

SWARTLAND MUNICIPALITY PROPERTY RATES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Swartland Municipality enacts as follows—

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1. Definitions

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates—

“**agent**” in relation to the owner of a property, means a person appointed by the owner of the property—

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

~~“**agricultural property**” in relation to the use of a property, means property that is primarily used for agricultural purposes, but without derogating from section 9 of the Act, excludes any portion thereof that is used commercially for the hospitality of guests and excludes the use of the property for the purposes of ecotourism or for the trading in or hunting of game;~~

~~“**annually**” means once every financial year;~~

“**category**”—

- (a) means a category of property determined in terms of section 8(2) of the Act;
- (b) in relation to owners of property, means a category of owners determined in terms of section 15(2) of the Act;

~~“**conservation area**” means—~~

- ~~(a) a protected area listed in terms of section 10 of the Protected Areas Act, No 57 of 2003;~~
- ~~(b) a nature reserve established in terms of the Nature and Environmental Conservation Ordinance, No 19 of 1974; or~~
- ~~(c) any land which is zoned as open space zone II or III in terms of the municipality’s zoning scheme regulations, provided that such protected areas, nature reserves or land, with the exception of tourism facilities that may have been erected thereon, are exclusively utilised for the preservation of fauna and flora and the products of such land are not being traded for commercial gain;~~

“**council**” means the municipal council of Swartland municipality;

“**exclusion**” in relation to a municipality’s rating power, means a restriction of that power as provided for in sections 16 and 17 of the Act;

“**exemption**” in relation to the payment of a rate, means an exemption granted in terms of section 15(1) of the Act;

“**financial year**” means the period starting from 1 July in a year to 30 June of the next year;

~~“**land tenure right**” means a land tenure right as defined in section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act 112 of 1991);~~

~~“**local community**” means—~~

- ~~(a) that body of persons comprising—~~
 - ~~(i) the residents of the municipality;~~
 - ~~(ii) the ratepayers of the municipality;~~
 - ~~(iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and~~
 - ~~(iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and~~
- ~~(b) includes the poor and other disadvantaged sections of such body of persons;~~

“**market value**” means the value of the property determined in accordance with section 46 of the Act;

~~“**mining property**” means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);”~~

~~“**multiple purposes**” means the use of a property for more than one purpose subject to section 9 of the Act;~~

~~“**municipal property**” is property registered or which vests in the name of Swartland municipality;~~

“**municipality**” means the Municipality of Swartland established in terms of section 12 of the Local Government: Municipal Structures Act, 1998, (Act No 117 of 1998);

“municipal manager” means a person appointed in terms of section 54A of the Local Government: Municipal Systems Act, 2000, (Act No 32 of 2000);

“occupier” means a person in actual occupation or control of a property whether or not that person has a right to occupy the property;

“owner”

(a) in relation to property referred to in paragraph (a) of the definition of **“property”**, means a person in whose name ownership of the property is registered;

(b) in relation to a right referred to in paragraph (b) of the definition of **“property”**, means a person in whose name the right is registered;

(bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in Government Notice R327 of 24 February 1984;

(bB) in relation to a share in a share block company, the share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);

(bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f) of the Act, means the holder of the mining right or the mining permit;

(c) in relation to a land tenure right referred to in paragraph (c) of the definition of **“property”**, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or

(d) in relation to public service infrastructure referred to in paragraph (d) of the definition of **“property”**, means the organ of state which owns or controls that public service infrastructure as envisaged by the definition in the Act of the term **“publicly controlled”**; provided that a person mentioned below shall for the purposes of this by-law be regarded by the municipality as the owner of a property in the following cases–

(i) a trustee, in the case of a property in a trust excluding state trust land;

(ii) an executor or administrator in a deceased estate;

(iii) a trustee or liquidator in an insolvent estate or in liquidation;

(iv) a judicial manager in the estate of a person under judicial management;

(v) a curator in the estate of a person under curatorship;

(vi) a usufructuary or other person in whose name a usufruct or other personal servitude is registered that is subject to a usufruct or other personal servitude;

(vii) a buyer, in the case of a property that was sold and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

(viii) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right;

“permitted use” means the limited purposes for which the property may be used in terms of–

(a) any restrictions imposed by–

(i) a condition of title;

(ii) provision of a town planning or land use scheme; or

(iii) any legislation applicable to any specific property or properties; or

(b) any alleviation of any such restrictions;

“policy” means the municipality’s Property Rates Policy; ~~reflected in the Schedule to this by-law which policy refers;~~

“property” means–

(a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or

(d) public service infrastructure;

~~**“public service infrastructure”** means publicly controlled infrastructure of the following kinds:~~

~~(a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;~~

~~(b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;~~

~~(c) power stations, power substations or power lines forming part of an electricity scheme serving the public; and~~

~~(d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;~~

~~(e) railway lines forming part of a national railway system;~~

~~(f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;~~

~~(g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes;~~

~~(h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;~~

~~—(i) any other publicly controlled infrastructure as may be prescribed; or
—(j) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i);
“public service purposes” in relation to the use of a property means property owned and used by an organ of state as —
(a) hospitals or clinics;
(b) schools, pre schools, early childhood development centres or further education and training colleges;
(c) national and provincial libraries and archives;
(d) police stations;
(e) correctional facilities; or
(f) courts of law;
but excludes property contemplated in the definition of “public service infrastructure”;~~

~~—“rate” means a municipal rate on property envisaged in section 229(1)(a) of the Constitution and “rates” has a corresponding meaning;~~

~~“rateable property” means property on which a municipality may, in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;~~

~~“rebate” means a discount on the amount of the rate payable on the property;~~

~~“reduction” means the lowering of the amount for which the property was valued and the rating of the property at that lower amount;~~

~~“residential property” means property included in a valuation roll in terms of section 48(2)(b) of the Act as residential in respect of which the primary use or permitted use is for residential purposes, without derogating from section 9 of the Act;~~

~~“small holding” means an area predominantly zoned rural or any other equivalent zoning, with the purpose to accommodate smaller rural properties that may be used for agricultural and residential purposes for people seeking a rural lifestyle;~~

~~“the Act” means the Municipal Property Rates Act 6 of 2004;~~

~~“this by-law” includes the Property Rates Policy as reflected in the Schedule.~~

2. Power to levy property rates

The municipality levies property rates in terms of—

- (a) section 229(1)(a) of the Constitution;
- (b) the Act; and
- (c) this by-law.

3. Adoption and implementation of policy

The municipality must adopt and implement a rates policy in accordance with the Act for the levying of rates on rateable property in its area.

4. General principles

- (1) Rates are levied as an amount in the rand based on the market value of all rateable property contained in the municipality’s valuation roll.
- (2) Criteria are provided for the determination of categories of property and owners and for the purpose of levying different rates on categories of property and owners.
- (3) Different rates may be levied for different categories of rateable property.
- (4) Relief in respect of payment for rates shall not be granted to any category of property or owners on an individual basis, other than by way of an exemption, rebate or reduction.
- (5) All ratepayers with similar properties must be treated equally.
- (6) The ability of a person to pay rates must be taken into account.
- (7) Provision must be made for the promotion of local economic development and sustainable local government.
- (8) Rates shall be based on the value of all rateable property and the amount required by the municipality to balance the operating budget.

5. Differential rating

Subject to the Act, the municipality may levy different rates on different categories of property.

6. Notification of rates

- (1) A resolution levying rates in a municipality must be annually promulgated, within 60 days of the date of the resolution, by publishing the resolution in the *Provincial Gazette* and in a newspaper or newspapers circulating in the area of the municipality.
- (2) The resolution must—
 - (a) contain the date on which the resolution levying rates was passed;
 - (b) differentiate between categories of properties; and
 - (c) reflect the cent amount in the Rand rate for each category of property.

7. Recovery of rates in arrears from tenants or occupiers

Subject to the provisions of section 28 of the Act, the municipality may recover rates which are unpaid after the due date by the owner of a property, in whole or in part from the tenant or occupier of such property.

8. Recovery of rates in arrears from agents

Subject to the provisions of section 29 of the Act, the municipality may recover the amount due for rates in whole or in part from the agent of the owner.

9. Correction of errors and omissions

- (1) Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the

municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

(2) Where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied in terms of the municipality's Credit Control and Debt Collection By-law.

10. Enforcement mechanisms

If an owner of a property fails to pay rates in the prescribed manner, the Director: Financial Services must recover from such owner the rates due in accordance with the provisions of the municipality's Credit Control and Debt Collection By-law.

11. Appeal

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

12. Offences and penalties

A person who—

- (a) makes a false application or declaration which will affect the rates payable on any property whether on his or her own behalf or that of someone else;
- (b) refuses or fails to report any amendments to an application or declaration, referred to in paragraph (a), to the municipality after such occurrence; or
- (c) interferes or hinders an official of the municipality in the execution of his or her duties in terms of this by-law,

commits an offence and upon conviction shall be liable to payment of a fine or imprisonment or to such imprisonment or to both such fine and such imprisonment.

13. Repeal of by-laws

The Rates By-law promulgated in *Extraordinary Provincial Gazette* 7825 on 12 June 2015 is hereby repealed.

~~11 July 2014 is hereby repealed~~

14. Short title and commencement

This By-law shall be known as the Swartland Municipality Property Rates By-law and shall become effective on 1st July 2017~~15~~.