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PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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## **CEDERBERG MUNICIPALITY**

### **WASTE MANAGEMENT BY-LAW**

#### **Purpose of the By-Law**

To promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the municipality.

To provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof.

The Cederberg Municipality, under 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 32 of 2000), intends to make the By-law set out in the Schedule.

### **SCHEDULE**

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## CHAPTER 1 GENERAL PROVISIONS

### Definitions

1. In this by-law a word or expression to which a meaning has been assigned in section 1 of or Schedule 3 to the Waste Act has the same meaning and, unless the context indicates otherwise—

“**Authorised municipal official**” means a person designated in terms of section 30(1)(a) as an authorised municipal official;

“**Bulk waste**” means waste that by virtue of its mass, shape, size or quantity is inconvenient to remove by the routine door-to-door waste removal service provided by the Municipality or a service provider;

“**Community scheme**” has the meaning assigned to it in the Community Schemes Ombud Service Act, 2011 (Act 9 of 2011);

“**Compost**” means stabilised, homogenous, fully decomposed material of animal or plant origin to which no plant nutrients have been added and that is free of substances or elements that could be harmful to human beings, animals, plants or the environment;

“**Composting**” means a controlled biological process in which organic materials are broken down by micro-organisms into compost;

“**Event organiser**” means a person who organises an event requiring an event permit;

“**Event permit**” means a permit issued by the Municipality in terms of the [*name of by-law*] By-law for holding an event;

“**Event waste**” means waste generated from activities related to an event authorised by an event permit;

“**Garden waste**” means organic waste that emanates from gardening or landscaping activities, including soil, grass cuttings, leaves and branches, but excludes waste products of animal origin or bulky waste;

“**General waste storage facility**” means a storage facility that has a capacity to store in excess of 100 cubic metres of general waste continuously;

“**Health care risk waste**” has the meaning assigned to it in the Western Cape Health Care Waste Management Act, 2007 (Act 7 of 2007);

“**Integrated pollutant and waste information system**” means the online waste management information system of the Western Cape Department of Environmental Affairs and Development Planning;

“**Integrated refuse management plan**” means an integrated refuse management plan contemplated in section 7;

“**Litter**” means waste, excluding hazardous waste, that has been thrown, dropped, deposited, spilled or in any other way discarded somewhere other than in a receptacle, and “**littering**” has a corresponding meaning;

“**Municipal council**” means a municipal council contemplated in section 157 of the Constitution of the Republic of South Africa, 1996;

**“Municipal indigent policy”** means a policy for indigent users approved by the Municipality;

**“Municipal manager”** means the person appointed as municipal manager by the Municipality in terms of section 82 of the Municipal Structures Act;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

**“Nuisance”** means any damage, inconvenience or annoyance to a person caused by the improper generation, handling, management, storage, placement, collection, transport or disposal of waste, including littering;

**“Organic waste”** means waste of a biological origin that can be broken down into its base compounds by micro-organisms, other living things or other forms of treatment within a reasonable period, and includes garden waste, animal carcasses, food waste and wood waste;

**“Peace officer”** has the meaning assigned to it in the Criminal Procedure Act, 1977 (Act 51 of 1977);

**“Public place”** includes—

(a) a public road; and

(b) any building or open or enclosed space, garden, park or other place used by the public or to which the public has a right of use or a right of access;

**“Public road”** has the meaning assigned to it in the National Road Traffic Act, 1996 (Act 93 of 1996);

**“Receptacle”** means a container approved by the Municipality and having the capacity for the temporary storage of waste;

**“Responsible person”**, in relation to waste, means a person who—

(a) generates the waste;

(b) is the owner of the land on which the waste has been disposed of; or

(c) was in control of the waste when it was disposed of;

**“Service delivery agreement”** means an agreement between the Municipality and a person in terms of which a municipal service is provided by that person, either for that person’s own account or on behalf of the Municipality;

**“Service provider”** means a person who provides a municipal service in terms of a service delivery agreement with the Municipality;

**“Tariff”** means the charge determined by the Municipality in terms of any applicable law for any service rendered by the Municipality or a service provider in terms of this by-law;

**“The Municipality”** means the *[name of municipality]*;

**“The Waste Act”** means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

**“Waste collection day schedule”** means a schedule contemplated in section 10(1);

**“Waste disposal facility operator”** means a person designated in terms of section 30(1)(b) as a waste disposal operator;

**“Waste management hierarchy”** means a method of managing waste in the following order: avoidance, reduction, reuse, recycling, recovery, treatment and disposal;

**“Waste stream”** means waste that can be separated into different types of waste, including building and demolition waste, business waste, bulky waste, domestic waste, garden waste, hazardous waste, health care risk waste, industrial waste and recyclable waste.

### **Application of by-law**

2. (1) This by-law must be read with the applicable provisions of the Waste Act.
- (2) This by-law applies to all persons in the area of the Municipality.
- (3) In the event of any inconsistency between a provision of this by-law and any other by-law regulating waste management, the provision of this by-law prevails.

### **Principles**

3. (1) The principles contemplated in Chapter 1 of the National Environmental Management Act, 1998 (Act 107 of 1998), apply in all instances where this by-law applies.
- (2) The waste management hierarchy must be applied in the implementation of this by-law.
- (3) The application of this by-law must promote—
  - (a) sustainable development and a healthy environment through the management of waste within the area of the Municipality; and
  - (b) responsible citizenship by residents in the area of the Municipality to ensure sound waste management practices.

### **Obligations of waste generators**

4. (1) A person must manage any waste generated by his or her activities or the activities of persons working in his or her employ or under his or her direction or control in such a manner that the waste does not cause harm to human health or damage to the environment.
- (2) An authorised municipal official may issue a compliance notice to a person contemplated in subsection (1) to take measures to ensure compliance with that subsection, including issuing an instruction to that person to—
  - (a) inform and educate persons working in his or her employ or under his or her direction or control about the environmental risks of their work and the manner in which their tasks must be performed to manage waste in a manner that avoids causing harm to human health or damage to the environment;
  - (b) investigate and assess the impact that his or her waste management activities have on the environment;
  - (c) start, continue and complete specific measures before a date specified in the compliance notice;

- (d) cease, modify or control any waste management activity that is causing, has caused or may cause harm to human health or damage to the environment;
  - (e) rehabilitate the effects of waste damage to the environment.
- (3) The municipal manager may issue a directive requiring generators of waste to separate certain waste types from the general waste stream.

### **Storage and receptacles for general waste**

5. (1) A person who—
- (a) generates general waste to be collected by the Municipality; or
  - (b) separates waste streams to be collected by the Municipality for recycling,
- must place the waste in a receptacle approved, designated or provided by the Municipality or the relevant service provider, as the case may be, for that purpose.
- (2) A person contemplated in subsection (1) must ensure that—
- (a) the receptacle is stored on the premises where the waste is generated and away from a public place between collection days;
  - (b) on the collection day determined in the waste collection day schedule, the receptacle is placed outside the premises in an area accessible to municipal officials or service providers;
  - (c) measures are in place to prevent tampering with the receptacle by animals;
  - (d) a receptacle provided by the Municipality or service provider is not used for any purpose other than for the storage of waste;
  - (e) if the receptacle is stolen, damaged or corroded, the Municipality is notified and arrangements are made for a replacement as soon as the theft, damage or corrosion comes to his or her attention.
- (3) Where a receptacle is stolen as contemplated in subsection (2)(e), an authorised municipal official may request that the theft be reported to the South African Police Service before issuing a new receptacle.

### **Ownership of waste**

6. (1) A person who generates waste is the owner of that waste until it is made available by that person for collection by the Municipality or a service provider in accordance with this by-law.
- (2) Waste becomes the property of the Municipality once it is made available for collection.
- (3) Subsections (1) and (2) do not apply to waste streams identified in terms of section 10(2)(d) and to waste disposed of unlawfully.
- (4) A person who generates waste contemplated in subsection (3) remains the owner of the waste until the waste is disposed of lawfully.
- (5) Waste on the following premises controlled by the Municipality:
- (a) waste disposal facilities;
  - (b) waste transfer facilities; and

(c) facilities where waste is received, stored, recovered or treated, is the property of the Municipality.

(6) No person may remove from or interfere with waste on premises contemplated in subsection (5), unless authorised by the Municipality.

## **CHAPTER 2 INTEGRATED REFUSE MANAGEMENT PLAN**

### **Preparation of integrated refuse management plan**

7. The municipal manager may issue a directive to a person or any category of persons who generates waste in the area of the Municipality, to prepare an integrated refuse management plan and to submit the plan to the Municipality for approval.

### **Contents of integrated refuse management plan**

8. An integrated refuse management plan must include the following information:

- (a) the quantity of waste generated;
- (b) measures to prevent pollution or ecological degradation;
- (c) targets for waste minimisation through waste reduction, reuse, recycling and recovery;
- (d) measures or programmes to minimise the generation of waste and the final disposal of waste;
- (e) measures or actions to manage waste;
- (f) opportunities for the reduction of waste generation through changes to packaging, product design or production processes;
- (g) mechanisms for informing the public of the impact of waste-generating products or packaging on the environment;
- (h) the period required for the implementation of the plan; and
- (i) methods for monitoring and reporting on the implementation of the plan.

## **CHAPTER 3 PROVISION OF WASTE MANAGEMENT SERVICES**

### **Service providers**

9. (1) The Municipality may discharge any of its functions pertaining to waste separation, collection, storage, processing, recycling, treatment and disposal by entering into a service delivery agreement with a service provider.

(2) A service delivery agreement must—

- (a) accord with this by-law;
- (b) stipulate service standards for the services to be rendered, including collection times and frequency;



- (c) provide for the circumstances in which services rendered by the service provider may be limited; and
- (d) require the service provider to be registered on the provincial integrated pollutant and waste information system.

### **Collection and transportation of general waste**

- 10.** (1) The Municipality must set a schedule of the days for the collection of waste and the location where the waste receptacles must be placed on those days.
- (2) The Municipality may—
- (a) set a waste collection day schedule for commercial and residential properties;
  - (b) collect waste outside of the set schedule on request by a person and at a fixed tariff;
  - (c) set the maximum quantities of waste that will be collected;
  - (d) by notice in the *Provincial Gazette*, identify waste streams that may not be collected by the Municipality or that are unsuitable for collection.
- (3) The Municipality must—
- (a) publish the waste collection day schedule, either in printed form or electronically; and
  - (b) take other reasonable measures to ensure that the public is notified of the schedule.
- (4) If waste that is being transported is spilt, leaked or detached or falls from a receptacle, vehicle or other conveyance, the Municipality may recover costs from the transporter for reasonable remedial measures undertaken by the Municipality.

### **Transporting waste for gain**

- 11.** A person transporting general waste for gain in the area of the Municipality must—
- (a) ensure that the receptacle, vehicle or other conveyance is adequate in size and designed for the type of waste transported;
  - (b) transport the waste in a manner that will prevent any nuisance;
  - (c) maintain the receptacle, vehicle or other conveyance in a clean and sanitary condition at all times; and
  - (d) ensure that the waste is transported to or deposited at a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility authorised to accept such waste.

### **Collection of unsuitable waste**

- 12.** A person may not place waste identified in terms of section 10(2)(d) for collection, either on its own or mixed with any other waste for which the Municipality provides collection services, unless prior arrangement is made with the Municipality for special collection by the Municipality or a service provider.

**Waste transfer facilities**

**13.** A waste generator must, where applicable—

- (a) use an appropriate waste transfer facility as instructed by an authorised municipal official, a waste disposal facility operator or a service provider; and
- (b) adhere to the operational procedures of the waste transfer facility as determined by the Municipality.

**Disposal of waste**

**14.** (1) An authorised municipal official, waste disposal facility operator or service provider may inspect all waste loads entering a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility.

(2) The inspection contemplated in subsection (1) may include—

- (a) visual and physical inspection of the waste, including the use of hand-held testing equipment; and
- (b) a laboratory analysis of the waste.

(3) An authorised municipal official may issue an instruction to the holder of waste that is potentially detrimental to the environment to—

- (a) have independent laboratory tests conducted before the waste is disposed of to assess whether the waste is suitable for a waste disposal facility; or
- (b) dispose of the waste at a specified waste disposal facility and provide proof of such disposal.

(4) If an authorised municipal official has concerns about the potential detrimental impact of any waste if not disposed of correctly, the authorised municipal official may dispose of the waste at an appropriate waste disposal facility.

(5) In the circumstances contemplated in subsections (2)(b), (3) and (4), or where waste contemplated in section 10(2)(d) is removed by the Municipality, the Municipality may recover any costs incurred from every responsible person, jointly and severally, including the costs associated with—

- (a) the use of specialised equipment during the laboratory tests;
- (b) laboratory analysis fees;
- (c) administrative fees;
- (d) transporting and disposal costs; and
- (e) clean-up costs, where applicable.

(6) A person disposing of waste at a waste disposal facility owned or managed by the Municipality must adhere to the operational procedures of the facility.

## CHAPTER 4 RECYCLABLE WASTE

### **Storage, separation and collection of recyclable waste**

- 15.** (1) A person who undertakes any activity involving the reuse, recycling or recovery of waste, including any scrap dealer and formalised recycling group, must, before undertaking any such activity, ensure that the reuse, recycling or recovery of the waste is less detrimental to the environment than its disposal.
- (2) The municipal manager may issue a directive to a person contemplated in subsection (1) to—
- (a) report to the Municipality monthly on the quantity of waste generated, quantities disposed of at an authorised waste disposal facility and quantities separated for recycling and recovery; or
  - (b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system.
- (3) The municipal manager may issue a directive to a holder of waste to—
- (a) separate specified recyclable waste;
  - (b) use different receptacles for different specified categories of recyclable waste; and
  - (c) make recyclable waste available for collection.
- (4) The municipal manager may issue a directive requiring the executive body of a community scheme and the owners and occupants of residential properties within a community scheme to—
- (a) separate specified recyclable waste;
  - (b) use different receptacles for different specified categories of recyclable waste; and
  - (c) make recyclable waste available for collection in the specified manner.
- (5) If the Municipality or a service provider has provided separate receptacles for the purposes of subsection (3)(b) or (4)(b), a person may not use any other receptacle for recyclable waste.

### **Waste separation in geographical area**

- 16.** (1) The Municipality may, by notice in the *Provincial Gazette*, require the holder of waste within a geographical area specified in the notice to—
- (a) separate specified recyclable waste;
  - (b) use different receptacles for different specified categories of recyclable waste; and
  - (c) make the recyclable waste available for collection in the specified manner.
- (2) Before publishing a notice contemplated in subsection (1), the Municipality must publish a notice in the *Provincial Gazette*—
- (a) setting out the recyclable waste that must be separated within the geographical area concerned in terms of the proposed notice;

- (b) setting out the manner in which the specified recyclable waste must be placed for collection;
- (c) setting out when the recyclable waste is to be collected; and
- (d) inviting written comments on the matters contemplated in paragraphs (a) and (b).

## **CHAPTER 5 PROHIBITIONS**

### **Prohibition of unauthorised disposal of waste**

**17.** (1) No person may—

- (a) dispose of waste in or on any land or water body or at any facility unless the disposal of that waste is authorised by law; or
- (b) knowingly or negligently cause or permit waste to be disposed of in a manner that is likely to cause harm to human health or damage to the environment.

(2) If waste has been disposed of in contravention of this by-law, the municipal manager may issue a directive to the responsible person to remove the waste to an authorised waste disposal facility within a specified period.

(3) If waste has been disposed of in contravention of this by-law and—

- (a) the responsible person fails to comply, or inadequately complies, with a directive contemplated in subsection (2);
- (b) there is uncertainty regarding the identity or whereabouts of the responsible person; or
- (c) there is an immediate risk of danger to the public or detriment to the environment,

the Municipality may take any measure it considers necessary to contain and minimise the effects of the disposal of the waste, undertake clean-up procedures, and remedy the effects of the disposal of the waste.

(4) The Municipality may recover any costs incurred in terms of subsection (3) from every responsible person, jointly and severally.

### **Prohibition of burning of waste**

**18.** No person may burn, incinerate or apply any other thermal treatment technology to waste except in a thermal treatment facility authorised by the Municipality or the relevant competent authority.

### **Prohibition of littering**

**19.** (1) No person may—

- (a) litter;
- (b) dispose of waste onto any public place;
- (c) disturb anything in, or remove anything from, any receptacle that has been placed for the purposes of collecting waste in such a manner as to cause the contents of the receptacle to spill or fall onto the ground; or

- (d) allow a person under his or her employ, direction or control to do any of the acts contemplated in paragraph (a), (b) or (c).
- (2) If litter has been disposed of or discarded in contravention of this by-law on privately owned land to which the public has access, the owner of that land must remove the litter from the property within a reasonable period.

### **Prohibition of nuisance**

- 20.** (1) A person handling waste, whether during storage, collection, transportation, recycling, treatment or disposal, must—
- (a) take reasonable measures to prevent it from being a nuisance to anybody or the environment; and
  - (b) take measures at his or her own cost to remedy any nuisance caused.
- (2) The municipal manager may issue a directive to a responsible person to take measures to ensure compliance with subsection (1).
- (3) If a directive is issued as contemplated in subsection (2) and—
- (a) the responsible person fails to comply, or inadequately complies, with the directive;
  - (b) there is uncertainty regarding the identity or whereabouts of the responsible person; or
  - (c) there is an immediate risk of danger to the public or detriment to the environment,
- the Municipality may take any measure it considers necessary to prevent the nuisance, contain and minimise the effects of the nuisance and remedy the effects of the nuisance.
- (4) The Municipality may recover any costs incurred in terms of subsection (3) from every responsible person, jointly and severally.

## **CHAPTER 6 HANDLING DIFFERENT TYPES OF WASTE**

### **Organic waste**

- 21.** (1) The occupant of premises on which—
- (a) organic waste is generated, may compost the waste on the premises, provided that the composting does not cause a nuisance or harm to human health or damage to the environment;
  - (b) organic waste is generated and not composted, must ensure that the waste is collected and treated or disposed of within a reasonable period after its generation.
- (2) The municipal manager may issue a directive to—
- (a) a transporter of garden waste or a person providing garden maintenance services to transport any garden waste to a facility designated by the Municipality for disposal;

- (b) an organic waste generator to develop an integrated refuse management plan indicating measures to minimise and recover such waste; and
  - (c) an organic waste generator to transport the waste to designated facilities for treatment or disposal.
- (3) The Municipality or a service provider may, on the written request of the occupant of premises on which organic waste is generated, deliver an appropriate receptacle for the purpose of storing organic waste, in addition to any receptacle provided in terms of section 5(1) for general waste, on payment of a tariff.

### **Bulky waste**

- 22.** (1) A person generating bulky waste may not place the bulky waste with other waste that is to be collected by the Municipality in accordance with the waste collection day schedule, and must ensure that the bulky waste is recycled or, when it cannot be recycled, disposed of at a facility designated by the Municipality to receive bulky waste.
- (2) The Municipality or a service provider may, on the request of the occupant of premises at which bulky waste is generated, remove bulky waste from those premises on payment of a tariff.
- (3) The municipal manager may issue a directive to a service provider that collects bulky waste to—
- (a) report monthly to the Municipality on the quantities of bulky waste disposed of and the quantities separated for recycling; or
  - (b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system.

### **Building and demolition waste**

- 23.** (1) A person generating building and demolition waste may not mix building and demolition waste with waste to be collected by the Municipality in accordance with the waste collection day schedule, and must ensure that the building and demolition waste is recycled or, when it cannot be recycled, is disposed of at a facility designated by the Municipality to receive building and demolition waste.
- (2) The municipal manager may issue a directive to a person who generates building or demolition waste to separate the waste for treatment, recycling or reuse and to—
- (a) report monthly to the Municipality on the quantities of building or demolition waste generated, the quantities disposed of at an authorised waste disposal facility and the quantities separated for recycling and reuse; or
  - (b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system.
- (3) A person who applies for approval from the Municipality to undertake demolition work in terms of the National Building Regulations, made under

Government Notice R2378 of 1990 in *Government Gazette* 12780 dated 12 October 1990, must submit a demolition waste plan with the application.

(4) The demolition waste plan must include a deconstruction plan describing the process proposed for the demolition and must set out detailed plans for maximising the recovery of reusable and recyclable waste.

(5) The Municipality may, by notice in the *Provincial Gazette*, require a person operating or wishing to operate a building and demolition waste removal service in the area of the Municipality to—

- (a) register with the Municipality before undertaking such work; and
- (b) provide such information as is specified in the notice or as the Municipality may reasonably require.

(6) An application for registration to operate a building and demolition waste removal service must be in a form determined by the Municipality.

(7) The Municipality must, within 30 days of receipt of an application for registration contemplated in subsection (6), consider the application and either—

- (a) register the applicant and issue a registration certificate to the applicant stating—
  - (i) the name of the facility registered to operate as a building and demolition waste removal service;
  - (ii) the waste information registration number;
  - (iii) the type of waste handled by the facility;
  - (iv) the location of the facility; and
  - (v) the date of registration; or
- (b) by written notice send the application for registration back to the applicant for correction.

(8) An application for registration that has been sent back for correction must be amended and resubmitted to the Municipality within 30 days after the date on which the Municipality issued the written notice to the applicant for the correction of the application.

(9) An application for registration that has been amended and resubmitted as contemplated in subsection (8) must be dealt with as contemplated in subsection (7).

(10) The Municipality may itself provide a building and demolition waste removal service on payment of a tariff.

(11) A person who wishes to place an appropriate receptacle for the storage and collection or disposal of building and demolition waste on a public road must apply to the Municipality for written consent.

(12) A receptacle contemplated in subsection (11) must—

- (a) be clearly marked with the name, address and telephone number of the person responsible for the receptacle;
- (b) be fitted with reflecting chevrons or reflectors that clearly outline the front, sides and the back of the receptacle; and
- (c) be covered at all times, except when receiving or being emptied of waste, so that no displacement of its contents can occur.



**Hazardous waste**

**24.** (1) The Municipality may, by notice in the *Provincial Gazette*, require a person who generates, treats, transports or disposes of hazardous waste, or who wishes to generate, treat, transport or dispose of hazardous waste, in the area of the Municipality to—

- (a) register with the Municipality before undertaking such work; and
- (b) provide such information as is specified in the notice or as the Municipality may reasonably require.

(2) An application for registration to generate, treat, transport or dispose of hazardous waste must be in a form determined by the Municipality.

(3) The Municipality must, within 30 days of receipt of an application for registration as contemplated in subsection (2), consider the application and either—

- (a) register the applicant and issue a registration certificate to the applicant stating—
  - (i) the name of the facility registered to generate, treat, transport or dispose of hazardous waste;
  - (ii) the waste information registration number;
  - (iii) the type of waste handled by the facility;
  - (iv) the location of the facility; and
  - (v) the date of registration; or
- (b) by written notice send the application for registration back to the applicant for correction.

(4) An application for registration that has been sent back for correction must be amended and resubmitted to the Municipality within 30 days after the date on which the Municipality issued the written notice to the applicant for the correction of the application.

(5) An application for registration that has been amended and resubmitted as contemplated in subsection (4) must be dealt with as contemplated in subsection (3).

(6) A person who generates hazardous waste or the owner of premises where hazardous waste is generated must contract with a service provider registered in terms of this section to treat, transport or dispose of such waste.

**Waste tyres**

**25.** (1) The Municipality may, by notice in the *Provincial Gazette*, require a person operating or wishing to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor to—

- (a) register with the Municipality before undertaking such work; and
- (b) provide such information as is specified in the notice or as the Municipality may reasonably require.

(2) An application for registration to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor must be in a form determined by the Municipality.



(3) The Municipality must, within 30 days of receipt of an application for registration as contemplated in subsection (2), consider the application and either—

- (a) register the applicant and issue a registration certificate to the applicant stating—
  - (i) the name of the facility registered to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor;
  - (ii) the waste information registration number;
  - (iii) the type of waste handled by the facility;
  - (iv) the location of the facility; and
  - (v) the date of registration; or
- (b) by written notice send the application for registration back to the applicant for correction.

(4) An application for registration that has been sent back for correction must be amended and resubmitted to the Municipality within 30 days after the date on which the Municipality issued the written notice to the applicant for the correction of the application.

(5) An application for registration that has been amended and resubmitted as contemplated in subsection (4) must be dealt with as contemplated in subsection (3).

(6) The Municipality may, by notice in the *Provincial Gazette*, require the public to dispose of waste tyres at facilities designated in the notice.

### **Event waste**

**26.** (1) An event organiser must submit an event waste management plan together with his or her application to the Municipality for an event permit.

(2) The event waste management plan must set out in detail—

- (a) how waste will be minimised and recovered for recycling; and
- (b) the person responsible and measures in place for the clean-up, collection, recycling and disposal of the event waste.

(3) The event organiser must ensure that the event waste is disposed of at an authorised waste disposal facility and provide the Municipality with proof of the disposal.

(4) If any event waste has not been cleaned up and collected after an event has been held, the municipal manager may issue a directive to the event organiser or responsible person to remove the waste to an authorised waste disposal facility.

(5) If a directive is issued as contemplated in subsection (4) and—

- (a) an event organiser or responsible person fails to comply or inadequately complies with the directive;
- (b) there is uncertainty regarding the identity or whereabouts of the event organiser or responsible person; or
- (c) there is an immediate risk of danger to the public or detriment to the environment,

the Municipality may take any measure it considers necessary to clean up, collect and dispose of the event waste.

(6) The Municipality may recover the costs incurred by it in terms of subsection (5) from the event organiser and any responsible person, jointly and severally.

### **Abandoned articles**

**27.** The Municipality may remove and dispose of any article it reasonably considers abandoned, taking into account the following factors:

- (a) the location of the article;
- (b) the length of time that the article has been at that location; and
- (c) the nature and condition of the article.

## **CHAPTER 7**

### **ADMINISTRATIVE MATTERS, COMPLIANCE AND ENFORCEMENT**

#### **Liability to pay tariffs**

**28.** (1) The owner of premises for which the Municipality is providing waste management services contemplated in this by-law is liable for the payment of tariffs.

(2) The Municipality may exempt or grant a rebate to any person or category of persons that are regarded to be indigent in terms of the municipal indigent policy from paying tariffs for waste management services.

#### **Exemptions**

**29.** (1) A person may apply in writing to the Municipality for exemption from any provision of this by-law.

(2) An application contemplated in subsection (1) must be in a form determined by the Municipality and must be accompanied by a motivation for the exemption.

(3) The Municipality may—

- (a) grant an exemption in writing, with or without conditions subject to which the exemption is granted;
- (b) amend or cancel an exemption or a condition in an exemption; or
- (c) refuse to grant an exemption.

(4) In order to consider an application contemplated in subsection (1), the Municipality may obtain comments from members of the public who would be affected by the granting of the exemption.

(5) If an exemption is granted subject to conditions, the exemption does not take effect until the applicant has submitted a written undertaking to the Municipality that he or she will comply with all the conditions.

(6) If the applicant fails to comply with a condition of the exemption, the exemption is suspended with immediate effect.

**Designation of certain officials**

**30.** (1) The municipal manager may—

- (a) designate as an authorised municipal official any staff member of the Municipality;
- (b) designate as a waste disposal facility operator any staff member of—
  - (i) the Municipality;
  - (ii) any other organ of state; or
  - (iii) a service provider; and
- (c) at any time withdraw a designation made in terms of paragraph (a) or (b).

(2) A designation contemplated in subsection (1)(b)(ii) may be made only by agreement between the municipal manager and the relevant organ of state.

**Functions of authorised municipal officials and waste disposal facility operators**

**31.** (1) An authorised municipal official—

- (a) must administer, implement and enforce this by-law; and
- (b) may perform any function assigned to an authorised municipal official by this by-law, including conducting an inspection, investigating any act or omission that may constitute an offence in terms of this by-law, and monitoring and enforcing compliance with this by-law.

(2) A waste disposal facility operator must administer, implement and enforce this by-law at a municipal waste transfer facility, general waste storage facility, recycling facility or waste disposal facility, as the case may be.

**Premises inaccessible for waste collection**

**32.** If employees of the Municipality or a service provider contemplated in section 9 are—

- (a) impeded from handling or collecting waste at any premises due to the layout of the premises; or
- (b) endangered by an impediment on the premises when handling or collecting waste at any premises,

the municipal manager may issue a directive requiring the owner of the premises to undertake such alterations or additions to the premises as are necessary to remove the impediment at the owner's cost.

**Duty to produce documents**

**33.** A person to whom a certificate, permit, authorisation or any other document contemplated in this by-law has been issued must produce it at the request of a peace officer or an authorised municipal official.

**Directives**

- 34.** (1) The municipal manager may issue a directive to any person as contemplated in this by-law to take specific measures pertaining to waste within a specified period to ensure that the impact of waste on human health or damage to the environment is mitigated and to give effect to the waste management hierarchy.
- (2) Before issuing a directive contemplated in this by-law, the municipal manager must give notice in writing to the person to whom the directive is intended to be issued of the intention to issue the directive and give that person a reasonable opportunity to make representations in writing.
- (3) If urgent action is necessary for the protection of the environment, the municipal manager—
- (a) may issue the directive without giving written notice to the person beforehand; and
  - (b) must give the person to whom the directive was issued an opportunity to make written representations as soon as is reasonable thereafter.

**Compliance notices**

- 35.** (1) An authorised municipal official may issue a written compliance notice to a person if there are reasonable grounds for believing that the person has not complied with—
- (a) a provision of this by-law; or
  - (b) a term or condition of any permit, authorisation, exemption or other document issued in terms of this by-law.
- (2) Before issuing a compliance notice, an authorised municipal official must give notice in writing to the person to whom the compliance notice is intended to be issued of the intention to issue the compliance notice and provide that person with a reasonable opportunity to make written representations.
- (3) If urgent action is necessary for the protection of the environment, an authorised municipal official—
- (a) may issue a compliance notice without giving written notice to the person beforehand; and
  - (b) must give the person on whom the compliance notice was issued an opportunity to make written representations as soon as is reasonable thereafter.
- (4) A compliance notice must set out—
- (a) details of the conduct constituting non-compliance;
  - (b) any steps the person must take and the period within which the steps must be taken;
  - (c) any actions the person may not perform, and the period during which the person may not do so;
  - (d) the steps the Municipality is entitled to take in terms of subsection (6) if the notice is not complied with; and
  - (e) the procedure to be followed to lodge an appeal against the compliance notice.

(5) An authorised municipal official may, on good cause shown, vary a compliance notice and extend the period within which it must be complied with.

(6) If a person to whom a compliance notice has been issued fails to comply with it, the Municipality may—

- (a) take whatever steps it considers necessary, where applicable, to—
  - (i) clean up or remove the waste;
  - (ii) rehabilitate the premises, place or affected area at which the waste has been dumped or disposed of or is stored; and
  - (iii) ensure that waste and any contaminated material that cannot be removed, cleaned or rehabilitated is treated or disposed of lawfully; and
- (b) recover the costs of taking any steps contemplated in paragraph (a) from every responsible person, jointly and severally.

### **Appeals**

**36.** (1) A person whose rights are affected by a decision taken by the Municipality in terms of this by-law may, unless the decision was taken by the municipal council, appeal against that decision in terms of section 62 of the Municipal Systems Act.

(2) An appeal under this section suspends the operation of the decision concerned pending the finalisation of the appeal, subject to subsections (3) and (4).

(3) A person who receives a directive or compliance notice issued in terms of this by-law must comply with that directive or compliance notice within the period stated in the directive or compliance notice, unless the appeal authority has agreed to suspend the operation of the directive or compliance notice as contemplated in subsection (4)(b).

(4) The appeal authority may, on application and on good cause shown, direct that, pending the finalisation of the appeal—

- (a) the operation of the decision forming the subject of the appeal, or any provision or condition attached thereto, is not suspended, either wholly or in part; or
- (b) the operation of the directive or compliance notice contemplated in subsection (3), or any part of that directive or compliance notice, is suspended.

### **Limitation of liability**

**37.** Neither the Municipality nor any other person is liable for any damage or loss caused by—

- (a) the exercise of any power or the performance of any duty under this by-law; or
- (b) the failure to exercise any power or perform any duty under this by-law, unless the exercise or performance of, or the failure to exercise or perform, the power or duty is unlawful and—
  - (i) negligent; or
  - (ii) in bad faith.

## Offences

**38.** A person commits an offence if that person—

- (a) hinders or interferes with a service provider, a waste disposal facility operator or an authorised municipal official in the exercise of their powers or the performance of their duties in terms of this by-law;
- (b) contravenes or fails to comply with section 5(1), 23(3), 23(12), 26(1) or 33;
- (c) contravenes or fails to comply with section 4(1), 6(6), 12,13,14(6), 15(5),17(1), 18, 19(1), 21(1)(b), 22(1),24(6) or 26(3);
- (d) contravenes or fails to comply with a compliance notice issued in terms of section 4(2) or 35(1);
- (e) contravenes or fails to comply with a directive issued in terms of section 4(3), 7, 15(2), 15(3), 15(4), 17(2), 20(2), 21(2), 22(3), 23(2), 26(4) or 32;
- (f) falsely pretends to be an authorised municipal official or waste disposal facility operator;
- (g) furnishes false or misleading information when complying with a provision of this by-law;
- (h) unlawfully, and intentionally or negligently, performs any act or omits to do anything in relation to waste that detrimentally affects or is likely to detrimentally affect the environment;
- (i) contravenes or fails to comply with a notice contemplated in section 16(1), 23(5), 24(1),25(1) or 25(6);
- (j) contravenes or fails to comply with an instruction issued in terms of section 4(2) or 14(3);
- (k) contravenes or fails to comply with an integrated refuse management plan; or
- (l) contravenes or fails to comply with a condition subject to which exemption from a provision of this by-law was granted in terms of section 29.

## Penalties

**39.** (1) A person convicted of an offence in terms of section 38(b) is liable to a fine or imprisonment for a period not exceeding one month, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two months, or in both instances, to both such fines and such imprisonment.

(2) A person convicted of an offence in terms of section 38(a), (c),(d), (e),(h), (i), (j),(k) or (l) is liable to a fine or imprisonment for a period not exceeding one year, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two years, or in both instances, to both such fines and such imprisonment.

(3) A person convicted of an offence in terms of section 38(f) or (g) is liable to a fine or imprisonment for a period not exceeding two years, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not

exceeding four years, or in both instances, to both such fines and such imprisonment.

(4) A fine contemplated in subsection (1), (2) or (3) must be determined with due consideration of—

- (a) the severity of the offence in terms of its impact or potential impact on health, well-being, safety and the environment; and
- (b) the monetary or other benefits that accrued to the convicted person through the commission of the offence.

#### **Repeal of by-laws**

**40.** The Cederberg Waste Management by-law is repealed.

#### **Interpretation**

**41.** In the event of a conflict between English, IsiXhosa and the Afrikaans versions of this By-law, the English version shall be decisive.

#### **Short title**

**42.** This by-law is called the Waste Management By-law of the Cederberg Municipality.

## **CEDERBERG MUNISIPALITEIT**

### **KONSEPVERORDENING VIR GEÏNTEGREERDE AFVALBESTUUR**

Die Cederberg Munisipaliteit, kragtens artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, saamgelees met artikel 11(3)(m) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), is van voorneme om die verordening uiteengesit in die Bylae te maak.

#### **BYLAE**

#### **INDELING VAN ARTIKELS**

##### **HOOFSTUK 1 ALGEMENE BEPALINGS**

1. Woordomskrywing
2. Toepassing van verordening
3. Beginsels
4. Verpligtinge van afvalgenereerders
5. Berging en afvalhouers vir algemene afval
6. Eienaarskap van afval

##### **HOOFSTUK 2 GEÏNTEGREERDE AFVALBESTUURSPLAN**

7. Opstel van geïntegreerde afvalbestuursplan
8. Inhoud van geïntegreerde afvalbestuursplan

##### **HOOFSTUK 3 VERSKAFFING VAN AFVALBESTUURSDIENSTE**

9. Diensverskaffers
10. Verwydering en vervoer van algemene afval
11. Vervoer van afval vir wins
12. Verwydering van ongewenste afval
13. Afvaloorlaaifasiliteite
14. Beskik van afval

##### **HOOFSTUK 4 HERWINBARE AFVAL**

15. Berging, skeiding en verwydering van herwinbare afval
16. Skeiding van afval in geografiese gebied



## **HOOFSTUK 5 VERBODINGE**

17. Verbod op ongemagtigde beskik van afval
18. Verbod op verbranding van afval
19. Verbod op rommelstrooiing
20. Verbod op oorlas

## **HOOFSTUK 6 HANTERING VAN VERSKILLENDE Tipes AFVAL**

21. Organiese afval
22. Grootmaat afval
23. Bou- en slopingsafval
24. Gevaarhoudende afval
25. Afvalbuitebande
26. Geleentheidsafval
27. Verlate voorwerpe

## **HOOFSTUK 7 ADMINISTRATIEWE AANGELEENTHEDE, VOLDOENING EN AFDWINGING**

28. Aanspreeklikheid om tariewe te betaal
29. Vrystellings
30. Aanwysing van sekere beamptes
31. Werkzaamhede van gemagtigde munisipale beamptes en afvalstoring fasiliteit-  
operateurs
32. Persele ontoeganklik vir afvalverwydering
33. Plig om dokumente te verskaf
34. Lasgewings
35. Voldoeningskennisgewings
36. Appèlle
37. Beperking van aanspreeklikheid
38. Misdrywe
39. Strawwe
40. Herroeping van verordenings
41. Kort titel

## HOOFSTUK 1 ALGEMENE BEPALINGS

### Woordomskrywing

1. In hierdie verordening, tensy dit uit die samehang anders blyk, het 'n woord of uitdrukking waaraan 'n betekenis geheg is in artikel 1 van of Bylae 3 tot die Wet op Afvalbestuur dieselfde betekenis, en beteken—  
“**afvalbestuurshiërargie**” ’n metode om afval in die volgende volgorde te bestuur: vermyding; vermindering, hergebruik, herwinning, winning, behandeling en beskik;  
“**afvalhouer**” ’n houer wat deur die Munisipaliteit goedgekeur is en wat die kapasiteit het om afval tydelik te berg;  
“**afvalstroom**” afval wat in verskillende soorte afval verdeel kan word, met inbegrip van bou- en slopingsafval, besigheidsafval, grootmaat afval, huishoudelike afval, tuinafval, gevaarhoudende afval, gesondheidsorgrisiko-afval, industriële afval, en herwinbare afval;  
“**afvalverwyderingsdaerooster**” ’n rooster beoog in artikel 10(1);  
“**afvalstorting fasiliteit-operateur**” ’n persoon wat ingevolge artikel 30(1)(b) as ’n afvalstorting-operateur aangewys is;  
“**bergingsfasiliteit vir algemene afval**” ’n bergingsfasiliteit wat die kapasiteit het om deurlopend meer as 100 kubieke meter algemene afval te berg;  
“**die Afvalwet**” die “National Environmental Management: Waste Act, 2008” (Wet 59 van 2008);  
“**die Munisipaliteit**” die *[naam van munisipaliteit]*;  
“**diensleweringsooreenkoms**” ’n ooreenkoms tussen die Munisipaliteit en ’n persoon ingevolge waarvan ’n munisipale diens deur daardie persoon verskaf word, hetsy vir daardie persoon se eie rekening of namens die Munisipaliteit;  
“**diensverskaffer**” ’n persoon wat ingevolge ’n diensleweringsooreenkoms met die Munisipaliteit ’n munisipale diens verskaf;  
“**geïntegreerde afvalbestuursplan**” ’n geïntegreerde afvalbestuursplan beoog in artikel 7;  
“**geïntegreerde inligtingstelsel oor besoedelende stowwe en afval**” die aanlyn afvalbestuursinligtingstelsel van die Wes-Kaapse Departement van Omgewingsake en Ontwikkelingsbeplanning;  
“**geleentheidsafval**” afval gegenereer deur aktiwiteite wat verband hou met ’n geleentheid wat deur ’n geleentheidspermit gemagtig word;  
“**geleentheidsorganiseerder**” ’n persoon wat ’n geleentheid organiseer waarvoor ’n geleentheidspermit vereis word;  
“**geleentheidspermit**” ’n permit wat ingevolge die *[naam van verordening]* Verordening deur die Munisipaliteit uitgereik word vir die aanbied van ’n geleentheid;  
“**gemagtigde munisipale beampte**” ’n persoon wat ingevolge artikel 30(1)(a) as ’n gemagtigde munisipale beampte aangewys is;

“**gemeenskapskema**” dieselfde as wat dit in die “Community Schemes Ombud Service Act, 2011” (Wet 9 van 2011), beteken;

“**gesondheidsorgnisiko-afval**” dieselfde as wat dit in die Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007 (Wet 7 van 2007), beteken;

“**kompos**” ’n gestabiliseerde, homogene, volledig ontbinde materiaal van dierlike of plantaardige oorsprong waarby geen plantvoedingstowwe gevoeg is nie en wat vry is van stowwe of elemente wat skadelik kan wees vir mense, diere, plante of die omgewing;

“**kompostering**” ’n beheerde biologiese proses waarin organiese materiaal deur mikro-organismes tot kompos afgebreek word;

“**Grootmaat afval**” afval wat as gevolg van die massa, vorm, grootte of hoeveelheid daarvan ongerieflik is om te verwyder deur ’n roetine- deur-tot-deur afvalverwyderingsdiens wat die Munisipaliteit of ’n diensverskaffer lewer;

“**munisipale bestuurder**” die persoon aangestel deur die Munisipaliteit as munisipale bestuurder ingevolge artikel 82 van die Wet op Munisipale Strukture;

“**munisipale deernisbeleid**” ’n beleid vir behoeftige gebruikers, goedgekeur deur die Munisipaliteit;

“**munisipale raad**” ’n munisipale raad beoog in artikel 157 van die Grondwet van die Republiek van Suid-Afrika, 1996;

“**oorlas**” enige skade, ongerief of ergernis vir ’n persoon veroorsaak deur die onbehoorlike generering, hantering, bestuur, berging, plasing, verwydering, vervoer of beskik van afval, met inbegrip van rommelstrooiing;

“**openbare pad**” dieselfde as wat dit in die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996), beteken;

“**openbare plek**” ook—

(a) ’n openbare pad; en

(b) enige gebou of oop of geslote ruimte, tuin, park of ander plek wat deur die publiek gebruik word of waartoe die publiek ’n gebruiksreg of ’n toegangsreg het;

“**organiese afval**” afval met ’n biologiese oorsprong wat binne ’n redelike tydperk deur mikro-organismes, ander lewende goed of ander vorms van behandeling afgebreek kan word tot die basiese elemente daarvan, en ook tuinafval, dierekarkasse, voedselafval en houtafval;

“**rommel**” afval, gevaarhoudende afval uitgesluit, wat op ’n plek buiten in ’n afvalhouer gegooi, laat val, geplaas, uitgemors of op enige ander wyse weggegooi is, en “**rommelstrooiing**” het ’n ooreenstemmende betekenis;

“**tarief**” die gelde wat die Munisipaliteit ingevolge enige toepaslike wet bepaal vir enige diens wat ingevolge hierdie verordening deur die Munisipaliteit of ’n diensverskaffer gelewer word;

“**tuinafval**” organiese afval afkomstig van tuinbou- of landskapsuitlegaktiwiteite, met inbegrip van grond, grassnysels, blare en takke, maar nie ook afvalprodukte van dierlike oorsprong of grootmaat afval nie;

“**verantwoordelike persoon**”, met betrekking tot afval, ’n persoon wat—

(a) die afval genereer;

- (b) die eienaar is van die grond waar die afval beskik is; of
  - (c) wat in beheer van die afval was toe dit beskik is;
- “**vredebeampte**” dieselfde as wat dit in die Strafproseswet, 1977 (Wet 51 van 1977), beteken;
- “**Wet op Munisipale Stelsels**” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000);
- “**Wet op Munisipale Strukture**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998).

### **Toepassing van verordening**

2. (1) Hierdie verordening moet saam met die toepaslike bepalings van die Afvalwet gelees word.
- (2) Hierdie verordening is van toepassing op alle persone in die gebied van die Munisipaliteit.
- (3) In die geval van enige teenstrydigheid tussen 'n bepaling van hierdie verordening en enige ander verordening wat afvalbestuur reguleer, geniet die bepaling van hierdie verordening voorrang.

### **Beginsels**

3. (1) Die beginsels beoog in Hoofstuk 1 van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998), is van toepassing in alle gevalle waar hierdie verordening van toepassing is.
- (2) Die afvalbestuurshiërgie moet by die implementering van hierdie verordening toegepas word.
- (3) Die toepassing van hierdie verordening moet die volgende bevorder:
- (a) volhoubare ontwikkeling en 'n gesonde omgewing deur die bestuur van afval binne die gebied van die Munisipaliteit; en
  - (b) verantwoordelike burgerskap deur inwoners in die gebied van die Munisipaliteit om goeie afvalbestuurspraktyke te verseker.

### **Verpligtinge van afvalgenereerders**

4. (1) 'n Persoon moet enige afval wat gegenereer word deur sy of haar aktiwiteite of die aktiwiteite van persone wat in sy of haar diens of onder sy of haar leiding is, op so 'n wyse bestuur dat die afval nie skadelik is vir mense se gesondheid of die omgewing beskadig nie.
- (2) 'n Gemagtigde munisipale beampte kan 'n voldoeningskennisgewing aan 'n persoon beoog in subartikel (1) uitreik om stappe te doen om voldoening aan daardie subartikel te verseker, met inbegrip van die uitreik van 'n opdrag aan daardie persoon om—
- (a) persone wat in sy of haar diens is of wat onder sy of haar leiding of beheer is, in te lig en op te voed oor die omgewingsrisiko's van hul werk en die wyse waarop hul take verrig moet word om afval op 'n wyse te bestuur wat voorkom dat skade aan mense se gesondheid of die omgewing veroorsaak word;

- (b) die uitwerking wat sy of haar afvalbestuursaktiwiteite op die omgewing het, te ondersoek en te evalueer;
  - (c) voor 'n datum vermeld in die voldoeningskennisgewing met spesifieke maatreëls te begin, daarmee voort te gaan en dit te voltooi;
  - (d) enige afvalbestuursaktiwiteit wat skade aan mense se gesondheid of die omgewing veroorsaak, veroorsaak het of moontlik kan veroorsaak, te staak, aan te pas of te beheer;
  - (e) die gevolge van afvalskade aan die omgewing te rehabiliteer.
- (3) Die munisipale bestuurder kan 'n lasgewing uitreik wat van afvalgenereerders vereis word om sekere tipes afval van die algemene afvalstroom te skei.

### **Berging en afvalhouers vir algemene afval**

#### **5. (1) 'n Persoon wat—**

- (a) algemene afval genereer vir verwydering deur die Munisipaliteit; of
- (b) afvalstrome skei vir verwydering deur die Munisipaliteit vir herwinning, moet die afval in 'n afvalhouer plaas wat deur die Munisipaliteit of die betrokke diensverskaffer, na gelang van die geval, vir daardie doeleinde goedgekeur, aangewys of verskaf is.

#### **(2) 'n Persoon beoog in subartikel (1) moet toesien dat—**

- (a) die afvalhouer tussen afvalverwyderingsdae op die perseel waar die afval gegenereer word en weg van 'n openbare plek gestoor word;
  - (b) op die verwyderingsdag soos bepaal in die afvalverwyderingsdaerooster, die afvalhouer buite die perseel geplaas word in 'n gebied wat vir munisipale beamptes of diensverskaffers toeganklik is;
  - (c) maatreëls in plek is om te voorkom dat diere met die afval peuter;
  - (d) 'n afvalhouer wat deur die Munisipaliteit of diensverskaffer verskaf is, nie vir enige ander doeleinde as die berging van afval gebruik word nie;
  - (e) indien die afvalhouer gesteel of beskadig is of verweer het, die Munisipaliteit daarvan in kennis gestel word en reëlings getref word om die afvalhouer te vervang sodra die diefstal, skade of verwering onder sy of haar aandag kom.
- (3) Waar 'n afvalhouer gesteel word soos beoog in subartikel (2)(e), kan 'n gemagtigde munisipale beampte versoek dat die diefstal by die Suid-Afrikaanse Polisie aangemeld word voordat 'n nuwe afvalhouer uitgereik word.

### **Eienaarskap van afval**

- 6. (1) 'n Persoon wat afval genereer, is die eienaar van daardie afval totdat dit deur daardie persoon beskikbaar gestel word vir verwydering deur die Munisipaliteit of 'n diensverskaffer ooreenkomstig hierdie verordening.**
- (2) Afval word die eiendom van die Munisipaliteit sodra dit vir verwydering beskikbaar gestel word.
- (3) Subartikel (1) en (2) is nie van toepassing op afvalstrome wat ingevolge artikel 10(2)(d) geïdentifiseer word en afval wat wederregtelik beskik is nie.

(4) 'n Persoon wat afval beoog in subartikel (3) genereer, bly die eienaar van die afval totdat daar wettiglik met die afval beskik word.

(5) Afval op die volgende persele wat deur die Munisipaliteit beheer word:

(a) afvalstorting fasiliteite;

(b) afvaloorlaaifasiliteite; en

(c) fasiliteite waar afval ontvang, geberg, gewin of behandel word, is die eiendom van die Munisipaliteit.

(6) Geen persoon mag afval van 'n perseel beoog in subartikel (5) verwyder of daaraan peuter nie, tensy deur die Munisipaliteit gemagtig.

## **HOOFSTUK 2 GEÏNTEGREERDE AFVALBESTUURSPLAN**

### **Opstel van geïntegreerde afvalbestuursplan**

7. Die munisipale bestuurder kan 'n lasgewing uitreik aan 'n persoon of enige kategorie persone wat afval in die gebied van die Munisipaliteit genereer, om 'n geïntegreerde afvalbestuursplan op te stel en vir goedkeuring aan die Munisipaliteit voor te lê.

### **Inhoud van geïntegreerde afvalbestuursplan**

8. 'n Geïntegreerde afvalbestuursplan moet die volgende inligting bevat:

(a) die hoeveelheid afval wat gegenereer word;

(b) maatreëls om besoedeling of ekologiese agteruitgang te voorkom;

(c) teikens om afval tot die minimum te beperk deur die vermindering, hergebruik, herwinning en winning van afval;

(d) maatreëls of programme om die generering van afval en die finale beskik van afval tot die minimum te beperk;

(e) maatreëls of optrede om afval te bestuur;

(f) geleenthede vir die vermindering van afvalgenerering deur middel van veranderinge aan verpakking, produkontwerp of produksieprosesse;

(g) meganismes om die publiek in te lig oor die uitwerking op die omgewing van produkte of verpakking wat afval genereer;

(h) die tydperk wat vir die implementering van die plan benodig word; en

(i) metodes om die implementering van die plan te monitor en daarvan verslag te doen.

## **HOOFSTUK 3 LEWERING VAN AFVALBESTUURSDIENSTE**

### **Diensverskaffers**

9. (1) Die Munisipaliteit kan enige van sy werksaamhede met betrekking tot die skeiding, verwydering, berging, verwerking, herwinning, behandeling en beskik

van afval vervul deur 'n diensleweringsooreenkoms met 'n diensverskaffer aan te gaan.

(2) 'n Diensleweringsooreenkoms moet—

- (a) met hierdie verordening in ooreenstemming wees;
- (b) diensstandaarde stipuleer vir die dienste wat verskaf moet word, met inbegrip van tye en die gereeldheid van verwydering;
- (c) voorsiening maak vir die omstandighede waaronder dienste wat deur die diensverskaffer verskaf word, beperk kan word; en
- (d) vereis dat die diensverskaffer op die provinsiale geïntegreerde inligtingstelsel oor besoedelende stowwe en afval geregistreer is.

### **Verwydering en vervoer van algemene afval**

**10.** (1) Die Munisipaliteit moet 'n rooster opstel vir die dae waarop afval verwyder word en die plekke waar die afvalhouers op daardie dae geplaas moet word.

(2) Die Munisipaliteit kan—

- (a) 'n afvalverwyderingsdaerooster vir kommersiële en residensiële eiendomme opstel;
- (b) op versoek van 'n persoon afval afwykend van die rooster teen 'n vaste tarief verwyder;
- (c) die maksimum hoeveelhede afval wat verwyder sal word, bepaal;
- (d) by kennisgewing in die *Provinsiale Koerant* afvalstrome identifiseer wat nie deur die Munisipaliteit verwyder mag word nie of wat nie geskik is vir verwydering nie.

(3) Die Munisipaliteit moet—

- (a) die afvalverwyderingsdaerooster in 'n gedrukte formaat of elektronies publiseer; en
- (b) ander redelike stappe doen om toe te sien dat die publiek van die rooster in kennis gestel word.

(4) Indien afval wat vervoer word, uitgemors word, uitlek of loskom, of uit 'n afvalhouer, voertuig of ander vervoermiddel val, kan die Munisipaliteit koste van die vervoerder verhaal vir redelike regstellende maatreëls onderneem deur die Munisipaliteit.

### **Vervoer van afval vir wins**

**11.** 'n Persoon wat algemene afval vir wins in die Munisipale gebied vervoer, moet—

- (a) toesien dat die afvalhouer, voertuig of ander vervoermiddel groot genoeg is en ontwerp is vir die tipe afval wat vervoer word;
- (b) die afval vervoer op 'n wyse wat enige oorlas sal voorkom;
- (c) die afvalhouer, voertuig of ander vervoermiddel te alle tye in 'n skoon en sanitêre toestand behou; en
- (d) toesien dat die afval vervoer word na of gedeponeer word by 'n afvaloorlaaifasiliteit, bergingsfasiliteit vir algemene afval, herwinningsfasiliteit of afvalstorting fasiliteit wat gemagtig is om sodanige afval te ontvang.



**Verwydering van ongewenste afval**

12. 'n Persoon mag nie afval wat ingevolge artikel 10(2)(d) vir verwydering geïdentifiseer is, afsonderlik of tussen ander afval waarvoor die Munisipaliteit verwyderingsdienste verskaf, plaas nie, tensy reëlings vooraf met die Munisipaliteit getref is vir spesiale verwydering deur die Munisipaliteit of 'n diensverskaffer.

**Afvaloorlaaifasiliteite**

13. 'n Afvalgenereerder moet, waar van toepassing—

- (a) 'n geskikte afvaloorlaaifasiliteit gebruik soos beveel deur 'n gemagtigde munisipale beampte, 'n afvalstorting fasiliteit-operateur of 'n diensverskaffer; en
- (b) hou by die bedryfsprosedures van die afvaloorlaaifasiliteit soos bepaal deur die Munisipaliteit.

**Besik van afval**

14. (1) 'n Gemagtigde munisipale beampte, 'n afvalstorting fasiliteit-operateur of 'n diensverskaffer kan alle afvalvragte wat 'n afvaloorlaaifasiliteit, bergingsfasiliteit vir algemene afval, herwinningsfasiliteit of afvalstorting fasiliteit binnegaan, inspekteer.

(2) Die inspeksie beoog in subartikel (1) kan die volgende insluit:

- (a) visuele en fisiese inspeksie van die afval, met inbegrip van die gebruik van handtoetsapparate; en
- (b) 'n laboratoriumontleding van die afval.

(3) 'n Gemagtigde munisipale beampte kan aan die houer van afval wat moontlik skadelik vir die omgewing is, 'n opdrag uitreik om—

- (a) onafhanklike laboratoriumtoetse te laat doen voor die afval beskik word om te bepaal of die afval geskik is vir 'n afvalstoring fasiliteit; of
- (b) met die afval weg te doen by 'n vermelde afvalstorting fasiliteit en om bewys van sodanige beskik te lewer.

(4) Indien 'n gemagtigde munisipale beampte bekommerd is oor die moontlike skadelike uitwerking van enige afval indien dit nie korrek beskik word nie, kan die gemagtigde munisipale beampte by 'n geskikte afvalstorting fasiliteit die afval beskik.

(5) Onder die omstandighede beoog in subartikel (2)(b), (3) en (4), of waar afval beoog in artikel 10(2)(d) deur die Munisipaliteit verwyder is, kan die Munisipaliteit enige koste wat aangegaan is, verhaal van elke verantwoordelike persoon, gesamentlik of afsonderlik, met inbegrip van die koste in verband met—

- (a) die gebruik van gespesialiseerde toerusting gedurende die laboratoriumtoetse;
- (b) gelde vir laboratoriumontledings;
- (c) administratiewe gelde;



- (d) vervoer- en beskikkoste; en
  - (e) opruimingskoste, waar van toepassing.
- (6) 'n Persoon wat afval beskik by 'n afvalstoring fasiliteit wat deur die Munisipaliteit besit of bestuur word, moet aan die bedryfsprosedures van die fasiliteit voldoen.

## HOOFSTUK 4

### HERWINBARE AFVAL

#### **Berging, skeiding en verwydering van herwinbare afval**

15. (1) 'n Persoon wat enige aktiwiteit onderneem wat die hergebruik, herwinning of winning van afval behels, met inbegrip van enige skroothandelaar en formele herwinningsgroep, moet voordat enige sodanige aktiwiteit onderneem word, toesien dat die hergebruik, herwinning of winning van die afval minder skadelik vir die omgewing is as die beskik daarvan.
- (2) Die munisipale bestuurder kan aan 'n persoon beoog in subartikel (1) 'n lasgewing uitreik om maandeliks—
- (a) aan die Munisipaliteit verslag te doen van die hoeveelhede afval wat gegenereer is, hoeveelhede afval wat by 'n gemagtigde afvalstorting fasiliteit beskik is, en hoeveelhede wat vir herwinning en winning geskei is; of
  - (b) die besonderhede beoog in paragraaf (a) op die geïntegreerde inligtingstelsel oor besoedelende stowwe en afval aan te teken.
- (3) Die munisipale bestuurder kan aan 'n houer van afval 'n lasgewing uitreik om—
- (a) vermelde herwinbare afval te skei;
  - (b) verskillende afvalhouers vir verskillende vermelde kategorieë herwinbare afval te gebruik; en
  - (c) herwinbare afval vir verwydering beskikbaar te stel.
- (4) Die munisipale bestuurder kan 'n lasgewing uitreik wat vereis dat die uitvoerende liggaam van 'n gemeenskapskema en die eienaars en inwoners van residensiële eiendomme binne die gemeenskapskema—
- (a) vermelde herwinbare afval skei;
  - (b) verskillende afvalhouers vir verskillende vermelde kategorieë herwinbare afval gebruik; en
  - (c) herwinbare afval op die vermelde wyse vir verwydering beskikbaar stel.
- (5) Indien die Munisipaliteit of 'n diensverskaffer vir die doeleindes van subartikel (3)(b) of (4)(b) afsonderlike afvalhouers verskaf het, mag 'n persoon geen ander afvalhouer vir herwinbare afval gebruik nie.

### **Skeiding van afval in geografiese gebied**

- 16.** (1) Die Munisipaliteit kan, by kennisgewing in die *Provinsiale Koerant*, vereis dat die houer van afval in 'n geografiese gebied vermeld in die kennisgewing—
- (a) vermelde herwinbare afval skei;
  - (b) verskillende afvalhouers vir verskillende vermelde kategorieë herwinbare afval gebruik; en
  - (c) die herwinbare afval op die vermelde wyse vir verwydering beskikbaar stel.
- (2) Voor 'n kennisgewing beoog in subartikel (1) gepubliseer word, moet die Munisipaliteit 'n kennisgewing in die *Provinsiale Koerant* publiseer—
- (a) wat die herwinbare afval wat ingevolge die voorgestelde kennisgewing binne die betrokke geografiese gebied geskei moet word, uiteensit;
  - (b) wat die wyse uiteensit waarop die vermelde herwinbare afval vir verwydering geplaas moet word;
  - (c) wat uiteensit wanneer die herwinbare afval verwyder sal word; en
  - (d) waarin skriftelike kommentaar op die aangeleentheid beoog in paragrawe (a) en (b) aangevra word.

## **HOOFSTUK 5 VERBODINGE**

### **Verbod op ongemagtigde beskik van afval**

- 17.** (1) Geen persoon mag—
- (a) afval beskik in of op enige grond of watermassa of by enige fasiliteit nie, tensy die beskik van daardie afval deur 'n wet gemagtig word; of
  - (b) bewustelik of uit nalatigheid veroorsaak of toelaat dat afval beskik word op 'n wyse wat waarskynlik mense se gesondheid sal benadeel of skade aan die omgewing sal veroorsaak.
- (2) Indien daar strydig met hierdie verordening oor afval beskik is, kan die munisipale bestuurder 'n lasgewing aan die verantwoordelike persoon uitreik om die afval binne 'n vermelde tydperk na 'n gemagtigde afvalstorting kfasiliteit te verwyder.
- (3) Indien afval strydig met hierdie verordening beskik is en—
- (a) die verantwoordelike persoon versuim om aan die lasgewing beoog in subartikel (2) te voldoen, of nie toereikend daaraan voldoen nie;
  - (b) daar onsekerheid is oor die identiteit van die verantwoordelike persoon of waar die verantwoordelike persoon hom of haar bevind; of
  - (c) daar 'n onmiddellike risiko van gevaar vir die publiek of skade aan die omgewing is,
- kan die Munisipaliteit enige maatreëls tref wat hy nodig ag om die afval te bedwing, en die gevolge van die beskik van die afval tot 'n minimum te beperk, en kan die Munisipaliteit skoonmaakprosedures onderneem en die gevolge van die beskik van die afval regstel.

(4) Die Munisipaliteit kan enige koste wat ingevolge subartikel (3) aangegaan is, van elke verantwoordelike persoon, gesamentlik en afsonderlik, verhaal.

### **Verbod op verbranding van afval**

**18.** Geen persoon mag afval verbrand, veras of enige ander hittebehandelings-tegnologie op afval toepas nie, behalwe in 'n hittebehandelingsfasiliteit wat deur die Munisipaliteit of die betrokke bevoegde owerheid gemagtig is.

### **Verbod op rommelstrooiing**

**19.** (1) Geen persoon mag—

- (a) rommel strooi nie;
- (b) afval op enige openbare plek beskik nie;
- (c) enigiets in enige afvalhouer wat vir die doeleindes van afvalverwydering geplaas is, op so 'n wyse versteur of verwyder dat dit veroorsaak dat die inhoud van die afvalhouer uitgemors word of op die grond val nie; of
- (d) 'n persoon in sy of haar diens, of wat onder sy of haar leiding of beheer is, toelaat om enige van die handeling beoog in paragraaf (a), (b) of (c) te verrig nie.

(2) Indien rommel op 'n wyse wat strydig is met hierdie verordening beskik of weggegooi is op grond in privaat besit waartoe die publiek toegang het, moet die eienaar van daardie grond die rommel binne 'n redelike tydperk van die eiendom verwyder.

### **Verbod op oorlas**

**20.** (1) 'n Persoon wat afval hanteer, hetsy gedurende berging, verwydering, vervoer, herwinning, behandeling of beskik, moet—

- (a) redelike maatreëls tref om te voorkom dat dit 'n oorlas vir enigiemand of die omgewing is; en
- (b) op sy of haar eie onkoste maatreëls tref om enige oorlas wat veroorsaak is, reg te stel.

(2) Die munisipale bestuurder kan 'n lasgewing aan 'n verantwoordelike persoon uitreik om maatreëls te tref om voldoening aan subartikel (1) te verseker.

(3) Indien 'n lasgewing uitgereik is soos beoog in subartikel (2) en—

- (a) die verantwoordelike persoon versuim om aan die lasgewing te voldoen of nie toereikend daaraan voldoen nie;
- (b) daar onsekerheid is oor die identiteit van die verantwoordelike persoon of waar die verantwoordelike persoon hom of haar bevind; of
- (c) daar 'n onmiddellike risiko van gevaar vir die publiek of skade aan die omgewing is,

kan die Munisipaliteit enige maatreëls tref wat hy nodig ag om die oorlas te voorkom, die gevolge van die oorlas te bedwing en tot 'n minimum te beperk en om die gevolge van die oorlas reg te stel.

(4) Die Munisipaliteit kan enige koste wat ingevolge subartikel (3) aangegaan is, van elke verantwoordelike persoon, gesamentlik en afsonderlik, verhaal.

## HOOFSTUK 6 HANTERING VAN VERSKILLENDE Tipes AFVAL

### Organiese afval

21. (1) Die okkupant van 'n perseel waarop—

- (a) organiese afval gegeneer word, kan die afval op die perseel komposteer, met dien verstande dat die kompostering nie 'n oorlas of skade aan mense se gesondheid of die omgewing veroorsaak nie;
- (b) organiese afval gegeneer en nie gekomposteer word nie, moet toesien dat die afval binne 'n redelike tydperk nadat dit gegeneer is, verwyder en behandel word of beskik word.

(2) Die munisipale bestuurder kan 'n lasgewing uitreik aan—

- (a) 'n vervoerder van tuinafval of 'n persoon wat tuinstandhoudingsdienste verskaf, om enige tuinafval te vervoer na 'n fasiliteit wat die Munisipaliteit aangewys het vir beskiking;
- (b) 'n genereerder van organiese afval om 'n geïntegreerde afvalbestuursplan op te stel wat maatreëls aandui om sodanige afval tot die minimum te beperk en te win; en
- (c) 'n genereerder van organiese afval om die afval na aangewese fasiliteite vir behandeling of beskik te vervoer.

(3) Die Munisipaliteit of 'n diensverskaffer kan, op skriftelike versoek van die okkupant van 'n perseel waarop organiese afval gegeneer word, by die betaling van 'n tarief 'n geskikte afvalhouer lewer vir die doel van die berging van organiese afval, benewens enige afvalhouer wat ingevolge artikel 5(1) vir algemene afval verskaf is.

### Grootmaat afval

22. (1) 'n Persoon wat grootmaat afval genereer, mag nie die grootmaat afval saam met ander afval plaas wat ooreenkomstig die afvalverwyderingsdaerooster deur die Munisipaliteit verwyder sal word nie, en moet toesien dat die grootmaat afval herwin word of, wanneer dit nie herwin kan word nie, beskik word by 'n fasiliteit wat deur die Munisipaliteit aangewys is om grootmaat afval te ontvang.

(2) Die Munisipaliteit of 'n diensverskaffer kan, op versoek van die okkupant van 'n perseel waar grootmaat afval gegeneer word, by die betaling van 'n tarief grootmaat afval van daardie perseel verwyder.

(3) Die munisipale bestuurder kan 'n lasgewing uitreik aan 'n diensverskaffer wat grootmaat afval verwyder om maandeliks—

- (a) aan die Munisipaliteit verslag te doen van die hoeveelhede grootmaat afval wat beskik is en die hoeveelhede wat vir herwinning geskei is; of
- (b) die besonderhede beoog in paragraaf (a) op die geïntegreerde inligtingstelsel oor besoedelende stowwe en afval aan te teken.

### **Bou- en slopingsafval**

23. (1) 'n Persoon wat bou- en slopingsafval genereer, mag nie die bou- en slopingsafval meng met afval wat die Munisipaliteit ooreenkomstig die afvalverwyderingsdaerooster verwyder nie, en moet toesien dat die bou- en slopingsafval herwin word of, wanneer dit nie herwin kan word nie, beskik word by 'n fasiliteit wat deur die Munisipaliteit aangewys is om bou- en slopingsafval te ontvang.
- (2) Die munisipale bestuurder kan 'n lasgewing uitreik aan 'n persoon wat bou- of slopingsafval genereer, om die afval vir behandeling, herwinning of hergebruik te skei en om maandeliks—
- (a) aan die Munisipaliteit verslag te doen van die hoeveelhede bou- en slopingsafval wat gegenereer is, die hoeveelhede wat beskik is by 'n gemagtigde afvalstoring fasiliteit en die hoeveelhede wat vir herwinning en hergebruik geskei is; of
  - (b) die besonderhede beoog in paragraaf (a) op die geïntegreerde inligtingstelsel oor besoedelende stowwe en afval aan te teken.
- (3) 'n Persoon wat by die Munisipaliteit aansoek doen om goedkeuring om slopingswerk te onderneem ingevolge die Nasionale Bouregulasies, gemaak kragtens Goewermentskennisgewing R2378 van 1990 in *Staatskoerant* 12780, van 12 Oktober 1990, moet 'n slopingsafvalplan saam met die aansoek indien.
- (4) Die slopingsafvalplan moet 'n dekonstruksieplan insluit wat die voorgestelde proses vir die sloping beskryf en moet gedetailleerde planne vir die maksimale winning van herbruikbare en herwinbare afval uiteensit.
- (5) Die Munisipaliteit kan, by kennisgewing in die *Provinsiale Koerant*, van 'n persoon wat 'n bou- en slopingsafvalverwyderingsdiens in die gebied van die Munisipaliteit bedryf of wil bedryf, vereis om—
- (a) by die Munisipaliteit te registreer voordat hy of sy sodanige werk onderneem; en
  - (b) die inligting wat in die kennisgewing vermeld word, of soos die Munisipaliteit redelikerwys kan vereis, te verskaf.
- (6) 'n Aansoek om registrasie om 'n bou- en slopingsafvalverwyderingsdiens te bedryf moet in 'n vorm wees wat die Munisipaliteit bepaal.
- (7) Die Munisipaliteit moet, binne 30 dae ná ontvangs van 'n aansoek om registrasie beoog in subartikel (6), die aansoek oorweeg en hetsy—
- (a) die aansoeker registreer en 'n registrasiesertifikaat aan die aansoeker uitreik wat die volgende vermeld:
    - (i) die naam van die fasiliteit wat geregistreer is om 'n bou- en slopingsafvalverwyderingsdiens te bedryf;
    - (ii) die afvalinligtingregistrasienuommer;
    - (iii) die tipe afval wat die fasiliteit hanteer;
    - (iv) die ligging van die fasiliteit; en
    - (v) die datum van registrasie; of
  - (b) by skriftelike kennisgewing die aansoek om registrasie vir regstelling na die aansoeker terugstuur.

- (8) 'n Aansoek om registrasie wat vir regstelling teruggestuur is, moet binne 30 dae ná die datum waarop die Munisipaliteit die skriftelike kennisgewing vir regstelling aan die aansoeker uitgereik het, gewysig word en weer by die Munisipaliteit ingedien word.
- (9) 'n Aansoek om registrasie wat soos beoog in subartikel (8) gewysig en weer ingedien is, moet soos beoog in subartikel (7) hanteer word.
- (10) Die Munisipaliteit kan by die betaling van 'n tarief self 'n bou- en slopingsafvalverwyderingsdiens verskaf.
- (11) 'n Persoon wat 'n geskikte afvalhouer vir die berging en verwydering of beskik van bou- en slopingsafval op 'n openbare pad wil plaas, moet om skriftelike toestemming by die Munisipaliteit aansoek doen.
- (12) 'n Afvalhouer beoog in subartikel (11) moet—
- (a) duidelik gemerk wees met die naam, adres en telefoonnommer van die persoon wat vir die afvalhouer verantwoordelik is;
  - (b) toegerus wees met weerkaatsende chevrons of weerkaatsers wat die voor-, sy- en agterkante van die afvalhouer duidelik omlin; en
  - (c) te alle tye bedek wees, behalwe wanneer dit afval ontvang of die afval daarin verwyder word, sodat geen verskuiwing van die inhoud kan plaasvind nie.

### **Gevaarhoudende afval**

- 24.** (1) Die Munisipaliteit kan, by kennisgewing in die *Provinsiale Koerant*, vereis dat 'n persoon wat gevaarhoudende afval in die gebied van die Munisipaliteit genereer, behandel, vervoer of beskik of dit wil genereer, behandel, vervoer of beskik—
- (a) by die Munisipaliteit registreer voordat hy of sy sodanige werk onderneem; en
  - (b) die inligting soos vermeld in die kennisgewing of soos die Munisipaliteit redelikerwys kan vereis, verskaf.
- (2) 'n Aansoek om registrasie om gevaarhoude afval te genereer, behandel, vervoer of beskik moet in 'n vorm wees wat die Munisipaliteit bepaal.
- (3) Die Munisipaliteit moet, binne 30 dae ná ontvangs van 'n aansoek om registrasie soos beoog in subartikel (2), die aansoek oorweeg en hetsy—
- (a) die aansoeker registreer en 'n registrasiesertifikaat wat die volgende vermeld, aan die aansoeker uitreik:
    - (i) die naam van die fasiliteit wat geregistreer is om gevaarhoudende afval te genereer, behandel, vervoer of weg te doen;
    - (ii) die afvalinligtingregistrasienumer;
    - (iii) die tipe afval wat die fasiliteit hanteer;
    - (iv) die ligging van die fasiliteit; en
    - (v) die datum van registrasie; of
  - (b) by skriftelike kennisgewing die aansoek om registrasie vir regstelling na die aansoeker terugstuur.

(4) 'n Aansoek om registrasie wat vir regstelling teruggestuur is, moet binne 30 dae ná die datum waarop die Munisipaliteit die skriftelike kennisgewing vir regstelling aan die aansoeker uitgereik het, gewysig word en weer by die Munisipaliteit ingedien word.

(5) 'n Aansoek om registrasie wat soos beoog in subartikel (4) gewysig en weer ingedien is, moet soos beoog in subartikel (3) hanteer word.

(6) 'n Persoon wat gevaarhoudende afval genereer of die eienaar is van 'n perseel waar gevaarhoudende afval gegenereer word, moet 'n kontrak sluit met 'n diensverskaffer wat ingevolge hierdie artikel geregistreer is om sodanige afval te behandel, te vervoer, of weg te doen.

### **Afvalbuitebande**

**25.** (1) Die Munisipaliteit kan, by kennisgewing in die *Provinsiale Koerant*, vereis dat 'n persoon wat as 'n buitebandprodusent, buitebandhandelaar, afvalbuitebandverwyderaar, eienaar van 'n buitebandopgaarplek of buitebandherwinningsvervaardiger sake doen of wil doen—

(a) by die Munisipaliteit registreer voordat hy of sy sodanige werk onderneem; en

(b) die inligting vermeld in die kennisgewing of soos wat die Munisipaliteit redelikerwys kan vereis, te verskaf.

(2) 'n Aansoek om registrasie om sake te doen as 'n buitebandprodusent, buitebandhandelaar, afvalbuitebandverwyderaar, eienaar van 'n buitebandopgaarplek of buitebandherwinningsvervaardiger moet in 'n vorm wees wat die Munisipaliteit bepaal.

(3) Die Munisipaliteit moet, binne 30 dae ná ontvangs van 'n aansoek om registrasie soos beoog in subartikel (2) die aansoek oorweeg en hetsy—

(a) die aansoeker registreer en 'n registrasiesertifikaat wat die volgende vermeld, aan die aansoeker uitreik:

(i) die naam van die fasiliteit wat geregistreer is om sake te doen as 'n buitebandprodusent, buitebandhandelaar, afvalbuitebandverwyderaar, eienaar van 'n buitebandopgaarplek of buitebandherwinningsvervaardiger;

(ii) die afvalinligtingregistrasienuommer;

(iii) die tipe afval wat die fasiliteit hanteer;

(iv) die ligging van die fasiliteit; en

(v) die datum van registrasie; of

(b) by skriftelike kennisgewing die aansoek om registrasie vir regstelling na die aansoeker terugstuur.

(4) 'n Aansoek om registrasie wat vir regstelling teruggestuur is, moet binne 30 dae ná die datum waarop die Munisipaliteit die skriftelike kennisgewing vir regstelling aan die aansoeker uitgereik het, gewysig word en weer by die Munisipaliteit ingedien word.

(5) 'n Aansoek om registrasie wat soos beoog in subartikel (4) gewysig en weer ingedien is, moet soos beoog in subartikel (3) hanteer word.



(6) Die Munisipaliteit kan, by kennisgewing in die *Provinsiale Koerant*, van die publiek vereis om buitebande by fasiliteite aangewys in die kennisgewing weg te doen.

### **Geleentheidsafval**

**26.** (1) 'n Geleentheidsorganiseerder moet saam met sy of haar aansoek om 'n geleentheidspermit 'n geleentheidsafvalbestuursplan by die Munisipaliteit indien.

(2) Die geleentheidsafvalbestuursplan moet in besonderhede uiteensit—

- (a) hoe afval tot die minimum beperk sal word en vir herwinning gewin sal word; en
- (b) die persoon wat verantwoordelik is en die maatreëls wat in plek is vir die skoonmaak, verwydering, herwinning en beskik van die geleentheidsafval.

(3) Die geleentheidsorganiseerder moet toesien dat die geleentheidsafval by 'n gemagtigde afvalstoring fasiliteit beskik word en bewys van die beskik aan die Munisipaliteit lewer.

(4) Indien enige geleentheidsafval nie opgeruim en verwyder word nadat die geleentheid aangebied is nie, kan die munisipale bestuurder 'n lasgewing aan die geleentheidsorganiseerder of verantwoordelike persoon uitreik om die afval na 'n gemagtigde afvalstorting fasiliteit te verwyder.

(5) Indien 'n lasgewing soos beoog in subartikel (4) uitgereik is en—

- (a) 'n geleentheidsorganiseerder of verantwoordelike persoon versuim om aan die lasgewing te voldoen of nie toereikend daaraan voldoen nie;
- (b) daar onsekerheid is oor die identiteit van die geleentheidsorganiseerder of verantwoordelike persoon of oor waar die organiseerder of persoon hom of haar bevind; of
- (c) daar 'n onmiddellike risiko van gevaar vir die publiek of skade aan die omgewing is,

kan die Munisipaliteit enige maatreël wat hy nodig ag, tref om die geleentheidsafval op te ruim, te verwyder en weg te doen.

(6) Die Munisipaliteit kan die kostes wat ingevolge subartikel (5) aangegaan is, van die geleentheidsorganiseerder en enige verantwoordelike persoon, gesamentlik en afsonderlik, verhaal.

### **Verlate voorwerpe**

**27.** Die Munisipaliteit kan enige voorwerp wat hy redelikerwys as verlate ag, verwyder en beskik, met inagneming van die volgende faktore:

- (a) waar die voorwerp is;
- (b) hoe lank die voorwerp reeds op daardie plek is; en
- (c) die aard en toestand van die voorwerp.



## HOOFSTUK 7

### ADMINISTRATIEWE AANGELEENTHEDE, VOLDOENING EN AFDWINGING

#### Aanspreeklikheid om tariewe te betaal

- 28.** (1) Die eienaar van 'n perseel aan wie die Munisipaliteit afvalbestuursdienste beoog in hierdie verordening verskaf, is aanspreeklik vir die betaling van tariewe.
- (2) Die Munisipaliteit kan enige persoon of kategorie persone wat ingevolge die munisipale deernisbeleid behoeftig geag word, van die betaling van tariewe vir afvalbestuursdienste vrystel of 'n korting toestaan.

#### Vrystellings

- 29.** (1) 'n Persoon kan skriftelik by die Munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.
- (2) 'n Aansoek beoog in subartikel (1) moet in 'n vorm wees wat die Munisipaliteit bepaal, en moet vergesel wees van 'n motivering vir die vrystelling.
- (3) Die Munisipaliteit kan—
- (a) 'n vrystelling skriftelik verleen, met of sonder voorwaardes waaraan die verlening van die vrystelling onderhewig is;
  - (b) 'n vrystelling, of 'n voorwaarde in 'n vrystelling, wysig of kanselleer; of
  - (c) weier om 'n vrystelling te verleen.
- (4) Ten einde 'n aansoek beoog in subartikel (1) te oorweeg, kan die Munisipaliteit kommentaar aanvra van lede van die publiek wat deur die verlening van die vrystelling geraak sal word.
- (5) Indien 'n vrystelling verleen is onderhewig aan voorwaardes, tree die vrystelling nie in werking nie totdat die aansoeker 'n skriftelike onderneming by die Munisipaliteit ingedien het dat hy of sy aan al die voorwaardes sal voldoen.
- (6) Indien die aansoeker versuim om aan 'n voorwaarde van die vrystelling te voldoen, word die vrystelling met onmiddellike werking opgeskort.

#### Aanwysing van sekere beamptes

- 30.** (1) Die munisipale bestuurder kan—
- (a) enige personeellid van die Munisipaliteit as 'n gemagtigde munisipale beampte aanwys;
  - (b) enige personeellid van die volgende instansies as 'n afvalstoring fasiliteit-operateur aanwys:
    - (i) die Munisipaliteit;
    - (ii) enige ander staatsorgaan; of
    - (iii) 'n diensverskaffer; en
  - (c) kan te eniger tyd 'n aanwysing wat ingevolge paragraaf (a) of (b) gedoen is, terugtrek.
- (2) 'n Aanwysing beoog in subartikel (1)(b)(ii) kan slegs by ooreenkoms tussen die munisipale bestuurder en die betrokke staatsorgaan gedoen word.

### **Werkzaamhede van gemagtigde munisipale beamptes en afvalstoring fasiliteit-operateurs**

- 31.** (1) 'n Gemagtigde munisipale beampte—
- (a) moet hierdie verordening administreer, implementeer en afdwing; en
  - (b) kan enige werkzaamheid wat by hierdie verordening aan 'n gemagtigde munisipale beampte opgedra is, met inbegrip van die uitvoer van 'n inspeksie, die ondersoek van enige handeling of versuim wat ingevolge hierdie verordening 'n misdryf kan uitmaak, en die monitering en afdwinging van voldoening aan hierdie verordening.
- (2) 'n Afvalstoring fasiliteit-operateur moet hierdie verordening by 'n munisipale afvaloorlaaifasiliteit, bergingsfasiliteit vir algemene afval, herwinningsfasiliteit of afvalstoring fasiliteit, na gelang van die geval, administreer, implementeer en afdwing.

### **Persele ontoeganklik vir afvalverwydering**

- 32.** Indien werknemers van die Munisipaliteit of 'n diensverskaffer beoog in artikel 9—
- (a) verhinder word om afval op enige perseel te hanteer of te verwyder weens die uitleg van die perseel; of
  - (b) in gevaar gestel word deur 'n hindernis op die perseel wanneer afval op enige perseel hanteer of verwyder word,
- kan die munisipale bestuurder 'n lasgewing uitreik wat van die eienaar van die perseel vereis om, op die eienaar se onkoste, die veranderinge of byvoegings wat nodig is om die hindernis te verwyder, aan die perseel aan te bring.

### **Plig om dokumente te verskaf**

- 33.** 'n Persoon aan wie 'n sertifikaat, permit, magtiging of enige ander dokument beoog in hierdie verordening uitgereik is, moet dit op versoek van 'n vredesbeampte of 'n gemagtigde munisipale beampte verskaf.

### **Lasgewings**

- 34.** (1) Die munisipale bestuurder kan 'n lasgewing uitreik aan enige persoon soos beoog in hierdie verordening om binne 'n vermelde tydperk spesifieke maatreëls met betrekking tot afval te tref om toe te sien dat die uitwerking van afval op mense se gesondheid of skade aan die omgewing versag word en om aan die afvalbestuurshiërargie uitvoering te gee.
- (2) Voordat 'n lasgewing beoog in hierdie verordening uitgereik word, moet die munisipale bestuurder aan die persoon vir wie die lasgewing bestem is, skriftelik kennis gee van die voorneme om die lasgewing uit te reik en daardie persoon 'n redelike geleentheid gee om skriftelike verhoë te rig.
- (3) Indien dringende optrede vir die beskerming van die omgewing nodig is—
- (a) kan die munisipale bestuurder die lasgewing uitreik sonder om vooraf aan die persoon skriftelike kennis te gee; en

- (b) moet die munisipale bestuurder aan die persoon aan wie die lasgewing uitgereik is, so gou as wat redelik is daarná 'n geleentheid gee om skriftelike verhoë te rig.

### **Voldoeningskennisgewings**

**35.** (1) 'n Gemagtigde munisipale beampte kan 'n skriftelike voldoeningskennisgewing aan 'n persoon uitreik indien daar redelike gronde is om te glo dat die persoon nie aan die volgende voldoen het nie:

- (a) 'n bepaling van hierdie verordening; of
- (b) 'n bepaling of voorwaarde van enige permit, magtiging, vrystelling of ander dokument wat ingevolge hierdie verordening uitgereik is.

(2) Voordat 'n gemagtigde munisipale beampte 'n voldoeningskennisgewing uitreik, moet hy of sy die persoon vir wie die voldoeningskennisgewing bestem is, skriftelik kennis gee van die voorneme om die voldoeningskennisgewing uit te reik en daardie persoon 'n redelike geleentheid gee om skriftelike verhoë te rig.

(3) Indien dringende optrede vir die beskerming van die omgewing nodig is—

- (a) kan 'n gemagtigde munisipale beampte 'n voldoeningskennisgewing uitreik sonder om vooraf aan die persoon skriftelike kennis te gee; en
- (b) moet 'n gemagtigde munisipale beampte aan die persoon aan wie die voldoeningskennisgewing uitgereik is, so gou as wat redelik is daarná 'n geleentheid gee om skriftelike verhoë te rig.

(4) 'n Voldoeningskennisgewing moet die volgende uiteensit:

- (a) besonderhede van die gedrag wat nievoldoening uitmaak;
- (b) enige stappe wat die persoon moet doen en die tydperk waarbinne die stappe gedoen moet word;
- (c) enige handeling wat die persoon nie mag verrig nie, en die tydperk waarbinne die persoon dit nie mag doen nie;
- (d) die stappe wat die Munisipaliteit ingevolge subartikel (6) geregtig is om te doen indien daar nie aan die kennisgewing voldoen word nie; en
- (e) die prosedure wat gevolg moet word vir die aantekening van appèl teen die voldoeningskennisgewing.

(5) 'n Gemagtigde munisipale beampte kan, by aanvoering van grondige redes, 'n voldoeningskennisgewing verander en die tydperk waarbinne daar daaraan voldoen moet word, verleng.

(6) Indien 'n persoon aan wie 'n voldoeningskennisgewing uitgereik is, versuim om daaraan te voldoen, kan die Munisipaliteit—

- (a) enige stappe doen wat hy nodig ag, waar van toepassing, om—
  - (i) die afval op te ruim of te verwyder;
  - (ii) die perseel, plek of geraakte gebied waar die afval gestort, of beskik is of geberg word, te rehabiliteer; en
  - (iii) toe te sien dat afval en enige besoedelde materiaal wat nie verwyder, opgeruim of gerehabiliteer kan word nie, behandel word of op 'n wettige wyse beskik word; en

- (b) die koste vir enige stappe beoog in paragraaf (a) van elke verantwoordelike persoon, gesamentlik of afsonderlik, verhaal.

### **Appèlle**

- 36.** (1) 'n Persoon wie se regte geraak word deur 'n besluit wat die Munisipaliteit ingevolge hierdie verordening geneem het, kan, tensy die besluit deur die munisipale raad geneem is, ingevolge artikel 62 van die Wet op Munisipale Stelsels teen daardie besluit appelleer.
- (2) 'n Appèl kragtens hierdie artikel skort die werking van die betrokke besluit op hangende die afhandeling van die appèl, behoudens subartikels (3) en (4).
- (3) 'n Persoon wat 'n lasgewing of voldoeningskennisgewing uitgereik ingevolge hierdie verordening ontvang, moet binne die tydperk vermeld in die lasgewing of voldoeningskennisgewing aan daardie lasgewing of voldoeningskennisgewing voldoen, tensy die appèlowerheid ingestem het om die werking van die lasgewing of voldoeningskennisgewing soos beoog in subartikel (4)(b) op te skort.
- (4) Die appèlowerheid kan, op versoek en by aanvoering van grondige redes, opdrag gee dat, hangende die afhandeling van die appèl—
- (a) die werking van die besluit wat die onderwerp van die appèl is, of enige bepaling of voorwaarde daaraan geheg, nie opgeskort word nie, hetsy in geheel of gedeeltelik; of
- (b) die werking van die lasgewing of voldoeningskennisgewing beoog in subartikel (3), of enige gedeelte van daardie lasgewing of voldoeningskennisgewing, opgeskort word.

### **Beperking van aanspreeklikheid**

- 37.** Nóg die Munisipaliteit nóg enige ander persoon is aanspreeklik vir enige skade of verlies wat veroorsaak is deur—
- (a) die uitoefening van enige bevoegdheid of die verrigting van enige plig kragtens hierdie verordening; of
- (b) die versuim om kragtens hierdie verordening enige bevoegdheid uit te oefen of enige plig te verrig,
- tensy die uitoefening of verrigting van die bevoegdheid of plig, of die versuim om dit uit te oefen of te verrig, onwettig en—
- (i) nalatig is; of
- (ii) te kwader trou is.

### **Misdrywe**

- 38.** 'n Persoon pleeg 'n misdryf indien daardie persoon—
- (a) 'n diensverskaffer, 'n afvalstorting fasiliteit-operateur of 'n gemagtigde munisipale beampte verhinder by of inmeng in die uitoefening van hul bevoegdhede of die verrigting van hul pligte ingevolge hierdie verordening;

- (b) artikel 5(1), 23(3), 23(12), 26(1) of 33 oortree of versuim om daaraan te voldoen;
- (c) artikel 4(1), 6(6), 12, 13, 14(6), 15(5), 17(1), 18, 19(1), 21(1)(b), 22(1), 24(6) of 26(3) oortree of versuim om daaraan te voldoen;
- (d) 'n voldoeningskennisgewing wat ingevolge artikel 4(2) of 35(1) uitgereik is, oortree of versuim om daaraan te voldoen;
- (e) 'n lasgewing uitgereik ingevolge artikel 4(3), 7, 15(2), 15(3), 15(4), 17(2), 20(2), 21(2), 22(3), 23(2), 26(4) of 32 oortree of versuim om daaraan te voldoen;
- (f) valslik voorgee om 'n gemagtigde munisipale beampte of afvalstorting fasiliteit-operateur te wees;
- (g) vals of misleidende inligting verskaf wanneer daar aan 'n bepaling van hierdie verordening voldoen word;
- (h) wederregtelik, en doelbewus of uit nalatigheid, enige handeling verrig of versuim om enigiets in verband met afval te doen wat die omgewing nadelig raak of wat die omgewing waarskynlik nadelig sal raak;
- (i) 'n kennisgewing beoog in artikel 16(1), 23(5), 24(1), 25(1) of 25(6) oortree of versuim om daaraan te voldoen;
- (j) 'n opdrag uitgereik ingevolge artikel 4(2) of 14(3) oortree of versuim om daaraan te voldoen;
- (k) 'n geïntegreerde afvalbestuursplan oortree of versuim om daaraan te voldoen; of
- (l) 'n voorwaarde waaraan 'n vrystelling van 'n bepaling van hierdie verordening ingevolge artikel 29 onderhewig is, oortree of versuim om daaraan te voldoen.

### **Strawwe**

- 39.** (1) 'n Persoon wat skuldig bevind is aan 'n misdryf ingevolge artikel 38(b), is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens een maand en, in die geval van 'n tweede of daaropvolgende skuldigbevinding, met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens twee maande, of in beide gevalle, met beide sodanige boetes en sodanige gevangenisstraf.
- (2) 'n Persoon wat skuldig bevind is aan 'n misdryf ingevolge artikel 38(a), (c), (d), (e), (h), (i), (j), (k) of (l), is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens een jaar, en in die geval van 'n tweede of daaropvolgende skuldigbevinding, met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens twee jaar, of in beide gevalle, met beide sodanige boetes en sodanige gevangenisstraf.
- (3) 'n Persoon wat skuldig bevind is aan 'n misdryf ingevolge artikel 38(f) of (g) is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens twee jaar, en in die geval van 'n tweede of daaropvolgende skuldigbevinding, met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens vier jaar, of in beide gevalle, met sodanige boetes en sodanige gevangenisstraf.

(4) 'n Boete beoog in subartikel (1), (2) of (3) moet bepaal word met behoorlike inagneming van—

- (a) die hewigheid van die misdryf ten opsigte van die uitwerking of moontlike uitwerking daarvan op gesondheid, welsyn, veiligheid en die omgewing; en
- (b) die geldelike of ander voordele wat die skuldige persoon toegeval het deur die pleeg van die misdryf.

### **Herroeping van verordenings**

**40.** Die Konsepverordering vir Geïntegreerde Afvalbestuur verordening word herroep.

### **Kort titel**

**41.** Hierdie verordening heet die Verordening vir Geïntegreerde Afvalbestuur van die Cederberg Munisipaliteit.

## UMASIPALA WASE-CEDERBERG

### UQULUNQO LOMTHETHO KAMASIPALA WOLAWULO OLUHLANGENEYO LWENKUNKUMA

Cederberg likamasipala *uMasipala*, phantsi kwecandelo 156(2) loMgaqo-siseko weRiphabliki yaseMzantsi Afrika, ka-1996, ufundwa necandelo 11(3)(m) loRhulumente wezeKhaya: *uMthetho weeNkqubo zikaMasipala*, ka-2000 (uMthetho wama-32 ka-2000), unenjongo yokwenza uMthetho kaMasipala ochazwe kwiShedyuli.

#### ISHEDYULI

#### ULUNGISELELO LWAMACANDELO

##### ISAPHLUKO 1 AMALUNGISELELO NGOKUBANZI

1. linkcazelo
2. Ukusetyenziswa komthetho kamasipala
3. Imithethosiseko
4. Izibophelelo zabavelisi benkunkuma
5. Ukugcinwa kunye nezikhongozeli zenkunkuma ngokubanzi
6. Ubumnini benkunkuma

##### ISAPHLUKO 2 ISICWANGCISO SOLAWULO OLUHLANGENEYO LWENKUNKUMA

7. Ulungiselelo lwesicwangciso solawulo oluhlangeneyo lwenkunkuma
8. Okuqulathwe sisicwangciso solawulo oluhlangeneyo lwenkunkuma

##### ISAPHLUKO 3 ULUNGISELELO LWEENKONZO ZOLAWULO LWENKUNKUMA

9. Ababoneleli ngenkonzo
10. Ukuqokelelwa nokuhanjiswa kwenkunkuma ngokubanzi
11. Uhanjiso lwenkunkuma ngenjongo yokuzuza
12. Uqokelelo lwenkunkuma engafanelekanga
13. Amaziko odluliselo lwenkunkuma
14. Ukulahlwa kwenkunkuma

#### **ISAPHLUKO 4 INKUNKUMA ESEBENZISEKAYO**

15. Ukugcinwa, ukwahlulwahlulwa nokuqokelelwa kwenkunkuma esebenzisekayo
16. Ukwahlulwahlulwa kwenkunkuma ngokweendawo

#### **ISAPHLUKO 5 IZITHINTELO**

17. Ukuthintela ukulahlwa kwenkunkuma ngokungekho mthethweni
18. Ukuthintela ukutshiswa kwenkunkuma
19. Ukuthintela ukungcolisa
20. Ukuthintela inkathazo

#### **ISAPHLUKO 6 UKUPHATHWA KWEENTLOBONTOLO EZAPHLUKENEYO ZENKUNKUMA**

21. Inkunkuma enokusetyenziswa
22. Isixa senkunkuma
23. Inkunkuma yesakhiwo nenkunkuma yodilizo
24. Inkunkuma enobungozi
25. Amavili enkunkuma
26. Inkunkuma yemicimbi
27. Izinto ezincanyuwayo

#### **ISAPHLUKO 7 IMICIMBI YOLAWULO, UTHOTYELO NONYANZELISO**

28. Uxanduva lokuhlawula iirhafu
29. Uxolelo
30. Ulonyulo lwamagosa athile
31. Imisebenzi yamagosa agunyazisiwayo kamasipala kunye nabasebenzi bamaziko okulahla inkunkuma
32. Izakhiwo ezingafikelelekiyo kuqokelelo lwenkunkuma
33. Umsebenzi wokuvelisa amaxwebhu
34. Izikhokelo
35. Izaziso zothotyelo
36. Izibheni
37. Izithintelo zemfanelo
38. Amatyalala
39. Izohlwayo
40. Urhoxiso lwemithetho kamasipala
41. Isihloko esifutshane



## ISAHLUKO 1 AMALUNGISELELO NGOKUBANZI

### linkcazeli

1. Kulo mthetho kamasipala igama okanye ibinzana apho intsingiselo enikezwe kwicandelo 1 lo okanye lweShedyuli yesi-3 kuMthetho weNkunkuma onentsingiselo efanayo kwaye, ngaphandle kokuba imeko ibonisa ngolunye uhlobo kungenjalo—
  - “**igosa likamasipala elisemthethweni**” lithetha nawuphi na umntu otyunjwe ngokwecandelo 30(1)(a) anjengegosa likamasipala elisemthethweni;
  - “**isixa senkunkuma**” sithetha nayiphi na inkunkuma elunge ngokobunzima bayo, imilo, ubungakanani okanye ubuninzi obuyingxaki kwinkonzo yokususwa kwenkunkuma eqhelekileyo enikezelwa nguMasipala okanye umboneleli ngenkonzo kwiminyango ngeminyango;
  - “**isicwangciso soluntu**” sinentsingiselo esabelwe kuso kumthetho *iCommunity Schemes Ombud Service Act, ka-2011* (uMthetho 9 ka- 2011);
  - “**umgquba**” uthetha naluphi na uzinziso, uhlobo olunye, ukubola ngokugqibeleleyo kwesilwanyana okanye kwesityalo semveli apho kungekho zondlo zongezelelweyo kwaneziqalelo okanye izinto ezinganobungozi kuluntu, kwizilwanyana, kwizityalo zemveli okanye zokusingqongileyo;
  - “**ukuvundisa**” kuthetha nayiphi na inkqubo yebhayoloji elawulwayo apho izixhobo zezinto eziphilayo zicukucezwe zabazizicucu ezenza umgquba;
  - “**umququzeleli wemicimbi**” uthetha nawuphi na umntu oququzelela umcimbi odinga imvume yomcimbi;
  - “**imvume yomcimbi**” ithetha nakuphi na ukukhutshwa kwemvume nguMasipala ngokumalunga ne- *[igama lomthetho kamasipala uMthetho kamasipala wokubamba umcimbi]*;
  - “**inkunkuma yomcimbi**” ithetha inkunkuma eqokelelwe kwimisebenzi enxulumene nemicimbi egunyaziswe yimvume yomcimbi;
  - “**inkunkuma yegadi**” ithetha nayiphi na inkunkuma elungiselelweyo esuka egadini okanye kwimisebenzi yembonakalo-mhlaba, ubandakanya umhlaba, ukusikwa kwengca, amagqabi kunye namasebe omthi, kodwa ingafakwanga inkunkuma yemveliso yezilwanyana zemveli kunye nesixa senkunkuma;
  - “**iziko lolondolozo lwenkunkuma jikelele**” lithetha naliphi na iziko lolondolozo elinomthamo ogcina iimitha zetyhubhikhi ezili-100 zenkunkuma jikelele okuqhubekayo;
  - “**inkunkuma yokhathalelo lomngcipheko wezempilo**” inentsingiselo eyabelwe kuyo kuMthetho woLawulo lweNkunkuma yoKhathalelo lwezeMpilo weNtshona Koloni, ka-2007 (uMthetho 7 ka- 2007);
  - “**inkqubo ehlangeneyo yongcoliseko kunye nolwazi lwenkunkuma**” ithetha nayiphi na inkqubo ye-intanethi yolwazi lolawulo lwenkunkuma yeSebe leMicimbi yokuSingqongileyo noCwangciso weNtshona Koloni;

**“isicwangciso sendibaniselwano yolawulo lwenkunkuma”** sithetha nasiphi na isicwangciso sendibaniselwano yolawulo lwenkunkuma esichazwe kwicandelo 7;

**“ungcoliso”** buthetha nayiphi na inkunkuma, ingafakwanga inkunkuma enobungozi, ethe yaphoswa, yashiywa, yabekwa, yachithwa okanye nangayiphina enye indlela yolahlo ngaphandle kwenye indawo, kwaye **“ukungcolisa”** kunentsingiselo ehambelanayo;

**“ibhunga likamasipala”** lithetha ibhunga likamasipala elikhankanywe kwicandelo 157 loMgaqosiseko weRiphabhlikhi yoMzantsi Afrika, 1996;

**“umgaqonkqubo kamasipala osweleyo”** kuthetha nawuphi na umgaqonkqubo wabasebenzisi abangamahlwempu ovunyiweyo nguMasipala;

**“umphathi kamasipala”** uthetha nawuphi na umntu oqeshwe njengomphathi kamasipala nguMasipala ngokumalunga necandelo 82 lomthetho *iMunicipal Structures Act*;

**“iMunicipal Structures Act”** ithetha *iLocal Government: Municipal Structures Act, ka-1998* (uMthetho 117 ka-1998);

**“uMthetho weNkqubo zikaMasipala”** uthetha nawuphi na umthetho *iLocal Government: Municipal Systems Act, ka-2000* (uMthetho 32 ka-2000);

**“inkathazo”** ithetha nawuphi na umonakalo, okuxakayo okanye okucaphukisayo emntwini okuthi kubangwe apho kuye kubangwe kukungafaneleki kokuveliswa, ukuphathwa, ukulawulwa, ukulondolozwa, ukufakwa, ukuqokelelwa, ukuhanjiswa okanye ukulahlwa kwenkunkuma, kuquka ukungcolisa;

**“inkunkuma yezinto eziphilayo”** ithetha nayiphi na inkunkuma yemvelo yebhayoloji enokuthi icukucezwe, ngexesha elifanelekileyo, kwisiseko seevemveliso ezincinci kunye nezinye iindlela zonyango ngexesha elifanelekileyo, kuquka inkunkuma yegadi, amakhakhayi ezilwanyana, inkunkuma yokutya kunye nenkunkuma yeenkuni;

**“igosa loxolo”** linentsingiselo eyabelwe kulo kumthetho *iCriminal Procedure Act, ka-1977* (uMthetho 51 ka-1977);

**“indawo kawonkewonke”** iquka—

(a) indlela kawonkewonke; kunye

(b) nasiphi na isakhiwo okanye indawo evulelekileyo okanye evalekileyo, igadi, ipaki, okanye ezinye iindawo ezisetyenziswa luluntu okanye apho uwonkewonke enelungelo lokusebenzisa okanye ilungelo lokufikelela;

**“indlela kawonkewonke”** inentsingiselo eyabelwe kuyo kumthetho *iNational Road Traffic Act, ka-1996* (uMthetho 93 ka-1996);

**“isikhongozeli”** sithetha naso nasiphina isikhongozeli ezivunyiweyo nguMasipala kunye nokuba nomthamo wokugcina inkunkuma wexeshana;

**“umntu onoxanduva”**, ngokubhekisele kwinkunkuma, kuthetha nawuphi na umntu o—

(a) velisa inkunkuma;

(b) ngumnini womhlaba apho inkunkuma ilahlwa khona; okanye

(c) belawula inkunkuma elahliweyo ye;

**“sivumelwano sohanjiso lwenkonzo”** esithetha isivumelwano phakathi koMasipala kunye nomntu ngokumalunga nalapho inkonzo kamasipala inikezelwa ngulo mntu, nokuba ngulo mntu ngokwakhe okanye egameni likaMasipala;

**“umboneleli ngenkonzo”** uthetha nawuphi na umntu obonelela ngenkonzo kumasipala ngokumalunga nesivumelwano sokuhambisa inkonzo noMasipala;

**“irhafu”** ithetha intlawulo emiselwe nguMasipala ngokumalunga nawo nawuphi na umthetho wayo nayiphi na inkonzo enikezelwa nguMasipala okanye umboneleli ngenkonzo ngokumalunga nalo mthetho kamasipala;

**“uMasipala”** uthetha [igama likamasipala];

**“uMthetho weNkunkuma”** uthetha umthetho *iNational Environmental Management: Waste Act, ka-2008* (uMthetho 59 ka-2008);

**“ishedyuli yokuqokelela inkunkuma ngemini”** ithetha ishedyuli echazwe kwicandelo 10(1);

**“umsebenzi weziko lenkunkuma elahliweyo”** uthetha nawuphi umntu otyunjwe ngokumalunga necandelo 30(1)(b) anjengomsebenzi wenkunkuma elahliweyo;

**“amagunya olawulo lwenkunkuma”** athetha nayiphina indlela yolawulo lwenkunkuma yolu cwangciso lulandelayo: ukuphetshwa, ukunciphisa, ukusebenzisa kwakhona, ukuhlaziya, ukufumana kwakhona, impatho, kunye nokulahlwa;

**“umjelo wenkunkuma”** uthetha ukuba inkunkuma inokwahlukaniswa ibe zintlobo ngentlobo zenkunkuma eyahlukileyo kuquka ulwaxhiwo kunye nodilizo lwenkunkuma, inkunkuma yorhwebo, isixa senkunkuma, inkunkuma yasekhaya, inkunkuma yegadi, inkunkuma enobungozi, inkunkuma yomngcipheko wokhathalelo lwempilo, inkunkuma yoshishino kunye nenkunkuma yezinto esebenzisekayo.

### **Ukusetyenziswa komthetho kamasipala**

2. (1) Lo mthetho kamasipala kufuneka ufundwe nezibonelelo zoMthetho weNkunkuma.
- (2) Lo mthetho kamasipala ujolise kubo bonke abantu kwindawo kaMasipala.
- (3) Xa kusenzeka nakuphi na ukungangqinelani phakathi kokubonelelwa kwalo mthetho kamasipala nawo nawuphi na omnye umthetho kamasipala ogunyazisa ulawulo lwenkunkuma, ubonelelo lwalo mthetho luyoyisa.

### **Imithethosiseko**

3. (1) Imithethosiseko echazwe kwiSahluko soku-1 somthetho *iNational Environmental Management Act, ka-1998* (uMthetho 107 ka-1998), isetyenziswa kuzo zonke iimeko apho lo mthetho usebenza khona.
- (2) Amanqanaba olawulo lwenkunkuma kufuneka asetyenziswe kufezekiso lwalo mthetho kamasipala.

- (3) Ukusebenza kwalo mthetho kamasipala kufuneka ukhuthaze—
- (a) Uphuhliso oluzinzileyo kunye nendalo ephilileyo ngokusebenzisa ulawulo lwenkunkuma kwindawo kaMasipala; kunye
  - (b) Noxanduva lobume babemi kwindawo kaMasipala ukuqinisekisa ukusetyenziswa kolawulo lwenkunkuma.

#### **Izibophelelo zabavelisi benkunkuma**

4. (1) Umntu kufuneka alawule nayo nayiphi na inkunkuma evelisiweyo yimisebenzi yakhe okanye imisebenzi yabantu abamsebenzelayo okanye abaphantsi kwezikhokelo zakhe okanye abalawulayo ngokohlobo lokuba inkunkuma ayidali ngozi kwimpilo yomntu okanye ubungozi kokusingqongileyo.
- (2) Igosa likamasipala elisemthethweni lingamkhuphela umntu isaziso sothotyelo esichazwe kwicandelwana (1) ukuthatha amanyathelo okuqinisekisa uthotyelo lwelo candelwana, kuquka ukukhuphela imiyalelo kulo mntu u—
- (a) kwazisa nokufundisa abantu abamsebenzelayo okanye phantsi kwesikhokelo okanye ulawulo olumalunga nemingcipheko yendalo yomsebenzi wabo kunye nendlela apho imisebenzi yabo kufuneka yenzelwe ukulawula inkunkuma ngendlela yokuphepha ukudala umonakalo kwimpilo yabantu okanye umonakalo kokusingqongileyo;
  - (b) kuphengulula nokuhlola impembelelo enayo imisebenzi yakhe yolawulo lwenkunkuma kokusingqongileyo;
  - (c) kuqalisa, ukuqhubeka nokugqiba ngamanyathelo athile phambi komhla ochazwe kwisaziso sokuthobela;
  - (d) kuyeka, ukuguqula okanye ukulawula nawo nawuphi na umsebenzi wolawulo lwenkunkuma odala, okanye odale okanye onokudala umonakalo kwimpilo yomntu okanye umonakalo kokusingqongileyo;
  - (e) kubuyisela esimeni iziphumo zenkunkuma yomonakalo kokusingqongileyo.
- (3) Umphathi kamasipala ungakhupha isikhokelo esifuna iimveliso zenkunkuma ukwahlula iintlobo ezithile zenkunkuma kwinkunkuma eqhelekileyo.

#### **Ukugcinwa kunye nezikhongozeli zenkunkuma ngokubanzi**

5. (1) Umntu o—
- (a) velisa inkunkuma ngokubanzi ezakuqokolelwa nguMasipala; okanye
  - (b) ukwahlula umjelo wenkunkuma ozakuqokolelwa nguMasipala ukuze isetyenziswe kwakhona,
- kufuneka abeke inkunkuma kwisikhongozeli esivunyiweyo, esabiwe okanye esibonelelwe nguMasipala okanye ngumboneleli ngenkonzo ofanelekileyo, njengoko kunjalo, ngalo njongo.
- (2) Umntu ochazwe kwicandelwana (1) kufuneka aqinisekise ukuba—
- (a) isikhongozeli sigcinwe kwizakhiwo apho inkunkuma iveliswayo kwaye kude kwindawo kawonkewonke phakathi kweentsuku zoqokelelo;

- (b) ngosuku lokuqokelela olumiselwe kwishedyuli yosuku lokuqokelela inkunkuma, isikhongozeli sibekwa phandle kwezakhiwo endaweni efikelelekayo kumagosa kamasipala okanye ababoneleli benkonzo;
  - (c) amanyathelo akhona okuthintela ukuphazamisana nesikhongozeli zizilwanyana;
  - (d) isikhongozeli esinikezelwa nguMasipala okanye umboneleli ngenkonzo akusetyenziselwa enye injongo ngaphandle kokugcinwa kwenkunkuma;
  - (e) Ukuba isikhongozeli sithe sabiwa, sonakala okanye sanomhlwa, uMasipala wazisiwe kwaye amalungiselelo okubuyisela enziwe ngokukhawuleza kwakubakho ubusela, umonakalo kunye nomhlwa ozayo kwingqalelo yakhe.
- (3) Apho isikhongozeli sibiweyo njengoko kuchaziwe kwicandelwana (2)(e), igosa likamasipala elisemthethweni lingafuna ukuba ubusela buxelwe kwiNkonzo yamaPolisa yoMzantsi Afrika phambi kokukhupha isikhokelo esitsha

### **Ubumnini benkunkuma**

6. (1) Umntu ovelisa inkunkuma ngumnikazi walo nkunkuma ade abe lo mntu uyikhuphela ukuba iqokolelwe nguMasipala okanye umboneleli ngenkonzo ngokuhambelana nalo mthetho kamasipala.
- (2) Inkunkuma ibayekaMasipala yakuba ikhutshelwe ukuqokolelwa.
- (3) Icandelo (1) nele-(2) akachaphazeleki kwinkunkuma eqhelekileyo echongwe ngokuhambelana necandelo 10(2)(d) kunye nenkunkuma elahlwe ngokungekho mthethweni.
- (4) Umntu ovelisa inkunkuma ochazwe kwicandelwana (3) uhlala engumnikazi wenkunkuma ide ibe inkunkuma ilahlwa ngokusemthethweni.
- (5) Inkunkuma kwezi zakhiwo zilandelayo ilawulwa nguMasipala:
- (a) amaziko okulahla inkunkuma;
  - (b) amaziko okudlulisela inkunkuma; kunye
  - (c) namaziko apho inkunkuma yamkelwayo, igcinwa, ifunyanwayo kwakhona okanye ukuphathwa kwayo, yekaMasipala.
- (6) Akukho mntu unokususa okanye aphazamisane nenkunkuma ekwizakhiwo ezichazwe kwicandelwana (5) ngaphandle kokuba ugunyaziswe nguMasipala.

## **ISAPHLUKO 2**

### **ISICWANGCISO SOLAWULO OLUHLANGENEYO SENKUNKUMA**

#### **Ulungiselelo lwesicwangciso solawulo oluhlanganayo lwenkunkuma**

7. Umphathi kamasipala angakhupha isikhokelo kumntu okanye nakoluphi na uluhlu lwabantu abavelisa inkunkuma kwindawo kaMasipala, ukulungiselela isicwangciso solawulo oluhlanganayo senkunkuma kunye nokungenisa isicwangciso kuMasipala ukuze ivunywe.

### **Okuqulathwe sisicwangciso solawulo oluhlangeneyo lwenkunkuma**

8. Isicwangciso solawulo oluhlangeneyo senkunkuma kufuneka siquke ezi nkukacha zilandelayo:

- (a) ubungakanani benkunkuma ngokubanzi;
- (b) umlinganiselo wokuthintela ungcoliseko okanye ukuthotywa kwemfundo ngezinto eziphilileyo;
- (c) ekujoliswe kuko bubuncinane benkunkuma ngokunciphisa inkunkuma, ukusetyenziswa kwakhona, ukuhlaziywa nokufunyanwa kakhona;
- (d) imilinganiselo okanye iinkqubo zokunciphisa ukuveliswa kwenkunkuma kunye nokulahlwa kwenkunkuma ekugqibeleni;
- (e) imilinganiselo okanye izenzo zokulawula inkunkuma;
- (f) amathuba okunciphisa ukuveliswa kwenkunkuma ngokusebenzisa utshintsho kupakisho, ukumisela imveliso okanye iinkqubo zemveliso;
- (g) iindlela zokwazisa uluntu ngempembelelo yeemveliso ezenziwa yinkunkuma okanye ukupakisha kokusingqongileyo;
- (h) ixesha elifunekayo lokuphumeza isicwangciso; kunye
- (i) neendlela zokubeka iliso kunye nokwenza ingxelo kuphunyezo lwesicwangciso.

## **ISAPHLUKO 3**

### **UBONELELO LWEENKONZO ZOLAWULO LWENKUNKUMA**

#### **Ababoneleli ngenkonzo**

9. (1) uMasipala angakhupha nayiphi na imisebenzi ephathelele nokohlulwahlulwa kwenkunkuma kwenkunkuma, ukuqokolelwa, ukugcinwa, ukwenziwa, ukuhlaziywa kwakhona, ukuphathwa kunye nokulahlwa ngokungenela kwisivumelwano sokuhambisa inkonzo nomboneleli ngenkonzo.

(2) Isivumelwano sokuhanjiswa kwenkonzo kufuneka—

- (a) kuhambelane nalo mthetho kamasipala;
- (b) kuchaza imigangatho yenkonzo ngenkonzo emayinikezelwe, kuquka amaxesha okuqokelela nobuninzi;
- (c) ukubonelela ngeemeko apho iinkonzo ezinikezelwa ngumboneleli ngenkonzo zinganomda; kunye
- (d) nokufuna umboneleli ngenkonzo abhaliswe kwinkqubo yolwazi lwenkunkuma kunye nongcoliseko oluhlangeneyo lwephondo.

#### **Ukuqokelelwa nokuhanjiswa kwenkunkuma ngokubanzi**

10. (1) uMasipala kufuneka amisele ishedyuli yeentsuku zokuqokelelwa kwenkunkuma kunye nendawo apho izikhongozeli kufuneka zibekwe kwezo ntsuku.

(2) uMasipala—

- (a) angamisela ishedyuli yosuku lokuqokelela inkunkuma ngokwenjongo yokuthengisa kunye neendawo zokuhlala, ngokulandelelana;

- (b) angayiqokelela inkunkuma ngaphandle kweshedyuli eqalwe ngokwesicelo somntu kunye nerhafu ezinzileyo;
  - (c) angabubeka ubuninzi benkunkuma eza kuqokelelwa;
  - (d) ngesaziso kwiGazethi yePhondo, chonga umjelo wenkunkuma omawungaqokelelwa nguMasipala okanye engakulungelanga ukuqokelelwa.
- (3) Umasipala kufuneka—
- (a) apapashe ishedyuli yemini yokuqokelela inkunkuma, ngokombhalo wesandla okanye ngokwekhompyutha; kunye
  - (b) nokuthatha amanye amanyathelo angawo ukuqinisekisa ukuba uluntu lwazisiwe ngeshedyuli.
- (4) Xa inkunkuma ehanjiswayo ichitheka, ivuza okanye ikhululeka, okanye isiswa kw isikhongozeli, inqwelo okanye uhanjiso, uMasipala angazifumana kwakhona iindleko kumthuthi ngokuthatha amanyathelo olungiso athathwa nguMasipala.

### **Uhanjiso lwenkunkuma ngenjongo zokuzuzwa**

- 11.** Umntu ohambisa inkunkuma eqhelekileyo ngenjongo zokuzuzwa kwindawo kaMasipala kufuneka—
- (a) kuqinisekiswa ukuba eso sikhongozeli, inqwelo okanye olunye uhanjiso lwanele ngokobungakanani noyilo lohlobo lwenkunkuma ehanjisiweyo;
  - (b) kuhanjiswa inkunkuma ngendlela eyakuthi ithintele nayiphi na inkathazo;
  - (c) kugcinwe isikhongozeli, inqwelo okanye olunye uhanjiso lukwimeko ecocekileyo nenempilo ngawo onke amaxesha; kwaye
  - (d) kuqinisekiswa ukuba inkunkuma ehanjisiweyo okanye efakwe kudluliselo kwiziko lenkunkuma, iziko lokugcina inkunkuma ngokubanzi, iziko lokuhlaziya inkunkuma okanye iziko lokulahlwa kwenkunkuma enguyaziswe ukuba ivumele inkunkuma enjalo.

### **Uqokolelo lwenkunkuma engafanelekanga**

- 12.** Umntu akanakubeka inkunkuma echongwe ngokumalunga necandlwana 10(2)(d) ukuze iqokelelwe, nokokuba kungokokwayo okanye ixutywe nayo nayo nayiphi na inkunkuma apho uMasipala ebonelele ngeenkonzo zoqokelelo, ngapandle kokuba kubekho amalungiselelo akhethekileyo athe enziwa kwangaphambili noMasipala okanye nomboneleli ngenkonzo woqokelelo.

### **Amaziko odluliselo lwenkunkuma**

- 13.** Umvelisi wenkunkuma kufuneka, apho kufaneleyo—
- (a) sebenzisa iziko lodluliselo lwenkunkuma efanelekileyo ngokomyalelo wegosa likamasipala ogunyazisiweyo, umvelisi weziko lokulahlwa kwenkunkuma okanye umboneleli ngenkonzo; kunye
  - (b) bambelela kwiinkqubo ezisebenzayo zeziko lohanjiso lwenkunkuma njengoko kumiselwe nguMasipala.



### **Ukulahlwe kwenkunkuma**

- 14.** (1) Igosa likamasipala elisemthethweni, umvelisi weziko lokulahla inkunkuma okanye umboneleli ngenkonzo angahlola yonke imithwalo yenkunkuma engena kumaziko enkunkuma, iziko lokugcina inkunkuma ngokubanzi, iziko lokuhlaziya inkunkuma okanye iziko lokulahla inkunkuma.
- (2) Ukuhlola okuchazwe kwicandelwana (1) kungaquka—
- (a) Uhlolo olubonakalayo nolwezinto ezibambekayo zenkunkuma, kuquka ukusebenzisa izixhobo eziphathwayo zokuvavanya; kunye
  - (b) nelebhu yokuphicotha inkunkuma.
- (3) Igosa likamasipala elisemthethweni lingakhupha umyalelo kumgcini wenkunkuma engaba nomonakalo kokusingqongileyo—
- (a) ukuba inganelebhu yovavanyo oluqhutywa ngokuzimela, phambi kokuba inkunkuma ilahlwe, ukuhlola ukuba ingaba inkunkuma ikulungele na ukulahlwa kwiziko lenkunkuma; okanye
  - (b) ukulahlwa kwenkunkuma kwiziko elilodwa kwanokubonisa ubungqina boko kulahlwa.
- (4) Ukuba igosa likamasipala elisemthethweni linokuxhalaba okuthile ngempembelelo yomonakalo ongathi ubekhona wayo nayiphi na inkunkuma enokuthi ingalahla ngokuchanekileyo, igosa likamasipala elisemthethweni lingayilahla inkunkuma kulo naliphi na iziko lenkunkuma elifanelekileyo.
- (5) Kwiimeko ezichazwe kwicandelwana (2)(b), (3) (4), okanye inkunkuma echazwe kwicandelo le 10(2)(d) isusiwe nguMasipala, uMasipala angafumana kwakhona iindleko ezenzekileyo kumntu ngamnye onoxanduva, ngokudibeneyo nangokwahlukeneyo, kuquka iindleko ezinxulumene—
- (a) nokusetyenziswa kwezixhobo ngexesha leemvavanyo zelebhu;
  - (b) nemirhumo yophicotho lwelebhu;
  - (c) nemirhumo yolawulo;
  - (d) neendleko zokuhambisa nezokulahla; kunye
  - (e) neendleko zokucoca, apho kufaneleyo.
- (6) Umntu olahla inkunkuma kwiziko lokulahla inkunkuma elelikaMasipala okanye elilawulwa nguMasipala kufuneka libambebelele kwiinkqubo ezisebenzayo zeziko.

## **ISAPHLUKO 4**

### **INKUNKUMA ESEBENZISEKAYO**

#### **Ukugcina, ukwahlulahlula nokuqokelelwa kwenkunkuma esebenzisekayo**

- 15.** (1) Umntu owenza nokuba ngowuphi umsebenzi obandakanya inkunkuma enokusetyenziswa kwakhona, esebenzisekayo okanye enokufunyanwa kwakhona, kuquka nawuphi na umthengisi wezinto ezilahliweyo, kunye neqela elisemthethweni lenkunkuma esebenzisekayo, kufuneka, phambi kokwenza nawuphi na umsebenzi onjalo, kuqinisekise ukuba inkunkuma enokusetyenzi-



swa kwakhona, esebenzisekayo okanye ukufumaneka kwayo akunabo ubungozi kokusingqongileyo ngaphaya kokulahlwa kwayo.

(2) Umphathi kamasipala angakhuphela isikhokelo umntu ochazwe kwicandelwana (1)—

(a) nika ingxelo kuMasipala qho ngenyanga ngobungakanani benkunkuma evelisiweyo, umlinganiselo olahliweyo wenkunkuma kwiziko elisemthethweni lenkunkuma, kunye nomlinganiselo owahlulwahluliweyo wenkunkuma ukuze isetyenziswe kwakhona kunye nokufunyanwa kwayo; okanye

(b) bhala phantsi okuchazwe kumhlathi (a) qho ngenyanga iinkcukacha kwezingcolisayo ngokuhlangeneyo kunye nenkqubo yolwazi lwenkunkuma.

(3) Umphathi kamasipala angakhupha isikhokelo kumgcini wenkunkuma u—

(a) kwahlulahlula ngokukodwa inkunkuma esebenzisekayo;

(b) ukusebenzisa izikhongozeli ezahlukeyo ngokwahluka kwezintlu zenkunkuma esebenzisekayo; kunye

(c) nokwenza inkunkuma esebenzisekayo ifumaneke ukuze iqokelelwe.

(4) Umphathi kamasipala angakhupha isikhokelo esifuna iqumrhu elilawulayo lesicwangciso soluntu nabanikazi kunye nabahlali kumhlaba wokuhlala phakathi kwisicwangciso soluntu u—

(a) ukwahlulahlula ngokukodwa inkunkuma esebenzisekayo;

(b) ukusebenzisa izikhongozeli ezahlukeyo ngokwezintlu ezahlukeyo zenkunkuma esebenzisekayo; kunye

(c) nokwenza inkunkuma esebenzisekayo ifumaneke ukuze iqokolelwe ngohlobo oluthile.

(5) Ukuba uMasipala okanye umboneleli ngenkonzo unikezele ngesikhongozeli esahlukeneyo ngeenjongo zecandelwana (3)(b) okanye (4)(b), umntu akanakusebenzisa naso nasiphi na esinye isikhongozeli senkunkuma.

### **Ukwahlulwahlulwa kwenkunkuma ngokweendawo**

16. (1) uMasipala unako, ngokwesaziso kwiGazethi yePhondo, ukufuna umgcini wenkunkuma kwindawo yengqingqi echazwe kwisaziso—

(a) ukwahlulahlula ngokukhethekileyo inkunkuma esebenzisekayo;

(b) ukusebenzisa izikhongozeli ngokwezintlu ezahluke ngokukodwa zenkunkuma esebenzisekayo; kunye

(c) nokwenza inkunkuma esebenzisekayo ifumaneke ukuze iqokelelwe ngendlela ethile.

(2) Phambi kokupapasha isaziso esichazwe kwicandelwana (1), uMasipala kufuneka apapashe isaziso kwiGazethi yePhondo—

(a) ukubeka inkunkuma esebenzisekayo eyakuthi yahlulahlulwe ngokwendawo yengqingqi ngokumalunga nesaziso esiceliweyo;

(b) ukubeka ngendlela apho inkunkuma esebenziseka ngokukodwa eyakubekwa ukuze iqokolelwe;

- (c) ukumisela ukuba inkunkuma esebenzisekayo iqokelelwe nini; kunye
- (d) nokumema izimvo ezibhaliweyo kwimicimbi echazwe kumhlathi (a) no-(b).

## ISAPHLUKO 5 IZITHINTELO

### Ukuthintelwa kokulahlwa kwenkunkuma ngokungekho mthethweni

#### 17. (1) Akukho mntu uya—

- (a) kulahlwa inkunkuma kumbindi womhlaba okanye wamanzi okanye nakulo naliphi na iziko ngaphandle kokuba ukulahlwa kwalo nkunkuma kugunyazisiwe ngumthetho; okanye
- (b) ngokukwazi okanye ukungakhathali okudala okanye kuvumele inkunkuma ukuba ilahlwe ngendlela enokuthi idale ingozi kwimpilo yoluntu okanye umonakalo kokusingqongileyo.

(2) Ukuba inkunkuma ithe yalahlwa ngokunxaxhileyo nalo mthetho kamasipala umphathi kamasipala angakhuphela isikhokelo kumntu onoxanduva lokususa inkunkuma ayise kwiziko eligunyazisiweyo lenkunkunkuma ngokwexesha elimiselweyo.

(3) Ukuba inkunkuma ibilahlwe ngokunxaxhileyo kulo mthetho kamasipala kwaye—

- (a) umntu onoxanduva usilele ukuthobela, okanye ukungafaneleki kwesikhokelo esichazwe kwicandelwana (2);
- (b) kukho ukungaqiniseki ngokuzazi okanye ukubaphi komntu onoxanduva; okanye
- (c) kukho umngcipheko okhawulezayo wobunzulu bobungozi kuluntu okanye ongangumonakalo onzulu kokusingqongileyo,

uMasipala angathatha nawo nawaphi na amanyathelo awabona eyimfuneko ekuqulatheni ukunciphisa iziphumo zokulahlwa kwenkunkuma, ukwenza iinkqubo zokucoca, kunye nokulungisa iziphumo zokulahlwa kwenkunkuma.

(4) uMasipala angazifumana kwakhona nazo naziphi na iindleko ezenziweyo ngokumalunga necandelwana (3) kumntu ngamnye onoxanduva ngokudibeneyo okanye ngokwahlukeneyo.

### Ukuthintelwa kokutshiswa kwenkunkuma

18. Akukho mntu unokutshisa, atshabalalise okanye asebenzise nabuphi na ubuchwephetshe bolunye unyango lokonga kwinkunkuma ngaphandle kwakwiziko lonyango olugunyazisiweyo nguMasipala okanye umntu onegunya elifanelekileyo.

### Ukuthintela ukungcolisa

#### 19. (1) Akukho mntu—

- (a) unokungcolisa;
- (b) unokulahla inkunkuma nakweyiphi na indawo kawonkewonke;
- (c) unokuphazamisa nayo nantoni na, okanye ekususeni nasiphi na kw isikhongozeli esithe sabekwa ngeenjongo zokuqokelela inkunkuma ngalo ndlela ukudala izinto ezikwisikhongozeli zichitheke okanye ziwele emhlabeni; okanye
- (d) unokuvumela nawuphi na umntu ophantsi kwengqesho yakhe, isikhokelo okanye ulawulo lwakhe ukwenza naziphi na izinto ezichazwe kumhlathi (a), (b) okanye (c).

(2) Ukuba ukungcola kuthe kwalahlwa okanye kwayekwa ngokuchasene nalo mthetho kamasipala kumhlaba wobumnini babucala apho uwonkewonke anofikelelo, umnini walo mhlaba kufuneka asuse ukungcola emhlabeni ngexesha elifanelekileyo.

### Ukuthintelwa kwenkathazo

#### 20. (1) Umntu ojongene nenkunkuma, nokokuba kungolondolozo, uqokelelo, uthutho, usetyenziso kwakhona, uphatho kunye nolahlo lwenkunkuma, kufuneka—

- (a) athathe amanyathelo angawo ukuthintela inkathazo kuye nakowuphi na umntu okanye okusingqongileyo; kunye
- (b) nokuthatha amanyathelo kwindleko zakhe ukulungisa nayiphi na inkathazo ethe yadaleka.

(2) Umphathi kamasipala angakhupha isikhokelo kumntu onoxanduva lokuthatha amanyathelo ukuqinisekisa uthotyelo lecandelwana (1).

(3) Ukuba umyalelo ukhutshwe ngokwendlela ekuchazwe ngayo kwicandelwana

#### (2) kwaye—

- (a) umntu onoxanduva uyasilela ukuthobelana, okanye angathobelana ngokwaneleyo nesikhokelo;
- (b) kukho ukungaqiniseki ekuzazini okanye ukubaphi komntu onoxanduva; okanye
- (c) kukho ubungozi bobunzulu bomngcipheko okhawulezileyo kuwonkewonke okanye kumonakalo onokubanobunzulu kokusingqongileyo,

uMasipala angathatha amanyathelo abona ukuba kuyimfuneko ukuthintela inkathazo kuze kulungiswe iziphumo zenkathazo.

(4) uMasipala angazifumana naziphi na ezinye iindleko ezenziweyo ngokumalunga necandelwana (3) kumntu ngamnye onoxanduva, ngokudibeneyo kunye nangokwahlukeneyo.

## ISAPHLUKO 6

### UKUPHATHWA KWEENTLOBONTOLO EZAHLUKENEYO ZENKUNKUMA

#### **Inkunkuma enokusetyenziswa**

#### **21. (1) Umhlali wezakhiwo apho—**

- (a) inkunkuma ephilayo eveliswayo, ingabolisa inkunkuma ekwizakhiwo, kuxomekeka ukuba ukubolisa akuyidali inkathazo okanye umonakalo kwimpilo yoluntu okanye ingozi kokusingqongileyo;
- (b) inkunkuma ephilayo evelisiweyo kwaye engabolanga, kufuneka kuqinisekiswa ukuba inkunkuma iqokelelwe kwaye iphathwa okanye ilahlwa ngexesha elifanelekileyo emva kokuveliswa.

#### **(2) Umphathi kamasipala angakhupha isikhokelo—**

- (a) ukuthutha inkunkuma yegadi okanye umntu obonelela ngenkonzo yokugcina igadi, ukuthutha nayiphi na inkunkuma yegadi kwiziko ekubonelelwe ngalo nguMasipala lokulahla inkunkuma;
- (b) umvelisi wenkunkuma ephilayo uphuhlisa isicwangciso esihlangeneyo solawulo lwenkunkuma esikhombisa amanyathelo okunciphisa kwanokufuman inkunkuma enjalo; kunye
- (c) nomvelisi wenkunkuma ephilayo ukuthutha inkunkuma eya kumaziko abelwe lona okuphatha okanye okulahla inkunkuma.

(3) uMasipala okanye umboneleli ngenkonzo anga, kwisicelo esibhaliweyo somhlali kwizakhiwo apho inkunkuma ephilayo ivelisiweyo, hambisa isikhongozeli esifanelekileyo ngenjongo yokulondoloza inkunkuma ephilayo, ukongeza kuso nasiphi na isikhongozeli ekubonelelwe ngaso ngokumalunga necandelo 5(1) senkunkuma ngokubanzi, ngentlawulo yerhafu.

#### **Isixa senkunkuma**

**22. (1)** Umntu ovelisa isixa senkunkuma akanakubeka isixa senkunkuma nanye' inkunkuma emayiqokelelwe nguMasipala ngokuhambelana neshedyuli yemini yokuqokelelwa kwenkunkuma, kwaye kufuneka aqinisekise ukuba isixa senkunkuma s ihlaziyiwe okanye, apho ingenakuhlaziywa, ilahlwe kwiziko apho ifanele ukulahlwe khona nguMasipala ofumana isixa senkunkuma.

(2) uMasipala okanye umboneleli ngenkonzo anga, ngesicelo somhlali wezakhiwo apho isixa senkunkuma siveleliwe khona, susa isixa senkunkuma kwizakhiwo ngokuhlulwa irhafu.

(3) Umphathi kamasipala angakupha isikhokelo kumboneleli ngenkonzo oqokelela isixa senkunkuma—

- (a) Ukuxela rhoqo ngenyanga kuMasipala ngobuninzi besixa senkunkuma obuzakulahlwa kunye nokohlulahlulwa kobo buninzi ukuze ihlaziyiwe; okanye
- (b) Ukubhala iinkcukacha ezichazwe kumhlathi (a) rhoqo ngenyanga kungcoliseko oluhlangeneyo kunye nenkqubo yolwazi lwenkunkuma.

### **Inkunkuma yezakhiwo nenyodilizo**

- 23.** (1) Umntu ovelisa inkunkuma yezakhiwo nodilizo akanakubeka inkunkuma yezakhiwo nodilizo nenkunkuma emayiqokelelwe nguMasipala ngokuhambelana neshedyuli yemini yokuqokelelwa kwenkunkuma, kwaye kufuneka kuqinisekise ukuba izakhiwo nenkunkuma yodilizo zihlaziyiwe okanye, xa kungenakuhlaziywa, kulahlwe kwiziko elibekelwe lona nguMasipala ukufumana inkunkuma yezakhiwo nodilizo.
- (2) Umphathi kamasipala angakhupha isikhokelo kumntu ovelisa inkunkuma yezakhiwo okanye yodilizo ukwahlulahlula lo nkunkuma ngokuphatha, uhlaziyo okanye ukusetyenziswa kwakhona kwaye rhoqo ngenyanga—
- (a) ukuxela kuMasipala qho ngenyanga ngobuninzi benkunkuma yesakhiwo okanye yodilizo evelisiweyo, ubuninzi obulahliweyo benkunkuma elahlwe kwiziko, kunye nobuninzi obahlulahluliweyo bokusebenzisa kwakhona kunye nohlaziyo; okanye
- (b) ukuxela qho ngenyanga iinkcukacha ezichazwe kumhlathi (a) kungcoliseko oluhlangeneyo kunye nenkqubo yolwazi lwenkunkuma.
- (3) Umntu ofaka isicelo emasivunye nguMasipala sokuqhubeka ngomsebenzi wokudiliza ngokuhambelana noMthetho woLwakhiwo kaZwelonke omiswe phantsi kweSaziso sikaRhulumente esingu-R2378 sika-1990 kwi*Gazethi yePhondo* engu-12780, yomhla we-12 kweyeDwarha 1990, kukwafuneka kufakwe isicwangciso sodilizo lwenkunkuma ndawenye nesicelo sakhe emasivunye nguMasipala.
- (4) Isicwangciso sodilizo kufuneka siquke isicwangciso sokuchithwa esichaza inkqubo yodilizo kwaye simele sithi thaca izicwangciso ezicacisiweyo zokwandisa ukufumaneka kwesebenzisekayo nehlaziyekayo inkunkuma.
- (5) uMasipala angathi, ngesaziso kwi*Gazethi yePhondo*, afune umntu osebenzayo okanye onqwenela ukusebenza kwinkonzo yokususa inkunkuma yolwakhiwo nodilizo kwindawo kaMasipala—
- (a) ukubhalisa noMasipala phambi kokuqhuba umsebenzi onjalo; kunye
- (b) nokubonelela ngolwazi olunjalo njengoko kuchaziwe kwisaziso okanye njengoko kufunwa ngumasipala.
- (6) Isicelo sokubhalisela ukusebenza kwinkonzo yokususa inkunkuma yolwakhiwo nodilizo kufuneka ibe kwimo emiswe nguMasipala.
- (7) uMasipala kufuneka, kwisithuba seentsuku ezingama-30 zokufumana isicelo sokubhalisa ezichazwe kwicandelwana (6), kuthathelw' ingqalelo isicelo kunye nokuba—
- (a) ukubhalisa umfaki sicelo kunye nokukhupha isiqinisekiso sokubhalisa kumfaki sicelo esichaza—
- (i) igama leziko elibhaliselwe ukusebenza njengenkonzo yokususa inkunkuma yolwakhiwo nodilizo;
- (ii) inombolo yobhaliso ngolwazi lwenkunkuma;
- (iii) uhlobo lwenkunkuma egcinwa liziko;
- (iv) indawo apho likhoyo iziko; kunye
- (v) nomhla wobhaliso; okanye

- (b) ngesaziso esibhaliweyo, buyisela emva isicelo kumfaki sicelo ukuze enze izilungiso kubhaliso.
- (8) Isicelo sokubhalisa esibuyiselwe umva ukuze kwenziwe izilungiso kufuneka kulungiswe kwaye kufakwe kwakhona kuMasipala kwisithuba seentsuku ezingama-30 emva komhla apho uMasipala ekhuphe isaziso esibhaliweyo esiya kumfaki sicelo ukuze kwenziwe izilungiso zesicelo.
- (9) Isicelo sokubhalisa esithe salungiswa saza safakwa kwakhona njengoko kuchaziwe kwicandelwana (8) kufuneka liqubisane noko kuchazwe kwicandelwana (7).
- (10) uMasipala angabonelela ngenkonzo yokususa inkunkuma yolwakhiwo nodilizo ngentlawulo yerhafu.
- (11) Umntu onqwenela ukubeka isikhongozeli esifaneleyo ukugcina nokuqokelela okanye ukulahla inkunkuma kwindlela kawonkewonke kufuneka afake isicelo kuMasipala ukufufumana isivumelwano esibhaliweyo.
- (12) Isikhongozeli esichazwe kwicandelwana (11) kufuneka—
- (a) luphawulwe ngokucacileyo ngegama, idilesi kunye nenombolo yomnxeba womntu onoxanduva lesikhongozeli;
  - (b) sifakwe imbasa ezibengezelayo okanye izibengezeli, ekufuneka zichazwe ngaphambili, emacaleni kunye nasemva kwesikhongozeli; kwaye
  - (c) zigqunywe ngawo onke amaxesha, ngaphandle kokuba kwangoko bezifunyanwa okanye kukhutshwa inkunkuma kuzo, ukuze kungenzeki ukubekwa endaweni engeyiyo kwento engaphakathi.

### **Inkunkuma enobungozi**

- 24.** (1) uMasipala anga, ngokwesaziso kwiGazethi yePhondo, afune umntu ovelisa, ophatha, othutha okanye olahla inkunkuma enobungozi okanye onqwenela ukuvelisa, ukuphatha, ukuthutha, okanye ukulahla inkunkuma enobungozi kwindawo kaMasipala—
- (a) ukubhalisa noMasipala phambi kokuba kuqhutywe umsebenzi onjalo; kunye
  - (b) nokubonelela ngolwazi olunjalo njengoko kuchaziwe kwisaziso okanye njengoko kufunwa ngumasipala.
- (2) Isicelo sokubhalisela ukuvelisa, ukuphatha, ukuthutha okanye ukulahla inkunkuma enobungozi kufuneka ibekwimo emiselwe nguMasipala.
- (3) uMasipala kufuneka, kwisithuba seentsuku ezingama-30 ekufumaneni isicelo sobhaliso njengoko kuchazwe kwicandelwana (2), athathel' ingqalelo isicelo nokokuba—
- (a) ukubhalisa umfaki sicelo kunye nokukhupha isiqinisekiso sokubhalisa kumfaki sicelo esichaza—
    - (i) igama leziko elibhaliselwe ukuvelisa, ukuphatha, ukuthutha okanye ukulahla inkunkuma enobungozi;
    - (ii) inombolo yobhaliso ngolwazi lwenkunkuma;
    - (iii) uhlobo lwenkunkuma egcinwa liziko;

- (iv) indawo apho iziko likhoyo; kunye
- (v) nomhla wokubhalisa; okanye
- (b) ngesaziso esibhaliweyo, buyisela isicelo sobhaliso emva kumfaki sicelo ukuze kwenziwe izilungiso.
- (4) Isicelo sobhaliso esibuyiselwe umva ngenjongo yolungiso kufuneka silungiswe kwaye sifakwe kwakhona kuMasipala kwisithuba seentsuku ezingama-30 emva komhla kokukhutshwa kwesaziso esibhaliweyo nguMasipala esiya kumfaki sicelo ukuze kwenziwe izilungiso zesicelo.
- (5) Isicelo sobhaliso esilungisiweyo saza safakwa kwakhona njengoko kuchaziwe kwicandelwana (3).
- (6) Umntu ovelisa inkunkuma enobungozi okanye umnini wezakhiwo apho inkunkuma enobungozi iveliswa khona kufuneka avumelane nomboneleli ngenkonzo obhalisiweyo ngokumalunga neli candelo lothutho, lempatho okanye ulahlo lwenkunkuma enjalo.

### **Amavili ayinkunkuma**

- 25.** (1) uMasipala anga, ngesaziso kwi*Gazethi yePhondo*, afune umntu osebenza njalo okanye onqwenela ukusebenza njengomvelisi wamavili, umthengisi wamavili, umqokeleli wenkunkuma yamavili, umnini wempahla yamavili okanye umvelisi wamavili avuselelwayo—
- (a) ukubhalisa noMasipala phambi kokuqhuba umsebenzi onjalo; kunye
  - (b) ukubonelela ngolwazi olunjalo njengoko kuchaziwe kwisaziso okanye njengoko kufunwa ngumasipala.
- (2) Isicelo sobhaliso sokusebenza njengomvelisi wamavili, umthengisi wamavili, umqokeleli wenkunkuma yamavili, umnini wempahla yamavili okanye umvelisi wokuvuselela amavili kufuneka lube kwimeko emiselwe nguMasipala.
- (3) uMasipala kufuneka, kwiintsuku ezingama-30 zokufumana isicelo sobhaliso njengoko kuchaziwe kwicandelwana (2), athathel' ingqalelo nokokuba—
- (a) kukubhalisa umfaki sicelo kunye nokukhupha isiqinisekiso sobhaliso esiya kumfaki sicelo esichaza—
    - (i) igama leziko elibhaliselwe ukusebenza njengomvelisi wamavili, umthengisi wamavili, umqokeleli wenkunkuma yamavili, umnini wempahla yamavili okanye umvelisi wokuvuselela amavili;
    - (ii) inombolo yokubhaliswa kolwazi lwenkunkuma;
    - (iii) uhlobo lwenkunkuma egcinwa liziko;
    - (iv) indawo apho iziko likhoyo; kunye
    - (v) nomhla wokubhalisa; okanye
  - (b) ngesaziso esibhaliweyo, buyiselwa emva isicelo sokubhalisa kumfaki sicelo ukuze silungiswe.
- (4) Isicelo sokubhalisa esithe sabuyiselwa umva ukuze silungiswe kufuneka silungiswe size sifakwe kwakhona kuMasipala kwisithuba seentsuku ezingama-30 emva komhla uMasipala akhuphe ngaso isaziso esibhaliweyo esiya kumfaki sicelo ukuze silungiswe.



(5) Isicelo sokubhalisa esithe salungiswa saza safakwa kwakhona njengoko kuchazwe kwicandelwana (4) kufuneka kuqutyiswane naso ngokuchazwe kwicandelwana (3).

(6) uMasipala anga, ngokwesaziso kwiGazethi yePhondo, afune uluntu ukuba lulahle inkunkuma yamavili kumaziko abelwe oko kwisaziso.

### **Inkunkuma yemicimbi**

**26.** (1) Umququzeleli wenkunkuma yemicimbi kufuneka afake isicwangciso solawulo lwenkunkuma yemicimbi ndawonye nesicelo sakhe kuMasipala semvume yemicimbi.

(2) isicwangciso solawulo lwenkunkuma yemicimbi kufuneka sithi thaca ingcaciso—

(a) Ukuba izakuncitshiswa njani inkunkuma kwaye ifunyanwe njani ukuze ivuselelwe; kunye

(b) nomntu onoxanduva loko, kunye namanyathelo akhoyo, ukucoca, ukuqokelela, ukuvuselelwa kunye nokulahlwa kwenkunkuma yemicimbi.

(3) Umququzeleli wemicimbi kufuneka aqinisekise ukuba inkunkuma yemicimbi ilahlwe kwiziko eligunyazisiweyo lokulahla inkunkuma kwaye linikele ngengqinisekiso yoko kulahliweyo kuMasipala.

(4) Ukuba inkunkuma yemicimbi ayicocwanga yaza yaqokelelwa emva kokubanjwa komcimbi, umphathi kamasipala angakhupha isikhokelo esiya kumququzeleli wemicimbi okanye kumntu onoxanduva lokususa inkunkuma ukuyisa kwiziko ekufanele kulahlwe kulo inkunkuma.

(5) Ukuba umyalelo ukhutshwe ngokwendlela ekuchazwe ngayo kwicandelwana (4) kwaye —

(a) umququzeleli wemicimbi okanye umntu onoxanduva uyasilela ukuthobela, okanye ukungathobeli ngokwaneleyo umyalelo;

(b) kukho ukungaqiniseki ngolwazini okanye ngokubaphi komququzeleli wemicimbi okanye komntu onoxanduva; okanye

(c) kukho umngcipheko okhawulezayo wobunzulu bengozi kuluntu okanye kokubanobungozi kokusingqongileyo,

uMasipala angathatha nawaphi na amanyathelo awabona efanelekile okucoca, ukuqokelela nokulahla inkunkuma yemicimbi.

(6) uMasipala angazifumana kwakhona iindleko ezithe zenziwa ngokumalunga necandelwana (5) kumququzeleli wemicimbi kunye naye nawuphi na umntu onoxanduva, ngokudibeneyo nangokwahlukeneyo.

### **Izinto ezincanyiweyo**

**27.** uMasipala angasusa kwaye alahle nayo nayiphi na into encanyiweyo ethi ithathwe njengento elahliweyo, ngokuthathelwa ingqeelo ezi meko zilandelayo:

(a) indawo yento;

(b) ubude bexesha ilapho kulo ndawo into; kunye

(c) uhlobo nemeko ekuyo into.



## ISAPHLUKO 7 IMICIMBI YOLAWULO, UTHOTYELO KUNYE NONYANZELISO

### Uxanduva lokuhlawula iirhafu

- 28.** (1) Umnini wezakhiwo apho uMasipala anikezela ngeenkonzelo zolawulo lwenkunkuma ngokuchazwe kulo mthetho kamasipala unoxanduva lokuhlawula iirhafu.
- (2) uMasipala angaxolela okanye enze imbuyekezo kuye nawuphi na umntu okanye uluhlu lwabantu abathatha njengabasweleyo ngokumalunga nomgaqo-nkqubo wokuswela kamasipala ekuhlawuleni iirhafu zeenkonzelo zolawulo lwenkunkuma.

### Uxolelo

- 29.** (1) Umntu angafaka isicelo esibhaliweyo kuMasipala soxolelo kulo naluphi na ubonelelo lwalo mthetho kamasipala.
- (2) Isicelo esichazwe kwicandelwana (1) kufuneka lenziwe kwifomu emiselwa nguMasipala kwaye kufuneka ikhatshwe yinkuthazo yoxolelo.
- (3) uMasipala anga—
- (a) nikezela ngoxolelo ngembalelwano, ngemi okanye ngaphandle kwemiqathango ngokumalunga nolo xolelo lunikezelweyo;
  - (b) lungisa okanye arhoxise uxolelo okanye imiqathango kuxolelo; okanye
  - (c) ngavumi ukunikezela ngoxolelo.
- (4) Ukuze kuqwalaselwe isicelo esichazwe kwicandelwana (1), uMasipala angafumana izimvo kumalungu kawonkewonke abazakuchapazeleka lunikezeli loxolelo.
- (5) Ukuba uxolelo lunikezelwe phantsi kwemiqathango, uxolelo alunakuthathwa njengolusebenzayo phambi kokuba umfaki sicelo afake abhalele uMasipala ukuba uzakuthobela yonke loo miqathango.
- (6) Ukuba umfaki sicelo uyasilela ukuthobelana nemiqathango yoxolelo, uxolelo luyanqunyanyiswa ngokukhawuleza.

### Uonyulo lwamagosa athile

- 30.** (1) Umphathi kamasipala anga—
- (a) tyunjwa njengegosa likamasipala eligunyazisiweyo, naliphi na ilungu likaMasipala;
  - (b) tyunjwa njengomsebenzi weziko lokulahla inkunkuma, nawuphi na umsebenzi—
    - (i) uMasipala;
    - (ii) naliphi na iqumrhu likarhulumente; okanye
    - (iii) umboneleli ngenkonzo; kwaye
  - (c) nangaliphi na ixesha rhoxisa ulwalatho olwenziwe ngokumalunga nomhlathi (a) okanye (b).

(2) Ulwalatho oluchazwe kwicandelwana (1)(b)(ii) lingenziwa kuphela sisivumelwano ekungenwe kuso phakathi komphathi kamasipala nequmrhu likarhulumente.

### **Imisebenzi yamagosa agunyazisiweyo kamasipala kunye nabasebenzi bamaziko okulahla inkunkuma**

**31.** (1) Igosa elisemthethweni likamasipala—

(a) kufuneka lilawule, liphumeze kwaye linyanzelise lo mthetho kamasipala; kwaye

(b) lingenza nawuphi na umsebenzi elabelwe wona ligosa likamasipala elisemthethweni ngulo mthetho kamasipala, kuquka ukuqhuba uhlobo, ukuphengulula nasiphi na isenzo okanye ukungenzi oko kunokwenza ityala ngokumalunga nalo mthetho kamasipala, kunye nokubeka esweni kwanokunyanzelisa uthotyelo nalo mthetho kamasipala.

(2) Umsebenzi weziko lokulahla inkunkuma kufuneka lilawule, liphumeze kwaye linyanzelise lo mthetho kamasipala kwiziko lodluliselo lwenkunkuma kamasipala, iziko lokugcina inkunkuma ngokubanzi, iziko lokuvuselela okanye iziko lokulahla inkunkuma, njengoko kunokuba njalo.

### **Izakhiwo ezingafikelelekiyo kuqokelelo lwenkunkuma**

**32.** Ukuba abasebenzi bakaMasipala okanye umboneleli ngenkonzo ochazwe kwicandelo 9—

(a) abasileli ekuphatheni okanye ekuqokeleleni inkunkuma kuzo nakweziphi na izakhiwo ngenxa yohlobo elzime ngayo izakhiwo; okanye

(b) abamoshwe kukusilela kwizakhowo xa kuphathwa okanye kuqokelelwe inkunkuma kuzo naziphi na izakhiwo.

(2) Umphathi kamasipala angakhupha isikhokelo esifuna umnini wezakhiwo ukwenza inguqulelo enjalo okanye izongezo kwizakhiwo njengoko kufanelekile ekususeni ukumosha, kwindleko zomniniyo.

### **Umsebenzi wokuvelisa amaxwebhu**

**33.** Umntu okhutshelwe imvume, isigunyaziso okanye naluphi na uxwebhu oluchazwe kulo mthetho kamasipala kufuneka asivelise xa ecelwe ligosa loxolo okanye igosa likamasipala elisemthethweni.

### **Izikhokhelo**

**34.** (1) Umphathi kamasipala angakhupha isikhokelo esikhuphela nawuphi na umntu njengoko kuchazwe kulo mthetho kamasipala ukuthatha amanyathelo athile amalunga nenkunkuma kwixesha elimisiwayo ukuqinisekisa ukuba ifuthe lenkunkuma kwimpilo yomntu okanye ukonakaliswa kokusingqongileyo liyadanjiswa kwaye linika amandla kumanqanaba olawulo lwenkunkuma.

(2) Phambi kokukhupha isikhokelo esichazwe kulo mthetho kamasipala umphathi kamasipala kufuneka anike isaziso esibhaliweyo kumntu esenzelwe

ukuba sikhutshelwe yena aze anike lo mntu ithuba elifanelekileyo ukuba enze izimvo ezibhaliweyo.

(3) Ukuba intshukumo iyafuneka yokukhuselwa kokusingqongileyo, umphathi kamasipala—

- (a) angakhupha isikhokelo ngaphandle kokunika phambi kwexesha loo mntu isaziso; kwaye
- (b) kufuneka anike umntu lowo onikezwe ithuba lokukhutshelwe isikhokelo ukuze enze izimvo eziziso ngokukhawuleza ngapha koko.

### **Izaziso zothotyelo**

**35.** (1) Igosa likamasipala elisemthethweni lingakhuphela umntu isaziso esibhaliweyo sokuthobela ukuba izizathu ezivakalayo zokholelwa kulo mntu ukuba lo mntu akathobelani—

- (a) namalungiselelo alo mthetho kamasipala ngaphandle kokunika phambi kwexesha loo mntu isaziso; okanye
- (b) nexesha okanye imeko yayo nayiphi na imvume, isigunyaziso, uxolelo okanye naluphi na uxwebhu olukhutshwe ngokumalunga nalo mthetho kamasipala.

(2) Phambi kokukhupha isaziso sokuthobela, igosa likamasipala elisemthethweni kufuneka linike isaziso esibhaliweyo umntu okhutshelwe sona eso saziso sokuthobela size sikhutshwelwe yena kuze kubonelelwe lo mntu ngethuba elifanelekileyo ukwenza izimvo ezibhaliweyo.

(3) Ukuba intshukumo engxamisekileyo iyafuneka yokukhusela okusingqongileyo, igosa likamasipala elisemthethweni—

- (a) lingakhupha isaziso sokuthobela; kwaye
- (b) kufuneka linike umntu lowo ufanele ukunikwa isaziso sokuthobela ithuba lokwenza izimvo ngokukhawuleza njengoko kunesizathu ngapha koko.

(4) Isaziso sokuthobela kufuneka kucaciswe—

- (a) iinkcukacha zokulawula ummiselo wokungathobeli;
- (b) naliphi na inyathelo emalithathwe ngumntu kunye nexesha ekufuneka lo manyathelo athathwe ngalo;
- (c) naziphi na izenzo umntu angenako ukuzenza, kunye nexesha umntu apho angenzinto;
- (d) amanyathelo uMasipala anelungelo lokuwathatha ngokumalunga necandelwana (6) ukuba isaziso asisithobeli; kunye
- (e) nenkqubo emayilandelwe ukufaka isibheni malunga nesaziso sokuthobela.

(5) Igosa likamasipala elisemthethweni linga, ngokwesenzo esihle esibonisiweyo, litshintsha isaziso sokuthobela kwaye landise ixesha apho kufuneka kuthotyelwe.

(6) Ukuba umntu lowo isaziso sikhutshelwe yena sisilela ukuthobelana naso, uMasipala anga—

- (a) thatha nawaphi na amanyathelo abona eyimfuneko, apho kufaneleyo—
  - (i) ukucoca nokususa inkunkuma;
  - (ii) ukuvuselela izakhiwo, iindawo okanye iindawo ezichaphazelekayo apho inkunkuma ingahoywanga, ilahliweyo okanye egciniweyo; kunye
  - (iii) nokuqinisekisa ukuba inkunkuma kunye naziphi na izixhobo ezingcolisiweyo ezingenakususwa, zicocwe okanye zivuselelwe zithathwa okanye zilahlwe ngokusemthethweni; kunye
- (b) nokufumaneka kweendleko zokuthathwa kwawo nawaphi na amanyathelo achazwe kumhlathi (a) kumntu ngamnye onoxanduva, ngokudibeneyo okanye ngokwahlukeneyo.

### Izibheno

**36.** (1) Umntu onamalungelo athe achatshazelwa zizigqibo ezithathiweyo nguMasipala elisemthethweni ngokumalunga nalo mthetho kamasipala, ngaphandle kokuba isigqibo sithathwe libhunga likamasipala, angabhena malunga neso sigqibo ngokumalunga necandelo 62 loMthetho weNkqubo kaMasipala.

(2) Isibheno phantsi kweli candelo sichita umsebenzi wesigqibo ochaphazela ukuxhonywa kwesigqibo sokubhena, kuxhomekeka kwicandelo (3) no-(4).

(3) Umntu ofumene isikhokelo okanye okhutshelwe isaziso sokuthobela ngokumalunga nalo mthetho kamasipala kufuneka athobelane neso sikhokelo okanye isaziso kwisithuba sexesha elichaziweyo kwisaziso, ngaphandle kokuba isigunyaziso sesibheno sivunyelwe ukuchitha umsebenzi wesikhokelo okanye isaziso sokuthobela njengokuchazwe kwicandelwana (4)(b).

(4) Isigunyaziso sesibheno singa, ngokufaka isicelo kunye nesenzo esihle esibonisiweyo, sikhokela ukuba, ukuxhonywa kwesigqibo sokubhena—

- (a) umsebenzi wokwenza isigqibo phantsi kwesibheno, okanye naluphi na ulungiselelo okanye imeko edibanisa oko, ayirhoxiswanga, nokokuba iyonke okanye inxalenye; okanye
- (b) umsebenzi wesikhokelo okanye isaziso sokuthobela esichazwe kwicandelwana (3), okanye nayiphi na inxalenye yeso sikhokelo okanye isaziso, irhoxisiwe.

### Izithintelo zoxanduva

**37.** IngengoMasipala okanye naye nawuphi na omnye umntu onoxanduva lobungozi okanye ukulahleka okubangelwa—

- (a) ngumsebenzi wawo nawaphi na amandla okanye ukwenziwa kwawo nawuphi na umsebenzi phantsi kwalo mthetho kamasipala; okanye
- (b) ukusilela komsebenzi wawo nawaphi na amandla, okanye ukwenziwa komsebenzi phantsi kwalo mthetho kamasipala,

ngaphandle kokuba umsebenzi okanye ukwenziwa, okanye ukusilela komsebenzi okanye ukwenziwa, amandla okanye umsebenzi awukho semthethweni kunye—

- (i) nokungakhathali; okanye
- (ii) ukungavisisani.

### **Amatyala**

**38.** Umntu owenza ityala ukuba lo mntu—

- (a) ulibazisa okany uphazamisana nomboneleli ngenkonzo, umsebenzi weziko lokulahla inkunkuma okanye igosa likamasipala elisemthethweni ekusebenziseni amandla alo okanye ekwenzeni imisebenzi yabo ngokumalunga nalo mthetho kamasipala;
- (b) uchasano okanye usilelo ekuthobeleni necandelo 5(1), 23(3), 23(12), 26(1) okanye 33;
- (c) uchasano okanye usilelo ekuthobeleni necandelo 4(1), 6(6), 12, 13, 14(6), 15(5), 17(1), 18, 19(1), 21(1)(b), 22(1), 24(6) okanye 26(3);
- (d) uchasano okanye usilelo ekuthobeleni nesaziso sothotyelo esikhutshwe ngokumalunga necandelo 4(2) okanye 35(1);
- (e) uchasano okanye usilelo ekuthobeleni nesikhokelo esikhutshwe ngokumalunga necandelo 4(3), 7, 15(2), 15(3), 15(4), 17(2), 20(2), 21(2), 22(3), 23(2), 26(4) okanye 32;
- (f) ozenza igosa likamasipala elisemthethweni okanye umsebenzi weziko lenkunkuma;
- (g) onikeza ngolwazi lobuxoki okanye olukhohlisayo xa kufunwa uthotyelo namalungiselelo alo mthetho kamasipala;
- (h) ukwenza nawuphi na umsebenzi ongekho semthethweni, kwaye ngabom okanye ngokungakhathali okanye ukungenzi nayiphi na into emalunga nenkunkuma apho umonakalo uchaphazela okanye onokuba yingozi echaphazela okusingqongileyo;
- (i) uchasano okanye usilelo ekuthobeleni nesaziso esichazwe kwicandelo le16(1), 23(5), 24(1), 25(1) okanye 25(6);
- (j) uchasano okanye usilelo ekuthobeleni nemiyalelo ekhutshwe ngokumalunga necandelo 4(2) okanye 14(3);
- (k) uchasano okanye usilelo ekuthobeleni nesicwangciso solawulo oluhlangeneyo lwenkunkuma; okanye
- (l) uchasano okanye usilelo ekuthobeleni nemeko ephantsi apho uxolelo kulungiselelo lwalo mthetho kamasipala owanikezwa ngokumalunga necandelo 29.

### **Izohlwayo**

**39.** (1) Umntu ogwetyelwe ityala ngokumalunga necandelo 38(b) unoxanduva lokohlwawa okanye ukubanjwa isithuba esingagqithanga kwinyanga enye, kwaye kwimeko yesigwebo sesibini okanye isigwebo esilandelayo, ukuhlawuliswa okanye ukubanjwe isithuba esingagqithanga kwiinyanga ezimbini,

okanye kuyo yomibini le mizekelo kuzo zozibini izohlwayo ezinjalo kunye noko kukubanjwa.

(2) Umntu ogwetyelwe ityala ngokumalunga necandelo 38(a), (c), (d), (e), (h), (i), (j), (k) okanye (l) unoxanduva lokohlwaywa okanye abanjwe isithuba esingagqithanga kunyaka omnye, kwaye kwimeko yesigwebo sesibini okanye isigwebo esilandelayo okanye kwimizekelo yomibini kuzo zozibini izohlwayo kunye noko kukubanjwa.

(3) Umntu ogwetyelwe ngokumalunga necandelo 38(f) okanye (g) unoxanduva lesohlwayo okanye ukubanjwa isithuba esingagqithanga kwiminyaka emibini, kwaye kwimeko yokubanjwa okwesibini okanye isigwebo esilandelayo, kwisohlwayo okanye ekubanjweni isithuba esingagqithanga kwiminyaka emine, okanye kuyo yomibini imizekelo yazo zozibini izohlwayo kunye noko kukubanjwa.

(4) Isohlwayo esichazwe kwicandelwana (1), (2) okanye (3) kufuneka kumiselwe ngokuqwalaselwa ngokufanelekileyo—

(a) sobunzima betyala ngokumalunga nefuthe lalo okanye okunokuba nefuthe kwimpilo, ekuphileni, ekukhuselekeni kwanokusingqongileyo; kunye

(b) nemali okanye nenye inzuzo efumaneke kumntu ogwetyiweyo ngokusebenzisa ikhomishini yamatyala.

#### **Utshitshiso lwemithetho kamasipala**

**40.** Uqulunqo lomthetho kamasipala wolawulo oluhlangeneyo lwenkunkuma umthetho utshitshisiwe.

#### **Isihloko esifutshane**

**41.** Lo mthetho kamasipala ubizwa ngokuba nguMthetho kaMasipala woLawulo oluhlangeneyo weNkunkuma Cederberg likamasipala uMasipala.



