

**LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998  
(ACT 117 OF 1998)**

*Amended by:*

*Provincial Notice 665 dated 4 December 2000*

*Provincial Notice 446 dated 19 December 2002*

*Provincial Notice 174 dated 28 May 2003*

*Provincial Notice 1 dated 3 January 2006*

**ESTABLISHMENT OF THE CITY OF CAPE TOWN**

By virtue of the powers vested in me by section 12 and 14 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby give notice of the establishment of the City of Cape Town on the terms set out in the Schedule hereto.

Dated this 22<sup>nd</sup> day of September 2000.

P UYS, PROVINCIAL MINISTER OF LOCAL GOVERNMENT

**SCHEDULE**

*Definitions and Interpretation*

1. In this Schedule, unless the context otherwise indicates, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different texts and a word or expression to which a meaning has been assigned in the Municipal Structures Act has the same meaning, and –
  - (1) “**CEO**” means the chief executive officer of a disestablished municipality;
  - (2) *(subsection (2) deleted by PN.174/2003)*
  - (3) “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
  - (4) “**disestablished municipalities**” means those existing municipalities disestablished in terms of section 3 of this Schedule;
  - (5) “**effective date**” means the commencement date of the election;
  - (6) “**election**” means the first general election of Municipal Councils after the commencement of the Constitution;
  - (7) “**interim municipal manager**” means the interim municipal manager of the Municipality appointed in terms of section 18(1) who from the effective date shall be the acting municipal manager of the Municipality;
  - (7A) “**mayoral executive system**” means a system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the Municipality is vested and who is assisted by a mayoral committee;

*(subsection (7A) inserted by PN.174/2003)*

- (8) **“Municipal Demarcation Act”** means the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);
- (9) **“Municipal Demarcation Board”** means the Municipal Demarcation Board established by section 2 of the Municipal Demarcation Act;
- (10) **“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- (11) **“Municipality”** means City of Cape Town established in terms of section 4 of this Schedule;
- (12) **“Province”** means the Province of Western Cape;
- (13) **“Provincial Minister”** means the member of the Cabinet of the Province of Western Cape responsible for local government;
- (14) **“Rural Areas Act”** means the Rural Areas Act (House of Representatives), 1987 (Act 9 of 1987);
- (15) **“statutory plan”** means a plan required in terms of any legislation, including but not limited to, any structure plan, land use plan, zoning scheme, integrated development plan, water services plan, skills development plan and employment equity plan;
- (15A) **“subcouncil participatory system”** means a system which allows for delegated powers to be exercised by subcouncils established for parts of the municipality;

*(subsection (15A) inserted by PN.174/2003)*

- (16) **“trade unions”** means the Independent Municipal and Allied Trade Union and the South African Municipal Workers Union;
- (17) **“Transformation of Certain Rural Areas Act”** means the Transformation of Certain Rural Areas Act, 1998 (Act 94 of 1998);
- (18) **“Unicity Commission”** means the Unicity Commission, established in terms of the Unicity Commission Notice;
- (19) **“Unicity Commission Notice”** means Provincial Notice 400/1999 published in Provincial Gazette Extraordinary, No. 5392 of 25 November 1999;
- (19A) **“ward participatory system”** means a system which allows for matters of local concern to wards to be dealt with by committees established for wards, and

*(subsection (19A) inserted by PN.174/2003)*

- (20) **“WECLOGO”** means the Western Cape Local Government Organisation, being the provincial organisation for the Western Cape recognised in terms of section 2(1)(b) of the Organised Local Government Act, 1997 (Act 52 of 1997).

*Preamble*

- 2.(1) On 3 March 2000 the Municipal Demarcation Board, acting in terms of section 21 of the Municipal Demarcation Act, determined the boundaries of the Municipality, as reflected in the map appearing in Provincial Notice 69/2000 published in Provincial Gazette Extraordinary No. 5431 of 3 March 2000 and amended by Provincial Notice 478/2000 published in Provincial Gazette

Extraordinary No. 5587 of 19 September 2000 and Provincial Notice 258/2002 published in Extraordinary Provincial Gazette No. 5922 dated 15 August 2002. A copy of the map is republished in Annexure "1" to this Schedule.

*(section 2(1) amended by PN.1/2006)*

- (2) The Provincial Minister, acting in terms of section 12(4) of the Municipal Structures Act, has:-
- (a) given written notice of the proposed establishment of the Municipality to WECLOGO and to the disestablished municipalities by way of a circular letter dated 12 July 2000 and referenced AAO 509/1/4;
  - (b) consulted with WECLOGO and the disestablished municipalities;
  - (c) published particulars of this Notice in Provincial Notice 435/2000 published in Provincial Gazette Extraordinary No. 5577 dated 4 September 2000, and
  - (d) considered the comments received following the publication of the proposed Notice.
- (3) The Provincial Minister has also considered the advice of the Unicity Commission given to him in terms of section 9(2) of the Unicity Commission Notice.
- (4) The Provincial Minister, acting in terms of section 12 and 14 of the Municipal Structures Act, as read with the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), now gives notice of the establishment of the Municipality on the terms set out herein.
- (5) The Unicity Commission has initiated negotiations with the trade unions in terms of section 9(8) of the Unicity Commission Notice. In order not to prejudice the successful conclusion of those negotiations, the provisions of section 11(2), 13 and 14 of this Schedule specifically permit collective agreements entered into between the trade unions and the Unicity Commission to regulate the transfer of staff, vary the policies, procedures, terms and conditions referred to in section 13 hereof and deal with possible redundancies.

*Disestablishment of the Existing Municipalities*

- 3.(1) With effect from midnight on the day before the effective date, the following municipalities shall be disestablished:-
- (a) Blaauwberg Municipality, established in terms of Proclamation No. 27 of 1996 dated 28 May 1996;
  - (b) Cape Metropolitan Council, established in terms of Proclamation No. 18 of 1995 dated 6 February 1995;
  - (c) City of Cape Town, established in terms of Proclamation No. 27 of 1996 dated 28 May 1996;
  - (d) City of Tygerberg, established in terms of Proclamation No. 27 of 1996 dated 28 May 1996;
  - (e) Helderberg Municipality, established in terms of Proclamation No. 27 of 1996 dated 28 May 1996;
  - (f) Oostenberg Municipality, established in terms of Proclamation No. 27 of 1996 dated 28 May 1996;

- (g) South Peninsula Municipality, established in terms of Proclamation No. 27 of 1996 dated 28 May 1996;
  - (h) West Coast District Council, established in terms of Proclamation No. 152 of 1995 dated 15 December 1995, to the extent that any portion of its area is included within the boundaries of the Municipality as determined by the Municipal Demarcation Board and referred to in section 2(1), and
  - (i) Winelands District Council, established in terms of Proclamation No. 152 of 1995 dated 15 December 1995, to the extent that any portion of its area is included within the boundaries of the Municipality as determined by the Municipal Demarcation Board and referred to in section 2(1).
- (2) The councillors of the disestablished municipalities referred to in subsection (1)(a) to (g) must vacate their offices when the newly elected Council of the Municipality is declared elected and by midnight on that day must return to the CEO of the relevant disestablished municipality or his nominee any property in their possession which belongs to a disestablished municipality.

*Establishment and Name*

4. With effect from the effective date, a municipality shall be established, to be known in English as "City of Cape Town", in Afrikaans as "Stad Kaapstad" and in isiXhosa as "IsiXeko saseKapa".

*Category*

5. The Municipality is a metropolitan municipality as defined in section 1 of the Municipal Structures Act, being a municipality that has exclusive executive and legislative authority in its area and which is described in section 155(1) of the Constitution as a category A municipality.

*Type*

6. The municipality is a municipality with a mayoral executive system combined with both a subcouncil and a ward participatory system as provided for in the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), as amended by the Western Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002).

*(section 6 amended by PN.174/2003)*

*Boundaries*

7. The boundaries of the Municipality shall be the boundaries determined by the Municipal Demarcation Board and referred to in section 2(1).

*Number of Councillors and Wards*

- 8.(1) The Municipal Council of the Municipality has 210 (two hundred and ten) councillors, as determined by the Provincial Minister in Provincial Notice 164/2000 published in Provincial Gazette Extraordinary No. 5468 of 4 May 2000 and amended by Provincial Notice 100/2004 published in Provincial Gazette Extraordinary No. 6137 dated 8 June 2004, of which 105 (one hundred and five) are ward councillors and 105 (one hundred and five) are proportionally elected councillors.
- (2) The Municipality has 105 (one hundred and five) wards.

*(section 8 amended by PN.1/2006)*

*Full-time Councillors*

9. The Municipality may designate the following councillors as full-time councillors:-
- (a) the executive mayor;
  - (b) the members of the mayoral committee;
  - (c) the chairperson of any subcouncil established by the Municipality;
  - (d) the speaker, and
  - (e) a single whip appointed for Council.

*(section 9 amended by PN.446/2002 and PN.174/2003)*

*Exemptions*

10. The Municipality is not exempted from any of the provisions of the Municipal Structures Act.

*Transfer of Staff*

- 11.(1) With effect from the effective date, and in accordance with section 197 of the Labour Relations Act, 1995 (Act 66 of 1995) and section 2(d) of the Local Government: Municipal Structures Amendment Act, 2000 (Act 33 of 2000), all the employees of the disestablished municipalities shall be transferred to the Municipality.

*(section 11(1) amended by PN.665/2000)*

- (2) Subject to any collective agreement entered into by the Unicity Commission on behalf of the disestablished municipalities in terms of section 9(8) of the Unicity Commission Notice, all the rights and obligations between the disestablished municipalities and each of their respective employees at the time of transfer shall continue in force as if they were rights and obligations between the Municipality and each of its employees and anything done before the transfer by or in relation to the relevant disestablished municipality will be considered to have been done by or in relation to the Municipality.
- (3) The transfer does not interrupt an employee's continuity of employment. Employment continues with the Municipality as if with the relevant disestablished municipality.
- (4) Subject to the human resource policies and procedures referred to in section 13(1)(a) of this Schedule, any employee may be required to report to any of the offices of the Municipality and, unless otherwise agreed, will not be entitled to any additional remuneration as a result thereof.

*Collective Agreements*

12. Any collective agreement entered into by the Unicity Commission on behalf of the disestablished municipalities in terms of section 9(8) of the Unicity Commission Notice shall remain of full force and effect until amended or terminated in accordance with the provisions of the relevant agreement.

*Human Resource Matters*

- 13.(1) Subject to section 11 of this Schedule and subject to any collective agreement entered into between the trade unions and the Unicity Commission:-

*(section 13(1) amended by PN.665/2000)*

- (a) the human resource policies and procedures of the Municipality shall be the human resource policies and procedures adopted by the Unicity Commission on 24 August 2000, subject to any amendment or repeal by the Municipality; provided that any dispute arising before the effective date shall be determined in terms of the policies and procedures applicable at the time that the dispute arose;
  - (b) until the Municipality has adopted its own terms and conditions of employment, any person appointed by the Municipality shall be appointed on the terms and conditions of employment adopted by the Unicity Commission on 24 August 2000.
- (2) A copy of the policies, procedures, terms and conditions referred to in subsection (1) shall be available for scrutiny at the offices of the disestablished municipalities and the Unicity Commission during office hours.

*Consequences of Transition in Respect of Certain Staff Issues*

- 14.(1) Subject to any collective agreement entered into between the trade unions and the Unicity Commission or the Municipality, an employee whose post is changed as a result of the transition will not be considered redundant for the purposes of any term or condition of employment or any pension fund rule that gives the employee the election to terminate his or her employment with benefits.
- (2) The provisions of this section apply only if the employee unreasonably refuses to accept the Municipality's offer of alternative employment.
- (3) For the purpose of this section, a change in post includes one or more of the following:-
- (a) the post no longer exists;
  - (b) the post is disestablished;
  - (c) the employee is required to apply for the post;
  - (d) the functions and powers of the post are changed;
  - (e) there is a change in the identity of the employer;
  - (f) the post is made subject to different reporting lines;
  - (g) the post is described differently.

*Legal Succession*

- 15.(1) With effect from the effective date:-
- (a) the Municipality shall be the superceding municipality in respect of the disestablished municipalities as provided for in section 14(1) of the Municipal Structures Act and shall become their successor in law;
  - (b) the assets, liabilities and administrative and other records of the disestablished municipalities shall be transferred to the Municipality;
  - (c) all rates, revenue and other monies payable to or recoverable by the disestablished municipalities shall be payable to and be recoverable by the Municipality, and
  - (d) notwithstanding the provisions of any applicable law, any valuation rolls in force or arising from the introduction of interim or additional valuations, as the case may be, within the area of the Municipality shall,

subject otherwise to the provisions of such law, remain of force and effect until the introduction of a general valuation roll for the area of the Municipality.

- (2) Without derogating from the generality of subsection (1)(a):-
- (a) the Municipality shall be the successor in law of the disestablished municipalities with reference to the matters set out in the Transformation of Certain Rural Areas Act and the Rural Areas Act and, to that extent, until transferred to an entity envisaged in section 3 of the Transformation of Certain Rural Areas Act:-
    - (i) land which is held in trust by the Minister for Agriculture and Land Affairs in terms of section 7 of the Rural Areas Act and which is subject to the provisions of section 3 of the Transformation of Certain Rural Areas Act will remain vested in the Minister for Agriculture and Land Affairs, and
    - (ii) land that has been acquired by the disestablished municipalities in terms of the Rural Areas Act and which is subject to the provisions of section 3 of the Transformation of Certain Rural Areas Act will vest in the Municipality with effect from the effective date;
  - (b) land referred to in paragraph (a) shall, pending transfer in terms of section 3 of the Transformation of Certain Rural Areas Act, be managed by the Municipality in terms of the Rural Areas Act and the regulations made in terms of the Rural Areas Act.

*Transitional Provisions Relating to By-Laws and Resolutions*

- 16.(1) Any by-law in force in the area of a disestablished municipality immediately prior to the effective date shall, with effect from the effective date, and pending the review and rationalization thereof in terms of section 15 of the Municipal Structures Act, remain of full force and effect within the area for which it was promulgated, subject to any amendment or repeal by the Municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law to:-
- (a) a disestablished municipality or its predecessor, must be construed as a reference to the Municipality, and
  - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary of the Municipality.
- (3) Subject to the provisions of this Schedule, and notwithstanding the disestablishment of the disestablished municipalities, any:-
- (a) resolution taken;
  - (b) notice, certificate or other document issued;
  - (c) direction, approval, consent or authority given;
  - (d) exemption, license or permit granted or issued;
  - (e) appointment made;
  - (f) employee nominated;

- (g) agreement or contract entered into;
- (h) delegation of powers granted to an employee;
- (i) rates, tariffs or charges levied or imposed;
- (j) reservation of land made, and
- (k) other action taken or thing done.

by a disestablished municipality shall, subject to the provisions of the Schedule, be deemed to have been issued, given, made, nominated, entered into, granted, levied, imposed or done by the Municipality, pending the review and rationalization thereof in terms of section 15 of the Municipal Structures Act.

- (4) Subject to the provisions of this Schedule, any person who on the effective date exercises a power or performs a duty or function by virtue of the office held by him or her or by the virtue of a delegation of power conferred upon him or her by a disestablished municipality shall continue to exercise that power or perform that duty or function until such time as it may be decided to the contrary by the Municipality.
- (5) For the purposes of the Schedule to the Regulation relating to the declaration of peace officers made in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), any law enforcement officer appointed by a disestablished municipality shall, from the effective date, be deemed to have been appointed by the Municipality for the area of jurisdiction of the Municipality.
- (6) Any statutory plan in force or in operation in the area of jurisdiction of the disestablished municipalities shall remain in force or in operation in respect of the area to which it was intended to apply until amended, varied or repealed by the Municipality.

#### *Appointment of Acting Officers*

- 17. Before the effective date the Provincial Minister, after considering any recommendations of the Unicity Commission, shall if necessary appoint any person to any position that may be required in terms of relevant legislation, which appointment shall be in an acting capacity, and who shall assume office on the effective date and remain in office until the Municipality has made its own appointments in terms of the relevant legislation.

#### *Appointment of Interim Municipal Manager*

- 18.(1) Before the effective date the Provincial Minister, after considering any recommendation of the Unicity Commission, shall appoint an interim municipal manager, who shall assume office upon his or her appointment and remain in office until the Municipality has appointed its own municipal manager or acting municipal manager.
- (2) The duties of the interim municipal manager shall, subject to directions or resolutions to the contrary adopted by the Municipality, be the following:-
  - (a) call the first meeting of the Council of the Municipality in terms of section 29(2) of the Municipal Structures Act;
  - (b) preside over the first meeting of the Council of the Municipality until the election of the speaker;



- (c) after the effective date, act as the head of administration and chief accounting officer of the Municipality until the appointment by the Municipality of its own municipal manager or acting municipal manager;
  - (d) after the effective date, fulfill all duties required to be fulfilled by the CEO of a municipality in terms of relevant legislation;
  - (e) assume responsibility for effecting the transfer of all staff, assets liabilities and administrative and other records to the Municipality;
  - (f) establish an interim corporate administration for the Municipality, including but not limited to an interim secretariat, legal service, communications service, internal audit service and financial control service;
  - (g) appoint such persons as are necessary to fulfill his or her obligations in terms of this Schedule;
  - (h) delegate any of his or her powers or duties to any employee of the Municipality and amend or revoke any such delegation, and
  - (i) in the period prior to the effective date, prepare for the performance of the functions set out in paragraphs (a) to (h).
- (3) Until the first meeting of the Council of the Municipality, the interim municipal manager must at all times act after consultation with the Unicity Commission.
  - (4) Prior to the effective date, the CEO's shall co-operate with the interim municipal manager in relation to all matters pertaining to the establishment of the Municipality.
  - (5) from the effective date, the CEO's shall act under the direction of, and be responsible to, the interim municipal manager, and the interim municipal manager shall have all the powers of the CEO's.

#### *Appointments*

- 19.(1) Any person appointed in terms of section 18 who, at the time of his or her appointment:-
- (a) is an employee of a disestablished municipality or the Municipality shall, subject to the provisions of section 11 of this Schedule, remain in the employment of the disestablished municipality or the Municipality, as the case may be, and shall fulfill his or her duties on a seconded basis;
  - (b) is not an employee of a disestablished municipality or the Municipality shall be contracted to the Unicity Commission.
- (2) Any person referred to in subsection 1(b) shall be appointed on terms and conditions determined by the Unicity Commission; provided that, if the Unicity Commission is unable to reach agreement on the terms and conditions, the terms and conditions shall be determined by the Provincial Minister; provided further that any contract referred to in subsection 1(b) must be capable of termination at any time by the Council of the Municipality.

#### *First meeting of the Council of the Municipality*

- 20.(1) The interim municipal manager shall, at least 3 (three) days before the first meeting of the Council of the Municipality, send to each councillor at his or her place of residence or other place nominated by the councillor concerned, a notice specifying the place, date and time of the first meeting and an agenda;

provided that the interim municipal manager may call the first meeting on shorter notice should it in his or her opinion be necessary to do so.

- (2) The agenda of the first meeting shall be as follows:-
- (a) the election of the speaker;
  - (b) whether the Municipality wishes to establish an executive committee and, if so, the determination of a system of representation for the election of the executive committee;
  - (c) the election of councilors to serve on the executive committee;
  - (d) the election of the mayor from the members of the executive committee;
  - (e) the election of the deputy mayor from the members of the executive committee, for which approval is granted by the Provincial Minister, and
  - (f) any other business as determined by the interim municipal manager and set out in the agenda.
- (3) (a) The rules and orders for the meetings of the Council and the Executive Committee of the Municipality shall be the rules and orders adopted by the Unicity Commission on 19 October 2000, until amended or repealed by the Council of the Municipality.
- (b) The rules and orders referred to in paragraph (a) shall be available for scrutiny at the offices of the Unicity Commission during office hours.

*(subsection (3) inserted by PN.665/2000)*

*Executive Deputy Mayor*

- 20A. Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor.

*(section 20A inserted by PN.174/2003)*

*Short title and Commencement*

21. This Notice is called the City of Cape Town Establishment Notice and comes into operation on the date of publication.

**URHULUMENTE WENGINQI: UMTHETHO KA-1998 WAMASEBE OOMASIPALA  
(UMTHETHO WE-117 WONYAKA KA-1998)**

*Amended by:*

*neSaziso sePhondo 665 dated we-4 kuDisemba 2000  
neSaziso sePhondo 446 dated we-19 kuDisemba 2002  
neSaziso sePhondo 174 dated we-28 uMeyi 2003  
neSaziso sePhondo 1 dated we-3 uJanuwari 2006*

**UKUSEKWA KWESIXEKO SASEKAPA**

Ngamandla andigunyazisayo aqulathwe sisahluko se- 12 me- 14 loRhulumente Wasekhaya: Umthetho owasekwa ngo-1998 wamaSebe ooMasipala, (Umthetho we-117 wonyaka we-1998), ukuba ndazise ngokusekwa kwesixeko saseKapa ngokwemiqathango edweliswe kolu ludwe lwenkqubo.

Ngomhla wama 22 ka Septemba 2000.

P UYS, UMPHATHISWA WEPHONDO WORHULUMENTE WENGINQI

**ULUNDWE LWENKQUBO**

*Inkcazo yamagama*

1. Kolu Xwebhu, ngaphandle kokuba okuqulathiweyo kukuxelela enye into, isinye sibandakanya isininzi nesininzi sibandakanya isinye, isicatshulwa sesiNgesi siya kuhlala simi sisiso esisetyenziswayo apho kuthe kwakho iyantlukwano kwizicatshulwa ezahlukeneyo okanye kwigama kungenjalo isiqendwana esinokuthi sahluke ngestsingiselo esithe sanikwa yona kuMthetho Wamasebe kaMasipala, onetsingiselo enye-
  - (1) **“u CEO”** sisishungulelo segama elingu-Chief Executive Officer – iGosa eliyiNtloko lesigqeba soLawulo lomasipala otshitshisiweyo;
  - (2) *(subsection (2) deleted by PN.174/2003)*
  - (3) **“Umgqaqo-siseko”** uthetha uMgqaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996 (Umthetho we- 108 we- 1996);
  - (4) **“ukutshitshiswa koomasipala”** kuthetha ukutshitshiswa koomasipala abakhoyo ngokwemigaqo yesahluko 3 loluxwebhu;
  - (5) **“umhla wokuqalisa”** uthetha umhla wokuqalisa unyulo;
  - (6) **“Unyulo”** luthetha unyulo jikelele lokuqala lweeKansile zoMasipala emva kokuqala kokusebenza koMgqaqo-siseko;
  - (7) **“umphathi womasipala wethutyana”** uthetha umphathi wethutyana woMasipala ochongwe ngokwemigaqo yecandelo 18(1) noya

kusebenza njengomphathi womasipala obambeleyo ukususela ngomhla wokuqalisa wonyulo;

- (7A) “**inkqubo yesigqeba solawulo secandelo losodolophu**” ithetha inkqubo evumela ukuba kusetyenziswe igunya lesigqeba solawulo, oko kusenziwa kudlulwe kusodolophu osemagunyeni apho inkqubo yokhokelo lewsigqeba yoMasipala igunyaziswe khona kwanoncediswa yikomiti yecandelo losodolophu;

*(subsection (7A) inserted by PN.174/2003)*

- (8) “**uMthetho WokuCandwa kooMasipala**” uthetha uRhulumente waseKhaya: uMthetho WokuCandwa koMasipala, we- 1998 (uMthetho wama-27 we- 1998);
- (9) “**iBhodi yokuCandwa kooMasipala**” ithetha iBhodi yokuCandwa kooMasipala esekwe ngecandelo 2 loMthetho wookuCandwa kooMasipala;
- (10) “**uMthetho wamaSebe kaMasipala**” uthetha uRhulumente wasekhaya: uMthetho wamaSebe kaMasipala we- 1998 (uMthetho we-117 wonyaka we- 1998) njengoko uhlonyelwe;
- (11) “**UMasipala**” uthetha iSixeko saseKapa esisekwe ngokwemigaqo yecandelo 4 lesi Saziso;
- (12) “**iPhondo**” lithetha iPhondo leNtshona-Koloni;
- (13) “**uMphathiswa wePhondo**” uthetha ilungu leNdlu Yowiso-mthetho wePhondo leNtshona-Koloni elinoxanduva lokujonga oorhulumente beengingqi;
- (14) “**Umthetho weeNgingqi eziseMaphandleni**” uthetha uMthetho weeNgingqi eziseMaphandleni (Indlu yabaMeli) we-1987 (Umthetho we-9 we- 1987);
- (15) “**Uyilo olusemthethweni**” luthetha uyilo oluyimfuneko ngokwemigaqo yowiso-mthetho, kubandakanya, kodwa kungagphelelanga apho, naluphi na olunye uyilo lwesebe, uyilo lokusetyenziswa komhlaba, inkqubo yokwahlulwa, uyilo lophuhliso oluhlanganisiweyo, uyilo lweenkonza zamanzi, uyilo lophuhliso lobuchule emsebenzini kunye noyilo lolunganiso kumathuba engqesho;
- (15A) “**inkqubo yalawulo ngentsebenziswano kumabhunga amancinci**” ithetha inkqubo evumela unikezelo lwamagunya athi asetyenziswe ngamabhunga amancinci asekw njege nxalenye kamasipala kwakunye;

*(subsection (15A) inserted by PN.174/2003)*

- (16) “**limanyano zabasebenzi**” zithetha uMasipala ozimeleyo kunye neeManyano zabasebenzi I IMATU no SAMWU;
- (17) “**UkuGuqulwa kweMithetho ethile yamaPhandle**” kuthetha ukugaqulwa kwemithetho ethile yamaPhandle, eyamiselwa ngo 1998 (uMthetho we-94 er-1998);
- (18) “**iKhomishoni yesiXeko Sabumbano**” ithetha iKhomishoni yesixeko esidityanisiweyo esisekwe ngokwemigaqo yeSaziso seKomishoni yesixeko sobumbano;

- (19) **“Isaziso seKhomishoni yesiXeko Sobumbano”** sithetha iSaziso sePhondo 400/1999 esipapashwe kwiGazethi yePhondo Eyongezelelweyo; Inombolo 5392 yomhla wama-25 Novemba 1999;
- (19A) **“Ulawulo ngentsebenziswano kumawodi”** ithetha inkqubo evumela imicimbi eqodene nezedolophu isiwekumawodi ukuze ihlalutywe khona sisigqeba esisekwe kumawodi, and  
*(subsection (19A) inserted by PN.174/2003)*
- (20) **“uWECLOGO”** ligama thetha uMbutho weNtshona Koloni yoRhulumente baseKhaya, ongumbutho wephondo weNtshona Koloni onikwa ingqalelo ngokwemigaqo yecandelo 2(1)(b) yomthetho WoRhulumente wengingqi onlungiselelweyo we- 1997 (Umthetho 52 we-1997).

*Intshayelelo*

- 2.(1) Ngomhla wesi-3 kuMatshi ka-2000 iBhodi kaMasipala yokuMiswa kweMida, esebenza ngokubhekiselele kwicandela 21 leMunicipal Demarcation Act, yenza izigqibo ngemida yeBhunga loomasipala, njengoko kubonisiwe kwimephu ebonakala kwiSaziso sePhondo esingu-69/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5431 yomhla wesi-3 kuMatshi ka-2000 saza salungiswa siSaziso sePhondo esingu-478/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5587 yomhla wama-19 kuSeptemba ka-2000 neSaziso sePhondo esingu-258/2002 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo engunombolo 5922 yomhla we-15 ku-Agasti ka-2002. Ikopi yemaphu epapashwe ngokutsha kwiSongezelelo “1” solu ludwe lwenkqubo.  
*(section 2(1) amended by PN.1/2006)*
- (2) Umphathiswa wePhondo, sesebenza ngokwemigaqo yecandelo 12(4) yoMthetho wamaSebe kaMasipala 8:-
- ukhuphe isaziso esibhaliweyo sokusekwa kukaMasipala okusayilwayo, kwincwadi ejikelezayo yomhla ka 12 Julayi 2000 enesalathiso nombolo esingu AAO 509/1/4 ekhuphela iWECLOGO kunye noomasipala abathe batshitshiswa;
  - udlene indlebe neWECLOGO kunye noomasipala abathe batshitshiswa;
  - upapshe iinkcuacha zesi Saziso kwiSaziso sePhondo esingu nombolo 435/2000 esipapashwe kwiGazethi yePhondo Eyongezelelweyo engunombolo 5577 ngomhla ka 4- Septemba 2000, kwakunye
  - uqwalasele izimvo ezithe zamkelwa emva kopapasho lweSaziso ekulindelwe ukuba samkelwe.
- (3) Umphathiswa wePhondo uthe kwakhona waqwalasela icebiso leKhomishoni yesiXeko Sobumbano ethe wayinikwa ngokwemigaqo yecandelo 9(2) yeSaziso seKhomishoni yeSixeko sobumbano.
- (4) Umphathiswa wePhondo, esebenza ngokwemigaqo yamacandelo 12 kunye ne-14 loMthetho wamaSebe kaMasipala, njengoko ufundwa kynye nesiQinisekiso seNtshona-Koloni soMthetho weeNdidi zooMasipala, 2000 (Utthetho ongunombolo 9 wama-2000), uthe ngoku wakhupha esi saziso sokusekwa koMasipala onsekwe ngokwale migaqo idweliswe apha kolu xwebhu.

- (5) Ikhomishoni yeSiXeko Sobumbano iqalise uthethwano kunye neemanyano zabasebenzi ngokwemigaqo yecondelo 9(8) yeSaziso seKhomishoni yeSixeko sobumbano. Ukuze ungali ugwebe impumelelo yolo thethwano, izibonelelo zamacandelwana 11(2), 13 kunye no-14 zale Nkqubo iyazivumela izigqibo ezithi zithathwe kunye nangemvumelwano ekuthi kungenwe kuzo phakathi kweemanyano zabasebenzi kunye neKhomishoni yeSixeko sobumbano mayela nokususwa kwabeasebenzi kweli shishini, besisiwa kwelinye kube semthethweni nokutshintshwa kweenkqubo, izigqibo kunye nemimiselo ekubhekiselelwe kuyo kwicandelo 13 elikhoyo apha, aze ajongane nobunzi babasebenzi.

*Ukutshitshiswa kooMasipala abakhoyo*

- 3.(1) Ukususela ezinzulwini zobusuku zosuku oluphambi komhla wokusekwa, aba masipala balandelayo baza kutshitshiswa:-
- (a) Umasipala waseBlaauberg, owasekwa ngokwemigaqo yoPapasho olunguNombolo 27 we-1996; ngomhla wama-28 kuMeyi 1996;
  - (b) Ikansile yoMasipala wKoloni, eyasekwa ngokwemigaqo yoPapasho olunguNombolo 18 we-1995; ngomhla we-6 kuFebruwari 1995;
  - (c) Isixeko sedolophu yaseKapa, esasekwa ngokwemigaqo yoPapasho olunguNombolo 27 we-1996; ngomhla wama-28 kuMeyi 1996;
  - (d) Isixeko saseTygerberg, esasekwa ngokwemigaqo yoPapasho olunguNombolo 27 we-1996; ngomhla wama-28 kuMeyi 1996;
  - (e) Umasipala waseHelderberg, owasekwa ngokwemigaqo yoPapasho olunguNombolo 27 we-1996; ngomhla wama-28 kuMeyi 1996;
  - (f) Umasipala waseOostenberg, owasekwa ngokwemigaqo yoPapasho olunguNombolo 27 we-1996; ngomhla wama-28 kuMeyi 1996;
  - (g) Umasipala wosingasiqithi osemaZantsi, owasekwa ngokwemigaqo yoPapasho olunguNombolo 27 we-1996; ngomhla wama-28 kuMeyi 1996;
  - (h) Ikansile yeNgingqi ekuNxweme oluseNtshona, eyasekwa ngokwemigaqo yoPapasho olunguNombolo 152/1995, ngomhla we-15 kuDisemba 1995 ukuya kutsho nakusiphi na isahlulo sayo sommandla wayo othe wabandakanywa kwimida kaMasipala njengoko kugqitywe yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselelwe kuyo kwicandelo 2(1), kwakunye
  - (i) neKansile yeNgingqi yWinelands, eyasekwa ngokwemigaqo yoPapasho olunguNombolo 152/1995, ngomhla we-15 kuDisemba 1995 ukuya kutsho nakusiphi na isahlulo sommandla wayo obandakanywe kwimida yoMasipala njengoko kugqitywe yiBhodi yokuCandwa kwemida yooMasipala yaye kubhekiselelwe kuyo kwicandelo 2(1).
- (2) Ooceba boomasipala abatshitshiswayo ekubhekiselelwe kubo kumacandelwana (1)(a) ukuya ku (g) kufuneka bazishiye ii-ofisi zabo ukusukela kwinzulu zobusuku zomhla ekuya kuthi iBhunga likaMasipala elitsha lonyulwe ngawo lochazwe njengelinyuliweyo yaye kufuneka kwangobo busuku babuyisele kwigosa eliyintloko elilawulayo lomasipala (CEO) lowo utshitshisiweyo okanye ymnyulwa wakhe yonke impahla ekuwo eselungelweni lalo masipala utshitshisiweyo.

*Ukusekwa kunye neGama*

4. Ukususela kumhla wokuqala wokusebenza, umasipala oyakusekwa, ngesiXhosa njenge “IsiXeko saseKapa”, ngesiNgesi njenge “City of Cape Town”, ngesiBhulu aziwe njenge “Stad Kaapstad”.

*Icandelo*

5. Umasipala uya kuba ngumasipala wengingqi (ye metropole) njengoko kuxeliwe kwicandelo I loMthetho wamaSebe kaMasipala, eya kuba ngumasipala onamagunya awodwa olawulo nokuphatha kwingingqi leyo kwanochazwe kwicandelo 155(1) loMgaqo-siseko njengecandelo A lomasipala.

*Udidi*

6. Umasipala uya kuba ngumasipala ngokosodolophu onxulumanisa amabhunga amancinci kunye ne wodi ngokwenkqubo ventsebenziswano njengoko kubonisiwe kuMthetho wama-2000 weNdidi zooMasipala ezigqitywe kwiNtshona Koloni, (uMthetho wesi-9 wama-2000).

*(section 6 amended by PN.174/2003)*

*Umda*

7. Umda kaMasipala uya kuba ngumda ogqitywe yiBhodi yokuCandwa kweMida nekubhekiselelwe kuyo kwicandelo 2(1).

*Inani lamalungu eBhunga namaCandelo*

- 8.(1) IQumrhu ledolophu kwiBhunga loomasipala linoceba abangama-210 (abangamakhulu mabini anesibini), njengoko kugqityiwe ngumPhathiswa wePhondo kwiSaziso sePhondo esingu-164/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5468 yomhla wesi-4 kuMeyi ka-2000 saza salungiswa siSaziso sePhondo esingu-100/2004 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 6137 yomhla wesi-8 kuJuni ka-2004, abali-105 (abalikhulu elinesihlanu ) kubo bangooceba beewadi, kwakhona abali-105 (abalikhulu elinesihlanu) bangooceba abanyulwe ngolwalamano.

- (2) IBhunga loomasipala lineewadi ezili-105 (ezilikhulu elinesihlanu).

*(section 8 amended by PN.1/2006)*

*Oceba abasebenza isigxina*

9. UMasipala weSithili angamisela aba ceba balandelayo njengooceba besigxina:-
- (a) Usodolophu wesigqeba solawulo;
  - (b) Amalungu ecandelo lekomiti yosodolophu, ndawonye
  - (c) nosihlalo kunye naye naliphi icandelwana lebhunga elisekwe nguMasipala;
  - (d) Usomlomo, kunye
  - (e) Umbhexeshi omnye onyulelwe iBhunga.

*(section 9 amended by PN.446/2002 and PN 174/2003)*

*Izaphulelo*

10. Umasipala akasayi kwaphulelwa nakuyiphi na imiqathango yoMthetho wamaSebe kaMasipala.

*Ukutshintshwa kwabasebenzi*

- 11.(1) Ukususela kumhla lowo umiselweyo, nangokwecandelo 197 loMthetho wezoBudlelwane kwezeNgqesho, ka1995 (Umthetho 66 ka1995) kwanecandelo 2(d) Urhulumente weNgingqi: uMthetho-sihlomelo wamaSebe ooMasipala, ka-2000 (UMthetho 33 ka-2000), bonke abasebenzi boomasipala abatshitshisiweyo baya kuthunyelwa kuMasipala.

*(section 11(1) amended by PN.665/2000)*

- (2) Ngokuxhomekeke kwisivumelwano sezokusebenza esithatyathwe yiKo mishoni yesiXeko Sobumbano egameni loo masipala abatshutshisiweyo ngokwe migaqo yesahluko 9(8) se Saziso se Komishoni yesiXeko Sobumbano, onke amalungelo nezinyanzelo phakathi koomasipala abatshitshiswayo kunye nomsebenzi ngamnye ngexesha lokususwa kwakhe kulo masipala utshitshisiweyo esisiwa komnye nayo nayiphi na into eyenziwe phambi kokutshintshwa komsebenzi ngulo masipala okanye ngokubhekiselele kumasipala otshitshiswayo, iya kuthathwa njengento eyenziwe ngulo okanye ngoku bhokiselele kulo Masipala.
- (3) Ukutshintshelwa kwenye indawo yokusebenza akuyichaphazeli Ingqesho yomsebenzi ukuba ibe yeyaphukileyo. Ingqesho iya kuqhubeka kunye nalo Masipala umtsha ibe ngathi umsebenzi usaqhubeka kumasipala otshitshisiweyo.
- (4) Ngokuxhomekeke kwi migaqo-nkqubo namanyathelo okuphathwa kwabasebenzi ekubhekiselelwe kuyo kwisahluko 13(1)(a) solu Xwebhu, nawuphi na umsebenzi kuya kufuneka ukuba ayokusebenza kwii ofisi zikaMasipala yaye, ngaphandle kokuba kuvunyelwane, akakuzuzwa ntlawulo engaphezulu kwaleyo ebeyifumana ngenxa yolu tshintsho.

*Izivumelwano ezithathwe kunye sezokusebenza*

12. Nasiphi na isivumelwano ekungenwe kuso yiKomishoni yesiXeko Sobumbano imele oomasipala abatshitshisiweyo ngokwemigaqo yecandelo 9(8) yeSaziso seKomishoni yesiXeko Sabumbano siya kuma isiso esisebenzayo de sihlonyelwe okanye sitshitshiswe ngokuvumelana nezibonelelo zesivumelwano esikhoyo.

*Imicimbi yabasebenzi*

- 13.(1) Ngokuxhomekeka kwisahluko 11 solu ludwe lweenkqubo kananjalo ngokuxhomekeka kuso nasiphi na isivumelwano sokusebenza esithe sathatyathwa hunye ngemvano phakathi kweemanyano zabasebenzi kunye neKhomishoni yeSixeko soBumbano:-

*(section 13(1) amended by PN.665/2000)*

- (a) imigaqo-nkqubo kunye namanyathelo okulawulwa nokuphathwa kwabasebenzi bakaMasipala aya kuba ngamanyathelo nemigaqo-nkqubo yokulawulwa nokuphathwa kwabasebenzi eyamkelwe yiKhomishoni yesiXeko Sabumbano ngomhla wama-24 ku-Agasti 2000, kuxhonyekeke kwisihlomelo ho okanye ukutshitshiswa kwaso nguMasipala ngaphandle kokuba kungakho uxambuliswano okunokuthi kuvele phambi komhla wokusebenza kwesivumelwano eso, yaya nguMasipala kuphela ongangqiba ngesihlomelo okanye utshitshiso



ngokwemigaqo-nkqubo namanyathelo alungileyo ngelo xesha kukho ngalo uxambuliswano olunokuthi luvele;

- (b) de uMasipala abewamkele eyakhe imiqathango nemigaqo yengqesho, nawuphi na oqeshwe nguMasipala uya kuthi aqeshwe ngokwemiqathango nemigaqo yengqesho eyamkelwe yiKhomishoni yesiXeko Sobumbano ngomhla wama-24 Agasti 2000.
- (2) Ikopi yemigaqo-nkqubo namanyathelo, imiqathango kunye nemigaqo ekubhekiselelwe kuyo kwicandelwana (1) iya kufumaneka ukuze ibe nokuhlolwa kwiifisi zoomasipala abatshitshisiweyo kunye nezeKhomishoni yesiXeko Sobumbano ngexesha lomsebenzi.

*Iziphumo zenguqu ngokubhekiselele kweminye imiba emalunga nabasebenzi*

- 14.(1) Ngokuxhomekeke kwisivumelwano esithe sathathwa kunye ngemvano phakathi kweemanyano zabasebenzi kunye neKhomishni yesiXeko Sobumbano okanye uMasipala, nawuphi na umsebenzi esithe isithuba sakhe somsebenzi saguqulwa ngenxa yenguqu akayi kubonwa njengomntu ongenasithuba sangqesho ngenxa yezizathu zemiqathango nemigaqo yengqesho okanye nayiphi na imithetho yengxowa-mali ethi inike umsebenzi ithuba likuzikhethela ukuba angawuyeka umsebenzi wakhe ase afumane izibonelelo zakhe.
- (2) Izibonelelo ezikweli candelo zibhekiselele kuphela kuloo masebenzi uyakuthi ale, engakhange abe ucingisise kakuhle, ukwamkela isithuba esisesinye sengqesho athi asinikwe nguMasipala.
- (3) Ngokwenjongo zeli candelo, ukuguqulwa kwesithuba sengqesho kubandakanya omnye umqathango kule ilandelayo:-
  - (a) isithuba eso somsebenzi asisekho;
  - (b) isithuba eso somsebenzi sithe satshitshiswa;
  - (c) umsebenzi kufuneka enze isicelo ngokutsha sesithuba somsebenzi;
  - (d) inkqubo kunye namagunya esithuba eso athe atshintshwa;
  - (e) xa kuthe kwatshintsha umqeshi;
  - (f) xa isithuba eso sithe sanabaphathi abaninzi ekufuneka umsebenzi enze ingxelo kubo;
  - (g) xa isithuba sahlukile kwindlela ebekusetyenzwa ngayo.

*Ukuthatha iintambo okusemthethweni*

- 15.(1) Ukususela kumhla wokuqala wokusebenza:-
  - (a) uMasipala nguye oya kuthatha iintambo ngokusemthethweni koomasipala abatshitshisiweyo njengoko kuchaziwe kwicandelo 14(1) loMthetho wamaSebe ooMasipala;
  - (b) iimpahla, amatyala, ulawulo kunye nazo zonke iincwadi zoomasipala abatshitshisiweyo ziyakutshintshelwa kuMasipala;
  - (c) yonke irhafu, nemali ekufuneka ihlawulwe okanye ekufuneka zifunyenwe ngooMasipala abatshitshisiweyo ziya kuhlawulwa okanye zifunwe ze sifunyanwe nguMasipala, kwakunye
  - (d) ungazigatyanga nje izibonelelo zawo nawuphi na umthetho osebenzayo ngelo xesha, yonke imiqathango yokuqikelela ixabiso esetyenziswayo

okanye evela ngenxa yokubakho kwengqikelelo yexabiso ebambeleyo okanye eyongezelelweyo, kuxhomekeke kwimeko egqubayo ngelo xesha, phakathi kwiNgingqi kaMasipala uya, kodwa kuxhonyekeke kwizibonelelo zomthetho lowo, kuma inguwo osebenzayo de kuvele uluhlu lwemiqathango yokuqikelela ixabiso lwaloo ngingqi kaMasipala.

- (2) Kungakhange kube kube kuthotywe ukulunga kwecandelwana (1)(a):-
- (a) uMasipala uya kuba nguye othatha iintambo ngokwasemthethweni koomasipala abatshitshisiweyo ngokubhekiselele kwimicimbi ethe yadweliswa kuMthetho weNguqu kwiiNgingqi Ezithile Ezisemaphandleni kunye naMthetho weeNgingqi Ezisemaphandleni kunye, ukuya kuma, de kube kutshintshelwa kulo kubhekiselelwe kuyo kwicandelo 3 loMthetho weNguqu kwiiNgingqi Ezithile Ezisemaphandleni:-
- (i) umhlaba osegunyeni lo Mphathiswa weZolimo neMicimbi yezeMihlaba ngokwemiqathango yecandelo 7 loMthetho weeNgingqi Exisemaphandleni kwanoxhomekeke kwizibonelelo zecandelo 3 zoMthetho weNguqu kwiiNgingqi Ezithile Ezisemaphandleni, uya kuhlala uphantsi kwamagunya woMphathiswas seZolimo nemicimbi yezeMihlaba, kwakunye
- (ii) nomhlaba othe wafunyanwa ngoomasipala abatshitshisiweyo ngokwemigaqo yoMthetho weeNgingqi Ezisemaphandleni othe wabaphantsi kwemiqathango yecandelo 3 loMthetho weNguqu yeeNgingqi Ezithile Ezisemaphandleni uya kuba segunyeni likaMasipala ukususela kumhla wokuqala ukusebenza kwawo;
- (b) umhlaba ekubhekiselelwe kuwo kumhlathi (a), ngaphandle kokuba kungakho utshintsho ngokwemigaqo ekwicandelo 3 loMthetho weNguqu yeeNgingqi Ezithile Ezisemaphandleni, uya kuba phantsi kolawulo lukaMasipala weNgingqi ngokwemiqathango yoMthetho weeNgingqi Ezisemaphandleni kunye nemimiselo eyenziwe ngokwemigaqo yoMthetho weeNgingqi Ezisemaphandleni.

*Izibonelelo zenguqu ezibhekiselele kwimithetho yeedolophu nezigqibo*

- 16.(1) Nawuphi na umthetho wedolophu osetyenziswayo kwingingqi yomasipala otshitshisiweyo kancinci nje phambi kokuqala ukusebenza koMasipala, ukususela kumhla wokuqala ukusebenza, uxhomekeke kukuhlolwa nolungelelaniso ngokwemigaqo yecandelo 15 loMthetho wamaSebe ooMasipala, uya kuba nguwo osebenzayo kuloo ngingqi obusekelwe yona ngaphandle kokuba kubekho isihlomelo okanye ukutshitshiswa nguMasipala lowo.
- (2) Ngaphandle kokuba awungqinelani kunye nento ekuthethwa ngayo, isingqiniso sawo nawuphi na umthetho wedolophu:-
- (a) obhekiselela kumasipala otshitshisiweyo okanye kobe engaphambili esezintanjeni, kufuneka esi singqiniso saziwe njengesibhekiselele kuMasipala, kwakunye
- (b) nesebe okanye inkqubo kamasipala otshitshisiweyo, jufuneka esi singqiniso saziwe njengesibhekiselele kwisebe elingqamene okanye inkqubo kaMasipala.
- (3) Ngokuxhomekeke kwimigaqo yolu xwebhu, ungakugatyanga nje ukutshitshiswa koomasipala abatshitshisiweyo, nasiphi na:-

- (a) isigqibo esithe sathatyathwa;
- (b) isaziso, isiqinisekiso okanye amaxwebhu athe akhutshwa;
- (c) isalathiso, ukwamkeleka, imvume okanye ingunya elithe lanikezelwa;
- (d) isaphulelo, iphepha-mvume okanye imvume othe wayinikwa okanye yakhutshwa;
- (e) ukuqesha okuthe kwenziwa;
- (f) umqesha othe watyunjwa;
- (g) isivumelwano okanye isibophelelo ekuthwe kwangenwa kuso;
- (h) amagunya athi anikweze umqeshwa/umsebenzi;
- (i) amaxabiso, uluhlu lweerhafu/lamaxabiso okanye iindleko ezibekiweyo;
- (j) umhlaba uthe wabekelwa bucala, kwakunye
- (k) amanye amanyathelo athe athatyathwa okanye izinto ezenziweyo.

Zonke ezi ibe izizinto ebe zisenziwa ngumasipala otshitshisiweyo, ziya kuthi phantsi kolu luhlu lweenkqubo zithathwe ngokwezinto ezenziweyo, ekunikiswe ngazo, abantu abatyunjiweyo, izivumelwano ekungenwe kuzo, amagunya anikeziweyo, okumiselweyo, okanye okuthe kwenziwa nguMasipala, ngaphandle kokuba oku kuphince kwahlolwa ngokwecandelo 15 loMthetho wemaSebe ooMasipala.

- (4) Ngokwemiqathoango yolu luhlu, nabani na othe ngomhla woqaliso wolonyulo wabe esebenzisa amagunya, wabe esenza umsebenzi wakhe okanye atyunjelwe kuwo, oko ekwenza ngokwegunya lamandla e-ofisi okanye isikhundla sakhe, okanye ngokwamagunya awanikiweyo nguloo masipala utshitshisiweyo, uya kuthi gqolo esebenzisa elo gunya okanye esenza loo msebenzi die kufike ixesha apho uMasipala athe wagqiba ngenye indlela.
- (5) Ngokwenjongo zoluhlu lwemiqathango elawula ukumiselwa kwamagosa oxolo njengoko kuchaziwe kwecandelo 334 yoMthetho weNkqubo yolwaPhulo Mthetho ka-1977 (Umthetho 51 ka-1977), naliphi na igosa lonyanzelisa-mthetho elamiselwa nguMasipala owatshutshiswayo, ukususela ngomhla wokuqalisa konyulo, liyakuthatyathwa njengeliqeshwe nguMasipala kwingingqi asebenza kuyo.
- (6) Nasiphi na isicwangciso esimiselweyo ngokusemthethweni nesisinyanzelo okanye esiqhutywayo kummandla wolawulo womasipala lowo utshitshisiweyo, siya kuhlala siqhutywa sisinyanzelo okanye siqhutywa malunga naloo mmandla ebe kulungiselelwe ukuba sisetyenziswe kuwo de sihlonyelwe, siguqulwe okanye sitshitshiswe nguMasipala.

*Ukuqesha kwamaGosa aBambeleyo*

- 17. Phambi komhla wokuqalisa konyelo, uMphathiswa wPhondo, emva kokuphonononga naziphi na iziphakamiso ezivela nezenziwe yiKhomishoni yesiXeko soBumbano, uya kuthi ukuba ikho imfuneko aqeshe nabani na umntu nakwisiphi na isikhundla ekufuneka kwenziwe ngoko mthetho olawulayo, ukuqesha oko akuyi kuba sisigxina yaye umntu othe waqesha uyakungena kwisikhundla eso ukususela ngomhla wonyulo de Umasipala abe uqeshe ngokwakhe ngoko mthetho lowo usetyenziswayo.

*Ukumiselwa koMphathi weThutyana kaMasipala*

- 18.(1) Phambi komhla ochaziweyo nomiselweyo uMphathiswa wePhondo, emva kokuphonononga zonke iziphakamiso zeKomishoni yesiXeko soBumbano, uya kumisela uMphathi wethutyana kaMasipala, oya kuthabatha isikhundla sakhe nje emva kokuba ethe wamiselwa de abe uMasipala uqeshe owakhe uMphathi kungenjalo uMphathi olibambela.
- (2) Imisebenzi yoMphathi wethutyana kaMasipala, ngaphandle kokuba u Masipala angagqiba ngenye indlela iya kuba yile ilandelayo:-
- (a) kukubiza intlanganiso yokuqala yeBhunga likaMasipala phantsi kwemiqathango yecandelo 29(2) loMthetho weMiba kaMasipala;
  - (b) achophele intlanganiso yokuqala yeBhunga likaMasipala de kubekho unyulo lwesithethi;
  - (c) emva kokuqalisa komhla wonyulo, uya kusebenza njengentloko yolawulo kwanenjengegosa lika masipala elinoxanduva de uMasipala abe uqeshe uMphathi ongowakhe kungenjalo uMphathi wethutyana;
  - (d) emva komhla wokuqala wonyulo, kufuneka azalisekise yonke imisebenzi eksufuneka izalisekisiwe ligosa eliyintloko lolawulo likaMasipala ngokwemigaqo yomthetho olungele loo meko;
  - (e) athwale uxanduva lokutshintshela kuMasipala abasebenzi, iimpahla, amatyala nolawulo kunye nazo zonke ezinye iingxelo;
  - (f) aseke ulawulo lwethutyana lakaMasipala, lingaquki nje kuphela oonobhala bethutyana, inkonzo yezomthetho, inkonzo yonxibelelwano, inkonzo yangaphakathi yokuhlolwa kweencwadi zemali kunye nenkonzo yolawulo lwezimali;
  - (g) uya kutyumba abantu ekufuneka betyunjiwe ukuze akwazi ukuzalisekisa umsebenzi wakhe ngokwemiqathango yolu ludwe lwenkqubo;
  - (h) anikezele ngamagunya okanye umsebenzi wakhe kuye nawuphi na umsebenzi ka Masipala yaye usenokuluhlengahlengisa okanye aluphelise unikezelo-magunya, kwakunye
  - (i) kwixesha eliphambi komhla wokuqalisa wonyulo uya kulungisela ukwenza le misebenzi ikhankanyiweyo kwimihlathi (a) ukuya ku (h).
- (3) de kube kuhleli intlanganiso yokuqala yeBhunga likaMasipala, umphathi wetyana kamasipala kuya kufuneka nngawo onke amxesha athabathe izigqibo emva kokudlana indlebe neKomishoni yoBumbano yeSixeko.
- (4) Phambi komhla wokuqala wonyulo, onke amagosa azintloko zolawulo (CEOs) ayakusebenzisana no Mphathi weThutyana kaMasipala ngokuphathelelene nayo yonke imibandela enxulumenenokusekwa ko Masipala omtsha.
- (5) Ukususela kumhla wokuqala wokusebenza, amagosa azintloko zolawulo (CEOs) koomasipala abatshitshisiweyo kufuneka asebenze phantsi kwemiyalelo ekwanika ingxelo kuMphathi wethutyana kamasipala yaye umphathi wethutyana kamasipala uya kuba nawo onke amagunya ooCEO.

*Ukuqeshwa*

- 19.(1) Nabanina oqeshwe phantsi kwemiqathango yecandelo 18, othe ngethuba lengqesho yakhe:-

- (a) wabe engumqeshwa kamasipal otshitshisiweyo okanye uMasipala uya kuthi ngokwemiqathango yecandelo 11, ahlale ephantsi kwengqesho leyo yaloo masipala utshitshisiweyo okanye kaMasipala, yaye uya kuzalisekisa iimfuno zomsebenzi wakhe njengomntu othunyelweyo;
  - (b) ayiyi kuba ngumqeshwa kamasipala otshitshisiweyo kungenjalo umasipala uya kuba nesivumelwano neKomishoni yesiXeko Sobumbano.
- (2) nawuphi na umntu ekubhekiselelwe kuye kumhlathi (b) uya kuqeshwa ngokwemigaqo neemeko ezibekwe yiKomishoni yesiXeko Sobumbano, ukuba iKomishoni ayikwazi ukufikelela esigqibeni ngalo mba, imigaqo neemeko ziya kubekwa nguMphathgiswa wePhondo, oya kuthi akwenze oko ngaphandle kokuba isivumelwano ekubhekiselelwe kuso kumhlathi (b) sinokupheliswa nanini na liBhunga likaMasipala.

*INdibano yokuQala yeBhunga loMasipala*

- 20.(1) Umphathi wethutyana kamasipala uya kuthi, kwintsukwana ezintathu (3) phambi kwendibano yokuqala yeBhunga loMasipala, athumele isaziso esichaza indawo, umhla kwanexesha lendibano yokuqala noluhlu lwemibandela (agenda) kwindawo ehlala uceba ngamnye kanti nokuba yenye indawo ethe yachongwa nguceba lowo; ngaphandle kokuba umphanthi wethutyana kamasipal angabiza intlanganiso yokuqala ngesikhawu ukuba ubona ikho imfuneko yokwenza oko.
- (2) Uluhlu lwemibandela ekuza kuxoxwa ngayo kwindibano yokuqala iya kuba yile idandelayo:-
- (a) ukunyulwa kwesithethi;
  - (b) ukuba ngaba uMasipala ufuna ukuseka ikomiti elawulayo, ukuba kunjalo, kuya kumiselwa inkqubo eya kusetyenziswa xa kuqhutywa unyulo lwekomiti elawulayo;
  - (c) unyulo looceba abaya kusebenza kule komiti yolawulo;
  - (d) ukunyulwa kukasodolophu kumalungu ekomiti elawulayo;
  - (e) ukunyulwa kosekela-sodolophu kumalungu ekomiti elawulayo, ethi ivunywe nguMphathiswa wePhondo, kwakunye
  - (f) nawuphi na omnye umba othe wamiselwa ngumphathi wethutyana kamasipala nochaziweyo kwi-agenda.
- (3) (a) Imithetho yenkqubo yentlanganiso yokuqala kaMasipala iya kuba yimithetho yenkqubo eyamkelwe yiKomishoni yeSixeko soBumbano ngomhla we-19 Oktobha 2000, ikopi iya kuthi ifumaneka ukuba iphicothwe kwii-ofisi zeKomishoni yeSixeko soBumbano ngeeyure zomsebenzi.
- (b) imigaqo nemimiselo ekubhekiselelwe kuyo kumhlathi (a) iya kuhlalutywa kwii-ofisi zeKomishoni yeXixeko soBumbano ngamaxesha omsebenzi.

*(subsection (3) inserted by PN.665/2000)*

*USekela Sodolophu weSigqeba*

- 20A. Kunikezwe imvume ngokwemiqathango yecandelo 55 lomthetho, iMunicipal Structures Act, njengoko silungisiwe, kusenzelwa unyulo losekela sodolophu wesigqeba.

*(section 20A inserted by PN.174/2003)*

*Isihloko esifutshane nokuqalisa*

21. Esi Saziso sibizwa ngelokuba Sisaziso sokuSekwa kwesiXeko saseKapa nesiqalisa ukusekenza ngomhla wopapasho.

**WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998  
(WET 117 VAN 1998)**

*Gewysig deur:*

*Provinsiale Kennisgewing 665 van 4 Desember 2000  
Provinsiale Kennisgewing 446 van 19 Desember 2002  
Provinsiale Kennisgewing 174 van 28 Mei 2003  
Provinsiale Kennisgewing 1 van 3 Januarie 2006*

**INSTELLING VAN DIE STAD KAAPSTAD**

Uit hoofde van die bevoegdheid aan my verleen by artikels 12 en 14 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), gee ek hiermee kennis van die instelling van die Stad Kaapstad op die voorwaardes wat in die Bylaag hiervan uiteengesit is.

Gedateer op hierdie 22ste dag van September 2000.

P UYS, PROVINSIALE MINISTER VAN PLAASLIKE REGERING

**BYLAAG**

*Woordomskrywings en uitleg*

1. In hierdie Kennisgewing, tensy uit die samehang anders blyk, omvat die enkelvoud die meervoud en omgekeerd, word voorkeur verleen aan die Engelse teks ingeval die verskillende tekste teenstrydig is, het 'n woord of uitdrukking waaraan die Munisipale Strukturewet 'n betekenis geheg het, dieselfde betekenis, en beteken-
  - (1) **“afgeskafte munisipaliteit”** daardie bestaande munisipaliteit afgeskaf ingevolge artikel 3 van hierdie Bylaag;
  - (1A) **“burgemeesters-uitvoerende stelsel”** 'n stelsel wat voorsiening maak vir die uitoefening van uitvoerende gesag deur 'n uitvoerende burgemeester in wie die uitvoerende leierskap van die munisipaliteit berus en wie deur 'n burgemeesterskomitee bygestaan word;
 

*(subartikel (1A) ingevoeg deur PK.174/2003)*
  - (2) **“effektiewe datum”** die datum waarop die verkiesing 'n aanvang neem;
  - (3) *(subartikel (3) geskrap deur PK.174/2003)*
  - (4) **“Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);
  - (5) **“HUB”** die hoof uitvoerende beampte van 'n afgeskafte munisipaliteit;
  - (6) **“Munisipale Afbakeningsraad”** die Munisipale Afbakeningsraad wat by artikel 2 van die Munisipale Afbakeningswet ingestel is;

- (7) “**Munisipale Afbakeningswet**” die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet 27 van 1998);
- (8) “**Munisipale Strukturewet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);
- (9) “**Munisipaliteit**” die Stad Kaapstad ingestel ingevolge artikel 4 van hierdie Bylaag;
- (10) “**Provinsiale Minister**” die lid van die Kabinet van die Provinsie Wes-Kaap verantwoordelik vir plaaslike regering;
- (11) “**Provinsie**” die Provinsie Wes-Kaap;
- (12) “**statutêre plan**” ‘n plan wat ingevolge enige wetgewing vereis word, insluitende, maar sonder om beperk te wees tot, enige struktuurplan, grondgebruikplan, soneringskema, geïntegreerde ontwikkelingsplan, waterdiensteplan, vaardigheidontwikkelingsplan en diensbillikheidsplan;
- (12A) **subraad deelnemende stelsel**” ‘n stelsel wat voorsiening maak vir gedelegeerde bevoegdhede wat deur subrade uitgeoefen word wat vir gedeeltes van die Munisipaliteit ingestel is;  
*(subartikel (12A) ingevoeg deur PK.174/2003)*
- (13) “**tussentydse munisipale bestuurder**” die tussentydse munisipale bestuurder van die Munisipaliteit wat ingevolge artikel 18(1) aangestel is en wie vanaf die effektiewe datum die waarnemende munisipale bestuurder van die Munisipaliteit sal wees;
- (14) “**Unistadkommissie**” die Unistadkommissie, ingestel ingevolge die Unistad-Kommissiekennisgewing;
- (15) “**Unistad-Kommissiekennisgewing**” Provinsiale Kennisgewing 400/1999 gepuliseer in Buitengewone Provinsiale Koerant, No.5392 van 25 November 1999;
- (16) “**vakbonde**” die Onafhanklike Munisipale en Verwante Vakbond en die Suid-Afrikaanse Munisipale Werkersvereniging;
- (17) “**verkiesing**” die eerste algemene verkiesing van Munisipale Rade na die inwerkingtreding van die Grondwet;
- (18) “**WEKPRO**” die Wes-Kaapse Plaaslike Regeringsorganisasie, wat die provinsiale organisasie vir Wes-Kaap waaraan erkenning verleen word ingevolge artikel 2(1)(b) van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet 52 van 1997) is;
- (19) “**Wet op Landelike Gebiede**” die Wet op Landelike Gebiede, (Raad van Verteenwoordigers), 1987 (Wet 9 van 1987);
- (20) “**Wet op Transformasie van Sekere Landelike Gebiede**” die Wet op Transformasie van Sekere Landelike Gebiede, 1998 (Wet 94 van 1998), en
- (21) “**wyk deelnemende stelsel**” ‘n stelsel wat voorsiening maak vir aangeleenthede van plaaslike belang vir wyke, om deur komitees mee gehandel te word wat vir wyke ingestel is.  
*(subartikel (21) ingevoeg deur PK.174/2003)*



- 2.(1) Op 3 Maart 2000 het die Munisipale Afbakeningsraad, wat ingevolge artikel 21 van die Munisipale Afbakeningswet handel, die grense van die Munisipaliteit bepaal, soos aangetoon op die kaart wat voorkom in Provinsiale Kennisgewing 69/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5431 van 3 Maart 2000 en gewysig deur Provinsiale Kennisgewing 478/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5587 van 19 September 2000 en Provinsiale Kennisgewing 258/2002 gepubliseer in Buitengewone Provinsiale Koerant Nr 5922 van 15 Augustus 2002. 'n Kopie van die kaart word in Aanhangsel "1" tot hierdie Bylaag herpubliseer.

*(artikel 2(1) gewysig deur PK.1/2006)*

- (2) Die Provinsiale Minister, wat ingevolge artikel 12(4) van die Munisipale Strukturewet handel, het:-
- (a) skriftelike kennis van die voorgenome instelling van die Munisipaliteit aan WEKPRO en aan die afgeskafte munisipaliteite gegee by wyse van 'n omsendbrief gedateer 12 Julie 2000 en met verwysing AAO 509/1/4;
  - (b) met WEKPRO en die afgeskafte munisipaliteite oorleg gepleeg;
  - (c) besonderhede van hierdie Kennisgewing gepubliseer in Provinsiale Kennisgewing 435/2000 wat in Buitengewone Provinsiale Koerant No. 5577 van 4 September 2000 gepubliseer is, en
  - (d) die kommentaar wat na die publikasie van die voorgestelde Kennisgewing ontvang is, oorweeg.
- (3) Die Provinsiale Minister het ook die advies van die Unistadkommissie oorweeg wat ingevolge artikel 9(2) van die Unistadkommissiekennisgewing aan hom gegee is.
- (4) Die Provinsiale Minister, wat handel ingevolge artikels 12 en 14 van die Munisipale Strukturewet, saamgelees met die Wes-Kaapse Wet op die Bepaling van Soorte Munisipaliteite, 2000 (Wet 9 van 2000), gee nou kennis van die instelling van die Munisipaliteit ingevolge die voorwaardes soos hierin uiteengesit.
- (5) Die Unistadkommissie het onderhandelings met vakbonde ingevolge artikel 9(8) van die Unistad-Kommissiekennisgewing geïnisieer. Ten einde die suksesvolle afsluiting van die onderhandelings nie te benadeel nie, maak die bepalings van artikels 11(2), 13 en 14 van hierdie Bylaag spesifiek voorsiening vir kollektiewe ooreenkomste wat tussen die vakbonde en die Unistadkommissie aangegaan is om die oorplasing van personeel te reguleer, die wysiging van die beleid, prosedures, terme en voorwaardes waarna in artikel 13 verwys word, en om met moontlike oortolligheid te handel.

*Afskaffing van die bestaande munisipaliteite*

- 3.(1) Met ingang van middernag op die dag voor die effektiewe datum, sal die volgende munisipaliteite afgeskaf word:-
- (a) Blaauwberg Munisipaliteit, ingestel ingevolge Proklamasie No. 27 van 1996 gedateer 28 Mei 1996;
  - (b) Kaapse Metropolitaanse Raad, ingestel ingevolge Proklamasie No.18 van 1995 gedateer 6 Februarie 1995;
  - (c) Stad kaapstad, ingestel ingevolge Proklamasie No. 27 van 1996 gedateer 28 Mei 1996;

- (d) Stad Tygerberg, ingestel ingevolge Proklamasie No.27 van 1996 gedateer 28 Mei 1996;
  - (e) Helderberg Munisipaliteit, ingestel ingevolge Proklamasie No.27 van 1996 gedateer 28 Mei 1996;
  - (f) Oostenberg Munisipaliteit, ingestel ingevolge Proklamasie No. 27 van 1996 gedateer 28 Mei 1996;
  - (g) Suid-Skiereiland Munisipaliteit, ingestel ingevolge Proklamasie No.27 van 1996 gedateer 28 Mei 1996;
  - (h) Weskus Distriksraad, ingestel ingevolge Proklamasie No. 152 van 1995 gedateer 15 Desember 1995, in die mate dat enige gedeelte van die gebied ingesluit word binne die grense van die Munisipaliteit soos bepaal deur die Munisipale Afbakeningsraad en waarna in artikel 2(1) verwys word, en
  - (i) Wynland Distriksraad, ingestel ingevolge Proklamasie No. 152 van 1995 gedateer 15 Desember 1995, in die mate dat enige gedeelte van die gebied ingesluit word in die grense van die Munisipaliteit soos bepaal deur die Munisipale Afbakeningsraad en waarna daar in artikel 2(1) verwys word.
- (2) Die raadslede van die afgeskafte munisipaliteite waarna daar in subartikel (1)(a) tot (g) verwys word, moet hulle ampte ontruim wanneer die pas verkose Raad van die Munisipaliteit verkose verklaar is en moet teen middernag van dié dag enige eiendom in hul besit wat aan 'n afgeskafte munisipaliteit behoort, aan die HUB van die betrokke afgeskafte munisipaliteit of sy benoemde terugbesorg.

*Instelling en naam*

4. Met ingang van die effektiewe datum sal 'n munisipaliteit ingestel word wat in Afrikaans as "Stad Kaapstad", in Engels as "City of Cape Town", en in isiXhosa as "IsiXeko saseKapa" bekend sal staan.

*Kategorie*

5. Die Munisipaliteit is 'n metropolitaanse munisipaliteit wees soos omskryf in artikel 1 van die Munisipale Strukturewet, naamlik 'n munisipaliteit wat eksklusiewe uitvoerende en wetgewende gesag in sy gebied het en wat in artikel 155(1) van die Grondwet as 'n kategorie A-munisipaliteit beskryf word.

*Soort*

6. Die Munisipaliteit is 'n munisipaliteit met 'n burgemeesters-uitvoerende stelsel wat met beide 'n subraad- en wykdeelnemende stelsel gekombineer is, soos uiteengesit in die Wes-Kaapse Wet op die Bepaling van Soort Munisipaliteite, 2000 (Wet 9 van 2000), soos gewysig deur die Wes-Kaapse Wysigingswet op Bepaling van Soorte Munisipaliteite, 2002 (Wet 4 van 2002).

*(artikel 6 gewysig deur PK.174/2003)*

*Grense*

7. Die gerense van die Munisipaliteit sal die grense wees wat deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word.

*Getal Raadslede en Wyke*

- 8.(1) Die Munisipale Raad van die Munisipaliteit het 210 (tweehonderd-en-tien) raadslede, soos deur die Provinsiale Minister bepaal in Provinsiale

Kennisgewing 164/2000 wat in Buitengewone Provinsiale Koerant Nr. 5468 van 4 Mei 2000 gepubliseer is en gewysig is deur Provinsiale Kennisgewing 100/2004 wat in Provinsiale Koerant Nr. 6137 van 8 Junie 2004 gepubliseer is, waarvan 105 (eenhonderd-en-vyf) wyksraadslede is en 105 (eenhonderd-en-vyf) proporsioneel verkose raadslede is.

- (2) Die Munisipaliteit het 105 (eenhonderd-en-vyf) wyke.

*(artikel 8 gewysig deur PK.1/2006)*

#### *Voltydse Raadslede*

9. Die Munisipaliteit mag die volgende raadslede as voltydse raadslede aanwys:-
- (a) die uitvoerende burgemeester;
  - (b) lede van die burgemeesterskomitee;
  - (c) die voorsitter van enige subraad wat deur die Munisipaliteit ingestel is;
  - (d) die speaker, en
  - (e) 'n enkele sweep aangewys vir die Raad.

*(artikel 9 gewysig deur PK.446/2002 en PK.174/2003)*

#### *Vrystellings*

10. Die Munisipaliteit is nie van enige van die bepalings van die Strukturewet vrygestel nie.

#### *Oorplasing van Personeel*

- 11.(1) Met ingang van die effektiewe datum en ooreenkomstig artikel 197 van die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995) en artikel 2(d) van die Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2000 (Wet 33 van 2000), sal alle werknemers van die afgeskafte munisipaliteite na die Munisipaliteit oorgeplaas word.

*(artikel 11(1) gewysig deur PK.665/2000)*

- (2) Behoudens enige kollektiewe ooreenkoms aangegaan deur die Unistadkommissie namens die afgeskafte munisipaliteite ingevolge artikel 9(8) van die Unistad-Kommissiekennisgewing, bly alle regte en verpligtinge tussen die afgeskafte munisipaliteite en elkeen van hul onderskeie werknemers ten tyde van die oorplasing van krag asof dit regte en verpligtinge tussen die Munisipaliteit en elkeen van sy werknemers was, en enigiets wat voor die oorplasing deur of met betrekking tot die betrokke afgeskafte munisipaliteit gedoen is, word beskou as deur of met betrekking tot die Munisipaliteit gedoen te gewees het.
- (3) Die oorplasing onderbreek nie die deurlopendheid van 'n werknemer se indiensneming nie en dit gaan voort met die Munisipaliteit asof dit met die betrokke afgeskafte munisipaliteit is.
- (4) Behoudens die menslikehulpbronbeleid en- prosedures genoem in artikel 13(1)(a) van hierdie Bylaag, kan daar van enige werknemer vereis word om by enige kantoor van die Munisipaliteit aan te meld en, tensy anders ooreengekom, sal so 'n werknemer nie op enige bykomende vergoeding as gevolg hiervan geregtig wees nie.

#### *Kollektiewe ooreenkomste*

12. Enige kollektiewe ooreenkoms wat deur die Unistadkommissie namens die afgeskafte munisipaliteite ingevolge artikel 9(8) van die Unistad-Kommissiekennisgewing aangegaan is, sal ten volle van krag bly totdat dit ooreenkomstig die bepalings van die betrokke ooreenkoms gewysig of beëindig word.

*Menslikehulpbronaangeleenthede*

- 13.(1) Behoudens artikel 11 van die Bylaag en behoudens enige kollektiewe ooreenkoms wat tussen die vakbonde en die Unistadkommissie aangegaan is:-

*(artikel 13(1) gewysig deur PK.665/2000)*

- (a) is die menslike hulpbronbeleid en – prosedures van die Munisipaliteit die menslikehulpbronbeleid en-prosedures wat op 24 Augustus 2000 deur die Unistadkommissie aanvaar is, onderworpe aan enige wysiging of herroeping deur die Munisipaliteit; met dien verstande dat enige geskil wat voor die effektiewe datum ontstaan, besleg sal word ingevolge die beleid en prosedures wat ten tye van die ontstaan van die geskil van toepassing was;
- (b) tot tyd en wyl die Munisipaliteit sy eie bepalings en voorwaardes van indiensneming aanvaar het, word enige persoon wat deur die Munisipaliteit aangestel word, ingevolge die bepalings en voorwaardes van indiensneming wat op 24 Augustus 2000 deur die Unistadkommissie aanvaar is, aangestel.
- (2) 'n Afskrif van die beleid, prosedures, bepalings en voorwaardes waarna daar in subartikel (1) verwys word, is gedurende kantoorure vir bestudering beskikbaar by die kantore van die afgeskafte munisipaliteite en die Unistadkommissie.

*Gevolge van Oorgang ten opsigte van Sekere Personeelkweesies*

- 14.(1) Behoudens enige kollektiewe ooreenkoms wat tussen die vakbonde en die Unistadkommissie of die Munisipaliteit aangegaan is, word 'n werknemer wie se pos as gevolg van die oorpasing verander word, nie geag oortollig te wees vir die doel van enige bepaling of voorwaarde van indiensneming of enige pensioenfondsreël wat aan die werknemer die keuse bied om sy of haar indiensneming met voordele te beëindig nie.
- (2) Die bepalings van hierdie artikel is slegs van toepassing indien die werknemer onredelikerwys weier om die Munisipaliteit se aanbod van alternatiewe indiensneming te aanvaar.
- (3) Vir die doeleindes van hierdie artikel sluit 'n verandering van 'n pos een of meer van die volgende in:-
- (a) die pos bestaan nie meer nie;
- (b) die pos is afgeskaf;
- (c) die werknemer moet om die pos aansoek doen;
- (d) die funksies en bevoegdhede van die pos het verander;
- (e) daar is 'n verandering in die werkgewer se identiteit;
- (f) die pos word aan ander verslagdoeningskanale onderwerp;
- (g) die pos word anders beskryf.

*Regsopvolging*

- 15.(1) Met ingang van die effektiewe datum:-

- (a) sal die Munisipaliteit die vervangende munisipaliteit ten opsigte van die afgeskafte munisipaliteite wees, soos daarvoor voorsiening gemaak word in artikel 14(1) van die Munisipale Strukturewet, en sal hul regsopvolger word;
  - (b) moet die bates, laste en administratiewe en ander rekords van die afgeskafte munisipaliteite na die Munisipaliteit oorgeplaas word;
  - (c) sal alle belasting, inkomste en ander gelde betaalbaar aan die afgeskafte munisipaliteite of deur hulle verhaalbaar is, betaalbaar wees aan en verhaalbaar wees deur die Munisipaliteit, en
  - (d) ondanks die bepalings van enige toepaslike wet, bly enige waardasielyste wat van krag is, of was as gevolg van die instelling van tussentydse of bykomende waardasies ontstaan, na gelang van die geval, in die gebied van die Munisipaliteit, onderhewig andersins aan die bepalings van sodanige wet, van krag totdat 'n algemene waardasielyst vir die gebied van die Munisipaliteit opgestel is.
- (2) Sonder om afbreuk te doen aan die algemene aard van subartikel (1)(a):-
- (a) sal die Munisipaliteit die regsopvolger van die afgeskafte munisipaliteite met betrekking tot die sake wat uiteengesit word in die Wet op Transformasie van Sekere Landelike Gebiede en die Wet op Landelike Gebiede wees en, in die mate, totdat dit oorgedra is na 'n entiteit wat in artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede beoog word-
    - (i) sal grond wat deur die Minister van Landbou en Grondsake ingevolge artikel 7 van die Wet op Landelike Gebiede in trust gehou word en wat onderworpe is aan die bepalings van artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, steeds berus by die Minister van Landbou en Grondsake, en
    - (ii) sal grond wat ingevolge die Wet op Landelike Gebiede deur die afgeskafte munisipaliteite verkry is en wat onderworpe is aan die bepalings van artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, met ingang van die effektiewe datum by die Munisipaliteit berus;
  - (b) word grond in paragraaf (a) genoem, hangende oordrag ingevolge artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, deur die Munisipaliteit ingevolge die Wet op Landelike Gebiede en die regulasies ingevolge die Wet op Landelike Gebiede, bestuur.

*Oorgangsbepalings met betrekking tot Verordeninge en Besluite*

- 16(1) Enige verordening wat onmiddellik voor die effektiewe datum in die gebied van 'n afgeskafte munisipaliteit van krag is, sal met ingang van die effektiewe datum en hangende die hersiening en rasionalisering daarvan ingevolge artikel 15 van die Munisipale Strukturewet, ten volle van krag bly in die gebied waarvoor dit afgekondig is, behoudens enige wysiging of herroeping deur die Munisipaliteit.
- (2) Tensy onbestaanbaar met die sinsverband of duidelik ontoepaslik, moet 'n verwysing in so 'n verordening na:-

- (a) 'n afgeskafte munisipaliteit of sy voorganger, uitgelê word as sou dit 'n verwysing na die Munisipaliteit wees, en
  - (b) 'n struktuur of funksionaris van 'n afgeskafte munisipaliteit, uitgelê word as sou dit 'n verwysing na die ooreenstemmende struktuur of funksionaris van die Munisipaliteit wees.
- (3) Behoudens die bepalings van hierdie Bylaag en nieteenstaande die afskaffing van die afgeskafte munisipaliteite, sal enige:-
- (a) besluit geneem;
  - (b) kennisgewing, sertifikaat of ander doument uitgereik;
  - (c) opdrag, goedkeuring, verlof of magtiging gegee of verleen;
  - (d) vrystelling, lisensie of permit verleen of uitgereik;
  - (e) aanstelling gedoen;
  - (f) werknemer benoem;
  - (g) ooreenkoms of kontrak aangegaan;
  - (h) delegasies van bevoegdheids aan 'n werknemer verleen;
  - (i) belasting, tariewe of heffings gehef of opgelê;
  - (j) reservering van grond gedoen, en
  - (k) ander handeling verrig of ding gedoen, en
- deur 'n afgeskafte munisipaliteit, behoudens die bepalings van hierdie Bylaag geag word, deur die Munisipaliteit geneem, uitgereik, gegee, gedoen, benoem, aangegaan, verleen, gehef, opgelê of verrig te gewees het, hangende die hersiening en rasionalisering daarvan ingevolge artikel 15 van die Munisipale Strukturewet.
- (4) Behoudens die bepalings van hierdie Bylaag, sal enige persoon wat op die effektiewe datum 'n bevoegdheid uitoefen of 'n plig of funksie verrig uit hoofde van die amp wat hy of sy beklee, of uit hoofde van 'n delegasie van bevoegdheids waarmee die afgeskafte munisipaliteit hom of haar beklee het, voortgaan om daardie bevoegdheid uit te oefen of daardie plig of funksie te verrig totdat die Munisipaliteit die teendeel besluit.
- (5) Vir die toepassing van die Bylaag tot die Regulasie aangaande die verklaring van Vredesbeamptes wat ingevolge artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977) gemaak is, sal enige wetstoepassingsbeampte wat deur 'n afgeskafte munisipaliteit aangestel is, na die effektiewe datum geag word deur die Munisipaliteit aangestel te gewees het vir die regsgebied van die Munisipaliteit.
- (6) Enige statutêre plan wat in die regsgebied van die afgeskafte munisipaliteit van krag of in werking is, sal van krag of in werking bly ten opsigte van die gebied waarop dit bedoel was om van toepassing te wees, totdat dit deur die Munisipaliteit gewysig, verander of herroep word.

#### *Aanstelling van Waarnemende Beamptes*

17. Voor die aanvang van die effektiewe datum, moet die Provinsiale Minister na oorweging van enige aanbevelings deur die Unistadkommissie, waar nodig, enige persoon in enige posisie wat ingevolge relevante wetgewing benodig word, aanstel, welke aanstelling in 'n waarnemende hoedanigheid sal wees,

en wat die amp op die effektiewe datum moet aanvaar en dit moet beklee totdat die Munisipaliteit sy eie aanstellings gedoen het ingevolge die relevante wetgewing.

*Aanstelling van Tussentydse Munisipale Bestuurder*

- 18.(1) Voor die aanvang van die effektiewe datum moet die Provinsiale Minister na oorweging van enige aanbevelings deur die Unistadkommissie, 'n tussentydse munisipale bestuurder aanstel, wat die amp by aanstelling aanvaar, en dit beklee totdat die Munisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het.
- (2) Die pligte van die tussentydse munisipale bestuurder sal, behoudens voorskrifte of besluite tot die teendeel wat deur die Munisipaliteit aangeneem word, soo volg wees:-
  - (a) om die eerste vergadering van die Raad van die Munisipaliteit ingevolge artikel 29(2) van die Munisipale Strukturewet te belê;
  - (b) om op die eerste vergadering van die Raad van die Munisipaliteit voor te sit totdat die speaker verkies is;
  - (c) om na die effektiewe datum, as die hoof van administrasie en hoofrekenpligtige beampte van die Munisipaliteit op te tree, totdat die Munisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het;
  - (d) om na die effektiewe datum, alle pligte wat deur 'n HUB van 'n munisipaliteit ingevolge betrokke wetgewing verrig moet word, te verrig;
  - (e) om verantwoordelikheid te aanvaar vir die bewerkstelling van die oorpasing van alle personeel, bates, laste en administratiewe en ander rekords na die Munisipaliteit;
  - (f) om 'n tussentydse korporatiewe administrasie vir die Munisipaliteit in te stel, met inbegrip van, maar nie beperk nie tot, 'n tussentydse sekretariaat, regsdiens, kommunikasiediens, interne ouditeringsdiens en finansiële beheerdiens;
  - (g) om sodanige persone aan te stel wat nodig is om sy of haar verpligtinge ingevolge hierdie Bylaag na te kom;
  - (h) delegeer enige van sy of haar magte of pligte aan enige werknemer van die Munisipaliteit en wysig of herroep enige sodanige delegasie, en
  - (i) om in die periode voor die effektiewe datum, voor te berei vir die uitvoering van die pligte uiteengesit in paragrawe (a) tot (h).
- (3) Tot en met die eerste vergadering van die Raad van die Munisipaliteit, moet die tussentydse munisipale bestuurder in alle gevalle optree na konsultasie met die Unistadkommissie.
- (4) Voor die effektiewe datum, moet die HUB's met die tussentydse munisipale bestuurder saamwerk ten aansien van al die aangeleenthede wat verband hou met die instel van die Munisipaliteit.
- (5) Met ingang van die effektiewe datum, handel die HUB's onder die leiding van, en doen hulle verantwoording aan, die tussentydse munisipale bestuurder, en het die tussentydse munisipale bestuurder al die magte van die HUB's.

*Aanstellings*

- 19(1) Enigiemand wat ingevolge artikel 18 aangestel word, en ten tyde van sy of haar aanstelling:-
- (a) 'n werknemer van 'n afgeskafte munisipaliteit of die Munisipaliteit is, bly behoudens die bepalings van artikel 11 van hierdie Bylaag, in die diens van die afgeskafte munisipaliteit of die Munisipaliteit, na gelang van die geval, en moet sy of haar pligte op 'n gesekondeerde grondslag verrig;
  - (b) nie 'n werknemer van 'n afgeskafte munisipaliteit of die Munisipaliteit is nie, moet deur die Unistadkommissie gekontrakteer word.
- (2) Enige persoon waarna verwys word in subartikel 1(b), moet aangestel word op die terme en voorwaardes soos deur die Unistadkommissie bepaal; met dien verstande dat, waar die Unistadkommissie nie by magte is om ooreenstemming te bereik aangaande die terme en voorwaardes nie, die terme en voorwaardes deur die Provinsiale Minister bepaal sal word, voorts met dien verstande dat enige kontrak waarna verwys word in subartikel 1(b) te enige tyd deur die Raad van die Munisipaliteit beëindig moet kan word.

*Eerste vergadering van die Raad van die Munisipaliteit*

- 20(1) Die tussentydse munisipale bestuurder moet minstens 3(drie) dae voor die eerste vergadering van die Raad van die Munisipaliteit 'n kennisgewing aan elke raadslid by sy of haar woonplek of 'n ander plek wat deur die betrokke raadslid bepaal is, stuur, waarin die plek, datum en tyd van die eerste vergadering gespesifiseer word en wat die agenda bevat; met dien verstande dat die tussentydse munisipale bestuurder, as dit in sy of haar opinie nodig is, die eerste vergadering met 'n korter kennisgewing mag belê.
- (2) Die agenda van die eerste vergadering sal soos volg wees:-
- (a) die verkiesing van die speaker;
  - (b) of die Munisipaliteit die instelling van 'n uitvoerende komitee verlang, en indien wel, die bepaling van 'n stelsel van verteenwoordiging vir die verkiesing van die uitvoerende komitee;
  - (c) die verkiesing van raadslede om in die uitvoerende komitee te dien;
  - (d) die verkiesing van die burgemeester vanuit die geledere van die uitvoerende komitee;
  - (e) die verkiesing van die onderburgemeester, waarvoor goedkeuring deur die Provinsiale Minister verleen word, vanuit die geledere van die uitvoerende komitee, en
  - (f) enige ander sake deur die tussentydse munisipale bestuurder bepaal en in die agenda uiteengesit.
- (3) (a) Die prosedurereëls vir die vergaderings van die Raad en die Uitvoerende Komitee van die Munisipaliteit is die prosedurereëls wat op 19 Oktober 2000 deur die Unistadkommissie aangeneem is, tot tyd en wyl dit deur die Raad van die Munisipaliteit gewysig of herroep word.
- (b) Die prosedurereëls waarna in paragraaf (a) verwys is, sal gedurende kantoorure by die kantore van die Unistadkommissie ter insae lê.

*(subartikel (3) ingevoeg deur PK.665/2000)*

*Uitvoerende Onderburgemeester*



- 20A. Goedkeuring word verleen ingevolge artikel 55 van die Munisipale Strukture Wet, soos gewysig, vir die verkiesing van 'n uitvoerende onderburgemeester.

*(artikel 20A ingevoeg deur PK.174/2003)*

*Kort titel en inwerkingtreding*

21. Hierdie Kennisgewing heet die Stad Kaapstad Instellingkennisgewing en tree inwerking op die datum van publikasie.