Cape Agulhas, South Africa

Rules of Order for Internal Arrangements By-law, 2013

Legislation as at 18 October 2013

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Repealed

Cape Agulhas
South Africa

Rules of Order for Internal Arrangements By-law, 2013

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[This by-law does not explicitly repeal the 2005 Rules of Order Regulating the Conduct of Meetings by-law.]

Part 1 – General

1. Definitions

In this by-law, unless inconsistent with the context-

"**council**" means the municipal council of the Municipality of Cape Agulhas;

"**code**" means the Code of Conduct for Councillors as set out in Schedule 1 of the Systems Act;

"**committee**" means a committee established by the Council in terms of section 79 of the Structures Act;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**MEC**" means the member of the Provincial Executive Council responsible for local government in the province of the Western Cape;

"**meeting**" means the meetings of the council;

"**motion**" means a motion of which notice is given by a member but shall not include a motion as contemplated in sections 38 and 39;

"**member**" means a member of the council;

"**municipal manager**" means the person appointed by council in terms of the Structures Act, or a person delegated by the municipal manager;

"**rules**" means the provisions of this by-law;

"**speaker**" means the member elected as chairperson of the council or any other member acting as chairperson of the council;

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"**working day**" means any day of the week except Saturday or Sunday or a public holiday.

Part 2 – Application of Rules

2. Application

(1) These rules apply to all meetings.

(2) Except where it is clearly inappropriate, a rule applying to a member in any proceedings, also apply to a non-member who takes part in those proceedings with the approval of the speaker.

(3) These rules apply to all meetings of committees except to committees established, in terms of item 14(1)(b) of the Code and section 62 of the Systems Act. Unless clearly inappropriate, any reference to the Council is regarded as a reference to the committee, and any reference to the speaker is regarded as a reference to the chairperson of the committee or a person acting as the chairperson of the committee.

3. Supplementation

(1) The speaker may give a ruling in respect of any eventuality for which these rules do not provide and no further discussion shall be allowed on the ruling.

(2) The ruling of the speaker must be entered into the minutes.

Part 3 – Meetings

4. Commencement of meeting

The speaker must take the chair precisely at the time the meeting has been scheduled for and must proceed immediately with the business of the meeting subject to section 14.

5. Order of business

(1) The order of business in ordinary meetings is as follows, unless the order has been changed as provided for in the by-law-

(a) election of acting speaker, if necessary;

(b) applications for leave of absence;

(c) confirmation of minutes;

(d) statements and communications by the speaker;

(e) statements and communications by the executive mayor;

(f) consideration of reports;

(g) report on delegated powers;

(g) urgent matters submitted by the municipal manager;

(h) consideration of notices of motion;

(i) consideration of questions;

(j) consideration of motions of exigency.

(2) The speaker may of his or her own volition change the order of the business appearing on the agenda.

(3) A member who wishes to have the order of business on the agenda changed must approach the speaker prior to the meeting.

6. Non-disclosure of matters

(1) Whenever the municipal manager, in his or her discretion, has before the meeting provisionally placed any matter on a part of the agenda which will not be disclosed to the public or during a

meeting requested the speaker to exclude the public from a discussion, the speaker, when such matters are to be considered, must:

(a) direct that all members of the public leave the venue of the meeting, and

(b) direct that the members consider whether it would be reasonable for any or all of the items on such part of the agenda to be considered without the presence of the public, with due regard to section 160(7) of the Constitution which requires that the public and media may only be excluded from being present at a meeting when it is reasonable to do so, having regard to the nature of the business being transacted.

(2) The motivation for the exclusion of the public must be minuted if not appearing from the report.

7. Speaker may introduce urgent matter

The speaker may at any time and without notice make any statement or introduce urgent matters.

8. Business to be transacted

Except as otherwise provided in these rules, no matter not specified in the agenda of a meeting may be transacted at such meeting.

9. Meetings

(1) Council must meet at least quarterly.

(2) All meetings must be open to members of the public, unless they have been excluded under rule 6.

(3) The municipal manager or, in his or her absence, a person designated by the speaker must give notice to each councilor and to the public of every meeting.

(4) If the position of speaker is vacant, the municipal manager or, in the absence of the municipal manager, a person designated by the Provincial Minister, must-

(a) convene a special meeting to elect a speaker or an acting speaker; and

(b) give notice to each councilor and to the public of the meeting.

(5) The speaker decides when and where the council meets, but if a majority of the members request the speaker in writing to convene a meeting, the speaker must convene a meeting at a time set out in the request.

(6) If the speaker fails to convene a special council meeting referred to in rule 9(5), the majority of councilors may request the municipal manager to convene such meeting and the municipal manager must convene such meeting at a time set out in the request.

(7) A notice by the majority of councilors must clearly indicate the business that will be conducted at the special council meeting. No other business, except with the agreement of the majority of councilors, may be conducted at the special council meeting.

(8) The notice referred to in rule 9(3) and 9(6) must state the date, time and venue of the meeting, and must be-

(a) given in writing, together with the agenda, to each councilor by any reasonable means to achieve the purpose;

(b) published in a local newspaper determined by the Municipal Manager or a person designated; and

(c) posted on a notice board at the municipality's head office.

(9) The municipal manager or person designated must give notice to the public of the date, time and venue of every meeting by publishing a notice in a local newspaper determined by him or

her; provided that he or she may depart from this requirement when time constraints make this impossible.

10. Attendance at meetings

(1) Every member attending a meeting of the council must sign his or her name in the attendance register kept for such purpose.

(2) A member must attend each meeting except when-

(a) leave of absence is granted in terms of section 11; or

(b) the member is required to withdraw in terms of law.

11. Leave of absence

(1) A councilor must, before absenting himself or herself from a meeting, make an application to the speaker by signing a leave form and delivering the completed leave form to the municipal manager at least 72 hours before the meeting.

(2) The municipal manager must submit the application to the speaker before the commencement of the meeting.

(3) Upon receipt of the application referred to in sub rule (1), the speaker must consider the application, and may, approve or reject the application. The speaker must notify the councilor of his or her decision at least 24 hours before the meeting.

(4) The speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub rule (1).

(5) The special circumstances referred to in sub rule (4) may include-

(a) illness of the councilor; or

(b) illness or death in the family of the councilor.

(6) The names of all councilors present at a meeting and of all councilors to whom leave of absence from the meeting has been granted must be entered into the minutes.

(7) If the speaker rejects the application referred to in sub rule (1) he or she must provide a reason therefor.

(8) Sub rules (1) to (6) apply with the necessary changes, in respect of the speaker and in such application, a reference in those sub rules to the speaker is regarded to be a reference to the Council.

12. Sanctions for non-attendance

(1) A member who without leave absents himself or herself from a meeting or who fails to be in attendance at the start of the meeting or fails to remain in attendance at such a meeting, is in breach of these rules.

(2) A councillor who is absent from three or more consecutive meetings which he or she is required to attend in terms of these Rules is in breach of the Code.

(3) The Council may appoint a special committee comprising of councilors to investigate and report to the Council on any alleged breach referred to in sub rule (1) or (2).

(4) The special committee must notify the councilor in writing of his or her alleged breach of the rules or the Code. The councilor must be given seven days from date of the written notice to respond in writing regarding the alleged breach.

(5) The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the special committee.

(6) If the Council finds that a councilor has breached the rules as contemplated in sub rule (1), the Council must fine the councilor 10% of his monthly salary.

(7) If the Council finds that a councilor has breached the Code as contemplated in sub rule (2), the Council must request the Provincial Minister to remove the councilor from office.

(8) Sub rules (1) to (7) apply, with the necessary changes, in respect of the speaker.

13. Minutes

(1) The municipal manager must-

(a) compile the minutes of the proceedings of meetings in printed form within two weeks of the meeting;

(b) provide each councilor with a copy of the minutes within a reasonable period;

(c) keep a record of the signed minutes.

(2) The minutes of a meeting must be confirmed by the council at the next meeting and signed by the speaker.

(3) The minutes shall be taken as read, for the purpose of confirmation, if a copy thereof was sent to each member within a reasonable period before the next meeting.

(4) No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.

(5) If a councillor is dissatisfied with the correctness of the minutes the councilor must-

(a) state the item with which he or she is dissatisfied; and

(b) propose a motion clearly outlining the alternative wording to amend the minutes.

(6) The minutes of a meeting must set out the date, time and place of the meeting and the decision or other action taken at the meeting.

14. Quorum

(1) A majority of the members constitutes a quorum as referred to in section 30(1) of the Structures Act.

(2) If there is no quorum at the time for which the meeting is scheduled, the speaker must take the chair as soon as a quorum is present.

(3) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.

(4) Whenever the speaker is not present and there is no quorum, the start of the meeting must be delayed for no more than 30 minutes and if there is no quorum at the end of that period, no meeting may take place and the municipal manager must record the names of the members present.

(5) Whenever during a meeting there is no quorum, the speaker must suspend the proceedings until a quorum is again present, provided that if after 10 minutes or such longer time the Speaker may allow, there is still no quorum the speaker must adjourn the meeting.

(6) Whenever a meeting is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.

(7) The speaker must report the names of the absentee members to the committee established in terms of section 12 for the purposes of an investigation of a breach of these rules.

Part 4 – Decisions

15. Unopposed matters

Whenever council is called upon to consider a matter before it and there is no opposition from any member, a unanimous vote will be recorded in the minutes.

16. Opposed matters

(1) The speaker must put every opposed matter to the vote by calling upon the members to indicate by a show of hands unless otherwise prescribed by law, whether they are for such matter or against it, whereupon he or she must declare the result of such vote.

(2) Upon the speaker's declaration of the result of a vote, a member may demand for his or her vote to be recorded against the decision concerned and the municipal manager shall ensure that such vote is recorded in the minutes.

(3) If there is an equality of votes in respect of a matter on which voting takes place in accordance with sub-section (1) the speaker must exercise his or her casting vote, in addition to his or her deliberative vote, provided that the speaker may not exercise a casting vote in terms of any matter set out in section 160(2) of the Constitution.

17. Decisions

(1) In accordance with the Constitution, a supporting vote of a majority of the members is necessary to decide on-

(a) the passing of by-laws;

(b) the approval of the budget;

(c) the imposition of rates and other taxes, levies and duties;

(d) the raising of loans.

(2) In accordance with section 30(5) of the Structures Act a supporting vote of at least two-thirds of the members is necessary to adopt a decision to dissolve the council.

(3) All other questions before the Council are decided by a majority of the votes cast, as contemplated by section 160(3)(c) of the Constitution.

(4) If there is an equality of votes on any matter, the Speaker must exercise a casting vote, as contemplated by section 30(4) of the Structures Act.

18. Preference to unopposed business

(1) When a meeting has been in progress for not less than one hour the speaker may interrupt the proceedings and direct that the council proceed forthwith to dispose of business other than opposed business.

(2) After the disposal of such business the proceedings shall be resumed at the point at which they were interrupted, unless all other remaining business has been adjourned until the next meeting.

(3) An item on the agenda shall be deemed to be opposed business if a member signifies his intention to discuss such item immediately after the speaker has intimated to the meeting that such item is open for discussion; provided that no item shall be deemed to be opposed by reason only of matters being asked in connection therewith.

Repealed

Part 5 – Public access

19. Admittance of public

(1) The speaker must take reasonable steps to regulate public access to, and public conduct at meetings.

(2) The speaker may allocate reasonable time to any member of the public who wishes to address the council, having regard to-

(a) the nature of the matter to be discussed;

(b) priorities in relation to other Council business;

(c) other members of the public present who also wish to address the Council; and

(d) whether such an opportunity has already been provided to the member of the public.

(3) A member of the public who wishes to address the Council must apply in writing to the speaker, stating the matter on which he or she wishes to speak.

20. Exclusion of the public from meetings

(1) The public may be excluded from the meeting:

(a) where so directed by the speaker in terms of section 6, or

(b) where so decided by council in terms of sub-section (3).

(2) If a motion by to exclude the public from the meeting is seconded, the motion must be put to the vote, after discussion of the reasons but without discussion of the matter.

(3) If a motion to exclude the public is carried, the place of meeting shall be cleared of all members of the public, including the media.

(4) The motivation for the exclusion of the public must be minuted.

21. Re-admission of public and media to meetings

(1) A member may during the course of the meeting from which the public and the media were excluded, move "that the meeting again be opened" and state the reasons for such motion.

(2) If such motion is seconded it shall be put to the vote forthwith without discussion.

Part 6 – Order in meetings

22. Conduct of non-members and members of the public

If a non-member or member of the public misconducts himself or herself, behaves in an unseemly manner or obstructs the business of any meeting, the speaker may direct such person to retire from the place of meeting for the remainder of the meeting and may, if necessary, cause him or her to be removed therefrom.

23. Conduct of members

(1) If a member-

(a) misconducts himself or herself, or

(b) behaves in an unseemly manner, or

(c) obstructs the business of a meeting, or

(d) challenges the ruling of the speaker on any point of order or ruling, or

(e) declines to withdraw any expression when required to do so by the speaker, or

(f) indulges in tedious repetition, unbecoming language or remarks which are of a defamatory nature, or

(g) commits any breach of these rules,

(2) If a councilor or member of the public breaches sub rule (1) the speaker must direct the councillor or member of the public to refrain from the breach.

(3) If a councilor or member of the public disregards the directions of the Speaker under sub rule (2), the speaker may direct the councilor or member of the public-

(a) if speaking, to discontinue his or her speech; or

(b) to withdraw from the place of meeting for the remainder of the meeting or, if necessary, to be removed by a person designated by the speaker.

(4) If the speaker fails to act under sub rule (3), any councilor may move a motion to require the speaker to do so.

(5) The motion referred to in sub rule (4) must be moved without notice, and if the motion is seconded, it must be put to the vote forthwith without debate.

24. Offence

Any non-member or member of the public who-

(a) refuses or fails to comply with a direction of the speaker given in terms of section 22; or

(b) returns to the place of meeting prior to the conclusion of the meeting from which he or she was directed to retire or to be removed;

(c) offers resistance whilst being removed from the place of meeting,

shall be guilty of an offence and liable on conviction to a fine determined by the court or to imprisonment for a period as determined by the court.

Part 7 – Rules of debate

25. Member to address the chair

A member who speaks at a meeting must address the chair and may do so in any one of the three official languages of the Province of the Western Cape.

26. Order of priority

When a member wishes to address the council, he or she must first have the permission of the speaker.

27. Precedence of Speaker

Whenever the speaker addresses the meeting, all members must be silent so that the speaker may be heard without any interruption.

Repealed

28. Relevance

(1) A member who speaks must direct his speech strictly to the subject or matter under discussion or to an explanation or to a point of order.

(2) No discussion may be permitted-

(a) which will anticipate any matter on the agenda;

(b) on any matter in respect of which a decision by a judicial or administrative body or a commission of enquiry is pending.

29. Right to speak

(1) A member on recognition of the speaker, may only speak once-

(a) to the matter before the council;

(b) to any motion before the council;

(c) to any amendments to a matter or motion before the council;

(d) to a point of order or a question of privilege,

unless authorised by the speaker or as provided for in terms of these rules.

(2) The mover of an original motion may speak to the motion and reply but in replying he or she must strictly confine himself or herself to answering previous speakers and may not introduce any new matter into the debate.

(3) The right of reply shall not extend to the mover of an amendment which, having been carried, has become the substantive motion.

(4) A councillor who is not a member of a committee has the right to speak at that committee meeting provided that such councilor has been invited in writing by the chairperson to attend such meeting for a specific item on the agenda.

(5) Councillors who attend and speak at a committee meeting without being invited, will not be protected by the Western Cape Privileges and Immunities of Councillors Act, 2011 (Act No 7 of 2011).

(6) A Councillor must avoid personal attacks on other councilors and must refrain from impugning the motives for any argument or vote of another councilors.

(7) A councilor may not be interrupted while speaking, unless called to order by the speaker or a point of order is raised by any other councillor.

(8) The speaker may not recognize a councilor to speak on a matter once that matter has been voted on.

(9) The speaker may not allow a debate on a matter-

(a) which may anticipate any matter on the agenda; or

(b) in respect of which a decision by a judicial or administrative body or a commission of enquiry is pending.

30. Length of speeches

Except with the consent of the speaker no member may speak for more than five minutes.

Repealed

31. Debate management

(1) At least 24 hours prior to a meeting of Council, the political whips of the parties in Council, must provide to the speaker a list showing-

(a) which items on the agenda for that meeting are to be debated;

(b) the total time to be allocated to the debate of each item, provided that, the maximum time allocated for debate on each item on the agenda will be thirty (30) minutes.

(2) Based on the list drawn up in terms of sub rule (1), each party must deliver to the speaker, at least 12 hours before a Council meeting, a list of the councillors who will speak on an item, and the time allocated to each such councillor, provided that the total time located to all councillors of a party shall not exceed the time allocated to that party in terms of sub rule (1)(b).

(3) On receipt of the lists referred to in sub rule (2), the Speaker must, if he or she wishes to deviate from the provisions of those lists, convey his or her decision in this regard to the political whips of the parties in Council, within a reasonable time prior to the Council meeting.

(4) All matters before the Council which are not listed in accordance with sub rule (1) must individually be put to the meeting for adoption without debate, before the matters listed in sub rule (1) are considered.

(5) At the discretion of the Speaker, a time of five minutes of response maybe allowed to the Mayor or relevant Member of the Mayoral Committee, or the mover of a motion, to conclude the debate on an item debated in terms of sub rule (2).

(6) Notwithstanding any provisions contained in sub rules (1) to (5), the Speaker may not, when exercising any discretion in terms of these Rules, prejudice any party in respect of time allocated in relation to any party. The ruling of the Speaker after exercising his discretion in this regard shall be final.

32. Content of debate

(1) A councillor who speaks must direct his or her speech to the matter before the Council.

(2) If a councillor persists in irrelevance after being requested by the Speaker to confine his or her speech to the matter before the Council, the Speaker must order him or her to be seated and not to speak further in respect of that matter.

(3) Councillors and members of the public must preserve order and decorum at meetings, and they may not indulge in tedious repetition of arguments, or unbecoming language or remarks which are of a defamatory nature.

33. Points of order

(1) A councillor may interject during a meeting to raise a point of order to call the attention of the Speaker to a breach of the rules or a statutory provision.

(2) A point of order may be raised in relation to-

(a) a procedural matter; or

(b) the conduct of a councillor, a member of the public, or an employee of the municipality.

(3) A councillor raising a point of order must immediately be heard, and he or she must-

(a) state the point of order; and

(b) the rule or statutory provision that is being breached.

(4) A councillor who is speaking when a point of order is raised must immediately stop speaking until the point of order is ruled on by the Speaker. All other matters before the Council must be suspended until the point of order is ruled on.

(5) If ruled to be in order, the councillor must be allowed to proceed with his or her speech.

(6) If ruled to be out of order, the councillor must remain silent or must retract or change any remarks so as to comply with the ruling.

(7) The speaker's ruling on a point of order is final and not open to debate, and it must be entered in the minutes.

34. Explanations

(1) The Speaker may allow a councillor to explain a previous speech, but only when and to the extent that a material part of the speech may have been misunderstood.

(2) The councillor giving the explanation may not introduce any new matter, and no debate on the explanation may be allowed

35. Re-introduction of motion or question

No motion which has been rejected by the council and no question asked in terms of the rules and dealt with at any meeting may again be moved or asked within a period of three months of such meeting except with the consent of the speaker.

36. Notices of motions

(1) Subject to section 35(2), the speaker may not accept any motion except a motion of exigency or a motion of course unless notice thereof has been given in terms of subsection (2).

(2) Every notice of intention by a member to introduce a motion shall be in writing, motivated, signed and dated and delivered to the municipal manager at least six working days before the date of the meeting on which it is intended to be introduced.

37. Notices of questions

(1) Subject to section 35(2) and 37, the speaker may not accept any question unless notice thereof has been given in terms of sub-section (2).

(2) Every notice of intention by a member to introduce a question shall be in writing, motivated, signed and dated and delivered to the municipal manager at least six working days before the date of the meeting on which it is intended to be introduced.

38. Absence of mover or questioner

In the event of the mover or questioner not being present at the meeting of the council when called upon by the speaker to move a motion or ask a question standing in his name on the agenda, such motion or question shall lapse unless the original mover or questioner has notified the speaker in writing of a substitute to move the motion or ask the question.

39. Motions

A councillor may move a motion only when it is put by the Speaker and if seconded by another councillor, except if provided otherwise in these rules.

Repealed

40. Notice of motions

(1) Unless provided otherwise in these rules, a notice of motion must be in writing, motivated, signed by the relevant councillor, dated and delivered to the Speaker at least six working days before the date of the meeting at which it is to be moved.

(2) The Speaker must either put the motion in the agenda or refer such motion to the committee which is dealing with the matter.

(3) Sub rule (1) does not apply to the following motions:

(a) A motion of exigency; or

(b) a motion of course.

41. Questions

(1) After a motion has been moved and seconded or at the conclusion of any speech on the motion, a councillor may ask any question relevant to the motion to any other councillor.

(2) No supplementary questions may be asked, except by the councillor who asked the question and then only in respect of matters arising out of the reply to that question.

(3) The councillor to whom the question is directed may either reply thereto forthwith or require that notice be given of the question.

(4) The notice referred to in sub rule (3), must be in writing, signed by the relevant councillor, dated and delivered to the Speaker and the Municipal Manager.

(5) When the Municipal Manager receives the notice, he or she must within five days forward the notice to the councillor to whom the question is directed and-

(a) request the councillor to submit a reply to the question in writing to the Municipal Manager; and

(b) notify the Speaker of any reply received in respect of the question.

(6) The Speaker must ensure that the reply is placed on the agenda of the next meeting.

(7) A councillor may ask a question requiring a written reply from another councillor concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers.

(8) Notice of a question in sub rule (7) must be given in writing, signed by the relevant councillor, dated and delivered to the Speaker and the Municipal Manager. The procedures in sub rules (5) and (6) apply to the question.

42. Motions of exigency

(1) A councillor may direct the attention of the Council to any matter which does not appear on the agenda and of which no notice has been given, by stating briefly the subject of the matter and without comment thereon moving a motion "that the motion to which attention has been directed be considered forthwith as a matter of exigency".

(2) If the motion in sub rule (1) is seconded and carried, the member who moved the motion may be permitted without notice to have the matter considered.

Repealed

43. Motions of course

(1) The following is regarded as motions of course:

(a) That precedence be given to the consideration of any particular matter appearing on the agenda;

(b) that any report referred to in the agenda be noted, adopted, acted upon or referred back;

(c) that any document before the Council be acted upon in the manner specified in the motion;

(d) that action be taken in regard to any matter submitted for consideration in the manner specified in the motion;

(e) that the Speaker must direct that a councillor or a member of the public withdraw from the meeting; and

(f) any motion referred to in rule 31.

(2) If a motion of course is seconded, it must be put to vote forthwith without debate.

44. Precedence of debate

When a motion is under debate no further motion may be received, except the at-

(a) the motion be amended;

(b) the consideration of the matter be postponed to a fixed or undetermined date;

(c) members of the public be excluded;

(d) members of the public be re-admitted;

(e) the meeting adjourn to another date;

(f) the meeting adjourn for a specified time;

(g) the debate on the matter be adjourned for a specified time;

(h) the matter be put to the vote;

(i) the matter be removed from the agenda;

(j) the matter be removed from the agenda; or

(j) the question or motion be withdrawn.

45. Amendment motions

(1) A councilor may move an amendment motion by stating "that the motion be amended", and stating how the original motion should be amended.

(2) The motion referred to in sub rule (1) must be seconded and need not be in writing.

(3) An amendment must be relevant to the original motion on which it is moved, and must be moved while the original motion is under consideration.

(4) The amendment must be considered before considering the original motion.

(5) If the Speaker so requires, a proposed amendment must be in writing, signed by the councillor who moved it and handed to the Speaker.

(6) If there is more than one amendment to the original motion, the last proposed amendment must be put to the vote first, and if carried the matter must be resolved accordingly.

(7) If the last proposed amendment is rejected, the amendment proposed immediately before the last amendment must be put to the vote. When all amendments have been disposed of, the original motion or the original motion as amended, as the case may be, must be put to the vote.

(8) No further amendment to the original motion may be moved after the Speaker has commenced to take the vote on that original motion.

(9) An amendment may not amend, in a material way, the principle embodied in the original motion, but may vary its terms in one or more particulars.

(10) The Speaker must decide whether or not an amendment complies with sub rule (9), and must rule accordingly.

46. Motion for postponement of matter

(1) A councilor may at the conclusion of a speech move "that the consideration of the matter be postponed to a fixed or undetermined date".

(2) The motion must be seconded and need not be in writing.

(3) The councillor who moved the motion may speak to the motion.

(4) The councillor who moved the original motion in respect of the matter under debate may reply, after which the motion referred to in sub rule (1) must be put to the vote without further debate.

(5) If the motion referred to in sub rule (1) is carried, the matter must be placed first on the agenda of matters to be considered at the meeting to which it has been postponed.

(6) If the motion referred to in sub rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

47. Motion for adjournment of meeting to another date

(1) A councillor who has not yet participated in the debate on a matter may, at any time during the discussion of that matter, except during the course of a speech by another councillor or while a vote is being taken, move "that the meeting adjourn to another date".

(2) The motion must be seconded and need not be in writing.

(3) The councillor who moved the motion may speak to the motion.

(4) No debate on the motion may be permitted, except that the first councillor to indicate his or her opposition to the motion, may speak in opposition thereof.

(5) No amendment to the motion may be moved, except in relation to the period of adjournment.

(6) If the motion is carried, the meeting must forthwith adjourn and be reconvened on the date specified in the motion or amended motion, unless the Speaker directs that the meeting proceed first to dispose of business other than opposed business.

(7) If the motion is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until half an hour has elapsed.

(8) If the motion is carried during a debate and before the conclusion thereof, the councillor who moved the motion is entitled to speak first when the matter concerned is reopened for discussion at the adjourned meeting.

(9) No business may be transacted at an adjourned meeting other than the business that was on the agenda for the meeting of which it is an adjournment.

Repealed

48. Motion for adjournment of meeting for specified time

(1) A councillor may at any time, except during the course of a speech by another councillor or while a vote is being taken, move "that the meeting adjourn for a specified time", up to one hour.

(2) The motion must be seconded and need not be in writing.

(3) If the motion is carried, the meeting must forthwith adjourn for the specified time and reconvene on the time specified in the motion.

(4) If the motion is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until half an hour has elapsed.

(5) The Speaker may at any time adjourn a meeting for a specified time, on good cause shown.

49. Motion of adjournment of debate on matter for specified time

(1) A councillor who has not yet participated in the debate on a matter may, at the conclusion of any speech on that matter, move "that the debate on the matter be adjourned for a specified time".

(2) The motion must be seconded and need not be in writing.

(3) The councillor who moved the motion may speak to the motion.

(4) No debate is permitted on the motion, except that the first councillor to indicate his or her opposition to the motion, may speak in opposition thereto.

(5) No amendment to the motion may be moved, except in relation to the period of adjournment.

(6) If the motion is carried, the meeting proceeds to the next item on the agenda, and the adjourned debate is resumed at the time specified in the motion.

(7) On the resumption of the adjourned debate, the councillor who moved the adjournment is entitled to speak first.

(8) If the motion is not carried, the debate on the matter proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until half an hour has elapsed.

(9) A councillor may not move or second more than one motion for the adjournment of the debate on the matter during the course of that debate.

(10) The Speaker may at any time adjourn a debate for the specified time, on good cause shown.

50. Motion that matter be put to vote

(1) A councillor who has not yet participated in the debate on a matter may, at the conclusion of any speech on that matter, move "that the matter be put to the vote".

(2) The motion must be seconded and need not be in writing.

(3) Subject to sub rule (4), a motion referred to in sub rule (1) is not open to debate.

(4) The councillor who moved the original motion under debate may, when a motion referred to in sub rule (1) has been moved, speak on that original motion, whereupon the motion referred to in sub rule (1) must be put to the vote without any further debate.

(5) If the motion referred to in sub rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

51. Motion to remove matter from agenda

(1) A councillor who has not yet participated in the debate on a matter may, at the conclusion of any sppech on that matter, move "that the matter be removed from the agenda".

(2) The motion must be seconded and need not be in writing.

(3) Subject to sub rule (4), a motion referred to in sub rule (1) is not open to debate.

(4) The councillor who moved the original motion under debate may, when a motion referred to in sub rule (1) has been moved, speak on that original motion, whereupon the motion referred to in sub rule (1) must be put to the vote without any further debate.

(5) If the motion referred to in sub rule (1) is carried, the matter must be removed from the agenda of the meeting, and may not be further pursued at that meeting.

(6) If the motion referred to in sub rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

52. Motion to refer matter to committee

(1) A councillor may, at the conclusion of any speech on a matter, move "that the matter be referred to a committee".

(2) The motion must be seconded and need not be in writing.

(3) Subject to sub rule (4), a motion referred to in sub rule (1) is not open to debate.

(4) The councillor who moved the original motion under debate may, when a motion referred to in sub rule (1) has been moved, speak on that original motion, whereupon the motion referred to in sub rule (1) must be put to the vote without any further debate.

(5) If the motion referred to in sub rule (1) is carried, the matter under debate may not be further pursued at the meeting.

(6) If the motion referred to in sub rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

53. Withdrawal of motions or questions

(1) A councillor who has moved a motion may at any time withdraw it with the permission of the Council and the councillor who seconded it.

(2) A councillor may not speak on a motion after the Council has permitted the withdrawal of the motion.

(3) A councillor who has asked a question may withdraw it, without the permission of the Council, at any time before the question is answered.

54. Absence of councillor who gave notice of motion or question

If the councillor who gave notice of a motion or a question is not present when called upon by the Speaker, the motion may be moved or the question may be asked by any other councillor.

55. Re-introduction of motions or questions

(1) A motion which has been rejected by the Council or a question which has been answered, may not again be moved or asked within a period of three months of the meeting at which it was rejected or answered, except with the permission of the Council.

(2) A councillor who wishes to re-introduce a motion or question must give notice in writing to the Speaker.

(3) If the Speaker receives a notice referred to in sub rule (2), he or she must place the notice on the agenda of the next meeting.

56. Motions or questions on matters referred to committee

(1) A councillor may not give notice of a motion or question with regard to any matter that is before a committee for consideration, unless notice of the motion or question-

(a) has also been submitted to that committee; or

(b) is part of the referral of the matter to that committee for consideration and report.

(2) A member of a committee may, if he or she is of the opinion that the matter is one of urgency, give notice of a motion or question on a matter referred to the committee, despite the fact that the motion or question has not been submitted to or considered by that committee.

57. Recommendation by Executive Mayor

(1) A recommendation contained in a report submitted by the Executive Mayor to the Council is considered to have been moved by the Executive Mayor.

(2) The motion does not need to be seconded.

(3) The Executive Mayor or any member of the Mayoral Committee may speak on the matter and reply, but in replying he or she must confine himself or herself to answer the matter and may not introduce any new matter into the debate.

Part 8 – Legislative process

58. Introduction of draft by-laws

In accordance with section 12 of the Systems Act, a draft by-law may be introduced only by a councillor or a committee.

59. Introduction of draft by-laws by councillors

(1) A councillor introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker.

(2) The Speaker must obtain the comments of the Municipal Manager on the contents of the draft by-law and may solicit the comments of any other person.

(3) The Speaker must submit a draft by-law, together with any comments received in terms of sub rule (2), to the Executive Mayor, if the municipality has such a mayor, for a report and recommendation in accordance with section 30(5) of the Structures Act.

(4) The Executive Mayor must within three months of receipt of a draft by-law from the Speaker, consider the draft by-law and decide to either support or not support it.

(5) If the Executive Mayor decides to support the draft by-law, the Municipal Manager must publish the draft by-law for public comment in accordance with rule 48.

(6) If the Executive Mayor decides not to support the draft by-law, the Executive Mayor must submit a report to the Council which sets out the following:

(a) An executive summary of the draft by-law;

(b) a memorandum on the objects of the draft by-law;

(c) the contents of the draft by-law;

(d) other by-laws that will have to be repealed or amended if the draft by-law is adopted;

(e) any relevant comments or proposals;

(f) the reasons why the draft by-law is not supported; and

(g) a recommendation.

(7) After considering the report referred to in sub rule (6), the Council must decide to either reject the draft by-law or to approve the commencement of the legislative process set out in rules 48 and 49 in respect of the draft by-law.

(8) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.

(9) When the commencement of the legislative process in respect of a draft by-law has been approved in terms of sub rule (7), the draft by-law must be published for public comment in accordance with rule 48.

(10) If the municipality does not have an Executive Mayor, the councillor who introduced the draft by-law must submit a report setting out the matters referred to in sub rule (6)(a) to (g) to the Council where after the procedures set out in sub rules (7) to (9) apply.

60. Introduction of draft by-laws by Executive Mayor

(1) An Executive Mayor introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker and the Municipal Manager.

(2) The Municipal Manager must publish the draft by-law for public comment in accordance with rule 48.

61. Publication of draft by-laws

The Municipal Manager must as soon as possible after-

(a) the Executive Mayor has decided to support the draft by-law under rule 46(5);

(b) the Council has given approval in terms of rule 46(7) for the commencement of the legislative process; or

(c) the Executive Mayor has introduced a draft by-law in terms of rule 47(1),

publish the draft by-law for public comment in accordance with section 12(1)(b) of the Systems Act for at least 30 days, unless the Council has approved a shorter period.

62. Consideration of draft by-laws

(1) The Municipal Manager must as soon as possible after the closing date for public comment referred to in rule 48, submit a report to the Council or if the municipality has an Executive Mayor to that mayor, together with-

(a) a copy of the draft by-law;

(b) copies of the advertisements in which the public was invited to make representations;

(c) any comments received from the public; and

(d) any other comments or recommendations from the Municipal Manager.

(2) The Executive Mayor, if the municipality has such a mayor or committee must consider the report by the Municipal Manager and must-

(a) submit a report to the Council which sets out the following:

(i) An executive summary of the draft by-law;

(ii) a memorandum on the objects of the draft by-law;

(iii) the view of the Executive Mayor on the need for the draft by-law;

(iv) the contents of the draft by-law;

(v) other by-laws that will have to be repealed or amended if the draft by-law is adopted; and

(vi) any relevant comments or proposals; and

(b) recommend to the Council to pass the by-law, to pass the by-law in an amended form or to reject the by-law.

(3) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.

(4) When a by-law has been passed, it must be published in accordance with section 13 of the Systems Act.

Part 9 – Miscellaneous matters

63. Offences and penalties

(1) A councilor or a member of the public who-

(a) refuses to withdraw from a place of meeting of the council or a committee when directed to do so by the Speaker or chairperson of a meeting in terms of rule 19(3)(b); or

(b) returns to a meeting from which he or she has withdrawn or was removed in terms of rule 19(3)(b),

may be forcibly removed and is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) No councilor or member of the public may-

(a) improperly interfere with-

(i) or impede a council or committee when such council or committee is exercising its authority or performing its functions; or

(ii) the performance by a councillor of his or her functions as a councillor;

(b) threaten or obstruct a councillor proceeding to or going from a meeting of a council or committee;

(c) assault or threaten a councillor, or deprive a councillor of any benefit, on account of the conduct of the councilor in a council or committee;

(d) while a council or committee is meeting, create or take part in any disturbance within the precincts;

(e) fail or refuse to comply with an instruction by the person presiding at a meeting of a council or committee regarding the presence of any person at that meeting; or

(f) fail or refuse to comply with an instruction by a duly authorised official of the council regarding=

(i) the presence of persons at a particular meeting of the council or a committee; or

(ii) the possession of any article, including a firearm, in the precincts or any part thereof.

(3) A person may not by fraud, intimidation, force, insult or threat of any kind, or by the offer or promise of any inducement or benefit of any kind, or by any other improper means-

(a) influence a councillor in the performance of the functions of councilor;

(b) induce a councillor to be absent from a council or committee; or

(c) attempt to compel a councillor to declare himself or herself in favour of or against anything pending before or proposed or expected to be submitted to a council or committee.

(4) A person, including a councillor, who contravenes sub rules (2) and (3) is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding three years or to both the fine and the imprisonment.

64. Short title

This By-law is called the Rules of Order for Internal Arrangements By-law, 2013.