

Swartland, South Africa

Collections

Legislation as at 12 June 2015

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Collections
Contents

1. Definitions 1

2. Purpose and principles 2

3. Approval 2

4. Conditions 3

5. Appeal 3

6. Offences and penalties 3

7. Repeal 3

8. Short title and commencement 4

Swartland South Africa

Collections By-law, 2015

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

1. Definitions

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

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

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

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

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

“**officer**” means –

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

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

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

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

- (a) the verge of any such road, street or thoroughfare;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other work or object belonging to such road, street or thoroughfare, footpath or sidewalk;

- (e) any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles whether or not access to such a parking area or place is restricted.
- (f) any other object belonging to such road, street or thoroughfare, which has at any time been—
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or
 - (iv) constructed by a local authority, and
 - (v) any land, with or without buildings or structures thereon, which is shown as a street on—
 - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office, unless such land is in such plan or diagram described as a private street;

2. Purpose and principles

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

3. Approval

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

the municipality shall give written notice of the proposed cancellation and give the person notified reasonable time to respond.

- (5) Where a collector commits an offence in terms of this by-law, the approval shall be revoked without any notice.

4. Conditions

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

5. Appeal

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

6. Offences and penalties

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

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

7. Repeal

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

8. Short title and commencement

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