Swartland, South Africa

Events By-law, 2016

Legislation as at 26 April 2016

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Swartland
South Africa

Events By-law, 2016

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Chapter 1
DEFINITIONS AND APPLICATION

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 otherwise indicates –

"**authorised official**" means a person appointed as such in terms of section 13(1);

"**Council**" means the municipal council of Swartland municipality;

"**event**" means any public gathering of a category as set out in Schedule A, in a street or at a public place or any other venue to which the public has access for the purpose of an event, including –

(a) a sporting, recreational or entertainment event, including live acts;

(b) an educational, cultural or religious event;

(c) a business event including any marketing, public relations, promotional or exhibition event;

(d) a charitable event, including any conference or organisational or community event;

(e) filming which is of such a nature that it may have an effect on traffic or pedestrians or that it may draw spectators; or

(f) any other similar event;

"**event organiser**" means a person who applies to hold an event in terms of section 4, whether in personal capacity or on behalf of another person, body or organisation;

"**fees**" means the application fees or deposits determined in terms of the municipality's Tariff Policy;

"**interested person**" any person, organisation or institution that may be affected by, or may play a role in the management or presentation of an event;

"**municipal manager**" means the person appointed as municipal manager for the municipality in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), or his or her delegate;

"**municipality**" means the municipality of Swartland, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or subdelegated to such political structure, political office bearer, councillor, agent or employee;

"**National Building Regulations**" means the regulations promulgated under GN R2378 of 12 October 1990, in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"**public place**" means any land, building or facility, or any portion thereof, including any apparatus therein or thereon, owned or controlled by the municipality, to which the public has access, whether on payment of admission fees or not;

"**purpose-built venue**" means a venue zoned, built and suitable for the holding of specific events;

"**SANS**" means the South African National Standards contemplated in section 2 of the Standards Act, 1993 (Act 29 of 1993), and SANS followed by any number means a reference to a SANS code of practise, specification or standard of the corresponding number;

"**structures**" means any structure included in the definition of "building" as defined in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"**venue**" means any area or place other than a purpose-built venue, for the purposes of hosting an event, where seating or standing spectator capacity is provided and within which other permanent or temporary structures may be erected;

"**venue owner**" means any person or juristic person who, directly or indirectly, owns, leases, rents, acquires, or exercises the powers of an owner or occupier of a venue.

2. Application

(1) Subject to section 11 this by-law applies to any event held within the area of jurisdiction of the municipality.

(2) In the event of a conflict between this by-law and any other by-law of the municipality, this by-law prevails regarding the management and holding of events.

Chapter 2
APPLICATION PROCESS, REQUIREMENTS AND ENFORCEMENT

3. Prohibition

Subject to section 11, no person may hold an event without the permission of the municipality.

4. Application procedure and information

(1) A person who wants to hold or organise an event must apply in writing to the municipality for permission to do so.

(2) The application must be accompanied by the applicable fees or deposit as determined by the municipality and must include the following information –

(a) the name of the event organiser;

(b) type of event;

(c) the proposed venue for the event, including an erf number or property description;

(d) a site layout plan indicating seating, structures and facilities;

(e) the proposed days and hours of operation for the event;

(f) a copy of an agreement with a sub-contractor where such sub-contractor will be involved at the event;

(g) the services to be rendered by the municipality if applicable;

(h) a copy of the agreement with the venue owner, unless the applicant is the venue owner;

(i) the maximum number of attendees, including staff, to be allowed at the event;

(j) the proposed security plans for the event, including the number of security personnel and their qualifications;

(k) the proposed medical and safety plans for the event as prescribed by the Regulations Relating to Emercency Medical Services at Mass Gathering Events promulgated under the national Health Act, 2003 (Act 61 of 2003) per GN R1023 dated 28 October 2015;

(l) the proposed noise control plans for the event, dust control, including volume levels of music, power of the music system and power insulation inside the building where applicable;

(m) the proposed parking and traffic plans for the event;

(n) arrangements with the West Coast District Municipality with regard to food safety control at the event;

(o) evidence that appropriate public liability insurance cover is in place for the event;

(p) waste management plans;

(q) spectator and access control measures;

(r) written approval from the venue owner or venue manager to the applicant authorising the event organiser to host the event; or

(s) any other information as may be requested by the municipality.

(3) Depending on the type and size of the event, the municipality may waive some of the information requirements listed in subsection (2)(a) to (s). The various sizes and timeframes applicable to events are set out in Schedule A.

(4) The municipality must approve or refuse an application within the timeframes set out in Schedule A.

(5) If an application is refused, written reasons must be furnished for such refusal.

(6) The granting of permission does not exclude any person of the obligation to comply with any other legislation.

5. Criteria and conditions

(1) The municipality must consider an application in terms of section 4 against the following criteria, where applicable –

(a) the type and size of the event;

(b) the impact of the event on municipal services, including services relating to noise control, air quality, traffic, parking, local amenities, public places, health and the environment;

(c) whether the proposed use of the land complies with the applicable zoning scheme and any conditions there under; and

(d) any other criteria that the municipality may determine.

(2) The municipality may impose reasonable conditions in respect of the permit to protect the health and safety of the public, which conditions may include, but are not limited to –

(a) location and hours during which the event may be held;

(b) sanitation and availability of potable water;

(c) security and crowd management;

(d) parking and traffic;

(e) emergency and medical services;

(f) cleaning of the premises and the surrounding area, and waste disposal;

(g) insurance;

(h) lighting;

(i) fire services and safety;

(j) compliance with the National Building Regulations and the municipality's By-law relating to Submission of Building Plans where applicable;

(k) erection and removal of structures;

(l) noise levels and air quality; and

(m) food safety control.

6. Non liability

(1) The municipality is not liable for any –

(a) damage to or loss of any property of the event organiser or any other person; or

(b) costs incurred by an event organiser or any third party, arising from the planning for, or marketing of an event, the submission of an application for permission, refusal, revocation or suspension of permission.

(2) The event organiser must ensure that the permission issued in terms of section 4 is available at the venue for inspection during the event.

7. Holding of event

(1) An event organiser may not advertise an event before the municipality has approved the application.

(2) An event organiser whose application has been approved in terms of section 4 is responsible for the event and must ensure –

(a) that the event complies with this by-law, the conditions imposed by the municipality and any other applicable legislation;

(b) that the event complies with the requirements of SANS 10366:2012 in so far it relates to safety and health at the event;

(c) that the conduct of persons attending the event and the activities undertaken or carried out at the event do not have a negative impact on affected communities or persons during the event; and

(d) compliance with any notice issued by an authorised official in terms of this by-law.

8. Compliance notice

(1) If an event organiser has contravened a provision of this by-law or of any other applicable law, or a condition of the permission issued, or where circumstances have arisen that have the potential of leading to a contravention of any such provision or condition, an authorised official may issue a compliance notice to the event organiser.

(2) A notice in terms of subsection (1) must be served on the event organiser or his or her representative and must state –

(a) the provision of this by-law or any other law, or the condition of the permission issued, that has been contravened or would have been contravened if the circumstances that have arisen were allowed to continue;

(b) the measures that must be taken to rectify the contravention;

(c) the time period for compliance with the notice; and

(d) the event organiser's right to make representations with regard to the alleged non-compliance;

(3) If a person fails to comply with a notice served in terms of subsection (1), the municipality may take any steps necessary to rectify the contravention or the circumstances that have arisen, at the cost of the event organiser.

9. Inspections and right of access

(1) An authorised official may, before, during or after the holding of an event, conduct inspections of the venue to determine compliance with this by-law.

(2) Such official has a right of access to any venue where an event is held, is to be held or has been held for the purposes of –

(a) ascertaining whether any provision of this by-law has been contravened;

(b) enforcing compliance with this by-law; or

(c) considering an application and determining conditions for approval.

10. Suspension and revocation of permit

(1) The municipality may –

(a) if an event organiser has failed to comply with a compliance notice issued in terms section 8, by notice in writing to the event organiser or his or her representative –

(i) suspend the permission to hold the event until the event organiser has complied with the compliance notice; or

(ii) revoke the permission and take any necessary steps relating to the revocation, and recover the costs from the event organiser.

(b) if action has been taken in terms of subsection (1), withhold any deposit paid by the event organiser as security for the payment of the costs.

(c) in the event of emergency or where life or property is endangered, the municipality may without notice revoke permission to host the event.

11. Exclusions

(1) The permission requirement contained in this by-law does not apply to the following –

(a) funerals;

(b) events held at a purpose-built venue or the grounds of any school, or at any playground, place of worship, hotel, conference centre, stadium, sports field, arena, auditorium or similar permanent place of assembly, when used for events normally held in such venue;

(c) events regulated by the Safety at Sports and Recreational Events Act, 2010 (Act 2 of 2010) or the Regulation of Gatherings Act, 1993 (Act 205 of 1993); and

(d) where land use rights have been granted in terms of the municipality's scheme regulations to host events.

(2) The exclusion in subsection (1)(b) does not apply to events or parts of events which –

(a) are held outside the venue concerned;

(b) by their nature, size or impact fall outside the normal use parameters for the venue; or

(c) where the erection of additional temporary structures for the event would require permission in terms of the National Building Regulations.

Chapter 3
GENERAL PROVISIONS

12. Agreements and partnerships

The municipality may, subject to any other law, enter into an agreement or partnership with an event organiser for the holding and management of an event.

13. Appointment of authorised official

(1) The municipality may appoint any employee of the municipality as an authorised official to enforce this by-law.

(2) Such official must be issued with an appointment certificate which must be produced on demand.

14. Exemption

Notwithstanding the provisions of this by-law, the municipality may exempt any person or categories of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

15. Offences and Penalties

(1) A person is guilty of an offence if that person –

(a) organises or presents an event in contravention of section 3;

(b) fails to comply with any of the conditions imposed in terms of section 5(2);

(c) contravenes sections 4(1), 7(1), and 11(2);

(d) fails to comply with a notice issued in terms of sections 8(1);

(e) fails to comply with a request or directive of an authorised official, or hinders, interferes with or obstructs an authorised official, a private security service provider, a member of the event safety and security planning committee, an access control officer, a peace officer or a member of the emergency or essential services in the carrying out of their duties;

(f) undertakes construction of any kind or makes alterations at a venue without approval in terms of the National Building Regulations;

(g) damages or destroys any movable or immovable property inside a stadium or venue or along a route or its respective precincts;

(h) engages in indecent, violent or intimidating behaviour inside a stadium or venue including using obscene language; or

(i) furnishes false information relating to an application in terms of this by-law;

(2) A person convicted of an offence in terms of this by-law, is 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.

16. Appeal

(1) An event organiser may appeal to the municipal manager against a decision where his or her application to hold an event has been declined.

(2) Such an appeal must be lodged in writing with the municipal manager within a period as indicated in Schedule A in relation to the type of event concerned.

(3) An appeal lodged in terms of this section must be considered and decided within such time as indicated in Schedule A in relation to the type of event concerned.

(4) Any member of the public who feels aggrieved by a decision of the municipality to grant permission for an event may lodge an appeal in writing to the municipal manager within 24 hours of the taking of the decision.

(5) The municipal manager may delegate any official of the municipality to consider and decide on an appeal in terms of this section.

17. Short title and commencement

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

Schedule A

(Section 4(3))

CATEGORIES AND TIMEFRAMES APPLICABLE TO EVENTS

Category	**Number of attendees**	**Minimum time before an event to submit an application**	**Minimum time for Municipality to respond**	**Appeal to be lodged by applicant within:**	**Appeal to be decided within:**
Small	50 - 2000	15 working days	10 working days	24 hours of receipt of notice of refusal	24 hours of receipt of appeal

Category	Number of attendees	Minimum time before an event to submit an application	Minimum time for Municipality to respond	Appeal to be lodged by applicant within:	Appeal to be decided within:
Medium	2001 - 5000	20 working days	15 working days	48 hours of receipt of notice of refusal	48 hours of receipt of appeal
Large	5001- 10 000	25 working days	20 working days	48 hours of receipt of notice of refusal	Within 3 working days of receipt of appeal
Very large	10 001 and above	60 working days	40 working days	48 hours of receipt of notice of refusal	Within 5 working days of receipt of appeal