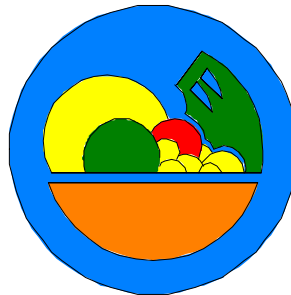


Umnotho Development

**RULES OF
ORDER
&
PROBITY
BY-LAW**

v June 2004



**Greater Tzaneen
Municipality**

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BY-LAW

To provide for the convening and conduct of council and committee meetings; to provide for order, voting procedures and reports to meetings; to provide for the attendance of the public at council and committee meetings; to provide for probity by councillors; and to provide for further matters incidental thereto.

CHAPTER 1 DEFINITIONS

Definitions

1.1 In this by-law, unless the context indicates otherwise –

“**Code of Conduct**” means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act.;

“**Committees**” means the Executive Committee and Committees established by the Council;

“**Council**” means the Municipal Council of the Greater Tzaneen Local Municipality;

“**Councillor**” means the same as “Member”;

“**Executive Committee**” means the Executive Committee of the Council elected in terms of section 43 of the Structures Act or as reconstituted in terms of sections 29(3) or 53 of the Structures Act.

“**Structures Act**” means the Local Government: Municipal Structures Act 117 of 1998, as amended;

“**Meeting**” means a meeting of the Council or of a committee of the Council;

“**MEC**” means the Member of the Executive Council responsible for Local Government in the Limpopo Province.

“**Member**” means an elected member of the Council;

“**Municipal Manager**” means a person appointed in terms of Section 82 of the Structures Act;

“**Ordinary Meeting**” means a meeting that is not a Special Meeting or an Urgent meeting;

“**Speaker**” means the member elected as chairperson of the Council in terms of section 36 of the Structures Act or any member elected as acting Speaker of the Council.

“**Special Meeting**” means a meeting referred to in section 2(1);

“**Systems Act**” means the Local Government: Municipal Systems Act No 32 of 2000.

“**Structures Act**” means the Local Government Municipal Structures Act No 117 of 1998.

“**Urgent Meeting**” means a meeting referred to in sections 2(2) or 2(3).

1.2 Any word or phrase in this by-law, other than a word or phrase defined in subsection 1, shall unless the context clearly indicates otherwise, bear the meaning of that word or phrase in the Structures Act or the Systems Act.

1.3 A word indicating the singular will include the plural.

CHAPTER 2 CONVENING OF COUNCIL MEETINGS

2. Special and Urgent Meetings

The Speaker must convene:

- 2.1 A Special Meeting of the Council, when requested thereto in terms of section 29(1) of the Structures Act or required thereto in terms of section 29(3) of the Structures Act;
- 2.2 An Urgent Meeting of the Council when requested to do so by the Municipal Manager or the Mayor, if such Urgent Meeting is required to deal with a matter which, if not dealt with as soon as practical possible, will or may cause substantial harm or detriment to the Municipality, any person, any property or cultural or economic interest of any person;
- 2.3 An Urgent Meeting in the event of a local disaster to deal with any such matter in relation to or prescribed in the Disaster Management Act, Act no 57 of 2002, and;
- 2.4 A Special Meeting or an Urgent Meeting may take place at the same time with an Ordinary Meeting.

3. Notice of Council meetings

- 3.1 The Speaker must determine the date, time and venue of all meetings of the council, and must ensure that an Ordinary Meeting takes place at least once every quarter.
- 3.2 The Municipal Manager must, subject to subsection 3.3, give at least seventy-two (72) hours' notice of such meetings to councillors, save when the Council meets to consider by-laws or the approval of the annual budget, in which event the Municipal Manager must give at least five (5) working days' notice of the

meeting.

- 3.3 In the case of any Urgent Meeting, the Municipal Manager must give the councillors notice as long in advance as he or she is practically able to do in the circumstances.
- 3.4 The Municipal Manager must give notice of meetings of the Council, which must specify the place, time and date of the meeting and Agenda for the meeting, in the following manner:
- (a) Delivering such notice at the place of residence of every member or at any other place within the municipality, indicated in writing by the member;
 - (b) Placing such notice in the shelf compartment at the municipal building, designated by the Municipal Manager for each member;
 - (c) Sending such notice by prepaid post to the member's postal address so that it will reach such member timeously in the normal course of postal delivery; or
 - (d) Sending such notice to an electronic mail address indicated in writing by the member, and
 - (e) In the case of a notice meant in subsection 3.3, the Municipal Manager must in addition endeavor to inform all members by telephone of the intended meeting.
- 3.5 Where the Municipal Manager has complied with the prescribed methods of notification, the fact that any member or members have not received notice of a meeting in accordance with this by-law, shall not affect the validity of any proceedings of that meeting.

- 3.6 The Speaker, in consultation with the Mayor, determines whether an Urgent Meeting is called or not.

4. Business Limited by Notice of Council Meeting

- 4.1 Subject to the provisions of section 19 of these Rules of Order, no business other than that specified in the notice of the Council meeting shall be transacted at the meeting.
- 4.2 A member may propose during a meeting that the provisions of section 19 of these Rules of Order is not applicable and shall state their reasons without debate regarding the merits of the urgent matter. The Speaker shall thereupon rule on the urgency.

5. Order of Business of Ordinary Council Meeting

- 5.1 The order of business of an ordinary Council meeting shall be as follows:
- 5.1.1 Opening
 - 5.1.2 Applications for leave of absence
 - 5.1.3 Official Notices
 - 5.1.4 Statements and communications by the Speaker
 - 5.1.5 Confirmation of minutes of previous meetings
 - 5.1.6 Statutory appointments and elections
 - 5.1.7 Questions of which notice has been given
 - 5.1.8 Reports of the Executive Committee
 - 5.1.9 Reports of Council Committees
 - 5.1.10 Petitions
 - 5.1.11 Deputations
 - 5.1.12 Motions
 - 5.1.13 Closure
- 5.2 The Speaker may, if deemed expedient, or at the request of a member, give preference to any item on the agenda.

5.3 The Speaker may, at any Council meeting when the item referred to in section 5.1.4 is called and without notice, make any statement or read any communication.

6. Motions

6.1 Any committee or councillor may submit a motion for adoption by the Council.

6.2 A motion for the review of a decision taken by a political structure, political office bearer, councillor or staff member in terms of delegated power, shall be submitted to the relevant political structure, political office bearer, councillor or staff member, who may provide reasons for or comments regarding such decision to the Municipal Manager within four (4) days from the date on which the motion is so submitted.

6.3 The motion must be in writing and the chairperson of the relevant committee or the relevant councillor, as the case may be, must sign it.

6.4 All motions must be submitted to the Municipal Manager and must be received at least fourteen (14) days before the Council meeting, and in the case of a councillor supported by written secondment by another councillor.

6.5 A motion must –

6.5.1 Set out in precise terms the decision required of the Council as well as a motivation of why such decision is required;

6.5.2 Include a draft decision which is legal and within the Council's executive and legislative power;

6.5.3 Provide sufficient information to sustain the decision required;

6.5.4 Be in accordance with the Council's budget and integrated development

plan, unless the motion specifically involves a change in the budget or integrated development plan.

6.5.5 If it is a motion meant in subsection 6.2, include if applicable, the supporting signatures of at least one quarter of the councillors;

6.6 The Municipal Manager must refer the motion to the Executive Committee, together with a report on the subject matter;

6.7 The Councillor who submits the motion may at his or her own request or of the Mayor, address the Executive Committee on any matter relating to such motion;

6.8 The Executive Committee shall consider the motion and refer it to the Council, together with a recommendation.

7. Questions

7.1 Any councillor may submit a question relating to any matter in order to solicit views, opinions, intentions, explanations or information of a political nature.

7.2 Such question must be in writing, signed and dated by the member, specifying the date of the meeting where such question is to be asked.

7.3 The councillor must submit the question to the Speaker at least six (6) working days before the date of the meeting.

7.4 The Speaker must include the question in the agenda of the Council meeting.

7.5 The Speaker decides which councillor must respond to a question and if the councillor is unable to respond immediately, when such response must be placed before the Council.

7.6 No member may re-submit a question relating to any matter if that question had

been considered during the previous three months.

- 7.7 A question, which relates to another matter on the agenda, may at the discretion of the Speaker, be dealt with together with such other matter.

CHAPTER 3 THE CONDUCT OF COUNCIL MEETINGS

8. The Role of the Speaker

8.1 The Speaker chairs all Council meetings.

8.2 In the event that the Speaker is for any reason not available to chair a meeting, an acting Speaker must be elected from among the councillors present.

8.3 The Speaker:

8.3.1 In consultation with the Executive Committee and Municipal Manager prepares the agenda for Council meetings;

8.3.2 Maintains order during meetings;

8.3.3 Ensures compliance with the Code of Conduct for Councillors and the Council's rules of order;

8.3.4 Ensures that meetings are conducted in accordance with these by-laws;

8.3.5 Ensures that members conduct themselves in a dignified and orderly manner;

8.3.6 Ensures that members of the public attending any meetings of the municipal council conduct themselves in an orderly manner and obey any rulings made by the Speaker;

8.4 The ruling of the Speaker in regard to the application of this Chapter and any other procedural matters is final and binding on the meeting.

9. Attendance register

9.1 Every member attending a meeting shall sign his or her name in the attendance register kept for this purpose.

10. Quorum

10.1 The quorum of a meeting of the Council is a majority of the number of councillors of the Municipality.

10.2 Whenever there is no quorum, the commencement of the meeting must be suspended for no more than thirty minutes, and if at the end of that period there is still no quorum, the Speaker may further suspend the meeting for such period as he or she deems fit.

10.3 If after the period referred to in subsection 10.2, a quorum is still not available, the Speaker shall adjourn the meeting, and inform the Municipal Manager of the new date, time and place for the adjourned meeting.

10.4 In the absence of the Speaker, the Mayor must perform the functions referred to in subsection 2, if an acting Speaker has not been elected. If after the initial suspension of thirty minutes neither the Speaker nor the acting Speaker or the Mayor is present, the meeting must be adjourned.

10.5 The Municipal Manager must give notice to all councillors of the place, time and date of the adjourned meeting at least seventy two (72) hours prior to such date.

11. Agenda

- 11.1 Subject to subsection 2 hereof, all meetings must be conducted according to the order in which the matters appear on the agenda before the Council, and only matters that are on the agenda may be debated, subject to section 19.
- 11.2 The Speaker, on good cause shown, may change the order of the matters appearing on the agenda and may allow further matters to be added to the agenda.
- 11.3 Matters, which are on the agenda for information only, and, subject to subsection 11.4, matters which have been dealt with under delegated powers, may be debated, but no decision can be taken on such matters.
- 11.4 Subsection 11.3 will not apply to a motion for the review of a decision taken under delegated powers meant in section 59(3) of the Systems Act, subject to any rights that may have accrued to any person.

12. Address to the Council

- 12.1 (a) A member may only address the Council when allowed thereto by the Speaker.
- (b) A member must stand when speaking and must address the Speaker.
- (c) A member must immediately stop speaking and sit down when a point of order is raised or instructed thereto by the Speaker, until such member is allowed by the Speaker to continue the address.
- (d) A member may not interrupt the Speaker and must immediately stop speaking when the Speaker speaks.
- 12.2 A member must immediately being instructed thereto by the Speaker, stop to address the Council;

- 12.3 A member when allowed thereto may not address Council for more than five minutes on any matter before the Council, unless allowed such extension of time by the Speaker as the Speaker may deem appropriate, but at any rate for not more than fifteen minutes in aggregate;
- 12.4 The Speaker may disallow any address to the Council which is a repetition of what has been said or which is not relevant to the matter before the Council.
- 12.5 The Speaker must allow a matter before the Council to be debated and issues relevant to the matter, to be raised, in a manner allowing inclusive of a variety of arguments and viewpoints.
- 12.6 The Speaker must, after a matter before the Council has been debated and views aired to the extent that the Speaker deems expedient, and consensus cannot be reached on a decision on the matter, put the matter to the vote in the prescribed manner.

13. Recommendations

- 13.1 A matter submitted to the Council for resolution, must include a recommendation which may be adopted by Council as a resolution;
- 13.2 Despite subsection 1, a recommendation requiring the election or nomination of members, may request the Council to so elect or nominate members.

14. Secondment

- 14.1 A recommendation, petition or motion may only be considered by the Council if seconded by a member of the Council other than the member who submitted such recommendation, petition or motion;
- 14.2 A recommendation submitted by the Executive Committee shall be deemed to be properly seconded.

15. Decisions

- 15.1 Subject to the provisions of subsection 2, all decisions will be taken by a supporting vote of the majority of the votes cast.
- 15.2 The following matters must be determined by a decision taken by a supporting vote of a majority of the members of the Council:
- (a) the passing of by-laws;
 - (b) the approval of budgets;
 - (c) the imposition of rates and other taxes, levies and duties;
 - (d) the raising of loans; and
 - (e) the approval, amendment or revision of an integrated development plan.
- 15.3 Voting shall take place in the manner provided for in Chapter 6.
- 15.4 The dissent or abstention of any member must, if that member so requests, be recorded in the minutes of the meeting.
- 15.5 A decision in regard to the passing of a by-law or the approval, amendment or revision of an integrated development plan, will not be taken unless a draft thereof have been open for inspection by councillors, at the office of the Municipal Manager, from at least eight (8) days prior to the meeting.

16. Resolution

The Speaker must disallow any recommendation, presentation, petition or motion, which if adopted as a resolution or which may lead to a resolution being adopted, that will result in an unlawful resolution being taken.

17. Procedural motions

17.1 When a matter is under discussion at any meeting of the Council, no further debate must be allowed if any of the following procedural motions are accepted:

17.1.1 that consideration of the matter be adjourned and resumed at a place, date and time determined by the Council;

17.1.2 that the meeting of the Council be adjourned and reconvened at a time determined by the Speaker;

17.1.3 that the matter be referred back to a committee; or

17.4 that the matter should be decided immediately.

18. Point of order

18.1 A member may raise a point of order at any time by addressing the words: “On a point of Order” to the Speaker.

18.2 A member addressing the Council at the time when a point of order is raised must immediately become silent until the Speaker has ruled on the point of order.

18.3 The member raising the point of order must, without referral to any matter other than the grounds for the point of order, state such grounds.

18.4 A point of order may only be raised in regard to a procedural irregularity.

18.5 The Speaker must without any further debate rule on such point of order, including making such determination as may remove the irregularity to which the point of order refers.

19. Urgency

- 19.1 The Municipal Manager or Executive Committee may at a meeting raise any urgent matter for decision by the Council.
- 19.2 A matter is urgent when the decision required could, in the opinion of the Municipal Manager or Executive Committee prejudice the Council or its operation in the event that it is delayed.
- 19.3 The decision required must be in writing and may be submitted to the Speaker by the Municipal Manager or Executive Committee at the meeting.

20. Minutes

- 20.1 The Municipal Manager must ensure that all resolutions of the Council are recorded in a minute book, and that resolutions adopted by the Council in closed meetings are recorded in a separate minute book.
- 20.2 The correctness of the minutes must be considered and adopted at the next meeting.
- 20.3 If there is a dispute about the contents of the minutes:
- 20.3.1 The relevant debate, if it had been mechanically recorded, must be transcribed;
- 20.3.2 The Municipal Manager must submit a report to the Council setting out his or her recollection of the debate; and
- 20.4 After considering the report, the Council may by vote decide on the minutes, with only those councillors who were present at the time of the disputed debate being entitled to vote in the event that it was not recorded.

- 20.5 The Municipal Manager must ensure that the minutes record:
- (a) the names of members attending any meeting,
 - (b) the names of members who are absent; and
 - (c) the names of members who have been granted leave of absence.

CHAPTER 4 THE CONVENING AND CONDUCT OF COMMITTEE MEETINGS

21. The appointment of committees

- 21.1 The Council may determine the number and purpose of committees required, in terms of section 79 of the Structures Act.
- 21.2 The Executive Committee may determine and report to Council the number and purpose of committees required, in terms of section 80 of the Structures Act.
- 21.3 The Council must determine the number of members of a committee, having due regard to the need to ensure a fair distribution of the workload among its members.
- 21.4 The Council must determine in an equitable manner a division of seats on a committee to ensure representivity of political and other interests on the committee.
- 21.5 If there are more nominations for a committee than seats available on such committee, an election must be held.
- 21.6 The Speaker will consider nominations with due regard to representivity.

22. The Chairperson

22.1 The Chairperson of the Executive Committee is the Mayor.

22.2 In the event that the Mayor is not available for any reason, a councillor designated in writing by the Mayor shall chair the meeting, or if the Mayor did not so designate, a member of the Executive Committee elected by the Executive Committee.

22.3 All other committees will be chaired by the person elected by the Council to do so.

22.4 In respect of committees mentioned in subsection 3 above, in the event that the chairperson is not available for any reason, an acting chairperson must be elected from among the councillors present.

22.5 The chairpersons of all the committees mentioned in this section must:

- (a) maintain order during meetings;
- (b) ensure that meetings are conducted in accordance with these by-laws;
- (c) ensure that members of the public attending any meetings conduct themselves in an orderly manner and obey any rulings made by the chairperson.

22.6 The ruling of the chairperson in regard to the application of this chapter and any other procedural matters is final and binding on the meeting.

23. Notice of meetings

- 23.1 The respective chairpersons must determine the date, time and venue of committee meetings in consultation with the Municipal Manager, and must ensure that such meetings takes place as often as is reasonably required in order to effectively perform its functions.
- 23.2 The Municipal Manager must give at least forty-eight hours' (48) notice of such meetings to the committee members in the same manner as meant in section 3(4).
- 23.3 In the case of any urgent meeting, the Municipal Manager must give the committee members notice as long in advance as he or she is practically able to do.
- 23.4 The fact that any member or members have not received notice of a meeting in accordance with these by-laws shall not affect the validity of any proceedings of that meeting.
- 23.5 The chairperson will determine whether any meeting is urgent or not.
- 23.6 The chairperson must, after receiving a written request signed by a majority of the members of any particular committee, call a meeting of that committee.

24. Quorum

- 24.1 The quorum for a meeting of any committee excluding the Executive Committee is a majority of its members.
- 24.2 Whenever there is no quorum, the commencement of the meeting must be suspended for no more than thirty minutes, and if at the end of that period there is still no quorum, the chairperson adjourns the meeting to another time, date and venue at his or her discretion.

24.3 In the absence of the chairperson, the meeting will adjourn thirty minutes after the commencement time if a quorum is not present.

24.4 The Municipal Manager must inform each member of the adjourned meeting of the place, time and date to which the meeting has been adjourned.

25. Agenda

25.1 Subject to subsection 2, all meetings must be conducted according to the order in which the matters appear on the agenda before the committee, and only matters that are on the agenda may be debated.

25.2 The chairperson, on good cause shown, may change the order of the matters appearing on the agenda and may allow further matters to be added to the agenda.

26. Decisions

26.1 All decisions shall preferably be taken on the basis of consensus, and if not possible, by a supporting vote of the majority of the members present at any committee meeting.

26.2 The dissent or abstention of any committee member must, if that member so requests, be recorded in the minutes of the meeting.

27. Minutes

27.1 The chairperson must ensure that all resolutions of the committee are recorded in a minute book, and that resolutions adopted by the committee in closed meetings (where applicable) are recorded in a separate minute book.

27.2 The correctness of the minutes must be considered at the next meeting, failing which, at the meeting thereafter.

27.3 The chairperson must ensure that the minutes record:

- (a) the names of members attending any meeting;
- (b) the names of members who are absent; and
- (c) the names of members who have been granted leave of absence.

28. Motions

28.1 All motions must be submitted to the chairperson of the relevant committee and must be received by him or her at least four days before the committee meeting.

28.2 The member who submits the motion must sign it.

28.3 The motion must -

- (a) set out in precise terms the decision required of the committee as well as a motivation of why such decision is required;
- (b) require a decision which is legal and within the committee's delegated powers (if any);
- (c) provide sufficient information to sustain the decision required, and be in accordance with the council's budget and integrated development plan, unless the motion specifically involves a change in the budget or integrated development plan.

29. Procedural motions

29.1 When a matter is under discussion at any committee meeting, no further debate must be allowed if any of the following procedural motions are accepted:

- (a) that consideration of the matter be adjourned and resumed at a date and time determined by the committee;
- (b) that the meeting of the committee be adjourned and reconvened at a date and time determined by the chairperson.

30. Executive Committee

30.1 In giving effect to the powers and functions set out in section 44 of the Structures Act, the Executive Committee must –

- (a) meet as often as is reasonably required in order effectively to perform its functions, but not less often than once every month;
- (b) keep minutes of all its meetings, which minutes it must, after they have been adopted, be forwarded to the Council.

31. Duties of Committees

31.1 The Mayor and Executive Committee must report in writing to the Council regularly with regard to their activities, and no less often than once a quarter.

31.2 A report to the Council by the Executive Committee on a matter not finalized by the Executive Committee, including a report from another committee, shall contain a recommendation which may be adopted by the Council as a resolution.

31.3 The other committees must report in writing to the Executive Committee with regard to their activities, at least once a month, and each report for consideration by the Council shall contain a recommendation which may be adopted by the Council as a resolution;

31.4 The Municipal Manager must ensure that minutes are kept of all meetings of committees, copies of which must, once adopted, be forwarded -

- (a) in the case of the Executive Committee, to the Council;
- (b) in the case of the other committees, to the Executive Committee.

32. Venue

Committee meetings will take place at a venue indicated by the Municipal Manager.

33. Chairperson has casting vote

In the event of an equality of votes, the chairperson exercises a casting vote.

34. Attendance at committee meetings

34.1 The Speaker, the Mayor and councillors have the right by giving twelve (12) hours prior written notice thereof, to attend meetings of any committees of which they are not members, subject to the chairperson's permission. The chairperson may on good cause disallow such attendance by giving notice of the decision to the councillor concerned.

34.2 Such councillor may only address the committee with the leave of the chairperson, and have no right to vote.

CHAPTER 5 VOTING PROCEDURE

35. Voting

35.1 Every recommendation, motion or proposal shall be submitted to the Council by the Chairperson who shall call upon the members to indicate by a show of hands whether they are for or against such recommendation, motion or proposal and the Chairperson shall thereupon declare the result of the voting.

- 35.2 After the Chairperson has declared the result of the voting in terms of subsection 1, a member may demand that his or her vote be recorded against the decision; or
- 35.3 By raising and putting a demand to the Chairperson that a division of votes be recorded.
- 35.4 When a division in terms of subsection 3 is demanded, the Chairperson shall accede thereto. A bell shall be rung for at least one minute; whereupon all entrances to the chamber shall be closed and no member shall thereafter leave or enter the chamber until after the result of the division has been declared.
- 35.5 After expiry of the period contemplated in subsection 4 the recommendation, motion or proposal shall again be put by the Chairperson and thereafter the Chairperson shall declare the result of the division.
- 35.6 A division shall take place in a manner whereby the vote of each member shall be taken separately by name and recorded in the minutes by the Municipal Manager.
- 35.7 When a division takes place in accordance with the preceding provisions, every member present, including the Chairperson, shall be obliged to record his or her vote for or against the motion or proposal.
- 35.8 A member demanding a division shall not leave the chamber before such division has been concluded.
- 35.9 Should there be an equality of votes in respect of a proposal which is being put in terms of this section, the matter shall be referred back to the Executive Committee for consideration.

CHAPTER 6 REPORTS

36. Submission

- 36.1 The Council may instruct the Municipal Manager to submit to it a report on any matter, which the Council may deem necessary, and the Municipal Manager shall submit such report at the next general meeting of the Council.
- 36.2 The Executive Committee may instruct the Municipal Manager to submit to it a report on any matter, which the Executive Committee may deem necessary and the Municipal Manager shall submit such report at a meeting on a date indicated by the Executive Committee.
- 36.3 The Municipal Manager may submit a report on any matter, which the Municipal Manager deems necessary, to the Executive Committee or to another committee and if so requested by the Municipal Manager such report shall be included in the agenda of the next general meeting of the Council.
- 36.4 A report referred to in 1, 2 and 3 above must include a recommendation by the Municipal Manager.

CHAPTER 7 PUBLIC ACCESS

37. Meetings open to the public

- 37.1 Subject to subsection (4), members of the public have the right to attend all Council- and committee meetings.
- 37.2 The Municipal Manager must put up a notice on the notice boards in the Greater Tzaneen Municipality buildings on which appear, in the Municipality's designated languages, the time, date and place and, subject to subsection (5), agenda of all Council meetings and all committee meetings.

37.3 Save where he or she is precluded by the urgency of the meeting from doing so, the Municipal Manager must give notice, by publication in at least the local or regional newspaper and in the Municipality's designated languages, of the time, date, place, and agenda of all Council meetings.

37.4 Subject to the provisions of section 20(2) of the Systems Act, the Speaker, in the case of the Council, or the Mayor, in the case of the Executive Committee, or the chairperson, in the case of any other committee, may close a meeting or part of the proceedings of a meeting of the relevant body to the public if, in the opinion of the Speaker, Mayor or chairperson, as the case may be:

- (a) there might otherwise be unreasonable disclosure to the public of personal information regarding any person;
- (b) trade secrets of any person might otherwise be disclosed;
- (c) information which had been supplied in confidence by any person might be disclosed, and such disclosure could reasonably be expected to put such person at a disadvantage in contractual or other negotiations or to prejudice such person in commercial competition;
- (d) information might be disclosed and such disclosure would give rise to an action for breach of a duty of confidence owed to any person in terms of an agreement;
- (e) information might be disclosed and such disclosure could reasonably be expected to endanger the life or physical safety of any person, or would be likely to prejudice or impair the security of a building, structure or system, means of transport or any other property;
- (f) information might be disclosed which is privileged from production in legal proceedings;
- (g) information might be disclosed which contains trade secrets of the

Municipality; or financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Municipality; or the disclosure of which could reasonably be expected to put the Municipality at a disadvantage in contractual and other negotiations or to prejudice it in commercial competition; or

- (h) information might be disclosed about research being or to be carried out by or on behalf of any person or the Municipality and the disclosure of such information would be likely to expose any person or the Municipality or the subject-matter of the research to serious disadvantage.

37.5 Should the Speaker, Mayor or chairperson, as the case may be, declare a meeting closed in terms of subsection (4), all persons except the councillors who are members of such meeting and members of staff allowed thereto by the Speaker, Mayor or chairperson, as the case may be, shall immediately vacate the room where the meeting is held, until such time as they are allowed back into the room by the Speaker, Mayor or chairperson, as the case may be.

38. Public to address the Council

38.1 The Speaker may in his or her discretion grant any person the opportunity to address any meeting of the Council, provided that a request to do so is in writing and clearly states the matter in respect of which the person wishes to address the meeting.

38.2 In exercising his or her discretion as aforesaid, the Speaker should give particular consideration to the question of whether an address by such person might substantially assist the Council in coming to a decision on any particular matter before it.

38.3 In granting a person such an opportunity, the speaker may impose such conditions as he or she may deem fit.

- 38.4 If the speaker is of the view that the person should rather address a committee of the Council, he or she must refer such request to the chairperson of the relevant committee, who similarly has a discretion, to be exercised in the matter set out herein, as to whether or not to permit such an address, and furthermore may impose such conditions as he or she may deem fit in the event that an opportunity is granted to such a person.

CHAPTER 8 PROBITY

39. Application

The provisions of this part apply to all councillors, whether in their capacity as members of the Council or of any committee of the Council.

40. Attendance at meetings

- 40.1 A councillor who is unable to attend a meeting of the Council or of a committee must apply to the Speaker or the chairperson, as the case may be, for leave not to attend such meeting.
- 40.2 Such application, stating the reasons for the absence, must be in writing and must be given to the Speaker or chairperson by no later, in the case of Council meetings, than forty-eight hours and, in the case of committee meetings, than twenty-four hours before the meeting is to take place.
- 40.3 If for any reason it is not possible to give notice of absence as aforesaid, or in the case of an Urgent Meeting, then the application must in any event be given as soon as possible, together with a written explanation of why the application could not be given timeously.
- 40.4 It is in the sole discretion of the Council or the committee chairperson, as the case may be, whether or not such application should be granted.

41. Sanctions for non-attendance of meetings

- 41.1 In the event that a councillor fails to attend a meeting, and either did not make application as required by section 40 or made application but such application was refused, such councillor may be found guilty by the Council of acting contrary to the provisions of this by-law read with the Code of Conduct and, on such a finding being made, may be fined an amount not exceeding R2.000-00.
- 41.2 In the event of a councillor being found guilty for being absent from three consecutive meetings of the Council or of the relevant committee, he or she shall be removed from office as a councillor with the approval of the MEC.
- 41.3 A recommendation of whether or not the councillor is guilty as aforesaid and, if so, what the appropriate sanction is, must be made by a committee of five councillors appointed by the Speaker to assist him or her for that purpose. The decision that the councillor is to be removed from office has no effect unless confirmed by the MEC.
- 41.4 The committee must hold an enquiry into the councillor's absence as soon as possible after its appointment, and must provide to such councillor a full opportunity to address the committee or make representations regarding such councillor's absence and/or to address the committee or make representations regarding a lesser sanction than the ones permitted by subsection (1) and (2) hereof.
- 41.5 Any punitive measures proposed against a councillor, must be approved by council before implementation.

42. Gifts

All gifts received by councillors from any person other than the councillor's immediate family and having a value in excess of R100-00 must within sixty days (60) from the date of receipt be declared by such councillor in writing to the Municipal Manager.

43. Full-time councillors

- 43.1 Any full-time councillor who wishes to undertake any other paid work must submit an application in writing to the Municipal Manager.
- 43.2 The application must include at least the following information:
- (a) the name of the person for whom the work will be done;
 - (b) the nature of the work;
 - (c) duration of the work; and
 - (d) amount of the remuneration for the work.
- 43.3 On receipt of such an application, the Municipal Manager must ensure that it is tabled at the next meeting of the Council for consideration and a decision.

**CHAPTER 9
ALLEGED MISCONDUCT**

44. Procedure to Investigate Alleged Misconduct

- 44.1 If the Speaker, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct as contained in Schedule 1 of the Systems Act has been breached, the Speaker will establish a committee to investigate such breach.
- 44.2 The Speaker shall chair the committee meant in Section 44.1.
- 44.3 If the Speaker is implicated in any contravention of or failure to comply with the Code of Conduct, the functions in this procedure will be performed by the Mayor and if he or she is also implicated, then by a member appointed by Council.

45. Right to Reply

45.1 A member against whom such investigation is conducted has the right to reply to the allegations against them.

45.2 A member against whom such investigation is conducted after being requested to do so by the Speaker, must furnish the Speaker with his or her comments within reasonable time.

CHAPTER 10 BY-LAW PROCESS

46. Introduction of draft by-laws

A draft by-law may only be introduced by a member or a committee of the Council; subject thereto that such draft shall only be introduced after submission thereof to the Executive Committee.

47. Introduction by member

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

47.2 The Speaker must on receipt of a draft by-law, present it together with any comments received in terms of sub-section 3, to the Executive Committee for consideration.

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

47.4 The Executive Committee must within 3 months of receipt of a draft by-law from the Speaker, consider the matter and submit a report to the Council.

48. Introduction by Executive Committee

- 48.1 The Executive Committee may on own volition or after considering a request from the Municipal Manager or a committee, introduce a draft by-law.
- 48.2 If the Executive Committee on own volition decides to introduce a draft by-law, it shall obtain the comments of the Municipal Manager on the contents thereof and may solicit the comments of any person thereon.
- 48.3 The Executive Committee shall submit a report on its proposal to introduce a draft by-law to the Council in the form referred to in section 51(1).

49. First introduction to Council

- 49.1 A draft by-law introduced by a member or the Executive Committee shall be reported to the Council in the following form –
- (a) an executive summary of the draft by-law;
 - (b) a memorandum on the objects of the by-law;
 - (c) the need to regulate the conduct proposed in the draft by-law;
 - (d) the contents of the proposed by-law;
 - (e) other by-laws that must be repealed or amended if the draft by-law is adopted;
 - (f) any relevant comments or proposals, and
 - (g) a recommendation.
- 49.2 Council after considering the report referred to in sub-section (1) must decide to either reject the proposed by-law, to refer it back to the Executive Committee or

any other committee for reconsideration or to provisionally pass it, with or without amendment.

49.3 When the Council has rejected a proposed by-law no further by-law of the same substance may be introduced within a period of 6 months from the date of rejection.

49.4 When a proposed by-law has been provisionally passed, it must be advertised for public comment.

50. Publication

50.1 The Municipal Manager must as soon as possible after Council has provisionally passed a by-law, publish the draft by-law for public comment in at least two (2) newspapers, in such a manner that the public will have the opportunity to make representations with regard thereto.

50.2 The publication must be in at least three (3) of the official languages of the province.

51. Second introduction to Council

51.1 The Municipal Manager must as soon as possible after the closing date for public representations, submit a report to the Executive Committee together with:

- (a) a copy of the proposed 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 from the administration.

- 51.2 The Executive Committee must consider the report by the Municipal Manager and advise the Council to either pass the by-law, pass the by-law in an amended form or reject it.
- 51.3 When the Council has rejected a draft by-law, no by-law of the same substance may be introduced within a period of six (6) months from the date of rejection.
- 51.4 When a proposed by-law has been passed, it must be advertised in the Provincial Gazette.

CHAPTER 11 GENERAL

52. Interpretation of Rules of Order

- 52.1 Any member may request that the ruling of the Chairperson regarding the interpretation of the Rules of Order be recorded in the minutes and a register of such rulings shall be kept by the Municipal Manager.
- 52.2 The Chairperson shall sign the entry of each ruling given by him or her in the register referred to in Section 54.1
- 52.3 A member who has made a request in terms of Section 52.1, may verbally during that meeting or within five (5) days thereof in writing, require the Municipal Manager to submit the matter to the Executive Committee, in which event the Executive Committee shall consider the ruling and report thereon to the Council.
- 52.4 The Council may, on the recommendation of the Executive Committee, direct that the ruling of the Chairperson be amended or substituted.

53 Dress

53(1) A member must when attending a meeting of the Council or a committee, be dressed in such a manner as not to detract from the dignity of the meeting or the Council as a whole.

53(2) Without detracting from the generality of subsection (1), the following dress requirements must be observed by members, when attending meetings:

- (a) a member will not wear a shirt, blouse, jacket or other clothing apparel or appenditure on which appear a logo, words or picture of any kind, except that of the manufacturer of such shirt, blouse, jacket or other clothing apparel or appenditure, subject thereto that the Speaker may allow such logo, words or picture supporting a national humanitarian course.
- (b) a member may not wear a T-shirt;
- (c) a member may not wear short pants;
- (d) a member may not wear sandals;
- (e) a member may not wear clothes which is overly revealing of sexuality, and
- (f) a member may not wear clothes which is dirty or torn.

54. Removal from meeting

54.1 The Speaker or the chairperson of a committee, respectively, may instruct a person who causes a disturbance, is disruptive or uses abusive language during a meeting or otherwise refuses to comply with a request of the Speaker or Chairperson in regard to the good order of the meeting, to leave the room in which the meeting is held.

54.2 Any person who willfully disregards or fails to comply with an instruction of the Speaker or Chairperson referred to in subsection 2 shall be guilty of an offence and on conviction be liable to a fine of not more than R500-00 or imprisonment or both such fine and imprisonment.

55. Rules of order and probity by-laws

This by-law shall be known as the Rules of Order And Probity By-laws.