

Swartland, South Africa

Financial

Legislation as at 3 March 2006

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Swartland South Africa

Financial By-law, 2006

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Notice is hereby given in terms of section 13 of the Municipal Systems Act, 2000 ([Act 32 of 2000](#)) that the Municipal Council of Swartland Municipality has made the by-law set out in the schedule hereto.

General provisions

1. Definitions

For the purpose of these by-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise—

"**Act**" means the Local Government: Municipal Finance Management Act, 2003 ([Act No. 56 of 2003](#));

"**audit regulations**" means the audit regulations applicable to the municipality;

"**committed projects**" means projects for which financial provision has to be made in more than one financial year;

"**financial plan**" means a financial plan as contemplated in section 26(h) of the Provincial Government: Municipal Systems [Act No 32 of 2000](#) as part of the IDP;

"**IDP**" means the Integrated Development Plan;

"**management team**" means the municipal manager and the managers who are directly accountable to the municipal manager;

"**minister**" means the National Minister responsible for Local Government;

"**municipal manager**" means the person appointed by the Municipal Council as the Municipal manager of the municipality in terms of section 82 of the *Local Government Municipal Structures Act, 1998* ([Act 117 of 1998](#)) and includes any person;

(a) acting in such position; and

(b) to whom the Municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"**notice to the local community**" means a notice complying with the provisions of section 21 of the Provincial Government: Municipal Systems [Act No 32 of 2000](#);

"**service provider**" means a person or institution or any combination of persons and institutions which provide a municipal service in terms of a service delivery agreement;

"**virement**" means the transfer of savings from one budget vote to another to finance a short fall within the same service and expenditure category.

Budgets

2. Strategy and macro control

- (1)
 - (a) The capital and operating budgets for the ensuing financial year and the capital programme for the following two financial years shall be drawn up in the form prescribed and within the levels determined by the executive mayor, with due consideration of the maximum expenditure levels determined by National Treasury.
 - (b) The ensuing year's budget shall be in line with the goals and objectives as contained in the IDP of the municipality. To be able to analyse the budget the heads of departments, in consultation with the Municipal manager, shall utilise the cost centres and line items prescribed in the municipality's chart of accounts, diensverskaffingssoorenkoms lewer.
 - (2)
 - (a) At the commencement of the budget process, approximately during August the executive mayor shall submit a time schedule outlining the key deliverables contained in sections 21(l) (b)(i-iv) of the Act and the proposed budget levels and financial targets in relation to the ensuing year's budgets for consideration by council and release to registered interest groups.
 - (b) In order to increase consultation and community participation in the budget process, heads of departments shall meet with their respective chairpersons and portfolio councillors during October to discuss the forthcoming budget and requirements, and this process should be combined with and supported by the requirements of chapter 4 of the Systems Act, 2000 ([Act 32 of 2000](#)) regarding community participation.
 - (3) The levels and targets approved by council in terms of section 2(2)(a) shall be included in the guidelines issued by the executive mayor to heads of departments in regard to the preparation and completion dates of the capital budget/programme and the operating budget.
 - (4) Heads of departments in conjunction with the municipal manager shall scrutinise the budgets and the actual expenditure or income to ensure that they are accurate. The heads of a department shall advise the municipal manager of the name of the employees who will act as the cost centre controllers and who shall be accountable to the heads of a department for the following:
 - (a) determining key performance indicators;
 - (b) monitoring actual expenditure and income against budgets;
 - (c) liaising with the municipal manager or the departmental accountant;
 - (d) authorising expenditure in terms of delegated powers granted by the head of department; and
 - (e) regular or ad hoc reporting of variances compared to budgets.
 - (5) All budgets (capital, operating, multi year, and adjustments) must be prepared by heads of departments in accordance to the directions issued by the mayor and in consultation with the portfolio councillors.
 - (6) Budgets will be tabled by the executive mayor.

3. Capital budget and capital programme

- (1) The municipal manager must ensure that the municipality adopts an Integrated Development Plan (IDP) as contemplated in chapter 5 of the Systems Act, 2000 ([Act 32 of 2000](#)). The IDP must be reviewed annually and all capital and operating budget projects must be aligned with the objectives of the plan.
- (2) By notice to the local community, the municipal manager shall invite members of the local community to submit proposals by 31 October in any year for consideration in the operating budget, capital budget and capital programme.

- (3) All proposals received from whatever source shall be collated by the municipal manager and submitted to the relevant heads of departments.
- (4) Every head of department must prepare and submit a preliminary report reflecting the desirability of the proposals received for consideration by the executive mayor.
- (5) After the executive mayor has indicated that the proposals received justify further investigations the proposals must be evaluated according to inter alia the following factors—
 - (a) IDP objectives;
 - (b) providing in the basic needs of the community;
 - (c) promotion of social and economic development in the community;
 - (d) financial sustainability;
 - (e) technical feasibility;
 - (f) total cost, impact of depreciation/debt servicing costs, maintenance and operational costs on future operating budgets; and
 - (g) planning required and the duration of the project.
- (6) Every head of a department shall, in respect of the activities of the department, in consultation with the municipal manager, prepare and submit in electronic format—
 - (a) when requested by the municipal manager, a adjusted capital budget reflecting approximate results for the current financial year and identify capital projects or parts thereof to be carried over to the next financial year;
 - (b) a draft capital budget in respect of the ensuing financial year and a draft capital programme for the following two financial years, based on the following principles—
 - (i) year one of the capital programme shall become the new capital budget and year two of the current capital programme shall become year one in the new capital programme; and
 - (ii) new projects shall enter the programme in year two.
- (7) Special circumstances must exist for a project to enter the capital budget or programme in any other way.
- (8) An adjustment capital budget must when required and subject to the provisions of section 28 of the Act—
 - (a) collated by the municipal manager;
 - (b) considered by the management team, executive mayor and the council when required.
- (9) The following rules shall apply—
 - (a) carry-over of capital projects from the previous year will be considered for inclusion if they fall within the existing levels of the capital budget;
 - (b) new or additional projects included in the revised capital budget which were not previously approved by council must be fully motivated and accompanied by completed project appraisal forms;
 - (c) a return of projects that have been deleted and the reasons for deletion must be indicated.
- (10) Councillors and head of departments may submit to the executive mayor by 31 October in any year properly motivated proposals for consideration in conjunction with the capital budget and capital programme.

- (11) The draft capital budget and capital programme shall—
- (a) indicate separately projects in terms of the following categories—
 - (i) IDP objectives;
 - (ii) project classification as prescribed by National Treasury;
 - (iii) committed projects;
 - (iv) related to maintaining existing services/infrastructure;
 - (v) other projects; and
 - (vi) financial sources;
 - (b) indicate the expected financing-, maintenance-, and operating costs of the project;
 - (c) include the following in connection with new projects—
 - (i) full motivations, including details of their impact on the operating budget and accompanied by a completed project appraisal form, provided that no project shall be considered by the executive mayor for inclusion in the capital budget/programme unless the project has been considered by the project evaluation committee;
 - (ii) a monthly cash flow projection for the first financial year of a project which must differentiate between external payments and internal work performed; and
 - (iii) classification in terms of the Integrated Development Plan (IDP) and motivation as to how the IDP will be supported;
 - (d) indicate projects that have been deleted from the previous programme and reasons for such deletion;
 - (e) be collated by the municipal manager, who shall include the priority rating of the project(s) in the draft capital budget and programme;
 - (f) be considered by the management team during the first half of December and shall indicate clearly—
 - (i) the progress of existing approved projects;
 - (ii) projects deleted;
 - (iii) the projects recommended for inclusion; and
 - (iv) new projects not recommended for inclusion;
 - (g) be discussed informally during the last week of January by the relevant by the functionaries, executive mayor and involved councillors;
 - (h) be considered by the executive mayor during the first half of February, and thereafter—
 - (i) be considered at a special council meeting during March; and
 - (ii) be open for inspection and representations by the local community through organised civic bodies and public meetings in accordance with council's scheduled calendar of meetings.
- (12) A quarterly report to the executive mayor prepared by the municipal manager shall serve to monitor the actual capital expenditure against the budget and cash flow forecast for the period and the heads of departments shall provide comment to the municipal manager for inclusion in the report or at meetings of the committee.
- (13) The council may during the year consider the reallocation of project expenditure within the approved capital budget or capital programme ceilings by means of an adjustment budget.

4. Operating budget

- (1) Every head of a department shall annually in respect of the activities of the department, prepare a draft adjustments operating budget for the current financial year and a draft operating budget for the ensuing and the following two financial years in consultation with the municipal manager and shall present it to the executive mayor before 15 February of each year.
- (2) The draft departmental operating budgets shall be compiled within the levels set in [section 2](#) and shall be—
 - (a) collated and consolidated by the municipal manager;
 - (b) considered by the management team during January but not later than the first half of February;
 - (c) given overall consideration by the executive mayor supported by a report thereon by the municipal manager, and
 - (i) be discussed informally during February by the relevant by the functionaries, executive mayor and involved councillors;
 - (d) considered by the executive mayor during February supported by a report thereon by the municipal manager which shall incorporate any reasonable comment, problems identified and suggested solutions by heads of department in the report;
 - (e) considered by council at a special meeting held during March; and
 - (f) be open for inspection and representations by the local community through organised civic bodies and public meetings in accordance with council's scheduled calendar of meetings.
- (3) The approved operating budget shall not reflect a deficit and at least provide for the following-
 - (a) the total potential income from rates, service charges, fees and charges as approved by council;
 - (b) the equitable share of national income as approved by National Treasurer from time to time;
 - (c) a working capital and bad debt provision equal to the increase in debtors during the previous financial year; and
 - (d) indigent subsidies.

5. Financial plans

- (1) Financial plans shall be prepared by heads of departments in consultation with the chairpersons and deputy chairpersons of standing committees concerned and at least one annual consultation, which shall be reflected in the official calendar of meetings, shall take place during each financial year.
- (2) Financial plans shall be submitted as required in terms of departmental circulars issued by the municipal manager for the preparation of budgets and financial statements, and shall include—
 - (a) a mission statement for the department;
 - (b) key strategic objectives;
 - (c) a short description of the organogram and functions performed;
 - (d) a budget summary and five-year forecast;
 - (e) the cost of main activities with key performance indicators;
 - (f) explanations of major variances in the operating budget for expenditure and income compared to the previous budget;

- (g) a short description of the major capital projects and non-recurring expenditure budgeted for the ensuing year;
 - (h) most important shortcomings in the department; and
 - (i) strategies to eliminate shortcomings.
- (3)
 - (a) The purpose of financial plans is to focus a department, service or project on future operations against planned, measurable and achievable objectives, which support the overall IDP.
 - (b) The operational objectives shall be measured against achieved results.
 - (c) The heads of departments must via the municipal manager report to the executive mayor all variances, both positive and negative, as required in subsections (2) and (4).
- (4) Financial plans shall be updated at least three times during a financial year as follows—
 - (a) when actual figures are available at the end of a financial year (approximately September/October);
 - (b) during consideration of the draft budget for the ensuing year (February/March); and
 - (c) after final approval of the operating and capital budgets for the ensuing year (June), and the final update may be utilised for publication.

6. Reports affecting finances

- (1) No standing committee, task team or subcommittee established by council shall consider any proposal with financial implications in excess of the values applicable to operating budget virements, in the case of operating expenditure, or capital budget virements, in the case of capital expenditure, until the head of a department concerned has afforded the municipal manager a reasonable opportunity of submitting financial comment on the matter, which shall not be less than three working days before the closing date of the relevant agenda.
- (2) The director: corporate services shall reject items or reports to committees which do not contain the comment of the municipal manager as required in subsection (1).
- (3) Projects likely to have an impact which exceeds R1 million (capital or operating, income or expenditure) must specify alternative courses of action, the most beneficial alternative, the financial impacts and operating budget consequences, before a project is approved by council for inclusion in any budget.
- (4) Any proposed by-law or amendment of any by-law with financial implications shall be referred by the head of a department to the municipal manager for comment before consideration by any standing committee.

Income

7. Fees, tariffs and rates

- (1) Heads of departments must annually review all fees, service charges and other charges to be included in the operating budget in accordance to section 74(2) of the Systems Act, 2000 ([Act 32 of 2000](#)) and council's tariff policy in such a way that—
 - (a) users and consumers are treated fairly equitably and without bias in the application of tariffs;
 - (b) the amount an user pay for services generally is in proportion to the use of that service;
 - (c) tariffs reflect the cost of the service;

- (d) tariffs are set at levels that secure the financial sustainability of the service; and
 - (e) it encourages and promotes the efficient use of scarce resources.
- (2) The result of this revision shall be reported to the executive mayor, even if no changes are proposed. If the proposed tariffs do not cover the cost of the service head of a department will motivate deviations and submit the same to the executive mayor for consideration.
 - (3) The executive mayor shall make no decision concerning fees, tariffs or other charges without first considering a report from the head of the department concerned incorporating the views of the municipal manager.
 - (4) The municipal manager must calculate property rates to balance the budget and to ensure that the creditworthiness of the municipality is maintained by providing for-
 - (a) bad debts;
 - (b) working capital;
 - (c) debt servicing costs; and
 - (d) provisions and reserves.

8. Collection and control of income

- (1) The municipal manager shall maintain the credit control and debt collection policy of the municipality, including-
 - (a) credit control procedures;
 - (b) debt collection procedures;
 - (c) provision for indigent debtors consistent with its rates and tariff policies and national guidelines;
 - (d) interest on arrears;
 - (e) arrangements for payment of debt;
 - (f) matters relating to unauthorised consumption of services, theft and damages.
- (2) The credit control and debt collection policy of the municipality must be reviewed annually by council on the strength of a report in this regard submitted to council by the municipal manager to ensure sustainability of service delivery and access to the capital market.
- (3) The municipal manager shall be responsible for the collection of all monies due to the council, provided that by arrangement with and under the control of the municipal manager, monies may be collected by other departments or duly appointed agents.
- (4) Any monies collected by any department of the municipality or duly appointed agents shall be paid to the municipal manager or banked in conformity with the requirements of the audit regulations.
- (5) All amounts owing to the municipality shall be accrued via the debtors system of the municipal manager and no amount due to the municipality shall be written off as irrecoverable without the approval of the executive mayor.
- (6) Receipts issued for all monies collected by departments or agents for the credit of the municipality must be in conformity with the requirements of the audit regulations, and no monies shall be accepted unless a receipt therefore can be issued immediately.

Expenditure

9. Expenditure

- (1) The council shall not approve any capital or operating expenditure until it has been considered and reported on by the executive mayor.
- (2) No expenditure shall be incurred unless provision therefore has been made in the operating budget.
- (3) Work, approved by the council either specially or generally, may only be undertaken on behalf of a third party when the full costs are recovered in advance of the commencement of the work.
- (4) In the case of an emergency, any proposed expenditure not provided for in the budget shall be authorised by the executive mayor after the municipal manager have been advised of the intended action. In respect of expenditure thus incurred, the head of a department shall-
 - (a) in the case of operating expenditure, report as soon as possible to the executive mayor and nominate equivalent reductions in order to finance the expenditure; or
 - (b) in the case of capital expenditure, report as soon as possible to the executive mayor and recommend a reallocation of expenditure, having regard to priority ratings and the limit of the total approved capital budget.
- (5) No person shall commit the municipality to any authorised expenditure without completion of an official requisition or order, which must be submitted to the Municipal manager or his delegate. The municipal manager or his delegate shall determine the information to be supplied on such requisition or order.
- (6) Should any councillor or municipal employee become aware of or be advised of any unforeseen increase in the price or fees for any service or supply rendered or to be rendered to the municipality, such person shall report the increase to the executive mayor.
- (7) Municipal representatives on various organisations have a general mandate to resist increases in membership fees or other increases which may have a substantial effect on the expenditure of the municipality. As soon as possible after becoming aware of such increase, the executive mayor shall be approached for a specific mandate.

10. Capital expenditure

- (1) No capital expenditure shall be incurred or committed to any project unless—
 - (a) provision, therefore has been made in the approved capital budget;
 - (b) all necessary legislative requirements to incur the expenditure or take up the external loan have been met; and
 - (c) clearance has been obtained from the municipal manager for accounting purposes prior to incurring any expenditure.
- (2) Amendments to the approved capital budget shall not cause the total of the said approved budget to be exceeded, except-
 - (a) as provided for in [section 7\(3\)](#); or
 - (b) with the approval of the executive mayor, where the additional capital expenditure involved will not affect the operating budget.
- (3) Where capital expenditure provided for a particular purpose in the previous year's budget has not been fully incurred in that year and the unspent balance of expenditure, or any portion of it, must in the opinion of the head of a department concerned be incurred during the current financial year, such balance of expenditure, if not duly provided for in the current year's budget, shall only be authorised if the total capital costs/depreciation impacting on the municipal operating account for the particular service does not exceed the provision for capital costs/depreciation provided for that particular project in the current financial year.

- (4) No under-expenditure on an amount budgeted for a specific purpose may be applied to meet additional expenditure on an approved capital project without the approval of the executive mayor, except that virement not exceeding an amount as determined by council from time to time in a specific case, within a service and the same funding source, shall be permitted where the head of a department and the municipal manager agree: Provided that no savings on the staff budget may be used for this purpose.
- (5) Virement to and from specific capital projects may not exceed the limit referred to in subsection (4) within a financial year without the approval of the executive mayor.
- (6) Expenditure as contemplated in subsections 10(3) and (4) must be condoned during the adjustment budget.

11. Operating expenditure and expenditure from provisions and special funds

- (1) No saving on an amount budgeted for a specific purpose may be applied to meet expenditure for another purpose, whether budgeted for or not, without the approval of the executive mayor, except that virement not exceeding an amount as determined by Council from time to time in a specific case within a service shall be permitted where the head of a department and the municipal manager agree, and if special funds are involved, the approval of the donor must also be obtained, provided that virement to and from specific operating budget line items may not exceed that limit within a financial year without the approval of the executive mayor and that no savings on the staff budget may be used for this purpose.
- (2) Should a head of a department have reason to believe that any budgetary provision is or will be insufficient, or that estimated income is unlikely to be received, a report, in terms of section 28 of the Act shall forthwith be submitted to the executive mayor concerned. The reasons for the anticipated excess expenditure (or shortfall in income) shall be stated and any budget amendments that can be effected in order to meet the excess or shortfall shall be indicated.
- (3) Subject to the provisions of national and provincial legislation-
 - (a) additional expenditure not exceeding an amount per item as determined by council from time to time may be approved by the executive mayor; and
 - (b) additional expenditure exceeding this amount per item shall require the approval of council.
- (4) Notwithstanding subsection (3)(a) and (b) above, and subject to the approval of the adjustment budget the management team, heads of departments, in consultation with the municipal manager, may operate within the limits of the adjustment budget in respect of expenditure designated "General Expenses" and "Repairs and Maintenance" where—
 - (a) the total revised departmental adjustment budget does not exceed the original budget;
 - (b) the total revised municipal adjustment budget in respect of "General Expenses" and "Repairs and Maintenance" does not exceed the original municipal budget; and
 - (c) initial budgetary provision existed in the original municipal budget.
- (5) All virements that were approved during the year must be confirmed during the adjustment budget.

12. Recovery of losses

- (1) Any loss suffered by the municipality due to any fraudulent or corrupt act or an act of bribery shall immediately be reported to the executive mayor, South African police service and the Auditor-General by the municipal manager.
- (2) The circumstances which describe various losses or damages in legislation, are contained in chapter 15 of the Act. All employees shall immediately advise the municipal manager should they become aware of occurrences. Provisions in this regard in any future legislation, shall apply *mutatis mutandis*.

- (3) All employees shall be advised of their responsibility in this regard with an appointment letter.

13. Credit rating

- (1) All heads of departments shall at all times apply sound administration within their departments and observe budget parameters and target levels to ensure that the credit rating status of the municipality is not adversely affected.
- (2) The municipal manager must analyse the financial statements annually and prepare a report to council reflecting all financial aspects that influence council's creditworthiness.
- (3) The report must also include strategies to rectify possible deviations.

14. Procurement, tenders and contracts

- (1) Procurement of goods and services shall comply with the procurement policy of the municipality.
- (2) Subject to relevant legislation the procedure for the placing of contracts shall be as determined by council, and any changes to the conditions of contract after the acceptance of a tender shall be reported to the executive mayor.
- (3) The municipality's power in terms of the national and provincial legislation to enter into contracts for the supply of goods, services or materials or for the execution of work of a value not exceeding the amount approved by the minister in regulations, without inviting tenders shall not be exercised until the municipal manager or a head of a department has invited and considered quotations for the supply of such goods, services or materials or for the execution of such work, within the framework as determined by council in its procurement policy from time to time.
- (4) In appointing contractors or any external supplier of services, a head of a department shall ensure that the supplier is given clear instructions regarding the performance expected or to be achieved.
 - (a) The desired performance shall be measurable, quantifiable and capable of being certified on completion of the task or after rendering the service.
 - (b) The performance required shall be conveyed to the supplier in writing together with the official municipal order.
- (5) A head of a department shall certify that services rendered are in accordance with the performance expected and agreed. Variations shall be reported and, where necessary, the required authority for such variation shall be obtained by the head of a department.
- (6) Performance guarantees received in terms of the requirements of the procurement policy from a supplier or successful tenderer shall be referred to the municipal manager for acceptance.

15. Goods and materials

- (1) All goods and materials belonging to the municipality and held for future consumption shall be kept in safe custody under the control and supervision of the municipal manager. Provided that with his/her approval, goods and materials may be held by departments in a store, on condition that all items not required immediately shall be recorded and accounted for by such departments to the satisfaction of the municipal manager.
- (2) A store's record reflecting full particulars of purchases and issues of goods and materials and the balances of stock on hand in the purchasing and supplies division shall be maintained by the municipal manager. Similar stores records shall be maintained by heads of departments in respect of stores under their control.
- (3)
 - (a) Stocks shall not, except where the municipal manager is satisfied that special circumstances exist, be carried by or for any department in excess of normal requirements.

- (b) Whenever it appears to the municipal manager that a proposed purchase would result in infringement of this clause, the head of a department shall be advised accordingly.
 - (c) If the head of a department still insists, that the proposed purchase should take place, the municipal manager shall adjudicate in the matter and thereafter report it to the executive mayor.
- (4)
 - (a) Requisitions for goods and materials shall be signed by the head of a department or nominees provided written notification of such nominees and the extent of their authority is given to the municipal manager.
 - (b) Heads of departments shall advise the municipal manager of the persons authorised to sign such requisitions in respect of the categories determined and approved by council from time to time.
 - (c) Specimen signatures of all persons authorised to sign requisitions shall be supplied to the municipal manager and updated coinciding with any alterations or changes.
 - (d) When such persons leave the services of the municipality, the municipal manager shall be advised immediately.
- (5)
 - (a) Except in the case of emergency requisitions, the municipal manager shall only accept requisitions and orders if sufficient budgetary provision exists to cover a requisition or order submitted to the purchasing and supplies division.
 - (b) The municipal manager shall immediately inform the head of a department concerned if there is insufficient budgetary provision, and the head of a department shall either obtain the municipal manager's decision as to whether the requisition should be executed or not, or provide the municipal manager with the necessary virement.
 - (c) In the event of the requisition being executed with the municipal manager's authority, the municipal manager shall forthwith report the matter to the executive mayor.
- (6) Requisitions for uniforms or protective clothing shall only be executed if they are in accordance with the approved schedule of issue of the municipality.
- (7) Subject to the requirements of the audit regulations, the municipal manager shall be responsible for the ordering, custody and issue of receipt forms, tickets, tokens, vouchers of value, and such other stationery as may be necessary.
- (8) All goods and services must be procured in terms of chapter 11 of the Act, the regulations promulgated in terms thereof and the municipality's procurement policy.
- (9)
 - (a) Unless otherwise agreed with the municipal manager, all surplus goods and materials after completion of works or the fulfilment of the purpose for which they were issued or goods recovered in the course of carrying out works or on hand for any reason whatsoever, shall be returned to and recorded by the purchasing and supplies division without delay.
 - (b) An advice note describing such goods and materials shall be furnished to the purchasing and supplies division by the department concerned.
 - (c) The municipal manager shall, in consultation with the head of the department concerned, decide on the value, if any, to be credited to the appropriate vote(s).
- (10)
 - (a) In the event of the municipal manager authorising a department to return goods or materials direct to the supplier, the head of the department shall ensure that the necessary "goods returned receipt" is forwarded to the purchasing and supplies division.
 - (b) Under no circumstances may goods be returned to a supplier without the supplier immediately issuing the goods returned note.

- (11) Plant and equipment and other goods and materials shall be deemed to be redundant or obsolete on the authority of the executive mayor, which committee shall also authorise the manner of disposal thereof.
- (12) The powers of the municipality to sell out of hand any goods or materials the value of which, as determined by council from time to time, shall not be exercised unless the municipal manager has invited and considered offers for the purchase of such goods or materials, on condition that-
 - (a) at least two written offers are obtained in respect of each such item;
 - (b) adequate records of each such transaction are maintained;
 - (c) the municipal manager, after consultation with the head of the department concerned, accepts the offer considered best in the general interest of the municipality; and
 - (d) should the head of a department concerned not agree to the acceptance of the offer recommended by the municipal manager, the municipal manager submits the reasons in a report to the executive mayor.
- (13)
 - (a) Subject to the provisions of any legislative prescription, the amount and value of any surpluses or shortages in stock, as well as slow-moving stock, revealed in stock-taking shall be reported by the municipal manager to the executive mayor, together with the reasons for discrepancies.
 - (b) Where the stock is not under the control of the municipal manager, the municipal manager may require the responsible head of a department to furnish the said reasons.
 - (c) Any adjustments thereafter must be authorised by the executive mayor, except that the municipal manager may authorise adjustments in stocks and losses not involving negligence or identifiable theft, provided favourable internal audit reports are presented in all

16. Payments

- (1)
 - (a) The municipal manager shall be responsible for the payment of all accounts due by the municipality and shall distribute, post or otherwise submit payments after authorisation directly to the payee.
 - (b) All payments will be made before the end of the month following the date on which the invoice from the service provider has been received unless otherwise agreed.
- (2) Heads of departments shall advise the municipal manager of the names of officials empowered to sign vouchers authorising payment of accounts and furnish their specimen signatures.
- (3) Vouchers submitted to the municipal manager by any department for payment shall be in such form as may be required by the municipal manager and must state the reference to the budgetary provision to meet such payment.
- (4) A department submitting any voucher to the municipal manager for payment shall ensure that-
 - (a) the goods have been received or the services rendered;
 - (b) the prices, calculations and any taxes are correct;
 - (c) any discounts to which the municipality is entitled have been deducted;
 - (d) the account has not been paid previously;
 - (e) sufficient budgetary provision exists;
 - (f) if excess expenditure is involved, the executive mayor or council has approved such excess, in which case the resolution authorising the excess expenditure shall be quoted on the voucher;
 - (g) authority for the payment exists, in which case the authority shall be indicated on the voucher;

- (h) fruitless and wasteful expenditure has not been incurred.
- (5) The voucher submitted to the municipal manager for payments requiring the special authority of the municipality or any political structure shall quote the authority for such payment.
- (6) All payments due by the municipality shall be made by cheque or approved electronic method drawn on the banking account of the municipality, except that in the case of purchases not exceeding the amount authorised in terms of the audit regulations relating to the auditing of accounts for local authorities, payment may be made from petty cash, should this method be more expedient.
- (7)
 - (a) All cheques or other methods of payment approved by the municipal manager and drawn on the banking account of the municipality, shall be signed by not fewer than two persons authorised by the municipal manager to do so on behalf of the municipality in compliance with legal requirements, audit regulations or the council's resolutions.
 - (b) The delegated authority to sign payments shall be in writing and kept on record, and be reviewed regularly by the municipal manager.
- (8)
 - (a) The municipal manager shall have authority to make impress or other advances to heads of departments and to other officials when the municipal manager deems this necessary.
 - (b) The municipal manager shall have the authority to determine the limit of any such advance from time to time, and to make rules for the management thereof.

17. Salaries, wages and allowances

- (1) The municipal manager shall be responsible for the calculation and payment of salaries, wages and allowances.
- (2) Payment shall be made in accordance with pay sheets approved by the municipal manager to a nominated bank account of the municipal employee or councillor.
- (3)
 - (a) The municipal manager shall be notified by the director: corporate services of all appointments, promotions, dismissals, resignations, transfers, absences for any reasons, and all matters affecting the emoluments of employees of the municipality.
 - (b) The submission of such information to the municipal manager shall be in such form and at such dates and times as the municipal manager may determine from time to time.
- (4) The director: corporate services shall be responsible for the maintenance of all records essential for the accurate determination of emoluments and leave due to employees of the municipality.

18. Loans

- (1) The municipal manager shall be responsible for the raising of such loans as may be required from time to time, on such terms and conditions as prescribed by law and in accordance with the loan policy of the council.
- (2) The raising of such loans shall be subject to the invitation of written quotations from financial institutions, and the invitation to submit quotations shall specify the purpose of the loan and the amount required, as well as the proposed period of repayment and other information required by legislation.
- (3) All quotations received shall be evaluated by the municipal manager, who shall submit recommendations to council and may make use of experts for this purpose.

19. Investments

- (1) The municipal manager shall determine the cash flow needs of the municipality on a regular basis. Heads of departments shall supply such information with regard to capital expenditure as may be required by the municipal manager in order to determine needs.
- (2) The municipal manager shall be responsible for the investment of such of Council's funds as are required by law to be invested, or are available for investment, on such terms and conditions as may be prescribed by legislation, and the investment policy of the council. A report reflecting the municipality's investment portfolio must be submitted to the executive mayor ten days after each month end.
- (3) Written quotations shall be invited for all investments in excess of twelve months and all submissions shall specify the investment amount tendered for, the investment instrument and the period of the investment, and any other information required by the municipal manager.
- (4) All quotations received for investments in excess of twelve months shall be evaluated by the municipal manager, who shall submit recommendations in a report to the executive mayor. The municipal manager may make use of experts for this purpose. A report reflecting all investments made during the previous quarter must be submitted to council for notification.
- (5) Full details of all investments must be recorded in a register as prescribed in council's investment policy.

20. Insurance

- (1) The municipal manager shall be responsible for the management of insurance policies of the municipality covering such risks as the council may from time to time determine and shall ensure that suitable and adequate premiums are made to the insurer.
- (2) Heads of departments shall report to the executive mayor via the municipal manager, as required from time to time, as to the adequacy or otherwise of the insurance cover.
- (3) The municipal manager shall be responsible for reviewing and renegotiating cover through the insurance brokers appointed by the municipality as agents for that purpose.
- (4) The insurance brokers of the municipality shall be appointed by public tender on the recommendation of the municipal manager for a determined period and shall be responsible for negotiating all the municipality external short-term insurance.
- (5) Heads of departments shall be responsible for ensuring that the insurance cover in respect of those assets under their control is sufficient, having regard to the current value and replacement costs of those assets, and shall notify the municipal manager without delay of any new insurable risk or any alteration in an existing insurable risk which has arisen in connection with their respective departments.
- (6) Annually before 1 July, the municipal manager shall provide heads of departments with schedules of all insured items stating their insured value and the premium for the following year.
- (7) On the occurrence of any event giving rise or likely to give rise to a claim by or against the municipality or against its insurers, the head of a department concerned shall notify the municipal manager, with a copy to the municipal manager of that event, and the municipal manager shall as soon as possible notify the municipality insurer thereof if the risk is insured externally.
- (8) Reports and claims externally and internally shall be investigated if the municipal manager considers such action desirable, and settlement shall be effected by the municipal manager when the municipal manager is satisfied that the municipality is legally liable to pay the claim.
- (9) The municipal manager shall maintain a register in which particulars of all insurance policies held by the municipality shall be entered and he/she shall be responsible for the payment of all premiums.

21. Accounting

- (1) The municipal manager shall determine the format, standards and systems applicable to the financial accounting procedures, and shall in doing so take cognisance of generally accepted municipal accounting practices (GAMAP), guidelines issued by the department of finance, the auditor-general and the Institute of Municipal Financial Officers.
- (2) The municipal manager shall ensure that proper accounting records and registers are opened and maintained in compliance with subsection (1), and the municipal manager shall prescribe the requirements for access to electronic accounting systems and shall maintain the necessary security and password systems for this purpose.
- (3) The municipal manager shall prepare and submit the required information for the preparation of the financial statements in the format determined in subsection (1), and any supporting detail as required from time to time by the auditor-general.
- (4) The annual financial statements shall be submitted to council by the executive mayor where after abridged financial statements may be published in the local newspapers.
- (5) The auditor-general's reports on the financial statements and performance auditing shall be submitted to the council as prescribed by legislation.
- (6) No revenue collection, accounting, costing or other financial systems shall be introduced in any department and no alteration shall be made to any existing system without the prior approval of the municipal manager.
- (7) All internal charge-out rates are to be continuously reviewed by the municipal manager in consultation with heads of departments.
- (8) No statement, provision or obligation contained in any of these clauses shall in any way detract from the responsibility of each head of a department to maintain any costing and accounting system controlled by a head of a department in such a manner that at all times the accounting records and registers reflect the complete financial position of the function concerned as accurately as possible.

22. Audit committee

- (1) The municipal manager shall invite applications/nominations from the public for appointment to the audit committee by notice in the local press. The most suitable candidates shall be appointed and the same procedure shall be followed when members retire or vacancies occur for whatever reason.
- (2) The audit committee appointed by the council shall be responsible for functions as prescribed in section 166(2) of the Act and specifically for co-ordinating the functions of the external and internal audit activities to ensure maximisation of all audit resources, and shall have unrestricted access to all municipal records, documents and information.
- (3) Regarding external audit matters, the audit committee shall—
 - (a) be available to consult in the appointment of external auditors and the audit fee as decided by the auditor-general;
 - (b) assess the planning, scope and audit approach for doing the audit;
 - (c) review all audit management letters and responses submitted by management; and
 - (d) review the report of the auditor-general on the financial statements, the response of the municipal manager and any other reports issued by the auditor-general.
- (4) Regarding internal audit matters, the audit committee shall—
 - (a) ensure that an annual internal audit plan is prepared;

- (b) maintain the independence of the audit function;
 - (c) consider the major findings of internal audit investigations and evaluate and monitor the response of management's response thereto as well as weaknesses in internal controls; and
 - (d) ensure that quarterly reports are received from the municipal manager.
- (5) The audit committee shall review financial control measures, the accounting system and reporting standards, and consider proposals for improving the efficiency, effectiveness and economy of all operations of the municipality on an ongoing basis.
 - (6) In addition to approving the internal audit plan, the audit committee is authorised to request the audit services division to investigate any other matter, which, in its opinion, require attention.
 - (7) The audit committee shall annually submit reports to council on its activities during the year.
 - (8) If at any time, in the opinion of the audit committee, a matter must be brought to the notice of the council, a report in this regard must be submitted to the municipal manager with the request that it be submitted to the council.
 - (9) The municipal manager and the municipal manager are *ex officio* members of the audit committee.

23. Internal audit

- (1) The audit services division of the municipality shall execute the annual internal audit plan approved by the audit committee and shall, in addition, perform such duties and conduct such investigations as may be required by law, or by the council, or the committee of the executive mayor, the municipal manager or the audit committee and shall, on an ongoing basis, review the internal control systems and report on proposed changes as they are required.
- (2) In performing such duties or conducting such investigations, the staff of the audit services division shall be given access to any departmental records required for the purpose of the audit and the head of a department and every official thereof shall upon request by the manager: audit services supply such information as may be required.
- (3) The manager: audit services shall report to the municipal manager on the results of all investigations, and unless obliged by law, or by resolution of the council or any standing committee thereof, the municipal manager shall when considered necessary submit such reports to the audit committee and/or the executive mayor.
- (4) The manager: audit services shall submit a quarterly report via the municipal manager to the audit committee on the activities of the audit services division.

24. Assets

- (1) The responsibility for adequately maintaining and securing any fixed asset under the control of a department shall vest in the head of the department concerned and must be executed in terms of the Council's asset management policy.
- (2) The head of a department, in consultation with the municipal manager, shall maintain an adequate asset management system (asset register) to account for all fixed assets under the control of a department.
- (3) Overall accounting control of all fixed assets shall be exercised by the Municipal manager who will determine the appropriate records, charges for the use of such assets and other incidental matters in consultation with the head of a department concerned.
- (4) In accordance with the relevant legislative provisions each head of a department shall be responsible for an annual inventory of furniture, equipment and other movable property with a life expectancy of more than one year under departmental control showing quantities and values.

25. Alienation of immovable property (land)

The alienation by sale or lease of immovable property, land availability agreements and the establishment of selling prices and rentals shall be in compliance with any directives issued in terms of applicable legislation and the council's by-laws.

26. Information systems

- (1) The centralised corporate information system allocated to the municipal manager shall be maintained in such a way as to ensure the integrity and security of the systems and data.
- (2) The municipal manager shall take all reasonable measures to ensure adequate backup of programmes and data for recovery purposes.
- (3) All program changes shall be recorded for audit purposes and be authorised by the municipal manager or his/her delegated representatives.
- (4) A suitable disaster recovery plan shall be prepared and maintained by the municipal manager to cover all relevant aspects to maintain business continuity in the event of a disaster, and the plan shall be approved by council and be subject to an annual review as part of the overall IDP.
- (5)
 - (a) Heads of departments shall ensure that all reasonable steps are taken to prevent hardware and software from being infected by viruses.
 - (b) All work stations shall be supplied with the recommended software to assist in providing the necessary protection.
 - (c) This software must be active when the hardware is in operation.
- (6) Information systems of any nature which generate financial results used to cost or estimate expenditure for recovery from third parties or which quantify levies, tariffs and other fees and charges must be certified by Internal audit. Internal audit must ensure that random certification is undertaken on amendments to the systems.

General provisions

27. Conflict of law

When interpreting a provision of these by-laws, any reasonable interpretation, which is consistent with the Act must be preferred over any alternative interpretation which is inconsistent with that purpose.

28. A repeal of existing municipal financial by-laws

The provisions of any existing by-law relating to finances of the municipality are hereby repealed.

29. Application of by-laws

These by-laws apply to:

* the municipality, political structures, political office-bearers and municipal officials of the municipality.

30. Short title

These By-laws are called the Financial By-laws: Swartland Municipality.