

# NALA LOCAL MUNICIPALITY

## STANDARD RULES AND ORDERS

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Notice is hereby given in terms of Section 13 of the Local Government: Municipal Systems Act (Act No. 32 of 2000) that Nala Municipality has adopted the Standard Rules and Orders as By-law (with effect from 1 May 2001) as published by the MEC for Local Government and Housing in the Government Gazette of 1 December 2000.

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## **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 sub-rule (3) meetings and hearings of the Council

and its committees must be held at a venue within the municipal area.

- (3) When determining the venue for a meeting or hearing the relevant person or body must take the following factors into account:-
  - (a) the availability of room at the designated venue for members of the public and the media who wishes to attend the meeting;
  - (b) the accessibility of the designated venue for members of the public and the media; and
  - (c) reasonable steps that can be taken to regulate public access to such venue.

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

- (1) The municipal manager or, if there is not a municipal manager, a person appointed by the MEC, must determine the date, time and venue of the first meeting of the Council after a general election of Councillors for the municipality which meeting must be held within fourteen days after the Council had been declared elected or, if it is a district municipality, after all the members to be appointed by local Councils had been appointed.
- (2) The speaker must determine a schedule of the dates, times and venues of ordinary Council meetings, other than the meeting referred to in sub-rule (1), for a period of at least twelve months in advance, provided that:-
  - (a) the Council must hold at least one ordinary meeting every three months; and
  - (b) not more than one ordinary Council meeting may take place during any month.
- (3) As soon as the speaker has determined the schedule referred to in sub-rule (2) he or she must inform the municipal manager thereof. The speaker may at any time, change the scheduled date, time or venue of a meeting and must immediately inform the municipal manager of any such change.

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

- (1) 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 sub-rule (2) may be dealt with at a special Council meeting.

- (5) Should the speaker fail to convene a special Council meeting in terms of sub-rule (2) the municipal manager must convene the meeting at the date set out in the request and at a time and venue determined by him or her.

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

- (1) The chairperson of a committee of the Council must determine a schedule of the date, time and venue of ordinary meetings of the committee concerned for a period of at least twelve months in advance taking into account the schedule of ordinary Council meetings referred to in Rule 3(2) and after consultation with the municipal manager, provided that:-
  - (a) 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 sub-rule (2) may be dealt with at a special committee meeting.
- (5) Should the chairperson concerned fail to convene a special committee meeting in terms of sub-rule (2) the municipal manager must convene the meeting at the date set out in the request and at a time and venue determined by him or her.

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

- (1) The speaker must:-
  - (a) when so requested by petition signed by at least 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 sub-rule (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 sub-rule (1)(a) or (b) the municipal manager must convene the meeting and may determine the date, time and venue of such meeting.

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

- (1) A Councillor representing a ward must:-
  - (a) in compliance with the schedule referred to in sub-rule (2) but at least once during every three month period; or
  - (b) when so directed by the speaker in terms of Rule 7(1); or
  - (c) upon receipt of a written request signed by not less than 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 sub-rule (1) must at the first ordinary Council meeting after a constituency meeting submit a written report regarding such a meeting to the Council. Such a report must be submitted to the municipal manager at least ten working days before the scheduled date of such Council meeting for inclusion in the agenda for that meeting.
- (4) Should a Councillor fail:-

- (a) to hold a constituency meeting in terms of sub-rule (1); or
  - (b) to submit a report in terms of sub-rule (3) the provisions of items 13 and 14 of the code of conduct must be applied in respect of that Councillor.
- (5) The speaker must supply a copy of a schedule in terms of sub-rule (2) to the municipal manager. The Councillor concerned must inform the municipal manager of every meeting to be held in terms of sub-rule (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 sub-rule (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 sub-rule (1) is subject to these Rules and orders, provided that the venue stated in the notice of the meeting must be the places where Councillors 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 sub-rule (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 sub-rule (1) is, until such date, venue or time is changed and written notice of such change has been given, required to attend the meeting stipulated in the notice without further notice.
- (3) A notice referred to in sub-rule (1) given to a Councillor, 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 sub-rule (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 sub-rules (3) and (4) after receipt of the particulars of a meeting referred to in Rule 7(2), 8(1)(b) or (c), 8(2) or 8(5) by notice in the press and placed on the municipal notice board convene the meeting or hearing at the time, date and venue determined by the Councillor 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 sub-rule (1) must state the purpose of the meeting or hearing.
- (3) The municipal manager must, not later than fourteen days before the date of a constituency meeting contained in a schedule referred to in Rule 8(2), confirm the date and venue with the Councillor concerned and give notice in a newspaper of such meeting.
- (4) The municipal manager must, with due regard for the provisions of Rule 9(5), give notice in a newspaper of the date, time and venue of a public hearing at least fourteen days before the hearing takes place and supply a copy thereof to each Councillor, traditional leader and departmental head.
- (5) A Councillor, traditional leader and departmental head to whom notice had been given in terms of sub-rule (1) or (4) is, until such date, venue or time is changed and notice of such change has been given, required to attend the meeting or hearing stipulated in the notice without further notice.

#### **12. Councillors must supply municipal manager with an address**

- (1) Every Councillor must, within two days after he or she had been declared elected or appointed, as the case may be, and thereafter as often as is necessary, supply the municipal manager in writing with an address within the municipal area 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 sub-rule (1).
- (4) Non-receipt of any official communication or notice sent to an address referred to in sub-rule (1) or delivered in terms of sub-rule (2):-
  - (a) does not affect the validity of any meeting or proceedings of the Council or its committees; and
  - (b) is not sufficient reason to be absent from the meeting concerned without leave of absence.

### **Part 3**

#### **Attendance of meetings and hearings**



**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 sub-rule (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 sub-rule (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 sub-rule (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 sub-rule (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 sub-rule (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 sub-rule 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 sub-rule (6) and must submit a written report thereon 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 sub-rule (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 sub-rule (1) is final.

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

- (1) Whenever a report submitted to the speaker in terms of Rule 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 sub-rule (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 sub-rule (4)(d) or (e), the chairperson may direct an employee of the municipality present at the meeting to remove that person or cause his or her removal and to take steps to prevent that person from returning to the meeting or hearing.

- (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 sub-rule (1) must quote the relevant Rule or convention that had been breached or not fulfilled and must state to what extent it had been breached or not fulfilled.
- (3) The municipal manager must submit the allegation to:-
  - (a) the speaker in the case of an allegation against the 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) sub-rule (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) sub-rule (3)(c), the municipal manager must include the matter in the agenda for the first ordinary Council meeting after receipt of the allegation.
- (5) The municipal manager must inform the Councillor who made the allegation and the Councillor against whom the allegation had been made of the time and place where the matter will be heard.
- (6) At the hearing the Councillor making the allegation and the Councillor against whom the allegation had been made must have the opportunity to state his or her case, to call witnesses, to examine any documents submitted and to cross examine any witness.
- (7) After the matter had been heard the speaker, 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 sub-rule (1).
- (3) The speaker elected at a meeting in terms of sub-rule (1) serves as speaker for the unexpired term of his or her predecessor.

#### **25. Presiding at 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 sub-rule (2)(b).

(4) The committee may not elect the speaker as presiding member in terms of sub-rule (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 sub-rule (2).

(4) The committee may not elect the speaker or the mayor or the executive mayor as chairperson in terms of sub-rule (2).

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

(1) The speaker presides at public meetings of voters and any public hearing convened by the Council, with due regard for the provisions of sub-rule (2).

(2) The Councillor for a ward presides at constituency meetings or public hearings convened by the Council in his or her ward.

(3) The executive mayor presides at public hearings convened by him or her.

(4) The mayor presides at public hearings convened by the executive committee.

(5) Whenever the Councillor designated in terms of sub-rules (1) to (4) is absent from or unable to preside at or during any part of a public meeting of voters or constituency meeting or a public hearing, the Councillors present at such meeting or hearing must elect from amongst their number a chairperson for the meeting or hearing for the duration of that Councillor's absence or inability.

(6) The municipal manager presides over the election of a chairperson in terms of sub-rule (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 sub-rule (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 sub-rule (2) is owing to the withdrawal of one or more Councillors in compliance with the code of conduct, the chairperson must arrange that such matter be dealt with at the first meeting next ensuing and the unfinished business is dealt with.
- (4) If a sufficient number of Councillors is present after the bell had been rung, the meeting continues, provided that the Councillor who was speaking when the proceedings were discontinued, is, in his or her own discretion, entitled to start his or her speech from afresh.
- (5) Any business except a matter referred to in sub-rule (3) which had not been dealt with at

a meeting that had been adjourned, must be considered at a continuation meeting contemplated in Rule 43, provided that any unfinished business arising from a special meeting, must be considered at the first ordinary meeting next ensuing unless the date of such ordinary meeting is later than the date contemplated in Rule 43.

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

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

#### **43. Continuation of an adjourned meeting**

- (1) A continuation meeting is held 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 sub-rule (1) the chairperson at a meeting may, if she or he is of the opinion that a third temporary adjournment of a meeting may facilitate the discussion and resolution of a matter, allow a third adjournment in terms of sub-rule (1).
- (3) A proposal in terms of sub-rule (1) must be seconded by at least three Councillors present at the meeting, provided that a Councillor may not second a proposal to adjourn more than twice during the same meeting. Such a proposal lapses if it is not properly seconded.
- (4) A proposal in terms of sub-rule (1) is carried if a majority of the members present at a meeting vote in favour thereof.
- (5) The meeting resumes after the expiry of the period referred to in sub-rule (1) and deals

with any unfinished business contained in its agenda.

## **Part 8**

### **Agendas and minutes of meetings**

#### **45. Only matters included in the agenda are dealt with**

- (1) Subject to the provisions of sub-rules (2) and (5) only matters included in an agenda for a meeting may be dealt with.
- (2) A Councillor may at any time during a meeting propose that sub-rule (1) be suspended to allow discussion of any matter not included in the agenda and must give reasons for his or her proposal.
- (3) A proposal in terms of sub-rule (1) need not be seconded and no debate about the proposal is allowed.
- (4) A proposal referred to in sub-rule (2) is carried if the Councillors present at a meeting unanimously adopt it.
- (5) An urgent report received from the executive 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 sub-rule (3) are deemed read with a view to their approval.
- (5) No proposal regarding minutes, except a proposal relating to the accuracy thereof may be allowed.
- (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 sub-rule (3).
- (5) If the subject matter of a application in terms of sub-rule (1) falls within the terms of reference of a committee the speaker may direct that the chairperson of the relevant committee 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 sub-rule (1) to allow the Auditor-General to address the Council and Councillors to ask questions with regard to the audit report and audit findings.

#### **50. Petitions**

- (1) A Councillor 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 sub-rules (1) or (2) and any petition received by the speaker, must be referred to the relevant committee or the executive mayor, as the case may be, who may dispose of the matter.

- (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 sub-rule (1) must within seven days after the closing date for comments, representations or objections, make a summary of the comments, representations and comments that were received (if any) and submit it to the relevant departmental head.
- (3) The departmental head must consider the summary and submit it, together with his or her report and recommendations to the municipal manager who must refer it, with his or her comments, to the Council or the executive mayor or the relevant committee as the case may be.
- (4) The executive mayor or committee, as the case may be, must consider the summary and report and recommendations of the departmental head and the comments of the municipal manager and submit the matter to the Council together with their recommendations.

## **Part 10**

### **Questions**

## **52. Questions of which notice had been given**

- (1) A Councillor 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 sub-rule (1), provide a copy thereof to the relevant departmental head and instruct him or her to prepare a reply to the question. The municipal manager may direct a departmental head to which he or she has sent the question to consult with any other departmental head before he or she prepares the answer.
- (3) Provided the question had been received at least ten workdays before the scheduled date of the meeting where the question would be asked, the municipal manager must ensure that the question and the answer thereto is included in the agenda for the first ordinary meeting of the Council or committee next ensuing where the question will be asked.

## **53. Questions during meetings**

- (1) A Councillor 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 sub-rule (1), he or she must reduce the request to writing, or cause it to be reduced to writing and include it in the relevant agenda.

#### **55. Submission and limitation of motions**

- (1) With due regard for the provisions of sub-rule (4) a motion in terms of Rule 54 must be included in the agenda for the first ordinary meeting next ensuing of the Council or the committee concerned, provided it had reached the municipal manager at least forty-eight hours before the date referred to in Rule 10(1).
- (2) Only one motion of a Councillor 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 sub-rule (5) or (6) is insufficient to cover the expected shortfall, the draft budget is not amended but it is referred back to the executive mayor 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 sub-rule

- (5) or (6) and the comment of the Councillor introducing the draft budget with regard to it is debated.
- (9) The speaker must put each proposal referred to in sub-rule (7) to the vote when the debate in terms of sub-rule (8) is exhausted. Should any such proposal be carried, the draft budget is changed accordingly.
- (10) If no proposal as referred to in sub-rule (3) is made or immediately after the debate referred to in sub-rule (9) had been exhausted, the speaker must put the amended draft budget to the vote as a whole. If the amended draft budget is adopted, the budget is approved.

#### **59. Motion or proposal regarding legislation**

A motion or proposal before the Council affecting the repeal, drafting or amendment of legislation must, before the Council considers it, be referred to and considered by the 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;
  - (f) that the meeting continue to the next matter.
- (2) Any proposal in terms of sub-rule (1) may only be subjected to the vote if it had been properly seconded.

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

- (1) A proposal that a motion or proposal (hereafter the “original motion”) be amended, may only be made by a Councillor or traditional leader during his or her speech on the original motion.
- (2) No Councillor or traditional leader may make more than one proposal for the amendment of the same original motion.
- (3) A proposal in terms of sub-rule (1) must be relevant to the original motion and the chairperson must clearly repeat it to the meeting before it is put to the vote.
- (4) With due regard for sub-rule (5) more than one amendment of an original motion may be introduced. Every amendment introduced must be put to the vote at the close of the

debate.

- (5) If a proposal in terms of sub-rule (1) had been made, no other proposal may be made until its introducer had addressed the meeting. The Councillor or traditional leader who made the proposal may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (6) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and its introducer had spoken in terms of sub-rule (5), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.
- (7) If more than one amendment on an original motion had been introduced, they must be put to the vote in the order they were made. If any amendment is carried, the amended motion or proposal takes the place of the original motion and becomes the motion or proposal in respect of which any further proposed amendments must be put to the vote.

## **62. Referring the matter back**

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

## **63. Deferring consideration of the matter**

- (1) A Councillor or traditional leader who did not participate in the debate on a motion or proposal (hereafter the “original motion”) may at the end of a speech about the original motion propose that the matter be deferred.
- (2) The Councillor or traditional leader who made the proposal in terms of sub-rule (1) may



address the meeting for five minutes on his or her proposal, but he or she has no right of reply.

The seconder may not address the meeting on the proposal.

- (3) A proposal similar to the proposal in terms of sub-rule (1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) had been made and its introducer had spoken in terms of sub-rule (2), address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of sub-rule (1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) If the proposal in terms of sub-rule (1) concerns a recommendation of the executive committee, the executive mayor or a Section 79-committee if the municipality has a plenary executive system, as the case may be, the matter must, if that proposal is carried, be included in the next report of the executive committee, executive mayor or Section 79-committee to the Council. If the proposal in terms of sub-rule (1) concerns a recommendation of a Section 79-committee if the municipality has a collective or mayoral executive system, the matter must, if that proposal is carried, be included in the next report of the committee to the executive or mayoral committee. If the proposal in terms of sub-rule (1) concerns any other matter, the matter must be included in the agenda of the first ordinary Council meeting next ensuing.

#### **64. Suspending a debate**

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

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

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

**66. Proceeding to the next business**

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

**Part 13****Applications by Councillors and traditional leaders****67. Applications to obtain a financial interest in Council business**

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

#### **68. Disclosure of declared interests**

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

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

- (1) A Councillor may, by written notice signed by him or her and delivered to the municipal manager, resign:-
  - (a) as Councillor; or
  - (b) from any office he or she holds.
- (2) A Councillor may resign from office at any time during a Council or committee meeting by making a declaration to the Council or committee in that regard, provided that the she or he must immediately after such a declaration, resign in writing. A declaration in terms of this Rule may not be withdrawn.
- (3) If the resignation was that of the speaker, mayor, member of the executive committee or executive mayor, as the case may be, the Council must as soon as the resignation of the Councillor concerned in terms of sub-rule (2) had been reduced to writing, signed and given to the municipal manager, elect a speaker, executive mayor, member of the executive committee or mayor, as the case may be, despite the provisions of Rule 23 or 24, as the case may be.

- (4) A resignation in terms of sub-rule (1) or (3) may not be withdrawn and takes effect upon receipt thereof by the municipal manager. If the executive mayor resigns, the members of the mayoral committee are deemed to have resigned from the same date as the executive mayor.
- (5) The municipal manager must immediately upon receipt of a resignation of a Councillor or when a vacancy arises in the Council in any other manner report it to the speaker, except when the resignation or vacancy is that of the speaker, and to:-
  - (a) the mayor, in the case of a resignation of a member of the executive committee;
  - (b) the executive mayor, in the case of a resignation of member of the mayoral committee.
- (6) The municipal manager must ensure that any resignation or a report of any vacancy arising in another manner is contained in the agenda for the next ordinary Council meeting after the vacancy arose.
- (7) The Council must, except in the case of a vacancy arising in the mayoral committee, at the meeting where a vacancy in an office of the Council is reported, elect from amongst the Councillors a successor for the Councillor who left the vacancy. A Councillor elected to an office in terms of this sub-rule serves for the unexpired term of his or her predecessor.

## **Part 14**

### **Full-time Councillors**

#### **70. Designation of full-time Councillors**

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

#### **71. Report of the municipal manager with regard to full-time Councillors**

- (1) A report in terms of Rule 70, must reflect on:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance to a full-time Councillor;
  - (c) proposed powers that could be delegated to a full-time Councillor and where there may be more than one full-time Councillors, the different powers that may be delegated to each of them;
  - (d) the reasons not to delegate any such power or function to an employee of the municipality;
  - (e) the available financial and administrative resources of the municipality to support the work of a full-time Councillor or Councillors, including the availability or cost of establishing and maintaining suitable office facilities, office equipment and

secretarial assistance;

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

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

- (1) The Council must, when it designates a Councillor as a full-time Councillor, determine the working hours for the office held by that Councillor.
- (2) A Councillor who was designated as a full-time Councillor may apply for permission of the Council to undertake other paid work (in this Rule “private work”).
- (3) An application for private work must be lodged in writing with the municipal manager and must state the following:-
  - (a) the nature of the private work the applicant wishes to undertake;
  - (b) an estimation of the demands such work will make on the time and availability of the applicant; and
  - (c) where such work will be performed.
- (4) The Council may grant or refuse an application for private work, provided that:-
  - (a) permission to perform private work may not be unreasonably refused; and
  - (b) when the Council refuses an application it must state the reasons for its refusal.
- (5) The meeting where an application for private work is considered may not be closed.
- (6) The applicant may not be present at a meeting during the discussion of the application, provided that the speaker may request the applicant to supply such information as the Council may request during that meeting. Whenever such a request is made to the applicant, the applicant may supply the requested information orally during the meeting.
- (7) The Council may, before it considers an application for private work, request that additional information with regard to the intended work as may be necessary for the proper consideration of the application be submitted in writing.
- (8) The granting of permission to undertake private work is valid for only twelve months after which the Councillor concerned must submit a new application and is subject to the following conditions:-
  - (a) private work may only be undertaken outside the working hours contemplated in sub-rule (1);
  - (b) private work may not negatively influence the applicant’s performance in office or infringe on his or her official functions and duties;
  - (c) no appointments or other arrangements in connection with private work may be made or conducted during the working hours contemplated in sub-rule (1);
  - (d) the applicant may not use the Council’s equipment, employees, facilities or material for his or her private work;
  - (e) the Council’s postal address, telephone and fax numbers and electronic mail address may not be used in connection with private work;
  - (f) private work may not cause the applicant to breach the provisions of the code of

conduct;

- (g) the Councillor may not use his or her position with the Council to recruit private work; and
  - (h) any other condition as the Council may determine.
- (9) Any permission in terms of this Rule does not exempt a Councillor from complying with the code of conduct neither is such permission a defence against any allegation of a breach of the code.
- (10) An application for private work must be refused if, in the opinion of the Council, there may exist, or there is likely to arise, a conflict of interest between the Councillor's duties as a Councillor and those of his or her private work.
- (11) The Council may, by notice to the Councillor concerned, withdraw its permission to perform private work if there was a material breach of the conditions stipulated in sub-rule (7) or a conflict of interest arise as contemplated in sub-rule (10). Such a notice must contain the reasons for the withdrawal and must site the breaches of the conditions that occurred.
- (12) Before the Council issues a notice in terms of sub-rule (11) it must allow the Councillor concerned an opportunity to state his or her case.
- (13) Any refusal of an application or a withdrawal of permission already granted is final and binding on the Councillor concerned.
- (14) An application that had been refused may only be reconsidered after expiry of a period of six months from the date of the resolution refusing the application, provided the Councillor concerned submits a new application. A new application for private work may not be considered within six months after permission to perform private work had been withdrawn in terms of sub-rule (11).

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

- (1) A full-time Councillor is entitled to:-
- (a) 21 work days holiday leave with full remuneration after every completed year he or she occupied a full-time office of which 15 consecutive days must be taken within six months after the end of each such year;
  - (b) 10 work days sick leave with full remuneration during every completed year he or she occupied a full-time office, provided that the Council may grant more sick leave to a Councillor; and
  - (c) such other leave with or without remuneration as the Council may decide.
- (2) A Councillor may not encash holiday leave to his or her credit.
- (3) A full-time Councillor must apply for leave of absence for any period that she or he would not be or had not been available in the municipality during the working hours referred to in Rule 71(2)(a).
- (4) An application for leave of absence in terms of sub-rule (1) must be in writing and must be submitted to the municipal manager.

- (5) The municipal manager must submit an application in terms of sub-rule (4) to the Council at the first opportunity.
- (6) The Council must approve the application, if it is an application for leave in terms of sub-rule (1). If the Council approves an application for leave of the speaker or the mayor if there is not a deputy mayor, the Council must elect an acting speaker or mayor for the period of the absence of the speaker or mayor, as the case may be.
- (7) Leave to the credit of a Councillor when he or she vacates office may not be paid out.

### CHAPTER 3

#### LANGUAGE POLICY OF THE MUNICIPALITY

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

The Council must at its first meeting after a general election for Councillors review the language policy of the municipality in terms of Rule 77 and, where such policy does not exist, instruct the municipal manager to develop a draft policy and submit it to the Council.

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

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

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

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

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

- (a) the need to take practical and positive steps to elevate the status and advance the use of indigenous languages that are official languages in terms of Section 6(1) of the Constitution;



- (b) language usage and preferences of the residents within the municipal area;
- (c) the practicability and expense of choosing any particular language or languages;
- (d) the right of an employee accused of misconduct to state his or her case during a disciplinary enquiry in a language of his or her choice and to have the proceedings at such enquiry translated to such language;
- (e) the dominant languages used by newspapers circulating in the area;
- (f) the right of everyone to use the language of their choice;
- (g) the economical, efficient and effective use of resources.

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

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

### **CHAPTER 4**

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

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

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

- (a) Opening
- (b) Applications for leave of absence
- (c) Official announcements of the speaker
- (d) Reports of the speaker in terms of Rules 15(1) and 99(4)
- (e) Applications and appeals from Councillors in terms of Rules 14(1), 67 and 72
- (f) Reports received from the speaker

- (g) Motions of sympathy and congratulations by the speaker
- (h) Motions of sympathy and congratulations by other Councillors
- (i) Deputations and interviews
- (j) Disclosure of interest
- (k) Minutes of the previous meeting
- (l) Questions of which notice were given
- (m) Report of the executive committee/executive mayor/committee reports
- (n) Reports of decisions taken under delegated powers
- (o) Motions
- (p) Closing

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

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

- (a) Opening
- (b) Applications for leave of absence
- (c) Election of speaker
- (d) Motion of congratulations of the municipal manager
- (e) Motions of congratulations from Councillors
- (f) Acceptance speech of the speaker
- (g) Confirmation of type of municipality
- (h) Election of members of the executive committee, or executive mayor, as the case may be
- (i) Election of mayor
- (j) Designation of Councillor responsible for finance
- (k) Election of representatives in the district municipality
- (l) Designation of full-time Councillors
- (m) Election of representative in FRELOGA's executive committee
- (n) Review of language policy
- (o) Review of delegated powers

- (p) Closing

#### **80. Order of business at committee meetings**

The order of business at an ordinary executive or mayoral committee meeting is as follows:-

- (a) Opening
- (b) Applications for leave of absence
- (c) Official announcements
- (d) Motions of sympathy and congratulations
- (e) Disclosure of interests
- (f) Minutes if the previous meeting
- (g) Questions of which notice had been given
- (h) Matters deferred from the previous meeting
- (i) Reports of Section 79-committees (if any)
- (j) Reports of the municipal manager
- (k) Deputations and interviews
- (l) Closing

### **CHAPTER 5**

#### **VOTING AND DECISION-MAKING**

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

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

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

- (1) No decision may be taken unless the Council or a committee has sufficient information before it to take an informed decision. Such information must preferably be contained in a written report.
- (2) Before the Council takes a decision on a matter directly affecting the area of a traditional authority, it must, by written notice, invite the traditional leader of the authority to make written submissions to the Council with regard to the matter.

- (3) A traditional leader is deemed not to have any views on the matter if she or he does not respond within 21 days of the invitation in terms of sub-rule (2).
- (4) The fact that a traditional leader did not respond to an invitation in terms of sub-rule (2) does not in any way limit her or his right to attend and participate in any Council meeting where the matter will be discussed.

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

- (1) Voting in a Council or committee meeting is by show of hands, unless a Councillor requests a secret ballot on any question. When such a request is received the provisions of Rule 85 applies.
- (2) After the chairperson has declared the result of a vote a Councillor may demand:-
  - (a) that his or her vote against the decision be recorded; or
  - (b) a division.
- (3) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

### **84. When a division is called**

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

### **85. Voting by secret ballot**

- (1) A request in terms of Rule 83 that a secret ballot be held in respect of any motion or proposal, is carried if it is seconded.
- (2) The municipal manager must ensure that a sufficient supply of ballot papers that substantially comply with the following design, is available at each meeting:-

For the proposal

Against the proposal

- (3) Immediately after the request that a secret ballot be held had been seconded, the municipal manager must give to each Councillor present a ballot paper.
- (4) Upon receipt of a ballot paper the Councillor must indicate his or her vote by clearly marking whether he or she is for or against the proposal concerned whereupon he or she must fold the ballot paper in half and hand it back to the municipal manager.
- (5) When all the Councillors present has handed their ballot papers back, the municipal manager must determine the result of the ballot and inform the chairperson thereof.
- (6) The fact that a secret ballot had been held must be recorded in the minutes of that meeting.
- (7) All used ballot papers must be destroyed upon conclusion of the meeting.
- (8) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

**86. Equality of votes**

- (1) Unless a specific majority had been prescribed in respect of any matter or when a secret ballot is conducted or when expressly stated otherwise in these Rules and Orders, the chairperson at a meeting may cast a casting vote where there is an equality of votes on any question in addition to his or her deliberative vote.
- (2) Should there be an equality of votes after a division had been called and the chairperson refuses to use his or her casting vote, the matter must be referred back to the executive committee, executive mayor or relevant Section 79-committee if the municipality has a plenary executive system, as the case may be, or must be deferred until the next meeting if there is not a committee or an executive mayor.
- (3) Should there be an equality of votes after a secret ballot had been conducted, the matter must be referred back to the executive committee, executive mayor or relevant Section 79-committee if the municipality has a plenary executive system, as the case may be, or must be deferred until the next meeting if there is not a committee or an executive mayor.
- (4) In all cases other than those mentioned in sub-rules (2) and (3) where there is an equality of votes and the chairperson refuses to use his or her casting vote, the matter must be referred back to the executive committee, executive mayor or relevant Section 79-committee if the municipality has a plenary executive system, as the case may be, or must be deferred until the next meeting if there is not a committee or an executive mayor.

**CHAPTER 6**

**REMOVAL OF OFFICE-BEARERS FROM OFFICE**

**87. Removal of speaker**

- (1) A Councillor (hereafter called “the initiator”) may by written motion, which must be seconded by at least three other Councillors, move that the speaker be removed from office. Such a motion must be submitted to the municipal manager and may not be sent

- by electronic mail, telex or telegram. If such motion is transmitted by facsimile, the original must be delivered to the municipal manager within seven days.
- (2) The motion must contain a brief summary of the reasons for the motion.
  - (3) A motion in terms of sub-rule (1) may, despite the provisions of Rule 56, not be withdrawn.
  - (4) The municipal manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the speaker.
  - (5) Unless the speaker resigns upon receipt of a motion in terms of sub-rule (1), he or she must forthwith upon receipt thereof determine the date, time and venue for a special Council meeting in terms of Rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the speaker received a copy of the motion from the municipal manager.
  - (6) Despite the provisions of Rule 10(1) at least seven days notice of a meeting in terms of sub-rule (5) must be given to every Councillor and traditional leader.
  - (7) If the speaker resigns from office at any time before a meeting in terms of sub-rule (5) takes place, the motion lapses and the meeting does not go ahead.
  - (8) The meeting may not be closed for the public or the media before a vote had been taken on a motion in terms of sub-rule (1).
  - (9) The municipal manager presides over the proceedings on a motion in terms of sub-rule (1) but he or she may not vote.
  - (10) The speaker has the right and must be allowed the opportunity during the proceedings to:-
    - (a) respond to every allegation made in the motion and during the proceedings;
    - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
    - (c) submit documents and to examine any documents submitted by the initiator, provided that if the speaker is not present during the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the speaker is carried if a majority of the Councillors of the municipality votes in favour of it.
  - (11) With due regard for Rules 35 and 36, the municipal manager must put the motion to the vote after the debate had been exhausted.
  - (12) If the speaker at any time during the proceedings but before the motion is put to the vote, make a declaration in terms of Rule 69(2), the proceedings are discontinued immediately and the motion lapses and the Council proceeds to elect a new speaker despite any provisions to the contrary in these Rules and Orders.
  - (13) If the motion is carried, the speaker is removed from office with immediate effect and the Council proceeds to elect a new speaker despite any provisions to the contrary in these Rules and Orders.
  - (14) A Councillor elected as speaker in terms of sub-rule (12) or (13) serve for the unexpired

term of his or her predecessor.

- (16) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next three months unless the Council directs otherwise.

#### **88. Removal from office of executive committee members**

- (1) A Councillor (hereafter called “the initiator”) may by written motion, which must be seconded by at least three other Councillors, move that one or more members of the executive committee be removed from office. Such a motion must be submitted to the municipal manager and may not be sent by electronic mail, telex or telegram. If such motion is transmitted by facsimile, the original must be delivered to the municipal manager within seven days.
- (2) If the motion is not made in respect of all the members of the executive committee, it must state the names of the Councillors who must be removed.
- (3) The motion must contain a brief summary of the reasons for the motion. If the motion is made in respect of two or more members of the executive committee it must contain a summary of the reasons for the motion in respect of each of them separately.
- (4) A motion in terms of sub-rule (1) may, despite the provisions of Rule 56, not be withdrawn.
- (5) The municipal manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the speaker and the members of the executive committee.
- (6) The speaker must forthwith upon receipt of the motion determine the date, time and venue for a special Council meeting in terms of Rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the speaker received a copy of the motion from the municipal manager.
- (7) Despite the provisions of Rule 10(1) at least seven days notice of a meeting in terms of sub-rule (6) must be given to every Councillor and traditional leader.
- (8) If the members of the executive committee or the members named in the motion resign from office at any time before a meeting in terms of sub-rule (6) takes place, the motion lapses and the meeting does not go ahead. If one or more, but not all, of the members of the executive committee or any Councillor, but not all, named in the motion resign at any time before a meeting in terms of sub-rule (6) takes place, the motion lapses in so far as they are concerned but the meeting goes ahead in respect of any Councillor who did not resign.
- (9) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
- (10) The speaker presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote if there is an equality of votes.
- (11) The Councillors in respect of whom the proceedings take place has the right and must be allowed the opportunity during the proceedings to separately:-
  - (a) respond to every allegation made in the motion and during the proceedings;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and

- (c) submit documents and to examine any documents submitted by the initiator provided that if any of the members of the executive committee in respect of whom the motion had been submitted is not present at the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of any Councillor is carried if a majority of the Councillors of the municipality votes in favour of it.
- (12) With due regard for Rules 35 and 36, the speaker must put the motion to the vote after the debate had been exhausted. The motion is put to the vote separately in respect of each of the Councillors to which it relates.
- (13) If any Councillor against whom the proceedings was initiated at any time during the debate but before the motion is put to the vote make a declaration in terms of Rule 69(2), the debate is discontinued immediately in respect of him or her and the motion lapses in respect of him or her.
- (14) Every Councillor in respect of whom the motion is carried is removed from office with immediate effect.
- (15) As soon as the proceedings had been concluded the Council proceed to fill any vacancies in the executive committee despite any provisions to the contrary in these Rules and orders. If the position of mayor is also vacant the Council proceed to elect a mayor from amongst the members of the executive committee after any vacancies in the executive committee had been filled.
- (16) A Councillor elected as a member of the executive committee in terms of sub-rule (15) serve for the unexpired term of his or her predecessor.
- (17) If the motion is defeated, no motion naming a Councillor in respect of whom it had been defeated, forwarding the same allegations may be submitted within the next three months unless the Council directs otherwise.

## **89. Abolishing the executive committee during the term of the Council**

- (1) The Council of a municipality that has a collective executive system may at any time during its term and must when:-
  - (a) such a recommendation is received from the executive committee; or
  - (b) a motion proposing that the executive committee be abolished, seconded by three Councillors. is submitted consider abolishing the executive committee.
- (2) A motion in terms of sub-rule (1)(b) must be submitted to the municipal manager and may not be sent by electronic mail, telex or telegram. If such motion is transmitted by facsimile, the original must be delivered to the municipal manager within seven days.
- (3) A motion or recommendation in terms of sub-rule (1) must contain a brief summary of the reasons for the motion.
- (4) The provisions of Rule 88(4) to (7), (9), (10) and (12) apply with regard to the consideration of a motion or recommendation in terms of sub-rule (1).
- (5) If a recommendation or motion in terms of sub-rule (1) is adopted or carried, the executive committee is abolished with immediate effect, the members of the executive



committee is deemed to have resigned as such members effective from that date and the Council operates as a municipality with a plenary executive system.

- (6) A motion, proposal or recommendation for:-
- (a) the reinstatement of an executive committee that had been abolished; or
  - (b) the abolishing of the executive committee may not be made, submitted or considered within six months after a similar motion or recommendation had been adopted or defeated, as the case may be.

#### **90. Removal from office of the executive mayor**

- (1) A Councillor (hereafter called “the initiator”) may by written motion which must be seconded by at least three other Councillors, move that the executive mayor be removed from office. Such a motion must be submitted to the municipal manager and may not be sent by electronic mail, telex or telegram. If such motion is transmitted by facsimile, the original must be delivered to the municipal manager within seven days.
- (2) The motion must contain a brief summary of the reasons for the motion.
- (3) A motion in terms of sub-rule (1) may, despite the provisions of Rule 56, not be withdrawn.
- (4) The municipal manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the speaker and the executive mayor.
- (5) The speaker must forthwith upon receipt of the motion determine the date, time and venue for a special Council meeting in terms of Rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the speaker received a copy of the motion from the municipal manager.
- (6) Despite the provisions of Rule 10(1) at least seven days notice of a meeting in terms of sub-rule (5) must be given.
- (7) If the executive mayor resigns from office at any time before a meeting in terms of sub-rule (5) takes place, the motion lapses and the meeting does not go ahead. If the executive mayor resigns, the members of the mayoral committee are deemed to have resigned from the same date.
- (8) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
- (9) The speaker presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote.
- (10) The executive mayor has the right and must be allowed the opportunity during the proceedings to:-
  - (a) respond to every allegation made in the motion and during the debate;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
  - (c) submit documents and to examine any documents submitted by the initiator, provided that if the executive mayor is not present during the meeting, the Council

may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the executive mayor is carried if a majority of the Councillors of the municipality votes in favour of it.

- (11) With due regard for the provisions of Rules 35 and 36, the speaker must put the motion to the vote after the debate had been exhausted.
- (12) If the executive mayor at any time during the debate but before the motion is put to the vote make a declaration in terms of Rule 69(2), the debate is discontinued immediately and the motion lapses and the Council proceeds to elect a new executive mayor despite any provisions to the contrary in these Rules. When such a declaration is made the members of the mayoral committee are deemed to have resigned as such members.
- (13) If the motion is carried, the executive mayor is removed from office with immediate effect and the Council proceeds to elect a new executive mayor despite any provisions to the contrary in these Rules.
- (14) A Councillor elected as executive mayor in terms of sub-rule (12) or (13) serve for the unexpired term of his or her predecessor.
- (15) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next three months unless the Council directs otherwise.

#### **91. Abolishing of office of executive mayor during the term of the Council**

The provisions of Rule 89 apply, with the necessary changes required by context to the executive mayor, provided that if the motion or recommendation to abolish the office of executive mayor is carried, the members of the mayoral committee are deemed to have resigned from that date.

#### **92. Removal of members of Section 79-committees**

- (1) A Councillor (hereafter called “the initiator”) may by written motion, which must be seconded by at least three other Councillors, move that one or more members of a Section 79-committee (hereafter referred to as the committee”) be removed from office. Such a motion must be submitted to the municipal manager and may not be sent by electronic mail, telex or telegram. If such motion is transmitted by facsimile, the original must be delivered to the municipal manager within seven days.
- (2) A motion for removal of the chairperson of a Section 79-committee if the municipality has a collective executive system must be dealt with in terms of the procedure contained in Rule 88. A motion for the removal of the chairperson of a Section 79-committee if the municipality has a mayoral executive system must be referred to and dealt with by the executive mayor in terms of Rule 93.
- (3) If the motion is not made in respect of all the members of the committee, it must state the names of the Councillors who must be removed.
- (4) The motion must contain a brief summary of the reasons for the motion. If the motion is made in respect of two or more members of the committee it must contain a summary of the reasons for the motion in respect of each of them separately.
- (5) A motion in terms of sub-rule (1) may, despite the provisions of Rule 56, not be withdrawn.

- (6) The municipal manager must upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the speaker, the mayor or the executive mayor, as the case may be, and the members of the committee concerned.
- (7) The speaker must forthwith upon receipt of the motion determine the date, time and venue for a special Council meeting in terms of Rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the speaker received a copy of the motion from the municipal manager.
- (8) At least seven days notice of a meeting in terms of sub-rule (7) must be given, despite the provisions of Rule 10(1).
- (9) If the members of the committee or the members named in the motion resign from office at any time before a meeting in terms of sub-rule (7) takes place, the motion lapses and the meeting does not go ahead. If one or more, but not all, of the members of the committee or any Councillor, but not all, named in the motion resign at any time before a meeting in terms of sub-rule (7) takes place, the motion lapses in so far as they are concerned but the meeting goes ahead in respect of any Councillor who did not resign.
- (10) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
- (11) Except when the motion in terms of sub-rule (1) is submitted in respect of a member of the mayoral committee, the speaker presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote if there is an equality of votes.
- (12) The Councillors in respect of whom the proceedings take place has the right and must be allowed the opportunity during the proceedings to separately:-
  - (a) respond to every allegation made in the motion and during the debate;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
  - (c) submit documents and to examine any documents submitted by the initiator provided that if any of the members of the committee in respect of whom the motion had been submitted is not present at the meeting, the Council may, in its sole discretion, continue with the proceedings. A proposal to proceed in the absence of the any Councillor concerned is carried if a majority of the Councillors of the municipality votes in favour of it.
- (13) After the debate had been exhausted, the speaker must put the motion to the vote. The motion is put to the vote separately in respect of each of the Councillors to which it relates.
- (14) If any Councillor to whom a motion in terms of sub-rule (1) relates at any time during the debate but before the motion is put to the vote make a declaration in terms of Rule 69 (2), the debate is discontinued immediately in respect of him or her and the motion lapses in respect of him or her.
- (15) Every Councillor in respect of whom the motion is carried is removed from office with immediate effect.
- (16) As soon as the proceedings had been concluded the Council proceed to fill the vacancies in the committee despite any provisions to the contrary in these Rules and Orders.

- (17) A Councillor elected as a member of the committee in terms of sub-rule (16) serve for the unexpired term of his or her predecessor.
- (18) If the motion is defeated, no motion naming a Councillor in respect of whom it had been defeated, forwarding the same allegations may be submitted within the next three months unless the Council directs otherwise.

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

- (1) A Councillor (hereafter called “the initiator”) may by written motion, which must be seconded by at least three other Councillors, move that a member of the mayoral committee:-
  - (a) who is the chairperson of a Section 79-committee be removed as chairperson of the committee concerned; or
  - (b) be removed as such a member.
- (2) A motion in terms of sub-rule (1) must be submitted to the municipal manager and may not be sent by electronic mail, telex or telegram. If such motion is transmitted by facsimile, the original must be delivered to the municipal manager within seven days.
- (3) The motion must contain a brief summary of the reasons for the motion.
- (4) A motion in terms of sub-rule (1) may, despite the provisions of Rule 56, not be withdrawn.
- (5) The municipal manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy to the executive mayor.
- (6) The executive mayor may, upon receipt of the motion:-
  - (a) in writing dismiss the Councillor concerned with immediate effect; or
  - (b) determine the date, time and venue for a special mayoral committee meeting in terms of Rule 6 and send a copy of the motion to the Councillor concerned.
- (7) The date of such a special mayoral committee meeting may not be less than fourteen and not more than twenty-one days from the date he or she received a copy of the motion from the municipal manager.
- (8) Despite the provisions of Rule 10(1) at least seven days notice of a meeting in terms of sub-rule (6)(b) must be given.
- (9) If the Councillor concerned resigns from office at any time before a meeting in terms of sub-rule (6)(b) takes place, the motion lapses and the meeting do not go ahead.
- (10) The meeting may not be closed for the public or the media before a vote had been taken on the matter.
- (11) The executive mayor presides over the proceedings on a motion in terms of sub-rule (1) but he or she does not have a casting vote.
- (12) The Councillor concerned has the right and must be allowed the opportunity during the proceedings to:-

- (a) respond to every allegation made in the motion and during the debate;
  - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
  - (c) submit documents and to examine any documents submitted by the initiator, provided that if the Councillor concerned is not present during the meeting, the executive mayor may, in his or her sole discretion, continue with the proceedings.
- (13) After the debate had been exhausted, the executive mayor must put the motion to the vote.
- (14) If the Councillor concerned at any time during the debate but before the motion is put to the vote make a declaration in terms of Rule 69(2), the debate is discontinued immediately and the motion lapses.
- (15) If the motion is carried, the executive mayor must remove the Councillor concerned from office with immediate effect. The executive mayor may fill a vacancy arising in terms of sub-rule (9), (14) or this sub-rule.
- (16) A Councillor appointed to the mayoral committee in terms of sub-rule (14) or (15) serve for the unexpired term of his or her predecessor.
- (17) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next three months unless the Council directs otherwise.

## CHAPTER 7

### CLOSING OF MEETINGS

#### 94. Circumstances that must be present to close a meeting

- (1) Recognising the need for transparency and open and accountable government the Council or a committee may, with due regard for any provisions to the contrary in these Rules and Orders or any other law, resolve to close any part of a meeting for the public and the media.
- (2) A resolution in terms of sub-rule (1) may be made only:-
- (a) if a proposal in that regard had been made and is carried in terms of these Rules and orders; and
  - (b) if the matter in respect of which the proposal had been made is a matter which concerns discussing or making public:-
    - (i) a trade secret or confidential commercial information of any supplier of the municipality or any person offering to become a supplier of the municipality;
    - (ii) personal and private information of any Councillor or an employee of the municipality;
    - (iii) the price the municipality may offer for the purchase of land;
    - (iv) the intention of the municipality to purchase land;

- (v) any strategy to be used in defence or initiation of litigation against or by the municipality;
  - (vi) disciplinary proceedings against an employee of the municipality; or
  - (vii) any matter that may not be publicly disclosed in terms of a law; or
- (c) to approve the minutes of any part of a meeting that had been closed.

#### **95. Procedure for closing meetings**

- (1) A Councillor may, with due regard for the provisions of Rules 87 to 93, when an item in the agenda is put to order or at any time during the debate on an item, propose that the matter be further dealt with in closed session.
- (2) No seconder is required for a proposal in terms of sub-rule (1).
- (3) Despite anything to the contrary in these Rules and Orders, only the introducer of the motion may speak on the proposal for a period not exceeding five minutes and must during his or her argument state the reasons for the proposal.
- (4) The chairperson at the meeting, if he or she does not reject the proposal, must subject the proposal to the vote immediately after the introducer has spoken.
- (5) If the proposal is carried the chairperson must determine when the matter concerned must be debated.
- (6) When the Council or a committee, as the case may be, resolves to close a part of a meeting and subject to any determination of the chairperson in terms of sub-rule (5), all members of the public and media and municipal employees present at the meeting, except such employees as the chairperson may require to remain, must leave the meeting and may not return for the duration of the closed proceedings.

#### **96. Rules governing closed meetings**

- (1) When a meeting was closed in terms of Rule 95, the provisions of these Rules apply to that meeting.
- (2) If a proposal in terms of Rule 95 is carried, the further debate on the matter, whether in closed session or public, is deemed a continuation of the preceding debate on the matter.
- (3) At the conclusion of a closed debate, the meeting automatically reverts to a meeting in public.

#### **97. Opening a closed meeting**

- (1) A Councillor may at any time during a meeting that is closed propose that the meeting proceed in public.
- (2) No seconder is required for a proposal in terms of sub-rule (1).
- (3) Despite anything to the contrary in these Rules and Orders, only the introducer of the motion may speak on the proposal for a period not exceeding five minutes and must during his or her argument state the reasons for the proposal.

- (4) The chairperson at the meeting, if he or she does not reject the proposal, must subject the proposal to the vote immediately after the introducer has spoken.
- (5) If the proposal is carried, the meeting immediately resumes in public.

#### **98. Supplying information to the media**

- (1) The municipal manager may make confirmed minutes (excluding any part of such minutes with regard to a matter dealt with in terms of Rule 95) and official agendas available to any interested person or registered newspaper at such fees as the Council may determine or free of charge.
- (2) The municipal manager may, and if so instructed by the Council or a committee must, make the confirmed minutes (excluding any part of such minutes regarding a matter dealt with in terms of Rule 95) and official agendas available in the reference Section of a public library in the municipal area.
- (3) The speaker or the mayor, in respect of the executive committee, or the executive mayor, in respect of the mayoral committee, or the chairperson of a Section 79-committee, if the municipality has a plenary executive system in respect of such a committee, may hold media conferences and briefings and issue media statements.
- (4) The municipal manager may, in respect of any matter included in the official agenda or the confirmed minutes of a meeting, issue media statements and convene media conferences and briefings.
- (5) A departmental head may, in consultation with the municipal manager, in respect of any matter within his or her department, issue media statements and call media conferences.

### **CHAPTER 8**

#### **APPLICATION OF THE CODE OF CONDUCT**

#### **99. Investigating suspected breaches of the code**

- (1) Whenever a written or oral allegation is made to the municipal manager or he or she has reason to believe that a Councillor or traditional leader has contravened or failed to comply with any provision of the code of conduct (in this Rule referred to as the “code”) he or she must report it in writing to the speaker. If such an allegation is made to a departmental head, she or he must report it to the municipal manager.
- (2) Upon receipt of a report in terms of sub-rule (1) and when the speaker has reason to believe that a provision of the code had been breached, he or she must:-
  - (a) investigate the facts and circumstances of the case; and
  - (b) give the Councillor or traditional leader concerned a reasonable period within which to respond in writing to the alleged breach.
- (3) When performing an investigation in terms of sub-rule (2) the speaker may examine any official records and documents of the municipality and interview any person.
- (4) As soon as the speaker has completed the investigation he or she must submit:-
  - (a) a written report, which must include his or her finding and recommendation; and

- (b) the response of the Councillor or traditional leader written response, if any, to the municipal manager for inclusion in the agenda of the first ordinary Council meeting next ensuing. The municipal manager must immediately deliver a copy of the report to the Councillor or traditional leader concerned and the relevant traditional authority, in appropriate cases.
- (5) If the Councillor or traditional leader concerned fails to respond to the allegation within fourteen days after being invited by the speaker to do so, the speaker may submit his or her report without such comment.
- (6) The speaker makes a finding on a preponderance of probabilities.
- (7) If the speaker found that the Councillor or traditional leader concerned breached the code and he or she recommends that:-
  - (a) the Council must apply to the MEC to suspend the Councillor concerned for a period, he or she must make a recommendation as to the period of suspension;
  - (b) a fine should be imposed, he or she must make a recommendation as to the amount of such fine; or
  - (c) a warning should be issued, he or she must make a recommendation as to the period during which the warning should apply.
- (8) Nobody may victimise or threaten any person who gave evidence in an investigation in terms of this Rule.

#### **100. Consideration of the speaker's report by the Council**

- (1) The speaker must vacate the chair during any Council meeting when a report in terms of Rule 99 is put to order.
- (2) Whenever the speaker vacates the chair in terms of sub-rule (1) the municipal manager must preside over the debate on the report.
- (3) The proceedings in terms of sub-rule (2) may not be closed for the public and the media.
- (4) After the speaker has introduced his or her report, the municipal manager must allow the Councillor or traditional leader concerned to reply to the allegations and findings.
- (5) As soon as the Councillor or traditional leader concerned has spoken, the matter is debated in terms of these Rules.
- (6) Despite any provisions to the contrary in these Rules and orders, the Councillor or traditional leader concerned has a right to:-
  - (a) reply to all the allegations made during the debate before the speaker replies;
  - (b) examine any documents submitted by the speaker or any other Councillor or traditional leader and submit documents in his or her defence; and
  - (c) call witnesses and to cross-examine any witness called by the speaker.
- (7) With due regard for the provision of Rules 35 and 36 the speaker must, after the debate



had been exhausted, reply and propose:-

- (a) that his or her report, findings and recommendation be accepted; or
  - (b) that his or her report and finding and a different recommendation be accepted; or
  - (c) that the Council elect a committee to further investigate the matter.
- (8) A proposal in terms of sub-rule (7) need not be seconded.
- (9) After the proposal in terms of sub-rule (7) had been made, the municipal manager must put the proposal to the vote.
- (10) If the proposal in terms of sub-rule (7) is:-
- (a) defeated, the matter is discontinued; or
  - (b) carried, the municipal manager must forthwith implement the resolution.

### **101. Implementing the result of the vote**

- (1) If a proposal in terms of Rule 100(7)(a) or (b) is carried and a fine is imposed, the municipal manager must deduct the amount of such fine from the first next payment of the municipality to the Councillor concerned unless he or she has paid the fine in cash before such payment is due.
- (4) If a proposal in terms of Rule 100(7)(a) or (b) is made and carried that the Councillor or traditional leader concerned must be suspended or the Councillor must be removed from the Council, the municipal manager must forthwith make such an application to the MEC.
- (5) If the MEC on application of the Council suspend the Councillor or traditional leader concerned, he or she is, despite any Rule to the contrary, deemed to be absent with leave from any meeting he or she would have been required to attend had he or she not been suspended.
- (6) Where an allegation against a traditional leader is found to be true, the municipal manager must inform the relevant traditional authority accordingly.

### **102. Investigating the matter further**

- (1) The Council must immediately appoint from amongst its members an investigation committee of not less than three and not more than five Councillors and appoint the chairperson of the committee if:-
  - (a) a proposal in terms of Rule 100(7)(c) is carried; or
  - (b) the speaker reported in terms of Rule 99(4) that he found the allegation without any grounds and evidence was given during the meeting referred to in Rule 100 that the allegation may be true despite the speaker's finding, provided that the speaker may not serve as a member of the committee.
- (2) An investigation committee must be constituted in such a way that parties and interests reflected in the Council are fairly represented in it.

- (3) The investigation committee must conclude its investigation not later than twenty-one days after its appointment.
- (4) When performing an investigation in terms of sub-rule (3) the investigation committee may examine any official records and documents of the municipality and interview any person. The investigating committee must consider the minutes of the meeting referred to in Rule 100 during its investigation.
- (5) The municipal manager must make a copy of the minutes of the meeting referred to in Rule 100 available to the Councillor or traditional leader concerned as soon as possible after the meeting concluded.
- (6) The Councillor or traditional leader concerned is entitled to make written submissions to the investigating committee, but the committee is not obliged to request the Councillor's or traditional leader's written comments on the allegations. The investigating committee must take account of the written response of the Councillor or traditional leader concerned contemplated in Rule 99(2) and any written submission made in terms of this sub-rule.
- (7) The municipal manager must make such reasonable administrative support as the investigating committee may require available to the committee.
- (8) As soon as the investigating committee has completed the investigation it must submit a written report, including its finding and any submission in terms of sub-rule (6), to the municipal manager for inclusion in the agenda of the first ordinary Council meeting next ensuing. The municipal manager must immediately deliver a copy of the report to the Councillor or traditional leader concerned and the relevant traditional authority.
- (9) The investigating committee makes a finding on a preponderance of probabilities.
- (10) If the investigating committee found that the Councillor or traditional leader concerned breached the code it may recommend:-
  - (a) that the speaker's finding and recommendation in terms of Rule 99(8) be confirmed; or
  - (b) that the speaker's finding be confirmed and make a different recommendation.
- (11) If the investigating committee recommends that:-
  - (a) the Council must apply to the MEC to suspend the Councillor concerned for a period, it must make a recommendation as to the period of suspension;
  - (b) a fine should be imposed, it must make a recommendation as to the amount of such fine; or
  - (c) a warning should be issued, it must make a recommendation as to the period during which the warning should apply.
- (12) Nobody may victimise or threaten any person who gave evidence in an investigation in terms of this Rule.

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

- (1) The provisions of Rule 100 apply, with the necessary changes, to the consideration of a

report of an investigating committee, provided that any reference in that Rule to the speaker must be construed as a reference to the chairperson of the investigating committee.

- (2) The committee dissolves upon conclusion of the debate on its report during the Council meeting.

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

- (1) If the Councillor or traditional leader concerned appeals against the finding or the penalty imposed by the Council or against both such finding and penalty as described in Rule 100 before the municipal manager had deducted the fine, he or she must defer the matter until the result of the appeal is known.
- (2) If the Councillor or traditional leader concerned appeals before the municipal manager could submit an application in terms of Rule 101(4), the municipal manager must defer the matter until the result of the appeal is known.

#### **105. Breaches of these Rules and orders or legislation relating to privileges and immunities**

Any alleged breach of the provisions of these Rules and orders for which a specific procedure and penalty had not been prescribed or of legislation regulating the privileges and immunities of Councillors, must be dealt with in accordance with the provisions of Rules 99 to 104.

### **CHAPTER 9**

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

#### **106. Conditions for dissolution**

- (1) The Council may at any time after two years have lapsed since it was elected consider the dissolution of the Council.
- (2) The Council must consider the dissolution of the Council if two years have lapsed after the Council had been elected:-
  - (a) upon receipt of a petition proposing the dissolution signed by not less than 500 voters; or
  - (b) upon receipt of a recommendation proposing the dissolution from the speaker, executive mayor, executive committee or a Section 79-committee if the municipality has a plenary executive system; or
  - (c) when so directed by resolution of a public meeting of voters in terms of Rule 8; or
  - (d) upon receipt of a motion proposing the dissolution from a Councillor signed by at least one-third of the Councillors in addition to the introducer of the motion; or
  - (e) when Section 139 of the Constitution is invoked in respect of the municipality.

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

- (1) Whenever any of the circumstances referred to in Rule 106(2) arise, the speaker must determine the date, time and venue of a special Council meeting in terms of Rule 4. The date of such a special meeting may not be less than fourteen and not more than twenty-one days from the date the petition was delivered, recommendation was made, resolution

- was taken, motion was submitted or instruction received referred to in Rule 106(2), as the case may be.
- (2) At least seven days notice of a meeting in terms of sub-rule (1) must be given, despite the provisions of Rule 10(1).
  - (3) A meeting in terms of sub-rule (1) may not be closed to the public and the media.
  - (4) Despite any provisions to the contrary in these Rules and Orders the municipal manager presides over the debate of the petition, recommendation, resolution or motion, as the case may be.
  - (5) With due regard for the provision of Rules 35 and 36 the municipal manager must subject the petition' recommendation, resolution or motion, as the case may be, to a secret ballot in terms of Rule 85 despite the provisions of Rule 83 when the debate is exhausted.
  - (6) The proposal is carried if two-thirds of the Councillors of the municipality votes in favour of it.
  - (7) The Council is dissolved and all Councillors vacate their seats immediately if the proposal is carried.

## **CHAPTER 10**

### **COMMITTEES**

#### **Part 1**

#### **Section 79-committees**

#### **108. Report of the municipal manager before the establishment of a committee**

- (1) With due regard for the provisions of Parts 3 and 4 of this chapter, the Council must, before it establishes and elects the members of a Section 79-committee (in this part “the committee”), consider a report from the municipal manager regarding the proposed committee.
- (2) The municipal manager in preparing a report contemplated in sub-rule (1) must consider the need for the proposed committee, taking into account:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance;
  - (c) the reasons not to delegate any such power or function to an existing committee (if any) or the executive mayor (if any) or an employee of the municipality;
  - (d) the available financial and administrative resources of the municipality to support the work of the committee, including the preparation of agendas and minutes of the committee;
  - (e) the need for the economical, efficient and effective use of resources;

- (f) the burden the workload of the proposed committee may put on its members;
  - (g) the need for coordination of decision-making at the level of the Council and its structures;
  - (h) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (3) The report of the municipal manager must contain recommendations with regard to the matters listed in Rule 109 and the electoral system contemplated in Rule 111, despite any recommendation that he or she may make that the proposed committee not be established.
- (4) The municipal manager must submit his or her report to the executive committee (if any) or the executive mayor (if any), as the case may be. Where the municipality has plenary executive system the report must be submitted to the Council.
- (5) The executive committee (if any) or the executive mayor (if any), as the case may be, must consider the report and recommendations of the municipal manager and submit it, together with its own comment and recommendations to the Council.

#### **109. Consideration of the municipal manager's report**

- (1) After the Council considered the municipal manager's report and the comment and recommendation of the executive committee (if any) or the executive mayor (if any), as the case may be, and the Council decides to establish the committee, the Council must:-
- (a) determine the size of the committee;
  - (b) determine the terms of reference of the committee;
  - (c) determine the powers it delegates to the committee (if any);
  - (d) determine the system for electing the members of the committee and elect the members of the committee in terms of that system;
  - (e) if the municipality has a plenary executive system appoint from amongst those members the chairperson of the committee;
  - (f) prescribe how often the committee must meet;
  - (g) consider authorising the committee to appoint persons who are not Councillors or employees of the municipality as members of the committee; and
  - (h) prescribe how often the committee must submit a report to the Council, if the municipality has a plenary executive system, or the executive committee or the executive mayor, as the case may be.
- (2) If the Council at any time authorises the committee to appoint persons who are not Councillors or employees of the municipality as members of the committee, it must:-

- (a) determine the qualifications, experience, specialised knowledge, demonstrated abilities or potential and other attributes such person must have to be appointed to the committee;
- (b) determine the procedure for selecting and appointing any such person; and
- (c) determine the remuneration (if any) of any such person for serving in the committee and the conditions of such remuneration, provided that the Council may decide that only the travelling cost, at tariffs determined by the Council, and reasonable out of pocket expenses of such person in connection with his or her membership of the committee be paid.

#### **110. Determining the size of the committee**

- (1) No more than twenty percent of the Councillors of the Council or ten Councillors, whichever is the least, may be elected as members of the committee provided that the committee must have at least three members who are Councillors.
- (2) If the Council authorises the committee to appoint persons in terms of Rule 109(g) as members of the committee, it must determine the upper limit of the number of appointments that may be made, provided that:-
  - (a) the number of Councillors who may serve on the committee is reduced with a corresponding number; and
  - (b) the number of Councillors serving in a committee always exceeds the number of persons who are not Councillors in that committee.
- (3) No reduction of the number of Councillors in terms of sub-rule (2) may be done if the committee has only three Councillors as members, provided that the number of committee members who are not Councillors or employees may not exceed two persons.

#### **111. Election system and election of members of a committee**

- (1) The members of the committee who are Councillors must be elected according to a system that ensures that the parties and interests reflected in the Council are fairly represented in that committee.
- (2) The speaker, mayor or executive mayor, as the case may be, may not be elected as a member of the committee.
- (3) Immediately after the Council determined the election system in terms of sub-rule (1) the Council must elect the members of the committee.

#### **112. Term of a committee and filling of vacancies**

- (1) The members of the committee are elected and appointed, subject to sub-rule (2) for a term ending when the next municipal Council is declared elected.
- (2) A member of the committee vacates office during the term of the Council if that member:-
  - (a) resigns as a member of the committee;
  - (b) is removed from office as a member of the committee in terms of Rule 92;

- (c) ceases to be a Councillor.
- (3) The Council must, subject to Rule 111(1), at the earliest opportunity after a vacancy occurred, elect and appoint another person to serve as member of the committee for the unexpired term of his or her predecessor.

### **113. Quorum and decision-making**

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

## **Part 2**

### **Executive committee**

#### **114. Application of this part**

This part applies only to a municipality that has a collective executive system.

#### **115. Making the decision to establish an executive committee**

- (1) The Council must, at its first meeting after a general election of Councillors, immediately after it elected the speaker, consider whether or not to establish an executive committee.
- (2) The Council takes a decision in terms of sub-rule (1) only after it considered a report of the municipal manager in terms of Rule 116.

#### **116. Report of the municipal manager about an executive committee**

- (1) The municipal manager in preparing a report contemplated in Rule 115(2) must consider the need for an executive committee taking into account:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance to an executive committee;
  - (c) the reasons not to delegate any such power or function to an employee of the municipality;
  - (d) the available financial and administrative resources of the municipality to support the work of an executive committee, including the preparation of agendas and minutes of the committee;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the burden the workload of an executive committee may put on its members;

- (g) the need for co-ordination of decision-making;
  - (h) the likely effect delegated powers may have on the enthusiasm and interest of Councillors who are not elected to the executive committee; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if an executive committee is established.
- (2) The report must contain recommendations with regard to:-
- (a) the powers that may be delegated to the executive committee;
  - (b) the format, frequency and framework for reports on the activities of the executive committee and the exercise of its delegated powers;
  - (c) the ceremonial functions that may be vested in the mayor;
  - (d) the electoral system and procedure to be used to obtain the result contemplated in Section 43(2) of the Structures Act;
  - (e) the specification and clarification of the role and responsibility of the executive committee and the mayor on the one hand and the municipal manager and departmental heads of the municipality on the other, with due regard to the statutory duties and responsibilities of the municipal manager; and
  - (f) any other relevant matter.

### **117. Considering the municipal manager's report**

- (1) After the Council considered the municipal manager's report and the Council decides to establish an executive committee the Council must:-
- (a) determine the size of the committee in terms of Section 43(1) of the Structures Act;
  - (b) determine the powers it delegates to the committee (if any);
  - (c) elect the members of the committee in terms of an electoral system determined by the Council with due regard for the recommendation of the municipal manager;
  - (d) elect from amongst the members elected the mayor in terms of Schedule 3 to the Structures Act;
  - (e) prescribe how often the committee must meet;
  - (f) prescribe the format, frequency and framework for reports on the activities of the executive committee and the exercise of its delegated powers;
  - (g) prescribe the ceremonial functions that may be vested in the mayor; and
  - (h) specify and clarify role and responsibility of the executive committee and the mayor on the one hand and the municipal manager and departmental heads of the municipality on the other' with due regard to the statutory duties and responsibilities of the municipal manager.



- (2) If the Council decides, after it considered the municipal manager's report, not to establish an executive committee:-
  - (a) the matter may not be considered again during the next three months; and
  - (b) the Council operates as a municipality with a plenary executive system.

### **Part 3**

#### **Executive mayor**

#### **118. Application of this part**

This part applies only to a municipality that has a mayoral executive system.

#### **119. Making the decision to establish the office of executive mayor**

- (1) The Council must, at its first meeting after a general election of Councillors, immediately after it elected the speaker, consider whether or not to elect an executive mayor.
- (2) The Council takes a decision in terms of sub-rule (1) only after it considered a report of the municipal manager in terms of Rule 120.

#### **120. Report of the municipal manager about an executive mayor**

- (1) The municipal manager in preparing a report contemplated in Rule 119(2) must consider the need for an executive mayor, taking into account:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance to an executive mayor;
  - (c) the reasons not to delegate any such power or function to an employee of the municipality;
  - (d) the available financial and administrative resources of the municipality to support the work of an executive mayor, including the preparation of agendas and minutes of the mayoral committee;
  - (e) the availability or provision of office facilities, office equipment and secretarial support for the executive mayor;
  - (f) the need for the economical, efficient and effective use of resources;
  - (g) the burden the workload may put on the executive mayor;
  - (h) the need for coordination of decision-making;
  - (i) the likely effect delegated powers may have on the enthusiasm and interest of Councillors who are not appointed to the mayoral committee; and
  - (j) the likely improvement or deterioration in the quality and speed of decision-making if an executive mayor is elected.

- (2) The report must contain recommendations with regard to:-
  - (a) the powers that may be delegated to the executive mayor;
  - (b) the format, frequency and framework for reports on the activities of the executive mayor and the exercise of his or her delegated powers;
  - (c) the specification and clarification of the role and responsibility of the executive mayor on the one hand and the municipal manager and departmental heads of the municipality on the other, with due regard to the statutory duties and responsibilities of the municipal manager; and
  - (d) any other relevant matter.

### **121. Considering the municipal manager's report**

- (1) After the Council considered the municipal manager's report and the Council decides to establish an office of the executive mayor, the Council must:-
  - (a) determine the powers it delegates to the executive mayor(if any);
  - (b) elect the executive mayor in terms of Schedule 3 to the Structures Act;
  - (c) prescribe how often the mayoral committee must meet;
  - (d) prescribe the format, frequency and framework for reports on the activities of the executive mayor and the exercise of his or her delegated powers; and
  - (e) specify and clarify the role and responsibility of the executive mayor on the one hand and the municipal manager and departmental heads of the municipality on the other, with due regard to the statutory duties and responsibilities of the municipal manager.
- (2) If the Council decides, after it considered the municipal manager's report, not to establish an office of executive mayor:-
  - (a) the matter may not be considered again during the next three months; and
  - (b) the Council operates as a municipality with a plenary executive system.

### **122. Establishment of mayoral committee**

- (1) The executive mayor must establish the mayoral committee with due regard for the following factors:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance;
  - (c) the reasons not to delegate any such power or function to an existing committee (if any) or the executive mayor (if any) or an employee of the municipality;
  - (d) the available financial and administrative resources of the municipality to support

- the work of the committee, including the preparation of agendas and minutes of the committee;
- (e) the need for the economical, efficient and effective use of resources;
  - (f) the burden the workload of the proposed committee may put on its members;
  - (g) the need for coordination of decision-making at the level of the Council and its structures;
  - (h) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (2) After the executive mayor considered the factors in sub-rule (1) the executive mayor must:-
- (a) determine the size of the committee;
  - (b) determine the powers he or she delegates to the members of the committee (if any); and
  - (c) appoint the members of the committee.
- (3) After the executive mayor appointed the members of the mayoral committee he or she must submit at the first ordinary Council meeting next ensuing-the names of the committee members.

### **123. Term of a committee and filling of vacancies**

- (1) The members of the mayoral committee are appointed, subject to sub-rule (2) for a term ending when the next municipal Council is declared elected.
- (2) A member of the committee vacates office during the term of the Council if that member:-
  - (a) resigns as a member of the committee;
  - (b) is removed from office as a member of the committee in terms of Rule 93;
  - (c) ceases to be a Councillor.
- (3) The executive mayor must, unless he or she decides to reduce the size of the mayoral committee, at the earliest opportunity after a vacancy occurred, appoint another person to serve as member of the committee for the unexpired term of his or her predecessor.

### **124. Quorum and decision-making**

- (1) A majority of the members of the mayoral committee must be present before a decision on any matter may be taken.
- (2) A question before the mayoral committee is decided if there is agreement among at least

the majority of the members present at a meeting.

- (3) If on any question there is an equality of votes, the executive mayor may exercise a casting vote in addition to her or his deliberative vote.

#### **Part 4**

#### **Audit committee**

#### **125. Establishment of audit committee**

- (1) The Council has an audit committee.
- (2) The Council must elect and appoint the members of the audit committee not later than the second ordinary Council meeting after a general election of Councillors.
- (3) At the meeting referred to in sub-rule (2) the members of the audit committee is elected and appointed immediately after the mayor if the municipality has a collective executive system or the executive mayor if the municipality has a mayoral executive system or the speaker if the municipality has a plenary executive system was elected.
- (4) The audit committee consists of three Councillors, at least one of who must have knowledge and experience of accounting and auditing, provided that:-
  - (a) if no person with the prescribed knowledge and experience is available from amongst the Councillors, the Council must appoint a person who is not a Councillor or an employee of the municipality and who has such knowledge and experience as a member of the audit committee at such remuneration and conditions as the Council may determine; and
  - (b) the speaker, a member of the executive committee or the executive mayor or a member of the mayoral committee, as the case may be, may not be elected as a member of the audit committee.
- (5) Immediately after the Council has elected and appointed the members of the audit committee, it must appoint one of them as the chairperson of the committee.

#### **126. Term of the audit committee and vacancies**

- (1) The members of the audit committee are elected and appointed, subject to sub-rule (2), for a term ending when the next municipal Council is declared elected.
- (2) A member of the audit committee vacates office during the term of the Council if that member:-
  - (a) resigns as a member of the audit committee;
  - (b) is removed from office as a member of the audit committee in terms of Rule 92;
  - (c) ceases to be a Councillor if he or she was a Councillor.
- (3) The Council must, subject to Rule 125(4), at the earliest opportunity after a vacancy occurred, elect and appoint another person to serve as member of the audit committee for the unexpired term of his or her predecessor.

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

The provisions of Rule 92 apply, with the necessary changes required by the context, to the removal of a member of the audit committee.

**128. Objects of the audit committee**

The objects of the audit committee are:-

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

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

- (1) The audit committee must, with regard to any audit performed by or on behalf of the Auditor-General:-
  - (a) together with the municipal manager, the external auditor and such other employees of the Council as it may deem appropriate, assess the planning and scope of and approach to such audit;
  - (b) evaluate the findings of the external auditor, especially:-
    - (i) significant transactions that do not fall within the normal activities of the municipality;
    - (ii) substantial deficiencies in internal control and the recommendations to improve them;
    - (iii) the reasonable reporting, presentation and publication of information in the annual financial statements;
    - (iv) the relevance of the accounting policy followed in the compilation of annual financial statements;
    - (vi) compliance with generally accepted municipal accounting practice;
    - (vii) compliance with the law;
  - (c) generally evaluate the report of the external auditor on the financial statements;
  - (d) evaluate substantial unsolved accounting or auditing problems experienced during such audit;
  - (e) evaluate the advice provided by the external auditor or any other person with regard to the objects of the audit committee; and
  - (f) assess the coordination and cooperation between the external auditors and the

internal auditor, if any.

- (2) The audit committee must, with respect to internal auditing:-
  - (a) provide a forum for direct reporting of the findings of the internal auditor, if any;
  - (b) evaluate the efficiency and effectiveness of the internal audit function, if any; and
  - (c) assess matters of significant importance reported by the internal auditor, if any.
- (3) The audit committee must, in respect of financial reporting:-
  - (a) assess the effectiveness of policies for and procedures of financial reporting; and
  - (b) consider ways of fair presentation of the financial statements.
- (4) The audit committee must, with regard to internal control:-
  - (a) review the effectiveness of the accounting and control system;
  - (b) assess any deficiency in the accounting and internal control system discovered in terms of paragraph (a);
  - (c) assess the measures implemented to address such deficiencies; and
  - (d) assess and confirm the policies and procedures for identifying areas of risk and the measures implemented to ensure adequate control of and security at such areas.
- (5) Whenever a performance audit is conducted, the audit committee must:-
  - (a) assess the measures and procedures implemented to ensure effective and efficient management;
  - (b) evaluate the finding of such audit; and
  - (c) evaluate the reporting, in the financial statements, of the effective and efficient use of the municipality's resources.
- (6) The audit committee must:-
  - (a) consider and submit a report on matter referred to it by the municipal manager or the Council; and
  - (b) perform such functions as the Council may assign to it from time to time.

### **130. Powers of the audit committee**

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

- (a) access and inspect any records, documents and information held otherwise by the municipality or an employee of the municipality;
- (b) access and inspect any premises on which or from where the activities of the municipality are performed;

- (c) conduct interviews with the Council or any committee thereof and summons any employee of the municipality to appear before it and interview him or her;
- (d) investigate or cause to be investigated by any employee of the municipality, after consultation with the municipal manager, any matter;
- (e) ensure that effective accounting policies, systems and reporting are implemented and applied; and
- (f) facilitate improvement of the standard of financial reporting.

### **131. Meetings, procedures and reporting of the audit committee**

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

### **132. Quorum and decision-making**

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

### **133. Facilitating the audit committee's work**

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

## **Part 5**

### **Finance committee in a plenary executive system**

#### **134. Establishment of finance committee**

The Council of a municipality that has a plenary executive system must after it elected a speaker, elect the members of the finance committee.

#### **135. Composition of finance committee**

- (1) The Council referred to in Rule 134 must elect no more than 20% of the Councillors or 10 Councillors, whichever is the least, as members of the finance committee. A finance committee may not have less than three members.
- (2) The finance committee must be composed in such a way that parties and interests represented in the Council are represented in the committee in substantially the same proportion they are represented in the Council.

#### **136. Object of the finance committee**

The object of the finance committee is to ensure adequate consideration and management of the municipality's resources and the provision of services to residents within the municipal area.

#### **137. Functions and powers of finance committee**

- (1) The finance committee must:-
  - (a) identify the needs of the municipality;
  - (b) review and evaluate those needs in order of priority;
  - (c) recommend to the Council strategies, programmes and services to address priority needs through the integrated development plan and estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
  - (d) recommend or determine the best methods, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community;
  - (e) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in paragraph (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
  - (f) evaluate progress against the key performance indicators;
  - (g) review the performance of the municipality in order to improve:-
    - (i) the economy, efficiency and effectiveness of the municipality;
    - (ii) the efficiency of credit control and revenue and debt collection services; and
    - (iii) the implementation of the municipality's By-laws;



- (h) monitor the management of the municipality's administration in accordance with the policy directions of the Council;
  - (i) oversee the provision of services to communities in the municipality in a sustainable manner;
  - (j) discharge the duties, perform the functions and exercise the powers the Council may delegate to it;
  - (k) annually report on the involvement of communities and community organisations in the affairs of the municipality; and
  - (l) ensure that regard is given to public views and report on the effect of consultation on the decisions of the Council.
- (2) The finance committee must report to the Council on all decisions taken by the committee.

### **138. Term of office of members**

The members of the finance committee are elected for a term ending, subject to Rule 137, when the next Council is declared elected.

### **139. Vacancies**

- (1) A member of a finance committee vacates office during a term if that member:-
- (a) resigns as a member of the committee;
  - (b) is removed from office as a member of the committee in terms of Rule 92; or
  - (c) ceases to be a Councillor.
- (2) The filling of a vacancy in an executive committee is subject to Rule 133.

### **140. Quorum and decisions**

- (1) A majority of the members of a finance committee constitutes a quorum for a meeting.
- (2) A question before the committee is decided if there is agreement among at least the majority of the members present at the meeting.
- (3) If on any question there is an equality of votes, the member presiding must exercise a casting vote in addition to that member's deliberative vote.

## **Part 6**

### **Advisory committees**

#### **141. Establishment and disestablishment of advisory committees**

- (1) The Council may at any time appoint an advisory committee of persons who are not Councillors or employees of the municipality in terms of this part.

- (2) The Council may at any time disestablish an advisory committee established in terms of sub-rule (1).
- (3) The Council must, before it establishes and appoints the members of an advisory committee consider a report from the municipal manager regarding the proposed committee.

#### **142. Report of the municipal manager about a proposed advisory committee**

- (1) The municipal manager in preparing a report contemplated in Rule 139(3) must consider the need for the proposed committee, taking into account:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to have professional advice when performing those powers and functions to promote efficiency and effectiveness;
  - (c) the reasons why the advice needed are not provided by the employees of the municipality or its other providers, including consultants;
  - (d) the available financial and administrative resources of the municipality to support the work of an advisory committee, including the preparation of agendas and minutes of the committee;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the burden the workload of the proposed committee may put on its members;
  - (g) the need for co-ordination of decision-making at the level of the Council and its structures;
  - (h) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (2) The report of the municipal manager must contain recommendations with regard to the matters listed in Rule 143 despite any recommendation that he or she may make that the proposed committee not be established.
- (3) The municipal manager must submit his or her report to the executive committee or the executive mayor or, in a municipality that has a plenary executive system, the finance committee, as the case may be.
- (4) The executive or finance committee or the executive mayor, as the case may be, must consider the report and recommendations of the municipal manager and submit it, together with its own comment and recommendations to the Council.

#### **143. Consideration of the municipal manager's report**

After the Council considered the municipal manager's report and the comment and recommendation of the executive or finance committee or the executive mayor, as the case may be, and the Council decides to establish the committee, the Council must:-

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

#### **144. Term of office of members**

The members of an advisory committee is appointed for a period determined by the Council, subject to Rule 145.

#### **145. Vacancies**

- (1) A member of an advisory committee vacates office during a term if that member:-
  - (a) resigns as a member of the committee; or
  - (b) is removed from office as a member of the committee.
- (2) The filling of a vacancy in an advisory committee is subject to Rule 143(a).

#### **146. Quorum and decisions**

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

### **Part 7**

#### **Ad hoc committees**

#### **147. Establishment and disestablishment of ad hoc committees**

- (1) The Council or the executive committee or, where the municipality has a plenary executive, the finance committee may at any time establish an ad hoc committee to deal with or advise it with regard to a particular matter.

- (2) An ad hoc committee ceases to exist when:-
- (a) it furnishes its final report to the Council or committee that established it; or
  - (b) the Council or committee that established it, disestablishes it.

#### **148. Terms of reference of ad hoc committees**

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

#### **149. Removal from office of members of ad hoc committees**

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

### **Part 8**

#### **Ward committees**

#### **150. Making the decision to establish ward committees**

- (1) The Council must, not later than twelve months after its election, decide whether to establish a ward committee system.
- (2) For the purpose of making the decision in terms of sub-rule (1) the municipal manager must submit a report to the Council.
- (3) The municipal manager in preparing a report contemplated in sub-rule (1) must consider the need for ward committees, taking into account:-
  - (a) the extent of the area and powers and functions of the municipality;
  - (b) the need to empower the residents and community organisations within the municipality to participate in decision-making that affects them;
  - (c) the need to improve access for disadvantaged persons to decision-making systems;
  - (d) the efficacy of other methodologies of promoting public participation in local government matters used in and by the municipality;
  - (e) the need to improve communication between the municipality and the residents and community organisations in the municipal area;
  - (f) the need to foster transparency and improve accountability of the municipality;
  - (g) the need for the municipality to consult the residents and community organisations within its area about the level, quality and coverage of services;
  - (h) the need to improve responsiveness in the municipality;
  - (i) the available financial and administrative resources of the municipality to support the work of ward committees, including the preparation of agendas and minutes of such committees;

- (j) the administrative support that the municipality can provide and the capacity-building role that it can play;
  - (k) the need for the economical, efficient and effective use of resources; and
  - (l) the likely improvement or deterioration in the quality, speed and legitimacy of decision-making if ward committees are established.
- (4) The municipal manager must submit his or her report to the executive committee or the executive mayor or, if the municipality has a plenary executive system to the Council, as the case may be.
- (5) The executive committee or the executive mayor, as the case may be, must consider the report and recommendations of the municipal manager and submit it, together with its own comment and recommendations to the Council.

### **151. Consideration of the municipal manager's report**

- (1) After the Council considered the municipal manager's report and the comment and recommendation of the executive committee or the executive mayor, as the case may be, the Council must take a decision. If the Council adopts the system it must determine the size of every ward committee.
- (2) When the Council approves the ward committee system, it must assign each one of the Councillors elected to proportionally represent a party in the Council, to a ward.
- (3) The Councillor assigned in terms of sub-rule (2) must assist the Councillor for that ward (in this part the "chairperson") to manage the ward committee in that ward.
- (4) The Council must assign a traditional leader to the ward that includes the bulk of the area of the traditional authority which that leader represents in the Council, provided that where the area of the traditional authority falls in more than one ward, the traditional leader may serve as a member of the ward committee for all those wards.
- (5) A Councillor representing a ward may, if the Council rejects the system, establish a ward committee for his or her ward.

### **152. Object and objectives of ward committees**

- (1) The object of the ward committee system is to enhance participatory democracy in local government.
- (2) A ward committee must strive to:-
  - (a) express the needs and concerns of the residents within the ward it represents;
  - (b) identify development priorities in its ward;
  - (c) establish dialogue with the Council, through the ward Councillor, to ensure that the municipality:-
    - (i) respond to the needs and concerns of the resident within the ward;
    - (ii) involve the residents in the ward in identifying and prioritising needs;

- (iii) identify resources in the ward for meeting needs;
- (iv) promote accountability of the municipality to the residents of the ward; and
- (v) assist residents in the ward to access municipal services;
- (d) monitor municipal programmes and services in its ward; and
- (e) promote friendly relations between the residents in its ward, the municipality and community organisations.

### **153. Determination of time, date and venue of meetings**

- (1) The chairperson, after consultation with the Councillor referred to in Rule 151(2) and any traditional leader in terms of Rule 151(3), determines the date, time and venue of ward committee meetings, provided that:
  - (a) a ward committee must meet in the ward concerned; and
  - (b) a ward committee meeting may not be held on the same day as a Council meeting.
- (2) The provisions of Rule 2(3) are applicable to the determination of the venue of a ward committee meeting.
- (3) The chairperson must, if a majority of the members of the ward committee requests him or her in writing to convene a special ward committee meeting convene a special ward committee meeting on a date set out in the request and at a time and venue determined by him or her.

### **154. Frequency of meetings**

A ward committee must meet as often as is necessary but at least six times during any year.

### **155. Meetings are open to the public and the media**

The meetings of a ward committee are open for the residents of that ward and the media.

### **156. Conduct of members of ward committees**

The provisions of the code of conduct and Rule 29 are as far as it can be applied, applicable to the members of a ward committee.

### **157. Notice of meetings of ward committees**

- (1) The chairperson must give notice of every ward committee meeting to every ward committee member' provided that where a ward committee has designated a secretary in terms of Rule 159, the secretary must give such notice.
- (2) Notice in terms of sub-rule (1) must be given at least twenty-four hours before the meeting.

### **158. Quorum and decision-making**

- (1) A majority of the members of a ward committee constitute a quorum.

- (2) A question before a ward committee is decided if there is agreement among the majority of the members present at a meeting.
- (3) If on any question before a ward committee there is an equality of votes, the chairperson has a casting vote.

#### **159. Minutes of meetings**

- (1) The chairperson must ensure that minutes of meetings of the ward committee is kept.
- (2) A ward committee may for the purpose of sub-rule (1) designate one of its members as the secretary of the committee.

#### **160. Election of members of a ward committee**

- (1) A ward must, at the first constituency meeting in terms of Rule 8, and thereafter as often as it is necessary' elect the members of the ward committee.
- (2) The notice for a meeting in terms of sub-rule (1) must:-
  - (a) state that a ward committee will be elected at that meeting;
  - (b) call for written nominations of candidates for the ward committee, signed by the candidate and at least two other voters registered in that ward, to be delivered in a sealed envelope at a specified time at a specified address within the ward concerned; and
  - (c) specify the address in that ward where nomination forms will be available and the hours during which such forms would be available at that address.
- (3) The municipal manager must design a nomination form and make a sufficient supply thereof available to every Councillor representing a ward not later than the date of the publication of the notice of a constituency meeting referred to in sub-rule (1).
- (4) At the constituency meeting for a ward the chairperson must open and read out the name of every person that was nominated and verify that he or she and the seconders that signed his or her nomination are voters registered in that ward.
- (5) The chairperson must reject any nomination that does not comply with these Rules.
- (6) The chairperson may select from amongst the persons present one or more persons who had not been nominated as candidates for the election to assist him or her with the counting of the votes.
- (7) Every voter registered in the ward concerned has one vote in respect of every seat in the ward committee.
- (8) As soon as all the nominations had been verified, the chairperson must read the names of the nominees in alphabetical order.
- (9) After the chairperson has called the name of a candidate in terms of sub-rule (8) the voters registered in that ward and who is present at that meeting, cast their vote by show of hands in respect of that name. The chairperson must ensure that the number of votes in favour of every candidate is recorded.

- (10) After the vote had been conducted in respect of every candidate, the chairperson must determine the result and announce the names of those persons who had accrued the most votes in descending order until the number of members of the ward committee had been reached.

#### **161. Ward committee members must attend constituency and committee meetings**

- (1) A member of a ward committee must attend every constituency and ward committee meeting of that ward, unless he or she had tendered an application for leave of absence before the commencement of a constituency meeting with the chairperson.
- (2) A ward committee may remove a member of the committee if he or she had been absent:-
  - (a) without leave from three or more consecutive ward committee meetings; or
  - (b) with leave from six or more consecutive ward committee meetings.

#### **162. Term of office of ward committees**

- (1) Subject to sub-rule (2) a ward committee member is elected and serves as a member for a period of two years.
- (2) A member of a ward committee vacates office if he or she:-
  - (a) is removed from the committee in terms of sub-rule (1);
  - (b) resigns as member;
  - (c) ceases to be registered as a voter in that ward;
  - (d) if the ward committee is dissolved in terms of Rule 164, or
  - (e) is removed from the committee at any time during a vote at a constituency meeting for that ward.
- (3) A vacancy occurring in terms of sub-rule (2)(a) to (c) is filled at the first constituency meeting for that ward next ensuing. A vacancy in terms of sub-rule (2)(e) is filled at the meeting where the member was removed.
- (4) A casual vacancy arising in a ward committee is filled in the accordance with the procedure contained in Rule 160: provided that in the case of a vacancy in terms of sub-rule (2)(e), nominations are called and made at the meeting where the vacancy occurs.
- (5) A person elected in terms of sub-rule (4) to fill a casual vacancy in a ward committee serve for the unexpired term of his or her predecessor.

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

- (1) A ward committee may:-
  - (a) make recommendations on any matter affecting its ward to the chairperson or, through the chairperson to the Council or a committee of the Council;
  - (b) organise in its ward campaigns, competitions and celebrations to promote pride in



and the cleanliness and elegance of the ward and the municipality;

- (c) supply to residents within the ward information of municipal services in the ward and events regarding the ward or the municipality generally;
  - (d) promote the conservation and development of cultural, natural and historical heritage within its ward;
  - (e) perform such functions and exercise such powers as the Council may delegate to it;
  - (f) organise constituency meetings in its ward;
  - (g) establish sub-committees of its members and other residents of the ward to investigate and make recommendations to it regarding any matter relevant to the objectives of the ward committee;
  - (h) establish sub-committees of persons representing any readily identifiable group of residents in the ward, whether they are organised or not, that share common economic or social interests or conditions;
  - (i) organise in its ward and lodge petitions to support or oppose any resolution taken or about to be taken by the Council or any other public body that will affect its ward;
  - (j) respond to any invitation of the municipality or another public body to comment on, make representations concerning or object to any resolution the municipality or that other body must take or had taken;
  - (k) attend and participate in any public hearing through a delegation appointed by it;
  - (l) delegate one or more of its members to attend any Council or committee meeting;
  - (m) file complaints on any matter within the authority of the municipality with the appropriate department or the municipal manager;
  - (n) apply to the Council to delegate any function or power of the municipality in respect of its ward to it;
  - (o) cooperate with any other ward committee within the municipal area;
  - (p) invite the municipal manager or a departmental head of the municipality or any office-bearer of the municipality to attend any of its meetings; and
  - (q) engage with the municipal manager or departmental heads of the municipality about a particular matter regarding the ward.
- (2) Whenever a ward committee makes a recommendation on a matter affecting its ward through the chairperson, the chairperson must submit a motion regarding that matter in terms of Rule 54 to the municipal manager.

#### **164. Dissolution of ward committee**

- (1) A ward committee may be dissolved by resolution taken by the majority of the voters registered in that ward present at a constituency meeting.

- (2) A ward committee may dissolve itself by resolution of the majority of the members of a ward committee during a ward committee meeting.
- (3) Whenever the Council is of the opinion that a ward committee is not fulfilling its object, it must, before it takes a resolution on the dissolution of that committee give the committee an opportunity to respond to the allegation in writing.

#### **165. Monitoring of ward committees**

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

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

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

### **Part 9**

#### **Committee to draft integrated development plan**

#### **167. Establishment of committee to draft integrated development plan**

- (1) This part applies only to a municipality that has a plenary executive system.
- (2) In a municipality that has a collective executive system, the executive committee must manage the drafting of the integrated development plan of the municipality. In a municipality that has a mayoral executive system, the executive mayor must manage the drafting of the integrated development plan.

#### **168. Making the decision to establish the committee**

- (1) The Council must, when it establishes a committee to manage the drafting of the integrated development plan, take the following factors into account:-
  - (a) the available financial and administrative resources of the municipality to support the work of the committee, including the preparation of agendas and minutes of the committee;
  - (b) the need for the economical, efficient and effective use of resources;
  - (c) the burden the workload of the proposed committee may put on its members;
  - (d) the need for coordination of decision-making at the level of the Council and its structures;
  - (e) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (f) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.

- (2) The Council must:-
  - (a) determine the size of the committee;
  - (b) determine the terms of reference of the committee;
  - (c) determine the powers it delegates to the committee (if any);
  - (d) elect or elect and appoint the members of the committee;
  - (e) appoint from amongst those members the chairperson of the committee;
  - (f) prescribe how often the committee must meet;
  - (g) consider authorising the committee to appoint persons who are not Councillors or employees of the municipality as members of the committee; and
  - (h) prescribe how often the committee must submit a report to the Council.
- (3) If the Council at any time authorises the committee to appoint persons who are not Councillors or employees of the municipality as members of the committee, it must:-
  - (a) determine the qualifications, experience, specialised knowledge, demonstrated abilities or potential and other attributes such person must have to be appointed to the committee;
  - (b) determine the procedure for selecting and appointing any such person; and
  - (c) determine the remuneration (if any) of any such person for serving in the committee and the conditions of such remuneration, provided that the Council may decide that only the travelling cost, at tariffs determined by the Council, and reasonable out of pocket expenses of such person in connection with his or her membership of the committee be paid.

#### **169. Determining the size of the committee**

- (1) No more than twenty percent of the Councillors of the Council or ten Councillors, whichever is the least, may be elected as members of the committee provided that the committee must have at least three members who are Councillors.
- (2) If the Council authorises the committee to appoint persons in terms of Rule 168(2)(g) as members of the committee, it must determine the upper limit of the number of appointments that may be made, provided that:-
  - (a) the number of Councillors who may serve on the committee is reduced with a corresponding number; and
  - (b) the number of Councillors serving in a committee always exceeds the number of other persons in that committee.
- (3) No reduction of the number of Councillors in terms of sub-rule (2) may be done if the committee has only three Councillors as members, provided that the number of committee members who are not Councillors or employees may not exceed two persons.

#### **170. Election system and election of members of a committee**

- (1) The members of the committee who are Councillors must be elected according to a system that ensures that the parties and interests reflected in the Council are fairly represented in that committee.
- (2) The speaker, mayor or executive mayor, as the case may be, may not be elected as a member of the committee.
- (3) Immediately after the Council determined the election system in terms of sub-rule (1) the Council must elect the members of the committee.

## **Part 10**

### **Committee to draft performance management system**

#### **171. Establishment of committee to draft performance management system**

- (1) This part applies only to a municipality that has a plenary executive system.
- (2) In a municipality that has a collective executive system, the executive committee must manage the drafting of the performance management system of the municipality. In a municipality that has a mayoral executive system, the executive mayor must manage the drafting of the performance management system.

#### **172. Making the decision to establish the committee**

- (1) The Council must, when it establishes a committee to manage the drafting of the performance management system, take the following factors into account:-
  - (a) the available financial and administrative resources of the municipality to support the work of the committee, including the preparation of agendas and minutes of the committee;
  - (b) the need for the economical, efficient and effective use of resources;
  - (c) the burden the workload of the proposed committee may put on its members;
  - (d) the need for co-ordination of decision-making at the level of the Council and its structures;
  - (e) possible measures to reduce the cross referral of matters between committees of the Council, including the amendment of the terms of reference of one or more other committees; and
  - (f) the likely improvement or deterioration in the quality and speed of decision-making if the committee is established.
- (2) The Council must:-
  - (a) determine the size of the committee;
  - (b) determine the terms of reference of the committee;
  - (c) determine the powers it delegates to the committee (if any);

- (d) elect the members of the committee;
  - (e) appoint from amongst those members the chairperson of the committee;
  - (f) prescribe how often the committee must meet;
  - (g) consider authorising the committee to appoint persons who are not Councillors or employees of the municipality as members of the committee; and
  - (h) prescribe how often the committee must submit a report to the Council.
- (3) If the Council at any time authorises the committee to appoint persons who are not Councillors or employees of the municipality as members of the committee, it must:-
- (a) determine the qualifications, experience, specialised knowledge, demonstrated abilities or potential and other attributes such person must have to be appointed to the committee;
  - (b) determine the procedure for selecting and appointing any such person; and
  - (c) determine the remuneration (if any) of any such person for serving in the committee and the conditions of such remuneration, provided that the Council may decide that only the travelling cost, at tariffs determined by the Council, and reasonable out of pocket expenses of such person in connection with his or her membership of the committee be paid.

### **173. Determining the size of the committee**

- (1) No more than twenty percent of the Councillors of the Council or ten Councillors, whichever is the least, may be elected as members of the committee provided that the committee must have at least three members who are Councillors.
- (2) If the Council authorises the committee to appoint persons in terms of Rule 172(2)(g) as members of the committee, it must determine the upper limit of the number of appointments that may be made, provided that:-
  - (a) the number of Councillors who may serve on the committee is reduced with a corresponding number; and
  - (b) the number of Councillors serving in a committee always exceeds the number of other persons in that committee.
- (3) No reduction of the number of Councillors in terms of sub-rule (2) may be done if the committee has only three Councillors as members, provided that the number of committee members who are not Councillors or employees may not exceed two persons.

### **174. Election system and election of members of a committee**

- (1) The members of the committee who are Councillors must be elected according to a system that ensures that the parties and interests reflected in the Council are fairly represented in that committee.
- (2) The speaker mayor or executive mayor, as the case may be, may not be elected as a member of the committee.

- (3) immediately after the Council determined the election system in terms of sub-rule (1) the Council must elect the members of the committee.

## CHAPTER 11

### REPORTS

#### **175. Reports of the executive committee/executive mayor/finance committee**

- (1) The executive committee or the executive mayor or a Section 79-committee if the municipality has a plenary executive system, as the case may be, must submit a report on its decisions and recommendations on the matters considered by it, at every ordinary Council meeting.
- (2) A Section 79-committee in a municipality that has a collective executive system must submit a report on its decisions and recommendations on the matters considered by it at every ordinary meeting of the executive committee after it had a meeting.
- (3) A Section 79-committee in a municipality that has a mayoral executive system, must submit a report on its decisions and recommendations on the matters considered by it as often as it had a meeting to the executive mayor.
- (4) Unless a matter is submitted to the Council or the executive committee or the executive mayor, as the case may be, for information only, the report of a committee on any matter must contain a recommendation.

#### **176. Delivery of reports of committees**

- (1) Except a report accepted by the speaker or chairperson in the case of a committee as a matter of urgency, a report of a committee in terms of Rule 175 is delivered to the Council or the executive committee, as the case may be, together with the agenda for the meeting where it must be considered.
- (2) The municipal manager must deliver a report in terms of Rule 175 of a Section 79-committee in a mayoral executive system to the executive mayor upon receipt thereof.

#### **177. Submission of committee reports**

- (1) The report of:-
  - (a) the executive committee or the executive mayor or a Section 79-committee in a municipality that has a plenary executive system, as the case may be, is submitted for consideration of the Council; and
  - (b) a Section 79-committee in the case of a municipality that has a collective executive system, is submitted for consideration by the executive committee by the chairperson of the committee concerned, or a member of such committee designated by her or him, or the executive mayor, as the case may be, by proposing: "I propose that the report of the committee be considered".
- (2) A proposal in terms of sub-rule (1):-
  - (a) may not be discussed; and
  - (b) is deemed seconded once made.

**178. Considering a committee report**

- (1) When a report in terms of Rule 175 is considered, the speaker or mayor, as the case may be, must:-
  - (a) put the matters contained in that report not disposed of by the committee or the executive mayor, as the case may be, in terms of its delegated or statutory powers, one after the other; and
  - (b) thereafter put the matters disposed of by the committee or executive mayor, as the case may be, in terms of its delegated or statutory powers, one after the other.
- (2) The speaker or mayor, as the case may be, may alter the sequence of the matters dealt with in a committee report at his or her own discretion.
- (3) The Section of a report referred to in sub-rule (1)(b) is considered in terms of Rule 188.
- (4) The report and recommendation of a committee or the executive mayor, as the case may be, on a matter is deemed proposed and seconded.
- (5) When a recommendation referred to in sub-rule (4) is adopted, it becomes a Council resolution.
- (7) During the consideration of a matter in terms of sub-rule (4):-
  - (a) the mayor or chairperson of the committee by a member of the committee designated by him or her or the executive mayor, as the case may be, may speak for 10 minutes on any matter contained in such report despite any other provisions to the contrary herein contained; and
  - (b) a Councillor may demand that his or her opposition to a recommendation and resolution be recorded in the minutes.
- (8) The chairperson of the committee concerned or the executive mayor, as the case may be, may at any time during the debate on a matter:-
  - (a) request that the matter be withdrawn and referred back to the committee or the executive mayor, as the case may be, for further consideration; or
  - (b) amend a recommendation contained in such report with the permission of the other members of the committee present in the case of the executive committee or a Section 79-committee in a municipality that has a plenary executive system.
- (9) Permission in terms of sub-rule (8) must be granted or denied without discussion.
- (10) A matter that is withdrawn in terms of sub-rule (8)(a) lapse without further discussion.
- (11) The chairperson of the committee or the executive mayor, as the case may be, may conclude the debate on the matter, provided that the chairperson of a committee may designate another Councillor who is a member of the committee to conclude such debate.

**179. Reports of the audit committee**

- (1) The audit committee must submit its report after every committee meeting to the

Council.

- (2) The provision of Rules 175, 176 and 177 apply, with the necessary changes, to the report of the audit committee, provided that if the chairperson of the audit committee is not a Councillor, the member of that committee who is a Councillor designated by him or her must discharge the duties of the chairperson during the meeting where its report is considered.

#### **180. Reports on the state of the budget**

- (1) The municipal manager must not later than the first ordinary Council meeting after:-

- (a) 30 September;
- (b) 31 December;
- (c) 31 March; or
- (d) 30 June

of every year submit at such meeting a report on the state of the budget for that financial year.

- (2) The report in terms of sub-rule (1) must contain the particulars referred to in Section 19 (4) of the Finance Management Act and must be in the format prescribed under that Act. Despite any prescripts in terms of that Act, the report must contain a written statement of:-
  - (a) the total amount owed to and received by the municipality in respect of rates, rent, charges for water, electricity, solid waste removal and sanitation, at the end of each month covered by such report with regard to every part of the municipal area as may be determined by the Council, identifying the ten biggest debtors;
  - (b) the total amount of grants, fiscal transfers and subsidies, including any ad hoc allocations, received from the national or the provincial government or the district municipality during the period covered by the report and the allocation thereof compared to the amount claimed or allocated, as the case may be;
  - (c) the income owed to and received by the municipality from any other source not mentioned in paragraphs (a) and (b);
  - (d) the number of debtors invoices issued by the municipality and the number actually paid during every month covered by the report;
  - (e) the total amount of income from rates during every month covered by such report expressed as a percentage of the expected income from rates for each such month;
  - (f) the total amount due by the municipality to its creditors during each month covered by the report, including a statement of the ten biggest creditors, the creditors outstanding for more than thirty days and the amount paid to each creditor and the reasons for any difference between the amount owed and the amount paid;
  - (g) the cashbook balance at the end of each month covered by the report and the reason for any trend that may occur during the period;



- (h) progress made with the implementation of every project or programme indicated in the capital budget and the reasons for underperformance;
  - (i) the balance of every fund created by the Council and a statement of payments made from and income accruing to each such fund during the period covered by the report;
  - (j) the balance of every external and internal loan, including any overdraft facility extended by the municipality's bank, raised by the municipality, the remaining term of each such loan and the purpose thereof;
  - (k) every investment made by or on behalf of the Council, including the institution where the investment was made, the date when such investment had been made, the term of such investment and the interest rate on such investment; and
  - (l) the staff complement of every department within the administration, including an indication of the number of posts vacant on the permanent and temporary establishment, the period for which they had been vacant, the grading of each such vacancy and a full explanation of the need for each such post.
- (3) A report in terms of sub-rule (1) must be submitted to the executive committee or the executive mayor or the relevant Section 79-committee if the municipality has a plenary executive system.
- (4) A committee or executive mayor, as the case may be, must consider the report and submit it, together with its comment and recommendations to the Council.

#### **181. Report on unauthorised expenditure**

- (1) The municipal manager must, when a committee or a Councillor of the municipality contemplates taking a resolution that may result in unauthorised expenditure, advise that committee or Councillor of the reasons why the expenditure may be unauthorised.
- (2) Any advice of the municipal manager given during a meeting of the Council or a committee in terms of sub-rule (1) must be recorded in the minutes of that meeting. If the advice is given not during a meeting of the Council or a committee, the municipal manager must confirm his or her advice at the earliest possible opportunity in writing in a letter addressed to the Councillor concerned.
- (3) Whenever it is brought under the attention of the municipal manager that a decision had been taken that would result in unauthorised expenditure' the municipal manager must refer that decision, together with his or her report there on to the Council or the committee or the Councillor or departmental head who took the resolution.
- (4) As soon as the municipal manager becomes aware that any unauthorised expenditure had been incurred, he or she must immediately report the matter to the Council if the municipality has a plenary executive system or the executive committee or the executive mayor, as the case may be.
- (5) A report in terms of sub-rule (4) must:-
  - (a) state the amount of the unauthorised expenditure;
  - (b) the steps that had been taken to recover or rectify the unauthorised expenditure;

- (c) an explanation for the unauthorised expenditure;
  - (d) the identity of the beneficiary of and the person responsible for incurring the unauthorised expenditure; and
  - (e) the steps that had been taken to prevent a recurrence of the event.
- (6) The municipal manager must take disciplinary action against any employee who had been responsible for incurring unauthorised expenditure, provided that where an employee alleges that such expenditure had been incurred on the instruction of that employee's departmental head or supervisor, disciplinary action must also be taken against the departmental head or supervisor concerned.

### **182. Information statement on intended debt**

Whenever the municipality contemplates incurring debt, the municipal manager must submit a report to the Council setting out:-

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

### **183. Monthly financial report**

A report in terms of Section 30(2) of the Finance Management Act must be incorporated into the report of the executive committee, the executive mayor or the finance committee referred to in Rule 134.

### **184. Report about virement**

- (1) A report in terms of Section 31(2) of the Municipal Finance Management Act must be incorporated into the report of the executive committee, the executive mayor or the finance committee referred to in Rule 134.
- (2) A report referred to in sub-rule (1) must state:-
  - (a) the amount of the saving;
  - (b) the reasons why the amount was saved in the vote under which it was originally appropriated;
  - (c) the reasons for the over expenditure of the vote to which the amount had been transferred; and
  - (d) the steps that had been taken to prevent over and under budgeting in the following financial year.

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

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

#### **186. Reporting about performance**

- (1) The municipal manager must, together with the report in terms of Rule 178 submit a report on the implementation and results of the municipality's performance management system.
- (2) The report in terms of sub-rule (1) must, in addition to any matters prescribed in terms of the Systems Act, state:-
  - (a) the development objectives of the municipality and the performance indicators and targets determined in respect of each of them;
  - (b) how progress was measured and the indicators applied;
  - (c) the extent to which each of the performance targets had been achieved;
  - (d) the reasons for every difference between any performance target and the actual achievement thereof;
  - (e) recommendations for the improvement of performance where underperformance against any performance target had been identified;
  - (f) recommendations for the increase in performance targets where such targets had been achieved;
  - (g) recommendations for the change of any performance indicator or development objective;
  - (h) the result and recommendations of the performance appraisal of the municipal manager and every departmental head during any period since the last report was submitted; and
  - (i) any other relevant matter.

### **CHAPTER 12**

## DELEGATED POWERS

### 187. Reporting on exercise of delegated powers

- (1) A committee, Councillor or employee to whom a power had been delegated must report to the delegating authority on all decisions taken in terms of its delegated powers.
- (2) A report in terms of sub-rule (1) must be submitted:-
  - (a) by the executive committee or the executive mayor or a Section 79-committee in the case of a municipality that has a plenary executive system, as the case may be, to the Council together with its report in terms of Rule 175;
  - (b) by the municipal manager to 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, within fourteen days of the end of each month; and
  - (c) by a departmental head to the municipal manager within fourteen days of the end of each month.
- (3) A report in terms of:-
  - (a) sub-rule (2)(b) must be incorporated into the report of the relevant committee or the executive mayor, as the case may be, to the Council; and
  - (b) sub-rule (2)(c) must be incorporated into the report of the municipal manager in terms of sub-rule (2)(b).

### 188. Review of decisions under delegated powers

- (1) The speaker must, after a report in terms of Rule 175(1)(a) had been disposed of, put the matters disposed of by the committee or the executive mayor, as the case may be, in terms of its delegated or statutory powers, one after the other.
- (2) The speaker may alter the sequence of the matters dealt with in a report in terms of sub-rule (1) at his or her own discretion.
- (3) During the consideration of a matter in terms of sub-rule (1):-
  - (a) the chairperson of the committee or a member of the committee designated by him or her or the executive mayor, as the case may be, may speak for 10 minutes on any matter contained in such report despite any other provisions to the contrary contained in these Rules and Orders;
  - (b) no proposal other than a proposal that the matter be referred back for consideration by the relevant committee may be made; and
  - (c) a Councillor may demand that his or her opposition to a resolution contained in such report be recorded in the minutes.
- (4) The chairperson of the committee concerned or the executive mayor, as the case may be, may at any time during the debate on a matter:-
  - (a) request that the matter be withdrawn and referred back to the committee or the

executive mayor for further consideration; or

- (b) amend a resolution contained in such report with the permission of the other members of the committee present in appropriate cases.
- (5) Permission in terms of sub-rule (4) must be granted or denied without discussion.
- (6) A matter that is withdrawn in terms of sub-rule (4)(a) lapse without further discussion.
- (7) The chairperson of the committee or the executive mayor, as the case may be, may conclude the debate on the matter, provided that in the case of a committee the chairperson may designate another Councillor who is a member of the committee to conclude such debate.

### **189. Review of delegated powers**

- (1) The municipal manager must, not later than the third ordinary Council meeting after a general election of Councillors, and thereafter as often as the Council so requires, submit a report on the delegated powers of the municipality to the Council.
- (2) The report in terms of sub-rule (1) must be submitted to the executive committee or the executive mayor or the appropriate Section 79-committee if the municipality has a plenary executive system, as the case may be.
- (3) The committee or the executive mayor, as the case may be, must consider the report and recommendations of the municipal manager. The committee or executive mayor, as the case may be, must submit the report, together with its comments and recommendations to the Council at the first ordinary Council meeting next ensuing.

## **CHAPTER 13**

### **DEPUTY MAYOR AND DEPUTY EXECUTIVE MAYOR**

### **190. Report by the municipal manager**

- (1) Whenever the Council contemplates applying to the MEC for approval to:-
  - (a) elect a deputy mayor in terms of Section 48(1) of the Structures Act if the municipality has a collective executive system; or
  - (b) elect a deputy executive mayor in terms of Section 55(1) of the Structures Act if the municipality has a mayoral executive system it must obtain and consider a report of the municipal manager.
- (2) The municipal manager in preparing a report contemplated in sub-rule (1) must consider the need for a deputy mayor or deputy executive mayor, as the case may be, taking into account:-
  - (a) the extent of the powers and functions of the municipality;
  - (b) the need to delegate those powers and functions to promote efficiency and effectiveness in their performance to a deputy mayor or deputy executive mayor;
  - (c) the reasons not to delegate any such power or function to the executive committee or the mayor or the executive mayor, as the case may be, or an employee of the

municipality;

- (d) the available financial and administrative resources of the municipality to support the work of a deputy mayor or a deputy executive mayor, including the provision and maintenance of appropriate office facilities, office equipment and secretarial support;
  - (e) the need for the economical, efficient and effective use of resources;
  - (f) the workload of a deputy mayor or a deputy executive mayor;
  - (g) the need for co-ordination of decision-making;
  - (h) the likely effect delegated powers may have on the enthusiasm and interest of Councillors who are not elected to the executive or mayoral committee; and
  - (i) the likely improvement or deterioration in the quality and speed of decision-making if a deputy mayor or deputy executive mayor is elected.
- (3) The report must contain recommendations with regard to:-
- (a) the format, frequency and framework for reports on the activities of the deputy mayor or the deputy executive mayor and the exercise of his or her delegated powers;
  - (b) the specification and clarification of the role and responsibility of the mayor and deputy mayor or the executive mayor and the deputy executive mayor, as the case may be, on the one hand and the municipal manager and departmental heads of the municipality on the other, with due regard to the statutory duties and responsibilities of the municipal manager; and
  - (c) any other relevant matter.
- (4) The Council may not consider or apply for permission to elect a deputy mayor or a deputy executive mayor if the Council:-
- (a) has not designated the mayor or executive mayor, as the case may be as a full-time Councillor; or
  - (b) the Council, having designated the mayor or the executive mayor as a full-time Councillor, granted permission to him or her to undertake other paid work.