



## **RULES FOR COUNCIL AND ITS COMMITTEES**

**AS APPROVED AND AMENDED BY COUNCIL IN TERMS OF RESOLUTIONS:**

<b>RESOLUTION</b>	<b>GAZETTE NUMBER</b>	<b>DATE OF GAZETTE</b>
<b>14744 OF 23 JUNE 2021</b>	<b>2329</b>	<b>21 OCTOBER 2021</b>
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**DMS: 1656402**

## **uMHLATHUZE MUNICIPALITY**

### **RULES FOR COUNCIL AND ITS COMMITTEES**

**To provide Rules 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 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 Councillors, comply with the Rules of the Municipality and at all times respect the rule of law;

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

**NOW THEREFORE** the Municipal Council of uMhlathuze Municipality, acting in terms of section 160(6) of the Constitution of the Republic of South Africa, 1996 hereby makes the following. Rules of Council and its Committees.

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## CHAPTER 1

### 1. DEFINITIONS

1. In these Rules, unless the context otherwise indicates -

**"Access to Information Act"** refers to the Promotion of Access to Information Act 2 of 2000;

**"Authorised person"** means an official of the municipality authorised by the City Manager to perform a specific task in terms of these Rules;

**"Authorised Representative"** means a natural person duly authorised by the party in accordance with its constitution to act on the party's behalf for purposes of performing the duties contemplated in sections 27(2) and 43(2)(d) and (e).

**"By-law"** means legislation passed by the Council of a Municipality;

**"Calendar days"** means all the days in a month, including weekends and public holidays;

**"Chairperson"** means a Councillor elected in a permanent or acting capacity to chair Council or any of its Committees meeting;

**"Committee"** means a committee of the uMhlathuze Municipality Council established in terms of -

- (a) Section 33, 79 or 80 of the Act; or
- (b) Any other law;

**"Code of Conduct"** means the Code of Conduct for Councillors set out in Schedule 7 of the Local Government: Municipal Structures Amendment Act 3 of 2021;

**"Contact details"** shall include a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular phone number;

**"Constitution"** means the Constitution of the Republic of South Africa Act 108 of 1996;

**"Council"** means;

- (a) the Council of uMhlathuze Municipality, exercising its legislative and executive authority through its municipal Council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these Rules has been delegated or sub-delegated, or an instruction given, as contemplated in Section 59 of the Systems Act; and
- (d) a service provider fulfilling a responsibility under these Rules;

**"Councillor"** means a Member of a Municipal Council;

**"Day"** means any day of the week, excluding 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, but not an matters that will invoke Supply Chain processes;

**"Deputy City Manager"** means the head of any department who is not directly responsible to any senior official, other than the City Manager.

**"Deputy City Manager: Corporate Services"** means a Deputy City Manager: Corporate Services appointed in terms of Section 56 of the Local Government: Municipal Systems Amendment Act 7 of 2011;

**"Executive Committee"** means an Executive Committee established in terms of Section 42 of the Local Government: Municipal Structures Act, 1998;

**"In-committee"** means any Council or committee meeting at which the public and or officials of the municipality are excluded;

**"Integrated Development Plan"** means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

**"Mayor"** means a Councillor elected by Council, in terms of Sections 48 and 49 of the Local Government: Municipal Structures Act 117 of 1998) from amongst the members of the Executive Committee to serve as the Mayor and who shall also preside at meetings of the Executive Committee

**"Meeting"** means a meeting of the Council or any one of its Committees which can either be held physically or virtually.

**"Member"** means a member of the Council;

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

**"Motion"** means the instrument by which Councillors in writing may bring items on to the agenda of a Council meeting in terms of Rule 47 of these Rules;

**"Municipality"** means the uMhlathuze Municipality a category B Municipality established in terms of Section 155(1)(b) of the Constitution, 1996, and established by and under Sections 11 and 12 of the Structures Act, read with Sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

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

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

**"Office of the Speaker"** means the administrative branch of the Speaker's office and may include a person with delegated responsibility for management of the administration in the Speaker's Office;

**"Ordinary Meeting"** means a scheduled meeting of Council or a Committee in terms of Section 29 of the Act;

**"Peace Officer"** means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977; who, for purposes of these Rules, shall be unarmed and

designated to provide security services to Council from time to time;

**"Petition"** is a written request signed by numerous individuals, appealing to authority in respect of a particular cause.

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

**"point of order"** means the pointing out of any deviation from or anything contrary to, these Rules, any other Bylaws of Council, the conduct, any law 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;

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

**"public"** means any person residing within the Republic of South Africa and includes the media

**"Questions"** means an interrogative expression addressed to someone in order to get information in reply. Or it can be a subject or point of debate or a proposition to be voted on in a meeting

**"Quorum"** means a majority of the number of Councillors determined in terms of Section 30 read with Section 20 of the Local Government Municipal Structures Act, 1998 (Act No 117 of 1998), as amended;

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

**"Report of EXCO"** means the report of EXCO as contemplated in Section 44 of the Act which requires that EXCO must report to the Municipal Council on all decisions taken by EXCO;

**"Speaker"** means the Chairperson of the Council elected in terms of Section 36 of the Local Government: Municipal Structures Act, 1998 and includes any Acting Speaker when he or she is elected to perform the functions of the Speaker;

**"service delivery agreement"** means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act 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;

**"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;

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

**"Systems Act"** means the Local Government: Municipal Systems Act 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 of Council and its Committees;



**“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.

**“technical glitch”** means anything technical but excluding lack of data and internet connectivity where the attendee is located

**“Virtual meetings”** means meetings that allow people interactions to share information and data in real-time without being physically located together as it take place over the Internet using integrated audio and video.

**“Walk-out”** is an act of leaving a meeting or failing to remain in attendance at that meeting by a councillor or councillors, without the permission of the chairperson when a vote is taken on any matter, or before the chairperson has adjourned the meeting.

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

## CHAPTER 2

### OBJECTS, APPLICATION AND INTERPRETATION OF THE RULES

#### 2. Objects of the Rules

The object of these Rules is to prescribe Rules for Council and its Committees for its:

- (a) internal arrangements; and
- (b) business and proceedings.

This shall be done in compliance with the provisions of the Constitution and other applicable laws.

#### 3. Application of the Rules

3.1 The Rules contained herein apply to all physical and virtual meetings of Council and its Committees.

3.2 These Rules bind and must be complied with by -

- (a) All Councillors;
- (b) Any member of the public while present in the precincts;
- (c) Government Ministers;
- (d) Provincial Members of the Executive Council (MECs);
- (e) Official from Government Departments:
  - (i) Representatives from public bodies and private sector;
  - (ii) All officials of the municipality; and
  - (iii) Traditional Leaders participating in Council and its Committees in terms of Section 81 of the Municipal Structures Act.

who attend or address Council or Committee meeting.

- 3.3 These Rules are applicable to all Committees of the Council and therefore, no Committee may determine its own Rules.

#### **4. Interpretation of the Rules**

- 4.1 Any interpretation of these Rules shall 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.
- 4.2 The ruling of the Speaker or Chairperson with regard to the interpretation of these at a meeting of the Council or Committee of the Council will, subject to Rules 4(5) and 4(6), be final and binding.
- 4.3 The interpretation and the ruling of the Speaker or Chairperson on any of these Rules must be recorded in the minutes of the Council or committee meeting.
- 4.4 The City Manager or Deputy City Manager: Corporate Services must keep a register of the rulings and legal opinions.
- 4.5 Any Councillor may request the City Manager, in writing within five days from a ruling made in terms of Rule 4(b), to obtain clarity on the interpretation and ruling and to report to Council or Committee of the Council.
- 4.6 Council or Committee of Council may after consideration of the report in terms of Rule 4(e) 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 must be recorded of such decisions.

### **CHAPTER 3**

#### **COMMITTEES OF COUNCIL**

#### **5. Committees of Council**

- 5.1 All Committees of the Council shall determine its Terms of Reference subject to any directions from Council and these Rules.
- 5.2 A member of a Committee wishing to resign shall tender his or her resignation in writing to the City Manager and thereafter such resignation may not be withdrawn.
- 5.3 A vacancy arising in any Committee of the Council shall be reported to Council as soon as possible after the Committee meeting at which such vacancy was announced, and the Executive Committee and Council shall fill such vacancy.

#### **6. The Chairperson**

- 6.1 A meeting of the Council or a Committee of the Council may not commence or continue unless a Speaker or Chairperson presides at a meeting.
- 6.2 The Chairperson of a Committee must -
  - (a) preside at every meeting of the Committee at which he or she is present;
  - (b) Ensure that meetings are conducted in accordance with the Council's Rules;
  - (c) Maintain order during meetings;
  - (d) Ensure compliance with the Code of Conduct for Councillors during meetings;

- (e) Ensure that members conduct themselves in a dignified and orderly manner during meetings, are dressed appropriately for the dignity of the meeting and ensure that no political party attire or regalia is acceptable within the Council Chamber;
  - (f) Ensure that members of the public attending meetings are seated in areas designated for that purpose;
  - (g) Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or Chairperson of the Meeting;
  - (h) Ensure that any Councillor or member of the public refusing to comply with the Ruling of the Speaker or Chairperson leaves the meeting;
  - (i) Ensure that Council conducts its business with the highest decorum and integrity that the occasion deserves;
  - (j) Ensure adherence to the rule of law and the Bylaws of the municipality;
  - (k) Ensure that all members do not use offensive or objectionable language;
  - (l) Ensure that members do not use a cellular phone during, bring a firearm or any dangerous weapon into a meeting of Council or any of its committees;
  - m) ensure that the **Whip of Council** and **Authorised Representatives** maintain discipline amongst their party members during Council meetings;
  - (n) consider all points of order and rule on them;
  - (o) Act in an impartial and fair manner to all parties and their Members; and
  - (p) be entitled to vote in the first instance and in the case of an equality of votes in addition to his or her deliberative vote, will give a second or casting vote.
- 6.3 In the absence of the Chairperson, an Acting Chairperson shall be elected from amongst members and will have the same powers and rights of voting as those possessed by the Chairperson
- 6.4 If the Speaker is not present at a meeting, the City Manager must preside over the process to elect an Acting Speaker.
- 6.5 If the Mayor is not present at the Executive Committee meeting, the Deputy Mayor automatically assume Chairpersonship. If they are both not available the City Manager must preside over the process to elect an Acting Chairperson.
- 6.6 If the Chairperson is not present at a meeting, the relevant Deputy City Manager must preside over the process to elect an Acting Chairperson.
- 6.7 When a meeting is adjourned, all persons who attend the meeting must rise and remain in their places until the Speaker or Chairperson has left the meeting.

## **7. Rules and Disciplinary Committee**

- 7.1 The Municipal Council may by resolution of a majority of Councillors establish a special committee to be known as the Rules and Disciplinary 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 these Rules.
- 7.2 The Rules and Disciplinary Committee will consist of Councillors as nominated by Council in terms of the System of Proportionality as determined by a Resolution of Council.

## **CHAPTER 4**

### **DECLARATION OF INTEREST**

## **8. Declaration of Interest**

- 8.1 When elected or appointed, a Councillor must, within 60 days, and thereafter every financial year, declare in writing to the City Manager the financial interests referred to in item 6 of schedule 7 of the Structures Amendment Act 3 of 2021 Act, (**Annexure "A"**).
- 8.2 A Councillor must disclose to Council, or any Committee of which he or she 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.
- 8.3 The Councillor making a declaration must withdraw from the proceedings of the Council or Committee unless Council or the Committee decides that the Councillor's direct or indirect interest in that matter is trivial or irrelevant.
- 8.4 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.
- 8.5 The disclosure of interests in terms of Rule 8.2 and benefit in terms of Rule 8.4 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 5**

### **NOTICE OF MEETINGS, FREQUENCY, ADMISSION OF THE PUBLIC AND NON-RECEIPT OF NOTICE**

## **9. Notice of Meetings**

- 9.1 Notice of the date, time and place or digital platform of every meeting of the Council signed by the Speaker and all its Committees signed by the Chairperson shall be served on every Councillor to attend a meeting, must be delivered to -
  - (a) a physical address provided by the Councillor;
  - (b) an e-mail address;
  - (c) facsimile;
  - (d) Dropbox; or

(e) a short message service.

- 9.2 All documentation relevant to any Council or Committee meeting, except Special Meetings convened in terms of Rule 11, must be given to all Councillors at least five (5) calendar days prior to an Ordinary Council or Committee meeting and two calendar days prior to a Special Council or Special Committee meeting.
- 9.3 The link for the virtual meeting shall be sent not earlier than two (2) days before the ordinary meeting or one (1) before a Special meeting takes place in order to minimise cyber security risks
- 9.4 All Councillors must inform the Speaker of any change of their contact details within three days of such change.
- 9.5 Notice to attend a meeting must be displayed on the public electronic notice boards of the municipality. Such notice shall be signed by the Chairpersons of Committees.
- 9.6 Short service of a notice to attend an ordinary meeting shall not invalidate a meeting however such short notice shall not be less than 72 hours.
- 9.7 The failure to receive a notice of a Council or Committee meeting by a Councillor shall not affect the validity of that meeting.

## **10. Council Meetings**

- 10.1 Council must hold a minimum of four (4) meeting in a calendar year.
- 10.2 The Speaker must convene all meetings of Council in accordance with Rule 10.1 and subject to Rule 11.

## **11. Special Meetings**

- 11.1 The Speaker must call a Special Meeting of the Council -
- (a) To approve the annual budget, annual report and Integrated Development Plan.
  - (b) After consulting with the Mayor to debate any special issue, or to allow special guests to address Council or where there is any urgent matter that Council is required to consider before the next ordinary meeting; or
  - (c) At the request of a majority of Councillors of the municipality.
- 11.2 A Special meeting must be held in compliance with Rule 9.2 and in terms of Rule 10.1 no later than four days from the date of receipt of a request.
- 11.3 A request for the calling of a Special Meeting, as contemplated in Rule 11.1(c), must:
- (a) be signed by no less than fifty percent 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 City Manager must convene such meeting and conduct an election of an Acting Speaker in terms of Section 41 of the Structures Act.

## **12. Joint meetings**

12.1 A Committee of Council may meet jointly with -

- (a) another Committee of Council;
- (b) a Committee of a Provincial Legislature;
- (c) a Committee of Parliament;
- (d) an Organ of State; or
- (e) an external stakeholder.

in order to discuss a matter of mutual interest.

12.2 The Chairperson for the joint meeting shall be elected by a majority vote of the representatives present at the meeting.

12.3 The minutes of the joint meeting must be:

- (a) compiled and circulated to all representatives; and
- (b) tabled together with a report at the next meeting of Council and the relevant Committee.

## **13. Admission of Public to Meetings**

13.1 Every meeting of the Council, the Executive Committee and its Portfolio Committees shall be open to the public; provided that this Rule shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of Section 20 (1)(a) of the Systems Act, Act No. 32 of 2000 and Section 31 (1) of the Structures Act, Act No. 117 of 1998. Admission of the public shall take place either by:

- (a) physical attendance in case of a physical meeting with strict controls in relation to social distancing and other safety measures;
- (b) Tuning into the Local Radio Station where there would be live feed of meetings.

13.2 The Council or a Committee of the Council, may not for any reason, exclude the public when considering, voting or noting any of the following matters:

- (a) A draft Rules;
- (b) A draft budget;
- (c) The Municipality's Integrated Development Plan or any amendment of the plan;
- (d) The Municipality's Draft Performance Management System, or any amendment of the system;
- (e) The decision to enter into a Service Delivery Agreement referred to in section 76(b) of the Systems Act;
- (f) Any reports on an award in terms of Supply Chain Management Policy;
- (g) The disposal or acquisition of a Municipal Capital Asset; or
- (h) Any other matter prescribed by legislation.

## **14. Non-receipt of Notice**

- 14.1 Non-receipt of a notice to attend a meeting will not affect the validity of any meeting or proceedings of Council or any of its Committees; and
- 14.2 A Councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.

## **CHAPTER 6**

### **ATTENDANCE AT MEETINGS, LEAVE OF ABSENCE AND NON ATTENDANCE**

#### **15. Attendance at Council and its Committees Meetings**

- 15.1 All Councillors must punctually attend and remain in attendance at each meeting of Council or Committee of the Council unless:
- (a) leave of absence has been granted in terms of Rule 17;
  - (b) a matter is before the Council or Committee 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 Item **4(b)** of the Code of Conduct; or
  - (c) that Councillor is absent with the knowledge of the Speaker or Chairperson.
- 15.2 A Councillor who is entitled to a leave of absence and no longer requires such leave may attend a meeting from which leave of absence was granted in terms of Rule 17, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.
- 15.3 Walkouts
- A Councillor who fails to remain in attendance without having obtained leave of absence is in violation of the Code of Conduct item 4(1). An act of walking out in protest or disagreement with any action during meeting proceedings is not an exception to this rule.
- 15.4 If a Councillor or group of Councillors leave any meeting in protest, and the remainder of the Councillors constitute a quorum the business of the meeting shall continue.

#### **16. Attendance Register for all meetings of Council and its Committees**

- 16.1 Every Councillor attending a Council or Committee meeting whether a member or not of that Committee must sign their name in the attendance register kept for that purpose or it will be automatically generated for those who have logged on to virtual meetings.
- 16.2 During virtual meetings, Councillors and other participants must:
- (a) Ensure that they are identifiable by capturing their name and surname on the virtual software. The name will then be visible to other participants. In order to avoid or mitigate the cybersecurity risks, the meeting organiser or Chairperson may perform the following:
    - (i) Require meeting participants to enter a password when joining the meeting. The password would have been supplied with the meeting invite;
    - (ii) Lock the meeting or reject any new connections to the meeting when it has already started; and



- (iii) Terminate the session of any participant that is not identifiable by name.
  - (b) Turn off the camera or video function on the device they are using to participate in the meeting. The camera or video must be turned off before the start of the meeting.
  - (c) Mute the microphone of the device they are using to participate in the meeting when not speaking. The microphone must be muted immediately after joining the meeting;
  - (d) Use the camera or video or click the hand button to raise a hand to engage in the dialogue; and
  - (e) Wait to be called upon or recognised by the Chairperson of the meeting to speak or unmute the microphone.
- 16.3 The attendance register electronic or hard copy must be filed and kept in the Office of the City Manager or Deputy City Manager: Corporate Services.

## **17. Leave of Absence**

- 17.1 Leave of absence must not be granted in such a manner that more than the number required for a quorum will at any one time be absent.

### **17.2 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 will, as soon as is reasonably possible and prior to the commencement of the meeting of Council or any Committee of which he/she is a member (unless on the ground of illness, force majeure, or the like), lodge with the Committee Section a written application in the prescribed form (**Annexure "B"**) 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.

A telephonic apology to the office of the Deputy City Manager: Corporate Services, prior to the meeting, will be acceptable provided it is followed up in writing, within a period of no later than three(3) days from the date of the meeting for which an apology was tendered, on the prescribed form contained in Annexure B. Apologies may also be submitted to the Committee Section via electronic mail, in the manner as provided for in Annexure B.

- 17.3 The Deputy City Manager: Corporate Services must as soon as possible inform the Speaker or Chairperson of the meeting concerned of any application for leave of absence received.
- 17.4 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 Deputy City Manager: Corporate Services of his or her decision.
- 17.5 The Deputy City Manager: Corporate Services must as soon as is reasonably possible, inform a Councillor who has applied for leave of absence of the Speaker or Chairperson's decision.

- 17.6 A Councillor will be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she -
- (a) failed to attend a meeting; or
  - (b) failed to remain in attendance at a meeting.
- 17.7 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 will be deemed to have been absent without leave at that meeting.
- 17.8 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 16(1).
- 17.9 Notwithstanding Rules 17.1 and 17.2 above, an application for leave of absence from a meeting is deemed to have been granted if Council has delegated the relevant Councillor to represent the Council elsewhere.
- 17.10 Leave of absence for two or more consecutive Council or Committee meetings must be sanctioned by the Council or the relevant Committee.

## **18. Non-Attendance**

- 18.1 Subject to compliance with the procedure set out in Rule 11 and the provisions of Item 5(1) of Schedule 7 of the Structures Act, a Councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the Councillor concerned.
- 18.2 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 4 of Schedule 7 of the Structures Act, must be removed from office as a Councillor in accordance with Item 5(3) of Schedule 7 of the Structures Act.
- 18.3 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 (**Annexure "C"**).
- 18.4 The City Manager must 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 must submit a written report to the Speaker whenever a Councillor is absent from three or more consecutive meetings which that Councillor was required to attend.
- 18.5 Where the Speaker receives a report in terms of Rule 18(2), the Speaker must submit the report to Council and direct that the matter be investigated in accordance with Item 15 of the Code of Conduct.

18.6 Where a Councillor has been absent without obtaining leave from a meeting:

- (a) the Rules and Disciplinary Committee as contemplated in Rule 7, must invite the Councillor to provide a formal explanation setting out the reasons for the Councillor's absenteeism from the meeting; and
- (b) the Rules and Disciplinary Committee must consider the explanation and decide whether or not the Councillor was absent with good cause, providing appropriate reasons for the decision.

## **CHAPTER 7**

### **QUORUM, ADJOURNMENT AND CONTINUATION MEETING**

#### **19. Quorum**

- 19.1 (a) Notwithstanding that there may be vacancies, the quorum of a Council must be the majority of the total number of Councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.
- (b) Subject to a quorum, the failure of any Councillor to vote will not invalidate the proceedings of the Council or Committee meeting.
- 19.2 (a) 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.
- (b) Subject to a quorum, the failure of any Councillor to vote will not invalidate the proceedings of the committee meeting.

#### **20. Adjournment in the event of no Quorum**

- 20.1 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 10 minutes in order to enable a quorum to assemble.
- 20.2 In the event of virtual meeting, the Chairperson to request administration to determine if there are no technical glitches preventing Councillors from joining the meeting before reaching any decision.
- 20.3 The members present shall after expiry of time contemplated in Rule 20.1, if no quorum has been obtained by then, request the City Manager or Deputy City Manager: Corporate Services to convene a continuation meeting for a time, notice of which shall be given in terms of Rule 9 of these Rules and such meeting shall be deemed to be a Continuation Meeting for the purposes of Rule 20 and 21.

#### **21. Count out of members**

- 21.1 If, during any meeting of Council or Committee the meeting, the attention of the Speaker or Chairperson is drawn to the fact that the number of Councillors present is insufficient to constitute a quorum, the Speaker or Chairperson must:
  - (a) Order that such members be counted;
  - (b) adjourn the meeting and allow an interval of ten (10) minutes for a quorum to

become present;

- (c) if a quorum becomes present after the adjournment then the meeting must continue; and
  - (d) if there is still no quorum, the Chairperson shall record the fact that there is no quorum and proceed with the meeting with the exception of the Executive Committee and Council meetings.
- 21.2 In the event of the virtual meeting the Chairperson to establish from administration whether there are no technical glitches that have resulted in Councillors being muted whilst the meeting is progress before reaching any decision.
- 21.3 Business not disposed of at a meeting adjourned shall be dealt with at a Continuation Meeting convened by the City Manager / Deputy City Manager: Corporate Services 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.

## **22. Continuation meeting**

- 22.1 When a meeting is adjourned, notice of the Continuation Meeting shall be served in terms of Rule 9 of these Rules.
- 22.2 Subject to the provisions of Rule 9, no business shall be transacted at a Continuation Meeting except such as is specified in the notice of the meeting which was adjourned.
- 22.3 Where a meeting is adjourned because there is no quorum, the meeting must be reconvened within seven (7) days as a continuation of the adjourned meeting.
- 22.4 Subject to Rule 22.3, a Council or Committee meeting may, by majority vote, be adjourned to another hour or day but no later than fourteen (14) days after the original meeting.
- 22.5 Business not disposed of at a continuation meeting of a Committee as a result of no quorum shall, with the concurrence of the Chairperson, be forwarded direct to the Executive Committee by the City Manager and Deputy City Manager responsible for the Directorate.
- 22.6 Business not disposed of at a continuation meeting of the Executive Committee as a result of no quorum shall, with the concurrence of the Mayor and majority of members present, be forwarded direct to Council by the City Manager.
- 22.7 Business not disposed of at a continuation meeting of the Council as a result of no quorum shall, with the concurrence of the Speaker and majority of members present, be dealt with at the next ordinary meeting of Council.

## **CHAPTER 8**

### **PROCEEDINGS**

## **23. Speaker and Chairpersons of Meetings**

- 23.1 At every meeting of the Council, the Speaker, or if he or she is absent, an Acting Speaker, will be the Chairperson and will 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 the Code of Conduct.
- 23.2 The Speaker and Chairpersons of Council Committees must:
- (a) maintain order during meetings;
  - (b) ensure compliance with the Code of Conduct for Councillors; and
  - (c) ensure that meetings are conducted in accordance with these Rules.
- 23.3 If the Speaker or Chairperson of Committee is absent or not available to perform the functions of Speaker or Chairperson, or during a vacancy, Council or Committee under the direction of the City Manager or Deputy City Manager must elect another Councillor to act as Speaker or Chairperson as the case may be.
- 23.4 No meeting of Council or a Committee of Council may commence or continue unless a Speaker or Chairperson presides at a meeting.

## **24. Business Limited by Notice of Meeting**

With the exception of an urgent report of Council or Executive Committee, no business which is not specified in the notice of the meeting, shall be transacted at that meeting

## **25. Order of Business of Ordinary Meeting**

- 25.1 The Order of Business of meetings of Council shall be as follows:

<b>Council</b>	
1.	Opening: Moment of reflection
2.	Notice of the meeting
3.	Granted leave of absence
4.	Declaration of Interest
5.	Official Announcements
6.	Deputations
7.	Confirmation of minutes from the previous meeting
8.	Reports of EXCO, under the sections: recommendations to Council, decisions under delegated authority of the Executive Committee
9.	Reports direct to Council
10.	Reports from Municipal Public Accounts Committee
11.	Report from the Audit Committee
12.	Notice of Motion
13.	Questions of which Notice has been given

- 25.2 The Order of Business of meetings of the Executive Committee shall be as follows:

<b>Executive Committee</b>	
1.	Opening: Moment of reflection
2.	Notice of the meeting
3.	Granted leave of absence
4.	Declaration of Interest
5.	Official Announcements
6.	Presentations

7.	Confirmation of minutes from the previous meeting
8.	Reports from Portfolio Committees
9.	Reports direct to EXCO
10.	Report from the Audit Committee

25.3 The Order of Business of meetings of Committees shall be as follows:

<b>Other Committees</b>	
1.	Opening: Moment of reflection
2.	Notice of the meeting
3.	Granted leave of absence
4.	Declaration of Interest
5.	Official Announcements
6.	Presentations
7.	Confirmation of minutes from the previous meeting
8.	Reports for consideration

25.4 The Speaker or Chairperson may in his or her discretion, change the order of any business which is on the agenda.

## **26. Reports to Committees**

A report by a Deputy City Manager shall be submitted to the City Manager who may in turn submit it to the relevant Committee. Provided that the City Manager shall submit a report when this is required by the Council or Executive Committee or has to be considered in terms of any law.

A Deputy City Manager, or his or her representative, at any Committee meeting shall be entitled to express the views of his or her Department on any relevant matter under consideration and where any such matter requires the decision of the Council, the Deputy City Manager shall be entitled to request the City Manager to ensure that his or her views are made known to the Council.

## **27. Reports of the Executive Committee**

A report submitted by the Executive Committee in terms of Section 44(4) of the Local Government: Municipal Structures Act, 1998 (as amended) shall contain, despite the number of volumes comprising the agenda or the order in which matters appear in the report or the dates on which such functions have been exercised by the Executive Committee;

- (a) the matters in respect of which the Executive Committee does not have delegated authority and on which recommendations have been made, and thereafter
- (b) the matters which have been delegated to the Executive Committee and which are submitted for noting only.

## **28. Submission of Report of the Executive Committee**

28.1 The Chairperson of the Executive Committee (or a member called upon by him or her to do so), shall submit a report of the Executive Committee to a meeting of Council in respect of a matter where the Executive Committee has no Delegated Powers, by proposing "*That the report be considered*" which proposal shall be seconded.

28.2 When the report of the Executive Committee is being considered, the Speaker (or the person acting in his or her stead) shall put the recommendations in that part of the report

in respect of which the Executive Committee has no Delegated Powers, seriatim, unless for a good cause he/she sees fit to amend their order.

- 28.3 The recommendations in the report of the Executive Committee as mentioned in Rule 28.2 shall be deemed to have been proposed and seconded.
- 28.4 When a recommendation contemplated in Rule 28.2 has been adopted, such recommendation shall become a resolution of the Council.
- 28.5 After the matters in respect of which the Executive Committee has no Delegated Powers have been dealt with, the Speaker shall permit debate of the matters delegated to the Executive Committee, provided that -
- (a) a member, except the Chairperson of the Executive Committee, shall not speak on such matters for longer than 5 minutes;
  - (b) during such debate a member may request that his opposition to a resolution in respect of which the Executive Committee has delegated powers, and his or her reason therefore, be minuted, after which the City Manager or Deputy City Manager: Corporate Services shall minute or cause to be minuted such opposition and reason.
- 28.6 The Chairperson of the Executive Committee (or a member as contemplated in Rule 28.1) may -
- (a) with the consent of the majority of the members of the Executive Committee present, which shall be granted or refused, withdraw any item;
  - (b) subject to the provisions of Rule 50, amend any item with the consent of all the members of the Executive Committee present and of the majority of the members present, which shall be granted or refused.
- 28.7 If the Chairperson of the Executive Committee (or a member contemplated in Rule 28.1) takes part in the debate concerning any item in the agenda, he or she shall, subject to the proviso in Rule 41.1, close the debate on such item: Provided that the Chairperson or member concerned may nominate another member of the Executive Committee who, in his/her opinion, is more conversant with the item which is being debated, to close the debate on his/her behalf, irrespective of whether such member has previously taken part in the debate on that item, in which case the provisions of Rule 41.2 pertaining to the Chairperson of the Executive Committee, shall also apply to such member.

## **29. Consideration of the Budget**

Notwithstanding anything to the contrary contained in these Rules, the following provisions shall apply when the Budget is considered by the Council:

- (a) A proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council shall be put to the vote after debate; and
- (b) Once all the amendments have been dealt with, and if any proposal contemplated in Rule 29(a) has been accepted, the Budget shall be deemed to have been amended by the proposal thus accepted.

## **30. Participation in Discussion at Meetings**

Any person requested or permitted by the Chairperson to attend a meeting may, subject to the permission of the Chairperson (who shall have the sole discretion in this regard), speak at such meeting.

### **31. In-Committee Meetings**

- 31.1 Notwithstanding anything to the contrary contained in these Rules, a member may before an item on the agenda is called, move that the Council or Committee resolve to go into Committee for the consideration of that item;
- 31.2 Notwithstanding anything to the contrary contained in these Rules, only the member moving a Motion in terms of Rule 31.1 may speak on such Motion and shall restrict his or her speech to the reasons why the Council or Committee should resolve to go into Committee or discuss the matter in Open Council or Committee, as the case may be
- 31.3 At the conclusion of consideration of items In-Committee, Council or Committee shall revert to Open Council or Committees and when resuming Open Council or Committee, the action of Council or Committee whilst In-Committee shall be formally confirmed.
- 31.4 When the Council or Committee resolves to go into Committee, all members of the public and Council officials except those officials that would be deemed necessary to remain, shall leave the Council Chamber or virtual platform and shall not return for the duration of the proceedings In-Committee.
- 31.5 The Speaker or Chairperson may direct an official to remove or cause to be removed any person who remains in the Council Chamber or virtual platform in contravention of Rule 31.4 or take steps to prevent the entry of any person into such chamber or platform in contravention of the Subsection.

### **32. Questions**

- 32.1 A member may at a meeting put a question on a matter arising out of or connected with any item of the agenda of Council or Committee when such item has been called or during discussion thereon;
- 32.2 If, after his question has been replied to, a member is of the opinion that the reply to his or her question is not clear, he may with the consent of the Chairperson request elucidation thereof, but no additional questions shall be put without the consent of the Chairperson; and
- 32.3 The decision of the Chairperson as to whether a member has asked a question in terms of Rule 32.1 or has spoken in terms of Rule 42 and /or as to whether the question is out of order or not clearly put and therefore rejected by him, is final and cannot be further discussed.

### **33. Questions on Municipal Performance**

- 33.1 Any Councillor may submit a question concerning any matter related to the effective performance or administration of the Municipality's functions and the exercise of its powers, in order to solicit intentions, explanations or information. Such item must not violate item 11(a) of the Code of Conduct.
- 33.2 In terms of item 11 of the Code of Conduct, a Councillor may not, except as provided by law or except when requesting the City Manager to report any matter, or to ask the Committee concerned to institute an enquiry into or otherwise deal with any matters of Council which he deems require attention:



- (a) interfere in the management or administration of any department of the Municipal Council unless mandated by Council;
  - (b) give or purport to give any instruction to any employee of the Council except when authorised to do so;
  - (c) obstruct or attempt to obstruct the implementation of any decision of the Council or a committee by an employee of the Council; or
  - (d) encourage or participate in any conduct which would cause or contribute to maladministration in the Council.
- 33.3 A question to solicit information, including information which may be obtained through the Access to Information Act and other legislation, must be directed to the office of the City Manager or Speaker.
- 33.4 A Councillor must ensure that questions submitted in terms of this rule are submitted to the Office of the Speaker or Chairperson at least 10 days before the date of the next meeting.
- 33.5 The Speaker or Chairperson must ensure that the questions are included in the agenda of the next Council Meeting or Committee Meeting.
- 33.6 The Speaker must decide, after consultation with the Authorised Representatives, on the amount of time to be allocated to questions at each meeting.
- 33.7 A Councillor may submit only one question at any meeting.
- 33.8 Where questions are submitted to Council in terms of this rule, the Speaker must forward a copy of every question to the Chairperson of the relevant Committee and the City Manager who must ensure that a response is given at the next Council meeting.
- 33.9 Where questions are submitted to a Committee in terms of this rule, the Chairperson must forward a copy of every question to the relevant Deputy City Manager who must ensure that a response is given at the next Committee meeting. A response must be given by the relevant Deputy City Manager, Head of Section or nominated official.
- 33.10 If questions submitted in terms of sub-rules 33.1 and 33.3 have not been replied to at the next meeting, the minutes of the meeting must record these questions and that no reply was provided.
- 33.11 A Councillor who, after their question has been replied to, is of the opinion that the reply to the question is not clear, must request elucidation thereof with the consent of the Speaker or Chairperson.
- 33.12 If the Speaker consents to a question for elucidation being put, the Chairperson of the relevant Committee or any Member of the Committee must reply to the question at the meeting or at the next ordinary meeting.
- 33.13 If the Chairperson in a Committee Meeting consents to a question for elucidation being put, the relevant Deputy City Manager or nominated official must reply to the question at the meeting or at the next ordinary meeting.

- 33.14 The Speaker must disallow a question if the Speaker is of the opinion that the question is out of order, is not put clearly, is irrelevant or which has not been submitted in accordance with the provisions of these Rules.
- 33.15 A Councillor who has submitted a question in terms of Rules 33.1 and 33.3 and who has received no response from the City Manager within 14 days, must bring the question before the Council.
- 33.16 A Councillor may take charge of a question on behalf of an absent Councillor, provided that the absent Councillor has authorised that Councillor to do so in writing.
- 33.17 Questions that have not been reached at the end of the time allocated for questions must be regarded as standing over.
- 33.18 A question may not stand over more than once.
- 33.19 A Councillor may not re-submit a question or a similar motion to any question which has been considered by Council or a committee during the previous 3 months.
- 33.20 All questions must be submitted on the official Council letterhead.

#### **34. Petitions**

- 34.1 A petition may be submitted by a member and he or she shall divulge the content or the title thereof when it is submitted.
- 34.2 A petition as contemplated in Rule 34.1 shall be referred to the Executive Committee for report to the Council.

#### **35. Deputations**

- 35.1 A Deputation desiring an interview with Council or the Executive Committee or any other Committee of Council shall submit a memorandum to the City Manager or Deputy City Manager: Corporate Services in which is set out the representations it wishes to make.
- 35.2 The City Manager or Deputy City Manager: Corporate Services shall submit the memorandum contemplated in Rule 35.1 to the relevant Committee which may receive the Deputation and deal with the matter raised in the memorandum if the necessary powers have been delegated to it.
- 35.3 A Deputation shall not exceed three (3) persons in number and at an interview contemplated in this clause, only one person shall speak on behalf of the Deputation, (except when a member puts a question in which case any person forming part of the Deputation, may reply to such question) and only for a period not exceeding 20 minutes, provided that the Speaker or Chairperson may allow a further period not exceeding 10 minutes.
- 35.4 The matter shall not be further considered until the Deputation has departed.

#### **36. Approval of Minutes of Council and its Committees**

- 36.1 If a copy of the Minutes of a meeting has been served on every member in the manner as provided in Rule 9 of these Rules, the Minutes shall be taken as read with a view to confirmation with or without amendment and signed by the Chairperson on the last page thereof and every amendment shall be initialled by him or her.

- 36.2 No motion, proposal or discussion shall be allowed upon the minutes, except as to their accuracy.
- 36.3 The Minutes in relation to any item considered by the Council-in-Committee, shall be kept separately from other Minutes of the Council, and approved as such.
- 36.4 The City Manager must ensure that:
- (a) the proceedings of every Council and its Committees are accurately and electronically recorded to reflect the Resolutions adopted at such meetings; and
  - (b) such records are retained in accordance with the Archives and Record and Services of South Africa Act 43 of 1996 and are kept for a minimum of 5 years.
- 36.5 Where the City 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.
- 36.6 The approved minutes of every meeting of a Council or Committee other than In-Committee meetings must be available to the public.
- 36.7 The minutes of the Council must be printed and supplied to Councillors after having been perused by the Speaker or Chairperson.
- 36.8 The City Manager must ensure that the names of the Councillors who -
- (a) attend any meeting;
  - (b) are absent from any meeting; and
  - (c) have been granted leave of absence from any meeting, are recorded in the minutes.
- 36.9 The City Manager must ensure that the minutes reflect the names of Councillors who requested that their dissent, abstention or support be recorded during voting, are recorded in the minutes.
- 36.10 The City Manager shall have custody of all records and other papers of Council and must neither remove nor permit such records to be removed without the leave of the Speaker.

## **CHAPTER 9**

### **MANAGEMENT OF DEBATE**

#### **37. Allocation of Time for Debate**

- 37.1 All parties represented in Council have a right to speak on each item on the agenda relative to their representation in Council.

- 37.2 The Speaker may allow a political party to give their allocated time to another political party on any item, provided that such arrangements are made with the Speaker before the commencement of the Council meeting.
- 37.3 At least 48 hours prior to a meeting of Council, the Authorised Party Representatives, after discussion with the Whip of Council, must provide to the City Manager a list showing:
- (a) items on the agenda for that meeting which will be debated;
  - (b) the suggested total time to be allocated to the debate of each item, bearing in mind that the cut-off time for the Council meeting **will be 17:00** . This does not limit the discretion of the Speaker to extend or limit the time allocated for debate on each item on the agenda, or to extend the closing time of the Council meeting, should circumstances so require; and
  - (c) the names and time for debate to be allocated to each political party that wishes to debate a particular item, as agreed to by the authorised party representative, having due regard to the number of seats held by each party in Council. In the absence of agreement, the Speaker will determine the times allocated to the respective parties
  - (d) Unless there are exceptional cases, changes to the list of speakers, must be submitted to the Speaker prior to the commencement of the Council meeting.
  - (e) Should it be necessary to effect minor changes to the list of speakers during the Council meeting, such changes must be submitted by the relevant Party Whip(s) to the Chief Whip of Council who will submit such changes to the Speaker, provided that no minor changes will be allowed by the Speaker if submitted less than 2 hours before the Council meeting begins
- 37.4 All parties, subject to the number of seats may have a maximum time allocation of five (5) minute to debate on every item which is subject to debate.
- 37.5 Each party must examine the list drawn up in terms of Rule 37.3 and deliver to the City Manager, at least 24 hours before a Council meeting, a list of its Members who will speak on an item and the time allocated to each Member, provided that the total time allocated to all such Members of a party, must not exceed the time allocated to that party in terms of Rule 37.3(c) above.
- 37.6 The Speaker on receipt of a list referred to in Rule 37.3 may:
- (a) if he/she wishes to deviate from the provisions of those lists, convey his decision in this regard to the relevant Whips within a reasonable time prior to the Council meeting.
  - (b) The Speaker shall in such instance restrict or extend the time allocated in a manner which is fair to all parties and shall, to the extent possible, give advance warning of such intention and of the extent thereof.
- 37.7 All matters before the Council not listed in Rule 37.3 must individually be put to the meeting for adoption without debate, before the matters listed in Rule 37.3 are considered.

- 37.8 Where a report is tabled, the Speaker must note the Councillors who wish to speak on the item from the floor, subject to Rule 37.4.
- 37.9 At the discretion of the Speaker, he/she may allow 5 minutes of response to the Mayor, or the chairperson a committee, the mover of a motion, to conclude the debate on an item debated in terms of Rule 37.3.
- 37.10 All parties represented in Council have a right to speak on each item on the agenda relative to their representation in Council provided speaking time arrangements have been agreed to by the Whip of Council, subject to 37.3.
- 37.11 Notwithstanding anything contained in Rules 37.1 to 37.10 the Speaker may not, when exercising any discretion in terms of these Rules, prejudice any party in respect of time allocated in relation to any party.
- 37.12 The Speaker's ruling after exercising his/her discretion in this regard shall be final.

### **38. Rules of Debate**

- 38.1 In any debate, the Speaker must call a Councillor to speak in accordance with the list referred to in Rule 37.3.
- 38.2 A Councillor may speak only when so directed by the Speaker.
- 38.3 Other than the delivery of a Mayoral Report or the presentation of the estimates of income and expenditure, no speech will exceed five (5) minutes in length without the consent of the Speaker or Chairperson.
- 38.4 Where a report is tabled, a Councillor must indicate their desire to speak by raising a hand, switch on the camera or click the hand button and await the direction of the Speaker.
- 38.5 A Councillor who speaks must confine and or restrict their speech strictly to the matter under discussion or consideration.
- 38.6 Whenever the Speaker rises during a debate, any Councillor then speaking, and all persons present in the Council Chamber must remain silent so that the Speaker may be heard without interruption.
- 38.7 The mover of an original motion may reply to previous speeches in accordance with Rule 37.8, but may not introduce any new matter into the debate.

### **39. Opportunity to speak**

- 39.1 A Councillor may only speak when so directed by the Speaker or Chairperson.
- 39.2 A Councillor may indicate a desire to speak by raising his hand, switching on the camera or click the hand button and await the direction of the Speaker or Chairperson, which direction must not be withheld.
- 39.3 Councillors and officials must direct their address to the Speaker or Chairperson.

### **40. Precedence of Chairman**

Whenever the Speaker or Chairperson speaks, any member then speaking or offering to speak are to be silent so that the Speaker or the Chairperson may be heard without interruption.

**41. Length of Speeches**

- 41.1 Subject to the provisions of Rules 28, 53, 46 and 75, a member may speak for no longer than five (5) minutes on a Motion or proposal: Provided that the Speaker or Chairperson may permit a speech to be continued for a further period or periods of five (5) minutes.
- 41.2 The Speaker or Chairperson may waive the provisions of Rule 41.1 in regard to a statement made with the consent of the Council by the Chairperson of the Executive Committee or a member of the Executive Committee, in relation to any matter arising from a report of the Executive Committee.
- 41.3 A member shall not read his speech but may refresh his or her memory by referring to notes.
- 41.4 The provisions of this Rule shall not apply to a member delivering the Mayoral report or in the presentation of the estimates of income and expenditure.

**42. Member to speak only once**

- 42.1 Subject to provisions to the contrary in these Rules contained, no member shall speak more than once on any Motion or proposal: Provided that the Speaker or Chairperson may allow a member to speak more than once:
  - (a) should he or she deem it necessary; and
  - (b) provided further that the mover of an amendment may reply in concluding the debate, but shall confine himself or herself to answering to previous speakers and shall not introduce any new matter into the debate.
- 42.2 The Speaker may permit the Chairperson of the Executive Committee or a member who made a proposal to make an explanatory statement prior to consideration of any particular item contained in the report of the Executive Committee or during discussion of such report, in reply to a specific question.

#### **43. Relevance**

A member who speaks shall confine his or her speech strictly to the matter under discussion or to an explanation or a Point of Order and no discussion shall be permitted:

- (a) which will anticipate any matter on the agenda; or
- (b) in respect of any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of inquiry, whether instituted in terms of legislation or not, is pending.

#### **44. Irrelevance, Tedious Repetition, Unbecoming Language and Breach of Order**

44.1 The Speaker or Chairperson shall:

- (a) call the attention of the members to irrelevance, tedious repetition, unbecoming language, misconduct, unseemly behaviour, persistent obstruction of business and unnecessary challenging of the Ruling of the Speaker or Chairperson or any Breach of Order on the part of a member; and
- (b) direct such member, if speaking, to discontinue his speech or, in the event of persistent disregard of the authority of the Chair, to retire from the meeting.

44.2 The Speaker or Chairperson shall direct a member to apologise or withdraw an allegation if it is unbecoming or injures or impairs the dignity or honour of a member or official of the Council.

#### **45. Point of Order and Personal Explanation/Point of Clarity**

45.1 For the purpose of this Rule:

- (a) a point of order means any deviation of, or anything contrary to these Rules;
- (b) a point of order may be raised at any stage of the meeting proceedings, except during the Mayoral Address, when the Speaker is ascertaining the presence of a quorum or during voting;
- (c) the member raising a point of order must state the particular Rule, Bylaw or any other law that is alleged to have been breached or deviated from;
- (d) any point of order shall not constitute a speech and therefore not affect the right of any member to speak on a particular item, provided that a member who addresses the Speaker on a point of order shall not be permitted to address the Speaker for longer than 2 minutes on such point of order;
- (e) any member, whether he/she addressed the Council on the matter under debate or not, may raise his/her hand to a point of order.
- (f) a member contemplated in Rule 45.1 (d), shall be entitled to be heard forthwith, and the member speaking at the time shall remain silent and be seated, until a ruling has been made by the Speaker.
- (g) the ruling of the Speaker on a point of order shall be final and shall not be open to discussion.
- (h) no point of order shall be raised against the Speaker or a Committee chairperson.

45.2 For the purpose of this Rule:

- (a) A point of clarity means an explanation of some material part of a member's speech which has not been understood or which contains incorrect assertions during the course of the debate but not once the debate has closed.
- (b) Any point of clarity shall not constitute a speech and therefore not affect the right of any member to speak on a particular item, provided that a member who addresses the Speaker on a point of clarity shall not be permitted to address the Speaker for longer than 1 minute on such point of clarity;
- (c) Any member, whether he/she addressed the Council on the matter under debate or not, may rise/raise his/her hand on a point of clarity at the end of the debate.
- (d) A member contemplated in Rule 45.2(c), shall be entitled to be heard forthwith, and the member speaking at the time shall remain silent and be seated, until a ruling has been made by the Speaker.
- (e) The ruling of the Speaker on the admissibility of a point of clarity shall be final and shall not be open to discussion.

#### **46. Maintenance of Order**

46.1 Members may not engage in disorderly conduct in the Chamber and Council's meeting places, including:

- (a) creating disorder or disruption in the Council;
- (b) in any manner whatsoever physically intervening, preventing, obstructing or hindering the removal of a member from the Chamber who has been ordered to leave the Chamber;
- (c) undermining the authority of the Speaker or refusing to obey rulings of the Speaker and interrupting the Speaker while the latter is addressing the Council;
- (d) making allegations against a member without adequate substantiation or following the correct procedure;
- (e) using or threatening violence against a member or other person; or
- (f) acting in any other way to the detriment of the dignity, decorum or orderly procedure of the Council.

46.2 The Speaker may, at any time during a meeting, if he/she deems it necessary for the maintenance of order, request the City Manager to direct a peace officer(s) to remove or cause the removal of any person(s), including a member(s), from the meeting place, or order that the public gallery be vacated.

#### **47. Motions**

47.1 Subject to the provisions of any other law -

- (a) every notice of Motion shall be in writing and such notice shall be signed by the member submitting it and also by another member acting as seconder;



- (b) a Motion shall be given to the Deputy City Manager: Corporate Services who shall enter it in a register kept for that purpose which shall be open to inspection by any member;
  - (c) notice of a Motion shall not be included in the agenda for a meeting unless it is received at least 10 (ten) calendar days prior to such a meeting;
  - (d) a Motion shall lapse if the member who submitted it is not present at the meeting when such motion is being debated.
- 47.2 The Deputy City Manager: Corporate Services shall acknowledge receipt of the Notice of Motion in writing.
- 47.3 Every Motion shall be relevant to the administration of or conditions in the municipality or shall deal with a matter in respect of which the Council has jurisdiction. Before any notice of Motion is placed on the agenda it shall be submitted to the Speaker or Chairperson who, if he/she be of the opinion that this is out of order, shall:
  - (a) cause the giver of the notice to be so informed; and
  - (b) direct that such notice not be placed on the agenda.
- 47.3.1 Before a Motion included in the Agenda is moved by a mover and seconded by a seconder, in the spirit of democracy, Council shall by majority rule exercised by a show of hands approve or disapprove the discussion of all motions.
- 47.4 A member submitting a Motion shall move such Motion and shall have the right of reply.
- 47.5 Every Motion as contemplated in Rule 47.1(a) shall on receipt be dated and numbered and shall be entered by the Deputy City Manager: Corporate Services upon the agenda in the order in which it is received: Provided that when a Motion in the opinion of the Deputy City Manager: Corporate Services amends another Motion, it shall be entered upon the agenda immediately after the latter Motion, irrespective of the time when notice of the Motion to amend was given.
- 47.6 No member shall have more than one (1) Motion as contemplated in Rule 47.1(a) entered upon the agenda with the exception of a deferred Motion, and no member shall move more than four (4) Motions during a Calendar Year.
- 47.7 When a member moves a Motion in terms of this Rule:
  - (a) which is intended to rescind or amend a resolution passed by the Council taken within the preceding six (6) months; and
  - (b) which has the same intent as a Motion which was rejected within the preceding six (6) months.

such Motion shall only be entered upon the agenda if the notice of such Motion is signed by no fewer than seven (7) of the members in addition to the member who proposed the Motion.
- 47.8 Revocation or alteration of any resolution of the Council within the period of 12 (twelve) months commencing on the day on which such resolution is taken shall be valid if determined and decided upon by a majority of the Councillors present at the meeting at which such revocation or alteration is proposed.

- 47.9 No member shall propose a Motion similar to one which was dealt with in terms of the provisions of Rule 47.7 before a period of six months after it has been dealt with has elapsed.
- 47.10 Notwithstanding the provisions of Rules 47.7 and 47.9, Council may at any time, following a recommendation by the Executive Committee, rescind or amend any resolution passed by it.
- 47.11 In dealing with Motions -
- (a) the Speaker or Chairperson shall read out the number of every Motion and the name of the mover and seconder;
  - (b) the Speaker or Chairperson shall ascertain which Motions are unopposed and these shall be passed without debate; and
  - (c) thereafter the Speaker or Chairperson shall call the opposed Motions seriatim.

#### **48. Urgent Motions**

- 48.1 A Councillor may move an application on an urgent basis provided that:
- (a) a notice of motion is handed to the City Manager at least 24 hours before the scheduled meeting; and
  - (b) a motivation for the urgency is attached to the notice of motion.
- 48.2 The Speaker, after consulting with the Authorised Representatives, must make a ruling on whether the motion should be tabled before Council. The ruling of the Speaker shall be final.
- 48.3 Notwithstanding the provisions of Rule 48.1, a Councillor may request the Speaker to place an urgent motion which is in the public interest on the agenda at least an hour prior to a Council meeting.
- 48.4 The Speaker must make a final decision to table the urgent motion referred to in Rule 48.3 after considering the motivation. The ruling of the Speaker shall be final.

#### **48.5 Urgent Matters**

- (a) No business shall be transacted at a meeting of the council or any committee other than that specified in the agenda relating thereto, except any matters which the relevant chairperson or Speaker considers urgent and the said chairperson has ruled the matter to be urgent.
- (b) The City Manager may, in his/her discretion, raise any urgent matter for decision by Council. A matter is urgent when the decision required, if delayed, could prejudice Council, or its operations, or threatens the general well-being and safety of the public.
- (c) The Speaker must determine an appropriate time during Council's deliberations when the City Manager may raise urgent matters, and the Speaker must determine the period of time available for discussion of any urgent matter.

#### **49. Disallowed Motions or Proposals**

The Speaker or Chairperson shall reject a Motion or proposal which:

- (a) may lead to the discussion of a matter already dealt with in the agenda;
- (b) deals with a matter which has no bearing on the administration of the Municipality;
- (c) is longer than 150 words or contains unnecessary, factually incorrect, incriminating, disparaging or improper suggestions;
- (d) deals with a matter in respect of which the Council has no jurisdiction;
- (e) deals with a matter in respect of which a decision by a judicial or quasi-judicial body is pending;
- (f) has not been duly seconded;
- (g) if passed, would be contrary to these Rules or any other law or is impractical to perform;
- (h) concerns a matter in respect of which there is an official investigation and such discussion may compromise the investigation;
- (i) concerns an item which is already under discussion in a committee;
- (j) is not moved in accordance with these rules; or
- (k) which, if passed, would be contrary to the provisions of these Rules or of any other law, or would be impractical: Provided that if such motion or proposal in the opinion of the Council justifies further investigation, it shall be referred to the Executive Committee.
- (l) motions dealt with 6 months prior

#### **50. Withdrawal of Motions or Proposals**

- 50.1 A Motion or proposal may be withdrawn or amended by the mover with the consent of the Council, which shall be given or refused.
- 50.2 Once consent for the withdrawal of a Motion or proposal has been granted, no member shall speak upon such Motion or proposal.
- 50.3 Once consent for the withdrawal of a Motion or proposal has been refused, a member may speak upon such Motion or proposal.

#### **51. Motion or Proposal Affecting Budget**

A Motion or proposal which is designed to increase or decrease the approved Budget of Council, shall not be adopted before the Executive Committee has reported thereon to Council: Provided that such a report by the Executive Committee may be dispensed with if the Chairperson of the Executive Committee deems such report unnecessary.

#### **52. Motion or Proposal Affecting a By-Law**

A Motion or proposal, other than a recommendation of the Executive Committee, affecting the making or amendment of a law or a by-law shall, before Council adopts a resolution thereon, be submitted to the Executive Committee for a report thereon.

### **53. Proposals which may be received**

- 53.1 Subject to the provisions of Rule 45 when a Motion or proposal is under debate at a meeting, no further proposal shall be received except the following:
- (a) that the Motion or proposal be amended;
  - (b) that the Motion or proposal be referred back to the Executive Committee for further consideration;
  - (c) that consideration of the Motion or proposal be postponed;
  - (d) that the meeting be adjourned;
  - (e) that the debate be suspended; and
  - (f) that the Motion or proposal be put to the vote.
- 53.2 A proposal in terms of Rule 53.1(a) or (b) may only be put by a member while he or she is speaking on a Motion or proposal under debate.
- 53.3 If a proposal is put in terms of Rule 53.1(a) or (b), no further proposal may be put in terms of Rule 53.1 before the mover and seconder of the Motion or proposal under debate have spoken thereon.
- 53.4 A proposal in terms of Rule 53.1(c), (d), (e) or (f) may only be put at the conclusion of a speech by a member who did not take part in the debate on the Motion or proposal under discussion.
- 53.5 Subject to the provisions of Rules 53.2 and 53.3, a member who has made a proposal in terms of Rule 53.1, may speak thereon for not more than 5 minutes but the seconder shall not be allowed to speak thereon, and there shall be no right of reply.
- 53.6 The member who submitted the Motion or proposal under debate may, when a proposal is made in terms of Rule 53.1, without forfeiting his/her right of reply if the proposal is not carried, speak on such proposal for not more than 5 minutes and the proposal shall subsequently be put to the vote.
- 53.7 A proposal in terms of Rule 53.1 shall be dealt with in terms of the provisions of Rules 47 to 53.

### **54. Amendment of a Motion or Proposal**

- 54.1 An amendment which is moved in terms of Rule 53.1(a):
- (a) shall be relevant to the Motion or proposal on which it is moved;
  - (b) shall be reduced to writing, signed by the mover and the seconder and handed to the Speaker or Chairperson; and
  - (c) shall be clearly stated to the meeting by the Speaker or Chairperson before it is put to the vote.

- 54.2 Once an amendment of a Motion or proposal has been proposed and seconded, a further amendment cannot be proposed before a decision has been made concerning the first amendment.
- 54.3 If the amendment is accepted, the amended Motion or proposal replaces the original Motion or proposal and becomes the substantive Motion or proposal in respect of which a further amendment may be proposed.
- 54.4 No member shall move more than one amendment of the same Motion or proposal.

**55. The Question to be referred back for Further Consideration**

- 55.1 A question in terms of Rule 53.1(b) shall only be submitted in respect of a recommendation by the Executive Committee which is being considered by the Council.
- 55.2 A question in terms of Rule 53.1(b) shall not be put to the vote until the Chairperson of the Executive Committee has spoken on it, and if such proposal is carried, the debate on the recommendation shall end and the Council shall proceed to the next business.

**56. Postponement of Consideration of Question**

If a Motion is carried that the consideration of a question be postponed to a specific date as contemplated in Rule 53.1(c), the Motion or proposal, if the question did not arise from a recommendation of the Executive Committee shall, subject to the provisions of Rule 58, be placed first among the motions or proposals contemplated in Rule 25.1(12), which are to be considered on the particular date, or if such a question arises from a recommendation of the Executive Committee, it shall be contained in the report of that Committee to the Council on the day in question.

**57. Adjournment of Meeting**

- 57.1 A motion for the adjournment of Council may not be moved while any item on the agenda is under consideration, but may only be moved immediately after the resolution on any item has been adopted, and before the next item on the agenda is brought under consideration
- 57.2 Where a motion to adjourn a meeting is moved, the Speaker may request the meeting to dispose of the unopposed business before adjourning.
- 57.3 No member shall at any meeting move or second more than one proposal for the adjournment of the meeting.

**58. Suspension of Debate**

- 58.1 If a proposal that the debate be suspended, as contemplated in Rule 53.1(e), is carried, the Council shall deal with the next question on the agenda and the question in respect of which the debate has been suspended shall, notwithstanding the provisions of Rule 56, be placed first on the list of motions or proposals contemplated in Rule 25.1(12), of the next meeting and the discussion thereof shall be resumed at that meeting.
- 58.2 On resumption of a suspended debate, the member who moved its suspension shall be entitled to speak first.
- 58.3 No member shall move or second more than one proposal for suspension of the same debate.

**59. Voting on the Matter**

The mover of a Motion or proposal under debate shall have the right to reply in terms of Rule 47.4 before the question is put to the vote.

**CHAPTER 10**

**VOTING**

**60. Decisions on voting**

- 60.1 A quorum must be present in order for a vote to be taken. Subject to the provisions of Rule 60.2 all decisions must be taken by a majority vote of the members present at any meeting of the Council
- 60.2 All questions concerning the following matters must be determined by a decision taken by Council with a supporting vote of a majority of the number of Councillors:
- (a) the Passing of Bylaws;
  - (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 6 months of the taking thereof; and
  - (f) any other matter prescribed by legislation.
- 60.3 All other questions before the Council must be decided by a majority of the votes cast by the Councillors present.
- 60.4 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, provided that a Speaker or Chairperson will not exercise a casting vote during the election of any Office Bearer of Council and when Council considers matters listed in Section 162 of the Constitution.

**61. Method of Voting**

- 61.1 Every seconded Motion or proposal shall be submitted to Council by the Speaker who shall:
- (a) call upon the members to indicate whether they are for or against it. If the recommendation or proposal is not opposed by any member present, the proposal or recommendation is adopted and
  - (b) In case of any uncertainty in respect of any item before Council, call upon the members to indicate by a show of hands or by resolution of a majority of the Councillors present resolves to proceed with a secret written ballot whether they are for or against it and he or she shall thereupon declare the result of the voting.
- 61.2 A Councillor may not vote on a question unless they were present when the question was put to the meeting.
- 61.3 Before any vote is taken on any matter before the Council, the Speaker shall make a declaration, after which all doors leading to the Council Chamber shall be closed and no Councillor or any other person shall be allowed to enter or leave the Council Chamber, and all Councillors must be seated while voting is in progress and no persons on a virtual platform shall be entitled to wilfully leave.
- 61.4 The City Manager or his nominee, will count the votes cast and will record the result of

voting, but the Speaker or Chairperson will announce the result.

- 61.5 The votes must be recorded and the Speaker must announce the result.
- 61.6 The number of Councillors who voted, and not the names of the Councillors who voted, must be recorded in the minutes.
- 61.7 Only after the Speaker has declared the result of the voting in terms of Rule 61.1 may a member demand:
  - (a) that his or her vote be recorded against the decision; or
  - (b) a Division, by putting such demand to the Speaker.
- 61.8 When a Division in terms of Rule 61.7(b) is demanded, the Speaker shall accede thereto and state so clearly, and no member shall leave or enter the Council Chamber until after the result of the division has been declared.
- 61.9 A Division shall take place in the manner prescribed in Rule 61.1 and the vote of each member shall be taken separately by name and recorded in the minutes by the Deputy City Manager: Corporate Services.
- 61.10 When a Division takes place in accordance with the preceding provisions, every member present, including the Speaker, shall be obliged to record his vote for or against the Motion or proposal.
- 61.11 A member demanding a division shall not leave the Council Chamber before such Division has been taken.
- 61.12 Should there be an equality of votes in respect of a proposal, except a proposal as contemplated in Rule 53, which is being voted on in terms of Rule 61.1 or 61.5 and the Speaker refuses to record his/her casting vote as contemplated in terms of Section 29.4 of the Local Government: Municipal Structures Act 1998, as amended, the matter shall be referred back to the Executive Committee for consideration.

## **62. Dissenting Votes and Abstention**

- 62.1 A Councillor may request that their dissent or abstention be recorded as evidence of how he or she voted on the motion.
- 62.2 A member may abstain from voting without leaving the Council Chamber or virtual platform.

## **63. Voting at Meetings**

- 63.1 The Chairperson shall allow the members to vote by a show of hands, switching on the camera, click the hand button or secret ballot.

## **64. Ruling of Chairperson on Procedure**

- 64.1 Subject to the provisions of Rule 64.2 a Ruling by the Chairperson as to procedure shall be final.
- 64.2 If a Ruling of the Chairperson is called in question, such Ruling shall be discussed (and revised if necessary) at the next meeting and for this purpose the Chairperson shall vacate the chair.

## **CHAPTER 11**

### **REVOCATION OF COUNCIL AND EXECUTIVE COMMITTEE RESOLUTION**

#### **65. Revocation of Council Resolution**

- (a) Approval to revoke or alter a resolution of Council may not be delegated to any person or Committee.
- (b) Prior notice of an intention to move a Motion for the revocation or alteration of a Council resolution must be given.
- (c) Any revocation or alteration of a Council resolution must be made within a period of six months as provided for in Rule 47.7(a).

#### **66. Revocation of Executive Committee Resolution**

- (a) Approval to revoke or alter a resolution of a Committee of the Council may not be delegated to any person.
- (b) Prior notice of an intention to move a Motion for the revocation or alteration of a resolution of the Executive Committee must be given.
- (c) Any revocation or alteration of a resolution of the Executive Committee must be approved by a majority of the number of the members of that Committee.



## **CHAPTER 12**

### **CONDUCT**

#### **67. Conduct at meetings**

- 67.1 During a Council or Committee meeting, Councillors and officials must:
- (a) conduct business with 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;
  - (c) at all times adhere to the Rules of the Municipality and the rule of law;
  - (d) not use offensive or objectionable language;
  - (e) not use a cellular phone during meetings; and
  - (f) not bring a firearm or any dangerous weapon into a meeting of Council or any of its Committees.
- 67.2 Whenever the Speaker or Chairperson rises during a debate, any Councillor then speaking or offering to speak must remain silent and the Speaker or Chairperson must be heard without being interrupted.
- 67.3 During a debate a Councillor may not converse with another person loud enough to disrupt proceedings.
- 67.4 Other than the Speaker or Chairperson, a Councillor may not interrupt another Councillor while speaking, except to call attention to a Point of Order or explanation.
- 67.5 Any person who attends any meeting of the Council must be dressed in an appropriate manner to uphold the dignity of the Council. The recommended dress code for Councillors must be business or traditional attire or such attire as approved in the Municipality's Dress Code Policy from time to time.

#### **68. Member privileges**

- 68.1 The privileges of a Councillor include:
- (a) the privilege of freedom of speech in a Council or Committee meeting; and
  - (b) any other privileges or immunities conferred by section 28 of Act or the Constitution.
- 68.2 Councillors are not liable to civil or criminal proceedings, arrest, imprisonment or damages for anything -
- (a) they have said in, produced before or submitted to Council or any of its committees; or
  - (b) revealed as a result of anything they have said in, produced before or submitted to the Council or any of its committees.
- 68.3 The exercise of the privilege of freedom of speech is protected, but must be exercised in accordance with these Rules.

**69 Misconduct and Disorderly Conduct of a Councillor or Persons other than Councillors**

- 69.1 The Speaker or Chairperson, after having called attention to the conduct of a Councillor who persists in irrelevant or repetition of arguments, must direct such Councillor to conduct themselves properly, or if speaking, to discontinue that speech and resume their seat.
- 69.2 The Speaker or Chairperson may order a Councillor to withdraw and apologise for any word, statement, opinion or gesture made by that Councillor.
- 69.3 If the Speaker or Chairperson is of the opinion that a Councillor is -
- (a) deliberately contravening a provision of this Rule;
  - (b) in contempt of or is disregarding the authority of the Speaker or Chairperson;
  - (c) challenging the ruling of the Speaker or Chairperson on a Point of Order;
  - (d) declining to withdraw any expression when required to do so by the Speaker or Chairperson; or
  - (e) behaving in a grossly disorderly manner,
- the Speaker or Chairperson must order the Councillor to withdraw from the meeting for the remainder of the meeting or cause the Councillor to be ejected from the meeting or be muted.
- 69.4 Where a Councillor refuses to retire from a meeting or in the event of more than one Councillor having to be ejected from the meeting, and such Councillor/s refuse/s to leave the meeting, the Speaker shall request the City Manager to direct a designated peace officer to facilitate the removal of such Councillor/s from the Council Chamber. If this cannot be done orderly, the Chairperson of a meeting may:
- (a) adjourn proceedings for a period not exceeding 10 minutes, in order for the relevant Councillors to retire or to be ejected from the venue of the meeting.
  - (b) If, at the resumption of proceedings, the Councillor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation.
  - (c) The Chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any Councillor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue.
  - (d) Instruct the City Manager to direct a designated peace officer to ensure that such Councillor/s do/es not enter such an alternative venue or Authorised IT Official to ensure that they are prevented from entering a virtual platform.
- 69.5 Any adjourned meeting shall be dealt with as a Continuation meeting in terms of Rule 22.
- 69.6 Any person, other than a Councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the Council or any Committee at any meeting shall, if the Speaker or Chairperson so directs:
- (a) be removed from the Chamber or the venue where the meeting is being held; and
  - (b) If the person refuses to leave, the designated Peace Officer will be responsible to remove such person from the meeting. The Chairperson may exclude such

person from further admittance to the Council Chamber or the meeting venue for such period as it may be deemed fit.

**70. Removal, Exclusion or Suspension of Member**

- 70.1 If a member refuses to comply with a direction in terms of Rule 69 the Speaker or Chairperson may direct an official to remove the member or to cause his or her removal and to take steps to prevent his/her return to the meeting.
- 70.2 The Speaker or Chairperson may request or order the removal of any person who -
- (a) refuses to carry out any reasonable instruction given by the Speaker or Chairperson; or
  - (b) refuses to apologise or withdraw an allegation, if it is unbecoming or injures or impairs the dignity or honor of a member or official of the Council; or
  - (c) willfully and persistently obstructs the business at any meeting
- 70.3 The Council may exclude or suspend from meetings of the Council for such period as it may determine, a member referred to Rule 70.2. Provided that such suspension or exclusion shall not equal or exceed such period as would result in the vacation of such member's office in terms of Section 5(2) of the Code of Conduct for Councillors.
- 70.4 Such member shall recuse himself or herself from the meeting and leave the Council Chamber or virtual platform during the consideration by the Council of his/her suspension and the period thereof. During the whole of the period of suspension of a member in terms of this Rule, such member shall not perform any of the duties or functions of a member of the Council (including attendance as a member at meetings of the Council or any of its Committees), nor shall he or she receive payment of any allowance or the like normally payable to him/her as a member.
- 70.5 A member of the Council who has been ejected or ordered to retire from the meeting may submit to the Speaker a written expression of regret, and if the Speaker approves such expression of regret, he or she may discharge the ejection and permit the member to take his or her seat, and the Speaker shall inform Council accordingly.

**CHAPTER 13**

**BREACH AND SANCTIONS**

**71. Penalty Clause**

Any person who contravenes or fails to comply with any provisions of these Rules shall be guilty of misconduct and liable to be referred to the Rules and Disciplinary Committee.

**CHAPTER 14**

**MISCELLANEOUS PROVISIONS**

**72. Delegation of Powers during Recess and Emergencies**

- 72.1 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 Deputy City Manager concerned, 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 City Manager, in consulting with the Mayor, Deputy Mayor, Speaker, Authorised Representative of Council and party Authorised Representatives; 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 City Manager.

72.2 The power conferred upon the Chairperson and the City Manager in terms of Rule 72.1 may include the power to incur expenditure, provided that the Deputy City Manager: Financial Service or his nominee in the Financial Services Department certifies in writing that provision has been made for the expenditure in the current budget. If 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.

72.3 Notwithstanding the provisions of Rules 72.1 and 72.2, no expenditure may be incurred on the capital account, unless approved by the Mayor in his capacity as Chairperson of EXCO.

72.4 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.

### **73. Access to Information**

73.1 The City Manager may on application by -

- (a) any registered newspaper; or
- (b) interested person or entity,

Supply confirmed copies of Council minutes, official agenda and confirmed minutes of all Committees subject to the provisions of the Access to Information Act.

73.2 Subject to Rule 73.1, a person 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.

73.3 Any Councillor who publishes or discloses or causes any record of the Council or the proceedings of a Committee to be published or disclosed when that meeting was closed to the public, shall be guilty of misconduct and shall be dealt with in terms of Council disciplinary processes.

73.4 A Councillor may approach or communicate with a City Manager or nominated official in order to obtain such information as he or she may reasonably require for the proper performance of his or her duties which information must:

- (a) be relevant to any matter on an agenda of the Council or its Committees concerning the business of the municipality;

- (b) be relevant to any matter within the Terms of Reference of a Committee or any other law; or
  - (c) reasonably be required by him or her for performance of a duty imposed on him or her in terms of a resolution of Council or its Committee or any other applicable law.
- 73.5 A Councillor may not approach or communicate with a City Manager or nominated official in order to obtain information:
- (a) relating to a situation where a Councillor or their spouse, partner or business associate has a direct or indirect personal or private business interest which may be in conflict with the provisions of the Code of Conduct;
  - (b) which would require the City Manager or a nominated official to act unlawfully;
  - (c) which disclosure would defeat or be likely to defeat any privilege under any law entitling the Municipality not to disclose the information sought; or
  - (d) where it is in the opinion of the City Manager or nominated official that the information sought is of -
    - (i) confidential nature, unless the release of the information has been authorised by the relevant Committee and which Committee must before reaching a decision, afford a hearing to the Councillor seeking such release of information; or
    - (ii) such a nature that it would involve extensive research by officials, unless the relevant Committee has authorised such research and release of information.
- 73.6 A Councillor shall not inspect Departmental records or premises except by arrangement with the City Manager;
- 73.7 A City Manager must compile a list of officials that a Councillor may approach or communicate with for the purposes of obtaining information in Rules 73.4 and 73.6.

#### **74. Report on Implementation of Council Decisions**

The City Manager must at the end of the first six (6) months of a term of office of and at six (6) month intervals thereafter, submit to the Council a report on the implementation of each Resolution of Council.

#### **75. Exclusion of Members Publishing or Disclosing Documents**

- 75.1 Any member who publishes or discloses or causes to be published or disclosed any document or record of the Council or the proceedings of any Committee of the Council relating to any purchase or expropriation of land or other property by the Council, or any legal or Arbitration proceedings in which the Council is concerned, or the agenda or minutes or document or records, or any part thereof, of the Council In-Committee or of the Executive Committee or another Committee of the Council when In-Committee, or any matter the publication or disclosure of which would or might be prejudicial to the interests of the Council, shall be guilty of an offence.
- 75.2 Council may exclude for such period as it may determine, any member who in its opinion is guilty of an offence in terms of Rule 75.1. Provided that such exclusion shall not equal

or exceed such period as would result in the vacation of such member's office in terms of Section 4(2) of the Code of Conduct for Councillors.

- 75.3 If a member attends a meeting in contravention of a decision in terms of Rule 75.2 to exclude such member, the Speaker / Chairperson may call upon an official to remove such member and to take steps to ensure that such member does not return to the meeting.

## **76. City Manager**

The City Manager shall exercise all functions imposed by law or proclamation upon him or her or in terms of powers delegated to him or her. He or she shall be the Chief Administrative, Executive (in so far as delegated) and Accounting Officer of Council and shall be responsible for the proper conduct of the Council's business. He or she shall see that it is carried out with order and regularity in accordance with what is prescribed by law, the Rules of Council and its Committees or any regulations of the Council and the Terms of Reference to the various Committees. He or she shall cause to be reflected in the minutes of the meetings of each Committee every decision arrived at or instruction given by such Committee and shall supply information relating to municipal work which may be applied for by members.

## **77. Authority of Individual Members**

- 77.1 Individual members shall not have any executive power and cannot give instructions to officials or make any decisions binding on anyone else in regard to Council matters; subject to the right to request the City Manager to report on any matter, or to ask the Committee concerned to institute an enquiry into or otherwise deal with any aspect of matters of the Council which he/she feels requires attention.
- 77.2 A member or group of members shall not have official dealings or discussions with outside persons or bodies in connection with any matters being dealt with or to be dealt with by the Council or any Committee of the Council unless the City Manager or other official nominated by him or her is present.
- 77.3 A member shall not inspect Departmental records or premises except by arrangement with the City Manager.
- 77.4 The Council may suspend and exclude for such period as it may fix any member who is guilty of a breach of the provisions of Rules 77.1, 77.2 and 77.3 above provided that such suspension and exclusion shall not equal or exceed such period as would result in the vacation of such member's office in terms of Section 4(2) of the Code of Conduct for Councillors (attached as Schedule 5 to the Local Government: Municipal Structures Act 1998, as amended).

## **78. Short Title and Commencement**

These Rules shall be called the uMhlathuze Municipality Rules for Council and its Committees and takes effect on the date of the publication thereof in the Government Gazette or as otherwise indicated in the notice thereof.

## Annexure "A"

### DECLARATION OF INTERESTS

I, ..... Identity Number ..... in terms of  
Section 7 of Schedule 5 of the Local Government Municipal Structures Act (Act No. 117 of 1998)  
solemnly declare the following:

- a. Shares and Securities in any Company

NO	YES
----	-----

(If yes please supply details)

.....  
.....

- b. Membership of any Close Corporation

NO	YES
----	-----

(If yes please supply details)

.....  
.....

- c. Interest in any Trust

NO	YES
----	-----

(If yes please supply details)

.....  
.....

- d. Directorships

NO	YES
----	-----

(If yes please supply details)

.....  
.....

e. Partnerships

NO YES

(If yes please supply details)

.....  
.....

f. Other Financial Interests in any Business undertaking

NO YES

(If yes please supply details)

.....  
.....

g. Employment and remuneration

NO YES

(If yes please supply details)

.....  
.....

h. Interest in Property

NO YES

(If yes please supply details)

.....  
.....

i. Pension

NO YES

(If yes please supply details)

.....  
.....

j. Subsidies, grants and sponsorships by any Organisation

NO YES

(If yes please supply details)

.....  
.....

**Note:** Should you need more space to declare a specific interest/interests please do so by attaching a separate sheet.

Signed on this ..... day of ..... 20.... at .....

.....  
**COUNCILLOR'S SIGNATURE**





**DMS1441759**

**Annexure "B"**

**Date:** .....

**ATTENTION: City Manager**

Sir

**LEAVE OF ABSENCE**

I Councillor..... wish to tender my apology in respect of  
.....meeting to be held on .....20....., in the  
.....Room.

Notes:.....

It be noted that Rule 17.2 of the Rules of Council and its Committees reads

***"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 will, as soon as is reasonably possible and prior to the commencement of the meeting of Council or any Committee of which he/she is a member (unless on the ground of illness, force majeure, or the like), lodge with the Deputy City Manager: Corporate Services a written application in a prescribed form 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.***

***A telephonic apology will be acceptable provided it is followed up in writing. Apologies may also be submitted to the Deputy City Manager: Corporate Services via electronic mail.***

"Your application for leave can be submitted:

- 1) by hand to the Deputy Manager: Secretariat Services; alternatively
- 2) by electronic mail to the Committee Section at [commsec@umhlathuze.gov.za](mailto:commsec@umhlathuze.gov.za)

.....  
**COUNCILLOR'S SIGNATURE**



**CODE OF CONDUCT FOR COUNCILLORS: SANCTIONS FOR NON-ATTENDANCE OF  
MEETINGS**

**PROCEDURES FOR THE IMPOSITION OF FINES AND REMOVAL FROM OFFICE**

**(formulated in terms of item 4 5(3)(a) and (b) of Schedule 7 of the Local Government: Municipal  
Structures Amendment Act, 2000 (Act 3 of 2021))**

**AS APPROVED AND AMENDED BY COUNCIL IN TERMS OF RESOLUTIONS:**

<b>Council Resolution</b>	<b>Gazette Number</b>	<b>Date of Gazette</b>
<b>1083 of 28 May 2002</b>	<b>2329</b>	<b>21 October 2021</b>
<b>15925 of 23 November 2022</b>	<b>2517 Notice No 238</b>	<b>2 March 2023</b>

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	<b>CHAPTER 1</b>
	<b>INTRODUCTION</b>
1.	<b>INTRODUCTION</b>

The Code of Conduct for Councillors contained in Schedule 7 of the Local Government: Municipal Structures Act No 117 of 1998, as amended, stipulates, amongst others, the following:

**“4. 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 -*

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of Council; or*
- (b) that councillor is required in terms of this Code to withdraw from the meeting.*

**5. Sanctions for non-attendance at 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 4; or*
  - (b) failing to remain in attendance at such 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 4, must be removed from office as a councillor.*

- (3) (a) *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."*

## **CHAPTER 2**

### **IMPOSITION OF FINES**

#### **2. PROCEDURE FOR THE IMPOSITION OF FINES**

1. If a Councillor fails to attend a meeting of the Council or of a committee of which that Councillor is a member, except when
  - (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the Council; or
  - (b) that Councillor is required, in terms of the Code of Conduct for Councillors or the Rules of Council and its Committees, to withdraw from the meeting,

the Chairperson of such committee shall invite the Councillor to provide a formal explanation setting out the reasons for the Councillors absenteeism from the meeting.
2. Upon receipt of the explanation setting out the reasons for absenteeism, the chairperson of the committee shall promptly report such to the Speaker.
3. Upon receipt of the explanation from the chairperson of the committee, the Speaker shall investigate the explanation and decide whether or not the councillor was absent with good cause, and provide appropriate reasons for the decision.
4. During the investigation referred to in 3, such Councillor will be given reasonable opportunity to respond to the allegation in writing.
5. If, after the investigation, the Speaker finds that a Councillor has breached item 3 of the Code of Conduct, he will report and recommend to Council that the Councillor be fined.
6. If Council accepts the recommendation of the Speaker, it will determine the amount of the fine equivalent to one week's remuneration which fine may be deducted from the remuneration due to the councillor concerned.
7. A Councillor who has been fined in terms of paragraph 6 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.
8. A copy of the appeal must be provided to the Council.
9. The Council may within 14 days of receipt of the appeal, make any representation pertaining to the appeal to the MEC for local government in writing.
10. The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of Council and inform the Councillor and the Council of the outcome of the appeal.

## **CHAPTER 3**

### **REMOVAL OF COUNCILLOR FROM OFFICE**

#### **3. PROCEDURE FOR REMOVAL OF COUNCILLOR FROM OFFICE**

1. Upon becoming aware that a Councillor has been absent from 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 Chairperson of the meeting shall report the non-attendance to the Speaker who shall commence proceedings for the removal of that Councillor from office as a Councillor.
2. For the purposes of 1 above, the Councillor concerned shall be required to attend a hearing before a committee established by the Council for that purpose and which shall be chaired by the Speaker.
3. For the purpose of 2 above, the Speaker shall appoint a person to act as Prosecutor ("the Prosecutor").
4. The Prosecutor shall give notice of the hearing to the Councillor.
5. The notice shall -
  - (a) be in writing;
  - (b) inform the Councillor -
    - (i) of the date, time and venue of the hearing;
    - (ii) of the circumstances upon which the allegations are founded;
    - (iii) that no legal representation shall be permitted, however a councillor may be represented by a fellow councillor;
    - (iv) that the Councillor has the right to give evidence including the right to call witnesses;
    - (v) that the Councillor may put questions to any witnesses called by the committee;
    - (vi) that the decision of the committee is final.
6. In the event that the Councillor fails to attend the hearing after delivery of the notice, the Prosecutor shall attempt to establish the reasons for such failure to attend the hearing, prior to the commencement of the proceedings.
7. If the Prosecutor is unable to establish the reasons why the Councillor has failed to attend the hearing, the committee shall commence the proceedings in the absence of the Councillor.
8. At the hearing -
  - (a) the Prosecutor shall produce the necessary evidence to confirm that the Councillor -
    - (i) has been absent from three or more consecutive meetings of the Council; or
    - (ii) has been absent from three or more consecutive meetings of a committee which that Councillor is required to attend.



- (b) the Councillor shall have the right to put questions to the witnesses called by the Prosecutor;
- (c) the committee shall have the right to put questions to the witnesses called by the Prosecutor for the purposes of clarifying any issues;
- (d) the Councillor shall have the right to call other witnesses in support of the Councillor's case; and
- (e) the Prosecutor and the Councillor concerned may address the committee after all the evidence has been heard and before the committee takes a decision.

9. If a majority of the members of the committee find that, on a balance of probabilities -

- (a) the Councillor has been absent from three or more consecutive meetings of the Council; or
- (b) the Councillor has been absent from three or more consecutive meetings of a committee which that Councillor is required to attend,

the committee shall report and recommend to Council that the Councillor concerned be removed from office as a Councillor.

10. In the event that Council confirms the decision of the Committee, the Council shall

- (i) inform the Councillor of its decision, in writing; and
- (ii) inform the MEC for local government in the province of its decision in writing, and request him/her to consider the facts of the matter and form an opinion that the Councillor in question has breached the code, and that such contravention warrants a removal from office and to remove the Councillor from office.

11. The Councillor 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.

12. A copy of the appeal must be provided to the Council.

13. The Council may, within 14 days of receipt of the appeal referred to in paragraph 12, make any representation pertaining to the appeal to the MEC for local government in writing.

14. 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.