

# **THEMBISILE HANI LOCAL MUNICIPALITY**

## **LOSS AND THEFT POLICY**

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## 1 PURPOSE OF POLICY

The purpose of this Policy is

- 1.1. To provide a framework within which preventative mechanisms are in place to eliminate losses, theft and damages to Municipality property and to provide for recovery or claims thereof.
- 1.2. To ensure that where applicable, the Municipality bears its own risks for damages and losses arising from Municipality activities by Municipality employees.

## 2 REGULATORY FRAMEWORK

This Policy derives its mandate from the following legislation and prescripts:

- 2.1 Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 2.2 Treasury Regulations

## 3 DEFINITIONS

In this Policy, unless the context otherwise indicates:

**"Accounting Officer"** means the Head Official;

**"Municipality"** means the Mpumalanga Provincial Treasury;

**"Official / employee"** means a person who —

- (a) has been appointed permanently, notwithstanding that such appointment may be on probation, to a post contemplated in section 8(1)(a) of the Public Service Act; or
- (b) has been appointed on contract in terms of section (8)(c)(ii) of the Public Service Act; and

**"SAPS"** means South African Police Service; and

**"Municipality cover"** means the liability that the Head will assume on behalf of an official of the Head where no reasons exist for its forfeiture.

## 4 SCOPE OF APPLICATION

This Policy applies to all officials of the Municipality.

## 5 LOSS CONTROL COMMITTEE

- 5.1 The Accounting Officer must appoint a loss control committee.
- 5.2 The Loss Control Committee shall be **responsible** for:-
  - 5.2.1 Coordinate the administration of losses
  - 5.2.2 Consider reports on losses
  - 5.2.3 Determine liability
  - 5.2.4 Recommend to the Accounting Officer on action to be taken.

## 6. MANAGEMENT OF LOSSES AND THEFT

### 6.1. General

6.1.1. Generally, the Municipality will bear its own damages and accident risks and be responsible for the claims and losses of municipality property where these arise from municipality activities by an official who is liable in law and who is or was employed by an institution and this will be subject to the provisions of applicable treasury regulation or any other legislation or agreement.

6.1.2. Notwithstanding clause 6.1.1., the Head Official may (if deemed economical and based on a risk assessment) insure motor vehicles, including hired vehicles, or such other movable assets determined by the relevant treasury, but the insurance premium cost may not exceed R250 000 a year on the Municipality, unless otherwise approved by the relevant treasury.

### 6.2. Management of Claims Against the Municipality through Acts or Omissions by Employees

**6.2.1.** The Municipality must generally accept liability for any loss or damage suffered by another person, which arose from an act or omission of an official as a claim against the Municipality, provided that the official shall forfeit the municipality cover if after an investigation, finds that, the official is liable in law and-

- (a) has intentionally exceeded his or her powers in committing the act or omission (that is has acted *ultra vires*);
- (b) made use of alcohol or drugs during the act or omission;
- (c) did not act in the course and scope of his or her employment;
- (d) acted recklessly or intentionally;
- (e) without consulting the Legal Unit, made an admission that was detrimental to the municipality;
- (f) failed to comply with or ignored standing instructions of which the official was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim, excluding damage arising from the use of a municipality(Municipality) vehicle;
- (g) in the case of a loss, damage or claim arising from the use of a municipality (Municipality) vehicle, the official-
  - (i) used the vehicle without authorization;
  - (ii) did not possess a valid driver's licence or other appropriate licence;
  - (iii) did not use the vehicle in the interest of the municipality;
  - (iv) allowed unauthorized person to handle the vehicle; or
  - (v) deviated materially from the official journey or route without prior authorization.

**6.2.2.** Where an official has forfeited the Municipality cover as contemplated in this Policy, the amount paid by the institution for the loss, damage or claim arising from an act or omission must be recovered from the official concerned.

**6.2.3.** With regards to recoveries, the Legal Unit may only obligate the funds of the Municipality with the prior written approval of the Head Official.

### **6.3. Management of Claim by the Municipality Against Other Persons**

Where the Municipality suffers a loss or damage and needs to make a claim,

- 6.3.1. first an attempt should be made to recover the loss through the Municipality's Legal Services Unit; and
- 6.3.2. where the other person denies liability, the Head Official must, if deemed economical, refer the matter to the Legal Unit for legal action, including the recovery of the value of the loss or damage.
- 6.3.3. and it proves uneconomical to make a recover, the Security Manager must make a recommendation to the Head of Municipality for the write-off of the claim in terms of the Municipality Debt-Write Off Policy and other related prescripts.

#### **6.4 Management of Claims by officials against the Municipality**

If an official sustains a loss or damage in the execution of official duties and is not compensated, the Head of Municipality may make good the loss or damage provided that the official can prove such loss or damage.

#### **6.5 Management of Losses or damages through criminal acts or omissions**

- 6.5.1. When it appears that the Municipality has suffered losses or damages through criminal acts or possible criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the Head of Municipality and the South African Police Service. If liability can be determined, the Head of Municipality must recover the value of the loss or damage from the person responsible.
- 6.5.2. The Head of Municipality may write off losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable.
- 6.5.3. When movable assets are written off, this must be recorded in the asset register.
- 6.5.4. Where such criminal acts or omissions have been committed by an official of the Municipality, the above processes will also be coupled with an internal disciplinary action will be taken against such an official.

**6.6. Management of Losses and damages through *vis major* and other unavoidable causes**

6.6.1. The Head of Municipality may write off losses and damages that result from *vis major* and other unavoidable causes.

**6.7. Management of Losses or damages through acts committed or omitted by officials**

6.7.1. Losses or damages suffered by the Municipality because of an act committed or omitted by an official, must be recovered from such an official if that official is liable in law.

6.7.2. The Municipality must determine the amount of the loss or damage and, in writing, request that official to pay the amount within 30 days or in reasonable installments. If the official fails to comply with the request, the matter must be handed to the Legal Unit for the recovery of the loss or damage.

6.7.3. A claim against an official must be waived if the conditions in clause 6.2.1(a)-(g) are not applicable.

6.8. If in doubt, the Security Manager must make recommendations to the Head of Municipality to consult the, Municipality Law Advisors at the Office of Premier or on questions of law on the implementation of this clause 6.

## **7. LOSS PREVENTION MEASURES**

7.1. Valuable items must be locked away when not in use.

7.2. All equipment such as laptops and portable overhead projectors should be locked away in **safe places**.

7.3. Offices must be locked after hours and when unattended.

7.4. Equipment must be handled with care to prevent unnecessary loss and damage.

7.5. Municipality property must not be left in a visible position in a vehicle.

- 7.6. Tools, equipment, machines, etc. must be clearly marked to indicate Municipality ownership.
- 7.7. Any person who becomes aware of irregularities which may result in losses or damage to property of the Municipality, must bring it to the attention of the loss control officer, fraud line and the head of the section.
- 7.8. Prior written permission must be obtained from the Asset Management Unit to remove Municipality property from the workplace.

## 8. PROCEDURES FOR REPORTING OF THEFTS, LOSSES AND DAMAGES OF MUNICIPALITY PROPERTY

In the event of Municipality property being lost or stolen the responsible official must ensure that the following steps are taken to report the incident.

### 8.1 Report to SAPS

The theft/loss must be reported to the South African Police Services (SAPS), in the judicial area where the incident occurred must be reported to the SAPS within 24 hours after the incident has been discovered.

#### 8.1.2. The following details must be contained in the report:

- 8.1.2.1. Full names and identity number of the deponent.
- 8.1.2.2. Full residential and business address, including telephone numbers of deponent.
- 8.1.2.3. The day, date and time when the incident took place or was discovered.
- 8.1.2.4. Full details (particulars) of the circumstances surrounding the theft/loss and the place where this occurred.
- 8.1.2.5. A full detailed description of the property stolen/lost, i.e. type, brand name, model, serial number and any distinguishing features of the property, (which may make it distinguishable as Municipality of Finance property when found) must be given to the SAPS for identification and circulation purposes.
- 8.1.2.6. A full description(s) of the assailant(s)/suspect(s), (with the reasons for the suspicion), must be given to the SAPS.



8.1.2.7. Details (full names and addresses), of any witnesses, who could possibly supply any information of the incident/suspect, etc. who may have been present at the time of the incident must be given to the SAPS. An official SAPS "Case Register" number must be obtained from the SAPS.

## **8.2. Report to Manager/Head of Section**

8.2.1. The incident must be reported to the Manager or Head of Section within 48 hours after the theft or loss was discovered.

8.2.2. This must be followed up with a written report to the Manager within two working days for future record purposes.

## **8.3. Report to Security Management Unit**

8.3.1 The incident must be reported to the Security Management Unit as soon as possible after the theft or loss has been discovered.

8.3.2 In the event of any sensitive/classified documentation or information being stolen/lost this must immediately be reported to the Security Management Unit that will in turn report the matter to the Municipality Security Agency (SSA) for further investigation.

8.3.3 The Security Management Unit will provide the official reporting the incident with an "Incident Report form", which he/she must complete and submit to the unit.

8.3.4 A copy of the "sworn or confirmed report/affidavit" made to the SAPS, must accompany the completed "Report form".

## **8.4. Report to Loss Control Officer**

8.4.1 The official will submit a report after preparing the necessary documentation and submit the report to the Loss Control Officer who will then inform Asset Management Unit of such loss and details of the item(s) that have been stolen/lost by the official for updating of records.

8.4.2 The Loss Control Officer will submit all the relevant information and reports to the Loss Control Committee, with the recommendation for the disposal of the property and the recommendation as to whether the official should be held accountable, (if applicable) or not.

8.4.3 The Loss Control Committee's recommendation after adjudication will then be submitted to the Head Official for endorsement.

## 9. RECOVERY OF AMOUNTS FOR LOSSES INCURRED THROUGH NEGLIGENCE

The following will be utilized to recover losses or damages in line with the Treasury Regulations:

### 9.1 Items with no value after depreciation (Zero book value):

The realizable market value of items with no book value must be determined by obtaining three quotations from reputable 2<sup>nd</sup> hand companies to replace the item with the same specifications and lifespan. The average of the three quotations must be used to determine the amount payable.

#### **Example:**

Item	Cell Phone
Purchase Price	R3 000
Depreciation Period	3 years
Date of purchase	01/04/2013
Date of loss	31/03/2014
Book Value	Zero

#### Quotations Received:

Company A (Market Value)	R500
Company B (Market Value)	R520
Company C (Market Value)	R505
Amount Payable (Average)	R508

### 9.2 Items with a diminished value:

The amount payable by the employee will be the outstanding book value of the item in accordance with the write-off periods acceptable to the South African Revenue Services.

Example:

Item	Cell Phone
Purchase Price	R3 000
Depreciation Period	3 years
Date of purchase	01/04/2013
Date of loss	31/03/2014
Book Value	R2 000
Amount Payable	R2 000

### 9.3 Market Value vs. Book Value

In cases where the market value exceeds the diminished book value, the employee must pay back the market value of the item.

## 10 REVIEW OF POLICY

This Policy will be reviewed annually as and when the need arises.

## 11 CONTRAVENTIONS

Any person who contravenes or fails to comply with any provision of this Policy may be subjected to disciplinary action.

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**THUS DONE AND APPROVED AT THEMBISILE HANI BY**

\_\_\_\_\_  
**MR ON NKOSI**  
**MUNICIPAL MANAGER**

**DATE:** \_\_\_\_\_