

# **RUSTENBURG LOCAL MUNICIPALITY**



**DRAFT**

**PUBLIC PARTICIPATION BY-LAW**

## DRAFT BY-LAW

### RUSTENBURG LOCAL MUNICIPALITY BY LAW ON PUBLIC PARTICIPATION 2018

The purpose of this By-law is to establish well-structured suitable communication channels and *inter alia* encourage and create conditions in respect of rules, forms, procedures, appropriate mechanism, and processes to enable the local community to participate in the affairs of the Municipality within the jurisdiction area of Rustenburg Local Municipality and to repeal the by-law on Public Participation.

#### PREAMBLE

The Municipality acknowledge that it is committed to the development of a culture of municipal governance. The municipality has legislative authority to make by-laws about public participation pursuant to the provisions of the Local Government: Municipal Systems Act (No. 32 of 2000), and therefore recognises its mandate as contemplated in the Constitution of the Republic of South Africa, 1996;

The Rustenburg Local Municipality is committed to good governance and democratic principles. It understands that public participation is an essential ingredient for good governance in any democratic country. It believes that public participation is a means to improve 'democratic performance' i.e. the degree to which a government decision making process live up to democratic ethos. It understands that it cannot, on its own, find solutions to address the complex challenges facing the municipality. Thus, it believes that it can improve this 'By-Law performance' and the delivery thereon by working closely with citizens, communities, civil society organisations, interests groups, businesses, faith based organisations, traditional leaders and other stakeholders. Through this By-Law the Rustenburg Local Municipality commits itself to establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality in terms of the provisions of Local Government: Municipal Systems Act No. 32 of 2000.

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### DEFINITIONS

In this by-law, unless the context indicates otherwise-

Council	Council of the Rustenburg Local Municipality
Ward	A geographically demarcated area in the Municipality as stipulated by the Municipal Demarcated Board.
Ward Councillor	A municipal councillor elected in terms of section 22 (1)(b) of the Structures Act, to represent the population of a demarcated council Ward
Ward committee	Committee established in terms of Section 73 of the Municipal Structures Act
Community	Residents of and all stakeholders in a Ward, total ward community duly represented by an elected Ward Committee
Municipality	When referred to as an entity means as described in section 2 of the Local Government: Municipal Systems Act, act No. 32 of 2000 and

	When referred to as a geographic area means the municipal area determined in terms of the Local Government: Municipality Demarcation Act, ACT No. 27 of 1998
Stakeholders	Persons and organisations that are actively involved or whose interests may be positively or negatively affected by execution or completion of a project or resolution. They may also exert influence over the decision or project and its deliverables.
Public Participation consultation	Is an open accountable and inclusive process through which individual, citizen's community and interests' groups, and other stakeholders can exchange views, make or influence the decisions that affect their lives.
Structures Act	The Local Government: Municipal Structures Act, Act No. 117 of 1998, as amended.
Systems Act	The Local Government: Municipal Systems Act, Act No: 32 of 2000, as amended.

## 1. FOUNDING PRINCIPLES OF THE BY-LAW

This By-Law motions the Municipality's aims to not only accomplish its constitutional obligation to facilitate public participation in its decision-making process, but to do beyond the means. Public participation is the cornerstone of democracy. The Constitution of the Republic of South Africa, 1996 embraces both representative and participatory democracy. It entrenches the right of citizens to elect their representatives into government and it also imposes state obligations to facilitate participatory democracy. These include inter alia the right of access to information; the right to equality; right to have their dignity respected and protected; the right to freedom of belief and opinion; right to freedom of expression; right to assembly, demonstration, picket and petition; the right to education and the right to citizenship;

There are several constitutional provisions mandating the Municipality to facilitate public participation. Section 195 of the Constitution sets out the values and principles governing public administration and states that "people needs must be responded to and the public must be accountable, and transparency must be promoted by providing the public with timely, accessible and accurate information".

## 2. OBJECTIVES OF PUBLIC PARTICIPATION

2.1 Below are the objectives of public participation: intentions

- a) To develop a culture of community participation through the creation of conditions for local communities to participate in the affairs of the municipality;
- b) To provide an approach which underlies all of the Government's interaction with communities;
- c) To assist disadvantaged communities to participate effectively in the system of local government;
- d) To provide a conceptual basis for following up specific areas to promote community action and dialogue;
- e) To suggest some practical approaches which can be taken forward to make public participation a reality;
- f) To meet the statutory requirements on community participation as spelled out in the constitution of the country and the Municipal Systems Act no. 32 of 2000;
- g) To promote the values of good governance and human rights;
- h) To build an open, transparent and accountable Municipality.

### 3. DEVELOPMENT OF CULTURE OF COMMUNITY PARTICIPATION

In giving effect to section 16 of the Systems Act and as set out in the schedules hereto, the Office of the Speaker must ensure that for this purpose-

- 3.1 The Municipality employs sufficient staff members, other than councillors, who may help informing and educating the local community about the affairs of the municipality, in particular in the areas referred to in section 16 (1)(a) of the schedule;
- 3.2 That all the staff members, including councillors referred to in section 2.1 are trained in the basic knowledge of the areas referred to;
- 3.3 The municipality encourages and creates conditions for the local community to participate in the affairs of the municipality, including in:
  - 3.4 The preparation, implementation and review of its performance management system;
  - 3.5 The preparation, implementation and review of its integrated development plan
  - 3.6 The preparation of its budget; and strategic decisions relating to the provision of municipal services.

#### **4 MACHANISMS, PROCESSES AND PROCEDURES**

4.1 The Office of the Speaker must notify the public of all the available methods for participation. Notification may take the form as provided for in this By-Law.

4.2. The Municipality must, when implementing methods for public participation provide-

4.2.1 For a staff member to help members of the community who cannot read and write;

4.2.2 Appropriate access to public meetings and hearings for people with physical disabilities; and

4.2.3 A translator, where appropriate after having assessed the language preferences and usage.

4.2.4 The office of the Speaker is responsible to facilitate any public participation programs

#### **5. COMMUNICATION OF INFORMATION REGARDING COMMUNITY PARTICIPATION**

5.1 The municipality must communicate to the Rustenburg local municipality community information concerning; -

5.1.1 The available mechanisms, processes and procedures to encourage and facilitate community participation;

5.1.2 The matters with regard to which community participation is encouraged;

5.1.3 The rights and duties of members of the local community;

6.1.4 Municipal governance, management and development

#### **6. METHODS FOR PUBLIC PARTICIPATION**

6.1 The office of the Speaker 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 affair of the municipality on which the community's input is required, which may include, *inter alia*;

6.1.1 Public meetings and hearings by the council and other political structures and office bearers of the municipality,

6.1.2 Consultative sessions with locally recognised community organisations and traditional authorities,

6.1.3 Izimbizo/Mayoral outreach programmes

6.1.4 The submission of written public comment

## **6.2 Invitation for public comment and open sessions**

6.2.1 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-

6.2.1.1 The identification of the needs of the community in the municipal area, including the prioritisation of those needs for the purpose of assisting the council;

6.2.1.2 On strategies, programs and services to address their priority needs through the Integrated Development Plan for the purpose of assisting the council;

6.2.1.3 In the development, implementation and the review of the council's Performance Management System, including the setting of appropriate Key Performance indicators and Performance Targets for the Municipality, for the purpose of assisting the council.

6.2.1.4 The views and comments of the public and the interested organisations on any proposed tariff as contemplated in section 74 of the Systems Act as well as debt collection policy

6.2.1.5 Decisions on mechanisms for the provision of services through service delivery agreements and the other matters referred to in section 2 of this policy

6.2.1.6 The relevant directorate must, after the council has held an open session on any of the matters contemplated in this policy or other relevant legislation and after concluding of the session concerned:

6.2.1.6.1 Formulate a full report thereon together with any advice or recommendations that council may deem necessary or desirable.

6.2.1.6.2 Make copies of the report available to the community in one or more of the following manners:

a) By publication in the local newspaper;

b) Placing a copy on the notice board at the council's offices;

c) and Office of the Speaker to provide every councillor of each ward with copies for distribution to the communities

6.3 The relevant directorate with assistance by the office of the Speaker must ensure that the report is published in accordance with the council's language policy to the municipal area.

#### **6.4 Public meetings and hearings by the Municipality**

6.4.1 Notwithstanding the provisions of section 8 of the Systems Act, the affected directorate with the office of the Speaker must publish an appropriate notice and in a manner provided for in this By-Law, notifying the community of any public meeting and / or hearing arranged to discuss and consider By-Laws and policies.

6.4.2 Any such public meeting and or hearing must take place within 7 (Seven) days of the office of the Speaker having notified the Community of the important issues raised and considered by the council and after it had called for comments, if any.

#### **6.5 Comments via electronic mail**

6.5.1 The affected directorate together with Information and Technology Unit and the office of the Speaker must provide the public with central email address, whereby members of the local community may submit written comments directly to the municipality on any matter referred to in this By-Law and/or other relevant legislation.

6.5.2 The Municipality's website must also provide a facility for the members of the public to provide comments of any nature and any matter to the municipality, without necessarily allowing for abuse of the facility;

6.5.3 The office of the Speaker must ensure that the comments are addressed regularly and collated by a member specifically allocated to this task.

6.5.4 A social network in the name of the municipality must be established for the community to interact with the municipality on any matters of interests as detailed in this By-Law

#### **6.6 Notification**

6.6.1 Whenever the council:

- a) holds a meeting as provided for under this By-Law
- b) holds a session about any matter contemplated in this By-Law or any relevant legislation;
- c) holds a public meeting on any other matter decided by the council that warrants notifying the community in terms of this By-Law within a reasonable period

The aforesaid matters should be advertised in one or two community newspapers circulating in the Municipal area according to the Council's language policy for a reasonable period before the event.

6.6.2 Copies of all notices must be posted at:



- 6.6.2.1 The notice board located at the Customer Care Centres;
- 6.6.2.2 All libraries in the municipal area
- 6.6.2.3 Ward information centres; or
- 6.6.2.4 such other place/s as may be determined by the ward committee

## **7 PUBLIC NOTICE OF A COUNCIL MEETING**

- 7.1 The office of the Speaker must give notice to the public in manner provided for in section 19 of the Systems Act setting out the time, date and venue; whenever there is a scheduled,
  - 7.1.1 Ordinary meetings of council; and
  - 7.1.2 Special urgent meeting of council; except when circumstances make this impossible.

## **8. VENUE FOR PUBLIC MEETINGS AND HEARINGS**

The office of the Speaker must make use of an appropriate venue for any public meeting and/or hearing as provided for in this By-law in terms of:

- 8.1 The size of the venue after gauging and taking into consideration the approximate number of people who might be attending;
- 8.2 The location of the venue and access to it via public and private transport;
- 8.3 The amount of staff members of the council to be made available to ensure the smooth running of the administration of the meeting; and
- 8.4 The provision for security for both the members of the municipality as well as members of the local community attending the meeting.

## **9. COMMUNICATION TO LOCAL COMMUNITY**

- 9.1 Whenever anything to the community through the media under this By-Law or any other applicable legislation, it must be done through one or more of the following;
  - 9.1.1 In the local newspaper/s of its areas and in the appropriate language for its area;
  - 9.1.2 In a newspaper/s circulating in its area and having been approved by council as its newspaper of record;
  - 9.1.3 Radio broadcast covering the area of the municipality;
  - 9.1.4 Distribution of flyers and pamphlets at such points as might be determined by the ward committee;

- 9.1.5 Loud-hailing using a public-address system; or
- 9.1.6 Announcement/s at public meeting/s
- 9.1.7 Pasting posters at all ward information centres;
- 9.1.8 In the municipality's official website; and
- 9.1.9 The social network in the name of the municipality

## **10. COMMUNITY PARTICIPATION IN THE INTEGRATED DEVELOPMENT PLAN (IDP) AND BUDGET**

The council must follow the procedure that is stipulated in terms of chapter 4 of the Municipal Systems Act, section 16 (a)(1) by developing a system of participatory governance for the IDP when reviewing it and also adhere to the requirements of the act. The Council must also in terms of chapter 4 of the Municipal Finance Management Act (Section 16), annually approve its budget before the start of that year. Section 22 stipulates that before final consideration, the draft budget should be made available to the public for their comments. The procedure below should be followed in each ward:

10.1 Once the council has formulated a Process Plan setting out a guide for the planning, drafting, adoption and review of its Integrated development plan, the IDP; Budget office and Office of the Speaker must through appropriate mechanisms, processes and procedures set out in this policy consult the local community before adopting the process.

10.2 The notice must inform the community about their rights and duties for input required on the integrated development plan as well and how to go about commenting on such a process.

10.3 The IDP and Budget and Treasury office, with consultation with the office of the Speaker must ensure that the publication does specify a date, time and/or place or where the input from the community may be submitted.

10.4 the following stakeholders must be invited to the public participation:

- a) each ward residents
- b). mayoral committee
- c). Municipal Directors
- d). ward councillor and IDP specialist must be present

10.5 Once the municipality has finalised its integrated development plan, it must within 14(fourteen) days of the adoption of such a plan, give notice to the public in a manner provided

for in this by-law as well as make available copies of or extracts for public inspection at specified places and publish in the local newspaper a summary of the plan.

#### **11. PETITIONS AND COMPLAINS**

11.1 Petitions will be addressed in terms of the By-Law on petitions

#### **12. ROLE OF THE WARD COMMITTEES IN ENHANCING PUBLIC PARTICIPATION**

12.1 The role of the ward committees in enhancing public participation is provided in the promulgated by-law on ward committees.

#### **13. ROLE OF WARD COUNCILLOR IN ENHANCING PUBLIC PARTICIPATION**

13.1 Ward Councillors must convene and be present in all public participation processes / meetings on monthly basis in their respective wards, for amongst others the following purpose:

13.1.1 Abreast members of the community on service delivery agenda of the municipality and other developmental matters provided in this by-law;

13.1.2 Allow members of the community to exchange views, make or influence decisions that affect their lives.

#### **14 SHORT TITLE OF BY-LAW AND REPEAL OF PREVIOUS BY-LAW**

14.1 This by-law shall be called the Rustenburg Local Municipality: By-Law Public Participation 2018.

14.2 This by law will be effective from the date of Promulgation in the Government Gazette.

14.2 This By-Law will be applicable in the jurisdiction of the Rustenburg Local Municipality.