

**SWARTLAND MUNICIPALITY
BY-LAW RELATING TO COLLECTIONS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Swartland municipality, enacts as follows:-

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1. Definitions

In this by-law, unless the context otherwise indicates: –

“**collection**” means the collection of money from door-to-door or face-to-face by means of lottery, cash contributions, debit agreement or any other payment agreement or the collection of goods, including, but not limited to food, clothing, animals or any other user items;

“**collector**” means a person who physically undertakes the collection of money or goods and includes the person who is the organiser of supervisor of such collection;

“**municipality**” means the municipality of Swartland established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“**nuisance**” means any act or omission which interferes with the ordinary comfort, convenience, peace or quiet of a person or which may adversely affect the safety of a person;

“**officer**” means –

- (a) a traffic officer appointed under section 3 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- (b) a member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995), or
- (c) a peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

“**public place**” means any square, building, park, recreation ground or open space which—

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“**public road**” means any road, street or thoroughfare or any other place and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other work or object belonging to such road, street or thoroughfare, footpath or sidewalk;
- (e) any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles whether or not access to such a parking area or place is restricted.

**MUNISIPALITEIT SWARTLAND
VERORDENING INSAKE INSAMELINGS**

Ooreenkomstig die bepalinge van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal die munisipaliteit van Swartland hiermee soos volg:-

Inhoudsopgawe

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2. Oogmerke en beginsels
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1.

In hierdie verordening, tensy uit die samehang anders blyk, beteken –

“**beampte**” –

- (a) ’n verkeersbeampte aangestel kragtens artikel 3 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);
- (b) ’n lid van die Suid-Afrikaanse Polisie diens soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisie diens, 1995 (Wet 68 van 1995); en
- (c) ’n vredesbeampte beoog by artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977);

“**insamelaar**” ’n persoon wat fisies die insameling van geld of goedere onderneem en sluit in die persoon wat die insameling organiseer of daaroor toesig hou;

“**insameling**” die insameling van geld van deur-tot-deur of van aangesig tot aangesig by wyse van uitloting, kontantbydraes, debietooreenkoms of enige ander betalingsooreenkoms of die insameling van goedere wat insluit, maar nie beperk nie is tot voedsel, klere, diere of ander gebruiksartikels;

“**munisipaliteit**” die munisipaliteit van Swartland gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, en sluit in enige politieke struktuur, politieke ampsbekleeder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ’n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleeder, raadslid, agent of werknemer;

“**oorlas**” enige handeling of versuim wat inbreuk maak op die normale gemak, gerief, vrede of rus van ’n persoon of wat die veiligheid van ’n persoon nadelig kan beïnvloed;

“**openbare pad**” enige straat, pad, fietspad, of deurgang of enige ander plek wat insluit-

- (a) die soom van enige sodanige pad, straat of deurgang;
- (b) enige voetpad, sypaadjie of soortgelyke voetgangergedeelte van ’n padreserwe;
- (c) enige brug, pont of drif waaroor of waardeur enige sodanige pad, straat of deurgang loop;
- (d) enige ander werk of voorwerp wat ’n deel uitmaak van of verbind is met of behoort tot daardie pad, straat, deurgang, voetpad of sypaadjie;
- (e) enige perseel, met of sonder geboue of strukture daarop, wat gebruik word of daargestel is as ’n openbare parkeerarea of openbare parkeerplek vir die parkering van motorvoertuie ongeag of toegang tot sodanige parkeerplek of parkeerarea gratis is al dan nie;

- (f) any other object belonging to such road, street or thoroughfare, which has at any time been—
- (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or
 - (iv) constructed by a local authority, and
 - (v) any land, with or without buildings or structures thereon, which is shown as a street on—
 - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office, unless such land is in such plan or diagram described as a private street;

2. Purpose and principles

In recognition of the right of individuals and organisations to undertake collections, the municipality with this by-law intends to provide rules and guidelines to prevent persons or organisations undertaking collections to create a nuisance to any person and to manage and co-ordinate collections to protect the general public against exploitation.

3. Approval

- (1) Notwithstanding the provisions of section 21 of the By-law relating to Roads and Streets, no person may without the written permission of the municipality, within the area of jurisdiction of the municipality-
- (a) in a public road, or public place;
 - (b) from door-to-door; or
 - (c) face-to-face
- collect money or goods or attempt to collect or permit to be collected or organise or in any way assist in the organisation of such collection.
- (2) An application for the consent in terms of subsection (1) must be submitted to the municipality in writing with the following information –
- (a) the full name, address and occupation of the person responsible or persons jointly responsible for such collection;
 - (b) the purpose for which such collection is made or the fund to which the proceeds thereof are devoted;
 - (c) a copy of the authorisation or registration detail of the authority or organisation authorising the person to undertake a collection.
 - (d) the place or area where such collection is to be made;
- (3) An approval granted in terms of subsection (1) shall be valid for the period indicated in the application or such other period as approved by the municipality and a copy of the approval must be produced on demand of an officer or a member of the public.
- (4) The municipality has the right to revoke an approval granted in terms of subsection (1) if any of the conditions of approval in terms of section 4 are breached or not complied with, provided that the municipality shall give written notice of the proposed cancellation and give the person notified reasonable time to respond.
- (5) Where a collector commits an offence in terms of this by-law, the approval shall be revoked without any notice.

- (f) enige ander voorwerp wat 'n deel uitmaak van sodanige pad, straat of deurgang, wat te enige tyd-
- (i) aan die publiek opgedra is;
 - (ii) sonder onderbreking deur die publiek gebruik is vir 'n tydperk van minstens dertig jaar;
 - (iii) deur die munisipaliteit of ander bevoegde owerheid tot sodanig verklaar of gemaak is; of
 - (iv) deur 'n plaaslike owerheid aangelê is; en
 - (v) enige grond, met of sonder geboue of strukture daarop, wat as 'n straat aangetoon word op-
 - (aa) enige onderverdelingsplan of diagram deur die munisipaliteit of ander bevoegde owerheid goedgekeur en waarvolgens gehandel is; of
 - (bb) enige algemene plan soos omskryf in die Opmetingswet, 9 van 1927, wat in 'n registrasiekantoor of die Landmeter-Generaal se kantoor geregistreer is, tensy sodanige grond op sodanige plan of diagram as 'n private straat beskryf word;

“openbare plek” enige plein, gebou, park, ontspanningsterrein, of oop ruimte wat-

- (a) in die munisipaliteit gesetel is;
- (b) die publiek die reg het om te gebruik ongeag of toegang tot sodanige plek gereguleer word; of
- (c) aangedui word op 'n algemene plan van 'n woonbuurt wat geliasseer is by 'n akteskantoor of 'n Landmeter-Generaal se kantoor en wat daargestel of gereserveer is vir gebruik deur die publiek of die eienaars van erwe in sodanige woonbuurt;

2. Oogmerke en beginsels

Met inagneming van die reg van individue of organisasies om fondsinsamelings te reël, beoog die munisipaliteit met hierdie verordening om reëls en riglyne daar te stel om te voorkom dat persone of organisasies wat insamelings onderneem 'n oorlas vir enige persoon veroorsaak asook vir die bestuur en koördinerende van insamelings ter beskerming van die algemene publiek teen uitbuiting.

3. Toestemming

- (1) Nieteenstaande die bepalings van artikel 21 van die Verordening insake Paaie en Strate mag niemand, sonder die skriftelike goedkeuring van die munisipaliteit, binne die regsgebied van die munisipaliteit-
- (a) in 'n openbare pad of openbare plek;
 - (b) van deur-tot-deur; of
 - (c) van aangesig tot aangesig
- geld of goedere insamel of probeer insamel of toelaat dat dit ingesamel word of sodanige insameling organiseer of op enige wyse behulpsaam wees met die organiserende daarvan nie.
- (2) 'n Aansoek om toestemming ooreenkomstig subartikel (1) moet skriftelik by die munisipaliteit ingedien word en daarin moet vermeld word –
- (a) die volle naam, adres en beroep van die persoon wat vir sodanige insameling verantwoordelik gaan wees of van die persone wat gesamentlik daarvoor verantwoordelik gaan wees;
 - (b) die doel waarvoor sodanige insameling gehou gaan word of die fonds waarvoor die opbrengs daarvan aangewend gaan word;
 - (c) 'n afskrif van die magtiging of registrasiebesonderhede uitgereik deur die betrokke owerheid of instansie wat die persoon magtig om 'n insameling te onderneem; en
 - (d) die plek of gebied waar sodanige insameling gehou gaan word asook die tydperk en tye waartydens insameling gehou gaan word;
- (3) Toestemming wat ingevolge subartikel (1) verleen word sal geldig wees vir die tydperk soos aangedui in die aansoek of vir sodanige ander tydperk wat deur die munisipaliteit goedgekeur word en 'n afskrif van die goedkeuring moet op aanvraag van 'n beampte of 'n lid van die publiek getoon word;
- (4) Die munisipaliteit het die reg om toestemming verleen ingevolge subartikel (1) te kanselleer indien enige van die goedkeuringvoorwaardes ingevolge artikel 4 verbreek word of nie nagekom word nie, met dien verstande dat die munisipaliteit die verantwoordelike persoon skriftelik in kennis sal stel van die voor-genome kansellering en die persoon redelike tyd gee om versoë te rig.
- (5) Indien 'n insamelaar 'n misdryf ingevolge hierdie verordening pleeg sal die goedkeuring sonder kennisgewing gekanselleer word.

4. Conditions

- (1) Where cash contributions are to be received in a receptacle such receptacle shall bear a label indicating the purpose or the fund to which the proceeds are devoted.
- (2) Where contributions are to be recorded on lists, such lists shall state –
 - (a) that collection is being made with the consent of the municipality;
 - (b) the purpose or the fund to which the proceeds shall be devoted; and
 - (c) the name and address of the person supervising such collection;
- (3) A collector shall not cause a nuisance to any member of the public.

5. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

6. Offences and penalties

A person who contravenes any provision of sections 3 or 4 or fails to comply therewith or who contravenes a provision of subsection (2) commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
 - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.
- (2) It is an offence-
- (a) to furnish false information to an officer in respect of any issue pertaining to this by-law;
 - (b) to refuse to co-operate with the request of an officer made in terms of this by-law; or
 - (c) to hinder or obstruct an officer in the execution of his or her duties in terms of this by-law;
 - (d) to fail to comply with the provisions or conditions of a notice issued in terms of this by-law; or
 - (e) if a collector places inappropriate pressure on a person to contribute after such person has reacted negatively to his or her request.

7. Repeal

The By-law Relating to Street and Door-to-Door Collections published in Provincial Gazette No. 5859 dated 19 April 2002 is hereby repealed as a whole.

8. Short title and commencement

This by-law shall be known as the Swartland Municipality: By-law Relating to Collections and shall come into operation on the date of publication thereof in the Provincial Gazette.

4. Voorwaardes

- (1) Waar kontantbydraes in 'n houer ontvang gaan word, moet elke sodanige houer 'n etiket daarop hê wat die doel of die fonds aandui waarvoor die opbrengs aangewend gaan word.
- (2) Waar bydraes op lyste aangeteken gaan word, moet die volgende op sodanige lyste vermeld word –
 - (a) dat sodanige insameling met die toestemming van die munisipaliteit gehou word;
 - (b) die doel of die fonds waarvoor die opbrengs aangewend gaan word; en
 - (c) die naam en adres van die persoon wie toesig hou oor die insameling;
- (3) 'n Insamelaar mag nie'n oorlas vir enige lid van die publiek veroorsaak nie.

5. Appèl

Enigiemand wie se regte deur 'n besluit wat in verband met hierdie verordening deur die munisipaliteit geneem is, geraak word, kan ingevolge artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000, teen sodanige besluit appelleer deur binne 21 dae van die datum van die kennisgewing van die besluit skriftelike kennis van die appèl en redes aan die Munisipale Bestuurder te gee.

6. Oortredings en boetes

- (1) 'n Persoon wat enige bepaling of voorwaardes van artikel 3 of 4 oortree of versuim om daaraan te voldoen, of 'n bepaling van subartikel (2) oortree is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met hoogstens –
 - (a) 'n boete of gevangenisstraf, of sodanige boete of gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf; en
 - (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die keuse van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur; en
 - (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat die hof bevind deur die munisipaliteit aangegaan is weens sodanige oortreding of versuim.
- (2) Dit is 'n misdryf-
 - (a) indien vals inligting aan 'n gemagtigde persoon voorsien word in verband met enige saak betreffende hierdie verordening;
 - (b) om te weier om aan 'n versoek van 'n beamppte wat ingevolge hierdie verordening gerig is, te voldoen;
 - (c) om 'n beamppte te hinder of te dwarsboom in die uitvoering van sy of haar pligte;
 - (d) om te versuim om te voldoen aan die bepalings of voorwaardes van 'n kennisgewing wat ingevolge hierdie verordening uitgereik is; of
 - (e) indien 'n insamelaar hom of haar aan 'n persoon opdring vir bydrae nadat so 'n persoon negatief op die versoek daarvoor gereageer het.

7. Herroeping

Die Verordening insake Straat- en Huis-tot-Huis Kollektes afgekondig in Provinsiale Koerant 5859 gedateer 19 April 2002 word hiermee in geheel herroep.

8. Kort titel en inwerkingtrede

Hierdie verordening staan bekend as die Swartland Munisipaliteit: Verordening insake Insamelings en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.