



*"People's power in action"*

## **PETITION POLICY**

### **PURPOSE OF THE POLICY**

To serve as a reference guideline and a tool of Council in considering the submitted and presented petitions and memorandums of communities and affected persons.

### **DEFINITIONS**

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

**“Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended from time to time.

**“Municipal Manager”** means the person appointed by the Council as the Municipal Manager of Moqhaka Local Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person:

- (a) Acting in such position and
- (b) To whom the Municipal Manager has delegated a power, function or duty

**“Council”** means: -

- (a) The Council of Moqhaka Local Municipality established and exercising its legislative and executive authority through the municipality; or
- (b) Its successor in title; or
- (c) A structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated or an instruction given, as contemplated in Section 59 of the Act; or
- (d) A service provider fulfilling a responsibility under these by-laws, assigned to it in terms of Section 81 (2) of the act, or any other by-law, as the case may be.

**“PP & PC”** shall mean Public Participation and Petition Committees established in terms of Council resolution.

## **LEGISLATIVE FRAMEWORK**

The petition process is underpinned by the founding provisions of the Constitution, Chapter 1 which states that our democracy is founded on the values of ensuring accountability, responsiveness and openness. In ensuring that the legislative framework is implemented, the Council in considering the constitution and other pieces of legislation approved the establishment of the Public Participation and Petitions Committee (PP&PC) and its operational guidelines or terms of reference.

The Municipal Systems Act, 32 of 2000, section 17 (2) states that: “A municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality, and must for the purpose provide for the receipt, processing and consideration of petitions and complaints lodged by members of the local community.”

It is in light of the above, Council ensures that the rights of citizens are respected. The Constitution and pieces of legislation places an obligation to the spheres of government to develop mechanisms whereby the citizens may present petitions and raise issues, concerns and recommendations pertaining to the issues of public interest and in relation to the contribution towards development and service delivery. Therefore, such engagements and active involvement in decision making on resolving issues together with communities, promotes and enhances democratic processes and entrenches values in terms of Batho Pele principles, moreover it inculcates the culture and values of participation, communication, transparency and accountability.

## CATEGORY OF PETITIONS

Petition is defined as a process and a tool which enables the civil society to engage with the government as a means of enhancing public participation.

The Petition may be categorized objectively as follows in line with the related aforementioned legislations:

- a) **Single petition:** This is an individual submission from a single petitioner raising a concern.
- b) **Association petition:** An individual submission from an association or organization as mandated by the association concerning a complaint or request.
- c) **Collective petition:** A collection of signatures from a number of petitioners concerning a particular complain or request.
- d) **Mass petition:** a petition made up of individuals or group submission concerning the same or substantially similar complaint or request.

To fulfil the obligations prescribed by the legal framework and give effect to the public participation policy, the Municipality must ensure that there is a clear and formal process to manage all public petitions and deal with the implications thereof.

In setting out the objectives, processes and procedures, the policy 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;
- d) To increase awareness and educate members of the public of the petition process;
- e) To continuously review the methodologies of access to Council in order to ensure that all public sectors are accommodated.

The following minimum requirements as determined must be complied with to enable Council to acknowledge and respond to petitions:

- a) The petition must be signed by the petitioner/s
- b) The Council may assign and/or mandate a councilor or municipal official to receive a petition where applicable.
- c) The petition shall be acknowledged and confirmed if the petition meets the set criteria.

- d) The petition shall be registered in the administrative system of Council and acknowledgement letters or notice be sent out.
- e) The established Committee mandated to consider petitions in tandem with the Standing Rules and Orders of Council, where applicable, shall receive petitions, progress reports for consideration and revert to the petitioner with a progress and the response respectively.
- f) The aforementioned Committee shall finalize and close the petition.

## **TERMS OF REFERENCE OF THE COMMITTEE**

The committee shall, amongst other and in line with the approved terms of reference, execute the following functions:

- a) To receive and consider petitions.
- b) To conduct hearings with the petitioners.
- c) To convene public hearings (on matters as determined by the Committee).
- d) To oversee the resolution and finality of the issues raised in the petition or memorandum.
- e) To conduct site inspections as determined by the committee.
- f) To invite the relevant executive office to appear before the committee to respond to the matters in the committee agenda.
- g) To appoint a reporter for the petition.

## **EXCLUSIONS**

The committee may not consider:

- a) Any matter that is sub-judice and;
- b) Any matter that is regulated by the Code of Conduct and Ethics in terms of Municipal Systems Act, 32 of 2000 (as amended and updated)

## **MANAGEMENT OF PETITIONS ADMINISTRATIVE PROCESS**

### **PETITIONS REGISTER**

The PP&PC shall be responsible to maintain the petition register arranged in the following manner:

- a) The Office of the Executive Mayor, Speaker, Member of Mayoral Committee (MMC's) and Municipal Manager respectively shall refer the received petition to the PP & PC for registration.
- b) The Office of the Executive Mayor, Speaker and Municipal Manager and Departments shall receive petitions (where applicable) and refer to the PP & PC for registration.
- c) The date of the receipt of the petition must be recorded in the register.
- d) The register will assist as monitoring tools to track the status of the petitions in relation to the implementation.

### **COMMUNICATION PROCESS**

- a) The petition shall be referred to the relevant MMC, Department and oversight committee chairperson respectively.
- b) The Departments must communicate provisional progress report in relation to the concerns raised in the petition and advise the Office of the MMC deployed in the area, Ward Councillor, petitioners and the Secretary of the PP&PC.
- c) The communication process must also be recorded in the register of Departments and PP&PC for the tracking and monitoring purposes.
- d) The communication records must reflect persons to whom the developments or progress was forwarded.
- e) The Office as identified in (b) above must similarly register the communication process.

### **REPORTS TO COUNCIL**

The report of PP & PC shall be submitted quarterly to Council for information and noting.

### **PRESCRIBED TIME FRAMES**

The Departments, over and above their service charters, are encouraged to promptly respond to petitions.

It is important to note that the PP&PC shall regard any lack or no response to the petitions are disreputable to the Council.

Failure to comply with directives and expectations of PP&PC resolutions shall be viewed as misconducts and justifying disciplinary measures as contained in the disciplinary procedure Collective Agreement and Code of Conduct.

The following is the tabulated process of the petition process with time frames:

ACTIVITY	ACTION	TIMEFRAME
Receipt of complain, request, submission/representation.	A submission is made to the Executive Mayor or his/her delegate, Speaker of Council, MMC, Municipal Manager, and Departments Administrative Officer/s shall assist the petitioner to formulate (if required).	Within 2 working days of receipt.
Public Participation and register complaint as a petition.	A petition shall be forwarded to the secretary of the PP&PC to ensure proper recording in the relevant register and processing. A copy of the petition shall be forwarded to Registry filling.	Within 7 working days of receipt.
Acknowledge receipt	A letter acknowledging receipt and advising the petitioner of a reference number allocated to a petition is mailed to the provided address of petitioner.	1 working day on receipt
Complaints outside the competency and jurisdiction.	Advise complainant of the agencies, institutions or commissions that are relevant to their complaint	1 working day on receipt
Preliminary investigation	Correspond with the relevant or implicated persons, institution and departments to establish and verify accuracy and facts.	Within 7 working days of request
Referral to Public Participation and Petition Committee	Submit petition file and report detailing responses from office of Executive Mayor. MMC, Municipal Manager, Departments or institutions with	At least 7 working days before the committee meeting.

	<p>recommendations to the Office of the Speaker.</p> <p>The Speaker to considers the report and refers it to the Public Participation and Petitions Standing Committee.</p>	
Consideration of petition by PP&PC	<p>Petitioners are informed that a committee will consider their petition.</p> <p>The committee considers the recommendations.</p> <p>Resolve on the manner the petition has been to be dealt with.</p> <p>Refer to Speaker the petition or part of it to contemplate it for external agency.</p> <p>Inform the relevant Petitioners/Officers and Stakeholders.</p>	Within 7 working days of referral.
Petition submitted from Council Meetings	<p>Any member of the Council may only submit a petition during Council meeting.</p> <p>The petition will be brought to the attention of the Speaker to deal with in terms of the policy.</p> <p>No debate will be entertained at the meeting.</p>	Within 5 working days of the resolution.
Communication and Filing	<p>Inform the petitioners of the resolution.</p> <p>Committee submits the resolutions file to the Office of the Speaker.</p> <p>Secretary of the PP&amp;PC files the recommendations and resolutions</p>	Within 5 working days of the resolution.
Appeal to resolution	<p>The petitioner may lodge an appeal or request to be heard or considered on the outcome of the committee.</p>	Within 7 working days of the receipt of the outcome to the Speaker of Council.
Closure	<p>The petition shall be regarded as finalized or closed based on the reports received.</p>	At least 30 working days.

In pursuance of good corporative governance and guided by the Act, it is important to harness the working relationship.

It is therefore important to note that:

- a) All petitions outside the competency of the Municipality are escalated to the Free State Provincial Legislature (Petitions Office) for their attention and resolve.
- b) The Committee may refer the matter to the Free State Provincial Legislature to seek advice and intervention.
- c) The Committee may receive a petition from the Free State Provincial Legislature for intervention.

The Act further emphasizes the right to submit the petition and also alluded to the principles of petitioning on behalf of the petitioner in a form of a hearing wherein Municipalities are summoned to provide responses to the petitioners.

## **PENALTIES**

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code and Code of Conduct.

## **REVIEW**

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by Council and may be reviewed on an earlier date if necessary.

## **AUTHORITY**

Formulation Policy	:	Director: Corporate Services
Authorization Policy	:	Council
Ownership & Maintenance Manager	:	Speaker