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LIMPOPO PROVINSIE  
XIFUNDZANKULU XA LIMPOPO  
PROFENSE YA LIMPOPO  
VUNDU LA LIMPOPO  
IPHROVÎNSI YELIMPOPO

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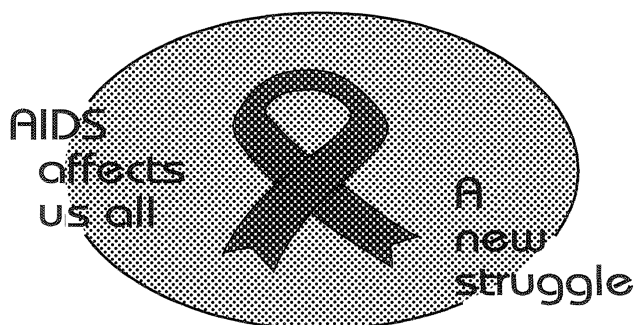
13 KHUBVUMEDZI 2013

**No. 2252**

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## **LOCAL AUTHORITY NOTICE**

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### **RULES AND ORDERS BY-LAW**

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## **FETAKGOMO LOCAL MUNICIPALITY**

## **RULES AND ORDERS BY-LAW**

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## RULES AND ORDERS BY-LAW

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### **RULES AND ORDERS BY-LAW**

The Municipal Manager of Fetakgomo Local Municipality hereby in terms of section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the rules and orders by-law for the municipality as approved by its council as set out hereunder.

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### DEFINITIONS

#### 1. Definitions

In these by-law, unless the context otherwise indicate, the following words shall mean –

**“Act”** means the Local Government: Municipal Structures Act, 1998(Act 117 of 1998);

**“Adjourning the Council or a meeting of a Committee”** means closing the meeting;

**“Administration” or “administrator”** means the municipal manager and the other employees of the Council and includes management and the tasks that employees perform to enable the council to make and implement legislations, policies and by-laws;

**“Agenda”** means the document that describes the business of Council or Committee and includes the proceedings for the meeting;

**“Audit report”** means any report submitted to the council by or on behalf of the Auditor General with regard to the auditing of the council’s annual financial statements and accounting records;

**“Announcements, Tabling’s and Committee reports means (ATC)** the documents listing announcements, items of business tabled and Committee reports under discussion on a specific working day of the Council;

**“Chairperson of the Council”** means the Speaker of the Council as contemplated in section 36 and 37 of the Act;

**“Chair of Chairs”** means the person who chairs the Committee of Chairpersons;

**“Chairperson of the Executive Committee”** means the Mayor of the Municipality;

**“Committee”** means committee of the Council;

**“Chief Whip of Council”** means the chief whip of the majority party;

**“Code of conduct”** means the code of conduct for councilors in schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

**“Constitution”** means the constitution of the Republic of South Africa, 1996;

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**“Constituency”** means for the purpose of a public hearing a political party that contested elections for councilors in the municipal area; and any readily identifiable group of residents in the municipal area whether organized or not, that share common economic or social interests or conditions”;

**“Continuation meeting”** means a meeting that takes place to complete the unfinished business from a meeting that had not been concluded;

**“Council”** means the Fetakgomo Municipal Council established in terms of section 12 of the Local Government: Municipal Structures Act and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

**“Council Precinct”** means any place de facto occupied by council or other boundaries of the municipality;

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

**“Executive Committee”** means the committee consisting of councilors elected by the Council in terms of the Local Government Structures Act, Act 117 of 1998 as amended;

**“Gavel”** means hammer for calling attention or order to be utilized by the Speaker or presiding officer;

**“IDP”** means Integrated Development Plan;

**“Language of record”** means English;

**“Language of the Council”** means english as the language of communication (also refer to the approved Language Policy of Council;

**“Legislature”** means oversight arm of Council;

**“Mayor”** means the person presiding at Executive Committee meetings as contemplated in section 49 of the Act, as well as where a Deputy Mayor is elected, the Deputy Mayor acting in the Mayor’s stead;

**“MEC”** means the member of the executive council in Limpopo Province responsible for local government;

**“Meetings”** means a meeting of the Council; the Executive Committee and Council Committees;

**“MoEC”** means Member of the Executive Committee;



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## RULES AND ORDERS BY-LAW

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**“Member”** means a member of the Council or the Executive Committee as the case may be;

**“Motion”** means a written proposal to be debated by Council or Committee;

**“Municipal area”** means the area of jurisdiction of council demarcated in terms of the Local Government Municipal Demarcation Act, 1997 (Act 27 of 1998);

**“Municipal manager”** means head of the administration and accounting officer appointed by the council and includes any employee of the council who acts in the capacity as contemplated in section 82 of the Act;

**“Party whip”** means a Councilor elected and designated by their party to serve in that capacity;

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

**“Presiding Officer”** means the Speaker of Council or any person presiding over a meeting of Council;

**“Proposal”** means a draft resolution submitted orally by a councilor during a debate on any matter at a meeting of the council or any structure of council;

**“Public hearing”** means a meeting arrangement by the council or executive committee to solicit the views and opinions of members of the public and specific constituencies on a matter affecting the interest of the residents within the municipal area;

**“Public holiday”** means a public holiday contemplated in the Public Holiday Act, 1994 (36 of 1994);

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

**“Question”** means a question in terms of rules 51 or 52 asked during a meeting of the council or any of its structures;

**“Quorum”** means the minimum number of councilors and other members; if any; that must be present at a meeting before it may commence or continue with its business or a total of 50% plus one(1) of Councilors elected or members of a committee;

**“Security personnel”** means security personnel employed directly by the municipality or contracted through outsourcing to ensure the safety of property and persons in the municipality;

## RULES AND ORDERS BY-LAW

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

**“Structures act”** means the Local Government: Municipal Structure Act, 1998 (Act 117 of 1998) as amended;

**“Systems act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

### 2. Purpose

- (1) To prescribe the rules and orders for the municipal council internal arrangements, business and proceedings; and the establishment, composition, procedures, powers and functions of committees.

### 3. Application

- (1) These rules and orders apply to –

- (a) all councilors;
- (b) all parties represented in the council;
- (c) all employees of the municipality in the course and scope of their employment;
- (d) any consultant or contractor to the council, in the course of fulfilling their consulting or contractual obligations; and
- (e) the members of the public.

### 4. Councilor's attendance

- (1) Councillors must attend each meeting of the council and relevant committees unless they request for a leave for absence twenty- four (24) hours before the meeting in writing or that the councilor is required to withdraw in terms of the Code of Conduct for councilors as outlined in schedule 1 of Local Government: Municipal Systems Act, 2000. For council, such requests are to be put to the speaker of council and for committee meetings to the chairperson.
- (2) Failure by a councilor to attend meetings as prescribed above attracts a fine which shall be imposed at the discretion of the rules and ethics committee.
- (3) A councilor who is absent from three or more consecutive meetings of a municipal council or council committee, which that councilor is required to attend, must be deemed to be in contempt and the provisions of schedule 1 of the systems act shall apply.

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## RULES AND ORDERS BY-LAW

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### 5. Councilor's conduct

- (1) When attending to the business of the council and committee meetings, every councilor must –
  - (a) behave in a way that demonstrates respect for the council, the speaker of council, committee chairperson and other councilors;
  - (b) conduct themselves in compliance with the code of conduct for Councilors and in accordance with the provisions of these rules;
  - (c) dress in a lounge suit, jacket and tie or traditional;
  - (d) not distribute any material other than the agenda, speakers list, urgency reports, motions and minutes meetings of the council prior to the commencement of or at meetings of the Council; and
  - (e) be identified at all times and may wear a name badge in instances where a councilor acts in the official capacity as a councilor.

### 6. Councilor's right of access to documents

- (1) Every councilor has the right to examine any document tabled in the council, including any of its committees and to receive a copy of that document upon submission of a written request to the speaker of council.
- (2) A councilor may not reveal the contents of any document that has been withheld from the public under sub-rule (1) above.

### 7. Disclosure of interest

- (1) A councilor must comply with the provisions of schedule 1 section 5 of the systems act in disclosure of interests.

### 8. Public Access

- (1) The council meeting must be open to the public, including the media.
- (2) The speaker must inform the public of the proceedings of the council and its committees by publishing in the press, on the website and other appropriate media, details of the time and place of meeting.

### 9. Regulating Public Access

- (1) Council must take reasonable measures to regulate public access, including access by the media.
- (2) The regulation of public access to the precincts of council, subject to these standing rules and orders, is the responsibility of the speaker.

## RULES AND ORDERS BY-LAW

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- (3) In the interest of security or to prevent any other disruption of proceedings, the speaker may provide for any person to be searched and refuse entry to, or remove any person.
- (4) A committee may exclude the public, including the media and official, from meeting only when it is reasonable and justifiable to do so in an open and democratic manner.
- (5) Circumstance in which it is reasonable and justifiable to exclude the public from a committee meeting may, but must not necessarily, occur when the committee is considering a matter that-
  - (a) should be discussed behind closed doors to avoid prejudicing a person unfairly.

### 10. Conduct of members of the public

- (1) A member of the public or the media or an employee other than the municipal manager or a departmental head attending a council or committee meeting may not-
  - (a) address the meeting at any time, unless that person is a member of a deputation;
  - (b) obstruct the business of the meeting;
  - (c) make any interjections;
  - (d) make unwelcome suggestions; innuendoes, remarks or hints of a sexual nature, sexual advance comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body; encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction ridicule, contempt or preference based on colour race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insult, degrade, defame or encourage abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing, orally, or the performance of deeds;
  - (e) use threatening, abusive or insulting language towards an employee or display any writing, sign or other visible presentation which is threatening, abusive or insulting which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercises of any of his or her rights or be discharged of any of his or her duties so as to harass or causes or advocate unfair treatment of that employee; or make unwelcome or obscene gestures.
- (2) Whenever a meeting resolves to close its session or a part thereof, any member of the public, media and employee must leave the meeting immediately and not return to that meeting until it resumes as a public meeting.

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## RULES AND ORDERS BY-LAW

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- (3) A member of the public or media attending a councilor committee meeting is subject to the authority of the chairperson of the meeting.
- (4) When council is in session, members of the public may not engage in conduct or behavior that disturbs the proceedings.
- (5) Security personnel may remove members of the public from the precincts of the council if they –
  - (a) do not withdraw from a meeting or leave the precincts of the council on the instruction of the speaker of council or councilor chairing a committee meeting;
  - (b) have entered any part of the precincts which has been set aside for councilors;
  - (c) interrupts proceedings or are otherwise involved in misconduct; or
  - (d) are threats to the security of councilors or other persons present.

### 11. Public access to records and documents

- (1) The records of council and its committee and all documents tabled in council and its committees must be accessible to the public and media.
- (2) A decision to withhold records or other documents from the public may be made under this rule only and must be compatible with the protection of freedom to information in the Constitution and the Promotion of Access to Information Act, 2000.
- (3) Council may, by resolution, order that documents referred to in **sub-rule (2) above** may not be made public.
- (4) Notwithstanding sub-rule (1), the following documents may not be made public unless they have been tabled in council or the speaker has given permission for them to be made public-
  - (i) the proceedings of, or evidence taken by, or placed before, a committee while the public were excluded from the meeting.
  - (ii) any report, or summary or record of proceedings, or evidence referred to in **sub-rule (4) (i)**
  - (iii) any document presented to the committee as a confidential document and declared confidential by the committee;
  - (iv) any document that the chairperson declares confidential before it is submitted to members of the committee.
- (5) A Committee may resolve to request a formal written consent of the speaker to not include information listed in sub-rule (4) (i) in respect of a committee report.

## **RULES AND ORDERS BY-LAW**

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### **12. Access to council and its committees**

- (1) Council and all committees of council shall be normally open to the public and media subject to Section 20(1) of the Systems Act.
- (2) The speaker of council shall make every effort to facilitate access including the relocating of a meeting to an appropriate venue, especially with respect to access for person with disabilities and the anticipated interest in the committee's agenda.

### **13. Public participation in committees**

- (1) The council must facilitate access by members of the public in the process of its committees, excluding the executive committee, in line with the Constitution and the Act.
- (2) Any member of the public and every institution or organization may request to appear before, or may make a written submission to a committee with regard to a particular matter.
- (3) Members of the public, including media, must apply in writing forty eight (48) hours before the committee meeting and the chairperson of the committee must respond thereto twenty four (24) hours before the committee meeting;
- (4) The speaker of council or committee chairperson must determine the seating arrangements for the public, including the media, in committee rooms;
- (5) Any member of the public who has a written submission to a committee of council may request the chairperson of the committee of council to make a verbal submission of not more than ten (10) minutes on the same subject;
- (6) A committee of council may ask questions of any member of the public making a verbal submission to the said committee.

### **14. Right to petition**

- (1) A member of the public has the constitutional right to petition the Council.
- (2) The right to petition the council must be exercised in accordance with the petitions policy.

### **15. Submission of petitions**

- (1) A petition must be submitted to the Speaker of Council in writing and in the form prescribed by the petition policy.

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## RULES AND ORDERS BY-LAW

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- (2) All petitions that meet the requirements of the policy must be referred to the petitions and public participation committee.

### 16. Assistance for petitions

- (1) Where a petition does not meet the form prescribed by the petitions policy, assistance shall be given by the Secretary to Council to the petitioners to ensure that the requirements are met

### 17. Consideration of petitions

- (1) The committee must consider all petitions that are properly submitted in terms of the petitions policy.
- (2) The committee may use all powers given to it to facilitate a conclusion to a petition in terms of the petitions policy.
- (3) The secretary to council must inform the petitioner of the receipt of, progress and, decision of said committee and of other action taken by the committee of council, in terms of the petitions policy.

### 18. Reports of petitions and public participation committee

- (1) The petitions and public participation committee must submit quarterly and annual reports to the Council.
- (2) The quarterly and annual reports must -
- a) Set out the activities of the Committee and the time to respond to the petitions received;
  - b) Include an assessment of the effectiveness of the petitions process and procedures; and
  - c) Include an assessment of each Member of the Executive Committee's Performance with respect to petitions received and an evaluation of trends.

### 19. Meetings of the Council

- (1) The Council must meet at least quarterly as outlined in section 18(2) of the Act.
- (2) The Speaker decides where and when the council meets, subject to sub-rule (1) above. However if majority of the councilors request the speaker in writing to convene a meeting of the council to debate any matter the Speaker must convene a meeting as per the request.
- (3) The Speaker shall convene ordinary, special and extraordinary meetings.

## **RULES AND ORDERS BY-LAW**

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### **20. Order at beginning of meeting**

- (1) All Councilors are to be seated ten (10) minutes prior to the starting time of council.
- (2) Following announcement of the speaker of council, all councilors and officials must rise when the speaker of council enters the chamber at the beginning of a meeting and must remain standing quietly until instructed by the speaker of council to be seated, following individual silent prayer or meditation.

### **21. Prayer and meditation at beginning of meeting**

- (1) At the commencement of each plenary meeting of the council, the speaker of council must request a moment of silence to allow for individual prayer or meditation. Alternatively the speaker may request a designated person to render a prayer at council meetings.

### **22. Congratulations and condolences**

- (1) At the commencement of each plenary meeting of the council, and where applicable, the speaker of council shall read out congratulations or condolences

### **23. Application for leave of absence**

- (1) A member of the executive committee must apply for leave from a council meeting to the speaker of council in writing, authorizing another MoEC to take charge of matters on the council agenda.
- (2) Such notice must be given in writing twenty-four (24) hours prior to the council meeting.

### **24. Notice of meeting**

- (1) Notice of the time and place of every ordinary meeting of the council must-
  - a) be served on every councilor either personally or by leaving the notice at the council usual place of residence or place of business, at least seventy two (72) hours before such meeting. Such notice must be signed by the speaker of the council. The accidental omission to serve on any councilor such a notice as is referred to in this rule shall not affect the validity of any meeting; and
  - b) be placed on the announcements, tabling and committee Reports (ATC).



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## RULES AND ORDERS BY-LAW

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- (2) The notice in terms of sub-rule (1) must set out the business to be considered at the meeting for which such notice has been given.

### **25. Attendance register for council meetings**

- (1) Every councilor attending a meeting must sign the attendance register, which must be made available during the course of the meeting and which may be captured electronically.

### **26. No quorum during meetings and adjournment**

- (1) If during any meeting, the attention of the speaker is called to no quorum during the meeting, councilors present must be counted and if it is found that there is no quorum, the speaker must cause the bell to be rung for at least three (3) minutes. If after an interval of five minutes there is still no quorum, the speaker must forthwith adjourn the meeting.
- (2) Business not disposed of at a meeting adjourned in terms of sub-rule (1) must be dealt with at a meeting convened by the speaker for this purpose, or be held over until the next ordinary meeting.

### **27. Order at adjournment**

- (1) Officials and members of the public are to remain standing until the speaker, followed by the mayor and councilors have left the council chamber.

### **28. Business of the council and council agenda**

- (1) The programming committee must determine all business of the council in accordance with these rules.
- (2) The speaker of council must ensure that all business of the council is placed on the agenda.
- (3) At each meeting, the council conducts its business in the order shown on the council agenda unless –
- a) the council decides in terms of rule 65;
  - b) the speaker of council decides otherwise after consultation with the leader of executive business and the chief whip; or
  - c) the rules allow otherwise.
- (4) Those matters on the council agenda not dealt with by the end of the political term, shall either lapse or be carried- over to the new Council by resolution of council, subject to ratification.

## **RULES AND ORDERS BY-LAW**

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### **29. Speaking time in Council**

- (1) For each council meeting, and twenty-four (24) hours before thereof, the Whippery must compile a speaker's list listing the Councilors that are to Speak in the debate. The order in which they are to speak; and the amount of time each councilor has for the speech.
- (2) In compiling the speakers' list, the whippery must ensure that all parties represented in council have an opportunity to participate in proceedings in a manner consistent with democracy.
- (3) In respect of delegated matters a total of ninety (90) minutes is allocated which must be divided in terms of the proportional representation of parties in council.
- (4) In respect of non-delegated matters a total of ninety (90) minutes is allocated which must be divided in terms of the proportional representation of parties in council.
- (5) Parties are to be allocated time in accordance with council resolution.
- (6) The Mayor should not be restricted in regard to the length of time that they may speak.

### **30. Statements by members of the executive committee and the chief whip of council**

- (1) A member of the executive committee and the chief whip to council who wishes to make a statement in the council with regard to a matter falling under their responsibility, must give written notice to the speaker at least one day before the beginning of the meeting.
- (2) The member of the executive committee and the chief whip of council may make up to two statements per meeting and may speak for up to five minutes per statement, unless otherwise decided by the speaker of council.
- (3) Statements by members of the executive committee and the chief whip must be accommodated under official notices and statements on the council agenda.

### **31. Freedom of speech**

- (1) The speaker of council must ensure that councilors are allowed to speak and debate freely in the council.

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## RULES AND ORDERS BY-LAW

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### 32. Precedence of speaker of council

- (1) The speaker of council's right to speak take precedence over the right of other councilors to speak.

### 33. Councilors called to speak

- (1) A councilor may speak in a debate only when called by the speaker of the council.

### 34. Conduct of councilors speaking

- (1) Councilors may remain seated while addressing the speaker of council during a debate unless otherwise instructed by the speaker of council to rise.

### 35. Conduct of councilors during a council meeting

- (1) When council is in session, councilors may not-
  - (a) walk between the speaker of council and a councilor who is speaking;
  - (b) walk in front of the presiding podium or approach the presiding podium; or
  - (c) engage in conduct or behavior that disturbs the proceedings

### 36. Councilor may not speak twice to a matter

- (1) Except when required or allowed by these rules, no councilor may speak more than once to a matter.
- (2) A councilor may request permission to speak to a matter a second time in order to-
  - a) clarify any misquotation or misunderstanding of any material part of the original speech;
  - b) ask a question or make a remark, raise a point of order or personal explanation.

### 37. Content of debate

- (1) Councilors may not –
  - a) discredit the council or councilors by using disrespectful and offensive language;
  - b) refer to proceedings in committee meetings that were closed to the public until those proceedings are reported to the council;
  - c) refer to any other councilor by that councilor's first name or names only;

## **RULES AND ORDERS BY-LAW**

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- d) comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts
  - e) comment upon matters that are irrelevant to the matter under discussion;
  - f) repeat arguments; or
  - g) anticipate the discussion of a matter appearing on the council agenda.
- (2) When a councilor persists in irrelevance or repetition of arguments, the speaker of council must call attention to the conduct of the councilor and may then direct the councilor to stop the speech.
- (3) In determining whether a councilor is out of order on the grounds of anticipating the discussion of a matter appearing on the agenda, the speaker of council must take into account whether the matter is likely to be discussed in the council within a reasonable time.

### **38.Interruption**

- (1) Councilors may through the speaker interrupt the councilor who is speaking in a debate only to –
- (a) raise a point of order; or
  - (b) call attention to the presence of an unauthorized person.

### **39.Points of order**

- (1) A Councilor may raise a point of order to call the attention of the speaker of council to a breach of order.
- (2) When a point of order is raised during a debate, the councilor who is speaking must stop speaking and resume the seat if standing.
- (3) After the point of order has been stated, the speaker of council must immediately make a decision or indicate when a decision must be made.

### **40.Clarification of explanations**

- (1) A Councilor may request the speaker of council's permission to explain matters of a personal nature raised in the council.
- (2) The Councilor must confine the explanation strictly to the personal matter and may speak for up to two (2) minutes.
- (3) The explanation may not be debated.

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### 41. Reply to a debate

- (1) The Councilor in charge of an item on the agenda may reply to the debate on the matter.
- (2) A reply to a debate closes the debate.

### 42. Maintaining order

- (1) The speaker of council in the council or councilor chairing a committee meeting must maintain order in meetings.
- (2) The speaker of council, may at any time during a meeting, if the speaker deems it necessary for the maintenance of order, direct an officer to remove or cause the removal of any person.

### 43. Respect for speaker of council

- (1) In the Council, every councilor and all officials and members of the public must bow to the speaker of council when entering or leaving the chamber during a council meeting.

### 44. Councilor ordered to withdraw

- (1) The councilor presiding over the council or chairing a committee meeting may order a councilor to withdraw immediately from a meeting for the remainder of that meeting or a shorter period if the councilor presiding over the council or chairing a committee thinks that –
  - a) the councilor is deliberately contravening a provision of the rules;
  - b) the councilor is in contempt of or disregarding the authority of the councilor presiding over the council or a councilor chairing the committee meeting; or
  - c) the councilor's conduct is grossly disorderly.
- (2) An order to withdraw must be recorded in the minutes of proceedings.

### 45. Serious contravention by a Councilor

- (1) If the councilor presiding over the council or a councilor chairing a committee meeting thinks that a contravention committed by a councilor is so serious that an order to withdraw is inadequate, the councilor presiding over the council or chairing a committee may –
  - a) suspend the councilor and take any other action deemed necessary; or

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- b) report the contravention to the speaker, whereupon the speaker, after consultation may deal with the matter.

- (2) Any action taken under these rule must be announced in the council and recorded in the minutes of proceedings.

### **46. Councilor to withdraw from precincts of council**

- (1) A councilor ordered to withdraw, suspended or reported to the speaker and withdraw immediately from the precincts of the council.

### **47. Expression of regret**

- (1) A councilor who has been ordered to withdraw from council precincts may submit to the speaker a written expression of regret within forty-eight (48) hours from the time of withdrawal.
- (2) If the speaker approves of the expression of regret, the speaker may discharge the withdrawal and permit the councilor to take a seat. The speaker must inform the council accordingly.
- (3) The speaker must report the approved expression of regret to the council and it must be recorded in the minutes of proceedings.

### **48. Grave disorder**

- (1) In the event of grave disorder in the council or at a meeting of a committee, the councilor presiding over the council or councilor chairing the committee meeting may adjourn the meeting or suspend proceedings for such period deemed necessary.

### **49. Quorum requirements for voting**

- (1) When a decision is taken, the quorum requirement is fifty percent (50%) plus one (1) of the councilors present.
- (2) When the number of councilors present is below that required for the vote, the bell must be rung for three (3) minutes. If there is still no quorum after three minutes have passed, the speaker of council may adjourn the council and postpone the decision of the item.

### **50. Decisions postponed**

- (1) When the debate on a recommendation has been concluded, the speaker of council may postpone the decision of the item until a time determined for such decision.

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- (2) When the decision on a matter before the council involves more than one item, the speaker of council may postpone the decision on each item until debate on all items has been concluded.

### 51. Questions

- (1) The question to be decided must be put by the speaker of council and, if it is not heard or understood, the speaker of council must put it again.

### 52. Declaration of vote

- (1) The speaker of council may at any time after a question has been fully put, permit one member of each political party to state on behalf of the party, in a speech not exceeding one minute, the reasons why the party is in favor of or against the question.
- (2) A councilor addressing the council in terms of sub-rule (1), may read out aloud a written formulation of the political party's viewpoint, and deliver a signed copy thereof at the presiding table for inclusion in the minutes of the proceedings.

### 53. Recording of opposition

- (1) Wherever a question is put by the speaker of council, any councilor may, instead of demanding a roll call, inform the Speaker of Council that party's opposition wishes that a party's opposition on the item to be formally recorded in the minutes of the proceedings.

### 54. Voting

- (1) Councilors decide on an item by calling either "Yes" or "No" after the speaker of council has put the item.
- (2) Question before council are decided on by fifty (50%) percent of councilors present plus (1) councilor present.

### 55. Demand for roll call

- (1) After a question has been put and the speaker of council has indicated whether the "Yes" or "No" have it, any councilor may demand a roll call, whereupon subject to sub-rule (3), a roll call shall take place and may not be debated.
- (2) Whenever a roll call is demanded, the speaker of council shall, before ordering the bells to ring, satisfy that at least four (4) councilors of different parties support the demand for the roll call.

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- (3) If fewer than four (4) councilors of different parties support the demand for a roll call, the speaker of council shall forthwith declare the decision on the question.

### **56. Roll call procedure**

- (1) When a roll call is to take place, the speaker of council must order that –
- a) the bells be rung for five (5) minutes, and
  - b) after the lapse of five (5) minutes, the doors must be locked.
- (2) When the doors have been locked, no councilor may enter or leave the chamber.
- (3) The speaker of council must put the question.
- (4) After the question is put, the secretary to council must call each councilor present to voice “Yes” or “No” on the question, and the responses must be recorded.
- (5) The secretary to council must hand the signed roll call list to the speaker of council, who must immediately declare the decision on the question.

### **57. Council in Committee**

- (1) Notwithstanding anything to the contrary in these rules, a councilor may at any time after an item on the agenda has been called or during consideration thereof, move that the council resolves itself into committee for the further consideration of that item.
- (2) If the council is in committee, the provisions of these rules, except insofar as they are in conflict with these rule, must apply.
- (3) If the council adopts a resolution in terms of sub-rule (1), the further debate on the item in question, whether in or out of committee, must for all purposes be deemed to be a continuation if the preceding debate on the item.
- (4) If a proposal in terms of the proviso to sub-rule (1) is carried, the speaker must determine when the items concerned must be considered and all such items must be considered consecutively.
- (5) At the conclusion of the consideration of items in committee, the council must revert to the consideration of further items in open council.
- (6) When the council resolves itself into committee, all members of the public and council officials, except those officials that the speaker may require to remain,



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must leave the council chamber and must not return to the council chamber for the duration of the proceedings in committee.

### 58. Nature of Motions

- (1) A councilor who wishes the council to adopt a resolution, either with or without debate, must introduce a motion.
- (2) A motion may, among other things, propose that the council resolves to –
  - a) adopt a report;
  - b) make a recommendation;
  - c) amend a motion before Council;
  - d) pass a motion pursuant to a specific section of the Constitution; or
  - e) censure a person or body.
- (3) A motion must be within the jurisdiction of council

### 59. Form of motions

- (1) A motion must be in writing in the language of the council and must be signed by the councilor who introduces the motion.
- (2) Another councilor must second a motion, unless the speaker decides otherwise or if it is proposed by the mayor.
- (3) If both the proposer and seconder are absent, then the motion falls away.

### 60. Admissibility of motions

- (1) A motion is admissible only if it complies with the rules.
- (2) The Speaker decides whether a motion is admissible.

### 61. Motions without notice

- (1) Every motion requires notice except a motion –
  - a) proposing an amendment to a motion;
  - b) raising a point of order;
  - c) postponing or discharging or giving precedence to an item on the council agenda;
  - d) by the councilor in charge, proposing a resolution on the report of a Committee immediately after the conclusion of the debate on the report; and
  - e) for which another rule states that notice is not required.

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### **62. Giving notice of motions**

- (1) A councilor who wishes to introduce a motion must submit a signed copy of the motion to the secretary of council for placing on the council agenda fourteen (14) days prior to council meeting.
- (2) A councilor may submit a motion to the secretary of council on behalf of an absent councilor, if authorized by the absent councilor in writing.
- (3) Except when the rules permit otherwise or when the speaker has given consent, each motion must be considered by the programming committee for admission onto council agenda.
- (4) If the Council is in recess when a motion is submitted to the secretary of council, it must be placed on the next programming committee agenda after recess.

### **63. Selection of motions to be considered by council**

- (1) Unless the rules provide otherwise, a motion must be selected by the programming committee before it is considered by the council.
- (2) The programming committee must consider the selection of the motion for consideration by the council at its first meeting after the motion was submitted to the secretary of council.
- (3) A councilor may withdraw a motion that has been selected by the programming committee by giving the speaker of council a notice in writing at least one (1) hour prior to the council meeting.

### **64. Amending motions**

- (1) Subject to these rules, a councilor may propose amendments to a motion.

### **65. Request for debate on a matter of urgent public importance**

- (1) A councilor who wishes the council to discuss a matter of urgent public importance must make a request to the speaker in writing in one of the languages of the Council. The Councilor must make the request at least four(4) hours before the beginning of a meeting of the Council.
- (2) The proposer will be allowed to reply or respond to a debate.
- (3) The speaker may allow a debate on a matter of urgent public importance if it-
  - (i) requires the urgent attention of the council;

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- (ii) is within the jurisdiction and competence of council;
  - (iii) is not reflecting on matters that are sub-judices; and
  - (iv) factual.
- (4) There may only be one urgent debate on a meeting day. However, the speaker may allow more than one request; depending on the urgency and importance of the matter.
- (5) If the speaker grants request, the speaker must notify the leader of executive business who in turn should inform the mayor and the relevant member of the executive committee.
- (6) The speaker must place the matter on the council agenda or, if the matter could not be placed on the council agenda, the presiding officer must announce it in the council meeting.

### **66. Debate on urgent public importance**

- (1) The speaker must decide when a debate on a matter of urgent public importance must start and the time allocated for it after consultation with the chief whip of council.
- (2) The councilor who moves for a debate on a matter of urgent public importance will open the debate and the mayor or the relevant member of the executive committee (MoEC) must be allocated time to speak to the debate.

### **67. Questions to the mayor and members of executive committee**

- (1) A councilor may put questions for oral or written reply to a member of the executive committee relating to-
- (a) council affairs with which the member of the executive committee is officially connected; or
  - (b) any matter of administration for which the member of the executive committee is responsible.
- (2) Mayor's question time is a period of up to thirty (30) minutes; during council meetings, during which questions selected may be put to and answered by the mayor.
- (3) The speaker must indicate, based on the provisions of the year planner, the question time for the mayor. There must be no mayor's question time during the council meetings when the mayor's opening address and the vote on the annual budget are discussed in the council.

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- (4) A councilor who wishes to put a question for oral reply to the mayor must deliver a signed request to the secretary to council not more than ten (10) working days before the day of the council meeting before the mayor's question time during which the councilor wishes to ask the topic or working of the intended question.
- (5) The speaker selects questions for the mayor's question time.
- (6) No more than two councilors of the same party may ask a question during any given mayor's question time.
- (7) A councilor may ask only one question for oral reply at any executive mayor's question time.
- (8) Councilors may read their question but may not read speeches during the mayor's question time.
- (9) Immediately after the mayor has replied to a question, the councilor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (10) At the discretion of the presiding officer, a councilor may ask an additional supplementary question or make an additional remark related to the original question or reply.

### **68. Form and content of questions**

- (1) Questions must be –
  - (a) in writing in one of the languages of the Council, and
  - (b) brief and clearly worded.
- (2) A question must specify whether it is for oral reply or for written reply.
- (3) Questions may not-
  - a. contain an offensive ,disrespectful and abusive language;
  - b. express a point of view;
  - c. break a rule of law;
  - d. seek only legal opinion;
  - e. ask for excessive documentation;
  - f. be based on hypothesis, hearsay, arguments or deduction;
  - g. request a comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
  - h. anticipate discussion of a matter appearing on the agenda; or

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- i. refer to proceedings in Committee meetings that were closed to the Public until those proceedings are reported to Council.

### 69. Admissibility of questions

- (1) A question is not admissible if it-
  - (a) does not comply with the rules; or
  - (b) seeks information that has been provided in response to a similar question in the previous six (6) months.

### 70. Placing questions on the question paper

- (1) A councilor who wishes to ask a question must deliver a signed copy of the question to the secretary to council for placing on the question paper.
- (2) A councilor may seek the support of other councilors to ask a question. The names and parties of the supporting councilors must be recorded on the question paper. A Councilor who wishes to ask a question with a support of one or more other Councilors must ensure that these councilors add their signatures to the question before it is delivered to the secretary to council.
- (3) A councilor may deliver a question to the secretary of council on behalf of an absent councilor, if authorized by the absent councilor in writing.
- (4) Each question must be placed on the question paper before it can be replied to.

### 71. Scheduling question

- (1) Question for oral reply must be placed on the agenda of council if received sixteen (16) working days prior to the council meeting and have been delivered to the secretary to council.
- (2) A question for written reply delivered to the secretary to council by the close of business sixteen (16) working days prior to the council meeting must be placed on the question paper.
- (3) Questions are to be forwarded to the office of the leader of executive business fourteen (14) days prior to the council meeting.

### 72. Withdrawing questions

- (1) A councilor who has submitted a question may withdraw it at any time before it is answered by notifying the secretary to council in writing. A question that is withdrawn must not receive an answer.

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### **73. Questions for oral reply**

- (1) Questions for oral reply must be answered at question time.
- (2) Question time is a period of at least thirty (30) minutes during each council meeting during which questions placed on the question paper may be put to and answered by members of the executive committee and the mayor. The councilor asking the question for oral reply must be present at the council meeting to receive the response.
- (3) Questions for oral reply must be dealt with in the order in which they appear on the question paper. At the end of question time the speaker of council must inform council of all outstanding questions for oral reply.
- (4) Responses to questions standing over from the previous question time must be sent to the secretary to council within three (3) working days of the said council meeting.

### **74. Restrictions on questions for oral reply**

- (1) If the speaker of council advises that a question for oral reply deals with matters of a statistical nature, the speaker may decide that the question be placed on the question paper for written reply.
- (2) A Councilor may ask up to two questions for oral reply at any question time.
- (3) Up to four (4) questions for oral reply relating to particular department may be put to a member of the executive committee at any question time.
- (4) Councilors may read their questions but may not read speeches during question time.
- (5) Immediately after the member of the executive committee has replied to a question, the councilor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (6) At the discretion of the speaker of council, any councilor may ask an additional supplementary question or make an additional remark related to the original question or reply.

### **75. Urgent Questions: Oral Reply**

- (1) A councilor who wishes to ask an urgent question for oral reply must submit a signed copy of the question to the speaker at least four (4) hours before the meeting of the council.
- (2) No single councilor can ask more than one (1) urgent question for oral reply.

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- (3) The speaker shall determine the urgency of a question, based on the form and content of questions.
- (4) The rules regarding the form, content and admissibility of questions apply to urgent questions.
- (5) The rules relating to restrictions on questions for oral reply apply to urgent questions for oral reply.
- (6) If the speaker decides that the question should be answered urgently, the speaker must-
  - a) inform the leader of executive business; and
  - b) call upon the councilor to ask the question immediately after question time.
- (7) The speaker may allow an urgent question if it requires an urgent response from the member of the executive committee.

### **76. Restrictions on questions for written business**

- (1) A councilor may ask up to three questions for written reply per council meeting.
- (2) Questions may not have more than ten (10) sub-questions.

### **77. Written Replies**

- (1) The relevant member of the executive committee must answer a question for written reply within fourteen (14) working days of the question first appearing on the question paper and submit same to the mayor for approval.
- (2) A member of the executive committee may request more time to answer a question for written reply. The request must indicate the reasons for extra time required and must be received within seven (7) working days after the initial receipt of the questions.
- (3) The speaker must decide whether or not to agree to the request.
- (4) A member of the executive committee may decide to answer question for written reply only when such a reply would be too costly or require inappropriate use of council resources.
- (5) If the written replies are considered unsatisfactory, these must be sent back to the relevant MoEC requesting additional information or clarification.

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- (6) A written reply must have satisfactorily been dealt with by the second meeting of council after it has first appeared on the question paper.

### **78. Mayor 's question time**

- (1) The mayor's question time is a period of up to thirty (30) minutes, quarterly during council meetings, immediately preceding question time, during which questions selected may be put to and answered by the mayor.
- (2) The speaker must indicate, based on the provisions of the year planner, the question time for the mayor. There must be no mayor's question time during the council meetings when the vote for the annual budget is discussed in the council.
- (3) (a) A councilor who wishes to put a question for oral reply to the mayor must deliver a signed request to the secretary to council not more than ten (10) working days before the day of the council meeting before the mayor question time during which the councilor wishes to ask the question. Such a request does not have to include information about the topic or wording of the intended question.
- (b) The speaker selects at least four (4) questions for the mayor's question time based on the proportional allocation of time to all parties as per council resolution.
- (4) A councilor may ask only one question for oral reply at any mayor's question time.
- (5) Councilors may read their questions but may not make speeches during the mayor's question time
- (6) Immediately after the mayor has replied to a question, the councilor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply
- (7) At the discretion of the speaker of council, any councilor may ask an additional supplementary question or make an additional remark related the original question or reply.

### **79. Duties of the secretary to council**

- (1) In addition to the duties mentioned in these rules, the secretary to council is responsible for the regulation of all matters connected with the business of the council, subject to direction of the speaker or council.

### **80. Minutes of proceedings**

- (1) The minutes of proceedings must be taken by the secretary to council and, after having been perused by the speaker, must be distributed to each councilor.



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### **81. Journals of the Council**

- (1) The minutes of proceedings, signed by the speaker of council, constitute the journal of the Council.

### **82. Agenda**

- (1) The secretary of council must compile the agenda for each council meeting and send it to each councilor at least 72 seventy two hours before the meeting.

### **83. Custody of papers**

- (1) The secretary to council has custody of all records and other papers of the council.
- (2) Records or other papers of the council cannot be removed from the precinct of the council without the permission of the speaker.

### **84. Speaker of Council**

- (1) The speaker of the council:
  - (a) must safeguard the independence of the council and maintain the authority thereof;
  - (b) is the spokesperson for the Council in its relations with the other arms of government and with outside institutions and persons. In representing the council, the speaker is responsible to the council;
  - (c) must ensure that these rules are observed;
  - (d) must protect freedom of speech and debate in the council and its committees;
  - (e) is responsible to the council for the management of the council;
  - (f) must discharge the responsibilities in an impartial way; and
  - (g) must ensure public participation.

### **85. Absence of Speaker**

- (1) If the speaker of a municipality is absent or not available to perform the functions of speaker, or during a vacancy, the council must elect another councilor to act as a speaker as outlined in the systems act.

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### **86. Relief of Speaker of Council during meetings**

- (1) If the speaker of council needs to leave the council during a meeting, the speaker must be relieved by the Chairperson of Committees, or if neither of them is present, by another Councilor identified by the Speaker of Council.

### **87. Appointment of the chairperson of the committee of chairpersons**

- (1) As soon as possible after an election or whenever the position of chairperson of the committee of chairpersons (chair of chairs) is vacant, the council must appoint a councilor to this position.

### **88. Chairperson of Committee of Chairpersons ( Chair of Chairs)**

- (1) The chairperson of the committee of chairpersons (Chair of Chairs):
  - (a) is a member of the programming committee; and
  - (b) oversees the implementation of policy with regard to the coordination and management of the work of committees, except those committees chaired by the speaker.

### **89. Committees**

- (1) Committees must be established or dissolved by resolution of council.
- (2) A committee may establish sub- committee, consisting of members of that committee only.
- (3) Ad hoc committee:
  - (a) may be established to deal with a specific matter and dissolves when it has reported on that matter.
  - (b) may consist of members of the committee and outside experts but experts from outside the council may not vote in the committee.

### **90. Composition of committees**

- (1) The rules committee must determine the number of members of a committee.
- (2) Political parties are entitled to be represented on committees in substantially the same proportion as the proportion in which they are represented in council.
- (3) The council and parties represented in the council should, as far as possible, ensure that women are represented on all committees.

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- (4) Non-members and parties that are not represented on a committee must inform the chairperson of the committee of their intention to attend the committee meeting to address a particular matter. The non-member may be granted speaking rights in the committee but may not vote.

### **91. Appointment of committee members**

- (1) The chief whip of council in consultation with the whips of political parties must nominate members of the committees and submit the nominations to the speaker of council.
- (2) The council must appoint the members of the committees as soon as possible after the election of the council or whenever a vacancy arises, on the recommendation of the rules committee.
- (3) Alternative members may be appointed for each member of a committee. An alternate acts as a member when the member for whom the alternate was appointed, is absent or has vacated office.

### **92. Resignations of Committee member**

- (1) A member of a committee wishing to resign from it, must tender resignation in writing to the whip of the party of which a member of committee is a member and to the speaker of council.
- (2) The speaker must report to council every vacancy.
- (3) Vacancies are to be published in the announcements, tabling's and committee reports.

### **93. Committee chairperson nominations**

- (1) The speaker must call for nominations by forwarding nomination forms to the whips of political parties, within ten (10) working days of council elections of vacancy.
- (2) The political parties must submit nominations to the speaker five (5) working days prior to the council meeting.
- (3) The speaker must table the proposed nominations in the form of a report with the nomination forms attached to the agenda for approval by council.

### **94. Committee chairperson responsibilities**

- (1) A committee chairperson –
- (a) presides at meetings of the committee;

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- (b) represents the committee on the committee of chairpersons;
  - (c) determines the agenda of each meeting of the committee;
  - (d) performs the functions, tasks and duties and exercises the powers that the committee, as per resolutions of the council may assign to the chairperson;
  - (e) must cast a deciding vote if there is an equal number of votes on each side of question before the committee, and
  - (f) may act in any matter on behalf of and in the best interest of the committee when it is not practical to arrange a committee meeting to discuss the matter, if the matter concerns –
    - (i) a request by a person to give evidence or make an oral representation to the committee;
    - (ii) any other request to the committee; or
    - (iii) decisions or the initiation of any steps necessary for the committee to perform its functions or exercise its powers.
- (2) A committee may set aside any decision taken by its Chairperson in terms of sub-rule (1) (f).

### **95. Absence of committee chairperson**

- (1) In the absence of the chairperson, the committee must elect one of its members to act on behalf of the chairperson. The committee is to facilitate the election of the acting chairperson.

### **96. Combined Committee**

- (1) The speaker may combine two or more committees to form a new committee for a specific purpose.
- (2) The speaker must appoint one of the chairpersons involved as the chairperson of the combined committee.

### **97. Duration of Committees**

- (1) A committee continues to exist until the council is dissolved or its term expires unless the Speaker, with good reason, or the council resolves that the committee should be disestablished.
- (2) Despite sub-rule (1), an ad hoc committee and a combined committee formed by the speaker under Rule 96 continues to exist only until it has completed its business.

### **98. Powers of committees**

- (1) Every committee may –
- (a) determine its own procedures, subject to these rules;

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- (b) determine its annual programme, subject to the programme of council;
- (c) consider items referred to it;
- (d) investigate and report on issues that are referred to it or on its own initiative;
- (e) exercise oversight of the executive;
- (f) call for evidence, summon persons to appear before it and require them to produce any documents that it requires, or respond to questions;
- (g) publish an item that is before the committee for written and oral representations from and comments by the public;
- (h) hold public hearings;
- (i) receive submissions from the public;
- (j) establish sub-committees; and
- (k) exercise any other powers granted to it by resolutions of the council.

### **99. Matters referred to committees**

- (1) A matter may be referred to a committee by the speaker, programming committee or by a resolution of the council. If there is a dispute about which committee should deal with a matter, the speaker must decide.

### **100. Meetings of Committees**

- (1) The speaker must convene the first meetings of committees within ten (10) working days after the appointment of its members.
- (2) With the consent of the speaker, a committee may meet at a venue outside the precincts of the council.

### **101. Quorum of committees**

- (1) The quorum must be composed of fifty percent (50%) plus one (1) of members of that committee.

### **102. Decisions of committees**

- (1) A decision must be reached by fifty percent (50%) plus one (1) of the committee members.
- (2) Questions before a committee are decided by majority of the votes cast.
- (3) The councilor chairing the committee must cast a deciding vote if there is equal number of votes on each side of a question before the committee.

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### **103. Order in committee meetings**

- (1) The right of the member chairing the committee to speak takes precedence over the right of other members to speak.
- (2) Committee members must be allowed to speak and debate freely in committee meetings but they may not –
  - (a) discredit the council by using disrespectful words; or
  - (b) use offensive language; or comment upon the merits of any matter or unsubstantiated matter pending before the courts in a way that would interfere with the administration of justice or infringe upon the independence of the courts.

### **104. Suspension and adjournment of proceedings**

- (1) Only the member chairing a committee meeting may suspend or adjourn the proceedings of the committee.
- (2) When a meeting is adjourned, the member chairing must decide when the meeting should resume.

### **105. Joint meetings of committees**

- (1) A committee may meet with any other committee in order to consider a matter of mutual interest.
- (2) The chairpersons of the committees involved must determine the agenda for a joint meeting of Committees and who must chair the meeting. In the absence of agreement, the Speaker must determine the agenda and decide who should chair.
- (3) When a report of the joint meeting is required or when the committees decide that a report on their joint meeting is necessary, the committees must decide whether each committee should write a separate report or a joint report is appropriate.
- (4) The joint committee must report back to council at the conclusion of its work.

### **106. Vertical meetings between council and other spheres of government**

- (1) A committee may meet with other spheres of government in order to consider a matter of mutual interest.
- (2) The chairpersons of the committees involved must determine the agenda for a meeting.
- (3) Minutes of the meeting must be compiled and distributed.

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- (4) The committee of council must report back on its interactions with the other spheres of government in council.

### **107. Informing the member of executive committee**

- (1) When a committee requests an official of council, MoE and utility to attend a meeting, the responsible MoE must be informed in writing ten (10) working days prior to the committee meeting

### **108. Reports to council by committees**

- (1) Chairpersons of committees must present the council committee report to the council.
- (2) The following reports must be submitted to council by committees –
- (a) quarterly oversight reports within thirty (30) working days after referral by the programming committee.
  - (b) annual oversight reports within sixty (60) working days after the end of the financial year.
  - (c) oversight visit reports within sixty (60) working days after the visit.
  - (d) annual committee performance reports within sixty (60) working days after the end of the financial year.

### **109. Annual Committee performance reports to the Council**

- (1) The chairperson should submit an annual report to council. The committee's annual report should include an assessment of the way in which the committee has fulfilled –
- (a) its oversight responsibilities; and
  - (b) the goals identified in its annual programme.
- (2) The chairperson may not purport to reflect a committee view when the chairperson has not been mandated accordingly.

### **110. Reports on study visits by committees**

- (1) Committees must table a report to council within a month of any study visits that they have undertaken.

### **111. Content of committee oversight reports**

- (1) Every report of a committee must reflect the agreement reached in the committee. In the absence of agreement, the report must reflect the decision of the committee and dissenting views.

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- (2) When there is substantial disagreement on policy issues, a minority report must accompany the committee report.
- (3) Every committee report must be set out in the approved report format.
- (4) A minority report must –
  - (a) identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement;
  - (b) set out the view of the minority on the policy issues; and
  - (c) set out the alternative approach that the minority proposes.
- (5) Every committee report must –
  - (a) summarize the committee process including reflecting in the report –
    - (i) the number of meetings held dealing with the matter
    - (ii) the extent of involvement and participation by the administration in the committee's process, including reflecting the views of the executive on the matter;
    - (iii) the extent of involvement and participation by the public and primary stakeholders in the committee's process, including reflecting the submissions or inputs of the public or stakeholders on the matter; and
    - (iv) the degree to which the matter fulfills the municipality's obligation to promote, advance and fulfill the principles in Chapter 2 of the Constitution ( Bill of Rights) and , particularly, gender equity and socio- economic rights of the citizens within the municipality.

### **112. Ethics of Council**

- (1) The council must conduct its business in a way that ensures that it is free and independent institution, able to fulfill its role of representing the public. The council and all its members must act in an ethical way and protect the powers, privileges and immunities of the Council.

### **113. Privilege of Council**

- (1) The privileges of members of the municipal council include-
  - (a) the privilege of freedom of speech in the council and any of its committees, and
  - (b) any other privileges or immunities conferred by the constitution and the municipal structures act or any other legislation.



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### **114. Contempt of the Council**

- (1) Contempt of the council is conduct which potentially or actually interferes improperly with the ability of the council, its committees or any of its members to perform their functions.
- (2) A breach of privilege is contempt of the council
- (3) Contempt's include, but are not limited to:
  - (a) failing to attend council or its committee meetings, including when summoned to do so;
  - (b) failing to report to the council or one of its committees when required to do so ;
  - (c) living evidence to council or any of its committee knowing it to be false;
  - (d) giving someone an inducement not to give evidence to council or any of its committees;
  - (e) making injurious comments and false statements when speaking in council or any of its committees;
  - (f) a beach of the rules, including a breach of the code of conduct;
  - (g) failing to obey the speaker of council's ruling, order or resolution of the Council, and
  - (h) deliberately, recklessly and knowingly providing materially, factually inaccurate and misleading information to the council or any of its committees.

### **115. Raising a breach of privilege or contempt**

- (1) A councilor may raise a matter relating to contempt, including a breach of privilege in writing to the speaker.
- (2) The matter must be raised as soon as possible after it has occurred and, in any case, before the next plenary meeting of the council.
- (3) If a matter raised in writing with the speaker concerns another councilor, the councilor raising the matter must concurrently provide the councilor against whom the contempt is alleged, with a copy of the document submitted to the speaker.

### **116. Consideration by the speaker**

- (1) When a councilor informs the speaker of a matter the speaker must determine whether contempt is involved.
- (2) In determining whether contempt is involved, the speaker must take into account the importance of the matter.
- (3) If the matter is technical or trivial and does not warrant the further attention of council, the matter does not constitute contempt.
- (4) The speaker's ruling shall be final.

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### **117. Speaker's decision**

- (1) If in the opinion of the speaker, the matter constitutes contempt, the speaker must refer the matter to the ethics committee for processing in accordance with the committee's terms of reference and these rules.

### **118. Councilor making an allegation not to serve on an inquiry**

- (1) A Councilor, who has made an allegation of a breach of privilege or contempt, including an alleged breach of the code of conduct, may not serve on an inquiry by the ethics committee, into that allegation.

### **119. Inquiry**

- (1) The ethics committee may conduct the inquiry on its own or may refer the matter to the integrity commissioner for investigation and report back to the committee on allegations of breach of privilege or contempt against the councilor.
- (2) In considering the merits of the matter, the integrity commissioner must conduct the work within the scope of mandate and terms of reference.

### **120. Rights of an alleged offender**

- (1) The councilor against whom the contempt is leveled must be granted an opportunity to make representations in person to the committee.
- (2) The committee in dealing with the matter must ensure that the inquiry is conducted in accordance with the rules and principles of just and fair administrative requirements.

### **121. Evidence**

- (1) The Committee may not receive hearsay evidence, witnesses may, testify only to matters that are within their direct and personal knowledge.

### **122. Report of the Ethics Committee**

- (1) When the Committee has completed its proceeding on the matter, it must table a report on its findings with recommendations for consideration and decision making by council.
- (2) If the committee finds that the councilor concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction as authorized by the provisions of the code of conduct for councilors.

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- (3) If the committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report for council's information.

### **123. Decisions by the council**

- (1) The committee must refer its report with recommendations to council for approval.
- (2) The report of the committee may not be debated in council.
- (3) A roll call may be called where there is a possibility that the adoption of the report could result in personal liability to councilors who support the adoption of the report.
- (4) Council may only approve or refer the report back to the committee for reconsideration and report back.
- (5) Should Council not approve the reconsidered report of the Committee, the matter falls away.

### **124. Short title**

This by-law is called Fetakgomo Local Municipality rules and orders by-law and shall come into operation on the date of publication in the *provincial gazette*.

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