UMASIPALA WAKWADUKUZA:

UMTHETHO WOKULAWULA IZAKHIWO, 2024

IMININININGWANE YOKUXHUMANA
P +27 32 437 5000
E: Municipalmanager@kwadukuza.gov.za
W: www.kwadukuza.gov.za

ISAHLUKO 1
UKUCHAZA

1) Izincazelo 6
2) Ukusebenza koMthetho KaMasipala 12
3) Izimiso, Izinqubomgomo, Okulindelekile Nokwejwayelekile 12

ISAHLUKO 2
IZIPHATHIMANDLA ZIKAMASIPALA ZOKULAWULWA KWEZAKHIWO: UKUSUNGULWA, IMISEBENZI NAMANDLA
4) Isiphathimandla Sokulawulwa Kwezakhiwo 13
5) Umhloli kaMasipala Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba 14
6) Umhloli Wemidwebo Yezakhiwo Yokulawulwa Kwezakhiwo 14

ISAHLUKO 3
UKUGCINWA KWAMAREKHODI NOKUTHOLAKALA KOLWAZI
7) Amarekhodi ezicelo okuvunywa kwemidwebo yezakhiwo nokutholakala kolwazi 16
8) Amarekhodi omnikazi okuvunywa komdwebo wesakhiwo, iSitifiketi Sokuhlola Endaweni kanye noma yimaphi amarekhodi esakhiwo 16
9) Ukufakwa kwesikhalazo somphakathi 17

ISAHLUKO 4
IZICELO ZOKUVUNYWA KWEMIDWEBO YEZAKHIWO
10) Isicelo nezimfanelo 18
11) Ukwakhiwa kwesakhiwo okudinga ukuvunywa komdwebo waso 18
12) Izakhiwo ezingadingi ukuvunywa komdwebo wesakhiwo nezinikezwe ushwele 19
13) Imisebenzi Yezakhiwo Emincane 19
14) Izakhiwo Zesikhashana 20
15) Isitifiketi Sokuhlala Endaweni neSitifiketi Sokuqeda 21
16) Ukubhidlizwa Kwezakhiwo 23
17) Ukulahlwa kwemfucumfucu yesakhiwo 24
18) Amanzi ezikhukhula 25
19) Amanzi angcolile 25
20) Amanzi 25
21) Ugesi 26
22) Isinyathelo esithathelwa ukwenza imikhawulo yokwakha ngaphakathi kwemigqa ekhombisa lapho kuhamba khona amanzi ezikhukhula nokuba seduzane nendlela yemvelo yamanzi 26
23) Ukugunyazwa kwezimvume okuphathelene nezemvelo, amanzi nezindawo ezingamagugu 26
24) Izindonga eziyimingcele nezigxotshana zokukhombisa umngcele wesakhiwo 27
25) Ukuvuma ngaphansi kwezimo eziphuthumayo 28

ISAHLUKO 5
UKUQEDA UKWAKHA, UKUBAMBEZELEKA NOMSEBENZI
26) Ukuqala nokuqeda ukwakha 29

27) Izindlela zokulawula izindawo okwakhiwa kuzo 30

ISAHLUKO 6
UKUSHESHE KUQALWE UKWAKHA

28) Ukusheshe kuqalwe ukwakhiwa kwezakhiwo 31
29) Isicelo nezimfanelo kokusheshe kuqalwe ukwakha 31

ISAHLUKO 7
UKUPHOQELELA KOKUSEBENZA KOMTHETHO

30) Amacala nezinhlawulo 33
31) Izaziso 33
32) Ukungena koMholi Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba 34

ISAHLUKO 8
IZIKHALAZO

33) Izikhalazo 36

ISAHLUKO 9
IZIGATSHANA EZEJWAYELEKILE

34) Ukuhlonzwa kwezimali zentela ezikhokhelwa ukwenziwa kwemisebenzi nezimali ezikhokhela umsebenzi othile owenziwe 37
35) Ukunikeza ushwele ekukhokheleni ukulahlekelwa 37
36) Ukubalwa kwenani lezinsuku 38
37) Izinhlelo zoguquko nezigatshana ezikhipha izingxenye ezithile ekusebenzeni komthetho 38
38) Isihloko esifushane nokuqalisa 38

ISINGENISO NENHLOSO

NANJENGOBA kunesidingo sokuhlinzeka uhlaka lokulawula lokwakha izakhiwo endaweni engaphansi kukaMasipala WaKwaDukuza ngokuhambisana noMthetho Kazwelonke Ophathelene Nokulawula Izakhiwo Nezimiso Zezakhiwo, 1977 kanye nokuphoqelela ukusebenza kwezimiso zezakhiwo eziphathelene naleyo ndawo nokuhlinzekela amacala nezinhlawulo;

NANJENGOBA iSigaba 24 soMthethosisekelo Wezwe LaseNingizimu Afrika (uMthetho owunombolo 108 ka-1996) sithi noma ubani unelungelo lokuba sendaweni engalimazi impilo yakhe nempilonhle; nokuba leyo ndawo ivikeleke, ukwenzela izizukulwane zamanje nezangesikhathi esizayo;

NANJENGOBA iSigaba 32 soMthethosisekelelo sithi noma ubani unelungelo lokuthola noma yiluphi ulwazi olugodlwe umbuso; nanoma yiluphi ulwazi olugodlwe omunye umuntu futhi oludingekela ukusebenzisa noma ukuvikela noma yimaphi amalungelo;

NANJENGOBA iSigaba 156(1) soMthethosisekelo sinikeza oMasipala ilungelo lokusingatha izindaba zikahulumeni wasekhaya ezibalwe eNgxenyeni B yoMthetho Oyisijobelelo 4 nowe-5;

NANJENGOBA iSigaba 156(2) ne-(5) soMthethosisekelo sihlinzekela ukuthi uMasipala angasungula futhi asingathe iMithetho KaMasipala ukwenzela ukusingathwa ngendlela efanele izindaba onelungelo lokuzisingatha bese usebenzisa noma yimaphi amandla aqondene nodaba oludingekela, okungenzeka ngenxa yomphumela othile, ukwenza ngendlela efanele imisebenzi yakhe;

NANJENGOBA iSigaba 11(3)(m) Wezinhlelo ZikaMasipala, ka-2000 (uMthetho ongunombolo 32 ka-2000) unikeza oMasipala ilungelo lokwemukela iMithetho KaMasipala;

NANJENGOBA iSigaba 4 soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo, 1977 (uMthetho owunombolo 103 ka-1977) unikeza uMkhandlu amandla okuthi uvume izicelo mayelana nokwakha;

NANJENGOBA iSigaba 7 soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo, 1977 (uMthetho owunombolo 103 ka-1977) unikeza uMasipala amandla okuthi ulawule ukuqanjwa nokwakhiwa kwezakhiwo;

NANJENGOBA iMithetho Yokulawula Yokwakha ka-2014 ngaphansi kweSigaba 43 soMthetho Wezempilo Nokuphepha Emsebenzini, 1993 (uMthetho owunombolo 85 ka-1993) ichaza izimfanelo nezibophezelo okufanele kuhanjiswane nakho uma kwakhiwa ukuqinisekisa ukuthi wonke umsebenzi wokwakha wenziwa ngendlela ephephile;

NANJENGOBA lo Mthetho KaMasipala wengeza eMthethweni Kazwelonke Ophathelene neMithetho Yokulawula Yezakhiwo Nezimiso ukuqinisekisa ukuhambisana mayelana nezimiso

zezakhiwo, ukwakha nokuhanjiswa, ukubhekwa nokuvunywa kwemidwebo yezakhiwo endaweni engaphansi kukamasipala.

ISAHLUKO 1

UKUCHAZA

Izincazelo

1. Kulo Mthetho KaMasipala, ngaphandle uma umqondo ukhombisa okunye -

"Isiphathimandla Esikhulu" sichaza uMphathi kaMasipala oqokwe ngokweSigaba 56 soMthetho Wezinhlelo ZikaMasipala.

"Inhlawulo yokuvuma icala" kuchaza uhlaka lwenhlawulo eyemukelwe uMasiplala egunyazwe yiNkantolo yeMantshi noma iNkantolo KaMasipala eqokelwe lokho.

"Umfakisicelo" uchaza noma yimuphi umuntu ofaka isicelo ngokwalo Mthetho KaMasipala.

"Isicelo" sichaza isicelo esicatshangwe ngokucophelela kulo mthetho kamasipala ofundwa nesigaba 4 soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo.

"Ukuvuma" kuchaza ukuvuma okusemthethweni kukaMasipala noma isiPhathimandla Esigunyaziwe okucatshangwe ngokucophelela ngokoMthetho Kazwelonke Ophathelene neMithetho Yokulawula Yezakhiwo Nezimiso kanye/noma lo Mthetho KaMasipala.

"Njengoba kwakhiwe" kuchaza isakhiwo esivunyiwe ukuthi sakhiwe ngokuthi sibe nomdwebo ovunyiwe kodwa siye saphambuka emdwebeni ovunyiwe.

"Isiphathimandla Esigunyaziwe" sichaza umsebenzi kaMasipala onamandla awanikiwe noma ingxenye yawo okuthi enze okuthile ngokwalo Mthetho KaMasipala.

"Izigxotshana zokukhombisa umngcele wesakhiwo" zichaza izigxotshana zokukhombisa umngcele wendawo eyakhiwe njengoba kuchaziwe ngokoMthetho Wokuklanywa Komhlaba, uMthetho owunombolo 8 ka-1977.

"Umngcele" uchaza umngcele osungulwe ngokusemthethweni ngokwesigaba 35 soMthetho Wokuklanywa Komhlaba.

"Udonga Oluwumngcele" udonga noma eminye Imisebenzi Emincane njengothango olwakhelwe ukuba umngcele womnikazi wesakhiwo.

"Udonga Olweseke Umngcele" luchaza udonga lokweseka olwakhiwe emngceleni.

"Udonga Olwesekile" luchaza udonga okuhloswe ngalo ukuthi kuvikelwe ukugudluka kwezinto endaweni yazo.

"Isakhiwo" sifaka-

(a) noma yiluphi uhlaka lwesakhiwo, noma ngabe olwesikhashana noma olonomphelo ngale kwezinto olwakhiwe ngazo, noma olusetshenziselwa khona noma mayelana-

   i. indawo yokuhlala noma ukwenzela abantu noma izilwane;
   ii. ukukhiqiza, ukwenza okuthile, ukugcina okuthile, ukukhombisa okuthile noma ukuthengisa noma iyiphi impahla;
   iii. ukuhlinzeka noma iyiphi imisebenzi;
   iv. ukonakalisa noma ukuhlanza imfucuza noma udoti ngamakhemikhali
   v. ukuvuna noma nokutshala izitshalo noma izivuno;
   vi. imibhoshongo yezokuxhumana ngocingo;
   vii. amabhodi okukhangisa kwangaphandle;

(b) noma yiluphi udonga, indawo yokubhukuda umphakathi engaphakathi esakhiweni, indawo yokubhukuda eyejwayelekile, isakhiwo esigcina uketshezi oluthile noma indawo yokuwela noma yiluphi uhlala lwesakhiwo oluxhumene naleso sakhiwo;

(c) nanoma yiluphi uhlaka lwesakhiwo, okufaka uhlaka lwesakhiwo njengoba kuchaziwe esigatshaneni (a) noma (b);

(d) nanoma iyiphi indawo noma uhlelo, noma ingxenye yalo, ngaphakathi noma ngaphandle kodwa okuphathelene nohlaka lwesakhiwo, ukwenzela ukuhlinzeka amanzi, ukudedelwa kwamanzi aye ngaphansi komhlaba, ukuhambisa amanzi angcolile, nokuhambisa amanzi ezimvula, ukuhlinzeka ugesi noma eminye imisebenzi efana naleyo okumayelana nohlaka lwesakhiwo leso;

(e) Izakhiwo zonke zilkahulumeni, okufaka izakhiwo zikamasipala, ngaphandle kwalezo ezinikezwe ushwele ngokoMthetho Kazwelonke Ophathelene neMithetho Yokulawula Yezakhiwo Nezimiso.

"Ibhodi elikhulu lokukhangisa kwangaphandle" lichaza noma yisiphi isikrini, ibhodi, ibhodi elikhulu kakhulu, ucingo lokubiya, udonga noma yiziphi izinhlaka zezakhiwo ezizimele ezisetshenziselwa noma ezihlose ukusetshenziselwa ukunamathisela noma ukukhombisa noma yisiphi isikhangiso.

"Isiphathimandla Sokulawulwa Kwezakhiwo" sichaza noma yimuphi umuntu oqokwe noma okuthathwa ngokuthi uqokwe njengeSiphathimandla Esilawula Izakhiwo ngokwesigaba 5 soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo futhi okufaka noma yisiphi isiphathimandla esiqokelwe ukubamba iqhaza futhi senze umsebenzi womuntu oqokiwe.

“Umhloli Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba” sichaza noma yimuphi umuntu oqokwe noma okuthathwa ngokuthi uqokwe njengeSiphathimandla Sezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba ngokwesigaba 5 salo Mthetho KaMasipala futhi okufaka noma yisiphi isiphathimandla esiqokelwe ukubamba iqhaza futhi senze umsebenzi womuntu oqokiwe.

“Imfucuza Yesakhiwo” ichaza imfucuza edalwe ukwakha, ukuguqulwa, ukulungisa noma ukudiliza noma yisiphi isakhiwo okwenziwe umuntu nemvelo futhi okufaka imfuqumfuqu, inhlabathi, ukhuni, idwala, ingilazi, iplastiki, insimbi, itiyela, umkhiqizo owenza itiyela, izinto ezisetshenziselwa ukufaka okuthile, ukhonkolo, izitini, amathayela, amaseramikhi nezinto ezakhelwe kulokho okuphuqukayo okumhlophe noma okumdaka kodwa okungafaki imfucuza yasengadini nobhestazi.

“Ikhenophi” ichaza isakhiwo esinophahla oluphumela ngaphandle kwengaphambili lesakhiwo elibheke endaweni evulekile lwase lwesekwa isigxobo sikakhonkolo eside saleso sakhiwo noma esesekwe izigxobo ezibamba isisindo sesakhiwo.

“Indawo yokuma imoto evalekile” ichaza isakhiwo esihlose ukukhoselisa imoto, inqola noma isikephe futhi esinophahla kodwa sinezindonga ezinezinhlangothi ezingengaphezulu kwezimbili.

“Isitifiketi Sokuhlala Endaweni” neSitifiketi Sesikhashana Sokuhlala Endaweni” sichaza isitifiketi sokuhlala endaweni noma sokuhlala okwesikhashana mayelana nezakhiwo njengoba kuchhaziwe esigabeni 14 soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo nesigaba 15 salo Mthetho KaMasipala.

“Umuntu Oqeqeshiwe” uchaza umuntu ofanelekile ukwenza umsebenzi ngenxa yemfundo, ukuqeqesheka, nolwazi lomsebenzi kanye nolwazi oluhlinzekwa emqondweni wesimo esithile ukwenza isinqumo mayelana nokwenziwa yisakhiwo noma ingxenye yaso.

“Isitifiketi Sokuqeda” sichaza isitifiketi esikhishwa yiSiphathimandla Esigunyaziwe sesakhiwo esingenzelwe ukuhlala.

“Ithange lokugcina ukutshezi olungcolile” lichaza ithange elimbozekile elisetshenziselwa ukwemukela nokugcina isikhashana uketshezi olungcolile, futhi elidinga ukuthi lichithwe njalo ngezikhathi ezithile.

“UMthetho Wenqubo Yobugebengu” uchaza uMthetho Wenqubo Yobugebengu 51 ka-1977.

“Ukubhidliza” kuchaza isenzo sangabomu sokubhidliza, ukuvithiza, ukonakalisa noma ukususa noma yisiphi isakhiwo, uhlaka lwesakhiwo, izinto zokwakha, noma ingxenye yaso, noma ngabe siphelele, yingxenye yaso, noma ukuguqulwa kwesakhiwo esivele sikhona noma ingxenye yaso, futhi esidinga imvume kuMasipala ngaphambi kokuqedwa komsebenzi.

“Uhlelo Lokufaka Isicelo Ngekhompyutha” luchaza uhlelo olukwi-intanethi oluqalwe, lwenzelwa futhi lwaqaliswa ukusebenza nguMasipala ukucubungula izicelo, ukuhlinzeka ulwazi nokuqapha ukuhambisana nomthetho”

“Isimo esiphuthumayo” sichaza into ethile eyenzeke kungalindelekile, okufaka ukudedelwa kwegesi emoyeni okukhulu, umlilo noma ukuqhuma okuholela engozini enkulu yokulimala emphakathini noma okubeka engcupheni enkulu ezemvelo noma ngabe kwenzeka manje noma kulitshazisiwe.

“Into ewujojo” kuchaza into ephume yaba ujojo esakhiweni ehamba ngaphansi, engena noma ehamba ngaphezu komgwaqo womphakathi noma endaweni yomphakathi, yilapho kuhamba khona isakhiwo, umngcele kanye namatayitela abhalisiwe omhlaba lapho kuzokwakhiwa khona.

“Imigqa ekhombisa lapho kuhamba khona amanzi ezikhukhula” ichaza imigqa ebalazweni noma umfanekiso okhombisa ibanga elingahanjwa amanzi ezikhukhula ukuphakama okwenzeka ngezikhathi ezithile ezichaziwe.

“Isisekelo” sichaza ingxenye yesakhiwo ethintene ngqo futhi ehlose ukuqinisa isakhiwo.
“Udonga olumi lodwa” luchaza udonga, olungesekile.

“Ukuguqulwa kwesakhiwo kwangaphakathi” kuchaza ukuguqulwa kwesakhiwo okungaguquli ubunjalo bohlaka lwesakhiwo kanye noma ukuhlangana kwesakhiwo sibe yinto ephelele.

“Imisebenzi emincane yezakhiwo” ichaza imisebenzi emincane njengoba kuhlonzwe esigabeni 14 salo Mthetho KaMasipala.

“UMasipala” uchaza uMasipala Wasekhaya WaKwaDukuza owasungulwa ngokwesigaba 12 soMthetho Kahulumeni Wasekhaya: UMthetho KaMasipala Wezakhiwo, 1998 (uMthetho 117 ka-1998, futhi ofaka noma yimuphi umuntu mayelana nalo Mthetho KaMasipala ngamandla awanikwe uMasipala noma yisiphi esinye isiphathimandla esiqokelwe ukuthi sibambe iqhaza futhi senze nemisebenzi yomuntu oqokiwe;

"**UMkhandlu KaMasipala**" noma "**uMkhandlu**" uchaza umkhandlu kamasipala WaKwaDukuza, umkhandlu kamasipala okubhekiswe kuwo esigabeni 157(1) soMthethosisekelo.

“UMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo” uchaza imithetho yokulawula ekhishwe ngokoMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo, 1977 (uMthetho owunombolo 103 ka-1977) futhi okufaka iMithetho Yokulawula yalezo zakhiwo;

“UMthetho Kazwelonke Wokusingathwa Kwezemvelo” uchaza uMthetho Kazwelonke Wokusingathwa Kwezemvelo, uMthetho owunombolo 107 ka-1998.

"UMthetho Wezempilo Nokuphepha Emsebenzini" uchaza uMthetho Wezempilo Nokuphepha Emsebenzini, uMthetho owunombolo 85 ka-1993.

"Uphiko Lombuso"

(a) noma yimuphi umnyango kahulumeni noma ukuphathwa kukahulumeni emkhakheni kazwelonke, isifundazwe noma owasekhaya; noma

(b) noma yisiphi esinye isiphathimandla noma isikhungo-

  i. esisebenzisa amandla noma esenza umsebenzi ngokoMthethosisekelo noma umthethosisekelo wesifundazwe; noma

  ii. esenza umsebenzi kahulumeni noma esisebenzisa amandla ngokomthetho, kodwa okungafaki isiphathimandla sasenkantolo noma sezobulungiswa.

  iii.

'Umnikazi" mayelana nesakhiwo uchaza-

(a) umuntu okurejistwe umhlaba, umhlaba nokwakhiwe kuwo, isakhiwo noma isakhiwo esiyingxenye yezakhiwo eziningi endaweni eyodwa egameni lakhe eHhovisini Elibhalisa Amatayitela LaKwaZulu-Natali; kanye/noma

(b) umnikazi onelungelo lomhlaba, umhlaba nokwakhiwe kuwo, isakhiwo noma itayitela lesakhiwo esiyingxenye yezakhiwo eziningi endaweni eyodwa noma umnikazi wesivumelwano sesikhathi eside esibhalisiwe sokuqasha umhlaba, indawo eyakhiwe noma isakhiwo esiyingxenye yezakhiwo eziningi endaweni eyodwa: kanye/noma

(c) noma umhlaba, umhlaba nokwakhiwe kuwo, isakhiwo noma isakhiwo esiyingxenye yezakhiwo eziningi endaweni eyodwa Uphiko Lombuso olunelungelo kukho, okungaba ngendlela yokwephuca abanikazi bomhlaba noma ngokunye ukusebenza komthetho; kanye/noma

(d) umuntu, inhlangano esemthethweni, nalapho amandla asetshenziswa khona ngendlela yokusebenza komthetho kanye noma ngendlela yenqubo yomthetho enikeza amandla anjalo okufaka umyalo wenkantolo; kanye/noma

(e) umuntu, kanye noma inhlangano esemthethweni ongumhlali wendawo, umhlaba nokwakhiwe kuwo, wesakhiwo noma wesakhiwo esiyingxenye yezakhiwo eziningi endaweni eyodwa ngokuhambisana nomthetho obhekela indabuko ezweni kanye noma indlela okwenziwa ngayo izinto noma imithetho yokulawula ephathelene nomphakathi eyemukelwe amalungu omphakathi ngokomthethosisekelo wenhlangano yomhlaba nokwakhiwe kuwo ephathelene nomphakathi.

“PAIA” isifingqo somthetho obizwa nge-Promotion of Access to Information Act No. 2 of 2000 ochaza uMthetho Wokuqhakambisa Ukutholakala Kolwazi owunombolo 2 ka-2000
“Udonga olwakhiwe emngceleni womnikazi wengxenye yomhlaba” luchaza udonga lapho umngcele obhalisiwe uhamba emgqeni wesiyingi sodonga.

“Umuntu” ufaka noma yimuphi umuntu, inhlangano ethathwa njengomuntu ngokomthetho, inhlangano noma Uphiko Lombuso.

“Uhlaka lwesakhiwo olwesekwe yizigxobo ezithatha isisindo sesakhiwo” luchaza uhlaka lwesakhiwo olunezigxobo ezime eceleni kwezinye ngokulinganayo ezeseke uphahla oluvulekile olwakhiwe ngezinsimbi.

“POPIA” isifingqo somthetho obizwa nge-Promotion of Information Act No; 4 of 2013 ochaza uMthetho Wokuvikeleka Kolwazi Oluphathelene Nomuntu owunombolo 4 ka-2013

“Umhlaba nokwakhiwe kuwo” uchaza noma yisiphi isiqeshana somhlaba, iziqeshana zomhlaba, umhlaba/imihlaba, isiqeshana esincane somhlaba/iziqeshana ezincane zomhlaba, ingxenye yomhlaba enemingcele/izingxenye zomhlaba ezinemingcele noma umhlaba okwakhiwe kuwo/imihlaba okwakhiwe kuyo, ingxenye/izingxenye yomhlaba/yemihlaba yepulazi noma umhlaba wezolimo, noma umhlaba wohlelo lwesakhiwo esiyingxenye yezakhiwo eziningi endaweni eyodwa okubhaliswe kanjalo eHhovisi Lokubhalisa Amatayitela.

“Umgwaqo womphakathi” uchaza umgwaqo umphakathi onelungelo lokuwusebenzisa;

“Ukwenqaba” kuchaza ukwenqaba okusemthethweni kukaMasipala noma iSiphathimandla Esigunyaziwe okucatshangwe ngokucophelela ngokoMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo kanye/noma lo Mthetho KaMasipala.

“Amanzi angcolile” achaza amanzi enhlabathi, amanzi asetshenziswe emakhaya noma emafemini, noma ngabe ngokwehlukana noma ndawonye.

“Ipayipi elihambisa amanzi angcolile” lichaza ipayipi noma okokuhambisa amanzi angcolile elisendaweni eyakhiwe elisetshenziselwa noma elihlolse ukusetshenziselwa ukuhambisa amanzi angcolile.

“Ithange lokugcina okuthile” lichaza ithange, ngale kwanoma yiliphi ithange elisetshenziselwa ukugcina amanzi ashisayo noma ithange lamanzi asendlini yangasese, eliyingxenye yokufakwa kwamanzi futhi lisetshenziselwa ukugcina amanzi.

“Amanzi ezikhukhula” achaza amanzi adalwa yizimvula noma ukunqwabelana kwamanzi emvula, amanzi ahamba ngaphezulu, amanzi asemhlabathini noma amanzi ahamba agcinwa yinhlabathi ngaphansi komhlaba.

"Isitamukoko samanzi ezikhukhula" sichaza ipayipi, okokuhambisa amanzi noma umsele ohamba ngaphezulu osendaweni ethile, osetshenziselwa ukuhambisa amanzi ezikhukhula uwayise endaweni efanele yokuwachitha.

"Imali yentela ekhokhelwa imisebenzi eyenziwa umasipala" ichaza izimali ezikhokhiswa umasipala zemisebenzi yakhe, njengoba ihlonzwe uMkhandlu KaMasipala ngezikhathi ezithile

"Isakhiwo sesikhashana" sichaza noma yisiphi isakhiwo sesikhashana esishiwo umnikazi futhi esisetshenziselwa okuthile esikhathini esinqunyiwe, kodwa esingafaki isakhiwo sikamakhi sokubeka impahla yokwakha.

Ukusebenza koMthetho KaMasipala

2. (1) Lo Mthetho KaMasipala usebenza kuwona wonke umhlaba ongena ngaphansi kukaMasipala futhi ubophezela bonke abantu, uMasipala nezimpiko zombuso, kuze kufike la kwenzeka khona.

(2) Uma kubhekwa ukungqubuzana phakathi kwalo Mthetho KaMasipala nomunye umthetho, inkantolo yomthetho kufanele ikhethe noma iyiphi incazelo efanele evikela ukungqubuzana kunoma iyiphi enye incazelo eholela ekungqubuzaneni. Lapho lo mthetho kamasipala nenqubomgomo noma nomthetho kazwelonke noma wesifundazwe, inqubomgomo noma umthetho kazwelonke noma wesifundazwe yiwona osuyosebenza.

(3) Akukho muntu oyokwakha isakhiwo noma akhe emhlabeni ngaphandle kwemidwebo yesakhiwo evumelekile noma wanikezwa imvume ngokwalo Mthetho KaMasipala.

(4) Lo Mthetho KaMasipala welekelela uMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo futhi usebenza kunoma yisiphi isakhiwo esisha noma esivele sikhona ngaphandle uma isakhiwo sinikezwe ushwele ngokoMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo, yilo Mthetho KaMasipala noma inqubomgomo eza ngaphambi kokuhlelwa kwemithetho yokulawula yohlelo.

Izimiso, Izinqubomgomo, Okulindelekile Nokwejwayelekile

3. (1) Noma yiziphi izimiso zokwakha nanoma yikuphi okulindelekile nokwejwayelekile okusebenza Ekulawuleni Izakhiwo okwenziwe ngokomthetho kazwelonke noma wesifundazwe kuyasebenza kuMasipala.

(2) UMkhandlu KaMasipala ungemukela izinqubomgomo, izinqubo nemihlahlandlela, okuhambisana nomthetho kazwelonke, umthetho wesifundazwe noma lo Mthetho KaMasipala ukukhombisa indlela efanele yokufaka izicelo noma izinqumo ezithathwayo ngokwalo Mthetho KaMasipala.

ISAHLUKO 2

IZIPHATHIMANDLA ZIKAMASIPALA ZOKULAWULWA KWEZAKHIWO: UKUSUNGULWA, IMISEBENZI NAMANDLA

Isiphathimandla Sokulawulwa Kwezakhiwo

4. (1) UMasipala kufanele aqoke umuntu njengeSiphathimandla Sokulawulwa Kwezakhiwo ukuze sisebenzise amandla, sifeze izibophezelo noma izinto ezivunywayo noma ezinikwa iSiphathimandla Sokulawulwa Kwezakhiwo ukuthi sizenze nguMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo noma ngaphansi kwawo.

(2) Kuncike emandleni oMkhandlu KaMasipala onganikeza ingxenye yamandla athile nemisebenzi yeSiphathimandla Sokulawulwa Kwezakhiwo lapho kudingeka khona.

(3) Amandla nemisebenzi yeSiphathimandla Sokulawulwa Kwezakhiwo-:
Isiphathimandla Sokulawulwa Kwezakhiwo:

(a) sizothatha isinqumo ngezicelo ezifakiwe ngokwalo Mthetho KaMasipala;

(b) sizoqinisekisa ukuthi umyalo onikeziwe ngokoMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo nguMasipala uyalandelwa;

(c) Uma kudingeka uhlelo lokuvikela umlilo ngokoMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo nguMasipala, iSiphathimandla Sokulawulwa Kwezakhiwo leso singahlanganisa isinqumo saso okubhekiswe kuso esigabeni esingaphansi kwesikhulu (a) umbiko wesiphathimandla esiqokiwe emnyangweni wezokucishwa komlilo.

(d) Sizoba nelungelo lokungena kunoma yimaphi amagceke ngesikhathi okubonakala sifanele ukwenzela ukuphenya, ukuqapha, ukuhlola nokulawula njengoba kubalulwe Ezimisweni Zezakhiwo Zikazwelonke ZaseNingizimu Afrika 10400 nakulo Mthetho KaMasipala.

(e) Sizophendula imibuzo futhi sibhekane nezikhalazo okuvela emphakathini mayelana namarekhodi nezinye izinto zezakhiwo.

(f) Sizokhipha amanothisi okungahambisani nomthetho njengoba kucatshangwe ngokucophelela kulo Mthetho naseMthethweni Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo.

(g) Sizobheka izikhalazo zomphakathi mayelana nezinto eziyinjojo yezakhiwo nokwakha okungekho emthethweni.

(h) Sizothatha isinqumo ngeSitifiketi Sokuhlala Endaweni neSitifiketi Sesikhashana Sokuhlala Endaweni namandla okuchitha izitifiketi ezinjalo.

(i) Sizofeza zonke izibophezelo ngokuhambisana nemisebenzi ehambisana nokulawulwa kwezakhiwo.

Umhloli kaMasipala Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba

5. (1) Ukuqokwa Komhloli/Kwabahloli We/bezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba

(a) Umasipala kufanele aqoke umuntu noma abantu njengaBahloli bakwaMasipala Bezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba ukuze basebenzise amandla, bafeze izibophozelo benze nemisebenzi okucatshangwe ngokucophelela ngezansi.

(b) Abahloli bakwaMasipala Bezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba abacatshangwe ngokucophelela kulesi sigaba kufanele baqokwe njengeZiphathimandla Zoxolo ngokwesigaba 334 soMthetho Wenqubo Yobugebengu

(2) Amandla Nemisebenzi koMhloli wakwaMasipala Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba

(a) UMhloli wakwaMasipala Wezakhiwo Nokudedelwa Kwamanzi Aye NgaphansiKomhlaba uzoba namandla okuhlola noma yimuphi umhlaba nokwakhiwe kuwo kanye/noma isakhiwo futhi;

i. aphoqelele ukusebenza koMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo 103 ka-1977,

ii. aphoqelele ukusebenza kweZimiso Zezakhiwo Zikazwelonke ZaseNingizimu Afrika 10400

iii. aphoqelele ukusebenza koMthetho KaMasipala WaKwaDukuza Wokulawulwa Kwezakhiwo

iv. aphoqelele imibandela yokuvunywa kwezicelo

Umhloli Wemidwebo Yezakhiwo Yokulawulwa Kwezakhiwo

6. (1) Imisebenzi namandla koMhloli Wemidwebo Yezakhiwo

(a) Umhloli Wemidwebo Yezakhiwo umsebenzi wakhe ukuqinisekisa ukuthi imidwebo yezakhiwo ehanjiswa kwaMasipala ihambisana noMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo.

(b) Ubheka onke amafomu nezimali ezikhokhwayo okuhambisana nesicelo ukuthi kuhamba kahle yini bese emukela noma achithe isicelo.

(c) Umhloli Wemidwebo Yezakhiwo uzobuyekeza futhi ahlole yonke imidwebo yezakhiwo nezicelo okuhanjiselwe ukuhambisana nayo yonke imithetho kamasipala namakhodi;

(d) Ubheka imidwebo yezakhiwo bese eqhathanisa imininingwane nezimfanelo zokuthile komkhiqizi;

(e) Uhambisa imidwebo yezakhiwo kweminye iminyango nezimpiko zebhizinisi ukuze baphawule.

(f) Ubuyekeza izicelo zemidwebo yezakhiwo nakho konke okunye kwazo zonke izakhiwo/izindawo ezakhiwe

(g) Uthatha isinqumo ekuhloleni imidwebo yezakhiwo.

(h) Ukhulumisana nabanikazi bemizi, abathuthukisi bezindawo, abakhi, ongoti abasungula izakhiwo nonjiniyela ukuze kube khona ukuhambisana nomthetho emidwebeni yezakhiwo ehanjisiwe.

(i) Akhulumisane neSiphathimandla Sokuhlolwa Kwezakhiwo

(j) Ahlole izindawo njengoba nangesikhathi kudingeka

(k) Afeze zonke izibophezelo ngokuhambisana nemisebenzi ehambisana nokuhlola imidwebo yezakhiwo.

7. Umuntu oyedwa angasebenza emahhovisi angaphezu kwelilodwa noma enze imisebenzi engaphezu kowodwa

ISAHLUKO 3

UKUGCINWA KWAMAREKHODI NOKUTHOLAKALA KOLWAZI

Amarekhodi ezicelo okuvunywa kwemidwebo yezakhiwo nokutholakala kolwazi

8. (1) UMasipala kufanele agcine amarekhodi azo zonke izicelo ezihanjisiwe ukuze zivunywe.

(2) UMasipala kufanele agcine imidwebo yezakhiwo evunyiwe nezincwadi zezicelo ukwenzela amarekhodi nezimfanelo zokusebenza.

(3) Kufanele umphakathi uvunyelwe ukubona izincwadi zemidwebo yezakhiwo kuphela emva kokufakwa kwesicelo ngokoMthetho Wokuqhakambisa Ukutholakala Kolwazi.

(4) Umnikazi unelungelo lokubona imidwebo yezakhiwo yomhlaba wakhe nokwakhiwe kuwo uma enikeza lezi zincwadi ezilandelayo:

(a) Ubufakazi bobunikazi

(b) Isitatimende sakamuva somhlaba nokwakhiwe kuwo sezimali ezikhokhelwa imisebenzi ehlinzekwa umasipala

(c) Umazisi womnikazi

(d) Incwadi yommeli noma yomuntu ophakanyisiwe nobufakazi bukamazisi bomuntu ogunyaziwe womnikazi

(e) Noma yiluphi olunye ulwazi olungadingeka ngokoMthetho Wokuqhakambisa Ukutholakala Kolwazi noma ngokoMthetho Wokuvikeleka Kolwazi Oluphathelene Nomuntu.

(f) Ubufakazi bokukhokhwa kwanoma iyiphi imali yokusingatha ukucutshungulwa kwesicelo.

(5) UMasipala ugodle ilungelo lokwenqaba ukuthi kubonwe imidwebo yezakhiwo uma kwenzeka ukuthi lolu lwazi olungenhla alunikeziwe futhi uma ocelayo kungeyena umnikazi noma akanancwadi yommeli noma yomuntu ophakanyisiwe evela kumnikazi, ngaphandle uma uMasipala elandele izigatshana zoMthetho Wokuvikeleka Kolwazi Oluphathelene Nomuntu noMthetho Wokuqhakambisa Ukutholakala Kolwazi kanye/noma lapho umyalo wenkantolo inikezwe uMasipala eyalelwa ukuthi ahlinzeke ulwazi olunjalo.

Amarekhodi omnikazi okuvunywa komdwebo wesakhiwo, iSitifiketi Sokuhlola Endaweni kanye noma yimaphi amarekhodi esakhiwo

9. (1)Umnikazi kungumsebenzi wakhe ukugcina amakhophi emidwebo yezakhiwo evunyiwe neZitifiketi Zokuhlala Endaweni kanye nanoma yimaphi amanye amarekhodi esakhiwo somhlaba wakhe nokwakhiwe kuwo.

(2) Kungumsebenzi womnikazi ukuhlinzeka umuntu ozoba umnikazi wesakhiwo imidwebo yezakhiwo evunyiwe, iZitifiketi Zokuhlala Endaweni namanye amarekhodi esakhiwo.

(3) Umnikazi womhlaba nokwakhiwe kuwo kufanele adalule lokhu okulandelayo kunoma ubani okwedluliselwa kuye umhlaba nokwakhiwe kuwo.

(a) Noma yisiphi iSazizo Sokuphambana Nomthetho esingafeziwe noma esingaxazululiwe okufaka izinhlawulo

(b) Ukungabibikho kweSitifiketi Sokuhlala Endaweni

(c) Imigomo yeSitifiketi Sesikhashana Sokuhlala Endaweni

(d) **Izakhiwo ezingenayo imidwebo yezakhiwo evunyiwe**

Ukufakwa kwesikhalazo somphakathi

10. (1) Ilungu lomphakathi lingafaka isikhalazo mayelana nanoma yimuphi umhalaba nokwakhiwe kuwo okuphathelene nokukhathazeka ngokuthile endaweni engaphansi kukaMasipala ngendlela futhi nangefomu okunqunywe uMasipala.

(2) Isiphathimandla Esigunyaziwe sizohlola izikhalazo ezifakwe umphakathi bese sizedlulisela izikhalazo ezinjalo emnyangweni ofanele noma ophikweni lwebhizinisi olufanele ukuthi babhekane nesikhalazo.

(3) Isiphathimandla Esigunyaziwe singacela uMhloli wakwaMasipala Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba noma sicele omunye ukuthi aphenye isikhalazo.

(4) Isiphathimandla Esigunyaziwe sizothatha izinyathelo ukuxazulula isikhalazo bese sazisa ofake isikhalazo ngomphumela wophenyo bese ethatha izinyathelo zokuxazulula lapho kudingeke khona.

(5) UMasipala uzogcina amarekhodi azo zonke izikhalazo ezitholiwe bese kuthathwa izinyathelo zokuzixazulula.

ISAHLUKO 4

IZICELO ZOKUVUNYWA KWEMIDWEBO YEZAKHIWO

Isicelo nezimfanelo

11. (1) Isicelo sokuvunywa komdwebo wesakhiwo kufanele sibhalwe kwifomu noma ngendlela enqunywe uMasipala ngezikhathi ezithile.

(2) Isicelo kufanele sifake-

(a) imidwebo enjalo yesakhiwo, imifanekiso nezincwadi nanoma yiluphi olunye ulwazi olungaphezulu esilinganisweni noma ngendlela okunqunywe uMasipala;

(b) Ikhophi yeTayitela efanele, ekhombisa noma yimiphi imibandela yetayitela ekhona ekubhekweni kwesicelo; kanye

(c) nobufakazi bezincwadi zokubhalisa ezisebenzayo ezivela kumuntu oqeqeshiwe obandanyeka ezicelweni; kanye

(d) nobufakazi bokukhokha izimali ezinqunywe uMasipala zokucubungula imidwebo enjalo yezakhiwo, imifanekiso noma izincwadi.

(3) Noma yisiphi isicelo noma isicelo esibuye safakwa futhi emva konyaka owo-1 kuhanjiswe isicelo okokuqala, kuzokhokhelwa.

(4) Isiphathimandla Sokulawulwa Kwezakhiwo (uMhloli Wemidwebo Yezakhiwo oqokiwe) siyokhipha isinqumo mayelana nesicelo Sokuvunywa Komdwebo Wesakhiwo:

(a) Ezinsukwini ezi-30 zesicelo somdwebo wesakhiwo esingaphansi kuka-500m2; noma

(b) Ezinsukwini ezi-60 zesicelo somdwebo wesakhiwo esingaphezu kuka-500m2; noma

(c) Ezinsukwini ezi-10 zesicelo Semisebenzi Yezakhiwo Ezincane.

Ukwakhiwa kwesakhiwo okudinga ukuvunywa komdwebo waso

12. (1) Zonke izakhiwo zidinga isicelo sokuvunywa komdwebo wesakhiwo ngaphandle uma zinikezwe ushwele noma zihlinzekelwe kwenye indawo kulo Mthetho KaMasipala futhi kufake kodwa kungagcini:

(a) esakhiweni esihlose ukukhoselisa imoto, inqola noma isikephe futhi esinophahla kodwa sinezindonga ezinezinhlangothi ezingengaphezulu kwezimbili;

(b) ezindaweni ezejwayelekile zokubhukuda, izindawo ezakhelwe amanzi okugcinwa kuzo uhlobo oluthile lwenhlanzi noma indawo ephuma amanzi engedluli ku-300mm ukushona

(c) ezakhiweni eziboshwe zaqiniswa ngento eyindwangu noma eyiplastiki ukuvikela okuthile;
(d) ezimpawini ezikhombisa okuthile noma amabhodi okukhangisa kwangaphandle;
(e) emibhoshongweni yezokuxhumana ngocingo;
(f) ezintweni ezisetshenziselwa ukuvikela impahla esebenza ngogesi ukuthi ilinyazwe ugesi
(g) ezigxotsheni zikagesi ezinde ezivame ukukhanyisa izindawo ezinkulu ezedlula u-3,0 m ubude;
(h) emathangeni okugcina uketshezi olushiswayo ukuze lukhiqize ukushisa noma amandla olugcinwa ngaphansi ngangaphezu komhlaba;
(i) emibhoshongweni
(j) esakhiweni esakhiwe ngokhuni esiphakeme esixhunywe esakhiweni esikhulu esisetshenziswa umphakathi/ esedlula ku-900mm ukuphakama;
(k) esakhiweni esakhiwe ngokhuni esiphakeme esixhunywe esakhiweni esikhulu esedlula ku-900mm ukuphakama;
(l) ekuguqulweni kwendlela okwakhiwe ngayo uphahla kusuka kwigebula kuya ophahleni olucijile, kusuka ophahleni oluqondile kuya kwigebula noma ophahleni olucijile;
(m) ekuguqulweni kwangaphakathi kwesakhiwo;
(n) ezakhiweni ezingamathange okugcina okuthile nezindawo zokuwela;
(o) ezakhiweni eziboshwe zaqiniswa ngento eyindwangu noma eyiplastiki ukuvikela okuthile ezikwazi ukususwa;
(p) ezindlini ezakhiwe ngokhuni ezinkulu kuno-10m2

Izakhiwo ezingadingi ukuvunywa komdwebo wesakhiwo nezinikezwe ushwele

13. (1) Izakhiwo ezinophahla oluvuzayo azidingi ukuvunywa komdwebo wesakhiwo. Lezi zifaka kodwa azigcini:
(a) endwangwini yokusitha ilanga yebhodi elikhulu lokukhangisa
(b) ohlakeni lwesakhiwo olunezigxobo ezime eceleni kwezinye ngokulinganayo ezeseke uphahla oluvulekile olwakhiwe ngezinsimbi
(c) UMasipala anganikeza ushwele ezigatshaneni zesigaba 12 esicelweni esifakwe uMfakisicelo futhi lapho ushwele onjalo ungeke uphambane noMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo.

Imisebenzi Yezakhiwo Emincane

14. (1) Isakhiwo esingekho ohlwini esigabeni 12 singahlonzwa yiSiphathimandla Sokulawulwa Kwezakhiwo njengeMisebenzi Yezakhiwo Emincane.

(2) Isicelo seMisebenzi Yezakhiwo Emincane kufanele sifake -

(a) imidwebo enjalo yesakhiwo, imifanekiso nezincwadi nanoma yiluphi olunye ulwazi olungaphezulu esilinganisweni noma ohlotsheni okunqunywe uMasipala; kanye

(b) nobufakazi bokukhokha izimali ezinqunywe uMasipala zokucubungula imidwebo enjalo yezakhiwo, imifanekiso noma izincwadi.

(3) Noma yimuphi umsebenzi wesakhiwo, ongena ngaphansi kophiko lweMisebenzi Yezakhiwo Emincane, idinga ukugunyazwa nguMasipala ngaphambi kokuthi umnikazi aqale umsebenzi onjalo. Lezi zakhiwo zifaka:

(a) indawo yokosa engenaluphahla;

(b) izindonga zomngcele noma uthango okudinga ukuthi kumbiwe noma izisekelo;

(c) indlwana enophahla enamacala onke avulekile yokhuni engedluli ku-15m2;

(d) ingadi/isakhiwo sokugcina amathuluzi/indlu yokhuni okungedluli ku-10m2 / isiqukathi sokugcina okuthile esingedluli ku-15m2 kufanele sisetshenziswe kuphela ukugcina okuthile futhi; kufanele sakhiwe ngendlela yokuthi asibonakali emgwaqeni womphakathi futhi siqhele ngo-2m emngceleni oseduzane;

(e) indlu yokudlala yezingane engedluli ku-15m2;

(f) izindawo ezithathwa njengezingcwele noma indawo yokukhonza engedluli ku-10m2 uma nje ingadingi uhlaka lokuyeseka;

(g) indawo yokukhosela izilwane engedluli ku-10m2

(h) ukushintshwa kwamawindi kufakwe amasha noma izicabha uma nje uhlaka olukhona alumelani nesisindo nokuthi izimbobo azizinkulu, noma uma ngabe noma yiziphi izindawo zokuphuma ezidingekela ukubalekela umlilo azisusiwe;

(i) ukulungisa izinto ezincane noma esitolo - isibonelo, ukushintshwa kophahla/noma ithayela/uthayela okufanayo kufakwe okusha

Izakhiwo Zesikhashana

15. (1) Noma yimuphi umsebenzi wesakhiwo sesikhashana, udinga ukugunyazwa nguMasipala ngaphambi kokuthi umnikazi aqale umsebenzi onjalo

(2) Isicelo sesakhiwo sesikhashana kufanele sifake -

(a) imidwebo enjalo yesakhiwo, imifanekiso nezincwadi nanoma yiluphi olunye ulwazi olungaphezulu esilinganisweni noma ohlotsheni okunqunywe uMasipala; kanye

(b) nobufakazi bokukhokha izimali ezinqunywe uMasipala zokucubungula imidwebo enjalo yezakhiwo, imifanekiso noma izincwadi.

(3) Umfakisicelo angafaka isicelo sokwakha isakhiwo sesikhashana kungedluli ezinyangeni eziyi-12.

(4) UMfakisicelo angacela ukwelulelwa isikhathi ngokuthi abhale kungabi ngaphansi kwezinsuku ezinga-30 ngaphambi kwesikhathi sokuphela kokuvunywa kokuqala. Umasipala angakuvuma ukwelulwa kwesikhathi okuzoba neminye imibandela ocabanga ukuthi ifanele.

(5) Izakhiwo zesikhashana zizokwakhiwa futhi noma zifakwe ngaphandle kwesidingo sesisekelo sonomphela noma amakhekheba kakhonkolo aphansi

(6) Izakhiwo zesikhashana akufanele zibe ujojo.

(7) Ukususwa kwezakhiwo zesikhashana

(a) Umnikazi uzoqinisekisa ukuthi izakhiwo zesikhashana ziyabhidlizwa futhi noma ziyasuswa ezinsukwini eziyi-14 zokuphela kwesikhathi sokuvunyelwa.

Isitifiketi Sokuhlala Endaweni neSitifiketi Sokuqeda

16. (1) Uma umsebenzi wesakhiwo usuphelile futhi waqedwa ngokuhambisana nomdwebo wesakhiwo ovunyiwe, uMfakisicelo kufanele afake isicelo seSitifiketi Sokuhlala Endaweni noma iSitifiketi Sokuqeda njengoba kungenzeka.

(2) Kuncike ezigatshaneni zesigaba 14(1A) soMthetho, iSifitiketi Sokuhlala Endaweni ngeke sikhishwe nguMasipala ngaphandle uma uMfakisicelo enikeze uMasipala lolu lwazi olulandelayo lapho kudingeka khona futhi nangendlela enqunywe uMasipala-

(a) isitifiketi sokuhambisana nezimfanelo zikagezi, esiqinisekiswe umnyango noma uphiko lwebhizinisi okufanele;

(b) isitifiketi sokufakwa kwamapayipi amanzi;

(c) isitifiketi sokufakwa kwengilazi esikhishwe umuntu oqeqeshiwe;

(d) isitifiketi sokuqeda umsebenzi wesakhiwo kanjiniyela esikhishwe umuntu oqeqeshiwe;

(e) Isitifiketi Sokuqeda Umsebenzi esikhishwe umuntu oqeqeshiwe;

(f) isitifiketi sokufaka igesi esikhishwe umuntu oqeqeshiwe;

(g) isitifiketi sokufakwa kwelifti esikhishwe umuntu oqeqeshiwe;

(h) isitifiketi sokuqinisekisa ukuthi ilifti isebenza ngokuphephile esikhishwe umuntu oqeqeshiwe;

(i) Ifomu Yezimiso Zezakhiwo Zikazwelonke ZaseNingizimu Afrika 10400

i. Isakhiwo

ii. Inqubo yokunciphisa inani lokusebenza kwamandla kagesi ukwenza umsebenzi;

(j) isitifiketi sezigxotshana zokukhombisa umngcele wesakhiwo esikhishwa umuntu oqeqeshiwe;

(k) isitifiketi sophoyizeni otholakala enhlabathini esisebenza iminyaka engengaphansi kwe-5 kusukela osukwini esakhishwa ngalo

(l) Imidwebo yesakhiwo esivunyiwe ukuthi sakhiwe ngokuthi sibe nomdwebo ovunyiwe kodwa siye saphambuka emdwebeni ovunyiwe yesazi sokuklanywa komhlaba ngokusebenzisa imidwebo nezilinganiso ezikhombisa zonke izinhlaka

(m) isitifiketi sokuphepha okuphathelene nomlilo esikhishwe umuntu oqeqeshiwe eqinisekisa ukuthi uhlelo lokuvikeleka emlilweni, impahla nokufakwa kohlelo oluphathelene nomlilo kusungulwe futhi kwakhiwa ngokuhambisana nesicelo

(n) Noma yisiphi esinye isitifiketi, izincwadi noma ulwazi okudingekela ukukhishwa kweSitifiketi Sokuhlala Endaweni

(3) Uma kwenzeka iSiphathimandla Sokulawulwa Kwezakhiwo sihlonza ukuthi iSitifiketi Sokuhlala Endaweni kungenzeka singavunywa okwamanje kodwa kuyahlaleka esakhiweni, iSiphathimandla Sokulawulwa Kwezakhiwo siyobe-ke sesivuma iSitifiketi Sesikhashana Sokuhlala Endaweni ngokwesigaba 14(1A) soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo ezimweni lapho:

(a) Imisebenzi yokwakha emincane isenziwa khona futhi lapho izinto eziphathelene nokuphepha njengokohlaka lomthetho osebenzayo kuhanjiswene nawo ngokugcwele

(b) Uma kwenzeka isa/zakhiwo si/zinezitezi eziningi kanye noma izakhiwo ezinoxhaxha lwezinye izakhiwo ezixhumene futhi lapho esi/zinye isi/zitezi futhi noma izakhiwo ezixhumene nezinye zithathwa njengalezo okuhlalekayo kuzo;

(c) Izincwadi, ukuvunywa noma ulwazi okudingekayo ukuthi kuvunywe iSitifiketi Sokuhlala Endaweni kungakatholakali kodwa kungabi namthelela ekuphepheni

(d) Kukhona ukungahambisani nemibandela ephoqelelwe esinye isiphathimandla okungenamthelela ekuphepheni kokuhlala esakhiweni

(4) Isicelo seSitifiketi Sesikhashana Sokuhlala Endaweni siyoba esesikhathi esihlonzwe uMasipala.

(5) UMasipala uzothatha isinqumo ngesicelo seSitifiketi Sesikhashana Sokuhlala Endaweni ezinsukwini ezi-14 zokuhanjiswa kwesicelo

(6) Isicelo sokuvuselela noma sokwelula isikhathi seSitifiketi Sesikhashana Sokuhlala Endaweni kufanele sifakwe kungabi ngaphansi kwezinsuku ezinga-30 ngaphambi kokuthi kuphele isikhathi seSitifiketi Sesikhashana Sokuhlala Endaweni.

Ukubhidlizwa Kwezakhiwo

17. (1) Akukho mnikazi ovumelekile ukuthi abhidlize isakhiwo, noma ngabe isakhiwo sonke esiphelele, ingxenye yesakhiwo noma izinguquko ezenziwe esakhiweni esikhona, ngaphandle kokuvunywa kuqala okubhalwe phansi nguMasipala

(2) Isicelo sokubhidliza kufanele sihanjiswe kuMasipala ngendlela enqunywe uMasipala.

(3) Umnikazi kufanele aqinisekise ukuthi ngaphambi komsebenzi wokubhidliza, futhi ukwenzela ukuqinisekisa indlela yokubhidliza esetshenzisiwe, umsebenzi wokuklanywa komhlaba ngokusebenzisa imidwebo nezilinganiso kukanjiniyela okuphathelene nohlaka lwesakhiwo onayo yonke imininingwane wesakhiwo esisobhidlizwa umuntu oqeqeshiwe nokuthi isitatimende sendlela enqubweni okufanele ilandelwe ekubhidlizeni isakhiwo kuhanjisiwe kanye kanye nesicelo.

(4) Umnikazi wesakhiwo esinjalo okufanele sibhidlizwe kumele aqinisekise ukuthi:

(a) kuhanjiswane ngokugcwele nezigatshana zoMthetho Wezempilo Nokuphepha Emsebenzini 85 ka-1993;

(b) akukho phansi, luphahla noma enye ingxenye yesakhiwo ayigcwele imfucuza noma izinto ezidala imfucuza ngendlela ezodala ukuthi isakhiwo singabi nokuphepha;

(c) zonke izinyathelo zokuphepha ezenzekayo zithathiwe ukuvikela isakhiwo noma yisiphi esinye isa/zakhiwo esi/ezixhuneme nesakhiwo leso ekuweni ngenhla yokubhidlizwa. Lokhu kufaka ukuhlinzekwa kokweseka okuphathelene nohlaka okwenele;

(d) Lapho okungenzeka khona ukuthi isakhiwo noma yisiphi esinye isakhiwo esixhumene naleso sakhiwo kuba sengozini futhi lapho ingozi yomsebenzi wokubhidliza uphazamisa umgwaqo womphakathi, ngale kwezinyathelo ezithathiwe uMasipala kufanele aziswe ngaphambi kokuthi kuqale umsebenzi wokubhidliza. Umasipala ugodle amalungelo akhe okuthi aphoqelele ukuthi

kufakwe olunye uhlaka noma ezinye izinyathelo kanye noma ahoxise ukuvunywa kwesicelo somsebenzi wokubhidliza;

(e) kuze kufike lapho kungenzekla khona uzohlonza indawo nohlobo lukagesi, amanzi, igesi noma enye ingqalasizinda ehlinzeka imisebenzi emphakathini okungenzeka ukuthi ithintwa umsebenzi wokubhidliza noma ngayiphi indlela, futhi aqinisekise ukuthi ngaphambi kokuqala komsebenzi wokubhidliza, izinyathelo zithathiwe ukuvikela ngokwenele imisebenzi enjalo ehlinzekwayo namalungu omphakathi; kanye

(f) nezinyathelo ezanele ezithathiwe ukuvikela noma iyiphi imfucuza ezosuka emsebenzini wokubhidliza ekutheni iwele endaweni yokungena noma ephaseji lapho kuhanjwa khona, ikakhulukazi lapho abantu, okufaka namalungu omphakathi angedlula khona;

(g) izinyathelo ezanele zithathiwe ukuthi uthuli lungagcwali yonke indawo futhi nomsindo kube ukuthi uyalawuleka.

(5) Lapho umsebenzi wokubhidliza ubandakanya khona noma yiluphi uhlobo lweziqhumane, umnikazi uzoqinisekisa ukuhambisana okugcwele nemithetho esebenzayo ebusa umsebenzi onjalo;

(6) Lapho umsebenzi wokubhidliza ubandakanya ubhestazi, umnikazi kufanele aqinisekise ukuthi wonke umsebenzi ophathelene nobhestazi wenziwa ngokuhambisana neMithetho Yokulawula Ubhestazi, 2001 eyaqhakanjiswa yiSaziso sikaHulumeni esiwunombolo R. 155 somhla ka-10 Febhuwari 2002.

(7) Lapho umsebenzi wokubhidliza ubandakanya umthofu, umnikazi kufanele aqinisekise ukuthi wonke umsebenzi ophathelene nobhestazi wenziwa ngokuhambisana neMithetho Yokulawula Umthofu, 2001 eyaqhakanjiswa yiSaziso sikaHulumeni esiwunombolo R.236 somhla ka-10 Febhuwari 2002.

(8) Umnikazi uzoqinisekisa ukuthi yonke imfucuza nezinto ezidala imfucuza ezisuka emsebenzini wokubhidliza kulahlwa endaweni yokulahla udoti enemvume. Umnikazi kufanele ahlinzeke uMasipala ngesiqiniseko esinjalo eqinisekisa ukuthi indawo yokulahla udoti inemvume.

(9) Izakhiwo ezinemnyaka engaphezu kwenga-60 ubudala zidinga imvume yeKwaZulu-Natal AMAFA and Research Institute, ngaphambi kokuvunywa uMasipala.

Ukulahlwa kwemfucumfucu yesakhiwo

18. (1) Uma kuhanjiswa imidwebo yezakhiwo kuMasipala ukuze ivunywe ngokoMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo nalo Mthetho KaMasipala, umnikazi kufanele ahambise uhlelo lokusingathwa kokulahlwa kukadoti oluhlanganisiwe oluchaza ukuthi noma iyiphi imfucumfucu yesakhiwo enjalo izolahlwa kanjani, kuphi nangaphansi kwaliphi igunya.

(2) Umnikazi uzoqinisekisa ukuthi yonke imfucuza nezinto ezidala imfucuza ngenxa yokwakha noma ukubhidliza isakhiwo kulahlwa endaweni yokulahla udoti enemvume. Lowo ongumnikazi kufanele ahlinzeke uMasipala ngobufakazi bendawo esetshenzisiwe ukuthi inemvume, ebangeni lesicelo leSitifiketi Sokuhlala Endaweni Nokudilizwa Kwesakhiwo.

(3) Umnikazi uzohlinzeka ubufakazi bokulahlwa kwemfucuza yesakhiwo endaweni enemvume okulahlwa kuyo udoti ngesikhathi bucelwa uMasipala.

(4) Ubufakazi bokulahlwa kwemfucuza kungafaka, kodwa kungagcini:
(a) Emarisidini noma ezincwadini ezisho inani lokwenzelwa umsebenzi wokulahlelwa imfucuza okuvela endaweni okulahlwa kuyo imfucuza enemvume.
(b) Isitifiketi esisemthethweni sokulahla imfucuza esivela enkampanini esingatha imfucuza enemvume noma indawo okulahlwa kuyo imfucuza.

Amanzi ezikhukhula

19. (1) Uma imidwebo yezakhiwo ihanjiswa kuMasipala ukuze ivunywe, umnikazi kufanele akhombise izinyathelo zokulawula ukudedelwa kwamazi ezikhukhula;

(5) Isiphathimandla Esigunyaziwe singacela umnikazi ukuthi alethe uhlelo lokusingathwa kwamanzi ezikhukhula oluhlanganisiwe oludidiyelwe umuntu oqeqeshiwe.

Amanzi angcolile

20. (1) Uma imidwebo yezakhiwo ihanjiswa kuMasipala ukuze ivunywe, umnikazi kufanele ngesicelo, akhombise izinyathelo zokulawula amanzi angcolile.

(2) Isiphathimandla Esigunyaziwe singacela umnikazi ukuthi alethe uhlelo lokusingathwa kwemfucuza oluhlanganisiwe oluhlanganiswe umuntu oqeqeshiwe.

Amanzi

21. (1) Uma imidwebo yezakhiwo ihanjiswa kuMasipala ukuze ivunywe yesakhiwo esisha esidinga ukuthi kuxhunywe amapayipi amanzi, umnikazi kufanele ahlinzeke imibiko nemidwebo yesakhiwo kwisiphathimandla esiqeqeshiwe ukuze sibheke ukuxhunywa kwamapayipi amanzi noma isiqinisekiso salowo msebenzi;

Ugesi

(1) Uma imidwebo yezakhiwo ihanjiswa kuMasipala ukuze ivunywe yesakhiwo esisha esidinga ukuxhunywa kukagesi, umnikazi kufanele ahlinzeke imibiko nemidwebo kwisiphathimandla esiqeqeshiwe noma uphiko lwebhizinisi ukubheka ukuxhunywa kukagesi noma isiqinisekiso salowo msebenzi

Commented [JT1]: Not in English version of document.

Isinyathelo esithathelwa ukwenza imikhawulo yokwakha ngaphakathi kwemigqa ekhombisa lapho kuhamba khona amanzi ezikhukhula nokuba seduzane nendlela yemvelo yamanzi

22. (1) Akukho sakhiwo, ngaphandle kwemvume ebekwe yacaca kaMasipala, esingakhiwa ngaphakathi komugqga okhombisa lapho kuhamba khona amanzi ezikhukhula okhombisa izinga lokuphakama kwamanzi elingase kufike kulo amanzi ezikhukhula.

(2) Akukho sakhiwo, ngaphandle kwemvume ebekwe yacaca kaMasipala, esingakhiwa eduze komaka wamanzi ophezulu noma endleleni yemvelo yamanzi ngo-100m kuncike ekuvunyweni okuphathelene nendawo.

(3) Ukwenzela isigaba esingaphansi kwesikhulu (1) uMasipala angacela umnikazi ukuthi ahlinzeke umbiko ohlanganiswe umuntu oqeqeshiwe ukuhlonza umugqa okhombisa lapho kuhamba khona amanzi ezikhukhula, kodwa uMasipala uyohlale kunguye kuphela umahlulelei wendawo yomugqa okhombisa lapho kuhamba khona amanzi ezikhukhula kangangoba uphathelene nesigatshana salo Mthetho KaMasipala futhi uhambisana nesigaba 144 soMthetho Kawelonke Wamanzi.

(4) Lesi sigaba asithathi indawo futhi noma sixolele umnikazi ekuhambisaneni nezigatshana zoMthetho Kazwelonke Wokusingathwa Kwezemvelo.

Ukugunyazwa kwezimvume okuphathelene nezemvelo, amanzi nezindawo ezingamagugu

23. (1) Akukho sakhiwo esingakhiwa futhi noma sibhidlizwe, kudedelwe amanzi noma adonswe noma yimuphi omunye umsebenzi odinga ukugunyazwa noma imvume ngokwemithetho esebenzayo yezemvelo, amanzi kanye/noma yezakhiwo ezingamagugu njengoba kungenzeka.

(2) Lokhu kugunyazwa okungenhla kudingeka ngaphambi kokuthi uMasipala avume umsebenzi onjalo ngokwalo Mthetho KaMasipala.

Izindonga eziyimingcele nezigxotshana zokukhombisa umngcele wesakhiwo

24. (1) Izigatshana ezejwayelekile

(c) Umnikazi angekwazi ukwakha uDonga Oluwumngcele ngaphandle kokuvunywa komdwebo wesakhiwo okuvela kuMasipala;

(2) Izidonga ezeseke imingcele, izindonga ezesekile nezidonga ezakhiwe emingceleni yabanikazi bezingxenye zomhlaba

(a) Kuncike esigatshaneni esingaphansi kwesikhulu (e) ngezansi, udonga olwesekile luzokwakhiwa uma izimo zomhlabathi zikhomba ukuthi kunesidingo sokugwema ingcindezi edonsela emaceleni yomhlabathi ngenxa yezinguquko ezenziwa ukuphakanyiswa kodonga futhi okwedlula indawo ephakathi kwemigqa emibili ehlanganayo eyehla kakhulu lapho ingaphezulu elitshekayo lenziwe khona ngezinto okwakhiwa ngazo udonga liqinile.

(b) Lapho udonga oluwumngcele lweseka khona umhlabathi ongaphezu kuka-300mm eceleni kodonga kunelinye icala lolo donga oluwumngcele nalo luthathwa njengodonga olwesekayo.

(c) Umdwebo wesakhiwo kufanele uhanjiselwe udonga olwesekayo. Udonga olwesekayo luzosungulwa futhi lwakhiwe ngaphansi kukanjiniyela wezinhlaka zesakhiwo oqeqeshiwe ngokuhambisana neZimiso Zezakhiwo Zikazwelonke ZaseNingizimu Afrika 10400 nalo Mthetho KaMasipala.

(d) Umuntu ohlose ukwenza uguquko emhlabathi owehlelayo ngokwemvelo kungumsebenzi wakhe ukwesekela lowo mhlabathi.

(e) Lapho okufanele khona ukuthi kuguqulwe umhlabathi wemvelo futhi udonga olwesekayo alucatshangiwe, usebe olwenzekayo kofanele lwakhiwe endaweni ephakathi kwemigqa emibili ehlanganayo engedluli ngamazinga anga-26 kuya endaweni eqondile ephansi futhi kuthathwe nezinyathelo zokuvikela ukuguguleka kwenhlabathi.

(f) Izimbobo zokudedela amanzi zodonga olwesekayo akufanele zibe ngaphansi komhlaba.

(g) Noma yimuphi umuntu ovala izimbobo ezidedela amanzi ukuvikela ukuthi amanzi edlule ngokwemvelo uyoba necala.

(3) Ukubonakala kwezigxotshana zokukhombisa umngcele wesakhiwo

(a) Umasipala angadinga umnikazi ukuthi enze zonke izigxotshana zokukhombisa umngcele wesakhiwo zibonakale bese ezikhombisa uMhloli Wezakhiwo ngaphambi kokuvunywa komdwebo wesakhiwo. Unjiniyela wokuklanywa

komhlaba ngokusebenzisa imidwebo nezilinganiso umuntu oqeqeshiwe uzoveza lezi zigxotshana zokukhombisa umngcele wesakhiwo kanti iSitifiketi sezigxotshana zokukhombisa umngcele wesakhiwo kufanele sinikwe uMasipala esimweni esinjalo.

Ukuvuma ngaphansi kwezimo eziphuthumayo

25. (1) Isiphathimandla Esigunyaziwe, iSiphathimandla Sokulawulwa Kwezakhiwo, kanye/noma uMhloli Wemidwebo Yezakhiwo angavuma nemibandela noma ngaphandle kwayo ngokushesha, ngokubhala noma ngokukhuluma, esimweni esiphuthumayo.

(2) Ukuvuma ngomlomo kufanele kuqinisekiswe ngokubhala ngethuba elizosheshe litholakale emva kokuba kuvunywe ngomlomo.

ISAHLUKO 5

UKUQEDA UKWAKHA, UKUBAMBEZELEKA NOMSEBENZI

Ukuqala nokuqeda ukwakha

26. (1) Umfakisicelo kufanele aqale ukwakha ezinyangeni ezi-12 isicelo sivunyiwe kanti leso sovumo siyoziphelela ngokwaso emva kwaleso sihathi.

(2) Lapho umdwebo wesakhiwo ovunyiwe uphelelwa yisikhathi, umfakisicelo, esikhathini esiyiminyaka e-4 emva kokuba umdwebo wesakhiwo onjalo uphelelwe yisikhathi, phinda ufake leso sicelo kabusha kanti uMasipala emibandeleni efanayo noma engaphezulu angawuvuma lowo mdwebo wesakhiwo futhi.

(3) Umfakisicelo, esikhathini sokusebenza komdwebo wesakhiwo ovunyiwe sezinyangeni ezi-12, faka isicelo sokwelulwa kwesikhathi. Isikhathi eseluliwe ngeke sedlule ezinyangeni ezi-12 kusukela osukwini umdwebo wesakhiwo okungabe uphelelwe ngalo yisikhathi.

(4) Uma isikhathi sedlula ezinyangeni ezi-3 kungaqaliwe ukwakha, uMasipala ngesaziso angayalela umnikazi ukuthi aqhubeke aqede ukwakha ezikhathini ezinqunywe esazisweni esinjalo.

(5) Ezimweni lapho umnikazi ehluleka ukuqhubeka noma ukuqeda ukwakha ezikhathini ezinqunywe, uMasipala unegunya lokwelula lezo zikhathi uma umnikazi enikeza ubufakazi obukhombisa ukuthi ukulibaziseka kwadalwa izimo ezingaphezu kwamandla akhe.

(6) Lapho umnikazi ehluleka khona ukuqhubeka noma ukuqedela ukwakha ezikhathini ezinqunywe esazisweni noma, uma kwenzeka, ezikhathini ezeluliwe futhi uMasipala ubona ukuthi leso sakhiwo asibukeki kahle noma siyingozi empilweni noma empahleni noma sehlisa inani lezindawo ezakhiwe esihlangene nazo noma eziseduzane naso, uMasipala ngesaziso angayalela umnikazi ukuthi asibhidlize noma asuse izinto zokwakha noma udoti endaweni leyo bese ehlanza leyo ndawo esikhathini esinqunywe esazisweni sokugcina esibaluliwe.

(7) Uma umnikazi ehluleka ukuhambisana nomthetho ngokwesigaba esingaphansi kwesikhulu (4) mayelana naleso sakhiwo, uMasipala angasibhidliza isakhiwo, asuse udoti kuleyo ndawo futhi ahlanze leyo ndawo, futhi angafuna izindleko zokwenze njalo kumnikazi.

(8) Lapho uMasipala enza ngokwesigaba esingaphansi kwesikhulu (5), angathengisa lezo zinto zokwakha bese esebenzisa leyo mali etholakale ekuthengiseni ukukhokhela izindleko zokubhidliza isakhiwo, ukususa nokuhlanza indawo bese ekhokha imali esalile, uma ikhona, yezimali zokuthengisa zomnikazi.

(9) Noma yikuphi ukuvunywa kwesakhiwo ngokwalo Mthetho KaMasipala ngeke isasebenza ngokushesha uma isazizo ngokwesigaba esingaphansi kwesikhulu (4) inikezwa umnikazi.

(10) Umfakisicelo kufanele aqede ukwakha ezikhathini esinqunyiwe encwadini yokuvunywa komdwebo wesakhiwo.

(11) Akukho kulo Mthetho kaMasipala okuyodala ukuthi uMasipala aphambuke elungelweni lakhe lokumemezela isakhiwo noma indawo okwakhiwa kuyo njengeSakhiwo Esiyinkinga ngokoMthetho KaMasipala Wezakhiwo Eziyinkinga noma ngokwalo Mthetho kaMasipala.

Izindlela zokulawula izindawo okwakhiwa kuzo

27. (1) Umnikazi wanoma yimuphi umhlaba lapho kuqhubeka khona ukwakha kuyofanele athathe zonke izinyathelo zokuphepha ezifanele endaweni okwakhiwa kuyo nasemigwaqeni eseduzane nayo nezindlela zezinyawo ukunciphisa amazinga ezintuli avela emsebenzini noma endaweni eseduzane kwalapho kwakhiwa khona.

(2) (a) Akukho muntu ngesikhathi sokwakha oyosebenzisa umshini, injini, impahla yokusebenza, amthuluzi noma umshini owenzelwe ukufeza umsebenzi othile, ngokubona kukaMasipala ongaphazamisa nezindawo eziwusizo endaweni:

i. Ngeholide noma ngeSonto
ii. Ngaphambi kwehora le-06:00 noma emva kwehora le-17:00 nganoma yimuphi uMgqibelo; futhi
iii. Ngaphambi kwehora le-06:00 noma emva kwehora le-18:00 noma ngaluphi usuku ngale kwalezo ezicatshangwe ngokucophelela ezigathsaneni ezingaphansi kwezinkulu (i) ne-(ii).

(b) Lokho okungavunyelwe esigatshaneni (a) ngeke kusebenze kunoma yiziphi izimo lapho lokho kusebenza kwalowo mshini, imishini emikhulu, injini, impahla yokusebenza, ithuluzi noma umshini owenzelwe ukufeza umsebenzi othile –

i. kudingeke ngokushesha ukuze kupheshiswe impilo, ukuphepha noma impilo yanoma yimuphi umuntu;
ii. kudingeke ngokushesha ukuphephisa impahla noma indawo;
iii. kugunyazwe uMasipala; noma
iv. kudingekela ukwenza umsebenzi owenziwayo wenzelwa noma iyiphi inhlangano kahulumeni egunyaziwe.

ISAHLUKO 6

UKUSHESHE KUQALWE UKWAKHA

Ukusheshe kuqalwe ukwakhiwa kwezakhiwo

28. (1) NgokweSigaba 7 (6) soMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo, uMfakisicelo angafaka isicelo sokusheshe aqale ukwakha ukuze aqhubeke nokwakha isakhiwo esiphathelene naleso sicelo.

(2) Isiphathimandla Esigunyaziwe ngokubona kwaso singavuma noma sichithe isicelo sokusheshe kuqalwe ukwakha.

(3) Lapho isicelo sokusheshe kuqalwe ukwakha sichithwa, iSiphathimandla Esigunyaziwe singabuyisa ingxenye yemali yesicelo njengoba kubalulwe ohlwini lwezimali zentela ezikhokhelwa imisebenzi eyenziwa umasipala olusebenzayo.

(4) Umfakisicelo kufanele agcwalise ifomu njengoba ihlinzekwe uMasipala bese ehlinzeka incwadi enayo yonke imininingwane edingekayo ukweseka isicelo.

(5) Isicelo njengokwalesi sigaba siyobhekwa kuphela uma singashayisani nezindlela ezibekiwe zokulawula ukusetshenziswa komhlaba, isicelo somdwebo wesakhiwo sifakiwe futhi uMasipala uqinisekisile ngokubhala ukuthi isicelo somdwebo wesakhiwo sigcwalisiwe futhi nenombolo yomdwebo wesakhiwo inikeziwe.

(6) Uma kwenzeka uMasipala evuma leso sicelo, ugodle ilungelo lokuphoqelela imibandela nezikhathi zokuvuma okunjalo uMasipala angenza ngokubona kwakhe ngakho.

(7) Umasipala angadinga uMfakisicelo ukuthi afake isi/ziqinisekiso esi/ziphathelene nezimali njengoba uMasipala engahlonza futhi uMfakisicelo okufanele azilethe ngaphambi kokuthi uMfakisicelo aqale noma aqhubeke nokwakha ngokwalesi Sigaba.

(8) Umasipala angadinga ukuthi isicelo noma ukuvunywa ngokomunye umthetho kamasipala kuhambisane naleso sicelo.

(9) Umasipala angadinga ukuthi kuphawule noma baveze imibono labo abantintekayo abayingxenye yakhe noma iminyango okufanele.

Isicelo nezimfanelo kokusheshe kuqalwe ukwakha

29. (1) Isicelo sokuvunywa kokusheshe kuqalwe ukwakha kufanele sibhalwe phansi ngendlela nangefomu okunqunywe uMasipala bese sihanjiswa eSiphathimandleni Sokulawulwa Kwezakhiwo.

(2) Isicelo kufanele-

(c) sibe negama nekheli loMfakisicelo okufanele abe ngumnikazi womhlaba okuzokwakhiwa kuwo;

(d) kufanele sihambisane-

i. nobufakazi bokuhanjiswa kwemidwebo yezakhiwo (Irisidi yeNkokhelo Yokulawulwa Kwezakhiwo nenombolo eyinkomba yesicelo somdwebo wesakhiwo);
ii. Incwadi yokuqoka unjiniyela;
iii. siqiniseko senkokhelo yezimali ezifanele ezikhokhwayo;
iv. Izincwadi kanye/noma ukuvunywa okudingwa yiSiphathimandla Esigunyaziwe ngokwesigaba 28 ngenhla;
v. Incwadi eyeseka ukuthi kungani isicelo singavunywa; kanye
vi. nanoma yiluphi olunye ulwazi noma izincwadi.

ISAHLUKO 7

UKUPHOQELELA KOKUSEBENZA KOMTHETHO

Amacala nezinhlawulo

30. (1) Noma yimuphi umuntu ophambana nanoma yisiphi isigatshana noma owehluleka ukuhambisana nanoma yisiphi isaziso esikhishwe ngokwalo Mthetho KaMasipala, wenza icala futhi ngokubona kukaMasipala angakhokha inhlawulo yokuvuma icala ngokuhlonza okubalulwe eMthethweni Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo.

(2) Noma yimuphi umuntu ophambana nanoma yisiphi isigatshana noma owehluleka ukuhambisana nanoma yisiphi isaziso esikhishwe ngokwale Mithetho KaMasipala, wenza icala futhi ngokubona kukaMasipala futhi angakhokhiswa inhlawulo njengoba kunqume uMasipala.

(3) Ukwenzela lesi Sahluko, isiphathimandla esigunyaziwe esiqokwe njengesiphathimandla soxolo ngokwesigaba 334 soMthetho Wenqubo Yobugebengu,

(a) singakhipha izinhlawulo zokuvuma icala;

(b) siphoqelele ukusebenza koMthetho Kazwelonke Ophathelene Nokulawulwa Kwezakhiwo Nezimiso Zezakhiwo 103 ka-1977, neZimiso Zezakhiwo Zikazwelonke ZaseNingizimu Afrika 10400

(c) siphoqelele ukusebenza koMthetho KaMasipala WaKwaDukuza Wokulawulwa Kwezakhiwo

(d) siye ezinkantolo ukuthola umyalo wokuvimbela ukuze kuyekwe izinto/ukuphambana nomthetho okunjalo;

(e) siye ezinkantolo ukukhipha izincwadi ezisemthethweni zokuboshwa komuntu

(4) Isaziso sokuphambana nomthetho esikhishwa yisiphathimandla esigunyaziwe noma inhlawulo ephoqelelwe, ukudliwa kwempahla kanti akuyekisiwe ukusebenza ngenxa yokuthi umhlaba nokwakhiwe kuwo wedlulisiwe.

Izaziso

31. (1) Noma yisiphi isaziso, umyalo noma enye incwadi okukhishwe uMasipala ngokwalo Mthetho KaMasipala kuyasebenza uma kusayinwe noma kwakhishwa ngendlela yekhompyutha yiSiphathimandla Esigunyaziwe.

(2) Noma yisiphi isaziso, umyalo noma enye incwadi enikezwe noma yimuphi umuntu ngokwalo Mthetho KaMasipala kufanele kunikezwe ngale ndlela elandelayo:

(a) Isaziso, umyalo noma enye incwadi, noma ikhophi yeqiniso yalokhu, kufanele kuhanjiswe kumuntu okubhekiswe kuye endaweni yakhe yokuhlala yokugcina eyaziwayo, kanye/noma indawo yebhizinisi kanye/noma ekhelini le-imeyili elibhaliwe;

(b) Lapho isaziso, umyalo noma enye incwadi, noma ikhophi yeqiniso yalokhu; kuposiwe futhi/noma kwathunyelwa nge-imeyili kumuntu okubhekiswe kuye endaweni yakhe yokuhlala yokugcina eyaziwayo, kwi-imeyili noma endaweni yebhizinisi, kuyothathwa ngokuthi unikeziwe ezinsukwini ezinhlanu emva kokuposwa noma osukwini olukhombisa ukuthi umyalezo utholakele uma kuthunyelwe ngendlela yekhompyutha.

(3) Kunoma yisiphi isaziso, umyalo noma enye incwadi okukhishwe noma kwanikezwa umuntu ngokwalo Mthetho KaMasipala, amagceke ahambisana nesaziso, umyalo noma nencwadi kufanele kuchazwe, kodwa umuntu okuhlose yena angabizwa “ngomnikazi” noma “umhlali” uma igama lakhe lingaziwa.

Ukungena koMholi Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba

32. (1) Noma yimuphi uMhloli Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba angangena kunoma iyiphi indawo eyakhiwe noma isakhiwo ngezikhathi ezibonakala zifanele ukwenzela -

(a) ukuhlola, ukuqapha, ukuphenya nokuhlonza ukuthi ngabe isakhiwo siyahambisana yini nanoma yisiphi isigatshana salo Mthetho KaMasipala;

(b) ukushutha izithombe zesakhiwo, kungaba ngaphandle kwesakhiwo noma ngaphakathi kwaso, okufaka noma iyiphi indawo yokuhlala;

(c) ukunikeza isaziso sokuphambana nomthetho okucatshangwe ngokucophelela kulo Mthetho KaMasipala noma yimuphi omunye umthetho;

(2) Akukho muntu ozovimba noma ame endleleni yanoma yimuphi umhloli Wokulawulwa Kwezakhiwo ekusebenziseni kwakhe amandla ngokwalo Mthetho KaMasipala

(3) Noma yimuphi uMhloli Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba, uma engena emagcekeni, ukhombisa incwadi esebenzayo yokumazisa enikezwa umnikazi waleso sakhiwo nguMasipala.

(4) Ezimweni ezidinga ukuthi kwenziwe okuthile ngokushesha, uMhloli Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba angangena kunoma iyiphi indawo eyakhiwe noma isakhiwo noma ngasiphi isikhathi.

(5) Umuntu wenza icala uma -

(a) ema endleleni, evimbela, noma nganoma iyiphi indlela ephazamisa isiphathimandla esigunyaziwe esiphoqelela umthetho esisebenza noma esinelungelo lokwenza okuthile ngokwalo Mthetho KaMasipala;

(b) ehluleka ukuhlonipha imiyalo esemthethweni noma iseluleko akunikezwa ngokwalo Mthetho KaMasipala.

(c) eqhubeka necala emva kokunikezwa isaziso ngokwalo Mthetho KaMasipala omdinga ukuthi ayeke ukwenza lelo cala.

(6) Ngale kwanoma yikuphi ukuphoqelela kwenkantolo umyalo wokulungisa okwenzekile obekungafanele okuhlinzekwa yilo Mthetho KaMasipala noma yikuphi okunye ukuphoqelela umyalo wokulungisa okwenzekile obekungafanele komthetho noma umthetho owakhelelwe ezinqumweni zenkantolo kunemithetho, uMhloli Wezakhiwo Nokudedelwa Kwamanzi Aye Ngaphansi Komhlaba;

(a) angafaka futhi akhombise isaziso sokuphambana nomthetho endaweni leyo ukwenzela ukuthi umphakathi wazi nokuphepha;

(b) angayalela/akhiphe isaziso asinike umuntu ukuvimba umhlaba nokwakhiwe kuwo;

(c) umnikazi noma ummeleli wakhe noma umuntu omakhelayo ukuthi alungise/ayeke ukusebenza okungekho emthethweni emhlabeni lowo.

ISAHLUKO 8

IZIKHALAZO

Izikhalazo

33. (1) Umuntu omalungelo akhe athintwe yisinqumo esithathwe uMasipala ngokwalo Mthetho KaMasipala angafaka isikhalazo ngaleso sinqumo ngokwesigatshana sokufakwa kwezikhalazo eziseMthethweni Wezinhlelo ZikaMasipala, 2000 (uMthetho owunombolo 32 ka-2000): Uhulumeni Wasekhaya

ISAHLUKO 9

IZIGATSHANA EZEJWAYELEKILE

Ukuhlonzwa kwezimali zentela ezikhokhelwa ukwenziwa kwemisebenzi nezimali ezikhokhela umsebenzi othile owenziwe

34. Umasipala, anganquma izimali zentela ezikhokhelwa ukuhlinzekwa kwemisebenzi nezimali ezikhokhela umsebenzi othile owenziwe nganoma yimuphi umsebenzi owenziwe ngokwalo Mthetho KaMasipala.

Ukunikeza ushwele ekukhokheleni ukulahlekelwa

35. (1) Uma kufakwa isicelo sokulahlekelwa noma kuthathwa izinyathelo zomthetho okubhekiswe Ebhodini Labaqondisi Lezokulawulwa Kwezakhiwo noma kubasebenzi abelesekayo okudalwa yinoma yisiphi isenzo noma okungenziwanga yilungu noma abasebenzi abeseka ibhodi ekufezeni kwabo izibophezelo zabo noma ukusebenzisa amandla abo ngokwalo Mthetho KaMasipala, uMasipala kufanele, uma ebona ukuthi umuntu enze noma engakwenzanga ukwethembeka futhi ngaphandle kobudedengu:-

(a) uma kufakwa isicelo sokulahlekelwa noma kuthathelwa umuntu izinyathelo zomthetho -

i. akanikezwe ushwele lowo muntu mayelana naleso sicelo noma izinyathelo zomthetho; futhi

ii. akamelwe ngokomthetho lowo muntu ngezindleko zikaMasipala noma izindleko ezingene ezimalini zentela ekhokhelwa imisebenzi eyenziwa umasipala ekhokhwa uhlangothi olubandakanyeka esinyathelweni somthetho esithathiwe zokumelwa ngokomthetho.

(b) uma kushushiswa umuntu, akamelwe ngokomthetho ngezindleko zikaMasipala.

(2) Ilungu leBhodi Labaqondisi Lezokulawulwa Kwezakhiwo noma abasebenzi abalesekayo ngeke linikezwe ushwele uma, mayelana nesenzo noma ukungenzi, enecala futhi-

(a) esebenzise amandla akhe ngokweqile ngabomu;

(b) esebenzise utshwala noma izidakamizwa;

(c) engenzanga okufanele akwenze nokudingwa umsebenzi wakhe, isikhundla sakhe noma aqokelwe khona;

(d) evumile ukuthi ube nobungozi kuMasipala; noma

(e) ehlulekile ukuhambisana noma waziba imiyalo esebenzayo, ayaziyo noma obekufanele ukuthi angayazi, okuholele ekulahlekelweni, emonakalweni noma esizathwini sesicelo sokulahlekelwa noma somonakalo.

(3) Umasipala angahlonza ngenqubomgomo noma ngezinye izindlela-

(a) imigomo nemibandela kwalowo shwele nokumelwa ngokomthetho; kanye

(b) nezimo ngaphezu kwezimo ezicatshangwe ngokucophelela kulesi sigaba lapho ushwele noma ukumelwa ngokomthetho kungahoxiswa nguMasipala.

Ukubalwa kwenani lezinsuku

36. (1) Uma lo Mthetho KaMasipala unquma isikhathi sokwenza okuthile, inani lezinsuku kufanele libalwe ngokukhipha usuku lokuqala, nangokufaka usuku lokugcina, ngaphandle uma usuku lokugcina luba ngoMgqibelo, ngeSonto noma ngeholide, lapho usuku lokuqala lomsebenzi lulandela ngokushesha uMgqibelo, iSonto noma iholide kufanele luthathwe njengosuku lokugcina lwesikhathi.

(2) Izinsuku uMasipala ahlabe ngazo ikhefu ngokusemthethweni kufanele zikhishwe esikhathini lapho uMasipala okufanele enze okuthile ngokwalo Mthetho KaMasipala, uma –

(a) uMasipala enganikezenga amandla okuthi kwenziwe okuthile; futhi

(b) okufanele kwenziwe kufanele kwenziwe ezinsukwini eziyi-120 noma ngaphansi.

Izinhlelo zoguquko nezigatshana ezikhipha izingxenye ezithile ekusebenzeni komthetho

37. (1) Ngale kokwenza lo Mthetho kaMasipala lapho ukulawulwa kwesakhiwo noma isinqumo sokuhlela kuvunyiwe ngaphambi kokwenziwa kwalo Mthetho KaMasipala, ukuvunywa okunjalo kuzothathwa njengokuvuma noma isinqumo ngokwalo Mthetho KaMasipala.

Isihloko esifushane nokuqalisa

38. (1) Lo Mthetho KaMasipala obizwa ngoMasipala WaKwaDukuza: uMthetho Wokulawula Izakhiwo, 2023 futhi uzosebenza ngosuku ozoshicilelwa ngalo eMqulwini kaHulumeni Wesifundazwe saKwaZulu-Natali.