



**RULES OF ORDER FOR THE PROCEDURES AND MAINTENANCE OF ORDER AT MEETINGS OF  
GARDEN ROUTE DISTRICT COUNCIL 2020**

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# CHAPTER 1

## INTRODUCTION

### DEFINITIONS

1. In these 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, and includes a committee appointed in terms of section 80 of the Structures Act;

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

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

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

“**meeting**” means any meeting of the Council or a committee, including, but not limited to Council workshops and any meeting that may be called by the Speaker;

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

(a) the media;

(b) a dignitary; and

(c) a representative of a sphere of government;

**“motion without notice”** means a motion in respect of which the required notice is dispensed with, but which must still be submitted to the Speaker at least one (1) hour before the sitting of Council. Such motions are traditionally condolence motions,

congratulatory motions or motions that are congenial and not of a party political nature.

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

**“Municipal Manager”** means the municipal manager as defined in the Systems Act; **“municipality”** means the Garden Route District Municipality;

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

**“Point of clarification”** means a point raised by a Councillor during a Council meeting for the purpose of clearing up something that was communicated.

**“Point of Order”** means a point raised by a Councillor during the Council meeting and shall only relate to a matter of procedure as provided for in the rules and orders;

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

“**Province**” means the Province of the Western Cape;

“**quorum**” means—

a majority (**50% + 1%**) of all Councillors as determined by Section 20 of the Structures Act or Councillors who are members of that Committee, as the case may be.

“**rules**” means these rules;

“**SODA**” means the State of the District Address

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

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

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

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

“**Traditional Leader**” means a Traditional Leader identified to participate in the business activities of the Municipal Council in terms of section 64 of the Traditional and Khoi-San Leadership, 2019 (Act No. 3 of 2019) and a Khoi-San leader;

“**Virtual meetings or sittings**” shall for purposes of the rules mean any meeting or sitting conducted on any form of online technology or virtual platform;

“**whip**” means a councillor appointed by his or her party to perform the duties attached to the position of a whip as contemplated in these rules; and

“**Whip of the Council**” means the person elected in terms of Section 41A of the Municipal Structures Act as the Whip of the Council;



“**working day**” means any day of the week except—

a Saturday, Sunday, and public holiday;

## **APPLICATION AND INTERPRETATION**

2. (1) (a) Subject to paragraph (b), these rules apply to all meetings of the Council and its committees including but not limited to virtual meetings.
  - (b) These rules do not apply to the following committees:
    - (i) A committee established in terms of item 14(1)(b) of the Code;
    - (ii) a committee contemplated in section 62(4)(c)(ii) of the Systems Act;
    - (iii) a mayoral committee contemplated in section 60 of the Structures Act;
    - (iv) a planning committee;
    - (v) a municipal public accounts committee; and
    - (vi) a committee contemplated in section 32(2) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).
- (2) Unless it is inconsistent with the context or clearly inappropriate, a reference in these rules to—
  - (a) the Council must be construed as a reference to a committee;
  - (b) the Speaker must be construed as a reference to the chairperson of a committee; and
  - (c) a councillor must be construed as a member of a committee.
- (3) Except where it is clearly inappropriate, a rule applying to a Councillor in any proceedings also applies to a municipal employee, a member of the public who takes part in those proceedings, Any representative from national or provincial government or Chapter 9 Institutions participating in Council or its Committees, the Media; and Traditional leaders.
- (4) If, in terms of these rules, a notice, motion, question, or request is required or permitted to be given in writing to any councillor or person, it is sufficient if it is transmitted electronically directly to that councillor or person in such a manner and form that it can conveniently be printed by the recipient within a reasonable time.

(5) If, in terms of these rules, a document is required to be published, provided or delivered, it is sufficient if an electronic original or reproduction thereof is published, provided or delivered by electronic communication in such a manner and form that it can conveniently be printed by the recipient within a reasonable time: Provided that this sub- rule does not apply to any publication to inform the public.

(6) If, in terms of these rules, a document is required to be signed by—

(a) a single Councillor or person, signing may be effected in any manner provided for in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002); or

(b) two or more councillors or persons, it is sufficient if—

(i) all of those councillors or persons sign a single original of the document, in person or as contemplated in paragraph (a); or

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

(7)(a) In instances of urgency, during an emergency or where the Council considers that adherence to a rule would be unreasonable and would prejudice the operation of a meeting of the Council, the Council may, with the approval of the majority of the Councillors as per the section 20 of the Structures Act who are in attendance when the item is dealt with and for the duration of that meeting, temporarily suspend or relax the provisions of a rule: Provided that the suspension or relaxation of a rule—

(i) may not be in contravention of any national or provincial legislation or any by-law of the municipality; and

(ii) must relate to an item on the agenda for the meeting of the council.

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

(c) This sub-rule does not apply to a motion of no confidence contemplated in rule

55.

## **DUTY OF SPEAKER, COUNCILLORS, MUNICIPAL EMPLOYEES AND MEMBERS OF PUBLIC**

3. The Speaker, councillors, municipal employees and members of the public must familiarise themselves with these rules.

## **CHAPTER 2**

### **MEETINGS**

#### **TRANSACTION AND ORDER OF BUSINESS**

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

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

- (a) Opening and welcome
- (b) Silent prayer/ prayer/meditation
- (c) Attendance of members
- (d) Noting the provisions of schedule 7 of the Local Government: Municipal Structures Amendment Act, 2021
- (e) Disclosure of interests by Councillors and Officials
- (f) Approval of minutes
- (g) Communications by Speaker;
- (h) Communications by Executive Mayor;
- (i) Communications by Municipal Manager;
- (j) Standing items;

- (k) Reports from the Speaker
- (l) Reports from the Executive Mayor
- (m) Reports from the office of the Municipal Manager
- (n) Reports from the financial services department
- (o) Reports from Corporate services department
- (p) Reports from Community services department
- (q) Items from the roads and transport planning department
- (r) Reports from the planning and economic development department
- (s) Motions of exigency
- (t) Notices of motion / Motion without notice
- (u) In-closed session
- (v) Closure

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

- (a) Opening and welcome
- (b) Silent prayer/prayer/ meditation
- (c) Attendance of members
- (d) Noting the provisions of schedule 7 of the Local Government: Municipal Structures Amendment Act, 2021
- (e) Disclosure of interests by Councillors and Officials
- (f) Communications by Speaker;
- (g) Communications by Executive Mayor;
- (h) Communications by Municipal Manager;
- (i) Approvals of minutes;
- (j) Standing items
- (k) Reports from the Speaker
- (l) Reports from the Executive Mayor
- (m) Reports from the office of the Municipal Manager

- (n) Reports from the financial services department
- (o) Reports from Corporate services department
- (p) Reports from Community services department
- (q) Reports from the roads and transport planning department
- (r) Reports from the planning and economic development department
- (s) Motions of exigency
- (t) Notices of motion
- (u) In-closed session
- (v) Closure

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

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

## **AGENDA**

**5.(1)(a)** The Speaker or a person designated by the Speaker must prepare the agenda for a meeting in liaison with the Municipal Manager.

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

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

- (a)* a councillor indicates his or her opposition to the introduction of the matter;
- (b)* the procedure contemplated in rule 18 is followed; and
- (c)* the Council resolves otherwise with a supporting vote of a majority of the votes cast.

- (3) Except as otherwise provided in these rules or in terms of sub-rule (2), a matter not appearing on the agenda may not be transacted at a meeting.
- (4) The Speaker may refuse an item, motion or question to the agenda if such item, motion or question—
- (a) falls outside the jurisdiction of the municipality;
  - (b) is racist in nature or advocates hate speech;
  - (c) is *sub judice*;
  - (d) does not comply with procedural requirements for submission of agenda items as provided for in these rules;
  - (e) lacks sufficient information;
  - (f) violates legislation or is contrary to the law; or
  - (g) is of defamatory nature, in which event the procedure in rule 36(2) and (3) must be followed.

## MEETINGS

- 6.(1) The Speaker must—
- (a) at least quarterly convene ordinary Council meetings; and
  - (b) ensure that the Council meets at least quarterly in accordance with section 18(2) of the Structures Act.
- (2) (a) All meetings must be open to members of the public, unless members of the public are excluded as contemplated in rule 23.
- (3) Subject to sub-rule (1) and rule 7(3), the Speaker must decide when and where the Council must meet, which may include convening meetings virtually.
- (4)(a) At least three working days before an ordinary Council meeting, the Speaker must give written notice to each councillor of that meeting.

(b) If the Speaker accidentally omits to give a notice contemplated in paragraph (a) to any councillor, such omission does not invalidate a meeting.

(5)(a) At least three working days before an ordinary Council meeting, the Speaker must give written notice to the public of every Council meeting in accordance with section 19 of the Systems Act.

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

(i) must be posted on a notice board at the municipality's head office as well as the website; and

(ii) may be published in a local newspaper determined by the Municipal Manager.

(6)(a) The Speaker may at any time change the date, time, platform or venue of an ordinary Council meeting which has been convened.

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

## **SPECIAL COUNCIL MEETINGS**

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

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

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

(a) the Municipal Manager; or

(b) a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable, must convene a special Council meeting to elect a Speaker or an Acting Speaker, as the case may be, and preside over such election.

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

- (a) convene a special Council meeting on the date and at the time set out in the request and at a venue or platform determined by him or her; and
- (b) inform the Municipal Manager of the date, time and venue or platform and supply him or her with a copy of the request.

(4) A request to call a special Council meeting must indicate the matter or matters, as the case may be, to be dealt with at that special Council meeting, and indicate the date and the time of the special Council meeting, which date may not be less than—

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

(5) For the purposes of sub-rule (3), a majority of councillors must be construed as reflected in the municipality's section 20 of the Structures Act, notwithstanding any declared vacancies.

(6)(a) If the Speaker, for whatever reason, fails to convene a special Council meeting in terms of sub-rule (3) within one working day of receipt of a compliant request, the Municipal Manager must convene the special Council meeting on the date and at the time set out in the request and at a venue or platform determined by him or her.



(b) If the Municipal Manager, for whatever reason, fails to convene a special Council meeting in terms of paragraph (a) within one working day of the failure by the Speaker, a person designated by the Provincial Minister must convene the special Council meeting on the date and at the time set out in the request and at a venue or platform determined by him or her.

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

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

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

(9) Rule 55 applies to a special Council meeting to vote on a motion of no confidence.

(10)(a) The Speaker must give notice of a special Council meeting at least five working days prior to the meeting, in the manner contemplated in rule 7(4).

(b) If the Speaker determines that the special Council meeting is an urgent meeting, the Speaker must, at least three working days before the meeting, give written notice as contemplated in rule 7(4).

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

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

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

## **FUNCTIONS OF SPEAKER REGARDING MEETINGS**

8.(1) Subject to rule 14(2), the Speaker must take the chair at the time the meeting has been scheduled for.

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

- a. must give a ruling in respect of—
  - (i) a point of order raised by a councillor; and
  - (ii) a question in relation to the priority of business; and
- b. may give a ruling in respect of any procedural eventuality for which these rules do not provide.

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

## **ATTENDANCE BY COUNCILLOR**

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

- a. attend each meeting;
- b. record his or her attendance ; and
- c. remain in attendance, unless given permission by the Speaker.

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

**Order for councillor to withdraw from meeting 10.(1)** If

the Speaker is of the opinion that a—

- (a) councillor is deliberately contravening a provision of these rules or the Code;
- (b) councillor is in contempt of or is disregarding the authority of the Speaker;  
or
- (c) councillor's conduct is grossly disorderly, he or she may order the councillor to withdraw immediately from the chamber or committee room for the remainder of the day's meeting.

- (2) The Speaker may order that any councillor who refuses to leave a meeting of the Council when directed to do so by him or her in terms of these rules, be removed by a person designated by him or her.

**PROCEDURE FOR LEAVE OF ABSENCE**

11.(1) A councillor must, before absenting him or herself from the whole or part of a meeting—

- (a) apply for permission from the Speaker; and
- (b) provide the Speaker with reasonable and *bona fide* reasons and show good cause for granting the application, at least one working day before the meeting except in exceptional circumstances.

(2) Upon receipt of the application contemplated in sub-rule (1), the Speaker must—

- (a) consider the application, taking into account the impact it may have on the meeting;
- (b) approve or reject the application; and
- (c) notify the councillor of his or her decision as soon as possible before the meeting.

(3) If the Speaker rejects the application contemplated in sub-rule (1), he or she must provide a reason therefor.

- (4) 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), which may include, amongst others, illness of the councillor, or illness or death of a member of the councillor's family.
- (5) The names of all councillors—
- (a) present at a meeting;
  - (b) absent from a meeting or a part of a meeting; and
  - (c) to whom leave of absence from the meeting has been granted, must be recorded in the minutes.
- (6) Leave is deemed to have been granted if a councillor—
- (a) has been delegated to attend a meeting or engagement on behalf of the Council; or
  - (b) withdraws from proceedings as contemplated in rule 9(2).
- (7) Sub-rules (1) to (6) also apply with the necessary changes to leave of absence of the Speaker: Provided that a reference in this rule to the Speaker is regarded to be a reference to the Council.

## **SANCTIONS FOR NON-ATTENDANCE**

- 12.**(1) Except for the instances contemplated in rules 11(4) and 11(6), a councillor may not without leave—
- (a) absent him or herself from a meeting;
  - (b) fail to be in attendance at the commencement of a meeting; or
  - (c) fail to remain in attendance until the end of a meeting.
- (2) An investigation into an alleged contravention of sub-rule (1) must be conducted in accordance with the provisions of the Code of conduct for Councillors.

- (3) If the Council finds that a councillor has breached these rules or the Code as contemplated in sub-rule (1), the Council may fine the councillor a maximum of—
- (a) 10 per cent of his or her gross monthly salary for the first breach; and
  - (b) 25 per cent of his or her gross monthly salary for every subsequent breach.
  - (c) The fine referred to in (a) and (b) will go to a fund that will be used for Council matters.
- (4) If a councillor absents him or herself from three or more meetings without permission, the Council must request the Provincial Minister to remove the councillor from office.

## **MINUTES**

**13.(1)** The Municipal Manager must—

- (a) compile the minutes of the proceedings of a meeting in writing within two weeks of the meeting; and
  - (b) provide each councillor with a copy of the minutes within a reasonable period.
- (2) The minutes of a meeting must be considered by the Council at its next meeting and, if confirmed, must be signed by the Speaker.
- (3) The minutes are taken as read, for the purpose of sub-rule (2), if they were provided to each councillor within a reasonable period before the meeting considering them.
- (4) No motion or discussion is allowed on the confirmation of the minutes, except in connection with the correctness thereof.
- (5) If a councillor is dissatisfied with the correctness of the minutes, he or she 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.

- (6) 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.
- (7) The Municipal Manager must keep a record of the signed minutes.

## **QUORUM**

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

- (2) If there is no quorum at the time for which the meeting is scheduled, the Speaker must take the chair as soon as a quorum is present.
- (3) If there is no quorum, the start of the meeting must be delayed for not longer than 30 minutes and if at the end of that period, there is still no quorum, the Speaker must—
  - (a) adjourn the meeting to another time, date and venue or platform at his or her discretion; and
  - (b) record the time of such adjournment and the names of those councillors present.
- (4) If the Speaker is not present and there is no quorum, the start of the meeting must be delayed for not more than 30 minutes and if there is still no quorum at the end of that period, the meeting may not take place and the Municipal Manager must record the time of such adjournment and the names of the councillors present.
- (5) If during a meeting there is no quorum, the Speaker must suspend the proceedings until a quorum is again present: Provided that if after 10 minutes or such longer time as the Speaker may allow, there is still no quorum, the Speaker must—
  - (a) adjourn the meeting to another time, date and venue or platform at his or her discretion; and
  - (b) record the time of such adjournment and the names of those councillors present.

## ADJOURNMENT OF PROCEEDINGS

15. The Speaker may only adjourn a meeting—
- (a) after the Council has transacted all of its business on the agenda;
  - (b) in the absence of a quorum as contemplated in rule 14;
  - (c) upon a successful motion to adjourn as contemplated in rule 43 or 44;
  - (d) when a meeting has fallen into disarray and has become unruly;
  - (e) in the event of a resignation as contemplated in rule 55(11); or
  - (f) in the event of *vis major*.

## CONTINUATION OF MEETING IF SPEAKER UNLAWFULLY ADJOURNS MEETING

- 16.(1) If the Speaker has adjourned a meeting in circumstances other than those contemplated in rule 15, such adjournment is improper and the remaining councillors may proceed with the remainder of the agenda: Provided that a quorum is still present.
- (2) The remaining councillors must elect an Acting Speaker to preside over the proceedings to conclude the agenda.
  - (3) The Municipal Manager or, if the Municipal Manager is absent, unavailable, unwilling or unable, a person designated by the Provincial Minister, presides at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.
  - (4) The Acting Speaker may only preside over the remainder of the meeting that was improperly adjourned by the Speaker.

## CHAPTER 3

### DECISIONS

#### UNOPPOSED MATTERS

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

#### OPPOSED MATTERS

18. If the Council is called upon to consider a matter before it, the Speaker must open the matter for debate and only at the end of the debate the matter must be put to the vote. Upon the announcement of the result of the vote, a councillor may demand that his or her dissenting vote, abstention or supporting vote be recorded in the minutes of the meeting.

#### DECISIONS BY VOTING

- 19.(1) As contemplated in section 160(3)(a) of the Constitution and section 30(1) of the Structures Act, a quorum must be present before a vote may be taken on any matter.
- (2) A supporting vote of a majority of councillors as per the section 20 of the Structures Act who are in attendance is necessary to decide on any matter prescribed by legislation, or, in accordance with section 160(3)(b) of the Constitution and section 30(2) of the Structures Act, including but not limited—
- (a) passing of a by-law;
  - (b) approval of the budget;
  - (c) imposition of rates and other taxes, levies and duties; and
  - (d) raising of loans.



- (3) A supporting vote of at least two-thirds of councillors as per the section 20 of the Structures Act who are present is necessary to adopt a decision to dissolve the Council, in accordance with section 34 of the Structures Act.
- (4) All other questions before the Council are decided by a majority of the votes cast, as contemplated in section 160(3)(c) of the Constitution.
- (5) If on any question other than a matter contemplated in section 160(2) of the Constitution, there is an equality of votes, the Speaker must exercise a casting vote in addition to his or her vote as a councillor as contemplated in section 30(4) of the Structures Act.
- (6) The Executive Mayor, if applicable, must submit a report and recommendations before the Council takes a decision on the following matters:
  - (a) Any matter contemplated in sub-rule (2)(c);
  - (b) the approval of an integrated development plan or any amendment thereof; and
  - (c) the appointment and conditions of service of a Municipal Manager and a Senior Manager directly reporting to a Municipal Manager.
- (7) As contemplated in item 2A of the Code, a councillor may not vote in favour of, or agree to, a resolution which is before the Council and conflicts with any legislation applicable to local government.

## METHOD OF VOTING

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

- (a) law prescribes otherwise; or
- (b) Speaker determines that voting must take place by a secret ballot, in which case voting must take place in the manner contemplated in rule 21(4).

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

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

(3) A councillor may not leave the Council chamber or committee room during the taking of a vote.

## CASTING OF VOTES

- 21.(1) Unless any law provides otherwise and subject to sub-rule (4), voting takes place in accordance with a manual voting system.
- (2) Where no electronic voting system is in operation, a manual voting system must be used in accordance with a procedure predetermined by the Speaker and - the Municipal Manager or his or her nominee must count the votes cast in the presence of a representative of each party represented on the Council or the committee, as the case may be, and present at such meeting and must record the result of voting;
- (a) after councillors' votes have been counted, the Speaker must immediately announce the result of the division; and
  - (b) the names and votes of the councillors must be recorded in the minutes of the meeting.
- (3) Where a secret ballot is held—
- (a) the Municipal Manager must hand to each councillor a ballot paper or device having the alternates to be voted for clearly depicted thereon;
  - (b) the Municipal Manager must collect all the ballot papers or display the results and count them in the presence of a representative of each party represented on the Council, or the committee, as the case may be, and present at such meeting; and
  - (c) the Speaker must immediately announce the result of the division.
- (4) (a) Should voting be required during virtual meetings, councillors will also be entitled to cast their votes either electronically, by voice or by show of hands. The procedure will be in accordance with the decision of the Speaker after consulting with the Municipal Manager.

- (b) When voting takes place during virtual meetings, videos must be on
- (c) Councillors must ensure that their votes are correctly recorded and Political parties must also provide a signed copy of votes cast by their members within an agreed time-frame to ensure verification of results. This record may be submitted electronically.

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

### **Attendance of and address by municipal employee or member of public**

**22.**(1) The Speaker must—

- (a) take reasonable steps to regulate public access to, and public conduct at, meetings as contemplated in section 20(4)(b) of the Systems Act; and
  - (b) ensure that meetings are accessible to all persons including ensuring that virtual meetings are live-streamed, wherever possible.
- (2) The Council must conduct its business in an open manner and may close its meetings as contemplated in rule 23 only when it is reasonable to do so, having regard to the nature of the business being transacted as contemplated in section 160(7) of the Constitution.
- (3) A municipal employee or member of the public who was not invited by the Speaker to address the Council, but wishes to do so, must apply in writing to the Speaker at least one working day before the meeting, stating the matter on which he or she wishes to speak.
- (4) The Speaker may allocate reasonable time to any municipal employee or member of the public to address the Council upon granting an application contemplated in sub-rule (3).

## **EXCLUSION OF MEMBERS OF PUBLIC FROM MEETING**

**23.**(1) Subject to section 20(1) of the Systems Act and sub-rules (2) and (3), members of the public may be excluded from a meeting—

- (a) if so directed by the Speaker;
- (b) if so decided by Council upon a motion from any councillor to that effect; or
- (c) where matters are marked confidential.

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

(3) Members of the public may be excluded when the Council, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so, having regard to the principles of an open and democratic society.

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

(5) If members of the public are excluded from the meeting, the venue or platform must be cleared of all members of the public.

(6) The motivation for the exclusion of members of the public must be recorded in the minutes of the meeting.

## **RE-ADMISSION OF MEMBERS OF PUBLIC**

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

(2) The motion must be debated before it is put to the vote.

(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**

#### **CONDUCT OF COUNCILLORS, MUNICIPAL EMPLOYEES AND MEMBERS OF PUBLIC**

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

(a) behave in an unseemly manner;

(b) obstruct the business of a meeting;

(c) commit any breach of the rules;

(d) indulge in an irrelevant argument or the tedious repetition of arguments; or

(e) use offensive or unbecoming language or remarks which are of a defamatory nature.

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

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

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

(a) if speaking, to discontinue his or her speech; or

(b) to withdraw from the chamber or committee room for the remainder of the meeting or, if necessary, to be removed by a person designated by the Speaker.

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

(6) The motion contemplated in sub-rule (5) must be moved without notice, and it must be debated before it is put to the vote.

## **CHAPTER 6**

### **DEBATE AND MOTIONS**

#### **ADDRESS TO SPEAKER**

**26.**(1) A councillor, or a municipal employee or member of the public contemplated in rule 22(4) 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 group, identify such organisation or group.

#### **RIGHT TO SPEAK AND LIMITATION**

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

(a) allows the parties and interests reflected within the Council to be fairly represented; and

(b) is consistent with democracy.

- (2) A councillor has freedom of speech in any meeting of the Council and in any committee of which he or she is a member in accordance with section 28 of the Structures Act and section 2 of the Western Cape Privileges and Immunities of Councillors Act, 2011 (Act 7 of 2011): Provided that he or she must—
- (a) confine his or her speech to municipal matters;
  - (b) avoid personal attacks on other councillors; and
  - (c) refrain from defaming another councillor, a person or an institution.
- (3) The right to freedom of speech of a councillor contemplated in sub-rule (2)—
- (a) includes participation in the deliberations and voting on any resolution, decision, report, paper or minutes adopted or approved by the Council or any of its committees; and
  - (b) is subject to these rules.
- (4) A councillor who is not a member of a committee has the right to speak at a meeting of that committee: Provided that such councillor has been permitted by the chairperson to speak to a specific item on the agenda.
- (5) A councillor may speak or proceed to speak at a meeting after being recognised by the Speaker.
- (6) A councillor may speak only once to—
- (a) a matter before the Council;
  - (b) any motion before the Council;
  - (c) any amendments to a motion before the Council; or
  - (d) a point of order or a question, unless authorised by the Speaker or as provided for in these rules.



- (7) A councillor may not be interrupted while speaking, unless called to order by the Speaker or a point of order or point of clarification is raised by any other councillor.
- (8) The Speaker may not recognise a councillor to speak on a matter once that matter has been voted on or dealt with.
- (9) The Speaker may not allow a debate on a matter—
- (a) which may anticipate any matter on the agenda; or
  - (b) in respect of which a decision by a judicial or administrative body or a commission of inquiry is pending.

## **PARTICIPATION BY SPEAKER IN DEBATE**

**28.**(1) If the Speaker wishes to take part in a debate, he or she may do so from the floor and must—

- (a) request the meeting to elect an Acting Speaker in the manner contemplated in rule 16(3) for the duration of the debate in which he or she wishes to take part; and
- (b) vacate the chair and take up his or her seat amongst the other councillors.

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

## **TABLING OF DOCUMENTS**

**29.**(1) Where any law requires any document or report to be tabled in the Council by a councillor or municipal employee, tabling is deemed to be effected by presenting it to the Speaker at a Council meeting.

(2) All documents and reports tabled in the Council must be recorded in the minutes.

## QUESTIONS

30.(1) A councillor may submit a question on any matter relevant to a political office bearer or municipal employee concerning any matter related to the effective performance of the functions of the municipality and the exercise of its powers and carrying out of its duties, by giving 10 working days' notice in writing to the Speaker.

(2) A question must be in writing, dated and signed by the councillor and the date of receipt must be endorsed on it.

(3) The Speaker may—

(a) refer the question back to the councillor with a reason why it cannot appear on the agenda, which reason may include, amongst others, that he or she is of the opinion that the question is out of order, not clearly put, irrelevant or not submitted in accordance with these rules; or

(b) accept the question and refer it to the appropriate political office bearer or municipal employee to answer.

(4) The Municipal Manager must ensure that a response is given at the next Council meeting: Provided that if an answer cannot be put before the meeting, it must be considered at the subsequent Council meeting.

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

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

(7) A question may be published for public notification.

## **DEBATE MANAGEMENT**

**31.**(1) The Speaker may allow a five-minute period to the mover of a motion to respond and to conclude the debate on an item.

(2) Notwithstanding the provisions of sub-rules (1), the Speaker may not, when exercising any discretion in terms of these rules, prejudice any party in respect of the time allocated to a party.

**32.** A councillor who speaks, must direct his or her speech to the matter before the Council.

## **POINT OF ORDER**

**33.**(1) A councillor may interject during a Council meeting to raise a point of order to call the attention of the Speaker to a breach of the rules, the Code or a statutory provision.

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

(a) a procedural matter; or

(b) the conduct of a councillor, municipal employee, or member of the public.

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

(a) point of order; and

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

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

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

- (5) If ruled to be—
- (a) in order, the councillor must be allowed to proceed with his or her speech; or
  - (b) out of order, the councillor must remain silent or must retract or change any remarks so as to comply with the ruling.
- (6) The Speaker's ruling on a point of order—
- (a) is final and not open to debate; and
  - (b) must be recorded in the minutes.
- (7)(a) If a councillor persists in irrelevant, frivolous or unsubstantiated points of order, the Speaker may—
- (i) rule that the councillor must withdraw immediately from the chamber or committee room for the remainder of the day's meeting; and
  - (ii) refer the councillor for discipline in terms of the uniform standing proceedings relating to councillor discipline adopted by the Council.
- (b) If the Speaker fails to act under paragraph (a), any councillor may move a motion to require the Speaker to do so.

## **EXPLANATION**

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

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

## MOTION

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

## NOTICE OF MOTION

**36.**(1) Unless provided otherwise in these rules, a notice of motion must be—

- (a) in writing, dated, motivated and signed by the relevant councillor; and
- (b) delivered to the Speaker at least six working days before the date of the meeting at which it is to be moved.

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

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

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

(4) Sub-rule (1) does not apply to the following motions:

- (a) A motion of exigency; and
- (b) a motion of course.

## QUESTION FOR DEBATE

37.(1) During a debate and—

- (a) after a motion has been moved and seconded; or
- (b) at the conclusion of any speech on a motion,  
any councillor may ask any question relevant to the motion to another councillor.

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

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

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

## MOTION OF EXIGENCY

38.(1) Subject to sub-rule (2), a councillor may direct the attention of the Council to any matter which does not appear on the agenda and of which no notice has been given, by stating briefly the subject of the matter and, without comment thereon, moving a motion “that the motion to which attention has been directed be considered forthwith as a matter of exigency”.

(2) A motion of exigency must be submitted to the Speaker at least one (1) hour before the start of the meeting if circumstances allow.

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

(4) This rule does not apply to a motion of no confidence as contemplated in rule 55.

## **MOTION OF COURSE**

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

- (a) That precedence be given to the consideration of any particular matter appearing on the agenda;
- (b) that any report referred to in the agenda be noted, adopted, acted upon or referred back;
- (c) that any document before the Council be acted upon in the manner specified in the motion;
- (d) that action be taken with regard to any matter submitted for consideration in the manner specified in the motion;
- (e) that the Speaker must direct that a councillor, municipal employee or a member of the public withdraw from the meeting; and
- (f) any motion contemplated in rule 40.

(2) A motion of course must be debated before it is put to the vote.

## **PRECEDENCE OF DEBATE**

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

- (a) the motion be amended;
- (b) the consideration of the matter be postponed to a fixed or undetermined date;
- (c) members of the public be excluded as contemplated in rule 23;
- (d) members of the public be re-admitted as contemplated in rule 24;
- (e) the meeting be adjourned to another date;
- (f) the meeting be adjourned for a specified time;
- (g) the debate on the matter be adjourned for a specified time;
- (h) the motion be put to the vote;
- (i) the motion be removed from the agenda; or

- (j) the motion be referred to a committee; or
- (k) the motion be withdrawn.

## **AMENDMENT MOTION**

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

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

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

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

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

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

(b) The Speaker must decide whether or not the amendment complies with paragraph

(a), and must rule accordingly.

1. The amendment must be considered before considering the original motion.

2. If the Speaker so requires, a proposed amendment must be in writing, signed by the councillor who moved it, and handed to the Speaker.

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

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



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

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

## **MOTION FOR POSTPONEMENT OF MATTER**

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

3. The motion—

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

4. The councillor who moved the motion may speak to the motion.

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

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

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

## **MOTION FOR ADJOURNMENT OF MEETING TO ANOTHER DATE**

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

1. The motion—
  - a. need not be in writing; and
  - b. must be seconded.
2. The councillor who moved the motion may speak to the motion.
3. A debate on the motion may not be permitted: Provided that the first councillor to indicate his or her opposition to the motion, may speak in opposition thereof.
4. An amendment to the motion may not be moved, except in relation to the period of adjournment.
5. If the motion is carried, the meeting must forthwith adjourn and be reconvened on the date specified in the motion or amended motion, unless the Speaker directs that the meeting proceed first to dispose of business other than the opposed business.
6. If the motion is not carried, the meeting must proceed as if no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.
7. Before the conclusion of a motion that is carried during a debate, the councillor who moved the adjournment is entitled to speak first when the matter is reopened for discussion at the adjourned meeting.
8. No business may be transacted at an adjourned meeting other than the business that was on the agenda for the meeting of which it is an adjournment.

## **MOTION FOR ADJOURNMENT OF MEETING FOR SPECIFIED TIME**

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

9. The motion—

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

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

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

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

## **MOTION FOR ADJOURNMENT OF DEBATE ON MATTER FOR SPECIFIED TIME**

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

13.The motion—

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

14. The councillor who moved the motion may speak to the motion.

15. The motion must be debated before it is put to the vote.

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

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

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

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

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

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

## **MOTION THAT MATTER BE PUT TO VOTE**

**46.**(1) A councillor may, at the conclusion of any speech on a matter, move "that the matter be put to the vote".

- a. The motion—
  - i. need not be in writing; and
  - ii. must be seconded.
  
- b. The motion must be debated before it is put to the vote.
  
- c. The councillor who moved the original motion under debate may, when a motion contemplated in sub-rule (1) has been moved, speak on that original motion, whereupon the motion contemplated in sub-rule (1) must be put to the vote without any further debate.
  
- d. If the motion contemplated in sub-rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion on that item.

## **MOTION TO REMOVE MATTER FROM AGENDA**

**47.**(1) A councillor may move “that the matter be removed from the agenda”.

(2) The motion—

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

(3) The motion must be debated before it is put to the vote.

(4) If the motion contemplated in sub-rule (1) is carried, the matter must be removed from the agenda of the meeting, and may not be further pursued at that meeting.

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

## **MOTION TO REFER MATTER TO COMMITTEE**

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

(2) The motion—

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

(3) The motion must be debated before it is put to the vote.

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

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

## **WITHDRAWAL OF MOTION OR QUESTION**

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

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

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

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

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

## **ABSENCE OF COUNCILLOR WHO GAVE NOTICE OF MOTION OR QUESTION**

50.(1) If the councillor who gave notice of a motion or a question is not present when called upon by the Speaker, the motion will not be moved and the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion on that item.

## **RE-INTRODUCTION OF MOTION OR QUESTION**

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

## **MOTION OR QUESTION ON MATTER REFERRED TO COMMITTEE**

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

(a) submitted to that committee; or

(b) referred to that committee for consideration and report.

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

### **RECOMMENDATION BY EXECUTIVE MAYOR OR COMMITTEE**

**53.**(1) A recommendation contained in a report submitted by the Executive Mayor or a Chairperson of a committee to the Council is considered to have been moved by the Executive Mayor or the committee, as the case may be.

(2) The motion does not need to be seconded.

(3) The Executive Mayor or any member of the Mayoral Committee or chairperson of a committee, as the case may be, may speak on the matter and reply, but the reply must be confined to the matter and may not introduce any new matter into the debate.

### **REPORT ON DELEGATED POWERS**

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



## **CHAPTER 7 REMOVAL OF OFFICE-BEARER FROM OFFICE**

### **Removal of Speaker, Executive Mayor or Deputy Executive Mayor from office**

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

*(b)* A motion of no confidence contemplated in paragraph *(a)* must be seconded by at least three other councillors.

(2) A motion of no confidence must contain a brief summary of the reasons for the removal, and indicate the date and the time of the special Council meeting, which date may not be less than—

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

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

(3) The Speaker must, upon receipt of a motion of noconfidence—

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

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

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

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

(4)(a) If the Speaker, for whatever reason, fails to convene the special Council meeting in terms of sub-rule (3) within one working day from receipt of the motion, the Municipal Manager must convene the special Council meeting on the date and at the time set out in the motion and at a venue or platform determined by him or her.

(b) If the Municipal Manager, for whatever reason, fails to convene a special Council meeting in terms of paragraph (a) within one working day of the failure by the Speaker, a person designated by the Provincial Minister must convene the special Council meeting on the date and at the time set out in the motion and at a venue or platform determined by him or her.

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

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

(6) Only the motion of no confidence contemplated in sub-rule (1) may be dealt with at the special Council meeting.

(7)(a) The Municipal Manager must give notice of the special Council meeting at least six working days prior to the meeting, in the manner contemplated in rule 7(4).

(b) If the Speaker determines that the special Council meeting is an urgent meeting, the Municipal Manager must, at least four working days before the meeting, give written notice as contemplated in rule 7(4).

- (c) If the Municipal Manager accidentally omits to give notice to any councillor, such omission does not invalidate a meeting.
- (8) If the Speaker, Executive Mayor or Deputy Executive Mayor to whom the motion relates, resigns from office at any time before the special Council meeting takes place, the motion of no confidence lapses and the meeting does not go ahead.
- (9) The Speaker, Executive Mayor or Deputy Executive Mayor to whom the motion relates, has the right and must be allowed the opportunity during the special Council meeting to respond to every allegation made—
- (a) in the motion of no confidence; and
  - (b) during the meeting.
- (10) If the Speaker, Executive Mayor or Deputy Executive Mayor to whom the motion relates, is not present during the special Council meeting, the Council may continue with the proceedings in his or her absence.
- (11) If the Speaker, Executive Mayor or Deputy Executive Mayor to whom the motion relates, at any time during the special Council meeting, but before the motion of no confidence is put to the vote, resigns from office, the—
- (a) special Council meeting is adjourned immediately; and
  - (b) motion lapses;
- despite any provisions to the contrary in these rules: Provided that if the motion of no confidence concerns the Speaker, the Council must proceed to elect a new Speaker.
- (12) If the motion of no confidence is carried, the Speaker, Executive Mayor or Deputy Executive Mayor to whom the motion relates, is removed

from office with immediate effect and the Council proceeds to elect a new Speaker, Deputy Executive Mayor or Deputy Executive Mayor, as the case may be, despite any provisions to the contrary in these rules.

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

(14)If the motion of no confidence is not carried, no motion forwarding the same allegations may be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

## **CHAPTER 8**

### **LEGISLATIVE PROCESS**

#### **INTRODUCTION OF DRAFT BY-LAW**

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

#### **INTRODUCTION OF DRAFT BY-LAW BY COUNCILLOR**

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

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

(3)(a) The Municipal Manager must submit a report on the draft by-law,

together with any comments received from the committee or committees, as the case may be, as contemplated in sub-rule (2), if applicable, to the Executive Mayor for a report and recommendation to the Council as contemplated in section 30(5) of the Structures Act.

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

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

(a) An executive summary of the draft by-law;

(b) a memorandum on the objects of the draft by-law;

(c) the contents of the draft by-law;

(d) other by-laws that will have to be repealed or amended if the draft by-law is adopted;

(e) the reasons why the draft by-law is supported with or without amendments or not supported, as the case may be;

(f) any relevant

comments or proposals, which may include proposals for amendments;

(g) a recommendation or recommendations.

(5) (a) After considering the report contemplated in sub-rule (4), the Council must decide to either reject the draft by-law or to approve it with or without amendments.

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

(c) If the Council approves the draft by-law, the draft by-law must

be published for public comment in accordance with rule 59.

## **INTRODUCTION OF DRAFT BY-LAW BY COMMITTEE**

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

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

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

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

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

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

## **PUBLICATION OF DRAFT BY-LAW**

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

(b) The comment period must be at least 30 working days from the date of publication,

unless the Council has approved a shorter period.

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

## **CONSIDERATION OF DRAFT BY-LAW**

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

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

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

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

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

(4) As contemplated in rule 19(2)(a), a supporting vote of a majority of councillors as per section 20 of the Structures Act is necessary to decide on the passing of a by-law.

- (5) The Council may not pass a by-law unless all the councillors were given reasonable notice as contemplated in section 160(4)(c) of the Constitution and section 12(3)(a) of the Systems Act.
- (6) When a by-law has been passed, it must be published in accordance with section 13 of the Systems Act.
- (7) These rules also apply to the adoption of standard draft by-laws as contemplated in section 14(4) of the Systems Act.

## **CHAPTER 9**

### **MISCELLANEOUS MATTERS**

#### **OFFICIAL LANGUAGES**

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

#### **MUNICIPAL EMPLOYEES**

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

#### **DRESS CODE**

63. (1) All attendees to Council and committee meetings are to dress in a manner befitting the dignity and decorum of the Council and Committees, as may further be provided for in guidelines approved by delegated Committee; provided that no party symbols may be displayed.  
(2) The allowed dress code for meetings should be smart, smart casual, formal or traditional.



## WHATSAPP

- 64.** (1) A Councillor's whatsapp group shall be created whose members shall be the Garden Route District Municipality Councillors and officials only, and whose purpose shall be for official communication with Councillors.
- (2) Councillors will be bound by the Code of Conduct for Councillors when participating in the whatsapp group.

## BREACHES

- 65.** (1) A councillor, municipal employee or member of the public who—
- (a) refuses to withdraw from the chamber or committee room when directed to do so by the Speaker in terms of these rules; or
  - (b) returns to a meeting from which he or she has withdrawn or was removed for the duration of the meeting in terms of these rules, may be removed by a person designated by the Speaker, may be guilty of an offence in terms of the Code of conduct for Councillors.
- (2) A councillor, municipal employee or member of the public may not—
- (a) interfere or impede the Council when such Council is exercising its powers, performing its functions, or carrying out its duties;
  - (b) interfere with or impede the exercise, performance or carrying out by a councillor of his or her powers, functions and duties as a councillor;
  - (c) threaten or obstruct a councillor proceeding to or going from a meeting of the Council or committee;
  - (d) assault or threaten a councillor;
  - (e) fail or refuse to comply with an instruction by the Speaker; or
  - (f) fail or refuse to comply with an instruction by a duly authorised municipal employee regarding—

- (i) the presence of persons at a particular meeting of the Council or a committee; or
- (ii) the possession of any article, including a firearm, on the premises where a meeting takes place or on municipal land.

(3) A person, including a councillor, who contravenes sub-rule (2) may be convicted.

(4) Sub-rules (2) and (3) do not derogate from any other criminal or civil sanctions, or, in the case of councillors, sanctions regarding a transgression of the Code.

(5) A councillor who contravenes any of these rules during a meeting compromises the integrity of the municipality must be dealt with in accordance with the uniform standing proceedings relating to councillor discipline adopted by the Council and may be charged in terms of the Code in addition to criminal charges that may be instituted against him or her.

(6) Every councillor, municipal employee and member of the public must act in accordance with the provisions of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004).