

**SALDANHA BAY MUNICIPALITY
BY-LAW RELATING TO THE CONDUCT OF MEETINGS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, Saldanha Bay Municipality enacts as follows:-

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CHAPTER 1: DEFINITIONS AND APPLICATION

1. Definitions

In this by-law, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:–

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

“**committee**” means a committee established by council in terms of sections 79 or 80 of the Structures Act, or any other committee established by council for a specific purpose;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**council**” means the municipal council of Saldanha Bay;

'**electronic notice**' means the transmission or reception of information, by means of e-mail, facsimile or text via mobile phone;

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

“**meeting**” means a meeting of the municipal council and any committee established by the council;

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

“**motion**” means a motion of which written notice is given by a member, but shall not include a motion as contemplated by sections 51 and 52, and order motions as set out in section 56;

“**municipal manager**” means the person appointed by council in terms of section 54A of the Systems Act, or a person delegated by the municipal manager;

“**party**” means a party as defined in the Structures Act;

“**speaker**” means the member elected as chairperson of the council or any other member elected as chairperson of the council and any reference to the speaker is regarded as reference to the chairperson of a committee or a person acting as a chairperson of a committee

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

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

2. Application

(1) This by-law applies to-

(a) all meetings of council;

(b) all committees of council established in terms of sections 79 or 80 of the Structures Act and all meetings that are the result of any of the aforementioned; and

- (c) any other committee established by council for a specific purpose unless such committee determines its own rules and procedures; and
- (d) except where it is clearly inappropriate, a section applying to members in any proceedings, shall also apply to a non-member who takes part in those proceedings with the approval of the speaker.

(2) Notwithstanding the provisions of sub section (1), the provisions of this section shall not apply to the Attendance Committee as contemplated in the Schedule to this by-law or any special committee established by council in terms of item 14(1)(b) of the Code.

3. Supplementation

- (1) The speaker may make a ruling with regard to the application of this by-law and in respect of any eventuality for which this by-law does not make provision and no further discussion shall be allowed on the ruling.
- (2) Notwithstanding the provisions of section 60, the speaker may order that the council adjourn for a specific time, not exceeding one hour, should circumstances require this.
- (3) The speaker's decision will be final and binding on all councillors and the public.
- (4) The ruling of the speaker must be entered in the minutes.

CHAPTER 2: MEETINGS

4. Chairmanship and commencement of Meeting

- (1) The speaker is the chairperson at all meetings of the council.
- (2) Should the speaker not be present at a meeting, an acting speaker for that meeting must be elected from the members present by a majority of votes.
- (3) Should the speaker be present at a meeting but it is necessary for the speaker to absent him or herself during the meeting, then the speaker must appoint an acting chairperson for the duration of his absence at that meeting from the members present.
- (4) Where the office of the speaker becomes vacant, the municipal manager must call a special council meeting for the purpose of electing a speaker, at a date and time determined by him, provided that such special meeting must take place within 14 days after the office became vacant.
- (5) If the office of the speaker becomes vacant during a meeting, an acting speaker for that meeting must be elected from the members present at the meeting.
- (6) The municipal manager, or in the absence of a municipal manager, a person designated by the MEC, presides over the election of a speaker.

5. Order of Business

(1) The business of meetings will appear in the following order on the agenda

—

- (a) election of acting speaker, if necessary;
- (b) applications for leave of absence;
- (c) confirmation of minutes;
- (d) disclosure of interests;
- (e) statements and communications by the executive mayor or executive deputy mayor;
- (f) statements and communications by the speaker;
- (g) interviews with deputations (if approved by the speaker);
- (h) consideration of reports by executive mayor;
- (i) matters for consideration/information;
- (j) urgent matters submitted by the municipal manager;
- (k) consideration of notices of motion;
- (l) consideration of notices of questions;
- (m) consideration of motions of exigency;
- (n) matters in-committee

(2) The speaker may of his or her own volition change the order of the business appearing on the agenda.

(3) A member who wishes to have the order of business on the agenda changed must approach the speaker prior to the meeting. The decision of the speaker in this regard will be final.

6. Introduction of urgent matter

The speaker, executive mayor and the municipal manager may at any time and without notice make any statement or introduce urgent matters and such matters may be discussed if the majority of the members agree thereto.

7. Business to be transacted

Except as otherwise provided in this by-law, no matter not specified in the agenda of a meeting of the council may be transacted at such meeting.

8. Meetings and agenda

(1) The speaker or a person designated by the speaker must prepare the agenda for a meeting.

(2) All meetings must be open to members of the public unless they are excluded in terms of section 20.

(3) The council must meet at least quarterly and at least 72 hours notice must be given of every ordinary council meeting, provided that in an emergency, a shorter period may apply.

(4) The speaker shall decide when and where the council meets, but if a majority of the members request the speaker in writing to convene a special meeting, the speaker must convene such meeting at a time as set out in the request and provide the municipal manager with a copy of the request.

(5) If the speaker fails to convene a special council meeting referred to in sub section (4), the municipal manager must convene such meeting and he or she must convene such meeting at a time set out in the request.

(6) A notice by the majority of members must clearly indicate the business that will be conducted at the special council meeting. No other business, except with the agreement of a majority of members, may be conducted at the special council meeting.

(7) The municipal manager must, at the direction of the speaker, give notice in writing to each member of every meeting decided upon in terms of sub sections (4) and (5).

(8) The speaker or in his or her absence, the executive mayor, shall determine whether a meeting is urgent or not.

(9) In the case of an urgent or special meeting, at least 24 hours notice must be given of the meeting or such lesser period as the speaker may determine.

(10) The municipal manager must give notice to the public of the day, time and venue of every meeting by publishing a notice in a local newspaper determined by him or her; provided that he or she may depart from this requirement when the time constraints make this impossible in respect of urgent meetings.

(11) Each member of the municipal council must submit in writing an electronic mail address, a mobile telephone number for instant messaging as well as a physical address within the municipal area where he or she can receive notification of meetings and other official correspondence. Electronic notice of a meeting or any other official correspondence to any of the addresses or numbers provided will constitute proper notice of meeting.

9. Attendance at Meetings

(1) Every member attending a meeting of the council or a committee of which he or she is a member, must sign his or her name in the attendance register kept for such purpose.

(2) A member must attend each meeting of the council and of a committee of which he or she is a member, except when –

- (a) leave of absence is granted in terms of section 10; or
- (b) the member is required to withdraw in terms of law.

10. Leave of Absence

- (1) A member must, before absenting himself or herself from a meeting, apply to the speaker by signing a leave application form and delivering such application form to the speaker at least 72 hours before the meeting.
- (2) Upon receipt of the application referred to in sub section (1), the speaker must consider the application, and may approve or reject the application. The speaker must notify the member of his or her decision, and reasons in case of refusal, at least 24 hours before the meeting.
- (3) The speaker may grant leave of absence to a member who has been prevented by special circumstances from applying for leave of absence in accordance with sub section (1).
- (4) The special circumstances referred to in sub section (3) may include –
 - (a) illness of the member; or
 - (b) illness or death of close relatives of the member;
 - (c) a member being on official business of council; or
 - (d) a member attending to an urgent matter within the community.
- (5) Sub sections (1) to (4) apply, with the necessary changes, in respect of the speaker, and in such application, a reference in those sub sections to the speaker is regarded to be a reference to the council.
- (6) A member, who without permission, fails to remain in attendance at a meeting shall be regarded as being absent without leave.
- (7) The names of all members to whom leave of absence from any meeting has been granted and those of all members who absent themselves without leave from any meeting or who fail to remain in attendance at a meeting, must be recorded in the minutes or report(s) relating to such meeting.

11. Standing procedures and sanctions for non-attendance by members

Subject to the provisions of the Code, the speaker must act in accordance with the standing procedures as reflected in the Schedule to this by-law against members who do not comply with sections 9 and 10 of this by-law.

12. Minutes

- (1) Minutes of the proceedings of meetings must be recorded electronically and compiled by the municipal manager within two weeks of the meeting in printed format and be confirmed by council or the relevant committee at the next ordinary meeting and signed by the speaker.
- (2) In exceptional cases where there is uncertainty regarding a specific item in minutes, the minutes may be approved without that item, which item must then be approved at the next meeting in its existing or amended form. The electronic version of the minutes must be kept in terms of council's electronic records management policy.

- (3) For the purpose of confirmation, the minutes shall be taken as read if a copy, including an electronic copy, was sent to each member within 48 hours before the next meeting.
- (4) No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.

13. Quorum

- (1) A majority of the members shall constitute a quorum.
- (2) If there is no quorum at the time for which the meeting is scheduled, the speaker must take the chair as soon as a quorum is present.
- (3) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- (4) Whenever the speaker is not present and there is no quorum, the start of the meeting must be delayed for no more than 30 minutes and if there is no quorum at the end of that period, no meeting shall take place and the municipal manager must record the names of the members present.
- (5) Whenever during a meeting, there is no quorum, the speaker must suspend the proceedings until a quorum is again present. If after 10 minutes there is still no quorum the speaker must adjourn the meeting.
- (6) Whenever a meeting is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.
- (7) The municipal manager must report the names of the absent members to the speaker in terms of Item 4 of the Schedule for the purposes of an investigation in terms of Item 5 of the Schedule.

CHAPTER 3: DECISIONS

14. Unopposed Matters

Whenever the council is called upon to consider a matter before it and there is no opposition from any member, a unanimous vote must be recorded in the minutes.

15. Debate prior to decisions

- (1) Before any matter before council is debated, the speaker must indicate that the matter is open for discussion.
- (2) In the event of an opposed matter, the speaker may not allow any proposal or amendment to be moved until the matter has, in the view of the speaker, been adequately debated by the meeting.
- (3) An item on the agenda shall be deemed to be opposed business if a

member signifies his or her intention to discuss such item immediately after the speaker has indicated to the meeting that such item is open for discussion, provided that no item shall be deemed to be opposed by reason only of questions being asked in connection therewith.

16. Manner of Voting

(1) The speaker must put every opposed motion to the vote by calling upon the members to indicate by a show of hands, unless otherwise prescribed by law, whether they are for such motion or against it, whereupon the speaker must declare the result of such vote.

(2) The speaker may, at the request of a majority of the members present, rule that a matter be decided by secret ballot in which event the municipal manager shall ensure that a duly marked ballot paper is handed to each member.

(3) If there is an equality of votes in respect of a motion on which voting takes place in accordance with sub sections (1) and (2), the speaker must exercise his casting vote, in addition to his deliberative vote, provided that the speaker may not exercise a casting vote in terms of any matter set out in section 160(2) of the Constitution of the Republic of South Africa, 1996.

(4) Upon the speaker's declaration of the result of a vote, a member may demand for his or her vote to be recorded against the decision concerned and the municipal manager must ensure that such vote is recorded in the minutes.

(5) A member may abstain from voting on any matter and such abstention must accordingly be recorded in the minutes.

17. Decisions

(1) In accordance with the Constitution a supporting vote of a majority of the members is necessary to decide on –

- (a) the passing of by-laws;
- (b) the approval of the budget;
- (c) the imposition of rates and other taxes, levies and duties;
- (d) the raising of loans

(2) In accordance with the Structures Act a supporting vote of at least two-thirds of the members is necessary to adopt a decision to dissolve the council.

(3) All other matters are decided by a majority of votes cast.

CHAPTER 4: PUBLIC ACCESS

18. Admittance of Public

The speaker must take reasonable steps to regulate public access to, and public conduct at meetings.

19. Matters In-Committee

(1) Whenever the municipal manager at his or her discretion has provisionally placed any matter on a part of the agenda which may not be disclosed to the public before the meeting, the speaker, when such matters are to be considered, must –

- (a) direct that the members consider whether it would be reasonable for any or all of the items on such part of the agenda to be considered without the presence of the public, with due regard to section 160(7) of the Constitution of the Republic of South Africa, 1996, which requires that the public and media may only be excluded from being present at a meeting only when it is reasonable to do so, having regard to the nature of the business being transacted;
 - (b) direct that all members of the public leave the venue of the meeting in respect of those items to be dealt with In-Committee.
- (2) The motivation for the exclusion of the public must be minuted in full.
- (3) Any items from which the public will not be excluded, shall be considered directly after the procedure as set out in sub-section (1).

20. Exclusion of the public and media from meetings

(1) Subject to the provisions of Chapter 5 of this by-law, the public, including the media, may be excluded from the meeting –

- (a) where so directed by the speaker in terms of section 19; or
 - (b) where so decided by council in terms of sub section (3).
- (2) If a motion to exclude the public is seconded, it must be put to the vote forthwith without discussion.
- (3) If, after due consideration by council of the reasons stated, and with due regard to section 160(7) of the Constitution of the Republic of South Africa, 1996, such motion is carried, the place of meeting must be cleared of all members of the public, including media.

CHAPTER 5: GROUNDS DEEMED AS REASONABLE TO CLOSE A MEETING

21. Privacy

(1) A meeting must be closed if failure to do so will result in unreasonable disclosure of personal information about a third party who is a natural person, including a deceased individual.

- (2) Closure will not be compulsory if –
- (a) the affected individual has consented in writing to disclosure of the information to the public;
 - (b) the information was given to the municipality by the individual to whom it relates and the individual was informed by the

- municipality, that it belongs to a class of information that would, or might, be made available to the public;
- (c) the information is already publicly available;
 - (d) the information is about an individual who was or is an official of a public body and which relates to the position or functions of the individual, including but not limited to; -
 - (i) the fact that the individual is or was an official of that public body;
 - (ii) the title, work address, work phone number and other similar particulars of the individual;
 - (iii) the classification, salary scale, remuneration and responsibilities of the position held or services performed by the individual; and
 - (iv) the name of the individual on a record prepared by him or her in the course of employment.

22. Commercial information

(1) A meeting must be closed if failure to do so will result in disclosure of the following information-

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific or technical information, other than trade secrets of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; and
- (c) information supplied in confidence by a third party, which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations, or to prejudice that third party in commercial competition.

(2) The ground for closure in sub section (1)(a) and (b) also applies to commercial information of the municipality, but closure of a meeting in such circumstances is discretionary.

(3) Closure will not be compulsory if the information-

- (a) is already publicly available;
- (b) is about a third party who has consented in writing to the disclosure of information; or
- (c) relates to the results of product or environmental testing or investigation supplied by a third party or the result of any such testing or investigation carried out by or on behalf of a third party and its disclosure would reveal a serious public safety or environmental risk. The results referred to, do not include the results of preliminary testing or investigation for the purpose of developing methods of testing or investigation.

23. Confidential information other than commercial information

- (1) A meeting must be closed if failure to do so would result in the disclosure of information (other than commercial information) in breach of a duty of confidence owed to a third party in terms of an agreement.
- (2) A meeting may be closed if failure to do so would result in disclosure of information that was supplied in confidence by a third party –
 - (a) which could reasonably be expected to prejudice the future supply of similar information, or information from the same source; and
 - (b) if it is in the public interest that similar information, or information from the same source, should continue to be supplied.
- (3) Closure in terms of this section will not be compulsory if the information-
 - (a) is already publicly available; or
 - (b) is about a third party who has consented in writing to the disclosure of the information.

24. Safety of persons and protection of property

- (1) A meeting must be closed if failure to do so could reasonably be expected to endanger the life or physical safety of a person-
- (2) A meeting may be closed if failure to do so would be likely to prejudice or impair the security of –
 - (a) a building, structure, or system, including but not limited to, a computer or communication system;
 - (b) a means of transport;
 - (c) any other property; or
 - (d) methods, systems, plans or procedures for the protection of –
 - (i) a person in accordance with a witness protection scheme; or
 - (ii) the safety of the public, or any part of the public.

25. Law Enforcement and legal proceedings

- (1) A meeting must be closed if failure to do so would result in the disclosure of information, the disclosure of which is prohibited in terms of section 60(14) of the Criminal Procedure Act, 51 of 1977.
- (2) A meeting may be closed if failure to do so would result in disclosure of information –
 - (a) which would reveal the methods, techniques, procedures or guidelines for the prevention, detection, curtailment or investigation of a contravention or possible contravention of the law or the prosecution of offenders, the disclosure of which could reasonably be expected to prejudice their effectiveness or lead to the circumvention of the law or facilitate the commission of an offence;

- (b) where the prosecution of an alleged offender is being prepared or about to commence or is pending and the disclosure of the information could reasonably be expected to impede the prosecution or to result in a miscarriage of justice in that prosecution;
- (c) which could reasonably be expected to: -
 - (i) prejudice the investigation of a contravention or possible contravention of the law, which investigation is about to commence or is in progress; or, if it has been suspended or terminated, is likely to be resumed;
 - (ii) reveal the identity, or enable a person to ascertain the identity of a confidential source of information in relation to the enforcement or administration of the law;
 - (iii) result in the intimidation or coercion of a witness or a person who might be or has been called as a witness, in criminal proceedings or other proceedings to enforce the law;
 - (iv) facilitate the commission of a contravention of the law; or
 - (v) prejudice or impair the fairness of a trial or the impartiality of an adjudication.

26. Legal privilege

(1) A meeting must be closed if failure to do so would result in disclosure of information which is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege.

(2) Information subject to privilege includes, but is not limited to, any confidential communication between the municipality and its legal advisers, including its salaried legal advisers. Only the Council, executive mayor, or the municipal manager may waive the council's privilege.

27. Security

A meeting must be closed if failure to do so would result in disclosure of information which could reasonably be expected to cause prejudice to security of the municipality, or any office bearer or employee thereof.

28. Economic interests and financial welfare of the municipality

A meeting may be closed if failure to do so would result in disclosure of information likely to jeopardise the economic interests or financial welfare of the municipality .

29. Research information

- (1) A meeting must be closed if failure to do so would result in disclosure of information about research being or to be carried out by or on behalf of a third party, which would be likely to expose the third party, a person that is or will be carrying out the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.
- (2) This ground of closure also applies to research information of the municipality.

30. Operations of the municipality

- (1) A meeting may, in exceptional circumstances, be closed if failure to do so would frustrate a deliberative process of the municipality by inhibiting –
 - (a) the candid communication of an opinion, advice, report or recommendation or the candid conduct of a consultation, discussion or deliberation; or
 - (b) the supply in the future of similar communication where it is in the public interest that it be candidly supplied or conducted.
- (2) A meeting must be closed if failure to do so would result in disclosure of information –
 - (a) which could reasonably be expected to jeopardise the effectiveness of a testing, examining or auditing procedure or method used by the municipality; or
 - (b) containing evaluative material, if disclosure would breach an express or implied promise of confidentiality made to the person who supplied the material.
- (3) Evaluative material is an evaluation or opinion prepared for the purpose of determining the suitability, eligibility, or qualifications of the person to whom or which the evaluation or opinion relates –
 - (a) for employment or for appointment;
 - (b) for promotion or for continuance in employment;
 - (c) for removal from employment or office;
 - (d) for the awarding of a tender or contract;
 - (e) for the awarding of a scholarship, award, bursary, honour or similar benefit or for the continuance, modification, renewal or cancellation of such benefits or awards.

31. Public interest

- Notwithstanding any of the grounds of closure outlined above, a meeting must be open to the public if that would result in the disclosure of evidence of –
- (a) a substantial contravention of, or failure to comply with, the law;
 - (b) an imminent and serious public safety or environmental risk;

- (c) if the public interest in the disclosure clearly outweighs the harm of disclosure.

32. Procedure

- (1) A meeting may only be closed if a business item on an agenda to which a ground of closure contained in this by-law applies has been marked confidential by a person referred to in sub section (4).
- (2) The meeting shall be closed for the duration of the consideration of such business item.
- (3) Notwithstanding sub section (1), the Council or a committee in question may by a majority of the members present and by voting resolve to close a meeting for the duration of the consideration of a business item that has not been marked confidential provided that the reason for the closure of the meeting falls within one of the grounds of closure of meetings contained in this by-law.
- (4) The municipal manager, or a person duly authorised by him or her in writing, is hereby authorised to mark a business item on an agenda of the Council or its committees as confidential.
- (5) When marking a business item on an agenda as confidential, the municipal manager shall specify the ground of closure, in terms of this by-law, and shall motivate why such ground of closure applies.
- (6) The documentation relating to a business item that has been marked confidential-
 - (a) shall be treated as confidential by all employees of the municipality and the persons to whom it is distributed for the purposes of the meeting; and
 - (b) shall not be available for inspection by members of the public or the media, until the meeting has resolved that it is no longer confidential.
- (7) Prior to considering a business item on an agenda that has been marked confidential, Council or the relevant committee shall first determine whether the item should remain confidential and if the decision is made that it should not remain confidential, the part of the meeting dealing with the business item shall no longer be closed and the documentation relating to that business item shall be available for inspection by members of the public or the media.

33. Re-admission of public and media to meetings

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

CHAPTER 6: ORDER IN MEETINGS

34. Conduct of members of the public

If member of the public misbehaves, behaves in an unseemly manner, or obstructs the business of any meeting, the speaker may order that he or she leaves the meeting and if such person refuses or fails to leave the meeting, the speaker may order him or her to be removed from the meeting or order that the public gallery be vacated.

35. Conduct of members

(1) If a member –

- (a) misbehaves, or
- (b) behaves in an unseemly manner, or
- (c) obstructs the business of a meeting, or
- (d) challenges the ruling of the chairperson on any point of order or ruling in terms of section 3(1), or
- (e) declines to withdraw any expression when required to do so by the chairperson, or
- (f) indulges in tedious repetition or unbecoming language, or
- (g) commits any breach of this by-law,

the speaker shall direct such member to refrain from doing so and, if speaking, to discontinue his or her speech.

(2) In the event of a persistent disregard of the directions of the speaker, he or she may direct such member to retire from the place of meeting for the remainder of the meeting and may, if necessary, cause him to be removed there from.

(3) If the speaker fails to act in terms of sub sections (1) or (2), any member may move a motion to require the speaker to do so and if the motion is seconded, the speaker put the motion to the vote without debate.

(4) The display of any party political branding or wording on any clothing or item in possession of a member who publicly displays it at a meeting, shall be considered as behaviour in an unseemly manner.

(5) The taking of photographs or visual or audio recordings at a meeting is prohibited unless authorised by the speaker. This sub section also applies to members of the public.

(6) In the event of a breach by a member of any provision of this by-law, the speaker may, in addition to any direction given as authorised in terms of this by-law, act against such member in terms of Item 13 of the Code of Conduct for Councillors.

(7) In the event of a breach by an employee of the municipality of any provision of this by-law, the speaker may act against such employee in terms of items 14 and 14A of the Code of Conduct for Municipal Staff Members.

36. Offence

Any member of the public who –

- (a) refuses or fails to comply with a direction of the speaker given in terms of section 35; or
 - (b) returns to the place of meeting prior to the conclusion of the meeting from which he was directed to retire; or
 - (c) offers resistance whilst being removed from the place of meeting;
- shall be guilty of an offence and liable on conviction to a fine or imprisonment or to both such fine and imprisonment.

CHAPTER 7: RULES OF DEBATE

37. Member to address Speaker

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

38. Order of Priority

- (1) When a member wishes to address the council, he or she must first have the permission of the speaker.
- (2) A member must raise his or her hand in order to obtain the necessary permission to speak.

39. Precedence of speaker

Whenever the speaker addresses the meeting, all members must be silent so that the speaker may be heard without any interruption.

40. Relevance

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

41. Right to Speak

- (1) A member may only speak once –
 - (a) to the matter before the council;

- (b) to any amendments to the matter before the council;
 - (c) to a matter or an amendment proposed or to be proposed by himself or herself;
 - (d) to a point of order or a question of privilege;
unless authorised by the speaker or as provided for in terms of this by-law.
- (2) The mover of an original motion may speak to the motion and reply but in replying he or she shall strictly confine himself or herself to answering previous speakers and shall not introduce any new matter into the debate.
- (3) The right of reply shall not extend to the mover of an amendment which, having been carried, has become the substantive motion.

42. Length of speeches

- (1) Except with the consent of the speaker, no member may speak for more than five minutes on any matter.
- (2) The mover of an original motion or of any amendment may, however, speak for five minutes on such motion or amendment.

43. Re-introduction of motion or question

No motion which has been rejected by the council and no question asked in terms of the rules and dealt with at any meeting may again be moved or asked within a period of three months of such meeting except with the consent of the speaker.

44. Notice of motion

- (1) The speaker may not accept any motion except a motion of exigency or a motion of course unless notice thereof has been given in terms of sub section (2).
- (2) Every notice of intention by a member to introduce a motion must be in writing, motivated, signed and dated and delivered to the municipal manager at least six working days before the date of the meeting on which it is intended to be introduced.
- (3) The speaker must either put the motion in the agenda or refer such motion to the committee which is dealing with the matter.
- (4) If the speaker fails to comply with sub section (3), the municipal manager must put the motion on the agenda or refer such motion to the committee which is dealing with the matter.

45. Notice of question

- (1) Subject to section 49, the speaker may not accept any question unless notice thereof has been given in terms of sub section (2).
- (2) Every notice of intention by a member to introduce a question must be in writing, motivated, signed and dated and delivered to the municipal manager at least six working days before the date of the meeting on which it is intended to be introduced.
- (3) The speaker must either put the notice of question in the agenda or refer such notice to the committee which is dealing with the matter.
- (4) If the speaker fails to comply with sub section (3), the municipal manager must put the notice on the agenda or refer such notice to the committee which is dealing with the matter.
- (5) The member to whom such question is posed, may answer the question at the meeting referred to in sub section (2) or, if the member elects to answer the question in writing, he or she may do so within six workdays after the meeting.

46. Absence of mover or questioner

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

47. Motions and questions on matters dealt with by a committee or executive mayor

- (1) A member may not give notice of a motion or question in regard to any matter assigned to a committee or the executive mayor, unless –
 - (a) such motion has previously been submitted to such committee or the executive mayor without any response; or
 - (b) such motion is in the form of a reference to such committee or the executive mayor for consideration and report; or
 - (c) such committee or executive mayor has failed to finalise or report on such matter within a time period as specified by council; or
 - (d) the speaker in his discretion authorised such motion to be included in the agenda of council.
- (2) The chairperson of a portfolio committee or the executive mayor may, if he or she is of opinion that the matter is one of urgency, give notice of his or her intention to introduce a motion or ask a question on a matter assigned to such committee or the executive mayor, notwithstanding the fact that such motion or question has not received the prior consideration of the committee or the executive mayor.

(3) Any motion intended in terms of sub sections (1) and (2) must comply with the provisions of section 44(2).

48. Recommendation by executive mayor or committee regarded as motion

(1) The adoption of a recommendation contained in a report submitted by a committee or the executive mayor to the council shall be deemed to have been moved by the chairman of such committee or the executive mayor or in his or her absence by a member of such committee or the mayoral committee deputed by him or her to act at the time when the speaker of the meeting indicates that such recommendation is open for discussion, and no such motion need be seconded, nor shall the chairman of such committee or the executive mayor be thereby precluded from exercising his or her right to speak thereon.

(2) The chairperson or executive mayor referred to in sub section (1), may, however, speak on the matter and reply but in replying he or she shall strictly confine himself or herself to answering previous speakers and shall not introduce any new matter into the debate.

49. Questions

(1) After any motion or amendment has been moved and seconded or at the conclusion of any speech thereon a member may ask any question relevant to such motion or amendment.

(2) No supplementary questions may be asked except by the member asking the original question and then only in respect of matters arising out of the reply to such original question.

(3) The speaker may not disallow any such question, provided that the member to whom such question is directed may either reply thereto forthwith or require that notice thereof be given in terms of section 45.

50. Motion of exigency

(1) A member may direct the attention of the council to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject of the matter and without comment thereon moving "*that the motion to which attention has been directed be considered forthwith as a matter of exigency.*"

(2) Such motion is herein referred to as a motion of exigency.

(3) If such motion is seconded and carried by a majority of the members present, the mover shall be permitted without notice to bring the matter under consideration by way of motion or question.

51. Motion of course

(1) In addition to those provided for elsewhere in this by-law, the following

shall be regarded as a motion of course –

- (a) that preference be given to the consideration of any particular item on the agenda;
 - (b) that any report referred to in the agenda be noted, adopted, acted upon or referred back;
 - (c) that any document before the council be acted upon in the manner specified in the motion;
 - (d) that action be taken in regard to any item submitted for consideration in the manner specified in the motion.
- (2) Any motion of course as stipulated above and elsewhere in this by-law, shall be subject to section 15 hereof.

52. Points of order

- (1) A member may at any time during a meeting raise a point of order to a breach of this by-law or a statutory provision.
- (2) A point of order may be raised in relation to —
 - (a) a procedural matter; or
 - (b) the conduct of a member, a member of the public, or an employee of the municipality.
- (3) A member raising a point of order must immediately be heard, and he or she must —
 - (a) state the point of order; and
 - (b) the section of this by-law or statutory provision that is being breached.
- (4) A member who is speaking when a point of order is raised must immediately stop speaking until the point of order is ruled on by the speaker. All other matters before the meeting must be suspended until the point of order is ruled on.
- (5) If ruled to be in order, the member must be allowed to proceed with his or her speech.
- (6) If ruled to be out of order, the member must remain silent or must retract or change any remarks so as to comply with the ruling.
- (7) The speaker's ruling on a point of order is final and not open to debate, and it must be entered in the minutes.

53. Point of explanation

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

54. Withdrawal of motion, amendment or question

- (1) A motion or amendment may without debate and with the permission of the seconder and council, be withdrawn by the mover.
- (2) A member may not speak on such motion or amendment after council has agreed to the withdrawal of such motion.
- (3) A question may be withdrawn by the member intending to put it.

55. Speaker's ruling on points of order and explanation

- (1) The ruling of the speaker on a point of order or an explanation shall be final and not open to discussion.
- (2) The ruling of the speaker on any point of order raised as to the interpretation of this by-law must be entered in the minutes.

56. Order of debate

When a matter is under debate at any meeting of council, no further motion shall during such discussion be received except the following –

- (a) that the motion be amended;
- (b) that the consideration of the matter be postponed;
- (c) that the public and the media be excluded;
- (d) that the public and the media be re-admitted;
- (e) that the council do now adjourn;
- (f) that the council adjourn for a specified time;
- (g) that the debate be adjourned;
- (h) that the matter be put to the vote;
- (i) that the council proceed to the next business.

57. Amendment of motion

- (1) Every amendment must be relevant to the motion on which it is moved.
- (2) An amendment must, if required by the speaker, be in writing, signed by the mover and handed to the speaker and such amendment must be read before being moved.
- (3) An amendment may not be discussed or put to the council until it has been seconded.
- (4) If there are more than one amendment to a motion the amendment last proposed must be put to the vote first and if carried the matter must be resolved accordingly.
- (5) If the amendment last proposed is rejected the amendment proposed immediately prior to the last amendment must be put to the vote.
- (6) No further amendment may be moved to a motion or amendment after the speaker has commenced to take the vote upon such motion or amendment.

58. Postponement of consideration of the matter

- (1) A member may at the conclusion of a speech move that the consideration of the matter be postponed to a fixed or undetermined date.
- (2) Such motion must be seconded but need not be in writing, provided that the seconder shall not be permitted to speak. The mover shall be permitted to speak to the motion for a period not exceeding five minutes and the seconder shall not speak for seconding the motion.
- (3) Upon such motion being made the mover of the matter under debate may, without prejudice to his or her ultimate right of reply if the motion that the matter be postponed be not carried, be heard in reply for five minutes, after which the motion shall be put without further debate.
- (4) If the motion is carried, the matter shall be placed first on the agenda of matters to be considered at the meeting to which it has been postponed, provided that sections 5(2) and (3) shall not apply to such matter.

59. Adjournment of council to another date

(1) A member who has not already participated in the debate on the matter then before the meeting may at any time, except during the course of a speech by another member or while a vote is being taken, move “*that the council do now adjourn to another date*”.

(2) Such motion must be seconded but need not be in writing.

(3) The mover must be permitted to speak to the motion for a period not exceeding five minutes but the seconder may not speak except for seconding the motion.

(4) If the motion is carried the council must forthwith adjourn; provided that the speaker may direct that the meeting proceed first to dispose of business other than opposed business.

(5) If the motion is not carried the speaker may not accept another such motion until the period of half an hour has elapsed.

(6) Subject to sub section (3), no discussion on such motion may be permitted, except that a member who has first indicated his or her opposition to such motion, may speak in opposition of the motion for not more than five minutes.

(7) No amendment to such motion may be moved except in relation to the period of adjournment.

(8) Where a motion to adjourn a meeting has been carried and the matter has not been concluded, the member who moved the adjournment shall be entitled to speak first at the subsequent meeting.

(9) No business may be transacted at an adjourned meeting except such business set out in the agenda for the meeting which is adjourned.

60. Adjournment of council for a specified time

(1) A member may at any time except during the course of a speech by another member or while a vote is being taken move “*that the council now adjourn for a specified time, up to one hour*”.

(2) Such motion need not be in writing.

(3) If the motion is carried the council must forthwith adjourn for the specified time.

(4) The speaker may limit the number of such motions.

61. Adjournment of debate

(1) A member who has not yet participated in the debate then before the council, may at the conclusion of any speech move that the debate be adjourned.

(2) Such motion must be seconded but need not be in writing.

(3) The mover of such motion may speak to it for five minutes, but the seconder may not speak beyond formally seconding it.

(4) Subject to sub section (3) no discussion may be permitted on such motion except in relation to the period of adjournment and that the member who first indicated his or her opposition against such motion may speak in opposition thereto for five minutes.

(5) If such motion is carried, the meeting proceeds to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, is resumed at the next meeting.

(6) On the resumption of the adjourned debate the member who moved the adjournment is entitled to speak first.

(7) If the motion is not carried the speaker may not accept another such motion until half an hour has elapsed.

(8) A member may not move or second more than one motion for the adjournment of the debate during the course of that debate.

62. Voting on a Matter

(1) A member who has not yet participated in the debate on the matter then before council, may at the conclusion of any speech, move that the matter be now put to the vote.

(2) Subject to the provisions of sub section (3), no motion put in terms of sub section (1) shall be open to discussion.

(3) The mover of a matter under discussion may, when a motion has been put in terms of sub section (1), speak on such motion for not more than five minutes, whereupon the said motion must be put to the vote without any further discussion.

63. Removal of matter from the agenda

(1) A member who has not yet participated in the debate on the matter then before council, may during such debate at the conclusion of any speech, move that the matter be removed from the agenda.

(2) Subject to the provisions of sub section (3), no motion put in terms of sub section (1) shall be open to discussion.

(3) The mover of a matter under discussion may, when a motion has been put in terms of sub section (1), speak on such motion for not more than five minutes, whereupon the said motion must be put to the vote without any further discussion.

(4) If such a motion is carried, the matter under discussion may not be further pursued.

CHAPTER 8: GENERAL PROVISIONS

64. Deputations and invitations to non-members

Members of the public and deputations may as a general rule be interviewed by

the executive mayor or committees. If justified due to special circumstances, the speaker may grant approval for a deputation to be interviewed by the council or for a member of the public to address the council or to attend a meeting in order to state his or her views on a matter before the council.

65. Privileges and immunities of councilors

The privileges and immunities of councilors of the municipality are subject to the provisions of the Western Cape Privileges and Immunities of Councilors Act, 2011 (Act 7 of 2011).

66. Revocation of by-laws

The By-law Relating to the Rules or Order Regulating the Conduct of Meetings of the Municipality of Saldanha Bay promulgated in Extraordinary Provincial Gazette dated 24 December 2012 is hereby repealed as a whole.

67. Short title and commencement

This by-law shall be known as the Saldanha Bay Municipality By-law Relating to the Conduct of Meetings and shall come into operation on the date of publication thereof in the provincial gazette.

SCHEDULE

(Section 11)

STANDING PROCEDURE FOR NON-ATTENDANCE BY MEMBERS

Preamble

Whereas item 4(3) of the Code of Conduct for councillors provides for proceedings to impose a fine or to remove a councillor from office for non-attendance of council- or committee meetings, the municipality hereby establishes the following standing procedures-

1. Definitions

In this Schedule, unless the context indicates otherwise-

“attendance committee” means a committee consisting of three councillors appointed by the council solely for the purpose of dealing with non-attendance at meetings;

“Code of Conduct” means the code of conduct for councillors as contained in Schedule 1 to the Municipal Systems Act 2000 (Act 32 of 2000);

“fine” means a fine determined by council for non-attendance of council or committee meetings;

“non-attendance” means failure by a councillor to-

- (a) attend a meeting that councillor is required to attend in terms of section 9 of this by-law; or
- (b) remain in attendance at such a meeting;

provided that absence with leave will not be regarded as non-attendance.

2. Attendance of meetings compulsory

A councillor must attend each meeting of the council and of a committee of which the councillor is a member as contemplated in section 9 of this by-law.

3. Leave of absence

(1) A councillor is entitled to leave of absence from only one meeting of the council or a committee of which that councillor is a member, for the purposes of-

- (a) vacation; or
- (b) medical reasons, provided that a medical certificate has to be provided to the speaker.

(2) A councillor is entitled to leave of absence for compassionate reasons on the terms provided for in the Basic Conditions of Employment Act, 1997 (Act 75 of 1997).

4. Reporting of non-attendance

The municipal manager must report each case of non-attendance to the speaker not later than the next working day after the meeting concerned.

5. Duty of the speaker

(1) The speaker must, within two working days, after receipt of the report of non-attendance from the municipal manager, inform the councillor concerned in writing of the report and request the written comments of the member within seven working days of the date of notification.

(2) Upon receipt of the comments of the councillor, or, if the councillor fails to furnish the speaker with his or her comments within the seven working days, or after such extension of time that may be permitted by the speaker, the speaker must request a meeting of the Attendance Committee and notify the councillor concerned in writing to attend such meeting.

6. Procedures at the Attendance Committee meeting

(1) The chairperson of the committee must determine the procedures for the hearing of the matter which must include the following-

(a) that the councillor concerned has the right to be present when any evidence is heard and may ask questions based on the report of the municipal manager;

(b) that the members of the Attendance Committee may ask questions to the councillor concerned; and

(c) that the councillor shall have the right to adduce evidence and to call witnesses.-

(2) If the councillor-

(a) fails or refuses to attend the meeting; or

(b) is requested to leave because of his or her conduct at the meeting; the meeting may continue in the absence of the councillor.

(3) The Attendance Committee may call witnesses to assist in making a decision.

7. Findings of the Attendance Committee

(1) After considering all the evidence contemplated in item 6, the Attendance Committee must make a finding as to whether the councillor concerned contravened section 9 of this by-law, and record its reasons for the finding.

(2) If the finding is that the councillor did not contravene any of the provisions contemplated in sub section (1), the chairperson must adjourn the meeting and inform him or her of the finding in writing.

(3) If the finding is that the councillor has contravened any of sections 9(2) of this by-law, the Attendance Committee must within seven days submit a report, together with a recommendation on the sanctions to be imposed, to council

(4) If the finding is that the councillor was absent from three or more consecutive council meetings or committee meetings of which he or she is a member, the chairperson must, within seven working days, submit a report to council to be dealt with in terms of item 4(2) of the Code of Conduct.

8. Consideration of the report from the Attendance Committee

(1) If the council agrees with the findings of the Attendance Committee contemplated in item 7(3), the MEC must, within seven working days after such resolution, be requested to remove the councillor from office.

(2) If the council disagrees with the report of the Attendance Committee, it must instigate its own investigation into the matter within seven working days after such resolution.

9. Sanctions for non-attendance

Council may, upon finding of a contravention of section 9(2) of this by-law, impose the following sanctions-

(a) for non-attendance, or failure to remain in attendance at one meeting, reprimand the councillor or issue him with a written final warning;

(b) for non-attendance, or failure to remain in attendance at two consecutive meetings, impose a fine equal to 10% of the member's monthly gross salary package, excluding allowances;

10. Appeal

A councillor who has been sanctioned in terms of Item 9(a) or (b) of the Schedule, may within 14 days of having been notified of the decision of council appeal in writing to the MEC for local government against the finding as well as the sanction imposed, setting out the reasons on which the appeal is based.