

BERGRIVIER MUNICIPALITY



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1. **POLICY OBJECTIVES**

To provide a uniform approach to the issuing of business licences, having regard to the principles set out in the Businesses Act and in the Constitution, taking into consideration the need of the residents to actively participate in economic activities and taking into consideration the need to maintain a clean, healthy and safe environment.

In the development and management of its obligations and the implementation of this policy, the municipality also recognizes the infrastructural, social and economic disparities and inequalities resulting from previous local government dispensations and will strive to overcome such disparities and inequalities by supporting the goals for local government as determined in section 152 of the Constitution.

2. **DEFINITIONS**

<i>“Act”</i>	means the Businesses Act, Act 71 of 1991, as amended;
<i>“Business premises”</i>	means the premises upon, in or from which businesses mentioned in paragraph 4 below are carried out or are to be carried out;
<i>“Foodstuff”</i>	means any article or substance [except a drug as defined in the Drugs Control Act, 1965 (Act 101 of 1965)] ordinarily eaten or drunk by man or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance (as in section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972));
<i>“Municipality”</i>	means the Bergrivier Municipality (the licensing authority);
<i>“Sell”</i>	includes to prepare, process, store, offer or display for sale;

3. APPLICABLE LEGISLATION

- 3.1 Businesses Act 71 of 1991 as amended and Regulations promulgated under this Act.
- 3.2 Western Cape Noise Control Regulations 2013 in terms of Section 25 of the Environment Conservation Act 73 of 1989
- 3.3 National Law - Foodstuffs, Cosmetics & Disinfectants Act, 1972 (Act 54 of 1972) - Regulation Governing General Hygiene Requirements for Food Premises & the Transport of Food (Regulation 962 of 23 November 2012).
- 3.4 West Coast District Municipality's Municipal Health By-Laws PG 6543 of 09 September 2008
- 3.5 All applicable amendments in terms of the above.

4. BUSINESSES COVERED BY THIS POLICY

No person shall be allowed to operate businesses mentioned below within the Bergrivier Municipal area without a valid business license issued by the Bergrivier Municipality. Trading without a valid license is unlawful.

All businesses mentioned under schedule 1 of the Act namely:

4.1 Sale or supply of meals or perishable foodstuffs

The carrying on of business by the sale or supply to consumers of -

- 4.1.1 Any foodstuff in the form of meals for consumption on or off the business premises; or
- 4.1.2 Any perishable foodstuff.

4.2 Health Establishments

The carrying on of business by -

- 4.2.1 Providing Turkish baths, saunas or other health baths;

4.2.2 Providing massage or infrared treatment; or

4.2.3 Making the services of an escort, whether male or female, available to any other person.

4.3 **Entertainment**

The carrying on of business by -

4.3.1 Keeping three or more mechanical, electronic or electrical contrivances, instruments, apparatus or devices which are designed or used for the purpose of the playing of any game or for the purpose of recreation or amusement, and the operation which involves the payment of any valuable consideration, either by the insertion of a coin, token coin or disc therein or in an appliance attached thereto or in any other manner;

4.3.2 Keeping three or more snooker or billiard tables;

4.3.3 Keeping or conducting a night club or discotheque;

4.3.4 Keeping or conducting a cinema or theatre; or

4.3.5 Conducting adult premises referred to in section 24 of the Films and Publications Act, 1996.

4.4 **Hawking in meals or perishable foodstuffs**

Hawking permits are addressed in the Informal Trading By-Law.

5. **BUSINESSES EXCLUDED FROM THIS POLICY AND PROCEDURES**

All businesses mentioned under schedule 2 of the Act namely:

5.1.1 Businesses carried on by the State or the municipality.

5.1.2 Businesses carried on by a charitable, religious, educational, cultural, agricultural association, organization of a public nature **if** all profits derived from the business are devoted entirely for the purpose of that or any other such association organization or institution.

5.1.3 The case of a business referred to in 4.1, such a business which is carried on -

5.1.3.1. By a social sports or recreation club which is a non-proprietary club and restricts the business to the sale or supply to its members and their guests of foodstuffs for consumption on or in the business premises; or

5.1.3.2. By or on behalf of an employer for an employee as such of the employer.

6. APPLICATION PROCEDURE

An individual or firm/company wishing to conduct a business covered in 4 above must adhere to the following procedures:

6.1 The prescribed application fee (non-refundable) in terms of the Tariff List approved by Council must be paid when submitting the application. A licence application shall only be processed once the stipulated licence fee has been paid.

6.2 An fully completed application shall be lodged with the Compliance Officer on the applicable application form as provided by the Municipality. as per Annexure A in this Policy. Incomplete applications will not be processed.

6.3 The Compliance Officer shall, within five (5) working days of receipt of the complete application, refer the application to the following departments:

6.3.1 Town Planning;

6.3.2. Building Control;

6.3.3. Fire and Disaster Management;

6.3.4. Electrical Services;

6.3.5. West Coast District Municipality: Municipal Health Services; and

6.3.6. South African Police Services,

in the prescribed manner for their inspection and/or comments on the application.

- 6.4 The departments mentioned in paragraph 6.3 above shall be given a maximum of seven (7) working days to submit their inspection report and/or comments to the Compliance Officer.
- 6.5. The Compliance Officer shall communicate the outcome of the application to the applicant within seven (7) working days after the receipt of all inspection reports and/or comments from the relevant departments.
- 6.6. A cancelled licence application will require the applicant to lodge a new application and due processes in terms of a new application will be followed.
- 6.7. A licence application for change of ownership and/or change of business nature and/or business premises will be treated the same way as if it is a new application for a business licence.
- 6.8. The application process will be finalised within 30 (thirty) days after receipt of the application, subject to no unforeseen events, delays or circumstances taking place and subject to all applicable and requested documentation being submitted.
- 6.9 The Municipality may at any time, after giving the licence holder concerned a reasonable opportunity to be heard, by way of endorsement on the licence, amend a condition or impose a condition on the licence or revoke or suspend a licence as per section 2 of the Act.

7. VALIDITY OF BUSINESS LICENCE

The business licence shall remain valid until:

- 7.1 A new application is lodged;
- 7.2 The nature of the business changes;
- 7.3 The ownership of the business changes;
- 7.4 The premises of the business change; and/or

- 7.5 The Municipality revokes or amends the licence in terms of non-adherence to any or all applicable legislation, any of the conditions stated in the Policy or the Act.

8. APPEAL PROCEDURE

Applicants may appeal against a decision in terms of Section 62 of the Local Government Municipal Systems Act 32 of 2000.

- 8.1 A formal appeal must be lodged in writing by the applicant to the Municipal Manager within 21 days of the applicant being informed of the outcome of the application.
- 8.2 Should the Municipality not make a decision on any appeal within 21 days of receipt or within such extended period as may be agreed upon with the applicant concerned, it shall be presumed that the appeal was refused.

9. GENERAL

- 9.1 When a business changes ownership, the new owners must obtain a new Electrical Certificate of Compliance.
- 9.2 Before opening a business, owners should ensure that the appropriate land use and zoning are in place.
- 9.3 The issue of a licence shall not relieve the licence holder of complying with any law or legal requirement in connection with the business or premises concerned.

10. COMMENCEMENT

This policy shall commence on the next calendar day after Council approves the policy.