



**FETAKGOMO LOCAL MUNICIPAL COUNCIL**

**DRAFT STANDING ORDERS BY-LAW**

## STANDING ORDER

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**To provide for the meeting procedures, orders at Council meetings, Conduct of Council business, debates, questions, roles of political office bearers and to provide for matters incidental thereto.**

**BE IT ENACTED by the Council of the Fetakgomo Local Municipality, as follows:-**

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## CHAPTER 1

### TABLE OF CONTENTS CHAPTER 1 INTERPRETATIONS

#### 1. Definitions

In these rules and orders, unless the context otherwise indicated, the following shall mean –

- “Act” - means the Local Government: Municipal Structures Act, 1998(Act 117 of 1998);
- “Adjourning the Council or a meeting of a Committee” - closing the meeting. Any unfinished business needs to be rescheduled by inclusion on the next Council or Committee agenda;
- “Administration” - as an entity means “the municipal manager and the other employees of the Council”;  
- as a functional activity, includes management and the tasks that employees perform to enable the council to make and implement policies and by-laws;
- “Agenda” - the document that describes the business of Council or Committee and includes the proceedings for the meeting;
- “Audit report” - any report submitted to the council by or

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- “Announcements, Tabling’s and - on behalf of the Auditor General with regard to the auditing of the council’s annual financial statements and accounting records. (ATC) the documents listing announcements, items of business tabled and Committee reports under discussion on a specific working day of the Council.
- “Budget” - the estimate of the revenue and expenditure of the Council drawn up and presented by the Executive Committee in terms of legislation;
- “CAPEX” - capital expenditure
- “Chairperson of the Council” - the Speaker of the Council as contemplated in Section 36 and 37 of the Act.
- “Chair of Chairs” - the person who chairs the Committee of Chairpersons
- “Chairperson of the Executive Committee” - the Mayor of the Municipality
- “Committee “ - committee of Council
- “Chief Whip of Council” - the chief whip of the majority party;
- “Code of conduct” - the code of conduct for councilors in schedule 1 of the Local Government: Municipal Systems Act 32 of 2000;
- “Constitution” - means the constitution of the Republic of South Africa Act 108 of 1996;
- “Constituency” - means for the purpose of a public hearing-  
- “a political party that contested elections for councilors in the municipal area”; and  
- “any readily identifiable group of residents in the municipal area whether organized or not, that share common economic or social interests or conditions”;
- “Continuation meeting” - means a meeting that takes place to complete the unfinished business from a meeting that had not been concluded;

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- “Council” - the Fetakgomo Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);
- “Council Precinct” - any place de facto occupied by council or other boundaries of the municipality;
- “Councilor” - an elected or appointed member of the Council;
- “Strategic Manager” - an employee of the council appointed by the council as director of a department and includes an employee acting in such stead;
- “Executive Committee” - the committee consisting of councilors elected by the Council in terms of the Local Government Structures Act, Act 117 of 1998 as amended;
- “Gavel” - hammer for calling attention or order to be utilized by the Speaker or presiding officer.
- “IDP” - means Integrated Development Plan.
- “Language of record” - means English
- “Language of the Council” - means English as the language of communication (also refer to the approved Language Policy of Council)
- “Legislature” - oversight arm of Council
- “Leader of Executive Business” - councilor appointed by the executive to manage the interface between the Executive and the Legislature
- “Mayor” - the person presiding at Executive Committee meetings as contemplated in section 49 of the Act, as well as where a Deputy Mayor is elected, the Deputy Mayor acting in the Mayor’s stead;
- “MEC” - means the member of the executive council of the Limpopo Province responsible for local government;

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- “Meditation” - Reflection or contemplation of beliefs;
- “Meetings” - a meeting of the Council; the Executive Committee and Council Committees
- “MoEC” - Member of the Executive Committee;
- “Member” - a member of the Council or the Executive Committee as the case may be;
- “Motion” - a written proposal to be debated by Council or Committee in terms of section 21 or 50 of these Orders.
- “MPAC” - Municipal Public Accounts Committee;
- “Municipal area” - the area of jurisdiction of council demarcated in terms of the Local Government Municipal Demarcation Act 27 of 1998;
- “Municipal manager” - head of the administration and accounting officer appointed by the council and includes any employee of the council who acts in her or his stead as contemplated in section 82 of the Act;
- “Newspaper” - any registered newspaper that is published at least weekly and that circulates within the municipal area and that had been determined as a newspaper of record;
- “Party whip” - a Councilor elected and designated by their party to serve in that capacity;
- “Petition” - a written statement; proposal or grievance addressed to the council, Committee, an office-bearer or employee of the council and signed by more than five residents within the municipal area or a part thereof;
- “Petitions policy” - adopted Council petitions policy
- “Prayer” - Solemn request or thanks giving to God.
- “Presiding Officer” - the Speaker of Council or any person Presiding over a meeting of Council;

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- “Proposal” - a draft resolution submitted orally by a councilor during a debate on any matter at a meeting of the council or any structure of council;
- “Public hearing” - a meeting arrangement by the council or executive committee to solicit the views and opinions of members of the public and specific constituencies on a matter affecting the interest of the residents within the municipal area;
- “Public holiday” - a public holiday contemplated in the public holiday act 36 of 1994;
- “Public meeting of voters” - means a meeting of which public notice had been given and which are open for all voters registered in the municipal segment of the national common voters roll relating to the council;
- “Question” - means a question in terms of rules 51 or 52 asked during a meeting of the council or any of its structures;
- “Quorum” - means the minimum number of councilors and other members; if any; that must be present at a meeting before it may commence or continue with its business;
- means a total of 50% plus one(1) of Councilors elected or members of a committee.
- “Remuneration” - in relation to a councilor; means the salary and allowances determined by the responsible Minister in conjunction with the MEC which is payable to a councilor;
- “Security personnel” - security personnel employed directly by the municipality or contracted through outsourcing to ensure the safety of property and persons in the municipality
- “Section 79-committee” - means a committee contemplated in terms section 79 of The Local Government: Municipal Structures Act 117 of 1998 as amended;
- “Section 80-committee” - means a committee contemplated in terms

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Section 80 of the Local Government: Municipal Structures Act 117 of 1998 as amended;

“Speaker”

- means the councilor elected as Speaker of the council and includes any councilor who had been elected by the council as acting Speaker during the temporary incapacity or absence of the Speaker;

“Sustainable”

- in relation to the provision of municipal services; means the provision of a Municipal service in a manner-
  - (a) aimed at ensuring that revenues from that service; including budgeted subsidies for the service; are sufficient to cover the cost of:
    - (i) operating the service; and
    - (ii) maintaining; repairing and replacing the physical assets used in the provision of the services;
    - (iii) aimed at ensuring a reasonable surplus or in the case of service provided by a service provider that is a business enterprise a reasonable profit
  - (b) aimed at ensuring that the council or other service providers generate sufficient capital requirements for the performance of the service.
  - (c) that takes account of the current and anticipated future –
    - (i) level and quality of that service
    - (ii) demand for the service and
    - (iii) ability and willingness of residents to pay for the service aimed at ensuring that the risk of harm to the environment and to human health and safety is minimized to the extent reasonably possible under the circumstances.
  - (d) aimed at ensuring that the potential benefits to the environment and to human health and safety are maximized to the extent reasonably possible under the circumstances;
  - (e) aimed at ensuring that legislation intended to protect the environment and human health and safety is complied with;

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- “Structures act” - means the Local Government: Municipal Structure Act 117 of 1998 as amended;
- “Systems act” - means the Local Government: Municipal Systems Act 32 of 2000;
- “Traditional authority” - means the authority of a community within the municipal area that traditionally observes a system of customary law recognized in terms of law and;
- “Traditional leader” - means the leader of a traditional authority that had been identified by MEC in terms of section 80 (2) of the Structures Act to participate in the proceedings of the Council

## CHAPTER 2

### STANDING ORDERS

#### *Part 1*

#### *The rules (sec. 2 – 6)*

## 2. Purpose of the Rules

- (1) These are rules and orders for proceedings of Council and for the exercise of its powers in Fetakgomo Local Municipality.
- (2) The Rules are intended to enable Council to fulfill its responsibilities as enshrined in the Constitution Chapter 7 and the Local Government: Municipal Structures Act 117 of 1998 as amended. This means that they must -
  - (a) Promote orderly conduct of Council and its Committees;
  - (b) Promote the ability of Council to conduct its business of overseeing the Legislature, Executive and facilitating public participation;
  - (c) Facilitate debate and discussions during Council meetings and its Committees;
  - (d) Ensure that all parties and Councillors have an opportunity to participate in the work of Council in line with the Constitutional dispensation;
  - (e) Ensure public access to Council, its proceedings and facilitate public participation in its processes; and
  - (f) Promote democratic order, non-racialism and non-sexism, and exclude any other forms of discrimination.
- (3) These Rules also endeavour to create an opportunity for Members of Council to air their views on other matters of public importance.

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### 3. Publication and display of the Standing Orders

These Standing Orders must be published in English and a copy thereof must be displayed for easy reference for Councilors, officials and members of the Public. Translation of the Standing Orders into any of the official languages is by request only.

### 4. Authority, supplementing and suspension of rules

- (1) These rules apply to –
  - (a) All Councilors;
  - (b) All parties represented in the Council;
  - (c) All employees of the Municipality in the course and scope of their employment;
  - (d) Any consultant or contractor to the Council, in the course of fulfilling their consulting or contractual obligations; and
  - (e) the members of the public
- (2) A person against whom any action has been taken in terms of these Rules, may request within 24 hours written reasons from the Secretary of Council who needs to provide such reasons within (5) five days after receipt.

### 5. Amending rules

- (1) A rule may be amended, revoked or added by a resolution of the Council.
- (2) Any Councilor proposing a change to the Rules must submit the proposal in writing within thirty (30) days prior to a Rules & Ethics Committee meeting.
- (3) A resolution of the Council to change the Rules must be introduced by the Speaker of Council and accompanied by a report of the Rules and Ethics Committee

### 6. Interpretation of Standing Orders

- (1) The Speaker of Council must give a ruling -
  - (a) whenever a question arises about the interpretation or application of a Rule; and
  - (b) In cases not provided for in these Rules
- (2) When the Speaker of Council gives a ruling, he or she must consider best practice and be guided by:
  - (a) Ordinary /dictionary meaning
  - (b) Previous rulings; and
  - (c) The established practice of the Council
- (3) The Speaker may give a ruling or frame a rule in respect of any eventuality for which these rules do not provide. A rule framed by the Speaker remains in force until a meeting of the Rules and Ethics Committee has submitted a report thereon to the next Council meeting.



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- (4) A ruling must be published in the language of record. A copy of the ruling in one of the other languages of the Council must be made available to any Councilor on request.

### *Part 2*

#### *Ceremonies (sec. 7)*

##### **7. Ceremonies**

- (1) Ceremonies constitute –
  - (a) The first meeting of the Council after an election;
  - (b) Adoption of IDP/Budget
  - (c) Designated special and extraordinary meetings, as determined by the Speaker of Council; and
  - (d) Closing of Council before December recess, being the last Council meeting of the calendar year
- (2) A poet, performing artist or traditional group may perform and the National Anthem must be sung at the official opening of Council and the closing of Council as per Rules 7(1) (a) and (d) above

### *Part 3*

#### *First meeting after elections (sec. 8 – 13)*

##### **8. Council sits within fourteen (14) days**

In accordance with Section 29(2) of the Municipal Structures Act No. 117 of 1998, the Municipal Manager must call the first meeting and opening of Council, within 14 days after the Council has been declared elected.

##### **9. Councilors take oath or affirmation**

- (1) At the first meeting of the Council after an election, after the notice convening the Council has been read and before Councilors may begin to perform their functions, they must swear or affirm faithfulness and obedience to the Council before a Magistrate
- (2) Councilors who fill a vacancy in the Council between elections must take an oath or affirm their faithfulness to the Republic and obedience to the Constitution prior to performing their functions in the Council.

##### **10. Election of the Speaker**

- (1) After all Councilors have taken oath or affirmation, the Council must elect one of its Councilors as the Speaker of Council in accordance with the procedure set out in Section 36 of the Local Government Municipal Structures Act, 1998.
- (2) The Municipal Manager must preside over the elections.

##### **11. Election of the Executive Committee**

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- (1) After the election of the Speaker, the Council must elect out of its Councilors the Executive Committee in accordance with Section 45 of the Local Government Municipal Structures Act.

### **12. Election of the Mayor**

- (1) After the election of the Executive Committee, the Council must elect one of the executive Committee members as **the Mayor** in accordance with Section 48 of the Local Government Municipal Structures Act.

### **13. Election of Council Chief-Whip**

- (1) The Speaker must call for nominations from Councilors as soon as possible after an election or whenever the position of Chief Whip of Council is vacant and appoint a Councilor to this position.

#### *Part 4*

#### *Ordinary, Extraordinary and Special Council Meetings (sec. 14 -19)*

### **14. Ordinary Council Meeting**

Ordinary meetings are all meetings of Council as per the year planner

### **15. Extraordinary Council meetings**

- (1) The Speaker may call an extraordinary meeting of the Council to conduct business outside of the scheduled meetings

### **16. Special Council Meetings**

Special meetings are those called to ceremonies of Council

- (1) The Speaker must inform all Councilors of his/her decision to call an extraordinary meeting within 48 hours.

### **17. Consideration of Budget and Tariffs**

Notwithstanding anything to the contrary in these Rules contained, the following provisions must apply when the Budget and Tariffs are considered by Council –

- (1) The Budget format has to comply with the relevant legislation;
- (2) The draft budget and draft Tariffs must be tabled at least ninety (90) calendar days before the Budget and Tariffs are formally presented to Council for resolution;
- (3) The Mayor shall formally present the Budget, Integrated Development Plan and Tariffs to a meeting of Council on a day that meets the legal obligations of Council and shall be known as “Budget Day”
- (4) No proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council must be put to the vote before the debate on the Budget has been closed;
- (5) After all the amendments have been dealt with and if any proposal contemplated in sub-rule (4) has been accepted, the Budget and Tariffs must not be deemed to have been amended by the proposal thus accepted. But, the meeting must be adjourned to a date and time determined by the Speaker, unless the Mayor, or a

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Member of Executive Committee authorized by him/her, recommends that such adjournment is not necessary.

- (6) The debate and resolution of the Budget, Integrated Development Plan and Tariffs shall take place at the next meeting after Budget day. After the debate on the Budget and Tariffs has been closed, the Speaker must put to the vote the proposal contemplated in sub-rule (4), in the order in which they were proposed;
- (7) If it is decided in terms of sub-rule (5) that the meeting need not be adjourned, the Budget, Integrated Development Plan and Tariffs must be deemed to have been amended in accordance with the proposal accepted in terms of that sub-rule;
- (8) After an adjournment in terms of sub-rule (5), the Mayor must investigate the implications of every proposal accepted and must report thereon to the Council when the meeting resumes;
- (9) After the Mayor has reported in terms of sub-rule (5) –
  - a) The Speaker must permit debate on the proposals accepted; and
  - b) Thereafter, he/she must put every such proposal to the vote again. If such proposal is accepted, the Budget must be amended in accordance with that Resolution.

### **18. Consideration of the Integrated Development Plan**

- (1) A draft Integrated Development Plan must be tabled at least ninety (90) calendar days before the Budget day
- (2) Integrated Development Plan and Tariffs are formally presented to Council on Budget day in terms of Rule 18(3) above
- (3) The draft integrated Development Plan must include in numerical order-
  - a) The cumulative community based plans (including budgets and time-frames) , all existing and planned services and capital projects that will be delivered in each ward in the period covered by said Integrated Development Plan; and
  - b) All Provincial and National Capital Projects including budgets and time-frames) that will be delivered in each ward in the period covered by the Integrated Development Plan.

### **19. Consideration of the Annual Report of the Fetakgomo Local Municipality by Council**

- (1) In accordance with Section 127 of the Municipal Finance Management Act and within 120 calendar days after the end of the Financial Year, the Mayor of the Municipality shall table the Annual Report of the Municipality
- (2) When the Annual Report of the Municipality is tabled and prior to any debate on the report, the Speaker of Council must refer the Annual report of the municipality to the Municipal Public Accounts Committee (MPAC) of Council for oversight.
- (3) In accordance with Section 130 of the Municipal Finance Management Act, the Municipality Manager, the Chief Financial Officer and other Heads of Depart-

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ments must attend any of the Council or Committee meetings at which the Annual Report of the Municipality is discussed, for the sole purpose of responding to any questions.

- (4) In accordance with Section 129 of the Municipal Finance Management Act, the MPAC shall only recommend one of the following to Council:
  - a) Approval of the annual report with or without reservations
  - b) Rejection of the annual report; or
  - c) Referral of the annual report back for revision of those components that can be revised
- (5) MPAC must table to Council an Oversight Report on the Annual Report of the Municipality within two months after the Report has been referred to the Committee.
- (6) In accordance with Section 130(2) of the Municipal Finance Management Act, at the meeting referred to in sub-rule (5) above, representatives of the Auditor General may be afforded an opportunity to speak, subject to the Rules.

### Part 5 Councilors (sec. 20 – 24)

#### **20. Councilor's attendance**

- (1) Councillors must attend each obligatory (Section 79,80 and Council) meeting of the Council and relevant Committee unless they request for a leave for absence twenty- four (24) hours before the meeting in writing or that the Councilor is required to withdraw in terms of the Code of Conduct for Councillors in terms of Municipal Systems Act. For Council, such requests are to be put to the Speaker of Council and for Committee meetings to the Chairperson.
- (2) Failure by a Councilor to attend meetings as prescribed for in Rule 20 (1) above attracts a fine which shall be imposed at the discretion of the Rules and Ethics Committee.
- (3) A Councillor who is absent from three or more consecutive meetings of a municipal Council or council committee, which that councilor is required to attend, must be deemed to be in contempt with Rule 158

#### **21. Councilor's conduct**

When attending to the business of the Council and Committee meetings, every Councilor must –

- (1) Behave in a way that demonstrates respect for the Council, the Speaker of Council, Committee Chairperson and other Councillors;
- (2) Conduct themselves in compliance in compliance with the Code of Conduct for Councillors and in accordance with the provisions of this Rules;

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- (3) Dress in a lounge suit, jacket and tie or traditional;
- (4) Not distribute any material other than the agenda, speakers list, urgency reports, motions and minutes meetings of the Council prior to the commencement of or at meetings of the Council;
- (5) Be identified at all times and may wear a name badge in instances where a Councilor acts in his/her official capacity as a Councilor of Fetakgomo Municipality.

### **22. Councilor's right of access to documents**

- (1) Every Councilor has the right to examine any document tabled in the Council, including any of its Committees and to receive a copy of that document upon submission of a written request to the Speaker of Council
- (2) A Councilor may not reveal the contents of any document that has been withheld from the public under sub-rule (1) above

### **23. Exclusion of Councillors publishing or disclosing documents**

- (1) Any Councilor who publishes or disclose or causes to be disclosed or published any document or record of the Council or the proceeding of any Committee of the Council or of a Committee of the whole Council relating to any purchase or expropriation of land or other property by the Council or any legal or arbitration proceedings in which the Council is concerned, or the agenda or minutes or documents or records, or any part thereof, of the Council in Committee or of the Executive Committee in committee or another committee of Council in Committee, or any matter the publication or disclosure of which would or might be prejudicial to the interest of the Council must be dealt in terms of Schedule 1, section 14 of the Municipal Systems Act.
- (2) The Council may exclude for such period as it may determine, but not exceeding sixty (60) days, any Councilor who in its opinion is deemed guilty of the offence in terms sub-rule (1)
- (3) If a Councilor attends a meeting in contravention of a decision in terms of sub-rule (2) to exclude such a Councilor, the Speaker may call an Officer to remove such Councilor and to take steps to ensure that such a Councilor does not return to the meeting
- (4) The Speaker of Council must refer the conduct of such a Councilor to the Rules and Ethics Committee for consideration.

### **24. Declaration of Financial interests**

- (1) A Councilor who has declare a financial interest in terms of item 5 (1) of the Code of Conduct for Councilors in Schedule 1 of the Municipal Systems Act must do so forthwith after the item or motion in respect of which such interest exists, has been called
- (2) No Councilor must speak for more than five minutes on the question of whether his/her financial interest as contemplated in sub-rule (1) is so small or remote as to render a clash of interests unlikely, unless the Speaker allows his/her to continue his/her speech for a further five minutes

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- (3) The speech contemplated in sub-rule (2) must not for the purpose of this section be regarded for Councilors, Schedule 1 to the Systems Act, in respect to all declarations and disclosures of financial interest.
- (4) All Councilors must ensure that at all times he/she strictly adheres to the Code of Conduct for Councilors, Schedule 1 of the Municipal Systems Act in respect to all declarations and disclosures of financial interest

### Part 6

#### Openness and Public Participation (sec. 25 – 31)

##### **25. Public Access**

- (a) The Council meeting must be open to the public, including the media in terms of subsection 41 (2).
- (b) The Speaker must inform the public of the proceedings of the Council and its Committees by publishing in the press, on the website and other appropriate media, details of the time and place of meeting.

##### **26. Regulating Public Access**

- (a) Council must take reasonable measures to regulate public access, including access by the media.
- (b) The regulation of public access to the precincts of Council, subject to these Standing Orders, is the responsibility of the speaker.
- (c) In the interest of security or to prevent any other disruption of proceedings, the Speaker may provide for any person to be searched and refuse entry to, or remove any person.
- (d) A Committee may exclude the public, including the media and official, from meeting only when it is reasonable and justifiable to do so in an open and democratic manner.
- (e) Circumstances in which it is reasonable and justifiable to exclude the public from a Committee meeting may, but most not necessarily, occur when the Committee is considering a matter that-
  - (i) Should be discussed behind closed doors to avoid prejudicing a person unfairly; or
  - (ii) Is confidential in terms of legislation.

##### **27. Conduct of members of the public**

A member of the public or the media or an employee other than the municipal manager or a departmental head attending a council or committee meeting **may not-**

- (a) address the meeting at any time, unless he or she is a member of a deputation;
- (b) obstruct the business of the meeting;
- (c) make any interjections;
- (d) make unwelcome suggestions; innuendoes, remarks or hints of a sexual nature, sexual advance comments with sexual overtones, sex-

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related jokes or insults or unwelcome graphic comments of another person's body;

- (e) encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction ridicule, contempt or preference based on colour race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insult, degraded, defame or encourage abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing, orally, or the performance of deeds;
- (f) use threatening, abusive or insulting language towards an employee or display any writing, sign or other visible presentation which is threatening, abusive or insulting which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercises of any of his or her rights or be discharged of any of his or her duties so as to harass or causes or advocate unfair treatment of that employee; or make unwelcome or obscene gestures.
- (g) Whenever a meeting resolves to close its session or a part thereof, any member of the public, media and employee must leave the meeting immediately and not return to that meeting until it resumes as a public meeting.
- (h) A member of the public or media attending a councilor committee meeting is subject to the authority of the chairperson of the meeting.
- (i) When Council is in session, members of the public may not –
  - (i) Walk between the Presiding Officer and a Counselor who is speaking;
  - (ii) Walk in front on the Presiding Officer or approach the presiding podium;
  - (iii) Engage in conduct or behavior that disturbs the proceedings.
- (j) Security personnel may remove members of the public from the precincts of the council if they –
  - a) Do not withdraw from a meeting or leave the precincts of the Council on the instruction of the Speaker of Council or Councilor chairing a Committee meeting;
  - b) Have entered any part of the precincts which has been set aside for Councilors;
  - c) Interrupts proceedings or are otherwise involved in misconduct; or
  - d) Are threats to the security of Councilors or other persons present.

### **28. Public access to records and documents**

- (a) The records of Council and its committee and all documents tabled in Council and its Committees must be accessible to the public and media.

## STANDING ORDER

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- (b) A decision to withhold records or other documents from the public may be made under this rule only and must be compatible with the protection of freedom to information in the Constitution and the Promotion of Access to Information Act, 2 of 2000.
- (c) Council may, by resolution, order that documents referred to in sub-rule (b) above may not be made public
- (d) Notwithstanding sub-rule (1), the following documents may not be made public unless they have been tabled in Council or the Speaker has given permission for them to be made public-
  - (i) The proceedings of, or evidence taken by, or placed before, a Committee while the public were excluded from the meeting in terms of subsection 41 (2) (d).
  - (ii) Any report, or summary or record of proceedings, or evidence referred to in Sub-rule (d) (i)
  - (iii) Any document presented to the Committee as a confidential document and declared confidential by the Committee;
  - (iv) Any document that the Chairperson declares confidential before it is submitted to members of the Committee
- (e) A Committee may resolve to request a formal written consent of the Speaker to not include information listed in sub-section (d) (i) in respect of a Committee report.

### **29. Access to Council and its Committees**

- (a) Council and all Committees of Council shall be normally open to the public and media subject to Section 20(1) of the Systems Act.
- (b) The Speaker of Council shall make every effort to facilitate access including the relocating of a meeting to an appropriate venue, especially with respect to access for person with disabilities and the anticipated interest in the Committee's agenda. Access is however restricted in terms of the relevant section prescribed in the Occupational Health and Safety Legislation.

### **30. Public participation in Committees**

- (1) The Council must facilitate access by members of the public in the process of its Committees, excluding the Executive Committee, in line with the Constitution and the Act.
- (2) Any member of the public and every institution or organization may request to appear before, or may make a written submission to, a Committee with regard to a particular matter'
- (3) Members of the public, including media, must apply in writing forty eight (48) hours before the Committee meeting and the Chairperson of the Committee must respond thereto twenty four (24) hours before the Committee meeting;
- (4) The Speaker of Council or Committee Chairperson must determine the seating arrangements for the public, including the media, in Committee rooms;



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- (5) Any member of the public who has a written submission to a Committee of Council may request the Chairperson of the Committee of Council to make a verbal submission of not more than ten (10) minutes on the same subject;
- (6) A committee of Council may ask questions of any member of the public making a verbal submission to the said Committee.

### **31. Assistance for public participation**

In order to provide effective opportunities for public participation, the Secretary of Council in the Speaker's office may assist a person to –

- (1) Formulate a written submission to a Committee;
- (2) Appear before a Committee; or
- (3) Present a verbal submission to a Committee

### *Part 7*

### *Petitions (sec. 32 – 36)*

### **32. Right to petition**

- (1) A member of the public has the constitutional right to petition the Council.
- (2) The right to petition the Council must be exercised in accordance with the Petitions Policy

### **33. Submission of petitions**

- (1) A petition must be submitted to the Speaker of Council in writing and in the form prescribed by the Petition Policy
- (2) All petitions that meet the requirements of the Policy must be referred to the Petitions and Public Participation Committee

### **34. Assistance for petitions**

Where a petition does not meet the form prescribed by the Petitions Policy, assistance shall be given by the Secretary to Council to the petitioners to ensure that the requirements are met

### **35. Consideration of petitions**

- (a) The Committee must consider all petitions that are properly submitted in terms of the Petitions Policy.
- (b) The Committee may use all powers given to it to facilitate a conclusion to a petition in terms of the Petitions Policy.
- (c) The Secretary to Council must inform the petitioner of the receipt of, progress and, decision of said Committee and of other action taken by the Committee of Council, in terms of the Petitions Policy.

### **36. Reports of Petitions and Public Participation Committee**

- (1) The Petitions and Public Participation Committee must submit quarterly and annual reports to the Council in terms of Rule 132
- (2) The quarterly and annual reports must -
  - a) Set out the activities of the Committee and the time to respond to the petitions received;
  - b) Include an assessment of the effectiveness of the petitions process and procedures; and

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- c) Include an assessment of each Member of the Executive Committee's Performance with respect to petitions received and an evaluation of trends.

### *Part 8*

#### *Meetings of Council (sec. 37 – 47)*

##### **37. Meetings of the Council**

- (1) In terms of section 18 (2) of the Act, the Council must meet at least quarterly.
- (2) In terms of section 29 (1) of the Act, the Speaker decides where and when the Council meets, subject to sub-rule (1) above. However if majority of the Councilors request the Speaker in writing to convene a meeting of the Council to debate any matter, except a matter contemplated in Chapter 2 Rules 7 -13, and subject to Chapter 14-19, the Speaker must convene a meeting as per the request.
- (3) The Speaker may convene ordinary, special and extraordinary meetings
- (4) The quarterly meetings in terms of sub-rule (1) above and such further meetings as the Speaker may determine, except those meetings specified in Chapter 2, must be conducted as ordinary meetings at which the order of business must be stated.

##### **38. Order at beginning of meeting**

- (1) All Councilors are to be seated ten (10) minutes prior to the starting time of Council.
- (2) Following announcement of the Speaker of Council, all Councilors and officials must rise when the Speaker of Council enters the Chamber at the beginning of a meeting and must remain standing quietly until instructed by the Speaker of Council to be seated, following individual silent prayer/meditation as per Rule 39 below

##### **39. Prayer and meditation at beginning of meeting**

At the commencement of each plenary meeting of the Council, the Speaker of Council must request a moment of silence to allow for individual prayer and/ or meditation. Alternatively the Speaker may request a designated person to render a prayer at Council meetings.

##### **40. Congratulations and condolences**

At the commencement of each plenary meeting of the Council, and where applicable, the Speaker of Council shall read out congratulations or condolences

##### **41. Application for leave of absence**

- (1) A member of the Executive Committee must apply for leave from a Council meeting to the Speaker of Council in writing, authorizing another MoEC to take charge of his/her matters on the Council agenda.
- (2) Such notice must be given in writing twenty-four (24) hours prior to the Council meeting.

##### **42. Notice of meeting**

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## STANDING ORDER

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- (1) Notice of the time and place of every ordinary meeting of the Council must-
  - a) Be served on every Councilor either personally or by leaving the notice at his/her usual place of residence or place of business, at least seventy two (72) hours before such meeting. Such notice must be signed by the Speaker of the Council. The accidental omission to serve on any Councilor such a notice as is referred to in this rule must not affect the validity of any meeting.
  - b) Be placed on the Announcements, Tabling and Committee Reports (ATC)
- (2) The notice in terms of sub-rule (1) must set out the business to be considered at the meeting for which such notice has been given.

### **43. Attendance Register for Council Meetings**

Every Councilor attending a meeting must sign his/her name in the attendance register, which must be made available during the course of the meeting and which may be captured electronically.

### **44. No quorum during Meetings**

- (1) If during any meeting, the attention of the Speaker is called to no quorum during the Meeting, Councilors present must be counted and if it is found that there is no quorum, the Speaker must cause the bell to be rung for at least three (3) minutes. If after an interval of five minutes there is still no quorum, the Speaker must forthwith adjourn the meeting.
- (2) Business not disposed of at a meeting adjourned in terms of sub-rule (1) must be dealt with at a meeting convened by the Speaker for this purpose, or be held over until the next ordinary meeting

### **45. Informal session**

- (1) When a meeting is adjourned, notice of the adjourned meeting must be reflected in the Minutes of Proceedings, in terms of Rule 102
- (2) Subject to the provisions of Rule 44, no business must be transacted at an adjourned meeting.
- (3) A meeting may be adjourned to allow the Council to go into an informal session at the discretion of the Speaker. The duration of such session must be determined by the Speaker. A resolution formulated at an informal session must be read out for adoption once the Council reverts to formal session.

### **46. Order at adjournment**

Officials and members of the public are to remain standing until the Speaker, followed by the Mayor and Councilors have left the Council Chamber.

### **47. Return of the Council and Council Agenda**

- (1) The Secretary to Council must for the first six months of a term of office of the Council after a general election and for each subsequent period of six (6) months thereafter, as soon as possible after the expiry of each six monthly period, submit to the Council and include in the agenda of the meeting of the Council a return showing the attendance of each Councilor at meetings of the Council and its Committees.

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- (2) The Secretary to Council must include in the return under sub-rule(1) above, explanatory notes with reference to Rule 20 and the relevant provision(s) insofar as it relates to the specific Councilor's circumstances.

### *Part 9*

#### *Arrangement of business (sec. 48 – 51)*

#### **48. Business of the Council and Council Agenda**

- (1) The Programming Committee must determine all business of the Council in accordance with these Rules
- (2) The Speaker of Council must ensure that all business of the council is placed on the Agenda
- (3) At each meeting, the Council conducts its business in the order shown on the Council Agenda unless –
  - a) The Council decides in terms of Rule 87;
  - b) The Speaker of Council decides otherwise after consultation with the leader of Executive Business and the Chief Whip; or
  - c) The Rules allow otherwise.
- (4) Those matters on the Council Agenda not dealt with by the end of the political term, shall either lapse or be carried- over to the new Council by resolution of Council, subject to ratification.

#### **49. Speaking time in Council**

- (1) For each Council meeting, and twenty-four (24) hours before thereof, the Whippery must compile a speaker's list listing the Councilors that are to Speak in the debate. The order in which they are to speak; and the amount of time each Councilor has for his/her speech.
- (2) In compiling the speakers' list, the Whippery must ensure that all parties represented in Council have an opportunity to participate in proceedings in a manner consistent with democracy.
- (3) In respect of Delegated matters a total of ninety (90) minutes is allocated which must be divided in terms of the proportional representation of parties in Council
- (4) In respect of non-delegated matters a total of ninety (90) minutes is allocated which must be divided in terms of the proportional representation of parties in Council
- (5) Parties are to be allocated time in accordance with Council Resolution.
- (6) The Mayor should not be restricted in regard to the length of time that he/she may speak.

#### **50. Debates on matters of**

Notwithstanding Rule 88, the Speaker may allow a matter of urgent public importance to be debated in the Council.

#### **51. Statements by Members of the Executive Committee and the Chief Whip of Council**

- (1) A member of the Executive Committee and the Chief Whip to Council who wishes to make a statement in the Council with regard to a matter falling under his/her re-

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sponsibility, must give written to the Speaker at least one day before the beginning of the meeting

- (2) The Member of the Executive Committee and the Chief Whip of Council may make up to two statements per meeting and may speak for up to five minutes per statement, unless otherwise decided by the Speaker of Council.
- (3) Statements by Members of the Executive Committee and the Chief Whip must be accommodated under Official Notices and Statements on the Council Agenda

### *Part 10*

#### *Rules of debate (sec. 52 – 62)*

##### **52. Free speech**

The Speaker of Council should ensure that Councilors are allowed to speak and debate freely in the Council subject to Rule 49.

##### **53. Precedent of Speaker of Council**

The Speaker of Council's right to speak take precedence over the right of other Councilors to speak.

##### **54. Councilors called to speak**

A Councilor may speak in a debate only when called by the Speaker of Council

##### **55. Conduct of Councilors speaking**

Councilors may remain seated while addressing the Speaker of Council during a debate unless otherwise instructed by the Speaker of Council to rise.

##### **56. Conduct of Councilors during a Council meeting**

When Council is in session, Councilors may not-

- (1) Walk between the Speaker of Council and a Councilor who is speaking;
- (2) Walk in front of the presiding podium or approach the presiding podium;
- (3) Engage in conduct or behavior that disturbs the proceedings

##### **57. Councilor may not speak twice to a matter**

- (1) Except when required or allowed by these Rules, no Councilor may speak more than once to a matter.
- (2) A councilor may request permission to speak to a matter a second time in order to-
  - a) Clarify any misquotation or misunderstanding of any material part of his/her original speech
  - b) Ask a question or make a remark in terms of Rule 88, raise a point of order or personal explanation.

##### **58. Content of debate**

- (1) Councilors may not –
  - a) Discredit the Council or Councilors by using disrespectful and offensive language;
  - b) Refer to proceedings in Committee meetings that were closed to the public until those proceedings are report to the Council;
  - c) Refer to any other Councilor by that Councilor's first name or names only;
  - d) Comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts
  - e) Comment upon matters that are irrelevant to the matter under discussion;

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- f) Repeat arguments; or
  - g) Anticipate the discussion of a matter appearing on the Council agenda
- (2) When a Councilor persists in irrelevance or repetition of arguments, the Speaker of Council must call attention to the conduct of the Councilor and may then direct the Councilor to stop his/her speech
- (3) In determining whether a Councilor is out of order on the grounds of anticipating the discussion of a matter appearing on the Agenda , the Speaker of Council must take into account whether the matter is likely to be discussed in the Council within a reasonable time.

### **59. Interruption**

Councilors may interrupt s Councilor who is speaking in a debate only to –

- (1) Raise a point of order; or
- (2) Call attention to the presence of an unauthorized person

### **60. Points of order**

- (1) A Councilor may raise a point of order to call the attention of the Speaker of Council to a breach of order.
- (2) When a point of order is raised during a debate, the Councilor who is speaking must stop speaking and resume his/her seat if standing.
- (3) After the point of order has been stated, the Speaker of Council must immediately make a decision or indicate when a decision must be made.

### **61. Clarification of explanations**

- (1) A Councilor may request the Speaker of Council's permission to explain matters of a personal nature raised in the Council
- (2) The Councilor must confine the explanation strictly to the personal matter and may speak for up to two (2) minutes
- (3) The explanation may not be debated.

### **62. Reply to a debate**

- (1) The Councilor in charge of an item on the Agenda may reply to the debate on the matter
- (2) A reply to a debate closes the debate.

Part 11

Order in meetings (sec. 63 – 70)

### **63. Applicability of Rules**

These Rules apply to order in the Council and, when applicable, to order in Committee meetings

### **64. Maintaining order**

- (1) The Speaker of Council in the Council or Councilor chairing a Committee meeting must maintain order in meetings.
- (2) The Speaker of Council, may at any time during a meeting, if he/she deems it necessary for the maintenance of order, direct an officer to remove or cause the removal of any person

### **65. Respect for Speaker of Council**

In the Council, every Councilor and all officials and members of the public must bow to the Speaker of Council when entering or leaving the Chamber during a Council meeting.

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### **66. Councilor ordered to withdraw**

- (1) The Councilor presiding over the Council or chairing a Committee meeting may order a Councilor to withdraw immediately from a meeting for the remainder of that meeting or a shorter period if he /she thinks that –
  - a) The Councilor is deliberately contravening a provision of the Rules;
  - b) The Councilor is in contempt of or disregarding the authority of the Councilor Presiding over the Council or a Councilor chairing the Committee meeting; or
  - c) The Councilor's conduct is grossly disorderly
- (2) An order to withdraw must be recorded in the Minutes of Proceedings.

### **67. Serious contravention by a Councilor**

- (1) If the Councilor presiding over the Council or a Councilor chairing a Committee meeting thinks that a contravention committed by a Councilor is so serious that an order to withdraw is inadequate, he/she may –
  - a) If he/she is the Speaker, suspend the Councilor and take any other action he/she deems necessary; or
  - b) If he/she is not the Speaker, report the contravention to the Speaker, whereupon the Speaker, after consultation may deal with the matter in terms of Chapter 6 of these Rule
- (2) Any action taken under this rule must be announced in the Council and recorded in the Minutes of Proceedings.

### **68. Councilor to withdraw from precincts of Council**

A Councilor ordered to withdraw, suspended or reported to the Speaker under Rule 67 must withdraw immediately from the precincts of the Council

### **69. Expression of regret**

- (1) A Councilor who has been ordered to withdraw from Council precincts may submit to the Speaker a written expression of regret within forty-eight (48) hours from the time of withdrawal
- (2) If the Speaker approves of the expression of regret, he/she may discharge the withdrawal and permit the Councilor to take his/her seat. The Speaker must inform the Council accordingly.
- (3) The Speaker must report an expression of regret that he/she has approved to the Council and it must be recorded in the Minutes of Proceedings.

### **70. Grave disorder**

In the event of grave disorder in the Council or at a meeting of a Committee, the Councilor presiding over the Council or Councilor chairing the Committee meeting may adjourn the meeting or suspend proceedings for such period as he/she deems necessary.

#### *Part 12*

#### *Decisions and voting (sec. 71 – 76)*

### **71. Quorum requirements for voting**

- (1) When a decision is taken, the quorum requirement is fifty percent (50%) plus one (1) of the Councilors present

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- (2) When the number of Councilors present is below that required for the vote, the bell must be rung for three (3) minutes. If there is still no quorum after three minutes have passed, the Speaker of Council may adjourn the Council and postpone the decision of the item.

### **72. Decisions postponed**

- (1) When the debate on a recommendation has been concluded, the Speaker of Council may postpone the decision of the item until a time determined for such decision
- (2) When the decision on a matter before the Council involves more than one item, the Speaker of Council may postpone the decision on each item until debate on all items has been concluded

### **73. Questions put**

The question to be decided must be put by the Speaker of Council and, if it is not heard or understood, the Speaker of Council must put it again

### **74. Declaration of vote**

- (1) The Speaker of Council may at any time after a question has been fully put, permit one member of each political party to state on behalf of hi/her, in a speech not exceeding one minute, the reasons why the party is in favor of or against the question.
- (2) A Councilor addressing the Council in terms of sub-rule (1), may read out aloud a written formulation of hi/her party's viewpoint, and deliver a signed copy thereof at the presiding Table for inclusion in the Minutes of the Proceedings.

### **75. Recording of opposition**

Wherever a question is put by the Speaker of Council, any Councilor may, instead of demanding a roll call in terms of Rule 77, inform the Speaker of Council that he/she wishes hi/her party's opposition on the item to be formally recorded in the Minutes of the Proceedings.

### **76. Voting**

Councilors decide on an item by calling either "Yes" or "No" after the Speaker of Council has put the item (2) Question before Council are decided on by fifty (50%) percent of Councilors present plus (1) Councilor present.

## *Part 13*

### *Roll call (sec. 77 – 78)*

#### **77. Demand for Roll call**

- (1) After a question has been put and the Speaker of Council has indicated whether the "Yes" or "No" have it, any Councilor may demand a roll call, whereupon subject to sub-rule (3), a roll call shall take place and may not be debated.
- (2) Whenever a roll call is demanded, the Speaker of Council shall, before ordering the bells to rung, satisfy himself or herself that at least four (4) Councilor of different parties support the demand for the roll call.
- (3) If fewer than four (4) Councilors of different parties support the demand for a roll call, the Speaker of Council shall forthwith declare the decision on the question.

#### **78. Roll call procedure**

- (1) When a roll call is to take place, the Speaker of Council must order that –



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- a) The bells be rung for five (5) minutes, and
- b) After the lapse of five (5) minutes, the doors must be locked.
- (2) When the doors have been locked, no Councilor may enter or leave the Chamber.
- (3) The Speaker of Council must put the question.
- (4) After the question is put, the Secretary to Council must call each Councilor present to voice “Yes” or “No” on the question, and the responses must be recorded.
- (5) The Secretary to Council must hand the signed roll call list to the Speaker of Council, who must immediately declare the decision on the question

### *Part 14*

#### *Council in Committee (sec. 79 – 79)*

##### **79. Council in Committee**

- (1) Notwithstanding anything to the contrary in these Rules contained, a Councilor may at any time after an item on the agenda has been called or during consideration thereof, move that the Council resolves itself into Committee in terms of section 31 of the Act and section 20 of the Municipal Systems Act for the further consideration of that item
- (2) If the Council is in Committee, the provisions of these Rules, except insofar as they are in conflict with this rule, must apply.
- (3) If the Council adopts a resolution in terms of sub-rule (1), the further debate on the item in question, whether in or out of Committee, must for all purposes be deemed to be a continuation of the preceding debate on the item.
- (4) If a proposal in terms of the proviso to sub-rule (1) is carried, the Speaker must determine when the items concerned must be considered and all such items must be considered consecutively.
- (5) At the conclusion of the consideration of items in Committee, the Council must revert to the consideration of further items in open Council
- (6) When the Council resolves itself into Committee, all members of the public and Council officials, except those officials that the Speaker may require to remain, must leave the Council Chamber and must not return to the Council Chamber for the duration of the proceedings in Committee.

### *Part 15*

#### *Motions and urgent debates (sec. 80 – 88)*

##### **80. Nature of Motions**

- (1) A Councilor who wishes the Council to adopt a resolution, either with or without debate, must introduce a motion
- (2) A motion may, among other things, propose that the Council resolves to –
  - a) Adopt a report;
  - b) Make a recommendation;
  - c) Amend a motion before Council;
  - d) Pass a motion pursuant to a specific section of the Constitution;
  - e) Censure a person or body
- (3) A motion must be within the jurisdiction of Council

##### **81. Form of Motions**

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- (1) A motion must be in writing in the language of the Council and must be signed by the Councilor who introduces the motion.
- (2) Another Councilor must second a motion, unless the Speaker decides otherwise or if it is proposed by the Mayor.
- (3) If both the proposer and seconder are absent, then the motion falls away.

### **82. Admissibility of Motions**

- (1) A motion is admissible only if it complies with the Rules.
- (2) The Speaker decides whether a motion is admissible

### **83. Motions without Notice**

- (1) Every motion requires notice except a motion –
  - a) Proposing an amendment to a motion under Rule 86;
  - b) Raising a point of order;
  - c) Postponing or discharging or giving precedence to an item on the Council agenda;
  - d) By the Councilor in charge, proposing a resolution on the report of a Committee immediately after the conclusion of the debate on the report; and
  - e) For which another rule states that notice is not required.

### **84. Giving notice of motions**

- (1) A Councilor who wishes to introduce a motion must submit a signed copy of the motion to the Secretary of Council for placing on the Council Agenda fourteen (14) days prior to Council meeting.
- (2) A Councilor may submit a motion to the Secretary of Council on behalf of an absent Councilor, if he or she has been authorized by the absent Councilor in writing
- (3) Except when the Rules permit otherwise or when the Speaker has given hi/her consent, each motion must be considered by the Programming Committee for admission onto Council agenda.
- (4) If the Council is in recess when a motion is submitted to the Secretary of Council, it must be placed on the next Programming Committee Agenda after recess.

### **85. Selection of motions to be considered by Council**

- (1) Unless the Rules provide otherwise, a motion must be selected by the programming committee before it is considered by the Council
- (2) The Programming Committee must consider the selection of the motion for consideration by the Council at its first meeting after the motion was submitted to the Secretary of Council.
- (3) A Councilor may withdraw a motion that has been selected by the Programming Committee by giving the Speaker of Council a notice in writing at least one (1) hour prior to the Council meeting

### **86. Amending motions**

Subject to these Rules, a Councilor may propose amendments to a motion

### **87. Request for debate on a matter of urgent public importance**

- (1) A Councilor who wishes the Council to discuss a matter of urgent public importance must make a request to the Speaker in writing in one of the languages of

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- the Council. The Councilor must make the request at least four(4) hours before the beginning of a meeting of the Council
- (2) The proposer will be allowed to reply/respond to a debate.
  - (3) The Speaker may allow a debate on a matter of urgent public importance if it-
    - (i) Requires the urgent attention of the Council;
    - (ii) Is within the jurisdiction and competence of Council;
    - (iii) Is not reflecting on matters that are sub-judices; and
    - (iv) factual
  - (4) There may only be one urgent debate on a meeting day. However, the Speaker may allow more than one request; depending on the urgency and importance of the matter.
  - (5) If the Speaker grants request, the Speaker must notify the Leader of Executive Business who in turn should inform the Mayor and the relevant Member of the Executive Committee.
  - (6) The Speaker must place the matter on the Council Agenda or, if the matter could not be placed on the Council Agenda, the Presiding Officer must announce it in the Council meeting.

### **88. Debate on urgent public importance**

- (1) The Speaker must decide when a debate on a matter of urgent public importance must start and the time allocated for it after consultation with the Chief Whip of Council.
- (2) The Councilor who moves for a debate on a matter of urgent public importance will open the debate and the Mayor or the relevant Member of the Executive Committee (MoEC) must be allocated time to speak to the debate.

#### *Part 16*

#### *Oral and written questions (sec. 89 – 100)*

### **89. Questions to the Mayor and Members of Executive Committee**

A Councilor may put questions for oral or written reply to a Member of the Executive Committee relating to-

- (1) Council affairs with which the Member of the Executive Committee is officially connected; or
- (2) Any matter of administration for which the Member of the Executive Committee is responsible.
- (3) Mayor's Question Time is a period of up to thirty (30) minutes; during Council meetings, during which questions selected may be put to and answered by the Mayor.
- (4) The Speaker must indicate, based on the provisions of the year planner, the Question Time for the Mayor . There must be no Mayor's Question Time during the Council meetings when the Mayor's opening address and the vote on the annual Budget are discussed in the Council.
- (5) A Councilor who wishes to put a question for Oral Reply to the Mayor must deliver a signed request to the Secretary to Council not more than

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ten (10) working days before the day of the Council meeting before the Mayor's question time during which she or he wishes to ask the topic or working of the intended question.

- (6) The Speaker selects questions for the Mayor's Question Time.
- (7) No more than two Councilors of the same party may ask a question during any given Mayor's Question Time.
- (8) A Councilor may ask only one question for Oral Reply at any Executive Mayor's Question Time.
- (9) Councilors may read their question but may not read speeches during the Mayor's Question Time.
- (10) Immediately after the Mayor has replied to a question, the Councilor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (11) At the discretion of the Presiding Officer, a Councilor may ask an additional supplementary question or make an additional remark related to the original question or reply.

### 90. Form and content of questions

Questions must be –

- (1) In writing in one of the languages of the Council, and
- (2) Brief and clearly worded.
- (3) A question must specify whether it is for oral reply or for written reply.
- (4) Questions may not-
  - a. Contain a offensive ,disrespectful and abusive language
  - b. Express a point of view
  - c. Break a rule of law
  - d. Seek only legal opinion
  - e. Ask for excessive documentation
  - f. Be based on hypothesis, hearsay, arguments or deduction;
  - g. Request a comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts;
  - h. Anticipate discussion of a matter appearing on the agenda; or
  - i. Refer to proceedings in Committee meetings that were closed to the Public until those proceedings are reported to Council.

### 91. Admissibility

A question is not admissible if it-

- (i) Does not comply with the rules; or
- (ii) Seeks information that has been provided in response to a similar question in the previous six (6) months.

### 92. Placing questions on the Question Paper

- (1) A Councilor who wishes to ask a question must deliver a signed copy of the question to the Secretary to Council for placing on the Question paper

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(2)

- (a) A Councillor may seek the support of other Councillors to ask a question. The names and parties of the supporting Councillors must be recorded on the Question paper
- (b) A Councillor who wishes to ask a question with a support of one or more other Councillors must ensure that these Councillors add their signatures to the question before it is delivered to the Secretary to Council.
- (3) A Councillor may deliver a question to the Secretary to Council on behalf of an absent Councillor, if he or she has been authorized by the absent Councillor in writing.
- (4) Each question must be placed on the Question Paper before it can be replied to.

### **93. Scheduling question**

- (1) Question for oral reply must be placed on the Agenda of Council if received sixteen (16) working days prior to the Council Meeting and have been delivered to the Secretary to Council.
- (2) A question for written reply delivered to the Secretary to Council by the close of business sixteen (16) working days prior to the Council Meeting must be placed on the Question Paper.
- (3) Questions are to be forwarded to the Office of the Leader of Executive Business fourteen (14) days prior to the Council meeting.

### **94. Withdrawing questions**

A Councillor who has submitted a question may withdraw it at any time before it is answered by notifying the Secretary to Council in writing. A question that is withdrawn must not receive an answer.

### **95. Questions for oral reply**

- (1) Questions for oral reply must be answered at Question Time
- (2) Question Time is a period of at least thirty (30) minutes during each Council Meeting during which questions placed on the question paper may be put to and answered by, Members of the Executive Committee and the Mayor. The councillor asking the question for oral reply must be present at the Council meeting to receive the response.
- (3) Questions for oral reply must be dealt with in the order in which they appear on the Question Paper. At the end of question time, the Speaker of Council must inform Council of all outstanding questions for oral reply.
- (4) Responses to questions standing over from the previous Question Time must be sent to the Secretary to Council within three (3) working days of the said Council meeting.

### **96. Restrictions on questions for oral reply**

- (1) If the Speaker of Council advises that a question for Oral Reply deals with matters of a statistical nature, the Speaker may decide that the question be placed on the Question Paper for written reply.
- (2) A Councillor may ask up to two questions for Oral Reply at any Question time.

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- (3) Up to four (4) questions for oral reply relating to particular Department may be put to a Member of the Executive Committee at any Question Time.
- (4) Councilors may read their questions but may not read speeches during Question Time.
- (5) Immediately after the Member of the Executive Committee has replied to a Question, the Councilor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (6) At the discretion of the Speaker of Council, any Councilor may ask an additional supplementary question or make an additional remark related to the original question or reply.

### **97. Urgent Questions: Oral Reply**

- (1) A Councilor who wishes to ask an urgent question for Oral Reply must submit a signed copy of the question to the Speaker at least four (4) hours before the meeting of Council
- (2) No single Councilor can ask more than one (1) urgent question for Oral Reply
- (3) The Speaker shall determine the urgency of a question, based on the form and content of questions. (Refer to Rule 90)
- (4) The Rules regarding the form, content and admissibility of questions apply to urgent questions.
- (5) The Rules relating to restrictions on questions for oral reply apply to urgent questions for oral reply.
- (6) If the Speaker decides that the question should be answered urgently, he or she must-
  - a) Inform the Leader of Executive Business; and
  - b) Call upon the Councilor to ask the question immediately after Question Time
- (7) The Speaker may allow an urgent question if it requires an urgent response from the Member of the Executive Committee.

### **98. Restrictions on questions for Written Business**

- (1) A Councilor may ask up to three questions for Written Reply per Council meeting.
- (2) Questions may not have more than ten (10) sub-questions.

### **99. Written Replies**

- (1) The relevant Member of the Executive Committee must answer a question for Written Reply within fourteen (14) working days of the question first appearing on the Question Paper and submit same to the Mayor for approval
- (2) A member of the Executive Committee may request more time to answer a Question for Written Reply. The request must indicate the reasons for extra time required and must be received within seven (7) working days after the initial receipt of the Questions.
- (3) The speaker must decide whether or not to agree to the request.
- (4) A member of the Executive Committee may decide to answer question for Written Reply only when such a reply would be too costly or require inappropriate use of Council resources.
- (5) If the written replies are considered unsatisfactory, these must be sent back to the relevant MoEC requesting additional information and/ or clarification.

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- (6) A written reply must have satisfactorily been dealt with by the second meeting of Council after it has first appeared on the Question paper.

### **100. Mayor 's Question Time**

- (1) The Mayor's Question Time is a period a period of up to thirty (30) minutes, quarterly during Council meetings, immediately preceding Question Time, during which questions selected may be put to and answered by the Mayor
- (2) The Speaker must indicate, based on the provisions of the year planner, the Question Time for the Mayor. There must be no Mayor's Question time during the Council meetings when the vote for the annual Budget is discussed in the Council.
- (3) (a) A councilor who wishes to put a question for Oral Reply to the Mayor must deliver a signed request to the Secretary to Council not more than ten (10) working days before the day of the Council meeting before the Mayor Question Time during which he or she wishes to ask the question. Such a request does not have to include information about the topic or wording of the intended question.  
(b) The Speaker selects at least four (4) questions for the Mayor's Question Time based on the proportional allocation of time to all parties as per Council resolution.
- (4) A councilor may ask only one question for Oral reply at any Mayor's Question Time
- (5) Councilors may read their questions but may not make speeches during the Mayor's Question time
- (6) Immediately after the Mayor has replied to a question, the Councilor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply
- (7) At the discretion of the Speaker of Council, any Councilor may ask an additional supplementary question or make an additional remark related the original Question or reply.

#### Part 17

Secretary to Council and Council records (sec. 101 – 105)

### **101. Duties of the Secretary to Council**

In addition to the duties mentioned in these Rules, the Secretary to Council is responsible for the regulation of all matters connected with the business of the Council, subject to direction of the Speaker or Council.

### **102. Minutes of Proceedings**

The Minutes of Proceedings must be taken by the Secretary to Council and, after having been perused by the Speaker, must be distributed to each Councilor.

### **103. Journals of the Council**

The Minutes of Proceedings, signed by the Speaker of Council, constitute the Journal of the Council.

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### **104. Agenda**

The Secretary of Council must compile the Agenda for each Council meeting and send it to each Councilor at least 72 hours before the meeting.

### **105. Custody of papers**

- (1) The Secretary to Council has custody of all records and other papers of the Council.
- (2) Records or other papers of the Council cannot be removed from the precinct of the Council without the permission of the Speaker.

## **CHAPTER 3 LEGISLATIVE ARM OF COUNCIL**

### *Part 1*

#### *Office Bearers (sec. 106 - 112)*

### **106. Speaker of Council**

- (1) Must safeguard the independence of the Council and maintain the authority thereof
- (2) Is the spokesperson for the Council in its relations with the other arms of Government and with outside institutions and persons. In representing the Council, the Speaker is responsible to the Council
- (3) Must ensure that these Rules are observed
- (4) Must protect freedom of speech and debate in the Council and its Committees
- (5) Is responsible to the Council for the management of the Council
- (6) Must discharge her/his responsibilities in an impartial way
- (7) Must ensure public participation

### **107. Absence of Speaker**

If the Speaker of a municipality is absent or not available to perform the functions of Speaker, or during a vacancy, the council must elect another councilor to act as a Speaker

### **108. Relief of Speaker of Council during meetings**

If the Speaker of Council needs to leave the Council during a meeting, he or she must be relieved by the Chairperson of Committees, or if neither of them is present, by another Councilor identified by the Speaker of Council

### **109. Appointment of Chief Whip of Council**

The Speaker must call for nominations from Councilors as soon as possible after an election or whenever the position of Chief Whip of Council is vacant and appoint a Councilor to this position

### **110. Chief Whip of Council**

The Chief Whip of Council –

- (1) Is responsible for coordinating the Whippery
- (2) Coordinates the deployment of Councilors to various Committees
- (3) Coordinates the allocation of speaking time
- (4) Ensures accountability of Councilors through the Whippery structure
- (5) Is responsible for political interface among parties in the Council



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### **111. Appointment of the Chairperson of the Committee of Chairpersons**

As soon as possible after an election or whenever the position of Chairperson of the Committee of Chairpersons (Chair of Chairs) is vacant, the Council must appoint a Councillor to this position

### **112. Chairperson of Committee of Chairpersons ( Chair of Chairs)**

The Chairperson of the Committee of Chairpersons (Chair of Chairs)

- (1) Is a member of the Programming Committee
- (2) Oversees the implementation of policy with regard to the coordination and management of the work of Committees, except those Committees chaired by the Speaker

#### *Part 2*

#### *Committees (sec. 113 – 124)*

### **113. List of Committees**

- (1) The Council has the following types of Committees-
  - (a) Section 79 Oversight Committees
  - (b) Section 79 & 73 Standing Committees
  - (c) Section 79 Specialized Committees
  - (d) Section 79 Political Management Committee
  - (e) Section 80 Committee
  - (f) Whippery Committee
- (2) Committees must be established or dissolved by resolution of Council
- (3) A committee may establish s Sub- committee, consisting of members of that committee only
- (4) Ad hoc committee
  - (a) An ad hoc committee may be established to deal with a specific matter and dissolves when it has reported on that matter
  - (b) An Ad hoc Committee may consist of members of the committee and outside experts
  - (c) Experts from outside the Council may not vote in the Committee

### **114. Composition of Committees**

- (1) The Rules Committee must determine the number of members of a Committee
- (2) Political parties are entitled to be represented on Committees in substantially the same proportion as the proportion in which they are represented in Council
- (3) The Council and parties represented in the Council should, as far as possible, ensure that women are represented on all Committees
- (4) Non-members and parties that are not represented on a Committee must inform the Chairperson of the Committee of their intention to attend the committee meeting to address a particular matter. The non-member may be granted speaking rights in the Committee but may not vote.

### **115. Appointment of committee members**

- (1) The Chief Whip of Council in consultation with the Whips of political parties must nominate members of the Comm8ittees and submit the nominations to the Speaker of Council

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- (2) The Council must appoint the members of the Committees as soon as possible after the election of the Council or whenever a vacancy arises, on the recommendation of the Rules Committee
- (3) Alternative members may be appointed for each member of a Committee. An alternate acts as a member when the member for whom the alternate was appointed, is absent or has vacated office.

### **116. Committee Resignations**

- (1) A member of a Committee wishing to resign from it, must tender his/her resignation in writing to the Whip of the party of which he/she is a member and to the Speaker of Council
- (2) The Speaker must report to Council every vacancy
- (3) Vacancies are to be published in the Announcements, Tabling's and Committee reports

### **117. Committee Chairperson nominations**

- (1) The Speaker must call for nominations by forwarding nomination forms to the Whips of political parties, within ten (10) working days of Council elections of vacancy
- (2) The political parties must submit nominations to the Speaker five (5) working days prior to the Council meeting
- (3) The Speaker must table the proposed nominations in the form of a report with the nomination forms attached to the agenda for approval by Council.

### **118. Committee Chairperson Responsibilities**

- (1) A committee Chairperson –
  - (a) Presides at meetings of the Committee
  - (b) Represents the Committee on the Committee of Chairpersons
  - (c) Determines the agenda of each meeting of the Committee
  - (d) Performs the functions, tasks and duties and exercises the powers that the committee , as per resolutions of the Council may assign to the Chairperson;
  - (e) Must cast a deciding vote if there is an equal number of votes on each side of question before the Committee, and
  - (f) May act in any matter on behalf of and in the best interest of the Committee when it is not practical to arrange a Committee meeting to discuss the matter, if the matter concerns –
    - (i) A request by a person to give evidence or make an oral representation to the Committee;
    - (ii) Any other request to the Committee; or
    - (iii) Decisions or the initiation of any steps necessary for the Committee to perform its functions or exercise its powers
- (2) A committee may set aside any decision taken by its Chairperson in terms of sub-rule (1) (f)

### **119. Absence of Committee Chairperson**

In the absence of the Chairperson, the committee must elect one of its members to act on behalf of the Chairperson. The Committee is to facilitate the election of the Acting Chairperson.

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### **120. Combined Committee**

- (1) The Speaker may combine two or more Committees to form a new Committee for a specific purpose
- (2) The Speaker must appoint one of the Chairpersons involved as the Chairperson of the combined Committee.

### **121. Duration of Committees**

- (1) A committee continues to exist until the Council is dissolved or its term expires unless the Speaker, with good reason, or the Council resolves that the Committee should be disestablished.
- (2) Despite sub-rule (1), an ad hoc Committee and a Combined Committee formed by the Speaker under Rule 120 continues to exist only until it has completed its business.

### **122. Powers of Committees**

Every Committee may –

- (1) Determine its own procedures, subject to these Rules;
- (2) Determine its annual programme, subject to the programme of Council;
- (3) Consider items referred to it;
- (4) Investigate and report on issues that are referred to it or on its own initiative;
- (5) Exercise oversight of the Executive;
- (6) Call for evidence , summon persons to appear before it and require them to produce any documents that it requires, or respond to questions;
- (7) Publish an item that is before the Committee for written and oral representations from and comments by the public;
- (8) Hold public hearings;
- (9) Receive submissions from the public;
- (10) Establish sub-committees; and
- (11) Exercise any other powers granted to it by resolutions of the Council.

### **123. Matters referred to Committees**

A matter may be referred to a Committee by the Speaker, Programming Committee or by a resolution of the Council. If there is a dispute about which Committee should deal with a matter, the Speaker must decide.

### **124. Meetings of Committees**

- (1) The Speaker must convene the first meetings of Committees within ten (10) working days after the appointment of its members.
- (2) With the consent of the Speaker, a Committee may meet at a venue outside the Precincts of the Council.

Part 3

Proceedings of committees (sec. 125 – 131)

### **125. Quorum**

The quorum must be composed of fifty percent (50%) plus one (1) of members of that Committee

### **126. Decisions**

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- (1) A decision must be reached by fifty percent (50%) plus one (1) of the Committee members
- (2) Questions before a Committee are decided by majority of the votes cast
- (3) The Councilor chairing the Committee must cast a deciding vote if there is equal number of votes on each side of a question before the Committee

### **127. Order in Committee meetings**

- (1) The right of the member chairing the Committee to speak takes precedence over the right of other members to speak
- (2) Committee members must be allowed to speak and debate freely in Committee Meetings but they may not –
  - (a) Discredit the Council by using disrespectful words;
  - (b) Use offensive language; or comment upon the merits of any matter or unsubstantiated matter pending before the Courts in a way that would interfere with the administration of justice or infringe upon the independence of the Courts.

### **128. Suspension and adjournment of proceedings**

- (1) Only the member chairing a Committee meeting may suspend or adjourn the proceedings of the Committee
- (2) When a meeting is adjourned, the member chairing must decide when the meeting should resume.

### **129. Joint meetings of Committees**

- (1) A Committee may meet with any other committee in order to consider a matter of mutual interest.
- (2) The Chairpersons of the Committees involved must determine the agenda for a joint meeting of Committees and who must chair the. In the absence of agreement, the Speaker must determine the agenda and decide who should chair
- (3) When a report of the joint meeting is required or when the Committees decide that a report on their joint meeting is necessary, the Committees must decide whether each Committee should write a separate report or a joint report is appropriate.
- (4) The joint committee must report back to Council at the conclusion of its work

### **130. Vertical meetings between Council and other spheres of government**

- (1) A committee may meet with other spheres of government in order to consider a matter of mutual interest.
- (2) The Chairpersons of the Committees involved must determine the agenda for a meeting.
- (3) Minutes of the meeting must be compiled and distributed.
- (4) The Committee of Council must report back on its interactions with the other spheres of government in Council.

### **131. Informing the Member of Executive Committee**

When a Committee requests an official of Council, MoE and Utility to attend a meeting, the responsible MoE must be informed in writing ten (10) working days prior (or earlier ) to the Committee meeting

*Part 4*

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*Committee Reports (sec. 132 – 136)*

### **132. Reports to Council**

The following reports must be submitted to Council by Committees –

- (1) Quarterly Oversight Reports within thirty (30) working days after referral by the Programming Committee
- (2) Annual Oversight Reports within sixty (60) working days after the end of the financial year
- (3) Oversight Visit Reports within sixty (60) working days after the visit
- (4) Annual Committee Performance Reports within sixty (60) working days after the end of the financial year

### **133. Annual Committee performance reports to the Council**

(1) The Chairperson should submit an annual report to Council. The Committee's annual report should include an assessment of the way in which the Committee has fulfilled –

- (a) its oversight responsibilities; and
- (b) The goals identified in its annual programme.

(2) The Chairperson may not purport to reflect a Committee view when he/she has not been mandated accordingly

### **134. Reports on study visits**

Committees must table a report to Council within a month of any study visits that they have undertaken.

### **135. Content of Committee oversight reports**

(1) Every report of a committee must reflect the agreement reached in the Committee. In the absence of agreement, the report must reflect the decision of the Committee and dissenting views.

(2) When there is substantial disagreement on policy issues, a minority report must accompany the Committee report

(3) Every committee report must be set out in the approved report format

(4) A minority report must –

(a) Identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement;

(b) Set out the view of the minority on the policy issues; and

(c) Set out the alternative approach that the minority proposes

(5) Every Committee report must –

(a) Summarize the Committee process including reflecting in the report –

(i) The number of meetings held dealing with the matter

(ii) The extent of involvement and participation by the Administration in the Committee's process, including reflecting the views of the Executive on the matter;

(iii) The extent of involvement and participation by the public and primary Stakeholders in the Committee's process, including reflecting the submissions or inputs of the public or stakeholders on the matter; and

(iv) The degree to which the matter fulfills the Municipality's obligation to promote, advance and fulfill the principles in Chapter 2 of the Constitu-

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tion ( Bill of Rights) and , particularly , gender equity and socio- economic rights of the citizens of the Fetakgomo Municipality

- (b) Provide detailed explanation of the position of the Committee on the matter based on among other things, the requirements in sub-rule (5) above.

### **136. Member in charge**

A committee report must be presented to the Council by the Chairperson or, in his/her absence, another member of the Committee. This person is the member in charge.

#### *Part 5*

*Bills and other matters from National sphere or Provincial sphere for Council decision (sec. 137 – 137)*

### **137. Referral of matters from Parliament or Provincial Legislature**

- (1) When a bill or any matter affecting local government is introduced or debated in parliament or the provincial legislature, the Secretary to Council must immediately deliver particulars of the bill or matter and any accompanying papers to the Speaker.
- (2) The Speaker must refer the bill or matter and any accompanying papers to the relevant Committee if he/she believes that the matter is of importance to the Municipality and should be considered by a Committee for its views
- (3) The referral of a bill or matter to the Committee must be published on the ATC and the secretary to Council must make copies available on request to any Councilor
- (4) The relevant MoE must be invited to express the views of the Executive on the bill as well as the implementation and funding plan
- (5) Provision must be made for national and/ or provincial committee public hearings by the relevant Council Committees.
- (6) The Committee to which the bill is referred under this rule, must report back to Council within a time specified by the Speaker in the referral, and must recommend in its report whether council should take a formal position to –
  - (a) Support the bill or matter;
  - (b) Support the bill with amendments or alternative to the matter;
  - (c) Not support the bill or matter; and
  - (d) Mandate a suitable Councilor to represent the Municipality's position in the deliberations on the bill or matter at Salga
- (7) The report of the Committee on the bill or matter must –
  - (a) Summarize the Committee process at which the bill or matter was discussed;
  - (b) Summarize the participation of the Executive, the public and primary stakeholders;
  - (c) Deal in separate sections with the policy and detail of the bill or matter;
  - (d) Provide an explanation of the position of the Committee on the bill or matter;
  - (e) Explain in general terms any amendments or alternative being proposed by the committee on the bill or matter; and
  - (f) In respect of disagreements in the committee, reflect compliance with and application of the requirements of Rule 135.

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- (8) The Speaker must submit to Salga the resolution of Council and the report of the Committee on the matter as soon as possible
- (9) The designated Councilor must report to Council or to the Committee the outcome of the deliberations at Salga at the next Council meeting after Salga's meeting on the bill or matter.

### *Part 6*

*Terms of reference (sec. 138 – 138)*

### **138. Terms of reference of all Committees**

All Committees of Council performs specific functions as provided for in the Committees' Terms of reference.

## **CHAPTER 4**

### **EXECUTIVE ARM OF COUNCIL (sec. 139 – 146)**

#### **Part 1**

### **139. Election of the Executive Arm of Council**

Council must elect the members of its executive committee from among its members at a meeting that must be held –

- (1) Within fourteen (14) days after the council's election

### **140. Term of office of members of the executive committee**

The members of an executive committee are elected for a term ending, subject to section 47 of the municipal structures act, when –

- (a) The next municipal council is declared elected.

### **141. Composition of the Executive Arm of Council**

- (1) If the Council establishes an executive committee, it must elect a number of members necessary for effective and efficient government, provided that no more than twenty percent (20%) of the councilors or ten (10) councilors, whichever is the least, are elected. An executive committee may not have less than three members

- (2) An executive committee must be composed in such a way that parties and interests represented in the municipal council are represented in the executive committee in substantially the same proportion they are represented in council.

- (3) Council may determine any alternative mechanism for election of an executive committee, provided it complies with section 160 (8) of the Constitution.

### **142. Vacancies**

A member of an executive committee vacate office during a term if that member –

- (a) Resigns as a member of the executive committee;
- (b) Is removed from office as a member of the executive committee by resolution of council in terms of section 53 of the municipal structures act
- (c) Cease to be a councilor

### **143. Functions of the executive committee**

- (1) An executive committee is –
  - (a) the principal committee of the council; and

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- (b) The committee of council which receives reports from the other committees of the council and which must forward these reports together with its recommendations to the council when it cannot dispose of the matter in terms of its delegated powers
- (2) The executive committee must –
  - (a) Identify the needs of the municipality ;
  - (b) Review and evaluate those needs in order of priority;
  - (c) Recommend to the council strategies, programmes and services to address priority needs through the integrated development plan and estimates of revenue and expenditure, taking into account any applicable national and provincial development plans, and
  - (d) Recommend or determine the best methods, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community
- (3) The executive committee in performing its duties must –
  - (a) Identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in sub-rule (2) (b) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
  - (b) Evaluate progress against the key performance indicators
  - (c) Review the performance of the municipality in order to improve –
    - (i) The economy, efficiency and effectiveness of the municipality;
    - (ii) The efficiency of credit control and revenue and debt collection services; and
    - (iii) The implementation of the municipality's by-laws
  - (d) Monitor the management of the municipality's administration in accordance the policy directions of the municipal council;
  - (e) Oversee the provision of services to communities in the municipality in a sustainable manner;
  - (f) Performs such functions and exercise such powers as council may delegate to it in terms of section 32 of the Municipal Structures Act;
  - (g) Annually report on the involvement of communities and community organizations in the affairs of the municipality; and
  - (h) Ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.
- (4) An executive committee report to the municipal council on all decisions taken by the committee.

### **144. Respond to questions in committee meetings**

Obligations of the executive/administration to attend and respond to questions in Committee meetings must be in line with the Council approved guidelines on attendance of Executive/Administration in section 79 Committee meetings

### **145. Matters affecting members of the executive committee**

- (1) When the Council or any of its Committees brings a matter to the attention of the member of Executive Committee, it must indicate –



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- (a) Whether or not it requires a response from the MoE; and
  - (b) That, where a response is required, this must be within thirty (30) working days, unless otherwise stipulated by the Committee.
- (2) The secretary to Council must send any resolution affecting the Moe to the Leader of Executive Business within seven (7) working days of the Council meeting.
- 146. Return on implementation of Decisions of the Council**
- (1) The Mayor must report on quarterly bases on the implementation of all Council resolutions. The Agenda of the meeting of the Council must include a return showing the status of the implementation of each decision of the Council that has not yet been reported as having been finalized on the afore-going schedule.
  - (2) On the recommendation of a Committee, Council may pronounce appropriate measures to be taken by the Mayor in the case of consistent failure to implement decisions of Council
  - (3) The Mayor must report back at the next Council meeting on measures taken and outcome thereof.
  - (4) Council shall reserve the right to give final pronouncement on what further steps should be taken, if measures taken under sub-rule (2) above prove ineffective

### CHAPTER 5 BY-LAW MAKING PROCESS

#### Part 1

#### *Introducing of by-laws (sec. 147 – 149)*

**147. Types of By-laws**

Draft by-laws may be introduced as –

- (1) An Executive draft by-law – one that is introduced by the Member of the Executive Committee;
- (2) A committee draft by-law – one that is initiated and introduced by a section 79 committee

**148. Terminology**

All draft by-laws tabled in Council must be drafted in clear and simple language, and must use as little technical language as possible

**149. Memorandum on draft by-law**

Every draft by-law shall be introduced together with a memorandum and drafted in simple, clear and non-technical language, as far as possible setting out the following

- 
- (1) Intent of the proposed draft by-law;
- (2) Motivation for the proposed by-law;
- (3) The reasons for and the possible effects of the draft by-law in a socio-economic impact statement with due consideration to Chapter 2 of the Constitution on the “Bill of Rights” where applicable;
- (4) Conformity with the Constitution, applicable legislation and policies of Council;
- (5) An environmental impact statement where necessary ;

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- (6) The financial implications of the draft by-law as well as its implications for the community; and
- (7) An account of the steps to enhance public involvement in the development of the draft by-law

### *Part 2*

#### *Steps prior introduction (sec. 150 – 152)*

#### **150. Executive draft by-law**

As soon as possible after the Executive has approved the introduction of an Executive draft by-law, the Leader of Executive Business must –

- (1) Provide formal notice to the Speaker
- (2) Supply the Speaker with a copy of the proposed draft by-law and its Memorandum

#### **151. Committees draft by-law**

- (1) A Committee may introduce a draft by-law in Council, through the Programming committee
- (2) The Speaker must place the Committee's proposal on the Council agenda for a decision

#### **152. Resolution to make a draft by-law and referral**

- (1) The Programming Committee must refer the draft by-law to Council for introduction
- (2) Council must pass a resolution declaring its intention to make a draft by-law
- (3) The Speaker must refer the draft by-law to the relevant section 79 committee/s for consideration
- (4) In cases where a draft by-law may be affecting the work of more than one committee, these committees must confer as per the referral of the Speaker.

### *Part 3*

#### *Public comment and notice (sec. 153 – 153)*

#### **153. Public comment and notice**

- (1) After Council has passed a resolution declaring its intention to make a draft by-law, it must announce its intention to do this in the Provincial Gazette, on the municipality's website and in one or more newspapers circulating within the jurisdiction of the Municipality
- (2) The notice in which the public's comments are invited on a proposed draft by-law must state that –
  - (a) Comments are invited;
  - (b) What the draft by-law deals with, in summary form;
  - (c) A contact name and address where enquiries may be directed;
  - (d) A place where copies of the by-law can be obtained and where the draft by-law may be inspected;
  - (e) The period during which comments may be made (which may not be less than a month) and the place where comments on the draft by-law may be lodged.
- (3) The committee must consult with relevant interest groups and consider comments and the content of consultation before the draft by-law is made

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- (4) If Council has not made a draft by-law within one year of the announcement referred to in sub-rule 1 above, the draft by-law cannot be made the procedure of announcement of the intention is repeated.

### *Part 4*

#### *Consideration by committees and Council (sec. 154 – 158)*

#### **154. Consideration of a draft by-law by Committees**

- (1) The Chairperson of the Committee must refer the proposed draft by-law and any accompanying papers in respect of Rule 151 by-law, to the relevant MoE with a request that he/she submit the views of the Executive, implementation and funding plan of the Executive on the proposed draft by-law to the Committee
- (2) The Chairperson of the Committee must invite in writing the relevant MoE to the Committee to express the views of the Executive, implementation and funding plan of the Executive on the proposed draft by-law to the Committee
- (3) A committee, to which a draft by-law has been referred, shall have all the powers with regard to the draft by-law and shall follow the public consultation procedures prescribed for Committees in the Rules, unless the Council by resolution determines otherwise.
- (4) A committee shall consider and deliberate on the draft by-law
- (5) The Committee must invite public comments and invite stakeholders to attend meetings of the Committee and make representations on the draft by-law
- (6) At its discretion, the Committee may elect to conduct public hearings on the draft by-law
- (7) The Committee must analyze oral and written submissions made on the draft by-law
- (8) The committee may refer the amended draft by-law to the relevant Department for comment

#### **155. Report of committee on referred draft by-law**

- (1) The Committee to which the draft by-law has been referred should report back to Council at the conclusion of its work on the referred draft by-law. The Committee must table in Council
  - (a) Its report;
  - (b) The proposed draft by-law that has been agreed to by it
- (2) In its report, the Committee over and above the requirements of Rule 135(5) must –
  - (a) State whether it recommends to Council approval of the proposed draft by-law with or without amendments, a redraft of the draft by-law or rejection of the draft by-law
  - (b) In the event amendments are proposed, specify each amendment agreed on by it and each amendment that was considered and rejected by it with accompanying reasons
  - (c) If it is not a unanimous report –
    - (i) Specify in which respect there was no consensus
    - (ii) Reflect the views of the minority in the Committee

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(3) The Committee may further report on any matter arising from its deliberations on the proposed draft by-law but which is not necessarily related to the draft by-law

### **156. Withdrawal of by-law**

Only the committee, to which the draft by-law has been referred, may recommend to Council the withdrawal of a draft by-law

### **157. Consideration of a draft by-law by Council**

The decision and voting on the Committee report and recommended draft by-law shall be dealt with in terms of the provisions of Chapter 2, section 71-76 subject thereto that the draft by-law can only be passed with a supporting vote of a majority of the members of Council.

### **158. Publication of by-law**

Council approved by-law must be published in the Provincial gazette by the Executive, announcing the coming into operation of the by-law or specifying any other date of the coming into operation of the by-law

## CHAPTER 6

### **ETHICS, PRIVILEGE AND CONTEMPT (sec. 159 – 159)**

### **159. Legislative mandate**

The provisions of –

- (a) Section 161 of the Constitution of the Republic of South Africa;
- (b) Section 28 of Act 117, 1998 (Municipal Structures Act)
- (c) Schedule 1 of Act 32, 2000 (code of conduct for Councilors), must inform and guide the interpretation and application of the Rules in this Chapter

#### *Part 1*

#### *Privileges and contempt (sec. 160 – 166)*

### **160. Ethics of Council**

The Council must conduct its business in a way that ensures that it is free and independent institution, able to fulfill its role of representing the public. To do this, the Council and all its members must act in an ethical way and protect the powers, privileges and immunities of the Council

### **161. Privilege of Council**

The privileges of members of the Municipal Council include-

- (1) The privilege of freedom of speech in the Council and any of its Committees
- (2) Any other privileges or immunities conferred by the Constitution and the Municipal Structures Act.

### **162. Contempt of the Council**

- (1) Contempt of the Council is conduct which potentially or actually interferes improperly with the ability of the Council, its Committees or any of its members to perform their functions.
- (2) A breach of privilege is contempt of the Council
- (3) Contempt's include, but are not limited to
  - (a) Failing to attend Council or its Committee meetings, including when summoned to do so;

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- (b) Failing to report to the Council or one of its Committees when required to do so ;
- (c) Giving evidence to Council or any of its Committee knowing it to be false;
- (d) Giving someone an inducement not to give evidence to Council or any of its Committees
- (e) Making injurious comments and false statements when speaking in Council or any of its Committees
- (f) A breach of the Rules, including a breach of the Code of Conduct
- (g) Failing to obey the speaker of Council's ruling, order and/or resolution of the Council, and
- (h) Deliberately and/or recklessly and knowingly providing materially, factually inaccurate and misleading information to the Council or any of its Committees

### **163. Raising a breach of privilege or contempt**

- (1) A Councilor may raise a matter relating to contempt, including a breach of privilege in writing to the Speaker
- (2) The matter must be raised as soon as possible after it has occurred and, in any case, before the next plenary meeting of the Council
- (3) If a matter raised in writing with the Speaker concerns another Councilor, the Councilor raising the matter must concurrently provide the Councilor against whom the contempt is alleged, with a copy of the document submitted to the Speaker

### **164. Formulation of the allegation**

An allegation of contempt must be formulated as precisely as possible, providing but not limited to –

- (a) The name of the Councilor alleging the contempt ;
- (b) The name of the Councilor against whom the contempt is leveled'
- (c) The nature of the contempt; and
- (d) The specific rule upon which the allegation is based

### **165. Consideration by the Speaker**

- (1) When a Councilor informs the Speaker of a matter under Rule 165, the Speaker must determine whether contempt is involved
- (2) In determining whether contempt is involved, the Speaker must take into account the importance of the matter
- (3) If the matter is technical or trivial and does not warrant the further attention of Council, the matter does not constitute contempt
- (4) The Speaker's ruling shall be final

### **166. Speaker's decision**

If in the opinion of the Speaker, the matter constitutes contempt, he/she must refer the matter to the Ethics Committee for processing in accordance with the Committee's Terms of reference and Rule 168 below in this chapter.

#### *Part 2*

#### *Proceedings of the Ethics Committee (sec. 167- 172)*

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### **167. Councilor making an allegation not to serve on an inquiry**

A Councilor, who has made an allegation of a breach of privilege or contempt, including an alleged breach of the Code of Conduct, may not serve on an inquiry by the ethics Committee, into that allegation

### **168. Inquiry**

- (1) The Ethics Committee may conduct the inquiry on its own or may refer the matter to the integrity commissioner for investigation and report back to the Committee on allegations of breach of privilege and/or contempt against the Councilor.
- (2) In considering the merits of the matter, the Integrity Commissioner must conduct hi/her work within the scope of hi/her mandate and Terms of Reference

### **169. Rights of an alleged offender**

- (1) The Councilor against whom the contempt is leveled must be granted an opportunity to make representations in person to the Committee
- (2) The Committee in dealing with the matter must ensure that the inquiry is conducted in accordance with the Rules and principles of just and fair administrative requirements.

### **170. Evidence**

The Committee may not receive hearsay evidence, that is, witnesses may testify only to matters that are within their direct and personal knowledge.

### **171. Report of the Ethics Committee**

- (1) When the Committee has completed its proceeding on the matter, it must table a report on its findings with recommendations for considerations for consideration and decision making by Council
- (2) If the Committee finds that the Councilor concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction as authorized by the provisions of the Code of Conduct for Councilors
- (3) If the Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report for Council's information
- (4) Rule 135 does not apply to a report of the Ethics Committee, but dissenting views of members of the Committee must be appended to the report.

### **172. Decisions by the Council**

- (1) The Committee must refer its report with recommendations to Council for approval
- (2) The report of the Committee may not be debated in Council
- (3) A roll call may be called where there is a possibility that the adoption of the report could result in personal liability to councilors who support the adoption of the report
- (4) Council may only approve or refer the report back to the Committee for reconsideration and report back
- (5) Should Council not approve the reconsidered report of the Committee, the matter falls away.

## Schedule A

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### ORDER OF BUSINESS OF ORDINARY MEETING (Pages 53 – 54)

- (1) The order of business of an Ordinary Meeting convened in terms of section 29 of the Act shall be as follows:
- (a) Opening
  - (b) Application for leave of absence
  - (c) Official notices
  - (d) Proposals of condolences or congratulations by the Speaker
  - (e) Proposals of condolences or congratulations by other members
    - I. That the Whips of all political parties make written submissions with regard to condolences and congratulations to the Speaker
    - II. The Office of the Speaker must receive such submissions 24 hours prior to the Council Meeting where they are to be announced
    - III. That late submissions received will not be considered. (the Speaker may waive the provisions of subsection (1) (e)(iii) )
    - IV. That the Speaker will consider such written submissions timeously served
    - V. That the Speaker will make the final decision as to which written submissions or portions thereof relevant to Fetakgomo Municipality and subject to Clause (1), Proviso (1), of the Standing Orders, Schedule A, will be announced at the Council Meeting
    - VI. That a maximum of fifteen (15) minutes will be allowed for such announcements based on the proportional representation of parties in Council, (the Speaker may waive the provision of subsection (1)(e)(vi))
  - (f) Minutes of the previous meeting
  - (g) Notices of the Mayor
  - (h) Questions of which notice has been given
  - (i) Unopposed motions of the Speaker
  - (j) Motions or proposals deferred from previous meetings
  - (k) The report of the Executive Committee
    - i. Matters delegated to the Executive Committee
    - ii. Non delegated matters
  - (l) New motions
  - (m) Deputations
  - (n) Petitions
- Provided that:
- i. Proposals of condolences or congratulations by other members (section (1)(e)) are subject to the limitation that unless in the Speaker 's discretion a matter has occurred recently necessitating a deviation hereto and which decision is also not subject to debate, such condolences or congratulations must be of general interest and relevance or importance to Fetakgomo Municipality and may only be presented by the various Whips of each

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- party or his/her nominee, or an independent member with the prior approval of and within the limitations determined by the Speaker.
- ii. Notices under sections (1)(c) and (1)(g) are not subject to debate and only questions for clarity may be asked
- (2) The Council may, at its discretion, alter the sequence of the order of business on the agenda
  - (3) If a proposal in terms of section (1)(d) or (e) is opposed, such proposal shall lapse without further discussion
  - (4) After the Mayor has made his/her announcements at a Council meeting under the item (1)(g) above, comments may be received on such announcements subject to the following:
    - (a) The time period for such comments is limited to 45 minutes in total, which time period is allocated proportionally as per the political party representation in Council: Provided that the ruling party and main opposition at least shall be allocated time separately and the minority parties shall be allocated time collectively
    - (b) The members wishing to comment on such announcements shall only be permitted to do so if the required Speakers' lists based on the proportionality in (a) above
    - (c) The comments made under this provision shall be limited strictly to the Mayor's announcements only.
    - (d) The Speaker of Council shall be authorized to rule any comments made hereunder to be out of order, which ruling shall not be subject to debate. If the Speaker has thus ruled, the member who made such comments shall cease to make any further comments and shall return to his/her seat forthwith.
    - (e) The Mayor shall close the discussion after all comments under this heading have been made.

