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LOCAL AUTHORITY NOTICE

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LOCAL GOVERNMENT NOTICE

MUNICIPALITY OF BUFFALO CITY

BY-LAW RELATING TO STANDING RULES AND ORDERS FOR COUNCIL

The Buffalo City Municipality hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996], the By-law relating to Standing Rules and Orders for Council.

Purpose of By-law

The purpose of this by-law is to prescribe rules and orders for the internal arrangements, business and proceedings of the Buffalo City Council and to regulate the establishment, composition, procedures, powers and functions of its Committees.

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CHAPTER 1 DEFINITIONS

1. Definitions

In this by-law, words used in the singular include the plural and vice versa and unless the context otherwise indicates –

'authorised official' means –

- [a] an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995];
- [d] a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977]; or
- [e] a law enforcement officer appointed by the Municipality in terms of the relevant legislation;

'accounting officer' means the municipal official referred to in section 60 of the Local Government: Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

'chief financial officer' means a person designated in terms of section 80(2)(a) of the Local Government: Municipal Finance Management Act, 2003;

'Chief Whip of the Council' means the Chief Whip of the Council, his or her having been elected as such at the first meeting of Council in terms of Schedule 3 to the Municipal Structures Act;

'Code of Conduct' means the Code of Conduct for Councillors contained in Schedule 1 to the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

'Constitution' means the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996];

'Council' means the Municipal Council of the Buffalo City Municipality and as contemplated in terms of section 157 (1) of the Constitution;

"Executive Mayor" means an executive mayor elected in terms of section 55 of the Municipal Structures Act;

"majority of members" means more than 50% of the total number of Councillors as determined in terms of Section 20 of the Municipal Structures Act;

"Mayoral Committee" means the mayoral committee appointed from amongst the Councillors by the Executive Mayor in terms of Section 60 of the Municipal Structures Act.

'MEC for Local Government' means the member of the Executive Council of the Province of the Eastern Cape responsible for local government in the said province;

'member' means a member of Council and 'councillor' shall have a corresponding meaning;

'member of the public' means any person who is not a member of Council;

'MFMA' means the Local Government: Municipal Finance Management Act, 2003 [Act No. 56 of 2003], as amended;

'Municipal Structures Act' means the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], as amended;

'Municipal Systems Act' means the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], as amended;

'Municipality' means the Municipality of Buffalo City, established in terms of section 12 of the Municipal Structures Act, 1998 and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'Party Whip' means a member who has been designated as such by any political party having representation on the Council, such representation not constituting a majority;

"Rules Committee" is a committee established in terms of Section 79 of the Municipal Structures Act with terms of reference as approved by the Council; and

"Speaker" means a councillor elected in terms of section 36 of the Municipal Structures Act to be the chairperson of a municipal council as envisaged in section 160 (1) (b) of the Constitution and as detailed in clause 8 hereof.

CHAPTER 2 APPLICATION OF RULES

2. **Suspension of rules**

The Council may by resolution dispense with or suspend a provision of these rules for a specific period or purpose, provided the suspension thereof is not in conflict with the Constitution or the relevant legislation.

3. **Application of rules to non-member participants**

(a) Except where clearly inappropriate, these rules apply to a Council member, a local government representative, or an official in the national or provincial executive participating in the proceedings of the Council and any traditional leader identified by the MEC for Local Government to participate in the proceedings of Council.

(b) These rules shall apply to all meetings of Council.

4. **Attendance register for Council meetings**

The onus is on each member attending a Council meeting to sign his or her name in the attendance register kept for this purpose.

5. **Decisions of the Council**

(1) At a meeting of the Council, a majority of members must be present before a vote may be taken on any matter.

(2) All questions concerning matters mentioned in section 160 (2) of the Constitution are determined by a decision taken by the Council with a supporting vote of a majority of the members.

(3) A resolution to dissolve the Council in terms of section 34 (1) of the Municipal Structures Act must be taken by a supporting vote of at least $\frac{2}{3}$ (two thirds) of the members at a meeting called specifically for this purpose.

- (4) All other questions before the Council are decided by a majority of the votes cast, provided that the requirements of sub-rule (1) have been met.

6. Adjournment in the event of no quorum

- (1) If there is no quorum either at the commencement of or at any stage during a meeting of Council, then the Speaker shall adjourn the meeting temporarily and for a maximum of 15 (fifteen) minutes.
- (2) The Speaker may further adjourn the meeting for such period as he or she deems appropriate in the event that there is no quorum at the expiry of the aforesaid period of 15 (fifteen) minutes.
- (3) In the event that there is still no quorum at the expiry of the said adjournment or extended adjournment -
 - (a) the names of the members present shall be entered in the minutes by the Municipal Manager; and
 - (b) the Speaker shall declare the meeting to be closed.

7. Public participation

- (1) Members of the public may participate in the proceedings of the Council by –
 - (a) attending sittings of the Council or meetings of Council Committees;
 - (b) submitting petitions to the Council on any matter within the Council's competence;

- (c) responding to invitations –
 - (i) to comment in writing on by-laws or other matters before or which are due to come before the Council;
 - (ii) to make representations or recommendations in writing on such by-laws or other matters; or
 - (iii) to give evidence or to make representations or recommendations before Council Committees on such by-laws or other matters, either in person or through a representative.
- (2) Public participation in terms of sub-rule (1) is subject to and must be exercised in accordance with the applicable provisions of these rules.
- (3) The public shall have access to all official notices to members and to all documents tabled in the Council, subject to reasonable measures taken by the Speaker to regulate such access, and further subject to the public not having access to any item or document which forms part of any closed proceedings in terms of rule 69 (6) and (7) hereof.
- (4) Should the Speaker be aware of any special requirements of the public, such as the needs of the deaf or persons who may not understand the proceedings because of the language being used, he or she must request the Municipal Manager to provide interpretation or translation services at such meeting and the Municipal Manager must endeavour to provide such services to the meeting, provided that such translation or interpretation

services are available in the area and can be procured for the particular date.

CHAPTER 3 SITTINGS OF THE COUNCIL

8. Election of Speaker

- (1) At the commencement of proceedings of the Council at the first meeting after it has been elected, the Municipal Manager must read the notice convening the Council.
- (2) After the notice convening the Council has been read, the Councillors must swear or affirm faithfulness to the Republic and obedience to the Constitution.
- (3) At the first sitting of Council after its election or when necessary to fill a vacancy the Municipal Manager or, where he or she is not available, the Acting Municipal Manager or a person designated by the MEC for Local Government presides over the election of the Speaker.
- (4) The Municipal Manager or the duly designated person must call for the nomination of candidates for the position of Speaker at the meeting contemplated in terms of sub-rule (3).
- (5) The nomination must be made on the form contained in Schedule A to these rules.
- (6) The nomination form must be signed by two members of the Council.

- (7) The person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.
- (8) At the meeting contemplated in terms of sub-rule (3), the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.
- (9) If only one candidate is nominated, then the person presiding must declare that candidate duly elected.
- (10) If more than one candidate is nominated –
 - (a) a vote must be taken at the meeting by secret ballot;
 - (b) each member present at the meeting may cast only one vote; and
 - (c) the person presiding must declare the candidate who receives a majority of the votes as duly elected.
- (11) If no candidate receives a majority of the votes, then the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with sub-rule (10). This procedure must be repeated until a candidate receives a majority of the votes.
- (12) When applying sub-rule (11), if two or more members each have the lowest numbers of votes, then a separate vote must be taken on those candidates and repeated as often as may be necessary to determine which candidate is to be eliminated.
- (13) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and

those two candidates receive the same number of votes, then a further meeting must be held within 7 (seven) days, at a time determined by the person presiding.

- (14) If a further meeting is held in terms of sub-rule (13), then the procedure prescribed in sub-rule (10) of this rule must be applied at that meeting for the election in question.

8A. Election of Executive Mayor, Chief Whip of the Council and other municipal office bearers

- (1) The same procedure that applies to the election of the Speaker, as set out in sub-rules 8 (4) to (14), both sub-rules included, must apply to the election of the Executive Mayor, Chief Whip of the Council and other municipal office bearers.
- (2) Nominations must be made on the forms contained in Schedules B and C to these rules, provided that nominations for other municipal office bearers are made on forms that conform substantially in content to Schedules A, B and C.

9. The role of the Speaker

- (1) The Speaker decides when and where the Council meets, provided that the Council shall meet at least once every quarter.
- (2) If a majority of the members request the Speaker in writing to convene a meeting, then the Speaker must convene a meeting at the date, time and venue set out in the request.
- (3) Where the Speaker fails or refuses to convene a meeting contemplated in terms of sub-rule (2), for whatever reason, the Municipal Manager must convene a meeting at the date, time and venue set out in a written request submitted to the Municipal Manager on behalf of a majority of the members.
- (4) All meetings of the Council are chaired by the Speaker.

-
- (5) (a) In the event that there is a vacancy in the office of the Speaker, the Council must elect another member to act as Speaker and perform the said functions.
- (b) In the event that the Speaker is absent or not available to perform the functions of the Speaker, the Council must appoint another Councillor to act as Speaker.
- (6) The election of an Acting Speaker, as contemplated in terms of sub-rule (5) (b), must comply with the following requirements –
- (a) no election of an Acting Speaker may take place until the Speaker has confirmed his or her unavailability in writing or a period of 30 (thirty) minutes has elapsed since the time stipulated for the commencement of the meeting, whichever is the sooner;
- (b) the Municipal Manager or, where he or she is not available, the Acting Municipal Manager, shall preside over the election of an Acting Speaker; and
- (c) the election of an Acting Speaker shall be effected by a supporting vote of a majority of the members present at the meeting.
- (7) Upon the election of an Acting Speaker, the meeting may proceed without further adjournment and as if the Speaker was neither absent nor unavailable.
- (8) The Speaker shall –
- (a) perform the duties and exercise the powers delegated to the Speaker in terms of section 59 of the Municipal Systems Act;

- (b) approve the distribution of the notice convening Council meetings, such notice having been prepared by the Municipal Manager;
 - (c) maintain order during meetings;
 - (d) ensure compliance in the Council and Council Committees with the Code of Conduct and the Council's rules of order as adopted from time to time;
 - (e) ensure that Council meetings are conducted in accordance with this by-law;
 - (f) ensure that members conduct themselves in a dignified and orderly manner;
 - (g) ensure that members of the public attending any meetings of the Council conduct themselves in an orderly manner and obey any rulings made by the Speaker; and
 - (h) ensure that the welfare of Councillors is addressed subject to the provisions of existing legislation.
- (9) The ruling of the Speaker with regard to the application of this chapter and any other procedural matter is final and binding on a meeting of Council.
- (10) The Speaker may give a ruling or determine a rule in respect of any eventuality for which these rules do not provide, provided that such a ruling or determination shall not be in conflict with the Constitution or relevant local government legislation.
- (11) A rule determined by the Speaker remains in force until a meeting of Council has decided thereon at its next scheduled

meeting or an earlier meeting if a majority of councillors so request.

10. Order at commencement and adjournment

When the Council commences or adjourns the Municipal Manager must call on all councillors and members of the public present to rise and remain in their places until the Speaker and the Executive Mayor have taken their seats or have left the Chamber, whichever is applicable.

11. Conduct of business and proceedings

The Council must conduct its business and proceedings in accordance with the Constitution, these rules and resolutions of the Council in –

- (a) plenary sittings; and
- (b) Committees and Sub-Committees.

12. Business limited by notice of meeting

- (1) Subject to the provisions of sub-rule (2) and with the exception of an urgent report of the Executive Mayor, no business not specified in the notice of a meeting shall be transacted at the said meeting.
- (2) A member may, during a meeting, propose that the provisions of sub-rule (1) be suspended to enable him or her to make a written proposal and to read out the said proposal at the meeting.
- (3) The written proposal shall be signed by the proposer and seconder and handed to the Speaker and shall be dealt with in terms of the provisions of these rules.

- (4) The proposer contemplated in terms of sub-rule (2) shall have the right to reply.

13. Order of business of ordinary meeting

- (1) The order of business of an ordinary meeting convened in terms of rule 9 shall be as follows –
- (a) opening and notice convening the meeting;
 - (b) apologies and applications for leave of absence;
 - (c) official notices and statements or reports by the Speaker and Municipal Manager;
 - (d) proposals of condolence or congratulations by the Speaker;
 - (e) proposals of condolence or congratulations by other members;
 - (f) adoption of the agenda and notice of matters of exigency;
 - (g) confirmation of the minutes of previous meeting;
 - (h) report of the Executive Mayor;
 - (i) report of the Municipal Manager;
 - (j) questions in respect of which notice has been given;
 - (k) motions or proposals deferred from previous meetings;
 - (l) petitions; and

- (m) new motions or exigency matters.
- (2) After the matters referred to in paragraphs (a) to (b) of sub-rule (1) have been considered, the Council may at its discretion bring forward any business which is on the agenda.
 - (3) If a proposal in terms of sub-rule (1) (d) or (e) is opposed, then such proposal shall lapse without further discussion.
 - (4)
 - (a) A Party Whip or authorized party representative may submit questions for written or oral reply to the Speaker for reply at an ordinary Council meeting as referred to in sub-rule (b) hereunder.
 - (b) Questions must be submitted to the Speaker at least 14 (fourteen) days prior to the commencement of the meeting and the Speaker must provide the Municipal Manager with a copy thereof for inclusion in the minutes of the said meeting.
 - (c) The Municipal Manager or a duly designated official shall ensure that the questions are circulated amongst Portfolio Holders, Heads of Department and Directors in good time to prepare a response thereto.
 - (d) The Portfolio Holder assisted by the relevant Director, if necessary, shall provide a written response to any question directed to him or her.
 - (e) Where a Portfolio Holder has not had reasonable opportunity to provide a written response, he or she shall provide an oral response at such Council meeting.

- (f) The Municipal Manager shall ensure that all questions and responses thereto, both written and oral, are attached to the minutes of the meeting.
- (g) The Municipal Manager must ensure that any question to which no reply has been furnished, is placed on the agenda for the next meeting of Council.
- (h) A political party shall be limited to 3 (three) questions per month.

14. **Sitting days**

- (1) The sitting time of the Council is 14h00 or any other time as the Speaker may determine, until the Council is adjourned for the day.
- (2) The Council is in recess during the period 16 December to 15 January of each year, both dates included.
- (3) During the winter months (June-July) of each year, a period will be reserved, as determined by the Council, during which no official meetings will be held in order for members to perform constituency work.
- (4) If a need arises for the Council to meet to dispose of urgent business, then the Speaker, in consultation with the Executive Mayor and the Municipal Manager, may call an urgent meeting to dispose of such business.

15. **Open Days**

- (1) The Council may, at least once a year, have open days to promote the participation of the local community in the affairs of the Municipality.

- (2) The dates, format, venue and times of open days must be determined by the Speaker.

16. **Venue and agenda for meetings of Council**

- (1) The Council sits at the seat of Council.
- (2) The Council may sit at a place other than the seat of Council on the basis of public interest, security or convenience, provided the Council, by resolution –
 - (a) identifies the public interest, security or convenience that is the basis for the change of venue;
 - (b) approves the change of venue to a specified place and for a specified occasion or period; and
 - (c) specifies the estimated costs of effecting the change of venue and maintaining it for the specified period.
- (3) The business of the Council to be attended to at a meeting of the Council must be set out in an agenda prepared by the Municipal Manager.
- (4) Notice of such meeting must be prepared by the Municipal Manager and approved by the Speaker, whereafter it must be distributed by the Municipal Manager to the members at least 7 (seven) days prior to the meeting.
- (5) Prior to the circulation of the agenda for a Council meeting, the agenda must first be discussed amongst the Speaker, the Executive Mayor and the Municipal Manager, provided that-
 - (a) the unavailability of one or more of the aforesaid persons shall not prevent such circulation; and

- (b) the Speaker may nominate a councillor to endorse the agenda in the event that the Speaker is absent or unavailable.

17. Public notice of meetings of Council

The Municipal Manager must give at least 48 hours' notice to the public of the date, time and venue of every –

- (a) ordinary meeting of the Council; and
- (b) special or urgent meeting of the Council, except when time constraints make this impossible.

18. Minutes of proceedings

- (1) The Municipal Manager must ensure that all resolutions of the Council are recorded in a minute book and that resolutions adopted by the Council in closed meetings are recorded in a separate minute book.
- (2) The accuracy of the minutes must be considered at the next meeting, failing which, at the meeting thereafter.
- (3) If there is a dispute about the contents of the minutes, then –
 - (a) the relevant debate, if it was recorded, must be transcribed;
 - (b) in the absence of a transcription, the Municipal Manager must submit a report to the Council, setting out his or her recollection of the debate; and
 - (c) after considering the transcription or report, as the case may be, the Council may by vote decide on the accuracy of the minutes, with only those members who were

present at the time of the disputed debate being entitled to vote.

- (4) The Municipal Manager must ensure that the names of members attending any meeting, members who are absent and members who have been granted leave of absence are recorded in the minutes.
- (5) The Municipal Manager must ensure that all resolutions of the Council and its Committees are executed, provided that all resolutions not executed within 3 (three) months thereof should be reported by the Municipal Manager to the Council on a quarterly basis together with reasons why such execution could not be effected within the 3 (three) month period.

19. **Opportunity for prayer or meditation**

A moment of silence for prayer or meditation must be observed at the commencement of a Council meeting.

20. **Interruption, suspension or adjournment of proceedings**

- (1) The Speaker may interrupt, suspend or adjourn proceedings of the Council, provided that –
 - (a) prior consultation takes place with the Executive Mayor, Chief Whip of the Council and Party Whips; and
 - (b) good cause exists for such interruption, suspension or adjournment.
- (2) During an adjournment the Speaker may change the date, time or venue for the resumption of proceedings.

21. Orders to leave sittings

The Speaker may, at a sitting of the Council, order a member of the public to leave the meeting when it is necessary to give effect to the measures taken by the Speaker under sub-rule 9 (8) (g).

22. Removal of persons

When instructed by the Speaker, an authorised official must remove or arrange for the removal of a person –

- (a) who, without permission, is present in that part of the meeting designated for members only or in another place which is out of bounds for that person; or
- (b) who disrupts the proceedings of the Council, causes a nuisance, does not leave the meeting when ordered to leave in terms of rule 21, or in any other way contravenes a material provision of this by-law.

23. Visiting local, provincial and national government representatives and traditional leaders

The Speaker, after consultation with the head of a delegation, may invite any visiting representative of the local, provincial or national government, or a traditional leader, who is on a visit to the Council, to address the Council.

24. Language policy

- (1) The Council uses English, isiXhosa and Afrikaans for the purposes of government, as contemplated in terms of section 6 (3) (b) of the Constitution.

- (2) The Council uses English for internal purposes.
- (3) Council's agenda's and minutes must be written in English.
- (4) A member may speak English, isiXhosa and Afrikaans in the Council.
- (5) A member intending to speak any language other than English, isiXhosa or Afrikaans must inform the Municipal Manager of such intention at least 48 hours before a meeting of the Council.
- (6) Where required, an accurate record of the submissions made by such member must be included in the minutes, together with an English translation.

25. Conduct of Councillors

- (1) Every Councillor must be dressed formally or traditionally as detailed in the Council's dress code when attending a meeting of the Council, and when entering or leaving the Chamber, or moving to any other part of the Chamber during a debate, must nod in respect to the Speaker or Chairperson in passing to or from his or her seat.
- (2) No Councillor may pass between the Speaker and the Councillor who is speaking, nor stand in any of the passages or gangways while the meeting is in progress.

CHAPTER 4

ORDER IN MEETINGS AND RULES OF DEBATE

26. Order of business

When a motion is under discussion at any meeting of the Council no further motion shall be received except the following that –

- (a) the motion be amended;
- (b) consideration of the question be postponed;
- (c) the Council adjourns;
- (d) the Council adjourns for a caucus meeting;
- (e) the debate be adjourned;
- (f) the question be put; and
- (g) the Council proceeds to the next business.

27. That the motion be amended

- (1) Every amendment shall be relevant to the motion in respect of which it is moved.
- (2) An amendment shall be placed in writing, signed by the mover, handed to the Speaker or Municipal Manager and read out before being moved.
- (3) An amendment shall not be discussed or put to the Council until it has been seconded.
- (4) If there are any amendments to a motion then the amendment last proposed shall be put to the vote first, and if carried then the question shall be resolved accordingly.
- (5) If the amendment last proposed is not carried, then the amendment proposed immediately prior to such amendment shall be put to the vote.

- (6) No further amendment shall be moved in respect of a motion or amendment after the Speaker has commenced to take a vote on such motion or amendment.

28. That consideration of the question be postponed

- (1) A member may, at the conclusion of a speech, move that consideration of the question be postponed to a fixed date.
- (2) Such motion shall be seconded but need not be placed in writing.
- (3) The mover of such motion may speak for no more than 10 (ten) minutes, but the seconder shall not be permitted to speak beyond formally seconding it.
- (4) Upon such motion being moved, the mover of the question under discussion may, without prejudice to his or her ultimate right to reply to the debate if the motion that the question be postponed is not carried, be heard in reply for 5 (five) minutes, after which the motion shall be put without further discussion.
- (5) If postponement to a fixed date is agreed upon, then the question shall be placed first on the list of points of discussion for the day on which the postponed motion shall be considered.

29. That the Council adjourns

- (1) A member may, except during the course of a speech by another member or while a vote is being taken, move that the Council or the Committee adjourns.
- (2) Such motion shall be seconded but need not be put in writing.

- (3) The mover may speak to the motion for 5 (five) minutes, but the seconder shall not speak beyond formally seconding the motion.
- (4) If the motion is carried then Council shall adjourn immediately, provided that the Speaker may direct that the meeting proceed first to dispose of unopposed business.
- (5) If a motion that the Council adjourns is not carried then the Speaker shall not accept another such motion until a period of 30 (thirty) minutes has elapsed.
- (6) A specific member shall not, on the same day and during the course of any one meeting of the Council, move or second more than one motion to adjourn.
- (7) No discussion on a motion to adjourn shall be permitted, provided that –
 - (a) the mover may speak to the motion, as contemplated in terms of sub-rule (3); and
 - (b) the member who first rises for such purpose may speak against the motion for no more than 5 (five) minutes.
- (8) No amendment to such motion shall be moved except in relation to the period of adjournment.
- (9) If a motion to adjourn a meeting of the Council has been carried during a debate and prior to the closure thereof, then upon consideration of the subject of such debate at the adjourned meeting, the member who moved the adjournment shall be entitled to speak first.

- (10) No business shall be transacted at an adjourned meeting except such as may be set out in the agenda for the meeting.
- (11) Notwithstanding the provisions of sub-rule 20 (1), the Speaker has the right to adjourn a meeting at any time after every 2 (two) hours for a maximum of 10 (ten) minutes, but not during the taking of a vote.

30. That the Council adjourns for a caucus meeting

- (1) The Chief Whip of the Council or a Party Whip or any other duly designated member may, at any time, except while a vote is being taken, move that the Council adjourns for a caucus meeting.
- (2) Such motion shall be seconded but need not be placed in writing.
- (3) The mover may speak to the motion for 5 (five) minutes, but the seconder shall not speak beyond formally seconding the motion.
- (4) The Council shall decide whether or not to allow the request for a caucus meeting. In this regard –
 - (a) if the request is refused by the Council then the ruling of the Council on the request will be final and shall not be open for discussion; and
 - (b) if the request for a caucus meeting is approved by the Council then the Council shall adjourn immediately, provided that the Speaker may request that the meeting proceeds first to dispose of other business.

- (5) The caucus requesting the adjournment shall gather at another venue.
- (6) If the caucus members have taken their seats for the Council to reconvene, then the Council shall proceed with its normal business, provided that a quorum of members is present.
- (7) If a quorum of members is not present, then the meeting shall adjourn for 10 (ten) minutes and where the caucus members do not return within 10 (ten) minutes, then the meeting will be adjourned by the Speaker and the reasons for such adjournment will be stated in the minutes.

31. That the debate now be adjourned

- (1) After 30 (thirty) minutes of debate on a specific matter or matters a member may, at the conclusion of any speech, move that the debate be adjourned.
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover of such motion may speak to it for 5 (five) minutes, but the seconder shall not speak beyond formally seconding it.
- (4) Save as provided in sub-rule (3), no discussion on such motion shall be permitted except in relation to the period of adjournment and the member who first rises for that purpose may speak against it for 5 (five) minutes.
- (5) If such motion is carried, then the meeting shall proceed to the next business on the agenda and discussion of the adjourned debate, unless otherwise resolved, shall be resumed at the next ordinary meeting.

- (6) On the resumption of the adjourned debate, the member who moved the adjournment shall be entitled to speak first.
- (7) If a motion that a debate be adjourned is not carried, then the Speaker shall not accept another such motion until 30 (thirty) minutes have elapsed.
- (8) A specific member shall not, during the course of any one debate, move or second more than one motion to adjourn the debate.

32. That the question be put

- (1) After 30 (thirty) minutes of debate on a specific matter, a member may move, without discussion, that the question be put. In this event –
 - (a) the motion, if seconded, shall be put immediately; and
 - (b) if the motion is carried then the question with regard to the motion under discussion shall be put immediately.
- (2) A second motion that the question be put shall not be moved within a period of 15 (fifteen) minutes of a decision in respect of the first motion.

33. That the Council proceeds to the next business

- (1) After 30 (thirty) minutes of debate on a specific matter, a member may move, without discussion, that the Council proceeds to the next business and the motion, if seconded, shall be put immediately.

- (2) When a motion is carried that the Council proceeds to the next business, the question under discussion shall be deemed to have lapsed.
- (3) During a debate on the same question, a second motion that the Council proceed to the next business shall not be moved within 15 (fifteen) minutes of such first motion.

34. **Freedom of speech**

- (1) Members –
 - (a) shall have -freedom of speech in the Council, in its Committees and Sub-Committees, subject to these rules; and
 - (b) shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for-
 - (i) anything that they have said in, produced before or submitted to the Council or any of its Committees or Sub-Committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any such Committee or Sub-Committee.
- (2)(a) For the purpose of expediency and to protect the dignity and decorum of the Council, speakers on items contained in the Council agenda shall be limited to those appearing on the Speaker's list of speakers on items, subject to sub-rules (b) and (c) hereunder.

- (b) The number of speakers on an item shall be determined proportionally per party by using the following formula-

$$\frac{PC}{TC} \times \frac{100}{NP}$$

where -

- (i) TC means the total number of Councillors;
 - (ii) PC is the total number of Councillors belonging to a party represented in the Council; and
 - (iii) NP is the total number of parties represented in the Council.
- (c) The determination of the number of speakers in accordance with the above formula shall be done subject to the following principles-
- (i) all fractions shall be disregarded; and
 - (ii) each party represented in the Council shall be permitted to have at least one speaker.
- (d) The names of speakers on items must be submitted by the respective Party Whips to the Speaker at least 24 hours before a meeting of the Council.

35. **Members may not be interrupted**

No member may interrupt another member who is addressing the Speaker, except to call attention to a point of order or a question of privilege.

36. **Precedence of the Speaker**

Whenever the presiding Speaker rises during a debate in the Council, a member addressing or seeking to address the Speaker must sit down and allow the Speaker to be heard without interruption.

37. **Grave disorder**

In the event of grave disorder at a sitting of the Council, the Speaker may suspend the proceedings or adjourn the sitting.

38. **Members to address Speaker**

A member must address the Speaker when speaking and, if possible, must stand while doing so.

39. **Calling of members**

(1) A member whose name appears on the Speakers' list of speakers on items may speak in the Council only when called by the Speaker.

(2) A member on the Speakers' list of speakers shall not address the Council more than once on the same motion or amendment.

40. **Time limits for speeches**

(1) Except where these rules provide otherwise, members may not speak in a debate in the Council longer than the time allocated to them in the list of scheduled speakers.

(2) If or insofar as times have not been allocated, then –

- (a) the Council member in charge of the business before the Council may speak for as long as may be needed; and
- (b) other members may not speak on a budget vote for longer than 5 (five) minutes at a time or on any other business before the Council for longer than 3 (three) minutes at a time.

41. **Offensive and unbecoming language**

No member may –

- (a) use offensive or unbecoming language in the Council; or
- (b) deliberately make a statement in the Council which the member knows is false.

42. **Explanations**

- (1) During a debate in the Council a member may be allowed to explain a previous speech but only when and to the extent that the speech has been misquoted or misunderstood in a material respect.
- (2) The member giving the explanation may not introduce any new matter.
- (3) No debate on the explanation may be allowed.
- (4) A member may, with the prior consent of the Speaker, explain a matter of a personal nature to the Council.
- (5) The member may not speak for longer than 5 (five) minutes and is strictly confined to vindicating his or her own conduct.

43. Points of order

When a point of order is raised, the member addressing the Speaker must stop speaking and sit down and after the point of order has been stated the Speaker may summarily give or reserve his or her ruling or decision.

44. Acting for absent member

If the member in charge of a motion is absent from the Council, then another member authorised by the absent member may take charge of the motion.

45. Rights of member to speak

A member may speak in the Council –

- (a) when called by the Speaker; or
- (b) to a point of order.

46. When reply allowed

A reply must be allowed to a member –

- (a) who introduced a subject for discussion; or
- (b) who is in charge of the order of the day under discussion.

47. Debate closed

A reply to a debate closes the debate in the Council unless the Speaker allows further discussion.

48. **Postponed questions put without further debate**

A question that was postponed after the debate on it was concluded in the Council must be put without further debate.

49. **Questions put again**

If the Speaker has put a question and it is not heard or understood, then the question must be put again.

50. **Question fully put**

- (1) No member, except a member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the Speaker.
- (2) A question to be decided by the votes of individual members is fully put when both the "For" and the "Against" votes have been given on it.

51. **Declaration of vote**

- (1) When a question to be decided by the votes of individual members has been fully put, the Speaker, on request, may allow a member of each political party to state the reasons why the party is in favour of or against the question.
- (2) Such reasons shall be restricted to a speech of no more than 3 (three) minutes.

52. **Recording of opposition or dissent**

- (1) Where a question to be decided by the votes of individual members is put by the Speaker, a member may request that his

or her opposition to the question, or the opposition of his or her political party, be recorded.

- (2) The recording of a member's or political party's opposition shall not preclude the said member's or party's participation in any discussion or debate pertaining to the question.
- (3) The Municipal Manager must record in the minutes the names of all the members who have requested that their opposition be recorded.

53. Unopposed business

- (1) When a meeting of the Council has been in progress for not less than 2 (two) hours, the Speaker may interrupt the proceedings and direct that the Council proceed immediately to dispose of unopposed business.
- (2) After the disposal of such business, the proceedings shall resume at the point at which they were interrupted, unless all other remaining business has been adjourned until a further meeting.
- (3) For the purposes of this by-law, an item on the agenda shall be deemed to be opposed business if a member has indicated his or her intention to discuss such item immediately after the Speaker has informed the meeting that such item is open for discussion, provided that no item shall be deemed to be opposed by reason only of questions being put in connection therewith.

54. Demand for division

- (1) After a question has been put and the Speaker has indicated whether either the "For" or the "Against" vote has carried it, any member may demand a division.

- (2) If the demand for a division has been seconded, then it shall be put to the vote immediately, without discussion.
- (3) If the majority of members present support the demand for a division, then a division must take place and without debate.

55. Procedure for divisions

A division shall take place in accordance with the following procedure –

- (a) the Speaker must order the doors to the venue to be closed;
- (b) when the doors have been closed, no member is allowed to enter or leave the meeting until the result of the division has been declared;
- (c) the Speaker must put the question again and instruct all members present to indicate, individually, whether they are either 'For' or 'Against' when their names are called;
- (d) the Municipal Manager must record the names and the vote of each member to the question; and
- (e) when the names and responses have been recorded the Speaker must declare the result of the division and such result must be recorded in the minutes of the meeting.

56. Points of order during division

While a division is in progress, members may not speak to a point of order arising out of or during the division.

57. Confusion or error during division

In the event of confusion or error in a division, the procedure set out in rule 55 must be repeated, provided that if there is an inaccuracy in the numbers of the votes and these numbers can accurately be corrected in another, less cumbersome way, then the procedure need not be repeated.

58. Correction of minutes

If the names of members and their votes during a division have been inaccurately reported or any errors occur in the names on the division list, then the Speaker must order the minutes of the proceedings to be corrected.

59. Same question rule

- (1) A matter proposed for discussion in the Council may not in substance be the same as a matter that has been discussed in the Council during the preceding 6 (six) months.
- (2) A draft resolution proposed for approval by the Council may not in substance be the same as a draft resolution which has been approved or rejected by the Council during the preceding 6 (six) months.
- (3) Sub-rule (2) does not prevent the Council from amending or rescinding any order, resolution or vote of the preceding 6 (six) months.

60. No amendment to draft resolution

No amendment to a draft resolution may be proposed, except an amendment –

- (a) on a question of privilege;
- (b) to replace the name of a member in the draft resolution with the name of another member; or
- (c) allowed by the Speaker.

61. Rescission of resolution

- (1) If a member wishes to give notice of his or her intention to move the rescission or alteration of a resolution, or part thereof, then –
 - (a) the member shall deliver a written notice of motion to the Municipal Manager, which shall be –
 - (i) signed and dated by the said member; and
 - (ii) state at which meeting of the Council it will be introduced;
 - (b) the notice of motion shall be delivered to the Municipal Manager at least 7 (seven) calendar days before the meeting; and
 - (c) in addition to the requirements of sub-rule (a), the notice of motion shall state that –
 - (i) the member will move that the stated resolution be rescinded or altered, as the case may be; and
 - (ii) in the case of an intended alteration, the exact alteration desired shall be stipulated.

- (2) If a Committee has resolved to recommend to the Council that a resolution or part thereof be rescinded or altered, then –
- (a) notification to move such rescission or alteration shall be given by including a recommendation to this effect in a report of the Committee to Council;
 - (b) the Municipal Manager shall send a copy of such report and details of the meeting at which it will be considered to each member –
 - (i) at the address furnished by the member for delivery of notices and documents; and
 - (ii) at least 24 (twenty-four) hours before such meeting.
- (3) With the exception of a recommendation of a Committee, a resolution or part thereof shall not be reviewed at any meeting of the Council unless the permission of the majority of the members present has been obtained.

62. **Recommendation of Committee**

- (1) The adoption of a recommendation included in a report of a Committee shall be deemed to have been moved by the chairperson of such Committee.
- (2) In the absence of a chairperson or when he or she opposes a recommendation, the adoption of a recommendation contemplated in terms of sub-rule (1) shall be deemed to have been moved by a member of such Committee duly delegated to do so.

- (3) The motion to adopt the recommendation need not be seconded and the chairperson of the Committee in question shall not be precluded from exercising his or her right to speak thereon.
- (4) Any matter submitted for decision in terms of sub-rule (1) may be amended prior to a decision being taken thereon.
- (5) Notwithstanding sub-rule (3), a recommendation to amend must be seconded.
- (6) The Council must decide on a recommendation to amend first and only thereafter take a decision on the substantive matter before it.
- (7) An amendment may not result in the negation of the matter submitted for a decision.

63. Motions without notice

Notice of motion must be given, except when –

- (1) an amendment to a draft resolution is proposed in terms of these rules;
- (2) a motion arises out of a question of privilege;
- (3) the postponement or discharge of or giving precedence to an order of the day is proposed;
- (4) the referral of a by-law to a committee is proposed;
- (5) the member in charge proposes a draft resolution on the report of a committee immediately after the debate on the report has been concluded;

- (6) all the members present unanimously concur that the motion be dispensed without notice; or
- (7) these rules specifically provide otherwise.

64. Notice of motion

- (1) When giving notice of a motion a member must –
 - (a) read it aloud and deliver to the Speaker at the meeting a signed copy of the notice; or
 - (b) deliver to the Municipal Manager a signed copy of the notice, on any working day, for inclusion on the agenda.
- (2) A written notice of motion delivered to the Municipal Manager after 12h00 on any working day may be placed on the agenda only after the expiry of 24 (twenty four) hours.
- (3) No motion may be proposed on the day on which notice is given, except if all the members present unanimously concur.

65. Acting for absent member

A member authorised by an absent member may give notice of a motion on behalf of the absent member.

66. Question of privilege

An urgent motion directly concerning the privileges of the Council shall take precedence over other motions and orders of the day.

67. Withdrawal and lapsing of motion

- (1) A member who has proposed a motion may propose without notice that it be withdrawn.
- (2) A motion on the agenda which has not been disposed of when Council concludes business on the last sitting day in any year shall lapse upon the said conclusion of business.

68. Matters of public importance or matters of exigency

- (1) A member may request the Speaker in writing to allow a matter of public importance or exigency to be discussed by the Council; provided that at least 24 hours' notice of such request is given to the Speaker prior to the commencement of the meeting.
- (2) If the matter affects the Council, or is regarded as a matter of national, provincial or local importance for participation by or information to the local community, then the Speaker may grant the request and –
 - (a) place the matter on the agenda or, if it is an urgent matter and the Council is sitting, allow the discussion to take place on the day the request is made after having considered the availability of members to participate in the debate;
 - (b) allocate a period of time for the discussion; and
 - (c) arrange for a portfolio holder or other member to reply to the debate.
- (3) Such a discussion may not exceed the time allocated to it by the Speaker.

- (4) At least 15 (fifteen) minutes before the expiration of the allocated time, if a member, other than the person replying to the debate, is still speaking then the Speaker must interrupt the said member and allow that person to reply if that person so wishes.
- (5) Questions of privilege may not be discussed under this rule.
- (6) Matters already discussed by the Council during an annual session may not be discussed under this rule during the same session.
- (7) Rule 31 shall not apply to a debate contemplated in terms of this rule.

CHAPTER 5 PUBLIC ACCESS

69. **Meetings open to the public**

- (1) In accordance with the provisions of Section 20 (1) of the Municipal Systems Act and subject to sub-rules (6) and (7) hereof, members of the public have the right to attend all Council meetings and meetings of its Committees.
- (2) Subject to compliance with the provisions of Section 20 (3) of the Municipal Systems Act, all Mayoral Committee meetings shall be closed to the public, including the media.
- (3) Having regard to the nature of the business being transacted by them, meetings of the Strategic Standing Committees shall in terms of Section 20 (1) (a) of the Municipal Systems Act be closed to the public, including the media.

- (4) The Municipal Manager must put up a notice on the official Municipal notice boards on which must appear, in the languages designated by Council, the time, date, and place of all Council meetings and all Committee meetings.
- (5) Save where he or she is precluded by the urgency of the meeting from doing so, the Municipal Manager must give notice, by publication in at least the local or regional newspaper and in the languages designated by Council, of the time, place and date of all Council meetings.
- (6) Subject to the provisions of section 20 (2) of the Municipal Systems Act, the Speaker, in the case of the Council, or the chairperson, in the case of any other Committee, may close a meeting or part of the proceedings of a meeting to the public if, in his or her reasonable opinion –
 - (a) there may be unlawful disclosure to the public of personal information regarding any person;
 - (b) trade secrets of any person may be disclosed;
 - (c) financial, commercial, scientific or technical information, other than trade secrets of any person, may be disclosed and such disclosure would be likely to cause harm to the financial or commercial interests of such person;
 - (d) information which has been supplied in confidence by any person may be disclosed and such disclosure could reasonably be expected to place such person at a disadvantage in contractual or other negotiations or to prejudice such person in commercial competition;
 - (e) information may be disclosed and such disclosure would give rise to an action for breach of a duty of confidence owed to any person in terms of an agreement;

- (f) information may be disclosed which could reasonably be expected to endanger the life or physical safety of any person or would be likely to prejudice or impair the security of a building, structure or system, means of transport or any other property;
 - (g) information, privileged from production in legal proceedings, may be disclosed;
 - (h) information may be disclosed which contains trade secrets of the Municipality, or financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the financial or commercial interests of the Municipality, or the disclosure of which could reasonably be expected to put the Municipality at a disadvantage in contractual and other negotiations or to prejudice it in commercial competition; or
 - (i) information may be disclosed about research being or to be carried out by or on behalf of any person or the Municipality and the disclosure of such information would be likely to expose any person or the Municipality or the subject matter of the research to serious disadvantage.
- (7) The proceedings of an item on the agendas of Council and Committee meetings which has been marked by the Municipal Manager as being confidential will be closed to the public, unless the Council or the Committee agrees to discuss that item in open meeting.

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- (8) A decision in terms of sub-rule (6) to exclude the public must be taken by the Committee concerned, provided that the chairperson of the committee may at any time –
- (a) before the start of the meeting, rule that the meeting must take place in closed session, provided that the Committee may, at any time after the start of the meeting, open the meeting; or
 - (b) close the meeting for a decision by the Committee as to whether the Committee should consider any matter in closed session.
- (9) The Municipal Manager must-
- (a) set aside places for the public during Committee meetings; and
 - (b) determine the entrances and routes in respect of which the public can obtain access to the places where Committees meet.
- (10) The Municipal Manager may take reasonable and lawful measures to –
- (a) regulate public access, including access of the media, to Committees;
 - (b) prevent and control misconduct of the public during Committee meetings; and
 - (c) provide for the searching of any person, including that person's vehicle or other property in that person's

possession, and, where appropriate, the refusal of entry to or the removal of any person.

- (11) In general all meetings of sub-committees or ad hoc committees shall be closed to the public, including the media, provided that the sub-committee or ad hoc committee may at any time after the start of the meeting decide that the proceedings or part thereof shall be open.
- (12) (a) Confidential minutes of meetings of the Council or its Committees held in-Committee shall not be disclosed to the public for a period of 7 (seven) calendar days in order to permit any member to move the rescission thereof.
- (b) If no move for rescission is received, then the minutes may be made available to the public and the media by the Municipal Manager or a duly delegated official, provided that :
- (i) such disclosure will not contravene the provisions of rule 69 (6); and
- (ii) the minutes have not been placed by the Council or a Committee in the Council's Special Minute Book, in which event only a resolution of the Council may authorise such disclosure.

70. Exclusion of members of the public from meetings

The member presiding at a meeting of a Committee may order a member of the public to leave the meeting –

- (a) when the public is excluded from a meeting in terms of rule 69 (6) or (7); or

- (b) when necessary to give effect to the measures taken by the Municipal Manager under rule 69 (10).

71. Removal of persons

When instructed by the Speaker or the Chairperson of a Committee or a sub- or ad hoc committee or by a person duly delegated thereto, an authorised official must remove or arrange for the removal of any person who –

- (a) without permission, is present in a Committee room designated for members of the Committee or sub- or ad hoc committee only;
- (b) disrupts the proceedings of a Committee or a sub- or ad hoc committee or causes a nuisance; or
- (c) does not leave when ordered to leave in terms of rule 69 (10).

72. Reports of the Executive Mayor

- (1) A report to the Council submitted by the Executive Mayor shall first contain the matters which have been delegated to the Executive Mayor and thereafter the matters in respect of which recommendations are made and where no powers have been delegated to the Executive Mayor.
- (2) Unless an item is submitted to the Council for information only, every item relating to matters in respect of which the Executive Mayor has no delegated powers shall contain a recommendation which may be adopted by the Council.

73. Delivery of reports of the Executive Mayor

A report of the Executive Mayor shall, for the purposes of a meeting, be served in the manner provided in these rules.

74. Moving of report of the Executive Mayor

- (1) The Executive Mayor, or a member called upon by the Executive Mayor to do so, shall submit a report to a meeting by requesting that the report be considered and such request shall not be discussed.
- (2) Where the report of the Executive Mayor is considered, the Speaker shall put the recommendations, in that part of the report in respect of which the Executive Mayor has no delegated powers, point by point unless he or she sees fit to vary the order.
- (3) The recommendations in the report of the Executive Mayor, as discussed in terms of sub-rule (2), shall be deemed to have been proposed and seconded.
- (4) If a recommendation, contemplated in terms of sub-rule (2), has been adopted, then such recommendation shall become a resolution of the Council.
- (5) The Speaker shall permit no debate on the matters approved by the Executive Mayor, provided that-
 - (a) debate may take place on those items where a rescission has been duly moved and acceded to in terms of rule 61 hereof;
 - (b) members may raise questions for clarity or request explanations in terms of rule 42 hereof and ;

- (c) a member may request that his or her opposition to a resolution in terms of rule 52, in respect of which the Executive Mayor has delegated powers, be minuted after which the Municipal Manager shall cause to be minuted such opposition and any reasons therefor.

75. Consideration of the budget

Notwithstanding anything to the contrary in these rules, the following provisions shall apply when the budget is considered by the Council –

- (a) 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 closed;
- (b) after the debate on the budget has been closed, the Speaker shall put to the vote the proposals contemplated in terms of sub-rule (a) in the order in which they were proposed;
- (c) if any proposal contemplated in terms of sub-rule (a) is accepted, then –
 - (i) the meeting may be adjourned to a date and time determined by the Council, in which event the budget shall not be deemed to have been amended by said proposal; or
 - (ii) where the Council does not adjourn the meeting, the budget shall be deemed to have been amended in accordance with the said proposal;
- (d) subsequent to an adjournment in terms of sub-rule (c) (i), the Executive Mayor shall investigate the implications of every

proposal accepted and shall report thereon to the Council when the meeting resumes;

- (e) after the Executive Mayor has reported in terms of sub-rule (d), the Speaker shall permit debate on the proposals accepted; and
- (f) thereafter, the Speaker shall put every such proposal to the vote again and if such proposal is accepted then the budget shall be amended in accordance with that resolution.

76. **Petitions**

- (1) A petition may be submitted by a member in the course of a meeting and he or she shall not be obliged to mention or divulge the contents or the title thereof when it is submitted.
- (2) A petition as contemplated in terms of sub-rule (1) shall be referred to the Executive Mayor for a report to the Council.

77. **Publication of proceedings, evidence, reports, etc**

- (1) Any document produced or under consideration by a Committee or Sub-Committee shall be accessible to the public, provided that the documents or information listed hereunder may not be published or disclosed –
 - (a) the proceedings of or information placed before a Committee or Sub-Committee from which the public were excluded in terms of rule 69 (6) or (7);
 - (b) any report or summary of such proceedings or information;

- (c) any document placed before or presented to the Committee or Sub-Committee as a confidential document;
- (d) any document –
 - (i) submitted or to be submitted to members of the Committee or Sub-Committee as a confidential document by order of the chairperson of the Committee or Sub-Committee; or
 - (ii) subsequent to its submission to members, declared by the chairperson as a confidential document.
- (2) Notwithstanding the provisions of sub-rule (1), permission may be given by the Council for the said documents or information to be published or disclosed.
- (3) The permission authorising the publication or disclosure of the documents or information contemplated in terms of sub-rule (1) may provide that specific parts of or names mentioned in a document or information may not be published or disclosed.
- (4) For the purposes of sub-rule (1) a document is under consideration by a Committee or Sub-Committee when –
 - (a) the presiding member places the document or permits the document to be placed before the Committee or Sub-Committee; or
 - (b) a person, appearing before the Committee or Sub-Committee, presents the document to the Committee or Sub-Committee.

- (5) Sub-rule (1) shall apply to documents or information that –
- (a) contain private information that is prejudicial to a particular person;
 - (b) are for any other reason privileged or confidential in terms of the law;
 - (c) are subject to a media embargo, until the embargo expires; or
 - (d) are of such a nature that their privileged or confidential treatment is reasonable and justifiable in an open and democratic society.

CHAPTER 6 COMMITTEES

78. Establishment of Committees

- (1) Council may establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers, as contemplated in terms of section 79 (1) of the Municipal Structures Act.
- (2) Council may appoint Committees of Councillors to assist the Executive Mayor, as contemplated in terms of section 80 (1) of the Municipal Structures Act.
- (3) By resolution, Council may combine, rename, amend or abolish any or all of the Committees referred to in sub-rules (1) and (2) or create new or additional committees, as it requires from time to time, without amendment of this by-law.

79. Mayoral Committee

- (1) The Executive Mayor shall appoint a Mayoral Committee from amongst the members of the Council.
- (2) In appointing a Mayoral Committee, the Executive Mayor shall exercise the powers and perform the functions contemplated in terms of section 60 of the Municipal Structures Act.
- (3) The Mayoral Committee shall consist of –
 - (a) the Deputy-Executive Mayor, if any; and
 - (b) as many members as may be necessary for effective and efficient government, provided that no more than 20% (twenty percent) of the members or 10 (ten) members, whichever is the least, are appointed.
- (4) The Executive Mayor and members of the Mayoral Committee shall exercise and perform the powers and functions designated by the Council.

80. Audit Committee

- (a) The Audit Committee shall be an independent advising body that must carry out the functions listed in terms of section 166 (2) of the MFMA.
- (b) At all times, the Audit Committee shall function and be constituted by the persons described in terms of section 166 (3)-(5) of the MFMA.

81. Committees to assist Council

- (1) Council may-
 - (a) appoint the members of a Committee from among its Councillors;
 - (b) dissolve a Committee at any time;
 - (c) delegate duties and powers to a Committee;
 - (d) authorise a Committee to co-opt advisory members, who are not Councillors, within the limits determined by Council;
 - (e) remove a member of a Committee at any time; and
 - (f) determine a Committee's procedure.
- (2) Council must-
 - (a) determine the functions of a Committee;
 - (b) appoint the chairperson.
- (3) Council must determine the number of members for each Committee, having due regard for the need to ensure a fair distribution of work amongst its Councillors.
- (4) The Executive Mayor may recommend to Council how Councillors will be deployed to the various Committees, having had due regard for the recommendations of the Speaker, Chief Whip of the Council and Party Whips.

- (5) Council shall take into consideration any recommendations submitted by the Executive Mayor in terms of sub-rule 4, but without derogating from the general authority created in terms of sub-rules (1) and (2).
- (6) The provisions of this rule shall apply only to Committees established in terms of sub-rule 78 (1).

82. Committees to assist the Executive Mayor

- (1) Council may appoint Committees to assist the Executive Mayor, subject to the requirements of section 80(1) of the Municipal Structures Act.
- (2) Such Committees shall not, in number, exceed the number of members of the Mayoral Committee.
- (3) The Executive Mayor-
 - (a) appoints a chairperson for each Committee from the Mayoral Committee;
 - (b) may delegate any powers and duties of the Executive Mayor to the Committee;
 - (c) is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and
 - (d) may vary or revoke any decision taken by a Committee, subject to any vested rights.
- (4) Such a Committee must report to the Executive Mayor in accordance with the directions of the Executive Mayor.

- (5) The provisions of this rule shall apply only to Committees appointed in terms of sub-rule 78 (2).

83. The duties of Committees

- (1) The Executive Mayor must report in writing to the Council with regard to the activities of the Mayoral Committee at least once a month.
- (2) Other Committees must submit regular written reports on their activities, subject to the following requirements -
- (a) a Committee established in terms of sub-rule 78(1) shall submit such report –
- (i) directly to Council, unless instructed otherwise by Council; and
- (ii) at least once a month, provided that they have met.
- (b) a Committee appointed in terms of sub-rule 78(2) shall submit such report –
- (i) directly to the Executive Mayor; and
- (ii) at least once a month, provided that they have met.
- (3) The Municipal Manager must ensure that minutes are kept of all meetings of Committees, copies of which must be forwarded –
- (a) in the case of the Mayoral Committee, to the Council; and

- (b) in the case of other Committees, to the Mayoral Committee.

84. Voting in Committees

- (1) A Committee shall be deemed to have obtained a quorum where a majority of its members are present.
- (2) Recommendations must be made on the basis of the majority vote of members present.
- (3) In the event of any equality of votes, the chairperson must exercise a casting vote.

85. Attendance at Committee meetings

- (1) All members have the right to attend, as observers, meetings of any Committee in respect of which they are not members.
- (2) Such persons may only address the Committee with the leave of the chairperson and have no right to vote.
- (3) The provisions of sub-rules (1) and (2) do not apply to meetings of the Mayoral Committee.

CHAPTER 7

THE CONDUCT OF COMMITTEE MEETINGS

86. The chairperson

- (1) The chairperson of the Mayoral Committee shall be the Executive Mayor, or, in the event that he or she is for any reason

not available, a member amongst those who shall be nominated and appointed by the Executive Mayor to act as chairperson.

- (2) Other Committees will be chaired by the person appointed by the Council, alternatively the Executive Mayor, as the case may be.
- (3) Subject to sub-rule (1), in the event that the chairperson is for any reason not available to chair a meeting, an acting chairperson must be appointed by the Executive Mayor from amongst the members present.
- (4) The chairperson must –
 - (a) approve the agenda, which must be prepared by the relevant Director or responsible official;
 - (b) maintain order during meetings;
 - (c) ensure compliance with the Code of Conduct and the Council's rules of order as adopted from time to time;
 - (d) ensure that meetings are conducted in accordance with this by-law;
 - (e) ensure that members conduct themselves in a dignified and orderly manner; and
 - (f) ensure that members of the public attending any meetings conduct themselves in an orderly manner and obey any rulings made by the chairperson.

- (5) The ruling of the chairperson with regard to the application of this chapter and any other procedural matters shall be final and binding on the meeting.

87. Notice of meetings

- (1) Meetings of all Committees shall take place once every month, unless Council determines otherwise.
- (2) The Municipal Manager must give at least 48 (forty-eight) hours' notice of such meeting to the Committee members.
- (3) In the case of any urgent meeting, the Municipal Manager must give the Committee members notice as far in advance as he or she is practically able to do.
- (4) The chairperson must determine whether any meeting is urgent or not.
- (5) The chairperson must, after receiving a written request signed by a majority of the members of any Committee, call a meeting of that Committee on a date, time and place stipulated therein or in the event of no such stipulation, as determined by the Municipal Manager.

88. Quorum

- (1) The quorum for a meeting of any Committee is a majority of its members.
- (2) Where there is no quorum –
- (a) the commencement of the meeting must be suspended for no more than 15 (fifteen) minutes or until a quorum is obtained, whichever is the sooner;

- (b) at the end of the 15 (fifteen) minute period and where there is still no quorum, the chairperson may –
 - (i) further suspend the meeting for such period as he or she deems appropriate; or,
 - (ii) adjourn the meeting to another date, time and venue, at his or her discretion.
- (3) In the absence of the chairperson, the meeting shall be adjourned, by operation of this sub-rule, 15 (fifteen) minutes after the commencement time.
- (4) In the event of the adjournment of a meeting and before the date to which the meeting is adjourned, the chairperson may refer a matter to the Mayoral Committee, subject to any directions given by Council in this regard and provided that –
 - (a) the matter is deemed urgent enough by the chairperson; and
 - (b) the Mayoral Committee may refuse such referral and insist that the matter be discussed at the next meeting of the Committee in question.

89. **Agenda**

- (1) Subject to sub-rule (2), all meetings must be conducted according to the order in which matters appear on the agenda before the Committee and only matters that are on the agenda may be debated.

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

90. **Recommendations**

- (1) All recommendations shall be taken by a supporting vote of the majority of the members present at any Committee meeting provided that the requirements for a quorum, as contemplated in terms of sub-rule 88 (1) have been met.
- (2) The dissent, opposition or abstention of any Committee member must, if that member so requests, be recorded in the minutes of the meeting.

91. **Minutes**

- (1) The Municipal Manager must ensure that all recommendations of a Committee are recorded in a minute book and that recommendations adopted by a Committee in closed meetings are recorded in a separate minute book.
- (2) The accuracy of the minutes must be considered at the next meeting, failing which, at the meeting thereafter and once confirmed correct, must be signed and dated by the chairperson.
- (3) The Municipal Manager must ensure that the names of Committee members attending any meeting, members who are absent and members who have been granted leave of absence are recorded in the minutes.

92. Submission of reports and recommendations

- (1) All recommendations must be submitted to the chairperson of the relevant Committee and must be received by him or her at least 3 (three) days before the Committee meeting.
- (2) The member or official who submits the recommendation must sign it.
- (3) The recommendation must –
 - (a) set out in precise terms the decision required of the Committee as well as a motivation as to why such decision is required;
 - (b) require a decision which is within the Committee's powers and duties; and
 - (c) provide sufficient information to enable a decision to be taken.

93. Amendments to recommendations

- (1) Any matter submitted for a decision in terms of rule 92 may be amended prior to a decision being taken thereon.
- (2) The proposal to amend a recommendation must be seconded.
- (3) The Committee must decide on a proposal to amend first and only thereafter take a decision on the substantive matter before it.
- (4) An amendment may not amount to a negation of the matter submitted for decision.

94. Procedural recommendations

When a matter is under discussion at any Committee meeting, no further debate must be allowed if any of the following procedural recommendations are accepted; that –

- (a) consideration of the matter be adjourned and resumed at a time determined by the chairperson;
- (b) the meeting of the Committee be adjourned and reconvened at a date and time determined by the chairperson;
- (c) the matter be referred to another Committee; or
- (d) the matter be decided immediately.

95. The right of the public to address a Committee

- (1) The chairperson may, at his or her discretion, grant any person the opportunity to address any meeting of a Committee, provided that –
 - (a) any request to do so by the said person shall be –
 - (i) in writing; and
 - (ii) clearly state the matter in respect of which the said person wishes to address the meeting;
 - (b) the chairperson may dispense with the requirements of sub-rule (1) (a) where –

- (i) the request is deemed urgent enough by the chairperson; or
 - (ii) the said person is invited to address the meeting by the chairperson.
- (2) In exercising his or her discretion in terms of sub-rule (1), the chairperson must give particular consideration to the question of whether an address by such person will substantially assist the Committee in coming to a decision on any particular matter before it.
- (3) In granting a person such an opportunity, the chairperson may impose such conditions as he or she may deem fit.
- (4) If the chairperson is of the view that the person should rather address another Committee, then –
 - (a) the chairperson must refer any request to the chairperson of the relevant Committee, the Executive Mayor or the Speaker, as he or she deems appropriate; and
 - (b) the chairperson of the relevant Committee, the Executive Mayor or the Speaker, as the case may be, shall exercise his or her discretion with regard to –
 - (i) permitting such an address; and
 - (ii) imposing such conditions as may be necessary in the event that the address is permitted.

96. **Application of chapter to special Council meetings and Council in Committee**

This chapter shall apply to special Council meetings and meetings of Council in Committee, provided that a member may speak more than once at such meetings.

97. **Council in Committee**

- (1) A member may, at any time after the confirmation of the minutes during a meeting of the Council, move that Council now resolves itself into Committee, in which event –
 - (a) the member shall briefly state the reasons for such motion; and
 - (b) subject to the seconding of such motion, it shall be put to the vote immediately and without discussion.
- (2) If such motion is carried, then the place of meeting shall be cleared of all members of the public and the media.
- (3) A member may, during the course of discussion by Council in Committee, move that Council resumes in open meeting, in which event –
 - (a) the member shall briefly state the reasons for such motion; and
 - (b) subject to the seconding of such motion, it shall be put to the vote immediately and without discussion.
- (4) Where the Council resumes in open meeting without the question before Council in Committee having been disposed of,

the debate shall resume at the point at which the Council resolved itself into Committee.

CHAPTER 8 PROBITY

98. Application

The provisions of this chapter shall apply to all members, whether in their capacity as members of the Council or any Council Committee or other Committee.

99. Attendance at meetings

- (1) A member who is unable to attend a meeting of the Council or a Committee must apply to the Speaker for leave not to attend such meeting, provided that such application for leave has been submitted prior to the commencement of the meeting for which application for leave is being made.
 - (2) Any application contemplated in terms of sub-rule (1) must be –
 - (a) in writing;
 - (b) submitted to the Speaker no later than –
 - (i) 48 (forty-eight) hours in the case of a Council meeting; and
 - (ii) 24 (twenty-four) hours in the case of a Committee meeting,
- before the meeting takes place; and

- (c) acknowledged by the Speaker upon his or her receipt thereof.
- (3) If for any reason it is not possible to give notice of absence as contemplated in terms of sub-rule (2), then the application or an apology must be given as soon as possible, together with a written explanation as to why the application could not be given timeously.
- (4) The Speaker shall exercise his or her discretion, in consultation with the relevant Party Whip, whether or not to grant any application or accept any apology submitted in terms of this rule.
- (5) If an application has been granted, then it must be signed by the Speaker and submitted to the Director of Corporate Services for record purposes.

100. **Sanctions for non-attendance at meetings**

- (1) Where a member fails to attend a meeting and failed to apply for leave in terms of rule 99 (1) or failed to give an apology in terms of rule 99 (2) or made application but leave was refused, the member –
 - (a) shall be guilty of a contravention of this by-law;
 - (b) shall be liable for payment of a fine of R200.00 for the first contravention; and
 - (c) may be liable for payment of an additional fine, not exceeding R350.00, for any further contravention.
- (2) A member who –

- (a) arrives more than 15 (fifteen) minutes after the scheduled starting time; or
 - (b) fails to remain in attendance at,

a Council or Committee meeting, training course or workshop
may be liable for payment of a fine not exceeding R50.00
- (3) In the event that a member is absent from 3 (three) consecutive meetings of the Council or of the relevant Committee without having obtained leave of absence, he or she shall, if found guilty, be removed from office as a member.

101. Contravention of by-law

- (1) For the purposes of addressing any alleged contravention of this by-law by a member, the Council shall apply the provisions of items 13 and 14 of the Code of Conduct.
- (2) Subject to sub-rule (1), if the Speaker, on reasonable suspicion, is of the opinion that a provision of this by-law has been contravened, then the Speaker must –
 - (a) authorise an investigation of the facts and circumstances of the alleged contravention;
 - (b) give the member a reasonable opportunity to reply in writing regarding the alleged contravention; and
 - (c) report the matter to a meeting of the Council after sub-rules (2) (a) and (b) have been complied with.
- (3) A report in terms of sub-rule (2) (c) is open to the public.

- (4) The Speaker must report the outcome of the investigation to the MEC for Local Government.
- (5) If the Council or a special committee, contemplated in terms of item 14 (1) (b) of the Code of Conduct, finds that a member has contravened a provision of this by-law, then the Council may-
 - (a) issue a formal warning to the member;
 - (b) reprimand the member;
 - (c) request the MEC for Local Government to suspend the member for a period;
 - (d) fine the member; and
 - (e) request the MEC for Local Government to remove the member from office.
- (6) Any contravention of this by-law by a member shall be regarded as a breach of the Code of Conduct.
- (7) Notwithstanding the provisions of sub-rules (1) to (6), both sub-rules included, any person who contravenes or fails to comply with any provision of this by-law, including any regulations promulgated in terms thereof, shall-
 - (a) be guilty of an offence; and
 - (b) may be liable for the payment of a fine or any other penalty, as determined by a court with jurisdiction.

102. Appeals

- (1) Any member who has been warned, reprimanded or fined in terms of sub-rules 100 (1), 100 (2) or 101 (5) may, within 14 (fourteen) days of having been notified of the decision of the Council, appeal to the MEC for Local Government in writing, setting out the reasons on which the appeal is based.
- (2) A copy of the appeal must be provided to the Council.
- (3) The Council may, within 14 (fourteen) days of the receipt of the appeal referred to in sub-rule (2), make any representation pertaining to the appeal to the MEC for Local Government in writing.
- (4) The MEC for Local Government may, after having considered the appeal, confirm, set aside or vary the decision of the Council and inform the member and the Council of the outcome of the appeal.

103. Declaration of gifts

All gifts received by a member from any person other than the member's immediate family and having a value in excess of R1000-00 or such other amount as may be determined by the Municipal Systems Act from time to time must, within 2 (two) weeks from date of receipt, be declared by such member in writing to the Municipal Manager.

104. Full time member

- (1) Any full time member who wishes to undertake any other paid work must apply in writing to do so to the Speaker.
- (2) The application must include at least the following information –

- (a) the name of the person for whom the work will be done;
 - (b) the nature of the work;
 - (c) the duration of the work; and
 - (d) the amount of remuneration for the work.
- (3) Upon receipt of such an application, the Speaker must ensure that it is tabled at the next meeting of the Council for consideration.

CHAPTER 9 GENERAL PROVISIONS

105. Regulations

The Council may make regulations not inconsistent with any provision of this by-law, prescribing –

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) a matter that may facilitate the application of this by-law.

106. Repeal of by-law

Any by-laws relating to the standing orders for Council regarding the procedure and the maintenance of order at meetings adopted by the Buffalo City Municipality or any erstwhile municipal councils of the King William's Town and East London Transitional Local Councils, now comprising an administrative part of the Buffalo City Municipality, shall be repealed from the date of promulgation of this by-law.

107. Short title

This by-law is called the By-law Relating to Standing Rules and Orders for Council, 2007 and takes effect on a date determined by the Municipality by proclamation in the Provincial Gazette.

Schedule A

NOMINATION FORM FOR ELECTION OF SPEAKER

We, the undersigned members of the Municipal Council of Buffalo City Municipality, hereby nominate the following person as a candidate for election as Speaker:

(Full name of person nominated in block letters)

(Address)

First Proposer

(Name in block letters and signature)

Second Proposer

(Name in block letters and signature)

I, the abovementioned nominee, do hereby accept the nomination.

Signature

Schedule B

NOMINATION FORM FOR ELECTION OF EXECUTIVE MAYOR

We, the undersigned members of the Municipal Council of Buffalo City Municipality, hereby nominate the following person as a candidate for election as Executive Mayor:

(Full name of person nominated in block letters)

(Address)

First Proposer

(Name in block letters and signature)

Second Proposer

(Name in block letters and signature)

I, the abovementioned nominee, do hereby accept the nomination.

Signature

Schedule C

NOMINATION FORM FOR ELECTION OF CHIEF WHIP OF THE COUNCIL

We, the undersigned members of the Municipal Council of Buffalo City Municipality, hereby nominate the following person as a candidate for election as Chief Whip of the Council:

(Full name of person nominated in block letters)

(Address)

First Proposer

(Name in block letters and signature)

Second Proposer

(Name in block letters and signature)

I, the abovementioned nominee, do hereby accept the nomination.

Signature

