

SWELLENDAM MUNICIPALITY

SWELLENDAM MUNICIPAL BY-LAW RELATING TO COMMITTEES

By-law relating to the establishment, composition, procedures, powers and functions of committees of the municipality of Swellendam.

PREAMBLE

WHEREAS section 160(6) of the Constitution provides that a municipality may make and administer by-laws for the establishment, composition, procedures, powers and functions of committees;

AND WHEREAS the Swellendam Municipality seeks to regulate the establishment, composition, procedures, powers and functions of committees;

BE IT ENACTED by the Council of the Swellendam Municipality, as follows:—

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1. Definitions

In this by-law, unless inconsistent with the context—

“**code**” means the Code of Conduct for Councillors as set out in Schedule 1 of the Systems Act;

“**chairperson**” means the chairperson of a committee elected by council;

“**committee**” means any committee established by the council excluding the executive mayoral committee and ‘**committees**’ have the same meaning;

“**Council**” means the municipal council of Swellendam;

“**councillor**” means a member of the Council, including a political office bearer as referred to in section 1 of the Systems Act;

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

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

“**meeting**” means any meeting of any committee established by the Council;

“**member**” means a councillor elected by council as a member of a specific committee;

“**member of the public**” means a person who is not a councillor or an employee of a municipality and who attends a meeting of a committee;

“**MPAC**” means the municipal public accounts committee;

“**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;

“**non-member**” means a councillor, other than a member, or a member of the public or the municipal manager and any other employee of the municipality”

“**rules**” means the rules of order as contemplated in section 160 (a) and (b) as approved by Council and published in the provincial gazette;

“**Speaker**” means the Speaker of the Council elected under section 36 of the Structures Act;

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

“**Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

2. Application of these rules

- 1) These rules only apply to all meetings of committees of the Council.
- 2) Except where it is clearly inappropriate, a rule applying to a councillor in any proceedings, also apply to a non-member who takes part in those proceedings with the approval of the chairperson.

3. Mayoral Committee

- 1) In terms of section 60 of the Structures Act the Executive Mayor must appoint a Mayoral Committee from amongst the councillors to assist the Executive Mayor.
- 2) The Executive Mayor may delegate specific responsibilities to each member of the Committee.
- 3) The Executive Mayor may delegate any of the Executive Mayor’s powers to the respective members.
- 4) The Executive Mayor may dismiss a member of the Mayoral Committee.
- 5) The Mayoral Committee consist of the Deputy Executive Mayor and as many councillors as may be necessary for the effective and efficient government, provided that no more than 20 percent of the number of councillors comprising the Council is appointed.

- 6) The Executive Mayor decides when and where the Mayoral Committee meet, subject to the annual corporate calendar of the council, and may at any time postpone a meeting of a committee, or reschedule the meeting for an alternative date, taking in to account the corporate calendar of the Council.
- 7) Only members of a Mayoral Committee may attend the meetings of the Mayoral Committee and may be seated in the venue where the Mayoral Committee meets.
- 8) Non-members of the Mayoral Committee may attend as observers and must be seated in the gallery or an alternative seating arrangements as determined by the Executive Mayor.
- 9) The Executive Mayor may invite speakers to address the Mayoral Committee on any matter related to the work of the Mayoral Committee.
- 10) The Executive Mayor may invite knowledgeable persons to assist the Mayoral Committee on any matter related to the work of the Mayoral Committee

4. Establishment of section 79 and 80 Committees

- 1) The Council may establish any number of committees as allowed in terms of legislation.
- 2) At the first meeting of the Council, Council must decide whether both Sections 79 and 80 Committees as set out in the Structures Act will be established or whether only section 79 or only section 80 Committees will be established as well as the specific committees to be established.
- 3) In terms of Section 79 of the Structures Act, Council may establish one or more Committees necessary for the effective and efficient performance of any of Council's functions or the exercising of Council's powers.
- 4) Council appoints the members as well as the Chairpersons of the Section 79 committees and:
 - a) Must determine the functions of a committee;
 - b) May delegate duties and powers to the committees in terms of section 32 of the Structures Act;
 - c) May authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the Council
 - d) May remove a member of a committee from time to time
 - e) May determine a committee's procedure.
- 5) In terms of Section 80 of the Structures Act, Council may appoint Committees of Councillors to assist the Executive Mayor.
- 6) Section 80 Committees may not in number exceed the number of members of the Executive Committee or the Mayoral Committee.
- 7) Executive Committee or the Mayoral Committee.
- 8) The Executive Mayor:
 - (a) Appoints a Chairperson for each Section 80 Committee from the Mayoral Committee and:
 - (b) May delegate any powers and duties to the committees;
 - (c) Is not divested of the responsibility concerning the exercise of the power or performance of the duty;
 - (d) May revoke any decision taken by the committee, subject to any vested rights.
- 9) Council may disestablish and committee at any stage and may change the composition of any committee at any stage.

5. Reporting and representation

- 1) Section 79 Committees report directly to Council, whilst section 80 Committees reports to the Executive Mayor.

- 2) Except for the Mayoral Committee as prescribed in section 80 of the Structures Act, all committees will reflect a fairly representation as envisaged in section 160 (8) of the Constitution, taking into account the principle of majority rule.

6. Number of members

The number of members of any committee to be established by the council will be determined by taking into account the capacity within the Council at a particular stage.

7. MPAC

- 1) The Council may establish an MPAC to draft an annual oversight report for consideration by the Council or to exercise any other functions as the Council may decide.
- 2) The MPAC will be chaired by the opposition party, but the Council may, under special circumstances that arise, elect a councillor from the ruling party as chairperson of the MPAC.
- 3) The members of the MPAC can be any councillor as determined by the Council and there is no impediment on the nomination of full time councillors or members of the executive mayoral committee or members of any other committee as members of the MPAC.

8. Powers and functions

The Executive Mayoral Committee and the committees will have the delegated powers as approved by the Council according to the System of Delegations in terms of section 59 of the System Act or as decided by the Executive Mayor in respect of a Section 80 committee.

9. Meetings and powers of the Chairperson

- 1) The Chairperson of the Committee decides when and where the committee meet, subject to the annual corporate calendar of the council, and may at any time postpone a meeting of a committee, or reschedule the meeting for an alternative date, taking in to account the corporate calendar of the Council.
- 2) Only members of a committee may attend the meetings of the committee and may be seated in the venue where the Committee meets.
- 3) Non-members of a committee may attend as observers and must be seated in the gallery or an alternative seating arrangements as determined by the Chairperson of the committee.
- 4) The Chairperson of a Committee may invite speakers to address the Committee on any matter related to the work of the Committee.
- 5) The Chairperson of a Committee may invite knowledgeable persons to assist the Committee on any matter related to the work of the Committee.

10. Officials

The Senior Manager and Officials as determined by them may attend and take part in the proceedings of a committee but without voting power.

11. Rules of order

The Rules of Order of the Council as envisaged in section 160 of the Constitution is mutatis mutandis applicable to all section 79 and section 80 committees. Any reference in the Rules of Order to the Speaker is meant to be a reference to the Chairperson of the Committee.

12. Offences and penalties

Any person who refuses to adhere to any order by the chairperson may be forcibly removed and is in transgression of the Code of Conduct for Councillors.

13. Conflict with other legislation

- 1) In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.
- 2) In the event of an inconsistency between the different texts The English text shall prevail.

14. Revocation of by-laws

The provisions of any By-laws previously promulgated by the Municipality or by any of the disestablished municipalities now been incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this By-law, and insofar as it has been made applicable to the Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

15. Short title

This By-law is called the By-law relating to the establishment, composition, procedures, powers and functions of committees of the municipality of Swellendam, 2017.