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KWAZULU-NATAL PROVINSIE  
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20 NOVEMBER 2013  
20 KULWEZI 2013

**No. 1056**

**We all have the power to prevent AIDS**



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DEPARTMENT OF HEALTH

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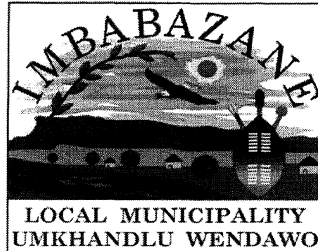
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**MUNICIPAL NOTICE**

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**No. 62****20 November 2013****IMBABAZANE MUNICIPALITY****RULES AND ORDERS OF COUNCIL AND COMMITTEES****PREAMBLE**

WHEREAS every councillor of Imbabazane Municipality must:

- Recognise that the prime function of the municipality is at all times to serve the best interests of the community;
- Be dedicated to the concepts of effective and democratic local government;
- Promote the dignity and worth of the services rendered by the municipality and maintain a constructive, creative and practical attitude toward local government and a deep sense of social responsibility as an elected representative;
- Be dedicated to the highest ideals of honour and integrity in all public and personal relationships in order that the community, municipal officials and employees may merit the respect and confidence of the councillors;
- Set and achieve community goals and uphold municipal policies;
- Refrain from interference in the administration of the municipality and from all other partisan political activities which would impair performance as a councillor;
- Make it a duty to continually improve their professional ability and develop competencies required to perform the duties of councillors;
- Keep the community informed of municipal affairs;
- Encourage communication and foster friendly and courteous service to the community and seek to improve the quality and image of municipal councillors;
- Handle each challenge without discrimination and with principles of justice and fairness;
- Seek no favour and acknowledge that personal gain or profit secured by a councillor's position is dishonest;
- Adhere to the Code of Conduct for Councillors, comply with the standing rules and orders and by-laws of the municipality; and
- At all times respect the rule of law.

**NOW, THEREFORE, THE STANDING RULES AND ORDERS WHICH SHALL GOVERN THE FUNCTIONING OF IMBABAZANE COUNCIL AND ITS COMMITTEES ARE HEREBY ADOPTED**

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## CHAPTER 1: DEFINITIONS

1. In these rules, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise:–

“**By-law**” means legislation passed by the council of a municipality;

“**Calendar day**” means a twenty-four hour day as denoted on the calendar;

“**Chairperson**” means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

“**Code of Conduct**” means the Code of Conduct for Councillors contained in Schedule 1 to the Local Government: Municipal Systems Act, No. 32 of 2000;

“**Contact details**” means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular-phone number;

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

“**Councillor**” means a member of Imbabazane Municipal Council;

“**Day**” means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

“**Deputation**” means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

“**Executive Committee**” means the council’s executive committee established in terms of Section 43 of the Local Government: Municipal Structures Act, No. 117 of 1998;

“**Explanation**” means the clarification of some material part of a councillor’s former speech which may have been misunderstood;

“**In-committee**” means any council or committee meeting at which the public and or officials of the municipality are excluded;

“**Integrated Development Plan (IDP)**” means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Local Government: Municipal Systems Act, No. 32 of 2000;

“**Mayor**” means a councillor elected as the mayor of the municipality in terms of Section 48 of the Local Government: Municipal Structures Act, No. 117 of 1998;

“**Meeting**” means a meeting of the council or any one of its committees;

**“Municipal asset”** means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

**“Municipal Manager”** means the person appointed as head of administration of the Municipality in terms of Section 54A of the Municipal Systems Act and includes any person acting in that capacity;

**“Notice of motion”** means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of rule 23 of these rules and orders;

**“Peace Officer”** means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

**“Point of order”** means the pointing out of any deviation from or anything contrary to, the conduct and/or any other irregularity in the proceedings of a meeting;

**“Precincts”** means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

**“Public”** includes the media and any other person residing within the Republic of South Africa;

**“Service delivery agreement”** means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, No. 32 of 2000, in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

**“Speaker”** means the Chairperson of the municipal council elected in terms of Section 36 of the Local Government: Municipal Structures Act and includes any Acting Speaker when he or she is elected to perform the functions of the Speaker;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended;

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

**“Table”** means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these rules and orders;

**Gender and Number:** In every rule, unless the contrary intention appears, words importing the masculine gender include females and words in the singular number include the plural, and words in the plural number include the singular.

## **CHAPTER 2: APPLICATION AND INTERPRETATION OF RULES AND ORDERS**

### **2. Application of the rules and orders**

These rules and orders govern the proceedings of the council and committees of the council which bind and must be complied with by:-

- a) all councillors;
- b) all officials/employees of the municipality;
- c) any member of the public while present in the precincts; and
- d) any deputation addressing the council or a committee of the council.

### **3. Interpretation of these rules and orders**

- (1) Any interpretation of these rules and orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.
- (2) The ruling of the Speaker or Chairperson with regard to the interpretation of these rules and orders at a meeting of the council or committee of the council shall, subject to Rules 3(5) and 3(6), be final and binding.
- (3) The interpretation and the ruling of the Speaker or Chairperson of any of these rules and orders must be recorded in the minutes of the council or committee meeting.
- (4) The municipal manager must keep a register of the rulings and legal opinions.
- (5) Any councillor may request the municipal manager, in writing within five (5) days from a ruling made in terms of Rule 3(2), to obtain clarity on the interpretation and ruling. The municipal manager must thereafter report to the council or committee of the council.
- (6) The council or committee of the council may, after consideration of the report in terms of Rule 3(5) confirm, amend or substitute the ruling of the Speaker or Chairperson subject to any rights which any third party may have accrued as a result of the ruling and all decisions affecting the rights of others must be in writing and reasons of such decisions must be recorded.

## **CHAPTER 3: FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS**

### **4. Council meetings**

- (1) The Council must hold an ordinary meeting of the council not less than once in every three (3) months [once per quarter].
- (2) The Speaker must convene all meetings of the council in accordance with Rule 4(1) and subject to Rule 6.

### **5. Admission of public**

- (1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the



municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.

- (2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or approving any of the following matters:-
  - a) A draft by-law tabled in the council;
  - b) A budget tabled in the council;
  - c) The municipality's integrated development plan, or any amendment of the IDP tabled in council;
  - d) The municipality's performance management system, or any amendment of the system tabled in council;
  - e) The decision to enter into a service delivery agreement;
  - f) Any report on an award in terms of supply chain management policy;
  - g) The disposal or acquisition of municipal capital assets;
  - h) Any other matter prescribed by legislation.
- (3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the council or committee of the council and any special or urgent meeting of the council or committee of the council, except when time constraints make this impossible.
- (4) Members of the public attending any council or committee meetings must accord the meeting the dignity it deserves by dressing appropriately as per Rule 41 and must not wear any attire which could be ascribed to a political party.

## **6. Notice to attend an ordinary council meeting**

- (1) The Speaker must convene meetings of the council, at least quarterly, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.
- (2) Notice to attend a meeting in terms of Rule 6(1) shall be given at least:-
  - a) Five (5) calendar days prior to an ordinary meeting; and
  - b) Two(2) calendar days prior to a special meeting.

## **7. Special meetings**

- (1) The Speaker;
  - a) for the purpose of pertinent or urgent council business; or
  - b) at the request of a majority of the councillors of the municipality, must call a special meeting of the council.
- (2) A special meeting must be held in compliance with Rule 6(2)(b) and in terms of Rule 7(1)(b) no later than four (4) days from the date of receipt of a request.
- (3) A request for the calling of a special meeting, as contemplated in Rule 7(1)(b), shall:-
  - a) be signed by no less than fifty per cent (50%) plus one of all councillors of the municipality; and
  - b) be accompanied by-
    - i. a duly signed notice of motion; and
    - ii. a written statement by the councillor signing the notice of motion giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.

- c) If the Speaker fails to convene a meeting in terms of this rule, the municipal manager must convene such meeting and conduct an election of an Acting Speaker in terms of Section 41 of the Municipal Structures Act.

## **8. Service of notices and agenda**

- (1) Notice to attend a meeting accompanied by an agenda or any other official communication from the council, shall be delivered to:–
  - a) a physical address within the area of jurisdiction of the municipality; or
  - b) an e-mail address; or
  - c) by a short message service (SMS);

Provided that contact details shall be supplied by each councillor to the municipal manager in writing within two days of a councillors' election and, thereafter, whenever the councillor wishes to change the contact details at which the councillor shall accept service and or receipt of any notice to attend a meeting and any other official communication from the council; delivery shall be made as per the changed contact details.

- (2) All documentation relevant to any council or committee meeting must be given to all councillors at least five (5) calendar days prior to an ordinary council or committee meeting and two (2) calendar days prior to a special council or special committee meeting.
- (3) All councillors must inform the Speaker of any change of contact details within three (3) days of such change.
- (4) Subject to Rule 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

## **9. Non-receipt of notice**

- (1) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.
- (2) Non-receipt of a notice to attend a meeting shall not affect the validity of any meeting or proceedings of council or any of its committees.

## **CHAPTER 4: QUORUM**

### **10. Quorum**

- (1) Notwithstanding that there may be vacancies, the quorum of a council must be fifty per cent (50%) plus one (1) of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.
  - a) Subject to a quorum, the failure of any councillor to vote shall not invalidate the proceedings of the council meeting.
- (2) Notwithstanding that there may be vacancies; a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter.
  - a) Subject to a quorum, the failure of any councillor to vote shall not invalidate the proceedings of the committee meeting.

## 11. Cancellation and adjournment in absence of quorum

- (1) No meeting shall take place, if no quorum is present fifteen (15) minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding fifteen (15) minutes for a quorum to become present, where after if no quorum is present, the meeting must be cancelled.
- (2) If during discussion on an item at any meeting of council or any of its committees the attention of the Speaker or Chairperson is called to the number of councillors present, he or she shall:–
  - a) count the councillors present;
  - b) if it is found that there is no quorum, the Speaker or Chairperson must adjourn the meeting and allow an interval of fifteen (15) minutes for a quorum to become present;
  - c) if a quorum becomes present after the adjournment then the meeting must continue;
  - d) if no quorum becomes present after the adjournment, then the Speaker or Chairperson must forthwith adjourn the meeting.
- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be re-convened within seven days (7) as a continuation meeting.

## CHAPTER 5: ATTENDANCE

### 12. Attendance

- (1) All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when:–
  - a) leave of absence is granted in terms of Rule 13;
  - b) that councillor is required to withdraw in terms of Rule 46(2);
  - c) that councillor is absent with the permission of the Speaker or Chairperson.
- (2) Each councillor attending any meeting of the council or a committee of the council shall sign an attendance register provided for that purpose.
- (3) The attendance register shall be filed in the office of the municipal manager.
- (4) Any councillor who is entitled to leave of absence in terms of Rule 13 and no longer requires such leave may attend the meeting from which leave of absence was granted and sign the attendance register.

### 13. Leave of absence

- (1) Leave of absence shall not be granted in such a manner that more than the number required for a quorum will at any one time be absent.
- (2) If a councillor:–
  - a) is unable to attend a meeting of which notice had been given; or
  - b) is unable to remain in attendance at a meeting; or
  - c) will arrive after the stipulated commencement time of a meeting;he or she shall, as soon as is reasonably possible and prior to that meeting, lodge with the Municipal Manager a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and *bona fide* reasons for the application and show good cause for the granting of the application.
- (3) The Municipal Manager must as soon as possible inform the Speaker or Chairperson of the meeting concerned of any application for leave of absence received.

- (4) The Speaker or Chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the Municipal Manager of his/her decision.
- (5) The Municipal Manager must as soon as is reasonably possible, inform the councillor who has applied for leave of absence of the Speaker or Chairperson's decision.
- (6) A councillor shall be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and the councillor:—
  - a) failed to attend a meeting; or
  - b) failed to remain in attendance at a meeting.
- (7) Where a councillor fails to remain in attendance at a meeting: —
  - a) without being granted permission to do so; or
  - b) without obtaining permission from the Speaker or Chairperson to leave prior to the close of the meeting, the time of leaving must be recorded in the minutes of the meeting and that councillor shall be deemed to have been absent without leave at that meeting.
- (8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of Rule 12(2).
- (9) Leave of absence for three or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.

#### **14. Non-attendance**

- (1) Subject to compliance with the procedure set out in Rule 13, a councillor who is absent without good cause from a meeting, of which notice has been given, shall be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.
- (2) Where a councillor has been absent without obtaining leave from a meeting:—
  - a) the Rules Committee as contemplated in Rule 43 or the Speaker or Chairperson as the case may be, shall invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;
  - b) the Rules Committee, Speaker or Chairperson shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
  - c) the councillor may appeal to council or the committee the Rules Committee's, Speaker's or Chairperson's decision in writing within seven (7) days of receipt of such decision;
  - d) the council or committee, as the case may be, shall:—
    - i. allow the councillor an opportunity to make representations, oral or written;
    - ii. consider the councillor's appeal, together with any comments from the Speaker or Chairperson of the meeting concerned;
    - iii. make a finding as to whether the councillor was absent with or without good cause.
- (3) The Municipal Manager shall keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and shall submit a written report to the Speaker.

- (4) Whenever a councillor is absent from three or more consecutive council or committee meetings which that councillor was required to attend and where the Speaker receives a report in terms of Rule 14(3), the Speaker must submit the report to council and direct that the matter be investigated in accordance with Item 4 and 14 of the Councillors' Code of Conduct.

## **CHAPTER 6: ADJOURNMENT**

### **15. Adjourned meetings**

Subject to Rule 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

### **16. Continuation meeting**

- (1) When a meeting is adjourned, notice of the continuation meeting shall be served in terms of Rule 8.
- (2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

## **CHAPTER 7: PROCEEDINGS**

### **17. Speaker and Chairpersons of meetings**

- (1) At every meeting of the council, the Speaker, or if he or she is absent, an Acting Speaker, shall be the chairperson and shall perform the duties stipulated in terms of Section 37 of the Municipal Structures Act and must ensure that each councillor when taking office is given a copy of these rules and orders and the Code of Conduct.
- (2) The Speaker and Chairperson of council and committee meetings:-
  - a) must maintain order during meetings;
  - b) must ensure compliance with the Code of Conduct for Councillors;
  - c) must ensure that meetings are conducted in accordance with these standing rules and orders.
- (3) If the Speaker or Chairperson of the council or committee of the council is absent or not available to perform the functions of Speaker or Chairperson, or during a vacancy, the council or committee under the direction of the Municipal Manager or his/her nominee must elect another councillor to act as Speaker or Chairperson as the case may be.
- (4) No meeting of the council or a committee of the council may commence or continue unless a Speaker or Chairperson presides at a meeting.

### **18. Minutes**

- (1) The proceedings of every council meeting must be electronically recorded and retained in accordance with the Archives and Record Service of South Africa, Act, 43 of 1996.
- (2) Written minutes of the proceedings of each council and committee meeting must be accurately recorded and retained in accordance with the Archives and Record Service of South Africa, Act, 43 of 1996.
- (3) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.

- (4) Where the Municipal Manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

## **19. Order of business**

- (1) The order of business at every meeting of the council or its executive committee or committee of council is as follows:-
- a) Notice of meeting;
  - b) Opening proceedings with prayers (preferably a universal prayer which accommodates all religious formations or meditation)
  - c) Applications for leave of absence;
  - d) Announcements by the Chairperson;
  - e) Declaration of pecuniary or other interests;
  - f) Confirmation of the agenda;
  - g) Deputations;
  - h) Notices of motion;
  - i) Confirmation of minutes of previous meeting;
  - j) Matters arising from minutes of previous meeting;
  - k) Reports for consideration;
  - l) Matters for noting; and
  - m) Matters for information.
- (2) The Speaker or Chairperson may, in his/her discretion, at any stage bring forward any business that is on the agenda.

## **20. Confirmation of minutes of previous meeting**

- (1) The minutes of every meeting shall be confirmed at the next ordinary meeting of that council or committee and shall be signed by the Speaker or Chairperson.
- (2) No motion or discussion shall be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

## **21. Deputations and Petitions**

- (1) A deputation wishing to address the council or a committee of council shall submit a memorandum to the Municipal Manager in which is set out the representations it wishes to make.
- (2) A request by a deputation to address the council or a committee of the council must be approved by the Speaker or relevant Chairperson.
- (3) The Municipal Manager shall submit the memorandum to the council or a committee of the council, which may receive the deputation.
- (4) Any matter requiring consideration arising from a deputation, shall not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.
- (5) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, shall obtain the permission of the Speaker or Chairperson to do so, prior to the commencement of the meeting.

- (6) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the Speaker or Chairperson.
- (7) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the Speaker or Chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts.
- (8) Any member of the public or deputation who fails or refuses to comply with the Speaker's or Chairperson's directions in terms of Rule 21(6) and Rule 21(7) shall be guilty of an offence and liable on conviction to a fine or imprisonment in breach of these rules.
- (9) A petition may be submitted by a member in the course of a council meeting and s/he may not divulge the content of the petition except to state the subject of the petition.
- (10) A petition contemplated in [9] above must be referred to the Petitions Committee and must be responded to within 90 days of its receipt by council: Provided the outcome of the petition will have no effect on the approved budget of the municipality.

## **22. Reports**

- (1) Any report submitted to the council or a committee of the council shall, with the exception of a report accepted by the Speaker or Chairperson as a matter of urgency, be provided to councillors in terms of Rule 8.
- (2) The Speaker or Chairperson must allow debate in accordance with Chapter 10 on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report shall be held, at the next meeting.

## **23. Motions**

- (1) No subject shall be brought before council or a committee of council by a councillor except by way of notice of motion.
- (2) A notice of motion must :-
  - a) be in writing;
  - b) be signed by the councillor submitting it and by another councillor acting as seconder; and
  - c) refer to one matter only.
- (3) A notice of motion shall be lodged with the Municipal Manager before 12H00 seven (7) calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.
- (4) The Municipal Manager must:-
  - a) date and number each notice of motion;
  - b) enter each notice of motion lodged in a register, which shall be open to inspection by any councillor and the public; and
  - c) enter each notice of motion on the agenda in the order received.
- (5) The Speaker or Chairperson shall:-
  - a) read out the number of every motion and the name of the mover and seconder;
  - b) ascertain which motions are unopposed and these shall be passed without debate; and
  - c) call the movers of the opposed motions in the order they appear on the agenda.
- (6) A councillor submitting a motion shall move such motion and shall have the right of reply.

- (7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.
- (8) A councillor shall be allowed not more than three notices of motion on the same agenda.
- (9) The Speaker or Chairperson must not reject a motion received by him or her in terms of these rules, unless the motion:-
  - a) relates to a matter over which Council has no jurisdiction;
  - b) has no bearing on the administration of or conditions in the municipality; or
  - c) will lead to discussion of a matter already dealt with in the agenda.

#### **24. Questions**

- (1) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the Speaker or Chairperson and the Municipal Manager at least seven (7) days prior to the council or committee meeting.
- (2) The Municipal Manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting.
- (3) If, after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the Speaker or Chairperson, request a follow-up question.

#### **25. Supply of information to a councillor**

- (1) No councillor shall approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.
- (2) A councillor may approach and communicate with the Municipal Manager or any head of department or any officer of the municipal administration specifically designated by the Municipal Manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his/her duties as a councillor.

#### **26. General matters of an urgent nature**

- (1) General items of an urgent nature may be placed on an agenda by the Municipal Manager and any member of the council with the prior consent of the Speaker or Chairperson, which consent shall not be unreasonably withheld.
- (2) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

#### **27. Interpretation**

If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

#### **28. In-committee**

- (1) Subject to Rule 5, the council or a committee of council may at any time resolve to proceed with its meeting in-committee.



- (2) The public shall be excluded from any in-committee meetings.
- (3) The Municipal Manager or another official exempted from this rule by the Speaker or Chairperson shall not be excluded from any in-committee meeting.
- (4) All proceedings in-committee must be recorded in terms of Rule 18(1) and 18(2) and shall be confidential.
- (5) Matters in Rule 29(2) shall not be discussed in-committee
- (6) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

## **CHAPTER 8: VOTING**

### **29. Decisions by voting**

- (1) A quorum must be present in order for a vote to be taken.
- (2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice:-
  - a) the passing of by-laws;
  - b) the approval of budgets;
  - c) the imposition of rates and other taxes, levies and duties;
  - d) the raising of loans;
  - e) the rescission of a council resolution within six (6) months of the taking thereof; and
  - f) any other matter prescribed by legislation
- (3) All other questions before the council shall be decided by a majority of the votes cast by the councillors present.
- (4) If on any matter there is an equality of votes, the Speaker or Chairperson may exercise a casting vote in addition to a deliberative vote as a councillor.
- (5) A Councillor may not vote in favour of or agree to a resolution which is before the Council or a committee of the Council which conflicts with any legislation applicable to local government.

### **30. Method of voting**

- (1) Voting shall be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.
- (2) During the taking of a vote no councillor may leave the council chamber or committee room.
- (3) The Municipal Manager or his nominee, shall count the votes cast and shall record the result of voting, but the Speaker or Chairperson shall announce the result.

### **31. Dissenting votes**

A councillor may request that his or her dissenting vote be recorded as evidence of how he or she voted on the motion.

## **CHAPTER 9: REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS**

### **32. Revocation of Council Resolutions**

- (1) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.
- (2) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.
- (3) Any revocation or alteration of a council resolution must be made in terms of Rule 29(2)(e).

### **33. Revocation of Committee Resolutions**

- (1) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.
- (2) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.
- (3) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

## **CHAPTER 10: DEBATE**

### **34. Opportunity to speak**

- (1) A councillor may only speak when so directed by the Speaker or Chairperson.
- (2) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the Speaker or Chairperson, which direction must not unreasonably be withheld.
- (3) Councillors and officials shall remain seated when speaking and shall direct their address to the Speaker or Chairperson.

### **35. Relevance**

Every Speaker must restrict himself or herself strictly to the matter under consideration.

### **36. Length of speeches**

Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech shall exceed five (5) minutes in length without the consent of the Speaker or Chairperson.

### **37. Councillors to speak only twice**

- (1) A councillor may not speak more than twice on any motion or proposal unless permission to do so is granted by the Speaker or Chairperson.
- (2) The mover of the motion may speak to the motion and shall have the right of reply and the reply shall be confined to answering previous Speakers and shall not introduce any new matter into the debate.

### **38. Precedence of the Speaker or Chairperson**

Whenever the Speaker or Chairperson rises during a debate, any councillor then speaking or offering to speak must be silent, so that the Speaker or Chairperson may be heard without interruption.

### **39. Points of Order and Points of Procedure**

- (1) Any councillor may **raise a point of order** at any time by standing to draw the attention of the Speaker or Chairperson regardless of whether the councillor has spoken on the matter or not.
- (2) The point of order takes precedence over everything else in the meeting and the Speaker or Chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.
- (3) Points of order shall be oral and shall not be seconded.
- (4) The Speaker or Chairperson may sustain the point of order or dismiss it. In the case of the sustained point of order, the Speaker or Chairperson shall rule as prayed and in the case of the latter, the Speaker or Chairperson shall dismiss the point of order and order the councillor raising it to take his/her seat.
- (5) The ruling of the Speaker or Chairperson on a point of order shall be final and shall not be open to discussion.
- (6) A point of procedure may be raised by any councillor at any time to assist the Speaker or Chairperson to follow procedure in conducting the meeting.
- (7) When a councillor raises a point of procedure, the Speaker or Chairperson must give the councillor a hearing and rule on it immediately.
- (8) Points of procedure shall be oral and shall not be seconded.
- (9) The Speaker's or Chairperson's ruling is final and shall not be open to discussion.

### **40. Explanation**

Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

## **CHAPTER 11: CONDUCT**

### **41. General conduct**

- (1) Councillors and officials must during any council or committee meetings:–
  - a) conduct the business in the highest decorum and integrity that the occasion deserves;
  - b) at all times adhere to the principles contained in the code of conduct and these rules and orders;
  - c) at all times adhere to the rule of law and the by-laws of the municipality;
  - d) be dressed appropriately for the dignity of the meeting;
  - e) observe proper etiquette by not chewing gum or eating during meetings;
  - f) not use offensive or objectionable language;
  - g) not use a cellular phone during council or committee meetings;
  - h) not bring a firearm or any dangerous weapon into a meeting of council or any of its committees.

- (2) The following items shall not be regarded as proper dress code for a meeting of council or any of its committees:
- a) Jeans, [applicable to both male and female councillors and includes jean skirts and tops];
  - b) Canvas shoes or takkies;
  - c) Dark sunglasses except on medical grounds;
  - d) Informal hats or caps;
  - e) Tracksuits;
  - f) T-shirts.
  - g) Political party attire
  - h) Short pants

#### **42. Misconduct**

- (1) The Speaker or Chairperson of a committee may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.
- (2) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the Speaker or Chairperson shall direct the councillor or councillors to conduct himself/herself or themselves properly and, if speaking, to stop speaking and resume his/her seat or their seats.
- (3) In the event of persistent disregard of the directions of the Speaker or Chairperson, the Speaker or Chairperson shall direct such councillor or councillors to retire from the meeting and remove him or her or them from the place of meeting until the item under discussion has been finalized.
- (4) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee, the Speaker or Chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these standing rules and orders and the Code of Conduct for Councillors.
- (5) Any councillor who refuses to leave a meeting of the council or a committee of the council when directed to do so by the Speaker or Chairperson of a meeting in terms of any rule in these rules and orders, may be forcibly removed and shall be dealt with in terms of the Code of Conduct.

### **CHAPTER 12: COMMITTEES**

#### **43. Rules and Ethics Committee**

- (1) The Council shall by resolution of a majority of councillors establish a special committee to be known as the Rules and Ethics Committee to investigate and make findings on any alleged breaches of these Rules and Orders and the Councillors Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning the Rules and Orders.
- (2) The Rules and Ethics Committee shall consist of the Speaker, who will be the Chairperson of the committee and chief whips of each political party represented on the council.

#### **44. Own rules**

- (1) Every committee of the council shall determine its own procedures subject to any directions from council and these standing rules and orders.
- (2) Chapter 10 of these rules and orders may be relaxed by a Chairperson of a committee to accommodate interactive and effective participation, provided that the chairperson may, at his/her discretion, apply the provisions of any rule contained in Chapter 10.

#### **45. The Chairperson of a Committee**

- (1) The Chairperson of a Committee shall:–
  - a) preside at every meeting of the committee at which he or she is present; and
  - b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, shall give a second or casting vote.
- (2) In his absence, the acting chairperson shall have the same powers and rights of voting as those possessed by the chairperson.

### **CHAPTER 13: PECUNIARY INTEREST**

#### **46. Declaration of pecuniary interest**

- (1) A councillor must disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner, business associate, close family member or friend of that councillor may have in any matter before the council or committee.
- (2) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.
- (3) A councillor who, or whose spouse, partner, business associate, close family member or friend acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.
- (4) The disclosure of interests in terms of Rule 46(1) and benefit in terms of Rule 46(3) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate, close family member or friend has or acquires in common with other residents of the municipality.
- (5) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.
- (6) Gifts received by a councillor above R1 000 must also be declared in accordance with Item 7(1) of the Code of Conduct for Councillors.

### **CHAPTER 14: BREACH AND SANCTIONS**

#### **47. Breach**

Any councillor who fails or refuses to obey any of these rules and orders, or any resolution of Council, shall be guilty of a breach of the Code of Conduct.

#### **48. Sanction**

Where it is alleged that a councillor is in breach of these rules, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and impose a sanction.

### **CHAPTER 15: GENERAL PROVISIONS**

#### **49. Council Recess**

- (1) Council and its committees shall adjourn its sitting for recess during the July and December holidays.
- (2) The Mayor and Municipal Manager are delegated to take any decision on emergency matters during council and committee recess and report on any decisions taken during these periods at the first council meeting after council resumes.

#### **50. Suspension of a rule or order**

- (1) In instances of urgency or where a council considers that adherence to a rule would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a rule, provided that:-
  - a) Such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
  - b) No rule may be relaxed when the removal of any political office bearer is before the council.
  - c) The suspension or relaxation of the rule relates to an item on the agenda for the meeting of the council or committee of the council;
  - d) Rule 22 (Reports) must not be suspended;
  - e) The reasons for the suspension of the rule are recorded in the minutes of the meeting.

#### **51. Adoption as by-laws**

These Rules and Orders are hereby adopted as a by-law of the municipality.

#### **52. Repeal of existing by-laws in respect of rule and orders**

All other existing documents relating to rules and orders and by-laws in respect of rules and orders are hereby repealed.

#### **53. Short title and commencement**

These Standing Rules and Orders are called the Imbabazane Municipal Standing Rules and Orders, 2013, and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.



