

CITY OF CAPE TOWN
GRAFFITI BY-LAW, 2010

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CITY OF CAPE TOWN
GRAFFITI BY-LAW, 2010

To provide for prohibition of graffiti within the area of jurisdiction of the City of Cape Town; to regulate the display of mural art; to provide for removal of graffiti and restoration of surfaces affected by graffiti; and to provide for matters connected therewith.

Preamble

WHEREAS section 156 (2) of the Constitution of the Republic of South Africa, 1996 provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS the City has, in terms of section 156(1) read with Part B of Schedule 5 of the Constitution, the right to administer the control of public nuisances, billboards and the display of advertisements in public places;

WHEREAS graffiti affects the quality of life of all residents and visitors, and constitutes a public nuisance which damages the image of the City known worldwide for its beauty and makes it a less desirable place to visit, live and work in;

AND WHEREAS the City wishes to provide for the removal of graffiti on both public property and private property, the restoration of such property and the protection of public and private property from acts of graffiti vandalism;

AND NOW THEREFORE, BE IT ENACTED by the Council of the City of Cape Town, as follows:—

Definitions

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

“apply” means to paint, including to spray paint, draw, write, mark, engrave, etch, scratch, or otherwise affix to or express on any natural surface or man-made surface, utilising any graffiti implement whatsoever, and **“applying”**, **“applied”** and **“application”** have corresponding meanings;

“authorised official” means an employee of the City responsible for the enforcement or the implementation of this By-law or such service provider as has been authorized by the City;

“City” means the City of Cape Town established by Provincial Notice 479 of 2000 dated 22 September 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998(Act No. 117 of 1998), and includes any committee or sub-council established by the City or any employee or duly authorised agent of the City, acting in connection with this By-law by virtue of a power vested in the City and delegated to such committee, sub-council, employee or agent;

“compliance notice” means a notice served in terms of section 4;

“graffiti” means any one of or a combination of any inscription, word, figure other than a figure indicating a street number, letter, sign, symbol, sketch, picture, drawing, mural or design that is applied to any natural surface or man-made surface on any property and which is visible to a person from a public place and which has not been authorised by the City;

“graffiti implement” includes an aerosol paint container, a broad tipped marker, gum label, etching equipment, brush or any other device capable of leaving a visible mark on or scarring any natural surface or man-made surface;

“mural art” means art in the form of a painting, applied directly to a wall, fence or structure;

“natural surface” means the surface of any rock, tree or other natural feature;

“offensive content” includes content of any art work which, whether in form, content or both, may reasonably be expected to—

- (a) cause offence or danger to any person or property, or to any member of the public in a manner which is contemplated in section 16(2)(a),(b) and (c) of the Constitution of the Republic of South Africa, 1996; or
- (b) be detrimental or otherwise have a negative impact on the environment;

“organ of state” means—

- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution—
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

“owner” means—

- (a) the owner of any property or any person in whose name the land on which a building was or is erected and is registered in the deeds office;
- (b) any person who, as agent or otherwise, undertakes the management, maintenance or collection of rentals or other monies in respect of the property; and
- (c) any person who is entitled to the benefit of the use of such building or land, or who enjoys such benefit;

“person” includes any organ of state, natural or juristic person including companies incorporated or registered as such under any law and any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

“public place” means—

- (a) any public land, square, public swimming bath, public resort, public recreation site, zoological, botanical or other public garden, park or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, as well as any public open space, public road, road reserve, reserve street, lake, dam, or river;
- (b) any public building, structure, hall, room or office including any part thereof and any facility or apparatus therein, which is the property

of, or possessed, controlled or leased by the City and to which the general public has access, whether on payment of admission fees or not;

- (c) any nature conservation area including —
- (i) nature reserves;
 - (ii) protected natural areas;
 - (iii) nature conservation worthy areas; or
 - (iv) natural open spaces;

“public property” means immovable property owned by an organ of state;

“private property” means immovable property owned by a private person;

“remove” means restore the surface with full functionality of purpose to the same or to a better condition than prior to the application of graffiti to the satisfaction of the City, and **“removal”**, **“removing”** and **“removed”** have corresponding meanings; and

“self-permit mechanism” refers to the mechanism referred to in section 10 for an application and approval to effect a self-permit.

Declaration of nuisance

(2) The City declares the existence of graffiti anywhere within its area of jurisdiction to be a public nuisance, which is subject to removal in terms of this By-law.

Prohibition

3. (1) No person shall within the area of jurisdiction of the City, without a permit issued by the City, apply graffiti or cause graffiti to be applied to any—

- (a) property;
- (b) natural surface; or
- (c) wall, fence, structure or thing in any street or other public place.

(2) Any person who aids or assists the person referred to in subsection (1) in the application of graffiti as contemplated therein, in contravention of this By-law, shall be guilty of an offence.

Compliance notice

4. (1) The authorised official may, where a person has contravened section 3, serve a notice on such person ordering him or her to remove the graffiti by a date specified in the notice which shall not be more than 30 days from the date of issuing the notice, and such notice must—

- (a) specify the address or location of the property, natural surface or any other structure or thing to which the graffiti has been applied;
- (b) describe in general terms the graffiti which has been applied; and
- (c) state that if the graffiti in question is not removed in accordance with the notice, the City or an outside agent appointed by the City may effect such removal at the cost of the person to whom the notice is addressed.

(2) The authorised official may, where he or she is unable to determine the identity of the person referred to in subsection (1), serve a notice on the owner requiring him or her to remove the graffiti as contemplated in subsection (1).

(3) Any costs incurred by the City in terms of subsection (1) (c), as certified by the Director: Expenditure in the Directorate of Finance in the City, shall constitute a liquid claim in favour of the City and recoverable in terms of the Credit Control and Debt Collection Policy of the City and the Credit Control and Debt Collection By-law of the City.

(4) Where the recovery of the costs referred to in subsection (3) will—

- (a) impose on an owner of property a financial burden beyond the ability or financial capacity of such owner; or
- (b) affect the same property repeatedly, the authorised official, subject to any law or any policy of the City, may waive the whole or a part of the costs incurred.

Service of notices

5. (1) Where a compliance notice is served on any person in terms of section 4, it is deemed to have been properly served on such person when it has been served—

- (a) personally to him or her or in the case of a juristic person to a person apparently employed at its registered office;
- (b) at his or her place of residence or business to a person apparently over the age of 16 years;
- (c) by registered or certified mail to such person's last known residential or business address as appears in the records of the City or records at the Deeds Office, or in the case of a juristic person, to its registered office and an acknowledgment of posting is produced;
- (d) on the agent or representative of such person in the Republic in one of the aforesaid manners, if an address in the Republic is unknown;
- (e) by posting it in a conspicuous place on the property to which it relates, for a period of 14 calendar days, if the address and agent are unknown.

(2) The failure to make proper service on any person as required in terms of this By-law shall not invalidate any proceedings held in respect of contraventions of this By-law.

Duty of owner

6. (1) Every owner and every occupant of property must, at all times maintain free of graffiti any wall, fence, building, structure or thing located on such property.
- (2) Every owner of property must remove from that property any unsightly graffiti within 10 days of the owner becoming aware of the graffiti on his or her property.

Right of entry

7. (1) An authorised official may, where—
- property is not maintained in accordance with section 6; and
 - a compliance notice was served to a person in terms of sections 4 and 5 but such person has failed to comply therewith,
- enter the property and remove the graffiti, provided that he or she first gives at least 15 days' notice to the owner by way of registered mail to the last known address of such owner, or by posting a notice on the property.
- (2) The 15 days' notice served on the owner in terms of subsection (1) must include—
- the address of the property to which the authorised official intends to enter;
 - the date and time on which the authorised official intends to enter the premises, provided that such entry may be gained only between 08h00 and 18h00 from Monday to Friday; and
 - the reason for the entry and the specific provision of this By-law which has been contravened by the owner.

Costs

8. (1) The City shall keep an account of the costs referred to in section 4, including all direct and indirect expenses incurred in removing graffiti and shall render a statement of such costs to the person responsible for the removal thereof, once the graffiti has been removed.
- (2) If the costs and expenses, or any portion thereof, incurred by the City in the removal of the graffiti remains unpaid after 30 days calculated from the date of rendering of the statement in terms of subsection (1), such costs and expenses or portion shall constitute a municipal service fee as contemplated in section 118(1)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Permits for art work and decorations

9. (1) Any person who intends applying a mural or any one of or a combination of any inscription, word, figure, letter, sign, symbol, sketch, picture, drawing or design to any natural surface or man-made surface on any property, which will be visible to a person from a public place, must apply in writing to the authorised official for a permit to do so.
- (2) The application for a permit referred to in subsection (1) must be accompanied by proof of the consent of the owner of the property, surrounding property owners and any other interested and affected parties.
- (3) In the application, full details must be provided as to the motivation for applying the inscription, word, figure, letter, sign, symbol, sketch, picture, drawing, mural or design, the intended size thereof and the materials and implements to be used, and an accurate likeness, illustration or depiction of the intended work.
- (4) The authorised official must, on receipt of the application referred to in subsection (2), consult with any affected department of the City or person.
- (5) The City may refuse or grant an application for a permit, and must within 30 days of its decision advise the applicant in writing.
- (6) In the event of the City granting such application, a permit will be issued in writing to the applicant, subject to such conditions as may be imposed by the City.
- (7) The City may designate certain spaces to be utilized for murals or any inscription, word, figure, letter, sign, symbol, sketch, picture, drawing or design, and these spaces will be identified after consultation with the relevant communities, ward forums and subcouncils.
- (8) A person may apply to utilize a designated space referred to in subsection (7) in writing to the authorised official, and—
- may be authorised to utilize a designated space for mural art or decorations;
 - must remove the art or decorations after the expiry of a three month period; and
 - may apply for a three month extension of the authorisation.

Artist database and self-permitting mechanism

10. (1)(a) The authorised official must keep, maintain and update a register of mural artists and other artists within the area of jurisdiction of the City who have been granted approval in terms of paragraph (b).
- (b) A mural artist may be recorded in the register in terms of paragraph (a) upon the submission of an application in a manner or form determined by the authorised official, subject to the artist meeting the following conditions:
- the artist has obtained approval for at least five consecutive applications submitted by him or her in terms of section 9;
 - the artist is a registered member of the Visual Arts Network of South Africa (VANSA); and
 - the artist has no previous conviction for malicious damage to property or any offence relating to graffiti.
- (2) Mural artists registered as contemplated in subsection (1) may, subject to subsection (3), self-permit their future works of art.
- (3) A mural artist registered in terms of subsection (1) must, for every mural work of art and prior to the creation of such works of art, submit a self-permitting notice to the authorised official—

- (a) in a manner or form determined by him or her;
- (b) containing proof of the consent of the owner of the property and adjacent property owners; and
- (b) accompanied by a sketch or other image of the intended work of art,

in order to effect a self-permit.

Penalties

11. (1) Any person who fails to comply with any provision of this By-Law shall be guilty of an offence.

(2) Any person convicted of an offence in terms of this By-law shall—

- (a) upon conviction for a first offence be liable to a fine of R15 000 or 3 months imprisonment;
- (b) upon conviction for a second offence or subsequent offences, be liable to a fine of R30 000 or 6 months imprisonment, or to both such fine and such imprisonment.

(3) In addition to a penalty contemplated in subsection (1), the convicted person may be liable—

- (a) to pay an amount equal to the cost or estimated cost of removal of the graffiti from the affected property, and where the cost of removal of the graffiti from the affected property has been borne by the City or by the owner of the property, to pay the amount so ordered to the City or to the owner, as the case may be;
- (b) to a further penalty deemed appropriate by the court in default of payment of the ordered amount to the City or to the owner of the property, as the case may be.

(4) In the case of a continuing offence, the person convicted shall be liable to any additional penalty the court may deem appropriate.

(5) A court convicting a person of an offence under this By-law may impose alternative sentencing as an appropriate penalty.

Short title

12. This By-Law is called the City of Cape Town: Graffiti By-Law, 2010.

9 July 2010

22044

STAD KAAPSTAD

VERORDENING OP GRAFFITI, 2010

Om vir die verbod op graffiti binne die regsgebied van die Stad Kaapstad voorsiening te maak; om die vertoon van muurkuns te reguleer; om vir die verwydering van graffiti en die herstel van oppervlakke wat deur graffiti geraak word, voorsiening te maak; en om vir aangeleenthede wat daarmee verband hou, voorsiening te maak.

AANHEF

NADEMAAL artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal dat 'n munisipaliteit verordeninge kan uitvaardig en toepas vir die doeltreffende administrasie van die aangeleenthede waarop hy die reg op administrasie het;

NADEMAAL die Stad ingevolge artikel 156(1), gelees met deel B van bylae 5 van die Grondwet, die reg het om die beheer van openbare oorlaste en reklameborde en die vertoon van advertensies op openbare plekke te administreer;

NADEMAAL graffiti die lewensgehalte van alle inwoners en besoekers raak, en 'n openbare oorlaste uitmaak wat aan die beeld van die Stad, wêreldwyd om sy prag bekend, afbreuk doen en dit 'n minder gewenste plek maak om te besoek en in te leef en te werk;

EN NADEMAAL die Stad vir die verwydering van graffiti op openbare sowel as privaat eiendom, die herstel van sodanige eiendom, en die beskerming van openbare en privaat eiendom teen dade van graffitivandalisme voorsiening wil maak;

WORD DAAR DUS NOU soos volg deur die raad van die Stad Kaapstad **VERORDEN:**

Definisies

1. In dié Verordening, tensy die konteks die teendeel bewys, beteken -

“**aanbring**” verf, met inbegrip van spuitverf, teken, skryf, merk, graveer, ets, krap of andersins aanbring of uitdruk, op enige natuurlike of mensgemaakte oppervlak deur die gebruik van welke graffitigereedskap ook al, en het “**aangebring**” dieselfde betekenis;

“**aanstootlike inhoud**” ook die inhoud van enige kunswerk wat, hetsy in vorm of inhoud of albei, billikerwys verwag kan word om

- (a) aanstoot te gee aan of gevaar in te hou vir enige persoon of eiendom, enige lid van die publiek op 'n wyse wat bedoel word in artikel 16(2)(a), (b) en (c) van die Grondwet van die Republiek van Suid-Afrika, 1996; of
- (b) vir die omgewing nadelig te wees of andersins 'n nadelige uitwerking daarop te hê;

“**eienaar**”—

- (a) die eienaar van enige eiendom of enige persoon op wie se naam die grond waarop 'n gebou opgerig is of word, by die Aktekantoor geregistreer is;
- (b) enige persoon wat as agent, of andersins, die bestuur, instandhouding of invordering van huurgeld of ander gelde ten opsigte van die eiendom behartig; en
- (c) enige persoon wat daarop geregtig is om voordeel uit die gebruik van sodanige grond of gebou te trek, of wat sodanige voordeel geniet;

“gemagtigde amptenaar” ’n werknemer van die Stad, of sodanige diensverskaffer wat deur die Stad gemagtig is, wat vir die toepassing en implementering van dié Verordening verantwoordelik is;

“graffiti” enige enkele of kombinasie van enige inskripsie, woord, syfer (anders as ’n syfer wat ’n straatnommer aantoon), letter, teken, simbool, skets, prent, tekening, muurskildering of ontwerp wat op enige natuurlike of mensgemaakte oppervlak op enige gebou aangebring word en wat ’n persoon van ’n openbare plek af kan sien, en wat nie deur die Stad gemagtig is nie;

“graffitigereedskap” ’n spuitverfhouer, ’n breëpuntmerker, plaketiket, etsstoerusting, kwas of enige toestel wat ’n sigbare merk op ’n natuurlike of mensgemaakte oppervlak kan laat of dit kan skend;

“muurkuns” kuns in die vorm van ’n skildery wat regstreeks op ’n muur aangebring is;

“natuurlike oppervlak” die oppervlak van enige rots, boom of ander natuurlike verskynsel;

“openbare eiendom” vaste eiendom wat deur ’n staatsinstelling besit word;

“openbare plek”—

- (a) enige openbare grond, plein, swembad, openbare oord, openbare ontspanningsterrein, diere-, botaniese of ander openbare tuin, park of voetslaanpad, met inbegrip van enige gedeelte daarvan en enige fasiliteit of apparaat daarin of daarop, sowel as enige openbare oop ruimte, openbare pad, padreserwe, reserwestraat, meer, dam of rivier;
- (b) enige openbare gebou, struktuur, saal, vertrek of kantoor, met inbegrip van enige gedeelte daarvan en enige fasiliteit of apparaat daarin, wat Stads-eiendom is of deur die Stad besit of beheer of verhuur word en waartoe die gewone publiek toegang het, hetsy toegangsgeld betaal word, al dan nie;
- (c) enige natuurbewarea, met inbegrip van
 - (i) natuurreservate;
 - (ii) beskermde natuurgebiede;
 - (iii) gebiede wat natuurbewaringswaardig is; of
 - (iv) natuurlike oop ruimtes;

“persoon” ook enige staatsinstelling, regs- of natuurlike persoon, met inbegrip van maatskappye wat ingevolge enige wet as sodanig geïnkorporeer of geregistreer is, en enige groep persone, hetsy geïnkorporeer al dan nie, wat om welke rede ook al as enkele entiteit funksioneer;

“privaat eiendom” vaste eiendom wat deur ’n privaat persoon besit word;

“selfpermitmeganisme” die meganisme waarin daar in artikel 10 verwys word vir ’n aansoek en goedkeuring ten einde ’n selfpermit te bewerkstellig;

“staatsinstelling”—

- (a) enige staatsdepartement of -administrasie in die nasionale, provinsiale of plaaslike regeringsfeer; of
- (b) enige ander ampsbekleder of instelling—
 - (i) wat ’n bevoegdheid uitoefen of ’n funksie verrig ingevolge die Grondwet of ’n provinsiale grondwet; of
 - (ii) wat ’n openbare bevoegdheid uitoefen of ’n openbare funksie verrig ingevolge enige wetgewing, maar met uitsluiting van ’n hof of ’n regterlike beampte;

“Stad” die Stad Kaapstad wat ingevolge Provinsiale Kennisgewing 479 van 22 September 2000 tot stand gebring is ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998, met inbegrip van enige komitee of subkomitee of subraad wat deur die Stad gestig is, of enige werknemer of behoorlik gemagtigde agent van die Stad wat in verband met dié Verordening optree uit hoofde van ’n bevoegdheid wat in die Stad setel en aan sodanige werknemers of agent gedelegeer is;

“verwyder” die herstel van die oppervlak tot volle bedoelde funksie tot dieselfde of beter toestand as voor die aanbring van graffiti, tot bevrediging van die Stad, en het **“verwyder”**, **“verwydering”** en **“is verwyder”** ooreenstemmende betekenis;

“voldoeningskennisgewing” ’n kennisgewing wat ingevolge artikel 4 uitgereik is.

Verklaring van oorlas

2. Die Stad verklaar die bestaan van graffiti op enige plek binne sy regsgebied as openbare oorlas, wat ingevolge dié Verordening aan verwydering onderhewig is.

Verbod

3. (1) Geen persoon mag sonder ’n permit wat deur die Stad uitgereik is, binne die regsgebied van die Stad graffiti aanbring of laat aanbring op enige—

- (a) eiendom;
- (b) natuurlike oppervlak; of
- (c) muur, heining, struktuur of voorwerp in enige straat of ander openbare plek nie.

(2) Enige persoon wat die persoon waarna in subartikel (1) verwys word, help of bystaan om graffiti soos hierin bedoel, in stryd met dié Verordening aan te bring, is aan ’n misdryf skuldig.

Voldoeningskennisgewing

4. (1) Die gemagtigde amptenaar mag, waar ’n persoon artikel 3 oortree het, ’n kennisgewing aan sodanige persoon beteken wat hom/haar beveel om die graffiti te verwyder teen ’n datum wat in die kennisgewing gespesifiseer word, welke datum nie later as 30 dae na die uitreikingsdatum van die kennisgewing is nie, en sodanige kennisgewing moet—

- (a) die adres of ligging van die eiendom, die natuurlike oppervlak of enige struktuur of voorwerp spesifiseer waarop die graffiti aangebring is;
 - (b) die graffiti wat aangebring is, in algemene terme beskryf; en
 - (c) meld dat as die betrokke graffiti nie in ooreenstemming met die kennisgewing verwyder word nie, die Stad, of 'n buite-agent wat deur die Stad aangestel is, sodanige verwydering kan doen op koste van die persoon aan wie die kennisgewing geadresseer is.
- (2) Die gemagtigde amptenaar mag, waar hy of sy nie die identiteit kan bepaal van die persoon waarna daar in subartikel (1) verwys word nie, 'n kennisgewing aan die eienaar beteken wat vereis dat hy/sy die graffiti bedoel in subartikel (1) verwyder.
- (3) Enige koste wat die Stad ingevolge subartikel (1)(c) aangaan, soos gesertifiseer deur die direkteur: besteding in die Stad se finansiesdirektoraat, maak 'n likiede eis ten gunste van die Stad uit, en sal verhaalbaar wees ingevolge die Stad se beleid oor kredietbeheer en skuldinvordering en die Stad se Verordening op Kredietbeheer en Skuldinvordering.
- (4) Waar die verhaling van die koste waarna in subartikel (3) verwys word—
- (a) 'n finansiële las op die eienaar van 'n eiendom sal oplê wat die vermoë of finansiële kapasiteit van sodanige eienaar te bowe gaan; of
 - (b) dieselfde eiendom herhaaldelik raak;
- kan die gemagtigde amptenaar, onderhewig aan enige wet of enige beleid van die Stad, al die koste wat aangegaan is, of 'n deel daarvan kwytsteld.

Betekening van kennisgewings

5. (1) Waar 'n voldoeningskennisgewing aan enige persoon ingevolge artikel 4 beteken word, word dit geag behoorlik aan sodanige persoon beteken te wees, as dit
- (a) persoonlik aan hom of haar, of in die geval van 'n regs persoon, aan 'n persoon wat klaarblyklik by sy geregistreerde kantoor in diens is, beteken is;
 - (b) by sy of haar woonplek of sakeonderneming beteken is aan 'n persoon wat klaarblyklik ouer as 16 jaar is;
 - (c) per geregistreerde of gesertifiseerde pos na sodanige persoon se laaste bekende woon- of sakeadres gepos is, soos dit in die Stad se rekords of dié van die Aktekantoor verskyn, of in die geval van 'n regs persoon, na sy geregistreerde kantoor gestuur is, en bewys gelewer word dat dit gepos is;
 - (d) op een van bogenoemde wyses aan die agent of verteenwoordiger van sodanige persoon in die Republiek beteken is, as 'n adres in die Republiek onbekend is;
 - (e) as dit op 'n duidelik sigbare plek aangebring is op die eiendom waarop dit van toepassing is, vir 'n tydperk van 14 kalenderdae, as die adres en die agent onbekend is.
- (2) Die versuim om 'n kennisgewing behoorlik aan enige persoon te beteken, soos daar ingevolge dié Verordening vereis word, sal geen regstappe wat ten opsigte van dié Verordening ingestel word, ongeldig maak nie.

Plig van eienaar

6. (1) Elke eienaar en elke bewoner van eiendom moet te alle tye enige muur, heining, gebou, struktuur of voorwerp wat op sodanige eiendom geleë is, vry van graffiti hou.
- (2) Elke eienaar van eiendom moet enige onooglike aanwas van graffiti van sodanige eiendom verwyder binne 10 dae nadat die eienaar van die graffiti op sy of haar eiendom bewus geword het.

Reg van toegang

7. (1) 'n Gemagtigde amptenaar kan,
- (a) waar 'n eiendom nie in ooreenstemming met artikel 6 in stand gehou word nie; en
 - (b) waar 'n voldoeningskennisgewing ingevolge artikels 4 en 5 aan 'n persoon beteken is, en die persoon versuim het om daaraan te voldoen; die eiendom betree en die graffiti verwyder, met dien verstande dat hy of sy die eienaar eers minstens 15 dae vooraf per geregistreerde pos na sodanige eienaar se laaste bekende adres kennis gee, of deur 'n kennisgewing op die eiendom aan te bring.
- (2) Die kennisgewing van 15 dae wat ingevolge subartikel (1) aan die eienaar beteken word, moet die volgende insluit:
- (a) Die adres van die eiendom wat die gemagtigde amptenaar beoog om te betree.
 - (b) Die datum en tyd waarop die gemagtigde amptenaar beoog om die perseel te betree, met dien verstande dat sodanige toegang slegs tussen 08:00 en 18:00 van Maandag tot Vrydag verkry kan word.
 - (c) Die rede vir die betreding en die spesifieke bepaling van dié Verordening wat deur die eienaar oortree is.

Koste

8. (1) Die Stad hou boek van al die koste waarna daar in artikel 4 verwys word, met inbegrip van alle regstreekse en onregstreekse uitgawes wat aangegaan is om graffiti te verwyder, en lewer 'n rekening van sodanige koste aan die persoon wat vir die verwydering van graffiti verantwoordelik is, sodra dit verwyder is.
- (2) As die koste en uitgawes, of enige gedeelte daarvan, wat die Stad by die verwydering van die graffiti aangegaan het, na 30 dae, bereken van die datum waarop die rekening ingevolge subartikel (1) gelewer is, steeds onvereffen bly, maak sodanige koste en uitgawes 'n munisipale diensteheffing uit soos bedoel in artikel 118(1)(b) van die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000.

Permitte vir muurkuns en -versierings

9. (1) Enige persoon wat beoog om enige enkele of kombinasie van enige inskripsie, woord, syfer, letter, teken, simbool, skets, prent, tekening of ontwerp op enige natuurlike of mensgemaakte oppervlak op enige eiendom aan te bring, wat 'n persoon van 'n openbare plek af kan sien, moet skriftelik by die gemagtigde amptenaar om 'n permit aansoek doen om dit te doen.

(2) Die aansoek om 'n permit waarna in subartikel (1) verwys word, moet van bewys van toestemming deur die eienaar van die eiendom, belanghebbendes en partye wat geraak word, en omliggende eiendomseienaars vergesel word.

(3) In die aansoek moet volledige besonderhede rakende die motivering vir die aanbring van die inskripsie, woord, syfer, letter, teken, simbool, skets, prent, tekening en muurskildering verstrek word, asook besonderhede van die beoogde grootte daarvan, die materiaal en gereedskap wat gebruik gaan word, en 'n akkurate beeltenis, illustrasie of beskrywing van die beoogde werk.

(4) Die gemagtigde amptenaar moet by ontvangs van die sodanige aansoek waarna in subartikel (2) verwys word, met enige Stadsdepartement of persoon wat geraak word, oorleg pleeg.

(5) Die stad kan 'n aansoek om 'n permit van die hand wys of goedkeur en moet die aansoeker binne 30 dae skriftelik van sy besluit verwittig.

(6) Ingeval die Stad sodanige aansoek toestaan, sal 'n skriftelike permit aan die aansoeker uitgereik word, onderhewig aan sodanige voorwaardes na gelang die Stad kan oplê.

(7) Die Stad kan bepaalde ruimtes aanwys wat vir sodanige muurkuns of enige inskripsie, letter, teken, simbool, skets, prent, tekening of ontwerp gebruik mag word, en dié ruimtes sal in oorleg met die betrokke gemeenskappe, wyksforums en subrade geïdentifiseer word.

(8) 'n Persoon kan skriftelik by die gemagtigde amptenaar aansoek doen om 'n aangewese ruimte waarna daar in subartikel (7) verwys word, te gebruik, en

- (a) kan gemagtig word om 'n aangewese ruimte vir muurkuns of -versierings te gebruik;
- (b) moet die kuns of versierings na verstryking van die driemaandetydperk verwyder;
- (c) kan om 'n driemaandeverlenging van die magtiging aansoek doen.

Kunstenaarsdatabasis en selfpermitmeganisme

10. (1) (a) Die gemagtigde amptenaar moet 'n register hou, in stand hou en bywerk van muur- en ander kunstenaars binne die Stad se regsgebied aan wie goedkeuring ingevolge paragraaf (b) verleen is.

(b) 'n Muurkunstenaar kan ingevolge paragraaf (a) in die register opgeteken word na voorlegging van 'n aansoek op 'n wyse of vorm wat deur die gemagtigde amptenaar bepaal word, onderhewig daaraan dat die kunstenaar aan die volgende voorwaardes voldoen:

- (i) Die kunstenaar het vir minstens vyf agtereenvolgende aansoeke wat hy/sy ingevolge artikel 9 voorgelê het, goedkeuring verkry.
- (ii) Die kunstenaar is 'n geregistreerde lid van die Visuele-kunsnetwerk van Suid-Afrika (VANSA).
- (iii) Die kunstenaar het geen vorige veroordeling vir kwaadwillige beskadiging van eiendom of enige ander oortreding wat met graffiti verband hou nie.

(2) Muurkunstenaars wat geregistreer is soos bedoel in subartikel (1) mag, onderhewig aan subartikel (3), self 'n permit vir hulle toekomstige kunswerke bewerkstellig.

(3) 'n Muurkunstenaar wat ingevolge subartikel (1) geregistreer is, moet vir elke muurkunswerk en voor die skepping van sodanige kunswerke 'n selfpermitkennisgewing aan die gemagtigde amptenaar voorlê,

- (a) op 'n wyse of vorm wat deur hom of haar bepaal is;
- (b) wat bewys van die toestemming van die eienaar van die eiendom en aanliggende eiendomseienaars bevat; en
- (c) wat vergesel word deur 'n skets of ander beeltenis van die beoogde kunswerk,

ten einde 'n selfpermit te bewerkstellig.

Boetes

11. (1) Enige persoon wat versuim om aan enige bepaling van dié Verordening te voldoen, sal aan 'n misdryf skuldig wees.

(2) Enige persoon wat ingevolge dié Verordening aan 'n misdryf skuldig bevind word,

- (a) is by skuldigbevinding aan 'n eerste misdryf aan 'n boete van R15 000 of tronkstraf van 3 maande blootgestel;
- (b) is by skuldigbevinding aan 'n tweede misdryf of daaropvolgende misdrywe aan 'n boete van R30 000 of tronkstraf van 6 maande blootgestel, of aan sodanige boete sowel as sodanige tronkstraf.

(3) Benewens 'n boete bedoel in subartikel (1), is die veroordeelde blootgestel—

- (a) daaraan om 'n bedrag gelykstaande met die koste of geraamde koste van die verwydering van die graffiti van die betrokke eiendom te betaal, en waar die koste van die verwydering van die graffiti van die betrokke eiendom deur die Stad of die eienaar van die eiendom gedra is, om die bedrag wat dienooreenkomstig gelas word, aan die Stad of die eienaar te betaal, na gelang van die geval;
- (b) aan 'n verdere boete wat die hof toepaslik ag by versuim van betaling van die voorgeskrewe bedrag aan die Stad of die eienaar van die eiendom, na gelang van die geval.

(4) In die geval van 'n voortgesette misdryf, word die veroordeelde aan enige bykomende boete blootgestel wat die hof toepaslik mag ag.

(5) 'n Hof wat 'n persoon aan 'n misdryf ingevolge dié Verordening skuldig bevind, kan 'n alternatiewe vonnis as toepaslike straf oplê.

Kort titel

12. Dié Verordening staan as die Stad Kaapstad: Verordening op Graffiti, 2010, bekend.

ISIXEKO SASEKAPA
UMTHETHO KAMASIPALA OYILWAYO WEGRAFITI

Ukubonelela ngothintelo lwegrafiti kwingingqi ephantsi kolawulo lweSixeko saseKapa; ukubonelela ngokususwa kwegrafiti nokuvuselelwa kweendonga ezichatshazelwa yigrafiti; nokubonelela kwimiba enxulumene noko.

INTSHAYELELO

NJENGOKUBA icandelo le-156 (2) lo Mgaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996 ubonelela ngento yokuba umasipala unakho ukwenza nokulawula imithetho kamasipala ukulungiselela ulawulo olusebenzayo lwemiba athe wanelungelo lokuyilawula;

NJENGOKUBA iSixeko, ngokwemiqathango yecandelo 156(1) elifundwa kunye neSahlulo B seShedyuli yesi-5 yoMgaqo-siseko, sinelungelo lokulawula nokuphatha iinkathazo zikawonke-wonke, iibhodi zopapasho nokubonisa izaziso kwiindawo zoluntu.

NJENGOKUBA igrafiti inempembelelo kukulunga kwendlela yokuphila yabo bonke abahlali nabatyebileli, yaye iba yenye eyinkathazo kuluntu ethi yonakalise imbonakalo yeSixeko eyaziwa kwilizwe lonke ngobuhle bayo iyenze ibe yindawo enganqweneleki kakhulu ukuba ityelelwe, kuhlalwe yaye kusetyenzwe kuyo;

YAYE NJENGOKUBA iSixeko sifuna ukubonelela ngokususwa kwegrafiti kwizakhiwo zikarhulumente nezakhiwo zangasese, ukuvuselelwa ngokutsha kwizakhiwo ezinjalo nokukhuselwa kwizakhiwo zikarhulumente nezangasese kwizenzo zolonakaliso ngenkohlakalo yegrafiti;

YAYE NJENGOKO KUNJALO NGOKU, KUMISELWA liBhunga leSixeko saseKapa njengoku kulandelayo:—

IINKCAZELO

1. Kulo Mthetho kaMasipala, ngaphandle kokuba ubume bubonisa enye into, la magama namabinzana alandelayo aya kuba nezi ntsingiselo zabelwe wona, yaye—

“**ukuqaba**” kuthetha ukupeyinta, kubandakanywa ukutshiza ngepeyinti, ukuzoba, ukubhala, ukuphawula, ukukrola, ukukrwela, okanye ukuncanyatheliswa okanye ukuboniswa nakuwuphi na umphandle wendalo okanye wesakhiwo, kusetyenziswa naluphi na umiliseliso lwegrafiti nangayiphi na indlela yaye “**ukuqaba**”, “**iqatywe**” kunye “**ukuqatywa**” kuneentsingiselo ezihambelanayo;

“**igosa eligunyazisiweyo**” lithetha umqeshwa weSixeko onoxanduva lokunyanzelisa okanye ukumiliselisa lo Mthetho kaMasipala okanye umniki-nkonzo lowo ugunyazisiweyo siSixeko;

“**ISixeko**” sithetha iSixeko saseKapa esisekwe ngeSaziso sePhondo sama-479 sowama-2000 somhla wama-22 kuSeptemba wama-2000 ngokwemiqathango yecandelo le-12 loMthetho weZakhiwo zikaMasipala: kaMasipala, we-1998 (uMthetho onguNombolo 117 we-1998), ze sibandakanye nayiphi na ikomiti okanye icandelo lebhunga elisekwe siSixeko okanye nawuphi na umqeshwa okanye iarhente egunyaziswe ngokusesikweni yeSixeko, esebenza ngokunxulumene nalo Mthetho kaMasipala ngenxa yamagunya aselungelweni leSixeko ze anikezelwa kuloo mqeshwa okanye iarhente;

“**isaziso sohambelwano**” sithetha isaziso esikhutshwe ngokwemiqathango yecandelo lesi-4;

“**Igrafti**” ithetha nawuphi na okanye nayiphi na intlanganisela yayo nayiphi na imibhalo, amagama, isazobe engaphandle kwesazobe esibonisa inombolo yesitalato, inani, uphawu, umqondiso, umfanekiso, umzobo, umzobo oseludongeni okanye uyilo oluncanyathelise nakuwuphi na umphandle okanye ophandle owenziweyo nakusiphi na isakhiwo obonakalayo kumntu okwindawo kawonke wonke yaye ongagunyaziswanga siSixeko;

“**Isixhobo segrafti**” sithetha inkonxa enesixhobo esitshiza ipeyinti, isidyobhi esinencamu yokubhala ebanzi, ilebhele yentlaka, isixhobo sokukrola, ibrashii okanye nasiphi na esinye isixhobo esikwaziyo ukushiya uphawu olubonakalayo okanye umkrwelo nakuwuphi na umgangatho wendalo okanye umgangatho owenziwe ngumntu;

“**Ubugcisa obuseludongeni**” buthetha ubugcisa obukwimo yokupeyintwa, obuqatywa ngqo eludongeni;

“**umgangatho wendalo**” uthetha nawuphi na umgangatho walo naliphi na ilitye, isiqu somthi okanye nayiphi na imbonakalo yendalo;

“**umntu**” ubandakanya naliphi na isebe likarhulumente, umntu onguye okanye umntu osemagunyeni kubandakanywa iinkampani ezimanyanisiweyo okanye ezibhalisiweyo phantsi komthetho nalo naliphi na iqumru labantu, nokokuba limanyanisiwe okanye hayi, elisebenza njengequmru elinye nangayiphi na injongo

“**indawo kawonke wonke**” ithetha nayiphi na indlela kawonke wonke, isitalato sikawonke wonke, indlela ecanda phakathi kwezindlu, ibhulorho, indlela ephuma ngaphantsi, indledlana yabahamba ngenyawo, ipavumente yabahamba ngenyawo, indledlana yabahamba ngenyawo esecaleni komgaqo okanye isahlulo sendlela esiyeleleyo sabahamba ngenyawo, isitrato esimxinwa esiphakathi kwezindlu, isikwere, isithuba esingena nto, isitiya, ipaki okanye indawo evalelekileyo ephantsi kolawulo lweSixeko, okanye ogunyaziwe abangabanye bakarhulumente okanye ababonakaliswe ngolo hlobo kwiincwadi ezisemthethweni.

“**indlela yokuzinika imvume**” ibhekiselele kwindlela ekubhekiselelwe kuyo kwicandelo 10 ukulungiselela isicelo nolwamkelo ukwenzela ukuqalisa ngokuzinika imvume.

“**umhlaba/isakhiwo sangasese**” sithetha isakhiwo esingashukumiyi esiselungelweni lomntu;

“**umhlaba/isakhiwo sikarhulumente**” sithetha isakhiwo esingashukumiyi esiselungelweni likarhulumente;

“**ukususa**” kuthetha ukuvuselela ngokutsha isebenze ngenjongo epheleleyo kwindlela ebe iyiyo ngaphambili okanye isebenze ngcono ngaphambi kokufakwa kwegrafiti ngokwanelisa iSixeko, yaye “**ukususa**”, no- “ukususwa” kuneentsingiselo ezingqameneyo;

“**okuqulathweyo okubi**” kubandakanya okuqulathweyo kwawo nawuphi na umsebenzi wobugcisa, nokokuba ungokobume, ungokokuqulathweyo okanye ungazo zombini iindlela, kunokuthi kulindeleke—

- (a) Ukuba kubangele isithuko okanye ingozi nakuwuphi na umntu okanye isakhiwo, okanye nakuliphi na ilungu loluntu ngendlela equlathwe kwicandelo 16(2)(a),(b) kunye (c) loMgaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996, okanye
- (b) ukuba ibangele umonakalo okanye ngenye indlela ibe nefuthe elibi kwindalo;

“**amasebe karhulumente**” athetha—

- (a) naliphi na isebe likarhulumente okanye olawulo kurhulumente wesizwe, owephondo okanye umasipala; okanye

- (b) Naliphi na igosa likarhulumente/umphathiswa okanye iziko—
- (i) elisebenzisa ubunganga balo okanye elenza umsebenzi ngokwemiqathango yoMgaqo-siseko okanye umgaqo-siseko wephondo; okanye
 - (ii) elisebenzisa igunya likarhulumente okanye elenza umsebenzi karhulumente ngokwemiqathango yawo nawuphi na umthetho, kodwa akubandakanywa inkundla okanye igosa lenkundla;

“**umnini**” uthetha—

- (a) Umnini wawo nawuphi na umhlaba okanye nawuphi na umntu othe umhlaba wasegameni lakhe apho kukho khona isakhiwo okanye sakhiwe kuwo yaye sibhalisiwe kwiofisi yeencwadi zezigqibo;
- (b) Nawuphi na umntu, osebenza njengearhente okanye nangenye indlela, olawulayo, ogcina okanye oqokelela irhente okanye nayiphi na imali ebhekiselele kwisakhiwo; yaye
- (c) Nawuphi na umntu oselungelweni lwezibonelelo zokusetyenziswa kwesakhiwo eso okanye umhlaba, okanye oxhamla ezo zibonelelo.

“**indawo kawonke wonke**” ithetha—

- (a) Nawuphi na umhlaba, iskwere, idami lokuqubha likawonke wonke, indawo yekhefu yoluntu, isiza sokuzonwabisa soluntu, umyezo wezilwanyana, indawo yezityalo neentyatyambo or nasiphi na isitiya soluntu, ipaki, indledlana yokuthatha uhambo ngenyawo, kubandakanywa nasiphi na isiqanaqwana yaye nayiphi na indawo okanye isixhobo kuyo, ngokunjalo nasiphi na isithuba esivulekileyo soluntu, uhola, umgaqo owodwa, isitalato esisodwa, idama, ichibi, okanye umlambo;
- (b) Nasiphi na isakhiwo soluntu, iholo, igumbi okanye iofisi kubandakanywa nasiphi na isahlulo apho kunye nayiphi na indawo okanye isixhobo esilapho, esiselungelweni okanye esilawulwa okanye esirhentsiswa siSixeko yaye apho uluntu lunelungelo lokungena, nokokuba kuhlawulwa umrhumo wokungena okanye hayi;
- (c) Nayiphi na indawo yolondolozo lwendalo kubandakanywa—
 - (i) Indawo yolondolozo lwendalo;
 - (ii) Iingingqi zendalo ezikhuselweyo;
 - (iii) Iingingqi ezinexabiso zolondolozo lwendalo; okanye
 - (iv) Izithuba zendalo ezingena nto.

UKUBHENGEZWA KWENKATHAZO

(2) ISixeko sibhengeza ubukho begrafiti naphi na kwingingqi yaso yolawulo buyinkathazo karhulumente, ekufuneka isusiwe ngokwemiqathango yalo Mthetho kaMasipala.

UTHINTELO

3. (1) Akukho mntu oya kuthi, ekwinqingqi ephantsi kolawulo lweSixeko, aqabe igrafiti okanye enze into yokuba kuqatywe nakusiphi na—

- (a) isakhiwo;
- (b) umgangatho wendalo; okanye
- (c) udonga, uthango, isakhiwo okanye into nakusiphi isitalato okanye nakwenye indawo kawonke wonke.

(2) Nawuphi na osiza okanye oncedisa umntu ekubhekiselelwe kuye kwicandelwana (1) ekuqatyweni kwegrafiti njengoko kucamngcwe apha, esaphula lo Mthetho kaMasipala, uya kuba nobutyala bolwaphulo-mthetho.

ISAZISO SOKUTHOBELA

4. (1) Igosa eligunyazisiweyo linakho, apho umntu athe waphula umthetho wecandelo lesi-3, ukuthumela isaziso kumntu lowo sigunyazisa ukuba asuse igrafiti ngomhla othile ochaziweyo kwisaziso, yaye isaziso eso kufuneka—

- (a) sichaze idilesi okanye indawo leyo yesakhiwo, yomgangatho wendalo okanye esinye nje isakhiwo okanye into apho kuqatywe khona igrafiti;
- (b) sichaze ngemiba ebanzi le grafiti ethe yaqatywa; yaye
- (c) sichaze into yokokuba ukuba ngaba ithe igrafiti ayasuswa ngokuhambelana nesaziso, iSixeko okanye iarhente yangasese etyunjwe siSixeko inakho ukuyisusa ngeendleko zomntu lowo isaziso besithunyelwe kuye.

(2) Igosa eligunyazisiweyo linakho, apho singakwaziyo ukumazi umntu lowo ekubhekiselelwe kuye kwicandelwana (1), ukuthumela isaziso kumnini sigunyazisa ukuba asuse igrafiti njengoko kucamangiwe kwicandelwana (1).

(3) Naziphi na iindleko ezithe zathwalwa siSixeko ngokwemiqathango yecandelwana (1) (c), njengoko kuqinisekisiwe ngugunyaziwe onesakhono kwiSixeko, siya kumiselwa njengebango lemali eselungelweni leSixeko yaye liya kufunyanwa sisixeko kwinkundla yamatyala esiphantsi kolawulo lwaso.

(4) Apho ukufunyanwa kweendleko ekubhekiselelwe kuko kwicandelwana (3) kuya—

- (a) kubeka emagxeni kumnini wesakhiwo uxanduva lwemali olungaphezulu kwekhono okanye ikhono lakhe lemali lomntu lowo; okanye
- (b) kuya kuba nempembelelo amaxesha amaninzi aphinda-phindeneyo kweso sakhiwo,

Igosa eligunyazisiweyo, kuxhonyekekwe nakuwuphi na umthetho okanye nawuphi na umgaqo-nkqubo weSixeko, linakho ukuzirhoxisa iindleko ngokupheleleyo okanye inxalenye yazo..

UMSEBENZI WOMNINI

5. (1) Nawuphi na umnini yaye nawuphi na umntu ohlala kwisakhiwo eso kufuneka ngawo onke amaxesha agcine isakhiwo eso singenagrafiti nakuluphi na udonga, uthango, kwisakhiwo, isakhiwo okanye into ekulo mhlaba.

(2) Nawuphi na umnini womhlaba kufuneka asuse kumhlaba ukwanda okufihlakeleyo kwegrafiti kwiintsuku ezili-10 akuba umnini ethe wazi ngobukho begrafiti kumhlaba wakhe.

UKUNIKEZELWA KWEZAZISO

6. (1) Apho kunikezelwe ngesaziso sokuthobela nakuwuphi na umntu ngokwemiqathango yecandelo lesi-4 sithathwa njengesinikezelwe ngendlela eyiyo kumntu lowo xa sithe sanikezelwa—

- (a) ngqo kumntu lowo okanye kwimeko yomntu osemthethweni okanye kumntu oqeshwe kwiofisi yaso yobhaliso;
- (b) kwindawo yakhe ahlala kuyo okanye yoshishino kumntu ongaphezulu kubudala beminyaka eli-16;
- (c) ngeleta ethunyelwe ngerejista okanye ileta eqinisekisiweyo kwidilesi yokugqibela eyaziwayo ebahlala kuyo umntu lowo okanye idilesi yoshishino njengoko ibonakala kwiinkcukacha ezibhaliweyo zeSixeko okanye ezeOfisi yeziGqibo, okanye kwimeko yomntu osemthethweni, kwiofisi yakhe yobhaliso ze isaziso sokuposa siveliswe;
- (d) kwiarhente okanye ummeli womntu lowo kwiRiphabliki ngenye yezi ndlela zichazwe apha ngasentla, ukuba ngaba idilesi kwiRiphabliki ayaziwa;
- (e) ngokuyigxumeka kwindawo ebonakalayo kumhlaba lowo ekubhekiselelwe kuwo, kangangesithuba seentsuku ezili-14, ukuba idilesi kunye nearhente ayaziwa.

(2) Ukusilela ukunganikezelwa kwesaziso nakuwuphi na umntu njengoko kugunyaziswa ngokwemiqathango yalo Mthetho kaMasipala akuyi kuzenza zingabi semthethweni naziphi na iinkqubo eziqhutywayo ngokubhekiselele kulwaphulo mthetho lwalo Mthetho kaMasipala.

ILUNGELO LOKUNGENA

7. (1) **Igosa eligunyazisiweyo linakho, apho—**

- (a) umhlaba/isakhiwo singagcinwanga ngokuhambelana necandelo lesi-6; yaye;
- (b) Isaziso sokuhambelana sanikezelwa kumntu ngokwemiqathango yamacandelo 4 kunye nele-5 kodwa umntu lowo usilele ukuhambelana nawo.

Ukungena kumhlaba/kwisakhiwo ze lisuse igrafiti, ngaphandle kokuba libe linikeze isaziso seentsuku ezimalunga ne-15 kumnini ngokuthumela ileta eqinisekisiweyo kwidilesi yokugqibela eyaziwayo yaloo mnini, okanye ngokuncamathisela isaziso kumhlaba/kwisakhiwo eso.

(2) Isaziso seentsuku ezili-15 esinikezwe umnini ngokwemiqathango yecandelwana (1) kufuneka sibandakanye—

- (a) Idilesi yomhlaba/yesakhiwo elixhabe ukungena kuwo igosa eligunyazisiweyo;
- (b) Umhla kunye nexesha elijonge ukungena ngalo kulo mhlaba/ kwisakhiwo igosa eligunyazisiweyo, ngaphandle kokuba ukungena apho kuya kuvumeleka kuphela phakathi kwesithuba sentsimbi yesi-8 kusasa ukuya kwintsimbi yesi-6 malanga ukususela ngoMvulo ukuya kutsho ngolwesiHlanu; yaye
- (c) Isizathu sokungena kunye nesibonelelo esithe ngqo salo Mthetho kaMasipala esithe saphulwa ngumnini.

IINDLEKO

8. (1) ISixeko siya kugcina iakhawunti yeendleko ekubhekiselelwe kuzo kwicandelo lesi-4, kubandakanywa inkcitho yonke ethe ngqo nengathanga ngqo, ezithe zenzeka ekususweni kwegrafiti yaye siya kukhupha ingxelo yeendleko ezo kumntu onoxanduva lokususa ngoko, xa ithe igrafiti yasuswa.

(2) Ukuba ngaba iindleko nenkcitho, okanye nayiphi na inxalenye ngoko, ethe yenziwa siSixeko ekususweni kwegrafiti yaza yahlala ingahlawulwanga emva kweentsuku ezingama-30 ebalwe ukususela kumhla wokukhutshwa kwengxelo ngokwemiqathango yecandelwana (1), iindleko ezinjalo kunye nenkcitho okanye inxalenye ziya kuqulunqwa zibe ngumrhumo wenkonzo kamasipala ocamngcwe kwicandelo 118(1)(b) kuMthetho weeNkqubo zikaMasipala wama-2000 (uMthetho onguNombolo 32 wama-2000).

IIMVUME IMIFANEKISO YEMIZOBO ESELUDONGENI KUNYE NEMIHOMBISO

9. (1) Nawuphi na umntu ozimisele ukwenza isicelo sawo nawuphi na okanye indibaniselane yombhalo, igama, umzobo, unobumba, uphawu, umqondiso, isazobe, umfanekiso, umzobo oseludongeni okanye uyilo olukuwo nawuphi na umgangatho wendalo okanye umgangatho owenziwe ngumntu nakusiphi na isakhiwo eso, okanye esiya kuthi sibonakale kumntu okwindawo kawonke wonke, kufuneka enze isicelo esibhaliweyo ngokubhalela igosa eligunyazisiweyo ukuze afumane imvume yokwenza njalo.

(2) Isicelo sephepha mvume ekubhekiselelwe kuso kwicandelwana (1) kufuneka sikhathshwe bubungqina bemvume yomnini womhlaba, naye nawuphi na omnye umntu onomdla namaqela achaphazelekayo.

(3) Kwisicelo iinkcukacha ezipheleleyo kufuneka zinikezelwe njengempembelelo yokwenziwa kwesicelo sombhalo, igama, umzobo, unobumba, uphawu, umqondiso, isazobe, umfanekiso, umzobo oseludongeni okanye uyilo, ubungakanani ekujongwe kubo ngoko kunye nempahla nezixhobo eziza kusetyenziswa, nokufana okuthe ngqo, umzobo nomfanekiso yomsebenzi lowo kuxhitywe ukuba wenziwe.

(4) Igosa eligunyazisiweyo kufuneka, ekufumaneni kwakhe esi sicelo kubhekiselelwe kuso kwicandelwana (1), athethane nesebe elichaphazelekayo leSixeko okanye umntu.

(5) ISixeko sinakho ukusala okanye asinikezele isicelo eso sinjalo, kuxhonyekeke kwimiqathango enokuthi ibekwe, yaye kufuneka kwisithuba seentsuku ezingama-30 azise umenzi wesicelo ngesigqibo saso ngembalelwano.

(6) Kwimeko apho iSixeko sithe sanikezela ngesicelo esinjalo, iphepha mvume elibhaliweyo liya kukhutshelwa umenzi wesicelo, kuxhonyekeke kwimiqathango enjalo enjengaleyo ikhutshwa siSixeko.

(7) ISixeko sinakho ukunyula izithuba ezithile ezingena nto emazisetyenziselwe le mizobo iseludongeni, yaye ezi zithuba zingena nto ziya kutyunjwa ngothethwano noluntu oluchaphazelekayo, iiforam zewadi kunye namacandelo ebhunga.

(8) Umntu unakho ukwenza isicelo sokusebenzisa isithuba esingena nto esityunjiweyo ekubhekiselelwe kuso kwicandelwano (7) kangangesithuba seenyanga ezintathu ngokuthi abhalele uMlawuli woBugcisa neNkcubeko kwiCandelo lezoQoqosho uPhuhliso lweNtlalo, yaye—

- (a) unakho ukugunyazisa ukusetyenziswa kwesithuba esingena nto esityunjiweyo ukulungiselela imizobo eseludongeni okanye imihombiso;
- (b) kufuneka asuse imizobo okanye imihombiso emva kokuba ixesha liphelile leenyanga ezintathu;
- (c) Unakho ukwenza isicelo sokwandiswa kwesigunyaziso kangangeenyanga ezintathu.

Uluhlu lweenkcukacha zegcisa kunye neendlela ezamkelayo

10. (1)(a) Igosa eligunyazisiweyo kufuneka ligcine, lilolonge ze lihlaziye irejista labazobi abazoba eludongeni nabanye abazobi kwingingqi ephantsi kolawulo lweSixeko abathe banikwa imvume ngokwemiqathango yomhlathi (b).

(b) Umzobi ozoba eludongeni unakho ukubhaliswa kwirejista ngokwemiqathango yomhlathi (a) xa athe wangenisa isicelo ngendlela egqitywe ligosa eligunyazisiweyo, kuxhonyekeke ekufezekisweni kwale miqathango ilandelayo ngumzobi:

- (i) Umzobi uthe wafumana imvume kwizicelo ezingenisweyo ezihlanu ezilandelelanayo ngokwemiqathango yecandelo lesi-9;
- (ii) Umzobi ubhalisiwe njengelungu leVisual Arts Network of South Africa (VANSA); yaye
- (iii) Umzobi akazange agwetywe ngaphambili ngokonakalisa isakhiwo okanye naliphi na ityala elinxulumene negrafiti.

(2) abazobi abazoba eludongeni njengoko kuqulunqwe kwicandelwana (1) banakho, kuxhonyekeke kwecandelwana (3), ukunika imvume yomsebenzi wabo wobugcisa wexa elizayo.

(3) Umzobi ozoba eludongeni obhalisiweyo ngokwemiqathango yecandelwana (1) kufuneka, nangawuphi na umsebenzi wokuzoba eludongeni yaye naphambi kokuyila umsebenzi onjalo wobugcisa, angenise isaziso sokuvuma kwigosa eligunyazisiweyo—

- (a) Ngendlela apha okanye ngobume obugqitywe nguye;
- (b) Siqulathe ubungqina bemvume yomnini wesakhiwo kunye nezakhiwo ezikufutshane; kunye
- (c) sikhathshwe ngumzobo okanye omnye umboniso womsebenzi wobugcisa ekuxhitywe wona.

Ukulungiselela ukuqalisa ngemvume.

IZOHLWAYO

11. (1) Nawuphi na umntu othe wasilela ukuhambelana naso nasiphi na isibonelelo salo Mthetho kaMasipala uya kuba nobutyala.

(2) Nawuphi na umntu ogwetyelwe ityala ngokwemiqathango yamacandelo 3 alo Mthetho kaMasipala oya kuthi—

- (a) emva kokuba egwetyiwe kwityala lakhe lokuqala abe noxanduva lwesohlwayo se-R15 000 okanye iinyanga ezintathu etolongweni;
- (b) emva kokuba egwetyiwe kwityala lakhe lesibini okanye amatyala alandelayo, uya kuba noxanduva lokuthwala isohlwayo sama-R30 000 okanye iinyanga ezi-6 etolongweni, okanye kuzo zozibini izohlwayo ezinjalo kunye nokuvalelwa entolongweni oko.

(3) Ngaphezulu kwesohlwayo esicamngcwe kwicandelwana (1), umntu ogwetyiweyo uya kuthwala uxanduva—

- (a) Lokuhlawula isixa-mali esilingana neendleko okanye iindleko ezithelekelelweyo zokususwa kwegrafiti kweso sakhiwo sichaphazelekayo, ze apho iindleko zokususwa kwegrafiti kwisakhiwo esichaphazelekayo zibe zithwalwa siSixeko okanye ngumnini wesakhiwo, ukuhlawula isixa-mali esigunyazisiweyo kwiSixeko okanye kumnini njengoko kusenokuba njalo;
- (b) Lokuhlawula isohlwayo esingaphezulu esibonwa sifanelekile yinkundla xa esilele kwintlawulo yesixa-mali esigunyazisiweyo kwiSixeko okanye kumnini wesakhiwo, njengoko imeko inokuba njalo.

(4) Kwimeko yokubhubeka ngolwaphulo mthetho, umntu ogwetyiweyo uya kuthwala uxanduva lwesohlwayo esangezelelweyo enokuthi inkundla isibone sifanelekile.

(5) Inkundla egwebe umntu owaphule umthetho phantsi kwalo Mthetho kaMasipala inakho ukubeka phezu kamagxa akhe isigwebo esisesinye njengesohlwayo esifanelekileyo.

ISHLOKO ESIFUTSHANE

12. Lo Mthetho kaMasipala ubizwa ngokuba iSixeko saseKapa: uMthetho kaMasipala weGrafiti, wama-2010.

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