



DRAFT STANDING RULES AND ORDERS FOR THE MEETINGS OF COUNCIL AND ITS COMMITTEES

**To be read together with the 'THE CODE OF CONDUCT FOR COUNCILLORS IN
TERMS OF SCHEDULE 7 OF THE LOCAL GOVERNMENT MUNICIPAL
STRUCTURES ACT, 1998 and any subsequent amendments.**

STANDING RULES AND ORDERS

PURPOSE OF THE RULES AND ORDERS

The purpose of the Rules of Order is to regulate the business and proceedings of the Municipal Council and its committees.

LEGISLATIVE MANDATE

Section 151(2) of the Constitution¹ provides that the executive and legislative authority of a municipality is vested in its municipal council. Section 160(6) of the Constitution provides that a municipal Council may make by-laws which prescribe rules and orders for -

- a) its internal arrangement;
- b) its business and proceedings; and
- c) the establishment, composition, procedures, powers and functions of its committees.

Section 162 of the Constitution² provides that a municipal by-law may be enforced only after it has been published in the official gazette of the relevant province.

Section 160 of the Constitution³ provides that: -

- (3)
 - (a) A majority of the members of a Municipal Council must be present before a vote may be taken on any matter.
 - (b) All questions concerning matters mentioned in subsection (2) are determined by a decision taken by a Municipal Council with a supporting vote of a majority of its members.
 - (c) All other questions before a Municipal Council are decided by a majority of the votes cast.
- (4) No by-law may be passed by a Municipal Council unless:-
 - (a) all the members of the Council have been given reasonable notice; and
 - (b) the proposed by-law has been published for public comment.

Section 12 of the Municipal Systems Act provides that: -

- (1) Only a member or committee of a municipal council may introduce a draft by-law in the council.
- (2) A by-law must be made by a decision taken by a municipal council:-
 - (a) in accordance with the rules and orders of the council; and

- (b) with a supporting vote of a majority of its members.
- (3) No by-law may be passed by a municipal council unless—
 - (a) all the members of the council have been given reasonable notice; and
 - (b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.
- (4) Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws, provisions of—
 - (a) legislation passed by another legislative organ of state; or

¹ Constitution¹ of the Republic of South Africa, 1996

² Constitution² supra

³ Constitution³ supra

- (b) standard draft by-laws made in terms of Section 14 (by the MEC for Cooperative Governance and Traditional Affairs).

Section 13 of the Municipal Systems Act provides that:-

A by-law passed by a municipal council:-

- (a) must be published promptly in the Provincial Gazette, and, when feasible, also in a local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and
- (b) takes effect when published or on a future date determined in or in terms of the by-law.

APPLICATION

In light of the above legislative provisions, municipal councils are empowered to prescribe rules and orders to govern their business proceedings. Such Rules and Orders must be adopted by council resolution and published in the official gazette of the province of KwaZulu-Natal, after following due processes as outlined in section 12 and 13 of the Municipal Systems Act. Upon election, new Councils may adopt the same Rules and Orders as determined by their predecessors, subject to desired modifications, after following the due process as outlined above herein.

RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES OF COUNCIL BY-LAW

Be it enacted by the Council of the Umdoni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

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CHAPTER 1 DEFINITIONS

Definitions

1. In these Rules and Orders, unless inconsistent with the context: –

“Attendance” means physical attendance at a designated venue indicated on the notice of the relevant Meeting and/or attendance via a virtual platform such as MS Teams and Zoom, using an electronic device.

“Casting” in relation to voting (physical or virtual sittings) means any or all or a combination of the following: non-objection to a motion proposed by the speaker or chairperson, show of hands, secret ballot, any other method determined by the Speaker or Chairperson, that is capable of being readily determined and recorded, unless the law prescribes otherwise.

“by-law” means legislation passed by the council of a municipality and promulgated in the government gazette;

“day” in connection with these standing rules means twenty-four-hours from any particular time and excludes weekends and public holidays;

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

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

“Council” means —

- (a) the Umdoni 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 and Orders has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act; and

"Code of Conduct" means the Code of Conduct for Councillors contained in Schedule 7 to the Municipal Structures Act, 2021;

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

"councillor" means a member of the Umdoni municipal council;

"deputation" means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

"Executive committee" means the council's executive committee determined in terms of section 43 of the Structures Act;

"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 as the mayor of the municipality in terms of section 48 of the Structures Act;

"meeting" means a meeting of the council or any one of its committees;

"municipality" means the Umdoni Municipality established in terms of section 155(6) 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;

"Municipal Manager" means the person appointed municipal manager and includes any person acting in that capacity;

"Notice of motion" means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of section 24 of these Rules and Orders;

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

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

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

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

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

"Speaker" means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

"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, 2000 (Act No. 32 of 2000), as amended;

"table" means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these Rules and Orders;

CHAPTER 2

APPLICATION AND INTERPRETATION OF RULES AND ORDERS

Application of these Rules and orders

- 2 (a) The rules of order contained herein apply to all physical and virtual meetings of the municipal council and any committee of the municipal council as well as any other committee of councillors established within the municipality unless the terms of reference for a specific structure explicitly excludes the application of the rules for such structure.

(b) These Rules and Orders governs the proceedings of the council and committees of council which bind and must be complied with by: –

- I. all councillors;
- II. any member of the public while present in the precincts;
- III. any deputation addressing the council or a committee of the council;
- IV. any municipal official of the municipality;
- V. Traditional Leaders participating in Council and its committees in terms of Section 81 of the Municipal Structures Act; and
- VI. Officials from Government departments

Interpretation of these Rules and Orders

3. (a) Any interpretation of these Rules and Orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.
- (b) The ruling of the speaker or chairperson with regard to the interpretation of these Rules and Orders at a meeting of the council or committee of the council will, subject to sections 3(e) and 3(f), be final and binding.
- (c) The interpretation and the ruling of the speaker or chairperson on any of these Rules and Orders must be recorded in the minutes of the council or committee meeting.
- (d) The municipal manager must keep a register of the rulings.
- (e) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of section 3(b), to obtain clarity on the interpretation and ruling and to report to the council or committee of the

council.

- (f) The council or committee of the council may convene after consideration of the report in terms of section 3(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 effecting the rights of others must be in writing and reasons must be recorded of such decisions.

CHAPTER 3

FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS

Council meetings

4. (a) The council must hold an ordinary meeting of the council not less than once a month.
- (b) The speaker must convene all meetings of the council in accordance with section 4(a) and subject to section 7.

Admission of public

5. (1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.
- (2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters:-
 - (a) a draft by-law tabled in the council;
 - (b) a budget tabled in the council;
 - (c) the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;
 - (d) the municipality's performance management system, or any amendment of the system, tabled in council;
 - (e) the decision to enter into a service delivery agreement;
 - (f) any reports on an award in terms of supply chain management policy;
 - (g) the disposal or acquisition of municipal capital asset;
 - (h) any other matter prescribed by legislation.
- (3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary

meeting of the council or committee of the council and any special or urgent meetings of the council or committee of the council, except when time constraints make this impossible.

- (4) Members of the council, officials and members of the public attending any council or committee meetings must accord the meeting the dignity it deserves by dressing appropriately as per Rule 44(1)(i) & (m) and must not wear any attire which could be ascribed to a political party.
- (5) All cellular phones must be set to 'silent mode' during all Council and committee of Council meetings.

Admission of Councillor(s) to a committee of Council where he/ she is not a member

- 6. (1) All Councillors who are not members of a particular Section 70 or 80 Committee (in terms of the Local Government: Structures Act), may attend and participate in such committee meeting(s) provided that he/she obtains prior consent from the respective portfolio chairperson. He/she may not be extended voting rights when deliberating upon a particular matter.

Notice to attend an ordinary council meeting or committee of council

- 7. (1) The speaker must convene meetings of the council, at least once every month, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda including all documentation referred to in the agenda of the proposed meeting.
- (2) Notice to attend a meeting in terms of section 7(1) must be given at least:-
 - (a) 5 (five) days prior to an ordinary meeting; and
 - (b) 2 (two) days prior to a special meeting.

Special meetings

- 8. (1) The speaker must call a special meeting of the council:-
 - (a) for the purpose of pertinent/ urgent or emergency council business; or
 - (b) at the request of a majority the councillors of the municipality.
 - (c) All other normal business not falling into the category of 1(a) above shall

be dealt with in an ordinary council meeting.

- (2) A special meeting must be held in compliance with section 7(2)(b) and in terms of section 8(1)(b) no later than four days from the date of receipt of a request.
- (3) (a) A request for the calling of a special meeting, as contemplated in section 8(1)(b), must be signed by no less than fifty percent plus one of all councillors of the municipality; and 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.
- (b) If the speaker fails to convene a meeting in terms of this section, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.
- (4) The number of items to be deliberated upon at a special council meeting shall be limited to 3 (three) items

Service of notices and agenda

9. (1) Notice to attend a meeting or any other official communication from the council, must be delivered to: –
- (a) an e-mail address; or
 - (b) by a short message service, or
 - (c) an approved or recognised municipal messaging group.

Provided that contact details must be supplied by each councillor to the municipal manager in writing within two days of a councillor's election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor will accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

- (2) All documentation relevant to any council or committee meeting, except special meetings convened in terms of section 7, must be given to all councillors at least 5 (five) days prior to an ordinary council or committee meeting and 1 (one) day prior to a special council or special committee meeting, except where Addendums or items are allowed into the Agenda within a shorter time frame by resolution of the Committee.
- (3) All councillors must inform the speaker of any change of his contact details within three days of such change.
- (4) Subject to section 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality alternatively on the Municipality website or on social media.

Non-receipt of notice

- 10. (a) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.
- (b) 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.

CHAPTER 4 QUORUM

Quorum

11. (1) (a) Notwithstanding that there may be vacancies, the quorum of a council or committee of council must be 50% plus 1 of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter and in order for the meeting to be properly convened.
- (b) The failure of any councillor to vote will not invalidate the proceedings of the council or committee of council or effect the quorum as long as the councillor is present at the meeting.
- (2) (a) The vote of 50% plus 1 of the number of councillors present at a meeting of Council or a committee of council is required for a resolution to be passed, except for when the following items are considered, in which case the vote of 50% plus 1 of the total number of councillors determined in accordance with the municipality's establishment notice, will be required to pass the resolution:
- (a) the passing of by-laws
 - (b) the approval of budgets;
 - (c) the imposition of rates and other taxes, levies and duties;
 - (d) the raising of loans;
 - (e) the rescission of a council resolution within 6 months of the taking thereof; and
 - (f) any other matter prescribed by legislation.

Cancellation and adjournment in absence of quorum

Cancellation

12. (1) No meeting may take place, if no quorum is present 15 (Fifteen) minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding a further 15 (Fifteen) minutes for a quorum, where after if no quorum is present, the meeting must be postponed and convened within seven days of the meeting being postponed where a quorum must also be present.

Adjournment

12.

- (2) If during discussion on an item at any meetings of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she must –
 - (a) count the councillors present;
 - (b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;
 - (c) if a quorum becomes present after the adjournment, then the meeting must continue;
 - (d) if no quorum becomes present after the adjournment, then the chairperson or speaker must forthwith adjourn the meeting.
- (3) When a meeting is adjourned as a result of no quorum, the meeting **must** be re-convened within 7 seven days as a continuation meeting.

CHAPTER 5 ATTENDANCE

Attendance

13.

- (1) All councillors must punctually attend and remain in attendance at each meeting of council and a committee of which that councillor is a member except when: –
 - a. leave of absence is tabled by the Speaker or Chairperson and accepted by the relevant committee;
 - b. that councillor is required to withdraw from the meeting in terms of these rules or the Code of Conduct for Councillors contained in the Municipal Structures Amendment Act, 2021; or
 - c. that councillor is absent with the permission of the speaker or chairperson and the Councillor ensures subsequently that the minutes of the relevant meeting reflects that the Councillor's absence via the Chairperson or Speaker was tabled and accepted at the meeting and recorded under "apologies", which apologies will not be construed as a breach of the code of conduct for councillors or these rules.
- (2) Each councillor attending any physical meeting of the council, or a committee of the council must sign an attendance register provided for that purpose.
- (3) Any councillor who is entitled to leave of absence and no longer requires such leave, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.
- (4) Each Councillor Attending a virtual meeting through his/her own device must timeously join the meeting and stay in the meeting until formal closure, unless leave of absence has been granted for early departure from the meeting. The Committee Clerk will record the attendance as indicated from Zoom or MS Teams or other virtual Applications being used from time to time.
- (5) Each Councillor attending a virtual meeting using another person's device or alternative device or sharing a device with another councillor, the official is obliged to indicate to the Speaker and /or Chairperson by using the appropriate icon, indicating his or her intention to speak via

such device and address the Speaker and/or Chairperson regarding the said circumstance and request that his or her attendance is formally recorded in the minutes.

- (6) Each Councillor must 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.
- (7) Each Councillor must raise his/her 'hand icon' on the relevant virtual application in order to engage in dialogue and thus must be called upon or recognised by the Chairperson of the meeting to speak or unmute his/ her microphone.
- (8) Each Councillor acting in terms of (5) supra, is obliged to study the minutes of each subsequent meeting of the relevant committee to ensure that the attendance has been properly recorded and must raise a query with the speaker when the minutes are being confirmed to correct the records if such attendance has not been properly recorded.
- (9) Failure of Councillors to act in terms of (1), (2) and (6) supra will entitle the Speaker to refer recorded absenteeism for investigation in terms of the Municipal Structures Amendment Act, 2021.

Leave of absence

14. (1) Leave of absence may only be granted after due consideration of the reasons provided when submitted in writing on the prescribed form.
- (2) The Speaker of Council or Chairperson of a committee of Council must provide his/ her acceptance/refusal to the requesting Councillor in writing.
- (3) 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 that meeting, lodge with the speaker or chairperson a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide

reasonable and bona fide reasons for the application and show good cause for the granting of the application.

- (4) The Speaker or Chairperson may accept verbal apologies conveyed to the Speaker or Chairperson if the Councillor is absent due to an emergency or circumstances beyond his or her control which restricts that particular councillor from submitting a written leave of absence or from requesting another councillor or the speaker or the chairperson to do so on his or her behalf. A written request for Leave of absence must be submitted as soon possible to the Speaker or Chairperson in order to be considered and condoned or rejected.
- (5) The speaker or chairperson of the meeting concerned must as soon as possible after receipt of applications for leave of absence or apologies, consider such and either grant or reject the application/apologies with reasons, which exercise must be recorded and reflect in the minutes of that particular meeting.
- (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.
- (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.
 - (c) A Councillor must be present for at least 70 % of the total duration time of any Council or Committee meeting to be deemed as present at such meeting, failing which such Councillor is to be noted as absent by the Chairperson of that Committee or the Speaker of the Council.

- (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.
- (9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.
- (10) A Councillor applying for a leave of absence must stipulate on the Leave of Absence Form, which meetings of Council will be affected during that specific leave and make arrangements to ensure that the Application timeously reaches the Speaker or Chairperson of the relevant committee(s). the application may be delivered physically or by email.
- (11) Leave of Absences for virtual meetings may be hand delivered to the Speaker or Chairperson of the relevant meeting or be sent via e-mail to the Chairperson, and copying the Committee Officer of that meeting. The onus is on the Councillor applying for leave of absence, to ensure that the application is received by the Chairperson and/or Speaker.

Attendance: Council Business

15. (1) Councillors must not organise meetings/activities or arrange to attend meetings /activities on days reserved for meetings of Council unless:

- (a) There is a council resolution authorising the respective Councillor to attend;
- (b) The Speaker has granted approval for the Councillor to attend after due consideration of the nature of the meeting/activity.

(2) A Leave of Absence application will be rejected, and a Councillor will be marked as absent from the meeting for 'attendance of Council Business' if 15 (1) above, has not been complied with.

Non-attendance

16.(1)(a) Subject to compliance with the procedure set out Schedule 7 of the Municipal Structures Amendment Act, 2021 a Councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine to the amount of R 1000 per meeting, which fine may be deducted from remuneration due to the councillor concerned.

- (b) 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 Schedule 7 of the Municipal Structures Amendment Act, 2021 must be removed from office as a councillor subject to the provision of Schedule 7 of the Municipal Structures Amendment Act, 2021.
 - (c) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with Section 69 of these rules.
 - (d) When a councillor has submitted to the Speaker or Chairperson, a medical note, he or she may do so via the respective caucus whip, any other councillor or the relevant committee officer or Manager, who must also complete an application for leave of absence on the councillors behalf, and ensure that leave of absence forms are submitted to all committees in which the relevant councillor is a member to avoid him/her being recorded as absent, noting that this will only be for the period stipulated on the medical note, however, the onus is on the Councillor to ensure that the application for leave of absence is transmitted to the Speaker and/or Chairperson and that the minutes of the meeting is checked subsequently to ensure proper recordal of the Application for leave of absence.
- (2) Where a councillor has been absent without obtaining leave from a meeting, the Speaker must follow the procedures outlines under Section 67 of these rules.
 - (3) The municipal 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 and/or absent from three or more consecutive meetings which that councillor was required to attend.
 - (4) Where the speaker receives a report in terms of section 16(3), the speaker must act in terms of Section 67 of these rules

CHAPTER 6

ADJOURNMENT

Adjourned meetings

17. Subject to section 12(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

Continuation meeting

18. (1) When a meeting is adjourned, notice of the continuation meeting must be served in terms of section 9.
- (2) No new business will be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

CHAPTER 7 PROCEEDINGS

Speaker and chairpersons of meetings

19. (1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, duly elected, 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 Orders and the Code of Conduct.
- (2) The speaker and chairperson of council and committee meetings –
- (a) must maintain order during meetings;
 - (b) must ensure compliance in the council with the Code of Conduct for Councillors; and
 - (c) must ensure that meetings are conducted in accordance with these Rules and Orders.
- (3) If the speaker or chairperson of council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his /her nominee must elect another councillor to act as speaker or chairperson as the case may be.
- (4) No meeting of council or a committee of the council may commence or continue unless a speaker or chairperson presides at a meeting.

Minutes

20. (a) The proceedings of every council meeting must be accurately and electronically recorded, codified and retained in accordance with the National Archives and Record Service of South Africa Act, 43 of 1996.
- (b) Written minutes of the proceedings of each council and committee meeting must contain an accurate record of the resolutions adopted by council at such meeting.

- (c) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public on the Municipality's website after being signed/ certified by the Speaker.
- (d) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.
- (e) Minutes of meetings held virtually, must be recorded via the actual virtual platform e.g. Zoom or MS Teams as well as manually and may in addition to manual recording, be recorded by an additional recording device by the relevant Committee Officer/Manager or delegate and immediately after the relevant meeting, be downloaded, saved, codified and retained in accordance with the National Archives and Record Service of South Africa Act, 43 of 1996 as well as any storage policy or protocol of the Municipality, applicable from time to time.
- (f) The various Portfolio Committees shall report to the Executive Committee by submitting minutes of respective meetings together with full reports of those items which cannot be disposed of in terms of its delegated powers, to the Executive Committee, for confirmation.

Order of business

21. (1) The order of business at every meeting of the council or its executive committee or committee of council, as may be applicable, is as follows:

(a)

Council	Executive Committee	Committee
<ul style="list-style-type: none"> • Notice of the meeting • Prayer • Attendance/ apologies/ leave of absence • Declaration of Pecuniary and other interest • Official Announcements by Speaker • Confirmation of agenda • Deputation/ Presentation • Report backs • Confirmation of minutes from the previous meeting • Matters arising • Motions / Questions (Exco & Committees as well) • Submission of reports from the Executive Committee • <i>Reports from MPAC / R&E</i> • <i>Report from the Audit Committee</i> • Reports for noting/consideration • -Committee; • <u>Date of next meeting</u> 	<ul style="list-style-type: none"> • Opening and prayer • Notice of the meeting • Applications for leave of absence/apologies • Declaration of interest • Confirmation of Agenda • Presentations • Confirmation of minutes from previous minutes • Matters arising • <i>Reports from Portfolio Committees</i> • <i>Reports from Local Labour</i> • Reports for noting/ consideration • In-Committee reports • <u>Date of next meeting</u> 	<ul style="list-style-type: none"> • Notice of the meeting • Prayer • Attendance/apologies/ leave of absence • Declaration of interest • Confirmation of agenda • Presentations • Confirmation of minutes from previous minutes • Matters arising • Reports for noting/consideration • Ward Committee recommendations • In-Committee reports • <u>Date of next meeting</u>

- (2) The speaker or chairperson may, in his/her discretion, at any stage bring forward any business that is on the agenda paper. The speaker or chairperson may entertain requests from Councillors to all bring items forward, such requests may not be unreasonably denied.
- (3) Announcements will contain the following minimum information in respect of physical and virtual meetings: -

PHYSICAL MEETINGS

Councillors AND Officials are reminded of the following:

- a. No eating is allowed during a meeting;
- b. No alcohol is allowed;
- c. No smoking is allowed during a meeting;
- d. All cell phones are to be placed on silent mode.
- e. Attendance registers must be signed, failure to sign the register will result in you being recorded as absent, unless a leave of absence form has been submitted. Please note the repercussions of being absent is as stipulated in the Standing rules and Order as well as Schedule 7 of the Municipal Structures Amendment Act, 2021.
- f. Apology to leave the meeting early must be followed up with an early Leave application form in order to have it formalised.
- g. Raise your hand whenever you wish to speak and wait until the chairperson gives you permission to speak.
- h. NB: you are only allowed to speak once on an item and not more than 3 minutes, a further 2 minute follow up comments/questions may be posed
- i. Ensure that the microphones are switched on whenever you speak.
- j. Members are expected to abide by the dress code as set out in clause 44(l)(i) of the Standing Rules and Orders of Council and all its Committees, in respect of physical meetings as well as virtual meetings.

VIRTUAL MEETINGS

Councillors AND Officials are reminded of the following:

- k. The Camera, raised hand and Microphone Icons must be used as and when necessary to participate during meetings;
- l. Attendance is recorded by the Committee Officer assigned to the meeting as well as via the relevant Computer Application hosting the meeting and as such, you must use their designated devices to timeously log onto Council Meetings and ensure that connectivity is checked prior to the meeting to ensure seamless Attendance;
- m. Councillors are reminded to mute his/her speaker when not recognised by the speaker
- n. You must inform the Speaker or Chairperson of the relevant meeting, when you are sharing a device and request that attendance is recorded accordingly. Failure to do so will result in you being recorded as absent, unless a leave of absence form has been submitted. Please note the repercussions of being absent is as stipulated in the Standing rules and Order as well as Schedule 7 of the Municipal Structures Amendment Act, 2021:
- o. Apology to leave the meeting early must be followed up with an early Leave application form in order to have it formalised.
- p. Raise the hand icon whenever you wish to speak and wait until the chairperson gives you permission to speak subject to section 42(a).
- q. NB: you are only allowed to speak once on an item and not more than 3 minutes. a further 2 minute follow up comments/questions may be posed
- r. Ensure that the microphones are switched on whenever you speak and switched off when you are done speaking.
- s. Attendees are to ensure that they take virtual meetings in an environment conducive to taking the meeting without any disturbance, interference and where the confidentiality of the meeting will not be compromised.
- t. Camera/s may be turned off but must be turned on, on the instruction of the Speaker or Chairperson of the Committee.

Confirmation of minutes of previous meeting

- 22.** (1) The minutes of every meeting must be confirmed at the next ordinary meeting of that council or committee and must be signed by the speaker or chairperson.
- (2) No motion or discussion will be allowed upon the minutes of a previous

meeting, other than relating to the accuracy of those minutes.

- (3) Members of Council or a Committee of Council are expected to read the respective Agendas received and familiarise themselves with the content thereof, including the minutes contained therein, before the relevant meeting.

Deputations

23.

- (a) A deputation wishing to address the council, or a committee of council must submit a memorandum to the municipal manager in which it sets out the representations it wishes to make.
- (b) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson, such permission may not be unreasonably withheld.
- (c) The municipal manager must submit the memorandum to the council or a committee of the council, which may receive the deputation.
- (d) Any matter requiring consideration arising from the submission made by the deputation, will not be further considered by the council or committee unless it is a consideration out of committee, or unless until the deputation has left the meeting, in the event of in-committee deliberation. Questions of clarity may be permitted.
- (e) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, must obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.
- (f) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson.
- (g) A deputation shall not exceed 3 (three) persons in number and at an interview contemplated in this cause, 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.

- (h) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Law Enforcement Officer, Security Guards of the Municipality or the South African Police Service.
- (i) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of section 23(f) and section 23(h) may be requested to leave the meeting and may be criminally charged.

Reports

- 24. (a) Any report submitted to the council, or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of section 8.
- (b) The speaker or chairperson must allow debate in accordance with sections 35 to 41 of these rules on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report must be held, at the next meeting.

Motions

- 25. (1) No subject will be brought before council or a committee of council by a councillor except by way of notice of motion.
- (2) A notice of motion must: –
 - (a) be in writing;
 - (b) be signed by the councillor submitting it and by another councillor acting as a seconder; and

(c) refer to one matter only.

- (3) A notice of motion must, subject to section 7, be lodged with the municipal manager before 12h00 seven days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.
- (4) The municipal manager must: –
 - (a) date and number each notice of motion;
 - (b) enter each notice of motion lodged in a register, which must be open to inspection by any councillor and the public; and must
 - (c) enter each notice of motion on the agenda in the order received.
- (5) The speaker or chairperson must: –
 - (a) read out the number of every motion and the name of the mover and seconder;
 - (b) ascertain which motions are unopposed and these will be passed without debate; and
 - (c) call the movers of the opposed motions in the order they appear on the agenda.
- (6) A councillor submitting a motion must move such motion and will have the right of reply.
- (7) A motion will lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.
- (8) A councillor will be allowed not more than three notices of motion on the same agenda.
- (9) The speaker or chairperson must not reject a motion received by him or her in terms of these Rules and Orders.

Urgent Motions

- 26** (a) A Councillor may move an application on an urgent basis provided that:-
- I. The speaker, after consulting with the party whips, must make a ruling on whether the motion should be tabled before Council. The Ruling of the Speaker shall be final.
 - II. Notwithstanding the provision of Rule 26 (a), a councillor

may request the speaker to place an urgent motion which is in the public interest on the agenda at an hour prior to a Council meeting.

- III. The Speaker must make a final decision to table the urgent motion referred to in Rule26(a)(ii) after considering the motion which such decision must not be unreasonably declined.

Questions

- 27 (a) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the next council or committee meeting. The question must further be placed on the next applicable council or committee meeting agenda.
- (b) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent which will not be unreasonably withheld of the speaker or chairperson, request a follow-up question.

Supply of information to a councillor

- 28 (a) No councillor may approach or communicate with any official of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.
- (b) A councillor may approach and communicate with the municipal manager or any head of department or any official of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the

proper performance of his duties as a councillor.

General matters of an urgent nature

29.

- (a) General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or chairperson, which consent will not be unreasonably withheld.
- (b) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

Interpretation

30

If so resolved, an interpreter may be used in meetings of the council and committees of the council.

In Committee

31

- (a) Subject to section 5, the council or a committee of council may, at any time, resolve to proceed in-committee.
- (b) The public will be excluded from any in-committee meetings.
- (c) The municipal manager or another official(s) exempted from this section by the speaker or chairperson, will not be excluded from any in-committee meeting.
- (d) All proceedings in-committee must be recorded in terms of section 20(a) and 20(b) and must be confidential.
- (e) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.
- (f) The Council will deal "In Committee" when discussing any of the following matters:-
 - I. a trade secret or confidential commercial information of

- any supplier of the municipality or any person rendering a service to the municipality;
- II. personal and private information of any councillor or an employee of the municipality;
- III. the intention of the municipality to purchase or acquire land or buildings;
- IV. the price a municipality may offer for the purchase or acquisition of land or buildings;
- V. any report addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;
- VI. disciplinary proceedings or proposed disciplinary proceedings against any employee;
- VII. any matter that might not be disclosed in terms of legislation;
- VIII. consideration of the minutes of previous "In Committee" discussions.

- (g) A councillor may, when an item in the agenda is put to order, other than a matter referred to in section 29 above, and provided it is not a matter that is required in law to be dealt with in open council, propose with motivation, that the matter be further dealt with In Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.
- (h) The Speaker or Chairperson must request a motion to be moved and seconded for the meeting to be moved In Committee.
- (i) The Speaker or Chairperson must allow two minutes for attendees who are not allowed in the In Committee meeting to depart from the meeting and wait in a designated waiting area, or exit the meeting but remain with the relevant Application opened, if the meeting is virtual.
- (j) The Speaker or Chairperson shall, at the expiry of the two minutes time-frame, check, with the assistance of the Municipal Manager if necessary, that unauthorized attendees have left the meeting and confirm by declaring that, unauthorized attendees are reminded to leave and whosoever remains in the meeting in an unauthorised manner may be subjected to either disciplinary or legal action, and

may then continue with the meeting, in-committee.

- (k) The Speaker or Chairperson may request the assistance of the Committee Officer/Manager delegated to the meeting to usher unauthorised attendees out of the meeting or close the attendees call, if the meeting is virtual, if unauthorised attendees are observed whilst an in-committee session is pending or continuing.
- (l) The In Committee item(s), will in the case of physical meetings be distributed or projected at the meeting during the In Committee session or screen shared by the secretariat unit during a virtual meeting. The committee members shall be allowed a period of not less than 15 (fifteen minutes) to peruse the item, this time period may be increased at the discretion of the Speaker or Committee Chairperson.
- (m) All distributed In-Committee item(s) must be handed back to the secretariat once the item has been considered and dealt with.
- (n) Once the In-Committee session is completed, the Speaker or Chairperson must request for a motion to be moved and seconded to bring the meeting out of committee.
- (o) The attendees who had exited the meeting, may then return to the meeting held out of committee.
- (p) The Committee Officer delegated to the meeting may call back the attendees from the waiting area in the event of a physical meeting.
- (q) The Committee Officer or convenor of the virtual meeting may "call" via the relevant Application hosting the virtual meeting" or use any other available method to inform the attendee that the In Committee session is over.

CHAPTER 8

VOTING

Decisions by voting

32

- (1) A quorum must be present in order for a vote to be taken.
- (2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors (50% plus 1) determined in accordance with the municipality's establishment notice:-
 - (a) the passing of by-laws;
 - (b) the approval of budgets;
 - (c) the imposition of rates and other taxes, levies and duties;
 - (d) the raising of loans;
 - (e) the rescission of a council resolution within 6 months of the taking thereof;
 - and
 - (f) any other matter prescribed by legislation.
- (3) All other questions before the council must be decided by a majority of the votes of the number of councillors present subject to meeting quorum being complied with.
- (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 160 of the Constitution, namely:
 - (a) the passing of by-laws;
 - (b) the approval of budgets;
 - (c) the imposition of rates and other taxes, levies and duties;
 - (d) the raising of loans; and
 - (f) any other matter prescribed by legislation.

Method of voting

33

- (a) Voting/Casting of a vote will be by any one or a combination of the following:-
- i. non-objection to a motion proposed by the speaker or chairperson,
 - ii. show of hands,
 - iii. secret ballot,
 - iv. any other method determined by the Speaker or Chairperson, that is capable of being readily determined and recorded, unless the law prescribes otherwise.
- (b) Non-objection to a proposed motion, will be deemed as the specific resolution having been taken unanimously. Another point unless a specific or objection or dissenting vote is raised, which will be recorded as such, regardless of how such, objection or dissenting vote will affect the final result.
- (c) During the taking of a vote no councillor may leave the council chamber or committee room.
- (d) The municipal manager or his/her nominee, will count the votes cast and will record the result of voting, but the speaker or chairperson will announce the result.

Dissenting votes and Abstention

34

- (a) A councillor may request that his/her dissenting vote and reasons be recorded as evidence of how he or she voted on the motion.
- (b) A member may abstain from voting without leaving the chamber.
- (c) Abstention shall not affect the quorum of the Committee, as long as the member remains in the meeting.

CHAPTER 9

REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS

Revocation of Council Resolutions

35

- (a) Authority 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 section 30(2)(e).
- (d) Resolutions of Council or a Committee of Council not implemented within a period of one year from date of adoption, will be deemed stale and cease to be of force and effect and will not be enforceable by any party unless such or a further Resolution of that particular Committee allows for enforceability thereof beyond one year, or a fresh item, where applicable, is considered in respect of the particular stale resolution, in which case the Committee will not be obliged to resolve as per initial resolution and may refuse the request, place any further or different conditions(resolutions) that it may deem necessary in the best interest of council taking into consideration the rights and obligations of any effected parties.

Revocation of Committee Resolutions

36

- (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 a committee of the council must be given.
- (c) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

CHAPTER 10

DEBATE

Opportunity to Speak

37

- (a) A councillor may only speak when so directed by the speaker or Chairperson, unless there is an indication that the Speaker or Chairperson does not or cannot recognize the request to speak, whether in a physical or virtual meeting, in which event, the member may switch his or microphone on/activate the microphone icon and request the attention of the Speaker.
- (b) A councillor may indicate a desire to speak by raising his hand and await the direction of the speaker or chairperson, which direction must not be withheld and in so far as virtual meetings are concerned, the icon used for raising of hands is the applicable protocol under this provision.
- (c) Councillors and officials must direct their address to the speaker or chairperson.

Relevance

38

Every speaker/member must restrict him or herself strictly to the matter under consideration.

Length of speeches

39

Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech will exceed five minutes in length without the consent of the speaker or chairperson and must be officially timed

Councillors to speak only once

40

A councillor may not speak more than once on any motion or proposal provided that the mover of the motion may speak to the motion, will have the right of reply and the reply will be confined to answering previous speakers and will not introduce any new matter into the debate.

Precedence of the speaker or chairperson

41

Whenever the speaker or chairperson, during a debate responds/speaks in so far as virtual or physical meetings are concerned, any councillor then speaking or offering to speak must abstain from speaking and/or mute his or her microphone and the councillor must remain silent, so that the speaker or chairperson may be heard without interruption.

Points of order

42

- (a) Any councillor may raise a point of order at any time by standing to draw the attention of the speaker or chairperson alternatively raising his/her hand, unmute their microphone and announce 'Point of Order Speaker' during a virtual meeting to indicate as such.
- (b) The ruling of the speaker or chairperson on a point of order will be final and will not be open to discussion.
- (c) Councillors are required to state the rule under which he/she is rising on a point(s) of order.

Explanation

43

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

CHAPTER 11

CONDUCT

General conduct

- 44** (1) The Speaker or the chairperson of the meeting in the event of a meeting other than a council meeting shall:-
- a) Maintain order during meetings;
 - b) Ensure compliance with the Code of Conduct for Councillors during meetings;
 - c) Ensure that meetings are conducted in accordance with the Council's Rules and Orders;
 - d) Ensure that members conduct themselves in a dignified and orderly manner during meetings and ensure that no political party attire or regalia is acceptable within the Council Chamber;
 - e) Ensure that members of the public attending meetings are seated in areas designated for that purpose;
 - f) 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;
 - g) Ensure that any councillor or member of the public refusing to comply with the ruling of the Speaker or chairperson leaves the meeting;
 - h) Ensure that Council conduct its business in the highest decorum and integrity that the occasion deserves;
 - i) Ensure adherence to the code of conduct;
 - j) Ensure adherence to the rules of law and the by-laws of the municipality;
 - k) Ensure that all members do not use offensive or objectionable language;
 - l) Ensure that members do not make or receive any cell phone calls, bring in a firearm or any dangerous weapon into, a meeting of council or any of its committees; and
 - m) Ensure the adherence to formal attire at all meetings of Council (*corporate wear or traditional*).

Misconduct and Disorderly Conduct of a Councillor or persons other than Councillors
45

- (a) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.
- (b) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker must direct the councillor or councillors to conduct himself or themselves properly, and if speaking, to stop speaking.
- (c) In the event of persistent disregard of the directions of the speaker, the speaker must direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalised.
- (d) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these Rules and Orders and the Code of Conduct.
- (e) 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 an authorised official to facilitate the removal of such councillor/s from the chamber. If this cannot be done in an orderly fashion, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councillors to retire or to be ejected from the venue of the meeting. 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. 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, subject to the municipal cost-cutting measures.
- (f) Where necessary, members of the Law Enforcement of the Municipality,

Security Guards employed by the Municipality or the South Africa Police Services may be requested to assist with the removal of the councillor from the Chamber. If such occurs, the councillor concerned may be criminally charged.

- (g) 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, be removed from the chamber or the venue where the meeting is being held. If the person refuses to leave, the authorised official 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.
- (h) The discipline of or removal of a councillor, member of the public, guest or official from Council or a Committee of Council in any circumstance enunciated in these rules as directed by the Speaker or Chairperson, applies to such councillor, member of the public, guest and official attending the relevant meetings via virtual platforms and may solicit the assistance of the Committee Officer/Manager or IT personnel hosting the virtual set-up of the meeting, or any enabled official to assist with muting or removal of that attendee from the virtual meeting.

CHAPTER 12

COMMITTEES

Rules & Ethics Committee

- 46** (a) The municipal council may by resolution of a majority of councillors present at a Council Meeting, subject to quorum, establish a special committee to be known as the Rules & Ethics 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 and Orders.
- (b) The Ethics Committee shall comprise of at least five (5) members.

Own rules

- 47** (a) These Rules and Orders are applicable to all Committees of the Council. No Committee of the Council may determine its own rules.

The Chairperson

- 48** (1) The chairperson of a committee must:—
- (a) preside at every meeting of the committee at which he or she is present; and
- (b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, will be given a second or casting vote 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 160 of the Constitution, namely:
- i. the passing of by-laws;
 - ii. the approval of budgets;
 - iii. the imposition of rates and other taxes, levies and duties;
 - iv. the raising of loans; and

v. any other matter prescribed by legislation.

(2) In his absence, the acting or deputy chairperson will have the same powers and rights of voting as those possessed by the chairperson.

CHAPTER 13

PECUNIARY INTEREST

49 Disclosure of pecuniary interest

(1) A councillor must:-

(a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that the councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and

(b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.

(2) 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 municipal council.

(3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

CHAPTER 14

PERSONAL GAIN

Use of Position or Privileges

50 (1)

A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.

(2)

No councillor may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

CHAPTER 15

DECLARATION OF INTERESTS

Financial Interests

- 51** (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:-
- (a) Shares and securities in any company;
 - (b) membership of any close corporation;
 - (c) interest in any trust;
 - (d) directorships;
 - (e) partnerships;
 - (f) other financial interests in any business undertaking;
 - (g) employment and remuneration;
 - (h) interest in property;
 - (i) pension; and
 - (j) subsidies, grants and sponsorships by any organisation.
- (2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.
- (3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with sub-item (1).
- (4) The municipal council must determine which of the financial interests referred in sub-item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

CHAPTER 16 - BREACH AND SANCTIONS

(to be read with SCHEDULE 7 TO THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES AMENDMENT ACT 2021 ("THE CODE OF CONDUCT FOR COUNCILLORS"))

Breach

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

Sanction

- 53** Where it is alleged that a councillor has breached these Rules and Orders, the council must, authorise an investigation the alleged breach and may impose a sanction in keeping with Schedule 7 of the Municipal Structures Amendment Act, 2021 and of these Standing Rules and Order.

CHAPTER 17

GENERAL PROVISIONS

Suspension of a rule or order

- 54** (1) In instances of urgency or where a council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a section, provided that:-
- (a) such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
 - (b) no section may be relaxed when the removal of any political office bearer is before the council.
 - (b) the suspension or relaxation of the section relates to an item on the agenda for the meeting of the council or committee of the council; and
 - (c) section 24 must not be suspended; and
 - (d) the reasons for the suspension of the section are recorded in the minutes of the meeting.

Adoption as by-law

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

Repeal of existing Rules and Orders

- 56** The council's existing Rules and Orders are hereby repealed.

Short title and commencement

- 57** These Rules and Orders will be called the Umdoni Local Municipality Standing Rules and Orders, 2025 and shall come into operation on promulgation in the Government Gazette.

CHAPTER 18

VIRTUAL MEETINGS AND SITTINGS

- 58** (1) These rules are supplementary to and must be read in conjunction with the Rules of Order / Rules and Orders / Standing Orders for Council.
- (2) For the purposes of these Rules, "virtual meetings or sittings" mean meetings or sittings conducted by any form of technology.
- (3) These Rules shall be referred to as Rules of Virtual Meetings and Sittings.

Application of the rules

- 59** These Rules apply to virtual: –
- (2) meetings or sittings of the Municipal Council; and
- (3) meetings of the Committees of Council.

Notice and documents

- 60** (1) All meetings of Council or Committees of Council shall be in accordance with the Notice of Meetings as prescribed by the Rules of Order for Council.
- (2) All documents relating to Council and Committee meetings shall be distributed by any electronic means to which Councillors have access.

Quorum

- 61** The quorum requirements for virtual Council and Committee meetings shall be the same as is for physical meetings.

Decisions and voting

- 62** The rules relating to taking decisions and voting is as enunciated in these Standing Rules and Orders.

Minutes and records

- 63** (1) The Municipal Manager must maintain the minutes and records of the

proceedings.

- (2) The minutes referred to in 63(1) above shall constitute the records of that Council or Committee meeting.
- (3) The correctness of the minutes of the Council or Committee meeting must be considered at its next meeting, failing which, at the following meeting.

Housekeeping

- 64** (1) During video meetings Councillors are entitled and/or obliged to:-
- (a) make use of the video function;
 - (b) Mute the mic when not speaking;
 - (c) Use the appropriate icon to raise a hand to engage in the dialogue; and
 - (d) Wait for the chairperson of the meeting to be called upon to speak or unmute the microphone.

Powers, privileges and immunities

- 65** (1) Councillors have the same powers, privileges and immunities which they ordinarily enjoy in physical Council and Committee proceedings.

Facilitation of public involvement

- 66** (1) Subject to section 160(7) of the Constitution and the Rules of Orders, Council and/or Committees must facilitate public involvement on matters before it, by electronic means which includes making use of the Municipality website and other authorised municipal social media platforms wherein a meeting and agenda link will be provided.

Electronic Attendance at meetings

- 67** Councillor/s who share a computer/tablet/cell phone are to record their attendance failing which the councillor/s will be recorded as absent and Councillors are to ensure that their attendance was captured at the following meeting during confirmation of minutes

68 CODE OF CONDUCT FOR COUNCILLORS

IN TERMS OF SCHEDULE 7 OF THE MUNICIPAL STRUCTURES AMENDMENT ACT - 2021,

hereinafter referred to as "the Act"

Preamble

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 by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role, councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Act, the following Code of Conduct is established.

Definitions

1. In this Schedule 'partner' means a person who permanently lives with another person in a manner as if married.

General conduct of councillors

2. A councillor must:-
 - (a) perform the functions of office in good faith, honesty and in a transparent manner; and
 - (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Voting at meetings

3. A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council, which conflicts with any legislation applicable to local government.

Attendance at meetings

4. 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 the council; or
- (b) that councillor is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance of meetings

5. (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 a meeting.

(2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 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

Disclosure of interests

6. (1) A councillor must:-

- (a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
- (b) withdraw from the proceedings of the council or committee when that matter is considered by the councillor committee, unless the councillor committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.

- (2) 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 municipal council.
- (3) This section 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.

Personal gain

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- (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.
- (2) No councillor may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

Declaration of interests

8.

- (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:-
 - (a) Shares and securities in any company;
 - (b) membership of any close corporation;
 - (c) interest in any trust;
 - (d) directorships;
 - (e) partnerships;
 - (f) other financial interests in any business undertaking;
 - (g) employment and remuneration;
 - (h) interest in property;
 - (i) pension; and
 - (j) subsidies, grants and sponsorships by any organisation.
- (2) Any change in the nature or detail of the financial interests of a councillor

must be declared in writing to the municipal manager annually.

- (3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with sub item (1).
- (4) The municipal council must determine which of the financial interests referred in sub-item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

Full-time councillors

- 7. A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld.

Rewards, gifts and favours

- 8. A councillor may not request, solicit or accept any reward, gift or favour for:-
 - (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
 - (b) persuading the council or any committee in regard to the exercise of any power, function or duty;
 - (c) making a representation to the council or any committee of the council or
 - (d) disclosing privileged or confidential information.

Unauthorised disclosure of information

- 11.(1) A councillor may not, without the permission of the municipal council or a committee, disclose any privileged or confidential information of the council or committee to any unauthorised person.
- 11(2) For the purpose of this item 'privileged or confidential information' includes any information: -
 - (a) determined by the municipal council or committee to be privileged or confidential;
 - (b) discussed in closed session by the council or committee;
 - (c) disclosure of which would violate a person's right to privacy; or
 - (d) declared to be privileged, confidential or secret in terms of law.

- 11.(3) This item does not derogate from the right of any person to access to information in terms of national legislation.

Interference in administration

12. A councillor may not, except as provided by law:-
- (a) interfere in the management or administration of any department of the municipal council, unless mandated by the 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 towards maladministration in the council.

Municipal property

- 13 A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.

Councillor in arrears

- 14 A councillor may not be in arrears to the municipality for rates and service charges for a period longer than three months.

Breaches of Code

- 15 (1) If the speaker of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the speaker must:-
- (a) authorise an investigation of the facts and circumstances of the alleged breach;
 - (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach;and
 - (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.

A report in terms of sub-item (1)(c) is open to the public.

- 15 (2) The speaker must report the outcome of the investigation to the MEC for local government in the province concerned.
- 15 (3) The speaker must ensure that each councillor, when taking office, is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.
- 15 (4) If the speaker of council is the alleged perpetrator, or the speaker refuses to authorise an investigation, the council must establish a special committee, as contemplated in Item 16(1)(b), to investigate and make a finding on any alleged breach of this Code.

Investigation of breach

16.(1) A municipal council may:-

- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
- (b) establish a special committee:-
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the council.

16.(2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may:-

- (a) issue a formal warning to the councillor;
- (b) reprimand the councillor;
- (c) request the MEC for local government in the province to suspend the councillor for a certain period;
- (d) fine the councillor; or
- (e) request the MEC to remove the councillor from office.

16.(3) The speaker must inform the MEC for local government in the province concerned within 14 days of the finding and sanction decided on by the council.

16.(4) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub-item (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the council by the MEC.

- (c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.
 - (d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.
- 16.(5) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of sub-item (2) if a municipal council does not conduct an investigation contemplated in sub-item (1) and the MEC for local government considers it necessary.
- 16.(6) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub-item (4).
- 16.(7) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may:-
- 16.7.1(a) suspend the councillor for a period and on conditions determined by the MEC; or
 - 16.7.1(b) remove the councillor from office.
- 16.(8) Any investigation in terms of this item and any action by the MEC in terms of sub item (7) must be in accordance with section 3 of the Promotion of Administrative Justice Act, 2000 (ActNo. 3 of 2000).

Application of Code to traditional leaders

17

- 17.(1) Items 1, 2, 6, 7, 10 (b) to (d), 11, 12, 13, 15 and 16 (1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81.

- 17.(2) These items must be applied to the traditional leader in the same way they apply to councillors.
- 17.(3) If a municipal council or a special committee in terms of item 16(1) finds that a traditional leader has breached a provision of this Code, the council may:-
- 17.(4) issue a formal warning to the traditional leader; or
- 17.(5) request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.
- 17.(6) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.
- 17.(7) The Commissions Act, 1947 (Act No. 8 of 1947), may be applied to an investigation in terms of sub-item (4).
- 17.(8) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may:-
- 17.8.(1) suspend that right for a period and on conditions determined by the MEC;
or
- 17.8.(2) cancel that right.
- 17.(9) Any investigation in terms of this item and any action by the MEC in terms of sub item (6) must be in accordance with the rules of natural justice.
- 17.(10) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81(3)

69. BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS

To provide for the procedure to be followed when there is an allegation or suspicion that the Code of Conduct for Councillors in terms of Schedule 7 of the Municipal Structures Amendment Act, 2021 has been breached and to provide for the imposition of sanctions on councillors who are found to have acted in contravention of the Code of Conduct for Councillors.

PREAMBLE

WHEREAS:

- A.** Item 5(3) of the Code of Conduct for Councillors provides that proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item;
- B.** The uniform standing procedure must comply with the rules of natural justice; and
- C.** There is also a need to provide guidance on the correct procedure to be followed before any disciplinary measures are instituted in terms of the Code in order to ensure adherence to principles of fairness and natural justice.

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

CHAPTER 1: INTERPRETATION

- 1. Definitions

CHAPTER 2: LEGISLATIVE PROVISIONS

- 2. Item 4 of the Code
- 3. Item 5 of the Code
- 4. Item 15 of the Code
- 5. Item 16 of the Code

CHAPTER 3: PROCEDURAL ISSUES

- 6. Fine for Non-attendance of meetings
- 7. Procedures following allegations of Breach of the Code

CHAPTER 4: SCHEDULES

Schedule of Fines

CHAPTER 1: INTERPRETATION

Definitions

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

“Code” means the Code of Conduct for Councillors as contained in Schedule 7 of the Municipal Structures Amendment Act, 2021;

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

“the Act” means the Local Government: Municipal Structures Act, as amended

CHAPTER 2: LEGISLATIVE PROVISIONS

2. Item 4 of the Code provides as follows:

Attendance at meetings

4. 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 the council; or
- (b) that councillor is required in terms of this Code to withdraw from the meeting.

3. Item 5 of the Code provides as follows:-

Sanctions for non-attendance at meetings

5. (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 a meeting.

(2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 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.

4. Item 15 of the Code provides as follows:

Breaches of Code

15. (1) If the speaker of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the speaker must:-

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the councillor a reasonable opportunity to reply in writing regarding the

alleged breach; and

(c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.

(2) A report in terms of sub-item (1)(c) is open to the public.

(3) The speaker must report the outcome of the investigation to the MEC for local government in the province concerned.

(4) The speaker must ensure that each councillor, when taking office, is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets

(5) If the speaker of council is the alleged perpetrator, or the speaker refuses to authorise an investigation, the council must establish a special committee, as contemplated in Item 16(1)(b), to investigate and make a finding on any alleged breach of this Code.

5. Item 16 of the Code provides as follows:

Investigation of breach

16. (1) A municipal council may: -

(a) investigate and make a finding on any alleged breach of a provision of this Code; or

(b) establish a special committee:-

(i) to investigate and make a finding on any alleged breach of this Code; and

(ii) to make appropriate recommendations to the council.

(2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may:-

(a) issue a formal warning to the councillor;

(b) reprimand the councillor;

(c) request the MEC for local government in the province to suspend the councillor for a certain period;

(d) fine the councillor; or

(e) request the MEC to remove the councillor from office.

(3) The speaker must inform the MEC for local government in the province concerned within 14 days of the finding and sanction decided on by the council.

(4) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub-item (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on

which the appeal is based.

(b) A copy of the appeal must be provided to the council by the MEC.

(c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.

(d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.

(5) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of sub-item (2) if a municipal council does not conduct an investigation contemplated in sub-item (1) and the MEC for local government considers it necessary.

(6) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub item (4).

(7) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may:-

(a) suspend the councillor for a period and on conditions determined by the MEC; or

(b) remove the councillor from office.

(8) Any investigation in terms of this item and any action by the MEC in terms of sub-item (7) must be in accordance with Section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

CHAPTER 3: PROCEDURAL ISSUES

6. (1) Fines for non-attendance of council or committee meetings (less than or not equated to absence from three consecutive meeting)

- (a) A councillor who is absent at a meeting of the council or committee of council or fails to remain in attendance at such a meeting, without obtaining leave of absence is liable for a fine of R200.00 per meeting missed, which must be deducted from the salary/allowance due to that councillor on the month following the finding or soonest there-after. This must also apply where leave of absence is declined, and the councillor nonetheless remains absent at such a meeting.

(2) Procedures following allegations/reasonable suspicion of Breach of the Code (Schedule 7 of the Municipal Structures Amendment Act, 2021):

- (a) The Speaker must act upon reasonable suspicion that a provision of the Code of Conduct has been breached.
- (b) The Speaker must authorize an investigation of the facts and circumstances of the alleged breach.
- (c) The Speaker of Council must notify the councillor in writing of the allegations against him or her and give the councillor an opportunity to respond to the said allegations in writing.
- (d) The written notification must at least contain the following:-
 - (aa) the specific item or items alleged to have been breached;
 - (bb) the time period for a written response; and
 - (cc) the right to request any relevant documentation or information.
- (e) A period of at least fourteen days must be deemed reasonable to allow for a response from the councillor concerned.
- (f) Upon receiving the representations of the councillor or upon the expiry of the period provided for the written response, the Speaker of Council must report the matter at the next meeting of the Council, in a meeting open to the public, and include the response of the councillor in order for council to resolve on the matter.

- (f)(1) The Speaker must report the outcome of the investigation to the MEC for local government in the province concerned, should the outcomes of the investigation be deemed the end of the matter or that it is deemed not necessary for any further investigation.
- (f)(2) If the Speaker of council is the alleged perpetrator, or the Speaker refuses to authorise an investigation, the council must establish a special committee to investigate and make a finding on any alleged breach of the code.
- (i) Should the Report by the Speaker, in (f) *supra*, indicate and/or recommend and/or motivate Council to investigate the matter further, the Council may resolve to investigate and make a finding on any alleged Breach of the Code or establish a special committee to investigate and make a finding on any alleged breach of the Code and to make appropriate recommendations to the Council.
- (i)(1) The following must be taken into account when the special committee is constituted:
- (aa) the committee must comprise of the at least five members, including the Chairperson
 - (bb) any person involved in the preliminary investigation must not be a member of the committee;
 - (cc) the council must strive to have equitable political representation on the committee in keeping with section 160(8) of the Constitution of the Republic of South Africa, 1996; and
 - (dd) the council must elect a chairperson.
- (j) Prior to a hearing taking place, the councillor must be notified in writing of the intention to conduct a hearing.
- (k) The councillor must be given at least fourteen days' written notice of the hearing.
- (l) The notification to attend the hearing must contain, at least, the following:

- (aa) the alleged breach;
 - (bb) the time, date and venue of the hearing;
 - (cc) the councillors' rights; and
 - (dd) the implications of a failure to attend the hearing;
 - (ee) copies of the prima facie evidence relating to the breach;
- (m) The hearing must be conducted by the committee as elected by the Council.
 - (n) Both parties must be given the opportunity to present their case.
 - (o) The hearing must not be open to the public.
 - (p) At the hearing-
 - (aa) The Chairperson, who may be assisted by an Official, preferably with a legal qualification, must read the charge sheet to the councillor concerned and the Chairperson must give the councillor an opportunity to plead to the charges preferred against the councillor.
 - (bb) The Councillor may elect to plead guilty or not guilty to the charges, after which plea, the Chairperson and/or the Committee may put questions to the councillor to obtain clarity on any aspect deemed necessary relating to the charges and plea and afford the councillor an opportunity to call it's owns witnesses and/or produce any evidence and/or documents to the Chairperson who may admit same into the record. The Committee may also question any witnesses brought by the councillor concerned.
 - (cc) Once the Councillor is excused, the Committee may deliberate on the session and may call any official or councillor who is an author or convenor or possessor of evidentiary material that was used to support the allegations, to provide clarity on any aspect thereof and may even be requested to furnish further related information. The Committee may then make recommendations in terms of the way forward or if satisfied that the session has been exhausted, make recommendations to Council.

- (bb) The Chairperson may also call its own witnesses during the session in the councillors presence, if deemed necessary and the councillor will have the right to put questions to the witnesses called by the Chairperson, if any;
 - (cc) the committee will also have the right to put questions to the witnesses called by the Chairperson for the purposes of clarifying any issues;
 - (ee) the Chairperson and the councillor concerned may address the Committee, in closing its case, after all the evidence has been heard and before the committee makes a decision.
- (q) The Municipal Manager must provide facilities including personnel to assist the Committee including assistance with drafting items, procedural matters, legal advice (from within the Municipality) and recording of the hearing(s) which record must contain all particulars related to the hearing including:-
 - (aa) the names of the parties and their representatives;
 - (bb) the names of the witnesses;
 - (cc) the plea;
 - (dd) the evidence led;
 - (ee) the finding; and
 - (ff) any recommended sanction.
- (r) In the event that the Chairperson becomes aware that councillor will not be able to attend the hearing after delivery of the notice, the Chairperson must attempt to establish the reasons for such failure to attend the hearing, prior to the commencement of the proceedings.
- (s) If the Chairperson is unable to establish reasons why the councillor has failed to attend the hearing, the committee must commence the proceedings in the absence of the councillor.
- (t) At the end of the hearing, the special committee must consider all the evidence. If a majority of the members of the committee find that, on a balance of probabilities, has breach the Code of Conduct for Councillors, must make an appropriate finding and recommendation(s)

to the municipal council.

- (u) The council must consider the finding and recommendation of the special committee and make an appropriate decision.
- (u)(1) If the Council or special committee finds that a councillor has breached a provision of the code of conduct, the Council may:-
 - a) issue a formal warning to the Councillor;
 - b) reprimand the Councillor;
 - c) request the MEC for local government in the province to suspend the Councillor for a certain period;
 - d) fine the councillor; or
 - e) request the MEC to remove the councillor from office.
- (v) The outcome of the said investigation and the Council's decision on the matter must be reported to the MEC by the Speaker, which report, together with the Council's resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.
- (w) The councillor must be notified in writing within seven days of receipt of the council's decision, and the said notice must at least contain the following information:-
 - (aa) whether or not the councillor has been found guilty of the alleged breach;
 - (bb) the grounds on which such a finding was made;
 - (cc) the sanction to be imposed; and
 - (dd) the councillors' right to appeal to the MEC and any other rights afforded to the Councillor by legislation or in terms of these rules.
- (x) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub-item u(1) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.
 - (b) A copy of the appeal must be provided to the council by the MEC.
 - (c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the

MEC for local government in writing.

(d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.

(y) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of the Code and to make a recommendation as to the appropriate sanction if a municipal council does not conduct an investigation contemplated the code and the MEC for local government considers it necessary.

(z) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of the code.

(z)(1) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may:-

(a) suspend the councillor for a period and on conditions determined by the MEC;

or

(b) remove the councillor from office.

(z)(2) Any investigation in terms of this item and any action by the MEC in terms of this code must be in accordance with section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)

CHAPTER 4: ANNEXURES

SCHEDULE OF FINES

This Schedule shall serve as a guideline to Council on the determination of sanctions in terms of the Code. The sanctions included in this Schedule shall be read in conjunction with relevant legislation, by-laws and adopted policies.

OBLIGATION	ITEM OF THE CODE	PENALTY
A councillor must- a) perform the functions of office in good faith, honestly and a transparent manner; and b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.	Item 2 Of the Code	This shall depend on the severity of the action/s of the councillor. The Council may:- (a) fine the councillor a minimum of R800.00 allowance/salary, which must be deducted from that councillor's allowance; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; or request the MEC to remove the councillor from office.
A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council which conflicts with any legislation applicable to local government.	Item 3 of the Code	This shall depend on the severity of the action/s of the councillor. The Council may:- (a) fine the councillor a minimum of R800.00 allowance/salary, which must be deducted from that councillor's allowance; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; or (e) request the MEC to remove the councillor from office. Where the consequences of the unlawful votes have detrimental financial implications, Council or other authorities may also institute civil recovery proceedings.
A <u>councillor</u> must attend and remain in attendance, at each meeting of the <u>municipal council</u> and of a committee of which that councillor is a member, except when leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the Council; or that councillor is required in terms of the Code to withdraw from the meeting.	Item 4 and 5 of the Code	A councillor who is absent at a meeting of the council or committee of council without obtaining leave of absence is liable for a fine of R200,00 allowance/salary per meeting, which must be deducted from that councillor's allowance/salary. This must also apply where leave of absence is declined, and the councillor nonetheless remains absent at such a meeting.

		<p>A councillor who fails to remain in attendance at a Council or committee meeting for a period exceeding an hour without having obtained the consent of the Council or the committee is liable for a fine of R500,00 per meeting, which must be deducted from that councillor's allowance/salary.</p> <p>A councillor who is absent from three or more consecutive meetings of a municipal council, or committee, which that councillor is required to attend in terms of item 4 and 5, must be removed from office as a councillor. The process outlined in Chapter 3 must be followed when removing a councillor in terms of this item.</p>
<p>A councillor must –</p> <p>a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee, and</p> <p>b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.</p> <p>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 municipal council at which it is possible for the councillor to make the disclosure.</p>	<p>Item 6 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <p>(a) fine the councillor R200,00 which must be deducted from that councillor's allowance/salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office</p>

<p>A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit:-</p> <p>1) Another person. Except with the prior consent of the municipal council, a councillor may not be a party to or beneficiary :</p> <p>a) Under a contract for the provision of goods or services to the municipality</p> <p>or</p> <p>i) The performance of any work other than as a councillor for the municipality;</p> <p>ii) Obtain a financial interest in any business of the municipality;</p> <p>or</p> <p>b) For a fee or other consideration appear on behalf of any other person before the council or a committee.</p>	<p>Item 7 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <p>(a) fine the councillor R200,00 which must be deducted from that councillor's allowance/salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
<p>When elected or appointed, a <u>councillor</u> must within 60 days declare in writing to the <u>Municipal Manager</u> the following financial interests held by that councillor;</p> <p>a) shares and securities in any company;</p> <p>b) membership of any close corporation;</p> <p>c) interest in any trust;</p> <p>d) directorships;</p> <p>e) partnerships;</p> <p>f) other financial interests in any interest in property;</p> <p>g) pension; and</p> <p>h) subsidies, grants and sponsorships by any organisation.</p> <p>Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.</p> <p>Gifts received by a councillor above a</p>	<p>Item 8 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may: –</p> <p>(a) fine the councillor a minimum R200 which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period;</p> <p>or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings</p>

prescribed amount must also be declared in accordance with sub-item (1).		
A councillor who is a full time councillor may not undertake any paid work, except with the consents of the municipal council which consent must not unreasonably be withheld	Item 9 of the code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> a) fine the councillor a minimum of 2 weeks salary/ allowance which must be deducted from that councillor's allowance/salary; b) issue a formal warning; c) reprimand the councillor; d) request the MEC to suspend the councillor for a certain period; or e) request the MEC to remove the councillor from office
<p>A <u>councillor</u> may not request, solicit or accept any reward, gift or favour for :-</p> <ul style="list-style-type: none"> a) voting or not voting in a particular manner on any matter before the <u>municipal council</u> or before a committee of which that councillor is a member; b) persuading the council or any committee in regard to the exercise of any power, function or duty; c) making a representation to the council or any committee of the council; or d) disclosing privileged or confidential information. 	Item 9 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> a) fine the councillor a minimum of R400,00 which must be deducted from that councillor's allowance/salary; b) issue a formal warning; c) reprimand the councillor; d) request the MEC to suspend the councillor for a certain period; or e) request the MEC to remove the councillor from office
A councillor may not without the permission of the municipal council, or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> (a) fine the councillor a minimum of R200,00 which must be deducted from that councillor's allowance/salary; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; or (e) request the MEC to remove the councillor

		from office
<p>A <u>councillor</u> may not, except as provided by law:-</p> <ul style="list-style-type: none"> (a) interfere in the management or administration of any department of the <u>municipal council</u> 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. 		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> a) fine the councillor a minimum of R200,00 which must be deducted from that councillor's allowance/salary; b) reprimand the councillor; c) request the MEC to suspend the councillor for a certain period; or d) request the MEC to remove the councillor from office
<p>A <u>councillor</u> may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the <u>municipality</u> to which that councillor has no right.</p>		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> (a) fine the councillor a minimum of R400,00 which must be deducted from that councillor's allowance/salary; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; <p>or</p> <ul style="list-style-type: none"> (e) request the MEC to remove the councillor from office
<p>Assaulting any person on municipal premises or on municipal business.</p>		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> (a) fine the councillor a minimum of R600,00 which must be deducted from that councillor's allowance/salary; (b) request the MEC to suspend the councillor for a certain period;

		<p>or</p> <p>(c) request the MEC to remove the councillor from office</p> <p>Council or other authorities may also consider instituting criminal proceedings</p>
Stealing any property from municipal premises.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <p>(a) fine the councillor a minimum of R800,00 which must be deducted from that councillor's allowance/salary; or the value of the stolen item.</p> <p>(b) request the MEC to suspend the councillor for a certain period;</p> <p>or</p> <p>(c) request the MEC to remove the councillor from office</p> <p>Council or other authorities may also consider instituting civil and / or criminal proceedings.</p>
Malicious injury to municipal property.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <p>a. fine the councillor a minimum of R800,00 which must be deducted from that councillor's allowance/salary; or the cost to repair the damage sustained by the property.</p> <p>b. request the MEC to suspend the councillor for a certain period; and</p> <p>or</p> <p>c. request the MEC to remove the councillor from office</p> <p>Council or other authorities may also consider instituting civil and / or criminal proceedings.</p>
Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in any meeting of the Council or Committee of the Council.		<p>The Council may:-</p> <p>(a) fine the councillor a minimum of R200,00 which must be deducted from that councillor's allowance/salary;</p> <p>(b) issue a formal warning;</p>

		<p>or</p> <p>(c) request the MEC to remove the councillor from office</p> <p>Council or other authorities may also consider instituting criminal proceedings</p>
Stealing any property from municipal premises.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <p>(a) fine the councillor a minimum of R800,00 which must be deducted from that councillor's allowance/salary; or the value of the stolen item.</p> <p>(b) request the MEC to suspend the councillor for a certain period;</p> <p>or</p> <p>(c) request the MEC to remove the councillor from office</p> <p>Council or other authorities may also consider instituting civil and / or criminal proceedings.</p>
Malicious injury to municipal property.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <p>a. fine the councillor a minimum of R800,00 which must be deducted from that councillor's allowance/salary; or the cost to repair the damage sustained by the property.</p> <p>b. request the MEC to suspend the councillor for a certain period; and</p> <p>or</p> <p>c. request the MEC to remove the councillor from office</p> <p>Council or other authorities may also consider instituting civil and / or criminal proceedings.</p>
Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in any meeting of the Council or Committee of the Council.		<p>The Council may:-</p> <p>(a) fine the councillor a minimum of R200,00 which must be deducted from that councillor's allowance/salary;</p> <p>(b) issue a formal warning;</p>

		<ul style="list-style-type: none"> (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; (e) request the MEC to remove the councillor from office. <p>Council or other authorities may also consider instituting civil and / or criminal proceedings.</p>
Failing to fall silent when the Presiding Officer speaks or rises during a meeting.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may:-</p> <ul style="list-style-type: none"> (a) fine the councillor a minimum of R100,00; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; (e) request the MEC to remove the councillor from office.
Failing to obey any ruling, order or directive of the Presiding Officer at any meeting of the Council or any Committee		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may: -</p> <ul style="list-style-type: none"> (a) fine the councillor a minimum of R100,00; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; (e) request the MEC to remove the councillor from office.
Failing to leave the Chamber or Committee Room when ordered to do so by the Presiding Officer.		<p>The Council may:-</p> <ul style="list-style-type: none"> (a) fine the councillor a minimum of R100,00 which must be deducted from that councillor's allowance/salary; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; (e) request the MEC to remove the councillor from office.