



**RULES OF ORDER REGULATING
THE CONDUCT OF MEETINGS
OF THE COUNCIL OF
THE OVERSTRAND MUNICIPALITY**

*Approved by Council
15 March 2004*

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RULES OF ORDER REGULATING THE CONDUCT OF MEETINGS OF THE COUNCIL OF THE OVERSTRAND MUNICIPALITY

PART 1: GENERAL

1. Definitions

In these regulations, unless inconsistent with the context

“council” means the municipal council of Overstrand;

“code” means the code of conduct for councillors as set out in the Systems Act;

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

“MEC” means the member of the Executive Council responsible for local government in the province of the Western Cape;

“meeting” means the meetings of the council;

“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;

“party” means a party referred to in the Structures Act;

“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);

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 members 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 committees of the council unless a committee has determined its own rules and procedures.

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 shall 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 business of meetings will appear in the following order on the agenda
 - (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) urgent matters submitted by the municipal manager;
 - (h) consideration of notices of motion;
 - (i) consideration of notices 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 of the council shall be transacted at such meeting.

9. Meetings

- (1) Council must meet at least quarterly.
- (2) 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.
- (3) The municipal manager must, at the direction of the speaker, give notice in writing to each member of every meeting decided upon in terms of subsection (2).
- (4) The municipal manager 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.

R 8 / 008

11. Leave of Absence

A member who wishes to absent himself or herself from meetings must before so absenting himself or herself, obtain leave of absence from the Council, provided that the speaker, on good cause shown, may grant leave of absence to a member who has been prevented by special circumstances from obtaining leave of absence from the Council.

12. Sanction 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 committee elected by council, must investigate and make a finding on any breach referred to in sub-section (1).
- (3) The committee elected by council must conduct its business in accordance with the uniform standing procedures determined by council.
- (4) If the committee finds that a member has breached sub-section (1), the member shall be fined 10% of his or her monthly salary.
- (5) A member who is absent from three or more consecutive meetings which he or she is required to attend in terms of section 9, must be removed from office in terms of item 4(2) of the code.
- (6) Proceedings for the removal of a member in terms of subsection (5) or for the imposition of a fine in terms of sub-section (4) must be conducted in accordance with the uniform standing procedure determined by the Council in terms of subsection (3).

13. Minutes

- (1) Minutes of the proceedings of meetings must be compiled in printed form and be confirmed by the council at the next meeting and signed by the speaker.
- (2) 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.
- (3) No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.

14. Quorum

- (1) A majority of the members constitutes a quorum.
- (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 shall 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 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. Manner of voting (Opposed matters)

- (1) The speaker must put every opposed motion 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 motion 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 motion 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 the speaker may not exercise a casting vote in terms of any matter referred to in section 160(2) of the Constitution. R 8 / 010

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) In accordance with item 6(3) of the code, if more than one quarter of the members are against a motion to grant consent to a member to—~~

~~(a) be a party to or beneficiary under a contract for—~~

- ~~(i) the provision of goods or services to the municipality; or~~
- ~~(ii) the performance of any work otherwise than as a member for the municipality;~~

~~(b) obtain a financial interest in any business of the municipality; or~~

~~(c) for a fee or other consideration appear on behalf of any other person before the council or a committee;~~

~~such consent may only be given to the member with the approval of the MEC.~~

~~Repealed by sec 20(a) of Act 19 of 2008.~~

(4) All other questions are decided by a majority of votes cast.

(5) In accordance with section 59(3)(a) of the Systems Act, the council may, or at the request in writing of at least one quarter of the councillors, must, review any decision taken by a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person.

18. 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. **R 8 / 011**

(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.

PART 5: PUBLIC ACCESS

19. Admittance of Public

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

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 to exclude the public from the meeting is seconded, it shall be put to the vote, after discussion of the reasons but without discussion of the item.
- (3) If, after due consideration by council of the reasons stated, such motion 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 if not appearing from the report.

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 *R 8 / 012* behaves in an unseemly manner or obstructs the business of a 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,

the speaker shall direct such member to conduct himself or herself properly and, if speaking, to discontinue his or her speech.

(2) In the event of a disregard of the directions of the speaker, the speaker may direct such member 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.

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 in terms of applicable legislation 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 r any one of the three official languages of the Province of the We **R 8 / 013** provided that the Council may determine a policy to give practical effect to this section.

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.

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 shall 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 quasi-judicial body or a commission of enquiry is pending.

29. Right to speak

- (1) A member may only speak once -
 - (a) to the matter before the council;
 - (b) to any motion before the council;
 - (c) to any amendments to (a) or (b);
 - (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 shall strictly confine himself or herself to answering previous speakers and shall 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.

30. Length of speeches

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

R 8 / 014

31. 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.

32. 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 sub-section (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.

33. 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.

34. 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.

35. Motions and questions on matters dealt with by committee

- (1) A member may not give notice of a motion or question in regard to any matter assigned to a committee or delegated to the executive mayor or a member of the mayoral committee, unless such motion or question has previously been

submitted to such committee, executive mayor or member of the mayoral committee, or unless it is in the form of a reference to such committee or member for consideration and report.

- (2) The executive mayor or a member of the mayoral committee may, **R 8 / 015** is of the opinion that the matter is one of urgency, give notice of intention to introduce a motion or ask a question on a matter assigned to such committee notwithstanding the fact that such motion or question has not received the prior consideration of such committee.

36. Recommendation of committee regarded as motion

- (1) The adoption of a recommendation contained in a report submitted by the executive mayor to the council shall be deemed to have been moved by him or her or in his or her absence, by a member of the mayoral committee deputed by him or her to act at the time when the speaker of the meeting intimates that such recommendation is open for discussion, and no such motion need be seconded, nor shall the executive mayor be thereby precluded from exercising his or her right to speak thereon.
- (2) The executive mayor or member referred to in subsection (1) may speak on the matter and reply but in replying he or she shall strictly confine himself or herself to answering previous speakers and shall not introduce any new matter into the debate.

37. Questions

- (1) After any motion or amendment has been moved and seconded or at the conclusion of any speech thereon a member may ask any question relevant to such motion or amendment.
- (2) No supplementary questions may be asked except by the member asking the original question and then only in respect of matters arising out of the reply to such original question.
- (3) The speaker may not disallow any such question, provided that the member to whom such question is directed may either reply thereto forthwith or require that notice thereof be given in terms of section 33.

38. Motion of exigency

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

- (3) If such motion is seconded and carried by a majority of the members present, the mover shall be permitted without notice to bring the matter under consideration by way of motion or question.

R 8 / 016

39. Motions of course

In addition to those provided for elsewhere in these rules, the following shall be regarded as motions of course:

- (a) that precedence be given to the consideration of any particular item 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 item submitted for consideration in the manner specified in the motion;
- (e) that the public be excluded from the meeting during a discussion of an item or items on the agenda.

40. Points of order

A member may raise a point of order to call attention to a departure from these rules by stating the particular rule such member relies on, whereupon such member shall immediately be heard.

41. Points of explanation

The speaker may allow a member to raise a point of explanation provided that such explanation shall be confined to some material part of the debate which may have been misunderstood.

42. Withdrawal of motion, amendment or question

- (1) A motion or amendment may without debate and with the permission of the seconder and council, be withdrawn by the mover.
- (2) A member may not speak on such motion or amendment after the Council has agreed to the withdrawal of such motion.

- (3) A question may be withdrawn by the member intending to put it.

43. Speaker's ruling on points of order and explanation

- (1) The ruling of the speaker on a point of order or an explanation shall be final and not open to discussion. *R 8 / 017*
- (2) The ruling of the speaker on any point of order raised as to the interpretation of these rules shall be entered in the minutes.

44. Order of debate

When a motion is under debate at any meeting of the council no further motion shall be received except the following:

- (a) that the motion be amended;
- (b) that the consideration of the matter be postponed;
- (c) that the public and the media be excluded;
- (d) that the public and the media be re-admitted;
- (e) that the council do now adjourn;
- (f) that the council adjourn for a specified time;
- (g) that the debate be adjourned;
- (h) that the matter be put to the vote;
- (i) that the council proceed to the next business.

45. That the motion be amended

- (1) Every amendment shall be relevant to the motion on which it is moved.
- (2) An amendment shall, if required by the speaker, be in writing, signed by the mover and handed to the speaker.
- (3) An amendment shall be read before being moved.
- (4) An amendment shall not be discussed or put to the council until it has been seconded.
- (5) If there is more than one amendment to a motion the amendment last proposed shall be put to the vote first and if carried the matter shall be resolved accordingly.
- (6) If the amendment last proposed is rejected the amendment proposed immediately prior to the last amendment shall be put to the vote.
- (7) No further amendment shall be moved to a motion or amendment after the speaker has commenced to take the vote upon such motion or amendment.

46. That consideration of the matter be postponed

- (1) A member may at the conclusion of a speech move that the consideration of the matter be postponed to a fixed or undetermined date.
- (2) Such motion must be seconded but need not be in writing, provided the seconder shall not be permitted to speak. The mover shall be permitted to speak to the motion for a period not exceeding five minutes and the seconder shall not speak except for seconding the motion. **R 8 / 018**
- (3) Upon such motion being made the mover of the matter under debate may (without prejudice to his or her ultimate right of reply if the motion that the matter be postponed be not carried) be heard in reply for five minutes, after which the motion shall be put without further debate.
- (4) If the motion is carried, the matter shall be placed first on the agenda of matters to be considered at the meeting to which it has been postponed, provided that sections 5(2) and (3) shall not apply to such matter.

47. That the council do now adjourn to another date

- (1) A member who has not already participated in the debate on the matter then before the meeting may at any time except during the course of a speech by another member or while a vote is being taken move "that the council do now adjourn to another date".
- (2) Such motion must be seconded but need not be in writing.
- (3) The mover shall be permitted to speak to the motion for a period not exceeding five minutes but the seconder shall not speak except for seconding the motion.
- (4) If the motion is carried the council shall forthwith adjourn, provided that the speaker may direct that the meeting proceed first to dispose of business other than opposed business.
- (5) If the motion is not carried the speaker shall not accept another such motion until the period of half an hour has elapsed.
- (6) Save as is provided in sub-section (3), no discussion on such motion shall be permitted, except that a member, who has first indicated as such, may speak in opposition of the motion for not more than five minutes.
- (7) No amendment to such motion may be moved except in relation to the period of adjournment.
- (8) If a motion to adjourn a meeting has been carried during a debate and prior to the conclusion thereof then upon consideration of the matter forming the subject of such debate the adjourned meeting the member who moved the adjournment shall be entitled to speak first.

- (9) No business shall be transacted at an adjourned meeting except such as was set out in the agenda for the meeting of which it is an adjournment.

48. That the council adjourn for a specified time

- (1) A member may at any time except during the course of a speech member or while a vote is being taken move “that the council now *R 8 / 019* a specified time”, up to one hour.
- (2) Such motion need not be in writing.
- (3) If the motion is carried the council shall forthwith adjourn for the specified time.
- (4) The speaker may limit the number of such motions.

49. That the debate be adjourned

- (1) A member who has not yet participated in a debate on a matter may at the conclusion of any speech move that the debate be adjourned.
- (2) Such motion must be seconded but need not be in writing.
- (3) The mover of such motion may speak to it for five minutes, but the seconder may not speak beyond formally seconding it.
- (4) Save as is provided in sub-section (3) no discussion may be permitted on such motion except in relation to the period of adjournment and that the member who first rises in his place for that purpose may speak in opposition thereto for five minutes.
- (5) If such motion is carried, the meeting proceeds to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, is resumed at the next meeting.
- (6) On the resumption of the adjourned debate the member who moved the adjournment is entitled to speak first.
- (7) If the motion is not carried the speaker shall not accept another such motion until half an hour has elapsed.
- (8) A member may not move or second more than one motion for the adjournment of the debate during the course of that debate.

50. That the matter be put to the vote

- (1) A member who has not yet participated in a debate on a matter may during such debate, at the conclusion of any speech, move that the matter be now

put to the vote.

- (2) Subject to the provisions of sub-section (3), no motion put in terms of sub-section (1) shall be open to discussion.
- (3) The mover of a matter under discussion may, when a motion has been put in terms of sub-section (1), speak on such motion for not more than five minutes, whereupon the said motion shall be put to the vote without any further discussion. **R 8/020**

51. That the matter be removed from the agenda

- (1) A member who has not yet participated in the debate on a matter may during such debate, at the conclusion of any speech, move that the matter be removed from the agenda.
- (2) Subject to the provisions of sub-section (3), no motion put in terms of sub-section (1) shall be open to discussion.
- (3) The mover of a matter under discussion may, when a motion has been put in terms of sub-section (1), speak on such motion for not more than five minutes, whereupon the said motion shall be put to the vote without any further discussion.
- (4) If such a motion is carried, the matter under discussion shall not be further pursued.

PART 8: LEGISLATIVE PROCESS

52. Introduction of draft by-laws

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

53. Introduction by member

- (1) A member introduces a draft by-law by submitting it together with a memorandum on the objects of the by-law to the speaker.
- (2) The speaker must on receipt of a draft by-law, present it together with any comments received in terms of sub-section (3), to the executive mayor for consideration in accordance with section 30(5) of the Structures Act.
- (3) 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 person.
- (4) The executive mayor must within 3 months of receipt of a draft by-law from the speaker, consider the matter and submit a report to the council in the form

referred to in section 54(1).

54. First introduction

- (1) Any draft by-law shall first serve before the executive mayor in the following form - *R 8 / 021*
- (a) an executive summary of the draft by-law,
 - (b) a memorandum on the objects of the by-law,
 - (c) the need to regulate the conduct proposed in the draft by-law,
 - (d) the contents of the proposed by-law,
 - (e) other by-laws that must be repealed or amended if the draft by-law is adopted,
 - (f) any relevant comments or proposals, and
 - (g) a recommendation
- (2) After considering the report referred to in sub-section (1), the executive mayor must decide to either reject the proposed by-law or to recommend to council that it be adopted.
- (3) When a proposed by-law has been rejected by the executive mayor no by-law of the same substance may be introduced within a period of 6 months from the date of rejection.
- (4) When a proposed by-law has been recommended for adoption, it must be advertised for public comment.

55. Publication

The municipal manager must as soon as possible after the executive mayor has recommended to council that a by-law be adopted but before it serves before council, publish the draft by-law for public comment in order that the public will have the opportunity to make representations with regard thereto.

56. Introduction to council

- (1) The municipal manager must as soon as possible after the closing date for public representations, submit a report to the executive mayor together with,
- (i) a copy of the proposed by-law;
 - (ii) copies of the advertisements in which the public was invited to make representations;
 - (iii) any comments received from the public; and
 - (iv) any other comments from the administration
- (2) The executive mayor must consider the report by the municipal manager and advise the council to either pass the by-law, pass the by-law in an amended

form or reject it.

- (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 6 months from the date of rejection.
- (4) When a proposed by-law has been passed, it must be advertised in the Provincial Gazette. ***R 8 / 022***

57. Debate Procedure

The rules pertaining to debate also apply to the legislative process.

PROCEDURE FOR INVESTIGATION REGARDING ANY ALLEGATION OF MISCONDUCT AGAINST A MEMBER OF A MUNICIPAL COUNCIL

1. Whenever the Speaker becomes aware of any contravention of or failure to comply with any provision of the Code of Conduct as contained in Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), he or she may of own volition, or whenever any allegation is made in a sworn or affirmed statement to the effect that a member of the council has contravened or failed to comply with any provision of the Code, he or she shall -
 - obtain the written comments of the member concerned; and
 - investigate the facts and circumstances informally.
2. If a member fails to furnish the Speaker with his or her comments within 14 days after being requested to do so by the Speaker or after such extension of time as permitted at the discretion of the Speaker, the Speaker may form a *prima facie* opinion without such comments.
3. If the Speaker is satisfied that a contravention or failure to comply has not *prima facie* occurred, he or she shall inform the person who made the allegation or statement and the member implicated of his or her decision.
4. If he or she is satisfied that a contravention or failure to comply has *prima facie* occurred, he or she shall call a meeting of the committee selected by the Council either in general or specifically for that purpose to consider the matter. Any member implicated in the matter shall not be entitled to serve in the committee.
5. The Speaker shall determine the procedure for the hearing of the matter, provided that the following rules be complied with –
 - (a) Any person giving evidence before the committee may be required to do so under oath or affirmation;
 - (b) The member implicated has the right to be present when any evidence is heard, except as set out in (e), and may ask relevant questions based on the statement of the person, as may the committee;
 - (c) The committee may ask questions from the member implicated;
 - (d) The member implicated will be entitled to representation by a legal representative or other representative approved by the committee as may any person appearing before the committee;
 - (e) If the member implicated refuses to attend the meeting, does not attend the meeting or is instructed by the Speaker to leave because of his or her conduct at the meeting, the meeting may continue in the absence of such member;
 - (f) The Speaker and/or committee may be assisted during the proceedings by an official or other adviser;
 - (g) The member implicated will have the right to present evidence on the

statements implicating him or her and to call witnesses; **R 8 / 024**
(h) The committee may call witnesses to assist them in making

6. If the Speaker is implicated in any contravention of or failure to comply with the Code of Conduct, the functions in this procedure will be performed by the Mayor and if he or she is also implicated, then by a member appointed by Council.
7. After consideration of all evidence the committee must make a finding whether the member contravened or failed to comply with the Code of Conduct and inform the person who made the allegation or statement and the member implicated of its finding.
8. If the finding is that the member did contravene or fail to comply with the Code of Conduct, the committee must report its finding to Council and recommend an appropriate sanction.
9. After deciding on the appropriate sanction by Council the Speaker must inform the member thereof and inform the member of his or her right of appeal in terms of the Code of Conduct.

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