ISAZISO SOBURHULUMENTE BASEMAKHAYA

UMASIPALA WASENGQUSHWA

IMITHETHO YEDOLOPHU EPHATHELELE KUTHINTELO LWEENKATHAZO

UManejala kaMasila upapasha, ngokuphathelele kwiCandelo 13 lobuRhulumente basemaKhaya: kuMthetho weNkqubo kaMasipala, 2000 (uMthetho No.32 ka2000), funda kunye neCandelo 162 loMthetho woMgaqo-Siseko weRiphabliki yaseMzansi Afrika (uMthetho onguNombolo 108 ka1996), uMthetho weDolophu ophathelele kuThintelo lweziDube-dube.

Injongo yaloMthetho weDolophu

Injongo yalomthetho wedolophu kukwazisa ngommandla okhuselekileyo, osempilweni nococekileyo nozolileyo ukze kuxhamle uluntu oluhlala kwimida yalo masipala, nokulungiselela imisebenzi neenkqubo zomthetho othintela izidube-dube.

ISAHLUKO 1

INKCAZELO

1. **Inkcazelo** – Kulo mthetho wedolophu, amagama asetyenzisiweyo esini samadoda abandakanya nesini sabafazi, isini esinye sibandakanya nesininzi kwangokufanayo kwaye, ngaphandle kokuba kube bhalwe njalo

‘**ummandla**’ kusingisele kulwakhiwo lwendawo ekwimida kamasipala kaMasipala waseKhaya eMahlathi;

‘**igosa eligunyazisiweyo**’ kusingisele –

(a) Igosa likaMasipala elinikwe igunya nguye ukulawula; ukufezekisa nokunyanzelisa ulungiselelo lwale mithetho yedolophu

(b) Igosa lezendlela elinyuliweyo ngokuphathelele kwiCandelo 3A loMthetho wezeNdlela kwiNdlela yeSizwe, 1996(Umthetho onguNo.93 ka1996);

(c) Ilungu lemisebenzi yenkonzo yamapolisa, njengoko kuchazwe ngokuphathelele kwiCandelo 1 loMthetho weNkonzo yamaPolisa aseMzantsi Afrika, 1995 (Umthetho onguNombolo 68 ka1995) okanye
(d) Igosa lezoxolo, eli(elenza) jngokuphathelele kwiCandelo 334 loMthetho weNkqubo yezobuNdlobongela, 1977 (uMthetho No.51 ka1977);

'**umasipala**' kusingisele kuMasipala waseMgqushwa, oqulunqwe ngokuphathelele kwiCandelo 12 lobuRhulumente basemaKhaya; uMthetho weMisebenzi kaMasipala, 1998 (uMthetho ongunombolo 117 ka1998) kwaye kubandakanya nawuphi na umbutho wezopolitiko, umphathi we-ofisi yezopolitiko, uceba, isebe eligunyazisiweyo ngoko, kunye nawuphi na umqeshwa osebenza ndawonye malunga nale mithetho yedolophu neluxanduva lukamasipala anikezelwe ngumbutho wezopolitiko, ngumphathi we-ofisi yezopolitiko, uceba, isebe kunye nomsebenzi

'**inkathazo**' kusingisele, ngaphandle kokuvalela ububanzi beli gama, umsebenzi, ukukhetha, imeko okanye imicimbi –

(a) ethintelalayo, ethunukayo, enobungozi okanye ethintela uluntu ngukubanzi, okanye

(b) engunobangela wokungaqhubeki kakuhle ngendlela efanelekileyo nesebenzisekayo okanye eyonwabelekayo kwesakhiwo sabucala;

'**umhlali**' kusingisele kwaye kubandakanya nawuphi na umntu ngokobizo lawo nawuphi na umhlaba okanye isakhiwo sabucala okanye okanye onoxanduva okanye onolawulo ngoko, ngaphandle kokuqwalasela isakhiwo ahlala kuso, kwaye, ngokuphathelele kwisakhiwo sabucala esahluliweyo saqeshiswa kubantu abashiyeneyo, umntu lowo owamkela irhafu ehlawulwa ngabaqeshi , nokokuba ihlawulwa kuye okanye ihlawulwa kwisebe eliqeshisayo;

'**umnini-sakhiwo'** kubhekiselele kwisakhiwo sabucala –

(a) umntu ekubhaliswe ngaye itayitile yesakhiwo ngokoMthetho we-ofisi yoBhaliso lwezaKhiwo, 1937 (uMthetho onguNombolo.47 ka1937) njengoko kulungisiwe, kwaye kubandakanya umphathi welayisenisi yesakhiwo;

(b) umntu ekubhaliswe ngaye isatifikethi seendawo zokuhlala ezahlula-hluliweyo uMthetho weTayitile zeNdawo ezahlula-hluliweyo, 1986 (uMthetho onguNombolo.95 ka1986), kwaye ukongeza koko, kubandakanya umnini-sakhiwo (njengoko kuchaziwe kuMthetho lowo), iqummrhu lebhodi kunye nomphuhlisi wesakhiwo eso ngokuphathelele kwisakhiwo sabucala eso;

(c) ukuba umntu onjalo okanye umnini-sakhiwo wasweleka, okanye akanamali, uphazamisekile ngengqondo okanye uyaqhwalela emzimbeni, uselula ngokweminyaka, okanye uphantsi komthetho wokhubazeko, umntu lowo onoxanduva lolawulo lwesakhiwo eso okanye ojongane naso, nokokuba ngophathiswe imicimbi yesakhiwo eso, iqumrhu eliphathiswe lo msebenzi, umchithi wempahla, umkhangeli weso sakhiwo okanye nawuphi na umntu onoxanduva nokokuba luluphi na;

(d) ukuba isakhiwo eso sabucala siyaqeshisa, ubhaliso ngoko lube lolubalulekileyo ukuze uqeshiso olo lube lolungaphelelwayo, oqeshisayo; okanye

(e) apho umnini-sakhiwo nanjengoko kuchaziwe apha, akakho kwiRiphablikhi okanye ubukho bakhe abaziwa, isebe eligunyazisiweyo, okanye nawuphi na umntu owamkela okanye onoxanduva lokwamkela irenti ngokubhekiselel kwisakhiwo okanye 'naliphi na icandelo', njengoko kuchaziwe kuMthetho weTayitile ezaHlula-Hluliweyo, 1986, wesakhiwo sabucala eso;

'**isakhiwo sabucala'** siza kubandakanya nayiphi na indawo kawonke-wonke nawuphi na umhlaba wabucala, zonke izakhiwo, amagumbi, abahlali, iishedi, izindlu okanye ezinye izakhiwo, okanye ulwakhiwo, iiyadi okanye imihlaba ngokuphathelele ngoko, kananjalo kuza kubandakanya naliphi na 'icandelo', njengoko kuchazwe kuMthetho weeTayitile ezaHlula-Hluliweyo, 1986, ngoko,

'**isixhobo sikawonke-wonke'** kusingisele kwizinto zokuyolisa uluntu ezilungiselelwe ngumasipala;

'**isakhiwo sikawonke-wonke'** kusingisele nakusiphi na isitalato, indawo, kubandakanya ulwandle okanye nawuphi na umlambo ongenekayo, apho uluntu lungafikelela lula, kodwa kukhuphela ngaphandle naziphi na izixhobo zangaphandle okanye izakhiwo zikamasipala;

'iinqwelo ezisetyenziswa luluntu' kuza kubandakanya nayiphi na imoto, icab, iteksi, urisho, ibhasi okanye nayiphi na inqwelo eqashisiweyo ukulungiselela abakhweli;

'**inkunkuma**' kusingisele inqwelo engasasetyenziswayo okanye umatshini okanye inxalenye ngoko, yemethali esisiscrap, inkunkuma yabakhi, inkunkuma yegadi,nezinto ezingcolisa umzi, amathayari, okanye naziphi na izinto ezilahliweyo;

'**isithuthi'** kusingisele nayiphi inqwelo enokuthutha umntu okanye abantu, kungabhekiselelanga kwinqwelo yabakhubazekileyo

ISAHLUKO 2

IINDAWO ZIKAWONKE-WONKE

2. **Ulwaphulo-mthetho**

Umntu sisaphuli-mthetho xa enetyala alenze kwiindawo zoluntu.

(a) ethukile, ephazamisile, okanye esoyikisa omnye umntu;

(b) azibandakanye okanye asebenze kwiikonsathi nabanye abantu ngendlela ebangela okanye enako ukubangela ulwaphulo-mthetho; okanye

(c) esilwa okanye athuke okanye aphembelele umlo

3. Umntu unetyala xa ekwindawo yoluntu, athi –

(1) Umntu unetyala xa kwindawo kawonke-wonke

(a)

(b)

(2) Umntu unetyala xa kwindawo kawonke-wonke

(a) achame okanye aye ngasese kwindawo yoluntu engalungiselelwanga oko neyiyekamasipala

(b) angene ethoyilethi ebekelwe abantu abesini esingesiso esakhe

(c) atshice amathe kwindawo yabantu;

(d) ephantsi kweempembelelo zotywala okanye asele utywala kwindawo apho igosa elinikezelwe umsebenzi onjalo libona kungabangela izidube-dube kwabanye abantu

(e) ephantsi kweempembelelo zeziyobisi, njengoko kuchaziwe koMthetho weziYobisi, wokuHambisa iziYobisi, 1992 (uMthetho ongu140 ka 1992) okanye othubelezisa iziyobisi komnye umntu;

(f) abonakalise okanye enze nayiphi na into engafanelekanga

4. **Isithuko**

Umntu uyathuka xa, ekwindawo yoluntu eviwa ngeendlebe esebenzisa ulwimi oluthukayo kanye acule iculo elithuka abanye

5. **Iincwadi okanye imibhalo ethukayo**

Umntu unetyala xa kwindawo kawonke-wonke

(a) Ebonisa, ehambisa, eveza okanye ethengisa iseyil, ngendlela engabangela, okanye engaphazamisa ithuke abanye abantu nokokuba ngumfanekiso okanye;

(b) Azobe, ashicilele, abhale, avelise, athumele incwadi, umfanekiso okanye nawuphi na umba abonakala kuluntu unesithuko

6. Izenzo ezinobungozi

(1) Umntu unobungozi xa kwindawo yoluntu,

(a) asebenze, abambe naziphi na izixhobo okanye into eneziphumo eziyingozi komnye umntu, okanye efaka ubomi bomnye umntu emngciphekweni;

(b) eveza okanye ebamba isixhobo okanye isiselo okanye into eqinileyo eluhlobo lwayo lunobungozi kubantu okanye kwisakhiwo

(c) entumeka okanye asebenzise umlilo kwiindawo zoluntu ekungavumelekanga oko ngokomthetho kamasipala;

(d) arhuqe okanye atsale nayiphi na into kwikhanopi yemoto, kwibhulorho, kwiveranda, okanye nayiphi na into ephumela ngaphandle, okanye intsika, ipali kuxhomekeka kokukhutshwe ngumthetho okwicandelo 9(e) ; okanye

(e) enze nasiphi na isenzo esinganobungozi kumntu, okanye kwisakhiwo ngaphandle kokuba ugunyazisiwe ngumthetho ukuba enze njalo, okanye unencwadi emnika imvume esuka kwigosa logunyaziso loko ngokwemiqathango emisiweyo.

(2) Ngokuphathelele kuntumeko lomlilo okanye ukusetyenziswa komlilo –

(a) akukho mntu oza kufaka umlilo osuka kisakhiwo sabucala, ngaphandle kwephepha-mvume likamasipala;

(b) ukusebenza kwemvume ekhutshwe (contemplated) ngokuphathelele kwicandelwana(a) kuza kuba –

(i) lelibhalwe phantsi kwisthuba seentsuku ezili14 phambi komsitho lowo

(ii) kukhatshwe liphepha-mvume elisuka kubamelwane abakufutshane naye kule ndawo aza kukhupha kuyo umlilo;

(c) akukhi nto iqulathwe kweli candela ezakuba (construed) nenga(detract) kwiimfuno zoMthetho weziQhushumbisi 2003 (uMsebenzi onguNombolo 15 ka2003) okanye nawuphi na umthetho okhutshwe ngokuphathelele koko;

7. **Ukulahlwa kwenkunkuma**

(1) Umntu unetyala xa, kwindawo yoluntu ,

(a) Ashiye, alahle, atshice okanye abangele inkunkuma nokokuba ingamanzi okanye iqinile ngaphandle kokuba kukho umgqomo kuloo ndawo alahla kuyo;

(b) akhuphe inkunkuma emgqomeni, ngaphandle kokuba kukho isizathu soko nangaphandle kokuba kuvumelekile ngokusemthethweni okanye loo nkunkuma isiwa kwindawo eza kuyilondoloza ingangcolisi

(2) Umntu ophazamisa abanye abantu ukuba benze umkhuba onjalo ochazwe kwiCandelwana elingu (1) uza kufunyaniswa enetyala

(3) Nayiphi na into elahlwa ngumntu okanye iwe phantsi ingacholwa njengoko kuphauliwe kwiCandelwana (1), nebonisa ukuba ilahlwe nguye loo mntu;

(4) Nayiphi na into efunyanwa kwiindawo zoluntu nebangela urhano lokokuba umntu wonile ngokwecandelwana 1 nebonisa igama laloo mntu okokuba nguye owenze isenze eso esikwicandelo (1) abekwe ityala leso senzo ngaphandle kokuba angazibonisa ukuba akanatyala

(5) Umntu otshayelayo okanye obonakalalisa nayiphi na inkunkuma kwindawo yoluntu uza kubanetyala lokulahla inkunkuma kuloo ndawo phantsi kweempembelelo ezikwicandelwana (1) uza kunyanzeliswa okokuba ayikhuphe loo nkunkuma ayifake emgqomeni nanjengoko umasipala ebeza kwenza njalo kodwa ukungaphumeleli ukuhambisana noko kuza kuba lityala.

8. Ukucocwa kweendawo zokuhamba ezisemacaleni okanye eziphelweni

(a) Umhlali kuloo ndawo okanye ishishini, urhwebo olukulooo ndawo kubandakanya igatari, indawo yokuhamba abantu, kufaneleke okokuba agcine indawo leyo icocekile yanelise kwaye ukuza kuthi ga ngoku, asuse yonke inkunkuma ekulooo ndawo

(b) Umhlali kuloo ndawo ngokwecandelwana(1) kuza kufuneka inkunkuma ilahlwe ifakwe kwizingxobo zenkunkuma ukuze ilahlwe ngokolungiselelo olwenziwe ngumasipala, xa iza kulahlwa ngolunye uhlobo kufaneleke ukuba kubekho iphepha-mvum elokwenza umsebenzi onjalo ngokomyalelo wegosa eligunyazise njalo.

9. Uphazamiso

Umntu uyaphazamisa kwindawo zoluntu xa tahe

(a) Washiya nayiphi na into ingahoywanga, emva kokuba eyibeke apho, nto leyo ingaphazamisa pho;

(b) Ukuthwala okanye ukulahla okanye ukufaka nayiphi na into engaphazamisa okanye ithintele ukuhamba lula kwabantu okanye kweemoto, okanye kwiindawo ezisetyenziswa ngabantu okanye ziimoto apho kunokudaleka iingozi kubantu okanye kwizakhiwo;

(c) Ukulahla phantsi nayiphi na into ngethuba kusothulwa okanye kulayishwa izinto emotweni ngethuba kuthuthwa kwiindawo zikawonke-wonke kwisithuba eside

(d) Ukuvalela isayini yendlela njengoko kubaliwe kuMthetho wezoThutho kwiiNdlela zeSizwe, 1996 (uMthetho 93 ka 1996);

(e) Ukuxhoma okanye ukujingisa into phezulu kwindawo yoluntu, nto leyo ibangela ukuba kubekho into evelayo ibe

sisiphazamiso ngaphandle kokuba kubekho iphepha-mvume lokwenza oko elivela kwamasipala;

(f) Ukuqokelela abantu kwindawo yoluntu nto leyo engaphazamisa abantu ekuhambeni kwabo besihla besenyuka okanye ivalele iimoto okanye abantu bangakwazi ukuzonwabela ezindlelni

(g) Ukwenza nawuphi na umsebenzi ongenza kubekho iziphumo ezichazwe kwicandelwana (b).

10. Ukulahlwa kwento efunyenwe kwindawo yoluntu

(1) Nayiphi na into eshiywe nje yodwa kwindawo yoluntu, isophula okanye iphazmisana nomthetho obekwe kwicandelo 9, igosa elinikwe igunya lingayisusa liyibeke kwindawo equlunqelwe oko ngumasipala, ngaphandle kokuba into enjalo ibe ivunywe ligosa eligunyaziselwe oko ngesizathu esinokalayo. Into leyo mayibekwe kwindawo efanelekileyo. Umntu onetyala yena uza kubanoxanduva lokuhlawula kwamasipala iindleko zokulahla into enjalo, njegoko kuqulunqwe ligosa eligunyazisiweyo.

(2) Izinto ezisusiweyo zabekwa elugcinweni njengoko kuphawulwe kwicandelwana(1) zizakukhutshwa kuye nawuphi na umntu kwisithuba seentsuku ezisixhenxe, okanye kuxhomeke kwithuba elivunywe ligosa eligunyaziselwe lo msebenzi wokugcina aqulunqe ithuba lokugcina oko, kananjalo avele ukuba ungumnini-zinto ezo ahlawule uluhlu lwerhafu njengoko kuqulunqwe ligosa eligunyaziselwe lo msebenzi.

(3) Izinto ezingakhululwanga ngokwecandelwana (2) ziza kuthengiswa okanye zilahlwe ngendlela eza kuthi emva kwesaziso eso sikhutshwe ligosa eligunyazisa ngalo msebenzi libone kufanelekile, emva kokuqwalasela uhlobo lwezinto ezo.

(4) Imali ezuzwe kwintengis leyo ngokwecandelwana (3) iza kusetyenziselwa intlawulo yoku kulandelayo:

(a) iindleko zothutho nogcino lwezinto njengoko kuphawulwe ngokwecandelwana (2)

(b) naziphi na iindleko ezinokuba kho kwiinzame zokuzama ukufumana umnini-zinto lowo;

(c) iindleko zeseyile, imali eshiyekileyo ingene kumasipala xa ithe ayalandwa kwisithuba sonyaka somhla wentengiso umntu obonakalalisa ilungelo lakhe elisemthetthweni.

(5) Xa imali efunyenwe kwintengiso ingenelanga ukuhlangabezana neendleko eziphawulwe kwicandelwana (4), ngoko ke umnini-zinto ezithengisiweyo nomntu owenze elo tyala ngokuphathelele kumthetho baza kuhlangabezana netyala bahlawule kumasipala

(6) Xa izinto ezo zingenako ukuthengiswa ngokwecandelwana (3) ngoko ke igosa eligunyazisiweyo kumsebenzi wogcino lowo angazilahla ngendlela abona ifanelekile ngokwecandelwana(5) i(*mutatis mutanids*, iza kusebenza ngokweendleko ezibekho xa kulahlwa loo nto.

(7) Umsebenzi wegunya elinikezelwe ngulo mthetho wedolophu awuzukusebenza kwamasipala okanye naliphi na igosa elinoxanduva lendleko, lobusela, lomonakalo, okanye nayiphi na into esuswayo ngokwecandelwana(1) kuphela xa izinto ezilahliweyo ezo, ubusela okanye umonakalo kubangelwe kukungabikho kwenkathalo kwamasipala okanye kwigosa elo ligunyaziselwe lo msebenzi.

11. **Uphazamiseko olubangelwa zizityalo**

(1) Xa umthi, utyani okanye isityalo esikhula kwisakhiwo sabucala si(abuts) indawo yoluntu, okanye inxalenye yeso sityalo –

(a) iphazamisa indlela yokubona komqhubi ezinye iimoto endleleni kwindawo yoluntu

(b) iphazamisa okanye ibangela isidube-dube kubantu abasebenzisa iindawo yoluntu leyo; okanye

(c) ivalela isayini yendlea ezindleleni,

Igosa eligunyazisiweyo lingafaka isaziso kumnini okanye kumhlali kwisakhiwo eso sabucala, esifuna okokuba asuse okanye acande isityalo eso esibangela isidube-dube, kangangokude, kwaye kwisithuba esichazwe kwisaziso eso, kwaye nawuphi na umntu ongaphumeleliyo ukuhambisana nesaziso eso kangangesithuba esichaziweyo uzakufunyaniswa enetyala.

(2) Xa umntu okhutshelwe isaziso ngokwecandelwana(1) engenzi njengoko ayalelwe ngako, igosa eligunyaziselwe oku kangangesithuba esibekiweyo lingabangela ukuba umsebenzi lowo uchaziweyo kwisaziso wenziwe, kwaye umntu onjalo uza kuba noxanduva kumasipala leendleko zomsebenzi, njengoko kuphononongowe ligosa eligunyazisayo.

12. Iintlanganiso

a. Akukho mntu oza kungenelela, okanye athabathe inxaxheba, kuyo nayiphi na intlanganiso kwindawo yoluntu, okanye kwiholo kamasipala

(a) ebangela isidube-dube, njengoko, kuchaziwe; okanye

(b) angenelele kulo lonke ulungiselelo loMthetho woLawulo lweeNtlanganiso, 1993(uMthetho No.205 ka1993)

(2) Ulungiselelo lwecandelwana(1) alukutolikwa ngohlobo oluzakunciphisa amalungelo omnye umntu akumgaqo-siseko wokubamba iintlanganiso, kuzabalaza, kukhalaza nokutyikityya izibheno.

13. Izixhobo ezenza ingxolo

(1) Akukho mntu uvunyelweyo ngaphandle kokuba afumane imvume yokwenza oko kumasipala, ukusebenzisa okanye ukuvumela i(megaphone), loudspeaker, okanye izixhobo ezinjalo ezinjalo ezikhupha intsholo, kwiindawo zoluntu ngeenjongo zokwenza isibhengezo, ukuthengisa, okanye ukwenza umsebenzi onjalo.

(2) Umasipala angala ukunika imvume, ukuba kukho izizathu ezibambekayo ezikholelwa okokuba ukusebenzisa izinto ezinjengemegafoni, iloudspeaker kunye nezinye izixhobo ezenza lo msebenzi ofanayo kungaphazamisa okanye kudale izidube-dube.

(3) UMasipala angarhoxa isivumo sakhe, ukuba kubonakala kunesidube-dube, okanye kungakho isidube-dube.

14. Imidlalo

Umntu unetyala xa ethe kwindawo yoluntu, adlale imidlalo, kwiindawo ezihamba-hamba abantu njengeroller skates, rollerblades, ngendlela ebangela isdube-dube.

15. Amatyala angamanye

(a) Umntu unetyala xa, kwindawo yoluntu, kwisakhiwo sabucala, okanye kwindawo kawonke-wonke ephantsi komasipala, nekulawulo lwakhe, enze isidube-dube.

(b) Ulungiselelo lwamacandelwana(a) awakwazi ukusebenza apho umntu asebenza ngokusemthethweni, esebenzisa ilungelo lakhe ekwenzeni umsebenzi othile.

ISAHLUKO 3

ISAKHIWO SABUCALA

16. Ukusetyenziswa kwesakhiwo sabucala

(1) Umntu ubekwa ityala xa athe nakusiphi na sisakhiwo sabucala, athi

(a) Agrumbe okanye asuse umhlaba okanye nayiphi na into kwindawo ebibekwe kuyo ngokuphathelele kwezinye iindawo zoluntu ukuze zixhase loo ndawo ezinobungozi eluntwini okanye kwisakhiwo;

(b) Xa umhlali okanye umnini-sakhiwo sabucala, evumela iqula, umlambo, ichibi okanye umthombo, kugrunjwe kusetyenzwe umhlaba okanye kulinywe kwisakhiwo sabucala okanye singakhuseleki ngendlela yokokuba sibenobungozi kubantu okanye kwizakhiwo;

(c) Kubangela, kuvumela, nayo nayiphi na iprojekthi yesakhiwo sabucala, echaphazela indawo yoluntu, kuphela kwindawo elungiselelwe imveliso yesikimu kuye kuye ngendlela ebaluleke nengqamene nomthetho wokusetyenziswa kwemihlaba;

(d) Xa ungumnini-sakhiwo okanye umhlali kweso sakhiwo sabucala, ukulahlwa kwenkunkuma, ukugcinwa kwezinto ezithinjiweyo kwaye kuvumela okokuba zibonakale euluntwini, ifanitshala engasebenziyo, oomatshini, nezinye izixhobo ezishiywe nje zizodwa, iimethali ezilahliweyo;

(e) Ngaphandle kwemvume yomnini-sakhiwo okanye umhlali, kubekwe nayiphi na into kwisakhiwo sabucala, umbhalo oseludongeni, itshokhwe, i-inki, ipeyinti kunye nezinye izinto, ngaphandle kokuba kukho umyalelo onjalo.

(2) Igosa eligunyazisiweyo lingayalela umntu owaphule umthetho ngokwecandelwana (1) (d) okanye (e) okokuba asuse loo nto ephazamisayo kweso sakhiwo sabucala ngexesha elimisweyo, kwaye, xa engaphumeleli ukwenza njalo, ulungiselelo olukwicandelo 10, imutatis mutandis, luza kusebenza.

17. Ii-Alamu eziThintela uQhekezo

(1) Umnini-sakhiwo okanye umhlali kweso sakhiwo apho kukho isixhobo sokutshintela uqhekezo esifakelweyo, uza kuba netyala ukuba isixhobo eso siyaqhubekeka nokwenza ingxolo rhoqo ngaphezulu kwemizuzu elishumi emva kokuba isetiwe ukuba isebenzengenxa yesizathu esithile.

(2) Isixhobo esinjalo siza kungxola ngesizathu esichazwe kwicandelwana(1) kodwa xa siteh sakhala kangangthuba elide nengoko kuchazwe kwicandelwana (1) siya kube siyaphazamisa kakhulu, kodwa xa kukho into ebonakalisa okokuba kukho isixhobo sokuthulisa asathulisa, ngesizathu naye umntu ebengenako ukusinqanda, kungekho nto ebengayenza, kungesikuko ukungakhathali, uyakuba akanatyala.

(3) Xa isixhobo sokuthintela uqhekezo sifakiwe kwisakhiwo sabucala, umnini-sakhiwo okanye umhlali kufuneka afake isaziso esichaza amagama, iinombolo zefoni zabantu abangena kweso sakhiwo ngamaxesha amaninzi abanokukwazi ukusicima xa sikhala okanye kubekho isixhobo sokucima ngoko nangoko, ngaphandle kokuba kukho isixhobo esichazwe kwicandelwana(2) esifakelweyo silungiswe ekungenei kwesi sakhiwo.

18. Izixhobo zokupholisa

(1) Umnini-sakhiwo okanye uhlali ofakele okanye onesixhobo sokupholisa kufaneleke okokuba aqinisekise okokuba sifakwe ngendlela engazikuphazamisa, okanye xa silungiswa, ingxolo ingaphazamisi –

(a) ukuvakala kwengxolo, ivumba lezinto ezisetyenziswayo okanye ukushukuma kezixhobo zingabangeli izidube-dube, njengoko sele kuchaziwe kwaye

(b) ukusetyenziswa kweso sixhobo kungachaphazeli uluntu nto leyo ingabangela izidube-dube njengoko sele kuchaziwe.

(2) Akukho nto iqulathwe kweli candela ezakuba(construed) kangangokude i(detract) kwiimfuno zoMthetho wokwaKha iNational Building Regulations kunye neBuilding Standards Act, 1977(uMthetho onguNo 103 ka1977) kunye noMthetho woKhuseleko neMpilo eMisebenzini(Occupational Health and Safety Act, 1993; Act No.85 ka1993) kunye nawuphi na umthetho ophathelele kulowo uchazwe ngaphambili.

19. Izinkathazo ezivela ngenxa yokusetyenziswa kwesakhiwo sabucala

(1) Akukho mnini-sakhiwo okanye mhlali okwisakhiwo sabucala onganako uku –

(a) kusisebenzisela isizathu;

(b) ukubangela, ukuvumela ukuba sisetyenziselwe isizathu;

(c) ukulugiselela okanye ukuvumela imisebenzi, imisitho, enjengeyokubhiyozela umhla wokuzalwa, umtshato, neminye efana naleyo,

Engahambisaniyo kunye nesikimu sokwaba, okanye ukufaka imiqathango ethile kwimithetho yesicwangciso sokwakhiwa kwedolophu, kanajalo, ngokohlobo lwaso, okanye ngesizathu sesiphumo, kubangele inkathazo.

(2) Ngaphandle kokulibala icandelwana(1) akukho nto iza kuthintela umnini-sakhiwo okanye umhlali kwisakhiwo wesakhiwo sabucala okokuba anagzibandakanyi kule misebenzi ilandelayo –

(a) nasiphi na isakhiwo esigunyazisiweyo okokuba kwakhiwe kuso msebenzi lowo wenziwa nguye- okanye-emele yena; kwaye

(b) ukuthabatha inxaxheba kwimibhiyozo ebandakanya nayiphi na into eyiyeyakhe engafuna okokuba kusetyenziswe umbane njengomatshini wokubholaa xa

(i) ukusetyenziswa kweso sixhobo kungaphazamisi abamelwane abasebenzisa oonomathotholo, nokokuba isilumkiso sithatyathiwe ukunciphisa ingxolo kangangethuba elithile, elinciphisa ukuchaphazeleka kwamathuba omsebenzi owenziwa kwisakhiwo sabucala okanye kwenye indawo; kwaye

(ii) isakhiwo esinjalo okanye umsebenzi onjalo kwanokusetyenziswa kwezixhobo zombane kulungiselela loo misebenzi zimiselwe ithuba lee yure 07h00 kuye19h00.

(3) Xa kusenzeka, igosa eligunyaziselwe lo msebenzi linoxanduva lokubona okokuba umsebenzi owenziwa kuloo ndawo awuphazamisi ngokwecandelwana(1) okanye (2) unako ukuyalela umnini-sakhiwo okanye umhlali athabathe amanyathelo njengoko athunywe ngako ligosa eligunyaziselwe loo msebenzi angaqhubekeki naloo msebenzi ngethuba afuna ukuba umsebenzi lowo unqamlwe ngawo.

(4) Xa umnini-sakhiwo, okanye umhlali unoxanduva leso sakhiwo malunga naloo msebenzi okanye nto iqhubeka kuso ngokuchazwe kwicandelwana(3), engahambisani nesi saziso asinikwa ligosa eligunyaziselwe loo msebenzi, igosa elo linelungelo lokusebenzisa isaziso esiphathelele neCandelo 341 leCriminal Procedure Act, 1977 (Act No.51 ka1977) malunga naloo mntu waphula umthetho.

20. Ukubaswa kwemililo

(a) Akukho mntu onako, kuso nasiphi na isakhiwo sabucala, ukuntumeka umlilo okanye atshise nokokuba yinkunkuma okanye ingca okanye utyani, ngaphandle kokuba athabathe inyathelo lesilumkiso lokukhusela ukwanda komlilo, okanye ukudaleka kwiinkathazofgezibangelwa ngumsi, amalahle, ubushushu okanye nayiphi na enye into.

(b) Xa kukho umntu oqhubekeka nokusthisa engathabathanga isilumkiso esichazwe kwicandelwana(a), apho umlilo onjalo ungabangela ukuba kufakweni kwesikhalazo kumasipala, umasipala ngokusebenzisa igosa elo unako ukungena kweso sakhiwo sinomlilo, ukuze ayalele ukuba ucinyewe, kwaye abeke ityala lentlawulo kuloo mntu.

21. Ukuxhelwa kwezilwanyana nokulahlwa komgquba

(1) Akukho mntu uvumelekileyo okokuba

(a) Axhele isilwanyana nakuyiphi na indawo ngaphandle komzi wokuxhela izilwanyana

(b) Anike ilingelo lokuxhelwa kwesilwanyana ukuba sityiwe, ngaphandle kokuba inyama lweyo ixhelwe kumzi wokuxhela

(c) Imisebenzi ekwicandelwana(1) ayiyaleli okokuba kuxhelwe ukuze kudliwe, okanye kwenziwe amasiko

(2) Akukho mntu uza kugrumba yokanye abeke isidumbu sesilwanyana okanye nayiphi na into engafanelekanga ephuma kwisilwanyana eyiyekahe nekulawulo lwakhe ayisuse ayise kwenye indawo akanye ayibeke kwindawo engabangela izidube-dube.

(3) Xa ethe umntu akakwazi ukuyilahla okanye ayigrumbele kwindawo ngokwecandelwana (3) kufuneka enze amalungiselelo kunye nomasipala okuyilahla ngentlawulo emiswe ngumasipala.

(4) Akukho nto iqulathwe kweli candela ekufuneka iguqulwe ngokuphathelele kula malungiselelo oMthetho woKhuseleko lweNyama, 2000(uMthetho onguNombolo 40 ka2000) neminye imithetho enokuthi ivele ngokuphathelele koko.

(5) Apho iKansile iqalisa ngaphandle kombuzo phambi kweKansile kwiKomiti eyaziswe ngayo, uthethwano luza kuqalisa ngethuba iKansile iziguqulela kwiKomiti.

22. Ukususwa kokhula nezihlahla

(1) Akukho mtu ovumelekileyo ukuba avumele ukhula notyani olungnfunekiyo njengoko ludweliswe kumthetho iconcervation aof Agricaltural Resources ka 1983 (Act No 43 of 1983) Lukhule kumhlaba omiwe nguye

(2) Umtu uyakunyanzeleka athobele isaziso esinikwe yena ngonenunya simnyanzelisa ukuba asuse atshabalalise nayphina into kwezo zibandakanyiweyo.

(3) Nabanina othe akathobelaisigunyaziso uyakufunyanwa enetyala ngokomththto kaMasipala angathabaatha amanyathelo.

23. Ukunqandea kokwanda kwengcongconi, iimpukane kwanezinye indidi zezilwanyana ezitshabalalisayo.

(1) Luxanduva lommi ngamnye ukunqnda ukwanda kwenconconi, iimpikane kwanezinye, kwanezilwanyana ezinjenge mpuku. Nokufunyanwa kwazo akuvumelekile ngomthetho wekansile.

(2) Umnikazi mhlaba/ndawo uyakugunaziswa ukuba anciphise zonke iimeko ezinokukhokhelela ekwandeni kwe kwazo.

(3) Ukuba umninindawo leyo uyala ukufezekisa umyalelo onegunya woyalela ukuba oko kwenziwe ze kuhlawulelwe kumninindawo lowo.

24. Ukusetyenziswa kwendawo zothengiso ngemizimba

(1) Akuvumelekile ukuba nabani abenendawo yokuthengisa ngemizimba kwindawo yakhe yabucala

(2) Akukho mtu ongumnikazi, noqashileyo ovumela ukusetyenziswa kwegumbi njengendawo yokwenza oku.

(3) Akukho mntu nammali wakhe unokuthi asebenzise igumbi njengendawo yokwenza oku esazi.

(4) Akukho nanye into ebandakanywa kulo mhlathi enokuhlehliswa ephambana nemfuno zomthetho isexual offences (Act no 3 of 1957)

ISAHLUKO 4
IZAKIWO KWANOMHLABA OPHANTSI KOLAWULO KULAMASIPALA

25. ULWAPHULOMTHETHO NGOKUBANZI

(1) Umtu wopula umthetho xa athe ngokubhekiselele kubumni nolalulo lukamasipala nokuba kungempahla efundiswkayo nengafundisekiyo abandakanya iindawo zoluntu wenza oku:

(a) Ukuvumela okanye wnza nasiphina isenzo esithi ngokwembono kaMasipala sibange ukukhuliso lomhlaba.

(b) Uvumela okanye wenza nasiphina isenzo esithi ngokwembono kaMasipala sibange ukukhuliso lwesanti elunxwemwni lolwandlw

(c) Ukuvumela okanye wenza ukususwa nogokwemibono kaMasipla kukutshatyalalisea kotyani.

(d) Ulahla izithiyeli kulo mhlaba kaMasipala

(e) Ngenjongo okanye ngokungakhathali utshabalalisa impahla kaMasipala

(f) Ususa umhlaba, Isanti, irhexe, amatye kwanenca

(g) Ukutshabalalisa ancothule izityalo imithi namalungu azo umzekelo intyatyambo.

(h) Ubeka ayamanise axhome kwimpahla kamasipala, nantonina yentengiso ebandakanya izaziso.

(i) Utshintsha imbonakalo yezinto zikaMasipala ngokubhala ngeinki, ngetshokewe nangepeyinti

(j) Ngokucina izibane, asuse imiqobo amacingo abiyeleyo kwanezazisi zikamasipala

(k) Ukomba nokuvula imisele kwezondawo

(l) Ukhwela ahlale ngaphezu kwempahla kaMasipala

(m) Wakha amise into kwezondawo zikaMasipala

(n) Ungena kuzo engenalungelo

(o) Uvumela okanye abangele ukuba nabanina enza oku kungentla ngaphandle kwemvume kaMasipala

(2) Noxa kunjalo akukhonto imthintelayo umninindawo ekulimeni nasekutyaleni entendeni yesitalato noxa kufanele angaphazamisani nokuhamba kwabantu kwanezithuthi

(3) Nawuphina umntu othe watshutshiswa ngenxa yoko kubhaliweyo kwinqakwana (1) wohlawuliswa nguMasipala ngenxa yelahleko yesenzo sakhe, kodwa izaphulelo ezikwinqaku (10) zosebenza

ISAHLUKO 5

AMASOLOTYA, ULWAPHULOMETHE NEZOHLWAYO

26. **Amasolotya**

Xa athe umsebenzi ekwenzeni umsebenzi wakhe okanye ukufezekisa umthetho waze wophula umthetho kaMasipala, uMaispala njengomqahi wobandakanyela ekophulweni kwalo mthetho njengoko inqaku 27 lisitaho ngaphandle oku kulandelayo kwenzekile

(a) Xa esebenxa isenzo eso wenze ngokwetando yakhe ingeyiyo eyomqeshi

(b) Onke amanyathelo uwathabathile ukuza ukumqanda oko kwenzekileyo

(c) Ebengagunyaziswanga nguMqeshi ukuba enze isenzo eso

27. **Ulophulo mthetho nezohlwayo**

(1) Nawuphina umntu othe –

(a) Waphula umthetho ongenasohlwayo sibalulweyo

(b) Wophule isithintelo somthetho onika igunya ngokomthetho

(c) Akaphumeleli ekuzalisekeni isaziso esinikwe yena nokuba ngumyalelo ngokomthetho kaMasipala

Wofunyanwa enetyala

(2) Nabinina othe wafunyanwa ewophule umthetho wafunyanwa enetyala yaye ahlawule indleko ezingadlulanga kwiR60 000 (amawaka angamashumi amathandathu eranti) okanye waralelwa kangangexehsa elingadlulanga kwinyanga ezili 12 (ishumi elinambini) okanye xa athe waquba esona wohlawula imali engadlulange kwiR600 (amakuhlu amthandathu) ngosuku ngalunye

28. **Imigaqo**

(1) uMasipala angenza lemigaqo ngokubhekiselele –

(a) ukunikezelwa kwelungelo elibhelweyo nemeko ezihamba naku

(i) ukwenza isenzo esinobungozi njengoko sichaziwe kwinqaku 6(1)(e) no

(ii) ukudutyulwa kweziqhushumbisi ngokwenqaki 6(2)

(b) ukulahlwa kwenkumkana ngummi kulo ndawo asenzela kuyo njengoko inqaku 8(b) esitsho

(c) ukunikezwa kwenvume ebhaliweyo ibandakanya iimeko nembophelelo ekuxhonyweni kwezinto kwindawo yoluntu iphazamisana nazo ngokwenqaku 9(e)

(d) ukususwa kwempahla efumaneka kwindawo zikaMasipala

(i) uMasipala nokhetha alungise iindawo impahla leyo mayigcinwe kuyo ngokwe nqaku 10(1)

(ii) imigomo wokwazi ixabiso lempahla leyo

(iii) intlawulo ngokususwa nokugcinwa kwezinto ezo ngokwenqaku 10(2)

(iv) indlela emazilandelwe ekuthengisweni kwezo zinto ngokwenqaku 10(3) kunye no 6

(e) okubandakanyiweyo kwisazisi esiya kumnikazi sokhokela yimiqomo ebonisa ixabiso njengoko inqaku 11(1) no (2)

(f) ukunika kwemvume ngokusetyenziswa kwzixhobo zokupapasha njengoko inqaku 13 lisitsho

(g) ukunqandwa kwenkathazo kwindawo zabucala –

(i) amanyathelo okususwa kwezozinto zindawo zabucala njengoko inqaku 16(2)

(ii) ukunikwa kwemiyalelo nokwaziswa komnikazi lowo ngenkathazo leyo echazwe kwinqaku 19(3) no (4)

(iii) Amanyathelo ngokungenwa komhlaba womntu xa kuzakuncinywa umlilo inqaku 20(b) liyachaza

(iv) Intlawulo malunga nokugcwatywa nokutshatyalaliswa kwezinto ezingafanelekanga njengezidumbi zezinto ezifileyo ichazwa kwinqaku 21(4)

(v) Imiba nokuhanjiswa kwesaziso malunga nokususwa kwenkunkuma notyani nento mayathelo athathwayo xa uMasipala eyisusa ibhalwe winqaku 22(2) no (3)

(vi) Imiba nokuhanjiswa kwesaziso malunga nokutshatyalaliswa kwetyhefu namanyathelo kaMasipala nentlwaulo ibandakanywa kwinqaku 23(2) no(3)

(h) Ukunikwa kwenvume ligosa ngokunxulumene nomthetho wempahla kaMasipala ukwinqaku 25(1) no (0)

(i) Intlwaulo ukunqanada ilahleko kaMasipala za kuthe kwaphulwa umthetho ikwinqaku 25(3)

(j) (i) ukunikwa kwezohlwayo ngenxa yamatyala ichazwa kwinqaku 27

(ii) ukulungiswa kwezohlwayo amaxesha ngamazesha

(k) Nayiphina ikcukacha enokuthi ibalulwe kulo mtheho

(2) (a) uMasipala akasayi kuthi ngethuba elingaphantsi kwenyanga phambi kokuqulunqa umgaqo ngokwenqakwana 1 abe selesazisa abahlali ngokwenqaku 21 no 21A yomthetho Municipal Systems (Umthetho No.32 ka 2000)

(b) ukuba uMasipala ugqiba ekuguquleni umgao oqulungwayo ngenxa yezincomo zabantu akusayi kubakho mfuneko ukuba ayibabshe inguqulelo lwyo.

29. **Ukurhosa umthetho wedolophu**

Nawuphina umthetho ophathelele kuthintelo lwenkathazo owamkelweyo nguMasipala okanye nayiphina iKansile kaMasipala equlathe icandelo lolawulo lukaMasipala uzakurhoxiswa kususela kumhla lomthetho obhengezwe ngawo

30. **Itayitile emfutshane**

Lo mthetho wedolophu ubizwa ngokuba nguMthetho wedolophu ophathelele kuthintelo lwenkathazo, 2004, usebenza ngomhla ogqitywe nguMasipala ngokuchazwa kwiGazethi yePhondo