucuzo kumele –

- (a) bahlinzekele ukugcinwa okwesikhashana kwemfucuzo yezimbongi emigqonyeni yemfucuzo noma eziqukathini zemfucuzo eyinqwaba; futhi
- (b) balandele izihlinzeko zesigaba 6 ngokufanelekile.

(2) UMasipala unamandla afanayo mayelana nabadali bemfucuzo abakhiqiza imfucuzo yezimbongi nalawo anawo mayelana nabadali bemfucuzo yasekhaya neyamabhizinisi njengoba kubekiwe esigabeni 6.

**Izindawo zokugcina imfucuzo: imfucuzo yezimbongi**

**24.** Abadali bemfucuzo kumele –

- (a) bahlinzeke indawo yokugcinwa kwemfucuzo esakhiweni sabo ukuze kugcinwe iziqukathi zemfucuzo; futhi
- (b) balandele izihlinzeko zesigaba 8 ngokufaneleyo.

**Umsebenzi kaMasipala okhethekile: imfucuzo yezimbongi**

**25.** Ngokucela komdali wemfucuzo kanye nangokukhokha imali ekhokhelwa lo msebenzi, uMasipala, ngokubona kwawo, ungasusa imfucuzo yezimbongi esakhiweni sawo.

**ISAHLUKO 5**

**IMFUCUZA YEZIMBONGI EKHETHEKILE, IMFUCUZA ENOBUNGOZI NEYEZEMPILU**

**Akukho mfucuzo yezimbongi ekhethekile, imfucuzo enobungozi noma yezempilo eyosuswa wuMasipala**

**26.** UMasipala awubophezelekile ukuba uqoqe futhi ususe imfucuzo yezimbongi ekhethekile, imfucuzo enobungozi noma imfucuzo yezempilo.

**Ukususwa kwemfucuzo yezimbongi ekhethekile, enobungozi neyezempilo**

**27.**(1) Loyo naloyo mdali wemfucuzo odala imfucuzo yezimbongi ekhethekile, imfucuzo enobungozi noma imfucuzo yezempilo kumele –

(a) asuse noma enze ukuba kususwe leyo mfucuza bese iyolahlwa endaweni yokulahla imfucuza ngokukhokha izimali ezifanele lo msebenzi; noma

(b) enze izinhlelo nosonkontileka osusa imfucuza ogunyaziwe ukuba kususwe leyo mfucuza bese iyolahlwa endaweni yokulahla imfucuza ngokukhokha imali efanele yalo msebenzi.

(2) UMasipala, ngesaziso esibhaliwe, angayalela umdali wemfucuza odala imfucuza yezimboni ekhethekile, enobungozi noma yezempilo ukuba asuse leyo mfucuza, noma enze ukuba leyo mfucuza isuswe, isiwe endaweni yokulahla imfucuza noma emgqonyeni wokushisa imfucuza ngokubona kukaMasipala noma ilahlwe ngenye indlela engagunyazwa uMasipala.

(3) Lapho umdali wemfucuza esevumelene nosonkontileka osusa imfucuza ogunyaziwe ukuba kususwe imfucuza yezimboni ekhethekile, imfucuza enobungozi noma imfucuza yezempilo, lowo mdali wemfucuza kumele, uma ethola isicelo esibhaliwe sikaMasipala, anikeze ubufakazi, kuze kweneliseke uMasipala, bokuthi sikhona isivumelwano sokususwa kwemfucuza.

### **Imigqomo yemfucuza neziqukathi zemfucuza eyinqwaba**

**28.**(1) Abadali bemfucuza kumele –

(a) benze uhlinzeko olwenele lokugcina okwesikhashana imfucuza yezimboni ekhethekile, imfucuza enobungozi noma yezempilo emigqonyeni yemfucuza noma eziqukathini zemfucuza eyinqwaba; futhi

(b) balandele izihlinzeko zesigaba 6 ngokufanele.

(2) UMasipala unamandla afanayo mayelana nabadali bemfucuza abakhiqiza imfucuza yezimboni ekhethekile, imfucuza enobungozi noma yezempilo namandla aphaathelene nabadali bemfucuza yasekhaya neyamabhezini njengoba kubekiwe esigabeni 6.

### **Izindawo zokugcina imfucuza ekhethekile, yezimboni, enobungozi neyezempilo**

**29.**(1) Umdali wemfucuza kumele –

(a) ahlinzeke ngendawo yokugcina imfucuza eseceleni yesakhiwo sakhe ukuze kugcinwe iziqukathi zemfucuza;

(b) aqiniseke ukuthi leyo ndawo ifanelekile ukuba kugcinwe imfucuza;

(c) agcine imfucuza futhi aqinisekise ukuthi nakuphi okucijile noma okunobungozi kugcinwa ngendlela yokuthi akubi yisiphazamiso noma kube nobungozi ekuphepheni noma kungcolise imvelo;

(d) uyazilandela izihlinzeko zesigaba 8 lapho zisebenza khona.

(2) Uma imfucuza yezimboni ekhethekile, imfucuza enobungozi noma imfucuza yezempilo ingagciniwe ngokulandela izihlinzeko zalo Mthetho KaMasipala, uMasipala ungayalela umdali waleyo mfucuza ukuba ayisuse imfucuza esikhathini esifanelekile, kanti futhi uma leyo mfucuza ingasuswa kuze kuphele leso sikhathi, uMasipala ungasusa leyo mfucuza ngokwawo noma uthole ozoyisusa ngezindleko zomdali wemfucuza.

### **Isaziso ngokudalwa kwemfucuza**

**30.**(1) Umdali wemfucuza odala imfucuza yezimboni ekhethekile, imfucuza enobungozi noma imfucuza yezempilo kumele azise uMasipala, ngaphambi kokuba aqale adale imfucuza, mayelana –

(a) nokubumbeka kwaleyo mfucuza;

(b) inani laleyo mfucuza;

(c) indlela ezogcinwa ngayo leyo mfucuza;

(d) isikhathi esihlongozwayo ezogcinwa sona leyo mfucuza;

(e) indlela leyo mfucuza ezosuswa ngayo ngokulandela izihlinzeko zesigaba 27.

(2) Uma kudingeka kuMasipala, leso saziso okukhulunywa ngaso esigatshaneni (1) kumele sisekelwe wuhlaziyo lwemfucuza oluqinisekiswa ngusokhemese wezezimboni oqeqeshwe ngokufanele noma wumuntu oqokwe nguMasipala.

(3) Kweyame ezihlinzekweni zanoma yimuphi umthetho ofanele, isikhulu esigunyaziwe singangena kunanoma yisiphi isakhiwo ngesikhathi esifanelekile ukuzoqinisekisa ukuthi imfucuza yezimboni ekhethekile, imfucuza enobungozi noma imfucuza yezempilo iyadaleka yini kuleso sakhiwo kanti singathatha amasampula bese siyohlola leyo mfucuza ethokalakale kuleso sakhiwo ukuqinisekisa ukuthi iquketheni.

(4) Umuntu okukhulunywa ngaye esigatshaneni (1) kumele azise uMasipala nganoma yiziphi izinguquko ekubumbekeni kanye nasenanini lemfucuza yezimboni ekhethekile, imfucuza enobungozi noma yezempilo ezenzeka emva kwesaziso esenziwe ngokulandela isigatshana (1).

**Umsebenzi wokususwa kwemfucuzwa yezimboni, ekhethekile, enobungozi noma yezempilo**

31.(1) Akukho muntu ongaqhuba noma ongenza umsebenzi wokususwa imfucuzwa yezimboni ekhethekile, imfucuzwa enobungozi noma yezempilo, akukhathaleki noma lowo msebenzi wenziwa ngenkokhelo noma cha, ngaphandle uma lowo muntu enemvume abhaliweyo kaMasipala.

(2) UMasipala unganqaba noma unganikeza imvume kuye ngemibandela uMasipala ongayithatha njengefanele.

(3) Umdali wemfucuzwa angasuselwa imfucuzwa yezimboni ekhethekile, imfucuzwa enobungozi noma yezempilo kuphela wusonkontileka osusa imfucuzwa ogunyazwe wuMasipala ngokulandela imithetho efanele.

(4) Imfucuzwa yezimboni ekhethekile, imfucuzwa enobungozi noma yezempilo ingathuthwa kuphela wusonkontileka osusa imfucuzwa ogunyazwe wuMasipala futhi ohlangabezanayo nezimfuneko zikaMasipala mayelana –

- (a) nekhono likasonkontileka lokususwa imfucuzwa eyilolu hlobo okukhulunywa ngalo;
- (b) neziqukathi ezisetshenziswa wusonkontileka;
- (c) nomaka ababhalwe esiqukathini ezisetshenziswa wusonkontileka;
- (d) nendlela okwakhiwa ngayo iziqukathi ezisetshenziswa wusonkontileka;
- (e) nenqubo kasonkontileka yokuphepha nenhlanzeko; kanye
- (f) nemibhalo kasonkontileka ephathelene nomthombo, ukuthuthwa kanye nokuchithwa kwemfucuzwa.

(5) Usonkontileka osusa imfucuzwa ogunyaziwe kumele azise uMasipala, ngezikhawu ezinganqunywa wuMasipala –

- (a) mayelana nokususwa kwemfucuzwa yezimboni ekhethekile, imfucuzwa enobungozi noma yezempilo;
- (b) mayelana nokuhlonzeka kukasonkontileka ozosusa leyo mfucuzwa;
- (c) mayelana nosuku okuzosuswa ngalo leyo mfucuzwa; kanye
- (d) namayelana nenani nokubumbeka kwemfucuzwa ezosuswa.

(6) Uma kwenzeka umuntu othile eboshelwa ukwephula izihlinzeko zalesi sigaba, kumele, naphezu kwenhlawulo anikezwe yona, achithe leyo mfucuza njengoba eyalelwe wuMasipala noma, okunye, uMasipala ungachitha leyo mfucuza ngokwawo ngezindleko zalowo muntu.

## **ISAHLUKO 6 IMFUCUZA YOKWAKHA**

### **Akukho mfucuza yokwakha eyosuswa wuMasipala**

**32.** UMasipala awubophezelekile ukuba uqoqe futhi ususe imfucuza yokwakha.

### **Ukususwa kwemfucuza yokwakha**

**33.**(1) Lowo nalowo mdali wemfucuza odala imfucuza yokwakha kumele –

(a) asuse, noma enze ukuba kususwe, leyo mfucuza futhi ichithwe endaweni yokuchitha imfucuza ngokukhokha imali efanele;

(b) enze izinhlelo nosonkontileka osusa imfucuza ogunyaziwe ukuba kususwe leyo mfucuza bese ichithwa endaweni yokuchitha imfucuza ngokukhokha imali efanele.

(2) UMasipala, ngesaziso esibhaliwe, angayalela umdali wemfucuza odala imfucuza yokwakha ukuba asuse leyo mfucuza, noma enze ukuba kususwe leyo mfucuza, iyolahlwa endaweni yokulahla imfucuza noma emgqonyeni wokushisa imfucuza ngokubona kukaMasipala noma ilahlwe ngenye indlela engagunyazwa uMasipala.

(3) Ekunikezeni isaziso ngokulandela isigatshana (2), uMasipala angayalela ukuba imfucuza isuswe noma ilahlwe ngezikhawu ezingathathwa njengezifanele uMasipala.

(4) Lapho umdali wemfucuza esevumelene nosonkontileka osusa imfucuza ogunyaziwe ukuba kususwe imfucuza yokwakha, lowo mdali wemfucuza kumele, ngesicelo esibhaliwe sikaMasipala, anikeze ubufakazi kuze kweneliseke uMasipala, ukuthi sikhona isivumelwano esingeneliwe.

(5) Namuphi usonkontileka wokwakha omisebenzi yakhe ikhiqiza imfucuza yokwakha ubophezeleke ngokuhlanganyela kunye nomdali wemfucuza ekuqinisekiseni ukuthi leyo mfucuza iyasuswa futhi ilahlwe ngokulandela lesi sigaba.

**Ukugcinwa kwemfucuzwa yokwakha**

**34.** Umdali wemfucuzwa kanye nosonkontileka wokwakha omisebenzi yabo ikhiqiza imfucuzwa yokwakha kumele baqinisekise ukuthi –

- (a) kunohlinzeko olwenele lokuba kugcinwe okwesikhashana imfucuzwa yokwakha;
- (b) imfucuzwa iyabukeka;
- (c) ukuthi ayibi yisiphazamiso noma ibe nobungozi bokuphepha kwanoma yimuphi umuntu; futhi
- (d) ayiyingcolisi imvelo.

**Ukulahlwa kwemfucuzwa yokwakha**

**35.**(1) Kuyicala kunanoma yimuphi umuntu ukulahla imfucuzwa yokwakha kunoma yiyiphi indawo okungeyona indawo yokulahla imfucuzwa.

(2) Imfucuzwa yomakhi, ngemvume kuqala ebhaliwe kaMasipala, ingalahla endaweni okungeyona indawo kaMasipala yokulahla imfucuzwa ngenhloso yokubuyisa umhlaba.

(3) Noma iyiphi imvume enikezwe ngokulandela isigatshana (2) kumele incike emibandeleni uMasipala angayithatha njengenesidingo: Inqobo nje uma ekunikezeni noma ekwenqabeleni imvume yakhe noma ekubekeni imibandela, uMasipala kumele abhekelele –

- (a) ukuphepha komphakathi;
- (b) imvelo ezungeze leyo ndawo yokulahla ephakanyiswayo;
- (c) ukufaneleka kwaleyo ndawo kubandakanya amapayipi ayo okuhambisa amanzi;
- (d) indlela nezikhathi okulindeleke ukuba kulahlwe ngakho imfucuzwa kuleyo ndawo;
- (e) ukulelezwa kwesiza;
- (f) ukulawulwa kothuli; kanye
- (g) nezinye izimo ezifanele.

(4) Loyo naloyo mdali wemfucuzwa, usonkontileka wokwakha kanye nosonkontileka osusa imfucuzwa babophezelekile, uma belahla imfucuzwa yokwakha endaweni yokulahla imfucuzwa, ukuba bathole futhi bagcine isikhathi esiyizinyanga eziyi-12 iphepha lesisindo esikhulwini esigunyaziwe endaweni yokulahla imfucuzwa liqinisekisa uhlobo kanye nesisindo kwemfucuzwa yokwakha elahliwe.

(5) Kuyothathwa ngokuthi imfucuzwa yokwakha ilahlwe ngendlela ephikisana nezihlinzeko zalesi sigaba, ngaphandle uma kuvezwa ubufakazi obehlukile, uma umdali wemfucuzwa,

usonkontileka wemfucuzwa noma usonkontileka osusa imfucuzwa ehluleka ukuveza isitifiketi sebholohwe elikala isisindo noma izitifiketi eziqinisekisa ukuthi –

- (a) imfucuzwa yokwakha ilahlwe endaweni yokulahla imfucuzwa; noma
- (b) inani lemfucuzwa yokwakha elilahlwe endaweni yokulahla imfucuzwa obekulindleleke ngokufanele ukuba idaleke emisebenzini yokwakha ethintekayo njengoba kunqume iNhloko Yomnyango noma namuphi omunye umuntu ojutshwe yiyo.

## **ISAPHLUKO 7 IMFUCUZA YEMICIMBI**

### **Ukubophezeleka ngemfucuzwa yomcimbi**

**36.(1)** Loyo naloyo mhleli womcimbi nomnikazi wendawo okuhlelwe kuyo umcimbi, njengoba kuchaziwe esigabeni 1, banesibopho sokugcina, ukuqoqa, ukuguqula iphinde isebenziseke nokulahla imfucuzwa edaleke ngaphambi komcimbi, ngesikhathi uqhubeka nangemva kwalowo mcimbi.

(2) Loyo naloyo mhleli womcimbi nomnikazi wendawo okuhlelwe kuyo umcimbi kumele baqinisekise ukuthi usonkontileka osusa imfucuzwa ogunyaziwe onesivumelwano sokuqoqa nokulahla imfucuzwa edaleke ngaphambi komcimbi, ngesikhathi uqhubeka nangemva kwalowo mcimbi ngokulandela lo Mthetho KaMasipala.

### **Izinhlelo ezididiyelwe lokwengamela imfucuzwa yemicimbi**

**37.(1)** Loyo naloyo mhleli womcimbi nomnikazi wendawo okuhlelwe kuyo umcimbi kumele bakhe uhlelo oludidiyelwe lokwengamela imfucuzwa yalowo nalowo mcimbi.

(2) Lolo hlelo oludidiyelwe lokwengamela imfucuzwa kumele –

- (a) lwethulwe kuMasipala okungenani izinsuku eziyishumi (10) ngaphambi kokuba kwenzeke lowo mcimbi ohlongozwayo; futhi
- (b) lubhekele okungenani lokhu okulandelayo:
  - (i) amagama aphelele neminingwane yokuxhumana komhleli womcimbi;
  - (ii) amagama agcwele neminingwane yokuxhumana komnikazi wesakhiwo okuhlelwe khona umcimbi;
  - (iii) uhlobo lomcimbi kanye nesikhathi ozosithatha;

- (iv) isilinganiso sezindleko zokwenganyelwa kwemfucuzwa ehambisana nalowo mcimbi; kanye
- (v) nolwazi oludingekayo ngokwesigatshana 38(2).

(3) UMasipala kumele alucubungule uhlelo oludidiyelwe lokwengamele imfucuzwa bese –

- (a) eyalugunyaza kweyame kunoma yimiphi imibandela;
- (b) ecela ulwazi olwengeziwe ukuba lulethwe abeke nomnqamulajuqu wokulethwa kwalo;
- (c) ecele ukuba kube nezichibiyelo ezenziwayo singakapheli isikhathi esingumnqamulajuqu esibekiwe; noma
- (d) aluchithe lolo hlelo anikeze nezizathu ngalokho.

(4) Uma umhleli womcimbi nomnikazi wendawo okuhlelwe kuyo umcimbi behluleka ukulandela naluphi uhlinzeko lwalesi sigaba noma uhlelo oludidiyelwe lokusingatha imfuza abalethulile ngokwalesi sigaba, uMasipala ungahlela ukuba kuqoqwe, kuguqulwe kuphinde kusetshenziswe futhi kulahlwe imfucuzwa ngezindleko zalowo mhleli womcimbi nomnikazi wendawo okuhlelwe kuyo umcimbi bese ethatha leyo mali emalini yediphozi ekhokhiwe.

(5) Uma umhleli womcimbi nomnikazi wendawo bebengakhokhanga diphozi, lowo mhleli nomnikazi wendawo babophezeleke ngokuhlanganyela ukuba bakhokhe naziphi izindleko ezidaleke kuMasipala ngalo mcimbi.

(6) Uma umhleli womcimbi ehluleka ukunikeza uhlelo oludidiyelwe lokwengamela imfucuzwa mayelana nomcimbi, uMasipala angaqoka umhlinzeki wemisebenzi (inkampani) ukuba ithole ulwazi bese yenza uhlelo okuzokhokhelwa wumhleli womcimbi.

## ISAPHLUKO 6

### IZINHLELO ZOKWENGANYELWA KWEMFUCUZA

#### Izinhlelo ezididiyelwe zokwengamela imfucuzwa

**38.**(1) Uhlelo oludidiyelwe lokwengamela imfucuzwa kumele lwethulwe kuMasipala wumdali wemfucuzwa odala lezi zinhlobo ezilandelayo zemfucuzwa ngaphambi kokuba aqale ukudala leyo mfucuzwa:

- (a) imfucuzwa yamabhizinisi;
- (b) imfucuzwa yezimboni;

- (c) imfucuza yokwakha;
- (d) imfucuza yomcimbi;
- (e) imfucuza enobungozi; kanye
- (f) nemfucuza yezempilo.

(2) Uhlelo oludidiyelwe lokwengamela imfucuza kumele lufake okungenani lolu lwazi olulandelayo:

- (a) incazelo mayelana nohlobo lwemfucuza oluzodaleka;
- (b) ukuhlawumbisela inani lemfucuza ezodaleka;
- (c) isakhiwo lapho imfucuza izodaleka khona;
- (d) ukuthi imfucuza edalekile izogcinwa, iyoqwe, iguqulwe ukuze isebenziseke futhi ilahlwe kanjani;
- (e) amagama aphelele neminingwane yokuxhumana kwanoma yimuphi usonkontileka osusa imfucuza ogunyaziwe onesivumelwano nomdali wemfucuza kanye nobufakazi bokuthi unesivumelwano sokuqoqa nokulahla imfucuza;
- (f) incazelo mayelana nokuthi umdali wemfucuza uhlose ukuyehlukanisa kanjani impahla ezoguqulwa iphinde isebenziseke kanye naleyo engasenakusebenziseka lapho idaleka khona imfucuza.
- (g) incazelo mayelana nezinhlelo zomdali wemfucuza zokunciphisa imfucuza nokuvimbela ukungcola;
- (h) ukuhlolwa komthelela noma kokungahle kube wumthelela wemfucuza edalekile kwimvelo;
- (i) lokho umdali wemfucuza azibekele khona mayelana nokuncishiswa nokuguqulwa kwemfucuza iphinde isebenziseke; kanye
- (j) nezinyathelo noma izinhlelo zomdali wemfucuza zokunciphisa imfucuza okunganciphisa ukusetshenziswa kwamagugu emvelo.

(3) UMasipala angayalela noma imuphi umdali wemfucuza ukuba ahlinzeke ngohlelo olusha noma oluchitshiyelwe lokwenganyelwa kwemfucuza nangasiphi isikhathi ngesaziso esingekho ngaphansi kwezinsuku ezingamashumi ayisishiyagalolunye (90).

(4) Uma eyalelwe ukuba alethe uhlelo oludidiyelwe lokwengamela imfucuza noma olusha noma oluchitshiyelwe ngokulandela lo Mthetho KaMasipala, umdali wemfucuza kuyomele enze njalo, singakapheli isikhathi esibekiwe emyalelweni.

(5) UMasipala kumele alucubungule uhlelo oludidiyelwe lokwengamela imfucuza bese –

- (a) eyalugunyaza kweyame kunoma yimiphi imibandela;
- (b) ecela ulwazi olwengeziwe ukuba lulethwe abeke nomnqamulajuqu wokulethwa kwalo;
- (c) acele ukuba kube nezichibiyelo ezenziwayo singakapheli isikhathi esingumnqamulajuqu esibekiwe; noma
- (d) aluchithe lolo hlelo anikeze nezizathu ngalokho.

(6) Uma uhlelo oludidiyelwe lokwengamela imfucuzwa luchithwa noma lungethulwa nhlobo, iNhlolo Yomnyango kumele inikeze imiyalelo yokuthi yiziphi izinyathelo zokwengamela imfucuzwa okumele zithathwe wumdali wemfucuzwa futhi uma umdali wemfucuzwa ehluleka ukuthatha lezo zinyathelo ngesikhathi esibekwe yiNhlolo Yomnyango, uMasipala ungaqalisa lezo zinyathelo kanti umdali wemfucuzwa uyobophezeleka ukuba akhokhe izindleko.

(7) UMasipala, ngesaziso esibhaliwe, angafuna namuphi umuntu ukuba anikeze ulwazi aludingayo uma elungiselela uhlelo oludidiyelwe lokwengamela imfucuzwa lukaMasipala.

(8) Uma kwenzeka umuntu ehluleka ukunikeza ulwazi okukhulunywa ngalo kulesi sigaba, uMasipala angaqoka inkampani ehlinzeka lo msebenzi ukuba ithole ulwazi bese yenza uhlelo ngezindleko zomdali wemfucuzwa.

### **Ukukhululwa ekwethuleni uhlelo oludidiyelwe lokwengamela imfucuzwa**

**39.(1)** UMdali wemfucuzwa angafaka isicelo ngokubhaliwe ukuba akhululwe ezimfunekweni zokuza nohlelo oludidiyelwe lokwengamela imfucuzwa.

(2) UMasipala angamemezela –

- (a) izinhlobo ezithile zemfucuzwa;
  - (b) isisindo esithile noma inani elithile kwemfucuzwa;
  - (c) umdali wemfucuzwa othile noma uhlobo oluthile labadali bemfucuzwa; noma
  - (d) abadali bemfucuzwa abazinhlelo zabo zokwengamela imfucuzwa zigunyazwe ngeminye iminxaka kahulumeni ngokulandela imithetho efanele,
- njengokukhululekile ukuba kungayilandeli imfuneko yokwethula uhlelo oludidiyelwe lokwengamela imfucuzwa.

**ISAPHLUKO 9**  
**UKUVUSELELA, UKUSEBENZISA KABUSHA, UKUHLUNGA NOKUNCIPHISA**  
**IMFUCUZA**

**Ukuvuselela, ukusebenzisa kabusha, ukuhlela nokunciphisa imfucuza**

**40.**(1) Akukho muntu, ngaphandle uma benzela izinhloso zamakhaya abo –

- (a) ongavuselela, asebenzise kabusha noma abuyise imfucuza;
- (b) ongahlunga imfucuza; noma
- (c) ongaqhuba ibhizinisi lokuthenga izimpahla esezisebenzile (izikilebha),

ngale kwemvume ekhishwe wuMasipala.

(2) Uma efaka isicelo semvume kuMasipala, umfakisicelo kumele –

- (a) ethule umphumela wokuhlolwa komthelela kwimvelo noma nakuphi ukuhlola okufana nalokhu okudingekayo ngokwemithetho yesifundazwe noma kazwelonke, okukhombisa ukuthi lokhu kuguqulwa nokusetshenziswa kabusha noma ukuncishiswa kwemfucuza angeke kube nobungozi kwimvelo kunokulahlwa;
- (b) ethule uhlelo oludidiyelwe lokwengamela imfucuza; futhi
- (c) ahambisane nanoma yiziphi izimfuneko ezibekwe wuMasipala izikhathi ngezikhathi.

(3) Noma imuphi umuntu osingatha, othutha, ohlunga, onakekela noma olahla imfucuza ngenhloso yokuba iphinde isetshenziswe kumele anikeze uMasipala umbiko obhaliwe mayelana nebhizinisi lakhe ngendlela nangezikhawu okunganqunywa uMasipala.

(4) UMasipala ungakhulula abadali bemfucuza, abasingathi bemfucuza, abathuthi bayo kanye nezinkampani ezimfunekweni zalesi Sahluko ezimweni lapho isisindo noma inani lemfucuza edalekile kungaphansi kwenani elibekwe uMasipala izikhathi ngezikhathi.

(5) UMasipala, izikhathi ngezikhathi, unganquma izinhlobo zemfucuza okumele iguqulwe ukuze isebenziseke, izinhlobo zabadali bemfucuza okumele zibandakanyeke ezinhlotsheni ezithile zokuguqulwa kwemfucuza, kanye nezindlela, amaqophelo kanye neminye imithetho efanele yokuguqulwa kwemfucuza.

**ISAHLUKO 10**  
**IZINDAWO ZOKULAHLA IMFUCUZA**

**Imfucuza engavumelekile ezindaweni zokulahla zikaMasipala**

**41.(1)** Akukho muntu ongabeka, noma ongachitha, endaweni yokulahla imfucuza kaMasipala nanoma yiluphi uhlobo lwemfucuza kule elandelayo ngale kokuqala athole isigunyazo esibhaliwe kuMasipala:

- (a) nayiphi imfucuza enobungozi bomlilo ngenxa nje yokuthi inezinga lokushisa uma ivuthiswa elingaphezulu kuka-61°C;
- (b) nayiphi imfucuza equkethe okuwubuthi obuseQoqweni A noma iQoqo B elingadala umdlavuzwa njengoba kuchazwe yinhlangano yomhlaba yocwaningo ngesifo somdlavuzwa (i-International Agency for Research on Cancer);
- (c) nayiphi imfucuza equkethe okuwubuthi obuseQoqweni C noma iQoqo D elingadala umdlavuzwa njengoba kuchazwe yinhlangano yomhlaba yocwaningo ngesifo somdlavuzwa (i-International Agency for Research on Cancer) okunokujiya okungaphezu kwephesenti elilodwa;
- (d) nayiphi imfucuza equkethe okungadala isifo sokuguquka kwentwalalufuzo;
- (e) nayiphi imfucuza yezempilo, ngaphandle uma seyishisiwe kuma-800°C noma ngaphezulu okungenani umzuzwana owodwa;
- (f) nayiphi imfucuza equkethe isidakamizwa esinobuthi ngale ndlela yokuthi singabulala isigamu salokho okusophiwe (esingu-LD50) uma siphuzwa bukhoma, njengoba kuchaziwe ku-SABS 0228: 1995, esingaphansi noma esilingana namamiligremu ayizi-5000 ikhilo ngalinye;
- (g) nayiphi imfucuza equkethe isidakamizwa esinobuthi ngale ndlela yokuthi singabulala isigamu salokho okusophiwe (esingu-LD50) uma sijovwa esikhunjeni njengoba kuchaziwe ku-SABS 0228: 1995, esingaphansi noma esilingana namamiligremu ayizi-2000 ikhilo ngalinye;
- (h) nayiphi imfucuza equkethe uketshezi olunobuthi olujiyile (olungu-LC50) uma luhogelwa bukhoma, njengoba kuchaziwe ku-SABS 0228: 1995, olungaphansi noma olulingana namamiligremu ayishumi ilitha ngalinye;
- (i) nayiphi imfucuza enesikalo sobumuncu (pH) esingaphansi kwesiyisithupha noma esingaphezulu kwesiyi-12;
- (j) nayiphi imfucuza engena ngaphansi kweSigaba 1 (iziqhumane), iSigaba 2 (amagesi) noma iSigaba 7 (amandla okushisa alimaza izicubu zokuphilayo) njengoba kuchaziwe kwi-SABS 0228: 1995;

- (k) nayiphi imfucuzwa equkethe okuthile okusohleni oluku-SABS 0228: 1995;
- (l) nayiphi imfucuzwa okulukhuni ukuyihlaziya noma ukuyibeka ngokwesigaba;
- (m) opende kanye nodaka lwapende;
- (n) amakhemikhali aselabholethri;
- (o) nayiphi imfucuzwa engahle noma engahlasela indawo yokulahla imfucuzwa ngamakhemikhali;
- (p) nayiphi imfucuzwa ngokwehlukana, noma uma ixutshwe nenye imfucuzwa, engadala noma enokudala ubungozi empilweni noma engaba yisiphazamiso.

(2) Umdali wemfucuzwa kanye namuphi usonkontileka osusa imfucuzwa, ngokuhlanganyela, babophezeleke ukuba bakhokhe naziphi izindleko ezidalwe wuMasipala ekulungiseni umonakalo noma ekususeni isiphazamiso okudalwe ukuchithwa kwemfucuzwa endaweni yokulahla ngokuphula lo Mthetho KaMasipala, kanye nanoma yisiphi isamba sanoma yiziphi izindleko noma amacala ezomthetho okudalwe wuMasipala mayelana nanoma yisiphi isimangalo esidalwa yinoma yisiphi isiphazamiso.

#### **Ukuziphatha ezindaweni zokulahla zikaMasipala**

**42.**(1) Akukho muntu ongangena endaweni yokulahla imfucuzwa elawulwa wuMasipala nangayiphi inhloso uma nje kungekhona ukulahla imfucuzwa ngokulandela lo Mthetho KaMasipala, nangezikhathi kuphela kanye naphakathi kwamahora anganqunywa wuMasipala izikhathi ngezikhathi.

(2) Lowo nalowo muntu, ngenhloso yokulahla imfucuzwa, ongena endaweni yokulahla imfucuzwa elawulwa wuMasipala kumele –

- (a) angene endaweni yokulahla imfucuzwa kuphela entubeni yokungena egunyaziwe njengoba kubekwe wuMasipala;
- (b) aveze imfucuzwa ukuze ikalwe ngendlela edindekayo ngokucela kwesikhulu esi esigunyaziwe;
- (c) anikeze isikhulu esigunyaziwe yonke imininingwane edingekayo mayelana nokubumbeka kwemfucuzwa;
- (d) alandele yonke imiyalelo ayinikeziwe mayelana nokufinyelela endaweni okuyiyona yokulahla, indawo kanye nendlela okumele imfucuzwa ichithwe ngayo;
- (e) ahlinzeke isikhulu esigunyaziwe ulwazi olugcwele mayelana nomuntu omele ukukhokha imali yale mfucuzwa echithwayo ukuze avulelwe i-akhawunti; futhi

(f) ahlinzeke isikhulu esigunyaziwe inkokhelo engukheshi ngokwakhe noma egameni lanoma yimuphi umuntu okumele akhokhe imali yale mfucuza echithwayo, inqobo nje uma izihlinzeko zezindima (b), (c) nendima (e) ngenhla zingamfaki umuntu, okuthe ngokwesigaba 18(2) salo Mthetho KaMasipala, wangena endaweni yokulahla ngenhloso yokuzolahla imfucuza yasengadini.

(3) Akukho muntu ongaletsa uphuzo oludakayo (utshwala) noma nasiphi isidakamizwa endaweni yokulahla imfucuza elawulwa wuMasipala.

(4) Akukho muntu ongadala noma ongavumela imoto ayilawulayo ukuba ihlale endaweni yokulahla isikhathi esingaphezulu kwesinesidingo ekubeni kade ezolahla imfucuza.

(5) Uma nangasiphi isizathu imoto ingakwazi ukuphuma endaweni yokulahla izihambela ngokwayo, umuntu oyilawulayo kumele athathe izinyathelo ezisheshayo zokuvimbela nakuphi ukuphazamiseka kwendawo yokulahla okungadalwa yileyo moto nokuthi ayisuse endaweni yokulahla.

(6) Ekwehlulekeni ukuhambisana nesigatshana (5), isikhulu esigunyaziwe singathatha izinyathelo zokususa leyo moto endaweni yokulahla, noma senze ukuba lezo zinyathelo zithathwe, ngezindleko zomnikazi waleyo moto.

(7) Akekho phakathi kukaMasipala nomsebenzi kaMasipala onesibopho kumnikazi nganoma yikuphi ukulahlekelwa noma umonakalo ongalawulwa nguye ngenxa yanoma yisiphi isinyathelo esithathwe ngokulandela isigatshana (6).

(8) Akukho muntu ongaletsa noma ongalahla endaweni yokulahla imfucuza nanoma yiyiphi imfucuza ewuketshezi noma enze ukuba kulahlwe imfucuza ewuketshezi, ngaphandle kokuba aqale athole imvume ebhaliwe kuMasipala kanye nangokulandela imibandela angabekelwa yona.

### **Imfucuza elungele ukusetshenziswa**

**43.** Naphezu kwanoma yini equkethwe kulo Mthetho KaMasipala, akukho mali eyokhokhwa uma umuntu efisa ukulahla endaweni yokulahla elawulwa uMasipala nayiphi imfucuza egunyazwe uMasipala njengemfucuza elungele ingxenye emboze phezulu, ukukhonkwa komgwaqo noma ezinye izinhloso eziphathelene nendawo yokulahla imfucuza.

**ISAPHLUKO 11**  
**OSONKONTILEKA ABASUSA IMFUCUZA ABAZIMELE**

**Osonkontileka abasusa imfucuza abazimele**

44.(1) Imfucuza ingaqoqwa futhi isuswe kuphela esakhiweni wusonkontileka osusa imfucuza –

(a) onikezwe imvume yemisebenzi ehleliwe ngokulandela iMithetho kaMasipala Yemisebenzi KaMasipala Ehleliwe; futhi

(b) ogunyaziwe ngokubhaliwe yiNhlolo Yomnyango.

(2) Isicelo sokugunyazwa njengosonkontileka osusa imfucuza kumele senziwe kwiNhlolo Yomnyango ngendlela enqunye nguye izikhathi ngezikhathi.

(3) Igunya okukhulunywa ngalo esigatshaneni (1) linganikezwa noma lenqatshelwe ngokubona kukMasipala futhi lingabekelwa imibandela, kungaba emayelana nesikhathi elizosithatha lisebenza, uhlobo lwemfucuza engaqoqwa isuswe, noma eminye, engabekwa uMasipala.

(4) Akukho muntu ongazithatha, noma ongenza sengathi ungosonkontileka osusa imfucuza uma –

(a) engakagunyazwa ukuba enze kanjalo ngokwesigatshana (1); noma

(b) isigunyazo sakhe sesiphelele yisikhathi noma sesihoxisiwe.

(5) Akukho sonkontileka osusa imfucuza ongaphula namuphi umbandela abekelwe wona ngokwesigatshana (3).

(6) Akukho muntu ongaqasha usonkontileka osusa imfucuza ongagunyaziwe ngokubhaliwe wuMasipala ngokulandela isigatshana (1).

(7) Namuphi umdali wemfucuza ohlose ukuqoka usonkontileka osusa imfucuza ogunyaziwe kumele azise uMasipala ngencwadi ngaleyo nhloso, ngokunjalo futhi kumele azise uMasipala uma leso sivumelwano sesinqanyulwa.

(8) Uma umdali wemfucuza esenikeze isaziso ngokulandela isigatshana (7), emva kwalokho unesibopho sokuqinisekisa ukuthi leyo mfucuza, ngaphandle kweyasekhaya, iyaqoqwa futhi

iyasuswa ngokulandela izihlinzeko zalo Mthetho KaMasipala esikhathini esifanele emva kokudaleka kwaleyo mfucuza.

(9) UMasipala, uma imfucuza ingaqoqiwe futhi ingasusiwe ngokweneliseka kwakhe kunanoma yisiphi isakhiwo wusonkontileka osusa imfucuza ogunyaziwe, ngesaziso esibhaliwe esibhekiswe kumdali wemfucuza, angamyalela ukuba amise ukusebenza kwalowo sonkontileka othintekayo bese esebenzisa imisebenzi ehlinzekwa wuMasipala yokuqoqwa nokususwa kwemfucuza kusukela ngosuku olubekiwe kuleso saziso.

(10) Usonkontileka osusa imfucuza angeyisuse imfucuza kunanoma yisiphi isakhiwo ngaphandle uma enikezwa ubufakazi bokuthi umdali wemfucuza usemazisile uMasipala ngokubhaliwe ukuthi lowo mdali wemfucuza usengene kwisivumelwano nosonkontileka osusa imfucuza sokususwa kwaleyo mfucuza nokuthi uMasipala akumele uhlinzeke lo msebenzi wokususa imfucuza kuleso sakhiwo.

(11) Uma uMasipala ekholelwa ekutheni kunezizathu zokumisa noma zokuhoxisa imvume enikezwe usonkontileka osusa imfucuza, le nqubo elandelayo kumele ilandelwe:

(a) UMasipala kumele anikeze usonkontileka osusa imfucuza isaziso esibhaliwe okungenani sezinsuku ezingama-21 esihanjiswe ngesandla (mathupha) noma esithunyelwe ngencwadi ebhaliwe ngezinhloso zikaMasipala zokumisa noma zokuhoxisa isigunyazo;

(b) Isaziso okukhulunywa ngaso endimeni (a) kumele sibe:

(i) nesitatimende esichaza ngohlobo lwesinyathelo esihlongozwayo;

(ii) nezizathu zaleso sinyathelo esihlongozwayo;

(iii) nesimemo sokuba kwenziwe izethulo ezibhaliwe ngalolu daba;

(v) nekheli lapho lezo zethulo kumele zithunyelwe khona; kanye

(v) nosuku, isikhathi nendawo lapho kuzolalelwa khona izethulo, esingeke sibe yisikhathi esingaphansi kwezinsuku eziyi-15 kusukela ngosuku lokukhishwa kwesaziso, ukuba kucutshungulwe ukumiswa noma ukuhoxiswa kwesigunyazo, kanye nencazelo yokuthi usonkontileka osusa imfucuza angaletha izethulo futhi avele phambi kwesigcawu sokulalelwa kwezethulo.

(c) Usonkontileka osusa imfucuza kumele anikezwe ithuba lokuthi, ngokwakhe noma ngokusebenzisa ommele ogunyazwe nguye ngokufanele, avele phambi kwesigcawu bese enza izethulo ngaphambi kweNhloko Yomnyango;

(d) Uma usonkontileka osusa imfucuzwa efisa ukuvela phambi kwesigcawu futhi efisa ukuphikisana nesinyathelo esihlongozwayo, kumele, zingakapheli izinsuku eziyisikhombisa ethole isaziso noma singakapheli isikhathi eseluliwe uMasipala ongasivumela, ahambise izethulo ezibhaliwe, ngesandla noma ngenchwadi ebhaliwe ekhelini elibekiwe esazisweni; futhi

(e) Emva kwesigcawu sokulalela izethulo, iNhloko Yomnyango kumele ikhiphe isinqumo mayelana nokuthi iyasimisa noma iyasihoxisa yini, noma cha, isigunyazo futhi kumele inikeze usonkontileka osusa imfucuzwa izizathu zayo mayelana naleso sinqumo ngokubhaliwe zingakapheli izinsuku eziyi-14 emva kosuku lokuphuthulwa kwesigcawu sokulalela izethulo.

## ISAHLUKO 12 UKUQINISWA KOMTHETHO

### **Ukunqwabelana kwemfucuzwa**

**45.(1)** Uma imfucuzwa inqwabelana esakhiweni ngendlela yokuthi idala isiphazamiso, noma ngendlela yokuthi kungahle kudaleke isiphazamiso, uMasipala ngezindleko zomhlali ungasusa leyo mfucuzwa noma wenze ukuba isuswe.

(2) Lapho uMasipala esusa leyo mfucuzwa, umdali wemfucuzwa uyobophezeleka ukukhokha imali yomsebenzi wokuqoqa nokususa imfucuzwa.

### **Imfucuzwa edinga ukunakekelwa okukhethekile**

**46.(1)** UMasipala angathumela isaziso esibhaliwe kumhlali wanoma yisiphi isakhiwo, noma esimweni lapho umhlaba ungenamhlali, kumnikazi wesakhiwo, acele ukuba kuthathwe izinyathelo ezikhethekile zokuqoqa, ukugcina okwesikhashana, ukulahla noma ukunakekela nanoma yiyiphi imfucuzwa esesakhiweni esithintekayo, singakapheli isikhathi esingabekwa, uma uMasipala enombono wokuthi lezo zinyathelo ziyadingeka ukuze kugwenywe noma kususwe okunobungozi kwezempilo noma okuyisiphazamiso.

(2) Ukwehluleka ukulandela isaziso esikhishwe ngokwesigatshana (1), uMasipala, phezu kwanoma yiziphi izinhlawulo ezibekelwe umdali wemfucuzwa, angahlela ukuba lezo zinyathelo zithathwe ngezindleko zomuntu okhishelwe isaziso.

### **Ukufinyelela esakhiweni**

**47.**(1) Umsebenzi ogunyaziwe unelungelo lokungena kunoma isiphi isakhiwo lapho imfucuza idaleka khona –

- (a) ngenhloso yokuqinisekisa ukuthi uyalandelwa lo Mthetho kaMasipala; futhi
- (b) ukuze bahambise isaziso esidingekayo ngokwalo Mthetho kaMasipala.

(2) Umsebenzi ogunyaziwe unelungelo lokuthatha amasampula emfucuza kanye nokuhlola noma iyiphi imfucuza etholakale kuleso sakhiwo ukuze kutholakale ukuthi ibumbeke kanjani.

### **Ukuthuthwa kwemfucuza**

**48.**(1) Noma imuphi umuntu osusa noma othutha imfucuza noma okanye okwenengayo kumele asuse leyo mfucuza noma lesi siphazamiso –

- (a) kuphela ngokusebenzisa imoto eyakhiwe futhi evalwe ngokulungele lo msebenzi; kanye
- (b) nangendlela ezovimbela imfucuza ukuba ingawi ngephutha emotweni noma ukuba idale nanoma yisiphi esinye isiphazamiso.

(2) Akukho muntu, ngale kokuthola kuqala imvume ebhaliwe uMasipala, ongathutha imfucuza ukusuka kunanoma yisiphi isakhiwo ukugudla umgwaqo noma indawo yomphakathi ukuze afinyelele endaweni yokugcina imfucuza eyakhiwe kwenye ingxenye yesakhiwo esifanayo.

(3) UMasipala angathumela isaziso esibhaliwe kunanoma yimuphi umuntu othutha imfucuza noma okuthile okunengayo emgwaqeni noma endaweni yomphakathi esibeka imibandela ngendlela okungathuthwa ngayo imfucuza, noma izikhathi okungathuthwa ngazo imfucuza uma ibona ukuthi ukuthuthwa kwaleyo mfucuza akuthandeki futhi kudala isiphazamiso.

## **ISAPHLUKO 13**

### **AMACALA NEZINHLAWULO**

#### **Ukulahla ngokungemthetho: okungxubevange**

**49.**(1) Akukho muntu ongalahla ngokungemthetho imfucuza ngendlela engavumelekile ngokwalo Mthetho kaMasipala, futhi akukho muntu ongavumela umuntu ongaphansi kolawulo lwakhe ukuba enze njalo.

(2) Namuphi umuntu otholakala enecala lokulahla ngokungemthetho uyohlawuliswa noma agqunywe ejele njengoba kubekiwe kulo Mthetho kaMasipala.

(3) UMasipala ungathatha izinyathelo ezidingekayo ukuze ususe futhi ulahle imfucuzela elahlwe ngokungemthetho bese kuthi umuntu olahle ngokungemthetho leyo mfucuzela kuyomele, phezu kwezinhlawulo azitholile ngokwalo Mthetho KaMasipala, akhokhe izindleko zikaMasipala zokususa nokulahla leyo mfucuzela.

### **Ukulahla ngokungemthetho emhlabeni ozimele**

**50.**(1) Umnikazi womhlaba ozimele okufinyelela kuwo umphakathi kumele aqinisekise ukuthi kuneziqokathi ezenele ezihlinzekiwe ukuze zifake imfucuzela elahlwa wumphakathi.

(2) Uma isigatshana (1) sephulwa, uMasipala angayalela, ngesaziso esibhaliwe ezibhekiswe kumnikazi, ukuba –

- (a) ayeke ukwephula umthetho, ngesikhathi esithile;
- (b) agweme okunye ukwephulwa komthetho noma ukuqhubeka nokwephula umthetho;
- (c) athathe naziphi izinyathelo uMasipala azibona zinesidingo ukukhuculula noma ukususa imfucuzela, kanye nokuvuselela leyo ndawo, ukuze kuqinisekise ukuthi leyo mfucuzela kanye nanoma yikuphi okungcolisekile okungeke kwahlanzeka noma kuvuseleleke kulahlwe ngokusemthethweni.

(3) UMasipala, mayelana nesaziso okukhulunywa ngaso esigatshaneni (2)(c), angasho ukuthi umnikazi kumele, esikhathini esingeqile ezinsukwini ezinhlanu, asuse leyo mfucuzela, ngaphandle uma uMasipala emnikeza ezinye izinsuku ezimbili, ngokucela kwakhe umnikazi, ukuba asuse leyo mfucuzela noma okulahliwe.

(4) Umuntu ongumnikazi womhlaba noma isakhiwo, noma olawula noma onelungelo lokusebenzisa umhlaba noma isakhiwo, angesisebenzise noma avumele ukuba kusetshenziselwe lowo mhlaba noma lesa sakhiwo ukulahla ngokungemthetho imfucuzela futhi kumele athathe izinyathelo ezifaneleyo ukuvimbela ukusetshenziselwa komhlaba noma kwesakhiwo inhloso enjalo.

(5) UMasipala ungathatha izinyathelo ezidingekayo ukususa nokulahla imfucuzwa elahlwe ngokungemthetho ngokwephula isigatshana (4) bese kuthi umuntu okunguyeye olahle ngokungemthetho leyo mfucuzwa kuyomele, phezu kwanoma yiziphi izinhlawulo ezibekiwe ngokulandela lo Mthetho KaMasipala, abe nesibopho sokuthwala izindleko zokususwa nokulahlwa kwaleyo mfucuzwa.

#### **Ukulahla ngokungemthetho: inhlabamkhosi**

**51.**(1) UMasipala ungasungula izindlela zokwelekelela amalungu omphakathi ukuba abike izimo zokulahlwa ngokungemthetho kwemfucuzwa okungukwephulwa lo Mthetho KaMasipala.

(2) Nayiphi indlela yokuhlaba umkhosi esungulwe ngokwesigatshana (1), ngokubona kukaMasipala, ingahlinzekela ukuba kubikwe ukulaxazwa kwemfucuzwa ngale kokuzidalula noma ngenye indlela.

#### **Ukulahla ngokungemthetho: ukudalula nokuhlaza**

**52.**(1) UMasipala ungashicilela igama lanoma yimuphi umuntu ogwetshelwe ukulahla ngokungemthetho ngokwephula lo Mthetho KaMasipala, kanye neminingwane yecalalalowo muntu.

(2) Amagama neminingwane yokulahlwa ngokungemthetho kwemfucuzwa ngokwephula lo Mthetho KaMasipala, njengoba kubekiwe esigatshaneni (1) kungashicilelwa -

- (a) kwingosi kaMasipala;
- (b) kungaphanyekwa le mininingwane emabhodini ezaziso kaMasipala;
- (c) kwabezindaba; kanye noma
- (d) ingayiphi enye indlela ebonakala ifanele kuMasipala.

#### **Amacala**

**53.** Umuntu uyotholakala enecala ngaphansi kwalo Mthetho KaMasipala uma –

- (a) evimbela ngokungemthetho umsebenzi ogunyaziwe ukuba angene esakhiweni sakhe noma owenza noma ovumela namuphi omunye umuntu ukuba amvimbele ukuba angene;
- (b) evimbela noma ethikameza umsebenzi ogunyaziwe ekwenzeni imisebenzi yakhe noma owenza noma ovumela namuphi omunye umuntu ukuba avimbele noma athikameze umsebenzi;

- (c) enqaba noma ehluleka ukuhlinzeka umsebenzi ogunyaziwe ulwazi oludingekayo ukuze luvumele lowo msebenzi ogunyaziwe ukuba enze umsebenzi ngokulandela lo Mthetho KaMasipala;
- (d) enikeza ngamabomu ulwazi olwedukisayo noma olungamanga kumsebenzi ogunyaziwe;
- (e) ezenza umsebenzi ogunyaziwe;
- (f) ephula noma ehluleka ukulandela naluphi uhlinzeko lwalo Mthetho KaMasipala;
- (g) elahla ngokungemthetho imfucuza;
- (h) ephula naluphi uhlinzeko noma umbandela mayelana nemvume noma nesigunyazo anikezwe khona; noma
- (i) ephula noma ehluleka ukulandela namuphi umyalelo noma isaziso esikhishwe ngokusemthethweni ngaphansi kwalo Mthetho KaMasipala.

### **Izinhlawulo**

**54.(1)** Namuphi umuntu ogwetshelwe icala ngaphansi kwalo Mthetho KaMasipala uyobophezeleka ukuba akhokhe inhlawulo engeqile ku-R100 000 noma abhadle ejele isikhathi esingeqile kwesiyiminyaka emihlanu noma kokubili – inhlawulo nokubhadla ejele.

(2) Esimweni lapho kuqhutshekwa kwenziwa icala, kuyobekwa inhlawulo eyengeziwe eyisamba esingeqile kuma-R500 noma ukubhadla ejele isikhathi esingeqile ezinsukwini eziyishumi (10), ngalolo nalolo suku okuqhubeka ngalo ukwenziwa kwalelo cala noma kokubili inhlawulo nokubhadla ejele.

## **ISAHLUKO 14**

### **IZIHLINZEKO EZIYINGXUBEVANGE**

#### **Ubunikazi bemfucuza**

**55.** Yonke imfucuza esuswe wuMasipala kanye nayo yonke imfucuza elahlwe ezindaweni zokulahla imfucuza ezilawulwa wuMasipala iyimpahla kaMasipala.

#### **Ukudluliselwa kwamandla**

**56.(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.

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

(a) naleso sikhungo noma lowo muntu odlulisele amandla noma odlulisa amandla adlulisiwe;

(b) nowemukela lawo mandla adlulisiwe noma odluliselwe amandla adlulisiwe; kanye

(c) nemibandela ehambisana nalawo mandla adluliselwe.

### **Ukudluliswa kwezinqumo**

**57.(1)** Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko lokudlulisa isinqumo oluqukethwe eMthethweni Wezinhlelo 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.

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

### **Imithetho echithwayo neshiywayo**

**58.**(1) Imithetho ebekiwe ohlwini lokuqala nolwesibili lukaSheduli 1 walo Mthetho kaMasipala ngalokhu iyachithwa ngale ndlela echaziwe ohlwini lwesithathu kule Sheduli okukhulunywe ngayo.

(2) Zonke izaziso ezishicilelwe ngaphansi koMthetho kaMasipala Wokususwa Kwemfucuza, Isaziso sikaMasipala esingonombolo 47 sika-2002 zizohlala zisebenza ngokugcwele kube sengathi lo Mthetho kaMasipala esikhuluma ngawo awuzange uchithwe njengoba kubekiwe esigatshaneni (1).

(3) Wonke amalungelo atholakele noma izibopho ezenziwe njengoba kubekiwe kule mithetho okukhulunywa ngayo esigatshaneni (2) kuyohlala kusebenza ngokugcwele kube sengathi leyo mithetho ayizange ichithwe.

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

**59.** Lo Mthetho KaMasipala ubizwa ngoMthetho KaMasipala Wokususwa Kwemfucuza ka-2016 kanti uqala ukusebenza emva kwezinyanga eziyisithupha ushicilelwe *kwiGazethi Yesifundazwe* noma ngalolo suku elungaphambili olunganqunywa ngokuba kushicilelwe isaziso sosuku lokuqala ukusebenza esiyofakwa *kwiGazethi Yesifundazwe*.

**ISHEDULI 1:**  
**IMITHETHO ECHITWHAYO**  
**(Isigaba 58)**

**UMTHETHO KAMASIPALA OKWAKUNGOKAMASIPALA OMDALA WETHEKU**

<b>Inombolo nonyaka komthetho</b>	<b>Isihloko</b>	<b>Ingxenywe echithwayo</b>
Isaziso SikaMasipala No. 40 sika-1985	Izimali ezikhokhwayo mayelana neMithetho Yokususwa Kwemfucuza kuMasipala weTheku	Wonke
Isaziso SikaMasipala No. 47 sika-2002	Imithetho Yokususwa Kwemfucuza, uMasipala weTheku	Yonke