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PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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**CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD**

— / Making progress possible. Together.

## **CITY IMPROVEMENT DISTRICT BY-LAW**

**CITY OF CAPE TOWN**  
**CITY IMPROVEMENT DISTRICT BY-LAW**  
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Schedule 1 Contents of the Business Plan

**To provide for the establishment of City Improvement Districts; to provide for additional rates; and to provide for matters incidental thereto.**

Be it enacted by the City of Cape Town as follows: -

**CHAPTER 1  
DEFINITIONS, INTERPRETATION AND OBJECTIVES**

**Definitions**

1. In this By-law words or expressions shall bear the meaning assigned to them herein unless the context indicates otherwise—

“**additional rate**” means an additional rate contemplated in section 22 of the Local Government: Municipal Property Rates Act, 6 of 2004 (the “MPRA”), and in Section 22 of this By-law;

“**additional rate payer**” or “**ARP**” in relation to a City Improvement District means the owner of a rateable property located in the special rating area who is liable to pay the additional rate;

“**alternate board observer**” means any councillor designated by the Executive Mayor in terms of section 21 to attend meetings of the board of the City Improvement District’s management body as an observer in substitution for the principal board observer;

“**applicant**” means any owner or legally mandated representative of rateable property within the boundaries of a proposed City Improvement District who makes an application for the determination of such a special rating area in accordance with the provisions of Chapter 2;

“**annual budget**” means a budget of the management body of a City Improvement District as approved by the Council and includes an annual budget revised by an adjustment budget in terms of section 15 and 16, respectively;

“**annual report**” in relation to the management body of a City Improvement District means an annual report as contemplated in section 18;

“**auditor**” means an individual or firm registered as an auditor with the Independent Regulatory Board of Auditors (IRBA);

“**board**” means the board of directors of the management body of a City Improvement District, as contemplated in section 66 of the Companies Act, 71 of 2008;

“**board observer**” means, unless the context indicates otherwise, a councillor, or alternate councillor, designated by the Executive Mayor to attend meetings of the board as an observer in accordance with section 21;

**“board observer agreement”** - means the agreement entered into between the CID and the designated board observer, inter alia spelling out the rights and obligations of both parties in the interests of improving good governance mechanisms;

**“Business Improvement District”** or **“BID”** means a category of City Improvement District in which an additional rate is levied on rateable, non-residential property within its boundaries, as contemplated in the Rates Policy;

**“business plan”** means the composite document with the minimum required contents of which are listed in Schedule 1;

**“CIPC”** means the Companies and Intellectual Property Commission established in terms of section 185 of the Companies Act;

**“City”** means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 2000 of 22 September 2000, issued in terms of Section 12 of the Local Government: Municipal Structures Act, 117 of 1998 or any structure or employee of the City acting in terms of delegated authority;

**“City Improvement District”** and **“CID”** means a contiguous geographic area, designated by the Council for the levying of an additional rate on rateable properties within its boundaries to finance improvements and upgrades of the public spaces within the district;

**“collection ratio”** in respect of a proposed CID is a measure of how much of the revenue invoiced by the City during a 12-month period was collected during that 12-month period;

**“Common control”**, in relation to two or more juristic bodies who are eligible for membership of the management body of a CID, means control by a person who-

- (a) beneficially owns more than half of the issued share capital of each body;
- (b) is entitled to vote a majority of the votes that may be cast at a general meeting of each body, or has the ability to control the voting of a majority of those votes, either directly or through a controlled entity of that person;
- (c) is able to appoint or to veto the appointment of a majority of the directors of each body;
- (d) is a holding company and each body is a subsidiary of that company;
- (e) in the case of a body which is a trust, has the ability to control the majority of the votes of the trustees, to appoint the majority of the trustees or to appoint or change the majority of the beneficiaries of the trust;
- (f) in the case of a close corporation, owns the majority of the members' interest or controls directly or has the right to control the majority of the members' votes in the close corporation; or

- (g) has the ability to materially influence the policy of the bodies in a manner comparable to a person who, in the ordinary commercial practice, can exercise an element of control referred to in para (a) to (f) of this definition;

**“Common ownership”**, in relation to two or more juristic bodies who are eligible for membership of a management body of a CID, means greater than 50% ownership of each such body by any person;

**“Companies Act”** means the Companies Act, 2008 (Act 71 of 2008);

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

**“Council”** means the Council of the City;

**“Days”** means calendar days, save that it excludes public holidays and the day on which the first event occurs and includes the day of the second event;

**“District”** means the special rating area approved by Council under section 22 of the MPRA;

**“Executive Director”** means the official responsible for CIDs appointed in terms of section 57 of the Systems Act, or his/her delegate;

**“finance agreement”** means the agreement entered into between the City and a CID’s management body, which provides for the determination and payment of the additional rate by the City and financial oversight of the management body;

**“gated development”** means a gated community, settlement or development as defined in the City’s Gated Development Policy;

**“local community”** in relation to a CID-

means the body of persons comprising individuals falling under one or more of the following categories –

- (a) property owners in the district, irrespective of whether or not they will be liable for paying the additional rate;
- (b) residents of the district;
- (c) tenants and body corporates in the district;
- (d) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs in the district affected by the proposed improvement or upgrading of the district.

**“majority”** means the majority as stipulated in section 5(5) ;

**“management body”** means the management body of a CID, which shall be a non-profit company (NPC) incorporated in terms of the Companies Act, as contemplated in section 8 of this By-law;

“**members’ meeting**” in relation to a CID means a meeting of the members of a CID’s management body, as contemplated in the Companies Act and includes the annual general meeting;

“**Memorandum of Incorporation**” (“*MOI*”) means the document, as amended from time to time, that sets out rights, duties and responsibilities of shareholders, directors and others within and in relation to a CID company, and other matters as contemplated in sections 1 and 15 of the Companies Act;

“**Mixed-Use Improvement District**” means a category of CID in which the additional rates liability is imposed on both residential and non-residential rateable property within its boundaries, within the meaning contemplated under the Rates Policy;

“**MPRA**” means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004);

“**NPC**” means a non-profit company incorporated in terms of the Companies Act;

“**non-residential property**” bears the meaning assigned to it in terms of the Rates Policy;

“**owner**” bears the meaning assigned to it in section 1 of the MPRA;

“**personal information**” bears the meaning assigned to it in section 1 of the Protection of Personal Information Act, 2013 (Act 4 of 2013);

“**Policy**” means the City’s Policy regarding CIDs;

“**principal board observer**” means any councillor, designated as such by the Executive Mayor, whose primary obligation it is to attend meetings of a management body’s board as an observer in terms of section 21;

“**Proposed additional rate payer**” or “**proposed ARP**” means the owner of a property located within a geographic area that is the subject-matter of an application for determination of a CID under section 4, or an application for expansion of an existing CID’s geographic boundaries under section 26, who will become liable to pay the additional rate in the event such an application is approved by Council;

“**public space**” means land (including buildings or infrastructure situated thereupon), that is owned by the City or another organ of state, and is under the control or management of the Council for the public benefit, including but not limited to: road reserves, public roads, public streets, and land used for recreational or social service purposes;

“**quarter**” means any of the following periods in a financial year:

- (a) 1 July to 30 September;
- (b) 1 October to 31 December;



(c) 1 January to 31 March; or

(d) 1 April to 30 June.

“**property**” bears the meaning assigned to it in section 1 of the MPRA;

“**rate**” bears the meaning assigned to it in section 1 of the MPRA;

“**rateable property**” bears the meaning assigned to it in section 1 of the MPRA;

“**rates base value**” in relation to a proposed or existing CID means the total municipal valuation of all rateable properties of proposed ARPs or ARPs within the geographic boundaries of such district as determined by a general valuation in terms of section 30 of the MPRA;

“**Rates Policy**” means the City’s Policy formulated in terms of section 3 of the MPRA on the levying of rates on rateable property within its geographical boundaries, as may be amended from time to time;

“**Residential Improvement District**” means a category of CID in which the additional rate is levied only upon rateable residential properties, within the meaning contemplated under the Rates Policy;

“**residential property**” bears the meaning assigned to it in the Rates Policy;

“**rolling bad debt reserve**” means the portion of additional rates specified in section 23(3), which is held back by the City when making the monthly payment contemplated in section 23(1) as a provision for bad debt and under-billing, to be released to the CID in accordance with section 23(6);

“**special rating area**” means a geographical area within the City’s jurisdiction designated by Council under section 22 of the MPRA for the levying of an additional rate on rateable properties within its boundaries to improve and upgrade that area, referred to as a CID in this By-law;

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

“**term budget**” means the budget of the management body for the five-year term of a CID included in the business plan as contemplated in Schedule 1 to this By-Law;

“**written notice**” means a notice in writing, including but not limited to, e-mail, hand delivery, social media, advertisements, website or sent by post.

### **Interpretation**

2. (1) In the event of conflict with the Afrikaans or isiXhosa texts, the English text prevails.
- (2) Any reference to a “policy” of the City shall be interpreted as a reference to such document as may be in force at the relevant time.

### Objectives and Principles

3. (1) No CID determined in terms of this By-law may implement its business plan prior to 1 July 2023.
- (2) The objective of this By-law is to provide a framework for the establishment of CIDs within the municipal boundaries of the City, including the composition, powers, functions and funding of governance structures of CIDs; City oversight over the implementation of CIDs by their governance structures, and to provide for related matters.
- (3) The establishment, administration and activities of a CID, are governed by the following principles:
  - (a) The establishment of a CID is a community-driven initiative, facilitated by the City;
  - (b) The City has oversight over the establishment and management of CIDs to ensure compliance with statutory and policy requirements and the principles of good governance;
  - (c) A CID must enhance and supplement the municipal services contemplated under section 8 of the Systems Act, with a specific focus on -
    - (i) improving public safety;
    - (ii) maintaining and cleansing of public areas including, but not limited to cleaning of road verges and illegal dumping;
    - (iii) environmental development including, but not limited to, beautification, greening, landscaping, treeing and upgrading of public spaces; and
    - (iv) promoting social and economic development in an environmentally sustainable manner;
  - (d) Expenditure on services and projects, must benefit public spaces within the geographic area of the CID only, and may not accrue to the direct or special benefit of privately owned property;
  - (e) A balance must be struck between the respective interests and needs of ARPs and the local community in the CID;
  - (f) a CID must promote economic growth and sustainable development so as to complement the City's objectives and developmental duties under its Integrated Development Plan;

- (g) a CID must promote urban regeneration through sustainable urban management;
- (h) participation of all interested and affected parties in the establishment, management and implementation of CIDs must be promoted; and
- (i) a CID must be established, managed and implemented in an accountable, open and transparent manner.

## **CHAPTER 2 DETERMINATION OF A CITY IMPROVEMENT DISTRICT**

### **Determination**

4. (1) Subject to the provisions of this Chapter, the City may by resolution of the Council:
- (a) Specify an area within its jurisdiction and determine that area as a CID in accordance with the provisions of section 22 of the MPRA, provided that-
    - (i) the district may not consist exclusively of a gated development;
    - (ii) the district's geographic boundaries do not dissect any properties; and
    - (iii) the initial term as well as any subsequent renewal of the term of a CID is five years.
  - (b) Approve a business plan for the implementation of the CID, which provides for services and projects. These services and projects can be financed in whole or in part by the additional rate (as contemplated in section 22 of the MPRA), or by funds raised independently through commercial activities, donations or any other lawful means.
- (2) The resolution referred to in subsection (1) is adopted only if-
- (a) the applicant has complied with the procedural requirements provided for in sections 5 and 6;
  - (b) the establishment of the CID is in the public interest, taking into account *inter alia* the principles and objectives listed in section 3; and
  - (c) the services and projects referred to in subsection (1)(b) are-
    - (i) consistent with the objectives stipulated in section 3(3)(c);

- (ii) for the principal benefit of the CID; and
- (iii) supplementary to services which the City is required to provide in terms of section 73 of the Systems Act.

### Application

5. (1) Subject to subsection (2), any person who owns rateable property within the proposed geographical boundaries of a CID may lodge an application to the Council for the determination of the CID.
- (2) Before commencing with the application and public participation process contemplated in section 6, the Executive Director must be satisfied that ARPs in the proposed CID has averaged a collection ratio of at least 95% for basic municipal charges during the immediately preceding 12-month period.
- (3) The Executive Director may adjust the 95% collection ratio requirement, taking into account *inter alia*:
  - (a) the objectives and principles of this By-law in terms of section 3;
  - (b) the envisaged benefits to the local community in the CID;
  - (c) the spread of municipal account arrears across the number of proposed ARPs; and
  - (d) the risk of bad debt occasioned by late or non-payment of the additional rate by proposed ARPs.
- (4) All costs incurred by the applicant in respect of the establishment of a CID shall be for his or her own account, provided that, after implementation of the business plan, the management body may reimburse the applicant for some or all of those costs and must be provided for in the budget.
- (5) For purposes of obtaining the written consent of the proposed ARPs, the majority requirement as contemplated in section 22(2)(b) of the MPRA shall be as follows:
  - (a) in respect of a Business Improvement District, at least 50% plus one of the proposed ARPs;
  - (b) in respect of a Residential Improvement District, at least 60% of the proposed ARPs;
  - (c) in respect of a Mixed-use CID, the following percentage of proposed ARPs:
    - (i) at least 60% in the event that more than 40% of the district's rates base value consists of residential property; and

- (ii) at least 50% plus one in the event that less than 40% of the district's rates base value consists of residential property.
- (6) An applicant must submit an application for establishment of a CID within 9 months of convening the final public meeting contemplated in section 6(10) or 6(14), or within such other period as the Executive Director may approve.
- (7) Within 60 days of receiving the application contemplated in subsection (6), the Executive Director must determine whether or not the application complies with the requirements set out in this section, read together with sections 4 and 6.
- (8) If the Executive Director does not advise of his/her determination under subsection (7) within the 60-day period, he or she shall be deemed to have determined that the application complies with the relevant requirements.
- (9) The application contemplated in subsection (1) must -
  - (a) be in writing and be in the form as the Executive Director may determine;
  - (b) be accompanied by: -
    - (i) the business plan, which shall include the subject-matter and documentation listed in Schedule 1 to this By-law;
    - (ii) the written consent of the majority of the proposed ARPs as contemplated in subsection (5), or their nominee designated in writing, in a form determined by the Executive Director; and
    - (iii) payment of such fee as the Council may determine.

### **Public Participation**

- 6. (1) Any application for the determination of a CID must be subject to a public participation process.
- (2) The applicant must submit and maintain a public participation plan for the approval of the Executive Director. The plan must set out how the applicant will comply with this section in a manner cognizant of the needs and characteristics of the local community and identifying at least the following:
  - (a) Methods of notification;
  - (b) Contents, languages and mediums of notices and advertisements;

- (c) Mechanisms for providing access to documents during the public participation process (which must at least include making documentation available for inspection at the offices of the City and a neutral venue within the proposed district or as otherwise approved by the Executive Director);
  - (d) Consultation methods; and
  - (e) Venues for prescribed public meetings that are located within the proposed district, or as otherwise approved by the Executive Director.
- (3) The Executive Director must approve, or reject the public participation plan, within 30 days of receipt thereof, failing which the plan will be deemed to have been approved by the Executive Director.
- (4) The applicant must conduct the process prescribed in this section in accordance with the public participation plan approved in terms of subsection (3). Any deviation must be brought to the attention of the Executive Director at least 7 days before the event, who may condone non-compliance and direct remedial steps as he or she sees fit.
- (5) The applicant must convene a public meeting at an approved venue, as contemplated in subsections (2)(e), at a date and time suitable to the local community to consult on the contents of the draft business plan.
- (6) At least 14 days before the public meeting is due to commence and in accordance with the process required in terms of subsection (7), the applicant must deliver a written notice to the local community and any other interested and affected parties –
  - (a) stating the date, time and venue of the meeting;
  - (b) stating the purpose of the meeting;
  - (c) inviting members of the local community and other interested and affected parties to register their interest to receiving information, and comment on the proposed application;
  - (d) advising where and when members of the local community and other interested and affected parties may inspect the draft business plan; and
  - (e) advising how and by when members of the local community and other interested and affected parties may submit written comments on the proposed application and the draft business plan.

- (7) Where this By-law requires the applicant to notify members of the local community of the proposed application and any related public participation process, the applicant must –
- (a) give written notice, in the manner provided for in the approved public participation plan, to:
    - (i) all proposed ARPs within the proposed CID; and
    - (ii) all other members of the local community who are listed on the register contemplated in the CID Policy;
  - (b) place an advertisement in one English and one Afrikaans local, daily newspaper or in a language other than English or Afrikaans, in those cases where the local community includes a population of at least 30% of non-Afrikaans and/or non-English speakers, provided that the Executive Director may waive such requirement on good cause shown in terms of reaching the local community by way of other communication means; and
  - (c) employ any reasonable alternative method(s) to accommodate members of the local community who cannot participate due to illiteracy, disability or any other disadvantage.
- (8) The applicant must provide members of the local community an opportunity to submit to the applicant written comments on the proposed application and the draft business plan until at least 30 days after the date of the public meeting convened in terms of subsection (5).
- (9) The applicant must ensure that the comments contemplated in subsections (8) and (12) are recorded in a schedule to the final business plan and that such comments, including the applicant's responses, are tabularised and attached to the application contemplated in section 5.
- (10) The applicant must convene a second public meeting to consult the local community on the contents of the final business plan conducted in accordance with the process prescribed in subsection (5), save that references to the draft business plan in these subsections must be read as references to the final business plan.
- (11) At least 14 days before the public meeting contemplated in subsection (10), the applicant must notify members of the local community of the meeting in accordance with the prescribed process under subsections (6) - (7), save that references therein to the draft business plan must be read as references to the final business plan.

- (12) The applicant must provide members of the local community at least 30 days after the date of the public meeting convened in terms of subsection (10) to submit to the applicant written comments on the proposed application and the final business plan.
- (13) The applicant must ensure that the comments made during the second public meeting, as well as the written comments contemplated in subsection (12), are recorded in a schedule to the final business plan and that such comments, including the applicant's responses, are attached to the application.
- (14) If the applicant decides to make any material amendments to the final business plan, a further public meeting shall be held within 60 days as contemplated in subsection (10).
- (15) The applicant may obtain the written consent contemplated in section 22(2)(b) of the MPRA only once the final business plan has been presented at the public meeting contemplated in subsection (10) or (14).
- (16) Within 14 days of being informed of the Executive Director's decision or upon his/her deemed approval, as contemplated in section 5(7) or 5(8), respectively, the applicant must notify members of the local community of the following in accordance with subsection (7) -
  - (a) the lodging of the application; and
  - (b) where the application and accompanying documentation will be available for inspection.

### **Decision**

- 7. (1) Council must consider any application lodged in terms of section 5(6) within 120 days of the date of the Executive Director's decision as contemplated in section 5(7), and may-
  - (a) approve the establishment of a CID in accordance with section 4;
  - (b) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for such decision; or
  - (c) refer the application back to the applicant for any amendments required in accordance with section 3(2).
- (2) The Council may consider amended applications submitted after a refusal or referral under subsection (1), provided that -
  - (a) the amended application is submitted within 6 months of the relevant Council decision;



- (b) the application has been appropriately amended in light of the reasons for refusal or referral;
- (c) where there are any material amendments to the business plan, the applicant has complied with the following requirements:
  - (i) convening a public meeting and inviting written comments, in accordance with the procedure under section 6(12) – (16); and
  - (ii) submission of the written consent of the majority of the proposed ARPs to the amended application, in accordance with section 6(15); and
- (d) the application complies in all other respects with sections 5(9).

### **CHAPTER 3 THE MANAGEMENT BODY**

#### **Management Body Requirements**

- 8. (1) The applicant must establish a management body for purposes of implementing the provisions of the business plan.
- (2) The management body shall be a non-profit company incorporated in accordance with the provisions of the Companies Act.
- (3) The management body's memorandum of incorporation must provide for the appointment of a company secretary.

#### **Membership**

- 9. (1) Subject to subsection (2), membership of the management body is limited to ARPs.
- (2) Should a member be exempted from paying the additional rate by the City in terms of section 22(3) during the course of any CID term, the membership shall be terminated from the date of exemption. Should the property owner become liable for the additional rate in the future, then he or she can apply for membership.
- (3) Each member is entitled to one or more votes, which may be weighted in proportion to the municipal valuation of the member's rateable property located in the CID, provided that the total number of votes assigned to any one member or to any number of members under common ownership or under common control shall not exceed:

- (a) the maximum number as may be stipulated in the CID policy at the relevant time; and
- (b) thirty-three and one-third (33-1/3) percent of the total number of votes which may be cast.

### **Members' Meetings**

10. (1) The board of the management body must convene -
  - (a) the first members' meeting within six months of its date of incorporation; and
  - (b) an annual general meeting ("AGM") once every calendar year.
- (2) An AGM must be held within 6 months of the end of each financial year.
- (3) The following business must be dealt with at the first members meeting:
  - (a) Election of directors;
  - (b) Acceptance of new members;
  - (c) Appointment of a registered auditor for the following financial year; and
  - (d) Approval of the implementation plan and annual budget for the following financial year.
- (4) The following business must, at minimum, be dealt with at each AGM convened by the management body:
  - (a) The matters referred to in subsection (3);
  - (b) The annual report in respect of the immediately preceding financial year; and
  - (c) Presentation of the management body's audited financial statements for the immediately preceding financial year.
- (5) Members' meetings of the management body must be open to members of the local community who are afforded a reasonable opportunity to participate in the business of the meeting, including participating in deliberations, but not vote, on any proposed resolution.
- (6) Notice of every members' meeting shall alert ARPs to -
  - (a) their eligibility for membership of the management body;
  - (b) the membership application process; and

- (c) the fact that, should they wish to participate as members in the relevant meeting, they may apply for membership as aforesaid within the clearly stipulated deadline in the notice.

### **Transparency**

- 11. (1) The management body must conduct its affairs in a transparent manner.
- (2) The management body must establish and maintain a website for purposes of publishing information pertaining to -
  - (a) all material documents, in PDF or similar format, submitted to the City in terms of section 5, provided that any personal information shall be redacted;
  - (b) the services, projects and activities undertaken by the management body;
  - (c) Memorandum of Incorporation;
  - (d) a list of members of the management body, redacting any personal information;
  - (e) the management body's manual compiled in terms of section 14 of Promotion of Access to Information Act;
  - (f) the appointment, composition, activities and processes of the management body's board of directors;
  - (g) the financial and performance information of the management body submitted to the City in terms of this By-law;
  - (h) rules of the management body governing procurement of goods and services;
  - (i) the management body's complaints procedure; and
  - (j) members' meetings of the management body, including notices, agendas and minutes.

## **CHAPTER 4 BOARD OF THE MANAGEMENT BODY**

### **Corporate Officers**

12. (1) The board shall elect a Chairperson, Deputy Chairperson and Treasurer from its members at the first meeting of the board of directors convened after each AGM.

### **Code of Conduct**

13. (1) The management body shall adopt a code of conduct that, at minimum, gives effect to the pro forma code of conduct provided for in the City Improvement District Policy.
- (2) All members of the board shall familiarise themselves with, sign a copy of, and comply with the code of conduct contemplated in subsection (1).

## **CHAPTER 5 FINANCIAL REQUIREMENTS**

### **Financial Year**

14. The financial year of the management body shall coincide with the financial year of the City, which is 1 July to 30 June.

### **Annual Budget**

15. (1) The management body shall not incur any material expenditure other than in terms of an approved budget.
- (2) Subject to subsection (4), the management body must prepare a proposed annual budget for each successive financial year, by the date and in the format required by the Executive Director, and adopt such budget, with or without amendments, at a members' meeting as contemplated in section 10(3)(d) and 10(4)(a).
- (3) Expenditures of the management body during the first 6 months of the first financial year of a CID's first 5-year term is governed by the approved term budget after which it may be re-aligned in terms of section 16.
- (4) The board must submit the annual budget to the Executive Director for onward submission to Council to consider, provided that the budget -
- (a) is consistent with the purport and objectives of CIDs as contemplated in section 3;

- (b) does not conflict with the City's Integrated Development Plan;
  - (c) provides for an equitable allocation of resources in view of the needs and interests of the local community;
  - (d) provides for an equitable and proportional distribution of the financial burden of the CID between ARPs; and
  - (e) does not provide for material amendments to the term budget, as contemplated in subsection (5).
- (5) Council approval in accordance with the procedure prescribed under section 25(4) is required in respect of any budget adopted by a members' meeting which provides for:
- (a) a material increase in expenditure to be funded by the additional rate, in excess of such total expenditure approved under the term budget for the relevant financial year; or
  - (b) a reallocation of funds between expenditure line items as reflected in the term budget for the relevant financial year, which would materially alter the scope or level of services performed by the management body.

#### **Adjustments Budget**

16. (1) The board may revise an annual approved budget through an adjustments budget in accordance with this section.
- (2) An adjustments budget may:
- (a) allocate additional revenues generated in excess of those anticipated in the annual budget to services or projects already budgeted for, or new services or projects that fall within the scope of the business plan;
  - (b) reflect unforeseeable and unavoidable expenditure recommended by the board;
  - (c) authorise the utilisation of projected savings in respect of an expenditure line item by moving it to one or more other approved expenditure line items; and
  - (d) correct any errors in the annual budget.
- (3) Prior to approving any adjustments budget, the board must submit the proposed adjustments budget for review by the Executive Director to ensure compliance with this section and section 15(4) and 15(5) (with the changes as may be required by the context), and effect any amendments required by the Executive Director.

## Financial Management and Reporting

17. (1) The Board must-
- (a) keep full and proper records of the financial affairs of the management body;
  - (b) submit statements and records in accordance with the terms of the finance agreement;
  - (c) prepare financial statements for each financial year in accordance with generally accepted accounting practice in respect of non-profit companies; and
  - (d) submit the audited financial statements and the report of the management body's auditors on those statements to the Executive Director within two months of the end of a financial year.
- (2) The Treasurer of the management body must prepare and present written financial reports of expenses, revenues and bank balances for the board's review and consideration at each board meeting.

## Annual Report

18. (1) Within three months of the AGM, the management body must provide the Executive Director and the relevant sub-council(s) with an annual report on its progress in implementing its business plan during the previous financial year, together with the audited financial statements and auditor's report, as adopted at the AGM.
- (2) The annual report and audited financial statements referred to in sub-section (1) must-
- (a) fairly present the state of affairs of the management body, its activities, and its performance against predetermined objectives and its financial position as at the end of the relevant financial year;
  - (b) include particulars of -
    - (i) any material losses as a result of criminal conduct and any irregular expenditure and fruitless or wasteful expenditure during a financial year;
    - (ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular or fruitless and wasteful expenditure;
    - (iii) (aa) the management body's strategic objectives as provided for in the approved business plan;

- (bb) the key performance measures and indicators for assessing performance in achieving these objectives; and
  - (cc) its actual performance against such objectives; and
  - (iv) any other matters that may be required by the Executive Director.
- (c) comply with any form and content requirements set out in the City Improvement District Policy.
- (3) In the event the management body's auditor issues a qualified audit report, the board must within one month of providing the Executive Director with the documents contemplated in subsection (1), advise the Executive Director of corrective measures taken.
- (4) In the event the management body fails to comply with subsections (1) or (3), the Executive Director may withhold payment of the additional rate to the management body until such time as the board rectifies such non-compliance to his or her satisfaction.
- (5) The Executive Director may request Council to dissolve any CID in the event that the CID's auditor has expressed a qualified audit opinion in respect of two or more consecutive annual reports.

#### **Other Reporting Requirements**

19. The board must report in writing to the Executive Director by the 31<sup>st</sup> of August on matters pertaining to the previous financial year:
- (a) any serious or persistent financial or operational problems experienced by the CID;
  - (b) any irregular or fruitless and wasteful expenditure; and
  - (c) any interference by a councillor in the financial or operational affairs of the CID.

## **CHAPTER 6 OVERSIGHT BY THE CITY**

### **General**

20. The City shall monitor compliance by the management body with the applicable provisions of the Constitution, this By-law, any guidelines or policies adopted by the City and any agreements entered into between the management body and the City.

### **Board Observers**

21. (1) Every sub-council, having full or partial jurisdiction over a CID, shall nominate one councillor and one alternate councillor to attend meetings of the board of the management body as a board observer.
- (2) The Executive Mayor of the City may, after receiving sub-council nominations, designate one or two councillors, and one alternate councillor for each councillor thus designated, to attend the meetings of the board of the management body as observers.
- (3) Subject to subsection (4), a board observer shall -
- (a) provided the board observer has concluded a board observer agreement with the management body as contemplated in subsection (d), be entitled to:
- (i) receive all notices, minutes, reports and other documents, financial or otherwise, which the management body provides to the board and its committees at the same time and in the same manner that such notice and materials are provided to members of the board;
- (ii) attend meetings of the board and its committees;
- (iii) offer information to the board and its committees, if requested to do so, in relation to the City's position on any matter pertaining to this By-law, the Policy, or the finance agreement;
- (b) be prohibited from participating in the affairs of the board in any manner other than that contemplated in subsection (3)(a), and in particular, shall refrain from:
- (i) (aa) proposing a motion;
- (bb) participating in deliberations; or
- (cc) voting on a motion;



- (ii) chairing a meeting of the board or any of its committees;
  - (iii) managing the business and affairs of the management body;
  - (iv) accepting appointment as a proxy of another member of the board or its committees;
  - (v) receiving any remuneration or reimbursement of expenses incurred by the board observer from the management body;
  - (vi) receiving, whether directly or indirectly, any financial benefit from the CID; and
  - (vii) using information acquired in the course of their duties as board observer in order to further their direct or indirect personal or private financial interests;
- (c) not be taken into account when establishing a *quorum* at any meeting;
- (d) enter into a board observer agreement with the Board to -
- (i) prohibit the unauthorised use or disclosure of confidential information of the management body, excluding disclosures to the Executive Director reasonably required under subsection 3(e); and
  - (ii) prevent abuse of office to further private or personal interests; and
  - (iii) to protect the City against liability should the observer transgress;
- (e) monitor the CID's compliance with the provisions of the By-law, the Policy, the Municipal Property Rates Act and the Constitution and bring any violations thereof to the attention of the Executive Director;
- (f) monitor the CID's compliance with the business plan and finance agreement and bring any violations thereof to the attention of the Executive Director;
- (g) monitor the performance of the CID to ensure appropriate service delivery standards and bring service inefficiencies or inadequacies to the attention of the Executive Director; and
- (h) be deemed to have vacated their position if they vacate office as contemplated in section 27 of the Local Government: Municipal Structures Act and shall be replaced in accordance with subsections (1) and (2).

- (4) The alternate board observer shall only be entitled to attend a meeting of the board and its committees if the principal board observer is unavailable or unable to do so.
- (5) The Executive Mayor may terminate the appointment of any board observer, either unilaterally or pursuant to a written request lodged with the Executive Director by the relevant management body, if the board observer-
  - (a) fails to perform his or her oversight functions;
  - (b) acts in contravention of subsection (3)(b); or
  - (c) commits a material breach of the board observer agreement contemplated in subsection (3)(d).
- (6) Before terminating a councillor's appointment as board observer as contemplated in subsection (5) following the written request by the relevant management body, the Executive Mayor shall refer the allegation to the Speaker to deal with the matter in terms of the Code of Conduct for Councillors.
- (7) The Executive Mayor shall notify the management body and relevant councillor of any decision in terms of subsection (5).

## **CHAPTER 7 THE ADDITIONAL RATE**

### **Levying the Additional Rate**

22. (1) The Council shall levy an additional rate on all eligible rateable properties located in a CID for each financial year of the CID term in accordance with the provisions of the MPRA.
- (2) The additional rate for any financial year of the CID term-
  - (a) shall be calculated with reference to the total proposed expenditure to be funded by the additional rate in the term budget for the relevant period, as may be amended in accordance with section 15(5); and
  - (b) may differentiate between categories of rateable property, as contemplated in section 8 of the MPRA.
- (3) The Council may exempt one or more categories of ARPs from the additional rate obligation, as contemplated in the MPRA and the Rates Policy.
- (4) The additional rate due is a debt due to the City and is payable and shall be collected in the same manner as other property rates imposed by the Council.

### **Paying Over the Additional Rate**

23. (1) Subject to subsection (7), the City shall make monthly payments, on or about the 25<sup>th</sup> day of each month, to the management body of one twelfth of the CID budget, as approved by Council for that financial year, less the contribution to the rolling bad debt reserve contemplated in subsection (3);
- (2) The City will create and maintain a rolling bad debt reserve to -
- (a) mitigate the risk of any shortfall arising from non-payment of the additional rate by property owners;
  - (b) fund a provision for bad debt; and
  - (c) fund any shortfall due to an under-billing as a result of a decrease in the total valuation base.
- (3) The City shall keep an amount equal to 3% of the monthly budgeted amount due to the management body in the rolling bad debt reserve, subject to the City's discretion to adjust such percentage in the event of financial distress of the management body or in an event of material arrears in additional rate payments.
- (4) In the event the management body is in default of its reporting and compliance obligations under Chapters 5 and 6, and notwithstanding the provisions of subsections (1) - (3), the City may withhold any payment due under subsection (1) until such time as the relevant default has been remedied to the satisfaction of the Executive Director.
- (5) Any additional rate billing surplus or deficit shall be offset against the rolling bad debt reserve for that financial year.
- (6) In the event that the rolling bad debt reserve exceeds the accumulated arrears at the end of a financial year, 75 percent of such excess amount shall be paid by the City to the management body by 30 September of the following financial year, and shall be treated as additional income.
- (7) No payments under subsection (1) shall be made without a finance agreement concluded between the City and the management body, regulating *inter alia*-
- (a) the mechanisms and manner of payments to the management body; and
  - (b) the terms on which payments to the management body are to be made.

## **Expenditure**

24. (1) The management body must expend funds, regardless of whether such funds derive from the additional rate, commercial activities, donations, or any other sources, solely upon services, projects or activities that provide a benefit, accruing principally to the CID and subject to section 15(1).
- (2) When entering into contracts with third parties, the management body shall-
- (a) observe the procurement principles enshrined in section 217 of the Constitution; and
  - (b) ensure that the City is not liable for any obligations of the management body.

## **CHAPTER 8**

### **AMENDMENT TO THE BUSINESS PLAN AND TERM EXTENSION**

#### **Permissible amendments to the business plan without further consent**

25. (1) Subject to subsection (2) to (4), the business plan may be amended by the Executive Director, at the request of the board of the management body, without further consent of the ARPs, if the business plan includes a provision expressly permitting same.
- (2) Amendments contemplated in subsection (1) may not materially-
- (a) alter the geographic boundaries of the CID;
  - (b) vary the terms of liability for, or the amount of, the additional rate;
  - (c) increase the approved total expenditure to be funded by the additional rate (excluding funds generated by other means as contemplated in section 4(1)(b)), for the relevant financial year in terms of the term budget, unless such increase:
    - (i) is directly attributable to property development(s) within the CID, substantially increasing the number of ARPs; and
    - (ii) is borne by the new ARPs of such development;
  - (d) alter the scope or level of services performed by the management body.
- (3) The board must give written notice of the proposed application to the Executive Director to amend the business plan in accordance with the procedure prescribed in its business plan under item 1(e) of Schedule 1 to this By-law.

- (4) Applications for amendment submitted to the Executive Director in terms of subsection (1) shall be-
- (a) in writing and in the form required by the Executive Director;
  - (b) accompanied by:
    - (i) a resolution of the board of the management body or a resolution from a members' meeting authorising the application;
    - (ii) proof of the written notice required under subsection (3); and
    - (iii) any administrative fee as may be recommended by the Executive Director for approval by Council.
- (5) The Executive Director may approve the application if he or she is satisfied that-
- (a) the board of the management body has complied with the requirements under this section; and
  - (b) the application is in the public interest, considering *inter alia* the objectives and principles articulated in section 3.

#### **Amendments to the business plan requiring further consent**

26. (1) A management body may apply to Council in terms of subsection (2) to materially alter their business plan in the following respects:
- (a) business plan provisions not included in section 25;
  - (b) any liability for, or the amount of, the additional rate;
  - (c) any material increase in the total expenditure to be funded by the additional rate for the relevant financial year, as provided for in the term budget other than an increase as contemplated in section 25(2)(c);
  - (d) the scope or level of services or projects carried out by the management body; or
  - (e) expansion of the CID's geographic area.
- (2) Any application to amend a CID's business plan as contemplated in subsection (1), shall be dealt with as follows-
- (a) Before commencing with any application as contemplated in subsection 1(e), the Executive Director must be satisfied that the proposed new area for expansion has averaged a collection ratio required under section 5(2). The Executive Director may however exercise his or her discretion in

- accordance with section 5(3) to adjust the minimum collection ratio;
- (b) The proposed amendment shall be approved at a members' meeting of the management body convened in accordance with section 10;
  - (c) The management body must publish the resolution contemplated in subsection (2)(b) on the CID's website within 10 days of the relevant members' meeting;
  - (d) The management body must comply with the public participation requirements in terms of section 6(2) – (4), within 45 days of the members' resolution,
  - (e) The management body must convene a public meeting to consult on the proposed application for amendment within 90 days of the members' resolution.
  - (f) The management body must give written notice of the public meeting to the local community, ARPs, and proposed ARPs in the case of a proposed expansion under subsection (1)(e) in accordance with the procedure required under sections 6(5) – (9). The written notice must-
    - (i) contain a copy or summary of the resolution contemplated in subsection (2)(b);
    - (ii) notify ARPs of the right to object, in writing, on the prescribed forms, within 30 days of conclusion of the public meeting to the management body; and
    - (iii) record that the Council may approve the amendment if written objections are not received from at least:
      - (aa) 40% of ARPs in a residential CID; or
      - (bb) 50% plus 1 of ARPs in any other sub-category of CID;
  - (g) The management body must provide the local community, ARPs and proposed ARPs (if applicable), with a 30 day comment period after the public meeting as contemplated in section 6(10), which comments shall be recorded in the application for amendment in accordance with section 6(13);
  - (h) Where the management body makes any material amendments to the application for amendment pursuant to the written comments referred to in subsection (2)(g), the management body shall convene a further public meeting in accordance with the procedure contemplated in section 6(12) - (15);

- (i) In the case of a proposed expansion under subsection (1)(e), the management body must, after the conclusion of the public meeting contemplated in subsections (2)(e) or (2)(h), elicit the written consent of the majority of the proposed ARPs as contemplated in section 5(5);
    - (j) Where fewer than the requisite number of ARPs, as contemplated in subsection (2)(f)(iii), submit written objections to the management body within the relevant 30-day time period, the management body must submit the application for amendment to Council in accordance with subsection (5). This application must be submitted not more than 90 days after the date on which the public meeting is held, or within such further period as the Executive Director may approve.
- (3) The management body must submit an application for amendment to Council -
  - (a) in writing and in the form as the Executive Director may determine;
  - (b) not more than 90 days after the date on which the public meeting is held, or within such further period as the Executive Director may approve;
  - (c) accompanied by:
    - (i) the amended business plan which must comply with the content requirements of Schedule 1 to this By-law and must clearly identify the proposed amendments;
    - (ii) any comments received following the public meeting held in terms of subsection (2)(g), read together with section 6(10) and (11);
    - (iii) in the case of an application for expansion contemplated in subsection (1)(e):
      - (aa) any written objections received from ARPs as contemplated in subsections (2)(f)(ii); and
      - (bb) the written consent from proposed ARPs as contemplated in subsection (2)(i); and
    - (iv) any administrative fee as may be recommended by the Executive Director for approval by Council.
- (4) The Council may approve an application for amendment, if it is satisfied that-
  - (a) the management body has complied with the public participation and consent procedure under subsection (2);

- (b) in the case of a proposed expansion as contemplated in subsection (1)(e)-
  - (i) the requisite number of ARPs have not filed written objections as contemplated in subsections (2)(f)(iii); and
  - (ii) the proposed ARPs have averaged a collection ratio of at least 95% during the immediately preceding 12-month period in accordance with such procedure as may be prescribed under the Policy, or such lesser percentage as the Executive Director may deem appropriate considering *inter alia* the factors listed in section 5(3); and
- (c) the proposed amendment is in the public interest, considering *inter alia* the objectives and principles articulated in section 3.

#### **Extension of the CID term**

27. (1) Subject to subsections (2) and (3), the Council may renew a CID term for a period not exceeding five years, on written application by the management body;
- (2) The management body may apply for an extension of the CID term as follows:
- (a) Prepare a written application as contemplated in section 5(9);
  - (b) Notify members of the management body, ARPs and the local community of the application when giving written notice of the management body's final AGM of its 5-year term, specifying that:
    - (i) the application is available for inspection at the management body's offices, the office of the Executive Director and is published on the management body's website;
    - (ii) a resolution to lodge the application will be considered at the AGM;
    - (iii) in the event the resolution contemplated in subsection (2)(b)(ii) is approved:
      - (aa) any ARP opposed to the application shall submit a written objection to the management body within 30 days of the conclusion of the AGM on forms accompanying the notice or otherwise made available by the management body;



- (bb) the Council may approve the application if written objections are not received from at least 40% of ARPs in a residential CID or 51% of ARPs in any other sub-category of CID; and
    - (cc) members of the local community shall submit any comments in writing to the secretary of the management body within 30 days of the conclusion of the AGM.
  - (c) In the event that the management body makes any material amendments to the business plan after the AGM, the management body must convene a further members' meeting in accordance with the notice requirements in subsection (2)(b) for purposes of approving the amended business plan and soliciting written objections and comment as contemplated in subsection (2)(b)(iii) (with the changes required by the context).
  - (d) In the event that the resolution contemplated in subsection 2(b)(ii) is adopted and less than the required number of ARPs submit written objections, the management body must submit the following to the Executive Director by no later than 31 January of any calendar year-
    - (i) the application as required in subsection (2)(a);
    - (ii) the business plan, which shall comply with the content requirements of Schedule 1 to this By-law;
    - (iii) a copy of the written notice as required in subsection (2)(b);
    - (iv) any written objections of ARPs received in terms of subsection (2)(b)(iii)(aa);
    - (v) a summary of any comments received by the management body from the local community as contemplated in subsection (2)(b)(iii)(cc), in accordance with section 6(11);
    - (vi) the draft minutes of the AGM; and
    - (vii) any administrative fee as may be recommended by the Executive Director for approval by Council.

- (3) At a meeting of Council convened as soon as duly possible after submission of the application, the Council-
- (a) shall determine whether -
    - (i) the application complies with the requirements of section 5 (with the changes required by the context), and subsection 2(d); and
    - (ii) the management body has given notice of the application as required under subsection (2)(b);
  - (b) shall reject the application in the event of -
    - (i) material non-compliance with the procedural requirements of section 5, subsection (2)(b) or subsection (2)(c); or
    - (ii) the requisite number of ARPs as contemplated in subsection (2)(b)(iii)(bb) submitting written objections to the application in accordance with subsection 2(b)(iii)(aa);
  - (c) may approve the application, with or without amendments; and
  - (d) may refer the application back to the management body for any amendments to the business plan that the Council considers necessary in light of the principles in section 3(2).
- (4) Council may consider amended applications submitted for the extension of the CID term following a refusal or referral under subsection (3)(b) or (3)(d), provided that-
- (a) the amended application is submitted before the expiry of the CID's term;
  - (b) the application has been appropriately amended in light of the reasons for refusal or referral;
  - (c) to the extent there are any material amendments to the business plan:
    - (i) the management body convened a members' meeting in accordance with the procedure under subsection 2(b); and
    - (ii) the application complies with the requirements of section 5 and subsection 2(d).

## **CHAPTER 9 DISSOLUTION OF A CID**

### **Dissolution**

28. (1) The Council may dissolve a CID:-
- (a) upon written application signed by the majority of owners within the boundaries of the CID who are liable for paying the additional rate;
  - (b) when a special resolution is passed at a members` meeting approving the voluntary winding up of the NPC as contemplated in section 80(1) of the Companies Act;
- or
- (c) for any good cause, after prior consultation by the Executive Director with the management body and the local community.
- (2) Upon the winding-up of a management body, the entire net value of the management body, including its net assets remaining after the satisfaction of all its liabilities, shall be disposed of in terms of the relevant provisions of the Companies Act and the memorandum of incorporation of the management body.

## **CHAPTER 10 MISCELLANEOUS PROVISIONS**

### **Delegation**

29. The Executive Director may delegate any power, function or duty vested in him or her in terms of this By-law to a member of the municipal staff.

### **Transitional Provisions**

30. (1) Any Special Rating Area or CID determined or established, or deemed to have been determined or established in terms of the By-law referred to in Section 31 shall be deemed to have been determined or established in terms of this By-law.
- (2) Subject to subsection (3), applications for the establishment of a special rating area in respect of which an applicant has given notice of public meetings as contemplated in section 6(2) of the By-law referred to in Section 31 prior to the commencement of this By-law, shall be concluded, submitted and decided in accordance with sections 3 – 8 of the former By-law, notwithstanding repeal thereof.
- (3) Any Special Rating Area or CID determined in terms of section 8 of the By-law referred to in Section 31 pursuant to an application

process contemplated in subsection (2), shall be deemed to have been established in terms of, and be governed by, the provisions of this By-law.

- (4) No Special Rating Area or CID established under the By-law referred to in section 31 may apply for amendment of its business plan in accordance with the procedure provided for under section 25, unless the provisions contemplated in section 25(1) are included in a new business plan in the course of a term extension under section 27.

### **Repeal of By-laws**

31. The following By-laws are hereby repealed -

(a) The City of Cape Town: Special Rating Area By-law, published in Provincial Gazette No. 7051 of 20 July 2012; and

(b) The City of Cape Town: Special Rating Area Amendment By-law, published in Provincial Gazette No. 7578 of 4 March 2016.

### **Short title and commencement**

32. (1) This By-law is called the City of Cape Town: City Improvement District By-law, 2023.

## **SCHEDULE 1: CONTENTS OF BUSINESS PLAN**

Any application for the establishment of a CID must include a business plan, which shall include:

- (1) A motivation report, consisting of -
  - (a) An introduction-
    - (i) identifying the name of the proposed district;
    - (ii) specifying the applicant's name and providing an address for delivery of any notices to the applicant in respect of the application;
    - (iii) describing the geographical area of the proposed CID, including a diagram depicting the street boundaries;
    - (iv) providing an overview of the strategic objectives of the proposed CID's management body, as they pertain to-
      - (aa) improving public safety;
      - (bb) maintenance and cleansing;
      - (cc) environmental development, including but not limited to beautifying and upgrading public areas and facilities; and
      - (dd) promoting social and economic development in an environmentally sustainable manner; and
    - (v) listing the core values of the management body of the proposed CID.
  - (b) A discussion of the proposed services and projects in respect of each strategic objective contemplated in item 1(a)(iv) above, which must-
    - (i) describe the proposed services and projects and the activities forming part thereof;
    - (ii) identify the area within the proposed boundaries of the CID where the improvements and upgrades will be carried out;
    - (iii) provide their total estimated costs over the term of the CID;
    - (iv) motivate the allocation of resources to any specific area contemplated in item (1)(b)(ii) in the event any improvement and upgrades will not be uniformly carried out in the proposed CID as a whole; and
    - (v) demonstrate how the proposed improvements and upgrades are consistent with the municipality's Integrated Development Plan and with section 22(4) of the Property Rates Act.

- (c) A discussion of the financial impact of the CID-
    - (i) the specified category/categories of ARPs, liable for paying the additional rate (e.g. residential, non-residential);
    - (ii) an explanation of how the amount of the additional rate is to be calculated in respect of the first year of the CID term, illustrated by reference to representative examples of typical valuations in the district;
    - (iii) reference to the possibility of year-on-year increases or decreases in the additional rate during the second to fifth years of the CID term, accompanied by-
      - (aa) an explanation of the basis of the calculation of potential variations with reference to the term budget (e.g. variations in the municipal rates base of the district pursuant to municipal valuations; inflation; increases expressly provided for in the term budget, as well as additional developments in the district);
      - (bb) an explanation of the guidelines in the Policy governing caps on the maximum amount of the additional rate as a percentage of the municipal rate in any financial year, and how that bears upon any year-on-year increase; and
      - (cc) criteria for exemptions from the additional rate liability under the Rates Policy.
  - (d) The proposed management structure of the NPC;
  - (e) A statement as to whether any of the provisions of the business plan may be amended by Executive Director on recommendation of the board as contemplated in section 25, without written consent of a majority of the ARP's, and, if so:
    - (i) which of the provisions of the business plan may be so altered; and
    - (ii) the consultation and notification procedure to be followed prior to making such application to the Council.
  - (f) A list of all rateable properties within the proposed CID, detailing:
    - (i) the address of each proposed ARP; and
    - (ii) the City's categorisation of each property in terms of section 8 of the MPRA.
- (2) An implementation plan in the form of a schedule covering the 5-year term, listing the following in respect of each strategic objective contemplated in item (1)(a)(iv) above:
- (a) proposed practical measures to achieve the relevant strategic objective;

- (b) key performance indicators in respect of each measure;
  - (c) projected commencement and completion dates of each measure; and
  - (d) the persons or bodies responsible for the effective implementation of each measure.
- (3) A term budget, estimating the predicted revenue and expenditure of the CID over the duration of the 5-year term and the contingency margin provided for, including, but not limited to:
- (a) Estimated revenues (excluding interest);
  - (b) Estimated expenditure, which must disclose the contingency margin included in the cost calculations for expenditure other than the items listed in sub-items (vii) – (ix), including but not limited to:
    - (i) Employee-related expenditure;
    - (ii) Core business related expenditure;
    - (iii) Repairs and maintenance of assets;
    - (iv) General expenditure arising from all other planned operations, such as cost of outsourcing administration and management functions;
    - (v) Individual costs for each proposed project;
    - (vi) Capital expenditure;
    - (vii) Interest and redemption costs;
    - (viii) Depreciation of assets; and
    - (ix) Provision for a rolling bad debt reserve contribution.
- (4) The following annexures:
- (a) The approved public participation plan contemplated in section 6(2);
  - (b) In respect of the public meetings convened in terms of section 6 and section 25, as well as AGMs convened in terms of section 26:
    - (i) proof of notice of the meetings to proposed ARPs and the local community; and
    - (ii) the agendas and minutes;
  - (c) The table of comments received during the public participation process in terms of section 6, 25 and 26;
  - (d) The written consent of the proposed ARPs, whether in respect of an application under section 5 or 26.



CITY OF CAPE TOWN  
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## **VERORDENING OP STADSVERBETERINGSDISTRIKTE**



**STAD KAAPSTAD**  
**VERORDENING OP STADSVERBETERINGSDISTRIKTE**  
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**Om bepalings neer te lê vir die instelling van stadsverbeteringsdistrikte, vir bykomende belasting, en vir aangeleenthede wat daarmee gepaardgaan.**

Die Stad Kaapstad verorden hiermee soos volg: -

**HOOFSTUK 1  
WOORDOMSKRYWING, VERTOLKING EN DOELWITTE**

**Woordomskrywing**

1. In hierdie verordening, tensy uit die samehang anders blyk, het die woorde of uitdrukkings hier onder die aangeduide betekenis —

“**aansoeker**” beteken enige eienaar of wettig afgevaardigde verteenwoordiger van ’n belasbare eiendom binne die grense van ’n voorgestelde stadsverbeteringsdistrik wat aansoek doen om die bepaling van ’n spesiale-aanslaggebied ooreenkomstig die bepalings van hoofstuk 2;

“**akte van oprigting**” beteken die dokument, sowel as enige moontlike wysigings daaraan, wat die regte, verpligtinge en verantwoordelikhede van aandeelhouders, direkteure en andere in en met betrekking tot ’n stadsverbeteringsdistrikmaatskappy uiteensit, sowel as ander aangeleenthede wat in artikel 1 en 15 van die Maatskappywet beoog word;

“**belasbare eiendom**” beteken dieselfde as in artikel 1 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting;

“**belasting**” beteken dieselfde as in artikel 1 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting;

“**belastingbasiswaarde**”, met betrekking tot ’n voorgestelde of bestaande stadsverbeteringsdistrik, beteken die totale munisipale waarde van alle belasbare eiendomme van BBB’s of voorgestelde BBB’s binne die geografiese grense van sodanige distrik, soos bepaal deur ’n algemene waardasie ingevolge artikel 30 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting;

“**beleid**” beteken die Stad se beleid oor stadsverbeteringsdistrikte;

“**bestuursliggaam**” beteken die bestuursliggaam van ’n stadsverbeteringsdistrik, welke liggaam ’n maatskappy sonder winsoogmerk (MSW) moet wees wat ingevolge die Maatskappywet opgerig word, soos wat artikel 8 van hierdie verordening beoog;

“**bykomende belasting**” beteken ’n bykomende belasting wat in artikel 22 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting en artikel 22 van hierdie verordening beoog word;

“**bykomendebelastingbetaler**” of “**BBB**”, ten opsigte van ’n stadsverbeteringsdistrik, beteken die eienaar van ’n belasbare eiendom in die spesiale-aanslaggebied wat aanspreeklik is om die bykomende belasting te betaal;

“**CIPC**” beteken die Kommissie vir Maatskappye en Intellektuele Eiendom wat ingevolge artikel 185 van die Maatskappywet tot stand gebring is;

“**dae**” beteken kalenderdae, wat openbare vakansiedae en die dag van die eerste gebeurtenis uitsluit, maar die dag van die tweede gebeurtenis insluit;

“**deurlopende reserwe vir oninbare skuld**” beteken die gedeelte van die bykomende belasting waarna artikel 23(3) verwys wat die Stad ten tyde van die maandelikse oorbetalings ingevolge artikel 23(1) terughou as voorsiening vir oninbare skuld en heffingstekorte, en wat ooreenkomstig artikel 23(6) aan die stadsverbeteringsdistrik beskikbaar gestel sal word;

“**direksie**” beteken die direksie van die bestuursliggaam van ’n stadsverbeteringsdistrik soos wat artikel 66 van die Maatskappywet beoog;

“**direksiewaarnemer**”, tensy uit die samehang anders blyk, beteken ’n raadslid of plaasvervangende raadslid wat die uitvoerende burgemeester ooreenkomstig artikel 21 aanwys om die direksievergaderings van die stadsverbeteringsdistrik se bestuursliggaam as waarnemer by te woon;

“**direksiewaarnemerooreenkoms**” beteken die ooreenkoms tussen die stadsverbeteringsdistrik en die aangewese direksiewaarnemer wat onder meer albei partye se regte en verpligtinge in die strewe na sterker goeie regeringsbestuursmeganismes uiteensit;

“**distrik**” beteken die spesiale-aanslaggebied wat die Raad ingevolge artikel 22 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting goedgekeur het;

“**eienaar**” beteken dieselfde as in artikel 1 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting;

“**eiendom**” beteken dieselfde as in artikel 1 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting;

“**eiendomsbelastingbeleid**” beteken die Stad se beleid oor die heffing van belasting op belasbare eiendomme binne die munisipaliteit se geografiese grense wat ingevolge artikel 3 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting opgestel is, sowel as enige moontlike wysigings aan die beleid;

“**finansieringsooreenkoms**” beteken die ooreenkoms tussen die Stad en die bestuursliggaam van ’n stadsverbeteringsdistrik wat bepalinge neerlê vir die vasstelling en oorbetalings van die bykomende belasting deur die Stad, en finansiële toesig oor die bestuursliggaam;

“**gemeenskaplike beheer**”, met betrekking tot twee of meer regsliggame wat vir lidmaatskap van die bestuursliggaam van ’n stadsverbeteringsdistrik in aanmerking kom, beteken beheer deur ’n persoon -

- (a) wat die begunstigde eienaar is van meer as die helfte van die uitgereikte aandeelkapitaal van elke liggaam;

- (b) wat daarop geregtig is om die meerderheid van die stemme uit te bring wat by 'n algemene vergadering van elke liggaam uitgebring mag word, of wat oor die vermoë beskik om die uitbring van 'n meerderheid van daardie stemme te beheer, hetsy direk of deur 'n beheerde entiteit van daardie persoon;
- (c) wat 'n meerderheid van die direkteure van elke liggaam kan aanstel of hulle aanstelling kan veto;
- (d) wat 'n beheermaatskappy is, en elke liggaam is 'n filiaal van daardie maatskappy;
- (e) wat, in geval van 'n trust, oor die vermoë beskik om die meerderheid van die trustees se stemme te beheer, die meerderheid van die trustees aan te stel, of die meerderheid van die begunstigdes van die trusts aan te stel of te verander;
- (f) wat, in geval van 'n beslote korporasie, die meerderheid van die lede se belange besit of die stemme van die meerderheid van die lede in die beslote korporasie direk beheer of die reg het om dit direk te beheer; of
- (g) wat die beleid van die liggame wesenlik kan beïnvloed op 'n manier wat vergelyk kan word met 'n persoon wat in die gewone kommersiële praktyk 'n element van beheer soos in paragraaf (a) tot (f) van hierdie omskrywing kan uitoefen;

“**gemeenskaplike besit**”, met betrekking tot twee of meer regsliggame wat vir lidmaatskap van 'n stadsverbeteringsdistrik in aanmerking kom, beteken meer as 50% besit van elke sodanige liggaam deur enige persoon;

“**Grondwet**” beteken die Grondwet van die Republiek van Suid-Afrika, 1996;

“**hoofdireksiewaarnemer**” beteken enige raadslid wat die uitvoerende burgemeester ingevolge artikel 21 as hoofdireksiewaarnemer aanwys, wie se hoofverpligting dit is om die direksievergaderings van die stadsverbeteringsdistrik se bestuursliggaam as waarnemer by te woon;

“**invorderingsverhouding**”, ten opsigte van 'n voorgestelde stadsverbeteringsdistrik, is 'n maatstaf van hoeveel van die inkomste wat die Stad gedurende 'n tydperk van 12 maande faktureer in daardie 12 maande ingevorder word;

“**jaarbegroting**” beteken 'n begroting van die bestuursliggaam van 'n stadsverbeteringsdistrik wat deur die Raad goedgekeur is, met inbegrip van 'n jaarbegroting wat ingevolge onderskeidelik artikel 15 en 16 deur 'n aansuiweringsbegroting hersien is;

“**jaarverslag**”, ten opsigte van die bestuursliggaam van 'n stadsverbeteringsdistrik, beteken 'n jaarverslag soos wat artikel 18 beoog;

“**kwartaal**” beteken enige van die volgende tydperke in 'n boekjaar:

- (a) 1 Julie tot 30 September;
- (b) 1 Oktober tot 31 Desember;
- (c) 1 Januarie tot 31 Maart; of
- (d) 1 April tot 30 Junie;

“**ledevergadering**”, met betrekking tot ’n stadsverbeteringsdistrik, beteken ’n vergadering van die lede van die bestuursliggaam van ’n stadsverbeteringsdistrik soos wat die Maatskappywet beoog, en sluit die algemene jaarvergadering in;

“**Maatskappywet**” beteken die Maatskappywet, Wet 71 van 2008;

“**meerderheid**” beteken die meerderheid soos wat artikel 5(5) bepaal;

“**MSW**” beteken ’n maatskappy sonder winsoogmerk wat ingevolge die Maatskappywet opgerig is;

“**nieresidensiële eiendom**” beteken dieselfde as in die beleid op eiendomsbelasting;

“**omheinde ontwikkeling**” beteken ’n omheinde gemeenskap, nedersetting of ontwikkeling soos wat die Stad se beleid oor omheinde ontwikkelings dit omskryf;

“**openbare ruimte**” beteken grond (wat die geboue of infrastruktuur daarop insluit) in die Stad of ’n ander staatsorgaan se besit wat die Raad ter wille van die publiek beheer of bestuur, wat onder meer insluit padreserwes, openbare paaie, openbare strate, en grond wat vir rekreasiedoeleindes of maatskaplike dienste gebruik word;

“**ouditeur**” beteken ’n individu of firma wat by die Onafhanklike Reguleringsraad vir Ouditeure (IRBA) as ouditeur geregistreer is;

“**persoonlike inligting**” beteken dieselfde as in artikel 1 van die Wet op Beskerming van Persoonlike Inligting, Wet 4 van 2013;

“**plaaslike gemeenskap**”, met betrekking tot ’n stadsverbeteringsdistrik -

beteken ’n groep persone wat uit individue van een of meer van die volgende kategorieë bestaan –

- (a) eiendomseienaars in die distrik, ongeag of hulle vir die betaling van die bykomende belasting aanspreeklik sal wees;
- (b) inwoners van die distrik;
- (c) huurders en beheerliggame in die distrik;
- (d) enige burgerlike organisasies en nieregerings-, privaatsektor- of arbeidsorganisasies of -liggame wat betrokke is by plaaslike sake in die distrik en deur die voorgestelde verbetering of opknapping van die distrik geraak sal word;

“**plaasvervangende direksiewaarnemer**” beteken enige raadslid wat die uitvoerende burgemeester ingevolge artikel 21 aanwys om die direksievergaderings van die stadsverbeteringsdistrik se bestuursliggaam as waarnemer in die plek van ’n hoofdireksiewaarnemer by te woon;

“**Raad**” beteken die Raad van die Stad;

“**residensiële eiendom**” beteken dieselfde as in die beleid op eiendomsbelasting;

“**residensiële verbeteringsdistrik**” beteken ’n tipe stadsverbeteringsdistrik waarin die bykomende belasting slegs op belasbare residensiële eiendomme gehef word, in pas met die betekenis wat die beleid op eiendomsbelasting beoog;

“**sakeplan**” beteken die saamgestelde dokument wat ten minste die inhoud wat in bylae 1 gelys word, moet bevat;

“**sakeverbeteringsdistrik**” beteken ’n tipe stadsverbeteringsdistrik waarin ’n bykomende belasting gehef word op belasbare nierresidensiële eiendomme binne die grense van die distrik, soos wat die beleid op eiendomsbelastingbeleid beoog;

“**skriftelike kennisgewing**” beteken ’n kennisgewing in skriftelike vorm, wat onder meer insluit e-pos, handaflewering, sosiale media, advertensies, webtuistes en gewone pos;

“**spesiale-aanslaggebied**” beteken ’n geografiese gebied binne die Stad se regsbevoegdheid wat die Raad ingevolge artikel 22 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting aanwys vir die heffing van ’n bykomende belasting op belasbare eiendomme binne die grense van sodanige gebied ten einde die gebied te verbeter en op te knap, en wat in hierdie verordening ’n stadsverbeteringsdistrik genoem word;

“**Stad**” beteken die Stad Kaapstad, ’n munisipaliteit wat ingestel is deur die Stad Kaapstad-stigtingskennisgewing no. 479 van 22 September 2000, wat ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998, uitgereik is, of enige struktuur of werknemer van die Stad wat ingevolge gedelegeerde bevoegdheid optree;

“**stadsverbeteringsdistrik**” beteken ’n omliggende geografiese gebied wat deur die Raad aangewys is vir die heffing van ’n bykomende belasting op belasbare eiendomme binne die grense van die gebied om verbeteringe aan en opknappings van die openbare ruimtes in die distrik te finansier;

“**Stelselwet**” beteken die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000;

“**termynbegroting**” beteken die begroting van die bestuursliggaam vir die vyfjaartermyn van ’n stadsverbeteringsdistrik, welke begroting deel uitmaak van die sakeplan wat in bylae 1 by hierdie verordening beskryf word;

“**uitvoerende direkteur**” beteken die amptenaar met verantwoordelikheid vir stadsverbeteringsdistrikte wat ingevolge artikel 57 van die Stelselwet aangestel is, of sy/haar afgevaardigde;

“**verbeteringsdistrik vir gemengde gebruik**” beteken ’n tipe stadsverbeteringsdistrik waarin sowel residensiële as nierresidensiële belasbare eiendomme binne die grense van die distrik die bykomende belasting moet betaal, in pas met die betekenis wat die eiendomsbelastingbeleid beoog; en

“voorgestelde bykomendebelastingbetaler” of “voorgestelde BBB” beteken die eienaar van ’n eiendom in ’n geografiese gebied wat die onderwerp is van ’n aansoek om die bepaling van ’n stadsverbeteringsdistrik ingevolge artikel 4, of ’n aansoek om die uitbreiding van ’n bestaande stadsverbeteringsdistrik se geografiese grense ingevolge artikel 26, en wat vir betaling van die bykomende belasting aanspreeklik sal word ingeval die Raad sodanige aansoek goedkeur.

### **Vertolking**

2. (1) In geval van teenstrydigheid met die Afrikaanse of Xhosa-tekse, geld die Engelse teks.
- (2) Enige verwysing na ’n beleid van die Stad moet vertolk word as ’n verwysing na sodanige weergawe van die dokument as wat in daardie stadium van krag is.

### **Doelwitte en beginsels**

3. (1) Geen stadsverbeteringsdistrik wat ingevolge hierdie verordening bepaal word, mag sy sakeplan voor 1 Julie 2023 implementeer nie.
- (2) Die doel van hierdie verordening is om ’n raamwerk te voorsien vir die instelling van stadsverbeteringsdistrikte binne die munisipale grense van die Stad, wat insluit die samestelling, bevoegdhede, verantwoordelikhede en finansiering van die bestuurstrukture van stadsverbeteringsdistrikte, en Stadstoedig oor hoe sodanige bestuurstrukture die stadsverbeteringsdistrikte implementeer, en om vir verbandhoudende aangeleenthede voorsiening te maak.
- (3) Die instelling, administrasie en aktiwiteite van ’n stadsverbeteringsdistrik berus op die volgende beginsels:
  - (a) Die instelling van ’n stadsverbeteringsdistrik is ’n gemeenskapsgedrewe inisiatief wat deur die Stad gefasiliteer word.
  - (b) Die Stad hou toesig oor die instelling en bestuur van stadsverbeteringsdistrikte om te sorg dat daar aan alle wets- en beleidsvereistes en goeiebestuursbeginsels voldoen word.
  - (c) ’n Stadsverbeteringsdistrik moet die munisipale dienste wat in artikel 8 van die Stelselwet beoog word, verbeter en aanvul, met ’n bepaalde klem op -
    - (i) die verbetering van openbare veiligheid;
    - (ii) die instandhouding en skoonmaak van openbare gebiede, wat onder meer insluit die skoonmaak van padrande en die opruiming van onwettig gestorte vullis;



- (iii) omgewingsontwikkeling, wat onder meer insluit verfraaiing, vergroening, terreinuitleg, boomaanplanting en opknapping van en in openbare ruimtes; en
  - (iv) die bevordering van maatskaplike en ekonomiese ontwikkeling op 'n omgewingsvolhoubare manier.
- (d) Besteding aan dienste en projekte moet alleenlik tot voordeel wees van openbare ruimtes in die geografiese gebied van die stadsverbeteringsdistrik en mag nie privaat eiendom direk of spesiaal bevoordeel nie.
  - (e) Die regte balans moet gevind word tussen die onderskeie belange en behoeftes van BBB's en die plaaslike gemeenskap in die stadsverbeteringsdistrik.
  - (f) 'n Stadsverbeteringsdistrik moet ekonomiese groei en volhoubare ontwikkeling bevorder om die Stad se oogmerke en ontwikkelingsverpligtinge ooreenkomstig sy geïntegreerde ontwikkelingsplan aan te vul.
  - (g) 'n Stadsverbeteringsdistrik moet stadsvernuwing bevorder deur middel van volhoubare stadsbestuur.
  - (h) Deelname deur alle belangstellende en geaffekteerde partye moet bevorder word in die proses om stadsverbeteringsdistrikte in te stel, te bestuur en te implementeer.
  - (i) 'n Stadsverbeteringsdistrik moet op 'n verantwoordbare, oop en deursigtige manier ingestel, bestuur en geïmplementeer word.

## **HOOFSTUK 2 BEPALING VAN 'N STADSVERBETERINGSDISTRIK**

### **Bepaling**

- 4. (1) Behoudens die bepalings van hierdie hoofstuk, kan die Stad deur 'n Raadsbesluit:
  - (a) 'n gebied binne sy regsbevoegdheid spesifiseer en daardie gebied ooreenkomstig die voorskrifte van artikel 22 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting as 'n stadsverbeteringsdistrik bepaal, op voorwaarde dat -
    - (i) die distrik nie uitsluitlik uit 'n omheinde ontwikkeling mag bestaan nie;
    - (ii) die geografiese grense van die distrik nie enige eiendomme deurkruis nie; en

- (iii) die aanvanklike termyn en enige daaropvolgende hernuwing van die termyn van 'n stadsverbeteringsdistrik vyf jaar is;
  - (b) 'n sakeplan vir die implementering van die stadsverbeteringsdistrik goedkeur, welke plan vir dienste en projekte voorsiening maak. Hierdie dienste en projekte kan ten volle of gedeeltelik gefinansier word deur die bykomende belasting (ingevolge artikel 22 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting) of met geld wat onafhanklik deur kommersiële aktiwiteite, skenkings of op enige ander regmatige manier ingesamel word.
- (2) Die besluit waarna subartikel (1) verwys, word slegs aanvaar indien -
- (a) die aansoeker aan die prosedurele vereistes in artikel 5 en 6 voldoen;
  - (b) die instelling van die stadsverbeteringsdistrik in openbare belang is, met inagneming van onder andere die beginsels en doelwitte in artikel 3; en
  - (c) die dienste en projekte waarna subartikel (1)(b) verwys -
    - (i) met die doelwitte in artikel 3(3)(c) strook;
    - (ii) hoofsaaklik tot voordeel van die stadsverbeteringsdistrik is; en
    - (iii) aanvullend is by die dienste wat die Stad ingevolge artikel 73 van die Stelselwet moet voorsien.

### **Aansoek**

5. (1) Behoudens subartikel (2), kan enige persoon wat 'n belasbare eiendom binne die voorgestelde geografiese grense van 'n stadsverbeteringsdistrik besit 'n aansoek om die bepaling van die stadsverbeteringsdistrik by die Raad indien.
- (2) Voordat die aansoek- en openbaredeelnameproses in artikel 6 aangevoer word, moet die uitvoerende direkteur hom/haar daarvan vergewis dat BBB's in die voorgestelde stadsverbeteringsdistrik gedurende die pas afgelope 12 maande 'n gemiddelde invorderingsverhouding van minstens 95% vir basiese munisipale diensgeld gehandhaaf het.
- (3) Die uitvoerende direkteur kan die vereiste invorderingsverhouding van 95% aanpas met inagneming van onder andere:
- (a) die doelwitte en beginsels van hierdie verordening wat in artikel 3 beskryf word;

- (b) die beoogde voordele vir die plaaslike gemeenskap in die stadsverbeteringsdistrik;
  - (c) die verspreiding van agterstallige munisipale rekeninge oor die getal voorgestelde BBB's; en
  - (d) die risiko van oninbare skuld as gevolg van die laat betaling of niebetaling van die bykomende belasting deur voorgestelde BBB's.
- (4) Alle koste wat die aansoeker ten opsigte van die instelling van 'n stadsverbeteringsdistrik aangaan, is vir sy of haar eie rekening, met dien verstande dat die bestuursliggaam ná die implementering van die sakeplan sodanige koste hetsy gedeeltelik of ten volle aan die aansoeker kan terugbetaal, waarvoor daar in die begroting voorsiening gemaak moet word.
- (5) Wat die verkryging van skriftelike toestemming van die voorgestelde BBB's betref, is die meerderheidsvereiste ingevolge artikel 22(2)(b) van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting soos volg:
- (a) Vir 'n sakeverbeteringsdistrik, ten minste 50% plus een van die voorgestelde BBB's
  - (b) Vir 'n residensiële verbeteringsdistrik, ten minste 60% van die voorgestelde BBB's
  - (c) Vir 'n stadsverbeteringsdistrik vir gemengde gebruik:
    - (i) ten minste 60% van die voorgestelde BBB's indien meer as 40% van die distrik se belastingbasiswaarde uit residensiële eiendomme bestaan; en
    - (ii) ten minste 50% plus een van die voorgestelde BBB's indien minder as 40% van die distrik se belastingbasiswaarde uit residensiële eiendomme bestaan.
- (6) 'n Aansoeker moet 'n aansoek om die instelling van 'n stadsverbeteringsdistrik indien binne nege maande nadat die finale openbare vergadering ingevolge artikel 6(10) of 6(14) gehou is, of binne sodanige ander tydperk as wat die uitvoerende direkteur goedkeur.
- (7) Die uitvoerende direkteur moet binne 60 dae ná die ontvangs van die aansoek in subartikel (6) bepaal of die aansoek aan die vereistes in hierdie artikel sowel as artikel 4 en 6 voldoen.
- (8) Indien die uitvoerende direkteur nie sy/haar bepaling ingevolge subartikel (7) binne die tydperk van 60 dae bekend maak nie, word daar veronderstel dat hy of sy bevind het dat die aansoek aan die tersaaklike vereistes voldoen.

- (9) Die aansoek wat in subartikel (1) beoog word, moet -
- (a) op skrif wees, en in 'n vorm wat die uitvoerende direkteur kan bepaal;
  - (b) vergesel wees van: -
    - (i) die sakeplan, wat ten minste die inhoud en dokumente wat in bylae 1 by hierdie verordening gelys word, moet bevat;
    - (ii) die skriftelike toestemming van die meerderheid van die voorgestelde BBB's ingevolge subartikel (5), in 'n vorm wat die uitvoerende direkteur bepaal; en
    - (iii) betaling van sodanige fooi as wat die Raad kan bepaal.

### **Openbare deelname**

6. (1) Enige aansoek om die bepaling van 'n stadsverbeteringsdistrik moet aan 'n openbaredeelnameproses onderwerp word.
- (2) Die aansoeker moet 'n openbaredeelnameplan vir die uitvoerende direkteur se goedkeuring indien en byhou. Die plan moet uiteensit hoe die aansoeker aan die bepalings van hierdie artikel sal voldoen op 'n manier wat die behoeftes en kenmerke van die plaaslike gemeenskap in ag neem, met vermelding van ten minste die volgende:
- (a) Kennisgewingmetodes;
  - (b) Inhoud, tale en media van kennisgewings en advertensies;
  - (c) Meganismes om gedurende die openbaredeelnameproses toegang tot dokumente te voorsien (wat minstens moet insluit dat dokumente by die kantore van die Stad en 'n neutrale lokaal in die voorgestelde distrik ter insae sal lê, of beskikbaar gestel sal word op 'n ander manier wat die uitvoerende direkteur goedkeur);
  - (d) Metodes vir oorlegpleging; en
  - (e) Lokale vir die voorgeskrewe openbare vergaderings in die voorgestelde distrik, of op 'n ander plek wat die uitvoerende direkteur goedkeur.
- (3) Die uitvoerende direkteur moet die openbaredeelnameplan binne 30 ná ontvangs daarvan goed- of afkeur. Indien nie, word daar veronderstel dat die uitvoerende direkteur die plan goedgekeur het.
- (4) Die aansoeker moet die proses wat in hierdie artikel voorgeskryf word, uitvoer ooreenkomstig die openbaredeelnameplan wat

ingevolge subartikel (3) goedgekeur is. Enige afwyking van die plan moet ten minste sewe dae voor die betrokke gebeurtenis onder die uitvoerende direkteur se aandag gebring word, wat die nienakoming van die plan kan kondoneer en regstellende stappe kan versoek soos wat hy of sy goeddink.

- (5) Die aansoeker moet 'n openbare vergadering by 'n goedgekeurde lokaal hou soos wat subartikel (2)(e) voorskryf, op 'n datum en tyd wat die plaaslike gemeenskap pas, vir oorlegpleging oor die inhoud van die konsepsakeplan.
- (6) Die aansoeker moet ten minste 14 dae voor die openbare vergadering en ooreenkomstig die proses wat subartikel (7) vereis, 'n skriftelike kennisgewing aan die plaaslike gemeenskap en enige ander belangstellende en geaffekteerde partye voorsien –
  - (a) wat die datum, tyd en lokaal van die vergadering aandui;
  - (b) wat die doel van die vergadering verduidelik;
  - (c) wat lede van die plaaslike gemeenskap en ander belangstellende en geaffekteerde partye nooi om hulle belangstelling in verdere inligting aan te dui, en om op die voorgestelde aansoek kommentaar te lewer;
  - (d) wat noem waar en wanneer lede van die plaaslike gemeenskap en ander belangstellende en geaffekteerde partye die konsepsakeplan kan bestudeer; en
  - (e) wat noem hoe en teen wanneer lede van die plaaslike gemeenskap en ander belangstellende en geaffekteerde partye skriftelike kommentaar op die voorgestelde aansoek en die konsepsakeplan kan indien.
- (7) Waar hierdie verordening vereis dat die aansoeker lede van die plaaslike gemeenskap van die voorgestelde aansoek en enige verbandhoudende openbaredeelnameproses in kennis stel, moet die aansoeker –
  - (a) skriftelik kennis gee op die manier waarvoor die goedgekeurde openbaredeelnameplan voorsiening maak, welke kennisgewing moet gaan aan:
    - (i) alle voorgestelde BBB's in die voorgestelde stadsverbeteringsdistrik; en
    - (ii) alle ander lede van die plaaslike gemeenskap wat gelys word in die register soos voorgestel in die beleid oor stadsverbeteringsdistrikte;
  - (b) 'n advertensie in een Engelse en een Afrikaanse plaaslike dagblad plaas, of in 'n ander taal as Engels of Afrikaans

ingeval die plaaslike gemeenskap 'n bevolking van ten minste 30% nie-Afrikaans- en/of nie-Engelssprekendes insluit, met dien verstande dat die uitvoerende direkteur hierdie vereiste kan laat vaar indien daar grondige bewyse gelewer word dat die plaaslike gemeenskap deur middel van ander kommunikasiemetodes bereik kan word; en

- (c) enige redelike alternatiewe metode(s) volg om voorsiening te maak vir lede van die plaaslike gemeenskap wat weens ongeletterdheid, gestremdheid of enige ander belemmering nie kan deelneem nie.
- (8) Die aansoeker moet lede van die plaaslike gemeenskap 'n geleentheid gun om skriftelike kommentaar op die voorgestelde aansoek en die konsepsakeplan by die aansoeker in te dien tot ten minste 30 dae ná die datum van die openbare vergadering wat ingevolge subartikel (5) gehou is.
- (9) Die aansoeker moet toesien dat die kommentaar waarna subartikel (8) en (12) verwys in 'n bylae by die finale sakeplan vervat word, en dat sodanige kommentaar sowel as die aansoeker se reaksie daarop in tabelvorm aangeheg word by die aansoek waarna artikel 5 verwys.
- (10) Die aansoeker moet 'n tweede openbare vergadering hou om die inhoud van die finale sakeplan met die plaaslike gemeenskap te bespreek, welke vergadering ooreenkomstig die proses in subartikel (5) gehou moet word, buiten dat verwysings na die konsepsakeplan in daardie subartikels in so 'n geval as verwysings na die finale sakeplan beskou moet word.
- (11) Die aansoeker moet ten minste 14 dae voor die openbare vergadering wat in subartikel (10) beoog word, die plaaslike gemeenskap van die vergadering in kennis stel ooreenkomstig die voorgeskrewe proses in subartikel (6) en (7), buiten dat verwysings na die konsepsakeplan in daardie subartikels in so 'n geval as verwysings na die finale sakeplan beskou moet word.
- (12) Die aansoeker moet lede van die plaaslike gemeenskap ten minste 30 dae gun ná die datum van die openbare vergadering waarna subartikel (10) verwys om skriftelike kommentaar op die voorgestelde aansoek en die finale sakeplan by die aansoeker in te dien.
- (13) Die aansoeker moet toesien dat die kommentaar wat by die tweede openbare vergadering gelewer word, sowel as die skriftelike kommentaar waarna subartikel (12) verwys, in 'n bylae by die finale sakeplan vervat word, en dat sodanige kommentaar sowel as die aansoeker se reaksie daarop by die aansoek aangeheg word.

- (14) Indien die aansoeker besluit om enige wesenlike wysigings aan die finale sakeplan te maak, moet 'n verdere openbare vergadering binne 60 dae gehou word soos wat subartikel (10) beoog.
- (15) Die aansoeker kan die skriftelike toestemming waarna artikel 22(2)(b) van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting verwys eers bekom nadat die finale sakeplan voorgelê is by die openbare vergadering wat subartikel (10) of (14) beoog.
- (16) Die aansoeker moet binne 14 dae ná die bekendmaking van die uitvoerende direkteur se besluit of veronderstelde goedkeuring, soos wat onderskeidelik artikel 5(7) en 5(8) beoog, die lede van die plaaslike gemeenskap ooreenkomstig subartikel (7) van die volgende in kennis stel -
  - (a) die indiening van die aansoek; en
  - (b) waar die aansoek en gepaardgaande dokumente ter insae sal lê.

### **Besluitneming**

- 7. (1) Die Raad moet enige aansoek wat ingevolge artikel 5(6) ingedien word, oorweeg binne 120 dae ná die datum van die uitvoerende direkteur se besluit waarna artikel 5(7) verwys, en kan -
  - (a) die instelling van 'n stadsverbeteringsdistrik ooreenkomstig artikel 4 goedkeur;
  - (b) die aansoek afkeur, in welke geval die Raad die aansoeker binne 30 dae van skriftelike redes vir sodanige besluit moet voorsien; of
  - (c) die aansoek na die aansoeker terugverwys vir enige vereiste wysigings ooreenkomstig artikel 3(2).
- (2) Gewysigde aansoeke wat ingedien word ná afkeuring of terugverwysing ingevolge subartikel (1) kan deur die Raad oorweeg word, op voorwaarde dat -
  - (a) die gewysigde aansoek binne ses maande ná die tersaaklike Raadsbesluit ingedien word;
  - (b) die aansoek op gepaste wyse gewysig is in die lig van die redes waarom dit afgekeur of terugverwys is;
  - (c) in geval van enige wesenlike wysigings aan die sakeplan, die aansoeker -

- (i) 'n openbare vergadering gehou en 'n versoek vir skriftelike kommentaar gerig het ooreenkomstig die prosedure in artikel 6(12) tot (16); en
  - (ii) die meerderheid van die voorgestelde BBB's se skriftelike toestemming tot die gewysigde aansoek ingedien het ooreenkomstig artikel 6(15); en
- (d) die aansoek in alle ander opsigte aan artikel 5(9) voldoen.

### **HOOFSTUK 3 DIE BESTUURSLIGGAAM**

#### **Bestuursliggaamvereistes**

8. (1) Die aansoeker moet 'n bestuursliggaam saamstel om die bepalings van die sakeplan te implementeer.
- (2) Die bestuursliggaam moet 'n maatskappy sonder winsoogmerk wees wat ooreenkomstig die voorskrifte van die Maatskappywet opgerig word.
- (3) Die bestuursliggaam se akte van oprigting moet vir die aanstelling van 'n maatskappysekretaris voorsiening maak.

#### **Lidmaatskap**

9. (1) Behoudens subartikel (2), is lidmaatskap van die bestuursliggaam beperk tot BBB's.
- (2) Indien die Stad 'n lid in die loop van enige termyn van die stadsverbeteringsdistrik ingevolge artikel 22(3) van die betaling van die bykomende belasting vrystel, word die persoon se lidmaatskap vanaf die datum van vrystelling beëindig. Indien die eienaar in die toekoms vir betaling van die bykomende belasting aanspreeklik word, kan hy of sy weer om lidmaatskap aansoek doen.
- (3) Elke lid is geregtig op een of meer stemme, wat in verhouding tot die munisipale waardasie van die lid se belasbare eiendom in die stadsverbeteringsdistrik bepaal kan word, op voorwaarde dat die totale getal stemme wat aan enige enkele lid of enige getal lede onder gemeenskaplike besit of gemeenskaplike beheer toegeken word, nie meer is as:
- (a) die maksimum getal wat die beleid oor stadsverbeteringsdistrikte in daardie stadium bepaal nie; en
  - (b) drie-en-dertig en 'n derde ( $33\frac{1}{3}$ ) persent van die totale getal stemme wat uitgebring mag word nie.



### Ledevergaderings

10. (1) Die direksie van die bestuursliggaam moet -
  - (a) binne ses maande ná die datum van oprigting die eerste ledevergadering hou; en
  - (b) een keer elke kalenderjaar 'n algemene jaarvergadering hou.
- (2) 'n Algemene jaarvergadering moet binne ses maande ná die einde van elke boekjaar gehou word.
- (3) Die volgende sake moet by die eerste ledevergadering hanteer word:
  - (a) Verkiesing van direkteure;
  - (b) Aanvaarding van nuwe lede;
  - (c) Aanstelling van 'n geregistreerde ouditeur vir die volgende boekjaar; en
  - (d) Goedkeuring van die implementeringsplan en jaarbegroting vir die volgende boekjaar.
- (4) Ten minste die volgende sake moet hanteer word by elke algemene jaarvergadering wat die bestuursliggaam belê:
  - (a) Die sake waarna subartikel (3) verwys;
  - (b) Die jaarverslag ten opsigte van die pas afgelope boekjaar; en
  - (c) Die voorlegging van die bestuursliggaam se geouditeerde finansiële state vir die pas afgelope boekjaar.
- (5) Ledevergaderings van die bestuursliggaam moet oop wees vir lede van die plaaslike gemeenskap, wat 'n redelike geleentheid gegun moet word om aan die sake van die vergadering deel te neem, wat insluit deelname aan beraadslaging oor enige voorgestelde besluit, maar nie stemming daaroor nie.
- (6) Die kennisgewing van elke ledevergadering moet bykomende-belastingbetalers (BBB's) inlig -
  - (a) dat hulle vir lidmaatskap van die bestuursliggaam in aanmerking kom;
  - (b) oor die proses om aansoek te doen om lidmaatskap; en
  - (c) dat indien hulle as lede aan die betrokke vergadering wil deelneem, hulle voor die duidelik aangeduide sperdatum in die kennisgewing om lidmaatskap kan aansoek doen.

### **Deursigtigheid**

11. (1) Die bestuursliggaam moet op 'n deursigtige manier sake doen.
- (2) Die bestuursliggaam moet 'n webtuiste skep en byhou vir die publikasie van -
  - (a) alle belangrike dokumente wat ingevolge artikel 5 by die Stad ingedien word, in pdf- of 'n soortgelyke formaat, op voorwaarde dat enige persoonlike inligting verwyder word;
  - (b) inligting met betrekking tot die dienste, projekte en aktiwiteite van die bestuursliggaam;
  - (c) die akte van oprigting;
  - (d) 'n ledelys van die bestuursliggaam, sonder enige persoonlike inligting;
  - (e) die bestuursliggaam se handleiding wat ingevolge artikel 14 van die Wet op Bevordering van Toegang tot Inligting, Wet 2 van 2000, opgestel is;
  - (f) inligting oor die aanstelling, samestelling, aktiwiteite en prosesse van die bestuursliggaam se direksie;
  - (g) die finansiële en prestasie-inligting van die bestuursliggaam wat ingevolge hierdie verordening by die Stad ingedien word;
  - (h) die bestuursliggaam se reëls oor die verkryging van goedere en dienste;
  - (i) die bestuursliggaam se klagteprosedure; en
  - (j) inligting oor die ledevergaderings van die bestuursliggaam, waaronder kennisgewings, agendas en notules.

## **HOOFSTUK 4 DIREKSIE VAN DIE BESTUURSLIGGAAM**

### **Korporatiewe beamptes**

12. (1) Die direksie moet by die eerste direksievergadering ná elke algemene jaarvergadering uit eie geledere 'n voorsitter, ondervoorsitter en tesourier kies.

### **Gedragkode**

13. (1) Die bestuursliggaam moet 'n gedragkode aanvaar wat ten minste uitvoering gee aan die pro forma-gedragkode waarvoor die beleid oor stadsverbeteringsdistrikte voorsiening maak.

- (2) Alle lede van die direksie moet hulle vergewis van, 'n afskrif onderteken van, en voldoen aan die gedragskode wat in subartikel (1) beoog word.

## **HOOFSTUK 5 FINANSIËLE VEREISTES**

### **Boekjaar**

14. Die boekjaar van die bestuursliggaam val saam met die boekjaar van die Stad, naamlik 1 Julie tot 30 Junie.

### **Jaarbegroting**

15. (1) Die bestuursliggaam mag nie enige wesentliche uitgawes aangaan buiten uitgawes waarvoor 'n goedgekeurde begroting voorsiening maak nie.
- (2) Behoudens subartikel (4), moet die bestuursliggaam 'n voorgestelde jaarbegroting vir elke opeenvolgende boekjaar opstel, teen die datum en in die formaat wat die uitvoerende direkteur vereis, en sodanige begroting met of sonder wysigings aanvaar by 'n ledevergadering waarna artikel 10(3)(d) en 10(4)(a) verwys.
- (3) Uitgawes van die bestuursliggaam gedurende die eerste ses maande van die eerste boekjaar van 'n stadsverbeteringsdistrik se eerste vyfjaartermyn geskied volgens die goedgekeurde termynbegroting, waarna dit ingevolge artikel 16 aangepas kan word.
- (4) Die direksie moet die jaarbegroting by die uitvoerende direkteur indien, wat dit vir oorweging aan die Raad sal voorlê, op voorwaarde dat die begroting -
- (a) met die doel en oogmerke van stadsverbeteringsdistrikte strook soos wat artikel 3 dit beskryf;
  - (b) nie in stryd is met die Stad se geïntegreerde ontwikkelingsplan nie;
  - (c) voorsiening maak vir 'n billike toewysing van hulpbronne in die lig van die plaaslike gemeenskap se behoeftes en belange;
  - (d) voorsiening maak vir 'n billike en eweredige verspreiding van die finansiële las van die stadsverbeteringsdistrik tussen BBB's; en
  - (e) nie wesentliche wysigings aan die termynbegroting behels soos wat subartikel (5) beoog nie.

- (5) Raadsgoedkeuring ooreenkomstig die voorgeskrewe prosedure in artikel 25(4) word vereis ten opsigte van enige begroting wat deur 'n ledevergadering aanvaar word wat voorsiening maak vir:
- (a) 'n wesentliche toename in uitgawes wat deur die bykomende belasting gefinansier moet word bo sodanige totale uitgawes wat as deel van die termynbegroting vir die betrokke boekjaar goedgekeur is; of
  - (b) 'n hertoewysing van geld tussen bestedingslyniteme in die termynbegroting vir die betrokke boekjaar wat die omvang of vlak van die bestuursliggaam se dienslewering wesentlik sal beïnvloed.

### **Aansuiweringsbegroting**

16. (1) Die direksie kan 'n goedgekeurde jaarbegroting ooreenkomstig hierdie artikel deur middel van 'n aansuiweringsbegroting aanpas.
- (2) 'n Aansuiweringsbegroting kan:
- (a) bykomende inkomste bo en behalwe die inkomste waarvoor die jaarbegroting voorsiening maak, aan dienste of projekte toeken waarvoor daar reeds begroot is, of aan nuwe dienste of projekte wat binne die bestek van die sakeplan val;
  - (b) onvoorsiene en onvermydelike uitgawes op aanbeveling van die direksie weerspieël;
  - (c) die aanwending van geprojekteerde besparings ten opsigte van 'n bestedingslynitem magtig deur dit na een of meer ander goedgekeurde bestedingslyniteme te verskuif; en
  - (d) enige foute in die jaarbegroting regstel.
- (3) Voordat enige aansuiweringsbegroting goedgekeur word, moet die direksie die voorgestelde aansuiweringsbegroting aan die uitvoerende direkteur voorlê om na te gaan dat daar aan hierdie artikel en artikel 15(4) en 15(5) (met die nodige veranderinge na gelang van die konteks) voldoen word, en enige wysigings aanbring wat die uitvoerende direkteur vereis.

### **Finansiële bestuur en verslagdoening**

17. (1) Die direksie moet -
- (a) volledig en behoorlik boekhou van die finansiële sake van die bestuursliggaam;
  - (b) state en rekords ooreenkomstig die bepalings van die finansieringsooreenkoms indien;

- (c) vir elke boekjaar finansiële state opstel volgens die algemeen aanvaarde rekeningkundige praktyk vir maatskappye sonder winsoogmerk; en
  - (d) die geouditeerde finansiële state, en die verslag van die bestuursliggaam se ouditeure oor sodanige state, binne twee maande ná die einde van 'n boekjaar by die uitvoerende direkteur indien.
- (2) Die tesourier van die bestuursliggaam moet skriftelike finansiële verslae oor uitgawes, inkomste en banksaldo's opstel en dit aan die direksie voorlê om by elke direksievergadering na te gaan en te oorweeg.

### Jaarverslag

18. (1) Binne drie maande ná die algemene jaarvergadering moet die bestuursliggaam die uitvoerende direkteur en die tersaaklike subraad/-rade van 'n jaarverslag voorsien oor vordering met die implementering van die sakeplan gedurende die vorige boekjaar, saam met die geouditeerde finansiële state en die ouditeursverslag wat by die algemene jaarvergadering aanvaar is.
- (2) Die jaarverslag en geouditeerde finansiële state waarna subartikel (1) verwys, moet -
- (a) 'n billike voorstelling bied van die stand van die bestuursliggaam, sy aktiwiteite, sy prestasie aan die hand van voorafbepaalde doelwitte, en sy finansiële posisie soos aan die einde van die betrokke boekjaar;
  - (b) besonderhede insluit oor -
    - (i) enige wesentliche verliese wat gelyk is as gevolg van misdadige gedrag en enige onreëlmatige of vrugtelose en verkwistende uitgawes gedurende 'n boekjaar;
    - (ii) enige strafregtelike of dissiplinêre stappe wat as gevolg van sodanige verliese of onreëlmatige of vrugtelose en verkwistende uitgawes gedoen is;
    - (iii) (aa) die bestuursliggaam se strategiese doelwitte wat in die goedgekeurde sakeplan vervat is;
    - (bb) die kernmaatstawwe en -aanwysers vir die beoordeling van prestasie in die streeke na sodanige doelwitte; en
    - (cc) die bestuursliggaam se werklike prestasie aan die hand van sodanige doelwitte; en
  - (iv) enige ander sake wat die uitvoerende direkteur kan vereis;

- (c) voldoen aan enige formaat- en inhoudsvereistes wat die beleid oor stadsverbeteringsdistrikte stel.
- (3) Ingeval die bestuursliggaam se ouditeur 'n gekwalifiseerde auditverslag uitreik, moet die direksie binne 'n maand nadat die dokumente in subartikel (1) aan die uitvoerende direkteur voorgelê is, sodanige uitvoerende direkteur ook in kennis stel van regstellende stappe wat gedoen is.
- (4) Ingeval die bestuursliggaam versuim om aan subartikels (1) tot (3) te voldoen, kan die uitvoerende direkteur oorbetalings van die bykomende belasting aan die bestuursliggaam terughou tot tyd en wyl die direksie sodanige nienakoming tot bevrediging van die uitvoerende direkteur regstel.
- (5) Die uitvoerende direkteur kan die Raad versoek om enige stadsverbeteringsdistrik te ontbind ingeval die ouditeur van die stadsverbeteringsdistrik 'n gekwalifiseerde auditmening oor twee of meer opeenvolgende jaarverslae uitspreek.

#### **Ander verslagdoeningsvereistes**

- 19. Die direksie moet teen 31 Augustus skriftelik aan die uitvoerende direkteur verslag doen oor die volgende sake met betrekking tot die vorige boekjaar:
  - (a) enige ernstige of voortdurende finansiële of bedryfsprobleme wat die stadsverbeteringsdistrik ondervind;
  - (b) enige onreëlmatige of vrugtelose en verkwistende uitgawes; en
  - (c) enige inmenging deur 'n raadslid in die finansiële of bedryfsake van die stadsverbeteringsdistrik.

### **HOOFSTUK 6 TOESIG DEUR DIE STAD**

#### **Algemeen**

- 20. Die Stad moniteer die bestuursliggaam se nakoming van die toepaslike bepalings van die Grondwet, hierdie verordening, enige riglyne of beleide wat die Stad aanvaar, en enige ooreenkomste tussen die bestuursliggaam en die Stad.

#### **Direksiewaarnemers**

- 21. (1) Elke subraad met hetsy volle of gedeeltelike jurisdiksie oor 'n stadsverbeteringsdistrik moet een raadslid en een plaasvervangende raadslid benoem om die direksievergaderings van die bestuursliggaam as 'n direksiewaarnemer by te woon.

- (2) Nadat die subraadsbenoemings ontvang is, kan die uitvoerende burgemeester van die Stad een of twee raadslede aanwys om die direksievergaderings van die bestuursliggaam as waarnemers by te woon, sowel as een plaasvervangende raadslid vir elke sodanige raadslid.
- (3) Behoudens subartikel (4) -
- (a) is 'n direksiewaarnemer, mits hy of sy 'n direksiewaarnemer-ooreenkoms met die bestuursliggaam aangegaan het soos wat subartikel (d) beoog, daarop geregtig om:
- (i) alle kennisgewings, notules en finansiële of ander verslae en dokumente te ontvang wat die bestuursliggaam aan die direksie en sy komitees voorsien, op dieselfde tyd en dieselfde manier as wat sodanige kennisgewings en materiaal aan lede van die direksie voorsien word;
  - (ii) vergaderings van die direksie en sy komitees by te woon;
  - (iii) inligting ten opsigte van die Stad se standpunt oor enigiets wat met hierdie verordening, die beleid of die finansieringsooreenkoms verband hou aan die direksie en sy komitees te voorsien indien die waarnemer so versoek word;
- (b) is dit verbode vir 'n direksiewaarnemer om aan die sake van die direksie deel te neem op enige ander manier as wat in subartikel (3)(a) beoog word, en moet sodanige waarnemer hom of haar veral daarvan weerhou om:
- (i) (aa) 'n mosie voor te stel;
    - (bb) aan beraadslagings deel te neem; of
    - (cc) oor 'n mosie te stem;
  - (ii) as voorsitter van 'n vergadering van die direksie of enige van sy komitees op te tree;
  - (iii) die sake en werksaamhede van die bestuursliggaam te bestuur;
  - (iv) 'n aanstelling as 'n gevolmagtigde van 'n ander lid van die direksie of sy komitees te aanvaar;
  - (v) enige vergoeding of terugbetaling van uitgawes wat deur die direksiewaarnemer aangegaan is van die bestuursliggaam te aanvaar;

- (vi) enige finansiële voordeel, hetsy direk of indirek, van die stadsverbeteringsdistrik te ontvang; en
  - (vii) inligting wat hy of sy in die loop van sy of haar pligte as direksiewaarnemer verkry, te gebruik om sy of haar direkte of indirekte persoonlike of privaat finansiële belange te bevorder;
- (c) word 'n direksiewaarnemer nie by die bepaling van 'n kworum by enige vergadering ingereken nie;
- (d) moet 'n direksiewaarnemer 'n direksiewaarnemerooreenkoms met die direksie aangaan wat -
- (i) die ongemagtigde gebruik of openbaarmaking van vertroulike inligting van die bestuursliggaam verbied, met uitsluiting van openbaarmakings aan die uitvoerende direkteur wat redelikerwys ingevolge subartikel (3)(e) vereis word; en
  - (ii) misbruik van die amp ter bevordering van privaat of persoonlike belange verhoed; en
  - (iii) die Stad teen aanspreeklikheid beskerm ingeval die waarnemer 'n oortreding begaan;
- (e) moet 'n direksiewaarnemer die stadsverbeteringsdistrik se nakoming van die bepalings van die verordening, die beleid, die Wet op Munisipale Eiendomsbelastingen die Grondwet moniteer en enige oortredings onder die uitvoerende direkteur se aandag bring;
- (f) moet 'n direksiewaarnemer die stadsverbeteringsdistrik se nakoming van die sakeplan en finansieringsooreenkoms moniteer en enige oortredings onder die uitvoerende direkteur se aandag bring;
- (g) moet 'n direksiewaarnemer die prestasie van die stadsverbeteringsdistrik moniteer om gepaste diensleweringstandaarde te verseker, en ondoeltreffende of ontoereikende dienslewering onder die uitvoerende direkteur se aandag bring; en
- (h) sal daar veronderstel word dat 'n direksiewaarnemer sy of haar amp ontruim het indien hy of sy die amp van raadslid verlaat soos wat artikel 27 van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998, beoog, en sal die persoon ooreenkomstig subartikel (1) en (2) vervang word.



- (4) Die plaasvervangende direksiewaarnemer mag slegs 'n vergadering van die direksie en sy komitees bywoon indien die hoofdireksiewaarnemer nie beskikbaar of in staat is om daar te wees nie.
- (5) Die uitvoerende burgemeester kan die aanstelling van enige direksiewaarnemer beëindig, hetsy eensydig of in antwoord op 'n skriftelike versoek wat die betrokke bestuursliggaam by die uitvoerende direkteur indien, ingeval die direksiewaarnemer -
  - (a) versuim om sy of haar toesigverantwoordelikhede na te kom;
  - (b) in stryd met subartikel (3)(b) optree; of
  - (c) die direksiewaarnemerooreenkoms wat in subartikel (3)(d) beoog word wesenlik skend.
- (6) Voordat 'n raadslid se aanstelling as direksiewaarnemer ingevolge subartikel (5) beëindig word in antwoord op die skriftelike versoek van die betrokke bestuursliggaam, moet die uitvoerende burgemeester die aantyging na die Speaker verwys om die saak ingevolge die gedragskode vir raadslede te hanteer.
- (7) Die uitvoerende burgemeester moet die bestuursliggaam en betrokke raadslid van enige besluit ingevolge subartikel (5) in kennis stel.

## **HOOFSTUK 7 DIE BYKOMENDE BELASTING**

### **Heffing van die bykomende belasting**

22. (1) Die Raad sal 'n bykomende belasting hef op alle geskikte belasbare eiendomme in 'n stadsverbeteringsdistrik, vir elke boekjaar van die stadsverbeteringsdistrik se termyn, ooreenkomstig die bepalinge van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting.
- (2) Die bykomende belasting vir enige boekjaar van die stadsverbeteringsdistrik se termyn -
  - (a) word bereken met verwysing na die totale voorgestelde uitgawes in die termynbegroting vir die betrokke tydperk wat deur die bykomende belasting gefinansier moet word, of enige moontlike wysiging van sodanige uitgawes ooreenkomstig artikel 15(5); en
  - (b) kan tussen kategorieë belasbare eiendom onderskei soos wat artikel 8 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting beoog.

- (3) Die Raad kan een of meer kategorieë BBB's van die bykomende belastingverpligting vrystel, soos wat die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting en die eiendomsbelastingbeleid beoog.
- (4) Die bykomende belastingverpligting is 'n skuldverpligting teenoor die Stad en is betaalbaar en word ingevorder op dieselfde manier as ander eiendomsbelasting wat die Raad oplê.

### **Oorbetaling van die bykomende belasting**

23. (1) Behoudens subartikel (7), sal die Stad op of omstreeks die 25ste dag van elke maand 'n oorbetaling aan die bestuursliggaam maak van 'n twaalfde van die stadsverbeteringsdistrik se begroting wat die Raad vir daardie boekjaar goedgekeur het, minus die bydrae tot die deurlopende reserwe vir oninbare skuld wat in subartikel (3) beoog word.
- (2) Die Stad sal 'n deurlopende reserwe vir oninbare skuld skep en in stand hou om -
- (a) die risiko van enige tekort as gevolg van niebetaling van die bykomende belasting deur eiendomseienaars te beperk;
  - (b) voorsiening te maak vir oninbare skuld; en
  - (c) voorsiening te maak vir 'n moontlike heffingstekort indien die totale waardasiebasis afneem.
- (3) Die Stad sal 'n bedrag gelykstaande aan 3% van die maandelikse begrote bedrag wat aan die bestuursliggaam verskuldig is, in die deurlopende reserwe vir oninbare skuld hou, maar kan sodanige persentasie na goeddunke aanpas indien die bestuursliggaam in finansiële nood verkeer of in geval van wesenlike agterstallige belastingbetalings.
- (4) Ingeval die bestuursliggaam sy verslagdoening- en voldoeningspligte ingevolge hoofstuk 5 en 6 versuim, en ondanks die bepalings van subartikel (1) tot (3), kan die Stad enige verskuldigde oorbetaling ingevolge subartikel (1) terughou tot tyd en wyl die betrokke versuim tot bevrediging van die uitvoerende direkteur reggestel is.
- (5) Enige surplus of tekort in bykomende belastingheffings word teen die deurlopende reserwe vir oninbare skuld vir daardie boekjaar verreken.
- (6) Ingeval die deurlopende reserwe vir oninbare skuld aan die einde van 'n boekjaar die opgelope agterstallige bedrag oorskry, sal die Stad 75% van sodanige oortollige bedrag teen 30 September van die volgende boekjaar aan die bestuursliggaam oorbetaal, wat as bykomende inkomste hanteer moet word.

- (7) Geen oorbetalings ingevolge subartikel (1) word gemaak sonder dat die Stad en die bestuursliggaam 'n finansiële ooreenkoms aangaan het wat onder meer die volgende reël nie -
- (a) die meganismes en metode van oorbetaling aan die bestuursliggaam; en
  - (b) die voorwaardes waarop oorbetalings aan die bestuursliggaam gemaak sal word.

### **Uitgawes**

24. (1) Die bestuursliggaam mag enige geld, ongeag of dit uit die bykomende belasting, kommersiële aktiwiteite, skenkings of enige ander bronne kom, alleenlik uitgee op dienste, projekte of aktiwiteite wat hoofsaaklik tot voordeel van die stadsverbeteringsdistrik is, en soos wat artikel 15(1) voorskryf.
- (2) Wanneer die bestuursliggaam kontrakte met derde partye aangaan, moet hy -
- (a) die verkrygingsbeginsels in artikel 217 van die Grondwet nakom; en
  - (b) sorg dat die Stad nie vir enige van die bestuursliggaam se verpligtinge aanspreeklik is nie.

## **HOOFSTUK 8**

### **WYSIGING VAN SAKEPLAN, EN VERLENGING VAN TERMYN**

#### **Toelaatbare wysigings aan die sakeplan sonder verdere toestemming**

25. (1) Behoudens subartikel (2) tot (4), kan die uitvoerende direkteur sonder verdere toestemming van die BBB's die sakeplan op versoek van die bestuursliggaamdireksie wysig indien die sakeplan 'n bepaling bevat wat dít uitdruklik toelaat.
- (2) Die wysigings waarna subartikel (1) verwys, mag nie -
- (a) die geografiese grense van die stadsverbeteringsdistrik weselik verander nie;
  - (b) die voorwaardes van aanspreeklikheid vir, of die bedrag van, die bykomende belasting weselik aanpas nie;
  - (c) 'n wesentlike toename teweegbring in die goedgekeurde totale uitgawes wat ingevolge die termynbegroting vir daardie boekjaar deur die bykomende belasting gefinansier moet word nie (buiten geld wat op ander maniere bekom

word soos wat artikel 4(1)(b) beoog), tensy sodanige toename:

- (i) direk toe te skryf is aan eiendomsontwikkeling(s) in die stadsverbeteringsdistrik wat die getal BBB's aansienlik verhoog; en
  - (ii) deur die nuwe BBB's van sodanige ontwikkeling gedek word;
  - (d) die omvang of vlak van dienslewering deur die bestuursliggaam wesenlik verander nie.
- (3) Die direksie moet skriftelik kennis gee van die voorgestelde aansoek by die uitvoerende direkteur om die sakeplan te wysig volgens die voorgeskrewe prosedure wat ingevolge item 1(e) van bylae 1 in die sakeplan vervat is.
- (4) Aansoeke om wysiging wat ingevolge subartikel (1) by die uitvoerende direkteur ingedien word, moet -
- (a) op skrif wees, en in die formaat wat die uitvoerende direkteur vereis;
  - (b) vergesel wees van:
    - (i) 'n besluit van die bestuursliggaamdireksie of 'n ledevergadering wat die aansoek magtig;
    - (ii) 'n bewys van die skriftelike kennisgewing wat ingevolge subartikel (3) vereis word; en
    - (iii) enige administratiewe fooi wat die uitvoerende direkteur moontlik vir goedkeuring by die Raad aanbeveel.
- (5) Die uitvoerende direkteur kan die aansoek goedkeur indien hy of sy tevrede is dat -
- (a) die bestuursliggaamdireksie aan die vereistes in hierdie artikel voldoen het; en
  - (b) die aansoek in openbare belang is, met inagneming van onder andere die doelwitte en beginsels in artikel 3.

#### **Wysigings aan die sakeplan wat verdere toestemming vereis**

26. (1) 'n Bestuursliggaam kan ingevolge subartikel (2) by die Raad aansoek doen om die sakeplan in die volgende opsigte wesenlik te verander:
- (a) sakeplanbepalings wat nie by artikel 25 ingesluit is nie;

- (b) enige aanspreeklikheid vir, of die bedrag van, die bykomende belasting;
  - (c) enige wesenlike toename in die totale uitgawes wat ingevolge die termynbegroting vir daardie boekjaar deur die bykomende belasting gefinansier moet word, buiten 'n toename waarna artikel 25(2)(c) verwys;
  - (d) die omvang of vlak van dienste of projekte wat die bestuursliggaam lewer; of
  - (e) uitbreiding van die stadsverbeteringsdistrik se geografiese gebied.
- (2) Enige aansoek om wysiging van 'n stadsverbeteringsdistrik se sakeplan ingevolge subartikel (1) moet soos volg hanteer word:
- (a) Voordat enige aansoek ingevolge subartikel 1(e) 'n aanvang neem, moet die uitvoerende direkteur hom of haar daarvan vergewis dat die voorgestelde nuwe gebied vir uitbreiding 'n gemiddelde invorderingsverhouding handhaaf soos wat artikel 5(2) voorskryf. Die uitvoerende direkteur kan egter die minimum invorderingsverhouding na eie goeiddunke ooreenkomstig artikel 5(3) aanpas.
  - (b) Die voorgestelde wysiging moet goedgekeur word by 'n ledevergadering van die bestuursliggaam wat ooreenkomstig artikel 10 belê is.
  - (c) Die bestuursliggaam moet die besluit wat subartikel (2)(b) beoog binne tien dae ná die tersaaklike ledevergadering op die stadsverbeteringsdistrik se webtuiste plaas.
  - (d) Die bestuursliggaam moet binne 45 dae ná die lede se besluit aan die openbaredeelnamereistes in artikel 6(2) tot (4) voldoen.
  - (e) Die bestuursliggaam moet binne 90 dae ná die lede se besluit 'n openbare vergadering hou om die voorgestelde aansoek om wysiging te bespreek.
  - (f) Die bestuursliggaam moet die plaaslike gemeenskap, die BBB's en, in geval van 'n voorgestelde uitbreiding ingevolge subartikel (1)(e), die voorgestelde BBB's skriftelik kennis gee van die openbare vergadering deur die voorgeskrewe prosedure in artikel 6(5) tot (9) te volg. Die skriftelike kennisgewing moet -
    - (i) 'n afskrif of samevatting van die besluit in subartikel (2)(b) bevat;
    - (ii) BBB's in kennis stel van hulle reg om binne 30 dae ná die openbare vergadering skriftelik en op die

- voorgeskrewe vorms by die bestuursliggaam beswaar te maak; en
- (iii) op rekord plaas dat die Raad die wysiging kan goedkeur indien skriftelike besware nie ontvang word nie van ten minste:
- (aa) 40% van BBB's in 'n residensiële stadsverbeteringsdistrik; of
- (bb) 50% plus een van die BBB's in enige ander subkategorie stadsverbeteringsdistrik.
- (g) Die bestuursliggaam moet die plaaslike gemeenskap, BBB's en voorgestelde BBB's (indien van toepassing) 30 dae ná die openbare vergadering gun om kommentaar te lewer soos wat artikel 6(10) beoog, welke kommentaar ooreenkomstig artikel 6(13) in die aansoek om wysiging vervat moet word.
- (h) Indien die bestuursliggaam, na aanleiding van die skriftelike kommentaar waarna subartikel (2)(g) verwys, enige wesenlike wysigings aan die aansoek aanbring, moet die bestuursliggaam 'n verdere openbare vergadering hou ooreenkomstig die prosedure wat artikel 6(12) tot (15) beoog.
- (i) In geval van 'n voorgestelde uitbreiding ingevolge subartikel (1)(e) moet die bestuursliggaam, ná die openbare vergadering waarna subartikels (2)(e) of (2)(h) verwys, die skriftelike toestemming van die meerderheid van die voorgestelde BBB's bekom soos wat artikel 5(5) beoog.
- (j) Ingeval minder as die vereiste getal BBB's in subartikel (2)(f)(iii) binne die vasgestelde tydperk van 30 dae skriftelike besware by die bestuursliggaam indien, moet die bestuursliggaam die aansoek om wysiging ooreenkomstig subartikel (5) aan die Raad voorlê. Hierdie aansoek moet nie later nie as 90 dae ná die datum van die openbare vergadering ingedien word, of binne sodanige verdere tydperk as wat die uitvoerende direkteur goedkeur.
- (3) 'n Aansoek om wysiging wat die bestuursliggaam by die Raad indien, moet -
- (a) op skrif wees, en in die formaat wat die uitvoerende direkteur kan bepaal;
- (b) nie later nie as 90 dae ná die datum van die openbare vergadering ingedien word, of binne sodanige verdere tydperk as wat die uitvoerende direkteur moontlik goedkeur;

- (c) vergesel wees van:
- (i) die gewysigde sakeplan, wat aan die inhoudsvereistes in bylae 1 by hierdie verordening moet voldoen en die voorgestelde wysigings duidelik moet aandui;
  - (ii) enige kommentaar wat ingevolge subartikel (2)(g), gelees in samehang met artikel 6(10) en (11), ná die openbare vergadering ontvang is;
  - (iii) in geval van 'n aansoek om uitbreiding ingevolge subartikel (1)(e):
    - (aa) enige skriftelike besware wat ooreenkomstig subartikel (2)(f)(ii) van BBB's ontvang is; en
    - (bb) die skriftelike toestemming van voorgestelde BBB's ooreenkomstig subartikel (2)(i); en
  - (iv) enige administratiewe fooi wat die uitvoerende direkteur moontlik vir goedkeuring by die Raad aanbeveel.
- (4) Die Raad kan 'n aansoek om wysiging goedkeur indien die Raad tevrede is dat -
- (a) die bestuursliggaam aan die prosedure vir openbare deelname en toestemming in subartikel (2) voldoen het;
  - (b) in geval van 'n voorgestelde uitbreiding ingevolge subartikel (1)(e) -
    - (i) die vereiste getal BBB's in subartikel (2)(f)(iii) nie skriftelike besware ingedien het nie; en
    - (ii) die voorgestelde BBB's gedurende die pas afgelope 12 maande 'n gemiddelde invorderingsverhouding van minstens 95% gehandhaaf het ooreenkomstig sodanige prosedure as wat die beleid kan voorskryf, of 'n laer persentasie wat die uitvoerende direkteur dalk as gepas beskou met inagneming van onder andere die faktore in artikel 5(3); en
  - (c) die voorgestelde wysiging in openbare belang is, met inagneming van onder andere die doelwitte en beginsels in artikel 3.

#### **Verlenging van die termyn van 'n stadsverbeteringsdistrik**

27. (1) Behoudens subartikel (2) en (3), kan die Raad die termyn van 'n stadsverbeteringsdistrik met hoogstens vyf jaar verleng indien die bestuursliggaam skriftelik daarom aansoek doen.

- (2) Die bestuursliggaam kan soos volg om 'n verlenging van die termyn van die stadsverbeteringsdistrik aansoek doen:
- (a) Deur 'n skriftelike aansoek ingevolge artikel 5(9) op te stel.
  - (b) Deur lede van die bestuursliggaam, BBB's en die plaaslike gemeenskap in kennis te stel van die aansoek tesame met die skriftelike kennisgewing van die bestuursliggaam se laaste algemene jaarvergadering van sy vyfjaartermyn, en spesifiek te vermeld:
    - (i) dat die aansoek by die bestuursliggaam se kantore en die kantoor van die uitvoerende direkteur ter insae lê en ook op die bestuursliggaam se webtuiste verskyn;
    - (ii) dat 'n besluit om die aansoek in te dien, by die algemene jaarvergadering oorweeg sal word;
    - (iii) dat ingeval die besluit waarna subartikel (2)(b)(ii) verwys, goedgekeur word:
      - (aa) enige BBB wat teen die aansoek gekant is binne 30 dae ná die algemene jaarvergadering 'n skriftelike beswaar by die bestuursliggaam moet indien op die vorms wat by die kennisgewing ingesluit is of andersins deur die bestuursliggaam beskikbaar gestel sal word;
      - (bb) die Raad die aansoek kan goedkeur indien skriftelike besware nie van ten minste 40% van BBB's in 'n residensiële stadsverbeteringsdistrik of 51% van BBB's in enige ander subkategorie stadsverbeteringsdistrik ontvang word nie; en
      - (cc) lede van die plaaslike gemeenskap binne 30 dae ná die algemene jaarvergadering enige skriftelike kommentaar by die sekretaris van die bestuursliggaam kan indien.
  - (c) Ingeval die bestuursliggaam ná die algemene jaarvergadering enige wesenlike wysigings aan die sakeplan aanbring, moet die bestuursliggaam 'n verdere ledevergadering hou ooreenkomstig die kennisgewing-vereistes in subartikel (2)(b) om goedkeuring vir die gewysigde sakeplan te bekom én om ingevolge subartikel (2)(b)(iii) skriftelike besware en kommentaar te versoek (met die nodige veranderinge na gelang van die konteks).
  - (d) Ingeval die besluit waarna subartikel 2(b)(ii) verwys, aanvaar word, en minder as die vereiste getal BBB's skriftelike besware indien, moet die bestuursliggaam teen nie later nie



as 31 Januarie van enige kalenderjaar die volgende by die uitvoerende direkteur indien -

- (i) die vereiste aansoek ingevolge subartikel (2)(a);
- (ii) die sakeplan, wat aan die inhoudsvereistes in bylae 1 by hierdie verordening moet voldoen;
- (iii) 'n afskrif van die skriftelike kennisgewing wat subartikel (2)(b) vereis;
- (iv) enige skriftelike besware van BBB's wat ingevolge subartikel (2)(b)(iii)(aa) ontvang is;
- (v) 'n samevatting van enige kommentaar wat die bestuursliggaam ooreenkomstig subartikel (2)(b)(iii)(cc) en artikel 6(11) van die plaaslike gemeenskap ontvang het;
- (vi) die konsepnotule van die algemene jaarvergadering; en
- (vii) enige administratiewe fooi wat die uitvoerende direkteur moontlik vir goedkeuring by die Raad aanbeveel.

(3) By 'n Raadsvergadering so gou moontlik ná die indiening van die aansoek -

- (a) moet die Raad bepaal of -
  - (i) die aansoek aan die vereistes in artikel 5 (met die nodige veranderinge na gelang van die konteks) en subartikel 2(d) voldoen; en
  - (ii) die bestuursliggaam aan die kennisgewingvereistes in subartikel (2)(b) voldoen het;
- (b) moet die Raad die aansoek afkeur -
  - (i) in geval van wesenlike nienakoming van die prosedurele vereistes in artikel 5, subartikel (2)(b) of subartikel (2)(c); of
  - (ii) indien die vereiste getal BBB's in subartikel (2)(b)(iii)(bb) skriftelik teen die aansoek beswaar gemaak het soos wat subartikel 2(b)(iii)(aa) beoog;
- (c) kan die Raad die aansoek met of sonder wysigings goedkeur; en
- (d) kan die Raad die aansoek na die bestuursliggaam terugverwys vir enige wysigings aan die sakeplan wat die

Raad in die lig van die beginsels in artikel 3(2) as nodig beskou.

- (4) Gewysigde aansoeke om die verlenging van die termyn van die stadsverbeteringsdistrik wat ingedien word ná afkeuring of terugverwysing ingevolge subartikel (3)(b) of (3)(d) kan deur die Raad oorweeg word, op voorwaarde dat -
- (a) die gewysigde aansoek ingedien word voordat die termyn van die stadsverbeteringsdistrik verstryk;
  - (b) die aansoek op gepaste wyse gewysig is in die lig van die redes waarom dit afgekeur of terugverwys is;
  - (c) in geval van enige wesenlike wysigings aan die sakeplan:
    - (i) die bestuursliggaam 'n ledevergadering gehou het ooreenkomstig die prosedure in subartikel 2(b); en
    - (ii) die aansoek aan die vereistes in artikel 5 en subartikel 2(d) voldoen.

## **HOOFSTUK 9 ONTBINDING VAN 'N STADSVERBETERINGSDISTRIK**

### **Ontbinding**

28. (1) Die Raad kan 'n stadsverbeteringsdistrik ontbind -
- (a) by ontvangs van 'n skriftelike aansoek wat onderteken is deur die meerderheid van die eienaars in die stadsverbeteringsdistrik wat aanspreeklik is vir die betaling van die bykomende belasting;
  - (b) indien 'n ledevergadering 'n spesiale besluit aanvaar wat goedkeuring verleen vir die vrywillige ontbinding van die maatskappy sonder winsoogmerk soos wat artikel 80(1) van die Maatskappywet beoog; of
  - (c) om enige goeie rede nadat die uitvoerende direkteur vooraf met die bestuursliggaam en die plaaslike gemeenskap oorleg gepleeg het.
- (2) By die ontbinding van 'n bestuursliggaam word daar weggedoen met sy totale netto waarde, wat insluit sy netto bates nadat al sy verpligtinge nagekom is, ingevolge die tersaaklike bepalings van die Maatskappywet en die bestuursliggaam se akte van oprigting.

## **HOOFSTUK 10**

### **DIVERSE BEPALINGS**

#### **Delegasie**

29. Die uitvoerende direkteur kan enige bevoegdheid, verantwoordelikheid of plig waaroor hy of sy ingevolge hierdie verordening beskik aan 'n lid van die munisipale personeel delegeer.

#### **Oorgangsbepalings**

30. (1) Enige spesiale-aanslaggebied of stadsverbeteringsdistrik wat bepaal of ingestel is ingevolge die verordening waarna artikel 31 verwys, of wat as sodanig bepaal of ingestel geag word, word beskou asof dit ingevolge hierdie verordening bepaal of ingestel is.
- (2) Behoudens subartikel (3), word aansoeke om die instelling van 'n spesiale-aanslaggebied met betrekking waartoe 'n aansoeker vóór die inwerkingtreding van hierdie verordening kennis gegee het van openbare vergaderings ingevolge artikel 6(2) van die verordening waarna artikel 31 verwys, ooreenkomstig artikel 3 tot 8 van daardie verordening afgehandel, ingedien en beslis, ondanks die herroeping daarvan.
- (3) Enige spesiale-aanslaggebied of stadsverbeteringsdistrik wat bepaal word ingevolge artikel 8 van die verordening waarna artikel 31 verwys na aanleiding van 'n aansoekproses wat subartikel (2) hier bo beoog, word beskou asof dit ingevolge die bepaling van hierdie verordening ingestel is en onder hierdie verordening val.
- (4) Geen spesiale-aanslaggebied of stadsverbeteringsdistrik wat ingestel word ingevolge die verordening waarna artikel 31 verwys, kan deur middel van die prosedure in artikel 24 hier bo om wysiging van sy sakeplan aansoek doen nie, tensy die bepaling waarna artikel 25(1) verwys in die loop van 'n termynverlengingsproses ooreenkomstig artikel 27 by 'n nuwe sakeplan ingesluit word.

#### **Herroeping van verordeninge**

31. Die volgende verordeninge word hiermee herroep:
- (a) die Stad Kaapstad: Verordening op Spesiale-aanslaggebiede, wat in Provinsiale Koerant no. 7051 van 20 Julie 2012 gepubliseer is; en
- (b) die Stad Kaapstad: Wysigingsverordening op Spesiale-aanslaggebiede, wat in Provinsiale Koerant no. 7578 van 4 Maart 2016 gepubliseer is.

#### **Kort titel en inwerkingtreding**

32. (1) Hierdie verordening is bekend as die Stad Kaapstad: Verordening op Stadsverbeteringsdistrikte, 2023.

## BYLAE 1: INHOUD VAN DIE SAKEPLAN

Enige aansoek om die instelling van 'n stadsverbeteringsdistrik moet 'n sakeplan insluit, wat die volgende moet bevat:

- (1) 'n Motiveringsverslag wat uit die volgende bestaan:
  - (a) 'n Inleiding -
    - (i) wat die naam van die voorgestelde distrik identifiseer;
    - (ii) wat die aansoeker se naam verstrek en 'n adres voorsien waar enige kennisgewings ten opsigte van die aansoek aan die aansoeker gelewer kan word;
    - (iii) wat die geografiese gebied van die voorgestelde stadsverbeteringsdistrik beskryf, met insluiting van 'n diagram wat die straatgrense uitbeeld;
    - (iv) wat 'n oorsig bied van die strategiese doelwitte van die voorgestelde stadsverbeteringsdistrik se bestuursliggaam ten opsigte van -
      - (aa) die verbetering van openbare veiligheid;
      - (bb) instandhouding en skoonmaakdienste;
      - (cc) omgewingsontwikkeling, wat onder meer insluit die verfraaiing en opknapping van openbare gebiede en fasiliteite; en
      - (dd) die bevordering van maatskaplike en ekonomiese ontwikkeling op 'n omgewingsvolhoubare manier; en
    - (v) wat die kernwaardes van die bestuursliggaam van die voorgestelde stadsverbeteringsdistrik lys.
  - (b) 'n Beskrywing van die voorgestelde dienste en projekte met betrekking tot elke strategiese doelwit wat in item 1(a)(iv) hier bo beoog word, wat -
    - (i) die voorgestelde dienste en projekte, en die aktiwiteite wat daarmee gepaardgaan, moet uiteensit;
    - (ii) moet noem in watter gebied binne die voorgestelde grense van die stadsverbeteringsdistrik die verbeteringe en opknappings uitgevoer sal word;
    - (iii) die totale geskatte koste van die voorgestelde dienste en projekte oor die termyn van die stadsverbeteringsdistrik moet voorsien;
    - (iv) 'n motivering moet voorsien vir die toekenning van hulpbronne aan enige spesifieke gebied wat in item (1)(b)(ii) hier bo beoog word ingeval enige verbetering en opknapping nie eenvormig deur die

hele voorgestelde stadsverbeteringsdistrik uitgevoer sal word nie;  
en

- (v) moet toon hoe die voorgestelde verbeteringe en opknappings met die geïntegreerde ontwikkelingsplan van die munisipaliteit en met artikel 22(4) van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting strook.
- (c) 'n Bespreking van die finansiële impak van die stadsverbeteringsdistrik, wat insluit -
- (i) die spesifieke kategorie/kategorieë BBB's wat aanspreeklik is vir die betaling van die bykomende belasting (byvoorbeeld residensieel, nierresidensieel);
  - (ii) 'n verduideliking van hoe die bedrag van die bykomende belasting vir die eerste jaar van die termyn van die stadsverbeteringsdistrik bereken sal word, wat geïllustreer word aan die hand van verteenwoordigende voorbeelde van tipiese waardasies in die distrik;
  - (iii) vermelding van die moontlikheid van jaar-tot-jaar-toenames of -afnames in die bykomende belasting gedurende die tweede tot vyfde jaar van die termyn van die stadsverbeteringsdistrik, tesame met -
    - (aa) 'n verduideliking van die basis vir die berekening van moontlike variasies op die termynbegroting (soos variasies in die munisipale belastingbasis van die distrik na aanleiding van munisipale waardasies, inflasie, toenames waarvoor die termynbegroting uitdruklik voorsiening maak, sowel as bykomende ontwikkelings in die distrik);
    - (bb) 'n verduideliking van die riglyne in die beleid ten opsigte van boperke op die bedrag van die bykomende belasting as 'n persentasie van die munisipale eiendomsbelasting in enige boekjaar, en hoe dít op enige jaar-tot-jaar-toename betrekking het; en
    - (cc) kriteria vir vrystelling van die bykomende belastingaanspreeklikheid ingevolge die beleid op eiendomsbelasting.
- (d) Die voorgestelde bestuurstruktuur van die maatskappy sonder winsoogmerk
- (e) 'n Verklaring oor of die uitvoerende direkteur ingevolge artikel 25 enige van die bepalings van die sakeplan op die direksie se aanbeveling mag wysig sonder die skriftelike toestemming van 'n meerderheid van die BBB's, en indien wel:
- (i) watter van die bepalings van die sakeplan so gewysig mag word;  
en

- (ii) watter oorlegplegings- en kennisgewingprosedure gevolg moet word voordat so 'n aansoek by die Raad ingedien word.
- (f) 'n Lys van alle belasbare eiendomme in die voorgestelde stadsverbeteringsdistrik, wat insluit:
  - (i) die adres van elke voorgestelde BBB; en
  - (ii) die Stad se kategorisering van elke eiendom ingevolge artikel 8 van die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting.
- (2) 'n Implementeringsplan in die vorm van 'n skedule vir die vyfjaartermyn wat die volgende met betrekking tot elke strategiese doelwit in item (1)(a)(iv) hier bo aandui:
  - (a) voorgestelde praktiese maatreëls om elke strategiese doelwit te bereik;
  - (b) kernprestasiaaanwysers vir elke maatreël;
  - (c) die verwagte aanvang- en voltooiingsdatums vir elke maatreël; en
  - (d) die persone of liggame wat vir die doeltreffende implementering van elke maatreël verantwoordelik sal wees.
- (3) 'n Termynbegroting wat 'n skatting bied van die verwagte inkomste en uitgawes van die stadsverbeteringsdistrik vir die volle duur van die vyfjaartermyn, sowel as van gebeurlikheidsvoorsiening, wat onder andere insluit:
  - (a) geskatte inkomste (buiten rente);
  - (b) geskatte uitgawes, met inbegrip van gebeurlikheidsvoorsiening in die kosteberekening van uitgawes buiten dié by subitems (vii) tot (ix), wat onder meer insluit:
    - (i) personeelverwante uitgawes;
    - (ii) kern- bedryfsverwante uitgawes;
    - (iii) herstel en instandhouding van bates;
    - (iv) algemene uitgawes verbonde aan alle ander beplande bedrywighede, soos die koste om administratiewe en bestuursverantwoordelikhede uit te kontrakkeer;
    - (v) individuele koste van elke voorgestelde projek;
    - (vi) kapitaaluitgawes;
    - (vii) rente en delgingskoste;

- (viii) waardevermindering van bates; en
  - (ix) voorsiening vir bydrae tot deurlopende reserwe vir oninbare skuld.
- (4) Die volgende aanhangsels:
- (a) die goedgekeurde openbaredeelnemeplan wat in artikel 6(2) beoog word;
  - (b) ten opsigte van die openbare vergaderings waarna artikel 6 en 25 verwys, sowel as die algemene jaarvergaderings waarna artikel 26 verwys:
    - (i) bewys van kennisgewing van die vergaderings aan voorgestelde BBB's en die plaaslike gemeenskap; en
    - (ii) die agendas en notules;
  - (c) die tabel van kommentaar wat gedurende die openbaredeelnemeproses ingevolge artikel 6, 25 of 26 ontvang is;
  - (d) die skriftelike toestemming van die voorgestelde BBB's ten opsigte van 'n aansoek ingevolge artikel 5 of 26.



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

Making progress possible. Together.

## UMTHETHO KAMASIPALA WESITHILI SOPHUCULO LWESIXEKO



**UMASIPALA WESIXEKO SASEKAPA**  
**UMTHETHO KAMASIPALA WESITHILI SOPHUCULO LWESIXEKO**  
**ULUNGISELELO LWAMACANDELO**

**ISAPHLUKO 1**  
**IINKCAZELO, UTOLIKO KUNYE NEENJONGO**

- 1 Iinkcazelo
- 2 Utoliko
- 3 Iinjongo kunye neMigaqo

**ISAPHLUKO 2**  
**UKUMISELWA KWESITHILI SOPHUCULO LWESIXEKO**

- 4 Ukumisela
- 5 Ukusetyenziswa
- 6 Ukuthatha inxaxheba koluntu
- 7 Isigqibo

**ISAPHLUKO 3**  
**IQUMRHU LOLAWULO**

- 8 Iimfuno zeQumrhu loLawulo
- 9 Ubulungu
- 10 Iintlanganiso zamaLungu
- 11 Ukungafihli

**ISAPHLUKO 4**  
**IBHODI YEQUMRHU LOLAWULO**

- 12 Amagosa eZiko
- 13 UMgaqo wokuZiphatha

**ISAPHLUKO 5**  
**IIMFUNO ZEMALI**

- 14 UNyakamali
- 15 Uhlahlo lwabiwomali loNyaka
- 16 Uhlengahlengiso kuHlahlo lwabiwomali
- 17 ULawulo lwezeMali kunye nokunika iNgxelo
- 18 INgxelo yoNyaka
- 19 Ezinye iiMfuno zokunika iNgxelo

**ISAPHLUKO 6  
UKUBEKA ILISO SISIXEKO**

- 20 Imiba gabalala
- 21 Abakhimkhanyo beBhodi

**ISAPHLUKO 7  
IRHAFU EYONGEZELELWEYO**

- 22 UkuHlawulisa iRhafu eyoNgezelelweyo
- 23 UkuHlawula ngaphezulu kweRhafu eyoNgezelelweyo
- 24 Inkcitho

**ISAPHLUKO 8  
UKULUNGISWA KWESICWANGCISO SOSHISHINO KUNYE NOKWANDISWA  
KWEXESHA**

- 25 Izilungiso ezivumelekileyo kwiSicwangciso soShishino ngaphandle kweMvume eyongezelelekileyo
- 26 Izilungiso kwiSicwangciso soShishino ezifuna imvume eyongezelelekileyo
- 27 Ukwandiswa kweXesha leSithili soPhuculo lweSixeko

**ISAPHLUKO 9  
UKUCHITHWA KWESITHILI SOPHUCULO LWESIXEKO**

- 28 Ukuchithwa

**ISAPHLUKO 10  
IMIQATHANGO EYAPHLUKENEYO**

- 29 Abathunywa
- 30 Amalungiselelo eNguqu
- 31 Ukubhangiswa kweMithetho kaMasipala
- 32 Isihloko esifutshane kunye nokuqalisa

IShedyuli yoku1 Iziquqatho zeSicwangciso sokuSebenza

**Ukubonelelwa ngokusekwa kweziThili zoPhuculo lweSixeko; ukubonelela ngeerhafu ezongezelelweyo; kunye nokubonelela ngemiba ehambelana noko.**

Mawumiselwe siSixeko saseKapa ngolu hlobo lulandelayo: -

## **ISAHLUKO 1 IINKCAZELO, UTOLIKO KUNYE NEENJONGO**

### **Inkcazelo**

1. Kulo Mthetho kaMasipala amagama okanye iintetho ziya kuba nentsingiselo eyabelwe zona apha ngaphandle kokuba umxholo ubonisa ngenye indlela -

**“irhafu eyongezelelweyo”** ithetha irhafu eyongezelelweyo exelwe kwicandelo lama22 loMthetho wobuRhulumente boMmandla ongaMaxabiso eePropati zikaMasipala (MPRA), 6 wango2004(“iMPRA”), nakwicandelo lama22 lalo Mthetho kaMasipala;

**“umhlawuli werhafu eyongezelelweyo”** okanye **“iARP”** ngokunxulumene neSithili soPhuculo lweSixeko sithetha umnini wepropati erhafiswayo emi kwindawo yamaxabiso awodwa ofanele ukuhlawula irhafu eyongezelelweyo;

**“umakhimkhanyo webhodi ongomnye”** uthetha nawuphi na uceba otyunjwe nguSodolophu weSigqeba ngokwemigaqo yecandelo lama21 ukuba aye kwiintlanganiso zebhodi yebhunga lolawulo lweSithili soPhuculo lweSixeko njengomakhimkhanyo endaweni yomakhimkhanyo webhodi oyintloko;

**“umenzisicelo”** uthetha nawuphi na umnini okanye ummeli ogunyaziswe ngokusemthethweni wepropati erhafiswayo ngaphakathi kwemida yeSithili soPhuculo lweSixeko esiphakanyiswayo owenza isicelo sokumiselwa kwaloo ndawo yamaxabiso awodwa ngokungqinelana nezibonelelo zeSahluko 2;

**“uhlahlo lwabiwomali lonyaka”** luthetha uhlahlo lwabiwomali lwequmrhu lolawulo lweSithili soPhuculo lweSixeko njengoko luvunyiwe liBhunga kwaye lubandakanya uhlahlo lwabiwomali lonyaka oluhlaziye ngohlengahlengiso lohlahlo lwabiwomali ngokwemiqathango yecandelo le15 nele16, ngokulandelelanayo;

**“Ingxelo yonyaka”** ngokunxulumene nebhodi yolawulo yeSithili soPhuculo lweSixeko ithetha ingxelo yonyaka njengoko kuchaziwe kwicandelo le18;

**“umphicothizincwadi”** uthetha umntu okanye inkampani ebhaliswe njengomphicothizincwadi kwiBhodi eZimeleyo yoLawulo lwabaPhicothizincwadi (iIRBA);

**“ibhodi”** ithetha ibhodi yabalawuli bebhodi yolawulo lweSithili soPhuculo lweSixeko, njengoko kukhankanyiwe kwicandelo lama66 loMthetho weeNkampani wama71 ka2008;

**“umakhimkhanyo webhodi”** uthetha, ngaphandle kokuba umxholo ubonisa enye into, uceba, okanye omnye uceba otyunjwe nguSodolophu weSigqeba ukuba azimase iintlanganiso zebhodi njengomakhimkhanyo ngokungqinelana necandelo lama21;

**“isivumelwano sebhodi yabakhimkhanyo”** – sithetha isivumelwano ekungenwe kuso phakathi kweCID kunye nomakhimkhanyo webhodi onyuliweyo, phakathi kwezinye izinto sicacisa amalungelo nezibonelelo zawo omabini amaqela ngomdla wokuphucula ulawulo olululo;

**“iSithili sokuPhuculwa kweShishini”** okanye **“iBID”** sithetha udidi lweSithili soPhuculo lweSixeko apho irhafu eyongezelelweyo ihlawuliswa kwipropati erhafiswayo, engeyiyo yokuhlala phakathi kwemida yaso, njengoko kukhankanyiwe kuMgaqonkqubo weeRhafu;

**“isicwangciso soshishino”** sithetha uxwebhu oluhlanganisiweyo olunobuncinane bemixholo efunekayo edweliswe kwiShedyuli yoku1;

**“iCIPC”** ithetha iKhomishini yeeNkampani kunye nePropati yobuKrelekrele esekwe ngokwemiqathango yecandelo lama185 loMthetho weeNkampani;

**“ISixeko”** sithetha iSixeko saseKapa, umasipala osekwe siSaziso sokuSekwa kweSixeko saseKapa esinguNomb.479 ka2000 somhla wama22 kweyoMsintsi ka2000, esikhutshwe ngokwemigaqo yeCandelo le12 loMthetho wobuRhulumente boMmandla: uMthetho wamaSebe ooMasipala we117 ka1998 okanye nasiphi na isigqeba okanye umsebenzi weSixeko osebenza ngokwegunya eligunyazisiweyo;

**“ISithili soPhuculo lweSixeko”** kunye **“neCID”** sithetha indawo edityanisiweyo yejografi, echongwe liBhunga ukuba ihlawulise irhafu eyongezelelweyo kwipropati ezirhafiswayo phakathi kwemida yalo ukuxhasa ngemali uphuculo nokuhlaziywa kweendawo zoluntu kwisithili;

**“umlinganiselo wokuqokelela”** malunga neCID ephakanyiswayo ngumlinganiselo wokuba ingakanani na ingeniso efakwe kwiinvoyisi yeSixeko ngesithuba seenyanga ezili12 yaqokelelwa ngesithuba seenyanga ezili12;

**“Ulawulo oluqhelekileyo”**, ngokunxulumene namaqumrhu amabini okanye ngaphezulu asemthethweni afanele ukuba lilungu lequmrhu lolawulo leCID, luthetha ulawulo lomntu -

- (a) ongumnikazi wesabelo unenzuzo engaphezulu kwesiqingatha senkunzi yesabelo esikhutshiweyo sequmrhu ngalinye;
- (b) onelungelo lokuvota isininzi seevoti ezinokuvotelwa kwintlanganiso kawonkewonke yequmrhu ngalinye, okanye unamandla okulawula ukuvota kwesininzi sezo voti, ngokuthe ngqo okanye ngequmrhu elilawulayo laloo mntu;
- (c) onako ukutyumba okanye ukuvalela ukutyunjwa kwesininzi sabalawuli bequmrhu ngalinye;
- (d) yinkampani ebambeleyo kwaye iqumrhu ngalinye lincedisana naloo nkampani;
- (e) kwimeko apho iqumrhu liyitrasti, linamandla okulawula isininzi seevoti samalungu etrasti, ukunyula isininzi samalungu etrasti okanye ukutyumba okanye ukutshintsha uninzi lwabaxhamli betrasti;
- (f) kwimeko yenkampani eyiklozi khophareyshini, ungumnikazi wesininzi senzala okanye ulawulo lwamalungu ngokuthe ngqo okanye unelungelo okulawula isininzi seevoti zamalungu kwiklozi khophareyshini; okanye

(g) onamandla okuba nefuthe elibonakalayo kumgaqonkqubo wamaqumrhu ngendlela enokuthelekiseka nomntu onokuthi, kwindlela eqhelekileyo yorhwebo, onokuthi asebenzise inkalo yolawulo ekubhekiselwe kuyo kumhlathi (a) ukuya ku (f) wale nkcazelo;

**“Ubunini obuqhelekileyo”** ngokunxulumene namaqumrhu amabini okanye ngaphezulu anelungelo lobulungu bequmrhu lolawulo lweCID, buthetha ukuba ngaphezu kwama50% obunini bequmrhu ngalinye nguye nawuphi na umntu;

**“UMthetho weNkampani”** uthetha uMthetho weNkampani, ka2008 (UMthetho wama71 ka2008);

**“UMgaqosiseko”** uthetha uMgaqosiseko weRiphabliki yoMantsi Afrika, ka1996;

**“IBhunga”** lithetha iBhunga leSixeko;

**“Iintsuku”** zithetha iintsuku zekhalenda, ngaphandle kokuba azibandakanyi iiholide zikawonkewonke kunye nosuku esenzeka ngalo isiganeko sokuqala kwaye lubandakanya nosuku lwesiganeko sesibini;

**“ISithili”** sithetha indawo yamaxabiso awodwa avunywe liBhunga phantsi kwecandelo lama22 leMPRA;

**“Umlawuli weSigqeba”** uthetha igosa elijongene neeCID eliqeshwe ngokwecandelo lama57 loMthetho weNkqubo, okanye lowo ugunyazisiweyo;

**“isivumelwano sezemali”** sithetha isivumelwano ekungenwe kuso phakathi kweSixeko kunye nequmrhu lolawulo lweCID, esibonelela ngokumiselwa kunye nokuhlulwa kwentlawulo eyongezelelweyo siSixeko kunye nokongamela kwezimali zequmrhu lolawulo;

**“uphuhliso lweendawo ezinamasango”** luthetha indawo yoluntu enamasango, indawo yokuhlala okanye uphuhliso njengoko kuchaziwe kuMgaqonkqubo weSixeko wokuPhuhliso iindawo ezinamaSango;

**“uluntu lwasekuhlaleni”** ngokunxulumene neCID -

kuthetha iqumrhu labantu elibandakanya abantu abawela phantsi kolunye okanye ngaphezulu kwezi ndidi zilandelayo -

- (a) abanini bezakhiwo kwisithili, kungakhathaliseki nokuba baya kuba noxanduva okanye abayi kuba noxanduva lokuhlulwa irhafu eyongezelelweyo;
- (b) abahlali besithili;
- (c) abaqeshi kunye namaqumrhu alawulayo;
- (d) nayiphi na imibutho yoluntu kunye nemibutho engekho phantsi korhulumente, icandelo labucala okanye imibutho yabasebenzi okanye amaqumrhu abandakanyekayo kwimicimbi yesithili achatshazelwa luphuculo oluphakanyiswayo okanye uphuculo lwesithili.

**“isininzi”** sithetha isininzi njengoko kumiselwe kwicandelo 5(5);

**“iqumrhu lolawulo”** lithetha iqumrhu lolawulo lweCID, eliya kuba yinkampani engenzi nzuzo (iNPC) ebandakanywe ngokomthetho weeNkampani, njengoko kuxelwe kwicandelo lesi8 lalo Mthetho kaMasipala;

**“intlanganiso yamalungu”** ngokunxulumene neCID ithetha intlanganiso yamalungu ebhodi yolawulo yeCID njengoko kukhankanywe kumThetho weeNkampani kwaye ibandakanya intlanganiso kawonkewonke yonyaka;

**“IMemorandam yokuBandakanywa”** (“iMOI”) ithetha uxwebhu njengoko lulungiswa kumaxesha ngamaxesha, oluthi thaca amalungelo, imisebenzi noxanduva lwabaninizabelo, abalawuli kunye nabanye ngaphakathi nangokunxulumene nenkampani yeCID, kunye neminye imiba njengoko kukhankanyiwe kumacandelo loku1 kunye nele15 loMthetho weeNkampani;

**“ISithili sokuPhucula ukuSetyenziswa okuXubeneyo”** sithetha udidi lweCID apho kunyanzeliswa iintlawulo zerhafu ezongezelelweyo kuzo zombini iipropati ezihlawulelwa irhafu yendawo yokuhlala nengeyiyo indawo yokuhlala ngaphakathi kwemida yayo, ngokwentsingiselo ekhankanywe phantsi koMgaqonkqubo weRhafu;

**“iMPRA”** ithetha uRhululemnte weNgingqi: uMthetho weRhafu yePropati kaMasipala, ka2004 (uMthetho wesi6 ka2004);

**“NPC”** ithetha inkampani engenzi nzuzo ehlanganiswe ngokoMthetho weeNkampani;

**“iipropati engeyiyo yokuhlala”** inentsingiselo eyabelwe yona ngokoMgaqonkqubo weRhafu;

**“umnini”** unentsingiselo eyabelwe yona kwicandelo 1 leMPRA;

**“iinkcukacha zobuqu”** zinentsingiselo enikwe yona kwicandelo 1 loMthetho woKhuseleko loLwazi loBuqu, ka2013 (uMthetho wesi4 ka2013);

**“Umgaqonkqubo”** uthetha uMgaqonkqubo weSixeko malunga neeCID;

**“umakhimkhanyo webhodi oyintloko”** uthetha nawuphi na uceba, otyunjwe ngolo hlobo nguSodolophu weSigqeba, omsebenzi wakhe uphambili ikukuzimasa iintlanganiso zebhodi yolawulo njengomakhimkhanyo ngokwecandelo lama21;

**“Umhlawuli wentlawulo eyongezelelweyo ophakanyiswayo”** okanye “iARP ephakanyiswayo” kuthetha umnini wepropati eme phakathi kwendawo ephantsi komxholo wesicelo sokumiselwa kweCID phantsi kwecandelo lesi4, okanye isicelo sokwandiswa kwemida yejografi ekhoyo phantsi kwecandelo lama26, oya kuba noxanduva lokuhlawula intlawulo eyongezelelweyo kwimeko apho isicelo esinjalo samkelwa liBhunga;

**“indawo kawonkewonke”** ithetha umhlaba (kuquka izakhiwo okanye iziseko ezingundoqo ezimi apho) ezeSixeko okanye elinye iziko likarhulumente, neliphantsi kolawulo okanye ulawulo lweBhunga ukuze kuxhamle uluntu, kubandakanywa kodwa kungaphelelanga apho; indlela zikawonkewonke, nomhlaba osetyenziselwa ukuzonwabisa okanye iinkonzo zentlalontle;

**“ikota”** naliphi na ixesha kula alandelayo kunyakamali:

- (a) 1 kweyeKhala ukuya kuma30 kweyoMsintsi;
- (b) 1 kweyeDwarha ukuya kuma31 kweyoMnga;
- (c) 1 kweyoMqungu ukuya kuma31 kweyoKwindla; okanye
- (d) 1 kuTshazimpuzi ukuya kuma30 kweyeSilimela

**“ipropati”** inentsingiselo eyabelwe yona kwicandelo loku1 leMPRA;

**“irhafu”** inentsingiselo eyabelwe kwicandelo loku1 leMPRA;

**“ipropati erhafiswayo”** inentsingiselo eyabelwe yona kwicandelo loku1 leMPRA;

**“ixabiso lesiseko serhafu”** malunga neCID ephakanyiswayo okanye ekhoyo ithetha uqingqomaxabiso lulonke lukamasipala lwazo zonke iipropati ezirhafiswayo zeeARP okanye iiARP eziphakanyiswayo phakathi kwemida yejografi yeso sithili njengoko kumiselwe kuqingqomaxabiso jikelele ngokwecandelo lama30 leMPRA;

**“UMgaqonkqubo weRhafu”** uthetha umgaqonkqubo weSixeko oqulunqwe ngokwemigaqo yecandalo lesi3 leMPRA ekuhlululweni kweerhafu kwipropati erhafiswayo phakathi kwemida yejografi, njengoko inokulungiswa kumaxesha ngamaxesha;

**“ISithili soPhuculo lweNdawo yokuHlala”** sithetha udidi lweCID apho irhafu eyongezelelweyo ihlawuliswa kuphela kwiiipropati zokuhlala ezirhafiswayo ngokwentsingiselo ecingwe phantsi koMgaqonkqubo weRhafu;

**“ipropati yokuhlala”** inentsingiselo eyabelwe yona kuMgaqonkqubo weRhafu;

**“imali egciniweyo yetyala elibi”** ithetha inxalenye yeerhafu ezongeziweyo ezichazwe kwicandelo 23(3), ezibanjwa siSixeko xa kusenziwa intlawulo yenyanga nenyanga ecingwe kwicandelo 23(3) njengolungiselelo lwetyala elibi kunye nokuhlulula ngaphantsi, eliya kukhululwa kwiCID ngokungqinelana necandelo 23(6);

**“indawo yamaxabiso awodwa”** ithetha indawo yejografi ephantsi kolawulo lweSixeko echongwe liBhunga phantsi kwecandelo lama22 leMPRA ukuze kurhafelwe irhafu eyongezelelweyo kwiiipropati ezihlawuliswa irhafu kwimida yazo ukuze kuphuculwe loo ndawo ekubhekiswa kuyo njengeCID kulo Mthetho kaMasipala;

**“UMthetho weNkqubo”** kubhekiselelwe kuRhulumente weNgingqi: uMthetho weNkqubo zikaMasipala, ka2000 (uMthetho wama32 ka2000);

**“uhlahlo lwabiwomali”** luthetha uhlahlo lwabiwomali lwequmrhu lolawulo lwesithuba seminyaka emihlanu yeCID ebandakanyiweyo kwisicwangciso somsebenzi njengoko kukhankanyiwe kwiShedyuli yoku1 yalo Mthetho kaMasipala;

**“isaziso esibhaliweyo”** sithetha isaziso esibhaliweyo, kubandakanywa kodwa kungaphelelanga apho, imeyile, ukuhanjiswa ngesandla, imidiya yoluntu, iintengiso, iwebhusayithi okanye ithunyelwe ngeposi;

### **Ukutolikwa**

2. (1) Xa kukho impixano kwimibhalo yesiAfrikansi okanye yesiXhosa, umbhalo wesiNgesi uya koyisa.
- (2) Nakuphi na ukubhekisa “kumgaqonkqubo” weSixeko kuya kutolikwa njengokubhekisa kuxwebhu olunokusebenza ngelo xesha.

### **IiNjongo kunye neMigaqo**

3. (1) Akukho CID igqitywe ngokwalo Mthetho kaMasipala enokuthi iphumeze isicwangciso sayo soshishino phambi komhla woku1 kweyeKhala ka2023.
- (2) Injongo yalo Mthetho kaMasipala kukubonelela ngolwakheko lokusekwa kweeCID kwimida kamasipala weSixeko, kubandakanywa nokwakhiwa, amagunya, kunye nokuxhaswa ngemali kwamaqumrhu olawulo lweeCID; ukubeka iliso kweSixeko kumilisele lweeCID ngamaqumrhu aso olawulo, nokubonelela ngemiba enxulumene noko.
- (3) Ukusekwa, ulawulo kunye nolawulo lwemisebenzi yeCID, kulawulwa yile migaqo ilandelayo;
  - (a) Ukusekwa kweCID linyathelo eliqhutywa luluntu;
  - (b) ISixeko sijongene nokusekwa kunye nokulawulwa kweeCID ukuthotyelwa kweemfuneko ezisemthethweni nemigaqonkqubo kunye nemithethosiseko yolawulo olululo;
  - (c) ICID kufuneka yandise kwaye yongeze iinkonzo zikamasipala ezixelwe phantsi kwecandelo lesi8 loMthetho weeNkqubo, kugxilwe ngokukodwa -
    - (i) kuphucula ukhuseleko loluntu;
    - (ii) ukugcinwa kunye nokucocwa kweendawo zikawonkewonke kubandakanywa, kodwa kungaphelelanga ekucoeni imiphetho yendlela nokulahlwa kwenkunkuma ngokungekho mthethweni;
    - (iii) uphuhliso lwendalo esingqongileyo, kubandakanywa, kodwa kungaphelelanga apho, ukwenziwa ubuhle, uhlaza, ukubukeka komhlaba, ukugawulwa kwemithi kunye nokuphuculwa kweendawo zoluntu; kwaye
    - (iv) ukukhuthaza uphuhliso lwentlalo noqoqosho ngendlela enozinzo kokusingqongileyo;



- (d) linkcitho kwiinkonzo neeprojekthi, kufuneka ibe yinzuzo kwiindawo zikawonkewonke ezikwizingqi yeCID kuphela, kwaye ayinakongezelelwa kwinzuzo ethe ngqo okanye ekhethekileyo yepropati yomntu yabucala;
- (e) Kufuneka kubekho ulungelelwano phakathi kwemidla kunye neemfuno zeeARP kunye noluntu lwasekuhlaleni olukwiCID;
- (f) ICID kufuneka ikhuthaze ukukhula koqoqosho nophuhliso oluzinzileyo ukuze ihambelane neenjongo zeSixeko kunye nemisebenzi yophuhliso phantsi kwesiCwangciso soPhuhliso esiHlangeneyo yaso;
- (g) ICID kufuneka ikhuthaze ukuhlaziya ngokutsha kwedolophu ngolawulo oluzinzileyo lwedolophu;
- (h) kufuneka kukhuthazwe ukuthatha inxaxheba kwawo onke amaqela anomdla nachaphazelekayo ekusekweni, ekulawuleni nasekuphunyezweni kweeCID; kwaye
- (i) ICID kufuneka isekwe, ilawulwe ize iphunyezwe ngendlela ethembekileyo, evulekileyo neselubala.

## ISAHLUKO 2 UKUMISELWA KWESITHILI SOPHUCULO LWESIXEKO

### Ukumiselwa

- 4. (1) Ngokuxhomekeke kwizibonelelo zesi Sahluko, iSixeko sinokuthi ngesigqibo seBhunga:
  - (a) Sichaze ummandla ophantsi kolawulo lwaso size simisele loo ndawo njengeCID ngokungqinelana namalungiselelo ecandelo lama22 leMPRA, ukuba -
    - (i) isithili akufuneki sibe neendawo ezinamasango kuphela;
    - (ii) imida yejografi yesithili ayahluli naziphi na iipropati; kwaye
    - (iii) ixesha lokuqala kunye nalo naluphi na uhlaziyo olulandelayo lwexesha leCID yiminyaka emihlanu.
  - (b) Ukuphumeza isicwangciso sokusebenza sokuphunyezwa kweCID, esibonelela ngeenkono kunye neeprojekthi. Ezi nkonzo kunye neeprojekthi zinokuxhaswa ngemali ngokupheleleyo okanye inxalenye ngexabiso elongezelelweyo (njengoko kukhankanyiwe kwicandelo lama22 leMPRA), okanye ngemali eqokelelwe

ngokuzimeleyo ngemisebenzi yorhwebo, iminikelo okanye nayiphi na enye indlela esemthethweni.

- (2) Isigqibo ekubhekiselwe kuso kwicandelwana (1) samkelwe kuphela ukuba -
- (a) umenzisicelo uzithobele iimfuno zenkqubo ezichazwe kwicandelo lesi5 nelesi6;
  - (b) ukusekwa kweCID kusemdleni woluntu, kuthathelwe ingqalelo imigaqo eneenjongo ezidweliswe kwicandelo lesi3; kwaye
  - (c) iinkonzo ekubhekiselwe kuzo kwicandelwana (1)(b) zezi -
    - (i) ngokungqinelana neenjongo ezichazwe kwicandelo 3 (3)(c);
    - (ii) ngenzuzo eyintloko yeCID; kwaye
    - (iii) ezongezelelweyo kwiinkonzo iSixeko esilindeleke ukuba sizibonelele ngokwemigaqo yecandelo lama73 loMthetho weeNkqubo.

#### Isicelo

5. (1) Ngokuxhomekeke kwicandelwana (2), nawuphi na umntu ongumnini wepropati erhafiswayo ngaphakathi kwemida ephakanyiswayo yejografi yeCID unokufaka isicelo kwiBhunga ukuze kumiselwe iCID.
- (2) Phambi kokuba aqalise ngesicelo nenkqubo yokuthatha inxaxheba kukawonkewonke ekhankanywe kwicandelo lesi6, uMlawuli weSigqeba kufuneka aneliseke ukuba iiARP kwiCID eziphakanyiswayo zenze umyinge woqokelelo ubuncinane wama95% kwiintlawulo zikamasipala ezisisiseko kwisithuba esingaphambi kweenyanga ezili12.
- (3) Umlawuli weSigqeba unokuhlengahlengisa imfuneko yomlinganiselo woqokelelo olufunekayo *kuthathelwa ingqalelo*:
- (a) iinjongo kunye nemigaqo yalo Mthetho kaMasipala ngokwecandelo lesi3;
  - (b) izibonelelo eziphakanyiswayo kuluntu lwengingqi kwiCID;
  - (c) ukusasazwa kwamatyala eakhawunti kamasipala kwinani leeARP; kwaye
  - (d) Umngcipheko wetyala elibi obangelwa kukuhlawula emva kwexesha okanye kukungahlawulwa kwexabiso elongezelelweyo ziiARP eziphakanyiswayo.
- (4) Zonke iindleko ezenziwe ngumfakisicelo malunga nokusekwa kweCID ziya kuba zezeakhawunti yakhe, ngaphandle kokuba,

emva kokuphunyezwa kwesicwangciso soshishino, iqumrhu lolawulo linokubuyisela umfakisiselo ezinye okanye zonke ezo ndleko kwaye kufuneka kubonelelwe kuhlalo lwabiwomali.

- (5) Ngeenjongo zokufumana imvume ebhaliweyo yeeARP eziphakanyiswayo, uninzi lweemfuno njengoko zixelwe kwicandelo 22(2)(b) leMPRA ziya kuba ngolu hlobo lulandelayo:
  - (a) ngokumalunga neSithili sokuPhuculwa kweShishini, ubuncinane ngama50% kunye nezinye iiARP eziphakanyiswayo;
  - (b) ngokumalunga neSithili soPhuculo lweNdawo yokuHlala, ubuncinane ngama60% eeARP eziphakanyiswayo;
  - (c) ngokumalunga neCID yosetyenziso oluXubeneyo, le pesenti ilandelayo yeyeeARP eziphakanyiswayo:
    - (i) ama60% kwimeko apho ngaphezulu kwama40% exabiso lerhafu yesithili ibandakanya indawo yokuhlala;
    - (ii) ubuncinane ama50% kudityaniswe nenye kwimeko apho ngaphantsi kwama40% exabiso lesiseko serhafu yesithili siquka ipropati yokuhlala.
- (6) Umfakisiselo kufuneka angenise isicelo sokusekwa kweCID zingaphelanga iinyanga ezili9 zokubiza intlanganiso yokugqibela kawonkewonke ekhankanywe kwicandelo 6(10) okanye ele6(14), okanye lingadlulanga elinye ixesha elinokwamkelwa nguMlawuli weSigqeba.
- (7) Kwiintsuku ezingama60 zokufumana isicelo esikhankanywe kwicandelo (6), uMlawuli weSigqeba kufuneka agqibe ukuba ngaba isicelo siyahambelana na neemfuno ezichazwe kweli candelo, ezifundwa kunye necandelo lesi4 nelesi6.
- (8) Ukuba uMlawuli weSigqeba akalucebisi umiselo lwakhe phantsi kwecandelwana (7) phakathi kwethuba leentsuku ezingama60, uya kuthathwa njengogqibe ekubeni isicelo siyahambelana neemfuno ezifanelekileyo.
- (9) Isicelo esikhankanywe kwicandelwana (1) kufuneka -
  - (a) sibhalwe kwaye sibe kwifomu njengoko uMlawuli weSigqeba enokugqiba;
  - (b) sikhathshwe: -
    - (i) sisicwangciso seshishini, esiya kuthi siquke umba kunye namaxwebhu adweliswe kwiShedyuli yoku1 yalo Mthetho kaMasipala;
    - (ii) yimvume ebhaliweyo yoninzi lweeARP eziphakanyiswayo njengoko kuxelwe kwicandelwana (5), okanye umtyunjwa wabo otyunjwe

ngokubhaliweyo, ngendlela egqitywe nguMlawuli weSigqeba; kwaye

(iii) yintlawulo yentlawulo enokuthi imiswe liBhunga.

### **Uthathonxaxheba loLuntu**

6. (1) Nasipha na isicelo sokumiselwa kweCID kufuneka sixhomekeke kwinkqubo yentathonxaxheba yoluntu.
- (2) Umfakisisicelo kufuneka angenise kwaye agcine isicwangciso sokuthatha inxaxheba koluntu ukuze samkelwe nguMlawuli weSigqeba. Isicwangciso kufuneka sicacise ukuba umenzisicelo uya kuthobela njani eli candelo ngendlela eqwalasela iimfuno kunye neempawu zoluntu lwasekuhlaleni kunye nokuchonga oku kulandelayo;
  - (a) Indlela zokwazisa;
  - (b) Iimixholo, iilwimi kunye neendlela zezaziso nezibhengezo;
  - (c) Iinkqubo zokubonelela ngokufikelela kumaxwebhu ngethuba lenkqubo yokuthatha inxaxheba kukawonkewonke (ekufuneka ubuncinane iquke ukwenziwa kwamaxwebhu afumaneka ukuze ahlolwe kwiifisi zeSixeko kunye nendawo engathathi cala kwisithili esiphakanyiswayo okanye njengoko kuvunywe ngenye indlela nguMlawuli weSigqeba);
  - (d) Indlela zothethwano; kwaye
  - (e) Iindawo zeentlanganiso zikawonkewonke ezimiselweyo ezikwisithili esiphakanyiswayo, okanye njengoko zamkelwe nguMlawuli weSigqeba.
- (3) Umlawuli weSigqeba kufuneka asamkele, okanye asikhabe isicwangciso sokuthatha inxaxheba kukawonkewonke, kwiintsuku ezingama30 emva kokusifumana, ukuba asiphumelelanga isicwangciso siya kuthathwa njengesivunyiweyo nguMlawuli weSigqeba.
- (4) Umfakisisicelo kufuneka aqhube inkqubo echazwe kweli candelo ngokungqinelana nesicwangciso sentathonxaxheba yoluntu esamkelwayo ngokwecandelwana (3). Nakuphi na ukutenxa kufuneka kuziswe kwingqalelo yoMlawuli weSigqeba ubuncinane kwiintsuku ezisi7 phambi komsitho, onokuvumela ukungathotyelwa kunye namanyathelo okulungisa ngokuthe ngqo njengoko ebona kufanelekile.
- (5) Umfakisisicelo kufuneka abize intlanganiso kawonkewonke kwindawo evunyiweyo, njengoko kuxelwe kwicandelwana (2)(e), ngomhla kunye nexesha elifanelekileyo kuluntu lwengingqi ukuze lubonisane ngokuqulathwe yimixholo yoyilo lwesicwangciso soshishino.

- (6) Ubuncinane kwiintsuku ezili14 phambi kokuba iqalise intlanganiso kawonkewonke kwaye ngokungqinelana nenkqubo efunekayo ngokwecandelwana (7), umfakisicelo kufuneka angenise isaziso esibhaliweyo kuluntu lwasekuhlaleni kunye nawo nawaphi na amanye amaqela anomdla nachaphazelekayo -
- (a) achaze umhla, ixesha kunye nendawo yentlanganiso;
  - (b) achaze injongo yentlanganiso;
  - (c) ameme amalungu asekuhlaleni kunye namanye amaqela anomdla nachaphazelekayo ukuba abhalise umdla wabo ekufumaneni ulwazi, kunye novakaliso lwezimvo ngesicelo esiphakanyiswayo;
  - (d) acebise ngendawo kunye nexesha amalungu asekuhlaleni kunye namanye amaqela anomdla nachaphazelekayo anokuhlola isicwangciso soshishino esiyilwayo; kwaye
  - (e) acebise amalungu oluntu lwengingqi kunye namanye amaqela anomdla nachaphazelekayo ukuba anokuthi angenise njani kwaye nini izimvo ezibhaliweyo malunga nesicelo esiphakanyiswayo kunye nesicwangciso soshishino esiyilwayo.
- (7) Apho loMthetho kaMasipala ufuna ukuba umenzisicelo azise amalungu oluntu lwengingqi ngesicelo esiphakanyiswayo kunye nayo nayiphi na inkqubo yentathoxaxheba yoluntu enxulumeneyo, umfakisicelo kufuneka -
- (a) anike isaziso esibhaliweyo, ngendlela ekubonelelwe ngayo kwisicwangciso esivunyiweyo sokuthatha inxaxheba koluntu, ukuba:
    - (i) zonke iiARP eziphakanyiswayo kwiCID ephakanyiswayo; kwaye
    - (ii) onke amanye amalungu asekuhlaleni adweliswe kwirejista ekhankanywe kuMgaqonkqubo weCID;
  - (b) afake isibhengezo kwiphephandaba elinye lesiNgesi nakwiphephandaba elinye lesiAfrikansi, elinye lasekuhlaleni lemihla ngemihla okanye ngolwimi olungesiso isiNgesi okanye isiAfrikansi, kwezo meko apho uluntu lwasekuhlaleni lubandakanya ubuncinane ama30% abantu abangengabo abantetho isisiAfrikansi kunye/okanye abangengabo abantetho isisiNgesi, ngaphandle kokuba uMlawuli weSigqeba unokuyirhoxisa lo mfuneko ngesizathu esivakalayo esibonisiweyo malunga nokufikelela kuluntu lwasekuhlaleni ngezinye iindlela zonxibelelwano; kwaye

- (c) asebenzise naziphi na iindlela ezizezinye ezifanelekileyo ukulungiselela amalungu asekuhlaleni angakwaziyo ukuthatha inxaxheba ngenxa yokungakwazi ukufunda nokubhala, ukukhubazeka okanye nayiphi na enye intswelo.
- (8) Umfakisiselo kufuneka anike amalungu asekuhlaleni ithuba lokungenisa kumfakisiselo izimvo ezibhaliweyo malunga nesicelo esiphakanyiswayo kunye nesicwangciso soshishino esiyilwayo kude kube ziintsuku ezingama30 ubuncinane emva komhla wentlanganiso kawonkewonke ebizwe ngokwecandelwana (5).
- (9) Umfakisiselo makaqinisekise ukuba ezi zimvo zikhankanywe kumacandelwana (8) nele (12) zibhalwe kwishedyuli yesicwangciso sokugqibela soshishino nokuba ezo zimvo, kubandakanywa neependulo zomfakisiselo, zifakwe kwitheiybhile zaze zancanyathiselwa kwisicelo esikhankanywe kwicandelo lesi5.
- (10) Umfakisiselo kufuneka abize intlanganiso kawonkewonke yesibini ukuze abonisane noluntu lwengingqi malunga nokuqulathwe kwisicwangciso soshishino sokugqibela esiqhutywe ngokwenkqubo echazwe kwicandelwana (5), agcine isalathiso eso sesicwangciso soshishino esiyilwayo kula macandelwana kufuneka sifundwe njengezalathiso kwisicwangciso sokugqibela soshishino.
- (11) Ubuncinane kwiintsuku ezili14 phambi kwentlanganiso kawonkewonke ecamngcwe kwicandelwana le(10), umfakisiselo kufuneka azise amalungu asekuhlaleni ngentlanganiso leyo ngekwenkqubo emiselweyo phantsi kwecandelwana (6) – (7), agcine isalathiso eso sesicwangciso soshishino esiyilwayo kula macandelwana kufuneka sifundwe njengezalathiso kwisicwangciso sokugqibela soshishino.
- (12) Umfakisiselo kufuneka anike amalungu asekuhlaleni ubuncinane kwiintsuku ezingama30 emva komhla wentlanganiso kawonkewonke ebizwe ngokwecandelwana (10) ukuba angenise kumfakisiselo izimvo ezibhaliweyo ngesicelo esiphakanyiswayo kunye nesicwangciso sokugqibela soshishino.
- (13) Umfakisiselo kufuneka aqinisekise ukuba izimvo ezenziweyo kwintlanganiso yoluntu yesibini, kunye nezimvo ezibhaliweyo zichatshazelwe kwicandelwana (12), zibhalwe kuluhlu lwesicwangciso sokugqibela soshishino nokuba ezo zimvo, kubandakanywa neependulo zomenzi wesicelo, zancanyathiselwe kwisicelo.
- (14) Ukuba umenzi wesicelo ugqiba ukwenza naziphi na izilungiso kwisicwangciso soshishino sokugqibela, enye intlanganiso yoluntu iya kubanjwa kwiintsuku ezingama60 njengoko kuchazwe kwicandelwana (10).
- (15) Umfakisiselo unokufumana imvume ebhaliweyo exelwe kwicandelo 22(2)(b) leMPRA kuphela nje ukuba isicwangciso

soshishino sokugqibela sinikezelwe kwintlanganiso yoluntu ecamngcwe kwicandelwana (10) okanye (14).

- (16) Kwisithuba seentsuku ezili14 zokwaziswa ngesigqibo soMlawuli weSigqeba okanye ekuvumeni kwakhe, njengoko kukhankanywe kwicandelo 5(7) okanye 5(8), ngokulandelelanayo, umenzisicelo kufuneka azise amalungu asekuhlaleni ngezi zinto zilandelayo ngokungqinelana necandelwana (7) -

- (a) ukufakwa kwesicelo; kwaye
- (b) apho isicelo kunye namaxwebhu akhaphayo aya kufumaneka khona ukuze ahlolwe.

### Isigqibo

7. (1) IBhunga malithathele ingqalelo nasiphi na isicelo esifakwe ngokwemiqathango yecandelo (5)(7), kwiintsuku ezili120 ukususela kumhla wesigqibo soMlawuli weSigqeba njengoko kuxelwe kwicandelo 5(7), kwaye linokuthi -

- (a) livume ukusekwa kweCID ngokungqinelana necandelo lesi4;
- (b) likhabe isicelo apho iBhunga kufuneka, zingaphelanga iintsuku ezingama30, linike umenzi wesicelo izizathu ezibhaliweyo zeso sigqibo; okanye
- (c) libuyisele isicelo kumenzi wesicelo ukwenzela naziphi na izilungiso ezifunekayo kwicandelo 3(2).

- (2) IBhunga lisonokuqwalasela izicelo ezilungisiweyo ezingeniswe emva kokwaliwa okanye ukudluliselwa phantsi kwecandelwana (1) ngaphandle kokuba -

- (a) isicelo esilungisiweyo singeniswa kwisithuba seenyanga ezi6 zesigqibo esifanelekileyo seBhunga;
- (b) isicelo siye salungiswa ngokufanelekileyo ngenxa yezizathu zokukhatywa okanye ukudluliselwa;
- (c) apho kukho naziphi na izilungiso kwisicwangciso somsebenzi, umenzisicelo uye wathobela ezi mfuno zilandelayo;
  - (i) ukubiza intlanganiso yoluntu nokumema izimvo ezibhaliweyo, ngokungqinelana nenkqubo ephantsi kwecandelo 6(12) – (16); kwaye
  - (ii) ukungeniswa kwemvume ebhaliweyo yoninzi lweeARP eziphakanyiswayo kwisicelo esilungisiweyo, ngokungqinelana necandelo 6(15); kwaye
- (d) isicelo sithobela zonke ezinye iinkalo kunye namacandelo 5(9).

### **ISAHLUKO 3 IQUMRHU LOLAWULO**

#### **limfuno zeQumrhu loLawulo**

8. (1) Umfakisicelo kufuneka aseke iqumrhu lolawulo ngeenjongo zokuphumeza amalungiselelo esicwangciso soshishino.
- (2) Iqumrhu lolawulo liya kuba yinkampani engenzi nzuzo ehlanganiswe ngokuhambelana namalungiselelo omMthetho weeNkampani.
- (3) Imemorandam yokuqondana yequmrhu lolawulo kufuneka ibonelele ngokuqeshwa kukanobhala wenkampani.

#### **Ubulungu**

9. (1) Ngokuxhomekeke kwicandelwana (2) ubulungu bebhodi yolawulo bulinganiselwe kwiiARP.
- (2) Ukuba ilungu liya khululwa ekuhlawuleni irhafu eyongezelelweyo siSixeko ngokwemigaqo yecandelo 22(3) ngethuba lalo naliphi na ixesha leCID, ubulungu buya kupheliswa ukususela kumhla wokukhululwa. Ukuba umnini propati unoxanduva lokuhlawula irhafu eyongezelelweyo kwixesha elizayo, ngoku unokufaka isicelo sobulungu.
- (3) Ilungu ngalinye linelungelo levoti enye okanye ngaphezulu, ezinokulinganiselwa ngokoqingqomaxabiso lukamasipala lwepropati erhafiswayo yelungu ekwiCID, ngaphandle kokuba lilonke inani leevoti ezabelwe naliphi na ilungu elinye okanye kulo naliphi na inani lamalungu aphantsi kobunini obuqhelekileyo okanye phantsi kolawulo olufanayo aliya kudlula:
  - (a) elona nani liphezulu linokuchazwa kumgaqonkqubo weCID ngexesha elifanelekileyo; kwaye
  - (b) amashumi amathathu anesithathu kunye nesinye – kwisithathu (33-1/3) sepesenti yenani leevoti ezinokuthi zifakwe.

#### **Iintlanganiso zaMalungu**

10. (1) Ibhodi yebhodi yolawulo kufuneka ibize -
  - (a) intlanganiso yokuqala yamalungu kwisithuba seenyanga ezintandathu zomhla wokwenziwa kwayo; kwaye
  - (b) intlanganiso kawonkewonke yonyaka ("AGM") kanye ngonyaka wekhalenda.



- (2) IAGM kufuneka ibanjwe kwisithuba seenyanga ezi6 zokuphela konyakamali ngamnye.
- (3) Lo mcimbi ulandelayo kufuneka kujongwane nawo kwintlanganiso yokuqala yamalungu:
  - (a) Unyulo lwabalawuli;
  - (b) Ukwamkelwa kwamalungu amatsha;
  - (c) Ukuqeshwa komphicothizincwadi obhalisiweyo kunyakamali wonyakamali olandelayo; kwaye
  - (d) Ukwamkelwa kwesicwangciso somilisele kunye nohlahlo lwabiwomali lonyakamali olandelayo.
- (4) Eli shishini lilandelayo kufuneka ubuncinane, lisingathwe kwiAGM nganye ebizwe liqumrhu lolawulo:
  - (a) Imiba ekubhekiselwe kuyo kwicandelwana (3);
  - (b) Ingxelo yonyaka malunga nonyakamali owandulelayo; kwaye
  - (c) Ukunikezelwa kweengxelomali eziphicothiweyo zequmrhu lolawulo kunyakamali owandulelayo.
- (5) Iintlanganiso zamalungu ebhunga lolawulo mazivuleleke kumalungu oluntu lwengingqi anikwe ithuba elaneleyo lokuthatha inxaxheba kumcimbi wentlanganiso, kubandakanywa nokuthatha inxaxheba kwiingxoxo, kodwa angavoti, kuso nasiphi na isigqibo esiphakanyiswayo.
- (6) Isaziso sazo zonke iintlanganiso zamalungu siya kwazisa iiARP ukuba -
  - (a) ukufaneleka kwabo ukuba lilungu lequmrhu lolawulo;
  - (b) inkqubo yesicelo sobulungu; kwaye
  - (c) into yokuba, ukuba banqwenela ukuthatha inxaxheba njengamalungu kwintlanganiso echaphazelekayo, banokwenza isicelo sobulungu njengoko kukhankanyiwe ngasentla ngexesha elibekiweyo elichazwe ngokucacileyo kwisaziso.

### Ukungafihli

11. (1) Iqumrhu lolawulo kufuneka liqhube imicimbi yalo ngendlela eselubala.
- (2) Iqumrhu elilawulalayo kufuneka liseke kwaye ligcine iwebhusayithi ngeenjongo zokupapasha iinkcukacha eziphathelele -
  - (a) onke amaxwebhu ezinto, kwiPDF okanye ngendlela efanayo angeniswe kwiSixeko ngokwemigaqo yecandelo lesi5,

ngaphandle kokuba naluphi olunye ulwazi lobuqu luya kulungiswa ngokutsha;

- (b) iinkonzo, iiprojekthi kunye nemisebenzi eyenziwa liqumrhu lolawulo;
- (c) IMemorandam yokuBandakanywa;
- (d) uludwe lwamalungu equmrhu lolawulo, luhlengahlengisa naziphi na iinkcukacha zomntu;
- (e) imanyuwali yequmrhu lolawulo equlunqwe ngokwemigaqo yecandelo le14 loMthetho ongeNkuthazo yokuFikelela kuLwazi;
- (f) ukuqeshwa, ukwakhiwa, imisebenzi kunye neenkqubo zebhodi yabalawuli bebhodi yebhunga yolawulo;
- (g) iinkcukacha zemali nezinokusebenza zequmrhu lolawulo ezingeniswe kwiSixeko ngokwemiqathango yalo Mthetho kaMasipala;
- (h) imigaqo yebhunga yolawulo elilawula ukuthengwa kweempahla neenkonzo;
- (i) inkqubo yezikhalazo yequmrhu lolawulo; kwaye
- (j) iintlanganiso zamalungu ebhodi yolawulo, kubandakanywa izaziso, iiajenda nemizuzu.

#### **ISAPHLUKO 4 IBHODI YEQUMRHU LOLAWULO**

##### **Amagosa enkampani**

12. (1) Ibhodi iya kunyula uSihlalo, uSekela Sihlalo kunye noNondyebo kumalungu ayo kwintlanganiso yokuqala yebhodi yabalawuli ebizwe emva kweAGM nganye.

##### **Indlela yokuZiphatha**

13. (1) Iqumrhu lolawulo liya kwamkela umgaqo wokuziphatha othi, ubuncinane unike impembelelo kwiprofoma yekhowudi yokuziphatha ebonelelwe kuMgaqonkqubo weSithili soPhuculo weSixeko.
- (2) Onke amalungu ebhodi aya kuziqhelanisa nayo, asayine ikopi yayo, aze athobele umgaqo wokuziphatha okhankanywe kwicandelwana (1).

## ISAHLUKO 5 IIMFUNO ZEMALI

### Unyakamali

14. Unyakamali wequmrhu lolawulo uya kungqamana nonyakamali weSixeko, ongowuku1 kweyeKhala ukuya kowama30 kweyeSilimela.

### Uhlahlo lwabiwomali

15. (1) Iqumrhu lolawulo aliya kungenza kuyo nayiphi na inkcitho yezinto ngaphandle kohlahlo lwabiwomali oluvunyiweyo.
- (2) Ngokuxhomekeke kwicandelwana (4), iqumrhu elilawulayo kufuneka lilungise uhlahlo lwabiwomali oluphakanyiswayo kunyakamali ngamnye olandelelanayo, ngomhla nangemo efunwa nguMlawuli weSigqeba, kwaye lamkele olo hlahlo lwabiwomali, kunye okanye ngaphandle kwezilungiso, kwintlanganiso yamalungu njengoko kukhankanyiwe kwicandelo (10)(3)(d) kunye nele(10)(4)(a).
- (3) Inkcitho yequmrhu lolawulo kwiinyanga ezi6 zokuqala zonyakamali wokuqala wexesha leminyaka emi5 yokuqala yeCID ilawulwa uhlahlo lwabiwomali oluvunyiweyo emva koko lunokulungelelaniswa kwakhona ngokwecandelo le16.
- (4) Ibhodi kufuneka ingenise uhlahlo lwabiwomali lonyaka kuMlawuli weSigqeba ukuze lugithiselwe kwiBhunga ukuba luqwalaselwe, ngaphandle kokuba uhlahlo lwabiwomali olo -
- (a) luyangqinelana neenjongo zeeCID njengoko kuchazwe kwicandelo lesi3;
- (b) alungqubani nesiCwangciso soPhuhliso esiHlangeneyo seSixeko;
- (c) lubonelela ngolwabiwo olulinganayo lwezibonelelo ngokuqwalasela iimfuno nemidla yoluntu lwaloo ndawo;
- (d) lubonelela ngolwabiwo olulinganayo ngokomlinganiselo wemali weCID phakathi kweeARP; kwaye
- (e) aluboneleli ngezilungiso ezibambekayo kwixesha lohlahlo lwabiwomali, njengoko kuchaziwe kwicandelwana (5).
- (5) Ulwamkelo lweBhunga ngokungqinelana nomgaqonkqubo ochazwe phantsi kwecandelo 25(4) luyafuneka kulo naluphi na uhlahlo lwabiwomali olwamkelwe yintlanganiso yamalungu ebonelela:
- (a) ukonyuswa kwezinto ezibonakalayo kwinkcitho eza kuxhaswa ngexabiso elongezelelweyo, ngaphezulu

kwenkcitho iyonke eyamkelweyo phantsi kohlahlo lwabiwomali lwalo nyakamali uchaphazelekayo; okanye

- (b) ukwabiwa ngokutsha kweemali phakathi kwezinto zenkcithomali njengoko kubonisiwe kwixesha lohlahlo lwabiwomali oluchaphazelekayo, oluya kuthi luguqule ngokubonakalayo umda okanye umgangatho weenkonzo ezenziwa liqumrhu lolawulo.

### **Uhlengahlengiso lohlahlo lwabiwomali**

16. (1) Ibhodi inokuhlaziya uhlahlo lwabiwomali oluvunyiweyo lonyaka ngohlahlo lwabiwomali lohlangahlengiso ngokungqinelana neli candelo.
- (2) Uhlahlo lwabiwomali lohlangahlengiso lunokuthi:
  - (a) lwabele ingeniso eyongezelelweyo efunyenweyo engaphezulu kwaleyo ibilindelwe kuhlahlo lwabiwomali lonyaka kwiinkonzo okanye kwiiprojekthi esele ziqingqelwe uhlahlo lwabiwomali, okanye iinkonzo okanye iiprojekthi ezintsha eziwela kumda wesicwangciso soshishino;
  - (b) lubonise inkcitho engalindelekanga nengenakuthintelwa ephakanyiswa yibhodi;
  - (c) lugunyazise ukusetyenziswa kogcino oluqikelelwayo ngokubhekiselele kuluhlu lwenkcitho ngokuyifudusela kwenye okanye kwezinye izinto ezivunyiweyo zenkcitho; kwaye
  - (d) alungise naziphi na iimpazamo kuhlahlo lwabiwomali lonyaka.
- (3) Phambi kokwamkelwa kohlahlo lwabiwomali lohlangahlengiso, ibhodi kufuneka ingenise uhlahlo lwabiwomali oluphakanyiswayo ukuze luqwalaselwe ngokutsha nguMlawuli weSigqeba ukuqinisekisa ukuthotyelwa kweli candelo kunye necandelo 15(4) nele15(5) (kunye notshintsho olunokuthi lufunwe ngumxholo), kwaye luphemeze naziphi na izilungiso ezifunwa nguMlawuli weSigqeba.

### **ULawulo lwezeMali kunye nokunika iNgxelo**

17. (1) IBhodi kufuneka -
  - (a) igcine iirekhodi ezipheleleyo nezifanelekileyo zemcimbi yezemali yequmrhu lolawulo;
  - (b) ingenise iingxelo neerekhodi ngokungqinelana nemiqa-thango yesivumelwano sezemali;
  - (c) ilungise iingxelomali zonyakamali ngamnye ngokungqinelana nenkqubo yocwangcisomali olwamkelwe ngokubanzi malunga neenkampani ezingenzi nzuzo; kwaye

- (d) ingenise iingxelo zemali eziphicothiweyo kunye nengxelo yabaphicothizincwadi bequmrhu lolawulo kwezo nkcazomali kuMlawuli weSigqeba zingaphelanga iinyanga ezimbini zokuphela konyakamali.
- (2) UNondyebo webhodi yolawulo kufuneka alungiselele kwaye anikezele ngeengxelo zemali ezibhaliweyo zeendleko, ingeniso kunye neebhalansi zebhanki ukuze ibhodi iphonononge kwaye iqwalaselwe kwintlanganiso nganye yebhodi.

### **INgxelo yoNyaka**

- 18. (1) Kwisithuba seenyanga ezintathu zeAGM, iqumrhu lolawulo kufuneka linike uMlawuli weSigqeba kunye nebhungana elichaphazelekayo ingxelo yonyaka malunga nenkqubela phambili yalo ekuphumezeni isicwangciso soshishino kunyakamali odlulileyo kunye neengxelo zemali eziphicothiweyo kunye nengxelo yomphicothizincwadi, njengoko zamkelwe kwiAGM.
- (2) Ingxelo yonyaka kunye neengxelo zemali eziphicothiweyo ekubhekiselelwe kuzo kwicandelwana (1) kufuneka -
  - (a) ibonise ngokufanelekileyo imeko yemicimbi yequmrhu lolawulo, imisebenzi yalo, kunye nokusebenza kwalo ngokuchasene neenjongo ezimiselwe kwangaphambili kunye nobume balo bemali ekupheleni konyakamali ochaphazelekayo;
  - (b) iquka iinkcukacha ze -
    - (i) nayiphi na ilahleko yezinto ngenxa yezenzo zolwaphulomthetho nayo nayiphi na inkcitho engafanelekanga kunye nenkcitho engananzuzo okanye eyilahleko kulo nyakamali;
    - (ii) nawaphi na amanyathelo olwaphulomthetho okanye oluleko athatyathiweyo ngenxa yaloo lahleko okanye inkcitho engaqhelekanga okanye engenanzuzo neyilahleko;
    - (iii) (aa) iinjongo zobuchule zequmrhu lolawulo njengoko zibonelelwe kwisicwangciso soshishino esivunyiweyo;
    - (bb) imilinganiselo yentsebenzo engundoqo nezalathisi zokuvavanya intsebenzo ekuphumezeni ezi njongo; kwaye
    - (cc) eyona ntsebenzo yayo ichasene nezo njongo; kwaye
    - (iv) nayiphi na eminye imicimbi enokuthi ifunwe nguMlawuli weSigqeba.

- (c) athobele naluphi na uhlobo neemfuno zesiqulatho ezichazwe kuMgaqonkqubo woPhuculo lweSithili seSixeko
- (3) Kwimeko apho iqumrhu lolawulo likhupha ingxelo yophicothozincwadi olufanelekileyo, ibhodi kufuneka ingaphelanga inyanga enye yokubonelela uMlawuli weSigqeba ngamaxwebhu akhankanywe kwicandelwana (1), acebise uMlawuli weSigqeba ngamanyathelo olungiso athathiweyo.
- (4) Kwimeko apho iqumrhu lolawulo lithe lasilela ekuthobeleni amacandelwana (1) okanye lesi(3), uMlawuli weSigqeba unokubamba intlawulo yentlawulo eyongezelelweyo kwiqumrhu lolawulo de kube lixesha lokuba ibhodi ilungise oko kungathotyelwa kwayo ngendlela eyanelisayo.
- (5) UMlawuli weSigqeba usenokucela iBhunga ukuba lichithe nayiphi na iCID kwimeko apho umphicothizincwadi evakalise uluvo lophicothozincwadi olugwenxa malunga neengxelo zonyaka ezimbini nangaphezulu ezilandelelanayo.

#### **Ezinye iiMfuno zokunika iNgxelo**

19. Ibhodi kufuneka inike ingxelo ebhaliweyo kuMlawuli weSigqeba ngowama<sup>31</sup> kweyeThupha ngemiba emalunga nonyakamali odlulileyo:
- (a) naziphi na iingxaki ezimandundu okanye ezithe gqolo zezimali okanye zokusebenza ezifunyanwa yiCID;
- (b) nayiphi na inkcitho engekho mgaqweni okanye engenanzuzo; kwaye
- (c) nakuphi na ukuphazamiseka kukaceba kwimicimbi yezemali okanye yokusebenza kweCID.

### **ISAHLUKO 6 UKUBEKA ILISO SISIXEKO**

#### **Jikelele**

20. ISixeko siya kubeka esweni ukuthotyelwa kwequmrhu lolawulo kunye nezibonelelo ezifanelekileyo zoMgaqosiseko, lo Mthetho kaMasipala, naziphi na izikhokelo imigaqonkqubo eyamkelwa siSixeko kunye nazo naziphi na izikhokelo okanye imigaqonkqubo eyamkelwa siSixeko kunye nazo naziphi na izivumelwano ekungenwe kuzo phakathi kwequmrhu lolawulo neSixeko.

#### **Abakhimkhanyo beBhodi**

21. (1) Ibhungana ngalinye, elinolawulo olupheleleyo okanye oluyinxenye kwiCID liya konyula uceba omnye kunye nomnye uceba ukuba

baye kwiintlanganiso zebhodi yebhodi yolawulo njengomakhimkhanyo webhodi.

- (2) USodolophu weSigqeba weSixeko unokuthi, emva kokufumana amagama atyunjiweyo ebhungana, atyumbe uceba omnye okanye ababini, kunye noceba omnye otshintshanayo kuceba ngamnye onyuliweyo, ukuba baye kwiintlanganiso zebhodi yebhunga lolawulo njengabakhimkhanyo.
- (3) Ngokuxhomekeke kwicandelwana (4), umakhimkhanyo webhodi uya -
  - (a) ngaphandle kokuba umakhimkhanyo webhodi uye waqakumbela isivumelwano somakhimkhanyo webhodi kunye nequmrhu lolawulo njengoko kukhankanyiwe kwicandelwana (d) abe nelungelo loku:
    - (i) ukufumana zonke izaziso, imizuzu, iingxelo kunye namanye amaxwebhu, ezemali okanye ngenye indlela, elithe iqumrhu lolawulo linikezele kwibhodi kunye neekomiti zalo ngaxeshanye nangendlela enye eso saziso kunye nezixhobo ezinikezelwa kumalungu eBhodi;
    - (ii) azimase iintlanganiso zebhodi neekomiti zayo;
    - (iii) anike ulwazi kwibhodi nakwiikomiti zayo, ukuba uceliwe ukuba enze njalo, ngokunxulumene nemeko yeSixeko kuwo nawuphi na umcimbi omalunga nalo Mthetho kaMasipala, uMgaqonkqubo, okanye isivumelwano sezemali;
  - (b) athintelwe ekuthatheni inxaxheba kwimicimbi yebhodi nangayiphi na indlela ngaphandle kwaleyo ikhankanywe kwicandelwana (3)(a), kwaye ngokukodwa, uya kurhoxa koku:
    - (i) (aa) ukuphakamisa isindululo;
      - (bb) ukuthatha inxaxheba kwingxoxo; okanye
      - (cc) ukuvotela isindululo;
    - (ii) ukuba ngusihlalo wentlanganiso yebhodi okanye naziphi na iikomiti zayo;
    - (iii) ngokulawula ushishino nemicimbi yequmrhu lolawulo;
    - (iv) ukwamkela ukuqeshwa njengommeli welinye ilungu lebhodi okanye leekomiti zayo;
    - (v) ukufumana nawuphi na umvuzo okanye imbuyekezo yeendleko ekungenwe kuzo ngumakhimkhanyo webhodi kwiqela lolawulo;

- (vi) ukufumana, nokuba ngokuthe ngqo okanye ngokungathanga ngqo, nasiphi na isibonelelo semali esivela kwiCID; kwaye
  - (vii) ukusebenzisa ulwazi olufumaneka ngethuba besenza imisebenzi yabo njengabakhimkhanyo bebhodi ukuze bafezekise iimfuno zabo zezimali ezithe ngqo okanye ezingathanga ngqo okanye zabucala;
  - (c) ukungathathelwa ngqalelo xa kusekwa ikhoram kuyo nayiphi na intlanganiso;
  - (d) ukungena kwisivumelwano sebhodi yabakhimkhanyo neBhodi -
    - (i) ukuthintela ukusetyenziswa okungagunyaziswanga okanye ukubhengezwa kweenkcukacha eziyimfihlo zequmrhu lolawulo, ngaphandle kokuxelwa kuMlawuli weSigqeba okufunekayo ngokwecandelwana 3 (e); kwaye
    - (ii) ukuthintela ukusetyenziswa kakubi kweofisi ngenjongo yokuqhubela phambili iimfuno zabucala okanye zobuqu; kwaye
    - (iii) ukukhusela iSixeko kuxanduva ukuba umakhimkhanyo uthe wakreqa;
  - (e) ukubeka esweni ukuthotyelwa kweCID namagatya oMthetho kaMasipala, uMgaqonkqubo, uMthetho weeRhafu zeePropati zikaMasipala kunye noMgaqosiseko kwaye azise nakuphi na ukwaphulwa koko kwingqalelo yoMlawuli weSigqeba;
  - (f) ukubeka esweni ukuthotyelwa kweCID nesicwangciso soshishino kunye nesivumelwano sezemali kwaye azise nakuphi na ukwaphulwa koko kwingqalelo yoMlawuli weSigqeba;
  - (g) ukubeka esweni ukusebenza kweCID ukuqinisekisa imigangatho yonikezelo lwenkonzo efanelekileyo nokuzisa ukungasebenzi kakuhle okanye ukusilela kwingqalelo yoMlawuli weSigqeba;
  - (h) bathathwe njengabazishiyileyo izikhundla zabo ukuba bayasishiya isikhundla njengoko kukhankanyiwe kwicandelo lama27 loMthetho wobuRhulumente boMmandla ongeZakheko zikaMasipala kwaye iya kutshintshwa ngokungqinelana namacandelwana (1) nele(2).
- (4) Omnye umakhimkhanyo webhodi uya kuba nelungelo lokuzimasa kuphela intlanganiso yebhodi neekomiti zayo ukuba umakhimkhanyo webhodi oyintloko akafumaneki okanye akakwazi ukwenza njalo.



- (5) USodolophu weSigqeba unokukuyekisa ukuqeshwa kwakhe nawuphi na umakhimkhanyo webhodi, ngokwesigqibo sakhe kuphela okanye ngokwesicelo esibhaliweyo esifakwe kuMlawuli weSigqeba liqumrhu lolawulo elifanelekileyo, ukuba umakhimkhanyo webhodi -
- (a) uyasilela ukwenza imisebenzi yakhe yokubeka iliso;
- (b) wenza ngokuchasene necandelwana(3)(b); okanye
- (c) wophula ngokubonakalayo isivumelwano sebhodi somakhimkhanyo esikhankanywe kwicandelwana (3)(d).
- (6) Phambi kokuba aphelise ukuqeshwa kukaceba njengomakhimkhanyo webhodi njengoko kukhankanyiwe kwicandelwana (5) emva kwesicelo esibhaliweyo sequmrhu lolawulo elichaphazelekayo, uSodolophu weSigqeba uya kusithumela isityholo eso kuSomlomo ukuba ajongane nomcimbi ngokoMgaqo wokuZiphatha kooCeba.
- (7) USodolophu weSigqeba uya kwazisa iqumrhu lolawulo kunye noceba ofanelekileyo ngaso nasiphi na isigqibo ngokwecandelwana (5)

## **ISAPHLUKO 7 IRHAFU EYONGEZELELWEYO**

### **Ukuhlawulisa iRhafu eyongezelelweyo**

22. (1) IBhunga liya kuhlawulisa irhafu eyongezelelweyo kuzo zonke iipropati ezifanelekileyo ezirhafiswa irhafu ezibekwe kwiCID kunyakamali ngamnye wexesha leCID ngokungqinelana nezibonelelo zeMPRA.
- (2) Intlawulo eyongezelelweyo yawo nawuphi na unyakamali wexesha leCID -
- (a) iya kubalwa ngokubhekiselele kwinkcitho ephakanyiswayo iyonke ekufuneka ixhaswe ngemali eyongezelelweyo kwithuba lohlahlo lwabiwomali lwexesha elifanelekileyo, njengoko linokulungiswa ngokungqinelana necandelo 15(5);
- (b) linokwahlulwa phakathi kweendindi zeepropati ezirhafiswa-yo, njengoko kukhankanyiwe kwicandelo lesi8 leMPRA.
- (3) IBhunga linokukhulula udidi olunye okanye ngaphezulu lweeARP kuxanduva lwerhafu olongezelelweyo, njengoko kukhankanyiwe kwiMPRA nakuMgaqonkqubo weRhafu.
- (4) Irhafu eyongezelelweyo efunekayo lityala elimele ukuhlawulwa siSixeko kwaye liya kuhlawulwa kwaye liya kuqokelelwa ngendlela efanayo nezinye iirhafu zeepropati ezibekwe siSixeko.

### Ukuhlawula ngaPhezulu kweRhafu eyoNgezelelweyo

23. (1) Ngokuxhomekeke kwicandelo (7), iSixeko siya kwenza iintlawulo zenyanga, ngomhla okanye malunga nomhla wama25 wenyanga ngenye, kwiqumrhu lolawulo lesinye kwishumi elinesibini lohlahlo lwabiwomali lweCID, njengoko livunywe liBhunga kulo nyakamali; ngaphantsi kwegalelo kugcino lwetyala elibi elikhankanywe kwicandelwana (3);
- (2) ISixeko siya kudala size sigcine ugcino lwetyala elibi kakhulu -
- (a) ukunciphisa umngcipheko wayo nayiphi na intsilelo evela ngenxa yokungahlawulwa kwerhafu eyongezelelweyo ngabanini bepropati;
- (b) ukuxhasa ngemali isibonelelo setyala elibi; kwaye
- (c) ukuxhasa ngemali nayiphi na intsilelo ngenxa yokungahlawuli tyala okungaphantsi ngenxa yokuhla kwesiseko soqingqomaxabiso lulonke.
- (3) ISixeko siya kugcina isixamali esilingana ne3% yemali ebekelwe uhlahlo lwabiwomali lwenyanga kwiqumrhu lolawulo kugcino lwetyala elibi, ngokuxhomekeke kwisigqibo seSixeko sokulungisa loo pesenti kwimeko yonxunguphalo lwezemali kwiqumrhu lolawulo okanye kwimeko yokungahlawulwa kwezinto eziphathekayo kwiintlawulo zentlawulo ezongezelelweyo.
- (4) Kwimeko apho iqumrhu elilawulayo lithe lasilela ekunikezeleni ingxelo kunye nezibophelelo zokuthobela phantsi kweSahluko sesi5 kunye nese6 nangona kunjalo amalungiselelo ecandelwana (1) – (3), iSixeko sinokubamba nayiphi na intlawulo ekufanele ihlawulwe ngokwecandelwana (1) kude kube lelo xesha apho ukusilela okufanelekileyo kuye kwalungiswa ngokwanelisa uMlawuli weSigebe.
- (5) Nayiphi na intlawulo eyongezelelekileyo yentlawulo yentsalela okanye intsilelo iya kulungiswa kugcino lwetyala elibi lalo nyakamali.
- (6) Kwimeko apho ugcino lwetyala elibi ligqithise kumatyala afunyenweyo ekupheleni konyakamali, ama75 epesenti aloo mali ingaphezulu iya kuhlalulwa siSixeko kwiqumrhu lolawulo ngowama30 kweyoMsintsi kunyakamali olandelayo, kwaye iya kuthathwa njengengeniso eyongezelelweyo.
- (7) Akukho zintlawulo phantsi kwecandelwana (1) ziya kwenziwa ngaphandle kwesivumelwano semali ekugqitywe ngaso phakathi kweSixeko kunye nequmrhu lolawulo, phakathi *kwezinye izinto* -
- (a) iindlela kunye nendlela yokuhlalulwa kwequmrhu lolawulo;
- (b) imiqathango ekuya kwenziwa ngayo intlawulo kwiziko lolawulo.

**Inkcitho**

24. (1) Iqumrhu elilawulayo kufuneka liyichithe imali, kungakhathaliseki ukuba loo mali iphuma kwirhafu eyongezelelweyo, imisebenzi yorhwebo, iminikelo, okanye nayiphi na eminye imithombo, kwiinkonzo kuphela, iiprojekthi okanye imisebenzi ebonelela ngenzuzo, eyongezelelweyo ngokukodwa kwiCID kwaye ngokuxhomekeke kwicandelo 15(1).
- (2) Xa kungenwa kwizivumelwano namaqela esithathu, iqumrhu lolawulo liya-
- (a) kuthobela imigaqonkqubo yentengo echazwe kwicandelo lama217 loMgaqosiseko; kwaye
- (b) kuqinisekisa ukuba iSixeko asinaluxanduva lwazo naziphi na izibophelelo zequmrhu lolawulo.

**ISAPHLUKO 8****UKULUNGISWA KWESICWANGCISO SOKUSEBENZA NOKWANDISWA KWEXESHA LOKUSEBENZA****Izilungiso ezivumelekileyo kwiSicwangciso sokuSebenza ngaphandle kweMvume eyongezelelekileyo**

25. (1) Ngokuxhomekeke kwicandelwana (2) ukuya kwele (4), isicwangciso sokusebenza sinokulungiswa nguMlawuli weSigqeba, ngesicelo sebhodi yebhodi yolawulo, ngaphandle kwemvume engaphezulu yeeARP, ukuba isicwangciso soshishino siquka isibonelelo esivumela ngokucacileyo okufanayo.
- (2) Izilungiso ezixelwe kwicandelwana (1) akuvumelekanga ukuba -
- (a) zitshintshe imida yejografi yeCID;
- (b) zitshintshe imiqathango yobutyala, okanye isixamali serhafu eyongezelelweyo;
- (c) ukwandisa inkcitho iyonke evunyiweyo ukuba ihlawulwe ngexabiso elongezelelweyo (ngaphandle kweemali eziveliswe ngezinye iindlela njengoko kuxelwe kwicandelo 4(1)(b)), kunyakamali ofanelekileyo ngokwexesha lohlahlo lwabiwomali, ngaphandle kokuba olo lunyuso:
- (i) lubangelwe ngokuthe ngqo kuphuhliso lwepropati kwiCID, ukwandisa kakhulu inani leeARP;
- (ii) luthwalwa ziiARP ezintsha zolo phuhliso;
- (d) luguqula umda okanye umgangatho weenkonzo ezenziwa liqumrhu lolawulo.

- (3) Ibhodi kufuneka inike isaziso esibhaliweyo sesicelo esiphakanyiswayo kuMlawuli weSigqeba ukuba enze izilungiso kwisicwangciso sokusebenza ngokungqinelana nenkqubo echazwe kwisicwangciso sokusebenza phantsi komba 1(e) weShedyuli 1 yalo Mthetho kaMasipala.
- (4) Izicelo zolungiso ezingeniswa kuMlawuli weSigqeba ngokwecandelwana (1) ziya kuba -
- (a) ngembalelwana nangendlela efunwa nguMlawuli weSigqeba;
- (b) sikhathshwa koku:
- (i) isigqibo sebhodi yolawulo okanye isigqibo sentlanganiso yamalungu agunyazisa isicelo;
- (ii) ubungqina besaziso esibhaliweyo esifunekayo phantsi kwecandelwana (3);
- (iii) nayiphi na intlawulo yolawulo enokucetyiswa nguMlawuli weSigqeba ukuze yamkelwe liBhunga.
- (5) UMlawuli weSigqeba angasamkela isicelo ukuba wanelisekile ukuba -
- (a) ibhodi yebhunga lolawulo izifezekisile iimfuno eziphantsi kweli candelo; kwaye
- (b) isicelo sisemdeni woluntu, kuqwalaselwa phakathi kwezinye izinto iinjongo nemithethosiseko echazwe kwicandelo lesi3.

#### **Izilungiso kwisicwangciso sokusebenzaezifuna imvume eyongezelelweyo**

26. (1) Iqumrhu lolawulo linokufaka isicelo kwibhunga ngokwecandelwana (2) sokuba lisitshintshe ngokubonakalayo isicwangciso salo sokusebenza kwezi nkalo zilandelayo:
- (a) amalungiselelo esicwangciso sokusebenza esingaqukwanga kwicandelo lama25;
- (b) nalo naliphi na ityala, okanye isixamali serhafu eyongezelelweyo;
- (c) nakuphi na ukonyuka kwezinto ezibonakalayo kwinkcitho iyonke ekufuneka ihlawulwe ngesixamali esongezelelweyo salo nyakamali uchaphazelekayo, njengoko kubonelelwe kwisithuba sohlahlo lwabiwomali ngaphandle kokunyuka njengoko kukhankanyiwe kwicandelo 25(2)(c);
- (d) ububanzi okanye inqanaba leenkonziso okanye iiprojekthi eziqhutywa liqumrhu lolawulo; okanye
- (e) ukwandiswa kwendawo yejografi yeCID.

- (2) Nasiphi na isicelo sokwenza izlungiso kwisicwangciso somsebenzi weCID njengoko kukhankanywe kwicandelwana (1) kuya kujongwana naso ngolu hlobo lulandelayo -
- (a) Phambi kokuba aqalise nasiphi na isicelo njengoko kukhankanywe kwicandelwana 1(e), uMlawuli weSigqeba kufuneka aneliseke ukuba indawo entsha ephakanyiswayo eza kwandiswa inomyinge womlinganiselo woqokelelo olufunekayo phantsi kwecandelo 5(2). Umlawuli weSigqeba usenokusebenzisa ubulumko bakhe ngokungqinelana necandelo 5(3) ukulungisa umlinganiselo omncinci wokuqokelela;
  - (b) Isilungiso esiphakanyiswayo siya kuvunywa kwintlanganiso yamalungu yebhunga lolawulo ebizwe ngokungqinelana necandelo le10;
  - (c) Iqumrhu lolawulo malipapashe isigqibo esikhankanywe kwicandelwana (2)(b) kwiwebhusayithi yeCID kwiintsuku ezili10 zentlanganiso yamalungu achaphazelekayo;
  - (d) Iqumrhu lolawulo kufuneka lihambelane neemfuno zokuthatha inxaxheba koluntu ngokwemiqathango yecandelo 6(2) – (4), kwiintsuku ezingama45 zesigqibo samalungu;
  - (e) Iqumrhu elilawulayo kufuneka libize intlanganiso yoluntu ukuze libonisane ngesicelo esiphakanyiswayo sokulungiswa kwiintsuku ezingama90 zesigqibo samalungu.
  - (f) Iqumrhu lolawulo malinike uluntu lwengingqi isaziso esibhaliweyo sentlanganiso yoluntu, iiARP, kunye neeARP eziphakanyiswayo kwimeko yokwandiswa okuphakanyiswayo phantsi kwecandelwana (1) (e) ngokungqinelana nenkqubo efunekayo phantsi kwamacandelo 6(5) – (9). Isaziso esibhaliweyo kufuneka-
    - (i) siqulathe ikopi okanye isishwankathelo sesigqibo esikhankanywe kwicandelwana (2)(b);
    - (ii) sazise iiARP ngelungelo lokuchasa, ngokubhaliweyo kwiifomu ezimisilweyo kwiintsuku ezingama30 zokuqokunjelwa kwentlanganiso kawonkewonke kwiqumrhu lolawulo; kwaye
    - (iii) sibhale phantsi ukuba iBhunga lingalwamkela olo lungiso ukuba izichaso ezibhaliweyo azifunyanwanga ubuncinane:
      - (aa) ama40% eeARP kwiCID yendawo yokuhlala; okanye
      - (bb) ama50% kunye nenye (1) yeeARP kulo naluphi na udidi olungaphantsi lweCID;

- (g) Iqumrhu lolawulo kufuneka libonelele uluntu lwasekuhlaleni ngeeARP kunye neeARP eziphakanyiswayo (ukuba kufanelekile), ngeentsuku ezingama30 zokuvakalisa izimvo emva kwentlanganiso kawonkewonke njengoko kukhankanywe kwicandelo 6(10), apho izimvo ziya kubhalwa kwisicelo solungiso ngokungqinelana necandelo 6(13);
  - (h) Apho iqumrhu lolawulo lisenza naziphi na izilungiso kwisicelo solungiso ngokungqinelana nezimvo ezibhaliweyo ekubhekiselwe kuzo kwicandelwana (2)(g), iqumrhu lolawulo liya kubiza enye intlanganiso kawonkewonke ngokungqinelana nomgaqonkqubo okhankanywe kwicandelo 6(12) – (15);
  - (i) Kwimeko yokwandiswa okuphakanyiswayo phantsi kwecandelwana (1)(e), iqumrhu lolawulo kufuneka, emva kokuqukunjelwa kwentlanganiso kawonkewonke kukhankanywe kumacandelwana (2)(e) okanye (2)(h), licela imvume ebhaliweyo yoninzi lweeARP eziphakanyiswayo njengoko kukhankanyiwe kwicandelo 5(5);
  - (j) Apho inani leeARP lingaphantsi kwenani elifunekayo, njengoko kukhanyiwe kwicandelwana (2)(f)(iii), lingenise izichaso ezibhaliweyo kwiqumrhu kwiintsuku ezingama30 ezifanelekileyo, iqumrhu lolawulo kufuneka lingenise isicelo solungiso kwiBhunga ngokungqinelana necandelwana (5) isicelo kufuneka singeniswe zingadlulanga iintsuku ezingama90 emva komhla wokubanjwa kwentlanganiso kawonkewonke, okanye lingadlulanga elo xesha longezelelweyo njengoko uMlawuli weSigqeba enokuvuma.
- (3) Iqumrhu lolawulo kufuneka lingenise isicelo solungiso kwiBhunga -
- (a) ngembalelwano nangendlela anokuthi uMlawuli weSigqeba;
  - (b) ingadlulanga iintsuku ezingama90 emva komhla wokubanjwa kwentlanganiso kawonkewonke, okanye lingadlulanga elo xesha longezelelweyo njengoko uMlawuli weSigqeba enokuvuma;
  - (c) sikhathshwa koku:
    - (i) isicwangciso sokusebenza esilungisiweyo ekufuneka sithobele iimfuno zesiqulatho seShedyuli 1 yalo Mthetho kaMasipala kwaye kufuneka sichaze ngokucacileyo izilungiso eziphakanyiswayo;
    - (ii) naziphi na izimvo ezifunyenweyo emva kwentlanganiso kawonkewonke ebibanjwe ngokwecandelwana (2)(g), zifundwe kunye necandelo 6(10) kunye nele (11);
    - (iii) kwimeko yesicelo sokwandiswa okukhankanywe kwicandelwana (1)(e):

- (aa) naziphi na izichaso ezibhaliweyo ezifunyenwe kwiiARP njengoko kuchaziwe kumacandelwana (2)(f)(ii);
  - (bb) imvume ebhaliweyo evela kwiiARP eziphakanyiswayo njengoko kukhankanyiwe kwicandelwana (2)(i);
  - (iv) nayiphi na intlawulo yolawulo njengoko inokuphakanyiswa nguMlawuli weSigqeba ukuze yamkelwe liBhunga.
- (4) IBhunga lingasamkela isicelo solungiso, ukuba lanelisekile ukuba -
- (a) iqumrhu lolawulo liyithobele inkqubo yentathoxaxheba yoluntu nemvume phantsi kwecandelwana (2);
  - (b) kwimeko yokwandisa okuphakanyiswayo njengoko kukhankanyiwe kwicandelwana (1)(e) -
    - (i) inani elifunekayo leeARP alizange lifake izichaso ezibhaliweyo njengoko kukhankanyiwe kwicandelwana (2)(f)(iii);
    - (ii) iiARP eziphakanyiswayo zenze umyinge woqokelelo lomlinganiselo wama95% ubuncinanae kwisithuba seenyanga ezili12 ezandulelayo ngokungqinelana nenkqubo enokuthi imiselwe phantsi koMgaqonkqubo, okanye loo pesenti ingaphantsi njengoko uMlawuli weSigqeba eyibona ifanelekile ngokuthathela ingqalelo le miba idweliswe kwicandelo 5(3); kwaye
  - (c) isilungiso esiphakanyiswayo sisemdleni woluntu, kuthathelwa ingqalelo iinjongo kunye nemithethosiseko echazwe kwicandelo lesi3.

#### **Ukwandiswa kwexesha leCID**

27. (1) Ngokuxhomekeke kumacandelwana (2) nele (3), iBhunga linokuhlaziya ixesha leCID kangangesithuba esingadlulanga kwiminyaka emihlanu, ngesicelo esibhaliweyo sequmrhu lolawulo;
- (2) Iqumrhu lolawulo linokufaka isicelo sokwandiswa kwexesha leCID ngolu hlobo lulandelayo:
- (a) Ukulungisa isicelo esibhaliweyo njengoko kukhankanyiwe kwicandelo 5(9);
  - (b) Yazisa amalungu ebhodi yolawulo, iiARP kunye noluntu lwengingqi ngesicelo xa unikezela ngesaziso esibhaliweyo seAGM yokugqibela lolawulo lesithuba seminyaka emi5, ecacisa ukuba:

- (i) isicelo siyafumaneka ukuze sihlolwe kwiiofisi zequmrhu lolawulo kwiofisi yoMlawuli weSigqeba kwaye sipapashwe kwiwebhusayithi yequmrhu lolawulo;
- (ii) isigqibo sokufaka isicelo siya kuqwalaselwa kwiAGM;
- (iii) kwimeko apho isigqibo sikhankanyiwe kwicandelwana (2)(b)(ii) samkelwe:
  - (aa) nayiphi na iARP esichasayo isicelo iya kungenisa isicelo esibhaliweyo kwiqumrhu elilawulayo phakathi kweentsuku ezingama30 zokuqunyelwa kweAGM kwiifomu ezihamba nesaziso okanye ngenye indlela zenziwe ukuba zifumaneke liqumrhu lolawulo;
  - (bb) iBhunga linokusamkela isicelo ukuba izichaso ezibhaliweyo azifunyanwanga ubuncinane kuma40% eeARP ezikwiCID yendawo yokuhlala okanye ama51% eeARP kulo naluphi na udidi olungaphantsi lweCID; kwaye
  - (cc) amalungu oluntu lwengingqi aya kuthi angenise naziphi na izimvo ezibhaliweyo kunobhala webhunga lolawulo kwiintsuku ezingama30 zokuqunyelwa kweAGM.
- (c) Kwimeko apho iqumrhu elilawulayo lisenza naziphi na izilungiso kwisicwangciso somsebenzi emva kweAGM, iqumrhu lolawulo kufuneka libize enye intlanganiso yamalungu ngokuhambelana neemfuno zesaziso kwicandelwana (2)(b) ngeenjongo zokwamkelwa kwesicwangciso soshishino esilungisiweyo kunye nokucela izichaso ezibhaliweyo kunye nezimvo njengoko kukhankanyiwe kwicandelwana (2)(b)(iii) (kunye notshintsho olufunwa ngumxholo).
- (d) Kwimeko apho isigqibo esikhankanyiwe kwicandelwana 2(b)(ii) sisamkelwa kwaye singaphantsi kwenani elifunekayo leeARP ezingenise izichaso ezibhaliweyo, iqumrhu lolawulo kufuneka lingenise oku kulandelayo kuMlawuli weSigqeba ungalulanga umhla wama31 kweyoMqungu ngawo nawuphi na unyaka wekhalenda -
  - (i) isicelo njengoko sifunwa kwicandelwana (2)(a);
  - (ii) isicwangciso sokusebenza, siya kuthi sithobele iimfuno zesiqulatho seShedyuli 1 yalo Mthetho kaMasipala;
  - (iii) ikopi yesaziso esibhaliweyo njengoko kufunwa kwicandelwana (2)(b);
  - (iv) naziphi na izichaso ezibhaliweyo zeeARP ezifunyenwe ngokwecandelwana (2)(b)(iii)(aa);



- (v) isishwankathelo sazo naziphi na izimvo ezifunyenwe liqumrhu lolawulo kuluntu lwengingqi njengoko kukhankanyiwe kwicandelwana (2)(b)(iii)(cc), ngokungqinelana necandelo 6(11);
  - (vi) imizuzu eyilwayo yeAGM; kwaye
  - (vii) nayiphi na intlawulo yolawulo njengoko kuphakanyisiwe nguMlawuli weSigqeba ukuze yamkelwe liBhunga.
- (3) Kwintlanganiso yeBhunga ebizwe ngokukhawuleza emva kokungeniswa kwesicelo, iBhunga -
- (a) liya kugqiba ukuba -
    - (i) isicelo siyahambelana neemfuno zecandelo lesi5 (kunye neemfuno ezifunwa ngumxholo), kunye necandwana 2(d); kwaye
    - (ii) iqumrhu lolawulo linike isaziso ngesicelo njengoko kuyimfuneko phantsi kwecandelwana (2)(b);
  - (b) liya kusikhaba isicelo kwimeko yokuba -
    - (i) izinto ezingahambelani neemfuno zenkqubo yecandelo le5, icandelwana (2)(b) okanye icandelwana (2)(c); okanye
    - (ii) inani elifunekayo leeARP njengoko kukhankanyiwe kwicandelwana (2)(b)(iii)(bb) ekungeniseni izichaso ezibhaliweyo kwisicelo ngokungqinelana necandelwana 2(b)(iii)(aa);
  - (c) lingasamkela isicelo, libe nezilungiso okanye ngaphandle kwezilungiso; kwaye
  - (d) lisenokusibuyisela isicelo kwiqumrhu lolawulo ukwenzela naziphi na izilungiso kwisicwangciso somsebenzi iBhunga elizibona ziyimfuneko ngokwemigaqo ekwicandelo 3(2).
- (4) IBhunga lisenokuqwalasela izicelo ezilungisiweyo ezingeniswayo zokwandiswa kwexesha leCID emva kokwaliwa okanye ukudluliselwa phantsi kwecandelwana (3)(b) okanye (3)(d), ngaphandle kokuba -
- (a) isicelo esilungisiweyo singeniswa phambi kokuphela kwexesha leCID;
  - (b) isicelo siye salungiswa ngokufanelekileyo ngenxa yezizathu zokwaliwa okanye ukuthunyelwa;
  - (c) kukho naziphi na izilungiso kwisicwangciso soshishino:

- (i) iqumrhu lolawulo libize intlanganiso yamalungu ngokungqinelana nenkqubo ephantsi kwecandelwana 2(b); kwaye
- (ii) isicelo sihambelana neemfuno zecandelo le5 kunye necandelwana 2(d).

## **ISAPHLUKO 9 UKUCHITHWA KWECID**

### **Ukuchithwa**

28. (1) IBhunga linokuyichitha iCID :-
- (a) ngesicelo esibhaliweyo esityikitywe sisininzi abanini abangaphakathi kwimida yeCID abonoxanduva lokuhlawula irhafu eyongezelelweyo;
  - (b) xa kuwiswe isigqibo esikhethekileyo kwintlanganiso yamalungu eyamkela ukuqosheliswa ngokuzithandela kweNPC njengoko kukhankanyiwe kwicandelo lama80(1) loMthetho weeNkampani;
- okanye
- (c) ngaso nasiphi na isizathu esibambekayo, emva kokubonisana kwangaphambili noMlawuli weSigqeba kunye nequmrhu lolawulo kunye noluntu lwengingqi.
- (2) Ekuqokunjelweni kwequmrhu lolawulo, lonke ixabiso elishiyekileyo lequmrhu lolawulo, kubandakanywa iiasethi zalo ezishiyekileyo emva kokwaneliseka kwawo onke amatyala alo, liya kuchithwa ngokwemiqathango yezibonelelo ezifanelekileyo zoMthetho weeNkampani kunye nememorandam yokubandakanywa kwequmrhu lolawulo.

## **ISAPHLUKO 10 IZIBONELELO EZAPHLUKENEYO**

### **Abathunywa**

29. Umlawuli weSigqeba unokunikezela ngalo naliphi na igunya, umsebenzi okanye uxanduva alinikiweyo ngokwalo Mthetho kaMasipala kwilungu labasebenzi bakamasipala.

### Ulungiselelo loTshintsho

30. (1) Nayiphi na indawo yeeRhafu eziKhethekileyo okanye iCID emiselwe okanye esekiweyo, okanye ecingelwa ukuba imisiwe okanye isekwe ngokwemigaqo yoMthetho kaMasipala ekubhekiselwe kuwo kwiCandelo lama31 iya kuthathwa njengento emisiweyo okanye esekiweyo ngokwalo Mthetho kaMasipala.
- (2) Ngokuxhomekeke kwicandelwana (3) izicelo zokusekwa kwendawo yamaxabiso awodwa apho umenzi wesicelo athe wanikezela ngesaziso seentlanganiso zikawonkewonke njengoko kukhankanyiwe kwicandelo 6(2) loMthetho kaMasipala ekubhekiselwe kuwo kwiCandelo lama31 phambi kokuqala kwalo Mthetho kaMasipala, uya kuqukunjelwa, ungeniswe kwaye ugqitywe ngokungqinelana necandelo 3 - 8 loMthetho kaMasipala wangaphambili, nangona utshitshisiwe.
- (3) Nayiphi na indawo yamaxabiso awodwa okanye iCID egqitywe ngokwecandelo lesi8 loMthetho kaMasipala ekubhekiselwe kuwo kwiCandelo lama31 ngokungqinelana nenkqubo yesicelo ekhankanyiwe kwicandelwana (2), iya kuthathwa njengesekiweyo ngokwemiqathango, kwaye iya kulawulwa ngamalungiselelo alo Mthetho kaMasipala.
- (4) Akukho Mmandla wamaXabiso Awodwa okanye iCID isekwe phantsi koMthetho kaMasipala ekubhekiselwe kuwo kwicandelo lama31 onokuthi wenze isicelo sokwenziwa kwezilungiso kwisicwangciso soshishino ngokungqinelana nomgaqonkqubo obonelelwe phantsi kwecandelo lama25, ngaphandle kokuba imiqathango ekhankanyiwe kwicandelo 25(1) ibandakanyiwe kwisicwangciso soshishino esitsha ngexesha lokwandiswa kwexesha phantsi kwecandelo lama27.

### Ukubhangiswa kweMithetho kaMasipala

31. Le Mithetho kaMasipala ilandelayo iyabhangiswa -
- (a) ISixeko saseKapa: uMthetho kaMasipala weNdawo yeeRhafu eziZodwa, opapashwe kwiGazethi yePhondo enguNomb. 7051 yomhla wama20 kweyeKhala 2012; kwaye
- (b) ISixeko saseKapa: uMthetho kaMasipala woLungiso loMmandla wamaXabiso Awodwa, opapashwe kwiGazethi yePhondo enguNomb. 7578 yomhla we4 kweyoKwindla 2016.

### Isihloko esifutshane kunye nesiqalo

32. (1) Lo Mthetho kaMasipala ubizwa ngokuba uMthetho kaMasipala weSithili soPhuculo lweSixeko weSixeko saseKapa, ka2023.

## ISHEDYULI 1: IZIQULATHO ZESICWANGCISO SOKUSEBENZA

Nasiphi na isicelo sokusekwa kweCID kufuneka siquke isicwangciso sokusebenza, esiya kuthi sibandakanye:

- (1) Ingxelo yenkuthazo ebandakanya -
  - (a) Intshayelelo -
    - (i) ukuchonga igama lesithili esiphakanyiswayo;
    - (ii) ukuchaza igama lomfakisicelo kunye nokubonelela ngedilesi yokunikezelwa kwazo naziphi na izaziso kumfakisicelo malunga nesicelo;
    - (iii) ngokuchaza ummandla wejografi weCID ephakanyiswayo kubandakanywa umzobo obonisa imida yesitalato;
    - (iv) ukubonelela ngesishwankathelo seenjongo ezicwangcisiweyo zequmrhu lolawulo lweCID, njengoko ziphathelele -
      - (aa) ukuphucula ukhuseleko loluntu;
      - (bb) ukugcina nokucocwa;
      - (cc) uphuhliso lwendalo esingqongileyo, kubandakanywa kodwa kungaphelelanga apho ekuhombiseni nasekuphuculeni iindawo zoluntu nezibonelelo; kwaye
      - (dd) ukukhuthaza uphuhliso lwentlalo noqoqosho ngendlela eginakalayo kokusingqongileyo; kwaye
    - (v) Ukudwelisa iinqobo ezisemgangathweni zequmrhu lolawulo lweCID ephakanyiswayo.
  - (b) Ingxoxo ngeenkono eziphakanyiswayo kunye neprojekthi ngokubhekiselele kwinjongo yesicwangcisoqhinga ngasinye esikhankanywe kwinqaku 1(a)(iv) apha ngasentla, ekufuneka -
    - (i) ichaze iinkono neprojekthi eziphakanyiswayo kunye nemisebenzi eyinxalenye yazo;
    - (ii) ichonge indawo ephakathi kwemida ephakanyiswayo yeCID apho uphuculo nohlaziyo;
    - (iii) babonelele ngeendleko zabo eziqikelelweyo zizonke ngethuba leCID;
    - (iv) ikhuthaze ulwakhiwo lwezibonelelo kuwo nawuphi na ummandla othile okhankanywe kwinqaku (1)(b)(ii) kwimeko apho naluphi na uphuculo nohlaziyo lungenakwenziwa ngokufanayo kwiCID ephakanyiswayo iyonke; kwaye
    - (v) ukubonisa indlela uphuculo nohlaziyo oluphakanyiswayo olungqinelana ngayo nesiCwangciso soPhuhliso esiHlangeneyo

sikamasipala kunye necandelo 22(4) loMthetho ongeeRhafu zePropati.

- (c) Ingxoxo ngefuthe lemali leCID -
- (i) udidi oluchaziweyo /iindidi zeeARP, ezinoxanduva lokuhlawula irhafu eyongezelelweyo (umzekelo, indawo yokuhlala, engeyiyo indawo yokuhlala);
  - (ii) ingcaciso yendlela ekuza kubalwa ngayo isixamali serhafu eyongezelelweyo ngokumalunga nonyaka wokuqala wexesha leCID, eboniswa ngokubhekiselele kwimizekelo emele uqingqomaxabiso oluqhelekileyo kwisithili;
  - (iii) ngokubhekiselele kumathuba okwanda okanye ukuhla kwexabiso elongezelelweyo unyaka nonyaka kunyaka wesibini ukuya kowesihlanu wexesha leCID, ehamba kunye ne -
    - (aa) inkcazo yesiseko yokubala iiyantlukwano ezinokubakho ngokubhekiselele kwixesha lohlahlo lwabiwomali (umzekelo, iinguqu kwisiseko serhafu kamasipala yesithili ngokubhekiselele kuqingqo maxabiso lukamasipala; ukunyuka kwamaxabiso; ukunyuka okubonelelwe ngokucacileyo kwixesha lohlahlo lwabiwomali, ngokunjalo nophuhliso olongezelelweyo kwisithili);
    - (bb) ingcaciso yezikhokelo ezikuMgaqonkqubo olawula ingqokelela yemali esona sixamali siphezulu serhafu eyongezelelweyo njengepesenti yerhafu kamasipala kuwo nawuphi na unyakamali, nokuba oko kuchaphazela njani na ukonyuka konyakamali; kwaye
    - (cc) iinqobo zokugweba zokukhulula kuxanduva lwentlawulo eyongezelelweyo phantsi koMgaqonkqubo weeRhafu.
- (d) Ulwaxiwo lolawulo oluphakanyiswayo lweNPC;
- (e) Ingxelo malunga nokuba nawaphi na amalungiselelo kwisicwangciso seshishini anokulungiswa nguMlawuli weSigqeba ngokwengcebiso yebhodi njengoko kukhankanywe kwicandelo lama25, ngaphandle kwemvume ebhaliweyo yesininzi seeARP, kwaye, ukuba kunjalo:
- (i) ngawaphi amalungiselelo esicwangciso soshishino anokuthi atshintshwe; kwaye
  - (ii) inkqubo yokubonisana nesaziso emayilandelwe ngaphambi kokwenza eso sicelo kwiBhunga.
- (f) Uluhlu lwazo zonke iipropati ezimele irhafu kwiCID ephakanyiswayo, oluchaza:
- (i) idilesi nganye yeARP ephakanyiswayo; kwaye
  - (ii) ukwahlulahlulwa kwepropati nganye ngokwemigaqo yecandelo lesi8 leMPRA.

- (2) Isicwangciso sophumezo esikwimo yeshedyuli ethatha ixesha leminyaka emi5, dwelisa oku kulandelayo ngokubhekiselele kwinjongo yesicwangcisoqhinga nganye ekhankanywe kwinqaku (1)(a)(iv) ngasentla:
- (a) amanyathelo asebenzayo aphakanyiswayo okuphumeza injongo yesicwangcisoqhinga esifanelekileyo;
  - (b) izalathisi zentsebenzo ezingundoqo ngokubhekiselele kumlinganiselo ngamnye;
  - (c) imihla eqikelelweyo yokuqalisa nokugqitywa komlinganiselo ngamnye; kwaye
  - (d) abantu okanye amaqumrhu anoxanduva lokuphunyezwa ngempumelelo komlinganiselo ngamnye.
- (3) Uhlahlo lwabiwomali lwexesha, oluqikelela ingeniso kunye nenkcitho eqikelelweyo yeCID kwisithuba seminyaka emi5 kunye nomda wokunokwenzeka obonelelweyo kubandakanywa, kodwa kungaphelelanga apho:
- (a) ingeniso eqikelelweyo (ngaphandle kwenzala);
  - (b) Inkcitho eqikelelweyo, ekufuneka ibhengeze umda wokunokwenzeka obandakanyiweyo ekubaleni iindleko zenkcitho ngaphandle kwezinto ezidweliswe kumacandelwana (vii) – (ix), kubandakanywa kodwa kungaphelelanga apho:
    - (i) Inkcitho enxulumene nabasebenzi;
    - (ii) Inkcitho engundoqo enxulumene noshishino;
    - (iii) Ukulungiswa nokugcinwa kweeasethi;
    - (iv) Inkcitho ngokubanzi evela kuyo yonke eminye imisebenzi ecwangcisiweyo, efana neendleko zolawulo lonikezelo kunye nemisebenzi yolawulo;
    - (v) Iindleko zomntu ngamnye kwiprojekthi nganye ephakanyiswayo;
    - (vi) Inkcitho enkulu;
    - (vii) Inzala kunye neendleko zokuyikhulula;
    - (viii) Ukuhla kwexabiso lempahla; kwaye
    - (ix) Amalungiselelo omnikelelo wogcino lwetyala elibi.
- (4) Izihlomelo ezilandelayo:
- (a) Isicwangciso esivunyiweyo sokuthatha inxaxheba kukawonkewonke esikhankanywe kwicandelo 6(2);
  - (b) Ngokumalunga neentlanganiso zikawonkewonke ezibanjwe ngokwecandelo lesi6 necandelo lama25, kwakunye neeAGM ezibanjwe ngokwecandelo lama26:

- (i) ubungqina besaziso seentlanganiso kwiiARP eziphakanyiswayo kunye noluntu lwasekuhlaleni; kwaye
- (ii) iajenda nemizuzu;
- (c) itheyibhile yezimvo efunyenwe ngexesha lenkqubo yokuthatha inxaxheba koluntu ngokwemigaqo yecandelo lesi6, lama25 kunye nelama26;
- (d) Imvume ebhaliweyo yeeARP eziphakanyiswayo, nokuba kungesicelo esiphantsi kwecandelo lesi5 okanye lama26.

