

Swartland, South Africa

Property Rates

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Property Rates

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Swartland South Africa

Property Rates By-law, 2017

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[Repealed by Property Rates on 28 June 2019]

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

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;

"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;

"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;

"market value" means the value of the property determined in accordance with section 46 of the Act;

"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;

"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;

"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;

"the Act" means the Municipal Property Rates Act 6 of 2004;

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

- (1) Subject to the Act, the municipality may levy different rates on different categories of property.
- (2) The criteria for differential rates as determined by the municipality in accordance with section 3(3)(b)(i) of the Act must be contained in the policy.

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 therefor 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.

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.