

MAFUBE MUNICIPALITY

ADOPTION OF BY-LAW: STANDARD STANDING ORDERS

Published in *Free State Provincial Gazette* 140A of 1 December 2000 and adopted by *Free State Provincial Gazette* 69 of 8 September 2006.

The Municipality of Mafube hereby give notice that the By-laws: Standard Rules and Orders promulgated by the MEC Local Government and Housing in the *Provincial Gazette* No. 140A of 1 December 2000 have been adopted by the Municipal Council on 29 June 2006 (Item 53) and are promulgated by the municipal in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

W.K. MAHLANGU
MUNICIPAL MANAGER

2006-08-24

MAFUBE MUNICIPALITY

P.O. Box 2
FRANKFORT
9830

I, Solomon Lecbesa Tsenoli, Member of the Executive Council responsible for Local Government and Housing make in terms of Section 148A of the Local Government Ordinance No. 8 of 1962 the following Standard Rules and Orders.

STANDARD RULES AND ORDERS

CONTENT

CHAPTER 1

1. Definitions

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
3. Determination of venue and time of ordinary council meetings
4. Determination of the time and venue of special council meetings
5. Determination of venue and time of ordinary committee meetings
6. Determination of venue and time of special committee meetings
7. Determination of time and venue of public meetings of voters
8. Determination of time and venue of constituency meetings
- 8A. Meeting by tele- or videoconference

9. Public hearings

Part 2:
Notice of meetings

- 10. Notice of council and committee meetings
- 11. Notice of public meetings of voters, constituency meetings and public hearings
- 12. Councillors must supply municipal manager with an address

Part 3:
Attendance of meetings

- 13. Absence from meetings
- 14. Appeal against refusal of applications for leave of absence
- 15. Removal of a councillor from office for absence from meetings without leave
- 16. Who may attend meetings
- 17. Attendance register

Part 4:
Documents to be available at meetings

- 18. Documents to be available at meetings

Part 5:
Presiding at meetings and hearings

- 19. General powers and duties of chairpersons
- 20. Failure or refusal to exercise the powers or discharge the duties by chairperson at a meeting or hearing
- 21. Status of chairperson at a meeting
- 22. Presiding at the first council meeting after a general election
- 23. Presiding at council meetings
- 24. Presiding at council meetings when the position of speaker is vacant
- 25. Presiding at executive committee meetings
- 26. Presiding at mayoral committee meetings
- 27. Presiding at Section 79-committee meetings
- 28. Presiding at public meetings of voters, constituency meetings and public hearings

Part 6:
Conduct of persons at meetings

- 29. Conduct of members of the public at council or committee meetings
- 30. Recording of proceedings at meetings
- 31. Conduct of councillors during meetings
- 32. Dress code
- 33. Person speaking to address the chairperson
- 34. Councillor to stand while speaking
- 35. Duration and reading of speeches
- 36. Councillor to speak only once
- 37. Relevance
- 38. Councillor's right to information

- 39. Personal explanation, point of order and clarification
- 40. Right of the municipal manager to have advice recorded in the minutes

Part 7:

Adjournment and continuation of meetings

- 41. Adjournment of meeting in the absence of a quorum
- 42. Adjournment of a meeting before it completed its business
- 43. Continuation of an adjourned meeting
- 44. Temporary adjournment of a meeting

Part 8:

Agendas and minutes of meetings

- 45. Only matters included in the agenda are dealt with
- 46. Minutes of meetings and summary of evidence at hearings
- 47. Declaration of personal and pecuniary interest

Part 9:

Deputations, petitions, objections and representations

- 48. Deputations
- 49. Attendance of council meeting by Auditor-General
- 50. Petitions
- 51. Objections and representations

Part 10:

Questions

- 52. Questions of which notice had been given
- 53. Questions during meetings

Part 11:

Motions

- 54. Motion must be in written form
- 55. Submission and limitation of motions
- 56. Withdrawal and amendment of motions

Part 12:

Subject matter and consideration of motions and proposals

- 57. Right of introducer of motion to speak and reply
- 58. Motion or proposal regarding the budget
- 59. Motion or proposal regarding legislation
- 60. Eligible motions
- 61. Amendment of the motion or proposal
- 62. Referring the matter back
- 63. Deferring consideration of the matter
- 64. Suspending a debate
- 65. Putting the matter to the vote

66. Proceeding to the next business

Part 13:
Applications by councillors

67. Applications to obtain a financial interest in council business

68. Disclosure of declared interests

69. Resignation of councillors and vacancies in offices

Part 14:
Full-time councillors

70. Designation of full-time councillors

71. Report of the municipal manager with regard to full-time councillors

72. Applications by full-time councillors to undertake paid work

73. Leave of full-time councillors

CHAPTER 3
LANGUAGE POLICY OF THE MUNICIPALITY

74. Determination of language policy

75. Differentiation between languages for different purposes

76. Factors to be taken into account

77. Review of language policy

CHAPTER 4
ORDER OF BUSINESS AT MEETINGS

78. Order of business at ordinary council meetings

79. Order of business at first council meeting after a general election of councillors

80. Order of business at ordinary committee meetings

CHAPTER 5
VOTING AND DECISION-MAKING

81. Voting at public meetings of voters and constituency meetings

82. Decision only taken in certain circumstances

83. Voting at council and committee meetings

84. When a division is called

85. Voting by secret ballot

86. Equality of votes

CHAPTER 6
REMOVAL OF OFFICE-BEARERS FROM OFFICE

87. Removal of speaker

88. Removal from office of one or more executive committee members

89. Abolishing the executive committee during the term of the council

90. Removal from office of the executive mayor

91. Abolishing of office of executive mayor during the term of the council

92. Removal of members of Section 79-committees

93. Removal from office of chairperson of Section 79-committee in mayoral executive system

CHAPTER 7

CLOSING OF MEETINGS

94. Circumstances that must be present to close a meeting
95. Procedure for closing meetings
96. Rules governing closed meetings
97. Opening a closed meeting
98. Supplying information to the media

CHAPTER 8

APPLICATION OF THE CODE OF CONDUCT

99. Investigating suspected breaches of the code
100. Consideration of the speaker's report by the council
101. Implementing the result of the vote
102. Investigating the matter further
103. Consideration of further report by council
104. Effect of appeal on a resolution
105. Breaches of these Rules and orders and legislation relating to privileges and immunities

CHAPTER 9

DISSOLUTION OF THE COUNCIL

106. Conditions for dissolution
107. Procedure for considering the dissolution

CHAPTER 10

COMMITTEES

Part 1:

Section 79-committees

108. Report of the municipal manager before establishment of a committee
109. Consideration of municipal manager's report
110. Determining the size of a committee
111. Election system and election of members of a committee
112. Term of a committee and filling of vacancies
113. Quorum and decision-making

Part 2:

Executive Committee

114. Application of this part
115. Making the decision to establish an executive committee
116. Report of the municipal manager about an executive committee
117. Considering the municipal manager's report

Part 3:

Executive mayor

- 118. Application of this part
- 119. Making the decision to establish the office of executive mayor
- 120. Report of the municipal manager about an executive mayor
- 121. Considering the municipal manager's report
- 122. Mayoral committee
- 123. Term of office and vacancies
- 124. Quorum and decision-making

Part 4: **Audit committee**

- 125. Establishment of audit committee
- 126. Term of the audit committee and vacancies
- 127. Removal from office of member of audit committee
- 128. Objects of audit committee
- 129. Functions and duties of audit committee
- 130. Powers of the audit committee
- 131. Meetings, procedures and reporting of the audit committee
- 132. Quorum and decision-making
- 133. Facilitating the committee's work

Part 5: **Finance committee in plenary executive system**

- 134. Establishment of finance committee
- 135. Composition of finance committee
- 136. Object of the finance committee
- 137. Functions and powers of the finance committee
- 138. Term of office of members of the finance committee
- 139. Vacancies
- 140. Quorum and decisions

Part 6: **Advisory committees**

- 141. Establishment and disestablishment of advisory committees
- 142. Report of municipal manager about proposed advisory committee
- 143. Consideration of the municipal manager's report
- 144. Term of office of members
- 145. Vacancies
- 146. Quorum and decision-making

Part 7: **Ad hoc committees**

- 147. Establishment and disestablishment of ad hoc committees
- 148. Terms of reference of ad hoc committees
- 149. Removal from office of members of ad hoc committees

Part 8:

Ward committees

- 150. Making the decision to establish ward committees
- 151. Considering the municipal manager's report
- 152. Object and objectives of ward committees
- 153. Determination of time, date and venue of meetings
- 154. Frequency of meetings
- 155. Meetings are open to the public and the media
- 156. Conduct of members of ward committees
- 157. Notice of ward committee meetings
- 158. Quorum and decision-making
- 159. Minutes of meetings
- 160. Election of members of a ward committee
- 161. Ward committee members to attend constituency and committee meetings
- 162. Term of office of ward committee
- 163. Functions and powers of a ward committee
- 164. Dissolution of a ward committee
- 165. Monitoring of ward committees
- 166. Facilitation of ward committee's work

Part 9:

Committee to draft integrated development plan

- 167. Establishment of committee to draft integrated development plan
- 168. Making the decision to establish the committee
- 169. Determining the size of the committee
- 170. Election system and election of members of committee

Part 10:

Committee to draft performance management system

- 171. Establishment of committee to draft performance management system
- 172. Making the decision to establish the committee
- 173. Determining the size of the committee
- 174. Election system and election of members of the committee

CHAPTER 11 **REPORTS**

- 175. Reports of the executive-committee/executive mayor/finance committee
- 176. Delivery of reports of committees
- 177. Submission of committee reports
- 178. Considering a committee report
- 179. Reports of the audit committee
- 180. Reports on the state of the budget
- 181. Reports on unauthorised expenditure
- 182. Information statement on intended debt
- 183. Monthly financial report
- 184. Report on virement
- 185. Report on inability to comply with reporting requirements or any other duty
- 186. Reporting about performance

CHAPTER 12

DELEGATED POWERS

187. Reporting on the exercise of delegated powers

188. Review of decisions under delegated powers

189. Review of delegated powers

CHAPTER 13

DEPUTY MAYOR AND DEPUTY EXECUTIVE MAYOR

190. Report of the municipal manager

CHAPTER 1

DEFINITIONS

1. Definitions

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 By-laws;

“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 chairperson of a meeting;

“code of conduct” means the code of conduct for councillors in Schedule 5 to the Structures Act;

“collective executive system” in relation to a municipality, means a municipality contemplated in Section 2(a) or (b) of the Determination of Types of Municipality Act 2000 (Act No 1 of 2000);

“Constitution” means the Constitution of the Republic of South Africa 1996 (Act No 108 of 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;

“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 committee” means the principal committee of the council that has a collective executive system;

“executive mayor” means the councillor elected by the council as executive mayor of a municipality that has a mayoral executive system;

“Finance Management Act” means the Municipal Finance Management Act 2000 (Act No of 2000);

“mayor” means the chairperson of the executive committee and includes any member of the executive committee elected by the members of that committee to preside at meetings of the executive committee during the temporary absence or incapacity of the mayor;

“mayoral committee” means the committee of the council consisting of councillors appointed by the executive mayor in terms of Section 60(1) of the Structures Act;

“mayoral executive system” in relation to a municipality, means a municipality contemplated in Section 2(c) and (d) of the Determination of Types of Municipality Act;

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

“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;

“plenary executive system” in relation to a municipality, means a municipality referred to in Section 2(e) and (f) of the Determination of Types of Municipality Act;

“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;

“public hearing” means a meeting arranged by the council, executive committee 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 consent of the MEC which is payable to a councillor;

“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 executive committee or executive mayor, as the case may be, 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;

“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 of 2000)

“traditional authority” means the authority of a community within the municipal area that traditionally observes a system of customary law recognised in terms of a law; and

“traditional leader” means the leader of a traditional authority that had been identified by the MEC in terms of Section 81(2) of the Structures Act to participate in the proceedings of a council.

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) No meeting of the council or a committee of the council or a public hearing may be held on a Sunday or a public holiday.

- (2) With due regard for the provisions of subrule (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 subrule (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.
- (3) As soon as the speaker has determined the schedule referred to in subrule (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) 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 meeting must set out the matter 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 subrule (2) may be dealt with at a special council meeting.

- (5) Should the speaker fail to convene a special council meeting in terms of subrule (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) the executive or the mayoral committee, as the case may be, must hold at least one ordinary meeting during any month;
 - (b) no committee meeting may take place during an ordinary or special council meeting except with the express approval of the council; and
 - (c) no Section-79 committee meeting may take place during an executive or 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.

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 subrule (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

subrule (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 250 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 councillor for that ward to convene a public meeting of voters in such a ward.

(2) As soon as the speaker or the councillor contemplated in subrule (1)(ii) 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 subrule (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 councillor representing a ward must:-

- (a) in compliance with the schedule referred to in subrule (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 50 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) Councillors 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 month 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 councillor referred to in subrule (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 councillor fail:-
 - (a) to hold a constituency meeting in terms of subrule (1); or
 - (b) to submit a report in terms of subrule (3) the provisions of items 13 and 14 of the code of conduct must be applied in respect of that councillor.
- (5) The speaker must supply a copy of a schedule in terms of subrule (2) to the municipal manager. The councillor concerned must inform the municipal manager of every meeting to be held in terms of subrule (1)(b) or (c).

8A. Meeting by tele- or videoconference

- (1) The municipality may hold a council or committee meeting using telecommunications or video conferencing facilities.
- (2) A meeting in terms of subrule (1) may only be held if:-
 - (a) all the councillors and traditional leaders 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 subrule (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 and traditional leaders 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 subrule (1) the council or the speaker or the executive committee 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

- (1) The municipal manager must, unless otherwise provided in these Rules, at least forty-eight hours or the last workday before the stipulated time, whichever is the earlier, give notice in writing of the date, venue and time for the holding of an ordinary or special meeting:-
 - (a) of the council, including a continuation meeting in terms of Rule 43, to every councillor, traditional leader and departmental head;
 - (b) of a committee, including a continuation meeting in terms of Rule 43, to every member of the committee concerned and departmental head;
 - (c) must publish particulars thereof in a newspaper in the manner determined by the council; and
 - (d) must place a copy thereof on the municipal notice board.
- (2) A councillor, traditional leader and departmental head to whom notice had been given in terms of subrule (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 subrule (1) given to a councillor, traditional leader 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 subrule (1) to a councillor, traditional leader 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, traditional leader and departmental head.

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

- (1) The municipal manager must, with due regard for subrules (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 or body convening the meeting or hearing, as the case may be, and send a copy of such notice to every councillor, traditional leader and departmental head.
- (2) A notice in terms of subrule (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, traditional leader and departmental head.
- (5) A councillor, traditional leader and departmental head to whom notice had been given in terms of subrule (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 or an electronic mail address to which official communications and notices must be sent.
- (2) Every traditional authority must supply the municipal manager with the name, address and other particulars of the traditional leader identified in terms of Section 81(2) of the Structures Act who will represent that traditional authority in the council within fourteen days after the municipal manager requested those particulars.
- (3) 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 subrule (1).

- (4) Non-receipt of any official communication or notice sent to an address referred to in subrule (1) or delivered in terms of subrule (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

13. Absence from meetings

- (1) A councillor or traditional leader who:-
 - (a) is unable to attend a meeting or hearing of which notice had been given; or
 - (b) is unable to remain in Attendance at a meeting or hearing; or
 - (c) will arrive after the stipulated time for a meeting or hearing

must, at least six hours before the commencement of the meeting or hearing, lodge with the municipal manager an oral or written application for leave of absence from the whole or any part of the meeting or hearing concerned.
- (2) As soon as it is possible for him or her to do so, a councillor or traditional leader who did not apply for leave of absence in terms of subrule (1) and who was absent from a meeting or hearing or a part thereof may, after that meeting or hearing, lodge with the municipal manager a written application for leave of absence from that meeting or hearing. Such a late application for leave of absence must:-
 - (a) state the reasons for the late submission of the application; and
 - (b) the reasons for his or her absence from the meeting or hearing.
- (3) The municipal manager must inform the chairperson of the meeting or hearing concerned of any application for leave of absence.
- (4) An application in terms of subrule (1) or (2) is considered and granted or refused by:-
 - (a) the speaker, in the case of a council meeting or public meeting or hearing;
 - (b) the mayor, in the case of an executive committee meeting;
 - (c) the executive mayor, in the case of a mayoral committee meeting; or
 - (d) the relevant chairperson in the case of any other committee meeting.

- (5) Whenever an application for leave of absence in terms of subrule (1) or (2) was refused:-
- (a) the relevant functionary must supply the reasons for the refusal; and
 - (b) the municipal manager must immediately after the meeting or hearing in writing inform the councillor or traditional leader concerned accordingly and supply the reasons for the refusal.
- (6) A councillor or traditional leader:-
- (a) who fails to apply in terms of subrule (1) or (2) 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.
- (7) A councillor contemplated in subrule (6) must pay to the council a fine equal to 10% of that councillor's monthly salary, which fine must be deducted from the first next payment due to the councillor by the municipality unless that councillor had paid the fine in cash before such payment is made. A fine in terms of this subrule escalates at a rate of 5% for every subsequent absence without leave. The municipal manager must inform the councillor concerned in writing of the imposition of such fine.
- (8) The municipal manager must keep a record of all cases in terms of subrule (6) and must submit a written report thereon to the speaker at least once during every three month period.

14. Appeal against refusal of applications for leave of absence

- (1) A councillor and a traditional leader whose application for leave of absence had been refused in terms of Rule 13(6) 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 subrule (1) in the case of absence from:-
- (a) a council meeting or a public meeting or hearing; or
 - (b) an executive or mayoral committee meeting; or

- (c) any committee if the municipality is a municipality with a plenary executive system, as the case may be. In all other cases the executive committee or the executive mayor considers the appeal.

- (3) A decision with regard to an appeal in terms of subrule (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 12(8) identifies a:-
 - (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; or
 - (b) a traditional leader had been absent from three or more council meetings that he or she was required to attend, the speaker must in writing report the matter to the council at the first ordinary council meeting next ensuing. The speaker must, in the case of a traditional leader, also report the matter in writing to the traditional authority whom that traditional leader represents.
- (2) The council must consider the report of the speaker in terms of subrule (1) and must give the councillor or traditional leader concerned an opportunity to state his or her case. As soon as a councillor or traditional leader 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 or traditional leader and determine the period during which the warning will be valid.
- (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 12(7).

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 may only attend a council or committee meeting with the express prior approval of his or her departmental head.
- (2) Every councillor and traditional leader must, from the time stipulated in the notice convening the meeting, 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, mayor 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;
 - (b) the mayor may only vote at an executive committee meeting;
 - (c) the executive mayor may only vote at a mayoral committee meeting.
- (5) Any councillor who is not a member of a committee or a traditional leader 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 and traditional leader who is present at a meeting or hearing must sign the Attendance register.
- (3) Any councillor or traditional leader 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. Documents to be available at meetings

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 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 By-laws of the municipality; and
- (h) such other legislation as the council may determine from time to time.

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; 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;
 - (iii) 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;
 - (iv) 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 By-law 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 94(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 subrule (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.
- (6) The chairperson may change the order of business at the meeting despite any provisions to the contrary herein.

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

- (1) Whenever a councillor or traditional leader 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 subrule (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 mayor or executive mayor or the chairperson of a Section 79-committee if the municipality has a plenary executive system, if any;

- (b) the mayor or executive mayor, as the case may be, in the case of an allegation against the chairperson of a Section 79-committee;
 - (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) subrule (3)(b), the municipal manager must include the matter in the agenda for the first ordinary executive or mayoral committee meeting, as the case may be;
 - (b) subrule (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, mayor, 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 mayor or the executive mayor or the chairperson of a Section 79-committee if the municipality has a plenary executive system was true, he or she must submit his or her finding to the council and recommend an appropriate penalty. Whenever the mayor finds that an allegation against the chairperson of a Section 79-committee was true, the mayor must submit his or her finding to the executive committee and recommend an appropriate penalty. Whenever the executive mayor finds that an allegation against the chairperson of a Section 79-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 committee 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 a member of the executive committee, 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 subrule (1).
- (3) The speaker elected at a meeting in terms of subrule (1) serves as speaker for the unexpired term of his or her predecessor.

25. Presiding at executive committee meetings

- (1) The mayor presides at meetings of the executive committee where he or she is present.
- (2) Whenever the mayor is absent from or unable to preside at or during any part of an executive committee meeting:-
 - (a) the deputy mayor (if any) or
 - (b) in the absence of a deputy mayor, the member of the executive committee elected by the members of that committee that is present at that meeting presides at the meetings of the executive committee for the duration of the mayor's absence or inability.
- (3) The municipal manager presides over the election of a presiding member in terms of subrule (2)(b).
- (4) The committee may not elect the speaker as presiding member in terms of subrule (2)(b).

26. Presiding at mayoral committee meetings

The executive mayor presides at meetings of the mayoral committee.

27. Presiding at Section 79-committee meetings

- (1) The member of the executive or mayoral committee, as the case may be, appointed by that committee or the executive mayor, as the case may be, or the councillor appointed by the council if the municipality has a plenary executive system, 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 presides over the election of a presiding officer in terms of subrule (2).
- (4) The committee may not elect the speaker or the mayor or the executive mayor as chairperson in terms of subrule (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 subrule (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) The mayor presides at public hearings convened by the executive committee.
- (5) Whenever the councillor designated in terms of subrules (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.
- (6) The municipal manager presides over the election of a chairperson in terms of subrule (5).

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 attending a council or committee meeting is subject to the authority of the chairperson of 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.

31. Conduct of councillors during meetings

- (1) The following conduct by a councillor or traditional leader 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 By-law 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 that may result in unauthorised 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;
- (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 By-law 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 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) A traditional leader may not second or vote on any motion, proposal or question before a meeting.

32. Dress code

The council may by resolution prescribe a dress code for councillors and traditional leaders attending meetings.

33. Person speaking to address the chairperson

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

34. Councillor to stand while speaking

- (1) Unless otherwise directed by the chairperson of a meeting or hearing a councillor and traditional leader addressing a meeting or hearing must stand while speaking.
- (2) If a councillor or traditional leader 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 traditional leader the councillor or traditional leader 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.

35. Duration and reading of speeches

- (1) Unless expressly otherwise determined in these Rules and orders, a councillor and traditional leader may not speak longer than ten minutes on any matter.
- (2) Except when a councillor or traditional leader is:-
 - (a) delivering the speaker's, mayoral 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.

36. Councillor to speak only once

- (1) Unless expressly otherwise determined in these Rules and orders, a councillor or traditional leader may speak only once on a matter.
- (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 mayor or the executive mayor or the chairperson of a Section 79 committee if the municipality has a plenary executive system, as the case may be, to make an explanatory statement prior to the consideration of any particular matter in the report of the executive or Section 79- committee or the executive mayor or during the discussion of such report in reply to a specific question.

37. Relevance

- (1) A councillor or traditional leader 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.

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. Personal explanation, point of order and clarification

- (1) A councillor or a traditional leader may, at any time during a meeting, whether or not he or she participated in a debate underway, rise:-
 - (a) to a point of order in the event of a departure from these Rules and orders or any law; or
 - (b) to explain any part of his or her speech that may have been misunderstood; or
 - (c) to request that any part of a speech that he or she may have misunderstood be explained.

- (2) A councillor or traditional leader referred to in subrule (1) must be heard forthwith.
- (3) The ruling of the chairperson of the meeting on a point of order or a personal explanation is, subject to Rule 19(3), final and may not be discussed.

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.

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 15 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 and if the suspicion is proved, the chairperson must instruct the municipal manager to ring the bell for one minute. If there is still no quorum five minutes after the bell had been rung, the chairperson must adjourn the meeting forthwith.
- (3) If the shortfall of councillors contemplated in subrule (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 subrule (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.

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 subrule (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 subrule (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 subrule (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 at the same time and venue as a meeting that had been adjourned in terms of Rule 41 or 42 on a day seven days later, provided that if the said seventh day falls on a Sunday or public holiday, the continuation meeting must take place on the first workday after such Sunday or public holiday.
- (2) 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 subrule (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 subrule (1).
- (3) A proposal in terms of subrule (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 subrule (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 subrule (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 subrules (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 subrule (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 subrule (1) need not be seconded and no debate about the proposal is allowed.
- (4) A proposal referred to in subrule (2) is carried if the councillors present at a meeting unanimously adopt it.
- (5) An urgent report received from the executive or a Section 79-committee if the municipality has a plenary executive system or the executive mayor, as the case may be, may be tabled and considered during a council meeting with the express prior permission of the speaker. An urgent report received from a Section 79 committee may be tabled and considered at an executive or mayoral committee meeting with the express prior approval of the mayor or the executive mayor, as the case may be.

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 and traditional leaders attending;
 - (b) the names of the councillors and traditional leaders absent with or without leave;
 - (c) the periods of absence during a meeting of a councillor or traditional leader;
 - (d) the names of the councillors voting respectively for and against any matter for the decision of which a division is called;
 - (e) the name of any councillor who demanded that his or her vote against any particular decision be recorded in the minutes;
 - (f) any adjournment of the meeting;
 - (g) any declaration of a personal or pecuniary interest by a councillor or a traditional leader;

- (h) any advice of the municipal manager regarding possible unauthorised expenditure or resolutions beyond the authority of the municipality; and
 - (i) the resolutions taken.
- (3) The minutes of a meeting must be delivered to the councillors with the notice of the ensuing meeting or prior to delivering such a notice.
- (4) Minutes delivered in terms of subrule (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.
- (7) 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.
- (8) The chairperson of the meeting must sign the minutes upon approval. If the minutes are written on loose sheets, each sheet must be signed.
- (9) 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.
- (10) 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.
- (11) The municipal manager must make, or cause to be made, a summary of the proceedings and evidence given at a public hearing and submit it at the first ordinary meeting of the council or the executive committee after the hearing or to the executive mayor, as the case may be.

47. Declaration of personal and pecuniary interest

- (1) A councillor or traditional leader wishing to declare a personal or pecuniary interest in terms of item 5 of the code of conduct must do so when the chairperson put the relevant item in the agenda to order.
- (2) No councillor or traditional leader may speak more than five minutes on the question whether his or her interest is so trivial or remote or irrelevant as to render a clash of interests unlikely.

Part 9:

Deputations, petitions, objections and representations

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) mayor, in the case of an application for an interview with the executive committee;
 - (c) executive mayor in the case of an application for an interview with the mayoral committee or
 - (d) chairperson of the relevant committee in any other case who may grant or refuse the interview or request additional information.
- (3) Whenever the speaker, mayor, 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 subrule (3).
- (5) If the subject matter of a application in terms of subrule (1) falls within the terms of reference of a committee the speaker may direct that the chairperson of the relevant committee consider 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 79 committee, to the executive committee or executive mayor, as the case may be.
- (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) Whenever the audit report is included in the agenda for a council meeting, the municipal manager must in writing invite the Auditor-General, the provincial treasury and the department responsible for local government to that meeting.
- (2) 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 subrule (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 or traditional leader 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 subrules (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.
- (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, provided that in the case of a Section 79-committee where the municipality has a collective or mayoral executive system, such report and recommendations must be submitted to the executive committee or the executive mayor, as the case may be.

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 subrule (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 or traditional leader 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 or traditional leader may request the municipal manager, to assist him or her to formulate the question.
- (2) The municipal manager must immediately upon receipt of a question in terms of subrule (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 or traditional leader 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
 - (b) regarding the work of the municipality in general and that does not arise from or pertain to an item in the agenda.
- (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 or traditional leader who asked it, he or she may ask for, and is entitled to, an explanation of the answer.
- (5) If the question is answered, the councillor or traditional leader who asked the question may request, and is entitled, to a written reply within fourteen days from the date of the meeting. Such a written reply must be included in the minutes of the meeting where the question was asked.
- (6) The chairperson of the meeting where the question is asked may, with the concurrence of the councillor or traditional leader who asked the question, reply at the first ordinary meeting of the council or the committee next ensuing, as the case may be.
- (7) 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 or traditional leader 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 or traditional leader 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 or traditional leader in terms of subrule (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 subrule (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 or traditional leader 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, unless it had been signed by at least three councillors in addition to its introducer.

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 had 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 or the mayor or the councillor responsible for finance, as the case may be, 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 subrule (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 or the executive committee or the councillor responsible for finance, as the case may be, and the meeting adjourns in terms of Rule 42.
- (8) At the continuation meeting in terms of Rule 43, any proposal contemplated in subrule (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 subrule (7) to the vote when the debate in terms of subrule (8) is exhausted. Should any such proposal be carried, the draft budget is changed accordingly.
- (10) If no proposal as referred to in subrule (3) is made or immediately after the debate referred to in subrule (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 executive committee or the executive mayor or the appropriate Section 79-committee if the municipality has a plenary executive system, as the case may be, 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 executive committee, the executive mayor or 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;