

BELA – BELA LOCAL MUNICIPALITY



PROPERTY RATES BY-LAW DRAFT

2020/2021

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) and any amendment thereof;

“**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;

(c) property used for the purpose of eco-tourism or for the trading in or hunting of game.

“**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;

“Agricultural property” – means property that is used primarily for agricultural purposes but, without derogating from section 9, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game.

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

“mining” – means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;

“mining property” – means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002);

“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;

“private open space” means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area and which is joined as Private Open Space;

“privately owned townships serviced by the owner” – means single properties (group housing or single residential erven), situated in an area not ordinarily being serviced by the Municipality, divided through subdivision or township establishment in (ten or more) full-title stands and/or sectional title units and where all rates-related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreation facilities, are installed at the full cost of the developer and are rendered and maintained by the residents, Home owners association or management companies/ bodies of such estate;

“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 is used for public service purposes.

“vacant land” – means any land without any improvements thereon, and 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 properties that may be determined in terms of section 8(2) of the Act include the following:

- (a) residential (improved property);
- (b) industrial;
- (c) business and commercial;
- (d) agricultural properties;
- (e) farm properties used for residential purposes;
- (f) privately owned properties serviced by the owner;
- (g) vacant land;
- (h) properties owned by an organ of state and used for public service purposes;
- (i) municipal properties;
- (j) public services infrastructure;
- (k) mining properties;
- (l) properties owned by public benefit organisations and used for specified public benefit activities;
- (m) properties used for multiple purposes, subject to section 9 (1) b of the Act;
- (n) private open space;
- (o) Conservation areas;
- (p) such other categories as may be determined by the council from time to time.

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 used for residential.
- 2.3 Owners of properties situated within an area affected by: –
 - 2.3.1 a disaster within the meaning of the Disaster Management Act, 2002 (Act No 57 of 2002); or
 - 2.3.2 any serious adverse social or economic conditions.
- 2.4 Owners of properties situated in “privately owned townships” serviced by the owner;
- 2.5 Owners of agricultural properties;
- 2.6 Owners of farm properties that are used for residential purposes;
- 2.7 Owners of developed properties not yet sold and transferred.
- 2.8 Owners of public benefit organisations.
- 2.9 Beneficiaries of Land Reform.
- 2.10 Owners dependent on pensions or social grants for their livelihood.
- 2.11 Owners of vacant land.
- 2.12 Owners of properties used for business and commercial;
- 2.13 Owners of properties used for mining;
- 2.14 Owners of properties used for industrial;

7. EXEMPTIONS

7.1 Categories of properties

7.1.1 The following property categories are exempt from the payment of property rates: –

7.1.1.1 **Municipal properties** - Municipal properties are fully exempted from paying property rates.

7.1.1.2 Residential properties - All residential property with a market value of less than the amount as annually determined by the Municipality, are exempted from paying property rates. **The Municipality will on an annual basis determine maximum amount to be exempted, and must not be less than the amount as contemplated in section 17(1)(h) of the Act.**

7.1.1.3 **Public Benefit Organisations** - Public Benefit Organisation Property means property owned by public benefit organisations and used for any specified public benefit activity listed in part 1 of the Ninth Schedule to the Income Tax Act which includes: Welfare and Humanitarian; Health Care; Education and Development; Religion, Belief and Philosophy; Culture; Conservation, Environment and Animal Welfare; Sport. These organisations are exempted from paying property rates.

7.2 Impermissible Rates

In terms of section 17(1) of the Property Rates Act, 2004, the Municipality may, inter alia, not levy rates: –

- a. on those parts of a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: Protected Areas Act, 2003 (Act No 57 of 2003), or of a national botanical garden within the meaning of the National Environmental Management Biodiversity Act, 2004 (Act No 10 of 2004), which are not developed or used for commercial, business, residential or agricultural purposes.
- b. on mineral rights within the meaning of paragraph (b) of the definition for “property” in section 1 of the Act.
- c. on a property belonging to a land reform beneficiary or his or her heirs, provided that the exclusion lapses ten years from the date on which such beneficiary’s title was registered in the Deeds register.
- d. on a property registered in the name of and primarily used as a place of public worship, including an official residence registered in the name of the church that is occupied by an office-bearer who acts as official of the church.

8. REBATES

8.1 Categories of properties

8.1.1 **Residential properties** - the Municipality annually grants a rebate to owners of properties used for residential purposes. Such a rebate is in relation to the extent of rate-funded services that the Municipality renders in respect of such properties.

8.1.2 **Privately owned townships and properties serviced by the owner** - The Municipality grants a rebate, to be determined on an annual basis, which applies to privately owned townships serviced by the owners as defined in terms of paragraph 1 of the Municipality’s property rates policy.

8.1.3 **Properties used for agricultural purposes (Bona Fide farmers)** -The Municipality grants a rebate to be determined on an annual basis, which applies to properties used for agricultural purposes;

8.2 Categories of Owners

8.2.1 **Indigent owners** - The owners that qualify and are registered indigents in terms of the Municipality's policy for indigents receive a rebate on the payment of rates as specified in the Municipality's policy for indigents. In terms of the current policy, registered indigents shall be fully subsidised. If they qualify in terms of the Municipality's policy for indigents these rebates will automatically be applied and no further application is necessary.

8.2.2 **Rebates for retired and disabled persons**

8.2.2.1 The Municipality grants a rebate, to be determined on an annual basis, for retired and disabled persons that do not qualify in terms of Council's approved Indigent policy. This category of owners qualifies for special rebates in accordance with their monthly household income.

9. REDUCTIONS

9.1 Reductions as contemplated in section 15 of the Act will be considered on an ad-hoc basis in the event of the following:-

9.1.1 Partial or total destruction of a property; or

9.1.2 Disasters as defined in the Disaster Management Act, 2002 (Act 57 of 2002).

9.2 The following conditions shall be applicable in respect of clause 13.1:-

9.2.1 The owner of the property referred to in clause 9.1.1 shall apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the Municipality that his property has been totally or partially destroyed. He/ she will also have to indicate to what extent the property can still be used and the impact on the value of the property.

9.2.2 Owners of property referred to in clause 9.1.2 will only qualify for a rebate if affected by a disaster as referred to in the Disaster Management Act, 2002 (Act No. 57 of 2002).

9.2.3 A maximum reduction to be determined on an annual basis shall be allowed in respect of both clauses 9.1.1 and 9.1.2.

9.2.4 If rates were paid in advance prior to granting of a reduction the Municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

10 . DIFFERENTIAL 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.

11. MULTIPLE PURPOSES PROPERTIES

11.1 Where two thirds or more of a property is used for residential purposes, the whole property will be placed in the residential category. The two third dominant use will apply. If more than one third is used for purposes other than residential, the entire property will be placed in the use category applicable to more than one third uses.

11.1.1 In the case of agricultural property, the multiple use categories will apply where:

- (a) a portion is used for residential purposes other than residential purposes that is incidental to the farming activity; or
- (b) a portion is used for non-residential and non-agricultural purposes.

12. 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.

13. 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.

14. 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 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 property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at 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.

15. 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.

16. REPEAL

The provisions of any by-law previously promulgated by the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

17. 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*.