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**KNYSNA MUNICIPALITY  
RULES OF ORDER FOR INTERNAL ARRANGEMENTS BY-LAW**

**To provide for rules of order for the internal arrangements and the business and proceedings of the Council of the Municipality and to provide for matters in connection therewith.**

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## CHAPTER 1: INTRODUCTION

### 1. Definitions

In this by-law, including the Rules, unless the context indicates otherwise —

- “**Code**” means the Code of Conduct for Councillors set out in Schedule 1 to the Systems Act;
- “**Committee**” means a committee established by the Council in terms of section 79 of the Structures Act;
- “**Council**” means the Municipal Council of the Knysna Municipality;
- “**Councillo**” means a member of the Council, including a political office bearer as referred to in section 1 of the Systems Act;
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
- “**Meetin**” means any meeting of the Council and its committees;
- “**Member of the public**” means a person who is not a councillor or an employee of a municipality and who attends a meeting of the Council or a committee;
- “**Municipality**” means the Municipality of Knysna;
- “**Municipal Manage**” means the person appointed as Municipal Manager by the Council in terms of section 54A of the Systems Act, or a person delegated by the Municipal Manager;
- “**Provincial Ministe**” means the Provincial Minister responsible for Local Government in the Province;
- “**Rule**” means the rules provided for in this by-law;
- “**Speake**” means the Speaker of the Council elected under section 36 of the Structures Act or a councillor elected as acting Speaker under section 41 of the Structures Act;
- “**Structures Ac**” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- “**Systems Ac**” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
- “**Working day**” means any day of the week except Saturday or Sunday or a public holiday.

### 2. Application of rules

- (1) These rules apply to all meetings.
- (2) Except where it is clearly inappropriate, a rule applying to a councillor in any proceedings, also applies to a member of the public who takes part in those proceedings.

- (3) These rules apply to all meetings of committees except to committees established, in terms of item 14(1)(b) of the Code and section 62 of the Municipal Systems Act. Unless clearly inappropriate, any reference in these rules to the Council is regarded as a reference to the committee, and any reference to the Speaker is regarded as a reference to the chairperson of the committee or a person acting as the chairperson of the committee.
- (4) In this by-law words used in the masculine gender include the feminine, the singular includes the plural and vice versa. The English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates.
- (5) The Speaker, councillors and members of the public must familiarise themselves with these rules.

## **CHAPTER 2: MEETINGS**

### **3. Order of business**

- (1) The order of business in ordinary council meetings is as follows, unless the order has been changed in terms of sub rule (2) —
  - (a) election of acting Speaker, if necessary;
  - (b) application for leave of absence;
  - (c) confirmation of minutes;
  - (d) statements and communications by the Speaker;
  - (e) statements and communications by Executive Mayor or Executive Committee;
  - (f) consideration of reports;
  - (g) report on delegated powers;
  - (h) urgent matters submitted by the Municipal Manager;
  - (i) consideration of motions;
  - (j) consideration of questions;
  - (k) consideration of motions of exigency; and
  - (l) adjournment.
- (2) The Speaker may change the order of business appearing on the agenda.
- (3) A councillor who wishes to have the order of business on the agenda changed must approach the Speaker prior to the meeting.

### **4. Agenda**

- (1) The Speaker or a person designated by the Speaker must prepare the agenda for a meeting.
- (2) The Speaker may at any time during a meeting introduce an urgent matter, which does not appear on the agenda, unless the Council resolves otherwise.
- (3) Except as otherwise provided for in these rules or in terms of sub rule (2), no matter not appearing on the agenda may be transacted at a meeting.

### **5. Meetings**

- (1) The Council must meet at least quarterly, as required by section 18(2) of the Municipal Structures Act.
- (2) All meetings must be open to members of the public, unless they have been excluded under rule 16.
- (3) Subject to sub rule (1), the Speaker decides when and where the Council meets.
- (4) The Municipal Manager or, in his or her absence, a person designated by the Speaker must give notice to each councillor and to the public of every meeting at least 5 days before such meeting except in the event of special or urgent meetings of Council.
- (5) If the position of Speaker (or Acting Speaker) is vacant, the Municipal Manager (or Acting Municipal Manager) or in the absence of the Municipal Manager (or Acting Municipal Manager), a person designated by the Provincial Minister, must —
  - (a) convene a special meeting to elect a Speaker or an acting Speaker; and
  - (b) give notice to each councillor and to the public of the meeting.
- (6)
  - (a) A majority of councillors may request the Speaker in writing to convene a special council meeting and the Speaker must convene such meeting at a time set out in the request.
  - (b) If the Speaker fails to convene a special council meeting referred to in sub rule (6)(a), the majority of councillors may request the Municipal Manager to convene such meeting and the Municipal Manager must convene such meeting at a time set out in the request.
  - (c) A notice by the majority of councillors must clearly indicate the business that will be conducted at the special council meeting. No other business, except with the agreement of a majority of councillors, may be conducted at the special council meeting.

- (7) (1) The notice referred to in sub rules (4) and (5) must state the date, time and venue of the meeting, and must be —
- (a) given in writing, together with the agenda, to each councillor by any reasonable means to achieve the purpose;
  - (b) published in a local newspaper determined by the Municipal Manager or a person designated; and
  - (c) posted on a notice board at the municipality's head office.
  - (d) posted on the municipal website.
- (2) Any changes to the dates of any meeting, shall be published on the municipal website.
- (8) The Municipal Manager or a person designated under sub rule (4) or (5) may depart from the requirement of sub rule (6)(b), in the case of an urgent or special meeting when time constraints make it impossible to comply with the requirement.

## **6. Functions of Speaker regarding meetings**

- (1) The Speaker must take the chair precisely at the time the meeting has been scheduled for.
- (2) In addition to the functions referred to in section 37 of the Municipal Structures Act and any other law, the Speaker —
  - (a) must preserve decorum in meetings;
  - (b) must give a ruling in respect of a point of order raised by a councillor, including a point in relation to the priority of the business; and
  - (c) may give a ruling in respect of any procedural eventuality for which these rules do not provide.
- (3) The ruling referred to in sub rule (2) must be entered into the minutes.

## **7. Attendance by councillors**

Subject to Item 3 of the Code, rule 8 and rule 18 of these rules, a councillor must attend each meeting and must sign his or her name in the attendance register.

## **8. Procedure for leave of absence**

- (1) A councillor must, before absencing himself or herself from a meeting, inform the Speaker by means of email, sms or other electronic communication at least 48 hours before the meeting.
- (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 rule (1).
- (3) The special circumstances referred to in sub rule (2) may include —
  - (a) illness of the councillor; or
  - (b) illness or death in the family of the councillor; or
  - (c) family related or ward emergencies.
- (4) Should any special circumstance listed in sub rule (3) arise, a councillor may on good cause shown, inform his/her respective party chief whip of his/her absenteeism.
- (5) The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted, must be entered into the minutes.
- (6) If the Speaker rejects the application referred to in sub rule (1), he or she must provide a reason therefore and such reasons must be recorded into the minutes.
- (7) Sub rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application, a reference in those sub rules to the Speaker is regarded to be a reference to the Council.

## **9. Sanctions for non-attendance**

- (1) Except for the instances contemplated in rule 8(2) and (3), a councillor is in breach of the rules if he or she without leave —
  - (a) absents himself or herself from a meeting;
  - (b) fails to be in attendance at the commencement of a meeting; or
  - (c) fails to remain in attendance until the end of a meeting.
- (2) A councillor who is absent from three or more consecutive meetings which he or she is required to attend in terms of rule 8 is in breach of the Code.
- (3) The Council may appoint a special committee comprising of councillors to investigate and report to the Council on any alleged breach referred to in sub rule (1) or (2).
- (4) The special committee must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach.

- (5) The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the special committee.
- (6) If the Council finds that a councillor has breached the rules as contemplated in sub rule (1), the Council must fine the councillor 10% of his or her monthly salary.
- (7) If the Council finds that a councillor has breached the Code as contemplated in sub rule (2), the Council must request the Provincial Minister to remove the councillor from office.
- (8) Sub rules (1) to (7) apply, with the necessary changes, in respect of the Speaker.

#### **10. Minutes**

- (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, such reasonable period to be determined by Council.
- (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 Municipal Manager must keep a record of the signed minutes for a period of five years.
- (4) The minutes are taken as read, for the purpose of sub rule (2), if they were provided to each councillor within a reasonable period before the meeting considering them.
- (5) No motion or discussion is allowed on the confirmation of the minutes, except in connection with the correctness thereof.
- (6) If a councillor is dissatisfied with the correctness of the minutes, the councillor must —
  - (a) state the item with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (7) The minutes of a meeting must set out the date, time and place of the meeting and the decisions or other action taken at the meeting.

#### **11. Quorum**

- (1) A majority of the councillors constitutes a quorum as referred to in section 30 (1) of the Municipal Structures Act.
- (2) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the Speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- (3) Whenever the Speaker is not present and there is no quorum, the start of the meeting must be delayed for no more than 30 minutes and if there is no quorum at the end of that period, no meeting may take place and the Municipal Manager must record the names of the members present.
- (4) Whenever 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 the Speaker may allow, there is still no quorum the Speaker must adjourn the meeting.
- (5) Whenever a meeting is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.
- (6) The Speaker may report the names of the absentee members to the committee appointed in terms of rule 9(3), for the purposes of an investigation of a breach of these rules.

### **CHAPTER 3: DECISIONS**

#### **12. Unopposed matters**

Whenever Council is called upon to consider a matter before it and there is no opposition from any councillor, a unanimous vote will be recorded in the minutes.

#### **13. Opposed matters**

- (1) The Speaker must put every opposed matter to the vote by calling upon councillors to indicate by a show of hands, unless otherwise prescribed by any law or the Council resolves otherwise, whether they are for that matter or against it, whereupon the Speaker must announce the result of the vote, including those councillors who abstained from voting.

- (2) Upon the announcement of the result of a vote, a councillor may demand that his or her vote be recorded against the decision concerned.

#### **14. Decisions**

- (1) In accordance with section 160(3) of the Constitution, a supporting vote of a majority of councillors is necessary to decide on —
  - (a) the passing of by-laws;
  - (b) the approval of the budget;
  - (c) the imposition of rates and other taxes, levies and duties; or
  - (d) the raising of loans.
- (2) In accordance with section 34 of the Municipal Structures Act, a supporting vote of at least two-thirds of councillors is necessary to adopt a decision to dissolve the Council.
- (3) All other questions before the Council are decided by a majority of the votes cast, as contemplated by section 160(3)(c) of the Constitution, except the approval of the IDP that has to be adopted by a supporting vote of a majority of councillors.
- (4) If on any question there is an equality of votes, the Speaker must exercise a casting vote, as contemplated by section 30(4) of the Municipal Structures Act. In addition to those instances listed in Rule 14(1), the Speaker does not have a casting vote on the election of political office bearers as set out in Schedule 3 of the Municipal Structures Act.

### **CHAPTER 4: ATTENDANCE OF MEMBERS OF PUBLIC**

#### **15. Attendance of members of public**

- (1) The Speaker must take reasonable steps to regulate public access to, and public conduct at meetings.
- (2) The Speaker may allocate reasonable time to any member of the public who wishes to address the Council, having regard to —
  - (a) the nature of the matter to be discussed;
  - (b) priorities in relation to other Council business;
  - (c) other members of the public present who also wish to address the Council; and
  - (d) whether such an opportunity has already been provided to the member of the public.
- (3) A member of the public who wishes to address the Council must apply in writing to the Speaker within 6 working days prior to the meeting, stating the matter on which he or she wishes to speak.

#### **16. Exclusion of the public from meetings**

- (1) The public may be excluded from the meeting-
  - (a) where so directed by the Speaker; or
  - (b) where so decided by Council upon a motion from any councillor to that effect.
- (2) If a motion to exclude the public from the meeting is seconded, the motion must be put to the vote, after discussion of the reasons but without discussion of the matter.
- (3) If a motion to exclude the public is carried, the place of meeting shall be cleared of all members of the public, including the media.
- (4) The motivation for the exclusion of the public must be minuted.

#### **17. Re-admission of members of public**

- (1) A councillor may during the course of a meeting from which 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 allowed access to the meeting again.

### **CHAPTER 5: CONDUCT IN MEETINGS**

#### **18. Conduct of councillors and members of public**

- (1) Councillors and members of the public must preserve order and decorum at meetings, and they may not—

- (a) behave in an unseemly manner;
  - (b) obstruct the business of a meeting;
  - (c) challenge the ruling of the Speaker on any point of order; or
  - (d) commit any breach of the rules.
- (2) If a councillor or member of the public breaches sub rule (1), the Speaker must direct the councillor or member of the public to refrain from the breach.
- (3) If a councillor or member of the public disregards the directions of the Speaker under sub rule (2), the Speaker may:
- (a) direct the councillor or member of the public if speaking, to discontinue his or her speech;
  - (b) in relation to a councillor, adjourn the meeting and request the councillor in question, together with his or her party chief whip, to address the Speaker in chambers; or
  - (c) with regard to members of the public, direct such person or persons, to withdraw from the place of meeting for the remainder of the meeting or, if necessary, to be removed by a person designated by the Speaker.
- (4) If the Speaker fails to act under sub rule (3), any councillor may move a motion to require the Speaker to do so.
- (5) The motion referred to in sub rule (4) must be moved without notice, and if the motion is seconded, it must be put to the vote forthwith without debate.

## **CHAPTER 6: DEBATE AND MOTIONS**

### **19. Address to Speaker**

- (1) A councillor or a member of the public 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 his or her name, and if he or she is representing an organisation or any group, identify the organisation or group.

### **20. Right to speak and limitation**

- (1) A councillor may speak or proceed to speak at a meeting after being recognised by the Speaker.
- (2) All councillors are allowed to speak at meetings of Council and its committees and are protected by the provisions of the Western Cape Privileges and Immunities of Councillors Act, 2011 (Act No 7 of 2011).
- (3) A councillor may speak only once to —
  - (a) the 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 these rules.
- (4) 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.
- (5) The Speaker may not recognise a councillor to speak on a matter once council has taken a resolution on that matter.
- (6) 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 enquiry is pending.

### **21. Length of speeches**

- (1) Except with the consent of the Speaker, no member may speak for more than five minutes on any subject.
- (2) The mover of an original motion or of any amendment may however speak for five minutes on such motion or amendment.

### **22. Content of debate**

- (1) A councillor who speaks must direct his or her speech to the matter before the Council.
- (2) If a councillor persists in irrelevance after being requested by the Speaker to confine his or her speech to the matter before the Council, the Speaker must order him or her to be seated and not to speak further in respect of that matter.



- (3) Councillors and members of the public must preserve order and decorum at meetings, and they may not indulge in tedious repetition of arguments, or unbecoming language or remarks, which are of a defamatory nature.

### **23. Points of order**

- (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 the rules 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, a member of the public, or an employee of the Municipality.
- (3) A councillor raising a point of order must immediately be heard, and he or she must —
  - (a) state the point of order; and
  - (b) the rule or statutory provision that is being breached.
- (4) 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. All other matters before the Council must be suspended until the point of order is ruled on.
- (5) If ruled to be in order, the councillor must be allowed to proceed with his or her speech.
- (6) If ruled to be out of order, the councillor must remain silent or must retract or change any remarks so as to comply with the ruling.
- (7) The Speaker's ruling on a point of order is final and not open to debate, and it must be entered in the minutes.

### **24. Explanations**

- (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.

### **25. Motions**

A councillor may move a motion only when it is put by the Speaker and if seconded by another councillor, except if provided otherwise in these rules.

### **26. Notice of motions**

- (1) Unless provided otherwise in these rules, a notice of motion must be in writing, motivated, signed by the relevant councillor, dated and delivered to the Speaker at least six working days before the date of the meeting at which it is to be moved.
- (2) The Speaker must either put the motion in the agenda or refer such motion to the committee, which is dealing with the matter.
- (3) Sub rule (1) does not apply to the following motions:
  - (a) a motion of exigency; or
  - (b) a motion of course.

### **27. Questions**

- (1) After any motion or amendment has been moved and seconded or at the conclusion of any speech thereon, a member may ask any question relevant to such motion or amendment.
- (2) No supplementary questions may be asked except by the member asking the original question and then only in respect of matters arising out of the reply to such original question.
- (3) The Speaker may not disallow any such question, provided that the member to whom such question is directed may either reply thereto forthwith or require that notice thereof be given in terms of rule 26.

### **28. Motions of exigency**

- (1) A member may direct the attention of the council to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject of the matter and without comment thereon moving "that the motion to which attention has been directed be considered forthwith as a matter of exigency."
- (2) Such motion is herein referred to as a motion of exigency.

- (3) If such motion is seconded and carried by a majority of the members present, the mover shall be permitted without notice to bring the matter under consideration by way of motion or question.

## **29. Motions of course**

In addition to those provided for elsewhere in these rules, the following shall be regarded as motions of course —

- (i) that precedence be given to the consideration of any particular item appearing on the agenda;
- (ii) that any report referred to in the agenda be noted, adopted, acted upon or referred back;
- (iii) that any document before the council be acted upon in the manner specified in the motion;
- (iv) that action be taken in regard to any item submitted for consideration in the manner specified in the motion.

## **30. Order of debate**

When a motion is under debate at any meeting of the council, no further motion shall be received except the following —

- (i) that the motion be amended;
- (ii) that the consideration of the matter be postponed;
- (iii) that the public and the media be excluded;
- (iv) that the public and the media be re-admitted;
- (v) that the council do now adjourn;
- (vi) that the council adjourn for a specified time;
- (vii) that the debate be adjourned;
- (viii) that the matter be put to the vote;
- (ix) that the council proceed to the next business.

## **31. Amendment motions**

- (1) Every amendment shall be relevant to the motion on which it is moved.
- (2) An amendment shall, if required by the Speaker, be in writing, signed by the mover and handed to the Speaker.
- (3) An amendment shall be read before being moved.
- (4) An amendment shall not be discussed or put to council until it has been seconded.
- (5) If there is more than one amendment to a motion the amendment last proposed shall be put to the vote first and if carried the matter shall be resolved accordingly.
- (6) If the amendment last proposed is rejected the amendment proposed immediately prior to the last amendment shall be put to the vote.
- (7) No further amendment shall be moved to a motion or amendment after the Speaker has commenced to take the vote upon such motion or amendment.

## **32. Motion for postponement of matter**

- (1) A member may at the conclusion of a speech move that the consideration of the matter be postponed to a fixed or undetermined date.
- (2) Such motion must be seconded but need not be in writing, provided that the seconder shall not be permitted to speak. The mover shall be permitted to speak to the motion for a period not exceeding five minutes and the seconder shall not speak except for seconding the motion.
- (3) Upon such motion being made, the mover of the matter under debate may (without prejudice to his or her ultimate right of reply if the motion that the matter be postponed be not carried) be heard in reply for five minutes, after which the motion shall be put without further debate.
- (4) If the motion is carried, the matter shall be placed first on the agenda of matters to be considered at the meeting to which it has been postponed.

## **33. Motion for adjournment of meeting to another date**

- (1) A member who has not already participated in the debate on the matter before the meeting, may at any time except during the course of a speech by another member or while a vote is being taken move "that the council do now adjourn to another date".
- (2) Such motion must be seconded but need not be in writing.

- (3) The mover shall be permitted to speak to the motion for a period not exceeding five minutes but the seconder shall not speak except for seconding the motion.
- (4) If the motion is carried, the council shall forthwith adjourn; provided that the Speaker may direct that the meeting proceed first to dispose of business other than opposed business.
- (5) If the motion is not carried, the Speaker shall not accept another such motion until the period of half an hour has elapsed.
- (6) Save as is provided in sub rule (3), no discussion on such motion shall be permitted, except that a member, who has first indicated as such, may speak in opposition of the motion for not more than five minutes.
- (7) No amendment to such motion may be moved except in relation to the period of adjournment.
- (8) If a motion to adjourn a meeting has been carried during a debate and prior to the conclusion thereof, then upon consideration of the matter forming the subject of such debate, the adjourned meeting, the member who moved the adjournment shall be entitled to speak first.
- (9) No business shall be transacted at an adjourned meeting except such as was set out in the agenda for the meeting of which it is an adjournment.

#### **34. Motion for adjournment of meeting for specified time**

- (1) A member may at any time except during the course of a speech by another member or while a vote is being taken move "that the council now adjourn for a specified time, up to one hour".
- (2) Such motion need not be in writing.
- (3) If the motion is carried, the council shall forthwith adjourn for the specified time.
- (4) The Speaker may limit the number of such motions.

#### **35. Motion of adjournment of debate on matter for specified time**

- (1) A member who has not yet participated in a debate, may at the conclusion of any speech, move that the debate be adjourned.
- (2) Such motion must be seconded but need not be in writing.
- (3) The mover of such motion may speak to it for five minutes, but the seconder may not speak beyond formally seconding it.
- (4) Save as is provided in sub rule (3) no discussion may be permitted on such motion except in relation to the period of adjournment and that the member who first rises in his place for that purpose may speak in opposition thereto for five minutes.
- (5) If such motion is carried, the meeting proceeds to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, is resumed at the next meeting.
- (6) On the resumption of the adjourned debate, the member who moved the adjournment is entitled to speak first.
- (7) If the motion is not carried, the Speaker shall not accept another such motion until half an hour has elapsed.
- (8) A member may not move or second more than one motion for the adjournment of the debate during the course of that debate.

#### **36. Motion that matter be put to vote**

- (1) A member who has not yet participated in a debate on a matter may during such debate, at the conclusion of any speech, move that the matter be now put to the vote.
- (2) Subject to the provisions of sub rule (3), no motion put in terms of sub-section (1) shall be open to discussion.
- (3) The mover of a matter under discussion may, when a motion has been put in terms of sub rule (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.

#### **37. Motion that the matter be removed from agenda**

- (1) A member who has not yet participated in the debate on a matter may during such debate, at the conclusion of any speech, move that the matter be removed from the agenda.
- (2) Subject to the provisions of sub rule (3), no motion put in terms of sub rule (1) shall be open to discussion.
- (3) The mover of a matter under discussion may, when a motion has been put in terms of sub rule (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 further pursued.

**38. Motion to refer matter to committee**

- (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 must be seconded and need not be in writing.
- (3) Subject to sub rule (4), a motion referred to in sub rule (1) is not open to debate.
- (4) The councillor who moved the original motion under debate may, when a motion referred to in sub rule (1) has been moved, speak on that original motion, whereupon the motion referred to in sub rule (1) must be put to the vote without any further debate.
- (5) If the motion referred to in sub rule (1) is carried, the matter under debate may not be further pursued at the meeting.
- (6) If the motion referred to in sub rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

**39. Withdrawal of motion, amendment or questions**

- (1) A motion or amendment may without debate and with the permission of the seconder and council, be withdrawn by the mover.
- (2) A member may not speak on such motion or amendment after the Council has agreed to the withdrawal of such motion.
- (3) A question may be withdrawn by the member intending to put it.

**40. Absence of councillor who gave notice of motion or question**

In the event of the mover or questioner not being present in his place at the meeting of the council when called upon by the Speaker to move a motion or ask a question standing in his name on the agenda, such motion or question shall lapse unless the original mover or questioner has notified the Speaker in writing of a substitute to move the motion or ask the question.

**41. Re-introduction of motions or questions**

No motion which has been rejected by the council and no question asked in terms of the rules and dealt with at any meeting may again be moved or asked within a period of three months of such meeting except with the consent of the Speaker.

**42. Motions or questions on matters dealt with by committee**

- (1) A member may not give notice of a motion or question in regard to any matter assigned to a committee unless such motion or question has previously been submitted to such committee or unless it is in the form of a reference to such committee for consideration and report.
- (2) The chairman of a committee may, if he or she is of opinion that the matter is one of urgency, give notice of his or her intention to introduce a motion or ask a question on a matter assigned to such committee notwithstanding the fact that such motion or question has not received the prior consideration of such committee.

**43. Recommendation by Executive Mayor or Executive Committee**

- (1) A recommendation contained in a report submitted by the Executive Mayor or an Executive Committee to the Council is considered to have been moved by the Executive Mayor or Executive Committee, as the case may be.
- (2) The motion does not need to be seconded.
- (3) The Executive Mayor or any member of the Executive Committee may speak on the matter and reply, but in replying he or she must confine himself or herself to answer the matter and may not introduce any new matter into the debate.

## CHAPTER 7: LEGISLATIVE PROCESS

### 44. Introduction of draft by-laws

In accordance with section 12 of the Municipal Systems Act, a draft by-law may be introduced only by a councillor or a committee.

### 45. Introduction of draft by-laws by councillors

- (1) A councillor introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker.
- (2) The Speaker must obtain the comments of the Municipal Manager on the contents of the draft by-law and may solicit the comments of any other person.
- (3) The Speaker must submit a draft by-law, together with any comments received in terms of sub rule (2), to the Executive Mayor or the Executive Committee, if the municipality has such a mayor or committee, for a report and recommendation in accordance with section 30(5) of the Municipal Structures Act.
- (4) The Executive Mayor or the Executive Committee must within three months of receipt of a draft by-law from the Speaker, consider the draft by-law and decide to either support or not support it.
- (5) If the Executive Mayor or the Executive Committee decides to support the draft by-law, the Municipal Manager must publish the draft by-law for public comment in accordance with rule 47.
- (6) If the Executive Mayor or the Executive Committee decides not to support the draft by-law, the Executive Mayor or the Executive Committee 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) any relevant comments or proposals;
  - (f) the reasons why the draft by-law is not supported; and
  - (g) a recommendation.
- (7) After considering the report referred to in sub rule (6), the Council must decide to either reject the draft by-law or to approve the commencement of the legislative process set out in rules 47 and 48 in respect of the draft by-law.
- (8) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.
- (9) When the commencement of the legislative process in respect of a draft by-law has been approved in terms of sub rule (7), the draft by-law must be published for public comment in accordance with rule 47.
- (10) If the municipality does not have an Executive Mayor or an Executive Committee, the councillor who introduced the draft by-law must submit a report setting out the matters referred to in sub rule (6)(a) to (g) to the Council where after the procedures set out in sub rules (7) to (9) apply.

### 46. Introduction of draft by-laws by Executive Mayor or Executive Committee

- (1) An Executive Mayor or Executive Committee introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker and the Municipal Manager.
- (2) The Municipal Manager must publish the draft by-law for public comment in accordance with rule 47.

### 47. Publication of draft by-laws

The Municipal Manager must as soon as possible after —

- (a) the Executive Mayor or the Executive Committee has decided to support the draft by-law under rule 45 (5);
- (b) the Council has given approval in terms of rule 45(7) for the commencement of the legislative process; or
- (c) the Executive Mayor or Executive Committee has introduced a draft by-law in terms of rule 46(1), publish the draft by-law for public comment in accordance with section 12(1)(b) of the Municipal Systems Act for at least 30 days, unless the Council has approved a shorter period.

**48. Consideration of draft by-laws**

- (1) The Municipal Manager must as soon as possible after the closing date for public comment referred to in rule 47, submit a report to the Council or if the municipality has an Executive Mayor or an Executive Committee, to that mayor or committee, together with —
  - (a) a copy of the draft by-law;
  - (b) copies of the advertisements in which the public was invited to make representations;
  - (c) any comments received from the public; and
  - (d) any other comments or recommendations from the Municipal Manager.
- (2) The Executive Mayor or Executive Committee, if the municipality has such a mayor or committee 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;
    - (ii) a memorandum on the objects of the draft by-law;
    - (iii) the view of the Executive Mayor or Executive Committee on the need for the draft by-law;
    - (iv) the contents of the draft by-law;
    - (v) other by-laws that will have to be repealed or amended if the draft by-law is adopted; and
    - (vi) any relevant comments or proposals; and
  - (b) recommend to the Council to pass the by-law, to pass the by-law in an amended form or to reject the by-law.
- (3) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.
- (4) When a by-law has been passed, it must be published in accordance with section 13 of the Municipal Systems Act.

**CHAPTER 8: MISCELLANEOUS MATTERS****49. Official Languages**

Anyone who speaks at a meeting may use any of the three official languages recognised by the Constitution of the Western Cape, 1997, namely Afrikaans, English and isiXhosa.

**50. Municipal employees**

- (1) The employees of the municipality who attend a meeting must observe the rules and decorum applicable to councillors.
- (2) A municipal employee must attend a meeting if requested to do so by the Municipal Manager or the Speaker.

**51. Offences and penalties**

- (1) A councillor or a member of the public who
  - (a) refuses to withdraw from a place of meeting of the council or a committee when directed to do so by the Speaker or chairperson of a meeting in terms of rule 18(3)(b) or rule 18(3)(c); or
  - (b) returns to a meeting from which he or she has withdrawn or was removed in terms of rule 18(3)(b) or rule 18(3)(c),
 may be forcibly removed and is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (2) No councillor or member of the public may—
  - (a) improperly interfere with-
    - (i) or impede a council or committee when such council or committee is exercising its authority or performing its functions; or
    - (ii) the performance by a councillor of his or her functions as a councillor;
  - (b) threaten or obstruct a councillor proceeding to or going from a meeting of a council or committee;
  - (c) assault or threaten a councillor, or deprive a councillor of any benefit, on account of the conduct of the councilor in a council or committee;

- (d) while a council or committee is meeting, create or take part in any disturbance within the precincts;
  - (e) fail or refuse to comply with an instruction by the person presiding at a meeting of a council or committee regarding the presence of any person at that meeting; or
  - (f) fail or refuse to comply with an instruction by a duly authorized official of the council regarding—
    - (i) the presence of persons at a particular meeting of the council or a committee; or
    - (ii) the possession of any article, including a firearm, in the precincts or any part thereof.
- (3) A person may not by fraud, intimidation, force, insult or threat of any kind, or by the offer or promise of any inducement or benefit of any kind, or by any other improper means—
- (a) influence a councillor in the performance of the functions of councillor;
  - (b) induce a councillor to be absent from a council or committee; or
  - (c) attempt to compel a councillor to declare himself or herself in favour of or against anything pending before, proposed, or expected to be submitted to a council or committee.
- (4) A person, including a councillor, who contravenes sub rules (2) and (3) is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding three years or to both the fine and the imprisonment.

## **52. Repeal of by-laws**

The provisions of any by-law previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the Knysna Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

## **53. Short title and Commencement**

This By-law is called the Knysna Municipality's Rules of Order for Internal Arrangements By-law and comes into operation on the date of promulgation thereof in the Western Cape Provincial Gazette.

**KNYSNA MUNICIPALITY  
BY-LAW FOR THE RECREATIONAL USE OF BEACHES AND BATHING AREAS**

**Preamble**

**WHEREAS** to provide measures to manage, control and regulate public access and behaviour at beaches and beach areas, to provide for the repeal of laws and savings and to provide for matters incidental thereto.

**WHEREAS** there is a need to develop legislation to govern the access to and use of beaches and coastal areas within the jurisdiction of the Municipality.

**NOW THEREFORE** the Knysna Municipality in terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Knysna Municipality enacts as follows: —

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**1. Definitions**

In this by-law, except as otherwise expressly provided or unless the context otherwise requires—

“**Act**” means the Seashore Act, 1935 (Act 21 of 1935);

“**bathing area**” means that portion of a beach area habitually used by members of the public for bathing purposes and includes an area declared to be a bathing area in terms of section 20;

“**beach area**” means the sea, seashore and any land owned by the municipality above the high water mark and adjoining or abutting the seashore and used or capable of being used by the public for recreational purposes, including any facility, promenade, walkway, sand dune, car park or lawn;



- “**boat**” means any water-navigable craft of whatsoever nature, whether self-propelled or not;
- “**camp**” includes the use of a vessel, vehicle, caravan or temporary structure for habitation or sleeping purposes, whether or not is intended, designed or adapted for such purpose;
- “**facility**” includes a bathing enclosure, boat shed, bathing box, change room, pool, pavilion, playground, cubicle, shower or toilet;
- “**fishing**” includes the laying or casting of nets and the setting of traps or other devices with the object of catching fish and “to fish” has a corresponding meaning;
- “**litter**” means any object or matter discarded or left behind by a person in whose possession or control it was;
- “**liquor**” shall bear the meaning as assigned thereto in paragraphs (a), (b), (c) and (d) of the definition of “liquor” contained in section 2 of the Liquor Act, 1989 (Act No. 27 of 1989);
- “**motorised craft**” means any boat driven or propelled or capable of being driven or propelled directly or indirectly on or in water by mechanical or electrical power;
- “**municipality**” means the Municipality of Knysna established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;
- “**nuisance**” means any act, omission or condition which is offensive, that constitutes or may constitute a source of danger, inconvenience or annoyance to or a material interference with the ordinary comfort or convenience, peace or quiet of other persons;
- “**official lifeguard**” means a lifeguard in the employ of the Council and also includes any member of a voluntary lifesaving association or club, as authorised by the Municipality, whilst performing the duties and functions of a lifeguard on the Council’s beaches;
- “**pool**” means a bathing or swimming pool that is provided by, belongs to or is under the control of the Municipality;
- “**publish in the press**” shall have the meaning assigned thereto in section 21 of the Local Government: Municipal Systems Act, 32 of 2000;
- “**sign**” means a written notice erected by the Municipality and includes a pictogram as approved by the Municipality;
- “**surf**” means riding waves on a board or similar contrivance capable, when in motion, of sustaining a person and includes riding a sailboard propelled or driven by wind power or operating on a sail.
- “**surf-craft**” means a device used for riding the surf which is designed for use by not more than two persons and which is propelled either by the movement of the surf or the actions of the surf-rider, without mechanical aid, or a combination of both, and includes a belly board, a body board and a paddle ski but excludes a device —
- (a) of an inflatable character, or
  - (b) wholly constructed of a soft, pliable material, which does not exceed two metres in length.
- “**surf-riding**” means the recreational activity involving the use of a surf-craft;
- (1) Subject to the provisions of subsection (1), any word or expression to which a meaning has been assigned in the Act shall bear that meaning in this by-law, unless the context otherwise requires.
  - (2) In this by-law words used in the masculine gender include the feminine, the singular includes the plural and vice versa. The English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates.

## 2. Purpose of By-law

The purpose of this by-law is —

- (a) to promote the achievement of a safe and healthy environment for the benefit of visitors and the residents in the area of jurisdiction of the Municipality; and
- (b) to provide for procedures, methods and practices to regulate the use and management of bathing and beach areas situated within the area of jurisdiction of the Municipality.

## 3. Entry to, use and closing of facilities and beach areas

(1) The Municipality may —

- (a) from time to time determine and indicate by means of a sign the times when and the hours during which a facility may be used or during which a facility shall be closed;
- (b) regulate the number of persons using a beach area;
- (c) require payment of a fee, fixed from time to time by the Municipality, for the use of any beach area or facility or property owned by or under the control of the Municipality and issue a permit or ticket to the user thereof;
- (d) notwithstanding anything to the contrary contained in this by-law, upon application to it, upon such terms and conditions as the Municipality deems fit, grant the exclusive use of a portion of the seashore and the sea and any other area to which this by-law applies, to any organisation, body, person or class of persons and invitees thereof for the purpose of any event or contest;
- (e) any person who has been granted exclusive use in terms of subsection (d) and any agent, representative or person under the control of such person who knowingly breaches, causes or permits the breach of a term or condition imposed under subsection (d) shall be guilty of an offence.
- (f) refuse any person causing a nuisance admission to any beach area or facility or order any person causing a nuisance to leave any beach area or facility without delay;
- (g) remove from any beach area facility any person who fails to obey an order given in terms of subsection (1)(d).

(2) The holder of a permit or ticket as contemplated in subsection (1)(c) shall retain such permit or ticket and produce it if required to do so by an employee of the Municipality.

(3) No person shall—

- (a) while waiting for admission to any facility, remain in any part other than that part of any premises set aside as a waiting area;
- (b) enter or attempt to enter any beach area after having been advised by an employee of the Municipality that it is occupied by the maximum number of persons authorised to be there;
- (c) wilfully enter or make use of any facility other than that indicated on his/her permit or ticket of admission;
- (d) enter or seek access to any cubicle or other accommodation occupied or in use by any other person without the consent of such other person, or open or attempt to open any cupboard or container unless authorised to do so by the Municipality or the person using it;
- (e) after leaving any facility, loiter or remain in any passage leading to or from it; or,
- (f) enter or remain in or use any facility outside the times when and the hours during which such facility may be used.

## 4. Segregation of sexes

No male or female over the age of seven (7) years shall enter any facility reserved by a sign for the exclusive use of the opposite sex.

## 5. Life-saving devices

- (a) Any person, other than a lifesaver or a member, employee or designated person of the Council who, save in time of emergency, touches, handles or in any way makes use of or damages any life-line, lifebuoy, or any other lifesaving appliance, installed or maintained upon the sea-shore or in the sea, shall be guilty of an offence.
- (b) Any person who impairs or impedes the operation of any life-saving appliance or device while it is in use on the sea-shore or in the sea shall be guilty of an offence.

## 6. Clothing

No person shall bathe or appear in any facility unless wearing a bathing costume or clothing complying with the requirements of decency.

## 7. Environmental Conservation

- (1) The municipality has the right to indicate by means of notices erected at designated points or other suitable sites, those areas where certain or any activities shall be limited, allowed, controlled or prohibited.
- (2) No person shall break, damage, destroy or disturb any egg or nest or remove any egg from a nest, or disturb or attempt to disturb any bird or the nestling site of such bird on a dune or within the beach area, or allow such behaviour or action.
- (3) No person shall injure, disturb or feed or attempt to injure, disturb or feed any wild animal or bird on a dune or within the beach area, or allow such behaviour or action.
- (4) No person, except the Municipality or an authorised person, shall any time artificially open the mouth of a river where a sandbank has developed between the mouth of the river and the sea and is blocking tidal interchange.
- (5) No unauthorised person shall at any time pick, uproot, fell or damage or attempt to prick, uproot, fell or damage in any ways, any plant growing on a dune or the beach area.
- (6) No person may wilfully or negligently pollutes a dune, the beach area, coastal wetlands, salt marshes or surrounding grounds with any fuels, oils, garbage, offal, bilge, sewerage, refuse or rubble of any kind whatsoever.
- (7) No person may remove or deposit any vegetation, sand, shingle, rock or stone from or on the beach area.

## 8. Safety appliances

No person shall handle, interfere with, disturb or remove any safety rope or other appliance provided for the assistance of distressed bathers, except for the purpose of rendering assistance to any such bather.

## 9. Dangerous articles

No person shall—

- (a) bring onto or into any bathing area or into any pool or have in his possession in or on such bathing area or in such pool—
  - (i) any glass bottle or other container made of glass; or
  - (ii) any object or matter likely to be dangerous to health or likely to disturb the convenience or comfort of or likely to be a source of danger or injury to any person.
- (b) throw or deposit into any pool or into or onto a beach area—
  - (i) any glass bottle or other container made of glass; or
  - (ii) any object or matter likely to be dangerous to health or likely to disturb the convenience or comfort of or likely to be a source of danger or injury to any person.

## 10. Surf-riding or surfing

- (a) No person may without the authorisation of the Municipality engage in surf-riding or surfing within any part of the beach which is designated as a swimming area, unless it is an inboard rescue boat.
- (b) An authorised official may permanently or temporarily prohibit surf-riding or surfing on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the beach.

## 11. Littering

No person shall in or on any beach area discard, dump or leave or cause to be discarded, dumped or left any litter except in a container or at a place provided for that purpose.

## 12. Motor vehicles

- (a) No person may enter onto the beach using a motor-vehicle or bring or drive a motor vehicle on any part thereof in contravention of any legislation or regulations made in terms of any applicable legislation.
- (b) The provisions in (a) above do not apply to any —
  - (i) motor vehicle used by an authorised official in the course of his or her duties;
  - (ii) authorised emergency or rescue motor vehicle;
  - (iii) motor vehicle driven by a person authorised to implement the provisions of any legislation;
  - (iv) ordinary motor vehicle involved in a bona fide emergency situation;
  - (v) off-road vehicles used in terms of relevant legislation; or
  - (vi) motor vehicle authorised by the municipality or any other sphere of government in terms of this by-law.
- (c) No person may in any part of the beach area —
  - (i) drive a motor vehicle recklessly or dangerously or in such a manner as to endanger the safety of any person;
  - (ii) race a motor vehicle, or drive a motor vehicle at a speed in excess of the limit imposed by the municipality in any part of the beach except during a *bona fide* emergency situation or if authorised to do so in terms of any law; or
  - (iii) drive a motor vehicle whilst under the influence of alcohol, drugs or any dependence producing substance;

## 13. Undesirable conduct

No person shall —

- (a) behave in a disorderly or improper manner;
- (b) commit a nuisance;
- (c) hinder, interfere with, obstruct or use insulting or obscene language towards any employee of the Municipality in the execution of his duty;
- (d) refuse or fail to obey a lawful order given by an employee of the Municipality in the execution of his duty; or
- (e) introduce into, possess or consume on or in any bathing area any liquor after the Municipality has defined such bathing area as an area into which the introduction of liquor or in which the possession or consumption of liquor is prohibited and a notice has been published in the press of such prohibition and a sign erected on or at such bathing area indicating that the introduction into or the possession or consumption on or in such bathing area of liquor is prohibited.

## 14. Control of fires

No person may make a fire on the sea-shore within the area of jurisdiction of the Council unless in a designated area or with prior written permission by Council, which permission shall be subjected to such terms and conditions as prescribed by Council.

## 15. Dogs and Animals

- (1) No person shall cause or permit any dog belonging to him or in his charge —
  - (a) while in an area in which dogs are not prohibited in terms of this by-law, to constitute a source of danger or to inconvenience, annoy or materially interfere with the ordinary comfort or convenience of other persons;
  - (b) to enter or remain in any facility;
  - (c) to be in or on any beach area after the Municipality has defined such beach area as an area in or on which no dogs are permitted and a notice has been published in the press of such prohibition, and a sign erected at such beach area specifying that dogs are prohibited; or
  - (d) to be in or on any beach area except on a leash after the Municipality has defined such beach area as an area in or on which dogs must be kept on a leash and a notice has been published in the press of such prohibition, and a sign erected at such beach area specifying that dogs must be on a leash therein or thereon.

- (2) Any sign contemplated by sub section 1(c) and (d) may specify the hours during which such prohibitions shall apply.
- (3) The Municipality may, if a dog is found under circumstances which constitute a contravention of sub section (1), seize such dog or cause it to be seized and deal with it in the manner prescribed by the by-law relating to the Keeping of dogs of the Municipality, whether or not such dog is in the charge of or accompanying its owner or any other person.
- (4) No person shall cause or allow any horse, pony or other beast belonging to him or in his charge to enter or remain in or on the bathing area after the Municipality has defined such beach area as an area in which no horses, ponies or other beasts are permitted and a notice has been published in the press of such prohibition and a sign erected at such beach area specifying that horses, ponies or other beasts are prohibited.
- (5) Any sign contemplated by subsection (4) may specify the hours during which such prohibition shall apply.
- (6) No person shall cause or permit an animal (other than a dog) belonging to him or in his charge or custody or under his control to enter or remain upon the seashore or in the sea or in any other place to which this by-law applies except with the permission of the Municipality.

Above-mentioned section 15 provisions are applicable except where otherwise provided for in the Keeping of Dogs By-law.

## 16. Fishing

- (1) No person shall —
  - (a) fish from or throw or cast any net or fishing line in or into any bathing enclosure, pool or bathing area unless such person has, prior to the promulgation of this by-law and any of its predecessors, acquired the right to fish from any part of the seashore which is a bathing area;
  - (b) fish from or throw or cast any net or fishing line in or into any bathing enclosure, pool or bathing area where such fishing, throwing or casting is prohibited by a sign;
  - (c) launch any boat where launching is prohibited by a sign; or
  - (d) place fishing bait, fish, fishing equipment or tackle on or immediately adjacent to any seat provided for the use of the public and every person shall clear away all bait and refuse before leaving the place where he/she had been for the purpose of fishing and he/she shall remove all such bait and refuse from the seashore or place it in a refuse receptacle.

## 17. Aquatic sports and games

No person shall —

- (a) in or on any beach area organise or compete in any swimming race or aquatic sport, or organise training in respect of such water or any other sport, except with the consent of the Municipality and at such time and place as the Municipality may have determined;
- (b) dive into the water in any bathing enclosure or pool except from the side thereof or from a diving platform provided for that purpose;
- (c) play any game or indulge in any pastime which is likely to cause nuisance, injury or discomfort to bathers, spectators or any persons in any area to which this by-law applies after he/she have been warned by an sail guard or an authorised employee not to play such games or indulge in such pastime.
- (d) bathe, surf, paddle ski, jet ski, kite ski or engage in any similar activity where bathing, surfing, paddle skiing, kite skiing or any similar activity has been prohibited by a sign; or
- (e) in or on any beach area play any game where the playing of games has been prohibited by a sign.

## 18. General prohibitions

No person shall —

- (a) use as a bathing cubicle any property of the Municipality not intended to be so used.
- (b) camp, light a fire, or cook any food other than in places set aside for that purpose; provided that the preparation and cooking of food in such a place shall be done in a clean

- and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at a such a place;
- (c) without prior written consent of the Municipality, camp on the seashore or in any other area to which this by-law applies or use any part thereof for the purpose of sleeping or habitation;
  - (d) disturb any vegetation or sand on foredunes where it is not an area designated for use or no formal path or walkway exists;
  - (e) without the prior written consent of and subject to the conditions imposed by the Municipality in or on any beach area —
    - (i) erect any construction designed for amusement;
    - (ii) give any performance or provide any entertainment;
    - (iii) hawk or exhibit any goods or carry on any other business;
    - (iv) use any loudspeaker, amplifier or similar equipment; or
    - (v) construct, erect or fix any building or structure of whatsoever nature, or pitch any tent of the like;
  - (f) remove any vegetation, sand, shingle, rock or stone unless he is an employee of the Municipality in the course of his duties;
  - (g) use any facility set aside by the Municipality for the exclusive use of children under a particular age if such person is older than such age;
  - (h) without the consent of the Municipality in any bathing enclosure or pool use any flippers, goggles or other underwater swimming or spear-fishing equipment;
  - (i) wilfully or negligently damage, deface or defile in any way whatsoever any tree, shrub, building or structure including any bench, door, furniture or equipment, or any cubicle, water closet, shower, toilet or urinal;
  - (j) cause any motorised craft to approach within 100 metres of any bather or within 100 metres from the low-water mark in any bathing area save for the purpose of rendering assistance in an emergency, in the lawful exercise of existing fishing rights, in the course of law enforcement or if written permission has been obtained from the Municipality;
  - (k) sit, lie or cause any obstruction whatsoever on or at any walkway;
  - (l) drive or ride any vehicle or animal in or on any beach area unless he is an employee of the Municipality acting in the course of his employment, a person authorised by the Municipality to do so or a law enforcement officer in the course of his duties;
  - (m) park any vehicle or trailer on any ramp used for launching of boats;
  - (n) cycle, roller-skate, skate or use any similar contrivance where such conduct is prohibited by a sign;
  - (o) smoke in disregard of any sign prohibiting smoking; or
  - (p) discharge any fireworks or fire arm except in or from an area defined in a notice published in the press as an area in which or from where fireworks or fire arms may be discharged.

## 19. Fees

The Municipality may from time to time and for the purposes of this by-law fix fees or tariffs of fees for the use of any facility or property owned by the Municipality.

## 20. Declaration of bathing areas

The Municipality may by notice published in the press and the erection of a sign at or on at beach area, declare such beach area to be a bathing area.

## 21. Signs

- (1) Except where expressly provided, any prohibition or instruction in terms of this by-law may be indicated by means of a sign.
- (2) The Municipality may in prohibiting any activity in terms of this by-law, specify on a sign referred to in subsection (1) the times and or hours during which such activity shall be prohibited.
- (3) The Municipality may display any such sign in such a position and manner as will indicate the restrictions or prohibitions and or the location or boundaries of the area concerned.
- (4) The signs erected in terms of this by-law or any other law shall serve as sufficient notice of the prohibitions or restrictions applicable in the area concerned.
- (5) The signs may be amended from time to time and displayed by the Municipality for the purpose of this by-law.

- (6) No person other than a person authorised thereto by the Municipality, shall move any sign or notice displayed or erected for the purpose of this by-law and no person shall deface, obscure or wilfully or negligently damage or otherwise interfere with any such sign or notice.

## **22. Prohibition of entertainment and trade**

Any person who for reward or gain, conducts an entertainment, business or trade of any sort on the sea-shore or in the sea without the written permission given and on such terms and condition as in each case may be deemed fit by the Municipal Council, shall be guilty of an offence, except as otherwise provided for in another by-law.

## **23. Reservation of beaches**

- (1) Notwithstanding any provision to the contrary contained in this by-law, the Municipality may, at the request of any Government department reserve —
  - (a) a beach within the area of jurisdiction of the Municipality; or
  - (b) any portion of such beach.
- (2) For the exclusive use of any such Government department and shall notify all interested parties in any manner or by any means it may deem most expedient accordingly. No person other than the Government department concerned shall make use of or enter upon the beach or any part thereof reserved in terms of subsection (1) for the exclusive use of any such Government department.

## **24. Prohibition of bathing within areas considered unsafe**

- (1) Bathing within any part of the sea may be prohibited by the Municipality or its duly authorised representative for so long as the Municipality may consider the condition of the sea unsafe.
- (2) Any permanent prohibition under this section shall be indicated by notice on the spot and any temporary prohibition by any other recognisable and intelligible marker at both ends of the prohibited area.

## **25. Searching, seizure and disposal**

An employee of the Municipality in the execution of his duties may in accordance with the provisions of the Criminal Procedure Act (Act No. 51 of 1977) search any person for and seize and dispose of anything —

- (1) which is concerned in or is on reasonable grounds believed to be concerned in a contravention of or failure to comply with any provision of this by-law;
- (2) which may afford evidence of such contravention or failure; or
- (3) which is intended to be used or is on reasonable grounds believed to be intended to be used in such contravention or failure.

## **26. Application**

This by-law shall apply to the beach areas situated within or adjoining the area of jurisdiction the Municipality.

## **27. Penalties**

- (1) Any person who continues to commit an offence after notice has been served on him or her to cease committing such offence or after he or she has been convicted of such offence is guilty of a continuing offence.
- (2) Any person who contravenes or fails to comply with any provision of this by-law, shall be guilty of an offence and liable upon conviction to a fine or imprisonment, or to such imprisonment without the option of a fine or to both such fine and such imprisonment, and in the case of a continuing offence, to an additional fine or an additional period of imprisonment or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued and a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention.

**28. Offences relating to officials**

- (1) No person may —
- (a) assault, resist, obstruct, hinder, delay or interfere with any official or police officer in the exercise of his or her powers or the performance of his or her duties or functions or in any other way attempt to prevent the exercise of such powers or the performance of such duties or functions;
  - (b) offer any inducement to any such official or police officer or make any threat, whether of violence or otherwise, in relation to such member or a member of his or her family or a person dependent on him or her or to his or her property in order to persuade or prevent such member from exercising any of his or her powers or performing any of his or her duties or functions;
  - (c) not being an official, by words, conduct or demeanour pretend that he or she is such a member; or
  - (d) not being an official, wears a uniform or part of a uniform or an insignia designed and intended for use by an official of the Knysna Municipality, or an imitation of such uniform or insignia.
- (2) A person who contravenes subsection (1) commits an offence.

**29. Application of other By-laws**

The provisions of this by-law are in addition to and not in substitution for any provision in any by-laws in which particular public amenities are regulated, and if a provision in this by-law is inconsistent with any provision of such other by-laws, the relevant provision of those other by-laws applies.

**30. Repeal**

By-laws on the Control of the seashore and the sea situated within or adjoining the area of the Knysna Municipality, previously made by the Council or its constituent predecessors in respect of any portion of the area of the Knysna Municipality are hereby repealed.

**31. Short title and commencement**

This by-law shall be known as the By-law for the Recreational use of Beaches and Bathing Areas and shall come into operation on the date of promulgation thereof in the Western Cape Provincial Gazette.





**Promotion of Access to Information Manual**

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**PROMOTION OF ACCESS TO INFORMATION ACT MANUAL**

**Prepared in accordance with Section 14 of the Promotion of Access to Information Act 2000, (Act 2 of 2000)**

**Approved by Information Officer on: .....**



## Promotion of Access to Information Manual

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### PREFACE

The Promotion of Access to Information Act 2 of 2000 (the Act) gives effect to the public's right to information from public and private bodies as contained in section 32 of the Constitution of the Republic of South Africa, 1996 (the Constitution) and to advance and increasingly focus on the development of good corporate governance.

#### Bearing in mind –

that the right of access to any information held by the Knysna Municipality may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic environment based on human dignity, equality and freedom as contemplated in Section 36 of the Constitution and also as specified in Part 2, Chapter 4, of the Act.

### 1. INTRODUCTION

This PAIA manual has been compiled for the Knysna Municipality and is a requirement in terms of section 14 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000). This legislation gives effect to the public's right of access to information from public and private bodies as contained in section 32 of the Constitution.

One of the objectives of the Act is to promote transparency, accountability and effective governance. This objective forms part of the Knysna Municipality's strategy to achieve developmental and participatory local government in the Western Cape. The Knysna Municipality also strives to be accessible by *inter alia* providing information.



## Promotion of Access to Information Manual

The purpose of the manual is:

- To enable people to exercise their rights in terms of the Act.
- To create an understanding of the functions performed and records kept by the Knysna Municipality.
- To assist in fostering a culture of transparency, accountability and to promote public participation.

## 2. PURPOSE AND SCOPE OF MANUAL

Section 14 of the Act obliges the Information Officer (Municipal Manager) of public bodies like the Knysna Municipality, to compile a manual which would assist a person to obtain access to information held by such public body and stipulates the minimum requirements such manual has to comply with.

**As required under Section 14, this Manual contains the following information:**

- A description of the Municipality's structure and functions;
- The postal and street address, phone number, fax number and electronic mail address of the Information Officer as well as of the Deputy Information Officer designated;
- A description of the Guide compiled by the South African Human Right Commission and how to access it;
- Sufficient detail to facilitate a request for access to a record of the Municipality;
- A description of the subjects on which the Municipality holds records and the categories of records held on each subject;
- Categories of records of the Municipality which are available without a person having to request access;
- A description of the services available to members of the public from the Municipality and how to gain access to those services;
- A description of any arrangement or provision for a person by consultation, making representations or otherwise, to participate in or influence:
  - The formulation of policy; or
  - The exercise of powers or performance of duties by the Municipality;
- A description of all remedies available in respect of an act or a failure to act by the Municipality; and
- Such other information as may be prescribed.

## 3. DESCRIPTION OF THE STRUCTURE AND FUNCTIONS

### STRUCTURE

The Knysna Municipality was established by the relevant Establishment Notice, issued by the MEC (Minister) of Local Government of the Western Cape Province, in terms of section 12 of the Local Government: Municipal Structures Act, 1998.

Knysna Municipality was established vide Provincial Notice 504 on 22 September 2000 (Principle Notice). The original Establishment Notice was amended on various occasions since 2000. The Consolidated Establish Notice was updated on 25 February 2011 as well as the sixth Amendment per Notice 127 dated 8 April 2016 where Section 8 of the Principle Notice was amended.



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Before 22 September 2000, the current municipal area consisted of seven (7) municipalities as mentioned in clause 3(1) (a) to (g) of the Consolidated Principle Notice. In terms of clause 6 of the Consolidated Principle Notice, Knysna Municipality is a “mayoral executive system combined with a ward participatory system” type of Municipality. In terms of the Western Cape Determination of types of Municipalities Act, 2000, as amended in 2002, the following are defined:

“**mayoral executive system**” means a system of local government, which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee;

“**ward participatory system**” means a system of local government, which allows for matters of local concern to wards to be dealt with by committees established for wards.

The municipality comprises of its administration and the Council consisting of 21 Councillors, of both elected (11 ward representatives) and proportional (10 Councillors) representation. The party representation is set out below:

|    |                                    |
|----|------------------------------------|
| 1  | Independent                        |
| 10 | Democratic Alliance                |
| 1  | Congress of the People             |
| 1  | Knysna Unity Congress              |
| 7  | African National Congress          |
| 1  | African Christian Democratic Party |

The Municipality has an executive Mayor and a Speaker who is also the Chairperson of the Municipal Council. The day to day functioning and decision making of the municipality takes place through its Municipal Manager, as head of the administration and the accounting officer. Knysna Municipality has the following portfolio committees, established in terms of section 80 of the Local Government: Municipal Systems Act, Act 117 of 1998:

- Finance, Governance and Economic Development Committee
- Planning and Integrated Human Settlements Committee
- Community Services Committee
- Technical Services Committee

### **FUNCTIONS**

The Knysna Municipality has legislative authority and is empowered to govern, on its own initiative, the local governmental affairs of its community, subject to the national and provincial legislation, as provided for in the Constitution and other relevant legislation.

**The municipality operates within a legislative framework which consists of various statutes, which include:**

- Local Government: Transitional Act ( Act 209 of 19993);
- Local Government: Municipal Systems Act (Act 32 of 2000);
- Local Government: Municipal Structures Act (Act 117 of 1998);
- the Constitution of the Republic of South Africa (Act 108 of 1996); and
- Local Government: Municipal Finance Management Act (Act 56 of 2003).

Other statutes which impact on the governance of the municipality include (the list is not exhaustive)



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|   |                 |
|---|-----------------|
| Water Services Act  | Act 108 of 1997 |
| National Water Act  | Act 36 of 1998  |
| Electoral Act   | Act 73 of 1998  |
| Promotion of Local Government Affairs Act                               | Act 91 of 1983  |
| Electricity Act   | Act 41 of 1987  |
| Promotion of Access to Information Act                                  | Act 2 of 2000   |
| Promotion of Administrative Justice Act                                 | Act 3 of 2000   |
| National Health Act   | Act 61 of 2003  |
| Occupational Health & Safety Act  | Act 85 of 1993  |
| Labour Relations Act  | Act 66 of 1995  |
| Basic Conditions of Employment Act                                      | Act 75 of 1997  |
| Employment Equity Act   | Act 55 of 1998  |
| Skills Development Act  | Act 97 of 1998  |
| Unemployment Insurance Act  | Act 63 of 2001  |
| Pension Funds Act   | Act 24 of 1956  |
| The Removal of Restrictions Act   | Act 84 of 1967  |
| Expropriation Act   | Act 63 of 1975  |
| Arbitration Act   | Act 42 of 1965  |
| Public Audit Act  | Act 25 of 2004  |
| National Road Traffic Act   | Act 93 of 1996  |
| Housing Act   | Act 107 of 1997 |
| Prevention of Illegal Eviction from and Unlawful Occupation of Land Act | Act 19 of 1998  |

The municipality's functions is to carry out its constitutional mandate, by striving within its financial and administrative capacity to achieve the objects of local government, viz:

- to provide democratic and accountable government for local communities;
- to ensure the provision of services to communities in a sustainable manner;
- to promote social and economic development;
- to promote a safe and healthy environment; and
- to encourage the involvement of communities and community organisations in the matters of local government.

In terms of the aforesaid statutes the powers and functions of Knysna Municipality includes, *inter alia*:

- a) solid waste disposal sites;
- b) promotion of local tourism;
- c) ensuring integrated development planning;
- d) provision of portable water supply systems;
- e) the establishment, conduct and control of cemeteries;
- f) provision of bulk sewage purification works and main sewage disposal systems;
- g) provision of municipal public works relating to any of above functions or any other functions assigned to the municipality;
- h) the receipt, allocation and distribution of grants made to the municipality;
- i) the imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned in terms of national legislation; and
- j) bulk supply of electricity, which includes for the purposes of such supply, the transmission, distribution and the generation of electricity.



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### 4. CONTACT DETAILS OF MUNICIPALITY

Knysna Municipality

**Physical Address:**

5 Clyde Street  
Knysna  
6570

**Postal Address:**

PO Box 21  
Knysna  
6570

**Telephone Number:**

044 302 6300

**Fax Number:**

044 302 6333

**Website Address:**

[www.knysna.gov.za](http://www.knysna.gov.za)

**Email Address:**

[knysna@knysna.gov.za](mailto:knysna@knysna.gov.za)

### 5. CONTACT DETAILS OF INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER

**INFORMATION OFFICER:**

Name & Designation: Johnny Brown Douglas – Acting Municipal Manager

Postal Address: PO Box 21, Knysna, 6570

Physical Address: 5 Clyde Street, Knysna, 6570

Telephone Number: 044 302 6300

Email address: [mm@knysna.gov.za](mailto:mm@knysna.gov.za)

**DEPUTY INFORMATION OFFICER**

Name & Designation: VACANT – Director: Corporate Services

Postal Address: PO Box 21, Knysna, 6570

Physical Address: Clyde Street 3, Knysna, 6570

Telephone Number: 044 302 6300

Email address: [knysna@knysna.gov.za](mailto:knysna@knysna.gov.za)

### 6. THE HUMAN RIGHTS COMMISSION GUIDE

A Guide has been compiled by the Human Rights Commission in terms of Section 10 of the Act, which contains information required by a person wishing to exercise any right, contemplated by the Act. The Guide is available in all of the official languages from the



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PAIA Unit of the Human Rights Commission, who may be contacted at:

**Physical Address:**

29 Princess of Wales Terrace  
Cnr of York and St Andrews Street, Parktown

**Postal Address:**

Private Bag 2700  
Houghton  
2041

**Telephone:** +27 11 484 8300 **Fax:** +27 11 484 1360

**Website:** [www.sahrc.org.za](http://www.sahrc.org.za) **E-mail:** [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

### 7. DESCRIPTION OF SUBJECTS AND CATEGORIES OF RECORDS HELD

"Records" of the municipality refer to those records created or received in the course of official business and which are kept as evidence of the Municipality's functions, activities and transactions.

There are different forms of records, for example **correspondence files, maps, plans, registers, agendas and minutes, by-laws and tariffs, policy documents, etc.**, which could be available in different media formats, i.e. paper or electronic. **Annexure "A"** gives a description of the subjects on which the Municipality holds records, as well as the categories held on each subject.

### 8. RECORDS HELD AND ACCESS TO RECORDS HELD

The method of managing records in the Municipality is in accordance with provincial archive requirements. It should be noted that inclusion in the following list of records does not mean that the files or records are necessarily accessible under the Promotion of Access to Information Act. The Act prohibits a public body from allowing access, and/or allows the public body to refuse access, to certain types of information. Chapter 4 of the Act deals with the grounds for refusal of access to records.

#### INFORMATION TO BE FORMALLY REQUESTED IN TERMS OF THE ACT INCLUDES INTER ALIA:

- Tenders;
- Cheque returns;
- Salary Advices;
- UIF Returns;
- Annual financial reports;
- Management reports;
- Financial Records;
- Employees' Leave Records;
- Internal Policies and Procedures;
- Council minutes and agendas;
- Correspondence on General Files;
- Documentation on disciplinary matters;
- Internal correspondence Statutory Documents;
- Documentations on Policies and Conditions of Employment;
- Records obtained from third parties held by the Municipality;
- Various agreements entered into between the Municipality and third parties;



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- Documents pertaining to tenders and other procurement related matters;
- Minutes of the Municipality and its various committees and sub-committees;
- Data base of service recipients, including but not limited to residents, customers, suppliers, etc.;

### 9. VOLUNTARY DISCLOSURE AND AUTOMATIC AVAILABILITY OF CERTAIN RECORDS (SECTION 15)

The records as set out in **Annexure "B"** are automatically available without a person having to request access in terms of the Act, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4) Of the Act.

All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction.

Where a request for information cannot be met a requester shall be:

- Informed of his/her right to make a formal application under the Act.
- Informed of the fact that certain types of requests for information may be refused.
- Informed of his/her right to appeal if a request is initially refused.

### 10. REQUEST FOR ACCESS (SECTION 11)

#### Access given

When a record/information is requested in terms of the Act, the requester must be given access thereto, if the requester complies with the following:

*"All the procedural requirements in the Act, relating to the request for access to a record; and Access to the record is not refused on any ground of refusal mentioned in the Act."*

#### Form of Request (Section 18(1))

Access to information which is not automatically available must be requested in writing on the prescribed form (Form A), attached hereto as **Annexure "C"** and be forwarded to the Information Officer or Deputy Information Officer.

#### The application form must be accompanied by the prescribed request fee.

The application should clearly state what information is required and if the request is for a copy of a record, or whether the requester would like to view the record at the office of the municipality.

If a person asks for access in a particular form, the requester would be given access in the manner that has been asked for, unless doing so would interfere unreasonably with the running of the municipality or would damage its records or infringe a copyright not owned by the municipality.

If the requester wishes to be informed of the decision regarding the request in any other manner, e.g. telephonically, by fax or e-mail, in addition to a written reply, it must be indicated as such. In cases where the requester is asking for information on behalf of somebody else, the capacity in which the request is being made should be indicated and proof hereof provided. When a requester is unable to read or write or has a disability, the request can be made orally, in which event the Information Officer or Deputy Information Officer will complete the form on behalf of the requester.





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If for practical reasons access cannot be given in the requested manner but in an alternative manner, then the fee for access will be calculated according to the manner that the requester had requested.

The Information Officer or Deputy Information Officer will render such reasonable assistance, free of charge, as is necessary to enable that requester to comply with section 18(1).

If a requester has made a request for access that does not comply with section 18(1), the Information Officer/Deputy Information Officer concerned may refuse the request if he/she has:

Notified the requester of an intention to refuse the request and stated in the notice:

- The reasons for the contemplated refusal and that the Information Officer/Deputy Information Officer, or another official, would assist that requester in order to make the request in a form that would remove the grounds for refusal, giving the requester a reasonable opportunity to seek such assistance as far as reasonably possible, furnished the requester with any information that would assist the making of the request in that form; and given the requester a reasonable opportunity to confirm the request or alter it to comply with section 18(1).

### Transfer of requests (section 20)

If a request for access is made for information which is not in the possession of the Municipality, or if the information is more closely connected to another public body, the Information Officer/Deputy Information Officer will assist the requester to make the request to the relevant Information Officer of the other body, or transfer the request to the other body within 14 (fourteen) days after the request has been received.

### Fees payable (Section 22)

In terms of the Act, two types of fees are required to be paid, namely the **request fee** and the **access fee**.

A requester who seeks access to a record containing personal information about him or herself, the requester, is not required to pay the request fee. Every other requester must pay the relevant request fee.

The Information Officer/Deputy Information Officer will notify the requester to pay the prescribed fee, if any, before further processing the request. The prescribed request fee payable is set out in **Annexure "D"**. The requester may also be notified to pay a deposit under certain circumstances.

The requester may lodge an internal appeal or an application to the court against the payment of the request fee. Certain persons, as set out in **Annexure "E"**, are exempted from paying access fees.

### RECORDS NOT FOUND/NON-EXISTING (SECTION 23)

In cases where records cannot be found or do not exist and all reasonable steps have been taken to find the requested record, the Information Officer/Deputy Information Officer will by means of an affidavit/affirmation, inform the requester accordingly, giving full reasons.



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### DEFERRAL OF ACCESS (SECTION 24)

Requests may be deferred until information becomes available. The requester will be notified accordingly and requested to make representations within 30 (thirty) days as to why the information is required prior to it becoming public.

### DECISIONS AND NOTICE (SECTION 25)

The municipality will respond to the request within 30 (thirty) calendar days, unless the request contains considerations that are of such a nature that an extension of the 30 day time limit is necessitated. Where an extension of the 30 day time limit is required, the requester shall be notified accordingly, together with an explanation why such extension was necessitated. The time limit may be extended only once, for a further period of 30 days (Section 26).

If the Information Officer/Deputy Information Officer fails to give the decision on a request for access to the requester within the periods as set out here above, the Information Officer/Deputy Information Officer is regarded as having refused the request (Section 27).

If the request is granted, a further access fee as set out in **Annexure "D"** must be paid for the search, preparation and reproduction of the record, where applicable. The requester will be given the required information, if available, within a reasonable time after receipt of the application form and prescribed fee.

### LANGUAGE OF ACCESS (SECTION 31)

The record will be made available in the language preferred by the requester, if it exists in that language, or, if it does not exist in that language or the requester has no preference or has not indicated a preference, in any language it exists in.

## 11. REFUSAL OF ACCESS TO CERTAIN RECORDS

As indicated here above, the right of access to information is subject to justifiable limitations, including but not limited to limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance and in a manner which balances that right with any other right, including the Bill of Rights in Chapter 2 of the Constitution.

Section 9 (b)(ii) recognises that the right to access to information must be given effect to in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution. The Information Officer/Deputy Information Officer may refuse access to certain records under the circumstances as provided for in sections 33 to 46 in Chapter 4 of the Act (See **Annexure "F"**).

### KNYSNA MUNICIPALITY MAY REFUSE TO GRANT ACCESS TO RECORDS ON THE FOLLOWING GROUNDS:

- Mandatory protection of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of the commercial information of a third party, if the record contains :

→ Trade secrets of that third party;



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- Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- Information disclosed in confidence by a third party to Knysna Municipality if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- Mandatory protection of the safety of individuals, and protection of property;
- Mandatory protection of records which would be regarded as privileged in legal proceedings;
- The commercial activities of Knysna Municipality, which may include :
  - trade secrets of Knysna Municipality;
  - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Knysna Municipality;
  - Information which, if disclosed could put Knysna Municipality at a disadvantage in negotiations or commercial competition;
  - A computer programme which is owned by Knysna Municipality and which is protected by copyright;
  - The research information of Knysna Municipality or a third party, if its disclosure would disclose the identity of Knysna Municipality, the researched or the subject matter of the research and would place the research at a serious disadvantage.
- Request for information that are clearly frivolous, or vexatious, or which involve an unreasonable diversion of resources in terms of section 45 of the Act.

### THIRD PARTY NOTIFICATION AND INTERVENTION (CHAPTER 5)

#### Notice to third parties (Section 47)

The Information Officer/Deputy Information Officer considering a request for access to a record of a third party must take all reasonable steps to inform a third party to whom or which the record relates of the request as soon as reasonably possible, but in any event, within 21 days after the request is received, by the fastest means reasonably possible. The third party may, within 21 days after being so informed, make written or oral representations to the Information Officer/Deputy Information Officer why the request should be refused or may give written consent for the disclosure of the record to the requester.

#### Decision on representations by third parties (section 49)

The information officer must, within 30 days, decide whether to grant the request for access and notify the third party accordingly. If the request for access is granted, the notice must state:

- a. Adequate reasons for granting the request, including the provisions of this Act relied upon;
- b. that the third party may lodge an internal appeal or an application, as the case may be, against the decision within 30 days after notice is given, and the procedure for lodging the internal appeal or application;
- c. that the requester will be given access to the record after expiry of the applicable period; and
- d. Unless such internal appeal or application with a court is lodged within that period.



## Promotion of Access to Information Manual

### 12. INTERNAL APPEALS AGAINST DECISIONS OF INFORMATION OFFICERS (PART 4 OF THE ACT)

#### Right of internal appeal (section 74)

A requester may lodge an internal appeal with the municipality against a decision of the Information Officer or Deputy Information Officer, if:

- A request for access is refused;
- The fees charged are unacceptable;
- The period within which a decision with regard to access to a record must be made, is extended;
- Access to a record is not provided in the requested form; and
- A third party may lodge an internal appeal with the municipality against a decision by the Information Officer, Deputy Information Officer to disclose information relating to a third party.

#### Appeal procedure and fees (section 75)

An internal appeal must be lodged on the prescribed form (**Form B**), which is attached as **Annexure "G"**, within the following periods:

- A period of 60 (sixty) days;
- If notice to a third party is required i.t.o. Section 49 (1) (b), within 30 (thirty) days after notice is given to the appellant of the decision appealed against or, if notice to the appellant is not required, after the decision was taken.

#### The internal appeal

An internal appeal must:

- be delivered, posted, faxed or sent electronically to the Information Officer or Deputy Information Officer;
- state the manner in which the applicant wishes to be informed of the decision on the internal appeal, in addition to a written reply;
- identify the subject of the internal appeal and give reasons for the appeal;
- if applicable, be accompanied by the prescribed appeal fee(s); and
- specify a postal address, fax number or e-mail address.

The Information Officer or Deputy Information Officer must, within ten (10) working days after the receipt of an internal appeal, submit it, together with his/her reasons for the decision, to the Relevant Authority, namely the Speaker or any other person designated by the Municipal Council in writing, for consideration.

If an internal appeal is considered against the refusal of a request for access to a record of a third party, the third party to whom or which the record relates, must be informed of the internal appeal and he/she may, within 21 days after being so informed, make written representations why the request for access should not be granted or give written consent for the disclosure of the record to the requester concerned. Late appeals may be allowed, if good cause can be shown.



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### Decision on internal appeal and notice thereof (section 77)

When deciding on the internal appeal the Relevant Authority may confirm the decision appealed against or substitute a new decision for it, within 30 days after the internal appeal is received by the Information Officer/Deputy Information Officer.

The Relevant Authority will immediately after the decision on an internal appeal give notice of the decision to the appellant and any relevant third party, state adequate reasons for the decision, and that the appellant, third party or requester, as the case may be, may lodge an application with a court against the decision on internal appeal within 60 days; or, if notice to a third party is required, within 30 days after notice is given, and also state the procedure for lodging the application.

If the Relevant Authority fails to give notice of the decision on an internal appeal to the appellant within the periods indicated here above, it is regarded as having dismissed the internal appeal.

### APPLICATIONS TO COURT (PART 4, CHAPTER 2 OF THE ACT)

A requester or third party may make an application to a Court regarding the decisions of the Information Officer/Deputy Information Officer, but only after the internal appeal process has been exhausted. A requester may make an application to a Court, if he/she is:

- Aggrieved by the decision of the Information Officer or Deputy Information Officer to disallow the late lodging of an internal appeal;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer of a public body, other than the Information Officer of a national department, provincial administration or municipality to refuse a request for access;
- Aggrieved by the decision of an Information Officer or Deputy Information Officer relating to fees required to be paid, the extension of the period within which to deal with the request or the form of access in which the information will be furnished.
- Apply to a Court by way of an application for appropriate relief i.t.o. Section 82, within 30 days.

### 13. ARRANGEMENT ALLOWING FOR PUBLIC PARTICIPATION (SECTION 14(1) (G))

Section 14(1)(a) of the Act requires the municipality to make arrangements or provisions for a person, by consultation, to make representations to participate in or influence the formulation of policy or the exercise of powers or performance of duties by the municipality.

Public participation in a local government context is governed by the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) and the Municipal Structures Act, (Act 117 of 1998). The purpose of the public participation process is to ensure that the Municipality, as well as the broader community, co-owns the public participation process and the end product.

The municipality seeks actively to facilitate the engagement of the community in its planning and policy making processes, through public hearings and ward based public meetings in the annual review of its Integrated Development Plan (IDP). This is also used as an opportunity to provide feedback on the performance levels achieved by the municipality. A municipal unit has been formed to concentrate on involving the community public processes and planning, such as the finalisation of the annual budget and the annual IDP review.



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**The municipality may use any of the following methods to engage in public participation:**

- Distribution of documents in public places for comment;
- Surveys;
- Newspaper advertisements;
- Formal public hearings;
- Public meetings; and
- Development of a public participation structure.

### **OTHER INFORMATION AS PRESCRIBED IN TERMS OF SECTION 14(1) (I)**

There is currently no information available from the Minister of Justice and Constitutional Development, in terms of Section 92, to be placed here.



## Promotion of Access to Information Manual

### ANNEXURE "A"

#### SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE MUNICIPALITY

(These records are available subject to a person having to request access in terms of the Act and subject to such information not being excluded from disclosure in terms of the Act)

##### **Infrastructure**

Electricity distribution layouts  
Geographical information systems  
Landfill sites - future and existing  
Road maps and plans for future road developments

##### **Financial Information**

Tariffs  
Subsidy income  
Estimates  
VAT records  
Invoices and supporting documentation  
Bank statements and records of investments held (if any)  
Pension Funds: annual reports and financial statements  
Debtors' statements and financial history  
Council bank reconciliations  
Details of payments made to creditors  
Rentals levied and arrears in situation  
allowance details

##### **Human Resource Records**

UIF records  
Leave records  
Human resource policies and procedures  
Salary and remuneration package details  
Medical records of patients, i.e. employees  
Health: training, promotion and education  
Staff vacancies, circulars and advertisements

##### **Operational Statistics and Records**

Statistical information  
Town planning statistical information  
Electricity disconnection/reconnection statistics  
Strategic plans and statistical information relating to:

Roads  
Control lines  
Drainage plans  
Details of evictions  
Monthly statistics  
Architectural services  
Environment matters  
Traffic and transportation  
Stormwater engineering  
Libraries - archival collection  
Stormwater complaints database  
Operational emergency procedures  
Legal opinions and litigation files  
Clinics - statistical information  
Catchment management plans

##### **Property matters**

Building plans  
Valuation rolls  
Geographical information  
Title deeds of municipal properties  
Town planning enforcement records  
Information on Council-owned land  
Title deeds of municipal properties  
Property holdings of the municipality  
Applications to lease or purchase property  
Town planning applications and consents  
Lease agreements for properties rented by the municipality (if any)  
Lease agreements for properties rented to the municipality (if any)  
Agreements of properties alienated by the Municipality  
Sale agreements of properties acquired by the Municipality  
Applications of property for municipal usage, including expropriations  
Allocations of social sites to religious/institutional organizations  
Information on sale of commercial/non-commercial property within the municipal area  
Property holdings within the municipal area

##### **General statistics, surveys and audits**

Environmental impact assessments  
Demographic data  
Social information  
Economic information of the region  
Accident records  
Accident statistics and reports  
Major hazard installation and risk assessments  
Diseases  
Details of current housing - owners/tenants  
Occupational Health and Safety Audit of municipal buildings  
Fire risk survey of municipal buildings  
Occupational hygiene on municipal properties  
Records of investigations conducted and their outcomes  
Water quality  
Audit reports i.e. forensic, computer and risk audit



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|   |   |
|---|---|
| <p>Contingency and strategic emergency plans<br/>         Housing - backlog situation and future plans<br/>         Fines - processing details, i.e. fines, summonses, court rolls, etc.</p> <p><b><u>Motor vehicle testing and license records</u></b></p> <p>Contraventions and prosecutions<br/>         Accident records<br/>         Arrest reports/records<br/>         Solid waste tonnage collection<br/>         Water consumption records<br/>         Water services disconnection and reconnection details<br/>         Electricity supply details</p> <p><b><u>Municipal Services and Customer Records</u></b></p> <p>Library membership details<br/>         Customers' application, registration and consumption details</p> | <p><b><u>Municipal Plans and Policy Decisions</u></b></p> <p>Legislation affecting Local Government, including by-laws<br/>         Health policy issues</p> <p><b><u>Procurement Records</u></b></p> <p>Details of quotations obtained<br/>         Copies of tenders advertised and awarded<br/>         Database of suppliers' registration for tendering purposes<br/>         Details of tenders\contracts awarded<br/>         Standards of performance of security tenders</p> |
|---|---|





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### ANNEXURE "B"

#### **SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE MUNICIPALITY WHICH ARE AVAILABLE WITHOUT REQUEST FEE**

*(The records as set out here are automatically available without a person having to request access in terms of the Act, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4) of the Act.]. All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction.)*

- Debtor's account
- Town Planning schemes
- News Letter
- Brochures
- Policies
- All information as freely available on our website: [www.knysna.gov.za](http://www.knysna.gov.za)

These records can be accessed in the following manner:

- e-mail;
- fax;
- letter.

Additionally, we are required to ensure that certain records are available, in terms of the following Acts:

- The Occupational Health and Safety Act No. 85 of 1993;
- The Value-Added Tax Act No. 89 of 1991;
- Income Tax Act No. 58 of 1962;
- Basic Conditions of Employment Act No. 75 of 1997;
- Employment Equity Act No. 55 of 1998;
- Labour Relations Act No. 66 of 1995;
- The Medical Schemes Act No. 131 of 1998;
- The Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
- The Health Act No. 63 of 1977;
- Consumer Affairs (Unfair business practices Act), 71 of 1988;
- Customs and Excise Amendment Act, 45 of 1995;
- South African Revenue Services Act, 34 of 1997;
- The Constitution of the Republic of South Africa No. 108 of 1996;
- Environmental Conservation Act 107 of 1998;
- Northern Cape Development and Planning Act No 7 of 1998;
- Regional Services Council Act, No 109 of 1985;
- Division of Revenue Act, No 7 of 2003;
- Statistics Act, No 6 of 1999;
- Local Government: Municipal Demarcation Act, No 27 of 1998;
- Local Government: Municipal Structures Act, No 117 of 1998;
- Local Government: Municipal Systems Act, No 32 of 2000;
- National Water Act, No 36 of 1998;
- Electricity Act, No 41 of 1987.

Notification of the availability of records that can be accessed without a request, and records that are available in terms of the Acts listed above, is periodically (i.e. at least once annually) given to the Cabinet Minister of Justice.



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**ANNEXURE "C" – PRESCRIBED FORM A**

**STANDARD FORM TO BE COMPLETED  
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY  
(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)  
[Regulation 6]**

**REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY**



**(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000))  
[Regulation 2]**

**FOR DEPARTMENTAL USE**

Reference Number:.....

Request received by .....(state rank, name and surname of IO/ DI) on  
.....(date) at .....(place)

Access fee : .....

Deposit (if any) : .....

Request fee (if any) : .....

.....

**SIGNATURE OF IO / DIO**

**A. Particulars of public body**

The Information Officer / Deputy Information Officer:

.....  
.....  
.....

**B. Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be recorded below.
- (b) Furnish an address and/or fax number in the Republic to which information must be sent.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.



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Full Names and Surname: .....

Identity Number: .....

Postal Address: .....

.....

.....

Contact Number: ..... Email Address: .....

Fax Number: .....

Capacity in which request is made, when made on behalf of another:

.....

.....

C. Particulars of person on whose behalf request is made

This section must be completed only if a request for information is made on behalf of another person

Full Names and Surname: .....

Identity Number: .....

D. Particulars of Record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located
(b) If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

.....
.....
.....
.....

2. Reference number, if available: .....

3. Any further particulars of record: .....

E. FEES

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
(b) You will be notified of the amount required to be paid as the request fee.
(c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
(d) If you qualify for exemption of the payment of any fee, please state the reason therefore.

Reason for exemption from payment of fees:

.....

.....



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**F. Form of access to record**

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

|                   |   |
|-------------------|---|
| Disability: ..... | Form in which record is required: ..... |
| .....             | .....                                   |
| .....             | .....                                   |
| .....             | .....                                   |

Mark the appropriate box with an "X".

**NOTES:**

- (a) Your indication as to the required form of access depends on the form in which the record is available
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form -

|   |   |
|---|---|
| <input type="checkbox"/> copy of record | <input type="checkbox"/> inspection of record |
|---|---|

2. If record consists of visual images –  
(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

|  |   |  |
|--|---|--|
| <input type="checkbox"/> View the images | <input type="checkbox"/> Copy of the images | <input type="checkbox"/> Transcription of the images |
|--|---|--|

3. If the record consists of recorded words or information which can be reproduced in sound.

|   |   |
|---|---|
| <input type="checkbox"/> Listen to the soundtrack<br>(audio cassette) | <input type="checkbox"/> Transcription of soundtrack<br>(written or printed document) |
|---|---|

4. If record is held on computer or in an electronic or machine-readable form -

|   |  |  |
|---|--|--|
| <input type="checkbox"/> Printed copy of record | <input type="checkbox"/> Printed copy of information derived from the record | <input type="checkbox"/> Copy in computer readable form (stiffy or compact disc) |
|---|--|--|

\* If requested a copy or transcription or a record (above), do you wish the copy or transcription to be posted to you?

|                                 |                              |                             |
|---------------------------------|------------------------------|-----------------------------|
| <b>A postal fee is payable.</b> | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
|---------------------------------|------------------------------|-----------------------------|

Note that if the record is not available in the language you prefer, access may be granted in the language in



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which the record is available.

In which language would you prefer the record? .....

G. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....  
.....

SIGNED AT ..... THIS ..... DAY OF ..... 20.....

.....

Signature of requester / person on whose behalf request is made



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#### ANNEXURE "D" – TARIFF STRUCTURE & FEES PAYABLE

The Act provides for two types of fees:

- a) a request fee, which is a standard fee; and
- b) an access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost as well as postal costs.

Before any request is processed, the requester is expected to pay an amount of **R 150.00**.

| Description of Record  | Fees    |
|--|---------|
| Compact disk   | R 40-00 |
| For a transcription of visual images<br>For an A4-size page or part thereof  | R 22-00 |
| For a copy of visual images  | R 60-00 |
| For a transcription of an audio record<br>For an A4- size page or part thereof   | R 12-00 |
| For a copy of an audio record  | R 17-00 |
| Request fee payable by a requested, other than a personal requester, referred to in Regulation 7(2)  | R 35-00 |
| The access fee payable by a requester referred to in Regulation 7(3) are as follows:   |         |
| For every photocopy of an A4- size page or part thereof  | R 6-00  |
| For every printed copy of an A4-size page or part thereof held on a computer or electronic or machine-readable form  | R 6-00  |
| For a copy in a computer – readable form on Compact disc   | R 40-00 |
| For a transcription of visual images, for an A4-size page or part thereof  | R 22-00 |
| For a copy of visual images  | R 60-00 |
| For a transcription of audio record, for an A4-size page or part thereof   | R 12-00 |
| For a copy of an audio record  | R 17-00 |
| To search and prepare a record for disclosure, for each hour or part of an hour, excluding the first hour, reasonable required for such search and preparation | R 15-00 |
| Appeal fee is payable when an internal appeal is lodged  | R 50-00 |
| A deposit is required if it is expected that the search will exceed six hours, one third of the access fee is payable by the requester as a deposit.           |         |
| Postage is payable by the requester when a copy of the record must be posted to the requester  |         |

- The Information Officer or his or her Deputy may also wish to charge the requester Access Fees for any time reasonable required in excess of the prescribed hours to search for and prepare the record for disclosure.
- The Information officer or his or her deputy may withhold a record until the requester has paid the require Request and/or Access fees.
- if the search and preparation for the record(s) concerned would, in the opinion of the Information Officer or the Deputy Information Officer, require more than the hours prescribed for this purpose, the Information Officer or his or her Deputy by way of notice must ask the requester to deposit the prescribed portion (no more than 1/3) of the Access Fee which would be payable if the request is granted.
- This money must be refunded to the Requester if the PAIA request is refused.
- The actual postal fee is payable when a copy of a record must be posted to a requester.

NB: Fees are subject to change by way of official Government Notice issued in the Government Gazette



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**ANNEXURE "E" – PERSONS EXEMPTED FROM PAYING THE FEES FOR REQUESTED INFORMATION**

|            |                    |
|------------|--------------------|
| Database   | Government Gazette |
| Gazette No | 28107              |
| Notice No  | 991                |
| Regulation | 8325               |
| Gazette    | GOV                |
| Date       | 20051014           |

**GOVERNMENT NOTICE**

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R.991

14 OCTOBER 2005

I, Bridgette Sylvia Mabandla, Minister for Justice and Constitutional Development, acting under section 22(8) of the promotion of Access to information Act, 2000 (Act No. 2 of 2000) hereby –

- a) exempt the following person from paying the access fee contemplated in section 22(6) of the Act:
- i) a single person whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R 14 714.00 per annum; and
  - ii) married persons or a person and his or her life partner whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R 27 132.00 per annum and
- b) determined that:
- i) where the cost of collecting any fee contemplate in section 22 of the Act, exceeds the amount charged, such fee does not apply;
  - ii) the access fee contemplated in section 22(6) of the Act does not apply to the personal record of a requester; and
  - iii) the request fee contemplated in section 22(1) of the Act and the access fee contemplated in section 22(6) of the Act do not apply to a record requested by a maintenance investigation or inquiry in terms of the provisions of the Maintenance Act, 1998 (Act No. 99 of 1998) or the regulations made under section 44 of that Act.

**SCHEDULE**

1. For purposes of paragraph (a)(i) and (ii) of the notice the following deductions are permissible:
- a) employees' tax in terms of paragraph 2 of Part II of the Fourth Schedule of the Income Tax Act, 1962 (Act No. 58 of 1962);
  - b) contributions in terms of section 5 of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002);
  - c) compulsory contributions to a Group Insurance Fund in terms of a court order or in terms of a contract between an employee and his or her employee;
  - d) contributions to any medical scheme registered under the provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998), and allowed to be deducted in terms of section 18(1) (a) of the Income Tax Act, 1962 (Act No. 58 of 1962);
  - e) contributions to pension funds in terms of section 13A of the Pension Funds Act, 1958 (Act No. 24 of 1958);
  - f) rent or mortgage instalments to the maximum of R 12 000.00 per annum;
  - g) maintenance paid in terms of a court order; and
  - h) school fees, except school fees paid to a private school.

B.S MABANDLA, MP  
Minister for Justice and Constitutional Development



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### ANNEXURE "F" - REFUSAL OF CERTAIN RECORDS

#### RECORDS THAT MAY BE REFUSED ACCESS TO

Section 9 (b)(ii) of the Act recognises that the right to access to information must be given effect to in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution. The Information Officer/Deputy Information Officer may refuse access to certain records under the circumstances as provided for in sections 33 to 46 in Chapter 4 of the Act.

#### Access must be refused in the following circumstances:

- Protecting commercial information that we hold about a third party (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of a third party);
- Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of a third party;
- Disclosure of the information about a third party, supplied in confidence, will put third Party at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If disclosure would result in a breach of a duty of confidence owed to a third party's terms of an agreement;
  - If disclosure would jeopardize the safety or life of an individual;
  - If access to the record is prohibited in terms of Section 60(14) of the Criminal Procedure Act No. 51 of 1977;
  - The record is privileged from production in legal proceedings unless the privilege has been waived;
  - Records containing information about research being carried out or about to be carried out on behalf of a third party and the disclosure is likely to expose the third party, a person that will be carrying on the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

#### Access may be refused in the following circumstances:

- If the record consists of information that was supplied in confidence by a third person and disclosure could reasonably be expected to prejudice the future supply of similar information, or information from the same source and it is in the public interest that similar information, or information from the same source, should continue to be supplied;
- If disclosure would prejudice or impair the security of a building, structure or system or Means of transport or any other property;
- If the record contains methods, techniques, guideline or procedures for the prevention detection, limitation or investigation of a contravention or possible contravention of a law or the prosecution of alleged offenders;
- If the disclosure could jeopardize the economic interests or financial welfare of the Republic or the ability of Government to manage the economic affairs of the Republic;
- If the record contains financial, commercial, scientific or technical information that may harm the commercial or financial interests of the public body;
- Disclosure would reasonably expect that it would put a public body at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If the record is a computer programme;





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- Records containing information about research being carried out or about to be carried out on behalf of the public body and the disclosure is likely to expose the public body, a person that will be carrying on the research on behalf of the public body, or the subject matter of the research to serious disadvantage;
- If the records contains an opinion, advice, report or recommendation obtained or prepared, an account of a consultation, discussion or deliberation that has occurred (including minutes of meetings) for the purpose or formulating a decision or making a policy or disclosure would frustrate the deliberative process;
- Disclosure could jeopardize the effectiveness of testing, examining or auditing procedures or methods used by the body;
- The record contains evaluative material and disclosure would breach an implied promise made to the person who gave it regarding his or her identity or the content of the material;
- The record contains preliminary, working or draft material;
- If the request is manifestly frivolous or vexatious or the work required to process; and
- Request would unreasonably divert the resources of the public body.



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ANNEXURE "G" – INTERNAL APPEAL FORM – FORM B



FORM B
NOTICE OF INTERNAL APPEAL
(Section 75 of the Promotion to Access to information Act, 2000 [Act No. 2 of 2000])
[Regulation 8]

STATE YOUR REFERENCE NUMBER.....

A. Particulars of public body

The Information Officer/deputy Information Officer:

Mr GE Easton
Municipal Manager/Information Officer
Knysna Municipality
PO Box 21
Knysna
6570

Tel. No.: 044 302 6300
Fax No.: 044 302 6333
Email: knysna@knysna.gov.za

B. Particulars of requester/third party who lodges the internal appeal

- a) The particulars of the person who is lodging the internal appeal must be given below.
b) Proof of the capacity in which appeal is lodged, if applicable, must be attached.
c) If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.

Full names and surname: .....
Identity Number: .....
Postal Address: .....
Telephone Number: .....
Email Address: .....
Capacity in which an internal appeal on behalf of another person is lodged:
.....

C. Particulars of requester

This section must be completed ONLY if a third party (another than the requester lodges the internal appeal

Full names and surname: .....
Identity Number: .....



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D. The decision against which the internal appeal is lodged

Mark the decision against which the internal appeal is lodged with an X in the appropriate box:

Table with 2 columns: Decision description, and a box for marking (X). Rows include: Refusal of request for access, Decision regarding fees prescribed in terms of section 22 of the Act, Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act, Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester, Decision to grant request for access.

E. Grounds for appeal

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:

.....  
.....  
.....  
.....  
.....

State any other information that may be relevant in considering the appeal:

.....  
.....  
.....  
.....  
.....

F. Notice of decision on appeal

You will be notified in writing of the decision on your internal appeal. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

State the manner: .....

Particulars of manner: .....

Signed at .....this day ..... of .....year.....

.....  
**SIGNATURE OF APPELLANT**



Promotion of Access to Information Manual

**FOR DEPARTMENTAL USE:**

**OFFICIAL RECORD OF INTERNAL APPEAL**

Appeal received on .....(Date)  
 By.....(State rank, name and surname of IO/DIO)

Appeal accompanied by the reasons for the Information officer's/Deputy Information Officer's decision, and where applicable, the particulars of any third party to whom or which the record relates, submitted by the Information officer/deputy Information Officer on .....  
 (date) to the relevant appeal authority,

**OUTCOME OF APPEAL:**  
 .....

**DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER  
 CONFIRMED/NEW DECISION SUBSTITUTED**

NEW DECISION:  
 .....

DATE: .....  
 RELEVANT APPEAL AUTHORITY: .....

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER FROM THE  
 RELEVANT AUTHORITY ON ..... (Date)