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<b>PROVINCIAL NOTICES</b>		<b>PROVINSIALE KENNISGEWINGS</b>	
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**[PROVINCIAL NOTICE NO. 132 OF 2018]****MOQHAKA LOCAL MUNICIPALITY / PLAASLIKE MUNISIPALITEIT / LEKGOTLA LA MOTSE****PUBLICATION OF DRAFT BY-LAWS FOR COMMENT:  
DRAFT STANDING RULES AND ORDERS BY-LAW AND DRAFT MUNICIPAL LAND USE PLANNING AMENDMENT BY-LAW**

Notice is hereby given in accordance with the stipulations of Section 12 (3) of the Local Government Municipal Systems Act, 2000 (Act No 32 of 2000) that, draft Standing Rules and Orders By-Law and draft Municipal Land Use Planning Amendment By-Law have been approved by the Moqhaka Local Municipality and is published hereunder for public comment / representations under schedules 1 and 2.

The By-laws will be available during office hours until 20 March 2019 at the following places:

**Libraries:** Steynsrus, Matlwangtlwang, Viljoenskroon, Rammulotsi, Kroonstad (Steyn Street), Maokeng, Brentpark  
**Offices:** Steynsrus, Matlwangtlwang, Viljoenskroon, Rammulotsi, Kroonstad (Hill Street), Maokeng, Brentpark

Copies of the By-Laws may also be obtained from the following offices: **Kroonstad:** 2<sup>nd</sup> Floor, Municipal Offices, Hill Street, (Mr R Odendaal tel 056-2169129). **Viljoenskroon:** Municipal Offices, Deneysen Street, (Mr J Masumpa tel: 056-3439424). **Steynsrus:** Municipal Offices, Van Riebeeck Street, (Mrs. B Sithole, tel: 056-471 0006). **Maokeng:** Municipal Offices, Manki Street, (Mr H Ludick, te.: 056- 216 9504). This notice is also available on the municipality's website: [www.moqhaka.co.za](http://www.moqhaka.co.za).

Members of the community are invited to make comments / representations on the proposed draft By-Laws. Written comments / representations must be handed in at the office of the Municipal Manager, Municipal Offices, Hill Street, Kroonstad or posted to PO Box 302, Kroonstad, 9500. Persons who are not able to read or write and who wish to comment on the draft By-laws will be assisted by Mr R Odendaal during office hours at the Municipal Offices, Hill Street, Kroonstad. Please contact Mr R Odendaal (Tel: 056 216-9129) to make an appointment in this regard.

Comments / representations must reach the Municipal Manager by no later than 20 March 2019.

**M MQWATHI  
MUNICIPAL MANAGER**

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18. Documents to be available at meetings

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**CHAPTER 1****Definitions****1. In these rules and orders, unless the context otherwise indicates-**

“administration”-

- (a) as an entity means the Municipal Manager and the other employees of the Municipality;  
 (b) as a functional activity, includes management and means the tasks that employees perform to enable the Council to make and implement policies and bylaws;

“agenda” means a list of matters to be considered at a meeting including reports regarding such matters;

“audit report” means any report submitted to the Council by or on behalf of the Auditor-General with regard to the auditing of the Municipality's annual financial statements and accounting records;

“chairperson” means the Speaker of the Council and chairperson of a meeting other than the Council meeting;

“chairperson of Mayoral Committee” means a Councillor appointed by the Executive Mayor or elected by members of the Mayoral Committee amongst themselves to preside during the temporary absence of the Executive Mayor;

“code of conduct” means the code of conduct for Councillors in Schedule 1 of the Municipal Systems Act;

“Constitution” means the Constitution of the Republic of South Africa 1996;

“constituency” means-

- (a) for the purpose of a constituency meeting the residents in a ward in the municipal area;  
 (b) for the purpose of a public hearing-  
 (i) a political party that contested a general election for Councillors in the municipal area; and  
 (ii) any readily identifiable group of residents in the municipal area whether they are organised or not that share common economic or social interests or conditions;

“constituency meeting” means a meeting of the residents within a ward in the municipal area contemplated in rule 8;

“continuation meeting” means a Council or committee meeting in terms of rule 43 that takes place to complete the unfinished business standing over from a meeting that had not been concluded;

“Council” means the municipal Council of the Municipality;

“Councillor” means an elected or appointed member of the Council;

“Council Orderly” shall mean a person in the full-time employment of the Municipality entrusted to assist the Speaker to maintain order during Council meetings and assisted by such staff members as the Speaker may direct;

“Committee” shall mean any committee established in the Municipality, including committees established in terms of Section 79 and 80 of the Structures Act;

“Day” shall mean a day that is not a public holiday, Saturday or Sunday and for the calculation of days the first day will be excluded and the last day included;

“departmental head” means an employee of the Municipality appointed by the Council as departmental head of a department and includes an employee acting in the stead of such departmental head;

“Executive Mayor” means an Executive Mayor elected by the Council in terms of section 55 of the municipal structures act no 117 of 1998.

“Finance Management Act” means the Local Government: Municipal Finance Management Act 2003 (Act No 56 of 2003)

“In Committee” shall mean the part of the meeting of the municipal Council where the meeting will be closed and members of the public and press, and such municipal officials as determined by the Speaker, excluding the Municipal Manager, will be excluded from the meeting, based on the nature of the business being transacted;

“Mayoral Committee” means the committee of the Councillors appointed by the Executive Mayor in terms of section 60(1) of the Structures Act;

“MEC” means the member of the executive Council of the province responsible for local government;

“Member” shall mean a Councillor serving in the municipal Council of the Municipality;

“mobile phone” means any portable voice-enabled communications device, including, but not limited to, a satellite phone, a cellular phone, a cordless or wireless handset of a landline phone and a two-way radio, but not a pager;

“motion” means a written proposal;

“Municipality” means a Municipality to which these rules and orders apply;

“municipal area” means the area of jurisdiction of the Municipality demarcated in terms of the Local Government: Municipal Demarcation Act 1998 (Act No 27 of 1998);

“Municipal Manager” means the head of the administration and accounting officer of the Municipality appointed by the Council and includes any employee of the Municipality who acts in her or his stead;

“newspaper” means a newspaper registered in terms of any law, that is published at least weekly and that circulates within the municipal area and that had been determined by the Council as newspaper of record;

“petition” means a written statement, proposal or grievance addressed to the Municipality or an office-bearer or employee of the Municipality and signed by more than five residents within the municipal area or a part thereof;

“Privilege” shall mean the right of freedom of speech for Councillors in Council and committee meetings, subject to the rules of order of any ruling of the Speaker in terms thereof as well as the right not to be held liable for civil or criminal proceeding for anything they said, produced or submitted to the Council or Committee.

“Property Rates Act” means the Property Rates Act 2000 (Act No of 2000)

“proposal” means a draft resolution submitted orally by a Councillor during a debate on any matter at a meeting of the Council or any structure of such Council;

“Point of order” shall mean a point raised by a Councillor during the Council meeting and shall only relate to a matter of procedure and provided for in the rules of order;

“public hearing” means a meeting arranged by the Council or Executive Mayor to solicit the views and opinions of members of the public and specific constituencies on a matter affecting the interests of the residents within the municipal area;

“public holiday” means a public holiday contemplated in the Public Holidays Act 1994 (Act No. 36 of 1994);

“public meeting of voters” means a meeting of which public notice had been given and which are open for all voters registered in the municipal segment of the national common voters’ roll relating to the Municipality;

“question” means a question in terms of rule 52 or 53 asked during a meeting of the Council or any of its structures;

“quorum” means the minimum number of Councillors and other members, if any, that must be present at a meeting before it may commence or continue with its business;

“remuneration” in relation to a Councillor, means the salary and allowances determined by the Council with the concurrence of the MEC which is payable to a Councillor;

“Report” shall mean any item appearing on the agenda for consideration by the Council or a committee.

“Section 79-committee” means a committee contemplated in section 79 of the Structures Act and includes a committee appointed by the Council to assist the Council in terms of section 79 of that Act;

“Section 80-committee” means a committee contemplated in section 80 of the Structures Act and includes a committee appointed by the Council to assist the Executive Mayor in terms of section 80 of that Act;

“Speaker” means the Councillor elected as Speaker of the Council and includes any Councillor who had been elected by the Council as acting Speaker during the temporary incapacity or absence of the Speaker;

“Sub-committee” shall mean any other committee, other than the Mayoral Committee or committees appointed by the Council;

“sustainable” in relation to the provision of a municipal service, means the provision of a municipal service in a manner—

- (a) aimed at ensuring that revenues from that service, including budgeted subsidies for the service, are sufficient to cover the cost of—
  - (i) operating the service; and
  - (ii) maintaining, repairing, and replacing the physical assets used in the provision of the service;
- (b) aimed at ensuring a reasonable surplus or, in the case of a service provided by a service provider that is a business enterprise, a reasonable profit;
- (c) aimed at ensuring that the Municipality or other service provider generates sufficient capital requirements for the performance of the service;
- (d) that takes account of the current and anticipated future—
  - (i) level and quality of that service;
  - (ii) demand for the service; and
  - (iii) ability and willingness of residents to pay for the service;
- (e) aimed at ensuring that the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- (f) aimed at ensuring that the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and
- (g) aimed at ensuring that legislation intended to protect the environment and human health and safety is complied with;

“Structures Act” means the Local Government: Municipal Structures Act 1998 (Act No 117 of 1998);

“Systems Act” means the Local Government: Municipal Systems Act 2000 (Act No 32 of 2000);

“tabling of document” means presenting an item or motion which is not on the agenda during a Council meeting;

**1A Application of rules**

- 1.1 The rules of order contained herein apply to all meetings of the municipal Council and any committee of the municipal Council as well as any other committee of Councillors established within the Municipality, unless the terms of reference for a specific structure explicitly exclude the application of the rules for such a structure.
- 1.2 The rules are aimed at allowing free, open and constructive debate during meetings. The rules are encouraged and promote freedom of expression in such a manner that orderly debate is ensured within the time constraints of time allocated to meetings.
- 1.3 The rules endeavour to create the opportunity for Councillors serving in Council structures to air their views on any matter of public importance.
- 1.4 The rules of order are applicable to:
- (a) All Councillors;
  - (b) Any official of the Municipality
  - (c) Any member of the public while present in the Council chamber and precinct as well as any other venue where a meeting is held.

**CHAPTER 2****GENERAL PROVISIONS RELATING TO MEETINGS****Part 1: Determination of time and venue of meetings****2. Meetings not to be held on certain days and only at certain venues**

- (1) Council meetings as well as committee meetings, may NOT be held on Sunday or public holidays provided that this will not apply to Ward Committees
- (2) With due regard for the provisions of sub-rule (3) meetings and hearings of the Council and its committees must be held at a venue within the municipal area.
- (3) When determining the venue for a meeting or hearing the relevant person or body must take the following factors into account:
  - (a) the availability of room at the designated venue for members of the public and the media who wishes to attend the meeting;
  - (b) the accessibility of the designated venue for members of the public and the media; and
  - (c) reasonable steps that can be taken to regulate public access to such venue.

**3. Determination of venue and time of ordinary Council meetings**

- (1) The Municipal Manager or, if there is not a Municipal Manager, a person appointed by the MEC, must determine the date, time and venue of the first meeting of the Council after a general election of Councillors for the Municipality which meeting must be held within fourteen days after the Council had been declared elected or, if it is a district Municipality, after all the members to be appointed by local Councils had been appointed.
- (2) The Speaker must determine a schedule of the dates, times and venues of ordinary Council meetings, other than the meeting referred to in sub - rule (1), for a period of at least twelve months in advance, provided that-
  - (a) the Council must hold at least one ordinary meeting every three months; and
  - (b) not more than one ordinary Council meeting may take place during any month.
- (2A) When preparing a schedule of ordinary Council meetings in terms of sub-rule(2) the Speaker shall have due regard for –
  - (a) the schedule referred to in section 21(1)(b) of the Finance Management Act tabled by the Executive Mayor in the Council; and
  - (b) the requirements of sections 24(1), 24(2)(a), 25(1), 127(2) and 129(1) of the Finance Management Act.
- (2B) The Executive Mayor shall confer and attempt to reach consensus with the Speaker when preparing a schedule contemplated in section 21(1)(b) of the Finance Management Act in so far as any date in such schedule relates to a proposed Council meeting.
- (3) As soon as the Speaker has determined the schedule referred to in sub-rule (2) he or she must inform the Municipal Manager thereof. The Speaker may at any time, change the scheduled date, time or venue of a meeting and must immediately inform the Municipal Manager of any such change.

**4. Determination of the time and venue of special Council meetings**

- (1) Subject to the provisions of section 29(3) of the Structures Act the Speaker may at any time convene a special meeting of the Council on a date, time and venue determined by him or her.
- (2) The Speaker must, if a majority of the Councillors of the Council requests him or her in writing to convene a special Council meeting-
  - (a) convene a special Council meeting on a date set out in the request and at a time and venue determined by him or her;
  - (b) supply a copy of the request to the Municipal Manager.
- (3) As soon as the Speaker has determined the date, time and venue of a special Council meeting, he or she must inform the Municipal Manager thereof.
- (4) A request to call a special Council meeting must set out the matter(s) to be dealt with at that special Council meeting. No business other than that specified in the notice convening a special Council meeting or set out in the request referred to in sub-rule (2) may be dealt with at a special Council meeting.
- (5) Should the Speaker fail to convene a special Council meeting in terms of sub-rule (2) the Municipal Manager must convene the meeting at the date set out in the request and at a time and venue determined by him or her.



**5. Determination of venue and time of ordinary committee meetings**

- (1) The chairperson of a committee of the Council must determine a schedule of the date, time and venue of ordinary meetings of the committee concerned for a period of at least twelve months in advance taking into account the schedule of ordinary Council meetings referred to in rule 3(2) and after consultation with the Municipal Manager, provided that-
- (a) no committee meeting may take place during an ordinary or special Council meeting except with the express approval of the Council; and
  - (b) No section-80 committee meeting may take place during a Mayoral Committee meeting.
- (2) As soon as the chairperson concerned determined the schedule of venues, dates and times, he or she must inform the Municipal Manager. The chairperson concerned may at any time change the date, time or venue of a scheduled meeting and must immediately inform the Municipal Manager of any such change, subject thereto that such change may not be done after notice of the meeting has been given.

**6. Determination of venue and time of special committee meetings**

- (1) The chairperson of a committee may at any time convene a special meeting of the committee concerned at a venue, time and place determined by him or her.
- (2) The chairperson of a committee must, if a majority of the members of the committee who are Councillors requests him or her in writing to convene a special committee meeting-
- (a) convene a special committee meeting on a date set out in the request and at a time and venue determined by him or her;
  - (b) supply a copy of the request to the Municipal Manager.
- (3) As soon as the chairperson concerned has determined the date, time and meeting of a special committee meeting, he or she must inform the Municipal Manager thereof.
- (4) A request to call a special committee meeting must set out the matter to be dealt with at that special committee meeting. No business other than that specified in the notice convening a special committee meeting or set out in the request referred to in sub-rule (2) may be dealt with at a special committee meeting.
- (5) Should the chairperson concerned fail to convene a special committee meeting in terms of sub-rule (2) the Municipal Manager must convene the meeting at the date set out in the request and at a time and venue determined by him or her.

**7. Determination of time and venue of public meetings of voters**

- (1) The Speaker must-
- (a) when so requested by petition signed by at least 1000 voters; or
  - (b) in terms of a Council resolution convene a public meeting of voters to discuss and decide a matter affecting the interests of the residents within the municipal area, provided that when the signatories on a request referred to in paragraph (a) are all from the same ward, the Speaker may-
    - (i) convene a public meeting of voters only in respect of that ward; or
    - (ii) direct the chairperson for that ward to convene a public meeting of voters in such a ward.
- (2) As soon as the Speaker or the chairperson contemplated in sub-rule(1) (b) has determined the date, time and venue of a public meeting of voters, he or she must inform the Municipal Manager thereof. The date determined for a public meeting of voters may not be less than fourteen days after the date of publication of the notice in terms of rule 10.
- (3) A request or resolution to convene a public meeting of voters must set out the matter to be dealt with at that meeting. No business other than that specified in the notice convening a public meeting of voters or may be dealt with at such a meeting.
- (4) Should the Speaker fail to convene a public meeting of voters in terms of sub-rule (1)(a) or (b) the Municipal Manager must convene the meeting and may determine the date, time and venue of such meeting.

**8. Determination of time and venue of constituency meetings**

- (1) A chairperson representing a ward must-
- (a) in compliance with the schedule referred to in sub-rule (2) but at least once during every three-month period; or
  - (b) when so directed by the Speaker in terms of rule 7(1); or
  - (c) upon receipt of a written request signed by not less than 500 voters in his or her ward convene a meeting of residents in the ward she or he represents at a time, date and venue determined by him or her, provided that at least fourteen days' notice of such meeting is given and that the venue of the meeting must be at a place within the ward concerned.
- (2) Chairpersons representing wards must, within thirty days after they had been declared elected and thereafter as often as necessary, at a meeting called by the Speaker, determine a schedule of dates for constituency meetings during the next twelve months' period, provided that no such meeting may take place on a date scheduled for a Council meeting in terms of rule 3 or 4.
- (3) A chairperson referred to in sub-rule (1) must at the first ordinary Council meeting after a constituency meeting submit a written report regarding such a meeting to the Council. Such a report must be submitted to the Municipal Manager at least ten working days before the scheduled date of such Council meeting for inclusion in the agenda for that meeting.
- (4) Should a chairperson fail-
- (a) to hold a constituency meeting in terms of sub-rule (1); or
  - (b) to submit a report in terms of sub-rule (3) the provisions of items 13 and 14 of the code of conduct must be applied in respect of that chairperson.
- (5) The Speaker must supply a copy of a schedule in terms of sub-rule (2) to the Municipal Manager. The chairperson concerned must inform the Municipal Manager of every meeting to be held in terms of sub-rule (1)(b) or (c). Meeting by tele- or videoconference.
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**8 A Meeting by using telecommunications or video conference facilities**

- (1) The Municipality may hold a Council or committee meeting using telecommunications or video conferencing facilities.
- (2) A meeting in terms of sub-rule (1) may only be held if-
  - (a) all the Councillors who are required to attend the meeting concerned have access to the required facilities;
  - (b) practicable arrangements can be made for members of the public and the media to follow the proceedings of such a meeting;
  - (c) practicable arrangements can be made for keeping the minutes of the meeting; and
  - (d) the chairperson of the meeting so directs.
- (3) A meeting in terms of sub-rule (1) is subject to these rules and orders, provided that the venue stated in the notice of the meeting must be the places where Councillors can access the facilities required for the meeting.

**9. Public hearings**

- (1) The Municipality must, before it adopts a resolution-
  - (a) for the adoption or amendment of the annual budget;
  - (b) for the adoption or amendment of its integrated development plan;
  - (c) for the adoption or amendment of its performance management system;
  - (d) relating to the quality, level and range of services provided;
  - (e) regarding an appropriate mechanism for providing municipal services;
  - (f) determining a tariff, debt collection, indigent support or credit control policy; and
  - (g) confirming a language policy in terms of rule 74 Convene one or more public hearings.
- (2) Despite the provisions of sub-rule (1) the Council or the Speaker or the Executive Mayor, as the case may be, may at any time convene a public hearing on any matter affecting the interest of the residents within the municipal area.
- (3) Whenever a public hearing is to be convened, the Councillor or body convening the hearing must determine the date, time and venue of such hearing. If more than one public hearing is to be held at different venues in the municipal area or with different constituencies or with different constituencies at different venues, the Councillor or body convening the hearing must determine a schedule of hearings setting out the different venues and dates for those hearings.
- (4) No public hearing may be convened on the same day as a Council meeting.
- (5) As soon as the date, time and venue of a public hearing or a schedule of dates, time and venues for hearings had been determined, the Councillor or body convening the hearing must inform the Municipal Manager.
- (6) The Councillor or body convening a public hearing must determine the subject matter of that hearing and may identify the constituencies that must be specifically invited to attend or to make representations at the hearing and supply their particulars to the Municipal Manager. Any person so invited must be invited in writing and attends and participate in the hearing at his or her own cost.

**Part 2: Notice of meetings****10. Notice of Council and committee meetings****Service of notices**

- (1) At least 3 days before any ordinary meeting of the Council and at least forty eight hours before any special meeting of the Council, a notice to attend the meeting, specifying the business proposed to be transacted there at and signed by the Speaker shall be left or delivered to an accessible distribution point within the Municipality as determined by the Council from time to time / sent by electronic mail to an address provided by the Councillor as his/her official address / mail address. Such notice is to be signed by the Speaker in the case of a Council meeting, the Executive Mayor in the case of a Mayoral Committee meeting or the Chairperson of the Committee concerned or a Councillor or employee authorised by him/her. In the case of joint meetings the agenda may be signed by any one of the Chairpersons or a Councillor or employee assigned by such Chairperson.
- (2) A Councillor and departmental head to whom notice had been given in terms of sub-rule (1) is, until such date, venue or time is changed and written notice of such change has been given, required to attend the meeting stipulated in the notice without further notice.
- (3) A notice referred to in sub-rule (1) given to a Councillor and a departmental head must contain the agenda for the meeting concerned (except in the case of a continuation meeting in terms of rule 43). In the case of a special meeting in terms of rule 4 or 6, the agenda may contain only the matter that must be dealt with at the meeting.
- (4) A notice given in terms of sub-rule (1) to a Councillor and departmental head is deemed read for the purpose of the meeting to which it applies.
- (5) The Municipal Manager must supply of copy of the schedules referred to in rules 3(3), 5(2) and 8(2) to every Councillor and departmental head.

**10(A) Non-service of notices**

Accidental omission to serve on any Councillor a notice of meeting shall not invalidate the proceedings of that meeting.

**10(B) Urgent matters**

- (1) No business shall be transacted at a meeting of the Council or any committee other than that specified in the agenda relating thereto, except any matters which the relevant chairperson considers urgent and the said chairperson has ruled the matter to be urgent.
- (2) The Executive Mayor may raise matters which in his / her discretion is urgent, for decision of Council. A matter will be deemed urgent when the decision required, if delayed, would prejudice the Council and / or its operations.

- (3) The Speaker or chairperson of the meeting will determine an appropriate time when the Municipal Manager may raise urgent matters and the time available for discussion thereof; Provided that the Speaker may rule that the matter is not urgent as defined in 2 above.
- (4) The Municipal Manager must ensure that all documentation relevant to the urgent item is available to Councillors present at the meeting in written format. The Speaker will allow enough time for Councillors to peruse the said documents, familiarize themselves with them and call for a caucus to discuss the matter if required.

**11. Notice of public meetings of voters, constituency meetings and public hearings**

- (1) The Municipal Manager must, with due regard for sub-rules (3) and (4) after receipt of the particulars of a meeting referred to in rule 7(2), 8(1)(b) or (c), 8(2) or 8(5) by notice in the press and placed on the municipal notice board convene the meeting or hearing at the time, date and venue determined by the Councillor body convening the meeting or hearing, as the case may be, and send a copy of such notice to every Councillor and departmental head.
- (2) A notice in terms of sub-rule (1) must state the purpose of the meeting or hearing.
- (3) The Municipal Manager must, not later than fourteen days before the date of a constituency meeting contained in a schedule referred to in rule 8(2), confirm the date and venue with the Councillor concerned and give notice in a newspaper of such meeting.
- (4) The Municipal Manager must, with due regard for the provisions of rule 9(5), give notice in a newspaper of the date, time and venue of a public hearing at least fourteen days before the hearing takes place and supply a copy thereof to each Councillor and departmental head.
- (5) A Councillor and departmental head to whom notice had been given in terms of sub-rule (1) or (4) is, until such date, venue or time is changed and notice of such change has been given, required to attend the meeting or hearing stipulated in the notice without further notice.

**12. Councillors must supply Municipal Manager with an address**

- (1) Every Councillor must, within two days after he or she had been declared elected or appointed, as the case may be, and thereafter as often as is necessary, supply the Municipal Manager in writing with an address within the municipal area and an electronic mail address to which official communications and notices must be sent.
- (2) The Municipal Manager may deliver a notice contemplated in rule 10 or 11 to a person that appears to be over the age of sixteen at the address supplied in terms of sub-rule (1).
- (3) Non-receipt of any official communication or notice sent to an address referred to in sub-rule (1) or delivered in terms of sub-rule (2)-
  - (a) does not affect the validity of any meeting or proceedings of the Council or its committees and
  - (b) is not sufficient reason to be absent from the meeting concerned without leave of absence.

**Part 3: Attendance of meetings and hearings**

**Rule 13 Leave of absence**

- (1) Applications for leave of absence from any Council or committee meeting must be submitted to the Office of the Speaker writing and signed by the member applying for leave. The reason for the application for leave must be stated.
- (2) All applications for leave must be submitted at least 12 hours before the starting time of the meeting and if not possible at the earliest possible opportunity with reasons why notice is given less than 12 hours before the meeting.
- (3) The Speaker or chairperson shall grant leave at his or her discretion, and the Speaker is at liberty to reject such application for leave of absence.
- (4) Leave will be deemed to have been granted if a Councillor has been delegated to attend a meeting or engagement on behalf of the Council.
- (5) A Councillor
  - (a) who fails to apply in terms of sub-rule (1) and is absent from a meeting or hearing he or she is required to attend; or
  - (b) whose application for leave of absence has been refused and is absent from the meeting or hearing he or she is required to attend; or
  - (c) whose application for leave of absence had been refused and who does not appeal in terms of rule 14; or
  - (d) whose appeal had been turned down; or
  - (e) who did not sign the attendance register contemplated in rule 17 is deemed absent without leave from the meeting concerned.
- (6) A Councillor contemplated in sub-rule (5) must pay to the Council a fine equal to 10 per cent of that Councillor's basic monthly salary (excluding allowances), which fine must be deducted from the first next payment due to the Councillor by the Municipality. A fine in terms of this sub-rule escalates at a rate of 5 per cent for every subsequent absence without leave. The Municipal Manager must inform the Councillor concerned in writing of the imposition of such fine.
- (7) The Municipal Manager must keep a record of all cases in terms of sub-rule (5) and must submit a written report thereon to the Speaker at least once during every three month's period.
- (8) The fines shall be paid into the income account of Council.

**14. Appeal against refusal of applications for leave of absence**

- (1) A Councillor and whose application for leave of absence had been refused in terms of rule 13(3) may appeal against the refusal. Such an appeal must be-
  - (a) in writing; and
  - (b) lodged with the Municipal Manager within fourteen days after the date of the decision, provided that the Council or the committee who must consider the appeal may condone the late submission of an appeal in exceptional circumstances.

- (2) The Council considers an appeal in terms of sub-rule (1) in the case of absence from-
- (a) a Council meeting or a public meeting or hearing; or
  - (b) Mayoral Committee meeting.
  - (c) In all other cases the Executive Mayor considers the appeal.
- (3) A decision with regard to an appeal in terms of sub-rule (1) is final.

**15. Removal of a Councillor from office for absence from meetings without leave**

- (1) Whenever a report submitted to the Speaker in terms of rule 13(7) identifies a Councillor that had been absent from three or more consecutive Council meetings or three or more consecutive committee meetings which that Councillor was required to attend the Speaker must in writing report the matter to the Council at the first ordinary Council meeting next ensuring.
- (2) The Council must consider the report of the Speaker in terms of sub-rule (1) and must give the Councillor concerned an opportunity to state his or her case. As soon as a Councillor has stated his or her case, he or she must leave the meeting whilst the Council considers the matter.
- (3) If, after consideration of the matter, the Council is of the opinion that the Councillor was absent without a good reason, the Municipal Manager must in writing request the MEC to remove the Councillor from the Council. If the Council finds that the reason for the absence from any of the meetings was a good reason, the Council may issue a formal warning to the Councillor and determine the period during which the warning will be valid and that the fine contemplated in rule 13(6) may be reduced or waived.
- (4) The Councillor ceases to be a Councillor on the date that the MEC informs the Municipal Manager that the Councillor had been removed from office.
- (5) The removal of a Councillor from office or a warning does not exempt that Councillor from paying any fine in terms of rule 13(6).

**16. Who may attend meetings**

- (1) Until the Council or a committee closes a meeting, a meeting may be attended by members of the public, employees of the Council and the media, provided that a public meeting of voters or a constituency meeting or a public hearing may not be closed. An employee of the Council may only attend a Council or committee meeting which is held during his or her ordinary working hours with the express prior approval of his or her departmental head.
- (2) Every Councillor must, from the time stipulated in the notice convening the meeting/hearing, attend every meeting of the Council and every public meeting of voters and public hearing and remain in attendance at such meeting or hearing unless leave of absence had been granted to him or her or he or she must leave a meeting or hearing in terms of the code of conduct.
- (3) Every member of a committee must, from the time stipulated in the notice convening the meeting, attend every meeting of the committee of which he or she is a member and remain in attendance at such a meeting unless leave of absence had been granted to him or her or he or she must leave the meeting in terms of the code of conduct.
- (4) The Speaker and Executive Mayor, as the case may be, may by virtue of their offices, attend and participate in any committee meeting, provided that-
- (a) the Speaker may not vote on any matter at a committee meeting; and
  - (b) the Executive Mayor may only vote at a Mayoral Committee meeting.
- (5) Any Councillor who is not a member of a committee may only attend a meeting of a committee with the express prior permission of the chairperson of that committee, which permission may not be unreasonably withheld.
- (6) The Speaker or the chairperson of a committee, as the case may be, may invite any person to attend a meeting of the Council or that committee, as the case may be.
- (7) The Municipal Manager and departmental heads of the Municipality must attend public meetings of voters, public hearings, Council and committee meetings, provided that the chairperson of a committee may after consultation with the Municipal Manager exempt the Municipal Manager or any departmental head from attending any meeting of the committee concerned or, if he or she is not exempted, grant leave of absence to him or her from any meeting of that committee.

**17. Attendance register**

- (1) The Municipal Manager must supply an appropriate attendance register at every meeting and hearing.
- (2) Every Councillor who is present at a meeting or hearing must sign the attendance register.
- (3) Any Councillor who had been present at a meeting or hearing but who failed to sign the attendance register, is deemed absent without leave from the meeting concerned.

**Part 4: Documents to be available at meetings**

- 18.** The Municipal Manager must ensure that a copy of the municipal code referred to in section 19 of the Systems Act, is available at every Council meeting. The municipal code must include-
- (a) these rules and orders;
  - (b) the Constitution;
  - (c) the Structures Act;
  - (d) the Systems Act;
  - (e) the Property Rates Act;
  - (f) the Finance Management Act;
  - (g) the bylaws of the Municipality; and
  - (h) such other legislation as the Council may determine from time to time.
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**Part 5: Presiding at meetings and hearings****19. General powers and duties of chairpersons**

- (1) The chairperson at a meeting must-
- (a) ensure that the meeting or hearing at which he or she presides is conducted in accordance with these rules and orders;
  - (b) when requested to do so, interpret these rules and orders;
  - (c) reject any motion, proposal or question which in his or her opinion-
    - (i) may lead to the discussion of a matter already contained in the agenda for that meeting;
    - (ii) advances arguments, expresses opinion or contains unnecessary tactless, incriminating, disparaging or improper suggestions;
    - (iii) may encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insults, degrades, defames or encourages abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;
    - (iv) contains unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
    - (v) contains threatening, abusive or insulting language towards an employee which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee;
    - (vi) does not pertain to the governance, administration or management of, or the conditions in, the Municipality;
    - (vii) may be contrary to these rules and orders or any other law, including a bylaw of the Municipality, or against the values generally existing in the community;
    - (viii) may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution; or
    - (ix) may result in unauthorised expenditure;
  - (d) reject any motion, proposal or question regarding a matter-
    - (i) beyond the Municipality's executive or legislative authority unless, on the face of it, the proposal intends to convince the meeting to make representations with regard to that matter to a body or institution which has such authority; or
    - (ii) which a decision of a judicial or quasi-judicial body is being awaited;
  - (e) reject any motion, proposal or question which-
    - (i) is not properly seconded;
    - (ii) on the face of it, may threaten or affect a fundamental right of any person; or
    - (iii) is unclear;
  - (f) reject any proposal that a part of a meeting or a meeting be closed that does not comply with rule 90(2);
  - (g) call the attention of any person at the meeting to-
    - (i) irrelevance, tedious repetition or language unbecoming; or
    - (ii) any breach of order by a Councillor or such other person;
  - (h) submit every motion and proposal made and seconded to the vote;
  - (i) declare the result of any vote in terms of paragraph (h); and
  - (j) instruct any member of the public or media and any employee of the Council who may be present at a meeting to leave the meeting when the meeting resolved to close any part of its session and not to return to it until the meeting continues in public.
- (2) The chairperson's ruling with regard to a motion, proposal or question is final. When a ruling is made, the chairperson must state the grounds for the ruling.
- (3) The chairperson's interpretation of the rules and orders or a ruling as to procedure is final, provided that-
- (a) if the interpretation or ruling is contested or called into question, the chairperson must, at the first meeting next ensuing, provide a written interpretation or ruling;
  - (b) a Councillor may request that the chairperson provide a written interpretation or ruling at the first meeting next ensuing;
  - (c) the Council or committee, as the case may be, may upon receipt of such written interpretation or ruling, consider the matter and amend or substitute the interpretation of the chairperson.
- (4) The chairperson may, in performing his or her functions and powers-
- (a) consult with the Municipal Manager;
  - (b) direct any person who is speaking to discontinue his or her speech or to desist from breaching the order or to discontinue making interjections;
  - (c) direct any person to apologise for or to apologise for and withdraw any allegation, statement or remark if it is unbecoming, unnecessarily tactless, incriminating, disparaging, improper, racist or sexist or inciting violence or injures or impairs the dignity or honour of a Councillor or employee of the Municipality;
  - (d) direct any person who persist in disregarding the chair or who obstructs the business at a meeting, to retire from the meeting; and
  - (e) instruct any person to leave a meeting if the meeting resolve to close its session or any part of it.
- (5) If a person refuses to retire from a meeting or hearing after having been directed in terms of sub-rule (4)(d) or (e), the chairperson may direct an employee of the Municipality present at the meeting to remove that person or cause his or her removal and to take steps to prevent that person from returning to the meeting or hearing.
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- (6) The chairperson may change the order of business at the meeting despite any provisions to the contrary herein.
- (7) The chairperson at a Council meeting where an adequate number of Councillors are present to decide a question relating to the removal of a political office-bearer from Municipality may not, notwithstanding any rule to the contrary in these Rules and Orders, adjourn that meeting unless a majority of the Councillors present at such a meeting vote in favour of a proposal that the meeting be adjourned.
- (8) The chairperson at a meeting of the Council or committee may instruct any person present at such meeting who –
  - (a) is in possession of a mobile phone that rings during such meeting; or
  - (b) who brings to or eats during a meeting any food, fruit, biscuits or other refreshments (except bottled water and cold drinks) to –
    - (i) leave such meeting and not return to it; or
    - (ii) to surrender such phone or food fruit, biscuits or other refreshments to a person designated by the presiding officer and to collect it from that person when she or he leaves the meeting or when the meeting adjourns.
- (9) The chairperson be allowed to institute any action he/she might deem fit to ensure proper order prevails at any Council meeting.

**20. Failure or refusal to exercise the powers or discharge the duties by chairperson at a meeting or hearing.**

- (1) Whenever a Councillor who attended a meeting or hearing is of the opinion that the chairperson at that meeting or hearing failed or refused to exercise any of his or her powers or to discharge any of his or her duties properly, he or she may direct a written allegation against the chairperson concerned to the Municipal Manager.
- (2) An allegation in terms of sub-rule (1) must quote the relevant rule or convention that had been breached or not fulfilled and must state to what extent it had been breached or not fulfilled.
- (3) The Municipal Manager must submit the allegation to-
  - (a) the Speaker in the case of an allegation against the Executive Mayor .;
  - (b) the Executive Mayor. in the case of an allegation against the chairperson of a section 79 and 80 committees;
  - (c) the Council in the case of an allegation against the Speaker and send a copy thereof to the Councillor against whom the allegation had been made.
- (4) The relevant functionary or the Council, as the case may be, must determine the time and place of the hearing when the matter will be considered and inform the Municipal Manager accordingly, provided that in a case referred to in-
  - (a) sub-rule (3)(b), the Municipal Manager must include the matter in the agenda for the first ordinary Mayoral Committee meeting, as the case may be;
  - (b) sub-rule (3)(c), the Municipal Manager must include the matter in the agenda for the first ordinary Council meeting after receipt of the allegation.
- (5) The Municipal Manager must inform the Councillor who made the allegation and the Councillor against whom the allegation had been made of the time and place where the matter will be heard.
- (6) At the hearing the Councillor making the allegation and the Councillor against whom the allegation had been made must have the opportunity to state his or her case, to call witnesses, to examine any documents submitted and to cross examine any witness.
- (7) After the matter had been heard the Speaker, Executive Mayor or the Council, as the case may be, must make a ruling as to the most probable version of the event and make a finding.
- (8) Should it be found that an allegation against the Speaker was true, the Council must decide an appropriate penalty. Whenever the Speaker finds that an allegation against the Executive Mayor or the chairperson of a section 79 was true, he or she must submit his or her finding to the Council and recommend an appropriate penalty. Whenever the Executive Mayor finds that an allegation against the chairperson of a section 80- committee was true he or she must decide an appropriate penalty.
- (9) An appropriate penalty may include a formal warning or reprimand. Whenever a formal warning is issued, the Council or the Executive Mayor, as the case may be, must determine the period during which the warning is valid.

**21. Status of chairperson at a meeting**

Whenever the chairperson at a meeting speaks, any person then speaking or offering to speak must sit down, if he or she stood, and all persons in the meeting must remain silent so that the chairperson may be heard without interruption.

**22. Presiding at the first Council meeting after a general election**

The Municipal Manager, or if there is not a Municipal Manager, a person appointed by the MEC, presides at the first meeting of a Council after a general election of Councillors until a Speaker is elected.

**23. Presiding at Council meetings**

- (1) The Speaker presides, with due regard for the provisions of these rules and orders, at every Council meeting where he or she is present.
- (2) Whenever the Speaker is absent from or unable to preside at or during any part of a Council meeting, the Council must elect from amongst the Councillors present at that meeting an acting Speaker for the duration of the Speaker's absence or inability.
- (3) The Municipal Manager presides over the election of an acting Speaker.
- (4) The Council may not elect the Executive Mayor or a member of the Mayoral Committee, as the case may be, as acting Speaker.

**24. Presiding at Council meetings when the position of Speaker is vacant**

- (1) Whenever the office of Speaker becomes vacant, the Municipal Manager must call a special Council meeting for the purpose of electing a Speaker on a date and at a time and venue determined by him or her, except if the office of Speaker becomes vacant during a Council meeting, provided that such special Council meeting must take place within fourteen days after the office became vacant.

- (2) The Municipal Manager presides over the election of a Speaker in terms of sub-rule (1).  
 (3) The Speaker elected at a meeting in terms of sub-rule (1) serves as Speaker for the unexpired term of his or her predecessor.

**25. Presiding at Mayoral Committee meetings**

- (1) The Executive Mayor presides at meetings of the Mayoral Committee.  
 (2) Whenever the Executive Mayor is absent from or unable to preside at or during any part of a meeting of the Mayoral Committee a member of the Mayoral Committee appointed by the Executive Mayor presides at any meeting of the Mayoral Committee for the duration of the Executive Mayor's absence or inability.

**26. Acting Executive Mayor**

- (1) When the Executive Mayor is absent or unable to fulfil the duties of Executive Mayor for a period of not more than 21 days, the member of the Mayoral Committee designated thereto in writing by the Executive Mayor acts as Executive Mayor.  
 (2) An acting Executive Mayor shall perform the functions, discharge the duties and exercise the powers of the Executive Mayor.  
 (3) Should the absence of the Executive Mayor be for a period exceeding 21 days the Council must designate a Councillor to act as Executive Mayor.

**27. Presiding at section 79-committee meetings**

- (1) The Councillor appointed by the Council, as chairperson of a section 79-committee (in this rule referred to as the "chairperson"), presides at meetings of such committee where he or she is present.  
 (2) Whenever the chairperson is absent from or unable to preside at or during any part of the committee meeting the member of that committee elected by the members of the committee that is present at that meeting presides at the meetings of the committee for the duration of the chairperson's absence or inability.  
 (3) The Municipal Manager or delegated official presides over the election of a Chairperson in terms of sub-rule (2).  
 (4) The committee may not elect the Speaker or the Executive Mayor as chairperson in terms of sub-rule(2).

**28. Presiding at public meetings of voters, constituency meetings and public hearings**

- (1) The Speaker presides at public meetings of voters and any public hearing convened by the Council, with due regard for the provisions of sub-rule (2).  
 (2) The Councillor for a ward presides at constituency meetings or public hearings convened by the Council in his or her ward.  
 (3) The Executive Mayor presides at public hearings convened by him or her.  
 (4) Whenever the Councillor designated in terms of sub-rules (1) to (4) is absent from or unable to preside at or during any part of a public meeting of voters or constituency meeting or a public hearing, the Councillors present at such meeting or hearing must elect from amongst their number a chairperson for the meeting or hearing for the duration of that Councillor's absence or inability.  
 (5) One of the Councillors present at that meeting presides over the election of a chairperson of such a meeting, provided that he/she shall not stand for such election.

**Part 6: Conduct of persons at meetings**

**29. Conduct of members of the public at Council or committee meetings**

- (1) A member of the public or the media or an employee other than the Municipal Manager or a departmental head attending a Council or committee meeting may not-
- (a) address the meeting at any time, unless he or she is a member of a deputation in terms of rule 48;
  - (b) obstruct the business of the meeting;
  - (c) make any interjections;
  - (d) make unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
  - (e) encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insult, degrade, defame or encourage abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;
  - (f) use threaten, abusive or insulting language towards an employee or display any writing, sign or other visible presentation which is threatening, abusive or insulting which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee; or
  - (g) make unwelcome or obscene gestures.
- (2) Whenever a meeting resolves to close its session or a part thereof any member of the public, media and employee must leave the meeting immediately and not return to that meeting until it resumes as a public meeting.  
 (3) A member of the public or media or an employee of the Council attending a Council or committee meeting is subject to the authority of the chairperson of the meeting.  
 (4) A member of the public or media or an employee of the Council attending a meeting of the Council or a committee, shall switch off any mobile phone she or he may have in her or his possession as soon as she or he enters the venue of the meeting and keep it switched off until such time as -
- (a) she or he leaves the meeting; or
  - (b) the meeting adjourns.
-

- (5) The member of public or the media or an employee of the Council attending a meeting shall
- (a) surrender any mobile phone that she or he has in her or his possession when attending the relevant meeting and which rings, to a chairperson at the meeting determined by the chairperson at the time at the meeting and collect same from the chairperson to whom she or he has submitted it after the conclusion of the meeting or when she or he leaves the meeting; or
  - (b) leave the meeting at the instruction of the chairperson at the time at the meeting if a mobile phone which is in her or his possession rings during the meeting.

### 30. Recording of proceedings at meetings

Except for the purpose of writing the official minutes of a meeting by an employee, nobody may unless the express prior approval of the chairperson of a meeting had been obtained, make any recording, whether audio or visual or both audio and visual, of a meeting or any part thereof. The Speaker or chairperson, as the case may be, may grant or refuse such request in his/her sole discretion.

### 31. Conduct of Councillors during meetings

- (1) The following conduct by a Councillor during a meeting is deemed contrary to the provisions of item 2(b) of the code of conduct-
- (a) to make unnecessary tactless, incriminating, disparaging or improper suggestions or express such opinions;
  - (b) to make unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
  - (c) to make unwelcome or obscene gestures;
  - (d) to make or second a proposal that may be contrary to these rules and orders or any other law, including a bylaw of the Municipality, or against the values generally existing in the community;
  - (e) to make or second a proposal that may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources;
  - (f) to make or second a proposal being aware that it may result in unauthorised, irregular or fruitless and wasteful expenditure;
  - (g) to make or second a proposal on a matter on which the Municipality has no executive or legislative authority unless the intention is to convince the meeting to make representations to an institution that has the required authority;
  - (h) to make or second a proposal that is calculated to or may threaten or affect a fundamental right of any person;
    - (i) to encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion to cause harm, hostility, degradation, violence or which insult, degrade, defame or encourage abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;
  - (j) to incite imminent violence;
  - (k) to compel or attempt to compel employees or Councillors by threats to partake in any actions against their will;
  - (l) to breach the order;
  - (m) to disregard the chair;
  - (n) to use threaten, abusive or insulting language towards an employee or display any writing, sign or other visible presentation which is threatening, abusive or insulting which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee; or
  - (o) to make an allegation, statement or remark that is unbecoming a Councillor or injures or impairs the dignity or honour of a Councillor or employee of the Municipality; or
  - (p) to submit a motion or to request the Municipal Manager or any other employee of the Municipality to formulate a motion that-
    - (i) may be contrary to these rules and orders or any other law, including a bylaw of the Municipality, or against the values generally existing in the community;
    - (ii) may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources;
    - (iii) may result in unauthorised, irregular or fruitless and wasteful expenditure;
    - (iv) falls outside the Municipality's executive or legislative authority unless the intention is to convince the meeting to make representations to an institution that has the required authority; or
    - (v) is calculated to or may threaten or affect a fundamental right of any person.
- (2) Subject to sub-rule (6) a Councillor, the Municipal Manager and a departmental head attending a meeting of the Council or a committee, shall switch off any mobile phone she or he may have in her or his possession as soon as she or he enters the venue of the meeting and keep it switched off until such time as -
- (a) she or he leaves the meeting; or
  - (b) the meeting adjourns.
- (3) Subject to sub-rule (6) a Councillor or an employee of the Council attending a meeting shall -
- (a) surrender any mobile phone that she or he has in her or his possession when attending the relevant meeting and which rings, to a person determined by the person presiding at the time at the meeting and collect same from the person to whom she or he has submitted it after the conclusion of the meeting or when she or he leaves the meeting; or
  - (b) leave the meeting at the instruction of the person presiding at the time at the meeting if a mobile phone which is in her or his possession rings during the meeting.
- (4) A person who is instructed to leave a meeting in terms of sub-rule (4)(b) shall be deemed to be absent without leave from the meeting concerned for the period from which she or he leaves the meeting until such time as the meeting adjourns.
-



- (5) Sub-rule (4) does not apply in respect of a Councillor that is a medical practitioner or an emergency medical service worker, provided that -
- (a) the Councillor presiding at the meeting has granted permission to the Councillor concerned that she or he need not switch a mobile phone in her or his possession off; and
  - (b) she or he, immediately when the phone rings, leaves the meeting.
- (6) The Council or the committee during who's meeting a Councillor is instructed to surrender her or his phone or to leave the meeting in terms of sub-rule (4) shall by resolution adopted at that meeting, impose a fine on such Councillor, which fine shall be deducted from that Councillor's pay at the earliest opportunity unless that Councillor pays the fine in cash before it is deducted from her or his pay. The decision of the Council or committee in regard to a fine in terms of this sub-rule is final.
- (7) The Municipal Manager shall institute disciplinary proceedings against an employee of the Council which has been instructed to surrender her or his phone or to leave the meeting in terms of sub-rule (4).
- (8) No Councillor or employee of the Council attending a meeting of the Council or a committee shall bring into the venue of the meeting, or eat, any food, fruit, biscuits or other refreshments (except bottled water and cold drinks) during the meeting unless -
- (a) such food, fruit, biscuits, or other refreshments are supplied and served by the Municipality; or
  - (b) she or he suffers from diabetes.

#### **Rule 31(A) Conduct at meetings**

- (1) The Speaker or the chairperson of the meeting in the event of a meeting other than a Council meeting shall:
- (a) Maintain order during meetings;
  - (b) Ensure compliance with the Code of Conduct for Councillors during meetings;
  - (c) Ensure that meetings are conducted in accordance with the rules;
  - (d) Ensure that members conduct themselves in a dignified and orderly manner during meetings;
  - (e) Ensure that members of the public attending meetings are seated in areas designated for that purpose;
  - (f) Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or chairperson of the meeting;
  - (g) Ensure that any Councillor or member of the public refusing to comply with the ruling of the Speaker or chairperson leaves the meeting;
  - (h) Ensure that the Whip of each political party represented in the municipal Council as well as the Chief Whip of Council maintains discipline during any meeting.

#### **Rule 31 (B) Disorderly conduct of Councillors and the duty of the chairperson**

- (1) If at any meeting of the Council or committee, a Councillor conducts himself or herself in an improper fashion, behaves in an unseemly manner or persistently obstructs business to be carried out or challenges the ruling of the Speaker or chairperson on any point of order or declines to withdraw an expression when required to do so by the chairperson or indulges in tedious repetition or unbecoming language or commits any breach of these rules, the chairperson shall direct such Councillor to conduct himself or herself properly and, if speaking, to discontinue his/her speech and resume his/her seat, is if he/she was standing.
- (2) In the event of persistent disregard of the directions of the Speaker or chairperson, the Speaker or chairperson shall direct such Councillor to retire from the venue where the meeting is being held for the remainder of the meeting, and shall, if necessary, cause him/her to be removed therefrom.
- (3) The Speaker or a chairperson may exclude from a meeting, for such period of time during the meeting as he/she may deem fit, any member who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the chairperson, provided that a formal process will be initiated after the conclusion of the meeting.
- (4) Where a Councillor refuses to retire or in the event of more than one Councillor having to be removed from the meeting, and such Councillor/s refuse/s to leave the meeting, the Speaker shall request the Municipal Manager to facilitate the removal of such Councillor/s from the chamber. If this cannot be done orderly, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant Councillors to retire or to be removed from the venue of the meeting. If, at the resumption of proceedings, the Councillor/s have not left / been removed, the meeting may be adjourned for another 10 minutes to address the situation. The chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any Councillor/s ordered to retire or so removed or ordered to be removed will be refused entry to the alternative venue. The Municipal Manager of the Council will ensure that such Councillor/s do not enter such an alternative venue.

#### **32. Person speaking to address the chairperson**

A person addressing a meeting or hearing must address the chairperson of that meeting or hearing.

#### **33. Councillor to stand while speaking**

- (1) Unless otherwise directed by the chairperson of a meeting or hearing a Councillor addressing a meeting or hearing must stand while speaking.
- (2) If a Councillor who is not speaking raises his or her hand while another Councillor is speaking on a point of order or to make a proposal and the chairperson addresses such Councillor or the Councillor who speaks must sit down (if he or she stood) and remain silent until the chairperson has made a ruling on the point of order or the proposal.

**34. Duration and reading of speeches**

- (1) Unless expressly otherwise determined in these rules and orders, a Councillor may not speak longer than ten minutes on any matter.
- (2) Except when a Councillor is -
  - (a) delivering the Speaker's or Executive Mayor's report; or
  - (b) presenting the draft budget he or she may not read a speech, but may refresh his or her memory by referring to notes.

**35. Councillor to speak only once**

- (1) Unless expressly otherwise determined in these rules and orders, a Councillor may speak only once on a matter, unless the presiding officer direct otherwise.
- (2) The introducer of a motion or proposal may reply in conclusion of the debate but must confine his or her reply to answering to previous Speakers.
- (3) The Council may allow the Executive Mayor to make an explanatory statement prior to the consideration of any particular matter in the report of the Executive Mayor or during the discussion of such report in reply to a specific question.

**36. Relevance**

- (1) A Councillor who speaks must confine his or her speech strictly to the matter under discussion.
- (2) No discussion may take place-
  - (a) which will anticipate a matter on the agenda unless the chairperson has granted leave to discuss two or more items at the same time or the Municipal Manager indicated in the agenda that two or more items should be considered together; or
  - (b) on any motion or proposal that had been rejected in terms of rule 19.

**37. Interpretation of rules**

- (1) The ruling of the Speaker or the chairperson in the event of a meeting other than a Council meeting, with regard to the application and interpretation of the rules as well as other procedural matters not dealt with in the rules shall be final and binding: Provided that the Speaker / chairperson may be required to provide reasons for a ruling.
- (2) Any ruling made by the Speaker must be made having due regard to the provisions of the Constitution, national and provincial legislation, municipal by-laws and policies, the rule of law and the rules of natural justice.

**38. Councillor's right to information**

A Councillor has the right to request the Municipal Manager to supply such information as may be required for the proper performance of his or her duties as a Councillor, including the making of a speech at a meeting or hearing. The Municipal Manager is not obliged to entertain any request for information where-

- (a) the information sought is privileged or confidential as defined in item 10 of the code of conduct;
- (b) in his or her opinion, the information sought constitute an invasion of another person's privacy;
- (c) the request is, in his or her opinion, unreasonable given the timeframe allowed for obtaining the information;
- (d) the information sought is a trade secret or confidential commercial information of a supplier to the Municipality or a person seeking to become a supplier to the Municipality; or
- (e) the request will, in his or her opinion, cause an extra-ordinary administrative or financial burden on the Municipality.

**39. Points of order and personal explanation**

- (1) Any member, regardless of whether he/she addressed the Council on the matter under debate or not, may:
  - raise a point of order
  - raise a point of personal explanation at the end of the debate
- (2) Any point of order or personal explanation will not constitute a speech and will therefore not affect the right of any member to speak on a particular item, provided that the member will not be allowed to spend more than 2 (two) minutes on the point of order or personal explanation.
- (3) Any member contemplated in (1) above shall be entitled to be heard and the Councillor speaking at the time shall remain silent until a ruling has been made by the Speaker or chairperson.
- (4) The ruling of the Speaker or Chairperson on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.
- (5) Any member will only be allowed to raise one point of order and one point of personal explanation during the Council meeting. Only one point of order on the same matter will be allowed.
- (6) Any member persisting in [appoint] a point of order or personal explanation after a ruling has been made by the Speaker will be subject to the provision of Rule 31(A) above.

**40. Right of the Municipal Manager to have advice recorded in the minutes**

- (1) The chairperson at a meeting must give the Municipal Manager an opportunity to address that meeting on any matter before the meeting in order to advise the meeting as to the eligibility of any proposal or motion before the meeting.
  - (2) The Municipal Manager has the right to have his or her advice regarding any motion or proposal which may -
    - (a) cause unauthorised expenditure; or
    - (b) be beyond the authority of the Municipality recorded in the minutes of the meeting where the advice was given.
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**Part 7: Adjournment and continuation of meetings****41. Adjournment of meeting in the absence of a quorum**

- (1) If there is not a quorum for the meeting present within 20 minutes after the time stipulated in the notice referred to in rule 10 such meeting is not held but a continuation meeting is held in terms of rule 43.
- (2) If at any time during the course of a Council or committee meeting it is suspected that there is not a quorum present-
  - (a) the chairperson must discontinue the proceedings immediately; and
  - (b) cause the Councillors present to be counted. In the event of no quorum for a meeting, the meeting must be suspended for no more than 20 minutes, and if at the end of the said period there is still no quorum, the Speaker or chairperson may suspend the meeting he or she deems fit and thereafter adjourn the meeting to another date, time and/or venue.
- (3) If the shortfall of Councillors contemplated in sub-rule (2) is owing to the withdrawal of one or more Councillors in compliance with the code of conduct, the chairperson must arrange that such matter be dealt with at the first meeting next ensuing and the unfinished business is dealt with.
- (4) If a sufficient number of Councillors is present after the bell had been rung, the meeting continues, provided that the Councillor who was speaking when the proceedings were discontinued, is, in his or her own discretion, entitled to start his or her speech from afresh.
- (5) Any business except a matter referred to in sub-rule (3) which had not been dealt with at a meeting that had been adjourned, must be considered at a continuation meeting contemplated in rule 43, provided that any unfinished business arising from a special meeting, must be considered at the first ordinary meeting next ensuing unless the date of such ordinary meeting is later than the date contemplated in rule 43.
- (6) If a Councillor or group of Councillors leave any meeting in protest, and the remainder of the Councillors constitute a quorum, the business of the meeting shall be proceeded with.

**42. Adjournment of a meeting before it completed its business**

- (1) A Councillor may at any time during a meeting propose that the meeting be adjourned and must state the reasons for the proposal, provided that no Councillor may more than twice during the same meeting propose that it be adjourned.
- (2) A proposal in terms of sub-rule (1) must be seconded by at least three Councillors present at the meeting, provided that a Councillor may not second a proposal to adjourn more than twice during the same meeting. Such a proposal lapses if it is not properly seconded.
- (3) A proposal in terms of sub-rule (1) is carried if a majority of the members present at a meeting vote in favour thereof.
- (4) Whenever a meeting adjourns in terms of sub-rule (1) before it had finished the business stated in the agenda for that meeting, the meeting must resume as a continuation meeting in terms of rule 43 to deal with any unfinished business unless the date of the first ordinary meeting next ensuing is earlier than the date referred to in rule 43 in which case the unfinished business of an adjourned meeting is dealt with at that ordinary meeting.

**43. Continuation of an adjourned meeting**

- (1) A continuation meeting is held, subject to the provisions of sections 25(1) and 25(2) of the Finance Management Act, at the same time as the meeting that had been adjourned in terms of rule 41 or 42 on date within 30 days but not within two days after the adjournment unless otherwise directed by the chairperson of the meeting, determined by –
  - (a) the Speaker, in the case of a Council meeting;
  - (b) the Executive Mayor, in the case of a meeting of the Mayoral Committee; or
  - (c) the chairperson of the committee, in the case of any other committee.
- (3) The agenda for a continuation meeting is the agenda for the meeting that had been adjourned.

**44. Temporary adjournment of a meeting**

- (1) A Councillor may at any time during a meeting propose that the meeting be adjourned for a period proposed by him or her and must state the reasons for the proposal, provided that not more than two such proposals may be made during the same meeting and that no such adjournment may exceed thirty minutes.
- (2) Despite the provisions of sub-rule (1) the chairperson at a meeting may, if she or he is of the opinion that a third temporary adjournment of a meeting may facilitate the discussion and resolution of a matter, allow a third adjournment in terms of sub-rule (1).
- (3) A proposal in terms of sub-rule (1) must be seconded by at least three Councillors present at the meeting, provided that a Councillor may not second a proposal to adjourn more than twice during the same meeting. Such a proposal lapses if it is not properly seconded.
- (4) A proposal in terms of sub-rule (1) is carried if a majority of the members present at a meeting vote in favour thereof.
- (5) The meeting resumes after the expiry of the period referred to in sub-rule (1) and deals with any unfinished business contained in its agenda.

**Part 8: Agendas and minutes of meetings****45. Only matters included in the agenda are dealt with**

- (1) Subject to the provisions of sub-rules (2) and (5) only matters included in an agenda for a meeting may be dealt with.
  - (2) A councillor may at any time during a meeting propose that sub-rule (1) be suspended to allow discussion of any matter not included in the agenda and must give reasons for his or her proposal.
  - (3) A proposal in terms of sub-rule (2) need not be seconded and no debate about the proposal is allowed.
  - (4) A proposal referred to in sub-rule (2) is carried if the Councillors present at a meeting unanimously adopt it.
  - (5) An urgent report received from the Executive Mayor or a section 79-committee, as the case may be, may be tabled and considered during a Council meeting with the express prior permission of the Speaker.
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**45A. Tabling of documents and consideration of tabled documents**

- (1) Whenever the chairperson during a Council meeting puts the matter referred to in sub-rule 78(e) to the order, the Executive Mayor or a member of the Mayoral Committee designated by the Executive Mayor, or the Municipal Manager, as the case may be, shall –
- (a) rise;
  - (b) briefly state the nature of each document she or he shall table; and
  - (c) hand the documents referred to in that item up to the chairperson.
- (2) No debate regarding the tabling of a document shall be allowed at the time of its tabling, unless that document has been included in the agenda for the meeting concerned and it was distributed to the Councillors who must attend the meeting together with the notice of the meeting.
- (3) The chairperson at a meeting where a document is tabled that has not been included in the agenda for that meeting, shall ensure that the Municipal Manager take the necessary steps to ensure that such document shall be submitted –
- (a) to the Executive Mayor or relevant committee, if any; or
  - (b) at the first ordinary Council meeting next ensuing, as the case may be, provided that the Speaker -
    - (i) may at any time call a special meeting to deal with such a tabled document; or
    - (ii) shall call a special meeting of the Council if the subject matter dealt with in such a document requires the Council to deal with the matter before a specified date and no ordinary Council meeting is scheduled to take place before or on that date.

**46. Minutes of meetings and summary of evidence at hearings**

- (1) The Municipal Manager must keep, or cause to be kept, minutes of the proceedings of every public meeting of voters, public hearing, Council and committee meeting.
- (2) The minutes of a meeting must reflect-
- (a) the names of the Councillors attending;
  - (b) the names of the Councillors absent with or without leave;
  - (c) the names of the Councillors voting respectively for and against any matter for the decision of which a division is called;
  - (d) the name of any Councillor who demanded that his or her vote against any particular decision be recorded in the minutes;
  - (e) any adjournment of the meeting;
  - (f) any declaration of a personal or pecuniary interest by a Councillor;
  - (g) any advice of the Municipal Manager regarding possible unauthorised expenditure or resolutions beyond the authority of the Municipality; and
  - (h) the resolutions taken.
- (3) The minutes of a meeting must be delivered to the Councillors with the notice of the ensuing ordinary meeting or prior to delivering such a notice.
- (4) Minutes delivered in terms of sub-rule (3) are deemed read with a view to their approval.
- (5) No proposal regarding minutes, except a proposal relating to the accuracy thereof may be allowed.
- (6) The minutes of a meeting must, if in order, be approved at the next ordinary meeting of the Council or committee, as the case may be, provided that the Council must approve the minutes of a public meeting of voters.
- (7) The chairperson of the meeting must sign the minutes upon approval. If the minutes are written on loose sheets, each sheet must be signed.
- (8) The minutes relating to any matter, which had been discussed and resolved in closed session, must be clearly separated from the minutes of that part of the meeting that had been conducted in public.
- (9) Any Councillor or other person speaking at a meeting may request that his or her speech not be recorded. Upon receipt of such a request the Municipal Manager must cease such a recording.

**Rule 47 When Councillors may not attend and participate in the proceedings of the Council, Mayoral Committee or other committees**

- (1) A Councillor shall-
- (a) Disclose to the Council, or to any committee of which that Councillor is a member, any direct personal or private business interest that the Councillor, or the spouse, partner or business associate of that Councillor may have in any matter before the Council or the committee;
  - (b) Withdraw from the proceedings of the Council or committee meeting when the matter is being considered by the Council or committee, unless the Council or the committee decides by resolution, that the Councillor's direct or indirect interest in the matter is trivial or irrelevant. A Councillor who has so disclosed his/her interest may, with the approval of majority of the members of the Council or its committee, address the Council or committee on the matter prior to the deliberation and vote on the matter taking place, subject always to the ruling of the Speaker or chairperson on the time to be allowed for such an address.
  - (c) A Councillor who, or whose spouse, partner or business associate or close family member, acquires or stands to acquire any direct benefit from a contract concluded with the Municipality, must disclose full particulars of the benefit of which the Councillor is aware at the first meeting of the Council or committee of the Council at which it is possible for the Councillor to make a disclosure.
  - (d) This provision does not apply to an interest or benefit which a Councillor, or a spouse, partner or business associate or close family members, has or acquired in common with other residents and ratepayers of the Municipality.
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**Part 9: Deputation's, petitions, objections and representations Deputation's****48. Deputations**

- (1) Anybody who wishes to obtain an interview with the Council or a committee of the Council, must lodge a written application with the Municipal Manager. Such an application must state the representations the applicant wishes to make.
- (2) The Municipal Manager must submit the application to the-
  - (a) Speaker in the case of an application for an interview with the Council;
  - (b) Executive Mayor in the case of an application for an interview with the Mayoral Committee; or
  - (c) chairperson of the relevant committee in any other case who may grant or refuse the interview or request additional information.
- (3) Whenever the Speaker, Executive Mayor or chairperson of a committee-
  - (a) grants an interview, she or he must determine the date, time and venue of the interview and the size of the deputation that may attend the interview; or
  - (b) refuses an application, he or she must supply reasons for the refusal and inform the Municipal Manager of his or her decision.
- (4) The Municipal Manager must inform the applicant of a decision in terms of sub-rule (3).
- (5) If the subject matter of an application in terms of sub-rule (1) falls within the terms of reference of a committee the Speaker may direct that the chairperson of the relevant committee considers the application.
- (6) If a committee conducts an interview and that committee does not have the power to dispose of the matter, the committee must submit its report and recommendations to the Council or, in the case of a section 80- committee, to the Executive Mayor.
- (7) During an interview only one member of the deputation may address the meeting except when a Councillor asks a question whereupon any member of the deputation may respond.
- (8) Unless the Council or a committee conducts an interview in closed session, the members of a deputation may remain in the meeting whilst the Council or committee considers the matter after the interview had been completed.

**49. Attendance of Council meeting by the Auditor-General**

- (1) If the financial statements and audit report is presented to the Speaker or Executive Mayor in the circumstances contemplated in section 127(4) of the Finance Management Act, the Speaker or the Executive Mayor, as the case may be, shall present it to the relevant functionaries for comments and table it in the Council at the first ordinary meeting of the Council next ensuing.
- (2) Whenever the audit report is included in the agenda for a Council meeting, whether as part of the Municipality's annual report or not, the Municipal Manager must in writing invite the Auditor-General, the provincial treasury and the department responsible for local government to that meeting.
- (3) Despite any provisions in these rules and orders to the contrary, the Speaker may change the order of business at a meeting referred to in sub - rule (1) to allow the Auditor-General to address the Council and Councillors to ask questions with regard to the audit report and audit findings.

**50. Petitions**

- (1) A Councillor must submit a petition received by him or her to the Speaker.
- (2) The Municipal Manager must inform the Speaker of any petition he or she receives.
- (3) Any petition in terms of sub-rules (1) or (2) and any petition received by the Speaker, must be referred to the relevant committee or the Executive Mayor, as the case may be, who may dispose of the matter in accordance with a policy approved by Council.
- (4) If the committee or the Executive Mayor to whom a petition had been referred does not have the power to dispose of the matter, the committee or the Executive Mayor, as the case may be, must submit its report and recommendations to the Council.

**51. Objections and representations**

- (1) Whenever the Municipality invites public comment, representations or objections with regard to any proposed resolution before the Council or a resolution the Council had taken, the Municipal Manager must designate a person who will be responsible for the receipt of such comment, representations or objections.
- (2) The person designated in terms of sub-rule (1) must within seven days after the closing date for comments, representations or objections, make a summary of the comments, representations and comments that were received (if any) and submit it to the relevant departmental head.
- (3) The departmental head must consider the summary and submit it, together with his or her report and recommendations to the Municipal Manager who must refer it, with his or her comments, to the Council or the Executive Mayor or the relevant committee, as the case may be.
- (4) The Executive Mayor or committee, as the case may be, must consider the summary and report and recommendations of the departmental head and the comments of the Municipal Manager and submit the matter to the Council together with their recommendations.

**Part 10: Questions****52. Questions of which notice had been given**

- (1) A Councillor may at any time submit a written question he or she intends to ask during a Council meeting or a meeting of a committee of which he or she is a member to the Municipal Manager, provided that such question must be submitted to the Municipal Manager at least ten work days before the meeting where the question will be asked. A Councillor may request the Municipal Manager, to assist him or her to formulate the question.
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- (2) The Municipal Manager must immediately upon receipt of a question in terms of sub-rule (1), provide a copy thereof to the relevant departmental head and instruct him or her to prepare a reply to the question. The Municipal Manager may direct a departmental head to which he or she has sent the question to consult with any other departmental head before he or she prepares the answer.
- (3) Provided the question had been received at least ten workdays before the scheduled date of the meeting where the question would be asked, the Municipal Manager must ensure that the question and the answer thereto is included in the agenda for the first ordinary meeting of the Council or committee next ensuing where the question will be asked.

### 53. Questions during meetings

- (1) A Councillor may at a meeting of the Council or a committee of which he or she is a member, ask a question-
- (a) regarding a matter arising from or pertaining to an item contained in the agenda; or
- (2) The chairperson of the meeting may allow the question if, in his or her opinion, it affects the interests of the residents within the municipal area and may respond to it or direct another Councillor to respond to it.
- (3) No discussion of the question or the answer thereto is allowed.
- (4) If the answer to the question is unclear to the Councillor who asked it, he or she may ask for, and is entitled to, an explanation of the answer.
- (5) The chairperson of the meeting where the question is asked may, with the concurrence of the Councillor who asked the question, reply at the first ordinary meeting of the Council or the committee next ensuing, as the case may be.
- (6) A question may only be asked during a meeting to solicit factual information and may not deal with matters of policy except the implementation of policy, nor seek to solicit an opinion or include or amount to a statement of fact.

## Part 11: Motions

### 54. Motion must be in written form

- (1) A Councillor may put a matter on the agenda of a committee of which he or she is a member or of the Council by submitting a written motion to the Municipal Manager, provided that a Councillor may orally request the Municipal Manager to include a motion in the agenda for the first ordinary meeting of such committee or the Council next ensuing.
- (2) When the Municipal Manager receives an oral request from a Councillor in terms of sub rule (1), he or she must reduce the request to writing, or cause it to be reduced to writing and include it in the relevant agenda.

### 55. Submission and limitation of motions

- (1) With due regard for the provisions of sub-rule (4) a motion in terms of rule 54 must be included in the agenda for the first ordinary meeting next ensuing of the Council or the committee concerned, provided it had reached the Municipal Manager at least forty-eight hours before the date referred to in rule 10(1).
- (2) Only one motion of a Councillor may be considered at a meeting.
- (3) If the introducer of a motion is absent during the meeting when the motion is put to the order, it is deferred to the ensuing ordinary meeting of the Council or committee, as the case may be.
- (4) Any motion which-
- (a) contemplates the repeal or amendment of a resolution taken during the preceding three months; or
- (b) has the same scope as a motion that had been rejected during the preceding three months may not be included in the agenda.

### 56. Withdrawal and amendment of motions

- (1) With due regard for any provisions to the contrary in these rules and orders, the introducer of a motion may, at any time before the motion is put to the order at a meeting, withdraw it. A motion that has been withdrawn lapses without further discussion.
- (2) The introducer of a motion may, during a meeting where the motion is considered, request permission to amend the motion, which permission must be granted or denied without discussion.

## Part 12: Subject matter and consideration of motions and proposals

### 57. Right of introducer of motion to speak and reply

The introducer of a motion in terms of rule 54 has the right, if the motion had not been rejected or withdrawn, to introduce the motion and to reply.

### 58. Motion or proposal regarding the budget

- (1) The Executive Mayor must introduce the draft budget or a revised draft budget or a draft adjustments budget (in this rule the "draft budget") at a Council meeting-
- (a) which may not be closed for the public and the press and
- (b) of which at least ninety-six hours' notice had been given, despite the provisions of rule 10(1).
- (2) The Councillor who introduces the draft budget must address the following matters when he or she introduces that budget:
- (a) The expected financial performance of the Municipality for the financial year during which the draft budget is tabled and the reasons therefore;
- (b) An evaluation of the Municipality's debt collection, credit control, indigent support and tariff policies, procedures and the implementation thereof;

- (c) Any proposed strategies, plans and programmes to improve the financial performance of the Municipality during the next financial year or the remainder of the current financial year in the case of a revised draft budget or draft adjustments budget;
  - (d) The procedure, with specific reference to community participation and consultation with different constituencies, which had been followed in compiling the draft budget;
  - (e) The impact that such participation and consultation and public hearings had on the draft budget;
  - (f) The priority needs in the community that will be addressed in the draft budget and how they were determined and quantified;
  - (g) The factors, expectations and assumptions that influenced the draft budget;
  - (h) Key ratios of expected income from different sources of revenue to overall expected income and main expenditure groups to expected expenditure, differentiating between capital and operating expenditure;
  - (i) Proposals regarding borrowing, if any, and the likely impact of borrowing on rates, taxes, tariffs and charges;
  - (j) The extent to which the draft budget give effect to the Municipality's integrated development plan;
  - (k) Proposals regarding increases in rates, taxes, tariffs and charges;
  - (l) Any other relevant matter.
- (3) A proposal that will cause an increase in expected revenue or a decrease in expected expenditure may not be put to the vote until the debate on the draft budget is exhausted. When the debate is exhausted and the Councillor introducing the draft budget had replied to any proposals made during the debate, the proposals is put to the vote in the order they were made.
- (4) A proposal that will cause an increase in expected revenue or a decrease in expected expenditure changes the draft budget when it is carried.
- (5) A proposal that will cause a decrease in expected revenue does not change the budget until and unless a corresponding saving in expenditure is proposed and carried. If such proposal is not forthcoming, the meeting adjourns in terms of rule 42.
- (6) A proposal that will cause an increase in expected expenditure does not change the draft budget until and unless an increase in rates, tariffs, charges or taxes that will cover the expected increase in expenditure is proposed and carried. If such proposal is not forthcoming, the meeting adjourns in terms of rule 42.
- (7) If the amount saved or earned in terms of a proposal referred to in sub-rule (5) or (6) is insufficient to cover the expected shortfall, the draft budget is not amended but it is referred back to the Executive Mayor and the meeting adjourns in terms of rule 42.
- (8) At the continuation meeting in terms of rule 43, any proposal contemplated in sub-rule (5) or (6) and the comment of the Councillor introducing the draft budget with regard to it is debated.
- (9) The Speaker must put each proposal referred to in sub-rule (7) to the vote when the debate in terms of sub rule (8) is exhausted. Should any such proposal be carried, the draft budget is changed accordingly.
- (10) If no proposal as referred to in sub-rule (3) is made or immediately after the debate referred to in sub-rule (9) had been exhausted, the Speaker must put the amended draft budget to the vote as a whole. If the amended draft budget is adopted, the budget is approved.

**59. Motion or proposal regarding legislation**

A motion or proposal before the Council affecting the repeal, drafting or amendment of legislation must, before the Council considers it, be referred to and considered by the appropriate section 80-committee for its report and recommendations.

**60. Eligible proposals**

- (1) With due regard for the provisions of rule 19(1)(c) to (f), only the following proposals may be made during the discussion of any motion, proposal or matter contained in an agenda, namely-
- (a) that the motion or proposal be amended;
  - (b) that the matter be referred back to the relevant committee for further consideration;
  - (c) that consideration of the matter be deferred;
  - (d) that the debate be suspended;
  - (e) that the matter be put to the vote;
  - (f) that the meeting continues to the next matter.
- (2) Any proposal in terms of sub-rule (1) may only be subjected to the vote if it had been properly seconded.

**61. Amendment of the motion or proposal**

- (1) A proposal that a motion or proposal (hereafter the "original motion") be amended, may only be made by a Councillor during his or her speech on the original motion.
- (2) No Councillor may make more than one proposal for the amendment of the same original motion.
- (3) A proposal in terms of sub-rule (1) must be relevant to the original motion and the chairperson must clearly repeat it to the meeting before it is put to the vote.
- (4) With due regard for sub-rule (5) more than one amendment of an original motion may be introduced. Every amendment introduced must be put to the vote at the close of the debate.
- (5) If a proposal in terms of sub-rule (1) had been made, no other proposal may be made until its introducer had addressed the meeting. The Councillor who made the proposal may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (6) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and its introducer had spoken in terms of sub-rule(5), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.

- (7) If more than one amendment on an original motion had been introduced, they must be put to the vote in the order they were made. If any amendment is carried, the amended motion or proposal takes the place of the original motion and becomes the motion or proposal in respect of which any further proposed amendments must be put to the vote.

**62. Referring the matter back**

- (1) A proposal that a motion or proposal (hereafter the "original motion") be referred back, may only be made by a Councillor during his or her speech on the original motion.
- (2) A proposal in terms of sub-rule (1) may only be made during a Council meeting in the case of a recommendation by the Executive Mayor or a section 79-committee. A proposal in terms of sub-rule (1) may only be made during Mayoral Committee meeting in the case of a recommendation of a section 79-committee.
- (3) If a proposal in terms of sub-rule (1) had been made, no other proposal may be made until its introducer had addressed the meeting. The Councillor who made the proposal may address the meeting for three minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and after its introducer had spoken in terms of sub-rule (3), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) A proposal in terms of sub-rule (1) may not be put to the vote until the Executive Mayor or the chairperson of the relevant committee, as the case may be, had addressed the meeting. If such proposal is carried, the debate on the recommendation must end and the meeting proceeds to the next matter.

**63. Deferring consideration of the matter**

- (1) A Councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may at the end of a speech about the original motion propose that the matter be deferred.
- (2) The Councillor who made the proposal in terms of sub-rule (1) may address the meeting for three minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of sub-rule (1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and its introducer had spoken in terms of sub-rule (2), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) If the proposal in terms of sub-rule (1) concerns a recommendation of the Executive Mayor or a section 79-committee, the matter must, if that proposal is carried, be included in the next report of the Executive Mayor or section 79-committee to the Council. If the proposal in terms of sub-rule (1) concerns a recommendation of the section 79-committee, the matter must, if that proposal is carried, be included in the next report of the committee to the Mayoral Committee. If the proposal in terms of sub-rule (1) concerns any other matter, the matter must be included in the agenda of the first ordinary Council meeting next ensuing.

**64. Suspending a debate**

- (1) A Councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may at the end of a speech about the original motion propose that the debate be suspended, provided that no Councillor may move or second more than one proposal that a debate be suspended during any meeting.
- (2) The Councillor who made the proposal in terms of sub-rule (1) may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of sub-rule (1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and after its introducer had spoken in terms of sub-rule (2), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) A proposal in terms of sub-rule (1) must be rejected if the Council or committee, as the case may be, is required by law to pass a resolution on the matter at or before a particular date.
- (6) If a proposal in terms of sub-rule (1) is carried, the meeting must deal with the next item on the agenda. The item, in respect of which the debate had been suspended, must be placed first on the list of motions in the next agenda of the Council or committee, as the case may be.
- (7) At the resumption of a suspended debate, the introducer of the suspension must address the meeting first.

**65. Putting the matter to the vote**

- (1) A Councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may at the end of a speech about the original motion propose that the matter be put to the vote.
- (2) The Councillor who made the proposal in terms of sub-rule (1) may address the meeting for three minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of sub-rule (1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
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- (4) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and its introducer had spoken in terms of sub-rule (2), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) The introducer of the original motion has the right, before the matter is put to the vote, to reply.

**66. Proceeding to the next business**

- (1) A Councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may at the end of a speech about the original motion propose that the meeting proceed to the next business.
- (2) The Councillor who made the proposal in terms of sub-rule (1) may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of sub-rule (1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and its introducer had spoken in terms of sub-rule (2), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion or proposal without any further discussion.
- (5) A proposal in terms of sub-rule (1) must be rejected if the Council or committee, as the case may be, is required by law to pass a resolution on the matter at or before a particular date.
- (6) If the proposal in terms of sub-rule (1) is carried the matter under discussion lapse without further discussion.

**Part 13: Applications by Councillors**

**67. Applications to obtain a financial interest in Council business**

- (1) A Councillor must lodge a written application with the Municipal Manager to obtain the Council's consent in terms of item 6(2) of the code of conduct.
- (2) The Municipal Manager must submit an application in terms of sub-rule (1) to the Council at the earliest opportunity.
- (3) A Councillor who submitted an application in terms of sub-rule (1) may not be present during the consideration of his or her application.
- (4) The Council may not close its meeting whilst it considers an application in terms of sub-rule (1).
- (5) The Council may grant or refuse an application and may impose conditions when it grants an application.
- (6) Whenever the Council refuses an application in terms of sub-rule (1) it must state the reasons for its refusal.

**68. Disclosure of declared interests**

- (1) The Municipal Manager must compile a register of the financial interests of Councillors declared in terms of item 7(1) of the code of conduct.
- (2) As soon as the Municipal Manager has completed the register referred to in sub-rule (1) he or she must submit it to the Council.
- (3) The Council must on receipt of the register in terms of sub-rule (2) during a closed meeting determine which of the declared financial interests must be made public having regard for the need for confidentiality and the need for public disclosure.
- (4) A Councillor who has declared an interest that is recorded in the register may not be present during the consideration of the matter.
- (5) Any interest declared in terms of this rule that had not been made public, is confidential.

**69. Resignation of Councillors and vacancies in offices**

- (1) A Councillor may, by written withdrawal within 48 hours after the said meeting signed by him or her and delivered to the Municipal Manager, resign-
  - (a) as Councillor; or
  - (b) from any office he or she holds.
- (2) A Councillor may resign from office at any time during a Council or committee meeting by making a declaration to the Council or committee in that regard, provided that the she or he must immediately after such a declaration, resign in writing. A declaration in terms of this rule may not be withdrawn.
- (3) If the resignation was that of the Speaker or Executive Mayor, as the case may be, the Council must as soon as the resignation of the Councillor concerned in terms of sub-rule (2) had been reduced to writing, signed and given to the Municipal Manager, elect a Speaker, Executive Mayor, despite the provisions of rule 23 or 24, as the case may be.
- (4) A resignation in terms of sub-rule (1) or (3) may not be withdrawn and takes effect upon receipt thereof by the Municipal Manager. If the Executive Mayor resigns, the members of the Mayoral Committee are deemed to have resigned from the same date as the Executive Mayor.
- (5) The Municipal Manager must immediately upon receipt of a resignation of a Councillor or when a vacancy arises in the Council in any other manner report it to the Speaker, except when the resignation or vacancy is that of the Speaker. If the resignation or vacancy is that of the Speaker the Municipal Manager must report to the Executive Mayor.
- (6) The Municipal Manager must ensure that any resignation or a report of any vacancy arising in another manner is contained in the agenda for the next ordinary Council meeting after the vacancy arose.
- (7) The Council at the meeting where a vacancy in an office of the Council is reported, elect from amongst the Councillors a successor for the Councillor who left the vacancy. A Councillor elected to an office in terms of this sub-rule serves for the unexpired term of his or her predecessor.

**Part 14: Full-time Councillors****70. Designation of full-time Councillors**

Before the Council considers designating any Councillor identified by the MEC as a possible full-time Councillor, it must obtain and consider a report from the Municipal Manager, provided that the Municipal Manager must submit such a report at the first meeting of the Council after a general election of Councillors.

**71. Report of the Municipal Manager with regard to full-time Councillors**

- (1) A report in terms of rule 70, must reflect on-
- (a) the extent of the powers and functions of the Municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance to a full-time Councillor;
  - (c) proposed powers that could be delegated to a full-time Councillor and where there may be more than one full-time Councillors, the different powers that may be delegated to each of them;
  - (d) the reasons not to delegate any such power or function to an employee of the Municipality;
  - (e) the available financial and administrative resources of the Municipality to support the work of a full-time Councillor or Councillors, including the availability or cost of establishing and maintaining suitable office facilities, office equipment and secretarial assistance;
  - (f) the need for the economical, efficient and effective use of resources;
  - (g) the burden the workload of a full-time Councillor may put on the incumbent;
  - (h) the need for coordination of decision-making;
  - (i) the need for the regular availability of a Councillor to interview the public and visitors to the Municipality;
  - (j) the need for close political supervision of, and accountability for, the administration;
  - (k) the likely improvement or deterioration of the relationship between the Council and the administration;
  - (l) the need to establish and maintain sound relationships between office-bearers in the different spheres of government;
  - (m) the likely effect delegated powers may have on the enthusiasm and interest of Councillors who are not full-time Councillors;
  - (n) the functions a full-time Councillor must perform as a duty of office;
  - (o) the likely improvement or deterioration in the quality and speed of decision-making if an office is not a full-time office; and
  - (p) any other relevant matter.
- (2) The report must contain recommendations with regard to-
- (a) the working hours of a full-time Councillor as contemplated in rule 72(1);
  - (b) arrangements with regard to the provision of office facilities and equipment and secretarial support to the full-time Councillor and a proposed budget for such facilities and services where they are inadequate;
  - (c) the powers that may be delegated to the full-time Councillor and where there may be more than one full-time Councillor, the different powers that may be delegated to each of them;
  - (d) the format, frequency and framework for reports on the activities of the full-time Councillor and the exercise of his or her delegated powers;
  - (e) the specification and clarification of the role and responsibility of the full-time Councillor or Councillors and the Municipal Manager and departmental heads of the Municipality, with due regard for the statutory duties and responsibilities of the Municipal Manager; and
  - (f) any other relevant matter.
- (3) The designation of a Councillor as a full-time Councillor does not establish an employment relationship between the Municipality and the Councillor concerned.

**72. Applications by full-time Councillors to undertake other paid work**

- (1) The Council must, when it designates a Councillor as a full-time Councillor, determine the working hours for the office held by that Councillor.
- (2) A Councillor who was designated as a full-time Councillor may apply for permission of the Council to undertake other paid work (in this rule "private work").
- (3) An application for private work must be lodged in writing with the Municipal Manager and must state the following:
- (a) the nature of the private work the applicant wishes to undertake;
  - (b) an estimation of the demands such work will make on the time and availability of the applicant; and
  - (c) where such work will be performed.
- (4) The Council may grant or refuse an application for private work, provided that-
- (a) permission to perform private work may not be unreasonably refused; and
  - (b) when the Council refuses an application it must state the reasons for its refusal.
- (5) The meeting where an application for private work is considered may not be closed.
- (6) The applicant may not be present at a meeting during the discussion of the application, provided that the Speaker may request the applicant to supply such information as the Council may request during that meeting. Whenever such a request is made to the applicant, the applicant may supply the requested information orally during the meeting.
- (7) The Council may, before it considers an application for private work, request that additional information with regard to the intended work as may be necessary for the proper consideration of the application be submitted in writing.
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- (8) The granting of permission to undertake private work is valid for only twelve months after which the Councillor concerned must submit a new application and is subject to the following conditions:
- (a) private work may only be undertaken outside the working hours contemplated in sub-rule (1);
  - (b) private work may not negatively influence the applicant's performance in office or infringe on his or her official functions and duties;
  - (c) no appointments or other arrangements in connection with private work may be made or conducted during the working hours contemplated in sub-rule (1);
  - (d) the applicant may not use the Council's equipment, employees, facilities or material for his or her private work;
  - (e) the Council's postal address, telephone and fax numbers and electronic mail address may not be used in connection with private work;
  - (f) private work may not cause the applicant to breach the provisions of the code of conduct;
  - (g) the Councillor may not use his or her position with the Council to recruit private work; and
  - (h) any other condition as the Council may determine.
- (9) Any permission in terms of this rule does not exempt a Councillor from complying with the code of conduct neither is such permission a defence against any allegation of a breach of the code.
- (10) An application for private work must be refused if, in the opinion of the Council, there may exist, or there is likely to arise, a conflict of interest between the Councillor's duties as a Councillor and those of his or her private work.
- (11) The Council may, by notice to the Councillor concerned, withdraw its permission to perform private work if there was a material breach of the conditions stipulated in sub-rule (7) or a conflict of interest arise as contemplated in sub-rule (10). Such a notice must contain the reasons for the withdrawal and must site the breaches of the conditions that occurred.
- (12) Before the Council issues a notice in terms of sub-rule (11) it must allow the Councillor concerned an opportunity to state his or her case.
- (13) Any refusal of an application or a withdrawal of permission already granted is final and binding on the Councillor concerned.
- (14) An application that had been refused may only be reconsidered after expiry of a period of six months from the date of the resolution refusing the application, provided the Councillor concerned submits a new application. A new application for private work may not be considered within six months after permission to perform private work had been withdrawn in terms of sub-rule (11).

### **73. Leave of full-time Councillors**

- (1) A full-time Councillor is entitled to-
- (a) 21 work days' holiday leave with full remuneration after every completed year he or she occupied a full-time office of which 15 consecutive days must be taken within six months after the end of each such year;
  - (b) 10 work days' sick leave with full remuneration during every completed year he or she occupied a full-time office, provided that the Council may grant more sick leave to a Councillor; and
  - (c) such other leave with or without remuneration as the Council may decide.
- (2) A Councillor may not encash holiday leave to his or her credit.

## **CHAPTER 3 LANGUAGE POLICY OF THE MUNICIPALITY**

### **74. Determination of language policy**

The Council must at its third meeting after a general election for Councillors review the language policy of the Municipality in terms of rule 77 and, where such policy does not exist, instruct the Municipal Manager to develop a draft policy and submit it to the Council.

### **75. Differentiation between languages for different purposes**

The Council may determine that one or more languages be used-

- (a) for the purposes of local government in the Municipality;
- (b) for internal written communications relating to the operations of the Municipality;
- (c) for the preparation of agendas for, and minutes of, meetings;
- (d) during debates in Council and committee meetings;
- (e) during public meetings of voters, constituency meetings and public hearings;
- (f) for written communication with persons communicating with the Municipality, including the language or languages used for billing the Municipality's debtors;
- (g) for public announcements and courtesy and official notices of the Municipality;
- (h) for the promulgation of its bylaws;
- (i) for the compilation of the municipal code in terms of section 19 of the Systems Act; and
- (j) on forms used or issued by the Municipality.

### **76. Factors to be taken into account**

When the Council determines a language policy it must take the following factors into account:

- (a) The need to take practical and positive steps to elevate the status and advance the use of indigenous languages that are official languages in terms of section 6(1) of the Constitution;
  - (b) Language usage and preferences of the residents within the municipal area;
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- (c) The practicability and expense of choosing any particular language or languages;
- (d) The right of an employee accused of misconduct to state his or her case during a disciplinary enquiry in a language of his or her choice and to have the proceedings at such enquiry translated to such language;
- (e) The dominant languages used by newspapers circulating in the area;
- (f) The right of everyone to use the language of their choice;
- (g) The economical, efficient and effective use of resource;

#### **77. Review of language policy**

- (1) The Council may at any time review and amend its language policy, having due regard for the factors referred to in rule 76.
- (2) The Council must review its language policy upon receipt of a written request demanding such a review signed by at least one-third of the Councillors.
- (3) A request in terms of sub-rule (2) must state the reasons for the demand and must contain proposals for any amendment, taking into account the factors referred to in rule 76.
- (4) A request in terms of sub-rule (2) must be submitted to the Municipal Manager.
- (5) The Municipal Manager must submit a copy of the request to the Speaker and must ensure that the request is contained in the agenda for the first ordinary Council meeting next ensuing.
- (6) The Speaker must submit a written report and recommendations about the request to the Municipal Manager, who must include it in the agenda for the meeting referred to in sub-rule (5).

### **CHAPTER 4**

#### **ORDER OF BUSINESS AT MEETINGS**

#### **78. Order of business at ordinary Council meetings**

The order of business at an ordinary Council meeting, except the first meeting of the Council after a general election of Councillors, is as follows:

- (a) Opening
- (b) Applications for leave of absence
- (c) Official announcements of the Speaker
- (d) Reports of the Speaker in terms of rules (15(1) report on removal absent without leave) and 93 (4) report on breach on code of conduct) (if any)
- (e) Tabling of documents prescribed by statute or these rules and orders (if any)
- (f) Applications and appeals from Councillors in terms of rules 14(1), 67 and 72 (if any)
- (g) Reports received from the Speaker
- (h) Motions of sympathy and congratulations by the Speaker
- (i) Motions of sympathy and congratulations by other Councillors
- (j) Deputation's and interviews
- (k) Disclosure of interest
- (l) Approval of Minutes of the previous meeting/s
- (m) Matters deferred from the previous meeting
- (n) Questions of which notice were given
- (o) Reports of section 79-committees (if any)
- (p) Motions
- (q) Report of the Executive Mayor
- (r) Reports of decisions taken under delegated powers
- (s) Closing

#### **78A. Order of business at Special Council meetings**

The order of business at a Special Council meeting is as follows:

- (a) Opening
  - (b) Applications for leave of absence
  - (c) Official announcements of the Speaker
  - (d) Motions of sympathy and congratulations by the Speaker
  - (e) Motions of sympathy and congratulations by other Councillors
  - (f) Disclosure of interest
  - (g) Reports for consideration
  - (h) Reports received from Speaker
  - (i) Motions of sympathy and congratulations by other Councillors
  - (j) Deputation's and interviews
  - (k) Approval of Minutes of the previous meeting/s
  - (l) Matters deferred from the previous meeting
  - (m) Questions of which notice were given
  - (n) Reports of section 79-committees (if any)
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- (o) Motions
- (p) Report of the Executive Mayor
- (q) Reports of decisions taken under delegated powers
- (r) Closing

Provided that the Speaker may vary the sequence or add any item before or during the meeting as he/she deems fit.

**79. Order of business at the first Council meeting after a general election of Councillors**

The order of business at the first meeting of a Council after a general election of Councillors is as follows:

- (a) Opening
- (b) Applications for leave of absence
- (c) Election of Speaker
- (d) Motion of congratulations of the Municipal Manager
- (e) Motions of congratulations from Councillors
- (f) Acceptance speech of the Speaker
- (g) Election of Executive Mayor
- (h) Election of Council Whip
- (i) Election of representatives in the district Municipality
- (j) Election of representative in SALGA FS's governance structures
- (k) Closing

Provided that the Speaker may vary the sequence or add any item before or during the meeting as he/she deems fit.

**80. Order of business at ordinary Mayoral Committee or ordinary committee meetings**

The order of business at an ordinary Mayoral Committee or ordinary committee meeting is as follows:

- (a) Opening
- (b) Applications for leave of absence
- (c) Official announcements
- (d) Motions of sympathy and congratulations
- (e) Disclosure of interests
- (f) Minutes of the previous meeting
- (g) Matters deferred from the previous meeting
- (h) Deputation's and interviews
- (i) Reports for consideration
- (j) Closing

Provided that the Executive Mayor may vary the sequence or add any item before or during the meeting as he/she deems fit.

**80A. Order of business at Special Mayoral Committee or Special Committee meetings**

The order at a Special Mayoral Committee or Special Committee meeting is as follows:

- (a) Opening
- (b) Applications for leave of absence
- (c) Official announcements
- (d) Motions of sympathy and congratulations
- (e) Disclosure of interests
- (f) Reports for consideration
- (g) Closing

**CHAPTER 5**

**VOTING AND DECISION-MAKING**

**81. Voting at public meetings of voters and constituency meetings**

- (1) Questions submitted and proposals made at a public meeting of voters or a constituency meeting is decided by show of hands of the voters present at that meeting.
- (2) The chairperson of the meeting may request the Municipal Manager to take all reasonable steps to ensure that only voters vote at such a meeting.
- (3) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

**82. Decision only taken in certain circumstances**

No decision may be taken unless the Council or a committee has sufficient information before it to take an informed decision. Such information must preferably be contained in a written report.

**83. Voting at Council and committee meetings**

- (1) Voting in a Council or committee meeting is by show of hands, unless a Councillor requests a secret ballot on any matter. The request for a secret ballot must be supported by at least a majority of members present. When such a request is received the provisions of rule 85 applies.
- (2) After the chairperson has declared the result of a vote a Councillor may demand-
  - (a) that his or her vote against the decision be recorded or
  - (b) a division.
- (3) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

**84. When a division is called**

- (1) When a division is called in terms of rule 83, all entrances to the venue of the meeting must be closed and no Councillor may leave or enter the venue after the entrances had been closed until the result of the division was declared.
- (2) Immediately thereafter the chairperson of the meeting must repeat the motion or proposal, put the motion or proposal to the vote and take the vote of each Councillor separately.
- (3) The chairperson must declare the result of the vote after all the Councillors had been polled.
- (4) When a division is called, every Councillor must vote for or against the proposal or motion in respect of which the division had been called.
- (5) A Councillor who called for a division may not leave the venue of the meeting until the result of the vote had been declared.
- (6) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

**85. Voting by secret ballot**

- (1) The Municipal Manager must ensure that a sufficient supply of ballot papers that substantially comply with the following design, is available at each meeting:



“People’s power  
in action”

Date: .....

Proposal or motion to be voted for	Councillor’s vote (X)
1.	
2.	

- (2) Immediately after the request that a secret ballot be held had been seconded, and the Speaker has approved, the Municipal Manager must give to each Councillor present a ballot paper. It is in the discretion of the Speaker to allow a secret ballot or not. No debate on the request for a secret ballot on the decision may be held.
- (3) Upon receipt of a ballot paper the Councillor must indicate his or her vote by clearly marking whether he or she is for or against the proposal concerned whereupon he or she must fold the ballot paper in half and hand it back to the Municipal Manager.
- (4) When all the Councillors present has handed their ballot papers back, the Municipal Manager must determine the result of the ballot and inform the chairperson thereof.
- (5) The fact that a secret ballot had been held must be recorded in the minutes of that meeting.
- (6) All used ballot papers must be destroyed upon conclusion of the meeting.
- (7) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

**86. Equality of votes**

- (1) Unless a specific majority had been prescribed in respect of any matter, including matters referred to in Section 160(2) of the Constitution of the Republic of South Africa 1996, or when a secret ballot is conducted or when expressly stated otherwise in these rules and orders, the chairperson at a meeting may cast a casting vote where there is an equality of votes on any question in addition to his or her deliberative vote.
- (2) Should there be an equality of votes after a division had been called and the chairperson refuses to use his or her casting vote, the matter must be referred back to the Executive Mayor or relevant section 79-committee or must be deferred until the next meeting if there is not a committee or an Executive Mayor.
- (3) Should there be an equality of votes after a secret ballot had been conducted, the matter must be referred back to the Executive Mayor or relevant section 79-committee or must be deferred until the next meeting if there is not a committee or an Executive Mayor.
- (4) In all cases other than those mentioned in sub-rules (2) and (3) where there is an equality of votes and the chairperson refuses to use his or her casting vote, the matter must be referred back to Executive Mayor or relevant section 79-committee or must be deferred until the next meeting if there is not a committee or an Executive Mayor.

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## CHAPTER 6 REMOVAL OF OFFICE-BEARERS FROM OFFICE

### 87. Removal of Speaker

- (1) A Councillor (hereafter called "the initiator") may by written motion, which must be seconded by one third of Councillors, move that the Speaker be removed from office. Such a motion must be submitted to the Office of the Municipal Manager in writing.
- (2) The motion must contain a brief summary of the reasons for the motion.
- (3) A motion in terms of sub-rule (1) may, despite the provisions of rule 56, not be withdrawn.
- (4) The Municipal Manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the Speaker.
- (5) Unless the Speaker resigns upon receipt of a motion in terms of sub-rule (1), he or she must forthwith upon receipt thereof determine the date, time and venue for a special Council meeting in terms of rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the Speaker received a copy of the motion from the Municipal Manager.
- (6) Despite the provisions of rule 10(1) at least seven days' notice of a meeting in terms of sub-rule (5) must be given to every Councillor.
- (7) If the Speaker resigns from office at any time before a meeting in terms of sub-rule (5) takes place, the motion lapses and the meeting does not go ahead.
- (8) The meeting may not be closed for the public or the media before a vote had been taken on a motion in terms of sub-rule (1).
- (9) The Municipal Manager presides over the proceedings on a motion in terms of sub-rule (1) but he or she may not -
  - (a) vote on the question;
  - (b) make any judgement or express any opinion regarding the substance of any allegation made or reason supplied for or during the debate in support or opposition of the motion.
- (10) The Speaker has the right and must be allowed the opportunity during the proceedings to-
  - (a) respond to every allegation made in the motion and during the proceedings;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
  - (c) submit documents and to examine any documents submitted by the initiator, provided that if the Speaker is not present during the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the Speaker is carried if a majority of the Councillors of the Municipality votes in favour of it.
- (11) With due regard for rules 35 and 36, the Municipal Manager must put the motion to the vote after the debate had been exhausted.
- (12) If the Speaker at any time during the proceedings but before the motion is put to the vote, make a declaration in terms of rule 69(2), the proceedings are discontinued immediately and the motion lapses and the Council proceeds to elect a new Speaker despite any provisions to the contrary in these rules and orders.
- (13) If the motion is carried, the Speaker is removed from office with immediate effect and the Council proceeds to elect a new Speaker despite any provisions to the contrary in these rules and orders.
- (14) A Councillor elected as Speaker in terms of sub-rule (12) or (13) serve for the unexpired term of his or her predecessor.
- (15) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next six months unless the Council directs otherwise.

### 88. Removal from office of the Executive Mayor

- (1) A Councillor (hereafter called "the initiator") may by written motion, which must be seconded by one third of Councillors, move that the Executive Mayor be removed from office. Such a motion must be submitted to the Office of the Municipal Manager in writing.
  - (2) The motion must contain a brief summary of the reasons for the motion.
  - (3) A motion in terms of sub-rule (1) may, despite the provisions of rule 56, not be withdrawn.
  - (4) The Municipal Manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the Council Whip, Speaker and the Executive Mayor.
  - (5) The Speaker must forthwith upon receipt of the motion determine the date, time and venue for a special Council meeting in terms of rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the Speaker received a copy of the motion from the Municipal Manager.
  - (6) Despite the provisions of rule 10(1) at least seven days' notice of a meeting in terms of sub-rule (5) must be given.
  - (7) If the Executive Mayor resigns from office at any time before a meeting in terms of sub-rule (5) takes place, the motion lapses and the meeting does not go ahead.
  - (8) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
  - (9) The Speaker presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote.
  - (10) The Executive Mayor has the right and must be allowed the opportunity during the proceedings to-
    - (a) respond to every allegation made in the motion and during the debate;
    - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
    - (c) submit documents and to examine any documents submitted by the initiator, provided that if the Executive Mayor is not present during the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the Executive Mayor is carried if a majority of the Councillors of the Municipality votes in favour of it.
  - (11) With due regard for the provisions of rules 35 and 36, the Speaker must put the motion to the vote after the debate had been exhausted.
  - (12) If the Executive Mayor at any time during the debate but before the motion is put to the vote make a declaration in terms of rule 69(2), the debate is discontinued immediately and the motion lapses and the Council proceeds to elect a new Executive Mayor despite any provisions to the contrary in these rules.
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- (13) If the motion is carried, the Executive Mayor is removed from office with immediate effect and the Council proceeds to elect a new Executive Mayor despite any provisions to the contrary in these rules.
- (14) A Councillor elected as Executive Mayor in terms of sub-rule (12) or (13) serve for the unexpired term of his or her predecessor.
- (15) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next six months unless the Council directs otherwise.

#### **88A. Removal from office of the Council Whip**

- (1) A Councillor (hereafter called "the initiator") may by written motion, which must be seconded by one third of Councillors, move that the Council Whip be removed from office. Such a motion must be submitted to the Office of the Municipal Manager in writing.
- (2) The motion must contain a brief summary of the reasons for the motion.
- (3) A motion in terms of sub-rule (1) may, despite the provisions of rule 56, not be withdrawn.
- (4) The Municipal Manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the Council Whip, Speaker and the Executive Mayor.
- (5) The Speaker must forthwith upon receipt of the motion determine the date, time and venue for a special Council meeting in terms of rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the Speaker received a copy of the motion from the Municipal Manager.
- (6) Despite the provisions of rule 10(1) at least seven days' notice of a meeting in terms of sub-rule (5) must be given.
- (7) If the Council Whip resigns from office at any time before a meeting in terms of sub-rule (5) takes place, the motion lapses and the meeting does not go ahead.
- (8) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
- (9) The Speaker presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote.
- (10) The Council Whip has the right and must be allowed the opportunity during the proceedings to-
- (a) respond to every allegation made in the motion and during the debate;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
  - (c) submit documents and to examine any documents submitted by the initiator, provided that if the Council Whip is not present during the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the Council Whip is carried if a majority of the Councillors of the Municipality votes in favour of it.
- (11) With due regard for the provisions of rules 35 and 36, the Speaker must put the motion to the vote after the debate had been exhausted.
- (12) If the Council Whip at any time during the debate but before the motion is put to the vote make a declaration in terms of rule 69(2), the debate is discontinued immediately and the motion lapses and the Council proceeds to elect a new Council Whip despite any provisions to the contrary in these rules.
- (13) If the motion is carried, the Council Whip is removed from office with immediate effect and the Council proceeds to elect a new Council Whip despite any provisions to the contrary in these rules.
- (14) A Councillor elected as Council Whip in terms of sub-rule (12) or (13) serve for the unexpired term of his or her predecessor.
- (15) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next six months unless the Council directs otherwise.

#### **89. Removal of members of section 79 or 80-committees**

- (1) A Councillor (hereafter called "the initiator") may by written motion, which must be seconded by one third of Councillors, move that the Chairperson and or one or more members of a section 79 or 80-committee (hereafter referred to as "the committee") be removed from office. Such a motion must be submitted to the Office of the Municipal Manager in writing.
- (2) A motion for removal of the Chairperson and or members of a section 79 or 80-committee must be dealt with in terms of the following procedure set out hereunder in sub rules (3) to (18).
- (3) If the motion is not made in respect of all the members of the committee, it must state the names of the Councillors who must be removed.
- (4) The motion must contain a brief summary of the reasons for the motion. If the motion is made in respect of two or more members of the committee, it must contain a summary of the reasons for the motion in respect of each of them separately.
- (5) A motion in terms of sub-rule (1) may, despite the provisions of rule 56, not be withdrawn.
- (6) The Municipal Manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the Speaker and the members of the committee concerned.
- (7) The Speaker must forthwith upon receipt of the motion determine the date, time and venue for a special Council meeting in terms of rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the Speaker received a copy of the motion from the Municipal Manager.
- (8) At least seven days' notice of a meeting in terms of sub-rule (7) must be given, despite the provisions of rule 10(1).
- (9) If the members of the committee or the members named in the motion resign from office at any time before a meeting in terms of sub-rule (7) takes place, the motion lapses and the meeting does not go ahead. If one or more, but not all, of the members of the committee or any Councillor, but not all, named in the motion resign at any time before a meeting in terms of sub-rule (7) takes place, the motion lapses in so far as they are concerned but the meeting goes ahead in respect of any Councillor who did not resign.
- (10) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
- (11) The Speaker presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote if there is an equality of votes.



- (12) The Councillors in respect of whom the proceedings take place has the right and must be allowed the opportunity during the proceedings to separately-
- (a) respond to every allegation made in the motion and during the debate;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
  - (c) submit documents and to examine any documents submitted by the initiator provided that if any of the members of the committee in respect of whom the motion had been submitted is not present at the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the any Councillor concerned is carried if a majority of the Councillors of the Municipality votes in favour of it.
- (13) After the debate had been exhausted, the Speaker must put the motion to the vote. The motion is put to the vote separately in respect of each of the Councillors to which it relates.
- (14) If any Councillor to whom a motion in terms of sub-rule (1) relates at any time during the debate but before the motion is put to the vote make a declaration in terms of rule 69(2), the debate is discontinued immediately in respect of him or her and the motion lapses in respect of him or her.
- (15) Every Councillor in respect of whom the motion is carried is removed from office with immediate effect.
- (16) As soon as the proceedings had been concluded the Council proceed to fill the vacancies in the committee despite any provisions to the contrary in these rules and orders.
- (17) A Councillor elected as a member of the committee in terms of sub-rule (16) serve for the unexpired term of his or her predecessor.
- (18) If the motion is defeated, no motion naming a Councillor in respect of whom it had been defeated, forwarding the same allegations may be submitted within the next six months unless the Council directs otherwise.

## CHAPTER 7 CLOSING OF MEETINGS

### 90. Meetings of Council open to public

- (1) The Municipal Council shall conduct its business in an open manner and every meeting of the Council and all committees, including the Mayoral Committee shall be open to the public; provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of section 20 (1) (a) and (b) of the Systems Act.
- (2) The Council will deal in Committee when discussing any of the following matters:
- (a) a trade secret or confidential commercial information of any supplier of the Municipality or any person rendering a service to the Municipality;
  - (b) personal and private information of any Councillor or an employee of the Municipality;
  - (c) the intention of the Municipality to purchase or acquire land or buildings;
  - (d) the price a Municipality may offer for the purchase or acquisition of land or buildings;
  - (e) any report addressing legal proceedings that the Municipality is involved in or contemplating instituting or defending;
  - (f) disciplinary proceedings or proposed disciplinary proceedings again against any employee;
  - (g) any matter that might not be disclosed in terms of legislation;
  - (h) consideration of the minutes of previous in Committee discussions.
- (3) A Councillor may, when an item in the agenda is put to order, other than a matter referred to in 3.2 above, and provided it is not a matter that is required in law to be dealt with in open Council, propose with motivation, that the matter be further dealt with in Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.

### 91. Opening a closed meeting

- (1) A Councillor may at any time during a meeting that is closed propose that the meeting proceed in public.
- (2) No seconder is required for a proposal in terms of sub-rule (1).
- (3) Despite anything to the contrary in these rules and orders, only the introducer of the motion may speak on the proposal for a period not exceeding five minutes and must during his or her argument state the reasons for the proposal.
- (4) The chairperson at the meeting, if he or she does not reject the proposal, must subject the proposal to the vote immediately after the introducer has spoken.
- (5) If the proposal is carried, the meeting immediately resumes in public.

### 92. Information to the press or other media: In-committee discussions

- (1) Executive Mayor, or in his/her absence the Deputy Executive Mayor, the Speaker and the Municipal Manager in their discretion may, on application being made to him/her by any registered newspaper, radio station, television service or internet publisher, supply to such media or its representative, information and reports relating to the work of the Municipality.
- (2) In view of the Municipal Manager, the Speaker or the Executive Mayor being the authorised channel through which the media may receive information and reports, members of the Council are therefore expected to refrain from sending to the media documents or information supplied to them with a view to their consideration by the Council or any committee: Provided that this clause shall not be construed as abrogating a Councillor's individual constitutional right to make press statements which reflect his/her own personal or political view and not that of the Council, further provided however, that no discussion that took place in-committee may be conveyed to the public or the press except by the Executive Mayor, Speaker or Municipal Manager.
- (3) Chairpersons of committees must liaise with the Executive Mayor, Speaker and Municipal Manager for the publication of any information relating to the committee and the Municipal Manager shall arrange, if approved, the publication of the relevant information.

**CHAPTER 8****APPLICATION OF THE CODE OF CONDUCT****93. Investigating suspected breaches of the code**

- (1) Whenever a written or when oral allegation on breach of the code of conduct is made to the Municipal Manager or he or she has reason to believe that a Councillor has contravened or failed to comply with any provision of the code of conduct (in this rule referred to as the "code"), he or she must report it in writing to the Speaker. If such an allegation is made to a departmental head, she or he must report it to the Municipal Manager.
- (2) Upon receipt of a report in terms of sub-rule (1) and when the Speaker has reason to believe that a provision of the code had been breached, he or she must-
  - (a) investigate the facts and circumstances of the case; and
  - (b) give the Councillor concerned a reasonable period within which to respond in writing to the alleged breach.
- (3) When performing an investigation in terms of sub-rule (2) the Speaker may examine any official records and documents of the Municipality and interview any person.
- (4) As soon as the Speaker has completed the investigation he or she must submit-
  - (a) a written report, which must include his or her finding and recommendation; and
  - (b) the response of the Councillor written response, if any, to the Municipal Manager for inclusion in the agenda of the first ordinary Council meeting next ensuing. The Municipal Manager must immediately deliver a copy of the report to the Councillor concerned, in appropriate cases.
- (5) If the Councillor concerned fails to respond to the allegation within fourteen days after being invited by the Speaker to do so, the Speaker may submit his or her report without such comment.
- (6) The Speaker makes a finding on a preponderance of probabilities.
- (7) If the Speaker found that the Councillor concerned breached the code and he or she recommends that-
  - (a) the Council must apply to the MEC to suspend the Councillor concerned for a period, he or she must make a recommendation as to the period of suspension;
  - (b) a fine should be imposed, he or she must make a recommendation as to the amount of such fine; or
  - (c) a warning should be issued, he or she must make a recommendation as to the period during which the warning should apply.
- (8) Nobody may victimise or threaten any person who gave evidence in an investigation in terms of this rule.

**94. Consideration of the Speaker's report by the Council**

- (1) The Speaker must vacate the chair during any Council meeting when a report in terms of rule 93 is put to order.
- (2) Whenever the Speaker vacates the chair in terms of sub-rule (1) the Municipal Manager must preside over the debate on the report.
- (3) The proceedings in terms of sub-rule (2) may not be closed for the public and the media.
- (4) After the Speaker has introduced his or her report, the Municipal Manager must allow the Councillor concerned to reply to the allegations and findings.
- (5) As soon as the Councillor concerned has spoken, the matter is debated in terms of these rules.
- (6) Despite any provisions to the contrary in these rules and orders, the Councillor concerned has a right to-
  - (a) reply to all the allegations made during the debate before the Speaker replies;
  - (b) examine any documents submitted by the Speaker or any other Councillor and submit documents in his or her defence; and
  - (c) call witnesses and to cross-examine any witness called by the Speaker.
- (7) With due regard for the provision of rules 35 and 36 the Speaker must, after the debate had been exhausted, reply and propose –
  - (a) that his or her report, findings and recommendation be accepted; or
  - (b) that his or her report and finding and a different recommendation be accepted; or
  - (c) that the Council elect a committee to further investigate the matter.
- (8) A proposal in terms of sub-rule (7) need not be seconded.
- (9) After the proposal in terms of sub-rule (7) had been made, the Municipal Manager must put the proposal to the vote.
- (10) If the proposal in terms of sub-rule (7) is-
  - (a) defeated, the matter is discontinued; or
  - (b) carried, the Municipal Manager must forthwith implement the resolution.

**95. Implementing the result of the vote**

- (1) If a proposal in terms of rule 94(7)(a) or (b) is carried and a fine is imposed, the municipal manger must deduct the amount of such fine from the first next payment of the Municipality to the Councillor concerned unless he or she has paid the fine in cash before such payment is due.
- (2) If a proposal in terms of rule 94(7)(a) or (b) is made and carried that the Councillor concerned must be suspended or the Councillor must be removed from the Council, the Municipal Manager must forthwith make such an application to the MEC.
- (3) If the MEC on application of the Council suspend the Councillor concerned, he or she is, despite any rule to the contrary, deemed to be absent with leave from any meeting he or she would have been required to attend had he or she not been suspended.

**96. Investigating the matter further**

- (1) The Council must immediately appoint from amongst its members an investigation committee of not less than three and not more than five Councillors and appoint the chairperson of the committee if-
-

- (a) a proposal in terms of rule 94(7)(c) is carried; or
  - (b) the Speaker reported in terms of rule 93(4) that he found the allegation without any grounds and evidence was given during the meeting referred to in rule 100 that the allegation may be true despite the Speaker's finding, provided that the Speaker may not serve as a member of the committee.
- (2) An investigation committee must be constituted in such a way that parties and interests reflected in the Council are fairly represented in it.
  - (3) The investigation committee must conclude its investigation not later than twenty-one days after its appointment.
  - (4) When performing an investigation in terms of sub-rule (3) the investigation committee may examine any official records and documents of the Municipality and interview any person. The investigating committee must consider the minutes of the meeting referred to in rule 94 during its investigation.
  - (5) The Municipal Manager must make a copy of the minutes of the meeting referred to in rule 94 available to the Councillor concerned as soon as possible after the meeting concluded.
  - (6) The Councillor concerned is entitled to make written submissions to the investigating committee, but the committee is not obliged to request the Councillor's written comments on the allegations. The investigating committee must take account of the written response of the Councillor concerned contemplated in rule 93(2) and any written submission made in terms of this sub rule.
  - (7) The Municipal Manager must make such reasonable administrative support as the investigating committee may require available to the committee.
  - (8) As soon as the investigating committee has completed the investigation it must submit a written report, including its finding and any submission in terms of sub-rule (6), to the Municipal Manager for inclusion in the agenda of the first ordinary Council meeting next ensuing. The Municipal Manager must immediately deliver a copy of the report to the Councillor concerned and the relevant traditional authority.
  - (9) The investigating committee makes a finding on a preponderance of probabilities.
  - (10) If the investigating committee found that the Councillor concerned breached the code it may recommend-
    - (a) that the Speaker's finding and recommendation in terms of rule 93(8) be confirmed; or
    - (b) that the Speaker's finding be confirmed and make a different recommendation.
  - (11) If the investigating committee recommends that-
    - (a) the Council must apply to the MEC to suspend the Councillor concerned for a period, it must make a recommendation as to the period of suspension;
    - (b) a fine should be imposed, it must make a recommendation as to the amount of such fine; or
    - (c) a warning should be issued; it must make a recommendation as to the period during which the warning should apply.
  - (12) Nobody may victimise or threaten any person who gave evidence in an investigation in terms of this rule.

#### **97. Consideration of further report by the Council**

- (1) The provisions of rule 94 apply, with the necessary changes, to the consideration of a report of an investigating committee, provided that any reference in that rule to the Speaker must be construed as a reference to the chairperson of the investigating committee.
- (2) The committee dissolves upon conclusion of the debate on its report during the Council meeting.

#### **98. Effect of appeal on a resolution**

- (1) If the Councillor concerned appeals against the finding or the penalty imposed by the Council or against both such finding and penalty as described in rule 94 before the Municipal Manager had deducted the fine, he or she must defer the matter until the result of the appeal is known.
- (2) If the Councillor concerned appeals before the Municipal Manager could submit an application in terms of rule 95(2), the Municipal Manager must defer the matter until the result of the appeal is known.

#### **99. Breaches of these rules and orders**

##### **Sanctions and offences**

- (1) Any person who wilfully contravenes any provision of these rules shall be guilty of an offence and shall be subject to the following sanctions imposed by the Council:
  - (a) having a fine imposed by the Council as determined by it from time to time for the;
  - (b) be suspended from the attendance of Council or committee meetings as the Council may determine for such a period as the Council may by resolution determine from time to time.

### **CHAPTER 9**

#### **DISSOLUTION OF THE COUNCIL**

##### **100. Conditions for dissolution**

The Council may at any time after two years have lapsed since it was elected consider the dissolution of the Council.

##### **101. Procedure for considering the dissolution of the Council**

- (1) The Speaker must when the dissolution of Council is contemplated by Council, determine the date, time and venue of a special Council meeting in terms of rule 4.
- (2) At least seven days' notice of a meeting in terms of sub-rule (1) must be given, despite the provisions of rule 10(1).

- (3) A meeting in terms of sub-rule (1) may not be closed to the public and the media.
- (4) The proposal is carried if two-thirds of the Councillors of the Municipality votes in favour of it.
- (5) The Council is dissolved and all Councillors vacate their seats immediately if the proposal is carried.

## CHAPTER 10 COMMITTEES

### Part 1: Section 79-committees

#### 102. Report of the Municipal Manager before the establishment of a committee: Section 79 Committees

- (1) With due regard for the provisions of parts 3 and 4 of this chapter, the Council must, before it establishes and elects the members of a section 79 consider a report from the Municipal Manager regarding the proposed committee.
- (2) The Municipal Manager in preparing a report contemplated in sub-rule (1) must consider the need for the proposed committee, taking into account-
  - (a) the extent of the powers and functions of the Municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance;
  - (c) the reasons not to delegate any such power or function to an existing committee (if any) or the Executive Mayor or an employee of the Municipality;
  - (d) the available financial and administrative resources of the Municipality to support the work of the committee, including the preparation of agendas and minutes of the committee;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the burden the workload of the proposed committee may put on its members;
  - (g) the need for coordination of decision-making at the level of the Council and its structures;
  - (h) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (3) The report of the Municipal Manager must contain recommendations with regard to the matters listed in rule 103 and the electoral system contemplated in rule 105, despite any recommendation that he or she may make that the proposed committee not be established.
- (4) The Municipal Manager must submit his or her report to the Executive Mayor.
- (5) The Executive Mayor must consider the report and recommendations of the Municipal Manager and submit it, together with its own comment and recommendations to the Council.

#### 103. Consideration of the Municipal Manager's report: Section 79 Committees

- (1) After the Council considered the Municipal Manager's report and the comment and recommendation of the Executive Mayor and the Council decides to establish the committee, the Council must-
  - (a) determine the size of the committee;
  - (b) determine the terms of reference of the committee;
  - (c) determine the powers it delegates to the committee (if any);
  - (d) determine the system for electing the members of the committee and elect the members of the committee in terms of that system;
  - (e) prescribe how often the committee must meet;
  - (f) consider authorising the committee to appoint persons who are not Councillors or employees of the Municipality as members of the committee; and
  - (g) prescribe how often the committee must submit a report to the Council or the Executive Mayor, as the case may be.
- (2) If the Council at any time authorises the committee to appoint persons who are not Councillors or employees of the Municipality as members of the committee, it must-
  - (a) determine the qualifications, experience, specialised knowledge, demonstrated abilities or potential and other attributes such person must have to be appointed to the committee;
  - (b) determine the procedure for selecting and appointing any such person; and
  - (c) determine the remuneration (if any) of any such person for serving in the committee and the conditions of such remuneration, provided that the Council may decide that only the travelling cost, at tariffs determined by the Council, and reasonable out of pocket expenses of such person in connection with his or her membership of the committee be paid.

#### 104. Determining the size of the committee: Section 79 Committee

- (1) No more than twenty percent of the Councillors of the Council or ten Councillors, whichever is the least, may be elected as members of the committee provided that the committee must have at least three members who are Councillors.
- (2) If the Council authorises the committee to appoint persons in terms of rule 103(1) as members of the committee, it must determine the upper limit of the number of appointments that may be made, provided that-
  - (a) the number of Councillors who may serve on the committee is reduced with a corresponding number; and
  - (b) the number of Councillors serving in a committee always exceeds the number of persons who are not Councillors in that committee.

- (3) No reduction of the number of Councillors in terms of sub-rule (2) may be done if the committee has only three Councillors as members, provided that the number of committee members who are not Councillors or employees may not exceed two persons.

**105. Election system and election of members of a committee: Section 79 Committee**

- (1) The members of the committee who are Councillors must be elected according to a system that ensures that the parties and interests reflected in the Council are fairly represented in that committee, provided that the Executive Mayor reserves the right in law to appoint members of the Mayoral Committee as he deems fit.
- (2) The Speaker as the case may be, may be elected as a member of the committee.
- (3) Immediately after the Council determined the election system in terms of sub-rule (1) the Council must elect the members of the committee.

**106. Term of a committee and filling of vacancies: Section 79 Committee**

- (1) The members of the committee are elected and appointed, subject to sub-rule (2) for a term ending when the next municipal Council is declared elected.
- (2) A member of the committee vacates office during the term of the Council if that member-
- (a) resigns as a member of the committee;
  - (b) is removed from office as a member of the committee in terms of rule 89;
  - (c) ceases to be a Councillor.
- (3) The Council must, subject to rule 105(1), at the earliest opportunity after a vacancy occurred, elect and appoint another person to serve as member of the committee for the unexpired term of his or her predecessor.

**107. Quorum and decision-making of Section 79 Committee**

- (1) A majority of the members of the committee must be present before a decision on any matter may be taken.
- (2) A question before the committee is decided if there is agreement among at least the majority of the members present at a meeting.
- (3) If on any question there is an equality of votes, the chairperson may exercise a casting vote in addition to her or his deliberative vote.

**Part 2: Executive Mayor**

**108. Election of Executive Mayor**

- (1) The Council must, within 14 days after a general election of Councillors, immediately after it elected the Speaker, to elect an Executive Mayor.

**109. Establishment of Mayoral Committee**

- (1) The Executive Mayor must establish the Mayoral Committee with due regard for the following factors-
- (a) the extent of the powers and functions of the Municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance;
  - (c) the reasons not to delegate any such power or function to an existing committee (if any) the Executive Mayor or an employee of the Municipality;
  - (d) the available financial and administrative resources of the Municipality to support the work of the committee, including the preparation of agendas and minutes of the committee;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the burden the workload of the proposed committee may put on its members;
  - (g) the need for coordination of decision-making at the level of the Council and its structures;
  - (h) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (2) After the Executive Mayor considered the factors in sub-rule (1) the Executive Mayor must-
- (a) determine the size of the committee;
  - (b) determine the powers he or she delegates to the members of the committee (if any); and
  - (c) appoint the members of the committee.
- (3) After the Executive Mayor appointed the members of the Mayoral Committee he or she must submit at the first ordinary Council meeting next ensuing-the names of the committee members.

**110. Term of members of the Mayoral Committee and filling of vacancies**

- (1) The members of the Mayoral Committee are appointed, subject to sub-rule (2) for a term ending when the next municipal Council is declared elected.
- (2) A member of the committee vacates office during the term of the Council if that member-
- (a) resigns as a member of the committee;
  - (b) is removed from office as a member of the committee by the Executive Mayor;
  - (c) ceases to be a Councillor.
- (3) The Executive Mayor must, unless he or she decides to reduce the size of the Mayoral Committee, at the earliest opportunity after a vacancy occurred, appoint another person to serve as member of the committee for the unexpired term of his or her predecessor.
-

**111. Quorum and decision-making of Mayoral Committee**

- (1) A majority of the members of the Mayoral Committee must be present before a decision on any matter may be taken.
- (2) A question before the Mayoral Committee is decided if there is agreement among at least the majority of the members present at a meeting.
- (3) If on any question there is an equality of votes, the Executive Mayor may exercise a casting vote in addition to her or his deliberative vote.

**Part 3: Audit Committee****112. Establishment of audit committee**

- (1) The Council shall not later than the second ordinary Council meeting after a general election of Councillors for the Municipality determine:
  - (i) the size of the Municipality's audit committee provided that the number of members of an audit committee shall be an odd number, not less than three and not more than five in number;
  - (ii) the number of members of the audit committee who shall not be employees of the Municipality provided that no Councillor may be a member of an audit committee; and
  - (iii) the remuneration and allowances payable to members of any audit committee who are not employees of the Municipality.
- (2) As soon as reasonably possible after the Council has made the determinations required by sub-rule (1) the Municipal Manager shall cause an invitation calling on interested persons to apply for appointment as a member of the audit committee of the Municipality or for a municipal entity of which the Municipality is the parent Municipality to be published in each newspaper determined by the Council to be newspaper of record on or before a date stipulated in such notice.
- (3) As soon as reasonably possible after the closing date specified in terms of sub-rule (2) the Municipal Manager shall convene a meeting of her- or himself, the Speaker, the Executive Mayor, the chief financial officer and the manager responsible for internal auditing (hereafter referred to as the selection panel) -
  - (a) to consider the applications;
  - (b) to conduct such enquiries and investigations regarding any applicant as the selection panel may decide;
  - (c) to conduct interviews with any candidate; and
  - (d) to make recommendations to the Council regarding the appointment of members of an audit committee.
- (4) The Municipal Manager shall submit the report and recommendations of the selection panel to the first ordinary Council meeting next ensuing after the meeting contemplated in sub-rule (1).
- (5) The Council shall, after consideration of the report and recommendations of the selection panel in terms of sub-rule (4) -
  - (a) appoint the required number of persons who are not employees of the Council as members of each audit committee is required to appoint members for;
  - (b) appoint the remainder of the members from amongst the employees of the Council as the case may be, provided that -
    - (i) the Municipal Manager, chief financial officer and the manager responsible for internal auditing shall not be appointed as members of the Municipality's audit committee; and
  - (c) from amongst the members appointed in terms of paragraph (a) appoint one member of audit committee who is not an employee of the Council, as the case may be, as chairperson of the audit committee.

**113. Term of the audit committee and vacancies**

- (1) The members of the audit committee are elected and appointed, subject to sub-rule (2), for a term ending when the next municipal Council is declared elected.
- (2) A member of the audit committee vacates office during the term of the Council if that member-
  - (a) resigns as a member of the audit committee;
  - (b) is removed from office as a member of the audit committee in terms of rule 89;
  - (c) deleted
- (3) The Council must, subject to rule 112(4), at the earliest opportunity after a vacancy occurred, elect and appoint another person to serve as member of the audit committee for the unexpired term of his or her predecessor.

**114. Removal from office of member of the audit committee**

The provisions of rule 89 apply, with the necessary changes required by the context, to the removal of a member of the audit committee.

**115. Objects of the audit committee**

The objects of the audit committee are –

- (a) to enhance the accuracy, reliability and credibility of financial reporting by and to the Council;
  - (b) to ensure that proper accounting and internal control measures are made, implemented and maintained for the safe custody and protection of the Municipality's assets and resources; and
  - (c) to facilitate communication between itself and the Municipal Manager, internal auditors and the Auditor-General.
  - (d) Deleted
-

**116. Functions and duties of the audit committee**

- (1) The audit committee must, with regard to any audit performed by or on behalf of the Auditor-General, -
- (a) together with the Municipal Manager, the external auditor and such other employees of the Council as it may deem appropriate, assess the planning and scope of and approach to such audit;
  - (b) evaluate the findings of the external auditor, especially-
    - (i) significant transactions that do not fall within the normal activities of the Municipality;
    - (ii) substantial deficiencies in internal control and the recommendations to improve them;
    - (iii) the reasonable reporting, presentation and publication of information in the annual financial statements;
    - (iv) the relevance of the accounting policy followed in the compilation of annual financial statements;
    - (v) compliance with generally accepted municipal accounting practice;
    - (vi) compliance with the law;
  - (c) generally evaluate the report of the external auditor on the financial statements;
  - (d) evaluate substantial unsolved accounting or auditing problems experienced during such audit;
  - (e) evaluate the advice provided by the external auditor or any other person with regard to the objects of the audit committee; and
  - (f) assess the coordination and cooperation between the external auditors and the internal auditor, if any.
- (2) The audit committee must, with respect to internal auditing-
- (a) provide a forum for direct reporting of the findings of the internal auditor, if any;
  - (b) evaluate the efficiency and effectiveness of the internal audit function, if any; and
  - (c) assess matters of significant importance reported by the internal auditor, if any.
- (3) The audit committee must, in respect of financial reporting-
- (a) assess the effectiveness of policies for and procedures of financial reporting; and
  - (b) consider ways of fair presentation of the financial statements.
- (4) The audit committee must, with regard to internal control-
- (a) review the effectiveness of the accounting and control system;
  - (b) assess any deficiency in the accounting and internal control system discovered in terms of paragraph (a);
  - (c) assess the measures implemented to address such deficiencies; and
  - (d) assess and confirm the policies and procedures for identifying areas of risk and the measures implemented to ensure adequate control of and security at such areas.
- (5) Whenever an audit is conducted, the audit committee must-
- (a) assess the measures and procedures implemented to ensure effective and efficient management;
  - (b) evaluate the finding of such audit; and
  - (c) evaluate the reporting, in the financial statements, of the effective and efficient use of the Municipality's resources.
- (6) The audit committee must-
- (a) consider and submit a report on matter referred to it by the Municipal Manager or the Council; and
  - (b) perform such functions as the Council may assign to it from time to time.
- (7) The audit committee shall perform such further functions and discharge such further duties as may be conferred upon it by national or provincial legislation.

**117. Powers of the audit committee**

The audit committee may, to the extent necessary for the efficient and effective performance of its functions and achievement of its objects-

- (a) access and inspect any records, documents and information held otherwise by the Municipality or an employee of the Municipality;
- (b) access and inspect any premises on which or from where the activities of the Municipality are performed;
- (c) conduct interviews with the Council or any committee thereof and summons any employee of the Municipality to appear before it and interview him or her;
- (d) investigate or cause to be investigated by any employee of the Municipality, after consultation with the Municipal Manager, any matter;
- (e) ensure that effective accounting policies, systems and reporting are implemented and applied; and
- (f) facilitate improvement of the standard of financial reporting.

**118. Meetings, procedures and reporting of the audit committee**

- (1) The audit committee must have at least four ordinary meetings during a financial year at a time, date and venue determined by it.
- (2) The Municipal Manager must perform, or cause to be performed, the administrative functions of the committee.
- (3) The audit committee must submit its report and recommendations to the Municipal Manager.
- (4) The Municipal Manager must submit the report of the audit committee, together with his or her recommendations to the Council and to such committees and departmental heads as may be necessary.

**119. Quorum and decision-making of Audit Committee**

- (1) A majority of the members of the audit committee must be present before a decision on any matter may be taken.
  - (2) A question before the audit committee is decided if there is agreement among at least the majority of the members present at a meeting.
  - (3) If on any question there is an equality of votes, the chairperson may exercise a casting vote in addition to her or his deliberative vote.
-

**120. Facilitating the audit committee's work**

- (1) The Municipal Manager and every other employee of the Municipality must-
  - (a) assist the audit committee in the performance of its functions;
  - (b) produce any book, record or other information required by the audit committee, the custody and control of which had been entrusted to him or her; and
  - (c) appear before the audit committee when summonsed to do so and answer any question or enquiry of the committee truthfully and to the best of his or her knowledge.
- (2) The Municipal Manager may, after consultation with the relevant departmental head, direct any employee to assist or appear before the audit committee.

**Part 4: Performance audit committee**

**121. Establishment and composition of performance audit committee**

- (1) The Council shall immediately after it has complied with sub-rule 113(1) and thereafter annually at the first ordinary Council meeting after it has approved the annual budget -
  - (a) determine the size of the Municipality's performance audit committee;
  - (b) determine the number of members of the Municipality's performance audit committee who shall be Councillors and employees of the Municipality respectively, provided that -
    - (i) a majority of the members of the performance audit committee may not be Councillors or employees of the Council; and
    - (ii) for the purpose of sub-paragraph (i) the number of member of the performance audit committee shall be an odd number; and
  - (c) the remuneration and allowances payable to members of the performance audit committee who are not Councillor or employees of the Council taking into account the tariffs determined by the South African Institute of Chartered Accountants in consultation with the Auditor General.
- (2) As soon as reasonably possible after the Council has made the determinations required by sub-rule (1) the Municipal Manager shall cause an invitation calling on interested persons to apply for appointment as a member of the Municipality's performance audit committee to be published in each newspaper determined by the Council to be newspaper of record on or before a date stipulated in such notice.
- (3) As soon as reasonably possible after the closing date specified in terms of sub-rule (2) the Municipal Manager shall convene a meeting of her- or himself, the Speaker, the Executive Mayor, the chief financial officer and the manager responsible for internal auditing (hereafter referred to as the selection panel) -
  - (a) to consider the applications
  - (b) to conduct such enquiries and investigations regarding any applicant as the selection panel may decide;
  - (c) to conduct interviews with any candidate; and
  - (d) to make recommendations to the Council regarding the appointment of members of an audit committee, provided that the selection panel shall take due care that at least one person who is not a Councillor or an employee of the Council whom it recommends to be appointed as a member of the performance audit committee, has expertise in performance management.
- (4) The Municipal Manager shall submit the report and recommendations of the selection panel to the first ordinary Council meeting next ensuing after the meeting contemplated in sub-rule 112(1).
- (5) The Council shall, after consideration of the report and recommendations of the selection panel in terms of sub-rule (4) -
  - (a) appoint the required number of persons who are not Councillors or employees of the Council as members of the performance audit committee it is required to appoint;
  - (b) appoint the remainder of the members from amongst the Councillors and employees of the Council, as the case may be, provided that the Executive Mayor, Municipal Manager, manager responsible for performance management and the manager responsible for internal auditing shall not be appointed as members of the Municipality's performance audit committee; and
  - (c) from amongst the members appointed in terms of paragraph (a) appoint one person as chairperson of the audit committee, provided that the Council shall ensure that at least one person who is not a Councillor or an employee of the Council whom it appoints as a member of the performance audit committee, has expertise in performance management.

**122. Object of the performance audit committee**

The object of the performance audit committee is -

- (a) to enhance the accuracy, reliability and credibility of performance reporting by and to the Council;
- (b) to improve the functionality of the Municipality's performance management system; and
- (c) to promote the economy, efficiency, effectiveness and impact with regard to the key performance indicators and performance targets set by the Municipality.

**123. Functions and duties of the performance audit committee**

The performance audit committee shall perform the functions and discharge the duties conferred upon it in terms of national and provincial legislation, and shall further -



- (a) review the quarterly audit reports regarding the Municipality's performance measurements submitted to it by the internal auditor;
- (b) review the Municipality's performance management system focusing on economy, efficiency, effectiveness and impact in so far as the key performance indicators and performance targets set by the Municipality are concerned and make recommendations about it to the Council;
- (c) at least twice during a financial year submit a report to the Council;
- (d) with regard to any audit performed by or on behalf of the Auditor-General in terms of section 45(b) of the Systems Act-
  - (i) together with the Municipal Manager, the external auditor and such other employees of the Council as it may deem appropriate, assess the planning and scope of and approach to such audit;
  - (ii) evaluate the findings of the external auditor, especially-
    - (aa) comment on the measures and procedures implemented to ensure effective and efficient management; and
    - (bb) the reporting, in the financial statements, of the effective and efficient use of the Municipality's resources;
- (e) with respect to internal auditing of performance-
  - (i) provide a forum for direct reporting of the findings of the internal auditor;
  - (ii) evaluate the efficiency and effectiveness of the internal performance audit function; and
  - (iii) assess matters of significant importance reported by the internal auditor; and
- (f) perform such further functions as the Council may assign to it from time to time.

#### 124. Powers of the performance audit committee

The performance audit committee shall exercise the powers conferred upon it by national legislation and may further, to the extent necessary for the efficient and effective performance of its functions and achievement of its objects –

- (a) access and inspect any records, documents and information held otherwise by the Municipality or an employee of the Municipality;
- (b) access and inspect any premises on which or from where the activities of the Municipality are performed;
- (c) conduct interviews with the Council or any committee thereof and summons any employee of the Municipality to appear before it and interview him or her;
- (d) investigate or cause to be investigated by any employee of the Municipality, after consultation with the Municipal Manager, any matter; and
- (e) facilitate improvement of the standard of performance reporting.

#### 125. Reporting by the performance audit committee

- (1) The Municipal Manager must perform, or cause to be performed, the administrative functions of the performance audit committee.
- (2) The performance audit committee must submit its report and recommendations to the Municipal Manager.
- (3) The Municipal Manager must submit the report of the performance audit committee, together with her or his recommendations, to the Council, the Executive Mayor and such committees and departmental heads as may be necessary.

#### 126. Decision-making

A question before the performance audit committee is decided if there is agreement among at least the majority of the members.

#### 127. Facilitating the performance audit committee's work

- (1) The Municipal Manager and every other employee of the Municipality must-
  - (a) assist the performance audit committee in the performance of its functions;
  - (b) produce any book, record or other information required by the performance audit committee, the custody and control of which had been entrusted to him or her; and
  - (c) appear before the performance audit committee when summonsed to do so and answer any question or enquiry of the committee truthfully and to the best of his or her knowledge.
- (2) The Municipal Manager may, after consultation with the relevant departmental head, direct any employee to assist or appear before the performance audit committee.

### Part 5: Advisory committees

#### 128. Establishment and disestablishment of advisory committees

- (1) The Council may at any time appoint an advisory committee of persons who are not Councillors or employees of the Municipality in terms of this part.
- (2) The Council may at any time disestablish an advisory committee established in terms of sub-rule (1).
- (3) The Council must, before it establishes and appoints the members of an advisory committee consider a report from the Municipal Manager regarding the proposed committee.

#### 129. Report of the Municipal Manager about a proposed advisory committee

- (1) The Municipal Manager in preparing a report contemplated in rule 139(3) must consider the need for the proposed committee, taking into account-
-

- (a) the extent of the powers and functions of the Municipality;
  - (b) the need to have professional advice when performing those powers and functions to promote efficiency and effectiveness;
  - (c) the reasons why the advice needed are not provided by the employees of the Municipality or its other providers, including consultants;
  - (d) the available financial and administrative resources of the Municipality to support the work of an advisory committee, including the preparation of agendas and minutes of the committee;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the burden the workload of the proposed committee may put on its members;
  - (g) the need for co-ordination of decision-making at the level of the Council and its structures;
  - (h) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
    - (i) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (2) The report of the Municipal Manager must contain recommendations with regard to the matters listed in rule 133 despite any recommendation that he or she may make that the proposed committee not be established.
- (3) The Municipal Manager must submit his or her report to the Executive Mayor.
- (4) The Executive Mayor, must consider the report and recommendations of the Municipal Manager and submit it, together with its own comment and recommendations to the Council.

**130. Consideration of the Municipal Manager's report**

After the Council considered the Municipal Manager's report and the comment and recommendation of the Executive Mayor, and the Council decides to establish the committee, the Council must-

- (a) determine the size of the committee;
- (b) determine the terms of reference of the committee;
- (c) determine the advice it wants from the committee;
- (d) nominate the members of the committee;
- (e) appoint from amongst those members the chairperson of the committee;
- (f) prescribe how often the committee must meet;
- (g) prescribe how often the committee must submit a report to the Council;
- (h) determine the term of the committee; and
  - (i) determine the remuneration (if any) of any person for serving in the committee and the conditions of such remuneration, provided that the Council may decide that only the travelling cost, at tariffs determined by the Council, and reasonable out of pocket expenses of such person in connection with his or her membership of the committee be paid.

**131. Term of office of members**

The members of an advisory committee are appointed for a period determined by the Council, subject to rule 132.

**132. Vacancies**

- (1) A member of an advisory committee vacates office during a term if that member-
  - (a) resigns as a member of the committee; or
  - (b) is removed from office as a member of the committee.
- (2) The filling of a vacancy in an advisory committee is subject to rule 130(a).

**133. Quorum and decisions**

- (1) A majority of the members of an advisory committee constitutes a quorum for a meeting.
- (2) A question before the committee is decided if there is agreement among at least the majority of the members present at the meeting.

**Part 6: Ad hoc committees**

**134. Establishment and disestablishment of ad hoc committees**

- (1) The Council may at any time establish an ad hoc committee to deal with or advise it with regard to a particular matter.
- (2) An ad hoc committee ceases to exist when-
  - (a) it furnishes its final report to the Council or committee that established it; or
  - (b) the Council or committee that established it, disestablishes it;

**135. Terms of reference of ad hoc committees**

The Council or committee that establishes an ad hoc committee must determine the terms of reference of that ad hoc committee when it establishes it.

**136. Removal from office of members of ad hoc committees**

The Council or committee that establishes an ad hoc committee may at any time remove one or more of the members from the committee.

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**Part 7: Ward committees****137. Making the decision to establish ward committees**

- (1) The Council must, not later than twelve months after its election, decide whether to establish a ward committee system.
- (2) For the purpose of making the decision in terms of sub-rule (1) the Municipal Manager must submit a report to the Council.
- (3) The Municipal Manager in preparing a report contemplated in sub-rule (1) must consider the need for ward committees, taking into account-
  - (a) the extent of the area and powers and functions of the Municipality;
  - (b) the need to empower the residents and community organisations within the Municipality to participate in decision-making that affects them;
  - (c) the need to improve access for disadvantaged persons to decision-making systems;
  - (d) the efficacy of other methodologies of promoting public participation in local government matters used in and by the Municipality;
  - (e) the need to improve communication between the Municipality and the residents and community organisations in the municipal area;
  - (f) the need to foster transparency and improve accountability of the Municipality;
  - (g) the need for the Municipality to consult the residents and community organisations within its area about the level, quality and coverage of services;
  - (h) the need to improve responsiveness in the Municipality;
  - (i) the available financial and administrative resources of the Municipality to support the work of ward committees, including the preparation of agendas and minutes of such committees;
  - (j) the administrative support that the Municipality can provide and the capacity-building role that it can play;
  - (k) the need for the economical, efficient and effective use of resources; and
  - (l) the likely improvement or deterioration in the quality, speed and legitimacy of decision-making if ward committees are established.
- (4) The Municipal Manager must submit his or her report to the Executive Mayor.
- (5) The Executive Mayor must consider the report and recommendations of the Municipal Manager and submit it, together with its own comment and recommendations to the Council.

**138. Consideration of the Municipal Manager's report**

- (1) After the Council considered the Municipal Manager's report and the comment and recommendation of the Executive Mayor, the Council must take a decision. If the Council adopts the system, it must determine the size of every ward committee.
- (2) When the Council approves the ward committee system, it must assign each one of the Councillors elected to proportionally represent a party in the Council, to a ward.
- (3) The Councillor assigned in terms of sub-rule (2) must assist the Councillor for that ward (in this part the "chairperson") to manage the ward committee in that ward.
- (4) A Councillor representing a ward may, if the Council rejects the system, establish a ward committee for his or her ward.

**139. Object and objectives of ward committees**

- (1) The object of the ward committee system is to enhance participatory democracy in local government.
- (2) A ward committee must strive to-
  - (a) express the needs and concerns of the residents within the ward it represents;
  - (b) identify development priorities in its ward;
  - (c) establish dialogue with the Council, through the ward Councillor, to ensure that the Municipality-
    - (i) respond to the needs and concerns of the resident within the ward;
    - (ii) involve the residents in the ward in identifying and prioritising needs;
    - (iii) identify resources in the ward for meeting needs;
    - (iv) promote accountability of the Municipality to the residents of the ward; and
    - (v) assist residents in the ward to access municipal services;

**140. Determination of time, date and venue of meetings: Ward Committees**

- (1) The chairperson, after consultation with the Councillor referred to in rule 138(2), determines the date, time and venue of ward committee meetings, provided that-
  - (a) a ward committee must meet in the ward concerned; and
  - (b) a ward committee meeting may not be held on the same day as a Council meeting.
- (2) The provisions of rule 2(3) are applicable to the determination of the venue of a ward committee meeting.
- (3) The chairperson must, if a majority of the members of the ward committee requests him or her in writing to convene a special ward committee meeting convene a special ward committee meeting on a date set out in the request and at a time and venue determined by him or her.

- 141. Frequency of meetings**  
A ward committee must meet as often as is necessary but at least 12 times during any year.
- 142. Meetings are open to the public and the media**  
The meetings of a ward committee are open for the residents of that ward and the media.
- 143. Conduct of members of ward committees**  
The provisions of the code of conduct and rule 29 are as far as it can be applied, applicable to the members of a ward committee.
- 144. Notice of meetings of ward committees**
- (1) The chairperson must give notice of every ward committee meeting to every ward committee member, provided that where a ward committee has designated a secretary in terms of rule 149, the secretary must give such notice.
  - (2) Notice in terms of sub-rule (1) must be given at least twenty-four hours before the meeting.
- 145. Quorum and decision-making: Ward Committees**
- (1) A majority of the members of a ward committee constitute a quorum.
  - (2) A question before a ward committee is decided if there is agreement among the majority of the members present at a meeting.
  - (3) If on any question before a ward committee there is an equality of votes, the chairperson has a casting vote.
- 146. Minutes of meetings: Ward Committees**
- (1) The chairperson must ensure that minutes of meetings of the ward committee is kept.
  - (2) A ward committee may for the purpose of sub-rule (1) designate one of its members as the secretary of the committee.
- 147. Election of members of a ward committee**
- (1) The Speaker with the Councillor must, at the first constituency meeting in terms of rule 8, and thereafter as often as it is necessary, elect the members of the ward committee.
  - (2) The notice for a meeting in terms of sub-rule (1) must-
    - (a) state that a ward committee will be elected at that meeting;
    - (b) call for written nominations of candidates for the ward committee, signed by the candidate and at least two other voters registered in that ward, to be delivered to the office of the Speaker in a sealed envelope at a specified time at a specified address; and
    - (c) specify the address in that ward where nomination forms will be available and the hours during which such forms would be available at that address.
  - (3) The Speaker must design a nomination form and make a sufficient supply thereof available to every Councillor representing a ward not later than the date of the publication of the notice of a constituency meeting referred to in sub-rule (1).
  - (4) At the constituency meeting for a ward the chairperson and the Speaker must open and read out the name of every person that was nominated and verify that he or she and the seconders that signed his or her nomination are voters registered in that ward.
  - (5) The chairperson with Speaker must reject any nomination that does not comply with these rules.
  - (6) The chairperson and Speaker may select from amongst the persons present one or more persons who had not been nominated as candidates for the election to assist him or her with the counting of the votes.
  - (7) Every voter registered in the ward concerned has one vote in respect of every seat in the ward committee.
  - (8) As soon as all the nominations had been verified, the chairperson with the Speaker must read the names of the nominees in alphabetical order.
  - (9) After the chairperson with the Speaker has called the name of a candidate in terms of sub-rule (8) the voters registered in that ward and who is present at that meeting, cast their vote by show of hands in respect of that name. The chairperson with the Speaker must ensure that the number of votes in favour of every candidate is recorded.
  - (10) After the vote had been conducted in respect of every candidate, the chairperson must determine the result and announce the names of those persons who had accrued the most votes in descending order until the number of members of the ward committee had been reached.
- 148. Ward committee members must attend constituency and committee meetings**
- (1) A member of a ward committee must attend every constituency and ward committee meeting of that ward, unless he or she had tendered an application for leave of absence before the commencement of a constituency meeting with the chairperson.
  - (2) A ward committee may remove a member of the committee if he or she had been absent-
    - (a) without leave from three or more consecutive ward committee meetings; or
    - (b) with leave from six or more consecutive ward committee meetings.
    - (c) Transgressed the code of conduct of Ward Committees
- 149. Term of office of ward committees**
- (1) Subject to sub-rule (2) a ward committee member is elected and serves as a member for a period of five years.
  - (2) A member of a ward committee vacates office if he or she-
-

- (a) is removed from the committee after being found guilty of misconduct in terms of the Rules and is dismissed as a Councillor in terms of sub-rule (1);
  - (b) resigns as member;
  - (c) ceases to be registered as a voter in that ward;
  - (d) is absent for more than three meetings without leave;
  - (e) if the ward committee is dissolved in terms of rule 151; or
  - (f) is removed from the committee at any time during a vote at a constituency meeting for that ward.
- (3) A vacancy occurring in terms of sub-rule (2)(a) to (c) is filled by appointing the person who is next in line on the list of elections held for the Ward Committee at the first constituency meeting for that ward next ensuing.
- (4) A casual vacancy arising in a ward committee is filled in the accordance with the procedure contained in rule 147, provided that in the case of a vacancy in terms of sub-rule (2)(e), nominations are called and made at the meeting where the vacancy occurs.
- (5) A person elected in terms of sub-rule (4) to fill a casual vacancy in a ward committee serve for the unexpired term of his or her predecessor.

#### **150. Functions and powers of a ward committee**

- (1) A ward committee may-
- (a) make recommendations on any matter affecting its ward to the chairperson or, through the chairperson, to the Council or a committee of the Council;
  - (b) organise in its ward campaigns, competitions and celebrations to promote pride in and the cleanliness and elegance of the ward and the Municipality;
  - (c) supply to residents within the ward information of municipal services in the ward and events regarding the ward or the Municipality generally;
  - (d) promote the conservation and development of cultural, natural and historical heritage within its ward;
  - (e) perform such functions and exercise such powers as the Council may delegate to it;
  - (f) organise constituency meetings in its ward;
  - (g) establish sub-committees of its members and other residents of the ward to investigate and make recommendations to it regarding any matter relevant to the objectives of the ward committee;
  - (h) establish sub-committees of persons representing any readily identifiable group of residents in the ward, whether they are organised or not, that share common economic or social interests or conditions;
  - (i) respond to any invitation of the Municipality or another public body to comment on, make representations concerning or object to any resolution the Municipality or that other body must take or had taken;
  - (j) attend and participate in any public hearing through a delegation appointed by it;
  - (k) delegate one or more of its members to attend any Council or committee meeting;
  - (l) file complaints on any matter within the authority of the Municipality with the appropriate department, Speaker or the Municipal Manager;
  - (m) co-operate with any other ward committee within the municipal area;
  - (n) Through the Office of the Speaker invite the Municipal Manager or a departmental head of the Municipality or any office-bearer of the Municipality to attend any of its meetings; and
  - (p) Through the Office of the Speaker engage with the Municipal Manager or departmental heads of the Municipality about a particular matter regarding the ward.
- (2) Whenever a ward committee makes a recommendation on a matter affecting its ward through the chairperson, the chairperson must submit a motion regarding that matter in terms of rule 54 to the Council Speaker or Municipal Manager.

#### **151. Dissolution of ward committee**

- (1) A ward committee may be dissolved by resolution taken by the majority of the voters registered in that ward present at a constituency meeting provided that no less than 50% registered members are present at such meeting.
- (2) A ward committee may dissolve itself by resolution of the majority of the members of a ward committee during a ward committee meeting.
- (3) Whenever the Council is of the opinion that a ward committee is not fulfilling its object, it must, before it takes a resolution on the dissolution of that committee give the committee an opportunity to respond to the allegation in writing.

#### **152. Monitoring of ward committees**

- (1) The Speaker must as often as be necessary but at least once a quarter, call a meeting of all the chairpersons of ward committees.
- (2) At a meeting in terms of sub-rule (1) the meeting must evaluate the performance of ward committees and make appropriate recommendations to the Council.

#### **153. Facilitation of ward committee's work**

The Council must in its own discretion provide for assistance to ward committees.

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## CHAPTER 11 REPORTS

### 154. Reports of the Executive Mayor/Section 79 Committee

- (1) The Executive Mayor must submit a report on its decisions and recommendations on the matters considered by it, at every ordinary Council meeting.
- (2) A section 79-committee must submit a report on its decisions and recommendations on the matters considered to the Council.
- (3) Unless a matter is submitted to the Council for information only, the report must contain a recommendation.

### 155. Delivery of reports of committees

- (1) Except a report accepted by the Speaker or chairperson in the case of a committee as a matter of urgency, a report of a committee in terms of rule 154 is delivered to the Council together with the agenda for the meeting where it must be considered.

### 156. Submission of committee reports

- (1) The report of the Executive Mayor or a section 79-committee, as the case may be, is submitted for consideration of the Council.

### 157. Considering a committee report

- (1) When a report in terms of rule 154 is considered, the Speaker or Executive Mayor, as the case may be, must-
  - (a) put the matters contained in that report not disposed of by the committee or the Executive Mayor, as the case may be, in terms of its delegated or statutory powers, one after the other; and
  - (b) thereafter put the matters disposed of by the committee or Executive Mayor, as the case may be, in terms of its delegated or statutory powers, one after the other.
- (2) The Speaker or Executive Mayor, as the case may be, may alter the sequence of the matters dealt with in a committee report at his or her own discretion.
- (3) The section of a report referred to in sub-rule (1)(b) is considered in terms of rule 164.
- (4) The report and recommendation of a committee or the Executive Mayor, as the case may be, on a matter is deemed proposed and seconded.
- (5) When a recommendation referred to in sub-rule (4) is adopted, it becomes a Council resolution.
- (6) During the consideration of a matter in terms of sub-rule (4)-
  - (a) the chairperson of the committee or a member of the committee designated by him or her or the Executive Mayor, as the case may be, may speak for 10 minutes on any matter contained in such report despite any other provisions to the contrary herein contained; and
  - (b) a Councillor may demand that his or her opposition to a recommendation and resolution be recorded in the minutes.
- (7) The chairperson of the committee concerned or the Executive Mayor, as the case may be, may at any time during the debate on a matter request that the matter be withdrawn and referred back to the committee or the Executive Mayor, as the case may be, for further consideration; or
- (8) Permission in terms of sub-rule (8) must be granted or denied without discussion.
- (9) A matter that is withdrawn in terms of sub-rule (8)(a) lapse without further discussion.
- (10) The chairperson of the committee or the Executive Mayor, as the case may be, may conclude the debate on the matter, provided that the chairperson of a committee may designate another Councillor who is a member of the committee to conclude such debate.

### 158. Reports of the audit committee

- (1) The audit committee must submit its report after every committee meeting to the Council.
- (2) The provision of rules 154, 155 and 156 apply, with the necessary changes, to the report of the audit committee, provided that if the chairperson of the audit committee is not a Councillor, the member of that committee who is a Councillor designated by him or her must discharge the duties of the chairperson during the meeting where its report is considered.

### 159. Reports on the state of the budget

- (1) The Municipal Manager must not later than the first ordinary Council meeting after-
  - (a) 30 September;
  - (b) 31 December;
  - (c) 31 March; or
  - (d) 30 June of every year submit at such meeting a report on the state of the budget for that financial year.
- (2) The report in terms of sub-rule (1) must contain the particulars referred to in section 19(4) of the Finance Management Act and must be in the format prescribed under that Act. Despite any prescripts in terms of that Act, the report must contain a written statement of-
  - (a) the total amount owed to and received by the Municipality in respect of rates, rent, charges for water, electricity, solid waste removal and sanitation, at the end of each month covered by such report with regard to every part of the municipal area as may be determined by the Council, identifying the ten biggest debtors;
  - (b) the total amount of grants, fiscal transfers and subsidies, including any ad hoc allocations, received from the national or the provincial government or the district Municipality during the period covered by the report and the allocation thereof compared to the amount claimed or allocated, as the case may be;
  - (c) the income owed to and received by the Municipality from any other source not mentioned in paragraphs (a) and (b);

- (d) the number of debtors invoices issued by the Municipality and the number actually paid during every month covered by the report;
  - (e) the total amount of income from rates during every month covered by such report expressed as a percentage of the expected income from rates for each such month;
  - (f) the total amount due by the Municipality to its creditors during each month covered by the report, including a statement of the ten biggest creditors, the creditors outstanding for more than thirty days and the amount paid to each creditor and the reasons for any difference between the amount owed and the amount paid;
  - (g) the cashbook balance at the end of each month covered by the report and the reason for any trend that may occur during the period;
  - (h) progress made with the implementation of every project or programme indicated in the capital budget and the reasons for underperformance;
  - (i) the balance of every fund created by the Council and a statement of payments made from and income accruing to each such fund during the period covered by the report;
  - (j) the balance of every external and internal loan, including any overdraft facility extended by the Municipality's bank, raised by the Municipality, the remaining term of each such loan and the purpose thereof;
  - (k) every investment made by or on behalf of the Council, including the institution where the investment was made, the date when such investment had been made, the term of such investment and the interest rate on such investment; and
  - (l) the staff complement of every department within the administration, including an indication of the number of posts vacant on the permanent and temporary establishment, the period for which they had been vacant, the grading of each such vacancy and a full explanation of the need for each such post.
- (3) A committee or Executive Mayor, as the case may be, must consider the report and submit it, together with its comment and recommendations to the Council.

**160. Information statement on intended debt**

Whenever the Municipality contemplates incurring debt, the Municipal Manager must submit a report to the Council setting out-

- (a) the purpose for which the debt is to be incurred;
- (b) the anticipated total cost of credit over the repayment period;
- (c) the essential repayment terms and conditions;
- (d) particulars of any security to be provided; and
- (e) the influence of the intended debt on rates and other tariffs over the total repayment period.

**161. Report on inability to comply with reporting requirements or any other duty**

- (1) The Municipal Manager must report immediately to the Executive Mayor or the Council if he or she is not able to comply with any of his or her reporting requirements or any duty in terms of-
- (a) any legislation, including these rules and orders; or
  - (b) his or her contract of employment.
- (2) A report in terms of sub-rule (1) must state the reason for the inability.
- (3) Whenever the reasons for the inability arise from the inadequate guidance, instruction, training or counselling, the report must state the extent to which such guidance, instruction, training or counselling fell short of being adequate.
- (4) Whenever the reasons for the inability arise from a lack of co-operation from any departmental head or other employee of the Municipality, the Municipal Manager must make appropriate recommendations as to prevent such an occurrence in future.

**162. Reporting about performance**

- (1) The Municipal Manager must, together with the report in terms of rule 159 submit a report on the implementation and results of the Municipality's performance management system.
- (2) The report in terms of sub-rule (1) must, in addition to any matters prescribed in terms of the Systems Act, state-
- (a) the development objectives of the Municipality and the performance indicators and targets determined in respect of each of them;
  - (b) how progress was measured and the indicators applied
  - (c) the extent to which each of the performance targets had been achieved;
  - (d) the reasons for every difference between any performance target and the actual achievement thereof;
  - (e) recommendations for the improvement of performance where underperformance against any performance target had been identified;
  - (f) recommendations for the increase in performance targets where such targets had been achieved;
  - (g) recommendations for the change of any performance indicator or development objective;
  - (h) the result and recommendations of the performance appraisal of the Municipal Manager and every departmental head during any period since the last report was submitted; and
  - (i) any other relevant matter.

**CHAPTER 12  
DELEGATED POWERS**

**163. Reporting on exercise of delegated powers**

- (1) A committee, Councillor or employee to whom a power had been delegated must report to the delegating authority at intervals as determined by the delegating authority on all decisions taken in terms of its delegated powers.

**164. Review of decisions under delegated powers**

- (1) The Speaker must, after a report in terms of rule 154 on the recommendations of the Executive Mayor had been disposed of, put the matters disposed of by the committee or the Executive Mayor, as the case may be, in terms of its delegated or statutory powers.
- (2) The Speaker may alter the sequence of the matters dealt with in a report in terms of sub-rule (1) at his or her own discretion.
- (3) During the consideration of a matter in terms of sub-rule (1)-
- (a) the chairperson of the committee or a member of the committee designated by him or her or the Executive Mayor, as the case may be, may speak for not more than 10 minutes on any matter contained in such report despite any other provisions to the contrary contained in these rules and orders;
  - (b) no proposal other than a proposal that the matter be referred back for consideration by the relevant committee may be made; and
  - (c) a Councillor may demand that his or her opposition to a resolution contained in such report be recorded in the minutes.
- (4) The chairperson of the committee concerned or the Executive Mayor, as the case may be, may at any time during the debate on a matter-
- (a) request that the matter be withdrawn and referred back to the committee or the Executive Mayor for further consideration; or
  - (b) amend a resolution contained in such report with the permission of the other members of the committee present in appropriate cases.
- (5) Permission in terms of sub-rule (4) must be granted or denied without discussion.
- (6) A matter that is withdrawn in terms of sub-rule (4)(a) lapse without further discussion.
- (7) The chairperson of the committee or the Executive Mayor, as the case may be, may conclude the debate on the matter, provided that in the case of a committee, the chairperson may designate another Councillor who is a member of the committee to conclude such debate.

**165. Review of delegated powers**

- (1) The Municipal Manager must, not later than the third ordinary Council meeting after a general election of Councillors, and thereafter as often as the Council so requires, submit a report on the delegated powers of the Municipality to the Council.
- (2) The report in terms of sub-rule (1) must be submitted to the Executive Mayor.
- (3) The Executive Mayor must consider the report and recommendations of the Municipal Manager. The Executive Mayor must submit the report, together with his/her comments and recommendations to the Council at the first ordinary Council meeting next ensuing.

**CHAPTER 13  
DEPUTY EXECUTIVE MAYOR**

**166. Report by the Municipal Manager**

- (1) Whenever the Council contemplates applying to the MEC for approval to elect a deputy Executive Mayor in terms of section 55(1) of the Structures Act it must obtain and consider a report of the Municipal Manager.
- (2) The Municipal Manager in preparing a report contemplated in sub-rule (1) must consider the need for a deputy Executive Mayor, as the case may be, taking into account-
- (a) the extent of the powers and functions of the Municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance to a Executive Mayor;
  - (c) the reasons not to delegate any such power or function to the Executive Mayor, as the case may be, or an employee of the Municipality;
  - (d) the available financial and administrative resources of the Municipality to support the work of a deputy Executive Mayor, including the provision and maintenance of appropriate office facilities, office equipment and secretarial support;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the workload of a deputy Executive Mayor;
  - (g) the need for co-ordination of decision-making; and
  - (h) the likely improvement or deterioration in the quality and speed of decision-making if a deputy Executive Mayor is elected.
- (3) The report must contain recommendations with regard to-
- (a) the format, frequency and framework for reports on the activities of the the deputy Executive Mayor and the exercise of his or her delegated powers;
  - (b) the specification and clarification of the role and responsibility of the Executive Mayor and the deputy Executive Mayor, as the case may be, on the one hand and the Municipal Manager and departmental heads of the Municipality on the other, with due regard to the statutory duties and responsibilities of the Municipal Manager; and
  - (c) any other relevant matter.



- (4) The Council may not consider or apply for permission to elect a deputy Executive Mayor, if the Council-
- (a) has not designated the Executive Mayor, as the case may be as a full-time Councillor; or
  - (b) the Council, having designated the Executive Mayor as a full-time Councillor, granted permission to him or her to undertake other paid work.

#### CHAPTER 14 MISCELLANEOUS:

##### 167. SHORT COMMUNIQUÉS TO COUNCILLORS BY THE SPEAKER AND THE EXECUTIVE MAYOR

The Speaker and the Executive Mayor may make short written announcements/ communiqués to Councillors if and when necessary to report to Councillors regularly in between Council meetings.

##### 168. SPECIAL ADDRESS BY THE EXECUTIVE MAYOR TO THE PEOPLE OF MOQHAKA LOCAL MUNICIPALITY

- (1) That once per calendar year on date and time determined by the Executive Mayor in consultation with the Speaker, the Executive Mayor may address the people of MOQHAKA LOCAL MUNICIPALITY in terms of Section (18) of the Municipal Systems Act (Act No 32, 2000) on the state of MOQHAKA Municipality.
- (2) In consultation with the Speaker the Executive Mayor may use any medium of communication as he/she deems fit.

##### 169. REPEAL OF BY-LAWS

Any by-laws relating to standing rules and orders adopted by the Municipality or any Municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

##### 170. Dress Code

The Council may by resolution prescribe a dress code for Councillors, officials and members of the public who attend meetings of Council and committees provided that:

- (a) no Councillor or official shall be allowed to wear any clothing or accessory containing party political paraphernalia or insignia to any meeting; and
- (b) that provision be made for the wearing of formal traditional clothing.

##### 171. SHORT TITLE

This By-Law is called the Standing Rules and Orders of Moqhaka Local Municipality 2019.

#### SCHEDULE 2

#### MOQHAKA LOCAL MUNICIPALITY: LAND USE PLANNING AMENDMENT BY-LAW, 2019

##### GENERAL EXPLANATORY NOTE:

- [ ] Words in bold type square brackets indicate omissions from existing enactments.  
 \_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

To amend the Moqhaka Land Use Planning By-Law, 2015, (Published in Provincial Gazette no 124 of 27 November 2015 under notice no 134) so as to amend and insert certain definitions, amend certain sections to make it more user-friendly and implementable, insert provisions dealing with the closing and rehabilitation of mines and to provide for matters connected therewith.

BE IT ENACTED by the Council of the Moqhaka Local Municipality, as follow:

##### Amendment in the Arrangement of Sections and Schedules of the Moqhaka Land Use Planning By-Law, 2015

1. The Arrangement of Sections and Schedules of the Moqhaka Land Use Planning By-Law, 2015 (hereinafter referred to as the principal By-law) is hereby amended -
  - (a) by the substitution of the following headings:
    10. LOCAL SPATIAL DEVELOPMENT FRAMEWORKS / PRECINCT PLANS
    11. COMPILATION, AMENDMENT OR REVIEW OF LOCAL SPATIAL DEVELOPMENT FRAMEWORKS / PRECINCT PLANS
    12. STATUS OF LOCAL SPATIAL DEVELOPMENT FRAMEWORKS / PRECINCT PLANS
  - (b) by the insertion of the following headings:
    - 81A LEGAL INDEMNIFICATION
    - 83A POINTS-IN-LIMINE

**CHAPTER X - INTEGRATED LAND AND MINING REHABILITATION DEVELOPMENT MANAGEMENT**

    110. SUBDIVISIONS FOR MINING OR REHABILITATION PURPOSES
    111. REHABILITATION PROCESS

- 112. RECOGNITION OF REHABILITATION VENTURES
- 113. REGISTRATION OF REHABILITATION VENTURES WITH THE MUNICIPALITY
- 114. IMPLEMENTATION OF REHABILITATION VENTURES IN TERMS OF SECTIONS 110 TO 124
- 115. TRANSITIONAL PERIOD FOR REHABILITATION VENTURES
- 116. COMPATIBILITY OF A REHABILITATION VENTURE WITH THE SPATIAL DEVELOPMENT FRAMEWORK, LOCAL SPATIAL DEVELOPMENT FRAMEWORK / PRECINCT PLAN, LAND USE SCHEME AND ZONING
- 117. APPLICATION FOR CHANGE OF LAND USE OF A REGISTERED REHABILITATION VENTURE
- 118. AMENDMENTS TO THE CHANGE OF LAND USE APPLICATION OF A REGISTERED REHABILITATION VENTURE
- 119. APPROVAL OF CHANGE OF LAND USE OF A REGISTERED REHABILITATION VENTURE
- 120. SERVICES AGREEMENT APPLICABLE TO A REGISTERED REHABILITATION VENTURE
- 121. TRANSFER OF LAND AFFECTED BY A REGISTERED REHABILITATION VENTURE
- 122. SUBMISSION OF BUILDING PLANS OF A REGISTERED REHABILITATION VENTURE
- 123. LIABILITY OF CHANGES TO A REGISTERED REHABILITATION VENTURE
- 124. REGULATIONS AFFECTING A REGISTERED REHABILITATION VENTURE

SCHEDULE 3ANNEXURE AANNEXURE B**Amendment of Section 1 of the Moqhaka Land Use Planning By-Law, 2015**

2. Section 1 of the principal By-law is hereby amended -
- (a) by the substitution of the definition of **"agent"** of the following definition:  
**"agent"** means a person authorised by the owner of land to make an application **[on behalf of the owner of land]**;
  - (b) by the addition of the following definition before the definition for **"Appeal Authority"**:  
**"appeal"** means the process when a party is aggrieved by a decision, and includes the review of procedural aspects of an application or portion of an application.
  - (c) by the substitution of the definition of **"applicant"** of the following definition:  
**"applicant"** means **[a person referred to in Section 16(2) who makes an application to the Municipality as contemplated in that Section]** the owner of land or his agent who makes an application to the Municipality as contemplated in Section 16(3);
  - (d) by the substitution of the definition of **"application"** of the following definition:  
**"application"** means an application to the Municipality referred to in Section **[16(2)] 16(3)**;
  - (e) by the addition of the following definitions after the definition for **"authorised employee"**:  
**"commence"** means when read in Section 16(1), the utilising of the land use or subdivision for the intended use, but excludes the preparatory activities needed to submit an application in terms of Section 16(3). A rehabilitation venture is exempted from this interpretation in so far as the commencement of a rehabilitation venture is complying with Sections 110 to 124.  
**"competent authority"** means the relevant municipal planning decision-making structures consisting of the authorised employee, the Municipal Planning Tribunal or the Appeal Authority.  
**"conditional approval"** means, with regard to rehabilitation projects, approval by the competent authority after the change of land use application has been completed in terms of the current applicable legislation, but rehabilitation of the area has not been completed.
  - (f) by the substitution of the definition of **"date of notification"** of the following definition:  
**"date of notification"** means the date on which a notice is served as contemplated in Section **[50(6)] 50(4)** or published in the media or *Provincial Gazette*;
  - (g) by the addition of the following definitions after the definition for **"development charge"**:  
**"developer"** means the party who enters into an agreement with the mining right holder to implement a rehabilitation venture and become the beneficiary of the property upon the sign-off of the rehabilitation process by the DMR.  
**"DMR"** means the Department of Mineral Resources or similar department managing mining activities.  
**"end land use"** means the zoning that will be applicable on the land after the rehabilitation venture has been completed and the change of land use application has been finally approved. It may include the creation of a new zoning with its applicable conditions.
  - (h) by the addition of the following definitions after the definition for **"Free State Spatial Planning and Land Use Bill"**:  
**"land"** includes, for the purposes of rehabilitation projects, a farm portion, smallholding or erf, or combinations thereof that are affected by and form the subject of the approved rehabilitation plan and include servitudes, leases or surface right permits on parts of any such land.  
**"local municipality"** means the 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.
  - (i) by the substitution of the definition of **"local spatial development framework"** of the following definition:  
**"local spatial development framework"** means a local spatial development framework contemplated in Section 10 and is also known as a precinct plan;
  - (j) by the addition of the following definition after the definition for **"local spatial development framework"**:  
**"mine closure plan"** means the closure plan of the mine as defined in the applicable legislation controlling the mining right of the mining operation, applicable on the portion of land which forms part of an application or planning document.

- (k) by the substitution of the definition of "**Municipality**" of the following definition:  
**"Municipality"** means the Municipality of Moqhaka established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and any employee or department or authorised structure of the Municipality acting in terms of delegated or sub-delegated authority of the Municipality;
- (l) by the substitution of the definition of "**non-conforming use**" of the following definition:  
**"non-conforming use"** means an existing land use that was lawful in terms of a previous Land Use Scheme but that does not comply with the Land Use Scheme in force. The use right is limited to the area of the building or land on which the proven lawful use right was issued. It is also referred to as an existing conflicting use.
- (m) by the substitution of the definition of "**owners' association**" of the following definition:  
**"owners' association"** means an owners' association established in terms of Section 30 and includes [ , for the purpose of Section 29(2)(a),] a body corporate created in terms of the Sectional Titles Act (Act 95 of 1986) or the Companies Act (Act 71 of 2008);
- (n) by the addition of the following definition after the definition for "**owners' association**":  
**"points-in-limine"** means, with regard to a hearing- or appeal-process, the introduction of technical legal points which are argued and decided before arguing the merits of the case.
- (o) by the addition of the following definitions after the definition for "**pre-application consultation**":  
**"principle approval"** means, with regard to rehabilitation projects, the approval by a competent authority of the project, after a feasibility study has been completed, that authorises the Municipality to register the project and interact with all role players during the transitional period.  
**"proclamation"** means the publication in the Provincial Gazette of the notice indicating that the conditions, to which an approved application is subject to, and the actions in terms of this By-law, has been completed and complied with.  
**"proclaimed township"** means a township that had a proclamation, in terms of Section 24, published in the Provincial Gazette.
- (p) by the addition of the following definitions after the definition for "**public facilities**":  
**"rehabilitation plan"** means the localised site specific plan addressing the activities required to achieve the aims and objectives of the mine closure plan on that site.  
**"rehabilitation project"** means a project listed in the Rehabilitation Plan of the Mining Right Holder, approved by the DMR, affecting the land and excludes, for the purpose of this By-law, rehabilitation projects where no transfer of land is linked to the rehabilitation.  
**"review"** means the process when a party is aggrieved with the procedural aspects of an application or portion of an application and is, for the purposes of this By-law, the same as the appeal process.
- (q) by the addition of the following definition after the definition for "**service**":  
**"services agreement"** means the agreement between the developer / owner of the land and the provider(s) of services to the land that is binding on future land owners, relating to at least: water, sewer and electricity provision.
- (r) by the addition of the following definition after the definition for "**social infrastructure**":  
**"social and labour plan"** means a social and labour plan as defined in the applicable mining laws and include the principles and objectives.
- (s) by the addition of the following definition after the definition for "**Spatial Planning and Land Use Management Act**":  
**"township"** means township as defined in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).
- (t) by the substitution of the definition of "**Tribunal**" of the following definition:  
**"Tribunal"** means the Municipal Planning Tribunal established in terms of Section [74] 77.
- (u) by the addition of the following definition after the definition for "**Tribunal**":  
**"transitional period"** means the time from the principle approval of a rehabilitation project, in terms of a Rehabilitation Plan of the Mining Right Holder approved by the DMR, to the sign off by the DMR that the rehabilitation of the surface area has been completed in terms of the Rehabilitation Plan.

#### Amendment of Section 2 of the Moqhaka Land Use Planning By-Law, 2015

3. Section 2 of the principal By-law is hereby amended -
- (a) by numbering the paragraph under Section 2 to read (1).
- (b) by the addition after subsection (1) of the following subsection:  
 (2) This By-law further applies to all land where mining activities has taken place, a mining right has been issued and or any land zoned in any town planning scheme as "mining", or other similar zoning, allowing mining activities.

#### Substitution of the word "Council" in the Moqhaka Land Use Planning By-Law, 2015

4. The principle By-law is hereby amended by the substitution of the word "Council" where it appears in subsections 4(1), 6(1), 7(1), 7(8), 8(1), 11(2) and 15(4), of the word "Municipality".

#### Amendment of Section 4 of the Moqhaka Land Use Planning By-Law, 2015

5. Section 4 of the principle By-law is hereby amended by renumbering subsection [(2)(c)(i)] to read (2)(c).

#### Amendment of Section 6 of the Moqhaka Land Use Planning By-Law, 2015

6. Section 6 of the principle By-law is hereby amended -
- (a) by the substitution of subsection (1) of the following subsection:  
 (1) If the Municipality establishes an intergovernmental steering committee, the Municipality must, in writing, invite written nominations for representatives to serve on the intergovernmental steering committee from [the following organs of state] -
-

- (b) by the substitution of subsection (1)(d) of the following subsection:  
 (d) relevant organs of state; and **[departments.]**
- (c) by the addition after subsection (1)(d) of the following subsection:  
 (e) any other department deemed necessary by the Municipality.

#### **Amendment of Section 8 of the Moqhaka Land Use Planning By-Law, 2015**

7. Section 8 of the principle By-law is hereby amended by the substitution of subsection (1)(c) of the following subsection:  
 (c) after approval of the draft municipal spatial development framework or draft amendment of the municipal spatial development framework for publication contemplated in Sub-section (b), submit the draft municipal spatial development framework or draft amendment of the municipal spatial development framework to the MEC for comment **[in]**; and

#### **Amendment of Section 9 of the Moqhaka Land Use Planning By-Law, 2015**

8. Section 9 of the principle By-law is hereby amended by the substitution of subsection (1) of the following subsection:  
 (1) The members of the project committee must, in accordance with the directions of **[ ]** the **[executive authority/] executive mayor [committee of councillors]** –

#### **Addition of the expression “/ PRECINCT PLANS” in the Moqhaka Land Use Planning By-Law, 2015**

9. The principle By-law is hereby amended by the addition of the words “/ PRECINCT PLANS” after the words “LOCAL SPATIAL DEVELOPMENT FRAMEWORKS” in the headings of Sections 10, 11 and 12.
10. The principle By-law is hereby amended by the addition of the words “/ precinct plan” after the words “local spatial development framework” in subsections 10(1), 10(2), 11(1), 11(2), 11(3), 12(1), 12(2), 13(1) and 13(2).

#### **Substitution of the expression “16(2)” in the Moqhaka Land Use Planning By-Law, 2015**

11. The principle By-law is hereby amended by the substitution of the expression “16(2)” where it appears in subsections 14(1), 15(3)(b), 18(2), 27(2), 32(1), 34(1) and 99(1), of the expression “16(3)”.

#### **Amendment of Section 15 of the Moqhaka Land Use Planning By-Law, 2015**

12. Section 15 of the principle By-law is hereby amended by the substitution of subsection (3)(a) of the following subsection:  
 (a) if the non-conforming use ceases for any reason for a period of more than **[twenty-four]** twelve consecutive months, any subsequent use of the property must conform to the requirements of this By-law, with or without temporary uses;

#### **Amendment of Section 16 of the Moqhaka Land Use Planning By-Law, 2015**

13. Section 16 of the principle By-law is hereby amended -
- (a) by the substitution of subsection (1) of the following subsection:  
 (1) No person may commence, continue, or cause the commencement or continuation of, land development without the approval of the Municipality in terms of Subsection **[(2)](3)**.
- (b) by the substitution of subsection (2)(a)(v) of the following subsection:  
 (v) The subdivision **[and consolidation]** of any land other than a subdivision **[and consolidation]** which is provided for as a Category 2 application;
- (c) by the substitution of subsection (2)(a)(vii) of the following subsection:  
 (vii) **[Any]** A consent or approval required in terms of a condition of title or a condition of establishment of a township **[or condition of an existing scheme or Land Use Scheme]**;
- (d) by the addition after subsection (2)(a)(viii) of the following subsections:  
 (ix) The determination of a zoning for land within its municipal jurisdiction as contemplated in Section 14(1) of this By-law;  
 (x) The change of land use process of rehabilitation projects as contemplated in sections 110 to 124;  
 (xi) The recognition of a rehabilitation venture as complying with the principles of a social and labour plan project in terms of Section 112(1)(b); and  
 (xii) An application for extension of approval of any application done in respect of Category 1 applications, subject to Section 74.
- (e) by the substitution of subsection (2)(b)(i) of the following subsection:  
 (i) The subdivision of any land where such subdivision is expressly provided for in a Land Use Scheme and includes, subject to Section 110, subdivisions for the purpose of creating land entities for mining or rehabilitation purposes;
- (f) by the substitution of subsection (2)(b)(ii) of the following subsection:  
 (ii) The creation of any servitude or long term lease **[and the consolidation of any land]**;
- (g) by the substitution of subsection (2)(b)(iv) of the following subsection:  
 (iv) The consent of the Municipality for any land use purpose or temporary use or deviation in terms of a Land Use Scheme, **which does not constitute a land development application]**;
- (h) by the addition after subsection (2)(b)(v) of the following subsections:  
 (vi) The consolidation of any land.  
 (vii) Application for consent use of a property for a secondary use as determined in the Land Use Scheme.  
 (viii) The rezoning of any land that is allowed in terms of the Land Use Scheme in terms of an overlay zoning, subject to the condition that the creation of an overlay zone complied with the procedures applicable at that time.  
 (ix) An application for extension of approval of any application done in respect of Category 2 applications, subject to Section 74.

- (i) by the substitution of subsection (3)(h) of the following subsection:
  - (h) an extension of the validity period of an approval, in terms of Section 74;
- (j) by the substitution of subsection (3)(l) of the following subsection:
  - (l) a determination of a **[Land Use Scheme] zoning;**
- (k) by the addition after subsection (3)(o) of the following subsections:
  - (p) a township establishment;
  - (q) an application to have a land development dealt with as a rehabilitation project.
- (l) by the substitution of subsection (8) of the following subsection:
  - (8) When the Municipality on its own initiative develops land as contemplated in Subsection ~~[(2)](3)~~, it must apply to the Tribunal in accordance with this Chapter and Chapter IV.
- (m) by the addition after subsection (8) of the following subsections:
  - (9) If the land is to be dealt with as a rehabilitation venture then Chapter X is also applicable.
  - (10) If the land development is to be dealt with in terms of an emergency situation due to a disaster, subject thereto that -
    - (a) After the emergency situation has stabilised, the Municipality must decide within 90 days on the permanency of the land development.
    - (b) If the decision is that the land development is permanent, an application must be submitted within a further 90 days of such a decision, and such an application will be dealt with as a normal application, taking into account the extent and impact of the disaster.
    - (c) If the decision is that the land development is not permanent but the land development has not been reversed or mitigated back to the situation as it was before the emergency situation, within 180 days, Subsection (b) will be applicable as if the decision of permanency was made at the end of the 180 day period.

**Amendment of Section 17 of the Moqhaka Land Use Planning By-Law, 2015**

- 14. Section 17 of the principle By-law is hereby amended -
  - (a) by the substitution of subsection (1)(a) of the following subsection:
    - (a) **[proof of change of ownership; and]** confirmation from the current owner that the land has been sold;
  - (b) by the substitution of subsection (1)(b) of the following subsection:
    - (b) **[an amended power of attorney, if an agent was appointed to make the application.]** proof of change of ownership in the form of a deed of sale; and
  - (c) by the addition after subsection (1)(b) of the following subsection:
    - (c) an amended power of attorney, if an agent was appointed to make the application.
  - (d) By the substitution of subsection (2) of the following subsection:
    - (2) The new owner must advise the Municipality in writing of the continuation of the application within thirty days from date of the signing of the deed of sale.

**Amendment of Section 18 of the Moqhaka Land Use Planning By-Law, 2015**

- 15. Section 18 of the principle By-law is hereby amended by the addition after subsection (4) of the following subsection:
  - (5) A zoning comes into effect on the expiry of the period contemplated in Section 84(2) after the publication of the notification of the approval in terms of Section 65(2).

**Amendment of Section 19 of the Moqhaka Land Use Planning By-Law, 2015**

- 16. Section 19 of the principle By-law is hereby amended by the substitution of subsection (3) of the following subsection:
  - (3) If a rezoning approval lapses, the zoning applicable to the land before the approval of the rezoning applies or, where no zoning existed before the approval of the rezoning, the Municipality must determine a zoning in terms of Section **[13] 14**.

**Amendment of Section 20 of the Moqhaka Land Use Planning By-Law, 2015**

- 17. Section 20 of the principal By-law is hereby amended -
  - (a) by numbering the paragraph under Section 20 to read (1).
  - (b) by the addition after subsection (1) of the following subsections:
    - (2) The township establishment process and approval includes any combination of the following activities required to create the township:
      - (a) Subdivision,
      - (b) Consolidation,
      - (c) Cancellation,
      - (d) Incorporation into a General Plan,
      - (e) Incorporation into a Land Use Scheme.
    - (3) Legal effect of a township establishment entails the following -
      - (a) The township establishment approval may specify each activity as contemplated in Subsection (2).
      - (b) If the Township establishment approval does not specify the individual activities, the applicant together with the professional registered persons taking responsibility for the activities in Sections 22 and 23, together with the Surveyor-General and the Registrar of Deeds may agree in writing to the activities required.

- (c) The agreement in Subsection (b) is, upon signature by all the parties mentioned in Subsection (b), then deemed to be an integral part of the township establishment approval and is lodged with the appropriate documents in the offices of the Surveyor-General and the Registrar of Deeds.
- (d) The agreement in Subsection (b) must be submitted to the Municipal Manager for incorporation into the approval of the township establishment in terms of Section 24.
- (e) The agreement in Subsection (b) having complied with Subsection (c) then gives legal effect to the execution of Section 22 and 23, as if the approval has already been amended in terms of Section 24.

#### **Amendment of Section 21 of the Moqhaka Land Use Planning By-Law, 2015**

18. Section 21 of the principal By-law is hereby amended -
- (a) by the substitution of subsection (3)(b)(iv) of the following subsection:
- (iv) the Tribunal shall have declared the township an approved township and, in the case of such an owner who is not a municipality, the Tribunal shall have satisfied itself that the services and amenities that have to be provided in connection with such land in terms of the conditions subject to which the establishment of such township was approved, are available and the Director: Technical Services or other authorised employee shall have issued a certificate to that effect.
- (b) by the addition after subsection (4) of the following subsection:
- (5) The zonings created in a township establishment process come into effect on the publication of the notice referred to in Section 24(1).

#### **Amendment of Section 22 of the Moqhaka Land Use Planning By-Law, 2015**

19. Section 22 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (2) of the following subsection:
- (2) When such general plan and diagrams have been approved by the Surveyor-General **[he shall]**, the Surveyor-General must notify the applicant, the Municipality and the Registrar of Deeds of such approval.
- (b) by the addition after subsection (2) of the following subsection:
- (3) If an applicant fails to lodge the general plan and diagrams with the Surveyor-General within the period or further period, the approval of the application shall lapse unless an application in terms of Section 74 is approved.

#### **Amendment of Section 23 of the Moqhaka Land Use Planning By-Law, 2015**

20. Section 23 of the principal By-law is hereby amended by the substitution for subsection (2) of the following subsection:
- (2) If an applicant fails to lodge such documents with the Registrar of Deeds or to obtain registration thereof within the period or further period contemplated in Subsection (1) the approval of the application shall lapse unless **[the Tribunal condones such failure]** an application in terms of Section 74 is approved.

#### **Amendment of Section 24 of the Moqhaka Land Use Planning By-Law, 2015**

21. Section 24 of the principal By-law is hereby amended by the substitution for subsection (1) of the following subsection:
- (1) After the provisions of Section 23 have been complied with and subject to Section 21(3)(b)(iv) the Municipality shall by proclamation declare the township to be an approved township.

#### **Amendment of Section 25 of the Moqhaka Land Use Planning By-Law, 2015**

22. Section 25 of the principal By-law is hereby amended by the substitution for subsection (3) of the following subsection:
- (3) When a general plan of a township is totally or partially cancelled by the Surveyor-General, in terms of the Land Survey Act, 1997, (Act No 8 of 1997), the land uses and conditions of title, is simultaneously cancelled and the land use and zoning **[revert to undetermined or agriculture or the zoning which was in place immediately prior to the approval]** changes simultaneously to the land uses and zonings as approved on the re-layout plan.

#### **Amendment of Section 26 of the Moqhaka Land Use Planning By-Law, 2015**

23. Section 26 of the principal By-law is hereby amended by the substitution for subsection (2) of the following subsection:
- (2) The Municipality may in terms of conditions imposed under Section 72 determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved general plan, be transferred to the Municipality upon **[confirmation]** registration of the township establishment or a part thereof.

#### **Amendment of Section 27 of the Moqhaka Land Use Planning By-Law, 2015**

24. Section 27 of the principal By-law is hereby amended by the addition after subsection (7) of the following subsection:
- (8) Upon closure of a public place the right of the public to the place is removed, but the zoning is not affected.

#### **Amendment of Section 29 of the Moqhaka Land Use Planning By-Law, 2015**

25. Section 29 of the principal By-law is hereby amended by the substitution for subsection (3)(b) of the following subsection:
- (b) proof of payment of any contravention penalty **[due by the transfer]** or proof of compliance with an instruction in a compliance notice issued in terms of Chapter VIII;

**Amendment of Section 30 of the Moqhaka Land Use Planning By-Law, 2015**

26. Section 30 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (5) of the following subsection:
- (5) An owners' association may amend its constitution when necessary, **[but if an amendment affects the Municipality or a provision referred to in Subsection (3), the]** which amendment must **[also]** be approved by the Municipality.
- (b) by the addition after subsection (7) of the following subsections:
- (8) If an owners' association fails to meet any of its obligations contemplated in Subsection (3) and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in Subsection (6)(a) the amount of any expenditure incurred by it in respect of those actions.
- (9) The amount of any expenditure so recovered is, for the purposes of Subsection (8), considered to be expenditure incurred by the owners' association.

**Amendment of Section 32 of the Moqhaka Land Use Planning By-Law, 2015**

27. Section 32 of the principal By-law is hereby amended by the substitution for subsection (4) of the following subsection:
- (4) If a Municipality approves a subdivision or consolidation, the Municipality must amend upon registration, the Land Use Scheme in terms of Chapter IV and, where applicable, the register accordingly.

**Amendment of Section 37 of the Moqhaka Land Use Planning By-Law, 2015**

28. Section 37 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (6)(a) of the following subsection:
- (a) the serving of notices must take place in accordance with Sections 47, **[48,]** 49, 50, 51 and 52 of this By-law.
- (b) by the substitution for subsection (6)(b) of the following subsection:
- (b) **[an original copy with 5 copies]** a total of 7 originals of all documentation, referred to in Subsection **[(2) and]** (3) and (4) and the notice, referred to in Subsection (5) must be sent to the Municipality within 7 days after the notice as contemplated in Subsection (5) for the consideration of an application **[and an additional 2 copies for administrative use]**.
- (c) by the deletion of subsection (6)(c).

**Amendment of Section 40 of the Moqhaka Land Use Planning By-Law, 2015**

29. Section 40 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (2) of the following subsection:
- (2) An orientation locality map should be at least a clearly readable **[A3] A4** sized map or larger, indicating the application area in relation to the surrounding properties and must include the following basic details:
- (b) by the substitution for the word "undeveloped" where it appears in subsections (4)(b) and 5(b), of the expression "vacant".

**Substitution of the expression "7" in the Moqhaka Land Use Planning By-Law, 2015**

30. The principle By-law is hereby amended by the substitution of the expression "7" where it appears in subsections 43(1)(b) and 45(1), of the expression "21".

**Substitution of the expression "seven" in the Moqhaka Land Use Planning By-Law, 2015**

31. The principle By-law is hereby amended by the substitution of the word "seven" where it appears in subsections 44(1)(c) and 44(2), of the expression "twenty-one".

**Amendment of Section 48 of the Moqhaka Land Use Planning By-Law, 2015**

32. Section 48 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (1) of the following subsection:
- (1) The Municipality must keep record of all applications submitted, decisions made inclusive of reasons and conditions where applicable.
- (b) by the substitution for subsections (3) and (3)(a) of the following subsection:
- (3) The Municipality must, within seven days of the date of notification to the applicant that an application is complete, simultaneously [-
- (a)]** register the application in the application register and **[notify the applicant in writing thereof; and]** forward the application concerned to every municipal department, **[service provider and organ of state that has an interest in the application]** for their comment.

**Amendment of Section 49 of the Moqhaka Land Use Planning By-Law, 2015**

33. Section 49 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (1) of the following subsection:
- (1) The applicant must, in accordance with this By-law, cause notice to be given in the media for Category 1 and Category 2 applications as contemplated in Section 16**[(2)]**.
- (b) by the substitution for subsection (3)(a) of the following subsection:
- (a) publishing a notice in the *Provincial Gazette* in respect of Category 1 applications; and

- (c) by the substitution for subsection (3)(b) of the following subsection:  
 (b) publishing a notice of the Category 1 and Category 2 applications, in two newspapers with a general circulation in the area concerned, in English in the legal notices section; or
- (d) by the substitution for subsection (3)(c) of the following subsection:  
 (c) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board and/or website as may be determined by the Municipality.

**Amendment of Section 50 of the Moqhaka Land Use Planning By-Law, 2015**

34. Section 50 of the principal By-law is hereby amended -  
 (a) by the substitution for subsection (1) of the following subsection:  
 (1) Notice of an application contemplated in Section 49(1) **[and Subsection (2)]** must be served -  
 (b) by the substitution for subsection (1)(b) of the following subsection:  
 (b) in **[at least two of the official languages of the Province most spoken in the area concerned]** English; and  
 (c) by the deletion of subsections (2) and (3).

**Amendment of Section 51 of the Moqhaka Land Use Planning By-Law, 2015**

35. Section 51 of the principal By-law is hereby amended by the substitution for subsection (1) of the following subsection:  
 (1) When notice of an application must be given in terms of Section **[47] 49** or served in terms of Section 50 or 52, the notice must -

**Amendment of Section 52 of the Moqhaka Land Use Planning By-Law, 2015**

36. Section 52 of the principal By-law is hereby amended -  
 (a) by the substitution for subsection (1)(a) of the following subsection:  
 (a) displaying a notice contemplated in Section 50 of a size **[of at least 60 centimetres by 42 centimetres]** not smaller than A3 on the frontage of the erf or farm portion concerned or at any other conspicuous and easily accessible place on the erf or farm portion, provided that -  
 (b) by the substitution for subsection (1)(g) of the following subsection:  
 (g) by serving a copy of the notice on every **[adjoining]** owner/occupier within a 50m radius from the affected property, provide that -  
 (c) by the substitution for subsection (1)(g)(i) of the following subsection:  
 (i) the applicant must within 30 days of the last day of notice submit to the Municipality **[a copy of the registered posting]** proof of the delivery.

**Amendment of Section 56 of the Moqhaka Land Use Planning By-Law, 2015**

37. Section 56 of the principal By-law is hereby amended by the substitution for subsection (3) of the following subsection:  
 (3) If an amendment to an application is material, the applicant must again give or serve notice of the application in terms of Section 47, 49, 50 or 52.

**Amendment of Section 57 of the Moqhaka Land Use Planning By-Law, 2015**

38. Section 57 of the principal By-law is hereby amended by the substitution for subsection (2)(a) of the following subsection:  
 (a) require notice of an application to be given or served again in terms of Section 47, 49, 50 or 52; and

**Amendment of Section 58 of the Moqhaka Land Use Planning By-Law, 2015**

39. Section 58 of the principal By-law is hereby amended by the substitution for Section 58 of the following subsection:  
 The applicant is liable for the costs of giving and serving notice of an application in terms of Sections 47, 49, 50 and 52.

**Amendment of Section 59 of the Moqhaka Land Use Planning By-Law, 2015**

40. Section 59 of the principal By-law is hereby amended by the substitution for subsection (2) of the following subsection:  
 (2) The applicant may, within a period of 14 days from the date of the provision of the objections, comments or representations, as contemplated in Subsection **[(2)] (1)**, submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.

**Amendment of Section 63 of the Moqhaka Land Use Planning By-Law, 2015**

41. Section 63 of the principal By-law is hereby amended by the substitution for subsection (2) of the following subsection:  
 (2) When conducting an inspection, the authorised employee or the Tribunal may -

**Amendment of Section 64 of the Moqhaka Land Use Planning By-Law, 2015**

42. Section 64 of the principal By-law is hereby amended -  
 (a) by the substitution for subsection (1) of the following subsection:  
 (1) An authorised employee, **[or if such an employee is not in the employ of the Municipality or they cannot afford to solicit the services of such an authorised employee, the Municipality shall make use of the Provincial or National Technical**



**advisers employed in the directorates responsible for Spatial Planning and Land Use Management in these two spheres]** or the Tribunal **[authorised in terms of Section 74]** may in respect of a Category 2 application contemplated in Subsection 16(2) -

- (b) by the substitution for subsection (1)(d) of the following subsection:
  - (d) appoint a technical adviser to advise or assist in the performance of the authorised employee's or Tribunal's functions in terms of this By-law.

#### **Substitution of the expression "16(2)" in the Moqhaka Land Use Planning By-Law, 2015**

- 43. The principle By-law is hereby amended by the substitution of the expression "16(2)" where it appears in subsections 65(4)(a)(ii), 65(4)(b)(ii) and 65(5), of the expression "16(2)(a)".

#### **Amendment of Section 65 of the Moqhaka Land Use Planning By-Law, 2015**

- 44. Section 65 of the principal By-law is hereby amended by the substitution for subsection (5) of the following subsection:
  - (5) The **[Administrator]** Municipality must within seven days of the date of approval of an application referred to in Section 16(2)(a) publish a notice of its decision in the *Provincial Gazette* -

#### **Amendment of Section 72 of the Moqhaka Land Use Planning By-Law, 2015**

- 45. Section 72 of the principal By-law is hereby amended -
  - (a) by the substitution for subsection (2)(a) of the following subsection:
    - (a) the provision of engineering services and infrastructure as contemplated in Section 87;
  - (b) by the deletion of subsection (2)(x).
  - (c) by the substitution for subsection (3) of the following subsection:
    - (3) If the Municipality imposes a condition contemplated in Subsection (2)(a) or **[(x)](y)(iv)**, an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
  - (d) by the substitution for subsection (8) of the following subsection:
    - (8) The Municipality may not approve a land use application, subject to a condition that approval in terms of other legislation is required, but excludes terms of a registered rehabilitation venture executed in terms of Sections 110 to 124.
  - (e) by the substitution for subsection (10) of the following subsection:
    - (10) No conditions may be imposed that rely on a third party for fulfilment, except in terms of a registered rehabilitation venture executed in terms of Sections 110 to 124.

#### **Amendment of Section 73 of the Moqhaka Land Use Planning By-Law, 2015**

- 46. Section 73 of the principal By-law is hereby amended by the deletion of the word "a" before the word "Provincial" where it appears in subsections (2), (3) and (4).

#### **Amendment of Section 74 of the Moqhaka Land Use Planning By-Law, 2015**

- 47. Section 74 of the principal By-law is hereby amended -
  - (a) by the substitution for subsection (2)(a) of the following subsection:
    - (a) whether the circumstances prevailing at the time of the original approval have materially changed; **[and]**
  - (b) by the substitution for subsection (2)(b) of the following subsection:
    - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed; and
  - (c) by the substitution for subsection (3) of the following subsection:
    - (3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, **[an application]** a relevant application as contemplated in Section 16(3)[(h)] must be submitted for consideration before or simultaneously with the application for the extension of a validity period.

#### **Amendment of Section 78 of the Moqhaka Land Use Planning By-Law, 2015**

- 48. Section 78 of the principal By-law is hereby amended -
  - (a) by the substitution for subsection (1)(b) of the following subsection:
    - (b) determine the number of members who are not officials of that Municipality to be appointed to the Tribunal which must be at least two members, the knowledge and experience that they should represent and their term of office, if it is of the opinion that it should be less than five years as contemplated in Section 37(1) of the Spatial Planning and Land Use Management Act;
  - (b) by the substitution for subsection (1)(c) of the following subsection:
    - (c) determine the terms and conditions of service of the members of the Tribunal in accordance with the terms of reference referred to in Schedule 1 of the SPLUMA Regulations;
  - (c) by the substitution for subsection (1)(j) of the following subsection:
    - (j) publish the names of the members of the Tribunal and their term of office in the Provincial Gazette.
  - (d) by the substitution for subsection (2) of the following subsection:
    - (2) A member of the Tribunal appointed in terms of Section **[75]78(1)(b)** may be -

- (e) by the substitution for subsection (6) of the following subsection:  
 (6) If no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and skills or comply with any additional criteria which may have been determined by the Municipality, the Municipality must invite and call for nominations for a second time and follow the process required for the invitation and calling for nominations prescribed by this [regulation] By-law.

#### **Amendment of Section 79 of the Moqhaka Land Use Planning By-Law, 2015**

49. Section 79 of the principal By-law is hereby amended -  
 (a) by the substitution for subsection (1)(b) of the following subsection:  
 (b) may be appointed for further terms but may not serve as a member for a continuous period of [10] 20 years.  
 (b) by the substitution for subsection (10) of the following subsection:  
 (10) All the members of the Tribunal must adhere to a code of conduct for members of a Tribunal approved by the Municipality and non-compliance thereof is grounds for or a disciplinary hearing by the Municipality if the member is designated or removal from office of a member appointed in terms of Section [75]78(1)(b).

#### **Amendment of Section 80 of the Moqhaka Land Use Planning By-Law, 2015**

50. Section 80 of the principal By-law is hereby amended -  
 (a) by the substitution for subsection (1) of the following subsection:  
 (1) Subject to the procedures prescribed in terms of [for] the Spatial Planning and Land Use Management Act, a Tribunal contemplated in Section 77(1)(a) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for -

51. The principal By-law is hereby amended by the addition after Section 81 of the following Section:

#### **81A. LEGAL INDEMNIFICATION**

- (1) Whenever a claim is made or legal proceedings are instituted against a member of the Tribunal or appeal authority or the authorised employee arising out of any act or any omission by a member or authorised employee in the performance of his or her duties or the exercise of his or her powers, the Municipality must, if it is of the opinion that the member or authorised employee acted or omitted to act in good faith and without negligence -  
 (a) in the case of a civil claim or civil proceedings, indemnify the member or authorised employee in respect of such claim or proceedings; and  
 (b) provide legal representation for such member or authorised employee at the cost of the Municipality or pay taxed party and party costs of legal representation.  
 (2) If a criminal prosecution is instituted against a member of the Tribunal or appeal authority or authorised employee, the Municipality must, if it is of the opinion that the member or authorised employee acted or omitted to act in good faith and without negligence or it is in the interests of the Municipality to do so, provide for legal representation for such member or authorised employee at the cost of the Municipality.  
 (3) A member of the Tribunal or appeal authority or the authorised employee has no legal indemnification if he or she, with regard to the act or omission, is liable in law and -  
 (a) intentionally exceeded his or her powers;  
 (b) made use of alcohol or drugs;  
 (c) did not act in the course and scope of his or her employment, designation or appointment;  
 (d) acted recklessly or intentionally;  
 (e) made an admission that was detrimental to the Municipality; or  
 (f) failed to comply with or ignored standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim.  
 (4) The Municipality may determine by means of a policy or by other means -  
 (a) the terms and conditions of such indemnity and legal representation; and  
 (b) in addition to the circumstances contemplated in Subsection (3), other circumstances in which such indemnity or legal representation may be withdrawn by the Municipality.  
 (5) For the purposes of this By-law "indemnify" means an undertaking to pay any damages, claim or taxed costs awarded by a court against a member of the Tribunal or appeal authority or the authorised employee or agreed to by the Municipality in terms of a formal settlement process.

#### **Amendment of Section 82 of the Moqhaka Land Use Planning By-Law, 2015**

52. Section 82 of the principal By-law is hereby amended -  
 (a) by the substitution for subsection (2)(a) of the following subsection:  
 (a) liaise with the relevant Tribunal members and the parties in relation to any application or other proceedings filed with the Tribunal; [maintain a diary of hearings of the Tribunal;]  
 (b) by the addition after subsection (2)(a) of the following subsection:  
 (aA) maintain a diary of hearings of the Tribunal;

**Amendment of Section 83 of the Moqhaka Land Use Planning By-Law, 2015**

53. Section 83 of the principal By-law is hereby amended by the substitution for subsection (4) of the following subsection:
- (4) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application requests to make a verbal representation at a meeting of the Tribunal, he must submit a written request to the Administrator, at least 14 days before that meeting and the chairperson may approve such request subject to reasonable conditions.
54. The principal By-law is hereby amended by the addition after Section 83 of the following Section:
- 83A. POINTS-IN-LIMINE**
- (1) Where a party is of the intension to raise a point(s)-in-limine at the hearing of an application or an appeal, that party shall notify the Administrator of the Tribunal as well as all the other parties to the application or appeal of the nature and the facts of the contemplated point(s)-in-limine, not later than 21 calendar days before the date set down for the hearing of the application or appeal, with exclusion of the day of the hearing.
- (2) The party so having given notice of its point(s)-in-limine shall not later than 14 calendar days before the date set down for hearing of the application or appeal with the exclusion of the day of the hearing, file its main Heads of Argument in relation to the point(s)-in-limine with the Administrator of the Tribunal as well as all other parties to the application or appeal.
- (3) Opposing Heads of Argument must be filed not later than 7 calendar days before the date set down for the hearing of the application or appeal, with exclusion of the day of the hearing.

**Amendment of Section 84 of the Moqhaka Land Use Planning By-Law, 2015**

55. Section 84 of the principal By-law is hereby amended by the substitution for subsection (4) of the following subsection:
- (4) An appeal is lodged by serving a notice of the appeal on the Municipal Manager in the form determined by the Municipality within the period contemplated in Subsection (1).

**Amendment of Section 85 of the Moqhaka Land Use Planning By-Law, 2015**

56. Section 85 of the principal By-law is hereby amended -
- (a) by the substitution for subsection (6) of the following subsection:
- (6) The appellant must submit proof of the notification contemplated in Subsections (3) and (4) to the Municipality within 14 days of the date of notification.
- (b) by the substitution for subsection (7) of the following subsection:
- (7) If a person other than the applicant lodges an appeal, the Municipal Manager must give written notice of the appeal to the applicant within 14 days of receipt thereof.

**Amendment of Section 86 of the Moqhaka Land Use Planning By-Law, 2015**

57. Section 86 of the principal By-law is hereby amended -
- (a) by the addition after subsection (2) of the following subsection:
- (2A) Procedural arrangements for a written hearing include that:
- (a) each party must be provided an opportunity to provide written submissions to support their case;
- (b) the appellant will be given seven days to provide a written submission;
- (c) upon receipt of the appellant's written submission the appeal authority must forward it to the Tribunal or the authorised employee;
- (d) the Tribunal or the authorised employee has seven days in which to provide a written response, if no written submission is received it will be deemed that the party has declined the opportunity to respond;
- (e) an extension of time maybe requested in writing in advance of the due date for submissions, accompanied by reasons for the request of extension;
- (f) following receipt of a request referred to in Subsection (e) the appeal authority must issue a written decision to all parties;
- (g) following receipt of any written submissions as determined in Subsection (a) the Municipality must forward the appeal record to the appeal authority, including written submissions;
- (h) if no written submissions are received from the parties the Municipality will forward the existing appeal record to the appeal authority for adjudication;
- (i) the presiding officer of the appeal authority will decide whether or not to accept the late written submissions; and
- (j) the appeal authority issues a decision in writing to all other parties, who have seven days to respond.
- (b) by the addition after subsection (5) of the following subsections:
- (5A) Procedural arrangements for an oral hearing include that:
- (a) an oral hearing must take place in an area within the jurisdiction of the Municipality excluding the office of the Tribunal or the authorised employee;
- (b) the appellant will first present his case, followed by the Tribunal or the authorised employee;
- (c) each party has the right to call witnesses to give evidence;
- (d) if a party does not appear at an oral hearing, the appeal authority may proceed in the absence of the party, after it was determined if the absent party was notified. If the party was not notified the hearing cannot proceed and the presiding officer must reschedule the hearing;
- (e) hearings of the appeal authority must be recorded;
- (f) witnesses and parties are required to give evidence under oath or confirmation;

- (g) any additional documentation not included in the appeal record is deemed to be points-in-limine and must be provided in terms of Section 83A before the hearing of the appeal authority;
- (h) the Municipality must distribute the documentation to all parties to the appeal authority and members of the appeal authority;
- (i) if the additional documentation, as contemplated in Subsection (g) is not provided at least 3 days prior to the hearing, it may be provided at the hearing, where the party must bring copies of the additional documentation for the members of the appeal authority; and
- (j) if the additional documentation, as contemplated in Subsection (g), is substantive or voluminous, the other party may request an adjournment.
- (5B) The appeal authority must notify the relevant parties of the date, time and place of the hearing, 14 days prior to the hearing.
- (5C) A hearing must commence within 28 days after the completed notice of appeal has been delivered to the appeal authority, unless otherwise stated by the appeal authority.
- (5D) An appellant or any respondent may at any time before the appeal hearing withdraw an appeal or opposition to an appeal and must give notice of such withdrawal to the Municipality and all other parties to the appeal.
- (c) by the addition after subsection (8) of the following subsection:
  - (8A) The appeal authority may confirm, amend or rescind the decision of the Tribunal or authorised employee and may include an award of costs.
- (d) by the addition after subsection (9) of the following subsection:
  - (9A) The presiding officer of the appeal authority must sign the decision of the appeal authority and any order made by it.
- (d) by the addition after subsection (10) of the following subsection:
  - (10A) The appeal authority must, in its decision, give directives to the Municipality as to how a decision must be implemented.
- (e) by the substitution for subsection (12) of the following subsection:
  - (12) **The Municipal Manager - [must on receipt of an appeal in terms of this Section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and if the decision on an appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.]**
    - (a) on receipt of an appeal in terms of this Section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and
    - (b) if the decision on an appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.
- (d) by the addition after subsection (12) of the following subsection:
  - (13) Where an appeal is uphold the Municipality must within 21 days of the decision publish the decision in the *Provincial Gazette*.
  - (14) The operation of the approval of a land use application that is the subject of an appeal is suspended pending the decision of the appeal authority on the appeal, as contemplated in Subsection 20.
  - (15) If an appeal is lodged only against conditions imposed in terms of Section 72, the Municipality may determine that the approval of the land use application is not suspended.
  - (16) The Speaker of the Council will act as the chairperson of the appeal process and the Director: Corporate Services as the secretariat of the appeal process.

**Amendment of Section 88 of the Moqhaka Land Use Planning By-Law, 2015**

- 58. Section 88 of the principal By-law is hereby amended by the substitution for subsection (4) of the following subsection:
  - (4) The date by which [a] development charges must be paid and the means of payment must be specified in the conditions of approval.

**Amendment of Section 91 of the Moqhaka Land Use Planning By-Law, 2015**

- 59. Section 91 of the principal By-law is hereby amended by the substitution for subsection (3) of the following subsection:
  - (3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding [three months] twenty years or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.

**Amendment of Section 96 of the Moqhaka Land Use Planning By-Law, 2015**

- 60. Section 96 of the principal By-law is hereby amended -
  - (a) by the addition after subsection (1)(a) of the following subsection:
    - (aA) apply to the Magistrate Court for prosecution by submitting an affidavit to the relevant Court Official;
  - (b) by the addition after Subsection (1)(c) of the following subsections:
    - (cA) levy a contravention penalty on the person at a rate of three times (3x) the rates of the rates category in which the unlawful land use(s) or construction falls;
    - (cB) the contravention penalty will cease to be levied upon the compliance of the person with -
      - (i) the compliance notice as contemplated in Section 93;
      - (ii) the court decision contemplated in Subsection 1(a); or
      - (iii) the court decision contemplated in Subsection 1(aA); or
      - (iv) the court order contemplated in Subsection 1(b).

**Amendment of Section 105 of the Mqohaka Land Use Planning By-Law, 2015**

61. Section 105 of the principal By-law is hereby amended by the substitution for subsection (4) of the following subsection:
- (4) **[A]** The Council may assign a name to or change the name of any street, road or public place under its control: Provided that it shall not change the name of any street, road or public place –

**Substitution of the word “official” in the Mqohaka Land Use Planning By-Law, 2015**

62. The principle By-law is hereby amended by the substitution for the word “official” where it appears in subsections 106(1), 106(2)(b), 106(4), 106(4)(a), 106(4)(c), 106(4)(d) and 106(5), of the expression “employee”.
63. By the addition after subsection 109(2) of the following Chapter:

**CHAPTER X - INTEGRATED LAND AND MINING REHABILITATION DEVELOPMENT MANAGEMENT****110. SUBDIVISIONS FOR MINING OR REHABILITATION PURPOSES**

- (1) When a subdivision of land is approved for mining or rehabilitation purposes in terms of Section 16(2)(b)(i) the Municipality must inform the Registrar of Deeds that a restriction is placed on the transfer of the land to a non-mining company, unless an approval in terms of Section 16 for the subdivision is accompanied by the document referred to Section 119(1)(a) and accompanies the transfer documentation.

**111. REHABILITATION PROCESS**

- (1) The integration of mining rehabilitation into the spatial planning process broadly follows the following sequence:
- (a) The Municipal Spatial Development Framework (SDF) integrating the Mine Closure Plan (MCP), of the mining right holder, into the SDF proposals and documentation.
- (b) The development of the rehabilitation plan aligned with both the MCP, SDF and, where applicable, the SDF Precinct Plan, with specific milestones for sign off by the DMR.
- (c) The approval of the rehabilitation plan by the DMR.
- (d) The implementation of the rehabilitation plan with the milestones being signed-off by the DMR as they are reached.
- (e) The sign-off of the rehabilitation plan on completion by the DMR.
- (2) The main activities and their sequence that effect and constitute the implementation of a rehabilitation venture in terms of this By-Law are:
- (a) Agreement signed between the mining right holder and the developer.
- (b) The feasibility study performed by the developer.
- (c) Approval of the rehabilitation plan, by the DMR, of the area affected by the rehabilitation project, including the sign-off by the DMR, on specific milestones, as stipulated in the approved rehabilitation plan. Rehabilitation commences with the radiation scanning of the area and identification of no-go areas.
- (d) The transitional period commences with and covers the following activities:
- (i) Principle project approval by the Tribunal and registration of the project.
- (ii) Project implementation, consisting of:
- (aa) submission of change of land use application;
- (bb) submission of building plans;
- (cc) physical development in terms of the rehabilitation plan with temporary services connections;
- (dd) submission and finalisation of services agreement;
- (ee) conditional approval of change of land use application;
- (ff) signing of services agreement;
- (gg) incorporation into the Land Use Scheme (when applicable);
- (hh) amendment of services licence areas (when applicable);
- (iii) Letter of completion of rehabilitation plan signed-off by DMR.
- (e) Approval of change of land use application.
- (f) Transfer of land to the developer.
- (g) Switch over to permanent services connections.
- (h) Proclamation of land after sign-off by the Municipality of compliance with the services agreement (when applicable).

**112. RECOGNITION OF REHABILITATION VENTURES**

- (1) A rehabilitation venture is recognised to qualify to be implemented in terms of Sections 110 to 124 of this By-law, only when it complies with the following conditions:
- (a) It is unambiguously described in the rehabilitation plan of the mining right holder and approved by the DMR; or
- (b) It is approved in principle by the Tribunal as complying with the principles, intent and general definition of a social and labour plan project; and
- (c) The proposed “end land use” is either stated, in terms of the applicable Land Use Scheme, or clearly described in either of the documents mentioned in Subsection (a) and (b). This may include the creation of a new zoning; and
- (d) Clearly identifies the land, affected by the applicable rehabilitation plan, either via a sketch plan, prepared by a professional mine surveyor or land surveyor, or servitude, lease area or subdivision diagram, approved by the Surveyor-General, forming part of the approved rehabilitation plan.

- (2) Written proof of the above, with regard to an activity on an area of land, is made available to the Municipality within 30 days of a written request being delivered to the registered address of the mining right holder.
- (3) The recognition is subject to compliance with the conditions of Sections 110 to 124 and any other law governing aspects other than municipal planning matters, as identified in the constitution of South Africa.
- (4) The recognition of a rehabilitation venture in terms of Subsection (1) will be terminated if:
  - (a) It is not registered with the Municipality.
  - (b) The length of the transitional period is longer than 10 years.
  - (c) The project is incompatible with the Spatial Development Framework, Local Spatial Development Framework / Precinct Plan or Land Use Scheme and no mitigating or amending actions can be agreed on between the Municipality, the mining right holder and the developer of the rehabilitation project.

### **113. REGISTRATION OF REHABILITATION VENTURES WITH THE MUNICIPALITY**

- (1) Any recognised rehabilitation venture, that are to be implemented in terms of Sections 110 to 124, must be registered with the Municipality as such, on or before any building plans are submitted or construction on any portion of the project commences.
- (2) The Municipality will accept any application for registration of a rehabilitation venture recognised in terms of Section 112.
- (3) A recognised rehabilitation venture must be registered within 30 days after the Municipality have accepted the application referred to in Subsection (2), subject to the submission of the following documentation by the mining right holder:
  - (a) A copy of the approved plan(s) as described in Section 112(1)(a), clearly showing the Rehabilitation project, or the approval as contemplated in Section 112(1)(b).
  - (b) The extract from the plans described in Section 112(1)(c), clearly describing the "end land use".
  - (c) An extract or summary of the feasibility study of the rehabilitation projects indicating:
    - (i) The compatibility or not of the project with the Spatial Development Framework and Local Spatial Development Framework / Precinct Plans;
    - (ii) The compatibility or not with the Land Use Scheme;
    - (iii) The sustainability of the project;
    - (iv) The benefit of the project to the greater community;
    - (v) The interim services agreement between the mining right holder and the developer of the rehabilitation project;
    - (vi) A list of the municipal services to be negotiated with the Municipality and or other service providers;
    - (vii) The project implementation program indicating the timeframes of the transitional period as well as the critical timeframes of suspensive activities that will cancel the project in terms of the agreement as described in Section 111(2)(a).
    - (viii) A copy of the signed agreement between the mining right holder and the developer of the rehabilitation venture as described in Section 111(2)(a).
- (4) The registration of recognised rehabilitation projects must be entered into a separate register that forms part of the Land Use Scheme documentation and records.

### **114. IMPLEMENTATION OF REHABILITATION VENTURES IN TERMS OF SECTIONS 110 TO 124**

- (1) A registered rehabilitation venture may be implemented on land as a mining activity and the registered rehabilitation venture is accepted and recognised as an allowed land use on the land during the transitional period as contemplated in Section 115.
- (2) The Municipality will accept, approve and execute its building and land use control functions as if the land has already been zoned to the "end land use" as identified in section 112(1)(c).
- (3) The mining right holder together with the developer of the rehabilitation venture must comply with the building and land use control measures as if the land has already been zoned to the "end land use" as identified.

### **115. TRANSITIONAL PERIOD FOR REHABILITATION VENTURES**

- (1) The transitional period may not exceed 5 years, but may be extended, upon application, by the Municipality for a single 5 year period.
- (2) The transitional period will commence on the date of registration by the Municipality as described in Section 113(3).

### **116. COMPATIBILITY OF A REHABILITATION VENTURE WITH THE SPATIAL DEVELOPMENT FRAMEWORK, LOCAL SPATIAL DEVELOPMENT FRAMEWORK / PRECINCT PLAN, LAND USE SCHEME AND ZONING**

- (1) If the "end land use" is not compatible with the Spatial Development Framework, Local Spatial Development Framework / Precinct Plan, Land Use Scheme or zoning, the developer, mining right holder and the Municipality must jointly develop mitigating and amending actions and proposals that must be included in the change of land use application and may include:
  - (a) amendment of the Spatial Development Framework;
  - (b) amendment of the Local Spatial Development Framework / Precinct Plan(s);
  - (c) amendment of the Land Use Scheme by the creation of a new zoning category with its applicable conditions; or
  - (d) amendment of an existing zoning category by the addition or deletion of allowable land uses, consent uses or conditions applicable to it.

**117. APPLICATION FOR CHANGE OF LAND USE OF A REGISTERED REHABILITATION VENTURE**

- (1) The application for the change of land use must be submitted simultaneous with or within 60 days of the registration the rehabilitation venture in terms of Section 113(3).
- (2) The change of land use application must include, where applicable, the details developed in terms of Section 116.
- (3) The change of land use application must include, as part of the application documentation, the comments of the following authorities with regard to the change of land use to the "end land use":
  - (a) Department of Agriculture.
  - (b) Department of Health, with specific reference to Municipal Health Services.
  - (c) Department of Water Affairs and Forestry.
  - (d) Department of Minerals and Energy.
  - (e) Department of Transport through their appropriate agencies.
  - (f) Department of Environmental Affairs.
  - (g) Information Communication Technology companies active in the area.
  - (h) ESKOM.
  - (i) The applicable bulk services providers, where the Municipality is not the provider of the bulk services.
  - (j) Any other as agreed with the Municipality.
- (4) The change of land use application is subject to the laws, processes and procedures applicable to such a change of land use application as contemplated in this By-law.
- (5) The change of land use application must be referred to the DMR for their comments, but may not be delayed due to their lack of comment on or approval of the application.

**118. AMENDMENTS TO THE CHANGE OF LAND USE APPLICATION OF A REGISTERED REHABILITATION VENTURE**

- (1) The change of land use application must follow due process and the application for the change of land use must be amended, if necessary, to incorporate the mitigating and amending conditions emanating from the comments or objections received during the process referred to in Section 117(4).
- (2) Neither the Municipality nor any other government institution is liable for costs or losses emanating from such changes required for the approval of such a change of land use application.

**119. APPROVAL OF CHANGE OF LAND USE OF A REGISTERED REHABILITATION VENTURE**

- (1) The change of land use must follow due process but may not be finally approved and signed off by the competent authority, designated for such final signature as contemplated in Section 16(1), unless:
  - (a) A letter from the DMR is attached to the final change of land use proposal and conditions recommended for approval. The letter from the DMR must state that the land, which is the subject of the application, has been rehabilitated to their satisfaction and that the mining right holder does not have any more rehabilitation responsibilities towards the surface of the area.
  - (b) If the description of the land or the sketch plans accompanying the DMR letter and the change of land use differs substantially, a certificate, issued by a professional land or mine surveyor, stating that the land use application area falls within the area as described in the DMR letter, will be sufficient to clarify such difference. This certificate must be included into the approval documentation and it will form an integral part of the change of land use approval documentation.
- (2) Once the change of land use application has followed due process and qualifies for approval except for the document referred to in subsection (1)(a), the competent authority, designated for such final signature, must approve the change of land use conditionally.
- (3) The document referred to in subsection (1)(a) must be submitted within the transitional period as referred to in Section 115 and then the competent authority, designated for such final signature, must approve the change of land use application.
- (4) The legal effect of the conditional approval is:
  - (a) that the change of land use vests in the land;
  - (b) the necessary diagrams depicting the land forming part of the change of land use application may be approved by the Surveyor-General;
  - (c) no transfer of the land depicted on the diagrams referred to in Subsection (b) may be registered, subject to Section 110, in the name of the developer or any other third party, except to another mining company. Long term leases or servitudes, in favour of the developer, may be registered as well as bonds encumbering the land, depicted on the diagrams referred to in Subsection (b).

**120. SERVICES AGREEMENT APPLICABLE TO A REGISTERED REHABILITATION VENTURE**

- (1) The process of negotiating the bulk and internal services agreement must commence not later than 90 days after submission of the change of land use application to the Municipality as referred to in Section 117(1).
- (2) Upon approval of the change of land use the signed services agreement will form part of the approval documentation.
- (3) If required, any changes to the boundaries of service delivery areas between service providers must be addressed as part of these negotiations but must be coordinated to coincide, as far as possible, with the physical change-over of the delivery of services in terms of the interim services agreement referred to in Section 113(3)(c)(v) and the approved bulk and internal services agreement referred to in Subsection (2).

- (4) The interim services agreement must be terminated and the implementation of the approved bulk and internal services agreement(s) must be completed within 12 months of the date of final approval of the change of land use application or such longer period as stipulated in the services agreement.
- (5) Upon the completion of the actions in Subsection (4) the Municipality must issue a certificate to the developer that the conditions of the services agreement has been complied with and that the Municipality consents to the cancelation of the caveat registered in terms of Section 122(2).

**121. TRANSFER OF LAND AFFECTED BY A REGISTERED REHABILITATION VENTURE**

- (1) The Transfer of the land to the developer is authorised after the final approval contemplated in Section 119(3) has been signed.
- (2) A caveat against further transfer of the land must be registered if the certificate described in Section 120(5) is not submitted together with the registration documentation to the Registrar of Deeds.
- (3) The caveat described in (2) may be cancelled by the Registrar of Deeds upon application and submission of the certificate described in Section 120(5).

**122. SUBMISSION OF BUILDING PLANS OF A REGISTERED REHABILITATION VENTURE**

- (1) Building plans may only be submitted simultaneous or after submission of the change of land use application.
- (2) The Municipality will accept, process and approve the submitted building plans only if they comply with the National Building Regulations and Standards Act and the end land use conditions.
- (3) The approved building plans must, in addition, refer to the registration of the project in terms of Section 113.
- (4) If the conditions of the change of land use differ from the time of application to the time of conditional approval, the appropriate changes must be made to the buildings and building plans.

**123. LIABILITY OF CHANGES TO A REGISTERED REHABILITATION VENTURE**

- (1) The developer accepts liability for any losses following from the use of sections 110 to 124 of this By-law, due to changes in the conditions of approval during the transitional period, or the change of land use not being conditionally approved due to circumstances outside of the control of the Municipality.

**124. REGULATIONS AFFECTING A REGISTERED REHABILITATION VENTURE**

- (1) The Municipality may approve rules and regulations concerning the required documentation, plans and procedures, that are not inconsistent with the requirements as prescribed in the relevant land use planning legislation applicable in the Municipal area.

64. By the addition after Schedule 2 of the following Schedule:

**SCHEDULE 3**

**NORMS AND STANDARDS FOR THE PROVISION OF LAND USES AND AMENITIES APPLICABLE TO LAND DEVELOPMENT**

- 1. The purpose of the norms and standards is to ensure that sufficient land is made available to develop the amenities that are necessary for the normal functioning of a community.
- 2. The norms and standards in this schedule are individually and collectively applicable on land development applications.
- 3. The norms and standards must form the basis for the calculation of the moneys to be paid in terms of Section 88 where applicable.
- 4. The norms and standards must be used within areas where development will lead to an increase in the residential occupation densities.
- 5. The norms and standards for the provision of land uses, amenities and infrastructure are:
  - (a) The provision of land uses:

<b>LAND USE:</b>	<b>Provide</b>			
<b>Industrial (Total)</b>	<b>1ha</b>	<b>for every</b>	<b>50</b>	<b>housing units</b>
- Industrial (service) provided at local centres	1ha	for every	1 200	housing units
- Industrial provided in industrial areas	1ha	for every	52.175	housing units
<b>Business / Commercial (Total)</b>	<b>120m<sup>2</sup></b>	<b>for every</b>	<b>100</b>	<b>Persons</b>
- Local centre	30m <sup>2</sup>	for every	100	Persons
- Neighbourhood centre	40m <sup>2</sup>	for every	100	Persons
- Community centre	50m <sup>2</sup>	for every	100	Persons
<b>Parks / Recreation (Total)</b>	<b>1 200m<sup>2</sup></b>	<b>for every</b>	<b>100</b>	<b>Persons</b>
Local parks	300m <sup>2</sup>	for every	100	Persons
Parks / recreation off-site / bulk provision	900m <sup>2</sup>	for every	100	Persons



(b) The provision of land for facilities:

TYPE OF FACILITY	AREA REQUIRED PER SINGLE FACILITY (ha)	RATE	MINIMUM (Family size: 3)		MAXIMUM (Family size: 5)	
			PEOPLE	UNITS	PEOPLE	UNITS
<b>Educational facilities</b>						
Crèche	0.300	1 per	5 000	1 200	5 000	500
Primary school	4.800	1 per	4 000	1 200	3 000	750
Secondary school	6.200	1 per	10 000	3 600	8 000	1 500
<b>Health facilities</b>						
Clinic	0.250	1 per	10 000	3 000	15 000	3 000
Day hospital	1.500	1 per	30 000	10 000	50 000	10 000
District hospital	10.000	1 per	50 000	16 000	80 000	16 000
<b>Social facilities</b>						
Service centre for the elderly	0.200	1 per	200 000	60 000	200 000	40 000
Orphanage	2.000	1 per	200 000	60 000	200 000	40 000
Place of safety	2.000	1 per	200 000	60 000	200 000	40 000
Frail care home	0.750	1 per	20 000	6 000	20 000	4 000
Library	0.080	1 per	8 000	2 400	8 000	1 600
Community centre	0.500	1 per	10 000	3 000	10 000	2 500
Place of worship	0.050	1 per	2 000	600	2 000	500
<b>Public service facilities</b>						
Post office	0.025	1 per	20 000	6 000	20 000	4 000
Police station	0.500	1 per	25 000	7 500	25 000	5 000
Fire station	1.200	1 per	60 000	18 000	60 000	12 000
Local government	0.300	1 per	50 000	15 000	50 000	10 000
Community information centre	0.010	1 per	22 000	6 500	22 000	4 400

(c) Movement networks:

- (i) The Guidelines for Human Settlement and Design are applicable.
- (ii) The TRH 26 South African Road Classification and Access Management Manual is applicable with the following amendments to Table E of the document with regard to the preferred road reserve widths in the Municipality:

Basic function	Description		Typical features (use appropriate context sensitive standards for design)	
	Class no (U )	Class name	Roadway / lane width	Road reserve width
Access / activity	4a	Collector street, commercial		25 - 40m (25m)
	4b	Collector street, residential	6 - 9m roadway, <3.3m lanes	22 - 30m
	5a	Local street, commercial		16m
	5b	Local street, residential	3.0 - 5.5 roadway (two way)	13m

- 65. By the substitution for the expression "Annexure A" in the heading of the comprehensive application form of the expression "Category 1 applications".
- 66. By the substitution for the expression "Annexure B" in the heading of the abridged application form of the expression "Category 2 applications".
- 67. This by-law is called the Land Use Planning Amendment By-Law 2019.

**PROVINCIAL GAZETTE**  
(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied.

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The subscription fee for the Provincial Gazette (including all Extraordinary Provincial Gazettes) are as follows:

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All advertisements must reach the Officer in Charge of the Provincial Gazette **not later than 08:00 (Tuesday), three working days** prior to the publication of the Gazette. Advertisements received **after 08:00 on the Tuesday of the publication week**, will be held over for publication in the issue of the following week, or if specifically requested by the advertiser, will be published as a "Special Publication". In such cases, the advertisement must be delivered to the Officer in Charge **not later than 12:00 on the Thursday** preceding the publication of the Gazette and double rate will be charged for that advertisement. No advertisements will be received and published on the same day, unless accompanied by a direct instruction from the top levels of the management of that department / institution.

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**NUMBERING OF PROVINCIAL GAZETTE**

You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.

**Printed and published by the Free State Provincial Government**

**PROVINSIALE KOERANT**  
(Verskyn elke Vrydag)

Alle korrespondensie, advertensies, ens. moet aan die Beampte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, Tel.: No. (051) 403 3139 geadresseer word. Gratis eksemplare van die Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie.

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**NOMMERING VAN PROVINSIALE KOERANT**

U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnummers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op of na 1 April van elke jaar begin.

**Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering**