

LOCAL GOVERNMENT NOTICE
MUNICIPALITY OF AMAHLATHI
BY-LAW RELATING TO WARD COMMITTEES

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-Law Relating to Ward Committees.

Purpose of By-law

The purpose of this by-law is to promote the enhancement of participatory democracy in local government through the operation of ward committees, and to provide for practices and procedures in relation thereto.

1 Definitions - In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, and, unless the context otherwise indicates –

'Code of Conduct' means the Code of Conduct for councillors contained in Schedule 1 to the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

'Constitution' means the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996];

'day' means a calendar day, including a Saturday, Sunday and any public holiday;

'executive mayor' means an executive mayor elected in terms of Section 55 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

'municipality' means the Municipality of Amahlathi, established in terms of Section 12 of the Local Government: Municipal Structures Act of 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

'municipal council' means the municipal council of the municipality, and 'Council' shall have a corresponding meaning;

'municipal manager' means the official who is appointed in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

'Municipal Structures Act' means the Local Government: Municipal Structures Act No. 117 of 1998, as amended from time to time;

'Municipal Systems Act' means the Local Government: Municipal Systems Act No. 32 of 2000, as amended from time to time;

'political office bearer' means the speaker, executive mayor, mayor, deputy mayor or a member of the executive committee as referred to in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

'Section 12 notice' means the notice published in the Provincial Gazette in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], whereby the municipality has been established;

'speaker' means a councillor elected in terms of Section 36 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] to the chairperson of a municipal council, as envisaged in Section 160(1)(b) of the Constitution; and

'ward councillor' means the councillor responsible for and representative of a ward demarcated in respect of the municipality.

2 Establishment of ward committees

The municipality may establish a ward committee for each ward falling within its municipal boundaries, subject to the authority and provisions therefor contained in the Section 12 notice.

3 Functions and powers of ward committees

- (1) A ward committee may make recommendations on any matter affecting its ward –
 - (a) to the ward councillor; or
 - (b) through the ward councillor, to the municipal council, the executive committee, the executive mayor or any other relevant political office bearer.
- (2) A ward committee shall have such functions and powers as the municipal council may delegate to it in terms of Section 59 of the Municipal Systems Act.
- (3) The municipal council may delegate at least the following functions and powers -
 - (a) to serve as an official specialised participatory structure in the municipality;

- (b) to facilitate communication between the community and the municipality, achieved as follows: by -
 - (i) advising and making recommendations to the ward councillor on matters and policies affecting the ward;
 - (ii) assisting the ward councillor in identifying challenges, and the needs of residents;
 - (iii) disseminating information in the ward concerning municipal affairs such as the budget, integrated development planning, performance management system, service delivery options, and municipal properties;
 - (iv) receiving queries and complaints from residents concerning municipal service delivery, communicating such queries and complaints to the municipality, and advising the community on the municipality's response;
 - (v) ensuring constructive and harmonious interaction between the municipality and the community, through the use and coordination of ward residents' meetings, and other community development forums; and
 - (vi) interacting with other forums and organisations, on matters and policies affecting the ward;
- (c) to serve as a mobilising agent for community action, by –
 - (i) attending to all matters that affect and benefit the community;
 - (ii) acting in the best interests of the community;
 - (iii) ensuring the active participation of the community in –
 - (aa) service payment campaigns;
 - (bb) the integrated development planning process;
 - (cc) the municipality's budgetary process;
 - (dd) decisions about the provision of municipal services;
 - (ee) decisions about by-laws;
 - (iv) delimiting and chairing zonal meetings.
- (4) No executive or legislative powers shall be delegated to a ward committee.

- (5) A ward committee may express dissatisfaction with the performance of a ward councillor, in writing to the municipal council.

4 Responsibilities of the speaker

- (1) The speaker shall –
- (a) make administrative arrangements to enable a ward committee to perform its functions and exercise its powers efficiently and effectively;
 - (b) ensure the smooth functioning of a ward committee, in conjunction with the ward councillor and the secretary of such a committee;
 - (c) assist a ward committee secretary with meeting venues and other logistical needs, as may be required from time to time;
 - (d) provide members of ward committees and a ward committee secretary with adequate stationery and office equipment to enable them to perform their duties efficiently and effectively and to ensure proper minute and record keeping; and
 - (e) be responsible for the administration of elections and by-elections for members of ward committees.
- (2) Notwithstanding the delegation of any functions and powers to a ward committee, it shall remain the responsibility of the municipality to ensure that ward committees enhance participatory democracy in local government.

5 Composition of ward committees

- (1) A ward committee must consist of –
- (a) the councillor representing that ward in the municipal council; and
 - (b) not more than ten other persons.
- (2) Representation on ward committees shall not be according to party political affiliation, but may include the following interest groups -
- (a) youth;
 - (b) women;
 - (c) religious groupings;
 - (d) sports and culture;

- (e) health and welfare;
- (f) business;
- (g) environment;
- (h) education;
- (i) senior citizens;
- (j) community safety forums;
- (k) community-based organisations;
- (l) ratepayers' or civic associations;
- (m) traditional leaders;
- (n) agricultural associations;
- (o) informal traders' associations;
- (p) people living with disabilities;
- (q) farm workers;
- (r) employment;
- (s) tourism; and
- (t) unions.

6 Election of ward committee members

- (1) The municipal council shall determine the procedure and criteria that must be met by nominees, provided that the municipal council takes into account -
 - (a) the need –
 - (i) for women to be equitably represented in a ward committee;
and
 - (ii) for a diversity of interests in the ward to be represented;
 - (b) the provisions of section 5.
- (2) The municipal council shall stipulate at least the following criteria: that a nominee must be –

- (a) a registered voter in the ward;
 - (b) ineligible for election if he or she works for the municipality or the district municipality within which the municipality is demarcated;
 - (c) in good standing with regard to the payment of rates and service charges, such that he or she should not be in arrears to the municipality for a period longer than 3 (three) months;
 - (d) active in the interest group that the nominee represents; and
 - (e) considered disqualified for election in the event that he or she is –
 - (i) an unrehabilitated insolvent;
 - (ii) under curatorship;
 - (iii) a person who, after February 1997, was convicted of an offence and sentenced to imprisonment without the option of a fine for a period of not less than 12 (twelve) months; or
 - (iii) of unsound mind, as declared by a High Court.
- (3) After consultation with the speaker and the municipal manager or delegated official, the ward councillor shall cause a notice to be published in a local newspaper and to be broadcast by radio, calling upon interest groups and the community to submit nominations for membership of a ward committee.
- (4) The ward councillor shall ensure that the notice referred to in the preceding subsection stipulates that nominations must be submitted –
- (a) in writing, and in accordance with any prescribed form that may be determined by the municipality; and
 - (b) within a period of 14 (fourteen) days from the date of publication or broadcast, as the case may be.
- (5) A general meeting of all registered voters in a ward shall be convened and presided over by the ward councillor within 21 (twenty one) days of the expiry of the period for submission of nominations, for purposes of electing the members of a ward committee.
- (6) The nominees for membership of a ward committee shall –
- (a) meet any election criteria determined by the municipal council; and
 - (b) be elected by a majority vote of all registered voters present at the general meeting convened in terms of the previous subsection.

- (7) Upon election to membership of a ward committee, the elected member must –
 - (a) confirm in writing his or her availability to serve in a ward committee; and
 - (b) receive a copy of the Code of Conduct from the ward councillor or the ward committee secretary, and confirm in writing that he or she understands its contents and agrees to be bound by its provisions.
- (8) The written confirmation required from an elected member in terms of the preceding subsection may be in accordance with any form prescribed by the municipality.

7 Internal structures

- (1) The councillor representing that ward in the municipal council shall be the chairperson of a ward committee.
- (2) The ward committee may appoint members to carry out the duties associated with the office of –
 - (a) secretary; and
 - (b) assistant secretary.
- (3) Sub-committees may be formed by a ward committee to –
 - (a) facilitate the effective performance and exercise of its functions and powers; and
 - (b) encourage the involvement and participation of interest groups.

8 Term of office for members

- (a) The term of office of a member of a ward committee shall be a period of 2 (two) years.
- (b) The municipality may, after consultation with interest groups and the community, extend the period of office for a member of a ward committee for such period as the municipality may determine, provided that such period shall not exceed the period of office of the municipality itself.

9 Sanctions for non-compliance with Code of Conduct

- (1) The Code of Conduct shall apply to -
 - (a) the exercise and performance of powers and functions by a ward committee member; and

- (b) the refusal or failure to exercise and perform such powers and functions.
- (2) With regard to the non-attendance of meetings by a ward committee member –
- (a) a fine of not more than R50 may be imposed for –
 - (i) non-attendance at a meeting which a member is required to attend in terms of section 11; and
 - (ii) failing to remain in attendance at such meeting;
 - (b) the said member shall be removed from a ward committee where he or she is absent from 3 (three) consecutive meetings without first obtaining leave of absence from the chairperson, failing which, the speaker;
 - (c) any sanction, contemplated in terms of –
 - (i) subsection (a), shall be implemented by the chairperson at his or her sole discretion; and
 - (ii) subsection (b), shall be implemented by the chairperson, provided that –
 - (aa) within 7 (seven) days of the last meeting, the chairperson shall appoint a committee of at least 2 (two) members to investigate any allegation of non-attendance;
 - (bb) the committee shall investigate, and invite the defaulting member to make representations within 14 (fourteen) days of its appointment;
 - (cc) within 7 (seven) days of the said representations, the committee shall report its finding and recommendation to the chairperson;
 - (dd) the chairperson shall consider the said finding and recommendation, and refer any decision to remove a defaulting member, to the speaker for confirmation within 7 (seven) days of the committee's report;
 - (ee) the speaker shall either confirm or reject the said decision, after considering all relevant factors, and within 21 (twenty-one) days of referral by the chairperson; and

- (ff) the chairperson shall implement any confirmation by the speaker, or alternatively, communicate any other decision by the speaker, forthwith.
- (3) Sanctions for any contravention other than one contemplated in terms of subsection (2) shall be determined by the speaker at his or her discretion, and in compliance with the Code of Conduct.
- (4) Where the chairperson of the ward committee is alleged to have committed any contravention envisaged by this section, the speaker shall take whatever steps may be required in terms of the Code of Conduct to investigate the alleged contravention and impose whatever sanction may be appropriate.

10 Vacancies

- (1) A vacancy in a ward committee shall arise if a member thereof -
 - (a) becomes deceased;
 - (b) resigns;
 - (c) relocates from the ward;
 - (d) is elected to the position of councillor;
 - (e) is removed, in accordance with the provisions of section 9;
 - (f) is dismissed, in accordance with a resolution of the ward committee, or by the executive mayor or executive committee of the municipal council, in consultation with the ward councillor and the speaker;
 - (g) ceases to be a member of the interest group that he or she represents; or
 - (h) is insolvent, or declared to be of unsound mind by a High Court.
- (2) Whenever a vacancy in the ward committee arises, the secretary of the relevant ward committee shall report the circumstances thereof to the ward committee, which shall, through its chairperson, report same to the speaker.
- (3) If a vacancy arises in the ward committee, then a by-election shall be held to fill such vacancy, and the procedures referred to in section 6 shall be followed with regard to the filling of such vacancy, provided that the municipal council may determine an alternative procedure for purposes of filling such vacancy.

11 Procedures for meetings

- (1) The members of the ward committee shall meet at least once per quarter, and shall report details of their activities and their recommendations on matters referred to them, to the speaker through their ward councillor at least quarterly, or when required by the speaker.
- (2) A ward councillor shall chair meetings of the ward committee for which he or she is responsible.
- (3) In the event that a ward councillor is not available to chair a meeting of a ward committee, the ward committee shall nominate from amongst its members an interim chairperson for that particular meeting.
- (4) The ward committee shall elect its secretary from amongst its members, and such secretary shall keep records of documents, agendas and minutes, consult with the ward councillor, and call ward committee and ward residents' meetings, provided that the speaker may arrange secretarial services for the ward committee.
- (5) The order of business for meetings of ward committees shall be as follows -
 - (a) opening;
 - (b) applications for leave of absence;
 - (c) minutes of the previous meeting;
 - (d) report of the speaker or municipal manager, where applicable;
 - (e) report of the ward councillor;
 - (f) report of the chairperson, where applicable;
 - (g) report of the members;
 - (h) future course of action;
 - (i) date of next meeting; and
 - (j) closure.
- (6) All decisions of a ward committee shall be adopted by a majority vote of the members present.
- (7) The quorum for a meeting of a ward committee shall be a majority of its members, provided that the chairperson of a ward committee shall not be

regarded as a member of the ward committee for the purpose of determining a quorum.

- (8) All matters requiring a decision or recommendation from a ward committee will be referred to the secretary thereof in writing by the speaker, or his or her nominee.
- (9) Meetings of ward committees shall, with the necessary adjustments, be conducted in accordance with the standing rules adopted by the municipality.

12 Remuneration

- (a) Subject to national legislation, no remuneration shall be payable to members of a ward committee for the attendance by them at meetings of a ward committee.
- (b) The municipality may reimburse members of ward committees for travel costs and other out-of-pocket expenses incurred by them in connection with the performance of their duties and obligations, provided that proof of such expenditure is submitted, to the satisfaction of the municipality.

13 Dissolution

A ward committee may be dissolved by the municipal council, under the following circumstances -

- (a) when it fails to meet upon 3 (three) consecutive occasions;
- (b) when members thereof decide to dissolve, provided that such a decision is supported by a majority of at least $\frac{2}{3}$ (two thirds) of members present at a special meeting convened for this purpose;
- (c) when there are reasonable grounds for allegations of misrepresentation, corruption, and dishonesty against a ward committee which, if proved, will bring the municipality into disrepute or will be likely to bring the municipality into disrepute and the municipal council decides, upon the recommendation of the speaker and after consultation with the ward councillor, that it would be in the interests of the municipality to dissolve such a ward committee; or
- (d) when it fails to perform or exercise the functions or powers delegated to or vested in it, such that it ceases to serve the interests of the ward, and the municipal council.

14 Overall responsibility for ward committees

- (a) The speaker shall be responsible for the overall functioning of ward committees, and shall at least once per quarter hold a meeting with all

ward councillors in order to discuss matters of common concern affecting wards, and any problems being experienced by ward committees.

- (b) The speaker shall, on a 6 (six)-monthly basis, submit a written report to the municipal council on the activities of ward committees, the general matters being considered by them, their recommendations concerning Council policies, any problems they are experiencing, recommendations to resolve such problems, and any other incidental matters.

15 Guidelines for establishment and operation of ward committees

In the establishment and operation of ward committees, the municipality shall have regard to any guidelines issued in terms of Section 120, read with Section 22, of the Municipal Systems Act.

16 Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing –

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

17 Repeal of by-laws

Any by-laws relating to ward committees adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

18 Short title

This by-law is called the By-law Relating to Ward Committees, 2004, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.