

LOCAL AUTHORITY NOTICE 357 OF 2024



PUBLIC NOTICE

MIDVAAL LOCAL MUNICIPALITY STANDING ORDERS BY-LAW

The Municipal Manager of the Midvaal Local Municipality hereby, in terms of the provisions of Section 13 of the Local Government: Municipal Systems Act, (Act 32 of 2000), publishes the Midvaal Local Municipality Standing Orders By-Law passed by the Council on 30 November 2023 in accordance with Section 12 of the aforementioned Act.

These By-Laws take effect on the date of publication in accordance with Section 7(6) of the Rationalisation of Local Government Affairs Act, (Act 10 of 1998).

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1. DEFINITIONS

“Acknowledged/recognised by the Speaker” means that the Speaker allows a member who has indicated that he/she wishes to speak, to do so.

“Agenda” means the Council Agenda in paper or electronic format. When in electronic format the municipality will provide electronic equipment to enable a Councillor to read the Agenda that is in an electronic format.

“A point of order” means pointing out any deviation of, or anything contrary to, these by-laws or other by-laws of the Council or any other relevant legislation.

“A point of personal explanation” means the explanation of some material part of a member's former speech which may have been misunderstood and may only be raised by that member concerned.

“Authorised Representative”, in relation to a party, means a natural person duly authorised by the party in accordance with its constitution to act on the party's behalf for purposes of performing the duties contemplated in sections 27(2) and 43(2)(d) and (e) of the Local Government: Municipal Structures Act (Act 117 of 1998), as amended.

“Behaviour” means verbal and non-verbal communicative conduct, tone of voice, body language and demeanour, deportment, bearing and etiquette relative to one's conduct towards others.

“Code of Conduct” means the Code of Conduct for councillors set out in Schedule 7 of the Local Government Structures Act (Act 117 of 1998), as amended.

“Caucus” means group of Councillors belonging to the same political party.

“Council” means the Council of the Midvaal Local Municipality as contemplated in Section 157 of the Constitution of the Republic of South Africa.

“Councillor” means a member of the Council of the Midvaal Local Municipality.

“Declared Elected” means the publication of a notice in the Government Gazette reflecting the names of the councillors elected, which councillors are deemed to have been elected to the office on the date of the declaration of the results of an election by the Electoral Commission.

“Delegation” means an assignment of or instruction to perform a duty in terms of Section 59 of the Local Government: Municipal Systems Act, (Act 32 of 2000).

“Executive Mayor” means the Executive Mayor of the municipality as elected in terms of Section 55 of the Local Government Municipal Structures Act, (Act 117 of 1998).

“Item of the Speaker” means any report which the Speaker wishes to be, or which must be considered/noted by the Council in terms of the functions, duties and delegations assigned to the Speaker by the Council or legislation. Such report must first serve before the Mayoral Committee for noting. An item of the Speaker is submitted to Council, together with the comments of the Mayoral Committee and the recommendations of the Speaker, as a part of the Report of the Mayoral Committee.

“Local Government: Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, (Act No. 56 of 2003).

“Mayoral Committee” means the Mayoral Committee as established in terms of Section 60 of the Local Government: Municipal Structures Act, (Act 117 of 1998).

“Meeting” means a meeting of the Council. The meeting could be convened virtually or a combination of face-to-face, physically and virtually.

“Minutes” means minutes of a Council meeting that are in paper or electronic format. When in electronic format, the municipality will provide electronic equipment to a Councillor to read the Minutes that are in an electronic format.

“Motion” means a motion introduced in writing in terms of these by-laws as well as a motion in terms of any other legislation and not an item on the Council Agenda.

“Municipal Public Accounts Committee” means the committee established in terms of section 79A of the Local Government: Municipal Structures Act, (Act 117 of 1998), as amended.

“Party” means a political party registered in terms of the Electoral Commission Act, 1996 (Act 51 of 1996).

“Proposal” means any proposal, with the exception of a motion, moved and seconded during a meeting.

“Quorum” means a quorum is more than 50% (e.g. if there are 29 members, a quorum is 15). The majority of the number of Councillors determined in terms of section 12 notice (MEC) determination must be present at a meeting of Council when a vote is taken on any matter.

“Report of the Executive Mayor” means the report of the Executive Mayor to the Council as contemplated in section 56(5) of the Local Government: Municipal Structures Act, (Act 117 of 1998).

“Section 79 Committee reporting to Council” means committee established in terms of Section 79 of the Local Government: Municipal Structures Act, (Act 117 of 1998) and where, in determining the committee's functions, duties and powers, the Council has resolved that such committee shall report directly to Council. A committee established in terms of Section 79 of the Act that does not report directly to the Council shall report to the Council via the Mayoral Committee as part of the report of the Mayoral Committee. Despite the provision that a Section 79 Committee may report directly to Council, no such report may serve at the Council unless it has first served before the Mayoral Committee for noting. An item of a Section 79 Committee reporting to Council is submitted to Council, together with the comments of the Mayoral Committee and the recommendations of the Section 79 Committee, as a part of the Report of the Mayoral Committee.

“Sergeant-at-arms” means the person responsible to maintain order in the Council Meetings acting (whether alone or with other designated persons) under the directive of the Speaker to perform the actions in terms of the Standing Orders as assigned to him/her.

“Speaker” means the Speaker as contemplated in Section 37 of the Local Government: Municipal Structures Act, (Act 117 of 1998). Including functions: to ensure that the legislative

arm of the municipality functions effectively; is responsible for effective oversight over the executive authority of the council; must ensure the effectiveness of the committees of the municipal council established in terms of section 79 and is responsible for the ethics and accountability of the municipal council.

“Whip of Council” means the Whip of the majority political party in Council or alternatively, as elected by Council per Council resolution.

“Whip of party” means the Whip of a specific political party represented in Council as elected by the caucus of that specific party.

“Whippery” means the Whip of Council as well as all the Whips of the different political parties represented in Council as a collective.

“Whip” means a councillor elected in terms of section 41A of the Local Government: Municipal Structures Act, (Act 117 of 1998), as amended, to be the whip of a municipal council.

Any other word or expression shall have the meaning assigned thereto in terms of the prescribed Act.

2. NOTICE OF COUNCIL MEETING

2.1 The Speaker must call a Council meeting in terms of a written notice to all Councillors. The notice shall specify the date, time and venue of the meeting as well as the Order of Business for the meeting.

2.1.1 Council may convene virtual meetings as deemed necessary.

2.1.2 The type and nature of items that will be deliberated by council must be analysed as per clause 3.3.

2.2 The Speaker must cause that such notice is served on all at least 24 hours before the commencement of an Ordinary Meeting and a Special Meeting of the Council (in terms of the Council's annual year plan). Failure to read an electronic notice of a meeting will not affect the validity of any meeting.

2.3 The accidental omission to serve on any Councillor such notice as is referred to in this rule shall not affect the validity of any meeting.

2.4 The Speaker shall also cause to be delivered to all members the report of Mayoral Committee that was received by him/her for the Council meeting at the time of the issuing of the notice of the meeting.

3. PUBLIC NOTICE OF MEETINGS AND ADMISSION OF PUBLIC TO MEETINGS

3.1 In complying with Section 19 of the Local Government: Municipal Systems Act, (Act 32 of 2000) the Municipal Manager shall give notice to the public, by annual publication in advance, of the time, date, and venue of every ordinary meeting of the Council. For security and logistical purposes, persons wishing to attend must confirm attendance in advance in the manner determined by the Speaker.

The Council will, to the extent possible, also give notice to the public of every special meeting of the Council except when time constraints make this impossible.

- 3.2 In complying with Section 20 of the Local Government: Municipal Systems Act, (Act 32 of 2000) the meetings of the Council and those of its committees are open to the public, including the media.
- 3.3 The Council or its committees may only exclude the public, including the media, from a meeting for security and logistical purposes as contemplated in (2) above or when it is reasonable to do so having regard to the nature of the business being transacted and within the provisions of these Standing Orders. The nature of business contemplated herein refers to staff issues, matters protected in terms of the Promotion of Access to Information Act, (Act 3 of 2000) or any other legislation or legal principle, matters relevant to privileged information, matters wherein the rights of any person may be compromised unreasonably or culpably, or any other matter the Council deems to be confidential relevant to its operations, functions, any investigation or any other process or activity.
- 3.4 The Council, within the financial and administrative capacity of the Municipality, must provide space for the public in the Council Chamber and places where the Council and its Committees conduct meetings, which are open to the public.

4. CONDUCT OF MEMBERS OF THE PUBLIC AT MEETINGS

- 4.1 When attending a meeting of the Council, members of the public, including the media, must conduct themselves in a dignified and orderly manner.
- 4.2 Members of the public, including the media, may not disrupt proceedings and must observe the directions of the Speaker.
- 4.3 The Speaker is responsible for the maintenance of order during meetings and may instruct a person to leave the precincts of the Council, or may cause to have a person removed, if such person disrupts the meetings or is otherwise involved in any misconduct (subject to clause 9, below).
- 4.4 Members of the public and media must abide by and are subjected to the Standing Orders of Council.

5. ORDER IN MEETINGS AND CONDUCT OF COUNCILLORS

The Speaker shall:

Maintain order during meetings; ensure compliance with the Code of Conduct for Councillors during meetings; ensure that meetings are conducted in accordance with the rules; ensure that members conduct themselves in a dignified and orderly manner during meetings; ensure that where applicable, the Whip of each political party represented in the Municipal Council as well as the Whip of Council, maintains discipline during any meeting.

In addition:

- 5.1 No Councillor shall enter or remain in the Chamber unless he or she is dressed in a manner deemed to be acceptable and appropriate to the Speaker, having regard to each Councillor's Party requirements, cultural affiliations and generally accepted norms and

standards. Notwithstanding the afore going no Councillor may enter or remain in the Chamber whilst dressed in a fashion which is generally regarded as immodest, indecent, or overly casual, but shall at all times dress in such a manner as is respectful and befitting the dignity and decorum to the Council and his/her fellow Councillors, provided that no party symbols may be displayed.

- 5.2 The Speaker may allow for the wearing of robes by any or all of the Councillors.
- 5.3 All Councillors must rise when the Speaker and Executive Mayor enter the Council Chamber at the beginning of a meeting and must remain standing quietly until the Speaker takes his or her seat.
- 5.4 All Councillors must rise when the Council adjourns and must remain standing quietly until the Speaker and the Executive Mayor have left the Council Chamber.
- 5.5 During a Council meeting every Councillor shall bow to the Speaker when entering or leaving the Chamber.
- 5.6 A Councillor shall stand when speaking in a meeting and shall address the Speaker.
- 5.7 Subject to sub-rules 5(8) and 8(4) below, if a Councillor who is not speaking rises on a point of order or to make a proposal and such member is acknowledged by the Speaker, the Councillor then speaking shall sit down until the Speaker has made a ruling.
- 5.8 Whenever the Speaker speaks, any Councillor then speaking or offering to speak whether under any item, motion, proposal or point of order or explanation, is, unless he or she is already seated, to sit down and all Councillors are to be silent so that the Speaker may be heard without interruption.
- 5.9 Over and above the written declaration of pecuniary interest to be supplied by the Councillor, a Councillor must disclose any pecuniary interest, as envisaged in Section 5 of Schedule 1 of the Local Government: Municipal Systems Act, (Act 32 of 2000), in any item appearing before the Council or a Committee, upon the item having been called, if that Councillor is present at the meeting in which a decision on the said item is being considered.
- 5.10 No member shall speak for more than 3 (three) minutes on the question of whether his/her pecuniary interest, as contemplated in sub-rule 5(9) above, is so small or remote as to render a clash of interest unlikely. Such speech shall not be regarded as a speech on the item or motion under debate.
- 5.11 A Councillor must withdraw from the proceedings of Council or committee when a matter in which he/she has a personal or confidential business is being considered, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.

6. PUBLIC ACCESS TO RECORDS AND DOCUMENTS

- 6.1 The records of the Council and all documents tabled in the Council must be accessible to the public, including the media, unless the Council, by resolution, orders that a particular document or report may not be made public.

- 6.2 If any member of the public, including the media, wishes to have access to information in sub-rule 6(1) above, he/she must apply to the Speaker for access to such information well in time. The Speaker must cause for such information to be supplied to the applicant unless Council has resolved that such information should not be made public in terms of sub-rule 6(1) above.
- 6.3 The records and documents referred to in (1) and (2) above may be provided in an electronic format to a member of the public.

7. SPEAKING TIME AND MANNER OF COUNCILLORS

- 7.1 A Councillor may speak for as long as contemplated in Rule 23(10).
- 7.2 The provisions of (1) sub-rule 7(1) above shall not apply to a Councillor delivering the Executive Mayor's report or in the presentation of the budget or in the presentation of an oversight report.
- 7.3 No member shall speak more than once on any motion or proposal; provided that if a member directs a question to the mover of a motion or proposal, such question may be answered by the mover.
- 7.4 The Speaker may permit the Executive Mayor or his/her nominee to make an explanatory statement prior to the consideration of any particular item contained in the report of the Executive Mayor or, during the discussion of such report, in reply to a specific question.
- 7.5 A Councillor who speaks shall direct his/her speech strictly to the matter under discussion or to an explanation or a point of order.
- 7.6 The Speaker shall call the attention of the Councillors to irrelevance, tedious repetition, unbecoming language, or any breach of order on the part of a Councillor. Once the Speaker has called a Councillor/s to order, such Councillor/s must immediately cease such discussion, language, or behaviour. In the case of unbecoming language, the Speaker shall direct such Councillor to discontinue his/her speech and to apologise for and withdraw any statement that is unbecoming.
- 7.7 The ruling of the Speaker under this heading is final and binding and not open for discussion.

8. POINTS OF ORDER AND PERSONAL EXPLANATION

- 8.1 Any member, whether he/she has addressed the Speaker on the matter under debate or not, may:
- a) Raise a point of order; and/or
 - b) Give an explanation.
- 8.2 Subject to sub-rule 5(8) above, a member contemplated in sub-rule 8(1)(a) above shall be heard unless the Speaker decides it is inadmissible. In the case of an explanation in terms of sub-rule 8(1)(b) above, the member shall be heard at the discretion of the Speaker.

8.3 The ruling of the Speaker on a point of order or on the admissibility of any explanation shall be final and shall not be open to discussion.

8.4 If the Speaker is of the opinion that a member/s is/are disrupting the meeting through repetitive, unnecessary, disruptive, or filibustering points of order or explanation, the Speaker may disallow any further such points of order and explanation and such ruling is final and binding and not open for discussion.

9. REMOVAL OR EXCLUSION OF A COUNCILLOR

9.1 If a Councillor refuses to comply with any provisions of these Standing Orders the Speaker may direct such member to retire from the meeting.

9.2 If a Councillor who has been directed by the Speaker to retire from a meeting refuses to do so, the Speaker may direct an officer to remove the Councillor or to cause his/her removal and to take steps to prevent his/her return to the meeting.

Alternatively, the Speaker may state that such Councillor is no longer acknowledged for the purpose of the meeting and such Councillor may no longer participate in the meeting. Any Councillor who then engages or interacts with such Councillor in any manner commits a contravention of these Standing Orders. Furthermore, the Councillor that has refused to retire from the meeting after having been directed to do so by the Speaker and/or who continues to attempt to participate in the meeting in any manner whatsoever after the Speaker has stated that such Councillor is no longer acknowledged for the purpose of the meeting, shall automatically be subjected to a disciplinary process in terms of Rule 37 of these Standing Orders read with the Code of Conduct for Councillors under the Local Government: Municipal Systems Act, (Act 32 of 2000).

9.3 Thereafter, the Council may exclude from meetings of the Council, for such periods as it may determine, a member who wilfully disregards the authority of the Speaker or who wilfully obstructs the business at any meeting.

9.4 Before a member is requested to retire or will no longer be acknowledged as contemplated in sub-rule 9(1) and (2) above or is excluded as contemplated in sub-rule 9(3) above, such member must be informed that such retirement, non-acknowledgement or exclusion is being considered and be afforded the opportunity to state reasons why the Speaker should not adopt such resolution, as the case may be.

9.5 The Council may also resolve to refer any breach of the Standing Orders by a Councillor to a committee of Council set up for such purposes and to request such committee to investigate the alleged misconduct and to make recommendations in this regard to the Council.

9.6 A proposal to exclude any Councillor or to refer alleged misconduct of the Councillor to a committee as contemplated in sub-rule 9(5) above may be moved at any stage of the meeting.

9.7 Councillors are duty bound to adhere to the directives of the sergeant-at-arms acting, whether alone or otherwise, under authority of the Speaker and failure to do so entails a breach of the Standing Orders.

10. MODE OF VOTING

- 10.1 Every motion or proposal shall be submitted to the Council by the Speaker who shall call upon the Councillors to indicate by a show of hands, if applicable, whether they are in favour of it or against it and he/she shall thereupon declare the results of the voting, voting during virtual deliberation will be by verbally conveyed and recorded in the text/chat feature by councillors and such will be captured in the minutes.
- 10.2 After the Speaker has declared the result of the voting in terms of sub-rule 10(1) (1), a member may:
 - (a) Request that his/her vote be recorded against the decision; or
 - (b) Demand a division, by rising and putting such demand to the Speaker.
- 10.3 When a division in terms of sub-rule 10(2)(b) is demanded, the Speaker shall accede thereto, and a bell shall be rung audibly, affording members a 1 (one) minute opportunity to leave the chamber, whereupon all entrances to the chamber shall be closed, and no member shall thereafter leave or enter the council chamber until after the result of the division has been declared.
- 10.4 After the requirement specified in sub-rule (10)(3) has been complied with, the motion or proposal shall again be put to the vote by the Speaker in the manner provided for in sub-rule 6 and thereafter he/she shall declare the result of the division.
- 10.5 A division shall take place in the manner whereby the vote of each member shall be taken separately by name and recorded in the minutes by the Municipal Manager.
- 10.6 When a division takes place in accordance with the preceding provisions, every member present, including the Speaker, shall be obliged to record his/her vote for or against the motion or proposal.
- 10.7 A member demanding a division shall not leave the Council Chamber before such division has been taken.
- 10.8 In terms of Section 30(2) of the Local Government: Municipal Structures Act, (Act 117 of 1998) all questions concerning matters mentioned in Section 160(2) of the Constitution of the Republic of South Africa shall be determined by a decision with a supporting vote of a majority of all the Councillors of the Council.
- 10.9 In terms of Section 34(1) of the Local Government: Municipal Structures Act, (Act 117 of 1998), a supporting vote of at least two-thirds of the Councillors is required when adopting a resolution to dissolve the Council.
- 10.10 All matters before the Council, other than those contemplated in sub-rules 10(2) and (3) above shall be decided by a majority of votes cast.
- 10.11 For all matters before the Council, other than those contemplated in sub-rules 10(2) and (3) above the Speaker shall have a casting vote if an equal number of Councillors have voted for and against a proposal.
- 10.12 After the Speaker has declared the results of the voting in terms of sub-rule 10(1) an individual Councillor, or a Whip of a particular Caucus, may request that his vote or the

votes of his Caucus members, against any particular resolution of the Council as well as reasons therefore, if any, be recorded.

- 10.13 Should there be an equality of votes in respect of a proposal and it is a matter on which the Speaker does not have a casting vote in terms of sub-rule 10(5) above, or a matter on which the Speaker refuses to record a casting vote, the matter shall be referred back to the Executive Mayor for consideration.

11. CEREMONIES PRECEDING THE OPENING OF A MEETING

- 11.1 Prior to the opening of the official business of any Council Meeting, the Speaker may allow for a moment of silence for personal reflection or invite any representative of any faith-based organisation to open the meeting with prayer or a short address. The Speaker may also request the opening of the meeting to be preceded by the singing of the National Anthem or any other ceremony as may be appropriate to the occasion.
- 11.2 Should any Councillor have any objection to or feel aggrieved by the nature and exigency of any event preceding the opening of the meeting as envisioned in sub-rule 11(1) above, for whatever reason, such Councillor may submit to the Speaker a written request prior to the commencement of the meeting to be excused from the meeting until such time as the opening formalities are concluded. The Speaker shall not unreasonably withhold consent to such request.

12. ATTENDANCE REGISTER FOR THE COUNCIL MEETINGS

Every Councillor attending a meeting (whether physical or virtual (or hybrid)) shall sign his name in the attendance register kept for this purpose or have his/her name recorded by the attending committee clerk.

13. ADJOURNMENT IN THE EVENT OF NO QUORUM

- 13.1 If, at the expiry of 20 (twenty) minutes after the hour at which a meeting is scheduled to be held, a quorum has not assembled no meeting shall take place unless it is decided with the unanimous consent of all members present to allow further time not exceeding 10 (ten) minutes to enable a quorum to assemble.
- 13.2 If, after the additional 10 (ten) minutes, there is still no quorum, the Speaker shall forthwith adjourn the meeting.
- 13.3 Business not disposed of at a meeting adjourned shall be dealt with at a meeting convened by the Speaker for this purpose in terms of Rule 2 or at the next ordinary meeting of the Council.

14. ADJOURNED MEETING

- 14.1 When a meeting is adjourned, notice of the adjourned meeting shall be served on every Councillor in terms of the rules for Notices of Council meetings (rule 2).
- 14.2 No business shall be transacted at an adjourned meeting except for such business specified in the notice of the meeting which is adjourned.

- 14.3 In appropriate circumstances as the Speaker, in his sole discretion, may deem fit, the Council meeting may be adjourned to a different suitable venue or to another date and time at the same venue.

15. COUNT OUT OF MEMBERS

- 15.1 If, during any meeting, the attention of the Speaker is called to the number of members present, such members shall be counted and if it is found that there is no quorum present the Speaker shall announce audibly, and if after an interval of 5 (five) minutes there is still no quorum the Speaker shall forthwith adjourn the meeting.
- 15.2 The names of the members present when the meeting is adjourned, in terms of sub-rule 15(1) above, shall be recorded in the minutes.
- 15.3 Business not disposed of at a meeting adjourned shall be dealt with at a following meeting convened by the Speaker for such purpose (in terms of Rule 2) or at the next ordinary meeting of the Council.

16. ADJOURNMENT DURING A MEETING AND INFORMAL SESSIONS

- 16.1 Following the request of a Councillor and at the discretion of the Speaker a meeting may be temporarily suspended for a maximum period of 20 (twenty) minutes at a time to allow for an informal session or adjournment for the meeting of a Caucus.
- 16.2 If any resolution was formulated by a Councillor or a Caucus of Councillors during an informal session or adjourned period such resolution shall be proposed once the Council has reverted to a formal session.

17. BUSINESS LIMITED BY NOTICE OF MEETING

- 17.1 No business not specified in the notice of the meeting shall be transacted at the meeting, except for an urgent report of the Mayoral Committee, which may be allowed at the discretion of the Speaker having been satisfied of the urgency of the matter.
- 17.2 Any urgent reports mentioned above must be submitted to the Speaker at least 10 (ten) minutes before the commencement of the meeting for the Speaker to determine whether the matter is of an urgent nature.
- 17.3 Any urgent report submitted as indicated in (1) and (2) above shall be in paper or electronic format.

18. ORDER OF BUSINESS OF ORDINARY MEETING

- 18.1 The order of business of an ordinary meeting shall be as follows:

- a) Opening and Welcome;
- b) Applications for leave of absence;
- c) Official notices;
- d) Proposals of condolence or congratulations by the Speaker;
- e) Proposals of condolence or congratulations by other members;
- f) Minutes of the previous meeting;
- g) Questions of which notice has been given;

- h) Motions or proposals deferred from previous meetings;
- i) Report of the Mayoral Committee;
 - Items of the Speaker
 - Items of the Section 79 Committees reporting to Council
 - Items of the Mayoral Committee – Non-delegated matters
 - Items of the Mayoral Committee – Delegated matters
 - Official notices of the Executive Mayor.

- j) New motions; and
- k) Closure.

- 18.2 If a proposal in terms of sub-rules 18(1)(d) or (1)(e) above is opposed by a majority of members such proposal shall lapse without further discussion.
- 18.3 Notices under sub-rule 18 (1)(c) above are not subject to debate and only questions of clarity may be asked.
- 18.4 The Council may, at its discretion and by majority vote, alter the sequence of the order of business on the agenda should the need arise.
- 18.5 A member wishing to comment on sub-rule 18(1)(i)(v) above may only do so if permitted by the Speaker: Provided the comment is limited strictly to the Executive Mayor's notice/s, is no longer than 3 (three) minutes per party represented in Council, provided that the Executive Mayor may make a closing statement on such comments.

19. APPLICATIONS FOR LEAVE OF ABSENCE

- 19.1 Councillors must submit written applications for leave of absence with reasons to the Speaker if such member will be unable to attend a Council Meeting. In the event that a Councillor is unable to submit a written application, he/she may apply for leave of absence through an electronic application (e.g. SMS or Whatsapp, etc.) to the Speaker, Whip of Council or Whip of his/her party or the Secretary of Council.
- 19.2 The Speaker must read out or cause to be read out all written applications for leave of absence received. Once all applications have been read out or proposed, the Speaker must request the Council to approve or reject the applications.

20. MINUTES OF MEETING

- 20.1 If a copy of the minutes of a meeting has been served on every member within the time frames applicable to notices of meetings, the minutes shall be taken as read with a view of confirmation.
- 20.2 No proposal or discussion shall be allowed on the minutes except as to their accuracy.
- 20.3 A proposal to amend the accuracy of the minutes shall be seconded, and without further debate, the Speaker shall put such proposal to the vote. A vote of the majority of members present at a meeting shall cause for the minutes to be amended in accordance with the proposal.

- 20.4 Once the minutes and amendments thereto, if any, are accepted by a majority vote of the members present in a meeting, the Speaker shall sign the minutes on at least the last page.
- 20.5 The minutes in relation to any item considered by the Council in committee as contemplated in rule 33 shall be kept separately from other minutes of the Council unless consideration of that item was finalised in open council.

21. QUESTIONS

- 21.1 A member may at a meeting put a question:
- a) on a matter arising out of or concerned with any item of the report of the Executive Mayor when such item has been called or during discussion thereon;
 - b) concerning the general work of the Council or delegated matters not arising out of or connected with any item of the report of the Executive Mayor. Such a question shall only be asked if it has been lodged in writing with the Speaker at least ten days prior to the date of the meeting. Following lodgement, the Speaker shall forthwith cause a copy of the written question to be furnished to the Executive Mayor.
- 21.2 A question on a matter which, in the opinion of the Speaker, is of urgent importance may be put at a meeting after written notice thereof has been received by the Speaker at least 10 (ten) minutes before the commencement of the meeting. The Speaker shall forthwith furnish a copy of the written question to the Executive Mayor.
- 21.3 A member who has put a question in terms of sub-rule 21(1)(b) shall, on request, be entitled to be furnished with a written reply in due course.
- 21.4 The Executive Mayor or his or her nominee may, at the next ordinary meeting of the Council, reply to questions in terms of sub-rule 21(1)(b) and (2).
- 21.5 Subject to the provisions of sub-rule 21(4), any question put in terms of sub-rules 21(1)(b) and (2) shall be answered by the Executive Mayor or an MMC nominated by the Executive Mayor after the Speaker has read out or caused to be read out the question to the Council (dealt with under the item "Questions of which notice has been given" in the Order of business).
- 21.6 Questions asked in terms of sub-rule 21(1)(a) shall be answered by the Executive Mayor or MMC nominated by the Executive Mayor, after the Speaker has called upon such Councillor to do so.
- 21.7 If, after his/her question has been replied to, only the Councillor who asked the question is of the opinion that the reply to his/her question is not clear, he/she may, with the consent of the Speaker, request further clarity on the answer provided and no additional questions shall be put.
- 21.8 The Speaker may disallow a question if he is of the opinion that it is out of order or not put clearly.
- 21.9 If the Executive Mayor or an MMC nominated by the Executive Mayor has replied to the question, the debate is closed and there is no further debate on the matter.

22. REPORTS OF THE EXECUTIVE MAYOR

22.1 A report submitted by the Executive Mayor shall contain in the following order:

- (i) Items of the Speaker together with the recommendations by the Speaker and comments of the Mayoral Committee.
- (ii) Items of the Section 79 Committees reporting to Council together with the recommendations by such committees and comments of the Mayoral Committee.
- (iii) Items of the Executive Mayor containing non-delegated matters together with recommendations of the Mayoral Committee.
- (iv) Items of the Executive Mayor containing delegated matters and the decisions taken by the Mayoral Committee on each matter.

22.2 Unless an item is submitted to the Council for information only, every item relating to matters in respect of which there are no delegated powers shall contain a recommendation which may be adopted, amended or rejected by the Council.

23. MOVING OF REPORT OF THE EXECUTIVE MAYOR

23.1 Subject to Rule 7(4) for any particular item or before submitting the whole report of the Executive Mayor, the Executive Mayor or a member of the Mayoral Committee called upon by the Executive Mayor to do so, shall, upon request by the Speaker, submit the report of the Executive Mayor to the meeting with the words "I hereby submit the report of the Executive Mayor for consideration".

23.2 All recommendations in reports referred to above shall be deemed to have been proposed and seconded.

23.3 An individual Councillor, or a Whip of a particular Caucus, may request that his vote or the votes of his Caucus members, against any particular resolution of the Council be minuted as well as the reason/s therefore.

23.4 The Executive Mayor, or a member of the Mayoral Committee called upon by the Executive Mayor to do so, may withdraw any item which was tabled, whereafter the Speaker shall disallow any further questions or debates on that item.

23.5 The Executive Mayor, or a member of the Mayoral Committee called upon by the Executive Mayor to do so, may amend any item with the consent of the majority of members present which consent shall be granted or disallowed without debate.

23.6 When the Executive Mayor or an MMC nominated by the Executive Mayor to do so, has responded to questions or proposals of Councillors under any item, the debate is closed on such item in the report, whereafter no further discussions shall take place on such item.

23.7 Following the closure of a debate on an item as contemplated in sub-rule 23(6) above, the Speaker shall request the Council to consider the recommendations contained in the item or bring the matter to the vote if there are one or more differing proposals.

23.8 When a recommendation of a report or an amendment thereto has been adopted, such recommendation shall become a resolution of the Council.

23.9 An individual Councillor, or a Whip of a particular Caucus, may request that his vote or the votes of his Caucus members, against any particular resolution of the Council as well as reasons therefore, if any, be minuted.

- 23.10 a) Subject to the provisions of Rule 7, except with the consent of the Speaker to the Contrary in particular circumstances, the Whip of each party or his/her nominee or in the case of an independent member him/herself shall notify the Municipal Manager of an intention to participate in the debate on non-delegated matters and delegated matters at least 24 (twenty-four) hours prior to a meeting of the Council by submitting a list of member/s intended to participate in the debate on any matter before the Council, excluding a motion in terms of Rules 25 and 26 of these Standing Orders; provided that such list must contain a clear distinction between delegated and non-delegated matters with an indication of the matter/s in chronological order that each such listed member is to speak on.
- b) Members shall be called in a debate by the Speaker in accordance with a list of members who are to participate in the debate; provided that members shall not exceed the time limits for debate, except with the consent of the Speaker:
- (i) One or more members collectively of the majority party and the official opposition party in the Council may speak on any item for so long as provided for in sub-rule 10(d) below; and
- (ii) Independent members may speak on any item for so long as provided for in terms of sub-rule 10(d) below.
- c) For purposes of consideration of the report by the Executive Mayor on the matters dealt with in terms of delegated powers, the provisions of sub-rule 10(a) and (b) above shall apply mutatis mutandis (similarly).
- d) The political parties, formations and independent members of Council shall speak on any item, motion or proposal on the agenda for the pro rata time of the total time of 90 (ninety) minutes allowed for non-delegated matters and 30 (thirty) minutes for delegated matters as per each party, formation or independent member's size and representation at Council and subject to the provisions of Rule 23(11) of the Standing Orders; provided that the minimum time allocated to a party or independent member in terms of this section shall be 5 (five) minutes in total for delegated matters and 5 (five) minutes in total for all non-delegated matters.
- e) The Speaker may waive the provisions of sub-rule 10(d) regarding a statement, made with the consent of the Speaker, by the Executive Mayor or a Member of the Mayoral Committee in relation to any matter arising from a report of the Executive Mayor.
- f) The provisions of this Section shall not apply to a member delivering the Executive Mayor's report or in the presentation of the estimates of income and expenditure.

23.11 After the matters in respect of which there are no delegated powers have been dealt with, the Speaker shall permit debate on the matters for which there are delegated powers according to the following provisions:

- a) Such debate for all items containing matters for which there are delegated powers, shall be limited to a period not exceeding a half hour or such extended time as the Speaker may allow.
- b) Each debate is limited to one item at a time.
- c) A member must submit a written notice to the Speaker at least 10 (ten) minutes before the commencement of the meeting of his intention to call for a debate specifying which item/s he wishes to debate.
- d) A member shall not speak on such items taken together for longer than 5 (five) minutes in total and may only speak once.
- e) No proposals shall be submitted during such debate, except a proposal that the Executive Mayor be requested to reconsider his/her resolution in terms of the Local Government: Municipal Systems Act, (Act 32 of 2000) or that the Council confirms, varies or revokes the decision subject to any rights that may have accrued to any person in terms of the provisions of the aforementioned Act.
- f) Once the Speaker is of the opinion that the debate on a particular item has been exhausted, he/she shall allow the Executive Mayor or an MMC nominated by the Executive Mayor to close the debate within the required 3 (three) minute period. Thereafter there shall be no further debate or discussion on the matter.
- g) After the debate has been closed, the Speaker shall put to the vote a proposal referred to in sub-rule 23(10)(e) above, if any, and members may make use of sub-rule 23(9) above with regards to having their vote against a decision noted.
- h) Once a debate on a particular item has been closed and the related proposal (if any) has been dealt with the Speaker may call for a new debate on further items for which there are delegated powers, according to the list submitted by members referred to in sub-rule 10(a) above and using his discretion with regards to sub-rule 10(a).

23.12 After the matters in respect of which there are delegated powers have been dealt with the Speaker shall lead the meeting to continue with the agenda as per the Order of Business.

24. CONSIDERATION OF THE BUDGET AND ADJUSTMENTS THERETO:

Notwithstanding anything contained in these Standing Orders, the following provisions shall apply when the Council considers the annual budget:

- 24.1 No proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council shall be put to the vote before the debate on the budget has been closed.
- 24.2 After the debate on the budget has been closed, the Speaker shall put to the vote the proposals contemplated in sub-rule 24(1) above, in the order in which they were proposed.

- 24.3 After all the amendments have been dealt with, and if any proposal contemplated in sub-rule 24(1) above has been accepted, the Executive Mayor shall decide if it is necessary to adjourn the meeting to investigate the implications of any or every proposal thus accepted.
- 24.4 After an adjournment contemplated in sub-rule 24(3) above, the Executive Mayor shall investigate the implications of every proposal accepted and shall report thereon to the Council when the meeting resumes.
- 24.5 After the Executive Mayor has reported in terms of (4) sub-rule 24(4) above the Speaker shall permit debate on the proposals accepted.
- 24.6 After the conclusion of the debate as contemplated in sub-rule 24(5) above, the Speaker shall put every such proposal to the vote again, and if such proposal is accepted, the budget shall be amended in accordance with that resolution.

25. MOTIONS

25.1 Subject to the provisions of any other law:

- a) Every notice of motion shall be in writing and such notice shall be signed by the member submitting it and seconded by another;
- b) A motion shall be given to the Speaker who shall cause for it to be entered in a book kept for that purpose which shall be open to inspection by any member;
- c) Notice of a motion shall not be specified in the notice for a meeting unless it is received at least 10 (ten) calendar days prior to such meeting; and
- d) A motion shall lapse if the member who submitted it is not present at the meeting when such motion is being debated.

25.2 At the request of a member who gave notice of a motion, the Speaker shall acknowledge receipt thereof in writing.

25.3 Every motion shall be relevant to the business of the Council or any matter in respect of which the Council has jurisdiction.

25.4 Every motion, as contemplated in sub-rule 25(1)(a), shall, on receipt, be dated and numbered and shall be entered by the Speaker upon the agenda in the order in which it received.

25.5 No member shall have more than one motion entered upon the agenda with the exception of a deferred motion, and no member shall move more than 2 (two) motions during any 1 (one) calendar year.

25.6 A motion may not be submitted if it:

- a) Is intended to rescind or amend a resolution passed by the Council within the preceding 3 (three) months, and

- b) Has the same purpose as a motion which was rejected within the preceding 3 (three) months; and

25.7 No member shall submit a motion similar to a motion, which was dealt with in terms of the provisions of this Rule 25, before a period of 6 (six) months after it has been dealt with has elapsed.

25.8 Notwithstanding the provisions of sub-rules 25(6) and (7), the Council may, at any time following a recommendation by the Executive Mayor, rescind or amend any resolution passed by it.

25.9 In dealing with motions:

- a) The Speaker shall read out, or cause to be read out, the number of every motion and the name of the mover;
- b) The Speaker shall ascertain which motions are unopposed and these shall be passed without debate, and thereafter the Speaker shall call the opposed motions in their order; and
- c) If a motion is opposed, the mover may motivate such motion for no longer than 3 (three) minutes, to which motivation the Executive Mayor or his/her nominee may respond, after which only questions for clarity or proposals to amend the motion may be received. No debate shall be allowed on any motion and any opposed motion shall then be brought to the vote.

26. SPECIAL MOTIONS

26.1 A member may request that the provisions of Rules 25(1)(c) be suspended to enable him/her to submit an urgent motion.

26.2 Such urgent motion may only be permitted if, at the discretion of the Council, it is deemed to be of such urgency, public interest or emergency as to warrant such suspension and if it has been received by the Speaker no less than 10 (ten) minutes before the commencement of the meeting.

26.3 All other requirements contained herein or any other law pertaining to motions must still be complied with.

27. IRREGULAR MOTIONS OR PROPOSALS

The Speaker shall disallow a motion or proposal:

- a) Which in his/her opinion:
 - i) Might lead to the discussion of a matter already dealt with in the agenda or which has no bearing on the business of the Council; or
 - ii) Advances arguments, expresses an opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestions.
- b) In respect of which:

- i) The Council has no jurisdiction;
 - ii) A decision by a judicial or quasi-judicial body is pending;
 - iii) Which has not been duly seconded; or
 - iv) Which does not meet the requirements pertaining to motions or proposals contained herein or any other law.
- c) Which, if passed would be unenforceable or contrary to the provisions of these Standing Orders or of any other law; and
- d) If any motion or proposal in the opinion of the Speaker, justifies further investigation, it shall be referred to the Executive Mayor for a report.

28. WITHDRAWAL OF MOTION OR PROPOSAL

- 28.1 A motion or proposal, excluding a report of the Executive Mayor contemplated in Rule 23, may be withdrawn by the mover.
- 28.2 After a motion or proposal has been withdrawn, no member shall speak upon such motion or proposal.

29. MOTION OR PROPOSAL AFFECTING BUDGET TO BE REFERRED TO EXECUTIVE MAYOR

A motion or proposal, other than a proposal as contemplated in these Standing Orders that the Executive Mayor reconsider his/her resolution, which is designed to increase or decrease the approved budget of the Council, shall not be adopted before the Executive Mayor has reported thereon to the Council; provided that such a report by the Executive Mayor may be dispensed with if the Executive Mayor deems such report unnecessary.

30. MOTION OR PROPOSAL AFFECTING A BY-LAW OR LAW TO BE REFERRED TO THE APPROPRIATE COUNCIL COMMITTEE AND EXECUTIVE MAYOR

A motion or proposal, other than a recommendation of the Executive Mayor, affecting the making, repeal or amendment of a law or a by-law shall, before the Council adopts a resolution thereon, be submitted to the relevant Council Committee and the Executive Mayor for a report thereon.

31. PROPOSALS WHICH MAY BE RECEIVED

- 31.1 Subject to the provisions of Rule 25, when a motion to introduce new business on the agenda or a proposal contained in a report of the Executive Mayor is brought to order or is under debate at a meeting, no further proposal shall be received except the following:
- a) To amend the motion or proposal;
 - b) That the matter be referred back to the Executive Mayor for further consideration;
 - c) That consideration of the matter be postponed;

- d) That the meeting be adjourned;
- e) That the debate be adjourned;
- f) That the matter be put to the vote; and
- g) That the Council proceeds to the next business.

Provided that such proposal shall only be deemed to have been submitted to the Council for decision, if it was duly seconded.

31.2 When dealing with proposals or motions, the following sequence is applicable:

- a) The recommendation of the Executive Mayor or a motion is brought to order;
- b) The Executive Mayor or Member of the Mayoral Committee, nominated to do so, or the member who submitted a motion, whichever is applicable, is given the opportunity to speak on the matter;
- c) A proposal to amend such recommendation or motion, or a proposal to refer a matter back to the Executive Mayor, subject to sub-rule 31(2)(h) below, may then be received;
- d) Only the member who submitted a proposal in sub-rule 31(2)(c) above is given the opportunity to speak on the matter;
- e) Only after the member has spoken on the proposal referred to in sub-rule 31(2)(d) above may another proposal contemplated in sub-rules 31(1)(c) to (g) be received, and subject to sub-rule 31(2)(h) below only the member who submitted such proposal may speak thereon;
- f) A second proposal in terms of sub-rule 31(1)(c) shall not be made on the same matter unless, if in the opinion of the Speaker, the circumstances are materially altered, and the ruling made by the Speaker hereunder is final;
- g) If a recommendation of the Executive Mayor, or a proposal or motion has been carried, no further proposals may be received, and the Council must proceed to the next business; and
- h) Before a recommendation of the Executive Mayor or a proposal or a motion is finalised, the Executive Mayor (or his/her nominee) or proposer of the motion has the right of reply, not exceeding 5 (five) minutes, closes the debate on the matter.

31.3 A proposal made in terms of sub-rules 31(1)(a) or (b) must be dealt with before any proposal contemplated in sub-rules 31(1)(c), (d), (e), (f) and (g).

31.4 A second proposal in terms of sub-rules 31(1)(c), (d), (e), (f) and (g) shall not be made within half an hour of a similar proposal on the same matter unless, in the opinion of the Speaker the circumstances are materially altered.

31.5 A member who has made a proposal in terms of sub-rule 31(1), may speak thereon in

terms of the provisions of these Standing Orders and there will be no right to reply.

31.6 Before a proposal in terms of sub-rule 31(1) is finalised, the Executive Mayor may speak on such proposal for not more than 5 (five) minutes, or for as long as the Speaker may determine.

31.7 A proposal in terms of sub-rule 31(1) may be dealt with in terms of the provisions of Rules 21 to 23.

32. AMENDMENT OF A MOTION OR PROPOSAL

32.1 An amendment which is moved in terms of these Standing Orders:

- a) Shall be relevant to the motion or proposal on which it is moved;
- b) Shall be reduced to writing, signed by the mover, seconded and handed to the Speaker; and
- c) Shall be clearly stated to the meeting by the Speaker before it is put to the vote.

32.2 Subject to the provisions of rule 31, more than one amendment of a motion or proposal may be moved and, save as provided in sub-rule 32(5), every amendment proposed shall at the close of the debate on such motion or proposal, be put to the vote.

32.3 If more than one amendment to a motion or proposal has been moved, such amendments shall be put to the vote in the order in which they were moved.

32.4 No member shall move more than one amendment of the same motion or proposal.

32.5 If an amendment is carried, the amendment motion or proposal shall take the place of the original motion or proposal and shall then become the motion or proposal in respect of which any further proposed amendments shall be put, provided that the Speaker may, if he/she is of the opinion that an amendment which has been carried renders another amendment unnecessary or pointless, rule that such other amendment needs not to be put, after which the former amendment shall lapse.

33. COUNCIL *IN COMMITTEE*

33.1 Notwithstanding anything to the contrary contained in these Standing Orders, a member may:

- a) At any time after an item on the agenda has been called, or during consideration thereof, move that the Council resolves itself *In Committee*, in terms of Section 20(1) of the Local Government: Municipal Systems Act, (Act 32 of 2000), for the further consideration of that item.
- b) If the Council is *In Committee* as contemplated in sub-rule 33(1)(a) above, move that for the further consideration of the item under debate, the Council resolves to consider the matter in Open Council.

Notwithstanding the provisions of (a) and (b) above, the Executive Mayor, or any member of the Mayoral Committee called upon by the Executive Mayor, may, at any time, move that the Council resolves itself *In Committee* for the consideration of one or more items on the agenda.

- 33.2 No seconder is required for a motion in terms of sub-rule 33(1).
- 33.3 Only the member moving the motion in terms of sub-rule 33(1) may speak on such motion for a period not exceeding three minutes where after the Speaker shall put the motion to the vote without any debate being allowed.
- 33.4 The Speaker may, if in his or her opinion information is disclosed or is about to be disclosed in the course of a speech by a Councillor which may be prejudicial to the Council or the inhabitants of the municipality, direct the Councillor concerned to forthwith discontinue his/her speech until the Council *is In Committee*.
- 33.5 If the Council is *In Committee*, the provisions of these Standing Orders, except insofar as they are in conflict with this section, shall apply.
- 33.6 If a proposal in terms of the provision to sub-rule 33(1) is carried out, the Speaker shall determine when the items concerned shall be considered, and all such items shall be considered consecutively.
- 33.7 At the conclusion of the consideration of items *In Committee*, the Council shall revert to the consideration of further items in Open Council.
- 33.8 When the Council resolves itself *In Committee*, all members of the public and Council officials, except such officials as the Speaker may require to remain, shall leave the Council Chamber and shall not return to the Council Chamber for the duration of the proceedings *In Committee*.
- 33.9 The Speaker may direct an officer to eject or cause to be ejected any person who remains on the Council Chamber in contravention of sub-rule 33(8) or take steps to prevent the entry of any person into such Chamber who is in contravention of that subsection.
- 33.10 The Council will convene *In Committee* when discussing any of the following matters:
 - 33.10.1 A trade secret or confidential commercial information of any supplier;
 - 33.10.2 Personal and confidential information of any employee of the municipality;
 - 33.10.3 Reports of a nondisclosure nature addressing municipal legal proceedings;
 - 33.10.4 Disciplinary proceedings against any employee;
 - 33.10.5 Any matter that might not be disclosed in terms of legislation; and
 - 33.10.6 Consideration of the minutes of previous *In Committee* discussions.
- 33.11 Information to the press or media on *In Committee*:
 - 33.11.1 Only the Mayor, or Deputy Mayor, the Speaker and the Municipal Manager are specifically authorised to supply the media with information and reports relating to the work of the municipality.
 - 33.11.2 Members of Council are prohibited from sending to the media, documents or information supplied to them.
 - 33.11.3 Any Councillor who publishes or discloses or causes to be published or disclosed any document or record of the Council or proceedings of any Committee, shall be guilty of an offence.

34. RETURN OF ATTENDANCE OF COUNCILLORS AT MEETINGS

The Speaker shall cause to be prepared annually, and to be included as a report in the relevant last meeting of each calendar year, a return showing the attendance of each member at meetings of the Council and Committees for the duration of that calendar year.

35. EXCLUSION OF COUNCILLORS PUBLISHING OR DISCLOSING OF DOCUMENTS OR INFORMATION

35.1 Subject to relevant legislation, any Councillor who publishes or discloses or causes to be published or disclosed any document, record or proceedings of the Council and its Committees relating to any purchase of expropriation of land or other property, or any legal or arbitration proceedings in which the Council is concerned, or the agenda, minutes, documents, records or details of proceedings of the Council and its Committees when *In Committee*, or any matter where the publication or disclosure of which would or might be prejudicial to the interests of the Council shall be guilty of an offence.

35.2 The Speaker may, on application being made to him by any registered newspaper or any member of the public, cause to be supplied to such applicant the agenda of the Council insofar as it does not contravene the provisions of sub-rule 35(1) above.

36. INTERPRETATION OF STANDING ORDERS

36.1 The Speaker must give a ruling –

- a) whenever a question arises about the interpretation or application of the Standing Orders.
- b) in cases not provided for in these Standing Orders

36.2 When the Speaker makes a ruling in terms of sub-rules 36(1)(a) and (b) above he or she must consider best practice and be guided by previous rulings and the established practices of the Council.

36.3 A ruling on a case not provided for in these Standing Orders remains in force until the Council has decided on the matter.

36.4 All rulings made by the Speaker in terms of sub-rules 36(1)(a) and (b) above must be recorded in the minutes of the meeting during which the ruling was made.

37. PENALTY CLAUSE

37.1 Any person who contravenes or fails to comply with any provisions contained in these Standing Orders, shall be guilty of an offence and liable, on conviction, to a fine or imprisonment or both such fine or imprisonment as determined by a magistrate in terms of the legislation applicable in terms of the provisions of the Conventional Penalties Act, (Act 15 of 1962).

37.2 Any Councillor who contravenes the Code of Conduct for Councillors as contained in Schedule 1 of the Local Government: Municipal Structures Act, (Act 117 of 1998, as amended) shall be liable to a fine, as contemplated in Sections 4 and 14 of the said Schedule, not exceeding 25% of a Councillor's monthly remuneration.

- 37.3 Subject to the provisions of sub-rules 37(1) and (2), different and more punitive penalties not exceeding 100% of a Councillors monthly remuneration may be provided in the case of successive or continuous breaches of the Standing Orders or the said Schedule 1.

38. PENALTY CLAUSE PROCEDURES

- 38.1 No Councillor may be warned, reprimanded or fined by the Council or a request made to the Provincial MEC (Member of the Executive Committee) to suspend or remove the Councillor from office unless he/she has been afforded an opportunity to state his/her case before a committee established for such purposes at a meeting of which he/she has received not less than 7 (seven) days notice in writing from the Speaker setting out the nature of the charge against him/her. A Councillor shall be entitled to call witness(es) in support of his/her case when appearing before the committee.
- 38.2 A report containing the investigation of the alleged breach by the Councillor, as well as recommendations made by the committee, shall be forwarded to the Council for final resolution.
- 38.3 Any Councillor who has been penalised by the Council in terms of Section 14(2) of Schedule 1 to the Local Government: Municipal Structures Act, (Act 117 of 1998, as amended), shall have a right to appeal against such penalty in terms of Section 14(3) of the said Schedule 1.
- 38.4 The Councillor shall be entitled to request reasons in writing for any decision of the committee or of the Council.

39. COMMITTEES OF COUNCIL

- 39.1 Proceedings at meetings of Committees of the Council established in terms of the Local Government: Municipal Structures Act, (Act 117 of 1998), other than described herein, shall be conducted substantively in accordance with the provisions of these Standing Orders, *mutatis mutandis* (similarly).
- 39.2 Any Committee of the Council established in terms of Section 79 and 80 of the Local Government: Municipal Structures Act, (Act 117 of 1998) may require an Executive Director (or person serving as Head of Department), or person acting in his/her stead, as well as the member of the Mayoral Committee entrusted with the portfolio relevant to the specific function of such committee, to attend any meeting of such committee in order to participate in the deliberation of any matter before it or to respond to questions in connection therewith. Such Executive Director or member referred to above must attend such meeting.
- 39.3 In terms of Sections 79 and 80 of the Municipal Structures Act, (Act 117 of 1998) the Council and the Executive may appoint committees. The allocation of Councillors to serve on such committees is done on the principle of proportional representation of the political parties/groupings/independents reflected in the composition of the Council, unless the Council specifically resolves otherwise based on specific considerations.
- 39.4 The deployment of the Councillors to serve on the Section 79 and 80 Committees will be co-ordinated by the Whip of Council with the proposals of the Whips of the political parties and the independent/s in Council. If there is any disagreement on any such deployment,

the Executive Mayor has the final say in the matter: Provided that each Councillor must serve on at least one committee.

- 39.5 The purpose of Section 79 and 80 Committees is to investigate and/or debate matters to advise Council or otherwise perform their functions, powers and duties as assigned by Council. Therefore, Councillors must attend the meetings of the Committees to which they have been deployed and failure to do so must be dealt with in terms of the Code of Conduct for Councillors as per Schedule 1 of the Local Government: Municipal Systems Act, (Act 32 of 2000).

40. PRIVILEGE

Councillors enjoy privilege at Council and its Committee meetings as per Section 28 of the Local Government: Municipal Structures Act, (Act 117 of 1998) or applicable provincial legislation.

41. Short Title of By-Laws and Repeal of Previous By-Laws

- a) These By-Laws are called the Midvaal Local Municipality Standing Orders By-Laws.
- b) The Standing Orders By-Law of Midvaal Local Municipality as promulgated under Local Authority Notice No. 1329 in the Provincial Gazette (Gauteng) No. 271 of 17 August 2016 are hereby repealed and substituted by these By-Laws.