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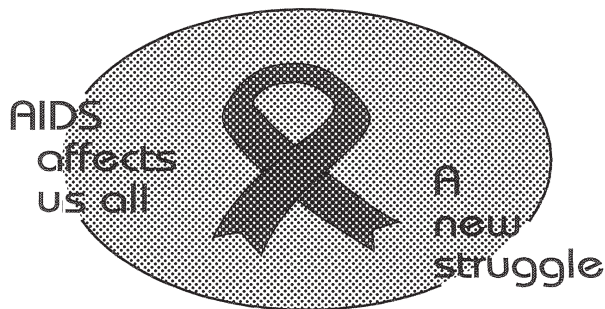
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You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 142 OF 2015

NXUBA MUNICIPALITY



RULES OF ORDER

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

NXUBA LOCAL MUNICIPALITY

RULES OF ORDER BY- LAW, 2014 (No 01 of 2014)

To regulate the internal arrangements, business and proceedings, establishment, composition, procedures, powers and functions of its council and committees to provide for matters incidental thereto:

Be it enacted by the Municipal Council of Nxuba Local Municipality
in terms of section 11(3) (m) of the Local Government Municipal Systems Act, 2000
(Act No 32 of 2000), as follows:

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

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NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

1. DEFINITIONS

In these rules and orders, unless the context otherwise indicates-

"Absent" means not present at a meeting of council or a committee of council without valid cause or reason and absenteeism has a corresponding meaning.

"Act" means the Local Government Structures Act, 1998 (Act No.117 of 1998)

- The Local Government Municipal System, 2000 (Act No 32 of 2000)
- Local Government Municipal Finance Management Act, 2003 (Act No 56 of 2003)

"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;

"Caucus" means an in formal or political discussion of members of a group or party with a view to reach a resolution.

"Chairperson" means a person chairing a meeting other than a council meeting or such person elected during that particular meeting.

"Code of conduct" means the code of conduct for councillors contained in Schedule 1 to the Systems Act;

"Committee" means a committee of council established in terms of section 79 of the Structures Act.

"Constitution" means the Constitution of the Republic of South Africa 1996 (Act No. 108 of 1996);

"Constituency" means-

- a) the residents in a ward in the municipal within the municipal jurisdiction;
- b) for the purpose of a public hearing a political party that contested a general election for councillors in the municipal area; and

"Constituency meeting" means a meeting of residents within a ward in the municipal jurisdiction.

"Council" means the council of Nxuba Municipality;

"Day" means Monday to Friday, including Saturday, Sunday and a Public holiday

"Division of votes" means to record individually every member or person's vote for or against any proposal and/or the withdrawal from the meeting by a member or person during the thirty (30) seconds allowed

"Head of department" means an employee of the municipality appointed by the council as Head of department and includes shall include any other person nominated, delegated or acting as such for purposes of these rules and orders, a "director" and "directorate" shall have the same meaning;

"Finance Management Act" means the Local Government: Municipal Finance Management Act 2000 (Act No. 56 of 2003);

"Manager" means a manager as contemplated in section 57 of the Systems Act.

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"Mayor" (within a plenary executive system section 9 (f) of the Structures Act the Speaker must be called the Mayor) means the councillor elected as Mayor/Speaker of the council in terms of section 36 of the Structures Act and includes any councillor who had been elected by the council as acting Mayor/speaker during the temporary incapacity or absence of the Mayor/speaker and, in these standing rules of order, any reference to the chairperson in relation to a meeting of the council shall be a reference to the Mayor/speaker or acting Mayor/speaker, as the case may be;

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

"Meeting" means a formal meeting of Nxuba Council and Standing Committees.

"Member" means a member of the Nxuba Council and Standing Committee duly elected, appointed or nominated as such.

"Motion" means a motion introduced in writing in terms of this by-law as well as other applicable legislation.

"Municipality" when referred to as-

- a) An entity, means a municipality as described in section 2 of the Municipal Systems Act, and
- b) A geographic area means a municipal area determined in terms of Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998).

"Municipal Finance Management Act or MFMA" means the Local Government Municipal Finance Management Act, 2003 (Act NO 56 of 2003)

"Municipal Manager" means the head of administration and accounting officer of the municipality in terms of section 82 of the Municipal Structures Act and section 60 of the Municipal Finance Management Act and for purpose of this by-law, shall include any other person nominated, delegated or acting as such.

"Newsletter" means a newspaper -

- a) Bulletin or electronic medium
- b) registered in terms of any law; and
- c) that is published at least weekly; and
- d) circulates within the municipal area; and
- e) that has been determined by the council as newspaper of record;

"Party" means a political party represented in Nxuba Council.

"Personal explanation" means the explanation of some part of a member's former speech which may have been misunderstood.

"Petition" means a written request for consideration of urgent action by council or granting relief in a matter of public interest.

"Plenary executive system" means a municipality with a plenary executive system combined with a ward participatory system (as contemplated in the Municipal Structures Act 117 of 1998 section 9 (f)).

"Point of order" means pointing out any deviation of order, anything contrary to this by-law or other by-laws of the Nxuba Municipal Council.

"Political head" means a councillor that is an office holder as Mayor/Speaker in a municipality mentioned in section 9 (f) of the Municipal Structures Act.

"Property Rates Act" means the Local Government: Municipal Property Rates Act 2004 (Act No. 6 of 2004);

"Proposal" means any proposal with the exception of a motion, moved and seconded during a meeting.

"Public hearing" means a meeting arranged by the council to solicit the views and opinions of members of the public and/or specific constituencies on a matter or matters affecting the interests of the residents within the municipal area;

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“Quorum” means a majority of councillors must be present at a meeting of the council before it can take place (50+1).

“Report” means a written report, signed by the person authorized or delegated or acting to sign such a report, submitted for consideration by council or a committee in accordance with the provisions of the approved delegations of the council, such report to contain a firm, clear and precise recommendation (s).

“Rescind” means to declare an action taken null and void thus making it ineffective.

“Rules” means the rules of order of Nxuba Local Municipality.

“Secretariat” means an official designated to perform secretarial duties pertaining to a council or committee meetings.

“Serve” means delivery of a notice or document at the address chosen by the councillor or member for that purpose or personality.

“Mayor/Speaker” means the councillor elected as Mayor/Speaker of the council in terms of section 36 of the Structures Act and includes any councillor who had been elected by the council as acting Mayor/Speaker during the temporary incapacity or absence of the Mayor/Speaker and, in these standing rules of order, any reference to the chairperson in relation to a meeting of the council shall be a reference to the Mayor/speaker or acting Mayor/speaker, as the case may be the Speaker must be called the Mayor in terms of the type of the Municipality mention in section 9 (f) of the Municipal Structures Act;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and herein referred to as the “Act”;

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

“Whip”

- a) means a councillor of a party in the council appointed by that party as whip to ensure, the smooth functioning of the proceedings of the council in terms of these rules and orders. ”
- b) means the whip of the ruling party in the council who, together with any other whip or the councillor so designated by the political parties in the council who do not enjoy an outright majority, and in conjunction with the Mayor/speaker, must ensure the smooth functioning of the council;

Any other word or expression not mentioned above shall have the meaning assigned to it in the Municipal Structures, Municipal Systems and Municipal Finance Management Acts

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

2. APPLICATION OF RULES

This by-law applies to all meetings of council or committees.

The Speaker and/or Mayor may direct that these rules apply *mutatis mutandis* to any other committee of council including ward committee meetings.

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

CHAPTER 2

COUNCIL, STANDING COMMITTEES AND OTHER COMMITTEES

Part 1

Calling of meetings

3. Speaker to convene council meetings

The Speaker shall convene meetings of the council every bi-monthly or a Special Meeting for any urgent matter (s), for which the Speaker may determine a date and place but if the majority of councillors request the speaker in writing to convene a special meeting, the Speaker must convene such a meeting at a time set out in the request.

4. Chairperson to convene standing committee meetings

The chairperson of a portfolio or other committees assisted by the office of the Mayor/Speaker shall, after consultations with the Municipal Manager or the relevant Head of Department, convene meetings of such portfolio committees, normally on a predetermined workday, but if the majority of members request a special meeting in writing, and/or if necessary, the necessary must convene a meeting at a time set out in the request provided that no committees shall hold a meeting at the same time or Council meeting is in progress. The portfolio chairperson and the relevant head of department shall prior to the standing committee meeting convene a preliminary meeting to consider the agenda.

5. Ward councillor to call ward meetings

The Ward Councillor of each ward shall call all meetings of that ward and shall be assisted therein by the Municipal Manager.

Part 2

Notice of Meetings

6. Council

The Municipal Manager or his/her delegates shall be responsible to compile and serve the notice of all Council and Portfolio Committee Meetings.

7. Standing Committees

The relevant Secretariat shall be responsible to compile and serve the notice of all Portfolio Committee Meetings.

8. Ward Committees

The Ward Councillor, with assistance provided by Municipality, shall be responsible to compile and serve of all ward Committee Meetings.

9. Notice of meetings to be served

With the exception or an urgent report of the Mayor/Speaker or the Municipal Manager, business not specified in the notice and or agenda of the meeting shall not be considered at the meeting.

10. Business limited by notice

With the exception of an urgent report of the Mayor/Speaker or the Municipal Manager, business not specified in the notice and or the agenda of the meeting shall not be considered at that meeting.

11. Signing of agenda /Notice

1. The Mayor/Speaker (his/her delegate in his/her absence and for this purpose) shall sign the agenda for all Council meetings before distribution thereof.
2. The Portfolio Chairperson (his/her delegate in his/her absence and for this purpose) shall sign the agenda for all Council Committee meetings before distribution thereof.
3. The Chairperson of Municipal Public Accounts Committee (MPAC) (his/her delegate in his/her absence and for this purpose) shall sign the agenda for all MPAC Meetings before distribution thereof.
4. The Ward Councillors (his/her delegate in his/her absence and for this purpose) shall sign the agenda for all ward committee meetings before distribution thereof.

Part 3

Agendas

12. Preparation of council agenda

The Municipal Manager or his/her delegate is responsible for the preparation of the agenda in consultation with the Mayor/Speaker for approval by the Mayor/Speaker.

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

13. Preparation of standing committee agenda

The relevant Secretariat as directed by the relevant Head (Director Corporate Services) in conjunction with the Chairperson of the Committee is responsible for the preparation of the agendas of all Portfolio Committee meetings.

14. Preparation of ward committee agenda

The Ward Councillor, assisted by the Secretariat provided by the Municipality, is responsible for the preparation of the agenda of all Ward Committee Meetings.

15. Raising of urgent matters

The Municipal Manager may, after consultation with the Mayor/Speaker or Chairperson, in his/her discretion raise any urgent matter for resolution by Council, Standing Committee or other Committee when the resolution required could, in his/her opinion, prejudice the Council or community in the event that it is delayed.

16. Urgent items to form part of the agenda

If on the day after the 5th day within preceding 48hrs before a meeting, the Mayor/Speaker has any item that she/ he deems urgent to present to the Council for the purpose of noting or consideration, he / she may do so after consultation with the Municipal Manager.

17. Order of business on council agenda

The order of business of an ordinary meeting of Council shall be as follows;

1. Official notice of the meeting
2. Opening and Welcoming
3. Application for leave of absence
4. Apologies
5. Communication of statement by the Mayor/Speaker
6. Disclosure of interest by councillors and officials relating to any item

7. Adoption of the minutes of the previous meetings
8. Status report on the implementation of council resolutions
9. Recommendations from the council committees
10. Reports by Mayor/Speaker
11. Report by the Whip of the ruling party
12. Report by the Municipal Manager
13. Motions or proposals deferred from previous meetings
14. New Motions or Petitions
15. Minutes of the ward committee meetings
16. Closure

18. Bringing forward items on the agenda

After the matters referred to in Section 19 of the Rules have been considered, the council may at its discretion bring forward any business which is on the agenda.

19. Leave of Absence

1. A councillor who-
 - a) is unable to attend a meeting or hearing of which prior notice has been given; or
 - b) is unable to remain in attendance at a meeting or hearing; or
 - c) will arrive after the stipulated commencing time for a meeting or hearing -

must, at least twenty four hours before the commencement of the meeting or hearing concerned submit a written application for leave of absence to the Mayor/Speaker of for such meeting or hearing.

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

2. The Mayor/Speaker must inform the chairperson of the meeting or hearing concerned of any application for leave of absence.

3. An application in terms of sub-rule (1) is considered and granted or refused by:-

- a) the Mayor/Speaker, in the case of a council meeting;
- b) the responsible chairperson in the case of a committee meeting.

3. The Mayor/Speaker or responsible chairperson, as the case may be, must inform the Municipal Manager of his or her decision in terms of sub-rule (4).

4. Whenever an application for leave of absence in terms of sub-rule (1) is refused:

- a) the Mayor/Speaker or responsible chairperson, as the case may be, must submit the reasons for such refusal; and
- b) the Municipal Manager must immediately after such decision is conveyed to him or her, in writing, inform the councillor concerned of such refusal and supply the reasons for same.

5. A councillor -

- a) who failed to make application in terms of sub-rule (1) and was absent from a meeting or hearing he or she was required to attend; or
- b) whose application for leave of absence was refused and was absent from the meeting or hearing he or she was required to attend; or
- c) whose application for leave of absence was refused and who did not appeal; or
- d) whose appeal was not upheld; or
- e) who did not sign the attendance register

is deemed to have been absent without leave from the meeting or hearing concerned.

6. A councillor contemplated in sub-rule (5) must pay to the municipality a fine equal to R200.00 of his or her monthly salary which the fine shall be deducted from the first next payment due to him or her by the municipality unless he or she pays the fine in cash before the relevant pay day. The Municipal Manager must inform the councillor concerned in writing of the imposition of the aforesaid fine.

7. The Municipal Manager must keep a record of all occurrences in terms of sub-rule (7) and must submit a written report thereon to the whip of the ruling party on a quarterly basis.

8. Appeal against refusal of applications for leave of absence:

1. A councillor whose application for leave of absence had been refused in terms of sub-rule 19(4) may appeal against such refusal. Such an appeal must;

- a) be in writing; and
- b) be lodged with the Mayor/Speaker;

within fourteen days after the date that the decision is conveyed to him or her in writing by the Mayor/Speaker, provided that the council or the committee that must consider the appeal may condone the late submission of an appeal in exceptional circumstances.

5. The council shall consider an appeal in terms of sub-rule (1);

6. A decision with regard to an appeal in terms of sub-rule (1) is final.

20. Removal of a councillor from office due to absenteeism from meetings without leave

1. Whenever a report submitted to the Mayor/Speaker in terms of rule 19(6) identifies a councillor that has been absent from three consecutive council meetings or three consecutive committee meetings which that councillor was required to attend; the Mayor/Speaker must in writing, report the matter to the council at the first ordinary council meeting.

2. The Mayor/Speaker shall also send the councillor referred to in sub-rule (1) a copy of his or her report referred to therein.

3. The council must consider the report of the Mayor/speaker in terms of sub-rule (1) and must give the councillor concern an opportunity to state his or her case;

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

4. The affected councillor shall recuse himself/ herself from the meeting of the council immediately after he or she has been heard to enable the council to consider the matter.

5. If, after consideration of the matter, the council is of the opinion that the councillor was absent without a good and acceptable reason, the councillor concerned shall be deemed to have contravened item 4 of the code of conduct and the council must resolve to request the MEC to remove the councillor from office. If the council finds that the reason for the absence of the councillor concerned from any of the meetings in respect of which he was charged aforesaid was a good and acceptable reason, then the council may issue a formal warning to the relevant councillor and determine the period during which the warning will be valid.

6. The Municipal Manager shall convey the decision of the council adopted in terms of sub-rule (5) and any supporting information to the MEC within five working days from the date of its adoption.

7. The councillor concerned ceases to be a councillor on the date that the MEC informs the Municipal Manager that he or she has been removed from office.

8. The removal of a councillor from office or a warning does not exempt that councillor from paying any fine.

21. 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', 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 Director.

2. Every councillor or member of a committee, as the case may be, must, from the time stipulated in the notice convening the meeting, attend every meeting of the council, public meeting of voters' and public hearings and remain in attendance at such meetings unless leave of absence has been granted to him or her in terms of these rules and orders or when he or she must leave a meeting in terms of the code of conduct.

3. The Mayor/Speaker by virtue of his or her office, attend any committee meeting as an observer and may not participate in any discussion or vote on any matter before such meeting;

4. The Mayor/speaker or the chairperson of a committee, as the case may be, may invite any person to attend an open council or committee meeting

but such person may not participate in discussions at such meetings nor vote on any matter before the council or committee concerned.

5. The Municipal Manager and Head of departments 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 Head of department from attending any meeting of the committee concerned or, if he or she is not exempted, grant permission for him or her to be absent from any such meeting.

22. Attendance register

1. The Municipal Manager must supply an appropriate attendance register at all meetings of the council, its committees and hearings convened in terms of these standing rules and orders. This register shall make provision for the insertion of the following information:

- a) the nature of the meeting;
- b) the venue of and date on which the meeting is held;
- c) the names of at least all municipal attendees;

2. Every councillor who is present at a meeting or hearing must sign the aforesaid attendance register.

3. Any councillor who was present at a meeting or hearing but who failed to sign the attendance register for such meeting shall be deemed to have been absent without leave of absence from the meeting concerned.

23. Documents to be available at meetings

The Municipal Manager must ensure that the under-mentioned documents are available at every meeting of the council and its committees:-

- a) these standing rules and orders;
- b) the Constitution;
- c) the Municipal Structures Act;
- d) the Municipal Systems Act;
- e) the Municipal Finance Management Act;
- f) the Municipal Property Rates Act;
- g) the Municipal Code of conduct; and

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER

h) such other legislation as the council may, from time to time, determine.

24. General powers and duties of chairpersons

1. The chairperson of a meeting must -:

- a) ensure that the meeting at which he or she presides, commences promptly at the convened time as stated in the notice convening the meeting and is conducted in accordance with these standing rules and orders;
- b) ensure that councillors participate in the proceedings of the meeting in a manner that allows parties and interests reflected within the council to be fairly represented and in a manner which is consistent with democracy;
- c) when requested to do so, interpret these standing rules and orders;
- d) reject any motion, proposal or question which, in his or her opinion:
 - (i) may lead to the discussion of a matter already contained in the agenda for that meeting;
 - (ii) advances arguments, expresses opinion or contains unnecessary tactless, incriminating, disparaging or improper suggestions;
 - (iii) may encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insults, degrades, defames or encourages abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;
 - (iv) contains unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
 - (v) contains threatening, abusive or insulting language towards an employee which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or

her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee;

(vi) does not pertain to the governance, administration or management of, or the conditions in, the municipality;

(vii) may be contrary to these rules and orders or any other law, including a 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 unauthorized expenditure;

e) 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) on which a decision of a judicial or quasi-judicial body is being awaited;

f) reject any motion, proposal or question which:

(i) is not properly seconded;

(ii) on the face of it, may threaten or affect a fundamental human right of any person; or

(iii) is unclear;

h) reject any proposal that a meeting or part of a meeting be closed;

i) 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;

(iii) submit every motion and proposal made and seconded to the vote;

(iv) declare the result of any vote in terms of subparagraph (i); and

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- (v) instruct any member of the public or media and any employee of the municipality who may be present at a meeting to leave such meeting when the meeting resolves 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 such ruling.
3. The chairperson's interpretation of the rules and orders or a ruling as to procedure is final, provided that:-
- (i) 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;
 - (ii) a councillor may request that the chairperson provide a written interpretation or ruling at the first meeting next ensuing;
 - (iii) 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 provided that such amendment or substitution shall not affect any vested rights arising from any decision adopted by the council or committee concerned pursuant to the initial interpretation or ruling by the chairperson thereof nor result in any illegality.
4. The chairperson may, in performing his or her functions and powers:-
- (i) consult with the Municipal Manager;
 - (ii) direct any person who is speaking to discontinue his or her speech or to desist from breaching the order or to discontinue making interjections;
 - (iii) direct any person to apologize for or to apologize for and withdraw any allegation, statement or remark if it is unbecoming, unnecessarily tactless, incriminating, disparaging, improper, racist or sexist or incites violence or injury or impairs the dignity or honour of a councillor or employee of the municipality;
 - (iv) direct any person who persists in disregarding the chair or who obstructs the business at a meeting, to retire from the meeting; and
 - (v) instruct any person to leave a meeting if the meeting resolves to close its session or any part of it.
5. If a person refuses to retire from a meeting after having been directed to do so in terms of sub-rule (4)(d) or (e), the chairperson may direct an authorized 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 concerned.
6. The chairperson may, after consultation with the chief whip, change the order of business at the meeting despite any provisions to the contrary herein.
7. This rule, with the necessary changes, shall apply in respect of all hearings held by or at the instances of the council.

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

1. Whenever a councillor who attended a meeting or hearing is of the opinion that the chairperson at that meeting or hearing, as the case may be, 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 lodge a written allegation against the chairperson concerned with the Municipal Manager.
2. An allegation in terms of sub-rule (1) must quote the relevant rule or practice that has been breached or not fulfilled and must also state to what extent same has been breached or not fulfilled.
3. The Municipal Manager must, with a view to further investigation and the holding of a hearing into the complaint, submit the allegation to:-
 - a) the council at its next ensuing meeting, in the case of an allegation against the Mayor/Speaker;
 - b) the Mayor/Speaker, in the case of an allegation against the chairperson of a section 79 –committee -

and send a copy thereof to the councillor who made the allegation.
4. Where the complaint is submitted to the council in terms of sub-rule (3), the Mayor/speaker shall withdraw from the meeting at which such complaint is considered and the chair shall be taken by the Municipal Manager for the duration of the debate on such complaint;
5. The council or the Mayor/Speaker, 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;

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6. The Municipal Manager must inform the councillor who made the allegation and the Mayor/speaker or chairperson against whom the allegation has been made, as the case may be, of the time and place where the matter will be heard.

7. At the hearing, the councillor making the allegation and the Mayor/Speaker or chairperson against whom the allegation has been made, as the case may be, must have the opportunity to state their respective cases, to call witnesses, to examine any documents submitted and to cross examine any witnesses.

8. The Municipal Manager shall chair the hearing referred to in sub-rule (7) in the case of a hearing held by the council in respect of an allegation against the Mayor/speaker;

9. After the matter had been heard, the council or Mayor/Speaker, as the case may be, must make a ruling as to the most probable version of the event and make a finding.

10. Should it be found that an allegation against the Mayor/Speaker was true, the council must decide an appropriate penalty. Whenever the Mayor/Speaker finds that an allegation against the chairperson of a section 79 - committee was true, he or she must submit his or her finding to the council and recommend an appropriate penalty.

11. An appropriate penalty may include the issue of a formal warning or reprimand. Whenever a formal warning is issued, the council must determine the period during which such warning shall remain in force.

26. Status of chairperson at a meeting

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

27. Presiding at the first council meeting after a general election

1. 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 Mayor/speaker is elected in terms of section 36 of the Structures Act.

2. The provisions of schedule 3 to the Structures Act apply in respect of the election of a Mayor/speaker which states that, "the Municipal Manager of the Municipality or if the Municipal Manager is not available, the person who is designated by the MEC for Local Government in the Province presides over the election of the Mayor/Speaker".

28. Presiding at council and committee meetings

1. With due regard for the provisions of these standing rules and orders, the Mayor/Speaker presides at every council meeting and, in the case of section 79 -committees, the relevant chairperson presides at every committee meeting where he or she is present.

2. Whenever the Mayor/Speaker or the Chairperson of a committee, as the case may be, is absent from or is unable to preside at or during any part of a meeting, the council or the members of the committee, as the case may be, must, subject to sub-rule (4), elect from amongst the councillors present at that meeting, an acting Mayor/speaker or chairperson for the duration of the Mayor/speaker's or the chairperson's absence or inability.

3. The Municipal Manager presides over the election of an acting Mayor/speaker or chairperson in terms of sub-rule (2) and shall ensure that the procedure referred to in schedule 3 to the Structures Act is followed in respect of the election of the acting Mayor/speaker.

4. A section 79 -committee may not elect the Mayor/Speaker as acting chairperson in terms of sub-rule (2).

29. Presiding at council meetings when the office of the Mayor/Speaker is vacant

1. Whenever the office of Mayor/speaker becomes vacant, the Municipal Manager must, on a date and at a time and venue determined by him or her, call a special council meeting for the purpose of electing a new Mayor/speaker: provided that such special council meeting must take place within fourteen days after the office of the Mayor/speaker became vacant.

2. The Municipal Manager presides over the election of a Mayor/Speaker in terms of sub-rule (1).

3. The Municipal Manager must ensure that the Mayor/Speaker is elected in accordance with the procedure contained in schedule 3 to the Structures Act.

4. Subject to the right of the council to remove the Mayor/speaker from office in accordance with these standing rules and orders and applicable law, the

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Mayor/speaker elected at a meeting convened in terms of sub-rule (1) serves as Mayor/speaker for the unexpired term of office of his or her predecessor.

30. Conduct of members of the public at council or committee meetings

1. A member of the public or the media 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 or has been granted permission in terms of that rule to address the council or committee, as the case may be;
- 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 to 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 threatening, abusive or insulting language towards an employee or display any writing, sign or other visible presentation which is threatening, abusive or insulting and 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 or media must leave the meeting immediately and not return to such 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 that meeting.

31. Recording of proceedings during meetings

Except for the purpose of an employee recording the official minutes of a meeting, no person may, unless the express prior approval of the chairperson of a meeting has been obtained, make any recording, whether audio or visual or both audio and visual, of a meeting or any part thereof.

32. Conduct of councillors during meetings

1. The under-mentioned conduct by a councillor during a meeting is deemed contrary to the provisions of item 2(b) of the code of conduct which requires that a councillor shall, at all times, act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised:

- a) the making of unnecessary tactless, incriminating, disparaging or improper suggestions or the expression of such opinions;
- b) the making of 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) the making of unwelcome or obscene gestures;
- d) the making of or seconding of 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) the making or seconding of a proposal that may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources;
- f) the making or seconding of a proposal that may result in unauthorized expenditure;
- g) the making or seconding of 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) the making or seconding of a proposal that is calculated to or may threaten or affect a fundamental human right of any person;
- i) conduct aimed at encouraging, engendering, advocating or aggravating hatred, discrimination, exclusion, restriction, ridicule,

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contempt or preference based on colour, descent, race, ethnicity, gender or religion or to cause harm, hostility, degradation, violence or to 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) the incitement of imminent violence;
- k) the compelling or attempt to compel employees or councillors by threats to partake in any actions against their will;
- l) the breach of the order;
- m) the disregard for the chair;
- n) the use of threatening, abusive or insulting language towards an employee or the display of any writing, sign or other visible presentation which is threatening, abusive or insulting or which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee; or
- o) the making of 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) the submission of a motion or request to 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 unauthorized 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 human right of any person.

2. This rule must not be interpreted in such a manner that detracts from or diminishes the right of councillors to claim privilege and immunity as envisaged in section 28 of the Structures Act and councillors shall generally not be liable to civil or criminal proceedings, arrest, imprisonment or damages for anything that they have said in, produced before or submitted to the council or any of its committees or anything revealed as a result of anything that they have said in, produced before or submitted to the council or any of its committees.

33. Dress code

The council may, by resolution, prescribe a dress code for councillors attending meetings of the council and its committees.

34. Person speaking to address the chairperson

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

35. Councillor to stand while speaking

1. Unless otherwise directed by the chairperson of a meeting or hearing, a councillor addressing a meeting or hearing must stand while speaking.

2. If a councillor who is not speaking raises his or her hand on a point of order while another councillor is speaking or to make a proposal and the chairperson addresses such councillor, the councillor then speaking must resume his or her seat (if he or she stood) and remain silent until the chairperson has made a ruling on the point of order or the proposal concerned.

36. Duration and reading of speeches

1. Unless expressly otherwise determined in these rules and orders, a councillor may not speak for longer than ten minutes on any matter before the council or a committee.

2. Except when a councillor is, when so requested:-

- a) delivering the mayoral report in terms of the Municipal Finance Management Act; 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.

37. Councillor to speak only once

1. Unless expressly otherwise determined in these standing rules and orders, a councillor may speak only once on a matter.

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2. The introducer of a motion or proposal may reply in conclusion of the debate but must confine his or her reply to addressing matters raised by Mayor/Speaker during the debate.

3. The council may allow the chairperson of a section 79 -committee to make an explanatory statement prior to the consideration of any particular matter in a report of such committee or during the discussion of such report in reply to a specific question.

38. Relevance

1. A councillor who speaks must confine his or her speech strictly to the matter under discussion.

2. No discussion may take place 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 indicates in the agenda that two or more items should be considered together or on any motion or proposal that has been rejected in terms of rule 14.

39. 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 constitutes an invasion of another person's privacy;
- c) the request is, in his or her opinion, unreasonable given the period allowed for obtaining the required information and the complexity of the information sought;
- 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 extraordinary administrative or financial burden on the municipality.

40. Personal explanation, point of order and clarification

1. A councillor may, at any time during a meeting, whether or not he or she is participating in a debate then taking place, rise -

- a) on a point of order for the purpose of drawing attention to a departure from these standing rules and orders or any law; or
- b) to explain any part of his or her deliberations that may have been misunderstood.; or
- c) to request that any part of the deliberations that may have been misunderstood, be explained.

2. A councillor 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, final and may not be discussed.

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

1. The chairperson of a meeting must afford the Municipal Manager an opportunity to address that meeting on any matter before it in order to advise members thereof on the legality 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 :-

- i. cause unauthorized, irregular, wasteful or fruitless expenditure; or
- ii. be beyond the authority of the municipality -
- iii. recorded in the minutes of the meeting where such advice was given.

42. Adjournment of meeting in the absence of a quorum

1. If no quorum for a meeting is present within 15 minutes after the time stipulated in the notice, such meeting shall not be held but a continuation meeting shall be held.

2. If, at any time during the course of a council or committee meeting, it is suspected that no quorum is present at such meeting -

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- (i) the chairperson must discontinue the proceedings immediately; and
- (ii) cause the councillors present to be counted -

and, if the lack of a quorum is found to exist, the chairperson must instruct the Municipal Manager to ring the call 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 due to the withdrawal of one or more councillors in compliance with the code of conduct, the chairperson must rule that such matter be dealt with at the first meeting next ensuing and that the unfinished business of the meeting be dealt with.

4. If a sufficient number of councillors is present after the call bell had been rung, the meeting must continue, 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 afresh.

5. Any business except a matter referred to in sub-rule (3) which has not been dealt with at a meeting that has been adjourned, must be considered at a continuation meeting contemplated in rule (34), 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 (34).

43. Adjournment of a meeting before it completes 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.

A proposal in terms of sub-rule (1) is carried if a majority of the members present at the meeting vote in favour thereof.

4. Whenever a meeting adjourns in terms of sub-rule (1) before it has completed the business stated in the agenda for that meeting, the meeting must resume as a continuation meeting to deal with any unfinished business, unless the date of the first ordinary meeting next ensuing is earlier than the,

in which case the unfinished business of an adjourned meeting is dealt with at that ordinary meeting.

44. Continuation of an adjourned meeting

1. A continuation meeting is held at the same time and venue as a meeting that has been adjourned 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 working day after such Sunday or public holiday.

2. The agenda for a continuation meeting is the agenda for the meeting that has been adjourned.

45. 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 such 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 (30min).

2. Despite the provisions of sub-rule (1), the chairperson of a meeting may, if he or she is of the opinion that a third temporary adjournment thereof 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 shall resume after the expiry of the period referred to in sub-rule (1) and shall deal with any unfinished business contained in its agenda.

46. Adjournment of meeting for a caucus

1. A whip of the ruling party may, at any time, except while a vote is being taken, move "that the council now adjourn for a caucus meeting".

2. Such motion shall be seconded but need not be put in writing.

3. The mover may speak to the motion for five minutes, but the seconder shall not speak beyond formally seconding the motion.

4. The Mayor/Speaker shall:

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- (i) decide whether or not to allow the request for a caucus meeting;
 - (ii) if the request is refused, he or she shall give reasons for refusing such request, which reasons shall be entered into the minutes.
5. The ruling of the Mayor/Speaker on the request for a caucus meeting shall be final and not be open for discussion.
6. If the request for a caucus meeting is approved by the Mayor/Speaker, the council shall forthwith adjourn, provided that the Mayor/Speaker may direct that the meeting proceed first to dispose of other business.
7. The Mayor/Speaker shall impose a time limit for the proposed caucus meeting.
8. The caucus requesting the adjournment shall gather at another venue.
9. If the caucus members have not resumed their seats at the time when the council is required to reconvene, the meeting shall proceed with its normal business, provided a quorum of members is present.
10. If a quorum of members is not present, the meeting will adjourn for 10 minutes.
11. If the caucus members do not return within the 10 minute adjournment period, the meeting must be closed by the Mayor/speaker and the reasons for such closure must be recorded in the minutes of the meeting.
12. The Mayor/Speaker may, in terms of these standing rules and orders and the code of conduct, take appropriate action against the members of a caucus who fail to comply with this rule.
13. It shall not be permissible for a section 79 –committee to adjourn for the purpose of holding a caucus meeting.

47. Agendas of meetings

1. Subject to the provisions of sub-rules (3) and (6), only matters included in an agenda for a meeting may be dealt with.
2. Agendas for open and closed meetings of the council shall be contained in separate documents which shall be clearly marked to reflect the status of the meeting and, for purposes of this sub-rule, the matters shall be included in an agenda for a closed meeting of the council.

3. The whip of the ruling party, 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.

5. A proposal in terms of sub-rule (3) need not be seconded and no debate on such proposal shall be allowed.

6. A proposal referred to in sub-rule (3) is carried if the councillors present at a meeting unanimously adopt it.

7. An urgent report received from a section 79 -committee may be tabled and considered during a council meeting with the express prior permission of the Mayor/Speaker.

48. 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 council and committee meeting.
2. The minutes of a meeting must reflect at least:-
 - a) the nature of the meeting, its venue and commencing time;
 - b) the names of the councillors attending;
 - c) the names of the councillors absent with or without leave;
 - d) the names of the councillors voting respectively for and against any matter resolved at a meeting in respect of which a division is called on the decision so adopted;
 - e) the name of any councillor who requested 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;
 - h) any advice by the Municipal Manager regarding possible unauthorized expenditure or resolutions beyond the authority of the municipality;
 - i) the resolutions adopted;
 - j) the closing time of the meeting.

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3. Where the council or a section 79 – committee acting under delegated power, refuses an application from any person for a licence, consent or approval in terms of any law or refuses to support an application by any person for such a licence, consent or approval in terms of any law, the reasons for the council or the committee's refusal shall be recorded in the minutes of the meeting concerned.

4. The minutes of a meeting must be delivered to councillors with the notice of the ensuing meeting or prior to delivery of such a notice.

5. Minutes delivered in terms of sub-rule (4) are deemed read with a view to their approval and confirmation.

6. No proposal or question regarding minutes or progress with matters contained therein, except a proposal relating to the accuracy of the minutes, may be allowed.

7. The minutes of a meeting must, if in order, be approved by way of confirmatory resolution at the next ordinary meeting of the council or committee of the council, as the case may be.

8. Where minutes of a previous meeting of the council or committee of the council are amended at a meeting referred to in sub-rule (7) due to inaccuracy, then the amending council or committee resolution shall be quoted in full in the amending resolution.

9. The chairperson of the meeting must sign the minutes upon confirmation thereof. If the minutes are written on loose sheets, each sheet must be signed.

10. 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.

11. 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.

12. The Municipal Manager must make, or cause to be made, a summary of the proceedings and evidence given at a public hearing and submit same to the first ordinary meeting of the council held after the hearing in question.

49. Declaration of personal and pecuniary interest

1. A councillor wishing to declare a personal or pecuniary interest in terms of item 5 of the code of conduct in any matter before a meeting, must do so

when the chairperson indicates that the relevant item in the agenda is ready for debate but before any debate on such item takes place.

2. No councillor may speak for more than five minutes on the question whether or not his or her interest in any matter before a meeting is so trivial or remote or irrelevant as to render a conflict of interests unlikely.

3. Any declaration by a councillor in terms of this rule must be recorded in the minutes of the meeting.

50. 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, shall be as follows:

- a) Official Notice
- b) Opening
- c) Applications for leave of absence
- d) Election of Mayor/Speaker
- e) Motion of congratulations by the Municipal Manager
- f) Motions of congratulations by councillors
- g) Acceptance speech by the Mayor/Speaker
- h) Confirmation of type of municipality
- i) Appointment of members of section 79 -committees
- j) Appointment of chairpersons of section 79 -committees
- k) Designation of Mayor for purposes of the Finance Management Act, if necessary
- l) Election of representatives in the district municipality
- m) Designation of full-time councillors
- n) Appointment of members of section -79 committees
- o) Election of representative in public bodies or entities, if applicable
- p) Review of language policy
- q) Review of delegated powers
- r) Closure

NXUBA LOCAL MUNICIPALITY: RULES OF ORDER**51. Order of business at Ordinary council meetings subsequent to the general election**

1. The order of business at an ordinary council meeting subsequent to the first meeting, shall be as follows:-

1. Official notice of the meeting
2. Opening and Welcoming
3. Application for leave of absence
4. Apologies
5. Communication of statement by the Mayor/Speaker
6. Disclosure of interest by councillors and officials relating to any item
7. Adoption of the minutes of the previous meetings
8. Status report on the implementation of council resolutions
9. Recommendations from the council committees
10. Reports by Mayor/Speaker
11. Report by the Whip of the ruling party
12. Report by the Municipal Manager
13. Motions or proposals deferred from previous meetings
14. New Motions or Petitions
15. Minutes of the ward committee meetings
16. Closure

2. The whip of the ruling party may, at any time during the proceedings of the council move, as a motion of course, that any item appearing on the agenda shall have precedence and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion, and if carried, such item shall have precedence accordingly.

52. Order of business at section 79 - committee meeting

The order of business at an ordinary meeting of a section 79 -committee shall be as follows:-

1. Official notice of the meeting
2. Opening and Welcoming
3. Applications for leave of absence
4. Disclosure of interests
5. Minutes of the previous meeting
6. Resolution register and implementation thereof
7. Matters deferred from the previous meeting
8. Reports from the Council
9. Report from the Chairperson of the MPAC
10. Closure

53. Quorum and decision making

1. A majority of the members of the council or a committee must be present before a decision on any matter before them may be adopted.

2. No decision may be adopted unless the council or a committee has sufficient information before it to take an informed decision. Unless a compelling reason exists for a verbal report, such information must be contained in a written report.

3. Where a verbal report is submitted to the council or a committee, the minutes of such meeting shall record the contents of such report in detail.

54. Voting at council and committee meetings

1. Voting in a council or committee shall be by show of hands, unless a councillor requests a secret ballot on any question.

2. After the chairperson has declared the result of a vote, a councillor may demand that his or her vote against the decision be recorded or that a division on voting take place.

3. The fact that a councillor has requested that his or her vote be recorded against a decision shall be recorded in the minutes of the meeting.

4. An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of that result.

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55. Calling a division

1. When a division is called, all entrances to the venue of the meeting must be closed and no councillor may leave or enter such venue after the entrances have been so closed until the result of the division is declared.
2. Immediately after the closure of the entrances to the venue, the chairperson of the meeting must repeat the motion or proposal, put the motion or proposal to the vote and ensure that the Municipal Manager records the vote of each councillor either in favour of or against such proposal or motion individually on a division form to be provided by the Municipal Manager for this purpose.
3. The chairperson must declare the result of the vote after all the councillors have been polled in the manner referred to in sub-rule (2).
4. When a division is called, every councillor must vote for or against the proposal or motion in respect of which the division has been called.
5. The result of the vote must be recorded in the minutes of the meeting and such record will be conclusive evidence of the result in question.

56. Voting by secret ballot

1. A request in terms of rule (44) 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:

Mark vote by means of X	
for the proposal	
against the proposal	

3. Immediately after the request that a secret ballot be held has been seconded, the Municipal Manager must give each councillor present at the meeting a ballot paper. All ballot papers issued to councillors shall be of the same size and colour.
4. Upon receipt of a ballot paper, a councillor must indicate his or her vote by clearly marking thereon with an X whether or not he or she is for or against the proposal concerned whereupon he or she must fold the ballot paper in half and hand it to the Municipal Manager.

5. When all the councillors present and voting have handed their ballot papers to the Municipal Manager, he or she 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 the meeting concerned.

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.

57. Equality of votes

1. Unless a specific majority had been prescribed by law in respect of any matter or when a secret ballot is conducted or when expressly stated otherwise in these rules and orders, the chairperson of a meeting may, in addition to his or her deliberative vote, cast a casting vote where there is an equality of votes on any question before a meeting.

2. Should there be an equality of votes after a division has been called and the chairperson refuses to use his or her casting vote, the matter must be referred back to the responsible section 79 -committee for consideration or reconsideration, as the case may be.

3. Should there be an equality of votes after a secret ballot has been conducted, the matter must be referred back to the responsible section 79 - committee for consideration or reconsideration as the case may be.

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 responsible section 79 - committee for reconsideration.

58. Closing of meetings

1. Recognizing the need for transparency and open and accountable government, the council may, with due regard to any provisions to the contrary in these standing rules and orders or any other law, resolve to close any part of a meeting to 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 standing rules and orders; and
- b) if the matter in respect of which the proposal has been made is a matter which concerns debating, considering or making public-

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- (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 and buildings;
 - (iv) the intention of the municipality to purchase land and buildings;
 - (v) any strategy to be used in defence of or in 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 previous meeting held in closed session.

3. Notwithstanding anything to the contrary in these standing rules and orders, the council may not exclude the public and media from a council meeting at which the under-mentioned matters are being considered or are to be resolved-:

- a) a draft by-law being tabled in the council;
- b) a budget being tabled in the council;
- c) the municipality's draft integrated development plan or any amendment to such plan;
- d) the municipality's draft performance management system, or any amendment of or to such system;
- e) a decision to enter into a service delivery agreement in terms of section 76(b) of the Systems Act;
- f) a rates policy in terms of section 3 of the Property Rates Act; and
- g) any other matter which is prescribed by regulation.

4. The proceedings of a section 79 -committee shall be held in closed session and it shall not be competent for such committee to hold a meeting which is open to the public or the media.

59. Procedure for closing meetings

1. A councillor may, with due regard to the provisions, 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 standing 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 submission, state the reasons for the proposal.

4. The Mayor/speaker must, if he or she does not reject a proposal referred to in sub-rule (1), subject same to the vote immediately after the introducer has spoken.

5. If the proposal is carried, the Mayor/speaker must determine when the matter concerned must be debated.

6. When the council resolves to close a part of a meeting and subject to any determination by the Mayor/speaker in terms of sub-rule (5), all members of the public and media and municipal employees present at the meeting, except the Municipal Manager and such employees as the chairperson may require to remain, must leave the meeting and may not return thereto for the duration of the closed proceedings.

7. Notwithstanding sub-rule (6), it will be competent for the Mayor/speaker and chairperson, as the case may be, to request the Municipal Manager to leave a meeting of the council or a committee when any matter directly concerning the Municipal Manager in his capacity as such is about to be debated.

60. Rules governing closed meetings

1. When a meeting is closed, the provisions of these standing rules and orders apply to that meeting.

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2. If a proposal is carried, the further debate on the matter, whether in closed session or in 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 and the chairperson shall make a ruling in this regard.

61. Opening a closed meeting

1. A councillor may, at any time during a closed meeting of the council, 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 submission, state the reasons for the proposal.

4. The Mayor/speaker, if he or she does not reject the proposal referred to in sub-rule (1), must subject same to the vote immediately after the introducer has spoken.

5. If the proposal is carried, the meeting immediately resumes in public and the chairperson shall rule accordingly.

62. Supply of 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 and official agendas containing reports on matters to be dealt with by the council in open session, available to any interested person or registered newspaper at such fee as the council may determine and, failing such determination, free of charge.

2. The Municipal Manager may, and if so instructed by the council, must, make the confirmed minutes (excluding any part of such minutes regarding a matter dealt with and official agendas containing matters to be considered by the council in open session, available in the reference section of a public library in the municipal area.

3. The Mayor/speaker may, with due regard to the provisions of the code of conduct, confidentiality requirements and the powers delegated to him or her, hold media conferences and briefings and issue media statements.

4. The Municipal Manager may, in respect of any matter included in the official agenda of a meeting of the council to be held in open session or the

confirmed minutes of a meeting of the council held in open session, issue media statements and convene media conferences and briefings provided that, before doing so, the Municipal Manager shall advise the Mayor/speaker of his or her intention to do so.

5. A Head of department may, in consultation with the Municipal Manager, issue media statements and call media conferences in respect of any matter administratively dealt with by his or her department.

Chapter 3

DEPUTATIONS, PETITIONS, OBJECTIONS, REPRESENTATIONS AND QUESTIONS

63. Deputations

(1) Any person or body of persons (hereinafter referred to as the "deputation") who or which wishes to obtain an interview with the council or a committee of the council, must lodge a written application for such interview with the Municipal Manager. The application must state the representations the deputation wishes to make and also the name of the leader of such deputation.

(2) The Municipal Manager must submit the application to the :-

a) Mayor/speaker in the case of an application for an interview with the council;

b) chairperson, in the case of an application for an interview with a committee-

who may grant or refuse the application or request such additional information from the applicant as they may deem necessary before considering same.

(3) Whenever the Mayor/speaker or chairperson, as the case may be :-

(i) grants an interview, he or she must determine the date, time and venue for the interview and the size of the deputation that may attend the interview; or

(ii) refuses an application, he or she must inform the Municipal Manager thereof and supply reasons for such decision.

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- (4) The Municipal Manager must inform the applicant or the leader of the deputation of a decision in terms of sub-rule (3).
- (5) If the subject matter of an application in terms of sub-rule (1) falls within the terms of reference of a committee, the Mayor/speaker may direct that the chairperson of the relevant committee consider the application.
- (6) If a committee conducts an interview and it does not have the power to dispose of the matter or matters raised by the applicant or deputation, as the case may be, the committee must submit its report and recommendations to the council.
- (7) During an interview, only the leader of the deputation may address the meeting except when a councillor asks a question whereupon any member of the deputation may respond thereto.
- (8) The applicant or members of a deputation, as the case may be, must withdraw from the meeting after the interview has been completed and may not be present in such meeting whilst the council or committee concerned considers the matter or matters raised by the applicant or deputation.
- (9) Unless otherwise provided in these standing rules and orders, any matter raised by an applicant or deputation shall be dealt with by the council or a committee in accordance with the normal administrative and decision-making processes of the council or relevant committee, as the case may be.

64. Petitions

- (1) A councillor must submit a petition received by him or her to the Mayor/speaker.
- (2) The Municipal Manager must inform the Mayor/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 Mayor/speaker must be referred to the committee or committees which has or have the authority to consider the matter or matters raised therein.
- (4) If the committee or committees to which the petition has been referred does not or do not have the power to dispose of the matter or matters raised therein, the committee or committees concerned must submit its or their report and recommendations to the council.

65. 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 standing rules and orders to the contrary, the Mayor/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 to enable councillors to ask questions with regard to the audit report and audit findings.

66. Objections and representations

- (1) Whenever the municipality invites public comment, representations or objections with regard to any proposal initiated by or before the council or in respect of a draft resolution the council has adopted, the Municipal Manager must designate a staff member who will be responsible for the receipt of such comment, representations or objections.
- (2) The staff member 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 same to the relevant Head of department.
- (3) The Head of department must consider the summary and submit it, together with his or her report and recommendations to the Municipal Manager who must refer it, together with his or her comments, to the responsible committee.
- (4) The responsible committee must consider the aforesaid summary and report and recommendations and submit the matter to the council together with its recommendations.
- (5) The council shall consider the submission received from the aforesaid committee at its first meeting ensuing the date of submission.
- (6) The Municipal Manager shall, in a manner provided in these standing rules and orders, make public the resolution adopted by the council in respect of any matter referred to in sub-rule (1).

67. Questions of which notice had been given

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- (1) A councillor may, at any time, submit to the Municipal Manager a written question he or she intends to ask during a meeting of the council or a committee of which he or she is a member, provided that such question must be submitted to the Municipal Manager at least ten working days' before the meeting where the question will be asked. A councillor may also request the Municipal Manager to assist him or her to formulate the relevant question.
- (2) The Municipal Manager must immediately upon receipt of a question in terms of sub-rule (1), provide a copy thereof to the responsible Head of department and instruct him or her to prepare a reply to the question. The Municipal Manager may also direct a Head of department to which he or she has sent the question to consult with any other Head of department before he or she prepares the reply.
- (3) Provided the question had been received at least ten working days' before the scheduled date of the meeting where it will be asked, the Municipal Manager must ensure that the question and the answer thereto is included in the agenda for the meeting concerned.
- 68. Questions during meetings**
- (1) A councillor may, at a meeting of the council or a committee of which he or she is a member, ask a question regarding a matter arising from or pertaining to an item contained in the agenda or 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 on the question or the answer thereto is allowed.
- (4) If the answer to the question is unclear to the councillor who asked it, he or she may ask for, and is entitled to, an explanation of the answer.
- (5) If the question is answered, the councillor 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 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.

CHAPTER 4

MOTIONS

69. Motion must be in written form

- (1) A councillor may place a matter on the agenda of a committee of which he or she is a member or of the council, subject to sub-rule (8), by submitting a written motion to the Municipal Manager.
- (2) Every motion must be relevant to the administration of or conditions in the municipality or must deal with a matter in respect of which the council has jurisdiction.
- (3) Every motion must be in writing and be signed and dated by the councillor submitting it.
- (4) A motion must be submitted to the Municipal Manager at least 10 days' before the meeting at which it will be introduced.
- (5) The Municipal Manager must keep a register in which all motions received from councillors must be recorded. Motions must be dated upon receipt and be numbered consecutively.
- (6) Motions must be included in the agenda for the meeting at which they will be considered in the order in which they were received. A motion amending another motion must, however, be entered in the agenda immediately after the latter motion, irrespective of the date it was received, provided that such date shall not be less than 10 days' before the meeting at which it will be introduced.
- (7) Notwithstanding sub-rule (6), the Mayor/Speaker may authorize the consideration at a council meeting of a motion in respect of which 10 days' prior notice was not given, subject to sub-rule (8), in circumstances where the subject matter of such motion is of an urgent nature and in the interests of the municipality.

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- (8) A motion submitted by a councillor may only be considered by the council without it first being considered by the responsible committee with the approval of the chairperson of such committee and provided that such chairperson is of the opinion that the subject matter of such motion is of an urgent nature and in the interests of the municipality.

70. Limitation and consideration of motions

- (1) With due regard for the provisions of sub-rule (4), a motion must be included in the agenda for the first ordinary meeting next ensuing of the council or the committee concerned.
- (2) Only one motion of a councillor may be considered at a meeting.
- (3) If the introducer of a motion is absent during the meeting when the motion is put to the order, it is deferred to the ensuing ordinary meeting of the committee or council, as the case may be.
- (4) Any motion which contemplates the repeal or amendment of a resolution taken during the preceding three months or has the same purport as a motion that was rejected during the preceding three months, may not be included in the agenda, unless it has been signed by at least three councillors in addition to its introducer.
- (5) A motion may only be considered by the council, as the case may be, if it is duly seconded.

71. 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 either be granted or denied without discussion.

72. Right of introducer of motion to speak and reply

The introducer of a motion in terms of rule (59) has the right, if the motion had not been rejected or withdrawn, to introduce the motion and to reply.

73. Motion or proposal regarding the budget

1. The Mayor/Speaker 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 which may not be closed to the public and the media and of which, at least ninety-six hours' prior notice has been given.

2. The Mayor/Speaker must, in addition to or supplementary to any information required in terms of the Finance Management Act, address the following matters when he or she introduces the draft budget:-

- (a) the expected financial performance of the municipality for the financial year during which the draft budget is tabled and the reasons therefor;
- (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 compilation of 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 gives effect to the municipality's integrated development plan;

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(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 has ended. When the debate has ended and the mayor has replied to any proposals made during such debate, such proposals shall be 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 amends the draft budget when it is carried.
- (5) A proposal that will cause a decrease in expected revenue does not amend the budget until and unless a corresponding saving in expenditure is proposed and carried. If such proposal is not forthcoming, the meeting shall adjourn.
- (6) A proposal that will cause an increase in expected expenditure does not amend 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 shall adjourn.
- (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 is referred back to the executive committee for reconsideration and the meeting adjourns.
- (8) At the continuation meeting any proposals contemplated in sub-rule (5) or (6) and the comment of mayor thereon must be debated.
- (9) The Mayor/speaker must put each proposal referred to in sub-rule (7) to the vote when the debate in terms of sub-rule (8) has ended. Should any such proposal be carried, the draft budget is amended 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) has ended, the Mayor/speaker must put the amended draft budget to the vote as a whole. If the amended draft budget is adopted, the budget is approved.

74. Motion or proposal regarding legislation

A motion or proposal before the council affecting the repeal, drafting or amendment of municipal by-laws and any other legislation affecting the municipality must, before the council considers it, be referred to the executive committee for consideration and the submission of a report including recommendations thereon.

75. Eligible proposals

1. With due regard to the applicable provisions, only the following proposals may be made during the discussion of any motion, proposal or matter contained in an agenda, namely:

- (a) that the motion or proposal be amended;
 - (b) that the matter be referred back to the relevant committee for further consideration;
 - (c) that consideration of the matter be deferred;
 - (d) that the debate be suspended;
 - (e) that the matter be put to the vote;
 - (f) that the meeting continue to the next matter.
- (2) Any proposal in terms of sub-rule (1) may only be subjected to the vote if it has been properly seconded.

76. Amendment of the motion or proposal

- (1) A proposal that a motion or proposal (hereafter the "original motion") be amended, may only be made by a councillor during his or her speech on the original motion.
- (2) No councillor may make more than one proposal for the amendment of the same original motion.
- (3) A proposal in terms of sub-rule (1) must be relevant to the original motion and the chairperson must clearly repeat it to the meeting before it is put to the vote.
- (4) With due regard to 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) has been made, no other proposal may be made until its introducer has addressed the meeting. The councillor who made the proposal may address the

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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) has been made and its introducer has spoken in terms of sub-rule (5), address the meeting on that proposal without detracting 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 to an original motion has been introduced, such amendments must be put to the vote in the order that 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.

77. Referring the matter back

- (1) A proposal that a motion or proposal (hereafter the "original motion") be referred back, may only be made by a councillor during his or her speech on the original motion.
- (2) A proposal in terms of sub-rule (1) may only be made during a council meeting in the case of a recommendation by the executive committee. A proposal in terms of sub-rule (1) may only be made during an executive committee meeting in the case of a recommendation by a section 79 committee.
- (3) If a proposal in terms of sub-rule (1) has been made, no other proposal may be made until its introducer has addressed the meeting. The councillor who made the proposal may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) has been made and after its introducer has spoken in terms of sub-rule (3), address the meeting on that proposal without detracting 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 has addressed the meeting. If such proposal is carried,

the debate on the recommendation must end and the meeting proceeds to the next matter.

78. Deferring consideration of the matter

- (1) A councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may, at the end of a speech on the original motion, propose that the matter be deferred.
- (2) The councillor who made the proposal in terms of sub-rule (1) may address the meeting for 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) has been made and its introducer has spoken in terms of sub-rule (2), address the meeting on that proposal without detracting 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 matter must, if that proposal is carried, be included in the next report of the executive committee. If the proposal in terms of sub-rule (1) concerns a recommendation of a section 79 -committee, the matter must, if that proposal is carried, be included in the next report of the committee concerned to the executive 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.

79. Suspending a debate

- (1) A councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may, at the end of a speech on the original motion, propose that the debate be suspended, provided that no councillor may, during any meeting, move or second more than one proposal that a debate be suspended.
- (2) The councillor who made the proposal in terms of sub-rule (1) may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.

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- (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) has been made and after its introducer has spoken in terms of sub-rule (2), address the meeting on that proposal without detracting 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 on 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 has been suspended, must be placed first on the list of motions in the next agenda of the council or committee concerned, as the case may be.
- (7) At the resumption of a suspended debate, the introducer of the suspension motion must address the meeting first.
- 80. Putting the matter to the vote**
- (1) A councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may, at the end of a speech on the original motion, propose that the matter be put to the vote,
- (2) The councillor who made the proposal in terms of sub-rule (1) may address the meeting for 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) has been made and its introducer has spoken in terms of sub-rule (2), address the meeting on that proposal without diminishing from his or her right to reply in the event of the proposal being 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 to reply before the matter is put to the vote.
- 81. Proceeding to the next business**
- (1) A councillor who did not participate in the debate on a motion or proposal (hereafter the "original motion") may, at the end of a speech about the original motion, propose that the meeting proceed to the next business.
- (2) The councillor who made the proposal in terms of sub-rule (1) may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of sub-rule (1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
- (4) The introducer of the original motion may, when a proposal in sub-rule (1) has been made and its introducer has spoken in terms of sub-rule (2), address the meeting on that proposal without detracting 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 on or before a particular date.
- (2) If the proposal in terms of sub-rule (1) is carried, the matter under discussion lapses without further discussion.
- CHAPTER 5**
COUNCILLORS' DECLARATION OF FINANCIAL INTEREST,
RESIGNATION AND DESIGNATION AS FULL-TIME COUNCILLORS
- 82. Applications to obtain a financial interest in council business**
- (1) A councillor must lodge a written application with the Municipal Manager to obtain the council's consent in terms of item 6(2) of the code of conduct.

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| <p>(2) The Municipal Manager must submit an application in terms of sub-rule (1) to the council at the next ensuing meeting.</p> <p>(3) A councillor who submits an application in terms of sub-rule (1) may not be present during the consideration of his or her application by the council.</p> <p>(4) The council may not close its meeting whilst it considers an application in terms of sub-rule (1).</p> <p>(5) The council may grant or refuse an application received in terms of sub-rule (1) and may impose such conditions as it considers necessary if it approves such application.</p> <p>(6) Whenever the council refuses an application in terms of sub-rule (1), it must state the reasons for its refusal and such reasons must be recorded in the minutes of the meeting.</p> <p style="text-align: center;">83. Disclosure of declared interests</p> <p>(1) The Municipal Manager must compile a register of the financial interests of councillors declared in terms of item 7(1) of the code of conduct.</p> <p>(2) As soon as the Municipal Manager has compiled the register referred to in sub-rule (1), he or she must submit it to the council.</p> <p>(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.</p> <p>(4) A councillor who has declared an interest that is recorded in the register may not be present during the consideration of the matter.</p> <p>(5) In the event of the council not having a quorum after the withdrawal of councillors in terms of sub-rule (4), the council shall appoint an ad-hoc committee with delegated power to make the determination referred to in sub-rule (3).</p> <p>(6) Any interest declared in terms of this rule that has not been made public, is confidential.</p> | <p>(1) A councillor may, by written notice signed by him or her and delivered to the Municipal Manager, resign as councillor or from any office he or she holds.</p> <p>(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 concerned in that regard, provided that he or she must, within 24 hours after such a declaration, resign in writing. A declaration in terms of this sub-rule may not be withdrawn.</p> <p>(3) If the resignation is that of the Mayor/speaker, the council must, as soon as the resignation of the Mayor/speaker in terms of sub-rule (2) had been reduced to writing, signed and given to the Municipal Manager, take steps, in accordance with these standing rules and orders, to elect a new Mayor/speaker.</p> <p>(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.</p> <p>(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 Mayor/speaker, except when the resignation or vacancy is that of the Mayor/speaker, in which case such report shall be made to the council.</p> <p>(6) The Municipal Manager must also ensure that any resignation or a report on any vacancy arising in another manner is contained in the agenda for the next ordinary council meeting after the vacancy arose.</p> <p>(7) The council must, at the meeting where a vacancy in an office of the council is reported and, except in the case of the Mayor/speaker, elect from amongst the councillors, a successor for the councillor who caused the vacancy. A councillor elected to an office in terms of this sub-rule serves for the unexpired term of his or her predecessor's term of office.</p> <p>(8) This rule does not affect the application of any law regulating the election of councillors and/or the holding of by-elections.</p> |
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84. Resignation of councillors and vacancies in offices**85. Designation of full-time councillors**

Before the council considers designating any councillors in offices identified by the MEC as offices to be filled by full-time councillors, it must consider a report from the Municipal Manager regarding the filling of such offices, provided that the Municipal Manager must submit such a report at the first meeting of the council after a general election of councillors.

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86. Report of the Municipal Manager with regard to full-time councillors

1. A report must deal with:

- (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 full-time councillors;
- (c) proposed powers that could be delegated to full-time councillors per office;
- (d) the reasons not to delegate any such power or function to a staff member of the municipality;
- (e) the available financial and administrative resources of the municipality to support the work of full-time 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 full-time councillors may put on the incumbents;
- (h) the need for coordination of decision-making;
- (i) the need for the regular availability of full-time councillor/s to interview the public and visitors to the municipality;
- (j) the need for close political supervision over and accountability for the administration;
- (k) the likely improvement or deterioration of the relationship between the council and the administration as a result of the designation of full-time councillors;
- (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 full-time councillors must perform;
- (o) the likely improvement or deterioration in the quality and speed of decision-making if an office is not a full-time office;
- (p) and any other relevant matter.

(2) The report must contain recommendations with regard to:

- (a) the working hours of full-time councillors.
- (b) arrangements with regard to the provision of office facilities and equipment and secretarial support to full-time councillors and a proposed budget for such facilities and services where they are inadequate;
- (c) the powers that may be delegated to each full-time councillor;
- (d) the format, frequency and framework for reports on the activities of full-time councillors and the exercise of their delegated powers;
- (e) the specification and clarification of the roles and responsibilities of full-time councillors, the Municipal Manager and Head of departments 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.

87. 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.

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- 2.** A councillor who is designated as a full-time councillor may apply for the council's permission to undertake other paid work (in this rule "private work").
- 3.** An application by a full-time councillor to undertake private work must be lodged in writing with the Municipal Manager and must state the following:
- a) the nature of the private work such councillor wishes to undertake;
 - b) an estimation of the demands such work will make on the time and availability of such councillor; 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 at which an application by a councillor to undertake private work is considered, may not be closed to the public and the media.
- 6.** The applicant councillor may not be present at a meeting during the discussion and consideration of his or her application, provided that the Mayor/speaker may, during such meeting, request the councillor concerned to supply such additional information as the council may require in connection with the application. Whenever such a request is made to the relevant councillor, he or she may be recalled to the meeting in order to supply the required information orally after which he or she should withdraw from the meeting.
- 7.** The council may, notwithstanding sub-rule (6), before it considers the application by the applicant councillor, 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 by the councillor concerned.
- 8.** The granting of permission to a full-time councillor to undertake private work shall be valid for a period of twelve months only provided that this sub-rule shall not prevent the relevant councillor from submitting a new application to continue with his or her private work for a further period of twelve months after the expiry of the initial period.
- 9.** Any permission granted to a full-time councillor to undertake private work shall be subject to the under-mentioned 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 performance of the relevant councillor as a councillor nor intrude upon his or her official functions and duties;
 - (c) no appointments or other arrangements in connection with private work may be made or conducted by the councillor concerned during the working hours contemplated in sub-rule (1);
 - (d) the councillor concerned 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 the private work of the relevant councillor;
 - (f) private work may not result in the relevant councillor contravening or disobeying the provisions of the code of conduct;
 - (g) the relevant councillor may not use his or her position as a councillor to recruit private clients; and
 - (h) any such other conditions as the council may determine.
- 10.** Any permission in terms of this rule does not exempt the councillor concerned from complying with the code of conduct neither is such permission a defence against any allegation of a breach of the code.
- 11.** 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 relevant councillor's duties as a councillor and those associated with his or her private work.
- 12.** The council may, by notice to the councillor concerned, withdraw its permission enabling such councillor to perform private work if there was a material breach of the conditions stipulated in sub-rule (9) or if a conflict of interest arises as contemplated in sub-rule (10). Such a notice must contain

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the reasons for the withdrawal and must contain details of the breaches of the conditions that occurred.

13. Before the council issues a notice in terms of sub-rule (12) it must allow the councillor concerned an opportunity to state his or her case in defence of the allegations against him or her.

14. Any refusal of an application or a withdrawal of permission already granted is final and binding on the councillor concerned.

15. An application that has been refused may only be reconsidered after expiry of a period of six months from the date of the resolution refusing such application, provided the councillor concerned submits a new application for such permission. A new application for permission to undertake private work may, however, not be considered within six months after permission to perform such work had been withdrawn in terms of sub-rule (12).

88. Leave of full-time councillors

1. A full-time councillor (including the Mayor/Speaker) is entitled to:-

- (a) 21 working days vacation leave with full remuneration after every completed year of service as a full-time councillor. 15 consecutive days' vacation leave must be taken within six months after the end of each such year;
- (b) 10 working days sick leave with full remuneration during every completed year he or she occupied a full-time office, provided that the council may, in its discretion, grant more sick leave to such a councillor; and
- (c) such other leave with or without remuneration as the council may decide.

2. A full-time councillor may not encash vacation leave to his or her credit.

3. A full-time councillor must apply for leave of absence for any period that he or she will not be or has not been available in the municipality during the working hours.

3. An application for leave of absence in terms of sub-rule (1) must be in writing on the prescribed form and must be submitted to the Municipal Manager.

4. The Municipal Manager must submit an application in terms of sub-rule (4) to the council for consideration at the first opportunity.

5. The council must approve an application for leave submitted in terms of sub-rule (1) provided that, in respect of an application for urgent sick leave

submitted by a full-time councillor other than the Mayor/speaker, such application may be approved by the Mayor/speaker and be subsequently submitted to the council for confirmation. An application for urgent sick leave submitted by the Mayor/speaker may be approved by the Municipal Manager and be subsequently submitted to the council or confirmation.

6. In respect of any application for sick leave by the a full-time councillor, including the Mayor/speaker, the council shall be entitled to seek and receive such medical reports as it may deem necessary to substantiate such application.

7. If the council approves an application for leave by the Mayor/speaker, it must elect an acting Mayor/speaker for the period of the absence of the Mayor/speaker. Such acting Mayor/speaker shall not be entitled to the payment of any acting allowance or increased remuneration arising from such election.

8. Leave to the credit of a full-time councillor when he or she vacates office may not be encashed nor paid out.

CHAPTER 6

REMOVAL OF OFFICE-BEARERS AND MEMBERS OF COMMITTEES FROM OFFICE

89. Removal of Mayor/Speaker

1. A councillor (hereafter called "the initiator") may by written motion, which must be supported by at least three other councillors, move that the Mayor/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 thereof must be delivered to the Municipal Manager within seven days' from transmission.

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 61, not be withdrawn.

4. The Municipal Manager must, upon receipt of a motion in terms of sub-rule (1), forthwith send a copy thereof to the Mayor/Speaker.

5. Unless the Mayor/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. The date of such a special meeting may not be less than fourteen and not more than twenty-one days' from the date the Mayor/speaker received a copy of the motion concerned from the Municipal Manager.

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6. At least seven days' notice of a meeting in terms of sub-rule (5) must be given to every councillor.

7. If the Mayor/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 proceed.

8. The meeting may not be closed to the public nor the media before a vote has been taken on a motion submitted in terms of sub-rule (1).

9. The Municipal Manager presides over the proceedings on a motion submitted in terms of sub-rule (1) but he or she may not vote thereon.

10. The Mayor/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 Mayor/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 Mayor/speaker is carried if a majority of the councillors of the municipality vote in favour of it.

11. The Municipal Manager must put the motion to the vote after the debate thereon has ended.

(12) If the Mayor/speaker, at any time during the proceedings, but before the motion is put to the vote, makes a declaration, the proceedings shall discontinue immediately, the motion shall lapse and the council shall proceed to elect an acting Mayor/speaker.

(13) If the motion is carried, the Mayor/speaker shall be removed from office with immediate effect and the council shall proceed to elect an acting Mayor/speaker.

(14) If the motion is defeated, no motion forwarding the same allegations may be submitted within the ensuing three months unless the council directs otherwise.

(15) The acting Mayor/speaker referred to in sub-rules (12) and (13) shall be elected in accordance with the Structures Act.

(16) The Municipal Manager shall, as soon as possible, after the removal of the Mayor/speaker in terms of this rule, arrange for the election of a new Mayor/speaker in terms of rule (19) of these standing rules and orders.

90. Removal of members of section 79 – committees

(1) A councillor (hereafter called "the initiator") may, by written motion, which must be supported by at least three other councillors, move that one or more members, including the chairperson, of a section 79 -committee (hereafter referred to as "the committee") be removed as members of such a committee. 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 thereof must be delivered to the Municipal Manager within seven days' from transmission.

(2) If the motion is not submitted in respect of all the members of the committee, it must state the names of the members who must be removed.

(3) The motion must contain a brief summary of the reasons for the motion. If the motion is submitted 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.

(4) A motion in terms of sub-rule (1) may, despite the provisions of rule 61, 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 Mayor/speaker and the members of the committee concerned.

(6) The Mayor/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 Mayor/speaker receives a copy of the motion from the Municipal Manager.

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- (7) At least seven days' notice of a meeting in terms of sub-rule (6) must be given.
- (8) 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 (6) takes place, the motion lapses and the meeting does not proceed. If one or more, but not all, of the members of the committee or any member, 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 insofar as they are concerned but the meeting proceeds in respect of any member who did not resign.
- (9) The meeting referred to in sub-rule (6) may not be closed to the public nor the media before a vote had been taken on the matter.
- (10) The Mayor/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 members in respect of whom the proceedings take place, have 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 are 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 affected councillor is carried if a majority of the councillors of the municipality vote in favour thereof.
- (12) After the debate has ended, the Mayor/speaker must put the motion to the vote. The motion is put to the vote separately in respect of each of the members to which it relates.
- (13) If any member 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, makes a declaration, the debate is discontinued immediately in respect of him or her and the motion lapses in respect of him or her.
- (14) Every member in respect of whom the motion is carried is removed from office with immediate effect.
- (15) As soon as the proceedings have been concluded, the council shall proceed to appoint new members to fill the vacancies in the committee arising from the application of this rule.
- (16) A member appointed as a member of the committee in terms of sub-rule (15) serves, subject to the council's right to remove him or her from office as a member of the committee, for the unexpired term of office of his or her predecessor.
- (17) If the motion is defeated, no motion naming a member in respect of whom it had been defeated and containing the same allegations, may be submitted within the ensuing three months unless the council directs otherwise.

CHAPTER 7

LANGUAGE POLICY OF THE MUNICIPALITY

91. 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 86 and, where such policy does not exist, instruct the Municipal Manager to develop a draft policy and submit it to the council for consideration.

92. 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;

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- (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.

93. 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 municipal area.
- (f) The right of everyone to use the language of their choice.
- (g) The economical, efficient and effective use of resources.

94. 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 83.
- (2) The council must review its language policy upon receipt of a written request signed by at least one-third of the councillors requiring such a review.
- (3) A request in terms of sub-rule (2) must state the reasons for such request and must contain proposals for any amendment to the

existing language policy, taking into account the factors referred to in rule 85.

- (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 Mayor/speaker and must ensure that the request is contained in the agenda for the first ordinary council meeting next ensuing.
- (6) The Mayor/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 8

APPLICATION OF THE CODE OF CONDUCT

95. Investigating suspected breaches of the code

- (1) Whenever a written or oral allegation is made to the Municipal Manager or he or she has a reasonable reason to believe that a councillor has contravened or failed to comply with any provision of the code of conduct (in this rule referred to as the "code"), he or she must report such allegation in writing to the Mayor/speaker. If such an allegation is made to a Head of department, he or she must report same to the Municipal Manager.
- (2) Upon receipt of a report in terms of sub-rule (1) and when the Mayor/speaker has reason to believe that a provision of the code had been breached, he or she must-
 - (a) investigate the facts and circumstances of the case; and
 - (b) give the councillor concerned a reasonable period, which may not exceed fourteen days, within which to respond in writing to the alleged breach.
- (3) When performing an investigation in terms of sub-rule (2), the Mayor/speaker may examine any official records and documents of the municipality and interview any person.
- (4) As soon as the Mayor/speaker has completed the investigation referred to in sub-rule (3), he or she must submit -

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| <p>(a) a written report, which must include his or her finding and a recommendation; and</p> <p>(b) the response of the councillor, if any -</p> <p>to the Municipal Manager for inclusion in the agenda of the first ordinary council meeting next ensuing.</p> <p>(5) The Municipal Manager must immediately deliver a copy of the report referred to in sub-rule (4) to the councillor concerned.</p> <p>(6) If the councillor concerned fails to respond to the allegation within fourteen days after being invited by the Mayor/speaker to do so in terms of sub-rule (2), the Mayor/speaker may submit his or her report to the council without such comment.</p> <p>(7) The Mayor/speaker makes a finding on a preponderance of probabilities.</p> <p>(8) If the Mayor/speaker finds that the councillor concerned has breached the code, he or she must recommend that:</p> <p>(a) the council apply to the MEC to suspend such councillor for a specified period of time; or</p> <p>(b) that such councillor be fined a specified amount; or</p> <p>(c) that a warning valid for a specified period of time, which period shall also be recommended by the Mayor/speaker, be issued to such councillor.</p> <p>(9) Nobody may victimize or threaten any person who gave evidence in an investigation in terms of this rule.</p> | <p>(4) After the Mayor/Speaker has introduced his or her report, the Municipal Manager must afford the councillor concerned the opportunity to formally reply to the allegations, finding and recommendation by the Mayor/Speaker.</p> <p>(5) As soon as the councillor concerned has spoken, the matter is debated by the council in terms of these rules.</p> <p>(6) Despite any provisions to the contrary in these standing rules and orders, the councillor concerned has a right to -</p> <p>(a) reply to all the allegations made during the debate and before the Mayor/speaker replies;</p> <p>(b) examine any documents submitted by the Mayor/Speaker or any other councillor and submit documents and other evidence in his or her defence; and</p> <p>(c) call witnesses and cross-examine any witness called K6by the Mayor/Speaker.</p> <p>(7) The Mayor/Speaker must, after the debate has ended, reply and propose -</p> <p>(a) that his or her report, finding and recommendation be accepted; or</p> <p>(b) that his or her report and finding and a different recommendation be accepted; or</p> <p>(c) that the council elect a committee to further investigate the matter.</p> <p>(8) A proposal in terms of sub-rule (7) need not be seconded.</p> <p>(9) After the proposal in terms of sub-rule (7) has been made, the Municipal Manager must put the proposal to the vote.</p> <p>(10) If the proposal in terms of sub-rule (7) is -</p> <p>(a) defeated, the matter is discontinued; or</p> <p>(b) carried, the Municipal Manager must forthwith implement the resolution.</p> |
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- 96. Consideration of the Mayor/Speaker's report by the council**
- (1) The Mayor/speaker must vacate the chair during any council meeting when a report in terms of rule (85)(4) is put to order.
- (2) Whenever the Mayor/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 to the public and the media.

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- (11) The Municipal Manager shall ensure that the councillor concerned is provided with a copy of the minutes of the meeting held in terms of this rule.
- 97. Implementing the result of the vote**
- (1) If a proposal in terms of rule (85)(8)(b) is carried and a fine is imposed, the municipal manger must deduct the amount of such fine from the first next payment of the municipality due to the councillor concerned unless such councillor has paid the fine in cash before payment is due to him or her.
- (2) If a proposal in terms of rule (85)(8)(a) is made and carried that the relevant councillor must be suspended or be removed from the council, the Municipal Manager must forthwith make such an application to the MEC.
- (3) If the MEC, on application by the council, suspends the relevant councillor, he or she is, despite any rule to the contrary, deemed to have been absent with leave from any meeting he or she would have been required to attend had he or she not been so suspended.
- 98. 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 is carried; or
- (b) the Mayor/speaker reported in terms of rule (85)(4) that he found that the allegation could not be substantiated and evidence was given during the meeting that the allegation may be true despite the Mayor/Speaker's finding, provided that the Mayor/speaker may not serve as a member of such committee.
- (2) An investigation committee must be constituted in such a way that parties and interests reflected in the council are fairly represented therein.
- (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 also consider the minutes of the meeting referred to in rule (86) during its investigation.
- (5) The accused councillor is entitled to make written submissions to the investigating committee, but the committee is not obliged to request the councillor's written comments on the allegations. The investigating committee must take account of the written response of the accused councillor made and any other submission made by him or her in terms thereof.
- (6) The Municipal Manager must provide such reasonable administrative support as the investigating committee may require.
- (7) As soon as the investigating committee has completed its investigation, it must submit a written report, including its finding and any submission in terms of sub-rule (6), to the Municipal Manager for inclusion in the agenda of the first ordinary council meeting next ensuing. The Municipal Manager must immediately deliver a copy of the report to the councillor concerned.
- (8) The investigating committee makes a finding on a preponderance of probabilities.
- (9) If the investigating committee finds that the councillor concerned has breached the code, it may recommend -
- (a) that the Mayor/Speaker's finding and recommendation; or
- (b) that the Mayor/Speaker's finding be confirmed and make a different recommendation.
- (11) If the investigating committee recommends that -
- (a) the council 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 on the councillor concerned, it must make a recommendation as to the amount of such fine; or
- (c) a warning should be issued to the relevant councillor, it must make a recommendation as to the period during which the warning should apply.

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(12) Nobody may victimize or threaten any person who gave evidence in an investigation in terms of this rule.

99. Consideration of further report by the council

(1) The provisions apply with the necessary changes, to the consideration of a report of an investigating committee, provided that any reference in that rule to the Mayor/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 at the council meeting.

100. Effect of appeal on a resolution

(1) If the relevant councillor appeals against the finding or the penalty of a fine imposed by the council or against both such finding and penalty of a fine imposed by the council before the Municipal Manager has taken steps to recover any such fine from the councillor concerned, the Municipal Manager must defer implementation of the council resolution until the result of the appeal is known.

(2) If the councillor concerned appeals before the Municipal Manager could submit an application to the MEC), the Municipal Manager must defer the implementation of the council resolution until the result of the appeal is known.

101. Breaches of these rules and orders and legislation relating to privileges and immunities

Any alleged breach of the provisions of these standing rules and orders for which a specific procedure and penalty have not been prescribed or of legislation regulating the privileges and immunities of councillors, must be dealt with.

CHAPTER 9 DISSOLUTION OF THE COUNCIL

102. 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 it has 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 Mayor/speaker, executive committee; or

(c) when so directed by resolution of a public meeting of voters'; 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

(d) when section 139 of the Constitution is invoked in respect of the municipality.

103. Procedure for considering the dissolution of the council

(1) Whenever any of the circumstances arise, the Mayor/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 as the case may be.

(2) At least seven days' notice of a meeting in terms of sub-rule (1) must be given.

(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 standing rules and orders, the Municipal Manager presides over the debate of the petition, recommendation, resolution or motion, as the case may be.

(5) The Municipal Manager must subject the petition, recommendation, resolution or motion, as the case may be, to a secret ballot when the debate has ended.

(6) The proposal is carried if two-thirds of the councillors of the municipality vote in favour thereof.

(7) The council is dissolved and all councillors vacate their seats immediately if the proposal is carried.

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CHAPTER 10 COMMITTEES

Part 1: Section 79-committees

104. Report of the Municipal Manager before the establishment of a committee(s)

- (1) The council must, before it establishes and elects the members of section 79 -committees (in this part "committees"), consider a report from the Municipal Manager regarding and proposed committee or committees.
- (2) The Municipal Manager in preparing a report contemplated in sub-rule (1) must consider the need for the proposed committee(s), 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 a staff member 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, 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 sub-rule (2), despite any recommendation that he or she may make that a committee or committees not be established.

105. Consideration of the Municipal Manager's report

- (1) After the council has considered the Municipal Manager's report and decided to establish a section -79 committee or committees, it must -
 - (a) determine the number of committees it wishes to establish if more than one committee is to be established;
 - (b) determine the name of the committee(s);
 - (c) determine the terms of reference of the said committee(s);
 - (d) appoint the members of each committee;
 - (e) appoint the chairperson of each committee.

106. Delegation of powers to committees

- (1) The council may, with due regard to its plenary system of local government and powers specifically reserved for resolution by the council in terms of its system of delegation and any applicable law, delegate any of its powers and duties to a committee.
- (2) The council is, however, not divested of the responsibility concerning the exercise of a power or the performance of the duty entrusted to a committee; and
- (3) The council may vary or revoke any decision taken by a committee, subject to the protection of any vested rights arising from any such decision.

107. Reporting by committees

A section 79 - committee must report to the council in accordance with the directions of the council.

108. Term of office of a committee and filling of vacancies

- (1) The members of a committee are elected, 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 -

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- (a) resigns as a member of the committee;
- (b) is removed from office as a member of the committee ;
- (c) ceases to be a councillor.
- (3) The council must at the earliest opportunity after a vacancy has occurred, appoint another person to serve as member of the committee for the unexpired term of the predecessor's term of office.
- Part 2: Advisory committees**
- 109. Establishment and disestablishment of advisory committees**
- (1) The council may, in terms of this part, at any time, appoint an advisory committee of persons who are not councillors or staff members of the municipality to advise it on any matter within the council's competence.
- (2) When appointing the members of an advisory committee in terms of sub-rule (1), the council shall take gender representivity into account.
- (3) The council may, at any time, disestablish an advisory committee established in terms of sub-rule (1).
- (4) 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.
- 110. Report of the Municipal Manager about a proposed advisory committee**
- (1) The Municipal Manager in preparing a report contemplated in rule (99)(4) 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 cannot be provided by the staff members 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, 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 sub-rule (1) despite any recommendation that he or she may make that the proposed committee not be established.
- 111. Consideration of the Municipal Manager's report**
- After the council has considered the Municipal Manager's report and decided to establish an advisory committee, it must -:
- (a) determine the size of the committee;
- (b) determine the terms of reference of the committee;
- (c) determine the advice it requires 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 on its mandate;
- (h) determine the term of the committee; and

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(j) 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 may be paid.

112. Term of office of members

The members of an advisory committee are appointed for a period determined by the council.

113. 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 by the council from office as a member of such committee.
- (2) The filling of a vacancy in an advisory committee is subject to rule (101)(a).

114. 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 amongst at least the majority of the members present at the meeting.

Part 3: Ad hoc committees

115. Establishment and disestablishment of ad hoc committees

- (1) The council or a 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 which established it; or
 - (b) the council or committee that established it, disestablishes it.

116. Terms of reference of ad hoc committees

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

117. 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 4: Audit Committee

118. Establishment of audit committee

- (1) The council must establish an audit committee provided that this rule and the rules relating to such committee in these standing rules and orders shall not apply in the instance where the council utilizes the services of the audit committee of the district municipality for purposes of its own audit.
- (2) The council must appoint the members of the audit committee on a contractual basis following a transparent recruitment process not later than the second ordinary council meeting after a general election of councillors.
- (3) An audit committee must consist of at least three persons with appropriate experience of whom the majority may not be in the employ of the municipality;
- (4) The audit committee shall appoint one of its members who is not in the employ of the municipality as chairperson of the committee.
- (5) The Municipal Manager, chief financial officer, the head of the internal audit unit and such other staff members as may be nominated by the Municipal Manager shall be ex officio members of the audit committee with no voting rights.
- (6) No councillor may be a member of the audit committee but may attend as an ex-officio member.

119. Status of audit committee

An audit committee established in terms of rule (108) shall be an independent advisory body.

120. Functions of audit committee

- (1) The audit committee must advise the council, the political office-bearers, the accounting officer and the management staff of the municipality on matters relating to:-
- (i) internal financial control and internal audits;

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| <p>(ii) risk management;</p> <p>(iii) accounting policies;</p> <p>(iv) the adequacy, reliability and accuracy of financial reporting and information;</p> <p>(v) performance management;</p> <p>(vi) effective governance;</p> <p>(vii) compliance with the Finance Management Act, the annual Division of Revenue Act and any other applicable legislation;</p> <p>(viii) performance evaluation; and</p> <p>(ix) any other issues referred to it by the municipality.</p> <p>(2) The audit committee must review the annual financial statements to provide the council with an authoritative and credible view of the financial position of the municipality, its efficiency and effectiveness and its overall level of compliance with the Municipal Finance Management Act, the annual Division of Revenue Act and any other applicable legislation.</p> <p>(3) The audit committee must respond to the council on any issues raised by the Auditor-General in the audit report.</p> <p>(4) The audit committee must carry out such investigations into the financial affairs of the municipality as the council may request.</p> <p>(5) The audit committee must perform such other functions as may be prescribed in terms of any applicable law.</p> | <p style="text-align: right;">122. Reports</p> <p>(1) The Audit Committee shall submit a report to the Municipal Manager after each meeting.</p> <p>(2) The Municipal Manager shall submit the report referred to in sub-rule (1) together with his or her comments thereon to the committee responsible for financial matters and, in the event of the council not having appointed section 79 – committees, to the council at the first meeting after receipt of such report.</p> <p>(3) The committee responsible for financial matters shall consider the report referred to in sub-rule (2) and submit it together with its comments and recommendations to the meeting of the council next ensuing.</p> <p>(4) The Municipal Manager must convey to the audit committee the resolutions adopted by the council in response to its report and also the remedial action, if any, authorized by the council in order to address matters that should be addressed by the management of the municipality.</p> <p>(5) The report referred to in sub-rule (1) shall include at least a report on the performance of the municipality on a half-yearly basis.</p> <p style="text-align: center;">123. Powers of audit committee</p> <p>The audit committee may, to the extent necessary for the efficient and effective performance of its functions and achievement of its objects-</p> <p>(a) access and inspect any records, documents and information held otherwise by the municipality or an employee of the municipality;</p> <p>(b) access and inspect any premises on which or from where the activities of the municipality are performed;</p> <p>(c) conduct interviews with the council or any committee thereof and summon any employee of the municipality to appear before it and interview him or her;</p> <p>(d) investigate or cause to be investigated by any employee of the municipality, after consultation with the Municipal Manager, any matter;</p> <p>(e) ensure that effective accounting policies, systems and reporting are implemented and applied; and</p> |
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- 121. Meetings of the audit committee**
- (1) The audit committee shall meet at least four times a year, with authority to convene additional meetings as circumstances may require.
- (2) The committee must hold a meeting prior to the release of the financial statements and should consider the report of the Auditor-General.

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(f) facilitate improvement of the standard of financial reporting.

124. 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 Head of department, direct any employee to assist or appear before the audit committee.

Part 5: Ward committees

125. 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 provided that if the municipality, in terms of its establishment notice, is a type that must establish ward committees, compliance with this part, is compulsory.

(2) For the purpose of making the decision in terms of sub-rule (1), if applicable, the Municipal Manager must submit a report to the council containing the information referred to in sub-rule (3).

(3) The Municipal Manager in preparing a report contemplated in sub-rule (2) 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 organizations within the municipality to participate in decision-making that affects them;

(c) the need to improve access by disadvantaged persons to decision-making systems;

(d) the efficacy of other methods 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 organizations 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 organizations 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.

(5) The executive committee must consider the report and recommendations of the Municipal Manager and submit it, together with its own comment and recommendations, to the council.

126. Consideration of the Municipal Manager's report

(1) After the council has considered the Municipal Manager's report and the comment and recommendations of the executive

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committee, it must decide whether or not to adopt a ward committee system. If the council adopts the system, it must determine the size of every ward committee provided that a ward committee may not exceed ten members.

- (2) The responsible ward councillor shall, notwithstanding any provision in these rules and orders to the contrary, be responsible for the management of the ward committee established for his or her ward and shall chair all meetings of such committee and, for purposes and this part, such councillor shall be referred to as the "chairperson".

127. 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 is an advisory body without any executive powers, is independent and represents the interests of residents of its ward.
- (3) 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) responds to the needs and concerns of residents within its ward;
 - (ii) involves the residents in its ward in identifying and prioritizing needs;
 - (iii) identify resources in its ward for meeting needs;
 - (iv) promotes accountability of the municipality to the residents of its ward; and
 - (v) assists residents in its ward to access municipal services;
 - (d) monitor municipal programmes and services in its ward;

and

- (e) promote friendly and cooperative relations between the residents in its ward, the municipality and community organizations.

128. Membership of ward committees

A Ward Committee consists of the councillor representing the ward in the municipal council, who must also be the chairperson of the committee, and not more than 10 other persons.

129. Membership criteria

A person only qualifies to be elected to a ward committee if he or she:

- (a) is a registered voter in a ward of the municipality and his or her name appears on the voters' roll segment in respect of that ward;
- (b) is elected by his/her interest group to serve on the committee;
- (c) is not indebted to the municipality for rates and service charges for a period longer than three (3) months, unless he/she can prove that arrangements for the settlement of the account have been made;
- (d) is not an employee of the municipality;
- (e) has not been convicted after February 1997 of an offence for which he/she was sentenced to imprisonment without the option of a fine for a period of not less than 12 months; and
- (f) is not a person of unsound mind who has been declared so by a competent court.

130. Role of PR councillors

- (1) The Mayor/Speaker shall, in consultation with the whips of different political parties in the council, deploy proportional representative councillors to ward committees.
- (2) Proportional representative councillors shall serve on ward committees in an ex-officio capacity.
- (3) Proportional representative councillors shall assist and complement the work of ward councillors.
- (4) Proportional representative councillors shall participate in the deliberations of ward committees but shall not have the right to vote on any matter before a committee.

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- (5) A ward councillor may, with the consent of the Mayor/speaker, delegate in writing to a proportional representative councillor, his or her responsibilities to chair a ward committee meeting during his or her absence on leave of absence granted in terms of these rules and orders.
- 131. Functions and powers of ward committees**
- (1) A ward committee may make recommendations on any matter affecting its ward to the ward councillor or through the ward councillor, to the council or the executive committee.
- (2) Ward committees shall have the following functions:
- (a) To serve as official specialized participatory structures in the municipality;
 - (b) To create formal unbiased communication channels as well as co-operative partnerships between the community and the council by:
 - (i) advising and making recommendations to their ward councillors on matters and policy affecting their wards;
 - (ii) assisting ward councillors in identifying challenges and needs of residents;
 - (iii) disseminating information in their wards concerning municipal affairs such as the budget, integrated development planning, performance management system (PMS), service delivery options and municipal properties;
 - (iv) receiving queries and complaints from residents concerning municipal service delivery, communicating same to the council and providing feedback to the community on the council's response;
 - (v) ensuring constructive and harmonious interaction between the municipality and community through the use and co-ordination of ward residents' meetings and other community development forums; and
 - (c) To serve as mobilizing agents for community action within their wards by:
 - (i) attending to all matters that affect and benefit the community;
 - (ii) acting in the best interest of the community;
 - (iii) ensuring the active participation of the community in:
 - (a) service payment campaigns;
 - (b) the integrated development planning process;
 - (c) the municipality's budgetary process;
 - (d) decisions about the provision of municipal services; and
 - (e) decisions about by-laws,
 - (iv) Delimitating and chairing zonal meetings.
- (3) Ward committees may, in furtherance of their functions and powers and subject to the availability of finance where required -
- (a) organize ward campaigns, competitions and celebrations to promote pride in and the cleanliness and elegance of their wards and the municipality;
 - (b) supply to residents, information of municipal services in their wards and events regarding their wards or the municipality generally;
 - (c) promote the conservation and development of cultural, natural and historical heritage within their wards;
 - (d) perform such functions and exercise such powers as the council may delegate to them;
 - (e) organize constituency meetings in their wards;
- (vi) interacting with other forums and organizations on matters affecting their wards.

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| <p>(f) establish sub-committees of residents of their wards to investigate and make recommendations to them regarding any matter relevant to the objectives of ward committees;</p> <p>(g) establish sub-committees of persons representing any readily identifiable group of residents in the ward, whether they are organized or not, that share common economic or social interests or conditions;</p> <p>(h) organise in their wards 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 their wards;</p> <p>(i) respond to any invitation of the municipality or another public body to comment on, make representations concerning or object to any resolution the council or that other body must take or has taken;</p> <p>(j) attend and participate in any public hearings through delegations appointed by them;</p> <p>(k) delegate one or more of their members to attend council or committee meetings;</p> <p>(l) file complaints on any matter within the authority of the municipality with the appropriate department or the Municipal Manager;</p> <p>(m) apply to the council to delegate any function or power of the municipality in respect of their ward to them;</p> <p>(n) cooperate with any other ward committees within the municipal area;</p> <p>(o) invite the Municipal Manager or a departmental head of the municipality or any office-bearer of the municipality to attend any of their meetings; and</p> <p>(p) engage with the Municipal Manager or departmental heads of the municipality about a particular matter regarding their wards.</p> <p>(4) No executive powers may be delegated to ward committees.</p> <p>(5) A ward committee may express dissatisfaction in writing to the Mayor/speaker on the non-performance of a ward councillor.</p> | <p>(6) Ward committees may, subject to available capacity and resources, conduct annual satisfaction surveys in order to assist them in the execution of their functions and powers. These satisfaction surveys should be administered in the wards by ward committee members under the supervision of the ward councillors and with the administrative support of the municipality.</p> <p>132. Determination of interests to be represented in ward committees</p> <p>(1) The members of ward committees must be elected in a manner which takes into account the need for women and a diversity of interests in the ward to be represented thereon.</p> <p>(2) Gender equity may be pursued by ensuring that there is an even spread of men and women on a ward committee.</p> <p>(3) A diversity of interests may be pursued by ensuring the inclusion of as many as possible of the following interest groups on a ward committee:-</p> <ul style="list-style-type: none"> (a) Youth; (b) Women; (c) Religious groupings; (d) Sports and culture; (e) Health and welfare; (f) Business; (g) Environment; (h) Education; (i) Senior citizens; (j) Community safety forums; (k) Community based organizations; (l) Ratepayers/civic associations; (m) Traditional leaders; (n) Agricultural associations; (o) Informal traders' associations; (p) People living with disabilities; (q) Farm workers; (r) Employment; |
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(s) Tourism; and

(t) Unions.

133. Election of members of a ward committee

- (1) The council shall preliminarily identify the key performance areas of each ward as well as the interest groups most suited to the purpose of addressing such areas.
- (2) The council shall, thereafter, invite the identified interest groups to state their interest in and concern with any of the key performance areas referred to in sub-rule (1).
- (3) The council shall, in the light of the submissions made in terms of sub-rule (2), determine the groups that have a demonstrable interest in any of the determined key performance areas and represent residents of a ward.
- (4) The council shall, thereafter, cluster the interest groups referred to in sub-rule (3) into clusters not exceeding ten. The clusters so created will be represented on a ward committee for a particular ward and the representatives of each cluster will fill the seats on the committee concerned.
- (5) A ward must, at the first constituency meeting, and thereafter, as often as it is necessary, elect the members of the ward committee.
- (6) 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 from the clusters of groups determined in terms of sub-rule (3);
 - (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.
- (7) Each nomination form shall be signed by the candidate and at least two other voters' registered in the relevant ward and be delivered in a sealed envelope at the specified time and specified address.
- (8) 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 (4).

(9) At the constituency meeting for a ward, the chairperson must open and read out the name of every person that was nominated per cluster and verify that he or she represents the approved cluster and that the seconds that signed his or her nomination are voters' registered in that ward.

(10) The chairperson must reject any nomination that does not comply with these rules.

(11) The chairperson may select from amongst the persons present at the meeting one or more persons who have not been nominated as candidates for the election to assist him or her with the counting of the votes.

(12) As soon as all the nominations have been verified, the chairperson must read out the name of each candidates per cluster in alphabetical order.

(13) Every voter registered in the ward concerned has one vote in respect of every seat in the ward committee.

(14) After the chairperson has called the name of a candidate in terms of sub-rule (13), the voters' registered in that ward and who are present at the meeting, shall 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.

(15) 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 have received the most votes per cluster in descending order until the number of seats on the ward committee have been filled.

134. Determination of time, date and venue of meetings

(1) The chairperson, after consultation with the councillor referred to in rule (126), 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 are applicable to the determination of the venue of a ward committee meeting.

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- (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 such a meeting on a date set out in the request and at a time and venue determined by him or her.

135. Frequency of meetings

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

136. Meetings are open to the public and the media

The meetings of a ward committee are open to the residents of that ward, the public and the media.

137. Conduct of members of ward committees

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

138. Notice of meetings

- (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, the secretary must give such notice.
- (2) Notice in terms of sub-rule (1) must be given at least seventy-two hours before the meeting.

129. 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.

140. Minutes of meetings

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

141. Resolutions and recommendations of ward committees

- (1) The resolutions and recommendation of ward committees on matters affecting their wards must be conveyed to the Municipal Manager in writing by the chairpersons of these committees.
- (2) Every resolution and recommendation of a ward committee shall be dealt with by the Municipal Manager in accordance with the normal administrative processes and procedures of the municipality including the submission of reports to the responsible section -79 committees.
- (4) The Municipal Manager shall, in writing, advise every chairperson of a ward committee of the response of the municipality on every resolution and recommendation made or submitted in terms of sub-rule (1).

142. 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 has submitted to the chairperson, an application for leave of absence before the commencement of such meetings.
- (2) The chairperson shall place every application for leave of absence received in terms of sub-rule (1) before the ward committee for consideration.
- (3) A ward committee may remove a member of the committee if he or she had been absent-
- (a) without leave of absence, from three or more consecutive ward committee meetings; or
 - (b) with leave of absence, from six or more consecutive ward committee meetings.
- (4) Before removing a member of a ward committee in terms of sub-rule (3), the ward committee shall afford the member concerned an opportunity to make submissions and be heard, if so required by him or her, on his or her contemplated removal.

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- (5) The chairperson shall report every removal of a member of a ward committee in terms of this rule to the Mayor/speaker.

143. 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 commensurate with the council term of office.
- (2) A member of a ward committee vacates office if he or she-
- (a) is removed from the committee in terms of rule (138);
 - (b) resigns as member;
 - (c) ceases to be registered as a voter in that ward; or
 - (d) if the ward committee is dissolved in terms of rule (140); 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, 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 serves for the unexpired term of his or her predecessor.

145. Dissolution of ward committees

- (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 achieving its objects or fails to meet on three consecutive occasions, the council may dissolve such committee. Before

adopting a resolution on the dissolution of the committee, the council must give the committee concerned an opportunity to respond to any allegation in writing.

146. Monitoring of ward committees

- (1) The Mayor/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 ward committee chairpersons must evaluate the performance of all ward committees and make appropriate recommendations to the council.

147. Facilitation of ward committee's work

The council may, in its own discretion, provide administrative and logistical assistance to ward committees and may, for this purpose, provide funds on its annual budget.

148. Rules and procedures for ward committees

This part shall be read in conjunction with any other rules and procedures relating ward committees which the council may, by resolution, adopt or any statutory enactments in this regard and, in the event of a conflict, such other rules and procedures determined by the council or the rules and procedures contained in applicable statutory enactments shall have precedence and be applied by the council.

Part 6: Committee to draft integrated development plan

149. Obligation to establish committee to draft integrated development plan

In terms of section 30 of the Systems Act, the council must appoint a committee of councillors to:-

- (a) manage the drafting of the municipality's integrated development plan;
- (b) assign responsibilities in this regard to the Municipal Manager; and
- (c) submit the draft plan to the council for adoption.

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150. Establishment of 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;
- (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 authorizing the committee to appoint persons who are not councillors or employees of the municipality as members of the committee on an advisory basis; and
 - (h) prescribe how often the committee must submit a report to the council.
- (3) If the council at any time authorizes the committee to appoint persons who are not councillors or employees of the municipality as advisors to the committee, it must-
- (a) determine the qualifications, experience, specialized knowledge, demonstrated abilities or potential and other attributes such person must have to be so appointed;
- (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 as advisor 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 attendance at meetings of the committee be paid.
- (4) The committee will report directly to the council on its deliberations.

Part 9: Committee to draft performance management system

152. Obligation to establish committee to draft performance management system

In compliance with section 39 of the Systems Act, the council must appoint a committee of councillors to:

- (a) manage the development of the municipality's performance management system;
- (b) assign responsibilities in this regard to the Municipal Manager, and
- (b) submit the proposed system to the council for adoption.

153. Establishment of 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;

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- (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 authorizing the committee to appoint persons who are not councillors or employees of the municipality as members of the committee on an advisory basis; and
 - (h) prescribe how often the committee must submit a report to the council.
- (3) If the council, at any time, authorizes the committee to appoint persons who are not councillors or employees of the municipality as advisory members of the committee, it must-
- (a) determine the qualifications, experience, specialized 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 on an advisory basis 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.
- (4) The committee shall report directly to the council on its deliberations.

**CHAPTER 11
REPORTS**

154. Reports of or to section 79 -committee

- (1) A committee must submit a report on its decisions and recommendations on the matters considered by it, at every ordinary council meeting.
- (2) Unless a matter is submitted to the council for information only or for the adoption of a policy decision, the report of a committee on any matter must contain a recommendation.

155. Delivery of reports of committees

Except a report accepted by the Mayor/Speaker as a matter of urgency, a report of a committee in terms of rule (142) must be included in the agenda for a meeting of the council where it will be considered.

156. Submission of committee reports:

- (1) The report of a committee is submitted for consideration by the council by the chairperson of the committee concerned or a member of such committee designated by him or her 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.

157. Considering a committee report

- (1) When a report by a committee is considered by the council, the Mayor/Speaker must:-
 - (a) put the matters contained in that report not disposed of by the relevant committee in terms of its delegated or statutory powers one after the other; and
 - (b) thereafter, put the matters disposed of by the committee concerned in terms of its delegated or statutory powers, one after the other.
- (2) The Mayor/Speaker 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.

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| <p>(4) The report and recommendation of committee on a matter is deemed proposed and seconded.</p> <p>(5) When a recommendation referred to in sub-rule (4) is adopted, it becomes a council resolution.</p> <p>(6) During the consideration of a matter in terms of sub-rule (4) -</p> <p style="padding-left: 20px;">(a) the chairperson or member of the committee designated by him or her may speak for 10 minutes on any matter contained in such report despite any other provisions to the contrary in these standing rules and orders; and</p> <p style="padding-left: 20px;">(b) a councillor may demand that his or her opposition to a recommendation and resolution be recorded in the minutes.</p> <p>(7) The Mayor/speaker may, at any time during the debate on a matter, propose that such matter be withdrawn and referred back to the responsible committee for further consideration;</p> <p>(8) A proposal in terms of sub-rule (7) must be supported or refused by the council without discussion.</p> <p>(9) Consideration of a matter that is withdrawn in terms of sub-rule (7) lapses without further discussion.</p> <p>(10) The chairperson of a committee or another member of such committee designated by him or her may conclude the debate on any matter contained in a report from such committee to the council.</p> <p style="text-align: center;">158. Reports on the state of the budget</p> <p>(1) Subject to sub-rule (3), the Municipal Manager must not later than the first ordinary council meeting after-</p> <p style="padding-left: 20px;">(a) 30 September;</p> <p style="padding-left: 20px;">(b) 31 December;</p> <p style="padding-left: 20px;">(c) 31 March; or</p> <p style="padding-left: 20px;">(d) 30 June -</p> <p style="padding-left: 20px;">of every year submit at such meeting for consideration a report on the state of the budget for that financial year.</p> <p>(2) The report in terms of sub-rule (1) must contain the particulars referred to in section 71 of the Finance Management Act and must</p> | <p>be in the format prescribed under that Act. Despite any prescripts in terms of that Act, the report must contain a written statement of-</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(c) the income owed to and received by the municipality from any other source not mentioned in paragraphs (a) and (b);</p> <p style="padding-left: 20px;">(d) the number of debtors invoices issued by the municipality and the number actually paid during every month covered by the report;</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(h) progress made with the implementation of every project or programme indicated in the capital budget and the reasons for underperformance;</p> <p style="padding-left: 20px;">(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;</p> |
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- (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 (2) must be submitted to the committee responsible for finance which must timeously submit such report together with its comments and recommendations to the council for consideration in terms of sub-rule (1).
- 159. Report on unauthorised, irregular and fruitless and wasteful expenditure**
- (1) The Municipal Manager must, when the council, a committee or functionary contemplates adopting a resolution or authorizing action that may result in unauthorized, irregular, fruitless and wasteful expenditure as defined in the Finance Management Act, advise the council, the committee or functionary concerned of the reasons why such expenditure, if incurred, may be regarded as unauthorized, irregular, fruitless and wasteful expenditure.
- (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 in writing in a letter addressed to the functionary concerned at the earliest possible opportunity.
- (3) Whenever it is brought to the attention of the Municipal Manager that a decision has already been taken that has resulted in unauthorized, irregular, fruitless and wasteful expenditure, the Municipal Manager must refer that decision, together with his or her
- report thereon to the council, the committee, the functionary or departmental head who took the resolution.
- (4) A report in terms of sub-rule (3) must-
- (a) state the amount of the unauthorized expenditure;
- (b) the steps that had been taken to recover or rectify the unauthorized expenditure;
- (c) an explanation for the unauthorized expenditure;
- (d) the identity of the beneficiary of and the person responsible for incurring the unauthorized expenditure; and
- (e) the steps that had been taken to prevent a recurrence of the event.
- (5) The Municipal Manager must take disciplinary action against any employee who has been responsible for incurring unauthorized 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.
- 160. Report on inability to comply with reporting requirements or any other duty**
- (1) The Municipal Manager must report immediately to the council if he or she is unable to comply with any of his or her reporting requirements or any duty in terms of -
- (a) any legislation, including these standing 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 Municipal Manager's inability.
- (3) Whenever the reasons for the inability arise from inadequate guidance, instruction, training or counselling, the report must state the extent to which such guidance, instruction, training or counselling falls short of being adequate.

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(4) Whenever the reasons for the inability arises from a lack of co-operation from any Head of department or other staff member of the municipality, the Municipal Manager must make appropriate recommendations so as to prevent a reoccurrence of the situation in future.

(5) A report in terms of this rule shall be considered by the council in closed session.

161. Reporting about performance

(1) The Municipal Manager must not later than 31 January in each year submit a report to the committee established in terms of rule (141) 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 has 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 has been identified;
- (f) recommendations for the increase in performance targets where such targets have been achieved;
- (g) recommendations for the change of any performance indicator or development objective;
- (i) any other relevant matter.

(6) The committee referred to in sub-rule (2) shall consider the aforementioned report by the Municipal Manager and submit it, together with its comments and recommendations to the council for further consideration.

CHAPTER 12 DELEGATED POWERS

162. Reporting on exercise of delegated powers

- (1) A committee, functionary or staff member to whom a power has been delegated must report to the delegating authority on all decisions taken by them in terms of delegated powers.
- (2) A report in terms of sub-rule (1) must be submitted-
 - (a) by a committee to the council together with its report;
 - (b) by the Municipal Manager to the council within fourteen days' of the end of each month; and
- (d) by a Head of department to the Municipal Manager within fourteen days of the end of each month.

163. Review of decisions under delegated powers

- (1) The Mayor/Speaker must, after a report has been disposed of, put the matters disposed of by a committee, in terms of its delegated or statutory powers, one after the other.
- (2) The Mayor/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 or a member of the committee designated by him or her, may speak for 10 minutes on any matter contained in such report;
 - (b) a councillor may request that his or her opposition to a resolution contained in such report be recorded in the minutes.
- (4) The council may or must, at the request in writing of at least one quarter of the councillors, review any decision taken by a committee, the Mayor/speaker, any other functionary or staff member of the municipality in consequence of a delegation or instruction and either confirm, vary or revoke that decision.
- (5) When the council adopts a resolution in terms of sub-rule (4), the Municipal Manager shall prepare a detailed report on the matter in respect of which the decision to be reviewed was adopted and

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submit same to the council for consideration at its next meeting ensuing.

- (6) The council shall, after consideration of the report of the Municipal Manager referred to in sub-rule (5) either confirm, vary or revoke the relevant decision of the committee, Mayor/speaker, other functionary or staff member provided that any resolution to vary or revoke the decision then under review shall not affect any rights that may have accrued to any person as a result thereof.
- (7) The council may, as part of the review process, afford the Mayor/speaker, other political office bearer, chairperson of a committee or a staff member an opportunity to speak on the matter which gave rise to the decision under review or provide such information or explanations as may be necessary to substantiate the decision under review.
- (8) Any review of a decision in terms of this rule shall not affect the right of any person affected by a decision taken by a political structure, political office bearer or staff member in terms of a delegated or sub-delegated power or duty to lodge an appeal against such decision in terms of section 62 of the Systems Act.

162. Review of delegated powers

- (1) The Municipal Manager must, at the first 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) A report by the Municipal Manager in terms of sub-rule (1) must contain recommendations on any changes to the existing delegations which he or she may consider necessary.
- (3) The council may, after consideration of the report referred to in sub-rule (1), review any delegation authorized by it in terms of section 59(1) of the Systems Act.

CHAPTER 13

GENERAL PROVISIONS RELATING TO PUBLIC HEARINGS, PUBLIC MEETINGS OF VOTERS AND CONSTITUENCY MEETINGS

165. Public meetings of voters'

- (1) The Mayor/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 Mayor/speaker may -

- (i) convene a public meeting of voters' in that ward only; or
- (ii) direct the councillor for the ward concerned to convene a public meeting of voters' in such a ward.

- (2) As soon as the Mayor/speaker or the councillor contemplated in sub-rule (1)(b)(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 a notice in terms of rule (156).
- (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' may be dealt with at such a meeting.
- (4) Should the Mayor/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 concerned and may also determine the date, time and venue of such meeting.

166. 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 Mayor/speaker; 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 he or she 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.

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- (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 Mayor/speaker, determine a schedule of dates for constituency meetings during the ensuing 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 Mayor/Speaker must supply a copy of a schedule in terms of sub-rule (2) to the Municipal Manager.
- (6) The councillor concerned must inform the Municipal Manager of every meeting to be held in terms of sub-rule (1)(b) or (c).
- 167. Public hearings**
- (1) The council must, before it adopts a resolution relating:-
- (a) to the adoption or amendment of the annual budget;
- (b) to the adoption or amendment of its integrated development plan;
- (c) to the adoption or amendment of its performance management system;
- (d) to the quality, level and range of services provided;
- (e) to an appropriate mechanism for providing municipal services;
- (f) to the adoption of a tariff, debt collection, indigent support or credit control policy;
- (g) the confirmation of a language policy in terms of rule 86, or
- (h) adopts a rates policy in terms of section 3 of the Property Rates Act - convene one or more public hearings.
- (2) Despite the provisions of sub-rule (1), the council or the Mayor/speaker 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 functionary 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 functionary 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 functionary convening the hearing must inform the Municipal Manager thereof.
- (6) The functionary 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 such hearing and supply their particulars to the Municipal Manager. Any person so invited must be invited in writing and attends and participates in the hearing at his or her own cost.
- 168. Notice of public meetings of voters', constituency meetings and public hearings**
- (1) The Municipal Manager must, with due regard to sub-rules (3) and (4) after receipt of the particulars of a meeting by notice in the press and by notice placed on the municipal notice boards, convene the meeting or hearing concerned at the time, date and venue determined by the councillor or functionary convening such meeting or hearing, as the case may be, and send a copy of such notice to every councillor and Head of department.
- (2) A notice in terms of sub-rule (1) must state the purpose of the meeting or hearing.

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- (3) The Municipal Manager must, not later than fourteen days' before the date of a constituency meeting contained in a schedule; confirm the date and venue with the councillor concerned and give notice in a newspaper of such meeting.
- (4) The Municipal Manager must, give notice in a newspaper of the date, time and venue of a public hearing at least fourteen days before the hearing takes place and supply a copy thereof to each councillor and Head of department.
- (5) A councillor and Head of department 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.

PROVINCIAL NOTICE 143 OF 2015

NXUBA MUNICIPALITY



PROPERTY ENCROACHMENT BY- LAW

NXUBA MUNICIPALITY

PROPERTY ENCROACHMENT BY – LAW

Be it enacted by the Council of the Nxuba Municipality, and approval of the Member of the Executive Council responsible for local government in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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7. Verandas around corners
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11. Encroachments
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15. Short title and commencement

CHAPTER 1: DEFINITIONS

1. Definitions

In these By-laws, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) has that meaning and, unless the context otherwise indicates –

“**Council**” means the Council of Nxuba Municipality;

“**council property**” means any property, including but not limited to public roads –

- (a) which is owned by the Council;
- (b) over which the Council has control over; or
- (c) in respect of which a servitude or other property right has been registered in favour of the Council;

“**encroachment**” means any physical object which intrudes on Council property;

“**prescribed**” means determined by resolution of the Council made from time to time;

“**prescribed fee**” means a fee determined by the Council by resolution from time to time;

“**public road**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

2. Council permission required

(1) No person may, without prior written permission, make or construct any encroachment into, over or under any Council property.

(2) The Council may -

(a) refuse the permission required in terms of subsection (1); or

(b) grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case.

(3) The prescribed fees mentioned in subsection (2) are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner is liable for the payment of prescribed fees in terms of these by-laws for each encroachment.

(4) The owner of any existing encroachment must within three months after the date of commencement of these by-laws make application to the Council on the prescribed form for permission for the existence of the encroachment in terms of these by-laws.

3. Rules for the construction of encroachments

(1) The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over Council property, as well as the paving, kerb and gutter thereof, must be to the satisfaction of and to the levels approved by the Council.

(2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.

(3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

4. Columns

(1) The Council may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.

(2) No person may place any veranda column -

(a) over any pavement where such pavement is less than 2,6 m wide;

(b) more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre;

(c) over any pavement at the corner of a public road that is beyond the alignment of the building lines; and

(d) at a distance lesser than 600 mm back from the front edge of any kerb.

(3) No person may place a twin or double veranda column over any public road or pavement.

(4) Where verandas are supported on columns-

(a) the columns may not have square arrases;

(b) no base may project more than 50 mm beyond the bottom diameter of the column;
and

(c) the maximum horizontal axial dimensions of such base may not exceed 350 mm.

(5) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.

(6) Columns, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.

(7) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.

(8) A coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.

(9) Nothing in these by-laws prohibits –

(a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or

(b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these by-laws are observed.

5. Balconies and bay windows

(1) Balconies, bay windows or other similar encroachments may not –

(a) overhang a public road if they are at a height of less than 3 m above the pavement;

(b) encroach more than 1,35 m over any public road; or

(c) encroach more than 900 mm over any public road.

(2) The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.

(3) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.

(4) No part of any balcony that is attached to any veranda, may be carried up to a height greater than two stories above the pavement level except that, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.

(5) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.

(6) A balcony over any public road may not be the sole means of access to any room or apartment.

(7) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.

(8) Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35 m for the full length of the building frontage to that road.

6. Plinths, pilasters, corbels and cornices

(1) No plinths, pilasters or other encroachments beyond building lines carried up from ground level are permitted to encroach on a public road.

(2) Any pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following level of encroachment over a public road:

(a) a pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;

(b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement;

(c) a cornice: 1,05 m where not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

7. Verandas around corners

Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.

8. Pavement openings

(1) No pavement opening may –

- (a) be the sole means of access to any vault or cellar; and
- (b) extend more than 1,2 m beyond the building line.

(2) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.

(3) Flap openings may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.

(4) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.

(5) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

9. Encroachment erected in front of building

Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense –

(1) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and

(2) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

10. Maintenance, removal and tenancy of projections

(1) The owner of any encroachment must maintain the encroachment in good order and repair.

(2) Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.

(3) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Council to remove any or all of them and restore the public road or pavement to its former conditions, and must do so within a reasonable time.

11. Encroachments

(1)(a) Any person other than the owner wishing to erect or construct an encroachment or any other fixture on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form provided by the Council for that purpose.

(b) Where in the opinion of the Building Control Officer drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Council.

(2) The owner of the building in connection with which any encroachment or fixture exists, or is proposed –

(a) must defray any cost incurred in connection with wires or property of the Council;

(b) must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities.

12. Offences and penalties

A person who contravenes any of these by-laws is guilty of an offence and be liable on conviction to a fine not exceeding R5000.00 or to imprisonment not exceeding 6 months or to both that fine and that imprisonment.

13. Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing -

(a) any matter that may or must be prescribed in terms of this by-law; and

(b) any matter that may facilitate the application of this by-law.

14. Repeal of by-laws

Any by-laws relating to Property encroachment adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

15. Short title and commencement

This by-law is called the Property Encroachment By-Law, 2014, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

PROVINCIAL NOTICE 144 OF 2015**NXUBALOCAL MUNICIPALITY****ADVERTISING SIGNS AND HOARDING BY-LAW****ADVERTISING SIGNS AND HOARDINGS BY-LAW****ADVERTISING SIGNS AND HOARDING BY-LAW**

The Municipal Manager of the Municipality hereby published the Advertising Signs and Hoardings By-law for the Municipality as approved by its Council in terms of section 13(a) of the Municipal systems Act, 32 of 2000 read with section 7 (6) of the Rationalization of Local Government Affairs Act, 1998 as set out hereunder, effective from 1 December 2001.

ADVERTISING SIGNS AND HOARDINGS: BY-LAW

WHEREAS the community of the Municipality has legitimate interests in ensuring:-

1. That signs or advertisements do not constitute a danger or nuisance to members of the general public whether by way of obstruction, interference with traffic signals or with the visibility of such signals, light nuisance or otherwise;
2. That signage or advertising displayed in its living environment is aesthetically pleasing, appropriate and placed at appropriate sites with an uncluttered effect;
3. That its environment for tourism is characterized by a high standard of user friendly signage and advertising satisfactorily integrated into the environment;

AND WHEREAS individual businesses have legitimate interests in the proper advertising of their businesses, wares and products;

AND WHEREAS it is the duty of the Municipality to balance the competing interests in a fair, equitable, flexible and responsible way;

NOW THEREFORE the following By-law is adopted as the Advertising Signs and Hoardings : By-law, for the Municipality .



NXUBA LOCAL MUNICIPALITY

ADVERTISING SIGNS AND HOARDING BY-LAW

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1. Definitions

In this by-law, unless the context otherwise indicates:

Advertisement means any representation of a word, name, letter, figure or object or of an abbreviation of a word or name, or of any sign or symbol; or any light which is not intended solely for illumination or as a warning against any danger, which is visible from any street or public place.

Advertising hoarding means a screen, fence, wall or other structure in a fixed position to be used, or intended to be used, for the purpose of posting, displaying or exhibiting any advertisement.



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Advertising sign means any advertisement or object, structure or device which is in itself an advertisement or which is used to display an advertisement, in view of any street or public place.

Advertising structure means any physical structure built to display advertising.

Aerial sign means any sign attached to a kite, balloon, or similar device whereby it is suspended in the air over any part of the area.

Affix means to firmly secure which includes to paint onto and "affixed" shall have a corresponding meaning.

Animation means moving units or pictures, flashing lights, and other non-stationery devices which are used to gain added attention and awareness.

Approved means approved by the Council and "approval" has a corresponding meaning.

Arcade means a covered pedestrian thoroughfare not vested in the Council, whether or not located at ground level passing wholly or partly through a building and to which the public normally has regular and unrestricted access.

Backlight units (backlit) means advertising structures which house illumination in a box to throw light through translucent advertising printed on plastic or heavy duty paper for a higher visibility and extended night viewing.

Billboard means a large free-standing structure used or intended to be used for the purpose of posting, displaying or exhibiting any advertisement.



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Building means any structure whatsoever with or without walls, having a roof or canopy and a normal means of ingress and egress thereunder, covering an area in excess of 4.6m² and having an internal height of more than 1.650m.

Canopy means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise than by columns or posts.

Charge means the appropriate monetary charge determined by the Council.

Clear height means the vertical distance between the lowest edge of the sign and the level of the ground, footway or roadway immediately below such sign.

Copy (Artwork) means the complete advertising message to be displayed.

Commercial Advertising means any words, letters, logos, figures, symbols, pictures relating to the name of a business, a trade, a partnership or an individual or any information, recommendation or exhortation in respect of any particular goods manufactured or sold or any particular services rendered or offered.

Composite sign means a sign linked to a standardised background of a specific size similar to a poster board on which logos or other tourist-related information can be attached.

Council means the Municipality or its successor(s) in-law or any officer employed by the Council or any committee designated by the Council, acting by virtue of a delegated authority vested in him/her or it by the Council in connection with this by-law.

Cut-outs / embellishments / add-ons means letters, packages, figures or mechanical devices attached to the face of an outdoor sign which extend beyond the rectangular area for greater attention value. (Can provide a three dimensional effect.)



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Depth of a sign means the vertical distance between the uppermost and lowest edges of the sign.

Directional sign means a sign indicating the way to a place, undertaking or activity for the purpose of advertising or directing public attention as contemplated in the definition of "Advertisement".

Display of a sign shall include the erection of any structure if such structure is intended solely or primarily for the support of a sign.

Display period means the exposure time during which the individual advertising message is on display.

Election means either National, Provincial or Local Government elections and by-elections held from time to time.

Erf means any piece of land registered in a deeds registry as an erf, lot, plot, stand or agricultural holding.

Flashing sign means a sign in which a symbol, figure, message or illustration intermittently appears and/or disappears and/or illuminated with varying colour or intensity.

Flat sign means any sign which is affixed to or painted directly on a main wall and which at no point projects more than 250mm in front of the surface of such wall.

Flyposter means any poster which is pasted by means of an adhesive directly onto a surface.



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Ground sign means any sign detached from a building, other than an aerial sign, hoarding, billboard or advertising structure.

Illuminated means the installation of electrical equipment on an outdoor structure for illumination of the copy message at night.

Illuminated sign means a sign, the continuous or intermittent functioning of which depends upon it being illuminated.

Inflatable sign means any hoarding erected and maintained by means of air or gas used for the purpose of posting or displaying any advertisement.

Main wall of a building means any external wall of such building, but shall not include a parapet wall, balustrade or railing of a verandah or a balcony.

Movable temporary sign means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part in a fixed permanent sign.

Non-profit body means a body established to promote a social goal without the personal financial gain of any individual or profit making commercial organization involved and which submits adequate proof to the satisfaction of the Council of its non-profit status.

Person includes both natural and juristic persons.

Poster and notices means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking or to the candidature of any person nominated for election to National, Provincial or Local Government or similar body or to a referendum.



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Projected sign means any sign projected by a cinematograph or other apparatus, but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance.

Projecting sign means a sign, whether stationary or actuated, attached to and protruding from the facade of a building.

Public place means any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in the Council.

Pylon sign means any sign whether stationary or actuated, displayed on or forming an integral part of a pylon or mast or similar structure other than a building or advertising hoarding.

Residential purposes means the use of a building as a dwelling house, two or more dwelling units, a hostel, a boarding house, and a residential club.

Road traffic sign means any road traffic sign as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989), the detailed dimensions and applications of which are controlled by the regulations to this Act and the South African Road Traffic Signs Manual (Note: Act will be replaced by The National Road Traffic Act, Act 93 of 1996 in the near future).

Rotating sign means a sign, which rotates about any axis.

Running light sign means a sign or portion of a sign in the form of an illuminated strip, the illumination of which varies periodically in such a way as to convey the impression of a pattern of lights moving steadily along such strip.

Shelter displays means posters positioned as an integral part of a freestanding covered structure.



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Sign Alley is a section of road where advertising structures have been permitted at less than prescribed distances but in such a manner that no advertising structure shall obstruct another in any way.

Sky sign means any sign erected or placed on or above any roof, parapet wall or the eaves of a building, but does not include a sign painted on a roof of a building.

Spectacular (an industry term) means a giant, modern, illuminated advertising billboard.

Storey means the space within a building which is situated between one floor level and the next floor level next above, or if there are no clearly defined storeys, the height of a storey shall be taken as 4,5m.

Street means any street, road or thoroughfare shown on the general plan of a township, agriculture holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vests in the Council.

Temporary advertisements means signs and advertisements which are usually displayed to publicise a forthcoming event or to advertise a short term use of the advertisement site.

Temporary sign means a sign not permanently fixed and not intended to remain fixed in one position.

Third-party advertising means any advertising displayed which is not appropriate to the type of activity on the erf or site to which it pertains.

Transit advertising means all advertising on normally moving vehicles including taxis, buses, trailers, trams, vessels, etc.



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Tri-vision means a display embellishment, which, through use of a triangular louver construction, permits the display of three different copy messages in a predetermined sequence.

Verandah means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts.

Window signs are signs, which are permanently painted on, or attached to, the windowglass on a window.



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2. Applications for Council's approval for Advertising Signs and Hoardings

(1) No person shall display or erect any advertising sign or hoarding or use any advertising sign or hoarding or use any structure or device as an advertising sign or hoarding without first having obtained the written approval of the Council; provided that the provisions of this Clause shall not apply to signs contemplated in Clause 4,

(2) No sign erected displayed with the approval of the Council shall in any way be altered, moved, re-erected nor shall any alteration be made to the electrical wiring system of such sign except for the purposes of renovating or maintenance, without the further approval of the Council in terms of sub-clause (1).

(3) (a) An application in terms of sub-clause 1, accompanied by the required application fee, specified in the tariff of charges, as determined by Council and subject to Clause 40, shall be signed by the owner of the proposed advertising sign or hoarding and by the registered owner of the land or building on which the sign or advertising hoarding is to be erected or displayed, or on behalf of the owner of the land or building by his agent authorised in writing by such owner and shall be accompanied by:

(i) a locality plan indicating the anticipated position of the sign within the area of the Thabazimbi Local Municipality. The Council may require the locality for signs in excess of 10 square metres to be indicated and described by an accurate G.P.S. reading or an acceptable alternative

(ii) a block plan of the site on which the advertising sign or hoarding is to be erected or displayed, drawn to a scale of not less than 1:500 showing every building on the site and the position with dimensions of the sign or advertising hoarding in relation to the boundaries of the site and the location of the streets and buildings on properties abutting the site;



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(iii) a drawing sufficient to enable the Council to consider the appearance of the advertising sign or hoarding and all relevant construction detail;

(iv) a drawing showing the advertising sign or hoarding in relation to other similar type signage in the area in which it will be erected.

(b) Every such plan and drawing shall be clearly reproduced on an approved material in sheet form not less than A4 size (210mm x 297mm); and

(c) A drawing required in terms of paragraph (a)(iii) shall show all details of the sign and shall be drawn to a scale of not less than 1:20 or other scale acceptable by Council.

(d) The Council may require additional information in relation to the land on which the sign is to be erected, its use and impact.

(4) If a sign is to be attached to or displayed on the facade of a building, the Council may require the submission of an additional drawing showing an elevation of the building in colour, the details and position of the proposed sign and the details and the position of every existing sign on the building drawn to a scale of not less than 1 : 100, or the Council may require a coloured print of or an artist's photographic or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and draw as nearly as is practicable to the same scale as that of the graphic.

(5) The Council may require the submission of additional drawings, calculations and other information and a certificate by a person defined in Clause 1 of the Engineering Profession of South Africa 1990 (Act No. 114 of, 1990) as a certified engineer, engineering technician, professional engineer or professional technologist (engineering), in each case giving details to the Council's satisfaction, to enable it to establish the adequacy of the proposed means of securing, fixing or supporting any advertising sign, hoarding or screen referred to in Clause 13,



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to resist all loads and forces to which the advertising sign, hoarding or screen may be exposed and the sufficiency of the margin of safety against failure, in compliance with the provisions of Regulation Bl of the National Building Regulations published under Government Gazette No. 9613, dated 1 March 1985.

(6) In considering an application submitted in terms of sub-clause (1), the Council may, in addition to any other relevant factors, have due regard to the following:

(a) No advertising sign or hoarding or copy should be so designed or displayed that:

(i) it will be detrimental to the environment or to the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;

(ii) it will constitute a danger to any person or property;

(iii) it will display any material which in the opinion of the Council is indecent, suggestive of indecency, prejudicial to public morals or objectionable;

(iv) it will obliterate any other signs;

(v) it will in the opinion of the Council be unsightly or detrimentally impact upon a sound architectural design;

(vi) it will in any way impair the visibility of any road traffic sign or affect the safety of motorists or pedestrians,

(b) The size and location of a proposed advertising sign or hoarding and its alignment in relation to any existing advertising sign or hoarding or the same building or erf and its compatibility with the visual character of the area surrounding it.

(c) The number of signs displayed or to be displayed on the erf concerned and its legibility in the circumstances in which it is seen;

(d) The sign, if not appropriate to the type of activity on or zoning of the erf or site to which it pertains should be considered on its merits in terms of the control measures of the Council's Outdoor Advertising Signage Policy and Code of Practice and the S.A.M.O.A.C. guidelines.

(7) The Council, subject to Clause 41, may refuse any application submitted in terms of sub-clause (1) or grant its approval subject to any amendment and/or condition which it may deem



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expedient, including a condition that the owner of any advertising sign or hoarding or the owner of the land or building on which such advertising sign or hoarding is to be erected and displayed, or both such owners, indemnify the Council to its satisfaction against any consequences flowing from the erection, display or mere presence of such advertising sign or hoarding.

(8) The Council shall without delay and in writing notify the applicant, an objector or any person who has made representations, of its decision taken by virtue of sub-clause (7).

(9) Every application, plan, drawing and other document submitted in terms of this Clause shall on approval be retained by the Council for its records.

(10) Any sign or advertising hoarding for which approval has been granted in terms of sub-clause (7), shall be erected and displayed in accordance with any plan, drawing or other document approved by the Council and any condition imposed in terms of that sub-clause; the Council shall be notified once any approved advertising sign or hoarding has been erected.

(11) Notwithstanding anything contained in this by-law, any advertising sign or hoarding which complies to the Council's satisfaction, with the considerations referred to in sub-clause (6)(a), may be approved by the Council.

(12) Notwithstanding anything contained in this by-law, this by-law are to be applied to the Land Use Zones as set out in the enforceable Town Planning Scheme/Land Use Scheme for the area of jurisdiction of the Thabazimbi Local Municipality.

(13) Advertising signs and hoardings approved in terms of Clause 2(7) will conform to the design requirements set out in Clause 28,

3. Withdrawals or Amendment of Council's approval



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(1) The Council may, at any time, withdraw an approval granted in terms of Clause 2(7) or amend any condition or impose a further condition in respect of such approval, if in the opinion of the Council an advertising sign or hoarding:

- (a) Will be or become detrimental to the environment or the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
- (b) Will constitute or become a danger to any persons or property;
- (c) Will obliterate other signs, natural features, architectural features or visual lines of civic or historical interest.

(2) Should an approved advertising sign or hoarding not be erected within six (6) months from approval or within a time specified in the approval granted, the approval will lapse.

(3) Should the information requested by the Council to process a signage application not be provided within a three-month period from the date of the request, the application shall be regarded withdrawn.

4. Exempt Signs

(1) The following signs shall be exempt from the provisions of Clause 2 but shall comply with all other provisions of this by-law save for signs contemplated in (a) and (b) which need not so comply:

- (a) any sign displayed in an arcade;
- (b) any sign displayed inside a building;
- (c) any sign displayed on an approved advertising hoarding
- (d) any sign advertising a current event in a cinema, theatre or other place of public entertainment, displayed in a fixture or building especially made for such display;
- (e) any sign not exceeding the sizes specified hereunder, which is displayed on a site where a building, swimming pool, tennis court, paving, fencing or garden landscaping or any other structure is in the course of being constructed, erected, carried out or altered and which describes the building or structure being erected or other work or activity being carried out, and which displays the names of the contractors or consultants concerned in such work or



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activity and identifies the branches of the industry or the professions represented by them, during the course of such construction, erection, carrying out of alterations as the case may be: Provided that only one such sign, or set of signs shall be permitted per street frontage of a site; and which is placed on or affixed to the building concerned or attached parallel on the boundary fence of the erf on which the building is situated. Such signs are to be removed within 21 days of the completion of the contract. Signage for ongoing maintenance contracts is not permitted;

(i) Project boards, 6m² and with a maximum erected height of 6m, giving the names of Architects, Consultants and Contractors;

(ii) Individual Contractors and Sub-Contractor's Board: 2m². ;

f) any sign, other than a sign provided for in paragraph (e), not exceeding 12m², and not exceeding a maximum erected height of 6m, which portrays or describes the type of development being carried out on a site and which gives details of the type of accommodation being provided, floor space available, the name, address and telephone number of the developer or his agent, erected during construction work or the carrying out of alterations or additions as the case may be and remaining for a period not exceeding 2 months after the completion of such work;

(g) a sign on a street frontage of a building occupied by shops, showrooms or other business uses as defined in the relevant Town Planning Scheme, other than a sign in an office park area, which is below the level of the ground floor ceiling and which is displayed on or fixed to the face of a building or suspended from the soffit of a canopy or verandah roof;

(h) a sign consisting of a 600mm x 450mm metal plate or board permitted in terms of Clause 14;

(i) any flag hoisted on a suitable flag pole which displays only a company name and motif. A maximum of 5 flag poles of 7m in height is permitted unless specific permission has been applied for as contemplated in terms of Clause 2 for more than 5 flag poles;



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j) any sign in a locality wholly or mainly used for residential purposes, other than a brass plate or board not exceeding 600mm x 450mm in size, affixed indicating the name, address and telephone number of a security company contracted to protect the property, provided that only one sign per stand or subdivision shall be permitted and such sign shall be firmly affixed to the boundary wall, fence or gates on the street frontage;

(k) one sign not exceeding 600mm x 450mm in size on each street boundary of an erf or portion of an erf which sign indicates the existence of a commercial security service, burglar alarm system etc.

(l) a sign not exceeding 2m², indicating the existence of a Block or Neighbourhood Watch System, displayed on a boundary wall or fence or in a position approved by the Council. If erected on its own pole(s), the minimum underside clearance of the sign above the pavement must be 2.1m.

(2) The owner of the building or property on which a sign contemplated in sub-clause (1)(g) is displayed, shall indemnify the Council against any consequences flowing from the erection, display or mere presence of the sign.

(3) Any sign which does not comply with the provisions of this by-law and which was lawfully displayed on the day immediately preceding the date of commencement of this by-law shall be exempt from the requirements of this by-law if the sign in the opinion of the Council is properly maintained and is not altered, moved or re-erected as contemplated in Clause 2(2).

(4) Road traffic signs erected in terms of any Act of Parliament, Provincial Ordinance or By-law are exempt from the provisions of this by-law.

(5) Any sign erected as a specific requirement in terms of any By-law, Provincial Ordinance or Act of Parliament is exempt from this by-law.

(6) Any transit sign, which is mobile at all times and complies with all requirements of the Road Traffic Act is exempt from this by-law.



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5. Prohibited Signs

No person shall erect or cause or permit to be erected or maintained any of the following signs:

- (1) Any sign painted on the roof of a building or painted on, attached to, or fixed between the columns or posts of a verandah.
- (2) (a) any sign which projects above or below any fascia, bearer, beam or balustrade of a street verandah or balcony;
(b) any luminous or illuminated sign which is fixed to any fascia, bearer, beam or balustrade of any splayed or rounded corner of a street verandah or balcony.
- (3) Any sign suspended across a street unless otherwise approved by Council.
- (4) Any sign on calico, paper mache, plastic, woven or similar material or of any kind whatsoever, except those provided for in terms of Clause 20 or unless consisting of flexface within an approved advertising sign.
- (5) Any swinging sign, which is a sign not rigidly and permanently fixed.
- (6) Any sign which may either obscure a road traffic sign, be mistaken for with or interfere with the functioning of a road traffic sign.
- (7) Any sign which may obscure traffic by restricting motorists' vision and lines of sight thus endangering motorists' safety.
- (8) Any sign which is indecent or suggestive of indecency, prejudicial to public morals or is reasonably objectionable.
- (9) Any sign which will obstruct any window or opening provided for the ventilation of a building or which obstructs any stairway or doorway or other means of exit from a building or which will prevent the movement of persons from one part of a roof to another part thereof.
- (10) Any animated or flashing sign the frequency of the animations or flashes or other intermittent alternations of which disturbs the residents or occupants of any building or is a source of nuisance to the public or impairs road traffic safety.
- (11) Any illuminated sign, the level of illumination of which unreasonably disturbs the residents or occupants of any building or is a source of nuisance to the public.



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- (12) Any movable temporary or permanent sign other than those specifically provided for in this by-law.
- (13) Any sign referring to a price or change in price of merchandise except in a shop window, or on the article itself.
- (14) Any advertisement or sign other than an exempted sign, for which neither a permit nor approval has been obtained.
- (15) Any poster otherwise than on a hoarding legally erected for the purpose of accommodating such poster.
- (16) Any sign or signs, the total area of which exceeds 30m², painted or fixed on a wall of a building not being a front wall of such building, unless approved in terms of the policy for the promotion of Outdoor Advertising in the Johannesburg Inner City.
- (17) Any sign painted on any fence or boundary wall, not being an approved sign or hoarding.
- (18) Any sign which does not comply with the requirements of or which is not permitted by this by-law.
- (19) Any sign which may obstruct pedestrian or vehicular traffic.
- (20) Any form of flyposting on private or Council, property or assets.
- (21) Any transit advertising sign that is parked irrespective of whether it is attached to a vehicle or not.
- (22) Any poster or sign attached to a tree.
- (23) Any poster attached or pasted to a bridge.
- (24) Any temporary sign for commercial or third-party advertising erected on Council land or land vested in the Council, unless by prior signed encroachment agreement or contract with the Council.
- (25) Any sign attached to a bridge or any other Council asset, unless by prior signed agreement or contract with the Council.
- (26) Any third party advertising sign on any property zoned “Residential” in terms of the relevant Town Planning Scheme whether secondary rights or not have been granted by Council and which are exercised on the erf.
- (27) Any sign or poster attached to a Road Traffic Sign.



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6. Signs suspended under verandahs or canopies

Every sign, which is suspended from a verandah or a canopy, shall comply with the following requirements:

(1) Unless the Council otherwise permits, having regard to the design of the verandah or canopy and its associated building and to the position of the building in relation to the street boundary of the erf, the sign shall be fixed with its faces at right angles to such boundary.

(2) No part of the sign shall project beyond the outer edge of the verandah or canopy from which it is suspended.

(3) No part of the sign shall be less than 2.4m above the surface of the sidewalk or ground level immediately below it, nor should the top of the sign be more than 1 m below the canopy or verandah from which it is suspended nor shall any sign exceed 1m in depth.

(4) Unless the Council in writing otherwise permits, the bottom edge of the sign when suspended shall be horizontal and the supports by means of which the sign is suspended, shall be an integral part of the design of the sign.

7. Signs on Verandahs and Canopies over street

(1) Save as herein before provided with regard to hanging signs, every sign affixed to or onto a verandah over a street shall be set parallel to the building line.

(2) Such signs shall not exceed 600mm in depth and shall be fixed immediately above the eaves of the verandah roof in such manner as not to project beyond the rear of the roof gutter or shall be fixed against but not above or below the verandah parapet or balustrade in such manner as not, to project more than 230mm from the outside face of such parapet or balustrade: Provided that

(a) a sign on a public building fixed to or on a verandah over a street and which displays only the features or programme of an entertainment to be given in such public building shall:



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- (i) have a maximum area of 1m in the aggregate for every 1.5m or part thereof of the frontage of such building to the street over which the sign is erected;
- (ii) not exceed 1.2m in height.
- (b) nothing in this Clause contained shall be taken to prohibit the painting of signs not exceed 600mm in depth on beams over verandah columns, or on parapets of verandahs;
- (c) no illuminated sign or sign designed to reflect light, shall be attached to or displayed on any splayed or rounded corner of a verandah or canopy at a street intersection.

8. Projecting Signs

- (1) All projecting signs shall be set at right angles to the building line and shall be fixed at a height of not less than 2,75m above the pavement.
- (2) Save as is provided in sub-clause (3), no projecting signs shall exceed 600mm in height, nor project more than 900mm from the building to which they are attached.
- (3) Notwithstanding the provisions of sub-clause (2), larger projecting signs may be erected:
Provided:
 - (a) the owner of the building or the person for whom the sign is being erected shall make application for and assume at responsibility in connection with such sign, including maintenance, an annual inspection to satisfy himself regarding its safety and liability for all loss or damage caused to any person or property by reason of or in any way arising out of the erection, maintenance or existence of such sign;
 - (b) the design thereof shall be to the satisfaction of the Council, and it shall comply in all respects with this by-law;
 - (c) such sign shall be fixed at right angles to the street and the front of the building upon which it is erected;
 - (d) such sign shall be constructed of metal framing and covered with metal sheeting and shall not exceed 300mm in depth from face to face;
 - (e) such sign shall not exceed a mass of 450kg or 675kg in the case of a sign consisting only of the name of a central public entertainment building;



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- (f) such sign shall not exceed 9m in height or 1.5m total projection from the building, or in the case of a sign consisting only of the name of a central public entertainment building, 14m in height and 1.8m in total projection from the building: Provided that this paragraph shall not apply to any sign which has been erected prior to the date of the publication hereof;
- (g) the sign shall be supported, by at least four iron brackets properly fixed to the building, any two of which shall be capable of carrying the whole mass of the sign, together with wind pressure, against which pressure the sign shall be satisfactorily braced and stayed;
- (h) upon receipt of a notification by the Council under the hand of the Building Control Officer that such sign is unsafe, it shall be removed forthwith by the applicant without any compensation by the Council whatsoever;
- (i) the owner of such sign shall sign a form declaring himself to accept, and be bound by, the above conditions.

9. Pylon Signs

- (1) For the purposes of this Clause the word "pylon" includes any pylon, mast, tower or similar structure to which a sign is attached, supported, displayed or which is constructed as a sign.
- (2) Every pylon shall be independently supported and for that purpose be properly secured to an adequate foundation in the ground and be entirely self supporting without the aid of guys, stays, brackets or other restraining devices.
- (3) The dimensions of a pylon and its associated pylon sign shall be such that the entire assembly, whether stationary or actuated, can be contained wholly within a notional vertical cylindrical figure having a diameter of 9m and a height of 12m. or such dimensions as the Council may require.
- (4) No activated or protruding part of a pylon or of a pylon sign shall be less than 2.4m above the highest point of the existing ground level immediately below such pylon or sign or such other height as the Council may require.
- (5) The Council may consider on merit a request by the owner of a property which adjoins Council road reserve to erect a pylon solely for the display of the name of the business/es



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conducted at that particular property. An encroachment agreement shall be signed with the Council setting out the period and fee payable. The Council shall be indemnified against any claims.

10. Signs indicating the development of a township or property

(1) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township or a property development shall be erected prior to the land-use rights being promulgated.

(2) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township or a property development shall exceed 12m², with a maximum erected height of 6m.

(3) Any approval granted in respect of such a sign in terms of Clause 2, shall lapse after the expiry of one year after the date of such approval, unless an extension has been granted by the Council.

(4) The sign must be located on the site of the proposed township or property development.

(5) The Council may approve a larger sign or hoarding for a particular development after taking into consideration the size of the development which must be 5ha or larger on condition that approval shall lapse after the expiry of one year after the date of such approval.

(6) All signs must be removed within three months of a development being completed or occupied.

11. Signs flat on buildings

(1) The total area of any sign placed flat on the front wall of a building facing a street shall not exceed 20m² for every 15m of building frontage to the street which such sign faces with a maximum area of 200m².



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(2) The maximum projection of a sign referred to in sub-clause (1) over the footway or ground level shall be 75mm where such sign is less than 2,4m above the sidewalk or ground level immediately below such sign and 230mm where such sign is more than 2,4m above such footway or ground level

(3) Signs placed flat on a wall of a building not being a wall contemplated in sub-clause (1), shall not exceed 20m² in total area, unless located in a commercial or industrial zone.

(4) Notwithstanding the provisions of sub-clause (1) and (3), the Council may where it considers it desirable in the interests of the aesthetic appearance of the building/wall on which the sign is placed or of the neighbourhood of such building/wall, permit or require the dimensions of any such sign to be greater than those prescribed.

12. Requirements for sky signs

(1) Two or more sky signs placed one above the other, whether or not in the same vertical plane shall, for the purposes of, this Clause, be deemed to be one sign.

(2) In areas of maximum or partial control every sky sign shall be set against a screen complying with the requirement of Clause 13.

(3) No part of a sky sign shall protrude beyond, above or below the edge of the screen required in terms of sub-clause (2).

(4) If the number of storeys contained in that part of a building which is directly below a sky sign as set out in column 1 of the following table, the maximum vertical dimension of such is recommended not to exceed the dimension specified opposite such number in column 2 of that table:

Number of Storeys Below Sign	Maximum Vertical Dimension
One or two storeys	1.5m
Three or four storeys	2.0m



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Five or six storeys	3.0m
Seven or eight storeys	4.0m
Nine or more storeys	5.0m

(5) A skysign with dimensions other than the above table will be considered by Council on its merits.

13. Screens for sky signs

Every screen for sky sign required in terms of Clause 12(2) shall comply with the following requirements:

(a) (i) Subject to the provisions of subparagraph (ii), every screen shall be so arranged and constructed as to form a continuous enclosure effectively concealing the frame and the structural components of the sky sign and the screen from view and, if the Council so requires, from adjacent or neighbouring properties;

(ii) if, in the opinion of the Council, the walls of any contiguous buildings are of such height and construction that they will effectively conceal and do not contain openings overlooking the frame and structural components referred to in subparagraph (i), the Council may, subject to any condition it deems expedient, relax the requirement of that subparagraph requiring the provision of a continuous enclosure;

(b) unless the Council allows otherwise, no part of the screen shall protrude beyond the perimeter of the building on which it is constructed;

(c) the gap between the bottom of the screen and that part of the building immediately below it shall not exceed 100mm;

(d) the vertical dimension of every such screen shall not exceed one-and-one-half times the vertical dimension of the sky sign as contemplated in Clause 12(4): Provided that if the screen also encloses a lift motor room, tank or other structure on the roof of the building, the vertical dimension of the screen may be increased to the same height as such room, tank or structure;



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(d) if the material of which the screen is made has an open mesh or grid formation, the openings in such mesh or grid shall be uniform, the aggregate area of the openings shall not exceed 25% of the area of the screen and no dimension of any such opening shall exceed 100mm: Provided that the Council may allow the erection of a screen of louvre design if it will ensure the effective concealment as required in terms of paragraph (a)(i)

14. Signs on buildings used for residential purposes

(1) A single sign containing the name only of any building used for residential purposes other than a dwelling house, and a sign consisting of a 600mm x 450mm brass or other metal plate displaying the name of the company owning or managing such building, its logo and telephone number, may be displayed.

(2) A sign contemplated in sub-clause (1) shall:

(a) be fixed to or built into one or more walls of the building or a freestanding wall or boundary wall of the property;

(b) not be internally illuminated;

(c) be limited to one each of the signs referred to in that sub-clause per street frontage of the property concerned.

(3) A sign consisting of a 600mm x 450mm metal plate or board indicating the name and profession or occupation of the occupant may be affixed to the boundary wall or fence, or the entrance door of a dwelling house or dwelling unit, or to a wall in the entrance hall of a building used for residential purposes.

(4) Where a business or profession is conducted from a property in a predominantly residential area by consent of the Council, or in terms of an Amendment Scheme (rezoning) a sign not exceeding 2m², advising the public as to the nature of the business or profession conducted on the premises, may be erected as an element of a street-facing boundary wall. Any sign so erected shall form an aesthetically integral portion of the architecture of either the street-facing boundary wall or a substantial architecture element designed to the satisfaction of the Council on the boundary of the property in question. The sign so erected shall not, in the



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opinion of the Council, detract from the residential character of the neighbourhood or have a negative impact on the market value of adjacent residential properties

15. Signs on awnings

A sign containing only the name of a hotel, shop or restaurant may be displayed on an awning of approved material.

16. Sun-blinds

(1) All sun-blinds shall be so made and fixed as to be incapable of being lowered to within 2m of the footway or pavement.

(2) Except at street intersections, sun-blinds shall only be placed parallel to the building line.

(3) At street intersections, sun-blinds, both new and existing, shall be so placed that they shall not cause any interference with vehicular or pedestrian traffic, traffic lights, street name plates or other notices for the guidance of the public.

17. Signs not to be fixed to verandah columns

No sign of any description shall be fixed to street verandah posts or columns.

18. Signs regarded as tenancy at will

(1) Any person erecting or possessing signs on or over any street, footway or pavement shall be regarded a tenant at will of the Council in respect of such signs and, if instructed by the Council to remove any or all of them, shall do so either within 14 days if the sign is fixed to a pole or other structure, or immediately if the sign is free standing and portable, without any compensation either for direct, indirect or consequential damages.

(2) The Council may remove such signs in the event of non-compliance with such instruction or if they are not in accordance with this by-law, and the expenses of such removal shall be



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recoverable in the ordinary process of law from the owner of the building or from the person to whom the signs belong.

19. Advertisements on banners or similar items

(1) Subject to the provisions of Clause 4(1) and sub-clause (2) no advertisement shall be displayed on any banner, streamer, flag, paper, paper mache, plastic sheet or other similar pliable material or on calico or other woven material, without the written permission of the Council, subject to such conditions as the Council may deem expedient.

(2) Permission in terms of sub-clause (1) shall only be granted for an advertisement relating to a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Local Government, Provincial or National election or referendum.

(3) Every application for permission in terms of sub-clause (1) shall be in terms of the tariff of charges as determined by Council in respect of each advertisement to which the application relates.

(4) The Council or its authorised agent may, without notice, remove and destroy any advertisement contemplated in sub-clause (1) which is displayed in contravention of this Clause.

(5) Every person to whom permission has been granted in terms of sub-clause (1) shall ensure that the following requirements are complied with:

(a) not more than five advertisements shall be displayed in respect of one function or event and with no more than one advertisement per street front;

(b) every advertisement shall be attached to or suspended between poles or other supports on the site on which the function or event is to be held;

(c) every advertisement shall be so attached so as not to interfere with, or constitute a danger to passing vehicular or pedestrian traffic;

(d) no advertisement shall be displayed for more than one week before the date of the function or event advertised nor shall any such advertisement be permitted to remain in position for more than three days after the conclusion of such function or event.



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(6) No banner approved in terms of this Clause may be larger than 6m².

20. Advertisements on balloons

The Council may, for the purpose of considering an application for approval in terms of Clause 2 of a sign to be displayed on a tethered balloon for a period not exceeding four days and being airborne only during daylight hours, have regard to:

- (a) the period for which the balloon will so be used;
- (b) the size of the balloon;
- (c) the strength of the anchorage and of the anchoring cable;
- (d) the provision of a device by means of which the balloon will automatically so deflate as to sink slowly to the ground in the event of the failure or severance of the anchorage or anchoring cable;
- (e) the possibility of interference with traffic, pedestrian or vehicular;
- (f) any requirement or condition prescribe by the Department of Civil Aviation, including the maximum permissible height to which the balloon must be restricted;
- (g) the location of the balloon.

21. Painted advertisements

(1) Subject to the provisions of sub-clause (2), no sign shall be painted directly on to any building, canopy, column, boundary wall, post or structure, other than on the external or internal surface of a window.

(2) Subject to the approval of the Council in terms of Clause 2, the name of any person or company carrying on business in a building may be painted directly on any approved wall of such building.

(3) Subject to the approval of the Council in terms of Clause 2 murals with advertising painted directly onto any approved surface may be considered on merit.



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22. Temporary signs and advertising

(1) Signs relating to the letting or selling of property, complying with the following requirements, may be displayed without the approval of the Council:

(a) any sign not exceeding 600mm x 450mm in size containing the words "for sale" in respect of any dwelling house or residential building and which in addition may display only the name, address and telephone number of the selling agent, and which is placed on or fixed to the building concerned, is attached parallel to a boundary fence of the erf on which the building is situated or is otherwise displayed within the boundaries of such erf. Such signs shall be limited to one sign per agent with a maximum of, three signs

per erf;

(b) any one sign per street frontage not exceeding 600mm x 450mm in size, which contains only the word "Sold" in respect of any dwelling house, or residential building, and which:

(i) is displayed only after all signs referred to in paragraph (a) have been removed;

(ii) is placed on or fixed to the building concerned, or is attached to a boundary fence of the erf on which the building is situated or is otherwise displayed within the boundaries of such erf;

(c) any sign not exceeding 6m² fixed flat on the facade of a non-residential building which contains only the words "For Sale" or "To Let" and the name, address and telephone number for the selling or letting agent, or only the lettering for the word "Sold" with a maximum of one sign per building for a period not exceeding three months.

(d) any sign not exceeding 600mm x 450mm in size, displayed on a vacant residential erf and which displays only the words "For Sale" and the name, address and telephone number of the owner or his agent, or only the word "Sold". Such signs shall be limited to one sign per agency with a maximum of three agencies per erf for a maximum period of two months;

(e) Any sign not exceeding 6m² in size on a vacant non-residential erf and which displays only the words "For Sale" or "To Let" and the name, address and telephone number of the owner or his agent or only the word "Sold" and no other wording whatsoever with a only one sign per erf for a maximum period of three months.



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(f) any directional sign displayed by the Automobile Association of Southern Africa or any other approved body advertising a particular event.

(2) Any sign, or banner not exceeding 4m² and not more than 3m above the ground, containing letters, figures, advertising emblems or devices, not exceeding 150mm in height, relating solely to an entertainment, meeting, auction or a sale to be held upon or in relation to a certain site, may be displayed upon such site: provided that such sign or banner shall not be displayed for more than one week before the function or event, the date of which must be displayed on the sign or banner, nor remain in position for more than three days after the conclusion of the function or event,

(3) Any selling or letting board(s) requiring the approval of the Council in terms of Clause 2(1) must conform to the design regulations currently in force with this by-laws.

(4) To consider at the Council's discretion temporary advertising on Council land or land vested in or controlled by the Council for a period not exceeding 30 days for special event signs.

23. Signs on and over streets

(1) Every person owning, displaying or causing to be displayed a sign which, or any part of which, overhangs, or is placed on any street shall, on being instructed by notice in writing by the Council to do so, remove it within twenty four hours from the date of such instruction or within such longer period specified in such notice without payment of any compensation.

(2) In the event of non-compliance with an instruction in terms of sub-clause (1), the Council may itself remove the sign concerned and may recover the cost thereof from the person or persons, jointly and severally, to whom a notice in terms of subclause

(1) was addressed and such persons shall not be entitled to any compensation.

24. Billboards

(1) Any billboard displayed may not:

(a) be in conflict with applicable National Legislation, or local By -laws;



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- (b) be detrimental to the nature or the environment in which it is located by reason of abnormal size, intensity of illumination or design;
 - (c) be in its content objectionable, indecent or insensitive to any Clause of the public or to any religious or cultural groupings or the like;
 - (d) unreasonably obscure partially or wholly any sign previously erected and legally displayed;
 - (e) constitute a danger to any person or property.
 - (f) encroach the boundary line of the property on which it is erected.
- (2) Road intersections - a maximum of 2 single-sided advertising boards per intersection may be permitted.
- (3) Spacing of billboards shall be at the discretion of the Council having regard to safety, aesthetics, environmental, local area frameworks and other considerations.
- (4) Billboards in rural areas shall be erected in such a way as not to obstruct one another, be of even height wherever possible and evenly spaced.
- (5) Where, in the opinion of the Council, a sign alley has been created the spacing of billboards shall be at the discretion of the Council.
- (6) Safety conditions:
- Billboards shall be erected and serviced to comply with the following conditions:
- (a) Signalised intersection -
 - (i) they shall not have as main colours, red, amber, green and the advertising sign to be well clear of the signal heads;
 - (ii) they shall not obscure or interfere with any road traffic light or sign;
 - (b) Illumination -

Illumination of billboards is permitted provided such illumination does not constitute a road safety hazard or cause undue disturbance.
 - (c) Erection and servicing on public roads -

The traffic flow should not be impeded during erection and servicing of a billboard on a public road unless prior permission has been obtained and the necessary precautions arranged.
 - (d) Prohibited areas on motorways -



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Billboards may be permitted within specified distances of on and off-ramps of motorways and overhead traffic directional signs where a curve in the road renders the billboard not to interfere with a clear and undistracted view of the directional traffic sign.

(7) Site identification -

Sign owner's name or logo must be clearly displayed.

(8) Maintenance -

Conduct regular site inspections to ensure the good condition of boards. Traffic flow should not be impeded during the servicing of a billboard on a public road unless prior permission has been obtained and the necessary safety precautions arranged.

(9) Size per copy - At the Council's discretion to a maximum of:

Areas of partial control - 40m²

Areas of minimum control - 81m²

(Areas of control defined in the Councils: Outdoor Advertising Policy and Code of Practice and the SAMOAC guideline document)

(10) An application fee as determined by Council is payable.

(11) The height of a billboard shall not exceed 12m unless otherwise approved by Council.

25. Transit Signs

(1) Transit advertising signs shall only, be permitted to be displayed if mobile at all times and comply with all requirements of Road Traffic legislation.

(2) The parking of a transit advertising sign on Council or private property for the purposes of third-party advertising is prohibited.

(3) Transit advertising signs parked on private property for the purpose of storage shall be positioned in such a manner as not to be visible from a street or public place.

(4) Notwithstanding the provisions of sub-clauses (1), (2) and (3) or otherwise in contravention of this by-law, the Council or its authorised agent may, without prior notice, carry out the removal and impoundment of such transit advertising sign.



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(5) A transit advertising sign impounded by the Council may be released in terms of Clause 33 (5)(a) within a period of 3 months of notification or such sign shall be disposed of by Council to defray any fines or removal costs involved.

(6) A transit advertising sign impounded by the Council shall only be released after the removal cost and fine are settled in full and a copy of the current license registration papers have been submitted for verification.

26. Posters

(1) (a) No person shall in, or in view of, any street display or cause or allow it to be displayed any poster unless he has first obtained the written permission of the Council;

(b) No permission shall be given for the display of any poster concerning any commercial undertaking or activity or concerning any activity which, in the opinion of the Council, is primarily or mainly of a commercial character.

(2) Every application for permission required in terms of sub-clause (1) shall be accompanied by an application fee or a deposit as determined by Council, and written details of the townships and streets in which the posters are to be displayed and all the posters to which the application relates: Provided that for National, Provincial or Municipal elections only one poster need be submitted and an application fee paid by each candidate as determined by Council Provided that for National, Provincial or Municipal referendums only one poster need be submitted and an application fee paid by each registered political party as determined by Council

(a) every poster for which permission is granted in terms of sub-clause (1) shall be provided with a Council sticker and only posters with the Municipality stickers affixed or approved Municipality's markings shall be displayed,

(b) the Council shall be entitled to retain one such poster for identification purposes.

(3) Any person who displays or causes or allows to be displayed in or in view of a street, a poster, for which permission has been granted in terms of sub-clause (1), shall ensure that the following requirements are complied with

(a) no poster shall be so displayed that any part of it is lower than 2.1m or higher than 3m above the sidewalk or ground level immediately below it;



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(b) no poster displayed by any person shall be indecent, or suggestive of indecency, prejudicial to public morals or reasonably objectionable;

(c) no poster shall be displayed on motorways including on and off-ramps;

(d) every poster other than a parliamentary, provincial or municipal election or referendum poster shall be displayed in a permanent frame or other approved backing, of a design and in a predetermined location approved by the Council. The maximum size for frames shall not exceed :

Advertising posters 900mm high x 600mm wide; (A1 size)

Press posters 600mm high x 450mm wide. (A2 size)

(e) every parliamentary, provincial or municipal election or referendum poster shall be attached to a board made of wood, hardboard, correx or other approved weatherproof material, in such a manner that it will not become wholly or partially dislodged by wind or rain, and neither the board nor poster shall exceed 900mm high x 600mm wide or be less than 600mm high x 450mm wide, and secured only to an electric light standard erected by the Council or the State in a street or public place: Provided that such board is secured to such light standard by means of stout string or plastic ties only (no securing material with a metal content is permitted);

(f) the 'frame' referred to in paragraph (d) shall not be placed on or against or attached to or otherwise supported by any transformer box, telegraph pole, tree, road traffic sign or other sign or object with the exception of an electric light standard erected by the Council or the State in a street or public place, provided such frame is secured to such light standard in such a manner (to the approval of the Council) that it will not become or wholly or partially dislodged by wind or an other means, and positioned in such a manner that it does not obscure or interfere with the electrical inspection chamber or pole identification number or impair the safety of motorists or pedestrians, maximum of 2 frames per pole. No frame shall be erected within 10m of a traffic signal unless the prior approval of the Council has been obtained;

(g) no poster relating to a meeting, function or event, other than a National, Provincial or Municipal election or referendum shall be displayed for longer than ten days before the date on



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which such meeting, function or event begins or longer than four days after the date on which it ends;

(h) no poster relating to a parliamentary, provincial or municipal election or to a specific candidate in such election or a poster relating to a referendum shall be displayed for longer than the period extending from the beginning of either the date, of nomination or the date of proclamation in the Government Gazette declaring that a referendum is to be held, as the case may be, to the end of the tenth day after the date of such election or referendum: Provided that posters not relating to a specific candidate may also be displayed for a period no longer than that extending from a date fourteen days prior to either nomination day or the date of proclamation in the Government Gazette declaring a referendum is to be held, as the case may be, to the end of the fifth day after the date of such election;

(i) subject to the discretion of the Council, not more than 2000 posters shall be displayed at any one time in relation to any meeting, function or event, other than a National, Provincial or Municipal election or referendum or a meeting relating to an election or referendum;

(j) in respect of each candidate not more than 1000 posters or other advertisements shall be exhibited at any one time in any municipal ward or as otherwise directed by Council; in respect of a referendum not more than 5000 posters or other advertisements per registered political party shall be so exhibited in the municipal area of the Municipality or otherwise directed by Council.

(k) the details of the event, the commencement and final date of the event and the venue with address where it is to be held must appear on the posters in letters not less than 50mm in height and 10mm in thickness, with all other information pertinent to the event in letters not less than 30mm in height and 5mm in thickness;

(l) the commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster;

(m) the posters may not have a display period of more than 28 consecutive days for any event advertised.

(n) the display of posters on any bridge or in sensitive areas identified by the Council, is prohibited.



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(o) the display of auction posters shall only be within the area of jurisdiction of the Municipality, duly authorised by the Sheriff of the Court, to a maximum of 40. The Case Number or Masters Reference Number must be displayed on the poster. A writ is to be produced on submission.

(p) the display of political posters not directly for the purposes of a National, Provincial or Municipal election or referendum, shall be regarded as advertising.

(4) The provisions of sub-clause (2) shall not apply in respect of a poster relating to an election, or a referendum, which:-

(a) is placed entirely inside private premises;

(b) is displayed in or on a motor vehicle;

(c) is displayed at the committee room clearly marked as such, of a candidate in an election; or

(d) fixed to an advertising hoarding for which approval has been granted in terms of Clause 2.

(5) Any poster which is displayed without permission or in contravention of this Clause may without notice be removed and destroyed by the Council or persons appointed by the Council. Any costs incurred by the Council in the removal will be borne by the person who displayed the poster or caused, or allowed it to be displayed.

27. Fixing of signs and hoardings

(1) All signs and hoardings shall be properly constructed of the requisite strength and shall, be securely fixed to the satisfaction of the Council.

(2) The person by whom such signs and hoardings are erected and the owner of the fixture on which or to which they are attached shall assume all liability and responsibility in connection therewith, including maintenance, and shall undertake at least one annual inspection thereof with a view to satisfying themselves as to the safety thereof.

(3) Every sign or hoarding shall be repainted and cleaned regularly in order to prevent them from becoming unsightly.

(4) The Council may require certification by a person as defined in Clause 2(5) that the installation is structurally safe.

28. Design requirements for signs



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Regulations for Clause 2(12)

(1) Definitions

"An item of information" on a sign means a syllable, an initial, a symbol or logo, an abbreviation, a group of numbers (e.g. a telephone number), a broken plane (i.e. more than one geometric shape or background area) and a graphic feature.

(2) Design requirements

(a) No information sign may contain more than 10 items of information: Provided that in the case of establishments with long names, such names should not be counted as more than 4 items of information provided that they appear only once per street frontage and the lettering is of the same size, style, colour and typeface.

(b) Lettering 70mm in height or less will not be counted as an item of information.

(c) Architectural letters less than 500mm in height and carved into the material of a building or attached securely to it are not counted as items of information: Provided that:

(i) the letters are not specially illuminated;

(ii) the letters are not constructed of a shiny material;

(iii) the colour of the letters does not contrast sharply with that of the building's surface;

(iv) the letters do not exceed 50mm in thickness.

(3) Sign formats

Any sign requiring approval in terms of Clause 22 and which is required to conform to Clause 22(3) may be exempt from submitting further individual applications in instances where a prototype sign format was approved by the Council.

29. Materials for advertising signs, hoardings, screens and supporting structures

(1) All iron or steel used in any advertising sign, hoarding or screen referred to in Clause 13 or as means of support for such sign, hoarding or screen shall be painted or otherwise effectively protected against corrosion.

(2) No water soluble adhesive tape or other similar material shall be used to display or secure any advertising sign elsewhere than on a hoarding or within a fixture referred to in Clause 4 (1)

(d).



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30. Power cables and conduits to signs.

(1) Every power cable and conduit containing electrical conductors for the operation of a sign shall be so positioned and fixed that it is not unsightly.

(2) No advertising sign or hoarding shall be connected to any electricity supply without the prior written permission of the relevant electricity supply authority. Such proof of permission shall be submitted if requested.

31. Erection and maintenance of advertising signs and hoardings.

(1) If, in the opinion of the Council, any advertising sign or hoarding is in a dangerous or unsafe condition or has been allowed to fall into a state of disrepair or interferes with the functioning of any road traffic sign, the Council may serve a notice on an owner requiring him at his own cost, to remove the sign or hoarding or do other work specified in the notice within a period so specified.

(2) The Council may, if in its opinion an emergency exists, instead of serving notice in terms of sub-clause (1) or if such notice has not been complied with within the period specified therein, itself carry out the removal of a sign or advertising hoarding or do other work which it may deem necessary and may recover the cost thereof from the owner referred to in sub-clause (1).

(3) The Council shall, should an approved advertising hoarding not display an advertisement or message for a period more than 12 months or as otherwise agreed to by Council, serve a notice on the owner requiring him, at his own cost, to remove the hoarding or to display an advertisement or message within a period so specified.

32. National Buildings Regulations.

Should any conflict exist between this by-law and the National Building Regulations and Building Standards Act 103 of 1977, the Act shall prevail.

33. Charges



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(1) Every person who applies to the Council for its approval or permission shall on making application pay to the Council the charge determined therefore and no application shall be considered until such charge has been paid.

(2) The fines and penalties for offences in terms of Clause 36 are set out below:

(a) upon conviction of an offence, the guilty party shall be liable to a fine not exceeding R15,000.00 or, in default of payments, to imprisonment for a period not exceeding 12 months;

(b) in the case of a continuing offence, the guilty party shall be liable to a further fine not exceeding R1000.00 for every day during the continuance of such offence;

(3) The cost involved for the removal of unauthorised posters by Council, which cost shall be recovered from the owner of such unauthorized poster(s), will be:

(i) per poster (unpasted) R 100,00

(ii) per poster (pasted) R 500,00

(iii) per poster (flyposter) R1 000,00

(iii) Saturdays relevant charge plus 50%

(iv) Sundays relevant charge plus 100%

(4) Spot fines to a maximum of R5000.00 may be served by duly authorised officials of the Council on offenders for any contravention or failure to comply with the terms of this by-law.

(5) Any signs or advertising boards which have been removed and impounded but not destroyed by the Council as a result of them not complying with this by-law may be released to the original owner at the following rates:

(a) transit advertising signs may be released at the cost of removal with a minimum fee of R500.00 plus R100.00 per square metre of advertising display or part thereof;

(b) for all other signs the charge will be the cost of removal with a minimum of R500.00 plus R50.00 per square metre of advertising display or part thereof;

(c) signs removed and not released within 3 months shall be disposed of by the Council.

34. Damage to Council Property



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(1) No person shall intentionally or negligently, in the course of erecting or removing any sign, advertising hoarding, poster or banner cause damage to any tree, electric standard or service or other Council installation or property.

(2) The costs for any repairs necessary will be for the account of persons in terms of Clause 38.

35. Entry and Inspection

The Council shall be entitled, through its duly authorised officers, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this by-law.

36. Offences

Any person who -

(a) contravenes or fails to comply with any provision of this by-law

(b) contravenes or fails to comply with any requirement set out in a notice issued and served to him in terms of this by-law;

(c) contravenes or fails to comply with any condition imposed in terms of this by-law;

(d) knowingly makes a false statement in respect of any application in terms of this by-law; shall be guilty of an offence and shall on conviction be liable to a fine or imprisonment as set out in Clause 33(2)(a), and in the case of a continuing offence to a fine, as set out in Clause 33(2)(b), for every day during the continuation of such offence after a written notice has been issued by the Council requiring discontinuance of such offence, and for a second or subsequent offence he shall be liable on conviction to a fine or imprisonment as set out in Clause 33(2)(c).

37. Presumptions

If any person is charged with an offence referred to in Clause 36 relating to any design, advertising hoarding or poster:

(a) it shall be deemed that he either displayed such advertising sign, hoarding or poster or caused or allowed it to be displayed;



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(b) the owner of any land or building on which any advertising sign, hoarding or poster was displayed, shall be deemed to have displayed such advertising sign, hoarding or poster or caused or allowed it to be displayed;

(c) any person who was either alone or jointly, with any other person responsible for organizing, or was in control of, any meeting, function or event to which a sign or poster relates, shall be deemed to have displayed every sign or poster displayed in connection with such meeting, function or event or to have caused or allowed it to be displayed; (d) any person whose name appears on an advertising sign, hoarding or poster shall be deemed to, have displayed such advertising sign, hoarding or poster or to have caused or allowed it to be displayed unless the contrary is proved.

38. Removal of advertising signs or hoardings

(1) If any advertising sign or hoarding is displayed so that in the opinion of the Council it is detrimental to the environment or to the amenities of the neighbourhood, or otherwise in contravention of this by-law, the Council may request or serve a notice on the owner of the advertising sign or hoarding to remove such advertising sign or hoarding or carry out such alteration thereto or do such work as may be specified in such request or notice within a time specified,

(2) If a person fails to comply with a confirmed request or a notice referred to in subclause (1), the Council or its authorised agent may remove such an advertising sign or hoarding.

(3) The Council shall in removing a transit sign, advertising sign or hoarding contemplated in sub-clause (1) not be required to compensate any person in respect of such advertising sign or hoarding, in any way of loss or damage resulting from its removal.

(4) Any costs incurred by the Council in removing a transit sign, advertising sign or hoarding, in terms of sub-clause (2) or in doing alterations or other works in terms of this Clause may be recovered from the person on whom the notice contemplated in sub-clause (1) was served, or if a deposit has been paid in respect of such advertising sign or the costs may be deducted from the deposit



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(5) Notwithstanding the provisions of sub-clauses (1), (2), (3) and (4) if an advertising sign or hoarding:

(a) constitutes a danger to life or property;

(b) is obscene;

(c) is in contravention of this by-law and is erected on, attached to or displayed on any property of, or under the control of the Council; the Council may, without serving any notice, remove any such advertising sign or hoarding or cause it to be removed.

39. Serving of notices

Where any notice or other document is required by this By law to be served on any person, it shall be deemed to have been properly served if served personally on him or any member of his household apparently over the age of sixteen years at his place of residence or on any person employed by him at his place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the Council, or if such person is a company or closed corporation or a trust, if served on any person employed by that company, closed corporation or a trust, if served on any person employed by that company, closed corporation or trust at its registered office or sent by registered post to such office.

Any verbal request for action to be taken in terms of this by-law shall be confirmed in writing.

40. Public notice of application

(1) The applicant shall cause a notice containing the details of his application as prescribed in Schedule 1 to this by-law, to be published once a week for two consecutive weeks in a English language - and one other official language newspaper circulating in the area of the erf or site to which the application relates.

(2) The applicant shall post a notice in English and one other official language in such form as prescribed in Schedule 2 to this by-law in a conspicuous place and within 3 metres from the proposed siting of the sign/hoarding or in such other place, form and manner as may be determined by the Council. Such notice shall be maintained by the applicant for a period of at



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least 14 days from the date of the first publication of the notice contemplated in sub-clause (1) above.

(3) The notice referred to in sub-clause (1) and (2) shall, in addition to containing details as prescribed in the relevant schedules, state that the application documents relating to the application will be open for inspection, from the date of the first publication as contemplated in sub-clause (1) above and at specified times and a specified place at the Council's offices.

(4) The notice referred to in sub-clauses (1) and (2) shall further state that any objection in regard to the application shall be submitted in writing both to the Council and the applicant under cover of registered or certified post or by hand within a period of 14 days from the date of the publication of the first notice contemplated in sub-clause (1). The applicant shall within 14 days from receipt of the objection forward his reply thereto to the local authority.

(5) The applicant shall submit proof to the satisfaction of the local authority that he has complied with the provisions of sub-clause (1) - (4).

(6) All advertising signs and hoardings shall be classified by the Council and above notice shall apply to those classes of advertising signs and hoardings as may be determined by the Municipal Manager

41. Hearing

(1) Where objections have been lodged in respect of the application, the Council shall, hear the objections or representations.

(2) Where such objections lodged are to be heard by Council, the council shall determine a day, time and place for the hearing.

(3) Not less than 14 days prior to the day determined in terms of sub-clause (2), the Council shall notify the applicant and every objector of the day, time and place so determined.

(4) At the hearing the Council shall adopt its own procedure in compliance with the rules of natural justice.

42. Appeals



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- (1) An applicant or objector who is aggrieved by the Council's decision may appeal against that decision and shall give written notice of the appeal including the grounds of appeal to the Municipal Manager within 21 days of the date of the notification of the decision in terms of Clause 2(8).
- (2) A committee of Councillors who were not involved in the original decision will be the appeal authority.
- (3) Such appeal authority must commence with such an appeal within six weeks from date of the Notice of Appeal and decide the appeal within a reasonable period.



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DETERMINATION OF CHARGES FOR ADVERTISING SIGNS AND HOARDINGS

In terms of Section 11(3) of the Municipal Systems Act, 32 of 2000 read with Section 10(7)(7) of the Local Government Transition Act, 209 of 1993. It is hereby notified that the Municipality has amended its Determination of Charges for Advertising Signs and Hoardings with effect from 1 June 2005 as set forth hereunder.

TARIFF OF CHARGES: ADVERTISING SIGNS AND HOARDINGS

(a) In terms of Section 2(1) (i.e. applications or signs set out in Sections 6 to 16 and 20 to 23 inclusive) the approval fee is R50.00 per square metre of advertising display or part thereof, with a minimum fee of R500.00 per application.

(b) In terms of Section 19(3) (i.e. advertisements on banners or similar items) an application fee of R200.00 is required.

(c) In terms of Section 26(2) (i.e. posters) -

(i) an application fee of R1.00 per poster be paid to permit the display of posters of non-profit bodies only. These posters have to display the fundraising numbers of the bodies or a formal constitution has to be submitted to Council. No commercial advertising and logos of sponsors will appear on posters;

(ii) an application fee of R5.00 per poster with a minimum fee of R200.00 be paid to permit the display of posters for religious, sporting, social and cultural events, with commercial advertising and logos of sponsors. The commercial advertising shall not exceed 20% of the area of the poster, not is any lettering to be larger than any other lettering;

(iii) an application fee of R500.00 per candidate (fully refundable on removal) for a National, Provincial or Municipal election;

(iv) an application fee of R5 000.00 per registered political party. (fully refundable on removal) for a Parliamentary, Provincial or Municipal referendum; and

(d) In terms of Section 24 (Billboards, Spectaculars or any sign in excess of 24sq.m as defined in Section 1) an application fee of R500.00 is required for consideration of approval with a further amount of R100.00 per square metre of advertising display payable for a five year approval by council irrespective of whether the sign is erected on private or Council land.



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Severability

A decision by a court that any part of this By-law is void or unenforceable is not to affect the balance of the By-Law.

Force and effect

This By-Law is to come into force and take effect on the date of its enactment.

PROVINCIAL NOTICE 145 OF 2015

NXUBA LOCAL MUNICIPALITY



LIQUOR TRADING HOURS BY-LAWS

NXUBA LOCAL MUNICIPALITY**NOTICE**

Notice is hereby given in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 108 of 1996 as amended, that Nxuba Local Municipality in terms of resolution number 13 dated 20 August 2014, resolved to adopt the following Liquor Trading Hours By-Law

BY-LAWS**PREAMBLE**

WHEREAS the Council of the Nxuba Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has an obligation in terms of section 42 of the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003] to regulate the hours during which liquor may be sold and regulate the operating hours of premises where on-site consumption of liquor takes place in the demarcated municipal area and to provide for incidental matters;

NOW THEREFORE be it enacted by the Council as follows:

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- [1] Definitions
- [2] Application of By-Laws
- [3] Report by Ward Committee
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- [9] Penalties
- [10] Repeal of By-Laws

SCHEDULES**[1] DEFINITIONS**

In these By-Laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates:-

"Act" means the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003];

"Authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these By-Laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.;

"Board" means the Eastern Cape Liquor Board established by section [4] of the Act;

"Council" means the Council of the Nxuba Local Municipality or any other political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] or official including the authorized official acting by virtue of powers delegated to it or him by the Council with regard to the application;

"community" means those residents, governing body of schools or places of worship occupying premises within a 100m radius from the premises in respect of which an application for registration and/or a license or authorization in terms of the Act is made;

"Municipal Manager" means the Municipal Manager of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 and includes any person acting in this position;

"Liquor trading establishment" means any fixed property from which liquor is sold or supplied to the public for consumption;

"Official" means an official of the Municipality;

"premises" includes any place, land, building or conveyance or any part thereof which is registered or seeking to be registered in order to permit and allow trading in liquor;

"Regulations" means the regulations made under the Act and published in Provincial Notice No. 17 of 2004, dated 28 May 2004 as may be amended from time to time;

"trading hours" means the time when a liquor trading establishment opens to the time that such establishment ceases to trade and, in the case of on-site consumption establishments, the time when they cease to operate and must close in accordance with **SCHEDULE 1** of these By-Laws;

"Trader" means a person trading in liquor from a liquor trading establishment;
"Ward committee" means a committee as contemplated in the Local Government: Municipal Structures Act, 1998.

[2] APPLICATION OF BY-LAWS

These By-Laws are applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trading in liquor is conducted or is intended or permitted to be conducted in terms of any Town Planning Zoning Scheme of the Municipality or made applicable to the Municipality and/or consent usage granted by the Municipality and/or any title deed conditions applicable to such premises.

[3] REPORT BY WARD COMMITTEE

[1] A ward committee must, upon receipt of a notice of application for registration in terms of section 22[2][d][i] of the Act, hold a consultative meeting with the owners of immovable property and businesses and with residents in the immediate vicinity of the premises in respect of which the application applies and record in writing all comments [if any] with regard to such application;

[2] The councillor responsible for the ward in respect of which an application contemplated in subsection [1] has been made must submit a report to the Municipality within 30 days of referral of such application to the ward committee concerned and such report must contain:

- [a] the details of the consultative process with the community, including the –
 - [i] Dates when the consultation took place; and
 - [ii] Names and addresses of persons who were consulted;
- [b] Comments on the application;
- [c] Details of objections received in respect of such application, if any;
- [d] Comments on such application; and
- [e] A recommendation with regard to such application.

[3] The Municipal Manager must report the application and the comments of the ward committee concerned to the Council at its first meeting after receipt of the comments of such Committee and thereafter expeditiously inform the Board of the resolution of the ward committee and the Council on such application; provided that the Municipal Manager must provide the applicant with reasons within seven days of such referral to the Council if the application and comments of the ward committee could not, for any reason whatsoever, be considered by the Council.

[4] The Council may, when considering an application, appoint an official to conduct further investigation and obtain any further information that it deems necessary from any person deemed necessary by the Council; provided that the Municipal Manager must notify the applicant within seven days of such referral by the Council.

[5] An official appointed in terms of subsection [4] must complete the investigation within such period as Council may have deemed necessary and report his findings to the Council at its next meeting.

[6] The Council must consider the findings contemplated in subsection

[5] Thereafter take the steps contemplated in subsection [3].

[4] HOURS OF TRADING

[1] The trading hours, as listed in Column 2 of **SCHEDULE 1** to these By-Laws of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the **SCHEDULE 1**, have been determined by the Municipality and may be reviewed by the Municipality from time to time.

[2] Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection [1]; provided that nothing contained in these By-Laws –

- [a] prevents liquor trading premises from remaining open outside liquor trading hours exclusively for the sale of goods other than liquor; and
- [b] Permits a trader to sell liquor to a person who is under the age of eighteen years, or to allow a person under the age of eighteen years to consume liquor on liquor trading premises.

[3] A trader who contravenes subsection [2] commits an offence.

[5] EXEMPTIONS

[1] The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section and a trader who wishes to sell liquor at such hours must, before he sells such liquor, obtain such written consent of the Municipality.

[2] A trader who wishes to obtain the consent of the Municipality must complete a form similar to the APPLICATION FOR CONSENT TO SELL LIQUOR OUTSIDE TRADING HOURS FORM as contained in **SCHEDULE 2** and submit the form and other particulars as the Municipality may request, to the Office of the Municipal Manager.

[3] The Municipality may, after consideration of the application, refuse to grant consent or grant consent and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and

condition or restriction, if imposed, must be entered in item C of the form contained in **SCHEDULE 2**.

[4] A trader who has been granted consent in terms of subsection [3] must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.

[5] A trader who contravenes subsection [1] or [4], or who sells liquor in contravention of a condition or restriction imposed in terms of subsection [3], or who displays a forged form, commits an offence.

[6] ENFORCEMENT

[1] The Municipality may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these By-Laws.

[2] Each official appointed in terms of subsection [1] must be issued with an identity card containing –

- [a] photograph of that official;
- [b] the date of the Council resolution authorizing his appointment;
- [c] his designation; and
- [d] a brief reference to his duties and obligations in terms of these By-Laws;

[3] An official, acting within the powers vested by these By-Laws must, on demand by a member of the public, produce proof of identity and the capacity in which such official purports to carry out his duties;

[4] An official, acting in terms of the authorization or mandate contemplated in subsection [1] may –

- [a] at all reasonable times, enter upon premises on which a business is being or is intended to be carried on; and
- [b] request any person to provide such reasonable information as the official deems necessary.

[5] For purposes of these By-Laws, an official appointed in terms of this section will be regarded as the authorized official.

[7] APPEAL

[1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[3] When the appeal is against a decision taken by –

- [a] the authorised official, the Municipal Manager is the appeal authority;
- [b] the Municipal Manager, the Mayor is the appeal authority; or
- [c] a political structure or political officer bearer, or a Council of the Municipality is the appeal authority.

[4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[8] OFFENCES

[1] Anyone commits an offence if he –

- [a] hinders or interferes with an authorized official in the execution of his official duties in terms of the Act;
- [b] falsely professes to be an authorized official;
- [c] intentionally furnishes false or misleading information when complying with a request of an authorized official;
- [d] fails to comply with a reasonable request of an authorized official;
- [e] fails, refuses or neglects to comply with the trading hours referred to in **SCHEDULE 1**.

[9] PENALTIES

[1] Anyone who commits an offence contemplated in section 6[1] to [5] and 10[a] to [d] of this By-Laws is, upon conviction, liable to –

- [a] a fine or imprisonment for a period not exceeding six months; or
- [b] such imprisonment without the option of a fine; or
- [c] both such fine and such imprisonment.

[2] Anyone who is found to be continuously contravening or failing to comply with section 10[a] to [d] of this By-Laws is guilty of an offence and liable to –

- [a] an additional fine; or
- [b] an additional period of imprisonment of 10 days; or
- [c] such additional imprisonment without the option of a fine; or
- [d] both such additional fine and imprisonment for each day on which such offence is continued.

[3] Anyone who commits an offence in terms of section 10[a] to [d] of these By-Laws is liable for a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

[4] Anyone who commits an offence in terms section 10[e] of these By-Laws is liable upon conviction, to –

- [a] a fine or imprisonment for a period not exceeding three years; or
- [b] imprisonment without the option of a fine; or
- [c] a fine and imprisonment.

[5] Anyone who is found to be continuously contravening or failing to comply with section 10[e] of these By-Laws is, in respect of each day on which that person contravenes or fails to comply, guilty of an offence, including the day of any conviction for an offence in terms of this subsection or any subsequent day and liable on conviction to –

- [a] a fine; or
- [b] imprisonment for a period not exceeding three months; or
- [c] both such fine and imprisonment.

[3] Anyone who is convicted of a contravention of section 10[e] of these By-Laws within a period of five years after he was convicted of contravening these By-Laws is liable to –

- [a] imprisonment for a period of six years; or
- [b] double the fine for contravening these By-Laws; or
- [c] to both such fine and imprisonment.

[10] REPEAL OF BY-LAWS

[1] Any By-Laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and in conflict with any matter regulated in these By-Laws is hereby repealed.

[2] Anything done under the provisions of the By-Laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these By-Laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these By-Laws is valid under the By-Laws so repealed.

SHORT TITLE AND COMMENCEMENT

5. This By-Laws is called Liquor Trading Hours By-Laws, 2014 and will come into operation on the date of publication in the *Provincial Gazette*

SCHEDULE

TYPE OF REGISTRATION

Section 20[a] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold. *[bottle store, retail shop, wholesaler, house shop]*

Section 20[b] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. *[restaurant, night club, sports club, pool bar, hotel, pub]*

Section 20[c] - Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. *[taverns, shebeens]*

Section 20[d] - Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events. *[beer festival, fete, fundraising event]*

Section 20[e] - Registration in terms of the Liquor Act for licensed wholesale warehouse.

Section 20[e] - Registration in terms of the Liquor Act for licensed micro-manufacturing

[2] TRADING HOURS

Monday to Saturday 08:30 to 18:00
Sunday 09:00 to 13:00

Sunday to Thursday 10:00 to 24:00
Friday-Saturday 10:00 to 02:00

Off-consumption

Monday to Saturday 08:30 to 20:00
Sunday 09:00 to 13:00

On-consumption

Sunday to Saturday 08h30 to 20:00

Trading hours to be determined by resolution of the Council in respect of each application

Monday to Saturday 08:00 to 17:00
Sunday 09:00 to 13:00

Trading hours to be determined by resolution of the Council in respect of each application

IMPORTANT Information from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.



Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Also available at the Legal Advisory Services, **Province of the Eastern Cape**, Private Bag X0047, Bisho, 5605.
Tel. (040) 635-0052.