

MAKHADO LOCAL MUNICIPALITY (DRAFT) STANDING RULES OF ORDER, 2018

(APPROVED BY COUNCIL RESOLUTION A.26.27.03.18)

The Council for **Makhado Local Municipality** adopted the following bylaws at its meeting held 27 March 2018 terms of section 165 (2) of the Constitution of the Republic of South Africa (Act No. 108 of 1996) read with section 31 (2) of the Local Government: Municipal Structures Act, 1998 and hereby publishes the bylaws in terms of section 13 (a) of the Local Government: Municipal Systems Act, 2000 to come into effect on the date of publication hereof in the Provincial Gazette.

By virtue of this Notice, Council also gives notice that the Rules and Orders, 2016 promulgated under Local Authority Notice 125 in Provincial Gazette No 2736 dated 29 July 2016, is herewith repealed and substituted for the Rules of Order as set out hereinafter below.

(DRAFT) STANDING RULES OF ORDER, 2018 FOR THE MEETINGS OF THE COUNCIL AND ALL ITS COMMITTEES

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1. Application of rules

- 1.1 The rules contained herein apply to all meetings of the municipal Council and any committee of the municipal Council as well as any other committee of Councillors established within the Municipality, unless the terms of reference for a specific structure explicitly excludes the application of these Rules of Order.
- 1.2 The rules are aimed at allowing free, open and constructive debate during meetings. The rules are encouraged and promote freedom of expression in such a manner that orderly debate is ensured within the time constraints of time allocated to meetings.
- 1.3 The rules endeavour to create the opportunity for Councillors serving in Council structures to air their view on any matter of public importance.
- 1.4 The rules of order are applicable to:
 - 1.4.1 All Councillors;
 - 1.4.2 Traditional Leaders participating in Council and its committees in terms of section 81 of the Municipal Structures Act;
 - 1.4.3 Any municipal official of the Municipality; and
 - 1.4.4 Any member of the public while present in the Council chamber and precinct.

2. Definitions

The following terms and phrases used in these rules shall have the meaning assigned to them hereunder:

“Chief Whip” shall mean the person elected as the Chief Whip of the Council;

“Committee” shall mean any committee established in the Municipality, including committees established in terms of section 79 and 80 of the Structures Act;

“Constitution” shall mean the Constitution of the Republic of South Africa, 1996;

“Council” shall mean the municipal Council for the Makhado Local Municipality;

“Councillor” shall mean a member of the municipal Council;

“Day” shall mean a day that is not a public holiday, Saturday or Sunday, and for the calculation of days the first day will be excluded and the last day included;

“Executive Committee” shall mean the committee appointed in terms of section 42 (2) of the Structures Act;

“In Committee” shall mean the part of the meeting of the municipal Council where the meeting will be closed and members of the public and press, and such municipal officials as determined by the Speaker, excluding the Municipal Manager, will be excluded from the meeting, based on the nature of the business being transacted;

“Mayor” shall mean the Mayor of the Municipality as elected in terms of section 48 of the Structures Act;

“Member” shall mean a Councillor serving in the municipal Council of the Municipality;

“Motion” shall mean a matter submitted by a member in accordance with clause 28 below;

“Municipality” shall mean the Makhado Local Municipality;

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

“Privilege” shall mean the right of freedom of speech for Councillors in Council and committee meetings, subject to the rules of order of any ruling of the Speaker in terms thereof as well as the right not to be held liable for civil or criminal proceedings for anything they said, produced or submitted to the Council or Committee;

“Procedural motion” shall mean a matter raised by a member at a meeting in terms of any deviation from the provisions of this Rules of Order;

“Report” shall mean any item appearing on the agenda for consideration by the Council or a committee;

“Rules” shall mean this Rules of Order;

“Sargent-at-arms” shall mean a person in the full time employment of the Municipality entrusted to assist the Speaker to maintain order during Council meetings and assisted by such additional staff members as the Speaker may direct;

“Senior Managers” shall mean the persons appointed by the Council as the Municipal Manager and all managers directly accountable to the Municipal Manager as approved on the official organisational structure of the Municipality
“Speaker” shall mean the person as elected in terms of section 36 of the Structures Act;

“Structures Act” shall mean the Local Government: Municipal Structures Act, 1998;

“Sub-committee” means any other committee, other than the Executive Committee /or committees appointed by the Council or the Executive Committee;

“Systems Act” shall mean the Local Government: Municipal Systems Act, 2000;

“Traditional Leader” shall mean a Traditional Leader identified by the MEC to participate in the proceedings of a municipal Council in terms of section 81 of the Structures Act;

“Whip” shall mean a member of the municipal Council appointed by each political party represented in the Council to perform the function of managing members of his/her party in Council and its committees.

3. Meeting of Council open to public

3.1 The Municipal Council shall conduct its business in an open manner and

every meeting of the Council and all committees, including the Executive Committee shall be open to the public; provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of section 20 (1) (a) and (b) of the Systems Act.

- 3.2 The Council will deal In Committee when discussing any of the following matters:
- 3.2.1 a trade secret or confidential commercial information of any supplier of the Municipality or any person rendering a service to the Municipality;
 - 3.2.2 personal and private information of any Councillor or an employee of the Municipality;
 - 3.2.3 the intention of the Municipality to purchase or acquire land or buildings;
 - 3.2.4 the price a Municipality may offer for the purchase or acquisition of land or buildings;
 - 3.2.5 any report addressing legal proceedings that the Municipality is involved in or contemplating instituting or defending;
 - 3.2.6 disciplinary proceedings or proposed disciplinary proceedings against any employee;
 - 3.2.7 any matter that might not be disclosed in terms of legislation;
 - 3.2.8 consideration of the minutes of previous In Committee discussions.
- 3.3 A Councillor may, when an item in the agenda is put to order, other than a matter referred to in 3.2 above, and provided it is not a matter that is required in law to be dealt with in open Council, propose with motivation, that the matter be further dealt with In Committee. The ruling of the Speaker in this regard will be final and binding and no further discussion will be allowed.

4. **Council meetings**

The Council shall hold an ordinary meeting for the transaction of business not less than once in every three months / monthly.

5. **Special Council meetings**

- 5.1 The Speaker may at any time of own accord and shall, upon request in writing of a majority of the Councillors of the Municipality, call a special meeting of the Council, provided that no such special meeting shall take place unless all Councillors were given at least **48 hours'** notice prior to the date and time set for the meeting.
- 5.2 In the event where the Speaker fails and/or refuses to call a special meeting when requested in accordance with 5.1 above, and after three (3) days of failing to implement such request, the Municipal Manager of the Municipality may call the meeting.
- 5.3 In the case of an urgent special Council meeting, the Municipal Manager may authorize the giving of shorter notice, which may be given by telephone, facsimile or electronically such as by e-mail, and the notice must be confirmed immediately by letter.

6. **Service of notices**

6.1 At least seven (7) days before any ordinary meeting of the Council and at least forty eight (48) hours before any special meeting of the Council, a notice to attend the meeting, specifying the business proposed to be transacted there at and signed by the Speaker or the Municipal Manager as contemplated in 5.2 and 5.3 above, shall be left or delivered to an accessible distribution point within the Municipality as determined by the Council from time to time, or sent by electronic mail to an address provided by the Councillor at his/her official address or mail address.

6.2 In the case of an urgent special Council meeting, the Municipal Manager may authorize the giving of shorter notice, which may be given by telephone, facsimile or electronically such as by e-mail, and the notice must be confirmed immediately by letter.

7. **Non-service of notices**

Accidental omission to serve on any Councillor a notice of meeting shall not invalidate the proceedings of that meeting.

8. **Urgent matters**

8.1 No business shall be transacted at a meeting of the Council or any committee other than that specified in the agenda relating thereto, except any matters which the relevant chairperson considers urgent and the said chairperson has ruled the matter to be urgent.

8.2 The Municipal Manager may raise matters which in his / her discretion is urgent, for decision by the Council. A matter will be deemed urgent when the decision required, if delayed, would prejudice the Municipality and / or its operations.

8.3 The Speaker or chairperson of the meeting will determine an appropriate time when the Municipal Manager may raise urgent matters and the time available for discussion thereof; Provided that the Speaker may rule that the matter is not urgent as defined in 8.2 above.

9. **Conduct at meetings**

The Speaker or the chairperson of the meeting in the event of a meeting other than a Council meeting shall:

1. Maintain order during meetings
2. Ensure compliance with the Code of Conduct for Councillors during meetings
3. Ensure that meetings are conducted in accordance with the rules
4. Ensure that members conduct themselves in a dignified and orderly manner during meetings
5. Ensure that members of the public attending meetings are seated in areas designated for that purpose
6. Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the

- Speaker or chairperson of the meeting.
7. Ensure that any Councillor or member of the public refusing to comply with the ruling of the Speaker or Chairperson leaves the meeting and the Chamber / Council Chamber.
 8. Ensure that the Whip of each political party represented in the municipal Council as well as the Chief Whip of Council maintains discipline during any meeting.

10. **Interpretation of rules**

- 10.1 The ruling of the Speaker or the chairperson in the event of a meeting other than a Council meeting, with regard to the application and interpretation of the rules as well as other procedural matters not dealt with in the rules shall be final and binding: Provided that the Speaker / Chairperson may be required to provide reasons for a ruling after the meeting.
- 10.2 Any ruling made by the Speaker must be made having due regard to the provisions of the Constitution, national and provincial legislation, municipal by-laws and policies, the rule of law and the rules of natural justice.
- 10.3 Any interpretation and ruling made by the Speaker should be registered by the Senior Manager responsible for Council secretariat in a register kept for this purpose by the Municipality and kept for safekeeping similar to the agendas and minutes of all meetings.

11. **Quorum and acts of Council**

- 11.1 A majority of the Councillors must be present at a meeting of the Council before any matter may be considered and / or voted on.
- 11.2 In the event of no quorum for a meeting, the meeting must be suspended for not more than 20 minutes, and if at the end of the said period there is still no quorum, the Speaker or chairperson may suspend the meeting for such a period he/she deems fit and thereafter adjourn the meeting to another date, time and/or venue.
- 11.3 In the event that a quorum assembles, the Speaker may only adjourn the meeting if the majority of Councillors present agree to such adjournment

12. **Decisions and Voting**

- 12.1 Subject to clause 12.3 below, all matters will be decided by a majority of Councillors present at the meeting.
- 12.2 Before a formal vote is taken on any matter before the Council, the Speaker shall cause the bells to be rung for a period of 1 minute, after which all doors shall be closed and no member or other person shall be allowed to enter or leave the chamber.
- 12.3 Any matter referred to in section 160(2) of the Constitution shall be decided on by a majority of the Councillors in the municipal Council.
- 12.4 If on any question there is an equality of votes, the Speaker or Chairperson of

the Committee may exercise a casting vote in addition to that particular Councillor's deliberative vote, provided that the casting of such vote shall fall within the ambit of the powers duly delegated to the relevant committee: Provided that for those matters listed in section 160(2) of the Constitution, there will be no provision for a casting vote.

- 12.5 If the Speaker or Chairperson of a meeting asks the meeting if it is in agreement with the recommendations and if it is not opposed by any member present, the recommendations are adopted.
- 12.6 In the event of there being opposition to a recommendation, the proposal to be decided upon will be done by means of voting, either by show of hands or if requested and approved by the Speaker or Chairperson, by way of secret ballot.
- 12.7 The Senior Manager responsible for Council secretariat or an official designated by him shall count the votes and declare to the Chairperson the result of the divisions. In the event of a secret ballot, the Senior Manager shall hand to each Councillor a ballot paper bearing the official mark or logo of the municipal Council, and having the alternates to be voted for clearly depicted thereon, substantially in accordance with the following:



Date:

Proposal or motion to be voted for	Councillor's vote (X) : For	Councillor's vote (X) : Against
1.		
2.		

- 12.8 The Senior Manager shall collect all the ballot papers and count same in the presence of a representative from each party represented on the Council or committee and present at such meeting.
- 12.9 The Speaker or chairperson shall thereupon declare the motion carried or lost, and it shall be entered upon the minutes.
- 12.10 The number of members voting will be recorded, and the general result of the vote. The outcome of the voting will be announced by the Speaker.
- 12.11 A member may abstain from voting without leaving the chamber.
- 12.12 A member may request that his/her support / dissent / abstention be recorded in the minutes of the meeting.

13. When Councillors may not attend and participate in the proceedings of the Council, Executive Committee, portfolio committee or sub-committee

A Councillor shall-

- 13.1. Disclose to the Council, or to any committee of which that Councillor is a member, any direct personal or private business interest that the Councillor, or the spouse, partner or business associate of that Councillor may have in any matter before the Council or the committee;
- 13.2. Withdraw from the proceedings of the Council or committee meeting when the matter is being considered by the Council or committee, unless the Council or the committee decides by resolution, that the Councillor's direct or indirect interest in the matter is trivial or irrelevant. A Councillor who has so disclosed his/her interest may, with the approval of majority of the members of the Council or its committee, address the Council or committee on the matter prior to the deliberation and vote on the matter taking place, subject always to the ruling of the Speaker or chairperson on the time to be allowed for such an address.
- 13.3 A Councillor who, or whose spouse, partner or business associate or close family member, acquires or stands to acquire any direct benefit from a contract concluded with the Municipality, must disclose full particulars of the benefit of which the Councillor is aware at the first meeting of the Council or committee of the Council at which it is possible for the Councillor to make a disclosure.
- 13.4 This provision does not apply to an interest or benefit which a Councillor, or a spouse, partner or business associate or close family members, has or acquired in common with other residents and ratepayers of the Municipality.

14. Walkout

If a Councillor or group of Councillors leave any meeting in protest, and the remainder of the Councillors constitute a quorum the business of the meeting shall be proceeded with.

15. Count out

If during any sitting of the Council or any committee, the attention of the Speaker or chairperson is called to the number of members present, he/she shall count them, and if found that there is not a quorum present, the matter shall be dealt with in accordance with Rule 11 above.

16. Adjourned meetings

16.1 The Council or a committee may adjourn a meeting to any date or hour, but no business shall be transacted at any adjourned meeting except such as was set out in the notice for the meeting of which it is an adjournment.

16.2 The Speaker may not adjourn a meeting of Council without agreement by the majority of Councillors present at such meeting

17. Notice of adjourned meeting

When a meeting is adjourned, notice of the adjourned meeting shall be sent out to each member of the Council or committee, specifying the time, date and place of such adjourned meeting, except under the circumstances contemplated in Rule 34 below.

18. Chairperson of meetings

18.1 At every meeting of the Council the Speaker, or if he/she is not present, an Acting Speaker shall be the chairperson. An acting Speaker may be elected by the majority of Councillors present at any meeting of the Council where the Speaker is not present.

18.2 The Mayor shall chair meetings of the Executive Committee and if not present any other Councillor appointed by a majority members of the Executive Committee in attendance.

18.3 The chairperson appointed by the Executive Committee shall chair meetings of the portfolio committees.

18.4 The person so appointed by the Council, Executive Committee or committee shall chair meetings of committees and sub-committees; Provided that where no such person was nominated the members present may elect their own chairperson.

19. Agenda

19.1 Subject to 19.2 and 19.3 below, all meetings must be conducted in accordance with the order in which matters appear on the agenda and only matters which appear on the agenda may be debated.

19.2 The Speaker or chairperson may, after considering a duly motivated request, change the order of matters appearing on the agenda.

19.3 The Speaker or chairperson may, after considering a duly motivated request, direct that a matter be moved between the confidential and open parts of the agenda.

20. Business at Council meetings

The order of business at every ordinary meeting of the Council, the Executive Committee or a committee is as follows:

Council	Executive Committee	Committee
1. Opening: Moment of reflection 2. Notice of the meeting 3. Applications for leave of absence 4. Confirmation of minutes from previous minutes 5. Outstanding matters	1. Opening: Moment of reflection 2. Notice of the meeting 3. Applications for leave of absence 4. Presentations 5. Confirmation of minutes from	1. Opening: Moment of reflection 2. Notice of the meeting 3. Applications for leave of absence 4. Confirmation of minutes of meeting

Council	Executive Committee	Committee
6. Submission of reports from Council representatives in the District Municipality 7. Reports of the Executive Committee, under the sections: Recommendations to Council Resolutions under delegated power 8. Reports from MPAC 9. Reports from the Audit Committee 10. Reports on ward committees / consolidated report on ward committees 11. Report on SALGA activities Monthly Activities 12. Notice of Motion 13. Questions 14. Urgent reports - allowed only with the consensus of the chairperson 15. Reports In Committee	previous meeting/s 6. Outstanding matters 7. Reports from Portfolio Committees 8. Reports from Audit Committee 9. Reports for consideration 10. Reports for noting 11. In-Committee reports 12. Urgent reports allowed - only with the consensus of the chairperson	5. Outstanding matters 6. Reports for consideration

21. Leave of absence

- 21.1 Applications for leave of absence from any Council or committee meeting must be submitted to the Speaker or the Chairperson in writing and signed by the member applying for leave.
- 21.2 All applications for leave must be submitted at least 12 hours before the starting time of the meeting.
- 21.3 The Speaker or Chairperson shall grant leave at his or her discretion, and the Speaker is at liberty to reject such application for leave of absence.
- 21.4 Leave will be deemed to have been granted if a Councillor has been delegated to attend a meeting or engagement on behalf of the Council.

22. Minutes to be kept and confirmation thereof

- 22.1 Minutes of the proceedings of every meeting of the Council and committee shall be electronically or otherwise recorded and be kept for that purpose by the Senior Manager responsible for Council secretariat. The Senior Manager shall be responsible for the correctness of the same, and the minutes of every meeting shall be confirmed at the next ordinary meeting.
- 22.2 Minutes of the proceedings of every meeting of the Council and the Executive Committee shall be word processed or typed and printed, and shall if confirmed, be signed at the next ensuing ordinary meeting by the Chairperson. Minutes shall be bound and kept secure.

22.3 The Senior Manager responsible for Council secretariat must ensure that the minutes reflect the names of the members that attended the meeting, those that are absent and those that have been granted leave of absence.

23. No discussion on minutes under confirmation of minutes

No motion or discussion shall be allowed upon the confirmation of the minutes, except as to its accuracy.

24. Petitions to be written, typed or printed

Petitions, which must be clearly written, typed or printed, must be signed by not less than three citizens and must be couched in respectful language and presented to the office of the Municipal Manager who shall, if he/she deems it necessary, bring the matter before the Executive Committee.

25. Deputations to submit memorandum

Deputations wishing to be received by the Executive Committee shall be required, in the first instance to send a duly motivated memorandum in writing requesting same, and the Municipal Manager shall bring the memorandum before the Executive Committee, which it may authorise, if it sees fit to receive the deputation, and to report to the Council forthwith.

26. Reception of deputations / Presentations

A deputation wishing to address the Executive Committee shall not exceed five in number, but only one member thereof shall be at liberty to address the committee (except in reply to questions from members of the committee) and only for a period not exceeding ten minutes. The committee shall not further consider the matter until the deputation shall have withdrawn itself from the meeting.

27. Moving a report

The Chairperson of Executive Committee or his/her designated person shall move the recommendation contained in a report unless he/she shall have previously stated his/her disagreement with it. The Chairperson of a committee or other member presenting a report may withdraw or amend any section with the consent of the committee, only if it has been established that a particular item or items in the original report was or were incorrectly recorded or it has been established that it would be in the best interest of the Council not to adopt a recommendation or a part or parts thereof.

28. Motions

28.1 No matter shall be brought before the Council or a committee by any member of the Council except upon a notice of motion, which shall be in writing and signed by the member giving the notice as well as the member seconding it: Provided that a person who has a personal electronic mail address from where he or she can be identified by the Senior Manager, can submit such motion by electronic mail.

- 28.2 Any notice of motion shall be submitted to the Speaker or chairperson before 12:00, ten days prior to the meeting of the Council or committee.
- 28.3 A motion shall lapse if the member who submitted the motion is not present at the meeting where the motion is to be debated.
- 28.4 A member submitting a motion shall introduce such a motion and shall have the right of reply thereto.
- 28.5 When a member introduces a motion which is intended to rescind or amend a resolution passed by the Council in the preceding three months or which has the purport as a motion that was not supported within the three preceding months shall not be entertained.
- 28.6 When dealing with motions the motion shall be read out together with the number thereof and the name of the mover.
- 28.7 The Speaker or chairperson shall ascertain which motions are unopposed and these shall be passed without debate and thereafter the opposed motions shall be called in accordance with the order of the agenda.
- 28.8 All notices of motion shall be dated and numbered as received by the Senior Manager, and shall be entered on the agenda paper in the order in which it was received, save and except that notices of amendment to motions shall be entered immediately after such notice of motion, irrespective of the time at which the notice shall have been received.
- 28.9 No member shall have more than two notices of motion on the same agenda at the same time.
- 28.10 Before any notice of motion is placed on the agenda paper it shall be submitted to the Municipal Manager who must obtain the written technical input from the various heads of department of the Municipality, if it is required, and, who, if he/she be of the opinion that it is *ultra vires* existing legislation, shall cause the giver of the notice to be so informed. The giver of the notice shall however, have the right to appeal to a sub-committee comprised of the Speaker, Mayor and Whip of the Council, who shall review the matter and decide whether or not such notice of motion be placed on the agenda paper.
- 28.11 A motion affecting the making or amending of a by-law shall be submitted to the Speaker for a report before the Council passes a resolution in this regard.
- 28.12 The Speaker may disallow a motion which:
- 28.12.1 May lead to discussions of a matter already dealt with on the agenda
 - 28.12.2 Addresses a matter where the Council has no jurisdiction
 - 28.12.3 Addresses a matter where a decision of a judicial or quasi- judicial body is pending
 - 28.12.4 Has not been seconded
 - 28.12.5 If passed, would be contrary to the law.
- 28.13 The mover of a motion may with the consent of the seconder withdraw or amend his motion.

28.14 The Speaker or Chairperson may call upon any mover of an amendment to a motion to reduce the same to writing, and, after signing it, together with the seconder to hand it to the Senior Manager to read the amendments for the meeting to either adopt or reject such amendment.

28.15 Except upon the recommendation of the committee to which the Council has delegated powers or duties to deal with the particular subject matter, no resolution passed at any meeting of the Council shall be revoked or altered at any meeting unless notice of motion so to revoke or alter such resolution shall have been given to the Municipal Manager at least seven days before such subsequent meeting and the Municipal Manager shall, at least one day before such subsequent meeting, have forwarded a copy of such notice of motion to each Councillor.

29. Precedence of the Speaker

29.1 During the sitting of the Council or a committee, members, except lady members and members in traditional, cultural or religious headdress shall have their heads uncovered.

29.2 When speaking, Councillors shall be seated, but at all times, address their speech to the Speaker or Chairperson.

29.3 Whenever the Speaker or Chairperson speaks, any member then speaking or offering to speak must be seated.

29.4 The ruling of the Speaker is final and binding in all the matters in which the Speaker may make a ruling as recorded in this Rules of Order.

29.4.1 Any member aggrieved by the ruling of the Speaker in any matter, may lodge a written grievance with the Municipal Manager within seven (7) days of the date on which such ruling was made.

29.4.2 The Municipal Manager will upon receipt of a member's written grievance, refer it within fourteen (14) days to the Rules Committee, which committee must investigate and submit its finding to the first following ordinary meeting of Council for consideration.

29.4.3 Any resolution which Council may pass in this regard will be recorded in a register kept for this purpose to become the ruling of Council for future reference.

30. Relevance

A member who speaks shall confine his/her speech strictly to the motion or matter under discussion or to an explanation or a question of order.

31. Councillor to speak once only

Except for otherwise provided for in these rules, no Speaker shall speak more than once on any recommendation, motion or proposal, provided that the Mayor or a member may reply in conclusion of a debate, but shall confine him / her to answering

to previous Speakers and shall not introduce any new matter into the debate.

32. Debate management

- 32.1 Time allocated to each political party or interest group will be determined by the Speaker.
- 32.2 At least 24 hours before the meeting, the whippery committee will provide the Speaker or Chairperson with a list indicating which items on the agenda are to be debated.
- 32.3 At least 12 hours before the meeting, the Chief Whip of each political party or interest group represented in the Municipality will provide the Speaker or Chairperson with a list indicating which members will speak on which item included in the agenda.
- 32.4 The Speaker will determine the allocation of time per item and inform the Chief Whips of the speaking time allowed to each member included in the list, based on the principle in 32.1 above.
- 32.5 Each political party or interest group represented in the Municipality has the right to speak on each item on the agenda.

33. Length of speeches

- 33.1 No speech shall exceed **three (3)** minutes in length without the consent of the Speaker. This period shall exclude consecutive translation time required.
- 33.2 The Speaker or the chairperson shall be entitled to, at any time, to set, limit or extend reasonable time limits for the discussion of and/or any decision or any item or group of items on the relevant agenda.
- 33.3 The time limits shall be at the sole discretion of the Speaker or chairperson guided by the principles of fairness, democracy, efficiency and good governance.

34. Disorderly conduct of Councillor and the duty of the Chairperson

- 34.1 The Municipal Manager shall prior to every meeting of Council provide for the Speaker's approval a security plan for such meeting. The Municipal Manager shall further before each meeting of Council designate a Sargent of Arms to take orders from the Speaker with regard to execution of his/her ruling during such meeting.
- 34.2 If at any meeting of the Council or committee a Councillor conducts himself or herself in an improper fashion, behaves in an unseemly manner or persistently obstructs business to be carried out or challenges the ruling of the Speaker or Chairperson on any point of order or declines to withdraw an expression when required to do so by the Chairperson or indulges in tedious repetition or unbecoming language or commits any breach of these rules, the Chairperson shall direct such Councillor to conduct himself or herself properly and, if speaking, to discontinue his/her speech and resume his/her seat, if he/she was standing.

- 34.3 In the event of persistent disregard of the directions of the Speaker or Chairperson, the Speaker or Chairperson shall direct such Councillor to retire from the venue where the meeting is being held for the remainder of the meeting, and shall, if necessary, cause him/her to be ejected there from.
- 34.4 The Speaker or a Chairperson may exclude from a meeting, for such period of time during the meeting as he/she may deem fit, any member who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the chair, provided that a formal disciplinary process will be initiated after the conclusion of the meeting.
- 34.5 Where a Councillor refuses to retire or in the event of more than one Councillor having to be ejected from the meeting, and such Councillor/s refuse/s to leave the meeting, the Speaker shall request the Sargent at Arms to facilitate the removal of such Councillor/s from the chamber.
- 34.5.1 If this cannot be done orderly, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant Councillors to retire or to be ejected from the venue of the meeting.
- 34.5.2 If, at the resumption of proceedings, the Councillor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation.
- 34.5.3 The chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any Councillor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue.
- 34.5.4 The Sargent at Arms of the Council will ensure that such Councillor/s do/does not enter such an alternative venue.
- 34.5.5 The Speaker may not adjourn the Council meeting in the absence of agreement by the majority of Councillors present at such meeting.

35. Obstruction by persons other than Councillors

Any person, other than a Councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the Council or any committee at any meeting shall, if the Speaker or chairperson so directs, be removed from the chamber or the venue where the meeting is being held. If the person refuses to leave, the Sargent-at-arms will be responsible to remove such person from the meeting. The chairperson may exclude such person from further admittance to the Council chamber or the meeting venue or the premises for such period as it may be deemed fit.

36. Points of order and personal explanation

36.1 Any member, regardless of whether he/she addressed the Council on the matter under debate or not, may:

36.1.1 raise a point of order

- 36.1.2 raise a point of personal explanation at the end of the debate
- 36.2 A member when raising a point of order must state the clause in the Rules whereby the member is raising the point of order and indicate how the Rule is contravened or deviated upon
- 36.3 Any point of order or personal explanation will not constitute a speech and will therefore not affect the right of any member to speak on a particular item, provided that the member will not be allowed to spend more than 2 (two) minutes on the point of order or personal explanation.
- 36.4 Any member contemplated in rule 36.1 shall be entitled to be heard and the Councillor speaking at the time shall sit down and remain silent until a ruling has been made by the Speaker or Chairperson.
- 36.5 The ruling of the Speaker or Chairperson on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.
- 36.6 Any member will only be allowed to raise one point of order and one point of personal explanation during the Council meeting. Only one point of order on the same matter will be allowed.
- 36.7 Any member persisting in a point of order or personal explanation after a ruling has been made by the Speaker will be subject to the provision of point 34 above.

37. Questions

- 37.1 Any member may submit a question requiring a written reply from any political office bearer, concerning any matter related to the effective performance of the functions of the Municipality and the exercise of its powers, provided that a written notice of such questions has been submitted to the Records Manager and the Municipal Manager at least 10 (ten) days prior to the Council meeting and the mayor or his/her designee and the Municipal Manager shall ensure that the member receive a written reply at the meeting; the chairperson of Executive Committee reads the reply to the meeting for record purposes.
- 37.2 If after the question has been replied to, a member is of the opinion that the reply is not clear or satisfactory, he or she may, with the permission of the Speaker, request a follow up question.
- 37.3 All questions duly given notice of and all responses submitted shall be recorded in the minutes of the meeting.

38. Terms of reference of section 79 committees

Upon the appointment of any sub-committee the Council shall specifically determine the terms of reference of such sub-committee and shall fix the quorum of such sub-committee. The Council's Standing Rules of Order shall apply to all sub-committees.

39. Council may increase or restrict powers

With the exception of the Executive Committee whose functions are determined in terms of the Structures Act, and the committees whose functions and powers are determined in terms of Section 80 of the Structures Act by the Executive Committee, the Council may at any time extend, withdraw or modify the duties and powers of a committee or sub-committee appointed in terms of Section 79 of the Structures Act.

40. Minutes of Executive Committee, Committees and Sub-committees

Every committee, including the Executive Committee, except when specifically exempted from this provision by a resolution of the Council or the Executive Committee in view of the sensitivity, confidentiality or otherwise of the subject matter of a particular meeting and provided the final resolution or recommendation is duly recorded in writing, shall record minutes of its proceedings and cause the same to be duly kept by the Director Corporate Services.

40.1 At every ordinary meeting of a committee the unconfirmed minutes shall be taken as read, with a view to confirmation, provided that a copy of such minutes shall have been sent to each member of the committee twenty four hours previously.

40.2 No discussion shall be allowed upon the minutes, except as to their accuracy save at portfolio committees and even then at the sole discretion of the chairperson.

40.3 In those instances where practicality does not permit, the minutes of the section 79 or any other similar committee will be confirmed on the same day and agenda.

41. Inspection of minute books by Councillors

The minutes of every Council or committee shall be open for inspection by every member of the Council during office hours; provided the demands of duties of the registry and secretariat staff is taken into account.

42. Non-attendance of members of Committees

Should any member of a committee fail to attend three consecutive meetings of the same committee of which he or she is a member, without leave of absence having been granted as contemplated in 21 above, he/she shall be required to submit a motivation for such absence and if the Speaker are not satisfied with such explanation, it shall be reported to the municipal Council that the Councillor is deemed to have forfeited his/her seat on such committee, and such forfeiture shall be reported to the Council or the executive to the end that the vacancy may be filled by the Executive Committee.

43. Members of Council attending Committee meetings of which they are not members

43.1 Members of the municipal Council may attend the meeting of any committee that they are not a member of, but will in all instances be granted the status of an observer and will not be allowed to participate or vote at such meetings.

- 43.2 The provisions of 43.1 will not be applicable to the Municipal Public Accounts Committee (MPAC) and members of the executive will be requested to attend the MPAC meeting and the request for attendance will specify the matters that the member of the executive will be expected to address the MPAC on.
- 43.3 The rules with regard to agendas as set out above will also be applicable to requests to attend MPAC and address it.
- 43.4 Any member of the executive requested to attend the MPAC may instruct the Municipal Manager or a senior manager to accompany him/ her to the MPAC meeting but may not instruct such official to appear and address the MPAC on his / her behalf.

44. Information to be obtained from Municipal Manager or the Head of Department concerned

Subject to the provisions of 37 above, members of the Council who desire to obtain from any official of the Council information with regard to the administrative work of the Council, which is not accessible to the general public, should address their enquiries firstly to the Municipal Manager who shall direct the relevant senior manager.

45. Information to the press or other media: In-committee discussions

- 45.1 The Mayor or in his/her absence, the Speaker and the Municipal Manager in their discretion may, on application being made to him/her by any registered newspaper, radio station, television service or internet publisher, supply to such media or its representative, information and reports relating to the work of the Municipality.
- 45.2 In view of the Municipal Manager, the Speaker or the Mayor being the authorised channel through which the media may receive information and reports, members of the Council are therefore expected to refrain from sending to the media documents or information supplied to them with a view to their consideration by the Council or any committee: Provided that this clause shall not be construed as abrogating a Councillors individual constitutional right to make press statements which reflect his/her own personal or political view and not that of the Council, further provided however, that no discussion that took place in-committee may be conveyed to the public or the press except by the Mayor/Speaker or Municipal Manager.
- 45.3 Chairpersons of committees must liaise with the Mayor, Speaker and Municipal Manager for the publication of any information relating to committee and the Municipal Manager shall arrange, if approved, the publication of the relevant information.

46. Suspension of standing orders

No standing order shall be suspended without the vote of a majority of the members of the Council or of three-fourths of the members present and a motion duly seconded to suspend the standing orders shall be put without debate.

47. Legal defence and indemnification of Councillors and officers of the Council

The Council may determine the circumstances in which it will undertake the defence of or pay the legal costs or the total costs and the amount in respect of any legal proceedings, whether civil or criminal, a Councillor or an official may have against any person, body, organisation or institution arising from the Councillor's or official's capacity as a Councillor or official of the Municipality.

48 Speaker may refer matters for legal advice

The Speaker shall be entitled, within the framework of the approved operational budget of the Municipality and subject to the supply chain management policy, to refer any matter pertaining to the Council and its proceedings, and with regard to the implementation of specific Council resolutions, for an independent legal opinion to the Council's legal advisors, or investigation that may be undertaken by Council as result of a Council resolution.

49. Activities prohibited within the Council chamber or a meeting venue and the use of the Council Chamber by other persons or institutions

49.1 The decorum of the Council chamber as the official seat of governance of the Municipality shall at all times be respected and adhered to by any person or institution using the facilities.

49.2 The following activities are strictly prohibited from being conducted within the confines of the Council chamber or a meeting venue of the Council or its committees by any person:

49.2.1 Having a cellular telephone that is not on silent mode and speaking on a cellular phone during the meeting;

49.2.2 Consuming any food or drink in his/her possession, excluding water.

49.3 Caucus meetings of the various political parties may be held in the chamber provided it is booked with the Senior Manager of the Speaker prior to the meeting, and subject to such bookings to be on a rotational basis for all the parties.

49.4 The use of the Council chamber by any other person or institution, other than a recognised committee, body of or person in the employ of the Municipality shall be subject to the approval by the Speaker, and at all times subject to the availability thereof in terms of the Council's calendar of use, and the purpose for which it is applied for. Applications for use shall be made in writing to the Senior Manager of the Speaker who shall confer with the Speaker in making the venue available in writing.

50. Ward Committees

The Council may by resolution determine the rules of procedure for the election of ward committees, the procedures at meetings, the reporting rules, and the rendering of secretarial services to these committees

51. Sanctions and Offences

Any person who wilfully contravenes any provision of these rules and policy by-laws Provincial or National legislation including the Code of Conduct for Councillors, shall be guilty of an offence and shall be subject to the following sanctions imposed by the Council:

- 51.1 Having a fine imposed by the Council as determined by it from time to time for the categories of offences as approved by it by resolution from time to time;
- 51.2 Be suspended from the attendance of Council or committee meetings as the Council may determine for such a period as the Council may by resolution determine from time to time for the categories of offences as determined by it.

52. Dress Code

- 52.1 The Council may by resolution prescribe a dress code for Councillors and traditional leaders attending meetings.
- 52.2 Notwithstanding the provisions of any resolution passed in accordance with 52.2, no Councillor shall be allowed to wear any clothing or accessory containing partly political paraphernalia or which can be used to harm other members, to any meeting of Council.

53. Contravention

The Council may by regulation define the rule of proceedings for institution of disciplinary action against a member of Council who contravenes the rules or Councillors' municipal code, policies and legislation.

Schedules

Schedule 1: Uniform standing procedure for imposition of sanctions on Councilors for non-attendance of meetings

Schedule 2: Procedure for investigation regarding any allegation of misconduct against a member of a Municipal Council

Schedule 3: By-laws process

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File No 1/3/34/2
Notice No.of 2018
..... July 2018

**MR N F TSHIVHENGWA
MUNICIPAL MANAGER**

SCHEDULE 1

UNIFORM STANDING PROCEDURE FOR IMPOSITION OF SANCTIONS ON COUNCILORS FOR NON-ATTENDANCE OF MEETINGS

The Makhado Municipal Council has in terms of item 4(3) of Schedule 1 to the Municipal Systems Act adopted the following uniform standing procedure for the imposition of a fine to, or the removal of a Councilor for the non-attendance of meetings:

- (1) A member who wants to be absent from any meeting of Council or any committee of Council must –
 - a. File an application; or
 - b. Be granted permission to be absent from any meeting Council or any committee of Council, in accordance with Council's approved policy in this regard.
- (2) Allegations that a Councilor has not attended a meeting of Council or any committee of Council in contravention of item 3 of Schedule 1 to the Municipal Systems Act, must be submitted to the Speaker in writing.
- (3) If the Speaker, after having studied the written allegations, has a reasonable suspicion that the Councilor contravened the said item 3, the Speaker must appoint a person (the "investigator") to investigate the matter and submit all the evidence to the Speaker.
- (4) If the further evidence obtained from the investigator supports the initial suspicion of the Speaker, the Speaker must in writing submit all the evidence to the Councilor and afford him or her opportunity to reply to the allegations in writing within 21 days.
- (5) The Speaker must then submit all the evidence against, and the reply by the Councilor to the Rules and Ethics Committee, and inform the Councilor in writing that he or she is entitled to attend the meeting of the Rules and Ethics Committee and elaborate on his or her written reply.
- (6) The Rules and Ethics Committee must after its meeting –
 - a. Consider all the evidence submitted to it;
 - b. Make a finding on whether or not the Councilor contravened the said item 3
 - c. Inform the Councilor in writing of its finding or the sanctions contemplated in item 4 of the said Schedule 1 and of his or her rights to make representations about the sanctions within 14 days.
 - d. Formulate a recommendation to Council after the 14 days have elapsed.
- (7) The Speaker must then report the matter to a meeting of Council in terms of item 13(1)(c) of the Schedule 1, and submit all the relevant information to Council.

- (8) Once Council has made its decision on all the facts, the Speaker must –
- a. In writing inform the Councilor of the decision and the reasons for it, as well as of his or her right of appeal under item 14(3) of the said Schedule 1 to the MEC;
 - b. Report the outcome of the investigation to the MEC in terms of item 13(3) of the said Schedule; and
 - c. Inform the public as prescribed in section 4(2)(b)(iv) of the Promotion of Administrative Justice Act, 2000 (Act no. 3 of 2000).
- (9) Rules (2) to (8) apply, with the necessary changes, to instances where a Councilor has breached other provisions of the Code of Conduct for Councilors as contained in Schedule 1 to the Municipal Systems Act.
- (10) If a member is, in a financial year of the Municipality, absent from a meeting of Council or the Executive Committee or a meeting of a committee of Council without the necessary leave or permission, such member forfeits –
- a. 10 percent of his or her monthly remuneration for the first non-attendance of a meeting;
 - b. 15 percent for the second non-attendance of a meeting; and
 - c. 20 percent for each subsequent non-attendance of a meeting.

SCHEDULE 2

PROCEDURE FOR INVESTIGATION REGARDING ANY ALLEGATION OF MISCONDUCT AGAINST A MEMBER OF A MUNICIPAL COUNCIL

1. Whenever the Speaker becomes aware of any contravention of/or failure to comply with any provision of the Code of Conduct as contained in Schedule 1 of the Local Government: Municipal Systems Act, Act 32 of 2000, he or she may of own volition, or whenever any allegation is made in a sworn or affirmed statement to comply with any provision of the Code, he or she shall:
Obtain the written comments of the member concerned, and investigate the facts and circumstances informally.
2. If a member fails to furnish the Speaker with his or her comments within 14 days after being requested to do so by the Speaker or after such extension of time as permitted at the discretion of the Speaker, the Speaker may form his/her prima facie opinion without such comments.
3. If the Speaker is satisfied that a contravention or failure to comply has not prima facie occurred, he shall inform the person who made the allegation or statement and the member implicated of his or her decision.

4. If he or she is satisfied that a contravention or failure to comply has prima facie occurred, he or she call a meeting of the committee selected by the Council either in general or specifically for that purpose to consider the matter. Any member implicated in the matter shall not be entitled to serve in the committee.
 5. The Speaker shall determine the procedure for the hearing of the matter, provided that the following rules are complied with:
 - a. Any person giving evidence before the committee may be required to do so under oath or affirmation;
 - b. the member implicated has the right to be present when any evidence is heard, except as set out in e, and may ask relevant questions based on the statement to the person, as may the committee;
 - c. The committee may ask questions from the members implicated.
 - d. The member implicated will be entitled to representation by a legal representative or other representative approved by the committee as may any person appearing before the committee.
 - e. If the member implicated refuses to attend the meeting/does not attend the meeting or are instructed by the Speaker to leave because of his or her conduct at the meeting, the meeting may continue in the absence of such member.
 - f. The Speaker and/or committee may be assisted during the proceedings by an official or other advisor.
 - g. The member implicated will have the right to present evidence on the statements implicating him or her and to call witnesses.
 - h. The committee may call witnesses to assist them in making a decision.
 6. 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.
 7. After consideration of all evidence the committee must make a finding whether the member contravened or failed to comply with the Code of Conduct and inform the person who made the allegation or statement and the member implicated of its finding.
 8. If the finding is that the member did contravene or fail to comply with the Code of Conduct, the committee must report its finding to Council and recommend an appropriate sanction.
 9. After deciding on the appropriate sanction by Council the Speaker must inform the member thereof and inform the member of his or her right of appeal in terms of the Code of Conduct.
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SCHEDULE 3

BY-LAWS PROCESS

1. Introduction of draft by-laws

A draft by-law may only be introduced by a member of Council or the Executive Committee.

2. Introduction by member

- (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.
- (2) The Speaker must on receipt of draft by-law, present it together with any comments received in terms of sub-item (3), to the Executive Committee for consideration.
- (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.
- (4) The Executive Committee must within 3 months of receipt of draft by-laws from the Speaker consider the matter and submit a report to the Council.

3. Introduction by Executive Committee

- (1) The Executive Committee may on own volition or after considering a request from the Municipal Manager introduce a draft by-law.
- (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.
- (3) The Executive Committee shall submit a report on its proposal to introduce a draft by-law to the Council.

4. First introduction to Council

- (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-laws,
 - 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
- (2) Council after considering the report referred to in sub item (1) must decide to either reject the proposed by-law or to provisionally pass it.
- (3) When a proposed by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of 6 months from the date of rejection.

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

5. Publication

- (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 the Zoutpansberger and Makhado Mirror in such a manner that the public will have the opportunity to make representations with regard thereto.
- (2) The publication must be in the official languages of the Province.

6. Second introduction to Council

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

7. Debate Procedure

The rules pertaining to debate also apply to the legislative process.
