

# **RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES OF THE COUNCIL BY- LAW**

Be it enacted by the Council of the **Mandeni** Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

## **ARRANGEMENT OF SECTIONS**

*Section*

### **CHAPTER 1**

1. Definitions

### **CHAPTER 2**

#### **APPLICATION AND INTERPRETATION OF RULES AND ORDERS**

2. Application of these Rules and Orders
3. Interpretation of these Rules and Orders

### **CHAPTER 3**

#### **FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS**

4. Council meetings
5. Admission of public
6. Notice to attend an ordinary council meeting
7. Special meetings
8. Service of notices and agenda
9. Non-receipt of notice

### **CHAPTER 4**

#### **QUORUM**

10. Quorum
11. Cancellation and adjournment in absence of quorum

**CHAPTER 5  
ATTENDANCE**

- 12. Attendance
- 13. Leave of absence
- 14. Non-attendance

**CHAPTER 6  
ADJOURNMENT**

- 15. Adjourned meeting
- 16. Continuation meeting

**CHAPTER 7  
PROCEEDINGS**

- 17. Speaker and chairpersons of meetings
- 18. Minutes
- 19. Order of business
- 20. Confirmation of minutes of previous meeting
- 21. Deputations
- 22. Reports
- 23. Motions
- 24. Questions
- 25. Supply of information to councillors
- 26. General matters of an urgent nature
- 27. Interpretation
- 28. In-committee

**CHAPTER 8  
VOTING**

- 29. Decisions by voting
- 30. Method of voting
- 31. Dissenting votes and Abstention

**CHAPTER 9  
REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS**

- 32. Revocation of council resolutions
- 33. Revocation of committee resolutions

**CHAPTER 10  
DEBATE**

- 34. Opportunity to speak
- 35. Relevance
- 36. Length of speeches
- 37. Councillors to speak only once
- 38. Precedence of the speaker or chairperson
- 39. Points of order
- 40. Explanation

**CHAPTER 11  
CONDUCT**

- 41. General conduct
- 42. Misconduct **and Disorderly Conduct of a Councillor or persons other than**

**Council  
lors**

**CHAPTER 12  
COMMITTEES**

- 43. Rules Committee
- 44. Own rules
- 45. The chairperson

**CHAPTER 13  
PECUNIARY INTEREST**

- 46. Declaration of pecuniary interest

**CHAPTER 14  
BREACH AND SANCTIONS**

- 47. Breach
- 48. Sanction

**CHAPTER 15**  
**GENERAL PROVISIONS**

- 49. Suspension of a rule or order
- 50. Adoption as by-law
- 51. Repeal of existing Rules and Orders
- 52. Short title and commencement

**CHAPTER 1**  
**DEFINITIONS**

**Definitions**

1. In these Rules and Orders, unless inconsistent with the context –

**“Authorised person”** means an official of the municipality authorised by the Municipal Manager to perform a specific task in terms of these Rules and Orders;

**“by-law”** means legislation passed by the council of a municipality;

**“calendar day”** means a twenty-four hour day as denoted on the calendar;

**“chairperson”** means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

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

**“Council”** means —

- (a) the **council of the Mandeni** Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these Rules and Orders has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act; and
- (d) a service provider fulfilling a responsibility under these Rules and Orders;

**“Code of Conduct”** means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

**“contact details”** means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular phone number;

**"councillor"** means a member of a municipal council;

**“day”** means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

**“deputation”** means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

**"executive committee"** means the council’s executive committee established in terms of section 43 of the Structures Act;

**“in-committee”** means any council or committee meeting at which the public and or officials of the municipality are excluded;

**“integrated development plan”** means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

**"mayor"** means a councillor elected as the mayor of the municipality in terms of section 48 of the Structures Act;

**"meeting"** means a meeting of the council or any one of its committees;

**“municipality”** means the **Mandeni Local Municipality** established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

**“municipal asset”** means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

"**municipal manager**" means the person appointed municipal manager in terms of section 54A of the Systems Act and includes any person acting in that capacity;

"**notice of motion**" means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of section 23 of these Rules and Orders;

"**Peace Officer**" means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

"**point of order**" means the pointing out of any deviation from or anything contrary to, the conduct and or any other irregularity in the proceedings of a meeting;

"**precincts**" means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

"**public**" includes the media and means any person residing within the Republic of South Africa;

"**service delivery agreement**" means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

"**speaker**" means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"**table**" means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these Rules and Orders;

**CHAPTER 2**  
**APPLICATION AND INTERPRETATION OF RULES AND ORDERS**

**Application of this by-law these Rules and Orders**

2.1 The rules of order contained herein apply to all meetings of the municipal council and any committee of the municipal council as well as any other committee of councillors established within the municipality, unless the terms of reference for a specific structure explicitly excludes the application of the rules for such structure.

2.2 these Rules and Orders governs the proceedings of the council and committees of the council which bind and must be complied with by –

- (a) all councillors;
- (b) any member of the public while present in the precincts;
- (c) any deputation addressing the council or a committee of the council;
- (d) any municipal official of the municipality; **and**
- (e) Traditional Leaders participating in Council and its committees in terms of section 81 of the Municipal Structures Act

**Interpretation of these Rules and Orders**

3.(a) Any interpretation of these Rules and Orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.

(b) The ruling of the speaker or chairperson with regard to the interpretation of this these Rules and Orders at a meeting of the council or committee of the council will, subject to sections 3(e) and 3(f), be final and binding.

(c) The interpretation and the ruling of the speaker or chairperson on any of this these Rules and Orders must be recorded in the minutes of the council or committee meeting.

(d) The municipal manager must keep a register of the rulings and legal opinions.

(e) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of section 3(b), to obtain clarity on the interpretation and ruling and to report to the council or committee of the council.

(f) The council or committee of the council may after consideration of the report in terms of section 3(e) confirm, amend or substitute the ruling of the speaker or chairperson, subject to any rights which any third party may have accrued as a result of the ruling and all decisions effecting the rights of others must be in writing and reasons must be recorded of such decisions.

### **CHAPTER 3**

#### **FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS**

##### **Council meetings**

4.(a) The council must hold an ordinary meeting of the council not less than once in every three months.

(b) The speaker must convene all meetings of the council in accordance with section 4(a) and subject to section 6.

##### **Admission of public**

5.(1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.

(2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters –

- (a) a draft by-law tabled in the council;
- (b) a budget tabled in the council;
- (c) the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;
- (d) the municipality's performance management system, or any amendment of the



system, tabled in council;

(e) the decision to enter into a service delivery agreement;

(f) any reports on an award in terms of supply chain management policy;

(g) the disposal or acquisition of municipal capital asset;

(h) any other matter prescribed by legislation.

(3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the council or committee of the council and any special or urgent meeting of the council or committee of the council, except when time constraints make this impossible.

(4) Members of the council together with members of the public attending any council or committee meetings must accord the meeting the dignity it deserves by dressing appropriately as per Rule 41(d) and must not wear any attire which could be ascribed to a political party

#### **Notice to attend an ordinary council meeting**

6.(1) The speaker must convene meetings of the council, at least once every three months, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.

(2) Notice to attend a meeting in terms of section 6(1) must be given at least –

(a) five calendar days prior to an ordinary meeting; and

(b) two calendar days prior to a special meeting.

#### **Special meetings**

7.(1) The speaker must call a special meeting of the council –

(a) for the purpose of pertinent or urgent council business; or

(b) or at the request of a majority of the councillors of the municipality.

(2) A special meeting must be held in compliance with section 6(2)(b) and in terms of section 7(1)(b) no later than four days from the date of receipt of a request.

(3) A request for the calling of a special meeting, as contemplated in section 7(1)(b), must –

(a) be signed by no less than fifty percent plus one of all councillors of the municipality;  
and

(b) be accompanied by –

- (i) a duly signed notice of motion; and
  - (ii) a written statement by the councillor signing the notice of motion giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.
- (c) If the speaker fails to convene a meeting in terms of this section, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.

### **Service of notices and agenda**

- 8.**(1) Notice to attend a meeting or any other official communication from the council, must be delivered to –
- (a) a physical address within the area of jurisdiction of the municipality; or
  - (b) an e-mail address;
  - (c) facsimile; or
  - (d) by a short message service:

Provided that contact details must be supplied by each councillor to the municipal manager in writing within two days of a councillor's election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor will accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

(2) All documentation relevant to any council or committee meeting, except special meetings convened in terms of section 7, must be given to all councillors at least five calendar days prior to an ordinary council or committee meeting and two calendar days prior to a special council or special committee meeting.

(3) All councillors must inform the speaker of any change of his contact details within three days of such change.

(4) Subject to section 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

### **Non-receipt of notice**

- 9.**(a) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.
- (b) Non-receipt of a notice to attend a meeting will not affect the validity of any meeting or proceedings of council or any of its committees.

## **CHAPTER 4**

### **QUORUM**

#### **Quorum**

10.(1)(a) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent plus one of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.

(b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the council meeting.

(2)(a) Notwithstanding that there may be vacancies, a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter.

b) Subject to a quorum, the failure of any councilor to vote will not invalidate the proceedings of the committee meeting.

#### **Cancellation and adjournment in absence of quorum**

##### **Cancellation**

11.(1) No meeting may take place, if no quorum is present fifteen minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding a further fifteen minutes for a quorum, whereafter if no quorum is present, the meeting must be cancelled.

##### **Adjournment**

(2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she must –

(a) count the councillors present;

(b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;

(c) if a quorum becomes present after the adjournment then the meeting must continue;

(d) if no quorum becomes present after the adjournment then the chairperson or speaker must forthwith adjourn the meeting.

(3) When a meeting is adjourned as a result of no quorum, the meeting will be re-convened within seven days as a continuation meeting.

## **CHAPTER 5 ATTENDANCE**

### **Attendance**

**12.(1)** All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when –

- (a) leave of absence is granted in terms of section 13;
- (b) that councillor is required to withdraw in terms of section 46(b); or
- (c) that councillor is absent with the permission of the speaker or chairperson.

(2) Each councillor attending any meeting of the council or a committee of the council must sign an attendance register provided for that purpose.

(3) The attendance register must be filed in the office of the municipal manager.

(4) Any councillor who is entitled to leave of absence in terms of section 13 and no longer requires such leave, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.

### **Leave of absence**

**13.(1)** Leave of absence must not be granted by the Speaker in such a manner that more than the number required for a quorum will at any one time be absent.

(2) If a councillor –

- (a) is unable to attend a meeting of which notice had been given; or
- (b) is unable to remain in attendance at a meeting; or
- (c) will arrive after the stipulated commencement time of a meeting,

he or she will, as soon as is reasonably possible and prior to that meeting, lodge with the municipal manager a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and bona fide reasons for the application and show good cause for the granting of the application.

(3) The municipal manager must as soon as possible inform the speaker or chairperson of the meeting concerned of any application for leave of absence received.

(4) The speaker or chairperson of the meeting concerned must as soon as possible consider

an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his decision.

(5) The municipal manager must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision.

(6) A councillor will be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she –

- (a) failed to attend a meeting; or
- (b) failed to remain in attendance at a meeting.

(7) Where a councillor fails to remain in attendance at a meeting –

- (a) without being granted permission to do so; or
- (b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting,

the time of leaving must be recorded in the minutes of the meeting and that councillor will be deemed to have been absent without leave at that meeting.

(8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of section 12(2).

(9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.

### **Non-attendance**

**14.(1)(a)** Subject to compliance with the procedure set out in section 13 and the provisions of item 4(2) of Schedule 1 of the Systems Act, a councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.

(b) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3 of Schedule 1 of the Systems Act, must be removed from office as a councillor in accordance with section 14(2)(e) of the Systems Act.

(c) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt.

(2) Where a councillor has been absent without obtaining leave from a meeting–

(a) the Rules Committee as contemplated in section 43 or the speaker or chairperson as the case may be, must invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;

(b) the speaker or chairperson must consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;

(c) the councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision.

(d) the council or committee, as the case may be, must –

(i) allow the councillor an opportunity to make representations, oral or written; and

(ii) consider the councillor's appeal, together with any comments from the speaker or chairperson of the meeting concerned;

(iii) make a finding as to whether the councillor was absent with or without good cause.

(3) The municipal manager must keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and must submit a written report to the speaker whenever a councillor is absent from three or more consecutive meetings which that councillor was required to attend.

(4) Where the speaker receives a report in terms of section 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

## **CHAPTER 6 ADJOURNMENT**

### **Adjourned meetings**

**15.** Subject to section 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

### **Continuation meeting**

16.(1) When a meeting is adjourned, notice of the continuation meeting must be served in terms of section 8.

(2) No business will be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

## **CHAPTER 7 PROCEEDINGS**

### **Speaker and chairpersons of meetings**

17.(1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, will be the chairperson and will perform the duties stipulated in terms of section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of these Rules and Orders and the Code of Conduct.

(2) The speaker and chairperson of council and committee meetings –

(a) must maintain order during meetings;

(b) must ensure compliance in the council with the Code of Conduct for Councillors;  
and

(c) must ensure that meetings are conducted in accordance with these Rules and Orders.

(3) If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councillor to act as speaker or chairperson as the case may be.

(4) No meeting of the council or a committee of the council may commence or continue unless a speaker or chairperson presides at a meeting.

### **Minutes**

18.(a) The proceedings of every council meeting must be accurately and electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.

(b) Written minutes of the proceedings of each council and committee meeting must contain an accurate record of the resolutions adopted by council at such meeting.

(c) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.

(d) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

**Order of business**

19.(1) The order of business at every meeting of the council or its executive committee or committee of council , as may be applicable, is as follows:

(a)

Council	Executive Committee / Mayoral Committee	Committee
<ul style="list-style-type: none"> <li>• Opening: Moment of reflection</li> <li>• Notice of the meeting</li> <li>• Granted leave of absence</li> <li>• Acceptance of the agenda</li> <li>• Declaration of interest</li> <li>• <b><u>Announcements</u></b></li> <li>• Deputations</li> <li>• Confirmation of minutes from the previous meeting</li> <li>• Outstanding matters</li> <li>• Submission of reports from Council representatives from District/Local municipality</li> <li>• Reports of the Executive Committee / Executive Mayor, under the sections: recommendations to the council, decisions under delegated authority and decisions of the Executive Committee</li> <li>• Reports from MPAC</li> <li>• Report from the Audit Committee</li> <li>• Reports on ward committees/ consolidated report on ward committees</li> <li>• Report on SALGA activities</li> <li>• Monthly Activities</li> <li>• Input by the Traditional Leader</li> <li>• Reports for noting</li> <li>• Reports for consideration</li> <li>• Reports - In-Committee;</li> </ul>	<ul style="list-style-type: none"> <li>Opening: Moment of reflection</li> <li>• Notice of the meeting</li> <li>• Applications for leave of absence</li> <li>• Acceptance of the agenda</li> <li>• Declaration of interest</li> <li>• <b><u>Announcements</u></b></li> <li>• Presentations</li> <li>• Confirmation of minutes from previous minutes</li> <li>• Outstanding matters</li> <li>• Reports from Portfolio Committees</li> <li>• Reports from Audit Committees</li> <li>• Reports for noting</li> <li>• Reports for consideration</li> <li>• In-Committee reports</li> <li>• Urgent reports allowed- only with the consensus of the chairperson; and</li> </ul>	<ul style="list-style-type: none"> <li>Opening: Moment of reflection</li> <li>• Notice of the meeting</li> <li>• Applications for leave of absence</li> <li>• Acceptance of the agenda</li> <li>• Declaration of interest</li> <li>• <b><u>Announcements</u></b></li> <li>• Presentations</li> <li>• Confirmation of minutes from previous minutes</li> <li>• Outstanding matters</li> <li>• Reports for noting</li> <li>• Reports for consideration</li> <li>• In-Committee reports</li> <li>• Notice of Motion</li> <li>• Urgent reports allowed only with the consensus of the chairperson; and</li> </ul>



<ul style="list-style-type: none"> <li>• Notice of Motion</li> <li>• Questions of which Notice has been given</li> <li>• Urgent reports - allowed only with the consensus of the chairperson; and</li> <li>• General matters of an urgent nature</li> </ul>		
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(2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

**Confirmation of minutes of previous meeting**

20.(1) The minutes of every meeting must be confirmed at the next ordinary meeting of that council or committee and must be signed by the speaker or chairperson.

(2) No motion or discussion will be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

**Deputations**

21.(a) A deputation wishing to address the council or a committee of council must submit a memorandum to the municipal manager in which is set out the representations it wishes to make.

(b) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.

(c) The municipal manager must submit the memorandum to the council or a committee of the council, which may receive the deputation.

(d) Any matter requiring consideration arising from a deputation, will not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.

(e) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, must obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.

(f) When speaking at a council or committee meeting, a member of the public and a

deputation must comply with any directions or orders given by the speaker or chairperson.

(g) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts.

(h) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of section 21(f) and section 21(g) will be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

### **Reports**

**22.(a)** Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of section 8.

(b) The speaker or chairperson must allow debate in accordance with sections 34, 35, 36, 37, 38, 39 and 40 on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report must be held, at the next meeting.

### **Motions**

**23.(1)** No subject will be brought before council or a committee of council by a councillor except by way of notice of motion.

(2) A notice of motion must –

(a) be in writing; and

(b) be signed by the councillor submitting it and by another councillor acting as seconder; and

(c) refer to one matter only.

(3) A notice of motion must, subject to section 7, be lodged with the municipal manager before 12h00 seven calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.

- (4) The municipal manager must –
- (a) date and number each notice of motion;
  - (b) enter each notice of motion lodged in a register, which must be open to inspection by any councillor and the public; and must
  - (c) enter each notice of motion on the agenda in the order received.
- (5) The speaker or chairperson must –
- (a) read out the number of every motion and the name of the mover and seconder;
  - (b) ascertain which motions are unopposed and these will be passed without debate; and
  - (c) call the movers of the opposed motions in the order they appear on the agenda.
- (6) A councillor submitting a motion must move such motion and will have the right of reply.
- (7) A motion will lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.
- (8) A councillor will be allowed not more than three notices of motion on the same agenda.
- (9) The speaker or chairperson must not reject a motion received by him or her in terms of these Rules and Orders.

### **Questions**

- 24.(a)** A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting.
- (b) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question.

### **Supply of information to a councillor**

**25.(a)** No councillor may approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.

(b) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

### **General matters of an urgent nature**

**26.(a)** General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or chairperson, which consent will not be unreasonably withheld.

(b) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

### **Interpretation**

**27.** If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

### **In-committee**

**28.(a)** Subject to section 5, the council or a committee of council may, at any time, resolve to proceed in-committee.

(b) The public will be excluded from any in-committee meetings.

(c) The municipal manager or another official exempted from this section by the speaker or chairperson, will not be excluded from any in-committee meeting.

(d) All proceedings in-committee must be recorded in terms of section 18(1) and 18(2) and must be confidential.

(e) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

28.2 The Council will deal In Committee when discussing any of the following matters:

- (a) a trade secret or confidential commercial information of any supplier of the municipality or any person rendering a service to the municipality;
- (b) personal and private information of any councillor or an employee of the municipality;
- (c) the intention of the municipality to purchase or acquire land or buildings;
- (d) the price a municipality may offer for the purchase or acquisition of land or buildings;
- (e) any report addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;
- (f) disciplinary proceedings or proposed disciplinary proceedings again against any employee;
- (g) any matter that might not be disclosed in terms of legislation;
- (h) consideration of the minutes of previous In Committee discussions.

28.3 A councillor may, when an item in the agenda is put to order, other than a matter referred to in 28.2 above, and provided it is not a matter that is required in law to be dealt with in open council, propose with motivation, that the matter be further dealt with In Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.

## **CHAPTER 8 VOTING**

### **Decisions by voting**

**29.(1)** A quorum must be present in order for a vote to be taken.

(2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice –

- (a) the passing of by-laws;
- (b) the approval of budgets;
- (c) the imposition of rates and other taxes, levies and duties;
- (d) the raising of loans;
- (e) the rescission of a council resolution within 6 months of the taking thereof; and
- (f) any other matter prescribed by legislation.

(3) All other questions before the council must be decided by a majority of the votes cast by the councillors present.

(4) If on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson will not exercise a casting vote during the election of any office bearer of council and when Council considers matters listed in section 162 of the Constitution.

### **Method of voting**

**30.**(a) Voting will be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.

(b) During the taking of a vote no councillor may leave the council chamber or committee room.

(c) The municipal manager or his nominee, will count the votes cast and will record the result of voting, but the speaker or chairperson will announce the result.

### **Dissenting votes and Abstention**

**31.1.** A councillor may request that his dissenting vote be recorded as evidence of how he or she voted on the motion.

**31.2** A member may abstain from voting without leaving the chamber.

## **CHAPTER 9**

### **REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS**

#### **Revocation of Council Resolutions**

**32.**(a) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.

(b) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.

(c) Any revocation or alteration of a council resolution must be made within a period of six months as provided for in section 29(2)(e).

### **Revocation of Committee Resolutions**

**33.(a)** Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.

(b) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.

(c) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

## **CHAPTER 10 DEBATE**

### **Opportunity to speak**

**34.(a)** A councillor may only speak when so directed by the speaker or chairperson.

(b) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld.

(c) Councillors and officials must direct their address to the speaker or chairperson.

### **Relevance**

**35.** Every speaker must restrict him or herself strictly to the matter under consideration.

### **Length of speeches**

**36.** Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech will exceed five minutes in length without the consent of the speaker or chairperson.

### **Councillors to speak only once**

**37.** A councillor may not speak more than once on any motion or proposal provided that the mover of the motion may speak to the motion, will have the right of reply and the reply will be confined to answering previous speakers and will not introduce any new matter into the

debate.

### **Precedence of the speaker or chairperson**

**38.** Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

### **Points of order**

**39.(a)** Any councillor may raise a point of order at any time by standing to draw the attention of the speaker or chairperson.

(b) Any member will only be allowed to raise one point of order and one point of personal explanation during the council meeting. Only one point of order on the same matter will be allowed.

(c) The ruling of the speaker or chairperson on a point of order will be final and will not be open to discussion.

### **Explanation**

**40.** Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

## **CHAPTER 11 CONDUCT**

### **General conduct**

**41.(1)** The Speaker or the chairperson of the meeting in the event of a meeting other than a council meeting shall:

- a) Maintain order during meetings
- b) Ensure compliance with the Code of Conduct for Councillors during meetings
- c) Ensure that meetings are conducted in accordance with the Council's Rules and Orders
- d) Ensure that members conduct themselves in a dignified and orderly manner during meetings are dressed appropriately for the dignity of the meeting and ensure that no political party attire or regalia is acceptable within the Council Chamber



- e) Ensure that members of the public attending meetings are seated in areas designated for that purpose
- f) Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or chairperson of the meeting
- g) Ensure that any councillor or member of the public refusing to comply with the ruling of the Speaker or chairperson leaves the meeting
- h) Ensure that Council conduct its business in the highest decorum and integrity that the occasion deserves;
- i) Ensure adherence to the code of conduct (j) Ensure adherence to the rule of law and the by-laws of the municipality;
- j) Ensure that all members do not use offensive or objectionable language; and
- k) Ensure that members do not use a cellular phone during, bring a firearm or any dangerous weapon into, a meeting of council or any of its committees.

#### **Misconduct and Disorderly Conduct of a Councillor or persons other than Councillors**

**42.(a)** The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.

(b) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker must direct the councillor or councillors to conduct himself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.

(c) In the event of persistent disregard of the directions of the speaker, the speaker must direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalised.

(d) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these Rules and Orders and the Code of Conduct.

(e) Where a councillor refuses to retire from a meeting or in the event of more than one councillor having to be ejected from the meeting, and such councillor/s refuse/s to leave the meeting, the Speaker shall request an authorised official to facilitate the removal of such councillor/s from the chamber. If this cannot be done orderly, the chairperson of a meeting

may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councillors to retire or to be ejected from the venue of the meeting. If, at the resumption of proceedings, the councillor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation. The chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any councillor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue. The authorised official of the council will ensure that such councillor/s do/es not enter such an alternative venue.

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

## **CHAPTER 12 COMMITTEES**

### **Rules Committee**

**43.**(a) The municipal council may by resolution of a majority of councillors establish a special committee to be known as the Rules Committee to investigate and make findings on any alleged breaches of the Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning these Rules and Orders.

(b) The Rules Committee will consist of the speaker, the mayor and one representative of each political party represented on the council, such representative to be nominated from time to time by each political party.

### **Own rules**

**44.**(a) These Rules and Orders are applicable to all Committees of the Council. No Committee of the Council may determine its own rules. .

### **The chairperson**

**45.(1)** The chairperson of a committee must–

- (a) preside at every meeting of the committee at which he or she is present; and
- (b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, will give a second or casting vote.

(2) In his absence, the acting or deputy chairperson will have the same powers and rights of voting as those possessed by the chairperson.

## **CHAPTER 13 PECUNIARY INTEREST**

### **Declaration of pecuniary interest**

**46.(a)** A councillor must disclose to the municipal council , or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or committee.

(b) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.

(c) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.

(d) The disclosure of interests in terms of section 46(a) and benefit in terms of section 46(c) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

(e) When elected or appointed, a councillor must within 60 days or as soon as possible

thereafter declare in writing to the municipal manager the financial interests referred to in item 7 of schedule 1 of the Systems Act.

## **CHAPTER 14 BREACH AND SANCTIONS**

### **Breach**

**47.** Any councillor who fails or refuses to obey these Rules and Orders, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

### **Sanction**

**48.** Where it is alleged that a councillor has breached these Rules and Orders, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and may impose a sanction in keeping with the Uniform Standing procedure.

## **CHAPTER 15 GENERAL PROVISIONS**

### **Suspension of a rule or order**

**49.(1)** In instances of urgency or where a council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a section, provided that:

- (a) such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
- (b) no section may be relaxed when the removal of any political office bearer is before the council.
- (b) the suspension or relaxation of the section relates to an item on the agenda for the meeting of the council or committee of the council; and
- (c) section 23 must not be suspended; and
- (d) the reasons for the suspension of the section are recorded in the minutes of the meeting.

**Adoption as by-law**

**50.** These Rules and Orders be adopted as a by-law of the **Mandeni** Municipality.

**Repeal of existing Rules and Orders**

**51.** The council's existing Rules and Orders are hereby repealed.

**Short title and commencement**

**52.** These Rules and Orders will be called the **Mandeni** Municipal Standing Rules and Orders, 2016.