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CONTENTS

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LOCAL AUTHORITY

Swartland Municipality: Resolution Levying Property Rates for the Financial Year 1 July 2024 to 30 June 2025	2
Swartland Municipality: Credit Control and Debt Collection By-law	3
Swartland Munisipaliteit: Verordening Insake Kredietbeheer en Skuldinvordering	11

SWARTLAND MUNICIPALITY
CREDIT CONTROL AND DEBT COLLECTION BY-LAW

To give effect to the Credit Control and Debt Collection Policy of the Swartland Municipality, and to provide for matters incidental thereto.

PREAMBLE

WHEREAS, in terms of section 98 of the Local Government: Municipal Systems Act 32 of 2000 (“the Act”):

- (1) a municipal council must adopt by-laws to give effect to the municipality’s credit control and debt collection policy, its implementation and enforcement; and
- (2) by-laws in term of subsection 98(1) of the Act may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair differentiation,

BE IT THEREFORE ENACTED by the Council of the Swartland Municipality under section 156 of the Constitution of the Republic of South Africa (“the Constitution”), as follows:-

TABLE OF CONTENTS

1. Definitions
2. Credit Control and Debt Collection Policy adopted by the Council
3. Duty to collect debts
4. Provision of information
5. Municipal staff and councillor arrears
6. Power to restrict or disconnect supply of services
7. Recovery of debt
8. Recovery of costs
9. Attachment
10. Indigent support
11. Delegation
12. Clearance certificates
13. Appeal
14. Offences, penalties and power of entry and inspection
15. Repeal of by-laws
16. Short title and commencement

1. Definitions

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text. Any word or expression to which a meaning has been assigned in the Act, shall bear the same meaning in this by-law, and unless the context indicates otherwise, the following words or expressions shall have the meanings as herein defined:–

account includes levies, surcharges, service charges and availability charges in respect of the following services –

- (a) electricity supply,
- (b) water supply,
- (c) refuse removal,
- (d) sewerage services,
- (e) rates,
- (f) rental,
- (g) loan instalments,
- (h) interest on arrears, and
- (i) any other levies and monies due and payable to the Municipality;

and **municipal account** has a corresponding meaning;

Act means the Local Government: Municipal Systems Act 32 of 2000, as amended from time to time;

arrears means any amount due and payable to the Municipality which has not been paid on or before the date of payment;

availability charges means charges that may be levied against immovable property – whether with or without improvements – that is not connected to any municipal service works, where such property can be reasonably so connected;

consumer –

- (a) with effect from 1 July 2015 and with regard to property zoned for residential purposes, the owner of the property is regarded as the consumer, irrespective of who the tenant or occupier is; provided that, where a lease agreement in respect of such property has existed on 1 July 2015, the tenant or occupier is to be regarded as the consumer until the agreement has expired; subject to the definitions of “occupier” and “owner” in this section 1;
- (b) with regard to any other property, the person who receives or uses municipal services or benefits therefrom; and
- (c) with regard to municipal property that is leased, the person who receives or uses municipal services or benefits therefrom;

consumer services deposit, as regards connection of services, means –

- (a) a deposit for residential consumer services (water, electricity, refuse removal and sewerage services), except in the case of indigents; or
- (b) a deposit for residential and business services with a prepaid electricity meter, except in the case of indigents; or
- (c) a deposit for business services (conventional electricity services); and

- (d) increased service deposits (related to arrears and non-payment of accounts), except in the case of indigents; or
- (e) a deposit for letting a municipal stand pipe;

Council means the Municipal Council of the Swartland Municipality;

Credit Control and Debt Collection Policy means a policy adopted by the Council for purposes of credit control and debt collection of all monies due and payable to the Municipality;

debt means any monies owing to the Municipality in respect of the rendering of municipal services, including monies relating to property rates, housing, motor vehicle registration and licensing, terminated leases and any other outstanding amounts; also, any interest on amounts owed to the Municipality;

default means –

- (a) if, at the end of the Municipality's financial year, an owner owes the Municipality any amount of money in respect of rates or availability charges; or
- (b) if, after 31 October of a given year, an owner is in arrears with payment of rates; or
- (c) if an owner is in arrears for a period of 60 days or more with payments for availability charges, read with the definition of "arrears" in this section 1;

Director: Financial Services means the municipal official appointed by the Council to administer its finances, regardless of the designation or title attached to the post; the incumbent, and/or any other staff member or official to whom the incumbent has delegated specific duties and responsibilities under this by-law, is responsible for the collection of any and all monies owed to the Municipality;

due date means the final date, as shown on the municipal account statement, on which payment must be made;

financial year means the period from 1 July until 30 June of each year;

illegal practises refers to any practise or trade operated on municipal premises that is in contravention of any national or provincial legislation or any by-laws or regulations of the Municipality;

indigent means a person or household as contemplated in the Indigent Policy of Swartland Municipality;

Municipality means the Swartland Municipality and includes any delegated official or service provider of the Municipality;

Municipal Manager means the person appointed in that capacity by the Council under section 54A of the Act;

municipal services has the meaning as defined in section 1 of the Act, and includes a function or a combination of functions listed in schedules 4B and 5B of the Constitution as well as any other service rendered by the Municipality;

occupier means any person who occupies or has control over any premises;

owner –

- (a) as regards property in terms of section 1(a) of the definition of “property”: a person in whose name ownership of the property is registered;
- (b) as regards a right in terms of section 1(b) of the definition of “property”: a person in whose name the right is registered;
- (c) as regards a land tenure right in terms of section 1(c) of the definition of “property”: a person in whose name the right is registered or to whom it was granted by legislation; or
- (d) as regards public service infrastructure in terms of section 1(d) of the definition of “property”: the organ of state which owns or controls the public service infrastructure concerned;

provided that, for the purposes of this by-law, the Municipality also regards a person mentioned below as the “owner” of a property in the following cases –

- (i) a trustee, in the case of a property held in a trust, excluding state trust land;
- (ii) an executor or administrator of a deceased estate;
- (iii) a trustee or liquidator of an estate that is insolvent or under liquidation;
- (iv) a judicial manager of the estate of a person under judicial management;
- (v) a curator of the estate of a person under curatorship;
- (vi) a usufructuary or other person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude; and
- (vii) a buyer, in the case of a property that was sold and of which possession was given to the buyer pending registration of ownership in the buyer’s name;
- (e) as regards immovable property of which the Council is unable to determine the identity of the owner: the person who is entitled to the beneficial use thereof;
- (f) as regards immovable property in respect of which a lease agreement of 30 (thirty) years or longer was concluded: the lessee thereof;
- (g) in respect of –
 - (i) a portion of land demarcated on a sectional title plan and registered in accordance with the Sectional Titles Act 95 of 1986: the developer or governing body, as far as the joint property is concerned;
 - (ii) a portion of land: the person in whose name that portion is registered in accordance with a title deed, including the lawfully appointed representative of such person;
 - (iii) any person, including but not limited to –
 - (aa) a company registered in accordance with the Companies Act 71 of 2008, a trust *inter vivos*, a trust *mortis causa*, a close corporation registered in accordance with the Close Corporations Act 69 of 1984, and a voluntary association;
 - (bb) any government department;
 - (cc) any council or governing body established in accordance with any legislation in force in the Republic of South Africa; and
 - (dd) any embassy or other foreign entity;

person includes –

- (a) a natural person;
- (b) a juristic person;
- (c) for the purposes of this by-law, any industrial or commercial undertaking; and
- (d) an organ of state;

POPIA means the Protection of Personal Information Act 4 of 2013;

premises means any portion of land situated within the municipal area of jurisdiction, and the outer boundaries of which are demarcated on –

- (a) a general plan or diagram registered in accordance with the Land Survey Act 8 of 1997 or the Deeds Registries Act 47 of 1937, as amended; or
- (b) a sectional title plan registered in accordance with the Sectional Titles Act 95 of 1986;

property means –

- (a) immovable property registered in the name of a person, including – in the case of a sectional title scheme – a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person by legislation; or
- (d) public service infrastructure;

standard rate of interest means a rate of interest equal to the prime rate as determined by the Reserve Bank of South Africa plus a percentage that the Council determines annually during the budgeting process.

2. Credit Control and Debt Collection Policy adopted by the Council

The Council has adopted a Credit Control and Debt Collection Policy to deal with and regulate the matters as prescribed in Chapter 9 of the Act, the contents of which policy are hereby incorporated into this by-law by reference and *mutatis mutandis* assigned the status of a by-law in as far as it is required for its implementation, enforcement and to be given effect to in terms of the provisions of sections 12 and 13 of the Act.

3. Duty to collect debts

All debts owing to the Municipality must be collected in accordance with applicable national and provincial legislation as referenced in this by-law.

4. Provision of information

An owner, consumer, occupier or debtor within the municipal area must provide the Municipality with accurate information requested by the Municipality that is reasonably required by the Municipality for the implementation or enforcement of this by-law. No person shall make a false statement or furnish false information to the Municipality or falsify a document issued in terms of this by-law. The Municipality shall process all personal information subject to the minimum conditions for lawful processing in terms of the provisions of POPIA.

5. Municipal staff and councillor arrears

- 5.1 Staff arrears will be handled in accordance with Schedule 2, item 10 of the Act as well as any procedures, method or actions referred to in this by-law. Notwithstanding any other procedure, method or action that may be taken in terms of the Credit Control and Debt Collecton Policy, the Municipality will deduct any outstanding amount from the salary of staff members who may be in arrears for a period of 3 (three) months or longer.
- 5.2 In accordance with Schedule 7, item 14 of the Local Government Municipal Structures Act 117 of 1998, no municipal councillor may be in arrears for more than 3 (three) months with any municipal service fees, surcharges on fees, property rates or any other municipal taxes, levies or duties levied by the Municipality. Notwithstanding any other procedure, method or action that may be taken in terms of this by-law and the Credit Control and Debt Collection Policy, the Municipality will deduct any outstanding amount from such councillor's remuneration.

6. Power to restrict or disconnect supply of services

- 6.1 The Municipality may restrict or disconnect the supply of any service to any premises whenever the owner, consumer or occupier concerned –
- (a) fails and or neglects to make payment on the due date;
 - (b) fails and or neglects to comply with an arrangement;
 - (c) fails and or neglects to comply with a condition of supply imposed by the Municipality;
 - (d) damages the municipal infrastructure for the supply of such service and/or tampers with any meter used regarding that service; or
 - (e) fails to apply for a new service reconnection under the new consumer's name within 14 (fourteen) days from death of the owner or previous consumer.
- 6.2 The Municipality may reconnect the restricted or discontinued services only –
- (a) after the arrear debt and all costs as prescribed in this by-law have been paid in full, and any or all other conditions have been complied with; or
 - (b) after an arrangement with the consumer has been concluded for payment of the amounts contemplated in subsection (a) above; and
 - (c) after the consumer has paid all levies as determined in the Municipality's Tariff Policy with regard to tampering and damaging of metering equipment
- 6.3 The Municipality may restrict, disconnect and/or discontinue any service in respect of any arrear debt.

7. Recovery of debt

Subject to section 6, with regard to rates the Municipal Manager must, and with regard to any other debt due and owed the Municipal Manager may –

- (a) recover any debt by legal action;
- (b) recover debt from any organ of state with due consideration of the provisions of Chapter 3 of the Constitution;
- (c) refer debt to third-party debt collection agencies if and when so required and subject to the operational capacity or requirements of Swartland Municipality's Financial Services Directorate; and

- (d) use any lawful and reasonable measures of tracing debtors whose information is no longer valid or correct and/or has changed and where such debtor failed to provide the Municipality with reasonable written notification of a change of address and contact details, and shall all personal information be processed subject to the minimum conditions for lawful processing in terms of the provisions of POPIA.

8. Recovery of costs

Where costs are incurred by or on behalf of the Municipality in order to recover monies owed to it, the Municipal Manager may recover such costs, including but not limited to –

- (a) costs and administration fees where payments made to the Municipality by negotiable instruments have been dishonoured by banks when presented for payment;
- (b) legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;
- (c) restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-compliance with this by-law;
- (d) any losses the Municipality may suffer as a result of tampering with municipal equipment or meters; and
- (e) any collection commission incurred.

9. Attachment

The Municipal Manager may, in order to recover debt, approach a competent court for an order to attach a consumer's movable or immovable property.

10. Indigent support

The Municipality may grant financial assistance to persons who meet the criteria as laid down in the municipal Indigent Policy.

11. Delegation

The Municipal Manager and/or the Director: Financial Services may delegate and/or sub-delegate their powers under this by-law and the Credit Control and Debt Collection Policy as amended and approved by the Council from time to time to any official or service provider of the Municipality if and when so required and subject to the Municipality's system of delegation.

12. Clearance certificates

Upon the sale of any property the Municipality must issue the required clearance certificate as prescribed in this by-law and the Credit Control and Debt Collection Policy, subject to settlement of any and all outstanding municipal accounts.

13. Appeal

A person whose rights are affected by a municipal decision regarding one or more delegated and/or sub-delegated powers may appeal against that decision by notifying the Municipal Manager in writing of the intention to appeal and the reasons for doing so within 21 (twenty-one) days of the date of notification of the decision, as stipulated in section 62 of the Act.

14. Offences, penalties and the power of entry and inspection

A person who –

- (a) under section 101 of the Act, read with section 119(3), obstructs or hinders any municipal councillor or official in the execution of their duties under this by-law or the Credit Control and Debt Collection Policy;
- (b) unlawfully uses or interferes with municipal equipment or consumption of services supplied;
- (c) tampers with any municipal equipment or breaks any seal on a meter or damages a meter;
- (d) fails to comply with a notice served in terms of this by-law or the Credit Control and Debt Collection Policy;
- (e) refuses a municipal official access to any premises; or
- (f) gives false information regarding the supply of services or an application for assistance as an indigent with the intention to defraud or mislead,

will be guilty of an offence and, upon conviction, liable to payment of a fine or imprisonment, imprisonment without the option of a fine, or both a fine and imprisonment as determined by a competent court.

15. Repeal of by-laws

The Swartland Municipality Credit Control and Debt Collection By-law as published in Provincial Gazette 8246 of 10 June 2020 is hereby repealed.

16. Short title and commencement

This by-law shall be known as the Credit Control and Debt Collection By-law and shall come into operation on 1 July 2024.

SWARTLAND MUNISIPALITEIT

VERORDENING INSAKE KREDIETBEHEER EN SKULDINVORDERING

Om uitvoering te gee aan die Kredietbeheer- en Skuldinvorderingsbeleid van die Swartland Munisipaliteit, en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN in terme van artikel 98 van die Wet op Plaaslike Regering: Munisipale Stelsels 32 van 2000 ("die Wet"):

- (1) 'n munisipale raad verordeninge moet aanneem om uitvoering te gee aan die munisipaliteit se kredietbeheer- en skuldinvorderingsbeleid, die implementering en afdwinging daarvan; en
- (2) verordeninge ingevolge subartikel 98(1) tussen verskillende kategorieë belastingbetalers, gebruikers van dienste, debiteure, belasting, dienste, diensstandaarde en ander aangeleenthede kan onderskei solank die differensiasie nie op onbillike differensiasie neerkom nie,

NOU DAAROM WORD DIT VERORDEN deur die Raad van die Swartland Munisipaliteit ingevolge artikel 156 van die Grondwet van die Republiek van Suid-Afrika ("die Grondwet"), soos volg:-

INHOUDSOPGAWE

1. Woordomsrywings
2. Kredietbeheer- en Skuldinvorderingsbeleid deur die Raad aanvaar
3. Skuldinvorderingsplig
4. Verskaffing van inligting
5. Agterstallige rekeninge van munisipale personeel en raadslede
6. Bevoegdheid om diensverskaffing te beperk of af te sluit
7. Skuldverhaling
8. Kosteverhaling
9. Beslaglegging
10. Deernisondersteuning
11. Delegering
12. Klaringsertifikate
13. Appèl
14. Misdrywe, strafmaatreëls en betredings- en inspeksiebevoegdheid
15. Herroeping van verordeninge
16. Kort titel en inwerkingtreding

1. Woordomsrywings

In geval van enige teenstrydigheid tussen die Afrikaanse en die Engelse weergawe van hierdie verordening, geld die Engelse teks. Enige woord of uitdrukking waaraan 'n betekenis in die Wet toegeken is, dra dieselfde betekenis in hierdie verordening, en tensy dit uit die samehang anders blyk, sal die volgende woorde of uitdrukkinge die betekenis dra soos hierin omskryf:-

agterstallige bedrae beteken enige bedrag wat aan die Munisipaliteit verskuldig en betaalbaar is wat nie voor of op die betaaldatum betaal is nie;

besikbaarheidsgelde beteken gelde wat gehef kan word op onroerende eiendom – met of sonder verbeterings – wat by geen munisipale diensnetwerk aangesluit is nie, maar redelikerwys aangesluit kan word;

betaaldatum beteken die finale datum wat op die munisipale rekeningstaat aangetoon word waarop betaling moet geskied;

Direkteur: Finansiële Dienste beteken die munisipale amptenaar wat deur die Raad aangestel is om die Munisipaliteit se finansies te bestuur, ongeag die benaming of titel wat aan die pos verbind is; die posbeker, en/of enige ander personeel of amptenaar aan wie die posbeker spesifieke pligte en verantwoordelikhede in terme van hierdie verordening gedelegeer het, is verantwoordelik vir die invordering van enige en alle gelde wat aan die Munisipaliteit verskuldig is;

eienaar beteken –

- (a) ten opsigte van eiendom bedoel in artikel 1(a) van die omskrywing van “eiendom” in hierdie artikel 1: ‘n persoon in wie se naam eienaarskap van die eiendom geregistreer is;
- (b) ten opsigte van ‘n reg bedoel in artikel (b) van die omskrywing van “eiendom” in hierdie artikel 1: ‘n persoon in wie se naam die reg geregistreer is;
- (c) ten opsigte van grondbesitreg bedoel in artikel 1(c) van die omskrywing van “eiendom” in hierdie artikel 1: ‘n persoon in wie se naam die reg geregistreer is of aan wie dit ingevolge wetgewing toegestaan is; of
- (d) ten opsigte van openbaredienste-infrastruktuur bedoel in artikel 1(d): ‘n staatsinstelling wat die betrokke openbaredienste-infrastruktuur besit of beheer; met dien verstande dat die Munisipaliteit vir die doeleindes van hierdie verordening ook die onderstaande persone in die volgende gevalle as die eienaar van ‘n eiendom beskou -
 - (i) ‘n trustee in die geval van eiendom wat in ‘n trust gehou word, uitgesluit staatstrustgrond;
 - (ii) ‘n eksekuteur of administrateur van ‘n bestorwe boedel;
 - (iii) ‘n trustee of likwidateur van ‘n boedel wat insolvent of onder likwikasie is;
 - (iv) ‘n geregtelike bestuurder van die boedel van ‘n persoon wat onder geregtelike bestuur is;
 - (v) ‘n kurator van die boedel van ‘n persoon onder kuratorskap;
 - (vi) ‘n vruggebruiker of ander persoon in wie se naam ‘n persoonlike serwituut geregistreer is, in die geval van ‘n eiendom wat onderhewig is aan ‘n vruggebruik of ander persoonlike serwituut; en

- (vii) 'n koper, in die geval van 'n eiendom wat verkoop is en waarvan besit aan die koper gegee is hangende registrasie van eienaarskap in die koper se naam;
- (e) ten opsigte van onroerende eiendom waarvan die Raad nie in staat is om die eienaar se identiteit te bepaal nie: die persoon wat op die voordelige gebruik daarvan geregtig is;
- (f) ten opsigte van onroerende eiendom waarvoor 'n huurooreenkoms van 30 (dertig) jaar of langer aangegaan is: die huurder daarvan;
- (g) ten opsigte van –
 - (i) 'n stuk grond wat op 'n deeltitelplan afgebaken is en ingevolge die Wet op Deeltitels 95 van 1986 geregistreer is: die ontwikkelaar of beheerliggaam, in soverre dit die gemeenskaplike eiendom betref;
 - (ii) 'n stuk grond: die persoon op wie se naam daardie gedeelte volgens die transportakte geregistreer is, asook die wettig aangestelde verteenwoordiger van sodanige persoon;
 - (iii) enige persoon, ingesluit maar nie beperk nie tot –
 - (aa) 'n maatskappy wat ooreenkomstig die Maatskappywet 71 van 2008 geregistreer is, 'n trust *inter vivos*, 'n trust *mortis causa*, 'n beslote korporasie wat ooreenkomstig die Wet op Beslote Korporasies 69 van 1984 geregistreer is, en 'n vrywillige genootskap;
 - (bb) enige staatsdepartement;
 - (cc) enige raad of bestuursliggaam wat geregistreer is ooreenkomstig enige wetgewing wat in die Republiek van Suid-Afrika geld; en
 - (dd) enige ambassade of ander buitelandse entiteit;

eiendom beteken –

- (a) onroerende eiendom wat in 'n persoon se naam geregistreer is; asook, in die geval van 'n deeltitelkema, 'n deeltiteleenheid wat in 'n persoon se naam geregistreer word;
- (b) 'n reg teen onroerende eiendom wat in 'n persoon se naam geregistreer is, uitgesluit 'n verbandlening wat teen 'n eiendom geregistreer is;
- (c) 'n grondbesitreg wat ingevolge wetgewing in 'n persoon se naam geregistreer of aan 'n persoon verleen is, of;
- (d) openbare dienste-infrastruktuur;

finansiële jaar beteken die periode vanaf 1 Julie tot 30 Junie elke jaar;

Kredietbeheer- en Skuldinvorderingsbeleid beteken 'n beleid wat deur die Raad aanvaar is vir doeleindes van kredietbeheer en skuldinvordering van alle gelde verskuldig en betaalbaar aan die Munisipaliteit;

Munisipale Bestuurder beteken die persoon wat deur die Raad ingevolge artikel 54A van die Wet in die hoedanigheid aangestel is;

munisipale dienste dra die betekenis soos omskryf in artikel 1 van die Wet, en sluit 'n funksie of 'n kombinasie van funksies in soos in Bylae 4B en 5B van die Grondwet gelys, sowel as enige ander diens wat die Munisipaliteit lewer;

Munisipaliteit beteken die Swartland Munisipaliteit, en sluit enige gedelegeerde amptenaar of diensverskaffer van die Munisipaliteit in;

hulpbehoewende beteken 'n persoon of huishouding soos omskryf in die Swartland Munisipaliteit se beleid insake deernisondersteuning;

okkupeerder beteken enige persoon wat 'n perseel bewoon of beheer daarvoor het;

onwettige praktyke verwys na enige praktyk of bedryf wat op 'n perseel beoefen word en wat teenstrydig is met enige nasionale of provinsiale wetgewing of enige verordeninge of regulasies van die Munisipaliteit;

perseel beteken enige stuk grond wat binne die munisipale regsgebied geleë is en waarvan die buitegrense afgebaken is op –

- (a) 'n algemene plan of diagram wat ingevolge die Opmetingswet 9 van 1927 of die Registrasie van Aktes Wet 47 van 1937 geregistreer is; of
- (b) 'n deeltitelplan wat ingevolge die Wet op Deeltitels 95 van 1986 geregistreer is;

persoon sluit die volgende in-

- (a) 'n natuurlike persoon;
- (b) 'n regspersoon;
- (c) vir die doeleindes van hierdie verordening, enige industriële of handelonderneming ; en
- (d) 'n staatsinstelling;

POPIA beteken die Wet op die Beskerming van Persoonlike Inligting 4 van 2013;

Raad beteken die Munisipale Raad van die Swartland Munisipaliteit;

rekening sluit heffings, toeslagbedrae, dienstegelde en beskikbaarheidsgelde ten opsigte van die volgende dienste in-

- (a) elektrisiteitsvoorsiening,
- (b) watervoorsiening,
- (c) vullisverwydering,
- (d) riooldienste,
- (e) eiendomsbelasting,
- (f) huurgeld,
- (g) leningspaaielemente,
- (h) rente op agterstallige bedrae, en
- (i) enige ander heffings en gelde wat aan die Munisipaliteit verskuldig en betaalbaar is;

en **munisipale rekening** dra 'n ooreenstemmende betekenis;

skuld beteken enige geld wat aan die Munisipaliteit verskuldig is in verband met die verskafing van munisipale dienste, ingesluit gelde in verband met eiendomsbelasting, behuising, motorvoertuigregistrasie en -liseniëring, beëindigde huurooreenkomste en enige ander onbetaalde bedrae; ook enige rente op bedrae wat aan die Munisipaliteit verskuldig is;

standaardrentekoers beteken 'n rentekoers wat gelyk is aan die primakoers soos deur die Suid-Afrikaanse Reserwebank bepaal, plus 'n persentasie wat die Raad jaarliks tydens die begrotingsproses vasstel;

verbruiker beteken –

- (a) wat betref eiendom wat vir residensiële doeleindes gesoneer is, word die eienaar van die betrokke eiendom met ingang van 1 Julie 2015 as die verbruiker beskou, ongeag wie die huurder of okkupeerder is; met die verstande dat, waar 'n huurooreenkoms oor sodanige eiendom reeds op 1 Julie 2015 bestaan het, die huurder of okkupeerder as die verbruiker beskou sal word totdat die ooreenkoms verstryk het; onderhewig aan die omskrywings van “okkupeerder” en “eienaar” in hierdie artikel 1;
- (b) wat enige ander eiendom betref, is die verbruiker die persoon wat munisipale dienste ontvang, dit gebruik of voordeel daaruit trek;
- (c) wat betref munisipale eiendom wat verhuur word, is die verbruiker die persoon wat munisipale dienste ontvang, dit gebruik of voordeel daaruit trek;

verbruikersdeposito beteken, wat die aansluiting van dienste betref –

- (a) 'n deposito vir residensiële verbruikersdienste (water, elektrisiteit, vullisverwydering en riooldienste), behalwe in die geval van hulpbehoewende persone; of
- (b) 'n deposito vir dienste by residensiële en sakepersele waar 'n voorafbetaalde elektrisiteitsmeter is, behalwe in die geval van hulpbehoewende persone, of
- (c) 'n deposito vir sakedienste (konvensionele elektrisiteitsdienste); en
- (d) verhoogde dienstedeposito's (wat verband hou met agterstallige en nie-betaling van rekeninge), behalwe in die geval van hulpbehoewende persone; of
- (e) 'n deposito vir die huur van 'n munisipale staanpyp;

(by) versuim beteken –

- (a) indien 'n eienaar aan die einde van die Munisipaliteit se finansiële jaar enige geldbedrag ten opsigte van eiendomsbelasting of beskikbaarheidsgelde aan die Munisipaliteit verskuldig is; of
- (b) indien 'n eienaar na 31 Oktober van 'n sekere jaar met die betaling van belasting agterstallig is; of
- (c) indien 'n eienaar vir 'n tydperk van 60 dae of langer met die betaling van beskikbaarheidsgelde agterstallig is, saamgelees met die omskrywing van “agterstallige bedrae” in hierdie artikel 1;

Wet beteken die Wet op Plaaslike Regering: Munisipale Stelsels 32 van 2000 soos van tyd tot tyd gewysig.

2. Kredietbeheer- en Skuldinvorderingsbeleid wat deur die Raad aanvaar is

Die Raad het 'n Kredietbeheer- en Skuldinvorderingsbeleid aanvaar wat handel met, en die aangeleenthede reguleer soos voorgeskryf in Hoofstuk 9 van die Wet, die inhoud van welke beleid by verwysing in hierdie verordening ingelyf word en *mutatis mutandis* die status van 'n verordening toegeken word in soverre dit vereis word vir die implementering, afdwinging en tenuitvoerlegging daarvan in terme van die bepalings van artikels 12 en 13 van die Wet.

3. Skuldinvorderingsplig

Alle bedrae wat aan die Munisipaliteit verskuldig is, moet ingevorder word ooreenkomstig die toepaslike nasionale en provinsiale wetgewing soos na verwys in hierdie verordening.

4. Verskaffing van inligting

'n Eienaar, verbruiker, okkupeerder of skuldenaar binne die munisipale gebied moet die Munisipaliteit voorsien van akkurate inligting wat deur die Munisipaliteit aangevra word en wat redelikerwys deur die Munisipaliteit vereis word vir die implementering of afdwinging van hierdie verordening. Geen persoon mag 'n vals verklaring aflê of vals inligting aan die Munisipaliteit verskaf of 'n dokument wat ingevolge hierdie verordening uitgereik is, vervals nie. Die Munisipaliteit sal alle persoonlike inligting verwerk onderhewig aan die minimum voorwaardes vir wettige verwerking ingevolge die bepalings van POPIA.

5. Agterstallige rekeninge van munisipale personeel en raadslede

5.1 Agterstallige rekeninge van personeellede word hanteer ooreenkomstig Bylae 2, item 10 van die Wet, sowel as enige prosedures, metodes en optrede wat in hierdie verordening vermeld word. Nieteenstaande enige ander prosedure, metode of optrede wat ingevolge die Kredietbeheer- en Skuldinvorderingsbeleid onderneem mag word, sal die Munisipaliteit enige uitstaande bedrag wat vir 'n periode van 3 (drie) maande of langer agterstallig is, van personeellede se salaris verhaal.

5.2 Ingevolge Bylae 7, item 14 van die Wet op Plaaslike Regering: Munisipale Strukture 117 van 1998, mag geen munisipale raadslid vir meer as 3 (drie) maande agterstallig wees met betrekking tot enige munisipale dienstegeld, toeslag op gelde, eiendomsbelasting of enige ander munisipale belastings, heffings of verpligtings wat aan die Munisipaliteit betaalbaar is nie. Nieteenstaande enige ander prosedure, metode of optrede wat ingevolge van hierdie verordening en die Kredietbeheer- en Skuldinvorderingsbeleid onderneem kan word, sal die Munisipaliteit enige uitstaande bedrag van die betrokke raadslid se vergoeding verhaal.

6. Bevoegdheid om diensverskaffing te beperk of af te sluit

6.1 Die Munisipaliteit mag die verskaffing van enige diens by enige perseel beperk of afsluit indien die betrokke eienaar, verbruiker of okkupeerder-

- (a) teen die betaaldatum versuim en/of nagelaat het om te betaal;
- (b) versuim en/of nalaat om 'n ooreenkoms na te kom;
- (c) versuim en/of nalaat om aan 'n verskaffingsvoorwaarde soos deur die Munisipaliteit neergelê, te voldoen;
- (d) die munisipale infrastruktuur vir die verskaffing van sodanige diens beskadig en/of met enige meter in verband met daardie diens peuter; of
- (e) versuim om onder naam van die nuwe verbruiker vir 'n nuwe diens-aansluiting aansoek te doen binne 14 (veertien) dae vanaf die dood van die eienaar of vorige verbruiker.

6.2 Die Munisipaliteit mag die verskaffing van enige van die beperkte of gestaakte dienste heraanluit of herstel slegs nadat-

- (a) die agterstallige skuld, sowel as al die koste ingevolge hierdie verordening, ten volle betaal is en enige of alle ander voorwaardes nagekom is; of
- (b) 'n ooreenkoms met die verbruiker aangegaan is vir die betaling van die bedrae in subartikel (a) hier bo bedoel; en

- (c) die verbruiker alle heffings betaal het wat in die Munisipaliteit se Tariefbeleid bepaal word as strafmaatreeël in geval van peutering met of beskadiging van meettoerusting.

6.3 Die Munisipaliteit mag enige diens op grond van enige agterstallige skuld beperk, afsluit of staak.

7. Skuldverhaling

Wat eiendomsbelasting betref, en onderhewig aan artikel 6, moet die Munisipale Bestuurder; en wat betref enige ander skuld wat betaalbaar en uitstaande is, mag die Munisipale Bestuurder die volgende doen-

- (a) enige skuld by wyse van regsoptrede verhaal;
- (b) skuld van enige staatsinstelling verhaal met behoorlike inagneming van die bepalinge van Hoofstuk 3 van die Grondwet;
- (c) skuld na derdeparty-skuldinvorderingsagentskappe verwys indien en wanneer nodig, en onderhewig aan die bedryfskapasiteit van Swartland Munisipaliteit se Direkoraat Finansiële Dienste; en
- (d) enige wetlike en redelike stappe instel om debiteure op te spoor wie se besonderhede nie meer geldig of akkuraat is nie en/of verander het, en waar sodanige debiteure versuim het om die Munisipaliteit redelike skriftelike kennisgewing van 'n verandering van adres en kontakbesonderhede te gee en sal alle persoonlike inligting verwerk onderhewig aan die minimum voorwaardes vir wettige verwerking in terme van die bepalinge van POPIA.

8. Kosteverhaling

Indien koste deur of namens die Munisipaliteit aangegaan is ten einde gelde wat aan die Munisipaliteit verskuldig is te verhaal, mag die Munisipale Bestuurder sodanige koste verhaal, met inbegrip van die volgende maar nie daartoe beperk nie-

- (a) koste en administrasiefooië indien betalings wat by wyse van verhandelbare dokumente aan die Munisipaliteit gemaak is deur 'n bank geweier word by aanbidding vir betaling;
- (b) regs- en administratiewe koste, met inbegrip van prokureur-en-kliëntkoste en opsporingskoste wat aangegaan is om skuld te kan verhaal;
- (c) beperkings-, afsluitings – en heraansluitingskoste, indien enige diens weens nie-voldoening aan hierdie verordening beperk of afgesluit is;
- (d) enige verliese wat die Munisipaliteit weens peutering met munisipale toerusting of meters mag ly; en
- (e) enige invorderingskommissie wat aangegaan is.

9. Beslaglegging

Die Munisipale Bestuurder mag, ten einde skuld te verhaal, 'n bevoegde hof nader om 'n beslagleggingsbevel op 'n verbruiker se roerende of onroerende eiendom uit te reik.

10. Deernisondersteuning

Die Munisipaliteit kan finansiële hulp verleen aan persone wat voldoen aan die vereistes wat in die munisipale beleid insake deernisondersteuning gestel word.

11. Delegering

Die Munisipale Bestuurder en/of die Direkteur: Finansiële Dienste mag hulle bevoegdheids ingevolge hierdie verordening en Kredietbeheer- en Skuldinvorderingsbeleid soos van tyd tot tyd deur die Raad gewysig en goedgekeur aan enige amptenaar of diensverskaffer van die Munisipaliteit delegeer en/of subdelegeer indien en wanneer nodig, en onderhewig aan die Munisipaliteit se stelsel van delegasie.

12. Klaringsertifikate

Met die verkoop van enige eiendom moet die Munisipaliteit die vereiste klaringsertifikaat uitreik soos voorgeskryf in hierdie verordening en die Kredietbeheer- en Skuldinvorderingsbeleid mits enige en alle onbetaalde munisipale rekeninge vereffen is.

13. Appèl

Ingevolge artikel 62 van die Wet mag 'n persoon wie se regte deur 'n munisipale besluit ingevolge een of meer gedelegeerde en/of gesubdelegeerde bevoegdhede geraak word, teen sodanige besluit appelleer deur die Munisipale Bestuurder binne 21 (een-en-twintig) dae vanaf die datum van kennisgewing van die besluit skriftelik te verwittig van die voorneme om te appelleer en die redes daarvoor.

14. Misdrywe, strafmaatreëls en betredings- en inspeksiebevoegdheid

'n Persoon wat-

- (a) ingevolge artikel 101 van die Wet, saamgelees met artikel 119(3) daarvan, enige amptenaar of raadslid van die Munisipaliteit verhinder of verhoed om hulle pligte ingevolge hierdie verordening of die Kredietbeheer- en Skuldinvorderingsbeleid uit te voer;
- (b) munisipale toerusting of die verskaffing van munisipale dienste onwettig gebruik of verbruik, of daarmee inmeng;
- (c) met enige munisipale toerusting peuter of enige seël op 'n meter breek of 'n meter beskadig;
- (d) versuim om gehoor te gee aan 'n kennisgewing wat ingevolge hierdie verordening of die Kredietbeheer- en Skuldinvorderingsbeleid bestel is;
- (e) 'n munisipale amptenaar toegang tot enige perseel weier; of
- (f) vals inligting oor die verskaffing van dienste of 'n aansoek om deernisondersteuning verstrek met die bedoeling om te bedreig of te mislei,

pleeg 'n misdryf en is by skuldigbevinding strafbaar met of 'n boete of gevangenisstraf, gevangenisstraf sonder die keuse van 'n boete, of 'n boete sowel as gevangenisstraf soos deur 'n bevoegde hof bepaal.

15. Herroeping van verordeninge

Die Swartland Munisipaliteit Verordening insake Kredietbeheer en Skuldinvordering soos gepubliseer in Provinsiale Koerant 8246 van 10 Junie 2020 word hiermee herroep.

16. Kort titel en inwerkingtreding

Hierdie verordening staan as die Verordening insake Kredietbeheer en Skuldinvordering bekend en sal op 1 Julie 2024 in werking tree.

