Volume 1 of 1

BUFFALO CITY
METROPOLITAN MUNICIPALITY

AGENDA

BUFFALO CITY METROPOLITAN COUNCIL INAUGURAL MEETING

(2026-2031 TERM OF OFFICE)

24 NOVEMBER 2026

10.00 a.m.

[URGENT NOTES:

1. Tea will be served from 9.00 a.m. to 9.30 a.m.
2. Councillors are requested to be seated by 9.30 a.m.
3. Councillors are reminded that in terms of Minute No. BCC 10/06(NC) dated 17 March 2006 and Section 4 of the By-Law relating to Standing Rules and Orders for Council, the onus is on each Councillor to sign the attendance register, failing which the Councillor cannot be recorded as present.
4. INDIVIDUAL PHOTOS of Councillors will be taken from 8.30 a.m. to 9.45 a.m., at the International Conference Centre as detailed in the communication of the City Manager included in individual packages.
5. All Councillors are required to dress formal for this session.]

BUFFALO CITY
METROPOLITAN MUNICIPALITY

BUFFALO CITY METROPOLITAN COUNCIL

Notice is hereby given in terms of Section 29(2) of the Local Government : Municipal Structures Act, No. 117 of 1998, read in conjunction with Section 19 (a) of the Local Government : Municipal Systems Act, No. 32 of 2000 that the **INAUGURAL** meeting of the **BUFFALO CITY METROPOLITAN COUNCIL** for the 2026 to 2031 Term of Office will be held on

TUESDAY, 24 NOVEMBER 2026

at

10.00 a.m.

in the

EAST LONDON INTERNATIONAL CONVENTION CENTRE

to discuss the matters listed on the attached agenda.

M. YAWA
CITY MANAGER
AM/MVM/NM/MG/lm
(AGENDAS/2026/F-PAGE/Bcmc (METRO) (Inaugural)/BCMC19-11 [INAUGURAL])

Trust Centre, Cnr Oxford and North Street,
EAST LONDON

17 November 2026

[NOTE: In terms of Section 36(3) of the Municipal Structures Act, No. 117 of 1998, the City Manager will preside over the meeting of the Metropolitan Council until the election of the Speaker (Report No. 3 on the Agenda), following which the Speaker will assume the Chair.]

Councillors:

Abenta, M.
Angelbeck, R.E.
Bacela, D.
Balawuthi-Matyila, N.J.
Bamla, P.
Bangani, B.
Benfield, L.
Bentley, S.E.
Binase, T.E.
Bongco, W.Z.
Booi, B.S.
Caga, S.W.
Cenge, L.
Cupido, J.C.
Daniso, M.
Dlevu, M.L.
Dyele, S.
Dywili, Z.A.
Faku, K.T.
Faku, P.
George, P.
Goniwe, T.
Gulwa, S.S.
Gysman, Y.U.
Hali, L.
Heukile, S.
Hlekiso, M.
Hlomela, P.A.
Hoffman, S.M.
Holmes, V.A.
Ketyana, M.
Knoetze, V.D.
Kobo, K.
Kwankwa, N.L.S.
Lottering, G.M.
Lutuli, L.W.
Mabesi, S.
Magaqa, S.
Majeke, A.
Majeke, K.
Makeleni, N.L.
Malamela, X.
Mangxola, O.
Mapisa, M.
Mashiya, M.J.
Matyobeni, N.
Mcako, M.
McDowell, J.S.
Mdledle, N.
Melane, S.
Melude, S.
Mfazwe, M.
Mhleli, N.C.
Mkupa, L.
Mndi, N.
Mohapi, T.
Molose, M.P.
Mpofu, S.
Mqwashini, S.
Mrano-Skenjana, A.
Mxabanisi-Gakrishe, C.
Mzekelo, N.
Ndabambi, S.
Ndubane, L.
Ngesi, N.
Ngozi, Z.
Njadu, Z.
Nkohla, Z.
Nkungwini, S.
Nobatyi, S.M.
Ntshebe, N.M.
Ntshintshi, L.
Ntshona, Z.M.
Ntswayintswayi, A.L.
Ntyabontyi, D.
Nxazonke, M.
Pollock, L.
Popo, L.
Reed, A.
Rusi, N.P.
Sanqela, L.
Sauli, B.
Sheshegu, O.
Shushu, L.
Siko, A.A.
Sizani, S.L.
Skoti, A.J.
Sobende, T.
Somgadi, S.
Stewart, L.A.
Theron, D.A.
Tutu, M.
Tyali, Y.
Vaaiboom, M.
Vika, L.
Wetsetse, M.
Whittington, B.R.
Whittington, N.
Yekiso-Morolong, M.C.
Zonke, K.

(100)

BUFFALO CITY
METROPOLITAN MUNICIPALITY

AGENDA

1. Opening and Welcome
2. Notice Convening the Meeting
3. Interfaith Prayers
4. Apologies/New Applications for Leave of Absence
5. Adoption of Agenda/Matters of Exigency
6. Personalia
7. Reports of the City Manager / Acting City Manager

Report No.	Subject	Page No.
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2	Administering of Oath/Affirmation	82
3	Election of the Speaker of Council	86

[NOTE: The City Manager will then hand over to the Speaker in order for him/her to assume the Chair and preside over the meeting.]

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4	Election of the Executive Mayor	90
5	Election of the Deputy Executive Mayor	94
6	Election of the Whip of Council	98
7	Guidelines for Stable Coalition in Local Government	102

8. Remarks by the Executive Mayor

9. Announcements by the City Manager

10. Closure

INAUGURAL COUNCIL MEETING : 24 NOVEMBER 2026

File No. 3/1/1
[Author: City Manager: (M. Yawa)/mjs]

1 INTRODUCTION OF THE CODE OF CONDUCT FOR COUNCILLORS AND BUFFALO CITY METROPOLITAN COUNCIL STANDING RULES AND ORDERS BY-LAW

1. PURPOSE

1.1 To request the Buffalo City Metropolitan Council to **NOTE** the report on the introduction of Code of Conduct for Councillors.

1.2 To request the Buffalo City Metropolitan Council to **NOTE** the Code of Conduct for Councillors as predicated from Schedule 7 of the Local Government : Municipal Structures Act 117 of 1998, as amended.

1.3 The Buffalo City Metropolitan Council to **APPROVES** the Standing Rules and Orders By-Law to guide the proceedings of the Council until amended.

2. AUTHORITY

Buffalo City Metropolitan Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 Constitution of Republic of South Africa, 1996
3.2 The Local Government : Structures Act 117 of 1998 as amended
3.3 The Local Government : Systems Act 32 of 2000 as amended
3.4 The Local Government : Municipal Finance Management Act 56 of 2003
3.5 BCMC Standing Rules and Orders

4. REASONING / BACKGROUND

Following the official announcement of the Local Government Elections (LGEs) results, the Municipal/City Manager, in the absence of the Speaker of Council, should convene a Municipal Council in terms Section 36(3) of the Local Government: Structures Act 117 of 1998, which reads:-

> ***"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, presides over the election of the speaker"***

5. EXPOSITION OF FACTS

Schedule 7 of the Local Government: Municipal Structures Act 117 of 1998 requires that under the ***General conduct of councillors:-***

> ***"2.*** *A councillor must—*
> *(a) perform the functions of office in good faith, honestly and in a transparent manner; and*
> *(b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.*
>
> ***Voting at meetings***
>
> ***3.*** *A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council, which conflicts with any legislation applicable to local government.*
>
> ***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 of 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."

In accordance with the above cited Code of Conduct, all the Councillors are urged to continuously refer to the enclosed document. For ease of reference please see attachment as **ANNEXURE "A"**.

Additionally, all Councillors are requested to read the Code of Conduct in conjunction with BCMM Standing Rules and Orders By-Law on Rule No. 15 which is outlined as follows:

*"**Attendance at meetings***

A Councillor must attend each and remain in attendance until the conclusion of the business of each meeting of the Municipal Council or of a Committee of which that Councillor is a member, except when leave of absence has been granted or that Councillor is required to withdraw from the meeting.

15.2 If a Councillor or group of Councillors leave any meeting in protest, and the remainder of the Councillors constitute a quorum, the business of the meeting shall be proceeded with."

For ease of reference, please refer to the attachment of the Standing Rules and Orders By-Law as **ANNEXURE "B".**

6. CHALLENGES

None

7. STAFF IMPLICATIONS

None

8. FINANCIAL IMPLICATIONS

None

9. OTHER PARTIES CONSULTED

Electoral Commission of South Africa (IEC)

10. RECOMMENDATION/S

It is recommended :-

10.1 The Buffalo City Metropolitan Council **NOTES** the report on the introduction of Code of Conduct for Councillors.

10.2 The Buffalo City Metropolitan Council **NOTES** the Code of Conduct for Councillors as predicated from Schedule 7 of the Local Government : Municipal Structures Act 117 of 1998, as amended.

10.3 The Buffalo City Metropolitan Council **APPROVES** the Standing Rules and Orders By-Law until amended.

MXOLISI YAWA
CITY MANAGER
Ncumisa Sidukwana

ANNEXURE A : Code of Conduct for Councillors

ANNEXURE B : Buffalo City Metropolitan Municipality Standing Rules and Orders By-Law

Government Gazette

REPUBLIC OF SOUTH AFRICA

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THE PRESIDENCY

No. 320 **1 June 2021**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 3 of 2021: Local Government: Municipal Structures Amendment Act, 2021

DIE PRESIDENSIE

No. 320 **1 Junie 2021**

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 3 van 2021: Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2021

ISSN 1682-5845

9 771682 584003 44647

AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 26 May 2021)

ACT

To amend the Local Government: Municipal Structures Act, 1998, so as to insert, delete and amend certain definitions; to remove all references to district management areas; to remove all references to plenary executive system as a type of municipality; to provide for a minimum of 10 councillors per municipality; to amend the deviation threshold; to provide for the prohibition of a councillor who was found guilty of a breach of the Code of Conduct for Councillors for a period of two years; to clarify the date of assumption of office by a councillor; to allow for extension on the declaration of the result of an election; to require the municipal manager to inform the MEC for local government in the province in addition to the Electoral Commission of ward vacancies; to provide that the MEC call and set the date for by-elections; to clarify who can inform the municipal manager of a specific vacancy; to allow the MEC to designate a person to call and chair a meeting of the municipal council when the speaker, acting speaker or municipal manager refuses to call the meeting; to provide for additional functions of the speaker; to provide for a whip of municipal council; to clarify the formula for the composition of an executive committee; to provide for the establishment of a municipal public accounts committee; to provide for the resolution of a situation where excessive seats may arise from the seat calculation in local municipalities; to amend the timeframe for the municipal manager to inform the chief electoral officer of vacancies; to allow for the MEC to inform the chief electoral officer of vacancies if the municipal manager fails to do so; to clarify the supplementation of party lists for local municipalities; to provide for the resolution of multiple seats which may arise where a candidate qualifies to be elected to more than one seat; to clarify the supplementation of party lists for district municipalities; to provide for a Code of Conduct for Councillors; to provide for transitional arrangements in respect of municipalities with a plenary executive system; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk in vierkantige hakies dui op weglatings uit bestaande verordeninge.

Woorde met 'n volstreep daaronder dui op invoegings in bestaande verordeninge.

(Engelse teks deur die President geteken)
(Goedgekeur op 26 Mei 2021)

WET

Tot wysiging van die Wet op Plaaslike Regering: Munisipale Strukture, 1998, ten einde sekere omskrywings in te voeg, te skrap en te wysig; alle verwysings na distriksbestuurgebiede te verwyder; alle verwysings na volle raad uitvoerende stelsel as 'n tipe munisipaliteit te verwyder; vir 'n minimum van 10 raadslede per munisipaliteit voorsiening te maak; die afwykingsdrempel te wysig; voorsiening te maak dat 'n raadslid wat aan 'n verbreking van die Gedragskode vir Raadslede skuldig bevind is, vir 'n tydperk van twee jaar verban word; die datum van ampsaanvaarding deur 'n raadslid uit te klaar; voorsiening te maak vir uitstel vir die verklaring van die uitslag van 'n verkiesing; te vereis dat die munisipale bestuurder die LUR vir plaaslike regering in die provinsie, benewens die Verkiesingskommissie, van vakatures in wyke verwittig; voorsiening te maak dat die LUR tussenverkiesings uitskryf en die datum daarvoor bepaal; duidelik te stel wie die munisipale bestuurder van 'n spesifieke vakature kan verwittig; toe te laat dat die LUR 'n persoon aanwys om 'n vergadering van die munisipale raad te belê en daarby voor te sit wanneer die speaker, waarnemende speaker of munisipale bestuurder weier om die vergadering te belê; voorsiening te maak vir bykomende werksaamhede van die speaker; voorsiening te maak vir 'n sweep van 'n munisipale raad; die formule vir die samestelling van 'n uitvoerende komitee duidelik te maak; voorsiening te maak vir die instelling van 'n komitee vir munisipale openbare rekeninge; voorsiening te maak vir die resolusie van 'n situasie waar buitensporige setels kan voortspruit uit setelberekening in plaaslike munisipaliteite; die tydsbestek te wysig waarbinne die munisipale bestuurder die hoofverkiesingsbeampte van vakatures moet verwittig; voorsiening te maak dat die LUR die hoofverkiesingsbeampte van vakatures kan verwittig indien die munisipale bestuurder versuim om dit te doen; die aanvulling van partylyste vir plaaslike munisipaliteite uit te klaar; voorsiening te maak vir die resolusie van veelvuldige setels wat kan ontstaan waar 'n kandidaat kwalifiseer om tot meer as een setel verkies te word; die aanvulling van partylyste vir distriksmunisipaliteite uit te klaar; voorsiening te maak vir 'n Gedragskode vir Raadslede; voorsiening te maak vir oorgangsmaatreëls ten opsigte van munisipaliteite met 'n volle raad uitvoerende stelsel; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Amendment of section 1 of Act 117 of 1998, as amended by section 93 of Act 27 of 2000 and section 3 of Act 19 of 2008

1. Section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion before the definition of "by-election" of the following definition:

" **'authorised representative'**, in relation to a party, means a natural person duly authorised by the party in accordance with its constitution to act on the party's behalf for purposes of performing the duties contemplated in sections 27(2) and 43(2)*(d)* and *(e)*;";

(b) by the insertion after the definition of "category" of the following definition:

" **'Code of Conduct'** means the Code of Conduct for councillors set out in Schedule 7;";

(c) by the insertion after the definition of "councillor" of the following definition:

" **'declared elected'** means the publication of a notice in the *Government Gazette* reflecting the names of the councillors elected, which councillors are deemed to have been elected to the office on the date of the declaration of the results of an election by the Electoral Commission;";

(d) by the deletion of the definition of "district management area";

(e) by the substitution for the definition of "election" of the following definition:

" **'election'**, in relation to a district council, means the election of the councillors referred to in section 23(1)*(a)* **[and *(c)*]**;";

(f) by the insertion after the definition of "local council" of the following definition:

" **'Local Government: Municipal Finance Management Act'** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);";

(g) by the insertion after the definition of "municipality" of the following definition:

" **'municipal public accounts committee'** means the committee established in terms of section 79A;"; and

(h) by the insertion after the definition of "ward committee" of the following definition:

" **'whip'** means a councillor elected in terms of section 41A to be the whip of a municipal council;".

Repeal of section 6 of Act 117 of 1998, as amended by section 3 of Act 58 of 1999

2. Section 6 of the principal Act is hereby repealed.

Amendment of section 7 of Act 117 of 1998

3. Section 7 of the principal Act is hereby amended by the deletion of paragraph *(c)*.

Substitution of section 9 of Act 117 of 1998

4. The following section is hereby substituted for section 9 of the principal Act:

"**Types of category B municipalities**

9. There are the following types of category B municipalities:

(a) a municipality with a collective executive system;

(b) a municipality with a collective executive system combined with a ward participatory system;

(c) a municipality with a mayoral executive system; and

(d) a municipality with a mayoral executive system combined with a ward participatory system**[;**

***(e)* a municipality with a plenary executive system; and**

***(f)* a municipality with a plenary executive system combined with a ward participatory system]**.".

Wysiging van artikel 1 van Wet 117 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000 en artikel 3 van Wet 19 van 2008

1. Artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998) (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van "distrik bestuursgebied" te skrap;

(b) deur die volgende omskrywing na die omskrywing van "distriksraad" in te voeg:

" **'Gedragskode'** die Gedragskode vir raadslede luidens Bylae 7;";

(c) deur die volgende omskrywing na die omskrywing van "geïntegreerde ontwikkelingsplan" in te voeg:

" **'gemagtigde verteenwoordiger'**, met betrekking tot 'n party, 'n natuurlike persoon met behoorlike magtiging deur die party ooreenkomstig die party se grondwet om namens die party op te tree om die pligte beoog in artikels 27(2) en 43(2)*(d)* en *(e)* te verrig;";

(d) deur die volgende omskrywing na die omskrywing van "Kieswet" in te voeg:

" **'komitee vir munisipale openbare rekeninge'** die komitee ingevolge artikel 79A ingestel;";

(e) deur die volgende omskrywing na die omskrywing van "speaker" in te voeg:

"**'sweep'** 'n raadslid ingevolge artikel 41A verkies om die sweep van 'n munisipale raad te wees;";

(f) deur die omskrywing van "verkiesing" deur die volgende omskrywing te vervang:

" **'verkiesing'**, met betrekking tot 'n distriksraad, die verkiesing van raadslede bedoel in artikel 23(1)*(a)* **[en *(c)*]**;";

(g) deur die volgende omskrywing na die omskrywing van "Verkiesingskommissie" in te voeg:

" **'verkies verklaar'** die publikasie van 'n kennisgewing in die *Staatskoerant* met die name van die verkose raadslede, welke raadslede geag word tot die amp verkies te wees op die datum van die verklaring van die uitslae van 'n verkiesing deur die Verkiesingskommissie;"; en

(h) deur die volgende omskrywing na die omskrywing van "voorgeskryf" in te voeg:

" **'Wet op Plaaslike Regering: Munisipale Finansiële Bestuur'** die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003);".

Herroeping van artikel 6 van Wet 117 van 1998, soos gewysig deur artikel 3 van Wet 58 van 1999

2. Artikel 6 van die Hoofwet word hierby herroep.

Wysiging van artikel 7 van Wet 117 van 1998

3. Artikel 7 van die Hoofwet word hierby gewysig deur paragraaf *(c)* te skrap.

Vervanging van artikel 9 van Wet 117 van 1998

4. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

"Soorte kategorie B munisipaliteite

9. Daar is die volgende soorte kategorie B munisipaliteite:

(a) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel;

(b) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel wat met 'n wyk deelnemende stelsel gekombineer is;

(c) 'n munisipaliteit met 'n burgemeesters- uitvoerende stelsel; en

(d) 'n munisipaliteit met 'n burgemeesters- uitvoerende stelsel wat met 'n wyk deelnemende stelsel gekombineer is**[;**

***(e)* 'n munisipaliteit met 'n volle raad uitvoerende stelsel; en**

***(f)* 'n munisipaliteit met 'n volle raad uitvoerende stelsel wat met 'n wyk deelnemende stelsel gekombineer is**].".

Substitution of section 10 of Act 117 of 1998

5. The following section is hereby substituted for section 10 of the principal Act:

"**Types of category C municipalities**

10. There are the following types of category C municipalities:
(a) a municipality with a collective executive system; and
(b) a municipality with a mayoral executive system**[; and**
(c) **a municipality with a plenary executive system]**.".

Amendment of section 12 of Act 117 of 1998, as amended by section 93 of Act 27 of 2000 and section 1 of Act 33 of 2000

6. Section 12 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph *(e*A*)* of the following paragraph:

"*(e*A*)* in the case of a district municipality, the number of councillors, determined in terms of section 23, to—
(i) proportionally represent parties; and
(ii) be appointed by each of the local councils within the district municipality to directly represent each local municipality; **[and**
(iii) proportionally represent parties from each district management area within that district municipality;]".

Amendment of section 20 of Act 117 of 1998, as amended by section 4 of Act 33 of 2000

7. Section 20 of the principal Act is hereby amended—
(a) by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:
"*(b)* may not be fewer than **[three]** 10 or more than 90 councillors, if it is a local or district municipality; and";
(b) by the substitution in subsection (4) for paragraph *(a)* of the following paragraph:
"*(a)* three of the number determined for the municipality in accordance with the subsection (1) *(a)* formula, if 30 or fewer councillors have been determined for the municipality in terms of the formula, provided that a council of fewer than **[seven]** 10 may not be decreased; **[or]**";
(c) by the substitution in subsection (4) for paragraph *(b)* of the following paragraph:
"*(b)* 10 per cent of the number determined for the municipality in accordance with the subsection (1)*(a)* formula, if more than 30 councillors have been determined for the municipality in terms of the formula**[.]** or;"; and
(d) by the insertion in subsection (4) after paragraph *(b)* of the following paragraph:
"*(c)* 20 per cent if the geographical area of the local municipality is greater than 20 000 square kilometres and if less than 35 councillors have been determined for the municipality in terms of the formula,
and any deviation in terms of paragraph *(a)*, *(b)* or *(c)* must be done with the concurrence of the Minister.".

Amendment of section 21 of Act 117 of 1998, as amended by section 12 of Act 51 of 2002

8. Section 21 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) A councillor who is removed from office by the MEC for local government in a province in terms of item 16(7)*(b)* of the Code of Conduct may not stand as a candidate in an election for any municipal council for a period of two years from the date on which such person was removed from office.".

Vervanging van artikel 10 van Wet 117 van 1998

5. Artikel 10 van die Hoofwet word hierby deur die volgende artikel vervang:

"**Soorte kategorie C-munisipaliteite**

10. Daar is die volgende soorte kategorie C munisipaliteite:
(a) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel; en
(b) 'n munisipaliteit met 'n burgemeesters- uitvoerende stelsel**[; en**
(c) **'n munisipaliteit met 'n volle raad uitvoerende stelsel]**.".

Wysiging van artikel 12 van Wet 117 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000 en artikel 1 van Wet 33 van 2000

6. Artikel 12 van die Hoofwet word hierby gewysig deur in subartikel (3) paragraaf *(e*A*)* deur die volgende paragraaf te vervang:

"*(e*A*)* in die geval van 'n distriksmunisipaliteit, die getal raadslede, ingevolge artikel 23 bepaal, om—
(i) partye proporsioneel te verteenwoordig; en
(ii) aangestel te word deur elk van die plaaslike rade binne die distriksmunisipaliteit om elke plaaslike munisipaliteit regstreeks te verteenwoordig; **[en**
(iii) partye van elke distriksbestuursgebied binne daardie distriksmunisipaliteit proporsioneel te verteenwoordig;]".

Wysiging van artikel 20 van Wet 117 van 1998, soos gewysig deur artikel 4 van Wet 33 van 2000

7. Artikel 20 van die Hoofwet word hierby gewysig—
(a) deur in subartikel (1) paragraaf *(b)* deur die volgende paragraaf te vervang:
"*(b)* mag nie minder as **[drie]** 10 of meer as 90 raadslede wees nie, indien dit 'n plaaslike of distriksmunisipaliteit is; en";
(b) deur in subartikel (4) paragraaf *(a)* deur die volgende paragraaf te vervang:
"*(a)* drie van die getal wat vir die munisipaliteit ooreenkomstig die subartikel (1)*(a)* formule bepaal is, indien 30 of minder raadslede vir die munisipaliteit ingevolge die formule bepaal is, met dien verstande dat 'n raad van minder as **[sewe]** 10 nie verminder mag word nie; **[of]**";
(c) deur in subartikel (4) paragraaf *(b)* deur die volgende paragraaf te vervang:
"*(b)* 10 persent van die getal wat vir die munisipaliteit ooreenkomstig die subartikel (1)*(a)* formule bepaal is indien meer as 30 raadslede ingevolge die formule vir die munisipaliteit bepaal is**[.]** of;";
(d) deur in subartikel (4) die volgende paragraaf na paragraaf *(b)* in te voeg:
"*(c)* 20 persent as die geografiese area van die plaaslike munisipaliteit groter as 20 000 vierkante kilometer is en indien minder as 35 raadslede ingevolge die formule vir die munisipaliteit bepaal is, en enige afwyking ingevolge paragraaf *(a)*, *(b)* of *(c)* moet met die instemming van die Minister gedoen word.".

Wysiging van artikel 21 van Wet 117 van 1998, soos gewysig deur artikel 12 van Wet 51 van 2002

8. Artikel 21 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg:

"(1A) 'n Raadslid wat deur die LUR vir plaaslike regering in 'n provinsie ingevolge item 16(7)*(b)* van die Gedragskode uit die amp onthef word, mag nie as 'n kandidaat staan in 'n verkiesing vir enige munisipale raad vir 'n tydperk van twee jaar vanaf die datum waarop daardie persoon uit die amp onthef is nie.".

Insertion of section 21A in Act 117 of 1998

9. The following section is hereby inserted in the principal Act after section 21:

"**Code of Conduct**

21A. The Code of Conduct applies to every member of a municipal council.".

Amendment of section 22 of Act 117 of 1998

10. Section 22 of the principal Act is hereby amended—

(a) by the deletion of subsection (4); and

(b) by the addition of the following subsection:

"(5) An elected councillor is deemed to assume office on the date of the declaration of the results of an election by the Electoral Commission.".

Amendment of section 23 of Act 117 of 1998

11. Section 23 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of paragraph *(c)*;

(b) by the substitution for subsection (2) of the following subsection:

"(2) The number of councillors representing local municipalities **[and district management areas]** in a district council referred to in subsection (1)*(b)* **[and *(c)*]** must be—

(a) equal to 60 per cent (fractions to be disregarded) of the number of councillors determined for the municipality in terms of section 20 before any increase in terms of section 20(5), plus the increase; and

(b) allocated to the respective local councils **[and district management areas]** in accordance with Part 2 of Schedule 2."; and

(c) by the addition of the following subsection:

"(5) An elected councillor is deemed to assume office on the date of the declaration of the results of an election by the Electoral Commission.".

Amendment of section 25 of Act 117 of 1998, as amended by section 93 of Act 27 of 2000

12. Section 25 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs *(a)* and *(b)* of the following paragraphs, respectively:

"*(a)* the Electoral Commission does not declare the result of the election **[of a municipal council, or in a district management area, or in a ward,]** within the period specified in terms of the Electoral Commission Act, 1996 (Act No. 51 of 1996), unless the period is extended in terms of section 64(2) of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000);

(b) a court sets aside the election of a council, **[or in a district management area,]** or in a ward;";

(b) by the insertion after subsection (2) of the following subsection:

"(2A) The municipal manager must inform the MEC for local government in the province and the Electoral Commission of a vacancy in a ward within 14 days from the date on which the vacancy occurred.";

(c) by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words:

"The **[municipal manager of the municipality concerned]** MEC for local government in the province, after consulting the Electoral Commission, must, by notice in **[a local newspaper]** the *Provincial*

Invoeging van artikel 21A in Wet 117 van 1998

9. Die volgende artikel word hierby na artikel 21 in die Hoofwet ingevoeg:

"**Gedragskode**

21A. Die Gedragskode is op elke lid van 'n munisipale raad van toepassing.".

Wysiging van artikel 22 van Wet 117 van 1998

10. Artikel 22 van die Hoofwet word hierby gewysig—

(a) deur subartikel (4) te skrap; en

(b) deur die volgende subartikel by te voeg:

"(5) 'n Verkose raadslid word geag die amp op te neem op die datum van die verklaring van die uitslae van 'n verkiesing deur die Verkiesingskommissie.".

Wysiging van artikel 23 van Wet 117 van 1998

11. Artikel 23 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(c)* te skrap;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die getal raadslede bedoel in subartikel (1)*(b)* **[en** *(c)***]** wat plaaslike munisipaliteite **[en distrik bestuursgebiede]** op 'n distriksraad verteenwoordig, moet—

(a) gelyk wees aan 60 persent (met verontagsaming van breukdele) van die getal raadslede wat, voor die vermeerdering ingevolge artikel 20(5), ingevolge artikel 20 bepaal is, plus die vermeerdering; en

(b) ooreenkomstig Deel 2 van Bylae 2 aan die onderskeie plaaslike rade **[en distrik bestuursgebiede]** toegewys word."; en

(c) deur die volgende subartikel by te voeg:

"(5) 'n Verkose raadslid word geag die amp op te neem op die datum van verklaring van die uitslae van 'n verkiesing deur die Verkiesingskommissie.".

Wysiging van artikel 25 van Wet 117 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000

12. Artikel 25 van die Hoofwet word hierby gewysig—

(a) deur paragrawe *(a)* en *(b)* in subartikel (1) onderskeidelik deur die volgende paragrawe te vervang:

"*(a)* die Verkiesingskommissie nie die uitslag van die verkiesing **[van 'n munisipale raad, of in 'n distrik bestuursgebied, of in 'n wyk,]** binne die tydperk vermeld ingevolge die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), verklaar nie, tensy die tydperk ingevolge artikel 64(2) van die 'Local Government: Municipal Electoral Act', 2000 (Wet No. 27 van 2000), verleng is;

(b) 'n hof die verkiesing van 'n raad**[, of in 'n distrik bestuursgebied,]** of in 'n wyk tersyde stel;";

(b) deur die volgende subartikel na subartikel (2) in te voeg:

"(2A) Die munisipale bestuurder moet die LUR vir plaaslike regering in die provinsie en die Verkiesingskommissie verwittig van 'n vakature in 'n wyk binne 14 dae vanaf die datum waarop die vakature ontstaan het.";

(c) deur in subartikel (3) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die **[munisipale bestuurder van die betrokke munisipaliteit]** LUR vir plaaslike regering in die provinsie moet, na oorleg met die Verkiesingskommissie, by kennisgewing in **['n plaaslike koerant]** die *Provinsiale Staatskoerant*, 'n tussenverkiesing uitskryf en die datum vir

Gazette, call and set a date for the by-election, which must be held within 90 days of the date—";

(d) by the deletion of subsection (4); and

(e) by the substitution for subsection (6) of the following subsection:

"(6) The MEC for local government in the province may not call a by-election in terms of subsection (1) if—

(a) the next election of all municipal councils must be held within nine calendar months of the applicable dates mentioned in subsection (3); or

(b) the MEC for local government in the province in consultation with the Minister decides that the by-election must stand over until the next election of all municipal councils.".

Amendment of section 27 of Act 117 of 1998, as amended by section 93 of Act 27 of 2000, section 121 of Act 32 of 2000, section 2 of Act 20 of 2002 and section 10 of Act 55 of 2008

13. Section 27 of the principal Act is hereby amended—

(a) by the insertion of the number (1) preceding the following words:

"(1) A councillor vacates office during a term of office if that councillor—";

(b) by the substitution for paragraph *(d)* of the following paragraph:

"*(d)* contravenes a provision of the Code of Conduct [**for Councillors set out in Schedule 1 of the Local Government: Municipal Systems Act, 2000,**] and is removed from office in terms of the Code;";

(c) by the substitution for paragraph *(e)* of the following paragraph:

"*(e)* is a representative of a local council in a district council and ceases to be a member of the local council which appointed that councillor to the district council or is replaced in terms of Item 23 of Schedule 2 to this Act by the local council as its representative in the district council; or"; and

(d) by the addition of the following subsection:

"(2) For purposes of this section, only an authorised representative may inform a municipal manager that a vacancy has arisen as contemplated in subsection (1)*(c)* and *(f)*.".

Amendment of section 29 of Act 117 of 1998, as amended by section 3 of Act 20 of 2002, section 9 of Act 2 of 2003 and section 11 of Act 55 of 2008

14. Section 29 of the principal Act is hereby amended by the insertion of the following subsection after subsection (1):

"(1A) If the speaker or acting speaker refuses to call a meeting of the council as requested in terms of subsection (1), the municipal manager, or in the absence or refusal by the municipal manager, a person designated by the MEC for local government in the province, may call and chair the meeting.".

Insertion of section 29A in Act 117 of 1998

15. The following section is hereby inserted in the principal Act after section 29:

"Public notice of meetings of municipal councils

29A. The municipal manager of a municipality must give notice to the public, in a manner determined by the municipal council, of the time, date and venue of every—

(a) ordinary and special meeting of the council or a meeting of a committee of a council;

(b) ordinary or special meeting of the council or a meeting of a committee of a council that was postponed; and

(c) urgent meeting of the council or meeting of a committee of a council, except when time constraints make this impossible.".

die tussenverkiesing bepaal, wat gehou moet word binne 90 dae vanaf die datum—";

(d) deur subartikel (4) te skrap; en

(e) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) Die LUR vir plaaslike regering in die provinsie mag nie 'n tussenverkiesing ingevolge subartikel (1) uitskryf nie indien—

(a) die volgende verkiesing van alle munisipale rade binne nege kalendermaande vanaf die toepaslike datums in subartikel (3) bedoel, gehou moet word; of

(b) die LUR vir plaaslike regering in die provinsie in oorleg met die Minister besluit dat die tussenverkiesing tot die volgende verkiesing van alle munisipale rade moet oorstaan.".

Wysiging van artikel 27 van Wet 117 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000, artikel 121 van Wet 32 van 2000, artikel 2 van Wet 20 van 2002 en artikel 10 van Wet 55 van 2008

13. Artikel 27 van die Hoofwet word hierby gewysig—

(a) deur die syfer (1) voor die volgende woorde in te voeg:

"(1) 'n Raadslid ontruim die amp gedurende 'n ampstermyn indien daardie raadslid—";

(b) deur paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* 'n bepaling van die **[Gedragkode vir Raadslede in Bylae 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, uiteengesit,]** Gedragskode oortree en ingevolge daardie Kode van die amp onthef word;";

(c) deur paragraaf *(e)* deur die volgende paragraaf te vervang:

"*(e)* 'n verteenwoordiger van 'n plaaslike raad op 'n distriksraad is en nie meer 'n lid van die plaaslike raad is wat daardie raadslid op die distriksraad aangestel het nie, of ingevolge Item 23 van Bylae 2 by hierdie Wet deur die plaaslike raad vervang word as sy verteenwoordiger op die distriksraad; of"; en

(d) deur die volgende subartikel by te voeg:

"(2) By die toepassing van hierdie artikel, mag slegs 'n gemagtigde verteenwoordiger 'n munisipale bestuurder verwittig dat 'n vakature ontstaan het soos in subartikel (1)*(c)* en *(f)* beoog.".

Wysiging van artikel 29 van Wet 117 van 1998, soos gewysig deur artikel 3 van Wet 20 van 2002, artikel 9 van Wet 2 van 2003 en artikel 11 van Wet 55 van 2008

14. Artikel 29 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg:

"(1A) Indien die speaker of waarnemende speaker weier om 'n vergadering van die raad te belê soos ingevolge subartikel (1) versoek, mag die munisipale bestuurder, of in die afwesigheid van of by weiering deur die munisipale bestuurder 'n persoon deur die LUR vir plaaslike regering in die provinsie aangewys, die vergadering belê en daaroor voorsit.".

Invoeging van artikel 29A in Wet 117 van 1998

15. Die volgende artikel word hierby na artikel 29 in die Hoofwet ingevoeg:

"Publieke kennisgewing van vergaderings van munisipale rade

29A. Die munisipale bestuurder van 'n munisipaliteit moet aan die publiek kennis gee, op 'n wyse deur die munisipale raad bepaal, van die tyd, datum en plek van elke—

(a) gewone en spesiale vergadering van die raad of 'n vergadering van 'n komitee van 'n raad;

(b) gewone of spesiale vergadering van die raad of 'n vergadering van 'n komitee van 'n raad wat uitgestel is; en

(c) dringende vergadering van die raad of vergadering van 'n komitee van 'n raad, behalwe wanneer tydbeperkings dit onmoontlik maak.".

Amendment of section 30 of Act 117 of 1998

16. Section 30 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) A majority of the number of councillors determined in terms of section 20 must be present at a meeting of the council when a vote is taken on any matter."; and

(b) by the substitution for subsection (4) of the following subsection:

"(4) If on any question, other than a matter mentioned in section 160(2) of the Constitution, there is an equality of votes, the councillor presiding must exercise a casting vote in addition to that councillor's vote as a councillor.".

Amendment of section 36 of Act 117 of 1998

17. Section 36 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) A councillor may not hold office as whip, speaker, mayor or executive mayor at the same time**[, but in a municipality of a type mentioned in section 9*(e)* or *(f)* or 10*(c)* the speaker must be called the mayor]**.".

Amendment of section 37 of Act 117 of 1998, as amended by section 14 of Act 51 of 2002

18. Section 37 of the principal Act is hereby amended—

(a) by the substitution for paragraphs *(e)* and *(f)* of the following paragraphs, respectively:

"*(e)* must ensure compliance in the council and council committees with the Code of Conduct **[set out in Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)]; [and]**

(f) must ensure that council meetings are conducted in accordance with the rules and orders of the council**[.]**;"; and

(b) by the addition of the following paragraphs:

"*(g)* must ensure that the legislative authority of the municipality functions effectively;

(h) is responsible for the effective oversight over the executive authority of the municipality;

(i) must ensure the effectiveness of the committees of the municipal council established in terms of section 79;

(j) is responsible for the ethics and accountability of the municipal council; and

(k) must ensure the effectiveness and functionality of ward committees and the public participation processes.".

Insertion of sections 41A, 41B, 41C, 41D, 41E and 41F in Act 117 of 1998

19. The following sections are hereby inserted in the principal Act after section 41:

"*Part 3*

Whips of municipal councils

Election of whip

41A. (1) Each municipal council may elect a whip for the council who is also a municipal office bearer as set out in Schedule 3.

(2) At its first sitting after its election, or when necessary to fill a vacancy, a municipal council may elect its whip from among the councillors.

(3) The speaker of the municipality presides over the election of the whip.

Wysiging van artikel 30 van Wet 117 van 1998

16. Artikel 30 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Meerderheid van die getal raadslede ingevolge artikel 20 bepaal, moet by 'n vergadering van die raad teenwoordig wees wanneer oor enige aangeleentheid gestem word."; en

(b) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Indien oor enige vraag, behalwe 'n aangeleentheid in artikel 160(2) van die Grondwet vermeld, daar 'n staking van stemme is, moet die raadslid wat voorsit 'n beslissende stem, benewens daardie lid se stem as 'n raadslid, uitbring.".

Wysiging van artikel 36 van Wet 117 van 1998

17. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang

"(5) 'n Raadslid mag nie terselfdertyd die amp van speaker en burgemeester of uitvoerende burgemeester beklee nie**[, maar in 'n munisipaliteit van 'n soort genoem in artikel 9*(e)* of *(f)* of 10*(c)* word die speaker die burgemeester genoem]**.".

Wysiging van artikel 37 van Wet 117 van 1998, soos gewysig deur artikel 14 van Wet 51 van 2002

18. Artikel 37 van die Hoofwet word hierby gewysig—

(a) deur paragrawe *(e)* en *(f)* onderskeidelik deur die volgende paragrawe te vervang:

"*(e)* moet nakoming in die raad en raadskomitees van die Gedragskode **[in Bylae 1 by die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000) uiteengesit,]** verseker; **[en]**

(f) moet toesien dat raadsvergaderings ooreenkomstig die reëls en orders van die raad verloop[.];"; en

(b) deur die volgende paragrawe by te voeg:

"*(g)* moet verseker dat die wetgewende gesag van die munisipaliteit doeltreffend funksioneer;

(h) is verantwoordelik vir doeltreffende toesig oor die uitvoerende gesag van die munisipaliteit;

(i) moet die doeltreffendheid van die komitees van die munisipale raad ingevolge artikel 79 ingestel, verseker;

(j) is verantwoordelik vir die etiek en verantwoordbaarheid van die munisipale raad; en

(k) moet die doeltreffendheid en funksionaliteit van die wykskomitees en die openbare deelnameprosesse verseker.".

Invoeging van artikels 41A, 41B, 41C, 41D, 41E en 41F in Wet 117 van 1998

19. Die volgende artikels word hierby na artikel 41 in die Hoofwet ingevoeg:

"*Deel 3*

Swepe van munisipale rade

Verkiesing van sweep

41A. (1) Elke munisipale raad kan 'n sweep vir die raad verkies wat ook 'n munisipale ampsbekleër is soos in Bylae 3 uiteengesit.

(2) Tydens die eerste sitting na die verkiesing daarvan, of wanneer dit nodig is om 'n vakature te vul, kan 'n munisipale raad 'n sweep uit die geledere van die raadslede verkies.

(3) Die speaker van die munisipaliteit sit voor oor die verkiesing van die sweep.

(4) The procedure set out in Schedule 3 applies to the election of the whip.

(5) A councillor may not hold office as whip, speaker, mayor or executive mayor at the same time.

Functions of whip

41B. The whip of a municipal council—

(a) liaises with the different political parties to ensure representation in council and council committees;

(b) maintains sound relations between the various political parties;

(c) informs the whips of all parties on important matters on the council agenda;

(d) assists the speaker to count votes in the council meeting;

(e) facilitates the interaction between the executive and legislative oversight structures in the municipality; and

(f) resolves disputes between the speaker, mayor or executive mayor, or members of the mayoral committee.

Term of office of whip

41C. The whip of a municipal council is elected for a term ending, subject to section 41D, when the next council is declared elected.

Vacation of office

41D. The whip of a municipal council vacates office during a term if that person—

(a) resigns as whip;

(b) is removed from office; or

(c) ceases to be a councillor.

Removal from office

41E. (1) A municipal council may remove, by resolution, the whip from office.

(2) Prior written notice of an intention to move a motion for the removal of the whip must be given.

Acting whips

41F. If the whip of a municipal council is absent or not available to perform the functions of whip, or during a vacancy, the council must elect another councillor to act as whip.".

Amendment of section 43 of Act 117 of 1998

20. Section 43 of the principal Act is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) *(a)* If the council of a municipality establishes an executive committee, it must **[elect]** determine a number of councillors necessary for effective and efficient government, provided that no more than 20 per cent of the councillors (fractions to be disregarded) or 10 councillors, whichever is the least, are determined.

(b) An executive committee may not have less than three members.

(2) The award of seats on the executive committee to political parties or political interests must be determined in the following manner—

(a) the number of seats won by a political party or political interest divided by the total number of councillors determined for that municipality in terms of section 20 and multiplied by the number of seats on the executive committee;

(4) Die prosedure in Bylae 3 uiteengesit, is van toepassing op die verkiesing van die sweep.

(5) 'n Raadslid mag nie terselftertyd die amp van sweep, speaker of uitvoerende burgemeester beklee nie.

Werksaamhede van sweep

41B. Die sweep van 'n munisipale raad—

(a) skakel met die verskillende politieke partye om verteenwoordiging in die raad en raadskomitees te verseker;

(b) handhaaf gesonde verhoudings tussen die verskeie politieke partye;

(c) lig die swepe van alle partye in oor belangrike aangeleenthede op die raadsagenda;

(d) staan die speaker by met die tel van stemme in die raadsvergadering;

(e) fasiliteer die interaksie tussen die uitvoerende en wetgewende oorsigstrukture in die munisipaliteit; en

(f) besleg geskille tussen die speaker, burgemeester of uitvoerende burgemeester, of uitvoerende lede van die burgemeesterskomitee.

Ampstermyn van sweep

41C. Die sweep van 'n munisipale raad word verkies vir 'n termyn wat eindig, onderworpe aan artikel 41D, wanneer die volgende raad verkies verklaar word.

Ontruiming van amp

41D. Die sweep van 'n munisipale raad ontruim die amp tydens 'n termyn indien daardie persoon—

(a) as sweep bedank;

(b) van die amp onthef word; of

(c) ophou om 'n raadslid te wees.

Ontheffing van amp

41E. (1) 'n Munisipale raad kan, by besluit, die sweep uit die amp onthef.

(2) Vooraf skriftelike kennisgewing van 'n voorneme om 'n mosie vir die ontheffing van die sweep te bring, moet gegee word.

Waarnemende swepe

41F. As die sweep van 'n munisipale raad afwesig is of nie beskikbaar is om die werksaamhede van sweep te verrig nie, of tydens 'n vakature, moet die raad 'n ander raadslid verkies om as sweep waar te neem.".

Wysiging van artikel 43 van Wet 117 van 1998

20. Artikel 43 van die Hoofwet word hierby gewysig—

(a) deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:

"(1) *(a)* Indien die raad van 'n munisipaliteit 'n uitvoerende komitee instel, moet 'n getal raadslede **[verkies]** bepaal word wat nodig is vir effektiewe en doeltreffende bestuur, mits nie meer nie as 20 persent van die raadslede (met verontagsaming van breukdele) of 10 raadslede, wat ook al die minste is, **[verkies]** bepaal word.

(b) 'n Uitvoerende komitee mag nie minder as drie lede hê nie.

(2) Die toekenning van setels op die uitvoerende komitee aan politieke partye of politieke belange moet soos volg bepaal word—

(a) die getal setels deur 'n politieke party of politieke belang gewen, gedeel deur die totale getal raadslede ingevolge artikel 20 vir daardie munisipaliteit bepaal en gedeel deur die getal setels op die uitvoerende komitee;

(b) if the calculation in paragraph *(a)* gives a surplus, that surplus must compete with the other similar surpluses, and be awarded to the highest surplus;

(c) if there is an equality of the surpluses, the result must be determined by lot;

(d) the political party or political interest to which seats are allocated to on the executive committee must, through an authorised representative, appoint their representatives to occupy such seats;

(e) in the event of a vacancy arising on the executive committee, the political party or political interest to which the seat was allocated to will, through an authorised representative, appoint a councillor to fill that vacancy; and

(f) nothing precludes a political party or political interest from nominating a councillor from another political party or political interest to one or more of its allocated seats."; and

(b) by the deletion of subsection (3).

Amendment of section 44 of Act 117 of 1998

21. Section 44 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

"*(b)* the committee of a municipal council which receives reports from the **[other]** committees of the council referred to in section 80, and which must forward these reports together with its recommendations to the council when it cannot dispose of the matter in terms of its delegated powers.".

Amendment of section 45 of Act 117 of 1998 as substituted by section 1 of Act 1 of 2003

22. Section 45 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"**[Election] Determination of members of executive committees**"; and

(b) by the substitution for the words preceding paragraph *(a)* of the following words:

"A municipal council must **[elect]** determine the members of its executive committee from among its members at a meeting that must be held—".

Amendment of section 46 of Act 117 of 1998 as substituted by section 1 of Act 1 of 2003

23. Section 46 of the principal Act is hereby amended by the substitution in section 46 for the words preceding paragraph *(a)* of the following words:

"The members of an executive committee are **[elected]** determined for a term ending, subject to section 47, when—".

Amendment of section 48 of Act 117 of 1998 as amended by Act 1 of 2003

24. Section 48 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The election of a mayor and deputy mayor takes place when the executive committee is **[elected]** determined or when it is necessary to fill a vacancy.".

Amendment of section 53 of Act 117 of 1998

25. Section 53 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

(b) as die berekening in paragraaf *(a)* 'n surplus gee, moet daardie surplus met ander soortgelyke surplusse meeding en aan die hoogste surplus toegewys word;

(c) indien die surplusse ewe veel is, moet die uitslag per loting bepaal word;

(d) die politieke party of politieke belang waaraan setels op die uitvoerende komitee toegeken is, moet deur 'n gemagtigde verteenwoordiger hulle verteenwoordigers aanstel om daardie setels te okkupeer;

(e) indien 'n vakature op die uitvoerende komitee ontstaan, sal die politieke party of politieke belang waaraan die setel toegeken is, deur 'n gemagtigde verteenwoordiger, 'n raadslid aanstel om daardie vakature te vul; en

(f) niks verhinder 'n politieke party of politieke belang om 'n raadslid van 'n ander politieke party of politieke belang vir een of meer van daardie politieke party of politieke belang se toegekende setels te benoem nie."; en

(b) deur subartikel (3) te skrap.

Wysiging van artikel 44 van Wet 117 van 1998

21. Artikel 44 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf *(b)* deur die volgende paragraaf te vervang:

"*(b)* die komitee van 'n munisipale raad wat verslae van die **[ander]** komitees van die raad bedoel in artikel 80 ontvang en wat hierdie verslae saam met sy aanbevelings aan die raad moet stuur indien hy nie ingevolge gedelegeerde bevoegdhede die aangeleentheid kan afhandel nie.".

Wysiging van artikel 45 van Wet 117 van 1998, soos vervang deur artikel 1 van Wet 1 van 2003

22. Artikel 45 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

" **[Verkiesing] Bepaling van lede van uitvoerende komitees**"; en

(b) deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"'n Munisipale raad moet die lede van die uitvoerende komitee uit sy geledere **[verkies]** bepaal op 'n vergadering wat gehou moet word— ".

Wysiging van artikel 46 van Wet 117 van 1998, soos vervang deur artikel 1 van Wet 1 van 2003

23. Artikel 46 van die Hoofwet word hierby gewysig deur in artikel 46 die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die lede van 'n uitvoerende komitee word **[verkies]** bepaal vir 'n termyn wat eindig, onderworpe aan artikel 47, wanneer—".

Wysiging van artikel 48 van Wet 117 van 1998, soos gewysig deur artikel 1 van Wet 1 van 2003

24. Artikel 48 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die verkiesing van 'n burgemeester en onderburgemeester vind plaas sodra die uitvoerende komitee **[verkies]** bepaal is, of wanneer dit nodig is om 'n vakature te vul.".

Wysiging van artikel 53 van Wet 117 van 1998

25. Artikel 53 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) If all the members of an executive committee are removed, a new **[election]** determination of members must take place, and a new election of **[and]** the mayor and, if the municipality has a deputy mayor, the deputy mayor, must be held in terms of sections 45 and 48, respectively.".

Amendment of section 56 of Act 117 of 1998, as amended by section 16 of Act 51 of 2002

26. Section 56 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) An executive mayor is entitled to receive reports from committees of the **[municipal]** council referred to in section 80, and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers.".

Amendment of section 63 of Act 117 of 1998

27. Section 63 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Item 3 of the Code of Conduct **[for Councillors set out in Schedule 1 to the Local Government Municipal Systems Act, 2000,]** does not apply to the speaker, executive mayor, a member of the mayoral committee or a member of the executive committee, as the case may be, in respect of meetings of a metropolitan subcouncil of which such an office bearer is a member.".

Amendment of section 73 of Act 117 of 1998, as amended by section 6 of Act 19 of 2008

28. Section 73 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) A metropolitan or local council must establish a ward committee for each ward in the municipality within 120 days after the election of the municipal council, in accordance with section 22."; and

(b) by the insertion after subsection (1) of the following subsection:

"(1A) *(a)* If a metropolitan or local council is unable to establish a ward committee or ward committees in accordance with subsection (1), the speaker must, prior to the expiry of the 120 days after the elections, in writing and on good cause shown, request the MEC, responsible for local government in the province concerned, for an extension.

(b) The MEC must respond to the request referred to in subsection (1)*(a)* within 14 days of receipt detailing the reasons for granting or refusing the extension.".

Insertion of section 79A in Act 117 of 1998

29. The following section is hereby inserted in the principal Act after section 79:

"**Establishment of municipal public accounts committee**

79A. (1) A municipal council must establish a committee called the municipal public accounts committee.

(2) The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee.

(3) The municipal council must determine the functions of the municipal public accounts committee, which must include the following:

(a) review the Auditor-General's reports and comments of the management committee and the audit committee and make recommendations to the municipal council;

"(2) Indien al die lede van 'n uitvoerende komitee uit hul amp onthef word, moet 'n nuwe **[verkiesing]** bepaling van lede plaasvind en 'n nuwe verkiesing van **[en]** die burgemeester, en indien die munisipaliteit 'n onderburgemeester het, die onderburgemeester, ingevolge onderskeidelik artikels 45 en 48 gehou word.".

Wysiging van artikel 56 van Wet 117 van 1998, soos gewysig deur artikel 16 van Wet 51 van 2002

26. Artikel 56 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Uitvoerende burgemeester is geregtig om verslae van komitees van die **[munisipale]** raad bedoel in artikel 80 te ontvang en sodanige verslae tesame met 'n aanbeveling aan die raad te stuur indien die uitvoerende burgemeester die aangeleentheid nie kan afhandel ingevolge die uitvoerende burgemeester se gedelegeerde bevoegdhede nie.".

Wysiging van artikel 63 van Wet 117 van 1998

27. Artikel 63 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Item 3 van die Gedragskode **[vir Raadslede wat in Bylae 1 by die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, uiteengesit word,]** is nie van toepassing op die speaker, uitvoerende burgemeester, 'n lid van die burgemeesterskomitee of 'n lid van die uitvoerende komitee, na gelang van die geval, ten opsigte van vergaderings van 'n metropolitaanse subraad waarvan sodanige ampsdraer 'n lid is nie.".

Wysiging van artikel 73 van Wet 117 van 1998, soos gewysig deur artikel 6 van Wet 19 van 2008

28. Artikel 73 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Metropolitaanse of plaaslike raad moet 'n wykskomitee vir elke wyk in die munisipaliteit stig binne 120 dae na die verkiesing van die munisipale raad, ooreenkomstig artikel 22."; en

(b) deur die volgende subartikel na subartikel (1) in te voeg:

"(1A) *(a)* As 'n metropolitaanse of plaaslike raad nie ooreenkomstig subartikel (1) 'n wykskomitee of wykskomitees kan stig nie, moet die speaker, voordat 120 dae na die verkiesing van die munisipale raad verstryk het, skriftelik en met goeie gronde, 'n verlenging by die LUR verantwoordelik vir plaaslike regering in die provinsie aanvra.

(b) Die LUR moet binne 14 dae vanaf ontvangs reageer op die versoek in subartikel (1)*(a)* bedoel, met uitvoerige redes vir die toestaan of weiering van die verlenging.".

Invoeging van artikel 79A in Wet 117 van 1998

29. Die volgende artikel word hierby na artikel 79 in die Hoofwet ingevoeg:

"**Stigting van komitee vir munisipale openbare rekeninge**

79A. (1) 'n Munisipale raad moet 'n komitee genaamd die komitee vir munisipale openbare rekeninge stig.

(2) Die burgemeester of uitvoerende burgemeester, adjunkburgemeester of uitvoerende adjunkburgemeester, enige lid van die uitvoerende komitee, enige lid van die burgemeesterskomitee, speaker, sweep en munisipale beamptes mag nie lede van die komitee vir munisipale openbare rekeninge wees nie.

(3) Die munisipale raad moet die werksaamhede van die komitee vir munisipale openbare rekeninge bepaal, wat die volgende moet insluit:

(a) Hersiening van die Ouditeur-generaal se verslae en kommentaar van die bestuur- en ouditkomitee en doen van aanbevelings by die munisipale raad;

(b) review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;

(c) initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;

(d) attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and

(e) on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.

(4) Reports of the municipal public accounts committee must be submitted to the speaker who must table such reports in the next meeting of the municipal council.

(5) *(a)* For the purposes of this section 'audit committee' means the audit committee envisaged in section 166 of the Local Government Municipal: Finance Management Act.

(b) Each municipality and each municipal entity must establish an audit committee in accordance with that section.".

Amendment of section 81 of Act 117 of 1998, as amended by section 121 of Act 32 of 2000, section 5 of Act 33 of 2000 and section 18 of Act 51 of 2002

30. Section 81 of the principal Act is hereby amended by the substitution in subsection (5) for paragraph *(a)* of the following paragraph:

"*(a)* When participating in the proceedings of a municipal council, a traditional leader is subject to the appropriate provisions of the Code of Conduct set out in Schedule **[1 of the Local Government: Municipal Systems Act, 2000]** 7.".

Repeal of section 89 of Act 117 of 1998

31. Section 89 of the principal Act is hereby repealed.

General amendment

32. Reference to sections "9*(e)* and *(f)* and 10*(c)*" in sections 45*(c)*, 46*(a)*, 48(5)*(c)*(ii), 55(1)*(c)*, 57(1)*(a)*, 57(2)*(c)*(ii) and 72(1) of the principal Act is hereby deleted.

Amendment of Schedule 1 to Act 117 of 1998, as amended by section 93 of Act 27 of 2000, sections 22, 23, 24, 25 and 26 of Act 51 of 2002 and section 9 of Act 2 of 2003

33. Schedule 1 to the principal Act is hereby amended—

(a) by the addition in item 16 of the following subitems:

"(3) A new quota of votes for a seat must be determined in accordance with the following formula (fractions to be disregarded):

$$\frac{A - B}{C - (D + E)} + 1$$

Where—

A represents the total number of valid votes cast for all parties, consisting of those cast on the party vote and those cast for ward candidates representing parties;

B represents the total number of votes cast for the party with excessive seats, both on the party vote and for ward candidates representing parties;

C represents the number of seats in the council;

D represents the number of seats awarded to the party with excessive seats; and

E represents the number of independent ward councillors elected.

(b) hersiening van interne ouditverslae, saam met kommentaar van die bestuur- en ouditkomitee en doen van aanbevelings by die munisipale raad;

(c) die oorsigverslag van die jaarverslag inisieer en ontwikkel soos vereis ingevolge artikel 129 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur;

(d) enige aangeleentheid wat deur die munisipale raad, uitvoerende komitee, 'n komitee van die raad, 'n lid van hierdie komitee, 'n raadslid en die munisipale bestuurder na die komitee verwys is, hanteer en aanbevelings daaroor aan die munisipale raad doen; en

(e) uit eie beweging, onderworpe aan die opdrag van die munisipale raad, enige aangeleentheid wat die munisipaliteit raak, ondersoek en aanbevelings daaroor aan die munisipale raad doen.

(4) Verslae van die komitee vir munisipale openbare rekeninge moet aan die speaker voorgelê word, wat daardie verslae in die volgende vergadering van die munisipale raad ter tafel moet lê.

(5) *(a)* By die toepassing van hierdie artikel, beteken 'ouditkomitee' die ouditkomitee in artikel 166 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, beoog.

(b) Elke munisipaliteit en elke munisipale entiteit moet 'n ouditkomitee ooreenkomstig daardie artikel stig.".

Wysiging van artikel 81 van Wet 117 van 1998, soos gewysig deur artikel 121 van Wet 32 van 2000, artikel 5 van Wet 33 van 2000 en artikel 18 van Wet 51 van 2002

30. Artikel 81 van die Hoofwet word hierby gewysig deur in subartikel (5) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* Wanneer 'n tradisionele leier aan die verrigtinge van 'n munisipale raad deelneem is hy onderworpe aan die toepaslike bepalings van die Gedragskode soos uiteengesit in Bylae **[1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000]** 7.".

Herroeping van artikel 89 van Wet 117 van 1998

31. Artikel 89 van die Hoofwet word hierby herroep.

Algemene wysiging

32. Verwysing na artikels "9*(e)* en *(f)* en 10*(c)*" in artikels 45*(c)*, 46*(a)*, 48(5)*(c)*(ii), 55(1)*(c)*, 57(1)*(a)*, 57(2)*(c)*(ii) en 72(1) van die Hoofwet word hierby geskrap.

Wysiging van Bylae 1 tot Wet 117 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000, artikels 22, 23, 24, 25 en 26 van Wet 51 van 2002 en artikel 9 van Wet 2 van 2003

33. Bylae 1 tot die Hoofwet word hierby gewysig—

(a) deur die volgende subitems in item 16 by te voeg:

"(3) 'n Nuwe kwota van stemme vir 'n setel moet volgens die volgende formule bepaal word (met verontagsaming van breukdele)—

$$\frac{A - B}{C - (D + E)} + 1$$

Waar—

A die totale getal geldige stemme uitgebring vir al die partye, bestaande uit dié uitgebring op die partystem en dié uitgebring vir wykskandidate wat partye verteenwoordig;

B die totale getal stemme vir die party met buitensporige setels uitgebring, beide op die partystem en vir wykskandidate wat partye verteenwoordig;

C die getal setels in die raad verteenwoordig;

D die getal setels aan die party met buitensporige setels toegeken, verteenwoordig; en

E die getal onafhanklike wyksraadslede wat verkies is, verteenwoordig.

(4) *(a)* The total number of valid votes cast for each party, both on the party vote and for ward candidates representing the party, excluding the party that has excessive number of seats, must be divided by the quota of votes for a seat. The result is the total number of seats to which each party is entitled.

(b) If the calculation in paragraph *(a)* yields a surplus not absorbed by the seats awarded to a party, that surplus must compete with similar surpluses accruing to any other party or parties and any undistributed seat or seats must be awarded to the party or parties concerned in sequence of the highest surplus.

(c) If the surplus for two or more parties is equal, the seat must be awarded to the party that received the highest number of valid votes.

(5) If a ward candidate representing a party is elected unopposed, a vote cast by a voter registered in that ward for the party of which that candidate is a representative must, for the purpose of factors A and B and subitem (4), be counted as two votes.

(6) In an election for a council that has wards, the Electoral Commission must deduct from the total number of seats to which each party is entitled in terms of subitem (4), the number of ward candidates representing the party who were declared elected.

(7) If no party is awarded a seat in terms of subitem (4)*(a)*, the votes for each party must be treated in accordance with subitem (4)*(b)* as if they are surpluses.

(8) The Electoral Commission must determine in the manner provided in item 13(5), which party candidates are elected.

(9) If a party is entitled to an additional number of seats in terms of subitem (4) and its list of candidates does not contain a sufficient number of candidates after having applied item 17(1), the party concerned forfeits, subject to subitem (1), the unfilled seats and the process provided in this item must be repeated until all seats have been filled or until all listed candidates have been allocated to a vacant seat.";

(b) by the substitution in item 17 for subitem (1) of the following subitem:

"(1) If a party list contains fewer candidates than the party is entitled to, the Electoral Commission must in writing immediately notify the party of the exact shortfall and request the party to deliver within two days of the notice a list supplemented by the name or names of one or more eligible candidates.";

(c) by the insertion of the following item after item 17:

"Multiple seats

17A. (1) If a candidate is assigned to more than one seat, the parties or independent ward candidates must, within two days after being informed by the chief electoral officer, indicate to the Electoral Commission which seat such candidate should be designated to.

(2) If a party or independent ward candidate fails to indicate to the chief electoral officer which seat such candidate should be designated, such candidate's name must be deleted from the lists.

(3) If a ward seat allocation is deleted it shall lead to the holding of a by-election.";

(d) by the substitution in item 18(1) for paragraph *(b)* of the following paragraph:

"*(b)* Whenever a councillor referred to in paragraph *(a)* ceases to hold office, the municipal manager concerned must within **[seven]** 14 days after the councillor has ceased to hold office, inform the chief electoral officer accordingly." ;

(e) by the addition of the following paragraph in item 18(1):

"*(c)* If the municipal manager of the municipality concerned does not inform the chief electoral officer of the vacancy referred to in paragraph *(a)*, the MEC for local government in the province, must inform the chief

(4) *(a)* Die totale getal geldige stemme vir elke party uitgebring, beide op die partystem en vir wykskandidate wat die party verteenwoordig, met uitsondering van die party wat 'n buitensporige getal setels het, moet deur die kwota stemme vir 'n setel gedeel word. Die resultaat is die totale getal setels waarop elke party geregtig is.

(b) Indien die berekening in paragraaf *(a)* 'n surplus oplewer wat nie deur die setels aan 'n party toegeken, geabsorbeer word nie, moet daardie surplus meeding met soortgelyke surplusse wat aan enige ander party of partye toeval en enige ontoegekende setel of setels moet toegeken word aan die betrokke party of partye in volgorde van die hoogste surplus.

(c) Indien die surplus vir een of meer partye gelyk is, moet die setel aan die party toegeken word wat die grootste getal geldige stemme ontvang het.

(5) Indien 'n wykskandidaat wat 'n party verteenwoordig, onbestrede verkies word, moet 'n stem uitgebring deur 'n stemmer geregistreer in daardie wyk vir die party waarvan daardie kandidaat 'n verteenwoordiger is, by die toepassing van faktore A en B en subitem (4), as twee stemme getel word.

(6) In 'n verkiesing vir 'n raad wat wyke het, moet die Verkiesingskommissie die getal wykskandidate wat die party verteenwoordig wat verkies verklaar is, aftrek van die totale getal setels waarop elke party ingevolge subitem (4) geregtig is.

(7) Indien geen party 'n setel ingevolge subitem (4)*(a)* kry nie, moet die stemme vir elke party ooreenkomstig subitem (4)*(b)* behandel word asof hulle surplusse is.

(8) Die Verkiesingskommissie moet op die wyse in item 13(5) voor voorsiening gemaak, bepaal watter partykandidate verkies is.

(9) Indien 'n party ingevolge subitem (4) op 'n bykomende getal setels geregtig is en die party se lys kandidate nie genoeg kandidate bevat nadat item 17(1) toegepas is nie, verbeur die betrokke party, onderworpe aan subitem (1), die vakante setels en die proses in hierdie item voorsien moet herhaal word totdat alle setels gevul is of totdat alle gelyste kandidate aan 'n vakante setel toegewys is.";

(b) deur in item 17 subitem (1) deur die volgende subitem te vervang:

"(1) Indien 'n partylys minder name bevat as waarop die party geregtig is, moet die Verkiesingskommissie onmiddellik die party skriftelik van die presiese tekort in kennis stel en die party versoek om binne twee dae vanaf die kennisgewing, 'n aanvullende lys met die naam of name van een of meer bevoegde kandidate, te voorsien.";

(c) deur die volgende item na item 17 in te voeg:

"Veelvuldige setels

17A. (1) Indien 'n kandidaat aan meer as een setel toegewys word, moet die partye of onafhanklike wykskandidate, binne twee dae nadat hulle deur die hoofverkiesingsbeampte ingelig is, aan die Verkiesingskommissie aandui aan watter setel daardie kandidaat toegewys moet word.

(2) Indien 'n party of onafhanklike wykskandidaat versuim om aan die hoofverkiesingsbeampte aan te dui aan watter setel daardie kandidaat toegewys moet word, moet daardie kandidaat se naam van die lyste geskrap word.

(3) Indien 'n wykseteltoewysing geskrap word, lei dit tot die hou van 'n tussenverkiesing.";

(d) deur in item 18(1) paragraaf *(b)* deur die volgende paragraaf te vervang:

"*(b)* Wanneer 'n raadslid bedoel in paragraaf *(a)* ook al ophou om raadslid te wees, moet die betrokke munisipale bestuurder binne **[sewe]** 14 dae nadat die raadslid opgehou het om raadslid te wees, die hoofverkiesingsbeampte dienooreenkomstig in kennis stel.";

(e) deur die volgende paragraaf in item 18(1) in te voeg:

"*(c)* Indien die munisipale bestuurder van die betrokke munisipaliteit nie die hoofverkiesingsbeampte verwittig van die vakature in paragraaf *(a)* bedoel nie, moet die LUR vir plaaslike regering in die provinsie die

electoral officer of the vacancy within 14 days where the municipal manager does not."; and

(f) by the substitution in item 20 for subitem (1) of the following subitem:

"(1) *(a)* A party may not supplement or change its list from the date of the closure of nomination of candidates for an election until a day after the date of the first council meeting.

(b) (i) Subject to paragraph *(a)*, a party may supplement or change its list, provided that if a councillor elected according to a party list ceases to hold office, the party concerned may supplement or change its list by not later than 21 days after the councillor has ceased to hold office.

(ii) The vacancy must be filled as soon as the party in question has supplemented, changed or increased its list, but not later than 14 days after the expiry of the 21-day period.".

Amendment of Schedule 2 of Act 117 of 1998, as amended by section 93 of Act 27 of 2000, section 9 of Act 20 of 2002, section 27 of Act 51 of 2002, section 29 of Act 51 of 2002, section 30 of Act 51 of 2002, section 31 of Act 51 of 2002, section 9 of Act 2 of 2003 and section 17 of Act 55 of 2008

34. (1) Schedule 2 to the principal Act is hereby amended—

(a) by the substitution for item 2 of the following item:

"**Electoral system for party representatives**

2. The councillors of a district council that in terms of section 23 must be elected in accordance with this Part, must be elected **[as follows:**

(a) **a number of councillors determined for the municipality in terms of section 23(3) must be elected from party lists to proportionally represent parties in the council; and**

(b) **a number of councillors allocated in terms of section 23(2)*(b)* to any district management areas in the municipality must be elected from party lists to proportionally represent parties in those areas]** from party lists to proportionally represent parties in the council.";

(b) by the substitution for item 3 of the following item:

"**Number of votes**

3. In an election for a district council,[—

(a)] each voter registered in the area of a local municipality within the district municipality has one vote, and may vote for one party only[; **and**

(b) **each voter registered in a district management area within the district municipality has two votes, and may vote for—**

(i) not more than one party that submitted a list for the district council; and

(ii) not more than one party that submitted a list for the district management area].";

(c) by the substitution in item 5 for subitem (1) of the following subitem::

"(1) The number of candidates on a party list submitted by a party may not exceed double the number of seats in the district council allocated, as the case may be, for the election of councillors[—

(a)] referred to in section 23(1)*(a)*[**; or**

(b) **to represent a district management area in the district council]**.";

(d) by the substitution for item 6 of the following item:

hoofverkiesingsbeampte binne 14 dae verwittig van die vakature indien die munisipale bestuurder dit nie doen nie."; en

(f) deur in item 20 subitem (1) deur die volgende subitem te vervang:

"(1) *(a)* 'n Party mag nie sy lys verander of aanvul vanaf die datum van die sluiting van benoeming van kandidate vir 'n verkiesing nie tot 'n dag na die datum van die eerste raadsvergadering.

(b) (i) Behoudens paragraaf *(a)* kan 'n party sy lys aanvul of verander, met dien verstande dat indien 'n raadslid volgens 'n partylys verkies, ophou om die amp te beklee, die betrokke party sy lys kan aanvul of verander nie later nie as 21 dae nadat die raadslid opgehou het om die amp te beklee.

(ii) Die vakature moet gevul word sodra die betrokke party sy lys aangevul, verander of vergroot het, maar nie later nie as 14 dae na afloop van die tydperk van 21 dae.".

Wysiging van Bylae 2 van Wet 117 van 1998, soos gewysig deur artikel 93 van Wet 27 van 2000, artikel 9 van Wet 20 van 2002, artikel 27 van Wet 51 van 2002, artikel 29 van Wet 51 van 2002, artikel 30 van Wet 51 van 2002, artikel 31 van Wet 51 van 2002, artikel 9 van Wet 2 van 2003 en artikel 17 van Wet 55 van 2008

34. (1) Bylae 2 tot die Hoofwet word hierby gewysig—

(a) deur item 2 deur die volgende item te vervang:

"**Verkiesingstelsel vir partyverteenwoordigers**

2. Die raadslede van 'n distriksraad wat ingevolge artikel 23 in ooreenstemming met hierdie deel verkies moet word, moet **[soos volg]** van partylyste verkies word**[:**

(a) **'n Aantal raadslede vir die munisipaliteit ingevolge artikel 23(3) bepaal moet vanaf die partylyste verkies word om partye proporsioneel in die raad te verteenwoordig; en**

(b) **'n Aantal raadslede ingevolge artikel 23(2) *(b)* aan enige distriksbestuursgebiede in die munisipaliteit toegeken, moet vanaf die partylyste verkies word om partye in daardie gebiede proporsioneel]** om partye proporsioneel op die raad te verteenwoordig.";

(b) deur item 3 deur die volgende item te vervang:

"**Aantal stemme**

3. In 'n verkiesing vir 'n distriksraad,**[**—

*(a)***]** het elke kieser wat in die gebied van 'n plaaslike munisipaliteit binne 'n distrikmunisipaliteit geregistreer is een stem, en mag slegs vir een party stem**[; en**

(b) **het elke kieser wat in 'n distrik bestuursgebied binne die distrikmunisipaliteit geregistreer is twee stemme, en mag stem vir—**

(i) nie meer as een party wat 'n lys vir die distriksraad voorgelê het nie; en

(ii) nie meer as een party wat 'n lys vir die distrik bestuursgebied voorgelê het nie].";

(c) deur in item 5 subitem (1) deur die volgende subitem te vervang:

"(1) Die aantal kandidate op 'n partylys wat deur 'n party voorgelê word mag nie dubbel die aantal setels wat in die distriksraad toegeken is oorskrei nie, na gelang van die geval, vir die verkiesing van raadslede**[**—

*(a)***]** waarna in artikel 23(1)*(a)* verwys word**[;**

(b) **om 'n distrik bestuursgebied in die distriksraad te verteenwoordig]**.";

(d) deur item 6 deur die volgende item te vervang:

"**Quota**

6. The quota of votes for a seat in a district council **[or for a seat in a district council as a representative of a district management area,]** must be determined in accordance with the following formula (fractions to be disregarded):

$$\frac{A}{B} + 1$$

Where—

A represents the total number of valid votes cast for all parties; and

B represents **[, as the case may be, either—**

(a)] the number of seats in the district council allocated in terms of section 23(1)*(a)*[**; or**

(b) **the number of seats allocated to a district management area in the district council**].";

(e) by the substitution in item 8 for subitem (1) of the following subitem:

"(1) If only one party submitted a list, an election must not be held for the district council **[or in the district management area]** concerned.";

(f) by the substitution in item (10) for subitem (1) of the following subitem:

"(1) If a party list contains fewer candidates than the party is entitled to, the chief electoral officer must in writing immediately notify the party of the exact shortfall and request the party to deliver within two days of the notice a list supplemented by the name or names of one or more eligible candidates.";

(g) by the insertion of the following item after item 10:

"**Multiple seats**

10A. If a candidate is assigned to more than one seat, item 17A of Schedule 1, adjusted as may be contextually necessary, applies.";

(h) by the substitution in item 13 for subitem (1) of the following subitem:

"(1) *(a)* A party may not supplement or change its list from the date of the closure of the nomination of candidates for an election until a day after the date of the first council meeting.

(b) (i) Subject to the provisions of paragraph *(a)*, a party may supplement or increase its list, provided that if a councillor elected according to a party list, ceases to hold office, the party concerned may supplement or increase its list by not later than 21 days after the councillor has ceased to hold office.

(ii) The vacancy must be filled as soon as the party in question has supplemented, changed or increased its list, but not later than 14 days after the expiry of the 21-day period.";

(i) by the substitution for the heading of Part 2 of the following heading:

"***Part 2***
Allocation and election of representatives of local councils [and district management areas] to district councils";

(j) by the substitution for item 14 of the following item:

"**Manner of election**

14. The section 23(2) members of a district council must be [—

(a)] appointed by the councils of the local municipalities in the area of the district council from among their members **[; and**

(b) **if there is a district management area in the district municipality, elected in accordance with Part 1 of this Schedule to represent that area on the district council**].";

(k) by the substitution for item 15 of the following item:

"**Kwota**

6. Die kwota stemme vir 'n setel in 'n **[distriksraad of vir 'n setel in 'n distriksraad as 'n verteenwoordiger van 'n distrik bestuursgebied]** moet bepaal word in ooreenstemming met die volgende formule (breukgedeeltes moet buite rekening gelaat word):

$$\frac{A}{B} + 1$$

Waar—

A die totale aantal geldige stemme vir al die partye uitgebring verteenwoordig; en

B verteenwoordig**[, na gelang van die geval, of—**

(a)] die aantal setels wat in die distriksraad ingevolge artikel 23(1)*(a)* toegeken is**[; of**

(b) **die aantal setels wat aan 'n distrik bestuursgebied in die distriksraad toegeken is]**.";

(e) deur in item 8 subitem (1) deur die volgende subitem te vervang:

"(1) Indien slegs een party 'n lys voorlê, moet 'n verkiesing nie vir die distriksraad **[in die betrokke distriksbestuursgebied]** gehou word nie.";

(f) deur in item (10) subitem (1) deur die volgende subitem te vervang:

"(1) Indien 'n partylys minder kandidate bevat as waarop die party geregtig is, moet die hoofverkiesingsbeampte die party onmiddellik van die presiese tekort in kennis stel en die party versoek om 'n aanvullende lys te lewer binne twee dae na die kennisgewing met die naam of name van een of meer bevoegde kandidate.";

(g) deur die volgende item na item 10 in te voeg:

"**Veelvuldige setels**

10A. Indien 'n kandidaat aan meer as een setel toegewys word, is item 17A van Bylae 1, aangepas soos deur die samehang vereis, van toepassing.";

(h) deur in item 13 subitem (1) deur die volgende subitem te vervang:

"(1) *(a)* 'n Party mag nie sy lys aanvul of verander vanaf die datum van die sluiting van benoeming van kandidate vir 'n verkiesing tot 'n dag na die datum van die eerste raadsvergadering nie.

(b) (i) Behoudens die bepalings van paragraaf *(a)*, kan 'n party sy lys aanvul of vergroot, met dien verstande dat indien 'n raadslid volgens 'n partylys verkies, ophou om die amp te beklee, kan die betrokke party sy lys teen nie later nie as 21 dae nadat die raadslid opgehou het om die amp te beklee, aanvul of vergroot.

(ii) Die vakature moet gevul word sodra die betrokke party sy lys aangevul, verander of vergroot het, maar nie later nie as 14 dae na die verstryking van die 21-dae-tydperk.";

(i) deur die opskrif van Deel 2 deur die volgende opskrif te vervang:

"***Deel 2***

Toekenning en verkiesing van verteenwoordigers van plaaslike rade [en distrik bestuursgebiede] in distriksrade";

(j) deur item 14 deur die volgende item te vervang:

"**Wyse van verkiesing**

14. Die artikel 23(2) lede van 'n distriksraad moet**[—**

(a)] aangestel word deur die rade van die plaaslike munisipaliteite in die gebied van die distriksraad uit die geledere van raadslede**[; en**

(b) **as daar 'n distrik bestuursgebied in die distriksmunisipaliteit is, verkies word in ooreenstemming met Deel 1 van hierdie Bylae om daardie gebied in die distriksraad te verteenwoordig]**.";

(k) deur item 15 deur die volgende item te vervang:

"**Award of seats on district councils**

15. (1) The quota of registered voters that a local council **[or a district management area]** must have in order to be entitled to a seat on a district council must be determined in accordance with the following formula (fractions to be disregarded)—

$$\frac{A}{B} + 1$$

Where—

A represents the total number of voters registered on the district council's segment of the national common **[voters roll]** voters' roll; and

B represents the number of seats on the district council determined in terms of section 23(2)*(a)* for representatives of the local councils **[and district management areas]** but disregarding any increase in terms of section 20(5).

(2) Each local municipality **[and each district management area]** in the area of a district municipality is entitled to a number of seats on the district council determined by dividing the total number of voters registered on the segment of the national common voters' roll for that local municipality **[or district management area]** by the quota of votes for a seat on the district council determined in accordance with subitem (1).

(3) If the calculation in subitem (2) gives a figure that is a fraction of the figure 1, the council **[or district management area,]** must be awarded one seat and must not participate in any further calculation or award.

(4) If the calculation in subitem (2) yields a surplus, that surplus must compete with similar surpluses of any other council **[or district management area]**, and any seat or seats not awarded in terms of subitems (2) and (3) must be awarded in sequence of the highest surplus.";

(l) by the substitution for the heading of item 23 of the following heading: "**Filling of vacancies of district councils**"; and

(m) by the repeal of item 24.

Amendment of Schedule 3 to Act 117 of 1998, as amended by section 34 of Act 51 of 2002

35. Schedule 3 to the principal Act is hereby amended by the substitution for item (1) of the following item:

"**Application**

1. The procedure set out in this Schedule applies whenever a municipal council meets to elect a speaker, an executive mayor, a deputy executive mayor, a whip, a mayor or a deputy mayor.".

Addition of Schedule 7 to Act 117 of 1998

36. The following Schedule is hereby added to the principal Act:

"**SCHEDULE 7**

CODE OF CONDUCT FOR COUNCILLORS

PREAMBLE

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

"Toekenning van setels in distriksrade

15. (1) Die kwota van geregistreerde kiesers wat 'n plaaslike raad **[of distrik bestuursgebied]** moet hê om op 'n setel op 'n distriksraad geregtig te wees moet in ooreenstemming met die volgende formule bepaal word (breuke moet weggelaat word)—

$$\frac{A}{B} + 1$$

Waar—

A die totale aantal kiesers wat op die distriksraad se segment van die nasionale gemeenskaplike kieserslys is, verteenwoordig; en

B die aantal setels op 'n distriksraad verteenwoordig wat ingevolge artikel 23(2)*(a)* vir verteenwoordiger van die plaaslike rade **[en distrik bestuursgebiede]** bepaal is maar enige verhoging ingevolge artikel 20(5) moet buite rekening gelaat word.

(2) Elke plaaslike munisipaliteit **[en elke distrik bestuursgebied]** in die gebied van 'n distriksmunisipaliteit, is geregtig op 'n getal setels in die distriksraad wat bepaal word deur die totale getal geregistreerde kiesers op die segment van die nasionale gemeenskaplike kieserslys vir daardie plaaslike munisipaliteit **[of distrik bestuursgebied]** te verdeel deur die kwota van kiesers vir 'n setel in die distriksraad ooreenkomstig subitem (1) bepaal.

(3) Indien die berekening in subitem (2) 'n syfer gee wat 'n breukdeel is van die syfer 1, moet die raad **[of distrik bestuursgebied,]** een setel toegeken word, en neem nie deel aan enige verdere berekening of toekenning nie.

(4) Indien die berekening in subitem (2) 'n surplus gee, moet daardie surplus meeding met 'n soortgelyke surplus van enige ander raad **[of distrik bestuursgebied]**, en enige setel of setels nie ingevolge subitems (2) en (3) toegeken nie, moet toegeken word in volgorde van die hoogste surplus.";

(l) deur die opskrif van item 23 deur die volgende opskrif te vervang:

"**Vul van vakatures in distriksrade**"; en

(m) deur item 24 te herroep.

Wysiging van Bylae 3 tot Wet 117 van 1998, soos gewysig deur artikel 34 van Wet 51 van 2002

35. Bylae 3 tot die Hoofwet word hierby gewysig deur item (1) deur die volgende item te vervang:

"Toepassing

1. Die prosedure in hierdie Bylae uiteengesit, is van toepassing wanneer 'n munisipale raad vergader om 'n speaker, 'n uitvoerende burgemeester, 'n uitvoerende onderburgemeester, 'n sweep, 'n burgemeester of 'n onderburgemeester te verkies.".

Byvoeging van Bylae 7 tot Wet 117 van 1998

36. Die volgende bylae word hierby by die Hoofwet bygevoeg:

"BYLAE 7

GEDRAGSKODE VIR RAADSLEDE

AANHEF

Raadslede word verkies om plaaslike gemeenskappe op munisipale rade te verteenwoordig, om te verseker dat munisipaliteite gestruktureerde meganismes van verantwoordbaarheid aan plaaslike gemeenskappe het en om in die prioriteitsbehoeftes van gemeenskappe te voorsien deur dienste gelyk, effektief en volhoubaar binne die vermoëns van die munisipaliteit te

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 fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19, the following Code of Conduct is established.

Definitions

1. In this Schedule 'partner' means a person who permanently lives with another person in a manner as if married.

General conduct of councillors

2. A councillor must—

(a) perform the functions of office in good faith, honestly and in a transparent manner; and

(b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Voting at meetings

3. A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council, which conflicts with any legislation applicable to local government.

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 of 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.

Disclosure of interests

6. (1) A councillor must—

(a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and

lewer. Raadslede moet by die vervulling van hierdie rol aan plaaslike gemeenskappe verantwoordbaar wees en ten minste kwartaalliks aan kiesers verslag doen oor raadsaangeleenthede, met inbegrip van die prestasie van die munisipaliteit ingevolge gestelde aanduiders. Ten einde te verseker dat raadslede hulle verpligtinge aan hulle gemeenskappe nakom en om die bereiking deur die munisipaliteit van die munisipaliteit se oogmerke soos in artikel 19 uiteengesit, te ondersteun, word die volgende Gedragskode ingestel.

Woordomskrywing

1. In hierdie Bylae beteken 'lewensmaat' 'n persoon wat permanent by 'n ander persoon woon asof hulle getroud is.

Algemene gedrag van raadslede

2. 'n Raadslid moet—

(a) die werksaamhede van die amp met goeie trou, eerlik en op 'n deursigtige wyse verrig; en

(b) te alle tye in die belang van die munisipaliteit optree en op so 'n wyse dat die geloofbaarheid en integriteit van die munisipaliteit nie in die gedrang kom nie.

Stem by vergaderings

3. 'n Raadslid mag nie stem ten gunste van of instem tot 'n besluit wat voor die raad of 'n komitee van die raad is, wat in stryd is met enige wetgewing van toepassing op plaaslike regering nie.

Bywoning van vergaderings

4. 'n Raadslid moet elke vergadering van die munisipale raad en van 'n komitee waarvan daardie raadslid 'n lid is, bywoon, behalwe wanneer—

(a) hy of sy ingevolge 'n toepaslike wetsbepaling of soos deur die reëls en orders van die raad bepaal, toestemming kry om afwesig te wees; of

(b) hierdie Kode vereis dat daardie raadslid van die vergadering onttrek.

Sanksies vir niebywoning van vergaderings

5. (1) 'n Munisipale raad kan 'n boete soos deur die staande reëls en orders van die munisipale raad bepaal, aan 'n raadslid oplê—

(a) vir niebywoning van 'n vergadering wat daardie raadslid ingevolge item 4 moet bywoon; of

(b) vir versuim om by so 'n vergadering teenwoordig te bly.

(2) 'n Raadslid wat van drie of meer opeenvolgende vergaderings van 'n munisipale raad afwesig is, of van drie of meer opeenvolgende vergaderings van 'n komitee afwesig is, wat daardie raadslid ingevolge item 4 moet bywoon, moet van die amp van raadslid onthef word.

(3) *(a)* Verrigtinge vir die oplê van 'n boete of die ontheffing van 'n raadslid uit die amp, moet ooreenkomstig 'n eenvormige staande prosedure gehou word wat elke munisipale raad vir die doeleindes van hierdie item moet aanneem.

(b) Die eenvormige staande prosedure moet aan die reëls van natuurlike geregtigheid voldoen.

Openbaarmaking van belange

6. (1) 'n Raadslid—

(a) moet aan die munisipale raad, of aan enige komitee waarvan daardie raadslid 'n lid is, enige direkte of indirekte persoonlike of private sakebelang wat daardie raadslid, of enige gade, vennoot of sakevennoot van daardie raadslid mag hê in enige aangeleentheid wat voor die raad of die komitee ter sprake is, openbaar maak; en

(b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.

(2) 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 municipal council.

(3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

Personal gain

7. (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.

(2) No councillor may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

Declaration of interests

8. (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:

(a) Shares and securities in any company;
(b) membership of any close corporation;
(c) interest in any trust;
(d) directorships;
(e) partnerships;
(f) other financial interests in any business undertaking;
(g) employment and remuneration;
(h) interest in property;
(i) pension; and
(j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.

(3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1).

(4) The municipal council must determine which of the financial interests referred in subitem (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

Full-time councillors

9. A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld.

Rewards, gifts and favours

10. A councillor may not request, solicit or accept any reward, gift or favour for—

(a) 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;
(b) persuading the council or any committee in regard to the exercise of any power, function or duty;
(c) making a representation to the council or any committee of the council; or

(b) moet aan die verrigtinge van die raad of komitee onttrek wanneer daardie aangeleentheid deur die raad of komitee oorweeg word, tensy die raad of komitee besluit dat die raadslid se direkte of indirekte belang in die aangeleentheid gering of irrelevant is.

(2) 'n Raadslid wat, of wie se gade, lewensmaat, sakegenoot, nabye familielid, enige direkte voordeel trek of kan trek uit 'n kontrak wat met die munisipaliteit gesluit is, moet volle besonderhede van die voordeel waarvan die raadslid bewus is, by die eerste vergadering van die munisipale raad openbaar maak.

(3) Hierdie artikel is nie van toepassing nie op 'n belang of voordeel wat 'n raadslid, of 'n gade, lewensmaat of sakegenoot of nabye familielid, in gemeen met ander inwoners van die munisipaliteit het of verkry.

Persoonlike gewin

7. (1) 'n Raadslid mag nie die posisie of voorregte van 'n raadslid, of vertroulike inligting as 'n raadslid verkry, vir private gewin of om iemand anders onbehoorlik te bevoordeel, gebruik nie.

(2) Geen raadslid mag 'n party wees tot of begunstigde kragtens 'n kontrak vir die lewering van goedere of dienste aan enige munisipaliteit of enige munisipale entiteite deur 'n munisipaliteit ingestel nie.

Verklaring van belange

8. (1) By verkiesing of aanstelling, moet 'n raadslid binne 60 dae die volgende finansiële belange wat daardie raadslid hou, skriftelik aan die munisipale bestuurder verklaar:

(a) Aandele en effekte in enige maatskappy;
(b) lidmaatskap in enige beslote korporasie;
(c) belang in enige trust;
(d) direkteurskappe;
(e) vennootskappe;
(f) ander finansiële belange in enige sakeonderneming;
(g) werk en vergoeding;
(h) eiendomsbelang;
(i) pensioen; en
(j) subsidies, toelaes en borgskappe deur enige organisasie.

(2) Enige verandering in die aard of besonderhede van die finansiële belange van 'n raadslid moet jaarliks skriftelik aan die munisipale bestuurder verklaar word.

(3) Geskenke bo 'n voorgeskrewe bedrag deur 'n raadslid ontvang, moet ook ooreenkomstig subitem (1) verklaar word.

(4) Die munisipale raad moet bepaal watter van die finansiële belange in subitem (1) bedoel, openbaar gemaak moet word, met inagneming van die behoefte aan vertroulikheid en die openbare belang in openbaarmaking.

Voltydse raadslede

9. 'n Raadslid wat 'n voltydse raadslid is, mag nie enige ander betaalde werk aanvaar nie, behalwe met die vergunning van 'n munisipale raad, welke vergunning nie onredelik teruggehou moet word nie.

Belonings, geskenke en gunste

10. 'n Raadslid mag nie enige beloning, geskenk of guns versoek, vra of aanvaar nie in ruil daarvoor—

(a) dat daardie raadslid op 'n spesifieke wyse stem of nie stem nie oor enige aangeleentheid voor die munisipale raad of voor 'n komitee waarvan daardie raadslid 'n lid is;
(b) dat daardie raadslid die raad of enige komitee oorreed in die uitoefening van enige bevoegdheid, werksaamheid of plig;
(c) dat daardie raadslid 'n vertoog aan die raad of enige komitee van die raad rig; of

(d) disclosing privileged or confidential information.

Unauthorised disclosure of information

11. (1) A councillor may not, without the permission of the municipal council or a committee, disclose any privileged or confidential information of the council or committee to any unauthorised person.

(2) For the purpose of this item 'privileged or confidential information' includes any information—

(a) determined by the municipal council or committee to be privileged or confidential;

(b) discussed in closed session by the council or committee;

(c) disclosure of which would violate a person's right to privacy; or

(d) declared to be privileged, confidential or secret in terms of law.

(3) This item does not derogate from the right of any person to access to information in terms of national legislation.

Interference in administration

12. A councillor may not, except as provided by law—

(a) interfere in the management or administration of any department of the municipal council, unless mandated by the council;

(b) give or purport to give any instruction to any employee of the council, except when authorised to do so;

(c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or

(d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.

Municipal property

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

Councillor in arrears

14. A councillor may not be in arrears to the municipality for rates and service charges for a period longer than three months.

Breaches of Code

15. (1) If the speaker of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the speaker must—

(a) authorise 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 subitem (1)*(c)* is open to the public.

(3) The speaker must report the outcome of the investigation to the MEC for local government in the province concerned.

(4) The speaker 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.

(d) dat daardie raadslid geprivilegeerde of vertroulike inligting openbaar maak.

Ongemagtigde openbaarmaking van inligting

11. (1) 'n Raadslid mag nie sonder die vergunning van die munisipale raad of 'n komitee, enige geprivilegeerde of vertroulike inligting van die raad of komitee aan enige ongemagtigde persoon openbaar maak nie.

(2) By die toepassing van hierdie item sluit 'geprivilegeerde of vertroulike inligting' enige inligting in—

(a) deur die munisipale raad of komitee as geprivilegeerd of vertroulik verklaar;

(b) wat in 'n geslote sessie deur die raad of komitee bespreek is;

(c) waarvan die openbaarmaking 'n persoon se reg op privaatheid skend; of

(d) ingevolge die reg verklaar is geprivilegeer, vertroulik of geheim te wees.

(3) Hierdie item ontneem niks aan 'n persoon se reg op toegang tot inligting ingevolge nasionale wetgewing nie.

Inmenging in administrasie

12. 'n Raadslid mag nie, behalwe soos by wet bepaal—

(a) inmeng in die bestuur of administrasie van enige departement van die munisipale raad nie, tensy dit deur die raad mandateer is;

(b) sonder magtiging enige opdrag gee of voorgee om te gee aan enige werknemer van die raad nie;

(c) die implementering van enige besluit van die raad of 'n komitee deur 'n werknemer van die raad dwarsboom of poog om dit te dwarsboom nie; of

(d) enige gedrag aanmoedig of daaraan deelneem wat tot die wanadministrasie van die raad sal bydra nie.

Munisipale eiendom

13. 'n Raadslid mag nie enige eiendom of bate deur die munisipaliteit besit, beheer of bestuur waarop daardie raadslid geen reg het, gebruik, neem, verkry of daaruit voordeel trek nie.

Raadslid agterstallig

14. 'n Raadslid mag nie vir 'n tydperk van meer as drie maande by die munisipaliteit agterstallig wees met eiendomsbelasting en diensgelde nie.

Verbrekings van kode

15. (1) Indien die speaker van 'n munisipale raad, op 'n redelike vermoede, van mening is dat 'n bepaling van hierdie Kode verbreek is, moet die speaker—

(a) 'n ondersoek van die feite en omstandighede rondom die beweerde verbreking magtig;

(b) die raadslid 'n redelike geleentheid gun om skriftelik te reageer oor die beweerde verbreking; en

(c) die aangeleentheid by 'n vergadering van die munisipale raad aanmeld nadat aan paragrawe *(a)* en *(b)* voldoen is.

(2) 'n Verslag ingevolge subartikel (1)*(c)* is oop vir die publiek.

(3) Die speaker moet die resultaat van die ondersoek aan die LUR vir plaaslike regering in die betrokke provinsie rapporteer.

(4) Die voorsitter moet verseker dat elke raadslid, by die opneem van 'n amp, 'n afskrif van hierdie Kode ontvang en dat 'n afskrif van die Kode in elke vertrek of plek waar die raad vergader, beskikbaar is.

(5) If the speaker of council is the alleged perpetrator, or the speaker refuses to authorise an investigation, the council must establish a special committee, as contemplated in Item 16(1)*(b)*, to investigate and make a finding on any alleged breach of this Code.

Investigation of breach

16. (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 certain period;

(d) fine the councillor; or

(e) request the MEC to remove the councillor from office.

(3) The speaker must inform the MEC for local government in the province concerned within 14 days of the finding and sanction decided on by the council.

(4) *(a)* Any councillor who has been warned, reprimanded or fined in terms of paragraph *(a)*, *(b)* or *(d)* of subitem (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 by the MEC.

(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.

(5) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of subitem (2) if a municipal council does not conduct an investigation contemplated in subitem (1) and the MEC for local government considers it necessary.

(6) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of subitem (4).

(7) 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.

(8) Any investigation in terms of this item and any action by the MEC in terms of subitem (7) must be in accordance with section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

Application of Code to traditional leaders

17. (1) Items 1, 2, 6, 7, 10 *(b)* to *(d)*, 11, 12, 13, 15 and 16 (1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81.

(2) These items must be applied to the traditional leader in the same way they apply to councillors.

(5) Indien die speaker van die raad die beweerde dader is, of die speaker weier om 'n ondersoek te magtig, moet die raad 'n spesiale komitee instel, soos in Item 16(1)*(b)* beoog, om ondersoek in te stel en 'n beslissing te maak oor enige beweerde verbreking van hierdie Kode.

Ondersoek van verbreking

16. (1) 'n Munisipale raad kan—

(a) 'n beweerde verbreking van 'n bepaling van hierdie Kode ondersoek en daaroor beslis; of

(b) 'n spesiale komitee instel—

(i) om ondersoek in te stel en 'n beslissing te maak oor enige beweerde verbreking van hierdie Kode; en

(ii) om gepaste aanbevelings aan die raad te doen.

(2) Indien die raad of 'n spesiale komitee bevind dat 'n raadslid 'n bepaling van hierdie Kode verbreek het, kan die raad—

(a) 'n formele waarskuwing aan die raadslid uitreik;

(b) die raadslid teregwys;

(c) versoek dat die LUR vir plaaslike regering in die provinsie die raadslid vir 'n sekere tydperk skors;

(d) die raadslid beboet; of

(e) versoek dat die LUR die raadslid uit die amp verwyder.

(3) Die speaker moet die LUR vir plaaslike regering in die betrokke provinsie binne 14 dae inlig oor die beslissing en die sanksie waarop die raad besluit het.

(4) *(a)* Enige raadslid wat ingevolge paragraaf *(a)*, *(b)* of *(d)* van subitem (2) gewaarsku, tereggewys of beboet is, kan binne 14 dae sedert kennisgewing van die besluit van die raad, skriftelik by die LUR vir plaaslike regering appèl aanteken en die redes waarop die appèl gegrond is, uiteensit.

(b) Die LUR moet 'n afskrif van die appèl aan die raad voorsien.

(c) Die raad kan binne 14 dae van ontvangs van die appèl in paragraaf *(b)* bedoel, enige vertoog rakende die appèl skriftelik aan die LUR vir plaaslike regering rig.

(d) Die LUR vir plaaslike regering kan, na oorweging van die appèl, die besluit van die raad bevestig, tersyde stel of verander en die raadslid en die raad verwittig van die uitslag van die appèl.

(5) Die LUR vir plaaslike regering moet 'n persoon of 'n komitee aanstel om enige beweerde verbreking van 'n bepaling van hierdie Kode te ondersoek en om 'n aanbeveling aangaande die gepaste sanksie ingevolge subitem (2) te doen as 'n munisipale raad nie 'n ondersoek in subitem (1) beoog, doen nie en die LUR vir plaaslike regering dit nodig ag.

(6) Die Kommissiewet, 1947 (Wet No. 8 van 1947), of, waar van toepassing, toepaslike provinsiale wetgewing, kan op 'n ondersoek ingevolge subitem (4) toegepas word.

(7) Indien die LUR van mening is dat die raadslid 'n bepaling van hierdie Kode verbreek het en dat daardie oortreding 'n skorsing of ontheffing van amp regverdig, kan die LUR—

(a) die raadslid vir 'n tydperk en op voorwaardes deur die LUR bepaal, skors; of

(b) die raadslid uit die amp verwyder.

(8) Enige ondersoek ingevolge hierdie item en enige aksie deur die LUR ingevolge subitem (7), moet ooreenkomstig artikel 3 van die 'Promotion of Administrative Justice Act, 2000' (Wet No. 3 van 2000), wees.

Toepassing van Kode op tradisionele leiers

17. (1) Items 1, 2, 6, 7, 10*(b)* tot *(d)*, 11, 12, 13, 15 en 16(1) is van toepassing op 'n tradisionele leier wat ingevolge artikel 81 aan die verrigtinge van 'n munisipale raad deelneem.

(2) Hierdie items moet op die tradisionele leier toegepas word op dieselfde wyse as wat dit op raadslede van toepassing is.

(3) If a municipal council or a special committee in terms of item 16(1) finds that a traditional leader has breached a provision of this Code, the council may—

(a) issue a formal warning to the traditional leader; or

(b) request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.

(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.

(5) The Commissions Act, 1947 (Act No. 8 of 1947), may be applied to an investigation in terms of subitem (4).

(6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may—

(a) suspend that right for a period and on conditions determined by the MEC; or

(b) cancel that right.

(7) Any investigation in terms of this item and any action by the MEC in terms of subitem (6) must be in accordance with the rules of natural justice.

(8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81(3).".

Repeal of laws

37. Section 19, section 54 and Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), are hereby repealed.

Transitional arrangements

38. A municipality with a plenary executive system immediately before the commencement of this Act, will continue to exist as a municipality with a plenary executive system until the date of the first local government election after commencement of this Act.

Short title and commencement

39. This Act is called the Local Government: Municipal Structures Amendment Act, 2021, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

(3) Indien 'n munisipale raad of 'n spesiale komitee ingevolge item 16(1) bevind dat 'n tradisionele leier 'n bepaling van hierdie Kode verbreek het, kan die Raad—

(a) 'n formele waarskuwing aan die tradisionele leier uitreik; of

(b) versoek dat die LUR vir plaaslike regering in die provinsie die tradisionele leier se reg om aan die verrigtinge van die raad deel te neem, intrek.

(4) Die LUR vir plaaslike regering kan 'n persoon of 'n komitee aanstel om enige beweerde verbreking van 'n bepaling van hierdie Kode te ondersoek en om 'n aanbeveling te doen oor hetsy die reg van die tradisionele leier om aan die verrigtinge van die munisipale raad deel te neem, opgeskort of ingetrek moet word.

(5) Die Kommissiewet, 1947 (Wet No. 8 van 1947), kan op 'n ondersoek ingevolge subitem (4) toegepas word.

(6) Indien die LUR van mening is dat die tradisionele leier 'n bepaling van hierdie Kode verbreek het en dat daardie verbreking 'n opskorting of intrekking van die tradisionele leier se reg om aan die raad se verrigtinge deel te neem, regverdig, kan die LUR—

(a) daardie reg vir 'n tydperk en op voorwaardes deur die LUR bepaal, opskort; of

(b) daardie reg intrek.

(7) Enige ondersoek ingevolge hierdie item en enige stappe deur die LUR ingevolge subitem (6), moet ooreenkomstig die reëls van natuurlike geregtigheid wees.

(8) Die opskorting of intrekking van 'n tradisionele leier se reg om aan die verrigtinge van 'n raad deel te neem, raak nie daardie tradisionele leier se reg om die raad ingevolge artikel 81(3) toe te spreek nie.".

Herroeping van wette

37. Artikel 19, artikel 54 en Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), word hierby herroep.

Oorgangsmaatreëls

38. 'n Munisipaliteit wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n volle raad uitvoerende stelsel het, sal voortgaan om as 'n munisipaliteit met 'n volle raad uitvoerende stelsel te bestaan tot op die datum van die eerste plaaslike regeringsverkiesing na inwerkingtreding van hierdie Wet.

Kort titel en inwerkingtreding

39. Hierdie Wet heet die Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2021, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 602 OF 2023

STANDING RULES AND ORDERS FOR THE MEETINGS OF THE COUNCIL AND COMMITTEES OF BUFFALO CITY METROPOLITAN MUNICIPALITY



(AS APPROVED BY COUNCIL IN TERMS OF RESOLUTION BCMC763/22 OF 1 DECEMBER 2022)

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1. Definitions

The following terms and phrases used in these rules shall have the meaning assigned to them hereunder:

"Ad hoc Committee" means any other Committee established for a specific purpose for a predetermined period, other than the Mayoral Committee or Committees established by the Council;

"Chairperson" means the chairperson of the Council and any Committee of the Council (refer also "Speaker");

"Code of Conduct" means the Code of Conduct for Councillors attached as Schedule 7 to the Municipal Structures Act;

"Committee" shall mean any Committee established in the Municipality, including Committees established in terms of section 79 and 80 of the Municipal Structures Act;

"Committee of Council" shall mean any Committee appointed by the Municipal Council;

"Committee Whips" shall mean any person appointed by the Council as the Whip of a Committee of Council;

"Constitution" shall mean the Constitution of the Republic of South Africa, 1996;

"Council" or **"Municipal Council"** shall mean the Municipal Council of the Buffalo City Metropolitan Municipality as envisaged in section 157 (1) of the Constitution;

"Councillor" shall mean a member of the Municipal Council;

"Day" shall mean any calendar day excluding a Public Holiday, Saturday or Sunday, and for the calculation of days the first day will be excluded and the last day included;

"Executive Mayor" shall mean the Executive Mayor of the Municipality as elected in terms of section 55 of the Municipal Structures Act;

"In Committee" shall mean the part of the meeting of the Municipal Council or its Committees, as envisaged by Section 160(7) of the Constitution, where the meeting

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will be closed and members of the public and press, and such municipal officials as determined by the Speaker, excluding the Municipal Manager and any other official duly delegated by the Municipal Manager, will be excluded from the meeting, based on the nature of the business being transacted;

"Mayoral Committee" means the committee appointed by the Executive Mayor in terms of section 60 of the Municipal Structures Act;

"MEC for local government" means the Member of the Executive Council responsible for local government in the province;

"Media" shall mean members or employees of broadcasting, publishing, and online communication news networks whose activities are essential to the media function;

"Member" shall mean a Councillor serving in the Municipal Council of the Municipality.

"Motion" shall mean any matter or proposal submitted by a member in terms of the Rules, wherein a decision or resolution is required, and includes an urgent matter;

"Municipality" shall mean the Buffalo City Metropolitan Municipality;

"Municipal Public Accounts Committee" shall mean a Committee established in terms of Section 79A of the Municipal Structures Act;

"Municipal Structures Act" shall mean the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Municipal Systems Act" shall mean the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"Party Whip" shall mean, for purposes of these rules, a member of the Municipal Council appointed, by a political party represented in the Council, as the whip of the party.

"Point of Order" shall mean a point raised by a Councillor during the Council meeting and shall only relate to a matter of procedure as provided for in the rules and orders;

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"Report" shall mean sufficient written information prepared in the prescribed template on any item appearing on the agenda for consideration by the Council or a Committee;

"Speaker" shall mean the Chairperson of the Council who is elected in terms of sections 36 and 41 of the Municipal Structures Act;

"Traditional Leader" shall mean a Traditional Leader identified to participate in the business activities of the Municipal Council in terms of section 64 of the Traditional and Khoi-San Leadership, 2019 (Act No. 3 of 2019);

"Virtual meetings or sittings" shall mean any meeting or sitting conducted on any form of online technology or virtual platform or combination of virtual and physical meetings;

"**Whip of the Council**" shall mean the person elected in terms of Section 41A of the Municipal Structures Act as the Whip of the Council;

any other word or expression shall have the meaning assigned thereto in the relevant legislation.

2. Application of the Rules

2.1 The rules of order contained herein apply to all physical and/or virtual meetings of the Municipal Council and any committee of the Municipal Council as well any other Committees of Councillors established within the Municipality.

2.2 The rules are aimed at allowing free, open and constructive debate during meetings. The rules encourage and promote freedom of expression in such a manner that orderly debate is ensured within the allocated time.

2.3 The rules create the opportunity for Councillors and Traditional Leaders serving in Council structures to air their views on any matter of public importance.

2.4 The rules of order are applicable to:

2.4.1 All Councillors;

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2.4.2 Traditional leaders participating in Council and its Committees in terms of item 7 of Schedule 3 of the Traditional and Khoi-San Leadership Act No. 3 of 2019 read with section 64 thereof;

2.4.3 Any municipal official of the Municipality;

2.4.4 Any representative from national or provincial government or Chapter 9 Institutions participating in Council or its Committees;

2.4.5 The Media; and

2.4.6 Any member of the public.

3. Chairpersons of Meetings

3.1 At every meeting of the Council the Speaker shall be the Chairperson, or if he or she is not present or is required to table a report before the council or is conflicted on an item, an acting Speaker shall be elected by the majority of Councillors present at the meeting to act as chairperson.

3.2 The Chairperson(s) of section 79 committees elected by the Council, in terms of the Municipal Structures Act, shall chair meetings of the oversight committees of Council or if he or she is not present, an acting chairperson shall be elected by the majority of the Committee members present at the meeting to act as chairperson.

3.3 The Chairperson(s) or acting chairperson of section 80 Standing Committees appointed by the Executive Mayor, in terms of the Municipal Structures Act, shall chair meetings of the Standing Committees of Council.

3.4 The Executive Mayor shall chair meetings of the Mayoral Committee. If the Executive Mayor is absent or not available, the Deputy Executive Mayor exercises the powers and performs the duties of the Executive Mayor.

4. Conduct at Meetings

4.1 The Chairperson of the meeting shall:

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4.1.1 Maintain order during meetings;

4.1.2 Ensure compliance with the Code of Conduct for Councillors during meetings;

4.1.3 Ensure that meetings are conducted in accordance with the rules;

4.1.4 Ensure that members conduct themselves in a dignified and orderly manner during meetings;

4.1.5 Ensure that members of the public and the media attending meetings are seated in areas designated for that purpose;

4.1.6 Ensure that members of the public and the media attending meetings conduct themselves in an orderly manner and obey any ruling made by the Chairperson of the meeting;

4.1.7 Ensure that any Councillor or member of the public or the media refusing to comply with the ruling of the Chairperson leaves the meeting; and

4.1.8 Ensure that, where applicable, the Whip of each political party represented in the Municipal Council as well as the Whip of Council maintains discipline during any meeting.

5. Interpretation of Rules

5.1 The ruling of the Chairperson with regard to the application and interpretation of the rules as well as other procedural matters not dealt with in the rules shall be final and binding: Provided that the Chairperson may be required to provide reasons for a ruling not later than the next meeting.

5.2 Any ruling made by the Chairperson must be made having due regard to the provisions of the Constitution, national and provincial legislation, municipal by-laws and policies, the rule of law and the rules of natural justice.

5.3 Interpretations and rulings made by the Chairperson shall be registered by the Municipal Manager and be part of the minutes of all meetings.

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6. Meetings open to the Public

6.1 The Municipal Council shall conduct its business in an open manner and every meeting of the Council and Committees of Council, shall be open to the public: Provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of section 20 (1) (a) and (b) of the Municipal Systems Act.

6.2 The Council or a Committee of Council will convene In-Committee when discussing any of the following matters:

- 6.2.1 a trade secret or confidential commercial information of any supplier of the municipality or any person rendering a service to the municipality;
- 6.2.2 personal and private information of any employee of the municipality;
- 6.2.3 reports of a non-disclosure nature addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;
- 6.2.4 disciplinary proceedings or proposed disciplinary proceedings against any employee;
- 6.2.5 any matter that might not be disclosed in terms of legislation;
- 6.2.6 consideration of the minutes of previous In-Committee discussions.

7. Council Meetings

7.1 The Council shall hold its ordinary meetings at least once a quarter.

7.2 The Speaker determines the date, time and venue of the meetings of the Council.

8. Special Council Meetings

8.1 The Council may hold special meetings as and when required.

8.2 The Speaker determines the date, time and venue of the special meetings of the Council.

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8.3 The Speaker must, upon written request of a majority of the Councillors of the Municipality, call a special meeting of the Council, at a time set out in the request, provided that no such special meeting shall take place unless all Councillors were given at least forty-eight (48) hours' notice of such meeting.

8.4 In the event where the Speaker is unavailable, fails and/or refuses to call a special meeting when requested in accordance with Rule 8.3 above, the Municipal Manager, when requested in writing by the majority of the Councillors of the Municipality, must call the meeting.

8.5 In the absence or refusal by the Municipal Manager, the MEC for local government in the province may on good cause shown designate a person to call and chair the meeting.

9. Notice of Meetings and Service of Notice and Agenda

9.1 Whenever a meeting of the Municipal Council is called, the Municipal Manager must give notice of the meeting stipulating the time, date and venue of the meeting by placing a notice to this effect on a notice board situated at the main administrative office of the Municipality, by placing an advertisement in one (1) newspaper circulating in the Municipality and by placing it on social media platforms and the municipal website.

9.2 At least seven (7) days before any ordinary meeting of the Council and at least forty-eight (48) hours before any special meeting of the Council, a notice to attend the meeting, specifying the business proposed to be transacted thereat and signed by the Speaker or the Municipal Manager as contemplated in 9.1 above, or shall be sent by electronic mail or hand delivered to an address provided by the Councillor as his or her official address or mail address. Delivery to this address will constitute proper notification of the meeting.

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10. Waiting period before the commencement of the meeting

10.1 Councillors shall be seated fifteen (15) minutes before the commencement of the meeting or the arrival of the Chairperson.

10.2 For virtual meetings or sittings, Councillors shall be logged onto the virtual platform fifteen (15) minutes before the commencement of the meeting.

11. Quorum for Meetings

11.1 A quorum of the Council or a Committee of the Council will constitute a majority, fifty percent plus one (**50% + 1**) of all Councillors as determined by Section 20 of the Municipal Structures Act or Councillors who are members of that Committee, as the case may be.

11.2 In the event of no quorum for a meeting, the meeting must be suspended for no more than twenty (20) minutes, and if at the end of the said period there is still no quorum, the Speaker or Chairperson may suspend the meeting for a further fifteen (15) minutes and if on the expiry of that period, there is still no quorum, immediately adjourn the meeting to another date, time and/or venue.

11.3 In the absence of the Speaker or Chairperson of a Committee the Municipal Manager or a duly delegated person must perform the functions referred to in Rule 11.2.

12. Decisions and Voting

12.1 Subject to Rule 12.4 below, all matters will be decided on by a majority vote of Councillors present at the meeting.

12.2 Before a formal vote is taken on any matter before the Council, the Speaker shall cause the bells to be rung for a period of one (1) minute, after which, all doors shall be closed and no member or other person shall be allowed to enter or leave the chamber.

12.3 Before a formal vote is taken on any matter before the Council during a virtual meeting, the Speaker shall formally announce that a matter would be subjected

to a vote and no member or other person shall be allowed to enter or leave the virtual platform.

12.4 The following matters are determined by a decision taken by the majority of the members of the Council:-

12.4.1 the passing of by-laws;

12.4.2 the approval of budgets;

12.4.3 the imposition of rates and other taxes;

12.4.4 the raising of loans; and

12.4.5 the approval of the Integrated Development Plan.

12.5 If, on any matter, there is an equality of votes, the Speaker or the Chairperson of the Committee may exercise a casting vote in addition to his or her deliberative vote.

12.6 For those matters that are listed in Rule 12.4 above, there shall be no provision for a casting vote.

12.7 If the Speaker or Chairperson of a meeting asks the meeting if it is in agreement with the recommendations and if it is not opposed by any member present, the recommendations shall be adopted unopposed.

12.8 In the event that there is an opposing view from a member, the matter shall be subjected to a vote by show of hands.

12.9 During a virtual meeting Councillors shall be entitled to cast their votes either electronically or by voice. The Municipal Manager shall maintain a system that is capable of verifying the votes of members cast either electronically or by voice.

12.10 The Speaker must announce the decision of the Municipal Council taken in terms of Rules 12.6 or 12.7.

12.11 In the event, there is an opposing view and further seconded against the recommendation, a member may require that the matter shall be subjected to a secret ballot in line with the Municipal Structures Act, and also in conformity with Rule 12.2 and Rule 12.3 respectively.

12.12 In effecting a secret ballot, the Municipal Manager shall hand to each Councillor a ballot paper bearing the official mark or logo of the Council of the Buffalo City

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Metropolitan Municipality, and having the alternates to be voted for clearly depicted thereon, substantially in accordance with the following:

Logo

Date.....

Proposal or motion to be voted for Councillor's vote (X) for or against

1.

2.

12.13 The Municipal Manager or his or her designated official shall collect all the ballot papers and count same in the presence of a representative from each party represented on the Council or Committee and present at such meeting.

12.14 The Municipal Manager or his or her designated official shall declare to the Chairperson, the result of the voting outcome.

12.15 For the purposes of a secret ballot during virtual meetings the Municipal Manager of the Council shall maintain a system or process that is capable of allowing the casting of a secret ballot and verifying such votes of members cast.

12.16 The Speaker or Chairperson shall thereupon declare the motion carried or lost, and it shall be entered in the minutes.

12.17 Only the number of members, and not the names of members voting for or against an item, is to be recorded in the minutes.

12.18 A member may abstain from voting without leaving the chamber.

12.19 A member may require that his or her dissent or abstention be recorded in the minutes of the meeting whether through an opposed vote or a secret ballot.

13. Count Out

If during any meeting the attention of the Speaker or Chairperson is called to the number of members present, he or she shall count them, and if found that there is no quorum present, the matter shall be dealt with in accordance with Rule 11 above.

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14. Disclosure of Financial Interests

14.1 A Councillor is obliged to disclose any direct personal or private business interest that the Councillor, or the spouse, partner or business associate of that Councillor may have in any matter before the Council or any Committee.

14.2 A Councillor or municipal official may not participate in the proceedings of a meeting, if such a Councillor or municipal official is conflicted on any item/s on the agenda.

14.2.1 ;

14.2.2

14.3 A Councillor who, or whose spouse, partner or business associate or close family member, acquires 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 of, at the first meeting of the Council or Committee of the Council at which it is possible for the Councillor to make a disclosure.

14.4 This provision does not apply to an interest or benefit which a Councillor, or a spouse, partner or business associate or close family members, has or acquired in common with other residents and ratepayers of the Municipality.

15. Attendance at meetings

15.1 A Councillor must attend and remain in attendance until the conclusion of the business of each meeting of the Municipal Council or of a Committee of which that Councillor is a member, except when leave of absence has been granted or that Councillor is required to withdraw from the meeting.

15.2 If a Councillor or group of Councillors leave any meeting in protest, and the remainder of the Councillors constitute a quorum, the business of the meeting shall be proceeded with.

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16. Leave of Absence

16.1 All applications for leave must be submitted at least forty-eight (48) hours for an ordinary meeting and at least twelve (12) hours for a special meeting, before the starting time of the meeting to the Speaker for approval. Should any other eventualities arise, it is incumbent on the individual Councillor to notify the Speaker.

16.2 Notwithstanding Rule 16.1 above, applications for leave of absence from meetings are deemed to have been granted if:

16.2.1 the Council or Executive Mayor delegated the relevant member to act elsewhere on behalf of the Council in a matter; or

16.2.2 if the Council or Committee of the Council requests the member to leave the relevant meeting in circumstances envisaged in Rule 15 or the member recuses him/herself.

16.2.3 The Speaker may, subject to Rules 16.1 and 16.2 above, grant leave of absence, in writing, to a member for the following reasons:

16.2.3.1 Illness or any other valid reason making it impossible for the member to attend;

16.2.3.2 Essential business or personal commitments, or personal circumstances of the member;

16.2.3.3 When the member is not permitted to attend the meeting due to circumstances envisaged in Item 3(b) of the Code of Conduct for Councillors in Schedule 7 to the Municipal Structures Act as amended;

16.2.3.4 Any other circumstances where the member is prevented from attending the meeting.

16.2.4 The Speaker may not grant leave of absence, to a member for more than three (3) consecutive meetings.

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17. Sanction for non-attendance

17.1 A member who is absent without leave from a meeting or who fails to remain in attendance at such meeting is in breach of Rule 15.

17.2 The Ethics Committee or the Multi-party Investigative Committee, must investigate and report to Council on any transgression contemplated in Rule 15.1 above.

17.3 The Committee must conduct its work according to the fixed procedures as outlined in the Code of Conduct.

17.4 If the Committee finds that a member breached Rule 15.1, the member may be fined an amount to be determined by the Council from time to time or be sanctioned as detailed in the Code of Conduct.

18. Members of Council attending Committee meetings of which they are not members

18.1 Members of the Municipal Council may attend the meeting of any Committee that they are not a member of but will in all instances be granted the status of an observer and will not be allowed to participate or vote at such meetings, including the In-Committee part of the meeting.

18.2 The provisions of Rule 18.1 will not be applicable to the Municipal Public Accounts Committee, the Ethics Committee, Ad hoc Committees and the Mayoral Committee where the meeting has been closed in line with Section 20 (1) and 20 (3) of the Municipal Systems Act, except where a Councillor has been specifically requested to attend the meeting and the request for attendance will specify the matters expected to be addressed in the meeting.

18.3 Any member of the Mayoral Committee requested to attend a Committee meeting may instruct the Municipal Manager or a senior manager to accompany him or her to the meeting but may not instruct such official to appear and address the meeting on his or her behalf.

19. Agenda

19.1 All meetings must be conducted in accordance with the order in which matters appear on the agenda and only matters which appear on the agenda may be debated.

19.2 The Speaker must prepare and approve the agenda for a meeting, having regard to the following: -

19.2.1 The Executive Mayor is entitled to receive reports from Section 80 Committees and to forward these reports to the council as decisions of the Executive Mayor taken with the Mayoral Committee under delegated authority and/or when matters cannot be disposed of by the Executive Mayor in terms of the Executive Mayor's delegated powers;

19.2.2 Reports from the Municipal Public Accounts Committee must be tabled in the next meeting of the Municipal Council; and

19.2.3 The specific purpose for which a Special meeting of Council has been called for or convened.

20. Business at Council Meetings

20.1 The order of business at every ordinary meeting of the Council, shall be as follows:

(a) Opening
(b) Moment of reflection
(c) Notice of the meeting
(d) Applications for leave of absence
(e) Acceptance or adoption of the agenda
(f) Declaration of interest
(g) Communication by the Speaker
(h) Communication by the Municipal Manager
(i) Announcements

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(j) Deputations or Presentations
(k) Confirmation of minutes from previous meetings
(l) Outstanding matters
(m) Reports from the Speaker
(n) Reports of the Executive Mayor, under the sections: recommendations to the Council, decisions under delegated authority and decisions of the Executive Mayor taken with the Mayoral Committee
(o) Reports from Municipal Public Accounts Committee
(p) Report from the Audit Committee
(q) Monthly Activities
(r) Input by the Traditional Leader
(s) Reports for noting
(t) Reports for consideration
(u) Notice of Motion
(v) In-Committee Reports
(w) Questions

20.2 The order of business at every Mayoral Committee meeting of the Council, shall be as follows:

(a) Opening: Moment of reflection
(b) Notice of the meeting
(c) Applications for leave of absence
(d) Acceptance or adoption of the agenda
(e) Declaration of interest
(f) Announcements
(g) Deputation or Presentations
(h) Confirmation of minutes from previous meetings
(i) Outstanding matters
(j) Reports from Portfolio Committees
(k) Reports from Audit Committee
(l) Reports for noting

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(m) Reports for consideration
(n) In-Committee reports

20.3 The order of business at Committee meetings shall be as follows:
(a) Opening: Moment of reflection
(b) Notice of the meeting
(c) Applications for leave of absence
(d) Acceptance or adoption of the agenda
(e) Declaration of interest
(f) Announcements
(g) Deputations or Presentations
(h) Confirmation of minutes from previous meetings
(i) Outstanding matters
(j) Reports for noting
(k) Reports for consideration
(l) In-Committee reports
(m) Notice of Motion

21. Motions

21.1 No matter shall be brought before the Council or a Committee by any member of the Council except upon a notice of motion, which shall be in writing and signed by the member giving the notice as well as the member seconding it: Provided that a person who has a personal electronic mail address from where he or she can be identified by the Municipal Manager, can submit such motion by electronic mail.

21.2 Any notice of motion shall be submitted to the Municipal Manager before 12:00, ten (10) days prior to the meeting of the Council or Committee.

21.3 A motion shall lapse if the member who submitted the motion is not present at the meeting where the motion is to be debated, except where such member

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authorised another member to take charge of the motion after having timeously notified the Speaker or Chairperson.

21.4 A member submitting a motion shall introduce such a motion and shall have the right of reply thereto.

21.5 When a member introduces a motion which is intended to rescind or amend a resolution passed by the Council in the preceding three months or which has the purpose as a motion that was not supported within the three preceding months shall not be entertained.

21.6 When dealing with motions the motion shall be read out together with the number thereof and the name of the mover.

21.7 The Speaker or Chairperson shall ascertain which motions are unopposed and these shall be passed without debate and thereafter the opposed motions shall be called in accordance with the order of the agenda.

21.8 All notices of motion shall be dated and numbered as received by the Municipal Manager and shall be entered on the agenda paper in the order in which it was received, save and except that notices of amendment to motions shall be entered immediately after such notice of motion, irrespective of the time at which the notice shall have been received.

21.9 No member shall have more than one motion on the same agenda.

21.10 The mover may withdraw a motion or amendment.

21.11 The Speaker or Chairperson may call upon any mover of an amendment to a motion to reduce the same to writing, and, after signing it, to hand it to the Municipal Manager, which shall be read by the mover for the meeting to either adopt or reject such amendment.

22. Motion without Notice

22.1 A Councillor may direct the attention of the Council to any matter which does not appear on the Agenda and of which no previous notice has been given, by stating briefly the subject of the matter and without comment thereon, moving that notice be dispensed with and that it be considered.

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22.2 Unless the majority of Councillors object that the notice of the motion be dispensed with, the Councillor may move the motion as if notice has been given in terms of Rule 21.

23. Rescission of resolution

23.1 If a member wishes to give notice of his or her intention to move the rescission or alteration of a resolution, or part thereof, then –

23.1.1 the member shall deliver a written notice of motion to the Municipal Manager at least seven (7) days before the meeting, which shall be –

(i) signed and dated by the said member; and

(ii) state at which meeting of the Council it will be introduced.

23.1.2 In addition to the requirements of sub-rule 23.1.1 the notice of motion shall state that –

(i) the member will move that the stated resolution be rescinded or altered, as the case may be; and

(ii) in the case of an intended alteration, the exact alteration desired shall be stipulated.

23.2 If a Committee has resolved to recommend to the Council that a resolution or part thereof be rescinded or altered, then –

23.2.1 notification to move such rescission or alteration shall be given by including a recommendation to this effect in a report of the Committee to Council;

23.2.2 the Municipal Manager shall send a copy of such report and details of the meeting at which it will be considered to each member –

(i) at the address furnished by the member for delivery of notices and documents; and

(ii) at least twenty-four (24) hours before such meeting.

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27.1 A Whip may at any time, except while a vote is being taken, move that the council adjourns for a caucus meeting.

27.2 Such motion shall be seconded but need not to be placed in writing.

27.3 The mover may speak to the motion for three (3) minutes, but the seconder shall not speak beyond formally seconding the motion.

27.4 The Speaker shall decide whether or not to allow the request for a caucus meeting. In this regard-

27.4.1 if the request is refused by the Speaker then he/she shall give reasons for refusing such request, the set reasons shall be entered in the minutes.

27.4.2 the ruling of the Speaker on the request will be final and shall not be open for discussion;

27.4.3 if the request of a caucus meeting is approved by the Speaker then the Council shall adjourn immediately: Provided that the Speaker may direct that a meeting proceeds first to dispose of other business;

27.4.4 the Speaker shall impose a time limit for the proposed caucus meeting, such time limit to include having regard to the convening of caucuses on virtual platforms;

27.4.5 the caucus requesting the adjournment shall gather at another venue or an alternative virtual platform;

27.4.6 if the caucus members have not taken their seats at the time when the council is required to reconvene then the Council shall proceed with its normal business, provided that a quorum of members is present; and

27.4.7 if a quorum of members is not present, then the meeting shall adjourn for ten (10) minutes and where the caucus members do not return within ten minutes the meeting will be closed by the Speaker and the reasons for such closure will be stated in the minutes.

28. Minutes to be kept and confirmation thereof

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28.1 Records of the proceedings of all Council and Committee meetings shall be electronically or otherwise recorded and be kept for that purpose by the Municipal Manager. The Municipal Manager shall be responsible for the correctness thereof and the minutes of every meeting shall be confirmed at the next ordinary meeting.

28.2 At every ordinary meeting, the minutes of the previous meeting/s shall be taken as read, having circulated in compliance with the standing rules and orders governing the duration intervals in distributing an agenda and minutes of Council and Committees of Council.

28.3 Minutes of the proceedings shall, once confirmed, be signed at the next ensuing ordinary meeting by the Speaker or Chairperson and shall be bound and kept safe.

28.4 The Municipal Manager must ensure that the minutes reflect the names of the members that attended the meeting, those that are absent and those that have been granted leave of absence.

28.5 The provisions of Rule 28.1 are not applicable in matters of a particular meeting due to the sensitivity, confidentiality or otherwise of a subject matter and provided the final resolution or recommendation is duly recorded in the minutes.

29. No discussion on minutes under confirmation of minutes

No motion or discussion shall be allowed upon the confirmation of the minutes, except as to its accuracy.

30. Inspection of Minute Books by Councillors

Every member of the Council shall be granted access to the approved minutes of every Council or Committee meeting.

31. Precedence of the Speaker

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31.1 When a Councillor is speaking other Councillors and those in attendance shall be seated but all times address their speech to the Speaker or Chairperson.

31.2 Whenever the Speaker or Chairperson speaks, any member then speaking or offering to speak must be silent in order for the Speaker to be audible and speak without interruption.

32. Relevance

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

33. Councillor to speak once only

33.1 Except otherwise provided for in these rules, no speaker shall speak more than once on any recommendation, motion or proposal, provided that the Executive Mayor or a member who tabled the item may reply in conclusion of a debate but shall confine himself or herself to answering previous speakers and shall not introduce any new matter into the debate.

33.2 The provisions of Rule 33.1 will only be applicable to the meetings of Council.

34. Debate Management

34.1 At least twenty-four (24) hours prior to a meeting of Council, the Party Whips, must provide to the Whip of Council a list showing:

34.1.1 which items on the agenda for that meeting are to be debated and for which written amendment proposals should be submitted;

34.1.2 the total time to be allocated to the debate of each such item, provided that, the maximum time allocated for debate on each item on

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the agenda will be up to thirty (30) minutes subject to review in exceptional circumstances. The Speaker and the Whip of Council can reduce and increase the time allocated to discuss an item in accordance with the comprehensiveness and contents thereof.

34.2 Based on the list drawn up in terms of Rule 34.1, each party must deliver to the Whip of Council, before the close of the business on the day preceding the Council meeting, a list of the members who will speak on an item, and the time allocated to each member, provided that the total time located to all such members of a party shall not exceed the time allocated to that party in terms of Rule 34.7.

34.3 On receipt of the lists referred to in Rule 34.2, the Speaker must, if he/she wishes to deviate from the provisions of those lists, convey his/her decision in this regard to the Whip of Council within a reasonable time prior to the Council meeting.

34.4 All matters before the Council not listed in Rule 34.2 must individually be put to the meeting for adoption without debate, before the matters listed in Rule 34.2 are considered.

34.5 At the discretion of the Speaker, a time of five (5) minutes of response may be allowed to the Mayor or relevant Member of the Mayoral Committee or relevant Committee, or the mover of a motion, to conclude the debate on an item debated in terms of Rule 34.2.

34.6 Notwithstanding any matter contained in Rules 34.1 to 34.5, the Speaker may not, when exercising his discretion in terms of these rules, prejudice any party in respect of time allocated this regard.

34.7 All parties represented in Council have a right to be allocated time to speak on each item on the agenda relative to their representation in Council, subject to the provisions of Rule 34.2.

35. Disorderly Conduct

35.1 If at any meeting a Councillor/s:-

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35.1.1 conducts himself or herself in an improper fashion; or

35.1.2 behaves in an unseemly manner; or

35.1.3 persistently obstructs business to be carried out; or

35.1.4 challenges the ruling of the Speaker or Chairperson on any point of order; or

35.1.5 declines to withdraw an expression when required to do so by the Chairperson; or

35.1.6 indulges in tedious repetition or unbecoming language; or

35.1.7 commits any breach of these rules,

the chairperson shall direct such Councillor/s to conduct himself or herself properly and, if speaking, to discontinue his or her speech and resume his or her seat, if, he or she was standing.

35.2 In the event of persistent disregard of the directions of the Chairperson, the Chairperson shall direct such Councillor/s to retire from the venue where the meeting is being held for the remainder of the meeting, and shall, if necessary, cause him or her to be ejected therefrom.

35.3 The Chairperson may exclude from a meeting, for such period of time during the meeting as he or she may deem fit, any member who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the chair, provided that a formal process will be initiated after the conclusion of the meeting.

35.4 Where a Councillor refuses to retire or in the event of more than one Councillor having to be ejected from the meeting, and such Councillor's refusal to leave the meeting, the Chairperson shall request the Protection Services to facilitate the removal of such Councillor(s) from the chamber. If this cannot be done orderly, the Chairperson of a meeting may adjourn proceedings for a period not exceeding fifteen (15) minutes, in order for the relevant Councillors to retire or to be ejected from the venue of the meeting. If, at the resumption of proceedings, the Councillor(s) have not left or been ejected, the meeting may be adjourned for another ten (10) minutes to address the situation. The Chairperson

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may rule that after the second adjournment the meeting will re-convene at another venue and any Councillor(s) ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue. The Protection Services will ensure that such Councillor(s) do or does not enter such an alternative venue.

36. Obstruction by Person/s other than Councillors

Any person/s, other than a Councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the Council or any Committee at any meeting shall, if the Chairperson so directs, be removed from the chamber or the venue where the meeting is being held. If the person/s refuses to leave, the Protection Services will be responsible to remove such person/s from the meeting. The Chairperson may exclude such person/s from further admittance to the Council Chamber or the meeting venue for such period as it may be deemed fit.

37. Points of Order and Personal Explanation

37.1 A member may raise a point of order at any time during the meeting, by stating that he or she is rising on a point of order.

37.2 A point of order must be confined only to a matter of procedure or practice or a matter relating to conduct and must be raised immediately when the alleged breach of order occurs.

37.3 The member raising the point of order must commence by quoting the exact rule or at least the principle or subject matter upon which the point of order is based.

37.4 If the member does not do so, the Chairperson may insist on him or her doing so, and if he or she fails or does not adequately do so, the Chairperson may

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summarily rule that it does not amount to a point of order or that the matter is out of order.

37.5 The Chairperson may allow members to address the Chairperson on a point of order that has been raised.

37.6 The Chairperson must give a ruling and may give his or her ruling or decision on the point of order immediately or defer the decision to the earliest opportunity later during the meeting by way of a considered ruling.

37.7 No point of order may be raised in response to a considered ruling in terms of Rule 37.6.

37.8 No other member may raise another point of order before the Chairperson has ruled on the first point of order.

37.9 No member may raise a point of order again or a similar point of order, if the Chairperson has ruled that it is not a point of order or that the matter is out of order.

37.10 Members may not disrupt proceedings by raising points of order that do not comply with this rule.

37.11 When a point of order is raised during debate, the member called to order must resume his or her seat, and after the point of order has been stated to the Chairperson by the member raising it, the member raising the point of order must likewise immediately resume his or her seat when he or she has concluded his or her submission or if the Chairperson asks him or her to do so.

37.12 The Chairperson's ruling on a point of order is final and binding and may not be challenged or questioned in the meeting.

37.13 A member who is aggrieved by a Chairperson's ruling on a point of order may subsequently in writing to the Speaker request that the principle or subject matter of the ruling be referred to the Rules Committee.

37.14 The Rules Committee may deal with the referral as it deems fit: Provided that it must confine itself to the principle underlying or subject matter of the ruling concerned.

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38. Petitions to be written, typed or printed

Petitions, which must be clearly written, typed or printed, must be signed by the petitioner/s and must be couched in respectful language and presented to the office of the Speaker who shall, bring the matter before the Petitions Committee.

39. Reception of Deputations

A deputation wishing to attend a meeting shall not exceed five in number, but only one member thereof shall address the Committee (except in reply to questions from members of the Committee) and only for a period not exceeding ten minutes. The meeting shall not further consider the matter until the deputation shall have withdrawn itself from the meeting.

40. Terms of Reference of AD HOC-Committees

Upon the appointment of any ad hoc-committee, the Council shall specifically determine the terms of reference of such Ad hoc-committee and shall fix the membership and quorum of such Ad hoc-committee.

41. Ward Committees

The Municipal Council must by resolution determine the rules of procedure for the election of Ward Committees, the procedures at meetings, the reporting rules, and the rendering of secretarial services to these Committees.

42. Council may Increase or Restrict Powers

44.3 Chairpersons of Committees must liaise with the Executive Mayor, Speaker and Municipal Manager for the publication of any information relating to a committee and the Municipal Manager shall arrange, if approved, the publication of the relevant information.

44.4 Any member who publishes or discloses or causes to be published or disclosed any document or record of the Council or the proceedings of any Committee of the Council contrary to Rules 44.1, 44.2 and 44.3 above, shall be guilty of an offence.

44.5 The Council may exclude for such period as it may determine, any member who in its opinion is guilty of an offence in terms of Rule 44.4: Provided that such exclusion shall not equal or exceed such period as would result in the vacation of such member's office in terms of item 4(2) of the Code of Conduct for Councillors.

44.6 If a member attends a meeting in contravention of a decision in terms of Rule 44.5 to exclude such member, the Speaker / Chairperson may call upon the Protection Services to remove such member and to take steps to ensure that such member does not return to the meeting.

45. Legal Defence and Indemnification of Councillors and Officers of the Council

45.1 The Council may determine the circumstances in which it will undertake the defence of or pay the legal costs or the total costs and the amount in respect of any legal proceedings, whether civil or criminal, a Councillor or an official may have against any person, body, organization or institution arising from the Councillor's official capacity as a Councillor of the Municipality.

45.2 Section 109A of the Municipal Systems Act, 2000 shall be followed in granting legal representation for Councillors who are faced with litigation as a result of executing municipal functions.

46. Speaker May Refer Matters for Legal Advice

The Speaker shall be entitled to refer any matter pertaining to the Council and its proceedings, for legal opinion to the Municipal Manager.

47. Dress Code

All members are to dress in a manner befitting the dignity and decorum of the Council and Committees, as may further be provided for in guidelines approved by the Rules Committee: Provided that no party symbols may be displayed.

48. Determination of language policy

48.1 The Council must after the local government elections review the language policy of the municipality in terms of Rule 48.2 and, where such policy does not exist, instruct the Municipal Manager to develop a draft policy and submit it to the Council.

48.2 The Council may at any time review and amend its language policy.

48.3 The Council must review its language policy upon receipt of a written request demanding such a review signed by at least one-third of the Councillors.

49. Activities Prohibited within the Council Chamber or a Meeting Venue and the Use of the Council Chamber by Other Persons or Institutions

49.1 The decorum of the council chamber as the official seat of governance of the Municipality shall at all times be respected and adhered to by any person or institution using the facilities.

49.2 The following activities are strictly prohibited from being conducted within the confines of the council chamber or a meeting venue of the council or its Committees by any person:

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49.2.1 Having a cellular telephone that is not on silent mode and speaking on a cellular phone during the meeting;

49.2.2 Consuming any food or drink in his or her possession, excluding water provided at the meeting; and

49.2.3 bring weapons of any kind or dangerous or threatening articles or objects or replicas of any such articles or objects into the Chamber or meeting venue, excluding cultural objects which are not weapons, with the prior approval of the Speaker.

50. Sanctions and Offences

Any person who willfully contravenes any provision of these rules shall be guilty of an offence and shall be subject to the sanctions as provided for and imposed by the Council in terms of the Code of Conduct.

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BUFFALO CITY METROPOLITAN INAUGURAL MEETING: 24 NOVEMBER 2026

File no.3/1/1/3

[Author: City Manager (M. YAWA/a.s.n)]

2 ADMINISTERING OF OATH/ AFFIRMATION

1. PURPOSE

The purpose of this report is to present the taking of oath or affirmation to allow the public representative to swear to serve the community. They shall abide with all the laws, regulations and policies of South Africa and the Republic of South Africa.

2. AUTHORITY

Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 The Constitution of the Republic of South Africa, 1996
3.2 Municipal Systems Act, 1998
3.3 Municipal Structures Act, 1998
3.4 Municipal Finance Management Act of 2003

4. BACKGROUND/REASONING

The undertaking of Oath/Affirmation is important for the public representatives to be focused on their duties, knowing that the laws of the Republic of South Africa are supreme in their duty.

5. EXPOSITION OF FACTS

The Independent Electoral Commission (IEC) declares the elections and mandates the City Manager to undertake the process of swearing-in of Councillors that is undertaken in the Inaugural Council meeting and the oath/affirmation is attached as **Annexure "A"**, for easy reference.

The City Manager invites the Chief Magistrate or his/her representative to administer oath or affirmation.

Councillors will verbally swear or affirm their faithfulness to the Republic of South Africa and obedience to the Constitution of the Republic of South Africa in their language of preference.

6. CHALLENGES

None

7. STAFF IMPLICATIONS

None

8. FINANCIAL IMPLICATIONS

None

9. OTHER PARTIES CONSULTED

Top Management

10. RECOMMENDATIONS

It is recommended that:-

10.1 The Councillors do swear or affirm their faithfulness to the Republic of South Africa and obedience to the Constitution of the Republic of South Africa in the language of their preference, for NOTING.

M. YAWA
CITY MANAGER
A.S.. Naidoo

Enclosures/Annexures:

Annexure "A": Solemn Oath/Affirmation in three (3) languages

ANNEXURE 'A'

BUFFALO CITY
METROPOLITAN MUNICIPALITY

SOLEMN OATH/ISIFUNGO/GESWORE EED

ENGLISH

SOLEMN OATH

I swear that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other laws of the Republic; and I solemnly promise to perform my functions as an elected member of the Buffalo City Metropolitan Council to the best of my ability. **So help me God.**

ISIXHOSA

ISIFUNGO

Ndiyafunga ukuba ndiya kunyaniseka kwiRiphabliki yoMzantsi Afrika, ndiwuthobele, ndiwuhloniphe, ndiwulandele uMgaqo-Siseko nayo yonke eminye imithetho yeRiphabliki; kananjalo ndithembisa ukuyenza ngamandla am ephela yonke imisebenzi yam njengelungu elinyuliweyo likaMasipala ombaxa weBuffalo City Metropolitan Council. **Ndincede Thixo.**

AFRIKAANS

GESWORE EED

Ek verklaar hiermee onder eed dat ek getrou aan die Republiek van Suid-Afrika sal wees en dat ek die Konstitusie en ander wetgewing van die Republiek getrou sal nakom; ek belowe plegtig dat ek alle funksies aan my toegeken as nuutverkose raadslid van die Buffalo City Metropolitaanseraad na die beste van my vermoë sal verrig en nakom. **So help my God.**

Name and Surname _____ **Signature** _____

BUFFALO CITY METROPOLITAN INAUGURAL COUNCIL MEETING:
24 NOVEMBER 2026

File no. 3/1/3/2

[AUTHOR: CITY MANAGER (/M. YAWA/a.s.n)]

3 ELECTION OF THE SPEAKER OF COUNCIL

1. PURPOSE

The purpose of this report is to put into effect the provisions of Section 36 of the Municipal Structures Act No.117 of 1998, which requires the Council to elect a Speaker in the Inaugural Council meeting following the announcement of the results of the Local Government Elections by the Independent Electoral Commission (IEC).

2. AUTHORITY

Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 The Constitution of the Republic of South Africa, 1996
3.2 Municipal Structures Act No. 117 of 1998
3.3 Municipal Systems Act No. 32 of 2000 (As Amended)
3.4 Municipal Finance Management Act 56 of 2003
3.5 By-Law on Standing Rules and Orders for the Council, 2023
3.6 Municipal Electoral Act 27 of 2000

4. BACKGROUND/REASONING

The Independent Electoral Commission (IEC) of South Africa is mandated by law to conduct the electoral process. On 4 November 2026 Local Government Elections were held and the results were declared on 8 November 2026.

When the elections have been announced the Independent Electoral Commission provides the City Manager with the results. It is a requirement that the City Manager to convene a Council Meeting to elect the office bearers within fourteen (14) days.

It is in this regard that the election of the Speaker is required. The election is in line with Municipal Structures Act 117 of 1998, read with Section 36 and Schedule 3.

5. EXPOSITION OF FACTS

The process for electing the Speaker is detailed below:-

The City Manager presides over the election of the Speaker and prepares the nomination forms. He/she will provide to Councillors the acceptance form/s and make sure that there is ballot booth and ballot boxes. ***(The nomination/acceptance form is attached hereto as Annexure "A" for easy reference).***

The City Manager will allow parties in Council to appoint observers (Only if there is more than one (1) candidate nominated) and further appoints the team to oversee the process until the results are announced.

6. CHALLENGES

None

7. STAFF IMPLICATIONS

The process will be undertaken by the Buffalo City Metropolitan Municipality Officials.

8. FINANCIAL IMPLICATIONS

None

9. OTHER PARTIES CONSULTED

9.1 Eastern Cape Department Cooperative Governance and Traditional Affairs (COGTA)
9.2 South African Local Government Association (SALGA) – Eastern Cape
9.3 Electoral Commission of South Africa (IEC)
9.4 Legal Services

10. RECOMMENDATIONS

It is recommended that :-

10.1 Council notes that the election of the Speaker will be conducted in terms of Municipal Structures Act 117 of 1998, read with Section 36 (3).

10.2 In the absence of the City Manager, the Member of the Executive Council (MEC) will designate a person to preside.

M. YAWA
CITY MANAGER
A.S.Naidoo

Annexure "A": Nomination/acceptance form for the election of the Speaker

ANNEXURE 'A'

BUFFALO CITY
METROPOLITAN MUNICIPALITY

NOMINATION FORM FOR ELECTION OF COUNCIL SPEAKER

We, the undersigned members of the Council of Buffalo City Metropolitan Municipality, hereby nominate the following person as a candidate for election as Council Speaker.

(Full name of person nominated in block letters)

First Proposer _____
(Name in block letters)

First Proposer: Signature _____

Second Proposer _____
(Name in block letters)

Second Proposer: Signature _____

I, the abovementioned nominee, do hereby accept/decline the nomination.
(Delete whichever is not applicable)

_____
Signature

BUFFALO CITY METROPOLITAN INAUGURAL COUNCIL MEETING:
24 NOVEMBER 2026

File no. 3/1/3/2

[AUTHOR: CITY MANAGER (M. YAWA/a.s.n)]

4 ELECTION OF THE EXECUTIVE MAYOR

1. PURPOSE

The purpose of this report is to put into effect the provisions of Section 36 of the Municipal Structures Act No.117 of 1998, which requires the Council to elect the Executive Mayor in the Inaugural Council meeting following the announcement of the results of the Local Government Elections by the Independent Electoral Commission (IEC).

2. AUTHORITY

Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 The Constitution of the Republic of South Africa, 1996
3.2 Municipal Structures Act No. 117 of 1998
3.3 Municipal Systems Act No. 32 of 2000 (As Amended)
3.4 Municipal Finance Management Act 56 of 2003
3.5 By-Law on Standing Rules and Orders for the Council, 2023
3.6 Municipal Electoral Act 27 of 2000

4. BACKGROUND/REASONING

The Independent Electoral Commission (IEC) of South Africa is mandated by law to conduct the electoral process. On 4 November 2026 Local Government elections were held and were declared on 8 November 2026.

When the elections have been announced the Independent Electoral Commission provides the City Manager with the results. It is a requirement that the City Manager to convene a Council Meeting to elect the office bearers within fourteen (14) days.

It is in this regard that the election of the Executive Mayor is elected in order to dispense of the delegated functions by Council. The election is in line with Municipal Structures Act 117 of 1998, Section 55.

5. EXPOSITION OF FACTS

The process for electing the Executive Mayor is detailed below:-

The Speaker presides over the election of the Executive Mayor and prepares the nomination forms assisted by the City Manager, provides to Councillors the acceptance form/s and make sure that there is ballot booth and ballot boxes. ***The nomination/acceptance form is attached hereto as Annexure "A" for easy reference).***

The Speaker will allow parties in Council to appoint observers (Only if there is more than one (1) candidate nominated) and further directs the City Manager to oversee the process until the results are announced.

6. CHALLENGES

None

7. STAFF IMPLICATIONS

The process will be undertaken by the Buffalo City Metropolitan Municipality Officials.

8. FINANCIAL IMPLICATIONS

None

9. OTHER PARTIES CONSULTED

9.1 Eastern Cape Department Cooperative Governance and Traditional Affairs (COGTA)

9.2 South African Local Government Association (SALGA) – Eastern Cape

9.3 Electoral Commission of South Africa (IEC)

10. RECOMMENDATIONS

It is recommended that :-

10.1 Council notes that the election of the Executive Mayor will be conducted in terms of Municipal Structures Act 117 of 1998, Section 55, (MSA Schedule 3).

10.2 In the absence of Speaker, the Member of the Executive Council (MEC) will designate a person to preside.

M. YAWA
CITY MANAGER
A.S. Naidoo

Annexure "A": Nomination/acceptance form for the election of the Executive Mayor

ANNEXURE "A"

BUFFALO CITY
METROPOLITAN MUNICIPALITY

NOMINATION FORM FOR ELECTION OF EXECUTIVE MAYOR

We, the undersigned members of the Council of Buffalo City Metropolitan Municipality, hereby nominate the following person as a candidate for election as Executive Mayor.

(Full name of person nominated in block letters)

First Proposer _____
(Name in block letters)

First Proposer: Signature _____

Second Proposer _____
(Name in block letters)

Second Proposer: Signature _____

I, the abovementioned nominee, do hereby accept/decline the nomination.
(Delete whichever is not applicable)

_____
Signature

BUFFALO CITY METROPOLITAN INAUGURAL COUNCIL MEETING:
24 NOVEMBER 2026

File no. 3/1/3/2

[AUTHOR: CITY MANAGER (M. YAWA/a.s.n)]

5 ELECTION OF THE DEPUTY EXECUTIVE MAYOR

1. PURPOSE

The purpose of this report is to put into effect the provisions of Section 36 of the Municipal Structures Act No.117 of 1998, which requires the Council to elect the Deputy Executive Mayor in the Inaugural Council meeting following the announcement of the results of the Local Government Elections by the Independent Electoral Commission (IEC).

2. AUTHORITY

Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 The Constitution of the Republic of South Africa, 1996
3.2 Municipal Structures Act No. 117 of 1998
3.3 Municipal Systems Act No. 32 of 2000 (As Amended)
3.4 Municipal Finance Management Act 56 of 2003
3.5 By-Law on Standing Rules and Orders for the Council, 2023
3.6 Municipal Electoral Act 27 of 2000

4. BACKGROUND/REASONING

The Independent Electoral Commission (IEC) of South Africa is mandated by law to conduct the electoral process. On 4 November 2026 Local Government Elections were held and results were declared on 8 November 2026. When the elections have been announced the Independent Electoral Commission provides the City Manager with the results. It is a requirement that the City Manager to convene a Council Meeting to elect the office bearers within fourteen (14) days.

It is in this regard that the election of the Deputy Executive Mayor as provided in the Section 12 Notice is required. The election is in line with Municipal Structures Act 117 of 1998, Section 55.

5. EXPOSITION OF FACTS

The process for electing the Deputy Executive Mayor is detailed below:-

The Speaker presides over the election of the Deputy Executive Mayor and prepares the nomination forms assisted by the City Manager, provides to Councillors the acceptance form/s and make sure that there is ballot booth and ballot boxes. (***The nomination/acceptance form is attached hereto as Annexure "A" for easy reference)***

The Speaker will allow parties in Council to appoint observers (Only if there is more than one (1) candidate nominated) and further directs the City Manager to oversee the process until the results are announced.

6. CHALLENGES

None.

7. STAFF IMPLICATIONS

The process will be undertaken by the Buffalo City Metropolitan Municipality Officials.

8. FINANCIAL IMPLICATIONS

None

9. OTHER PARTIES CONSULTED

9.1 Eastern Cape Department Cooperative Governance and Traditional Affairs (COGTA)

9.2 South African Local Government Association (SALGA) – Eastern Cape

9.3 Electoral Commission of South Africa (IEC)

10. RECOMMENDATIONS

It is recommended that :-

10.1 Council notes that the election of the Deputy Executive Mayor will be conducted in terms of Municipal Structures Act 117 of 1998, Section 55 (Section 12 Notice aligned).

10.2 In the absence of Speaker, the Member of the Executive Council (MEC) will designate a person to preside over the election process.

M. YAWA

CITY MANAGER

A.S. Naidoo

Annexure "A": Nomination/acceptance form for the election of the Deputy Executive Mayor

ANNEXURE "A"

BUFFALO CITY
METROPOLITAN MUNICIPALITY

NOMINATION FORM FOR ELECTION OF DEPUTY EXECUTIVE MAYOR

We, the undersigned members of the Council of Buffalo City Metropolitan Municipality, hereby nominate the following person as a candidate for election as Deputy Executive Mayor.

(Full name of person nominated in block letters)

First Proposer _____
(Name in block letters)

First Proposer: Signature _____

Second Proposer _____
(Name in block letters)

Second Proposer: Signature _____

I, the abovementioned nominee, do hereby accept/decline the nomination.
(Delete whichever is not applicable)

_____
Signature

BUFFALO CITY METROPOLITAN INAUGURAL COUNCIL MEETING:
24 NOVEMBER 2026

File no. 3/1/3/2

[AUTHOR: CITY MANAGER (M. YAWA/a.s.n]

6 ELECTION OF THE WHIP OF COUNCIL

1. PURPOSE

The purpose of this report is to put into effect the provisions of Section 36 of the Municipal Structures Act No.117 of 1998, which requires the Council to elect the Whip of Council in the Inaugural Council meeting following the announcement of the results of the Local Government Elections by the Independent Electoral Commission (IEC).

2. AUTHORITY

Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 The Constitution of the Republic of South Africa, 1996
3.2 Municipal Structures Act No. 117 of 1998
3.3 Municipal Systems Act No. 32 of 2000 (As Amended)
3.4 Municipal Finance Management Act 56 of 2003
3.5 By-Law on Standing Rules and Orders for the Council, 2023
3.6 Municipal Electoral Act 27 of 2000

4. BACKGROUND/REASONING

The Independent Electoral Commission (IEC) of South Africa is mandated by law to conduct the electoral process. On 4 November 2026 Local Government Elections were held and were declared on 8 November 2026. When the elections have been announced the Independent Electoral Commission provides the City Manager with the results. It is a requirement that the City Manager to convene a Council Meeting to elect the office bearers within fourteen (14) days.

It is in this regard that the election of the Whip of Council is required. The election is in line with Municipal Structures Act 117 of 1998, Section 12 Notice.

5. EXPOSITION OF FACTS

The process for electing the Whip of Council is detailed below:-

The Speaker shall preside over the election of the Whip of Council and allow the Council to decide to elect by a show of hands or secret ballot and that in the case of the secret ballot, the Speaker shall direct the City Manager to prepare the nomination form/s and provides to Councillors the acceptance form/s. (***The nomination/acceptance form is attached hereto as Annexure "A" for easy reference).***

He/she must make sure that there is ballot booth and ballot boxes, allow parties in Council to appoint observers (Only if there is more than one (1) candidate nominated) and appoint the team to oversee the process until the results are announced.

6. CHALLENGES

None

7. STAFF IMPLICATIONS

The process will be undertaken by the Buffalo City Metropolitan Municipality Officials.

8. FINANCIAL IMPLICATIONS

None

9. OTHER PARTIES CONSULTED

9.1 Eastern Cape Department Cooperative Governance and Traditional Affairs (COGTA)

9.2 South African Local Government Association (SALGA) – Eastern Cape

9.3 Electoral Commission of South Africa (IEC)

10. RECOMMENDATIONS

It is recommended that :-

10.1 Council notes that the election of the Whip of Council will be conducted in terms of Municipal Structures Act 117 of 1998, read with Section 12 Notice.

10.2 In the absence of Speaker, the Member of the Executive Council (MEC) will designate a person to preside.

M. YAWA

CITY MANAGER

A.S.Naidoo

Annexure "A": Nomination/acceptance form for the election of the Whip of the Council

ANNEXURE 'A'

BUFFALO CITY
METROPOLITAN MUNICIPALITY

NOMINATION FORM FOR ELECTION OF CHIEF WHIP OF THE COUNCIL

We, the undersigned members of the Council of Buffalo City Metropolitan Municipality, hereby nominate the following person as a candidate for election as Chief Whip of the Council.

(Full name of person nominated in block letters)

First Proposer _____
(Name in block letters)

First Proposer: Signature _____

Second Proposer _____
(Name in block letters)

Second Proposer: Signature _____

I, the abovementioned nominee, do hereby accept/decline the nomination.
(Delete whichever is not applicable)

_____
Signature

REPORT TO COUNCIL: 24 NOVEMBER 2026

File No.4/3/3

[Author: City Manager – (M.Yawa)/mz]

7 GUIDELINES FOR STABLE COALITION IN LOCAL GOVERNMENT

1. PURPOSE

To present the guidelines for stable coalition in Local Government as published by the Minister for Cooperative Governance and Traditional Affairs for approval.

2. AUTHORITY

Council

3. LEGAL/STATUTORY REQUIREMENTS

3.1 Constitution of the Republic of South Africa, 1996
3.2 Local Government: Municipal Structures Act, 1998
3.3 Standard Rules and Orders for Council
3.4 Local Government: Municipal Systems Act, 32 of 2000

4. BACKGROUND

In the final analysis, the 2026 electoral outcome in Buffalo City Metropolitan Municipality should be understood as a change in the representative composition of the municipal council, rather than a change in the constitutional status or legal mandate of the municipality. The emergence of a hung council creates the need for political cooperation to facilitate the effective functioning of the municipal institution. However, the legitimacy of any resulting governing arrangement will depend upon compliance with constitutional and statutory requirements, respect for the institutional authority of the municipal council, adherence to the principles of financial and administrative accountability and the continued fulfilment of the municipality's developmental obligations.

A coalition agreement, if concluded, should consequently be regarded as a supplementary political governance instrument operating within, and subordinate to, the constitutional and legislative framework of local government. Its principal value would lie in providing predictability in inter-party relations, establishing mechanisms for political coordination and promoting continuity in municipal governance. It cannot, however, replace the authority of the municipal council, diminish the oversight responsibilities of councillors or exempt any political office-bearer or municipal institution from compliance with applicable law.

The overriding consideration must therefore remain the preservation of constitutional local government and the uninterrupted discharge of municipal responsibilities in the interests of the residents of Buffalo City. The political composition of the council may change following every electoral cycle, but the municipality's constitutional obligations, statutory duties and responsibility to provide accountable and sustainable municipal services remain constant.

5. EXPOSITION OF FACTS

The Minister for Local Government and Traditional Affairs on the 10th of November 2026 in terms of the guidelines attached herein, a political party hold majority of seats in Municipal Council, parties may explore where applicable a coalition or other lawful governing arrangement.

It is the aim of the attached guidelines to assist coalition government in council to provide stable and effective leadership resulting in a more administration, and effective administration and better service delivery.

The guidelines contain:-

- Mechanism for political collaboration and definitions of key concepts.
- A brief outline of key legal aspects surrounding coalitions.
- Guidance on how to ensure administrative continuity: and
- Guidance on leadership to ensure administrative continuity, and what support the provincial government can provide.

In terms of these guidelines coalition partners are encouraged to conclude a written political agreement setting out priorities, decision-making arrangements, standard of conduct and procedures re-disputes.

Such a template for coalition agreements is attached as part of these guidelines.

6. CHALLENGES

None.

7. STAFF IMPLICATIONS

None.

8. FINANCIAL IMPLICATIONS

None.

9. OTHER PARTIES CONSULTED

None.

10. RECOMMENDATION

It is recommended that:

10.1. Council approves the guidelines for stable coalition in Local Government as published by the Minister for Cooperative Governance and Traditional Affairs.

MXOLISI YAWA
CITY MANAGER
Mlamli Zenzile

Annexure "A": Guidelines for stable coalition in Local Government

ANNEXURE "A"

MINISTRY
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

TO ALL:

- MECs responsible for local government in the provinces;
- President of SALGA; and
- Mayors / Executive Mayors.

GUIDELINES FOR STABLE COALITIONS IN LOCAL GOVERNMENT

The Local Government Elections held on 4 November 2026 have confirmed that coalition governance is a significant feature of South Africa's local government system.

Approximately 138 metropolitan and local municipalities, representing about 65% of councils, did not produce an outright majority for a single political party and will therefore require coalition, minority-government or other cooperative governing arrangements. The increasing prevalence of these arrangements requires municipalities and provinces to be equipped to manage coalition governance in a manner that promotes stability, accountability and service delivery.

Experience has shown that prolonged instability in coalition governments can negatively affect municipal governance, delay decision-making, disrupt administration and ultimately undermine service delivery to communities. The attached Guidelines have accordingly been developed to support stable and effective local government where no party enjoys an outright majority in council.

The Guidelines provide practical, non-binding guidance on coalition governance, coalition agreements, legal requirements, dispute resolution, administrative continuity and the role of provincial support. The Constitution, applicable legislation and lawful municipal instruments remain determinative.

The Department developed these Guidelines drawing on lessons from coalition governance across municipalities, previous work undertaken by leading local government scholars and institutions, as well as inputs received from provincial governments, the SALGA and other stakeholders. I wish to thank all those who contributed to the development of this important resource.

Given the current post-election period, I wish to draw particular attention to the statutory timeframes governing the constitution of municipal councils.

For metropolitan and local municipalities, the first council meeting must be convened within 14 days after publication of the *Government Gazette* notice naming the elected councillors. Local municipalities must further appoint their district council representatives within the applicable statutory period, after which the first meeting of the district council must be convened within 14 days. Coalition negotiations do not suspend or extend these statutory requirements.

I request MECs and Provincial Departments responsible for local government to:

- distribute the Guidelines to all municipalities in their provinces;
- support municipalities in applying the Guidelines;
- monitor compliance with applicable statutory timeframes and requirements; and
- provide early support where instability or delays may place the effective functioning of a municipality at risk.

Stable municipalities are fundamental to democratic local governance and service delivery. These Guidelines are intended to assist municipalities and provinces in navigating coalition governance while ensuring that political transitions do not undermine the delivery of services to communities.

Enquiries in relation to these Guidelines may be directed to the following officials in the Department:

Dr Kevin Naidoo **Deputy Director-General: Policy, Governance & Administration**	**Telephone: 0123954616** **E-mail:** kevin@cogta.gov.za
Adv Marna Dunkle-Kock **Chief Director: Municipal Governance**	**Telephone: 0123340600** **E-mail:** marnak@cogta.gov.za

Yours sincerely,

MR VELENKOSINI HLABISA, MP
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
DATE: 11/11/2026

C.C.: Chairperson: Portfolio Committee on Cooperative Governance and Traditional Affairs.

Chairperson: Selection Committee in the NCOP responsible for Cooperative Governance and Public Administration.



MINISTRY
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

GUIDELINES

FOR

STABLE COALITIONS

IN LOCAL GOVERNMENT

10 NOVEMBER 2026

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1 PURPOSE OF GUIDELINES FOR STABLE COALITIONS IN LOCAL GOVERNMENT

1.1 Introduction

Where no political party holds a majority of seats in a municipal council, parties and independent ward councillors, where applicable, may explore a coalition or other lawful governing arrangements. Coalition partners work together to support a governing arrangement in the council.

In the past, coalition government has often led to poor government when these governments tended to be unstable: the power relations between parties in a coalition change, leading to the frequent, and sometimes opportunistic, removal and election of speakers and mayors. Moreover, electing officials or filling vacancies may drag on for a lengthy period, thus creating a power vacuum. A dysfunctional council inevitably affects the operations of the administration, which, in turn, negatively impacts on service delivery. In the end residents suffer.

The Coalition Government Guidelines aim to assist coalition governments in councils to provide stable and effective leadership, resulting in a more effective administration, and, in the end, better service delivery.

Status and application of these Guidelines

These Guidelines provide non-binding guidance to municipalities, provinces, political parties and other stakeholders. The Constitution, applicable legislation and lawful municipal instruments govern municipal decisions. These Guidelines distinguish current legal requirements, proposed reforms and recommended practice.

The Local Government: Municipal Structures Amendment Bill, 2026 (B23–2026), was submitted to Parliament on 7 August 2026. References to the Bill are for information and planning. Its proposals may be applied as statutory requirements only if enacted and brought into operation. The Department will review these Guidelines against any enacted amendments.

National government provides policy guidance and support. Provinces retain their constitutional monitoring and support responsibilities, and municipalities exercise their legislative and executive authority in accordance with applicable law.

1.2 The impact of coalition instability on the municipal administration

The proper functioning of municipal administrations depends on regular decision-making by the municipal executive and the municipal council. This relates to fundamental policies such as the Integrated Development Plan (IDP) and the annual budget without which the administration cannot function. It also relates to by-laws, policies and a multitude of council decisions, required for the proper operation of the administration, such as the appointment of senior managers, approval of projects etc.

In a stable coalition there is regular and predictable decision-making. Changes in the political leadership may occur, but coalition instability may be short-lived, for example when an executive mayor or speaker vacates office and a replacement is quickly elected. In that case, there is not necessarily a negative impact on the administration.

Coalition instability is present when it takes long for the council to elect new office-bearers, or for the council to have a properly constituted meeting, or for a majority to form behind a proposed budget. Coalition instability can also persist in that the same scenario repeats itself: office-bearers are elected but then voted out of office again shortly thereafter. This is when coalition instability starts negatively affecting the municipal administration.

The most common impact is the slowing down, or even complete halting of decision-making by the municipal executive or the council. Another consequence is the decline in staff morale. Low staff morale leads to low productivity as administrators fear that acting during such periods may threaten their job security. The worst impact of coalition instability is the possibility of malfeasance, i.e. fraud and corruption. When all eyes are on who is going to be the new executive mayor, or speaker, there are fewer eyes on the till.

1.3 These Guidelines

These Guidelines are meant to assist municipalities in dealing with the scenario where there is no single party with a majority in the council. If there is no single party with a majority, some coalition instability may be inevitable. It is also not inherently problematic or anti-democratic when the governing majority changes: that is politics. However, it must not have the abovementioned debilitating impact on the municipal administration.

The Guidelines are not only aimed at municipalities that already operate under a coalition government. They are also aimed to guide those that currently operate with an outright majority in the council, because general elections or by-elections can produce a council without an outright majority in any municipality, and the need for coalitions may thus arise in any municipality.

The Guidelines contain –

- mechanisms for political collaboration and definitions of key concepts;
- a brief outline of key legal aspects surrounding coalitions;
- guidance on how to ensure administrative continuity; and
- guidance on leadership to ensure administrative continuity, and what support the provincial government can provide.

2 MECHANISMS FOR POLITICAL COLLABORATION

2.1 Introduction

Coalitions are about collaboration between political parties and, where applicable, independent councillors, represented on a municipal council. This can take place in many different ways and there is no blueprint. However, below are a few common examples.

2.2 Mechanisms for collaboration before the elections

Two or more political parties can enter into a pre-election coalition agreement before the elections. The collaboration could deal with issues such as –

- joint campaigning on a common multi-party manifesto;
- agreeing to support each other's ward candidates; or
- publicly committing to work together after the elections.

2.3 Mechanisms for collaboration after the elections

Usually, political collaboration between parties (or councillors) represented on a municipal council emerges after the elections, when it appears that no single party won an outright majority. Again, there is no blueprint but this collaboration can take different forms.

Two or more parties may enter into a coalition agreement for a single municipality. The coalition agreement then determines a joint programme of action for the municipality and distributes municipal office-bearers among the coalition partners). For local municipalities it may also deal with the distribution of district representatives.

A coalition agreement can also apply to multiple municipalities. Two or more parties could enter into an agreement nationally, provincially or regionally in which they commit to working together in multiple municipal councils. The implementation of this agreement depends on each municipal council taking decisions in line with the agreement.

3 PRINCIPLES AND DEFINITIONS

3.1 Principles for coalitions in municipalities

The following principles are not negotiable:

- coalition agreements record political support for nominations without substituting for statutory election or appointment processes;
- decisions of coalition political structures are clearly distinguished from decisions of the municipal council, municipal executive or other statutory functionaries;
- publication of a coalition agreement is expressly for transparency and does not convert the agreement into a municipal legal instrument

3.2 Coalitions

A **coalition government** is when two or more political parties or independent councillors agree to cooperate to govern together as a coalition government. Practically, this means they agree to vote together on the election of municipal office-bearers (such as the executive mayor, the speaker etc.) but also on policies and by-laws (such as the Integrated Development Plan, the budget, by-laws etc).

Different forms of coalition government are possible and some are listed below. This classification has no legal consequences but is useful to distinguish one practice from another.

A **bare-majority coalition** is when the parties in the coalition occupy just enough council seats for a majority. These coalitions are vulnerable because the loss of one or two seats (as a result of a by-election or a party pulling out of the coalition) can signal the end of the coalition.

A so-called **grand coalition** is when the parties in the coalition (often from opposing ends of the political spectrum) make up a coalition with a 'comfortable' majority, i.e. well above the 50% + 1 council seat threshold. A grand coalition comprises more political parties and interests than is required for a majority. These coalitions tend to be more stable because the loss of one or two seats, or the withdrawal of one of the coalition partners does not always necessarily signal the end of the coalition.

A **government of national unity** is when political parties from all across the political spectrum work together to form a government.

A **minority government** is when the parties making up the coalition do not have enough seats for a majority in the council. This means that, at every council meeting, the coalition needs additional support from one or more councillors or parties to obtain a majority decision to have resolutions passed (on matters such as appointing office-bearers, adopting the budget, by-laws, or senior management appointments). This supplementary or additional support is likely to be on a case-by-case basis and it is not guaranteed. This type of arrangement is often referred to as a confidence-and-supply form of coalition. It is a more informal type of coalition.

3.2 Coalition instability

These Guideline loosely refers to 'coalition instability', which can happen in different ways.

For example,
- the council may have voted the (executive) mayor and/or the speaker out of office;
- the (executive) mayor, the speaker, or another office-bearer has resigned;
- the outcome(s) of a by-election(s) has affected the majority in council;
- the council is not meeting and key decisions not being taken; and/or
- there are indications that key proposals such as the IDP or the budget will not be passed.

In essence 'coalition instability' refers to any political development in the governing coalition that suspends the day-to-day political decision-making, be it in the municipal executive (i.e. the executive mayor and the mayoral committee) or the council.

3.3 Municipal office-bearers

These Guidelines use the term 'municipal office-bearers' and they are defined in the legislation as the Executive Mayor, The Deputy Executive Mayor, the Speaker, members of the Executive Committee, the mayor and the Whip. For the purposes of this Guideline, the Members of the Mayoral Committee are also included in this definition.

3.4 Municipal executive

When this Guideline refers to the 'municipal executive' it means the –
- executive mayor and the mayoral committee; or
- mayor and the executive committee.

4 KEY LEGAL ASPECTS SURROUNDING COALITIONS

4.1 Introduction

What follows is an outline of key legal aspects surrounding coalitions. While the outline covers the most important aspects, it can never cover every possible scenario. It should also not be interpreted as legal advice, but rather as general guidance. When there is uncertainty with respect to legal issues or interpretation, it is best to seek legal advice.

4.2 Election of the speaker

The council elects one of its members as the speaker. The procedure for the election of a speaker is set out in Schedule 3 of the Local Government: Municipal Structures Act (Act 117 of 1998). The election is chaired by the municipal manager. The functions of the speaker are set out in the Municipal Structures Act and in the municipality's Terms of Reference and System of Delegations.

The position of the speaker can be critically important in a 'bare majority' coalition. When the votes in the council are tied, the speaker may often exercise a casting vote to settle the matter, as per the legislation or the municipalities Rules and Orders.

4.3 Executive systems

There are two different executive systems in local government.

4.3.1 Executive mayor

Most municipalities have an executive mayor who is elected by the council by simple majority (see the procedure in Schedule 3 of the Municipal Structures Act). The executive mayor appoints the members of the mayoral committee from among the councillors. In a coalition environment, this means that the coalition 'decides' on the composition of the mayoral committee.

When the executive mayor vacates office, the members of the mayoral committee automatically vacate office.

4.3.2 Executive committee

Some municipalities have an executive committee. This is a committee, elected by the council which broadly represents the political composition of the council. The executive committee is chaired by the mayor, who is elected by the council by simple majority (see the procedure in Schedule 3 of the Municipal Structures Act).

The composition of the executive committee is determined in accordance with the provisions of the Municipal Structures Act. Most (but not all) parties represented on the council will be represented on the executive committee. In a coalition environment, this means that –

- the coalition must adhere to the formula in deciding on the composition of the executive committee; and
- both the coalition and the opposition will be represented on the executive committee.

If a party is entitled to seats on the executive committee (as a result of the formula), it may 'donate' one or more of those seats to another party or councillor. This can be an important part of coalition negotiations. It is a mechanism to bring parties or councillors into the executive committee that would otherwise not have seats there. However, doing this does not reduce the number of seats for opposition parties.

A key difference with the executive mayoral system is that when the mayor vacates office, the other members of the executive committee remain. Furthermore, the council may remove the mayor from office but it may also remove individual members of the executive committee from office.

4.3.3 Who decides

The executive system is contained in the municipality's so-called Section 12 establishment notice. The MEC for local government may change a municipality's executive system but only after consulting the affected municipality and stakeholders. In doing so, the MEC must adhere to the Municipal Structures Act, and also to applicable provincial legislation.

The process to amend the Section 12 Notice is set out in section 8.

4.4 Election of the executive mayor and whip

The council elects one of its members as the municipality's executive mayor. The procedure for the election of an executive mayor is set out in Schedule 3 of the Municipal Structures Act. The election is chaired by the speaker. The same applies to the election of a whip.

4.5 Deputy executive mayor

Municipalities are permitted to also elect a deputy executive mayor or a deputy mayor. Whether or not a municipality may do so is determined by the provincial MEC responsible for Local Government.

4.6 Secret ballot

Where more than one candidate is nominated in an election governed by Schedule 3 to the Municipal Structures Act, councillors vote by secret ballot. The presiding officer must apply the procedures in that Schedule.

4.7 Mayoral committee

The executive mayor appoints councillors as members of the mayoral committee. This is not an election, but the executive mayor's prerogative. The members of the mayoral committee report to the executive mayor. Furthermore, they each chair a committee of councillors, called a 'section 80 committee'. The executive mayor may decide to appoint councillors of coalition partners onto the mayoral committee. In a coalition scenario, the composition of the mayoral committee is 'politically' determined by the coalition (and recorded in the coalition agreement), but legally decided by the executive mayor.

4.8 Motions of no-confidence

A council considering removal of an office-bearer must apply the statutory provision for that office, the applicable voting and notice requirements, and its lawful rules and orders. The offices covered by removal provisions include:

- the speaker;
- the executive mayor and deputy executive mayor;
- the mayor and deputy mayor;
- a member of the executive committee (where applicable); and
- the whip.

Removal from office under these provisions leaves the person's council membership subject to the separate rules governing that membership. Follow the prior notice and procedural requirements applicable to the office and the motion.

Assess the lawfulness of each motion and resolution against the applicable legislation and rules and orders.

Proposed reform in B23–2026 for information and planning only The Bill proposes that council may choose a show of hands or a secret ballot for specified removal resolutions. It also proposes written notice and time to respond, a restriction on repeat notices within a 12-month period and specified exceptions to that restriction. The provisions applicable to each office are set out in the Bill.

4.9 Other ways for office-bearers to vacate office

The office-bearers mentioned above, also vacate office when they resign from their office. They then continue as councillors.

Finally, they vacate office when they are no longer a councillor, for example when they –

- resign as a councillor;
- pass away;
- are no longer legally qualified to be a councillor (e.g. insolvency, prison term etc);
- are no longer members of the party they represented in the council; or
- are removed from the council by the provincial MEC responsible for local government for violating the Code of Conduct.

Any of the above reasons can be the result of coalition instability, or it can trigger coalition instability.

4.10 Dissolution of the mayoral committee

When the executive mayor vacates office for any of the reasons mentioned above, the mayoral committee automatically dissolves. This is because the mayoral committee is a committee of the executive mayor, and not a committee of the council.

4.11 Deputy executive mayor

Some municipalities have a deputy executive mayor. They assumes the functions of the executive mayor when the executive mayor vacates office. This ensures that someone immediately fills the vacuum of the executive mayor.

However, the deputy executive mayor is not permitted to appoint new mayoral committee members.

4.12 Continuity of statutory functions

If a municipality does not have a mayor, the council must designate a councillor under section 57 of the Municipal Finance Management Act (MFMA) to exercise the powers and duties assigned to a mayor under that Act. This designation is confined to MFMA functions. The office of mayor or executive mayor is filled under the Municipal Structures Act.

Section 59 of the MFMA separately permits written delegations of MFMA mayoral powers and duties to the persons specified in that section, subject to its conditions. Under section 41 of the Municipal Structures Act, council must elect another councillor to act as speaker when the speaker is absent, unavailable to perform the functions of office or the office is vacant.

4.13 Electing representatives to the district council

Local councils elect their district representatives at the first local council meeting through the IEC-managed process in Schedule 2 to the Municipal Structures Act. Under section 23(4), each local council must appoint its representatives within 14 days after the result of its own election is declared. Schedule the first meeting in time to meet that deadline. The applicable Schedule 2 procedure also governs vacancies in the local council's district delegation.

4.14 Time limits

Political parties should begin coalition negotiations early and plan them around the statutory timetable applicable after an election or when a vacancy arises.

4.14.1 After a general election

Under the current legislative framework, the following deadlines apply after a general election.

- For metro and local councils, the municipal manager, or the MEC's designee in the municipal manager's absence, must call the first council meeting within 14 days after publication of the Government Gazette notice naming the elected councillors. See sections 1 and 29(2) of the Municipal Structures Act.
- Local councils first appoint their district representatives within the separate section 23(4) period described in section 4.13. A district council's first meeting must then be called within 14 days after all required local council representatives have been appointed, under section 29(2).

Proposed reform in B23–2026 for information and planning only The Bill proposes extending the applicable periods under sections 23(4), 29(2), 45 and 55 of the Municipal Structures Act from 14 to 30 days.

Apply section 4 of the Interpretation Act, 1957, to calculate each period. Exclude the triggering day, include the last day and count calendar days. If the last day is a Sunday or public holiday, the final day is the next day that is neither.

Council must elect its speaker at its first sitting under section 36(2). Sections 45 and 55 prescribe separate deadlines for the applicable executive meeting. Section 48 governs election of the mayor in a collective executive system. Coalition partners may agree whom they intend to nominate or support, subject to the statutory election procedures.

4.14.2 After the collapse of a coalition: electing office-bearers

If a coalition collapses and a vacancy arises, apply the current provisions for the particular office and the applicable council meeting rules. A special meeting may be convened where appropriate, including on a request by a majority of councillors under section 29(1).

Proposed reform in B23–2026 for information and planning only
The Bill proposes 14 days to elect a new speaker after a vacancy during the term and 14 days to elect an executive mayor after the incumbent vacates office.

Importantly, the election of office-bearers must happen at a properly constituted council meeting. In other words, all the provisions in the council's Rules and Orders must be followed, relating to the convening of the meeting, giving notice and other legislated requirements. A hastily convened, 'informal' meeting is not legally capable of electing office-bearers, even if there are sufficient councillors to form a quorum.

4.14.3 After the collapse of a coalition: appointing mayoral committee members
When the executive mayor vacates office, the mayoral committee is dissolved under section 60(5). A newly elected executive mayor must appoint a mayoral committee where section 60(1) applies. Prompt appointment is recommended for administrative continuity.

Proposed reform in B23–2026 for information and planning only
The Bill proposes that the newly elected executive mayor appoint a mayoral committee within 14 days of taking office.

4.14.4 What to do when coalition negotiations take longer?
Coalition negotiations should proceed within the applicable municipal timetable. Municipalities must comply with statutory requirements for meetings, elections and appointments while negotiations continue.

A request by a majority of councillors to convene a council meeting must be dealt with under section 29(1) of the Municipal Structures Act.

If a required meeting or election cannot proceed, the municipality should record the reasons, seek legal advice and promptly request provincial support. Under section 139(1) of the Constitution, the relevant provincial executive may consider an appropriate intervention where a municipality cannot or does not fulfil an executive obligation imposed by the Constitution or legislation. Dissolution under section 139(1)(c) requires exceptional circumstances and compliance with the applicable constitutional procedures.

The speaker must ensure that council meets at least quarterly under section 37(c). Applicable rules and orders also govern the frequency and procedure of council meetings.

4.15 Coalition agreement

Coalition partners are encouraged to conclude a written political agreement setting out shared priorities, decision-making arrangements, standards of conduct and procedures for resolving disputes.

4.15.1 What coalition agreements should (and should not) deal with
Coalition agreements should deal with the -

- general structure of the coalition;
- policy priorities agreed to by the coalition partners;
- allocation of political positions, i.e. municipal office-bearers;
- decision-making and consultation procedures within the coalition;
- dispute resolution mechanisms; and

- general rules of coalition behaviour.

A coalition agreement must respect the distinction between political governance and professional administration. Parties should leave administrative appointments, procurement, tender awards and other decisions assigned by law to the administration or another authorised functionary to the lawful decision-maker.

See Section 7 for a template of a coalition agreement.

4.15.2 Dispute resolution
Coalition partners should provide for early notification, internal escalation, reasonable resolution timelines and mediation or independent facilitation where appropriate. Municipal councils, office-bearers and administrations must continue to fulfil their constitutional and statutory duties during a coalition dispute.

Dispute resolution arrangements can take many forms, and coalition partners will decide on a structure or mechanism that works best for their context. It is recommended to provide for a dispute resolution committee in the coalition agreement. The dispute resolution committee can comprise senior (national or provincial) leaders of the parties involved in the coalition. Its main function will then be to resolve those disputes, which the coalition partners are unable to resolve themselves at local level.

4.15.3 Coalition agreements are not the same as municipal policy or law
A coalition agreement records political commitments. Municipal policy, budgets, by-laws and resolutions take effect through the applicable statutory processes. A change of coalition leaves the approved IDP, budget, service delivery and budget implementation plan, lawful contracts and council resolutions in effect until they are lawfully amended or otherwise cease to apply.

Coalition partners may advance agreed priorities through the lawful municipal processes for adopting or amending the relevant instruments. Decisions reserved by law for the council or another authorised functionary must be taken by that body or functionary.

4.15.4 Coalition agreements in collective executive municipalities
A written agreement can help coalition partners coordinate priorities, budgets and political support in a collective executive municipality. Apply the statutory rules on proportional representation and executive committee membership and the applicable election procedures for office-bearers.

4.16 Allocation of political responsibilities within a coalition

It is not advisable to allocate the most powerful positions, such as the position of executive mayor or mayor to the smallest parties (or independent councillors) in the coalition. While this practice is not illegal, and while it may work in exceptional circumstances, it goes against what the voters intended. Furthermore, past experience shows that it very often does not result in a sustainable coalition or effective government.

This does not mean that the smaller partners in the coalition cannot be allocated political responsibilities for their willingness to join the coalition. However, coalition partners must be responsible when smaller parties are allocated responsibilities. Instead of allocating the most powerful political positions in the municipality, coalition negotiators must consider other ways

to include smaller coalition partners, such as a portfolio seat in the municipal executive, the position as chairperson of a section 79 committee or a subcouncil, where applicable.

5 HOW TO ENSURE ADMINISTRATIVE CONTINUITY

5.1 Introduction

When there is no outright majority in the municipal council, coalition instability may happen. Once there is coalition instability, the executive and administrative leadership of the municipality – and, if need be, assisted by the MEC responsible for local government - must manage the instability within the parameters of the legislation.

This section deals with how the municipality can prepare itself for coalition instability.

5.2 Constitutional background

The Constitution gives the municipality considerable authority to regulate its own affairs. For example, the municipality determines –

- the rules for how council and committee meetings are conducted;
- the mandate of each council committee and committee;
- the structure of the administration;
- the mandates and reporting lines of senior managers; and
- a range of other policies, standard operating procedures etc.

The municipality can use that authority to make itself more 'coalition resilient'. This is an important part of a municipality's preparedness for a scenario when there is no outright majority. Several documents and processes are discussed below, starting with the rules of order, the terms of reference and delegations.

5.3 Rules of order

5.3.1 Introduction and importance

A coalition government officially 'comes into effect' when the councillors of the coalition vote together in a council meeting to elect office-bearers (executive mayor, speaker, chief whip etc.). One way in which it 'ends' is when the council adopts a motion to remove one or more office-bearers who are part of the coalition, i.e. a motion of no-confidence. When an office-bearer resigns (which can be as a result of coalition instability), the election of a replacement will also be a critical moment for the coalition. Furthermore, the adoption of an IDP, budget, major policy or by-law can be big moments in the lifespan of a coalition and can 'make or break' a coalition.

All these decisions are made in council meetings, conducted in accordance with the municipality's rules of order (or rules and orders). The council itself adopts these rules, and it may change them. Usually, they are adopted as a by-law, sometimes just as rules of order. The MEC responsible for local government may make a template ('standard rules of order') available, which the municipality may change to fit its own situation, and adopt.

5.3.2 Motions of no-confidence and election of office-bearers

The municipality's rules of order thus also determine the rules for tabling and voting on a motion of no-confidence. The election of office-bearers is regulated in Schedule 3 of the

Municipal Structures Act but the rules of order will determine how the council meeting is conducted.

Frequent motions of no-confidence are very destabilising for the municipality. On the other hand, a properly adopted motion of no-confidence expresses the will of the democratically elected majority in the council. A balance must be found between those two realities.

5.3.3 What can the municipality do?
Every municipal council should revisit its rules of order and ask the question: "can we improve these rules to make us more 'coalition-resilient'? Are there aspects in the rules of order that can be amended to avoid the abuse of motions of no-confidence?"

Councils considering changes to their rules of order should obtain legal advice on whether any proposed procedural or substantive condition is compatible with the statutory removal power and other applicable law.

5.3.4 Minimising how long a position is vacant
It is especially destabilising when an office-bearer (such as the executive mayor) is removed from office and the position remains vacant for a long time. For as long as the position of executive mayor is vacant, there is no mayoral committee.

Council should address a vacancy promptly, applying the statutory requirements for the particular office and any lawful scheduling provisions in its rules of order.

Schedule the election objectively, in accordance with the applicable statutory provisions and council rules and orders.

5.3.5 Considerations for the Rules of Order
Municipalities should consider addressing the following matters in their Rules of Order, subject to applicable law.

- **special council meetings** (to deal with a motion of no-confidence and/or the election of office-bearers)
  The council has a predetermined schedule of ordinary meetings. A special meeting can be convened by the speaker. The speaker must convene a meeting when a majority of councillors makes a request. There are specific rules in the Municipal Structures Act for when the speaker refused to convene a meeting.
- **when a council meeting can be convened on urgent grounds**
  The rules of order may provide that a council meeting can be convened on short notice to deal with an urgent matter. This would normally be reserved for emergencies. The wish to remove or elect an office-bearer is not automatically an emergency and should be dealt with in a regular or special council meeting.
- **the minimum notice period for a motion of no-confidence**
  Apply the prior notice requirements for the office concerned and check whether the notice of the meeting also meets the requirements for notice of the motion.
- **a deadline for filling vacancies in full-time positions**
  Consider a clear scheduling process for filling vacancies promptly, subject to the applicable statutory rules for each office.
- **when a motion is disallowed**

Consider lawful procedures for lodging and screening motions. Any proposed restriction on repeat motions should be checked against the applicable statutory removal power before adoption.

The next instrument that the municipality may use to prepare itself for the possibility of coalitions, are the terms of reference and the delegations.

5.4 Terms of Reference

Municipalities can minimise the negative effect of coalition instability on the administration by ensuring clarity surrounding the roles and responsibilities of –

- political structures (such as the council, the mayoral committee and council committees);
- municipal office-bearers (such as the executive mayor, the speaker, and chairpersons of committees)
- the municipal manager;
- the administration; and
- other structures such as the audit committee.

The Municipal Systems Act contains two important instruments in that regard, namely the terms of reference; and delegations.

5.4.1 Terms of Reference

The Municipal Systems Act instructs each council to adopt a policy called a 'Terms of Reference'. This policy outlines the roles and responsibilities of all the above actors. These roles inform their delegations, i.e. the formal transfer of delegated power to take decisions. The terms of reference is a general internal policy document. It is not a by-law and it doesn't grant anyone any legal authority.

5.4.2 How councillors interact with officials

In a coalition scenario, there are often accusations of –

- councillors interfering in the administration;
- officials frustrating the majority; or
- officials frustrating opposition councillors who want to exercise oversight.

Many of these can be avoided by having a clear terms of reference policy. It is the right policy to deal with key relational issues that help to keep a coalition healthy. For example, it can be used to determine how councillors and officials should interact.

The relationship between senior managers and councillors is particularly important. Councillors may not interfere with the administration because the municipal manager is in charge of the administration and should not be by-passed. However, how must councillors relate to senior managers?

There are different approaches in that respect. In some municipalities, councillors liaise directly with senior managers. They may approach senior managers directly, request information, and raise issues with them. However, other municipalities adopt a different approach. They prefer communication between councillors and senior managers to go via the mayor to the municipal manager.

One approach is not necessarily better than the other. Much depends on issues such as the size of the municipal administration, the institutional culture, and the approach of the executive and administrative leadership of the municipality. However, it is crucial to set out the approach clearly in the terms of reference and workshop this with the councillors and senior management.

5.4.3 The role of section 79 committees

It is not always clear what the role is of section 79 committees, i.e. the committees of the council, chaired by non-executive councillors. How are they different from section 80 committees, chaired by the members of mayor committees? Section 79 committees are essential for oversight but this is not always easily defined. The terms of reference can deal with this by defining the role of section 79 committees.

5.5 Delegations

The council may delegate powers to any of its political structures, municipal office-bearers, councillors or staff members. To make this happen, each municipality must adopt a system of delegations which sets out the powers of the speaker, executive mayor, their deputies (if applicable), members of mayoral committees, the municipal manager, senior managers and other key officials.

5.5.1 Use delegations to be more coalition resilient

A municipality can strengthen its resilience during periods of coalition instability by ensuring that its system of delegations provides for administrative continuity when municipal office-bearers or political structures are temporarily vacant or unable to exercise their functions.

The system of delegations should address questions such as:

- Who may lawfully exercise the functions of the speaker when the position is vacant?
- What lawful arrangements apply when the position of executive mayor or mayor is vacant?
- Who may exercise the functions of the municipal manager when that position is vacant?
- How can delegations to senior managers and other authorised officials ensure that the administration continues to function during periods of political instability?

All delegations and acting arrangements must comply with the Constitution and applicable legislation. Powers reserved for the municipal council, including powers that may not lawfully be delegated, must remain vested in the council. Political instability, vacancies or the inability of the council to meet do not authorise the municipal manager or any other official to assume those powers.

The municipal manager and other authorised officials may continue to exercise their existing statutory and lawfully delegated powers to maintain administrative operations and ensure the continued implementation of approved municipal policies, the Integrated Development Plan and the budget.

Where a decision requires the exercise of a power reserved for the municipal council or another political structure or office-bearer, the municipality must follow the applicable statutory procedures for taking that decision. Subsequent ratification cannot be relied upon to validate the exercise of a power that could not lawfully have been exercised or delegated in the first place.

Municipalities should therefore review their systems of delegations and applicable acting arrangements in advance to ensure that they provide for administrative continuity without undermining the constitutional and statutory allocation of powers.

5.5.2 Avoid creating islands of power

The municipal council has considerable discretion in delegating authority to individual members of the executive. These delegations can make individual members of the executive, and the departments they lead, very powerful. This is not problematic when the municipal executive is coherent. However, in a coalition, maintaining coherence in the municipal executive is challenging because members of the municipal executive represent different political parties. When these parties expect actions from their representatives in the executive that are at odds with the overall direction of the municipality, the risk is fragmentation. The municipality should therefore avoid using delegations to individual members of the executive to create 'islands of authority' in the municipal executive. The need for efficiency must be balanced with the need for overall coherence.

5.6 Considerations for the Terms of Reference and Delegations

The municipality can make sure that –

- it has a proper terms of reference policy in place with clear roles and responsibilities for all key actors in the municipality as well clear reporting lines, dispute resolution mechanisms etc – when the exact mandate or a political structure, office-bearer or official is not immediately clear or when there is uncertainty about who should communicate with whom, the terms of reference can be turned to for additional guidance;
- the terms of reference are discussed and/or workshopped at the beginning of the term of office, with all councillors and senior managers – in particular newly elected councillors;
- the system of delegations deals adequately with vacancies in senior political and administrative positions;
- the system of delegations provides the municipal manager, senior managers, and where applicable other officials sufficient signing powers to make sure the administration continues during coalition instability; and
- the delegations do not create islands of power in the municipal executive.

5.7 Senior management appointments

A professional and coherent senior management team is essential to the municipality's success, and it can help weather the storms of coalition instability. Therefore, the council must give the municipal manager sufficient space to put together his or her own senior management team. The final decision to appoint section 56 managers vests with the council and councillors may be tempted to allow politics to determine who is appointed as a section 56 manager. For example, coalition partners may want 'their' candidate appointed. Even worse: there may be explicit or implicit agreements between coalition partners as to how many senior managers each coalition partner 'gets to appoint'. These agreements and practices are illegal. In any event, they are a recipe for problems. The recruitment process, and the municipal managers' input must determine who is appointed.

5.8 Leadership by senior management

5.8.1 Introduction
The following section moves from the formal, legal and governance issues to the issue of leadership. It goes without saying that, during coalition shifts or transitions, the municipal manager plays a critical role. What does that mean in practice?

5.8.2 Keep the municipality grounded while the council shifts
The municipal manager must project a reassuring, calming presence during political shifts. The main goal of the municipal manager is to bring the temperature down, to assure the administration that as far as possible, and operations continue.

5.8.3 Be aware of the politics inside the administration, and set the example
Municipal managers (and other senior managers) must set the example of professionalism during coalition instability. The administration comprises individuals who have their own personal or party-political preferences with regard to who 'wins the day' during coalition instability. However, these preferences should not matter for how they execute their tasks.

Furthermore, the municipal manager must be aware of the fact that, in the administration, 'all eyes are on them', which makes it critical to set the right example.

5.8.4 Stay politically neutral
Municipal managers can successfully guide their administrations through turbulent coalition environments by upholding strict political neutrality, and enforcing the same standard among their senior managers.

5.8.5 Maintain unity in the senior management team
Coalition instability may drive a wedge into the senior management team. Officials come from diverse political backgrounds and have diverse political ideologies. The municipal manager must make sure that the senior management team is unified and shielded from the instability as far as possible.

5.8.6 Communication with the politicians
The municipal manager is the primary connection between the executive mayor and the council on the one hand, and the administration on the other. Once political instability 'arrives', in the form of a resignation, motion of no-confidence etc., the municipal manager will have to determine the immediate course of action, based on the applicable laws and procedures.

This must not be misunderstood as the municipal manager getting involved in the politics of the council. It is about the municipal manager being informed timeously of political decisions affecting the coalition. This will enable him or her to provide professional advice before the decision is taken, and to step up to deal with the impact of the decision.

It can sometimes also work the other way around. The municipal manager, as the link between the administration and the coalition, may pick up on political tension in the coalition that could jeopardise the coalition. It may then be prudent to alert the mayor.

5.8.7 Be steadfast and stick to the rules

Decisions taken by the municipal manager to manage a period of coalition instability must be based on the applicable rules and procedures. These rules are actually a sanctuary for the municipal manager and his or her team. If they act responsibly and neutrally, they can avoid any misguided association with one or other side.

6 MINIMUM KEY STEPS SUMMARISED

6.1 Key steps after the general election

First council meeting and election of the speaker

Apply the sequence and deadlines in sections 4.13 and 4.14.1 of these Guidelines. Metro and local council meetings are called following the relevant *Government Gazette* notice. Local councils appoint district representatives within the separate section 23(4) period, after which the district council's first-meeting period starts once all required appointments have been made. Elect the speaker at the first sitting and observe the separate statutory rules for constituting the executive.

6.2 Key steps after a coalition terminates

Where a coalition ends, apply the current statutory provisions for each vacancy and the applicable council rules on ordinary and special meetings. Plan negotiations and elections around those requirements. See sections 4.14.2 to 4.14.4 of these Guidelines.

For the avoidance of doubt, a decision of the Coalition Caucus or Coalition Leadership Committee constitutes a political agreement between coalition partners and does not constitute a decision of the municipal council, municipal executive or any statutory functionary.

TEMPLATE COALITION AGREEMENT

7 TEMPLATE COALITION AGREEMENT

7.1 The Coalitions Agreement

This illustrative template may be adapted to local circumstances. Parties remain responsible for ensuring that their agreement complies with the Constitution, applicable legislation, municipal by-laws and Rules of Order. The template creates no statutory powers or duties.

7.2 The Coalition Agreement Template

Preamble

As no political party has an outright majority in the Council, the parties to this Agreement have chosen to form a coalition.
It is in the interest of the municipality and its residents that such a coalition government is stable and thus able to fulfil the municipality's mandate of providing municipal services to its residents.

The undersigned political parties (and independent councillor(s) have established a Coalition Government by this Agreement.

Parties to the agreement

1. The political parties [and independent ward councilors] listed below (called the 'Parties') and represented by their authorised representatives listed below, hereby formally conclude this Coalition Agreement (called 'the Agreement').

Political party and independent ward councilor(s)	Authorised representative
AB Party	XYZ
CD Party	ABC
EF Party	JKL
Ward councilor	RST

2. The aim of this Agreement is to provide a stable coalition government for XXX Municipality in the interest of good governance by -
   2.1 setting out the allocation of elected positions;
   2.2 outlining common policy commitments;
   2.3 determining joint decision-making processes;
   2.4 providing dispute resolution mechanisms;
   2.5 regulating the dissolution of the Coalition;
   2.6 setting an amendment and review process of the Agreement; and
   2.7 ensuring accountability to the voters.

3. Status and implementation of Coalition Agreement

3.1 The Agreement does not give any legal rights to a Party to the Agreement or any third party. It is a solemn undertaking by the Parties to keep to the terms of the Agreement.

3.2 No Party to this Agreement may enter into a coalition with any other political parties during the duration of this Agreement.

3.3 Every Party and their members must in good faith and to the best of their abilities advance adherence to, and fulfilment of, the provisions of the Agreement.

3.4 The Whip must assist the Parties to adhere to the terms of this agreement

4. Allocation of elected positions

4.1 The Parties agree that they will elect the following municipal office bearers:

Position	Name	Political Party
Speaker		
Executive Mayor / Mayor		
Deputy Executive Mayor / Deputy Mayor (if applicable)		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Mayoral Committee member/Executive Committee member		
Whip		

4.2 Other municipal office bearers such, as the Chairpersons of Section 79 Committees and subcouncils where they are established, must be included in this list, once they have been appointed or elected.

4.3 In case of a local municipality, the Coalition submits a joint list for the election of representatives to the District Council.

4.4 Except for the election of the Speaker, the Executive Mayor / Mayor and Executive Committee members, who must be agreed upon at the commencement of the Coalition, other municipal office bearers may be determined subsequently by the Coalition.

4.5 If a vacancy in the position of a municipal office bearer occurs for whatever reason, the Party to which the former incumbent belonged, is entitled to nominate a replacement after consultation with the Coalition Leadership Committee established in 6.15 below.

5. Common policy commitments

5.1 The Parties agree to the following good governance principles:

5.1.1 The provision of basic municipal services to all residents of the municipality is the primary goal of the municipality.

5.1.2 Municipal office bearers may not interfere with administrative matters, in particular staffing and procurement.

5.1.3 Parties must ensure transparency in the municipality's actions.

5.1.4 Parties must seek to eliminate corruption and maladministration.

5.1.5 All Parties commit to adhering to, and implementing this Agreement to the best of their abilities.

5.2 The details of a common approach to the Integrated Development Plan (IDP), the budget to give effect to the IDP, and the implementation plan, will be drafted within three (3) months of this Agreement coming into operation and form part of this Agreement.

6. Joint decision-making processes

Consensus decision-making

6.1 The Coalition takes decisions by consensus.

6.2 Where no consensus is possible, the principle of sufficient consensus applies. Sufficient consensus means that where two or more Parties are collectively the majority in the Council, they may take a decision binding on other Parties to the Agreement.

6.3 Where no sufficient consensus is reached, Parties must comply with the dispute resolution mechanism, set out in 00 below.

6.4 Consensus is not required on non-essential matters; Parties may agree to disagree on matters that do not affect the foundations of the Coalition.

6.5 The Joint Coalition Caucus may agree to permit a free vote on matters of conscience.

Joint Coalition Caucus

6.6 To advance consensus on matters that will serve before the Council, the Parties establish a Coalition Caucus (called the 'Caucus'), comprising the councillors of the Parties. The Caucus's aim is to work purposively for consensus. The Joint Caucus does not exclude the formation of a caucus for each Party to the Agreement.

6.7 The Caucus elects a chairperson and deputy chairperson who must be from different Parties.

6.8 The Caucus sets rules for its joint operation, including the timely bringing of policy matters for consultation.
6.9 Due notice must be given to all Parties before draft policies, by-laws or motions are discussed in the Caucus.
6.10 On contentious matters, a Party must raise them early in the Caucus to avoid ambushing or springing surprises in the Council.
6.11 Due notice must be given of any motion that may lead to the removal of a municipal office bearer – the speaker, executive mayor / mayor, deputy executive mayor / deputy mayor, member of the executive committee, whip, or any other municipal office bearer.
6.12 Sufficient time must be allowed to consult on such matters and reach agreement before they are introduced in the Council.
6.13 If there is no agreed Coalition position on a matter to be voted on in the Council, the Caucus must request a caucus break to establish such a Coalition position.
6.14 The Joint Caucus must refer matters of contention it cannot resolve, to the Coalition Leadership Committee for resolution.

Coalition Leadership Committee

6.15 A Coalition Leadership Committee (called the 'Leadership Committee') is established, comprising the Executive Mayor / Mayor, Executive Deputy Mayor / Mayor, Joint Caucus Chair, Joint Caucus Deputy Chair, Whip, and the leaders of every Party in the coalition.
6.16 The Leadership Committee is responsible for the day-to-day management of the Coalition, working towards consensus or sufficient consensus.
6.17 The Leadership Committee meets monthly or whenever necessary.
6.18 The Leadership Committee reports regularly to the Joint Caucus.
6.19 Where the Leadership Committee cannot resolve a matter in dispute, it triggers the Dispute Resolution Process provided in 7. below.

Operational protocols

6.20 To ensure stability and coalition discipline, Parties agree that, voting in the municipal council must take place in accordance with the Constitution, applicable legislation and the municipality's lawful Rules of Order. Nothing in this Agreement alters a voting method prescribed by law.
6.21 Official communication of the Council must represent the Coalition and not a single party.

7. Dispute Resolution Process

7.1 The responsibility to resolve disputes rests on the Coalition Parties through the Caucus and the Leadership Committee.
7.2 When a dispute arises in the Joint Caucus, which it cannot resolve, the Caucus must refer it to the Leadership Committee for resolution.
7.3 The Leadership Committee must seek through talks and negotiations to resolve the dispute to the best of its ability.
7.4 If the Leadership Committee makes no or little progress in resolving the dispute, it may –
7.4.1 initiate negotiations through an intermediary; or

7.4.2 appoint a mediator that may through mediation or reconciliation assist in finding a solution.

7.5 During the dispute resolution process, all Parties should refrain from aggravating the dispute by publicly commenting on the matter.

7.6 Once the Leadership Committee has reached a resolution of the dispute, it must refer the resolution to the Joint Committee for final approval of the resolution.

7.7 Where a dispute emerges among the members of the Leadership Committee, the Committee must refer the matter to the Caucus.

7.8 The Caucus must discuss the matter and, if a way of resolving the dispute is agreed upon, it is referred to the Leadership Committee, with advice of how the matter could be settled.

7.9 If the Leadership Committee follows the Caucus's advice, its resolution of the dispute is referred back to the Caucus for final approval.

7.10 Should no agreement be reached on any municipal decision that impedes the functionality of the Municipality, such as the election or removal of municipal office bearers, the Integrated Development Plan, the Budget and implementation plan, the appointment of municipal manager, or senior managers reporting to the municipal manager, and where the dispute-resolution mechanisms have been exhausted and Parties remain unable to agree on a matter fundamental to the continued operation of the Coalition, the Parties must formally review whether the Coalition can continue. Any decision to terminate the Coalition must be taken in accordance with this Agreement and must not suspend or delay the statutory responsibilities of the municipality.

8. Amendment and review of the Coalition Agreement

8.1 The Agreement may be amended by agreement of all Parties. Such an agreement reached by the Leadership Committee, must be approved by the Caucus.

8.2 The Parties must regularly review the Agreement, at least once a year, with the aim of improving the functioning of the Coalition.

9. Dissolution of the Coalition

9.1 Where disputes between the Parties on key issues relating to the functioning of the municipality cannot be resolved following the dispute resolution process, the Agreement is terminated.

9.2 The Parties must either collectively or separately announce the decision to terminate the Agreement and provide reasons for the dissolution.

9.3 When a Party leaves the Coalition, the Agreement remains valid for those Parties that still command a majority in the Council.

10. Accountability towards voters

10.1 Upon the signing of the Agreement, the Parties must submit it the municipal manager for publication through the municipality's information dissemination system.

10.2 Any amendments to the Agreement must also be submitted to the municipal manager for similar publication.

Signatures of Parties

Political party and independent ward councilor(s)	Authorised representative	Signatures
AB Party	XYZ	
CD Party	ABC	
EF Party	JKL	
Ward councilor	RST	

AMENDING SECTION 12 NOTICES:
STEPS TOWARDS CHANGING THE TYPE OF MUNICIPALITY

8 Amending Section 12 Notices: Steps Towards Changing of Type of Municipality

An MEC may change a municipality from a mayoral executive to a collective executive by amending its Section 12 notice under section 16(1)(a) of the Municipal Structures Act 117 of 1998 (the Act). The full process could take between 10 to 12 weeks, (5 to 6 weeks if compressed). So, it cannot take effect before the first council meetings after 4 November unless the earlier steps are already done.

What the Act states -

Section 16 is the operative power -

> ***the MEC may change a municipality "from one type to another" by notice in the Provincial Gazette, after three prescribed steps.***

Section	What it does
12	MEC establishes each municipality by notice in the Provincial Gazette. The notice must specify the **type** (s12(3)(b)), which includes the executive system, plus the number of councillors, full-time councillors and exemptions.
13	Repealed since 1999.
14 & 15	Effects of establishing a new municipality: succession, transfer of staff and assets, by-laws. **Not relevant to a change of type.**
16	MEC may amend a section 12 notice to change the type (s16(1)(a)). The amendment must be consistent with the Act (s16(2)) and follow the steps in s16(3).
17	Applies only when the Demarcation Board re-determines boundaries.

Before amending, the MEC must, in this order (s16(3)) -

- At the start of the process, give **written notice** to organised local government (SALGA in the province) and the affected municipality.
- **Consult** SALGA and the municipality.
- After consultation, **publish the proposed amendment for public comment**.

Practical limits and gaps

The Act leaves timing and comment periods open, so the process must be designed to withstand challenge.

- The province's own law sets the menu. Under section 11, provincial legislation determines which types may be established in the province. Therefore, it needs a check that it permits a collective executive for that category of municipality.
- Allow a reasonable public comment period, having regard to the nature and impact of the proposed amendment and any applicable legal requirements.

- No timing rule for a change of type. Only a change in the number of councillors is tied to the next election (s16(1)(c)).
- For a qualifying change of type, sections 45(c) and 55(1)(c) of the Municipal Structures Act currently prescribe 14 days after the effective date of the change for the applicable executive meeting. B23–2026 proposes 30 days. That proposal is included for information and planning only.

What the change means once it takes effect

The mayoral structures fall away and the council builds a proportional executive committee.

- The executive mayor and mayoral committee cease to exist.
- The council sets the size of the executive committee: no more than 20% of councillors or 10, whichever is less, and at least three (s43(1)).
- Parties get seats on the EXCO by the proportional formula in section 43(2) -

seats won ÷ total councillors × committee seats

- The council elects the mayor from the members of the EXCO.

The amending notice should spell out these transitional steps, and what happens to office-bearer remuneration and full-time designations.

Indicative timeframes

The periods below are planning estimates. Adapt them to the circumstances, including the time reasonably needed for consultation and public comment, and comply with all applicable legal requirements.

Step	Indicative timeframe
Legal check (provincial types law), motivation, draft notice	1 week
Section 16(3)(a) written notice to SALGA and the municipality	Day 1 of process
Section 16(3)(b) consultation, including a council resolution or written view	2 to 3 weeks
Gazette lead time for the proposed amendment	About 1 week
Section 16(3)(c) public comment (Gazette, newspapers, notices)	+/- 30 days
Consider comments, legal vetting, MEC approval	1 to 2 weeks
Final notice gazetted, with effective date and transitional steps	About 1 week
Total	**10 to 12 weeks**

Enquiries in relation to these Guidelines may be directed to the following officials in the Department:

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