

14. Short title and commencement

This by-law shall be known as the By-law relating to Transfer of Municipal Capital Assets and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

56818

22 May 2015

SWARTLAND MUNICIPALITY**BY-LAW RELATING TO THE SUBMISSION OF BUILDING PLANS**

By virtue of the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the legislative and executive functions in respect of building regulations have been allocated to municipalities in the local sphere of government.

In terms of this mandate the Municipality of Swartland has adopted this by-law.

Table of contents

1. Definitions
2. Purpose of by-law and application
3. Interpretation
4. Compliance and enforcement
5. Determination of tariffs
6. Offences and penalties
7. Short title and commencement

1. Definitions

In this by-law, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context indicates otherwise—

“**Building Act**” the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and includes the Building Regulations;

“**Building Regulations**” the National Building Regulations promulgated under GN R2378 of 12 October 1990;

“**municipality**” the Municipality of Swartland established in terms of section 12 of the Local Government: Municipal Structures Act, 117 of 1998;

“organ of state”

- (a) any government department or administration in the national, provincial or local government sphere; or
- (b) any other functionary or institution—
 - (i) that performs a power or function in terms of the Constitution or a provincial constitution; or
 - (ii) that performs a public function or power in terms of legislation, but excludes a court or judicial officer.

“**person**” includes any natural person, juristic person, association or organ of state;

2. Purpose of by-law and application

(1) The purpose of this by-law is to ensure uniformity with regard to the submission, consideration and approval of applications for the erection of buildings in the jurisdictional area of the municipality.

(2) Subject to subsection (3), this by-law does not derogate from the provisions of the Building Act.

(3) Notwithstanding conflicting provisions in any act, including the Building Act, all persons, including organs of state, must submit building plans and specifications for consideration and approval by the municipality.

14. Kort titel en inwerkingtreding

Hierdie verordening sal bekend staan as die Verordening insake Oordrag van Munisipale Kapitale Bates en tree in werking op die datum van publikasie daarvan in die *Provinsiale Koerant*.

56818

22 Mei 2015

SWARTLAND MUNISIPALITEIT**VERORDENING BETREFFENDE DIE INDIEN VAN BOUPLANNE**

Ooreenkomstig die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, is wetgewende en uitvoerende magte ten opsigte van bouregulasies aan munisipaliteite in die plaaslike sfeer van regering toevertrou.

Ingevolge hierdie grondwetlike mandaat het die Munisipaliteit van Swartland die hierdie verordening aangeneem.

Inhoud

1. Woordomskrywing
2. Doel van verordening en toepassing
3. Uitleg
4. Nakoming en afdwinging
5. Vasstelling van tariewe
6. Oortredings en boetes
7. Kort titel en inwerkingtrede

1 Woordomskrywing

In hierdie verordening, geniet die Engelse teks voorrang in die geval van ’n teenstrydigheid tussen die verskillende tekste, en tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenis—

“**persoon**” sluit in enige natuurlike persoon, regs persoon, vereniging of staatsorgaan;

“staatsorgaan”

- (a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike regeringsfeer; of
- (b) enige ander funksionaris of instelling—
 - (i) wat ingevolge die Grondwet of ’n provinsiale grondwet ’n bevoegdheid uitoefen of ’n funksie verrig; of
 - (ii) ingevolge wetgewing ’n openbare bevoegdheid uitoefen of ’n openbare funksie verrig, maar nie ook ’n hof of ’n regterlike beampte nie;

“**munisipaliteit**” die munisipaliteit van Swartland gestig in terme van artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998;

“**Bouregulasies**” die Nasionale Bouregulasies afgekondig per GK R2378 van 12 Oktober 1990;

“**Bouwet**” die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977); en sluit dit die Bouregulasies in

2. Doel van verordening en toepassing

- (1) Die doel van hierdie verordening is om eenvormigheid betreffende die indiening, oorweging en goedkeuring van aansoeke vir die oprigting van geboue in die regsgebied van die munisipaliteit te verseker.
- (2) Behoudens subartikel (3) doen hierdie verordening nie afbreuk aan die bepalings van die Bouwet nie.
- (3) Ondanks teenstrydige bepalings in enige wet, insluitende die Bouwet, moet alle persone, insluitende staatsorgane, aansoeke vir oorweging en goedkeuring van bouplanne met spesifikasies aan die munisipaliteit voorlê.

3. Interpretation

Any provision in this by-law relating to procedures for the submission of and consideration of applications for approval of the erection of a building as well as compliance requirements, must be interpreted as a reference to applicable corresponding provisions in the Building Act and Building Regulations.

4. Compliance and enforcement

(1) Where a person erects a building in contravention of the provisions of this by-law, or materially deviates from an approved building plan, the municipality may instruct such person forthwith to stop the erection of the building concerned or to comply with the approved building plan as the case may be.

(2) Where the person served with a notice contemplated in subsection (1) fails to comply with such notice, the municipality may approach the magistrates court for an order prohibiting any person from proceeding with the erection of such building or authorising the municipality to demolish such building if the magistrate is satisfied that such erection is contrary to or does not comply with the provisions of this by-law or any approval or authorisation granted there under.

5. Determination of tariffs

The municipality may, in terms of its Tariff By-law, determine tariffs and fees for any service rendered in terms of this by-law which must be reviewed annually during the budget process.

6. Offences and penalties

Any person who erects a building contrary to the provisions of this by-law, or who fails to comply with a notice issued in terms of this by-law, commits an offence and shall upon conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

7. Short title and commencement

This by-law shall be known as the By-law relating to the Submission of Building Plans of Swartland Municipality and shall come into operation on the date of promulgation thereof in the *Provincial Gazette*.

56819

22 May 2015

3. Uitleg

Wanneer in hierdie verordening verwys word na prosedures vir die indiening van en oorweging van aansoeke vir die oprigting van 'n gebou sowel as nakomingsvereistes, moet sodanige bepaling uitgelê word as synde 'n verwysing te wees na toepaslik ooreenstemmende bepalings in die Bouwet en die Bouregulasies.

4. Nakoming en afdwinging

(1) Indien 'n persoon strydig met die bepalings van hierdie verordening 'n gebou oprig of op wesentlik afwyk van 'n goedgekeurde plan, mag die munisipaliteit, sodanige persoon gelas om onmiddellik die oprigting van die gebou te staak of te voldoen aan die goedgekeurde plan na gelang van die geval.

(2) Indien die persoon aan wie die lasgewing bedoel in subartikel (1) beteken is, versuim om daaraan te voldoen mag die munisipaliteit die landdroshof nader vir 'n bevel waarby enigiemand verbied word om met die oprigting van sodanige gebou voort te gaan of waarby die munisipaliteit gemagtig word om daardie gebou te sloop indien bedoelde landdros oortuig is dat sodanige oprigting in stryd is met of nie voldoen aan die bepalings van hierdie verordening of goedkeuring of magtiging daarkragtens verleen nie.

5. Vasstelling van tariewe

Die munisipaliteit mag ingevolge sy Tarieweverordening tariewe en gelde bepaal vir enige diens wat ingevolge hierdie verordening gelewer word en wat jaarliks tydens die begroting hersien moet word.

6. Oortreding en boetes

Enige persoon wat 'n gebou in stryd met die bepalings van hierdie verordening oprig, of wat versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie verordening, pleeg 'n misdryf en kan by skuldigbevinding—

- (a) 'n boete of gevangenisstraf opgelê word, of sodanige boete of gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf; en
- (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur;
- (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat die hof bevind deur die munisipaliteit aangegaan is weens sodanige oortreding of versuim.

7. Kort titel en inwerkingtrede

Hierdie verordening staan bekend as die Verordening insake die Indiening van Bouplanne van Swartland Munisipaliteit en tree in werking op die datum van publikasie daarvan in die *Provinsiale Koerant*.

56819

22 Mei 2015