

DRAKENSTEIN MUNICIPALITY

Drakenstein Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic, of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, has made the By-Law set out in the schedule below:

SCHEDULE

BY-LAW NO. 21/2007: RULES OF ORDER REGULATING THE CONDUCT OF MEETINGS OF THE PORTFOLIO COMMITTEES OF THE MUNICIPALITY OF DRAKENSTEIN

PART 1: GENERAL

Definitions

1. In these regulations, unless inconsistent with context –

“chairperson” means the member elected as chairperson of the portfolio committee or any other member acting as chairperson of the committee;

“council” means the municipal council of Drakenstein;

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

“committee” means a portfolio committee established by council in terms of section 79 or 80 of the Municipal Structures Act;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

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

“meeting” means the meetings of portfolio committees;

“member” means a member of portfolio committees;

“motion” means a motion of which written notice is given by a member;

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

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

“rules” means the provisions of this by-law;

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

PART 2: APPLICATION OF RULES

Application

2. (1) These rules apply to all portfolio committees of council.
- (2) Except where it is clearly inappropriate, a rule applying to members in any proceedings also applies to a non-member who takes part in those proceedings with the approval of the chairperson.

Supplementation

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

PART 3: MEETINGS

Commencement of Meeting

4. The chairperson must take the chair precisely at the time for which the meeting is convened and must proceed immediately with the business of the meeting subject to

section 12.

Order of Business

5. (1) The chairperson may at any time and without notification make any statement or propose matters of urgency.
- (2) A member who wishes to have the order of business on the agenda changed must approach the chairperson prior to the meeting.

Business to be transacted

6. (1) Except as otherwise provided in these rules, no matter not specified in the agenda of a meeting of the committee shall be transacted at such meeting.
- (2) Urgent matters may, however, be submitted by the municipal manager, or his nominee, or the chairperson.
- (3) A member who wishes to have an urgent matter considered must approach the chairperson prior to the meeting.

Meetings

7. (1) Meetings of committees shall take place to discuss matters as mandated by the executive mayor.
- (2) If a majority of the members of a committee request the chairperson in writing to convene a meeting, the chairperson must, subject to (1) above, convene a meeting at a date and time set out in the request.
- (3) Ordinary meetings of the committee shall be held at the date and time as approved by council or the executive mayor.
- (4) The chairperson may on own volition or on the advice of the municipal manager, decide to hold a special meeting on a date and time so decided by the chairperson.

- (5) The municipal manager must give notice in writing to each member of every meeting decided upon in terms of this section.
- (6) Except in an emergency, members shall be given notice of every meeting by the municipal manager, who shall send an agenda to each member so that the same may in the ordinary course of events be delivered at the member's address at least seventy two (72) hours before the commencement of the meeting.

Attendance at Meetings

8. (1) Every member attending a meeting of the committee must sign his or her name in the attendance register kept for such purpose.
- (2) A member must attend each meeting except when –
 - (a) leave of absence is granted in terms of section 9; or
 - (b) the member is required to withdraw in terms of law.

Leave of Absence

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

Non-attendance

10. The speaker shall inspect the attendance register for council meetings on a regular basis and may, if deemed fit, take the appropriate steps in terms of the Code of Conduct for councillors against members who are absent on a regular basis.

Minutes

11. (1) Minutes of the proceedings of meetings must be compiled in printed form and be confirmed by the committee at the next ordinary meeting and signed by the chairperson.
- (2) The minutes shall be taken as read for the purpose of confirmation if a copy

thereof was sent to each member within a reasonable period of time before the next meeting.

- (3) No proposal or discussion shall be allowed on the minutes, except in connection with the correctness thereof.

Quorum

12. (1) A majority of the members constitutes a quorum.
- (2) If there is no quorum at the time for which the meeting is scheduled, the chairperson must take the chair as soon as a quorum is present.
- (3) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the chairperson must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- (4) Whenever the chairperson is not present and there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, no meeting shall take place and the municipal manager must record the names of the members present.
- (5) Whenever a meeting is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.
- (6) The municipal manager must report the names of the absentee members to the speaker for the purposes of an investigation of a breach of these rules.

PART 4: DECISIONS

Debate prior to decisions

13. (1) Before any matter before the committee is debated, the chairperson must intimate that the matter is open for discussion.

- (2) In the event of an opposed matter, the speaker shall not allow any proposal or amendment to be moved until the matter has, in the view of the Speaker, been adequately debated by the meeting.
- (3) An item on the agenda shall be deemed to be opposed business if a member signifies his or her intention to discuss such item immediately after the Speaker has intimated to the meeting that such item is open for discussion; provided that no item shall be deemed to be opposed by reason only of questions having been asked in connection therewith.

Manner of Voting

14. (1) When a proposal is under debate at any meeting of a committee, a member may, subject to 13 above, move that the proposal be amended. Any amendment shall be relevant to the proposal on which it is moved.
- (2) The chairperson must put every opposed proposal to the vote by calling upon the members to indicate by a show of hands unless otherwise prescribed by law, whether they are for such proposal or against it, whereupon he or she must declare the result of such vote.
- (3) If there is an equality of votes in respect of a motion on which voting takes place in accordance with subsection (1) and (2), the chairperson must exercise his or her casting vote, in addition to his or her deliberative vote, provided that the chairperson may not exercise a casting vote in terms of any matter set out in section 160(2) of the Constitution.
- (4) Upon the chairperson's declaration of the result of a vote, a member may demand that his or her vote should to be recorded against the decision concerned and the municipal manager shall ensure that such vote is recorded in the minutes.
- (5) A member may abstain from voting on any matter. Upon indication that a member wishes to abstain from voting, it shall be accordingly entered in the minutes.

Decisions

15. All questions before committees, be it a decision in terms of delegated powers or a recommendation to the executive mayor, are decided by a majority of votes cast.

PART 5: PUBLIC ACCESS

Admittance of Public

16. The chairperson must take reasonable steps to regulate public access to, and public conduct at committee meetings.

Matters In-Committee

17. (1) Whenever the municipal manager, at his or her discretion, has provisionally placed any matter on a part of the agenda which will not be disclosed to the public before the meeting, the chairperson, when such matters are to be considered, must –
 - (a) direct that the members consider whether it would be reasonable for any or all of the items on such part of the agenda to be considered without the presence of the public, with due regard to section 160(7) of the Constitution which requires that the public and media may be excluded from being present at a meeting only when it is reasonable to do so, having regard to the nature of the business being transacted; and
 - (b) direct that all members of the public leave the venue of the meeting in respect of those items to be dealt with In-Committee.
- (2) The motivation for the exclusion of the public must be fully minuted.
- (3) Any items from which the public will not be excluded shall be considered directly after the procedure as set out in subsection (1).

Exclusion of the public and media from meetings

18. (1) The public, including the media, may be excluded from the meeting –
 - (a) where so directed by the chairperson in terms of section 17; or
 - (b) where so decided by the committee in terms of subsection (3).

- (2) If a motion to exclude the public is seconded, it shall be put to the vote forthwith without discussion.
- (3) If, after due consideration by the committee of the reasons stated, and with due regard to section 160(7) of the Constitution, such motion is carried, the place of meeting shall be cleared of all members of the public, including media.

Re-admission of public and media to meetings

19. (1) A member may during the course of the meeting from which the public and the media were excluded, propose “that the meeting again be opened” and state the reasons for such proposal.
- (2) If such proposal is seconded, it shall be put to the vote forthwith without discussion.

Invitation to non-member

20. The chairperson may after consultation with the municipal manager, invite a person who is not a member, to address the committee or to attend a meeting to state his or her views on a matter before the council.

Deputations

21. (1) A deputation seeking an interview with a committee, on any matter before the committee, must give the municipal manager no less than six working days notice of such request.
- (2) The chairperson on recommendation of the municipal manager may refuse or grant such interview under certain conditions, if any.
- (3) A request by an individual or organisation for an interview for the purpose of offering his or her or their services must first be submitted to the committee.

PART 6: ORDER IN MEETINGS

Conduct of non-members and members of the public

22. If a non-member or member of the public misbehaves, behaves in an unseemly manner or obstructs the business of any meeting, the chairperson may order that he or she should be removed from the meeting.

Conduct of members

23. (1) If a member –
- (a) misbehaves, or
 - (b) behaves in an unseemly manner, or
 - (c) obstructs the business of a meeting, or
 - (d) challenges the ruling of the chairperson on any point of order or ruling in terms of section 3(1), or
 - (e) declines to withdraw any expression when required to do so by the chairperson, or
 - (f) indulges in tedious repetition or unbecoming language, or
 - (g) commits any breach of these rules,
- the chairperson shall direct such member to conduct himself or herself properly and, if speaking, to discontinue his or her speech.
- (2) In the event of a persistent disregard of the directions of the chairperson, the chairperson shall direct such member to retire from the place of meeting for the remainder of the meeting and may, if necessary, cause him to be removed therefrom.

Offence

24. Any non-member or member of the public who –
- (a) refuses or fails to comply with a direction of the chairperson given in terms of section 22 and 23; or
 - (b) returns to the place of meeting prior to the conclusion of the meeting from which he was directed to retire; or
 - (c) offers resistance whilst being removed from the place of meeting;

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 (two thousand rand).

PART 7: RULES OF DEBATE

Member to address Chair

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

Relevance

26. (1) A member who speaks must direct his speech strictly to the subject or matter under discussion or to an explanation or to a point of order.
- (2) No discussion shall be permitted –
- (a) which will anticipate any matter on the agenda;
 - (b) on any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of enquiry is pending.

Notices of motions and notices of questions

27. (1) Every notice of intention by a member of the committee to introduce a motion to a committee shall be in writing, motivated, signed and dated and delivered to the municipal manager at least six working days before the date of the meeting on which it is intended to be introduced.
- (2) The chairperson may not accept any motion unless notice thereof has been given in terms of subsection (2).

Absence of mover or questioner

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

Points of order

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

Points of explanation

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

Chairperson's ruling on points of order and explanation

31. The ruling of the chairperson on a point of order or an explanation shall be final and not open to discussion. Such ruling shall be entered in the minutes of the meeting.