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KWAZULU-NATAL PROVINSIE  
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**MUNICIPAL NOTICE**

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No. 163

21 October 2009

**THE GREATER KOKSTAD  
MUNICIPALITY**

**RULES OF ORDER**



# CHAPTER 1

## RULES OF ORDER

### PART I: GENERAL COUNCIL AND COMMITTEE PROCEDURES

#### 1.0 First Meeting of the Council during a Municipal Term

1.1 The Municipal Manager shall call the first Meeting of the Municipal Council within 14 Days after the Municipal Council has been declared elected<sup>1</sup>.

1.2 The Municipal Manager shall, at least three Days before the first Meeting of the Municipal Council, send to each Councillor at his place of residence or another place nominated by him within the municipal area, a notice specifying the place, time and date of the first Meeting of the new Council and an agenda listing the business which it is proposed will be transacted at the meeting.

1.3 At the commencement of proceedings of the first council meeting, after it has been elected, the Municipal Manager must read the notice convening the council.

1.4 The order of business on the agenda of the first Meeting of a Municipal Council Term shall, unless the Municipal Council by resolution otherwise determines, be as follows: -

- (1) Swearing-in of Councillors or Affirmation of Oath (affirm faithfulness and obedience to the Constitution of the Republic of South Africa).
- (2) The election of the Speaker in accordance with the procedures set out in Schedule 3 to the Municipal Structures Act;
- (3) The determination of the size of and the method for the election of Councillors to serve on the Executive Committee
- (4) The election of Councillors to serve on the Executive Committee in accordance with such method;
- (5) The election of the Mayor from the Members of its Executive Committee in accordance with the procedures set out in Schedule 3 to the Municipal Structures Act;
- (6) The election of the Deputy Mayor in accordance with the procedures set out in Schedule 3 to the Municipal Structures Act;
- (7) (a) The determination of the functions of Committees to assist the Executive Committee;
- (b) The delegation of duties and powers to the Committees to assist the Executive Committee;

(8) The appointment of Councillors to serve on any Committees to assist the Executive Committee in such order as Council may determine; and

(9) Any other business.

1.5 The Municipal Manager shall surrender the Chair of the Council to the Speaker on his election.

## **2.0 Subsequent Meetings of the Municipal Council**

2.1 Council meets monthly (on the last week of the month) in the Council Chamber, at 10h00, except that the Speaker is obliged to call a meeting in the event of either of the following:

(1) if a majority of the Councillors requests the Speaker in writing to convene a Meeting of the Municipal Council<sup>1</sup> at a time set out in such request; or

(2) if at least one quarter of the councillors requests the Speaker in writing to convene a Meeting of the Municipal Council, at a reasonable date and time to review any decision taken by a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction<sup>1</sup>.

2.2 Council is in recess during the period of 15 December to 15 January of each year, subject to any Council resolution to the contrary.

2.3 The proceedings of the Council, or of a Committee of Council, may be interrupted, suspended or adjourned only by Speaker, or the Councillor presiding at the time.

## **3.0 Notices of Meetings of the Council and its Committees**

3.1 The Municipal Manager shall call Ordinary Meetings of the Municipal Council and its Committees in accordance with the Municipal Calendar and/or Speaker's Sessional Orders.

3.2 The Municipal Manager shall, at least seven Days before an Ordinary Meeting of the Municipal Council, send to each Councillor at his place of residence or another place within the municipal area nominated by him a notice specifying the place, time and date of the Ordinary Meeting and an agenda listing the business which it is proposed will be transacted at the meeting.

3.3 The Chairperson, in consultation with the Municipal Manager, shall request the Speaker to call a Special Meeting of the Committee concerned on such Notice as the Chairperson may prescribe.

3.4 The Speaker shall call a Special Meeting of the Municipal Council on such Notice as the Speaker may prescribe.

3.5 The accidental omission to serve notice on any Councillor in terms of these Rules or the late receipt of such notice, shall not affect the validity of any Meeting.

#### **4.0 Agenda for Meetings of Council & its Committees and Dress Code**

4.1 Any Agenda for any Meetings of the Municipal Council and any of its Committees shall include copies of all Reports contemplated to be considered at that Meeting unless the Speaker or Chairperson, as the case may be permits a report to be laid on table.

4.2 Before the Municipal Council takes a decision on any of, the following matters, the Executive Committee shall submit to it a Report and recommendation on any of the following matters: -

- (1) The passing of bylaws;
  - (2) The approval of budgets;
  - (3) The imposition of rates and other taxes, levies and duties;
  - (4) The raising of loans;
  - (5) The setting of tariffs;
  - (6) The decision to enter into a service level agreement in terms of section 76(b) of the Municipal Systems Act;
  - (7) The approval or amendment of the Integrated Development Plan;
  - (8) The decision to expropriate immovable property or rights in or to immovable property,
  - (9) The determination or alteration of the remuneration, benefits or other conditions of service of the Municipal Manager or section 57 Managers; and
  - (10) The adoption of the Performance Management System.
- (a) The foregoing additions are derived from:
- (1) section 160(2) of the Constitution
  - (2) section 59(1)(a) of the MSA, and
  - (3) section 60(1) of the MSA

- 4.3 No business shall be transacted at a Meeting of the Municipal Council, or any of its Committees, other than that specified in the agenda relating thereto unless the Speaker or Chairperson concerned accepts it as a matter of urgency.
- 4.4.1 The order of business at an Ordinary Meeting of the Municipal Council shall be as determined by the agenda and includes the following: -
- (1) Opening/welcome.
  - (2) Applications for leave of absence
  - (3) Apologies
  - (4) Pecuniary Interest
  - (5) Statements and communications by the Speaker.
  - (6) Deputation
  - (7) Official Announcements
  - (8) Confirmation of minutes of previous Meeting
  - (9) Notice of motion (if any)
  - (10) Matters for consideration
  - (11) Reports from the Executive Committee.
- 4.4.2 Discussion in all Committee or Council meetings will be confined to the items contained in the agenda for the meeting.
- 4.4.3 Municipal Councillors and Officials shall be at liberty to request for items to be prepared and submitted to the next meeting of a committee subject to allowing for a reasonable time frame for preparation of such item/s.
- 4.4.4 No supplementary item shall be submitted to a Committee or Council meeting without prior approval of the Chairperson or Speaker.
- 4.4.5 Deputation may be allowed by any Committee, subject to the observance of protocol.
- 4.5 Notwithstanding the provisions of these Rules, a Councillor may at the conclusion of the business on any item on the agenda, propose that precedence be given to any other item on the agenda and may briefly state the reasons for such Proposal.
- 4.6 If such Proposal is seconded, it shall be put to the vote without any debate.

- 4.7 The Speaker may, if he considers it expedient, give precedence to any item on the agenda.
- 4.8 The Speaker may, without notice, make any statement and read any communication, at any Meeting, when the item referred to in section 4.7 is called.
- 4.9 Dress code shall be observed as follows by both Councillors and Officials:**
- 4.9.1 Suitable dress, that is, clothing which is universally acceptable by the majority of members attending a Council, Executive Committee or other Portfolio Committees of the Council shall be acceptable in all meetings.
- 4.9.2 Councillors and Officials, when attending meetings, are expected to **wear formal attire**. This normally means men with a jacket only. Ladies, when wearing "trouser-pants" to ensure that their tops or jackets cover their waist-line.
- 4.9.3 However, for the purpose of cultural and religious inclusiveness a shirt without a collar and tie, or a "chitenge" shirt or Moslem /African style dress, shall be accepted as formal style of dress.
- 4.9.4 Councillors and Officials should refrain from wearing clothing that could be regarded as being more suitable for the beach, sexually provocative and unbecoming for a meeting.
- 4.9.5 The Speaker and the Chairpersons of various committees shall be responsible for maintenance of adherence to this dress code.
- 4.10 Precincts of the council**
- 4.10.1 Council sits at its declared precincts.
- 4.11 Prayer and Meditation**
- 4.11.1 A prayer/moment of silence for prayer and meditation must be observed at the commencement of meeting on every sitting day.
- 4.12 Public access**
- 4.12.1 Admittance of public**
- 4.12.1.1 The Council shall conduct its business in an open manner and may close its sittings or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted.
- 4.12.1.2 The Speaker or Chairperson may take reasonable measures to regulate public access to a meeting of Council or any of its Committees, subject to the provisions of the preceding sub-section and Part III of this chapter.



- 4.12.1.3 Any member of the public attending a meeting of Council or any of its Committees shall observe such directions, procedures and other requirements of the Speaker or Chairperson, as the case may be.
- 4.12.1.4 Persons attending sittings of the Council or its committees must observe such directions and conform to such rules that may be laid down by the Councillor presiding.

## **5.0 Minutes of Meetings**

- 5.1 The Speaker shall be responsible for the correctness of the minutes of every Meeting.
- 5.2 The Speaker shall be accountable for ensuring that minutes of the proceedings of every Meeting are drawn up, printed and sent, prior to the next meeting to every Member of the Municipal Council, or of the Committee concerned and shall ensure that the same be submitted for confirmation at the next Ordinary Meeting thereafter by the Speaker or Chairperson concerned: Provided that minutes relating to a Meeting or part of a Meeting from which the public and the press have been excluded shall be kept separate from the other minutes and shall be confirmed at a Meeting in the absence of the public and the press.
- 5.3 Where any member of the Council or any of its Committees whose name appears among those present at the meeting is absent for any time during that meeting the minutes of that meeting shall show the time the member left the meeting and when he returned and shall show the business that was dealt with during the member's absence.
- 5.4 The minutes shall be taken as read for the purpose of confirmation, if a copy thereof was furnished to each Member at least forty-eight hours prior to the Meeting concerned: Provided that the accidental omission to furnish or late furnishing of such copy to a Member shall not affect the application of this subsection.
- 5.5 Except as to accuracy, no Proposal or discussion shall be allowed in respect of the minutes.
- 5.6 The minutes of a Meeting shall be open for inspection by the public at the Information Office and on the Municipal Council's Web Site should one have been established; Provided that the minutes of a Meeting or part of a Meeting from which the public and the press have been excluded, shall not be open for inspection.
- 5.7 The Speaker shall be accountable for the minutes of the Municipal Council and shall ensure their safe-keeping.
- 5.8 Until the contrary is proved, every Meeting of the Municipal Council or of a Committee in respect of the proceedings whereof Minutes have been so made shall be deemed to have been duly convened, constituted and held, and all

Members of the Meeting shall be deemed to have been duly qualified, and where the proceedings are proceedings of a Committee, the Committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

- 5.9 The recording of proceedings by mechanical or electronic device shall only be required in respect of meetings of Council or the Executive Committee, unless specifically requested by the Speaker, or Chairperson of a Committee, with regard to any other meeting.

## **6.0 Absence of Councillors and Quorum**

### **6.1 Absence of Councillors**

- 6.1.1 Unless an apology has been made and accepted in terms of sub-rule 6.1.2 below, a Councillor must attend the following:-

- Meetings of the Council
- Committee meetings of the Council;
- Official seminars, training sessions, and workshops approved by the Speaker;
- Meetings of other structures or bodies as determined by the Speaker.

- 6.1.2 A Councillor who wishes to be absent from any of the meetings, seminars, training sessions or workshops mentioned in the preceding sub-section, must apply at least 24 hours prior thereto for leave of absence to the Speaker or Chairperson of the relevant Committee,

- 6.1.3 The Speaker or the Chairperson, as the case may be, shall consult with the Chief Whip of the party concerned, and thereupon either grant or refuse such application.

### **6.2 Quorum**

- 6.2.1 A majority of the Councillors must be present at a meeting of Council before a vote may be taken on any matter.

- 6.2.2 Such majority shall constitute a quorum, and the principle contained in the preceding sub-section shall apply mutatis mutandis, to meetings of Committees of Council.

- 6.2.3 If, no quorum exists after 20 minutes have lapsed from the commencement time of a meeting, then the Meeting shall not proceed unless the Councillors who are present agree to wait for a further period not exceeding twenty minutes, so as to establish a quorum.

- 6.2.4 If no quorum assembles in the circumstances contemplated in section 6.2 3 above, the business of the proposed Meeting shall stand over till the next Ordinary Meeting, unless a Special Meeting is called by the Speaker prior to such Ordinary Meeting for the purpose of disposing of such business.
- 6.2.5 Whenever during a Meeting there is no quorum, the Speaker or Chairperson, as the case may be shall suspend proceedings for a period of five minutes and, if at the end of that period, there is still no quorum, the Speaker or Chairperson shall declare the Meeting to be at an end.
- 6.2.6 The provisions of section 6.2 shall apply mutatis mutandis to any uncompleted business at a Meeting contemplated in section 6.2.4
- 6.2.7 Whenever Council is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of Councillors present, must be recorded in the minutes of proceedings.
- 6.2.8 Unless the Constitution provides otherwise:-
- The presence of the majority of Councillors constitutes a meeting of the Council.
  - Subject to section 30(2) of Municipal Structures Act, at least a majority of Councillors must be present before a vote may be taken.
  - All questions are decided by a majority of the votes cast except a question mentioned in section 160(2) of the Constitution, which must be decided by a supporting vote of a majority of Councillors.
  - The Speaker/Chairperson has no deliberative vote, but, if on any question there is an equality of votes, the Councillor presiding must exercise a casting vote in addition to that Councillor's vote as Councillor.

### **6.3 Order in Council Meetings**

The Speaker or the person presiding at the time therein shall ascertain that order is at all times maintained during the commencement of the Council and/or Committee Meeting.

- 6.3.1 When entering or leaving the chamber the Councillor and Officials shall be expected to bow to the speaker or person presiding therein.
- 6.3.2 During the deliberations in the chambers, no Councillor shall be authorised to use offensive gestures when addressing the Speaker or any other person presiding therein.
- 6.3.3 During the deliberations in the chambers, no Councillor may use offensive or unbecoming language.

- 6.3.4 Whenever a Councillor is debating in the chambers, such Councillor shall be obliged to do that through the chairperson.
- 6.3.5 No Councillor shall converse aloud during the proceedings of a meeting.
- 6.3.6 A Councillor may only be allowed to interrupt another during the proceedings, only when raising a point of order, or a question of privilege therein.
- 6.3.7 All Councillors are expected to stand when addressing the Speaker or any other person presiding therein.
- 6.3.8 Whenever the Speaker speaks, any Councillor then speaking or offering to speak must sit, and the Speaker must be heard without any form of interruption.
- 6.3.9 The Speaker or Councillor presiding at the time, may request a Councillor to leave a Meeting of the Council in the event that such Councillor persistently fails or refuses to comply with the provisions of these Rules or the directions, procedures or such other requirements of the Speaker, or Councillor presiding at the time.,
- 6.3.10 If the Councillor, so required to leave the meeting refuses to do so, then the Speaker or Councillor presiding at the time may enlist the assistance of security personnel to give effect to his or her request.
- 6.3.11 When the Council starts or adjourns, the Councillors must rise and remain standing in their seats until the Speaker or the person presiding has entered or left the chamber.
- 6.3.12 Manager: Corporate Services or duly authorised official shall ensure that all Councillors and Officials are be seated at least 5 minutes before the commencement of the Council /Committee Meeting.
- 6.3.13 Whenever Council has discussed an item In-Committee, the Speaker/ Councillor presiding at the time shall briefly and concisely advise any person, required to leave the meeting for the purposes of such In-Committee session, of so much of the discussion as the Speaker or presiding Councillor deems appropriate.
- 6.3.14 Provision for translation or relaying of Communication in meetings shall be made as and when necessary.
- 6.3.15 During the deliberations in the chambers, no Councillor may refer to any other Councillor by his or her first name or names only.
- 6.3.16 No firearm or any other weapon shall be permitted in any Meeting of Council or a Committee.
- 6.3.17 With the permission of the Speaker or any other person presiding therein, Councillors shall be granted time to caucus during a Council or Committee meeting, as and when necessary.

#### **6.4 Language to be used in Council Meetings**

**6.4.1 Council shall take into account the language usage and preferences of the residents situated within its Municipal boundaries.**

**6.4.2 For purposes of meetings of Council or its Committees, the languages used shall include English, isiXhosa and isiZulu.**

#### **6.5 Communication with the outside world and media by a Councillor**

6.5.1 No Councillor shall communicate any issue dismissed in a Meeting of Council or a Committee to the public without the Speaker's approval, provided that this shall not detract from the Councillor's duties to report to his or her constituency

6.5.2 No Councillor is allowed to communicate with the media on behalf of the Municipality without an explicit approval from the Speaker

#### **7.0 Questions**

##### **7.1 QUESTIONS CONCERNING THE GENERAL WORK OF THE COUNCIL**

7.1.1 At any ordinary meeting a question concerning the general work of the Council but not arising out of or connected with any item on the agenda may be put without comment.

7.1.2 Notice of such question shall be given by a member in writing to the Municipal Manager not later than twenty one clear days before the meeting, and the latter shall furnish a copy thereof to the Speaker of the Council, or the Mayor, or the chairperson of the committee, if any, within which terms of reference, in his opinion, the matter falls.

7.1.3 All such questions, which are considered, shall be put in the order in which notice thereof was received and shall be replied to by the Chairperson of that committee or if there is no committee within which terms of reference the matter falls, by the Mayor provided that such replies may be tabled.

7.1.4 A member putting a question in terms of this subsection shall be entitled in due course to be furnished with a copy of the reply.

##### **7.2.0 QUESTIONS CONCERNING ITEMS ON THE AGENDA**

7.2.1 At any meeting when any item on the agenda of a committee or a report of an officer of the Council is under consideration, any member may, without comment, put a question directly arising out of or connected with such item: provided that a written copy of such question, signed by the questioner, is submitted to the Municipal Manager at least 24 hours before the sitting for the day commences: provided further that in the computation of that period any Saturday, Sunday or Public Holiday shall be excluded.

7.2.2 The Speaker shall call upon the member who has lodged the question in terms of section 7.2.1 in the order in which notice thereof was given, immediately after the item has been called, and such question shall be replied to immediately, if possible, or if the information requested is not immediately available, the reply shall take the form of a written reply to the next ordinary meeting.

#### 7.3.0 QUESTIONS OF ELUCIDATION

7.3.1 At any meeting a member may forthwith after an item of the agenda has been called request elucidation of that item before it is debated, provided a written copy of the request specifying the points to be elucidated is submitted to the Municipal Manager at least 24 hours before the sitting for the day commences and the proviso to section 7.2.1 shall apply *mutatis mutandis*.

7.3.2 Every such request shall be replied to by the Chairperson of a committee within whose terms of reference the matter falls or in the absence of such committee by the Speaker, or in the case of a motion by its mover, before the debate on the item commences.

#### 7.4.0 QUESTIONS PUT WITHOUT NOTICE OR COMMENT

7.4.1 Notwithstanding the provisions of section 7.2.1 and 7.2.2, any member may without notice and comment put a question directly arising out of or connected with an item on the Agenda, to the chairperson of a committee within whose terms of reference the item falls, or a mover of a motion, or to any member speaking, which may be replied to.

#### 7.5.0 QUESTIONS ON MATTERS OF URGENT PUBLIC IMPORTANCE

7.5.1 At any meeting, questions of urgent public importance, of which the Speaker shall be the judge, may be put to the Speaker without comment, subject to the provisos to subsection 7.2.1.

7.5.2 All such questions which are considered by the Speaker to be in order shall be put to the chairperson of the committee within whose terms of reference the matter falls and shall be replied to by him or on his behalf at any stage in the consideration of the agenda.

7.5.3 A Councillor may request the Speaker to place a matter of public importance on the agenda.

7.5.4 The Councillor must make a request to the Speaker at least three (3) days before the meeting of the Council. Such a discussion may not exceed the time allocated for it by the Speaker after consultation with the Chief Whip of the majority party.

7.5.5.1 Questions of privilege may not be discussed under this rule.

7.5.5.2 Matters already discussed by Council during preceding twelve months may not be discussed under this rule.

## 7.6.0 QUESTIONS DISALLOWED

7.6.1 The Speaker, whose decision shall be final and not open to discussion, may disallow any question referred to in sections 7.1.0, 7.2.0 and 7.3.0, the subject matter of which is not within the jurisdiction of the Council, or which is otherwise out of order or which is unduly long, and he shall cause the member concerned to be informed thereof.

## 8.0 Motions and Urgent Matters

### 8.1.0 NOTICE OF MOTION

8.1.1 Every Notice of intention to introduce a Motion at a Meeting shall be signed and dated by the Member submitting it, shall specify in full the proposed Motion, shall specify the date of the Meeting at which it is intended to be introduced and shall be received by the Speaker at least ten Clear Days before such date.

8.1.2 A Notice of Motion shall deal with one matter only and shall be relevant to the affairs of the Municipal Council.

8.1.3 Where a Member gives Notice of a Motion on a matter that falls within the terms of Reference of a Committee the subject of that motion must have been considered previously by that Committee unless such Motion is in the form of a reference to that committee for consideration and report.

8.1.4 On receipt of a Notice of Motion, the Speaker shall, if the Notice complies with and is received by him in accordance with section 7.1.3, enter the Notice of Motion in a book kept for the purpose, which book shall be available for inspection by any Member and he shall place it on the agenda for the Meeting specified in such Notice.

8.1.5 All Notices of Motion shall be dated and numbered in the sequence received by the Speaker and the Speaker shall forward it to the Corporate Services Department to be included in the agenda in the order in which they are received.

8.1.6 A Notice of Motion which: -

- (1) has as its purpose the rescission or amendment of a resolution adopted by the Municipal Council during the preceding three Months; or
- (2) is substantially the same as a Motion rejected during the preceding three months, shall be placed on the agenda only if the Notice of Motion has been signed by at least one-third of the Members in addition to the mover of the Motion.

8.1.7 A Notice of Motion similar to one placed on the agenda as contemplated in section 7.1.6, shall not be submitted until six Months have elapsed after the Motion so placed on the agenda had been disposed of.

## 8.2.0 IRREGULAR MOTIONS

### 8.2.1 The Speaker shall reject a Motion: -

- (1) which, in his opinion, does not comply with the provisions of sub-section 8.1.1, 8.1.6 or 8.1.7;
- (2) in respect of which the Municipal Council does not have jurisdiction;
- (3) in respect of which a decision by a judicial or quasi-judicial body is pending; or
- (4) which, if adopted, would be contrary to any law or incapable of execution.

8.2.2 Whenever the Speaker rejects a Motion he shall do so in writing and ensure that before the day of the relevant meeting the member introducing the Motion is informed of both the rejection and the grounds for the rejection.

## 8.3.0 OPPOSED AND UNOPPOSED MOTIONS

8.3.1 If a Motion is not rejected in terms of sub-section 8.2, the Speaker shall ascertain whether the Motion is opposed and, if it is unopposed, it shall be adopted forthwith without debate.

8.3.2 If it is opposed, the Speaker shall call upon the mover of the Motion to speak thereon.

8.3.3 If the mover is not present at the Meeting when called upon by the Speaker to move his Motion, no other Member may move such Motion in his own name unless the original mover has notified the Speaker in writing that a particular Member will move the Motion on his behalf.

8.3.4 If a Motion is not moved in terms of this section it shall lapse and it may not again be moved without further Notice.

8.3.5 No Member shall move more than two Motions, including any Motions the consideration of which was deferred from a previous Meeting, on the same agenda or move more than six Motions in any one Financial Year unless otherwise agreed to with the Speaker.

## 8.4.0 MOTIONS HAVING FINANCIAL IMPLICATIONS OR INVOLVING LEGISLATION

If a Motion: -

- (1) has the effect of increasing the expenditure or reducing the revenue of the Municipal Council, or if it involves expenditure not provided for in the Current Estimates, it shall take the form of a reference to the Executive Committee for investigation and report to the Municipal Council; or



- (2) would, if adopted, amend the Rules and Orders, before being put to the vote, be referred to the Speaker for a further report unless he is satisfied with the drafting thereof and that it is legally in order.

#### 8.5.0 Motions without Notice

Motions without notice shall be discussed at the end of agenda with the permission of the Speaker or any person presiding, provided it is regarded as a matter of urgency.

### 9.0 Reports

#### 9.1.0 REPORTS TO COMMITTEES

9.1.1 A report by an officer of the Municipality on any matter, other than a matter delegated to him, which falls within the Terms of Reference of a Committee, shall be placed on the agenda of a Meeting of the Committee concerned by the Municipal Manager.

9.1.2 Any report with financial implications and which is placed on the agenda of a Meeting of the Committee shall be accompanied by a Financial Certificate as prescribed.

9.1.3 Where a Report has not been placed on the agenda, and The Chairperson of a Committee is of the opinion that the matter is one of urgency, he may submit the Report to a Meeting of the Committee concerned, provided that the Report is on a matter within the Terms of Reference of that Committee.

9.1.4 Such Chairperson may speak on the reasons for the urgency of the report for not more than five minutes after which the aspect of urgency shall, without further debate, be decided on by the Committee.

#### 9.2.0 REPORTS OF COMMITTEES TO ASSIST THE EXECUTIVE COMMITTEE

9.2.1 The report of every Committee to Assist the Executive Committee shall be submitted to an appropriate Meeting of the Executive Committee and shall contain a recommendation, which may be adopted by the Executive Committee.

9.2.2 Every recommendation shall be deemed to have been a Motion moved by the Chairperson of the Committee to Assist the Executive Committee and to have been seconded.

9.2.3 The chairperson of a Committee to Assist the Executive Committee may at any time, with the consent of the Mayor, correct or withdraw any item emanating from his Committee that appears on the agenda of a Meeting of the Executive Committee.

9.2.4 If an item falls within the Terms of Reference of more than one Committee to Assist the Executive Committee and contradictory recommendations have been

submitted by those committees, the Mayor shall decide the order in which the recommendations shall be put to the vote in the Executive Committee.

- 9.2.5 The Municipal Manager, after consultation with the Chairperson of a Committee to Assist the Executive Committee, may, if he is of opinion that the matter is one of urgency, submit a Report on a matter to a Meeting of the Executive Committee.
- 9.2.6 The Chairperson of the committee concerned may speak on the reasons for the urgency of the Report for not more than five minutes after which the aspect of urgency shall without further debate be decided on by the Executive Committee.

### 9.3.0 REPORTS OF THE EXECUTIVE COMMITTEE

- 9.3.1 A report of the Executive Committee shall be submitted to an appropriate Meeting of the Municipal Council via the Speaker and shall be divided into two parts, the first part containing the items on which the Executive Committee has no delegated powers and the second part containing those items considered by the Executive Committee in respect of which it has delegated powers.
- 9.3.2 Unless an item is submitted for information only, every item contained in the first part of the report of the Executive Committee shall contain a recommendation which may be adopted by the Municipal Council.
- 9.3.3 The Mayor may, at any time with the consent of the Speaker, correct or withdraw any item emanating from the Executive Committee that appears on the agenda of a Meeting of the Municipal Council.
- 9.3.4 A Report submitted by the Executive Committee only for information may not be debated, but shall only be noted.
- 9.3.5 Every recommendation in the first part of a report of the Executive Committee shall be deemed to have been a Motion moved by the Mayor and to have been seconded.
- 9.3.6 The Speaker shall put the recommendation contained in the first part of a report of the Executive Committee *seriatim*, unless he considers it expedient to rearrange the order.
- 9.3.7. If an item is put to the meeting in terms of sub-section 9.3.6 and is met by silence or the word "agreed", it shall be deemed to have been adopted unanimously.
- 9.3.8 The Mayor may, if he is of opinion that the matter is one of urgency, submit a Report on a matter to the Speaker who shall decide whether the Report concerned should be placed on the agenda of the Meeting of the Municipal Council as requested by the Mayor.
- 9.3.9 Where the Speaker agrees to a Report being placed on the agenda of the Meeting of the Municipal Council, copies of the Report shall be laid on the table at the Meeting concerned.

### 10.0 Proposals

#### 10.1.0 PROPOSALS DURING THE COURSE OF A MEETING OF THE COUNCIL

- 10.1.1 During the course of a Meeting of the Municipal Council no Proposal shall, subject to the provisions of this section, be received except the following: -
- (1) To amend a Motion or Proposal;
  - (2) That the Municipal Council does now adjourn;

- (3) That a debate be adjourned;
- (4) That a matter be referred back;
- (5) That the Motion or Proposal be now put to the vote;
- (6) That the Municipal Council proceed to the next business;
- (7) That the public or the press be excluded from any or all Meetings or part of a Meeting;
- (8) That the Municipal Council goes in or out of Committee;
- (9) That a provision of these Rules and Orders be suspended; or
- (10) That a Councillor be excluded in terms of these Rules or in terms of any legislation.

10.1.2 Every proposal made in terms of sub-section 10.1.1 shall be seconded.

10.1.3 A Proposal made in terms of sub-section 10.1.1 and any secondment thereof, shall not be regarded as a speech for the purposes of these Rules.

10.1.4 Any Proposal in terms of sub-section 10.1.1 shall be dealt with in accordance with the applicable provisions of sub-sections 10.2. to 10.7.

10.1.5 Nothing in this section shall affect the right of the Speaker, of his own initiative or at the request of a Member, temporarily to adjourn a Meeting of the Municipal Council for a period not exceeding two hours.

10.1.6 Where the original motion or proposal relates to a Bylaw or to legislation, any motion to amend shall take the form of a reference back to the Executive Committee (unless the amendment does not alter the proposed Bylaw or legislation in principle and is acceptable to the Mayor as chairperson of the Executive Committee).

10.1.7 Any amendment which would have the effect of increasing the expenditure or reducing the income of the Municipal Council shall take the form of a reference back to the Executive Committee for consideration.

### 10.2.0 AMENDMENT OF MOTION OR PROPOSAL

- 10.2.1 Every amendment proposed in terms of sub-section 10.1.1(1) shall be relevant to the Motion or Proposal in respect of which it is proposed.
- 10.2.2 No amendment to an amendment shall be proposed in any Meeting of the Municipal Council.
- 10.2.3 An amendment proposed in any Meeting of the Municipal Council shall be reduced to writing, signed by the mover and the seconder and handed to the Speaker.
- 10.2.4 An amendment shall be read before being proposed.
- 10.2.5 No Member shall be entitled to propose more than one amendment to any original Motion or Proposal.
- 10.2.6 More than one amendment of a Motion or Proposal may be proposed and, subject to the provision of sub-section 10.2.7, all amendments proposed shall be put to the vote at the closure of the debate on such Motion or Proposal.
- 10.2.7 If more than one amendment to a Motion or Proposal has been proposed, such amendments shall be put to the vote in the sequence in which they were proposed.
- 10.2.8 If an amendment is adopted, the amended Motion or Proposal shall take the place of the original Motion or Proposal and shall become the Motion or Proposal in respect of which any further amendments proposed shall be put to the vote: Provided that the Speaker, if he is of opinion that an amendment adopted renders another amendment unnecessary or meaningless, may rule that such other amendment need not be put to the vote after which such amendment shall lapse.
- 10.2.9 The Speaker shall reject an amendment, which constitutes a direct negation of the original Motion or Proposal.
- 10.2.10 The provisions of sections 7.2.0, 7.3.0 and 7.4.0 shall apply *mutatis mutandis* in respect of a Proposal in terms of this section.
- 10.2.11 After all the amendments have been put to the vote, the original Motion or Proposal, as amended if any amendment has been adopted, shall be put to the vote.

### 10.3.0 REFERENCE BACK

- 10.3.1 A Member may during the course of his speech on any matter propose verbally (not in writing) that the matter or any aspect thereof be referred back for further consideration and report.
- 10.3.2 A Proposal in terms of sub-section 10.3.1 shall state: -

- (1) The Committee to which the matter is to be referred back or, if there is not a Committee within whose Terms of Reference the matter falls, the proposal shall state that the matter be referred to the Municipal Manager for report to the Executive Committee; and
  - (2) The aspect of which reconsideration is required.
- 10.3.3 The proposer and the Chairperson of the Committee within whose Terms of Reference the matters falls or, in the absence of such Committee, the Mayor, may speak on the Proposal for a period not exceeding five minutes each, but the seconder shall not speak beyond formally seconding the Proposal.
- 10.3.4 If a Proposal contemplated in sub-section 10.3.1 is seconded, it shall be put to the vote without further debate and, if carried, the Municipal Council shall proceed to the next item.
- 10.3.5 The proposer of a Proposal contemplated in sub-section 10.3.1, which was adopted by the Municipal Council, shall be entitled to be heard by the Committee or the Municipal Manager, as the case may be.
- 10.4.0 PROPOSAL THAT THE MATTER BE PUT TO THE VOTE
- 10.4.1 A Proposal that the matter be now put to vote may be proposed verbally at the close of any speech.
- 10.4.2 The proposer may speak on the Proposal for a period not exceeding five minutes, but the seconder may not speak beyond formally seconding it.
- 10.4.3 A Proposal that the matter be now put to the vote shall be put to the vote without further debate.
- 10.4.4 If a Proposal that the matter be now put to the vote is carried, any Proposal to amend the original Motion or Proposal and the original Motion or Proposal, as amended, shall be put to the vote forthwith.
- 10.4.5 If a Proposal that the matter be now put to the vote is rejected, another such Proposal may not, without the consent of the Speaker, be entertained on the same matter until a period of half an hour has elapsed after such rejection.
- 10.5.0 PROPOSAL THAT THE COUNCIL MOVE TO THE NEXT BUSINESS
- 10.5.1 A Proposal that the Municipal Council proceed to the next business may be proposed verbally at the close of any speech.
- 10.5.2 Such Proposal shall be put to the vote without debate except that the Chairperson of a Committee within whose Terms of Reference the matter falls or, in the absence of such Committee, the Mayor, may speak on the Proposal for a period not exceeding five minutes, but the seconder shall not speak beyond formally seconding it and, if the Proposal is carried, the matter under discussion shall lapse and shall not be included in the agenda of any subsequent Meeting within a period of six months, unless it is reinstated on the recommendation of that Committee, or the Speaker.

10.5.3 If a Proposal that the Municipal Council proceed to the next business is rejected, another such Proposal may not, without the consent of the Chairperson, be entertained on the same matter until a period of half an hour has elapsed after such rejection.

#### 10.6.0 PROPOSAL THAT THE DEBATE BE ADJOURNED

10.6.1 A Councillor who has not yet participated in a debate on a matter under consideration may at the conclusion of any speech, verbally propose that the debate be adjourned.

10.6.2 The proposer and the Chairperson of the Committee within whose Terms of Reference the matter falls or, in the absence of such Committee, the Mayor, may speak on the Proposal for a period not exceeding five minutes each, but the seconder shall not speak beyond formally seconding it.

10.6.3 Save as is provided in sub-section 10.6.2, no debate shall be permitted on such Proposal except in respect of the period of adjournment.

10.6.4 If such Proposal is carried, the Meeting shall proceed to the next business on the agenda.

10.6.5 If a Proposal that a debate be adjourned is rejected, another such Proposal may not, without the consent of the Chairperson, be entertained on the same matter until a period of half an hour has elapsed after such rejection.

10.6.6 A Councillor may not propose or second more than one Proposal for the adjournment of the debate during the course of that debate.

#### 10.7.0 PROPOSAL THAT THE MEETING BE ADJOURNED

10.7.1 A Member may, at any time (except during the course of a speech by another Councillor or while a vote is being taken), verbally propose that the Municipal Council do now adjourn.

10.7.2 The proposer, one Councillor in opposition thereto and the Mayor may speak on the Proposal for a period not exceeding five minutes each, but the seconder shall not speak beyond formally seconding it.

10.7.3 A Proposal contemplated in sub-section 10.7.1 shall be put to the vote without further debate.

10.7.4 If the Proposal is carried, the Municipal Council shall forthwith adjourn: Provided that the Speaker may direct that any unopposed business shall be disposed of before the adjournment.

10.7.5 If the Proposal that the Municipal Council do now adjourn is rejected, another such Proposal may not, without the consent of the Chairperson, be entertained on the same matter until a period of half an hour has elapsed after such rejection.

10.7.6 A Member may not on the same day propose or second more than one Proposal for adjournment during the course of any Meeting of the Municipal Council.

10.7.7 Any business uncompleted at an adjournment shall be dealt with at the next Ordinary Meeting, unless the Municipal Council decides otherwise or the Chairperson convenes a Special Meeting to dispose thereof.

10.7.8 If a Meeting is adjourned to a date not more than 14 days after the date of the adjournment, notice of the adjourned Meeting need not be given.

#### **11.0 Withdrawal of Motion or Proposal**

11.1 A Motion or Proposal may, without debate and with the permission of the Speaker, be withdrawn or corrected by the mover or proposer.

11.2 A Councillor may not speak upon such Motion or Proposal in any Meeting of the Municipal Council after the mover or proposer has asked for its withdrawal, unless such withdrawal is refused by the Speaker.



## **12.0 Debate and Discussion**

### **12.1.0 LENGTH OF SPEECHES**

12.1.1 Subject to the provisions of sub-section 12.2.0, a Councillor may not speak for more than such period as the Speaker may have agreed or two consecutive minutes on any one Motion or Proposal (whichever is the longer).

### **12.2.0 MEMBERS MAY SPEAK ONCE ONLY**

12.2.1 Subject to any provision to the contrary in these Rules, a Member may not address the Municipal Council more than once on any Motion or Proposal.

12.2.2 Subject to any provision to the contrary in these Rules, the mover of a Motion or the proposer of a Proposal may speak on the Motion or Proposal and reply to the debate, but in replying, he shall strictly confine himself to answering Councillors and shall not introduce any new matters into the debate.

12.2.3 Such reply shall conclude the debate.

12.2.4 The reply to the debate by the Mayor or another Member of the Executive Committee requested by the Mayor to act on his behalf on any item in the first part of the report of that Committee, shall conclude the debate on that part of the report: Provided that the Speaker may refuse the Mayor the opportunity to speak if he is of opinion that the item concerned has not been sufficiently debated and that there are other Members who wish to participate in the debate.

### **12.3.0 RELEVANCE**

12.3.1 A Councillor who speaks in the Municipal Council shall direct his speech strictly to the Motion or Proposal under discussion or to an explanation or a point of order and no discussion shall be allowed:

- (1) Which will anticipate any matter on the agenda; or
- (2) On any matter in respect of which a decision by a judicial or quasi-judicial body or commission of inquiry is pending.

### **12.4.0 POINTS OF ORDER AND EXPLANATION**

12.4.1 Any Councillor, whether he has spoken under discussion or not, may rise:

- (1) on a Point of Order; or
- (2) on a Point of Personal Explanation,

and a Councillor so rising shall be entitled to be heard forthwith: provided that no new issues are introduced, unless the Speaker rules the Point of Order or the Point of Personal Explanation to be inadmissible.

12.4.2 The ruling of the Speaker on a Point of Order, or on the admissibility of a Point of Personal Explanation, shall be final and not open to discussion.

12.5.0 DISCUSSION ON SECOND PARTS OF REPORTS OF THE EXECUTIVE COMMITTEE

12.5.1 After the conclusion of the business on the first part of a Report of the Executive Committee, the Speaker shall allow discussion on the second part of such reports for a period not exceeding one hour.

12.5.2 During such discussion: -

- (1) no Proposal other than a Proposal that the Committee concerned be requested to reconsider the matter shall be made;
- (2) a Member may request that his opposition to a decision in the second part of the Executive Committee's report be minuted.

### 12.6.0 UNFINISHED BUSINESS

- 12.6.1 The discussion of the adjourned debate, unless otherwise resolved, shall be resumed at the next Ordinary Meeting of the Municipal Council.
- 12.6.2 A matter to be reconsidered shall be reported to the next Ordinary Meeting by the Speaker unless a Special Meeting for that purpose is convened.
- 12.6.3 If a Proposal to adjourn a Meeting of the Municipal Council has been carried, the Councillor on the floor at the adjournment shall, upon consideration of the matter forming the subject of such debate at the adjourned Meeting, be entitled to speak first.

### 12.7.0 ETIQUETTE OF DEBATING

- 12.7.1 A Member speaking at a Meeting shall remain standing and address the Speaker.
- 12.7.2 If a Councillor, who is not speaking, raises a Point of Order or gives a Personal Explanation, and such Councillor is addressed by the Speaker, then the Councillor who is speaking at the time shall be silent until the Speaker has given a ruling.

### 13.0 Resolutions of Meetings

- 13.1 No resolution involving expenditure shall be taken at any Meeting until there is produced to the Speaker of the Meeting a certificate from the Chief Financial Officer that provision is made in the Current Estimates for such expenditure, or, if the estimates for the Financial Year then current have not been adopted by the Municipal Council, that provision has been or will be made in the estimates for that Financial Year.

### 14.0 Unopposed Business

- 14.1 When a Meeting has been in progress for not less than two hours, the Speaker may interrupt the proceedings and direct that the Municipal Council proceed forthwith to dispose of unopposed business.
- 14.2 After the disposal of such business, the proceedings shall be resumed at the point at which they were interrupted.

### 15.0 Voting<sup>1</sup>

- 15.1 A majority of the Members of a Municipal Council must be present before a vote may be taken on any matter.
- 15.2 Questions concerning the following matters are determined by a decision taken by the Municipal Council with a supporting vote of a majority of its Members: -
- (1) the passing of bylaws;

- (2) the approval of budgets;
  - (3) the imposition of rates and other taxes, levies and duties; and
  - (4) the raising of loans.
- 15.3 All other questions before the Municipal Council or before any of its Committees are decided by a majority of the votes of Members cast.
- 15.4 If on any question there is an equality of votes, the Speaker presiding at any Meeting shall exercise a casting vote in addition to that Councillor's vote as a Member.
- 15.5 Except where the law prescribes a secret ballot or the Municipal Council otherwise resolves by resolution, voting at a Meeting shall be by a show of hands of those Members entitled to vote.
- 15.6 A Member of a Meeting entitled to vote, may request that his vote be recorded against a decision of that Committee.
- 15.7 Whenever a vote is taken at a Meeting the votes of the Members shall be recorded by the Speaker who shall declare the result of the voting.
- 15.8 The Speaker shall thereafter declare the decision of the Meeting.
- 15.9 During the taking of a vote, no Member shall enter or leave the Municipal Council chamber or Committee room.
- 16.0 Casual Vacancies**
- 16.1 If, for any reason, the Speaker ceases to hold office as such, the Municipal Manager shall convene a Special Meeting of the Municipal Council to elect a Speaker in accordance with the procedures set out in Schedule 3 to the Municipal Structures Act.
- 16.2 The provisions relating to Ordinary Meetings shall apply *mutatis mutandis* to any such Special Meeting.
- 16.3 If, for any reason, the Mayor ceases to hold office as such, the Speaker shall convene a Special Meeting of the Municipal Council to elect a Mayor in accordance with the procedures set out in Schedule 3 to the Municipal Structures Act.
- 16.4 A vacancy on a Committee shall be notified by the Speaker at the first Meeting of the Municipal Council after it has arisen and shall be filled by the Municipal Council in accordance with the provisions of these Rules.
- 16.5 The existence of a vacancy on any Committee shall not affect the validity of any of its decisions or proceedings.

**17.0 General Committee Procedures<sup>1</sup>**

- 17.1 Subject to the provisions of these Rules, a Committee, by resolution taken with a supporting vote of a majority of its Members, may determine its own procedures subject to any directions of the Municipal Council.

**PART II: SPECIAL COUNCIL AND COMMITTEE PROCEDURES****1.0 Removal of Speaker from Office<sup>1</sup>**

- 1.1 The Municipal Council may by resolution remove the Speaker from office.
- 1.2 Where a Councillor wishes to propose the removal of the Speaker, prior notice of an intention to move a Motion for the removal of the Speaker has to be given in accordance with Chapter 1, Part I, sub-section 8.1.0.

**2.0 Dissolution of Committees**

- 2.1 The Municipal Council may by resolution dissolve any Committee to Assist the Executive Committee.
- 2.2 Where a Councillor wishes to propose the dissolution of any Committee to Assist the Executive Committee, prior notice of an intention to move a Motion for such dissolution has to be given in accordance with Chapter 1, Part I, sub-section 8.1.0.

**3.0 Removal of Members of Committees<sup>1</sup>**

- 3.1 The Municipal Council may by resolution remove any one, more than one or all Councillors from Membership of a Committee.
- 3.2 Where a Councillor wishes to propose the removal of any councillor from any Committee, prior notice of an intention to move a Motion for the removal of the councillor from such Committee has to be given in accordance with Chapter 1, Part I, sub-section 8.1.0.
- 3.3 If all the Councillors of the Executive Committee are removed, then an election of new Councillors and a Mayor must be held in terms of sections 43 and 48 of the Municipal Structures Act respectively

**4.0 Legislative Procedures<sup>1</sup>**

- 4.1 Only a Councillor or a Committee of Council may introduce a draft By-law in the Council<sup>1</sup>.
- 4.2 Where an individual Councillor introduces a proposed By-law at a Meeting of the Municipal Council,

- (1) he shall give no less than ten Days' Notice to the Municipal Manager and the Municipal Manager shall notify all Councillors accordingly; and
- (2) if the Municipal Council is of opinion that the proposed Bylaw be considered, the Municipal Council shall, by resolution, refer the matter back to the Executive Committee.

4.3 Where: -

- (1) If a proposed By-law is referred back to the Executive Committee; then the Municipal Manager shall ensure that the proposed By-law is published for public comment.
- (2) The Municipal Manager shall cause the publication of the proposed by-law in a manner that complies with the requirements of sections 21 and 21A of the Municipal Systems Act.
- (3) the Executive Committee is of opinion that a proposed Bylaw be considered,

the Executive Committee concerned shall request the Municipal Manager to publish a notice in the Newspapers of Record stating:

- (1) the purport of the proposed Bylaw;
- (2) that the draft Bylaw may be inspected at the Information Office and on the Municipal Council's Web Site should one have been established; and
- (3) that any person wishing to comment on the proposed Bylaw should submit his comments to the Speaker at his office on or before a date fourteen days after the date of publication<sup>1</sup>.

4.4 Where comments are made and the Executive Committee is of opinion that detailed consideration needs to be given to any proposed Bylaw or for any other reason it is of such opinion, it shall establish a Working Group to consider the proposed Bylaw and report back to the Executive Committee.

4.5 (a) When the Executive Committee is of the reasonable opinion that the proposed Bylaw must be passed, it shall make such recommendation to the Municipal Council.

(b) The Municipal Manager shall ensure that all Councillors receive reasonable notice of the Executive Committee's recommendation to the Council with regard to the passing of the proposed By-law

4.6 A By-law is made by a decision taken by a Municipal Council: -

- (1) in accordance with the provisions of these Rules; and
- (2) with a supporting vote of a majority of its Members<sup>1</sup>.

4.7 A By-law shall take effect on:

- (1) When published in the Provincial Gazette; or

(2) on a future date determined in or terms of the By-law<sup>1</sup>.

4.8 A By-law shall be enforced only on or after the date upon which it takes effect<sup>1</sup>.

#### **5.0 Suspension of Rules and Orders**

5.1 A Councillor may in any Meeting of Council, except during the course of a speech, propose that any provision of these Rules be suspended, provided that Council shall have no authority to suspend the following:

- (1) any provision of these Rules that is prescribed by legislation; and
- (2) any provision relating to misconduct and the discipline of Councillors.

5.2 The proposer and one Councillor in opposition thereto may speak on such Proposal for not more than five minutes each but the seconder shall not speak beyond formally seconding the Proposal.

5.3 Such Proposal shall be put to the vote without further debate.

#### **6.0 Exercise of Powers where the Council is not sitting**

6.1 Whenever any matter of urgency arises:

- (1) during any period in respect of which Council is not reasonable practicable to convene a meeting of Council, or of the Executive Committee, where the latter has the authority to make a decision about the matter in question, such matter may be decided by the Speaker or the Mayor, the recommendations of the Municipal Manager; or
- (2) during any period in respect of which Council is in recess, such matter may be decided by the Speaker, in consultation with the Mayor, provided that the Speaker shall also consult with the Municipal Manager with regard to a matter that concerns the business of Council.

6.2 In exercising the power given in terms of sub-section 6.1, the Speaker or Mayor may incur expenditure on behalf of Council, provided that: -

- (1) no such expenditure shall be incurred unless the Speaker or Mayor obtains a Financial Certificate from the Municipal Manager to the effect that provision has been made in terms of current financial estimates; and
- (2) no expenditure in respect of the capital account shall be incurred without the express approval of the Municipal Manager.

6.3 All matters decided in terms of section 6.1 shall be reported for ratification to the next Ordinary Meeting of the Municipal Council or of the Executive Committee: Provided that anything done pursuant thereto in the meantime shall be deemed to have been duly authorised by the Municipal Council or the Executive Committee.

## **7.0 Attendance at meetings by Councillors who are Non-Members**

- 7.1 Any councillor may attend any Executive Committee meeting or meeting of any Committee to Assist the Executive Committee notwithstanding that he is a non-member of that committee.
- 7.2 Any councillor attending a meeting of a committee of which he is a non-member may not address that meeting unless he has been given permission thereto by the Chairperson.

## **PART III: COMMUNITY PARTICIPATION<sup>1</sup>**

### **1.0 Petitions**

- 1.1 Any Person may present a Petition to a Councillor.
- 1.2 A Councillor may at a Meeting of the appropriate Committee submit any such petition and may briefly state the purpose thereof.
- 1.3 A petition shall be referred to the Committee within whose Terms of Reference it falls or, in the absence of such Committee, to the Speaker, for consideration and report to the Municipal Council.

### **2.0 Deputations:**

- 2.1 A deputation wishing to appear before the Municipal Council or a Committee shall submit a memorandum to the Mayor who shall submit it to the Committee within whose Terms of Reference it falls and the Committee or the Speaker, in the absence of such Committee, may if it or he considers it expedient, receive the deputation and deal with the matter raised in the memorandum at such reasonable time as it or he considers appropriate.
- 2.2 The Speaker may allow any deputation to appear before the Municipal Council without submission of a memorandum if, in his opinion, the matter concerned is of an urgent nature.
- 2.3 A deputation shall not consist of more than five Persons.
- 2.4 Except with the consent of the Chairperson or in reply to a question from a Member, only one from the deputation may address the Meeting.
- 2.5 A deputation may not address the Municipal Council for more than five minutes without the consent of the Speaker, but it may respond briefly to a question by a Councillor.

### **3.0 Referenda**

- 3.1 The Council may:
- (1) by resolution; and
  - (2) upon receipt from no less than 500 residents, of a petition requesting a referendum on any matter, submit to a general poll of the residents of the Municipality, any matter that affects the interests of such residents.



3.2 The Municipal Council may, by resolution, prescribe the time, date and procedures for any such Referendum.

#### **4.0 Plebiscites:**

##### **4.1 The Municipal Council:**

(1) may by resolution, and.

(2) on the petition of five hundred residents, shall submit to a general poll of the voters of the Municipality or of the voters of a part of the Municipality, any proposed by-law for the Municipality or intended to be applicable only in the part concerned.

4.2 The Municipal Council may, by resolution, prescribe the time, date and procedures for any such plebiscite.

4.3 In the event of the plebiscite being successful, the Speaker shall introduce the draft by-law into the Municipal Council for consideration.

#### **5.0 Applications for Amendment of By-law**

##### **5.1.0 REGULATORY FRAMEWORK:**

5.1.1 The Municipal Manager may prescribe the procedures and forms for any Application for any amendment of any Bylaw.

5.1.2 The Municipal Manager may publish the details of any such procedures and forms, provided such application complies with the requirements of sections 21 and 21A of the Municipal Systems Act.

##### **5.2.0 APPLICATION PROCEDURE**

5.2.1 Subject to any procedures and forms published by the Municipal Manager, any person who wishes to apply for the amendment of a Bylaw shall submit an application in this regard to the office of the Municipal Manager.

5.2.2 The Municipal Manager shall notify the Speaker of such application within a reasonable period of time.

5.2.3 The Speaker shall consider such application and may report thereon to the Executive Committee.

#### **6.0 Information, Privacy and Meetings**

6.1 The Municipal Council must conduct its business in an open manner<sup>1</sup> and shall, subject to sub-sections 6.3, 6.4 and 6.5, ensure that meetings of the Municipal Council, its Executive Committee and other committees are open to the public.

- 6.2 The Municipal Manager<sup>1</sup> shall give notice to the public of the time, date and venue of every: -
- (a) Ordinary Meeting of the Municipal Council; and
  - (b) Special Meeting of the Municipal Council, except when time constraints make this impossible,
- by placing a Notice under his hand containing such information on the Municipal Notice Board.
- 6.3 The Municipal Council shall, within the financial and administrative capacity of the Municipality, provide space for the public in the chambers and places where the Municipal Council meets<sup>1</sup>.
- 6.4 The Speaker may take reasonable steps to regulate public access to, and public conduct at, meetings of the Council and its Committees<sup>1</sup>.
- 6.5 The Speaker may close any Meeting or part of a Meeting of the Municipal Council to the public when it is reasonable to do so having regard to the nature of the business being transacted at such Meeting: Provided that the Speaker may not exclude the public when the Municipal Council is considering or voting on any of the following matters: -
- (1) a draft bylaw tabled in the Municipal Council;
  - (2) a budget tabled in the Municipal Council;
  - (3) the draft Integrated Development Plan of the Municipality, or any amendment of the plan, tabled in the Municipal Council;
  - (4) the draft Performance Management System for the Municipality or any amendment of the system, tabled in the Municipal Council; and
  - (5) a decision to enter into a Service Delivery Agreement being considered by the Municipal Council.
- 6.6 The Speaker may order any Member of the public to leave the chamber if he is of opinion that the behaviour of such Person is disturbing the proceedings of Council, and may enlist the assistance of security personnel to give effect to such order.
- 6.7 Any Member of the public who disobeys an order of the Speaker to leave the chamber shall be guilty of an offence and liable on conviction to a Criminal Fine or a period of imprisonment not exceeding six months.
- 6.8 Notwithstanding anything to the contrary in this Code, a Member may: -
- (1) at any time propose that a Meeting resolve itself into Closed Session; or

- (2) if the Municipal Council or Committee concerned is in Closed Session as contemplated in paragraph (1), propose that for the further consideration of the matter concerned, the Municipal Council resolve itself out of Closed Session.
- 6.9 Where the Proposal is that the Municipal Council go into Closed Session, the proposer, the Chairperson of the Committee within whose Terms of Reference the matter falls or, in the absence of such Committee, the Mayor, may speak on a Proposal for a period not exceeding five minutes each and shall restrict his speech to the reason why the Municipal Council should or should not resolve itself into or out of Closed Session, as the case may be, but the seconder shall not speak beyond formally seconding the Proposal.
- 6.10 If a Proposal that the Municipal Council go into Closed Session is adopted, the Speaker may, in his discretion, order that the public and the press, if present, and all officers of the Municipal Council, except those Persons allowed by the Speaker to remain, shall leave the place of the Meeting.
- 6.11 When the Municipal Council is in Closed Session, the provisions of these Rules, except in so far as they are in conflict with this section, shall apply.
- 6.12 If, in the opinion of the Speaker, information is disclosed or is about to be disclosed during a speech which may be prejudicial to the Municipal Council or the inhabitants of the Municipality, the Presiding Officer may direct the Member concerned to forthwith discontinue such speech.
- 6.13 If the Municipal Council resolves itself into or out of Closed Session during the debate on an item of business, the further debate on that item either in or out of Closed Session shall for all purposes be a continuation of the preceding debate on that item.
- 6.14 If the Municipal Council resolves itself into Closed Session, the Municipal Council shall at the conclusion of the consideration of the item concerned, revert to the consideration of further business out of Closed Session.
- 6.15 A decision of the Municipal Council in Closed Session shall be a decision of the Municipal Council.
- 6.16 The minutes relating to any item considered by the Municipal Council or a Committee in Closed Session shall, unless consideration of that item was concluded out of Committee, be kept separate from the other minutes of the Municipal Council.
- 7.0 The Right to Information<sup>1</sup>**
- 7.1 The Municipality shall comply with the provisions of the Promotion of Access to Information Act in connection with any person's exercise of his or her right of access to information.

- (1) All Policy and Administrative Directives applicable in the Municipal Administration, which relate to the proper administration of any discretion vested in terms of any Bylaw;
  - (2) the names and business addresses of the Municipal Functionaries and a statement of their respective Powers in terms of any Bylaw;
  - (3) all Acts of Delegations by the Municipal Council or the, Executive Committee of powers to any Person in terms of any law;
  - (4) the names and business addresses of all Authorised Delegates and a statement of their respective powers, which are delegated to them;
  - (5) all By-laws of the Municipality<sup>1</sup>;
  - (6) all Proclamatory Acts by the Municipality in terms of any Bylaws;
  - (7) all Regulatory Acts by any Municipal Organ of State in terms of any By-laws; and
  - (8) the minutes of all Meetings.
- 7.2 The Information Officer shall make available to the public all information about the financial interests of Councillors referred in the Public Part of the Register of Interests bearing in mind the Policy Directives of the Municipal Council with regard to the need for both confidentiality and the public interest in disclosure.
- 7.3 Any Person may inspect any instrument or information referred to in sections 7.1 and 7.2 during Office Hours at the Office of the Municipal Manager.
- 7.4 Every Person may, during Office Hours, make extracts from the instruments and information listed in sections 7.1 and 7.2 upon payment of the Tariff fee for copying.

## CHAPTER 2

# INTERNAL ARRANGEMENTS

### PART I: THE POLITICAL STRUCTURE – MUNICIPAL POLITICAL FUNCTIONARIES

#### 1.0 The Speaker<sup>1</sup>

##### 1.1.0 FUNCTIONS OF THE SPEAKER<sup>1</sup>

###### 1.1.1.0 General Functions

###### 1.1.1.1 The Speaker:

- (1) presides at Meetings of the Municipal Council;
- (2) performs the duties and exercises the powers assigned to the Speaker in terms of these Rules or delegated by the Municipal Council to the Speaker in terms of any law;
- (3) ensure that the Municipal Council meets at least quarterly, and as required in terms of these Rules;
- (4) maintains order during Meetings of the Municipal Council or its Committees;
- (5) ensures compliance in the Municipal Council and its Committees with the Councillors' Code of Conduct; and
- (6) ensures that Meetings of the Municipal Council are conducted in accordance with the- provisions of this Code.

###### 1.1.2.0 Speaker's rulings<sup>1</sup>

1.1.2.1 The Speaker may give a ruling or frame a temporary rule in respect of any eventuality for which the Rules and Orders do not provide.

1.1.2.2 Any rule made pursuant to section 1.1.2.1 shall remain in effect and binding upon Councillors until such time as any new Rules and Orders are made which deal with the matter on which the Speaker has given a ruling.

1.1.2.3 Every temporary rule framed by the Speaker shall be recorded in the minutes and in a register kept by the Speaker for that purpose.

1.1.2.4 Any ruling of the Speaker as to the interpretation of these Rules and Orders shall be recorded in the minutes and in the register referred to in section 1.1.2.3, if any Member present at a Meeting so requests or if the Speaker so decides.

#### **1.1.3.0 Speaker's Sessional Orders**

1.1.3.1 The Speaker shall by Notice posted at the Municipality Notice board, and at any other Municipal facility where the public may expect Municipal Information, set out Sessional Orders which shall determine: -

- (1) the period of the Recess of the Municipal Council and its Committees;
- (2) the dates, times and venues of all Ordinary Meetings of the Municipal Council and its Committees during the Session concerned; and
- (3) the dates on which the Budget and other Key Policy Documents are to be considered by the Municipal Council and its Committees during the Session concerned.

1.1.3.2 The Speaker shall use his best endeavours to ensure that delivery of the Sessional Orders to a Councillor is made: -

- (1) at the physical address of the Councillor; or
- (2) by sending such rules by post or other means to the Councillor's postal address so that it would reach such Councillor timeously in the normal course of postal delivery.

1.1.3.3 The accidental omission to serve notice on any Councillor in terms of section 1.1.3.2 or the late receipt of such notice, shall not affect the validity of the Sessional Orders.

1.1.3.4 In preparing his sessional Orders, the Speaker shall include a draft timetable and process for the adoption of the Policies of the Municipality and call for comment thereon in accordance with the requirements of sections 21 and 21A of the Municipal Systems Act.

1.1.3.5 After adjusting any draft timetable and process so as to take into consideration the comments received, the Speaker shall include such timetable and process in the sessional Orders and communicate the foregoing to the public in accordance with the requirements of sections 21 and 21A of the Municipal Systems Act.

#### **1.1.4.0 Speaker's Responsibility to Protect Rights of councillors**

1.1.4.1 The Speaker shall ensure that all Councillors are entitled to participate in the proceedings of the Municipal Council in a manner that:

- (1) allows parties and interests reflected within the Municipal Council to be fairly represented; and
- (2) is consistent with democracy<sup>1</sup>.

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1.1.4.2 The Speaker shall ensure that each Councillor when taking office is given a copy of these Rules and the Councillors' Code of Conduct and that a copy of these Rules and the Councillors' Code of Conduct is available in every room or place where the Municipal Council meets

1.1.4.3 A copy of the agenda of a Meeting of a Committee shall be furnished, prior to the Meeting concerned, by the Speaker to a Councillor, who is not a Member of the Committee concerned at the request of the such Councillor, except that the Council may resolve that the agendas of all, or certain, committee meetings be circulated to all or certain Councillors prior to the Meetings concerned.

1.1.4.4 Any Councillor shall be entitled to attend any Meeting of a Committee of which he is not a Member.

1.1.4.5 The Chairperson may permit any Councillor so attending to speak at the Meeting, but such Councillor shall have no vote.

## 1.2.0 PERIOD OF OFFICE OF THE SPEAKER<sup>1</sup>

1.2.1 Subject to the provisions of these Rules, the Speaker is elected for a Municipal Council Term.

1.2.2 The Speaker vacates office as Speaker during a Municipal Council Term if he: -

- (1) resigns as Speaker;
- (2) is removed from office as Speaker; or
- (3) ceases to be a Councillor<sup>1</sup>.

## 1.3.0 ACTING SPEAKER<sup>1</sup>

1.3.1 If the Speaker is absent or not available to perform the functions of Speaker, or during a vacancy, the Municipal Council shall elect another Councillor to act as Speaker.

## 1.4.0 REMUNERATION OF THE SPEAKER<sup>1</sup>

1.4.1 The remuneration, benefits and allowances of the Speaker shall be determined by resolution of the Municipal Council provided that such resolution is consistent with the Remuneration of Public Office Bearers Act.

## 2.0 The Mayor

### 2.1.0 FUNCTIONS OF THE MAYOR<sup>1</sup>

2.1.1 The Mayor:

- (1) presides at Meetings of the Executive Committee; and
- (2) performs the duties, including any ceremonial functions, and exercises the powers assigned to the Mayor in terms of these Rules or delegated to the Mayor by the Municipal Council or the Executive Committee.

### 2.2.0 PERIOD OF OFFICE OF THE MAYOR<sup>1</sup>

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2.2.1 Subject to the provisions of these Rules, the Mayor is elected for the duration of his term as a Member of the Executive Committee.

2.2.2 The Mayor vacates office during an Executive Committee Term if he: -

- (1) resigns as Mayor;
- (2) is removed from office as a Member of the Executive Committee in terms of section 53 of the Municipal Structures Act; or
- (3) ceases to be a Member of the Executive Committee.

2.2.3 No Person may hold office as Mayor for more than two consecutive Municipal Council Terms.

2.2.4 If a Person is elected to fill a vacancy in the office of Mayor, the period between that election and the next election of a Mayor is not regarded as a Municipal Council Term<sup>1</sup>.

### 2.3.0 REMUNERATION OF THE MAYOR<sup>1</sup>

2.3.1 The remuneration, benefits and allowances of the Mayor shall be determined by resolution of the Municipal Council provided that such resolution is consistent with the Remuneration of Public Office Bearers Act.

## 3.0 The Deputy Mayor

### 3.1.0 FUNCTIONS OF THE DEPUTY MAYOR<sup>1</sup>

3.1.1 The Deputy Mayor exercises the powers and performs the duties of the Mayor if the Mayor is absent or not available or if the office of the Mayor is vacant.

### 3.2.0 PERIOD OF OFFICE OF THE DEPUTY MAYOR<sup>1</sup>

3.2.1. Subject to the provisions of these Rules, the Deputy Mayor is elected for the duration of his term as a Member of the Executive Committee.

3.2.2 The Deputy Mayor vacates office during an Executive Committee Term if he: -

- (1) resigns as Deputy Mayor;
- (2) is removed from office as a Member of the Executive Committee in terms of section 53 of the Municipal Structures Act; or
- (3) ceases to be a Member of the Executive Committee.



3.2.3 No Person may hold office as Deputy Mayor for more than two consecutive Municipal Council Terms.

3.2.4 If a Person is elected to fill a vacancy in the office of Deputy Mayor, the period between that election and the next election of a Deputy Mayor is not regarded as a Municipal Council Term<sup>1</sup>.

3.3.0 REMUNERATION OF THE DEPUTY MAYOR<sup>1</sup>:

3.3.1 The remuneration, benefits and allowances of the Deputy Mayor shall be determined by resolution of the Municipal Council provided that such resolution is consistent with the Remuneration of Public Office Bearers Act.

#### **4.0 Chairpersons of Council Committees**

4.1.0 FUNCTIONS OF CHAIRPERSONS OF COMMITTEES

4.1.1 The Chairperson of a Committee to Assist the Executive Committee:

- (a) presides at Meetings of that Committee;
- (b) maintains, where necessary with the assistance of the Speaker, order during Meetings of the Committee concerned;
- (c) ensures compliance in the Committee concerned with the Councillors' Code of Conduct; and
- (d) ensures that Meetings of the Committee concerned are conducted in accordance with the provisions of these Rules.

4.2.0 TERM OF OFFICE OF CHAIRPERSONS OF COMMITTEES

4.2.1 Subject to the provisions of these Rules, the Chairperson of every Committee to Assist the Executive Committee is appointed for a Municipal Council Term.

4.2.2 The Chairperson of a Committee to Assist the Executive Committee vacates office as Chairperson during a Municipal Council Term if he:

- (1) resigns as Chairperson;
- (2) is removed from office as a Member of the Executive Committee in terms of section 53 of the Municipal Structures Act;
- (3) is removed from office as a Member of the Executive Committee in terms of Chapter 1, Part II, section 3.1;
- (4) ceases to be a Member of the Committee concerned; or

- (5) ceases to be a Councillor.

#### **5.0 Plurality of Offices<sup>1</sup>**

- 5.1 A councillor may not hold the office as Speaker and Mayor or Deputy-Mayor at the same time.

### **PART II: THE POLITICAL STRUCTURE – COMMITTEES OF THE COUNCIL<sup>1</sup>**

#### **6.0 The Executive Committee<sup>1</sup>**

##### **6.1.0 OBJECTS OF THE EXECUTIVE COMMITTEE**

6.1.1 The object of the Executive Committee is to ensure that the Municipality:

- (1) provides democratic and accountable government for the community of Kokstad;
- (2) provides services to the community of Kokstad in a sustainable manner;
- (3) promotes social and economic development;
- (4) promotes a safe and healthy environment;
- (5) encourages the involvement of the community of Kokstad and its community organisations in the matters of the Municipality, and
- (6) strives, within its financial and administrative capacity to achieve the objects set out above.

##### **6.2.0 CONSTITUTION OF THE EXECUTIVE COMMITTEE<sup>1</sup>**

###### **6.2.1.0 Size of the Executive Committee<sup>1</sup>**

6.2.1.1 The Municipal Council may, by resolution, determine the size of its Executive Committee which size shall be that necessary for effective and efficient government. The upper limit shall be the lesser of 20% of the councillors or ten members. The lower limit shall be three members. The size of the Executive Committee shall be submitted to the MEC for promulgation in the Provincial Gazette.

###### **6.2.2.0 The Composition of the Executive Committee<sup>1</sup>**

6.2.2.1 The Municipal Council may, by resolution, determine the mechanism for the election of its Executive Committee: Provided that:

- (1) the Executive Committee is composed in such a way that parties and interests represented in the Municipal Council are represented in the Executive Committee in substantially the same proportion they are represented in the Municipal Council; and
- (2) the mechanism complies with section 160(8) of the Constitution.

###### **6.2.3.0 The Chairperson**

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6.2.3.1 The Mayor shall hold the chair of the Executive Committee or, if the Mayor is absent or not available or, if the office of the Mayor is vacant, the Deputy Mayor shall hold the chair of that Committee *pro tempore*.

#### **6.2.4.0 Period of Office of Members<sup>1</sup>**

6.2.4.1 Subject to the provisions of these Rules, the Members of the Executive Committee are elected for a Municipal Council Term.

6.2.4.2 A Member of the Executive Committee vacates office during a term if he:

- (1) resigns as a Member of the Executive Committee
- (2) is removed from office as a Member of the Executive Committee in terms of section 53 of the Municipal Structures Act, or
- (3) ceases to be a Councillor<sup>1</sup>.

6.2.4.3 Where it is necessary to fill a vacancy in the Executive Committee, the Municipal Council may by resolution fill such vacancy in a manner that complies with the provisions of section 43 of the Municipal Structures Act:

- (1) allows parties and interests reflected within the Municipal Council to be fairly represented; and
- (2) is consistent with democracy.

#### **6.3.0 TERMS OF REFERENCE OF THE EXECUTIVE COMMITTEE<sup>1</sup>**

6.3.1 The Executive Committee may, subject to the provisions of section 44 of the Municipal Structures Act:

- (1) exercise and perform such powers and functions as the Municipal Council has delegated to the Executive Committee.
- (2) advise the Municipal Council on all matters reserved to the Municipal Council in terms of any law or by resolution of the Municipal Council;
- (3) take any necessary or incidental decisions for the management or administration of any resolution of the Municipal Council;
- (4) appoint from within its own Membership a sub-committee with powers to co-opt such other Members as the sub-committee may deem fit, to consider and to report to the Executive Committee on any matter falling within the Terms of Reference of that Committee;
- (5) refer to the Municipal Council for decision, with or without a recommendation, any matter in respect of which the Executive Committee is entitled to exercise and perform its powers and functions; and

- (6) consider all matters of a policy nature incidental to the above Terms of Reference.

6.3.2 The Executive Committee shall appoint a Chairperson from within its own ranks for each Committee to assist the Executive Committee.

6.3.3 The Executive Committee shall report to the Municipal Council on all decisions taken by the Executive Committee.

6.3.4 Any Proposal which falls within the Terms of Reference of the Executive Committee shall be reported to the Executive Committee prior to consideration thereof by the Municipal Council

## **7.0 Committees to assist the Executive Committee<sup>1</sup>**

### **7.1.0 ESTABLISHMENT: COMMITTEES TO ASSIST THE EXECUTIVE COMMITTEE**

7.1.1 The Municipal Council may by resolution establish one or more Committees to assist the Executive Committee necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers.

### **7.2.0 CONSTITUTIONS: COMMITTEES TO ASSIST THE EXECUTIVE COMMITTEE**

#### **7.2.1.0 Size of Committees to assist Executive Committee**

##### **7.2.1.1 Section 80 Committees**

The Municipal Council shall by resolution determine the size of any Committee to assist the Executive Committee: Provided that such Committee shall not in number exceed the number of Members of the Executive Committee.

##### **7.2.1.2 Section 79 Committees**

The Municipal Council shall by resolution determine the size of any Committee other than the committees mentioned on 7.2.1.1 above, and such Committees shall be chaired by Councillors appointed by Council.

#### **7.2.2.0 The Composition of Committees to assist the Executive Committee**

7.2.2.1 The Municipal Council may, by resolution, determine the mechanism for the appointment of Members to Committees to assist the Executive Committee: Provided that such mechanism complies with the provisions of sections 79 and 80 of the Municipal Structures Act.

- (1) allows parties and interests reflected within the Municipal Council to be fairly represented; and
- (2) is consistent with democracy.

#### **7.2.3.0 The Chairperson**

7.2.3.1 The Chairperson of any Committee to Assist the Executive Committee shall hold the chair of such Committee or, if the Chairperson is absent or not available or, if

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the office of the Chairperson of such Committee is vacant, a Member of that Committee shall be elected by the Committee concerned to hold the chair of that Committee pro tempore.

7.2.3.2 Nothing contained in the preceding sub-section shall prevent a Committee to assist the Executive Committee from electing a Vice-Chairperson to hold the Chair of such Committee in circumstances where the Chairperson is absent or not available, or if the office of the Chairperson is vacant.

#### **7.2.4.0 Period of Office of Members**

7.2.4.1 Subject to the provisions of these Rules of any Committee to assist the Executive Committee are elected for a Municipal Council Term.

7.2.4.2 A Member of a Committee to assist the Executive Committee vacates office during a term if:

- (1) he: -
  - (a) resigns as a Member of the Committee concerned;
  - (b) is removed from office as a Member of that Committee; or
  - (c) ceases to be a Councillor; or
- (2) the Committee is dissolved by resolution of the Municipal Council<sup>1</sup>.

7.2.4.3 Where it is necessary to fill a vacancy in any Committee to assist the Executive Committee, the Municipal Council may by resolution fill such vacancy in a manner that complies with the provisions of section 43 of the Municipal Structures Act.

#### **7.3.0 TERMS OF REFERENCE: COMMITTEES TO ASSIST THE EXECUTIVE COMMITTEE:**

7.3.1 The municipal council may by resolution:

- (1) prescribe the matters in respect of which any Committee to assist the executive Committee shall have responsibility; and
- (2) delegate duties and powers to such Committee, taking into account:-
  - (a.) the extent of the functions and powers of the Municipality;
  - (b) the need for the delegation of those functions and powers in order to ensure efficiency and effectiveness in their performance; and
  - (c) the financial and administrative resources of the Municipality available to support the Committee.

7.3.2 The Executive Committee may by resolution sub-delegate functions and powers of the Executive Committee to any Committee to assist the Executive Committee: Provided that:

- (1) the Executive Committee has been delegated with the power to sub-delegate the function or power in question.
  - (2) the Executive Committee is not divested of the responsibility concerning the exercise of the power or the performance of the function; and
  - (3) the Executive Committee may review any decision taken by a Committee to assist the Executive Committee in consequence of a sub-delegation
- 7.3.3 A Committee to assist the Executive Committee shall report to the Executive Committee in accordance with the Policy Directives of the Executive Committee.
- 7.3.4 The Municipality shall post, on the Municipal Notice Board, the Terms of Reference of all Committees to Assist the Executive Committee.
- 7.3.5 Any Proposal which falls within the Terms of Reference of a Committee to Assist the Executive Committee shall be reported on to that Committee prior to consideration thereof by the Executive Committee unless the Chairperson of the Committee to Assist the Executive Committee decides otherwise.

## **8.0 Advisory Committees<sup>1</sup>**

8.1 The Municipal Council may establish one or more Advisory Committees consisting of persons who are not Councillors, to advise the Municipal Council on any matter within the Municipal Council's competence.

- (a) Persons who are not Councillors, and,
- (b) where appropriate, such Persons and Councillors,

to advise the Municipal Council or any of its Committees on any matter within the competence of the Municipality.

## **9.0 Special Committee**

### **9.1.0 CONSTITUTION OF SPECIAL COMMITTEE**

9.1.1 The Municipal Council shall establish a Special Committee consisting of no less than three nor more than eight Councillors for the purposes contemplated in terms of sub-item 14(1)(b) of the Code of Conduct for Councillors.

### **9.2.0 TERMS OF REFERENCE OF SPECIAL COMMITTEE**

9.2.1 The Special Committee shall:

- (1) investigate and make a finding on any alleged breach of these Rules or the Code of Conduct for Councillors; and
- (2) make appropriate recommendations to the Municipal Council.

9.2.2 If the Special Committee finds that a councillor has breached a provision of these Rules or the Code of Conduct for the Councillors, then the Special Committee may include, in its recommendations, any of the sanctions contained in sub-item 14(2) of the Code of Conduct for Councillors.

- (1) require the Speaker to issue a Formal Warning to the Councillor concerned in accordance with this Code;
- (2) require the Speaker to reprimand that Councillor in accordance with this Code;
- (3) request the MEC for Local Government to suspend such Councillor for a period in accordance with the Councillor's Code of Conduct;
- (4) impose a Civil Fine on the Councillor concerned consistent with this Code; and/or
- (5) request the MEC for Local Government to remove that Councillor from office in accordance with the Councillor's Code of Conduct.

### 9.3.0 THE PRESIDING OFFICER OF THE SPECIAL COMMITTEE

9.3.1 The Members of the Special Committee shall elect a Chairperson in accordance with the provisions of these Rules, *mutatis mutandis*.

9.3.2 The Speaker shall hold the chair of the Special Committee but:

- (1) If the Speaker is not a member of the Committee by virtue of the proviso to section 8.1.1; or
- (2) If the Speaker is absent or not available or the office of the Speaker is vacant,

a Member of the Special Committee shall be elected by the Committee concerned to hold the chair of that Committee *pro tempore*.

9.3.3 The provisions of section 6.2.3.2 shall apply *mutatis mutandis* to section 8.3.1.

## 10.0 Adhoc/Interim Committee

10.1 The Council by way of resolution, may appoint an Adhoc/Interim Committee that will carry out a particular assignment as shall be specified in the resolution.

10.2 A Committee thus appointed shall continue its designated duties until it completes its assignment, or it has been discharged from its assignment, and may conduct its business while the Council is prolonged or not in session.

10.3 A Committee so appointed shall be subject to the same provisions contained in these Rules as those applicable to a Committee to assist the Executive Committee, *mutatis mutandis*.

## **11.0 Rules Committee**

### **11.1 Constitution of the rules Committee**

- 11.1.1 The Municipal Council shall appoint a Rules Committee to monitor the implementation of and adherence to these Rules.
- 11.1.2 The Rules Committee shall be composed of at least (4) Councillors including the Speaker.
- 11.1.3 Subject to the provisions of these Rules, the Members of the Rules Committee are appointed for a Municipal Council Term.
- 11.1.4 The Rules Committee has authority to consider and recommend amendments to these Rules, as may be necessary.

## **PART III: THE ADMINISTRATIVE STRUCTURE<sup>1</sup>**

### **1.0 Appointments<sup>1</sup>**

- 1.1 The Municipal Council must appoint:
- (1) a Municipal Manager who is the Head of Administration and also the Accounting Officer for the Municipality; and
  - (2) when necessary, an Acting Municipal Manager<sup>11</sup>.
- 1.2 The Municipal Council, after consultation with the Municipal Manager; shall by resolution agree to appoint such Managers directly accountable to the Municipal Manager, as it deems necessary for the effective performance of its functions<sup>1</sup>.
- 1.3 The Municipal Council may employ such other personnel that are necessary for the effective performance of its functions<sup>1</sup>.

### **2.0 The Municipal Manager**

- 2.1 The Municipal Manager shall, unless otherwise instructed by the Municipal Council, carry out any obligation:
- (1) imposed on the Municipal Manager in terms of any legislation<sup>1</sup>; and
  - (2) imposed by contract with the Municipality.
- 2.2 The Municipal Manager shall be the Chief Executive Officer of the Municipality for the purposes of the Occupational Health and Safety Act.



2.3 The Municipal Manager may delegate such functions and powers as are stipulated in terms of the Municipality's system of delegation, as contemplated in terms of section 59 of the Municipal Systems Act.

2.4 *The Municipality shall, on or before 31 October of each year, publish in the Newspapers of Record the salary scales and benefits applicable to the post of the Municipal Manager<sup>1</sup>.*

### **3.0 Managers that are directly accountable to the Municipal Manager**

3.1 A Manager who is directly responsible to the Municipal Manager shall, unless otherwise instructed by the Municipal Council, carry out any obligation:

- (1) of a Municipal Official impose on such Municipal Official in terms of any legislation.
- (2) imposed by contract with the Municipality.

3.2 The Municipality shall, on or before 31 October of each year, publish in the Newspapers of Record the salary scales and benefits applicable to all posts held by Managers who are directly accountable to the Municipal Manager.

### **4.0 Other Staff <sup>1</sup>**

4.1 The Municipal Manager, within a Policy Framework determined by the Municipal Council and subject to any applicable legislation, is obliged to:

- (1) approve the staff establishment for the Municipality;
- (2) provide a job description for each post on the staff establishment;
- (3) attach to those posts the remuneration and other conditions of service as may be determined in accordance with any applicable labour legislation; and
- (4) establish a process or mechanism to regularly evaluate the staff establishment and, if necessary, review the staff establishment and the remuneration and conditions of service.

## **5.0 DISCIPLINARY PRINCIPLES FOR EMPLOYEES**

### **5.1.0 PRINCIPLES OF DISCIPLINE FOR EMPLOYEES<sup>1</sup>**

5.1.1 The maintenance of the discipline of Municipal Employees is the responsibility of the Municipality.

5.1.2 The Municipality shall determine the disciplinary procedures to be applied with regard to Municipal Employees, subject to the provisions of applicable labour legislation and other collective agreement, as contemplated in terms of section 71 of the Municipal Systems Act.

### 5.2.0 DUTIES OF EMPLOYEES

5.2.1 Municipal employees shall comply with the terms and conditions of their contracts of employment.

## PART IV: THE ADMINISTRATION

1.1 The Municipal Council may not delegate or assign any of the following executive powers, functions or tasks but shall exercise such powers, functions and tasks itself:

- (1) the approval of budgets;
- (2) the imposition of rates and other taxes, levies and duties;
- (3) the raising of loans;
- (4) the approval of its Integrated Development Plan;
- (5) decisions to expropriate immovable property or rights in or to immovable property;
- (6) the determination or alteration of the remuneration, benefits or other conditions of service of the Municipal Manager or Managers directly responsible to the Municipal Manager;
- (7) making investments on behalf of the Municipality;
- (8) the setting of any Tariff; and
- (9) any matter which, in terms of these Rules, has to be determined by resolution of the Municipal Council:

Provided that the Municipal Council may delegate:

- (a) the powers referred to in sections 1.1 (5) and 1.1 (6) to the Executive Committee within a Policy Framework determined by the Municipal Council; and
- (b) the powers referred to in section 1.1 (7) to the Executive Committee or the Chief Financial Officer within a Policy Framework determined by the Cabinet Member for Finance.

2.1.1 The Municipal Council may delegate any power or function to any other executive Organ of State that is to be exercised or performed by the Municipality, which is not reserved to the Municipal Council in terms of any law.

#### 2.2.0 DELEGATIONS TO COMMITTEES AND EMPLOYEES

2.2.1 The Municipal Council may delegate to any Committee or employee any power or function that is to be exercised or performed by the Municipality, which is not reserved to the Municipal Council in terms of any law.

#### 2.3.0 FORMALITIES AND PARAMETERS FOR ACTS OF DELEGATION

2.3.1 An Act of Delegation shall be expressed in writing and may be subjected to any limitations, conditions and directions as the Municipal Council or the Executive Committee may impose.

2.3.2 The Municipality shall publish on the Municipal Notice Board, all delegations of the Municipal Council and of all sub-delegations of any delegate of the Municipal Council.

#### 2.4.0 SUB-DELEGATION

2.4.1 Any delegation in terms of sections 2.1 or 2.2 includes the power to sub-delegate a delegated power unless the Municipal Council otherwise determines.

#### 2.5.0 REFERRAL TO COUNCIL

The Municipal Council at the request in writing of at least one quarter of the councillors is obliged to review any decision taken by a Political Structure, Municipal Functionary or Municipal Employee in consequence of a delegation or instruction and either confirm or revoke the decision subject to any rights that may have accrued to a Person and may require the Executive Committee to review any decision taken by such Person or body in consequence of a delegation or instruction.

### 3.0 Administrative Regulations

3.1 The Municipal Council may by resolution prescribe regulations regulating the interface between the Municipal Administration, the Municipal Council and its Committees.

### 4.0 Municipal Policies

4.1 The Municipality shall prepare Municipal Policies, as required by applicable local government legislation, and as may be necessary to accomplish its objectives.

4.2 The provisions of chapter 4 of the Municipal Systems Act, regarding community participation, must be taken into consideration prior to the adoption of any Municipal Policy.

- 4.3 The MEC for Local Government, where applicable, shall co-ordinate and assess the comments on the initial draft of the Policy Statement concerned of the National Government and report thereon to the Municipal Manager on or before the date listed in the timetable for the Policy Statement concerned.
- 4.4 After adjusting any draft Policy Statement to take into consideration the comments (if any) of the Ministers, the Municipality shall publish its draft of the Policy Statement concerned on or before the date listed in the timetable by way of Notice in the Newspapers of Record.
- 4.5 After adjusting any draft Policy Statement to take into consideration the comments (if any) of the public, the Municipality shall adopt the Policy Statement concerned and publish in the Newspapers of Record within 14 Days of the adoption of the Policy Statement concerned a Notice stating:
- (1) that the Policy Statement concerned has been adopted; and
  - (2) that copies of or extracts from the Policy Statement concerned are available for public inspection at specified places; and

where a summary of the Policy Statement has been prepared, the place where a copy of such summary may be obtained.

- 5.1 The Executive Committee may, by resolution, prescribe Policy Directives for the regulation of the exercise of the executive authority assigned, delegated or sub-delegated to any Municipal Functionary, other Municipal Organ of State or Municipal Employee.
- 5.2 The Executive Committee may, by resolution, prescribe Policy Directives for the regulation of any performance of any task allocation in the Internal Administration of the Municipality.
- 6.0 Administrative Directives**
- 6.1 The Municipal Manager may, in writing, prescribe Administrative Directives for the regulation of the performance of any task allocated in the Internal Administration of the Municipality:
- 7.0 Financial Control**
- 7.1 All Municipal expenditure incurred by a Municipal Employee shall comply with the provisions of the MFMA and the Municipality's system of delegation.

END

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**RULES OF ORDER OF THE GREATER KOKSTAD MUNICIPALITY**

## RULES OF ORDERS

I, \_\_\_\_\_,  
certify that I have read and fully understand the Rules of orders that apply to the Local Municipality of Greater Kokstad and hereby undertake by way of oath/affirmation to abide by these said rules and orders.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
DATE:

## RULES OF ORDERS

I, \_\_\_\_\_, certify that I have read and fully understand the Rules of orders that apply to the Local Municipality of Greater Kokstad and hereby undertake by way of oath/affirmation to abide by these said rules and orders.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
DATE: