



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SA KWAZULU-NATALI

**Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe**

*(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)*  
*(Irejistiwee njengephephandaba eposihhovisi)*

**PIETERMARITZBURG**

**Vol. 13**

25 APRIL 2019  
25 APRIL 2019  
25 KUMBASA 2019

**No. 2071**

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



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**

**N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes**

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**IMPORTANT NOTICE:**

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**No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.**

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# Closing times for **ORDINARY WEEKLY** 2019

## KWAZULU-NATAL PROVINCIAL GAZETTE

*The closing time is **15:00** sharp on the following days:*

- **24 December 2018**, Thursday for the issue of Thursday **03 January 2019**
- **03 January**, Thursday for the issue of Thursday **10 January 2019**
- **10 January**, Thursday for the issue of Thursday **17 January 2019**
- **17 January**, Thursday for the issue of Thursday **24 January 2019**
- **24 January**, Thursday for the issue of Thursday **31 January 2019**
- **31 January**, Thursday for the issue of Thursday **07 February 2019**
- **07 February**, Thursday for the issue of Thursday **14 February 2019**
- **14 February**, Thursday for the issue of Thursday **21 February 2019**
- **21 February**, Thursday for the issue of Thursday **28 February 2019**
- **28 February**, Thursday for the issue of Thursday **07 March 2019**
- **07 March**, Thursday for the issue of Thursday **14 March 2019**
- **14 March**, Thursday for the issue of Thursday **21 March 2019**
- **20 March**, Wednesday for the issue of Thursday **28 March 2019**
- **28 March**, Tuesday for the issue of Thursday **04 April 2019**
- **04 April**, Thursday for the issue of Thursday **11 April 2019**
- **11 April**, Thursday for the issue of Thursday **18 April 2019**
- **16 April**, Tuesday for the issue of Thursday **25 April 2019**
- **24 April**, Wednesday for the issue of Thursday **02 May 2019**
- **02 May**, Thursday for the issue of Thursday **09 May 2019**
- **09 May**, Thursday for the issue of Thursday **16 May 2019**
- **16 May**, Thursday for the issue of Thursday **23 May 2019**
- **23 May**, Thursday for the issue of Thursday **30 May 2019**
- **30 May**, Thursday for the issue of Thursday **06 June 2019**
- **06 June**, Wednesday for the issue of Thursday **13 June 2019**
- **12 June**, Wednesday for the issue of Thursday **20 June 2019**
- **20 June**, Thursday for the issue of Thursday **27 June 2019**
- **27 June**, Thursday for the issue of Thursday **04 July 2019**
- **04 July**, Thursday for the issue of Thursday **11 July 2019**
- **11 July**, Thursday for the issue of Thursday **18 July 2019**
- **18 July**, Thursday for the issue of Thursday **25 July 2019**
- **25 July**, Thursday for the issue of Thursday **01 August 2019**
- **01 August**, Friday for the issue of Thursday **08 August 2019**
- **07 August**, Wednesday for the issue of Thursday **15 August 2019**
- **15 August**, Thursday for the issue of Thursday **22 August 2019**
- **22 August**, Thursday for the issue of Thursday **29 August 2019**
- **29 August**, Thursday for the issue of Thursday **05 September 2019**
- **05 September**, Thursday for the issue of Thursday **12 September 2019**
- **12 September**, Thursday for the issue of Thursday **19 September 2019**
- **18 September**, Wednesday for the issue of Thursday **26 September 2019**
- **26 September**, Thursday for the issue of Thursday **03 October 2019**
- **03 October**, Thursday for the issue of Thursday **10 October 2019**
- **10 October**, Thursday for the issue of Thursday **17 October 2019**
- **17 October**, Thursday for the issue of Thursday **24 October 2019**
- **24 October**, Thursday for the issue of Thursday **31 October 2019**
- **31 October**, Thursday for the issue of Thursday **07 November 2019**
- **07 November**, Thursday for the issue of Thursday **14 November 2019**
- **14 November**, Thursday for the issue of Thursday **21 November 2019**
- **21 November**, Thursday for the issue of Thursday **28 November 2019**
- **28 November**, Thursday for the issue of Thursday **05 December 2019**
- **05 December**, Thursday for the issue of Thursday **12 December 2019**
- **11 December**, Wednesday for the issue of Thursday **19 December 2019**
- **18 December**, Wednesday for the issue of Thursday **26 December 2019**

## LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

**COMMENCEMENT: 1 APRIL 2018**

### NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

### EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

### CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website [www.gpwonline.co.za](http://www.gpwonline.co.za)

All re-submissions will be subject to the standard cut-off times.

**All notices received after the closing time will be rejected.**

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days <b>after</b> submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

### GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days <b>after</b> submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days <b>after</b> submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days <b>after</b> submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

### EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

### NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za).
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
  - 8.1. Each of the following documents must be attached to the email as a separate attachment:
    - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
      - 8.1.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
      - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
    - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
    - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
    - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
    - 8.1.5. Any additional notice information if applicable.

**GOVERNMENT PRINTING WORKS - BUSINESS RULES**

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

**QUOTATIONS**

13. Quotations are valid until the next tariff change.
  - 13.1. **Take note:** **GPW's** annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the e*Gazette* Contact Centre for a quotation.
  - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
  - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
  - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
  - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
    - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
  - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
  - 19.1. This means that the quotation number can only be used once to make a payment.



**GOVERNMENT PRINTING WORKS - BUSINESS RULES****COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

**CANCELLATIONS**

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

**AMENDMENTS TO NOTICES**

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

**REJECTIONS**

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.



**GOVERNMENT PRINTING WORKS - BUSINESS RULES****APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

**GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY**

27. The Government Printer will assume no liability in respect of—
  - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
  - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
  - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

**LIABILITY OF ADVERTISER**

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

**CUSTOMER INQUIRIES**

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

**GPW** has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za) before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

### PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website [www.gpwnonline.co.za](http://www.gpwnonline.co.za) free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*

## GOVERNMENT PRINTING WORKS CONTACT INFORMATION

#### Physical Address:

**Government Printing Works**  
149 Bosman Street  
Pretoria

#### Postal Address:

Private Bag X85  
Pretoria  
0001

#### GPW Banking Details:

**Bank:** ABSA Bosman Street  
**Account No.:** 405 7114 016  
**Branch Code:** 632-005

**For Gazette and Notice submissions:** Gazette Submissions:

**For queries and quotations, contact:** Gazette Contact Centre:

**E-mail:** [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za)

**E-mail:** [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)

**Tel:** 012-748 6200

**Contact person for subscribers:** Mrs M. Toka:

**E-mail:** [subscriptions@gpw.gov.za](mailto:subscriptions@gpw.gov.za)

**Tel:** 012-748-6066 / 6060 / 6058

**Fax:** 012-323-9574

## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

## NOTICE 17 OF 2019

## KWAZULU-NATAL DEPARTMENT OF HUMAN SETTLEMENTS

## KWAZULU-NATAL LAND ADMINISTRATION AND IMMOVABLE ASSET MANAGEMENT ACT (NO.2 OF 2014)

## NOTICE IN TERMS OF SECTION 5(3) OF THE KWAZULU-NATAL LAND ADMINISTRATION AND IMMOVABLE ASSET MANAGEMENT ACT (NO.2 OF 2014)

In terms of section 5 of the KwaZulu-Natal Land Administration And Immovable Asset Management Act (No.2 Of 2014), I **Mr Ravigasen Ranganathan Pillay**, Minister of Human Settlements and Public Works for the KwaZulu –Natal Provincial Government, hereby give notice that I intend disposing by Donation, the under mentioned KwaZulu-Natal Human Settlement Property, to the Shallcross Civic and Ratepayers Association.

NO	PROPERTY DESCRIPTION	EXTENT	TITLE DEED NO.	APPLICABLE CONDITIONS	CURRENT ZONING	CURRENT USAGE
1.	PROPOSED PORTION 4 OF ERF 1258 SHALLCROSS	3 568 m <sup>2</sup>	T2639/1977	NONE	PUBLIC ADMINISTRATION	VACANT

Written representation or submissions in regard to the said disposal can be made within thirty (30) days of publication of this notice to:-

The Acting Head of Department of KZN Human Settlements  
Private Bag X 9157  
**PIETERMARITZBURG**  
3200

Enquiries: Mr H Ganesh  
Tel: (031) 3193761

E-mail: [heeralall.ganesh@kzndhs.gov.za](mailto:heeralall.ganesh@kzndhs.gov.za)  
10<sup>th</sup> Floor , Eagle Building  
DURBAN  
4000



**MR RR PILLAY (MPL)**  
HONOURABLE MEC: HUMAN SETTLEMENTS AND PUBLIC WORKS

10/04/19  
DATE

25-2

## MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

## MUNICIPAL NOTICE 42 OF 2019

**MPO/09/2019****PUBLIC NOTICE CALLING FOR INSPECTION OF THE GENERAL VALUATION ROLL**

Notice is hereby given in terms of Section 49(1)(a) of the Local Government: Municipal Property Rates Act, 2004 as amended (Act No.6 of 2004), hereinafter referred to as the "Act", that the valuation roll for the financial years 1 July 2019 to 30 June 2024 is open for public inspection at the Mpofana Municipal Offices, 10 Cloughton Terrace, Mooi River and on the website **[www.mpofana.gov.za](http://www.mpofana.gov.za)**.

An invitation is hereby made in terms of Section 49(1)(a)(ii) of the Act to any owner of property or other person who so desires, that may wish to lodge an objection with the Municipal Manager in respect of any matter in or omitted from the valuation roll.

Objections may be lodged by hand, on the regulatory objection forms (obtainable from the Receptionist) at the Mpofana Municipal Offices, 10 Cloughton Terrace, Mooi River.

A fee of R 287.50 (*VAT Inclusive*) per objection is required to be paid prior to submission of any objection. This fee is refundable in the event that your objection is successful.

Email or Fax submissions will not be accepted.

**The closing date for submission of objections is 15:00 on 25<sup>th</sup> May 2019.**

**Late submissions will not be accepted under any circumstances.**

Attention is specifically drawn to the fact that in terms of Section 50 (2) of the Act, an objection must be specific to an individual property and not to the valuation roll as such. The lodging of an objection does not defer the liability for the payment of rates.

Should you have any queries, please do not hesitate to contact Naazia Shaik during normal office hours on (033) 263 1221 / (033) 263 7708.

***Acting Municipal Manager***

**Mr. J.M. Mokgatsi**

**31.03.2019**

**MUNICIPAL NOTICE 43 OF 2019****MN NO.: 184/2018****BYLAWS RELATING TO THE STANDING RULES AND ORDERS OF KWADUKUZA  
MUNICIPALITY'S MUNICIPAL COUNCILS AND COMMITTEES OF THE COUNCIL**

The Kwadukuza Municipality, acting under the authority of section 156 (2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) read with section 113(m) of the Local Government: Municipal System Act, 2000 (Act No.32 of 2000) hereby publishes bylaws relating to the standing rules and orders of KwaDukuza municipality's municipal councils and committees of the council which bylaws will come into effect on the date of publication in the provincial gazette.

Be it enacted by the Council of the KwaDukuza Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

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## **CHAPTER 11**

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**Council  
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**CHAPTER 1****DEFINITIONS****Definitions**

- 1. In these Rules and Orders, unless inconsistent with the context –

**“Authorised person”** means an official of the municipality authorised by the Municipal Manager to perform a specific task in terms of these Rules and Orders;

**“by-law”** means legislation passed by the council of a municipality;

**“calendar day”** means a twenty-four hour day as denoted on the calendar;

**“chairperson”** means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996

**“Council”** means —

- (a) the KwaDukuza Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these Rules and Orders has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act; and
- (d) a service provider fulfilling a responsibility under these Rules and Orders;

**“Code of Conduct”** means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

**“contact details”** means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular phone number;

**“councillor”** means a member of a municipal council;

**“day”** means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

**“deputation”** means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

**“executive committee”** means the council’s executive committee established in terms of section 43 of the Structures Act;

**“in-committee”** means any council or committee meeting at which the public and or officials of the municipality are excluded;

**“integrated development plan”** means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

**"mayor"** means a councillor elected as the mayor of the municipality in terms of section 48 of the Structures Act;

**"meeting"** means a meeting of the council or any one of its committees;

**“municipality”** means the KwaDukuza municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

**“municipal asset”** means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

**"municipal manager"** means the person appointed municipal manager in terms of section 54A of the Systems Act and includes any person acting in that capacity;

**"notice of motion"** means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of section 23 of these Rules and Orders;

**“Peace Officer”** means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

**"point of order"** means the pointing out of any deviation from or anything contrary to, the conduct and or any other irregularity in the proceedings of a meeting;

**“precincts”** means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

**“public”** includes the media and means any person residing within the Republic of South Africa;

**“service delivery agreement”** means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

**“speaker”** means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

**“Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

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

**“table”** means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these Rules and Orders;

## CHAPTER 2

### APPLICATION AND INTERPRETATION OF RULES AND ORDERS

#### 2. Application of this by-law these Rules and Orders

- 2.1 The rules of order contained herein apply to all meetings of the municipal council and any committee of the municipal council as well as any other committee of councillors established within the municipality, unless the terms of reference for a specific structure explicitly excludes the application of the rules for such structure.
- 2.2 these Rules and Orders governs the proceedings of the council and committees of the council which bind and must be complied with by –
  - (a) all councillors;
  - (b) any member of the public while present in the precincts;

- (c) any deputation addressing the council or a committee of the council;
- (d) any municipal official of the municipality; **and**
- (e) Traditional Leaders participating in Council and its committees in terms of section 81 of the Municipal Structures Act

### **3. Interpretation of these Rules and Orders**

- 3.(a) Any interpretation of these Rules and Orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.
- (b) The ruling of the speaker or chairperson with regard to the interpretation of these Rules and Orders at a meeting of the council or committee of the council will, subject to sections 3(e) and 3(f), be final and binding.
- (c) The interpretation and the ruling of the speaker or chairperson on any of these Rules and Orders must be recorded in the minutes of the council or committee meeting.
- (d) The municipal manager must keep a register of the rulings and legal opinions.
- (e) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of section 3(b), to obtain clarity on the interpretation and ruling and to report to the council or committee of the council.
- (f) The council or committee of the council may after consideration of the report in terms of section 3(e) confirm, amend or substitute the ruling of the speaker or chairperson, subject to any rights which any third party may have accrued as a result of the ruling and all decisions effecting the rights of others must be in writing and reasons must be recorded of such decisions.

## **CHAPTER 4**

### **FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS**

#### **Council meetings**

- 4.(a) The council must hold an ordinary meeting of the council not less than once in

every three months.

- 4(b) The speaker must convene all meetings of the council in accordance with section 4(a) and subject to section 6.

### **Admission of public**

- 5.(1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.
- 5(2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters –
- (a) a draft by-law tabled in the council;
  - (b) a budget tabled in the council;
  - (c) the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;
  - (d) the municipality's performance management system, or any amendment of the system, tabled in council;
  - (e) the decision to enter into a service delivery agreement;
  - (f) any reports on an award in terms of supply chain management policy;
  - (g) the disposal or acquisition of municipal capital asset;
  - (h) any other matter prescribed by legislation.
- 5.(3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the council or committee of the council and any special or urgent meeting of the council or committee of the council, except when time constraints make this impossible.
- 5.(4) Members of the council together with members of the public attending any council or committee meetings must accord the meeting the dignity it deserves by dressing appropriately as per Rule 41(d) and must not wear any attire which could be ascribed to a political party

**6. Notice to attend an ordinary council meeting**

- 6.(1) The speaker must convene meetings of the council, at least once every three months, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.
- 6.(2) Notice to attend a meeting in terms of section 6(1) must be given at least –
- (a) five calendar days prior to an ordinary meeting; and
  - (b) two calendar days prior to a special meeting.

**Special meetings**

- 7.(1) The speaker must call a special meeting of the council –
- (a) for the purpose of pertinent or urgent council business; or
  - (b) or at the request of a majority of the councillors of the municipality.
- 7.(2) A special meeting must be held in compliance with section 6(2)(b) and in terms of section 7(1)(b) no later than four days from the date of receipt of a request.
- 7.(3) A request for the calling of a special meeting, as contemplated in section 7(1)(b), must
- (a) be signed by no less than fifty percent plus one of all councillors of the municipality; and
  - (b) be accompanied by –
    - (i) a duly signed notice of motion; and
    - (ii) a written statement by the councillor signing the notice of motion giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.
  - (c) If the speaker fails to convene a meeting in terms of this section, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.

**8. Service of notices and agenda**

- 8.(1) Notice to attend a meeting or any other official communication from the council, must be delivered to –
- (a) a physical address within the area of jurisdiction of the municipality; or
  - (b) an e-mail address;
  - (c) facsimile; or
  - (d) by a short message service:
- Provided that contact details must be supplied by each councillor to the municipal



manager in writing within two days of a councillor's election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor will accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

8.(2) All documentation relevant to any council or committee meeting, except special meetings convened in terms of section 7, must be given to all councillors at least five calendar days prior to an ordinary council or committee meeting and two calendar days prior to a special council or special committee meeting.

8.(3) All councillors must inform the speaker of any change of his contact details within three days of such change.

8.(4) Subject to section 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

#### **Non-receipt of notice**

9.(a) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.

9.(b) Non-receipt of a notice to attend a meeting will not affect the validity of any meeting or proceedings of council or any of its committees.

## **CHAPTER 4 QUORUM**

### **Quorum**

10.(1)(a) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent plus one of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.

(b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the council meeting.

10.(2)(a) Notwithstanding that there may be vacancies, a majority of the number of councillors appointed to a committee of council must be present at a meeting of

the committee before a vote may be taken on any matter.

- b) Subject to a quorum, the failure of any councilor to vote will not invalidate the proceedings of the committee meeting.

### **Cancellation and adjournment in absence of quorum**

#### **Cancellation**

- 11.(1) No meeting may take place, if no quorum is present fifteen minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding a further fifteen minutes for a quorum, whereafter if no quorum is present, the meeting must be cancelled.

#### **Adjournment**

- 11.(2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she must –
- (a) count the councillors present;
  - (b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;
  - (c) if a quorum becomes present after the adjournment then the meeting must continue;
  - (d) if no quorum becomes present after the adjournment then the chairperson or speaker must forthwith adjourn the meeting.

- 11.(3) When a meeting is adjourned as a result of no quorum, the meeting will be reconvened within seven days as a continuation meeting.

## **CHAPTER 5 ATTENDANCE**

#### **Attendance**

- 12.(1) All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when –
- (a) leave of absence is granted in terms of section 13;
  - (b) that councillor is required to withdraw in terms of section 46(b); or
  - (c) that councillor is absent with the permission of the speaker or chairperson.

- 12.(2) Each councillor attending any meeting of the council or a committee of the council must sign an attendance register provided for that purpose.
- 12.(3) The attendance register must be filed in the office of the municipal manager.
- 12.(4) Any councillor who is entitled to leave of absence in terms of section 13 and no longer requires such leave, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.

### **Leave of absence**

- 13.(1) Leave of absence –
- (a) shall only be granted by the Speaker, or in her absence a person duly appointed by the Municipal Council to act in the position of the Speaker;
  - (b) must not be granted by the Speaker in such a manner that more than the number required for a quorum will at any one time be absent.
- 13.(2) If a councillor –
- (a) is unable to attend a meeting of which notice had been given; or
  - (b) is unable to remain in attendance at a meeting; or
  - (c) will arrive after the stipulated commencement time of a meeting, he or she will, as soon as is reasonably possible, but no later than 24 hours prior to that meeting, lodge with the municipal manager or a designate from the office of the Speaker a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and bona fide reasons for the application and show good cause for the granting of the application.
- 13.(3) The municipal manager or his designated official must as soon as possible inform the speaker or chairperson of the meeting concerned of any application for leave of absence received.
- 13.(4) The speaker or chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his or her decision.

- 13.(5) The municipal manager or his designated official must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision.
- 13.(6) A councillor will be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she –
- (a) failed to attend a meeting; or
  - (b) failed to remain in attendance at a meeting.
- 13.(7) Where a councillor fails to remain in attendance at a meeting –
- (a) without being granted permission to do so; or
  - (b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting,
- the time of leaving must be recorded in the minutes of the meeting and that Councilors will be deemed to have been absent without leave at that meeting.
- 13.(8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of section 12(2).
13. (9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.
- 13 (10) Leave of absence may be granted by the Speaker under the following circumstances and the time frames referred to in section 13 (2) above shall be waived for the following reasons:
- (a) If the Councillor is on Council Business;
  - (b) Family emergency;
  - (c) If the Councillor suddenly falls ill;
  - (d) Death in the family;
  - (e) Work related circumstances;
  - (f) Any other circumstances deemed to be acceptable by the Speaker and or the Municipal Council.

**Non-attendance**

- 14.(1) Subject to compliance with the procedure set out in section 13 and the provisions of item 4(2) of Schedule 1 of the Systems Act, a councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine in terms of the Uniform Standing Procedure as annexed as Schedule 1 to the Standing Rules, which fine may be deducted from remuneration due to the councillor concerned.
- 14.2 A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee for which no leave of absence has been applied for, which that councillor is required to attend in terms of item 3 of Schedule 1 of the Systems Act, must be removed from office as a councillor in accordance with section 14(2)(e) of the Systems Act.
- 14.3 Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with the uniform standing procedure as annexed hereto as Schedule 1 which each municipal council must adopt.
- 14.4 Where a councillor has been absent without obtaining leave from a meeting—
- (a) the Rules Committee as contemplated in section 43 or the speaker or chairperson as the case may be, must invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;
  - (b) the speaker or chairperson must consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
  - (c) the councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision.
  - (d) the council or committee, as the case may be, must –
    - (i) allow the councillor an opportunity to make representations, oral or written; and
    - (ii) consider the councillor's appeal, together with any comments from the speaker or chairperson of the meeting concerned;
    - (iii) make a finding as to whether the councillor was absent with or without good cause.
- 14.5 The municipal manager must keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave

and without good cause and must submit a written report to the speaker whenever a councillor is absent from three or more consecutive meetings which that councillor was required to attend.

- 14.6 Where the speaker receives a report in terms of section 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

## **CHAPTER 6 ADJOURNMENT**

### **Adjourned meetings**

15. Subject to section 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

### **Continuation meeting**

- 16.(1) When a meeting is adjourned, notice of the continuation meeting must be served in terms of section 8.
- 16.2(2) No business will be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

## **CHAPTER 7 PROCEEDINGS**

### **Speaker and chairpersons of meetings**

- 17.(1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, will be the chairperson and will perform the duties stipulated in terms of section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of these Rules and Orders and the Code of Conduct.
- 17.2 The speaker and chairperson of council and committee meetings –
- (a) must maintain order during meetings;

- (b) must ensure compliance in the council with the Code of Conduct for Councillors; and
- (c) must ensure that meetings are conducted in accordance with these Rules and Orders.

17.3 If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councillor to act as speaker or chairperson as the case may be.

17.4 No meeting of the council or a committee of the council may commence or continue unless a speaker or chairperson presides at a meeting.

#### **Minutes**

- 18.(a) The proceedings of every council meeting must be accurately and electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- 18.(b) Written minutes of the proceedings of each council and committee meeting must contain an accurate record of the resolutions adopted by council at such meeting.
- 18.(c) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.
- 18.(d) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

#### **Order of business**

- 19.(1) The order of business at every meeting of the council or its executive committee or committee of council, as may be applicable, is as follows and may be



changed by the Municipal Council from time to time:

(a)

Council	Executive Committee	Committee
<ul style="list-style-type: none"> <li>• Prayer</li> <li>• Notice convening the meeting</li> <li>• Signing of the register</li> <li>• Declaration of Pecuniary Interest               <ul style="list-style-type: none"> <li>a) Cllrs</li> <li>b) Staff Members</li> </ul> </li> <li>• Apologies</li> <li>• Councillors Leave of Absence               <ul style="list-style-type: none"> <li>a) Applications</li> <li>b) Granted</li> </ul> </li> <li>• Official Announcements</li> <li>• Confirmation of Minutes               <ul style="list-style-type: none"> <li>a) Corrections of the minutes</li> </ul> </li> <li>• Matters arising from minutes</li> <li>• Outstanding matters</li> <li>• Business of the day</li> <li>• Closure</li> </ul>	<ul style="list-style-type: none"> <li>• Prayer</li> <li>• Notice of Meeting</li> <li>• Signing of Attendance Register</li> <li>• Declarations of Pecuniary Interest/Other Forms of Interest               <ul style="list-style-type: none"> <li>a) Cllrs</li> <li>b) Staff Members</li> </ul> </li> <li>• Apologies</li> <li>• Councillors Leave of Absence               <ul style="list-style-type: none"> <li>a) Granted</li> <li>b) Applications</li> </ul> </li> <li>• Official Announcementsa) Matters for Information from Cllrs/Officials</li> <li>• b) Presentations</li> <li>• Clean Administration</li> <li>• Minutes               <ul style="list-style-type: none"> <li>a) Confirmation</li> <li>b) Matters Arising</li> </ul> </li> <li>• Outstanding Matters</li> <li>• Business of the Day</li> <li>• Closure</li> </ul>	<ul style="list-style-type: none"> <li>• Prayer</li> <li>• Notice convening the meeting</li> <li>• Signing of the register</li> <li>• Declaration of Pecuniary Interest               <ul style="list-style-type: none"> <li>c) Cllrs</li> <li>d) Staff Members</li> </ul> </li> <li>• Apologies</li> <li>• Councillors Leave of Absence               <ul style="list-style-type: none"> <li>c) Applications</li> <li>d) Granted</li> </ul> </li> <li>• Official Announcements</li> <li>• Presentations</li> <li>• Clean Administration</li> <li>• Confirmation of Minutes               <ul style="list-style-type: none"> <li>c) Corrections of the minutes</li> </ul> </li> <li>• d) Matters arising from minutes</li> <li>• Outstanding Matters</li> <li>• Business of the day</li> <li>• Closure</li> </ul>
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- 19.(2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

#### **Confirmation of minutes of previous meeting**

- 20.(1) The minutes of every meeting must be confirmed at the next ordinary meeting of that council or committee and must be signed by the speaker or chairperson.
- 20.(2) No motion or discussion will be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes unless authorized by the Chairperson of the meeting.

**Deputations**

- 21.(a) A deputation wishing to address the council or a committee of council must submit a memorandum to the municipal manager in which is set out the representations it wishes to make.
- 21.(b) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.
- 21.(c) The municipal manager must submit the memorandum to the council or a committee of the council, which may receive the deputation.
- 21.(d) Any matter requiring consideration arising from a deputation, will not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.
- 21.(e) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, must obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.
- 21.(f) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson.
- 21.(g) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a designated Peace Officer from the Municipality.
- 21.(h) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of section 21(f) and section 21(g) and the matter may be reported to the South African Police Services by the Office of the Speaker or Municipal Manager or his designate .

**Reports**

- 22.(a) Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of

urgency, be provided to councillors in terms of section 8.

- 22.(b) The speaker or chairperson must allow debate in accordance with sections 34, 35, 36, 37, 38, 39 and 40 on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report must be held, at the next meeting.

### **Motions**

- 23.(1) No subject will be brought before council or a committee of council by a councillor except by way of notice of motion.

- 23.(2) A notice of motion must –

- (a) be in writing; and
- (b) be signed by the councillor submitting it and by another councillor acting as seconder; and
- (c) refer to one matter only.

- 23.(3) A notice of motion must, subject to section 7, be lodged with the municipal manager before 12h00 seven calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.

- 23.(4) The municipal manager must –

- (a) date and number each notice of motion;
- (b) enter each notice of motion lodged in a register, which must be open to inspection by any councillor and the public; and must
- (c) enter each notice of motion on the agenda in the order received.

- 23.(5) The speaker or chairperson must –

- (a) read out the number of every motion and the name of the mover and seconder;
- (b) ascertain which motions are unopposed and these will be passed without debate; and
- (c) call the movers of the opposed motions in the order they appear on the agenda.

- 23.(6) A councillor submitting a motion must move such motion and will have the right of reply.

23.(7) A motion will lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.

23.8(8) A councillor will be allowed not more than three notices of motion on the same agenda.

24.(9) The speaker or chairperson must not reject a motion received by him or her in terms of these Rules and Orders.

### **Questions**

25.(a) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting.

25.(b) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question.

### **Supply of information to a councillor**

26.(a) No councillor may approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.

26.(b) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

### **General matters of an urgent nature**

27.(a) General items of an urgent nature may be placed on an agenda by the municipal

manager and any member of the council with the prior consent of the speaker or chairperson, which consent will not be unreasonably withheld.

- (b) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

### **Interpretation**

- 28.** If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

### **In-committee**

- 29.(a)** Subject to section 5, the council or a committee of council may, at any time, resolve to proceed in-committee.

- 29.(b) The public will be excluded from any in-committee meetings.

- 29.(c) The municipal manager or another official exempted from this section by the speaker or chairperson, will not be excluded from any in-committee meeting.

- 29.(d) All proceedings in-committee must be recorded in terms of section 18(1) and 18(2) and must be confidential.

- 29.(e) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

29.2 The Council will deal In Committee when discussing any of the following matters:

- (a) a trade secret or confidential commercial information of any supplier of the municipality or any person rendering a service to the municipality;
- (b) personal and private information of any councillor or an employee of the municipality;
- (c) the intention of the municipality to purchase or acquire land or buildings;
- (d) the price a municipality may offer for the purchase or acquisition of land or buildings;
- (e) any report addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;
- (f) disciplinary proceedings or proposed disciplinary proceedings against any employee;

- (g) any matter that might not be disclosed in terms of legislation;
  - (h) consideration of the minutes of previous In Committee discussions.
- 29.3 A councillor may, when an item in the agenda is put to order, other than a matter referred to in 28.2 above, and provided it is not a matter that is required in law to be dealt with in open council, propose with motivation, that the matter be further dealt with In Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.

## CHAPTER 8

### VOTING

#### Decisions by voting

- 30.(1) A quorum must be present in order for a vote to be taken.
- 30.(2) *All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice –*
- (a) the passing of by-laws;*
  - (b) the approval of budgets;*
  - (c) the imposition of rates and other taxes, levies and duties;*
  - (d) the raising of loans;*
  - (e) the rescission of a council resolution within 12 months of the taking thereof; or a longer period if the said resolution is contrary to any legislation governing local government or any other applicable laws.*
  - (f) any other matter prescribed by legislation.*
- 30.3(3) All other questions before the council must be decided by a majority of the votes cast by the councillors present.
- 30.4(4) If on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson will not exercise a casting vote during the election of any office bearer of council and when Council considers matters listed in section 162 of the Constitution.

**Method of voting**

31.(a) Voting will be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.

31.(b) During the taking of a vote no councillor may leave the council chamber or committee room.

31.(c) The municipal manager or his nominee, will count the votes cast and will record the result of voting, but the speaker or chairperson will announce the result.

**Dissenting votes and Abstention**

31.1. A councillor may request that his dissenting vote be recorded as evidence of how he or she voted on the motion.

31.2 A member may abstain from voting without leaving the chamber.

**CHAPTER 9****REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS****Revocation of Council Resolutions**

32.(a) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.

32.(b) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.

32.(c) Any revocation or alteration of a council resolution must be made within a period of twelve (12) months as provided for in section 30(2)(e), *or a longer period if the said resolution is contrary to any legislation governing local government or any other applicable laws or any other matter prescribed by legislation.*

**Revocation of Committee Resolutions**

33.(a) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.



33.(b) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.

33.(c) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

## **CHAPTER 10**

### **DEBATE**

#### **Opportunity to speak**

34.(a) A councillor may only speak when so directed by the speaker or chairperson.

34.(b) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld.

34.(c) Councillors and officials must direct their address to the speaker or chairperson.

#### **Relevance**

35. Every speaker must restrict him or herself strictly to the matter under consideration.

#### **Length of speeches**

36. Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech will exceed five minutes in length without the consent of the speaker or chairperson.

#### **Councillors to speak only once**

37. A councillor may not speak more than once on any motion or proposal provided that the mover of the motion may speak to the motion, will have the right of reply and the reply will be confined to answering previous speakers and will not introduce any new matter into the debate.

#### **Precedence of the speaker or chairperson**

38. Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

**Points of order**

- 39.(a) Any councillor may raise a point of order at any time by standing to draw the attention of the speaker or chairperson.
- 39.(b) Any member will only be allowed to raise one point of order and one point of personal explanation during the council meeting. Only one point of order on the same matter will be allowed.
- 39.(c) The ruling of the speaker or chairperson on a point of order will be final and will not be open to discussion.

**Explanation**

40. Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

## **CHAPTER 11**

### **CONDUCT**

**General conduct**

41.(1) The Speaker or the chairperson of the meeting in the event of a meeting other than a council meeting shall:

- a) Maintain order during meetings
- b) Ensure compliance with the Code of Conduct for Councillors during meetings
- c) Ensure that meetings are conducted in accordance with the Council's Rules and Orders
- d) Ensure that members conduct themselves in a dignified and orderly manner during meetings are dressed appropriately for the dignity of the meeting and ensure that no political party attire or regalia is acceptable within the Council Chamber
- e) Ensure that members of the public attending meetings are seated in areas designated for that purpose
- f) Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or chairperson of the meeting
- g) Ensure that any councillor or member of the public refusing to comply with the ruling of the Speaker or chairperson leaves the meeting
- h) Ensure that Council conduct its business in the highest decorum and integrity that the occasion deserves;

- i) Ensure adherence to the code of conduct
- j) Ensure adherence to the rule of law and the by-laws of the municipality;
- k) Ensure that all members do not use offensive or objectionable language; and
- l) Ensure that members do not use a cellular phone during the meetings, bring a firearm or any dangerous weapon into a meeting of council or any of its committees.

**Misconduct and Disorderly Conduct of a Councillor or persons other than Councillors**

42.(a) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.

42.(b) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker must direct the councillor or councillors to conduct himself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.

42.(c) In the event of persistent disregard of the directions of the speaker, the speaker must direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalised.

42.(d) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these Rules and Orders and the Code of Conduct.

42.(e) Where a councillor refuses to retire from a meeting or in the event of more than one councillor having to be ejected from the meeting, and such councillor/s refuse/s to leave the meeting, the Speaker shall request an authorised official to facilitate the removal of such councillor/s from the chamber. If this cannot be done orderly, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councillors to retire or to be ejected from the venue of the meeting. If, at the resumption of proceedings, the councillor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation. The chairperson may rule that after the second adjournment the meeting will reconvene at another venue and any councillor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue. The authorised

official of the council will ensure that such councillor/s do/es not enter such an alternative venue.

- 42.(f) Any person, other than a councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the council or any committee at any meeting shall, if the Speaker or chairperson so directs, be removed from the chamber or the venue where the meeting is being held. If the person refuses to leave, the authorised official will be responsible to remove such person from the meeting. The chairperson may exclude such person from further admittance to the council chamber or the meeting venue for such period as it may be deemed fit.

## **CHAPTER 12 COMMITTEES**

### **43. RULES AND ETHICS COMMITTEE**

#### **43.1. Establishment**

The Rules and Ethics Committee is a standing committee of Council established in accordance with Section 79 of the Municipal Structures Act, 1998 and in terms of Item 14 Schedule 1 of the Local Government: Municipal Systems Act, 2000 , where applicable, the adopted Standing Rules and Orders of the Council.

#### **43.1.1 The role and responsibilities and terms of reference of the Rules and Ethics Committee is to:-**

- a) formulate rules and policies that regulate the behaviour of Councillors, such as the **Uniform Standing Procedure as annexed as Schedule 1 and its annexures hereto** as contemplated in Item 4(3) of Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Code of Conduct for Councillors) , for submission to the Council for adoption;
- b) Review adopted Standing Rules and Orders, as and when required, by the Council for submission to relevant Committees and Council for adoption;
- c) investigate and make findings on any alleged breaches of the Code of Conduct, in terms of Schedule 1 of the Municipal Systems Act 32 of 2000 including sanctions for non-attendance at meetings and make recommendations regarding any other matter concerning the Standing Rules and Orders.

- d) investigate and make findings on any alleged breaches of the Standing Rules and Orders and Code of Conduct for Councillors, including sanctions for non-attendance at meetings, where required by the Council;
- e) make recommendations to Council on guilt, appropriate sanctions and any other matter concerning the breach of the Standing Rules and Orders and the Code of Conduct for Councillors; and
- f) Propose applicable and/or standard fines and/or sanctions for breaches of the Code of Conduct for Councillors.
- g) Procedures and a policy for the granting of leave of absence in compliance with item 3 (a) of schedule 1 of the Municipal Systems Act 32 of 2000 ;
- h) Instances where council must decide on permission or consent to be granted to councillors ,e.g. consent for outside work by full –time councillors in terms of Item 8 of schedule 1 of the Municipal Systems Act 32 of 2000 ; and
- i) Permission to disclose information in terms of item 10 (1) of schedule 1 of the Municipal Systems Act 32 of 2000;
- j) Supervising in collaboration with the Speaker and managing the declaration of the financial interests of councillors to ensure honesty and avoid corruption;
- k) Oversee adherence to the Code of Conduct in terms of schedule 1 of the Municipal Systems Act 32 of 2000 and the Standing Rules and Orders of the council.
- l) Manage investigations and the disciplinary process of the councillors who are in breach of the provisions of the Standing Rules and Orders and the Code of Conduct of Councillors.
- m) Ensure that the public register of the councillor's financial interest is made available in the Office of the Speaker for the public access.

#### **43.2. Other functions of the Rules and Ethics Committee**

The Rules and Ethics Committee may formulate recommendations for consideration by the Council in relation to the following policies and procedures:

Procedure on declaration of financial interests by councillors and development of the register of the financial interests of councillors , taking into consideration that some interests that must be made public and other must be kept confidential;

Procedures to enforce the code of conduct and disciplinary procedure for councillors in the breach of the code;

43.2.1 The committee shall consider and decide on the following matters upon referral to it:

- (a) Reports on attendance of councillors in council and committees

- to which they are assigned;
- (b) Declaration of confidential and public register of financial interests of councillors for each financial year;
- (c) Reports from the Office of the Speaker on implementation of policies and procedures;

#### **43.3. Submission of reports to Council:**

43.3.1 The committee shall thereafter submit reports and recommendations to council on its findings on investigations and disciplinary processes against councillors who are in breach of the Code of Conduct of Councillors and the Standing Rules and Orders.

- (a) These reports must be submitted to the Council at a Council meeting following the completion of the investigation process to avoid unnecessary delays.
- (b) The Committee may review the adopted Standing Rules and Orders, whenever this is necessary and after being requested by the municipal council to do so and submits its recommendations to Council.

#### **43.4. Composition and Membership**

- 43.4.1 The Rules and Ethics Committee comprises of the speaker of the Council, the Chief Whip of the Council and the party whips (or a representative) of all political parties represented in the municipal council.
- 43.4.2 The Committee may also co-opt not more than 3 advisory members to provide support on specialist areas identified by the committee. These members may not have voting powers.

#### **• 43.5. Chairperson**

- 43.5.1 The Chairperson of the Rules and Ethics Committee is the speaker of the council.
- 43.5.2 In the absence of the Chairperson, a member of the Committee designated thereto in writing by the Chairperson chairs the meeting.
- 43.5.3 Where no councillor has been designated by the chairperson of the committee, a councillor elected by members of the committee from amongst themselves chairs the meeting.

**43.6. Meetings**

- 43.6.1. The chairperson decides when and where the Rules and Ethics Committee meets.
- 43.6.2. If the majority of members requests the Chairperson in writing to convene a Committee meeting, the Chairperson must convene the meeting at a time set out in the request.
- 43.6.3. The committee meets at least quarterly and reports to the Council on its activities.

**43.7. Meeting procedures**

The meetings of the Rules and Ethics must be conducted in accordance with the Standing Rules and Orders of the Council and in terms of the Uniform standing procedure as adopted by the rules and ethics committee, as annexed to the standing rules and order of the Council.

**43.8. Quorum and Decisions**

- 43.8.1. A majority of the elected members of the committee constitutes a quorum for meetings.
- 43.8.2. The Quorum of the Rules Committee shall be not less than fifty percent plus one of the total number of councillors.
- 43.8.3. A question before the committee is decided if there is agreement amongst at least the majority of the members present at the meeting.
- 43.8.4. If on any question there is an equality of votes, the Chairperson must exercise a casting vote in addition to his or her vote as a member of the Committee.

**43.9. Decision making of the Committee**

- 43.9.1. Any investigation in terms of this Committee must be conducted in terms of the Rules of Natural Justice.
- 43.9.2. These rules are concerned with procedural fairness and two basic principles that are fundamental to the rules of natural justice, which are the following:-
  - (a) The affected individual must be heard, i.e. given an opportunity to state his/her case before any sanction is imposed. (herein referred to as the *audi alteram partem* rule which means "listen to the other side")
  - (b) The investigation and the hearing must be conducted with *impartiality and must be free of bias or interest* (whether pecuniary or personal), on the part of the decision maker.

43.9.3. The Committee shall ensure that:

- a) timeous notice of any intended action must be given;
- b) reasonable time must be provided for the preparation of a defense;
- c) the affected individual must be given a proper opportunity to be heard; and
- d) the allegation or charge, including any potentially prejudicial fact and consideration must be communicated to the individual concerned, to allow for a proper defense and rebuttal of the allegations;

Proper procedures in keeping with the rules of natural justice, must be adopted for the application of Items 13 and 14 of the Code.

#### **43.10. Dissolution of the Committee**

The municipal council may dissolve the Rules and Ethics at any time.

#### **43.11. Line Authority**

The Rules and Ethics Committee reports to the municipal council.

#### **43.12. Interaction with the Municipal Manager**

The Rules and Ethics Committee interacts directly with the Municipal Manager.

#### **43.13. Dispute Resolution**

In the event of a dispute between Rules and Ethics Committee and any councillor, or any other political structure, or the Municipal Manager, the dispute must be referred to Council.

#### **Own rules**

**44.(a)** These Rules and Orders are applicable to all Committees of the Council. No Committee of the Council may determine its own rules. .

#### **The chairperson**

**45.(1)** The chairperson of a committee must–

- (a) preside at every meeting of the committee at which he or she is present; and
- (b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, will give a second or casting vote.



- (2) In his absence, the acting or deputy chairperson will have the same powers and rights of voting as those possessed by the chairperson.

## **CHAPTER 13**

### **PECUNIARY INTEREST**

#### **Declaration of pecuniary interest**

- 46.**(a) A councillor must disclose to the municipal council , or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or committee.
- (b) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.
- (c) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.
- (d) The disclosure of interests in terms of section 46(a) and benefit in terms of section 46(c) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.
- (e) When elected or appointed, a Councillor must within 60 days or as soon as possible thereafter declare in writing to the municipal manager the financial interests referred to in item 7 of schedule 1 of the Systems Act.

## **CHAPTER 14**

### **BREACH AND SANCTIONS**

#### **Breach**

47. Any councillor who fails or refuses to obey these Rules and Orders, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

#### **Sanction**

48. Where it is alleged that a councillor has breached these Rules and Orders, the council must, in terms of Item 14 of the Code of Conduct as stipulated in schedule 1 of the Municipal Systems Act 32 of 2000, investigate the alleged breach and may impose a sanction in keeping with the Uniform Standing procedure.

## **CHAPTER 15**

### **GENERAL PROVISIONS**

#### **Suspension of a rule or order**

- 49.(1) In instances of urgency or where a council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a section, provided that:
- (a) such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
  - (b) no section may be relaxed when the removal of any political office bearer is before the council.
  - (b) the suspension or relaxation of the section relates to an item on the agenda for the meeting of the council or committee of the council; and
  - (c) section 23 must not be suspended; and
  - (d) the reasons for the suspension of the section are recorded in the minutes of the meeting.

#### **Adoption as by-law**

50. These Rules and Orders shall be adopted as a by-law of the KwaDukuza Municipality.

**Repeal of existing Rules and Orders**

**51.** The council's existing Bylaws relating to Rules and Orders are hereby repealed.

**Short title and commencement**

**52.** These Rules and Orders shall be called the KwaDukuza Municipality: "Municipal Standing Rules and Orders of the KwaDukuza Municipal Council and Committees of the Council . "

**SCHEDULE 1****UNIFORM STANDING PROCEDURE IN TERMS OF ITEM 4(3) OF THE CODE OF CONDUCT FOR COUNCILLORS AS CONTAINED IN SCHEDULE 1 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (as amended)**

Adopted by the Council of the KwaDukuza Municipality on \_\_\_\_\_ 2018.

**To provide for the imposition of fines, reprimands, warnings, suspensions and the removal of councillors who are in breach of the Code.**

**PREAMBLE****WHEREAS:**

- A.** Item 4(3) of the Code provides that proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item;
- B.** The uniform standing procedure must comply with the rules of natural justice; and
- C.** There is also a need to provide guidance on the correct procedure to be followed before any disciplinary measures are instituted in terms of the Code in order to ensure adherence to principles of fairness and natural justice.

**NOW THEREFORE,** the following procedure must be applied in dealing with breaches of the Code:-

**TABLE OF CONTENTS****CHAPTER 1: INTERPRETATION**

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**CHAPTER 2: LEGISLATIVE PROVISIONS**

- 2. Item 3 of the Code

3. Item 4 of the Code
4. Item 13 of the Code
5. Item 14 of the Code

### **CHAPTER 3: PROCEDURAL ISSUES**

6. Non-attendance of meetings
7. Other breaches of the Code

### **CHAPTER 4: SCHEDULES**

- Schedule 1 – Flowchart
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- Schedule 3 – Sample Notice to attend a hearing
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## **CHAPTER 1: INTERPRETATION**

### **Definitions**

1. In this Uniform Standing Procedure, unless the context indicates otherwise—

**“Code”** means the Code of Conduct for Councillors as contained in Schedule 1 of the Act;

**“MEC”** means the KwaZulu-Natal Member of the Executive Council responsible for local government, and any successor-in-title to the position; and

**“the Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended

## CHAPTER 2: LEGISLATIVE PROVISIONS

### 2. Item 3 of the Code provides as follows:

#### **Attendance at meetings**

3. *A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when-*
- (1) *leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or*
  - (2) *that councillor is required in terms of this Code to withdraw from the meeting.*

### 3. Item 4 of the Code provides as follows:

#### **Sanctions for non-attendance of meetings**

4. (1) *A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:*
- (a) *not attending a meeting which that councillor is required to attend in terms of item 3; or*
  - (b) *failing to remain in attendance at such a meeting.*
- (2) *A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.*
- (3) *Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.*

### 4. Item 13 of the Code provides as follows:

#### **Duty of chairpersons of municipal councils**

- (1) *If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must—*
- (a) *authorise an investigation of the facts and circumstances of the alleged breach;*

- (b) *give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and*
  - (c) *report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.*
- (2) *A report in terms of subitem (1) (c) is open to the public.*
- (3) *The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.*
- (4) *The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.”*

**5. Item 14 of the Code provides as follows:**

**“Breaches of Code;**

- (1) *A municipal council may—*
  - (a) *investigate and make a finding on any alleged breach of a provision of this Code; or*
  - (b) *establish a special committee—*
    - (i) *to investigate and make a finding on any alleged breach of this Code; and*
    - (ii) *to make appropriate recommendations to the council.*
- (2) *If the council or a special committee finds that a councillor has breached a provision of this Code, the council may—*
  - (a) *issue a formal warning to the councillor;*
  - (b) *reprimand the councillor;*
  - (c) *request the MEC for local government in the province to suspend the councillor for a period;*
  - (d) *fine the councillor; and*
  - (e) *request the MEC to remove the councillor from office.*
- (3) (a) *Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of subitem (2) may within 14 days of having been*

*notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.*

*(b) A copy of the appeal must be provided to the council.*

*(c) The council may within 14 days of receipt of the appeal referred to in paragraph*

*(b) make any representation pertaining to the appeal to the MEC for local government in writing.*

*(d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.*

*(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the councillor should be suspended or removed from office.*

*(5) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of subitem (4).*

*(6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may—*

*(a) suspend the councillor for a period and on conditions determined by the MEC; or*

*(b) remove the councillor from office.*

*(7) Any investigation in terms of this item must be in accordance with the rules of natural justice."*

### **CHAPTER 3: PROCEDURAL ISSUES**

#### **Non-attendance of meetings**

##### **6. (1) Fines for non-attendance of council or committee meetings**

*(a) A councillor who is absent at a meeting of the council or committee of council without obtaining leave of absence is liable for a fine of R 300.00 (Three*



Hundred Rands) per meeting, which must be deducted from that councillor's allowance. This must also apply where leave of absence is declined and the councillor nonetheless remains absent at such a meeting.

- (b) A councillor who fails to remain in attendance at a Council or committee meeting for a period exceeding an hour without having obtained the consent of the Speaker of Council or Chairperson of the committee is liable for a fine of R200-00 (Two Hundred Rands) per meeting, which must be deducted from that councillor's allowance.

**(2) Absence from three consecutive meetings**

- (a) Upon becoming aware that a councillor has been absent from three or more consecutive meetings of the Council or from three or more consecutive meetings of a committee which that councillor is required to attend, the Municipal Manager must inform the Speaker of Council in order to commence proceedings as obligated in terms of Item 13(1)(a) of the Code.
- (b) The Speaker of Council must authorise an investigation of the facts and circumstances of the alleged breach. This does not preclude the Speaker of Council from conducting the investigation personally.
- (c) When an investigation of an alleged breach has been completed, the Speaker of Council must notify the councillor in writing of the allegations against him or her and give the councillor an opportunity to respond to the said allegations in writing.
- (d) The written notification must at least contain the following:
  - (aa) the specific item or items alleged to have been breached;
  - (bb) the time period for a written response; and
  - (cc) the right to request any relevant documentation or information.
- (e) A period of at least fourteen days must be deemed reasonable to allow for a response from the councilor concerned.

- (f) The Speaker of Council must report the matter to the following meeting of the Council and include the response of the councillor in order for council to resolve on the matter.
- (g) If, based on the evidence and the representation of the councillor, it is clear that the Code has been breached, the outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which report, together with the Council's resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.
- (h) The councillor must be notified in writing within seven days of receipt of the council's decision, and the said notice must at least contain the following information-
  - (aa) whether or not the councillor has been found guilty of the alleged breach;
  - (bb) the grounds on which such a finding was made;
  - (cc) the sanction to be imposed; and
  - (dd) the councillor's right to appeal to the MEC.
- (i) If the councillor did not make representations on the allegations or where Council does not support the findings of the investigation of the Chairperson of Council, Council may decide to establish an ad-hoc committee or refer the matter to the Rules Committee to investigate the matter and to make recommendations to the Council, the following must be taken into account when the special committee is constituted:
  - (aa) the committee must comprise of the Speaker, Mayor and one councillor representative from all political parties represented in the Council;
  - (bb) any person involved in the preliminary investigation must not be a member of the committee;
  - (cc) the council must strive to have equitable political representation on the committee in keeping with section 160(8) of the Constitution of the Republic of South Africa, 1996; and
  - (dd) the council must elect a chairperson.

- (j) Prior to a hearing taking place, the councillor must be notified in writing of the intention to conduct a hearing.
- (k) The councilor must be given at least fourteen days' written notice of the hearing.
- (l) The notification to attend the hearing must contain, at least, the following:
  - (aa) the alleged breach;
  - (bb) the time, date and venue of the hearing;
  - (cc) the councillors rights; and
  - (dd) the implications of a failure to attend the hearing.
- (m) The hearing must be conducted by the committee as elected by the Council.
- (n) Both parties must be given the opportunity to present their case.
- (o) The hearing must be open to the public.
- (p) At the hearing-
  - (aa) the Chairperson must produce the necessary evidence to establish that the councillor
    - (i) has been absent from three (3) or more consecutive meetings of the Council; or
    - (ii) has been absent for three (3) or more consecutive meetings of a committee which that councillor is required to attend.
  - (bb) the councillor must have the right to put questions to the witnesses called by the Chairperson;
  - (cc) the committee must have the right to put questions to the witnesses called by the Chairperson for the purposes of clarifying any issues;
  - (dd) the councillors must have the right to call other witnesses in support of the councillor's case; and
  - (ee) the Chairperson and the councillor concerned may address the committee after all the evidence has been heard and before the committee makes a decision.

- (q) The Municipal Manager must provide facilities including personnel to assist the Committee including the recording of the hearing(s) which record must contain all particulars related to the hearing including-
  - (aa) the names of the parties and their representatives;
  - (bb) the names of the witnesses;
  - (cc) the plea;
  - (dd) the evidence led;
  - (ee) the finding; and
  - (ff) any recommended sanction.
- (r) In the event that the Chairperson becomes aware that councillor will not be able to attend the hearing after delivery of the notice, the Chairperson must attempt to establish the reasons for such failure to attend the hearing, prior to the commencement of the proceedings.
- (s) If the Chairperson is unable to establish reasons why the councillor has failed to attend the hearing, the committee must commence the proceedings in the absence of the councillor.
- (t) At the end of the hearing, the special committee must consider all the evidence. If a majority of the members of the committee find that, on a balance of probabilities-
  - (aa) the councillor has been absent from three (3) or more consecutive meetings of the Council; or
  - (bb) the councillor has been absent from three (3) or more consecutive meetings of a committee which that councillor is required to attend, the committee must make an appropriate finding and recommendation(s) to the municipal council.
- (u) The council must consider the finding and recommendation of the special committee and make an appropriate decision.
- (v) The outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which report, together with the Council's

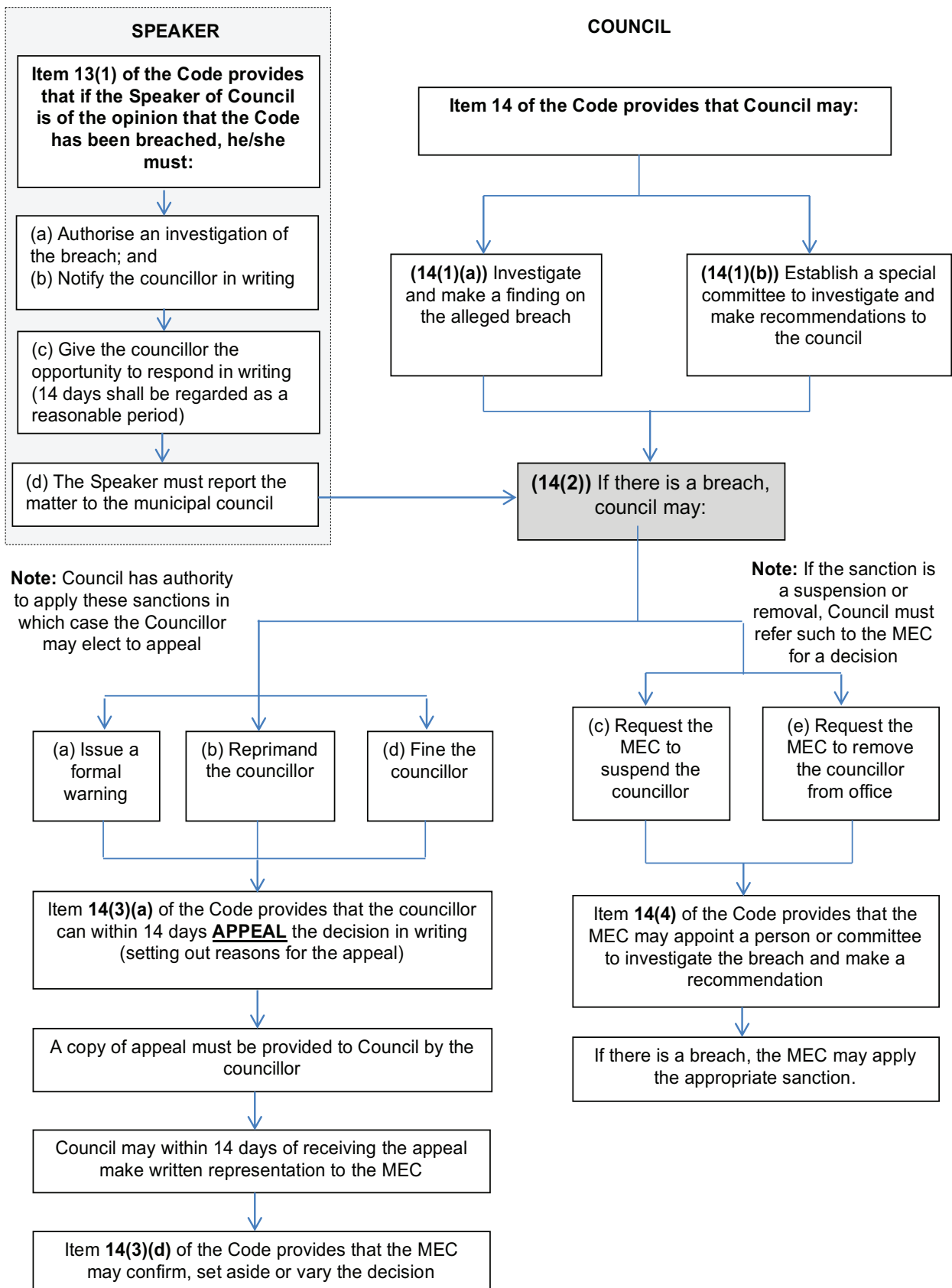
resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.

- (w) The councillor must be notified in writing within seven days of receipt of the council's decision, and the said notice must at least contain the following information-
  - (aa) whether or not the councillor has been found guilty of the alleged breach;
  - (bb) the grounds on which such a finding was made;
  - (cc) the sanction to be imposed; and
  - (dd) the councillor's right to appeal to the MEC.

**(7) Other breaches of the Code**

- (1) Sub-paragraphs 6(2)(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (u), (v) and (w) must be applicable in dealing with other breaches in terms of the Code.
- (2) In dealing with other breaches of the Code, the council must consider any mitigating and extenuating circumstances prior to the imposition or recommendation on a sanction.
- (3) The council should be consistent with regard to the sanction imposed for similar breaches and the council should endeavor to ensure that the sanction is proportionate to the breach.
- (4) Schedule 6 contains a schedule of fines for breaches of the Code. The Schedule is a guideline to ensure uniformity. Each case must be considered by Council in its merits with consideration of mitigating and extenuating circumstances.

## CHAPTER 4: ANNEXURES

ANNEXURE A  
FLOWCHART

**ANNEXURE B****SAMPLE NOTICE OF A PRELIMINARY INVESTIGATION**

\_\_\_\_\_ **MUNICIPALITY**

**Per Hand:**

**Date:**

**Councillor:**

**This serves to notify you that an investigation into the following allegation(s) against you has been commissioned:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 1. You may request further particulars pertaining to the allegations.**
- 2. You must respond to the abovementioned allegations within \_\_\_\_\_ days of receiving this notice.**

**Yours faithfully,**

**Chairperson:**

**Date:**

**I, the undersigned, confirm that I have received the above notification.**

**Councillor:**

**Date:**

**ANNEXURE C****SAMPLE NOTICE TO ATTEND A HEARING**

\_\_\_\_\_ **MUNICIPALITY**

**Per Hand:**

**Date:**

**Dear Councillor:**

**This serves to notify you that you are required to attend a hearing to consider the following allegation(s) against you:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Details regarding the hearing are as follows:**

**Time:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Place:** \_\_\_\_\_

**You have the following rights, to -**

- 1. be represented at the hearing;**
- 2. present evidence at the hearing;**



- 3. call witnesses;**
- 4. question any of council's witnesses;**
- 5. an interpreter; and**
- 6. be present at the hearing. If you fail to attend without good cause, the hearing may be conducted in your absence.**

**You are requested to notify the committee prior to the hearing if an interpreter is required in order to allow for the necessary arrangements to be made.**

**Yours faithfully,**

**For Municipality:**

**Date:**

**I, the undersigned, confirm that I have received the above notification.**

**Councillor:**

**Date:**

**ANNEXURE D****SAMPLE RECORD OF HEARING****Details of the hearing and representation****Date and time of hearing:****Name of councillor:****Name of councillor representative:****PRESENT:****Chairperson:****Members of Special Committee:****Interpreter:****Councillor's witnesses:****Council's witnesses:****Preliminary steps:****2.The Chairperson:**

- (1) introduces all present;**
- (2) explain the proceedings that are to be followed and the method of recording the proceedings.**
- (3) confirm the language preference of the councillor and ensure interpreter is present (if applicable);**
- (4) confirm if the councillor has representations;**
- (5) establish the presence of witnesses; and**
- (6) read out the councillor's rights.**

**The charge****3. The councillor is charged with the following offence(s):****Plea****4.(1) Record a guilty or not guilty plea:****(2) If a plea of guilty is recorded, skip item 5 to 6 below.****Council's case****5.(1) Council presents its case:**


**(2) Cross-examination by councilor or representative:**


**Councillor's case****6.(1) Councillor presents his or her case:**


**(2) Cross-examination by committee:**


**Finding****7. After having considered the evidence, the committee makes a finding on the alleged breach.****(1) The reasons for the finding:**


**(2) The recommendations are:**


**(3) If a finding of not guilty is made, close the hearing.****Sanction****8.(1) Consider mitigating or extenuating circumstances, prior to the imposition of a sanction:**


**(2) The council considers the committee's recommendation and councillor's representation's and imposes the following sanction:**


**Notification of outcome of hearing**

**9. The councillor is notified in writing of the outcome of the disciplinary hearing and of any sanction imposed.**

**Right of appeal**

**10. The councillor is advised of his or her right of appeal against the sanction in terms of Item 14(3)(a) of the Code.**

**ANNEXURE E**

**SAMPLE OUTCOME OF HEARING**

\_\_\_\_\_ **MUNICIPALITY**

**Date:**

**To: (councillor's name and address)**

**OUTCOME OF HEARING**

**With reference to the hearing held on in which a breach was investigated against you, the findings are as follows:**

**1. you have been found to have breached / not breached Item \_\_\_\_\_ of the Code of Conduct;**

**2. the reasons for the finding are as follows:**


**3. The council considered the findings and imposed the following sanction:**

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---

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**Please take note that you have the right to appeal against the sanctions of the hearing. If you decide to appeal, your grounds for appeal must be lodged within fourteen working days of having been notified of the decision of the council. Please lodge your appeal with the MEC for local government in terms of Item 14(3)(a) and 14(3)(b) of the code.**

.....  
**Council**

.....  
**Date**

**ANNEXURE F****SCHEDULE OF FINES**

This Schedule shall serve as a guideline to Council on the determination of sanctions in terms of the Code. The sanctions included in this Schedule shall be read in conjunction with relevant by-laws and adopted policies.

OBLIGATION	ITEM OF THE CODE	PENALTY
<p>A councillor must-</p> <p>a) perform the functions of office in good faith, honestly and a transparent manner; and</p> <p>b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.</p>	Item 2 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 1 month salary, which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council which conflicts with any legislation applicable to local government.</p>	Item 2A of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 2 month salary, which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Where the consequences of the unlawful votes have detrimental financial implications, Council or other authorities may also institute civil recovery proceedings.</p>
<p>A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or that councillors is required in terms of the Code to withdraw from the meeting.</p>	Item 3 of the Code	<p>A councillor who is absent at a meeting of the council or committee of council without obtaining leave of absence is liable for a fine of 2weeks salary per meeting, which must be deducted from that councillor's allowance. This must also apply where leave of absence is declined and the councillor nonetheless remains absent at such a meeting.</p> <p>A councillor who fails to remain in attendance at a Council or committee meeting for a period exceeding an hour without having obtained the consent of the Council or the committee is liable</p>

		<p>for a fine of 2 weeks salary per meeting, which must be deducted from that councillor's allowance</p> <p>A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor. The Process outlined in Chapter 3 must be followed when removing a councillor in terms of this Item.</p>
<p>A councillor must-</p> <p>a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and</p> <p>b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.</p> <p>A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.</p>	Item 5 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor 1 month's salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private</p> <p>1) gain or to improperly benefit another person. Except with the prior consent of the municipal council,</p> <p>2) a councillor may not-</p> <p>a) be a party to or beneficiary under a contract for-</p> <p>i) the provision of goods or services to the municipality; or</p> <p>ii) the performance of any work otherwise than as a councillor for the municipality;</p> <p>b) obtain a financial interest in any business of the municipality; or</p> <p>c) for a fee or other consideration appear on behalf of any other person before the council or a committee.</p>	Item 6 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may</p> <p>(a) fine the councillor 1 month salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor;		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p>

<p>a) shares and securities in any company; b) membership of any close corporation; c) interest in any trust; d) directorships; e) partnerships;</p> <p>f) other financial interests in any g) interest in property; pension; and</p> <p>h) subsidies, grants and sponsorships by any organisation</p> <p>Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually</p> <p>Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1).</p>		<p>(a) fine the councillor 3 weeks salary which must be deducted from that councillor's allowance; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; or (e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
A councillor who is a full-time councillor may not undertake any other paid work, except with the consent of municipal council which consent must not unreasonably be withheld.	Item 8 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 2 weeks salary which must be deducted from that councillor's allowance; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; or (e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not request, solicit or accept any reward, gift or favour for-</p> <p>a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member; b) persuading the council or any committee in regard to the exercise of any power, function or duty; c) making a representation to the council or any committee of the council; or d) disclosing privileged or confidential information</p>	Item 9 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary which must be deducted from that councillor's allowance; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; or (e) request the MEC to remove the councillor from office.</p>
A councillor may not without the permission of the municipal council or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.	Item 10 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months'</p>



		<p>salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not, except as provided by law-</p> <p>a) interfere in the management or administration of any department of the municipal council unless mandated by council;</p> <p>b) give or purport to give any instruction to any employee of the council except when authorised to do so;</p> <p>c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or</p> <p>d) encourage or participate in any conduct which would cause or contribute to mal-administration in the council.</p>	Item 11 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 3 months' salary which must be deducted from that councillor's allowance;</p> <p>issue a formal warning;</p> <p>(b) reprimand the councillor;</p> <p>(c) request the MEC to suspend the councillor for a certain period; or</p> <p>(d) request the MEC to remove the councillor from office.</p>
<p>A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.</p>	Item 12 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; and</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
<p>Assaulting any person on municipal premises or on municipal business.</p>		<p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary;</p> <p>(b) request the MEC to suspend the councillor for a certain period; and</p> <p>(c) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
<p>Stealing any property from municipal premises.</p>		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p>

		<p>(a) fine the councillor a minimum of 4 months salary;</p> <p>(b) request the MEC to suspend the councillor for a certain period; and</p> <p>(c) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Malicious injury to municipal property.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary;</p> <p>(b) request the MEC to suspend the councillor for a certain period; and</p> <p>(c) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in any meeting of the Council or Committee of the Council.		<p>The Council may-</p> <p>(a) fine the councillor a minimum of 1 months' salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; and</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Failing to fall silent when the Presiding Officer speaks or rises during a meeting.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 2 weeks' salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; and</p> <p>(e) request the MEC to remove the councillor from office.</p>
Failing to obey any ruling, order or directive of the Presiding Officer at any meeting of the Council or any Committee		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 2 weeks' salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; and</p>

		(e) request the MEC to remove the councillor from office.
Failing to leave the Chamber or Committee Room when ordered to do so by the Presiding Officer.		The Council may- (a) fine the councillor a minimum of 2 weeks' salary; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; and (e) request the MEC to remove the councillor from office.

**MUNICIPAL NOTICE 44 OF 2019****ETHEKWINI MUNICIPALITY: COASTAL MANAGEMENT BY-LAW, 2018**

NOTICE IS HEREBY GIVEN that the eThekwin Municipality Council has enacted, by way of resolution in terms of section 12 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Coastal Management By-law, 2018 contained hereunder.

Mr Sipho Nzuza  
City Manager

City Hall  
Dr Pixley Ka-Isaka Seme Street  
Durban

Dated: 18 April 2019

**eTHEKWINI MUNICIPALITY: COASTAL MANAGEMENT BY-LAW, 2018**



Adopted by Council on the:  
30 OCTOBER 2018

**COASTAL MANAGEMENT BY-LAW, 2018**

To provide for measures for managing and protecting the coastal zone; to provide for measures for aligning development within the coastal zone with the objects of the National Environmental Management: Integrated Coastal Management Act; to provide for measures for protecting the natural environment of the coastal zone; to provide for measures for managing public access to the coastal zone; to establish the Municipal Coastal Committee; to give effect to the Municipal Coastal Management Programme; and to provide for matters connected therewith.

**PREAMBLE**

**WHEREAS** the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) affords coastal municipalities powers to administer certain matters, aspects or functions of the aforesaid Act, such as matters contemplated in sections 18(1), 20(2) and 50 of the said Act;

**AND WHEREAS** the Municipality has legislative and executive competence relating to matters such as, but not limited to, municipal planning, building regulations and standards, use of and access to beaches, and nuisances, as pertaining to the coastal zone;

**NOW THEREFORE** the Council of the eThekweni Metropolitan Municipality, acting in terms of section 156 of the Constitution of the Republic of South Africa, 1996, read with Part B of Schedules 4 and 5 of the Constitution, section 50 of the National Environmental Management: Integrated Coastal Management Act, 2008 and 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—

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

**"Air Quality Act"** means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

**"authorised official"** means a person authorised to implement the provisions of this By-law, including but not limited to—

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

**"Biodiversity Act"** means the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004);

**"coastal area"** means land that constitutes the coastal zone of a coastal municipality;

**"coastal management"** includes—

- (a) the regulation, management, protection, conservation and rehabilitation of the coastal environment;
- (b) the regulation and management of the use and development of the coastal zone and coastal resources;
- (c) monitoring and enforcing compliance with laws and policies that regulate human activities within the coastal zone; and
- (d) planning in connection with the activities referred to in paragraphs (a), (b) and (c);

**"coastal municipality"** means any municipality of the Republic of South Africa which has within its area of jurisdiction any land or portion thereof abutting any sea, irrespective of the person who owns or controls such land;

**"coastal planning scheme"** means a scheme that—

- (a) reserves defined areas within the coastal zone to be used exclusively or mainly for specified purposes; and
- (b) prohibits or restricts any use of the areas contemplated in paragraph (a) in conflict with the terms of the scheme;

**"coastal protection zone"** means a coastal protection zone contemplated in section 17 of the Act;

**"coastal zone"** means a coastal zone as defined in the Act;

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

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

**"development"** in relation to land, means any processes initiated by a person to change the use, physical nature or appearance of that place and includes—

- (a) the construction, erection, alteration, demolition or removal of a structure or a building;
- (b) a process to rezone, subdivide or consolidate land;
- (c) changes to the existing or natural topography of the coastal zone; and
- (d) the destruction or removal of indigenous or protected vegetation;

**"Integrated Development Plan"** means a plan contemplated in section 25 of the Municipal Systems Act;

**"littoral active zone"** means any land forming part of, or adjacent to, the seashore that is—

- (a) unstable and dynamic as a result of natural processes; and
- (b) characterised by dunes, beaches, sand bars and other land forms composed of unconsolidated sand, pebbles or other such material which is—
  - (i) unvegetated; or
  - (ii) only partly vegetated;

**"Marine Living Resources Act"** means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

**"Marine Pollution (Control and Civil Liability) Act"** means the Marine Pollution (Control and Civil Liability) Act, 1981 (Act No. 6 of 1981);

**"Marine Pollution (Prevention of Pollution from Ships) Act"** means the Marine Pollution (Prevention of Pollution from Ships) Act, 1986 (Act No. 2 of 1986);

**"Mineral and Petroleum Resources Development Act"** means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

**"Mountain Catchment Areas Act"** means the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970);

**"Municipality"** means the eThekweni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of PN343 of 2000 (KZN);

**"Municipal Coastal Committee"** means the municipal coastal committee of the Municipality as contemplated in section 8 of this By-law;

**"Municipal Coastal Management Programme"** means a programme established in accordance with Chapter 6 of the Act, and **"Programme"** shall have a corresponding meaning;

**"Municipal Manager"** means the official of the Municipality appointed in terms of section 54A of the Municipal Systems Act;

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

**"National Environmental Management Act"** means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

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

**"National Forests Act"** means the National Forests Act, 1998 (Act No. 84 of 1998);

**"National Ports Act"** means the National Ports Act, 2005 (Act No. 12 of 2005);

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

**"Protected Areas Act"** means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

**"Sea Birds and Seals Protection Act"** means the Sea Birds and Seals Protection Act, 1973 (Act No. 46 of 1973);

**"seashore"** means the seashore as defined in the Act;

**"Waste Act"** means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

**"World Heritage Convention Act"** means the World Heritage Convention Act, 1999 (Act No. 49 of 1999); and

**"Wreck and Salvage Act"** means the Wreck and Salvage Act, 1996 (Act No. 94 of 1996).

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

2. In the event of a conflict in interpretation between the English version of this By-law and a translated version, the English version prevails.

## **CHAPTER 2 OBJECTS OF BY-LAW**

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

3. The objects of this By-law are to—

- (a) fulfil the responsibilities and duties assigned to the Municipality by the Act;
- (b) ensure sustainable use and development of the coastal area by aligning municipal planning with the Act;
- (c) establish the Municipal Coastal Committee and give effect to the Municipal Coastal Management Programme;
- (d) promote the protection of the natural environment of the coastal zone;
- (e) promote cooperative governance between the Municipality and other relevant spheres of government relating to the management of the coastal zone; and
- (f) promote fair and equitable access to the coastal zone by members of the public.

### **CHAPTER 3**

### **APPLICATION**

#### **Application of By-Law**

4.(1) Subject to any applicable law, this By-law applies in respect of all–

- (a) activities being undertaken or performed; or
- (b) objects, things, substances and land situated,

within the coastal area of the Municipality, and is binding on all persons to the extent applicable.

(2) Any law or Schedule to which reference is made in this By-law is applicable as amended from time to time.

#### **Applicable laws**

5. This By-law must be read in conjunction with all applicable legislation, including but not limited to:

- (a) Air Quality Act;
- (b) Biodiversity Act;
- (c) Marine Living Resources Act;
- (d) Marine Pollution (Control and Civil Liability) Act;
- (e) Marine Pollution (Prevention of Pollution from Ships) Act;
- (f) Mineral and Petroleum Resources Development Act;
- (g) Mountain Catchment Areas Act;
- (h) National Environmental Management Act;
- (i) National Environmental Management: Integrated Coastal Management Act;
- (j) National Forests Act;
- (k) National Ports Act;
- (l) Protected Areas Act;
- (m) Sea Birds and Seals Protection Act;
- (n) Waste Act;
- (o) World Heritage Convention Act;
- (p) Wreck and Salvage Act; and
- (q) any other applicable By-law of eThekweni Municipality.

## **CHAPTER 4**

### **MUNICIPAL MANDATE AND ROLE IN INTEGRATED COASTAL MANAGEMENT**

#### **Municipal mandate and role in integrated coastal management**

6. The role and mandate of the Municipality in integrated coastal management includes, but is not limited to, ensuring—

- (a) that the Municipality gives full effect and value to the principles underlying the Act;
- (b) proper management and control of the coastal zone for the common good of all;
- (c) that the Municipality upholds and aligns itself to the principles of cooperative governance—
  - (i) between itself and other spheres of government and organs of state; and
  - (ii) within the various departments of the Municipality,
- on all matters concerning integrated coastal management;
- (d) that development in the coastal zone takes place in a manner and on a scale that promotes and supports integrated coastal management;
- (e) that access to the coastal zone and any portion or component thereof is effectively regulated and managed; and
- (f) that the natural assets occurring within the Municipality's coastal zone are regulated, conserved and protected for both the current generation, and future generations.

#### **Municipal administrative capacity relating to integrated coastal management**

7.(1) The Municipality must administer all matters assigned to it by the Act and this By-law relating to integrated coastal management within its area of jurisdiction and within its competence.

(2) The Municipality must secure and ensure the administrative capacity to administer, implement and enforce the provisions of—

- (a) this By-law;
- (b) the Act which assign duties, powers or functions to the Municipality;
- (c) the Municipal Coastal Management Programme; and
- (d) the decisions of the Municipal Coastal Committee to the extent such decisions are

approved or adopted by Council as contemplated in section 10(2).

(3) The Municipality must manage the coastal zone in an innovative and integrated manner ensuring that the Municipality's environmental, economic, and social benefits linked to the coastal zone are utilised to their full extent.

(4) In the discharge of its municipal planning functions relating to any part of the coastal zone, the Municipality must ensure that an appropriate balance is maintained between the Municipality's built, rural and wilderness areas.

(5) Subject to the Beaches By-law and other applicable laws, the Municipality must provide reasonable public access to beaches and coastal areas: Provided that a people first and sustainable approach to the use and development of the coastal zone is adopted.

#### **Municipal Coastal Committee**

8.(1) The Municipality must establish a Municipal Coastal Committee as contemplated in Part 4 of Chapter 5 of the Act.

(2) The Municipal Manager must invite nominations from the public for the appointment of competent persons to serve as members of the Municipal Coastal Committee.

(3) The invitation contemplated in subsection (2) must set out the minimum requirements and the eligibility criteria for the nomination and appointment sought.

(4) The Municipal Coastal Committee must consist of–

- (a) persons with expertise in fields relevant to coastal management;
- (b) representatives of the management authorities of coastal protected areas within the Municipality;
- (c) other government institutions with particular interest in nature and conservation;
- and
- (d) representatives of port authorities.

(5) The representatives of the following persons may also be considered for the nomination contemplated in subsection (2):

- (a) communities or organisations with a particular interest in contributing to effective coastal management;



- (b) persons whose livelihoods or businesses rely on the use of coastal resources;
- (c) environmental interest groups; and
- (d) research organisations or institutions.

(6) The Municipal Coastal Committee must consist of at least 12 members.

(7) At least two thirds of the membership of the Municipal Coastal Committee must be full time employees of the Municipality.

(8) The position of Chairperson of the Municipal Coastal Committee must be held by a suitably competent person who is a full time employee of the Municipality: Provided that this does not prevent any member of the Municipal Coastal Committee from chairing any meeting or forum of the Municipal Coastal Committee in the absence of the Chairperson or as and when it is arranged as such by the members of the Municipal Coastal Committee.

(9) The appointment of a person as a member of the Municipal Coastal Committee must be for a fixed term which may not exceed five years.

(10) Notwithstanding the provisions of subsection (9), the Municipal Manager may at his or her discretion, extend or renew the appointment of any member of the Municipal Coastal Committee.

(11) Notwithstanding the provisions of subsection (10), a member of the Municipal Coastal Committee may not serve more than two consecutive terms.

(12) Notwithstanding anything in this section, the Municipal Manager may at any time terminate the membership of any member of the Municipal Coastal Committee as a result of poor performance, misconduct or other basis valid in law for such termination.

### **Role of Municipal Coastal Committee**

**9.** The role of the Municipal Coastal Committee is as contemplated in section 42 (4) of the Act and includes, but is not limited to, the following:

- (a) promoting integrated coastal management within the area of jurisdiction of the Municipality;
- (b) ensuring the co-ordinated and effective implementation of the Act and the Municipal Coastal Management Programme;

- (c) providing advice and support to the Municipality on matters concerning integrated coastal management;
- (d) providing advice and support to the Municipality on the development, finalisation, reviewing and amendment, as the case may be, of the Municipal Coastal management Programme;
- (e) monitoring and reporting on the implementation of the Municipal Coastal Management Programme;
- (f) promoting a co-ordinated, inclusive and integrated approach to coastal management within the Municipality by providing a forum for dialogue, cooperation and co-ordination between the key organs of state and other persons involved in coastal management within the area of jurisdiction of the Municipality;
- (g) promoting the achievement of the integrated coastal management objectives of the Municipality in line with the Municipality's Integrated Development Plan, Spatial Development Framework, and any other municipal plans, tools, programmes or policies that affect the coastal environment; and
- (h) performing any coastal governance function delegated to it by the Municipality.

#### **Powers of Municipal Coastal Committee**

**10.(1)** In performing any function and discharging any role as contemplated in section 9 of this By-law, the Municipal Coastal Committee must where applicable and necessary make recommendations to the Council relating to—

- (a) land use and development in the coastal zone;
- (b) access to the coastal zone or any part thereof;
- (c) the use of any public place in the coastal zone by members of the public;
- (d) the protection of the natural environment of the coastal zone;
- (e) the protection of the natural resources of the coastal zone;
- (f) the implementation of the Municipal Coastal Management Programme;
- (g) the delineation of municipal coastal set-back lines on the relevant maps and tools of the Municipality;
- (h) coastal access land; and
- (i) any other matter or activity which is connected with the coastal zone.

(2) A recommendation contemplated in subsection (1) is not binding on any person unless, and to the extent, adopted or approved by the Council through a Council resolution.

(3) If an adopted or approved recommendation as contemplated in subsection (2) is likely to have an adverse effect on—

- (a) any development or land use right of any person; or
- (b) the use of any public place by the members of the public,

the Municipality must follow the consultation and public participation process contemplated in section 53 of the Act to the extent applicable.

### **Cooperative governance and integrated coastal management**

**11.(1)** The Municipality must, in administering and implementing this By-law, give effect to and promote effective cooperative governance, which includes—

- (a) the promotion of integrated decision-making between and within all relevant spheres of government and organs of state, and other parties concerned with coastal management;
- (b) the promotion of a co-ordinated approach to integrated coastal management between the Municipality and other municipalities managing adjoining coastal zones; and
- (c) supporting and promoting the initiatives and objectives of the National Coastal Management Programme and the Provincial Coastal Management Programme.

(2) The Municipality must endeavour to promote cooperative governance within the various departments and decision-making bodies of the Municipality itself, as contemplated in this By-law.

## **CHAPTER 5**

### **MUNICIPAL COASTAL MANAGEMENT PROGRAMME**

#### **Municipal Coastal Management Programme**

**12.(1)** The Municipality must prepare and adopt a Municipal Coastal Management Programme of the Municipality as contemplated in Part 3 of Chapter 6 of the Act.

(2) The Municipal Coastal Management Programme must—

- (a) identify and delineate the geographic area of the coastal zone of the Municipality;
- (b) identify and show all land and areas which the Municipality must delineate or

- designate for any purpose contemplated in the Act;
- (c) identify active measures aimed at co-ordinating and aligning municipal planning within the coastal zone with the Act;
- (d) set out the principles to be applied in municipal planning and development within the coastal zone;
- (e) prescribe rules and guidelines relating to access to the coastal zone;
- (f) prescribe rules and guidelines relating to public access to public places with the coastal zone; and
- (g) set out the general strategy of the Municipality relating to the management of the coastal zone as contemplated in the Act.

### **Contents of Municipal Coastal Management Programme**

- 13.** The Municipal Coastal Management Programme must contain details on matters—
- (a) as contemplated in section 12 of this By-law;
  - (b) as contemplated in section 49 of the Act; and
  - (c) which give effect to the promotion of the effective management of the coastal zone.

### **Public participation**

**14.** (1) The Municipality must, in all relevant cases, take all reasonable measures to effect public participation as contemplated in sections 48 and 53 of the Act, read with the public participation requirements contemplated in Chapter 4 of the Municipal Systems Act.

(2) The provisions of subsection (1) also apply to any material review or amendment of the Municipal Coastal Management Programme.

### **Alignment with provincial and national coastal management programmes**

- 15.**(1) The Municipal Coastal Management Programme must be consistent with the—
- (a) National Coastal Management Programme;
  - (b) Provincial Coastal Management Programme; and
  - (c) National Estuarine Management Protocol,
- as contemplated in section 49(1)(b) of the Act.

(2) In the event of a conflict between the Municipal Coastal Management Programme and one or more of the—

- (a) National Coastal Management Programme;
- (b) Provincial Coastal Management Programme; or
- (c) National Estuarine Management Protocol,

then either one or all of the tools contemplated in paragraphs (a) to (c), as the case may be, prevail to the extent of the inconsistency.

### **Municipal statutory spatial tools and instruments**

**16.(1)** Every instrument and tool of the Municipality relating to planning and development land use, which affects the coastal zone, such as, but not limited to, the Integrated Development Plan must—

- (a) be consistent with the —
  - (i) Municipal Coastal Management Programme;
  - (ii) Provincial Coastal Management Programme; and
  - (iii) National Coastal Management Programme;
- (b) make reference to the provisions of the programmes contemplated in paragraph (a) that—
  - (i) specifically apply to such instrument or tool;
  - (ii) affects such instrument or tool; or
  - (iii) is affected by such instrument or tool;
- (c) give effect to the programmes contemplated in paragraph (a) to the extent applicable; and
- (d) take into account the international best practices and obligations.

(2) In the event that neither the Provincial Coastal Management Programme nor the National Coastal Management Programme are in effect, every municipal instrument and tool as contemplated in subsection (1) must be aligned exclusively to the Municipal Coastal Management Programme, to the extent applicable.

(3) In the event that either the Provincial Coastal Management Programme or the National Coastal Management Programme comes into effect after the adoption of the Municipal Coastal Management Programme by the Council as contemplated in section 18, the Municipal Coastal Management Programme must be amended in so far as it may be inconsistent with the Provincial Coastal Management Programme or National Coastal Management Programme, as the case may be.

(4) The Municipality may establish and implement a Coastal Planning Scheme that facilitates the coastal management objectives as contemplated in section 56 of the Act.

(5) The Coastal Planning Scheme contemplated in subsection (4) may form, and be enforced as part of, any land use scheme adopted by the Municipality: Provided that—

(a) the land use scheme of the Municipality is not inconsistent with a Coastal Planning Scheme established in terms of the Act; and

(b) in the event of a conflict between the land use scheme of the Municipality that has been established after the commencement of the Act and the Coastal Planning Scheme established in terms of the Act, the latter prevails,

as contemplated in section 57 of the Act.

#### **Legal effect of Municipal Coastal Management Programme**

17.(1) The Municipal Coastal Management Programme contemplated in section 12 is not binding on any person unless, and to the extent, adopted or approved by Council.

#### **Amendment and review of Municipal Coastal Management Programme**

18. The review of the Municipal Coastal Management Programme must occur as contemplated in section 55 of the Act.

#### **Prohibition of activities inconsistent with Municipal Coastal Management Programme**

19. Unless authorised by law, all conduct or activities inconsistent with the Municipal Coastal Management Programme are prohibited, and may in some instances attract both civil and criminal sanctions, as contemplated in, but not limited to, chapters 11 and 12 of this By-law.

## **CHAPTER 6**

### **THE COASTAL PROTECTION ZONE**

#### **Municipal mandate and responsibility**

**20.(1)** The Municipality must take all reasonable measures to promote and ensure the achievement of the provisions of section 17 of the Act read with section 21(2) of this By-law in such a manner as to ensure the—

- (a) preservation of the ecological integrity of the coastal zone;
- (b) mitigation of the effects of natural disasters; and
- (c) sustainable use of the coastal zone's spatial capacity.

(2) The measures contemplated in subsection (1) must be taken within the context of cooperative governance as contemplated in section 11 of this By-law.

#### **Powers to regulate, control and restrict activities in coastal protection zone**

**21.(1)** The Municipality has the power to regulate, control and restrict any activity within the coastal protection zone, excluding areas contemplated in section 29 of this By-law.

(2) The Municipality must regulate, control or restrict any activity in the coastal zone in order to—

- (a) protect the ecological integrity, natural character and the economic, social and aesthetic value of coastal public property;
- (b) avoid increasing the effect or severity of natural hazards in the coastal zone;
- (c) protect people, property, and economic activities from risks arising from coastal processes, including the risk of sea level rise;
- (d) maintain the functioning of the littoral active zone;
- (e) maintain the productive capacity of the coastal zone by protecting the ecological integrity of the coastal environment; and
- (f) make land near the seashore available to organs of state and other authorised persons for performing rescue operations or temporarily depositing objects or materials washed up by the sea or tidal waters,

as contemplated in section 17 of the Act.

#### **Prohibited conduct**

**22.** A person may not perform any act or omission that harms or may harm the coastal protection zone.

#### **Development within coastal protection zone**

**23.** A person may not develop on land within the coastal protection zone, except in accordance with the requirements of the Programme.

## **CHAPTER 7**

### **ACCESS TO COASTAL PUBLIC PROPERTY**

#### **Municipal mandate and responsibility**

**24.(1)** The Municipality must–

- (a) designate coastal access land as contemplated in section 18 of the Act; and
- (b) ensure the proper regulation and maintenance thereof as contemplated in section 20 of the Act.

(2) The Municipality may determine or adjust the boundaries of the coastal access land in accordance with section 29 of the Act.

#### **Designation of coastal access land**

**25.** The designation and withdrawal of the designation of coastal access land must take place in compliance with the Programme, read with section 19 of the Act.

#### **General provision relating to conduct within coastal public property**

**26.(1)** An act or omission in contravention of this By-law or any other By-law associated with coastal public property is prohibited and may attract both civil and criminal liability.

(2) The Municipality is empowered to regulate, control or restrict any activity within coastal access land that may impede upon the duty to fulfil its mandate as contemplated in this By-law and the Act.

## **CHAPTER 8**

### **PROTECTION OF COASTAL ENVIRONMENT**



**General environmental protection in coastal zone**

27.(1) The Municipality must within its competence, as regulated by the Constitution, applicable national legislation and applicable provincial legislation, take all reasonable measures to—

- (a) manage and control activities which may have a detrimental effect on the natural environment and natural resources of the coastal zone; and
- (b) give effect to the provisions of the Programme, the Act and any other law which seek to protect the natural environment and natural resources of the coastal zone.

(2) The provisions of section 58 of the Act apply to the extent applicable, to establish a duty of care on any person whose activity, conduct or omission may cause, causes or has caused a significant pollution and environmental degradation on the coastal environment.

(3) The Municipality may erect any notice on any part of the coastal zone in terms of which specific conduct or activities are restricted or prohibited.

**Coastal protected areas**

28. (1) Coastal protected areas may include, but are not limited to, the following:

- (a) marine protected areas declared in terms of the Marine Living Resources Act;
- (b) special nature reserves, national parks, nature reserves, wilderness areas and protected environments as contemplated by the Protected Areas Act;
- (c) world heritage sites declared in terms of the World Heritage Convention Act;
- (d) specially protected forest areas, forest nature reserves and forest wilderness areas declared in terms of the National Forest Act;
- (e) mountain catchment areas declared in terms of the Mountain Catchment Areas Act; and
- (f) special management areas as contemplated in section 23 of the Act.

(2) The Municipality may not permit or cause the development and use of any coastal protected area as contemplated in subsection (1) in contravention to any law contemplated in that subsection or any other applicable law.

(3) The Municipality must enforce compliance with this By-law on any land that falls within the coastal zone.

**Powers to regulate, control and restrict development in coastal zone**

**29.(1)** No development or use of land may be permitted on any part of the coastal zone, unless such development or use of land is in compliance with the requirements of the Programme.

(2) The Municipality may adopt a Coastal Planning Scheme as contemplated in section 56(3)(d) of the Act to manage development and land use within a coastal zone, and to restrict any activity within any such area or part thereof.

(3) The Coastal Planning Scheme contemplated in subsection (2) may be incorporated within any pre-existing land use scheme of the Municipality.

(4) The Municipality must, in writing, issue a compliance notice to any person who undertakes any development activity in contravention with the provisions of this By-law, the Programme or the Act, requiring such person to comply with the provisions of the notice, this By-law or the Act.

**CHAPTER 9****COASTAL SET-BACK LINES AND COASTAL BOUNDARIES****Delineation of coastal set-back lines on maps for zoning schemes**

**30.(1)** Where a coastal management line has been established as contemplated in section 25(1) of the Act, the Municipality must delineate such coastal management line on any maps that form part of the land use schemes that are applicable to the subject coastal area.

(2) The Municipality may determine and adjust the coastal boundaries of coastal access land as contemplated in section 29 of the Act.

**CHAPTER 10****ENFORCEMENT**

**Compliance notice**

**31.** The Municipality must issue a compliance notice to any person who has contravened any provision of this By-law, requiring such person to comply with the notice in a manner and within the time specified in the notice.

**Municipal remedial work and recovery of costs**

**32.** The Municipality may, to the extent it deems practicable and necessary, act in order to avert or remedy any harm on the coastal zone caused by a person who has contravened any provision of this By-law, and may recover any associated costs from such person.

## **CHAPTER 11 OFFENCES AND PENALTIES**

**Offences**

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

- (a) contravenes any provision of this By-law;
- (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;
- (c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
- (d) threatens, resists, hinders, obstructs or uses foul, abusive or insulting language towards or at an authorised official in the exercise of any duty or function in terms of this By-law; or
- (e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence, or after he or she has been convicted of such offence.

**Penalties**

**34.(1)** Any person who commits an offence in terms of this By-law, is on conviction, liable to imprisonment for a period not exceeding three years or to the payment of a fine not exceeding R50 000, or both such fine and imprisonment.

(2) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence under this By-law to—

- (a) remedy the harm caused which will be for his or her account;
- (b) perform or undertake community service which will benefit the coastal environment, which includes but it not limited to, entering into a corporate responsibility agreement with the Municipality to the court's satisfaction; and
- (c) pay damages for any harm or loss suffered or incurred by any person who is party to the proceedings, which order has the force and effect of a civil judgment.

(3) In the case of a continuing offence, the guilty person is liable to a fine of R500 or 10 days imprisonment for each day on which the offence continues.

## **CHAPTER 12**

### **GENERAL PROVISIONS**

#### **Appeal**

**35.(1)** A person whose rights are effected by a decision made by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained within the Municipal Systems Act by giving written notice of the appeal and reasons thereof to the Municipal Manager within 21 days of the date of the notification of the decision.

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

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

(4) The appeal authority must confirm, vary or revoke the decision, but no such revocation or variation of a decision may detract from any rights that 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 Municipal Systems Act.

(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).

### **Delegation**

**36.(1)** Subject to the Constitution and applicable national and provincial laws, any –

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

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

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Municipal Systems Act, 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.

### **Short title and commencement**

**37.** This By-law is called the eThekweni Municipality: Coastal Management By-law, 2018 and takes effect six months from the date of publication thereof or such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.

**ISAZISO SOMPHAKATHI****UMASIPALA WASETHEKWINI: UMTHETHO KAMASIPALA WOKUPHATHWA KWEZINDAWO****EZISOGWINI, KA-2018**

NGALOKHU KUKHISHWA ISAZISO sokuthi uMkhandlu kaMasipala waseThekwini, ngaphansi kweSigaba 12 soMthetho woHulumeni Basekhaya, u-Municipal Systems Act, ka-2000 (uMthetho No.32 ka-2000), usushaye uMthetho kaMasipala Wokuphathwa Kwezindawo Ezisogwini, ka-2018, oqukethwe lapha ngenzansi.

Mnu Sipho Nzuza  
iMenenja yeDolobha

City Hall  
Dr Pixley Ka-Isaka Seme Street  
eThekwini

Usuku: 18 Ephreli 2019

**UMTHETHO KAMASIPALA WASETHEKWINI WOKUPHATHWA KWEZINDAWO  
EZISOGWINI, KA-2018**



Uphasiswe uMkhandlu mhla ka:  
30 OCTOBER 2018

**UMTHETHO KAMASIPALA WOKULAWULWA KWEZINDAWO EZISOGWINI, KA-2018**

Wokuhlinzekela izindlela zokuphathwa nokuvikelwa kwezindawo ezisogwini; wokuhlinzekela izindlela zokuhlela intuthuko ezindaweni ezisogwini ngokuhambisana nezinhlosozoMthetho Wezemvelo KazwelonkeWokuphathwaNgokuhlanganyela Kwezindawo Ezisogwini; wokuhlinzekela izindlela zokuvikela imvelo ezindaweni ezisogwini; wokuhlinzekela izindlela zokulawula ukungena komphakathi ezindaweniezisogwini; wokusungula iKomidi likaMasipala elibhekelele izindawo ezisogwini; wokuqalisa uHlelo lukaMasipala lokuphatha izindawo esizogwini; nokuhlinzekela okunye okuphathelene nalokho.

**ISINDLALELO**

**NJENGOBA** uMthetho Wezemvelo kaZwelonke wokuPhathwa Ngokuhlangayela Kwezindawo Ezisogwini, ka-2008 (uMthethoNo. 24 ka 2008) unikeza omasipala abasogwini amandla okulawula izinto, izenzo namajoka athile angokwalo Mthetho oshwoyo, njengezinto eziqukethwe ezigabeni 18(1), 20(2) no 50 zalo Mthetho;

**FUTHI NJENGOBA** uMasipala enegunya nejoka ngokoMthetho mayelana nezindaba ezifaka, phakathi kokunye, ukuhlela umasipala, imithethonqubo namazinga okwakha ukungena emabhishi nokusetshenziswa kwawo, nezinto eziwuhlupho, uma kukhulunywa ngezindawo ezisogwini;

**NGAKHO-KE** uMkhandlu kaMasipala weTheku, ngokugunyazwa isigaba 156 soMthethosisekelo waseRiphabhlikhi yaseNingizimu Afrika, 1996, sifundwa noSheduli 5 Ingxenye B, efundwa nesigaba 50 soMthetho Wezemvelo kaZwelonke Wokuphathwa Ngokuhlangayela Kwezindawo Ezisogwini, 2008 kanye nesigaba 11 soMthetho weziNhlelo zoMasipala Wohulumeni Basekhaya, 2000 (uMthetho No. 32 ka 2000), ngalokhu ushaya lo Mthetho kaMasipala olandelayo:



**OKUQUKETHWE****ISAPHLUKO 1  
UKUHUNYUSHA**

1. Izincazelo
2. Ukuhunyushwa koMthetho kaMasipala

**ISAPHLUKO 2  
IZINHLOSO ZOMTHETHO KAMASIPALA**

3. Izinhloso zoMthetho kaMasipala

**ISAPHLUKO 3  
UKUSEBENZA KWALO MTHETHO**

4. Ukusebenza kwalo Mthetho kaMasipala
5. Imithetho esebenzayo

**ISAPHLUKO 4  
IJOKA NEQHAZA LIKAMASIPALA EKUPHATHWENI NGOKUHLANGANYELA  
KWEZINDAWO EZISOGWINI**

6. Ijoka neqhaza likaMasipala ekuphathweni ngokuhlanganyela kwezindawo ezisogwini
7. Amandla okuphatha kaMasipala mayelana nokuphathwa ngokuhlanganyela kwezindawo ezisogwini
8. IKomidi likaMasipala elibhekele izindawoezisogwini
9. Umsebenzi weKomidi likaMasipala elibhekelele izindawo ezisogwini
10. Amandla eKomidi likaMasipala elibhekelele izindawo ezisogwini
11. Ukubusa ngokubambisana nokuphathwa ngokuhlanganyela kwezindawo ezisogwini

**ISAPHLUKO 5  
UHLELO LUKAMASIPALA LOKUPHATHA IZINDAWO EZISOGWINI**

12. UHlelo lukaMasipala lokuphatha izindawo ezisogwini
13. Okuqukethwe uHlelo lukaMasipala lokuphatha izindawo ezisogwini
14. Ukubamba iqhaza komphakathi
15. Ukuhambisana kohlelo nezinhlelo zesifundazwe nezikazwelonke zokuphathwa kwezindawo ezisogwini
16. Amathuluzi nezinsiza ezingokomthetho zikaMasipala

17. Umthelela wezomthetho oHlelweni lukaMasipala lokuphatha izindawo ezisogwini
18. Ukuchitshiyelwa nokubuyekezwa koHlelo lukaMasipala lokuphatha izindawo ezisogwini
19. Ukwenqatshelwa kwezenzo ezingahambisani noHlelo lukaMasipala lokuphatha izindawo ezisogwini

#### **ISAHLUKO 6**

##### **IZINDAWO EZIVIKELWE EZISOGWINI**

20. Ijoka nomsebenzi kaMasipala
21. Amandla okushaya imithetho, ukulawula, nokuvimba izenzo ezithile ezindaweni ezivikelwe ezisogwini
22. Ukuziphatha okungavumelekile
23. Intuthuko ezindaweni ezivikelwe ezisogwini

#### **ISAHLUKO 7**

##### **UKUNGENA EZINDAWENI ZOMPHAKATHI EZISOGWINI**

24. Ijoka nomsebenzi kaMasipala
25. Ukuqokwa kwezindawo okungenwa kuzo ezisogwini
26. Izinhlinzeko ezejwayelekile ngokuziphatha ezindaweni zomphakathi ezisogwini

#### **ISAHLUKO 8**

##### **UKUVIKELWA KWEMVELO ESOGWINI**

27. Ukuvikelwa kwemvelo ezindaweni ezisogwini
28. Izindawo ezivikelekile ezisogwini
29. Amandla okushaya imithetho, ukulawula, nokuvimba ukwakha ezindaweni ezisogwini

#### **ISAHLUKO 9**

##### **IMIGQA YOKWAKHA NEMINGCELE YASOGWINI**

30. Ukunqunywa kwemingcele yokwakha kumamephu okuklanywa komhlaba

#### **ISAHLUKO 10**

##### **UKUSEBENZA KOMTHETHO**

31. Isaziso sokuhlonipha umthetho imigomo
32. Umsebenzi kaMasipala wokulungisa nokubuyisa imali yezindleko

#### **ISAHLUKO 11**

##### **AMACALA NEZINHLAWULO**

33. Amacala

34. Izinhlawulo

## ISAPHLUKO 12 OKUYINGXUBEVANGE

35. Ukudluliswa kwamacala

36. Ukudluliselwa kwamandla

37. Isihloko esifingqiwe kanye nokuqala kokusebenza kwalo mthetho

## ISAPHLUKO 1 UKUHUNYUSHWA

### Izincazelo

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

**"uMthetho"** kushiwo uMthetho Wezemvelo kaZwelonke wokuPhathwa Ngokuhlangayela Kwezindawo Esizogwini, 2008 (uMthetho No. 24 ka 2008);

**"uMthetho Wamazinga Omoya"** kushiwo uMthetho Wezemvelo kaZwelonke Wokulawulwa Kwamazinga Omoya, 2004 (uMthetho No. 39 ka 2004);

**"umsebenzi ogunyaziwe"** kushiwo umuntu ogunyazwe ukusebenzisa izinhlinzeko zalo Mthetho kaMasipala, kubandakanya phakathi kokunye –

(a) iphoyisa lomthetho njengoba lichazwe esigabeni 334 soMthetho weNqubo yamaCala, 1977 (uMthetho No. 51 ka 1977);

(b) iphoyisa likaMasipala noma loMkhandludolobha njengoba lichazwe eMthethweni wamaPhoyisa aseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995); kanye

(c) nalowo msebenzi, i-ejenti, abaqokiwe, izithunywa nabahlinzeka ngezidingo kumasipala njengoba bengagunyazwa uMasipala mayelana nalokhu: Kuncike ekutheni ngezinhloso zokuphenya nokushaqa impahla, uma lowo muntu kungelona iphoyisa lomthetho kumele aphelezelwe yiphoyisa lomthetho;

**"uMthetho Wemvelo Enhlobonhlobo"** kushiwo uMthetho Wezemvelo kaZwelonke Wemvelo Enhlobonhlobo, 2004 (uMthetho No.10 ka 2004);

**"indawo esogwini"** kushiwo umhlaba oyindawo esogwini kumasipala osogwini;

**"ukuphatha izindawo ezisogwini"** kubandakanya –

- (a) ukulawula, ukuphatha, ukuvikela, ukonga nokuvuselela imvelo ogwini;
- (b) ukulawula nokuphatha ukusetshenziswa nokuthuthiswa kwezindawo ezisogwini nezinsiza ezikhona;
- (c) ukuqapha nokuqinisa imithetho nemigomo elawula ukuziphatha kwabantu ezindaweni ezisogwini; kanye
- (d) nokuhlela okuhambisana nezenzo ezibalulwe endimeni(a), (b)no (c);

**"umasipala wasogwini"** kushiwo noma imuphi umasipala weRiphabliki yaseNingizimu Afrika onendawo noma umhlaba ngaphakathi kwemingcele yawo eyenabela olwandle, kungakhathaleki ukuthi ubani umnikazi walowo mhlaba;

**"isigungu sokuhlela izindawo ezisogwini"** kushiwo isigungu–

- (a) esiqoka izindawo ezithile ezisogwini ukuba zisetshenziselwe izinhloso ezithile ezikhethekile;futhi
- (b) esibeka imikhawulo noma esivimbela ukusetshenziswa kwezindawo ezibekwe endimeni (a) ngendlela eshayisanayo nohlelo;

**"ukuvikelwa kwezindawo ezisogwini"** kushiwo ukuvikelwa kwezindawo ezisogwini okubekwe esigabeni 17 salo Mthetho;

**"indawo esogwini"** kushiwo indawo esogwini njengoba ichaziwe eMthethweni;

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

**"uMkhandlu"** kushiwo uMkhandlu kaMasipala waseThekwini njengoba uchazwe esigabeni 157(1) soMthethosisekelo;

**"intuthuko"** ngokuphathelene nomhlaba, kusho noma iziphi izinhlelo eziqalwa umuntu ukuguqula ukusetshenziswa, isimo sendalo noma ukubukeka kwaleyo ndawo futhi kubandakanya –

- (a) ukwakha, ukumisa, ukuguqula, ukudiliza noma ukususa isakhiwo noma indlu;
- (b) ukuklama kabusha, ukuhlukanisa iziqephu noma ukuhlanganisa umhlaba;
- (c) ukushintshwa kwesimo sokuma kwendawo ngokwemvelo ogwini; kanye
- (d) nokugawulwa noma ukususwa kwezihlahla zemvelo noma ezivikelekile;

**“uHlelo Oludidiyele Lwentuthuko”** kushiwo uhlelo olubalulwe esigabeni 25 soMthetho Wezinhlelo Zomasipala;

**"Indawo ethambile ogwini"**kushiwo noma imuphi umhlaba oyingxenye, oxhumene noma osondelene nosebe lolwandle –

(a) ongaqinile ngenxa yezimo zemvelo; futhi

(b) obonakala ngamagquma, amabhishi, isihlabathi kanye nokunye ukwakheka komhlabathi ongaqinile, amatshe amancane nokunye –

(i) okungamili zitshalo; noma

(ii) okumila izitshalo ezingatheni;

**"uMthetho Wokuphila Olwandle"** kushiwo uMthetho Wokuphila Olwandle, 1998 (uMthethoNo. 18 ka 1998);

**"uMthetho Wokungcola Kolwandle (Ukulawula Nejoka Lomphakathi)"** kushiwo uMthetho Wokungcola Kolwandle (Ukulawula Nejoka Lomphakathi), 1981 (uMthethoNo. 6 ka 1981);

**"uMthetho Wokungcola Kolwandle (Ukunqandwa Kukadoti Wemikhumbi)"** kushiwo uMthetho Wokungcola Kolwandle (Ukunqandwa Kukadoti Wemikhumbi)", 1986 (uMthethoNo. 2 ka 1986);

**"uMthetho Wokuthuthukiswa Kwezimbiwaphansi Nowoyela "**kushiwo -uMthetho Wokuthuthukiswa Kwezimbiwaphansi Nowoyela, 2002 (uMthethoNo. 28 ka 2002);

**"uMthetho Wezindawo Zeziphethu Ezintabeni"** kushiwo uMthetho Wezindawo Zeziphethu Ezintabeni, 1970 (uMthethoNo. 63 ka 1970);

**"uMasipala"** kushiwo uMasipala waseThekwini, umasipala osemkhakheni A njengoba kuhlongozwe ngokwesigaba 155(1) soMthethosisekelo weRiphabhlikhi yaseNingizimu Afrika futhi wasungulwa ngokweSaziso soMphakathi No.343 sika 2000 (KZN);

**"IKomidi likaMasipala leziNdawo Ezisogwini"** kushiwo iKomidi likaMasipala lezindawo ezisogwini njengoba lihlongozwe esigabeni 8 salo Mthetho kaMasipala;

**"uHlelo lukaMasipala Lokuphatha Izindawo Ezisogwini"** kushiwo uhlelo olusungulwe ngokweSahluko 6 soMthetho, futhi igama **"uHlelo"** linencazelo efanayo;

**"iMenenja kaMasipala"** kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo zoMasipala;

**"uMthetho weziNhlelo zikaMasipala"** kushiwo uMthetho weziNhlelo Zomasipala Wohulumeni Basekhaya, 2000 (uMthetho No. 32 ka 2000);

**"uMthetho Wezemvelo kaZwelonke"** kushiwo uMthetho Wezemvelo kaZwelonke, 1998 (uMthetho No.107 ka 1998);

**"uMthetho Wezemvelo kaZwelonke wokuPhathwa Ngokuhlanganyela Kwezindawo Ezisogwini"** kushiwo uMthetho Wezemvelo Kazwelonke Wokuphathwa Ngokuhlanganyela Kwezindawo Ezisogwini, 2008 (uMthetho No. 24 ka 2008);

**"uMthetho Wamahlathi kaZwelonke"** kushiwo uMthetho kaZwelonke Wamahlathi, 1998 (Act No. 84 of 1998);

**"uMthethoWamachwebaKazwelonke"** kushiwo uMthetho Wamachweba Kazwelonke, 2005 (uMthetho No.12 ka 2005);

**"umuntu"** kushiwo umuntu siqu noma umuntu ngokomthetho;

**"uMthetho weziNdawo eziVikelekile"** kushiwo uMthetho Wezemvelo Kazwelonke Wezindawo Ezivikelekile, 2003 (uMthethoNo. 57 ka 2003);

**"uMthetho Wokuvikelwa Kwezinyoni Zasolwandle Nezimvu Zamanzi"** kusho uMthetho Wokuvikelwa Kwezinyoni Zasolwandle Nezimvu Zamanzi, 1973 (uMthethoNo. 46 ka 1973);

**"usebe lolwandle"** kushiwo usebe lolwandle njengoba kuchaziwe kuMthetho;

**"uMthetho Wemfucuza"** kushiwo uMthetho Wezemvelo kaZwelonke Wemfucuza, 2008 (uMthethoNo. 59 ka 2008);

**"uMthetho Wesivumelwano Samagugu Omhlaba"** kushiwo uMthetho Wezivumelwano Samagugu Omhlaba, 1999 (uMthetho No. 49 ka 1999); futhi

**"uMthetho Wokuhlakazwa Nokuhlangulwa Kwemikhumbi"** kushiwo uMthetho Wokuhlakazwa Nokuhlangulwa Kwemikhumbi, 1996 (uMthetho No. 94 ka 1996).

### **Ukahunyushwa kwalo Mthetho kaMasipala**

2. Uma kuba nokushayisana phakathi kombhalo wesiNgisi walo Mthetho kaMasipala nalowo ohunyushiwe, kuyosebenza owesiNgisi.

## **ISAHLUKO 2**

### **IZINHLOSO ZALO MTHETHO KAMASIPALA**

#### **Izinhloso zalo Mthetho kaMasipala**

3. Izinhloso zalo Mthetho kaMasipala –

- (a) ukufezekisa yonke imisebenzi namajoka anikezwe uMasipala uMthetho;
- (b) ukuqinisekisa ukongiwa nokuthuthukiswa kwezindawo ezisogwini ngokwakha amasu kaMasipala ngokuhambisana noMthetho;
- (c) ukusungula iKomidi Likamasipala lezindawo ezisogwini nokuqalisa uHlelo lukaMasipala lokuphatha izindawo ezisogwini;
- (d) ukukhuthaza ukuvikelwa kwemvelo ezindaweni ezisogwini
- (e) ukukhuthaza ukubusa ngokubambisana phakathi kukaMasipala namanye amazanga kahulumeni ekuphathweni kwezindawo ezisogwini; kanye
- (f) ukukhuthaza ukusetshenziswa ngokulingana nangokungakhethi kwezindawo ezisogwini ngamalungu omphakathi.

## **ISAHLUKO 3**

### **UKUSEBENZA KOMTHETHO**

#### **Ukusebenza kwalo Mthetho kaMasipala**

4.(1) Kuncike kunoma imuphi umthetho osebenzayo, lo Mthetho kaMasipala usebenza kuzo zonke—

- (a) izenzo ezenziwayo noma ezenziwe; noma

(b) izinto, okutholakalayo, noma okusemhlabeni, osogwini lukaMasipala, futhi ubophezela wonke umuntu kukho konke okushoyo.

(2) Noma imuphi umthetho noma iSheduli okukhulunywa ngayo kulo Mthetho kaMasipala iyosebenza njengoba ichitshiyelwe izikhathi ngezikhathi.

### **Imithetho esebenzayo**

**5.** Lo Mthetho kaMasipala kumele ufundwe ngokuhambisana nayo yonke eminye imithetho esebenzayo, ebandakanya phakathi kweminye -:

- (a) uMthetho Wamazinga Omoya;
- (b) uMthetho Wezemvelo Ehlukahlukene;
- (c) uMthetho Wokuphila Olwandle;
- (d) uMthetho Wokungcola Kolwandle (Ukulawula Nejoka Lomphakathi);
- (e) uMthetho Wokungcola Kolwandle (Ukunqandwa Kokungcola Kwemikhumbi);
- (f) uMthetho Wokuthuthukiswa Kwezimbiwaphansi Nowoyela;
- (g) uMthetho Wezindawo Zeziphetu Ezintabeni;
- (h) uMthetho Wezemvelo kaZwelonke;
- (i) uMthetho Wezemvelo Kazwelonke Wokuphathwa Ngokuhlanganyela Kwezindawo Ezisogwini;
- (j) uMthetho Wezamahlathi kaZwelonke;
- (k) uMthetho Wamachweba kaZwelonke;
- (l) uMthetho weziNdawo eziVikelekile kaZwelonke;
- (m) uMthetho wokuVikelwa kweziNyoni Zasolwandle Nezimvu Zamanzi;
- (n) uMthetho Wemfucuza;
- (o) uMthetho Wesivumelwano Samagugu Somhlaba;
- (p) uMthetho Wokuhlakazwa Nokuhlangulwa Kwemikhumbi; kanye
- (q) neminye imithetho kaMasipala waseThekwini esebenzayo.

## **ISAPHLUKO 4**

### **IJOKE NEQHAZA LIKAMASIPALA EKUPHATHWENI NGOKUHLANGANYELA KWEZINDAWO EZISOGWINI**

**Ijoka neqhaza likaMasipala ekuphathweni ngokuhlanganyela kwezindawo ezisogwini**



6. Ijoka neqhaza likaMasipala ekuphathweni ngokuhlanganyela kwezindawo ezisogwini libandakanya, phakathi kokunye, ukuqinisekisa ukuthi –

- (a) uMasipala uyisebenzisa ngokuphelele nangokufanele imigomo yalo Mthetho;
- (b) kuphathwa futhi kulawulwa ngendlela izindawo ezisogwini ukuze kuhlomule uwonkewonke;
- (c) uMasipala uhlonipha futhi uhambisana nemigomo yokubusa ngokubambisana –
  - (i) phakathi kwakhe namanye amazanga kahulumeni;
  - (ii) naseminyangweni ehlukahlukene kaMasipala,kuzo zonke izinto ezithinta ukuphathwa ngokuhlanganyela kwezindawo ezisogwini;
- (d) intuthuko ezindaweni ezisogwini yenzeka ngendlela nangezinga elikhuthaza neleseka ukuphathwa ngokuhlanganyela kwezindawo ezisogwini;
- (e) ukungena ezindaweni ezisogwini nasezingxenyeni zayo kwenzeka ngendlela futhi kuyalawulwa; futhi
- (f) izinto zemvelo ezitholakala ezindaweni ezisogwini lukaMasipala ziphathwa ngendlela, ziyongiwa futhi ziyavikelwa kwenzelwa lesi sizukulwane nezizukulwane esizayo.

**Ikhono lezokuphatha likaMasipala mayelana nokuphatha ngokuhlanganyela izindawo ezisogwini**

7.(1)UMasipala kumele aphaathe zonke izindaba ayalelwe zona ngokoMthetho kanye nangokwalo Mthetho kaMasipala eziphathelele nokuphathwa ngokuhlanganyela kwezindawo ezisogwini ezingaphansi kwakhe.

(2) UMasipala kumele asungule futhi aqinisekise ukuthi unekhono lokuphatha, ukuqalisa nokusebenzisa izinhlinzeko –

- (a) zalo Mthetho kaMasipala;
- (b) zoMthethoonikeza amajoka, amandla nemisebenzi kuMasipala;
- (c) zoHlelo lukaMasipala lokuphathwa kwezindawo ezisogwini; kanye
- (d) nezinqumo zeKomidi likaMasipala elibhekele izindawo ezisogwini kuze kube lezo zinqumo zivunywa noma zamukelwa uMkhandlu njengoba kubaluliwe esigabeni10(2).

(3) UMasipala kumele aphaathe izindawo ezisogwini ngendlela enamasu amasha nedidiyeleukuze kuqinisekise ukuthi uMasipala uthola yonke imihlomulo yezomnotho, yezemvelo neyezenhlalo ephathelene naleyo ndawo esogwini.

(4) Uma esenza imisebenzi yakhe yokuhlela mayelana nanoma iyiphi ingxenye yendawo esogwini, uMasipala kumele aqinisekise ukuthi kubhekelelwa ngokulingana izindawo eziwugu zikaMasipala ezisemadolobheni, ezisemakhaya nezisendle.

(5) Ngokulandela uMthetho kaMasipala wamabhishi kanye neminye imithetho esebenzayo, uMasipala kumele avumele umphakathi ungene emabhishi nasezindaweni ezisogwini: Kuncike ekutheni kuba nohlelo lokubeka abantu phambili nokongiwa kwemvelo uma kusetshenziswa noma kuthuthukiswa izindawo ezisogwini.

### **IKomidi likaMasipala lezindawo ezisogwini**

**8.(1)**UMasipala kumele asungule iKomidi likaMasipala elibhekelele izindawo ezisogwini njengoba kubaluliwe kwiNgxenye 4 yeSahluko 5 soMthetho.

(2) IMenenja kaMasipala kumele imeme umphakathi ukuba uphakamise abantu abazoqokelwa eKomidini likaMasipala lezindawo ezisogwini.

(3) Isimemo esibalulwe kwisigatshana (2) kumele siveze izidingo ezibalulekile nenqubo yokufaneleka yalabo abazophakanyiswa nabazokhethwa.

(4) IKomidi likaMasipala lezindawo ezisogwini kumele lakhiwe—

- (a) abantu abanolwazi olunzulu kwezokuphathwa kwezindawo ezisogwini;
- (b) abamele izikhungo ezilawula izindawo ezivikelwe ezisogwini kuMasipala;
- (c) ezinye izikhungo zikahulumeni ezinothando kwezokongiwa kwemvelo; kanye
- (d) nabamele iziphathimandla zechweba.

(5) Bangaphakanyiswa nabamele laba abalandelayoukuze baqokwe njengoba kuvela kwisigatshana (2):

- (a) imiphakathi noma izinhlangano ezinothando lokulekelela ekuphathweni kwendawo esogwini;
- (b) abantu abampilo zabo noma amabhizinisi abo agxile kwizinsiza ezisogwini;
- (c) amaqembu anothando kwezemvelo; kanye
- (d) nezinhlangano noma izikhungo zezocwaningo.

(6) IKomidi likaMasipala lezindawo ezisogwini kumele libe namalungu angu 12.

(7) Okungenani ababili kwabathathu kumalungu eKomidi likaMasipala lezindawo ezisogwini kumele kube abasebenzi abaqashwe ngokugcwele kuMasipala.

(8) Isikhundla sikaSihlalo weKomidi likaMasipala lezindawo ezisogwini kumele sithathwe umuntu ofanelekile, oqashwe ngokugcwele kuMasipala: Kuncike ekutheni lokhu akuvimbeli amanye amalungu eKomidi ekuphatheni imihlangano noma amaforamu eKomidi likaMasipala lezindawo ezisogwini uma uSihlalo engekho noma uma kuhlelwe ngamalungu eKomidilikaMasipala lezindawo ezisogwini.

(9) Ukuqokwa komuntu njengalungu leKomidi likaMasipala lezindawo ezisogwini kumele kwenziwe ngokweminyaka emihlanu.

(10) Ngale kwemibandela yesigatshana (9), iMenenja kaMasipala ngokwegunya layo ingelula noma ivuselele ukuqokwa kwanoma iliphi ilungu leKomidi likaMasipala lezindawo ezisogwini.

(11) Ngale kwemibandela yesigatshana (10), ilungu leKomidi likaMasipala likaMasipala lezindawo ezisogwini ngeke libe sekomidini isikhathi esingaphezu kwamahlandla amabili alandelanayo.

(12) Ngale kwanoma yini eshiwo kulesi sigaba, iMenenja kaMasipala ingabunqamula noma nini ubulungu belungu leKomidi likaMasipala lezindawo ezisogwini ngenxa yokungasebenzi kahle, ukungaziphathi ngendlela noma ngezinye izizathu ezisemthethweni.

### **IqhazaleKomidi likaMasipala lezindawo ezisogwini**

**9.** Iqhaza leKomidi likaMasipala lezindawo ezisogwini linjengoba livela esigabeni 42(4) soMthetho futhi libandakanya, phakathi kokunye, kulokhu okulandelayo:

- (a) ukugqugquzela ukuphathwa ngokuhlanganyela kwezindawo ezisogwini ezingena ngaphansi kolawulo lukaMasipala;
- (b) ukuqinisekisa ukuqaliswa ngendlela edidiyele nesebenzayo koMthetho noHlelo lukaMasipala lezindawo ezisogwini;
- (c) ukweluleka nokweseka kuMasipala ngeziphathelene nokuphathwa ngokuhlanganyela kwezindawo ezisogwini;
- (d) ukweluleka nokweseka uMasipala uma kwakhiwa, kuphothulwa, kubukeyezwa futhi kuchitshiyelwa, njengoba kungaba njalo, uHlelo lukaMasipala lokuphatha izindawo ezisogwini;

- (e) ukuqapha nokubika ngokuqaliswa koHlelo lukaMasipala lokuphatha izindawo ezisogwini;
- (f) ukukhuthaza indlela ehlelekile, enokubambisana nedidiyele yokuphatha izindawo ezisogwini kuMasipala ngokuhlela izinkundla zezingxoxo, imifelandawonye nokusebenzisana phakathi kwezinhlelo zikahulumeni nabanye abantu abathintekayo ekuphathweni kwezindawo ezisogwini ngaphansi kukaMasipala;
- (g) ukuqhakambisa imiphumela emihle yohlelo oludidiyele lokuphatha izindawo ezisogwini ngokuhambisana neSu leNtuthuko Edidiyele (IDP) likaMasipala, uHlaka Lwentuthuko Ngokwezindawo, nanoma imaphi amanye amasu, amathuluzi, izinhlelo noma izinqubomgomo zikamasipala ezithinta imvelo esogwini; kanye
- (h) nokwenza noma imuphi umsebenzi wokuphatha ugu eliwunikezwe uMasipala.

#### **Amandla eKomidi likaMasipala lezindawo ezisogwini**

**10.(1)** Uma selenza noma imiphi imisebenzi ebalulwe esigabeni 9 salo Mthetho kaMasipala, iKomidi likaMasipala lezindawo ezisogwini lingenza izincomoeMkhandlwini mayelana –

- (a) nokusetshenziswa komhlaba nokuthuthukiswa kwezindawo ezisogwini;
- (b) nokungena ezindaweni ezisogwini noma ezingxenyeni zazo;
- (c) nokusetshenziswa kwanoma iyiphi indawo yomphakathi ezindaweni ezisogwini ngamalungu omphakathi;
- (d) nokuvikelwa kwendawo yemvelo ezindaweni ezisogwini;
- (e) nokuvikelwa kwezinsiza zemvelo ezindaweni ezisogwini;
- (f) nokusebenza ngoHlelo lukaMasipala lokuphatha izindawo ezisogwini;
- (g) ukuklanywa kwemingcele yokwakha ezindaweni ezisogwini kumamephu namathuluzi kaMasipala;
- (h) kungena emhlabeni osogwini; kanye
- (i) nezinye izinto noma izenzo eziphatheleke nezindawo ezisogwini.

(2) Izincomo ezibalulwe kwisigatshana (1) azinasibophezelo kumuntu ngaphandle uma zamukelwe noma zivunywe uMkhandlu ngokwezinqumo zoMkhandlu futhi ngalobo bungako.

(3) Uma isincomo esamukelwe noma esivunyiwe esishiwo kwigatshana (2) singaba nomthelela ongemuhle –

- (a) entuthukweni noma elungelweni lanoma ubani lokusebenzisa umhlaba; noma
- (b) ekusetshenzisweni kwendawo yomphakathi ngamalungu omphakathi,

uMasipala kumele alandele inqubo yokubonisana nomphakathi ebekweesigabeni 53 soMthetho ngendlela edingekayo.

**Ukusebenza ngokubambisana nokuphatha ngokuhlanganyela izindawo ezisogwini**

**11.(1)**UMasipala kumele, uma eseqalisa futhi esebenzisa lo Mthetho kaMasipala, enze noma aqhakambise ukubusa ngokubambisana, okubandakanya—

- (a) ukukhuthaza ukuthathwa kwezinqumo ngokubambisana phakathi kwawo wonke amazanga kahulumeni, nezinye izinhloko zombuso ezithintekayo ekuphathweni kwezindawo ezisogwini;
- (b) ukuqhakambisa indlela edidiyele yokuphatha ngokuhlanganyela izindawo ezisogwini phakathi kukaMasipala nabanye omasipala abalawula izindawo ezisogwini abangomakhelwane; kanye
- (c) nokweseka nokuqhakambisa izinhlelo nezinhloso zoHlelo lukaZwelonke lokuphatha izindawo ezisogwini kanye noHlelo lwesiFundazwe lokuphatha izindawo ezisogwini.

(2) UMasipala kumeze alwele ukuqhakambisa ukubambisana kwiminyango eyahlukahlukeni nakwizinhloko ezithatha izinqumo kuMasipala ngaphakathi, njengoba kubaluliwe kuloMthetho kaMasipala.

**ISAHLUKO 5****UHLELO LUKAMASIPALA LOKUPHATHA IZINDAWO EZISOGWINI****UHlelo lukaMasipala lokuphatha izindawo ezisogwini**

**12.(1)**UMasipala kumele asungule futhi asebenzise uHlelo lukaMasipala lokuphatha izindawo ezisogwini njengoba kubaluliwe kwiNgxenye 3 yeSahluko 6 soMthetho.

(2) UHlelo lukaMasipala lokuphatha izindawo ezisogwinikumele –

- (a) lukhombise futhi kuhlukanise ngebalazwe izindawo ezisogwini kuMasipala;
- (b) lukhombise futhi lubonise wonke umhlaba nezindawo zikaMasipala okumele aziklame noma aziqokele izinhloso ezishiwo eMthethweni;
- (c) luveze izindlela ezisebenzayo zokudidiyela nokuhlela izinhlelo zikamasipala zendawo esogwini ngokuhambisana noMthetho;
- (d) lubeke imigomo okumele isetshenziswe uMasipala ekuhlelweni nasekuthuthukisweni kwezindawo ezisogwini;
- (e) lubeke imithetho nemikhombandlela yokungena ezindaweni ezisogwini;

- (f) lubeke imithetho nemikhombandlela yokuvuleleka kwezindawo zomphakathi ezisogwini; futhi
- (g) lubeke amasu kaMasipala amayelana nokuphatha izindawo ezisogwini njengoba kubaluliwe eMthethweni.

### **Okuqukethwe uHlelo lukaMasipala lokuphatha izindawo ezisogwini**

**13.** UHlelo lukaMasipala lokuphatha izindawo ezisogwini kumele luqathe imininingwane –

- (a) njengobakubalulwe esigabeni 12 saloMthetho kaMasipala;
- (b) njengobakubalulwe esigabeni 49 soMthetho; kanye
- (c) eyenza kugqugquzelwe ukuphatha ngendlela kwezindawo ezisogwini.

### **Ukubamba iqhaza komphakathi**

**14.(1)** UMasipala kumele njalo uma kunesidingo, athathe izinyathelo ezifanele zokuqinisekisa ukuthi umphakathi ubamba iqhaza njengoba kubaluliwe esigabeni 48 no 53 soMthetho, zifundwa nezidingo zokubamba iqhaza komphakathi eziqokethwe kwiSahluko 4 soMthetho weziNhlelo zikaMasipala.

(2) Izinhlinzeko zesigatshana (1) ziphinde zisebenze uma kubuyezwa noma kuchitshiyelwa uHlelo lukaMasipala lokuphatha izindawo ezisogwini.

### **Ukuhlobana nezinhlelo zesifundazwe nezikazwelonke zokuphatha izindawo ezisogwini**

**15.(1)** UHlelo lukaMasipala lokuphatha izindawo ezisogwini kumele kuhambisane –

- (a) noHlelo lukaZwelonke lokuphatha izindawo ezisogwini;
- (b) UHlelo lwesiFundazwe lokuphatha izindawo ezisogwini; kanye
- (c) neNqubo kaZwelonke yokuphatha kwezindawo eziyizinkwazi,

njengoba kubaluliwe esigabeni 49(1)(b) soMthetho.

(2) Uma kuba nokushayina phakathi koHlelo lukaMasipala lokuphatha izindawo ezisogwini noma nezinye okungaba –

- (a) uHlelo lukaZwelonke lokuphatha izindawo ezisogwini;
- (b) uHlelo lwesiFundazwe lokuphatha izindawo ezisogwini; noma
- (c) iNqubo kaZwelonke yokuphatha kwezindawo eziyizinkwazi,

kuyosho ukuthi uhlelo noma izinhlelo ezibalulwe ezindimeni (a) kuya ku-(c), njengoba kungaba njalo, izona eziyosebenza kuleyo ndawo eshayisanayo.

### **Amathuluzi nezinhlelo ezisemthethweni zikaMasipala**

**16.(1)** Zonke izinhlelo namathuluzi kaMasipala eziphathelene nokuhlela nokuthuthukisa ukusetshenziswa komhlaba, ezithinta izindawo ezisogwini, ezifana, phakathi kokunye, noHlelo Oludidiyele lweNtuthuko kumele –

(a) zihambisane–

- (i) noHlelo lukaMasipala lokuphatha izindawo ezisogwini;
- (ii) noHlelo lwesiFundazwe lokuphatha izindawo ezisogwini; kanye
- (iii) noHlelo lukaZwelonke lokuphatha izindawo ezisogwini;

(b) zikhulume ngezinhlinzeko zezinhlelo eziqukethwe endimeni (a) –

- (i) ezisebenza ngqo kuleyo nzisa noma ithuluzi;
- (ii) ezithinta leyo nsiza noma ithuluzi; noma
- (iii) ezithikamezwa yileyo nsiza noma ithuluzi;

(c) ziqalise ukusebenza kwezinhlelo ezibaluliwe endimeni (a) ngobungako obudingekayo; futhi

(d) zibhekelele izinqubo kanye nezibopho ezisebenzayo zamazwe ngamazwe.

(2) Uma kwenzeka uHlelo lwesiFundazwe nolukaZwelonke lokuphatha izindawo ezisogwini lungakasebenzi, zonke izinhlelo namathuluzi kaMasipala njengoba kubaluliwe kwisigatshana

(1) kumele zakhiwe zihambisane kuphela noHlelo lukaMasipala lokuphatha izindawo ezisogwini, ngobungako obudingekayo.

(3) Uma kwenzeka uHlelo lwesiFundazwe noma lukaZwelonke lokuphatha izindawo ezisogwini ziqala ukusebenza emva kokwamukelwa koHlelo lukaMasipala lokuphatha izindawo ezisogwini uMkhandlu njengoba kubaluliwe esigabeni 18, uHlelo lukaMasipala lokuphatha izindawo ezisogwini kumele luchitshiyelwe lapho lungahambisani khona nohlelo lwesiFundazwe noma lukaZwelonke lokuphatha izindawo ezisogwini.

(4) UMasipala angasungula futhi aqalise uHlelo lokuhlelwa kwendawo esogwini oluzobhekela izinhloso zokuphathwa kwezindawo ezisogwini ezivela esigabeni 56 soMthetho.

(5) Uhlelo lokuhlelwa kwendawo esogwini okukhulunywa ngalo kwisigatshana (4) lungasetshenzisa futhi lube yingxenye, yanoma ngabe uluphi uhlelo lokusebenzisa umhlaba oluvunywe uMasipala: Kuncike ekutheni –

(a) uhlelo lokusetshenziswa komhlaba lukaMasipala aluphambani noHlelo lokuhlelwa kwendawo esogwini olusungulwe ngokuhambisana nemigomo yoMthetho; futhi

(b) uma kuba nokushayisana ohlelweni lokusetshenziswa komhlaba lukaMasipala olusungulwe ngemuva kokuqala kokusebenza koMthetho noHlelo lokuhlelwa kwendawo esogwini olusungulwe ngokoMthetho, kuyosebenza uHlelo lokuhlelwa kwendawo esogwini njengoba kuhlangozwe esigabeni 57 somthetho.

#### **Umthelela wezomthetho oHlelweni lukaMasipala lokuphatha izindawo ezisogwini**

**17.(1)**UHlelo lukaMasipala lokuphatha izindawo ezisogwini olubalulwe esigabeni 12 alubophezeli muntu, kuze kube wukuthi lwamukelwa noma luvunywa uMkhandlu.

#### **Ukuchitshiyelwa nokubuyekezwa koHlelo lukaMasipala lokuphatha izindawo ezisogwini**

**18.** Ukubukezwa koHlelo lukaMasipala lokuphatha izindawo ezisogwini kumele kwenziwe njengoba kubaluliwe esigabeni 55 soMthetho.

#### **Izenzo ezingavumelekile ezingahambisani noHlelo lukaMasipala lokuphatha izindawo ezisogwini**

**19.** Ngaphandle uma kuvunyelwa umthetho, konke ukuziphatha noma izenzo ezingahambisani noHlelo lukaMasipala lokuphatha izindawo ezisogwini akuvunyelwe, futhi kungahle kuthathwe njengecala, njengoba kubalulwe, phakathi kokunye, kwiSahluko 11 nesahluko 12 salo Mthetho kaMasipala.

### **ISAHLUKO 6**

#### **IZINDAWO EZIVIKELWE EZISOGWINI**

#### **Ijoka nomsebenzi kaMasipala**

**20.(1)**UMasipala kumele athathe zonke izinyathelo ezifanele ukuqhakambisa nokuqinisekisa ukufezekiseka kwezinhlinzeko zesigaba 17 soMthetho sifundwa nesigaba 21(2)salo Mthetho kaMasipala ukuze kuqinisekiswa ukuthi –



- (a) kuyaqhutshekwa nokuhlonishwa kwezindawo zemvelo ezisogwini;
- (b) kuncishiswa umthelela wezinhlekelele zemvelo; futhi
- (c) ukusetshenziswa ngendlela enokonga ikhono lezindawo esisogwini.

(2) Izinyathelo ezibalulwe kwisigatshana (1) kumele zithathwe ngendlela eqhakambisa ukubusa ngokubambisana njengoba kubaluliwe kwisigala 11 salo Mthetho kaMasipala.

**Amandla okubeka imithetho, okulawula nokuvimbela izenzo ezithile ezindaweni ezivikelekile ogwini**

**21.**(1)UMasipala unamandla okubeka imithetho, okulawula nokuvimbela noma iziphi izenzo ezindaweni ezivikelekile ogwini, ngaphandle kwezindawo ezibalulwe esigabeni 29 salo Mthetho kaMasipala.

(2) UMasipala angabeka imithetho, alawule noma avimbe noma iziphi izenzo endaweni esogwini ukuze –

- (a) avikele imvelo, isimo nokubaluleka kwendawo esogwini kwezemvelo, ezomnotho, kwinhlalo nobuhle bayo;
- (b) anqande umthelela nobungako bezinhlekelele zemvelo ezindaweni ezisogwini;
- (c) avikele abantu, impahla, namabhizinisi ezingozini ezingadaleka ezindaweni ezisogwini, kubandakanya ukukhuphuka kwamazinga amanzi olwandle;
- (d) agcine kahle ukusebenza kwezindawo eziyihlabathi ogwini;
- (e) agcine kahle ukusebenza kwezindawo ezisogwini ngokuvikela izindawo nemvelo esogwini; futhi
- (f) avulele umhlaba oseduze nosebe lolwandle kwizinhlobo zikahulumeni nabanye abantu abagunyaziwe ukuze baqhube imisebenzi yokutakula nomaukulahla izinto noma izinto ezikhishwe ulwandlenoma amagagasi,

njengoba kubaluliwe esigabeni 17 soMthetho.

**Ukuziphatha okungavumelekile**

**22.** Umuntu akumele enze noma angenzi nanoma iziphi izenzo okungaholela ekukhahlamezekeni kwezindawo ezivikelwe ezisogwini.

**Ukwakha ezindaweni ezivikelwe ezisogwini**

**23.** Umuntu ngeke akhe endaweni evikelekile ogwini, ngaphandle uma kuhambisana nezidingo zoHlelo.

## **ISAHLUKO 7**

### **UKUNGENA EZAKHIWENI ZOMPHAKATHI EZISOGWINI**

#### **Ijoka nomsebenzi kaMasipala**

**24.** (1) Umasipala kumele –

(a) aqoke izindawo okungenwa kuzo ogwini njengoba kuhlangozwe esigabeni 18 soMthetho;futhi

(b) aqinisekise ukuthi lezo zindawo ziphathwa futhi zigcinwa ngendlela njengoba kuhlangozwe esigabeni 20 soMthetho.

(2) UMasipala anganquma noma ahlele imingcele yezindawo okungenwa kuzo ogwini ngokuhambisana nesigaba 29 soMthetho.

#### **Ukuqokwa kwezindawo okungenwa kuzo ogwini**

**25.** Ukuqokwa nokuhoxiswa kokuqokwa kwendawo okungenwa kuyo ogwini kumele kwenzeke ngokuhambisana noHlelo, lufundwa nesigaba 19 soMthetho.

#### **Izinhlinzeko ezejwayelekile mayelana nokuziphatha ezindaweni zomphakathi ogwini**

**26.**(1) Noma isiphi isenzo noma ukungenzi okuthile okushayisana nalo Mthetho kaMasipala nanoma imuphi omunye uMthetho kaMasipala okhulumangezindawo zomphakathi ezisogwini akuvumelekile futhi kungaholela ekutheni ubekwe icala.

(2) UMasipala unegunya lokubeka imithetho, lokulawula noma lokuvimbela noma iziphi izenzo endaweni okungenwa kuyo esogwini ezingamphazamisa ekwenzeni umsebenzi wakhe njengoba uvela kulo Mthetho kaMasipala kanye noMthetho.

## **ISAHLUKO 8**

### **UKUVIKELWA KWEMVELO ESGWINI**

**Ukuvikelwa kwezemvelo ezindaweni ezisogwini**

**27.** (1)UMasipala ngokusemandleni akhe, njengoba eyalelwa uMthethosisekelo, nemithetho kazwelonke kanye neseyifundazwe esebenzayo, kumele athathe zonke izinyathelo ezifanelekileukuze –

- (a) aphyathe futhi alawule izenzo ezingaba nomthelela ongemuhle kwimvelonemithombo yemvelo etholakala endaweni esogwini; futhi
- (b) aqalise ukusebenza kwezinhlinzeko zoHlelo, uMthetho, nanoma imiphi imithetho ehlose ukuvikela imvelo kanye nemithombo yemvelo endaweni esogwini.

(2) Okushiwo yisigaba 58 soMthetho kusebenza lapho kusebenziseka khona, ukwethwesa ijoka lokunakekela noma ubani ozenzo zakhe, ukuziphatha kwakhe noma amaphutha akhe angadala noma asedale ukungcola okukhulu futhi onakalisa imvelo endaweni esogwini.

(4) UMasipala, ngenhloso yokwelula ukudluliswa kwamandla ngokwesigaba 59(3) soMthetho, angakhipha isaziso sokuvikela indawo esogwini njengoba kubaluliwe esigabeni 59 soMthetho kunoma ubani obalulwe kwisigatshana (2).

(3) Ukungabi khona kokudluliswa kwamandla okubalulwe kwisigatshana (3) akuvimbeli uMasipala ukuba akhiphe noma isiphi isaziso njengoba kubalulwe kulo Mthetho kaMasipala.

(4) UMasipala angabeka nanoma isiphi isaziso noma kukuphi endaweni esogwini esiqwashisa ngendlela yokuziphatha noma izenzo ezingavumelekile.

**Izindawo ezivikelekile ogwini**

**28.** (1)Izindawo ezivikelekile ogwini zibandakanya, phakathi kokunye, lezi ezilandelayo:

- (a) izindawo ezivikelekile olwandle ngokoMthetho Wokuphila Olwandle;
- (b) Amahlathi emvelo akhethekile, amapaki kazwelonke, amahlathi emvelo, izindawo eziyihlane nemvelo evikelwe njengoba kuvelakuMthetho weziNdawo Ezivikelwe;
- (c) izindawo zamagugu omhlaba ngokoMthetho Wesivumelwano Samagugu Omhlaba;
- (d) izindawo zamahlathi avikelekile, amahlathi emvelo nezindawo eziyihlane ezimenyezelwengokoMthetho Wamahlathi kaZwelonke;
- (e) izindawo zeziphethu ezintabeni ngokoMthetho Wezindawo Zeziphethu Ezintabeni; kanye
- (a) nezindawoeziphethwe ngokukhethekile ezivelaesigabeni 23 soMthetho.

(2) UMasipala ngeke avumela noma abangela ukuba kwakhiwe noma kusetshenziswe noma iyiphi indawo evikelekile ogwini njengoba kubalulwe kwisigatshana (1) ngokushayisana nanoma imuphi umthetho kuleso sigatshana noma omunye umthetho osebenzayo.

(3) UMasipala angaphoqelela ukulandelwa kwaloMthetho kaMasipala kunoma imuphi umhlaba owela ngaphansi kwendawo esogwini.

#### **Amandla okubeka imithetho, ukulawula nokuvimba ukwakha ezindaweni ezisogwini**

**29.**(1) Ayikho intuthuko noma ukusetshenziswa komhlaba okuyovunyelwa kunoma iyiphi indawo esogwini, ngaphandle uma leyo ntuthuko noma ukusetshenziswa komhlaba kuhambisana nezidingo zoHlelo.

(2) UMasipala angasebenzisauHlelo Lokuhlela indawo esogwini njengoba kubalulwe esigabeni 56(3)(d) soMthetho ukuze alawule intuthuko nokusetshenziswa komhlaba endaweni esogwini, futhi anqande noma iziphi izenzokuleyo ndawo noma kwingxenye yayo.

(3) UHlelo Lokuhlela indawo esogwini olushiwo kwisigatshana (2) lungahlanganiswa nanoma iluphi uhlelo oselukhona lokusetshenziswa komhlaba lukaMasipala.

(4) UMasipala angakhipha isaziso esibhalwe phansi sokuhlonipha umthetho asibhekise kunoma ubani ohlongoza noma iyiphi intuthuko engahambisani nemigomo yalo Mthetho kaMasipala, uHlelo noma uMthetho, esiyalela ukuba lowo muntu ahlonihe imiyalelo yesaziso, yalo Mthetho kaMasipala noma yoMthetho.

### **ISAPHLUKO 9**

#### **IMIGQA YOKWAKHA NEMINGCELE YASOGWINI**

##### **Ukunqunywa kwemingcele yokwakha kumamephu okuklanywa komhlaba**

**30.**(1) Lapho sekunqunywe umugqa wokugcina kwezakhiwo ohlongozwe esigabeni 25(1) soMthetho, uMasipala kumele anqume lowo mugqa kunoma imaphi amamephu ayingxenye yohlelo lokusetshenziswa komhlaba asebenzayo kuleyo ndawo esogwini.

(2) UMasipala anganquma futhi aguqule imingcele yasogwini yomhlaba okungenwa kuwo ogwini njengoba kubalulwe esigabeni 29 soMthetho.

## **ISAPHLUKO 10**

### **UKUSEBENZA KOMTHETHO**

#### **Isaziso sokuthobela umthetho**

**31.** UMasipala angaphoqelela noma ngabe imiphi imibandela yalo Mthetho kaMasipala ngokunikeza isaziso sokuthobela umthetho noma ubani ophule noma imuphi umbandela walo Mthetho kaMasipala, isaziso sinxusa lowo muntu ukuba athobele isaziso ngendlela nangesikhathi esibekwe kwisaziso.

#### **Umsebenzi kaMasipala wokulungisa noma ukubuyisa imali yezindleko**

**32.** UMasipala, ngendlela ayibona ifanele futhi idingeka, angathatha isinyathelo sokushintsha noma sokulungisa umonakalo owenziwe omunye umuntu endaweni esogwini ngokushayisana nokushiwo yilo Mthetho kaMasipala, futhi angakhokhisa lowo muntu zonke izindleko zalokho.

## **ISAPHLUKO 11**

### **AMACALA NEZINHLAWULO**

#### **Amacala**

**33.** (1) Umuntu utholakala enecala uma –

- (a) ephula izinhlinzeko zalo Mthetho kaMasipala;
- (b) ephula noma imiphi imibandela, izibophezelo noma okwenqatshelwe ngokwalo Mthetho kaMasipala;
- (c) ehluleka ukulandela umbandela wanoma isiphi isaziso noma uphawu olubekwe ngokwalo Mthetho kaMasipala;
- (d) esabisa, egolozela, ephazamisa noma esebenzisa ulimi olunehlamba, olunokweyisa noma oluphoxayo kumsebenzi ogunyaziwe owenza umsebenzi wakhe ngokwalo Mthetho kaMasipala; noma
- (e) ehluleka ukuthobela noma imuphi umyalelo osemthethweni awunikezwe ngokwalo Mthetho kaMasipala.

(2) Umuntu wenza icala ephindelela uma eqhubeka nokwenza icala ngemuva kokuba esenikeziwe isaziso ngokwalo Mthetho kaMasipala esithi akayeke ukwenza lelo cala, noma uma eselahlwe yicala ngesenzo sakho.

**Izinhlawulo**

**34.(1)** inoma ubani owenza icala njengoba kubaluliwe esigabeni 33 salo Mthetho kaMasipala, uma elahlwa yicala, angavalelwa ejele isikhathi esingeqi iminyaka emithathu noma akhokhe inhlawulo engeqi ku-R50 000, noma kokubili inhlawulo nejele.

(2) Ngaphezu kokuhlawuliswa noma ukuboshwa, inkantolo ingayalela lowo otholwe enecala ngokwalo Mthetho kaMasipala ukuba –

- (a) alungise umonakalo owenzeke ngenxa yesenzo sakhe;
- (b) enze umsebenzi womphakathi ozosiza kwimvelo esogwini, okubandakanyaphakathi kokunye, ukungena kwisivumelwano sokusebenzisana noMasipala ngendlela egculisa inkantolo; kanye
- (c) nokukhokhwa amademeshe ngomonakalo noma ukulahlekelwa ezenzeke kunoma ubani oyingxenye yalokhu, okungumyaleo ongakhishwa yisinqumo senkantolo yamacala omphakathi.

(2) Uma sekuyicala eliphindayo, umuntu onecala uyohlawuliswa imali engu-R500 noma izinsuku eziyi-10 ebhadla ejele ngosuku ngalunye aqhubeka ngalo ukwenza icala.

**ISAPHLUKO 12**  
**OKUNGXUBEVANGE**

**Ukudluliswa kwamacala**

**35.1)** Umuntu omalungelo akhe ayakhinyabezeka ngenxa yesinqumo esithathwe uMasipala ngokwalo Mthetho kaMasipala angadlulisa icala mayelana naleso sinqumo ngokwesigaba 62 esihlinzekela ukudluliswa kwamacala eMthethweni weziNhlelo zoMasipala Wohulumeni Basekhaya ngokubhala isaziso sokudlulisa icala nezizathu zalokho asibhekise kwiMenenja kaMasipala zingakedluli izinsuku ezingu-21 ethole isaziso ngesinqumo.

(2) IMenenja kaMasipala kumele idlulisele lelo cala egatsheni elifanele lokudluliswa kwamacala.

(3) Igatsha lokudluliswa kwamacala kumele licubungule icala emasontweni ayisithupha bese linquma ngecala elidlulisiwe ngesikhathi esifanele.

(4) Igatsha lokudluliswa kwamacala kumele liqinisekise, lehluke noma lihoxise isinqumo, kodwa akukho kwehluka noma kuhoxiswa kwesinqumo okuyochezuka emalungelweni atholakele ngenxa yaleso sinqumo.

(5) Igatsha lokudluliswa kwamacala kumele liveze izizathu ezibhalwe phansi ngesinqumo salo odabeli oludlulisiwe.

(6) Wonke amacala adlulisiwe acutshungulwa ngokoMthetho Wezinhlelo Zomasipala Wohulumeni baseKhaya.

(7) Lapho inkantolo yomthetho iqinisekisa isigwebo kanti umsolwa ufuna ukudlulisa icala, ukudluliswa kwecala kumele kwenzeke ngokohlelo lwasenkantolo lokudluliswa kwamacala, hhayi ngokwemigomo yesigatshana (1) kuya kwisigatshana (5).

### **Ukudluliselwa kwamandla**

**36.** (1)Kuncike kuMthethosisekelo neminye imithetho esebenzayo kazwelonke enyesifundazwe, wonke –

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

athweswe, ngokwalo Mthetho kaMasipala, uMkhandlu, nanoma iluphi uhlaka lukaMasipala lwezombusazwe, osopolitiki, amakhansela noma abasebebenzi, angadluliselwa noma anikezelwe yilolo hlaka lwezombusazwe, usopolitiki, ikhansela noma umsebenzi, kunoma iluphi uhlaka lukaMasipala noma umsebenzi oqashwe uMasipala.

(2) Ukudluliselwa kwamandla ngokwesigatshana (1) kumele kwenziwe ngokuhambisana nohlelo lokudluliselwa kwamandla olwemukelwa uMkhandlu ngokuhambisana nesigaba 59(1) soMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), kuncike kwinqubo ebalulwe esigabeni 59(2) soMthetho.

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

- (a) nohlaka noma nomuntu odlulisela amandla;
- (b) nomuntu owemukela amandla adluliswayo; kanye
- (c) nemibandela ehambisana nokudluliselwa kwamandla.

**Isihloko esifinqiwe nokuqala kokusebenza komthetho**

**37.** Lo Mthetho kaMasipala ubizwa ngoMthetho kaMasipala waseThekwini Wokuphathwa Kwezindawo Ezisogwini, ka-2018 kanti uqala ukusebenza esikhathini esiyizinyanga eziyisithupha kusukela osukwini oshicilelwe ngalo noma ngosuku olungaphambili kwalolu olunganqunywa ngokushicilelwa kwesaziso sokuqala ukusebenza kwawo kwiGazethi yesiFundazwe.









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