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**SWARTLAND MUNICIPALITY:
BY-LAW RELATING TO THE CONDUCT OF MEETINGS**

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CHAPTER 1

INTRODUCTION

Definitions

1. In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless inconsistent with the context—

“**Code**” means the Code of Conduct for Councillors set out in Schedule 7 to the Structures Act;

“**committee**” means a committee established by the Council in terms of section 79 of the Structures Act, and includes a committee appointed in terms of section 80 of the Structures Act;

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

“**Council**” means the municipal council of the municipality;

“**councillor**” means a member of the Council, and includes a political office bearer as defined in section 1 of the Systems Act;

“**hybrid meeting**” means a meeting where some councillors are physically present in the meeting venue and some councillors attend the meeting virtually;

“**meeting**” means any meeting of the Council or a committee, as the case may be;

“**member of the public**” means a person who is not a councillor or a municipal employee and who attends a meeting, and includes—

- (a) the media;
- (b) a dignitary; and
- (c) a representative of a sphere of government;

“**municipal employee**” means an employee of the municipality;

“**Municipal Manager**” means the municipal manager of the municipality as defined in the Systems Act;

“**municipality**” means the municipality of Swartland;

“**ordinary Council meeting**” means an ordinary meeting of the Council convened in accordance with section 6;

“party whip” means a councillor appointed by the councillor’s party to perform the duties attached to the position of a party whip as contemplated in this by-law;

“physical meeting” means a meeting where councillors are physically present in the same venue;

“platform” means the virtual platform where a virtual meeting is held;

“Provincial Minister” means the member of the Provincial Cabinet responsible for local government matters in the Province of the Western Cape;

“quorum” in relation to—

- (a) the Council, means a majority of the incumbent councillors; and
- (b) a committee, means a majority of the incumbent members appointed to that committee by the Council;

“Speaker” means the Speaker of the Council elected in terms of section 36 of the Structures Act or the Acting Speaker elected in terms of section 41 of the Structures Act;

“special Council meeting” means a special meeting of the Council convened in accordance with section 7;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“venue” means the Council chamber or committee room where a physical meeting is held, unless otherwise determined by the Speaker or chairperson, as the case may be;

“virtual” means streamed live to the internet, using any or all of the following:

- (a) Video;
- (b) Text;
- (c) Audio;

“virtual meeting” means a meeting where councillors are not physically present in the same venue and the meeting is conducted utilising virtual technology;

“Whip” means the councillor elected in terms of section 41A of the Structures Act; and

"working day" means any day of the week except—

- (a) a Saturday, Sunday and public holiday; and
- (b) when the Council is in recess.

Application and interpretation

2.1(a) Subject to paragraph (b), this by-law applies to all meetings of the Council and its committees.

(b) This by-law does not apply to the following committees:

- (i) a committee established in terms of item 16(1)(b) of the Code;
- (ii) a committee contemplated in section 62(4)(c)(ii) of the Systems Act; and
- (iii) a mayoral committee contemplated in section 60 of the Structures Act.

(2) Unless it is inconsistent with the context or clearly inappropriate, a reference in this by-law to—

- (a) the Council must be construed as a reference to a committee;
- (b) the Speaker must be construed as a reference to the chairperson of a committee; and
- (c) a councillor must be construed as a member of a committee.

(3) Except where it is clearly inappropriate, a section applying to a councillor in any proceedings also applies to a municipal employee and a member of the public who takes part in those proceedings.

(4) If, in terms of this by-law, a notice, motion, question, or request is required or permitted to be given in writing to any councillor or person, it is sufficient if it is transmitted electronically directly to that councillor or person.

(5) If, in terms of this by-law, a document is required to be published, provided or delivered, it is sufficient if an electronic original or reproduction thereof is published, provided or delivered by electronic communication: Provided that this sub-section does not apply to any publication to inform the public.

(6) If, in terms of this by-law, a document is required to be signed by—

- (a) a single councillor or person, signing may be effected in any manner provided for in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002); or
- (b) two or more councillors or persons, it is sufficient if—
 - (i) all of those councillors or persons sign a single original of the document, in person or as contemplated in paragraph (a); or

(ii) each of those councillors or persons signs a separate duplicate original of the document, in person or as contemplated in paragraph (a), and in such a case, the signed duplicate originals, when combined, constitute the entire document.

(7)(a) In instances of urgency, during an emergency or where the Council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting, the Council may, with the approval of the majority of the incumbent councillors and for the duration of that meeting, temporarily suspend or relax the provisions of that section: Provided that the suspension or relaxation of a section—

- (i) may not be in contravention of any national or provincial legislation or any by-law of the municipality; and
- (ii) must relate to an item on the agenda for the meeting.

(b) The reasons for the suspension of the section must be recorded in the minutes.

(c) This sub-section does not apply to a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office contemplated in section 55.

Duty of Speaker, councillors, municipal employees and members of public

3. The Speaker, councillors, municipal employees and members of the public must familiarise themselves with this by-law.

CHAPTER 2

MEETINGS

Transaction and order of business

4.(1) The Council transacts its business at ordinary Council meetings and special Council meetings, convened for that purpose in terms of this by-law.

(2) The order of business in ordinary Council meetings is as follows, unless the order has been changed in terms of sub-section (4):

- (a) election of Acting Speaker, if necessary;
- (b) application for leave of absence;
- (c) confirmation of minutes;
- (d) statements and communications by Speaker;
- (e) statements and communications by Whip, where applicable;
- (f) statements and communications by Executive Mayor or Executive Mayoral Committee, if applicable;
- (g) urgent matters submitted by the Municipal Manager;
- (h) consideration of reports on delegated powers;
- (i) consideration of reports;

- (j) motions;
- (k) questions;
- (l) motions of exigency; and
- (m) adjournment.

(3) The order of business of a special Council meeting is as follows, unless the order has been changed in terms of sub-section (4):

- (a) election of Acting Speaker, if necessary;
- (b) application for leave of absence;
- (c) consideration of matters contained in the notice convening a special Council meeting or set out in the request contemplated in section 7; and
- (d) adjournment.

(4) The Speaker may change the order of business appearing on the agenda or the Council may resolve accordingly.

(5) A councillor who wishes to have the order of business on the agenda changed, must approach the Speaker in this regard prior to the meeting.

Agenda

5.(1)(a) The Speaker or a person designated by the Speaker must prepare the agenda for a meeting in liaison with the Whip, where applicable, and the Municipal Manager.

(b) The Municipal Manager must assist the Speaker in preparing the agenda.

(2) The Speaker may at any time during a meeting introduce an urgent matter which does not appear on the agenda, unless—

- (a) a councillor indicates the councillor's opposition to the introduction of the matter;
- (b) the procedure contemplated in section 19 is followed; and
- (c) the Council resolves otherwise with a supporting vote of a majority of the votes cast.

(3) Except as otherwise provided in this by-law or in terms of sub-section (2), a matter not appearing on the agenda may not be transacted at a meeting.

(4) The Speaker may refuse an item, motion or question to the agenda if such item, motion or question—

- (a) falls outside the jurisdiction of the municipality;
- (b) is racist in nature or advocates hate speech;
- (c) is *sub judice*;

- (d) does not comply with procedural requirements for submission of agenda items as provided for in this by-law;
- (e) lacks sufficient information;
- (f) violates legislation or is contrary to the law; or
- (g) is of defamatory nature,

in which event the procedure in sections 37(3) and (4) must be followed.

Meetings

6.(1) The Speaker must—

- (a) at least quarterly convene ordinary Council meetings; and
- (b) ensure that the Council meets at least quarterly in accordance with section 18(2) of the Structures Act.

(2) The Speaker must decide whether a meeting should be a—

- (a) physical meeting;
- (b) virtual meeting; or
- (c) hybrid meeting.

(3) All physical and hybrid meetings must be open to members of the public, unless members of the public are excluded as contemplated in section 25.

(4) Subject to sub-section (1) and section 7(3), the Speaker must decide when and where the Council must meet.

(5) At least 48 hours before an ordinary Council meeting, the Municipal Manager must give written notice to each councillor of the date, time and venue or platform of that meeting.

(6)(a) At least 48 hours before an ordinary Council meeting, the Municipal Manager must give written notice to the public, in accordance with section 29A of the Structures Act, of the date, time and venue or platform of that meeting.

(b) The notice contemplated in paragraph (a)—

- (i) must be posted on—
 - (aa) the landing page of the municipality's website; and
 - (bb) a notice board at the municipality's head office;
- (ii) may be published in a local newspaper determined by the Municipal Manager; and
- (iii) must provide the details of a contact person, to whom any queries may be addressed.

(7)(a) The Speaker may, during an emergency or in exceptional circumstances, change the date, time, venue or platform of an ordinary Council meeting which has been convened.

(b) The Municipal Manager must give reasonable notice in line with this section of any change to the date, time, venue or platform of a meeting.

(8) Councillors must carefully check the agenda with which they have been provided in accordance with section 6(5) and prepare themselves thoroughly for the scheduled meeting.

(9) On acceptance of his or her office as councillor, a councillor must provide the Municipal Manager with a physical address within the municipal area of jurisdiction to which the agendas for meetings can be delivered, and must submit in writing, where possible, an electronic mail address and a mobile telephone number for instant messaging where he or she can receive notification of meetings and other official correspondence.

(10) A councillor must inform the Municipal Manager without delay of any changes in the information provided in terms of sub-section (9).

Special Council meetings

7.(1)(a) The Speaker may call a special Council meeting on a date, time and venue or platform determined by the Speaker.

(b) When the Speaker has determined the date, time and venue or platform of a special Council meeting, the Speaker must inform the Municipal Manager thereof.

(2) If the position of Speaker is vacant or the Speaker is absent, unavailable, unwilling or unable to perform the Speaker's functions—

(a) the Municipal Manager; or

(b) a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable,

must convene a special Council meeting to elect a Speaker or an Acting Speaker, as the case may be, and preside over such election.

(3) The Speaker must, if a majority of councillors requests the Speaker in writing to convene a special Council meeting for the consideration of a specified matter or matters and if the request complies with the requirements set out in this section and the Structures Act—

(a) convene a special Council meeting on the date and at the time set out in the request and at a venue or using a platform determined by the Speaker; and

(b) inform the Municipal Manager of the date, time and venue or platform and supply the Municipal Manager with a copy of the request.

(4) A request to call a special Council meeting must indicate the matter or matters, as the case may be, to be dealt with at that special Council meeting, and indicate the date and the time of the special Council meeting, which date may not be less than six working days from the date the request is submitted to the Speaker.

(5) For the purposes of sub-section (3), a majority of councillors must be construed as reflected in the municipality's establishment notice, notwithstanding any declared vacancies.

(6) If the Speaker, for whatever reason, fails to convene a special Council meeting in terms of sub-section (3) within three working days of receipt of the request, the Municipal Manager, or in the absence or refusal by the Municipal Manager, a person designated by the Provincial Minister, may convene and chair the special Council meeting on the date and at the time set out in the request and at a venue or using a platform determined by the Municipal Manager or person designated by the Provincial Minister, as the case may be.

(7)(a) If the Speaker is absent, unavailable, unwilling or unable to chair the special Council meeting, the Municipal Manager or a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable, must preside at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.

(b) The Acting Speaker may only preside over the special Council meeting concerned.

(8) Only the matter or matters specified in the notice convening a special Council meeting or set out in the request contemplated to in sub-section (3), may be dealt with at a special Council meeting.

(9) Section 55 applies to a special Council meeting to vote on a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office.

(10) The Municipal Manager must give notice of a special Council meeting at least 24 hours prior to the meeting, in the manner contemplated in sections 6(5) and (6).

(11)(a) The Speaker may, on reasonable grounds, determine that a special Council meeting is an emergency meeting, in which event the time periods specified in this section do not need to be complied with.

(b) The Municipal Manager must take all reasonable steps to notify each councillor and the public of a special Council meeting that is an emergency meeting.

Functions of Speaker regarding meetings

8.(1) Subject to section 15(2), the Speaker must take the chair at the time the meeting has been scheduled for.

(2) In addition to the functions contemplated in section 37 of the Structures Act and any other law, the Speaker—

(a) must give a ruling in respect of—

- (i) a point of order raised by a councillor; and
- (ii) a question in relation to the priority of business; and

(b) may, with due regard to the common law, give a ruling in respect of any procedural eventuality for which this by-law does not provide.

(3) The rulings contemplated in sub-section (2) must be recorded in the minutes and may not be debated.

Attendance by councillor

9.(1) Subject to item 4 of the Code and section 11, a councillor must—

(a) attend each meeting;

(b) sign the councillor's name in the attendance register if the councillor is physically attending the meeting, or verbally identify the councillor when directed to do so by the Speaker if the councillor is virtually attending the meeting; and

(c) remain in attendance, unless the councillor is required in terms of the Code, sub-section (4), section 10, 27(4) or 34(7), or any other law to withdraw from the meeting.

(2) A councillor who attends—

(a) a virtual meeting; or

(b) a hybrid meeting virtually,

is deemed present for establishing a quorum, taking a decision, voting on a matter, and for any other purposes.

(3) For purposes of this by-law, a councillor is—

(a) present at, and attending, a virtual meeting; or

(b) virtually present at, and attending, a hybrid meeting,

if the councillor is able to hear the proceedings, and the Speaker can hear the councillor.

(4)(a) A councillor must disclose an interest in any matter before Council as contemplated in item 6 of the Code and withdraw from proceedings when that matter is considered, unless the Council decides that the councillor's interest is trivial or irrelevant.

(b) If a councillor withdraws from proceedings as contemplated in paragraph (a), the Speaker must ensure that virtual access by the councillor to the meeting must be denied for the duration of the consideration of that matter.

Order for councillor to withdraw from meeting

10. If the Speaker is of the opinion that a—

- (a) councillor is deliberately contravening a provision of this by-law or the Code;
- (b) councillor is in contempt of or is disregarding the authority of the Speaker; or
- (c) councillor's conduct is grossly disorderly,

the Speaker may—

- (i) order the councillor to withdraw immediately from the chamber or committee room for the remainder of the day's meeting if the councillor is physically attending the meeting; or
- (ii) deny the councillor virtual access for the remainder of the meeting if the councillor is attending the meeting virtually.

Procedure for leave of absence

11.(1) A councillor who cannot attend a meeting must submit his or her apology at the office of the Municipal Manager or his or her delegate at least one hour before the meeting commences.

(2) The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub-section (1), which may include, amongst others, illness of the councillor, or illness or death of a member of the councillor's family.

(3) The names of all councillors—

- (a) present at a meeting;
 - (b) absent from a meeting or a part of a meeting; and
 - (c) to whom leave of absence from the meeting has been granted,
- must be recorded in the minutes.

(4) Leave is deemed to have been granted if a councillor—

- (a) has been delegated to attend a meeting or engagement on behalf of the Council; or
- (b) withdraws from proceedings as contemplated in section 9(4).

(5) A councillor who fails to remain in attendance at a meeting shall be regarded as being absent without leave.

(6) Sub-sections (1) to (5) also apply with the necessary changes to leave of absence of the Speaker: Provided that a reference in this section to the Speaker is regarded to be a reference to the Council.

Sanctions for non-attendance

12.(1) A councillor who is absent without leave from a meeting or who is deemed absent in terms of section 11(5), is in breach of this by-law: Provided that, if a councillor is temporarily suspended from meetings or committees in terms of section 27, he or she is deemed absent with leave for the purposes of this section.

(2) A councillor who violates the provisions of sub-section (1) may be fined by an amount as determined by the Council, which fine shall be recovered directly from such councillor's remuneration.

(3) An investigation into any repeated violation of sub-section (1) must be conducted in accordance with the uniform standing procedure relating to councillor discipline adopted by the Council.

(4) If the Council finds that a councillor has breached this by-law as contemplated in sub-section (1), the Council may –

- (a) issue a formal warning to the member;
- (b) reprimand the member; or
- (c) fine the member, in addition to the fine determined in sub-section (2), a maximum of –
 - (aa) 10 per cent of the councillor's gross monthly salary for the first breach; and
 - (bb) 25 per cent of the councillor's gross monthly salary for every subsequent breach.

(4) If a councillor is absent from three or more meetings without permission, as contemplated in the Code, the Council must request the Provincial Minister to remove the councillor from office.

Recording of virtual meetings and hybrid meetings

13. The Municipal Manager must ensure that every virtual meeting and every hybrid meeting is digitally recorded and that the recording is stored for a period of not less than three years from the date of the meeting.

Minutes

14.(1) The Municipal Manager must—

- (a) compile the minutes of the proceedings of a meeting in writing within two weeks of the meeting; and
- (b) provide each councillor with a copy of the minutes within a reasonable period.

(2) The minutes of a meeting must be considered by the Council at its next meeting and, if confirmed, must be signed by the Speaker.

(3) The minutes are taken as read, for the purpose of sub-section (2), if they were provided to each councillor within a reasonable period before the meeting considering them.

(4) No motion or discussion is allowed on the confirmation of the minutes, except in connection with the correctness thereof.

(5) If a councillor is dissatisfied with the correctness of the minutes, the councillor must—

- (a) state the item with which the councillor is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(6) The minutes of a meeting must set out the date, time and venue or platform of the meeting and the decisions or other action taken at the meeting.

(7) The Municipal Manager must keep and store a record of the signed minutes.

Quorum

15.(1) A meeting may not commence until a quorum is present.

(2) If there is no quorum at the time for which the meeting is scheduled, the Speaker must take the chair as soon as a quorum is present.

(3) If there is no quorum, the start of the meeting must be delayed for not longer than 30 minutes and if at the end of that period, there is still no quorum, the Speaker must—

- (a) adjourn the meeting to another time, date and venue or platform at the Speaker's discretion; and
- (b) record the time of such adjournment and the names of those councillors present.

(4) If the Speaker is not present and there is no quorum, the start of the meeting must be delayed for not more than 30 minutes and if there is still no quorum at the end of that period, the meeting may not take place and the Municipal Manager must record the time of such adjournment and the names of the councillors present.

(5) If during a meeting there is no quorum, the Speaker must suspend the proceedings until a quorum is again present: Provided that if after 10 minutes or such longer time as the Speaker may allow, there is still no quorum, the Speaker must—

- (a) adjourn the meeting to another time, date and venue or platform at the Speaker's discretion; and
- (b) record the time of such adjournment and the names of those councillors present.

(6) No technical failure on the part of a councillor or group of councillors during a virtual meeting or a hybrid meeting that leads to a break in the virtual connection for a total period of not more than five minutes invalidates any action taken by a majority of the councillors attending the meeting.

Adjournment of proceedings

16.(1) The Speaker may only adjourn a meeting—

- (a) after the Council has transacted all of its business on the agenda;
- (b) in the absence of a quorum as contemplated in section 15;
- (c) upon a successful motion to adjourn as contemplated in section 45 or 46;
- (d) when a meeting has fallen into disarray and has become unruly;
- (e) in the event of a resignation as contemplated in section 55(11); or
- (f) in the event of *vis major*.

(2) When the Speaker adjourns a meeting, the members may leave the venue or platform.

Continuation of meeting if Speaker unlawfully adjourns meeting

17.(1) If the Speaker has adjourned a meeting in circumstances other than those contemplated in section 16, such adjournment is improper and the remaining councillors may proceed with the remainder of the agenda: Provided that a quorum is still present.

(2) The remaining councillors must elect an Acting Speaker to preside over the proceedings to conclude the agenda.

(3) The Municipal Manager or, if the Municipal Manager is absent, unavailable, unwilling or unable, a person designated by the Provincial Minister, presides at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.

(4) The Acting Speaker may only preside over the remainder of the meeting that was improperly adjourned by the Speaker.

CHAPTER 3

DECISIONS

Unopposed matters

18. If the Council is called upon to consider a matter before it, the Speaker must ask the Council if there is any opposition to the matter from any councillor, and if there is none, a unanimous vote must be recorded in the minutes of the meeting.

Opposed matters

19. If the Council is called upon to consider a matter before it, the Speaker must ask the Council if there is any opposition to the matter from any councillor, and if there is opposition—

- (a) the Speaker must put the matter to the vote as contemplated in this by-law;
- (b) the Speaker must announce the result of the vote; and
- (c) upon the announcement of the result of the vote, a councillor may demand that the councillor's dissenting vote, abstention or supporting vote be recorded in the minutes of the meeting.

Decisions by voting

20.(1) As contemplated in section 160(3)(a) of the Constitution and section 30(1) of the Structures Act, a quorum must be present before a vote may be taken on any matter.

(2) A supporting vote of a majority of incumbent councillors is necessary to decide on any matter prescribed by legislation, or, in accordance with section 160(3)(b) of the Constitution and section 30(2) of the Structures Act, on the—

- (a) passing of a by-law;

- (b) approval of the budget;
- (c) imposition of rates and other taxes, levies and duties; and
- (d) raising of loans.

(3) A supporting vote of at least two-thirds of incumbent councillors is necessary to adopt a decision to dissolve the Council, in accordance with section 34 of the Structures Act.

(4) All other questions before the Council are decided by a majority of the votes cast, as contemplated in section 160(3)(c) of the Constitution.

(5) If on any question other than a matter contemplated in section 160(2) of the Constitution, there is an equality of votes, the Speaker must exercise a casting vote in addition to the Speaker's vote as a councillor as contemplated in section 30(4) of the Structures Act.

(6) Where applicable, the Executive Mayor must submit a report and recommendations before the Council takes a decision on the following matters:

- (a) Any matter contemplated in sub-section (2);
- (b) the approval of an integrated development plan or any amendment thereof; and
- (c) the appointment and conditions of service of a Municipal Manager and a Senior Manager directly reporting to a Municipal Manager.

(7) As contemplated in item 3 of the Code, a councillor may not vote in favour of, or agree to, a resolution which is before the Council and conflicts with any legislation applicable to local government.

Method of voting

21.(1) Voting must take place in the manner contemplated in section 22(2) or (3), unless—

- (a)(i) the law prescribes otherwise; or
- (ii) the Speaker determines that voting must take place by a secret ballot, in which case voting must take place in the manner contemplated in section 22(4); or
- (b) the Speaker determines that—
 - (i) a virtual meeting must take place, in which case voting must take place in the manner contemplated in section 22(5); or
 - (ii) a hybrid meeting must take place, in which case voting must take place in the manner contemplated in section 22(6).

(2) When the Speaker exercises the power to determine the appropriate voting procedure or method, the following factors must be taken into account:

- (a) the subject and content of the matter to be voted on;
- (b) the prevailing circumstances relating to the matter to be voted on;
- (c) the weight to be afforded to the advancement of the principles of transparency, accountability, and good governance, and enabling councillors to vote according to their conscience and in the furtherance of the best interest of the people;
- (d) which voting procedure or method would ensure that councillors exercise their powers, perform their functions, and carry out their duties most effectively;
- (e) the imperative of the Speaker's impartiality;
- (f) the possible consequences of the resolution on the municipality, members of the public, and councillors;
- (g) the possibility of corruption if voting takes place by way of a secret ballot; and
- (h) any other relevant factors.

(3) A councillor may not leave the venue or platform during the taking of a vote.

Casting of votes

22.(1) Unless any law provides otherwise, voting takes place in accordance with an electronic, manual or virtual voting system.

(2) At a meeting held in a chamber or committee room where an electronic voting system is in operation, questions are decided by the utilisation of such system, unless the Speaker directs otherwise and—

- (a) councillors may vote only from the seats allocated to them individually in the chamber or committee room;
- (b) councillors must vote by pressing the “Yes”, “No” or “Abstain” button on the electronic consoles at their seats when directed by the Speaker to cast their votes;
- (c) a councillor who is unable to cast a vote, must draw this to the attention of the Speaker and may in person or through the relevant party whip inform the Speaker of the councillor’s vote;
- (d) after all councillors have cast their votes, the Speaker must immediately announce the result of the division; and
- (e) the result of the vote shall be recorded in the minutes.

(3) Where no electronic voting system is in operation, and unless it is a virtual meeting, a manual voting system must be used whereby voting shall take place by a show of hands, unless otherwise prescribed, and –

- (a) only councillors who are in attendance when the vote is called are permitted to vote;

- (b) councillors must vote in the order indicated by the Speaker; and
- (c) councillors must record their vote by stating “Yes”, “No” or “Abstain” when directed by the Speaker to cast their votes; and
- (d) the result of the vote must be recorded in the minutes of the meeting.

(4) A secret ballot may be held in a physical meeting, in which case—

- (a) the Municipal Manager must hand to each councillor a ballot paper having the alternates to be voted for clearly depicted thereon;
- (b) the Municipal Manager must collect all the ballot papers and count them in the presence of a representative of each party represented on the Council, or the committee, as the case may be, and present at such meeting; and
- (c) the Speaker must immediately announce the result of the division.

(5) Where a virtual meeting is held—

- (a) only councillors who are in attendance when the vote is called are permitted to vote;
- (b) the Speaker must give a councillor who is in attendance but experiences a technical failure that leads to a break in the virtual connection, one other opportunity to vote after a period of five minutes have lapsed since first calling such councillor to vote;
- (c) councillors may vote in the order indicated by the Speaker;
- (d) councillors must switch on their video function, clearly identify themselves and record their votes by stating “Yes”, “No” or “Abstain” when directed by the Speaker to cast their votes;
- (e) a councillor who is unable to cast the councillor’s vote, must draw this to the attention of the Speaker and may in person or through the relevant party whip inform the Speaker of the councillor’s vote;
- (f) after all councillors have cast their votes, the Speaker must immediately announce the result of the division;
- (g) the result of the voting must be recorded in the minutes of the meeting;
- (h) councillors must ensure that their votes are correctly recorded.

(6) Where a hybrid meeting is held—

- (a) the Speaker must direct which voting system must be utilised by the councillors who are physically attending the meeting; and
- (b) the councillors who are virtually attending the meeting must vote in the manner contemplated in sub-section (5).

CHAPTER 4

ATTENDANCE AT AND PARTICIPATION IN MEETINGS

Attendance of and address by municipal employee or member of public

23.(1) The Speaker must—

- (a) take reasonable steps to regulate public access to, and public conduct at, meetings as contemplated in section 20(4)(b) of the Systems Act; and
- (b) ensure that meetings are accessible to persons with disabilities.

(2) The Council must conduct its business in an open manner and may close its meetings as contemplated in section 25 only when it is reasonable to do so, having regard to the nature of the business being transacted as contemplated in section 160(7) of the Constitution.

(3) The Speaker may invite a municipal employee or member of the public to address the Council or to attend a meeting to state his or her views on a matter before the Council.

(4)(a) A municipal employee or member of the public who was not invited by the Speaker to address the Council, but wishes to do so, must give the Speaker six working days written notice of his or her request and must provide details of the presentation that will be made and the source of the deputation;

(b) The Speaker may decide to grant or refuse the request, and if granted, upon which conditions, provided that

- (i) in the case of a deputation, such deputation shall consist of no more than ten members, and
- (ii) only two members of a deputation may address the Council, except with the consent of the Speaker, or in reply to questions from councillors.

(5) The Speaker may allocate reasonable time to any municipal employee or member of the public to address the Council upon granting an application contemplated in subsection (4).

Arrangements relating to attendance

24. A councillor, municipal employee or member of the public who virtually attends a meeting, must—

- (a) switch on the video function, unless otherwise directed by the Speaker;
- (b) mute the microphone when not speaking; and
- (c) wait for the Speaker to be called upon to speak or unmute the microphone.

Exclusion of members of public from meeting

25.(1) Subject to section 20(1) of the Systems Act and sub-sections (2) and (3), members of the public may be excluded from a meeting—
(a) if so directed by the Speaker;
(b) if so decided by Council upon a motion from any councillor to that effect; or
(c) where matters are marked confidential.

(2) Members of the public may not be excluded when considering or voting on a matter contemplated in section 20(2) of the Systems Act.

(3) Members of the public may be excluded when the Council, 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 regard to the principles of an open and democratic society.

(4) If a motion to exclude members of the public from the meeting as contemplated in sub-section (1)(b) is seconded, the motion must be put to the vote, after a discussion of the reasons, but without discussion of the matter.

(5) If members of the public are excluded from—

- (a) a physical meeting, the venue must be cleared of all members of the public;
- (b) a virtual meeting, virtual access by the public must be denied; or
- (c) a hybrid meeting, the venue must be cleared of all members of the public and virtual access by the public must be denied.

Re-admission of members of public

26.(1) A councillor may during the course of a meeting from which members of the public were excluded, move a motion “that the meeting again be opened” and state the reasons for the motion.

(2) If the motion is seconded, it must be put to the vote forthwith without debate.

(3) If the motion is carried, the Speaker must ensure that members of the public are permitted—

- (a) physical access to a physical meeting;
- (b) virtual access to a virtual meeting; or
- (c) physical and virtual access to a hybrid meeting.

CHAPTER 5

CONDUCT IN MEETINGS

Conduct of councillors, municipal employees and members of public

27.(1) Councillors, municipal employees and members of the public must preserve order at meetings, and may not—

- (a) behave in an unseemly manner;
- (b) obstruct the business of a meeting;
- (c) commit any breach of the by-law;
- (d) indulge in an irrelevant argument or the tedious repetition of arguments; or
- (e) use offensive or unbecoming language or remarks which are of a defamatory nature.

(2) Councillors may not challenge a ruling of the Speaker as contemplated in section 8(2).

(3) If a councillor, municipal employee or member of the public breaches sub-section (1), the Speaker must direct such councillor, municipal employee or member of the public to refrain from the breach.

(4) If a councillor, municipal employee or member of the public disregards the direction of the Speaker contemplated in sub-section (3), the Speaker may—

- (a) direct the councillor, municipal employee or member of the public if speaking, to discontinue the councillor, municipal employee or member of the public's speech;
- (b) direct the councillor, municipal employee or member of the public to withdraw from the chamber or committee room for the remainder of the meeting if the councillor, municipal employee or member of the public is physically attending the meeting; or
- (c) mute the microphone of the councillor, municipal employee or member of the public for the remainder of the meeting if the councillor, municipal employee or member of the public is virtually attending the meeting.

(5) If the Speaker fails to act under sub-section (3) or (4), any councillor may move a motion to require the Speaker to do so.

(6) The motion contemplated in sub-section (5) must be moved without notice, and if the motion is seconded, it must be put to the vote forthwith without debate.

(7) The use of cellular phones during meetings is prohibited. Cellular phones should be switched off during the meeting unless prior arrangements were made with the Speaker. Fines can be imposed should this section be ignored and fines should also be minuted.

(8) A councillor may not leave the venue where the meeting is held without the consent of the Speaker.

CHAPTER 6 **DEBATE AND MOTIONS**

Address to Speaker

28.(1) A councillor, or a municipal employee or member of the public contemplated in section 23(4)(a), who is recognised to speak at a meeting, must address the Speaker.

(2) A member of the public who is recognised by the Speaker must state the member of the public's name, and if the member of the public is representing an organisation or group, identify such organisation or group.

Right to speak and limitation

29.(1) As contemplated in section 160(8)(a) and (b) of the Constitution, a councillor is entitled to participate in Council proceedings in a manner that—

- (a) allows the parties and interests reflected within the Council to be fairly represented; and
- (b) is consistent with democracy.

(2) A councillor has freedom of speech in any meeting of the Council and in any committee of which the councillor is a member in accordance with section 28 of the Structures Act and section 2 of the Western Cape Privileges and Immunities of Councillors Act, 2011 (Act 7 of 2011): Provided that the councillor must—

- (a) confine the councillor's speech to matters on the agenda;
- (b) avoid personal attacks on other councillors; and
- (c) refrain from defaming another councillor, a person or an institution.

(3) The right to freedom of speech of a councillor contemplated in sub-section (2)—

- (a) includes participation in the deliberations and voting on any resolution, decision, report, paper or minutes adopted or approved by the Council or any of its committees; and
- (b) is subject to this by-law.

(4) A councillor who is not a member of a committee has the right to speak at a meeting of that committee: Provided that such councillor has been permitted by the chairperson to speak to a specific item on the agenda.

(5) A councillor may speak or proceed to speak at a meeting after being recognised by the Speaker.

(6) A councillor may speak only once to—

- (a) a matter before the Council;
- (b) any motion before the Council;
- (c) any amendments to a motion before the Council; or
- (d) a point of order or a question,

unless authorised by the Speaker or as provided for in this by-law.

(7) A councillor may not be interrupted while speaking, unless called to order by the Speaker or a point of order is raised by any other councillor.

(8) The Speaker may not recognise a councillor to speak on a matter once that matter has been voted on.

(9) The Speaker may not allow a debate on a matter—

- (a) which may anticipate any matter on the agenda; or
- (b) in respect of which a decision by a judicial or administrative body or a commission of inquiry is pending.

Duration of speeches

30.(1) Except with the consent of the Speaker, no councillor may speak for more than five minutes on any subject or matter.

(2) The mover of an original motion or of any amendment may, however, speak for five minutes on such motion or amendment.

Participation by Speaker in debate

31.(1) If the Speaker wishes to take part in a debate, the Speaker may do so from the floor and must—

- (a) request the meeting to elect an Acting Speaker in the manner contemplated in section 17(3) for the duration of the debate in which the Speaker wishes to take part; and

(b) in the event of a physical meeting, or a hybrid meeting where the Speaker is physically attending the meeting, vacate the chair and take up a seat amongst the other councillors.

(2) The Speaker does not have to vacate the chair if the Speaker is reporting on matters relating to the Council and its administration.

Questions

32.(1) Subject to section 39, the Speaker may not accept any question unless notice thereof has been given in terms of sub-section (2).

(2) Every notice of intention by a member to introduce a question shall be in writing, signed and dated and delivered to the Municipal Manager at least six working days before the date of the meeting on which it is intended to be introduced.

(3) The councillor to whom such question is posed, may answer the question at the meeting referred to in sub-section (2) or, if the councillor elects to answer the question in writing, he or she may do so within six work days after the meeting.

(4) If a question served before the Council, a similar question may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

(5) A debate will not be allowed on a question, except a question of clarity from the councillor who posed the question.

Content of debate

33. A councillor who speaks, must direct the councillor's speech to the matter before the Council.

Point of order

34.(1) A councillor may interject during a meeting to raise a point of order to call the attention of the Speaker to a breach of this by-law, the Code or a statutory provision.

(2) A point of order may be raised in relation to—

- (a) a procedural matter; or
- (b) the conduct of a councillor, municipal employee, or member of the public.

(3) A councillor raising a point of order must immediately be heard, and the councillor must state —

- (a) the point of order; and

(b) the section, item in the Code or statutory provision that is allegedly being breached.

(4)(a) A councillor who is speaking when a point of order is raised must immediately stop speaking until the point of order is ruled on by the Speaker.

(b) All other matters before the Council must be suspended until the point of order is ruled on.

(5) If ruled to be—

(a) in order, the councillor must be allowed to proceed with the councillor's speech; or

(b) out of order, the councillor must remain silent or must retract or change any remarks so as to comply with the ruling.

(6) The Speaker's ruling on a point of order—

(a) is final and not open to debate; and

(b) must be recorded in the minutes.

(7)(a) If a councillor persists in irrelevant, frivolous or unsubstantiated points of order, the Speaker may—

(i) rule that the councillor must withdraw immediately from the chamber or committee room for the remainder of the day's meeting if the councillor is physically attending the meeting; or

(ii) mute the microphone of the councillor if the councillor is virtually attending the meeting.

(b) If the Speaker fails to act under paragraph (a), any councillor may move a motion to require the Speaker to do so.

Explanation

35.(1) The Speaker may allow a councillor to explain a previous speech, but only when and to the extent that a material part of the speech may have been misunderstood.

(2) The councillor giving the explanation may not introduce any new matter, and no debate on the explanation may be allowed.

Motion

36. A councillor may move a motion only when the councillor is recognised by the Speaker and if seconded by another councillor, unless provided otherwise in this by-law.

Notice of motion

37.(1) The Speaker may not accept any motion, except a motion of exigency or a motion of course, unless notice thereof has been given in terms of sub-section (2).

(2) Every notice of intention by a member to introduce a motion shall be in writing, signed and dated and delivered to the Municipal Manager at least six working days before the date of the meeting at which it is intended to be introduced.

(3) Subject to rule 5(4), the Speaker may refuse an item, motion or question, in which event the Speaker must refer the item, motion or question—

- (a) back to the councillor concerned, with the reason why it cannot be placed on the agenda;
- (b) to the committee that is mandated by the Council to deal with the matter; or
- (c) to the Executive Mayor, if by law such motion or question must first be considered by the Executive Mayor.

(4) If an item, motion or question was put before, and refused by, the Council, a similar item, motion or question may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

Question for debate

38.(1) During a debate and—

- (a) after a motion has been moved and seconded; or
- (b) at the conclusion of any speech on a motion,

any councillor may ask any question relevant to the motion to another councillor.

(2) Only the councillor who asked the question may ask a supplementary question, and then only in respect of matters arising out of the reply to that question.

(3) The councillor to whom the question is directed may—

- (a) reply thereto forthwith; or
- (b) require that notice be given of the question, in which event the Speaker must ensure that the reply is placed on the agenda of the next meeting.

Motion of exigency

39.(1) A councillor may direct the attention of the Council to any matter which does not appear on the agenda and of which no notice has been given, by stating briefly the subject of the matter and, without comment thereon, moving a motion “that the motion to which attention has been directed be considered forthwith as a matter of exigency”.

(2) If the motion in sub-section (1) is seconded and carried, the councillor who moved the motion may be permitted without notice to have the matter considered.

(3) This section does not apply to a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office as contemplated in section 55.

Motion of course

40.(1) The following are regarded as motions of course:

- (a) That precedence be given to the consideration of any particular matter appearing on the agenda;
- (b) that any report referred to in the agenda be noted, adopted, acted upon or referred back;
- (c) that any document before the Council be acted upon in the manner specified in the motion;
- (d) that action be taken with regard to any matter submitted for consideration in the manner specified in the motion;
- (e) that the Speaker must direct that a councillor, municipal employee or a member of the public withdraw from the meeting; and
- (f) any motion contemplated in section 41.

(2) If a motion of course is seconded, it must be put to the vote forthwith without debate.

Precedence of debate

41. When a motion is under debate, no further motion may be received, except that—

- (a) the motion be amended as contemplated in section 42;
- (b) the consideration of the matter be postponed to a fixed or undetermined date as contemplated in section 43;
- (c) members of the public be excluded as contemplated in section 25;
- (d) members of the public be re-admitted as contemplated in section 26;
- (e) the meeting be adjourned to another date as contemplated in section 44;
- (f) the meeting be adjourned for a specified time as contemplated in section 45;
- (g) the debate on the matter be adjourned for a specified time as contemplated in section 46;
- (h) the motion be put to the vote as contemplated in section 47;
- (i) the motion be removed from the agenda as contemplated in section 48;
- (j) the motion be referred to a committee as contemplated in section 49; or
- (k) the motion be withdrawn as contemplated in section 50.

Amendment motion

42.(1) A councillor may move an amendment motion by stating—

- (a) “that the motion be amended”; and
- (b) how the original motion should be amended.

(2) Subject to sub-section (6), the motion contemplated in sub-section (1)—

- (a) need not be in writing; and
- (b) must be seconded.

(3) The amendment must be relevant to the original motion on which it is moved, and must be moved while the original motion is under consideration.

(4)(a) The amendment may not amend, in a material way, the principle embodied in the original motion, but may vary its terms in one or more particulars.

(b) The Speaker must decide whether or not the amendment complies with paragraph (a), and must rule accordingly.

(5) The amendment must be considered before considering the original motion.

(6) If the Speaker so requires, a proposed amendment must be in writing, signed by the councillor who moved it, and—

- (a) handed to the Speaker; or
- (b) delivered to the Speaker by electronic communication.

(7)(a) If there is more than one amendment to the original motion, the last proposed amendment must be put to the vote first, and if carried, the matter must be resolved accordingly.

(b) If the last proposed amendment is rejected, the amendment proposed immediately before the last amendment must be put to the vote.

(c) When all amendments have been disposed of, the original motion must be put to the vote.

(8) No further amendment to the original motion may be moved after the Speaker has commenced to take the vote on the original motion.

Motion for postponement of matter

43.(1) A councillor may at the conclusion of a speech move “that the consideration of the matter be postponed to a fixed or undetermined date”.

(2) The motion—

- (a) need not be in writing; and
- (b) must be seconded.

(3) The councillor who moved the motion may speak to the motion.

(4) The councillor who moved the original motion in respect of the matter under debate may reply, after which the motion contemplated in sub-section (1) must be put to the vote without further debate.

(5) If the motion contemplated in sub-section (1) is carried, the matter must be placed first on the agenda of matters to be considered at the meeting to which it has been postponed.

(6) If the motion contemplated in sub-section (1) is not carried, the meeting must proceed as though no interruption occurred.

Motion for adjournment of meeting to another date

44.(1) A councillor may, at any time during the meeting, except during the course of a speech by another councillor or when a vote is being taken, move “that the meeting adjourn to another date”.

(2) The motion—

- (a) need not be in writing; and
- (b) must be seconded.

(3) The councillor who moved the motion may speak to the motion.

(4) A debate on the motion may not be permitted: Provided that the first councillor to indicate the councillor’s opposition to the motion, may speak in opposition thereof.

(5) An amendment to the motion may not be moved, except in relation to the period of adjournment.

(6) If the motion is carried, the meeting must forthwith adjourn and be reconvened on the date specified in the motion or amended motion, unless the Speaker directs that the meeting proceed first to dispose of business other than the opposed business.

(7) If the motion is not carried, the meeting must proceed as if no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.

(8) Before the conclusion of a motion that is carried during a debate, the councillor who moved the adjournment is entitled to speak first when the matter is reopened for discussion at the adjourned meeting.

(9) No business may be transacted at an adjourned meeting other than the business that was on the agenda for the meeting of which it is an adjournment.

Motion for adjournment of meeting for specified time

45.(1) A councillor may at any time, except during the course of a speech by another councillor or when a vote is being taken, move “that the meeting adjourn for a specified time”, which may not exceed 60 minutes.

(2) The motion—

- (a) need not be in writing; and
- (b) must be seconded.

(3) If the motion is carried, the meeting must forthwith adjourn for the specified time and reconvene on the time specified in the motion.

(4) If the motion is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.

(5) The Speaker may at any time adjourn a meeting for a specified time, on good cause shown.

Motion for adjournment of debate on matter for specified time

46.(1) A councillor may, at the conclusion of any speech on a matter, move “that the debate on the matter be adjourned for a specified time”.

(2) The motion—

- (a) need not be in writing; and
- (b) must be seconded.

(3) The councillor who moved the motion may speak to the motion.

(4) No debate is permitted on the motion, except that the first councillor to indicate the councillor's opposition to the motion, may speak in opposition thereto.

(5) No amendment to the motion may be moved, except in relation to the period of adjournment.

(6)(a) If the motion is carried, the meeting proceeds to the next item on the agenda, and the adjourned debate is resumed at the time specified in the motion.

(b) On the resumption of the adjourned debate, the councillor who moved the adjournment is entitled to speak first.

(7) If the motion is not carried, the debate on the matter proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.

(8) A councillor may not move or second more than one motion for the adjournment of the debate on the matter during the course of that debate.

(9) The Speaker may at any time adjourn a debate for a specified time, on good cause shown.

Motion that matter be put to vote

47.(1) A councillor may, at the conclusion of any speech on a matter, move “that the matter be put to the vote”.

(2) If a motion contemplated in sub-section (1) has been adopted, the motion must be put to the vote without any further debate.

Motion to remove matter from agenda

48.(1) A councillor may, at the conclusion of any speech during a debate, move that the matter be removed from the agenda.

(2) Subject to the provisions of sub-section (3), no motion put in terms of sub-section (1) shall be open for discussion.

(3) The mover of a matter under discussion may, when a motion has been put in terms of sub-section (1), speak on such motion for not more than five minutes, whereupon the said motion shall be put to the vote without any further discussion.

(4) If such a motion is carried, the matter under discussion shall not be discussed further.

Motion to refer matter to committee

49.(1) A councillor may, at the conclusion of any speech on a matter, move “that the matter be referred to a committee”.

(2) The motion—

- (a) need not be in writing; and
- (b) must be seconded.

(3) Subject to sub-section (4), a motion contemplated in sub-section (1) is not open to debate.

(4) The councillor who moved the original motion under debate may, when a motion contemplated in sub-section (1) has been moved, speak on that original motion, whereupon the motion contemplated in sub-section (1) must be put to the vote without any further debate.

(5) If the motion contemplated in sub-section (1) is carried, the matter under debate may not be further pursued at the meeting.

(6) If the motion contemplated in sub-section (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion on that item.

Withdrawal of motion or question

50.(1)(a) A councillor who has moved a motion may at any time withdraw it.

(b) A councillor may not speak on a motion after the Council has permitted the withdrawal of the motion.

(c) If a motion is withdrawn, a similar motion may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

(2)(a) A councillor who has asked a question may withdraw it at any time before the question is answered.

(b) If a question is withdrawn, a similar question may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

Absence of councillor who gave notice of motion or question

51.(1) If the councillor who gave notice of a motion or a question is not present when called upon by the Speaker, the motion may be moved or the question may be asked by any other councillor.

(2) If the motion contemplated in sub-section (1) is not moved, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion on that item.

Re-introduction of motion or question

52. A motion which has been rejected by the Council or a question which has been answered, may not again be moved or asked within a period of three months of the meeting at which it was rejected or answered, unless the Council directs otherwise.

Motion or question on matter referred to committee

53.(1) A councillor may not give notice of a motion or question with regard to any matter that is before a committee for consideration, unless notice thereof has also been—

- (a) submitted to that committee; or
- (b) referred to that committee for consideration and report.

(2) The chairperson of a committee may, if the member of the committee is of the opinion that the matter is one of urgency, give notice of a motion or question on a matter referred to the committee, despite the fact that the motion or question has not been submitted to or considered by that committee.

Report on delegated powers

54. An Executive Mayor, Speaker, committee or Municipal Manager must report to the Council on decisions taken with respect to a delegated or sub-delegated power or duty at such intervals as the Council may require.

CHAPTER 7

REMOVAL OF OFFICE-BEARER FROM OFFICE

Removal of Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office

55.(1)(a) A councillor may, by written motion addressed to the Speaker, move that the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor be removed from office.

(b) A motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office contemplated in paragraph (a) must be seconded by at least three other councillors.

(2) A motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office must contain a brief summary of the reasons for the removal, and indicate the date and the time of the special Council meeting, which date may not be less than—

- (a) six working days from the date that the motion is submitted to the Speaker; or

(b) four working days from the date the request is submitted to the Speaker if the matter is regarded as an urgent matter, in which event the reasons for urgency must be stated in the request.

(3) The Speaker must, upon receipt of a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office—

(a) forthwith send a copy to the Whip, Municipal Manager and the Executive Mayor, if applicable; and

(b) if the motion complies with the requirements set out in this section and the Structures Act—

(i) convene a special Council meeting on the date and at the time set out in the motion and at a venue or using a platform determined by the Speaker; and

(ii) inform the Municipal Manager of the date, time and venue or platform.

(4) If the Speaker, for whatever reason, fails to convene the special Council meeting in terms of sub-section (3) within three working days of receipt of the motion, the Municipal Manager, or in the absence or refusal by the Municipal Manager, a person designated by the Provincial Minister, may convene and chair the special Council meeting on the date and at the time set out in the motion and at a venue or using a platform determined by the Municipal Manager or person designated by the Provincial Minister, as the case may be.

(5)(a) If the Speaker is absent, unavailable, unwilling or unable to chair the special Council meeting, the Municipal Manager or a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable, must preside at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.

(b) The Acting Speaker may only preside over the special Council meeting concerned.

(6) Only the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office contemplated in sub-section (1) may be dealt with at the special Council meeting.

(7)(a) The Municipal Manager must give notice of the special Council meeting at least two working days prior to the meeting, in the manner contemplated in section 6(5) and (6).

(b) If the Speaker determines that the special Council meeting is an urgent meeting, the Municipal Manager must, at least one working day before the meeting, give written

notice as contemplated in section 6(5) and (6), except if time constraints make this impossible.

(c) If the Municipal Manager accidentally omits to give notice to any councillor, such omission does not invalidate a meeting.

(8) If the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, resigns from office at any time before the special Council meeting takes place, the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office lapses and the meeting does not go ahead.

(9) The Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, has the right and must be allowed the opportunity during the special Council meeting to respond to every allegation made—

- (a) in the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office; and
- (b) during the meeting.

(10) If the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, is not present during the special Council meeting, the Council may continue with the proceedings in the absence of such office-bearer.

(11) If the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, at any time during the special Council meeting, but before the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office is put to the vote, resigns from office, the—

- (a) special Council meeting is adjourned immediately; and
- (b) motion lapses;

despite any provisions to the contrary in this by-law: Provided that if the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office concerns the Speaker, the Council must proceed to elect a new Speaker.

(12) If the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office is carried, the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, is removed from office with immediate effect and the Council proceeds to elect a new Speaker, Whip (where applicable), Deputy Executive Mayor or Deputy Executive Mayor, as the case may be, despite any provisions to the contrary in this by-law.

(13) A councillor elected as Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor in terms of sub-section (11) or (12), as the case may be, serves for the unexpired term of the predecessor.

(14) If the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office is not carried, no motion forwarding the same allegations may be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

CHAPTER 8 **LEGISLATIVE PROCESS**

Introduction of draft by-law

56. A draft by-law may be introduced only by a councillor or a committee, as contemplated in section 12 of the Systems Act.

Introduction of draft by-law by councillor

57.(1) A councillor may introduce a draft by-law by submitting it, together with a memorandum on its objects, to the Municipal Manager.

(2) If one or more committees deal with the subject of the draft by-law, the Municipal Manager must submit a report with the Municipal Manager's comments on the draft by-law to such committee or committees, as the case may be, for comment.

(3)(a) The Municipal Manager must submit a report on the draft by-law, together with any comments received from the committee or committees, as the case may be, as contemplated in sub-section (2), if applicable, to the Executive Mayor for a report and recommendation to the Council as contemplated in section 30(5) of the Structures Act.

(b) The Executive Mayor must within three months of receipt of a draft by-law from the Municipal Manager, consider the draft by-law and decide to either support it with or without amendments, or not support it.

(4) After the Executive Mayor has made a decision as contemplated in sub-section (3)(b), the Executive Mayor must submit a report to the Council which sets out the following:

- (a) an executive summary of the draft by-law;
- (b) a memorandum on the objects of the draft by-law;
- (c) the contents of the draft by-law;
- (d) other by-laws that will have to be repealed or amended if the draft by-law is adopted;

- (e) the reasons why the draft by-law is supported with or without amendments or not supported, as the case may be;
- (f) any relevant comments or proposals, which may include proposals for amendments; and
- (g) a recommendation or recommendations.

- (5)(a) After considering the report contemplated in sub-section (4), the Council must decide to either reject the draft by-law or to approve it with or without amendments.
- (b) If the Council rejects the draft by-law, a by-law of the same substance may not be introduced until a period of six months from the date of rejection has lapsed, unless the Council directs otherwise.
- (c) If the Council approves the draft by-law, the draft by-law must be published for public comment in accordance with section 59.

Introduction of draft by-law by committee

58.(1) A committee may introduce a draft by-law by submitting it, together with a memorandum on its objects, to the Municipal Manager for comment.

(2) The committee must consider the comments received from the Municipal Manager as contemplated in sub-section (1), and submit it again to the Municipal Manager.

(3)(a) If any other committee deals with the subject of the draft by-law, the Municipal Manager must submit a report on the need for the by-law for consideration to such committee.

(b) If the committee contemplated in paragraph (a) agrees that the by-law is necessary, the Municipal Manager must submit the draft by-law to that committee for comment.

(4) The Municipal Manager must submit the draft by-law with the comments contemplated in sub-section (3)(b), if applicable, to the Executive Mayor.

(5) The process contemplated in section 57(3)(b) to (5) applies to the introduction of a draft by-law by a committee.

Publication of draft by-law

59.(1)(a) The Municipal Manager must, as soon as possible after the Council has granted approval for a by-law contemplated in section 57 or 58, in terms of section 57(5)(c) publish the draft by-law for public comment.

(b) The comment period must be at least 30 working days from the date of publication, unless the Council has approved a shorter period.

(2) Publication for public comment must be in a manner that allows the public the opportunity to make representations with regard to the proposed by-law as contemplated in section 12(3)(b) of the Systems Act.

Consideration of draft by-law

60.(1) The Municipal Manager must as soon as possible after the closing date for public comment contemplated in section 59, submit a report to the Executive Mayor together with—

- (a) a copy of the draft by-law;
- (b) a copy of the publication contemplated in section 59;
- (c) comments received from the public; and
- (d) comments or recommendations from the Municipal Manager.

(2) The Executive Mayor must consider the report by the Municipal Manager and must—

- (a) submit a report to the Council which sets out the following:
 - (i) An executive summary of the draft by-law; and
 - (ii) any relevant comments or proposals; and
- (b) recommend to the Council to pass the by-law with or without amendments, to postpone the passing of the by-law, or to reject the by-law.

(3) If the Council rejects the draft by-law, a by-law of the same substance may not be introduced until a period of six months from the date of rejection has lapsed, unless the Council directs otherwise.

(4) As contemplated in section 20(2)(a), a supporting vote of a majority of incumbent councillors is necessary to decide on the passing of a by-law.

(5) The Council may not pass a by-law unless all the councillors were given reasonable notice as contemplated in section 160(4)(c) of the Constitution and section 12(3)(a) of the Systems Act.

(6) When a by-law has been passed, it must be published in accordance with section 13 of the Systems Act.

(7) This by-law also apply to the adoption of standard draft by-laws as contemplated in section 14(4) of the Systems Act.

CHAPTER 9

MISCELLANEOUS MATTERS

Official languages

61. Any person who speaks at a meeting may use any of the three official languages recognised by the Constitution of the Western Cape, 1997 (Act 1 of 1998), namely English, Afrikaans and isiXhosa.

Municipal employees

62. A municipal employee must attend a meeting if requested to do so by the Municipal Manager or the Speaker.

Breaches and offences

63.(1) A councillor, municipal employee or member of the public who physically attends a meeting and who—

- (a) refuses to withdraw from the chamber or committee room in the circumstances contemplated in section 9(4) or when directed to do so by the Speaker in terms of section 10, 27(4), or 34(7); or
 - (b) returns to a meeting from which the councillor, municipal employee or member of the public has withdrawn or was removed for the duration of the meeting in terms of this by-law;
- may be removed by a person designated by the Speaker.

(2) A councillor, municipal employee or member of the public may not—

- (a) interfere or impede the Council when the Council is exercising its powers, performing its functions, or carrying out its duties;
- (b) interfere with or impede the exercise, performance or carrying out by a councillor of the councillor's powers, functions and duties as a councillor;
- (c) threaten or obstruct a councillor proceeding to or going from a meeting;
- (d) assault or threaten a councillor;
- (e) fail or refuse to comply with an instruction by the Speaker; or
- (f) fail or refuse to comply with an instruction by a duly authorised municipal employee regarding
 - (i) the presence of persons at a particular meeting; or
 - (ii) the possession of any article, including a firearm, on the premises where a meeting takes place or on municipal land.

(3) A person, excluding a councillor, who contravenes sub-section (2) is guilty of an offence and is liable on conviction to—

- (a) a fine;
- (b) imprisonment as determined by the presiding officer; or
- (c) both such fine and such imprisonment.

(4) Sub-sections (1) and (3) do not derogate from any other criminal or civil sanctions, or, in the case of councillors, sanctions regarding a transgression of the Code.

(5) A councillor who contravenes any section of this by-law during a meeting compromises the integrity of the municipality and must also be dealt with in accordance with the Code.

Repeal of by-laws

64. The Swartland Municipality: By-Law Relating to the Rules for the Conduct of Meetings as published in Provincial Gazette Extraordinary 7501 of 2 October 2015 is hereby repealed as a whole.

Short title and commencement

65. This by-law shall be known as the Swartland Municipality: By-law relating to the Conduct of Meetings and shall come into operation on the date of publication thereof in the Provincial Gazette.

**SWARTLAND MUNISIPALITEIT:
VERORDENING INSAKE DIE HOU VAN VERGADERINGS**

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HOOFSTUK 1

INLEIDING

Woordomskrywing

1. In hierdie verordening geld die Engelse teks in geval van konflik met die Afrikaanse teks en, tensy dit nie met die konteks strook nie, beteken—

“fisiese vergadering” 'n vergadering waar raadslede fisiek teenwoordig is in dieselfde lokaal;

“gewone Raadsvergadering” 'n gewone vergadering van die Raad wat ooreenkomsdig artikel 6 belê is;

“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996;

“hibriede vergadering” 'n vergadering waar sommige raadslede fisiek teenwoordig is in die vergaderlokaal en sommige raadslede die vergadering op virtuele wyse bywoon;

“Kode” die Gedragskode vir Raadslede soos uiteengesit in Bylae 7 tot die Strukture Wet;

“komitee” 'n komitee geskep deur die Raad ingevolge artikel 79 van die Strukture Wet, en sluit in 'n komitee aangestel uit hoofde van artikel 80 van die Strukture Wet;

“kworum” met verwysing na —

- (a) die Raad, 'n meerderheid van die sittende raadslede; en
- (b) 'n komitee, 'n meerderheid van die sittende lede wat deur die Raad in daardie Komitee aangestel is;

“lid van die publiek” 'n persoon wat nie 'n raadslid of 'n munisipale werknemer is nie en wat 'n vergadering bywoon, en sluit in —

- (a) die media;
- (b) 'n hoogwaardigheidsbekleër; en
- (c) 'n verteenwoordiger van 'n regeringsfeer;

“lokaal” die Raadsaal of komiteekamer waar 'n fisiese vergadering gehou word, tensy andersins bepaal deur die Speaker of voorsitter, na gelang van die geval;

“munisipale werknemer” 'n werknemer van die munisipaliteit;

“Munisipale Bestuurder” die munisipale bestuurder van die Munisipaliteit soos in die Stelsels Wet gedefinieer;

“munisipaliteit” die munisipaliteit van Swartland;

“partysweep” ’n raadslid aangestel deur sy of haar party om die pligte uit te voer wat aan die posisie van partysweep verbonde is soos beoog deur hierdie verordening;

“platform” die virtuele platform waar ’n virtuele vergadering gehou word;

“Provinsiale Minister” die lid van die Provinsiale Kabinet verantwoordelik vir plaaslike regeringsaangeleenthede in die Provinsie;

“Raad” die munisipale raad van die munisipaliteit;

“raadslid” ’n lid van die Raad, en sluit in ’n politieke ampsdraer soos omskryf in artikel 1 van die Stelsels Wet;

“Speaker” die Speaker van die Raad verkies ingevolge artikel 36 van die Strukture Wet of die Waarnemende Speaker verkies ingevolge artikel 41 van die Strukture Wet;

“spesiale Raadsvergadering” ’n spesiale vergadering van die Raad belê ingevolge artikel 7;

“Stelsels Wet” die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000);

“Strukture Wet” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);

“sweep” die raadslid verkies ingevolge artikel 41A van die Strukture Wet;

“vergadering” enige vergadering van die raad of ’n komitee, na gelang van die geval;

“virtueel” lewendig gestroom na die internet deur middel van enige een of al drie van die volgende:

(a) Video;

- (b) Teks;
- (c) Audio;

“virtuele vergadering” 'n vergadering waar raadslede nie fisiek teenwoordig is in dieselfde lokaal nie en die vergadering by wyse van virtuele tegnologie gehou word;

“werksdag” enige dag van die week behalwe—

- (a) 'n Saterdag, Sondag en openbare vakansiedag; en
- (b) wanneer die Raad in reses is.

Toepassing en vertolking

2.(1)(a) Onderworpe aan paragraaf (b), is hierdie verordening van toepassing op alle vergaderings van die Raad en sy komitees.

(b) Hierdie verordening is nie van toepassing op die volgende komitees nie:

- (i) 'n komitee ingestel kragtens item 16(1)(b) van die Kode;
- (ii) 'n komitee soos omskryf in artikel 62(4)(c)(ii) van die Stelsels Wet; en
- (iii) 'n burgemeesterskomitee soos omskryf in artikel 60 van die Strukture Wet.

(2) Tensy dit nie met die konteks strook nie of klaarblyklik ontoepaslik is, moet 'n verwysing in hierdie verordening na —

- (a) die Raad as 'n verwysing na 'n komitee beskou word;
- (b) die Speaker as 'n verwysing na die voorsitter van 'n komitee beskou word; en
- (c) 'n raadslid as 'n lid van 'n komitee beskou word.

(3) Behalwe waar dit klaarblyklik ontoepaslik is, is 'n artikel wat op 'n raadslid in enige verrigtinge van toepassing is ook van toepassing op 'n munisipale werknemer en 'n lid van die publiek wat deelneem aan daardie verrigtinge.

(4) Waar hierdie verordening vereis of toelaat dat 'n kennisgewing, mosie, vraag of versoek skriftelik aan enige raadslid of persoon gegee word, is dit voldoende indien dit elektronies direk aan daardie raadslid of persoon versend word.

(5) Waar hierdie verordening vereis dat 'n dokument gepubliseer, verskaf of afgelewer word, is dit voldoende dat 'n elektroniese oorspronklike of afskrif daarvan gepubliseer, verskaf of afgelewer word deur elektroniese kommunikasie: Met dien verstande dat hierdie subartikel nie van toepassing is op enige publikasie daarop gemik om die publiek in te lig nie.

- (6) Waar hierdie verordening vereis dat 'n dokument onderteken moet word deur —
- (a) 'n enkele raadslid of persoon, mag ondertekening geskied op enige van die wyses waarvoor daar voorsiening gemaak word in die Wet op Elektroniese Kommunikasies en Transaksies, 2002 (Wet 25 van 2002); of
 - (b) twee of meer raadslede of persone, is dit voldoende indien—
 - (i) al daardie raadslede of persone 'n enkele oorspronklike van die dokument onderteken, in persoon of soos bepaal in paragraaf (a); of
 - (ii) elkeen van daardie raadslede of persone 'n afsonderlike duplikaat oorspronklike van die dokument onderteken, in persoon of soos bepaal in paragraaf (a), en in sodanige geval sal die getekende duplikaat oorspronklikes gesamentlik die geheel van die dokument uitmaak.

(7)(a) In dringende gevalle, tydens 'n noodgeval of waar die Raad van mening is dat nakoming van 'n artikel onredelik sou wees en die werking van die Raad belemmer, mag die Raad met die goedkeuring van die meerderheid van die sittende raadslede en vir die duur van daardie vergadering, die bepalings van daardie artikel tydelik verslap of opskort: Met dien verstande dat die verslapping of opskorting van 'n artikel—

- (i) nie in oortreding van enige nasionale of provinsiale wetgewing of enige verordening van die munisipaliteit mag geskied nie; en
 - (ii) verband moet hou met 'n item op die agenda vir die vergadering.
- (b) Die redes vir die opskorting van die artikel moet in die notule vermeld word.
- (c) Hierdie subartikel is nie van toepassing op 'n mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy/haar amp te verwijder ingevolge artikel 55 nie.

Plig van Speaker, raadslede, municipale werknemers en lede van die publiek

3. Die Speaker, raadslede, municipale werknemers en lede van die publiek moet verseker dat hulle vertroud is met hierdie verordening.

HOOFSTUK 2

VERGADERINGS

Hantering en volgorde van verrigtinge

4.(1) Die Raad hanteer sy sake op gewone Raadsvergaderings en spesiale Raadsvergaderings, wat vir daardie doel ingevolge hierdie verordening belê word.

(2) Die volgorde van verrigtinge in gewone Raadsvergaderings is as volg, tensy die verloop daarvan verander word kragtens subartikel (4):

- (a) verkiesing van Waarnemende Speaker, indien nodig;
- (b) aansoeke vir afwesigheidsverlof;

- (c) bevestiging van notule;
- (d) verklarings en mededelings deur Speaker;
- (e) verklarings en mededelings deur Sweep, waar van toepassing;
- (f) verklarings en mededelings deur Uitvoerende Burgemeester of Uitvoerende Burgemeesterskomitee, waar van toepassing;
- (g) dringende sake ingedien deur die Municipale Bestuurder;
- (h) oorweging van verslag oor gedelegeerde magte;
- (i) oorweging van verslae;
- (j) mosies;
- (k) vrae;
- (l) mosies van dringendheid; en
- (m) verdaging.

(3) Die volgorde van verrigtinge in 'n spesiale Raadsvergadering is as volg, tensy die volgorde verander word kragtens subartikel (4):

- (a) verkiesing van Waarnemende Speaker, indien nodig;
- (b) aansoeke om afwesighedsverlof;
- (c) oorweging van sake vervat in kennisgewing wat spesiale Raadsvergadering belê of uiteengesit in die versoek soos beoog in artikel 7 en
- (d) verdaging.

(4) Die Speaker kan die volgorde van verrigtinge op die agenda wysig of die Raad mag aldus besluit.

(5) 'n Raadslid wat die volgorde van sake op die agenda wil wysig moet die Speaker in hierdie verband voor die vergadering nader.

Agenda

5.(1)(a) Die Speaker of 'n persoon aangewys deur die Speaker moet die agenda vir 'n vergadering voorberei in oorelog met die Sweep, waar van toepassing, en die Municipale Bestuurder.

(b) Die Municipale Bestuurder moet die Speaker bystaan met die voorbereiding van die agenda.

(2) Die Speaker kan te enige tyd gedurende 'n vergadering 'n dringende saak wat nie op die agenda verskyn nie op die agenda plaas, tensy —

- (a) 'n raadslid sy teenkanting teen die indiening van die saak aandui;
- (b) die prosedure soos beoog in artikel 19 gevolg word; en
- (c) die Raad anders besluit met 'n meerderheid van die uitgebragte stemme.

(3) Behalwe waar hierdie verordening of subartikel (2) anders bepaal, mag 'n saak wat nie op die agenda verskyn nie, nie by 'n vergadering gehanteer word nie.

(4) Die Speaker mag weier om 'n item, mosie of vraag op die agenda te plaas, waar sodanige item, mosie of vraag —

- (a) buite die jurisdiksie van die munisipaliteit val;
- (b) rassisties van aard is of haatspraak bevorder;
- (c) *sub judice* is;
- (d) nie die procedurevereistes vir voorlegging van agenda items soos deur hierdie verordening bepaal nakom nie;
- (e) 'n gebrek aan voldoende inligting het;
- (f) wetgewing oortree of in stryd is met die reg; of
- (g) lasterlik van aard is,

in welke geval die prosedure in artikels 37(3) en (4) gevvolg moet word.

Vergaderings

6.(1) Die Speaker moet —

- (a) gewone Raadsvergaderings ten minste kwartaalliks belê; en
- (b) verseker dat die Raad ten minste kwartaalliks vergader ooreenkomstig artikel 18(2) van die Strukture Wet.

(2) Die Speaker moet besluit of 'n vergadering 'n

- (a) fisiese vergadering;
- (b) virtuele vergadering; of
- (c) hibriede vergadering moet wees.

(3) Alle fisiese en hibriede vergaderings moet oop wees vir lede van die publiek, tensy hulle uitgesluit word ingevolge artikel 25.

(4) Onderworpe aan subartikel (1) en subartikel 7(3), moet die Speaker bepaal wanneer en waar die Raad moet byeenkom.

(5) Die Municipale Bestuurder moet ten minste 48 uur voor 'n gewone Raadsvergadering skriftelike kennis van die datum, tyd en lokaal of platform van daardie vergadering aan elke raadslid gee.

(6)(a) Die Municipale Bestuurder moet ten minste 48 uur voor 'n gewone raadsvergadering skriftelike kennis gee aan die publiek van die datum, tyd en plek of platform van sodanige Raadsvergadering, ooreenkomstig artikel 29A van die Strukture Wet.

(b) Die kennisgewing beoog in paragraaf (a) —

- (i) moet verskyn op —
- (aa) die landingsblad van die munisipaliteit se webtuiste; en
- (bb) 'n kennisgewingbord van die munisipaliteit se hoofkantoor;
- (ii) kan gepubliseer word in 'n plaaslike koerant soos bepaal deur die Municipale Bestuurder; en
- (iii) moet die besonderhede verskaf van 'n kontakpersoon aan wie enige navrae gerig kan word.

(7)(a) Die Speaker kan, tydens 'n noedsituasie of in buitengewone omstandighede, die datum, tyd, plek of platform van 'n gewone Raadsvergadering wat belê is verander.

(b) Die Municipale Bestuurder moet redelike kennis gee ooreenkomstig hierdie artikel van enige verandering van die datum, tyd, plek of platform van 'n vergadering.

(8) Raadslede moet die sakelyste wat ooreenkomstig artikel 6(5) aan hulle besorg is, behoorlik nagaan en hulself deeglik vir die geskeduleerde vergadering voorberei.

(9) By die aanvaarding van sy of haar amp as raadslid, moet 'n raadslid aan die Municipale Bestuurder 'n fisiese adres binne die munisipale regsgebied verskaf waar sakelyste van vergaderings aan sodanige raadlid bestel moet word en moet, waar moontlik, 'n elektroniese posadres en 'n selfoornommer verstrek vir kitsboodskappe om kennis te ontvang van vergaderings of ander amptelike korrespondensie.

(10) 'n Raadslid moet die Municipale Bestuurder sonder versuim in kennis stel van enige verandering van die inligting ingevalge subartikel (9) voorsien.

Spesiale Raadsvergaderings

7.(1)(a) Die Speaker kan 'n spesiale Raadsvergadering belê op 'n datum, tyd, plek of platform deur hom of haar bepaal.

(b) Wanneer die Speaker die datum, tyd, plek of platform bepaal het, moet hy of sy die Municipale Bestuurder dienooreenkomstig inlig.

(2) Indien die posisie van Speaker vakant is of die Speaker is afwesig, nie beskikbaar nie, onwillig of nie in staat om sy of haar werkzaamhede uit te voer nie—

- (a) moet die Municipale Bestuurder; of
- (b) 'n persoon aangewys deur die Provinciale Minister, indien die Municipale Bestuurder afwesig, nie beskikbaar nie, onwillig of nie in staat is nie,

'n spesiale Raadsvergadering belê om 'n Speaker of 'n Waarnemende Speaker, na gelang van die geval, te verkies, en moet as voorsittende beampete optree by sodanige vergadering.

(3) Die Speaker moet, indien 'n meerderheid van die raadslede hom of haar skriftelik versoek om 'n spesiale Raadsvergadering te belê vir oorweging van 'n spesifieke saak of sake en indien die versoek die vereistes van hierdie artikel en die Strukture Wet nakom—

- (a) 'n spesiale Raadsvergadering belê op die datum en tyd uiteengesit in die versoek en op 'n plek of platform deur hom of haar bepaal; en
- (b) die Municipale Bestuurder inlig van die datum, tyd, plek of platform en hom of haar voorsien van 'n afskrif van die versoek.

(4) 'n Versoek om 'n spesiale Raadsvergadering te belê moet aandui watter saak of sake, na gelang van die geval, by die spesiale Raadsvergadering bespreek gaan word en moet die datum en die tyd van die spesiale Raadsvergadering aandui, welke datum nie minder mag wees nie as ses werksdae vanaf die datum waarop die versoek by die Speaker ingedien is.

(5) Vir die doeleindes van subartikel (3), moet 'n meerderheid van raadslede vertolk word soos weerspieël in die munisipaliteit se stigtingskennisgewing, nienteenstaande enige verklaarde vakatures.

(6) Indien die Speaker, vir watter rede ookal, versuim om 'n spesiale Raadsvergadering te belê ingevolge subartikel (3) binne drie werksdae van ontvangs van die versoek, kan die Municipale Bestuurder, of, in die afwesigheid van of weiering deur die Municipale Bestuurder, 'n persoon aangewys deur die Provinciale Minister, die spesiale Raadsvergadering belê en optree as voorsittende beampete by sodanige vergadering, op die datum en tyd uiteengesit in die versoek en op 'n plek of met gebruikmaking van 'n platform soos deur die Municipale Bestuurder of die persoon aangewys deur die Provinciale Minister, na gelang van die geval, bepaal.

(7)(a) Indien die Speaker afwesig, nie beskikbaar, onwillig of nie in staat is om as voorsittende beampete op te tree by die spesiale Raadsvergadering nie, moet die Municipale Bestuurder, of 'n persoon aangewys deur die Provinciale Minister indien die Municipale Bestuurder afwesig, nie beskikbaar, onwillig of nie in staat is nie, as voorsittende beampete optree by die verkiesing van 'n Waarnemende Speaker ooreenkomsdig artikel 36(3) van die Strukture Wet.

(b) Die Waarnemende Speaker mag slegs optree as voorsittende beampie by daardie betrokke spesiale Raadsvergadering.

(8) Slegs sodanige saak of sake wat in die kennisgewing wat 'n spesiale Raadsvergadering belê of wat uiteengesit is in die versoek beoog in subartikel (3), mag hanteer word by 'n spesiale Raadsvergadering.

(9) Artikel 55 is van toepassing op 'n spesiale Raadsvergadering om te stem oor 'n mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwijder.

(10) Die Municipale Bestuurder moet kennis gee van 'n spesiale Raadsvergadering ten minste 24 uur voor die vergadering ooreenkomstig artikels 6(5) en (6).

(11)(a) Die Speaker kan, as daar redelike gronde daarvoor bestaan, bepaal dat 'n spesiale Raadsvergadering 'n noodvergadering is, in welke geval die tydsbepalings wat in hierdie artikel uiteengesit word nie nagekom hoef te word nie.

(b) Die Municipale Bestuurder moet alle redelike stappe neem om aan elke raadslid en die publiek kennis te gee van 'n spesiale Raadsvergadering wat 'n noodvergadering is.

Funksies van Speaker met betrekking tot vergaderings

8.(1) Onderworpe aan artikel 15(2), moet die Speaker die stoel inneem op die tyd geskeduleer vir die vergadering.

(2) Benewens die funksies beoog in artikel 37 van die Strukture Wet en enige ander wetsbepaling—

(a) moet die Speaker 'n beslissing gee ten opsigte van

- (i) 'n punt van orde geopper deur 'n raadslid; en
- (ii) 'n vraag in verband met die prioriteit van sake; en

(b) kan die Speaker, met behoorlike inagneming van die gemenereg, 'n beslissing gee in verband met enige procedurele gebeurlikheid waarvoor hierdie verordening nie voorsiening maak nie.

(3) Die beslissings beoog in subartikel (2) moet aangeteken word in die notule en mag nie gedebatteer word nie.

Bywoning deur raadslid

9.(1) Onderworpe aan die bepalings van item 4 van die Kode en artikel 11, moet 'n raadslid —

- (a) elke vergadering bywoon;
- (b) in die geval van fisiese bywoning van die vergadering, sy of haar naam in die bywoningsregister aanteken of, in die geval van virtuele bywoning van 'n vergadering, hom of haarself mondelings identifiseer wanneer die Speaker so versoek; en
- (c) teenwoordig bly, tensy dit van hom of haar vereis word, ingevolge die Kode, subartikel (4), artikel 10 of 27(4) of 34(7), of enige ander wetsbepaling, dat hy of sy onttrek van die vergadering.

(2) 'n Raadslid wat —

- (a) 'n virtuele vergadering bywoon; of
- (b) 'n hibriede vergadering virtueel bywoon,
word geag teenwoordig te wees vir doeleindeste van bepaling van 'n kworum, neem van 'n besluit, stemming oor 'n aangeleentheid en vir enige ander doeleindeste.

(3) Vir doeleindeste van hierdie verordening, is 'n raadslid —

- (a) teenwoordig by en woon 'n virtuele vergadering by; of
- (b) virtueel teenwoordig en woon 'n hibriede vergadering by,
indien die raadslid die verrigtinge kan hoor, en die Speaker die raadslid kan hoor.

(4)(a) 'n Raadslid moet 'n belang in enige saak wat voor die Raad dien verklaar soos beoog in item 6 van die Kode en onttrek van verrigtinge wanneer daardie saak oorweeg word, tensy die Raad besluit dat die raadslid se belang gering of nie ter sake is nie.

(b) Indien 'n raadslid onttrek van verrigtinge soos beoog in paragraaf (a), moet die Speaker verseker dat daardie raadslid virtuele toegang tot die vergadering belet word vir die duur van oorweging van daardie saak.

Bevel vir raadslid om van vergadering te onttrek

10.(1) Indien die Speaker van mening is dat 'n raadslid —

- (a) doelbewus 'n bepaling van hierdie verordening of die Kode oortree;
 - (b) die Speaker se gesag minag of misken; of
 - (c) se gedrag ernstig wanordelik is,
- kan die Speaker

- (i) die raadslid beveel om onmiddellik die raadsaal of komiteekamer te verlaat vir die res van die dag se vergadering, as die raadslid die vergadering fisiek bywoon; of
- (ii) daardie raadslid virtuele toegang belet vir die res van die vergadering, as die raadslid die vergadering virtueel bywoon.

Prosedure vir afwesigheidsverlof

11.(1) 'n Raadslid wat nie 'n vergadering kan bywoon nie, moet ten minste een uur voor die aanvang van die vergadering by die kantoor van die Municipale Bestuurder of sy of haar gedelegeerde verskonng aanbied.

(2) Die Speaker kan egter, om goeie redes, verlof vir afwesigheid verleen aan 'n raadslid wat deur spesiale omstandighede verhinder is om verlof vir afwesigheid te verkry ooreenkomstig subartikel (1), wat onder andere mag insluit siekte van die raadslid, of siekte of dood in die familie van die raadslid.

(3) Die name van alle raadslede —

- (a) teenwoordig by 'n vergadering;
 - (b) afwesig van 'n vergadering of gedeelte van 'n vergadering; en
 - (c) aan wie afwesigheidsverlof toegestaan is,
- moet in die notule aangegeteken word.

(4) Verlof word as toegestaan beskou indien 'n raadslid—

- (a) gedelegeer is om 'n vergadering of afspraak namens die raad by te woon;
- of
- (b) onttrek van die verrigtinge soos beoog in artikel 9(4).

(5) 'n Lid wat sonder verlof versuim om teenwoordig te bly by 'n vergadering, word geag sonder verlof afwesig te wees.

(6) Subartikels (1) tot (5) is ook van toepassing, met die nodige veranderinge, op afwesigheidsverlof van die Speaker: Met dien verstande dat 'n verwysing in hierdie artikel na die Speaker beskou sal word as 'n verwysing na die Raad.

Sanksies vir nie-bywoning

12.(1) 'n Raadslid wat sonder verlof van 'n vergadering afwesig is of ooreenkomstig artikel 11(5) geag word afwesig te wees, oortree hierdie verordening: Met dien verstande dat indien 'n raadslid ooreenkomstig artikel 27 tydelik van vergaderings of komitees geskors is, hy of sy vir doeleindes van hierdie artikel geag word met verlof afwesig te wees.

(2) 'n Raadslid wat die bepalings van subartikel (1) oortree, mag beboet word met 'n bedrag soos deur die Raad bepaal, welke boete regstreeks van sodanige raadslid se vergoeding verhaal sal word.

(3) 'n Ondersoek na enige herhaalde oortreding van subartikel (1) moet gedoen word ooreenkomsdig die eenvormige staande prosedure met betrekking tot dissipline van raadslede soos aanvaar deur die Raad.

(4) Indien die Raad bevind dat 'n raadslid hierdie verordening of die Kode soos beoog in subartikel (1) oortree het, mag die Raad –

(a) 'n formele waarskuwing aan die raadslid uitreik;

(b) die raadslid vermaan; or

(c) benewens die boete soos bepaal in subartikel (2), 'n maksimum boete oplê van –

(aa) 10 persent van sy of haar bruto maandelikse salaris vir die eerste oortreding; en

(bb) 25 persent van sy of haar bruto maandelikse salaris vir elke daaropvolgende oortreding.

(4) Indien 'n raadslid vir drie of meer vergaderings afwesig is sonder verlof, soos beoog in die Kode, moet die Raad die Provinciale Minister versoek om die raadslid uit die amp te verwijder.

Opname van virtuele vergaderings en hibriede vergaderings

13. Die Municipale Bestuurder moet verseker dat elke virtuele vergadering en elke hibriede vergadering digitaal opgeneem word en dat die opname gestoor word vir 'n tydperk van nie minder as drie jaar van die datum van die vergadering nie.

Notule

14.(1) Die Municipale Bestuurder moet—

(a) die notule van die verrigtinge van die vergadering skriftelik saamstel binne twee weke na die vergadering; en

(b) 'n afskrif van sodanige notule aan elke raadslid verskaf binne 'n redelike tyd.

(2) Die notule van 'n vergadering moet deur die raad oorweeg word by die volgende raadsvergadering en, indien bevestig, moet dit deur die Speaker onderteken word.

(3) Die notule sal as gelees beskou word, vir die doeleindes van subartikel (2), indien dit binne 'n redelike tyd voor die vergadering waarop dit oorweeg word aan elke raadslid verskaf is.

(4) Geen mosie of bespreking word toegelaat oor die bevestiging van die notule nie, behalwe in verband met die korrektheid daarvan.

(5) Indien 'n raadslid ontevrede is met die korrektheid van die notule, moet hy of sy—

- (a) meld watter item dit is waarmee hy of sy ontevrede is, en
- (b) 'n mosie voorstel waarin die alternatiewe bewoording om die notule te wysig duidelik uiteengesit word.

(6) Die notule van 'n vergadering moet die datum, tyd en plek of platform van die vergadering en die besluite of ander stappe wat daar geneem is uiteensit.

(7) Die Municipale Bestuurder moet 'n rekord hou van alle ondertekende notules.

Kworum

15.(1) 'n Vergadering mag nie begin totdat 'n kworum aanwesig is nie.

(2) Indien daar geen kworum is op die tydstip waarvoor die vergadering geskeduleer is nie, moet die Speaker die stoel inneem sodra 'n kworum teenwoordig is.

(3) As daar nie 'n kworum is nie moet die aanvang van die vergadering vertraag word vir nie langer as 30 minute nie en as daar steeds geen kworum is aan die einde van daardie tyd nie moet die Speaker—

- (a) die vergadering verdaag na 'n ander tyd, datum en plek of platform volgens sy of haar diskresie; en
- (b) die tyd van sodanige verdaging notuleer sowel as die name van alle raadslede teenwoordig.

(4) Indien die Speaker nie teenwoordig is nie en daar geen kworum is nie, moet die vergadering uitgestel word vir nie langer as 30 minute nie en indien daar geen kworum is aan die einde van daardie tyd nie, kan die vergadering nie plaasvind nie en die Municipale Bestuurder moet die tyd van sodanige verdaging en die name van alle raadslede wat teenwoordig is notuleer.

(5) As daar tydens 'n vergadering geen kworum is nie, moet die Speaker die verrigtinge opskort totdat 'n kworum teenwoordig is: Met dien verstande dat indien daar na 10 minute of sodanige langer tyd as wat die Speaker mag bepaal, steeds geen kworum is nie, die Speaker—

- (a) die vergadering moet verdaag na 'n ander tyd, datum en plek of platform volgens sy of haar diskresie; en

(b) die tyd van sodanige verdaging moet notuleer asook die name van die raadslede wat teenwoordig is.

(6) Geen tegniese fout aan die kant van 'n raadslid of groep raadslede tydens 'n virtuele vergadering of hibriede vergadering, wat 'n onderbreking in die virtuele konneksie vir 'n totale periode van nie meer as vyf minute nie veroorsaak, sal enige aksie geneem deur 'n meerderheid van die raadslede wat die vergadering bywoon ongeldig maak nie.

Verdaging van verrigtinge

16. (1) Die Speaker kan slegs 'n vergadering verdaag—

- (a) na die Raad al sy werksaamhede op die agenda afgehandel het;
- (b) wanneer daar nie 'n kworum is nie soos beoog in artikel 15;
- (c) na 'n suksesvolle mosie om te verdaag soos beoog in artikels 45 of 46;
- (d) wanneer 'n vergadering ontwrig is en in wanorde verval het;
- (e) in geval van 'n bedanking soos beoog in artikel 55(11); of
- (f) in geval van *vis major*.

(2) Wanneer die Speaker die vergadering verdaag mag die lede die lokaal of platform verlaat.

Voortsetting van vergadering na onwettige verdaging deur Speaker

17.(1) Indien die Speaker 'n vergadering verdaag het in omstandighede buiten dié beoog in artikel 16, is sodanige verdaging onbehoorlik en die oorblywende raadslede mag voortgaan met die res van die agenda: Met dien verstande dat daar steeds 'n kworum aanwesig is.

(2) Die oorblywende raadslede moet 'n Waarnemende Speaker kies om as voorsitter op te tree vir die res van die verrigtinge om die agenda af te handel.

(3) Die Municipale Bestuurder of, indien die Municipale Bestuurder afwesig, nie beskikbaar, onwillig of nie by magte is nie, 'n persoon aangewys deur die Provinciale Minister, moet as voorsitter optree by die verkiesing van die Waarnemende Speaker ooreenkomsdig artikel 36(3) van die Strukture Wet.

(4) Die Waarnemende Speaker mag slegs as voorsitter optree vir die res van die vergadering wat op onbehoorlike wyse deur die Speaker verdaag is.

HOOFSTUK 3 BESLUITE

Onbestrede sake

18. Indien die Raad gevra word om 'n saak te oorweeg, moet die Speaker die Raad vra of daar enige raadslede is wat besware het teen die saak, en indien nie, moet 'n eenparige stem in die notule van die vergadering aangeteken word.

Bestrede sake

19. As die Raad versoek word om 'n saak te oorweeg, moet die Speaker die Raad vra of enige raadslid besware het teen die saak, en indien daar teenkanting is—

- (a) moet die Speaker die saak tot stemming bring soos beoog in hierdie verordening;
- (b) die Speaker moet die uitslag van die stemming aankondig; en
- (c) by bekendmaking van die uitslag van die stemming, mag 'n raadslid vereis dat sy of haar afwykende stem, onthouding van stemming, of ondersteunende stem in die notule van die vergadering aangeteken word.

Besluite deur stemming

20.(1) 'n Kworum moet teenwoordig wees, ooreenkomstig artikel 160(3)(a) van die Grondwet en artikel 30(1) van die Strukture Wet, voordat daar oor enige aangeleentheid gestem kan word.

(2) 'n Ondersteunende stem van 'n meerderheid van sittende raadslede is nodig vir die beslissing van enige saak voorgeskryf deur wetgewing of ooreenkomstig artikel 160(3)(b) van die Grondwet en artikel 30(2) van die Strukture Wet, vir die—

- (a) aanvaarding van 'n verordening;
- (b) goedkeuring van die begroting;
- (c) heffing van eiendomsbelasting en ander diensgeld, heffings en belastings;
- (d) aangaan van lenings.

(3) 'n Ondersteunende stem van ten minste twee-derdes van sittende raadslede is nodig vir die aanvaarding van 'n besluit om die Raad te ontbind, ooreenkomstig artikel 34 van die Strukture Wet.

(4) Alle ander vrae voor die Raad word beslis deur 'n meerderheid van stemme uitgebring, ooreenkomstig artikel 160(3)(c) van die Grondwet.

(5) In geval daar by enige kwessie, behalwe 'n saak soos beoog deur artikel 160(2) van die Grondwet, 'n staking van stemme is, moet die Speaker 'n beslissende stem uitoefen benewens sy of haar stem as 'n raadslid soos beoog in artikel 30(4) van die Strukture Wet.

(6) Die Uitvoerende Burgemeester moet, waar van toepassing, 'n verslag en aanbevelings voor die Raad plaas voordat die Raad 'n besluit neem oor een van die volgende sake:

- (a) Enige saak beoog in subartikel (2)(c);
- (b) die goedkeuring van 'n geïntegreerde ontwikkelingplan of enige wysiging daarvan; en
- (c) die aanstelling en diensvoorraarde van 'n Municipale Bestuurder en 'n Senior Bestuurder wat direk aan die Municipale Bestuurder verslag doen.

(7) Soos beoog in item 3 van die Kode, mag 'n raadslid nie ten gunste stem van of toestem tot 'n resolusie wat voor die Raad dien en wat teenstrydig is met enige wetgewing van toepassing op plaaslike regering nie.

Wyse van stemming

21.(1) Stemming moet plaasvind op die wyse beoog in artikel 22(2) of (3), tensy—

- (a)(i) die reg anders bepaal; of
- (ii) die Speaker bepaal dat 'n geheime stemming moet plaasvind, in welke geval die stemming moet plaasvind op die wyse beoog in artikel 22(4); of
- (b) die Speaker bepaal dat—
 - (i) 'n virtuele vergadering moet plaasvind, in welke geval stemming moet plaasvind op die wyse beoog in artikel 22(5); of
 - (ii) 'n hibriede vergadering moet plaasvind, in welke geval stemming moet plaasvind op die wyse beoog in artikel 22(6).

(2) Wanneer die Speaker sy mag uitoefen om die toepaslike stemprosedure of metode te bepaal, moet die volgende faktore in ag geneem word:

- (a) die onderwerp en inhoud van die saak waарoor gestem moet word; en
- (b) die heersende omstandighede wat betrekking het op die saak waарoor gestem moet word;
- (c) die gewig wat geheg moet word aan die bevordering van die beginsels van deursigtigheid, verantwoordbaarheid en goeie bestuur en om raadslede te bemagtig om volgens hulle gewete te stem en ter bevordering van die beste belang van die mense;

- (d) watter stemprosedure of -metode sal verseker dat raadslede hulle magte en funksies kan uitvoer en hulle pligte kan nakom op die mees doeltreffende wyse;
- (e) die Speaker se onpartydigheid as gebiedende noodsaklikheid;
- (f) die moontlike gevolge van die resolusie vir die munisipaliteit, lede van die publiek en raadslede;
- (g) die moontlikheid van korruksie indien stemming plaasvind by wyse van geheime stemming; en
- (h) enige ander tersaaklike faktore.

(3) 'n Raadslid mag nie die lokaal of platform verlaat tydens stemming nie.

Uitbring van stemme

22.(1) Behoudens die voorskrifte van enige ander wetsbepaling, vind stemming plaas in ooreenstemming met 'n elektroniese, handmatige of virtuele stemstelsel.

(2) Wanneer 'n vergadering van die Raad in 'n raadsaal of komiteekamer gehou word waar 'n elektroniese stemstelsel in gebruik is, word besluite geneem deur gebruikmaking van so 'n stelsel, tensy die Speaker anders beveel en —

- (a) raadslede mag slegs stem van die sitplekke wat individueel aan hulle toege wys is in die raadsaal of komiteekamer;
- (b) raadslede moet stem deur die "Ja", "Nee", of "Bly buite stemming" knoppie te druk op die elektroniese paneel by hulle sitplekke wanneer hulle deur die Speaker beveel word om te stem;
- (c) 'n raadslid wat nie in staat is om sy of haar stem uit te bring nie moet dit onder die aandag van die Speaker bring en kan in persoon of deur 'n sweep van sy of haar party die Speaker inlig oor sy of haar stem;
- (d) nadat alle raadslede hulle stemme uitgebring het moet die Speaker die uitslag van die verdeling onmiddellik aankondig; en
- (e) word die uitslag van die stemming in die notule aangeteken.

(3) Waar daar geen elektroniese stemstelsel in werking is nie, en tensy dit 'n virtuele vergadering is, sal 'n handmatige stemstelsel gebruik waarvolgens stemming sal geskied by wyse van die opsteek van hande, tensy anders voorgeskryf, en —

- (a) mag slegs raadslede wat aanwesig is wanneer die stemmery aangekondig word, stem;
- (b) moet raadslede stem in die volgorde wat deur die Speaker aangedui word;
- (c) moet raadslede hul stemme uitbring deur "Ja" of "Nee" of "Bly buite stemming" te verklaar wanneer die Speaker hulle aansê om te stem; en

(d) moet die uitslag van die stemming aangeteken word in die notule van die vergadering.

(4) 'n Geheime stemming mag gehou word by 'n fisiese vergadering, in welke geval—

- (a) die Municipale Bestuurder 'n stembrief aan elke raadslid moet oorhandig waarop die keuses waarvoor gestem kan word duidelik aangedui is;
- (b) die Municipale Bestuurder al die stembriewe moet insamel en tel in die teenwoordigheid van 'n verteenwoordiger van elke party in die Raad of die komitee, na gelang van die geval, en teenwoordig by sodanige vergadering; en
- (c) die Speaker moet die uitslag van die verdeling onmiddellik aankondig.

(5) Waar 'n virtuele vergadering gehou word—

- (a) mag slegs raadslede wat aanwesig is wanneer die stemmery aangekondig word, stem;
- (b) die Speaker moet 'n raadslid, wat aanwesig is maar tegniese probleme ondervind wat 'n onderbreking in virtuele konneksie veroorsaak, een verdere geleentheid gee om te stem na 'n tydperk van vyf minute verloop het vandat die raadslid die eerste keer aangesê is om te stem;
- (c) raadslede moet stem in die volgorde wat deur die Speaker aangedui word;
- (d) raadslede moet hulle video funksie aanskakel, hulself duidelik identifiseer en hulle stemme uitbring deur "Ja" of "Nee" of "Bly buite stemming" te verklaar wanneer die Speaker hulle aansê om te stem;
- (e) 'n raadslid wat nie in staat is om te stem nie, moet dit onder die aandag van die Speaker bring en kan sy of haar stem persoonlik of deur die relevante partysweep aan die Speaker kommunikeer;
- (f) nadat al die raadslede gestem het, moet die Speaker onmiddellik die uitslag van die verdeling aankondig;
- (g) die uitslag van die stemming moet aangeteken word in die notule van die vergadering;
- (h) raadslede moet verseker dat hulle stemme korrek aangeteken word.

(6) Waar 'n hibriede vergadering gehou word—

- (a) moet die Speaker aandui watter stemstelsel gebruik moet word deur die raadslede wat die vergadering fisiek bywoon; en
- (b) die raadslede wat die vergadering virtueel bywoon moet stem op die wyse beoog in subartikel (5).

HOOFSTUK 4

BYWONING VAN EN DEELNAME AAN VERGADERINGS

Bywoning van en toespraak deur munisipale werknemer of lid van publiek

23.(1) Die Speaker moet—

- (a) redelike stappe neem om openbare toegang tot, en openbare gedrag by, vergaderings te reguleer soos beoog in artikel 20(4)(b) van die die Stelsels Wet; en
- (b) verseker dat vergaderings toeganklik is vir gestremde persone.

(2) Die Raad moet sy sake op 'n openlike wyse doen en mag slegs sy vergaderings sluit soos beoog in artikel 25 wanneer daar redelike gronde bestaan om dit te doen, met inagneming van die aard van die aangeleentheid wat hanteer moet word soos beoog in artikel 160(7) van die Grondwet.

(3) Die Speaker kan 'n munisipale werknemer of lid van die publiek nooi om die Raad toe te spreek of om 'n vergadering by te woon ten einde sy of haar mening oor 'n aangeleentheid voor die Raad te stel.

(4) (a) 'n Munisipale werknemer of lid van die publiek wat nie deur die Speaker genooi is om die Raad toe te spreek nie, maar wat verlang om dit te doen, moet aan die Speaker ses werksdae skriftelike kennis gee van sy of haar versoek en moet besonderhede verskaf van die voorlegging wat gedoen sal word en die bron van die afvaardiging;

(b) Die Speaker mag besluit om die versoek toe te staan of te weier, en indien toegestaan, op watter voorwaardes, met dien verstande dat

- (i) in die geval van 'n afvaardiging, sodanige afvaardiging uit hoogstens tien lede mag bestaan;
- (ii) slegs twee lede van 'n afvaardiging die Raad mag toespreek, uitgesonderd met die toestemming van die Speaker of in antwoord op vrae van raadslede.

5. Die Speaker kan redelike tyd toeken aan enige munisipale werknemer of lid van die publiek om die Raad toe te spreek na toestaan van 'n aansoek soos beoog in subartikel (4).

Reëlings betreffende bywoning

24. 'n Raadslid, munisipale werknemer of lid van die publiek wat 'n vergadering virtueel bywoon, moet —

- (a) die videofunksie aanskakel, tensy die Speaker andersins beveel;
- (b) die mikrofoon demp wanneer hy of sy nie praat nie; en

(c) wag vir die Speaker om hom of haar toestemming te gee om te praat of die mikrofoon se dempfunksie te kanselleer.

Uitsluiting van lede van publiek van vergadering

25.(1) Onderworpe aan die bepalings van artikel 20(1) van die Stelsels Wet en subartikels (2) en (3), kan lede van die publiek uitgesluit word van 'n vergadering—

- (a) indien so gelas deur die Speaker;
- (b) indien so besluit deur die Raad na 'n mosie van enige raadslid tot dien effek; of
- (c) waar sake as vertroulik gemerk is.

(2) Lede van die publiek mag nie uitgesluit word wanneer 'n saak soos beoog in artikel 20(2) van die Stelsels Wet oorweeg word of daaroor gestem word nie.

(3) Lede van die publiek mag uitgesluit word wanneer die Raad, as gevolg van die aard van die sake wat oorweeg word of wanneer die bekendmaking van enige van die sake nadelig sal wees vir die belangte van die munisipaliteit, dit op redelike gronde regverdigbaar ag om dit te doen, met behoorlike inagneming van die beginsels van 'n oop en demokratiese samelewing.

(4) Indien 'n mosie om lede van die publiek uit te sluit van 'n vergadering soos beoog in subartikel (1)(b) gesekondeer word, moet daar oor die mosie gestem word na 'n bespreking van die redes, maar sonder 'n bespreking van die saak.

(5) Indien lede van die publiek uitgesluit word van—

- (a) 'n fisiese vergadering, moet die lokaal ontruim word van alle lede van die publiek.
- (b) 'n virtuele vergadering, moet virtuele toegang tot die publiek geweier word; of
- (c) 'n hibriede vergadering, moet die lokaal ontruim word van alle lede van die publiek en virtuele toegang moet geweier word.

Hertoelating van lede van die publiek

26.(1) 'n Raadslid mag tydens die verloop van 'n vergadering waarvan die lede van die publiek uitgesluit is, 'n mosie indien "dat die vergadering heropen moet word", en die redes gee vir die mosie.

(2) As die mosie gesekondeer word, moet onmiddellik daaroor gestem word sonder debat.

- (3) As die mosie aanvaar word, moet die Speaker verseker dat lede van die publiek—
- (a) fisieke toegang verkry tot 'n fisieke vergadering;
 - (b) virtuele toegang verkry tot 'n virtuele vergadering; of
 - (c) fisieke en virtuele toegang verkry tot 'n hibriede vergadering.

HOOFSTUK 5

GEDRAG BY VERGADERINGS

Gedrag van raadslede, munisipale werknemers en lede van die publiek

27.(1) Raadslede, munisipale werknemers en lede van die publiek moet die orde bewaar by vergaderings, en mag nie—

- (a) op 'n onwaardige wyse optree nie;
 - (b) die verrigtinge verhinder nie;
 - (c) enige oortreding van die verordening begaan nie;
 - (d) verval in nietersaaklike argumente of eenonige herhaling van argumente nie; of
 - (e) aanstootlike of onbetaamlike taal gebruik of opmerkings maak wat lasterlik van aard is nie.
- (2) Raadslede mag nie 'n beslissing van die Speaker soos beoog in artikel 8(2) betwis nie.

(3) Indien 'n raadslid, munisipale werknemer of lid van die publiek subartikel (1) oortree, moet die Speaker hom of haar opdrag gee om hom of haarself te weerhou van sodanige oortreding.

(4) Indien 'n raadslid, munisipale werknemer of lid van die publiek die Speaker se opdrag beoog in subartikel (3) verontagsaam, kan die Speaker—

- (a) gelas dat die raadslid, munisipale werknemer of lid van die publiek, indien so 'n persoon besig is om te praat, sy of haar toespraak moet staak;
- (b) gelas dat die raadslid, munisipale werknemer of lid van die publiek moet onttrek van die raadsaal of komiteekamer vir die res van die vergadering indien die raadslid, munisipale werknemer of lid van die publiek die vergadering fisiek bywoon; of
- (c) die mikrofoon van die raadslid, munisipale werknemer of lid van die publiek demp vir die res van die vergadering indien die raadslid, munisipale werknemer of lid van die publiek die vergadering virtueel bywoon.

(5) As die Speaker versuim om op te tree ingevolge subartikel (3) of (4), kan enige raadslid 'n mosie indien wat van die Speaker vereis om dit te doen.

(6) Die mosie beoog in subartikel (5) moet sonder kennisgewing voorgestel word en as die mosie gesekondeer word, moet daar sonder versuim daaroor gestem word sonder debatvoering.

(7) Die gebruik van selfone gedurende vergaderings word verbied. Selfone moet afgeskakel wees tydens vergaderings tensy vooraf reëlings getref is met die Speaker. Boetes mag opgelê word vir veronagsaming van hierdie artikel en moet genotuleer word.

(8) 'n Raadslid mag nie die vergaderlokaal verlaat sonder die toestemming van die Speaker nie.

HOOFSTUK 6 DEBAT EN MOSIES

Aanspreek van Speaker

28.(1) 'n Raadslid of 'n munisipale werknemer of lid van die publiek soos beoog in artikel 23(4)(a), wat 'n spreekbeurt kry op 'n vergadering, moet die Speaker aanspreek.

(2) 'n Lid van die publiek wat deur die Speaker geleentheid gegee word om te praat moet sy of haar naam vermeld en, indien sy of hy 'n organisasie of groep verteenwoordig, moet die naam daarvan ook vermeld word.

Reg van spraak en beperking

29.(1) Ooreenkomstig artikel 160(8)(a) en (b) van die Grondwet, is 'n raadslid geregtig om deel te neem aan Raadsverrigtinge op 'n wyse wat—

- (a) billike verteenwoordiging toelaat van die partye en belangte wat weerspieël word binne die Raad; en
- (b) strook met demokrasie.

(2) 'n Raadslid het vryheid van spraak in enige vergadering van die Raad en in enige komitee waarvan hy of sy 'n lid is ooreenkomstig artikel 28 van die Strukture Wet en artikel 2 van die Wes-Kaapse Wet op Voorregte en Immunitete van Raadslede, 2011 (Wet 7 van 2011): Met dien verstande dat hy of sy—

- (a) sy of haar toespraak moet beperk tot sake op die agenda;
- (b) hom of haarself moet weerhou van persoonlike aanvalle op ander raadslede; en
- (c) hom of haarself weerhou daarvan om ander raadslede, 'n persoon of instelling te belaster.

- (3) Die reg van vryheid van spraak van 'n raadslid soos beoog in sub-artikel (2)—
(a) sluit in deelname aan die beraadslagings en stemming oor enige resolusie, besluit, verslag, referaat of notule aanvaar of goedgekeur deur die Raad of enige van sy komitees; en
(b) is onderworpe aan hierdie verordening.
- (4) 'n Raadslid wat nie 'n lid is van 'n komitee nie het die reg om by 'n vergadering van daardie komitee te praat: Met dien verstande dat sodanige raadslid deur die voorsitter toegelaat is om oor 'n spesifieke item op die agenda te praat.
- (5) 'n Raadslid mag begin of voortgaan om te praat by 'n vergadering nadat hy of sy deur die Speaker toestemming gegee is.
- (6) 'n Raadslid mag slegs een keer praat oor—
(a) 'n saak voor die Raad;
(b) enige mosie voor die Raad;
(c) enige wysigings tot 'n mosie voor die Raad; of
(d) 'n punt van orde of 'n vraag,
tensy gemagtig deur die Speaker of soos bepaal deur hierdie verordening.
- (7) 'n Raadslid mag nie onderbreek word tydens sy of haar toespraak nie tensy hy of sy tot orde geroep word deur die Speaker of 'n punt van orde geopper word deur enige ander raadslid.
- (8) Die Speaker mag nie 'n raadslid toestemming gee om te praat oor 'n saak nadat daar reeds oor die saak gestem is nie.
- (9) Die Speaker mag nie debat toelaat oor 'n saak—
(a) wat enige saak op die agenda vooruitloop nie; of
(b) ten opsigte waarvan daar 'n beslissing deur 'n geregtelike of administratiewe liggaam of 'n kommissie van ondersoek hangende is nie.

Tydsduur van toesprake

- 30.(1) Uitgesonderd met die toestemming van die Speaker mag geen lid langer as vyf minute oor enige onderwerp (of aangeleentheid) praat nie.
- (2) Die voorsteller van 'n oorspronklike mosie of van enige wysiging kan egter vyf minute lank oor sodanige mosie of wysiging praat.

Deelname deur Speaker aan debat

31.(1) Indien die Speaker wil deelneem aan 'n debat, mag hy of sy dit doen van die vloer af en moet—

- (a) die vergadering versoek om 'n Waarnemende Speaker te verkies op die wyse beoog in artikel 17(3) vir die duur van die debat waaraan hy of sy wil deelneem; en
- (b) in die geval van 'n fisiese vergadering, of 'n hibriede vergadering waar die Speaker die vergadering fisiek bywoon, die stoel ontruim en sitplek inneem tussen die ander raadslede.

(2) Die Speaker hoef nie die stoel te ontruim indien hy of sy verslag doen oor sake wat met die Raad of die administrasie daarvan te make het nie.

Vrae

32.(1) Behoudens artikel 39 mag die Speaker geen vraag aanvaar nie tensy kennis daarvan ingevolge subartikel (2) gegee is.

(2) Elke kennisgewing van voorneme deur 'n raadslid om 'n vraag te stel, moet skriftelik wees en onderteken en gedateer wees en aan die Municipale Bestuurder gelewer word minstens ses werksdae voor die datum van die vergadering waarop dit gestel gaan word.

(3) Die raadslid aan wie sodanige vraag gerig word, mag die vraag antwoord by die vergadering bedoel in subartikel (2), of indien die raadslid verkies om die vraag skriftelik te beantwoord mag hy of sy dit doen binne ses werksdae na die vergadering.

(4) Indien 'n vraag voor die Raad gedien het, mag 'n soortgelyke vraag nie voor die Raad dien binne die daaropvolgende drie maande nie, tensy die Raad anders beveel.

(5) 'n Debat sal nie toegelaat word oor 'n vraag nie, behalwe vir 'n vraag van duidelikheid van die raadslid wat die vraag gevra het.

Inhoud van debat

33. 'n Raadslid wat 'n toespraak maak, moet sy of haar toespraak rig op 'n saak voor die Raad.

Punt van orde

34.(1) 'n Raadslid kan 'n punt van orde opper tydens 'n raadsvergadering om die Speaker se aandag te vestig op 'n oortreding van die verordening, die Kode of 'n statutêre bepaling.

(2) 'n Punt van orde kan geopper word ten opsigte van —

- (a) 'n procedurele aangeleentheid; of
- (b) die gedrag van 'n raadslid, munisipale werknemer of lid van die publiek.

(3) 'n Raadslid wat 'n punt van orde opper moet onmiddellik aangehoor word en hy of sy moet verwys na—

- (a) die punt van orde; en
- (b) die artikel, item in die Kode of statutêre bepaling wat na bewering oortree word.

(4)(a) 'n Raadslid wat besig is om te praat wanneer die punt van orde geopper word, moet onmiddellik stilbly totdat die Speaker 'n beslissing gemaak het oor die punt van orde.

(b) Alle ander sake voor die Raad moet opgeskort word totdat daar 'n beslissing gemaak is oor die punt van orde.

(5) Indien die beslissing is dat die raadslid—

- (a) binne orde is, moet die raadslid toegelaat word om met sy of haar toespraak voort te gaan; of
- (b) buite orde is, moet die raadslid stilbly of moet enige opmerkings terugtrek of verander om die beslissing te gehoorsaam.

(6) Die Speaker se beslissing oor 'n punt van orde—

- (a) is finaal en is nie vatbaar vir debat nie; en
- (b) moet in die notule aangeteken word.

(7)(a) Indien 'n raadslid volhard met nietersaaklike, beuselagtige of ongegronde punte van orde, kan die Speaker—

- (i) gelas dat die raadslid onmiddellik onttrek van die raadsaal of komiteekamer vir die res van die dag se vergadering indien die raadslid die vergadering fisiek bywoon; of
- (ii) die raadslid se mikrofoon demp in gevalle waar die raadslid die vergadering virtueel bywoon.

(b) Indien die Speaker versuim om op te tree ingevolge paragraaf (a), kan enige raadslid 'n mosie voorstel wat van die Speaker vereis om dit te doen.

Verduideliking

35.(1) Die Speaker kan 'n raadslid toelaat om 'n vorige toespraak te verduidelik maar slegs wanneer en tot die mate waarin 'n wesenlike gedeelte van die toespraak moontlik verkeerd verstaan is.

(2) Die raadslid wat die verduideliking gee mag geen nuwe aangeleentheid aanroer nie en geen debat oor die verduideliking word toegelaat word nie.

Mosie

36. 'n Raadslid mag slegs 'n mosie voorstel wanneer hy of sy deur die Speaker toegelaat word en indien gesekondeer deur 'n ander raadslid, tensy hierdie verordening anders bepaal.

Kennisgewing van mosie

37.(1) Speaker mag geen mosie, uitgesonderd 'n dringende mosie of 'n mosie van orde, aanvaar nie, tensy kennis daarvan ingevolge subartikel (2) gegee is.

(2) Elke kennisgewing van voorneme deur 'n lid om 'n mosie in te dien, moet skriftelik wees en onderteken en gedateer wees en aan die Municipale Bestuurder gelewer word minstens ses werksdae voor die datum van die vergadering waarop dit ingedien gaan word.

(3) Die Speaker kan 'n item, mosie of vraag weier, in die omstandighede beoog in reël 5 (4), in welke geval die Speaker die item, mosie of vraag—

(a) moet terugverwys na die betrokke raadslid met vermelding van die rede hoekom dit nie op die agenda geplaas kan word nie;

(b) moet verwys na die komitee wat deur die raad die mandaat gegee is om die saak te hanteer; of

(c) moet verwys na die Uitvoerende Burgemeester, waar van toepassing, indien volgens die reg sodanige mosie of vraag eers deur die Uitvoerende Burgemeester oorweeg moet word.

(4) Indien 'n item, mosie of vraag voorheen gestel is en geweier is deur die Raad, kan 'n soortgelyke item, mosie of vraag nie voor die Raad geplaas word voor die verstryking van drie maande nie, tensy die Raad anders bepaal.

Vraag vir debat

38.(1) Gedurende 'n debat en—

- (a) na 'n mosie gestel en gesekondeer is; of
- (b) by die afsluiting van enige toespraak oor 'n mosie,
mag enige raadslid enige vraag wat tersaaklik is tot die mosie vra aan 'n ander raadslid.

(2) Slegs die raadslid wat die vraag gevra het mag 'n aanvullende vraag vra, en dan slegs ten opsigte van sake wat voortspruit uit die antwoord op daardie vraag.

(3) Die raadslid aan wie die vraag gevra word kan—

- (a) sonder versuim daarop antwoord; of
- (b) vereis dat kennis gegee word van die vraag, in welke geval die Speaker moet verseker dat die antwoord op die agenda van die volgende vergadering geplaas word.

Dringende mosie

39.(1) 'n Raadslid mag die Raad se aandag vestig op enige saak wat nie op die agenda verskyn nie en waarvan geen kennis gegee is nie, deur kortlik die onderwerp van die saak te vermeld en, sonder kommentaar daarop, 'n mosie voor te stel "dat die mosie waarop die aandag gevestig word onmiddellik oorweeg word as 'n mosie van dringendheid".

(2) Indien die mosie in subartikel (1) gesekondeer en aanvaar word, kan die raadslid wat die mosie gestel het toegelaat word om die saak te laat oorweeg sonder kennisgewing.

(3) Hierdie artikel is nie van toepassing op 'n mosie vir die ampsverwydering van die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester soos beoog in artikel 55 nie.

Proceduremosies

40.(1) Die volgende word as proceduremosies beskou:

- (a) dat voorkeur gegee word aan die oorweging van enige spesifieke saak op die agenda;
- (b) dat daar kennis geneem word van enige verslag waarna in die agenda verwys word, of dat dit aanvaar word, opgetree word in verband daarmee of terugverwys word;
- (c) dat gehandel word met betrekking tot 'n dokument voor die Raad op 'n wyse wat in die mosie bepaal word;

- (d) dat opgetree word ten opsigte van enige saak voorgelê vir oorweging op die wyse bepaal in die mosie;
- (e) dat die Speaker opdrag moet gee dat 'n raadslid, munisipale werknemer of lid van die publiek moet onttrek van die vergadering; en
- (f) enige mosie beoog in artikel 41.

(2) As 'n proceduremosie gesekondeer word, moet dit sonder versuim tot stemming gebring word sonder debatvoering.

Voorrang van debat

41. Wanneer 'n mosie gedebatteer word, mag geen verdere mosie ontvang word nie, behalwe dat—

- (a) die mosie gewysig word soos beoog in artikel 42;
- (b) die oorweging van die saak uitgestel word na 'n vaste of onbepaalde datum soos beoog in artikel 43;
- (c) lede van die publiek uitgesluit word soos beoog in artikel 25;
- (d) lede van die publiek hertoegelaat word soos beoog in artikel 26;
- (e) die vergadering verdaag word na 'n ander datum soos beoog in artikel 44;
- (f) die vergadering verdaag word tot 'n spesifieke tyd soos beoog in artikel 45;
- (g) die debat oor die saak verdaag word vir 'n bepaalde tyd soos beoog in artikel 46;
- (h) die mosie tot stemming gebring word soos beoog in artikel 47;
- (i) die mosie van die agenda verwijder word soos beoog in artikel 48;
- (j) die mosie na 'n komitee verwys word soos beoog in artikel 49; of
- (k) die mosie teruggetrek word soos beoog in artikel 50.

Mosie van wysiging

42.(1) 'n Raadslid kan 'n mosie van wysiging voorstel deur te verklaar—

- (a) "dat die mosie gewysig moet word"; en
- (b) hoe die oorspronklike mosie gewysig moet word.

(2) Die mosie beoog in subartikel (1), en onderworpe aan subartikel (6),

- (a) hoef nie op skrif gestel te wees nie; en
- (b) moet gesekondeer word.

(3) Die wysiging moet van toepassing wees op die oorspronklike mosie ten opsigte waarvan dit voorgestel word en moet voorgestel word terwyl die oorspronklike mosie onder oorweging is.

(4)(a) Die wysiging kan nie neerkom op 'n wesenlike wysiging van die beginsel wat in die oorspronklike mosie beliggaam word nie maar kan die bepalings daarvan wysig in een of meer besonderhede.

(b) Die Speaker moet besluit of die wysiging paragraaf (a) nákom en moet dienooreenkomsdig 'n bevel maak.

(5) Die wysiging moet voor die oorspronklike mosie oorweeg word.

(6) Indien die Speaker so vereis, moet 'n voorgestelde wysiging op skrif wees, onderteken deur die raadslid wat dit voorstel en —

(a) by die Speaker ingedien word; of

(b) deur elektroniese kommunikasie aan die Speaker afgelewer word.

(7)(a) As daar meer as een wysiging tot die oorspronklike mosie is, moet die laaste voorgestelde wysiging eerste tot stemming gebring word en indien dit aanvaar word, moet die saak dienooreenkomsdig afgehandel word.

(b) Indien die laaste voorgestelde wysiging verwerp word, moet die wysiging wat onmiddellik voor die laaste wysiging voorgestel is tot stemming gebring word.

(c) Wanneer al die wysigings afgehandel is, moet die oorspronklike mosie tot stemming gebring word.

(8) Geen verdere wysiging aan die oorspronklike mosie mag voorgestel word na die Speaker begin het met die stemming oor die oorspronklike mosie nie.

Mosie vir uitstel van saak

43.(1) 'n Raadslid kan aan die einde van 'n toespraak voorstel "dat die oorweging van die saak uitgestel word na 'n vaste of onbepaalde datum".

(2) Die mosie—

(a) hoef nie op skrif te wees nie; en

(b) moet gesekondeer word.

(3) Die raadslid wat die mosie voorgestel het kan die vergadering toespreek oor die mosie.

(4) Die raadslid wat die oorspronklike mosie voorgestel het met betrekking tot die saak onder debat mag repliek lewer, waarna die mosie beoog in subartikel (1) tot stemming gebring moet word sonder verdere debat.

(5) Indien die mosie beoog in subartikel (1) aanvaar word, moet die saak eerste geplaas word op die agenda van die vergadering waarna dit uitgestel is.

(6) Indien die mosie beoog in subartikel (1) verwerp word, moet die vergadering voortgaan asof geen onderbreking plaasgevind het nie.

Mosie vir verdaging van vergadering na ander datum

44.(1) 'n Raadslid kan te enige tyd gedurende die vergadering, behalwe gedurende die verloop van 'n toespraak deur 'n ander raadslid of wanneer stemming plaasvind, voorstel "dat die vergadering verdaag word tot 'n ander datum".

(2) Die mosie —

- (a) hoef nie op skrif te wees nie; en
- (b) moet gesekondeer word.

(3) Die raadslid wat die mosie voorgestel het mag die vergadering toespreek oor die mosie.

(4) 'n Debat oor die mosie word nie toegelaat nie: Met dien verstande dat die eerste raadslid wat sy of haar teenkanting teen die mosie aandui, 'n spreekbeurt in opposisie van die mosie gegun word.

(5) 'n Wysiging aan die mosie mag nie voorgestel word nie behalwe in verband met die tydperk van verdaging.

(6) As die mosie aanvaar word, moet die vergadering onmiddellik verdaag en herbelê word vir die datum bepaal in die mosie of gewysigde mosie, tensy die Speaker beveel dat die vergadering eers voortgaan om ander sake as die bestreden aangeleentheid af te handel.

(7) As die mosie nie aanvaar word nie, moet die vergadering voortgaan asof geen onderbreking plaasgevind het nie en die Speaker mag nie 'n soortgelyke mosie aanvaar totdat 30 minute verstryk het nie.

(8) Voor die afhandeling van 'n mosie wat aanvaar word gedurende 'n debat, is die raadslid wat die verdaging voorgestel het geregtig op die eerste spreekbeurt wanneer die saak heropen word vir bespreking by die verdaagde vergadering.

(9) Geen ander sake mag hanteer word by 'n verdaagde vergadering as die sake wat op die agenda was vir die vergadering waarvan dit 'n verdaging is nie.

Mosie vir verdaging van vergadering vir 'n vasgestelde tyd

45.(1) 'n Raadslid kan te enige tyd, behalwe tydens die toespraak van 'n ander raadslid of wanneer stemming plaasvind, voorstel "dat die vergadering verdaag vir 'n vasgestelde tyd," wat nie 60 minute mag oorskry nie.

(2) Die mosie—

- (a) hoef nie op skrif te wees nie; en
- (b) moet gesekondeer word.

(3) As die mosie aanvaar word, moet die vergadering onmiddellik verdaag word vir die bepaalde tyd en weer byeenkom op die tyd wat in die mosie bepaal word.

(4) As die mosie nie aanvaar word nie, gaan die vergadering voort asof daar geen onderbreking was nie en die Speaker mag nie 'n soortgelyke mosie aanvaar totdat 30 minute verstryk het nie.

(5) Die Speaker kan te enige tyd 'n vergadering verdaag vir 'n bepaalde tyd as daar 'n goeie rede daarvoor bestaan.

Mosie vir verdaging van debat oor saak vir bepaalde tyd

46.(1) 'n Raadslid kan, by die afsluiting van 'n toespraak oor enige saak, voorstel "dat die debat oor die saak verdaag word vir 'n spesifieke tyd".

(2) Die mosie—

- (a) hoef nie op skrif te wees nie; en
- (b) moet gesekondeer word.

(3) Die raadslid wat die mosie voorgestel het kan ter ondersteuning daarvan praat.

(4) Geen debat word toegelaat oor die mosie nie behalwe dat die eerste raadslid wat sy of haar teenkanting teen die mosie aandui 'n spreekbeurt ter opposisie van die mosie gegun word.

(5) Geen wysiging tot die mosie mag voorgestel word nie, behalwe wat betref die tydperk van verdaging.

(6)(a) As die mosie aanvaar word, gaan die vergadering voort na die volgende item op die agenda en die verdaagde debat word hervat op die tyd bepaal in die mosie.

(b) By hervatting van die verdaagde debat, is die raadslid wat die verdaging voorgestel het geregtig om eerste te praat.

(7) As die mosie nie aanvaar word nie, gaan die debat voort asof daar geen onderbreking was nie en die Speaker mag nie 'n soortgelyke mosie aanvaar totdat 30 minute verstryk het nie.

(8) 'n Raadslid mag nie meer as een mosie voorstel of sekondeer vir verdaging van die debat gedurende die verloop van daardie debat nie.

(9) Die Speaker kan te enige tyd 'n debat verdaag vir 'n bepaalde tyd as daar 'n goeie rede daarvoor bestaan.

Mosie dat saak tot stemming gebring word

47.(1) 'n Raadslid kan, aan die einde van enige toespraak oor 'n saak, voorstel "dat die saak tot stemming gebring word".

(2) Indien 'n mosie beoog in subartikel (1) aanvaar is, moet die mosie tot stemming gebring word sonder enige verdere debat.

Mosie om saak van agenda te verwyder

48.(1) 'n Raadslid kan in die loop van 'n debat, aan die einde van enige toespraak, voorstel "dat die aangeleentheid van die sakelys verwyder word".

(2) Behoudens die bepalings van subartikel (3), is geen mosie wat ingevolge subartikel (1) voorgestel word, oop vir bespreking nie.

(3) Die voorsteller van 'n aangeleentheid onder bespreking kan, wanneer 'n mosie ingevolge subartikel (1) voorgestel is, hoogstens vyf minute lank oor sodanige mosie praat, waarna genoemde mosie sonder enige verdere bespreking tot stemming gebring word.

(4) Indien sodanige mosie aanvaar word, word die aangeleentheid onder bespreking nie verder bespreek nie.

Mosie om saak na komitee te verwys

49.(1) 'n Raadslid kan, by afsluiting van enige toespraak oor 'n saak, voorstel "dat die saak na 'n komitee verwys word".

(2) Die mosie —

- (a) hoef nie op skrif te wees nie; en
- (b) moet gesekondeer word.

(3) Onderworpe aan subartikel (4), is 'n mosie beoog in subartikel (1) nie oop vir debat nie.

(4) Die raadslid wat die oorspronklike mosie voorgestel het kan, wanneer 'n mosie beoog in subartikel (1) voorgestel is, oor daardie oorspronklike mosie praat, waarna die mosie beoog in subartikel (1) tot stemming gebring moet word sonder enige verdere debat.

(5) As die mosie beoog in subartikel (1) aanvaar word, kan die saak onder debat nie verder hanteer word by die vergadering nie.

(6) As die mosie beoog in subartikel (1) nie aanvaar word nie, gaan die vergadering voort asof geen onderbreking plaasgevind het nie en die Speaker mag nie 'n soortgelyke mosie oor daardie item aanvaar nie.

Terugtrekking van mosie of vraag

50.(1)(a) 'n Raadslid wat 'n mosie voorgestel het kan dit te enige tyd terugtrek.

(b) 'n Raadslid mag nie oor 'n mosie praat na die Raad die terugtrekking daarvan toegelaat het nie.

(c) As 'n mosie teruggetrek word, mag 'n soortgelyke mosie nie voor die Raad geplaas word tot na verstryking van 'n tydperk van drie maande nie, tensy die Raad anders besluit.

(2)(a) 'n Raadslid wat 'n vraag gevra het kan dit terugtrek te enige tyd voor die vraag beantwoord word.

(b) As 'n vraag teruggetrek word, mag 'n soortgelyke vraag nie voor die Raad geplaas word tot na verstryking van 'n tydperk van drie maande nie tensy die Raad anders besluit.

Afwesigheid van raadslid wat kennis gegee het van mosie of vraag

51.(1) As die raadslid wat kennis gegee het van 'n mosie of 'n vraag nie teenwoordig is wanneer hy of sy deur die Speaker opgeroep word nie, kan die mosie voorgestel of die vraag gevra word deur enige ander raadslid.

(2) As die mosie beoog in subartikel (1) nie voorgestel word nie, gaan die vergadering voort asof geen onderbreking plaasgevind het nie en die Speaker mag nie 'n soortgelyke mosie aanvaar oor daardie item nie.

Herindiening van mosie of vraag

52. 'n Mosie wat deur die Raad verwerp is of 'n vraag wat beantwoord is, mag nie weer voorgestel of gevra word binne 'n tydperk van drie maande vanaf die vergadering waarop dit verwerp of beantwoord was nie, tensy die Raad anders besluit.

Mosie of vraag oor saak wat na komitee verwys is

53.(1) 'n Raadslid mag nie kennis gee van 'n mosie of 'n vraag met betrekking tot enige saak wat voor 'n komitee dien vir oorweging nie, tensy daardie kennisgewing ook—

- (a) aan daardie komitee gegee is; of
- (b) na daardie komitee verwys is vir oorweging en verslag.

(2) Die voorsitter van 'n komitee kan, indien hy of sy van mening is dat die saak een van dringendheid is, kennis gee van 'n mosie of vraag oor 'n saak wat na die komitee verwys is ten spyte van die feit dat die mosie of vraag nie ingedien is of oorweeg is deur daardie komitee nie.

Verslag oof gedelegeerde magte

54. 'n Uitvoerende Burgemeester, Speaker, komitee of Municipale Bestuurder moet verslag doen aan die Raad oor besluite geneem met betrekking tot gedelegeerde of ge-subdelegeerde magte of pligte so gereeld as wat die Raad vereis.

HOOFSTUK 7**VERWYDERING VAN AMPSDRAER UIT AMP****Verwydering van Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit amp**

55.(1)(a) 'n Raadslid kan, by wyse van 'n skriftelike mosie aan die Speaker gerig, voorstel dat die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit die betrokke amp verwyder word.

(b) 'n Mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwyder beoog in paragraaf (a), moet deur ten minste drie ander raadslede gesekondeer word.

(2) 'n Mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwyder moet 'n kort opsomming bevat van die redes vir verwydering en die datum en tyd

van die spesiale Raadsvergadering aandui, welke datum nie minder tyd kan toelaat as —

- (a) ses werksdae vanaf die datum waarop die mosie by die Speaker ingedien is nie; of
- (b) vier werksdae vanaf die datum waarop die versoek by die Speaker ingedien is indien die saak as 'n dringende saak beskou word, in welke geval die redes vir dringendheid in die versoek aangedui moet word.

(3) Die Speaker moet, by ontvangs van 'n mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwyder —

- (a) onmiddellik 'n afskrif daarvan na die Sweep, Munisipale Bestuurder en die Uitvoerende Burgemeester, waar van toepassing, stuur; en
- (b) as die mosie voldoen aan die vereistes uiteengesit in hierdie artikel en die Strukture Wet —
 - (i) 'n spesiale Raadsvergadering belê vir die datum en die tyd uiteengesit in die mosie en op 'n plek of platform deur hom of haar bepaal; en
 - (ii) die Munisipale Bestuurder inlig van die datum, tyd, plek of platform.

(4) Indien die Speaker, vir watter rede ookal, versuim om die spesiale Raadsvergadering te belê volgens subartikel (3) binne drie werksdae van ontvangs van die mosie, moet die Munisipale Bestuurder, of in die afwesigheid of weiering van die Munisipale Bestuurder, 'n persoon aangewys deur die Provinciale Minister, die spesiale Raadsvergadering belê vir die datum en die tyd soos aangedui in die mosie en op 'n plek of platform wat deur die Munisipale Bestuurder of persoon aangewys deur die Provinciale Minister, na gelang van die geval, bepaal word.

(5)(a) As die Speaker afwesig, nie beskikbaar, onwillig of nie in staat is om as voorsittende beampete op te tree by die spesiale Raadsvergadering nie, moet die Munisipale Bestuurder of 'n persoon aangewys deur die Provinciale Minister indien die Munisipale Bestuurder afwesig, nie beskikbaar, onwillig of nie in staat is nie, as voorsittende beampete optree by die verkiesing van die Waarnemende Speaker ooreenkomstig artikel 36(3) van die Strukture Wet.

(b) Die Waarnemende Speaker mag slegs voorsit by die betrokke spesiale Raadsvergadering.

(6) Slegs die mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwyder beoog in subartikel (1) mag hanteer word by die spesiale Raadsvergadering.

(7)(a) Die Municipale Bestuurder moet kennis gee van die spesiale Raadsvergadering ten minste twee werksdae voor die vergadering, op die wyse beoog in artikels 6(5) en (6).

(b) As die Speaker bepaal dat die spesiale Raadsvergadering 'n dringende vergadering is, moet die Municipale Bestuurder ten minste een werksdag voor die vergadering skriftelik kennis gee soos beoog in artikels 6(5) en (6), behalwe waar tydsbeperkings dit onmoontlik maak.

(c) As die Municipale Bestuurder per abuis nalaat om kennis te gee aan enige raadslid, veroorsaak sodanige versuim nie die ongeldigheid van die vergadering nie.

(8) As die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester op wie die mosie van toepassing is, uit die amp bedank te enige tyd voor die spesiale Raadsvergadering, val die mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwijder weg en die vergadering gaan nie voort nie.

(9) Die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester op wie die mosie van toepassing is, het die reg en moet die geleentheid gegun word gedurende die spesiale Raadsvergadering om repliek te lewer op elke bewering gemaak —

(a) in die mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwijder; en

(b) gedurende die vergadering.

(10) Indien die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester op wie die mosie van toepassing is, nie teenwoordig is tydens die spesiale Raadsvergadering nie, mag die Raad voortgaan met die verrigtinge in sy of haar afwesigheid.

(11) Indien die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester op wie die mosie van toepassing is te enige tyd gedurende die spesiale Raadsvergadering, maar voor die mosie tot stemming gebring word, bedank uit die amp —

(a) word die spesiale Raadsvergadering onmiddellik verdaag; en

(b) die mosie val weg;

nieteenstaande enige bepalings tot die teendeel in hierdie verordening: Met dien verstande dat as die mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp

te verwijder op die Speaker van toepassing is, die Raad moet voortgaan om 'n nuwe Speaker te verkies.

(12) As die mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwijder aanvaar word, word die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester met onmiddellike uitwerking uit die amp verwijder en die Raad gaan voort om 'n nuwe Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester te verkies, na gelang van die geval, niteenstaande enige bepalings tot die teendeel in hierdie verordening.

(13) 'n Raadslid wat as Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester verkies word kragtens subartikel (11) of (12), na gelang van die geval, dien vir die onverstreke termyn van sy of haar voorganger.

(14) As die mosie om die Speaker, Sweep (waar van toepassing), Uitvoerende Burgemeester of Adjunk Uitvoerende Burgemeester uit sy of haar amp te verwijder nie aanvaar word nie, kan geen mosie wat dieselfde bewerings bevat voor die Raad geplaas word nie totdat 'n termyn van drie maande verstryk het nie, tensy die Raad anders gelas.

HOOFSTUK 8 **WETGEWENDE PROSES**

Indiening van konsepverordening

56. 'n Konsepverordening kan slegs ingedien word deur 'n raadslid of 'n komitee soos beoog in artikel 12 van die Stelsels Wet.

Indiening van konsepverordening deur raadslid

57.(1) 'n Raadslid kan 'n konsepverordening indien deur dit voor te lê, tesame met 'n memorandum wat die oogmerke daarvan aandui, aan die Municipale Bestuurder.

(2) Indien een of meer komitees verantwoordelik is vir die hantering van die onderwerp van die konsepverordening, moet die Municipale Bestuurder 'n verslag voorlê met sy of haar kommentaar oor die konsepverordening aan sodanige komitee of komitees, na gelang van die geval, vir kommentaar.

(3)(a) Die Municipale Bestuurder moet 'n verslag oor die konsepverordening voorlê, saam met enige kommentaar ontvang van die komitee of komitees, na gelang van die geval, soos beoog in subartikel (2), indien van toepassing, aan die Uitvoerende Burgemeester vir 'n verslag en aanbeveling aan die Raad soos beoog in artikel 30(5) van die Strukture Wet.

(b) Die Uitvoerende Burgemeester moet binne drie maande van ontvangs van 'n konsep-verordening van die Municipale Bestuurder, die konsepverordening oorweeg en besluit óf om dit te ondersteun met of sonder wysigings, óf dit nie te ondersteun nie.

(4) Nadat die Uitvoerende Burgemeester 'n besluit gemaak het soos beoog in subartikel (3)(b), moet hy of sy 'n verslag aan die Raad voorlê wat die volgende uiteensit:

- (a) 'n Uitvoerende opsomming van die konsepverordening;
- (b) 'n memorandum van die oogmerke van die konsepverordening;
- (c) die inhoud van die konsepverordening;
- (d) ander verordeninge wat herroep of gewysig sal moet word indien die konsepverordening aanvaar word;
- (e) die redes hoekom die konsepverordening ondersteun word met of sonder wysigings, of nie ondersteun word nie, na gelang van die geval;
- (f) enige tersaaklike kommentaar of voorstelle, wat voorstelle vir wysigings kan insluit; en
- (g) 'n aanbeveling of aanbevelings.

(5)(a) Na oorweging van die verslag beoog in subartikel (4), moet die Raad besluit om die konsepverordening óf te verwerp óf om dit goed te keur met of sonder wysigings.

(b) Indien die Raad die konsepverordening verwerp, kan 'n verordening met dieselfde inhoud nie ingedien word totdat 'n tydperk van ses maande vanaf die datum van verwerpking verstryk het nie, tensy die Raad anders gelas.

(c) As die Raad die konsepverordening goedkeur, moet dit vir openbare kommentaar gepubliseer word ooreenkomsdig artikel 59.

Indiening van konsepverordening deur komitee

58.(1) 'n Komitee kan 'n konsepverordening indien deur dit voor te lê, saam met 'n memorandum van die oogmerke daarvan, by die Municipale Bestuurder vir kommentaar.

(2) Die komitee moet die kommentaar ontvang van die Municipale Bestuurder soos beoog in subartikel (1) oorweeg, en dit weer voorlê aan die Municipale Bestuurder.

(3)(a) Indien enige ander komitee ook verantwoordelik is vir die hantering van die onderwerp van die konsepverordening, moet die Municipale Bestuurder 'n verslag voorlê aan sodanige komitee aangaande die noodsaaklikheid, al dan nie, van die verordening.

(b) As die komitee beoog in paragraaf (a) saamstem dat die verordening noodsaaklik is, moet die Municipale Bestuurder die konsepverordening aan daardie komitee voorlê vir kommentaar.

(4) Die Municipale Bestuurder moet die konsepverordening met die kommentaar beoog in subartikel (3)(b), waar van toepassing, voorlê aan die Uitvoerende Burgemeester.

(5) Die proses beoog in artikel 57(3)(b) tot (5) is van toepassing op die indiening van 'n konsepverordening deur 'n komitee.

Publikasie van konsepverordening

59.(1)(a) Die Municipale Bestuurder moet so gou moontlik nadat die Raad goedkeuring verleen het vir 'n verordening beoog in artikels 57 of 58, ooreenkomstig artikel 57(5)(c) die konsepverordening publiseer vir openbare kommentaar.

(b) Die tydperk vir kommentaar moet ten minste 30 werksdae vanaf die datum van publikasie wees, tensy die Raad 'n korter tydperk goedgekeur het.

(2) Publikasie vir openbare kommentaar moet geskied op 'n wyse wat die publiek geleentheid gee om vertoë te rig aangaande die voorgestelde verordening soos beoog in artikel 12(3)(b) van die Stelsels Wet.

Oorweging van konsepverordening

60.(1) Die Municipale Bestuurder moet so gou doenlik na die sluitingsdatum vir openbare kommentaar beoog in artikel 59, 'n verslag voorlê aan die Uitvoerende Burgemeester tesame met —

- (a) 'n afskrif van die konsepverordening;
- (b) 'n afskrif van die publikasie beoog in artikel 59;
- (c) kommentaar ontvang van die publiek; en
- (d) kommentaar of aanbevelings van die Municipale Bestuurder.

(2) Die Uitvoerende Burgemeester moet die verslag van die Municipale Bestuurder oorweeg en moet—

(a) 'n verslag aan die Raad voorlê wat die volgende uiteensit:

- (i) 'n uitvoerende opsomming van die konsepverordening; en
- (ii) enige tersaaklike kommentaar of voorstelle; en

(b) by die Raad aanbevel dat die verordening aanvaar moet word met of sonder wysigings, om die aanvaarding van die verordening uit te stel of om die verordening te verworp.

(3) As die Raad die konsepverordening verworp, mag 'n verordening met dieselfde inhoud nie voorgestel word tot na verstryking van 'n tydperk van ses maande vanaf die datum van sodanige verwerpning nie, tensy die Raad anders gelas.

(4) Soos beoog in artikel 20(2)(a), is 'n ondersteunende stem van 'n meerderheid van sittende raadslede nodig om 'n verordening te aanvaar.

(5) Die Raad mag nie 'n verordening aanvaar nie tensy al die raadslede redelike kennis gegee is soos beoog in artikel 160(4)(c) van die Grondwet en artikel 12(3)(a) van die Stelsels Wet.

(6) Nadat 'n verordening aanvaar is, moet dit ooreenkomstig artikel 13 van die Stelsels Wet gepubliseer word.

(7) Hierdie verordening is ook van toepassing op die aanvaarding van standaard konsep-verordeninge soos beoog in artikel 14(4) van die Stelsels Wet.

HOOFTUK 9 DIVERSE AANGELEENTHEDE

Amptelike tale

61. 'n Persoon wat 'n vergadering toespreek mag enige van die drie amptelike tale gebruik wat erken word deur die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998), naamlik Engels, Afrikaans en isiXhosa.

Municipale werknemers

62. 'n Municipale werknemer moet 'n vergadering bywoon indien hy of sy versoek word om dit te doen deur die Municipale Bestuurder of die Speaker.

Oortredings en misdrywe

63.(1) 'n Raadslid, munisipale werknemer of lid van die publiek wat 'n vergadering fisiek bywoon en wat—

(a) weier om die raadsaal of komiteekamer te verlaat in die omstandighede beoog in artikel 9(4) of wanneer hy of sy so gelas word deur die Speaker ingevolge artikels 10, 27(4) of 34(7); of

(b) terugkeer na 'n vergadering waarvan hy of sy onttrek het of verwyder is vir die duur van die vergadering ooreenkomstig hierdie verordening,

kan verwyder word deur 'n persoon aangewys deur die Speaker.

(2) 'n Raadslid, munisipale werknemer of lid van die publiek mag nie—

(a) inmeng met die Raad of dit verhinder in die uitoefening of uitvoering van sy magte, funksies of pligte nie;

(b) met die uitoefening of uitvoering van 'n raadslid se magte, funksies of pligte as 'n raadslid inmeng of dit verhinder nie;

(c) 'n raadslid dreig of verhinder terwyl daardie raadslid op pad is na of van 'n vergadering nie;

(d) 'n raadslid aanrand of dreig nie;

(e) versuum of weier om 'n opdrag van die Speaker na te kom nie; of

(f) versuum of weier om 'n opdrag van 'n behoorlik gemagtigde munisipale werknemer na te kom nie in verband met —

(i) die teenwoordigheid van persone by 'n spesifieke vergadering; of

(ii) die besit van enige item, insluitende 'n vuurwapen, op die perseel waar 'n vergadering plaasvind of op munisipale eiendom.

(3) 'n Persoon, uitsluitend 'n raadslid, wat subartikel (2) oortree, is skuldig aan 'n oortreding en by skuldigbevinding strafbaar met—

(a) 'n boete;

(b) gevangenisstraf soos bepaal deur die voorsittende beampete; of

(c) beide sodanige boete en gevangenisstraf.

(4) Subartikels (1) en (3) doen nie afbreuk aan enige ander strafregtelike of siviele strafbepaling nie of, in die geval van raadslede, 'n sanksie met betrekking tot 'n oortreding van die Kode nie.

(5) 'n Raadslid wat enige van die artikels van hierdie verordening oortree gedurende 'n vergadering bring die integriteit van die munisipaliteit in gedrang en moet ook hanteer word ooreenkomstig die Kode.

Herroeping van verordeninge

64. Die Swartland Munisipaliteit: Verordeninge Insake die Reëls vir die Hou van Vergaderings soos gepubliseer in Provinciale Koerant 7501 van 2 Oktober 2015 word hiermee in geheel herroep.

Kort titel en inwerkingtreding

65. Hierdie verordening staan bekend as die Swartland Munisipaliteit: Verordening insake die Hou van Vergaderings en tree in werking op die datum van publikasie in die Provinciale Koerant.