

LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

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**Hu tshi katelwa na
Gazethe dza Nyingo**

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LOCAL AUTHORITY NOTICE

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BA-PHALABORWA MUNICIPALITY

The Municipal Manager of Ba-Phalaborwa Municipality hereby, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) publishes the Standing Orders for the Ba-Phalaborwa Municipality, as approved by its Council.

STANDING ORDERS

STANDING ORDERS TO PRESCRIBE RULES AND ORDERS FOR THE INTERNAL ARRANGEMENTS, BUSINESS AND PROCEEDINGS OF THE MUNICIPAL COUNCIL AS WELL AS FOR THE ESTABLISHMENT, COMPOSITION, PROCEDURES, POWERS AND FUNCTIONS OF ITS COMMITTEES

(To be promulgated as a by-law)

PART 1: DEFINITIONS

DEFINITIONS

1. In these by-laws, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Local Government: Municipal Structures Act 117 of 1998 and the Local Government: Municipal Systems Act 32 of 2000, has the same meaning and -

"Code of conduct" means the code of conduct for councillors as set out in schedule 1 of the Municipal Systems Act;

"Motion" means a motion introduced in writing in terms of section 9;

"Municipal Structures Act" means the Local Government: Municipal Structures Act 117 of 1998;

"Municipal Systems Act" means the Local Government: Municipal Systems Act 32 of 2000;

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

PART II: COUNCIL MEETINGS

NOTICE OF MEETINGS

2. (1) As the speaker in terms of section 29 of the Municipal Structures Act decides when and where the council meets, the speaker must give written notice of every meeting of council not less than seven calendar days before the meeting, to each councillor: Provided that when a special meeting must be convened due to urgent matters, the written notice may be given not less than one calendar day before the meeting.

(2) The written notice in subsection (1) shall specify the place, time and date of the meeting and shall contain the agenda for that meeting including the reports and recommendations of the Executive Committee and Municipal Manager to be considered at the meeting.

(3) The written notice and agenda of every meeting to all councillors shall be delivered to the physical address provided by each councillor in writing.

(4) The accidental omission to serve notice on any councillor in terms of subsection (3) or the late receipt of such notice shall not affect the validity of the meeting concerned.

(5) A copy of the written notice and agenda in subsection (3) shall be delivered by the Director: Corporate Services to the office of the Municipal Manager and the offices of the employees nominated by the Municipal Manager.

ATTENDANCE OF MEETINGS

3. (1) Every councillor must attend each meeting of the council, except when -
(a) leave of absence is granted on written application by the councillor concerned: Provided that due to reasons beyond the control of the councillor concerned verbal application for leave of absence for that councillor may be made through the speaker or the Municipal Manager and such reasons are accepted by council, or
(b) a councillor is required in terms of the Code of Conduct to withdraw from the meeting.

(2) Every member present at a meeting of council shall sign the attendance register for that meeting which shall be made available by the Municipal Manager.

(3) The Municipal Manager shall submit at the first ordinary meeting of the council of every calendar year a return indicating the attendance of every councillor at meetings of council held during the previous calendar year, as a report to council.

(4) The uniform standing procedure in terms of item 4(3) of the Code of Conduct is as follows:

(a) When a councillor is absent from a meeting of council, without leave of absence, the speaker shall request such councillor in writing within seven calendar days from the date of the meeting of which the councillor was absent, to submit the reasons for such absence in writing to the speaker within seven days from the date of receipt of such request from the speaker.

(b) The written request in sub-subparagraph (a) shall be delivered to either the working address or residential address of the councillor concerned and any person of the age 18 years or older present on the relevant premises can receive and acknowledge receipt of such a request or the written request shall be mailed by registered mail to the last available postal address of the councillor concerned in which case the date of receipt shall be deemed to be two calendar days from the date that the request was mailed.

- (c) On receipt of the written reasons for absence from a meeting of council without leave in paragraph (a), the speaker must prepare a report with a recommendation and submit such written reasons together with the report and recommendation to the council not later than the second ordinary meeting of council from the date of receipt of the mentioned written reasons.
- (d) When considering the written reasons, report and recommendation in paragraph (c) council must -
- (i) finalise the matter in terms of the Code of Conduct; or
 - (ii) decide whether the councillor concerned must be requested to submit at the following ordinary council meeting further information as may be required in writing or verbally and if other witnesses must be requested to testify if necessary to finalise the matter at such meeting in terms of the Code of Conduct: Provided that if circumstances make it necessary council may decide that a special meeting be convened before the next ordinary meeting to finalise the matter as such in terms of the Code of Conduct.
- (e) The decision of council in terms of paragraph (d) must be forwarded to the councillor concerned in writing by the speaker within seven days from the date of the decision which finalised the matter in terms of the Code of Conduct.
- (f) If the speaker is absent from a meeting or meetings of council without leave of absence, the councillor appointed as acting speaker by the council shall perform the duties of the speaker in terms of this section.
- (g) The fine in terms of item 4 of the Code of Conduct may not exceed 10% of the monthly salary or allowance of the Councillor found guilty in terms of the procedure in paragraph (4), and 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, must be removed from office as a Councillor.

QUORUM

4. (1) If after twenty minutes after the time which the meeting was scheduled for as stated in the written notice in terms of section 2, no quorum as contemplated in section 30 of the Municipal Structures Act is present, the meeting shall not take place, unless the councillors present agree to wait a further period of time of maximum 10 minutes to obtain a quorum after which the business of such a meeting shall stand over to the next ordinary meeting of council or special meeting specially convened by the speaker due to reasons of urgency at the discretion of the speaker.

(2) Whenever during a meeting of council, councillors left the meeting to the extent that a quorum is no longer present, the speaker shall suspend the proceedings of the meeting for five minutes and if after the end of this five minute period there is still no quorum the speaker shall declare the meeting to be terminated and regarding the uncompleted business the provisions of subsection (1) shall apply.

BUSINESS OF COUNCIL

5. (1) The order of business at an ordinary meeting shall be as follows:
- (a) Opening
 - (b) Applications for leave of absence
 - (c) Statements and communications by the speaker (Section 6)
 - (d) Statements and communications by other councillors (Section 7)
 - (e) Confirmation of minutes of previous meetings

- (f) Deputations (section 11)
- (g) Questions of which notice has been given in terms of section 8.
- (h) Motions or proposals referred from previous meetings
- (i) Reports:
 - (i) Non Delegated Powers
 - (aa) of the Executive Committee
 - (bb) of the Municipal Manager
 - (cc) other
 - (ii) Delegated Powers
 - (aa) of the Executive Committee
 - (bb) of the Municipal Manager
 - (cc) other
- (j) New motions (section 9)
- (k) Petitions (section 10)
- (l) Items for the next Council meeting

(2) After the council has finalised the matters in paragraphs (a) to (e) of subsection (1), it may consider the other matters on the agenda in any order as decided by the speaker due to circumstances that necessitate the change of order of the business of council on the agenda.

(3) The order of business of a special meeting of the council shall be as follows:

- (a) Opening
- (b) Applications for leave of absence
- (c) Statements and communications by the speaker
- (d) Reports:
 - (i) Of the Executive Committee
 - (ii) Of the Municipal Manager
 - (iii) Other

(4) No business other than that specified in the agenda for the meeting, shall be transacted: Provided that at an ordinary meeting of council, it may accept a matter of urgency to be transacted.

STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

6. The speaker may at any meeting of Council when the item referred to in section 5(1)(c) is called, without notice make any statement and or communication which shall not be debated.

STATEMENTS AND COMMUNICATIONS BY OTHER COUNCILLORS

7. The speaker may allow councillors at any meeting of council when the item referred to in section 5(1)(d) is called, to make statements and or communications as arranged with the speaker prior to the meeting, which shall not be debated.

QUESTIONS

8. (1) (a) Subject to paragraph (b), at any ordinary meeting of council, a question concerning the general business of council, but not directly arising out of or connected with any item on the agenda, may be put without comment.

(b) Notice of such a question shall be given in writing by the councillor to the municipal manager not later than fourteen calendar days before the ordinary meeting and the municipal manager shall record such question in a register kept for such questions and shall provide a copy of such question to the speaker and the mayor.

(c) The mayor shall reply to the question put in terms of paragraphs (a) and (b), at the meeting of council: Provided that such replies may be tabled in the form of a written report as part of the agenda under the item referred to in paragraph (f) of section 5(1).

(d) A councillor who puts a question in terms of this subsection shall be entitled in due course to be furnished with a written copy of the reply by the mayor within five working days from the date of the request if the reply was not tabled as a written report in terms of paragraph (c).

(2) At any meeting a councillor may put questions directly arising out of or connected to such item for clarification and such question shall not be regarded as a speech for the purposes of these Standing Orders.

(3) The speaker shall reply to the questions in subsection (2) or the speaker shall request the mayor or municipal manager to reply to such questions.

(4) If questions in terms of this section cannot be clarified at the meeting to which such questions are put, the council may resolve that a written report be submitted to council at a next meeting for clarification.

MOTIONS

9. (1) Subject to the provisions of any other law -

(a) every notice of motion shall be in writing and such notice shall be signed by the councillor submitting it;

(b) a motion shall be given to the municipal manager who shall enter it in a book kept for that purpose which shall be open to inspection by any councillor;

(c) notice of a motion shall not be specified in the notice for a meeting unless it is received at least ten days prior to such a meeting;

(d) a motion shall lapse if the member who submitted it is not present at the meeting when such motion is being debated.

(2) At the request of a councillor who gave notice of a motion, the municipal manager shall acknowledge receipt thereof in writing.

(3) Every motion shall be relevant to the administration of or conditions in the municipality or shall deal with a matter in respect of which the municipality has jurisdiction.

(4) A motion shall only be regarded as having been submitted to the council for decision if the proposal introducing that motion was duly seconded.

(5) A councillor submitting a motion shall move such motion and shall have the right of reply.

(6) Every motion as contemplated in subsection (1)(a), shall on receipt be dated and numbered and shall be entered by the municipal manager upon the agenda in the order in which it is received: Provided that a motion amending another motion, shall be entered upon

the agenda immediately after the latter motion, irrespective of the time when notice of the motion to amend was given.

(7) No councillor shall have more than one motion as contemplated in subsection (1)(a) entered upon the agenda with the exception of a deferred motion, and no councillor shall move more than six motions during any calendar year.

(8) When a member moves a motion in terms of this section -

- (a) which is intended to rescind or amend a resolution passed by the council taken within the preceding three months;
- (b) which has the same purpose as a motion which was negated within the preceding three months;

such motions shall only be entered upon the agenda if the notice of such motion is signed by no fewer than three councillors, in addition to the councillor who proposed the motion.

(9) No councillor shall propose a motion similar to a motion which was dealt with in terms of the provisions of subsection (8) before a period of six months after it has been dealt with has elapsed.

(10) Notwithstanding the provisions of subsections (8) and (9), the council may at any time, following a recommendation by the executive committee, rescind or amend any resolution passed by it.

(11) In dealing with motions -

- (a) the municipal manager shall read out the number of every motion and the name of the mover;
- (b) the speaker shall ascertain which motions are unopposed and these shall be passed without debate;

and thereafter the speaker shall call the opposed motions in their order on the paper.

(12) The speaker shall disallow a motion or proposal -

- (a) which in his or her opinion -
 - (i) might lead to the discussion of a matter already dealt with in the agenda or which has no bearing on the administration of or conditions in the municipality; or
 - (ii) advances arguments, expresses an opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestions;
- (b) in respect of which -
 - (i) the council has no jurisdiction;
 - (ii) a decision by a judicial or quasi-judicial body is pending; or
 - (iii) which has not been duly seconded;

(c) which, if passed, would be contrary to the provisions of these by-laws or of any other law, or impractical: Provided that if such motion or proposal in the opinion of the council, justifies further investigation, it shall be referred to the executive committee.

(13) (1) A motion or proposal may be withdrawn or amended by the mover with the consent of the council which shall be given or refused without debate.

(2) After consent for the withdrawal of a motion or proposal has been granted, no councillor shall speak upon such motion or proposal.

(3) After consent for the withdrawal of a motion or proposal has been refused, a councillor may speak upon such motion or proposal.

PETITIONS

10. (1) A councillor may submit a petition at a meeting and may briefly state the purpose thereof.

(2) Such petition shall be referred to the executive committee for consideration and a report to the council with the recommendation of the executive mayor.

DEPUTATIONS

11. (1) A deputation wishing to appear before the council shall submit a motivated written request to the municipal manager who shall submit it to the mayor and the mayor may, if deemed expedient, receive the deputation and deal with the matter raised in the written request.

(2) The mayor may, if it is considered that the matter raised is one which should be brought before the council, report to the council accordingly and if the council so decides, the deputation shall be advised to appear before the council.

(3) The speaker may allow any deputation to appear before the council without submission of a written request if, in his or her opinion, the matter concerned is of an urgent nature.

(4) A deputation shall not consist of more than five persons.

(5) Except with the consent of the council or in reply to a question from a councillor, only one member of a deputation may address the council.

(6) A member of a deputation may not address the council for more than five minutes except with the consent of the speaker, but may respond briefly to a question by a member.

MINUTES OF MEETING

12. (1) If a copy of the minutes of a meeting has been served on every member in the manner as provided in section 2 in respect of the notice of a meeting, the minutes shall be taken as read with a view to confirmation.

(2) No proposal or discussion shall be allowed on the minutes, except as to their accuracy.

(3) The minutes in relation to any item considered by the council in committee as contemplated in section 24, shall be kept separate from other minutes of the council, unless consideration of that item was finalised in open council and such minutes shall be approved by the council in committee not later than 100 days from the date on which the meeting in question took place.

MOVING OF REPORT

13. (1) The mayor or a councillor called upon by the speaker to do so, shall submit all reports to council at a meeting by requesting "That the reports be considered" and such request shall not be discussed.

(2) When the reports are being considered, the speaker shall put the recommendations in that part of the reports in respect of which there are no delegated powers, seriatim, unless for a good cause he or she sees fit to vary their order.

(3) The recommendations in the reports to council as mentioned in subsection (2) shall be deemed to have been proposed and seconded.

(4) When a recommendation contemplated in subsection (2) has been adopted, such recommendation shall become a resolution of the council.

(5) Any councillor who disagrees with a resolution may request that his or her opposition to a resolution and his or her reason therefor, be minuted, after which the Director: Corporate Services shall minute or cause to be minuted such opposition and reason.

(6) After the matters in respect of which there are no delegated powers have been dealt with, the speaker shall permit debate of the matters delegated to the executive committee, a committee, councillor or employee: Provided that-

(a) such debate shall be limited to a period not exceeding one hour or such extended period as the council may determine;

(b) a councillor, except the mayor, shall not speak on such matters for longer than ten minutes;

(c) no other proposal shall be submitted during such debate, except a proposal that the executive committee, a committee, councillor or employee be requested to reconsider a resolution;

(d) during such debate a councillor may request that his or her opposition to a resolution in respect of which the executive committee has delegated powers, and his or her reason therefor, be minuted after which the director: corporate services shall minute or cause to be minuted such opposition and reason.

(7) The speaker or a councillor as contemplated in subsection (1) may -

(a) with the consent of the majority of the councillors present, which shall be granted or disallowed without debate, withdraw any item;

(b) subject to the provisions of section 15, amend any item, with the consent of all the members of the relevant committee present if applicable, and of the majority of the members present, which shall be granted or disallowed without debate.

(8) If the speaker or a councillor contemplated in subsection (1) takes part in the debate concerning any item in the report, he or she shall close the debate on such item: Provided that the speaker or councillor concerned may nominate another councillor who, in his or her opinion, is more conversant with the item being debated, to close the debate on his or her behalf, irrespective of whether such councillor had previously taken part in the debate on that item.

CONSIDERATION OF THE BUDGET

14. Notwithstanding anything to the contrary in these by-laws, the following provisions shall apply when the budget is considered by the council:

(1) No proposal which is designed to increase or decrease the estimated revenue or expenditure of the council shall be put to the vote before the debate on the budget has been closed.

(2) After the debate on the budget has been closed, the speaker shall put to the vote the proposals contemplated in paragraph (1), in the order in which they were proposed.

(3) After all the amendments have been dealt with, and if any proposal contemplated in paragraph (a) has been accepted, the budget shall not be deemed to have been amended by the proposal thus accepted, but the meeting shall be adjourned to a date and time determined by the speaker.

(4) After an adjournment in terms of paragraph (3), the executive committee shall investigate the implications of every proposal accepted and shall report thereon to the council when the meeting resumes.

(5) After the executive committee has reported in terms of paragraph (4) -
(i) the speaker shall permit debate on the proposals accepted;
(ii) thereafter, he or she shall put every such proposal to the vote again, and if such proposal is accepted, the budget shall be amended in accordance with that resolution.

MOTIONS HAVING FINANCIAL IMPLICATIONS OR INVOLVING LEGISLATION

15. If a motion -

- (a) has the effect of increasing the expenditure or of reducing the revenue of the council, or if it involves expenditure not provided for in the estimates, it shall be referred to the executive committee for investigation and report to the council; or
- (b) would, if adopted, amend these Standing Orders, or introduce or amend any legislation, it shall, before being put to the vote, be referred to the executive committee for a further report.

PROPOSALS DURING THE COURSE OF A MEETING

16. (1) During the course of a meeting no further proposal shall be received except -

- (a) to amend a motion or proposal;
- (b) that the council now adjourns;
- (c) that a debate be adjourned;
- (d) that a matter be referred back;
- (e) that the motion or proposal be now put to the vote;
- (f) that the council proceeds to the next business;
- (g) that the public or the press be excluded from any or all meetings or part of a meeting;
- (h) that the council goes in or out of committee;
- (i) that a provision of these standing orders be suspended;

(2) Every proposal in terms of subsection (1) shall be seconded.

(3) A proposal in terms of subsection (1) and any seconding thereof, shall, subject to the provisions of section 16(1), not be regarded as a speech for the purpose of these standing orders.

(4) Any proposal in terms of subsection (1) shall be dealt with in accordance with the applicable provisions of sections 17 to 26.

(5) Nothing in this section shall affect the right of the speaker, on his or her own initiative or at the request of a councillor, to adjourn a meeting temporarily for a period not exceeding two hours.

AMENDMENT OF MOTION OR PROPOSAL

17, (1) Every amendment proposed in terms of section 16(1)(a), shall be relevant to the motion or proposal in respect of which it is proposed and shall be proposed during the course of a speech contemplated in section 29.

(2) No amendment to an amendment shall be proposed.

(3) An amendment shall be reduced to writing, signed by the mover and handed to the municipal manager.

(4) An amendment shall be read before being proposed.

(5) No councillor shall be entitled to propose more than one amendment to any original motion or proposal.

(6) (a) More than one amendment of a motion or proposal may be proposed and, subject to the provisions of subsection (8), all amendments proposed shall be put to the vote at the closure of the debate on such motion or proposal.

(7) (a) The speaker shall reject any amendment that constitutes a direct negation of the original motion or proposal.

(b) The provisions of sections 9(12)(b), (c) and (d), and 15 apply *mutatis mutandis* to a proposal in terms of this section.

(8) After all the amendments have been put to the vote as contemplated in subsections (6) and (7), the original motion or proposal, as amended, if any amendment has been adopted, shall be put to the vote.

ADJOURNMENT OF MEETING

18. (1) A councillor may at any time except during the course of a speech by another councillor or while a vote is being taken, verbally propose that the council now adjourns.

(2) The proposer, one councillor in opposition thereto and the speaker may speak on the proposal for a period not exceeding five minutes each, but the seconder shall not speak further than formally seconding it.

(3) A proposal contemplated in subsection (1) shall be put to the vote without further debate.

(4) If the proposal is accepted, the council shall forthwith adjourn: Provided that the speaker may direct that unopposed business shall be disposed of before the adjournment.

(5) If the proposal that the council now adjourns is rejected, the speaker shall not allow another such proposal until a period of half an hour has elapsed after such rejection.

(6) A councillor may not on the same day propose or second more than one proposal for adjournment during the course of any one meeting of the council.

(7) Any business uncompleted at an adjournment shall be dealt with at the next ordinary meeting, unless the council decides otherwise or the speaker convenes a special meeting to dispose thereof.

(8) If a proposal to adjourn a meeting has been accepted, the councillor who proposed the adjournment shall be entitled to speak first when the matter under discussion at the adjourned meeting, is considered.

(9) If a meeting is adjourned to a date not exceeding fourteen days after the date of adjournment, notice of the adjourned meeting need not be given in terms of section 2.

ADJOURNMENT OF DEBATE

19. (1) A councillor who has not yet participated in a debate on a matter under consideration may, at the conclusion of any speech, verbally propose that the debate be adjourned.

(2) The proposer and the mayor may speak on the proposal for a period not exceeding five minutes each, but the seconder shall not speak further than formally seconding it.

(3) Save as is provided in subsection (2), no debate shall be permitted on such proposal except with regard to the period of adjournment.

(4) If such proposal is accepted, the meeting shall proceed to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, shall be resumed at the next ordinary meeting.

(5) On the resumption of the adjourned debate the councillor who proposed the adjournment shall be entitled to speak first.

(6) If a proposal that a debate be adjourned is rejected, the speaker shall not allow another such proposal until a period of half an hour has elapsed after such rejection.

(7) A councillor may not propose or second more than one proposal for the adjournment of the debate during the course of the debate.

REFERENCE BACK

20. A councillor may, during the course of his speech on any matter, verbally propose that the matter or any aspect thereof be referred to the executive committee for further consideration and report to the council.

MATTERS TO BE PUT TO THE VOTE

21. (1) A proposal that the matter be now put to the vote, may be made verbally at the close of any speech.

(2) The proposer may speak on the proposal for a period not exceeding five minutes, but the seconder may not speak further than formally seconding it.

(3) (a) A proposal that the matter be now put to the vote shall be put to the vote without further debate except that the mover or proposer of the original motion or proposal shall have the right to respond to the original motion or proposal.

(b) If a proposal that the matter be now put to the vote is accepted, any proposal to amend the original motion or proposal as well as the original motion or proposal shall be put to the vote forthwith.

(4) If a proposal that the matter now be put to the vote is rejected, the speaker shall not allow another such proposal on the same matter until a period of half an hour has elapsed after such rejection.

COUNCIL PROCEEDS TO THE NEXT BUSINESS

22. (1) A proposal that the council proceeds to the next item of business may be proposed verbally at the close of any speech.

(2) Such proposal shall be put to the vote without debate except that the mayor may speak on the proposal for a period not exceeding five minutes, and, if accepted, the matter under discussion shall not be included in the agenda of a subsequent meeting within a period of six months, unless it is reinstated on the recommendation of the executive mayor.

(3) If a proposal that the council proceeds to the next item of business is rejected, the speaker shall not allow another such proposal in respect of the same item until a period of half an hour has elapsed after such rejection.

PRESENCE OF PUBLIC AND MEDIA

23. (1) In terms of section 20(1) of the Municipal Systems Act, all meetings of council and those of its committees are open to the public, including the media and the council or such committee may not exclude the public, including the media, from a meeting, except when circumstances in paragraphs (a) and (b) of section 20(1) prevail.

(2) In terms of paragraph (b) of section 20(1) of the Municipal Systems Act the following circumstances are specified, in which the council or its committees may close a meeting to the public, including the media, if the council is of the opinion that it would not be in the public interest that any item of business which relates to -

(a) any -

(i) legal proceedings;

(ii) arbitration proceedings;

(iii) negotiations in connection with property, to which the council is or may become a party;

(b) the appointment, emoluments, misconduct or removal of any employee of the council;

(c) any other matter which, in the opinion of the council, may be prejudicial to the council or the inhabitants of the municipality;

be dealt with in the open council or committee.

COUNCIL IN COMMITTEE

24. (1) Notwithstanding anything to the contrary in these Standing Orders, a councillor may -

(a) at any time propose that the council resolves to go into committee; or

(b) if the council is in committee as contemplated in paragraph (a), propose that for the further consideration of the item concerned, the council resolves to go out of committee.

(2) (a) The proposer, one member opposed to the proposal and the speaker may each speak on a proposal in terms of subsection (1) for a period not exceeding five minutes and shall restrict his or her speech to the reasons why the council should or should not resolve to go into or out of committee, as the case may be, but the seconder shall not speak further than formally seconding the proposal.

(b) The speaker may, if in his or her opinion information is disclosed or is about to be disclosed during a speech referred to in paragraph (a) which may be prejudicial to the council or the inhabitants of the region, direct the councillor concerned to discontinue such speech forthwith.

(3) Notwithstanding the provisions of section 16, the speaker may, in the notice of any meeting of section 2 or at the commencement or during the course of any meeting, direct that the council goes into committee for the entire meeting or any part thereof, whereupon it shall be deemed that the council has resolved to go into committee in accordance with such directive.

(4) If a proposal to go into committee is adopted, all members of the public and media, if present, and all officials of the council, except the municipal manager and those persons or officials allowed by the speaker to remain, shall leave the place of the meeting.

(5) (a) When the council is in committee, the provisions of these Standing Orders, except in so far as they are contrary to this section, shall apply.

(b) If the council resolves to go into or out of committee during the debate on an item of business, the further debate on that item either in or out of committee, shall for all purposes be a continuation of the proceeding debate on that item.

(6) If the council resolves to go into committee for consideration of an item on the agenda or part of a meeting, the council shall at the conclusion of the consideration of the item or after the conclusion of the part of the meeting concerned, revert to the consideration of further business out of committee.

(7) A decision of the council in committee shall be a decision of the council.

(8) The minutes relating to any item considered by council in committee or a meeting in committee shall, unless consideration of the item was concluded out of committee, be kept separate from the other minutes of the council.

(9) The minutes referred to in subsection (8) shall be considered by the council in committee. The council shall immediately, prior to such consideration, be deemed to have resolved to go into committee and the provisions of this section shall apply *mutatis mutandis*.

(10) No member of the public or the media may inspect the minutes referred to in subsection (8).

SUSPENSION OF STANDING ORDERS

25. (1) A member may, except during the course of a speech, propose that any provisions of sections 8, 10, 11, 16(1), 18 to 22 inclusive and 27 to 29 inclusive, be suspended in respect of one item specified by him or her.

(2) The proposer, one councillor opposing the proposal and the speaker may each speak on such proposal for not more than five minutes but the seconder shall not speak further than formally seconding the proposal.

(3) Such proposal shall be put to the vote without further debate.

POWERS AND PRECEDENCE OF SPEAKER

26. (1) The speaker shall have all powers reasonably required to control the conducting of a meeting and may for such purpose issue directives to any councillor.

(2) Whenever the speaker speaks or rises during a meeting, any councillor then speaking or intending to speak shall resume his or her seat and all councillors shall be silent so that the speaker may be heard without any interruption.

COUNCILLORS TO STAND

27. (1) On announcing the entrance of the Speaker, all councillors should stand.

(2) If a councillor who is not speaking, rises his or her hand on a point of order, personal explanation or to submit a proposal and such councillor is addressed by the speaker, the councillor then speaking shall be silent until the speaker has given a ruling.

LENGTH OF SPEECHES

28. (1) Subject to the provisions of sections 18 to 25 inclusive, a councillor may not speak for more than ten consecutive minutes on any one motion or proposal: Provided that this subsection shall not apply to the speaker of the council: Provided further that the mayor or the chairperson of a committee or person acting on his or her behalf may, when replying to a debate as contemplated in section 13(5) speak for more than 30 minutes.

(2) The provisions in this section shall not be applicable to the councillor introducing the estimates of income and expenditure of the council or when he or she replies to the debate thereon.

COUNCILLOR MAY SPEAK ONCE ONLY

29. (1) Subject to any provision to the contrary in these Standing Orders, a councillor may not address the council more than once on any motion or proposal.

(2) (a) Subject to any provision to the contrary in these Standing Orders, the mover of a motion or the proposer of the proposal or councillor contemplated in section 13(5), may speak on the motion or proposal and reply to the debate but in replying he shall strictly confine himself or herself to answering the previous speakers and shall not introduce any new matter into the debate.

(b) Such reply shall conclude the debate.

RELEVANCE

30. A councillor who speaks shall confine his or her speech strictly to the motion or proposal under discussion or an explanation or a point of order and no discussion shall be allowed -

(a) that shall anticipate any matter on the agenda; or

(b) on any matter in respect of which a decision by judicial or quasi-judicial body or commission of inquiry is pending.

POINTS OF ORDER

31. (1) Any councillor, whether he or she has spoken on the matter under discussion or not, may rise -

(a) on a point of order, with a view to drawing attention to any departure from these Standing Orders or any law;

(b) in personal explanation, in order to explain some essential part of his or her former speech which may have been misunderstood, and a councillor so rising shall be entitled to be heard forthwith, unless the speaker rules the point of order or explanation not permissible.

UNOPPOSED BUSINESS

32. (1) When a meeting has been in progress for not less than two hours the speaker may interrupt the proceedings and direct that the council proceeds forthwith to dispose of unopposed business.

(2) After the disposal of such business the proceedings shall be resumed at the point of interruption.

MODE OF VOTING

33. (1) Whenever a vote is taken, every motion or proposal shall be submitted to the council by the speaker who shall call upon the councillors to indicate by a show of hands whether they are for or against it, and he or she shall thereupon declare the result of voting.

(2) After the speaker has declared the result of the voting in terms of subsection (1), a councillor may demand -

- (a) that his or her vote be recorded against the decision; or
- (b) a division, by rising and putting such demand to the speaker.

(3) When a division in terms of subsection (2)(b) is demanded, the speaker shall accede thereto, and a bell shall be rung for at least one minute, whereupon all entrances to the chamber shall be closed, and no member shall thereafter leave or enter the council chamber until after the result of the division has been declared.

(4) After expiry of the period specified in subsection (3), the motion or proposal shall again be put to the vote by the speaker in the manner provided for in subsection (5) and thereafter he or she shall declare the result of the division.

(5) A division shall take place in the manner prescribed in subsection (1) and the vote of each councillor shall be taken separately by name and recorded in the minutes by the director: corporate services.

(6) When a division takes place in accordance with the preceding provisions, every councillor present, including the speaker, shall be obliged to record his or her vote for or against the motion or proposal.

(7) A councillor demanding a division shall not leave the council chamber before such division has been taken.

(8) Should there be an equality of votes in respect of a proposal, except a proposal as contemplated in section 16, which is being put in terms of subsection (1) or (4) and the speaker refuses to record his or her casting vote as contemplated in terms of section 30(4) of the Municipal Structures Act, the matter shall be referred back to the executive committee for consideration and recommendation to Council.

MAINTENANCE OF ORDER AT MEETINGS

34. (1) Any person, other than a councillor, who misbehaves himself or herself, behaves in an improper manner or interrupts the proceedings at any meeting shall, if the speaker so directs, leave the place where the meeting is held, failing which the speaker may direct that he or she be removed.

(2) (a) If a councillor misbehaves himself or herself, behaves in an improper manner or hinders the business of any meeting or challenges any ruling of the speaker or declines to withdraw any expression when required to do so by the speaker, or indulges in tedious

repetition or unbecoming language, or commits any breach of these Standing Orders, the speaker shall direct such member to conduct himself or herself properly and if speaking, to discontinue his speech and resume his or her seat.

(b) In the event of a persistent disregard of the directives of the speaker, the speaker shall direct such councillor to retire from the place where the meeting is held for the remainder of the meeting, failing which the speaker may direct that he or she be removed.

INTERPRETATION OF STANDING ORDERS

35. (1) Any councillor may request that the ruling of the speaker as to the interpretation of the Standing Orders be recorded as the minutes and a register of such rulings shall be kept by the director: corporate services.

(2) The speaker shall sign the entry in the register referred to in subsection (1), of each ruling given by him or her.

(3) A councillor who has made a request in terms of subsection (1) may orally during that meeting or within five days thereof in writing require the municipal manager to submit the matter to the executive committee, in which event the executive committee shall consider the ruling and report thereon to the council.

(4) The council may, on the recommendation of the executive committee, direct that the ruling of the speaker be amended or substituted.

(5) If the ruling of the Speaker is amended or substituted in terms of subsection (4), the executive committee shall make a recommendation to the council on that matter.

PART III: EXECUTIVE COMMITTEE

BUSINESS AND PROCEEDINGS

36. (1) As the mayor in terms of section 50(1) of the Municipal Structures Act decides when and where the executive committee meets, the mayor must give written notice of every meeting of the executive committee not less than seven calendar days before the meeting, to each member of the executive committee: Provided that when a special meeting must be convened due to urgent matters, the written notice may be given not less than one calendar day before the meeting: Provided further that if a majority of the members request the Mayor in writing to convene a meeting of the executive committee the mayor must convene a meeting at a time set out in the request.

(2) No meeting of the Executive Committees may be held during a meeting of Council without Council's consent.

(3) If both the Mayor and the Deputy Mayor are absent from a meeting and there is a quorum, the members present must elect another member to preside at the meeting.

(4) The Director Corporate Services must keep an attendance register in which every member of the Executive Committee who attends meetings of the committee must sign his/her name.

(4) No person, other than a member, may participate in a meeting except at the request or with the permission of the committee.

- (5) Whenever a person who is not a member of the Executive Committee participates in a meeting of the committee, he/she must enter his/her name in the attendance register in a separate column that is provided for that purpose.
- (6) A person who was requested or permitted by the Executive Committee to participate in the committee may with the permission of the Mayor, speak at the meeting.
- (7) A majority of the members of the Executive Committee constitutes a quorum for a meeting.
- (8) A question before the committee is decided if there is agreement among at least the majority of the members present at the meeting.
- (9) If on any question there is an equality of votes, the member presiding must exercise a casting vote in addition to that member's vote as a member.
- (10) A report of a Director must be submitted to the Municipal Manager who must in turn submit it to the Executive Committee, however, the Municipal Manager must submit a report
- a) when submission is required by Council or by the Executive Committee; or
 - b) when the report has to be considered by Council in terms of any law.
- (11) The Municipal Manager may refer a report back to a Director for amendment or any addition thereto and may, if he or she deems it necessary, comment, or make a recommendation in respect of, any report of a Director which he/she submits.
- (12) Minutes of all the proceedings of an Executive Committee meeting or a committee of it must be recorded in a book that is specially kept for that purpose, and the minutes must be kept in the custody and control of the Municipal Manager.
- (13) At any ordinary meeting of the Executive Committee, after it has considered applications for leave of absence, the minutes of any previous meeting of the committee that have not yet been confirmed must, be read, approved with or without amendment, and signed by the chairperson of the Executive Committee on the last page thereof and every amendment and other page must be initialled by him/her.
- (14) Whenever the minutes have been so recorded and signed by the chairperson the minutes shall, in the absence of proof of error, be deemed to be a correct record of the proceedings.
- (15) The minutes may be taken as read if they have been open to inspection by the members of the committee for at least one hour before the meeting commences.
- (16) The minutes must be read if a member so requires unless –
- a) the committee decided to defer consideration thereof to the next meeting; or
 - b) the minutes have been circulated in which case it shall not be competent for any member to require them to be read.
- (17) No proposal or discussion is allowed upon the minutes, except as to their accuracy.
- (18) The Mayor must allow the members of the Executive Committee to vote by show of hands.
- (18) A member of the Executive Committee may request that his/her vote against a resolution be recoded.
- (19) Ruling of Mayor on procedure:

- (a) A ruling by the Mayor as to procedure is final.
- (b) If a ruling of Mayor is called in question, the ruling must be discussed and if necessary, revised at the next meeting of the Executive Committee, and for this purpose the Mayor must vacate the chair

(20) The Executive Committee, by resolution taken with a supporting vote of a majority of its members, determine its own procedures subject to any directions by the council and the Standing Orders of the Council.

PART IV: COMMITTEES ESTABLISHED IN TERMS OF SECTIONS 79 AND 80 OF THE MUNICIPAL STRUCTURES ACT

MEETINGS

37. (1) A committee shall meet as often as is necessary and shall determine the dates of meetings.

(2) The chairperson of a committee may, and shall at the request of at least two members of such committee, call a special meeting of such committee.

(3) Section 23 is *mutatis mutandis* applicable to the meetings of committees regarding the presence of the public, including the media.

(4) A majority of all the members of a committee shall constitute a quorum.

(5) Whenever a vote is taken, voting at a committee meeting shall take place by a show of hands by the members of the committee and the vote of the majority of the members present at the meeting shall constitute a decision of the committee.

(6) The chairperson of the committee shall not have a casting vote.

(7) If there is an equality of votes the matter under consideration must be referred to the executive committee for a decision or recommendation to council if such matter is not delegated to the executive committee by the council.

(8) A member of a committee may require that his or her vote against a decision of the committee, be recorded.

SPECIAL MEETINGS

38. The Chairperson of a committee may convene a special meeting of the committee at his or her discretion if circumstances necessitate such a meeting, and shall convene a special meeting of the committee if a majority of the members of such committee request so in writing indicating the item/s to be discussed urgently.

CASUAL VACANCIES

39. A casual vacancy on a committee shall be notified by the municipal manager at the first ordinary meeting of the council after it has arisen and may be filled by the council in terms of section 79 of the Municipal Structures Act.

ATTENDANCE BY NON-MEMBERS

40. (1) (a) Any councillor of the council shall be entitled to attend any meeting of a committee of which he or she is not a member.

(b) The chairperson of the committee may invite or permit any councillor of the council to attend any meeting of that committee.

(c) The chairperson may permit a member attending a meeting of a committee to speak at the meeting, but such member shall have no vote.

(2) A copy of the agenda of a meeting of a committee shall, at the request of a councillor of the council who is not a member of the committee concerned, be furnished to him or her by the municipal manager prior to the meeting concerned.

PROCEDURE APPLICABLE TO MEETINGS

41. A committee shall regulate its own procedure.

CONFLICTING RECOMMENDATIONS

42. If a matter on which committees have no delegated powers is considered by more than one committee and those committees resolve to submit conflicting recommendations to the council or the executive committee, as the case may be, the municipal manager shall forthwith report the matter to the mayor who shall, before the matter is reported to the council, convene a meeting of the executive committee for consideration of the matter with a view to making a recommendation to the council.

SCHEDULE 1**PROCEDURE FOR INVESTIGATION REGARDING ANY ALLEGATION OF MISCONDUCT IN TERMS OF THE CODE OF CONDUCT AGAINST A MEMBER OF A MUNICIPAL COUNCIL**

1. If there are allegations of misconduct against a member of the Municipal Council, the Speaker shall request the member to submit written comments on the allegations, and investigate the facts and circumstances informally.

2. The member will be required to furnish the Speaker with his/her comments within 14 days. The Speaker has the discretion to extend time to furnish the comments and may formulate his/her own opinion in the absence of such comments.

3. The Speaker shall inform the person who may made the allegation or statement as well as the member implicated of his decision if the Speaker is satisfied that a contravention or failure to comply has not prima facie occurred.

4. If the speaker is satisfied that a contravention or failure to comply has prima facie occurred, he/she shall call a meeting of the committee selected by the Council either in the general or specifically for that purpose to consider the matter. Any member implicated in the matter shall not be entitled to serve in the committee.

5. The Speaker shall determine the procedure for the hearing of the matter, provided that the following rules be complied with -

- (a) Any person giving evidence before the committee may be required to do so under oath or affirmation;
- (b) The member implicated has the right to be presented when any evidence is heard, except as set out in (e), and may ask relevant questions based on the statement to the person, as may the committee;
- (c) The committee may ask questions from the members implicated;
- (d) The member implicated will be entitled to representation by legal representative or other representative approved by the committee as may any person appearing before the committee;
- (e) If the member implicated refuses to attend the meeting does not attend the meeting or is instructed by the Speaker to leave because of his/her conduct at the meeting, the meeting may continue in the absence of such member;
- (f) The Speaker and/or committee may be assisted during the proceedings by an official or other advisor;
- (g) The member implicated will have the right to present evidence on the statements implicating him/her and to call witnesses;
- (h) The committee may call witnesses to assist them in making a decision.

6. If the Speaker is implicated in any contravention of or failure to comply with the Code of Conduct, the functions in this procedure will be performed by the Mayor and if he/she is also implicated, then by a member appointed by Council.

7. After consideration of all evidence the committee must make a finding whether the member contravened or failed to comply with the Code of Conduct and inform the person whom made the allegation or statement and the member implicated of its finding.

8. If the finding is that the member did contravene or fail to comply with the Code of Conduct, the committee must report its finding to Council and recommend an appropriate sanction.

9. After deciding on the appropriate sanction by Council the Speaker must inform the member thereof and inform the member of his/her right of appeal in terms of the Code of Conduct.

SCHEDULE 2

BY-LAWS PROCESS

1. INTRODUCTION OF DRAFT BY-LAWS

A draft By-laws may only be introduced by a member of Council or the Executive Committee.

2. INTRODUCTION BY MEMBER

1) A member introduces a draft By-law by submitting it together with a memorandum on the objects of the By-law to the Speaker.

2) The Speaker must on receipt of draft By-law, present it together with any comments received in terms of sub-item (3), to the Executive Committee for consideration.

3) The Speaker must obtain the comments of the Municipal Manager on the contents of the draft By-law and may solicit the comments of any person.

4) The Executive Committee must within 3 months of receipt of draft By-laws from the Speaker consider the matter and submit a report to the Council.

3. INTRODUCTION BY EXECUTIVE COMMITTEE

1) The Executive Committee may on own initiative or after considering a request from the Municipal Manager introduce a draft By-law.

- 2) If the Executive Committee on own initiative decides to introduce a draft By-law, it shall obtain the comments of the Municipal Manager on the contents thereof and may solicit the comments of any other person thereon.
- 3) The Executive Committee shall submit a report on its proposal to introduce a draft By-law to the Council.

4. FIRST INTRODUCTION TO COUNCIL

- 1) A draft By-law introduced by a member or the Executive Committee shall be reported to the Council in the following form -
 - (a) an executive summary of the draft By-law,
 - (b) a memorandum on the objects of the By-law,
 - (c) the need to regulate the conduct proposed in the draft By-law,
 - (d) the contents of the proposed By-law,
 - (e) other By-laws that must be repealed or amended if the draft By-law is adopted,
 - (f) any relevant comments or proposals, and
 - (g) a recommendation.
- 2) Council after considering the report referred to in sub-item (1) must decide to either the proposed By-law or to provisionally pass it.
- 3) When a proposed By-law has been rejected by the Council no By-law of the same substance may be introduced within a period of 6 months from the date of rejection.
- 4) When a proposed By-law has been provisionally passed, it must be advertised for public comment.

5. PUBLICATION

- 1) The Municipal Manager must soon as possible after Council has provisionally passed a By-law, publish the draft By-law for public comment in the local newspaper in such a manner that the public will have the opportunity to make representations with regard thereto.
- 2) The publication must be in the official languages of the Province.

6. SECOND INTRODUCTION TO COUNCIL

- 1) The Municipal Manager must as soon as possible after the closing date for public representations submit a report to the Executive Committee together with,
 - (i) a copy of the proposed By-law;
 - (ii) copies of the advertisements in which the public was invited to make representations;
 - (iii) any comments received from the public; and
 - (iv) any other comments from the administration
- 2) The Executive Committee must consider the report by the Municipal Manager and advise the Council to either pass the By-law, pass the By-law in an amended form or reject it.
 - (3) When a draft By-law has been rejected by the Council no By-law of the same substance may be introduced within a period of 6 months from the date of rejection.

7. DEBATE PROCEDURE

The rules pertaining to debate also apply to the legislative process.