

TABLE OF CONTENTS

CHAPTER 1: DEFINITIONS

1. Definitions

CHAPTER 2: APPLICATION AND INTERPRETATION OF RULES

2. Application of these rules and orders
3. Interpretation of these rules and orders

CHAPTER 3: FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS

4. Council meetings
5. Admission of public
6. Notice to attend an ordinary Council meeting
7. Special meetings
8. Service of notices and agendas
9. Non-receipt of notice

CHAPTER 4: QUORUM

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

CHAPTER 5: ATTENDANCE

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

CHAPTER 6: ADJOURNMENT

15. Adjourned meeting
16. Continuation meeting

CHAPTER 7: PROCEEDINGS

17. Speaker and chairpersons of meetings
18. Minutes
19. Order of business
20. Confirmation of minutes of previous meeting
21. Deputations
22. Reports
23. Motions
24. Questions
25. Supply of information to Councillors
26. General matters of an urgent nature
27. Interpretation
28. In-Committee

CHAPTER 8: VOTING

- 29. Decisions by voting
- 30. Method of voting
- 31. Dissenting votes

CHAPTER 9: REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS

- 32. Revocation of council resolutions
- 33. Revocation of committee resolutions

CHAPTER 10: DEBATE

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

CHAPTER 11: CONDUCT

- 41. General conduct
- 42. Misconduct

CHAPTER 12: COMMITTEES

- 43. Rules Committees
- 44. Own rules
- 45. The chairperson

CHAPTER 13: PECUNIARY INTEREST

- 46. Declaration of pecuniary interest

CHAPTER 14: BREACH AND SANCTIONS

- 47. Breach
- 48. Sanction

CHAPTER 15: GENERAL PROVISIONS

- 49. Suspension of a rule or order
- 50. Adoption as by-laws
- 51. Repeal of existing by-laws

EXPLANATORY MANUAL ON THE CODE OF CONDUCT FOR COUNCILLORS

- A. Objective
- B. Introduction
 - 1. Ethical conduct
 - 2. Accountability
 - 3. Accountability and the role of councillors
 - 4. What is the code of conduct?
 - 5. Provisions of the code
 - 5.1 The Preamble
 - 5.2 ITEM 2: General conduct of councillors
 - 5.3 ITEM 3: Attendance at meetings
 - 5.4 ITEM 4: Sanctions for non attendance of meetings
 - 5.5 ITEM 5: Disclosure of interests
 - 5.6 ITEM 6: Personal gain
 - 5.7 ITEM 7: Declaration of interests
 - 5.8 ITEM 8: Full-time councillors
 - 5.9 ITEM 9: Rewards, gifts and favours
 - 5.10 ITEM 10: Unauthorised disclosure of
 - 5.11 ITEM 11: Intervention in administration
 - 5.12 ITEM 12: Council property
 - 5.13 ITEM 12A: Councillor in arrears
 - 5.14 ITEM 13: Duty of chairpersons of municipal councils
 - 5.15 ITEM 14: Breaches of the code
 - 5.16 Application of code to traditional leaders
- C. Conclusion

SCHEDULE 1

PROCEDURAL GUIDELINES FOR THE APPLICATION OF ITEMS 13 AND 14 OF THE CODE OF CONDUCT FOR COUNCILLORS

ARRANGEMENT OF CLAUSES AND ANNEXURES

WHEREAS
INTERPRETATION
LEGISLATIVE PROVISIONS
PROCEDURAL GUIDELINES
ADMINISTRATIVE JUSTICE
ANNEXURE

CHAPTER 1 DEFINITIONS

Definitions

1. In these rules, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise:-

“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 Endumeni Municipality;

“Code of Conduct” means the Code of Conduct for Councillors contained in Schedule 1 to the Systems 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;

“deputation” means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

“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;

“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 the person appointed municipal manager in terms of Section 82 of the Structures Act 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 23;

“Peace Officer” means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

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

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

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

“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 System 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;

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.

CHAPTER 2

APPLICATION AND INTERPRETATION OF RULES AND ORDERS

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

- (1) These rules and orders govern the proceedings of the council and committees of the council which bind 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 councillor a committee of the council; and
 - (d) Any municipal official of the municipality.

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

- (1) Any interpretation of these rules and orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice;
- (2) The ruling of the speaker or chairperson with regard to the interpretation of these rules and orders at a meeting of the council or committee of the council shall, subject to rules 3(5) and 3(6), be final and binding;
- (3) The interpretation and the ruling of the speaker or chairperson of any of these rules and orders must be recorded in the minutes of the council or committee meeting;
- (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 effecting 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 in every three months;
- (2) The speaker must convene all meetings of the council in accordance with Rule 4(1) and subject to Rule 6.

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 committees of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society;
- (2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters:
 - (a) A draft by-law tabled in the council;
 - (b) A budget tabled in the council;
 - (c) The municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;
 - (d) The municipality's performance management system, or any amendment of the system, tabled in council;
 - (e) The decision to enter into a service delivery agreement;
 - (f) Any 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.

6. Notice to attend an ordinary council meeting

- (1) The speaker must convene meetings of the council, at least quarterly, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting;
- (2) Notice to attend a meeting in terms of Rule 6(1) shall be given at least:-
 - (a) Five calendar days prior to an ordinary meeting; and
 - (b) Two calendar days prior to a special meeting.

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 held in compliance with Rule 6(2)(b) and in terms of 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;

- (2) All documentation relevant to any council or committee meeting must be given to all councillors at least five calendar days prior to an ordinary council or committee meeting and two calendar days prior to a special council or special committee meeting;
- (3) All councillors must inform the speaker of any change of his contact details within three days of such change;
- (4) Subject to Rule 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

9. Non-receipt of notice

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

CHAPTER 4 QUORUM

10. Quorum

- (1) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent (50%) plus one (1) of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be 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.
 - (a) Subject to a quorum, the failure of any councillor to vote shall not invalidate the proceedings of the committee meeting.

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 unanimously agreed by the councillors present to allow further time not exceeding fifteen minutes for a quorum, where after if no quorum is present, the meeting must be cancelled;
- (2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she shall:-
 - (a) Count the 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 must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when:-
 - (a) Leave of absence is granted in terms of Rule 13;
 - (b) That councillor is required to withdraw in terms of Rule 46(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 purposes;
- (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.

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 speaker or chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his decision;
- (5) The municipal manager must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision;
- (6) A 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;
- (7) 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;
- (8) 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);
- (9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committees.

14. Non-attendance

- (1) Subject to compliance with the procedure set out in Rule 13, a councillor who is absent without good cause from a meeting, of which notice has been given, shall be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned;
- (2) Where a councillor has been absent without obtaining leave from a meeting:-
 - (a) The Rules Committee as contemplated in Rule 43 or the speaker or chairperson as the case may be, shall invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;
 - (b) The speaker or chairperson shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
 - (c) The councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision;
 - (d) The council or committee, as the case may be, shall:-
 - (i) Allow the councillor an opportunity to make representations, oral or written; and
 - (ii) Consider the councillor's appeal, together with any comment from the speaker or chairperson of the meeting concerned;
 - (iii) Make a finding as to whether the councillor was absent with or without good cause;
- (3) The Municipal Manager shall keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and shall submit a written report to the speaker whenever a councillor is absent from three or more consecutive meeting which that councillor was required to attend;
- (4) Where the speaker receives a report in terms of Rule 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

CHAPTER 6 ADJOURNMENT

15. Adjourned meeting

Subject to Rule 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

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) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, shall be the chairperson and shall perform the duties stipulated in terms of Section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of these rules and orders and the Code of Conduct;
- (2) The speaker and chairperson of council and committee meetings:-
 - (a) Must maintain order during meetings;
 - (b) Must ensure compliance in the council with the Code of Conduct for Councillors;
 - (c) Must ensure that meetings are conducted in accordance with these standing rules and orders;
- (3) If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councillor to act as speaker or chairperson as the case may be;

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

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, 43 of 1996;
- (2) Written minutes of the proceedings of each council and committee meeting must be accurately recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996;
- (3) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public;
- (4) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

19. Order of business

- (1) The order of business at every meeting of the council or its executive committee or committee of council is as follows:
 - (a) Notice of meeting;
 - (b) Applications for leave of absence;
 - (c) Confirmation of minutes of previous meeting;
 - (d) Announcements by the chairperson;
 - (e) Declaration of pecuniary or other interests;
 - (f) Deputations;
 - (g) Reports;
 - (h) Notices of Motion;
 - (i) Questions of which notice has been given; and
 - (j) General matters of an urgent nature;
- (2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

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. Deputations

- (1) A deputation wishing to address the council or a committee of council shall submit a memorandum to the municipal manager in which is set out the representations it wishes to make;
- (2) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson;
- (3) The municipal manager shall submit the memorandum to the council or a committee of the council, which may receive the deputation;
- (4) Any matter requiring consideration arising from a deputation, shall not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted;
- (5) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, shall obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting;
- (6) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson;
- (7) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts;
- (8) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of Rule 21(6) and Rule 21(7) shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment;

22. Reports

- (1) Any reports 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.

23. Motions

- (1) No subject 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 12hoo 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 of 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 to reply;

- (7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated;
- (8) A councillor shall be allowed not more than three notices of motion on the same agenda;
- (9) The speaker or chairperson must not reject a motion received by him or her in terms of these rules.

24. Questions

- (1) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting;
- (2) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question;

25. Supply of Information to a councillor

- (1) No councillor shall approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public;
- (2) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

26. General matters of an urgent nature

- (1) General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or the chairperson, which consent shall not be unreasonably withheld;
- (2) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

27. Interpretation

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

28. In-Committee

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

**CHAPTER 8
VOTING**

29. Decisions by voting

- (1) A quorum must be present in order for a vote to be taken;
- (2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice:-
 - (a) The passing of by-laws;
 - (b) The approval of budgets;
 - (c) The imposition of rates and other taxes, levies and duties;
 - (d) The raising of loans;
 - (e) The rescission of a council resolution within 6 months of taking thereof; and
 - (f) Any other matter prescribed by legislation;
- (3) All other questions before the council shall be decided by a majority of the votes cast by the councillors present;

- (4) In on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson shall not exercise a casting vote during the election of any office bearer of council.

30. Method of voting

- (1) Voting shall be a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot;
- (2) During the taking of a vote no councillor may leave the council chamber or committee room;
- (3) The municipal manager or his nominee, shall count the votes cast and shall record the result of voting, but the speaker or chairperson shall announce the result.

31. Dissenting votes

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

CHAPTER 9 REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS

32. Revocation of Council Resolutions

- (1) Approval to revoke or alter a resolution of council may not be delegated to any person or committee;
- (2) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given;
- (3) Any revocation or alteration of a council resolution must be made in terms of Rule 29(2)(e).

33. Revocation of Committee Resolutions

- (1) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person;
- (2) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given;

- (3) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

CHAPTER 10 DEBATE

34. Opportunity to speak

- (1) A councillor may only speak when so directed by the speaker or chairperson;
- (2) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld;
- (3) Councillors and officials shall stand when speaking and shall direct their address to the speaker or the chairperson.

35. Relevance

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

36. Length of speeches

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

37. 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.

38. Precedence of the speaker or chairperson

Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

39. 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 the chairperson;

- (2) The point of order takes precedence over everything else in the meeting and the speaker or chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly;
- (3) The ruling of the speaker or chairperson on a point of order shall be final and shall not be open to discussion.

40. Explanation

Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

CHAPTER 11 CONDUCT

41. General Conduct

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

42. 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 or themselves properly and, if speaking, to stop speaking and resume his seat or seats;
- (3) In the event of persistent disregard of the directions of the speaker, the speaker shall direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalized;
- (4) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these standing rules and orders and the Code of Conduct;
- (5) Any 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 rules and orders, may be forcibly removed and shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

CHAPTER 12 COMMITTEES

43. Rules Committee

- (1) The municipal council may by resolution of a majority of councillors establish a special committee to be known as the Rules Committee to investigate and make findings on any alleged breaches of the Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning the Rules and Orders;
- (2) The Rules Committee shall consist of the speaker, the mayor and one representative of each political party represented on the council, such representative to be nominated from time to time by each political party.

44. Own rules

- (1) Every committee of the council shall determine its own procedures subject to any directions from council and these standing rules and orders;

- (2) Chapter 10 of these rules and orders may be relaxed by a chairperson of a committee to accommodate interactive and effective participation, provided that the chairperson may, at his/her discretion, apply the provisions of any rule contained in Chapter 10.

45. The chairperson

- (1) The chairperson of a committee shall:-
 - (a) Preside at every meeting of the committee at which he or she is present; and
 - (b) Be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, shall give a second or casting vote;
- (2) In his absence, the acting or deputy chairperson shall have the same powers and rights of voting as those possessed by the chairperson.

**CHAPTER 13
PECUNIARY INTEREST**

46. 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 46(1) and benefit in terms of Rule 46(3) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has nor acquires in common with other residents of the municipality.

CHAPTER 14 BREACH AND SANCTIONS

47. Breach

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

48. Sanction

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

CHAPTER 15 GENERAL PROVISIONS

49. Suspension of a rule or order

(1) In instances of urgency or where a council considers that adherence to a rule would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a rule, provided that:

- (a) Such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
- (b) No rule may be relaxed when the removal of any political office bearer is before the council;
- (c) The suspension or relaxation of the rule relates to an item on the agenda for the meeting of the council or committee of the council; and
- (d) Rule 22 must not be suspended;
- (e) The reasons for the suspension of the rule are recorded in the minutes of the meeting.

50. Adoption as by-laws

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

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 standing rules and orders shall be called the Endumeni Municipal Standing Rules and Orders, 2010, and shall come into operation on

SCHEDULE 1

1. Definitions

Unless the context indicates otherwise:-

“Administrative decision” means a decision that:-

- (a) Implements policy or legislation;
- (b) Has a legal effect; and
- (c) Constitutes a legally binding determination of rights;

“Code of Conduct” means the Code of Conduct for Councillors contained in Schedule 1 of the Act;

“MEC” means the KwaZulu-Natal Member of the Executive Council for local government, and any successor-in-title to the position; and “the Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

LEGISLATIVE PROVISIONS

2. Preamble to Schedule 1 to the Code of Conduct

The Preamble to the Code of Conduct provides as follows:

“Councillors are elected to represent local communities on Municipal Councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role Councillors must be accountable to local communities and report back at least quarterly to constituencies on Council matters, including the performance of the municipality in terms of established indicators. In order to ensure that Councillors fulfill their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, the following Code of Conduct is established.”

3. Item 13 of the Code of Conduct

Item 13 of the Code of Conduct provides as follows:

Duty of Chairpersons of Municipal Councils

- (1) If the Chairperson of a Municipal Council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the Chairperson must:-
 - (a) Authorize an investigation of the facts and circumstances of the alleged breach;
 - (b) Give the Councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
 - (c) Report the matter to a meeting of the Municipal Council after paragraphs (a) and (b) have been complied with;
- (2) A report in terms of sub-item (1)(c) is open to the public;
- (3) The Chairperson must report the outcome of the investigation to the MEC for local government in the province concerned;
- (4) The Chairperson must ensure that each Councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the Council meets."

4. Item 14 of the Code of Conduct

Item 14 of the Code of Conduct provides as follows:

"Breaches of Code

- (1) A municipal council may:-
 - (a) Investigate and make a finding on any alleged breach of a provision of this Code; or
 - (b) Establish a Special Committee:-
 - (i) To investigate and make a finding on any alleged breach of this Code; and
 - (ii) To make appropriate recommendations to the Council.
- (2) If the Council or a Special Committee finds that a Councillor has breached a provision of this Code, the Council may:-

- (a) Issue a formal warning to the Councillor;
 - (b) Reprimand the Councillor;
 - (c) Request the MEC for local government in the province to suspend the Councillor for a period;
 - (d) Fine the Councillor; and
 - (e) Request the MEC to remove the Councillor from office.
- (3)
- (a) Any Councillor who has been warned, reprimanded or fined in terms of paragraph (b) or (d) of sub-item (2) may within 14 days of having been notified of the decision of Council appeal to the MEC for Local Government in writing setting out the reasons on which the appeal is based;
 - (b) A copy of the appeal must be provided to the Council;
 - (c) The Council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for Local Government in writing;
 - (d) The MEC for Local Government may, after having considered the appeal, confirm, set aside or vary the decision of the Council and inform the Councillor and the Council of the outcome of the appeal.
- (4) The MEC for Local Government may appoint a person or a committee to investigate an alleged breach of a provision of this Code and to make a recommendation on whether the Councillor should be suspended or removed from office;
- (5) The Commission Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub-item (4);
- (6) If the MEC is of the opinion that the Councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may:-
- (a) Suspend the Councillor for a period and on conditions determined by the MEC; or
 - (b) Remove the Councillor from office.

- (7) Any investigation in terms of this item must be in accordance with the Rules of natural justice.

5. Application of Item 13 of the Code of Conduct

- (1) The obligation of the Chairperson of the Municipal Council in terms of item 13(1) of the Code of Conduct to authorize an investigation of the facts and circumstances of an alleged breach does not preclude that Chairperson from conducting the investigation personally;
- (2) When an investigation of an alleged breach has been completed, the Chairperson of the Municipal Council must notify the Councillor in writing of the allegations against him or her and give the Councillor an opportunity to respond to the said allegations in writing;
- (3) The written notification must at least contain the following:
 - (a) The specific item or items alleged to have been breached;
 - (b) The time period for a written response; and
 - (c) The right to request any relevant documentation or information.
- (4) A period of 14 (fourteen) days is a reasonable period to allow for a response from the Councillor concerned;
- (5) The Chairperson of the Municipal Council must report the matter to the first meeting of the Municipal Council once an investigation has been authorized and a Councillor has been given an opportunity to respond to the allegations against him or her;
- (6) The outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which report, together with the Council's resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.

6. Application for Item 14 of the Code of Conduct

- (1) Should this Council decide to establish a Special Committee to investigate matters and make recommendations, the following must be taken into account when the Special Committee is constituted:
 - (a) The Committee must comprise, as far as possible, of fellow Councillors;
 - (b) The Committee must not be one of the Council's Standing Committee's

- (c) Any person involved in the preliminary investigation must not be a member of the Committee;
 - (d) The Council must strive to have equitable political representation on the Committee; and
 - (e) The Committee itself must elect a Chairperson;
- (2) Prior to a hearing taking place, the Councillor must be notified in writing of the intention to conduct a hearing;
 - (3) The Councillor must be given at least 21 (twenty-one) days' written notice of the hearing;
 - (4) The notification to attend the hearing must contain, at least, the following:
 - (a) The alleged breach;
 - (b) The time, date and venue of the hearing;
 - (c) The Councillors rights; and
 - (d) The implications of a failure to attend the hearing;
 - (5) A hearing must be conducted by the Special Committee;
 - (6) Both parties must be given the opportunity to present their case;
 - (7) The hearing must be open to the public;
 - (8) The hearing must be recorded and such record must contain all particulars related to the hearing including:-
 - (a) The names of the parties and their representatives;
 - (b) The names of the witnesses;
 - (c) The Plea;
 - (d) The evidence led;
 - (e) The finding; and
 - (f) Any recommended sanction.
 - (9) At the end of the hearing the Special Committee must consider all the evidence and make an appropriate finding and recommendation to Council;
 - (10) The Council must consider the finding and recommendation of the Special Committee and make a decision as to an appropriate sanction;
 - (11) The Council must consider any mitigating and extenuating circumstances prior to the imposition of a sanction;
 - (12) The Council should be consistent with regard to the sanction imposed for similar breaches;

- (13) When deciding on a sanction, Council may consider sanctions imposed for similar breaches at other municipalities;
- (14) The Council should endeavour to ensure that the sanction is proportionate to the breach;
- (15) The Councillor must be notified in writing of the decision of the Council and the said notice must at least contain the following information:
 - (a) Whether or not the Councillor has been found guilty of the alleged breach;
 - (b) The grounds on which such finding was made;
 - (c) The sanction to be imposed; and
 - (d) The Councillor's right to appeal to the MEC;
- (16) The Chairperson of the Municipal Council must notify the Councillor of the sanction imposed, if any, within seven days of the decision of the Council.

ADMINISTRATIVE JUSTICE

7. PRINCIPLES OF ADMINISTRATIVE JUSTICE

All administrative decisions of a municipality must comply with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and before taking an administrative decision that affects an individual, the municipality must do the following:

- (a) Give adequate notice of the proposed administrative decision, by timeously informing the affected person of the decision it proposes taking;
- (b) Allow the affected person a reasonable opportunity to make representations in writing;
- (c) Give the affected person a clear statement of the administrative decision;
- (d) Give the affected person an opportunity to present and dispute information and arguments, by personally debating the decision with the decision-making body within the Council;
- (e) Inform the affected person of their right to representation;
- (f) Inform the affected person that they have a right to ask for reasons for the decision taken; and

- (g) Advise the affected person of any internal appeal procedures available to him or her and inform the person of their right to appeal to a court of law.

8. RULES AND PRINCIPLES OF NATURAL JUSTICE

- (1) The rules of natural justice are common law rules applicable to all administrative and quasi-judicial enquiries and hearings, focusing primarily on procedural protection, in that they require a fair procedure to be followed:
- (2) The two basic principles that are fundamental to the rules of natural justice, are the following:
 - (a) The affected individual must be given the opportunity to state his or her case before the intended prejudicial action is taken, which is referred to as the *audi alteram partem* rule, and this implies that:-
 - (i) Sufficient and timeous notice of the intended action must be given;
 - (ii) Reasonable time must be given to prepare a defence;
 - (iii) The affected individual must be given a proper opportunity to be heard; and
 - (iv) The charge, including any potentially prejudicial fact and consideration, must be communicated to the individual concerned, to allow the rebuttal thereof;
 - (b) The investigation and the hearing must be conducted with impartiality, which is referred to as the *nemo iudex in sua causa* principle, so as to ensure the absence of bias or interest, whether pecuniary or personal, on the part of the decision maker.

SCHEDULE 2
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
(3) 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
(4) 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
(5) 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 week's salary
(6) 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 week's salary
(7) 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 month's salary
(8) 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 month's salary
(9) Requesting, soliciting or accepting any reward gift or favour for making a representation to the Municipality	5 month's salary
(10) Requesting, soliciting or accepting any reward, gift or favour for disclosing privileged or confidential information	5 month's salary
(11) Interfering in the management or administration of the Municipal Administration unless mandated by resolution of the Municipal Council.	3 month's salary

(12) Using the position or privileges of a Councillor for private gain or to improperly benefit another person.	5 month's salary
(13) Using privileged or confidential information obtained as a Councillor for private gain or to improperly benefit another person.	5 month's salary
(14) Without the permission of the Municipal Council or of the Committee concerned disclosing any privileged or confidential information of the Municipality in any matter whatsoever	6 week's salary
(15) Giving or purporting to give any instruction to any employee of the Municipality except when authorized to do so by resolution of the Municipal Council	3 week's salary
(16) Obstructing or attempting to obstruct the implementation of any decision of the Municipal Council or a Committee by an employee of the Municipality	6 week's salary
(17) Encouraging, soliciting or participating in any conduct which would cause or contribute to maladministration in the Municipality	3 week's salary
(18) Using, taking, acquiring or benefitting from taking advantage of any property or asset owned, controlled, or managed by the Municipality to which the Councillor concerned has no right.	6 week's salary
(19) Assaulting any person on municipal premises or on municipal business	3 month's salary
(20) Stealing any property from municipal premises	5 month's salary
(21) Malicious injury to municipal property	3 week's salary
(22) Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in any meeting of the Council or Committee of the Council	2 week's salary
(23) Failing to fall silent when the Presiding Officer speaks or rises during a meeting	2 week's salary
(24) 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 week's salary
(25) Failing to leave the Chamber or Committee Room when ordered to do so by the Presiding Officer	2 week's salary
(26) Failure by a Councillor to declare to the Municipal Manager in writing his/her financial interests in terms of Section 7 of Schedule 1 of the Systems Act, 2000 (Act No. 32 of 2000)	2 week's salary

SCHEDULE 3

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:

1. 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;
2. A Councillor whether he has spoken on the matter under discussion or not, may rise to a point of order or in explanation;
3. Such explanation shall be confined to some material part of the discussion which may have been misunderstood;
4. A Councillor so rising shall be entitled to be heard forthwith;
5. He must state the point clearly and confine himself strictly to the matter under discussion;
6. 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;
7. 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.

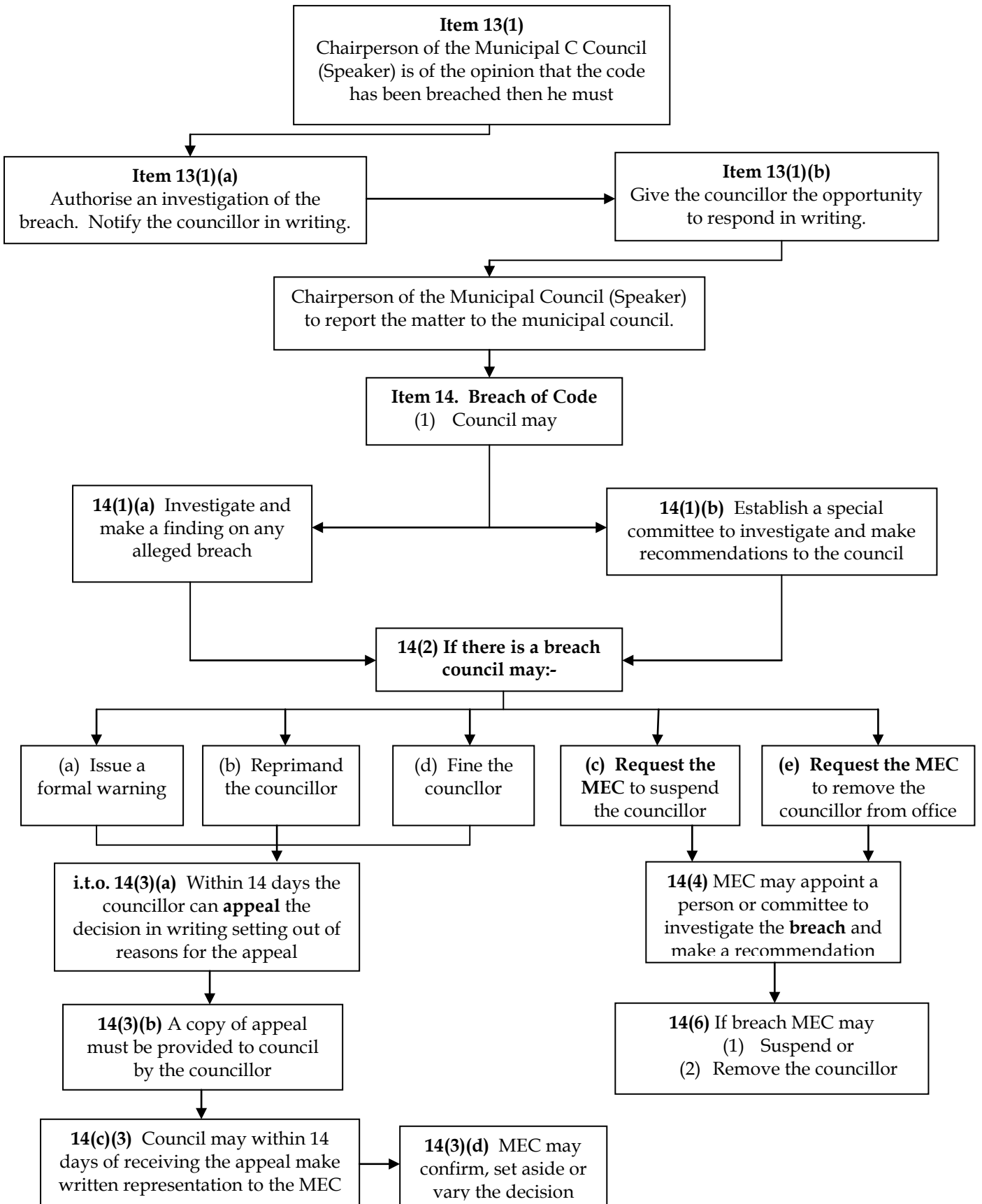
SCHEDULE 4

PRIVILEGES AND IMMUNITIES

- (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.

Annexure "A"

FLOWCHART



NOTICE OF A PRELIMINARY INVESTIGATION

ENDUMENI MUNICIPALITY

Per Hand:
Date:

Councillor:

This serves to notify you that an investigation into the following allegation(s) against you has been commissioned:

.....
.....
.....
.....

1. You may request further particulars pertaining to the allegations.
2. You must respond to the abovementioned allegations within days of receiving this notice.

Yours faithfully

Chairperson	Date

I, the undersigned, confirm that I have received the above notification.

Councillor	Date

NOTICE TO ATTEND A HEARING

ENDUMENI MUNICIPALITY

Per Hand:

Date:

Councillor:

This serves to notify you that you are required to attend a hearing to consider the following allegation(s) against you:

.....
.....
.....
.....
.....

Details regarding the hearing are as follows:

Time:

Date:

Place:

You have the following rights:-

1. You may be represented at the hearing;
2. You may present evidence at the hearing;
3. You may call witnesses;
4. You are entitled to question any of council's witnesses;
5. You are entitled to an interpreter;
6. You have the right to be present at the hearing. If you fail to attend without good cause, the hearing may be conducted in your absence;
7. You are requested to notify the committee prior to the hearing if an interpreter is required in order to allow for the necessary arrangements to be made.

For Municipality	Date

I, the undersigned, confirm that I have received the above notification

Councillor	Date

RECORD OF HEARING

Details of the hearing and representation

Date and time of hearing:

Name of councillor:

Name of councillor representative:

PRESENT

Chairperson:

Members of Special Committee:

Interpreter:

Councillor's witnesses:

Council's witnesses"

Preliminary steps

2. (1) The Chairperson introduces all present;
- (2) The Chairperson explains the proceedings that are to be followed and the method of recording the proceedings;
- (3) Confirm the language preference of the councillor and ensure interpreter is present (if applicable);
- (4) Confirm if councillor has representation;
- (5) Establish presence of witnesses;
- (6) Read the councillor his or her rights.

The charge

3. The councillor is charged with the following offence(s):

Plea

4. (1) Record a guilty or not guilty plea:
- (2) If a plea of guilty is recorded, skip item 5 to 6 below.

5. (1) Council presents its case:

- (2) Cross-examination by councillor or representative:

Councillor's case

6. (1) Councillor presents his or her case:

(2) Cross-examination by committee:

Finding

7. After having considered the evidence, the committee makes a finding on the alleged breach

(1) The reasons for the finding:

(2) The recommendations are:

Sanction

8. (1) Mitigating or extenuating circumstances, prior to the imposition of a sanction:

(2) The council considers the committee's recommendation and councillor's representations and imposes the following sanction:

Notification of outcome of hearing

9. The councillor is notified in writing of the outcome of the disciplinary hearing and any sanction imposed.

Right of appeal

10. The councillor is advised of his or her right of appeal against the sanction in terms of Item 14(3)(a) of the Code of Conduct.

OUTCOME OF HEARING

ENDUMENI MUNICIPALITY

Date:

To: (Councillor's name and address)

OUTCOME OF HEARING

With reference to the hearing held on in which a breach was investigated against you, the findings are as follows:

1. You have been found to have breached/not breached Item of the Code of Conduct;

2. The reasons for the finding are as follows:

.....
.....
.....

3. The council considered the findings and imposed the following sanction:

.....
.....
.....

Please take note that you have the right to appeal against the sanctions of the hearing. If you decide to appeal, your grounds for appeal must be lodged within fourteen working days of having been notified of the decision of the council. Please lodge your appeal with the MEC for Local Government in terms of Item 14(3)(a) and 14(3)(b) of the Code.

.....
Council

.....
Date