

GOVAN MBEKI MUNICIPALITY

The Council of Govan Mbeki Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-laws:

DRAFT PUBLIC PARTICIPATION BY-LAW

1. THE PURPOSE OF THIS BY-LAW

- 1.1. The purpose of the Public Participation By-Law is to provide for mechanisms by which the public may participate in the affairs of the Municipality;
- 1.2. Public participation shall be exercised in an open, transparent and accountable manner on the part of the Council, its political structures and its administration by providing for citizens to exercise their right to public participation.

2. DEFINITIONS

"Municipality" means the Govan Mbeki Municipality and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000);

"Municipal Manager" means the person appointed in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998);

3. DEVELOPMENT OF CULTURE OF COMMUNITY PARTICIPATION

- 1 In giving effect to section 16 of the Systems Act 32 of 2000 and as set out in the Schedule hereto, the Municipal Manager must ensure that for this purpose:-
 - (a) that all the staff members, including Councillors referred to in this Subsection are trained in the basic knowledge of the areas referred to;

- (b) the Municipal Manager may establish a working group, consisting of Councillors and previously trained staff members, to administer the training of new staff members and Councillors under section 16 of the Systems Act.

4. MECHANISMS, PROCESSES AND PROCEDURES

- 1 As provided for in section 17 of the Systems Act 32 of 2000 and elsewhere in this by-law, the Municipal Manager must establish methods for public participation as set out in section 6 of this by-law.
- 2 The Municipal Manager must notify the public of all available methods for participation.
- 3 Notification may take the form as provided for in section 9 of this by-law.
- 4 The Municipality must, when implementing methods for public participation, provide:-
 - (a) for a qualified person to help members of the community who cannot read or write;
 - (b) appropriate access to public meetings and hearings for people with physical disabilities; and
 - (c) a translator, after having assessed the language preferences and usage and where appropriate.

5. COMMUNICATION OF INFORMATION CONCERNING COMMUNITY PARTICIPATION

The provisions of subsections 4.2(a) and (b) of this by-law shall apply to this subsection.

6. METHODS FOR PUBLIC PARTICIPATION

1. The Municipal Manager must inform the community of any public comment procedures available through which the members of the community can voice their opinions and views on any other affairs of the Municipality on which the community's input is required, which may include, but are not limited to:-

- (a) public meetings and hearings by the Council, political structures and office bearers of the Municipality as provided for in subsection 6.4 hereunder
 - (b) consultative sessions with locally recognised community organisations and traditional authorities; and the submissions of written public comment.
- 2 Municipality will manage Petitions and Complaints received from the community as follows:
- (a) Petitions and complaints lodged by the local community will be received by the Municipality and be attended to.
 - (b) The Municipal Manager must notify the community of all important petitions and complaints lodged with it within 7 (seven) days of having processed and considered the petitions and complaints referred to in this subsection.
- 3 Invitations for public comment and open sessions shall be as follows:
- (a) When the Municipality considers and deliberates on any of the issues set out hereunder, it must hold open sessions to which members of the public and interested organisations must be invited to submit their views and comments with regard to:-
 - (i) the identification of the needs of the community in the municipal area, including the prioritisation of those needs for the purpose of helping the Council;
 - (ii) the views of the public and interested organisations on strategies, programs and services to address priority needs through the integrated development plan for the purpose of helping the Council;
 - (iii) the involvement of the community in the development, implementation and review of the Municipality's performance management system, including the setting of appropriate key performance indicators and performance targets for the Municipality.
 - (iv) the views and comments of the public and interested organisations on a proposed tariff policy as contemplated in section 74 of the Systems Act 32 of 2000 as well as the

Municipal Finance Management Act 56 of 2003 and the Credit Control and Debt Collection Policy;

- (v) decisions on mechanisms for the provision of services through service delivery agreements.
- (b) In giving effect to subsection 6.3(a) of this by-law, the Municipal Manager, together with the Councillors and Officials, must hold an open session on any of the issues referred to in subsection 6.2 of this by-law when any issue arises, however, the open sessions should fall outside the framework of the sessions held in respect of the development of the Municipality's Integrated Development Programme and its performance management system and as required by the Municipal Systems Act.
- (c) The Municipal Manager must, after the Municipality has held an open session on any of the matters contemplated in subsection 6.3(a) of this by-law, and after the conclusion of the session concerned:-
 - (i) formulate a full report thereon together with any advice or recommendations the Municipality may deem necessary or desirable;
 - (ii) make copies of the report available to the community in one or more of the following manners:-
 - (aa) by application in the local newspaper;
 - (bb) leaving a copy at all the libraries in their municipal area;
 - (cc) posting a copy on the notice board on the Municipal offices;
 - (dd) providing every Councillor of each ward with copies for distribution to the Communities if this method is feasible; and
 - (ee) sending the message through the municipal website.
- (d) the Municipal Manager must ensure that the report is published according to the Council's language policy for the municipal area.

4 Public meetings and hearings by the Municipality shall:

- (a) Notwithstanding the provisions of section 6.2 of this by-law, the Municipal Manager must, on appropriate notice and in a manner provided for in this by-law, notify the community of any public meeting and/ or hearing arranged to discuss and consider any of the petitions and complaints lodged by members of the local community under subsection 6.2.
 - (b) Any such public meeting and/ or hearing must take place within 14 (fourteen) days of the Municipal Manager having notified the community of the important issues raised and considered by the Council and after it has called for any comment under subsection 6.3.
- 5 Municipality shall make communication possible via electronic mail system which shall be made possible as follows:
 - (a) The Municipal Manager, if it is in the confines of the Municipality's resources and capacity, provide the public with a central e-mail address, whereby members of the local community may submit written comment directly to the Municipality on any matter referred to in this by-law and/ or other relevant legislation.
 - (b) The Municipal Manager must ensure that the comments are accessed regularly and collated by a staff member specifically allocated to this task.
- 6 Municipality shall manage Referenda and opinion polls as follows:
 - (a) To gain the local community's input on any issue provided for in this by-law, the Municipal Manager may call for a referendum or opinion poll, if the local community is notified in the manner provided therefor, of the following:-
 - (i) the specific issue that calls for a referendum or opinion poll;
 - (ii) the manner in which the referendum or opinion will take place;
 - (iii) where and when the referendum or opinion poll will take place;
 - (iv) the date on which the result of the referendum or opinion poll will be made public to the community.

- (b) The date referred to in subsection 6.6(iv) of this by-law may not be later than 2 (two) working days after referendum or 7 (seven) working days after the opinion poll itself.

7 Notification shall be as follows:

- (a) Whenever the Municipality:-
 - (i) holds a public meeting as provided under this by-laws;
 - (ii) holds a session about any matter contemplated in subsection 6.3 of this by-law; or
 - (iii) holds a public meeting on any other matter decided by the Municipality that warrants notification to the community, the aforesaid matters must be advertised once in two of the daily newspapers as well as community newspapers circulating in the municipal area according to the Council's language policy for a reasonable period before the event.
- (b) Copies of all notices contemplated in subsection 6.7 (a) of this by-law must be posted at:-
 - (i) the notice board at the Council's offices;
 - (ii) all libraries in the municipal area; and
 - (ii) other places as may be available.

7. PUBLIC NOTICE OF MEETINGS OF THE COUNCIL

- 1 The Municipal Manager must give notice to the public in the manner provided for in section 19 of the Systems Act 32 of 2000 of the time, date and venue whenever there is a scheduled:-
 - (a) ordinary meetings of the Council; and
 - (b) special urgent meeting of the Council, except when time constraints make this impossible.

8. VENUE FOR PUBLIC MEETINGS AND HEARINGS

- 1 The Municipal Manager must ensure that the council makes use of an appropriate venue for any public meeting and/ or hearing as provided for in these by-laws in terms of :-

- (a) the size of the venue after gauging and taking into consideration the approximate number of people who might be attending;
- (b) the location of the venue and access to it for people with physical disabilities via public and private transport;
- (c) the number of staff members of the Council to be made available to ensure the smooth administration of the meeting; and
- (d) the provision of security for both members of the Municipality as well as members of the local community attending the meeting and the vehicles.

9. COMMUNICATIONS TO LOCAL COMMUNITY

- 1 When anything must be notified by the Municipality through the media to the local community under these by-laws of any other applicable legislation, it must be done through one or more of the following:-
 - (a) in the local newspaper or newspapers of its area and in the appropriate language for its area;
 - (b) in a newspaper or newspaper circulating in its area and decided by the Council as a newspaper of record;
 - (c) by means of radio broadcasts covering the area of the Municipality;
 - (d) by means of the distribution of flyers and pamphlets; or
 - (e) by means of sending a message in a website, provided the letter is not used as the only form of communication.
- 2 When the Municipality invites the local community to submit written comments or representations on any matter before the Council, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the Municipality named in the invitation, will help that person to transcribe that person's comments or representations.

10. COMMUNITY PARTICIPATION IN THE INTERGRATED DEVELOPMENT PLAN AND BUDGET

Municipality shall allow community to make inputs in the development of the Integrated Development Plans and Budget and will follow the processes below:

- 1 Once the Municipality has formulated a process set out in writing to guide the planning, drafting, adoption and review of its integrated development plan, the Municipal Manager must through appropriate mechanisms, processes and procedures set out in these by-laws, consult the local community before adopting the process.
- 2 The notification to the local community may take place in a suitable manner provided for in this by-law.
- 3 The notification carrying the written process as referred to in subsection 1 and 2 must inform the community about their rights and duties for input required on the integrated development plan as well as how the community may go about commenting on such a process.
- 4 The notice should also include the particulars of the process which the Municipality intends to follow.
- 5 The Municipal Manager must ensure that the publication setting out the process, specifies a date, time and/ or place or where input from the community may be submitted.
- 6 Once the Municipality has finalised its integrated development plan under Chapter 5 of the Systems Act 32 of 2000, it must within 14 (fourteen) days of the adoption of such a plan give notice to the public in a manner provided for in these bylaws as well as make available copies of or extracts of the plan for public inspection at specified places and publicise in the local newspaper a summary plan.

11. OFFENCES AND PENALTIES

The following offences will be penalised as follows:

1. Any person who contravenes or fails to comply with a provision of this by-law or a notice issued in terms of this by-law or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence elsewhere in this by-law, shall be guilty of an offence and liable upon conviction to:

- (a) a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and such imprisonment or both such fine and such imprisonment;
 - (b) in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
- 2 A further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

13. SHORT TITLE AND COMMENCEMENT

This by-law shall be called the By – Law Relating to Public Participation and shall come into effect after being published in the Provincial Gazette.