

**T**HE Council of Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following Bylaws:

## **OKHAHLAMBA LOCAL MUNICIPALITY**

### **STANDING RULES AND ORDERS FOR COUNCIL AND ITS COMMITTEES**

#### **1. MEETINGS OF THE COUNCIL**

- (1) Every meeting of the Council and its Committees shall be open to the public: Provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted, section 20 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).
- (2) In these Standing Rules, "**meeting**" shall mean all meetings of the Council.

#### **2. COUNCIL MEETINGS**

The Council shall hold an ordinary meeting for the transaction of business not less than once in every three months.

#### **3. SPECIAL MEETINGS**

The Speaker may at any time and shall, upon request by a majority of the councillors for the Municipality, call a special meeting of the Council.

#### **4. SERVICE OF NOTICES**

At least seventy-two hours before any ordinary meeting of the Council a summons to attend the meeting, specifying the business proposed to be transacted thereat and signed by the Speaker or the Director Corporate Services shall be left or delivered at the usual place of abode of every member of the Council or at such place which is reasonably accessible as such councillor may designate.

#### **5. NON-SERVICE OF NOTICE**

Accidental omission to serve on any councillor a notice of meeting shall not affect the validity of the meeting.

#### **6. URGENT MATTERS**

No business shall be transacted at a meeting other than that specified in the summons relating thereto, except any matters which the chairperson considers urgent or which the

Council/Executive Committee resolves by a majority of at least two-thirds of the members present to deal with as urgent.

## **7. ADJOURNED MEETINGS**

The Council/Executive Committee may adjourn a meeting to any day or hour, but no business shall be transacted at any adjourned meeting except such as was set out in the summons for the meeting of which it is an adjournment other than matters which are brought forward in accordance with paragraph 6 of these Standing Rules.

## **8. NOTICE OF ADJOURNMENT MEETING**

When a meeting is adjourned, notice of the adjourned meeting shall be sent to each member of the Council/Executive Committee, specifying the business to be transacted.

## **9. ACTS OF THE COUNCIL: HOW DETERMINED: QUORUM**

A majority of the councillors must be present at a meeting of the Council before a vote may be taken on any matter. All questions concerning matters mentioned in section 160(2) of the Constitution are determined by a decision taken by the Council with a supporting vote of a majority of its members. All other questions before the Council are decided by a majority of the votes cast, subject to section 34 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), pertaining to the dissolution of Municipal Councils.

## **10. CASTING VOTE**

If on any motion there is an equality of votes, the councillor presiding must exercise a casting vote in addition to that councillor's vote as a councillor.

## **11. WHEN COUNCILLORS MAY NOT ATTEND AND TAKE PART IN THE PROCEEDINGS OF THE COUNCIL — DISCLOSURE OF INTEREST (SECTION 5 OF THE CODE OF CONDUCT FOR COUNCILLORS)**

- (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 the Committee.
- (2) A councillor must withdraw from the proceedings of the Council or Committee when that matter is considered by the Council or Committee, unless the Council or Committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.
- (3) A councillor who, or whose spouse, partner or 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 Municipal Council at which it is possible for the councillor to make the disclosure.
- (4) This section 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.

## **12. NO QUORUM**

If at the expiration of ten minutes after the hour at which any meeting of the Council/Executive Committee is appointed to be held, a quorum shall not have assembled, no meeting shall take place, unless it is decided, with the unanimous consent of the members present, to allow further time, not exceeding an additional five minutes, in order to enable a quorum to assemble, but the members present may by a majority decide to adjourn the meeting to a more convenient time.

## **13. COUNT OUT**

If during any sitting of the Council or the Executive Committee the attention of the Chairperson be called to the number of members present, he shall count them, and if it be found that there is not a quorum present, the Council or the Executive Committee shall stand adjourned for such period as the members present may decide.

## **14. CHAIRPERSON OF COUNCIL MEETINGS**

- (1) At every meeting of the Council, the Speaker, or if he be not present, an Acting Speaker, shall be elected to act as Chairperson.
- (2) Meetings of the Executive Committee shall be chaired by the Mayor and if he is not present the Deputy Mayor.

## **15. BUSINESS AT COUNCIL MEETINGS**

- (1) The order of business at every ordinary meeting of the Council or its Executive Committee is as follows:
  - (a) Notice of meeting
  - (b) Leave of absence
  - (c) Minutes of previous meeting
  - (d) Matters arising
  - (e) Announcements
  - (f) Petitions and deputations
  - (g) Notices of motion
  - (h) Reports of Standing Committee/s
  - (i) Miscellaneous in the order determined by the Municipal Manager or as directed by the Speaker in respect of Council meetings.
- (2) The chairperson may, in his/her discretion, bring forward any business which is on the agenda paper at any stage.
- (3) The service of an interpreter will be made use of unless the majority of councillors present decide otherwise. It is expected from councillors to accommodate the interpreter who falls under the auspices of the Speaker.

## **16. NON-ATTENDANCE OF MEETINGS**

- (1) Application for leave of absence from any meeting of the Council or its' Committees shall be lodged with the Director Corporate Services in writing prior to the commencement of the relevant meeting.

- (2) Should a councillor for valid reasons not be able to comply with Rule 16(1), he/she can apply in writing to the Director Corporate Services for a condonation of such non-compliance which application will be reviewed by the Council upon the strength of the written application.
- (3) For the purposes of the provisions of sections 3 and 4 (Attendance at meetings) of the Code of Conduct for Councillors (Schedule 1 of the Systems Act), the procedure for infringements as contained in paragraphs 66, 67 and 68 of these Standing Rules shall apply.
- (4) Councillors that need to leave a Council meeting prior to conclusion thereof shall obtain permission from the Speaker.
- (5) For the purposes of Rule 16 non-attendance of meetings, capacity building or empowerment workshops arranged or approved by the Council are regarded as meetings.

#### **17. MINUTES TO BE KEPT: CONFIRMATION**

Minutes of the proceedings of every meeting shall be recorded and be kept for that purpose by the Director Corporate Services. The Municipal Manager shall be responsible for the correctness of the same, and the minutes of every meeting shall be confirmed at the next ordinary meeting and be signed by the Chairperson.

#### **18. NO DISCUSSION ON MINUTES**

Except as to accuracy, no motion or discussion shall be allowed upon the minutes.

#### **19. PETITIONS TO BE WRITTEN, TYPED OR PRINTED**

Petitions, which may be written, typed or printed, must be signed by not less than three burgesses and must be couched in respectful language and presented to the office of the Municipal Manager who shall, if he deems it necessary bring the matter before the Executive Committee.

#### **20. DEPUTATIONS TO SEND MEMORANDUM**

Deputations wishing to be received by the Executive Committee shall be requested, in the first instance, to send in a memorandum in writing, and the Municipal Manager shall bring the memorandum before the Committee concerned, which is authorised, if it sees fit, to receive the deputation and to report to the Council.

#### **21. RECEPTION OF DEPUTATIONS**

A deputation wishing to address the Executive Committee shall not exceed five in number, but only one member thereof shall be at liberty to address the Committee (except in reply to questions from members of the Committee) and then only for a period not exceeding ten minutes. The matter shall not be further considered by the Committee until the deputation shall have withdrawn.

#### **22. MOVING A REPORT**

The Chairperson of a Committee or the Deputy Chairperson of the Committee shall move the recommendations contained in the report unless he/she shall have previously stated his/her

disagreement with it. The Chairperson of a Committee or other member bringing up a report may withdraw or amend any section with the consent of the Executive Committee.

### **23. FORM OF GIVING NOTICE OF MOTION**

Except as provided in Standing Rule 6, no subject shall be brought before the Executive Committee by any member except upon notice of motion, which shall be in writing and signed by the member giving the notice. Such notice shall be given to the Municipal Manager.

A notice of motion must be submitted before 12:00 seven days prior to the meeting of the Executive Committee.

### **24. ORDER OF MOTION**

All notices of motion shall be dated and numbered as received and shall be entered by the Director Corporate Services upon the agenda paper in the order in which they are received, save and except that notice of an amendment shall be entered immediately after such notice of motion, irrespective of the time at which notice of the motion shall have been received.

### **25. RESTRICTION OF NOTICES OF MOTION**

- (1) No member shall have more than two notices of motion on the agenda at the same time, provided that this Rule shall not be applicable to party whips.
- (2) In dealing with notices of motion, the Chairperson shall first read out the number of each and the name of the mover, and shall ascertain which motions are unopposed, and these shall be passed forthwith without discussion. The Chairperson shall then call on the movers of the opposed motions in their order of the paper.

### **26. MOTIONS OR PROPOSALS**

Before any notice of motion is placed on the agenda paper, it shall be submitted to the Municipal Manager, who, if he be of the opinion that it is *ultra vires* legislation, shall cause the giver of the notice to be so informed. The giver of the notice shall, however, have the right to appeal to a sub-committee of the Executive Committee consisting of the Mayor, or the Deputy Mayor and two other councillors, who shall review the matter and decide whether or not such notice of motion be placed on the agenda paper.

### **27. MOTION NOT MOVED**

If a motion, notice of which is specified in the agenda, is called on, but is not moved by the member who has given the notice or by some other member authorised thereto in writing by him, it shall be considered as dropped and shall not be moved without further notice.

### **28. MEMBERS NOT TO WEAR HEADGEAR AND STAND WHILST SPEAKING**

During the sitting of the Council, members, except lady members, shall not wear headgear. When speaking, Councillors shall stand and they shall address the chair. This rule will not apply in respect of meetings of the Executive Committee or Committees appointed in terms of section 80 (2) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

## **29. RELEVANCE**

A member who speaks shall confine his speech strictly to the motion under discussion or to an explanation or a question of order.

## **30. PRECEDENCE OF A CHAIRPERSON**

Whenever the Chairperson rises during a debate, any member then speaking or offering to speak shall seat himself and the members shall be silent, so that the Chairperson may be heard without interruption.

## **31. LENGTH OF SPEECHES**

No speech shall exceed ten minutes in length without the consent of the meeting.

## **32. DISORDERLY CONDUCT OF A COUNCILLOR: DUTY OF THE CHAIRPERSON**

If at any meeting of the Council or the Executive Committee or other Committees of the Council, a councillor misconducts himself, behaves in an unseemly manner or persistently obstructs business or challenges the ruling of the Chairperson on any point of order or declines to withdraw an expression when required to do so by the Chairperson or indulges in tedious repetition or unbecoming language or commits any breach of these rules, the Chairperson shall direct such councillor to conduct himself properly and, if speaking, to discontinue his speech and resume his seat. In the event of persistent disregard of the directions of the Chairperson, the Chairperson shall direct such councillor to retire from the meeting for at least until finalisation of the item under discussion and shall, if necessary, cause him/her to be ejected therefrom.

## **33. DEALING WITH UNSATISFACTORY BEHAVIOUR**

In addition to the action of the Chairperson in terms of the aforementioned paragraph, the Speaker may take steps against any member who has so misconducted himself/herself or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the chair in accordance with the procedure for infringements contained in paragraphs 66, 67 and 68 of these Standing Rules; Provided where the councillor involved is the Speaker, the actions to be performed in terms of this section shall be performed by a sub-committee to be appointed by the Executive Committee.

## **34. OBSTRUCTION BY PERSONS OTHER THAN COUNCILLORS**

Any person, other than a councillor, who misconducts himself, behaves in an unseemly manner or interrupts the proceedings of the Council or Executive Committee at any meeting, shall, if the Chairperson so directs, be removed from the meeting and the Speaker may exclude such person from further admittance to the meeting for such period as he may fix.

## **35. MEMBERS TO SPEAK ONLY ONCE: RIGHT OF MOVER TO REPLY: NO MEMBER TO SPEAK AFTER REPLY BY MOVER**

In respect of a notice of motion, no member shall address the Council more than once on any motion or amendment. The mover of an original motion may, however, reply but he/she shall strictly confine himself/herself to answering previous speakers and shall not introduce any new matter into the debate. The right of reply shall not extend to the mover of an amendment which, having been carried, has become the substantive motion. After the reply no other member may speak and the questions shall be put forthwith.

**36. AMENDMENTS TO BE IN WRITING**

The Chairperson may call upon any mover of an amendment to reduce the same to writing, and, after signing it, to hand it to the Municipal Manager.

**37. WITHDRAWAL OF MOTION OR AMENDMENT**

A motion or amendment may be withdrawn by the mover with the consent of the seconder.

**38. MOTIONS TO BE SECONDED BEFORE DISCUSSION**

- (1) No motion or amendment shall be discussed or put to the Council until it shall have been seconded.
- (2) A member who has seconded a motion or amendment in a formal manner shall afterwards be permitted to speak upon it.

**39. POINTS OF ORDER AND EXPLANATION**

- (1) Any member, whether he has spoken on the matter or not, may speak to a point of order or in explanation, but such explanation shall be confined to some material part of his former speech which may have been misunderstood. A member so speaking shall be entitled to be heard forthwith. A point of order must be within the confines as contained in Schedule 2 of these Standing Rules.
- (2) When a member wishes to raise a point of order, he shall stand to draw the attention of the Chairperson.

**40. CHAIRPERSON'S RULING ON A QUESTION OF ORDER**

The ruling of the Chairperson on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.

**41. MAJORITY TO DECIDE**

All resolutions that may come before the Council and its Executive Committee shall be done and decided in accordance with paragraph 9 of these Standing Rules.

**42. EVERY MEMBER TO VOTE**

- (1) Every councillor shall give his vote on every division at which he/she is present, and no councillor shall leave the meeting during the time the Chairperson is putting the question.
- (2) Voting shall be by a show of hands or ballot.

**43. HOW TAKEN**

- (1) The Municipal Manager or an official designated by him shall act as teller and declare to the Chairperson the result of the division. The Chairperson shall thereupon declare the motion carried or lost, and it shall be recorded in the minutes. If any member so request, his/her name shall also be recorded.

(2) The Chairperson shall have a second or casting vote in cases of an equality of votes.

**44. TERMS OF REFERENCE OF COMMITTEES TO ASSIST THE EXECUTIVE COMMITTEE**

Upon the appointment of any Committee, the Executive Committee shall specifically determine the terms of reference of such Committee and shall fix the quorum of such Committee. The Council's Standing Rules and Orders shall apply *mutatis mutandis* to all sub-committees.

**45. THE COUNCIL MAY INCREASE OR RESTRICT POWERS**

With the exception of the Executive Committee whose functions are determined in terms of section 44 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), the Council may at any time extend, withdraw or modify the duties and powers of a Committee.

**46. MINUTES OF COMMITTEES**

(1) Every Committee appointed in terms of section 80 of the Local Government: Municipal Structures, 1998 (Act No. 117 of 1998) shall record minutes of its proceedings and cause the same to be duly kept by the Director Corporate Services. At every ordinary meeting of a committee, the unconfirmed minutes shall be taken as read, with a view to confirmation, provided that a copy of such minutes shall have been sent to each member of the committee twenty-four hours previously. Except as to accuracy, no discussion or motion shall be allowed upon the minutes.

(2) Minutes of all committees of the Council shall be submitted to the Executive Committee.

**47. INSPECTION OF MINUTE BOOKS BY COUNCILLORS**

The minutes of Council meetings as well as that of every committee shall be open for inspection by every member of the Council during office hours.

**48. MEMBER MAY RESIGN SEAT ON COMMITTEE**

Any member of a committee may resign his/her seat on the committee by a notice in writing signed by him and sent to the Municipal Manager. Any such resignation shall be reported to the Executive Committee to the end that the vacancy may be filled.

**49. DAY AND TIME OF MEETINGS**

The day and time of meetings of any Committee appointed in terms of section 80 of the Local Government: Municipal Structures, 1998 (Act No. 117 of 1998) shall be determined by terms of reference of the specific committee.

**50. WHEN STANDING COMMITTEES TO MEET**

Every Standing Committee shall meet in accordance with its terms of reference.



**51. MEMBERS OF THE COUNCIL MAY ATTEND ANY COMMITTEE**

Members of the Council shall have the right to attend any Committee, but members of the Council so attending shall have no right to join in the deliberations of the committee concerned, except with the permission of the committee.

**52. PROCEDURES OF COMMITTEES**

Every matter brought before a committee shall be decided by a majority of those present and voting. The voting shall be by show of hands. Any two members of the Committee then present and voting may require the names of the persons voting and the vote given to be entered in the minutes.

**53. DUTIES OF CHAIRPERSON OF COMMITTEE**

The Chairperson of a Committee shall preside at every meeting of the Committee at which he is present. He/she shall be entitled to vote in the first instance, and, in case of an equality of votes, may give a second or casting vote. He/she shall sign the minutes when the same have been passed by the Committee. It shall be his/her duty, if present, to bring up the report of the Committee to the Executive Committee.

**54. APPOINTMENT OF A VICE-CHAIRPERSON**

Each Committee may, if it thinks fit, appoint a Vice-Chairperson, if appointed, shall preside at the meeting in the absence of the Chairperson.

**55. POWERS OF VICE-CHAIRPERSON**

The Vice-Chairperson shall, when presiding, have the same powers and rights of voting as those possessed by the Chairperson. He/she shall, in the absence of the Chairperson, bring up the report of the Committee to the Council.

**56. COMMITTEE MAY APPOINT A TEMPORARY CHAIRPERSON**

In the absence of the Chairperson and the Vice-Chairperson, the members present shall appoint one of their members to preside at the meeting and the member so appointed shall, when presiding, have the same power and rights of voting as those possessed by the Chairperson.

**57. PROCEDURE TO REVOKE PREVIOUS RESOLUTIONS OF THE COUNCIL**

Except upon the recommendation of the Committee to which the Council has delegated powers or duties to deal with the particular subject matter, no resolution passed at any meeting of the Council shall be revoked or altered at any subsequent meeting unless notice of motion so to revoke or alter such resolution shall have been given to the Municipal Manager at least seven days before such subsequent meeting and the Municipal Manager shall, at least two days before such subsequent meeting, have forwarded a copy of such notice of motion to each councillor.

**58. INFORMATION TO BE OBTAINED FROM THE MUNICIPAL MANAGER OR THE MANAGER CONCERNED**

Members of the Council who desire to obtain from any official of the Council information with regard to the administrative work of the Council which is not accessible to the general public should address their enquiries to the Municipal Manager or to the Manager of the relevant Department.

**59. INFORMATION TO THE PRESS AND PUBLISHING OR DISCLOSING DOCUMENTS**

- (1) The Mayor, the Speaker and the Municipal Manager in their discretion may, on application being made to him/her by any registered newspaper, supply to such newspaper or its representative policy statements and/or official information and reports relating to the work of the Municipality. The Municipal Manager being the authorised channel through which newspapers may receive official information and reports, members of the Council are expected to refrain from sending to the press documents supplied to them with a view to their consideration by the Council or any Committee or publishing any unedited information or statements which could be construed as disclosing confidential or privileged information which might be prejudicial to the Council.
- (2) For the purpose of this item, "privileged or confidential information" means the information referred to in section 10 (2) of the Code of Conduct for Councillors Schedule 1 of the Systems Act, 2000 (Act No. 32 of 2000).

**60. PERSONAL CANVASSING FOR APPOINTMENT: A DISQUALIFICATION**

- (1) Personal canvassing for appointments in the gift of the Council is strictly prohibited. Proof shall disqualify a candidate for appointment.
- (2) This Standing Rule shall be quoted in advertisements calling for applications for appointments.

**61. USE OF CELL PHONES IN COUNCIL OR COMMITTEE MEETINGS**

No usage of cell phones shall be permitted during Council or Committee meetings.

**62. SUSPENSION OF STANDING RULES**

No Standing Rule shall be suspended without the vote of a majority of the members of the Council or of two-thirds of the members present, and a motion, duly seconded, to suspend the Standing Rules shall be put without debate.

**63. LEGAL DEFENCE AND INDEMNIFICATION OF COUNCILLORS AND OFFICERS OF THE MUNICIPALITY: PRIVILEGES AND IMMUNITIES**

- (1) The Council may determine the circumstances in which it will undertake the defence of or pay the legal costs or costs and the amount in respect of any legal proceedings whether civil or criminal a councillor or an official may have against any person, body organisation or institution arising from the councillor's or official's capacity as a councillor or official of the Okhahlamba Local Municipality.

- (2) The provisions of section 28 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as contained in Schedule 3 of these Standing Rules are incorporated as part of these Standing Rules.

#### **64. AUTHORITY OF INDIVIDUAL COUNCILLORS**

- (1) Individual councillors shall not have any executive power and cannot give instructions to officials or make any decisions binding on anyone else in regard to Council matters; subject to the right to request the Municipal Manager to report on any matter, or to ask the committee concerned to institute an enquiry into or otherwise deal with any aspect of matters of the Council which he feels requires attention.
- (2) The provisions of section 11 (Intervention in administration) of the Code of Conduct for Councillors as contained in Schedule 1 of the Systems Act, 2000 (Act No. 32 of 2000) is incorporated as part of this Rule.

#### **65. COUNCIL PROPERTY**

A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.

#### **66. PROCEDURE FOR INFRINGEMENTS**

- (1) Responsibility of the Speaker
  - (a) The maintenance of the discipline of councillors is, in the first instance, the responsibility of the Speaker.
  - (b) The Speaker is to determine whether an alleged breach of the councillor's Code of Conduct (Schedule 1 of the Systems Act, 2000 (Act No. 32 of 2000)) or these Standing Rules and Orders is to be dealt with by issuing an informal warning, the Speaker's hearing or a hearing by a Special Committee.

- (2) Investigation

If the Speaker, on reasonable suspicion, is of opinion that a provision of these Standing Rules or the Councillor's Code of Conduct has been breached for which breach a sanction is provided, the Speaker shall authorise an investigation of the facts and circumstances of the alleged breach by an appropriate body determined by the Speaker.

- (3) Plaint

- (a) In the event of alleged misconduct by a councillor, which, in the opinion of the body charged by the Speaker with the investigation, would appear to be sufficiently serious to warrant a sanction more serious than an informal oral warning, the councillor concerned will be issued with a plaint by the Speaker detailing—
  - (i) the alleged misconduct; and
  - (ii) the evidence for such misconduct.
- (b) The plaint shall further give the councillor concerned notice of his/her right to—

- (i) the sight of any affidavits, documents or real evidence discovered as a result of the investigation and of the report of the body that investigates the breach;
  - (ii) a reasonable opportunity to reply in writing regarding the alleged breach;
  - (iii) resign;
  - (iv) the presence of his/her party whip at any sanctioning of a councillor; and
  - (v) demand the hearing of *viva voce* evidence in a Speaker's hearing.
- (c) A copy of the plaint shall further be given by the Speaker to the party whip of the councillor concerned.

(4) Rights of Councillors

A Councillor who receives a plaint shall be entitled to—

- (a) affidavits, documents or real evidence discovered as a result of the investigation and of the report of the body charged by the Speaker with the investigation;
- (b) resign from the Municipal Council: Provided that he/she does so prior to the leading of evidence at any hearing;
- (c) reply to the Speaker in writing to the plaint setting out contradicting evidence or evidence in mitigation;
- (d) have his/her party whip present at any sanctioning; and
- (e) demand the hearing of *viva voce* evidence either in a Speaker's hearing or a Special Committee as to be determined by the Speaker within such reasonable time as may be set out in the plaint.

(5) Sanctioning without the Speaker's disciplinary hearing

Where—

- (a) the councillor concerned does not demand the hearing of *viva voce* evidence in a Speaker's disciplinary hearing in terms of these Standing Rules; and
- (b) the Speaker is of the opinion that the interest of justice will not be served by holding a Speaker's disciplinary hearing,

the Speaker may, *mero motu*, sanction such councillor in terms of these Standing Rules: Provided that he/she shall report the matter and his/her conclusions to a meeting of the Municipal Council in the manner prescribed in the Municipal Systems Act, 2000 (Act No. 32 of 2000).

(6) Speaker's disciplinary hearing

- (a) A Speaker's disciplinary hearing shall be held by the Speaker's Tribunal consisting of the Speaker together with two assessors appointed by the Executive Committee for each hearing within a reasonable time of—

- (i) the councillor concerned exercising his/her right of hearing; or
  - (ii) the Speaker determining that the interests of justice will be served by holding a Speaker's disciplinary hearing.
- (b) The Speaker shall serve notice of the time and place of a Speaker's disciplinary hearing.
- (c) In any Speaker's disciplinary hearing—
  - (i) the hearing shall follow the adversarial format;
  - (ii) an appropriate person shall lead the evidence for the plaint;
  - (iii) the councillor may be represented at the hearing by his/her party whip, any other councillor or any other person;
  - (iv) the councillor and/or his/her representative is entitled to cross-examine the evidence adduced by the person leading the evidence for the plaint and to produce any evidence;
  - (v) the Speaker shall also be entitled to cross-examine the evidence adduced by the councillor and/or his/her representative;
  - (vi) the hearing, once convened, shall be recorded in accordance with the requirements of the Secretary to the Council who shall be responsible for the accuracy of the official record.
- (d) After having considered the evidence, the Speaker and the two assessors shall make their decision on a majority of votes.
- (e) In the event of the Speaker's Tribunal concluding that there was an infringement, they will then hear any plea in mitigation and/or extenuation prior to deciding the sanction.
- (f) If the Speaker's Tribunal, after considering both sides, is of the opinion that, on the balance of probabilities, a councillor is liable for a sanction, the Speaker shall impose such sanction and service notice on the councillor of the sanction in which notice they shall further set out—
  - (i) the rights of the councillor under the Constitution, the Municipal Systems Act, 2000 (Act No. 32 of 2000), the Administrative Justice Act and any other law; and
  - (ii) that the debt (if any) arises from the date the notice was issued.
- (g) The councillor shall sign a duplicate of the notice to confirm receipt thereof.
- (h) The Speaker shall report the fact of the hearing and the Tribunal's conclusions thereon to a meeting of the Municipal Council.
- (i) A report in terms of section 66(6)(h) of these Rules is open to the public.

- (j) The Speaker shall forward the report to the MEC for Local Government in accordance with the Councillors' Code of Conduct.

(7) Internal appeals

- (a) A councillor has the right to appeal to the Special Committee in the event of the Speaker's Tribunal imposing a sanction on that councillor: Provided that—
  - (i) a letter of appeal is lodged with the Speaker within 5 days of receipt of the notice in terms of section 66(6)(f) of these Rules;
  - (ii) appeals will only be heard on the grounds of an appeal submitted by the councillor concerned in his/her letter of appeal.
- (b) No sanction shall be executed by the Municipality prior to finalisation of any appeal which is timeously lodged in terms of section 66(7)(a)(i) of these Standing Rules.
- (c) The Special Committee may either rehear all or part of the matter or limit the appeal to argument on specific grounds of appeal.
- (d) The Special Committee may, on appeal, reduce the sanction imposed by the Speaker's Tribunal or set aside or confirm the decision given at the Speaker's disciplinary hearing.
- (e) For the purpose of the Council's procedure of infringements, the Special Committee shall mean a five (5) member committee as appointed by the Executive Committee for each hearing.

(8) Procedure

- (a) Subject to the provisions of section 66(7) of these Rules, the provisions of section 66(3) shall apply to any hearing by the Special Committee.
- (b) Any councillor has the right to appeal to the MEC against any finding of the Special Committee and/or sanction imposed by such Committee following the same procedure as determined by section 66(7) of these Rules.

## **67. SANCTIONS**

(1) General

Subject to the requirements of substantive fairness, the Councillor's Code of Conduct (Schedule 1 of the Systems Act, 2000 (Act No. 2000)) and the provisions of these Standing Rules, the Speaker's Tribunal or the Special Committee, as the case may be, has the right to determine the sanction to be applied, depending on the seriousness of the infringement.

(2) Warnings

- (a) Informal oral warnings

Where the Speaker's Tribunal is of the opinion that the interests of justice will best be served by issuing an informal oral warning to a councillor for an infringement, the Speaker shall—

- (i) issue such warning to the councillor in private; and
- (ii) notify the party whip of the issuing of such warning.

(b) **Formal warnings**

(i) Where the Speaker's Tribunal or the Special Committee, as the case may be, is of the opinion that the interests of justice will best be served by issuing a formal warning to a councillor for an infringement, such sanction shall, after confirmation by the Municipal Council, be—

(aa) expressed in writing; and

(bb) served on the councillor concerned and on the party whip, and the Speaker shall thereupon enrol the name of the councillor, the infringement concerned and the sanction in the record referred to in section 66(6)(c)(vi) of these Rules and may further publicise the infringement in such manner as the Speaker deems appropriate.

(ii) Where, as a result of repeated Infringements, the Speaker's Tribunal or the Special Committee, as the case may be, is of the opinion that the interests of justice will best be served by issuing a formal final warning to a councillor, such sanction shall, after confirmation by the Municipal Council—

(aa) be expressed in writing;

(bb) state that in the event of the councillor infringing against the Councillor's Code of Conduct or these Standing Rules, the Special Committee shall consider advising the Municipal Council to request the suspension or removal of such councillor in terms of the Councillor's Code of Conduct; and

(cc) be served on the councillor concerned and on the party whip, and the Speaker shall thereupon enrol the name of the councillor, the infringement concerned and the sanction in the record referred to in section 66(6)(c)(vi) of these Rules in such manner as the Speaker deems appropriate.

(3) **Formal reprimands**

Where the Speaker's Tribunal or the Special Committee, as the case may be, is of the opinion that the interest of justice will best be served by issuing a formal reprimand to a councillor for an infringement, the Speaker shall at a Meeting of the Municipal Council—

(a) call upon the councillor concerned to stand in front of the Municipal Council; and

(b) state the infringement and reprimand the councillor in such language as he/she deems appropriate; and the Speaker shall thereupon enrol the name of the councillor, the infringement concerned and the sanction in the record referred to in

section 66(6)(c)(vi) of these Rules and may further publicise the infringement in such manner it deems appropriate.

(4) Suspension

- (a) Where the Special Committee is of the opinion that the interests of justice will best be served by the suspension of a councillor from the Municipal Council for a period for an infringement, the Special Committee shall so report to the Municipal Council and the Municipal Council shall report thereon to the MEC for Local Government in terms of the Councillors' Code of Conduct.
- (b) In the event of the MEC for Local Government imposing any suspension of a councillor for a period in terms of the Councillors' Code of Conduct—
  - (i) the councillor shall be suspended without any remuneration during such period; and
  - (ii) the Speaker shall enrol the name of the councillor, the infringement concerned and the sanction in the record referred to in section 66(6)(c)(vi) of these Rules and may further publicise the infringement in such manner as the Speaker deems appropriate.
- (c) A suspension shall be regarded as a sanction more serious than a formal final warning or formal reprimand.

(5) Civil fines

- (a) Where the Speaker's Tribunal or the Special Committee, as the case may be, is of the opinion that the interests of justice will best be served for an infringement listed in Column 1 of Schedule 1 of these Standing Rules by imposing a civil fine listed in Column 2 of that Schedule on a Councillor, such sanction shall be—
  - (i) expressed in writing; and
  - (ii) served on the councillor concerned and on the party whip; and the Speaker shall thereupon enrol the name of the councillor, the infringement concerned and the sanction in the record referred to in section 66(6)(c)(vi) of these Rules and may further publicise the infringement in such manner as the Speaker deems appropriate.
- (b) Where provision is made in these Standing rules for the fining of any councillor, and a councillor is fined, the Municipality may deduct such fine from any monies as may be owing to the councillor by the Municipality or recover such fine as a civil debt.

(6) Expulsion

- (a) Where the Special Committee is of the opinion that the interests of justice will best be served by the expulsion of a councillor from the Municipal Council for an infringement, the Special Committee shall so report to the Municipal Council and the Municipal Council shall report thereon to the MEC for Local Government in terms of the Councillors' Code of Conduct.
- (b) In the event of—



- (i) the MEC for Local Government imposing the expulsion of a councillor in terms of the Councillors' Code of Conduct; or
- (ii) a councillor being expelled in terms of section 67(96)(a);

the Speaker shall enrol the name of the councillor, the infringement concerned and the sanction in the record referred to in section 66(6)(c)(vi) of these Rules and may further publicise the infringement in such manner as the Speaker deems appropriate.

## **68. RECORD OF SANCTIONS**

- (1) The Speaker shall keep a record of all sanctions imposed on any councillor, which record shall be open to public scrutiny at the Information Office during office hours.
- (2) The record of sanctions contemplated in section 68(1) of these Rules will remain on record and shall be taken into consideration for precedent purposes and for determining the sanction for repeated infringement where sanctions are imposed on a councillor.

## **69. REPEAL OF THE EXISTING STANDING RULES AND ORDERS**

The Standing Rules and Orders for the Okhahlamba Local Municipality are hereby repealed.

## SCHEDULE 1

### Infringements and civil fines

Column 1 Infringement Column	2 Maximum Civil Fine
(1) Not attending a meeting which the councillor concerned was required to attend.	2 weeks salary
(2) Failure to remain in attendance at a meeting which the councillor concerned was required to attend.	2 weeks salary
(4) Failure to withdraw from the proceedings of the Municipal Council or a Committee when a matter in which the councillor concerned or any spouse, partner or business associate of that councillor may have any direct or indirect personal or private business interest is considered by the council or Committee; unless the Municipal Council or the Committee concerned decided that the direct or indirect interest in the matter is trivial or irrelevant.	1 month's salary
(5) Failure to disclose full particulars of the benefit of which the councillor is aware at the first meeting of the Municipal Council at which it is possible for the councillor to make the disclosure, where his or her spouse, partner, business associate or close family member, has acquired or stood to acquire any direct benefit from a contract concluded with the Municipality.	1 month's salary
(6) Without the prior consent of the Municipal Council, being a party to or beneficiary under a contract for the provision of goods, works or services to the Municipality	3 weeks salary
(7) Without the prior consent of the Municipal Council, being a party to or beneficiary under a contract involving the performance of any work otherwise than as a councillor for the Municipality.	3 weeks salary
(14) Requesting, soliciting or accepting any reward, gift or favour for voting or not voting in a particular manner on any matter before the Municipal Council or before a Committee of which that councillor is a member.	5 months salary
(15) Requesting, soliciting or accepting any reward, gift or favour for persuading the Municipality in regard to the exercise of any power, function or duty.	5 months salary
(16) Requesting, soliciting or accepting any reward, gift or favour for making a representation to the Municipality	5 months salary
(17) Requesting, soliciting or accepting any reward, gift or favour for disclosing privileged or confidential information.	5 months salary
(18) Interfering in the management or administration of the Municipal Administration unless mandated by resolution of the Municipal Council.	3 months salary
(19) Using the position or privileges of a councillor for private gain or to improperly benefit another person.	5 months salary
(20) Using privileged or confidential information obtained as a councillor for private gain or to improperly benefit another person.	5 months salary
(21) Without the permission of the Municipal Council or of the Committee concerned disclosing any privileged or confidential information of the Municipality in any way whatsoever.	6 weeks salary
(22) Giving or purporting to give any instruction to any employee of the Municipality except when authorised to do so by resolution of the Municipal Council.	3 weeks salary
(23) Obstructing or attempting to obstruct the implementation of any decision of the Municipal Council or a Committee by an-employee of the Municipality.	6 weeks salary
(24) Encouraging, soliciting or participating in any conduct which would cause or contribute to maladministration in the Municipality.	3 weeks salary
(25) Using, taking, acquiring or benefiting from or taking advantage of any property or asset owned, controlled, or managed by the Municipality to which the councillor concerned has no right.	6 weeks salary
(26) Assaulting any person on municipal premises or on municipal business.	3 months salary
(27) Stealing any property from municipal premises.	5 months salary
(28) Malicious injury to municipal property.	3 weeks salary
(29) Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in a meeting of the Council or Committee of the Council.	2 weeks salary
(30) Failing to fall silent when the Presiding Officer speaks or rises during a meeting.	2 weeks salary
(31) Failing to obey any ruling, order or directive of the Presiding Officer at any meeting of the Council or any Committee of the Council.	2 weeks salary
(32) Failing to obey any ruling, order or directive of the Presiding Officer at any meeting of the Council or any Committee of the Council.	2 weeks salary
(33) Failing to leave the Chamber or Committee Room when ordered to do so by the Presiding Officer.	2 weeks salary

**SCHEDULE 2**  
**Clarification: A point of order (Section 39)**

**Definition:** It is in fact an appeal to the chairman for his ruling on a matter concerning the conduct of a meeting. The chairman's decision is final and in any event he has a discretion to accept the point of order or not.

**Clarification**

34. A point of order is a question raised with a view of calling attention to any departure from the prescribed modes of proceeding in debates.
35. A councillor whether he has spoken on the matter under discussion or not, may rise to a point of order or in explanation.
36. Such explanation shall be confined to some material part of the discussion which may have been misunderstood.
37. A councillor so rising shall be entitled to be heard forthwith.
38. He must state the point clearly and confine himself strictly to the matter under discussion.
39. The ruling of the chairman on a point of order, or on the admissibility of a personal explanation shall be final and not open to discussion.
40. If a member challenges the ruling of the chairman on any point of order, the chairman shall direct him to conduct himself properly and to discontinue his speech and resume his seat.

**Summary**

- (1) A point of order can be put at any time during a meeting.
- (2) A point of order can be put regarding—
  - (a) bad language;
  - (b) a standing rule not complied with
  - (c) an amendment rule not complied with;
  - (d) an amendment that is *ultra vires*;
  - (e) a matter pertaining to the good order; or
  - (f) an explanation required.
- (3) A point of order must be phrased as a question.

**SCHEDULE 3**

**Privileges and immunities**

28. (1) Provincial legislation in terms of section 161 of the Constitution must provide at least—
  - (a) that councillors have freedom of speech in a municipal council and in its committees, subject to the relevant council's rules and orders as envisaged in section 160 (6) of the Constitution; and

- (b) that councillors are not liable to civil or criminal proceedings, arrest, imprisonment or damages for—
  - (i) anything that they have said in, produced before or submitted to the Council or any of its committees; or
  - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.
- (2) Until provincial legislation contemplated in subsection (1) has been enacted, the privileges referred to in paragraphs (a) and (b) of subsection (1) will apply to all Municipal Councils in the province concerned.