



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

7490

Monday, 14 September 2015

Buitengewone Provinsiale Koerant

7490

Maandag, 14 September 2015

Registered at the Post Office as a Newspaper

CONTENTS

(*Copies are obtainable at Room M21 Provincial Legislature Building, 7 Wake Street, Cape Town 8001.)

Local Authority

Swellendam Municipality: By-law relating to the Impoundment of Animals.....	2
Swellendam Municipality: By-law relating to Special Rating Areas....	12

As 'n nuusblad by die Poskantoor Geregistreer

INHOUD

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

Plaaslike Owerheid

Swellendam Munisipaliteit: Verordening insake die Skut van Diere....	2
Swellendam Munisipaliteit: Verordening insake Spesiale Belasting-gebiede.	12

SWELLENDAM MUNICIPALITY**BY-LAW RELATING TO THE IMPOUNDMENT OF ANIMALS**

To regulate the impoundment of animals and activities; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 4 to the Constitution lists Pounds as a local government matter to the extent set out in section 155(6) (a) and (7);

AND WHEREAS the Swellendam Municipality seeks to provide for procedures, methods and practices to regulate the impoundment of animals and to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the municipality;

BE IT ENACTED by the Council of the Swellendam Municipality, as follows:—

ARRANGEMENT OF SECTIONS

1. Definitions
2. Application
3. Establishment of pound
4. Appointment of pound keeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
7. Release of animals before removal to pound
8. Care of trespassing animals
9. Pound to which animals must be taken
10. Information to be supplied to pound keeper
11. Acceptance at pound of animals to be impounded
12. Pound register
13. Notice to owners of animals
14. Care of impounded animals
15. Isolation of infected animals
16. Impounded animals not to be worked
17. Impounded animals that die or are stolen or injured
18. Copies of by-laws
19. Fees and costs payable
20. Release of impounded animals
21. Sale of impounded animals
22. Pound keeper may not purchase impounded animals
23. Animals unsuccessfully offered for sale
24. Proceeds
25. Action for recovery of damages
26. Procedure to be followed in application to Court
27. Indemnity
28. Offences and penalties
29. Schedules 1 and 2 form part of this By-Law
30. Conflict with other legislation
31. Repeal of by-laws
32. Short title and commencement

Schedule 1: Code of good practice

Schedule 2: Pound register information

1. Definitions

In these By-Laws, unless inconsistent with the context –

“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and “**animals**” will have a corresponding meaning;

“**Court**” means a Magistrate’s Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official Provincial Gazette of the Province of the Western Cape;

“**municipality**” means the Municipality of Swellendam established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 482 dated 22 September 2000 and includes any political structure, political office-bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this By-

MUNISIPALITEIT SWELLENDAM**VERORDENING INSAKE DIE SKUT VAN DIERE**

Om die skut van diere te reguleer en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN artikel 156 (2) en (5) van die Grondwet bepaal dat 'n munisipaliteit verordeninge mag uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer, en enige bevoegdheid uit te oefen met betrekking tot 'n aangeleentheid wat redelikerwys nodig is vir, of verband hou met die doeltreffende verrigting van sy funksies;

EN NADEMAAL Deel B van Bylae 5 van die Grondwet Skutte lys as 'n plaaslike regeringsaangeleentheid in die mate soos uiteengesit in artikel 155 (6) (a) en (7);

EN NADEMAAL die Swellendam Munisipaliteit beoog om voorsiening te maak vir prosedures, maatreëls en praktyke om die skut van diere te reguleer en om 'n gesonde en veilige omgewing tot voordeel van die inwoners binne die regsgebied van die munisipaliteit te bevorder;-

VERORDEN die Swellendam Munisipale Raad soos volg:—

INHOUDSOPGAWE

1. Woordomsrywings
2. Toepassing
3. Vestiging van skut
4. Aanstelling van skutmeester
5. Skut van diere wat rondloop of oortree
6. Diere wat te wild, onhanteerbaar, siek of boosaardig is om te skut
7. Vrylating van diere voordat dit geskut word
8. Versorging van diere wat oortree
9. Skut waarheen diere geneem moet word
10. Inligting wat aan skutmeester verstrekk moet word
11. Aanvaarding van diere by skut
12. Skutregister
13. Kennisgewing aan eienaars van diere
14. Versorging van geskutte diere
15. Afsondering van besmette diere
16. Geskutte diere nie geskik vir werk
17. Geskutte diere wat vrek, beseer raak of gesteel word
18. Afskrifte van Verordeninge
19. Gelde en kostes betaalbaar
20. Vrylating van geskutte diere
21. Verkoop van geskutte diere
22. Skutmeester verbied om geskutte diere te koop
23. Diere wat nie verkoop kan word nie
24. Opbrengs
25. Aksie vir verhaling van skade
26. Prosedure met die bring van hofaansoeke
27. Vrywaring
28. Oortredings en boetes
29. Bylae 1 en 2 vorm deel van hierdie Verordening
30. Teenstrydigheid met ander wetgewing
31. Herroeping van verordening
32. Kort titel en inwerkingtrede

Bylae 1: Kode van goeie praktyk

Bylae 2: Skutregisterinligting

1. Woordomsrywings

Tensy teenstrydig met die sinsverband van hierdie Verordening, beteken-

“**Diensleweringsooreenkoms**” 'n diensleweringsooreenkoms soos omskryf in artikel 1 van die Plaaslike Regering: Munisipale Stelselswet, 2000 (Wet 32 van 2000).

“**dier**” 'n perd, bees, donkie, skaap, bok, vark, volstruis, hond, kat of die baster van enige sodanige dier en het “**diere**” 'n ooreenstemmende betekenis;

“**Eienaar**” 'n eienaar wat bekend is, of wie se identiteit redelik vinnig vasgestel kan word, en in verhouding tot enige -

- (a) dier, sluit dit die agent van die eienaar in of enige ander persoon wat wetlike toesig of besit het van sodanige dier; of
- (b) grond, sluit dit die eienaar, huurder of wettige bewoner van sodanige grond of sy of haar agent in;

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;

"Owner" includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

- (a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or
- (b) land means rural or urban land and includes the owner, lessee or lawful occupier of such land or his or her agent;

"Pound" means a pound established as contemplated in section 3;

"pound keeper" means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound keeper;

"Public place" means any place to which the public has access including, without limiting the generality of the foregoing any –

- (a) square ;
- (b) park;
- (c) a recreational area ;
- (d) sports grounds ;
- (e) open space ;
- (f) beach ;
- (g) shopping center on municipal land ;
- (h) unused or vacant municipal land ; or
- (i) cemetery ;

"Public road" means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996); and

"Service delivery agreement" means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

2. Application

This By-Law apply to the area of jurisdiction of the Municipality, provided that nothing prevents any animal detained in terms of this By-Law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

3. Establishment of pound

- (1) The Municipality may establish a pound or pounds at any convenient place or places within its area of jurisdiction that can care for all types of animals as described in the definition of animals or cater for a specific type or types of animals.
- (2) The Municipality may enter into a service delivery agreement with an animal welfare organisation or institution or any institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction and such a pound may cater for all types of animals as described in the definition of animal or for a specific type or types of animals.
- (3) Subsections (1) and (2) do not forbid the municipality to establish more than one pound in the area of jurisdiction of the Municipality.
- (4) The Municipality must give notice of the establishment of a pound by publishing a notice in at least one newspaper circulating in the area of jurisdiction of the Municipality.

4. Appointment of pound keeper

- (1) The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a pound keeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(1).
- (2) The Municipality can however also designate an official in its service to act as pound keeper.
- (3) In the case of a pound or pounds operated by an external party in terms of a section 3 (2), the agreement may require the external party:
 - (a) to be responsible for appointing a suitable skilled person with the necessary experience as pound keeper and to;
 - (b) appoint other employees for the effective management of the pound or pounds.

"Hof" 'n Landdroshof soos na verwys in artikel 166(d) van die Grondwet, 1996, met jurisdiksie in die gebied waarbinne die skut geleë is;

"Koerant" die amptelike Provinsiale Koerant van die Provinsie: Wes-Kaap.

"Munisipaliteit" die munisipaliteit van Swellendam gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, Provinsiale Kennisgewing 482 gedateer 22 September 2000 en sluit in enige politieke struktuur, politieke ampsbekleder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie Verordening uit hoofde van 'n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleder, raadslid, agent of werknemer;

"Openbare plek" enige plek waartoe die publiek toegang het, insluitend en sonder beperking van die voorafgaande, enige -

- (a) plein;
- (b) park;
- (c) ontspanningsgebied;
- (d) sportgronde;
- (e) oopruimte;
- (f) strand;
- (g) inkopiesentrum op munisipale grond;
- (h) ongebruikte of onbeboude munisipale grond; of
- (i) begraafplaas;

"Openbare pad" enige pad soos bedoel in artikel 1 van die Padverkeerswet, 1996 (Wet 93 van 1996);

"Skut" 'n skut opgerig soos bedoel in artikel 3; en

"Skutmeester" die persoon wat van tyd tot tyd aangestel word soos bedoel in artikel 4 en dit sluit enige persoon in wat namens die aangestelde skutmeester waarneem;

2. Toepassing

Hierdie Verordening is van toepassing binne die regsgebied van die Munisipaliteit met dien verstande dat niks sal verhoed dat enige dier wat ingevolge hierdie Verordening in aanhouding is, geskut word in 'n skut of soortgelyke plek, wat deur 'n ander munisipaliteit of ander wettige owerheid opgerig is nie.

3. Vestiging van skut

- (1) Die Munisipaliteit mag 'n skut op enige gerieflike plek of plekke binne sy regsgebied vestig wat alle soorte diere, soos in die woordomsywing van diere beskryf, kan huisves of slegs sekere beperkte soorte diere kan huisves.
- (2) Die Munisipaliteit kan 'n diensleweringsooreenkoms aangaan met 'n diere welsynsorganisasie of instelling of enige ander organisasie of instelling of persoon bedoel in artikel 76(b) van die Wet op Plaaslike Regering: Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000) ten einde voorsiening te maak vir die vestiging en bestuur van 'n skut, wat sy hele regsgebied bedien, en sodanige skut kan vir beperkte soorte diere wat geskut word voorsiening maak of vir alle soorte diere soos in die woordomsywing van diere bepaal.
- (3) Subartikels (1) en (2) plaas nie 'n verbod op die Munisipaliteit om meer as een skut in die munisipale regsgebied in te stel nie.
- (4) Die Munisipaliteit moet in ten minste een geregistreerde koerant wat binne sy regsgebied sirkuleer, kennis gee van sy voorneme om 'n skut te vestig in terme van artikels (1) en (2).

4. Aanstelling van skutmeester

- (1) Die Munisipaliteit moet kragtens sy menslike hulpbronne beleid, 'n geskikte gekwalifiseerde persoon as skutmeester aanstel, tensy die skut gevestig en bestuur word ingevolge 'n diensleweringsooreenkoms soos bedoel in artikel (3) (1).
- (2) Die Munisipaliteit kan egter ook 'n amptenaar in sy diens aanwys as skutmeester.
- (3) In die geval waar die skut ingevolge 'n diensleweringsooreenkoms deur 'n eksterne party bedryf word, kan die ooreenkoms die eksterne party versoek om:
 - (a) verantwoordelik te wees vir die aanstelling van 'n skutmeester wat beskik gepaste vaardighede en ondervinding, en:-
 - (b) om ander werknemers aan te stel ten einde die skut effektief te kan bestuur.

5. Trespassing or straying animals may be impounded

- (1) Subject to subsections (2) and (3), a lost, abandoned, stray or trespassing animal, or an animal that is not kept under proper control by its owner, and that is found in a public place or on private land, may be seized and delivered to a pound for impoundment.
- (2) In the case of an animal that is found in a public place, the following persons may seize the animal:
 - (a) A member of the South African Police Service;
 - (b) a member of the South African National Defence Force;
 - (c) a law enforcement officer of the provincial department responsible for road traffic matters;
 - (d) an authorised official of the municipality;
 - (e) a pound keeper or any other employee of a pound authorised by the pound keeper;
 - (f) an employee of any Society for the Prevention of Cruelty to Animals located in the Province;
 - (g) the owner of any land through or alongside which such road passes or which abuts on such public place; or
 - (h) any other person determined by the municipality from time to time.
- (3) In the case of an animal that is found on private land, the animal may be seized by the owner or occupier of that land or a person contemplated in subsection (2).
- (4) An animal that is seized in terms of subsection (1) must be delivered to the nearest accessible pound, or another pound or similar facility as determined by the municipality, by the shortest practical route and within the shortest practical time provided that animals of different species must be separated at all times according to their species.
- (5) A person who seizes an animal in terms of subsection (1)—
 - (a) may, despite subsections (1), (2), (3) and (4), release the animal into the care of the owner of the animal; and
 - (b) may not keep the animal for more than six hours without providing the animal with sufficient and suitable food and fresh water.
- (6) Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.

6. Animals too vicious, injured, intractable or wild to be impounded

- (1) If an animal that has been seized in terms of section 5(1) displays signs of being too dangerous, vicious, injured, intractable or wild to be impounded, the person who seized the animal must—
 - (a) if he or she is a person referred to in section 5(2) (d), request a State Veterinarian, or if a State Veterinarian is not available, a private veterinarian, to assess the animal and to provide a written recommendation, and reasons for the recommendation, as to whether the animal is capable of being impounded or should be destroyed or otherwise disposed of; or
 - (b) if he or she is any other person contemplated in section 5(2) or 5(3), inform the municipality.
- (2) When the municipality is informed in terms of subsection 1(b), it must make a request contemplated in subsection (1) (a).
- (3) The municipality may recover from the owner of the animal any costs incurred by the municipality in terms of subsection (1) or (2).
- (4) If the veterinarian who assessed an animal in terms of subsection (1)(a) recommends that the animal be destroyed or otherwise disposed of, the municipality must notify the owner of the animal of the proposed destruction or disposal of the animal and request the owner to consent, in writing, to the destruction or disposal of the animal, or to provide reasons, in writing, within a period stipulated in the notice, as to why the animal should not be destroyed or otherwise disposed of.
- (5) If the owner of the animal provides reasons, in writing, as to why the animal should not be destroyed or otherwise disposed of and the municipality does not agree with those reasons, or if the owner fails to respond in writing to the request contemplated in subsection (4) within the period stipulated in the notice, the municipality must apply to a Magistrate's Court for an order authorising the municipality to destroy or otherwise dispose of the animal.

5. Diere wat rondloop of oortree mag geskut word

- (1) Onderworpe aan die bepalings van subartikels (2) en (3) mag 'n verlore, verlate, los-lopemde of oortredende dier, of enige dier wat nie onder behoorlike beheer van die eienaar gehou word nie, en wat in 'n openbare plek of op private grond gevind word, op beslag gelê en na 'n skut vervoer word.
- (2) In die geval van 'n dier wat in 'n openbare plek gevind word, mag die volgende persone op die dier beslag lê -
 - (a) 'n lid van die Suid-Afrikaanse Polisiediens;
 - (b) 'n lid van die Suid-Afrikaanse Weermag;
 - (c) 'n wetstoepassings beampte van die provinsiale departement verantwoordelik vir padverkeers aangeleenthede;
 - (d) 'n gemagtigde munisipale beampte;
 - (e) 'n skutmeester of enige ander werknemer van die skut wat deur die skutmeester gemagtig is;
 - (f) 'n weknemer van die Dierebekeringsvereniging in die Provinsie;
 - (g) die eienaar van enige grond waardeur of waarlangs sodanige pad loop of wat aan sodanige openbare ruimte grens; of
 - (h) enige ander persoon wat van tyd tot tyd deur die munisipaliteit bepaal word.
- (3) In die geval van 'n dier wat op private grond gevind word, mag die eienaar of okkupeerder van daardie grond of 'n persoon beoog in subartikel (2) beslag lê op die dier.
- (4) 'n Dier waarop daar in terme van subartikel (1) beslag gelê is moet na die naaste toeganklike skut, of ander skut of soortgelyke fasiliteit soos deur die munisipaliteit bepaal, langs die kortste mees praktiese roete en in die kortste tyd prakties moontlik, afgevoer word, met dien verstande dat diere van verskillende spesies te alle tye afsonderlik volgens hulle spesies gehou moet word.
- (5) 'n Persoon wat in terme van subartikel (1) beslag lê op 'n dier -
 - (a) mag, ten spyte van die bepalings van subartikels (1), (2), (3) en (4), die dier in die sorg van die eienaar vrylaat; en
 - (b) mag nie die dier langer as ses uur aanhou, sonder om dit van genoegsame en geskikte voedsel en vars water te voorsien nie.
- (6) Enige persoon wat 'n dier vang met die doel om dit te skut, moet voldoen aan die bepalings van die Kode van Goeie Praktyk insake die Hantering en Vervoer van Geskutte Diere, soos vervat in Bylae 1.

6. Diere wat te wild, onbeheerbaar, beseer of boosaardig is om te skut

- (1) Indien 'n dier waarop daar in terme van artikel 5(1) beslag gelê is tekens toon dat dit te gevaarlik, boosaardig, beseer, onbeheerbaar of wild is om te skut, moet die persoon wat op die dier beslag gelê het -
 - (a) indien hy of sy 'n persoon is waarna in artikel 5(2)(d) verwys word, 'n Staatsveearts, of indien 'n Staatsveearts nie beskikbaar is nie 'n privaat veearts versoek om die dier te assesseer en 'n geskrewe voorstel, asook die redes vir die voorstel, te verskaf oor of die dier in staat is om geskut te word, en of dit vankant gemaak of op 'n andersins mee weggedoen moet word, of
 - (b) indien hy of sy enige ander persoon is soos beoog in artikels 4(2) of 4(3), die munisipaliteit in kennis stel.
- (2) Wanneer die munisipaliteit in terme van subartikel 1(b) in kennis gestel word, moet dit 'n versoek soos beoog in subartikel 1(a) rig.
- (3) Die munisipaliteit mag enige kostes aangegaan in terme van subartikel (1) of (2) van die eienaar van die dier verhaal.
- (4) In dien die veearts wat die dier in terme van subartikel 1(a) geassesseer het aanbeveel dat die dier vankant gemaak of andersins mee weggedoen moet word, moet die munisipaliteit aan die eienaar kennis gee van die voorgenome vankantmaking of wegdoening van die dier en die eienaar versoek om skriftelik toe te stem tot die vankantmaking of wegdoening van die dier, of om skriftelik redes te voorsien, binne die tydperk in die kennisgewing vermeld, hoekom die dier nie vankant gemaak of andersins mee weggedoen moet word nie.
- (5) Indien die eienaar skriftelik redes voorsien waarom die dier nie vankant gemaak of andersins mee weggedoen moet word nie en die munisipaliteit stem nie saam met sy redes nie, of indien die eienaar versuim om binne die bepaalde tydperk in die kennisgewing vermeld te reageer op die versoek beoog in subartikel (4), moet die munisipaliteit by die Landdroshof aansoek doen om 'n bevel wat die vankantmaking of wegdoening van die dier magtig.

- (6) If the veterinarian who assessed an animal in terms of subsection (1)(a) recommends that the animal be destroyed or otherwise disposed of and—
- the delay in obtaining a court order or the consent of the owner is likely to cause suffering to the animal; or
 - the animal poses a serious imminent threat to the life, health or safety of any person or any other animal, the municipality may destroy or otherwise dispose of the animal, in a humane manner, under the supervision of a State Veterinarian or a private veterinarian, if a State Veterinarian is not available.
- (7) If a magistrate's court authorises the destruction or disposal of an animal, the municipality must notify the owner and, where the identity and whereabouts of the owner are known, provide him or her with a copy of the court order.
- (8) If an animal is destroyed or otherwise disposed of in terms of this section, the municipality must notify the owner of the animal.

7. Care of trespassing animals

A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

8. Information to be supplied to pound keeper

A person sending animals to the pound must advise the pound keeper in writing of –

- the number and descriptions of the animals;
- the land upon which they were found trespassing; and
- the distance in kilometres, by the shortest practical route, between the place on such land where they were seized and the pound.

9. Acceptance at pound of animals to be impounded

Subject to compliance with the provisions of section 5, the pound keeper may not refuse to accept an animal for impounding.

10. Pound register

- The pound keeper must –
 - maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and
 - complete the pound register immediately upon the acceptance into the pound of any animal.
- If the pound keeper –
 - neglects or refuses to comply with any of the provisions of subsection (1);
 - knowingly makes a false entry in the pound register;
 - fraudulently destroys or erases any previous entry in the pound register; or
 - wilfully delivers a false copy or extract from the pound register to any person, he or she commits an offence.

11. Notice to owners of animals

- A pound keeper must, within seven days of the impoundment of an animal, notify the owner of the animal of the impoundment of the animal by:–
 - addressing a written notice to him where his identity is known or where the name of the owner could be ascertained with the exercise of reasonable diligence;
 - placing a copy of the notice to the owner on the Municipal Notice Board; or
 - publishing a copy of the notice in a newspaper that is generally in circulation in the municipality or where no such newspaper is generally in circulation, by posting a notice at the municipal offices in the town where the animal was found to be trespassing or straying.
- If the details of the owner of an animal are unknown or cannot be ascertained with the exercise of reasonable diligence, the pound keeper must report the impoundment of the animal at the nearest police station.

12. Care of impounded animals

- The pound keeper –
 - is responsible for the proper care of all impounded animals;
 - must ensure that fresh water and sufficient food is available to impounded animals at all times; and
 - is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.

- Indien die veearts wat die dier in terme van subartikel (1)(a) geassesseer het aanbeveel dat die dier vankant gemaak of andersins mee weggedoen moet word en–
 - die vertraging in die verkryging van 'n hofbevel of die eienaar se toestemming waarskynlik leiding aan die dier sal veroorsaak; of
 - die dier ernstige dreigende gevaar inhou vir die lewe, gesondheid of veiligheid van enige persoon of enige ander dier mag die munisipaliteit onder die toesig van 'n Staatsveearts of 'n privaatsveearts, indien 'n Staatsveearts nie beskikbaar is nie, op 'n menslike manier vankant maak of andersins daarmee wegdoen.
- Indien 'n Landdroshof die vankantmaking of wegdoening van die dier magtig, moet die munisipaliteit die eienaar in kennis stel, en waar die identiteit en verblyfplek van die eienaar bekend is, hom of haar met 'n afskrif van die bevel voorsien.
- Indien 'n dier ingevolge hierdie artikel vankantgemaak of mee weggedoen word, moet die munisipaliteit die eienaar daarvan in kennis stel.

7. Versorging van diere wat oortree

'n Persoon mag nie 'n dier wat gevang is nadat dit op enige grond oortree het of 'n dier wat in die proses is van afvoering na 'n skut, laat werk, gebruik of mishandel nie.

8. Inligting wat aan skutmeester verstrek moet word

'n Persoon wat diere na 'n skut stuur, moet die skutmeester skriftelik van die volgende inligting voorsien –

- die getal en beskrywing van die diere;
- die grond waarop die dier gevang is toe dit oortree het; en
- die afstand in kilometer, langs die kortste mees praktiese roete, tussen die plek waar die dier gevang is en die skut.

9. Aanvaarding van diere wat geskut word

Onderworpe aan die nakoming van die bepalings van artikel 5, mag die skutmeester nie 'n dier wat na die skut gebring word vir daardie doel, weier nie.

10. Skutregister

- Die skutmeester moet –
 - 'n register op datum hou wat die inligting in Bylae 2 beoog, bevat en wat te alle redelike tye vir publieke insae beskikbaar moet wees; en
 - die register onmiddellik voltooi sodra 'n dier in die skut opgeneem word.
- Indien die skutmeester –
 - nalaat of weier om aan die bepalings van sub-artikel 1 te voldoen;
 - wetend 'n vals inskrywing in die skutregister maak;
 - op bedrieglike wyse enige bestaande inskrywing in die register verwoes of uitvee; of
 - opsetlik 'n vals afskrif of uittreksel uit die register aan enige persoon verskaf, maak hy of sy hom of haar skuldig aan 'n misdryf.

11. Kennisgewing aan eienaars van diere

- 'n Skutmeester moet, binne 7 dae na die skut van 'n dier, die eienaar van die dier in kennis stel van die skut van die dier deur –
 - 'n geskrewe kennisgewing op hom te bestel waar sy identiteit bekend is of deur die uitoefening van redelike sorg vasgestel kan word; of
 - 'n afskrif van die kennisgewing aan die eienaar op die Munisipale Kennisgewingbord te plaas; of
 - 'n afskrif van die kennisgewing in 'n koerant te publiseer wat in algemene sirkulasie in die munisipale gebied is of waar daar nie sodanige koerant in sirkulasie is nie, deur 'n kennisgewing by die munisipale kantore te plaas in die dorp waar die dier oortree of rondgeloop het.
- Indien die besonderhede van die eienaar van die dier onbekend is of nie deur die uitoefening van redelike sorg vasgestel kan word nie, moet die skutmeester die skut van die dier by die naaste polisiekantoor aanmeld.

12. Versorging van geskutte diere

- Die skutmeester –
 - is verantwoordelik vir die behoorlike versorging van alle geskutte diere;
 - moet verseker dat water en voldoende voedsel te alle tye vir geskutte diere beskikbaar is; en
 - is aanspreeklik teenoor die eienaars van geskutte diere vir enige skade aan diere berokken as gevolg van sy of haar onsetlike of nalatige ontrede of versuim

13. Isolation of infected animals

If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –

- (a) provide separate accommodation for such animal;
- (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
- (c) immediately notify the owner of the animal of such disease in writing where the particulars of the owner are known to him or her or may be determined by the exercise of reasonable care.

14. Treatment of impounded animals

The pound keeper –

- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (b) must ensure that all impounded male animals are at all times kept apart from female animals.

15. Impounded animals that die or are stolen or injured

If an impounded animal is injured, dies or is stolen, the pound keeper must –

- (a) record the injury, cause of death or theft in the pound register referred to in section 10;
- (b) notify the owner of the animal in writing of the injury, death or theft where the particulars are known to him or her or may be determined by the exercise of reasonable care; and
- (c) in the case of theft, report the theft to the nearest office of the SA Police Service.

16. Copies of By-Law

The pound keeper must ensure that copies of this By-Law are available at the pound for inspection.

17. Fees and costs payable

The pound keeper must –

- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this By-Law or in accordance with any other law.

18. Release of impounded animals

- (1) Subject to subsection (2), the pound keeper must immediately release an impounded animal, and give the owner a receipt, provided that the owner –
 - (a) provides sufficient and satisfactory proof of ownership of such animal; and
 - (b) pays the fees and costs contemplated in section 17.
- (2) If an impounded animal is an animal that is required to bear an identification mark as set out in the Animal Identification Act, 6 of 2002, and if such animal does not display such mark, the municipality may report the matter to the South African Police Services and may refuse the release of such animal upon receipt of a written instruction by the South African Police Services that the animal should remain impounded.
- (3) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 17, the pound keeper may retain such animal in order to recover such fees or costs as may be due and payable.
- (4) Any risk attached to ownership of an animal will pass to the person who provided proof of ownership when the pound keeper expresses his satisfaction that sufficient proof of ownership had been provided.

19. Sale of impounded animals

- (1) The pound keeper must –
 - (a) whenever any impounded animal has not been released within seven days from the date of its impoundment, apply to the Court for authority to sell the animal; and
 - (b) in the application contemplated in paragraph (a), provide the Court with proof that he/ she has lodged a statement with the owner on the fees and costs due in terms of this By-Law, where the particulars of the owner were known to him or her or may be determined by the exercise of reasonable care.

13. Afsondering van besmette diere

Indien die skutmeester vermoed of bewus raak daarvan dat 'n geskutte dier of diere wat geskut staan te word, besmet is met enige siekte vermeld in die Wet op Dieresiektes, 1984 (Wet 35 van 1984), moet hy of sy –

- (a) afsonderlike verblyf vir sodanige dier voorsien;
- (b) die dier onmiddellik afsonder en die siekte aan die naaste staatsveearts rapporteer; en
- (c) waar die besonderhede van die eienaar beskikbaar is, of deur redelike sorg vasgestel kan word, onmiddellik die eienaar van die dier skriftelik in kennis stel.

14. Geskutte diere nie geskik vir werk

Die skutmeester –

- (a) mag nie 'n geskutte dier vir werk of enige ander doeleinde gebruik of toelaat dat dit vir werk of enige ander doeleinde gebruik word nie; en
- (b) moet te alle tye toesien dat manlike diere afsonderlik van vroulike diere gehou word.

15. Geskutte diere wat vrek, beseer raak of gesteel word

Indien 'n geskutte dier vrek of beseer of gesteel word, moet die skutmeester –

- (a) die oorsaak van die vrekke of besering of the feit dat die dier gesteel is in die skutregister bedoel in artikel 10 aanteken;
- (b) waar die besonderhede van die eienaar beskikbaar is, of deur redelike sorg vasgestel kan word, die eienaar van die vrekke, besering of diefstal van die dier in kennis stel; en
- (c) in die geval van diefstal, die diefstal by die naaste kantoor van die SA Polisiedienste aanmeld.

16. Afskrifte van Verordeninge

Die skutmeester moet sorg dra dat afskrifte van hierdie Verordening by die skut ter insae lê.

17. Gelde en koste betaalbaar

Die skutmeester moet –

- (a) die gelde wat van tyd tot tyd deur die Munisipaliteit vasgestel word kragtens artikel 75A van die Plaaslike Regering, Munisipale Stelselswet, 2000 (Wet 32 van 2000) van die eienaar van 'n geskutte dier verhaal; en
- (b) die koste vir dip, mediese behandeling, inspuittings of ander behandeling wat nodig geag word ingevolge hierdie Verorde-ning of enige ander wetgewing, van die eienaar van die dier verhaal.

18. Vrylating van geskutte diere

- (1) Onderworpe aan subartikel (2) moet die skutmeester onmiddellik 'n geskutte dier vrylaat en aan die eienaar 'n kwitansie voorsien, indien die eienaar –
 - (a) bewys van eiensaarskap van sodanige dier lewer; en
 - (b) die gelde en kostes beoog in artikel 17 betaal.
- (2) Indien 'n geskutte dier 'n dier is wat 'n identifikasiemerk moet dra soos bedoel in die Wet op Identifikasie van Diere, Wet 6 van 2002, en indien sodanige dier nie sodanige merk dra nie, mag die munisipaliteit die aangeleentheid by die SA Polisiedienste aanmeld en mag die munisipaliteit weier om sodanige dier vry te laat indien die SA Polisiediens die munisipaliteit skriftelik versoek om die dier aan te hou.
- (3) Indien die eienaar van 'n geskutte dier nie die gelde en kostes soos bedoel in artikel 17 kan betaal nie, mag die skutmeester sodanige dier terughou totdat die gelde en kostes betaal is.
- (4) Enige risiko verbonde aan die eiensaarskap van 'n dier gaan oor op die persoon wat bewys van eiensaarskap verskaf wanneer die skutmeester sy tevredenheid uitspreek dat voldoende bewys van eiensaarskap verskaf is.

19. Verkoop van geskutte diere

(1) Die skutmeester moet –

- (a) wanneer ookal enige geskutte dier nie binne sewe dae gelos word nie, by die hof aansoek doen om sodanige dier te verkoop; en
- (b) In die aansoek beoog in paragraaf (a), bewys lewer aan die Hof dat hy of sy 'n faktuur wat die gelde en kostes betaalbaar ingevolge hierdie Verordening aandui, op die eienaar bestel het, indien die besonderhede van die eienaar bekend was, of dat daar redelike stappe geneem was om die eienaar se besonderhede vas te stel.

- (2) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –
- summarily enquire into the matter;
 - enquire whether notice was given to the owner of the animal by the pound keeper; and
 - make such order as it considers just and equitable, including an order –
 - as to costs; and
 - on the process to be followed by the pound keeper in the sale of the animal.

20. Persons who may not purchase animals offered for sale

The following persons may not directly or indirectly purchase an animal that is offered for sale at a pound sale –

- The pound keeper of the pound;
- an employee of the pound;
- an official of the municipality;
- a member of the council of the municipality;
- a person other than the pound keeper who conducts the pound sale; or
- a family member, including a life partner, or an associate of a person contemplated in paragraph (a), (b), (c), (d) or (e).

21. Animals unsuccessfully offered for sale

- (1) In the event that any animal is not sold as contemplated in section 19 –
- the pound keeper must immediately advise the Court and the owner, where the particulars of such owner are known to him or her or may be determined by the exercise of reasonable care, of its estimated value and the fees and costs incurred; and
 - the Court may make such order as it may deem just and equitable.
- (2) If any animal that is not normally put up for sale at an auction is not claimed by its owner within 3 days of a written notice of such impoundment being served on the owner or within 3 days after the placement of an advertisement of such impoundment in terms of section 11, such animal may be put down and the costs for maintaining and putting such animal down may be recovered from the owner.

22. Proceeds

All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund, provided that in the event that any impounded animal is sold at a price in excess of –

- the fees and costs incurred; and
- any damages awarded in terms of section 19(2) (c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

23. Action for recovery of damages

Nothing in this By-Law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

24. Procedure to be followed in application to Court

An application to Court for the sale of an animal in terms of this By-Law, must comply with the Rules of Court.

25. Indemnity

The Municipality, pound keeper and any officer, employee, or agent of the Municipality will not be liable for the death of, injury to or theft of any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

26. Offences and penalties

A person who –

- releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- unlawfully seizes an animal for the purpose of impounding it;
- unlawfully impounds an animal;
- intervenes with the pound keeper in the execution of his duties
- releases any animal from his property into a public place or road; or
- contravenes any provision of this By-Law,

is guilty of an offence and is liable on conviction to –

- (2) Die Hof moet, ongeag of die bedrae in die faktuur in artikel (1)(b) genoem, betwis word al dan nie –
- summier die saak ondersoek;
 - ondersoek instel of die skutmeester wel 'n kennisgewing op die eienaar van die dier bestel het; en
 - 'n bevel maak wat as billik en regverdig beskou word, insluitend 'n bevel,
 - rakende koste; en
 - rakende die proses wat deur die skutmeester gevolg moet word met die verkoop van die dier.

20. Persone wat nie diere te koop mag aankoop nie

Die volgende persone mag nie direk of indirek 'n dier aankoop wat by 'n skutveiling te koop aangebied word nie –

- die skut se skutmeester;
- 'n werknemer van die skut;
- 'n beampte van die munisipaliteit;
- 'n raadslid van die munisipaliteit;
- 'n persoon anders as die skutmeester wat die skutveiling lei; of
- 'n familielid, insluitend 'n lewensmaat, of 'n assosiaat van 'n persoon beoog in paragraaf (a),(b),(c),(d) of (e).

21. Diere wat nie verkoop word nie

- (1) In die geval dat enige dier nie verkoop soos bedoel in artikel 19 nie –
- moet die skutmeester onmiddellik die Hof en die eienaar, waar die besonderhede van die eienaar bekend is of deur die uitoefening van redelike sorg vasgestel kan word, van die geskatte waarde asook die koste en gelde betaalbaar, in kennis stel; en
 - mag die Hof enige bevel maak wat dit as billik en regverdig beskou.
- (2) Indien enige dier wat nie normaalweg by 'n veiling verkoop word nie, nie binne 3 dae nadat 'n kennisgewing dat die dier geskut is op die eienaar van die dier bedien is of binne 3 dae nadat 'n advertensie van sodanige skut ingevolge artikel 11 deur die eienaar opgeëis word nie, mag sodanige dier afgemaak word en die kostes vir die onderhoud en afmaking mag van die eienaar verhaal word.

22. Opbrengs

Die volle opbrengs van die gelde en kostes bedoel in artikel 19 moet in die munisipale inkomstefonds gestort word, met dien verstande dat indien 'n dier teen 'n hoër prys verkoop word as –

- die gelde en kostes aangegaan; en
- enige skadevergoeding toegeken ingevolge artikel 19(2) (c),

moet sodanige oorskot binne 30 dae na die verkoping aan die eienaar betaal word, behalwe as die identiteit van die eienaar nie vasgestel kan word nie, in welke geval die oorskot in die inkomstefonds gestort moet word.

23. Aksie vir verhaling van skadevergoeding

Niks in hierdie Verordening verhoed die eienaar van grond of enige ander persoon om 'n regsaksie in te stel in enige hof teen die eienaar van 'n dier wat oortree nie, vir die verhaling van skade gelyk as gevolg van 'n dier wat oortree het.

24. Prosedure met die bring van hofaansoeke

'n Aansoek aan die Hof, om 'n dier te verkoop in terme van hierdie die Verordening, moet voldoen aan die Hofreëls.

25. Vrywaring

Die Munisipaliteit, skutmeester en enige beampte, werknemer of agent van die Munisipaliteit sal nie aanspreeklik wees vir die dood van of besering aan enige dier as gevolg van sy of haar aanhouding skut of vrylating of as gevolg van die skut proses nie.

26. Oortredings en boetes

'n Persoon wat –

- 'n dier wat wettiglik gevang is met die doel om dit te skut of wat wettiglik geskut is, vrylaat;
- onwettig 'n dier vang met die doel om dit te skut;
- onwettig 'n dier skut;
- met 'n skutmeester in die uitvoering van sy pligte inmeng;
- enige dier toelaat om vanaf sy eiendom op 'n openbare pad of straat te gaan; of
- enige bepalinge van hierdie Verordening oortree, is skuldig aan 'n misdryf en maa bv skuldbevestiging: –

- (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
- (ii) 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
- (iii) 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.

27. Schedules 1 and 2 form part of this By-Law

Schedules 1 and 2 to this By-Law form part of this By-Law for all purposes.

28. Conflict with other legislation

- (1) In the event of any conflict between any provision of this By-Law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.
- (2) In the event of an inconsistency between the different texts the Afrikaans text shall prevail.

29. Repeal of by-laws

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this By-Law.

30. Transitional provisions

- (1) A pound that was established in the area of the Swellendam Municipality before the commencement of this By-law is regarded to have been established in terms of this By-law.
- (2) A pound keeper who, immediately before the commencement of this By-law operated a pound in the area of the municipality—
 - (a) is regarded to have been appointed under section 3; and
 - (b) must ensure that the practices and procedures of the pound comply with this By-law within one year of the commencement of this By-law.

31. Short title and commencement

This By-Law is called the Swellendam Municipality By-Law relating to Impoundment of animals and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1

Code of Good Practice on the Handling and Transportation of Impounded Animals

(Section 5(4))

PART I: Paddock requirements

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for –
 - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
 - (b) water troughs with an adequate supply of suitable fresh water at all times;
 - (c) sufficient facilities for the adequate cleaning of paddocks; and
 - (d) facilities for the safe handling of animals.
6. (a) The paddocks must at all times be maintained in a good state of repair.

- (i) 'n boete of tronkstraf of enige van sodanige boete of sodanige tronkstraf of beide sodanige boete en sodanige tronkstraf opgelê word; en
- (ii) in geval van 'n voortdurende oortreding tot 'n bykomende boete of bykomende termyn tronkstraf of tot sodanige bykomende tronkstraf sonder die keuse van 'n boete, of tot beide sodanige boete en tronkstraf vir elke dag wat sodanige oortreding voortduur opgelê word; en
- (iii) 'n verdere bedrag gelyk aan enige koste en uitgawe wat die hof bevind deur die munisipaliteit aangaan is as gevolg van sodanige oortreding of nalatigheid, opgelê word.

27. Bylae 1 en 2 vorm deel van hierdie verordening

Bylae 1 en 2 tot hierdie Verordening vorm deel van hierdie Verordening.

28. Teenstrydigheid met ander wetgewing

- (1) In die geval van teenstrydigheid tussen enige bepaling van hierdie Verordening en Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne, sal sodanige Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne voorrang geniet onderhewig aan artikels 151(3) en 156(4) van die Grondwet.
- (2) In die geval van enige teenstrydigheid tussen verskillende vertalings geld die Afrikaanse teks.

29. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie Verordening voorsiening gemaak word.

30. Oorgangsbepalings

- (1) 'n Skut wat in die Swellendam area gestig is word geag gestig te wees ingevolge hierdie Verordening.
- (2) 'n Skutmeester wat onmiddelik voor die inwerkingtreding van hierdie Verordening 'n skut binne die Swellendam omgewing bedryf het –
 - (a) word geag onder artikel 4 aangestel te wees, en
 - (b) moet verseker dat die praktyke en prosedures van die skut binne een jaar na die inwerkingtreding van hierdie Verordening voldoen aan die vereistes van die Verordening.

31. Kort titel en inwerkingtreding

Hierdie Verordening is die Swellendam Munisipale Verordening insake die Skut van diere en tree in werking op die datum van publikasie in die Provinsiale Koerant.

BYLAE 1

Kode van Goeie Praktyk insake die Hantering en Vervoer van Geskutte Diere

(Artikel 5(4))

DEEL I: Kraalvereistes

1. Verskillende spesies diere moet in afsonderlike krale gehou word.
2. Diere mag nie in oorvol krale opeengehoop word nie en die ruimte moet voldoende wees sodat alle diere gelyktydig kan lê en mag nie minder as 1, 5 vierkante meter grondruimte per dier wees nie.
3. Opstandige diere mag nie saam met ander diere gehou word nie.
4. Jong gespeende of jeugdige diere mag nie saam met volwasse diere gehou word nie, met uitsondering van 'n ma en haar kleintjies.
5. Voorsiening moet in krale gemaak word vir –
 - (a) geriewe soos rakke, voerbakke of ander geskikte houers wat maklik skoonmaak, wat die voer van diere van die grond af moontlik maak en wat gediens kan word sonder om diere te steur;
 - (b) watertroë wat 'n voldoende, geskikte voorraad vars water te alle tye voorsien;
 - (c) voldoende geriewe vir die behoorlike skoonmaak van hokke; en
 - (d) geriewe vir die veilige hantering van diere.
6. (a) Die kampe moet te alle tye in 'n goeie werkende toestand gehou word.

- (b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II: Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals –
- animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.
11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.
12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
13. Electric prodders, sticks or goads may not be used on young calves.
14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III: Movement of animals

15. Animals driven on the hoof must at all times be under proper and competent supervision.
16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.
17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
18. No animal on the hoof may be moved in excess of the following distances –
- during a journey of not more than one day's duration –
 - 20 kilometres for sheep and goats; and
 - 30 kilometres for cattle; and
 - during a journey of more than one day's duration –
 - 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and
 - 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
20. Animals may not be moved in the dark.
21. No sick, injured or disabled animal may be moved on the hoof.

PART IV: Vehicles used in transporting animals

22. Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.
23. All vehicles and trailers referred to in item 22 must have –
- a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;

- (b) Skerp punte, soos punte van drade, gebreekte planke, happerige punte, skarniere of boue wat uitsteek, wat beserings aan diere kan veroorsaak, moet verwyder of na behore bedek word.

7. Die vloer van die hele kamp, insluitend 'n op-en-afslaaï vragwal, toevoerbane en gange moet voorsien word met 'n oppervlakte wat voldoende glijpvy is, sodat dit geskik sal wees vir die aanhou van diere.

DEEL II: Hantering van diere

8. Diere moet te alle tye menslike, met geduld en verdraagsaamheid behandel word.
9. Die volgende moet in gedagte gehou word tydens die hantering van diere –
- diere reageer beter wanneer hul aanjaer agter hulle staan, maar binne hul gesigsveld.
 - tropdiere reageer beter wanneer hulle in 'n trop aangejaag word, in plaas van een-een.
10. Diere mag nie aan hul bene gesleep, of aan hul koppe, ore of sterte gedra word nie.
11. Jong kalfies moet opgelig word by die bors en agterkwart en gedra word indien hulle nie self met gemak kan loop nie, in die alternatief moet hulle gerig word deur een hand op 'n agterkwart en die ander hand naby die skof of nek, deur saam te stap in die vereiste rigting teen 'n geskikte en gemaklike pas.
12. Slegs stokke met seildoek oorgetrek of dryfbande mag gebruik word tydens die aanjaag van diere en dit is verkieslik om op die grond agter die dier te slaan as op die dier self.
13. Elektriese aanporders, stokke of sambokke mag nie op jong kalwers gebruik word nie.
14. Elektriese aanporders mag nie oormatig of voor die voet gebruik word nie en mag ook nie op die gesig of anale- of geslagsdele van diere gebruik word nie.

DEEL III: Verskuiwing van diere

15. Diere wat aangejaag word moet te alle tye onder behoorlike en bekwame toesig wees.
16. Diere wat aangejaag word moet op 'n kalm manier teen 'n pas wat ontspanne, gemaklik, natuurlik vir daardie dier is en nie vinniger as die pas van die stadigste dier daar, aangejaag word nie.
17. Diere mag nie vir langer as tien uur aaneen aangejaag word sonder 'n rustyd van minstens een uur nie, asook die voorsiening van genoegsame, geskikte vars water wat aan al die diere beskikbaar moet wees nie.
18. Geen dier mag vir afstande langer as die volgende aangejaag word nie –
- gedurende 'n reis wat nie langer as een dag duur nie –
 - 20 km vir skape en bokke; en
 - 30 km vir beeste; en
 - gedurende 'n reis wat meer as een dag duur –
 - 20 km gedurende die eerste dag en 15 km vir elke daaropvolgende dag, vir skape en bokke; en
 - 25 km gedurende die eerste dag en 20 km vir elke daaropvolgende dag vir beeste;
19. Sodra diere hul oornag kamp bereik moet hulle onmiddellik voer en water kry, welke voer voldoende en geskik moet wees vir elke spesie.
20. Diere mag nie na donker aangejaag word nie.
21. Geen dier wat siek, beseer of vermink is, mag aangejaag word nie.

DEEL IV: Voertuie gebruik tydens vervoer van diere

22. Voertuie en alle sleepwaens wat vir die vervoer van gehoeftede diere gebruik word, moet geskik wees vir sodanige diere en in 'n padwaardige toestand wees.
23. Alle voertuie en sleepwaens in item 22 genoem moet –
- 'n geskikte glijpvy vloer hê wat nie die skoonmaak van die voertuie se vloer belemmer nie, hoewel heglatte of staal traliewerk toelaatbaar is;

- (b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
 - (c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress;
 - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle: Provided that –
 - (i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
 - (ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
 - (iii) the minimum height must be 750 millimetres in the case of any smaller animals;
 - (e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
 - (f) floors that are solid and impervious;
 - (g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
 - (h) gates, with or without partitions –
 - (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
 - (ii) that open and close freely and are able to be well-secured.
24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is –
- (a) 1, 4 square metres per large animal; and
 - (b) 0, 5 square metre per small animal.

PART V: Watering and feeding of live animals prior to loading

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

PART VI: Loading and off-loading procedure

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
28. No animals may be loaded or off-loaded otherwise than –
- (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
 - (b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.
29. Where a truck is equipped with an on-board removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.
31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.

- (b) voldoende lug en lig deurlaat terwyl dit in beweging of stilstaande is, terwyl geen voertuig geheel en al toegemaak mag wees nie.
 - (c) voldoende beskerming van uitlaatgasse hê, aangesien blootstelling aan uitlaatgasse diere se asemhaling kan belemmer en angs veroorsaak;
 - (d) sywande hê wat hoog genoeg is om te voorkom dat diere ontsnap of uit die voertuig val: met dien verstande dat –
 - (i) die sywande en afskortings wanneer in gebruik op 'n voertuig om diere van mekaar te skei van 'n hoogte moet wees, nie laer as die skouer van die grootste dier wat vervoer word nie;
 - (ii) in die geval van beeste uitgesonderd kalwers, moet die minimum hoogte 1800 millimeter wees; en
 - (iii) in die geval van kleiner diere moet die minimum hoogte 750 millimeter wees.
 - (e) in die geval van 'n multiverdieping voertuig moet die hoogtes tussen dekke voldoende wees en in die geval van skape en varke nie minder as 1000 millimeter wees nie, ten einde die grootste diere in staat te stel om natuurlik vry en ten volle regop te staan en om voldoende ruimte toe te laat bokant die diere vir lug om vrylik te vloei.
 - (f) soliede ondeurdringbare vloere hê;
 - (g) op en aflaai openinge aan die agterkant van die voertuig hê gelyk aan die volle wydte van die voertuig of indien aan die kante, 'n wydte hê van nie minder nie as 2400 millimeter.
 - (h) hekke hê met of sonder afskortings –
 - (i) van 'n ontwerp en konstruksie, sterk genoeg en geskik vir die vervoer van die beoogde besending.
 - (ii) wat vrylik kan oop en toemaak en in staat is om goed beveilig te word.
24. Die digtheid van diere wat saam geplaas is in enige ruimte moet sodanig wees dat die veiligheid en gerief van die diere gedurende vervoer verseker word en die voorgestelde vloerruimte per dier sal –
- (a) 1, 4 vierkante meter per groot dier; en
 - (b) 0, 5 vierkante meter per klein dier wees.

DEEL V: Voer en water gee van lewende hawe voor opklaai

25. Diere moet voorsien word van voldoende en geskikte voeding en vars water totdat die reis 'n aanvang neem.

DEEL VI: Op-en-aflaai prosedure

26. Op-en-aflaai van diere op en vanaf voertuie moet so stil en kalm moontlik geskied met geduld en verdraagsaamheid sonder onnodige teistering, verskrikking, verkneusing, besering, lyding of spanning.
27. Geen dier mag aan sy kop, wol, vel, ore, stert, horings of bene op- of afgelaai word nie.
28. Geen dier mag op enige ander wyse as die volgende op- of afgelaai word nie –
- (a) by wyse van 'n laaibrug met 'n glijvry oppervlakte, sterk genoeg om die gewig van die spesie dier wat hanteer word te ondersteun, met voldoende sypanele of traliewerk wat die ontsnapping of afval van diere van die loopplank sal voorkom en wat teen 'n helling van nie meer as 25 grade lê nie; of
 - (b) by wyse van 'n laaiwal wat gelyk is aan die vloer van die voertuig of, wanneer afgelaai word, nie meer as 310 mm onder die vloer van die aflaai voertuig nie en met 'n helling van nie meer as 25 grade nie.
29. Indien 'n voertuig toegerus is met sy eie verwyderbare laaibrug moet dit 'n glijvrye oppervlakte hê en van voldoende lengte wees om, wanneer dit laat sak is, die helling nie meer sal wees as die na verwys in item 28 nie, en met die afstand tussen die grond en die haak van die laaibrug nie meer as 120 mm nie.
30. 'n Laaibrug se hoogte moet elke keer aangepas word om presies met die voertuig se vloerhoogte ooreen te stem.
31. Die reis moet so gou moontlik begin nadat lewende hawe opgelaai is en moet onmiddellik afgelaai word, wanneer hulle hul bestemming bereik.
32. Tensy voldoende voorsiening gemaak is vir die effektiewe skeiding van verskillende spesies diere, mag dit nie in dieselfde voertuig gelaai en vervoer word nie.
33. Diere van verskillende ouderdom, grootte en geslag mag nie gelaai en vervoer word nie, tensy voldoende voorsiening gemaak is vir die effektiewe skeiding van sodanige diere.

- 34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.
- 35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.
- 36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
- 37. In the event of –
 - (a) a breakdown of the transport vehicle;
 - (b) an accident or collision in which the transport vehicle is involved; or
 - (c) injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from –
 - (i) in the case of paragraph (a), a breakdown service;
 - (ii) in the case of paragraph (b), the South African Police and the traffic authorities; or
 - (iii) in the case of paragraph (c), a veterinarian.

PART VII: Restraining of animals during transportation

- 38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.
- 39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.
- 40. No wire or bailing twine may be used for tying the animal's legs or feet.
- 41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2

Pound register information

(Section 12)

A pound register must, at least, contain the following information –

- 1. Name of pound
- 2. Date of receipt of animal
- 3. Number and description of animals
- 4. Brands or markings on animal
- 5. Ear tag number assigned by the pound keeper
- 6. Name and address of person who seized the animal
- 7. Name and address of person who delivered the animal to the pound
- 8. Name and address of owner of land where animal was seized
- 9. Name and address of owner of animal
- 10. Name and address or description of place where animal was found
- 11. Distance between place where animal was seized and pound
- 12. Particulars of damage caused by the animal
- 13. Transport fees payable
- 14. Details of destruction or disposal of animal
- 15. Cause of death or injury of impounded animal
- 16. Description and amount of pound fees
- 17. Damages awarded by Court
- 18. Date of release of animal
- 19. Date of sale of animal
- 20. Proceeds of sale of animal
- 21. Name and address of purchaser
- 22. Excess amount (if any) paid to owner or municipality
- 23. Receipt number
- 24. Details of Order of Court with regard to animal not sold in execution

- 34. Volwasse beeste met horings mag nie saam met poenskopbeeste vervoer word nie en hulle moet afsonderlik gehok word.
- 35. Indien daar voldoende rede bestaan om te glo dat 'n dier tydens 'n voorgename reis geboorte mag skenk, mag sodanige dier nie gelaai word nie.
- 36. Ingeval 'n dier wel tydens 'n reis geboorte skenk moet die nodige voorsorg getref word om die ma en kroos te beskerm teen vertrapping of besering of teistering deur ander diere.
- 37. Ingeval die -
 - (a) transport voertuig onklaar raak;
 - (b) transport voertuig in 'n ongeluk of botsing betrokke raak; of
 - (c) dier of diere in transito beseer raak of vrek, moet die karweier onmiddellik die besonderhede rapporteer aan, of hulp vra van -
 - (i) in die geval van paragraaf (a) 'n insleepdiens;
 - (ii) in die geval van paragraaf (b) die Suid-Afrikaanse Polisie Diens en die verkeersowerheid; of
 - (iii) in die geval van paragraaf (c), 'n veearts.

DEEL VII: Beheer van diere tydens vervoer

- 38. Indien die vervoer van enige dier 'n besering aan die dier self of ander diere kan veroorsaak, moet dit onder bedwang gehou word, op so 'n manier dat sodanige besering voorkom word.
- 39. Geen dier mag vir meer as vier uur in enige vier en twintig uur tydperk onder bedwang gehou word nie.
- 40. Geen draad of baaltou mag gebruik word om diere se bene of voete mee vas te bind nie.
- 41. Ten einde verwurging of nekbreke te voorkom mag geen dier met 'n skuifknoop aan hul horings of nek aan 'n voertuig vasgemaak word nie en die tou moet op die dier se kniehoogte aan die voertuig vasgemaak word sodat ingeval die dier sou val die moontlikheid dat die dier beseer raak verminder word, met die tou synde lank genoeg ten einde die dier toe te laat om gemaklik in 'n natuurlike posisie te lê, met sy kop regop.

BYLAE 2

Skutregister Inligting

(Artikel 12)

'n Skutregister moet ten minste die volgende inligting bevat -

- 1. Naam van die skut
- 2. Datum waarop 'n dier ontvang is
- 3. Getal en beskrywing van diere
- 4. Merke of brandmerke op diere
- 5. Oorettiket nommer deur skutmeester toegeken
- 6. Naam en adres van persoon wat die dier gevang het
- 7. Naam en adres van persoon wat die dier aan die skut gelewer het
- 8. Naam en adres van die eienaar van grond waarop die dier gevang is
- 9. Naam en adres van die eienaar van die dier
- 10. Naam en adres of beskrywing van plek waar die dier gevind is
- 11. Afstand tussen die plek waar die dier gevang is en die skut
- 12. Besonderhede van skade deur die dier aangerig
- 13. Vervoerkoste betaalbaar
- 14. Besonderhede van uitsit of wegdoening van die dier
- 15. Oorsaak van dood of besering van geskutte dier
- 16. Beskrywing en bedrag van skutgelde
- 17. Skadevergoeding toegeken deur die Hof
- 18. Datum van aflossing van die dier
- 19. Datum van verkoop van die dier
- 20. Opbrengs vir die verkoop van die dier
- 21. Naam en adres van koper van 'n dier
- 22. Oorskot bedrag (indien enige) aan die eienaar of munisipaliteit betaal
- 23. Kwitansie nommer
- 24. Besonderhede van hofbevel rakende diere wat nie tydens veiling verkoop is nie

SWELLENDAM MUNICIPALITY**BY-LAW RELATING TO SPECIAL RATING AREAS**

To regulate special rating areas and activities; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS section 22 of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) provides for municipalities to determine special rating areas;

AND WHEREAS the Swellendam Municipality seeks to regulate special rating areas and activities related thereto;

BE IT ENACTED by the Council of the Swellendam Municipality, as follows:—

TABLE OF CONTENTS**CHAPTER 1****ESTABLISHMENT OF SPECIAL RATING AREAS**

1. Definitions
2. Determination of special rating areas
3. Application
4. Public meetings
5. Business Plan
6. Advertising of applications and objections
7. Decision
8. Determination of a limited SRA

CHAPTER 2**SPECIAL RATING AREAS - STRUCTURES AND FINANCES**

9. Commencement of implementation plans
10. Establishment, composition, powers and duties of management body
11. Finances
12. The role of the CFO

CHAPTER 3**AMENDMENT TO AND EXTENSION OF IMPLEMENTATION PLANS**

13. Amendment to implementation plans
14. Extension of implementation plans

CHAPTER 4**DISSOLUTION OF SPECIAL RATING AREAS**

15. Dissolution

CHAPTER 5**MISCELLANEOUS PROVISIONS**

16. Transitional provision
17. Repeal of by-laws
18. Exemptions
19. Conflict between legislation
20. Short title
21. Operative date

SWELLENDAM MUNISIPALITEIT**VERORDENING INSAKE SPESIALE BELASTINGGEBIEDE**

Om Spesiale Belastinggebiede en aktiwiteite te reguleer en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN artikel 156 (2) en (5) van die Grondwet bepaal dat 'n munisipaliteit verordeninge mag uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer, en enige bevoegdheid uit te oefen met betrekking tot 'n aangeleentheid wat redelikerwys nodig is vir, of verband hou met die doeltreffende verrigting van sy funksies;

EN NADEMAAL artikel 22 van die Wet op Plaaslike Regering: Wet op Munisipale Eiendomsbelasting, 2004 (Wet 6 van 2004) die bevoegdheid aan munisipaliteit verleen om Spesiale Belastinggebiede te bepaal;

EN NADEMAAL die Swellendam Munisipaliteit poog om Spesiale Belastinggebiede te reguleer en voorsiening te maak vir aangeleenthede wat daarmee verband hou;

VERORDEN die Swellendam Munisipale Raad soos volg:—

INHOUDSOPGAWE**HOOFSTUK 1****INSTELLING VAN SPESIALE BELASTINGGEBIEDE**

1. Woordomskrywing
2. Bepaling van spesiale belastinggebiede
3. Toepassing
4. Openbare vergaderings
5. Sakeplan
6. Advertering van aansoeke en besware
7. Beslissing
8. Bepaling van 'n beperkte spesiale belastinggebied

HOOFSTUK 2**SPESIALE BELASTINGGEBIEDE: STRUKTURE EN FINANSIES**

9. Inwerkingtreeding van implementeringsplanne
10. Instelling, samestelling, magte en bevoegdhede van die bestuursliggaam
11. Finansies
12. Die rol van die Hoof Finansiële Beampte

HOOFSTUK 3**WYSIGING EN VERLENGING VAN IMPLEMENTERINGSPLANNE**

13. Wysiging van implementeringsplanne
14. Verlenging van implementeringsplanne

HOOFSTUK 4**ONTBINDING VAN SPESIALE BELASTINGGEBIEDE**

15. Ontbinding

HOOFSTUK 5**DIVERSE BEPALINGS**

16. Oorgangsbepalings
17. Herroeping van verordeninge
18. Vrstellings
19. Strydigheid tussen wetgewing
20. Kort titel
21. Datum van inwerkingtreeding

CHAPTER 1

ESTABLISHMENT OF SPECIAL RATING AREAS

1. DEFINITIONS

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

"additional rate" means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Property Rates Act and in section 11(2) of this By-Law;

"applicant" means any owner who makes an application for the determination of a Special Rating Area in accordance with the provisions of Chapter 1, or if a management body is established in terms of section 10 any reference to **"the Applicant"** means the management body;

"business plan" means a motivation report, implementation plan and term budget as contemplated in section 5;

"CFO" means the Chief Financial Officer of the Municipality, or his or her nominee;

"Companies Act" means the Companies Act 71 of 2008, as amended or replaced;

"Council" means the Council of the Municipality;

"implementation plan" means an Implementation Plan as contemplated in section 5;

"limited special rating area" means a limited Special Rating Area approved by the Council in terms of section 8;

"majority" means the majority of property owners as contemplated in section 22 of the Property Rates Act;

"management body" means a non-profit company incorporated in accordance with the provisions of the Companies Act, (Act No 71 of 2008) being the management body of a Special Rating Area to be established in accordance with the provisions of section 10;

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

"motivation report" means a motivation report as contemplated in section 5;

"MPRA" means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

"Municipality" means the Swellendam Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee 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;

"owner" has the meaning assigned to it in section 1 of the Property Rates Act;

"Policy" means the Policy for the determination of special rating areas, or any other policy adopted by the Council in relation to special rating areas, as in force from time to time;

"rateable property" has the meaning assigned to it in section 1 of the Property Rates Act;

"special rating area" means a Special Rating Area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act and section 7 of this By-Law.

"SRA" means special rating area.

"term budget" means the budget of the management body of the Non Profit Company contemplated in section 5 of this By-law.

2. DETERMINATION OF SRA

The Municipality may determine any area in the municipal area as a SRA in terms of the provisions of section 22 of the MPRA.

HOOFSTUK 1

INSTELLING VAN SPESIALE BELASTINGGEBIEDE

1. WOORDOMSKRYWING

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

"aansoeker" enige eienaar wat aansoek doen om die bepaling van 'n spesiale belastinggebied ooreenkomstig die bepalings van hoofstuk 1, of indien 'n bestuursliggaam ingevolge artikel 10 ingestel is, beteken 'n verwysing na **"die aansoeker"** die bestuursliggaam;

"belasbare eiendom" dieselfde as in artikel 1 van die Wet op Eiendomsbelasting;

"Beleid" die Beleid vir die bepaling van spesiale belastinggebied, of enige ander beleid wat die Raad met betrekking tot spesiale belastinggebiede aanvaar, soos van tyd tot tyd van krag;

"beperkte spesiale belastinggebied" 'n Spesiale belastinggebied ingevolge artikel 8 deur die Raad goedgekeur;

"bestuursliggaam" die bestuursliggaam van 'n Spesiale belastinggebied wat ooreenkomstig die bepalings van artikel 10 ingestel moet word en wat geïnkorporeer is as 'n maatskappy sonder winsbejag in terme van die maatskappywet;

"bykomende belasting" 'n bykomende belasting beoog in artikels 19(1)(d) en 22(1)(b) van die Wet op Eiendomsbelasting en in artikel 11(2) van hierdie verordening;

"eienaar" dieselfde as in artikel 1 van die Wet op Eiendomsbelasting;

"HFB" die hoof- finansiële beampte van die Munisipaliteit, of sy of haar genomineerde;

"implementeringsplan" 'n implementeringsplan soos in artikel 5 beoog;

"Maatskappywet" die Maatskappywet, 2008 (Wet Nr. 71 van 2008), soos gewysig of vervang;

"meerderheid" die meerderheid van eiendomsbesitters soos beoog in artikel 22 van die Wet op Eiendomsbelasting;

"WMFB" Die Wet op Plaaslike Regering: Wet op Munisipale Finansiële Bestuur, 2003 (Wet Nr. 56 van 2003);

"motiveringsverslag" 'n motiveringsverslag soos beoog in artikel 5;

"SBG" Spesiale belastinggebied

"Munisipaliteit" beteken die Swellendam Munisipaliteit ingestel ingevolge Artikel 12 van die Wet op Plaaslike Regering: Wet op Munisipale Strukture, 1998 (117 van 1998), en sluit alle politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agente of alle werknemers in wat ingevolge hierdie verordening optree uit hoofde van 'n bevoegdheid wat by die Munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;

"Raad" die Raad van die Munisipaliteit;

"sakeplan" 'n motiveringsverslag, implementeringsplan en termynbegroting soos beoog in artikel 5;

"spesiale-belastinggebied" 'n Spesiale belastinggebied soos deur die Raad goedgekeur ooreenkomstig die bepalings van artikel 22 van die Wet op Eiendomsbelasting en artikel 7 van hierdie verordening;

"termynbegroting" die begroting van die bestuursliggaam van die Maatskappy sonder Winsoogmerk beoog in artikel 5 van hierdie verordening;

"Wet op Eiendomsbelasting" die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting, 2004 (Wet Nr. 6 van 2004).

2. BEPALING VAN SBG

Die raad kan ingevolge die bepalings van artikel 22 van die Wet op eiendomsbelasting enige area in die munisipale gebied as 'n SBG bepaal.

3. APPLICATION

- (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 SRA.
- (2) All costs incurred by the applicant in respect of the establishment of a SRA shall be for his or her own account, provided that after implementation of the implementation plan the management body may reimburse the applicant for some or all of those costs.
- (3) Any application contemplated in subsection (1) must –
 - (a) be in writing and be in the form as the CFO may determine;
 - (b) be submitted not more than nine (9) months after the date on which the public meeting referred to in section 4 is held, or if a second public meeting is held as provided for in section 5(2), nine (9) months after the date of the second public meeting;
 - (c) be accompanied by –
 - (i) the business plan;
 - (ii) the written consent of the majority of the members of the property owners or any other person mandated by the property owner in writing in the proposed SRA who will be liable for paying the additional rate, as determined by the CFO;
 - (iii) payment of such fee as the Council may determine.

4. PUBLIC MEETINGS

- (1) An application for the determination of a SRA must be preceded by the holding of a public meeting.
- (2) The purpose of the public meeting is to enable the applicant to consult with those owners within the proposed SRA with regard to the proposed boundaries of the area and the proposed improvement or upgrading of the area.
- (3) Prior to the holding of the public meeting, the applicant must –
 - (a) give notice in a manner approved by the CFO in terms of this By-law to all owners of rateable property, who will be liable for payment of the additional rate, of the applicant's intention to apply for the determination of a SRA;
 - (b) in the notice referred to in subsection (3)(a), give notice of a public meeting, which notice must;–
 - (i) state the purpose of such meeting; and
 - (ii) contains details of the place, date and time when such meeting is to be held.
- (4) The public meeting must be held not less than seven (7) days and not more than thirty (30) days after the date of the notice.
- (5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed SRA unless the CFO approves another venue in writing before the public meeting is held.
- (6) The public meeting must be chaired by a suitably qualified and experienced person appointed by the CFO.
- (7) Interested persons must, at the public meeting, be –
 - (a) furnished with all relevant information relating to the proposed SRA, including the information to be set out in the motivation report and implementation plan; and
 - (b) given an opportunity to ask questions, express their views and make representations.

3. AANSOEK

- (1) Enige eienaar in die regsgebied van die Munisipaliteit wat eiendom in die voorgestelde SBG besit, kan by die raad 'n aansoek indien vir die bepaling van 'n SBG.
- (2) Alle kostes wat die aansoeker met betrekking tot die bepaling van 'n SBG, moet deur hom of haar self betaal word, met dien verstande dat die bestuursliggaam ná die inwerkingtreding van die sakeplan 'n deel van of al daardie koste aan die aansoeker kan terugbetaal.
- (3) 'n Aansoek wat in subartikel (1) hierbo beoog word, moet –
 - (a) skriftelik wees en in 'n formaat wat die HFB kan bepaal;
 - (b) ingedien word binne hoogstens nege (9) maande ná die datum waarop die openbare vergadering waarna in artikel 4 verwys word, gehou word, of indien 'n tweede openbare vergadering ingevolge artikel 5(2) gehou word, binne nege (9) maande ná die datum van die tweede vergadering;
 - (c) vergesel word van –
 - (i) die sakeplan;
 - (ii) die skriftelike toestemming van die meerderheid van die eiendomsbesitters of 'n ander persoon met 'n skriftelike mandaat van die eiendomsbesitter in die voorgestelde SBG wat die bykomende belasting sal moet betaal, soos deur die HFB bepaal;
 - (iii) betaling van sodanige geld as wat die Raad kan bepaal.

4. OPENBARE VERGADERINGS

- (1) 'n Aansoek om die bepaling van 'n SBG moet deur 'n openbare vergadering voorafgegaan word.
- (2) Die doel van die openbare vergadering is om die aansoeker in staat te stel om die eienaars in die voorgestelde SBG te raadpleeg met betrekking tot die voorgestelde grense van die gebied en die voorgestelde verbetering of opgradering van die gebied.
- (3) Voor die openbare vergadering moet die aansoeker –
 - (a) aan alle eienaars van belasbare eiendom wat die bykomende belasting sal moet betaal, kennis gee van die aansoeker se voorneme om aansoek te doen om die bepaling van 'n SBG, welke kennisgewing op sodanige wyse moet geskied as wat die HFB ingevolge hierdie verordening kan bepaal;
 - (b) in die kennisgewing waarna in subartikel 3(a) verwys word, kennis gee van 'n openbare vergadering, en die kennisgewing moet –
 - (i) die doel van sodanige vergadering vermeld; en
 - (ii) besonderhede van die plek, datum en tyd van die vergadering bevat.
- (4) Die openbare vergadering moet nie minder nie as sewe (7) dae en nie meer nie as dertig (30) dae ná die datum van die kennisgewing plaasvind.
- (5) Die openbare vergadering moet op sodanige plek, datum en tyd gehou word as wat in die kennisgewing vermeld word, met dien verstande dat dit binne die grense van die voorgestelde SBG gehou moet word, tensy die HFB skriftelike toestemming vir 'n ander vergaderplek verleen voordat die openbare vergadering gehou word.
- (6) 'n Toepaslik gekwalifiseerde en ervare persoon wat deur die HFB aangestel word, moet as voorsitter van die openbare vergadering optree.
- (7) By die openbare vergadering moet belangstellende persone –
 - (a) alle tersaaklike inligting met betrekking tot die voorgestelde SBG ontvang, wat die inligting insluit wat in die motiveringsverslag en implementeringsplan uiteengesit moet word; en
 - (b) geleentheid kry om vrae te vra, hulle menings te lug en verhoë te rig.

5. BUSINESS PLAN

- (1) Any application for the establishment of a SRA must include a Business Plan, Implementation Plan and a term budget covering a period commencing on 1 July of a year and ending on 30 June of the fifth year, or covering such lesser period as may be determined by the CFO.
- (2) If the Business Plan or the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 4, the applicant must call a second public meeting for approval of the SRA as amended.
- (3) The provisions of section 4 apply, with the necessary changes, to the second public meeting.

6. ADVERTISING OF APPLICATION AND OBJECTIONS

- (1) The applicant must within fourteen (14) days after the application is lodged in accordance with section 3, or within such further period which the CFO may approve –
 - (a) cause a notice of the application to be published in a manner approved by the CFO; and
 - (b) either before or up to seven days after the date of publication of the notice, give written notice of the application to all owners within the proposed SRA area, who will be liable for payment of the additional rate, such notice to be given by pre-paid registered post, hand delivery or in any other manner approved of in writing by the CFO.
- (2) Every notice contemplated in terms of subsection (1) must state that written objections to the determination of a SRA or the provisions of the motivation report and implementation plan may be lodged with the Council by a date specified in the notice, which shall not be less than 30 days after the date of publication in terms of subsection (1) (a), and must state where the documentation specified in subsection (5) will be available for inspection.
- (3) Any owner of rateable property who will be liable for paying the additional rate may submit written objections to the determination of the SRA, which objections must be received by the Council not later than the date stipulated in the notice referred to in subsection (1).
- (4) An applicant and any objector to the application who owns property within the proposed SRA may make oral representations to Council.
- (5) The application, including the motivation report and the implementation plan, and all objections must be available for inspection at the offices of the Municipality and at a venue determined by the CFO within the proposed SRA, for the period referred to in subsection (2).

7. DECISION

- (1) After the provisions of sections 3 to 6 have been complied with, the Council must, at a meeting of the Council held as soon as possible after the last date for the submission of objections in accordance with section 6(2), consider the application and –
 - (a) determine a SRA which must be implemented in accordance with the motivation report and implementation plan;
 - (b) determine a SRA with such amendments or conditions as the Council considers to be in the public interest;
 - (c) determine a SRA in respect of a limited area in terms of section 8;
 - (d) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for not approving the determination of a SRA; or
 - (e) refer the application back to the applicant for amendment in such manner as the Council may direct.
- (2) If an application is refused by the Council in accordance with the provisions of subsection (1) (d) or referred back to the applicant in accordance with the provisions of subsection (1) (e), the applicant may, within six (6) months of the Council's decision, re-apply to the Council for the determination of the SRA, provided that such re-application has been appropriately amended in the light of the reasons for refusal or referral, as the case may be.

5. SAKEPLAN

- (1) 'n Aansoek om die instelling van 'n spesiale SBG moet 'n sakeplan, implementeringsplan en 'n termynbegroting insluit vir 'n tydperk wat op 1 Julie van 'n bepaalde jaar begin en op 30 Junie van die vyfde jaar daarna, of sodanige korter tydperk as wat die HFB kan bepaal, ten einde loop.
- (2) Indien die sakeplan of die implementeringsplan na afloop van die openbare vergadering waarna in artikel 4 verwys word, wesenlik gewysig word, soos deur die HFB bepaal, moet die aansoeker 'n tweede openbare vergadering belê vir die goedkeuring van die SBG soos gewysig.
- (3) Die bepalinge van artikel 4, met die nodige veranderinge, is op die tweede openbare vergadering van toepassing.

6. ADVERTERING VAN AANSOEK EN BESWARE

- (1) Die aansoeker moet binne veertien (14) dae nadat die aansoek ooreenkomstig artikel 3 ingedien is, of binne sodanige langer tydperk wat die HFB goedkeur –
 - (a) 'n kennisgewing van die aansoek laat publiseer op 'n wyse wat deur die HFB goedgekeur is; en
 - (b) binne of tot en met sewe dae na die datum van publiserings van die kennisgewing, skriftelike kennis van die aansoek gee aan alle eienaars in die voorgestelde SBG wat die bykomende belasting sal moet betaal, welke kennisgewing per voorafbetaalde geregistreerde pos versend, met die hand afgelewer of op enige ander manier gestuur moet word wat die HFB skriftelik goedkeur.
- (2) Elke kennisgewing wat in subartikel (1) beoog word, moet vermeld dat skriftelike besware teen die bepaling van 'n SBG of die bepalinge van die motiveringsplan en implementeringsplan teen 'n datum soos in die kennisgewing bepaal, wat nie minder nie as dertig (30) dae ná die publikasiedatum ingevolge subartikel (1)(a) moet wees, by die raad ingedien kan word, en moet vermeld waar die dokumentasie ingevolge subartikel (5) ter insae sal lê.
- (3) 'n Eienaar van belasbare eiendom wat die bykomende belasting sal moet betaal, kan skriftelike besware teen die bepaling van die SBG indien, welke besware die raad moet bereik teen nie later nie as die datum wat bepaal word in die kennisgewing waarna subartikel (1) verwys word.
- (4) 'n Aansoeker en enige beswaarmaker teen die aansoek wat eiendom in die voorgestelde SBG besit, kan mondelinge vertoë aan die Raad rig.
- (5) Die aansoek, met die motiveringsplan en die implementeringsplan en alle besware, moet vir die tydperk waarna in subartikel (2) verwys word, ter insae lê by die kantore van die Munisipaliteit en by 'n lokaal binne die voorgestelde SBG soos deur die HFB bepaal.

7. BESLISSING

- (1) Nadat daar aan die bepalinge van artikel 3 tot 6 voldoen is, moet die Raad by 'n raadsvergadering na die sluitingsdatum vir die indiening van besware ooreenkomstig artikel 6(2) die aansoek oorweeg, en –
 - (a) 'n SBG bepaal wat ooreenkomstig die motiveringsplan en implementeringsplan in werking gestel moet word;
 - (b) 'n spesiale SBG bepaal met sodanige wysigings van voorwaardes as wat na die Raad se mening in die openbare belang is;
 - (c) 'n SBG bepaal met betrekking tot 'n beperkte gebied ingevolge artikel 8;
 - (d) die aansoek weier, in welke geval die Raad die aansoeker binne 30 dae van skriftelike redes moet voorsien waarom die bepaling van 'n SBG nie goedgekeur is nie; of
 - (e) die aansoek na die aansoeker terugverwys vir sodanige wysigings as wat die Raad kan voorskryf.
- (2) Indien die Raad ooreenkomstig die bepalinge van subartikel (1)(d) weier of dit ooreenkomstig die bepalinge van subartikel 1(e) na die aansoeker terugverwys, kan die aansoeker binne ses (6) maande na die Raad se beslissing weer by die Raad aansoek doen om die bepaling van die SBG, met dien verstande dat sodanige heraansoek op gepaste wyse gewysig is aan die hand van die redes vir die weiering of die terugverwysing, na gelang van die geval.

- (3) If the motivation report or implementation plan is amended in any material respect at any time before the determination, the Council may require that the application be re-advertised in accordance with the provisions of section 6, with the necessary changes.

8. DETERMINATION OF A LIMITED SRA

If an application in terms of section 3 is not accompanied by the majority of the members of the local community in the proposed SRA required by section 3(3) (c), but the applicant can demonstrate to the satisfaction of the Council, that –

- (a) there are such confirmations from owners of rateable properties in a limited geographical area within the proposed SRA that would meet the requirements of section 3(3)(c) if they were to be applied to that area; and
- (b) the level of services to be provided will not be reduced and the budget will be reduced accordingly as a result of the provision of those services in the limited area alone, as compared to the provision of those services in the whole of the proposed SRA,

then the Council may, subject to the other requirements of this By-Law, determine a limited SRA.

CHAPTER 2

SRA: STRUCTURES AND FINANCES

9. COMMENCEMENT OF THE IMPLEMENTATION PLAN

Once the Council has approved the establishment of the SRA, the implementation plan may only be implemented after the management body has been established in accordance with section 10.

10. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY

- (1) The applicant must cause to be established a management body for the purposes of implementing the provisions of the business plan; or
- (2) May use an existing organisation, that complies with the definition of a management body as contemplated under the definitions of this By-law, as management body to implement the provisions of the business plan separately from the other services the body renders and further subject to the memorandum of incorporation of the Company provides for or are amended in order to cater for the activities in respect of the SRA;
- (3) The Municipality shall monitor compliance by the management body with the applicable provisions of this By-Law, any guidelines or policies adopted by the Municipality and any agreements entered into with the management body and the Municipality;
- (4) The Council must nominate the relevant ward councillor and one other person, as representatives to attend and participate, but not vote, at the meetings of the management body;
- (5) Employees of the Municipality may only serve as representatives of the Municipality on the management body if nominated to do so by the CFO in terms of section 12(b) (ii) of this By-law;
- (6) Within two (2) months after receipt of the first payment of the additional rate, the management body must begin carrying out the provisions of the business plan;
- (7) Within two (2) months of the end of each financial year, the management body must provide the CFO with –
 - (a) its audited financial statements for the immediately preceding year; and
 - (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the SRA.

11. FINANCES

- (1) The financial year of the management body must coincide with the financial year of the Municipality.
- (2) Where a SRA has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charges on the owners of rateable property in the SRA for the purposes of realising the business plan, provided that the Council may in terms of the MPRA, Rates Policy, Credit Control and Debt Collection By-law and the Credit Control and Debt Collection Policy, exempt the indigent, senior citizens, disabled persons or any other category of residents.

- (3) Indien die motiveringsverslag of implementeringsplan in enige stadium voor die bepaling in enige wesenlike opsig gewysig word, kan die Raad vereis dat die aansoek met die nodige veranderings weer ooreenkomstig die bepalings van artikel 6 geadverteer word.

8. BEPALING VAN 'n BEPERKTE SBG

Indien 'n aansoek ingevolge artikel 3 nie vergesel gaan van die toestemming van die meerderheid van die eiendomsbesitters in die voorgestelde SBG soos deur artikel 3(3)(c) vereis word nie, maar die aansoeker tot die bevrediging van die Raad kan toon dat –

- (a) daar sodanige bekragtiging van eienaars van belasbare eiendomme in 'n beperkte geografiese gebied in die voorgestelde SBG is wat aan die vereistes van artikel 3(3)(c) voldoen indien dit op daardie gebied toegepas sou word; en
- (b) die vlak van dienste wat gelewer gaan word nie sal daal nie en die begroting dienooreenkomstig verminder sal word as gevolg van die lewering van daardie dienste net in die beperkte gebied, vergeleke met die lewering van daardie dienste in die hele voorgestelde spesiale-belastinggebied,

kan die Raad, onderworpe aan die ander vereistes van hierdie verordening, 'n SBG bepaal.

HOOFSTUK 2

SBG– STRUKTURE EN FINANSIES

9. INWERKINGTREDING VAN DIE IMPLEMENTERINGSPLAN

Nadat die Raad die instelling van die SBG goedgekeur het, kan die implementeringsplan slegs in werking gestel word nadat die bestuursliggaam ooreenkomstig artikel 10 ingestel is.

10. INSTELLING, SAMESTELLING, MAGTE EN PLIGTE VAN BESTUURSLIGGAAM

- (1) Die aansoeker moet 'n bestuursliggaam laat instel met die doel om die bepalings van die sakeplan in werking te stel: - of
- (2) kan 'n bestaande organisasie wat voldoen aan die bepalings van die woordoms krywing van 'n maatskappy gebruik om die sake plan in werking te stel en steeds ook ander dienste te lewer onderworpe aan die voldoening aan die bepalings van die Verordening en verder onderworpe daaraan dat die memorandum van inkorporasie van die Maatskappy voorsiening maak of aangepas word om voorsiening te maak vir die werksaamhede ten opsigte van die SBG.
- (3) Die Munisipaliteit moet die bestuursliggaam se voldoening aan die toepaslike bepalings van hierdie Verordening, enige riglyne of beleid van die Raad en enige ooreenkomste tussen die bestuursliggaam en die Raad monitor.
- (4) Die Raad moet die betrokke wyksraadslid en een ander persoon as verteenwoordigers benoem om die vergaderings van die bestuursliggaam by te woon en daaraan deel te neem, maar sonder stemreg.
- (5) Werknemers van die Munisipaliteit mag slegs as verteenwoordigers van die Munisipaliteit in die bestuursliggaam dien as hulle deur die HFB ingevolge artikel 12(b)(ii) van hierdie verordening benoem word.
- (6) Binne twee (2) maande na ontvangs van die eerste betaling van die bykomende belasting moet die bestuursliggaam die bepalings van die sakeplan begin uitvoer.
- (7) Binne twee (2) maande na die einde van elke boekjaar moet die bestuursliggaam die HFB voorsien van –
 - (a) sy geauditeerde finansiële state vir die onmiddellik voorafgaande jaar; en
 - (b) 'n jaarverslag oor sy vordering met die uitvoering van die bepalings van die sakeplan in die voorafgaande jaar ten einde die SBG te verbeter en op te gradeer.

11. FINANSIES

- (1) Die boekjaar van die bestuursliggaam moet saamval met die boekjaar van die Munisipaliteit.
- (2) Waar 'n SBG bepaal is, moet die Raad ooreenkomstig die bepalings van die Wet op Eiendomsbelasting 'n eiendomsbelasting bykomend tot die belasting wat eienaars van belasbare eiendom in die SBG reeds betaal, oplê ten einde die oogmerke van die sakeplan te verwesenlik, met dien verstande dat die Raad ingevolge die Wet op Eiendomsbelasting, die Beleid oor Eiendomsbelasting, die Verordening oor Kredietbeheer en Skuldinvordering, en die Beleid oor Kredietbeheer en Skuldinvordering, deernisgevalle, senior burgers, persone met aetremdhede of enige ander kategorie inwoners kan vrystel.

- (3) When determining the additional rate referred to in subsection (2), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act.
- (4) The additional rate due in terms of this By-law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
- (5) The Council may, for the purpose of carrying out the provisions of the business plan of a SRA and subject to section 67 of the MFMA, make payment to the management body of a special rating area;-
- (6) A management body contemplated in section 10 (2) must keep a unique separate bank account for the SRA and all income and expenditure in this regard must be separately recorded and report upon;
- (7) The payment contemplated in subsection (5) is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant management body, and such agreement must regulate, among other things –
 - (a) the mechanisms and manner of payment; and
 - (b) the terms on which payment to the relevant management body is to be made.
- (8) Subject to the provisions of its memorandum of incorporation, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.
- (9) The Municipality shall, for the purposes of this By-law, determine and impose on the management body an administrative charge which will be determined annually during the budgetary process.

12. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By-Law, the CFO must -

- (a) establish separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the SRA;
- (b) monitor compliance with the applicable legislation, including this By-Law and the Policy, by –
 - (i) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the business plan;
 - (ii) if he or she elects to do so, nominating representatives to attend and participate but not vote at meetings of the management body as provided for in section 10(5).

CHAPTER 3

AMENDMENT AND EXTENSION OF IMPLEMENTATION PLANS

13. AMENDMENT TO IMPLEMENTATION PLANS

- (1) An implementation plan, including the geographical boundaries of the SRA, may be amended by the Council on written application by the management body at any time after the formation of the special rating area.
- (2) The Council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interests of any owner, provided that the Council may require the management body to cause a notice of the application for such amendment to be published as approved by the CFO.
- (3) The Council may only approve an amendment in terms of subsection (1), with the changes required by the context, in accordance with the provisions of Chapter 1, which the Council considers is likely to –
 - (a) materially affect the rights or interests of any person;
 - (b) affect the approved budget for the SRA; or
 - (c) change the boundaries of the SRA.
- (4) The Council may, for good reason, on written application by the management body, exempt the management body from complying with the provisions, or condone any non-compliance with any provisions of this By-law, subject to legislative requirements, by-laws and policies.

- (3) Wanneer die Raad die bykomende belasting waarna in subartikel (2) verwys word, bepaal, kan die Raad dit oorweeg om differensiële bykomende belasting op te lê aan een of meer van die kategorieë wat in artikel 8 van die Wet op Eiendomsbelasting uiteengesit word.
- (4) Die bykomende belasting verskuldig ingevolge hierdie Verordening is skuld wat aan die Raad verskuldig is, en is betaalbaar en moet op dieselfde manier ingevorder word as ander eiendomsbelasting wat die Raad hef.
- (5) Ten einde die bepalings van die sakeplan vir 'n SBG uit te voer, en onderworpe aan die bepalings van artikel 67 van die WMFB, kan die Raad betalings aan die bestuursliggaam van 'n SBG maak.
- (6) Die bestuursliggaam bedoel in artikel 10 (2) moet 'n afsonderlike bankrekening hou ten opsigte van die SBG en alle inkomste en uitgawes in die verband moet afsonderlik aantekene en rapporteer word;
- (7) Die betaling wat in subartikel (5) beoog word, is op voorwaarde dat daar 'n finansiële ooreenkoms tussen die Raad en die tersaaklike bestuursliggaam gesluit word, welke ooreenkoms onder andere die volgende moet reël –
 - (a) die betaalmeganismes en -metode; en
 - (b) die bepalings waarvolgens betaling aan die tersaaklike bestuursliggaam gemaak sal word.
- (8) Onderworpe aan die bepalings van sy akte van oprigting kan die bestuursliggaam self deur kommersiële bedrywighede, skenkings en ander wettige maniere geld insamel.
- (9) Vir die doeleindes van hierdie Verordening kan die Raad 'n administratiewe heffing wat jaarliks tydens die begrotingsproses bepaal word aan die bestuursliggaam oplê.

12. DIE ROL VAN DIE HFB

Benewens die ander verantwoordelikhede en verpligtinge van die HFB soos elders in hierdie verordening uiteengesit, moet die HFB –

- (a) afsonderlike rekeningkundige en ander rekordhoudingsstelsels instel met betrekking tot die inkomste uit die bykomende belasting en die verbetering en opgradering van die SBG;
- (b) nakoming van die toepaslike wetgewing, wat hierdie Verordening en die Beleid insluit, monitor deur –
 - (i) die geouditeerde finansiële state en verslae met betrekking tot die uitvoering van pligte soos in die sakeplan uiteengesit in ontvangs te neem en te oorweeg; en
 - (ii) indien hy of sy so besluit, verteenwoordigers te benoem om die vergaderings van die bestuursliggaam by te woon en daaraan deel te neem, maar sonder stemreg, soos in artikel 10(5) bepaal.

HOOFSTUK 3

WYSIGING EN VERLENGING VAN IMPLEMENTERINGSPLANNE

13. WYSIGING VAN IMPLEMENTERINGSPLANNE

- (1) Die Raad kan, op skriftelike aansoek van die bestuursliggaam in enige stadium na die bepaling van die SBG, die implementeringsplan, en die geografiese grense van die SBG, wysig.
- (2) Die Raad kan 'n aansoek om wysiging waarna in subartikel (1) verwys word, goedkeur indien dit na die Raad se oordeel geen wesentliche invloed op die regte of belange van enige eienaar behoort te hê nie, met dien verstande dat die Raad kan vereis dat die bestuursliggaam 'n kennisgewing van die aansoek om sodanige wysiging, soos deur die HFB goedgekeur, moet laat publiseer.
- (3) Die Raad kan 'n wysiging ingevolge subartikel (1), met die veranderinge soos deur die samehang vereis ooreenkomstig die bepalings van Hoofstuk 1, slegs goedkeur as dit na die Raad se mening waarskynlik –
 - (a) die regte of belange van enige persoon wesentlik sal raak;
 - (b) die goedgekeurde begroting vir die SBG sal raak; of
 - (c) die grense van die SBG sal verander.
- (4) Die Raad kan om 'n gegronde rede, op skriftelike aansoek van die bestuursliggaam, die bestuursliggaam van die nakoming van die bepalings van die Verordening vrystel of nie-nakoming van enige bepalings van die Verordening kondoneer, onderworpe aan wetlike vereistes, verordeninge en beleid.

14. EXTENSION OF IMPLEMENTATION PLANS

A management body must, if it elects to extend the term of the SRA for a further period, on or before 1 January in the year in which the business plan is due to terminate, submit an application to the Municipality for approval of extension of the term of the SRA, provided that –

- (a) the extension of the implementation plan may only be approved by the Council in accordance with the provisions of Chapter 1, with the changes required by the context, and the Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone any non-compliance, with any provision of this By-Law, subject to legislative requirements, by-laws and polices;
- (b) the provisions of section 13 shall apply to any amendment of a business plan which has been extended in terms of this section.

CHAPTER 4**DISSOLUTION OF A SRA****15. DISSOLUTION**

- (1) The Council may dissolve a SRA:–
 - (a) upon written application signed by the majority of owners within the boundaries of the SRA who are liable for paying the additional rate; or
 - (b) after prior consultation by the CFO with the management body or the community, for any good cause, whereupon he or she may cause the management body to be wound up or in the case of a management body contemplated in section 10(2) to wind up the SRA part of the management body.
- (2) Upon the winding up of a management body or part thereof, the assets remaining after the satisfaction of all its liabilities shall be transferred to a similar type non-profit organisation in line with the requirements of the Companies Act or to the municipality, after all legal liabilities have been met;
- (3) Any shortfall on termination of the SRA as contemplated in subsection (1) will be recovered from the owners on an equal basis by the CFO by making the necessary debits on the municipal accounts of the owners.

CHAPTER 5**MISCELLANEOUS PROVISIONS****16. TRANSITIONAL PROVISIONS**

- (1) Any SRA determined or established, or deemed to have been determined or established in terms of the By-Law referred to in section 17 shall be deemed to have been determined or established in terms of this By-Law.
- (2) Any –
 - (a) application initiated by an applicant, including a business plan for such an application;
 - (b) advertisement or public meeting in respect of such application;
 - (c) application submitted to Council;
 - (d) approval by the Council of any application,

made, done or given prior to the date of this By-Law, shall be governed by this By-Law, provided that any business plan in force on the commencement date of this By-Law shall, notwithstanding the provisions of section 5, terminate on the termination date of the relevant implementation plan.

17. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality are hereby repealed as far as it relates to matters provided for in this by-law.

18. EXEMPTIONS

- (1) Any person may by means of a written application, with a full motivation, apply to the Municipality for exemption from any provision of this by-law.
- (2) The municipality may after consideration of an application and the motivation therefor –

14. VERLENGING VAN IMPLEMENTERINGSPLANNE

Indien 'n bestuursliggaam die termyn van 'n SBG vir 'n verdere tydperk wil verleng, moet sodanige bestuursliggaam voor of op 1 Januarie van die jaar waarin die sakeplan ten einde gaan loop, 'n aansoek om verlenging van die termyn van die SBG by die Munisipaliteit indien, met dien verstande dat –

- (a) die Raad die verlenging van die implementeringsplan slegs ooreenkomstig die bepalings van hoofstuk 1 kan goedkeur, met die veranderings soos deur die samehang vereis, en die Raad kan met goeie rede, en op skriftelike aansoek van die bestuursliggaam, die bestuursliggaam van die nakoming van enige bepalings ban die Verordening vrystel, of enige nie-nakoming daarvan kondoneer, onderworpe aan wetlike vereistes, verordeninge en beleid;
- (b) die bepalings van artikel 13 van toepassing is op enige wysiging van die sakeplan wat ingevolge hierdie artikel verleng is.

HOOFSTUK 4**ONTBINDING VAN 'n SPESIALE-BELASTINGGEBIED****15. ONTBINDING**

- (1) Die Raad kan 'n SBG ontbind –
 - (a) op skriftelike aansoek wat onderteken is deur die meerderheid van eienaars binne die grense van die SBG wat die bykomende belasting sal moet betaal; of
 - (b) nadat die HFB die bestuursliggaam of die gemeenskap vooraf geraadpleeg het, om enige gegronde rede, in welke geval hy of sy die bestuursliggaam kan laat ontbind of in die geval van 'n bestuursliggaam bedoel in artikel 10 (2) om die SBG gedeelte van die bestuursliggaam te ontbind.
- (2) By die ontbinding van 'n bestuursliggaam, of 'n gedeelte daarvan, moet netto bates wat na die vereffening van al sy laste oorbly, oorgedra word na 'n soortgelyke tipe maatskappy sonder winsoogmerk ooreenkomstig die vereistes van die Maatskappywet of aan die munisipaliteit nadat alle wetlike verpligtinge nagekom is.
- (3) Enige tekort by ontbinding van die SGB soos bedoel in sub-artikel (1) moet vanaf die eienaars op 'n gelyke basis verhaal word en die HFB moet die nodige debiet teen die eienaars se munisipale rekening debiteer.

HOOFSTUK 5**DIVERSE BEPALINGS****16. OORGANGSBEPALINGS**

- (1) Enige SBG wat ingevolge 'n verordening waarna in artikel 17 verwys word, bepaal of ingestel is, of as bepaal of ingestel beskou word, word as ingevolge hierdie Verordening bepaal of ingestel beskou.
- (2) Enige –
 - (a) aansoek wat deur 'n aansoeker inisieer word, wat 'n sakeplan vir sodanige aansoek insluit;
 - (b) advertensie of openbare vergadering met betrekking tot sodanige aansoek;
 - (c) aansoek wat by die Raad ingedien word;
 - (d) Raadsgoedkeuring vir enige aansoek,

wat voor die datum van hierdie Verordening gedoen is, verskyn, gehou is of verleen word, word deur hierdie Verordening gereël, met dien verstande dat enige sakeplan wat op die datum van inwerkingtreding van hierdie Verordening van krag is, ondanks die bepalings van artikel 5, ten einde loop op die beëindigingsdatum van die tersaaklike implementeringsplan.

17. HERROEPING VAN VERORDENINGE

Die bepalings van enige verordeninge wat voorheen deur die Munisipaliteit of deur enige van die ontbinde munisipaliteite wat tans in hierdie Munisipaliteit geïnkorporeer is, word hiermee herroep in soverre dit verband hou met aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

18. VRYSTELLINGS

- (1) Enige persoon kan 'n skriftelike aansoek met volledige motivering by die Munisipaliteit indien om vrystelling van enige bepaling van hierdie verordening.
- (2) Die munisipaliteit kan na oorweging van 'n aansoek en die motivering daarvoor –

- (a) grant an exemption in writing, and stipulate the conditions in terms of which the exemption is granted, and the period for which such exemption is valid;
 - (b) alter or cancel any exemption or condition of an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect, before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality, and if an activity is commenced before such undertaking has been provided to the Municipality, the exemption granted will lapse.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

19. CONFLICT BETWEEN LEGISLATION

- (1) In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.
- (2) In the event of an inconsistency between the different texts The English text shall prevail.

20. SHORT TITLE

This By-Law is called the Swellendam Municipalities By-Law relating to Special Rating Areas.

21. OPERATIVE DATE

This by-law shall take effect on the date of publication.

- (a) skriftelike vrystelling verleen, en die voorwaardes waarop die vrystelling verleen word en die tydperk waarvoor sodanige vrystelling verleen word, voorskryf;
 - (b) 'n vrystelling of voorwaarde van 'n vrystelling wysig of kanselleer; of
 - (c) weier om vrystelling te verleen.
- (3) 'n Vrystelling tree nie in werking voor die aansoeker op skrif onderneem het om al die voorwaardes wat deur die Munisipaliteit opgelê is, na te kom nie, en indien 'n aktiwiteit begin word voor sodanige onderneming aan die Munisipaliteit voorsien is, sal die vrystelling verval.
- (4) Indien 'n voorwaarde van 'n vrystelling nie nagekom word nie, verval die vrystelling onmiddellik.

19. STRYDIGHEID TUSSEN WETGEWING

- (1) In die geval van teenstrydigheid tussen enige bepaling van hierdie Verordening en Nasionale- en Provinsiale wetgewing, standarde, beleid of riglyne, sal sodanige Nasionale- en Provinsiale wetgewing, standarde, beleid of riglyne voorrang geniet onderhewig aan artikels 151(3) en 156(4) van die Grondwet.
- (2) In die geval van enige teenstrydigheid tussen verskillende vertalings geld die Engelse teks.

20. KORT TITEL

Hierdie Verordening staan bekend as die Swellendam Munisipaliteit: Verordening op Spesiale Belastinggebied.

21. DATUM VAN INWERKINGTREDDING

Hierdie verordening tree op die datum van publisering daarvan in werking.

