

**THE PROVINCE OF
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LOCAL AUTHORITY NOTICE

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CITY OF TSHWANE METROPOLITAN MUNICIPALITY

NOTICE ON THE DRAFT BY-LAW ON WARD COMMITTEES 2014 FOR IMPLEMENTATION IN THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes in terms of Sections 73 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), read with section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), Section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000), and Section 162 of The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); the City Of Tshwane Metropolitan Municipality: By-law on Ward Committees, 2014, as contemplated in the hereunder and approved by the said Council on 23 April 2015.

The said By-laws will come into operation on date of promulgation hereof in the Provincial Gazette.

JASON NGOBENI
CITY MANAGER

8 May 2015
(Notice 229 of 2015)

BY-LAW ON WARD COMMITTEES

To provide for the establishment of ward committees within the jurisdictional area of the City of Tshwane Metropolitan Municipality; to lay down rules and legislative requirements on the processes therefore; the composition thereof; to provide for roles and functions of members and stakeholders, the sitting of meetings, quorums, absenteeism of members and stakeholder involvement; to set out the term of office, vacation and filling of vacancies; to provide for the establishment, composition roles and functions of the Electoral Committee; to provide for dispute resolution and administrative support to the ward committees in accordance with section 73 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1997).

PREAMBLE

WHEREAS the City of Tshwane Metropolitan Municipality has adopted a collective executive system combined with a ward participatory system in order to enhance public participation and ensure community involvement in the decision-making process of the Municipality;

AND WHEREAS the Municipality has a constitutional mandate in terms of the Constitution of the Republic of South Africa to provide for appropriate legislative rules and requirements in order to fulfil its responsibility in respect of community involvement;

AND WHEREAS Part 4 (sections 73 – 78) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) empowers the Municipality to make rules in this regard;

AND WHEREAS the City of Tshwane Metropolitan Municipality has resolved on the 23 April 2015 to make a by-law to execute Part 4 (sections 73 – 78);

BE IT NOW THEREFORE ENACTED by the City of Tshwane Metropolitan Municipality as follows:

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DEFINITIONS, ACRONYMS AND ABBREVIATIONS

1. In this By-law a word or a phrase to which a meaning has been assigned in the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) and the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) has that meaning, unless the context indicates otherwise -

“Appeals Committee” means the committee appointed by the Council to hear appeals against decisions on disciplinary matters with regard to ward committee members;

“CBO” means a community-based organisation;

“Chairperson” means a ward councillor of the Municipality who chairs the ward committee meetings by virtue of the provisions of section 73(2)(a) of the Municipal Structures Act;

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

“Disciplinary Committee” means the committee appointed by the Council to deal with disciplinary matters with regard to ward committees;

“Election Officer” means a person appointed by the Electoral Committee to assume assigned responsibilities during the election of ward committee members;

“Interest group” means a ward-based organised formation that takes an active interest in the affairs of a ward;

“Metropolitan Development Forum (MDF)” means a forum established by the City of Tshwane comprising of different stakeholders from regions to coordinate the developmental agenda of the City of Tshwane;

“Municipality” means includes a municipality as referred to in section 155(6) of the Constitution;

“Municipal Electoral Officer (MEO)” means an official appointed under the auspices of the Independent Electoral Commission and accountable for the administration and functioning of municipal elections;

“MFMA” refers to the Municipal Finance Management Act, No 56 of 2003;

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

“NGO” refers to a non-governmental organisation;

“PR Councillor” means a proportionally representative municipal councillor appointed in terms of section 22(1)(a) of the Municipal Structures Act, by a political party to represent that party in Council;

“Region” means a geographically demarcated area as approved by Council;

“Regional Development Forum (RDF)” means a forum established in a region comprising regional stakeholders including ward committees to coordinate developmental agenda of the City of Tshwane in the region;

“Sector” means a ward-based organised formation that takes an active interest in the affairs of a ward;

“Speaker” means the chairperson of Council and a municipal councillor elected in this position by Council in terms of section 36 of the Municipal Structures Act;

“Unorganised Sector/Individual” means any sector or an individual having specialised activity that is not structurally organised within a ward;

“Ward” means a geographically demarcated area of the Municipality as stipulated by the Municipal Demarcation Board;

“Ward committee” means a committee established in terms Section 73 of the Municipal Structures Act;

“Ward committee meeting” means a meeting of duly elected Ward committee members;

“Ward committee member” means a person elected during the ward committee elections or co-opted by the ward councillor in consultation with the ward committee to serve voluntarily in a ward committee of the Municipality in terms of this bylaw;

“Ward co-ordinator” means a member of the ward committee appointed by the ward councillor in consultation with the ward committee to ensure the integrated functioning of the ward committee in the ward community it represents in terms of this By-law;

“Ward councillor” means a municipal councillor elected in terms of section 22(1)(b) of the Municipal Structures Act to represent the population of a demarcated council of a particular ward.

CHAPTER 1:

1. ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF A WARD COMMITTEE

1.1 ESTABLISHMENT

The City of Tshwane hereby establishes the Ward Committee By-Law to regulate the functionality and effectiveness of the ward committee system in the City of Tshwane.

1.2 COMPOSITION OF WARD COMMITTEES

1.2.1 A ward committee shall comprise the ward councillor as chairperson and a maximum of 10 (ten) members and a minimum of 6 (six) elected.

1.2.2 A member must represent an interest group/sector located in the ward.

1.2.3 A person shall not be a member of more than 1 (one) ward committee.

1.2.4 The composition of a ward committee should consider the following factors:

1.2.4.1 For women to be equitably represented in a ward committee;

1.2.4.2 For a diversity of interests in the ward to be represented.

1.2.4.3 Geographic representation of the ward.

1.2.5 Where necessary, a ward committee can invite any person to advice in his or her sphere of expertise.

1.2.6 Any person invited in terms of 1.2.5 above shall not participate in the internal committee's voting.

1.3 WARD COORDINATOR

1.3.1 The ward councillor shall appoint a ward coordinator from amongst the ranks of the elected ward committee members in consultation with the ward committee.

1.3.2 The ward coordinator will coordinate the developmental programmes of the ward committee.

1.3.3 The ward committee will from time to time assign certain responsibilities to the ward coordinator.

1.4 SUB-COMMITTEES

1.4.1 Each ward committee shall form sub-committees in accordance with the municipal departments.

1.4.2 Ward committee members shall act as conveners of sub-committees.

1.4.3 Each sub-committee will handle sectoral matters and report back to the ward committee.

1.5 FUNCTIONS OF A WARD COMMITTEE

1.5.1 The ward committee has the following powers, functions, duties and obligations to assist, monitor, advise and recommend to the municipal council as provided for in terms of section 74 of Municipal Structures Act:

- 1.5.1.1 The ward committee may make recommendations on any matter affecting its ward –
- 1.5.1.1.1 to the ward councillor, or
 - 1.5.1.1.2 through the ward councillor, to the metropolitan local council, the executive committee, the executive mayor or the relevant metropolitan sub-council; and
 - 1.5.1.1.3 has such duties and powers as the metropolitan local council may delegate to it in terms of section 59 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000).
- 1.5.2 In addition to the above functions and powers, a ward committee may at the request of a ward councillor, the council, the executive committee or the executive mayor comment on the following:
- 1.5.2.1 Preparation, implementation and review of the IDP;
 - 1.5.2.2 Establishment, implementation and the process for the review of the Municipality's performance including the outcomes and impact of such performance;
 - 1.5.2.3 By-laws and policies;
 - 1.5.2.4 The Municipality's budget;
 - 1.5.2.5 Any other strategic decisions related to the provision of municipal services that have an impact to the community.
- 1.5.3 The above-mentioned duties and powers shall not interfere with the Council's right to govern and to exercise its executive and legislative authority.
- 1.6 WARD COMMITTEE MEETINGS
- 1.6.1 Ward committee meetings shall be regularly convened as per the Council's approved annual calendar of meetings.
- 1.6.2 Cancellation of meetings
- 1.6.2.1 A scheduled ward committee meeting shall not be cancelled without approval by the Speaker.
 - 1.6.2.2 The request for cancellation/postponement shall be made by the chairperson in writing to the Speaker at least 24 hours prior to the meeting.
 - 1.6.2.3 Should the Speaker grant such cancellation/postponement, it shall be in writing.
 - 1.6.2.4 If the ward committee is unable to request the Speaker at least 24 hours before the meeting, the chairperson of the ward committee or a person acting in that capacity shall determine whether or not such a meeting should be cancelled and/or postponed as the case may be.
- 1.6.3 Notice of meetings
- 1.6.3.1 The annual calendar of meetings shall be supplied to each ward committee member as soon as it is approved by Council.
 - 1.6.3.2 A notice of any change in the time and place of every meeting of the ward committee shall be issued to every member at least 72 hours before the scheduled meeting.
- 1.6.4 Record of attendance
- Every member attending a meeting shall sign the attendance register.

1.6.5 Quorum

A quorum for a duly constituted ward committee meeting consists of 50 percent plus one of the ward committee members present.

1.6.6 Postponement of meeting

1.6.6.1 If a quorum is not formed within 30 minutes after the time scheduled for a meeting, the meeting shall not be held unless it is decided by the members present that a further 15 minutes may be allowed to enable a quorum to be formed.

1.6.6.2 If a quorum is still not formed after the extended time as contemplated in 1.6.6.1 above, members present may decide to postpone the meeting to a later date.

1.6.6.3 Notice of a postponed meeting shall be given in accordance with 1.6.3.2.

1.6.6.4 Decision making in ward committee meetings.

1.6.6.4.1 The ward committee must strive to reach decisions through consensus.

1.6.6.4.2 Where consensus is not reached the matter shall be put to a vote.

1.6.6.4.3 If the votes are equal, the chairperson shall have the deciding vote.

1.7 TERM OF OFFICE OF AN ELECTED WARD COMMITTEE

1.7.1 As decreed in the Government Gazette No. 32626 (Regulation No R 972 of 8 October 2009) –

1.7.1.1 a ward committee's term of office must coincide with the term of office of the Council as prescribed in terms of section 24 of the Municipal Structures Act;

1.7.1.2 any ward committee member who is elected or appointed before the end of the term of Council as indicated in paragraph 1.7.1.1 above, the date between his or her election and the end of the term of council, will be regarded as a term; and

1.7.1.3 Ward committee members are eligible for re-election for a period not exceeding two terms of office.

1.8 ROLE OF THE COUNCILLORS

A councillor representing a ward in council shall be the chairperson of the committee.

1.9 AD HOC ABSENCE AND VACATION OF OFFICE BY WARD COUNCILLORS

1.9.1 Where a ward councillor is unable to attend a meeting, the ward committee members present shall appoint an acting chairperson at the start of the meeting.

1.9.2 In the event of a vacancy, the committee shall be entitled to appoint one of the members in the interim to conduct the duties and/or functions of the chairperson in question.

1.10 VACATION OF OFFICE BY A WARD COMMITTEE MEMBER

1.10.1 A ward committee member shall vacate his or her position if he or she –

1.10.1.1 is absent for 3 (three) consecutive meetings without rendering an apology;

1.10.1.2 is absent in an *ad hoc* manner for 6 (six) meetings in a financial year with or without an apology acceptable to the ward committee;

- 1.10.1.3 acts in a manner that undermines the authority of the ward councillor, the Council and/or the ward committee;
- 1.10.1.4 commits a crime that results in a conviction without the option of a fine;
- 1.10.1.5 consistently exhibits violent, abusive and intimidating behaviour towards other committee members and/or the community;
- 1.10.1.6 attends a meeting under the influence of alcohol and/or an illegal substance;
- 1.10.1.7 is proven to have accepted a bribe from any party that has an interest in a development project for that particular ward;
- 1.10.1.8 is proven to have used his or her membership of the ward committee to extract, or attempt to extract, favours of any kind;
- 1.10.1.9 is elected as a councillor in the Municipality;
- 1.10.1.10 is appointed as a staff member of the Municipality;
- 1.10.1.11 acts against the decision(s) of the ward committee without good cause;
- 1.10.1.12 is involved in party political canvassing or similar activity during ward committee meetings;
- 1.10.1.13 Is being found guilty of an infringement of this By-law and ordered by the Speaker to vacate his or her position;
- 1.10.1.14 Is ordered to vacate the position by an order of the court; resigns; dies; relocates from the ward.

1.11 FILLING OF VACANCIES

1.11.1 As a result of the vacancy –

- 1.11.1.1 the affected sector must be requested to nominate a replacement by the ward committee;
- 1.11.1.2 the sector nominee will then be automatically co-opted to form part of the ward committee unless prohibited by the provision of this By-law;
- 1.11.1.3 a ward committee member appointed through co-option will only become a member of the ward committee upon approval by Council.

CHAPTER 2

2. ESTABLISHMENT, ROLE AND FUNCTIONS OF THE ELECTORAL COMMITTEE

2.1 ESTABLISHMENT AND COMPOSITION OF THE ELECTORAL COMMITTEE

- 2.1.1 The Electoral Committee shall be appointed by the Council in terms of sections 79(1) and (2)(c) of the Municipal Structures Act, including its Chairperson.
- 2.1.2 The Speaker will immediately notify the members of the Electoral Committee, through a letter, of the date and venue of the first meeting of the Electoral Committee.

2.2 FUNCTIONS OF THE ELECTORAL COMMITTEE

The Electoral Committee shall –

- 2.2.1 conduct and oversee the election of members of ward committees;

- 2.2.2 verify a database of all sectors and facilitate the nomination of representatives by the identified sectors;
 - 2.2.3 prepare and submit training manuals for election officials;
 - 2.2.4 finalise nominations and print ballots;
 - 2.2.5 oversee elections and ensure that they are free and fair; and
 - 2.2.6 report back to the Council after elections.
- 2.3 APPOINTMENT OF ELECTION OFFICERS
- 2.3.1 The City Manager shall appoint election officers for each municipal ward.
 - 2.3.2 The City Manager shall make an official list of all allocated election officers, their contact details and duty posts available.
- 2.4 FUNCTIONS OF ELECTION OFFICERS
- 2.4.1 The election officers (presiding officers and any other electoral staff) shall manage and administer ward committee elections in the wards assigned to them by the Electoral Committee.
 - 2.4.2 In exercising their functions, they are expected to –
 - 2.4.2.1 declare the voting process open and closed;
 - 2.4.2.2 manage, coordinate and supervise the voting process at the voting station concerned;
 - 2.4.2.3 take all reasonable steps to ensure orderly conduct at the voting station;
 - 2.4.2.4 order a member of the security services on duty (Metro Police) to assist in ensuring orderly conduct at the voting station;
 - 2.4.2.5 order any person within the boundary of the voting station whose conduct is not conducive to a free and fair election or interferes with the impartiality of the electoral processes at that voting station to leave the premises;
 - 2.4.2.6 if a person refuses to comply with an order of an election officer on duty during a ward committee election, order a member of the security services (Metro Police) to forcefully remove that person;
 - 2.4.2.7 declare the voting process closed in case of disorderly conduct and submit a report to the Electoral Committee;
 - 2.4.2.8 count and announce the votes received for each nominee from the ward community members present at the voting station;
 - 2.4.2.9 secure the number of votes received by each nominee in writing on the relevant nomination form;
 - 2.4.2.10 submit the election results and a report on the election process that was followed for each ward committee election to the Electoral Committee;
 - 2.4.2.11 where the environment is not conducive for elections to proceed, declare the voting process closed after consultation with the Chairperson of the Electoral Committee and submit a report to the Electoral Committee.
- 2.5 REMUNERATION, CONDITIONS OF APPOINTMENT AND DUTIES OF ELECTION OFFICERS
- 2.5.1 The City Manager shall determine in writing the terms and conditions of appointment of an election officer, including remuneration payable to that officer.

2.5.2 Remuneration of election officers shall be in line with the City of Tshwane's applicable policies and relevant legislative provisions.

2.6 PROCESS FOR NOMINATION

2.6.1 Eligible candidates must –

2.6.1.1 be a registered voter of the particular ward;

2.6.1.2 have a valid South African identity document and be 18 years or older;

2.6.1.3 be nominated by a ward-based stakeholder;

2.6.1.4 not be indebted to the Municipality for a period longer than 3 (three) months; and

2.6.1.5 be a resident or employer/employee in the ward or own a legally registered business or property in the ward.

2.7 ADVERTISING NOMINATIONS

2.7.1 The Electoral Committee must give public notice of the time, venue and mode whereby nominations for ward committee members will be received. This notice must be published in at least 2 (two) newspapers of general circulation and local community newspapers at least 30 (thirty) calendar days before the first ward committee election as well as broadcast on radio stations that cover the area of the Municipality.

2.7.2 In addition to the above, the Municipality shall do the following:

2.7.2.1 Display the adverts at the Municipality's head offices, libraries and customer care centres in regional offices.

2.7.2.2 Display the adverts on the Municipality's official website.

2.8 NOMINATIONS

2.8.1 Nomination forms should be made available –

2.8.1.1 at the offices of all regional coordinators; and

2.8.1.2 on the City of Tshwane website.

2.8.2 Nomination forms must be produced in all languages.

2.8.3 Nomination forms should be duly completed.

2.9 NOMINATION AND ACCEPTANCE

2.9.1 Official nomination forms shall be freely available to all communities as indicated and advertised by the Electoral Committee.

2.9.2 *Nomination and acceptance of nomination forms* shall contain the following information:

2.9.2.1 The full names (as per ID document) of the nominee and the nominator.

2.9.2.2 The ID numbers of the nominee and the nominator.

2.9.2.3 The residential or business addresses of the nominee and the nominator.

2.9.2.4 The specialised sector or geographic area that the nominee and nominator represent.

2.9.3 Each nomination and acceptance of nomination form must be accompanied by a certified photocopy of the RSA ID document of the nominee and proof of residence.

- 2.9.4 After completion of each nomination form and its accompanying acceptance of nomination form, it shall be handed over to the Electoral Committee, which will designate election officers for this purpose. The assigned officer will formally acknowledge and keep receipt of each completed form.
- 2.9.5 Validation of nominations
- 2.9.5.1 The Electoral Committee will validate nominations.
- 2.9.5.2 Nominations will only be rejected if the eligibility criteria have not been met.
- 2.10 LATE NOMINATIONS FORMS
- No late nominations received after the advertised deadline will be considered.
- 2.11 REJECTION OF NOMINATIONS
- Any person whose nomination has been rejected must be informed within 5 (five) working days of the closure of the nominations.
- 2.12 APPEAL AGAINST REJECTION OF NOMINATIONS
- 2.12.1 An appeal against rejection must be lodged within 3 (three) working days after receiving the rejection letter.
- 2.12.2 The appeal must be sent to the Electoral Committee.
- 2.12.3 The Electoral Committee shall process the appeal within 3 (three) working days after receipt of the appeal.
- 2.12.4 The decision of the Electoral Committee shall be final.
- 2.13 SAFEKEEPING OF NOMINATION FORMS
- 2.13.1 All nomination forms received will be kept in a safe environment until the day of the ward committee elections.
- 2.13.2 After the elections, the nomination forms, with the number of votes received for the specific candidate added in the designated space and signed by the Presiding Officer, must be kept safe by the City Manager.
- 2.14 ELECTIONS
- 2.14.1 Notice of elections
- The Electoral Committee shall give written notice of the election date, the time of commencement and the venue for the election of ward committee members in each ward at least 30 (thirty) calendar days before the elections. This notice shall be published in at least 2 (two) newspapers with general circulation within the geographical area of the city of Tshwane.
- 2.14.2 Postponement of the election
- 2.14.2.1 The Presiding Officer, in consultation with the Electoral Committee, may postpone the election if it is not reasonably possible to conduct free and fair elections.
- 2.14.2.2 If the elections are postponed, written public notice of the time and venue of the postponed elections shall be given in accordance with the provisions of section 2.14.1 of this by-law.
- 2.15 PROCEDURE FOR ELECTIONS
- 2.15.1 Elections shall be by secret ballot.
- 2.15.2 The following procedure shall apply:
- 2.15.2.1 The voter will be issued with a ballot paper.
- 2.15.2.2 Ballot boxes will be provided.

- 2.15.2.3 Nominees shall be allowed to observe the voting process.
- 2.15.2.4 Any objections to the election process shall be dealt with by the Presiding Officer.
- 2.15.2.5 An X-mark must be made in the box or space provided.
- 2.15.2.6 The voter must ensure that they mark each ballot paper only once.
- 2.15.2.7 If a mistake is made, voters must request the Presiding Officer to provide them with a new ballot paper.
- 2.15.2.8 The ballot paper must be folded once and inserted or deposited into the ballot box.

2.16 COUNTING

- 2.16.1 The voting station must be declared closed before any counting can commence.
- 2.16.2 Election officers become counting staff.
- 2.16.3 Only accredited observers and ward Councillors will be allowed inside the counting station.
- 2.16.4 After completing the counting, the Presiding Officer will announce the results.
- 2.16.5 Any objections to the counting shall be dealt with by the Presiding Officer.

2.17 MANAGEMENT OF OBJECTIONS

- 2.17.1 Objections shall be lodged with the Presiding Officer immediately after counting or with the Electoral Officer within 48 hours.
- 2.17.2 The Electoral Committee must respond within 72 hours after receipt of such objections.
- 2.17.3 The decision of the Electoral Committee is final.

CHAPTER 3

3. DISPUTE RESOLUTION MECHANISMS FOR WARD COMMITTEES

- 3.1 The following dispute resolutions mechanism shall be applied:
 - 3.1.1 Every effort shall be made to resolve disputes internally if they do not involve the councillors.
 - 3.1.2 When a dispute arises, the Speaker must appoint a person or persons to try and resolve the dispute through mediation.
 - 3.1.3 If an attempt at mediation fails, the Speaker shall arbitrate and the outcomes of his or her findings are final and binding on all the parties.
 - 3.1.4 If the matter involves the councillors the matter shall be referred to the Speaker for his or her investigation.

3.2 DISSOLUTION OF WARD COMMITTEES

- 3.2.1 In terms of Government Gazette No 32626 (Regulation No 972 of 8 October 2009) a ward committee so elected will serve until the day on which a local government election is held.
- 3.2.2 Council may dissolve the ward committee in the following circumstances:
 - 3.2.2.1 Failure to fulfil its objectives as set out in this By-law and/or other legislation;
 - 3.2.2.2 Non-adherence to this By-law; and
 - 3.2.2.3 Resignation of more than 50% (fifty percent) of the members of the ward committee.

3.3 RECONSTITUTION OF A WARD COMMITTEE

3.3.1 Procedure for reconstitution of a ward committee:

3.3.1.1 Notice of the re-election of the ward committee shall be given in terms of chapter 2 of this By-law.

3.3.1.2 Members of the ward committee that has been dissolved shall not be eligible for re-election to the ward committee for the duration of the term of the said ward committee.

3.3.1.3 The requirements for the composition of the re-elected ward committee are the same as those set out in chapter 2 of this By-law.

CHAPTER 4

4.1 ADMINISTRATIVE SUPPORT TO WARD COMMITTEES

4.1.1 In terms of section 73(4) of the Municipal Structures Act a metropolitan or local council may make administrative arrangements to enable ward committees to perform their functions and exercise their powers effectively.

4.1.2 All administrative services (including budget and other relevant resources) to enable effective functioning of the ward committees shall be located in the Office of the Speaker.

4.2 SHORT TITLE OF THIS BY-LAW AND REPEAL OF THE PREVIOUS BY-LAW AND/OR POLICIES

4.2.1 This By-law shall be called the City of Tshwane: By-law on Ward Committees 2014

4.2.2 This By-law amends, repeals and substitutes all or any preceding by-laws and/or policies on ward committees of the City of Tshwane Metropolitan Council, including policies and/or by-laws of the erstwhile Kungwini and Nokeng tsa Taemane Local Municipalities and the Metsweding District Municipality, which have been incorporated into the City of Tshwane Metropolitan Municipality by the MEC for Local Government and Traditional Affairs in Gauteng by Notice 1866 of 2010 in Provincial Government Gazette 128 dated 30 June 2010.

SCHEDULE 1: CODE OF CONDUCT

CODE OF CONDUCT OF WARD COMMITTEE MEMBERS

1. GENERAL CONDUCT OF MEMBERS:

1.1 A member shall –

1.1.1 perform the functions of office in good faith, honestly and in a transparent manner; and

1.1.2 at all times act in the best interest of the ward committee and the community he/she represents and in such a way that the credibility and integrity of the ward committee are not compromised.

1.2 Meeting attendance

A member shall attend each meeting of the ward except when –

1.2.1 an apology is rendered before or at the meeting;

1.2.2 leave of absence is granted by the chairperson of the ward committee;

1.2.3 a member is required in terms of this code to withdraw from the meeting.

1.3 Personal gain

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

1.4 Rewards, gifts and favours

A member may not request, solicit or accept any reward, gift or favour in return for –

- 1.4.1 voting or not voting in a particular manner or any matter before the ward committee;
- 1.4.2 persuading the ward committee with regard to the exercise of any power, function or duty;
- 1.4.3 disclosing privileged or confidential information.

1.5 Unauthorised disclosure of information

- 1.5.1 This item does not derogate from the right of any person to access to information in terms of national legislation (section 32 of the Constitution; Schedule 5.10. (c)(d) of the Municipal Structures Act).
- 1.5.2 A member may not without the permission of the ward councillor or a committee of Council disclose any privileged or confidential information of the ward or ward committee to any unauthorised person.
- 1.5.3 For the purpose of this item, "privileged or confidential information" includes any information –
 - 1.5.3.1 declared by the Council or ward committee to be privileged or confidential;
 - 1.5.3.2 disclosure of which would violate a person's right to privacy; or
 - 1.5.3.3 declared to be privileged, confidential or secret in terms of law.

1.6 Municipal property

A member may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the Municipality to which he/she has no right.

1.7 Duty of chairpersons of ward committees regarding the disciplinary code

- 1.7.1 The chairperson must ensure that each member when taking office is given a copy of this code and that a copy of the code is available in every room or place where the ward committee meets.
- 1.7.2 If the chairperson of a ward committee, on reasonable suspicion, is of the opinion that a provision of this code has been breached, the chairperson shall report such alleged breach to the Speaker for investigation.

1.8 Breaches of the code

- 1.8.1 The Speaker may –
 - 1.8.1.1 investigate and make a finding on any alleged breach of a provision of this code;
 - 1.8.1.2 establish a special disciplinary committee or appoint a person;
 - 1.8.1.3 to investigate and make a finding on any alleged breach of this code;
 - 1.8.1.4 to make appropriate recommendations to the Speaker.
- 1.8.2 If the disciplinary committee finds that a member has breached a provision of this code, the special committee may –
 - 1.8.2.1 issue a formal warning to the member;
 - 1.8.2.2 reprimand the member;
 - 1.8.2.3 request the Speaker to suspend the member for a period of 3 months;
 - 1.8.2.4 request the Speaker to remove the member from the ward committee.

- 1.8.3 If the Speaker is of the opinion that the member has breached a provision of this code, and that such contravention warrants a suspension or removal from office, the Speaker may –
- 1.8.3.1 suspend the member for a period and on conditions determined by the Speaker; or
- 1.8.3.2 remove the member from office.
- 1.8.4 Any member who has been warned or reprimanded in terms of paragraph 1.8.2(a) and (b) may –
- 1.8.4.1 within 14 days of having been notified of the decision of the Speaker, appeal in writing to the Speaker, setting out the reasons on which the appeal is based;
- 1.8.4.2 on the receipt of the appeal document, the Speaker shall then convene an appeals committee to finalise the matter;
- 1.8.4.3 the appeal shall be secured in the Office of the Speaker and a copy supplied to the appeals committee.
- 1.8.5 A register of all disciplinary actions taken against individuals will be kept by the Office of the Speaker.

SCHEDULE 2: ESTABLISHMENT OF A DISCIPLINARY COMMITTEE AND PROCEDURES

1. ESTABLISHMENT OF A DISCIPLINARY COMMITTEE

- 1.1 The Speaker of Council shall establish a disciplinary committee in consultation with whips of different political parties represented in Council.
- 1.2 The disciplinary committee shall constitute no more than seven members on a proportional representation basis.

2. PROCEDURE

On receipt of a complaint by the Office of the Speaker, the following shall happen:

- 2.1 The Speaker shall appoint an official in his or her office to investigate the allegations.
- 2.2 The investigator shall compile a case file with findings for the Speaker.
- 2.3 Upon receipt of the case file, the Speaker will forward the file to the disciplinary committee if it is found that there is a contravention.
- 2.4 The disciplinary committee shall conduct a hearing in line with the rules of natural justice and report its findings to the Speaker.
- 2.5 If the committee finds that a ward committee member is no longer fit and proper to hold office, the Speaker shall report this to Council for final approval.

3. TIMEFRAME FOR A DISCIPLINARY PROCESS

A disciplinary process shall be processed and concluded within a period of 90 days from the date of receipt of the complaint.

4. APPEALS COMMITTEE

- 4.1 An appeals committee for purposes of the disciplinary process of the ward committee members shall be appointed by Council on a proportional representation basis.
- 4.2 The decision of the appeals committee shall be final.