

SWARTLAND MUNICIPALITY

Notice is hereby given in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000) that the Municipal Council of the Swartland Municipality has made the by-law set out in the schedule hereto:

SCHEDULE

BY-LAW RELATING TO THE MANAGEMENT AND ADMINISTRATION OF IMMOVABLE PROPERTY

1. DEFINITIONS

In this by-law, unless inconsistent with the context —

“advertise” means the giving of adequate notice of the nature and purpose including the material substance of the matter required to be advertised, by publishing a notice in the press, and where deemed necessary by the Council, any additional form of notice, which may include:

- (i) serving of a notice, or
- (ii) displaying of such a notice on a notice board, or
- (iii) holding a public meeting;

“alienate” means to part with ownership of immovable property in favour of another person with the intention of transferring the ownership of the immovable property to the acquirer thereof;

“close” in relation to a public street or public place, means to close for all purposes or to vehicular or pedestrian traffic only;

“Council” means the council of the municipality of the Swartland and includes any political structure, political office bearer, Councillor or official, acting under delegated authority;

“material substance”, depending on the nature of transaction, means, including, but not limited to:

MUNISIPALITEIT SWARTLAND

Kennis geskied hiermee ingevolge die bepalings van artikel 13 van die Munisipale Stelselwet, 2000 (Wet 32 van 2000) dat die Munisipale Raad van die Munisipaliteit Swartland, die verordening soos uiteengesit in die skedule hiertoe, gemaak het.

SKEDULE

VERORDENING INSAKE DIE BESTUUR EN ADMINISTRASIE VAN ONROERENDE EIENDOM

1. DEFINISIES

In hierdie verordening, tensy onbestaanbaar met die konteks, beteken —

“adverteer” die gee van voldoende kennis van die aard en doel, insluitende die wesenlike besonderhede van die saak wat vereis word om adverteer te word, deur 'n kennisgewing in die pers te publiseer en, indien die raad dit nodig mag ag, enige addisionele vorm van kennisgewing wat die volgende mag insluit:

- (i) die diening van 'n kennisgewing, of
- (ii) die vertoning van so 'n kennisgewing op 'n kennisgewingbord, of
- (iii) die hou van 'n openbare vergadering;

“munisipale gebied” die gebied onder die jurisdiksie en beheer van die munisipaliteit;

“munisipale onroerende eiendom”

- (i) onroerende eiendom en saaklike regte geregistreer in die naam van die munisipaliteit;
- (ii) onroerende eiendom en saaklike regte wat die munisipaliteit geregtig is om op sy naam te laat registreer, en
- (iii) enige ander onroerende eiendom wat regtens by die munisipaliteit berus;

- (i) description of the property which shall consist of an erf number, physical street address, street number, suburb and size of property in m²;
- (ii) zoning of property and proposed utilisation thereof;
- (iii) details/identification of purchaser or lessee;
- (iv) extent of property to be sold or leased;
- (v) details of transaction which shall consist of purchase price, method of payment, duration of lease, monthly rental, annual escalation, if a renewal option is exercisable, agreement of lease to be notarially registered against title;
- (vi) details of location where deed of sale or agreement of lease is available for inspection.

"municipal immovable property" means —

- (i) immovable property and real rights registered in the name of the municipality;
- (ii) immovable property and real rights the municipality is entitled to have registered in its name; and
- (iii) any other immovable property which, by law vests in the municipality;

"municipality" means the municipality of the Swartland;

"municipal area" means the area under the jurisdiction and control of the municipality;

"prescribe" means a policy approved by council;

"public place" means any land or portion thereof indicated on an approved plan, diagram or map as a public place of which ownership as such vests in the municipality;

"public street" means —

- (a) any street which has at any time been —
 - (i) used without interruption by the public for a period of at least thirty years other than as a public street;
 - (ii) declared or rendered as such by the Council or other competent authority;
 - (iii) constructed by the municipality; or
 - (iv) constructed by someone other than the municipality and which vests in the municipality;
- (b) any land, with or without buildings or structures thereon, which is shown as a street on—
 - (i) any plan of subdivision or diagram approved by the Council or other competent authority and acted upon, or
 - (ii) any plan or diagram as defined in section 15 of the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in the office of the Registrar of Deeds or the Surveyor-General's office unless such land is on such plan or diagram described as a private street.

"munisipaliteit" die Munisipaliteit Swartland;

"openbare plek" enige grond of gedeelte daarvan, op 'n goedgekeurde plan, diagram of kaart as 'n openbare plek aangedui en waarvan eienaarskap as sulks by die munisipaliteit berus;

"openbare straat"

(a) enige straat wat te eniger tyd —

- (i) sonder onderbreking deur die publiek anders dan as 'n openbare straat gebruik is vir 'n tydperk van minstens dertig jaar;
- (ii) deur die raad of ander bevoegde owerheid as sulks verklaar of gemaak is;
- (iii) deur die munisipaliteit aangelê is; of
- (iv) deur iemand anders as die munisipaliteit aangelê is en wat by die munisipaliteit berus;

(b) enige grond, met of sonder geboue of strukture daarop, wat as 'n straat aangetoon word op —

- (i) enige onderverdelingsplan of diagram deur die raad of ander bevoegde owerheid goedgekeur en waarvolgens gehandel is, of
- (ii) enige plan of diagram soos omskryf in artikel 15 van die Opmetingswet, 1997 (Wet 8 van 1997) wat in die kantoor van die Registrateur van Aktes of die Landmeter-generaal se kantoor gebêre word,

tensy sodanige grond op sodanige plan of diagram as 'n private straat beskryf word;

"raad" die raad van die Munisipaliteit Swartland en sluit in enige politieke strukture, politieke ampsdraer, raadslid of beamppte wat ingevolge gedelegeerde magte handel;

"sluit" met betrekking tot 'n openbare straat of openbare plek, om vir alle doeleindes of net vir voertuig of voetgangerverkeer te sluit;

"vervreem" om afstand te doen van eienaarskap van onroerende eiendom ten gunste van 'n ander persoon met die bedoeling om eienaarskap van die onroerende eiendom aan die verkryger daarvan oor te dra;

"voorskryf" 'n beleid deur die raad goedgekeur; en

"wesenslike besonderhede", met inagneming van die aard van die transaksie, insluitende maar nie beperk nie tot —

- (i) 'n beskrywing van die eiendom wat sal bestaan uit 'n erfnummer, fisiese straatadres, straatnummer, voorstad en grootte van die eiendom in m²;
- (ii) die sonering van die eiendom en die voorgestelde gebruiksaanwending daarvan;
- (iii) besonderhede/identifikasie van koper of huurder;
- (iv) die grootte van die eiendom wat verkoop of verhuur word;
- (v) besonderhede van die transaksie wat sal bestaan uit die koopprys, metode van betaling, duur van verhuring, maandelikse huur, jaarlikse eskalasie, of 'n opsie om te henu uitgeoefen kan word, huurooreenkoms notarieel teen titelakte geregistreer te word;
- (vi) besonderhede van die plek waar die verkoop-ooreenkoms of verhuurooreenkoms ter insae beskikbaar sal wees.

2. OWNERSHIP OF PUBLIC PLACES AND PUBLIC STREETS

The ownership of immovable property to which the community of the municipal area has or may acquire a common right and all public places and public streets and the immovable property comprised in such places and streets vest in the municipality.

3. ACQUISITION OF IMMOVABLE PROPERTY AND RIGHTS IN IMMOVABLE PROPERTY

- (1) The Council may acquire immovable property and rights in immovable property within or outside its municipal area by purchase, expropriation, exchange, donation, gift, lease or otherwise.
- (2) The Council may expropriate immovable property in terms of the Expropriation Act (Act 63 of 1975), or any other applicable legislation, provided that such expropriation shall be for public purposes or in the interest of the public.

4. ALIENATION AND LETTING

- (1) The Council may alienate or let municipal immovable property under such conditions, terms and circumstances as it may prescribe.
- (2) Unless permitted or prescribed otherwise, the Council shall not alienate or let municipal immovable property below market value.
- (3) (a) The Council shall advertise its intention to alienate or let municipal immovable property and shall invite the public to lodge written comments.
- (b) The provisions of paragraph (a) shall not apply when municipal immovable property is let for a period not exceeding 12 (twelve) months without a renewal option.
- (c) Where —
 - (i) no comments were lodged, the municipal immovable property may be alienated or let, or
 - (ii) comments were lodged, the Council shall consider every comments and decide whether or not to alienate or let the municipal property.
- (4) The Council shall record its reasons for the alienating or letting of municipal immovable property in terms of this by-law.
- (5) No lessee of municipal immovable property shall without the prior consent in writing of the Council, sublet such property or any portion thereof or assign any right acquired by him in respect thereof and any such subletting or assignment without such consent shall, as against the Council, be null and void.

5. SERVITUDES, PROJECTIONS, PROJECTING STRUCTURES AND ENCROACHMENTS

The Council may grant servitudes and permit projection, projecting structures and encroachments in, on, over or under municipal immovable property at a tariff determined by the Council and on such terms and conditions as it may prescribe.

6. CLOSURE OF PUBLIC PLACES AND PUBLIC STREETS

- (1) The Council may close public places and public streets or any portion of such places or streets only after it has —

2. EIENAARSKAP VAN OPENBARE PLEKKE EN OPENBARE STRATE

Die eiendomsreg op onroerende eiendom waarop die gemeenskap van die munisipale gebied 'n gemeenskaplike reg besit of mag verkry en alle openbare plekke en openbare strate en die grond wat sodanige plekke en strate beslaan, berus by die munisipaliteit.

3. AANSKAFFING VAN ONROERENDE EIENDOM EN REGTE IN ONROERENDE EIENDOM

- (1) Die raad kan deur middel van aankoop, onteiening, ruil, skenking, huur of andersins, onroerende eiendom en regte in onroerende eiendom, binne of buite die munisipale gebied aanskaf.
- (2) Die raad mag onroerende eiendom ingevolge die Onteieningswet (Wet 63 van 1975) of enige ander toepaslike wetgewing onteien, met dien verstande dat sodanige onteiening vir openbare doeleindes en in die openbare belang sal wees.

4. VERVREEMDING EN VERHURING

- (1) Die raad mag munisipale onroerende eiendom vervreem of verhuur onderhewig aan sodanige voorwaardes, terme en omstandighede as wat die raad mag voorskryf.
- (2) Tensy andersins toelaatbaar of voorgeskryf, mag die raad nie munisipale onroerende eiendom laer as markwaarde verkoop of verhuur nie.
- (3) (a) Die raad sal sy voorneme om munisipale onroerende eiendom te vervreem of te verhuur, adverteer en sal die publiek uitnoui om skriftelik kommentaar te lewer.
- (b) Die bepalings van paragraaf (a) sal nie van toepassing wees nie wanneer munisipale onroerende eiendom vir periodes van 12 (twaalf) maande nie te bowe gaande nie en sonder 'n opsie om te hernu, verhuur word.
- (c) Waar —
 - (i) geen kommentaar gelewer word nie, mag die munisipale onroerende eiendom vervreem of verhuur word, of
 - (ii) kommentaar gelewer is, moet die raad elke kommentaar oorweeg en besluit of die munisipale eiendom vervreem of verhuur moet word al dan nie.
- (4) Die raad sal sy redes vir die vervreemding of verhuring van munisipale onroerende eiendom ingevolge hierdie verordening, aanteken.
- (5) Geen huurder van munisipale onroerende eiendom mag sonder die voorafverkreë skriftelike toestemming van die raad sodanige eiendom of gedeelte daarvan onderverhuur of enige regte wat deur hom of haar in verband daarmee verkry is, oormak nie en enige sodanige onderverhuring of oormaking sonder sodanige toestemming sal, soos teenoor die raad, nietig wees.

5. SERWITUTE, UITSTEEKSELS, UITSTEEKSTRUKTURE EN OORSKRYDINGS

Die raad kan serwitute toestaan en uitsteeksels, uitsteekstrukture en oorskrydings, in, op, oor of onder deur munisipale onroerende eiendom toelaat teen 'n tarief deur die raad vasgestel en op sodanige terme en voorwaardes as wat die raad mag voorskryf.

6. SLUITING VAN OPENBARE PLEKKE EN OPENBARE STRATE

- (1) Die raad kan openbare plekke en openbare strate of enige gedeeltes van sodanige plekke of strate sluit slegs nadat die raad —

- (a) advertised its intention to do so; and
- (b) considered and rejected any objection lodged (if any) in accordance with such advert and recorded in writing its reasons therefor.

- (2) Notwithstanding the provisions of paragraph (a) of subsection (1) the Council may without complying with the provisions of subsection (1) temporarily close a public place or public street.

7. DATE OF COMMENCEMENT

This by-law shall commence on the date of promulgation thereof in the Provincial Gazette. 5794

- (a) sy voorneme om dit te doen adverteer het, en

- (b) besware (indien enige) wat ooreenkomstig sodanige advertensie ontvang is, oorweeg en verwerp het en die redes daarvoor skriftelik aangeteken het.

- (2) Nieteenstaande die bepalings van paragraaf (a) van subartikel (1) kan die raad, sonder nakoming van die bepalings van subartikel (1), 'n openbare straat of openbare plek tydelik sluit.

7. DATUM VAN INWERKINGTREDING

Hierdie verordening sal op datum van afkondiging daarvan in die Provinsiale Koerant in werking tree. 5794