

# BERGRIVIER MUNICIPALITY



<b>SUBJECT:</b>	Business Licence Policy
<b>DIRECTORATE:</b>	Corporate Services
<b>DATE APPROVED:</b>	11-03-2021
<b>EFFECTIVE DATE:</b>	12-03-2021
<b>COUNCIL ITEM:</b>	BKN021/03/2021

## DOCUMENT HISTORY

Version	Date Created	Status	Author	Changes
1.0	16 August 2018	Approved	BK 3895	
1.1	September 2017	Amended	A van Rossum	Application form
1.2	12 December 2017	Approved	BKN020/12/2017	
1.3	12 February 2021	Amended	A van Rossum	Revision
1.4	11 March 2021	Approved	BKN021/03/2021	

## **TABLE OF CONTENTS**

<b>1. POLICY OBJECTIVES</b> .....	<b>3</b>
<b>2. DEFINITIONS</b> .....	<b>3</b>
<b>3. APPLICABLE LEGISLATION</b> .....	<b>4</b>
<b>4. BUSINESSES COVERED BY THIS POLICY</b> .....	<b>4</b>
<b>5. BUSINESSES EXCLUDED FROM THIS POLICY AND PROCEDURES</b> .....	<b>5</b>
<b>6. APPLICATION PROCEDURE</b> .....	<b>6</b>
<b>7. VALIDITY OF BUSINESS LICENCE</b> .....	<b>7</b>
<b>8. APPEAL PROCEDURE</b> .....	<b>8</b>
<b>9. GENERAL</b> .....	<b>8</b>
<b>10. COMMENCEMENT</b> .....	<b>8</b>

## 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**

- “Act”* means the Businesses Act, Act 71 of 1991, as amended;
- “Business premises”* means the premises upon, in or from which businesses mentioned in paragraph 4 below are carried out or are to be carried out;
- “Foodstuff”* 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));
- “Municipality”* means the Bergrivier Municipality (the licensing authority);
- “Sell”* 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.





**APPLICATION FOR A LICENCE TO CARRY ON A BUSINESS IN TERMS OF THE  
BUSINESS ACT, ACT NO.71 OF 24 APRIL 1991 (ACT 71 OF 1991)**

NOTES TO APPLICANT												
<ul style="list-style-type: none"> <li>➤ <b>The following documentation must be submitted with the application:</b></li> <li>➤ Indicate with a ✓ which items you have attached</li> <li>➤ Failure to submit all relevant information and/or documentation required will result in the application being incomplete. <b>Incomplete applications will not be processed.</b></li> </ul>												
✓	Documents						Number					
	Identification Document / Passport - Applicant											
	Identification Document / Passport - Owner of premises (if not applicant)											
	Identification Document / Passport - Manager (if not applicant)											
	Business Registration No (if applicable)											
	Liquor Licence (if applicable)											
	Receipt (application fee – non-refundable)											
	Environmental Health Proof of Application for a Certificate of Acceptability											
	Proof of Sound Proofing (if applicable)											
	Letter of consent from owner / Rental agreement (if not registered property owner) Confirmation that you have permission to trade on the premises											
	Locality Plan (drawing of location/premises – indicating where the property is situated on the street, the size of the business premises and the exact location of the business premises on the property)											
	Electrical Compliance Certificate (Accommodation Establishments only)											
	Proof of Municipal Planning Consent (House shops only)											
FOR OFFICE USE ONLY												
OUTCOME			LICENCE NO.				CONDITIONS / ENDORSEMENTS					
Approved / Refused			BRM-BL_____									

1. Name of licensing authority: **BERGRIVIER MUNICIPALITY**

2. Type of Licence applied for:  
*Indicate with an X all applicable types*

Accommodation		Entertainment		Food / Foodstuff	
Health		House shop		Liquor	

3. Indicate with an X whether this application is in respect of:

A. New licence	<b>A</b>	B. Relocation of business to a new premises	<b>B</b>	C. Change of information on existing licence <i>i.e. New Owner / Change in Nature of Business, etc.</i>	<b>C</b>
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**APPLICANT'S DETAILS**

4. Full Name:  
*(owner / company / partnership, etc.)*  
**in whose name the licence should be issued**
5. Street address of owner:
- Town / Postal Code:
6. Telephone Number(s):
7. E-mail Address:

**BUSINESS DETAILS**

8. Trade Name of Business:
9. Nature of Business:  
*(detailed description of what you will sell / offer / trade in)*
- FOOD / FOODSTUFF**
- Pre-packed  
 Packing  
 Processing  
 Preparing
10. Trading Hours:

11. Street address of business:  
*(premises where goods will be stored / sold)*

Town / Postal Code:


12. Postal address:  
*(to receive registered mail)*

Town / Postal Code:


13. Contact person: *(if not applicant)*

Name:			
Telephone number(s):			
Cell number(s):			
E-mail address:			

14. Erf number:

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15. Current Zoning:

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**ENTERTAINMENT ESTABLISHMENTS ONLY**

16. Type(s) of entertainment:

Machines / Games / Pool tables	Disco / Club / Karaoke	Cinema	Casino
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17. How many machines / pool tables do you have?

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18. Are you making use of live artists / DJ's? **YES / NO**

19. Indicate the times the live artists / DJ's will perform:

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20. What measures do you have in place to manage noise from your premises?

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21. How many toilet facilities on the premises?

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22. Is there a designated smoking area or room? **YES / NO**

**HEALTH ESTABLISHMENTS ONLY**

23. Is there a first aid kit and a person with first aid knowledge on the premises? **YES / NO**
24. Is the equipment sterilised in the correct manner? **YES / NO**
25. Is the waste water disposed of in the correct manner? **YES / NO**

**DECLARATION**

I/We, \_\_\_\_\_ certify that the information contained in this application is true and correct to the best of my/our knowledge.

I am/We are aware that by lodging an application, the information in the application and obtained during the process may be made available to the public.

**Signature:**

**Capacity:**

**Date:**


# CRITERIA CHECKLISTS

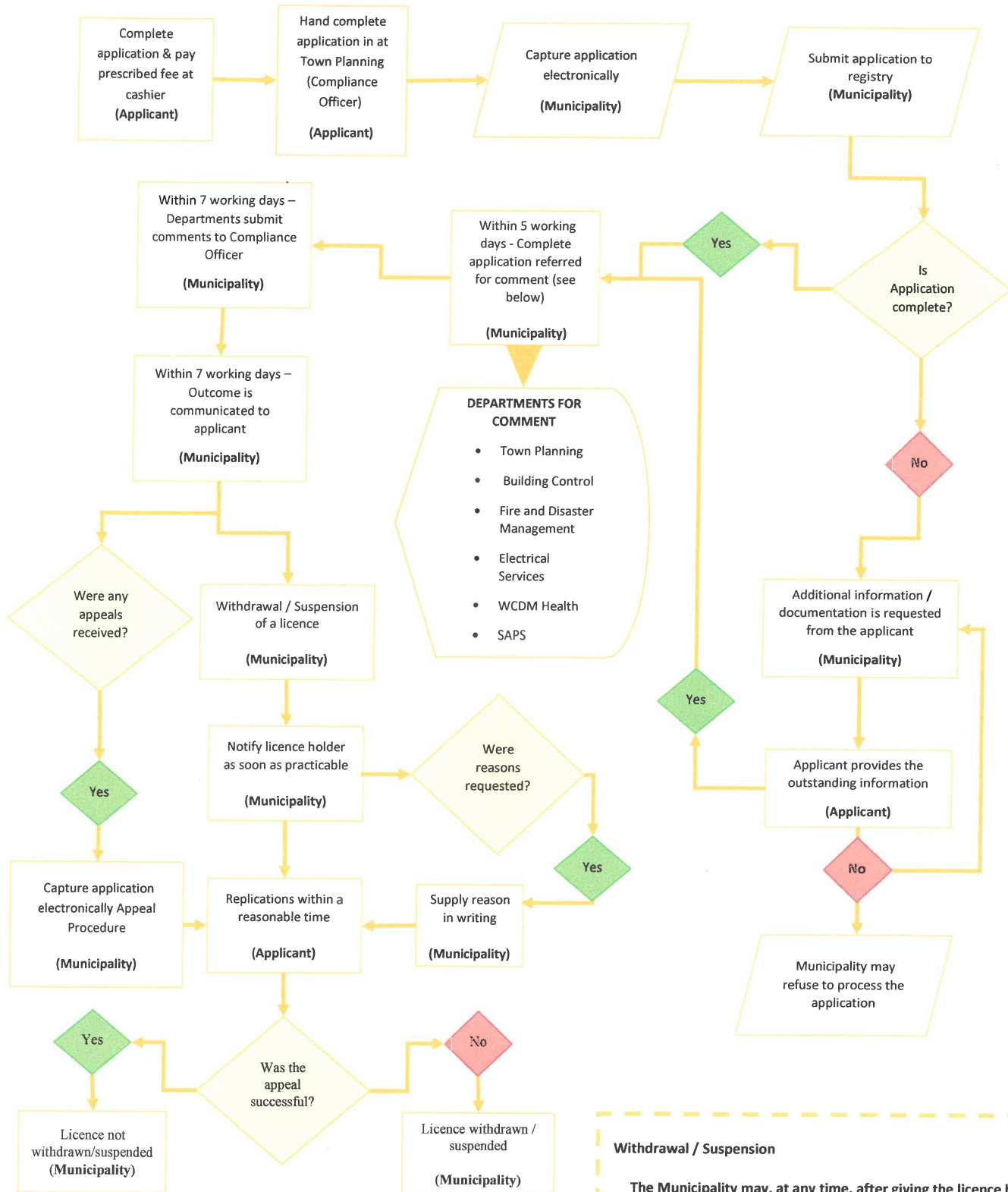
## CONSIDERATION OF AN APPLICATION

	The prescribed application fee has been paid – receipt attached
	Application fully completed – no outstanding info & all applicable attachments
	<i>Businesses covered by this policy: (Schedule 1 of the Act)</i>
	Sale or supply of meals or perishable foodstuffs
	Health Establishments – salons or saunas or Turkish baths or escort services
	Entertainment
	Three or more mechanical, electronic or electrical contrivances, instruments, apparatus or devices
	Three or more snooker or billiard tables
	Night club or discotheque
	Cinema or theatre or adult premises
	Accommodation Establishments
	<i>Businesses exempt from this policy: (Schedule 2 of the Act)</i>
	Businesses carried on by the State or the municipality
	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.
	Businesses carried on 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
	Businesses carried on by or on behalf of an employer for an employee as such of the exempted employer
	All other business not covered in above
	<i>Compliance with the following: (2(4),2(6) of the Act)</i>
	Town planning requirements
	Safety or health of the public of any law which applies to the premises requirements
	Building Control requirements
	Fire and Disaster Management requirements
	Electrical Services requirements
	WCDM Health Services requirements
	<b>Before issuing of licence</b> - any requirements stipulated in writing regarding premises
	<b>Before issuing of licence</b> - any requirements stipulated in writing regarding any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance, article or place or <b>within a specific period</b>
	<b>Within a specific period</b> – any requirement stipulated by the licensing authority and made known in writing to the applicant regarding any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance, article or place shall, before the licence is issued
	<i>Suitability of applicant / manager(s): (2(4)(b), 2(5) of the Act)</i>
	Suitability to carry on the business
	Any convictions recorded against them - SAPS report
	Previous conduct - Law Enforcement report
	Any other reason - neighbours' or affected parties' complaints / petitions

## WITHDRAWAL / SUSPENSION OF A LICENCE (after reasonable opportunity to be heard was given): (2(8),2(9))

	Non-compliance with a requirement
	Failure to produce a licence within 14 days of written request
	The application could have been refused by virtue of applicant's reputation/record
	Non-compliance of any foodstuff sold with a requirement of a law relating to the health of the public
	Non-compliance of any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, with a requirement of a law relating to the health of the public
	Non-adherence to any or all applicable legislation
	Non-adherence to any of the conditions stated in the Policy
	Non-adherence to any endorsements on the licence

# Business Licence (Workflow)



**Validity**

The business licence shall remain valid until:

- An Application is Cancelled
- Nature of Business Changes
- Ownership Changes
- Business Premises Changes
- Municipality revokes / amends licence or legislation / conditions

**Criteria for approval**

- Compliance – premises equipment apparatus vehicles storage / workspace with requirements of town planning & public health
- Suitable applicant (no record / bad reputation)

**Withdrawal / Suspension**

The Municipality may, at any time, after giving the licence holder concerned a reasonable opportunity to be heard, withdraw or suspend a licence where:

- The premises does not comply with a requirement
- The licence holder failed to produce his licence within 14 days of receipt of written request
- Any foodstuffs does not comply with a requirement relating to the health of the public
- Any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, does not comply with a requirement relating to the health of the public.