CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

# ISIXEKO SASEKAPA

## UMTHETHO KAMASIPALA OYILWAYO WEGRAFITI

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

## INTSHAYELELO

**NJENGOKUBA** iSixeko sinelungelo ngokwemiqathango yecandelo le-156(1) elifundwa kunye neShedyuli 5 yoMgaqo-siseko lokulawula iinkathazo zoluntu kunye neebhodi zobhengezo kunye nemiboniso yopapasho kwiindawo zikawonke-wonke;

**NJENGOKUBA** igrafiti inempembelelo kukulunga kwendlela yokuphila yabo bonke abahlali nabatyeleli, 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 kwezakhiwo ezinjalo nokukhuselwa kwezakhiwo 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 umiliselo lwegrafiti nangayiphi na indlela yaye **"ukuqaba", "iqatyiwe"** kunye **"ukuqatywa"** kuneentsingiselo ezihambelanayo;

**"igosa eligunyazisiweyo"** lithetha umqeshwa weSixeko onoxanduva lokunyanzelisa lo Mthetho kaMasipala;

**"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;

**"Igrafiti"** ithetha nawuphi na umbhalo okanye indibaniselwano yombhalo, igama, inani (ngaphandle komzobo obonisa inombolo yesitalato), unobumba, uphawu, umqondiso, isazobe, umfanekiso, imizobo eseludongeni okanye uyilo oluthi lusetyenziswe nakuwo nawuphi na umgangatho nakudonga olwenziweyo ngumntu ze luthi lubonakale kumntu wonke kwindawo kawonke wonke yaye lungagunyaziswanga siSixeko;

**“Isixhobo segrafiti”** sithetha inkonxa enesixhobo esitshiza ipeyinti, isidyobhi esinencamu yokubhala ebanzi, ilebhele yentlaka, isixhobo sokukrola, ibrashi 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 odaliweyo okanye umntu osemthethweni kubandakanywa iinkampani ezimanyeneyo okanye ezibhaliswe ngolo hlobo phantsi kwawo nawuphi na umthetho naliphi na iqumrhu labantu, nokokuba limanyanisiwe okanye alimanyaniswanga, elisebenza njengequmrhu elinye nakuyiphi 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
**“umhlaba/isakhiwo sangasese”** sithetha isakhiwo esingashukumiyo esiselungelweni lomntu;

**“umhlab/isakhiwo sikarhulumente”** sithetha isakhiwo esingshukumiyo 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;

**“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.

**UKUBHENGEZWA KWENKATHAZO**

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

**UTHINTELO**

**3.**(1) Kuxhonyekekwe kwicandelo lesi-9, akukho mntu oya kuthi, ekwinginqi 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) ISixeko sinakho, 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 graffiti 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) ISixeko sinakho, 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), njegoko 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 lomnini 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 ezli-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 elishumi elinesithandathu;

(c) ngeleta ethunyelwe ngerejista okanye ileta eqinisekisiweyo kwidelisi yokugqibela eyaziwayo ebehlala 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 ezilishumi elinesine, ukuba idilesi kunye nearhente ayaziwa.

(2) Ukusilela ukunganikezelwa kwesaziso nakuwuhi 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.** Apho umhlaba ungagcinwanaga ngokuhambelana necandelo lesi-5, igosa eligunyazisiweyo linakho ukungena kumhlaba lowo ze lisuse igrafiti, ngaphandle kwento yokuba linika isaziso kuqala seentsuku ezili-15 kumnini ngeleta eqinisekisiweyo kwidilesi yokugqibela eyaziwayo yomnini, okanye ngokuthumela ngeposi isaziso kumhlaba lowo.

## 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 kamasipzla 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 kuMlawuli woBugcisa neNkcubeko kwiCandelo lezoQoqosho, uPhuhliso lweNtlalo kunye noKhenketho sephepha mvume lokwenza njalo.

(2) Isicelo sephepha mvume ekubhekiselelwe kuso kwicandelwana (1) kufuneka sikhatshwe bubungqina bemvume yomnini womhlaba, amaqela anomdla nachaphazelekayo, kunye nabanini bemihlaba engqonge lo mhlaba.

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

(4) UMlawuli woBugcisa neNkcubeko kwiCandelo lezoQoqosho uPhuhliso lweNtlalo kunye noKhenketho kufuneka, ekufumaneni kwakhe esi sicelo kubhekiselelwe kuso kwicandelwana (1), athethane nesebe elichaphazelekayo leSixeko okanye umntu.

(5) ISixeko sinakho ukusala okanye asinikezele isicelo eso sinjalo, kuxhonyekekwe 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, kuxhonyekekwe 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 asuse imizobo okanye imihombiso emva kokuba ixesha liphelile leenyanga ezintathu;

(c) Unakho ukwenza isicelo sokwandiswa kwesigunyaziso kangangeenyanga ezintathu.

(9) ISixeko sinakho ukwenza isicelo sokusususwa ngoko nangoko sawo nawuphi na umzobo oseludongeni okanye umhombiso nangaliphi na ixesha. ISixeko sinelungelo lokususa nawuphi na umzobo oseludongeni okanye umhombiso nangaliphi na ixesha.

**IZOHLWAYO**

**10.**(1) Nawuphi na umntu ogwetyelwe ityala ngokwemiqathango yamacandelo 3 alo Mthetho kaMasipala aya kuthi -

(a) emva kokuba egwetyiwe kwityala lakhe lokuqala abe noxanduva lwesohlwayo se-R10 000 okanye iinyanga ezintathu etolongweni;

(b) emva kokuba egwetyiwe kwityala lakhe lesibini okanye amatyala alandelayo, uya kuba noxanduva lokuthwala isohlwayo sama-R20 000 okanye iinyanga ezi-6 etolongweni, okanye kuzo zozibini izohlwayo ezinjalo kunye nokuvalelwa entolongweni oko.

(2) Ngaphezulu kwesohlwayo esicamngcwe kwicandelwana (1), umntu ogwetyiweyo uya kuthwala uxanduva -

(a) Lokuhlawula isixa-mali esilingana neendleko okanye iindleko ezithelekelelweyo zokusususwa kwegrafiti kweso sakhiwo sichaphazelekayo, ze apho iindleko zokusususwa 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.

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

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

**ISIHLOKO ESIFUTSHANE**

**11.** Lo Mthetho kaMasipala ubizwa ngokuba iSixeko saseKapa: uMthetho kaMasipala weGrafiti.