



MUNISIPALITEIT EMTHANJENI MUNICIPALITY

**POLICY DIRECTIVE ON UNAUTHORISED, IRREGULAR OR
FRUITLESS AND WASTEFUL EXPENDITURE**

EMTHANJENI MUNICIPALITY

POLICY DIRECTIVE ON UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE

Purpose

A policy directive on unauthorized, irregular or fruitless and wasteful expenditure; and how to deal with cases which are considered financial misconduct under the Municipal Finance Management Act, No. 56 of 2003, Sections 29, 32 and 62.

Background

As a result of various reasons very often municipalities have found themselves faced by situations of unauthorized, irregular or fruitless and wasteful expenditure. To address the situation, the Municipal Finance Management Act, Number 56 of 2003, Ss 29, 32 and 62, stipulates that:

Definitions

For the purposes of this policy, the following definitions apply:

“Irregular Expenditure” : Expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- a) The MFMA
- b) The Emthanjeni Supply Chain Management Policy drawn in Terms of Chapter 11 of the MFMA;
- c) Any provincial legislation providing for procurement procedures in that provincial government.

“Unauthorised Expenditure” :

- a) Overspending of a vote or a main division within a vote
- b) Expenditure not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division.

“Fruitless and Wasteful Expenditure”

: Expenditure which was made in vain and would have been avoided had reasonable care been exercised.

“Vote” : One of the main segments into which a budget of a municipality is divided for the appropriation of money for different departments or functional areas of the municipality; and which

specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

“Overspending” : When expenditure under the vote exceeds the amount appropriated for that vote or when the expenditure under the department exceeds the amount appropriated for that department.

“Unforeseen and unavoidable expenditure” (s29, MFMA)

- ⌘ In terms of S29 of the MFMA the mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure which no provision was made for it in an approved budget.
- ⌘ Any such expenditure must not exceed a prescribed percentage of the approved annual budget (*Refer to Budget Guidelines for percentage*). The expenditure must be reported by the Mayor to Council in its next meeting. It must be appropriated in the next budget adjustments.
- ⌘ If such budget adjustments are not passed by Council within 60 days the expenditure shall be considered unauthorised.

“Unauthorised, irregular or fruitless and wasteful expenditure” (s32, MFMA)

- ⌘ A political office –bearer is liable for unauthorised expenditure if that office bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;
- ⌘ The accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer. The accounting officer is however not liable if he informed the mayor, council or the executive committee in writing that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful should it be incurred.
- ⌘ Any political office bearer or official who deliberately or negligently commit, made or authorise an irregular, fruitless and wasteful expenditure is liable for that expenditure.

Actions following discovery of unauthorised, irregular or fruitless expenditure (S 32 ss 2, 3,4,5,6 and 7)

- ⌘ The municipality shall recover unauthorised, irregular or fruitless and wasteful expenditure from the person or persons liable for that expenditure.
- ⌘ The accounting officer must promptly inform the mayor, the MEC for local

government and housing in the Northern Cape and the Auditor-General, in writing, of any unauthorised, irregular or fruitless and wasteful expenditure, whether any person is responsible or under investigation for such expenditure and the steps taken to recover or rectify such expenditure and prevent a recurrence of such expenditure.

- ⌘ The accounting officer must report to the South African Police Service all cases of alleged irregular expenditure that constitute a criminal offence and cases of theft and fraud that occurred in the municipality.
- ⌘ The council of the municipality must take all reasonable steps to ensure that cases of fraud and theft are reported to SAPS if the charge is against the Accounting Officer or if the Accounting Officer fail to reported such cases against any official of the municipality.

Consultation: Municipal Manager

Was discussed and approved.

Contact Person:

Chief Financial Officer-053 632 9110

RECOMMENDATION

That in the event of unauthorized, irregular or fruitless and wasteful expenditure being incurred at Emthanjeni Municipality the following will apply in line with the provisions of the MFMA:

Investigation of alleged financial misconduct

- ⌘ The municipality shall investigate allegations of unauthorized, irregular or fruitless and wasteful expenditure against any political office bearer, the accounting officer, the chief financial officer, a senior manager or other official of the municipality;
- ⌘ If the investigation warrants such a step, institute disciplinary proceedings against the political office bearer, the accounting officer, chief financial officer or that senior manager or other official in accordance with the MFMA and systems and procedures referred to in section 67 of the Municipal Systems Act, read with Schedule 2 of that Act. If any body is found guilty of financial misconduct, such person(s) shall be liable to legal action with regard to recovery of the money.

Approval of the policy

- a) Date of Approval by Council

.....2012

This policy shall be called **EMTHANJENIMUNICIPALITY POLICY DIRECTIVE ON UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE. And shall be effective from the date of approval by the Council.**