

# **RULES OF ORDER BY-LAW**



## **MANDENI LOCAL MUNICIPALITY APRIL, 2015**

**Adopted by Council on the:**

**Promulgated on:**

<p style="text-align: center;"><b>RULES OF ORDER OF MUNICIPAL COUNCIL AND COMMITTEES OF THE COUNCIL, 2015</b></p>
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**To provide Rules of Order regulating the procedures and conduct of meetings of the Municipal Council and its committees; and to provide for matters incidental thereto.**

**PREAMBLE**

**WHEREAS** Section 40(1) of the Constitution of the Republic of South Africa, Act 108 of 1996, provides for the establishment of local government sphere as a distinctive government organ for local communities and their affairs

**AND WHEREAS** the MEC for Local Government in KwaZulu Natal by the Provincial Gazette established KZ291, as a local municipality known as Mandeni Municipality, which as per Section 151(2) and (3) of the Constitution of the Republic of South Africa is empowered to govern locally within its executive and legislative authority vested to its Council

**AND WHEREAS** Section 156(2) and Section 160(2) of the Constitution empowers a municipality to make, administer and pass by-laws for the effective administration of the matter which it has the right to administer.

**AND WHEREAS** Section 160(6)(a), (b) and (c) of the Constitution provides for the Municipal Council to make by-laws that prescribes rules and order during business and proceedings of meeting of Council and its structures.

**AND WHEREAS** a Municipal Council must strive within its capacity to achieve the objectives set out in section 152 of the Constitution which is to provide democratic and accountable government to local communities; to ensure the provision of services to communities in a sustainable manner; to promote social and economic development; to promote a safe and healthy environment and to encourage the involvement of communities in the affairs of local government;

**AND WHEREAS** Councillors are elected to represent local communities on Municipal Councils to ensure that municipalities have structured mechanisms of accountability to local communities and to meet the priority needs of communities;

**AND WHEREAS** Councillors must fulfil their obligations to the community, support the achievement by the municipality of its objectives, must adhere to the Code of Conduct for Councillors, comply with the Rules of Order and By-laws of the Municipality and at all times respect the rule of law;

**NOW THEREFORE** the Municipal Council of the Mandeni Local Municipality, acting in terms of section 160(6) of the Constitution of the Republic of South Africa, 1996 hereby makes the following By-law:

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## CHAPTER 1 DEFINITIONS

### Definitions

1. In this By-law, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise-

**“Accredited Organization”** means a community organization, excluding political parties, which in the opinion of the Council, has substantial support in the community, has a constitution, and is accredited by the Council;

**“Advisory Committee”** means a Committee established in terms of Section 17[4] of the Systems Act;

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

**“Access to Information Act”** means the Promotion of Access to Information Act, 2000 (Act. No. 2 of 2000);

**“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 the person who is appointed to chair a Committee of Council;

**“Chief Whip”** means the Councillor elected by the majority party who provides a supportive function to the Council, in conjunction with the Whips, to ensure the smooth functioning of Council meetings;

**“Code of Conduct”** means the Code of Conduct for Councillors set out in Schedule 1 to the Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“Committee”** means a committee of the Mandeni Municipal Council established in terms of -

- (a) Sections 33, 79 or 80 of the Act; or
- (b) Any other law;

**“Community”** means that body of persons comprising the residents, the rate payers, any civic organization, non-governmental, private sector or labour organization or body which is involved in local affairs within the municipality.

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

**“Contact details”** shall include a physical address, postal address, e-mail address, cellular number, telephone number and fax number;

**“Council”** or **“Municipal Council”** means the Mandeni Municipal Council, a Municipal Council referred to in section 157(1) of the Constitution. A reference made herein to Council may include a reference to a committee with the necessary modifications;

**“Councillor”** or **“Member”** means a Member of a Municipal Council;

**“Day”** means any day of the week, excluding a Saturday, Sunday or Public Holiday;

**“Delegation”**, in relation to a duty, includes an instruction to perform the duty, and “delegate” has a corresponding meaning;

**“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;

**“EXCO”** means the Executive Committee of the Council established in terms of section 43 of the Act;

**“Gender and Number”** means in every rule, unless the contrary intention appears, words importing the masculine gender including females and words in the singular number including the plural, and words in the plural number including the singular;

**“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 the person elected by the Municipal Council in terms of section 48 of the Act;

**“Meeting”** means a meeting of the council or any one of its committees;

**“MEC for local government”** means the member of the Executive Council responsible for local government in the KwaZulu-Natal Province;

**“Meeting”** means a meeting of the council or any one of its committees;

**“Member”** means a member of the Council of the Municipality;

**“MFMA”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

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

**“Municipal Manager”** means a person appointed in terms of section 54A of the Systems Act as the head of administration of the Municipal Council;

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, No 32 of 2000 as amended, herein referred to as the “Systems Act”;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, No.117 of 1998, as amended, herein to as the “Structures Act”;

**“Municipality”** means Mandeni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa, 1996 and established in terms of Provincial Notice No. 43 of 2000 (KZN);

**“Notice of motion” or “motion”** means the instrument by which Councillors may bring items onto the agenda of a Council meeting;

**“Office of the Speaker”** means the administrative branch of the Speaker’s office and may include a person with delegated responsibility for management of the administration in the Speaker’s Office;

**“Ordinary meeting”** means a scheduled meeting of Council or a committee in terms of Section 29 of the Act;

**“Party”** means a party Registered in terms of the Electoral Commission Act, 1996[Act No51 of 1996];

**“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;

**“Promotion of Access to Information Act”** means Act 2 of 2000 as amended;

**“Promotion of Administrative Justice Act”** means Act 3 of 2000 as amended;

**“Promotion of Equality and Prevention of Unfair Discrimination Act”** means Act 4 of 2000;

**“Public”** includes the media and means any person residing within the Republic of South Africa;

**“Procedural motion”** means a matter raised by a Member in terms of Rule 20;

**“Quorum”** means the majority (50% plus one) of the Councillors;

**“Ratepayer”** means a person who is liable to the Municipality for the payment of rates on property in the Municipality, any other tax, duty or ,levy imposed by the Municipality or fees for services p[rovided either by the Municipality or in terms of a services delivery agreement concluded with the Municipality;

**“Recommendation”** means a recommendation in the report of an executive committee in terms of Section 44(4) of the Act, in respect of a decision concerning a matter where EXCO has no delegated powers;

**“Report of EXCO”** means the report of EXCO as contemplated in Section 44 of the Act which requires that EXCO must report to the Municipal Council on all decisions taken by EXCO;

**“Resident”** means a person who is ordinarily resident in the Municipality;

**“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 Municipal Council elected in terms of Section 36 of the Act;

**“Special meeting”** means a meeting other than an ordinary meeting which has been convened for a specific purpose, and where the order of business shall be stated in the notice convening the meeting;

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

**“Structure”** means the Council of the Municipality or any Committee or other collective structures of the Municipality;

**“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;

**“Ward”** means a Ward mentioned in item 2 of Schedule 1 of the Structures Act; and

**“Whip”** means the Member of Council appointed by each political party to perform the functions referred to in rule 23.

## CHAPTER 2

### APPLICATION AND INTERPRETATION OF RULES AND ORDERS

#### 2. Application of these rules and orders

- (1) This By-law applies to all meetings of the Municipal Council and its committees and must be complied with by:-
  - (a) Councillors;
  - (b) Traditional leaders;
  - (c) Members of the public;
  - (d) Officials of the municipality;
  - (e) Government Ministers;
  - (f) Members of Executive Council;
  - (g) Officials from government departments; and
  - (h) Representatives from public bodies or the private sector who address or attend the Council or committee meeting/s.
- (2) A committee of Council is bound by this By-law unless the committee elects to draft their own Rules of Order.
- (3) A committee which elects to draft its own Rules of Order in terms of sub-rule (2) must-
  - (a) Ensure that that the rules drafted do not conflict with this By-law; and
  - (b) Submit the draft rules to the Speaker and the party Whips for consideration and recommendation to Council.

(4) Rules of Order drafted in terms of sub-rule (2) must form part of these Rules of Order once they have been passed by the Municipal Council.

### **3. Interpretation of these rules and orders**

- (1) If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.
- (2) 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.
- (3) The ruling of the speaker or chairperson with regard to the interpretation of these rules and orders at a meeting of the council or committee of the council shall, subject to rules 3(5) and 3(6), be final and binding.
- (4) The interpretation and the ruling of the speaker or chairperson of any of these rules and orders must be recorded in the minutes of the council or committee meeting.
- (5) The Office of the Speaker must keep a register of the rulings and legal opinions.
- (6) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of rule 3(2), to obtain clarity on the interpretation and ruling and to report to the council or committee of the council.
- (7) The council or committee of the council may after consideration of the report in terms of rule 3(5) 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**

### **SPEAKER OF THE MUNICIPAL COUNCIL**

#### **4. Election of the Speaker**

- (1) Each municipal Council must have a chairperson who will be called the Speaker
- (2) At its first sitting after its election, or when necessary to fill a vacancy, a municipal council must elect its Speaker from among the councillors

(3) The municipal manager of the municipality or, if the municipal manager is not available, a person designated by the MEC for local government in the province, presides over the election of the Speaker.

(4) The procedure set out in Schedule 3 applies to the election of the Speaker.

(5) A councillor may not hold office as Speaker and Mayor or executive mayor at the same time, but in a municipality of a type mentioned in section 9€ or(f) or 10(c) the speaker must be called the mayor.

## **5. Functions of Speaker**

The Speaker of a municipal council:-

- a) Presides at meetings of the council;
- b) Performs the duties and exercises the powers delegated to the Speaker in terms of section 59 of the Local Government: Municipal Systems Act, 200 (Act 32 of 2000);
- c) Must ensure that the council meets at least quarterly;
- d) Must maintain order during meetings;
- e) Must ensure compliance in the council and council committees with the Code of Conduct set out in Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); and
- f) Must ensure that council meetings are conducted in accordance with the rules of order of the council.

## **6. Term of Office of the Speaker**

The Speaker of a municipality council is elected for a term ending, subject to section 39, when the next council is declared elected.

## **7. Vacation of office**

The Speaker of a municipal council vacates office during a term if that person:-

- a) Resigns as speaker;
- b) Is removed from office; or
- c) Ceases to be a councillor

#### **8. Removal from office**

A municipal council by resolution may remove its speaker from office. Prior notice of an intention to move a motion for the removal of the speaker must be given.

#### **9. Acting speaker**

If the speaker of a municipal council is absent or not available to perform the functions of speaker, or during a vacancy, the council must elect another councillor to act as speaker.

### **CHAPTER 4**

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

#### **10. Council meetings**

- (1) The council must hold an ordinary meeting of the council not less than once in every three months.
- (2) The speaker must convene all meetings of the council in accordance with rule 4(1) and subject to rule 6.
- (3) The Speaker must decide where and when the Council meets, but if a majority of the Councillors request the Speaker in writing to convene a meeting of the Council to debate any matter, the Speaker must convene a meeting at the time set out in the request in accordance with section 29(1) of the Act.
- (4) A separate special meeting of Council must be called to approve the annual budget.
- (6) An urgent meeting may be called by the Speaker after consulting with the Mayor where there is any urgent matter that Council is required to consider before the next ordinary meeting.
- (7) A special meeting may be called by the Speaker to debate any special issue, or to allow special guests to address Council.

## 11. Admission of public

- (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.

## 12. Notice to attend an ordinary council meeting

- (1) The speaker must convene meetings of the council, at least quarterly, 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 of the time and the place of every ordinary or special meeting and service of any other document signed by the Speaker in terms of these rules must be served on every Councilor-

- (a) Personally;
- (b) By leaving the notice at the physical address provided by the Councilor at least 72 hours before such meeting;
- (c) By e-mail; or
- (d) By Short Message Service (SMS).

(3) A notice of an urgent meeting must be served on Councilors in accordance with sub-rule (2) above, at least 12 hours before the meeting.

(4) The failure to receive a notice of a Council or committee meeting by a Councilor shall not affect the validity of that meeting.

(5) A Councilor may request that an investigation be conducted regarding the non-receipt of a notice to attend a meeting referred to in sub-rule (4).

(6) A Councilor must provide his or her contact details to the Office of the Speaker-

- (a) Within 2 days after his or her election; and
- (b) Whenever there is a change in the Councilors contact details.

(7) The Municipal Manager must give notice to the public, in a manner determined by the Council, of the time, date and venue of every-

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

### **13. Special meetings**

- (1) The speaker
  - (i) For the purpose of pertinent or urgent council business
  - (ii) Or at the request of a majority of the councilors of the municipality, must call a special meeting of the council
  
- (2) A special meeting must be held in compliance with rule 6(2)(b) and in terms of rule 7(1)(ii) 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 rule 7(1)(ii), shall–
- (a) Be signed by no less than 50% (fifty *per centum*) 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) Full compliance with rule 7(3)(a) and 7(3)(b) prescribes that the speaker may not exercise discretion but must call a meeting.
- (4) Should 7 (1) (ii) for some reasons not take place, the majority of Councillors requesting the meeting should approach the Municipal Manager to call such meeting provided there is proof that such request was made to the Speaker, and was never honored.

#### **14. Service of notices and agenda**

- (1) Notice to attend a meeting or any other official communication from the council, shall be delivered to–
- (a) A physical address within the area of jurisdiction of the municipality; or
  - (b) An e-mail address; or
  - (c) By a short message service (SMS);
- provided that contact details shall be supplied by each councillor to the municipal manager in writing within two days of a councillors' election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor shall 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 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 councilors must inform the speaker of any change of his contact details within

three days of such change.

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

#### **15. Non-receipt of notice**

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

## **CHAPTER 5**

### **QUORUM**

#### **16. Quorum**

- (1) A majority of the number of councillors determined in accordance with the municipality's establishment notice must be present at a meeting of the council before a vote may be taken on any matter provided that:
  - a) Vacancies in the office of councillor shall not invalidate the proceedings of the council meeting;
  - b) Subject to a quorum, the failure of any councillor to vote shall not invalidate the proceedings of the council meeting.
- (2) 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 provided that:
  - a) Vacancies in the office of councilor shall not invalidate the proceedings of the committee meeting;
  - b) Subject to a quorum, the failure of any councilor to vote shall not invalidate the proceedings of the committee meeting.

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

- (1) No meeting shall 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 fifteen minutes for a quorum, where after if no quorum is present, the meeting must be cancelled.
- (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 shall—
  - (a) Count the councilors 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 shall be re-convened within seven days as a continuation meeting.

## **CHAPTER 6**

### **ATTENDANCE OF COUNCILLORS**

## **18. Attendance**

- (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 rule 13; or
  - b) That councilor is required to withdraw in terms of rule 46(2).
  - c) With the permission of the speaker or chairperson.
- (2) Each councilor attending any meeting of the council or a committee of the council

shall sign an attendance register provided for that purpose.

- (3) The attendance register shall be filed in the office of the municipal manager.
- (4) Any councilor who is entitled to leave of absence in terms of rule 13 and no longer requires such leave may attend the meeting from which leave of absence was granted and sign the attendance register.

## **19. Leave of absence**

- (1) Leave of absence shall not be granted in such a manner that more than the number required for a quorum will at any one time be absent.
- (2) If a councilor—
  - (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 shall, 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 councilor shall 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 councilor 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 shall be deemed to have been absent without leave at that meeting;
- (8) Where a councilor 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 rule 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.

## **20. Non-attendance**

- (1) Subject to compliance with the procedure set out in rule 13, a councillor who is absent without good cause from a meeting, of which notice has been given, shall be liable pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.
- (2) Where a councilor has been absent without obtaining leave from a meeting–
  - (a) The Rules Committee as contemplated in rule 43 or the speaker or chairperson as the case may be, shall 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 shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
  - (c) The councilor 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, shall–
  - (i) Allow the councilor an opportunity to make representations, oral or written; and
  - (ii) Consider the councilor'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 shall 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 shall 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 rule 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 7**

### **ADJOURNMENT**

#### **21. Adjourned meetings**

Subject to rule 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.

#### **22. Continuation meeting**

- (1) When a meeting is adjourned, notice of the continuation meeting shall be served in terms of rule 8.
- (2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

**CHAPTER 8**  
**PROCEEDINGS**

**23. Speaker and chairpersons of meetings**

- (1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, shall be the chairperson and shall 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;
  - (c) Must ensure that meetings are conducted in accordance with these standing 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.

**24. Minutes**

- (1) The proceedings of every council meeting must be electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- (2) Written minutes of the proceedings of each council and committee meeting must be accurately recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- (3) The approved minutes of every meeting of a council or committee other than in-

committee meetings must be available to the public.

- (4) 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.

## **25. Order of business**

- (1) The order of business at every meeting of the council or its executive committee or committee of council is as follows:
  - (a) notice convening the meeting;
  - (b) opening and welcome;
  - (c) national anthem;
  - (d) opportunity for prayer/ meditation;
  - (e) applications for leave of absence;
  - (f) official announcements;
  - (g) deputations;
  - (f) declarations of pecuniary or other interests;
  - (g) confirmation of minutes of previous meeting;
  - (h) reports, which may include:
    - i) EXCO Reports;
    - ii) MPAC Reports; and
    - ii) Reports of Ethics Committee;
  - (i) notices of motion;
  - (k) report of the Mayor in terms of the MFMA;
  - (l) report of the Municipal Manager in terms of MFMA;
  - (m) report of committee decisions;
  - (n) items for noting;
  - (o) In-committee matters, and
  - (p) closure.
- (2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

## **26. Confirmation of minutes of previous meeting**

- (1) The minutes of every meeting shall be confirmed at the next ordinary meeting of that council or committee and shall be signed by the speaker or chairperson.
- (2) No motion or discussion shall be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

## **27. Deputations**

- (1) A deputation wishing to address the council or a committee of council shall submit a memorandum to the municipal manager in which is set out the representations it wishes to make.
- (2) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.
- (3) The municipal manager shall submit the memorandum to the council or a committee of the council, which may receive the deputation.
- (4) Any matter requiring consideration arising from a deputation, shall not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.
- (5) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, shall obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.
- (6) 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.
- (7) 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.
- (8) Any member of the public or deputation who fails or refuses to comply with the

speaker's or chairperson's directions in terms of rule 21(6) and rule 21(7) shall 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.

## **28. Reports**

- (1) All reports of EXCO to Council must be as contemplated in section 44(4) of the Act, which requires that an Executive Committee must report to the Council on all decisions taken by the committee.
- (2) The reports referred to in sub-rule (1) must be divided into two parts and-
  - (a) the first part must contain the items in respect of which EXCO has no delegated powers; and
  - (b) the second part must contain the items in respect of which EXCO has delegated powers and which are submitted to Council for noting.
- (3) Every item contained in the first part of EXCO's report shall contain a recommendation which may or may not be adopted by Council.
- (4) An item contained in the second part of the report may not be debated, but must only be noted.
- (5) The speaker or chairperson must allow debate in accordance with chapter 10 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 shall be held, at the next meeting.
- (6) The Council must, upon the written request of at least one quarter of Councillors, review any decision contained in a report submitted in terms of sub-rule 2(b) and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person as provided for in section 59(3) of the Systems Act.

## **29. Motions**

- (1) No subject shall 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 shall 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 shall be open to inspection by any councilor and the public; and must
  - (c) Enter each notice of motion on the agenda in the order received.
  
- (5) The speaker or chairperson shall–
  - (a) Read out the number of every motion and the name of the mover and seconder;
  - (b) Ascertain which motions are unopposed and these shall be passed without debate; and
  - (c) Call the movers of the opposed motions in the order they appear on the agenda.
  
- (6) A councilor submitting a motion shall move such motion and shall have the right of reply.
  
- (7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.
  
- (8) A councilor shall 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.

### **30. Questions**

- (1) 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.
- (2) 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.

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

- (1) No councillor shall 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.
- (2) 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.

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

- (1) 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 shall not be unreasonably withheld.
- (2) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

### **33. Interpretation**

- (1) If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

### **34. In-committee**

- (1) Subject to rule 5, the council or a committee of council may, at any time, resolve to proceed in-committee.
- (2) The public shall be excluded from any in-committee meetings.
- (3) The municipal manager or another official exempted from this rule by the speaker or chairperson shall not be excluded from any in-committee meeting.
- (5) All proceedings in-committee must be recorded in terms of rule 18(1) and 18(2) and shall be confidential.
- (6) Unauthorized disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

## **CHAPTER 9**

### **VOTING**

### **35. Decisions by voting**

- (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 shall 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 shall not exercise a casting vote during the election of any office bearer of council.

### **36. Method of voting**

(1) Voting shall 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.

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

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

### **37. Dissenting votes**

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

## **CHAPTER 10**

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

### **38. Revocation of Council Resolutions**

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

- (2) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.
- (3) Any revocation or alteration of a council resolution must be made in terms of rule 29(2)(e).

### **39. Revocation of Committee Resolutions**

- (1) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.
- (2) 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.
- (3) 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 11**

### **DEBATE MANAGEMENT**

#### **40. Opportunity to speak**

- (1) A councillor may only speak when so directed by the speaker or chairperson.
- (2) A councilor 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
- (3) Councilors and officials shall stand when speaking and shall direct their address to the speaker or chairperson.

#### **41. Relevance**

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

#### **42. Length of speeches**

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

**43. Councillors to speak only once**

A councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the speaker or chairperson provided that the mover of the motion may speak to the motion, shall have the right of reply and the reply shall be confined to answering previous speakers and shall not introduce any new matter into the debate.

**44. Precedence of the speaker or chairperson**

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.

**45. Points of order**

- (1) Any councillor may raise a point of order at any time by standing to draw the attention of the speaker or chairperson.
- (2) The point of order takes precedence over everything else in the meeting and the speaker or chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.
- (3) The ruling of the speaker or chairperson on a point of order shall be final and shall not be open to discussion.

**46. Explanation**

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 12

### COUNCILLORS CONDUCT

#### 47. General conduct

- (1) Councillors and officials must during any council or committee meeting—
  - (a) Conduct the business in the highest decorum and integrity that the occasion deserves;
  - (b) Must, at all times adhere to the principles contained in the code of conduct and these rules and orders;
  - (c) Must at all times adhere to the rule of law and the by-laws of the municipality;
  - (d) Must be dressed appropriately for the dignity of the meeting;
  - (e) Must not use offensive or objectionable language; and
  - (f) Must not use a cellular phone during, bring a firearm or any dangerous weapon into, a meeting of council or any of its committees; or liable for a fine of R100.

#### 48. Misconduct

- (1) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.
- (2) If a councilor or councilors behave improperly during a meeting of council or any of its committees, the speaker shall direct the councillor or councillors to conduct himself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.
- (3) In the event of persistent disregard of the directions of the speaker, the speaker shall 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 finalized.
- (4) 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 standing rules and orders and the Code of Conduct.

- (5) Any councilor who refuses to leave a meeting of the council or a committee of the council when directed to do so by the speaker or chairperson of a meeting in terms of any rule in these rules and orders, may be forcibly removed and shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

## **CHAPTER 13**

### **COMMITTEES**

#### **49. Rules Committee**

- (1) 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 the Rules and Orders.
- (2) The Rules Committee shall 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.

#### **50. Own rules**

- (1) Every committee of the council shall determine its own procedures subject to any directions from council and these standing rules and orders.
- (2) Chapter 10 of these rules and orders may be relaxed by a chairperson of a committee to accommodate interactive and effective participation, provided that the chairperson may, at his/her discretion, apply the provisions of any rule contained in chapter 10.

## **51. The chairperson**

- (1) The chairperson of a committee shall—
  - (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, shall give a second or casting vote.
- (2) In his absence, the acting or deputy chairperson shall have the same powers and rights of voting as those possessed by the chairperson.

## **CHAPTER 14**

### **PECUNIARY INTEREST**

## **52. Declaration of pecuniary interest**

- (1) 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.
- (2) The councilor 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.
- (3) A councilor 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
- (4) The disclosure of interests in terms of rule 46(1) and benefit in terms of rule 46(3) 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.

## CHAPTER 15

### BREACH AND SANCTIONS

#### 53. Breach

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

#### 54. Sanction

Where it is alleged that a councillor has breached these rules, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and may impose a sanction.

## CHAPTER 16

### GENERAL PROVISIONS

#### 55. Suspension of a rule or order

- (1) In instances of urgency or where a council considers that adherence to a rule 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 rule, provided that:
  - (a) Such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
  - (b) The suspension or relaxation of the rule relates to an item on the agenda for the meeting of the council or committee of the council; and
  - (c) Rule 22 must not be suspended;
  - (d) the reasons for the suspension of the rule are recorded in the minutes of the meeting.

#### 56. Adoption as by-laws

These rules and orders must be adopted as a by-law of the municipality.

**57. Repeal of existing by-laws**

The council's existing by-laws in respect of rules and orders are hereby repealed.

**58. Short title and commencement**

This By-law is called the Mandeni Municipality: Rules of Order By-law, 2015 and takes effect on the date of the publication thereof in the *Provincial Gazette*.