

KOUGA MUNICIPALITY (EC108)

PUBLIC PARTICIPATION POLICY

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KOUGA MUNICIPALITY (EC108)

PUBLIC PARTICIPATION POLICY

1. Preamble

Local municipalities are compelled by law to ensure that they provide mechanisms for citizens to participate in the affairs of local government.

The National Policy Framework for Public Participation (2007) defines public participation as “an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making”.

The challenge facing local governments in South Africa is to ensure that public participation mechanisms are effective, efficient and actively encourage meaningful participation.

2. Purpose

The purpose of the Policy is to facilitate the institutionalisation of public participation in order to deepen democracy, empower citizens and make the Municipality more responsive to the needs and aspirations of the local community.

3. Definitions

In this Policy, unless the context indicates otherwise –

- a) Constitution** means the Republic of South Africa Constitution Act, 108 of 1996
- b) Council** means the Council of Kouga Local Municipality;
- c) Councillor** means a member of the Council;
- d) Disaster Management Act** means the Disaster Management Act, 57 of 2002;
- e) District Municipality** means a Category C Municipality as envisaged in Section 155 (1)(c) of the Constitution;
- f) Executive Mayor** means the Councillor elected as the Executive Mayor in terms of Section 55 of the Structures Act;
- g) Local community or community** in relation to the Municipality means that body of people comprising the residents of the Municipality, the ratepayers of the Municipality, any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs of the Municipality;

- h) Municipal Finance Management Act (MFMA)** means the Local Government: Municipal Finance Management Act, 56 of 2003;
- i) Municipal Manager** means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act 117 of 1998;
- j) Municipality** when referred to as “an entity” means municipality as described in section 2 of the Local Government: Municipal Systems Act 32 of 2000; and when referred to as a geographic area means a municipal area determined in terms of the Local Government: Municipal Demarcation Act 27 of 1998;
- k) Performance Management Regulations** mean the Municipal Performance Management Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, R805, 1 August 2006;
- l) Petition** means a written statement, proposal or grievance addressed to the Municipality, office bearer or employee of the Municipality and signed by more than fifty residents within the municipal area;
- m) Policy** means the Public Participation Policy;
- n) Promotion of Access to Information Act** means the Promotion of Access to Information Act, 2 of 2000;
- o) Property Rates Act** means the Municipal Property Rates Act, 6 of 2004, as amended in 2009.
- p) Stakeholder** means any individual or group with an interest in a particular issue addressed by Government;
- q) Structures Act** means the Local Government: Municipal Structures Act No. 117 of 1998 as amended;
- r) Systems Act** means the Local Government: Municipal Systems Act No. 32 of 2000 as amended;
- s) Water Services Act** means the Water Services Act, 108 of 1997.

4. Context

Kouga Local Municipality is situated in the Cacadu District Municipality in the Eastern Cape. It covers a total land area of 2419 square kilometres, divided into 15 wards, and has an estimated population of 112 941 square kilometres (Community Survey: 2016). The size and density of the population varies widely from ward to ward. A key challenge is reaching residents over such a large area to obtain their input in public participation with limited resources.

5. Stakeholders

Internal and intergovernmental stakeholders include the Speaker, the Executive Mayor, all councillors and municipal employees. Intergovernmental stakeholders include employees and Councillors of the District Municipality, as well as sector department representatives from Provincial and National Government.

For public participation to succeed, however, it is the external stakeholders that need to be included and encouraged to become actively involved in structures and platforms aimed at enhancing public participation. External stakeholders include civic organisations, political parties, community-based organisations and the municipal area's citizens in general.

6. Legislative Framework

South Africa has a substantial body of legislation and regulations that emphasises the importance of public participation and provides guidelines on how to develop effective mechanisms for public participation. The legislation includes:

- a) Republic of South Africa Constitution Act, Act 108 of 1996 (Chapter 7)
 - (i) Section 152: Objectives of Local Government
 - To encourage the involvement of communities and community organisations in the matter of local government

- b) Local Government Municipal Structures Act, 1998
 - (i) Chapter Two (Section 19) of the Act requires a municipality to strive within its capacity to achieve the objectives set out in Section 152 of the Constitution, namely, to:
 - Develop mechanisms to consult the community and community organisations in performance of its functions and exercising of its powers
 - Annually review the needs of the community and municipal priorities and strategies for meeting those needs and involving the community in municipal processes.

 - (ii) Chapter Four (Part 4) is the section of the Act that requires the establishment of ward committees. The objective is to enhance participatory democracy in local government. Chapter Four also provides that the ward councillor shall be the chairperson of the ward committee and obliges the municipal council to make rules regulating the procedure to elect members of ward committees.

- c) Local Government Municipal Systems Act, 2000
 - (i) Chapter Four of this Act calls on municipalities to develop a culture of municipal governance that works hand in hand with the elected leaders and a system of community participation. The Act also requires that municipalities develop mechanisms, processes and procedures for community participation.

- (ii) Section 5(1) of the Act sets out rights and duties of members of the local community specifically outlines the rights of citizens to:
- Contribute to the decision-making processes of the municipality; and submit written or oral recommendations, representations and complaints to the municipal council
 - Prompt responses to their written or oral communications, including complaints to council
 - Be informed of decisions of the municipal council or another political structure or any political office bearer or the municipality affecting their rights, property and reasonable expectations.
- (iii) Section 16 requires a municipality to develop "a culture of community participation" on issues such as integrated development planning, performance management systems and budgets.
- (iv) Section 16(b) requires a municipality to contribute to building the capacity of the local community to participate in the affairs of the local municipality.
- (v) Section 17 specifies the mechanisms, processes and procedures for community participation. Section 17(1) provides that participation in the affairs of the municipality by the local community must take place through the political structures created for participation in terms of statute such as ward committees and councillors.
- (vi) Section 17(2) requires a municipality to establish appropriate mechanisms, processes and procedures to enable the local community to participate effectively in the affairs of the municipality. The municipality must provide for:
- Receipt, processing and consideration of petitions and complaints lodged by the community
 - Notification and public comment procedures
 - Public meetings and hearings by the municipal council and other political structures and political office bearers of the municipality.
 - Consultative sessions with locally-recognised community organisations and traditional authorities

- Report-back to the local community
 - (vii) Section 17(3) provides that mechanisms, processes and procedures that are developed to enable community participation must also cater for people with special needs such as people who are illiterate and people with disabilities.
 - (viii) Section 18 provides that a municipality must communicate the public participation mechanisms, processes and procedures, as well as matters which require community participation, to the community to encourage and facilitate community participation.
 - (ix) Section 21 prescribes the manner in which the municipality must communicate with its community through the media. Section 21(a) requires that notification of all documents that must be made public in terms of legislation must be displayed at the municipal head office, satellite offices, the media and the official website if the municipality has one.
- d) Local Government Municipal Finance Management Act 2003
- (i) This Act requires a municipality to:
 - Make its budget and supporting documents available to the public
 - Produce an Annual Report which sets out information on:
 - o Municipal activities
 - o Performance against budget
 - o The state of finances, including arrears
 - o The Auditor-General's assessment and the municipal response
- e) Local Government Laws Amendment Act (No.19 of 2008)
- (i) This Act was promulgated to amend selected local government legislation that had already been passed by parliament. Amendments that are relevant to public participation is the amendment to the Local Government Municipal Structures Act, 1998, to provide for amendments to provisions relating to ward committees.
- f) National Policy Framework for Public Participation (2007)
- (i) The Framework lists a number of assumptions that are critical to the success of any public participation system. These include:
 - In South Africa in the context of public participation community is defined as a ward, with elected ward committees. Hence, ward committees play a central role in linking up elected institutions with the people.

- (ii) The Framework lists the following principals that must underpin public participation processes:
- Inclusivity
 - Diversity
 - Building Community Participation
 - Flexibility
 - Accessibility
 - Accountability
 - Trust, Commitment and Respect
 - Integration
 - Batho Pele

7. Roles and Responsibilities

7.1 Speaker

The Speaker is responsible for the overall coordination and integration of public participation processes in the Municipality. He/she is the chair of the Ward Forum and exercises political oversight of the Ward Committee system.

7.2 Executive Mayor

Section 56(3)(g) and (h) of the Structures Act require the Executive Mayor to:

- a) Play a role in the monitoring of public participation by annually reporting on community involvement;
- b) Ensure that public views are taken into account;
- c) Report on the effect of consultation on the decision-making process.

The Executive Mayor is the chair of the Integrated Development Plan Representative Forum.

Sections 21 and 23 of the Municipal Finance Management Act confer specific functions in regard to public participation on the Executive Mayor in regard to the municipal budget.

It is furthermore the responsibility of the Executive Mayor to ensure that public participation is included as a Key Performance Area in the performance

contract of the Municipal Manager as specified in Section 26 of the Performance Management Regulations.

While the Speaker has overall responsibility for public participation, the Executive Mayor has specific responsibility in regard to marketing and promoting the Municipality as a haven for investment and to keep the community abreast of important municipal events and achievements.

7.3 Municipal Manager

In giving effect to sections 16 and 17 of the Systems Act and as set out in this Policy, the Municipal Manager must:

- a) Include public participation as a Key Performance Area and identify measurable indicators in respect of the Managers directly accountable to him/her.
- b) Encourage and create conditions for the local community to participate in the affairs of the Municipality, including in –
 - (i) The preparation, implementation and review of the Municipality's Integrated Development Plan (IDP);
 - (ii) The establishment, implementation, and review of the Municipality's Performance Management System;
 - (iii) The monitoring and review of the Municipality's performance, including the outcome and impact of such performance;
 - (iv) Consideration of draft by-laws;
 - (v) The preparation of the Municipality's budget;
 - (vi) Consideration of the Municipality's Tariffs and Debt Collection policies
 - (vii) Strategic decisions relating to the provision of municipal services.
- c) Ensure that the Municipality employs sufficient staff members, other than councillors, who may help in informing and educating the community about the affairs of the Municipality, in particular, in the areas referred to 7.1(a) herein above.
- d) Ensure that all staff members, including councillors, are trained in the basic knowledge of the areas referred to in 7.1 (a) herein above
- e) Ensure that the Municipality contributes to building the capacity of the community to enable it to participate in the affairs of the Municipality

- f) Establish and notify the public of all the available methods for participation
- g) Ensure that the Municipality uses appropriate venues for public meetings and/or hearings as provided for in this Policy
- h) Develop mechanisms to ensure that the Policy is communicated to all stakeholders

7.4 Councillors

In accordance with Schedule 5 of the Structures Act Councillors “must be accountable to local communities and report back at least quarterly to constituencies on Council matters, including the performance of the municipality in terms of established indicators”.

Since a Ward Councillor is directly elected to represent and serve the people in a specific ward, the Ward Councillor should ensure that the interests of the people in the ward are properly represented. The Ward Councillor should be in touch with the issues in the area, understand the key problems and monitor development and service delivery. In committees, caucus and Council meetings, the Ward Councillor should act as a spokesperson for the people in the ward.

Ward Councillors also chair the Ward Committees, the legitimate statutory platform for community participation.

7.5 **Intergovernmental Stakeholders**

7.5.1 Community Development Workers (CDWs)

Community Development Workers (CDWs) can contribute significantly to the activities of Ward Committees and the IDP Representative Forum, as well as to improving the manner in which the Municipality identifies and responds to service-delivery complaints from communities. The roles and responsibilities of CDWs, therefore, must be formulated clearly by the Municipality in conjunction with the Department of Local Government and Traditional Affairs, who employ the CDWs.

7.5.2 District Municipalities

In terms of the Structures Act, District Municipalities are responsible for the IDP of the District and for providing a framework for the IDPs of the Local Municipalities falling within the District.

Districts have their own projects that they implement in Local Municipalities and it is imperative that the District Municipality and Local Municipality ensure that there is synergy between their projects and the processes they undertake to encourage public participation.

7.5.3 Provincial and National Government

Cognisance must be taken of the fact that not all public consultation processes that occur in local communities are driven by, or under the authority of, the Municipality. Provincial and National Departments run their own projects and programmes that impact on Local Municipalities. For this reason, it is imperative that the Municipality establishes an Intergovernmental Relations (IGR) Forum that meets at least quarterly to ensure an integrated and coordinated approach to all Government programmes.

8. Platforms and Tools

8.1 Ward Committees

Ward Committees are the legislated statutory platform for community participation. The objective of Ward Committees is to enhance participatory democracy in local government. Ward Committees are independent and impartial advisory bodies and must perform their duties without fear, favour or prejudice.

To enable Ward Committees to function effectively, they require both administrative support and training. It is the duty of the Municipal Manager to ensure that Ward Committees receive adequate administrative support from the Municipality.

The Speaker exercises political oversight over Ward Committees, consistent with the provisions of Section 4(20)(c) of the Municipal Systems Act.

The Municipality must develop rules regulating the establishment and operation of Ward Committees. Council must adopt such rules

8.2 Ward Forums

The Ward Forum is a gathering of all Ward Committees in the Kouga municipal area and is chaired by the Speaker. The Forum consists of all Ward Committee members, all Ward Councillors, as well as other interested parties such as CDWs.

The role of the Ward Forum is to monitor and evaluate the operation of Ward Committees, including community-based planning.

The Ward Forum should meet at least twice a year.

The Forum must elect at least one representative (who is not the Speaker) to be considered by the Executive Mayor as his/her representative on the performance evaluation panel during the review process, as set out in Section 27(4)(d) and (e) of the Performance Management Regulations.

8.3 IDP Representative Forum

The Integrated Development Plan (IDP) Representative Forum is chaired by the Executive Mayor. It is one of the vehicles utilised to promote inclusivity and transparency during the IDP process. The forum should be inclusive of all stakeholders in the area and should serve as a platform for stakeholders to advance and defend the inclusion of their interests in the IDP.

The IDP Representative Forum may include:

- Members of the Executive Committee of Council
- Councillors, including District Councillors
- Traditional Leaders
- Ward Committee representatives
- Heads of departments and senior officials from municipal and government departments
- Representatives from organised stakeholder groups
- People who fight for the rights of unorganised groups, for example, a gender activist
- Community Development Workers

The purpose of the IDP Representative Forum is to:

- Provide an opportunity for stakeholders to represent the interests of their constituencies;
- Provide a structure for discussion, negotiations and joint decision making;

- Ensure proper communication between all stakeholders and the municipality;
- Monitor the planning and implementation process;

A code of conduct should be drawn up for the IDP Representative Forum that provides details on:

- Meetings - frequency and attendance
- Agenda, facilitation and recording of proceedings
- Understanding the role of various stakeholders as representatives of their constituencies
- How feedback to constituencies will take place
- Required majority for decisions to be taken
- How disputes will be resolved

8.4 Council Meetings

The Municipal Manager must give notice to the public in the manner provided for in section 19 of the Systems Act of the time, date and venue whenever there is a scheduled ordinary meeting of the Council or special meeting of the Council, except when the constraints make this impossible.

8.5 Public Meetings/Hearings/Imbizos

8.5.1 Notification

Whenever a notice of a meeting is to be communicated to the local community under this Policy or any other applicable policies and legislation, it must satisfy the following requirements:

- a) A notice of a legislated public meeting must be advertised at least once in a newspaper circulating in the municipal area and approved by Council as a newspaper of record.
- b) Copies of notices of public meetings shall be posted on the official website of the municipality and on municipal notice boards.
- c) All notices must adhere to the Language Policy of Council.
- d) All notices shall be issued at least seven days before the date of the meeting.
- e) Loud hailing should be done 24 hours before the meeting and on the day of the meeting.

8.5.2 Venue

In determining the appropriateness of venues for public meetings the Municipal Manager must consider the following:

- a) The size of the venue considering the approximate number of people who might attend the meeting.
- b) The location of the venue and access to it via public and private transport.
- c) The amount of staff members of Council to be made available to ensure the smooth administration of the meeting.
- d) The provision of security for both members of the Municipality as well as members of the community attending the meeting.

8.5.3 Submitting written comments

When the Municipality invites the community to submit written comments or representation on any matter before 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.

The Municipal Manager must provide the community with a central e-mail address where they may submit written comments directly to the Municipality on any matter referred to in this Policy and/or other relevant legislation.

8.6 Stakeholder Database

It is vital for the Municipality to keep an updated register of stakeholders to be consulted on municipal issues.

8.7 Citizen's Participation Charter

The Citizen's Participation Charter outlines the rights and duties of citizens regarding participating in their municipality's governance.

8.8 Community Complaints Management System

This refers to a set of centralised procedures to deal with community complaints. Basic requirements that should be met are:

- Thorough publicising of contact details, especially a telephone number where the public can lodge complaints;
- Development of standing rules of order that deal in detail with managing community complaints.

Though the system may be complicated to set up, it is important to note that responsiveness to complaints, especially on service provision, can be a key variable affecting perceptions about municipal good governance.

8.10. Citizen Satisfaction Surveys

Citizen Satisfaction Surveys can provide scientific evidence of the perceptions of the public on key aspects of municipal performance. A successful vehicle for this mechanism is through the capacity-building of Ward Committees, wherein Ward Committees will be expected to conduct and report on such surveys objectively.

8.11. Petitions

All petitions shall be addressed to the Speaker and may be submitted to the Ward Councillor of the residents who are writing the petition, the Municipal Manager or the Speaker.

All petitions received shall be acknowledged in writing by the Municipality within 48 hours of receipt.

Petitions shall be disposed of by the relevant portfolio committee within 31 days or referred to Council with recommendations should the committee not have the power to dispose of the matter, in which case a special Council meeting shall be convened within seven days of the decision to refer the matter to Council.

Any petition must comply with the following requirements:

- a) It must be in legible writing or typed
- b) It must clearly indicate the topic
- c) It must be signed by more than 50 of its authors.

8.12. Miscellaneous Tools

Other tools that may be used to enhance public participation are sector-specific forums, advisory committees, workshops, information days, internet and email, an official website, cellular phones, media releases, radio and television interviews, flyers, posters, an official newsletter, loud hailing and municipal accounts.

9. MUNICIPAL ISSUES REQUIRING PUBLIC PARTICIPATION

The four key annual statutory processes that require public participation are the budget process, Integrated Development Planning, Performance Management System and the Annual Report.

There are, however, various other issues in respect of which the municipality is required to engage with the community, as set out in the table below:

<u>Activity</u>	<u>Legislation</u>
Annual Report	Systems Act Section 46(3) & (4) MFMA Section 127(5) MFMA Section 129(3)
Budget	Constitution Section 215 MFMA Section 21(1)(b) MFMA Section 22(a) MFMA Section 23(1) MFMA Section 53(3)(a) MFMA Section 54(3)
<u>Activity</u>	<u>Legislation</u>
Budget: Contracts with financial obligations beyond three years	MFMA Section 33(1) & (3)
By-laws	Constitution Section 162 (1)(3) Systems Act Section 12(3)(b) Systems Act Section 13(a) Systems Act Section 15
Capital assets: Disposal	MFMA Section 14(2) MFMA Section 90(2)
Council Meetings	Constitution Section 160(7) Systems Act Section 5(1)(e)(i) Systems Act Section 19 Systems Act Section 20(1) & (2) MFMA Section 130(1)
Debt	MFMA Section 46(3)(a)
Disaster Management	Disaster Management Act Section 53(1)(d)
Entities: Establishment	MFMA Section 84(2)
Entities: Budget	MFMA Section 87(10) MFMA Section 88(1)
Financial Recovery Plans	MFMA Section 141(3)(c)(ii)(bb)
IDP: Amendments	Performance Management Regulations Section 3(4)
IDP: Process for adopting	Systems Act Section 28(2) & (3) Systems Act Section 29(b)(ii) & (iii) MFMA Section 21(1)(b) Performance Management Regulations Section 15

IDP: Publication	Systems Act Section 25(4)
Information Requests	Promotion of Access to Information Act Section 11, 14, 18, 19, 25 & 26, and Chapter 4
Performance Management System	Systems Act 16(1)(a)(iii) Systems Act Section 42 Systems Act Section 44 MFMA Section 53(3)(b) Performance Management Regulations Section 15
Property: Registration	Property Rates Act Section 23(4)
Property: Valuation Rolls	Property Rates Act Sections 49, 50, 51, 53 & 54
Property: Supplementary valuations	Property Rates Act Sections 49 & 78
Rates: Adoption	Property Rates Act Section 4(2)(3)
Rates: Promulgation	Property Rates Act Section 14(3)
Rates: Special ratings areas determination	Property Rates Act Section 22(2) & 22(3)(d)
Remuneration of Municipal Manager	Systems Act Section 58
Services: Agreements	Systems Act Section 84(3)
Services: Amending competitive bidding agreements	Systems Act Section 81(4)
Services: Deciding on mechanism to deliver	Systems Act Section 78(1)
<u>Activity</u>	<u>Legislation</u>
Services: Implementation Plan	MFMA Section 53(3)(a) MFMA Section 54(3)
Strategic Planning	Systems Act Section 16(1)(a)(v)
Supply Chain Management: Amendment to contracts	MFMA Section 116(3)
Water provision	Water Services Act Section 4(1) & (3)(b) Water Services Act Section 12(1) & 15(1) Water Services Act Section 14(2) & 18(4)

10. **POLICY COORDINATION**

If resources permit, a public participation unit should be established.

If this is not possible, a municipal official must be appointed to coordinate public participation activities in the Kouga Local Municipality. He/she would primarily be responsible for developing and coordinating the public participation year plan for each year.

A committee, representing all directorates, should be established to assist this official with his/her duties. It is the responsibility of each directorate to identify

the public participation programmes they need to embark on in the coming financial year and to ensure that these are included in the year plan.

Once the public participation year plan has been developed, it must be submitted to Management for consideration and approval to ensure ownership at the executive level.

10.1 Monitoring and Evaluation

Public participation must be included as a Key Performance Area in the performance contract of the Municipal Manager as specified in Section 26 of the Performance Management Regulations.

The Municipal Manager must further ensure that public participation is included as a Key Performance Area and measurable indicators are identified in respect of the performance contracts of the Section 57 Managers reporting directly to him/her.

10.2 Policy Review

The Policy is to be reviewed annually.

MR C DU PLESSIS
MUNICIPAL MANAGER

MR S THYS
CHIEF FINANCIAL OFFICER