

BERGRIVIER MUNICIPALITY



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1. PREAMBLE

- 1.1 The Code of Conduct for Municipal Staff Members, Schedule 2 of the Local Government: Municipal Systems Act, Act 32 of 2000, provides:

“4 (2) Except with the prior consent of the council of a municipality a staff member of the municipality may not –

(c) be engaged in any business, trade or profession other than the work of the municipality.”

- 1.2 The provision implies that the employee has a fundamental right to do private work and be remunerated therefore, but this is countered by the Municipality’s sole prerogative to determine conditions on which special permission will be granted. This in turn implies that it is not a matter of course approval but that it must be specially granted.
- 1.3 Furthermore employees shall be responsible for the proper and efficient discharge of the work assigned to them by the Municipality. This implies that the Municipality as employer may legitimately expect the employee to be in a mental and physical condition to properly perform the duties he/she should be doing.

2. INTERPRETATION OF THIS POLICY

- 2.1 In the interpretation of this internal policy:

2.1.1 The preamble as well as the various headings and sub-headings shall be taken into account in order to determine the intention of the Municipality; and

2.1.2 The male shall include the female and the singular shall include the plural and vice versa, unless the context indicates otherwise.

3. DEFINITIONS

All terminology not defined under clause 3 of this policy shall bear the same meaning as in the applicable legislation.

<i>“Conflict of Interest”</i>	means a situation that has the potential to undermine the impartiality of an employee because of the possibility of a clash between the employee’s self-interest and professional interest;
<i>“Council”</i>	means the Council of Bergrivier Municipality (WC013);
<i>“Councillor”</i>	means a member of the Municipal Council of Bergrivier Municipality;
<i>“Employee”</i>	<i>means a person in the employment of Bergrivier Municipality, either in a permanent, contract or full time temporary capacity;</i>
<i>“Employer”</i>	<i>means the Bergrivier Municipality;</i>
<i>“Municipal Manager”</i>	<i>means a person appointed by the Municipal Council as the Municipal Manager for the municipality and includes a person acting in his/her stead or in terms of a power delegated in writing to him/her by the Municipal Manager;</i>
<i>“Municipality”</i>	means the Bergrivier Local Municipality (WC013), a municipality established in terms of section 12 of the Municipal Structures Act, 1998 (Act 117 of 1998), as amended; and
<i>“Private Work”</i>	refers to, for purposes of this policy framework, an employee who performs remunerated work when he/she, apart from his/her official duties to the

Municipality, works for payment outside of his/her normal working hours.

4. LEGAL FRAMEWORK

4.1 In the process of the development of this policy the following Acts and Collective Agreements were consulted:

- Municipal Systems Act 32 of 2000;
- Labour Relations Act 66, of 1995 as amended;
- SALGBC Main Collective Agreement as concluded on 25 August 2015;

5. SCOPE AND APPLICATION

The policy shall apply to all employees of Bergrivier Municipality.

6. OBJECTIVES OF THE POLICY

- 6.1 Determine the terms and conditions for dealing with private work applications.
- 6.2 To regulate the terms and conditions for dealing with private work applications.
- 6.3 Establish a standard procedure for the application for permission to undertake private work.
- 6.4 Provide for a system of monitoring of private work.
- 6.5 Provide the reasons and procedure for the annual declaration of financial interest.

7. CONDITIONS TO PERFORM PRIVATE WORK

- 7.1 No employee will be granted permission to perform private work after hours that is in direct conflict with his/her profession and/or authority.

- 7.2 No employee is allowed to perform any outside work unless officially approved on an individual basis by the Municipal Manager.
- 7.3 No employee may perform private work after hours without express approval granted in terms of this policy.
- 7.4 Disciplinary action will be taken against an employee:
 - 7.4.1 who performs remunerated work outside his/her official duties to the Municipality, without written permission; or
 - 7.4.2 who, after permission has been given to perform private work, in the opinion of the employer breaks or does not comply with any stipulation or condition as stated in this policy.

8. APPLICATION TO PERFORM PRIVATE WORK

- 8.1 Any request to perform private work must be in writing on the relevant application form (Annexure A), accompanied by sound motivations, according to the following criteria:
 - 8.1.1 The nature of the official duties of the employee at the municipality.
 - 8.1.2 The nature and extent of the proposed private work.
 - 8.1.3 The place(s) where the employee will work and where applicable, the name of the company/firm where the employee intends to work and the details of the contact person.
 - 8.1.4 The name of the official's own business, if applicable.
 - 8.1.5 The estimated number of hours per month/annum to be spent on after-hours private work.
 - 8.1.6 Any hazardous or stressful circumstances that may negatively impact on the employees' health.

- 8.1.7 Whether any conflict of interest is possible.
- 8.2 All applications must be submitted in writing to the Department of Human Resources, accompanied by a recommendation by the applicable Head of Department.
- 8.3 All applications to do private work will only be considered if the prescribed application form (Annexure A) has been duly completed and is only valid when authorised.

9. APPROVAL OF APPLICATIONS TO PERFORM PRIVATE WORK

- 9.1 The Municipal Manager may approve an application for private work after consultation with the Director concerned, subject to the following conditions:
 - 9.1.1 Private work may only be carried out outside normal working hours;
 - 9.1.2 Private work must not affect or disrupt the employee's official duties and no enquiries, appointments or other arrangements with regard to private work may be arranged during working hours;
 - 9.1.3 The proposed private work may not be of such nature that it is detrimental to the relationship between the employer and the employee or causes the employee to violate the Code of Conduct for Municipal Staff Members;
 - 9.1.4 Under no circumstances may the Municipality's equipment or materials be used for private work;
 - 9.1.5 The physical, postal and electronic mail addresses, telephone and facsimile numbers of the Municipality may not be used for the purpose of or in connection with private work;
 - 9.1.6 The employee may not use his/her position with the Municipality to canvass for private work;

- 9.1.7 No sick leave will be granted for any illness or injuries as a result of private work;
 - 9.1.8 No employee may accept private work if he/she would benefit, directly or indirectly, in any way from the Municipality;
 - 9.1.9 Permission may not be granted retrospectively to an employee to perform private work outside his/her official duties at the municipality;
 - 9.1.10 An application for permission to perform private work must be refused if, in the opinion of the Municipal Manager, a conflict of interest could develop between the interest of the Municipality and that of the employee;
 - 9.1.11 The Municipal Manager may withdraw any approval in terms of paragraph 9.1.10 to perform private work if he/she suspects that a conflict of interest arose;
- 9.2 An application to perform private work by the Municipal Manager must be approved or declined by the Executive Mayor in consultation with the Deputy Executive Mayor of the Council of Bergrivier Municipality; and
- 9.3 In the event of an application not being approved, the competent authority must provide reasons for the decision.

10. DURATION OF PERMISSION TO PERFORM PRIVATE WORK

- 10.1 Any approval to perform private work automatically lapses every year on 30 June.
- 10.2 All employees must annually re-apply for permission to do private work, even if current approvals are in place.
- 10.3 Any application to renew the permission to perform private work must be done at least thirty (30) days prior to the expiry of the previous application, in which case the stipulations of this policy will apply without change. This procedure is

repeated each and every following year for as long as the employee concerned wishes to continue with his/her private work.

- 10.4 Should the nature of the private work or any other circumstances related to the private work change in between, a revised application must be submitted.
- 10.5 The employer retains the right at any time to withdraw permission given in terms of the stipulations of this policy to an employee, on condition that the reasons given are justified and reasonable.
- 10.6 The Department of Human Resources must keep a register of employees who perform remunerated work outside their official duty to the Municipality. The register must contain the following information:
 - 10.6.1 Name of the employee;
 - 10.6.2 Employee number;
 - 10.6.3 Job Designation of the employee;
 - 10.6.4 Directorate/Department/Division;
 - 10.6.5 Date approval was granted or denied; and
 - 10.6.6 Type/nature of work approval was granted for;
 - 10.6.7 Starting date of permission; and
 - 10.6.8 Name of the (outside) employer and contact details (if applicable).

11. DECLARATION OF INTERESTS

- 11.1 Should an employee have a business interest in any number of companies or close corporations he/she shall declare such business interest/s as required in terms of the Municipal Systems Act (Act 32 of 2000) of Schedule 2: Code of conduct for municipal staff members (Annexure B – as amended from time to time).

11.2 It is to be noted that where a staff member who or whose spouse, partner or business associate or close family member acquired or stands to acquire any direct benefit from a contract concluded with the municipality, he/ she must disclose in writing, full particulars of the benefit to Council as required by the Municipal Systems Act. Interests to be declared, which shall give rise to a conflict of interest with the employee's relationship with Council, include:

- shares and securities in any company;
- membership of any close corporation;
- interest in any trust;
- directorships;
- partnerships;
- consultancies and retainerships;
- other financial interests in any business undertaking;
- interest in property;
- pension; and
- subsidies, grants and sponsorships by any organisation.

11.3 Annually during July of every year, the forms will be circulated to the relevant employees to be updated and irrespective whether or not their financial status has changed, a new form should be completed.

11.4 By 31 July of each year the completed forms must be submitted to the Manager Human Resources and will be captured in the register.

12. BREACH OF THIS POLICY

Non-compliance with the policy stipulations will be regarded as misconduct.

13. DATE OF EFFECT OF THIS POLICY

This internal policy will be effective from the first day of the calendar month following the date on which Council has approved this internal policy.