

***THE PROVINCE OF  
GAUTENG***

***DIE PROVINSIE  
GAUTENG***

**Provincial Gazette Extraordinary  
Buitengewone Provinsiale Koerant**

**Vol. 14**

**PRETORIA, 14 NOVEMBER 2008**

**No. 308**

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## LOCAL AUTHORITY NOTICES

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### LOCAL AUTHORITY NOTICE 2476

#### MIDVAAL LOCAL MUNICIPALITY

The Midvaal Local Municipality hereby promulgates the undermentioned by-laws in terms of Section 13 of the Local Government: Municipal Systems Act, Act 32 of 2000 as amended and these by-laws shall come into effect on the date of promulgation thereof in the Provincial Gazette.

These by-laws are:

- Standing Orders
- Revenue By-laws

THIS IS DONE REQUESTED BY:

MIDVAAL LOCAL MUNICIPALITY  
THE MUNICIPAL MANAGER  
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## Standing Orders

### 1. Definitions

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

**“A point of order”** means pointing out any deviation of, or anything contrary to, these by-laws or other by-laws of the Council or any other relevant legislation.

**“A point of personal explanation”** means the explanation of some material part of a member’s former speech which may have been misunderstood.

**“Caucus”** means group of Councillors belonging to the same political party

**“Chief Whip of Council”** means the Chief Whip of the majority political party in Council or as elected by Council per Council resolution.

**“Council”** means the Council of the Midvaal Local Municipality as contemplated in Section 157 of the Constitution of the Republic of South Africa (Act No 108 of 1996)

**“Councillor”** means a member of the Council of the Midvaal Local Municipality.

**“Delegation”** means an assignment of or instruction to perform a duty in terms of Section 59 of the Local Government: Municipal Systems Act (Act No 32 of 2000)

**“Executive Mayor”** means the Executive Mayor of the municipality as elected in terms of Section 55 of the Local Government Municipal Structures Act (Act 117 of 1998)

**“Item of the Speaker”** means any report which the Speaker wishes to be or which must be considered/noted by the Council in terms of the functions, duties and delegations assigned to the Speaker by the Council or legislation. Such report must first serve before the Mayoral Committee for noting. An item of the Speaker is submitted to Council, together with the comments of the Mayoral Committee and the recommendations of the Speaker, as a part of the Report of the Mayoral Committee.

**“Mayoral Committee”** means the Mayoral Committee as established in terms of Section 60 of the Local Government: Municipal Structures Act (Act No 117 of 1998).

**“Meeting”** means a meeting of the Council.

**“Motion”** means a motion introduced in writing in terms of these by-laws as well as a motion in terms of any other legislation and not an item on the Council Agenda.

**“Party”** means a political party registered in terms of the Electoral Commission Act 1996 (Act No 51 of 1996)

**“Proposal”** means any proposal, with the exception of a motion, moved and seconded during a meeting.

**“Quorum”** means one half of all the members of the Council, plus one member.

**“Report of the Executive Mayor”** means the report of the Executive Mayor to the Council as contemplated in section 56(5) of the Local Government: Municipal Structures Act (Act 117 of 1998).

**“Section 79 Committee reporting to Council”** means committee established in terms of Section 79 of the Local Government Municipal Structures Act (Act 117 of 1998) and where, in determining the committee’s functions, duties and powers, the Council has resolved that such committee shall report directly to Council. A committee established in terms of Section 79 of the Act that does not report directly to the Council shall report to the Council via the Mayoral Committee as part of the report of the Mayoral Committee. Despite the provision that a Section 79 Committee may report directly to Council, no such report may serve at the Council unless it has first served before the Mayoral Committee for noting. An item of a Section 79 Committee reporting to Council is submitted to Council, together with the comments of the Mayoral Committee and the recommendations of the Section 79 Committee, as a part of the Report of the Mayoral Committee.

**“Speaker”** means the Speaker as contemplated in Section 36 of the Local Government: Municipal Structures Act (Act No 117 of 1998)

**“Whip of party”** means the Whip of a specific political party represented in Council as elected by the caucus of that specific party.

**“Whippery”** means the Chief Whip as well as all the Whips of the different political parties represented in Council as a collective.



Any other word or expression shall have the meaning assigned thereto in terms of the Act

## **2. Notice of Council Meeting**

- (1) The Speaker must call a Council meeting in terms of a written notice to all Councillors. The notice shall specify the date, time and venue of the meeting as well as the Order of Business for the meeting.
- (2) The Speaker must cause that such notice is served on all Councillors either personally or by leaving the notice at his/her usual place of residence or place of business at least 24 hours before the commencement of an Ordinary Meeting of the Council (in terms of the Council's annual year plan) and at least 24 hours before the commencement of a Special Meeting of the Council.
- (3) The accidental omission to serve on any Councillor such notice as is referred to in this rule shall not affect the validity of any meeting.
- (4) The Speaker shall also cause to be delivered to all members the report of Mayoral Committee that was received by him/her for the Council meeting at the time of the issuing of the notice of the meeting.

## **3. Public notice of meetings and admission of public to meetings**

- (1) In complying with Section 19 of the Municipal Systems Act the Municipal Manager shall give notice to the public, by annual publication in advance, of the time, date and venue of every ordinary meeting of the Council and to the extent possible of every special meeting of the Council except when time constraints make this impossible.
- (2) In complying with Section 20 of the Municipal Systems Act the meetings of the Council and those of its committees are open to the public, including the media.
- (3) The Council or its committees may only exclude the public, including the media, from a meeting when it is reasonable to do so having regard to the nature of the business being transacted and within the provisions of these Standing Orders. The nature of business contemplated herein refers to staff issues, matters protected in terms of the Promotion of Access to Information Act or any other legislation or legal principle, matters relevant to privileged information, matters wherein the rights of any person may be compromised unreasonably or culpably, or any other matter the Council deems to be confidential relevant to its operations, functions, any investigation or any other process or activity.
- (4) The Council, within the financial and administrative capacity of the municipality, must provide space for the public in the chambers and places where the Council and its committees meet.

## **4. Public access to records and documents**

- (1) The records of the Council and all documents tabled in the Council must be accessible to the public, including the media, unless the Council, by resolution, orders that a particular document or report may not be made public.
- (2) Any member of the public, including the media, may apply to the Speaker for access to the information specified in (1) above. The Speaker must cause for such information to be supplied to

the applicant unless Council has resolved that such information should not be made public in terms of (1) above.

#### **5. Conduct of members of the public at meetings**

- (1) When attending a meeting of the Council, members of the public, including the media, must conduct themselves in an orderly manner and be dressed appropriately.
- (2) Members of the public, including the media, may not disrupt proceedings and must observe the directions of the Speaker.
- (3) The Speaker may instruct a person to leave the precincts of the Council, or may cause to have a person removed, if such person disrupts the meetings or is otherwise involved in any misconduct.

#### **6. Order in meetings and conduct of Councillors**

- (1) No Councillor shall enter or remain in the Chamber unless he or she is dressed appropriately. In the case of a male he is to wear a jacket, tie, shirt, long trousers, socks and appropriate shoes. In the case of a female she is to wear either a dress, suit, blouse and skirt or trouser suit and shoes. It is expressly forbidden to wear t-shirts, jeans, tekkies or sneakers and tracksuits. Councillors may opt to replace the dress code by wearing formal traditional clothing. The Speaker may relax this rule by application of a Councillor in exceptional circumstances.
- (2) The Speaker may allow for the wearing of robes by any or all of the Councillors.
- (3) All Councillors must rise when the Speaker and Executive Mayor enter the Council Chamber at the beginning of a meeting and must remain standing quietly until the Speaker takes his or her seat.
- (4) All Councillors must rise when the Council adjourns and must remain standing quietly until the Speaker and the Executive Mayor have left the Council Chamber.
- (5) During a Council meeting every Councillor shall bow to the Speaker when entering or leaving the Chamber.
- (6) A Councillor shall stand when speaking in a meeting and shall address the Speaker.
- (7) If a Councillor who is not speaking rises on a point of order or to make a proposal and such member is seen and addressed by the Speaker, the Councillor then speaking shall sit down until the Speaker has made a ruling.
- (8) Whenever the Speaker speaks, any Councillor then speaking or offering to speak is to sit down and all Councillors are to be silent so that the Speaker may be heard without interruption.
- (9) Over and above the written declaration of pecuniary interest to be supplied by the Councillor, a Councillor must disclose any pecuniary interest, as envisaged in Section 5 of Schedule 1 of the Municipal Systems Act, in any item appearing before the Council or a Committee, upon the item having been called, if that Councillor is present at the meeting in which a decision on the said item is being considered.
- (10) No member shall speak for more than 3 (three) minutes on the question of whether his/her pecuniary interest, as contemplated in (9) above, is so small or remote as to render a clash of interest unlikely. Such speech shall not be regarded as a speech on the item or motion under debate.

## **7. Speaking time and manner of Councillors**

- (1) A Councillor may not speak for longer than three minutes for any individual item, motion or proposal on the Agenda except if the Speaker at his/her discretion waives this provision.
- (2) The provisions of (1) above shall not apply to a Councillor delivering the Executive Mayor's report or in the presentation of the budget or in the presentation of an oversight report.
- (3) No member shall speak more than once on any motion or proposal; provided that if a member directs a question to the mover of a motion or proposal, such question may be answered by the mover.
- (4) The Speaker may permit the Executive Mayor or his/her nominee to make an explanatory statement prior to the consideration of any particular item contained in the report of the Executive Mayor or, during the discussion of such report, in reply to a specific question.
- (5) A Councillor who speaks shall direct his/her speech strictly to the matter under discussion or to an explanation or a point of order.
- (6) The Speaker shall call the attention of the Councillors to irrelevance, tedious repetition, unbecoming language or any breach of order on the part of a Councillor and shall direct such Councillor to discontinue his/her speech and to apologise for and withdraw any statement that is unbecoming.

## **8. Points of order and personal explanation**

- (1) Any member, whether he/she has addressed the Speaker on the matter under debate or not, may:
  - (a) Raise a point of order
  - (b) Give an explanation
- (2) A member contemplated in subsection (1)(a) above shall be heard unless the Speaker decides it is inadmissible and in the case of subsection (1)(b) above shall be heard at the discretion of the Speaker.
- (3) The ruling of the Speaker on a point of order or on the admissibility of any explanation shall be final and shall not be open to discussion.

## **9. Removal or exclusion of a Councillor**

- (1) If a Councillor refuses to comply with any provisions of these Standing Orders the Speaker may direct such member to retire from the meeting.
- (2) If a Councillor who has been directed by the Speaker to retire from a meeting refuses to do so, the Speaker may direct an officer to remove the Councillor or to cause his/her removal and to take steps to prevent his/her return to the meeting.

- (3) Thereafter, the Council may exclude from meetings of the Council, for such periods as it may determine, a member who wilfully disregards the authority of the Speaker or who wilfully obstructs the business at any meeting.
- (4) Before a member is requested to retire as contemplated in (1) and (2) above or is excluded as contemplated in (3) above, such member must be informed that such retirement or exclusion is being considered and be afforded the opportunity to state reasons why the Speaker of the Council should not adopt such resolution, as the case may be.
- (5) The Council may also resolve to refer any breach of the Standing Orders by a Councillor to a committee of Council set up for such purposes and to request such committee to investigate the alleged misconduct and to make recommendations in this regard to the Council.
- (6) A proposal to exclude any Councillor or to refer alleged misconduct of the Councillor to a committee as contemplated in (5) above may be moved at any stage of the meeting.

#### **10. Mode of voting**

- (1) Every motion or proposal shall be submitted to the Council by the Speaker who shall call upon the Councillors to indicate by a show of hands, if applicable, whether they are in favour of it or against it and he/she shall thereupon declare the results of the voting.
- (2) After the Speaker has declared the result of the voting in terms of sub-section (1), a member may:
  - (a) Request that his/her vote be recorded against the decision; or
  - (b) Demand a division, by rising and putting such demand to the Speaker.
- (3) When a division in terms of sub-section (2)(b) is demanded, the Speaker shall accede thereto, and a bell shall be rung audibly, affording members one(1) minute opportunity to leave the chamber, whereupon all entrances to the chamber shall be closed, and no member shall thereafter leave or enter the Council Chamber until after the result of the division has been declared.
- (4) After the requirement specified in sub-section (3) has been complied with, the motion or proposal shall again be put to the vote by the Speaker in the manner provided for in sub-section (6) and thereafter he/she shall declare the result of the division.
- (5) A division shall take place in the manner whereby the vote of each member shall be taken separately by name and recorded in the minutes by the Municipal Manager.
- (6) When a division takes place in accordance with the preceding provisions, every member present, including the Speaker, shall be obliged to record his/her vote for or against the motion or proposal.
- (7) A member demanding a division shall not leave the Council Chamber before such division has been taken.
- (8) In terms of Section 30(2) of the Act all questions concerning matters mentioned in Section 160(2) of the Constitution shall be determined by a decision with a supporting vote of a majority of all the Councillors of the Council.
- (9) In terms of Section 34(1) of the Act a supporting vote of at least two thirds of the Councillors is required when adopting a resolution to dissolve the Council.

- (10) All matters before the Council, other than those contemplated in Sections (2) and (3) above shall be decided by a majority of votes cast.
- (11) For all matters before the Council, other than those contemplated in Sections (2) and (3) above the Speaker shall have a casting vote in the event that an equal number of Councillors have voted for and against a proposal.
- (12) After the Speaker has declared the results of the voting in terms of subsection (1) an individual Councillor, or a Whip of a particular Caucus, may request that his vote or the votes of his Caucus members, against any particular resolution of the Council as well as reasons therefore, if any, be recorded.
- (13) Should there be an equality of votes in respect of a proposal and it is a matter on which the Speaker does not have a casting vote in terms of subsection (5) above, or a matter on which the Speaker refuses to record a casting vote, the matter shall be referred back to the Executive Mayor for consideration.

#### **11. Ceremonies preceding the opening of a meeting**

The Speaker may at his/her discretion invite a member of the religious community to deliver a short sermon and/or prayer or, in the absence thereof, the Speaker may allow for a moment of silence and personal reflection. The Speaker may also at his/her discretion request the opening of the meeting to be preceded by the singing of the National Anthem or any other ceremony as may be appropriate.

#### **12. Attendance Register for the Council Meetings**

Every Councillor attending a meeting shall sign his name in the attendance register kept for this purpose.

#### **13. Adjournment in the event of no Quorum**

- (1) If, at the expiry of 20 minutes after the hour at which a meeting is scheduled to be held, a quorum has not assembled no meeting shall take place unless it is decided with the unanimous consent of all members present to allow further time not exceeding 10 minutes in order to enable a quorum to assemble.
- (2) If, after the additional 10 minutes, there is still no quorum, the Speaker shall forthwith adjourn the meeting.
- (3) Business not disposed of at a meeting adjourned shall be dealt with at a meeting convened by the Speaker for this purpose (in terms of Rule 4) or at the next ordinary meeting of the Council.

#### **14. Adjourned Meeting**

- (1) When a meeting is adjourned, notice of the adjourned meeting shall be served on every Councillor in terms of the rules for Notices of Council meetings (rule2)
- (2) No business shall be transacted at an adjourned meeting except for such business specified in the notice of the meeting which is adjourned.

**15. Count out of Members**

- (1) If, during any meeting, the attention of the Speaker is called to the number of members present, such members shall be counted and if it is found that there is no quorum present the Speaker shall cause the call bell to be rung for at least one minute, and if after an interval of five minutes there is still no quorum the Speaker shall forthwith adjourn the meeting.
- (2) The names of the members present when the meeting is adjourned, in terms of subsection (1) above, shall be recorded in the minutes.
- (3) Business not disposed of at a meeting adjourned shall be dealt with at a following meeting convened by The Speaker for such purpose (in terms of Rule 2) or at the next ordinary meeting of the Council.

**16. Adjournment during a meeting and informal sessions**

- (1) Following the request of a Councillor and at the discretion of the Speaker a meeting may be temporarily suspended for a maximum period of 20 minutes at a time to allow for an informal session or adjournment for the meeting of a Caucus.
- (2) If any resolution was formulated by a Councillor or a Caucus of Councillors during an informal session or adjourned period such resolution shall be proposed once the Council has reverted to a formal session.

**17. Business limited by Notice of Meeting**

- (1) No business not specified in the notice of the meeting shall be transacted at the meeting, except for an urgent report of the Mayoral Committee, which may be allowed at the discretion of the Speaker having been satisfied of the urgency of the matter
- (2) Any urgent reports mentioned above must be submitted to the Speaker at least ten minutes before the commencement of the meeting in order for the Speaker to determine whether or not the matter is of an urgent nature.

**18. Order of Business of Ordinary Meeting**

- (1) The order of business of an ordinary meeting shall be as follows:

- (a) Opening & Welcome
- (b) Applications for leave of absence
- (c) Official notices
- (d) Proposals of condolence or congratulations by the Speaker
- (e) Proposals of condolence or congratulations by other members
- (f) Minutes of the previous meeting
- (g) Questions of which notice has been given



- (h) Motions or proposals deferred from previous meetings
- (i) Report of the Mayoral Committee
  - (i) Items of the Speaker
  - (ii) Items of the Section 79 Committees reporting to Council
  - (iii) Items of the Mayoral Committee – Non delegated matters
  - (iv) Items of the Mayoral Committee – Delegated matters
  - (v) Official notices of the Executive Mayor.
- (j) New motions
- (k) Closure

- (2) If a proposal in term of (1)(d) or (1)(e) above is opposed by a majority of members such proposal shall lapse without further discussion.
- (3) Notices under section (1)(c) above are not subject to debate and only questions of clarity may be asked.
- (4) The Council may, at its discretion and by majority vote, alter the sequence of the order of business on the agenda should the need arise.
- (5) A member wishing to comment on 1(i)(v) above may only do so if permitted by the Speaker:  
 Provided the comment is limited strictly to the Executive Mayor's notice/s, is not longer in duration than 3 minutes per party represented in Council and provided that the Executive Mayor may make a closing statement on such comments.

#### **19. Applications for leave of absence**

- (1) Councillors must submit written applications for leave of absence with reasons to the Speaker in the event that such member will be unable to attend a Council Meeting. In the event that a Councillor is unable to submit a written application he/she may request another Councillor to verbally apply for leave of absence on his/her behalf at the Council Meeting.
- (2) The Speaker must read out or cause to be read out all written applications for leave of absence received and must also allow for Councillors to verbally request leave of absence on behalf of other Councillors. Once all applications have been read out or proposed, the Speaker must request the Council to approve or reject the applications.

#### **20. Minutes of Meeting**

- 1) If a copy of the minutes of a meeting has been served on every member within the time frames applicable to notices of meetings, the minutes shall be taken as read with a view of confirmation.
- 2) No proposal or discussion shall be allowed on the minutes except as to their accuracy.
- 3) A proposal to amend the accuracy of the minutes shall be seconded, and without further debate the Speaker shall put such proposal to the vote. A vote of the majority of members present at a meeting shall cause for the minutes to be amended in accordance with the proposal.

- 4) Once the minutes, and amendments thereto if any, are accepted by a majority vote of the members present in a meeting the Speaker shall initial each page of the minutes as well as sign the minutes on their last page.
- 5) The minutes in relation to any item considered by the Council in committee as contemplated in rule 33 shall be kept separately from other minutes of the council unless consideration of that item was finalised in open council.

## **21. Questions**

- 1) A member may at a meeting put a question:
  - a) on a matter arising out of or concerned with any item of the report of the Executive Mayor when such item has been called or during discussion thereon;
  - b) concerning the general work of the council or delegated matters not arising out of or connected with any item of the report of the Executive Mayor. Such a question shall only be asked if it has been lodged in writing with the Speaker at least ten days prior to the date of the meeting. Following lodgement the Speaker shall forthwith cause a copy of the written question to be furnished to the Executive Mayor.
- 2) A question on a matter which in the opinion of the Speaker is of urgent importance may be put at a meeting after written notice thereof has been received by the Speaker at least 10 minutes before the commencement of the meeting. The Speaker shall forthwith furnish a copy of the written question to the Executive Mayor.
- 3) A member who has put a question in terms of subsection (1)(b) shall, on request, be entitled to be furnished with a written reply in due course.
- 4) The Executive Mayor or his or her nominee may at the next ordinary meeting of the council reply to questions in terms of subsections (1)(b) and (2).
- 5) Subject to the provisions of subsection (4), any question put in terms of rule (1)(b) and (2) shall be answered by or on behalf of the Executive Mayor after the Speaker has read out or caused to be read out the question to the council (dealt with under the item "Questions of which notice has been given" in the Order of business).
- 6) Questions asked in terms of rule 1(a) shall be answered by or on behalf of the Executive Mayor, after the Speaker has called upon such Councillor to do so.
- 7) If, after his question has been replied to, a Councillor is of the opinion that the reply to his question is not clear he may, with the consent of the Speaker, request further clarity on the answer provided and no additional questions shall be put without the consent of the Speaker.
- 8) The Speaker may disallow a question if he is of the opinion that it is out of order or not put clearly.

## **22. Reports of the Executive Mayor**

- 1) A report submitted by the Executive Mayor shall contain in the following order:
  - (i) Items of the Speaker together with the recommendations by the Speaker and comments of the Mayoral Committee,



- (ii) Items of the Section 79 Committees reporting to Council together with the recommendations by such committee and comments of the Mayoral Committee.
  - (iii) Items of the Executive Mayor containing non-delegated matters together with recommendations of the Mayoral Committee.
  - (iv) Items of the Executive Mayor containing delegated matters and the decisions taken by the Mayoral Committee on each matter.
- 2) Unless an item is submitted to the Council for information only, every item relating to matters in respect of which there are no delegated powers shall contain a recommendation which may be adopted, amended or rejected by the council.

### **23. Moving of Report of the Executive Mayor**

- 1) The Executive Mayor or a member of the Mayoral Committee called upon by the Executive Mayor to do so, shall, upon request by the Speaker, submit the report of the Executive Mayor to the meeting with the words "I hereby submit the report of the Executive Mayor for consideration".
- 2) All recommendations in reports referred to above shall be deemed to have been proposed and seconded.
- 3) An individual Councillor, or a Whip of a particular Caucus, may request that his vote or the votes of his Caucus members, against any particular resolution of the Council be minuted as well as the reason/s therefore.
- 4) The Executive Mayor, or a member of the Mayoral Committee called upon by the Executive Mayor to do so, may withdraw any item which was tabled, whereafter the Speaker shall disallow any further questions or debates on that item.
- 5) The Executive Mayor, or a member of the Mayoral Committee called upon by the Executive Mayor to do so, may amend any item with the consent of the majority of members present which consent shall be granted or disallowed without debate.
- 6) The Executive Mayor, or a member of the Mayoral Committee called upon by the Executive Mayor to do so, shall close the debate on any item in the report where after no further discussions shall take place on such item.
- 7) Following the closure of a debate on an item as contemplated in (7) above, the Speaker shall request the Council to consider the recommendations contained in the item.
- 8) When a recommendation of a report has been adopted, such recommendation shall become a resolution of the council.
- 9) An individual Councillor, or a Whip of a particular Caucus, may request that his vote or the votes of his Caucus members, against any particular resolution of the Council as well as reasons therefore, if any, be minuted.
- 10) After the matters in respect of which there are no delegated powers have been dealt with, the Speaker shall permit debate on the matters for which there are delegated powers according to the following provisions:
  - a) Such debate for all items containing matters for which there are delegated powers shall be limited to a period not exceeding a half hour or such extended time as the Speaker may allow.

- b) Each debate is limited to one item at a time.
- c) A member must submit a written notice to the Speaker at least 10 minutes before the commencement of the meeting of his intention to call for a debate specifying which item/s he wishes to debate.
- d) A member shall not speak on such matters for longer than three minutes at a time and may only speak on a particular item once.
- e) No proposals shall be submitted during such debate, except a proposal that the Executive Mayor be requested to reconsider his/her resolution (Section 59 (3)(b) of the Systems Act) or that the Council confirms, varies or revokes the decision subject to any rights that may have accrued to any person (Section 59(3)(a) of the Systems Act).
- f) Once the Speaker is of the opinion that the debate on a particular item has been exhausted he shall allow the Executive Mayor to close the debate within the required three minutes time period.
- g) After the debate has been closed the Speaker shall put to the vote a proposal referred to in subsection 10 (e) above, if any, and members may make use of rule (9) above with regards to having their vote against a decision noted.
- h) Once a debate on a particular item has been closed and the related proposal (if any) has been dealt with the Speaker may call for a new debate on further items for which there are delegated powers, according to the list submitted by members referred to in 8(c) above and using his discretion with regards to subsection 8(a).

11) After the matters in respect of which there are delegated powers have been dealt with the Speaker shall lead the meeting to continue with the agenda as per the Order of Business.

#### **24. Consideration of the budget and adjustments thereto:**

Notwithstanding anything contained in these Standing Orders, the following provisions shall apply when the annual budget is considered by the Council:

- (1) No proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council shall be put to the vote before the debate on the budget has been closed.
- (2) After the debate on the budget has been closed, the Speaker shall put to the vote the proposals contemplated in (1) above, in the order in which they were proposed.
- (3) After all the amendments have been dealt with, and if any proposal contemplated in (1) above has been accepted, the Executive Mayor shall decide if it is necessary to adjourn the meeting to investigate the implications of any or every proposal thus accepted.
- (4) After an adjournment contemplated in (3) above, the Executive Mayor shall investigate the implications of every proposal accepted and shall report thereon to the Council when the meeting resumes.
- (5) After the Executive Mayor has reported in terms of (4) above the Speaker shall permit debate on the proposals accepted.
- (6) After conclusion of the debate as contemplated in (5) above the Speaker shall put every such proposal to the vote again, and if such proposal is accepted, the budget shall be amended in accordance with that resolution.

## 25. Motions

- (1) Subject to the provisions of any other law:
  - (a) Every notice of motion shall be in writing and such notice shall be signed by the member submitting it and seconded by another;
  - (b) A motion shall be given to the Speaker who shall cause for it to be entered in a book kept for that purpose which shall be open to inspection by any member;
  - (c) Notice of a motion shall not be specified in the notice for a meeting unless it is received at least 10 (ten) days prior to such meeting; and
  - (d) A motion shall lapse if the member who submitted it is not present at the meeting when such motion is being debated.
- (2) At the request of a member who gave notice of a motion, the Speaker shall acknowledge receipt thereof in writing.
- (3) Every motion shall be relevant to the business of the Council or any matter in respect of which the Council has jurisdiction.
- (4) Every motion as contemplated in sub-section (1)(a), shall, on receipt, be dated and numbered and shall be entered by the Speaker upon the agenda in the order in which received.
- (5) No member shall have more than one motion entered upon the agenda with the exception of a deferred motion, and no member shall move more than two motions during any one calendar year.
- (6) A motion may not be submitted if it:
  - (a) Is intended to rescind or amend a resolution passed by the Council within the preceding three months, and
  - (b) Has the same purpose as a motion which was rejected within the preceding three months; and
- (7) No member shall submit a motion similar to a motion, which was dealt with in terms of the provisions of this section 14, before a period of 6 (six) months after it has been dealt with has elapsed.
- (8) Notwithstanding the provisions of sub-sections (6) and (7), the Council may, at anytime following a recommendation by the Executive Mayor, rescind or amend any resolution passed by it.
- (9) In dealing with motions:
  - (a) The Speaker shall read out, or cause to be read out, the number of every motion and the name of the mover;
  - (b) The Speaker shall ascertain which motions are unopposed and these shall be passed without debate, and thereafter the Speaker shall call the opposed motions in their order: and
  - (c) If a motion is opposed, the mover may motivate such motion for no longer than 3 (3) minutes, to which motivation the Executive Mayor or his/her nominee may respond, after which only questions for clarity or proposals to amend the motion may be received. No debate shall be allowed on any motion and any opposed motion shall then be brought to the vote.

**26. Special Motions**

- (1) A member may request that the provisions of section 14(1)(c) be suspended to enable him/her to submit an urgent motion.
- (2) Such urgent motion may only be permitted if, in the discretion of the Council, it is deemed to be of such urgency, public interest or an emergency as to warrant such suspension and if it has been received by the Speaker no less than 10 (ten) minutes before the commencement of the meeting.
- (3) All other requirements contained herein or any other law pertaining to motions must still be complied with.

**27. Irregular Motions or Proposals**

The Speaker shall disallow a motion or proposal:

- (a) Which in his/her opinion:
  - (i) Might lead to the discussion of a matter already dealt with in the agenda or which has no bearing on the business of the Council; or
  - (ii) Advances arguments, expresses an opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestions;
- (b) In respect of which:
  - (i) The Council has no jurisdiction;
  - (ii) A decision by a judicial or quasi-judicial body is pending;
  - (iii) Which has not been duly seconded; or
  - (iv) Which does not meet the requirements pertaining to motions or proposals contained herein or any other law.
- (c) Which, if passed would be unenforceable or contrary to the provisions of these Standing Orders or of any other law; and
- (d) If any motion or proposal in the opinion of the Speaker, justifies further investigation, it shall be referred to the Executive Mayor for a report.

**28. Withdrawal of Motion or Proposal**

- (1) A motion or proposal, excluding a report of the Executive Mayor contemplated in section 11, may be withdrawn by the mover.
- (2) After a motion or proposal has been withdrawn, no member shall speak upon such motion or proposal.

**29. Motion or Proposal Affecting Budget to be referred to Executive Mayor**

A motion or proposal, other than a proposal as contemplated in these Standing Orders that the Executive Mayor reconsider his/her resolution, which is designed to increase or decrease the approved budget of the Council, shall not be adopted before the Executive Mayor has reported thereon to the Council; provided that such a report by the Executive Mayor may be dispensed with if the Executive Mayor deems such report unnecessary.

### **30. Motion or Proposal affecting a by-law or law to be referred to the appropriate Council Committee and Executive Mayor**

A motion or proposal, other than a recommendation of the Executive Mayor, affecting the making, repeal or amendment of a law or a by-law shall, before the Council adopts a resolution thereon, be submitted to the relevant Council Committee and the Executive Mayor for a report thereon.

### **31. Proposals which may be received**

(1) Subject to the provisions of section 36, when a motion to introduce new business on the agenda or a proposal contained in a report of the Executive Mayor is brought to order or is under debate at a meeting, no further proposal shall be received except the following:

- (a) To amend the motion or proposal;
- (b) That the matter be referred back to the Executive Mayor for further consideration;
- (c) That consideration of the matter be postponed;
- (d) That the meeting be adjourned;
- (e) That the debate be adjourned;
- (f) That the matter be put to the vote; and
- (g) That the Council proceeds to the next business.

Provided that such proposal shall only be deemed to have been submitted to the Council for decision, if it was duly seconded.

(2) When dealing with proposals or motions, the following sequence is applicable:

- (a) The recommendation of the Executive Mayor or a motion is brought to order;
- (b) The Executive Mayor or Member of the Mayoral Committee, nominated to do so, or the member who submitted a motion, whichever is applicable, is given the opportunity to speak on the matter;
- (c) A proposal to amend such recommendation or motion, or a proposal to refer a matter back to the Executive Mayor, subject to sub-section (2)(h) below, may then be received;
- (d) Only the member who submitted a proposal in sub-section (2)(c) above is given the opportunity to speak on the matter;
- (e) Only after the member has spoken on the proposal referred to in sub-sections (2)(d) above may another proposal contemplated in sub-sections (1)(c) to (g) be received, and subject to subsection (2)(h) below only the member who submitted such proposal may speak thereon;
- (f) A second proposal in terms of sub-sections 1(c) to (g) shall not be made on the same matter unless, if in the opinion of the Speaker, the circumstances are materially altered, and ruling made by the Speaker hereunder is final;
- (g) If a recommendation of the Executive Mayor, or a proposal or motion has been carried, no further proposals may be received and the Council must proceed to the next business; and
- (h) Before a recommendation of the Executive Mayor or a proposal or a motion is finalised, the Executive Mayor (or his/her nominee) or proposer of the motion has the right of reply, not exceeding 5 (five) minutes, closes the debate on the matter.

(3) A proposal made in terms of sub-sections (1)(a) or (b) must be dealt with before any proposal contemplated in terms of sub-sections (1)(c), (d), (e), (f), and (g) is made.

- (4) A second proposal in terms of sub-sections (1)(c), (d),(e),(f),(g) shall not be made within half an hour of a similar proposal on the same matter unless, in the opinion of the Speaker, the circumstances are materially altered.
- (5) A member who has made a proposal in terms of sub-section (1), may speak thereon in terms of the provisions of these Standing Orders and there will be no right to reply.
- (6) Before a proposal in terms of sub-section (1) is finalised, the Executive Mayor may speak on such proposal for not more than 5 (five) minutes, or for as long as the Speaker may determine.
- (7) A proposal in terms of sub-section (1) may be dealt with in terms of the provisions of sections 21 to 23.

### **32. Amendment of a motion or proposal**

- (1) An amendment which is moved in terms of section 20(1)(a):
  - (a) Shall be relevant to the motion or proposal on which it is moved;
  - (b) Shall be reduce to writing, signed by the mover, seconded and handed to the Speaker; and
  - (c) Shall be clearly stated to the meeting by the Speaker before it is put to the vote.
- (2) Subject to the provisions of rule 31, more than one amendment of a motion or proposal may be moved and, save as provided in sub-section(5), every amendment proposed shall at the close of the debate on such motion or proposal, be put to the vote.
- (3) If more than one amendment to a motion or proposal has been moved, such amendments shall be put to the vote in the order in which they were moved.
- (4) No member shall move more than one amendment of the same motion or proposal.
- (5) If an amendment is carried, the amendment motion or proposal shall take the place of the original motion or proposal and shall then become the motion or proposal in respect of which any further proposed amendments shall be put, provided that the Speaker may, if he/she is of the opinion that an amendment which has been carried renders another amendment unnecessary or pointless, rule that such other amendment needs not to be put, after which the former amendment shall lapse.

### **33. Council In Committee**

- (1) Notwithstanding anything to the contrary contained in these Standing Orders, a member may:
  - (a) At any time after an item on the agenda has been called, or during consideration thereof, move that the Council resolves itself In Committee, in terms of Section 20(1) of the Municipal Systems Act, for the further consideration of that item.
  - (b) If the Council is In Committee as contemplated in Subsection (1)(a) above, move that for the further consideration of the item under debate, the Council resolves to consider the matter in Open Council.



Notwithstanding the provisions of (a) and (b) above, the Executive Mayor, or any member of the Mayoral Committee called upon by the Executive Mayor, may, at any time, move that the Council resolves itself In Committee for the consideration of one or more items on the agenda.

- (2) No seconder is required for a motion in terms of Subsection (1).
- (3) Only the member moving the motion in terms of Subsection (1) may speak on such motion for a period not exceeding three minutes whereafter the Speaker shall put the motion to the vote without any debate being allowed.
- (4) The Speaker may, if in his or her opinion information is disclosed or is about to be disclosed in the course of a speech by a Councillor which may be prejudicial to the Council or the inhabitants of the municipality, direct the Councillor concerned to forthwith discontinue his/her speech until the Council is In Committee.
- (5) If the Council is In Committee, the provisions of these Standing Orders, except insofar as they are in conflict with this section, shall apply.
- (6) If a proposal in terms of the provision to Subsection (1) is carried, the Speaker shall determine when the items concerned shall be considered and all such items shall be considered consecutively.
- (7) At the conclusion of the consideration of items In Committee, the Council shall revert to the consideration of further items in Open Council.
- (8) When the Council resolves itself In Committee, all members of the public and Council officials, except such officials as the Speaker may require to remain, shall leave the Council Chamber and shall not return to the Council Chamber for the duration of the proceedings In Committee.
- (9) The Speaker may direct an officer to eject or cause to be ejected any person who remains on the Council Chamber in contravention of Subsection (8), or take steps to prevent the entry of any person into such Chamber who is in contravention of that Subsection.

#### **34. Return of attendance of meetings**

The Speaker shall cause to be prepared annually, and to be included as a report in the relevant last meeting of each calendar year, a return showing the attendance of each member at meetings of the Council and Committees for the duration of that calendar year.

#### **35. Exclusion of Councillors publishing or disclosing of documents or information**

- (1) Subject to relevant legislation, any Councillor who publishes or discloses or causes to be published or disclosed any document, record or proceedings of the Council and its Committees relating to any purchase of expropriation of land or other property, or any legal or arbitration proceedings in which the Council is concerned, or the agenda, minutes, documents, records or details of proceedings of the Council and its Committees when In Committee, or any matter where the publication or disclosure of which would or might be prejudicial to the interests of the Council shall be guilty of an offence.
- (2) The Speaker may, on application being made to him by any registered newspaper or any member of the public, cause to be supplied to such applicant the agenda of the Council insofar as it does not contravene the provisions of subsection (1) above.

**36. Interpretation of Standing Orders**

- (1) The Speaker must give a ruling –
  - (a) whenever a question arises about the interpretation or application of the Standing Orders.
  - (b) in cases not provided for in these Standing Orders
- (2) When the Speaker makes a ruling in terms of (1)(a) and (1)(b) above he or she must consider best practice and be guided by previous rulings and the established practices of the Council.
- (3) A ruling on a case not provided for in these Standing Orders remains in force until the Council has decided on the matter.
- (4) All rulings made by the Speaker in terms of (1)(a) and (1)(b) above must be recorded in the minutes of the meeting during which the ruling was made.

**37. Penalty Clause**

- (1) Any person who contravenes or fails to comply with any provisions contained in these Standing Orders, shall be guilty of an offence and liable, on conviction, to a fine not exceeding R2 000,00 (two thousand Rand) or, in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.
- (2) Any Councillor who contravenes the Code of Conduct for Councillors as contained in Schedule 1 of the Municipal Systems Act (Act 32 of 2000) shall be liable to a fine, as contemplated in Sections 4 and 14 of the said Schedule, not exceeding R2000,00 (two thousand Rand).
- (3) Subject to the provisions of subsections (1) and (2) different penalties may be provided in the case of successive or continuous breaches of the Standing Orders or the said Schedule 1.

**38. Penalty Clause Procedures**

- (1) No Councillor may be warned, reprimanded or fined by the Council or a request made to the Provincial MEC (Member of the Executive Committee) to suspend or remove the Councillor from office unless he/she has been afforded an opportunity to state his/her case before a committee established for such purposes at a meeting of which he/she has received not less than 7 (seven) days notice in writing from the Speaker setting out the nature of the charge against him/her. A Councillor shall be entitled to call witness(es) in support of his/her case when appearing before the committee.
- (2) A report containing the investigation of the alleged breach by the Councillor as well as recommendations made by the committee shall be forwarded to the Council for final resolution.
- (3) Any Councillor who has been penalised by the Council in terms of Section 14(2) of Schedule 1 to Act 32 of 2000, shall have a right to appeal against such penalty in terms of Section 14(3) of the said Schedule 1.
- (4) The Councillor shall be entitled to request reasons in writing for any decision of the committee or of the Council.



### **39. Committees of Council**

- (1) Proceedings at meetings of Committees of the Council established in terms of the Act, other than described herein, shall be conducted substantively in accordance with the provisions of these Standing Orders, *mutatis mutandis* (similarly).
- (2) Any Committee of the Council established in terms of Section 79 and 80 of the Act may require an Executive Director (or person serving as Head of Department), or person acting in his/her stead, as well as the member of the Mayoral Committee entrusted with the portfolio relevant to the specific function of such committee, to attend any meeting of such committee in order to participate in the deliberation of any matter before it or to respond to questions in connection therewith. Such Executive Director or member referred to above must attend such meeting.

### **40. Privilege**

Councillors enjoy privilege as per Section 28 of the Municipal Structures Act or applicable provincial legislation.

**LOCAL AUTHORITY NOTICE 2477****MIDVAAL LOCAL MUNICIPALITY****REVENUE BY-LAWS, 2008**

In terms of the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and the provisions of section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Council of the Midvaal Local Municipality hereby enacts as follows:

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2. Definitions

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5. Calculation of Tariffs for Major Services
6. Structure of Tariffs
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8. Water
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10. Sewerage
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**Part III : Rates**

12. Objective
13. Imposition of Rates
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33. Indigency Management
34. Arrears which have arisen prior to the adoption of the present policy

#### **Part V : Indigency Management**

35. Objective
36. Who qualifies for Indigent Support
37. Application of the policy
38. Non-compliance of households registered as indigent

**PART I: GENERAL****SECTION 1: OBJECTIVE OF BY-LAWS**

- (a) These by-laws are formulated and gazetted to give proper effect to the local municipality's policies on:
- tariffs;
  - rates;
  - credit control and debt collection; and
  - indigency management.
- (b) These by-laws must be read in conjunction with the policies referred to, and within the applicable provisions of the following legislation:
- (i) Water Services Act No. 108 of 1997;
  - (ii) Local Government: Municipal Systems Act No. 32 of 2000;
  - (iii) Local Government: Municipal Finance Management Act No. 56 of 2003; and
  - (iv) Local Government: Municipal Property Rates Act No. 6 of 2004.
- (c) The relevant sections of the legislation referred to above are appended to:
- (i) Part 9 of the tariffs policy;
  - (ii) Part 7 of the rates policy; and
  - (iii) Part 24 of the credit control and debt collection policy..
- (d) Copies of these policies, with the relevant annexures setting out the legal requirements and legal framework within which the by-laws must operate, appear on the municipality's website (address provided) and are available free of charge on application to the Office of the Municipal Manager (address provided).

**SECTION 2: DEFINITIONS**

"Agent" in relation to the owner of a property, shall mean a person appointed by the owner of the property to receive rental or other payments in respect of the property on behalf of the owner, or to make payments in respect of the property on behalf of the owner.

"Agricultural purpose" in relation to the use of a property shall exclude the use of the property for the purpose of eco tourism or for trading or hunting of game.

"Annual budget" shall mean the budget approved by the municipal council for any particular financial year, and shall include any adjustments to such budget.

"Basic municipal services" shall mean a municipal service necessary to ensure an acceptable and reasonable quality of life, which service – if not provided – would endanger public health or safety or the environment.

"By-law" shall mean legislation passed by the council of the municipality, and which shall be binding on the municipality and on the persons and institutions to which it applies.

"Consumer price index" shall mean the CPIX as determined and gazetted from time to time by the South Bureau of Statistics.

"Councillor" shall mean a member of the council of the municipality.

"Domestic consumer or user" of municipal services shall mean the person or household which municipal services are rendered in respect of "residential property" as defined below.

"Financial year" shall mean the period starting from 1 July in any year and ending on 30 June on the following year.

"Integrated development plan" shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000.

"Land reform beneficiary" in relation to a property, shall mean a person who acquired the property through the provision of Land and Assistance Act No. 126 of 1993 or the Restitution of Land Rights Act No. 22 of 1994, or who holds the property subject to the Communal Property Associations Act No. 29 of 1996, or who holds or acquires the property in terms of such other land tenure reform legislation as may be enacted.

"Local community" or "community", in relation to the municipality, shall mean that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic organisations and non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.

"Market value" in relation to a property shall mean the value of the property as determined in accordance with Section 46 of the Property Rates Act 2004.

"Month" means one of twelve months of a calendar year.

"Municipality" or "municipal area" shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the municipality.

"Municipal council" or "council" shall mean the municipal council as referred to in Section 157(1) of the Constitution.

"Municipal entity" shall mean (a) a company, co-operative, trust, fund or any other corporate entity established in terms of any applicable national or provincial legislation, and which operates under the ownership control of one or more municipalities; or (b) a service utility.

"Municipal manager" shall mean the person appointed in terms of Section 82 of the Municipal Structures Act, 1998.

"Multiple purposes" in relation to a property, shall mean the use of a property for more than one purpose.

"Municipal service" has the meaning assigned to it in terms of Section 1 of the Municipal Systems Act.

"Municipal tariff" shall mean a tariff for services which the municipality may set for the provision of a service to the local community, and may include a surcharge on such service. Tariffs for major services shall mean tariffs set for the supply and consumption or usage of electricity, water, sewerage and refuse removal, and minor tariffs shall mean all other tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of other services supplied including services incidental to the provision of the major services.

"Occupier" in relation to a property, shall mean a person in actual occupation of the property, whether or not that person has a right to occupy the property.

"Owner" (a) in relation to a property referred to in paragraph (a) of the definition of "property", shall mean a person in whose name ownership of the property is registered; (b) in relation to a right referred to in paragraph (b) of the definition of "property", shall mean a person in whose name the right is registered; (c) in relation to a land tenure right referred to in paragraph (c) of the definition of "property", shall mean a person in whose name the right is registered or to whom it was granted in terms of legislation; and (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", shall mean the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "publicly controlled", provided that a person mentioned below may for the purposes of the Property Rates Act 2004 be regarded by the municipality as the owner of a property in the following cases:

- (i) a trustee, in the case of a property in a trust, but excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the municipality and is leased by it; and
- (viii) a buyer, in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer.

"Permitted use" in relation to a property, shall mean the limited purposes for which the property may be used in terms of any restrictions imposed by a condition of title, a provision of the municipality's town planning or land use scheme, or any legislation applicable to any specific property or properties, or any alleviation of any such restrictions.

"Person" shall include an organ of state, and an "organ of state" shall mean an organ of state as defined in Section 239 of the Constitution.

"Property" shall mean (a) immovable property registered in the name of a person, including in the case of a sectional title scheme a sectional title unit registered in the name of a person; (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property; (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; and (d) public service infrastructure.

"Public service infrastructure" shall mean publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme servicing the public;
- (c) power stations, power sub-stations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuel forming part of the scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges and lines forming part of a communication system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; and
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i).

"Publicly controlled" shall mean owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act No. 1 of 1999, a municipality, or a municipal entity.

"Rate" shall mean a municipal rate on property as envisaged in Section 229(1)(a) of the Constitution.

"Rateable property" shall mean property on which the municipality may in terms of Section 2 of the Property Rates Act 2004 levy a rate, but excluding property fully excluded from the levying of rates in terms of Section 17 of that Act.

"Ratepayer" shall mean a person who is liable to the municipality for the payment of (a) rates on property in the municipality; (b) any other tax, duty or levy imposed by the municipality; and/or (c) fees for services provided either by the municipality or in terms of a service delivery agreement.

"Rebate" in relation to a rate payable on a property, shall mean a discount granted in terms of Section 15 of the Property Rates Act 2004 on the amount of the rate payable on the property.



"Residential property" shall mean a property included in the valuation roll in terms of Section 48(2)(b) of the Property Rates Act 2004 as residential.

"Sectional Titles Act" shall mean the Sectional Titles Act No. 95 of 1986, and "sectional title scheme" shall mean a scheme defined in Section 1 of that Act; and "sectional title unit" shall mean a unit as defined in Section 1 of that Act.

"Specified public benefit activity" shall mean an activity listed in item 1 (welfare and humanitarian), item 2 (healthcare) and item 4 (education and development) of Part 1 of the ninth schedule to the Income Tax Act No. 58 of 1962.

"State trust land" shall mean land owned by the state and held in trust for persons communally inhabiting the land in terms of a traditional system of land tenure; over which land tenure rights have been registered or granted; or which is earmarked for disposal in terms of the Restitution of Land Rights Act No. 22 of 1994.



## PART II: TARIFFS

### SECTION 3: OBJECTIVE

In setting its annual tariffs the council shall at all times take due cognisance of the tariffs applicable elsewhere in the economic region, and of the impact which its own tariffs may have on local economic development.

### SECTION 4: GENERAL PRINCIPLES

- (a) Service tariffs imposed by the local municipality shall be viewed as user charges and shall not be viewed as taxes, and therefore the ability of the relevant consumer or user of the services to which such tariffs relate, shall not be considered as a relevant criterion (except in the case of the indigency relief measures approved by the municipality from time to time).
- (b) The municipality shall ensure that its tariffs are uniformly and fairly applied throughout the municipal region.
- (c) Tariffs for the four major services rendered by the municipality, namely:
  - electricity
  - water
  - sewerage (waste water)
  - refuse removal (solids waste),

shall as far as possible recover the expenses associated with the rendering of each service concerned, and – where feasible – generate a modest surplus as determined in each annual budget. Such surplus shall be applied in relief of property rates or for the future capital expansion of the service concerned, or both.

- (d) The tariff which a particular consumer or user pays shall therefore be directly related to the standard of service received and the quantity of the particular service used or consumed.
- (e) The municipality shall develop, approve and at least annually review an indigency support programme for the municipal area. This programme shall set out clearly the municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents, and the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.
- (f) In line with the principles embodied in the Constitution and in other legislation pertaining to local government, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies. Such differentiation shall, however, at all times be reasonable, and shall be fully disclosed in each annual budget.
- (g) The municipality's tariff policy shall be transparent, and the extent to which there is cross-subsidisation between categories of consumers or users shall be evident to all consumers or users of the service in question.

- (h) The municipality further undertakes to ensure that its tariffs shall be easily explainable and understood by all consumers and users affected by the tariff policy concerned.
- (i) The municipality also undertakes to render its services cost effectively in order to ensure the best possible cost of service delivery.
- (j) In the case of directly measurable services, namely electricity and water, the consumption of such services shall be properly metered by the municipality, and meters shall be read, wherever circumstances reasonably permit, on a monthly basis. The charges levied on consumers shall be proportionate to the quantity of the service which they consume.
- (k) In addition, the municipality shall levy monthly availability charges for the services concerned, and these charges shall be fixed for each type of property as determined in accordance with its appropriate policies. Generally, consumers of water and electricity shall therefore pay two charges: one, relatively minor, which is unrelated to the volume of consumption and is levied because of the availability of the service concerned; and another directly related to the consumption of the service in question.
- (l) In considering the costing of its water, electricity and sewerage services, the municipality shall take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.

In adopting what is fundamentally a two-part tariff structure, namely a fixed availability charge coupled with a charge based on consumption, the municipality believes that it is properly attending to the demands which both future expansion and variable demand cycles and other fluctuations will make on service delivery.

- (m) The municipality's tariffs for electricity services will be determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, will have to bear the costs associated with these charges. To this end the municipality shall therefore install demand meters to measure the maximum demand of such consumers during certain periods. Such consumers shall therefore pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

#### SECTION 5: CALCULATION OF TARIFFS FOR MAJOR SERVICES

In order to determine the tariffs which must be charged for the supply of the four major services, the municipality shall identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) Cost of bulk purchases in the case of water and electricity.
- (b) Distribution costs.

- (c) Distribution losses in the case of electricity and water.
- (d) Depreciation expenses.
- (e) Maintenance of infrastructure and other fixed assets.
- (f) Administration and service costs, including:
  - (i) service charges levied by other departments such as finance, human resources and legal services;
  - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
  - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock;
  - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area (note: the costs of the democratic process in the municipality – that is, all expenses associated with the political structures of the municipality – shall form part of the expenses to be financed from property rates and general revenues, and shall not be included in the costing of the major services of the municipality).
- (g) The intended surplus to be generated for the financial year, such surplus to be applied:
  - (i) as an appropriation to capital reserves; and/or
  - (ii) generally in relief of rates and general services.
- (h) The cost of approved indigency relief measures.

#### SECTION 6: STRUCTURE OF TARIFFS

- (a) The structure of Tariffs for the provision of water, electricity, refuse removal and sewerage services, as well as minor tariffs will be as determined from time to time, whether in the annual budget or otherwise as provided for in law.
- (b) The following charges and tariffs shall be considered as regulatory or punitive, and shall be determined as appropriate in each annual budget:
  - (i) fines for lost or overdue library books
  - (ii) advertising sign fees
  - (iii) pound fees
  - (iv) electricity, water: disconnection and reconnection fees
  - (v) penalty and other charges imposed in terms of the approved policy on credit control and debt collection
  - (vi) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (c) Market-related rentals shall be levied for the lease of municipal properties.
- (d) In the case of rentals for the use of municipal halls and premises, if the municipal manager is satisfied that the halls or premises are required for non-profit making

purposes and for the provision of a service to the community, the municipal manager may waive 50% of the applicable rental.

- (e) The municipal manager shall determine whether an indemnity or guarantee must in each instance be lodged for the rental of municipal halls, premises and sports fields, and in so determining shall be guided by the likelihood of the municipality's sustaining damages as a result of the use of the facilities concerned.

### PART III: RATES

#### SECTION 7: OBJECTIVE

- (a) In developing and adopting this rates policy, the council has sought to give effect to the sentiments expressed in the preamble of the Property Rates Act, namely that:
  - (i) the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;
  - (ii) there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfill its developmental responsibilities;
  - (iii) revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices; and
  - (iv) it is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor.
- (b) In applying its rates policy, the council shall adhere to all the requirements of the Property Rates Act 2004, including any regulations promulgated in terms of that Act.

#### SECTION 8: IMPOSITION OF RATES

- (a) The council shall as part of each annual operating budget component impose a rate in the rand on the market value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll. Rateable property shall include any rights registered against such property, with the exception of a mortgage bond.
- (b) The council shall, in imposing the rate for each financial year, take proper cognisance of the aggregate burden of rates and service charges on representative property owners, in the various categories of property ownership, and of the extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region.

## SECTION 9: REBATES ON RATES

- (a) In imposing the rate in the rand for each annual operating budget component, the council shall grant the rebates to the categories of properties and categories of owners in terms of the circumstances of a particular annual budget which the Council in its discretion deems appropriate.
- (b) In determining whether a property forms part of a particular category, the municipality shall have regard to the actual use to which the relevant property is put. In the case of vacant land not specifically included in any of the categories indicated below, the permitted use of the property shall determine into which category it falls.
- (c) Municipal properties shall include properties owned by municipal entities
- (d) Properties used for multiple purposes, as deemed relevant by the Council, shall be rated on the value assigned to each component, and shall receive the rebate applicable to such component. Where one component on average represents 90% or more of the property's actual use, such property shall be rated as though it were used for that use only.
- (e) The municipal manager shall ensure that the revenues forgone in respect of the foregoing rebates are appropriately disclosed in each annual operating budget component and in the annual financial statements and annual report, and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

## SECTION 10: FREQUENCY OF PAYMENTS

Payments for rates shall be made monthly on or before the date specified in each monthly rate account.

## SECTION 11: CORRECTION OF ERRORS AND OMISSIONS

- (a) Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll, but a period not longer than 12 months.
- (b) In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

## SECTION 12: FREQUENCY OF VALUATIONS

The municipality shall prepare a new valuation roll every 4 (four) years and supplementary valuation rolls every 6 (six) months.



**PART IV: CREDIT CONTROL AND DEBT COLLECTION****SECTION 13: OBJECTIVE CONSTITUTIONAL OBLIGATIONS**

The council of the municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligations to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfill these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the council's approved indigency management policy.

**SECTION 14: NOTICE OF DEFAULT AND INTENDED TERMINATION OR RESTRICTION OF SERVICES**

Within 7 (seven) calendar days after each monthly due date for payment of municipal accounts for property rates and/or service charges, the municipal manager shall dispatch to every defaulting accountholder, that is, every accountholder who as at the date of the notice has not paid the monthly account in full or has not made an acceptable arrangement with the municipal manager for partial or late payment, a notice stating that unless full payment is received or an acceptable arrangement made with the municipal manager for partial or late payment, the municipal electricity or water supply or both such supplies to the property to which the account in arrears relates shall be terminated or restricted 14 (fourteen) calendar days after the date of the notice concerned.

**SECTION 15: RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES**

- (a) Services to defaulting accountholders terminated or restricted in terms of Section 19 above shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:
- (i) the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;
  - (ii) the charge(s) for the notice sent in terms of Section 19 above and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the council from time to time, have been paid in full;
  - (iii) a service contract has been entered into with the municipality, as contemplated in Section 26 below; and
  - (iv) a cash deposit has been lodged with the municipal manager in compliance with Section 27, such deposit to be newly determined on the basis of currently prevailing consumption and usage of services in respect of the property concerned or, if insufficient data is available in regard to such consumption, of

the currently prevailing consumption and usage of services in respect of a comparable property.

- (b) In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchases shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account, as contemplated above: such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a stated percentage of the arrears has been settled.

#### SECTION 16: PERIODS FOR RECONNECTIONS OR REINSTATEMENTS

The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in Section 20 above have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality.

#### SECTION 17: ILLEGAL RECONNECTIONS

- (a) The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service, disconnect or restrict such service(s), and not reconnect or reinstate such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of Section 19 above and the charges for both the original and subsequent reconnexion or reinstatement of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the council from time to time.
- (b) In addition, all metered consumption since the date of the illegal reconnexion, or the estimated consumption if a reliable meter reading is not possible, shall also be paid full before any reconnexion or reinstatement is considered.

#### SECTION 18: RESTRICTION OF SERVICES

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community – specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

**SECTION 19: SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR WEEKS**

- (a) If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the accountholder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council.
- (b) Such further action shall include if necessary the sale in execution of such property to recover arrear property rates and service charges (if the accountholder is also the owner of the property).
- (c) All legal expenses incurred by the municipality shall be for the account of the defaulting accountholder.

**SECTION 20: ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS**

- (a) Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.
- (b) Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.
- (c) If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in Section 24 above.
- (d) An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in Section 19 above and failure by the accountholder to pay the arrear account, together with interest raised on such arrears as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.



## SECTION 21: SERVICE CONTRACT

- (a) A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide electricity and water services:
  - (i) electricity (Consumer)
  - (ii) water (Consumer)
  - (iii) refuse collection (Owner of property – levied with assessment rates)
  - (iv) sewerage. (Owner of property – levied with assessment rates)
- (b) Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act in regard to the municipality's right of access to property.
- (c) Where the signatory is not the owner of the property to which the services are to be provided, a properly executed letter from such owner indicating that the signatory is the lawful occupant of the property shall be attached to the service contract.
- (d) Current consumers and users of the municipality's services who have not entered in a service contract as envisaged above, must do so within 2 (two) years from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment in terms of Section 19 above.

## SECTION 22: PAYMENT OF DEPOSITS

Whenever a service contract is entered into in terms of Section 26 above, the signatory shall lodge a cash deposit with the municipality, such deposit to be determined as follows:

- (a) in the case of the signatory's being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one quarter of the aggregate monetary value of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period;
- (b) in the case of the signatory's not being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one third of the aggregate monetary value of the relevant service(s) as determined above.

## SECTION 23: ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

- (a) If an accountholder pays only part of any municipal account due, the municipal manager or nominee shall allocate such payment in terms of his/her discretion as permitted in law.

- (b) The sequence of allocation decided in terms of (a) above shall be followed notwithstanding any instructions to the contrary given by the accountholder.
- (c) In the event of an accountholder's defaulting on the payment of an arrear account, as contemplated in Section 22, 24 and 25 above, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of part payments, as contemplated above.

#### SECTION 24: QUERIES BY ACCOUNTHOLDERS

- (a) In the event of an accountholder in the view of the municipal manager reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in Section 19 above, provided
  - (i) the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried accounts in respect of the service under query,
  - (ii) all unqueried balances on such account, and
  - (iii) such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account.
- (b) Any query raised by an accountholder in the circumstances contemplated in Section 30 below shall not constitute a reasonable query for the purposes of the sub-section (a) above.

#### SECTION 25: INABILITY TO READ METERS

- (a) If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly average of the metered consumption recorded on the three most recent accounts in respect of which meter readings were obtained, and thereafter bill the accountholder for the monetary value of such estimated consumption plus a provisional surcharge of 10% of such value for the first month in which the metered reading could not be obtained, escalating to 20% in the second month, 30% in the third month, and so on by 10 percentage points for each subsequent month, until the meter is again rendered accessible.
- (b) The accountholder shall be liable for the initial payment of such surcharge(s) as though the surcharge were part of the service charge concerned, but the municipal manager shall reverse such surcharge(s) against the first account for which a meter reading is again obtained.

## SECTION 26: DISHONOURED AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's or the municipality's bankers, the municipal manager shall – in addition to taking the steps contemplated in these by-laws against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in Section 28 above.

## SECTION 27: INTEREST ON ARREARS AND OTHER PENALTY CHARGES

- (a) Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered to the municipality by the municipality's bankers plus 2 (two) percentage points.
- (b) If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.
- (c) Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.
- (d) In considering each annual budget the council shall review the adequacy of its interest charges, and shall determine the following for the financial year concerned:
  - (i) charges for disconnection or restriction of services (Section 19)
  - (ii) charges for reconnection or reinstatement of services (Section 20)
  - (iii) charges for notices of default (Section 19)
  - (iv) penalty charges for illegal reconnections (Section 22)
  - (v) penalty charges for dishonoured and unacceptable cheques (Section 31).

## SECTION 28: INDIGENCY MANAGEMENT

In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such residents, this part of the by-laws must be read in conjunction with the by-laws on indigency management.

## SECTION 29: ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY

- (a) The council shall separately consider arrears which arose prior to the adoption of the present by-laws, and shall advise accountholders of their respective obligations in regard to such arrears.
- (b) In determining such obligations, the council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the accountholder concerned has registered as an indigent in terms of the municipality's by-laws on indigency management.

- (c) The council shall further consider an incentive scheme to encourage accountholders to settle all or a stated percentage of these arrears.

#### PART V: INDIGENCY MANAGEMENT

##### SECTION 30: OBJECTIVE

Because of the level of unemployment and subsequent poverty in the municipal area, there are households which are unable to pay for normal municipal services. The municipality therefore adopts its indigency management policy and attendant by-laws to ensure that these households have access to at least basic municipal services, and is guided in the formulation of this policy and by-laws by the national government's policy in this regard.

##### SECTION 31: WHO QUALIFIES FOR INDIGENT SUPPORT

The criteria for qualification for indigent support and the process to be followed will be as determined by Council in terms of Council's Indigent Policy.

##### SECTION 32: NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT

- (a) When a property owner or accountholder who has registered as an indigent fails to comply with any arrangements or conditions which are in the view of the municipal manager materially relevant to the receipt of indigency relief, such person will forfeit his or her status as a registered indigent with immediate effect, and will thereafter be treated as an ordinary residential property owner or accountholder for the financial year concerned.
- (b) The onus is on each registered indigent to advise the municipal manager of such failure to comply.
- (c)
- (i) if any household in receipt of indigency relief falls into arrears in respect of any amounts due by it to the municipality, the property owner or accountholder concerned must make immediate arrangements with the municipal manager to pay off these arrears owing within a reasonable time determined by the municipal manager in terms of the municipality's credit control and debt collection by-laws.
  - (ii) If these arrangements are not made, no subsidies will be paid or free services provided, and services may be terminated in terms of the municipality's credit control and debt collection by-laws.
- (d) The relief to indigents may be withdrawn at the discretion of the municipal manager if:
- (i) a registered indigent who qualifies for such relief fails to keep to the terms of the policy agreement; or
  - (ii) any tampering with the installations of the municipality is detected.

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- (e)
    - (i) If a registered indigent is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent, such person shall immediately be removed from the register of indigents, and shall be liable to repay to the municipality with immediate effect all indigency relief received from the date of such fraudulent registration.
    - (ii) Moreover, such person may not again be considered for indigency relief for a period extending for 5 (five) years beyond the financial year in which the misdemeanour is detected.
  - (f) Indigency relief will not apply in respect of property owners owning more than one property, whether in or outside the municipal area.
-