

## **RULES OF ORDER AND ETHICS BY-LAWS**

### **PREAMBLE**

WHEREAS every municipal councillor must recognise that the prime function of local government is at all times to serve the best interests of all of the community, must be dedicated to the concepts of effective and democratic local government, must promote the dignity and worth of the services rendered by local government and maintain a constructive, creative and practical attitude toward local government and a deep sense of social responsibility as an elected representative, must be dedicated to the highest ideals of honour and integrity in all public and personal relationships in order that the community, municipal officials and employees may merit the respect and confidence of the elected representatives, must set and achieve community goals and uphold municipal policies, must refrain from interference in the administration of the municipality and from all other partisan political activities which would impair performance as an elected representative, must make it a duty to continually improve his **or her** professional ability and develop competencies required to perform the duties of an elected representative, must keep the community informed of municipal affairs, must encourage communication and foster friendly and courteous service to the community and seek to improve the quality and image of municipal councillors, must handle each challenge without discrimination and with principles of justice and fairness, must seek no favour and acknowledge that personal gain or profit secured by a councillor's, position is dishonest, must adhere to the Code of Conduct for Councillors, comply with the standing rules and orders and by-laws of a municipal council and at all times respect the rule of law;

**BE IT THEREFORE ENACTED BY THE MUNICIPAL COUNCIL OF THE MSUNDUZI LOCAL MUNICIPALITY, AS FOLLOWS.**

### **TABLE OF CONTENTS**

| <b>Section</b>   | <b>Page</b> |
|--|-------------|
| <b><u>CHAPTER 1</u></b>  |             |
| <b><u>DEFINITIONS</u></b>  |             |
| 1. Definitions   | 5           |
| <b><u>CHAPTER 2</u></b>  |             |
| <b><u>APPLICATION AND INTERPRETATION OF THESE RULES AND ORDERS BY-LAWS</u></b> |             |
| 2. Application of these rules and orders by-laws                               | 7           |
| 3. Interpretation of these rules and orders by-laws                            | 7           |
| <b><u>CHAPTER 3</u></b>  |             |
| <b><u>FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS</u></b>            |             |
| 4. Council meetings  | 8           |
| 5. Admission of public   | 8           |

|   |    |
|---|----|
| 6. Notice to attend an ordinary council meeting | 9  |
| 7. Special meetings                             | 9  |
| 8. Service of notices and agenda                | 10 |
| 9. Non-receipt of notice                        | 10 |

#### **CHAPTER 4**

##### **QUORUM**

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

#### **CHAPTER 5**

##### **ATTENDANCE**

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

#### **CHAPTER 6**

##### **ADJOURNMENT**

|                          |    |
|--------------------------|----|
| 15. Adjourned meeting    | 14 |
| 16. Continuation meeting | 14 |

#### **CHAPTER 7**

##### **PROCEEDINGS**

|   |    |
|---|----|
| 17. Speaker and chairpersons of meetings        | 14 |
| 18. Minutes                                     | 16 |
| 19. Order of business                           | 16 |
| 20. Confirmation of minutes of previous meeting | 17 |
| 21. Reports                                     | 17 |
| 22. Motions                                     | 17 |
| 23. Questions                                   | 18 |
| 24. Supply of information to a councillor       | 19 |
| 25. Items of an urgent nature                   | 19 |
| 26. Interpretation                              | 19 |

|                  |    |
|------------------|----|
| 27. In-committee | 19 |
|------------------|----|

## **CHAPTER 8**

### **VOTING**

|                         |    |
|-------------------------|----|
| 28. Decisions by voting | 20 |
| 29. Decision and voting | 20 |
| 30. Demand for division | 21 |

## **CHAPTER 9**

### **REVOCAION OF COUNCIL AND COMMITTEE RESOLUTIONS**

|   |    |
|---|----|
| 31. Revocation of council resolutions   | 22 |
| 32. Revocation of committee resolutions | 22 |

## **CHAPTER 10**

### **DEBATE**

|  |    |
|--|----|
| 33. Opportunity to speak                     | 22 |
| 34. Relevance                                | 23 |
| 35. Length of speeches                       | 23 |
| 36. Councillors to speak only once           | 23 |
| 37. Precedence of the speaker or chairperson | 23 |
| 38. Points of order                          | 23 |
| 39. Explanation                              | 23 |

## **CHAPTER 11**

### **CONDUCT**

|                     |    |
|---------------------|----|
| 40. General Conduct | 23 |
| 41. Misconduct      | 24 |

## **CHAPTER 12**

### **COMMITTEES**

|   |    |
|---|----|
| 42. Establishment                                 | 25 |
| 43. Committees to assist the Executive Committees | 25 |

|                                |    |
|--------------------------------|----|
| 44. Membership                 | 25 |
| 45. Chairpersons               | 26 |
| 46. Rules and Ethics Committee | 26 |
| 47. Own Rules                  | 27 |

**CHAPTER 13**

**PECUNIARY INTEREST**

|                                       |    |
|---------------------------------------|----|
| 48. Declaration of pecuniary interest | 27 |
|---------------------------------------|----|

**CHAPTER 14**

**BREACH AND SANCTIONS**

|              |    |
|--------------|----|
| 49. Breach   | 27 |
| 50. Sanction | 27 |

**CHAPTER 15**

**GENERAL PROVISIONS**

|                                  |    |
|----------------------------------|----|
| 51. Repeal of existing by-laws   | 27 |
| 52. Short title and commencement | 28 |

**SCHEDULES**

|  |    |
|--|----|
| SCHEDULE 1: NON-ATTENDANCE AT COUNCIL MEETINGS: STANDING PROCEDURE FOR THE DEDUCTION OF MONIES AND REMOVAL FROM OFFICE | 29 |
|--|----|

|                                   |    |
|-----------------------------------|----|
| SCHEDULE 2: NON-ATTENDANCE REPORT | 30 |
|-----------------------------------|----|

|   |    |
|---|----|
| SCHEDULE 3: SUPPLEMENTARY RULES AND ORDERS OF VIRTUAL MEETINGS OF THE MSUNDUZI LOCAL MUNICIPAL COUNCIL AND ITS COMMITTEES | 32 |
|---|----|

**CHAPTER 1**  
**DEFINITIONS**

**1. Definitions.** —In these by-laws, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise—

**“absent”**, in relation to a meeting of the council means absent without having obtained leave from the meeting;

**“amend a motion”** means to make minor alterations or modifications to a motion without changing the original meaning or intention of the motion;

**“appeal authority”** means the appeal authority as envisaged in section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

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

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

**“council”** means the council of the Msunduzi **Local** Municipality;

**“council-in-committee”** means that when the council during the course of its deliberations resolves to sit as a committee in circumstances where matters of a confidential or legal nature are to be debated or in circumstances where, in the opinion of the majority of the members of the council, the presence of the media, officials of the municipality or members of the public would prevent free and open discussion on the matter under consideration.

**“Code of Conduct”** means the Code of Conduct for councillors contained in **Schedule 7 of the Structures Act**;

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

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

**“councillor”** means a member of a municipal council;

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

**“duly authorised official/officials”** means any peace officer appointed in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); traffic official and security officer of the municipality;

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

**“explanation”** means the clarification of some material part of a councillor’s former speech which may have been misunderstood;

**“gender and number”** In every rule, unless the contrary intention appears, words importing the masculine gender include females and words in the singular number include the plural, and words in the plural number include the singular and words importing the feminine gender include males;

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

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

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

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

**“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 and includes any person acting in that capacity;

**“notice of motion”** means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of rule 22;

**“notice of question”** means the instrument by which councillors may put a question requiring a written reply in accordance with rule 23;

**“performance management system”** means the performance management system as described and envisaged in chapter 6 of the Systems Act;

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

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

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

**“rule”** means by-law, referring to sections of these by-laws;

**“rules committee”** shall mean the rules committee as referred to in rule 46 of these by-laws;

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

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

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

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

“table” means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these rules and orders.

## CHAPTER 2

### APPLICATION AND INTERPRETATION OF THESE RULES AND ORDERS BY-LAWS

**2. Application of these rules and orders by-laws.**—(1) These rules and orders, and ethics by-laws govern the proceedings of the council and committees of the council and must be complied with by—

- (a) all councillors;
- (b) any member of the public while present in the precincts;
- (c) any deputation addressing the council or a committee of the council; and
- (d) any official of the municipality.

(2) Subject to the provisions of Chapter 12, these by-laws shall apply to the municipal council and to its committees established in terms of sections 79 and 80 of the Structures Act.

**3. Interpretation of these rules and orders by-laws.**—(1) Any interpretation of these rules and orders by-laws 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.

(2) The ruling of the speaker or chairperson with regard to the interpretation of these rules and orders by-laws at a meeting of the council or committee of the council shall, subject to rules 3 (5) and 3 (6), be final and binding.

(3) The interpretation and the ruling of the speaker or chairperson of any of these rules and orders by-laws must be recorded in the minutes of the council or committee meeting.

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

(5) 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. The municipal manager must thereafter report to the council or committee of the council.

(6) 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 affecting the rights of others must be in writing and reasons must be recorded of such decisions.

## CHAPTER 3

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

**4. Council meetings.**—(1) The council must hold an ordinary meeting of the council not less than once per month.

(2) The speaker must convene all meetings of the council in accordance with rule 4 (1) and subject to rule 6.

(3) The Council shall adjourn for fourteen days during July and thirty days during December/ January annually.

**5. 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 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 report on an award in terms of supply chain management policy;
- (g) the disposal or acquisition of municipal capital asset;
- (h) any other matter prescribed by legislation.

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

(4) The circumstances in which the council or a committee of the council shall exclude the public are the following—

- (a) any discussion relating to the terms and conditions of employment of any member of staff or labour issue relating thereto;
- (b) any matter relating to any litigation being conducted by the council;

- (c) any confidential or personal information of any member of staff, councillor or member of the public;
- (d) any investigation, report or internal audit report in the course of consideration and before it is served before council;
- (e) any discussion in respect of the rights of third parties where such discussions are confidential until a final decision has been made by council or a sub-committee concerned;
- (f) any matter deemed confidential at the discretion of the **Chairperson and / or the municipal manager.**

**6. Notice to attend an ordinary council meeting.**—(1) The speaker must convene meetings of the council, at least monthly, through a duly signed notice of council meeting, stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.

(2) Notice to attend a meeting in terms of rule 6 (1) shall be given at least—

- (a) three calendar days prior to an ordinary meeting; and
- (b) twenty-four hours prior to a special meeting.
- (c) seven days prior to an ordinary meeting with regard to the passing of by-laws; approval of budgets; imposition of rates and other taxes, levies and duties and raising of loans.

**7. Special meetings.**—(1) The speaker—

- (a) for the purpose of pertinent or urgent council business;
- (b) or at the request of a majority of the councillors of the municipality, must call a special meeting of the council.

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

(3) A request for the calling of a special meeting, as contemplated in rule 7 (1) (b), 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) If the speaker fails to convene a meeting in terms of this rule, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.

**8. 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 councillor's 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;
- (d) the pigeon hole of the councillors situated in the councillor's common room. Once the agenda has been delivered in any of the ways mentioned in (a) to (d) above, all agendas will be deemed to have been properly delivered.

(2) All documentation relevant to any council or committee meeting must be given to all councillors at least three calendar days prior to an ordinary council or committee meeting and twenty-four hours prior to a special council or special committee meeting.

**(2A) Confidential items will be prepared on a separate Agenda, and only circulated (physical meetings) and projected (physical and virtual meetings) during the meeting of Council or any of its committees. Following consideration of the confidential agenda, all circulated copies must be returned to the Committee Officer. Access to the confidential agenda for purposes of a caucus meeting, may only be granted once the item has been formally presented to the Council or Committee, at which stage the Speaker, or Chairperson, may consider any request for a caucus prior to considering the report in-committee. A Committee Officer must be present for the duration of time that the caucus has access to the confidential agenda, after which all copies must be returned to the Committee Officer.**

(3) All councillors must inform the speaker of any change of their 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.

9. **Non-receipt of notice.**—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 4

#### QUORUM

10. **Quorum.**—(1) Notwithstanding that there may be vacancies; **a majority of the number of councillors determined in terms of section 20 of the Structures Act must be present at a meeting of the council when a vote is taken on any matter.**—
- (a) Subject to a quorum, the failure of any councillor to vote shall not invalidate the proceedings of the council meeting.
- (2) Notwithstanding that there may be vacancies; a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter.
11. **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 agreed by the **majority of** councillors present to allow further time not exceeding fifteen minutes for a quorum, whereafter 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 councillors present;
  - (b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;
  - (c) if a quorum becomes present after the adjournment then the meeting must continue;
  - (d) if no quorum becomes present after the adjournment then the chairperson or speaker must forthwith adjourn the meeting.
- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be re-convened within seven days as a continuation meeting.

## CHAPTER 5

### ATTENDANCE

- 12. Attendance.**—(1) All councillors shall 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;
  - (b) that councillor is required to withdraw in terms of rule 45 (2);
  - (c) that councillor is absent with the permission of the speaker or chairperson.
- (2) Each councillor attending any meeting of the council or a committee of the council 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 councillor 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.
- (5) Councillors, who are not members of council Committees may attend meetings of such committees as observers, but may not participate during discussions without the permission of the Chairperson and shall be excluded during the discussion of confidential matters by such committees.
- 13. 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 councillor—
- (a) is unable to attend a meeting of which notice had been given; or
  - (b) is unable to remain in attendance at a meeting; or
  - (c) will arrive after the stipulated commencement time of a meeting,
- he or she 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 council or relevant committee 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 its decision.
- (5) A councillor 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.
- (6) Where a councillor fails to remain in attendance at a meeting—
- (a) without being granted permission to do so; or
  - (b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting, the time of leaving must be recorded in the minutes of the meeting and that councillor shall be deemed to have been absent without leave at that meeting.
- (7) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of rule 12 (2).
- 14. Non-attendance.—**(1) Subject to compliance with the procedure set out in rule 13, **and the provisions of item 5(1) of Schedule 7 of the Municipal Structures act, in the event that the Council or the committee declines to grant a Councillor leave of absence from a Council or committee meeting, or a Councillor fails to apply for leave of absence from such meetings, a fine may be imposed and shall be deducted from that Councillor’s allowance; the sum of money specified in item (1) of Schedule 1 of the Rules. The Councillor shall have the right to contest the imposition of a fine by means of a written submission to the Speaker which shall then be dealt with in terms of Rule 14(2).**
- 2) Where a councillor has been absent without obtaining leave from a meeting—
- (a) the Rules **and Ethics** Committee as contemplated in rule 46, 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 Rules **and Ethics** Committee, shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
  - (c) the councillor may appeal in writing to the appeal authority against the Rules Committee, speaker’s or chairperson’s decision within 21 (twenty-one) days of receipt of such decision;
  - (d) the council, appeal authority or committee, as the case may be, shall—
    - (i) allow the councillor an opportunity to make representations, oral or written; and

- (ii) consider the councillor's appeal, within 6 (six) weeks 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 within a reasonable period.
- (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 15 of the Code of Conduct.

## **CHAPTER 6**

### **ADJOURNMENT**

- 15. 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 7 days after the original meeting.
- 16. 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 7**

### **PROCEEDINGS**

- 17. Speaker and chairpersons of meetings.**—(1) The chairperson of the municipal council shall be called the speaker, who is elected at the first sitting of the council after its election from among the councillors, or when necessary to fill a vacancy.
- (2) 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 of KwaZulu-Natal, presides over the election of a speaker.
- (3) The procedure set out in schedule 3 of the Structures Act shall apply to the election of a speaker.
- (4) The municipal council must elect a mayor and deputy mayor in accordance with the provisions of section 48 of the Structures Act.
- (5) 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.

(6) The speaker—

- (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 Systems Act;
- (c) must ensure that the council meets at least monthly;
- (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 7 to the Structures Act;
- (f) must ensure that council meetings are conducted in accordance with these rules and orders of council;
- (g) shall be responsible for the certification of confirmed minutes;
- (h) is elected for a term ending when the next council is declared elected and shall vacate office if that person—
  - (i) resigns as a speaker;
  - (ii) is removed from office in accordance with section 40 of the Structures Act; or
  - (iii) ceases to be a councillor.

(7) The mayor of the municipality—

- (a) presides over meetings of the executive committee; and
- (b) performs the duties, including any ceremonial functions and exercises the powers delegated to the mayor by the municipal council or executive committee.

(8) The deputy mayor exercises the powers and performs the duties of the mayor if the mayor is absent or not available or if the office of the mayor is vacant. The mayor may delegate duties to the deputy mayor.

(9) The speaker or 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.

(10) 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.

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

**18. 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, 1996 (Act No. 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, 1996 (Act No. 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.

(5) Any request for a transcript or portion of the transcript must be made in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

**19. Order of business.**—(1) The order of business at every meeting of the council or its executive committee or committee of council is preceded by the following procedure—

- (a) the bell is rung when the meeting is due to start;
- (b) all councillors stand at their places;
- (c) the speaker and the mayor enter the Chamber and stand at their places;
- (d) the speaker calls upon all councillors to recite the dedication;
- (e) brief period of silence;
- (f) all present in the Chamber are then seated.

(2) The order of business at every meeting, following the procedure in section 19 (1) is as follows—

- (a) notice of meeting;
- (b) applications for leave of absence;
- (c) declarations of pecuniary or other conflict of interests;
- (d) presentations;
- (e) confirmation of minutes of previous meeting;
- (f) matters arising from the minutes;
- (g) announcements by the chairperson;

- (h) reports;
- (i) notices of motion;
- (j) questions of which notice has been given.

(3) The speaker or chairperson may, in his/her discretion, at any stage bring forward or defer to later on the agenda any business that is on the agenda.

**20. 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.

**21. Reports.**—(1) Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of rule 8.

(2) 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.

(3) Before the council takes a decision on any of the following matters it shall first require the Executive Committee to submit to it a report and recommendation on the matter—

- (a) the passing of by-laws;
- (b) the approval of budgets;
- (c) the imposition of rates and taxes, levies and duties;
- (d) the raising of loans;
- (e) the approval of an integrated development plan and/or any amendment to the plan;
- (f) the approval of a performance management system;
- (g) the appointment and conditions of service of the Municipal Manager and any Head of Department of council.

**22. 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 councillor 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 councillor 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 are not present at the meeting when such motion is being debated.
- (8) A councillor shall be allowed not more than three notices of motion on the same agenda.
- (9) Prior to including a notice of motion on the agenda, the speaker shall ensure that the notice of motion complies with the requirements of by-law 22 (2). The speaker shall reject any motion—
- (a) which, in the Speaker's opinion does not comply with by-law 22 (2);
  - (b) in respect of which the council does not have jurisdiction;
  - (c) in respect of which a decision by a judicial or quasi-judicial body is pending;
  - (d) which if adopted, would be contrary to any law or policy of the national and provincial governments;
  - (e) which is incapable of execution;
  - (f) which is administrative or operational in nature.

**23. Questions.—**(1) A councillor may put a question requiring a written reply from any political office bearer, municipal manager or head of department of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that a written notice of 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, 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 or is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question.

**24. 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 she may reasonably require for the proper performance of his/her duties as a councillor.

**25. Items of an urgent nature.**—(1) Items of an urgent nature may be placed on an agenda by the Municipal Manager and or the mayor 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 as determined by the speaker or Chairperson to peruse and consider any report or official documents submitted to the council on an urgent basis.

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

**27. 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, municipal official or any person exempted from this rule by the speaker or chairperson, shall not be excluded from any in-committee meeting.
- (4) All proceedings in-committee must be recorded in terms of rule 18 (1) and 18 (2) and shall be confidential.
- (5) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

## CHAPTER 8

### VOTING

- 28. 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 terms of section 20 of the Structures Act—
- (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; and
  - (f) adoption of integrated development plan
  - (g) appointment of senior managers
  - (h) 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, subject to section 34 of the Structures Act.
- (4) If on any matter, other than a matter mentioned in 28(2) above, there is an equality of votes, the councillor presiding must exercise a casting vote in addition to that councillors vote as a councillor, provided that the councillor presiding shall not exercise a casting vote during the election of any office bearer of council.

### **29. Decision and Voting**

- (1) A quorum must be present in order for a vote to be taken.
- (2) The following matters must be determined by a decision taken by a supporting vote of a majority of Councillors, which include—
- (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; and
  - (f) any other matter prescribed by legislation.
- (3) All other questions before the Council must be determined by a decision taken by the supporting vote of the majority of Councillors present at the Council meeting.

- (4) Every recommendation of a committee and every competent motion or amendment duly moved and seconded must be put to the meeting by the Speaker who must call upon the Councillors in favour to say "Agreed" or "Yes" and those against to say "No".
- (5) A recommendation which is not opposed by any Councillor present is deemed to be adopted.
- (6) A recommendation to which any Councillor present says "No" must be put to the vote by the Speaker.
- (7) Voting in terms of sub-rule (6) must be by a show of hands, unless the law prescribes otherwise.
- (8) A Councillor may not vote on a question unless they were present when the question was put to the meeting.
- (9) During the taking of a vote, a Councillor may not leave or enter the Council Chamber.
- (10) A Councillor may abstain from voting without leaving the meeting.
- (11) The votes must be recorded and the Speaker must announce the result.
- (12) The number of Councillors who voted, and not the names of the Councillors who voted, must be recorded in the minutes.
- (13) Any Councillor may request that their dissent, abstention or support in respect of the voting process be recorded in the minutes of that meeting.
- (14) If on any question there is an equality of votes, the Councillor presiding must exercise a casting vote in addition to that Councillor's vote as a Councillor.

### **30. Demand for division**

- (1) After a question has been put and the Speaker has indicated whether in his or her opinion, the voices in favour of or against the question are in the majority, any member may demand a division, whereupon a division must take place without debate.
- (2) Whenever a division is demanded, the Speaker must, before ordering the division bells to be rung, satisfy himself or herself that at least four members support the demand for the division.
- (3) If fewer than four members rise in support thereof, Speaker must immediately declare the decision on the question.
- (4) If the required number of members support the demand for a division, the division bells must be rung and the doors must be barred.
- (5) When the doors have been barred, no member may enter or leave the Chamber until the result of the division has been declared.
- (6) When the doors have been barred and all members are seated, The Speaker must inform members of the question to be decided and announce that a division has been demanded.

- (7) The speaker shall call upon those Councillors present to record in writing on the ballot paper provided for such purpose, their names, and whether they are in favour of or against the motion in question.
- (8) The Municipal Manager **or nominee** shall then count those Councillors in favour of the motion and those against.
- (9) The Municipal Manager shall cause to be recorded in the minutes, the names of the Councillors present and whether they voted for or against the motion or question.
- (10) The Speaker or the Councillor presiding must exercise a casting vote when there is an equal number of votes on each side of a question or motion.

## **CHAPTER 9**

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

- 31. 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 approved by a majority of the number of the members of the council.
- 32. 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 and submitted to the council for revocation.

## **CHAPTER 10**

### **DEBATE**

- 33. Opportunity to speak.**—(1) A councillor may only speak when so directed by the speaker or chairperson.

- (2) A councillor shall indicate a desire to speak by raising his/her hand or by activating the light in the microphone provided and awaiting the direction of the speaker or chairperson, which direction must not be withheld.
- 34. Relevance.**—Every speaker must restrict himself/herself strictly to the matter under consideration.
- 35. 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 three minutes in length without the consent of the speaker or chairperson.
- 36. 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.
- 37. Precedence of the speaker or chairperson.**—Whenever the speaker or chairperson rises or [signals the intention to speak] during a debate, any councillor then speaking or offering to speak must seat himself/herself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.
- 38. 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 **or stating in an audible voice “POINT OF ORDER”**.
- (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.
- 39. Explanation.**—Any councillor may, as allowed by the speaker or chairperson, speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

## CHAPTER 11

### CONDUCT

- 40. 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;
- (f) must not use a cellular phone during the meeting;
- (g) must not bring a firearm or any dangerous weapon into a meeting of council or any of its committees;
- (h) shall not converse aloud with any person;
- (i) shall not interrupt any person whilst speaking, except to call attention—
  - (i) to a point of order;
  - (ii) to a point of clarification;
  - (iii) to a question of privilege as provided for in section 28 of the Structures Act.

- 41. 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 councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker shall direct the councillor or councillors to conduct himself/herself or themselves properly and, if speaking, to stop speaking and resume his/her seat or their 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/herself or themselves from the place of meeting until the item under discussion has been finalised.
- (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 councillor 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 by-laws, may be forcibly removed by any duly authorised official/officials and such councillor shall be deemed to be in breach of these by-laws.

**CHAPTER 12**  
**COMMITTEES**

**42. Establishment.**—(1) A Municipal council may—

- (a) establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time.

(2) The Municipal council—

- (a) must determine the functions of a committee;
- (b) may delegate duties and powers to it in terms of section 32;
- (c) must appoint the chairperson;
- (d) may authorise a committee to co-adopt advisory members who are not members of the council within the limits determined by the council;
- (e) may remove a member of a committee at any time; and
- (f) may determine a committee's procedure.

**43. Committees to assist the Executive Committee.**—(1) If a municipal council has an executive committee, it may appoint in terms of section 79, committees of councillors to assist the executive committee and such committees may not in number exceed the number of members of the executive committee.

(2) The executive committee—

- (a) may delegate any powers and duties of the executive committee to the committee;
- (b) is not divested of the responsibility concerning the exercise of the powers or the performance of the duty; and
- (c) may vary or revoke any decision taken by a committee, subject to any vested rights.

(3) Such a committee must report to the executive committee in accordance with the directions of the executive committee.

**44. Membership.**—(1) Members of the committees shall be appointed by the council in accordance with rule 42 or 43 of the rules.

(2) The mayor shall be a member of all portfolio committees, ex officio.

(3) In the absence of the mayor, the deputy mayor shall take the place of the mayor as ex officio member of portfolio committees, with the exception of any portfolio committee of which the deputy mayor is the Chairperson.

- 45. Chairpersons.**—(1) The council shall elect the chairperson of each committee.
- (2) In the absence of the chairperson those members of the committee present shall elect an acting chairperson from amongst their number, provided that should the mayor or deputy mayor be present, and so wish, the mayor or deputy mayor may take the chair.
- (3) The speaker shall chair every joint meeting of portfolio committees, provided that—
- (a) the speaker may delegate the right to chair the meeting to any of the chairpersons of the committees concerned; and
  - (b) in the absence of the Speaker, one or other of the chairperson of the committees in question shall chair the meeting.
- (4) In the absence of agreement as to which of the two or more chairpersons should chair the meeting, the matter shall be decided by a majority of the members of the relevant committees present.
- (5) The chairperson shall—
- (a) maintain order during meetings of the committee, ensure compliance with the Code of Conduct of councillors set out in Schedule 7 to the Structures Act and that meetings are conducted in accordance with these By-laws to the extent that such By-laws are applicable to committees of the council;
  - (b) preside at every meeting of the committee at which he or she is present; and
  - (c) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberation vote, shall give a second or casting vote.
- (6) In the absence of the Chairperson, the acting or deputy chairperson shall have the same powers and rights of voting as those possessed by the chairperson.

- 46. Rules and Ethics Committee.**—(1) The municipal council may, by resolution of a majority of councillors, establish a special committee to be known as the **Rules and Ethics** Committee to investigate and make findings on any alleged breaches of the Code of Conduct and these Bylaws, including sanctions for non-attendance at meetings and to make recommendations to council regarding any other matter concerning these by-laws.
- (2) The Rules and Ethics Committee shall consist of the speaker, the **Council Whip** and one representative of each political party represented on the council, such representative to be nominated from time to time by each political party: **Provided that the membership of the Rules and Ethics Committee shall not exceed nine members.**

- 47. Own rules.**—Every committee of the council shall determine its own procedures subject to any directions from council and these by-laws.

## **CHAPTER 13**

### **PECUNIARY INTEREST**

- 48. 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 councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.
- (3) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.
- (4) The disclosure of interests in terms of rule 48 (1) and benefit in terms of rule 48 (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 14**

### **BREACH AND SANCTIONS**

- 49. Breach.**—Any councillor who fails or refuses to obey any of the provisions of these by-laws or any resolution of council shall be guilty of a breach of the Code of Conduct.
- 50. 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 as contained in the Code of Conduct.

## **CHAPTER 15**

### **GENERAL PROVISIONS**

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

**52. Short title and commencement.**—These by-laws shall be called the Rules of Order and Ethics By-laws and shall come into operation on the date of publication in the *Provincial Gazette*.

DRAFT

**SCHEDULE 1**  
**NON-ATTENDANCE AT COUNCIL MEETINGS:**  
**STANDING PROCEDURE FOR THE DEDUCTION OF MONIES AND**  
**REMOVAL FROM OFFICE**  
**(Formulated in terms of item 5 of Schedule 7 of the Local Government:**  
**Municipal Structures Act, 1998)**

The following is an extract from Schedule 7 of the Code of Conduct for Councillors of the Local Government: Municipal Structures Act, No.117 of 1998:

***“Attendance at meetings***

- 4.** *A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when—*
- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or*
  - (b) that councillor is required in terms of this Code to withdraw from the meeting.*

***Sanctions for non-attendance at meetings***

- 5.** (1) *A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for—*
- (a) not attending a meeting which that councillor is required to attend in terms of item 4; or*
  - (b) failing to remain in attendance at such a meeting.*
- (2) *A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 4, must be removed from office as a councillor.*
- (3) (a) *Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item.*
- (b) The uniform standing procedure must comply with the rules of natural justice.*

**Deduction of monies for non-attendance at Council and committee meetings or for failing to remain in attendance at such meetings**

- (1) When the Council or a committee declines to grant leave of absence to a Councillor for failing to attend a meeting of the Council or a committee, or a Councillor fails to apply for leave of absence from such meetings, the sum of R500 shall be deducted from that Councillor's allowance.
- (2) When a Councillor fails to remain in attendance at a Council or committee meeting for three hours, and leaves such meeting without having obtained the consent of the Council or the committee, the sum of R500 shall be deducted from that Councillor's allowance.

**Procedure for removal of Councillor from office**

- (3) Upon becoming aware that a Councillor has been absent from three or more consecutive meetings of the Council or from three or more consecutive meetings of a committee which that Councillor is required to attend, the Speaker shall commence proceedings for the removal of that Councillor from office as a Councillor.
- (4) The proceedings shall be dealt with by the Speaker in terms of items (15) and (16) of Schedule 7 of the Code of Conduct for Councillors of the Local Government: Municipal Structures Act, No.117 of 1998.



MSUNDUZI MUNICIPALITY

SCHEDULE 2  
NON-ATTENDANCE REPORT

(Committee Officer to fill in relevant information)

DATE: \_\_\_\_\_

TO: COUNCILLOR \_\_\_\_\_

Paragraph 4, Schedule 7, of the Code of Conduct for Councillors of the Local Government Municipal Structures Act, 1998 provides as follows:

**"Attendance at meetings**

- 4. A Councillors must attend each meeting of the municipal council and of a committee of which that Councillor is a member, except when –
  - a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
  - b) that Councillor is required in terms of this Code to withdraw from the meeting."

Rule 14. of the Rules of Order Bylaws provides as follows:

**Non-attendance.**—(1) Subject to compliance with the procedure set out in rule 13, and the provisions of item 5(1) of Schedule 7 of the Municipal Structures act, in the event that the Council or the committee declines to grant a Councillor leave of absence from a Council or committee meeting, or a Councillor fails to apply for leave of absence from such meetings, a fine may be imposed and shall be deducted from that Councillor's allowance; the sum of money specified in item (1) of Schedule 1 of the Rules. The Councillor shall have the right to contest the imposition of a fine by means of a written submission to the Speaker which shall then be dealt with in terms of Rule 14(2).

**(Copy of Schedule 1 is attached for ease of reference)**

(Committee Officer to fill in relevant information)

**You were not present at the meeting of the**

\_\_\_\_\_

**held on** \_\_\_\_\_.

(Committee Officer to tick relevant block)

- No leave application was received from you.**
- The committee rejected the reasons for your absence as they were not in compliance with the Rules and Procedures of Council and its Committees.**

In consequence of the above, and in terms of Rule 14. of the Rules and Procedures of Council and its Committees, the Municipal Manager will be authorised to deduct the relevant sum of money from your allowance.

**If you intend contesting the above, then you are requested to please submit your intention to do so to the to the office of the Speaker within seven (7) working days, viz. by**

\_\_\_\_\_

A copy of your submission should also be given to the relevant **Committee Officer** for record purposes.

\_\_\_\_\_  
**SPEAKER**

FROM: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Name of Committee Officer dispatching report)

**FOR OFFICE USE ONLY:**

- COMMITTEE OFFICER to complete this document and submit a copy to each of the following: (i) relevant councillor, (ii) the Chief Whip, (iii) the Municipal Manager and (iv) the Finance Support Services office of the Municipal Manager, within two (2) days of the meeting taking place. **A copy of the attendance register and the resolution of the committee (where applicable) is to be attached.**
- FINANCE SUPPORT SERVICES to implement the decision of the committee as per attached resolution/ correspondence from the Municipal Manager.
- MUNICIPAL MANAGER'S OFFICE to record the date on which the required submission was received from the councillor, viz.

DATE RECEIVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

DRAFT

**SCHEDULE 3**  
**SUPPLEMENTARY RULES AND ORDERS OF VIRTUAL MEETINGS OF THE MSUNDUZI LOCAL MUNICIPAL COUNCIL AND ITS COMMITTEES**

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

**ARRANGEMENT OF RULES**

Rule

1. Object
2. Notice of Council and Committee meetings
3. Service of notices and agenda
4. Technical Support
5. Admission of public
6. Decisions by voting
7. Attendance
8. Suspension of a rule of order
9. Short title and commencement

**1. Object**

The purpose of these Rules is to enable the Municipal Council and its Committees to hold virtual meetings and sittings using technological platforms in terms of applicable legislation.

1.1 “**virtual meetings or sittings**” mean meetings or sittings of Council or its Committees conducted by any form of technology.

**1.2 Application and interpretation of these Rules**

1.2.1 These Rules govern all virtual meetings of the municipal council and any committee of the municipal council, as well as any other virtual meeting organised under the auspices of the municipal council.

1.2.2 The Rules of Order and Ethics By – laws shall apply *mutatis mutandi*, to all proceedings of Council and its committees, subject to modifications as outlined in these Rules.

1.2.3 Where these Rules make no provision on a matter, the Rules of Order and Ethics By – laws shall apply and where there is conflict between the Rules of Order and Ethics By – laws and these Rules, these Rules shall prevail to the extent that such conflict relates to the holding of virtual meetings of council and its committees.

## **2. Notice of Council or Committee meetings**

2.1 The council must hold an ordinary meeting of the council not less than once in every three months, subject to applicable legislation.

2.2 The Chairperson of Council or a Committee of Council must convene all virtual meetings of the council or committee in accordance with the procedure prescribed in the Rules of Order and Ethics By – laws subject to the following rules:

- (a) It shall be the responsibility of the Chairperson of the virtual meeting to issue a duly signed notice, containing the agenda of the proposed virtual meeting and its annexures;
- (b) The particulars of the virtual meeting must include the date, time and form (teleconference or videoconferencing) of meeting;
- (c) All documents of the virtual meeting shall be distributed by any form of electronic communication to which members have access;
- (d) The Notice to attend a virtual meeting shall be given in terms of Rule 6 of Rules of Order and Ethics By – laws.
- (e) Nothing in these Rules shall hinder the speaker or chairperson from convening and holding a hybrid meeting, that is, where a meeting caters for both physical and virtual participation should he or she so decides.

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

3.1 The Notice to attend a virtual meeting or any other official communication from the council, must be delivered to –

- (a) an e-mail address;
- (b) by a short message service; or
- (c) by a WhatsApp message;

Provided that contact details must be submitted by each councillor to the municipal manager, in writing, by electronic means, within two days of adoption of these Rules, where such details have changed.

3.2 Apart from in-committee meetings, notices of virtual meetings must be displayed on the municipal

website, including details of a continuation meeting.

#### **4. Technical Support**

4.1 The Municipal Manager is responsible for providing technical support to the meetings of the Municipal Council and each Committee of Council.

4.2 The Municipal Manager must for this purpose designate Technical Support Teams comprising of at least one secretariat official and one ICT Official for the Municipal Council and each Committee

4.3 The Technical Support Teams must perform pre-conference testing at least a day before each meeting.

4.4 The Technical Support Team must be available at all times during the meetings.

4.5 During meetings the system should be treated as “live” even when there are no images appearing on the screen(s).

4.6 The Municipal Manager must ensure that the system has the capacity to and is able to record all meetings.

#### **5. Admission of the public**

5.1 The Council and Committees of Council must facilitate public involvement on matters before it by electronic means with the exception of the matters referred to in Rule 5(4) of Rules of Order and Ethics By-laws.

5.2 Members of the public are entitled to request a link to join the proceedings of open virtual council and committee meetings.

5.3 Virtual meetings may also be publicized through live streaming on social media, community radio or via video capable screens mounted outside the council chamber or any other place accessible to the public provided such places allow members of the public to observe social distance, with no more than five people watching the proceedings at any given time.

5.4 Where the municipal council or committee deems it necessary to hold in-committee proceedings, the Chairperson shall declare the meeting closed to the public and command the

Technical Support Team to switch off public access to the proceedings, subject to applicable legislation.

## **6. Decisions by voting**

6.1 For the purposes of voting, the Municipal Manager must maintain a system that is capable of verifying the votes of delegates cast either electronically or by voice.

6.2 Traditional Leaders participating in Council shall be afforded with an opportunity to address the Council on a matter before a vote is undertaken.

6.3 Where a vote is undertaken in secret, each Councillor must be contacted directly by the municipal manager or his nominee, and each vote must be recorded in writing for record purposes, provided that the breach of confidentiality shall result in disciplinary processes.

6.4 A councillor shall be entitled to verify with the municipal manager, his/her secret vote cast.

6.5 The Speaker or chairperson may request each member on the electronic platform to identify himself/ herself by means of switching on their camera during the voting process.

## **7. Attendance**

7.1 All councillors must punctually attend and remain in attendance at each virtual meeting of the council or committee of which that councillor is a member subject to Rule 12(1) of Rules of Order and Ethics By-laws.

7.2 Applications for leave of absence must be submitted to the chairperson and Municipal Manager or his/her nominee by electronic means at the disposal of each member in line with the timeframes specified in the Rules of Order and Ethics By-laws.

7.3 The Speaker must confirm attendance of councillors at the beginning of the virtual meeting and prior to each adjournment.

7.4 Attendance must be recorded and filed in the office of the municipal manager or his/her nominee.

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

8.1 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) no Rule may be relaxed when the removal of any political office bearer is before the council.
- (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;
- (d) the suspension or relaxation will not affect the matters listed in section 160(2) of the Constitution of the Republic of South Africa, 1996; and
- (e) the reasons for the suspension of the Rule are recorded in the minutes of the meeting.