

BY-LAW ON STANDING ORDERS FOR THE COUNCIL AND ITS COMMITTEES

ALFRED DUMA LOCAL MUNICIPALITY

STANDING ORDERS FOR COUNCIL AND ITS COMMITTEES

SCHEDULE OF AMENDMENTS TO RULES OF ORDER.

THE CURRENT RULES WAS ADOPTED BY COUNCIL ON APRIL 2010 UNDER RESOLUTION NO. LC5/4/2010.

SUBSEQUENT AMENDMENTS:

EC1/10/2011 - MEETINGS OF COUNCIL AND RISING TIME

ALFRED DUMA LOCAL MUNICIPALITY STANDING ORDERS FOR COUNCIL AND ITS COMMITTEES

To provide rules of Order regulating the procedures and conduct of meetings of the Municipal Council and its Committees, and to provide for matters incidental thereto.

PREAMBLE.

WHEREAS a municipal Council must strive within its capacity to achieve the objectives set out in section 152 of the Constitution which is to provide democratic and accountable government to local communities; to ensure the provision of services to communities in a sustainable manner, to promote social and economic development; to promote a safe and healthy environment and to encourage the involvement of communities in the affairs of local government;

AND WHEREAS Councillors are elected to represent local communities on Municipal Councils to ensure that municipalities have structured mechanisms of accountability to local communities and to meet the priority needs of the communities;

AND WHEREAS Councillors must fulfill their obligations to the community, support the achievement by the municipality of its objectives, must adhere to the Code of Conduct for the Councillors, comply with the rules of order and By-laws of the Municipality and at all times respect the rule of law;

AND WHEREAS it is necessary for the Municipal Council to prescribe Rules of Orders for its internal arrangements and to regulate the conduct of its business and proceedings;

NOW THEREFORE the Municipal Council of the Alfred Duma Local Municipality, acting in terms of Section 160 (6) of the Constitution of the Republic of South Africa, 1996, hereby makes the following By-Law:

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CHAPTER 1 DEFINITIONS

1. In these bylaws, unless the context otherwise indicates –

“Act” means the Local Government: Municipal Structures Act, 1998, Act No.117 of 1998.

“Access to Information Act” means the Promotion of Access to Information Act, 2000, Act No. 2 of 2000.

“Chairperson” means the chairperson of the Council and any committee of the Council (refer also “Speaker”) who is appointed to Chair a Committee of Council;

“Chief Whip” means the Councillor elected by council who provides a supportive function to the Council, in conjunction with the Whips, to ensure the smooth functioning of the Council meetings.

“Council” means Alfred Duma Local Municipality; a Municipal Council referred to in Section 157 (1) of the Constitution

“Code of Conduct” means the Code of Conduct for Councillors attached as Schedule 1 to the Local Government: Municipal Systems Act, 2000;

“Committees of Council” means Executive Committee, Portfolio Committees, Ward Committee and any other committee required to be formed by Council legislatively;

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

“Contact Details” shall include a physical address, postal address, e-mail address, cellular Number, Telephone Number and fax number.

“Day” means any calendar day

“Executive Committee” means an Executive Committee established in terms of Section 42 and 43 of the Local Government: Municipal Structures Act, 1998;

“Mayor” means the member of the Executive Committee elected by the Council as the Mayor and who shall also preside at meetings of the Executive Committee (Sections 48/49 of the Local Government: Municipal Structures Act, 1998).

“MFMA” means the Local Government: Municipal Finance Management Act, 2003, Act No. 56 of 2003.

“Meeting” means a meeting of the Council or any one of its Committees.

“Member” means a member of the Council;

“Motion” means a motion introduced in writing in terms of section 24 of these rules; an instrument by which Councillors may bring items onto the agenda of a Council meeting.

“Municipal Manager” is the Head of the Administration and also the accounting officer for the municipality appointed by the Council in terms of the provisions of Section 82 of the Local Government: Structures Act, 1998;

“Municipality” means Alfred Duma Local Municipality, a category of B municipality as envisaged in terms of Section 155(1) of the Constitution of South Africa, 1996.

“Ordinary meeting” means a scheduled meeting of Council or a committee in terms of Section 29 of the Act;

“Proposal” means any proposal, with the exception of a motion, moved and seconded during a meeting;

“Quorums and Decisions” –

(1) A majority of the members must be present at a meeting of the Council before a vote may be taken on any matter subject thereto that:

(a) All questions concerning matters mentioned in section 160(2) of the Constitution (i.e. functions which may not be delegated by Council viz: passing of by-laws, approval of budgets, imposition of rates and other taxes, levies and duties, and the raising of loans) are determined by a decision taken by Council with a supporting vote of a majority of the members.

(b) All other questions before Council are decided by a majority of the votes cast (subject to section 34 of the Local Government: Municipal Structures Act, 1998 – Dissolution of Municipal Councils).

(2) A majority of the members of the Executive Committee constitutes a quorum for a meeting and any

question before the committee is decided if there is agreement among at least the majority of the members present at the meeting.

(3) “Quorum” means the majority (50% plus one) of the Councillors.

“Recommendation” means a recommendation in the report of an Executive Committee in terms of Section 44 (4) of the Act, in respect of a decision concerning a matter where EXCO has no delegated powers;

“Speaker” means the Chairperson of the Council elected in terms of Section 36 of the Local Government: Municipal Structures Act, 1998;

“Special meeting” means a meeting other than an ordinary meeting which has been convened for a specific purpose, and where the order of business shall be stated in the notice convening the meeting.

“Systems Act” means the Local Government Municipal Systems Act, 2000, Act No. 32 of 2000.

“Urgent meeting” means a meeting which has been convened to deal with an urgent matter;

“The Ordinance” means the Local Authorities Ordinance (Natal) No 25 of 1974;

“The Report of the Executive Committee” means the report of the Executive Committee to the Council as contemplated in Section 44(4) of the Local Government: Municipal Structures Act, 1998; **which requires that EXCO must report to the Municipal Council on all decisions taken by EXCO.**

“Executive Director – Corporate Services” means an Executive Director appointed in terms of Section 56 of the Local Government: Municipal Systems Act, 2000, and, any other word or expression shall have the meaning assigned thereto in the relevant legislation.

“Whip” means the member of Council appointed by each political party.

“Dress Code” means: For women to be dressed in formal pants and blazer, or formal dress or suit with pencil skirt or blouse.

For men to be dressed in formal trousers, chinos and collared shirt.

Any other clothing will not be acceptable e.g. jeans, sneakers, work suits (overall) gumboots, helmets, tracksuits, caps, t- shirts and political associated and written clothing.

OBJECT OF THE BY-LAW

(2) The object of this By-law is to prescribe Rules of Order for the Municipal Council and its committees for its –

(a) Internal arrangements; and

(b) Business and proceedings,

in compliance with the provisions of the Constitution, the Act and other applicable laws.

CHAPTER 2

APPLICATION AND INTERPRETATION OF THE RULES AND ORDERS

3. Application of these rules and orders

(1) 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) any member of the public while present in the precincts;

(c) any deputation addressing the Council or a Committee of the Council; and

(d) any Municipal Official of the Municipality.

(e) traditional leaders.

(2) A Committee of Council is bound by this By-Law unless the Committee elects to draft their own Rules of Order.

(3) A Committee which elects to draft its own Rules of Order in terms of sub-rule (2) must –

(a) ensure that the rules drafted do not conflict with this By-law; and

(b) submit the draft rules to the Speaker and the party Whips for consideration and recommendation to Council.

(4) Rules of Order drafted in terms of sub-rule (2) must form part of these Rules of Order once they have been passed by the Municipal Council.

4. 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 4(5) and 4(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 **or his nominee** must keep a register of the rulings and legal opinions.
- (5) Any Councillor may request the Municipal Manager, in writing within five days from the ruling made in terms of rule 4(2), to obtain clarity on the interpretation and the 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 4(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 effecting the rights of others must be in writing and reasons must be recorded of such decisions.
- (7) The Executive **Director: Corporate Services** may from time to time be required to assist the Speaker in the signing of Council documentation, e.g. Council notices and agendas, convening of Council meetings, etc., when the Speaker is not available or for some any other reason is unable to attend to or to perform the aforesaid.
- (8) **If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version shall prevail.**

CHAPTER 3 FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS

5. Council meetings

- (1) The Council shall hold an ordinary meeting for the transaction of business not less than once in every three months.
- (2) The Speaker or **the Municipal Manager or his nominee** Executive-Director: **Corporate Services** must convene all meetings of Council in accordance with rule 5(1).

6. Admission of public

- (1) Every meeting of Council and its Committees shall be open to the public: - provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted.
- (2) The Council or a Committee of the Council, may not for any reason whatsoever, exclude the public when considering, voting or noting 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 plan, or any amendment of the plan tabled in Council;
 - (d) the municipality's performance management system, or any amendment of the system, tabled for 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 asset, or 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 every special or urgent meeting of the Council or Committee of the Council, except when time constraints make this impossible.

7. Notice to attend Ordinary Council Meetings

- (1) The Council shall hold an ordinary meeting for the transaction of business not less than once in every three months (at least quarterly), stating date, time and place of the meeting of the Council and accompanied by or containing the agenda of the proposed meeting which shall be served on every Councillor either personally or by leaving the same at his/her usual place of abode / business at least:-
 - (a) 5 (five) calendar days before such meeting; and
 - (b) 2 (two) calendar days prior to a special meeting, except where time constraints makes this impossible.
- (2) The said meeting shall also be displayed on all public notice boards at the municipality, **Municipal Website** and municipal offices in the urban areas and at the tribal courts in the rural areas **where possible**. Such notice shall be signed by the **Speaker, in her absence by the Municipal Manager or his nominee**. The accidental omission to serve on any Councillor such notice as is referred to above, shall not affect the validity of any meeting.
- (3) **The Executive Director: Corporate Services shall endeavor to send sms's to all Councillors as a reminder of the date of the meeting.**

8. Special Meetings

- (1) The Speaker may at any time and shall, upon request by a majority of the Councillors for the Municipality, call an extreme emergency meeting of the Council.
- (2) A special meeting must be held in compliance with rule 7(1)(b) and no later than four days from the date of receipt of a request.
- (3) A request for the calling of a special meeting, as contemplated in rule 8(1), shall,
 - (a) be signed by no less than 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 ordinary meeting of Council.
 - (c) if the Speaker fails to convene a meeting in terms of this rule, the Municipal Manager or Executive Director: Corporate Services or his **nominee** must convene such meeting.

9. Service Of Notices And Agenda

- (1) Notice to attend a meeting or any other official communication from the Council, shall be delivered to:-
 - (a) a physical address within the jurisdiction of the Municipality; or
 - (b) via an e-mail address; or
 - (c)
 - (i) by a short message system (SMS); provided that contact details shall be supplied by each Councillor to the Municipal Manager, in writing within 2 (two) days of a Councillors' election and, thereafter, whenever the Councillor wishes to change either address and at which address the Councillor shall accept as service address and receipt of any notice to attend a meeting and any other official communication from Council.
 - (ii) if an application for leave of absence is sent via e-mail or through an sms, the Councillor in question must submit a hard copy of the said written application of leave of absence within five days of sending an sms or e-mail, with the Executive-Director: Corporate Services or **Director: Corporate Services** for filing purposes.
 - (d)
 - (i) if the agenda or a message is delivered or sent through an e-mail it will be regarded as delivered when the delivery report reads, that the message or agenda has been delivered, read, opened or displayed on the screen of the recipient.
 - (ii) in the case of an SMS the message will be regarded as delivered if the delivery report reads, that the message has been successfully sent.
- (2) All documentation relevant to any Council or Committee meeting must be given to all Councillors at least **three (3) working days** before any ordinary Council or Committee meeting specifying the business proposed to be transacted thereat and signed by the Speaker or by the Executive **Director: Corporate Services**; tabled items shall be accepted by a majority vote of Councillors, on a 50% plus 1.
- (3) All Councillors must inform the Speaker or Executive **Director: Corporate Services** of any change of his/her contact details within 3 (three) days of such change.
- (4) A variance report must be provided to the Speaker on a regular basis regarding the monitoring of the delivery of all electronic documents and correspondence with the Councillors and ward committee members. The Councillors on the other hand must report to the Municipal Manager if they experience any problems in receiving documents or any information from the municipality electronically.

10. Non-receipt of notice

- (1) Accidental or otherwise omission to serve on any Councillor a notice to attend a meeting shall not affect the validity of any meeting or proceedings of Council or any of its Committees.
- (2) A Councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.

CHAPTER 4 QUORUM

11. Quorum

- (1) Notwithstanding that there may be vacancies, the quorum of a Council must be the 50% (fifty percent) plus 1 (one) of the total number of Councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on a matter.
 - (a) Subject to a quorum, 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.

12. Cancellation and Adjournment in the absence of a Quorum

- (1) If at the expiry of 10 minutes after the time at which a meeting is due to commence, a quorum has not assembled, no meeting shall take place unless it is unanimously agreed by the members present to allow further time, not exceeding 5 minutes, in order to enable a quorum to assemble.
- (2) If during the discussion/while in session on an item at any meeting of Council or any of its Committees the attention of the Chairperson/Speaker is called to the number of Councillors present, he/she shall;
 - (a) count the Councillors present;
 - (b) if it found that there is no quorum, the Chairperson/Speaker must adjourn the meeting and allow an interval of 15 minutes for a quorum to become present, for the meeting to proceed;
 - (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 Chairperson/Speaker must forthwith adjourn the meeting.
- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be reconvened within 14 days as a continuation meeting.
- (4) Business not disposed of at a meeting adjourned shall be dealt with at a continuation meeting convened by the Municipal Manager for this purpose: Provided that such business not dealt with and which originated from a Special Meeting convened at the request of members in terms of Sections 29(1) (Council) and 50(1) (Executive Committee) of the Local Government: Municipal Structures Act, 1998, may be held over until the next Ordinary Meeting of the Council or the Executive Committee as the case may be.
- (5) If a Councillor or group of Councillors leave any meeting in protest, the remainder of the Councillors shall constitute a quorum in order to carry on with the business of the meeting, provided that the remainder of Councillors then present in the meeting shall form a quorum in terms of Rule 11(1) herein.

**CHAPTER 5
ATTENDANCE**

13. Attendance

- (1) All Councillors must attend meetings on time and must remain in attendance at each meeting of Council or of a Committee of which he / she is a member, except where:-
 - Leave of absence is granted in terms of rule 14; or
 - Councillor is **granted leave of absence with the permission** of the Chairperson/Speaker.
 - **a matter is before the Council in which that Councillor or their spouse, partner or business associate has any direct or indirect personal or private business interest and that Councillor is required to withdraw in terms of 3 (b) of schedule 1 of the Municipal Systems Act – Code of conduct for Councillors.**
- (2) Each and every Councillor attending any meeting of the Council or Committee of Council shall sign an Attendance Register provided for that purpose.
- (3) The Attendance Register shall be filed in the office of Executive **Director: Corporate Services.**

14. 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 possible and prior to that meeting, lodge with the Executive–**Director: Corporate Services** 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.
 - (d) **Leave of absence be applied upon the receipt of the agenda,**
 - (e) **All apologies be submitted to the office of the Municipal Manager or his nominee.**
- (3) The Executive **Director: Corporate Services** must as soon as possible inform the Speaker or Chairperson of the meeting concerned of any application for leave of absence received, **this information must also be circulated to the committee clerks concerned for record purposes**
- (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 Executive **Director: Corporate Services of his/her decision.**
- (5) The Executive Manager must as soon as reasonably possible, inform a Councillor who has applied for leave of absence of the Speaker/Chairpersons decision.
- (6) A Councillor shall be deemed to be absent without leave from the meeting concerned where an application for leave of absence has not been granted and he/she:-
 - (1) Failed to attend a meeting; or
 - (2) Failed to remain in attendance at a meeting.

- (7) Where a Councillor fails to remain in attendance at a meeting:
 - (i) without being granted permission to do so; or
 - (ii) without obtaining permission from the Speaker/Chairperson to leave prior the close of 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 the meeting;
- (8) Where a Councillor arrives late at the 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 13(2).
- (9) Leave of absence for **three (3)** or more consecutive Council or Committee meetings must be sanctioned by the Council or relevant Committee.

15. **Non-attendance**

- (1) Where a Councillor has been absent without obtaining a leave from a meeting:-
 - (a) The Rules Committee as contemplated in Rule 44 or Speaker/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 Speaker/Chairperson shall consider the explanation and decide whether or not the Councillor's was absent with good cause, providing appropriate reasons for the decision;
 - (c) The Councillor may appeal in writing to the Speaker's/Chairperson's decision within seven days of receipt of such decision.
 - (d) The Council or Committee, as the case may be, shall:-
 - (i) allow the Councillor concerned to make representations, oral or written, and
 - (ii) consider the Councillor's appeal together with any comments from the Speaker / Chairperson of the meeting concerned;
 - (iii) make a finding as to whether the Councillor was absent with or without good cause.
- (2) Subject to compliance with the procedure set out in rule 14 above, a Councillor who is absent without good cause from the meeting, of which notice has been given, shall be liable to pay a fine equivalent to ,
R1000, 00 for being absent from the Council meeting,
R500, 00 for being absent from the Portfolio Committee,
R250, 00 for being absent from any other meetings of Council, coming late, leaving early without the permission of the Chairperson of the said Committee, which fine may be deducted from remuneration due to the Councillor concerned in accordance with schedule 4 of the penalties and fines.
- (3) The Executive Director: **Corporate Services** shall keep records of all incidents in respect of which the Councillors have been found to be absent or deemed to be absent without leave or without good cause and shall submit a written report to the Speaker/Chairperson whenever a Councillor is absent from three or more consecutive meetings which that Councillor was required to attend.
- (4) Where the Speaker receives a report in terms of rule 14(3), the Speaker must submit a report to Council and direct that the matter be investigated in accordance with item 14 of the Code of Conduct

CHAPTER 6 ADJOURNMENT

16. **Adjourned Meetings**

Subject to Rule 12(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.

17. **Continuation Meetings**

- (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

18. **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 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 in the Council 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.
- 19. 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 Council 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.
- (5) The minutes of the Council must, after having been perused by the Speaker, be supplied to Councillors electronically.
- (6) Where a copy of the minutes has been served on every Councillor in the manner provided in Rule 9 (2) the minutes shall be taken as read with a view to confirmation at the next Council meeting.
- (7) A proposal or discussion may not be allowed on the minutes, except for a proposal on or discussion of the accuracy of the minutes.
- (8) The Municipal Manager or his nominee must ensure that the names of the Councillors who –
- attend any meeting;
 - are absent from meeting;
 - have been granted leave of absence from any meeting,
- are recorded in the minutes.
- (9) The Municipal Manager or his nominee must ensure that the minutes reflect the names of Councillors who requested that their dissent, abstention or support be recorded during the voting, are recorded in the minutes.
- 20. 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:
- Notice of meeting;
 - Recording of members present (credentials) & applications for leave of absence;
 - Confirmation of minutes of previous meeting;
 - Announcements by the Chairperson;
 - Declarations of pecuniary or other interests;
 - Deputations;
 - Reports;
 - Notices of motion;
 - Questions of which notice has been given; and
 - General matters of an urgent nature.
 - Closing.
- (2) The Speaker or Chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.
- 21. 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.
- 22. Deputations**
- (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 22(6) and rule 22(7) shall be guilty of an offence and liable for conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

23. Reports

- (1) Any report submitted to the Council or a Committee of the Council must, 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 9.
- (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.

24. 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; and
 - (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 **seven calendar days prior to the next meeting and an urgent motion should be lodged by 12:00 before the Council meeting**, failing which the notice will be considered at the next ensuing meeting.
- (4) The Municipal Manager **or his nominee** 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 must
 - (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.

25. 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 days prior to the Council or Committee meeting. 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.
- (2) If after a question has been replied to, and 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.

26. 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 she may reasonably require for the proper performance of his or her duties as a Councillor.

27. 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.

28. Interpretation

If a majority of Councillors are present so resolve, an interpreter may be used in meetings of the Council and Committees of the Council.

29. In-Committee

- (1) Subject to Rule 6, the Council or a Committee of Council may, at any time, resolve to proceed 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 Rules 18(1) and 18(2) and shall be confidential.
- (5) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

CHAPTER 8 VOTING

30. 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; 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 **other than the matter mentioned in Section 160 (2) of the Constitution** there is an equality of votes, the Speaker or Chairperson may exercise a casting vote in addition to a deliberative vote as a Councillor, provided that a Speaker or Chairperson shall not exercise a casting vote during the election of any office bearer of council.

31. 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.
- (4) Only the number of councillors, and the names of councillors voting for or against an item, is to be recorded in the minutes of that meeting.
- (5) A councillor may abstain from voting for or against an item/motion without leaving the meeting.
- (6) **Every recommendation of a committee and every competent motion or amendment duly moved and seconded must be put to the meeting by the Speaker who must call upon the Councillors in favour to say "agreed" or "yes" and those against to say "No".**

32. Dissenting and abstention votes

Any councillor may request that his or her dissent, abstention or support be recorded in the minutes of that meeting as evidence of how he or she voted.

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 **to the Speaker or Chairperson**.
- (3) Any revocation or alteration of a Council resolution must be made in terms of Rule 30(2)(e).

34. 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 **to the Chairperson of the committee.**
- (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

35. 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 be withheld.
- (3) Councillors and officials shall stand when speaking and shall direct their address to the Speaker or Chairperson.

36. Relevance

Every speaker must restrict himself/herself strictly to the matter under consideration.

37. 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 minutes in length without the consent of the Speaker or Chairperson.

38. Councillors to speak only once

A Councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the Speaker or Chairperson provided that the mover of the motion may speak to the motion, 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.

39. Precedence of the Speaker or Chairperson

Whenever the Speaker or Chairperson rises during a debate, any Councillor then speaking or offering to speak must seat himself/herself and the Councillor must be silent, so that the Speaker or Chairperson may be heard without interruption.

40. Points of Order

- (1) Any Councillor may raise a point of order at any time by standing to draw the attention of the Speaker or Chairperson, **with a view to calling attention to any departure from these rules or any other law or in explanation, that is, in order to explain some material part of the Councillor's former speech which may have been misunderstood.**
- (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) The ruling of the Speaker or Chairperson on a point of order shall be final and shall not be open to discussion.

41. 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

42. General conduct

- (1) Councillors and officials must during any Council or Committee meeting–
 - (a) conduct the business in the highest decorum and integrity that the occasion deserves;
 - (b) must, at all times adhere to the principles contained in the Code of Conduct and these Rules and Orders;
 - (c) must at all times adhere to the rule of law and the by-laws of the municipality;
 - (d) must be dressed appropriately for the dignity of the meeting, no political written clothing to be worn; **see dress code under definitions.**
 - (e) must not use offensive or objectionable language; and
 - (f) must not use a cellular phone during the meeting, or bring a firearm or any dangerous weapon into, a meeting of Council or any of its Committees.
 - (g) **during a debate, a Councillor may not converse with another person loud enough to disrupt the proceedings.**

43. Misconduct

- (1) The Speaker 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 shall direct the Councillor or Councillors to conduct himself/herself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.
- (3) In the event of persistent disregard of the directions of the Speaker, the Speaker shall direct such Councillor/s to retire from the meeting and remove himself/herself or themselves 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.
- (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 guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

**CHAPTER 12
COMMITTEES**

44. Rules Committee

- (1) The Municipal Council may by resolution of a majority of Councillors establish a special Committee to be known as the Rules Committee to investigate and make findings on any alleged breaches of the 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 Committee shall consist of the Speaker, the Mayor and one representative of each political party represented on the Council, such representative to be nominated from time to time by each political party.

45. Own rules

- (1) Every Committee of the Council (established in terms of S 79(2)(f) Act 117 of 1998) 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.

46. The Chairperson

- (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 **other than on the matters mentioned in Section 162 (2) of the Constitution.**
- (2) In his or her absence, the Acting or Deputy Chairperson shall have the same powers and rights of voting as those possessed by the Chairperson.

**CHAPTER 13
PECUNIARY INTEREST**

47. 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 or business associate 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 or close family member, 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 47(1) and benefit in terms of Rule 47(3) does not apply to an interest or benefit which a Councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

CHAPTER 14 BREACH AND SANCTIONS

48. Breach

Any Councillor who fails or refuses to obey any of these Rules and Orders, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

49. Sanction

Where it is alleged that a Councillor has breached these Rules, the Council must, in terms of Item 15 of the Code of Conduct, investigate the alleged breach and may impose a sanction.

CHAPTER 15 GENERAL PROVISIONS

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; and
- (d) Rule 23 must not be suspended;
- (e) The reasons for the suspension of the rule are recorded in the minutes of the meeting.

51. Delegation of Powers during the recess and emergencies.

(1) Whenever any matter of urgency arises –

- (a) During the period that Council is in session and it is not possible or practicable to obtain a decision of the relevant committee or of Council, such matter may, on the recommendation of the Municipal Manager, be decided by the Chairperson of the committee within whose terms of reference the matter falls;
- (b) During the period when the Council is in recess, such matter may be decided by the Municipal Manager, after consulting with the Mayor; or
- (c) During the period between the day on which election results are announced and the inaugural meeting of the new Council, such matter may be decided by the Municipal Manager.

(2) The power conferred upon the Chairperson and the Municipal Manager in terms of the sub-rule (1) may include the power to incur expenditure, provided that the Executive Director: Finance certifies in writing that provision has been made for the expenditure in the current budget. If the estimates for the financial year have not yet been adopted by the Council, it must be confirmed that provision for the expenditure has been or will be made in the estimates for that financial year.

(3) Notwithstanding the provisions of sub-rules (1) and (2), no expenditure may be incurred on the capital account, unless approved by the Mayor in his capacity as Chairperson of EXCO.

(4) All matters which are decided in terms of this rule must be reported at the next ordinary meeting of the committee within whose terms of reference the matter falls.

52. Access to information.

(1) The Municipal Manager or his nominee may on application by-

- (a) Any registered newspaper; or
- (b) Interested person or entity,
- (c) Supply confirmed copies of council minutes, official agenda and confirmed minutes of all committees subject to the provisions of the Access to Information Act.

(2) Subject to sub-rule (1), a person or entity may not-

- (a) Have access to;
- (b) Be entitled to take extracts from;
- (c) Disclose;
- (d) Publish; or,
- (e) Make copies of,

Council and committee minutes or official agendas of meetings which have been closed to the public in terms of Rule 28.

53 Report on implementation of Council Decisions.

- (1) The Municipal Manager or his nominee must at the end of the first six (6) months of a term of office of the Council and at six (6) months intervals thereafter, submit to the Council a report on the implementation of each decision of Council.

54. Adoption as by-laws

These Rules and Orders must be adopted as a by-law of the Municipality.

55. Repeal of existing by-laws

The Council's existing by-laws in respect of Rules and Orders are hereby repealed.

56. Short title and commencement

These Standing Rules and Orders shall be called the Municipal Standing Rules and Orders, 200__ and shall come into operation on _____

UNIFORM STANDING PROCEDURE IN TERMS OF ITEM 4(3) OF THE CODE OF CONDUCT FOR COUNCILLORS AS CONTAINED IN SCHEDULE 1 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (as amended).

To provide for the imposition of fines, reprimands, warnings, suspensions and the removal of councillors who are in breach of the Code.

WHEREAS:

- A. Item 4(3) of the Code provides that proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item;
- B. The uniform standing procedure must comply with the rules of natural justice; and,
- C. There is a need to provide guidance on the correct procedure to be followed before any disciplinary measures are instituted in terms of the Code to ensure adherence to principles of fairness and natural justice.

NOW THEREFORE, the following procedure must be applied in dealing with breaches of the Code:-

CHAPTER 1: INTERPRETATION

- 1. Definitions.

CHAPTER 2: LEGISLATIVE FRAMEWORK

- 1. Item 3 of the Code.
- 2. Item 4 of the Code
- 3. Item 13 of the Code.
- 4. Item 14 of the Code.

CHAPTER 3: PROCEDURAL ISSUES

- 5. Non- attendance of meetings
- 6. Other breaches of the Code.

CHAPTER 4: SCHEDULES

Schedule 1 – Flowchart.
Schedule 2 - Sample Notice to attend a hearing.
Schedule 3 - Sample Record of hearing.
Schedule 4 – Sample Outcome of hearing,
Schedule 5 – Schedule of Fines.

CHAPTER 1: INTERPRETATION

1. Definitions

- 1. In this Uniform Standing Procedure, unless the context indicates otherwise-

“Code of Conduct” means the Code of Conduct for Councillors contained in Schedule 1 of the Act;

“**MEC**” means the KwaZulu-Natal Member of the Executive Council for local government, and any successor-in-title to the position; and

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

LEGISLATIVE PROVISIONS

2. Item 3 of the Code provides as follows:

Attendance at meetings

A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when-

- (1) Leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
- (2) That councillor is required in terms of this Code to withdraw from the meeting.

3. Item 4 of the Code provides as follows:

Sanctions for non-attendance of meetings

- (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for :
 - (a) Not attending a meeting which that councillor is required to attend in terms of item 3; or
 - (b) Failing to remain in attendance at such a meeting.
- (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.
- (3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure, which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

4. Item 13 of the Code of Conduct provides as follows:

Duty of Chairpersons of Municipal Councils

- (1) *If the Chairperson of a Municipal Council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the Chairperson must—*
 - (a) *authorise an investigation of the facts and circumstances of the alleged breach;*
 - (b) *give the Councillor a reasonable opportunity to reply in writing regarding the alleged breach; and*
 - (c) *report the matter to a meeting of the Municipal Council after paragraphs (a) and (b) have been complied with.*
- (2) *A report in terms of sub item (1) (c) is open to the public.*
- (3) *The Chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.*
- (4) *The Chairperson must ensure that each Councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the Council meets.”*

5. Item 14 of the Code of Conduct provides as follows:

“Breaches of Code.

- (1) *A Municipal Council may—*
 - (a) *Investigate and make a finding on any alleged breach of a provision of this Code; or*
 - (b) *Establish a Special Committee—*
 - (i) *to investigate and make a finding on any alleged breach of this Code; and*
 - (ii) *to make appropriate recommendations to the Council.*
- (2) *If the Council or a Special Committee finds that a Councillor has breached a provision of this Code, the Council may—*
 - (a) *Issue a formal warning to the Councillor;*
 - (b) *Reprimand the Councillor;*
 - (c) *Request the MEC for local government in the province to suspend the Councillor for a period;*
 - (d) *Fine the Councillor; and*
 - (e) *Request the MEC to remove the Councillor from office.*

- (3) (a) *Any Councillor who has been warned, reprimanded or fined in terms of paragraph (a),(b) or sub item (2) may within 14 days of having been notified of the decision of Council appeal to the MEC for Local Government in writing setting out the reasons on which the appeal is based.*
- (b) *A copy of the appeal must be provided to the Council.*
- (c) *The Council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for Local Government in writing.*
- (d) *The MEC for Local Government may, after having considered the appeal, confirm, set aside or vary the decision of the Council and inform the Councillor and the Council of the outcome of the appeal.*
- (4) *The MEC for Local Government may appoint a person or a committee to investigate an alleged breach of a provision of this Code and to make a recommendation on whether the Councillor should be suspended or removed from office.*
- (5) *The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub item (4).*
- (6) *If the MEC is of the opinion that the Councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may—*
 - (a) *suspend the Councillor for a period and on conditions determined by the MEC; or*
 - (b) *remove the Councillor from office.*
- (7) *Any investigation in terms of this item must be in accordance with the Rules of natural justice.*

CHAPTER 3: PROCEDURAL ISSUES.

6. Non-attendance of meetings.

(1) Fines for non-attendance of council or committee meetings.

- (a) *A councillor who is absent at a meeting of the council or committee of council without obtaining leave of absence is liable for a fine of R1000 (one thousand rands) for the council meeting, R500 (five hundred rands) for the portfolio meeting and R250 (two hundred and fifty rands) for any other meeting per meeting, which must be deducted from that's councillors allowance. This must also apply where leave of absence is declined and the councillor nonetheless remains absent at such a meeting.*
- (b) *A councillor who fails to remain in attendance at a council or committee meeting for a period exceeding an hour without having obtained the consent of the Speaker of Council or Chairperson of the committee is liable for a fine of R250 (two hundred and fifty) per meeting, which must be deducted from that councillors allowance.*
- (2) (a) *Upon becoming aware that a councillor has been absent for three or more consecutive meetings of the Council or from three or more consecutive meetings of a committee which that councillor is required to attend, the Municipal Manager must inform the Speaker of Council in order to commence proceedings as obligated in terms of Item 13 (1) (a) of the Code.*
- (b) *The speaker of Council must authorise an investigation of the facts and circumstances of the alleged breach. This does not preclude the Speaker of Council from conducting the investigation personally.*
- (c) *When an investigation of an alleged breach has been completed, the Speaker of Council must notify the councillor in writing of the allegations against him or her and give the councillor an opportunity to respond to the said allegations in writing.*
- (d) *The written notification must at least contain the following:*
 - (aa) *the specific item or items alleged to have been breached,*
 - (bb) *the time period for a written response; and*
 - (cc) *the right to request any relevant documentation of information.*
- (e) *A period of at least fourteen (14) days must be deemed reasonable to allow for response from the councillor concerned.*
- (f) *The Speaker of the Council must report the matter to the following meeting of the Council and include the response of the councillor in order for council to resolve on the matter.*
- (g) *If, based on the evidence and the representation of the councillor, it is clear that the Code has been breached, the outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which report, with the Council's resolution on the matter, must be forwarded to the MEC within fourteen (14) days of the Council's decision.*
- (h) *The Councillor must be notified in writing within seven (7) days of receipt of the council's decision, and the said notice must at least contain the following:*
 - (aa) *whether or not the councillor has been found guilty of the alleged breach,*
 - (bb) *the grounds on which such finding is based;*

- (cc) the sanction to be imposed; and
 - (dd) the councillor's right to appeal to the MEC.
- (i) If the councillor did not make representation on the allegations or where Council does not support the findings of the investigation of the Chairperson of Council, Council may decide to establish a special or ad-hoc committee to investigate the matter and to make recommendations to the council, the following must be taken into account when the special committee is constituted:
 - (aa) the committee must comprise, as far as possible, of fellow councillors;
 - (bb) the committee may be called a "Rules Committee"
 - (cc) the committee must not be one of the Council's standing committees,
 - (dd) any person involved in the preliminary investigation must not be a member of the committee.
 - (ee) the council must strive to have equitable political representation on the committee in keeping with section 160 (8) of the Constitution of the Republic of South Africa. 1996; and
 - (ff) the council must elect the chairperson.
- (j) Prior to a hearing taking place, the councillor must be notified in writing of the intention to conduct the hearing.
- (k) The Councillor must be given a least fourteen (14) days written notice of the hearing.
- (l) The notification to attend the hearing must contain, at least the following:
 - (aa) the alleged breach;
 - (bb) the time, date and venue of the hearing;
 - (cc) the councillor's rights; and
 - (dd) the implications of a failure to attend the hearing.
- (m) The hearing must be conducted by the committee as elected by the Council,
- (n) Both parties must be given the opportunity to present their case.
- (o) The hearing must be open to the public.
- (p) At the hearing-
 - (aa) the Chairperson must produce the necessary evidence to establish that the councillor
 - (i) has been absent from three (3) or more consecutive meetings of the Council or
 - (ii) has been absent for three (3) or more consecutive meetings of a committee which that councillor is required to attend.
 - (bb) the councillor must have the right to put questions to the witnesses called by the Chairperson.
 - (cc) the Committee must have the right to put questions to the witnesses called by the Chairperson for the purposes of clarifying any issue.
 - (dd) the councillors must have the right to call other witnesses in support of the councillor's case; and
 - (ee) the Chairperson and the councillor concerned may address the committee after all the evidence has been heard and before the committee makes a decision.
- (q) The Municipal Manager must provide facilities including personnel to assist the Committee including the recording of the hearing(s) which record must contain all particulars related to the hearing including-
 - (aa) the names of the parties and their representation,
 - (bb) the names of the witnesses,
 - (cc) the plead
 - (dd) the evidence led,
 - (ee) the finding, and
 - (ff) any recommended sanction.
- (r) In the event that the Chairperson becomes aware that councillor will not be able to attend the hearing after delivery of the notice, the Chairperson must attempt to establish the reasons for such failure to attend the hearing, prior to the commencement of the proceedings,
- (s) If the Chairperson is unable to establish reasons why the councillor has failed to attend the hearing, the committee must commence the proceedings in the absence of the councillor.
- (t) At the end of the hearing, the special committee must consider all the evidence. If a majority of the members of the committee find that, on a balance of probabilities-
 - (aa) the councillor has been absent from three (3) or more consecutive meetings of the council, or
 - (bb) the councillor has been absent from three (3) or more consecutive meetings of a committee which that councillor is required to attend, the committee must make an appropriate finding and recommendation(s) to the municipal council.
- (u) The council must consider the finding and recommendation of the special committee and make an appropriate decision.
- (v) The outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which, report, together with the Council's resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.

- (w) The councillor must be notified in writing within seven days of receipt of the council's decision and the said notice must at least contain the following information-
 - (aa) whether or not the councillor has been found guilty of the alleged breach;
 - (bb) the grounds on which such a finding was made;
 - (cc) the sanction to be imposed,
 - (dd) the councillor's right to appeal to the MEC.

(7) Other breaches of the Code.

- (1) Sub-paragraphs 6(2) (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (u) (v) and (w) must be applicable in dealing with other breaches in terms of the Code.
- (2) In dealing with other breaches of the Code, the council must consider any mitigating and extenuating circumstances prior to the imposition or recommendation on a sanction.
- (3) The council should be consistent with regard to the sanction imposed for similar breaches and the council should endeavour to ensure that the sanction is proportionate to the breach.
- (4) Schedule 6 contains a schedule of fines for breaches of the Code. The Schedule is a guideline to ensure uniformity. Each case must be considered by Council in its merits with consideration of mitigating and extenuating circumstances

**SCHEDULE 6
INFRINGEMENTS AND CIVIL FINES**

Column 1 Infringement	Column 2 Maximum Civil Fine
(1) Not attending a meeting which the Councillor concerned was required to attend. 1.1 Council meeting 1.2 Portfolio meeting 1.3 Any other meeting	R1000 R500 R250
(2) Failure to remain in attendance, coming in late, at a meeting which the Councillor concerned was required to attend.	R250
(3) Failure to withdraw from the proceedings of the Municipal Council or a Committee when a matter in which the Councillor concerned or any spouse, partner or business associate of that Councillor may have any direct or indirect personal or private business interest is considered by the Council or Committee; unless the Municipal Council or the Committee concerned decided that the direct or indirect interest in the matter is trivial or irrelevant.	1 month's salary
(4) Failure to disclose full particulars of the benefit of which the Councillor is aware at the first meeting of the Municipal Council at which it is possible for the Councillor to make the disclosure, where his or her spouse, partner, business associate or close family member, has acquired or stood to acquire any direct benefit from a contract concluded with the Municipality.	1 month's salary
(5) Without the prior consent of the Municipal Council, being a party to or beneficiary under a contract for the provision of goods, works or services to the Municipality.	3 weeks salary
(6) Without the prior consent of the Municipal Council, being a party to or beneficiary under a contract involving the performance of any work otherwise than as a Councillor for the Municipality.	3 week's salary
(7) Requesting, soliciting or accepting any reward, gift or favour for voting or not voting in a particular manner on any matter before the Municipal Council or before a Committee of which that Councillor is a member.	5 month's salary
(8) Requesting, soliciting or accepting any reward, gift or favour for persuading the Municipality in regard to the exercise of any power, function or duty.	5 month's salary
(9) Requesting, soliciting or accepting any reward, gift or favour for making a representation to the Municipality.	5 month's salary
(10) Requesting, soliciting or accepting any reward, gift or favour for disclosing privileged or confidential information.	5 month's salary
(11) Interfering in the management or administration of the Municipal Administration unless mandated by resolution of the Municipal Council.	3 month's salary
(12) Using the position or privileges of a Councillor for private gain or to improperly benefit another person.	5 month's salary
(13) Using privileged or confidential information obtained as a Councillor for private gain or to improperly benefit another person.	5 month's salary

(14) Without the permission of the Municipal Council or of the Committee concerned disclosing any privileged or confidential information of the Municipality in any whatsoever.	6 weeks salary
(15) Giving or purporting to give any instruction to any employee of the Municipality except when authorised to do so by resolution of the Municipal Council.	3 weeks salary
(16) Obstructing or attempting to obstruct the implementation of any decision of the Municipal Council or a Committee by an employee of the Municipality.	6 weeks salary
(17) Encouraging, soliciting or participating in any conduct which would cause or contribute to maladministration in the Municipality.	3 weeks salary
(18) Using, taking, acquiring or benefiting from or taking advantage of any property or asset owned, controlled, or managed by the Municipality to which the Councillor concerned has no right.	6 weeks salary
(19) Assaulting any person on municipal premises or on municipal business.	3 months salary
(20) Stealing any property from municipal premises.	5 months salary
(21) Malicious injury to municipal property.	3 weeks salary
(22) Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in any meeting of the Council or Committee of the Council.	2 weeks salary
(23) Failing to fall silent when the Presiding Officer speaks or rises during a meeting.	2 weeks salary
(24) Failing to obey any ruling, order or directive of the Presiding Officer at any meeting of the Council or any Committee of the Council.	2 weeks salary
(25) Failing to leave the Chamber or Committee Room when ordered to do so by the Presiding Officer	2 weeks salary
(26) Failure by a Councillor to declare to the Municipal Manager in writing his/her financial interests in terms of section 7 of Schedules 1 of the systems Act, 2000 (Act No. 32 of 2000)	2 weeks salary.
(27) failure to perform the functions of office in good faith, honestly and in a transparent manner; and failure to at all times act in the best interests of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <ul style="list-style-type: none"> (a) Fine the Councillor a minimum of one (1) month salary, (b) Issue a formal written warning, (c) Reprimand the councillor, (d) Request the MEC to suspend the councillor, (e) Request the MEC to remove the councillor from office.
(28) 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.	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <ul style="list-style-type: none"> (a) Fine the Councillor a minimum of two (2) months salary, (b) Issue a formal written warning, (c) Reprimand the councillor, (d) Request the MEC to suspend the councillor, (e) Request the

	MEC to remove the councillor from office. Where the consequences of the unlawful votes have detrimental financial implications, Council or other authorities may also institute civil recovery proceedings.
(29) A councillor who is a full time councillor may not undertake any other paid work, except with the consent of the municipal council which consent must not unreasonably be withheld.	This shall depend on the severity of the action/s of the councillor. The Council may- (a) Fine the Councillor a two (2) weeks salary, (b) Issue a formal written warning, (c) Reprimand the councillor, (d) Request the MEC to suspend the councillor, (e) Request the MEC to remove the councillor from office.
Assaulting any person on municipal premises or on municipal business	The Council may- (a) Fine the Councillor a minimum of four (4) months' salary, (b) Request the MEC to suspend the councillor, (e) Request the MEC to remove the councillor from office. Council or other authorities may also consider instituting criminal proceedings.

SCHEDULE 3

CLARIFICATION: A POINT OF ORDER (SECTION 39)

Definition:

It is in fact an appeal to the chairman for his ruling on a matter concerning the conduct of a meeting. The chairman's decision is final and in any event he has a discretion to accept the point of order or not.

Clarification:

1. A point of order is a question raised with a view of calling attention to any departure from the prescribed modes of proceeding in debates.
2. A Councillor whether he has spoken on the matter under discussion or not, may rise to a point of order or in explanation.
3. Such explanation shall be confined to some material part of the discussion which may have been misunderstood.
4. A Councillor so rising shall be entitled to be heard forthwith.
5. He must state the point clearly and confine himself strictly to the matter under discussion.
6. The ruling of the chairman on a point of order, or on the admissibility of a personal explanation shall be final and not open to discussion.
7. If a member challenges the ruling of the chairman on any point of order, the chairman shall direct him to conduct himself properly and to discontinue his speech and resume his seat.

Summary:

1. A point of order can be put at any time during a meeting.
2. A point of order can be put regarding :-

- (a) bad language;
 - (b) a standing rule not complied with;
 - (c) an amendment rule not complied with;
 - (d) an amendment that is *ultra vires*;
 - (e) a matter pertaining to the good order; or
 - (f) an explanation required.
3. A point of order must be phrased as a question.

SCHEDULE 4

PRIVILEGES AND IMMUNITIES

- (1) Provincial legislation in terms of section 161 of the Constitution must provide at least -
- (a) that Councillors have freedom of speech in a Municipal Council and in its committees, subject to the relevant Council's rules and orders as envisaged in section 160(6) of the Constitution; and
 - (b) that Councillors are not liable to civil or criminal proceedings, arrest, imprisonment or damages for -
 - (i) anything that they have said in produced before or submitted to the Council or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.
- (2) Until provincial legislation contemplated in subsection (1) has been enacted, the privileges referred to in paragraphs (a) and (b) of subsection (1) will apply to all municipal Councils in the province concerned.