

TENDERS

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TENDERS

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BERGRIVIER LOCAL MUNICIPALITY**PROPERTY RATES BY-LAW****GENERAL INDEX**

1. DEFINITIONS
2. RATING OF PROPERTY
3. GENERAL PRINCIPLES
4. CLASSIFICATION OF SERVICES & EXPENDITURE
5. CATEGORIES OF PROPERTIES AND OWNERS
6. PROPERTY USED FOR MULTIPLE PURPOSES
7. DIFFERENTIAL RATING
8. IMPERMISSIBLE RATES
9. CRITERIA FOR EXEMPTIONS, REBATES & REDUCTIONS
10. EXEMPTIONS
11. REBATES
12. REDUCTIONS
13. COST OF EXEMPTIONS, REBATES & REDUCTIONS
14. PHASING-IN OF RATES
15. RATES INCREASES
16. NOTIFICATION OF RATES
17. PAYMENT OF RATES
18. DEFERRAL OF PAYMENT OF RATES LIABILITIES
19. SPECIAL RATING AREA
20. INTERIM VALUATION DEBTS
21. OWNERSHIP
22. SECTIONAL TITLE SCHEMES
23. GENERAL AND SUPPLEMENTARY VALUATIONS
24. DISREGARDED ITEMS FOR VALUATION PURPOSES
25. SHORT TITLE
26. COMMENCEMENT

BERGRIVIER LOCAL MUNICIPALITY**PROPERTY RATES BY-LAW**

Whereas section 156(2) of the Constitution empowers a municipality to make and administer by-laws for the effective administration of matters which it has the right to administer and whereas section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) requires a municipality to adopt By-Laws to give effect to the implementation of its Property Rates Policy.

Now therefore the Municipal Council of Bergrivier Local Municipality approves and adopts the following Property Rates By-Law.

1. Definitions:

For the purpose of this by-law any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) and the Property Rates Policy adopted and implemented in terms thereof shall bear the same meaning in this By-law, and unless the context indicates otherwise—

“**act**” means the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).

“**municipality**” means the municipal council for the municipal area of Bergrivier.

“**rates policy**” means the policy adopted and implemented by the council in terms of section 3 of the act.

2. Rating of property:

In terms of section 2(3) of the Act the power of the municipality to levy rates on property is subject to—

- (a) Section 229 and other applicable provisions of the Constitution
- (b) The provisions of the Act
- (c) The municipality's Rates Policy; and
- (d) This By-Law

3. General principles:

- (1) Rates to balance the operating budget after taking into account all other income generated and the amounts required to finance the exemptions, rebates and reductions as approved by council, are levied as an amount in the Rand based on the market value of all rateable property contained in the municipality's valuation roll. Surpluses from the trading and economic services may be transferred to subsidise the rates account.
- (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 will be levied for different categories of rateable property.
- (4) Relief measures in respect of payment for rates will 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 will be treated the same.
- (6) The financial ability of a person to pay rates will be taken into account.
- (7) Provision may be made for the promotion of local social development and sustainable local government.
- (8) The rate imposed by council will be equitable, affordable, sustainable and cost effective.
- (9) Property rates will be used to finance subsidised and community services only.
- (10) Take into account the effect of rates on the poor.
- (11) The cost and benefit of exemptions, rebates, reductions, and phasing-in of rates must be identified and qualified.
- (12) The effect of rates on public benefit organisations must be taken into account.
- (13) Promote local and social economic development.

4. Classification of services and expenditure:

- (1) The municipal manager or his/her nominee subject to the guidelines provided by the National Treasury and Executive Mayor or Committee and principles contained in the Rates Policy will classify services, categorise expenditure and create cost centres to prevent that property rates subsidise trading and economic services.
- (2) Trading and economic services will be ringfenced and financed from service charges while community and subsidised services will be financed from rates, rates related income and regulatory fees. Surpluses on the trading and economic services may be transferred to subsidise the community and subsidised services.

5. Categories of properties and owners:

- (1) In terms of section 3(3) of the Act the municipality must determine the criteria for the determination of categories of property and owners for granting exemptions, reductions and rebates and criteria if it levies different rates for different categories of property.
- (2) In terms of sections 8(1) and 15(1) read in conjunction with section 19 of the Act the municipality may exempt a category of owner of property from rates or grant a rebate or reduction in the rates.
- (3) The criteria for categories of property and owners and the different categories of property and owners are reflected in the municipality's Rates Policy and may be adjusted annually, if required, during the budget process.

6. Properties used for multiple purposes:

Rates on properties used for multiple purposes will be levied on properties used for—

- (a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
- (b) a purpose corresponding with the dominant (main or primary) use of the property; or
- (c) by apportioning the market value of a property to the different
- (d) purposes for which the property is used.

If the market value of the property can be apportioned each portion must be categorized according to its individual use. If the market value of the property cannot be apportioned to its various use purposes, then such a property must be categorised as either (a) or (b) above; and

- (e) applying the relevant cent amount in the rand to the corresponding apportioned market value.

7. Differential rating:

- (1) Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to—
 - (a) The use of the property.
 - (b) Permitted use of the property; or
 - (c) Geographical area in which the property is situated.

- (d) The nature of the property, including its sensitivity for rating.
 - (e) Promotion of social and economic development of the municipality.
- (2) Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and/or by way of reductions and rebates.

8. Criteria for exemptions, reductions and rebates:

Criteria for determining categories of owners of property for the purpose of granting exemptions, rebates and reductions in terms of section 15(2) of the Act will be according to—

- (a) indigent status of the owner of a property
- (b) sources of income of the owner of a property
- (c) owners of property situated within an area affected by—
 - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
 - ii any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold
- (e) owners temporarily without income
- (f) the services provided to the community by public service organisations
- (g) the need to preserve the cultural heritage of the local community
- (h) the need to accommodate indigents, less affluent pensioners and people depending on social grants for their livelihood
- (i) the inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services, they produce
- (j) the value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities; or
- (k) owners of agricultural properties who are bona fide farmers
- (l) the requirements of the Act.

9. Impermissible Rates:

The municipality may not levy rates on categories of property and categories of owners of property as determined in sections 16(1) & 17(1) of the Act.

10. Exemptions:

Categories of properties:

- (1) Over and above the exemptions provided for in paragraph 9 above, specific categories of property as indicated in the table below are exempted from the payment of rates within the meaning of section 15(1)(a) of the Act and 9(2) to 9(7) of this by-law.

Description of category of property	Criteria
Municipal properties	10(2)
Residential properties	10(3)
Cemeteries and Crematoriums	10(4) and 10(10)
Public Benefit organisations	10(6) and 10(10)
Museums	10(7) and 10(10)
National Monuments	10(8) and 10(10)
A right registered against immovable property	10(9) and 10(10)

- (2) Municipal properties are exempted from paying rates as it will increase the rates burden or service charges to property owners or consumers.
- (3) All residential properties (including informal settlements) with a market value of less than the amount annually determined by council are exempted from rates. The R15 000 impermissible rates contemplated in terms of section 17(1)(h) of the Property Rates Act is included in that amount. This is an important part of the council's indigent policy and is aimed primarily at alleviating poverty.
- (4) Cemeteries and crematoriums registered in the names of private persons and operated not for gain.
- (5) Public benefit organisations as provided for in the Rates Policy may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962).
- (6) Registered Museums.
- (7) Registered National monuments.
- (8) A right registered in the deeds office against immovable property.
- (9) Exemptions will be subject to the following conditions:
 - (a) all applications must be addressed in writing to the municipality;

- (b) a SARS tax exemption certificate must be attached to all applications;
- (c) the municipal manager or his/her nominee must approve all applications;
- (d) applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought; and
- (e) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

11. Rebates:

(1) Categories of properties

- (a) The municipality may grant rebates within the meaning of section 15(1)(b) of the Act on the rates to the owners of the following categories of properties and subject to the criteria and conditions contained in 10(1)(b) to 10(1)(f) of this by-law:

Description of category of property	Criteria
(a) Residential	10(1)(d)
(b) Industrial	10(1)(b)
(c) Business/commercial	10(1)(b)
(d) Agricultural	10(1)(e)
(e) state-owned properties	10(1)(c)
(f) Property below a prescribed valuation level	10(1)(f)

- (b) The municipality may grant rebates to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy.

i. The following criteria will apply:

- a. job creation in the municipal area;
- b. social upliftment of the local community; and
- c. creation of infrastructure for the benefit of the community.

ii. Rebates will be granted on application subject to:

- a. a business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality are going to be met;
- b. a continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;
- c. an assessment by the municipal manager or his/her nominee indicating that the company qualifies; and
- d. a municipal resolution.

(c) State owned properties

(d) Residential properties

- i. used predominantly for residential purposes, with not more than two dwelling units per property,
- ii. registered in terms of the Sectional Title Act,
- iii. owned by a share-block company,
- iv. a rateable residence on property used for or related to educational purposes.

(e) Agricultural property rebate

- i. Based on certain applicable information in an affidavit by the end of October of each year, agricultural properties may be granted a rebate of not less than the amount determined by the Minister from time to time and published in the Government Gazette.
- ii. Qualifying requirements are that the owner should be taxed by SARS as a bona fide farmer and the last tax assessment must be provided as proof.

(f) Properties with a market value below a prescribed valuation level may, instead of a rate determined on the market value, be levied a uniform fixed amount per property.

(2) Categories of owners:

- (a) The following categories of owners of rateable properties may be granted a rebate on rates within the municipality within the meaning of section 15(1)(b) of the Act:

Description of Category of Owners	Criteria
Retired and disabled persons	10(2)(b)
Owners temporarily without income	10(2)(c)
Public benefit organisations	10(2)(d)

(b) Criteria for granting rebates to category of owners

i. Retired and Disabled Persons Rate Rebate

To qualify for the rebate a property owner must:

- a. occupy the property as his/her normal residence;
 - b. be at least 60 years of age or in receipt of a disability pension from the Department of Welfare and Population Development;
 - c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding the amount annually set by the council;
 - d. not be the owner of more than one property; and
 - e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- ii. Property owners must apply on a prescribed application form for a rebate as determined by the municipality.
- iii. Applications must be accompanied by—
- a. a certified copy of the identity document or any other proof of the owner's age which is acceptable to the municipality;
 - b. sufficient proof of income of the owner and his/her spouse;
 - c. an affidavit from the owner;
 - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
 - e. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
- iv. These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.
- v. The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false.

(c) Owners who are temporarily without income due to economic/labour circumstances or for reasons beyond their control

These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.

The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false

(d) Owners of rateable property registered in the name of institutions or organisations, which in the opinion of the council, performs welfare, charitable and humanitarian work; cultural work; amateur sport and social activities; protect or maintain collections or buildings of historical or cultural interest, including art galleries, archives and libraries; conservation; environment and animal welfare; education and development; health care; agricultural (Experimental farms); municipal property and usage where the council is engaged in land sales transactions which take place after the financial year has started; where the municipality register a road reserve or servitude on a privately owned property a pro-rata rebate equal to the value of the reserve or servitude will be given to the owner; state hospitals, clinics and institutions for mentally ill persons, which are not performed for gain.

These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.

The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false.

12. Reductions:

(1) Categories of property and owners

- (a) A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by—
 - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
 - ii. any other serious adverse social or economic conditions
- (b) The reduction will be in relation to the certificate issued for this purpose by the municipal valuer
- (c) All categories of owners can apply for a reduction in the rates payable as described above
- (d) Owners of the following categories of rateable property situated within the municipality may be granted a reduction within the meaning of section 15(1)(b) of the Act on the rates payable in respect of their properties and subject to the conditions contained in 11(1)(e) of this by-law:

Description of category of property	Criteria
(a) Residential	11(1)(e)
(b) Industrial	11(1)(e)
(c) Business	11(1)(e)
(d) Agricultural	11(1)(e)
(e) State-owned properties	11(1)(e)
(f) Municipal owned properties	11(1)(e)
(g) Public service infra-structure	11(1)(e)
(h) Informal settlements	11(1)(e)

(i) Properties— (i) Acquired through the Provision of Land Assistance Act, 1993, or the Restitution of Land Rights Act, 1994, or (ii) which is subject to the Communal Property Associations Act, 1996	11(1)(e) 11(1)(e)
(j) Protected areas	11(1)(e)
(k) National monuments	11(1)(e)
(l) Public benefit organizations (Part 1 of the Ninth Schedule to the Income Tax Act)	11(1)(e)
(m) Multiple purpose property	11(1)(e)
(n) Private towns serviced by the developers	11(1)(e)
(o) private towns serviced and maintained by the developers	11(1)(e)

(e) Criteria for granting reductions

- i. A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where fire damage, demolition or floods affect the value of a property.
- ii. The reduction will be in relation to the certificate issued for this purpose by the municipal valuer.

13. Cost of exemptions, rebates & reductions:

The Chief financial Officer must inform the council of all the costs associated with the exemptions, rebates & reductions. Provisions must be made in the operating budget for the full potential income associated with property rates, and the full cost of the exemptions, rebates & reductions. A list of all exemptions, rebates & reductions must be tabled before council.

14. Phasing-in of certain rates:

Rates levied on newly rateable property must be phased in over a three year period, or the period indicated in the Act for certain specified properties, the MEC for Local Government may extend, on written request by the municipality, this period to a maximum of six financial years. When extending the period the MEC must determine the minimum phasing-in discount on the rate payable during each financial year in the extended period.

15. Rates increases:

- (1) The municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.
- (2) Rate increases will be used to finance the increase in operating costs of community and subsidised services.
- (3) Relating to community and subsidised services the following annual adjustments will be made:
 - (a) All salary and wage increases as agreed at the South African Local Government Bargaining Council
 - (b) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
 - (c) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.
- (4) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.
- (5) Affordability of rates to ratepayers.
- (6) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

16. Notification of rates:

- (1) The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.
- (2) A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places provided for in legislation, council's resolutions, the Provincial Gazette and the council's web site.

17. Payment of rates:

- (1) Ratepayers may, by special written arrangements with the council, choose to pay rates annually in one instalment on or before 30 September, normally the rates will be payable in twelve equal instalments on or before the 25th day of the month following on the month in which it becomes payable.
- (2) The municipality must furnish each person liable for rates with a detailed account as set out in section 27 of the Act.
- (3) Interest on arrears rates, whether payable on or before 25 September or in equal monthly instalments, will be charged at 1% above the prime interest rate for any late payments received.
- (4) If a property owner who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.

- (5) Joint owners are jointly and severally liable for the amount due for rates. In the case of agricultural property the rates due will be recovered as stipulated in the council's Rates Policy.
- (6) Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.
- (7) 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.
- (8) In addition, 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 at the maximum rate permitted by prevailing legislation.

18. Deferral of payment of rates liabilities:

The municipality will consider each application for deferral of rates, taking into account the merits and demerits of each and the financial implications thereof in so far as the cash-flow of the municipality is concerned.

19. Special rating area:

The municipality may by council resolution, after consultation with the local community to obtain the majority's consent, determine an area within its boundaries as a special rating area for the purpose of raising funds for improving or upgrading that area; and differentiate between categories of property when levying an additional rate.

The municipality must determine the boundaries and indicate how the area is to be improved by the additional rates. Establish a separate accounting and record-keeping system regarding the income & expenditure.

The municipality may establish a committee representing the community to act as a consultative and advisory forum. Representivity, including gender must be taken into account when establishing such a committee.

20. Supplementary Valuation Debits:

In the event that a property has been transferred to a new owner and a Supplementary Valuation took place, the previous owner as well as the new owner will jointly and separately be held responsible for the outstanding amount due for rates.

21. Ownership:

Properties which vests in the municipality during developments, i.e. open spaces and roads should be transferred at the cost of the developer to the municipality. Until such time, rates levied will be for the account of the developer.

22. Sectional Title Schemes:

A rate on property which is subject to a sectional title scheme, will be levied on the individual sectional title units in the scheme.

23. General and Supplementary valuations:

A municipality intending to levy a rate on property must cause a general valuation based on the market value of the property to be made on all properties, and prepare a valuation roll in terms of such valuation.

The municipality shall prepare a new general valuation roll of all properties every (4) four years and a supplementary valuation roll annually.

If the municipality does not intend to levy rates on its own properties, public infrastructure, on rights in properties and properties of which it is impossible or unreasonably difficult to establish the market value because of legal insecure tenure resulting from past racial discrimination, the municipality is not obliged to value such property.

The General valuation roll takes effect from the start of the financial year following completion of the public inspection period and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than 4 (four) financial years.

The Supplementary Valuation roll takes effect on the first day of the month following the completion of the public inspection period required in terms of section 49 of the Act, and remains valid for the duration of the current general valuation roll.

24. Disregarded items for valuation purposes:

The items described in section 45(3) of the Act must not be taken into account in determining the market value of the property.

25. Short title:

This By-law is the Property Rates By-law of the Bergrivier Local Municipality

26. Commencement:

This By-Law comes into force and effect on 1 July 2009.