

MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

MUNICIPAL NOTICE 140 OF 2022

COMMITTED TO SERVICE DELIVERY



**STANDING RULES AND ORDERS
FOR THE MEETINGS OF THE
COUNCIL AND ITS COMMITTEES**

Standing rules and orders for the meetings of the council and its committees | KwaDukuza Local Municipality

MUNICIPAL NOTICE

The municipal council for **KwaDukuza Municipality** adopted the following bylaws at its meeting held on 17 **November 2021** in terms of section 165 (2) of the Constitution of the Republic of South Africa (Act No. 108 of 1996) read with section 31 (2) of the Local Government: Municipal Structures Act, 1998 and hereby publishes the bylaws in terms of section 13 (a) of the Local Government: Municipal Systems Act, 2000 to come into effect on the date of publication hereof in the Provincial Gazette.

STANDING RULES AND ORDERS FOR THE MEETINGS OF THE COUNCIL AND ALL ITS COMMITTEES

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1. Application of rules

- 1.1 The rules of order contained herein apply to all meetings of the municipal council and any other committee of the municipal council as well as any other committee of councillors established within the municipality unless the terms of reference for a specific structure explicitly excludes the application of the rules for such a structure. These rules also applies inclusive of virtual meetings together with the supplementary rules of order for virtual meetings (Annexure A).
- 1.2 The rules are aimed at allowing free, open, and constructive debate during meetings. The rules are encouraged and promote freedom of expression in such a manner that orderly debate is ensured within the time constraints of time allocated to meetings.
- 1.3 The rules endeavor to create the opportunity for councilors serving in council structures to air their view on any matter of public importance.
- 1.4 The rules of order are applicable to:
 - 1.4.1 All councillors.
 - 1.4.2 Traditional Leaders participating in Council and its committees in terms of section 81 of the Municipal Structures Act;
 - 1.4.3 Any municipal official of the municipality; and
 - 1.4.4 Any member of the public while present in the council chamber and precinct.

2. Definitions

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

“**Act**” means Local Government Municipal Structures Act, 1998 (Act 117 of 1998)/ Local Government Municipal Structures Amendment Act, 2021 (Act 03 of 2021)

“**Committee**” shall mean any committee established in the municipality, including committees established in terms of section 79 and 80 of the Structures Act;

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

“**Council**” shall mean the municipal council for the **KwaDukuza Municipality**.

“**Councillor**” shall mean a member of the municipal council.

“**Day**” shall mean a day that is not a public holiday, Saturday, or Sunday, and for the calculation of days the first day will be excluded and the last day included.

“**Designated Peace Officer**” means a law enforcement officer of the City who has been declared a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), acting when on duty and properly identified and trained to keep order during council meetings.

“**Electronic Communications Act**” means the Electronic Communications and Transactions Act, No. 25 of 2002.

“**Electronic communication**” has the meaning ascribed thereto in terms of the Electronic Communications Act.

“**Electronic signature**” has the meaning ascribed thereto in terms of the Electronic Communications Act.

“**Executive Committee**” shall mean the committee appointed in terms of section 42 (2) of the Structures Act.

“**In Committee**” shall mean the part of the meeting of the municipal council where the meeting will be closed and members of the public and press, and such municipal officials as determined by the Speaker, excluding the Municipal Manager, will be excluded from the meeting, based on the nature of the business being transacted.

“**In writing**” includes an electronic communication

“**Mayor**” shall mean the Mayor of the municipality as elected in terms of section 48 of the Structures Act;

“**Meeting**” means any Municipal Council meeting regulated or imposed in terms of section 29 of the Act.

“**Meeting Place**” means the venue where a particular meeting of Council takes place.

“**Member**” shall mean a councillor serving in the municipal council of the municipality; “**Motion**” shall mean a matter submitted by a member in accordance with 28 below; Municipality” shall mean KwaDukuza Municipality.

“**Municipal Manager**” means the person appointed in terms of Section 54A of the Act and as mentioned in the Local Government: Municipal Structures Act No. 117 of 1998 and regulations.

“**Party Whip**” means a member designated by the leadership of a party to oversee and guide the conduct of its members in relation to Rules of Order of Council and the dignity and business of Council as well as to perform the functions described in Rule 16 of the Rules of Order.

“**Point of order**” shall mean a point raised by a councillor during the council meeting

and shall only relate to a matter of procedure and provided for in the rules of order.

“**Political Party**” means a political party registered in terms of the Electoral Act, 1998;

“**Privilege**” shall mean the right of freedom of speech for councillors in council and committee meetings, subject to the rules of order of any ruling of the Speaker in terms thereof as well as the right not to be held liable for civil or criminal proceedings

for anything they said, produced or submitted to the Council or Committee;

“**Procedural motion**” shall mean a matter raised by a member at a meeting in terms of section 28;

“**Quorum**” means the minimum number of members required to be in attendance at a meeting to duly constitute same for decision-making. Quorum is determined by the number of seats. As a result, quorum does not change if a vacancy is declared because that vacancy will be filled.

“**Report**” shall mean any item appearing on the agenda for consideration by the

council or a committee.

“**Senior managers**” shall mean the persons appointed by the council as the municipal manager and all managers directly accountable to the municipal manager as approved on the official organisational structure of the municipality

“**sign**” also includes an electronic signature.

“**Speaker**” shall mean the person as elected in terms of section 36 of the Act.

“**Sub-committee**” means any other committee, other than the executive committee / portfolio committees appointed by the council or the executive committee;

“**Systems Act**” shall mean the Local Government: Municipal Systems Act, 2000;

“**Traditional Leader**” shall mean a Traditional Leader identified by the MEC to participate in the proceedings of a municipal council in terms of section 81 of the Act;

“**Whip of the Council/Chief Whip**” shall mean the person elected as the Whip of the Council in terms of section 41A of the Municipal Structures Amendment Act, 2021.

3. Meeting of council open to public

- 3.1 The Municipal Council shall conduct its business in an open manner and every meeting of the council and all committees, including the executive committee / mayoral committee shall be open to the public; provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of section 20 (1) (a) and (b) of the Systems Act.
- 3.2 The Council will deal In Committee when discussing any of the following matters:
 - 3.2.1 a trade secret or confidential commercial information of any supplier of the municipality or any person rendering a service to the municipality;
 - 3.2.2 personal and private information of any councilor or an employee of the municipality;
 - 3.2.3 the intention of the municipality to purchase or acquire land or buildings;
 - 3.2.4 the price a municipality may offer for the purchase or acquisition of land or buildings;
 - 3.2.5 any report addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;
 - 3.2.6 disciplinary proceedings or proposed disciplinary proceedings against any employee;
 - 3.2.7 any matter that might not be disclosed in terms of legislation;
 - 3.2.8 consideration of the minutes of previous In Committee discussions.
- 3.3 A councilor may, when an item in the agenda is put to order, other than a

matter referred to in 3.2 above, and provided it is not a matter that is required in law to be dealt with in open council, propose with motivation, that the matter be further dealt with In Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.

4. Council meetings

The Council shall hold an ordinary meeting for the transaction of business not less than once in every three months / monthly.

5. Special council meetings

- 5.1 The Speaker may at any time of own accord and shall, upon request in writing of a majority of the councilors of the municipality, call a special meeting of the council, provided that no such special meeting shall take place unless all councilors were given at least 48 hours' notice prior to the date and time set for the meeting.
- 5.2 In the event where the Speaker or Acting Speaker fails and/or refuses to call a special meeting when requested in accordance with 5.1 above, the Municipal Manager of the municipality may call the meeting.
- 5.3 In the event both the Speaker or Acting Speaker and the Municipal Manager or Acting Municipal Manager failed to call a special or ordinary meeting when requested in accordance with 5.1 above, a person designated by the MEC for local government in the province, may call and chair the meeting.

6. Service of notices to members and notices of council meetings to the public.

- a. At least 5 days before any ordinary meeting of the council or its committees and at least forty eight hours before any special meeting of the council or its committee , a notice to attend the meeting, specifying the business proposed to be transacted thereat and signed by the Municipal Manager or Chief Operations Officer, or in their absence by council delegated Executive Director or in 5.2 above, shall be left or delivered to an accessible distribution point within the municipality as determined by the council from time to time / sent be electronic mail or short service messages (SMS) to an address or cellphone number provided by the councilor as his/her official address / mail address.
- b. The councilor is obliged to provide within 7 days after first council meeting, his contact details, which council will use to notify him or her and send

notices of the meeting including electronic agenda and where to collect the printed copy of the agenda if it is required.

- c. All councilors must inform the speaker of any change of his contact details within three days of such change.
- d. Further to the above, Municipal Manager must ensure that a public notice of meetings of municipal councils, including the special meetings is issued, in the manner that is being determine time to time by Council.

7. Non-service of notices

- 7.1 Accidental omission to serve on any councilor a notice of meeting shall not invalidate the proceedings of that meeting.
- 7.2 A councilor may request an investigation or an explanation regarding the non-receipt of a notice to attend a meeting. This request must be done through the Office of the Speaker or Whip of the Council.

8. Urgent Matters

- 8.1 No business shall be transacted at a meeting of the council or any committee other than that specified in the agenda relating thereto, except any matters which the relevant chairperson considers urgent and the said chairperson has ruled the matter to be urgent.
- 8.2 The Municipal Manager may raise matters which in his / her discretion is urgent, for decision by the council. A matter will be deemed urgent when the decision required, if delayed, would prejudice the Council and / or its operations.
- 8.3 The Speaker or chairperson of the meeting will determine an appropriate time when the Municipal Manager may raise urgent matters and the time available for discussion thereof; Provided that the Speaker may rule that the matter is not urgent as defined in 8.2 above.

9. Conduct at meetings

The Speaker or the chairperson of the meeting in the event of a meeting other than a council meeting shall:

1. Maintain order during meetings.
2. Ensure compliance with the Code of Conduct for Councilors during meetings.
3. Ensure that meetings are conducted in accordance with the rules.
4. Ensure that members conduct themselves in a dignified and orderly manner during meetings.
5. Ensure that members of the public attending meetings are seated in areas designated for that purpose.
6. Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or chairperson of the meeting.
7. Ensure that any councilor or member of the public refusing to comply with the ruling of the Speaker or chairperson leaves the meeting.
8. Ensure that the Whip of each political party represented in the municipal council as well as the Whip of Council maintains discipline during any meeting.

10. Interpretation of rules

- 10.1 The ruling of the Speaker or the chairperson in the event of a meeting other than a council meeting, with regard to the application and interpretation of the rules as well as other procedural matters not dealt with in the rules shall be final and binding: Provided that the Speaker / chairperson may be required to provide reasons for a ruling.
- 10.2 Any ruling made by the Speaker must be made having due regard to the provisions of the Constitution, national and provincial legislation, municipal by-laws and policies, the rule of law and the rules of natural justice.
- 10.3 Any interpretation and ruling made by the Speaker should be registered by the Municipal Manager or his or her nominee (ED: Corporate Services) in such register kept for this purpose by the Municipal Manager or his or her nominee (ED: Corporate Services) and kept for safekeeping similar to the agendas and minutes of all meetings.

11. Quorum and acts of council

- 11.1 A majority of the councilors must be present at a meeting of the council before any matter may be considered and / or voted on.
- 11.2 In the event of no quorum for a meeting, the meeting must be suspended

for no more than 20 minutes, and if at the end of the said period there is still no quorum, the Speaker or chairperson may suspend the meeting for such a period he/she deems fit and thereafter adjourn the meeting to another date, time and/or venue.

12. Reports

- 12.1. The Council may not take any decision unless it has before it sufficient information as determined by the Speaker to take an informed decision. Except in exceptional circumstances, such information must be in a written report.

13. Decisions and Voting

- 13.1. Subject to 13.3 below, all matters will be decided by a majority of councilors present at the meeting.
- 13.2. Before a formal vote is taken on any matter before the Council, the Speaker shall cause the bells to be rung for a period of 1 minute, after which all doors shall be closed, and no member or other person shall be allowed to enter or leave the chamber.
- 13.3. Any matter referred to in section 160(2) of the Constitution shall be decided on by a majority of the councilors in the municipal council.
- 13.4. If on any question there is an equality of votes, the Speaker or chairperson of the Committee may exercise a casting vote in addition to that particular councilor's deliberative vote, provided that the casting of such vote shall fall within the ambit of the powers duly delegated to the relevant committee: Provided that for those matters listed in section 160(2) of the Constitution, there will be no provision for a casting vote.
- 13.5. If the Speaker or chairperson of a meeting asks the meeting if it is in agreement with the recommendations and if it is not opposed by any member present, the recommendations are adopted.
- 13.6. In the event of there being opposition to a recommendation, the proposal to be decided upon will be done by means of voting, either by show of hands or if requested and approved by the Speaker or chairperson, by way of secret ballot.
- 13.7. The Municipal Manager or an official designated by him shall count the votes and declare to the chairperson the result of the divisions. In the event of a secret ballot, the municipal manager shall hand to each councilor a ballot paper bearing the official mark or logo of the municipal council, and having the alternates to be voted for clearly depicted thereon, substantially in accordance with the following:

KWADUKUZA MUNICIPAL LOGO

Date:.....

Proposal or motion to be voted for	Councilor’s vote (X) : For or against
1.	
2.	

- 13.8. The municipal manager shall collect all the ballot papers and count same in the presence of a representative from each party represented on the council or committee and present at such meeting.
- 13.9. The Speaker or chairperson shall thereupon declare the motion carried or lost, and it shall be entered upon the minutes.
- 13.10. The number of members voting will be recorded, and the general result of the vote. The outcome of the voting will be announced by the Speaker.
- 13.11. A member may abstain from voting without leaving the chamber.
- 13.12. A member may request that his/her support / dissent / abstention be recorded in the minutes of the meeting.

14. When councilors may not attend and participate in the proceedings of the council, mayoral committee / executive committee, portfolio committee or sub- committee

A councilor shall-

- 14.1. Disclose to the council, or to any committee of which that councilor is a member, any direct personal or private business interest that the councilor, or the spouse, partner or business associate of that councilor may have in any matter before the council or the committee;
- 14.2. Withdraw from the proceedings of the council or committee meeting when the matter is being considered by the council or committee, unless the council or the committee decides by resolution, that the councilor’s direct or indirect interest in the matter is trivial or irrelevant. A councillor who has so disclosed his/her interest may, with the approval of majority of the members of the council or its committee, address the council or committee on the matter prior to the deliberation and vote on the matter taking place, subject always to the ruling of the Speaker or chairperson on the time to be allowed for such an address.
- 14.3. A councillor who, or whose spouse, partner or business associate or close

family member, acquires or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councilor is aware at the first meeting of the council or committee of the council at which it is possible for the councilor to make a disclosure.

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

15. Walkout

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

16. Count out

If during any sitting of the council or any committee, the attention of the Speaker or chairperson is called to the number of members present, he/she shall count them, and if found that there is not a quorum present, the matter shall be dealt with in accordance with 11 above.

17. Adjourned meetings

The council or a committee may adjourn a meeting to any date or hour, but no business shall be transacted at any adjourned meeting except such as was set out in the notice for the meeting of which it is an adjournment.

18. Notice of adjourned meeting

When a meeting is adjourned, notice of the adjourned meeting shall be sent out to each member of the council or committee, specifying the time, date and place of such adjourned meeting, except under the circumstances contemplated in 34 below.

19. Chairperson of meetings

- 19.1 At every meeting of the council the Speaker, or if he/she is not present, an Acting Speaker shall be the chairperson. An acting Speaker may be elected by the majority of councilors present at any meeting of the council where the Speaker is not present.
- 19.2 The Mayor shall chair meetings of the Executive Committee if not present, the Deputy Mayor or if the Deputy Mayor is also not available, any other

councilor appointed by a majority members of the executive committee in attendance.

19.3 The chairperson appointed by the Council shall chair meetings of the portfolio committees.

19.4 The person so nominated by the council, Executive Committee or committee shall chair meetings of committees and sub- committees; Provided that where no such person was nominated the members present may elect their own chairperson.

20. Agenda

20.1 Subject to 20.2 and 20.3 below, all meetings must be conducted in accordance with the order in which matters appear on the agenda and only matters which appear on the agenda may be debated.

20.2 The Speaker or chairperson may, after considering a duly motivated request, change the order of matters appearing on the agenda.

20.3 The Speaker or chairperson may, after considering a duly motivated request, direct that a matter be moved between the confidential and open parts of the agenda.

21. Business at council meetings

The order of business at every ordinary meeting of the council, the executive committee or a committee is as follows:

Council	Executive Committee	Committee
<ul style="list-style-type: none"> • Prayer • Notice convening the meeting • Signing of the 	<ul style="list-style-type: none"> • Prayer • Notice of Meeting • Signing of Attendance 	<ul style="list-style-type: none"> • Prayer • Notice convening the meeting • Signing of the register • Declaration of

<p>register</p> <ul style="list-style-type: none"> • Declaration of Pecuniary Interest <p>a) Cllrs</p> <p>b) Staff Members</p> <ul style="list-style-type: none"> • Apologies • Councillors Leave of Absence <p>a) Applications</p> <p>b) Granted</p> <ul style="list-style-type: none"> • Official Announcements • Confirmation of Minutes <p>a) Corrections of the minutes</p> <p>b) Matters arising from minutes</p> <ul style="list-style-type: none"> • Outstanding matters • Business of the day • Closure 	<p>Register</p> <ul style="list-style-type: none"> • Declarations of Pecuniary Interest/Other Forms of Interest <p>a) Cllrs</p> <p>b) Staff Members</p> <ul style="list-style-type: none"> • Apologies • Councillors Leave of Absence <p>a) Granted</p> <p>b) Applications</p> <ul style="list-style-type: none"> • Official Announcements) • Matters for Information from Cllrs/Officials • b) Presentations • Clean Administration • Minutes • a) Confirmation • b) Matters Arising • Outstanding Matters • Business of the Day • Closure 	<p>Pecuniary Interest</p> <p>c) Cllrs</p> <p>d) Staff Members</p> <ul style="list-style-type: none"> • Apologies • Councillors Leave of Absence <p>c) Applications</p> <p>d) Granted</p> <ul style="list-style-type: none"> • Official Announcements • Presentations • Clean Administration • Confirmation of Minutes <p>c) Corrections of the minutes</p> <p>d) Matters arising from minutes</p> <ul style="list-style-type: none"> • Outstanding Matters • Business of the day • Closure
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22. Leave of absence

22.1. Applications for leave of absence from any council or committee meeting must be submitted to the Speaker signed by the member applying for leave.

22.2. All applications for leave must be submitted at least 12 hours before the

starting time of the meeting.

22.3. The Speaker or chairperson shall grant leave at his or her discretion, and the Speaker is at liberty to reject such application for leave of absence.

22.4. Leave will be deemed to have been granted if a councilor has been delegated to attend a meeting or engagement on behalf of the council.

23. Minutes to be kept and confirmation thereof

23.1. Minutes of the proceedings of every meeting of the council and committee, shall be electronically or otherwise recorded and be kept for that purpose by the Executive Director: Corporate Services. The Municipal Manager or his delegated relevant Executive Director shall be responsible for the correctness of the same, and the minutes of every meeting shall be confirmed at the next ordinary meeting.

23.2. Minutes of the proceedings of every meeting of the council or a committee shall be word processed or typed and printed, and shall if confirmed, be signed at the next ensuing ordinary meeting by the chairperson. Minutes shall be bound and kept secure.

23.3. The Municipal Manager must ensure that the minutes reflect the names of the members that attended the meeting, those that are absent and those that have been granted leave of absence.

24. No discussion on minutes under confirmation of minutes

No motion or discussion shall be allowed upon the confirmation of the minutes, except as to its accuracy.

25. Petitions to be written, typed or printed

Petitions, which must be clearly written, typed or printed, must be signed by not less than three citizens and must be couched in respectful language and presented to the office of the Municipal Manager who shall, if he/she deems it necessary, bring the matter before the executive committee of council and attention of the Speaker.

26. Deputations to submit memorandum

Deputations wishing to be received by the executive committee shall be required, in the first instance to send a duly motivated memorandum in writing requesting

same, and the Municipal Manager shall bring the memorandum before the executive committee, which it may authorize, if it sees fit to receive the deputation, and to report to the council forthwith.

27. Reception of deputations

A deputation wishing to address the executive committee / mayoral committee shall not exceed five in number, but only one member thereof shall be at liberty to address the committee (except in reply to questions from members of the committee) and only for a period not exceeding ten minutes. The committee shall not further consider the matter until the deputation shall have withdrawn itself from the meeting.

28. Moving a report

The Speaker or chairperson shall move the recommendation contained in a report unless he/she shall have previously stated his/her disagreement with it. The chairperson of a committee or other member presenting a report may withdraw or amend any section with the consent of the committee, only if it has been established that a particular item or items in the original report was or were incorrectly recorded or it has been established that it would be in the best interest of the council not to adopt a recommendation or a part or parts thereof.

29. Motions

- 29.1. No matter shall be brought before the council or a committee by any member of the council except upon a notice of motion, which shall be in writing and signed by the member giving the notice as well as the member seconding it: Provided that a person who has a personal electronic mail address from where he or she can be identified by the Municipal Manager, can submit such motion by electronic mail.
- 29.2. Any notice of motion shall be submitted to the Speaker or chairperson before 12:00, ten days prior to the meeting of the council or committee.
- 29.3. A motion shall lapse if the member who submitted the motion is not present at the meeting where the motion is to be debated.
- 29.4. A member submitting a motion shall introduce such a motion and shall have the right of reply thereto.
- 29.5. When a member introduces a motion which is intended to rescind or amend a resolution passed by the council in the preceding three months or which has

- the purport as a motion that was not supported within the three preceding months shall not be entertained.
- 29.6. When dealing with motions the motion shall be read out together with the number thereof and the name of the mover.
- 29.7. The Speaker or chairperson shall ascertain which motions are unopposed and these shall be passed without debate and thereafter the opposed motions shall be called in accordance with the order of the agenda.
- 29.8. All notices of motion shall be dated and numbered as received by the Municipal Manager, and shall be entered on the agenda paper in the order in which it was received, save and except that notices of amendment to motions shall be entered immediately after such notice of motion, irrespective of the time at which the notice shall have been received.
- 29.9. No member shall have more than two notices of motion on the same agenda at the same time.
- 29.10. Before any notice of motion is placed on the agenda paper it shall be submitted to the Municipal Manager who must obtain the written technical input from the various heads of department of the municipality, if it is required, and, who, if he/she be of the opinion that it is *ultra vires* existing legislation, shall cause the giver of the notice to be so informed. The giver of the notice shall however, have the right to appeal to a sub-committee comprised of the Speaker Mayor and Whip of the Council, who shall review the matter and decide whether or not such notice of motion be placed on the agenda paper.
- 29.11. A motion affecting the making or amending of a by-law, shall be submitted to the Speaker for a report before the council passes a resolution in this regard.
- 29.12. The Speaker may disallow a motion which:
- 29.12.1. May lead to discussions of a matter already dealt with on the agenda
 - 29.12.2. Addresses a matter where the Council has no jurisdiction
 - 29.12.3. Addresses a matter where a decision of a judicial or quasi-judicial body is pending
 - 29.12.4. Has not been seconded
 - 29.12.5. If passed, would be contrary to the law.
- 29.13. The mover with the consent of the seconder may withdraw a motion or amendment.
- 29.14. The Speaker or chairperson may call upon any mover of an amendment to a motion to reduce the same to writing, and, after signing it, to hand it to the Municipal Manager to read the amendments for the meeting to either adopt or

reject such amendment.

- 29.15. Except upon the recommendation of the committee to which the council has delegated powers or duties to deal with the particular subject matter, no resolution passed at any meeting of the council shall be revoked or altered at any subsequent meeting unless notice of motion so to revoke or alter such resolution shall have been given to the Municipal Manager at least seven days before such subsequent meeting and the Municipal Manager shall, at least two days before such subsequent meeting, have forwarded a copy of such notice of motion to each councillor.

30. Precedence of the Speaker

30.1 During the sitting of the council or a committee, members, except lady Members and members in traditional, cultural or religious headdress shall have their heads uncovered.

30.2 When speaking, councillors shall be seated, but at all times, address their speech to the Speaker or chairperson.

30.3 Whenever the Speaker or chairperson speaks, any member then speaking or offering to speak must be silent in order for the Speaker to be audible and speak without interruption.

31. Relevance

A member who speaks shall confine his/her speech strictly to the motion or matter under discussion or to an explanation or a question of order.

32. Irrelevance, tedious repetition, unbecoming language, and breach of order

32.1 The Speaker or chairperson must call the attention of the member, referred by title and name, to irrelevant, tedious repetition, unbecoming language, or any breach of order on the part of a member, and shall direct such member, if speaking, to discontinue his/her speech until the member has come to order. Such direction shall be regarded as the first warning.

32.2 The Speaker or chairperson shall direct a member to apologize or withdraw an allegation if it is unbecoming or injures or impairs the dignity or honour of a member or officer of the Council.

32.3 Upon two warnings and a final warning during the deliberations of a Council meeting, the Speaker or chairperson shall inform the member that he/she will not be given an opportunity to be heard further at that particular meeting. The member will however be allowed to vote on any matter that is subject to

a vote.

32.4 The member must be alerted of each warning.

32.5 If a member fails to comply with the Speaker's direction under paragraph 28.3 above, the provisions of Rule 29 shall apply and the Speaker may decide to take disciplinary action against such member in terms of the Code of Conduct for Councilors.

33. Councilor to speak once only

Except for otherwise provided for in these rules, no speaker shall speak more than once on any recommendation, motion or proposal, provided that the Mayor or a member may reply in conclusion of a debate, but shall confine him / her to answering to previous speakers and shall not introduce any new matter into the debate.

34. Debate management

34.1. Time allocated to each political party or interest group will be determined by the Speaker.

34.2. At least 24 hours before the meeting, the whip of each political party or interest group represented in the municipality will provide the Speaker or chairperson with a list indicating which items on the agenda are to be debated.

34.3. At least 12 hours before the meeting, the whip of each political party or interest group represented in the municipality will provide the Speaker or chairperson with a list indicating which members will speak on which item included in the agenda.

34.4. The Speaker will determine the allocation of time per item and inform the whips of the speaking time allowed to each member included in the list, based on the principle in 32.1 above.

34.5. Each political party or interest group represented in the municipality has the right to speak on each item on the agenda.

35. Length of speeches

35.1 No speech shall exceed **three (3)** minutes in length without the consent of the Speaker. This period shall exclude consecutive translation time required.

35.2 The Speaker or the chairperson shall be entitled to, at any time, to set,

limit

or

extend reasonable time limits for the discussion of and/or any decision or any item or group of items on the relevant agenda.

35.3 The time limits shall be at the sole discretion of the Speaker or chairperson guided by the principles of fairness, democracy, efficiency and good governance.

36. Disorderly conduct of councilor and the duty of the chairperson

36.1 If at any meeting of the council or committee a councilor conducts himself or herself in an improper fashion, behaves in an unseemly manner or persistently obstructs business to be carried out or challenges the ruling of the Speaker or chairperson on any point of order or declines to withdraw an expression when required to do so by the speaker or chairperson or indulges in tedious repetition or unbecoming language or commits any breach of these rules, the chairperson shall direct such councilor to conduct himself or herself properly and, if speaking, to discontinue his/her speech and resume his/her seat, is he/she was standing.

36.2 In the event of persistent disregard of the directions of the Speaker or chairperson, the Speaker or chairperson shall direct such councilor to retire from the venue where the meeting is being held for the remainder of the meeting, and shall, if necessary, cause him/her to be ejected there from.

36.3 The Speaker or a chairperson may exclude from a meeting, for such period of time during the meeting as he/she may deem fit, any member who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the chair, provided that a formal process will be initiated after the conclusion of the meeting.

36.4 Where a councilor refuses to retire or in the event of more than one councilor having to be ejected from the meeting, and such councilor/s refuse/s to leave the meeting, the Speaker shall request the Designated Peace Officer to facilitate the removal of such councilor/s from the chamber. If this cannot be done orderly, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councilors to retire or to be ejected from the venue of the meeting. If, at the resumption of proceedings, the councilor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation. The chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any councilor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue. The Sargent at Arms of the council will ensure that such

councilor/s do/es not enter such an alternative venue.

37. Obstruction by persons other than councilors

Any person, other than a councilor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the council or any committee at any meeting shall, if the Speaker or chairperson so directs, be removed from the Chamber or the venue where the meeting is being held. If the person refuses to leave, the Designated Peace Officer will be responsible to remove such person from the meeting. The chairperson may exclude such person from further admittance to the council chamber or the meeting venue for such period as it may be deemed fit.

38. Points of order and personal explanation

38.1 Any member, regardless of whether he/she addressed the Council on the matter under debate or not, may:

38.1.1 raise a point of order

38.1.2 raise a point of personal explanation at the end of the debate

38.2 Any point of order or personal explanation will not constitute a speech and will therefore not affect the right of any member to speak on a particular item, provided that the member will not be allowed to spend more than 2 (two) minutes on the point of order or personal explanation.

38.3 Any member contemplated in 36.1 shall be entitled to be heard and the councilor speaking at the time shall remain silent until a ruling has been made by the Speaker or chairperson.

38.4 The ruling of the Speaker or chairperson on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.

38.5 Any member will only be allowed to raise one point of order and one point of personal explanation during the council meeting. Only one point of order on the same matter will be allowed.

38.6 Any member persisting in a point of order or personal explanation after a ruling has been made by the Speaker will be subject to the provision of point 34 above.

39. Points of clarity

39.1 For the purpose of this Rule:

- 39.1.1 A point of clarity means the explanation of some material part of a member's speech which has not been understood or which contains incorrect assertions during the course of the debate but not once the debate has closed.
- 39.1.2 Any point of clarity shall not constitute a speech and therefore not affect the right of any member to speak on a particular item, provided that a member who addresses the Speaker on a point of clarity shall not be permitted to address the Speaker for longer than 1 minute on such point of clarity;
- 39.1.3 Any member, whether he/she addressed the Council on the matter under debate or not, may rise/raise his/her hand on a point of clarity at the end of the debate.
- 39.1.4 A member contemplated in Rule 32.1.3, shall be entitled to be heard forthwith, and the member speaking at the time shall remain silent and be seated, until a ruling has been made by the Speaker.
- 39.1.5 The ruling of the Speaker on the admissibility of a point of clarity shall be final and shall not be open to discussion.

40. Questions

- 40.1 Any member may submit a question requiring a written reply from any political office bearer, the municipal manager or senior manager of the municipality, concerning any matter related to the effective performance of the functions of the municipality and the exercise of its powers, provided that a written notice of such a question has been submitted to the Speaker or chairperson and the municipal manager at least 10 (ten) days prior to the council or committee meeting and the political office bearer and the municipal manager shall ensure that the member receive a written reply at the meeting.
- 40.2 If after the question has been replied to, a member is of the opinion that the reply is not clear or satisfactory, he or she may, with the permission of the Speaker or chairperson, request a follow up question.
- 40.3 All questions duly given notice of and all responses submitted shall be recorded in the minutes of the meeting.
- 40.4 No member may re-submit a question relating to any matter if that question was considered during the previous 3 months.
- 40.5 A question shall not contain any arguments, expression of opinion or inferences, accusations, epithets or controversial, ironical or offensive expression of hypothetical cases or seek legal opinion.
- 40.6 A member will be limited to one oral and one written question per Council

meeting.

41. Reports and investigations:

- 41.1.1 A question shall not be asked seeking information in relation to an investigation that is underway, other than to determine the status of that investigation i.e. initiated, ongoing, close to completion or completed.
- 41.1.2 A question shall not be asked regarding the contents of any report resulting from a confidential or forensic investigation unless the disclosure of information necessary to answer such question is in accordance with the policy regarding the release of information contained in such a report.
- 41.1.3 A question shall not be asked in relation to matters that are legally privileged, that are the subject of ongoing legal proceedings or that are confidential, or if the disclosure of information necessary to answer such a question would result in the breach of the rights of, or a duty owed to, a third party.
- 41.1.4 No questions regarding matters on the confidential agenda will be permitted.
- 41.1.5 A question shall not refer to more than one subject and shall be brief and concise.
- 41.1.6 Answers shall be communicated in writing to members within 2 months from the date of receipt of such questions.

42. Terms of reference of sub-committees

Upon the appointment of any sub-committee the council a committee shall specifically determine the terms of reference of such sub-committee and shall fix the quorum of such sub-committee. The council's standing rules and orders shall apply to all sub-committees.

43. Council may increase or restrict powers

With the exception of the Executive Committee whose functions are determined in terms of the Structures Act, and the committees whose functions and powers are determined in terms of Section 80 of the Structures Act by the Executive Committee, the council may at any time extend, withdraw or modify the duties and powers of a committee or sub-committee appointed in terms of Section 79 of the Structures Act.

44. Minutes of Executive Committee, committees and sub-committees

Every committee, including the Executive Committee, except when specifically exempted from this provision by a resolution of the council or the executive committee in view of the sensitivity, confidentiality or otherwise of the subject matter of a particular meeting and provided the final resolution or recommendation is duly recorded in writing, shall record minutes of its proceedings and cause the same to be duly kept by the Executive Director Corporate Services. At every ordinary meeting of a committee the unconfirmed minutes shall be taken as read, with a view to confirmation, provided that a copy of such minutes shall have been sent to each member of the committee twenty four hours previously. No discussion shall be allowed upon the minutes, except as to their accuracy save at portfolio committees and even then at the sole discretion of the chairperson.

45. Inspection of minute books by councilors

The minutes of every council or committee shall be open for inspection by every member of the council during office hours; provided the demands of duties of the registry and secretariat staff is taken into account.

46. Non-attendance of members of committees

46.1 Should any member of a committee fail to attend three consecutive meetings of the same committee of which he or she is a member, without leave of absence having been granted as contemplated in 22 above, he/she shall be required to submit a motivation for such absence and if the Speaker are not satisfied with such explanation, it shall be reported to the municipal council that the councilor is deemed to have forfeited his/her seat on such committee, and such forfeiture shall be reported to the council or the executive committee to the end that the vacancy may be filled by the executive committee.

47. Members of council attending committee meetings of which they are not members

47.1 Members of the municipal council may attend the meeting of any committee that they are not a member of but will in all instances be granted the status of an observer and will not be allowed to participate or vote at such meetings.

47.2 The provisions of 43 will not be applicable to the Municipal Public Accounts Committee (MPAC) and members of the executive will be requested to attend the MPAC meeting and the request for attendance will specify the matters

that the member of the executive will be expected to address the MPAC on.

47.3 The rules with regard to agendas as set out above will also be applicable to requests to attend MPAC and address it.

48. Information to be obtained from municipal manager or the head of department concerned

Subject to the provisions of 37 above, members of the council who desire to obtain from any official of the council information with regard to the administrative work of the council, which is not accessible to the general public, should address their enquiries firstly to the Municipal Manager and then to the relevant senior manager.

49. Information to the press or other media: In-committee discussions

49.1 The Mayor, the Speaker and the Municipal Manager in their discretion may, on application being made to him/her by any registered newspaper, radio station, television service or internet publisher, supply to such media or its representative, information and reports relating to the work of the municipality.

49.2 In view of the Municipal Manager, the Speaker or the Mayor being the authorized channel through which the media may receive information and reports, members of the council are therefore expected to refrain from sending to the media documents or information supplied to them with a view to their consideration by the council or any committee: Provided that this clause shall not be construed as abrogating a councilors individual constitutional right to make press statements which reflect his/her own personal or political view and not that of the council, further provided however, that no discussion that took place in-committee may be conveyed to the public or the press except by the Mayor, Speaker or Municipal Manager.

49.3 Chairpersons of committees must liaise with the Mayor and Municipal Manager for the publication of any information relating to committee and the Municipal Manager shall arrange, if approved, the publication of the relevant information.

50. Suspension of standing orders

No standing order shall be suspended without the vote of a majority of the members of the council or of three-fourths of the members present and a motion duly seconded to suspend the standing orders shall be put without debate.

51. Legal defense and indemnification of councilors and officers of the council

The council may determine the circumstances in which it will undertake the defence of or pay the legal costs or the total costs and the amount in respect of any legal proceedings, whether civil or criminal, a councilor or an official may have against any person, body, organisation or institution arising from the councilor's or official's capacity as a councilor or official of the Municipality.

52. Speaker may refer matters for legal advice

The Speaker shall be entitled, within the framework of the approved operational budget of the municipality and subject to the supply chain management policy, to refer any matter pertaining to the council and its proceedings, for legal opinion to the council's legal advisors both internal and external. The Municipal Manager shall determine the appropriate person to provide such opinion.

53. Activities prohibited within the council chamber or a meeting venue and the use of the council chamber by other persons or institutions

- a. The decorum of the council chamber as the official seat of governance of the Municipality shall at all times be respected and adhered to by any person or institution using the facilities.
- b. The following activities are strictly prohibited from being conducted within the confines of the council chamber or a meeting venue of the council or its committees by any person:
 - i. Having a cellular telephone that is not on silent mode and speaking on a cellular phone during the meeting;
 - ii. Consuming any food or drink in his/her possession, excluding water provided at the meeting.
- c. Caucus meetings of the various political parties may be held in the chamber provided it is booked with the official responsible for the chamber and council support prior to the meeting, and subject to such bookings to be on a rotational basis for all the parties.
- d. The use of the council chamber by any other person or institution, other than a recognized committee, body of or person in the employ of the Municipality shall be subject to the approval by the Speaker in consultation with the Municipal Manager or ED: Corporate Services, and at all times subject to the availability thereof in terms of the council's calendar of use, and the purpose for which it is applied for. Applications for use shall be made in writing to the Speaker who shall confer with the Director Corporate Services in making the venue available in writing.

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54. Ward committees

The council may by resolution determine the rules of procedure for the election of ward committees, the procedures at meetings, and the reporting rules.

55. Sanctions and offences

Any person who willfully contravenes any provision of these rules shall be guilty of an offence and shall be subject to the following sanctions imposed by the council:

- a. Having a fine imposed by the council as determined by it from time to time for the categories of offences as approved by it by resolution from time to time;
- b. Be suspended from the attendance of council or committee meetings as the council may determine for such a period as the council may by resolution determine from time to time for the categories of offences as determined by it.

56. Dress code

- a. The Council may by resolution prescribe a dress code for councilors and traditional leaders attending meetings.
- b. Notwithstanding the provisions of any resolution passed in accordance with 56 (a) above, no councilor shall be allowed to wear any clothing or accessory containing party political paraphernalia to any meeting.

ANNEXURE A : SUPPLEMENTARY RULES OF ORDER FOR KWADUKUZA MUNICIPALITY COUNCIL AND ITS COMMITTEE VIRTUAL MEETINGS

NB: THESE RULES ARE SUPPLEMENTARY TO THE EXISTING STANDING RULES AND ORDERS FOR KWADUKUZA MUNICIPAL COUNCIL.

INDEX TO THE RULES OF ORDER REGULATING THE CONDUCT OF VIRTUAL MEETINGS OF THE MUNICIPAL COUNCIL OF KWADUKUZA MUNICIPALITY

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4	NOTICE AND VENUE OF MEETING	
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9	NOTICE OF MOTION	
10	AMENDMENTS TO RECOMMENDATIONS PROPOSED AT THE MEETING	
11	REMOVAL OR EXCLUSION OF COUNCILLORS	
12	FACILITATION OF PUBLIC AND MEDIA INVOLVEMENT	
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1. DEFINITION OF THESE RULES

Rules of Order’ means the Rules of Order Regulating the Conduct of meeting of KwaDukuza council and its committees

These Rules’ means the *Rules of Virtual Meetings* adopted by Council for the conduct of virtual meetings

Virtual meetings’ mean meetings of Council conducted by any form of supported by the KwaDukuza ICT department to which Councilors have access.

2. APPLICATION OF THE RULES

- a. The *Rules of Order* remain in operation and are supplemented by these Rules in order to provide for virtual meetings of Council and its committees.

3. INTERPRETATION

- a. A reference in the Rules to a meeting of the Council is not limited to a meeting of members all of whom, or any of whom, are present in the same place and any reference to a “*place*” where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.
- b. Any reference in the Rules to being “present” at a meeting, includes being present through remote attendance.
- c. A member in remote attendance attends a meeting when such member is able at that time of a meeting to link into the digital platform on the day of the meeting and to:
 - i. hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,
 - ii. hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and
 - iii. be so heard and, where practicable, be seen by any other members of the public attending the meeting.

- d. The presence of a member in terms of sub-rule 3.3 shall be deemed to be evidence for the attendance register.
- e. A requirement in the Rules of Procedure that a meeting be open to the public, is satisfied if –
 - i. the meeting is streamed live on the website or official social media pages of the Council; or
 - ii. The minutes of the meeting are recorded and made available on the website of the Council as soon as practicable after the meeting.

4. NOTICE AND VENUE OF MEETING

- a. The Municipal Manager shall issue a notice and agenda for a virtual meeting, which must include the date and time of the meeting;
- b. All documents of the meeting shall be distributed by electronic means to which members have access; and
- c. The venue of a virtual meeting shall be deemed to be Municipal venues identified for such meetings in KwaDukuza Municipality.

5. PUBLIC NOTICE OF VIRTUAL MEETING

- a. The Municipal Manager must give notice to the public of each virtual meeting of the Municipal Council.
- b. A public notice of the municipal council virtual meeting must :-
 - i. state that the meeting is virtual and that there is no physical meeting location;
 - ii. describe how members of the public can access the record of the meeting, and
 - iii. provide a phone number or email address where members of the public can obtain additional information on how the municipality conducts the meeting and get assistance in locating such record of meeting.

6. QUORUM

- a. In a virtual meeting:-
 - i. the quorum requirements shall be those as determined in the Rules of Order; and;
 - ii. members who have accessed the meeting via the secure link sent to their

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email address shall be deemed present for the purposes of establishing a quorum, taking a decision or voting on a matter.

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7. DECISIONS AND VOTING

The Speaker or Chairperson of the committee must announce the commencement of voting and the agenda item being voted on before any vote is taken.

- a. Members shall be entitled to cast their votes electronically, by voice or by having their vote recorded by their whips.
- b. The voting procedure to be followed per meeting will be predetermined and directives will be announced in the meeting by Speaker or Chairperson of the committee.
- c. Only members who are present when a vote is called shall be permitted to vote, and the results of a vote will be announced and, where possible, the names of members and how they voted will be recorded in the minutes of Proceedings. Members must ensure that their votes are correctly recorded.

8. DEBATE MANAGEMENT

- a. Debate will be managed by the Speaker or Chairperson of the committee and only those councilors present at the meeting will be enabled to exercise a right to speak at the meeting.
- b. Points of order or clarity must be texted into the debate via the instant messaging tool and the relevant party whip will be enabled to raise these on behalf of the councilor or member.
- c. Microphones must be muted at all times unless called on by the Speaker or Chairperson of the committee to speak.

9. NOTICE OF MOTION

- a. A member submitting a motion shall be given an opportunity to provide only a brief summary of the motion and should not read the full extent thereof as reflected in the agenda.

10. AMENDMENTS TO RECOMMENDATIONS PROPOSED AT THE MEETING

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- a. The Speaker or Chairperson of the committee must request the administration to present the amendment proposed by a councilor on screen for consideration and once legally verified will call for a seconder.
- b. The conditions set up in the main rules of order applies.

11. REMOVAL OR EXCLUSION OF COUNCILORS

The Speaker or Chairperson of the Committee may prevent councillors from speaking via the virtual platform if in breach of Rules and of the main Rules of Order of Meetings of the Municipal Council of KwaDukuza Municipality which these rules are annexured into.

12. FACILITATION OF PUBLIC AND MEDIA INVOLVEMENT

- a. The Media must have access to the municipality digital platform to access open proceedings.
- b. Whenever the Council decides to exclude the public and media from a virtual meeting, electronic access to the meeting must be suspended in order to close all or part of the meeting to the public and media
- c. Minutes of all open meetings will be made available on the municipality's official website.
- d. Public participation and access to virtual proceedings must be made possible in a manner that is consistent with a participatory and representative democracy and a virtual meeting must be live streamed, wherever possible.

13. PRIVILEGES

- a. Councilors enjoy the same privileges which they ordinarily enjoy in physical Council proceedings.

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NB: Not part of Rules but some virtual meeting protocols to be observed:

- (a) Dress appropriately
- (b) Positioning of your camera to ensure a professional background
- (c) Do not eat or drink while speaking
- (d) Ensure you are sitting in a quiet and secure environment (confidential)

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- meetings)with no or minimal background noise
- (e) Do not carry on side conversations
- (f) Do not make distracting sounds i.e. avoid typing on your keyboard, turn off all soundson your phone
- (g) Speak clearly do not shout
- (h) If you cannot hear someone adjust volume
- (i) Do not interrupt other speakers

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