

BELA – BELA LOCAL MUNICIPALITY



DRAFT PROPERTY RATES BY-LAW

2019/2020

MUNICIPAL PROPERTY RATES BY-LAWS

The Municipal Manager of Bela-Bela Local Municipality acting in terms 13(a) of the Local Government: Municipal Systems Act, 2000 (No.32 of 2000) hereby publishes the Municipal Property Rates By-Law for the Municipality as approved by Council as set out hereunder.

PREAMBLE

WHEREAS section 229(1) of the Constitution authorizes a municipality to impose rates on property and surcharge on fees for the services provided by or on behalf of the municipality;

AND WHEREAS section 3 of the Municipal Property Rates Act of 2004 provides that a municipality must adopt a policy consistent with this Act on the levying of rates on rateable property within the municipality.

AND WHEREAS section 6 of the Municipal Property Rates Act of 2004 requires a municipality to adopt a by-law to give effect to the implementation of its property rates policy; the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for the payment of rates;

NOW THEREFORE BE IT ENACTED by the Council of the Bela-Bela Local Municipality, as follows:

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1. DEFINITIONS

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) shall bear the same meaning unless the context indicates otherwise-

“Municipality” means the Bela-Bela Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

“accommodation” means accommodation in an accommodation establishment, a room, dwelling-house or second dwelling unit, self-catering room, self-catering apartment or free standing building let to transient guests consisting of three or more lettable units;

“Act” – means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004) and any amendment thereof;

“Annually” – means once every financial year;

“Business and commercial property” – means -

(a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or

(b) property on which the administration of the business of private or public entities take place;

“Category” –

(a) in relation to a property, means a category of properties determined in terms of section 8(2) of the Act;

(b) in relation to the owners of property, means a category of owners determined in terms of section 15(2) of the Act;

“farm property or small holding used for agricultural purpose” – means property that is used primarily used agricultural purpose ,for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion;

the rearing of livestock and the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes. In this definition such properties could also be included within the urban edge of a town;

“Farm property or small holding used for business and commercial purpose”

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) Property on which the administration of the business of private or public entities take place
- (c) Game Farm where a variety of wild animals are kept or bred often with facilities for visitors to observe or hunt the animals.

“Farm property or small holding mainly used for residential” – predominantly/ main used for residential purpose and, not used for agricultural or commercial purpose.

“Farm property or smallholding that is vacant land” – Farm land without any improvements thereon, which is not used for residential, commercial, agriculture purpose

“financial year” – the period starting from 1 July in a year to 30 June the following year;

“industrial property” – means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity;

“local community” – in relation to the Municipality –

- (a) means that body of persons comprising –

- (i) the residents of the Municipality;
- (ii) the rate payers of the Municipality;
- (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and
- (vi) visitors and other people residing outside the Municipality, who, because of their presence in the Municipality, make use of services or facilities provided by the Municipality; and
- (v) includes, more specifically, the poor and other deprived sections of such body of persons;

“local Municipality” – a Municipality that shares municipal executive and legislative authority in its area with a district Municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category B Municipality;

“market value” – in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

“multiple purposes” – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Act;

“municipal property” – is property registered or established in the name of the Bela-Bela Municipality;

“Municipality” –

(a) as a corporate entity means a Municipality as described in section 2 of the Municipal Systems Act, 2000 (Act No 32 of 2000); and

(b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“owner”-

(a) in relation to a 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 paragraph (b) of the definition of “property” means a person in whose name the right is registered;

(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 in the definition in the Act of the term “publicly controlled” provided that a person mentioned below may for the purposes of this Act be regarded by a Municipality as the owner of a property

“permitted use” – in respect of a property means the limited purposes for which a property may be used in terms of the following –

- (a) any restrictions imposed by –
 - (i) a condition of title; or
 - (ii) a 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;

“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 services infrastructure;

“residential property” – means improved property that:

- (a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential

property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes;

(b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;

(c) is owned by a share-block company and is used predominantly for residential purposes;

(d) is a residence used for residential purposes situated on a property used for educational purposes;

(e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Act;

(f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

“state owned property” – property that is owned by the state and which is for government use.

“vacant property” – means any land without any improvements thereon (empty stands), hotels, hostels, old-age homes and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category;

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa

2. PURPOSE

To purpose of this bylaw is to give effect to the implementation of the municipal rates policy as provided for in section 6 read together with section 3 of the Act.

This By-law applies in respect of all property in the Municipality's area of jurisdiction.

3. GUIDING PRINCIPLES IN LEVYING PROPERTY RATES

The municipality in levying property rates shall be guided by the following principles:

affordability, equity, poverty alleviation, socio-economic development, financial stability and cost efficiency.

4. CONSULTATION PROCESS

1. Before Council commands a new valuation in terms of the Act, a consultation process involving all interest groups will be undertaken during which the purpose and method of valuation will be explained.

2. Before the Municipality accepts the rates by-law the municipal manager must follow a process of public participation, as envisioned in chapter 4 of the Municipal Systems Act, and comply with the following requirements:
 - (i) Display the draft property rates by-law continuously for a period of thirty (30) days at the Municipality's head office, satellite offices and on the website;
 - (ii) Publish a notice in the media stating that the draft property rates by-law was compiled for submission to Council and that such a by-law is available at the different municipal offices and on the website for public inspection;
 - (iii) Property owners and interested persons may obtain a copy of the draft by-law from the municipal office during office hours at a prescribed cost per copy;
 - (iv) Property owners and interested parties are invited to address written suggestions or representations to the Municipality within the period prescribed in the notice; and
 - (v) Council will consider all suggestions and/or representations received during the finalisation of the property rates by-law.

5. CATEGORIES OF PROPERTY

- (1) Categories of rateable property for purposes of levying differential rates in terms of section 8(2) may be determined as follows:
 - a) residential properties,

- b) business and commercial properties,
- c) industrial properties,
- d) municipal properties(rateable),
- e) state owned properties,
- f) public service infrastructure,
- g) agricultural,
- h) agricultural vacant land,
- i) non-permitted use,
- j) multiple use properties,
- k) vacant land,
- l) state owned land, and
- m) any other properties within the municipality.

6. CATEGORIES OF OWNERS

1. Owners of the properties as outlined in section 2 above are liable for the payment of rates as provided for in section 6(2) (b) of the Act as determined by valuation and supplementary valuation roll of the municipality.

2. Bela-Bela Local Municipality has determined in its rates policy the following categories of owners of properties:
 - 2.1. Those owners who qualify and who are registered as indigent in terms of the adopted indigent policy of the Municipality;
 - 2.2. Owners of properties 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 serious adverse social or economic conditions.

2.3. Owners of properties situated in “privately owned townships” serviced by the owner

2.4. Owners of agricultural properties as referred to in clause 9.1.3 of this policy;

2.5. Owners of farm properties that are used for residential purposes;

2.6. Owners of farm properties that are used for industrial, commercial and business purposes;

2.7. Owners of smallholdings used for residential purposes;

2.8. Owners of smallholdings used for industrial, commercial and business purposes; and

2.9. Owners of developed properties not yet sold and transferred.

2.10. Owners of properties used for commercial purposes

2.11. Owners of Public Benefit Organisation

2.12. Beneficiaries of Land Reform

7. EXEMPTIONS

(1) The following categories of owners are determined for the purposes of granting exemptions, reductions and rebates:

- a) those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;
- b) owners of property situated within an area affected by a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
- c) serious adverse social or economic conditions;
- d) owners of residential properties with a market value below the amount as determined annually by the municipality in its budget;
- e) owners temporarily without income;

- f) owners who are dependent on pensions or social grant for their livelihood; and
- g) any other owners as outlined in section 15 to 18 of the Act.

8. DIFFEENTIAL RATING

- (1) Criteria for differential rating on different categories of properties will be according to-
 - (a) The nature of the property including its sensitivity to rating; and
 - (b) The 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 amounts in the rand for each property category; and by way of reductions and rebates as provided for in the municipality's rates policy.

9. ACCOUNTS TO BE FURNISHED

- (1) The municipality shall furnish each person liable for the payment of rates with a written account, which will specify:
 - (a) the amount due for rates payable,
 - (b) the date on or before which the amount is payable,
 - (c) how the amount was calculated,
 - (d) the market value of the property, and
 - (e) rebates, exemptions, reductions or phasing-in, if applicable.
- (2) A person liable for payment of rates remains liable for such payment, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, necessary enquiries must be made with the municipality.

- (3) In the case of joint ownership, the municipality shall consistently, in order to minimise costs and unnecessary administration, recover rates from one of the joint owners only, provided that it takes place with the consent of the owners concerned.

10. METHOD AND TIME OF PAYMENT

- (1) Residents may apply to pay their rates annually and such a request must be submitted to the Finance Directorate in writing, and must be payable by a predetermined date of each year.
- (2) Monthly rate instalments must be paid on or before the due date reflected on the monthly accounts.

11. SPECIAL RATING AREAS

- 1) The municipality will, whenever deemed necessary, by means of a formal council resolution determine special rating areas in consultation with the relevant communities as provided for in section 22 of the Act.
- 2) The following matters shall be attended to in consultation with the committee whenever special rating is being considered:
- a) Proposed boundaries of the special rating area;
 - b) statistical data of the area concerned giving a comprehensive picture of the number of erven with its zoning, services being rendered and detail of services such as capacity, number of vacant erven and services that are not rendered;
 - c) Proposed improvements clearly indicating the estimated costs of each individual improvement;
 - d) proposed financing of the improvements or projects;
 - e) Priority of projects if more than one;
 - f) Social economic factors of the relevant community;
 - g) Different categories of property;
 - h) The amount of the proposed special rating;

- i) details regarding the implementation of the special rating; and
 - j) the additional income that will be generated by means of this special rating.
- 3) In determining the special additional rates, the municipality shall differentiate between different categories as referred to in section 3.
- 4) The additional rates levied shall be utilized for the purpose of improving or upgrading of the specific area only and not for any other purposes whatsoever.
- 5)

12. LIABILITY FOR RATES

- a. The owner of the property is the person liable for the payment of the rates levy on the property, as determined in section 24 of the Act.
- b. Joint owners of a property shall be jointly and severally liable for the payment of the rates levied on the property.
- c. In the case where an agricultural property is owned by more than one owner in undivided shares and these undivided shares were allowed before the commencement date of the subdivision of Agricultural Land Act, 1970 (Act No 70 of 1970), the municipal Council shall hold any joint owner liable for all the rates levied in respect of the Agricultural property concerned or hold any joint owner only liable for that portion of rates levied on the property that the represents that joint owner's undivided share in property.
- d. Rates levied on property in sectional title schemes, shall be payable by the owner of each unit. The municipal council may, depending on the circumstances, have an agreement with the body corporate to the collect rates on its behalf as its agents.
- e. Rates levied on property in sectional title schemes, where the body corporate is the owner of any specific sectional title unit, shall be payable by the Body Corporate.
- f. If any amount due for rates is unpaid by the owner of the property, the municipality may recover the amount from the tenant or occupier of the property, the amount due for rates may also be recovered from the agent of the owner as set out in section 29 of the Act.
- g. In the event that a company, a closed corporation or body corporate in terms of the Sectional Title Act ,1986 (Act No 95 of 1986) is the owner of the property, the payment of property rates is the joint responsibility of the directors and members of the legal person.

- h. Property rates will be recovered monthly.
- i. 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 or her in accordance with the provision of the Credit Control, Debt Collection and indigent policy of the municipality.
- j. Arrears rates shall be recovered from tenants, occupiers and agent of the owner, in terms of section 28 and 29 of the Act.
- k. Where the rates 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 current valuation.
- l. In addition, where the error occurred because of the false information provided by the property owner or as a result of a contravention of the permitted use of the of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied a maximum rate permitted by prevailing legislation.
- m. Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Municipal Property Rates Act,2004 such rate will be payable from the date contemplated in section 78(4) of the Municipal Property Rates Act 2004.

13. GENERAL VALUATION

- (a) The municipality will undertake a general valuation of all rateable properties in its area of jurisdiction and a valuation roll will be compiled for five years as per amended Property Rates Act.
- (b) The municipality will undertake supplementary valuations on an ongoing basis and prepare a valuation roll once during each financial year.
- (c) The municipality will in accordance with section 79 of the Municipal Property Rates Act, make amendments regularly to the particulars on the valuation roll.

14. REPEAL

15. SHORT TITLE AND COMMENCEMENT

This by-law is called Bela-Bela Local Municipality Property Rates By-Laws and shall be effective on the date of publication in the *provincial gazette*.