Revenue Bylaw

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1. TITLE

1.1. Swellendam Municipality Revenue Bylaw.

2. DEFINITIONS

In this Bylaw any word or expression to which a meaning has been assigned in the Systems Act or MFMA has that meaning, unless the context indicates otherwise-

2.1. "Account" means an account rendered specifying charges for municipal services provided by the municipality, or any authorized and contracted service provider, and which account may include assessment rates levies.

2.2. “Accounting Officer” means the Accounting officer appointed in terms of Section 60 of the MFMA.

2.3. “Annual Budget” shall mean the budget approved by the municipal council for any particular financial year and shall include any adjustments to such budget.

2.4. “Annually” means once every financial year.

2.5. "Arrangement" means a written agreement entered into between the Municipality and the customer where specific repayment parameters are agreed to.

2.6. "Arrears" means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.

2.7. "Authorised Representative" means a person or instance legally appointed by the Municipality to act or to fulfill a duty on its behalf.

2.8. “Availability charge” means where properties are not connected to the municipal infrastructure but can reasonably be connected to the service.

2.9. "Billing Date" means the date upon which the monthly statement is generated and debited to the customer's account.

2.10. “Business and Commercial Property” means –

2.10.1. Property used for the activity of buying, selling, or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity.

2.10.2. Property on which the administration of the business of private or public entities takes place.

2.11. “Bylaw” shall mean legislation passed by the council of the Municipality, and which shall be binding on the municipality and on the persons and institutions to which it applies.

2.12. “Calendar year” shall mean 12 consecutive months of a financial year(s).

2.13. "Chief Financial Officer" means the person appointed as the Chief Financial Officer of the municipality, or his or her nominee.

2.14. "Consolidated Account" means an account that is a consolidation of any separate accounts of a person who is liable for payment to the municipality.

2.15. "Council" means the Council of the municipality.

2.16. “Councillor” shall mean a member of the Council of the municipality.

2.17. "Credit Control" means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

2.18. "Customer" means the owner of any premises to which the municipality has agreed to supply or is supplying municipal services.

2.19. "Day/Days" means calendar days, inclusive of Saturdays, Sundays and public holidays.

2.20. "Debt Collectors" means an external person, agent or entity appointed by the Municipality to collect monies due and payable to the municipality, subject to the conditions contained herein.

2.21. "Defaulter" means any person who owes arrears to the municipality.

2.22. "Delivery Date" shall mean the date on which the periodic account is delivered to the customer or 3 days after the date the account was posted, whichever is the first.

2.23. "Development contributions", means a once-off charge on application imposed by the municipality on all application for infrastructure capacity allocation:

2.23.1. For a developer on a property.

2.23.2. For the access to a higher capacity allocation due to a rezoning application.

2.23.3. For the access to a higher capacity allocation due to a demand for a higher capacity allocation due to the increase in business, industrial and/or any other activity.

2.23.4. For the accommodation of a second dwelling.

2.23.5. As a condition of approval of a land use and development application to cover the cost of municipal engineering services required as a result of an intensification of land use.

2.24. "Indigent Customer" means the qualifying beneficiaries as identified by the Free Basic Services and Indigent Support Policy of the municipality.

2.25. "Indigent Policy" means the Free Basic Services and Indigent Support Policy adopted by the Council of the municipality.

2.26. “Integrated Development Plan” shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act, 2000 (Act 32 of 2000).

2.27. "Interest" means the charge levied on arrears, calculated as the prime rate, charged by the bank which holds the Municipality’s primary bank account, plus one percent or such other percentage as may be determined by Council from time to time.

2.28. “Month" means one of twelve months of a calendar year.

2.29. "Monthly Average Consumption" means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding or succeeding twelve months.

2.30. “MFMA” means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003).

2.31. “Municipality” or “Municipal Area” shall, where appropriate, means the geographic area, determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998) as the municipal area pertaining to the municipality.

2.32. “The Municipality” means the Swellendam Municipality.

2.33. “Municipal Council” or “Council” shall mean the municipal council of Swellendam Municipality as referred to in Section 157(1) of the Constitution.

2.34. "Municipal Pay Point" means any municipal office in the jurisdiction of the municipality designated by Council for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.

2.35. "Municipal Manager" means the accounting officer of the municipality or his or her nominee acting in terms of power delegated to him or her by the said accounting officer with the concurrence of the Council.

2.36. "Municipal Services" means services provided either by the municipality or by an external agent on behalf of the municipality in terms of a service delivery agreement.

2.37. "Municipal Tariff" shall mean a tariff for all amounts due in connection with a property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties.

2.38. "National Credit Act" means the National Credit Act, 2005 (Act 34 of 2005).

2.39. "Owner" in relation to immovable property means the person as defined by section 1 of the Local Government Municipal Property Rates Act, 2004 (Act 6 of 2004) in whose name the property is registered in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937).

2.40. "Person" means a natural and juristic person, including any department of state, statutory bodies, or foreign embassies.

2.41. "Prescribed" means prescribed by this Bylaw and relevant legislation and where applicable by Council or the accounting officer.

2.42. "Prescribed debt" means debt that becomes extinguished by prescription in terms of the Prescription Act.

2.43. "Prescription Act" means the Prescription Act, 1969 (Act 68 of 1969).

2.44. "Property" means immovable property registered under a separate title in terms of the provisions of the Deeds Registries Act, 1937 (Act 47 of 1937) 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 and includes unregistered land if the right of ownership can be determined.

2.45. “Rebate” in relation to a rate payable on a property, shall mean a discount granted in terms of Section 15 of the Municipal Property Rates Act, 2004 (Act 6 of 2004) on the amount of the rate payable on the property.

2.46. “Reduction” in respect of a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of that property at that lower amount.

2.47. "Responsible Person" means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.

2.48. “Residential property” means improved property that:

2.48.1. Is included in the valuation roll in terms of section 48(2)(b) of the Property Act as residential in respect of which the primary use or permitted use is for residential purposes (60% or more), including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes.

2.48.2. Is a unit registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), used predominantly for residential purposes, and includes any adjoining or adjacent development property registered in the name of the same owner and used together with such residential property as if it were one property. This use must indicate that the two properties cannot be dealt with as separate viable economic units and can only function as if they are one entity. Any such grouping shall be regarded as one residential property for rate rebate and valuation rebate purposes.

2.48.3. Is owned by a share-block company and is used predominantly for residential purposes.

2.48.4. Is an old age home used predominantly for residential purposes.

2.48.5. Is a block of flats used predominantly for residential purposes.

2.48.6. Is a hostel used predominantly for residential purposes.

2.48.7. Is a residence used for residential purposes situated on a property used for or related educational purposes.

2.48.8. Is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Act.

2.48.9. Retirement schemes and life right schemes used predominantly for residential purposes.

2.49. "Residential Unit" means an interconnected suite of rooms which does not include more than one kitchen, designed for the occupation, and use by a single family and which may be part of a residential property containing two or more residential units, attached, or detached, registered in the name of the same owner, and used together with such residential property as if it were one property.

2.50. "Service Charges" means the fees levied by the municipality in terms of its Tariff Policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest, or surcharges levied or imposed in terms of this Policy.

2.51. "Service Delivery Agreement" means an agreement between the municipality and an institution or persons mentioned in section 76(b) of the Systems Act.

2.52. "Sundry Customer Accounts" means accounts raised for miscellaneous charges for services provided by the municipality or charges that were raised against a person because of an action by a person, and were raised in terms of the Council's policies, bylaws, and decisions.

2.53. “Systems Act” means the Local Government: Municipal System Act, 2000 (Act no 32 of 2000).

2.54. "Tariff" means the scale of rates, taxes, duties, levies, or other fees which may be imposed by the municipality in respect of immovable property and/ or for municipal services provided.

2.55. "Tariff Policy" means a Tariff Policy adopted by the Council in terms of Section 74 of the Systems Act.

2.56. "User" means the owner or occupier of a property in respect of which municipal services are being rendered.

2.57. “Vacant Property” – means any land without any improvements thereon.

3. OBJECTIVE

3.1. The objectives of this Bylaw are to regulate the principles governing the following municipal revenue matters, including the adoption and implementation of related policies and procedures:

3.1.1. Customer care, credit control and debt collection management.

3.1.2. Tariff management.

3.1.3. Free basic services and indigent support management.

3.1.4. Funding and reserve management.

3.1.5. Debt write-off and impairment management.

3.1.6. Development contributions.

3.1.7. Sale of immovable assets.

3.1.8. Special rating areas.

4. APPLICATION

4.1. This Bylaw applies to all past, present, and future customers of the Swellendam Municipality and all contract arrangements, customers, and debtors of the municipality.

5. LEGAL FRAMEWORK

5.1. The Council of the municipality in adopting this Revenue Bylaw recognises its responsibilities as set out the Systems Act and the MFMA, whereas:

5.1.1. Section 4 of the Systems Act prescribes that the municipality has the right to charge fees for services and impose surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies, and duties.

5.1.2. Section 96(b) of the Systems Act obliges the municipality to collect all money that is due and payable to it, subject to the provisions of all applicable legislation.

5.1.3. Section 62(1)(f) of MFMA determines that the municipality must have and implement appropriate tariffs, rates, credit control, and debt collection mechanisms and policies.

5.1.4. Section 64 of the MFMA determines that the municipality will manage its revenue and ensure that reasonable steps are taken to appropriately collect, calculate and account for revenue inclusive of the charging of interest on arrears.

5.2. Any accounting matters related to municipal revenue must comply with the relevant Generally Recognised Accounting Practice (GRAP) Standards, promulgated from time to time in terms of the MFMA.

6. CUSTOMER CARE, CREDIT CONTROL, AND DEBT COLLECTION MANAGEMENT

6.1. Section 96(b) of the Systems Act, obliges the municipality to collect all money that is due and payable to it, subject to the provisions of relevant legislation.

6.2. Section 62(1)(f)(iii) of the MFMA determines that a municipality must have and implement appropriate Credit Control and Debt Collection mechanisms.

6.3. Section 64(2)(g) of the MFMA determines that the municipality must ensure that interest is charged on arrears on a monthly basis, except where Council has granted exemptions in accordance with its budget-related policies and within the prescribed framework.

6.4. In the adoption and implementation of its Customer Care, Credit Control, and Debt Collection Policy the municipality will apply the following principles:

6.4.1. The administrative integrity of the municipality will be maintained at all costs meaning that democratically elected Councillors are responsible for the adoption of the policy, while the accounting officer must execute the policy.

6.4.2. All customers must complete an official application form, formally requesting the municipality to connect them to service supply lines.

6.4.3. A copy of the application forms and conditions of services must be handed to every customer. On request, extracts of the Customer care, credit control, and debt collection Policy and Bylaw are available to every customer at such fees as may be prescribed.

6.4.4. Billing is to be accurate, timeous, and understandable.

6.4.5. The customer is entitled to:

6.4.6. Reasonable access to pay points.

6.4.7. A variety of reliable payment methods.

6.4.8. An efficient, effective, and reasonable response to appeals.

6.4.9. Should suffer no disadvantage during the processing of such an appeal.

6.4.10. It shall be the duty of all customers to ensure that they have the correct information regarding all due amounts.

6.4.11. Debt collection actions will be instituted promptly, consistently, and effectively without exception and with the intention of proceeding until the debt, including the cost of collection, is recovered.

6.4.12. Enforcement of payment must be prompt, consistent and effective within the relevant prescripts and the municipality may use the services of debt collectors where found feasible.

6.4.13. The municipality will suspend services should it not be able to enter a property for more than 3 months due to restriction of access by the occupier and refusal to provide relevant usage information.

6.4.14. The collection process must be cost-effective.

6.5. A customer may enter into a written agreement with the municipality to repay any outstanding and due amount to the municipality under the following conditions:

6.5.1. The outstanding balance, costs, and any interest thereon shall be paid in regular and consecutive monthly instalments.

6.5.2. The current monthly amount must be paid in full.

6.5.3. The written agreement must be signed on behalf of the municipality by a duly delegated official.

6.5.4. The agreement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act.

6.6. Unauthorised consumption, illegal connection, the tampering with or theft of meters, service supply equipment, and the reticulation network, and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.

6.7. No person may in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality. The relevant municipal policies will define what will constitute offences, required remedies, and penalties.

6.8. Where financially feasible, to encourage prompt payment and/or to reward regular payers the municipality may consider incentives for the prompt payment of accounts or payment by debit or stop orders, subject to prescribed budgetary considerations.

6.9. Rebates and/or interest on outstanding debt can be reversed when:

6.9.1. An account holder would like some relief from interest to facilitate the final settlement of all outstanding debt on his account.

6.9.2. Before embarking on litigation to recover outstanding debt.

6.9.3. The mechanism is used as a tool to persuade the account holder to settle his outstanding debt in full.

6.9.4. During litigation, the reversal of interest is used as a negotiating point for the settlement of the matter in court.

6.9.5. In instances where errors with billing have occurred and outstanding arrears should not have accrued interest in the first place.

6.10. The municipality has the discretion to write off debt if the debt is regarded as irrecoverable. Debts written off will be managed in accordance with the municipal Debt Write-off and Impairment Policy.

6.11. If the level of indebtedness in a particular ward or part of the municipality exceeds the level of the acceptable norm as determined in the municipality's budget guidelines, the supervisory authority (Executive Mayor) must, without delay, advise the Councillor of that ward or part.

6.12. For any purpose related to the implementation or enforcement of this Bylaw, and at all reasonable times, or in an emergency, a duly authorised representative of the municipality may enter premises, request information and carry out such inspection or examination, as he or she may deem necessary:

6.12.1. Regarding the installation or repair of any meter or service connection or reticulation.

6.12.2. To limit, discontinue, disconnect, or reconnect the provision of any service.

6.13. The municipal Customer care, credit control, and debt collection Policy must at least provide for the following and matters related thereto:

6.13.1. Customer care.

6.13.2. Credit control.

6.13.3. Debt collection.

6.13.4. Issuing of certificates and clearances.

6.13.5. Incentives and rebates.

6.13.6. Management and internal control.

6.13.7. Monitoring and reporting.

7. TARIFF MANAGEMENT

7.1. Sections 4, 4(2)(d) and 74 of the Systems Act prescribe that the municipality has the right to charge fees for services and impose surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties, has the duty to strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner and require the Municipal Council to adopt a tariff policy.

7.2. The following are the guiding principles in adopting and implementing the municipal Tariff Policy:

7.2.1. Ensure that tariffs are applied uniformly and fairly throughout the region.

7.2.2. An annual budget must be approved together with the adoption of resolutions as may be necessary for setting any municipal tariffs or rates for the budget year.

7.2.3. The Council of the municipality, within its financial and administrative capacity and having regard to practical considerations, must:

(a) Strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner.

(b) Consult the local community about:

(i) The level, quality, range, and impact of municipal services provided by the municipality, either directly or through another service provider; and

(ii) The available options for service delivery.

7.2.4. Poor households must have access to at least basic services through:

(a) Tariffs that cover only operating and maintenance costs.

(b) Special tariffs or life-line tariffs for low levels of use or consumption of services or for basic levels of service.

(c) Any other direct or indirect method of subsidisation of tariffs for poor households.

7.2.5. Tariffs must be charged according to the following services categories:

7.2.5.1. Major services, such as:

(a) Electricity.

(b) Water.

(c) Wastewater (sewerage).

(d) Waste management.

7.2.5.2. Minor services as defined in the municipal Tariff Schedules issued annually in terms of the municipal Tariff Policy.

7.2.6. Tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration, and replacement costs, and interest charges.

7.2.7. Tariffs must be set at levels that facilitate the financial sustainability of the service, considering subsidisation from sources other than the service concerned.

7.2.8. Provision may be made in appropriate circumstances for a surcharge on the tariff for a service.

7.2.9. Provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users.

7.2.10. The economical, efficient, and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged.

7.2.11. The extent of subsidisation of tariffs for poor households and other categories of users should be fully disclosed.

7.2.12. Tariffs must recover the expenses associated with the rendering of services.

7.2.13. Tariffs will be set to recover operating expenses as well as to provide for capital requirements including renewal, maintenance, and replacement and revenue in financing excess of current operating expenses will be appropriated to a cash-backed capital reserve fund.

7.2.14. The municipality may differentiate between different categories of users, debtors, service providers, services, service standards, geographical areas, and other matters when it sets tariffs if the differentiation does not amount to unfair discrimination. It should be reasonable and shall be fully disclosed in each annual budget.

7.2.15. Tariff management must be transparent, and cross-subsidisation between categories of customers or users shall be evident to all customers or users of the service in question.

7.2.16. Tariffs shall be easily explainable and understood by all customers.

7.2.17. The municipality must render its services cost-effectively to ensure the best possible cost of service delivery.

7.2.18. Tariffs will be measured and calculated as per the municipal Tariff Policy.

7.2.19. In the case of directly measurable services, namely electricity and water, the consumption of such services shall be properly metered by the municipality, and meters shall be read, wherever circumstances reasonably permit, on a monthly basis. If a service is metered but cannot be read the customer is charged for an estimated consumption.

7.2.20. The municipality may impose a penalty on the existing tariff structure or measures of discouraging service demand to prohibit exorbitant use in appropriate circumstances to encourage efficient and effective use of resources.

7.2.21. A property used for multiple purposes must, for purpose of these tariffs be assigned to a category determined by the council for properties used for a purpose corresponding with the dominant use of the property if the municipality cannot readily make an apportionment in relation to the services concerned and the categories of users, whether such use is lawful or not.

7.2.22. Development contributions to finance new developments and subdivisions will be required from all developers as per the municipal Development Contributions Policy.

7.2.23. Tariffs are levied monthly unless otherwise prescribed.

7.2.24. Municipal tariffs may not be increased during a financial year except when required in terms of a financial recovery plan.

7.2.25. In instances of changed or unforeseen circumstances, the municipality may implement a new tariff during a financial year, subject to the prescribed consultation and approval processes

7.2.26. Tariffs must be set at a level that facilitates the sustainability of services by ensuring that:

(a) Cash inflows cover cash outflows. This means that sufficient provision for working capital and bad debts will be made.

(b) Access to the capital market is maintained. This will be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels, and making surpluses on major services.

(c) Provision will be made in appropriate circumstances for a surcharge on a tariff, which may be relevant, but not limited to, instances of a national disaster, periods of droughts when a restriction of usage is required, or infrastructure backlogs and major breakdowns.

7.2.27. VAT is included in all tariffs, where applicable and prescribed, and will be added to these tariffs when applicable.

7.2.28. To provide the municipality with appropriate security for payment of amounts owing to it from time to time for services rendered, the Council shall impose a system of deposits payable by customers. Deposits may be reviewed annually with due regard to the potential financial risk associated with the amounts owing from time to time, and the municipality may introduce transitional arrangements in respect of existing users.

7.3. The Municipal Tariff Policy must at least provide for the following and matters related thereto:

7.3.1. Categories of customers.

7.3.2. Sources of revenue.

7.3.3. Tariff setting strategy.

7.3.4. Minimum service levels.

7.3.5. Credit control.

7.3.6. Package of services.

7.3.7. User groups.

7.3.8. User patterns and trends.

7.3.9. Phasing in tariffs.

7.3.10. Tariff types.

7.3.11. Tariff structures and methods of calculation for:

a) Water tariffs.

b) Electricity tariffs.

c) Wastewater (stormwater).

d) Solid waste and related management.

e) Other minor services tariffs.

f) Rebates.

g) Penalties.

7.3.12. Management and internal control.

7.3.13. Monitoring and reporting.

8. FREE BASIC SERVICES AND INDIGENT SUPPORT MANAGEMENT

8.1. The Municipal Council must give priority to the basic needs of the community, promote the social and economic development of the community, and ensure that all residents and communities in the municipality have access to at least the minimum level of basic municipal services in terms of section 152(1)(b) and 153(b) of the Constitution.

8.2. The key purpose of this Free Basic Services and Indigent Support Policy is to ensure that households with no or lower income are not denied a reasonable service, and on the contrary, the municipality is not financially burdened with non-payment of services.

8.3. The following are the guiding principles when rendering free basic services and indigent support:

8.3.1. Relief will be provided by the municipality to registered domestic consumers of services as defined in the municipality's Customer Care, Credit Control, and Debt Collection Policy and other related policies.

8.3.2. The municipality shall ensure that any relief provided is constitutional, practical, fair, equitable, and justifiable to avoid alienating any group of households.

8.3.3. Differentiation shall be made between those households who cannot afford to pay for basic services and those who simply do not want to pay for these services.

8.3.4. The municipality may review and amend the qualification for indigent support annually which may have a bearing on the continued provision of basic services.

8.3.5. The municipality will maintain an indigent register.

8.3.6. Water-, electricity- and other municipal services management devices may be installed in the properties of qualifying indigent consumers to reduce consumption to affordable levels. This will ensure that consumers do not accumulate services debt that they will not afford to pay.

8.3.7. In the absence of a letter of authority, the municipality will accept a signed stamped letter by Councillors for consumers in urban areas.

8.3.8. Indigent support shall be based on pre-approved qualification criteria and as per the assistance procedures as laid out in the Free Basic Services and Indigent Support Policy.

8.4. Based on budgetary allocations and the tariffs determined by the municipality for each financial year, the municipality may grant assistance in the form of subsidies or contributions to indigent households in respect of services including, but not limited to:

8.4.1. Free basic services as prescribed, namely water and electricity.

8.4.2. Waste management.

8.4.3. Sanitation.

8.4.4. Property rates, as prescribed.

8.4.5. Child-headed household support.

8.4.6. Such additional support as specified in the Free Basic Services and Indigent Support Policy.

8.5. The objectives of the municipal Free Basic Services and Indigent Support Policy must aim to:

8.5.1. Provide a framework within which the municipality can exercise its executive and legislative authority about the implementation of financial aid to indigent and poor households in respect of their municipal account.

8.5.2. Determine the criteria for the qualification of beneficiaries.

8.5.3. Ensure that the criteria are applied correctly and fairly to all applicants.

8.5.4. The municipality may conduct in-house visits to the premises of applicants to verify the actual status of the household.

8.6. The Free Basic Services and Indigent Support Policy must at least provide for the following and matters related thereto:

8.6.1. Capacity development and communication.

8.6.2. Targets.

8.6.3. Categories, such as but not limited to:

a) Indigents.

b) Poor households.

c) Pensioners.

8.6.4. Qualification criteria.

8.6.5. Exclusions and special conditions.

8.6.6. Application process.

8.6.7. Leakages and maintenance.

8.6.8. Arrears.

8.6.9. Termination.

8.6.10. Exit strategy.

8.6.11. Indigent register.

8.6.12. Funding sources.

8.6.13. Auditing.

8.6.14. Management and internal control.

8.6.15. Monitoring and reporting.

9. FUNDING AND RESERVE MANAGEMENT

9.1. Section 8(1) of the Municipal Budget and Reporting Regulations prescribes that the municipality must have a Funding and Reserve Policy.

9.2. The municipal Funding and Reserve Policy must ensure that the municipality has sufficient and cost-effective cash funding to achieve its objectives through the implementation of its operating and capital budgets and to provide a measure for protection for future losses, as well as providing the necessary cash resources for future capital replacements and other current and non-current liabilities by creating certain reserves.

9.3. The principles guiding the municipal Funding and Reserve Policy must endeavour to promote:

9.3.1. Affordability.

9.3.2. Financial stability.

9.3.3. Equity.

9.3.4. Efficacy.

9.3.5. A cash-funded budget with no indicators listed as being negative.

9.4. The municipal Funding and Reserve Policy must set out the assumptions and methodology for estimating the following:

9.4.1. Projected billings, collections, and all direct revenues.

9.4.2. The provision for revenue that will not be collected.

9.4.3. The funds the municipality can expect to receive from investments.

9.4.4. The proceeds the municipality can expect to receive from the transfer or disposal of assets.

9.4.5. The municipality’s borrowing requirements.

9.4.6. The funds to be set aside in reserves.

9.5. The municipal Funding and Reserve Policy must at least provide for the following and matters related thereto:

9.5.1. Funding the operational budget.

9.5.2. Funding the capital budget.

9.5.3. Funding measurements.

9.5.4. Reserves.

9.5.5. Provisions.

9.5.6. Management and internal control.

9.5.7. Monitoring and reporting.

10. DEBT WRITE-OFF AND IMPAIRMENT MANAGEMENT

10.1. Section 96 of the Systems Act provides that a municipality must collect all money that is due and payable to it, subject to the provisions of that Act and other applicable legislation.

10.2. It is recognised, however, that circumstances may arise which may make the recovery of certain debts impossible, impractical, or financially unfeasible and that such debts may have to be written off.

10.3. The following are the guiding principles in adopting and implementing the Municipal debt write-off and impairment Policy:

10.3.1. Before any debt is written off it must be proved that the debt has become irrecoverable.

10.3.2. To ensure that recommendations for write off are consistent and accurate, irrecoverable debt will be defined as a debt where: -

a) The debt falls within the categories as stipulated in the Municipal debt write-off and impairment Policy.

b) The tracing of the debtors is unsuccessful.

c) All reasonable steps were taken by the officials to recover the debt.

10.3.3. Bad debt write-off must be considered in terms of cost-benefit when it becomes too costly to recover and the chances of collecting the debt are remote.

10.3.4. Time value of money is important because the older the debt becomes, the more difficult and costly it becomes to collect. It is therefore imperative that a proper system of credit control is implemented and maintained to avoid debt reaching the stage of becoming too expensive to recover.

10.3.5. Differentiation must be made between those household consumers who cannot afford to pay for basic services and those who just do not want to pay for these services.

10.3.6. The accounting officer must provide for an annual contribution to the bad debts provision in the operating budget of the municipality.

10.3.7. The total provision for the impairment of debtors must be made at least at the end of the financial year.

10.4. Proceedings out of the appropriate court for the recovery of a debt must be commenced as soon as it is appropriate to prevent the prescription of the debt. A summons process for payment of the debt must be successfully concluded as soon as possible to prevent prescription of the debt in terms of the Prescription Act.

10.5. The Municipal Debt Write-off and Impairment Policy must at least provide for the following and matters related thereto:

10.5.1. The calculation and provision for bad debt, by addressing the following matters:

(a) Categories of bad debt.

(b) Steps to be taken.

(c) Prescription.

(d) Debt impairment.

(e) Debt write-off.

10.5.2. Steps to take before debt write-off.

10.5.3. Prevention of prescription.

10.5.4. Conditions for debt write-off.

10.5.5. Credit bureau listing.

10.5.6. Bad debts recovered.

10.5.7. Management and internal control.

10.5.8. Monitoring and reporting.

11. DEVELOPMENT CONTRIBUTIONS

11.1. Section 49(iv) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) allows a municipality to charge for development contributions or allowing an applicant to install any external engineering services instead of payment of the applicable development contributions, and the fair and reasonable cost of such external services may be set off against development contributions payable.

11.2. The objectives of a municipal Development Contributions Policies are to:

11.2.1. Enable the municipality to provide capital infrastructure assets in a timely and sufficient manner to facilitate land development.

11.2.2. Cover the costs of existing and new infrastructure capacity to meet the demand resulting from growth, provided this is not funded through other means.

11.2.3. Complement other sources of capital finance available to municipalities to ensure financial sustainability.

11.3. The main principles guiding the municipal Development Contributions Polices are to ensure:

11.3.1. Equity and Fairness: Development charges should be reasonable, balanced and practical so as to be equitable to all stakeholders. The key function of a system of development charges is to ensure that those who benefit from new infrastructure investment, or who cause off-site impacts, pay their fair share of the associated costs.

11.3.2. Predictability: Development charges should be a predictable, legally certain, and reliable source of revenue to the municipality for providing the necessary infrastructure. These revenues should thus be treated as a formal commitment by the municipality to provide or upgrade the associated services and should be clearly and transparently accounted for. It would, however, be unreasonable for poor households to bear these costs, which in any event are already subsidised by national transfers. To promote predictability and coordination, particularly in low-cost housing developments, the costs associated with municipal infrastructure should still be established before subsidies are applied in a transparent manner to fund the liability.

11.3.3. Spatial and Economic Neutrality: A primary role of a system of development charges is to ensure the timely, sustainable financing of required urban infrastructure.

11.3.4. Administrative Ease and Uniformity: The determination, calculation, and operation of development charges should be administratively simple and transparent. This will necessarily detract from the accuracy of individual charges but this is a trade-off worth making. Development charges should thus only approximate actual costs. Greater national uniformity in the system of development charges will provide greater certainty to land owners, developers and investors, while improving administrative efficiencies, without compromising the ability of municipalities to respond to specific local conditions and needs.

11.4. The municipal Development Contributions Policy must at least provide for the following and matters related thereto:

11.4.1. Application.

11.4.2. Scope and extend.

11.4.3. Calculation.

11.4.4. Subsidies, exemptions, and surcharges.

11.4.5. Obligations of applicants.

11.4.6. Obligations of the municipality.

11.4.7. Management and internal control.

11.4.8. Monitoring and reporting.

12. SALE OF IMMOVABLE ASSETS

12.1. The sale of immovable assets are regulated by the MFMA, the MFMA Asset Transfer Regulations as issued by National Treasury in the Government Gazette No 31346 of 23 August 2008 and Regulation 40 of the Supply Chain Management Regulations as issued by National Treasury in the Government Gazette No 27636 of 30 May 20015.

12.2. Section 14 of the MFMA prescribes that the municipality may not alienate any capital asset required to provide a minimum level of basic municipal services and if the municipality alienate a capital asset, it requires a resolution from the council, in a meeting open to the public, confirming that the asset is not required to provide a minimum level of basic municipal services, and it has considered the fair market value and the community value to be received in exchange for the asset.

12.3. The principles governing the sale of immovable assets are:

12.3.1. Valuation principle: Attach a value to the transfer or disposal of a municipal capital asset, to ensure that the interests of the municipality or municipal entity and of its stakeholders are not prejudiced by the transfer or disposal.

12.3.2. Continuity of service principle: Ensure the uninterrupted continuance of a municipal service when a municipal capital asset that is being used in the delivery of that service, is transferred, or disposed of, particularly when the asset is used in the provision of the minimum level of basic municipal services.

12.3.3. Risk transfer principle: Transfer the risk relating to a municipal capital asset in conjunction with the transfer of the asset.

12.3.4. Asset preservation principle: Prevent the indiscriminate or unsustainable transfer or disposal of a municipal capital asset in order not to undermine the ability of the municipality or municipal entity to render or expand municipal services in the longer term.

12.4. The municipal Sale of Immovable Asset Policy must at least provide for the following and matters related thereto:

12.4.1. Application.

12.4.2. Scope and extend.

12.4.3. Authority to dispose of immovable property.

12.4.4. Fair market value.

12.4.5. Disposal Management principles.

12.4.6. Most appropriate use.

12.4.7. Methods of disposal and awarding of rights.

12.4.8. Disposal and Letting of Immovable property for social care uses.

12.4.9. Contractual obligations.

12.4.10. Management and internal control.

12.4.11. Monitoring and reporting.

13. SPECIAL RATING AREAS

13.1. Section 22 of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) provides that the municipality may determine special rating areas.

13.2. The principles governing the municipal Special Rating Area Policy are:

13.2.1. Any owner located within the area of jurisdiction of the municipality and who owns property within the proposed special rating area, may lodge an application to the Council for the determination of a special rating area.

13.2.2. All costs incurred by the applicant in respect of the establishment of a special rating area shall be for his or her own account, provided that after implementation of the implementation plan the management body.

13.3. The municipal Special Rating Area Policy must at least provide for the following and matters related thereto:

13.3.1. Application.

13.3.2. Publications

13.3.3. Decision making.

13.3.4. Financing.

13.3.5. Establishment, composition, powers, and duties of the management body.

13.3.6. Obligations of the municipality.

13.3.7. Amendments of approvals for a special rating area.

13.3.8. Extensions to a special rating area.

13.3.9. Dissolution of a special rating area.

13.3.10. Management and internal control.

13.3.11. Monitoring and reporting.

14. APPEAL

14.1. A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the municipality within 21 days of the date of the notification of the decision as per section 62 of the Systems Act.

14.2. The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

14.3. When the appeal is against a decision taken by:

14.3.1. A staff member other than the accounting officer, the accounting officer is the appeal authority.

14.3.2. The accounting officer, the Executive Mayor is the appeal authority.

14.3.3. A political structure or political officer bearer, or a Councillor, Council is the appeal authority.

14.4. The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

15. OFFENCES

16.1 Any official of the municipality commits an act of misconduct if he/she deliberately or negligently:

16.1.1 Contravenes a provision of this Bylaw or any Policy issued in terms of it.

16.1.2 Fails to comply with a duty imposed by a provision of this Bylaw or any Policy issued in terms of it.

16.1.3 Makes or permits or instructs another official of the municipality to make an unauthorised, irregular, or fruitless and wasteful expenditure.

16.1.4 Provides incorrect or misleading information in any document or report relating to any activity in terms of this Bylaw or any Policy issued in terms of it.

16.2 The municipality must:

16.2.1 Investigate allegations of misconduct or suspected misconduct against an official of the municipality unless such allegations or suspicion are speculative or unfounded; and

16.2.2 If the investigation warrants such a step, institute disciplinary proceedings against the official in accordance with systems and procedures referred to in Section 67 of the Municipal Systems Act, read with Schedule 2 of that Act.

15.1. Where prima facie evidence exists of a customer contravening this Bylaw the municipality has the right to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the municipality for such disconnection and any other legal remedies available to the municipality in law.

15.2. Any person will be regarded as vomiting an offence if the person:

15.2.1. Knowingly provides false or misleading information in any application.

15.2.2. Interferes with or obstructs an official of the municipality in the execution of his/her duties performed in terms if this Bylaw or any Policy issued in terms of it.

15.2.3. Interferes with any measuring- or restrictive device provided by the municipality in terms of this Bylaw or any Policy issued in terms of it.

15.3. A person, when found to have committed an offence, upon conviction shall be liable to –

15.3.1. A fine or imprisonment, or either such fine or imprisonment or both such fine and such imprisonment.

15.3.2. In the case of a continuing offence:

(a) An additional fine or an additional period of imprisonment; or

(b) Such additional imprisonment without the option of a fine; or

(c) Both such additional fine and imprisonment.

15.3.3. For each day on which such offence is continued 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.

16. INDEMNIFICATION FROM LIABILITY

16.1. Neither employees of the municipality nor any person, body, organisation, or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of his or her duties.

17. PRIMA FACIE EVIDENCE

17.1. In legal proceedings by or on behalf of the municipality, a certificate reflecting the amount due and payable to the municipality, under the hand of a delegated official of the municipality, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

18. MONITORING, EVALUATION, AND GENERAL REPORTING

18.1. The accounting officer must report relevant information to the Executive Mayor or Council as prescribed.

19. CONFLICT OF LAW

19.1. If there is any conflict between this Bylaw and any other bylaws or policies of the Municipality, this Bylaw will prevail.

19.2. If there is any conflict between this Bylaw and other laws of the land including the Constitution of the Republic of South Africa, the laws of the land will prevail.

20. TRANSITIONAL ARRANGEMENTS

20.1. During the period that the municipality reviews and updates all relevant policies to be aligned to this Bylaw, it is recorded that the existing policies in place will be adhered to and anything done in terms of a provision of such a policy which can be done in terms of a provision of this Bylaw, must be regarded as having been done in terms of this Bylaw.

21. AVAILABILITY OF BYLAW

21.1. A copy of this Bylaw must be included in the Municipality's Municipal Code as required in terms of section 15 of the Systems Act.

21.2. A copy of this Bylaw must be available for inspection at the offices of the municipality at all reasonable times and published on the municipal website.

21.3. A copy of this Bylaw may be obtained against payment of a prescribed fee from the municipality.

22. REPEAL OF BYLAWS

22.1. The provisions of any Bylaws of the municipality relating to revenue management by the municipality are hereby repealed insofar as they relate to matters provided for in this Bylaw.

23. SHORT TITLE AND COMMENCEMENT

23.1. This Bylaw is called the Revenue Bylaw of the Swellendam Municipality and commences on the date of publication thereof in the Provincial Gazette.

23.2. The municipality may, by notice in the Provincial Gazette, determine that any provision of this Bylaw, listed in the notice, does not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.