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## PETITIONS POLICY

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**COUNCIL RESOLUTION : C46/2015 DATE: 29TH OCTOBER 2015**

**The Office of the Speaker is hereby presenting the draft Petitions Policy for Comments**

**The aim of this policy is;**

To provide for the right to submit a petition to the Council of Fetakgomo Local Municipality; to provide for the general principles and procedures for the submission of a petition to the Council; to provide for the consideration of a petition by the Petitions Committee of Council and to provide for incidental matters.

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## **Definitions**

1. (1) In this draft policy, unless the context otherwise indicates;-

**“Administrative support service”** means employees of the Council assigned for the purpose of the effective implementation of this policy

**“Chairperson”** means the chairperson of the Committee

**“Committee”** means a committee of the Council established by the Council to be responsible for the consideration of petitions in terms of this policy, consisting of members of the Council who were appointed by the Council to this committee, i.e. Petitions, Rules & Ethics Committee;

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

**“Council”** means –

- (a) The Fetakgomo Local Municipality exercising its legislative and executive authority through its municipal Council; or
- (b) Its successor in title; or
- (c) A structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) A service provider fulfilling a responsibility under the Council’s by-laws, assigned to it in terms of section 81 (2) of the Local Government: Municipal Systems Act, or any other law, as the case may be.

**“Executive Committee”** means the Executive Committee of the Council contemplated in section 80 of the Local Government: Municipal Structures Act, 1998;

**“Municipality”** means the area under the control and jurisdiction of the Council;

**“Petition”** means a complaint or request or a representation or a submission addressed by a petitioner to the Committee in terms of this policy;

**“Petitioner”** means a person who submits a petition in terms of this policy, and includes a natural or juristic person;

**“Speaker”** means the Speaker of the Council elected in terms of section 36 of the Local Government: Municipal Structures Act, 1998;

**“Standing Rules”** means the rules for the conduct of meetings of the Council, which have been approved by the Council by resolution;

### **Right to petition**

2. Any person may submit a petition in terms of this draft policy.

### **General principles**

3. (1) A petitioner may submit a petition in any of the official languages of the Republic of South Africa.
- (2) The Committee must –
  - (a) respect, protect and promote the rights of a petitioner provided for in this policy;
  - (b) enhance democracy by exercising maximum accountability and transparency in its consideration of petitions.
- (3) The Speaker must promote and facilitate a fair and equitable process of considering petitions submitted to the Council in terms of this policy.

### **Submission of petitions**

- 4 (1) A petition must be submitted strictly in accordance with this policy.
- (2) A petition may be delivered to any of the people's centres, administrative Centres of the Council, office of the Mayor, to a Councillor, a member of the Executive Committee, the office of the Council Speaker, the office of the Municipal Manager and or any of the relevant service providers of Council.
- (3) The administrative support service must render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition meeting all the requirements imposed by this policy so that that person may properly submit a petition.
- (4) The administrative support service must take all prescribed steps to prepare the petition for consideration by the Committee.
- (5) The administrative support service must after a petition has been received, promptly inform the ward councillor thereof when the subject matter of the petition relates to a matter in that councillor's ward.

### **Requirements of petitions**

- 5 (1) A petition must –
  - (a) be in legible writing;
  - (b) state the full name/s and contacts of one of the petitioner/s;

- (c) be signed by the petitioner/s, except in the case of a petitioner who is unable to write –
    - (i) who has made a mark on the petition as a symbol of his or her authority to submit the petition; and
    - (ii) that mark was made in the presence of two witnesses who are able to write and who by signing that petition certify that the mark is that of the petitioner;
  - (d) be formulated in one of the official languages on the Republic of South Africa;
  - (e) relate to a matter within the legal competence of the Council in terms of the Constitution;
  - (f) relate to a matter that has been brought to the attention of the Council before and that has not been attended to, to the satisfaction of petitioner/s;
  - (g) not concern a matter pending in a court of law or other tribunal or forum contemplated in the Constitution or a matter pending in a committee, tribunal or other forum of the Council in respect of which legally prescribed appeal procedures exist;
  - (h) not be in connection with the conviction and sentencing by a criminal court of law of a person to a period of imprisonment; and
  - (i) not address a matter, which falls within the scope of a commission of inquiry established by the National or Provincial Government or committee of enquiry established by the Council or any other Local Government;
  - (j) not address a matter previously considered by the Committee except if that petition contains new information that may materially impact on the outcome of the consideration of the matter.
- (2) A petition may be –
- (a) a single petition, which is an individual submission from a single petitioner, concerning a particular complaint or request;
  - (b) an association petition, which is an individual submission from an association or single petitioner mandated by an association to submit that petition, concerning a particular complaint or request;
  - (c) a collective petition, which is a collection of signatures from a number of petitioners, concerning a particular complaint or request; or
  - (d) a mass or group petition, which is made up of individual or group submissions from a number of petitioners, concerning the same or substantially similar complaints or requests.

- (3) A petition may be submitted by a person acting –
  - (a) in his or her own interest;
  - (b) in the interest of another person who is not in a position for whatever reason to submit a petition in his, her or its own name;
  - (c) as a member of or in the interest of a group or class of persons; or
  - (d) in the public interest.

### **Functions of Committee**

- 6 (1) The Committee must -
  - (a) receive and consider every petition properly submitted in terms of the policy;
  - (b) record the oral submission or evidence of a petitioner given in terms or paragraph 7 (3) (a);
  - (c) report to the Council at intervals not exceeding six months on the petitions submitted to it during that period and all its activities in respect thereof, including:
    - (i) the responsiveness, efficiency and timeousness with which petitions were dealt with; and
    - (ii) the efficacy of the petitions process and procedures.
  - (d) instruct the administrative support service to inform a petitioner timemeously –
    - (i) if the petitioner has been invited by the Committee to make an oral submission or call a witness;
    - (ii) of the date, time and venue when the petition is to be considered and that the petitioner may attend that sitting of the Committee.

### **Powers of the Committee**

- 7 (1) The Committee may –
  - (a) refuse to consider a petition, which has not been submitted in terms of this draft policy.
  - (b) refuse to consider a petition that contains defamatory statements or improper language.

- (c) does not state the correct name and contact details of the petitioner and, where applicable, the name of the association or group on whose behalf the petition has been submitted.
- (2) if it refuses to consider a petition in terms of paragraph 7 (1), the Committee must in writing inform the petitioner of that fact as well as the reasons for its decision.
- (3) The Committee may –
- (a) invite a petitioner to –
    - (i) supplement his or her petition with additional oral or written submissions;
    - (ii) call a witness to present oral or written evidence to the Committee;
  - (b) make a recommendation to an appropriate person or body with a view to settling the request or complaint contained in the petition to the satisfaction of the petitioner;
  - (c) make a recommendation to an appropriate person or body in respect of the general approach to be followed in future in settling a request or complaint;
  - (d) if requested to do so by a petitioner, resolve a dispute or complaint, or rectify an omission, regarding matters other than those prescribed by legislation by means of mediation or negotiation;
  - (e) refer the petition and recommendation, if any, to a member of the Executive Committee or a Committee or employee of the Council for consideration and decision in respect of the complaint or request contained in the petition;
  - (f) if a petition has been referred to a member of the Executive Committee or a Committee or employee of the Council in terms of paragraph 7 (e) –
    - (i) direct the person or body to whom the petition was referred, to consider that petition, make a decision or recommendation in respect of that petition or otherwise attend to the request or complaint raised in that petition; and
    - (ii) require the person or body to whom that petition was referred to furnish the Committee within fourteen days of that referral in writing with a detailed report on the steps taken by that person or body to address the complaint, request, recommendation or instruction by the Committee, as the case may be, and the reasons for those particular steps;

(g) if a petition has been referred to a member of the Executive Committee or a Committee in terms of paragraph 7 (e) and that member of the Executive Committee or Committee has failed to comply with paragraph 7 (f) or that the conduct or response of that member of the Executive Committee or Committee is unsatisfactory, make a complaint to the Mayor;

(h) if a petition has been referred to an employee of Council in terms of paragraph 7 (e) and that employee has failed to comply with paragraph 7 (f) or that employee's conduct or response is unsatisfactory, make a complaint to the Municipal Manager;

(i) finalise its consideration of a petition by resolving that no steps, or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner and by informing the petitioner(s) of the outcome of the petition.

### **Sitting of Committee**

- 8 (1) The Committee may for purposes of hearing evidence and considering a petition sit at a date and time and at a place in the Municipality determined by the Committee
- (2) The administrative support service must –
- (a) if necessary, ensure that the contents of a petition file are translated into a working language of the Committee;
  - (b) provide the Chairperson with a list of submitted petitions, which have not been finalised by the Committee for tabling at each meeting of the Committee;
  - (c) perform any additional duty, which will enable the Committee to properly consider a petition and exercise its other functions in terms of this policy.
- (3) Evidence presented before the Committee must be heard in public unless it is –
- (a) in the interests of justice; or
  - (b) in the interests of the safety of the petitioner or a witness that the evidence must be heard behind closed doors.

### **Witnesses and material evidence**

- 9 (1) For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may request a person to attend a sitting of the Committee, as a witness, in order to give evidence, produce any book, document, object or other material of evidence required by the Committee.



- (2) A person appearing before the Committee to give oral evidence must before giving that evidence take an oath or make an affirmation administered by the Chairperson or any other person authorised by him or her to do so, to only speak the truth.
- (3) A person appearing before the Committee to give oral evidence may be assisted by a representative of his or her choice.

### **Retention of materials of evidence**

10. (1) The Committee must make a copy or reproduction in any format of materials of evidence submitted to it.
- (2) The Committee must retain such copy or reproduction for an indefinite period after conclusion of the consideration of a petition.

### **Delegation**

11. Subject to the terms of reference of the Committee –
  - (1) The Committee may delegate any of its duties, functions or powers in respect of a particular petition to a member of the Committee.
  - (2) The Chairperson may at any time before the member has commenced his or her consideration of a particular petition withdraw the delegation contemplated in subsection (1) and must report such action and the reasons therefore to the first meeting of the Committee that takes place after the said delegation was withdrawn.
  - (3) The member must after he or she has concluded his or her consideration of a petition report the outcome of his or her consideration of that petition to the Committee.
  - (4) Nothing in this paragraph prevents the Committee from exercising any power or performing any duty delegated in terms of Paragraph 11.
  - (5) A member appointed in terms of Paragraph 11 has all the power by implication necessary to enable him or her to fulfil his or her function.


### **Obstruction**

- 12 (1) A person to whom a petition is referred in terms of paragraph 7 (e) who without sufficient cause –
  - (a) fails to provide a report within the prescribed timeframes or
  - (b) submits an unsatisfactory report;obstructs the purpose for which the Committee exists.

- (2) A person who is invited to attend the meeting of the Committee in terms of Paragraph 9(1) for the purpose of ascertaining a matter relating to the subject of the Committee's investigation, who without sufficient cause –
- (a) fails or refuses to attend the meeting of the Committee;
  - (b) fails or refuses to give evidence before the Committee;
  - (c) knowingly gives false evidence before the Committee; or
  - (d) refuses or fails to produce any book, document, object or other material or evidence in his or her possession or under his or her control;

Obstructs the purpose for which the Committee exists.

#### **Policy Adoption/Approval**



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**Cllr. Sefala K.R.E**  
**The Mayor**