



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

IMMOVABLE PROPERTY BY-LAW, 2015

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C54/08/10

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C09/10/15

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REPEAL THE FOLLOWING: POLICY ON THE
MANAGEMENT OF THE COUNCIL'S IMMOVABLE
PROPERTY: PUBLISHED ON 03 FEBRUARY 2006 AND
BY-LAW RELATING TO THE MANAGEMENT AND
ADMINISTRATION OF THE CITY OF CAPE TOWN'S
IMMOVABLE PROPERTY: PUBLISHED ON 28 FEBRUARY
2003



Western Cape Government • Wes-Kaapse Regering

PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

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CITY OF CAPE TOWN

IMMOVABLE PROPERTY BY-LAW 2015

To provide for the acquisition of immovable property and rights in immovable property, to close public places and public streets, to provide for prescriptive claims; and to provide for matters connected therewith.

BE IT ENACTED by the Council of the City of Cape Town, as follows: –

PREAMBLE

WHEREAS Section 156 (1) of the Constitution of the Republic of South Africa provides that a municipality has the right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 and any other matter assigned to it by national or provincial legislation;

WHEREAS section 156(2) 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 Part B of Schedule 5 of the Constitution lists public places and public roads as local government matters;

AND WHEREAS a municipality is empowered by the Constitution and the Expropriation Act, 1975 to permanently or temporarily acquire immovable property;

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

Definitions

1. In this By-Law, unless inconsistent with the context –

“approve” in relation to a plan or diagram means a plan approved by the City or other competent authority in respect of a subdivision, rezoning or development approval or a diagram approved by the Surveyor-General in terms of applicable law;

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

“close” in relation to a public street or public place, means to close the public street or public place to vehicular or pedestrian traffic only;

“municipal area” means the area under the jurisdiction and control of the City;

“**public place**” includes any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram that is for use by the general public and is owned by, or vests in the ownership of the City, and includes a public open space and a servitude for any similar purpose in favour of the general public.

2. Ownership of immovable property

The ownership of all immovable property registered in the name of the City and all public places, including public streets, vests in the City.

3. Acquisition of immovable property and rights in immovable property

- (1) The City may acquire immovable property or rights in immovable property within or outside its municipal area by means of purchase, donation, gift, lease or otherwise.
- (2) Subject to the provisions of the Expropriation Act, 1975 (Act No. 63 of 1975) the City may expropriate immovable property and rights in immovable property or may temporarily take the right to use immovable property.

4. Closure of Public Places

- (1) Subject to subsection 2, the City may, by notice in the *Provincial Gazette*, close any public street, public place or any portion thereof.
- (2) The City must –
 - (a) advertise the intention to close any public street, public place or any portion thereof;
 - (b) serve copies of the advertisement contemplated in paragraph (a) on the owners of all immovable property abutting the public street, public place or portion thereof which it proposes to close;
 - (c) the copies of the advertisements must be served not less than 30 days before the date by which objections are required to be lodged in accordance with such advertisement;
 - (d) consider any objections and comments received in accordance with such advertisement.
 - (e) submit a copy of such advertisement to Council together with any comments thereon; and
 - (f) obtain Council's authority to act in terms of subsection (1).

5. Prescriptive claims

If a person has, by prescription, acquired ownership of immovable property owned by the City, such prescription may be conceded by the City if written proof is produced to the effect that such prescription occurred 10 years prior to the expiration of the period contemplated in section 1 of the Prescription (Local Authorities) Ordinance, 1964 (Ordinance 16 of 1964) or 10 years prior to the expiration of the period contemplated in Section 3 of the State Land Disposal Act 48 of 1961.

6. Repeal

(1) The By-Law relating to the Management and Administration of the City of Cape Town's Immovable Property as published in the Provincial Gazette 5988 of 28 February 2003 is hereby repealed.

7. Short title

This By-Law is called the City of Cape Town: Immovable Property By-Law, 2014.



STAD KAAPSTAD

VERORDENING OP ONROERENDE EIENDOM, 2015

Om voorsiening te maak vir die verkryging van onroerende eiendom en regte in onroerende eiendom; om openbare plekke en openbare strate te sluit; om voorsiening te maak vir verjaringseise; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN artikel 156(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996) bepaal dat 'n munisipaliteit die reg het op die administrasie van die plaaslikebestuursaangeleenthede wat in deel B van bylae 4 en deel B van bylae 5 vermeld word, en enige ander aangeleentheid wat deur nasionale of provinsiale wetgewing aan hom opgedra word;

AANGESIEN artikel 156(2) bepaal dat 'n munisipaliteit verordeninge kan uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer;

AANGESIEN Deel B van bylae 5 van die Grondwet openbare plekke en munisipale paaie as plaaslikebestuursaangeleenthede vermeld;

EN AANGESIEN 'n munisipaliteit deur die Grondwet en die Onteieningswet, 1975 (Wet 63 van 1975), gemagtig word om onroerende eiendom permanent of tydelik te verkry;

DAAROM VERORDEN die Raad van die Stad Kaapstad hiermee soos volg:

Woordomskrywing

1. In hierdie verordening, tensy strydig met die konteks, beteken –

“goedkeur” met betrekking tot 'n plan of diagram 'n plan wat deur die Stad of ander bevoegde owerheid ten opsigte van 'n onderverdeling, hersonering of ontwikkelingsgoedkeuring goedgekeur is of 'n diagram wat ingevolge toepaslike wetgewing deur die Landmeter-generaal goedgekeur is;

“munisipale gebied” die gebied onder die jurisdiksie en beheer van die Stad;

“openbare plek” ook enige oop of omheinde plek, park, straat, pad of deurgang of enige ander soortgelyke stuk grond wat op 'n algemene plan of diagram vir gebruik deur die algemene publiek aangetoon word en in besit van die Stad is of waarvan die eienaarskap by die Stad berus, en sluit dit 'n openbare oop ruimte en 'n serwituut vir enige soortgelyke doel ten gunste van die algemene publiek in;

“sluit” ten opsigte van ’n openbare straat of openbare plek, om die openbare straat of openbare plek slegs vir voertuig- of voetgangerverkeer te sluit;

“Stad” die Stad Kaapstad, ’n munisipaliteit ingestel deur die Stad Kaapstad Instellingskennisgewing, no. 479 van 22 September 2000, uitgereik ingevolge die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), of enige struktuur of werknemer van die Stad wat kragtens gedelegeerde magtiging optree.

2. Eienaarskap van onroerende eiendom

Die eienaarskap van alle onroerende eiendom wat in die naam van die Stad geregistreer is en alle openbare plekke, wat openbare strate insluit, berus by die Stad.

3. Verkryging van onroerende eiendom en regte in onroerende eiendom

- (1) Die Stad kan onroerende eiendom of regte in onroerende eiendom binne of buite sy munisipale gebied verkry by wyse van aankoop, skenking, begiftiging, huur of andersins.
- (2) Onderworpe aan die bepalings van die Onteieningswet, 1975 (Wet 63 van 1975), kan die Stad onroerende eiendom en regte in onroerende eiendom onteien of die reg uitoefen om onroerende eiendom tydelik te gebruik.

4. Sluiting van openbare plekke

- (1) Onderworpe aan subartikel (2), kan die Stad, deur kennisgewing in die *Provinsiale Koerant*, enige openbare straat, openbare plek of enige gedeelte daarvan sluit.
- (2) Die Stad moet –
 - (a) die voorneme om ’n openbare straat, openbare plek of enige gedeelte daarvan te sluit, adverteer;
 - (b) afskrifte van die advertensie in paragraaf (a) bedoel, beteken op die eienaars van alle onroerende eiendom aangrensend aan die openbare straat, openbare plek of gedeelte daarvan wat hy voornemens is om te sluit;
 - (c) die afskrifte van die advertensies beteken nie minder nie as 30 dae voor die datum waarteen besware na aanleiding van sodanige advertensie ingedien moet word;
 - (d) enige besware en kommentaar wat na aanleiding van sodanige advertensie ontvang word, oorweeg;
 - (e) ’n afskrif van sodanige advertensie aan die Raad voorlê saam met enige kommentaar daarop; en
 - (f) die Raad se magtiging verkry om ingevolge subartikel (1) te handel.

5. Verjaringseise

Indien 'n persoon eienaarskap van onroerende eiendom in die besit van die Stad deur verjaring bekom het, kan sodanige verjaring deur die Stad onderskryf word indien skriftelike bewys gelewer kan word dat sodanige verjaring plaasgevind het 10 jaar voor die verstryking van die tydperk soos bedoel in afdeling 1 van die Ordonnansie op Verjaring (Plaaslike Owerhede), 1964 (Ordonnansie 16 van 1964), of 10 jaar voor die verstryking van die tydperk soos bedoel in artikel 3 van die Wet op die Beskikking oor Staatsgrond, Wet 48 van 1961.

6. Herroeping

Die Verordening met betrekking tot die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom wat in die *Provinsiale Koerant* 5988 van 28 Februarie 2003 gepubliseer is, word hiermee herroep.

7. Kort titel

Hierdie verordening staan as die Stad Kaapstad: Verordening op Onroerende Eiendom, 2015, bekend.



ISIXEKO SASEKAPA

UMTHETHO KAMASIPALA OPHATHELENE NEEPROPATI EZINKULU KA-2015

Ukuba kubonelelwe ngokufumaneka kweepropati ezinkulu namalungelo eepropati ezinkulu nemihlaba, ukuze kuvalwe amabala amakhulu oluntu nezitalato zoluntu, kulungiselelwa amabango amiselweyo; kwaye kulungiselelwe nemicimbi enxulumene noko.

INTSHAYELELO

NJENGOKUBA iCandelo le-156 (1) loMgaqo-siseko weRiphabhliki yoMzantsi Afrika limisela ukuba umasipala unelungelo lokulawula imicimbi yoburhulumente bengingqi edweliswe kwiSahluko B kwiShedyuli ye-4 nakwiSahluko B kwiShedyuli ye-5 nawo nawuphi omnye umcimbi owabelwe kulo ngokomthetho wesizwe okanye wephondo;

NJENGOKUBA icandelo le-156(2) limisela ukuba umasipala unakho ukuqulunqa nokulawula imithetho kamasipala yokulawulwa ngokufanelekileyo kwemicimbi anelungelo lokuyilawula;

NJENGOKUBA iSahluko B kwiShedyuli ye-5 yoMgaqo-siseko kudweliswe amabala oluntu neendlela zoluntu njengemicimbi eluxanduva lorhulumente wengingqi;

KWANYE NANJENGOKUBA umasipala exhotyiswe nguMgaqo-siseko noMthetho wokoHluthwa kweMihlaba, 1975 ukuba kufunyanwe umphelo okanye okwethutyana iipropati ezinkulu nemihlaba yazo;

KWAYE KE NGENXA YOKO, MAKUMISELWE liBhunga leSixeko saseKapa ngolu hlobo: –

linkcazelo

1. Kulo Mthetho kaMasipala, ngaphandle kokuba akungqinelani nomxholo –

“ukuphumeza” ngokunxulumene nesicwangciso okanye umzobo kubhekiselelwe kwisicwangciso esiphunyezwe siSixeko okanye nguye nawuphi omnye ugunyaziwe ofanelekileyo ngokuphathelele nokwahlula-hlulwa komhlaba, ukucandwa ngokutsha komhlaba okanye ukuphunyezwa kophuhliso okanye umzobo ophunyezwe nguNocanda Jikelele wemihlaba ngokungqinelana nomthetho ofanelekileyo;

“iSixeko” kuthethwa iSixeko saseKapa, umasipala owasekwa ngokweSaziso sokuSekwa kweSixeko saseKapa esinguNomb. 479 somhla wama-22 Septemba 2000, esakhutshwa ngokungqinelana noMthetho weZigqeba zikaMasipala: kubuRhulumente beNgingqi, 1998, okanye naso nasiphi esinye isigqeba solawulo okanye umsebenzi weSixeko osebenza ngokwesigunyaziso asinikezelweyo;

“ukuvala” ngokunxulumene nesitalato soluntu okanye ibala loluntu, kuthethwa ukuvalwa kwesitalato soluntu okanye ibala loluntu ukuba sisetyenziswe zizithuthi okanye ngabahambi ngeenyawo kuphela;

“ingingqi kamasipala” kuthethwa indawo ephantsi kwegunya nolawulo lweSixeko;

“indawo kawonke-wonke” iquka nayiphi na indawo evulelekileyo okanye ebiyelweyo, ipaki, isitalato, indlela okanye indlela ephumelayo okanye indawo efana naleyo njengoko kubonisiwe kwisicwangciso jikelele okanye kumzobo okhutshelwe ukusetyenziswa luluntu nophantsi kolawulo, okanye ubunini bawo bobeSixeko, kwaye kuqukwa ibala loluntu nomhlaba ibhunga elinelungelo lokungena kuwo ngayo nayiphi injongo kusenzelwa uluntu ekuhlaleni.

2. Ubunini beepropati ezinkulu

Ubunini bazo zonke iipropati ezinkulu ezibhaliswe egameni leSixeko nawo onke amabala oluntu, kuqukwa izitalato zoluntu, busegunyeni leSixeko.

3. Ukufunyanwa kweepropati ezinkulu namalungelo eepropati ezinkulu

- (1) Isixeko sinakho ukufumana iipropati ezinkulu nemihlaba okanye amalungelo eepropati ezinkulu ngaphakathi okanye ngaphandle kwengingqi yomasipala waso sisebenzisa ukuthenga, umnikelo, isipho, ingqeshiso okanye ngenye indlela.
- (2) Ngokuxhomekeke kwimiqathango yomthetho olawula uKohluthwa, 1975 (uMthetho onguNomb. 63 ka-1975) iSixeko sinakho ukohlutha iipropati ezinkulu namalungelo eepropati ezinkulu okanye sinokohlutha okwethutyana ilungelo lokusebenzisa lo propati inkulu.

4. Ukuvalwa kwamaBala oLuntu

- (1) Ngokuxhomekeke kwicandelwana le-2, iSixeko sinakho ukuthi, ngesaziso esikhutshwa *kwiPhepha-ndaba loMbuso lePhondo*, sivale nasiphi na isitalato soluntu, ibala loluntu okaanye nayiphi inxalenye yalo.
- (2) ISixeko kufuneka –
 - (a) sazise ngeenjongo zaso zokuvala nasiphi na isitalato soluntu, ibala loluntu okanye nayiphi na inxalenye yalo;
 - (b) sikhuphe iikopi zesibhengezo esichazwe kumhlathi (a) kubanini bazo zonke iipropati ezinkulu ezimelene nesitalato soluntu, ibala loluntu okanye inxalenye yaso siphakanyiselwe ukuvalwa;
 - (c) iikopi zesibhengezo ekumele ukuba sithunyelwe kwisithuba esingaphantsi kweentsuku ezingama-30 phambi komhla ekufuneka ukuba kungeniswe ngawo izicelo zenkcaso ngokungqinelana neso sibhengezo;

- (d) siqwalasele naziphi izicelo zenkcaso nezimvo ezifunyenwe ngokungqinelana neso sibhengezo.
- (e) singenise ikopi yeso sibhengezo kwiBhunga ndawonye nezimvo ezingeniswe naso; kwaye
- (f) sifumane isigunyaziso seBhunga sokuba sisebenze ngokungqinelana nemiqathango yecandelwana (1).

5. Amabango amisiweyo

Ukuba ubani uthe, ngokumiselwa, wazuza ubunini bepropati enkulu yeSixeko, olo miselo uya kwamkelwa siSixeko ukuba kuboniswe ubungqina obubhaliweyo kwimeko yokuba olo miselo lwenzeka kwiminyaka eli-10 ngaphambi kokuphela kwexesha elichazwe kwicandelo loku-1 loMmiselo omiselayo (iZiphatha-mandla zeNgingqi), 1964 (uMmiselo we-16 ka-1964) okanye kwiminyaka eli- 10 phambi kokuphelelwa kwexesha elichazwe kwiCandelo le-3 loMthetho olawula ukuThengiswa kweMihlaba kaRhulumente wama-48 ka-1961.

6. Ukurhoxiswa

- (1) UMthetho kaMasipala ophathelene nokuPhathwa nokuLawulwa kweePropati eziNkulu zeSixeko saseKapa njengoko upapashwe kwiPhepha-ndaba loMbuso lePhondo 5988 lomhla wama-28 Februwari 2003 ke ngoko uyarhoxiswa.

7. Isihloko esifutshane

Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala olawula iiPropati eziNkulu: weSixeko saseKapa, ka-2015.