

# CREDIT CONTROL AND DEBT COLLECTION BY-LAW

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## CORRECTION NOTICE

## CITY OF CAPE TOWN

## CAPE TOWN SUB-COUNCIL AMENDMENT BY-LAW, 2006

Notice published in Provincial Gazette 6363 dated 9 June 2006 is hereby amended by the deletion of the words "Final Draft".

15 June 2006

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## REGSTELLINGSKENNISGEWING

## STAD KAAPSTAD

## WYSIGINGSVERORDENING OP KAAPSTAD SUBRADE, 2006

Kennisgewing gepubliseer in Provinsiale Koerant 6363 van 9 Junie 2006 word hiermee gewysig deur die woorde "Finale Konsep" te skrap.

15 Junie 2006

17873

## ISAZISO NGOLUNGISO

## ISIXEKO SASEKAPA

## UMTHETHO KAMASIPALA OLUNGISIWEYO OPHATHELENE KUMABHUNGANA ASEKAPA, 2006

Isaziso esishicilelwe kwiGazethi yePhondo engunombolo 6363 yomhla wesi-9 kuJuni ka-2006, siyalungiswa ke ngoko ngokucinywa kwamagama athi "uYilo lokuGqibela".

15 June 2006

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## CITY OF CAPE TOWN

## NOTICE

## CREDIT CONTROL AND DEBT COLLECTION BY-LAW

Notice is hereby given that in terms of section 13, of the Local Government: Municipal Systems Act, Act 32 of 2000, the City of Cape Town has passed the by-law as set out below.

## CITY OF CAPE TOWN

## Credit Control and Debt Collection By-law

*To give effect to the Municipality's credit control and debt collection policy, its implementation and enforcement in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and sections 96 and 98 of the Municipal Systems Act, 2000; to provide for the collection of all monies due and payable to the Municipality; and to provide for matters incidental thereto.*

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## 1. Definitions

- (1) In this By-law, unless the context indicates otherwise—

**“arrangement”** means a written agreement entered into between the City Manager and a debtor where specific terms and conditions for the payment of a debt are agreed to;

**“arrears”** means any amount due and payable to the Municipality and not paid by the due date;

**“board of directors”**, in relation to a municipal entity, means the board of directors of the entity;

**“City Manager”** means the person appointed by the Council as the municipal manager in terms of section 82 of the Local Government: Municipal Structures Act, No. 117 of 1998, and who also is the accounting officer in terms of the Local Government: Municipal Finance Management Act, No 56 of 2003, or any other official delegated by him or her;

**“Council”** means the council of the Municipality;

**“Councillor”** means a member of the Council;

**“debt”** means any monies owing to the Municipality in respect of the rendering of municipal services, and includes monies owing in regard to property rates, housing, Regional Services Levies, motor vehicle registration and licensing, terminated leases, and any other outstanding amounts, inclusive of any interest thereon, owing to the Municipality;

**“debtor”** means any person who owes a debt to the Municipality;

**“due date”** means the final date on which a payment, as shown on the debtor's municipal account, is due and payable;

**“indigent debtor”** means a debtor who meets certain criteria, as determined by the Municipality from time to time;

**“interest”** means a rate of interest, charged on overdue accounts, which is one percent higher than the prime rate, which is obtainable from any commercial bank on request, unless determined otherwise by the Municipality, on capital, based on a full month and part of a month must be deemed to be a full month;

**“Municipality”** means the Municipality of the City of Cape Town and includes any municipal entity established by such municipality;

**“municipal entity”** means any municipal entity as defined in section 1 of the Municipal Systems Act, No. 32 of 2000;

**“official”** means an **“official”** as defined in section 1 of the Local Government: Municipal Finance Management Act, No. 56 of 2003;

**“policy”** means the Municipality's credit control and debt collection policy;

**“service”** means “municipal service” as defined in section 1 of the Systems Act, and includes a function listed in Schedules 4B and 5B of the Constitution of the Republic of South Africa, 1996 and any other service rendered by the Municipality;

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

**“third party debt collector”** means any person or persons authorised to collect monies or institute legal proceedings against debtors, on behalf of the Municipality;

**“this By-law”** includes the Credit Control and Debt Collection Policy;

**“total household income”** or **“household income”** means the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based; and

**“user”** means a person who has applied for and entered into an agreement with the Municipality for the supply of a service.

## 2. Duty to collect debt

All debt owing to the Municipality must be collected in accordance with this By-law and the policy.

## 3. Provision of services

New applications for services and the provision of new services must be dealt with as prescribed in this By-law and the policy.

## 4. Service agreement

Except as otherwise determined in terms of this By-law and the policy, no services may be supplied until an agreement has been entered into between the Municipality and the user for the supply of a service.

**5. Deposits**

The Municipality may require the payment of deposits for the provision of new services and the reconnection of services, or may adjust the amount of any existing deposit, as prescribed in this By-law and the policy.

**6. Interest charges**

The Municipality may charge and recover interest in respect of any arrear debt, as prescribed in this By-law and the policy.

**7. Arrangements to pay arrears**

- (1) The City Manager may make arrangements with a debtor to pay any arrear debt under conditions as prescribed in terms of this By-law and the policy.
- (2) Should any dispute arise as to the amount of the arrear debt, the debtor must nevertheless continue to make regular payments, in terms of the arrangement, until such time as the dispute has been resolved.

**8. Agreements with a debtor's employer**

The City Manager may—

- (a) with the consent of a debtor, enter into an agreement with that person's employer to deduct from the salary or wages of that debtor—
  - (i) any outstanding amounts due by the debtor to the Municipality; or
  - (ii) regular monthly amounts as may be agreed; and
- (b) provide special incentives for—
  - (i) employers to enter into such agreements; and
  - (ii) debtors to consent to such agreements.

**9. Power to restrict or disconnect supply of service**

- (1) The City Manager may restrict or disconnect the supply of any service to the premises of any user whenever such user of a service—
  - (a) fails to make payment on the due date;
  - (b) fails to comply with an arrangement; or
  - (c) fails to comply with a condition of supply imposed by the Municipality;
  - (d) tenders a negotiable instrument which is dishonoured by the bank, when presented for payment.
- (2) The City Manager may reconnect and restore full levels of supply of any of the restricted or discontinued services only—
  - (a) after the arrear debt, including the costs of disconnection or reconnection, if any, have been paid in full and any other conditions has been complied with; or
  - (b) after an arrangement with the debtor has been concluded.
- (3) The City Manager may restrict, disconnect or discontinue any service in respect of any arrear debt.

**10. Recovery of debt**

- (1) Subject to section 9, City Manager, must, with regards to rates, and may, with regards to other debt—
  - (a) by legal action recover any debt from any person; and
  - (b) recover debt from any organ of state with due consideration of the provisions of Chapter 3 of the Constitution of the Republic of South Africa, 1996, and

may refer a debtor to third party debt collection agencies and have such debtor placed on the National Credit Rating list.

**11. Recovery of costs**

The City Manager may recover the following costs, in instances where such costs are incurred by or on behalf of the Municipality:

- (a) costs and administration fees where payments made to the Municipality by negotiable instruments are dishonoured by banks when presented for payment;
- (b) legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;
- (c) restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-compliance with this By-law;
- (d) any losses the Municipality may suffer as a result of tampering with municipal equipment or meters; and
- (e) any collection commission incurred.

**12. Attachment**

The City Manager may, in order to recover debt, and as a last resort, approach a competent court for an order to attach a debtor's movable or immovable property.

**13. Claim on rental for outstanding debt**

The City Manager may, in terms of section 28, of the Municipal Property Rates Act, No. 6 of 2004, attach any rent, due in respect of any rateable property, to cover in part or in full any amount in respect of outstanding rates after the due date.

**14. Full and final settlement payments**

- (1) Any amount tendered in defrayment of a debt, will be accepted at any cash receiving office of the Municipality.
- (2) No offer of payment in full and final settlement of a debt, when such amount is less than the outstanding amount, must be accepted, unless confirmed in writing by the City Manager.
- (3) Notwithstanding subsection (2), the payment so offered must nevertheless be credited against the debtor's account, without prejudice to the Municipality's rights.

**15. Consolidation of a debtor's accounts**

- (1) The City Manager may—
  - (a) consolidate any separate accounts of a debtor;
  - (b) credit a payment by a debtor against any account of that debtor; and
  - (c) implement any of the measures provided for in this By-law and the policy,in relation to any arrears on any of the accounts of such debtor.
- (2) Subsection (1) does not apply where there is a dispute between the Municipality and a debtor referred to in that subsection concerning any specific amount claimed by the Municipality from that person.

**16. Indigents**

A debtor, who can prove indigence, will be dealt with as prescribed in the policy.

**17. Repeal of by-laws**

*The By-law on Credit Control and Debt Collection*, published, by the Cape Metropolitan Council, under PN. 622/2000, dated 10 November 2000, is hereby repealed.

**18. Delegation**

The City Manager may delegate any of his or her powers in terms of this By-law or the policy to any employee or official of the Municipality and to any board member of a municipal entity subject to applicable legislation.

**19. Offences and penalties**

Any person who—

- (a) obstructs or hinders any councillor or official of the Municipality in the execution of his or her duties under this By-law or the policy;
- (b) unlawfully uses or interferes with Municipal equipment or consumption of services supplied;
- (c) tampers with any Municipal equipment or breaks any seal on a meter;
- (d) contravenes or fails to comply with the provisions of this By-law or the policy; or
- (e) fails to comply with a notice served in terms of this By-law or the policy,

is guilty of an offence and liable on conviction to a penalty.

**20. Short title**

This By-law is called the City of Cape Town: Credit Control and Debt Collection By-law, 2006.

**STAD KAAPSTAD**  
**KENNISGEWING**  
**VERORDENING OP KREDIETBEHEER EN SKULDINVORDERING**

Kennisgewing geskied hiermee dat die Stad Kaapstad ingevolge artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000, die verordening aangeneem het wat hieronder uiteengesit word.

**STAD KAAPSTAD**

**Verordening op Kredietbeheer en Skuldinvordering**

*Om uitvoering te gee aan die munisipaliteit se beleid oor kredietbeheer en skuldinvordering, die inwerkingstelling en toepassing daarvan ingevolge artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, en artikel 96 en 98 van die Wet op Munisipale Stelsels, 2000, en om voorskrifte neer te lê vir die invordering van alle opeisbare skuld aan die munisipaliteit, asook vir sake bykomend daartoe.*

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**1. Woordoms krywing**

- (1) In hierdie verordening, tensy uit die samehang anders blyk, beteken—

“**agterstallige gelde**” enige bedrag wat nie op die betaaldatum betaal is nie en wat deur die munisipaliteit opgeëis kan word;

“**amptenaar**” ’n amptenaar soos in artikel 1 van die Wet op Plaaslike Regering: Bestuur van Munisipale Finansies, Nr. 56 van 2003, omskryf;

“**beleid**” die munisipaliteit se beleid oor kredietbeheer en skuldinvordering;

“**betaaldatum**” die finale betaaldatum soos op die debiteur se munisipale rekening aangedui word;

“**debiteur**” enige persoon wat geld aan die munisipaliteit verskuldig is;

“**derdeparty-skuldinvorderaar**” enige persoon of persone wat gemagtig is om namens die munisipaliteit geld in te vorder of regstap teen debiteure in te stel;

“**diens**” enige munisipale diens soos in artikel 1 van die Wet op Stelsels omskryf, insluitend ’n funksie gelys in Bylaag 4B en 5B van die Grondwet van die Republiek van Suid-Afrika, 1996 en enige ander diens deur die munisipaliteit verskaf;

“gebruiker” ’n persoon wat aansoek gedoen het om en ’n ooreenkoms aangeaan het met die munisipaliteit om ’n diens te verskaf.

“hulpbehoewende debiteur” ’n debiteur wat aan sekere kriteria voldoen wat van tyd tot tyd deur die munisipaliteit bepaal word;

“hierdie Verordening” ook die Beleid oor Kredietbeheer en Skuldinvordering;

“munisipale entiteit” enige munisipale entiteit soos in artikel 1 van die Wet op Munisipale Stelsels, Nr. 32 van 2000, omskryf;

“munisipaliteit” die munisipaliteit van die Stad Kaapstad, en sluit dit enige munisipale entiteit in wat deur sodanige munisipaliteit gevorm word;

“raad van direkteure” met betrekking tot ’n munisipale entiteit die raad van direkteure van sodanige entiteit;

“reëling” ’n geskrewe ooreenkoms aangeaan tussen die stadsbestuurder en die debiteur waarvolgens daar oor spesifieke terme en voorwaardes vir die betaling van die skuld ooreengekom is;

“rente” ’n rentekoers een persent hoër as die prima koers wat by navraag van enige handelsbank verkry kan word, tensy die munisipaliteit anders bepaal, en wat vir ’n volle maand op agterstallige rekeninge op kapitaal gehef word, waar ’n gedeelte van ’n maand as ’n volle maand beskou word;

“skuld” enige geld aan die munisipaliteit verskuldig vir die verskaffing van munisipale dienste, en behels dit geld verskuldig ten opsigte van eiendomsbelasting, behuising, streekdiensteraadheffings, motorvoertuigregistrasie en -lisensies, gekanselleerde huurkontrakte en enige ander uitstaande bedrae aan die munisipaliteit verskuldig, insluitend enige rente daarop;

“stadsbestuurder” die persoon wat deur die raad as munisipale bestuurder aangestel is ingevolge artikel 82 van die Wet op Plaaslike Regering: Munisipale Strukture, Nr. 117 van 1998, en wat ook die rekenpligtige beampte is ingevolge die Wet op Plaaslike Regering: Bestuur van Munisipale Finansies, Nr. 56 van 2003, of enige ander amptenaar wat deur hom of haar afgevaardig word;

“totale huishoudelike inkomste” of “huishoudelike inkomste” die totale formele en informele bruto inkomste van al die mense wat permanent of tydelik op die eiendom woon waarop die rekening gegrond is; en

“Wet op Stelsels” die Wet op Plaaslike Regering Munisipale Stelsels, No. 32 van 2000.

## 2. Plig om skuld in te vorder

Alle skuld verskuldig aan die munisipaliteit sal ooreenkomstig hierdie verordening en die beleid ingevorder word.

## 3. Diensverskaffing

Nuwe aansoeke om dienste en die verskaffing van nuwe dienste sal ooreenkomstig die voorskrifte vervat in hierdie verordening en die beleid hanteer word.

## 4. Diensooreenkoms

Tensy hierdie verordening en die beleid anders bepaal, sal geen dienste verskaf word sonder dat daar ’n ooreenkoms tussen die munisipaliteit en die gebruiker aangeaan word vir die verskaffing van ’n diens nie.

## 5. Deposito’s

Die munisipaliteit mag vereis dat deposito’s betaal word vir die verskaffing van nuwe dienste en die heraansluiting van dienste, of mag die bedrag van enige bestaande deposito ooreenkomstig die voorskrifte vervat in hierdie verordening en die beleid aanpas.

## 6. Renteheffings

Die munisipaliteit mag rente hef en verhaal ten opsigte van enige agterstallige skuld ooreenkomstig die voorskrifte in hierdie verordening en die beleid vervat.

## 7. Reëlings om agterstallige gelde te betaal

(1) Die stadsbestuurder mag reëlings met ’n debiteur tref om enige agterstallige skuld te betaal ooreenkomstig die voorwaardes in hierdie verordening en die beleid vervat.

(2) Indien ’n geskil ontstaan oor die bedrag van die agterstallige skuld, moet die debiteur nietemin voortgaan om ingevolge die ooreenkoms gereeld te betaal tot tyd en wyl die geskil besleg is.

## 8. Ooreenkomste met debiteur se werkgewer

Die stadsbestuurder mag—

(a) met die goedkeuring van ’n debiteur ’n ooreenkoms met daardie persoon se werkgewer aangaan om van die salaris of loon van daardie debiteur af te trek—

(i) enige uitstaande bedrae deur die debiteur aan die munisipaliteit verskuldig is, of

(ii) gereelde maandelikse bedrae soos ooreengekom, en

(b) spesiale aansporings bied vir

(i) werkgewers wat sulke ooreenkomste aangaan, en



- (ii) debiteure wat akkoord gaan met sulke ooreenkomste.

#### 9. Bevoegdheid om die verskaffing van dienste te beperk of af te sluit

- (1) Die stadsbestuurder mag die verskaffing van enige diens na die perseel van enige gebruiker beperk of afsluit wanneer sodanige gebruiker van 'n diens—
- (a) versuim om op die betaaldatum te betaal;
  - (b) versuim om die ooreenkoms na te kom;
  - (c) versuim om aan die verskaffingsvoorwaarde soos deur die raad opgelê te voldoen; of
  - (d) 'n verhandelbare dokument aanbied wat by indiening vir betaling deur die bank geweier word.
- (2) Die stadsbestuurder mag volle vlakke van verskaffing van enige van die beperkte of gestaakte dienste heraansluit en herstel slegs—
- (a) nadat die agterstallige skuld, insluitend die koste van afsluiting of heraansluiting, indien enige, ten volle betaal is en alle ander voorwaardes nagekom is, of
  - (b) nadat 'n ooreenkoms met die debiteur aangegaan is.
- (3) Die stadsbestuurder mag enige diens ten opsigte van enige agterstallige skuld beperk, afsluit of staak.

#### 10. Skuldverhaling

- (1) Onderhewig aan artikel 9 móét die stadsbestuurder met betrekking tot belasting, en mág hy/sy met betrekking tot ander skuld—
- (a) enige skuld van enige persoon deur regsoptrede verhaal, en
  - (b) skuld van enige staatsorgaan verhaal met inagneming van die bepalinge van Hoofstuk 3 van die Grondwet van die Republiek van Suid-Afrika, 1996, en
- 'n debiteur na derdeparty-skuldinvorderingsagentskappe verwys en sodanige debiteur op die nasionale kredietkeuringslys laat plaas.

#### 11. Kosteverhaling

Die stadsbestuurder mag die volgende koste verhaal in gevalle waar sodanige koste deur of namens die munisipaliteit aangegaan is:

- (a) koste en administrasiegeld waar betalings wat deur verhandelbare dokumente aan die munisipaliteit gemaak word deur die banke geweier word wanneer dit vir betaling aangebied word;
- (b) regs- en administratiewe koste, onder meer prokureurs- en kliëntkoste en opsporingskoste aangegaan om skuld te verhaal;
- (c) beperkings-, afsluitings- en heraansluitingskoste waar enige diens beperk of afgesluit is as gevolg van nievoldoening aan hierdie verordening;
- (d) enige verliese wat die munisipaliteit mag lei as gevolg van 'n gepeuter met die munisipale toerusting of meters; en
- (e) enige invorderingskommissiekoste wat aangegaan is.

#### 12. Beslaglegging

Die stadsbestuurder mag ten einde skuld te verhaal, en as 'n laaste toevlug, 'n hof met die nodige jurisdiksie nader vir 'n bevel om op 'n debiteur se roerende of vaste bates beslag te lê.

#### 13. Eis t.o.v. huurgeld verskuldig op belasbare eiendom

Die stadsbestuurder mag ingevolge artikel 29 van die Wet op Munisipale Eiendomsbelasting, Nr. 6 van 2004, beslag lê op enige huurgeld verskuldig op enige belasbare eiendom om gedeeltelik of ten volle enige bedrag ten opsigte van uitstaande eiendomsbelasting na die betaaldatum te dek.

#### 14. Volle vereffeninge

- (1) Enige bedrag aangebied ter betaling van skuld sal by enige kontantontvangskantoor van die munisipaliteit ontvang word.
- (2) Geen aanbod ter volle vereffening van skuld word aanvaar as sodanige bedrag minder is as die uitstaande bedrag nie, tensy dit skriftelik deur die stadsbestuurder bevestig is.
- (3) Desondanks subartikel (2) sal die betaling wat so aangebied word nietemin teen die debiteur se rekening gekrediteer word met voorbehoud van alle regte deur die munisipaliteit.

#### 15. Konsolidasie van debiteurrekeninge

- (1) Die stadsbestuurder mag—
- (a) enige aparte rekeninge van 'n debiteur konsolideer;
  - (b) 'n betaling van 'n debiteur teen enige rekening van daardie debiteur krediteer; en

- (c) enige van die maatreëls in werking stel waarvoor daar in hierdie verordening en die beleid voorsiening gemaak word betreffende enige agterstallige betalings op enige van die rekening van sodanige debiteur.
- (2) Subartikel (1) is nie van toepassing waar daar 'n geskil bestaan tussen die munisipaliteit en 'n debiteur waarna daar in daardie subartikel verwys word rakende enige spesifieke bedrag wat deur die munisipaliteit van daardie persoon geëis word nie.

#### 16. Hulpbehoewendes

'n Debiteur wat kan bewys dat hy of sy hulpbehoewend is, sal ingevolge die voorskrifte van die beleid hanteer word.

#### 17. Herroeping van verordeninge

*Die Verordening op Kredietbeheer en Skuldinvordering* gepubliseer deur die Kaapse Metropolitaanse Raad in PK. 622/2000 van 10 November 2000 word hiermee herroep.

#### 18. Delegering

Die stadsbestuurder mag, onderhewig aan toepaslike wetgewing, enige van sy of haar bevoegdhede ingevolge hierdie verordening of die beleid aan enige werknemer of amptenaar van die munisipaliteit, en aan enige raadslid van 'n munisipale entiteit delegeer.

#### 19. Misdrywe en strawwe

Enige persoon wat—

- (a) enige raadslid of amptenaar van die munisipaliteit in die uitvoering van sy of haar pligte ingevolge hierdie verordening of die beleid dwarsboom of hinder;
- (b) onregmatig gebruik maak van of inmeng met munisipale toerusting of die verbruik van dienste wat verskaf word;
- (c) met munisipale toerusting peuter of enige seël op 'n meter breek;
- (d) die bepalinge van hierdie verordening of die beleid oortree of versuim om daaraan te voldoen; of
- (e) versuim om aan 'n kennisgewing beteken ingevolge hierdie verordening of die beleid te voldoen,

is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete.

#### 20. Kort titel

Hierdie verordening staan bekend as *Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering, 2006*.

### ISIXEKO SASEKAPA

#### ISAZISO

#### UMTHETHO KAMASIPALA WOKULAWULWA KWAMATYALA

#### NOKUQOKELELWA KWEZIKWELITI

Esi sisaziso sokuba ngokwecandelo 13, loMthetho woRhulumente woMmandla: weeNkqubo zikaMasipala: uMthetho 32 ka-2000, iSixeko saseKapa siphumeze lo mthetho kamasipala ulapha ngezantsi.

### ISIXEKO SASEKAPA

#### Umthetho kaMasipala wokuLawulwa kwaMatyala nokuQokelelwa kweZikweliti

*Owenzelwe ukuba uncede ekubeni umgaqonkqubo wokuLawulwa kwaMatyala nokuQokelelwa kweZikweliti ukwazi ukusebenza nokunyanzeliswa ngokwemiqathango yecandelo 156(2) loMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996 namacandelo 96 no-98 oMthetho weeNkqubo zikaMasipala, 2000; ukuze ubonelele ngokuqokelelwa kwazo zonke imali ezisemva nezityalwa uMasipala; nokubonelela ngemicimbi ehambelana nale.*

#### Isalathiso

1. Iinkcazelo
2. Imfanelo yokuqokelela amatyala angahlawulwayo
3. Ukunikezelwa kweenkonzo
4. Isivumelwano senkonzo
5. Imali ezifakwe ebhankini
6. Ukuhlawuliswa inzala
7. Amalungiselelo okuhlawula imali esemva

8. Isivumelwano kunye nomqeshi walowo unetyala elingahlawulwayo
9. Amandla okunciphisa okanye ukuqhawula unikezelo lweenkonzo
10. Ukuqokelelwa kwemali yetyala ebelingahlawulwa
11. Ukubuya kweendleko
12. Ukuthinjwa
13. Ukubanga kwintlawulo yerenti ukuze kuhlalulwe ityala elisesemva
14. Intlawulo epheleleyo neyeyokugqibela yokucima ityala
15. Ukudityaniswa kwazo zonke ii-akhawunti zalowo unamatyala angahlawulwayo
16. Amahlwephu
17. Ukurhoxiswa kweMithetho kaMasipala
18. Isigunyaziso somsebenzi
19. Ukwaphula kwemithetho kunye nezohlwayo

## 1. Iinkcazelo

- (1) Kulo mthetho kaMasipala, ngaphandle kokuba okuthile akuhambelani nomxholo:—

“**amalungiselelo**” achaza isivumelwano esibhalwe phantsi, esiphakathi komphathi kamasipala kunye nalo mntu unetyala, apho imida nendlela yokuhlalulwa ethe ngqo kuthi kuvunyelwane ngayo;

“**imali esemva**” kuchazwa nayiphina imali ekufuneka ihlalulwe umasipala, ize ingahlalulwa ngomhla ekufanelekekokuba ihlalulwe ngawo;

“**ibhodi yabalawuli**” ngokubhekisele kwiziko likamasipala, ithetha ibhodi yabalawuli yeziko elo;

“**UManejela kaMasipala**” kuchazwa umntu oqeshwe liBhunga njengomlawuli kamasipala zemali ngokoMthetho woRhulumente weMimandla: weeNkqubo zikaMasipala, uMthetho Nomb 117 ka-1998 kananjalo ekwaligosa leencwadi zezimali ngokoMthetho woRhulumente weMimandla: woLawulo lweziMali zikaMasipala, umthetho 56 ka-2003; okanye naliphi na elinye igosa alinike igunya lokwenza oko;

“**IBhunga**” kuchazwa iBhunga lika Masipala

“**UCeba**” uxela ilungu leBhunga;

“**Ityala**” kuchazwa naziphi na iimali ezililungelo likaMasipala ngokubhekiselele kunikezelo lweenkonzo zikamasipala, kananjalo kubandakanywa neemali ezililungelo lakhe ngokubhekiselele kwintlawulo yerhafu yemihlaba nezakhiwo, izindlu, irhafu yeenkonzo zommandla, irhafu (layisenisi) yenqwelo-mafutha, uqeshiselwano olumisiweyo kwakunye nezinye imali ezingahlalulwanga, ezililungelo leBhunga;

“**Umntu onetyala**” kuchazwa nawuphi na umntu onetyala kumasipala;

“**umhla omiselweyo**” kuchazwa umhla wokugqibela omiselwe intlawulo njengoko ubhalwe kwi-akhawunti yomnikazi-tyala likamasipala;

“**Ihlwempu elityalayo**” kuchazwa umntu onetyala ngokwenkqubo emiselwe liBhunga amaxesha ngamaxesha;

“**inzala**” kuxelwa izinga lenzala elitsalwa kumatyala adlulelwe lixesha lokuhlalulwa, eliyipesenti enye ngaphezulu kwaleyo ifanele ukutsalwa, efuneka kuyo nayiphi na ibhanki xa uthe wayicela, ngaphandle kokuba uMasipala uthe wavela nenye into kwimali eyinkunzi ngenyanga okanye ngenxalenye yenyanga nayo ethathwa njengenyanza epheleleyo;

“**Umasipala**” kuchazwa uMasipala waseKapa yaye kubandakanywa amaziko kamasipala amiselwe ngulo masipala;

“**Iziko likamasipala**” kuchazwa naliphi na iziko likamasipala njengoko lichaziwe kwicandelo 1 loMthetho weeNkqubo zikaMasipala, Nomb. 32 ka-2000;

“**igosa**” lichaza “**igosa**” njengoko lichaziwe kuMthetho woRhulumente weMimandla: uMthetho woLawulo lweMali zikaMasipala, Nomb 56 ka-2003;

“**Umgqaqo-nkqubo**” kuchazwa umgqaqo-nkqubo weBhunga wokongamela iintlawulo kunye nokuqokelelwa kwemali zamatyala angahlawulwayo;

“**iinkonzo**” kuchazwa nayiphi na “**inkonzo kamasipala**” njengoko ichaziwe kuMthetho weeNkqubo zikaMasipala, ebandakanya umsebenzi odweliswe ku-4B naku-5B woMgqaqo-siseko weRiphabhliki yoMzantsi Afrika, ka-1996 Kananjalo nayiphi na enye inkonzo enikezelwa ngumasipala;

“**Umthetho weeNkqubo**” kuchazwa uMthetho woRhulumente WeMimandla: ongeNkqubo zoMasipala, nomb 32 ka-2000;

“**Umntu wesithathu oqokelela iimali zamatyala**” kuchazwa nawuphi na umntu ogunyazisiweyo okokuba aqokelele iimali okanye amisele iinkqubo zengalo yomthetho kulowo unetyala lemali egameni likamasipala;

“**lo Mthetho kaMasipala**” uquka uMgaqonkqubo kaMasipala weSixeko saseKapa: wokuLawulwa kwaMatyala nokuQokelelwa kweZikweliti;

“**Ingeniso yekhaya xa iyonke**” okanye “**ingeniso yekhaya**” kuchazwa ingeniso xa iyonke kubandakanywa umrhlo xa uwonke zabo bonke abantu abahlala isigxina okanye okwethutyana kwelo khaya liphunyelwa yi-akhawunti;

“**Umsebenzisi**” kuchazwa umntu othe wafaka isicelo waze wenza isivumelwano kunye nomasipala sonikezelo lweenkonzo.

## 2. Imfuneko yokuba kuqokelelwe imali zamatyala

Zonke imali ezililyala ezililungelo kwiBhunga ziyakuqokelelwa ngoko mgaqonkqubo kwaye akuvumelekanga ukushenxa kulenkqubo ngaphandle kwesihlomelo kumgaqo-nkqubo.

## 3. Unikezelo lweenkonzo

Izicelo ezitsha zonikezelo lweenkonzo kunye nonikezelo lweenkonzo olutsha luyakonganyelwa ngendlela ekuchazwe ngayo kulo mthetho kamasipala nakumgaqo-nkqubo.

## 4. Isivumelwano sonikezelo lweenkonzo

Ngaphandle kokuba kuchazwe ngenye indlela kumgaqo-nkqubo, akukho nkonzo iyakunikezelwa de kube kwenziwe isivumelwano phakathi kweBhunga kunye nomsebenzisi waloo nkonzo inikezelwayo.

## 5. Idipozithi

IBhunga lingathi lifune okokuba kuhlululwe idipozithi ukuze kunikezelwe iinkonzo ezintsha kwakunye nokubuyisela iinkonzo ebeziqunyanyisiwe, okanye lingathi linyuse isixa-mali sayo nayiphi na idipozithi ekhoyo, njengoko ichazwe kulo mthetho kamasipala nakumgaqo-nkqubo.

## 6. Intlawuliso yenzala

IBhunga lingahlawulisa kwaye lifumane inzala kulo naliphi na ityala elisemva njengoko kuchazwe kumgaqo-nkqubo.

## 7. Ukwenza amalungiselelo okuhlawula ityala elisemva

- (1) Umanejala kamasipala angathi enze amalungiselelo kunye nalowo unetyala, okokuba ahlawule naliphina ityala asemva ngalo phantsi kweemeko ezichazwe kulomgaqo-nkqubo
- (2) Ukuba kuthi kuvele nakuphina ukungavisisani malunga nobungakanani betyala elisemva, lowo unetyala kufuneka, nangona kunjalo, aqhube ngokuhlawula rhoqo ngokwezivumelwano ebezenziwe, de unobangela wokungavisisani abe usonjululiwe.

## 8. Izivumelwano kunye nomqashi walowo unetyala

Umanejala kamasipala angathi—

- (a) ngokuvumelana kunye nalowo unetyala, enze isivumelwano kunye nomqashi walo mntu unetyala sokokuba kutsalwe kumvuzo walowo unetyala—
  - (i) nayiphi na imali engekahlawulwa ngulowo unetyala kumasipala, okanye
  - (ii) izavenge zentlawulo qho ngenyanga ngokwexabiso ekuya kuvunyelwana ngalo, kwaye
- (b) anikezele neenkuthazo ezizodwa ezikhuthaza ukuhlawula ngenxa yokuba—
  - (i) abaqeshi benze isivumelwano esilolu hlobo; kunye
  - (ii) nokuba abo banetyala banike imvume yokwenza ezo zivumelwano.

## 9. Igunya lokucutha okanye lokunqumamisa unikezelo lweenkonzo

- (1) Umanejala kaMasipala angathi acuthe okanye anciphise okanye anqumamisa unikezelo lwayo nayiphi na inkonzo kwisiza sakhe nawuphi na umsebenzisi weenkonzo, nanini na xa umsebenzisi wenkonzo—
  - (a) ephosa ukwenza intlawulo ngomhla obe umisiwe;
  - (b) ephosa ukuthobela amalungiselelo entlawulo;
  - (c) ephosa ukuthobela imiqathango yonikezelo emiselwe liBhunga okanye
  - (d) engenisa iitshekhi ezikhatywayo yibhanki xa ziyokutshintshwa.
- (2) Umanejala kamasipala angathi abuyisele okanye anikezele ngokupheleleyo unikezelo lwayo nayiphi na inkonzo ebe incitshisiwe okanye inqunyanyisiwe kuphela—
  - (a) emva kokuba ityala elisemva, kubandakanywa ixabiso lokunqumamisa okanye ukubuyisela, lithe lahlawulwa ngokupheleleyo kananjalo nokuba nawuphi na umqathango uthe wathotyelwa, okanye
  - (b) emva kokuba kwenziwe isivumelwano sokuhlawula kunye nalowo unetyala
- (3) Umanejala kamasipala angathi anqumamisa okanye aphelise unikezelo lwayo nayiphi na inkonzo ngenxa yetyala elisemva.

**10. Ukuqokelelwa kwemali ebe ingahlawulwa**

- (1) Kulandelwa icandelo 9, uManejala kaMasipala angathi malunga nereyithi kunye naliphi na elinye ityala—
  - (a) ngokusebenzisa amandla omthetho, afumane intlawulo kuye nawuphi na umntu, kananjalo
  - (b) alande intlawulo yetyala kulo naliphi na iziko likarhulumente esebenzisa izibonelelo zeSahluko 3 soMgaqo-siseko seRiphabliki yoMzantsi Afrika, 1996,

angathumela igama laloo mntu kwinkampani eziqokelela iimali ezisemva yaye afake naloo mntu kuLudwe lweSizwe lwaBantu abaHlawula kaKubi.

**11. Ukubuya kweendleko**

Umanejala kamasipala angathi abuyekeze ezi ndleko zilandelayo, kwimeko apho imali ethe yachithwa yaba yekamasipala:

- (a) iindleko kunye nemali zokongamela apho iintlawulo ezenziwe kuMasipala ngokwezivumelwano zithe azahlawulwa zibhanki ngenxa yokungabikho kwemali kuloo akhawunti yebhanki yaloo mntu;
- (b) iindleko zenkundla zomthetho kunye nokongamela, kubandakanywa inkcitho yegqwetha kunye nomxumi kunye nentlawulo yokulandelela ukufumana intlawulo yamatyala;
- (c) intlawulo yokunqumamisa okanye ukubuyisela, apho nayiphi na inkonzo ithe yanqunyanyiswa ngenxa yokungathobeli le mithetho kamasipala;
- (d) nayiphi na ilahleko anokuthi umasipala ayifumane ngenxa yokubhucabhuca izixhobo okanye imitha zikamasipala, kunye
- (e) neendleko zekomishini ethe yahlawulwa ngexa yokuqokelela imali.

**12. Ukuthimba**

Umanejala kamasipala angathi, khon' ukuze abuyekeze ityala, njengelinge lokugqibela, aye kwinkundla efanelekileyo, ayokufuna umyalelo wenkundla wokuthimba izinto ezisukayo okanye ezingasukiyo zalowo unetyala.

**13. Ukubanga kwintlawulo yerenti ukuze kuhlawulwe ityala elisesemva**

Umanejala kamasipala angathi, ngokwecandelo 28 loMthetho weeReyithi zePropati zikaMasipala, nomb 6 ka-2004, athathe nakuyiphi na intlawulo yerenti khon' ukuze abuyekeze ityala lilonke okanye inxalenye yalo emva kokuba kudlule umhla wentlawulo.

**14. Intlawulo epheleleyo neye yokugqibela yokucima ityala**

- (1) Nayiphi na imali ethi ihlawulwe njengentlawulo yetyala, iyakwamkelwa kuyo nayiphi na i-ofisi kamasipala eyamkela iintlawulo.
- (2) Akusayi kwamkelwa ntlawulo ehlawulwa njengepheleleyo kwaye iyeyokugqibela ukucima ityala, xa eso sixa-mali singaphantsi kwemali engekahlawulwa, ngaphandle kokuba iqinisekisiwe ngokubhalwe phantsi nguManejala kaMasipala.
- (3) nangona kunjalo ngokwegatyana (2), loo ntlawulo yenziwayo nangona ingaphantsi kwetyala iya kuthathwa icuthe i-akhawunti yalowo unetyala kungekho mkhethe ngakumalungelo kaMasipala.

**15. Ukudityaniswa kwazo zonke i-akhawunti zalowo unamatyala angahlawulwayo**

- (1) Umanejala kamasipala angathi—
  - (a) adibanise sonke i-akhawunti ezohlukeneyo zalowo unetyala;
  - (b) acuthe ityala ngentlawulo yenziwe ngulowo unetyala, etyeleni elikwiakhawunti yalowo unetyala, kananjalo
  - (c) amisele nayiphi na imiqathango ebekiweyo kulo mthetho kamasipala, ebhekiselele nakweyiphi na imali elityala esemva, kuyo nayiphi na iakhawunti yalowo unetyala.
- (2) Igatyana (1) alisebenzi xa kukho ukungavisani phakathi kukamasipala kunye nalowo unetyala ekubhekiswa kuye kwelo gatyana, malunga nasiphina isixa-mali esithe nqo esibangwa ngumasipala kulo mntu.

**16. Amahlwephu**

Umntu onetyala, onokuthi abonise ubungqina bokuba uhlwempuzekile, kuya kuthi kukhawulelwane naye ngendlela echazwe apha kulo mgaqonkqubo.

**17. Ukurhoxiswa komthetho kamasipala**

*Umthetho kaMasipala wokuLawulwa kweNtlawulo kunye nokuQokelelwa kwaMatyala angahlawulwayo, obhengezwe liBhunga eliMbaxa leKapa phantsi kwePN 622/2000, womhla 10 Novemba 2000, uyarhoxiswa ngolu hlobo.*

**18. Isigunyaziso**

Umanejala kamasipala angathi asebenzise naliphi kumagunya amandla akhe, phantsi kwalo mthetho kamasipala kuye nawuphi na umqeshwa kamasipala nakuliphi na ilungu lebhodi kamasipala kodwa oko kuxhomekeke kuwiso-mthetho olukhoyo.

**19. Ukwaphula kwemithetho kunye nezohlwayo**

Nawuphi na umntu othi—

- (a) athintele okanye abe ngumqobo kuye nawuphina uceba okanye igosa likamasipala ngethuba besenza umsebenzi wabo phantsi kwalo mthetho kamasipala;
  - (b) osebenzisa ngokungekho mthethweni okanye aphazamisane kunye nezixhobo zeBhunga okanye usebenziso lweenkonzo ezinikezelwayo;
  - (c) aphatha-phathe/abhuca-bhuca izixhobo zeBhunga okanye ophule nasiphi na isivingco esikwimitha;
  - (d) ophule okanye aphose ukuthobela imiqathango yalo mthetho kamasipala okanye umgaqo-nkqubo, okanye
  - (e) aphose ukuthobela isaziso esigunyazisayo esikhutshwe phantsi kwalo mthetho kamasipala okanye umgaqo-nkqubo;
- unetyala lokwaphula umthetho kwaye akuba egwetyiwe uya kuhlawula imali-sohlwayo.

**20. Isihloko esifutshane**

Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala weSixeko saseKapa: wokuLawulwa kwaMatyala nokuQokelelwa kweZikweliti, 2006.