

DANNHAUSER LOCAL MUNICIPALITY



THE UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE POLICY 2025/2026

POLICY ON THE UNAUTHORISED, IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURE

1. 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.

2. 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, Sections 29, 32 and 62, stipulates that

3. SCOPE

This policy shall apply to all staff and councillors of Dannhauser Local Municipality.

4. LEGISLATIVE FRAMEWORK

This policy is based on the legislative provisions of the following pieces of legislation;

-  The Constitution of the Republic of South Africa, 1996,
-  Local Government: Municipal Finance Management Act (Act No. 56 of 2003)

5. DEFINITIONS

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

“Act” In relation to this Policy, means: - the Local Government: Municipal Finance

Management Act, 2003 including the regulations made in terms of section 168 or 175.

"Irregular expenditure" In relation to a municipality or municipal entity, means;-

- (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Finance Management Act, and which has not been condoned in terms of Section 170;
- (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
- (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act 20 of 1998); or
- (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's bylaws given effect to such policy, and which has not been condoned in terms of such policy or bylaw,

But excludes expenditure by a municipality which falls within the definition of 'unauthorised expenditure'

"Unauthorised Expenditure" In relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3), and includes-

- (a) overspending of the total amount appropriated in the municipality's approved budget;
- (b) overspending of the total amount appropriated for a vote in the approved budget;
- (c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- (e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of 'allocation' otherwise than in accordance with any conditions of the allocation; or
- (f) a grant by the municipality otherwise than in accordance with this Act.

"Fruitless and Wasteful Expenditure" Means expenditure that was made in vain and would have been avoided had reasonable care been exercised.

"Overspending" In relation to the budget of a municipality, means:-

- (a) causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year's budget for its operational or capital expenditure, as the case may be;

- (b) in relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or
- (c) in relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5) of that section.

"Vote" means:-

- (a) one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
- (b) which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

In this policy, a word or expression derived from a word or expression defined in these definitions has a corresponding meaning unless the context indicates that another meaning is intended.

6. UNFORESEEN AND UNAVOIDABLE EXPENDITURE (S29, MFMA)

- 6.1 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.
- 6.2 Any such expenditure must not exceed a prescribed percentage of the approved annual budget (*No prescription as yet – suggest 10%*).
- 6.3 The expenditure must be reported by the Mayor to Council in its next meeting. It must be appropriated in the next budget adjustments.
- 6.4 If such budget adjustments are not passed by Council within 60 days the expenditure shall be considered unauthorised.

7 UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE (S32, MFMA)

- 7.1 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;
- 7.2 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.
- 7.3 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.

8 ACTIONS FOLLOWING DISCOVERY OF UNAUTHORISED, IRREGULAR OR FRUITLESS EXPENDITURE(S 32 SS 2, 3,4,5,6 AND 7)

- 8.1 The municipality shall recover unauthorised, irregular or fruitless and wasteful expenditure from the person or persons liable for that expenditure.
- 8.2 The accounting officer must promptly inform the mayor, the MEC for local government 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.
- 8.3 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.
- 8.4 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, should prefer charges against the accounting officer and report the matter to the SAPS and advise the MEC for local government in the Province, the Provincial Treasury and the Auditor General.

9. ACTION REQUIRED IN EVENT OF IRREGULAR, UNAUTHORISED OR FRUITLESSAND WASTEFUL EXPENDITURE:

- 9.1 In terms of Section 32 of the Act the Municipality is obliged to take the following specific steps in the event of irregular, unauthorized and fruitless and wasteful expenditure to recover such expenditure from the liable person:
 - 9.1.1. Unless in the case of unauthorized expenditure such expenditure is authorized in an Adjustment Budget or certified by the Municipal Council, after investigation by a Council Committee, as irrecoverable and written off by the Council.
 - 9.1.2 Unless, in the case of irregular or fruitless and wasteful expenditure such expenditure is certified by the Municipal Council, after investigation by a Council Committee, as irrevocable and written off by Council.
- 9.2. The Accounting Officer must notify the Council, Mayor or Executive Committee in writing if it is likely that a decision taken by them will result in unauthorized, irregular or fruitless and wasteful expenditure. This will not only prevent the unauthorized, irregular or fruitless and wasteful expenditure to take place but will also exonerate the Accounting Officer from any liability whatsoever should such expenditure ensue.

- 9.3. The Accounting Officer must promptly inform the Mayor, MEC for Local Government and the Auditor General in writing of:

9.3.1 Any unauthorized, irregular or fruitless and wasteful expenditure incurred by the Municipality whether any person is responsible or under investigation for such expenditure steps must be taken:

9.3.1.1 To recover or rectify such expenditure

9.3.1.2 To prevent a recurrence of such expenditure

9.4. The Accounting Officer must report all cases of alleged expenditure that constitute a criminal offence to the SAPS. Theft and fraud in general must also be reported.

9.5. The Council must ensure that all cases of irregular expenditure, theft and fraud committed by the Accounting Officer are referred to the SAPS.

9.6. The Council must also report to the SAPS if the Accounting Officer fails to perform his duties as referred to in 4 above.

10. DISCIPLINARY AND CRIMINAL PROCEEDINGS:

10.1 Although the three different concepts namely unauthorized, irregular or fruitless and wasteful expenditure are separately and individually defined in the Act they are treated equally when it comes to disciplinary and criminal proceedings. None of these are thus more or less serious than the other and are dealt with in exactly the same manner whenever it occurs for purposes of institution of disciplinary or criminal proceedings.

10.2. In terms of Section 171 of the Act, if financial misconduct is committed by the Accounting Officer, Chief Financial Officer or any other official who deliberately or negligently makes, permits or instructs another official of the Municipality to make an unauthorized, irregular or fruitless and wasteful expenditure.

10.2.1. Such financial misconduct must be investigated unless it is frivolous, vexatious, speculative or obviously unfounded and disciplinary action must be instituted if the investigation warrants such conduct.

10.2.2. Section 173 of the Act stipulates that an Accounting Officer or any other official is guilty of a criminal offence if he/she deliberately or in a grossly negligent way makes or permits or instructs another official to make an unauthorized, irregular or fruitless and wasteful expenditure. In terms of Section 174 a person is liable on conviction

to an appropriate fine or maximum imprisonment of five years.

11. FINANCIAL ACCOUNTING:

- 11.1 Unauthorized, Irregular and Fruitless and Wasteful Expenditure is accounted for as expenditure in the statement of financial performance, and where recovered is subsequently accounted for as revenue in the statement of financial performance.
- 11.2. Any political office bearer or official who deliberately or negligently made or authorised an unauthorized, irregular and fruitless and wasteful expenditure is liable for that expenditure. The Municipality must recover the unauthorized, irregular and fruitless expenditure unless the expenditure:
 - 11.2.1. In the case of unauthorized expenditure is authorized in an Adjustment Budget or certified by the Council, after investigation by a Council Committee as irrecoverable and written off by the Council; and
 - 11.2.2. In the case of irregular or fruitless and wasteful expenditure is after an investigation by a Council Committee, certified by Council, as irrecoverable and written off by the Council.

12. ADOPTION POLICY

This policy has been considered and approved by the Council of **Dannhauser Municipality** on this day..... of 2024 and will be implemented as from 1 July 2024

11.3. Some examples of Unauthorized, Irregular and Fruitless and Wasteful Expenditure:

- 11.3.1. VAT not claimed on Capital or Operational Expenditure
- 11.3.2. No supporting documentation for Capital or Operational Expenditure
- 11.3.3. VAT penalty interest
- 11.3.4. Interest paid on Creditors not paid within 30 days of receipt of invoice.
- 11.3.5. Late payment of PAYE, UIF, SDL
- 11.3.6. Councillors remuneration not in accordance with guidelines as gazette from time to time
- 11.3.7. Unauthorized overtime paid
- 11.3.8. Non-compliance to SCM Procurement Policy
- 11.3.9. Journals not authorized
- 11.3.10. Expenditure occurred that was not budgeted for.

12. IMPLEMENTATION AND MONITORING

12.1 This policy will be implemented and effective once approved by Council.

13. COMMUNICATION

13.1 This policy shall be distributed to all employees and councillors of Dannhauser Local Municipality using all possible communication tools available to the Municipality.

14. POLICY REVIEW

14.1 This policy will be reviewed on an annual basis and revised if necessary and this shall be the responsibility of Budget and Treasury Office (Finance) Department.

15. DATE OF EFFECT

15.1 This policy shall be effective on the date it is approved and adopted by Council and it replaces all other policies on Unauthorised, Irregular and Fruitless and Wasteful Expenditure policy.

16. POLICY ADOPTION

This Policy has been considered and approved by the Council of **DANNHAUSER LOCAL MUNICIPALITY** on this day of2025 and will be implemented as from 1st of July 2025.