



EKURHULENI METROPOLITAN MUNICIPALITY

PETITIONS BY-LAW

[COUNCIL RESOLUTION: A-RC (12-2015) DATED 23 June 2016

[Date of Commencement: 20 JULY 2016]

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1. DEFINITIONS

For the purpose of this By-law, any word or expression to which a meaning has been assigned in the Act, shall bear the same meaning in this By-law, and unless the context indicates otherwise:–

“Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Assigned Official” means employee assigned for purposes of giving effect to implementation, management and execution of this by-law;

“Council” means the Municipality’s body of elected ward and proportional representative councillors, established in terms of Municipal Structures Act;

“Councillor” means an elected municipal councillor in terms of section 22 of the Municipal Structures Act;

“HoD” means Head of Department;

“MMC” means Member of the Mayoral Committee;

“Municipality” means Ekurhuleni Metropolitan Municipality established in terms of section 12 of the Municipal Structures Act;

“Petition” means a written complaint or request or a representation or submission addressed by a petitioner to the Municipality on a matter in respect of which the Municipality has jurisdiction;

“PPPSC” means a Petitions and Public Participation Standing Committee established in terms of section 79 of the Municipal Structures Act to attend and resolve petitions;

“Petitioner” means a person who submits a petition in terms of this By-Law;

“**Speaker**” means a chairperson of council and municipal councillor elected in terms of section 36 of the Municipal Structures Act.

2. LEGISLATIVE FRAMEWORK

The Constitution of the Republic of South Africa, 1996

Local Government: Municipal Systems Act, 2000 (Act.32 of 2000)

Gauteng Petitions Act, 2002 (Act No. 5 of 2002)

Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000)

Promotion of Access to Information Act, 2000 (Act No.2 of 2000)

Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

3. PURPOSE OF THIS BY-LAW

- (1) The purpose of the Petition By-law is to provide for mechanisms by which the public may participate in the affairs of the municipality; openness, transparency and accountability on the part of the Council, its political structures and its administration by providing for citizens to exercise their right to petition.

- (2) In setting out the objectives, processes and procedures, this By-law aims to achieve the following:
 - (a) To establish a formal process detailing the procedures by which petitions will be dealt with in an effective and efficient manner;
 - (b) To establish time frames within which a petition will be dealt with;

- (c) To ensure that the process is transparent by effectively communicating the formal procedure to members of the public; and
- (d) To increase awareness and educate members of the public of the petition process.

4. RIGHT TO PETITION

- (1) Any person who is a resident of Ekurhuleni may submit a petition on any matter within the functional or geographic jurisdiction of the Municipality in terms of this By-law provided that the procedure contemplated in this By-law has been complied with.
- (2) A petition may be submitted by any person acting-
 - (a) as a member of or in the interest of a group or class of persons; and
 - (b) in the public interest.
- (3) A petition must be signed by at least 1 or more residents and handed to the relevant office as contemplated in this by-law.
- (4) A group that signs a petition must nominate not more than 3 people to hand in the petition.

5. PROCEDURE FOR SUBMISSION OF A PETITION

- (1) A petition must-
 - (a) be submitted to the Office of the Speaker by any person or Councillor during Council meeting, and the Councillor may not mention or divulge the content of the petition, except to state the subject of the petition; and
 - (b) include the signatories of the Petitioners.
 - (i) the identity numbers of the petitioners and or Coordinators

- (ii) the area where Petitions come from; and
 - (iii) the petitioners must be from the ward in question and
 - (ii) contact details of the Petitioners.
- (c) The assigned officials must open all petitions and record details such as-
 - (i) date of receipt of the Petition;
 - (ii) time received;
 - (iii) name identity number and contact details of a Petitioner; and
 - (iv) short description of the content of the Petition.
- (2) All petitions must be recorded in the petitions' register.
- (3) The assigned officials must render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition but meeting all the requirements imposed by this by-law so that the person may properly submit a petition.

6. PROCEDURE FOR CONSIDERATION OF A PETITION

- (1) The assigned officials must-
 - (a) take all prescribed steps to prepare the Petition for consideration by the Committee;
 - (b) acknowledge in writing receipt of the Petition to the parties involved within two(2) working days after receipt of the Petition;
 - (c) register every Petition received in the Petitions' register immediately after receipt of a Petition;
 - (d) open a file for every Petition received;
 - (e) meet with representatives or representative of petitioners within two days of receipt of petitions to seek clarity and more information on the petition;
 - (f) two days after meeting with petitioners, meet with relevant department officials to share information on the petitions;

(g) a day after meeting with relevant department, refer the Petition to the relevant department within the Municipality for comments and such comments must be provided within five (5) working days;

(h) inform the representative of petitioners of the date, time and venue for the petition to be considered and that the representative of petitioners attend that sitting of the Committee;

(i) inform the petitioner of other remedies available, if any;

(j) make the petitioner aware of the fact that the petitioner has access to the petition file at all reasonable times;

(k) from time to time, inform the Petitioner of progress in respect of the consideration of a Petition; and

(l) communicate any decision taken by the Committee in respect of a Petition.

(2) The following steps need to be completed before comments are requested from relevant departments:

(a) Refer Petitions outside the scope of jurisdiction of the Council to the relevant institution and inform the petitioner accordingly;

(b) contact the petitioner or the petitioner's representative if there is any matter that is not clear or for any information that is lacking; and

(c) determine the timeframe within which comments (maximum of 5 working days) are expected and follow up with reminders if no response is received and keep proof of the reminders.

(3) All departments should take note of the following:

(a) before commenting on any petition, the relevant departments must, if necessary, conduct inspection *in loco* to obtain relevant information that will assist in responding to the petition;

- (b) the relevant Councillor must be involved in the preliminary investigation and *in loco* inspection contemplated in paragraph 6(3)(a) above;
 - (c) comments must include proposed solutions, financial implications and proposals for an inspection *in loco* if necessary to assist with making an informed decision;
 - (d) compare matters raised in the petition with report to determine if all aspects are addressed;
 - (e) interact with other departments on any ambiguities or lack of clarity; and
 - (f) all reports must include full details of the investigation and proposed solutions including the dates and times of inspections and the dates of directorates' comments.
- (4) In addition to the mandatory comments from the Finance Department and Corporate Legal Services Department, relevant Departments must provide comments on all petitions that affect their Departments.
- (5) Recommendations must be properly formulated to reflect the following:-
- (a) person responsible for the execution of the resolution;
 - (b) timeframe, where applicable within which the resolution must be executed; and
 - (c) a clear indication of what must be executed.

7. CATEGORIES OF PETITIONS

- (1) A petition may-
- (a) be a single petition, which can be termed as "individual submission". Such person must submit a request or lodge a complaint with the Municipality;
 - (b) be an association petition or corporate entity petition submitted by a representative on its behalf concerning a particular complaint or request; or
 - (c) be a collective petition, which is a collection of signatures from a number of petitioners, concerning a particular complaint or request.

8. LIMITATIONS

- (1) The Committee must refuse to consider a petition-
 - (a) falling outside the scope of its powers;
 - (b) concerning a matter pending in a court of law or other tribunal or forum contemplated in the Constitution;
 - (c) in concerning the conviction and sentencing by a criminal court of law of a person to a period of imprisonment;
 - (d) falling outside the powers and functions of the Municipality or its area of jurisdiction; or
 - (e) addressing a matter which falls within the scope of a commission of inquiry established by the National or Provincial Government or a commission of enquiry established by the Council.
- (2) The Committee may refuse to consider a petition which-
 - (a) is illegible;
 - (b) does not state the correct name, identity number and contact details of the petitioner and, where applicable, the name of the association or group on whose behalf the petition is being submitted;
 - (c) has not been signed by the petitioner, except in the case of a petitioner who is unable to write;
 - (d) has a mark thereon as a symbol of authority to submit the petition of which the mark was not made in the presence of two witnesses that the mark is that of the petitioner;

- (e) addresses a matter previously considered by the Committee except if that petition contains new information that may materially impact on the outcome of the consideration of the petition; or
- (f) contains defamatory statements or improper language.

9. ESTABLISHMENT, COMPOSITION AND DURATION OF PPPSC

- (1) Council established PPPSC in terms of section 79 of the Municipal Structures Act;
- (2) The Council shall in a prescribed manner appoint the members of the PPPSC.
- (3) PPPSC shall exist for the duration of the tenure of the Municipality Council.
- (4) At the expiry of the term of electoral period of the Municipal Council, the PPPSC shall be deemed to be dissolved.

10. FUNCTIONS AND POWERS OF THE PPPSC

- (1) The PPPSC has the following functions:
 - (a) Adjudicate on all petitions received and make recommendations.
 - (b) Record the oral submission or evidence of a petitioner given in terms of this by-law.
 - (c) Convene monthly Petitions Committee meetings as per Council calendar.
 - (d) Request a relevant department where a Petition was referred to furnish the Committee with a detailed report on the steps taken by the authority to address the complaint or request.

(e) If the PPPSC refuses to consider a petition in terms of this by-law, they should inform the petitioner in writing of the reasons for its decision.

(f) Report to the Municipal Council on quarterly basis on petitions submitted to it during said period and all its activities in respect of the petitions including the -

(i) responsiveness, efficiency with which petitions were dealt with; and

(ii) number of petitions received and resolved.

(2) The PPPSC has the following powers:

(a) Committee may invite a petitioner to -

(i) supplement the petition with additional oral or written submissions;

(ii) call a witness to present oral or written evidence to the Committee;

(b) the committee recommend to an appropriate or relevant department with a view to settling the request or complaint contained in the petition to the satisfaction of the petitioner;

(c) the committee may recommend to an appropriate or relevant department in respect of the general approach to be followed in future in settling a request or complaint;

(d) the committee may refuse to accept a report from the relevant department, if not signed by the MMC or HoD;

(e) the committee may make a recommendation to refer the petition to-

(i) Council;

(ii) another Committee of Council;

(iii) the Executive Mayor or City Manager;

(iv) a body supporting constitutional democracy established in terms of Chapter 9 of the Constitution;

(f) the Committee may conclude its consideration of a petition if it resolves that no steps, or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner;

(g) the Committee may, if the complaint or request in the petition has since its submission been settled to the satisfaction of the petitioner, close the petition file;
and

(h) the Committee may invite or subpoena relevant department to come and present its case during the Committee meeting.

11. RIGHT OF APPEAL

- (1) Petitioners shall be allowed the right to appeal the decision of the PPPSC to Council within seven (7) working days of such a decision being made, in an event the petitioners are not satisfied with it.
- (2) A formal appeal must be lodged with the Office of the Speaker of Council stating clearly reasons for the appeal.
- (3) Council may appoint an *ad hoc* Committee to deal with the said appeal and submit its recommendation to Council.
- (4) The *ad hoc* Committee has the right to summon any individual it deems necessary to appear before it.
- (5) The appeal process must be finalised by Council within a period of 90 days.
- (6) The decision of Council on the said appeal is final.

12. SHORT TITLE AND COMMENCEMENT

- (1) This By-Law is called Ekurhuleni Metropolitan Municipality Petitions By-law and shall come into effect after being published in the Provincial Gazette.

(2) This By-Law amends, repeals and substitutes all standard procedures relating to petitions, including policies and/or By-Laws of erstwhile Councils which have been merged to establish the Ekurhuleni Metropolitan Municipality.

For Office Use

File: 1/4/1/1/30

Original Council Resolution:

Gauteng Provincial Gazette Number

Local Authority Notice Number

A-RC (12-2015) dated 23 June 2016

247 dated 20 July 2016

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