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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE

NOTICE 1322 OF 2022

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)

CODE OF CONDUCT FOR COUNCILLORS REGULATIONS

I, Nkosazana Clarice Dlamini Zuma, Minister of Cooperative Governance and Traditional Affairs, after consultation with the members of Executive Council's responsible for local government in the provinces, and organised local government representing local government nationally, under section 92 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended, hereby publish the draft Regulations in the Schedule, for public comments.

The draft Regulations are aimed at facilitating the application of Schedule 7 of the Structures Act which provides for the Code of Conduct for Councillors.

Members of the public are invited to submit written comments before 25 October 2022, to the following address:

By post to: Director-General
For attention: Dr Kevin Naidoo
Department of Cooperative Governance
Private Bag X804
PRETORIA
0001

By e-mail to: Ms Nomonde Aba at NomondeA@cogta.gov.za; and
Mr Nhlamulo Mathye at NhlamuloM@cogta.gov.za.

A copy of the draft Regulations can be found on the website of the Department of Cooperative Governance at: **www.cogta.gov.za** and may also be obtained from the Government Printers.

Comments received after the closing date will not be considered.

SCHEDULE

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1. Definitions

In these Regulations, any word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context indicates otherwise –

"**Act**" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended;

"**behaviour**" means verbal or non-verbal communicative conduct, tone of voice, body language and demeanour, deportment, bearing and etiquette relative to one's conduct towards others;

"Chairperson" means a councillor elected as the speaker of a municipal council or as the chairperson of a committee established in terms of section 79 or 79A of the Act;

"Code" means the Code of Conduct for Councillors in schedule 7 of the Act;

"**Department**" means the Department of Cooperative Governance;

"meeting" includes meetings that take place in the chambers of the municipal council, any other venue or virtual platform as indicated in the agenda of the council meeting, and also includes meetings of the committees of the council;

"quarter" means any period from 1 January to 31 March, or from 1 April to 30 June, or from 1 July to 30 September, or from 1 October to 31 December, in a calendar year;

"quorum" means a number above 50% of members of the municipal council;

"Sergeant-at-Arms" means the person responsible to maintain order in the council meetings acting (whether alone or with other designated persons) under the directive of the speaker to perform the actions in terms of the standing orders as assigned to him or her;

"virtual platform" means an information and communications technology related platform used to convene meetings; and

"walkout" is an act of leaving the council meeting or failing to remain in attendance at that meeting, by a councillor or councillors, without the permission of the speaker or before the speaker has adjourned the meeting.

2. Application

These Regulations apply to all councillors and traditional leaders subject to item 17 of the Code.

3. Duty of speaker

The speaker must ensure that each councillor and traditional leader is in receipt of a copy of the Code, standing rules and orders of the municipal council and that councillors and traditional leaders are familiar with such Code, standing rules and orders.

4. Breach of Code

If a councillor is alleged to have breached a provision of the Code, such alleged breach must be investigated in terms of item 16 of the Code.

5. General conduct of councillors

(1) A councillor must –

(a) perform the functions of office in good faith, honestly and in a transparent manner;

(b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and

(c) during council meetings maintain good and orderly behaviour, including obeying orders from the speaker.

(2) If a councillor's behaviour is unruly, including when he or she assaults or threatens to assault an official or a fellow councillor, the speaker must order the councillor to leave the meeting and, if the councillor fails to obey the order, request the Sergeant-at-Arms to remove the councillor from the meeting.

6. Voting and attendance at meetings

(1) The municipal council must convene an ordinary meeting for the transaction of business at least once in every three months.

(2) A municipality must provide adequate support to ensure that councillors living with disabilities participate effectively in council proceedings.

(3) A majority of the councillors must be present at a meeting of the council before any matter may be considered and/or voted on.

(4) In the event of no quorum for a meeting, the meeting must be suspended for no more than 20 minutes or as provided in the rules of order for meetings of the municipal council concerned, and if at the end of the said period there is still no quorum, the Speaker or Chairperson may suspend the meeting for a further 20 minutes or as provided in the rules of order for meetings of the municipal council concerned and thereafter adjourn the meeting to another date, time and/or venue.

(5) If a councillor or councillors walkout or ordered to leave the meeting in terms of regulation 5(2), and the remainder of the councillors constitute a quorum, the business of the meeting must be proceeded with.

(6) If the municipal council resolves to establish a special committee in terms of item 16(1)(b) of the Code concerning an alleged walkout, the municipal council must within seven calendar days appoint such a committee to investigate and make a finding.

(7) The municipal council or a committee may adjourn a meeting to any date or time: Provided that the date or time is within seven days from the date on which the meeting was adjourned and that no business shall be transacted at any resumption of adjourned meeting except such as was set out in the notice for the meeting that was adjourned.

(8) If a councillor votes in favour of or agrees with a proposed resolution that is before the municipal council or a committee which conflicts with any legislation applicable to local government, the municipality must recover from the councillor any loss or damage it has suffered as a result of such vote or agreement.

7. Prescribed value of gifts received by councillor

(1) Gifts received by a councillor must be declared in writing to the municipal manager in terms of item 8(1) of the Code where –

(a) the value of a gift exceeds R1 000 or a higher amount as may be determined by the Minister from time to time; and

(b) the value of gifts received from a single source in any calendar year exceeds the threshold of R1 000 or the amount determined by the Minister in terms paragraph *(a)*.

(2) A declaration of gifts received by a councillor must –

(a) contain a description of the gifts, as the case may be; and

(b) indicate the value and source of such gift or gifts, as the case may be.

(3) Gifts received by a councillor above the prescribed amount must be recorded in a designated council's Gifts Register that must be developed by the municipality, which must include the following –

(a) name and address of the person or organisation making the gift;

(b) value of the amount received for the gift or all gifts to a value greater than R1 000 or cumulative gifts received from the same person or organisation over a period of twelve-months; and

(c) the relationship between the councillor receiving the gift and the person or organisation making the gift.

(4) A councillor receiving the gift must also make the person making the gift aware that their details will be included in council's Gift Register subject to the provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

(5) A councillor must ensure that any gift declared on the designated Gifts Register is recorded within ten working days of receipt.

(6) A councillor must ensure that the details recorded in the Gifts Register are true and correct.

(7) The municipal council must determine which of the financial interests must be made public having regard to the need for confidentiality and the public interest for disclosure.

8. Councillor in arrears to the municipality for rates and service charges

(1) A councillor must settle his or her municipal account for rates and service charges in accordance with the credit control policy of the municipality.

(2) The municipal manager must in writing immediately inform the councillor when the councillor is in arrears to the municipality for rates and service charges for a period that is longer than two months, even if the councillor has been newly elected to the municipal council concerned, and request the councillor to settle the account and any arrears without further delay.

(3) A councillor who is in arrears to the municipality for rates and service charges may arrange or agree with the municipality in writing to settle his or her municipal account for such rates and service by means of a monthly stop-order payment.

(4) A councillor who is in arrears to the municipality for rates and service charges for a period longer than three months is in breach of the Code.

9. Reporting

(1) A municipality must ensure that a register is kept for councillors to declare their interests as provided for in item 8 of the Code, and in accordance with the standing rules and orders of the municipality.

(2) The speaker must submit bi-annual reports on the compliance to the Code to the MEC responsible for local government in the province within fourteen ays of January and July of a calendar year.

(3) The MEC responsible for local government in the province must submit consolidated quarterly reports on the compliance to the Code to the Minister within 14 days of the commencement of a quarter.

(4) The reports contemplated in sub-regulations (2) and (3) must be in accordance with a reporting template developed by the Department.

10. Repeal of Regulations

The Local Government: Municipal Systems Regulations published by Government Notice R135 of 2001, in Government Gazette 22056 of 9 February 2001, are hereby repealed.

11. Short title and commencement

These Regulations are called the Code of Conduct for Councillors Regulations, 2022, and take effect on the date of publication hereof.

DEPARTEMENT VAN SAMEWERKENDE REGERING

KENNISGEWING 1322 VAN 2022

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998 (WET NO. 117 VAN 1998)

REGULASIES OOR GEDRAGSKODE VIR RAADSLEDE

Ek, Nkosazana Clarice Dlamini Zuma, Minister van Samewerkende Regering en Tradisionele Sake, vaardig hierby ná oorleg met die lede van Uitvoerende Rade verantwoordelik vir plaaslike regering in die provinsies, en georganiseerde plaaslike regering wat plaaslike regering nasionaal verteenwoordig, kragtens artikel 92 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 11 van 1998), soos gewysig, die regulasies in die Bylae uit.

DR NKOSAZANA CLARICE DLAMINI ZUMA
MINISTER VAN SAMEWERKENDE REGERING EN TRADISIONELE SAKE
DATUM:

BYLAE

Inhoudsopgawe

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1. Woordomskrywing

In hierdie Regulasies het enige woord of uitdrukking waaraan ’n betekenis in die Wet toegewys is, daardie betekenis en, tensy die samehang andersins aandui, beteken—

“Departement” die Departement van Samewerkende Regering;

“Kode” die Gedragskode vir Raadslede in bylae 7 van die Wet;

“kwartaal” enige tydperk vanaf 1 Januarie tot 31 Maart, of vanaf 1 April tot 30 Junie, of vanaf 1 Julie tot 30 September, of vanaf 1 Oktober tot 31 Desember, in ’n kalenderjaar;

“kworum” meer as 50% van die munisipale raad;

“optrede” verbale of nieverbale kommunikerende gedrag, stemtoon, liggaamstaal en handelswyse, houding en etiket in verband met ’n persoon se gedrag teenoor andere;

“Stafdraer” die persoon verantwoordelik vir die handhawing van orde in die raadsvergaderings wat handel (hetsy alleen of saam met ander aangewese persone) onder bevel van die speaker om die handeling ingevolge die staande orders soos aan hom of haar toegewys, te verrig;

"uitstap" is 'n handeling waarin 'n raadslid of raadslede, sonder die toestemming van die speaker of voordat die speaker die vergadering verdaag het, die raadsvergadering verlaat of versuim om by daardie vergadering teenwoordig te bly;
"vergadering" ook die vergaderings wat in die kamers van die munisipale raad, enige ander venue of virtuele platform plaasvind soos in die agenda van die raadsvergadering aangedui, en sluit ook vergaderings van komitees van die raad in;

"virtuele platform" 'n platform wat met inligtings- en kommunikasietegnologie verband hou wat gebruik word om vergaderings saam te roep;

"Voorsitter" 'n raadslid verkies as die voorsitter van 'n munisipale raad of as die voorsitter van 'n komitee ingevolge artikel 79 of 79A van die Wet ingestel; en

"Wet" die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), soos gewysig.

2. Toepassing

Hierdie Regulasies is van toepassing op alle raadslede en tradisionele leiers behoudens item 17 van die Kode.

3. Plig van speaker

Die speaker moet verseker dat elke raadslid en tradisionele leier 'n afskrif van die Kode, staande reëls en staande orders van die munisipale raad ontvang en dat raadslede en tradisionele leiers met sodanige Kode, staande reëls en staande orders vertroud is.

4. Verbreking van Kode

Indien 'n raadslid na bewering 'n bepaling van die Kode verbreek het, moet sodanige beweerde verbreking ingevolge item 16 van die Kode ondersoek word.

5. Algemene gedrag van raadslede

(1) 'n Raadslid moet–

(a) die werksaamhede van die amp te goeder trou, eerlik en op 'n deursigtige wyse verrig;

(b) te alle tye in die beste belang van die munisipaliteit en op so ’n wyse handel dat die geloofwaardigheid en integriteit van die munisipaliteit nie in die gedrang gebring word nie; en

(c) tydens raadsvergaderings goeie en ordelike optrede handhaaf, met inbegrip van om bevele van die speaker te gehoorsaam.

(2) Indien ’n raadslid se gedrag onbeheerbaar is, met inbegrip van wanneer hy of sy ’n beampte of ’n mede-raadslid aanrand of met aanranding dreig, moet die speaker die raadslid beveel om die vergadering te verlaat en, indien die raadslid versuim om die bevel te gehoorsaam, versoek dat die Stafdraer die raadslid uit die vergadering verwyder.

6. Stemmery by en bywoning van vergaderings

(1) Die munisipale raad moet nie minder nie as een keer elke drie maande ’n gewone vergadering saamroep vir die doen van sake.

(2) ’n Munisipaliteit moet voldoende ondersteuning verskaf om te verseker dat raadslede wat met gestremdhede leef, doeltreffend aan raadsverrigtinge deelneem.

(3) ’n Meerderheid van die raadslede moet by ’n vergadering van die raad teenwoordig wees voordat enige aangeleentheid oorweeg kan word/oor gestem kan word.

(4) Indien daar nie ’n kworum by ’n vergadering is nie, moet die vergadering vir hoogstens 20 minute of soos in die reëls vir vergaderings van die betrokke munisipale raad bepaal, uitgestel word, en indien daar aan die einde van die vermelde tydperk steeds nie ’n kworum is nie, kan die Speaker of Voorsitter die vergadering uitstel vir nog 20 minute of soos in die reëls vir vergaderings van die betrokke munisipale raad bepaal, uitstel en daarna die vergadering na ’n ander datum, tyd en venue uitstel.

(5) Indien ’n raadslid of raadslede uitstap of uit ’n vergadering verwyder word ingevolge regulasie 3(2), en die oorblywende raadslede stel ’n kworum daar, moet met die sake van die vergadering voortgegaan word.

(6) Indien die munisipale raad besluit om ’n spesiale komitee ingevolge item 16(1)(b) van die Kode oor ’n beweerde uitstappery saam te stel, moet die munisipale raad binne sewe kalenderdae sodanige komitee aanstel om ondersoek in te stel en ’n bevinding te maak.

(7) Die munisipale raad of ’n komitee kan ’n vergadering na enige datum of tyd verdaag: Met dien verstande dat die datum of tyd binne sewe dae vanaf die datum is waarop die vergadering verdaag is en dat geen sake behalwe die sake wat in die kennisgewing van die vergadering wat verdaag is, uiteengesit is, gedoen sal word wanneer die verdaagde vergadering hervat nie.

(8) Indien ’n raadslid stem ten gunste van of instem tot ’n voorgestelde besluit wat voor die munisipale raad of ’n komitee is wat onbestaanbaar is met enige wetgewing van toepassing op plaaslike regering, moet die munisipaliteit enige verlies of skade wat die munisipaliteit as gevolg van sodanige stem of instemming gely het, van die raadslid verhaal.

7. Voorgeskrewe waarde van geskenke deur raadslid ontvang

(1) Geskenke wat deur ’n raadslid ontvang is, moet ingevolge item 8(1) skriftelik aan die munisipale bestuurder verklaar word waar–

(a) die waarde van ’n geskenk R1 000 of ’n hoër bedrag soos van tyd tot tyd deur die Minister bepaal, oorskry; en

(b) die waarde van geskenke wat in enige kalenderjaar van ’n enkele bron ontvang is, die drempel van R1 000 of die bedrag ingevolge paragraaf (a) deur die Minister bepaal, oorskry.

(2) ’n Verklaring van geskenke deur ’n raadslid ontvang, moet–

(a) ’n beskrywing van die geskenke bevat, na gelang van die geval; en

(b) die waarde en bron van sodanige geskenk of geskenke aandui, na gelang van die geval.

(3) Geskenke deur ’n raadslid ontvang bo die voorgeskrewe bedrag, moet in ’n aangewese raad se Geskenkregister aangeteken word wat deur die munisipaliteit ontwikkel moet word, wat die volgende moet insluit:

(a) naam en adres van die persoon of organisasie wat die geskenk gee, indien aan die raadslid bekend;

(b) waarde van die bedrag ontvang vir die geskenk of alle geskenke tot ’n waarde van meer as R1 000 of totale geskenke van dieselfde persoon of organisasie ontvang oor ’n tydperk van twaalf maande; en

(c) die verhouding tussen die raadslid wat die geskenk ontvang en die skenker.

(4) ’n Raadslid wat die geskenk ontvang, moet ook die persoon wat die geskenk ontvang, daarvan bewus maak dat hulle besonderhede in die raad se Geskenkregister ingesluit sal word, behoudens die bepalings van die Wet op Beskerming van Persoonlike Inligting, 2013 (Wet No. 4 van 2013).

(5) ’n Raadslid moet verseker dat enige geskenk wat in die aangewese Geskenkregister verklaar is, binne tien dae sedert ontvangs, aangeteken word.

(6) ’n Raadslid moet verseker dat die besonderhede in die Geskenkregister aangeteken waar en korrek is.

(7) Die munisipale raad moet vasstel watter van die finansiële belange openbaar gemaak moet word, met inagneming van die behoefte aan vertroulikheid en die openbare belang by openbaarmaking.

8. Raadslid agterstallig by munisipaliteit vir eiendomsbelasting en diensgelde

(1) ’n Raadslid moet sy of haar munisipale rekening vir eiendomsbelasting en diensgelde ooreenkomstig die kredietbeheerbeleid van die munisipaliteit skik.

(2) Die munisipale bestuurder moet die raadslid onmiddellik skriftelik inlig wanneer die raadslid by die munisipaliteit agterstallig is vir eiendomsbelasting en diensgelde vir ’n tydperk van langer as twee maande, selfs as die raadslid nuut tot die betrokke munisipale raad verkies is, en vra dat die raadslid die rekening en enige agterstallige gelde onverwyld skik.

(3) ’n Raadslid wat by die munisipaliteit agterstallig is vir eiendomsbelasting en diensgelde, kan skriftelik reël of met die munisipaliteit ooreenkom om sy of haar

munisipale rekening vir sodanige eiendomsbelasting en diensgelde by wyse van ’n maandelikse aftrekorderbetaling te skik.

(4) ’n Raadslid wat by die munisipaliteit agterstallig is vir eiendomsbelasting en diensgelde vir ’n tydperk langer as drie maande verbreek die Kode.

9. Verslagdoening

(1) ’n Munisipaliteit moet verseker dat ’n register gehou word vir raadslede om hulle belange te verklaar soos in item 8 van die Kode voor voorsiening gemaak, en ooreenkomstig die staande orders van die munisipaliteit.

(2) Die speaker moet kwartaallikse verslae oor die voldoening aan die Kode aan die LUR verantwoordelik vir plaaslike regering in die provinsie voorlê binne sewe dae sedert die begin van ’n kwartaal.

(3) Die LUR verantwoordelik vir plaaslike regering in die provinsie, moet gekonsolideerde kwartaallikse verslae oor voldoening aan die Kode aan die Minister voorlê binne 14 dae sedert die begin van ’n kwartaal.

(4) Die verslae in subregulasies (2) en (3) beoog, moet volgens die sjabloon deur die Departement ontwikkel, saamgestel word.

10. Herroeping van Regulasies

Die Plaaslike Regering: Munisipale Stelselregulasies gepubliseer in Goewermentskennisgewing R135 van 2001, in *Staatskoerant* 22056 van 9 Februarie 2001, word hierby herroep.

11. Kort titel en inwerkingtreding

Hierdie Regulasies heet die Regulasies oor die Gedragskode vir Raadslede, 2022, en tree in werking by publikasie hiervan.

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