



POLOKWANE MUNICIPALITY'S: DRAFT WARD COMMITTEES BY-LAW 2016

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WARD COMMITTEE BY-LAW 2016

Preamble

WHEREAS the **Constitution of the Republic of South Africa, 1996, Chapter 7 Section 152** defines the aims of local government;

AND WHEREAS the **Local Government: Municipal Structures Act, 117/1998-Section 73 and 74** sets out the establishment and functions of Ward Committees;

AND WHEREAS the **Local Government: Municipal Systems Act, 32/2000** stipulates public participation opportunities the community can expect from municipalities;

AND WHEREAS the **National Guidelines For the Establishment and Operations of Municipal Ward Committees-2005** details the setting up and running of Ward Committees;

AND WHEREAS the **National Framework: Criteria for determining Out Of Pocket Expenses For Ward Committee Members-2009** outlines the remuneration criteria for Ward Committee allowances;

NOW THEREFORE this document constitutes a By-law on the **Establishment and Operations of Ward Committees** within **Polokwane Local Municipality**.

1. Legislative Framework.

The Constitution of South Africa (Act no.108 of 1996) mandates local government to provide a democratic and accountable local government and encourages the involvement of communities and community organisations in the matters of local government.

Measures were introduced to entrench community participation and to transform the local government functions by emphasising development with a strong element of community participation within the developmental framework. Local Government: Municipal Systems Act, 32/2000 .

Developmental Local Government is defined as “local government committed to working with citizens and groups within the community to find sustainable ways to meet social, economic, and material needs and improve the quality of their lives” (RSA. 1998, section B).

Local government legislation makes provision for local authorities to establish a system of participatory democracy at the local level in the form of Ward Committees. Local Government: Municipal Structures Act, 117/1998.

These Ward Committees were introduced in municipalities as community structures to play a critical role in linking and informing the municipalities about the needs, aspirations, potentials and problems of the communities. They were established to form the bridge between local municipalities and communities by facilitating proper communication.

2. Establishment of Ward Committees

2.1 A submission is made in line with the provision of Section 72 (1) of the Municipal Structures Act, to establish Ward Committees in terms of Section 73 of the Structures Act.

2.2 Each ward shall have a Ward Committee.

3. Status of Ward Committees

3.1 The object of the Ward Committee is to enhance participatory democracy in local government.

3.2 Ward Committees are:

- (a) An advisory body;
- (b) A representative structure;
- (c) Independent; and
- (d) Must be impartial and perform their duties without fear, favour or prejudice.

4. Functions and Powers of Ward Committees

- 4.1 A Ward Committee may make recommendations on any matter affecting its ward to the Ward Councillor; or through the Ward Councillor, to the Council.
- 4.2 A Ward Committee may have such duties and powers as may be delegated to it by Polokwane Municipality Council in terms of **Section 59** of the Municipal Systems Act, 1998.
- 4.3 Ward Committees serve as official specialised participatory structures in the municipality; the following represents duties and powers that may be delegated to a Ward Committee by Polokwane Local Municipality:
- a. To create formal unbiased communication channels as well as cooperative partnerships between the community and the Council that may be achieved as follows:
- (i) Advise and make recommendations to the Ward Councillor on matters and By-law affecting the ward;
 - (ii) Assist the Ward Councillor in identifying challenges and needs of residents;
 - (iii) Disseminate information in the ward concerning municipal affairs such as the budget, Integrated Development Planning, Performance Management System(**PMS**), service delivery options and municipal properties utilisation.
 - (iv) Receive queries and complaints from residents concerning municipal service delivery, communicate it to Council and provide feedback to the community on Council's response;
 - (v) Ensure constructive and harmonious interaction between the Municipality and community through the use and co-ordination of ward residents meetings and other community development forums; and
 - (vi) Interact with other forums and organisations on matters affecting the ward.
- b. To serve as a mobilising agent for organised community action (non political, chaotic or destructive) within the ward, to be achieved on the following grounds:
- (i) Attending to all matters that affect and benefit the community;
 - (ii) Acting in the best interest of the community;
 - (iii) Ensuring the active participation of the community in:
 - Service payment campaigns;
 - The Integrated Development Planning process,
 - The municipality's budgetary process;
 - Decisions about the provision of municipal services; and
 - Decisions about by-laws.
- 4.4. No executive powers may be delegated to any Ward Committee member.
- 4.5. A Ward Committee may express dissatisfaction in writing to the municipal council on the non-performance of a Ward Councillor through the office of The Speaker of Council.

- 4.6. A Ward Committee may conduct an annual satisfaction survey in order to assist the committee in the execution of its functions and powers. The satisfaction survey shall be administered in the ward by Ward Committee members under the supervision of the Ward Councillor and with the administrative support of the Municipality.

5. Composition of Ward Committees

- 5.1 A Ward Committee must consist of:
- A Ward Councillor of that particular ward who is the Chairperson of the committee
 - At least ten members may be elected.
 - Political parties may not be represented.
- 5.2 The procedure for electing members must take into account the need for women to be equitably presented in a Ward Committee and for a diversity of interests in the ward to be represented.
- 5.3 A diversity of interests may be pursued by ensuring the inclusion of as many as possible of the following interest groups on a Ward Committee:
- Special focus groups (Senior citizens, people living with disabilities, youth & women)
 - Religious groupings;
 - Sports, arts and culture;
 - Health and welfare;
 - Business;
 - Environment;
 - Education;
 - Community safety forums;
 - Community based organisations;
 - Ratepayers' associations;
 - Traditional leaders;
 - Agricultural associations;
 - Informal traders' associations;
 - Farm workers
- 5.4 The Ward Committee must appoint a secretary and assistant secretary from its membership to fulfil relevant duties of the Committee, **other than the Public Participation Officer who serves as the secretary during meetings.**
- 5.5 A Ward Councillor may delegate in writing the chairing of a meeting to a Ward Committee member in his/her absence.
- 5.6 A Ward Committee may establish one or more sub-committees necessary for the performance of its functions and to involve organisations more extensively.

- 5.7 The Ward Committee and sub-committees may meet together as a ward forum for major discussions.
- 5.8 All stakeholders in the ward must be encouraged to participate in sub-committees that are relevant to their fields of interest and to their day-to-day functioning as a Sector.

6. Membership Criteria for Ward Committees

The following election criteria shall be applied for electing Ward Committee members:

- 6.1 In order to participate and be elected as a ward committee member, a person must be a South African citizen and must be 18 years and older.
- 6.2 A person must be a **registered voter** in the ward and reside within a particular village/zone or area where elections are conducted.
- 6.3 A **voters' roll** shall be utilised to manage the election process.
- 6.4 Members have to be active in the sector or geographic area they represent. They should be motivated to work on the Ward Committee by their commitment to working for a better life for members of their constituency.
- 6.5 A person is not eligible for election if he/she is employed by Polokwane Municipality or Capricorn District Municipality;
- 6.6 A member of the National Assembly, the National Council of Provinces or a Provincial Legislature cannot be elected;
- 6.7 No person whose municipal services account for rates and service charges is in arrears for more than 3 months shall be eligible for election as member of a Ward Committee, **unless the nominee has lodged a written dispute in this regards.**
- 6.8 A person who wishes to be elected to the Ward Committee shall not be an un-rehabilitated insolvent.
- 6.9 Anyone who has been convicted of an offence and sentenced to imprisonment without the option of a fine, and persons of unsound mind who have been declared so by a competent court cannot be elected.

7. Nomination & Election Procedure

Sectoral and geographic representation models shall be applied respectively considering the dynamics of each cluster **or ward**.

I. NOMINATION PROCEDURE

- a. Nomination forms must be completed and submitted two weeks before the elections.
- b. Notwithstanding subparagraph a. above, nominations will be allowed from the floor on the day of the elections.
- c. In the event that a candidate is elected through a nomination allowed from the floor as in b. above, and it is found that such a candidate does not comply with the qualification criteria set in paragraph 6 of this By-law, such a candidate will be automatically removed due to non-compliance and replaced by the next in line nominee with the most votes received.

II ELECTION PROCEDURE:

7.1 Hybrid (Sectoral and Geographic) election model: Identification of Interest Groups

- a. **The Office of the Speaker, in consultation with the Ward Councillor** identifies the key performance areas of each ward, for example local economic development and basic services. The list of key areas of interest provided for under "Composition of Ward Committees" may be used for this purpose;
- b. **The Council identifies the geographical area or villages or clusters of farms that will represent an equitable spread of the residents in the ward;**
- c. The council invites interest groups to state their interest in and concern with any of the key performance areas;
- d. The council identifies the groups that have a demonstrable interest in any of the key performance areas and represent residents of the area; and
- e. The council identifies the clusters of interest groups (no more than ten) that qualify for election.

7.1.1 Elections shall take place as follows: Option1 – within the ward

- a. The Ward Councillor calls a meeting in the ward for the election of a Ward Committee;
- b. Only residents who are registered voters may vote at the meeting;
- c. In each cluster, identified groups nominate a representative;

- d. The meeting votes by majority (50% plus one) for a representative of that cluster. If no one obtains the majority the three candidates who received the most votes proceed to the next round.

7.1.2. Election shall take place as follows: Option 1-within the ward

- a. The Ward Councillor calls a meeting in the ward for the election of a Ward Committee.
- b. Only residents who are registered voters may vote at the meeting.
- c. Each geographical area or village or cluster of farms nominates representatives (maximum of three).
- d. The meeting votes by majority (50% plus one) for a representative of each village, geographical area or cluster of farms.

7.1.3. Election shall take place as follows: Option 2-within the council

- a. The Municipal Council calls a meeting of all Councillors for the election of Ward Committees to which all residents have been invited to attend.
- b. All councillors are entitled to vote at the meeting.
- c. Each geographical area, village or cluster of farms will nominate a representative.
- d. The meeting votes by majority (50% plus one) for a representative of each geographical area, village or cluster of farms.
- e. Voting may take place by a majority show of hands or formal ballot.
- f. In wards where communities or structures are known to be highly politicised, a formal ballot process shall be followed.
- g. The election process shall be co-ordinated by the administrative division of the Municipality, through the Public Participation Strategic Business Unit and/or with the Independent Electoral Commission (IEC) with the consent of the Municipal Council.

7.3 The following election procedures are proposed:

- a. The Ward Councillor and office of the Speaker must co-ordinate a schedule of meetings for election purposes.
- b. The Ward Councillor and administrative assistant must ensure that:

- (i) Women are equitably represented.
- (ii) Meetings are fully representative of almost all sections, villages or stakeholders within the ward.
- (iii) Although no quorum for the elections is required, an attendance register shall be completed.
- (iv) All people taking part are registered voters of that ward.

8. Conduct of members of a Ward Committee

8.1 A member of the committee:

- a. Must perform the functions of the committee in good faith and without fear, favour or prejudice.
- b. May not use the position or privileges of a member for private gain, or to improperly benefit another person.
- c. May not act in any other way that compromises the credibility, impartiality, independence or integrity of the committee.
- d. Must adopt the principle of accountability to the community and all political parties represented in Council.
- e. Must be accessible by the community and ensure that all role players can relate to the process and the issues at hand and are able to make their input into the processes of the committee.
- f. Must adopt the principle of transparency to promote openness, sincerity and honesty among all the role-players in a participative process and promote trust and respect for the integrity of each role-player and a commitment by all to the overriding objectives of the process in the interest of the common good.
- g. Must recognise diversity and understand the differences associated with race, gender, religion, ethnicity, language, age, economic status and sexual orientation, among others.
- h. Must embrace all views and opinions in the process of community participation. (Special effort should be made to include previously disadvantaged persons and groups, including women and youth in the activities of the Ward Committee.)
- i. Must provide an apology with a valid reason to the Chairperson of the committee if a meeting cannot be attended.

8.2 Ward Committee members must sign a Code of Conduct, which shall be administered by the Ward Councillor.

9. Setting of dates by the Speaker

9.1 Within 14 days after the adoption of this By-law by Council, the Speaker shall, in consultation with the PPU administrative team set dates by which:

- a. The respective Ward Councillors shall recommend as well as the sectors to be represented in his / her ward and the number of representatives per sector(for sectoral representation);
- b. Ward meetings shall be held for geographic representation.

10. Community Development Workers (CDWs)

10.1 Community Development workers (CDWs) are public officials who work with Municipalities where they reside to bridge the gap between service provision by government and access by the community. CDWs serve to link communities with all spheres of government and departments. They are community facilitators whose functions include:

- a. Developing and supporting community structures.
- b. Facilitating public participation in government development projects.
- c. Identifying service blockages in the community and find solutions to identified needs by interacting with all spheres of government and their structures.
- d. **CDW's must be formally introduced to the newly established ward committees**

11. The link between Ward Committees and CDWs

- (i) CDWs shall attend Ward Committee meetings and offer advice.
- (ii) Ward Committees have to be familiar with the CDWs in their area.
- (iii) CDW's must be able to resolve coordination challenges between spheres of government that arise at local level.

12. Ward Committee meetings

12.1 Chairperson

- (i) Ward Committee meetings are convened and chaired by the Ward Councillor.
- (ii) Members of the Ward Committee must submit items to be discussed, well in advance to the Chairperson.
- (iii) The Chairperson will be responsible to prepare an agenda for Ward Committee meetings through administrative support from Council officials (PPO).

12.2 Frequency of meetings

- (i) Ward Committees shall hold committee meetings on a monthly basis to consolidate ward programs & reports.
- (ii) A committee meeting facilitated by PPU shall be held on a bi-monthly basis, wherein Council officials (PPO) will provide administrative and secretarial support.
- (iii) All Ward Committees of Polokwane Local Municipality should as far as reasonably possible adhere to the same meeting intervals

12.3 Quorum and decisions

- (i) Majority of Ward Committee members must be present before a vote may be taken on any matter (50% + one member).
- (ii) A Ward Committee shall endeavour to take decisions based on consensus.
- (iii) If consensus on any matter cannot be achieved, such matter may be determined by a supporting vote of at least the majority of the members of the committee (50% +one of the committee members present).

12.4 Public meetings (ward meetings)

- (a) Public meetings are mainly held in order:

- (i) To register the concerns and inputs of the community with regard to service delivery, general development of the community, disaster management and any other municipal concern the community may have; and
 - (ii) To report back to the public on issues that affects it.
- (b) Ward or public meetings shall be chaired by the Ward Councillor. A Ward Councillor may delegate in writing the chairing of the meeting in his/her absence to a Proportional Representative Councillor or any member of the Ward Committee.
- (c) If the committee decides to hold a public meeting it may publish a notice in a newspaper circulating in the area concerned, place posters or distribute flyers stating the time, date and place of the meeting inviting the public to attend the meeting or meetings.
- (d) The scheduled date, time and place of the public meeting has to be convenient so as to encourage the greatest number of people to attend.
- (e) At a public meeting a representative of the committee must-
- i. Explain the meeting procedures, such as adoption of agenda and time allowed for questions;
 - ii Answer relevant questions;
 - iii Explain the issues the committee has to consider, including any options open to the committee;
 - iv Allow members of the public attending the meeting to present their views on these issues;
 - v Keep minutes of the meeting and inform the public that Ward Committee meeting and public meeting minutes are public documents, and that the community has access to these documents and may make copies at their own cost; and
 - vi Give feedback on previous issues, including reasons if there is a lack of progress.
- (f) Public meetings are not political platforms and Ward Committee members and the public should refrain from making party political statements, campaigning and canvassing.
- (g) For the purposes of participation in public meetings, a Ward Committee may keep a register of interest groups and organisations that are active in the ward.

12.5 The venue

- (i) Must be in a well known place;
- (ii) Must be easily accessible and where possible, also disabled-friendly; and
- (iii) Must be large enough to accommodate all people present.

- (iv) Where the jurisdiction of a traditional authority extends to the ward where a public meeting is to be held, the relevant traditional authority should be informed of the public meeting.
- (v) When the committee publishes a notice, it must convey, where appropriate, by radio or other appropriate means of communication, such as direct mail outs and posters or notices in key areas such as clinics, schools, bus stops and libraries, the contents of the notice in the area concerned

12.6 Procedures

A Ward Committee with a supporting vote of the majority of its members may determine its own procedures subject to any directions of the Chairperson.

12.7 Work programme

12.7.1 The Ward Committee:

- (i) Must submit a programme with specific outputs of work for one year to the office of the Speaker or other designated political functionary in July of each year.
- (ii) Must perform the functions as set out to achieve and indicated in the work programme.

13. **Vacancies**

13.1 If a vacancy occurs among members of a Ward Committee, the Ward Councillor must fill a vacancy by declaring as elected the person who received the second highest number of votes in terms of the previous election in consultation with the constituency that elected; and

13.2 If nobody can be declared elected in the above manner, the election process must be repeated.

14. **Dispute resolution**

The following mechanisms are recommended when disputes arise within Ward Committees:

- (i) Every effort shall be made to deal with disputes.
- (ii) When a dispute arises, the Ward Councillor shall appoint a person or persons, the maximum being two, to attempt and resolve the dispute through mediation.
- (iii) If the attempt at mediation fails, the matter is then submitted to the Ward Councillor who shall arbitrate, provided that the matter does not involve the councillor and the majority of the members of the committee.
- (iv) If the majority of committee members remain aggrieved, the matter must be taken to the council through The Office of The Speaker. This should be avoided as far as possible.

15. Termination of membership

15.1 A member of a Ward Committee remains a member of the Ward Committee unless one of the following conditions arise:

- (i) Death;
- (ii) Resignation;
- (iii) Relocation from ward;
- (iv) Election to position of Councillor
- (v) Failure to attend three consecutive meetings of the Ward Committee without apology;
- (vi) Proven involvement in corruption;
- (vii) Failure to adhere to meeting procedures or misconduct during Ward Committee meetings;
- (viii) Not submitting priorities with the mandate of the community;
- (ix) Being involved in proven activities that undermine the Council or Ward Councillor's authority;
- (x) Dismissed in accordance with a resolution of the Ward Committee or by the Executive Mayor or Executive Committee Of The Council in consultation with the Ward Councillor and the Speaker;
- (xi) Ceases to be a member of the organisation he/she represents;
- (xii) Is insolvent or declared mentally incompetent by a competent court.

16. Dissolution of Ward Committee

16.1 A Ward Committee may be dissolved by the Speaker, where it fails to fulfil its role and functions. For the purpose of this rule "failure to fulfil its role and functions" includes:

- (i) when the Ward Committee has failed to hold three consecutive scheduled meetings;
- (ii) when its members decide by majority to dissolve the Ward Committee;
- (iii) when maladministration, fraud, corruption or any serious malpractice is occurring or has taken place;
- (iv) such other reasons which in the discretion of the Speaker make it impossible for the Ward Committee to continue to fulfil its role and functions.

16.2 The procedure for the dissolution of a Ward Committee is as follows:

- (i) The Speaker shall, after written notice has been given, afford the Ward Committee the opportunity to respond within 14 days of the date of the notice regarding its failure to observe its role and functions, and the circumstances thereof.
- (ii) Should the Speaker after considering all the facts and circumstances still remain of the view that the Ward Committee has failed to fulfil its role and functions, he/she shall dissolve the Ward Committee on such date as he/she may determine.
- (iii) A new Ward Committee must be reconstituted in terms of the prescribed process.

- (iv) All Ward Committees in the Municipality will disestablish on the expiration of the term of office of the current municipal council.

17. Term of office

Subject to rule 16 members are appointed / elected for a period not exceeding the term of office of the current council.