

## PREFACE

This Mayoral Handbook is a generic text for all Executive Mayors and Mayors that would guide their rights, duties and expectations.

This handbook is subject to applicable national and provincial legislation. It must be read in conjunction with the Councillor Code of Conduct and the annual Determination on the Upper Limits of Councillor salaries, allowances and benefits.

All Personal Assistants and Political Advisors are expected to acquaint themselves thoroughly with the provisions contained in these guidelines so that they are able to inform Mayors of appropriate action in all circumstances.

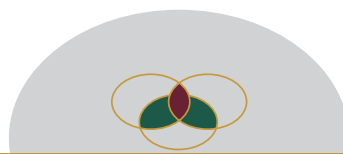
## DEFINITIONS

- “Mayor” A mayor or executive mayor of a category “A”, “B”, or “C” municipality unless the context indicates otherwise;
- “Family” The spouse of a Mayor and:  
any dependent minor children, recognised as such by any Act of Parliament;  
any relative who resides permanently with the Mayor and is of necessity dependent and whose income, from whatever source, does not exceed the amount of the applicable maximum basic social pension prescribed in regulations made under determinations of the Social Welfare legal regime;
- “Spouse” A person who is, not separated from the Mayor and as part of the household of the Mayor, supports the Mayor in the execution of his/her functions, and also includes “companion or partner”, provided that the Mayor had informed his/her council, in writing, of such companion or partner.

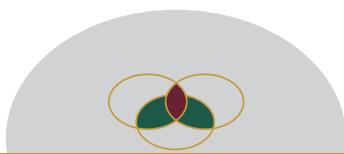
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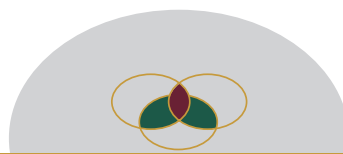
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# 1. BACKGROUND TO POLITICAL OFFICES IN LOCAL GOVERNMENT

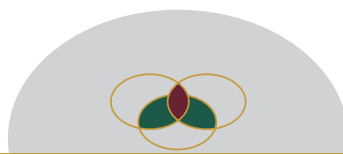
## Introduction

Historically some of the characteristics of local government in South Africa were as follows:

- ✓ Municipal legislative and executive powers were always vested in the same body, namely the municipal council. There was no functional or structural separation of powers between a local legislature and a local executive. Although during the interim phase many municipalities had executive committees, they were actually management committees as they did not have executive powers in the true sense.
- ✓ Municipal offices were ceremonial.
- ✓ Whilst a municipal council could always delegate powers to committees and officials, it could never delegate powers to individual councillors.
- ✓ Although some councillors were de facto full-time councillors, legally they were part-time councillors.

The new local government system still does not provide for the separation of the legislative and executive power of municipalities. In fact, the Constitution expressly prohibits the separation of legislative and executive power in local government. However, it is now possible for municipal councils to delegate powers to individual councillors. Municipal offices are also not only ceremonial any more. Most of these offices, such as that of Speaker and executive mayor, are vested with statutory powers and duties. Municipal councils may add to these powers and duties through delegation but may not diminish those powers and duties.

The framework of constitutional provisions relating to local government brought about these changes. The White Paper on Local Government gave flesh to this framework.





## 1.1 Distinguishing between a municipality and its council

A distinction must be made between a municipality and its municipal council. Municipalities are the core institutions within the sphere of local government. Municipalities are organs of state<sup>1</sup> that consist of the political structures<sup>2</sup> and administration of the municipality and the community within (residents inhabiting) the municipal area<sup>3</sup>.

A municipal council is a body consisting of directly or directly and indirectly elected councillors/members<sup>4</sup>. A municipal council is thus one of the political structures of a municipality. "Municipality" is therefore a much broader concept and a more inclusive collection of institutions or structures than a municipal council. A municipality and its council are not synonymous with each other.

A municipality has the right to govern on its own initiative the local government affairs of its community<sup>5</sup>. To govern means to exercise governmental authority. Governmental authority is the authority to make rules that apply in principle to everybody within the area of the body that made the rules and to enforce those rules. Governmental authority typically consists of three distinct powers, namely legislative, executive and judicial power.

A municipality exercises its legislative authority by making and administering bylaws for the effective administration of the matters that it has a right to administer<sup>6</sup>. A municipality has the right to administer the local government matters listed in parts B of Schedules 4 and 5 to the Constitution and any other matter assigned to it by national or provincial legislation. A municipality has executive authority (i.e. policy-and decision making powers) in respect of the same matters<sup>7</sup>.

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1. *Constitution of the Republic of South Africa 1996 (Act No 108 of 1996), s. 239. Hereafter referred to as the Constitution*
  2. *I.e. the municipal council, its committees and the political office-bearers of the municipality.*
  3. *Local Government: Municipal Systems Act 2000 (Act No 32 of 2000), s. 2(c). Hereafter referred to as the Systems Act.*
  4. *Please note that traditional leaders who are entitled to attend and participate in council meetings are not members of those councils.*
  5. *Constitution, s. 151(3).*

Section 151(2) of the Constitution vests the legislative and executive authority of a municipality in its municipal council. Municipalities do not have pure judicial powers like the courts. A municipal council makes decisions concerning the exercise of all the powers and the performance of all the functions of the municipality<sup>8</sup>. Where a council has delegated decision-making power to another body or person<sup>9</sup>, it may change the decisions of that delegated body, subject to any rights that may have accrued pursuant to a decision of the delegated body<sup>10</sup>. A municipal council's decision-making authority is limited to those matters that are expressly by law assigned to the municipality or the council itself and matters reasonably necessary for and incidental to those assigned matters. It cannot make decisions regarding matters that had by law been assigned to another body or person.

The Constitution obliges every municipality to strive, within its administrative and financial capacity to achieve the objects of local government<sup>11</sup>. The objects of local government represent the core functions of a municipality and the reasons why municipalities exist. Those objects are as follows<sup>12</sup>:

- To provide democratic and accountable government for local communities;
- To ensure sustainable provision of services to communities;
- To promote social and economic development<sup>13</sup>;
- To promote a safe and healthy environment; and
- To encourage communities and their organizations to become involved in local government matters<sup>14</sup>.

Municipalities are further required<sup>15</sup> to structure and manage their administrations, budgeting and planning processes in such a manner that they-

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6. *Constitution, s. 156(2).*

7. *Constitution, s. 156(1).*

8. *Constitution, s. 160(1)(a).*

9. *Hereafter referred to as a delegated body.*

10. *Systems Act, s. 59(3)(a).*

11. *Constitution, s. 152(2).*

12. *Constitution, s. 152(1).*

*For district municipalities this object is described in more detail in s. 83(3) Municipal Structures. In terms of that section a district municipality must seek to achieve the*

- Prioritise the basic needs of the community;
- Promote social and economic development and
- Participate in national and provincial development programmes<sup>16</sup>.

A municipality must further, within its administrative and financial capacity, establish an administration. The administration that it establishes must comply with certain principles and contribute to the realization of specified objectives set out in s. 51 of the Systems Act.

In relation to the imposition of taxes and service charges a municipality must in terms of s. 95 of the Systems Act, within its administrative and financial capacity-

- establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and where applicable, a service provider;
- establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider;
- take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilised;

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*integrated, sustainable and equitable social and economic development of its whole area. To achieve this, a district municipality must implement the following strategies:*

- *ensuring integrated development planning across its municipal area,*
- *promoting bulk infrastructure development and services across its area,*
- *building the capacity of local municipalities which lack capacity to perform their functions and exercise their powers and*
- *promoting equitable resource distribution between local municipalities in order to ensure appropriate service levels across the area.*

14. See Structures Act, s. 19(1).

15. Constitution, s 153.

16. These developmental duties are further elaborated in section 73(1) of the Systems Act. It requires each municipality to give effect to the Constitution, to prioritise the basic needs of the community, to promote development of the community and to ensure that all members of the community have access to at least the minimum level of basic municipal services.

- ✓ the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- ✓ ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due;
- ✓ provide accessible mechanisms for those persons to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- ✓ provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- ✓ provide mechanisms to monitor the response time and efficiency in complying with paragraph (g); and
- ✓ provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.

## **1.2 Role of a municipal council**

In terms of section 4(2) of the Systems Act, a municipal council must, within the municipality's financial and administrative capacity and having regard for practical considerations,

- exercise the municipality's executive and legislative authority and use the resources of the municipality in the best interests of the community;
- provide, without favour or prejudice, democratic and accountable government;
- encourage the involvement of the community;
- strive to ensure that municipal services are provided to the community in a financially and environmentally sustainable manner;

- consult the community about the level, quality, range and impact of municipal services and the available options for service delivery;
- give members of the community equitable access to the municipal services to which they are entitled;
- promote and undertake development in the municipality;
- promote gender equity in the exercise of the municipality's executive and legislative authority;
- promote a safe and healthy environment in the municipality; and
- contribute, together with other organs of state, to the progressive realisation of the fundamental rights contained in sections 24, 25, 26, 27 and 29 of the Constitution.

S. 19(2) of the Structures Act imposes the following further executive obligations on every municipal council. A council must annually review-

- The needs of the community
- Its priorities to meet those needs
- Its processes for involving the community
- Its organisational and delivery mechanisms for meeting those needs
- Its overall performance in achieving the objects of local government set out in the Constitution.

A municipal council is further required<sup>17</sup> to develop mechanisms to consult the community and community organisations in exercising and performing its powers and functions. The consultation requirements of the Structures Act are further elaborated in the s. 16 and 17 of the Systems Act. S. 16 of the latter Act requires a municipality to make appropriate systemic arrangements for ensuring participation. For this purpose every municipality must encourage and create conditions for community participation in at least-

- the integrated development planning process<sup>18</sup>,
- the establishment, implementation and review of its performance management system<sup>19</sup>, the monitoring and review of its performance,
- the preparation of the budget and
- strategic decisions regarding the provision of services<sup>20</sup>.

S. 17 of the Systems Act requires that citizen participation in local government affairs must take place through the ward committees provided for in the Structures Act, the mechanisms and procedures provided for in the Systems Act, mechanisms and procedures established by the municipal council and through councillors. The mechanisms and procedures established by a council must at least provide for the receipt, processing and consideration of complaints<sup>21</sup> and petitions, notification and public comment procedures, public meetings and public hearings and reporting back to the community.

In order for a municipality to comply with these obligations, the core functions of a municipal council may be listed as follows. A municipal council must-

- Make policies and bylaws that are informed by, and seek to satisfy, community needs with regard to the matters that it has the right to administer.
- Ensure implementation of national, provincial and local legislation and policies by supplying appropriate resources and authority to the administration.
- Establish suitable control and reporting systems and procedures for monitoring and evaluating policy implementation in order to give account to the community with regard thereto.

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17. Structures Act, s. 19(3).

18. See also Systems Act, s. 28(2) and 29(1)(b).

19. See Systems Act, s. 41(1)(e)(ii), 42 and 44.

20. See Systems Act, s. 80(2).

21. See Systems Act, s. 95(f) and (g)

- Ensure that the municipality meets its executive obligations, discharges its developmental duties and realises the constitutional objects of local government as elaborated in legislation.
- Enforce the codes of conduct for employees and councillors.
- Cooperate with other spheres of government, organs of state within those spheres and municipalities.
- Establish independent tender boards to adjudicate tenders.
- Build and promote good relations with the private sector, non-governmental and community organizations and other local organisations.
- Act as employer.

### **1.3 Role of the municipal administration**

In terms of section 195(1) of the Constitution the following values and principles govern the municipal administration:

- ⇒ A high standard of professional ethics.
- ⇒ Efficient, economic and effective use of resources.
- ⇒ A development-orientation.
- ⇒ Impartial, fair, equitable and unbiased services provision.
- ⇒ Responsiveness.
- ⇒ Public participation in policy-making.
- ⇒ Accountability.



- ⇒ Transparency by providing the public with timely, accessible and accurate information.
- ⇒ Good human-resource management and career-development practices, to maximise human potential.
- ⇒ Representivity, with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

Section 6(2) of the Systems Act requires of the administration to-

- ✓ provide be responsive to the needs of the local community;
- ✓ provide facilitate a culture of public service and accountability amongst staff;
- ✓ provide take measures to prevent corruption;
- ✓ provide establish clear relationships, and facilitate co-operation and communication, between it and the local community;
- ✓ provide give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive; and
- ✓ provide inform the local community how the municipality is managed, of the costs involved and the persons in charge.

In terms of section 51 of the Systems Act, a municipality's administration must enable it to-

- respond to the needs of the community;
- facilitate a culture of public service and accountability amongst staff;



- be performance orientated;
- focus on the objects and developmental duties of local government set out the Constitution;
- align the roles and responsibilities of its political structures, political office-bearers, managers and other employees with the priorities and objectives set out in the municipality's integrated development plan;
- establish clear relationships, and facilitate co-operation, co-ordination and communication, between its political structures and political office-bearers and its administration and between its political structures, political office-bearers and administration and the community;
- organise its political structures, political office-bearers and administration in a flexible way in order to respond to changing priorities and circumstances;
- perform its functions through operationally effective and appropriate administrative units and mechanisms including departments and other functional units and when necessary, on a decentralised basis;
- assign clear responsibilities for the management and co-ordination of administrative units and mechanisms;
- hold the municipal manager accountable for the overall performance of the administration;
- maximise efficiency of communication and decision-making within the administration;
- delegate responsibility to the most effective level within the administration;
- involve staff in management decisions as far as is practicable; and

- provide an equitable, fair, open and non-discriminatory working environment.

Based on the above, the role of a municipality's administration may be described as follows:

- Implements the lawful policies, resolutions and bylaws of the municipal council and the policies and laws of other spheres of government.
- Advises the council and its structures.
- Make administrative/operational policies.
- Manages, operates and maintains the provision of services in a sustainable and equitable manner.
- Administers the affairs of the municipality.
- Manages the municipality's resources.

#### **1.4 Doctrine of the separation of powers**

The doctrine of the separation of powers has it that governmental authority actually consists of three distinct but complementary powers and that these three powers should be functionally and structurally separated. The purpose of this limitation was to limit the power of government and thus safe-guard the citizenry from abuse of power, as follows:

**1.4.1 Legislative power:** The power to make laws/rules that apply in principle to everybody, to provide mechanisms and resources for the application of its laws and to ensure that its laws are carried out.

**1.4.2 Executive power:** The executive must make policies, identify and allocate resources to ensure that its policies are carried out, must ensure that a suitable legal framework for the implementation of its policies are made and must implement and administer the laws of the legislature.

**1.4.3 Judicial power:** The power to interpret the law made by the legislature, to apply the law to the cases before it and to control the activities of the legislature and the executive.

In South Africa government is constituted as a national, provincial and local sphere of government that are distinct from one another, yet inter-related to and interdependent on each other. Constitutionally all the three governmental powers are allocated only to the national sphere of government. The provincial and local government spheres do not have pure judicial powers.

In the national sphere of government the legislative power is vested in Parliament, the executive power is vested in the President and judicial power is vested in the Courts. There is therefore a fairly clear functional and structural separation of powers in the national sphere. In the provincial sphere provincial Legislatures have the legislative power and the premiers, executive power.

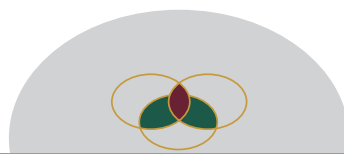
In the local sphere there is no separation of legislative and executive powers. Section 151 of the Constitution clearly states: "(2) The executive and legislative authority of a municipality is vested in its municipal council".

The treatment of local government in this respect affirms the constitutional tradition of local government in South Africa where there never had been a separation of legislative and executive powers in municipalities.

This is, however, not the only difference in this regard between the nation, provinces and municipalities. The Constitution goes to great pains to define the content of the legislative and executive powers of the nation and the provinces, as set out below:

<b>LEGISLATIVE POWERS</b>	
<b>National sphere</b>	<b>Provincial sphere</b>
<p>The national legislative authority as vested in Parliament confers on the National Assembly the power-</p> <ul style="list-style-type: none"> <li>➤ to amend the Constitution;</li> <li>➤ to pass legislation with regard to any matter, including a matter within a functional area listed in Schedule 4, but excluding, subject to subsection (2), a matter within a functional area listed in Schedule 5; and</li> <li>➤ to assign any of its legislative powers, except the power to amend the Constitution, to any legislative body in another sphere of government.</li> </ul> <p>The national legislative authority as vested in Parliament confers on the National Council of Provinces the power-</p> <ul style="list-style-type: none"> <li>• to participate in amending the constitution</li> </ul> <p>to pass legislation with regard to any matter within a functional area listed in Schedule 4 and any other matter required by the Constitution to be passed in accordance with section 76; and to consider, in accordance with section 75, any other legislation passed by the National Assembly.</p>	<p>The legislative authority of a province is vested in its provincial legislature and confers on the provincial legislature the power-</p> <ul style="list-style-type: none"> <li>• to pass a constitution for its province or to amend any constitution passed by it;</li> <li>• to pass legislation for its province with regard to-               <ul style="list-style-type: none"> <li>o any matter within a functional area listed in Schedule 4 or 5;</li> <li>o any matter outside those functional areas and that is expressly assigned to the province by national legislation; and</li> <li>o any matter for which a provision of the Constitution envisages the enactment of provincial legislation.</li> </ul> </li> </ul>

<b>EXECUTIVE AUTHORITY</b>	
<b>National sphere</b>	<b>Provincial sphere</b>
<p>The President exercises the executive authority, together with the other members of the Cabinet, by-</p> <ul style="list-style-type: none"> <li>• implementing national legislation except where the Constitution or an Act of Parliament provides otherwise;</li> <li>• developing and implementing national policy;</li> <li>• co-ordinating the functions of state departments and administrations;</li> <li>• preparing and initiating legislation; and</li> <li>• performing any other executive function provided for in the Constitution or in national legislation.</li> </ul>	<p>The Premier exercises the executive authority, together with the other members of the Executive Council, by-</p> <ul style="list-style-type: none"> <li>➤ implementing provincial legislation in the province;</li> <li>➤ implementing all national legislation within the functional areas listed in Schedule 4 or 5 except where the Constitution or an Act of Parliament provides otherwise;</li> <li>➤ administering in the province, national legislation outside the functional areas listed in Schedules 4 and 5, the administration of which has been assigned to the provincial executive in terms of an Act of Parliament;</li> <li>➤ developing and implementing provincial policy;</li> <li>➤ co-ordinating the functions of the provincial administration and its departments;</li> <li>➤ preparing and initiating provincial legislation; and</li> <li>➤ performing any other function assigned to the provincial executive in terms of the Constitution or an Act of Parliament.</li> </ul>



In contrast, the Constitution is silent on the content of municipal legislative and executive power. It merely states that a municipality has executive authority in respect of and the right to administer–

- the local government matters listed in Parts B of Schedules 4 and 5; and
- any other matter assigned to it by national or provincial legislation

and that it may make and administer by-laws for the effective administration of the matters which it has the right to administer. Section 11(3) of the Systems Act attempts to give flesh to this power. It states that a municipality exercises its legislative or executive authority by–

- (a) developing and adopting policies, plans, strategies and programmes, including setting targets for delivery;
- (b) promoting and undertaking development;
- (c) establishing and maintaining an administration;
- (d) administering and regulating its internal affairs and the local government affairs of the local community;
- (e) implementing applicable national and provincial legislation and its by-laws;
- (f) providing municipal services to the local community, or appointing appropriate service providers to provide such services;
- (g) monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the municipality;
- (h) preparing, approving and implementing its budgets;

- (i) imposing and recovering rates, taxes, levies, duties, service fees and surcharges on fees, including setting and implementing tariff, rates and tax and debt collection policies;
- (j) monitoring the impact and effectiveness of any services, policies, programmes or plans;
- (k) establishing and implementing performance management systems;
- (l) promoting a safe and healthy environment;
- (m) passing by-laws and taking decisions on any of the above-mentioned matters; and
- (n) doing anything else within its legislative and executive competence.

### **1.5 Conclusion**

Understanding of the context within which municipal political office-bearers operate is important to ensure clarity of their roles and their relationships with political structures, each other and the administration of a municipality. The South African local government system does not provide and the Constitution does not allow a functional or structural separation of legislative and executive power.

Political office-bearers and committees therefore perform statutory and delegated powers. Executive power is vested in and exercised by the municipal council.

## **2. POWERS, FUNCTIONS AND DUTIES OF THE MAYOR**

### **2.1 Statutory powers, functions and duties of Executive Mayor**

An executive mayor is entitled to receive reports from committees of the municipal council and to forward those reports together with her/his recommendation to the council when he/she cannot dispose of the matter in terms of his/her delegated powers. Where there is not a specific committee established to investigate and make recommendations on a matter, the executive mayor would also receive reports emanating from the administration.

### **2.1.1 The executive mayor must-**

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority;
- (c) recommend to the council strategies, programmes and services to address priority needs through the integrated development plan and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans;
- (d) recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community;
- (e) identify and develop criteria, including key performance indicators, for measuring and evaluating progress with the implementation of strategies, programmes and services;
- (f) evaluate progress against the key performance indicators;
- (g) review the performance of the municipality in order to improve the economy, efficiency and effectiveness of the municipality, the efficiency of credit control and debt collection and the implementation of the municipality's by-laws;
- (h) monitor the management of the municipality's administration in accordance with the directions of the municipal council;
- (i) oversee the provision of services in a sustainable manner;
- (j) perform such duties and exercise such powers as the council may delegate to her or him;
- (k) annually report to the council on the involvement of communities and community organisations in the affairs of the municipality; and



- (l) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.

He/she may delegate any of her/his powers to the respective members of the mayoral committee.

The executive mayor must further-

- perform such ceremonial role as the council may determine;
- report to the municipal council on all decisions taken by her/him;
- appoint and may dismiss the members of the mayoral committee;
- determine the venue, time and date of meetings of the mayoral committee;
- exercise and perform those of her/his powers and functions as may be designated by the council, together with the other members of the mayoral committee;
- manage the drafting of the municipality's integrated development plan and submit the draft integrated development plan to the council;
- manage the development of the municipality's performance management system and submit the proposed system to the council;
- oversee and monitor the implementation and enforcement of the municipality's credit control and debt collection policy and by-laws and the performance of the municipal manager in implementing that policy and by-laws;
- when necessary, evaluate or review the municipality's credit control and debt collection policy and by-laws, or the implementation of the policy and by-laws, in order to improve the efficiency of existing credit control and debt collection mechanisms, processes and procedures; and
- at such intervals as may be determined by the council report to the council on the municipality's credit control and debt collection policies and bylaws and their implementation.

### 2.1.2 Financial matters

The executive mayor is also the councillor responsible for financial matters in terms of the Municipal Finance Management Act. As such she/he-

- must at least four months before the start of each financial year, prepare a draft annual budget for that financial year;

- must allow the public access to the draft budget by making it available at the main administrative office of the municipality and to submit written comments and representations to the municipality about it;
- must table the draft budget in the municipal council for discussions and public hearings;
- must submit a copy of the municipality's draft budget to prescribed institutions;
- must as soon as the council discussions and the public hearings on the draft budget have been completed prepare the budget for the financial year, and table the budget in the council for approval;
- must manage the budget process in such a way that the budget is tabled in the council at least 30 days before the start of the financial year to which that budget relates;
- table an adjustments budget in the municipal council as and when necessary; and
- must table any financial statements and reports received from the municipal manager at the first council meeting held after the receipt thereof.

### **2.1.3 Inferred powers and functions of the executive mayor**

The executive mayor must, in respect of the mayoral committee-

- ❖ Preside at public meetings and hearings called by the executive mayor.
- ❖ Receive petitions on behalf of the municipality when requested to do so by petitioners.
- ❖ Ensure compliance with the law, including the municipality's rules and orders, during mayoral committee meetings.
- ❖ Interpret the rules and orders of the municipality when required to do so during meetings of the mayoral committee, taking into account any prior rulings and interpretations made during other council or committee meetings.
- ❖ Ensure that her/his reports to the council are adequate for facilitating the council's oversight functions in relation to her/his office.

### 2.1.4 Preparation of legislation

Section 160 (2) of the Constitution states that a municipal council may not delegate, amongst other things, the making of bylaws and that the adoption of bylaws require an absolute majority, i.e. a majority of all the councillors of the municipality must vote in favour of the adoption of a bylaw.

However, section 30 of the Structures Act prohibits a council from adopting a proposed bylaw until it received a report and recommendation with regard to the proposed bylaw from the executive mayor. A municipality has the right to make bylaws for the effective administration of the matters assigned to it in terms of the Constitution and national and provincial legislation.

Part of the executive mayor's responsibility in respect of the preparation of proposed bylaws is to ensure that bylaws that are recommended to the council comply with the Constitution and any applicable national and provincial legislation. This means that the executive mayor should ensure that:

- the municipality is competent to legislate on the matter.
- a proposed bylaw is consistent with national or provincial legislation, if any.
- the proposed by-law does not conflict with the Bill of Rights or any other provision of the Constitution.
- the proposed bylaw complies with all the legal requirements for a bylaw.
- the proposed bylaw is prepared and available in all the official languages determined by the council in its language policy.

### 2.1.5 Integrity, privileges and immunities of councillors

The executive mayor is the guardian of councillors' privileges and immunities in the mayoral committee. The privileges and immunities of councillors include freedom of speech during committee meetings and immunity from criminal and civil litigation in certain instances. Not only must the executive mayor ensure that councillors benefit from this special dispensation, she/he must also ensure that councillors do not abuse their privileges and immunities. This requires that the executive mayor must be absolutely certain what limitations, if any, the rules and orders of the municipality and other legislation, including the Constitution, imposes on councillors' freedom of speech.



### **2.1.6 Enforcing the code of conduct for councillors in mayoral committee meetings**

The executive mayor should, for the sake of uniformity, have similar arrangements with regard to enforcing the code of conduct in the mayoral committee as would be the case with the committees of council.

### **2.1.7 Agenda and minutes**

The executive mayor presides at mayoral committee meetings. This implies that she/he should be responsible for the preparation of the agenda that is circulated to mayoral committee members prior to any meeting.

Items for the agenda originate from various sources in the municipality, e.g. the administration, portfolio committees, motions submitted by councillors and written questions submitted by councillors.

The executive mayor must, for instance, ensure that the different reports that must be submitted to the mayoral committee are complete, are arranged in logical order in the agenda and are submitted in time for inclusion in the agenda. She/he must also ensure that agendas are dispatched to mayoral committee members in reasonable timeframes to ensure that they have adequate time to prepare for meetings.

The executive mayor should ensure that there are adequate facilities and resources for keeping minutes of mayoral committee meetings and other activities involving the mayoral committee, such as public meetings and public hearings. The executive mayor should ensure that minutes are of high quality, correct and accessible for councillors, employees and the public.

### **2.1.8 Meeting procedures**

The executive mayor must see to it that the provisions of the municipality's rules and orders with regard to mayoral committee meetings are adhered to. The rules and orders of the municipality may regulate the detail of the procedures during and conduct of mayoral committee meetings. Such procedures may, for example, prescribe behavioral rules.

The executive mayor must therefore know the rules and orders that are applicable to the mayoral committee in order for her/him to consistently apply them. Rules and orders would, for example, determine what motions and proposals may and may not be made, when a motion or proposal must be disallowed, how an interview with a deputation must be conducted, how to deal with a petition tabled at a mayoral committee meeting and so on. As in the case of the code of conduct the executive mayor should have a record of all the Speaker's interpretations of the rules and orders, as well as precedents that developed through application and enforcement of the rules to ensure consistent application thereof.

### **2.1.9 Order**

The degree of order or lack thereof during mayoral committee meetings will reflect positively or negatively on the image of the municipality as a whole, although mayoral committee meetings are often more relaxed and less formal than council meetings.

The executive mayor is responsible, in respect of mayoral committee meetings, for promoting members' freedom of speech, subject to the municipality's rules and orders. She/he must however, also adjudicate the content of councillors' contributions to discussion in the mayoral committee for compliance with the rules and orders of the municipality and other legislation.

### **2.1.10 Decision-making at mayoral committee meetings**

The question of decision-making at mayoral committee meetings must be understood within the context of the advisory nature of this committee. The main purpose of this committee is to "assist" the executive mayor in the exercise and performance of her/his powers and functions.

The manner of decision-making may exclude any form of voting. The reason for this is because the final decision-maker is the executive mayor and she/he takes full responsibility for all consequences relating to all decisions taken at that committee.

### **2.1.11 Admission of public to mayoral committee meetings**

In terms of section 160 of the Constitution read with section 20(1) of the Systems Act, mayoral committee meetings are in principle open to the public and the media. However, section 20(3) of the Systems Act empowers a mayoral committee to close all its meetings provided it is reasonable to do so having regard to the nature of the business being transacted. Section 20(2) of the Systems Act prohibits a mayoral committee from closing its meetings to the public and the media when considering or voting on any of the following matters:

- a draft by-law;
- a budget;
- the municipality's draft integrated development plan, or any amendment of the plan;
- the municipality's draft performance management system, or any amendment of the system,;
- the decision to enter into a service delivery agreement referred to in section 76 (b) of the Act; or
- any other matter prescribed by regulation.

The executive mayor must facilitate the implementation of section 20(1) and (2) of the Systems Act insofar as it deals with the public and media's admission to mayoral committee meetings. The executive mayor must ensure that she/he can explain the legal requirements for meeting in a closed session and must apply those rules consistently from one meeting to another.

The executive mayor must ensure that members of the public are seated in designated areas from where they can observe the proceedings of the mayoral committee. The rules and orders of municipalities usually authorize the executive mayor to have any person who refuses to comply with any ruling made by her/him or who persistently disrupts a meeting removed from the meeting. The executive mayor must therefore ensure that arrangements had been made for the presence of one or more employees or other persons for this purpose.

The executive mayor determines the time, date and venue for mayoral committee meetings. When the executive mayor makes her/his decision, she/he must take into account whether the designated venue offers enough room to accommodate members of the public who may wish to attend such a meeting and whether there are not other meetings taking place on that date and time, e.g. a council seating.

### **2.1.12 Granting of leave of absence**

Item 3(a) of the Code of Conduct for councillors provides that councillors can be granted leave of absence for meetings they are required to attend in terms of applicable national or provincial legislation or the council's rules and orders. Item 4(2) of the code of conduct determines that a councillor who is absent from three or more consecutive committee meetings which she/he was required to attend, i.e. in respect of which she/he did not have leave to be absent, must be removed from office as a councillor.

The executive mayor must therefore ensure that an attendance register is circulated and completed by all mayoral committee members during mayoral committee meetings. She/he would have to make arrangements that the attendance register is regularly submitted for inspection to those responsible for councillor attendances.

### **2.1.13 Compliance with the code of conduct in mayoral committees**

The Structures Act states that the Speaker must ensure compliance in the council and committees with the code of conduct for councillors. (The Constitutional Court has ruled that the Mayoral Committee is not a committee of council)

This requires at a minimum that the Speaker must establish a system of communication with the executive mayor as chairperson of the mayoral committee to discuss matters relating to the code of conduct. The executive mayor should inform the Speaker of issues related to and possible transgressions of the code of conduct. An example is the attendance by councillors of committee meetings. The same rule as with council meetings applies to the attendance of committee meetings.

#### **2.1.14 Ceremonial functions**

The council can decide that the executive mayor should fulfil certain ceremonial functions. This would depend on the circumstances within the municipality (see below).

#### **2.1.15 Appeals in terms of Access to Information Act**

Section 74 of the Access to Information Act 2000 (Act No 2 of 2000) provides for an internal appeal procedure against decisions taken by the information officer (the municipal manager) of a municipality regarding requests for access to information held by the municipality. The Act requires that every municipal council must appoint an appeal authority to consider any appeals against a decision by the information officer. A council may decide to designate the executive mayor as the appeal authority in terms of the Access to Information Act.

#### **2.1.16 Receiving reports from delegated bodies**

(2.1.17 below best captures the intention of 2.1.16)

#### **2.1.17 Delegated powers of the executive mayor**

In municipalities with mayoral executive systems, the council may delegate powers to the executive mayor. It is a general requirement of delegation in terms of section 63 of the Systems Act that a delegated body (i.e. the person or body to whom a power had been delegated or sub-delegated) must in writing report on the exercise of her/his delegated powers at such intervals as the delegating authority (i.e. the person or body that delegates or sub-delegates the power concerned) may determine. Should any powers, including ceremonial powers, be delegated to the executive mayor, she/he must also comply with this requirement.

#### **2.1.18 Proposed delegated powers of executive mayors**

The executive mayor-

- (a) must, after consultation with the municipal manager, identify those of the municipality's activities that need a specific committee of councillors to investigate, discuss, evaluate and report to him/her and make recommendations to the council;
- (b) must appoint a member of the mayoral committee as chairperson for each committee established by the council;



- (c) may delegate to such committees any of his/her powers, but is not divested of the responsibility concerning the exercise of such delegated powers;
- (d) must ensure, in consultation with the municipal manager, that a proper committee service responsible for the agenda and minutes is in place for each such committee, that any such committee meets regularly and submits reports to him/her timely;
- (e) receives reports with recommendations from departmental heads through the office of the municipal manager on all matters that must be handled by either the executive mayor or the council in terms of these delegations and for which a specific committee has not been created to consider the matter beforehand;
- (f) must consider the matters raised in such reports and must either dispose of them in terms of his/her delegated powers, or must forward them with his/her recommendation to the council for consideration;
- (g) receives reports with recommendations from the committees established for specific matters, considers the matters raised in these reports, and must either dispose of them in terms of his/her delegated powers, or must forward them with his/her recommendation to the council for consideration;
- (h) is responsible for the quality and speed of decision-making;
- (i) must ensure that integration between the various committees take place;
- (j) plays a prominent role, in consultation with the municipal manager, in building, maintaining and enhancing a good relationship between the council, councillors and the administration;
- (k) is responsible for political supervision of the administration in terms of council resolutions and the law;
- (l) is responsible for liaison with the community, ward committees, other committees and councillors and political office-bearers in the different spheres of government;
- (m) should be available on a regular basis to interview the public and visitors to the municipal offices, and to interact with prominent business people as well as developers and
- (n) may exercise any of the powers of the municipality except such powers-
  - (i) as may be reserved by resolution of the council for the council;
  - (ii) as may be reserved by law for the council; and
  - (iii) the exercise of which requires a resolution taken by a majority other than a simple majority.

### **2.1.19 Proposed ceremonial functions of the executive mayor**

The following ceremonial powers could be delegated to the executive mayor:

- Opening projects, civic functions and events and new buildings
- Hosting and welcoming dignitaries to the municipality
- Advocating council policy
- Representing the council at civic events
- Leading/championing campaigns initiated by the mayor or the council
- Representing the council during disasters
- "First citizen"
- Patron for local organizations on an invitation basis

### **2.1.20 Appointment of mayoral committee members**

Section 60 of the Structures Act requires that when the council of a municipality with a mayoral executive system has more than nine members, the executive mayor must appoint a mayoral committee from amongst the councillors "... to assist the executive mayor". In terms of section 60(3) of the Act the executive mayor must exercise those powers and perform those functions designated by the council, together with the other members of the mayoral committee, i.e. not alone. Of course the executive mayor may, in her/his discretion, decide to submit other matters also to the mayoral committee before she/he takes a decision.

## **2.2 Statutory powers of the mayor in collective executive**

(Please note that the powers of the mayor in a plenary executive are in substance the same the same as those as set out below)

### **2.2.1 Governance matters**

The mayor of a municipality with a collective executive system has the following statutory powers and functions in terms of the Municipal Structures Act:

- (a) presides at meetings of the executive committee;
- (b) performs the duties, including any ceremonial functions, and exercises the powers delegated to her/him by the municipal council or the executive committee and
- (c) determine the date, time and venue of ordinary and special executive committee meetings.

### 2.2.2 Financial matters

In terms of the Municipal Finance Management Bill, the mayor is the councillor responsible for financial matters of the municipality. As such she/he-

- must at least four months before the start of each financial year, prepare a draft annual budget for that financial year;
- must allow the public access to the draft budget by making it available at the main administrative office of the municipality and invite them to submit written comments and representations to the municipality with regard to the draft budget;
- must table the draft budget in the municipal council for discussions and public hearings;
- must submit a copy of the municipality's draft budget to the national or provincial treasury, the district municipality in whose area it falls, in the case of a local municipality and the local municipalities in its area, in the case of a district municipality;
- must as soon as the council discussions and the public hearings on the draft budget have been completed prepare the budget for the financial year, and table it in the council for approval;
- must manage the budget process in such a way that the budget is tabled in the council at least 30 days before the start of the financial year to which that budget relates;
- table an adjustments budget in the municipal council as and when necessary;
- must table in the council at the first council meeting held after the receipt thereof any financial statements and reports received from the municipal manager regarding a list of prescribed matters.

### 2.2.3 Inferred powers and functions of the mayor

The powers and functions of the mayor that is incidental to her/his stipulated statutory functions, are similar to that of the Speaker, although only in relation to the executive committee and not the council as a whole. This means that the mayor must, in respect of the executive committee-

- ❖ Preside at public meetings and hearings called by the executive committee.
- ❖ Receive petitions on behalf of the municipality when requested to do so by petitioners.
- ❖ Ensure compliance with the law, including the municipality's rules and orders, during executive committee meetings.
- ❖ Interpret the rules and orders of the municipality when required to do so during meetings of the executive committee, taking into account any prior rulings and interpretations made by the Speaker.
- ❖ Ensure that the executive committee's reports to the council are adequate for facilitating the council's oversight functions in relation to committee and mayor.

#### **2.2.4 Preparation of legislation**

Section 160 (2) of the Constitution states that a municipal council may not delegate, amongst other things, the making of bylaws and that the adoption of bylaws require an absolute majority, i.e. a majority of all the councillors of the municipality must vote in favour of the adoption of a bylaw. However, section 30 of the Structures Act prohibits a council from adopting a proposed bylaw until it received a report and recommendation with regard to the proposed bylaw from the executive committee. A municipality has the right to make bylaws for the effective administration of the matters assigned to it in terms of the Constitution and national and provincial legislation. Because Speakers control the proceedings of municipal councils, they have clear responsibilities with regard to the legislative process in the municipal council. These responsibilities require that she/he must protect and promote the integrity of the legislative process.

Part of the mayor's responsibility in respect of the preparation of proposed bylaws is to ensure that bylaws that are recommended to the council comply with the Constitution and any applicable national and provincial legislation. This means that the mayor should ensure that:

- the municipality is competent to legislate on the matter.
- a proposed bylaw is consistent with national or provincial legislation, if any.

- the proposed by-law does not conflict with the Bill of Rights or any other provision of the Constitution.
- the proposed bylaw complies with all the legal requirements for a bylaw.
- the proposed bylaw is prepared and available in all the official languages determined by the council in its language policy.

### **2.2.5 Integrity, privileges and immunities of councillors**

The mayor is the guardian of councillors' privileges and immunities in the executive committee. The privileges and immunities of councillors include freedom of speech during committee meetings and immunity from criminal and civil litigation in certain instances. Not only must the mayor ensure that councillors benefit from this special dispensation, she/he must also ensure that councillors do not abuse their privileges and immunities. This requires that the mayor must be absolutely certain what limitations, if any, the rules and orders of the municipality and other legislation, including the Constitution, imposes on councillors' freedom of speech.

### **2.2.6 Enforcing the code of conduct for councillors in executive committee meetings**

The mayor should, for the sake of uniformity, have similar arrangements with regard to enforcing the code of conduct in the executive committee, as would be the case with the committees of council.

### **2.2.7 Agenda and minutes**

The mayor presides at executive committee meetings where she/he is present. This implies that she/he should be involved in the preparation of the agenda that is circulated to executive committee members prior to any meeting. Items for the agenda originate from various sources in the municipality, e.g. the administration, portfolio committees, motions submitted by councillors and written questions submitted by councillors. The mayor must, for instance, ensure that the different reports that must be submitted to the executive committee are complete, are arranged in logical order in the agenda and are submitted in time for inclusion in the agenda. She/he must also ensure that agendas are dispatched to executive committee members in accordance with the timeframes stipulated in the municipality's rules and orders prior to a meeting and to ensure that they have adequate time to prepare for meetings.

The mayor should, in consultation with the Speaker and the committee services section of the municipality, ensure that there are adequate facilities and resources for keeping minutes of executive committee meetings and other activities involving the executive committee, such as public meetings and public hearings. The mayor should work closely with the committee services section to ensure that minutes are of high quality, correct and accessible for councillors, employees and the public.

### **2.2.8 Meeting procedures**

The mayor must see to it that the provisions of the municipality's rules and orders with regard to executive committee meetings are adhered to. The rules and orders of the municipality may regulate the detail of the procedures during and conduct of executive committee meetings. Such procedures may, for example, prescribe behavioral rules.

The mayor must therefore know the rules and orders that re applicable to the executive committee in order for her/him to consistently apply them. Rules and orders would, for example, determine what motions and proposals may and may not be made, when a motion or proposal must be disallowed, how an interview with a deputation must be conducted, how to deal with a petition tabled at an executive committee meeting and so on. As in the case of the code of conduct the mayor should have a record of all the Speaker's interpretations of the rules and orders, as well as precedents that developed through application and enforcement of the rules to ensure consistent application thereof.

### **2.2.9 Order**

The degree of order or lack thereof during executive committee meetings will reflect positively or negatively on the image of the municipality as a whole, although executive committee meetings are often more relaxed and less formal than council meetings.

The mayor is, in respect of executive committee meetings, responsible to promote members' freedom of speech, subject to the municipality's rules and orders. She/he must however, also adjudicate the content of councillors' contributions to discussion in the executive committee for compliance with the rules and orders of the municipality and other legislation.

### **2.2.10 Conduct of voting during meetings**

The mayor is first and foremost a councillor with all the rights, privileges and duties of a councillor. The mayor is thus also entitled to cast a vote on questions that must be determined by the executive committee.

The mayor must implement the voting procedures as determined by the municipality's rules and orders, subject to the prerequisites in the Constitution and other legislation in the executive committee.

Mayors must also uphold a councillor's right to have her/his opposition to a resolution recorded in the minutes of a meeting.

If the executive committee cannot take a decision on any proposal where a simple majority is required, the councillor presiding, which would normally be the mayor, may in addition to her/his ordinary (called a deliberative vote) vote, cast an extra vote (called a casting vote) to decide the matter.

### **2.2.11 Admission of public to executive committee meetings**

In terms of section 160 of the Constitution read with section 20(1) of the Systems Act, executive committee meetings are in principle open to the public and the media. However, section 20(3) of the Systems Act empowers an executive committee to close all its meetings provided it is reasonable to do so having regard to the nature of the business being transacted. Section 20(2) of the Systems Act prohibits an executive committee from closing its meetings to the public and the media when considering or voting on any of the following matters:

- a draft by-law;
- a budget;
- the municipality's draft integrated development plan, or any amendment of the plan;
- the municipality's draft performance management system, or any amendment of the system,;
- the decision to enter into a service delivery agreement referred to in section 76 (b) of the Act; or
- any other matter prescribed by regulation.

The mayor must facilitate the implementation of section 20(1) and (2) of the Systems Act insofar as it deals with the public and media's admission to executive committee meetings. Whilst the executive committee must decide whether or not to close a meeting, the mayor must be able to advise the committee and facilitate decision-making around the issue. Therefore the mayor must ensure that she/he can explain the legal requirements for meeting in a closed session and must apply those rules consistently from one meeting to another.

The mayor must ensure that members of the public are seated in designated areas from where they can observe the proceedings of the executive committee. The rules and orders of municipalities usually authorize the mayor to have any person who refuses to comply with any ruling made by her/him or who persistently disrupts a meeting removed from the meeting. The mayor must therefore ensure that arrangements had been made for the presence of one or more employees or other persons for this purpose.

The mayor determines the time, date and venue for executive committee meetings. When the mayor makes her/his decision, she/he must take into account whether the designated venue offers enough room to accommodate members of the public who may wish to attend such a meeting and whether there are not other meetings taking place on that date and time. The standard rules and orders for municipalities in the Free State provides, for example, that no committee or public meeting or public hearing may take place in a municipality on the same day as a council meeting.

### **2.2.12 Granting of leave of absence**

Item 3(a) of the Code of Conduct for councillors provides that councillors can be granted leave of absence for meetings they are required to attend in terms of applicable national or provincial legislation or the council's rules and orders. Item 4(2) of the code of conduct determines that a councillor who is absent from three or more consecutive committee meetings which she/he was required to attend, i.e. in respect of which she/he did not have leave to be absent, must be removed from office as a councillor.



The mayor must therefore ensure that an attendance register is circulated and completed by all councillors during council and committee meetings. She/he would have to make arrangements that the attendance registered is regularly submitted for inspection to the Speaker to ensure compliance with this provision.

### **2.2.13 Compliance with the code of conduct in committees**

The Structures Act states that the Speaker must ensure compliance in the council and committees with the code of conduct for councillors.

This requires at a minimum that the Speaker must establish a system of communication with the mayor as chairperson of the executive committee to discuss matters relating to the code of conduct. The mayor should inform the Speaker of issues related to and possible transgressions of the code of conduct. An example is the attendance by councillors of committee meetings. The same rule as with council meetings applies to the attendance of committee meetings.

### **2.2.14 Ceremonial functions**

The council can decide that the mayor should fulfil certain ceremonial functions. This would depend on the circumstances within the municipality (see below).

### **2.2.15 Appeals in terms of Access to Information Act**

Section 74 of the Access to Information Act 2000 (Act No 2 of 2000) provides for an internal appeal procedure against decisions taken by the information officer (the municipal manager) of a municipality regarding requests for access to information held by the municipality. The Act requires that every municipal council must appoint an appeal authority to consider any appeals against a decision by the information officer. The appeal authority could be the mayor, the Speaker or any other person. A council may decide to designate the mayor as the appeal authority in terms of the Access to Information Act.

### **2.2.16 Receiving reports from delegated bodies**

Section 63 of the Systems Act requires that a political structure, political office-bearer, councillor or employee of a municipality to whom a delegating authority (i.e. the body or person who delegates a power) has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report.

A municipal council may delegate certain powers, including ceremonial powers, to a mayor. Where the council has delegated powers to its mayor, the Speaker must ensure that the mayor complies with the reporting requirements set out in this section. The mayor must submit her/his reports on the exercise of her/his delegated powers to the Speaker to the council for consideration. Where the executive committee delegated powers to the mayor, the committee itself must ensure that the mayor complies with these requirements.

### **2.2.17 Delegated powers of the mayor**

In municipalities with collective executive systems, the council as well as the executive committee may delegate powers to the mayor. It is a general requirement of delegation in terms of section 63 of the Systems Act that a delegated body (i.e. the person or body to whom a power had been delegated or sub-delegated) must in writing report on the exercise of her/his delegated powers at such intervals as the delegating authority (i.e. the person or body that delegates or sub-delegates the power concerned) may determine. Should any powers, including ceremonial powers, be delegated to the mayor, she/he must also comply with this requirement.

A council may delegate the following powers and functions to its mayor-

- to promote the image of the municipality
- to ensure that the executive committee performs its functions properly
- to lead and promote social and economic development in municipality
- to preside over public meetings and hearings called by executive committee or mayor
- to convene public meetings and hearings
- to promote inter-governmental and inter-institutional relations

- to identify those of the municipality's activities that need a specific committee of councillors to investigate, discuss, evaluate and report and make recommendations to the executive committee after consultation with the municipal manager;
- to appoint a member of the executive committee as chairperson for each committee established by the council;
- to ensure, in consultation with the municipal manager, that a proper committee service responsible for the agendas and minutes is in place for the executive and other committees, that all committees meet regularly and that they submit reports to the executive committee timely;
- to take responsibility for the quality and speed of decision-making in the executive committee;
- to, build, maintain and enhance sound relationships between the council, councillors and the administration in consultation with the municipal manager;
- to be available on a regular basis to interview the public and visitors to the municipal offices, and to interact with prominent business people as well as developers;
- to perform such ceremonial role as the council may determine by resolution from time to time; and
- to assess the performance of the municipal manager and the mayor's personal assistant, if any, in terms of the relevant performance agreement.

### **2.2.18 Ceremonial powers and functions of the mayor**

The following ceremonial powers could be delegated to the mayor:

- Opening projects, civic functions and events and new buildings
- Hosting and welcoming dignitaries to the municipality
- Advocating council policy
- Representing the council at civic events
- Leading/championing campaigns initiated by the mayor or the council
- Representing the council during disasters
- "First citizen"
- Patron for local organizations on an invitation basis

## **2.2.19 Relationship between the mayor and speaker in a collective executive system**

The Speaker and the mayor in a municipality with a collective executive system must work closely together to ensure that the decision-making (including planning and policy-making) processes run smoothly and in the best interests of the community. It must be clear that the Speaker and mayor must fulfil complementary roles in this regard.

## **3. CODE OF CONDUCT**

This section is subject to the Councillor Code of Conduct as legislated in the Municipal Systems Act, Schedule 1. It serves to highlight the more critical areas for purposes of being a Mayor.

### **3.1 Oath Of Office**

On formal assumption of office a Mayor swears or solemnly undertakes that: " I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other laws of the Republic; and I undertake to hold my office as Mayor with honour and dignity: to be a true and faithful councillor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the functions of my office conscientiously and to the best of my ability."

### **3.2 General Conduct of Mayors**

#### **3.2.1 Mayors may not:**

- (a) undertake any other paid work if she/he is a full-time councillor, unless the Council has expressly consented thereto;
- (b) act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests; or,
- (c) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person.

#### **3.2.1 Mayors shall:**

- (a) Be accountable to the EXCO or the council, as the case may be, and the electorate for their actions;

- (b) Administer the council in accordance with National and Provincial legislation and policy, and the bylaws, decisions, resolutions, policies and procedures of council, where applicable;
- (c) Act at all times in accordance with the national Constitution in its entirety and in particular with the provisions on co-operative governance;
- (d) Provide EXCO or council, as the case may be, with full and regular reports concerning matters under their control.

### **3.3 Good Government, Democracy and Equality**

- 3.3.1 All Mayors shall, in the performance of their functions, be committed to the prevention and the eradication of all forms of unfair discrimination.
- 3.3.2 All Mayors shall implement in the sphere of their work, the measures and programmes considered to be necessary and which are aimed at redressing historical and all other forms of imbalances and injustice.
- 3.3.3 Mayors shall, as members of the council perform their duties in the interest of the municipality as a whole and in defence and promotion of the integrity of the nation, avoiding measures that would prejudice the National welfare.
- 3.3.4 Mayors shall explicitly take the responsibility for the effective and efficient administration of their municipality so as to achieve the aims of government policy and implement the laws of the country.

### **3.4 Clean Government**

- 3.4.1 All Mayors shall, at all times, observe practices that are free from all forms of corruption. Government office, position or privileged information shall not be used to distribute favours or patronage nor to seek or obtain any personal fortune or favour.
- 3.4.2 Mayors shall not be active in professional associations or societies, unless Council has expressly consented thereto.
- 3.4.3 In order to facilitate clean government and exemplary behaviour, all Mayors shall declare their assets and financial interests to Council as contemplated in the Councillor Code of Conduct. They shall disclose all consultancies, shareholdings and directorships or any other form of pecuniary benefit received by dependent family members (including those received by their immediate spouses) from an external source.

- 3.4.4 Mayors shall not play any active role in profit-making Institutions. They shall surrender directorships and their shares shall be held in "blind trusts" which shall be managed by independent trustees. The trustees shall conclude all share transactions and Mayors shall have no influence over these transactions or trustees.
- 3.4.5 Mayors or immediate dependent members of the families of Mayors, may not serve on the boards of public companies or own shares in companies directly connected with the Mayor's official duties. The test in these cases shall be whether the Mayor could advantage such companies over their competitors, or whether the families could derive improper benefit from such associations with such companies.
- 3.4.6 Only small gifts and gifts offered on official occasions may be accepted, provided that Mayors have satisfied themselves that the gifts are not being presented to influence them in an improper manner. Mayors shall register any gift received, which in their estimate exceeds the value of R1000,00 or such amount as may be determined by the Minister from time to time. Gifts that are seen to be of a traditional/customary nature, need not be registered.

### **3.5 Confidentiality and matters of Office**

No matters entrusted to Mayors in their official duties, that can be considered to be private and confidential, shall be disclosed, whether directly or indirectly, to any party not authorised to be in receipt of that specific information concerning such matters.

### **3.6 Application**

The provisions of this Code of Conduct, shall apply to all Mayors and Executive Mayors, including such councillors that from time to time may perform the duties of the Mayor during his or her absence.

## **4 COMMENCEMENT OF OFFICE**

### **4.2 Travelling Expenses**

4.2.1 The travelling expenses incurred by Mayors designate and their spouses in connection with their swearing in are debited to the Municipality. Municipalities are responsible to transport Mayors and their spouses from their places of residence (within municipal boundaries) to the place where they will be sworn in. In the event that Mayors are resident outside of the municipal boundaries, all expenses incurred to transport them to within the municipal boundaries shall be for the personal account of the Mayor, unless the municipality decides to make appropriate transport available.

### **4.3 Relocation Costs**

4.3.1 The expenses incurred by Mayors in relocating themselves, their families and domestic workers from their homes (within municipal boundaries) to their official residence, personal residence purchased within the municipal boundaries or temporary accommodation provided by the municipality, shall be paid by the municipality. In the event that the Mayor relocates from outside the municipal boundaries, the council shall apportion the total relocation costs between the Mayor and the municipality by agreement.

4.3.2 These expenses include the costs of transporting their personal belongings, including a motor vehicle, trailer and pets. If furniture and other personal belongings are not transported directly to the official residence, Mayors themselves are responsible for expenditure arising from storage, insurance and related expenses, except, in cases where, owing to exceptional circumstances, official residences, are not immediately available to them.

4.3.3 On accepting office, relocation costs, transfer duty, bond cost and all costs incurred by the Mayor, in connection with purchasing a house for his own purposes and other costs such as new school uniforms shall be for the account Of the Mayor and not the municipality.

#### **4.4 Official Residences**

If a Mayor takes occupation of and resides in a private residence as his/her official residence upon assumption of office, the provisions of paragraph 13.2 apply with the necessary changes as the context may require. The municipality shall negotiate an appropriate rental for the residence with the Mayor provided that such rental shall not exceed the value of the housing allowance payable to the Mayor as determined by Council.

#### **4.5 Security Arrangements**

- 4.5.1 The Mayoral staff should approach the Provincial Commissioner for Safety and Security for an analysis of their security situations. The security of private homes occupied on a regular basis in venues other than within the municipal boundaries, and offices occupied by Mayors should be taken into consideration.
- 4.5.2 The EXCO or the Council, as the case may be, must implement the recommended security arrangements.

#### **4.6 Upon being Sworn in**

- 4.6.1 Within one month after a Mayor has been sworn in, he/she shall place his/her investments in 'blind' trust, which would be managed by independent trustees.
- 4.6.2 As soon as the Mayor is sworn in, he/she shall comply with the stipulations outlined above, which require financial disclosure in accordance with the provisions of the Code of Conduct without delay.

### **5. TRANSPORT**

#### **5.1. Municipal Motor Transport**

##### **5.1.1. General**

- 5.1.1.1. Municipal vehicles and drivers are allocated to Mayors and made available for official duties. Where the car is used only for official purposes and does not stay overnight at the house of the Mayor, no taxable value is attributed to this benefit.
- 5.1.1.2. Mayors travelling officially, outside the boundaries of the municipality, for a period exceeding at least 1 week, may take their spouses with them at municipal expense, as well as such of their children as, of necessity, cannot remain at home.



### **5.1.2. Types of official cars**

- 5.1.1.1. Mayors may each be supplied with any vehicle on the South African market (excluding special imports), which is affordable considering the prevailing financial constraints of the municipality.
- 5.1.1.2. Where the Mayor has the exclusive use of an official car, the Mayor is, notwithstanding, eligible to receive a travel allowance of up to 25% of their salary.
- 5.1.1.3. Mayors may opt to use their own car and be reimbursed at the prevailing Department of Transport rate for actual official kilometres travelled in respect of privately owned vehicles.
- 5.1.1.4. Mayors may opt to decline all assistance with regard to official cars (or their scheduled replacement).

### **5.1.3 Use of Official Cars**

- 5.1.3.1. It is left to the discretion of Mayors to utilise the vehicle at the expense of the municipality for any reasonable purpose.
- 5.1.3.2. The rules of usage in respect of municipal cars, shall as far as possible apply to the use of the official car, particularly those related to standard operating and maintenance procedures.
- 5.1.3.3. Within reason, official cars that form the basis of a taxable benefit may also be used for private purposes.
- 5.1.3.4. When Mayors travel by air on official engagements, arrangements should be made by the municipality for the hire of a suitable car at the point of arrival. Drivers may not be sent on ahead with the official cars to meet Mayors at the point of arrival.
- 5.1.3.5. In cases of new appointments, new vehicles will be purchased only if suitable vehicles are not, in the opinion of the EXCO or the Council, as the case may be, available for permanent allocation as the official Mayor's car, from the existing car pool.
- 5.1.3.6. For the purposes of keeping official engagements, the spouses of Mayors may make use of the official cars. They may drive the vehicle allocated to the Mayor at any time, including times when the Mayor is not in the vehicle. Other members of Mayor's family may drive the car only when the Mayor is in the vehicle.
- 5.1.3.7. The use of any other municipal vehicle by the Mayor is not permissible.

## **5.1.4 Replacement of an Official Car**

- 5.1.4.1 Mayors or their private secretaries should direct all applications for the allocation or replacement of official vehicles to the EXCO or the Council, as the case may be. All commercial negotiations and transactions in respect of the official vehicles shall be conducted by the Procurement Department. All costs of operating and maintaining the official vehicle shall be borne by the municipality.
- 5.1.4.2 The official cars may be replaced and transferred to the municipal car pool only after completion of 150 000 kilometres. If a car is in a poor overall condition, representations may be made to the EXCO or the Council who may approve the earlier replacement of such a vehicle.

## **5.1.5 Taxability of the Use of Official Cars for Private Purposes**

- 5.1.5.1 For purposes taxation, the use of official Mayoral cars is treated in the same way as the use of "company cars" in the private sector.

## **5.1.6 Running and Maintenance Costs of Private Vehicles**

- 5.1.6.1 Vehicle maintenance of this car is the Mayors' own responsibility and use may not be made of municipal facilities for the maintenance of such private vehicles.
- 5.1.6.2 For the purposes of claiming running and maintenance costs, a logbook reflecting the official and private kilometres travelled per month, must be kept.

## **5.1.7 Insurance**

- 5.1.7.1 The private car allowance includes provision for the obtaining of comprehensive insurance on the Mayor's private vehicle. It is the Mayors' own responsibility to ensure that the vehicle is adequately insured for business and private use. The municipality shall by no means be liable for expenditure incurred or losses sustained in connection with the purchase, maintenance, operation, garaging and parking, theft of or damage to the vehicle.

## **5.1.8 RENTED CARS FOR PRIVATE USE**

- 5.1.8.1 Where a Mayor makes use of a rented car for private purposes only, the cost for the car should be borne by the Mayor concerned and not by the municipality.

## **6 TRAVEL PRIVILEGES**

### **6.1 DOMESTIC FLIGHTS**

#### **6.1.1 Official Journeys**

- 6.1.1.1 Mayors and their spouses are entitled to unlimited air travel (business Class) at the expense of the municipality.
- 6.1.1.2. Dependent children of Mayors may accompany their parents if they cannot remain at home.
- 6.1.1.3. Mayors may use VIP rooms when travelling internally, but any restaurant Expenses or bar services are payable by Mayors. The cost of the VIP rooms must be approved by EXCO prior to travelling.
- 6.1.1.4 Mayors may not fly in single-engine aircraft.

#### **6.1.2 Private Journeys**

- 6.1.1.1 Mayors and their families are not entitled to domestic flights for private use on municipal expense.

### **6.2 International Flights**

#### **6.2.1 Official Journeys**

- 6.2.1.1 The municipality pays for international flights, in business class, on official business by Mayors and their spouses, on condition that EXCO or Council, as the case may be, has approved such flights for both the Mayor and the spouse.
- 6.2.1.2 Mayors may travel on official visits abroad if these are essential and in the interest of the municipality or organised local government, provided that every visit is approved by EXCO. The approval of EXCO shall be determined on the basis of the motivation for the visit as well as a detailed itinerary and cost breakdown.
- 6.2.1.3 All official visits should be planned in conjunction with the Department of Foreign Affairs.

- 6.2.1.4 In view of Mayors' official duties in the Republic, as well as cost implications, the extent and duration of visits abroad should be limited to the absolutely essential, and arrangements should be made, as far as possible, in such a way that Mayors are not absent from more than one Council meeting per journey.
- 6.2.1.5 The size of Mayoral delegations should be kept to an absolute minimum, and the advice of the South African Secret Service should be sought prior to including security personnel within the delegation.
- 6.2.1.6 Full and complete information concerning the purpose and itineraries of such visits, should be submitted to the Department of Foreign Affairs at an early stage, so that Heads of Mission abroad will be enabled to render the best assistance possible.
- 6.2.1.7 A daily subsistence allowance may be paid to Mayors for official visits abroad on request and as determined by Council.
- 6.2.1.8 Mayors may:
  - 6.2.1.8.1 be compensated for their reasonable actual accommodation expenditure (i.e. for lodging, laundering and dry cleaning)
  - 6.2.1.8.2 receive a daily allowance (i.e. for three meals and other incidental expenditure such as tips, room service, reading material and normal liquid refreshments) equal to the daily allowance for that country paid by Foreign Affairs and currently fixed at USD 120 per day. Should the daily allowance be insufficient, their reasonable actual expenditure on meals may be reimbursed and an additional daily allowance for incidental expenditure may be paid on approval by EXCO or the Council, as the case may be.
  - 6.2.1.8.3 receive the approved daily allowance in for their spouses of which accompany Mayors in their official capacities on official trips abroad or when travelling alone on official visits abroad.
- 6.2.1.9 A maximum subsistence allowance equal to 30% of the approved subsistence allowance paid by foreign affairs for a specific country is payable to a Mayor and his/her spouse in cases where the host bears all expenses towards accommodation and meals to compensate him/her for incidental expenses not paid for by the host.

## **6.2.2 Guidelines for International Official Journeys**

- 6.2.2.1 Subsistence expenses should be kept as low as possible by making use of hotels which suit the status of Mayors, but which have reasonable tariffs. Suites should be hired only if talks or interviews are to be conducted in them or if people are to be received or entertained there. Mayors should be accommodated comfortably, but luxury suites are not recommended.
- 6.2.2.2 Whenever convenient, public transport should be used instead of expensive hired cars with drivers who have to be kept on stand-by, especially in cities where there are serious traffic or parking problems.
- 6.2.2.3 Visits should offer real value and benefits for the Republic of South Africa (RSA) and the municipality, in that the Status and importance of the people with which appointments are made are on a par with the visiting Mayor and have special merit for the RSA;
- 6.2.2.4 It is not a requirement that the VIP lounges at international airports be used. Where appropriate first class lounges are also suitable. To avoid the unnecessary reservation of VIP lounges, Foreign Affairs should be informed of Mayors' preference well in advance.
- 6.2.2.5 Since international telephone calls from hotel rooms are subject to substantial service charges, such calls should be limited to the minimum and only in genuinely urgent cases. Embassies may be used for calls to Mayors' offices etc. Foreign Affairs staff are available to assist Mayors during visits abroad with their official engagements.

## **6.3 Services when Mayors are on Official Visits Abroad**

### **6.3.1 Families**

- 6.3.1.1 If Mayors are not accompanied by their spouses on official visits abroad, the spouses and other members of their families are entitled to transport at the municipal expense, to the place within the Republic where, according to the Mayor who is on official business abroad, they will reside during his/her absence. Such journeys should be undertaken over the shortest route, but may be interrupted for purposes of temporary sojourn.

### **6.3.2 Domestic workers**

6.3.2.1 When Mayors travel abroad officially for extended periods and are obliged to send their domestic workers to their own homes or other suitable places of residence for the duration of their absence, the return travelling expenses of the domestic workers may be debited to the municipality. However, the travelling expenses of domestic workers returning home permanently and of those recruited in their stead cannot be borne by the municipality.

### **6.3.3 CHILDREN**

6.3.3.1 As far as possible, the children of Mayors should use the bus services between airline terminals and airports if one or both of their parents do not accompany them. If the Mayors' drivers are available, they may transport the children to the airport. However, no special arrangements for municipal transport may be made for the children of Mayors at their destinations,

6.3.3.2 If domestic official air journeys are under-taken by the children of Mayors, the costs relating to any excess baggage have to be borne by the Mayors themselves. If the excess baggage is forwarded by rail, however, this may be done at municipal expense.

6.3.3.3 Children who accompany their parents on visits abroad do so at the cost of the Mayor.

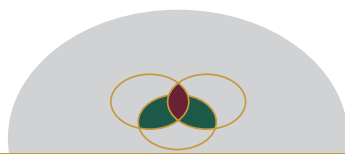
### **6.3.4 PRIVATE SECRETARIES**

6.3.4.1 Private Secretaries (or Personal Assistants) may accompany their Mayors on official visits at municipal expense to render assistance in matters relating to the Mayors' office.

6.3.4.2 Private Secretaries must travel economy class only when accompanying their Mayors on the same flight.

### **6.3.5 PUBLIC RELATIONS OFFICERS**

6.3.5.1 Only in cases where Mayors have to perform, functions by virtue of their office and where in their opinion of the EXCO, it is warranted, may their Public Relations or Press Liaison Officers accompany them on the same conditions as those applicable to Private Secretaries.



## **6.4 SUBSISTENCE AWAY FROM OFFICIAL RESIDENCES (INCLUDING OFFICIAL FOREIGN VISITS)**

### **6.4.1 MAYORS**

- 6.4.1.1 Mayors are entitled to subsistence at municipal expense in any hotel or hostelry if they fulfil official functions away from their ordinary places of residence.
- 6.4.1.2 All reasonable out-of-pocket expenses (including gratuities, but excluding alcoholic beverages not consumed with a meal) connected with the subsistence of Mayors and those of members of “their” families who must of necessity accompany them, may be debited to the municipality. Entertaining is at municipal expense, but, a copy of the parties present and the purpose of the entertainment is to be submitted for reimbursement.
- 6.4.1.3 Every claim for reimbursement of expenses submitted by Mayors in terms of these provisions should furnish details of the expenses and include a certificate signed by them or by their Private Secretaries on their behalf to the effect that the expenses were actually incurred and that they may lawfully be debited to the State in terms of these prescriptions. If at all possible, vouchers should substantiate claims.

### **6.4.2 SPOUSES**

- 6.4.2.1 The spouses of Mayors are entitled to subsistence at municipal expense in any hotel or hostelry if they perform official duties away from their ordinary places of residence in their capacity as spouses of Mayors.
- 6.4.2.2 All reasonable out-of-pocket expenses (including gratuities) incurred by them in connection with their own subsistence and entertaining may be debited to the municipality on a reasonable scale. Entertaining may be at municipal expense only if it may be considered official within the meaning elsewhere ascribed in this document.
- 6.4.2.3 Every claim for the reimbursement of expenses submitted by spouses in terms of these provisions should furnish details of the expenses incurred and be certified by the Mayors (or by their private secretaries on their behalf) to the effect that the expenses were actually incurred and may lawfully be debited against the municipality in terms of these prescriptions. If at all possible, vouchers should substantiate claims.

### **6.4.3 FAMILIES**

6.4.3.1 The spouses and dependent children who of necessity, are unable to remain at home, may stay with Mayors at a hotel or hostelry when they are performing official duties outside municipal boundaries.

### **6.4.4 PUBLIC RELATIONS OFFICERS**

6.4.4.1 Only in cases where Mayors are performing functions by virtue of their office, and where this is in their opinion warranted, may Public Relations Officers accompany them and stay in the same hotel or hostelry at municipal expense, subject to prior EXCO or Council approval.

### **6.4.5 PRIVATE SECRETARIES**

6.4.5.1 Private Secretaries may accompany their Mayors at municipal expense on official visits to give assistance with matters relating to the official position of Mayors and may stay at the same hotel or hostelry at municipal expense, subject to prior EXCO or Council approval.

## **6.5 GRATUITIES (TIPS)**

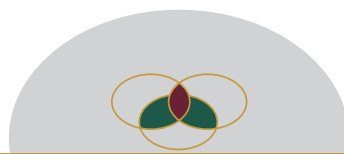
### **6.5.1 JOURNEYS ABROAD**

6.5.1.1 When Mayors travel officially, their real expenditure on gratuities, drivers, newspapers, newsmagazines and out of pocket expenses for which receipts are normally not issued, arising out of their official subsistence and travelling, may be paid out of municipal funds.

## **7 RECEPTIONS BY MAYORS**

### **7.1 Definition of "Official" for Purposes of Receptions**

To determine whether receptions are official or not, their purpose and the reasons for giving them have to be considered. There may be cases where people attend receptions on account of the Mayors' functions, while personal friends may be present as well. In such cases, the purpose of the reception will be the determining factor. A reception given for purely social purposes cannot be regarded as an official reception.





## **7.2 OFFICIAL RECEPTIONS**

- 7.2.1 Mayors are entitled to defray all reasonable expenses relating to official receptions and functions hosted by them out of the mayoral department's entertainment budget.
- 7.2.2 Guidelines have been laid down for determining whether the expenditure relating to a reception or function may be debited to the municipality. In particular, a reception and expenses will be considered "official" in the following circumstances:
- 7.2.2.1 The hosting of functions relating to the activities of municipal departments;
- 7.2.2.2 The entertaining of members of a body who are visiting the municipality in connection with their work;
- 7.2.2.3 The entertaining of foreign visitors, including the presentation of appropriate gifts to such visitors;
- 7.2.2.4 The entertaining of persons on official visits abroad, including the presentation of appropriate gifts to such people;
- 7.2.2.5 Hosting a municipal function in honour of someone or an event/occasion;
- 7.2.2.6 Entertaining colleagues, state officials and others at farewell functions for Mayors; and,
- 7.2.2.7 Entertaining their personal and senior staff once a year.
- 7.2.3 These guidelines also apply to the spouses of Mayors. When they have to entertain by virtue of the Mayors' office, the expenditure may be defrayed out of municipal entertainment budgets.

## **7.3 PRIVATE RECEPTIONS**

The expenditure relating to all receptions and functions to which the guidelines relating to official functions do not apply, are to be borne by the Mayors themselves.

## **8 STATIONERY**

- 8.1 Mayors are entitled to procure and use official stationery to communicate with members of the public, including their constituencies, organisations, as well as official persons and bodies. Letters and cards of a party-political nature may however, not be posted at Municipal expense.

- 8.2 Since Mayors may receive large numbers of messages upon their appointments, on their birthdays or when they are indisposed, they may have thank you letters or cards printed and posted at municipal expense in such cases.
- 8.3 Mayors may have Christmas cards printed and sent at municipal expense on the following conditions:
- 8.3.1 The number of cards should be kept to manageable amounts;
  - 8.3.2 To save on costs, the cards should be simple and modest; and,
  - 8.3.3 In deciding on issues related to this matter, every Mayor should exercise responsibility and be economic in his/her judgement.
- 8.4 Only Invitations to official functions may be printed and sent by Mayors at municipal expense. This also applies to the spouses of Mayors, if they have to host functions by virtue of their position. Such expense shall be raised against the entertainment budgets.
- 8.5 Visiting and business cards may be printed at municipal expense.

## **9 NEWSPAPERS AND MAGAZINES**

Only one copy of each of the newspapers and magazines ordered by Mayors may be supplied at municipal expense and may, according to their preference, be delivered either at their official residences or their offices.

## **10 TELEPHONES**

### **10.1 MAYORS**

- 10.1.1 All expenses incurred in connection with the installation of telephones and fax facilities in official residences, as well as the rental and costs of calls shall be debited to the municipality.
- 10.1.2 The costs of cell phones for the Mayor shall be debited to the municipality.
- 10.1.3 In circumstances where a Mayor may stay in his/her own home from time to time, in addition to the official residence, he/she should bear the costs of the installation of the telephones and fax machines and equipment. The municipality should pay for the fax machine and telephone operating costs.

## **10.2 PRIVATE SECRETARIES**

- 10.2.1 Rentals of the private telephones of Private Secretaries, as well as the costs of official calls, are payable by the municipality.
- 10.2.2 The costs of a cell phones shall be debited to the municipality subject to such limits as may be determined.

## **11 IMAGES OF MAYORS**

- 11.1 It is standing Government policy that the names, titles, photographs or images of Mayors may not be used for publicity purposes in commerce or be linked to advertising (excluding party-political advertisements).

## **12. Mayoral Benefits arising from their Duties**

### **12.1 Salaries**

Mayoral salaries shall be paid out of the budget utilised for the payment of councillor salaries.

### **12.2 PENSION**

Payments for pension purposes will be deducted monthly from Mayors' salaries.

### **12.3 MEDICAL BENEFIT SCHEME**

Mayors will, as long as they hold office, be a member of a designated Medical Aid Scheme. Contributions in this regard will be deducted on a monthly basis.

### **12.4 RENTAL FOR STATE OWNED RESIDENCES OR MONETARY PAYMENT FOR OCCUPATION OF A PRIVATE RESIDENCE AS OFFICIAL RESIDENCE**

- 12.4.1 Mayors are entitled to be paid a rental, agreed by EXCO, for the use of their own homes as an official residence.

### **13 MAYORAL RESIDENCES: CONDITIONS OF OCCUPATION**

- 13.1 Furnished official mayoral state residences may be provided for Mayors within the jurisdiction of their municipalities.
- 13.2 The municipality is responsible for the upkeep (e.g., cleaning, maintenance and garden service) of residences. Mayors are allowed to negotiate on a one-to-one basis with the officials allocated to the residence to render additional normal domestic services such as laundry and child-care at a price to be agreed upon by the two parties.
- 13.3 Security clearance is necessary for all employees on a Mayoral estate. The occupier concerned should obtain such clearance in consultation with the SA Police Services.
- 13.4 A housing allowance will be paid to Mayors irrespective of whether they utilise a mayoral residence offered to them or not. Provided that where a municipality makes certain additional items available for the private residence, such items will remain the property of the municipality.

### **13.5 OCCUPATION OF OFFICIAL RESIDENCES**

- 13.5.1 Mayors retiring from office will be permitted to occupy the official residence until the end of the month following the month in which their term of office ends.
- 13.5.2 In the event of the death of Mayor(s), their families will be permitted to occupy the official residence until the end of the month following the month in which the death occurred.

### **13.6 SUB-LETTING**

- 13.6.1 Sub-letting of residences occupied by Mayors is not permissible.

### **13.7 MOVING AND VACATING**

- 13.7.1 When Mayors move from or to their official residences, their Private Secretaries should notify the municipality ten days before the intended date of departure of the day and hour on which the residence will be vacated, so that the necessary arrangements may be made in time.

- 13.7.2 If the domestic workers of Mayors are to arrive a day or so ahead of them at the residence to which they are moving, Private Secretaries should also mention this in their letters. Details of any other matters needing special attention should be given in writing at the same time.
- 13.7.3. When Mayors move into official residences or exchange residences, the residences concerned cannot be re-furnished to suit the tastes of the new occupants. Worn or broken furnishings will be replaced or repaired a part of the normal maintenance service.

### **13.8 PERSONAL EFFECTS**

- 13.8.1 Should Mayors desire the assistance of the municipality with the packing of their personal effects for the move into and out of the official residence, EXCO or Council will decide upon the costs involved.
- 13.8.2 In such cases, the municipality accepts no responsibility for any damage as a result of loss, breakage or theft of personal effects. Should Mayors wish to insure their personal effects against such damage, they have to arrange this at their own expense. In cases where Mayors engage private service providers to pack and transport their personal effects, they have to arrange this at their own expense.
- 13.8.3 Should Mayors retire or die in office, the municipality may be requested to pack and transport their personal effects at the expense of the municipality.
- 13.8.4 The municipality will not be liable for, any loss of or damage to the personal effects of Mayors if these are left in the residences, regardless of whether they occupy the residences or not. Should Mayors wish to insure their personal effects, they have to do so at their own expense.
- 13.8.5 If Mayors move from their official to their private residences, their personal effects may be packed and transported at the expense of the municipality, on agreement of EXCO. Insurance cover should be arranged and paid for by the Mayor.

### **13.9 GARDENS**

- 13.9.1 The municipality will be responsible for the planting and maintenance of gardens at official residences.
- 13.9.2. Flowers planted for ornamental purposes on Mayoral estates and at official residences may be picked by Mayors and their spouses after consulting the horticulturists of the municipality.

### **13.10 FURNITURE AND ACCESSORIES**

- 13.10.1 The furnishing of Mayoral residences belonging to the municipality is limited to the provision and maintenance of ordinary household furniture, mattresses, pillows, carpets, curtains, beds, stoves, refrigerators, freezers, washing machines, tumble dryers and heaters; cutlery, crockery, kitchen utensils, glassware where official entertaining frequently at the residence; as well as microwave ovens and dishwashers on request. The municipality does not supply linen, blankets, television sets, video recorders, decoders, wall decorations and ornaments.
- 13.10.2 Inventories of all furnishings and accessories in the Mayoral residence, belonging to the municipality, will be kept by the municipality. Mayors will be provided with copies, but should also make their own inventories of their personal effects to avoid subsequent confusion. The municipality does not provide any furniture in cases where Mayors use approved private houses as official residences.
- 13.10.3 No equipment, furniture, carpets or any other articles of any kind provided by the municipality in official residences may be removed from one centre to another or from one residence to another without the written approval of the Municipal Manager.
- 13.10.4 If a piece of furniture becomes redundant in a residence, the Private Secretary of the Mayor concerned should make the necessary arrangements in consultation with the Municipal Manager to have the article removed and the inventories amended accordingly.
- 13.10.5 No accessories, furnishings or electrical appliances of any kind will be imported specially for the performance of a particular service. The choice of article is therefore limited to those models locally available.
- 13.10.6 If the municipality is of the opinion that the furnishings need to be cleaned or repaired, the matter will be dealt with in consultation with the Mayor concerned.

### **13.11 APPLICATIONS FOR GOODS/SERVICES**

13.11.1 Applications for goods (excluding food and groceries for normal consumption) or services at Mayoral residences should be submitted in writing to the Municipal Manager directly. Under no circumstances should such requests be made directly to officers or employees of the municipality.

### **13.12 PUBLIC FUNCTIONS**

- 13.12.1 All requests for the supply of requisites, including cut flowers, for official functions should be submitted in writing to the Municipal Manager at least fourteen (14) days before the day on which they will be needed.
- 13.12.2 Officials of the municipality will ensure that all the accessories and equipment requested are supplied from available stocks on time and removed after the function.
- 13.12.3 Should an official function be arranged for a Saturday, all the requisites will be supplied by the date requested, but not later than the preceding day (Friday). They will be removed on the following Monday or as soon as possible thereafter. In the mean time, the occupants will be liable for the safekeeping of the items.

### **13.13 MAINTENANCE**

- 13.13.1 The municipality is responsible for the normal maintenance of municipal property, which includes the grounds, residences, outbuildings, municipal furnishings and accessories or equipment.
- 13.13.2 The occupants of official residences are responsible for the costs of any work arising out of their negligence or that of members of their household or guests.

## **14 Offices And Furniture**

- 14.1 Representations for the provision of offices and repairs to these offices should be directed by Mayors or their Private Secretaries to the Municipal Manager. Offices and furniture will be provided by the municipality in accordance with the applicable norms and standards, and EXCO or Council approval.

## **15 Relinquishment of Office**

### **15.1 Privileges of Former Mayors and their Spouses**

#### 15.1.1 Official Residences

15.1.1.1 Mayors and their families are entitled, upon relinquishment of office, to stay on in their official residence until the end of the month following the month in which their term of office ends.

15.1.1.2 During this period, the official residence will continue to be maintained in the normal manner by the municipality.

#### 15.1.2 Approved Private Residences

15.1.2.1 Where a Mayor is receiving a monetary payment from the municipality, for the use of the Mayor's private house as an official residence, such benefits are terminated at the end of the month following the month during which the term of office ends.

#### 15.1.3 Transport to Places of Residence

15.1.3.1 Former Mayors may recover from the municipality the costs of transporting themselves, their families, domestic workers, motor vehicles, pets, paintings and other personal effects to the place, within the municipal boundaries where they intend to settle. The costs of packing and unpacking and other Incidental expenses are included.

15.1.3.2 If furniture and other personal effects are not transported directly to the houses where the former Mayors intend to settle, they themselves will be responsible for the storage and insurance costs and other incidental expenses in connection with their personal effects.

#### 15.1.4 Government Vehicles



#### 15.1.4.1 Normal termination of office

15.1.4.1.1 Upon relinquishing office, former Mayors will be allocated one municipal car (with driver) until the end of the month following the month in which their service terminates.

#### 15.1.4.2 Spouses

15.1.4.2.1 The municipal cars (with drivers) allocated to former Mayors in terms of the above, may be used to a reasonable extent by their spouses until the end of the month following the month in which their service comes to an end.

#### 15.1.4.3 Termination of Office after an Election

15.1.4.3.1 The use of the official motorcar and driver should end a week after the termination of office, for both the Mayor and his/her spouse.

#### 15.1.5 Security Protection

15.1.5.1 In exceptional cases security protection may be afforded to former Mayors who have left their official residences for as long as the Provincial Commissioner of Safety and Security may deem this necessary.

#### 15.1.6 Clerical Assistance

15.1.6.1 If requested, clerical assistance (two people at the most) may be placed at the disposal of former Mayors from the ranks of the municipality until the end of the month following the month in which their terms of office have ended. The expenses connected with such staff will be borne by the municipality.

15.1.6.2 The clerical assistance mentioned above may not accompany former Mayors on private journeys at municipal expense.

### 15.1.7 Telephone Service

15.1.7.1 Former Mayors may use the official telephone service in their official residences to a reasonable extent until the end of the month following the month in which their term of office ended, Expenses regarding private matters are for the account of the Mayor.

## **15.2 Privileges of Spouses of Mayors who die in Office**

15.2.1 All privileges extended to Mayors leaving office shall, where applicable, extend to the widow/widower of a Mayor who dies in office, in which case, the privileges extend to the end of the month following the month in which the funeral took place.

## **16 OFFICIAL ORDER OF PRECEDENCE IN SOUTH AFRICA**

In all public and private instances, Mayors shall observe the official order of preference as determined by the president of the Republic of South Africa. These observations shall extend to all aspects of ceremony, including those relating to greetings, announcements and placement.

### **16.1 Rules to be observed:**

- (1) The order of precedence laid down in the Table of Precedence shall be observed on all official occasions and the host may deviate from it only with the approval of the President of the Republic of South Africa.
- (2) When foreign relations or interests are the main focus of an official function, or when precedence above office-bearers in Rubric 5 is given to the Doyen of the Diplomatic Corps in terms of international protocol, the Minister of Foreign Affairs shall be given precedence above the Doyen and the office-bearers in Rubric 5.
- (3) When foreign relations or interests are the main focus of an official function, the Director General of the relevant department hosting the function, shall enjoy precedence after the Secretary of the Cabinet, the Chief of the South African National Defence Force, and the Director General of Foreign Affairs.

- (4) Rubric 15(a): Should the Public Protector already hold a higher position on the Official Table of Precedence, he/she shall retain his/her personal higher precedence for all official functions.
- (5) Rubric 15(e) is included, provided that Chairpersons of State Corporations are invited, when the particular function relates to their specific fields or according to the choice of the host, should he or she wish to invite all or any of the Chairpersons.
- (6) Persons not appearing in the Table shall not be placed above persons appearing in it unless they either have been accorded ad hoc precedence in terms of Rubric 19 of the Table or are invited as guests of honour.
- (7) Courtesy precedence is restricted to persons who are not normally resident in the Republic of South Africa, but includes church dignitaries within the Republic, as well as other dignitaries, office bearers and functionaries for whom separate provision has not been made in the Table.
- (8) Amendments to the Table shall be effected only by the President of the Republic of South Africa and shall be published in the Government Gazette.
- (9) Visiting dignitaries of other countries holding the same rank will take precedence over South Africans holding that rank.

**(Please note that this Order of Precedence gives special recognition to senior politicians and other political office bearers and members of the judiciary. Public officials should never aspire or expect to be elevated to the level/rubrics of democratically elected politicians)**

## **Official Table of Precedence as amended 1 January 1996**

(It has not been changed since then- but it is in the process of being changed)  
Compiled by the Presidency.

### **16.2 Rubric 1**

The President of the Republic of South Africa or the Acting President.

### **16.3 Rubric 2**

Deputy President and the President-elect (for the period between his or her election and assumption of office).

### **16.4 Rubric 3**

- (a) The Chief Justice or the Acting Chief Justice.
- (b) President of the Constitutional Court or the Acting President of the Constitutional Court.

### **16.5 Rubric 4**

- (a) Former Presidents of the Republic of South Africa, in order of seniority.
- (b) Former Deputy Presidents, in order of seniority.

### **16.6 Rubric 5**

Cabinet Ministers, the Speaker of the National Assembly, the Chairperson of the National Council of Provinces and Premiers of the respective Provinces, in order of seniority.

### **16.7 Rubric 6**

- (a) Ambassadors, in order of seniority.
- (b) Envoys, Extraordinary and Ministers Plenipotentiary, in order of seniority.
- (c) Chargé d'affaires en titre, in order of seniority.
- (d) Heads of other permanent Diplomatic Missions, in order of seniority.

### **16.7.1 Rubric 7**

- (a) Deputy Ministers, Members of the Executive Councils and Speakers of Provincial Legislatures, in order of seniority.
- (b) Deputy Speaker of the National Assembly, Deputy Chairpersons of the National Council of Provinces in order of seniority.
- (c) The Chief Whip of the majority Party in the National Assembly and NCOP and Deputy Speakers of Provincial Legislators, the Chairperson of the Standing Committee on Public Accounts in the National Assembly and the Parliamentary Councillor of the President, in order of seniority.

### **16.8 Rubric 8**

The Secretary of the Cabinet and the Chief of the National Defence Force.

### **16.9 Rubric 9**

- (a) Chargé d'affaires ad interim of Embassies, in order of seniority.
- (b) Charges d'affaires ad interim of Legations, in order of seniority.
- (c) Chargé d'affaires ad interim of other permanent Diplomatic Missions, in order of seniority.

### **16.10 Rubric 10**

Leaders of the different Political Parties in the National Assembly and the NCOP, in order of seniority.

### **16.11 Rubric 11**

- (a) Deputy President of the Constitutional Court.
- (b) Judges of Appeal, in order of seniority.
- (c) Judges of the Constitutional Court, in order of seniority.
- (d) Judges President, in order of seniority.
- (e) Deputy Judges President, in order of seniority.
- (f) Judges of the Supreme Court, in order of seniority.

### **16.12 Rubric 12**

Former Chief Justices, in order of seniority.

### **16.13 Rubric 13**

Chairperson of the Commissions established under the Constitution (No 200 of 1993), in order of seniority.

Examples of these Commissions are:

- ❖ Truth and Reconciliation Commission
- ❖ Human Rights Commission
- ❖ Youth Commission
- ❖ Gender Commission
- ❖ Independent Broadcasting authority
- ❖ Independent Electoral Commission

**16.14 Rubric 14**

- (a) Members of the National Assembly and of the National Council of Provinces, in order of seniority.
- (b) Members of the Provincial Legislative Authorities, in order of seniority.
- (c) Local Royalties, in order of seniority.
- (d) Chairperson of the Council for Traditional Leaders.
- (e) Chairpersons of the Provincial Houses of Traditional Leaders, in order of seniority.

**16.15 Rubric 15**

- (a) The Auditor-General, Governor of the SA Reserve Bank, Chairperson of the Public Service Commission, and the Public Protector, in order of seniority.
- (b) Members of the Public Service Commission, in order of seniority.
- (c) Directors-General and their equivalents of Government Departments, including the Secretary to the National Assembly and the Secretary to the NCOP, Secretary for Safety and Security, the Defence Secretary and Directors-General of the respective Provinces, in order of seniority.
- (d) Attorneys-General, in order of seniority.
- (e) Chairpersons of State Corporations, in order of seniority.

### **16.16 Rubric 16**

- (a) The Mayor of the capital of the Province in which the function is held.
- (b) Chairpersons of the Metropolitan Councils of the region in which the function is held.

### **16.17 Rubric 17**

Mayors of Provincial capitals, with seniority according to the grade in which the Local Authority was categorized.

### **16.18 Rubric 18**

The spouses of the foregoing persons (or in the case of single or divorced persons or widowers/widows, the ladies/men officially recognized by the Government as their hostesses) enjoy the precedence of their spouses (or the persons for whom they act as host/hostesses) and vice versa.

### **16.19 Rubric 19**

The President of the Republic of South Africa may on special occasions, accord persons who do not appear in this Table courtesy precedence.

